

HSS 1

CERTIFICATE

STATE OF WISCONSIN)
)
DEPARTMENT OF HEALTH AND SOCIAL SERVICES)

RECEIVED
JUL 26 1977
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REVISOR OF STATUTES
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TO ALL TO WHOM THESE PRESENTS SHALL COME, GREETINGS:

I, Donald E. Percy, Secretary of the Department of Health and Social Services and custodian of the official records of said department, do hereby certify that the annexed rules relating to liability and ability to pay for services provided or purchased by the department, a county department of public welfare, or a board created under section 51.42, 51.437, or 46.23, Wis. Stats., were duly approved and adopted by this department on July 25, 1977.

I further certify that said copy has been compared with the original on file in this department and that the same is a true copy thereof, and of the whole of such original.

IN TESTIMONY WHEREOF, I have hereunto set my hand and affixed the official seal of the department at the State Office Building, 1 West Wilson Street, in the city of Madison, this 25th day of July, A.D. 1977.



Donald E. Percy

DONALD E. PERCY, Secretary
Department of Health and Social Services

ORDER OF THE DEPARTMENT OF HEALTH & SOCIAL
SERVICES ADOPTING RULES

Pursuant to authority vested in the Department of Health and Social Services by sections 46.03 (18) and 46.10, Wis. Stats., the Department of Health and Social Services hereby adopts rules as follows:

Sections HSS 1.01 - 1.06 of the Wisconsin Administrative code are adopted to read:

HSS 1.01 Introduction

- (1) Statement of intent. These rules, implementing sections 46.03 (18) and 46.10, Wis. Stats., standardize on a statewide basis the determination of liability and ability to pay, and otherwise regulate billing and collection activities, for care and services provided or purchased by the department, a county department of public welfare, or a board created under section 51.42, 51.437, or 46.23, Wis Stats.
- (2) Definitions.
 - (a) "Administratively unfeasible" means that the totals realized would approximate or be less than the cost of collections for a specified service.
 - (b) "Aged-infirm person" means a person with organic brain damage caused by advanced age or other physical degeneration, who is consequently unable to provide for his or her own care.
 - (c) "Department" means the state department of health and social services.
 - (d) "Developmentally disabled person" means a person having a disability attributable to mental retardation, cerebral palsy, epilepsy, autism or another neurological condition closely related to mental retardation which can be expected to continue indefinitely and substantially prevents the individual from adequately providing for his or her own care.
 - (e) "Division" means one of the major subunits of the department.
 - (f) "Facility" means any agency, office, institution, clinic, etc., that delivers client services.
 - (g) "Family" means an adult, the adult's spouse, if any, and any minor children dependent on the adult(s)' income for at least 50% of their support. Note. Other persons dependent on the "family" for at least one-half their support are considered under section HSS 1.03 (6) (b).
 - (h) "Fee" means the total per unit cost of a service to the division, county department of public welfare, or board established under section 51.42, 51.437, or 46.23, Wis. Stats., which purchases or provides the service. Note. In the context of these rules "fee" does not mean the payment that is expected of the client or his or her family.

