

CR 87-115

CERTIFICATE

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

RECEIVED

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2:00 pm
Revisor of Statutes
Bureau

I, Timothy F. Cullen, Secretary of the Department of Health and Social Services and custodian of the official records of the Department, do hereby certify that the annexed rules relating to the uniform system for charging fees for services were duly approved and adopted by this Department on November 3, 1987.

I further certify that this copy has been compared by me with the original on file in the Department and that this copy is a true copy of the original, and of the whole of the original.

IN TESTIMONY WHEREOF, I have hereunto set my hand and affixed the official seal of the Department at the State Office Building, 1 W. Wilson Street, in the city of Madison, this 3rd day of November, 1987.



Timothy F. Cullen, Secretary
Department of Health and Social Services

SEAL:

ORDER OF THE
DEPARTMENT OF HEALTH AND SOCIAL SERVICES
REPEALING, RENUMBERING, AMENDING AND CREATING RULES

To repeal HSS 1.03 (16) (b) 3 and 1.04 (2) (b); to renumber HSS 1.03 (16) (b) 4, 1.04 (2) (c) to (f) and 1.05 (13) (c) 1 b; to amend HSS 1.02 (6) (a) and (e), 1.03 (11) (b) 1, (13) and (18) (c), 1.04 (1) (intro.) and (g) 1 and 2 and 1.05 (13) (c) 1 c, as renumbered; to repeal and recreate HSS 1.01 (1) and (2) (e), (h) and (j), 1.03 (18) (a) and (21), and 1.04 (1) (d) and (2) (a); and to create HSS 1.05 (13) (c) 1 b, relating to the uniform system for charging fees for services.

Analysis Prepared by the Department of Health and Social Services

The Department administers a uniform system of charging fees for social services and mental hygiene services, including fees for residential care, on the basis of the client's, spouse's or parent's ability to pay.

These are amendments to ch. HSS 1, the Department's rules for the uniform fee system. They make several changes in how the parental billing limit works -- restricting its required applicability to parents of children receiving treatment at state centers for the developmentally disabled, updating the base year/rate from 1979/\$5 a day to 1982/\$6 a day for these parents, making adjustments in that amount on the basis of movement in the Milwaukee All-Urban Consumers' Price Index for Food and Beverages, and permitting payment approval authorities to set payment limits for parents of children receiving treatment at other facilities. The amendments also change the name of 51 boards to county departments, pursuant to 1985 Wisconsin Act 176; modify the definition of "family" to include a foster child when the foster parent seeks day care for the foster child, pursuant to 1983 Wisconsin Act 193; modify the definition of "income" to clarify the difference between earned and unearned income, to specify that educational grants are income when provided for living expenses, and to count the foster care payment as income when the foster parent is seeking day care or certain other services; delete references to rate approval processes for general and special hospitals since those programs have been discontinued; no longer require counties to submit fees for review and approval by the Department's Division of Community Services; when determining available income, include the amount paid against the principal of business property but exclude depreciation on business property and wages paid to dependent family members as expenses deducted from gross income; repeal a provision that "group eligibles" under Title 20 are presumed not to have an ability to pay because the group eligibles concept is no longer in use; and permit the discharge of liability by less than full payment for home or vehicle modifications for a disabled client.

The Department's authority to repeal, renumber, amend and create these rules is found in ss. 46.03 (18), 46.10 and 227.11 (2), Stats. The rules interpret ss. 46.03 (18) and 46.10, Stats.

SECTION 1. HSS 1.01 (1) and (2) (e), (h) and (j) are repealed and recreated to read:

HSS 1.01 (1) AUTHORITY AND PURPOSE. This chapter is promulgated under the authority of ss. 46.03 (18), 46.10 and 227.11 (2), Stats., to implement ss. 46.03 (18), 46.10, 48.837 (7), 48.839 (1) and 51.30 (4) (b) 2, Stats. The chapter standardizes on a statewide basis the determination of liability and ability to pay, and otherwise regulates billing and collection activities, for care and services provided or purchased by the department, a county department of social services, or a county department established under s. 46.23, 51.42 or 51.437, Stats.

