CR 93-89

STATE OF WISCONSIN)
)
OFFICE OF THE COMMISSIONER OF INSURANCE)

I, Josephine W. Musser, Commissioner of Insurance and custodian of the official records of this office, certify that the attached rule-making order affecting ss. Ins 17.01, 17.28, and 17.35, Wis. Adm. Code, relating to Patients Compensation Fund and Mediation Fund fees for fiscal year 1993-94, filing of certificates of coverage by insurers and self-insured health care providers, and requirements for group medical malpractice coverage, was issued by this office on July 22, 1993.

I further certify that I have compared this copy with the original on file in this office and that it is a true copy of the whole of the original.

Dated at Madison, Wisconsin, this 22 day of July 1993.

Josephine W. Musser GK
Josephine W. Musser
Commissioner of Insurance

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10-1-93

ORDER OF THE OFFICE OF THE COMMISSIONER OF INSURANCE

AMENDING, REPEALING AND RECREATING, AND CREATING A RULE

To amend Ins 17.01 (1) and (3) (intro.) and (a) and 17.28 (3) (c) (intro.) and (6) (intro.), (a) to (d) and (gm) to (n); to repeal and recreate Ins 17.28 (3) (c) 1 to 4, (5) and (6) (g); and to create Ins 17.35 (2e), relating to patients compensation fund and mediation fund fees for fiscal year 1993-94, filing of certificates of coverage by insurers and self-insured health care providers and requirements for group medical malpractice coverage.

ANALYSIS PREPARED BY THE OFFICE OF THE COMMISSIONER OF INSURANCE

Statutory authority: ss. 601.41 (3), 655.004, 655.23 (3) (b) and (c), 655.27 (3) (b) and 655.61, Stats.

Statutes Interpreted: ss. 655.23 (3) (b) and (c), 655.27 (3) (b) and (br) and 655.61, Stats.

This rule establishes the annual fees that health care providers participating in the patients compensation fund (fund) must pay for fiscal year 1993-94. The board of governors of the fund approved these fees at its meeting on July 2, 1993. Based on the request of the assembly committee on insurance, securities and corporate policy, the fees for all classes of health

care providers will increase by 10% over the fees charged for fiscal year 1992-93 rather than the 16.8% originally recommended by the fund's actuaries and approved by the fund's board of governors on February 24, 1993.

The annual fee for the operation of the mediation system for fiscal year 1993-94, as requested by the director of state courts, will be $50 per physician (a decrease of $10 from the previous year's fee) and $3 per occupied bed for hospitals (the same as the previous year's fee).

The rule also repeals and recreates the table which classifies physicians by specialty group into the 4 classes the fund is permitted by statute to establish. The new table provides the ISO (insurance services office, inc.) code as well as the name of the specialty. In addition, the eligibility criteria for part-time physicians who are entitled to a reduced fund fee are revised to include those who practice fewer than 500 hours during the fiscal year, limited to office practice and nursing home and house calls, with no obstetrical or surgical practice.

Under this rule, insurers and self-insured health care providers who are required to file certificates of insurance with the fund on behalf of individual providers must make the filings electronically in the future, unless exempted by the commissioner of insurance on grounds of financial or administrative hardship. The current rule requires that certificates be filed within 45 days after issuance or renewal of a policy or a change of the provider's class. This rule retains that provision if paper certificates are filed, but requires electronic filing by the 15th day of the month beginning after issuance, renewal or change of class.

This rule also creates new requirements for group medical malpractice policies and self-insured coverage. It requires notice of coverage limitations to both the individual providers covered by the policy or

self-insured plan and to the fund. Covered individuals must also be furnished with a copy of the policy or a certificate of coverage, notified of their obligation to ensure that appropriate coverage is in effect for their entire practice, unless they qualify for an exemption, and notified of changes in or termination of coverage. The provisions of the rule relating to group coverage and filing of certificates begin to apply on October 1, 1993. The provisions relating to the classification of providers and fees for 1993-94 apply as of July 1, 1993, the beginning of the current fiscal year.

SECTION 1. Ins 17.01 (1) and (3) (intro.) and (a) are amended to read:

Ins 17.01 PAYMENT OF MEDIATION FUND FEES. (1) PURPOSE. This section implements s. 655.61 ~~(2)~~, Stats., relating to the payment of mediation fund fees.

