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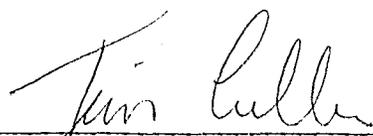
CERTIFICATE

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

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 amendments to rules relating to home health and personal care services under the Medical Assistance Program were duly approved and adopted by this Department on February 16, 1988.

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 16th day of February, 1988.



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

SEAL:

7-1-88

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

To repeal HSS 101.03(74); to amend HSS 101.03(73), (116) and (117), 105.16(intro.), 1 and 2 and 107.06(4)(a)1c, p and q; to repeal and recreate HSS 105.16(3) and 107.11; and to create HSS 105.16(4) and (5), 105.17, 107.02(4)(c)14, 107.06(4)(a)1 r, and 107.112, relating to home health and personal care services under the Medical Assistance Program.

Analysis Prepared by the  
Department of Health and Social Services

These are substantive revisions to 3 of the 8 chapters of the Department's rules for the Medical Assistance (MA) Program under ss. 49.45 to 49.47 and 49.49 to 49.497, Stats., as amended by 1987 Wisconsin Act 27. The Department's authority to repeal, amend, repeal and recreate and create these rules is found in s. 49.45(10), Stats.

Medical Assistance, also known as Medicaid, is a program that reimburses providers for the cost of health care services provided to eligible persons whose financial resources are not adequate to pay for their health care needs.

This order clarifies Medical Assistance policies, ensures compliance with federal statutes and regulations and implements provisions of the 1987-89 state budget act pertaining to home health and personal care. Specifically, in Chapter HSS 101 the definitions of home health service, personal care service and personal care worker are amended; in Chapter HSS 105, certification criteria for a new personal care provider type are established and certification criteria for home health agencies are modified primarily to distinguish home health aide functions and personal care worker functions; and in Chapter HSS 107 personal care is made a separate covered service.

SECTION 1. HSS 101.03(73) is amended to read:

HSS 101.03(73) "Home health service" means any covered home health service enumerated in ~~s. HSS-107.11(1)(a)~~ s. HSS 107.11(2) and provided by a home health worker on the staff of a home health agency or by a health worker under contract or another arrangement with the home health agency.

SECTION 2. HSS 101.03(74) is repealed.

SECTION 3. HSS 101.03(116) and (117) are amended to read:

HSS 101.03(116) "Personal care ~~services~~ service" means ~~those services~~ a service enumerated in ~~s. HSS-107.11(1)(b)~~ s. HSS 107.112(1) when provided by a provider meeting the certification requirements for a ~~home health agency~~ personal care provider under ~~s. HSS-105.16~~ s. HSS 105.17.

(117) "Personal care worker" means an individual employed by a personal care provider certified under ~~s. HSS-105.16~~ s. HSS 105.17 or under contract to the ~~home health agency~~ personal care provider to provide personal care services under the supervision of a registered nurse.

SECTION 4. HSS 105.16(intro.), (1) and (2) are amended to read:

HSS 105.16 CERTIFICATION OF HOME HEALTH AGENCIES. For MA certification, a home health agencies agency shall be certified to participate in medicare as a home health agency, be licensed pursuant to ch. HSS 133 and meet the requirements of this section as follows:

(1) HOME HEALTH AGENCY SERVICES. For MA certification, a home health agency shall provide at least part-time or intermittent skilled nursing services, or

both, which are performed by a registered nurse, home health aide or personal care services; and medical supplies and equipment, on a visiting basis, in a place of residence used as a patient's recipient's home. The home health agency or qualified professionals under contract to the home health agency may provide physical therapy, occupational therapy, and speech speech and language pathology services; ~~home health aide and personal care~~ services. Home health services shall be provided in accordance with orders from the recipient's physician in a written plan of care that the physician reviews at least every 60 days.

(2) HOME HEALTH AIDES. (a) Assignment and duties. Home health aides shall be assigned to specific patients recipients by a registered nurse. Written instructions for patient care shall be prepared by a registered nurse ~~or therapist,~~ a physical or occupational therapist or a speech and language pathologist, as appropriate. Duties shall include ~~but are not limited to the performance of simple procedures as an extension of therapy services; ambulation and exercise; activities of daily living~~ tasks such as assisting the recipient with personal hygiene, dressing, feeding, transfer or ambulatory needs as an extension of therapy services, assistance with medications that are normally self-administered, reporting changes in the patient's recipient's condition and needs, and completing appropriate records. ~~No more than 25% of the time spent by the aide may be on non-personal care activities.~~ Any household tasks performed shall be incidental to the recipient's health care needs and may occupy no more than 25% of the home health aide's time during a visit.