(2) (e) "Family" means an adult and that person's spouse, if any, and any other person who meets internal revenue service standards as their dependent, except that:

1. When a foster parent seeks child day care for a foster child so that the foster parent may attend school or work, the foster child shall be counted as a member of the foster parent's family; and

2. Any of the following persons shall not be included as a family member in determining the ability to pay of any responsible party under this chapter:

a. A family member who is receiving services in an out-of-home placement;

b. A legal dependent living outside the household of the responsible party for whom there is a court-ordered support or maintenance obligation; or

c. An adult client residing in the home of his or her parent or parents. This person is considered a separate family in determining ability to pay under this chapter for any fee chargeable service that he or she may receive.

(h) "Income" means gross earnings, including money, wages or salary, net income from non-farm self-employment, net income from farm self-employment, as well as unearned income, including social security, dividends, interest on savings or on money loaned, income from estates or trusts, net rental income or royalties, public assistance, pensions or annuities, unemployment compensation, workers' compensation, maintenance (alimony), child support, family support, veterans' pensions, educational grants given for living expenses and, for foster parents receiving day care services or funds under s. 46.98, Stats., foster care payments.

Note: "Public assistance" includes but is not limited to programs such as aid to families with dependent children (AFDC), general relief, relief to needy Indian persons (RNIP) and supplemental security income (SSI).

(j) "Parental payment limit" means the amount established or approved by the department under s. HSS 1.03 (21) as the maximum daily or monthly amount that parents may be billed for care or services provided to their minor children.

SECTION 2. HSS 1.02 (6) (a) and (e) are amended to read:

HSS 1.02 (6) (a) For adult inpatient care and services or for disability-related modifications of the home or vehicle of an adult client, when ~~liability~~ the remaining liability exceeds \$1,000 or discharge of liability at the maximum monthly payment rate would exceed 5 years, a responsible parties party may enter into an agreement with the appropriate payment approval authority to pay a substantial portion of the outstanding liability ~~outstanding~~ as a lump sum.

(e) The department may set annual minimum payment amounts for services billable under par. (c) or (d). An annual minimum payment may not exceed \$1,000 unless there is a specific statutory mandate for a higher amount. An annual minimum payment shall be applied to the client's uninsured liability. Any uninsured liability beyond the annual minimum payment shall be subject to the provisions of par. (c) or (d), as applicable. For medical services, the department may credit a family payment for an annual minimum payment up to the amount the family pays for medical insurance in a year if the insurance pays at least the amount of the credit. Where the statutes set other minimum amounts, bond amounts, deductibles or copayments, those provisions supersede this paragraph. The department may also establish as a minimum payment amount the actual deductible used by an insurer in processing a claim.

SECTION 3. HSS 1.03 (11) (b) 1 and (13) are amended to read:

HSS 1.03 (11) (b) 1. The annual gross income of all family members shall be determined and totaled except that the earned income of any a child who is a ~~full time~~ full-time student or a part-time student but not a ~~full time~~ full-time employe shall be excluded. Income from self-employment or rent shall be the total net income after expenses. Depreciation on farm, business or rental property and wages paid to members of the family shall not be treated as expenses for this purpose. Actual principal payments on capital equipment and depreciated property shall be allowed as an expense. The income of any family member in a residential setting is treated separately under this ~~rule~~ section.

(13) MINIMUM PAYMENT. The appropriate payment approval authority may establish a minimum payment rate up to \$25.00 per month or 3% of gross income ~~across-the-board~~ across-the-board for all persons or

families ~~receiving~~ incurring liability for a fee chargeable service whose maximum monthly payment as calculated according to ~~sub.~~ subs. (2) through (6) or (12) is less than the minimum rate. Where minimum rates are used, all persons or families shall be expected to pay the applicable minimum rate except where liability is waived according to s. HSS 1.02 (7) or where a minimum payment exceeds the available income of the responsible party or parties. Minimum charges under this section may also be set on a per unit basis, ~~(e.g. for instance,~~ per hour, or per day, etc.) provided the charges do not accumulate to exceed \$25.00 per month or 3% of monthly income.

SECTION 4. HSS 1.03 (16) (b) 3 is repealed.

SECTION 5. HSS 1.03 (16) (b) 4 is renumbered HSS 1.03 (16) (b) 3.

