

# WISCONSIN LEGISLATIVE COUNCIL STAFF

## RULES CLEARINGHOUSE

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## CLEARINGHOUSE RULE 96-154

### Comments

**[NOTE: All citations to “Manual” in the comments below are to the Administrative Rules Procedures Manual, prepared by the Revisor of Statutes Bureau and the Legislative Council Staff, dated October 1994.]**

#### 1. Statutory Authority

Sections HSS 107.06 (4) (i) 2. and 107.10 (2) (c) and (3) (L) refer to “MA provider publications.” It appears that the department intends that these publications have some substantive effect. However, since they are not promulgated as rules, they do not have the effect of law. The department should review whether any of the substantive provisions of the publications meet the definition of “rule” under s. 227.01 (13), Stats., and are required to be promulgated under s. 227.10 (1), Stats.

#### 2. Form, Style and Placement in Administrative Code

- a. In the introductory clause of the rule, “Medical Assistance” should not be capitalized.
- b. All subunits of a rule should end with a period rather than a comma, a semicolon or the word “or” or “and,” except for introductory material, which ends with a colon. [s. 1.03 (intro.), Manual.] This makes insertion of new subunits easier in the future; there is no need to move the “and” or “or.”

Because of the extensive use of semicolons in current chs. HSS 105 and 107, it is somewhat understandable that the department did not change its practice when amending current rules. However, in new rules, the department should end the subunits with periods. For example, all of the paragraphs in s. HSS 107.03 (19) should end with periods, as should subs. (19) to (25). Also see ss. HSS 107.21 (1) (c) 3. a. to e., 107.21 (3) (a) to (d) (including par. (b) 1. to 8.) and 107.24 (5) (L) to (o).

In those current rules in which semicolons are retained, the current “and” needs to be eliminated. See ss. HSS 107.10 (2) (d) and 107.24 (5) (j).

c. The analysis of the rule should explain that prior authorization from the department will no longer be needed for sterilizations and for other surgical or diagnostic procedures identified in “the blue cross and blue shield medical necessity project” since s. HSS 107.06 (2) (zq) and (zs) are being repealed. [s. 1.02 (2) (b), Manual.]

#### **4. Adequacy of References to Related Statutes, Rules and Forms**

In s. HSS 107.06 (2) (h), it may be useful, in the reference to female circumcision, to reference the statute permitting this practice for minors only in cases of medical necessity--s. 146.35, Stats., as created by 1995 Wisconsin Act 365.

#### **5. Clarity, Grammar, Punctuation and Use of Plain Language**

a. It may be useful in the introductory clause to clarify that the rule relates also to limiting Medical Assistance reimbursement of certain other services to medically necessary situations, in addition to eliminating certain coverages.

b. In SECTION 26, the period should be eliminated after “(3) (l).”

c. In s. HSS 107.24 (5) (p), should “allowed” or “covered” replace “limited”?