



Wisconsin Legislative Council

RULES CLEARINGHOUSE

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CLEARINGHOUSE RULE 24-047

Comments

[NOTE: All citations to “Manual” in the comments below are to the Administrative Rules Procedures Manual, prepared by the Legislative Council Staff and the Legislative Reference Bureau, dated November 2020.]

1. Statutory Authority

Section 49.45 (2) (a) 11., Stats., should be listed in the “Statutory authority” section of the rule summary since it is described in the “Explanation of agency authority” section.

3. Conflict With or Duplication of Existing Rules

The “Plain language analysis” section of the rule summary suggests that the rule treats only the part of 2021 Wisconsin Act 98 that directs the department to provide reimbursement for services that are reimbursable under s. 49.46, Stats., and performed under s. 450.033, Stats., as it states “The Department currently does not have any policies in place to certify pharmacists rendering delegated patient care services to an MA recipient, or to permit reimbursement for those services.”

However, the rule itself also creates provisions, specifically s. DHS 107.067 (1) (a), that relate to the part of Act 98 that requires reimbursement for services “that are provided by a licensed pharmacist within the scope of his or her license”. Please clarify whether or how pharmacists are reimbursed by Medical Assistance under current law, perhaps by explaining what is reimbursable under s. DHS 105.15, relating to pharmacies, and how that may interact with the requirements of Act 98.

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

a. The “Plain language analysis” section of the rule summary erroneously states that “Section DHS 105.115 will be created,” but the rule instead creates s. DHS 105.155.

b. Act 98 provides that “The department shall provide reimbursement for services that are reimbursable under this section and that are provided by a licensed pharmacist within the scope of his or her license or are services performed under s. 450.033.”

It seems that the statute requires that the only reimbursable services are those in s. 49.46, Stats., that **either** are within the scope of a pharmacist’s license or performed under s. 450.033, Stats. The

department should modify s. DHS 107.067 accordingly. For example, could the department remove the “are covered under this chapter” language from s. DHS 107.067 (1) (b) and instead include that language in s. DHS 107.067 (1) (intro.), so it modifies both subs. (1) (a) and (b)?

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

In s. DHS 105.155 (2) (intro.), who is the actor responsible for the documentation described in the proposed rule?