SECTION 6. HSS 1.03 (18) (a) is repealed and recreated to read:

HSS 1.03 (18) EXCEPTIONS. (a) Parental payment limits set according to sub. (21) shall be applied to billings to parents for each child who receives care or services in a state center for the developmentally disabled. The department may also approve parental payment limits set according to sub. (21) which are requested by payment approval authorities for any other care or services provided to children. When parents of a child are divorced or separated, the total billed to both parents for the care of a child may not exceed the one billing limit used for the care or services received by the child. When a minor child and an adult from one family receive services, the parental payment limit may not be applied to billings for services to the adult. When used, parental payment limits shall be applied as follows:

1. For outpatient psychotherapy normally covered by health insurance and purchased or provided by county agencies, parents who provide full insurance information and necessary authorizations for billing all applicable insurance may not be billed a total amount per child per month greater than the monthly parental payment limit per month for each child who receives services;

2. For other services normally covered by health insurance, parents who provide full insurance information and necessary authorizations for billing all applicable insurance may not be billed more than the daily parental payment limit per day for each child who receives service;

3. For residential care not normally covered by health insurance, the following applies:

a. When a child is in care for less than 21 days in a calendar month, the parents may not be billed more than the daily parental payment limit per day for that child's care;

b. When a child is in care for more than 20 days in a calendar month, the payment approval authority shall adopt an agency policy for parental payment limits according to either the daily or monthly limit. The limit chosen shall apply uniformly to all parents;

c. When the daily limit is used, the agency may prorate daily billings for all families served by the agency according to their ability to pay. Under this prorating approach, the billing shall be the lesser of the daily limit or the family's monthly payment amount determined by s. HSS 1.03 (12) or (13) multiplied by 12 and divided by 365; and

Note: For example, if the maximum monthly payment for a family is \$80, the daily rate would be \$2.63 ($\$80 \times 12 \div 365 = \2.63).

d. As an alternative to subpar. c, when the daily limit is used, an agency may bill all parents the daily limit for each day of care up to their monthly payment rate determined according to sub. (12) or (13).

SECTION 7. HSS 1.03 (18) (c) is amended to read:

HSS 1.03 (18) (c) When residential care is provided under ch. 48, Stats., and there is a support order under ~~ch. 52 or~~ s. 49.90, Stats., or ch. 767, Stats., which was in existence before the ch. 48 disposition, the billing amount to parents for residential care shall not be less than the previously ordered amount attributable to the child client. This provision supersedes maximum billing limitations ~~of~~ in subs. (12), (13), and (13m), (18) (a) and (21).

SECTION 8. HSS 1.03 (21) is repealed and recreated to read:

HSS 1.03 (21) PARENTAL PAYMENT LIMIT. Parental payment limits shall be determined as follows:

(a) For care in the department's centers for the developmentally disabled, the daily parental limit shall be \$6.00, subject to adjustment by the department under par. (b). For all other care care or services the department may approve daily parental payment limits at amounts which the department determines to be administratively feasible, but not higher than the cost-based fee for the service;

(b) The daily parental payment limit for care in the department's centers for the developmentally disabled shall be adjusted upward or downward in direct proportion to movement in the Milwaukee all-urban consumer price index for food and beverages, published by the U.S. department of labor. The adjustment shall be rounded downward to the nearest whole dollar. The base date for computing the adjustments shall be the date of the last published consumer price index for Milwaukee in 1982. The base dollar amount shall be \$6.00 per day. This adjustment shall be computed at the end of each calendar year and shall be effective the following July 1; and

(c) The monthly parental payment limit shall be determined by multiplying the appropriate daily limit by 365 and dividing the product by 12.

SECTION 9. HSS 1.04 (1) (intro.) is amended to read:

HSS 1.04 (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 social services, ~~or a board county department established under s. 46.23, 51.42, or 51.437, or 46.23 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~~ social services, or a ~~board county department established under s. 46.23, 51.42, or 51.437, or 46.23, Stats.,~~ shall establish a fee or set of fees as follows if required by the appropriate fee approval authority in par. (g):

SECTION 10. HSS 1.04 (1) (d) is repealed and recreated to read:

HSS 1.04 (1) (d) Calculating fees. A division, a county department of social services, a county department established under s. 46.23, 51.42 or 51.437, Stats., or a private firm under contract to a division or county department responsible for the calculation of the facility or service fees may use forms provided by the department for the calculation of unit rates. Budgeted costs shall be segregated among cost centers based on groupings of programs which have significantly different costs. A single facility fee may be used if the facility does not provide services of a disparate nature with associated wide discrepancies in cost. Multi-service facilities providing services which are not covered by the uniform fee system may not include costs for those services in their calculations of fees.