(3) FEE SCHEDULE. The following fee schedule shall be effective July 1, ~~1992~~ 1993:

(a) For physicians -- ~~$-60.00~~ $50.00

SECTION 2. Ins 17.28 (3) (c) (intro.) is amended to read:

Ins 17.28 (3) (c) (intro.) "Class" means a group of physicians whose specialties or types of practice are similar in their degree of exposure to loss. The specialties and types of practice and the applicable insurance services office, inc., codes included in each fund class are the following:

SECTION 3. Ins 17.28 (3) (c) 1 to 4 are repealed and recreated to read:

Ins 17.28 (3) (c) 1. Class 1:

Allergy	80254
Allergy (D.O.)	84254
Cardiovascular Disease-no surgery or catheterization	80255
Cardiovascular Disease-no surgery or catheterization (D.O.)	84255
Dermatology-no surgery	80256
Dermatology-no surgery (D.O.)	84256
Endocrinology-no surgery	80238
Endocrinology-no surgery (D.O.)	84238
Family or General Practice-no surgery	80420
Family or General Practice-no surgery (D.O.)	84420
Forensic Medicine-Legal Medicine	80240
Forensic Medicine-Legal Medicine (D.O.)	84240
Gastroenterology-no surgery	80241
Gastroenterology-no surgery (D.O.)	84241
General Preventive Medicine-no surgery	80231
Geriatrics-no surgery	80243
Geriatrics-no surgery (D.O.)	84243
Gynecology-no surgery	80244
Gynecology-no surgery (D.O.)	84244
Hematology-no surgery	80245
Hematology-no surgery (D.O.)	84245
Infectious Diseases-no surgery	80246
Internal Medicine-no surgery	80257
Internal Medicine-no surgery (D.O.)	84257
Manipulator (D.O.)	84801
Neoplastic Disease-no surgery	80259
Neonatology	80298
Nephrology-no surgery	80260
Neurology-no surgery	80261
Neurology-no surgery (D.O.)	84261
Nuclear Medicine	80262
Nuclear Medicine (D.O.)	84262
Nutrition	80248
Occupation Medicine	80233
Occupation Medicine (D.O.)	84233
Ophthalmology-no surgery	80263
Ophthalmology-no surgery (D.O.)	84263
Osteopathy-manipulation only	84801
Otorhinolaryngology-no surgery	80265
Otorhinolaryngology-no surgery (D.O.)	84265
Pathology-no surgery	80266
Pathology-no surgery (D.O.)	84266
Pediatrics-no surgery	80267
Pediatrics-no surgery (D.O.)	84267
Pharmocology-Clinical	80234
Physiatry-Physical Medicine (D.O.)	84235
Physiatry-Physical Medicine & Rehabilitation	80235
Physicians-no surgery	80268
Physicians-no surgery (D.O.)	84268
Psychiatry	80249
Psychiatry-(D.O.)	84249
Psychoanalysis	80250
Pulmonary Disease-no surgery	80269
Pulmonary Disease-no surgery (D.O.)	84269
Radiology-diagnostic	80253
Radiology-diagnostic (D.O.)	84253
Radiopaque dye	80449
Radiopaque dye (D.O.)	84449
Rheumatology-no surgery	80252
Rheumatology-no surgery (D.O.)	84252
Urgent Care - Walk-in or After Hours	80424
Urgent Care - Walk-in or After Hours (D.O.)	84424

2. Class 2:

Anesthesiology	80151
Anesthesiology (D.O.)	84151
Angiography-Arteriography-catheterization	80422
Angiography-arteriography-catheterization (D.O.)	84422
Broncho-Esophagology	80101
Cardiovascular Disease-minor surgery	80281
Cardiovascular Disease-minor surgery (D.O.)	84281
Colonoscopy-ERCP-Pneu or mech esoph dil (D.O.)	84443
Colonoscopy-ERCP-pneu. or mech.	80443
Dermatology-minor surgery	80282
Dermatology-minor surgery (D.O.)	84282
Emergency Medicine-No Major Surgery	80102
Emergency Medicine-No Major Surgery (DO)	84102
Endocrinology-minor surgery	80272
Endocrinology-minor surgery (D.O.)	84272
Family Practice - and general practice minor surgery - No OB	80423
Family Practice - and general practice minor surgery - No OB (D.O.)	84423
Family or General Practice-including OB (D.O.)	84421
Family or General Practice-including OB	80421
Gastroenterology-minor surgery	80274
Gastroenterology-minor surgery (D.O.)	84274
Geriatrics-minor surgery	80276
Geriatrics-minor surgery (D.O.)	84276
Gynecology-minor surgery	80277
Gynecology-minor surgery (D.O.)	84277
Hematology-minor surgery	80278
Hematology-minor surgery (D.O.)	84278
Infectious Diseases-minor surgery	80279
Intensive Care Medicine	80283
Intensive Care Medicine (D.O.)	84283
Internal Medicine-minor surgery	80284
Internal Medicine-minor surgery (D.O.)	84284
Laryngology-minor surgery	80285
Neonatology	80298
Neoplastic Disease-minor surgery	80286
Neurology-minor surgery	80288
Neurology-minor surgery (D.O.)	84288
Opthalmology-minor surgery	80289
Opthalmology-minor surgery (D.O.)	84289
Otorhinolaryngology-minor surgery	80291
Otorhinolaryngology-minor surgery (D.O.)	84291
Pathology-minor surgery	80292
Pathology-minor surgery (D.O.)	84292
Pediatrics-minor surgery	80293
Pediatrics-minor surgery (D.O.)	84293
Physicians-minor surgery	80294
Radiation Therapy-lasers	80425
Radiation Therapy-lasers (D.O.)	84425
Radiology-diagnostic-interventional procedures	80280
Radiology-diagnostic-interventional procedures (D.O.)	84280
Surgery-Colon & Rectal	80115
Surgery-Gastroenterology	80104
Surgery-General Practice or Family Practice	80117
Surgery-Neoplastic	80107
Surgery-Opthalomology	80114
Surgery-Urological	80145
Surgery-Urological (D.O.)	84145