- (i) "Full financial information" means such information about a family's income, expenses, liquid assets, and insurance coverage as is necessarily and reasonably requested for the purpose of determining ability-to-pay and for billing all applicable insurance.
 - (j) "Parent" means a child's adoptive or biological mother or father who has legal responsibility for the child.
 - (k) "Planning, placement, and supervision" means the activities of agency staff leading to placement of children or adults in approved or licensed settings suitable to their needs, and on-going activities to periodically review the continued appropriateness and need for such placement and to provide supportive services to the individuals involved.
 - (l) "Physically handicapped person" means a person having a disability attributable to hearing impairment, visual handicap, orthopedic impairment, speech impairment or other like handicap which can be expected to continue indefinitely and substantially prevents the individual from adequately providing for his or her own care.
 - (m) "Secretary" means the secretary of the department of health and social services.
 - (n) "Short term shelter care" means care provided to an individual under section 48.29 (2), 51.15, 51.45 (12), and 55.05 (4), or 55.06 (11), Wis. Stats., or in another emergency situation.
 - (o) "Student" means an individual who is attending a school, college, university, or a course of vocational or technical training.
- (3) Where rules apply. These rules apply to all client specific care and services purchased or provided by the department, county departments of public welfare, and boards created under section 51.42, 51.437, or 46.23, Wis. Stats., except as provided in subsection 1.01 (4) of these rules.
- (4) Exceptions. The following services are not subject to direct billings to responsible parties under these rules:
- (a) Federal exemptions: any service for which the imposition of a charge is prohibited by federal law, regulation, or valid federal grant requirement, including educational services to handicapped pre-school age children with exceptional education needs under Title I of P.L. 89-313.
 - (b) Statutory or judicial exemptions: services exempted in sections 46.03 (18) (a) and 46.10 (2), Wis. Stats., services for handicapped children with exceptional education needs which local school districts must ensure be available under sections 115.83 and 115.85, Wis. Stats., and any other care or service for which the imposition of a charge is prohibited by state law or court order.

- (c) Exemptions established by the department, pursuant to section 46.03 (18) (a), Wis. Stats.:
1. Care, maintenance, services and supplies provided to adults by prisons named in section 53.01, Wis. Stats.
 2. Probation and parole services, court ordered supervision and other supervision services with one exception. "Planning-placement-and-supervision" funded under Title XX of the Social Security Act is subject to direct billings to responsible parties except as provided in item 7. of this section.
 3. Purchases of education services by the divisions of corrections and vocational rehabilitation.
 4. Sheltered employment, work activity, and adult non-medical day services programs for the handicapped.
 5. Non-medical initial diagnosis and evaluation services.
 6. Family planning services.
 7. The following services when provided to remedy or prevent neglect, abuse, or exploitation of persons unable to protect their own interests: counseling, education and training, legal services; planning, placement and supervision, and short term shelter care.
 8. Advocacy.
- (d) Further exemptions: any provider of a service may request that the service be exempted from these rules under procedures established by the secretary. The provider shall be granted an exemption from these rules, unless prohibited by law, if the secretary or designee finds that the benefit of the service in question will be significantly impaired if the imposition of a charge continues or that the imposition of a charge is administratively unfeasible.

HSS 1.02 Liability

- (1) Responsible parties. Whenever a client receives a service which is subject to these rules, the persons identified in sections 46.03 (18) (b) and 46.10 (2), Wis. Stats., shall be responsible for paying for the service in the manner set forth in these rules. These persons shall hereinafter be referred to as "responsible parties". Their indebtedness for the service received shall hereinafter be referred to as "liability".
- (2) Extent of liability. Liability for a service shall equal the fee, as determined pursuant to these rules, times the number of units of service provided, except as follows:
 - (a) For parties and services specified in section 46.10 (14), Wis. Stats., liability of responsible parties listed therein and of insurance firms shall be as specified therein.