Note: Examples of household tasks are meal preparation, shopping, housework and laundry.

(b) Supervision. The registered nurse, ~~or appropriate professional staff member;~~ a therapist or speech and language pathologist, as appropriate, when

other services are provided, shall make a supervisory visit to the recipient's residence at least once every 60 days, either to observe and assist when the home health aide is present or, when the aide is absent, to assess relationships and determine whether goals are being met.

SECTION 5. HSS 105.16(3) is repealed and recreated to read:

HSS 105.16 (3) PHYSICAL THERAPISTS. Physical therapists may be employed by the home health agency or by an agency under contract to the home health agency, or may be independent providers under contract to the home health agency.

SECTION 6. HSS 105.16(4) and (5) are created to read:

HSS 105.16(4) OCCUPATIONAL THERAPISTS. Occupational therapists may be employed by the home health agency or by an agency under contract to the home health agency, or may be independent providers under contract to the home health agency.

(5) SPEECH AND LANGUAGE PATHOLOGISTS. Speech and language pathologists may be employed by the home health agency or by an agency under contract to the home health agency, or may be independent providers under contract to the home health agency.

SECTION 7. HSS 105.17 is created to read:

HSS 105.17 CERTIFICATION OF PERSONAL CARE PROVIDERS. (1) REQUIREMENTS. For MA certification, a personal care provider shall be a home health agency licensed under s. 141.15, Stats., and ch. HSS 133. A certified provider shall:

- (a) Possess the capacity to enter into a legally binding contract;
- (b) Present a proposal to the department to provide personal care services that:
1. Documents cost-effective provision of services;
  2. Documents a quality assurance mechanism and quality assurance activities;
  3. Demonstrates that employes possess knowledge of and training and experience with special needs, including independent living needs, of the recipient group or groups receiving services;
- (c) Document adequate resources to maintain a cash flow sufficient to cover operating expenses for 60 days;
- (d) Document a financial accounting system that complies with generally accepted accounting principles;
- (e) Maintain the records identified in sub. (4);
- (f) Document a system of personnel management if more than one personal care worker is employed;
- (g) Maintain the following records for each recipient:
1. The nursing assessment, physician prescription, plan of care, personal care worker's assignment and record of all assignments, and record of registered nurse supervisory visits;
  2. The record of all visits by the personal care worker, including observations and assigned activities completed and not completed; and
  3. A copy of written agreements between the personal care provider and RN supervisor, if applicable;
- (h) Employ or contract with personal care workers to provide personal care services;

(i) Employ trained workers as described under sub.(3), or train or arrange and pay for training of employed or subcontracted personal care workers as necessary;

(j) Employ or contract with at least one registered nurse;

(k) Supervise the provision of personal care services;

(l) Ensure that qualifications and requirements of the registered nurse supervisor and personal care worker under subs. (2) and (3) are met or are being met;

(m) Bill the medical assistance program for personal care services, for registered nurse supervisory visits and for disposable medical supplies;

(n) Give full consideration to a recipient's preferences for service arrangements and choice of personal care workers;

(o) Document a grievance mechanism to resolve recipients' complaints about personal care services, including a personal care provider's decision not to hire a recipient's choice of a personal care worker;

(p) Perform all functions and provide all services specified in a written personal care provider contract between the personal care provider and personal care workers under contract, and maintain a copy of that contract on file.

Document performance of personal care workers under contract by maintaining time sheets of personal care workers which will document the types and duration of services provided, by funding source;

(q) Provide a written plan of operation describing the entire process from referral through delivery of services and follow-up;

(r) Provide the personal care worker with the basic materials and equipment needed to deliver personal care services;

(s) Cooperate with other health and social service agencies in the area and with interested community referral groups to avoid duplication of services and to provide coordination of personal care services to recipients; and

(t) Evaluate each personal care worker's work performance on a periodic basis.

(2) QUALIFICATIONS AND DUTIES OF THE REGISTERED NURSE SUPERVISOR.