Note #1: An example of services of a disparate nature is services provided by psychiatrists in comparison with services provided by social workers.

Note #2: A form that may be used to calculate unit rates is CD-143, Uniform Fee Application, which is available along with instructions for filling it out from the Bureau of Collections, P.O. Box 7853, Madison, Wisconsin 53707.

SECTION 11. HSS 1.04 (1) (g) 1 and 2 are amended to read:

HSS 1.04 (g) 1. ~~Provided services. County departments of social services and boards established under s. 51.42, 51.437, or 46.23, Stats., shall submit fees for provided services for review and approval in compliance with procedures established by the department's division of~~

~~community services. The division of community services shall inform agencies submitting fees of their acceptance or rejection except where another form of approval is set by law.~~ Divisions, county departments of social services, and county departments established under s. 51.42, 51.437, or 46.23, Stats., shall approve rates for facilities they operate except. This subdivision does not apply where another form of approval is set by law.

2. Contracted services. The administrative unit of a purchasing agency authorized to enter into contracts or agreements for purchased services ~~shall~~ may approve the ~~fee(s)~~ fee or fees for ~~such~~ purchased services. Any fee approval shall occur before execution of the contract or agreement and the approved fee(s) fee or fees shall be part of the contract. If the purchaser chooses not to approve fees under this subdivision, fees shall be established in accordance with sub. (2) (a).

SECTION 12. HSS 1.04 (2) (a) is repealed and recreated to read:

HSS 1.04 (2) EXCEPTIONS. (a) Contracted services. Facilities providing services pursuant to contracts or agreements with a division, a county department of social services or a county department established under s. 46.23, 51.42 or 51.437, Stats., where the purchaser chooses not to approve fees under sub. (1) (g) 2, shall establish fees which are equal to the facility's usual and customary charge. Contracted facilities shall inform the purchasing authority of the usual and customary charges and of any changes in fees that take place during the contract period.

SECTION 13. HSS 1.04 (2) (b) is repealed.

SECTION 14. HSS 1.04 (2) (c) to (f) are renumbered HSS 1.04 (2) (b) to (e).

SECTION 15. HSS 1.05 (13) (c) 1 b is renumbered 1.05 (13) (c) 1 c.

SECTION 16. HSS 1.05 (13) (c) 1 b is created to read:

HSS 1.05 (13) (c) 1 b. Small claims court for delinquent balances of \$1,000 or less.

SECTION 17. HSS 1.05 (13) (c) 1 c, as renumbered, is amended to read:


HSS 1.05 (13) (c) 1 c ~~Office of administrative rules and hearings (collection and deportation counsel), Wisconsin department of health and social services through referral to the~~ The department's bureau of collections.

The repeals and rules contained in this order shall take effect on the first day of the month following publication in the Wisconsin Administrative Register, as provided in s. 227.22 (2), Stats.

Wisconsin Department of Health and
Social Services

Dated: November 3, 1987

By:



Timothy F. Cullen, Secretary

Seal:



State of Wisconsin

DEPARTMENT OF HEALTH AND SOCIAL SERVICES
1 West Wilson Street, Madison, Wisconsin 53702

Tommy G. Thompson
Governor

Timothy F. Cullen
Secretary

November 3, 1987

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Mailing Address:
Post Office Box 7850
Madison, WI 53707

Mr. Orlan Prestegard
Revisor of Statutes
7th Floor - 30 on the Square
Madison, Wisconsin 53702


Dear Mr. Prestegard:

As provided in s. 227.20, Stats., there is hereby submitted a certified copy of HSS 1, administrative rules relating to the uniform system for charging fees for services.

These rules are also being submitted to the Secretary of State as required by s. 227.20, Stats.

These rules directly affect agencies of county government. They will not directly affect small businesses as defined in s. 227.114 (1)(a), Stats.

Sincerely,


Timothy F. Cullen
SECRETARY

Enclosure