- (b) Notwithstanding paragraph (a), when inpatient care for minors at facilities listed in section 46.10 (14), Wis. Stats., exceeds one year, the liability of responsible parties with limited liability under section 46.10 (14), Wis. Stats., shall be the lower of the rate established in section 46.10 (14), Wis. Stats., or their maximum monthly payment rate as calculated under section HSS 1.03 (7) and adjusted as appropriate under section HSS 1.03 (8).
- (3) Discharge of liability other than by means of full payment. At the end of a treatment episode the liability of responsible parties remaining after recovery of benefits from all applicable insurance shall be deemed discharged if responsible parties provide persons with billing responsibility with full financial information and obtain a waiver as follows:
- (a) For all care and services except inpatient mental hygiene, by having paid an amount equal to the number of months of service times the maximum monthly payment rate as calculated in section HSS 1.03 (7) and adjusted as appropriate under section HSS 1.03 (8), or
- (b) For inpatient mental hygiene care and services, when liability remaining exceeds \$1000 or discharge of liability at the maximum monthly payment rate would exceed 5 years, by entering into an agreement with the appropriate administrator of a division, the director of a county department of public welfare, or the program director of a board established under section 51.42, 51.437, or 46.23, Wis. Stats., or a designee, to pay a substantial portion of the liability outstanding as a lump sum.
- (4) Exemption from liability. If it is determined in the case of a particular family that the accomplishment of the purpose of a service would be significantly impaired by the imposition of liability, the accrual of liability during a period not to exceed 90 days may be voided by the appropriate administrator of a division, the director of a county department of public welfare, or the program director of a board established under section 51.42, 51.437, or 46.23, Wis. Stats., or a designee. If the need to avoid imposition of liability continues, a further cancellation may be granted.

HSS 1.03 Billing Rates and Payment Provisions

- (1) Applicable insurance. Where applicable insurance exists, the insurer shall be billed an amount equal to the fee, as determined pursuant to these rules, times the number of units of service provided.
- (2) Clients in full-care facilities (medical and non-medical) with unearned income. A client receiving full-care service and who receives monthly payments intended to meet maintenance needs, shall be billed for that care at the amount of the payments less an amount sufficient to satisfy the client's unmet personal needs and any court ordered payments or support of legal dependents. If payments are made to a representative payee, that payee shall be billed for the full amount of the payments less deductions authorized by the payer and any court ordered payments or support of legal dependents which the client is obliged to pay. For clients in full-care, non-medical facilities receiving SSI benefits, no attempt shall be made to collect from any responsible party any remaining

liability for those months that SSI payments are applied to the cost if such collections would reduce the SSI payment. (Payments subject to billing and court obligations or support payments made to non-family members subject to deduction under this subsection shall not be included in calculating ability to pay of the family under subsection (6) (b) of this section.)

- (3) Clients in full-care facilities with earned income. Except for clients who are full time students or part-time students who are not full time employees, clients residing in full-care facilities who have earned income shall be billed for that care each month -- after subtraction of the first \$65 of earnings and court ordered obligations or support of legal dependents -- one-half the remaining amount of earnings. (Such earnings and court obligations or support payments made to non-family members shall not be included in calculating the ability to pay of the family under subsection (6) (b) of this section.)
- (4) Protective placements. Clients in full-care facilities because of a determination of incompetency and placement under section 55.06, Wis. Stats., shall be billed for that care at full liability until the estate of the person to be protected is reduced to eligibility limits for SSI or Medicaid, except as provided by law.
- (5) Refusal to provide full financial information. A responsible party who is informed of his or her rights and knowingly refuses to provide full financial information shall not be eligible under section HSS 1.02 (3) to discharge liability other than by means of full payment.
- (6) Billing on the basis of ability to pay.
- (a) A responsible party who provides full financial information shall be billed on the basis of the family's ability to pay.
- (b) For each family ability to pay shall be determined in the following manner:
1. The annual gross cash income of family members shall be determined and totaled except that the income of any child who is a full time student or a part-time student but not a full time employee shall be excluded.
 2. To the annual gross cash income figure shall be added the total current value of liquid assets in excess of the following levels:

<u>family size</u>	<u>protected dollars</u>	<u>family size</u>	<u>protected dollars</u>
1	1750	6	4700
2	3500	7	5000
3	3800	8	5300
4	4100	9	5600
5	4400	10 or more	5900