(a) Qualifications. An RN supervisor under contract with or employed by a personal care provider shall have the following qualifications:

1. Be licensed in Wisconsin pursuant to s. 441.06, Stats.;

2. Be a public health nurse or be currently or previously employed by a home health agency, an independent living center or a hospital rehabilitation unit; and

3. Provide documentation of experience in providing personal care services in the home.

(b) Duties. The RN supervisor shall perform the following duties:

1. Evaluate the need for service and make referrals to other services as appropriate;

2. Secure written orders from the recipient's physician. These orders are to be renewed once every 3 months unless the physician specifies that orders covering a period of time up to one year are appropriate, or when the recipient's needs change, whichever occurs first;

3. Develop a plan of care for the recipient, giving full consideration to the recipient's preferences for service arrangements and choice of personal care workers, interpret the plan to the personal care worker, include a copy of the plan in the recipient's health record, and review the plan at least every 60 days and update it as necessary;

4. Develop appropriate time and service reporting mechanisms for personal care workers and instruct the workers on their use;

5. Give the worker written instructions about the services to be performed and demonstrate to the worker how to perform the services; and

6. Evaluate the competency of the worker to perform the services.

(3) QUALIFICATIONS AND DUTIES OF PERSONAL CARE WORKERS. (a) Qualifications.

Personal care workers shall have the following qualifications:

1. Be trained in the provision of personal care services. Training shall consist of a minimum of 40 classroom hours, at least 25 of which shall be devoted to personal and restorative care, or 6 months of equivalent experience acquired before July 1, 1988. Training shall emphasize techniques for *and aspects* of caring for the population served by the provider;

2. Provide documentation of required training to the personal care provider for the provider's records;

3. Be a person who is not a legally responsible relative of the recipient under s. 49.90(1), Stats.; and

4. Be a person who has not been convicted of a crime which directly relates to the occupation of providing personal care or other health care services.

(b) Duties. Personal care workers shall perform the following duties:

1. Perform tasks assigned by the RN supervisor;

2. Report in writing to the RN supervisor on each assignment;

3. Report any changes in the recipient's condition to the RN supervisor; and

4. Confer as required with the RN supervisor regarding the recipient's progress.

(4) ANNUAL REVIEW OF PERSONAL CARE PROVIDERS. The department's bureau of quality compliance shall conduct an annual on-site review of each personal care provider. Records to be reviewed include:

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3/7/88*

- (a) Written personnel policies;
- (b) Written job descriptions;
- (c) A written plan of operations indicating the entire process from making referrals through delivery of services and follow-up;
- (d) A written statement defining the scope of personal care services provided, including the population being served, service needs and service priorities;
- (e) A written record of personal care workers' 40 hours of training;
- (f) Workers' time sheets;
- (g) Health care records of recipients;
- (h) Contracts with workers and other agencies; and
- (i) Records of supervisory visits.

SECTION 8. HSS 107.02(4)(c)14 is created to read:

HSS 107.02(4)(c)14. Personal care services provided by a certified personal care provider.

SECTION 9. HSS 107.06(4)(a)1 c, p, and q are amended to read:

HSS 107.06(4)(a)1 c. Home health services, ~~including personal care~~, and other nursing services;

p. Specialized transportation services for persons not requiring a wheelchair; and

q. Hospital private room accommodations; and

SECTION 10. HSS 107.06(4)(a)1 r is created to read:

HSS 107.06(4)(a)1 r. Personal care services.

SECTION 11. HSS 107.11 is repealed and recreated to read:

HSS 107.11 HOME HEALTH SERVICES. (1) DEFINITIONS. In this section:

(a) "Extended visit" means each hour of a visit by a registered nurse or a practical nurse after 8 hours of home health service in a calendar day, or each hour of a visit by a home health aide after 8 hours of home health aide service in a calendar day.

(b) "Home health aide services" means medically oriented tasks necessitated by the recipient's physical requirements and performed by a home health aide in the recipient's home to enable the physician to treat the recipient as an outpatient.

Note: The purpose of the services is to accommodate long-term maintenance or supportive care for individuals who also need skilled care, and to accommodate short-term rehabilitative or recuperative needs in conjunction with the provision of home health professional services prescribed by physicians.

(c) "Home health visit" or "visit" means a period of time during which home health services are provided through personal contact in the recipient's place of residence for the purpose of providing a covered home health service. The services are provided by a home health worker on the staff of the home health agency, by a home health worker under contract to the home health agency or by another arrangement with the home health agency. A visit includes reasonable time spent on recordkeeping, travel time to and from the recipient's residence and actual service time in the home.

(d) "Initial visit" means the first 2 hours of service by a registered nurse or a practical nurse in a calendar day and the first hour of service by a home health aide in a calendar day.

(e) "Subsequent visit" means each hour of service following the initial visit in a calendar day up to a maximum of:

1. Eight hours of registered nurse or practical nurse service, including the initial visit; or

2. Eight hours of home health aide service, including the initial visit.

(f) "Therapy visit" means a visit by a physical therapist, occupational therapist or speech and language pathologist to provide a service for a period of time which lasts from at least 15 minutes to 90 minutes.

(2) COVERED SERVICES. Services provided by an agency certified under s. HSS 105.16 which are covered by MA are: nursing services, home health aide services, medical supplies, equipment and appliances suitable for use in the home, and therapy services which the agency is certified to provide. These services are covered only when provided upon prescription of a physician to a recipient confined to a place of residence other than a hospital, a skilled nursing facility or an intermediate care facility. Home health aide services include, but are not limited to:

(a) Prescribed range of motion exercises;

(b) Taking of temperature, pulse and respiratory rates;

(c) Bowel and bladder care except for routine toileting;

(d) Application of heat and cold treatments as prescribed;

(e) Recording fluid intake and output;

(f) Respiratory assistance, including assistance with oxygen and other equipment;

(g) Catheter care;

(h) Bathing in bed or complete bathing;

(i) Wound care;

(j) Turning and positioning; and

(k) All medically oriented services provided to an ill and bed-bound recipient. In this subdivision, "bed-bound" means that the recipient, due to

illness or frailty, is required to remain in bed essentially full time and cannot leave his or her bed without assistance. The illness or frailty encompassed by this definition does not include uncomplicated neurological, neuromuscular or musculoskeletal deficit.

(3) PRIOR AUTHORIZATION REQUIREMENT. Prior authorization is required for:

(a) Initial visits by a registered nurse or practical nurse in excess of 50 visits in a calendar year;

(b) Initial visits by a home health aide in excess of 50 visits in a calendar year;

(c) Therapy visits by a physical therapist, occupational therapist or speech and language pathologist in excess of 50 visits in a calendar year;

(d) All registered nurse, practical nurse or home health aide extended visits; and

(e) All medical supplies and equipment for which prior authorization is required under s. HSS 107.24.

(4) OTHER LIMITATIONS. (a) All durable medical equipment and disposable medical supplies shall meet the requirements of s. HSS 107.24.

(b) Services provided to residents of community-based residential facilities may not exceed the limits of ch. HSS 3.

(5) NON-COVERED SERVICES. The following services are not covered home health services:

(a) Services provided by a home health agency to a recipient who is able to leave the home without assistance, when the services are available outside the home;

(b) Respite care;

(c) Parenting;

(d) Supervision of a recipient, when supervision is the only service provided at that time;

(e) Services to other members of the recipient's household;

(f) Mental health services and services for alcohol and other drug abuse, for which certification is required under ss. HSS 105.22 and 105.23;

(g) Hospice care as provided under s. HSS 107.31;

(h) More than one initial visit per discipline in a calendar day;

(i) More than 6 hours of subsequent visits by a registered nurse or a practical nurse in a calendar day;

(j) More than 7 hours of subsequent visits by a home health aide in a calendar day;

(k) More than 16 hours of extended visits by a registered nurse or a practical nurse in a calendar day;

(l) Housekeeping tasks exceeding 25% of the home health aide's time in a visit;

(m) Services requiring prior authorization that are provided without prior authorization;

(n) Nursing services contracted by a home health agency; and

(o) Any other service not mentioned in this section.