3. The sum of gross cash income and liquid assets above protected levels shall be divided by 12 to get the average dollars available monthly.
 4. From the monthly average amount shall be subtracted the following expenses:
 - a. Monthly payments for court ordered obligations
 - b. Monthly child-care payments necessary for employment
 - c. Monthly support costs of non-"family" dependents
 - d. Monthly medical expense payments, not covered by insurance, in excess of 3% of the monthly average of annual gross income
 - e. Monthly non-medical expenses above normal maintenance costs, for which no insurance or income maintenance assistance is available, to keep a developmentally disabled, physically disabled or aged-infirm person in the household.
 - f. Monthly mandated deductions from gross income, such as mandatory health insurance or union dues. (Income tax, social security, and federal retirement deductions are not included here.)
 5. From the remaining amount there shall be subtracted:
 - a. An amount equal to the Bureau of Labor Statistics' most recent annual lower-level-budget monthly figure adjusted for a family of like size, and
 - b. The estimated amount of income taxes and social security or federal retirement obligations above the level included in the Bureau of Labor Statistics' lower-level-budget figure for a family of like income.
 6. The resulting amount equals the family's "monthly available income". A positive amount signifies ability to pay.
- (7) Maximum monthly payment rate. A family which provides full financial information shall be billed monthly an amount equal to monthly available income multiplied by 50% which billing amount shall be called the "maximum monthly payment rate". Note. The department shall annually develop and distribute a schedule for converting from average-dollars-available-monthly to the billing amount, as an aid for facilities covered by these rules.
- (8) Adjustments. The maximum monthly payment rate calculated under section HSS 1.03 (7) is adjustable in the following situations:
- (a) In cases where family members who contribute to the family income are not responsible parties for the liability being charged to the family, the maximum monthly payment rate shall not exceed the sum

of the unearned and one-half the earned income of responsible party(s), less a percentage of earnings equal to that used by the Wisconsin AFDC program for work related expenses, and

- (b) When payment at the maximum monthly payment rate, as calculated in subsection 1.03 (7), would create a documentable hardship on the family, (such as the forced sale of the family residence or cessation of an education program), a lower maximum monthly payment rate may be authorized by the appropriate administrator of a division, the director of a county department of public welfare, or the program director of a board established under section 51.42, 51.437, or 46.23, Wis. Stats., or a designee.
- (9) Relationship to extent of services. When full financial information is provided, the maximum monthly payment rate is the total ceiling amount that the family may be billed a month regardless of the number of family members receiving services, the number of agencies providing services, or the magnitude or extent of services received.
- (10) Exception. For any service received by one or more minor children, the parents shall not be billed a total amount greater than the amount specified in section 46.10 (14), Wis. Stats. When a minor child and an adult from one family receive services, the maximum set in section 46.10 (14), Wis. Stats., shall not apply to billings for services to the adult.
- (11) Redetermination of maximum monthly payment rate. The maximum monthly payment rate established upon entry into the system shall be reviewed at least once per year. A redetermination shall be made at any time during the treatment or payment period that a significant change occurs in available income. The redetermined maximum monthly payment rate may be applied retroactively or prospectively.
- (12) Payment period. Monthly billing to responsible parties with ability to pay shall continue until:
 - (a) Liability has been met or
 - (b) A waiver of remaining liability is obtained or
 - (c) Client records for inpatient mental health services are placed in inactive status as specified under section HSS 1.06 (3) (b) of these rules.

HSS 1.04 Fee Establishment

- (1) Applicability. With respect to client services for which responsible parties incur liability and may be billed, each facility operated by the department, a county department of public welfare, or a board established under section 51.42, 51.437, or 46.23, Wis. Stats.; or an

agency providing services pursuant to a contract in excess of \$10,000 per year with the department, a county department of public welfare; or a board established under section 51.42, 51.437, or 46.23, Wis. Stats., shall establish a fee or set of fees as follows:

- (a) Facility fee or service fee. The division, county department of public welfare, board established under section 51.42, 51.437, or 46.23, Wis. Stats., or private firm in charge of the facility shall establish a uniform facility fee, except that if the facility provides two or more services of a disparate nature with associated wide differences in per-service cost, separate per-service fees shall be established.
- (b) Fee calculation. Fees shall be determined in advance for each calendar year, except that divisions may determine fees in advance for each fiscal year. Fees shall be determined by dividing either the number of patient days projected for the year in question, or, if the facility or service provides less than 24 hour care, the number of hours of billable client service projected for the year in question, into allowable anticipated facility or service related expenditures for the year in question. For purchased services not easily converted to time units and where the contract or agreement specifies purchase units other than time, fees shall be set using the contract unit.
- (c) Expenditures. Expenditures mean ordinary and necessary non-capital expenses and depreciation on capital equipment having a per-unit purchase price exceeding \$300. Outlays associated with non-client-specific community service and with client services exempted under section HSS 1.01 (4) and their associated administration or indirect costs are excluded. Where the facility establishes separate per-service fees, expenditures mean ordinary and necessary per-service expenses plus a pro-rata share of depreciation and indirect or administration costs.
- (d) Fee approval. The facility fee or service fees for services provided by a division, a county department of public welfare, or board established under section 51.42, 51.437, or 46.23, Wis. Stats., shall not take effect until approved by the secretary or a designee, either in the context of approving a general facility or program plan or by approving the fee(s) separately, except where another form of approval is provided by law. The administrative unit authorized to enter into contracts or agreements for purchased services shall approve the fee(s) for such services before execution of the contract or agreement and the approved fee(s) shall be included in the contract.
- (e) Effective date of fee: Fees in effect at any time shall remain in effect until new fees are determined and approved pursuant to these rules. No fees shall be modified without the prior consent of the fee-approving authority.

(2) Exceptions.

- (a) Purchases totaling less than \$10,000. Facilities providing services pursuant to contracts or agreements of \$10,000 or less with a division, a county department of public welfare, or a board established under section 51.42, 51.437, or 46.23, Wis. Stats., shall establish fees which shall be equal to the "usual and customary charge". Each facility shall establish a uniform facility fee, except that if the facility provides 2 or more services of a disparate nature with associated wide differences in per-service cost, the facility shall establish separate per-service fees. The initial fees established under these rules shall be approved by the administrative unit authorized to enter into the contract or agreement before taking effect. Fees shall not be modified without the prior approval of the purchasing authority.
- (b) General hospitals. Usual and customary charges established by general hospitals shall be the fee when such charges are in accord with all laws or regulations governing such rates.
- (c) Private practitioners. For services provided by a private practitioner the fee shall be the usual and customary charge for such services when such charges are in accord with all laws or regulations governing such charges.
- (d) Statewide rates. Where the department has established a statewide rate for a service, said rate shall be the fee.
- (e) County departments of public welfare. Until December 31, 1978, county departments of public welfare which lack sufficient data to establish a rate for provided services may use a fee of \$12 per hour for services delivered by professional staff and \$8 per hour for services provided by paraprofessionals.

HSS 1.05 Collections

- (1) Boards established under section 51.42, 51.437, or 46.23, Wis. Stats. With respect to each service not provided in state facilities, the responsibility for billing and collections pursuant to these rules shall be delegated to a board established under section 51.42, 51.437, or 46.23, Wis. Stats., when such board meets standards established by the department under section 46.036, Wis. Stats., and any additional conditions specified by the department. The board may further delegate responsibility for billing and collection to a service provider by written agreement specifying the conditions of such delegation.
- (2) County departments of public welfare. Where services covered by these rules are delivered through a county department of public welfare, the county department of public welfare shall have billing and collection responsibility for those services unless it delegates such responsibility to another agency or agencies by written agreement specifying the conditions of such delegation.