SECTION 12. HSS 107.112 is created to read:

HSS 107.112 PERSONAL CARE SERVICES. (1) COVERED SERVICES. (a) Personal care services are medically oriented activities related to assisting a recipient with activities of daily living necessary to maintain the recipient in his or her place of residence in the community. These services shall be provided upon written orders of a physician by a provider certified under s. HSS 105.17 and by

a personal care worker employed by the provider or under contract to the provider who is supervised by a registered nurse according to a written plan of care. The personal care worker shall be assigned by the supervising registered nurse to specific recipients to do specific tasks for that recipient for which the personal care worker has been trained. The personal care worker's training for these specific tasks shall be assured by the supervising registered nurse. The personal care worker is limited to performing only those tasks and services as assigned for each recipient and for which he or she has been specifically trained.

(b) Covered personal care services are:

1. Assistance with bathing;
2. Assistance with getting in and out of bed;
3. Teeth, mouth, denture and hair care;
4. Assistance with mobility and ambulation including use of walker, cane or crutches;
5. Changing the recipient's bed and laundering the bed linens and the recipient's personal clothing;
6. Skin care excluding wound care;
7. Care of eyeglasses and hearing aids;
8. Assistance with dressing and undressing;
9. Toileting, including use and care of bedpan, urinal, commode or toilet;
10. Light cleaning in essential areas of the home used during personal care service activities;
11. Meal preparation, food purchasing and meal serving;
12. Simple transfers including bed to chair or wheelchair and reverse; and
13. Accompanying the recipient to obtain medical diagnosis and treatment.

(2) SERVICES REQUIRING PRIOR AUTHORIZATION. Prior authorization is required for personal care services in excess of 250 hours per calendar year.

(3) OTHER LIMITATIONS. (a) Personal care services shall be performed under the supervision of a registered nurse by a personal care worker who meets the requirements of s. HSS 105.17(3) and who is employed by or is under contract to a provider certified under s. HSS 105.17.

(b) Services shall be performed according to a written plan of care for the recipient developed by a registered nurse for purposes of providing necessary and appropriate services, allowing appropriate assignment of a personal care worker and setting standards for personal care activities, giving full consideration to the recipient's preferences for service arrangements and choice of personal care workers. The plan shall be based on the registered nurse's visit to the recipient's home and shall include:

1. Review and interpretation of the physician's orders;
2. Frequency and anticipated duration of service;
3. Evaluation of the recipient's needs and preferences;
4. Assessment of the recipient's social and physical environment, including family involvement, living conditions, the recipient's level of functioning and any pertinent cultural factors such as language.

(c) Review of the plan of care, evaluation of the recipient's condition and supervisory review of the personal care worker shall be made by a registered nurse at least every 60 days. The review shall include a visit to the recipient's home, review of the personal care worker's daily written record and discussion with the physician of any necessary changes in the plan of care.

(d) Reimbursement for registered nurse supervisory visits is limited to one visit per month.

(e) No more than 25% of the time spent by a personal care worker may be in performing housekeeping activities.

(f) Home health aide services may not include personal care services under sub. (1)(b) unless the recipient is ill and is bed-bound as defined in s. HSS 107.11(2)(k).

(4) NON-COVERED SERVICES. The following services are not covered services:

(a) Personal care services provided in a hospital or a nursing home or in a community-based residential facility, as defined in s. 50.01(1), Stats., with more than 20 beds;

(b) Homemaking services and cleaning of areas not used during personal care service activities, unless directly related to the care of the person and essential to the recipient's health;

(c) Personal care services not documented in the plan of care;

(d) Personal care services provided by a responsible relative under s. 49.90, Stats.;

(e) Personal care services provided in excess of 250 hours per calendar year without prior authorization;

(f) Services other than those listed in sub. (1)(b);

(g) Skilled nursing services, including:

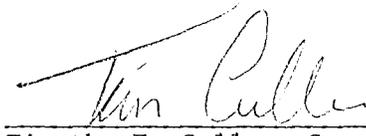
1. Insertion and sterile irrigation of catheters;
2. Giving of injections;
3. Application of dressings involving prescription medication and use of aseptic techniques; and
4. Administration of medicine that is not usually self-administered; and

(h) Therapy services.

The rules contained in this order shall take effect on July 1, 1988.

WISCONSIN DEPARTMENT OF HEALTH AND  
SOCIAL SERVICES

Dated: February 16, 1988 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

February 16, 1988

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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 101, 105 & 107, amendments to administrative rules relating to home health and personal care services under the Medical Assistance Program.

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

Sincerely,

Timothy F. Cullen  
SECRETARY

Enclosure