- (3) Revocation of delegated authority. All delegations under subsection 1.05 (1) and (2) of these rules are subject to revocation should the department find violations of these rules or of generally recognized good accounting practices.
- (4) State bureau of collections. Except where responsibility for collections is delegated under sections HSS 1.05 (1) and (2), the bureau of collections of the department shall be responsible for the billing and collection function. The bureau of collections shall also provide collection services for individual delinquent, or otherwise referred, client accounts.
- (5) Approach to billing and collections.
 - (a) All billing and collection efforts shall strive toward what is fair and equitable treatment for both clients who receive service and taxpayers who bear unmet costs.
 - (b) Billing and collection activity shall consider the rights, dignity, and physical and mental condition of the client and other responsible parties. Responsible parties with no ability to pay and without applicable insurance shall not be pursued for payment. Billings shall be made no more frequently than monthly.
 - (c) All billing and collection activity shall be pursued in a forthright and timely manner according to these rules:
 1. Where applicable insurance exists, the insurance company shall be billed directly wherever possible by the unit with collection responsibility for the facility providing the service. Where a responsible party is covered by Medicare and private insurance, Medicare shall be billed for the full coverage it provides and the private insurance company shall be billed for any remaining amount. Medicaid, where applicable, is the payer of last resort.
 2. Responsible private parties shall be billed for liability not covered by insurance, at their maximum monthly payment rate as calculated under subsection 1.03 (7) and adjusted where appropriate under subsection 1.03 (8) of these rules.
- (6) Application of payments.
 - (a) Payments shall be applied to the oldest period of service for which a liability remains, except as provided in (b) and (c) of this subsection.
 - (b) When a responsible party has liability for inpatient mental health care and for some other type of service, payments shall not be applied to inpatient mental health liability until other liabilities have been satisfied according to these rules.
 - (c) When private insurers or government agencies make payments against claims or statements that specify dates of service, such payments shall be applied to liability for the period indicated.

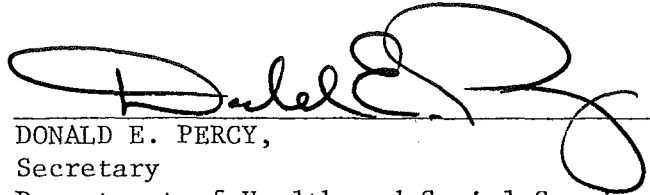
(7) Delinquent account procedures.

- (a) An account is considered delinquent when a determination has been made that ability to pay currently exists, that no payment has been made over a period of 90 days, and that three or more contacts have been made to secure a payment.
- (b) Responsible parties involved shall be notified in writing when the agency plans to refer the account for collection.

HSS 1.06 Records and Reports

- (1) Confidentiality. Information regarding a client and all interested parties, collected by a facility or agency subject to these rules, shall remain confidential.
- (2) Exception. Confidentiality provisions shall not prohibit disclosure of information.
 - (a) To other employees or directors of the facility, agency, or department where it is needed by them to carry out their responsibilities or
 - (b) As otherwise provided by law.
- (3) Client records.
 - (a) Contents. With respect to each client serviced by a facility or agency subject to these rules, a client file or files shall be maintained which shall include complete, clear, and exact records relating to the services received by the client and the financial situation of the family involved.
 - (b) Active client record. Records remain active as long as liability exists with the following exception: For inpatient mental health services, client records may be placed in inactive status when third-party sources have been exhausted and it has been determined the responsible parties have no present ability to pay.
 - (c) Inactive client records. Inactive client records shall be available for audit purposes and kept a minimum of 5 years with the following exception: Where liability for inpatient mental health services remains, client records shall be kept a minimum of 10 years after the last transaction is posted to the record.
- (4) Agency records. Each agency or facility covered by these rules shall keep complete, clear, and exact records of allocation of staff time, service units delivered, and all revenues and gross expenditures.
- (5) Required reports. Each facility or agency covered by these rules shall submit to the department such reports on client liability, billings, and collections as the department may require.

The rules contained herein shall take effect as provided in section 227.026 (1), Wis. Stats.



DONALD E. PERCY,
Secretary
Department of Health and Social Services

7-25-77

Date