3. Class 3:

Emergency Medicine-includes major surgery	80157
Emergency Medicine-includes major surgery(D.O.)	84157
Otology-surgery	80158
Surgery-Abdominal	80166
Surgery-Cardiac	80141
Surgery-Cardiovascular Disease	80150
Surgery-Cardiovascular Disease (D.O.)	84150
Surgery-General	80143
Surgery-General (D.O.)	84143
Surgery-Gynecology	80167
Surgery-Gynecology (D.O.)	84167
Surgery-Hand	80169
Surgery-Head & Neck	80170
Surgery-Orthopedic	80154
Surgery-Orthopedic (D.O.)	84154
Surgery-Otorhinolaryngology no plastic surgery	80159
Surgery-Plastic	80156
Surgery-Plastic (D.O.)	84156
Surgery-Plastic-Otorhinolaryngology	80155
Surgery-Plastic-Otorhinolaryngology (D.O.)	84155
Surgery-Rhinology	80160
Surgery-Thoracic	80144
Surgery-Thoracic (D.O.)	84144
Surgery-Traumatic	80171
Surgery-Vascular	80146
Weight Control-Bariatrics	80180

4. Class 4:

Surgery-Neurology	80152
Surgery-Neurology (D.O.)	84152
Surgery-OB/GYN	80153
Surgery-OB/GYN (D.O.)	84153

SECTION 4. Ins 17.28 (5) is repealed and recreated to read:

Ins 17.28 (5) FILING OF CERTIFICATES OF INSURANCE. (a) Electronic filing. Except as provided in par. (b), each insurer and self-insured provider required under s. 655.23 (3) (b) or (c), Stats., to file a certificate of insurance shall file the certificate electronically in the format specified by the commissioner by the 15th day of the month following the month of original issuance or renewal or a change of class under sub. (6).

(b) Exemption. An insurer or self-insured provider may file a written request for an exemption from the requirement of par. (a). The commissioner may grant the exemption if he or she finds that compliance would constitute a financial or administrative hardship. An insurer or self-insured provider granted an exemption under this paragraph shall file a paper certificate in the format specified by the commissioner within 45 days after original issuance or renewal or a change of class under sub. (6).

SECTION 5. Ins 17.28 (6) (intro.), (a) to (d) and (gm) to (n) are amended to read:

Ins 17.28 (6) FEE SCHEDULE. (intro.) The following fee schedule shall be effective from July 1, ~~1992~~ 1993 to June 30, ~~1993~~ 1994:

(a) Except as provided in pars. (b) to (g), for a physician for whom this state is a principal place of practice:

Class 1	~~$2,674~~	$2,941	Class 3	~~$13,370~~	$14,705
Class 2	~~$5,348~~	$5,882	Class 4	~~$16,044~~	$17,646

(b) For a resident acting within the scope of a residency or fellowship program:

Class 1	~~$1,337~~	$1,471	Class 3	~~$6,685~~	$7,353
Class 2	~~$2,674~~	$2,941	Class 4	~~$8,022~~	$8,823

(c) For a resident practicing part-time outside the scope of a residency or fellowship program:

All classes	~~$1,604~~	$1,765

(d) For a medical college of Wisconsin, inc., full-time faculty member:

Class 1	~~$1,070~~	$1,176	Class 3	~~$5,848~~	$5,882
Class 2	~~$2,139~~	$2,353	Class 4	~~$6,418~~	$7,058

(gm) For a physician for whom this state is not a principal place of practice:

Class 1	~~$1,337~~	$1,471	Class 3	~~$6,685~~	$7,353
Class 2	~~$2,674~~	$2,941	Class 4	~~$8,022~~	$8,823

(h) For a nurse anesthetist for whom this state is a principal place of practice: ~~$716~~ $788

(hm) For a nurse anesthetist for whom this state is not a principal place of practice: ~~$358~~ $394

(i) For a hospital:

1. Per occupied bed ~~$176~~ $194; plus

2. Per 100 outpatient visits during the last calendar year for which totals are available ~~$8.74~~ $ 9.61

(j) For a nursing home, as described under s. 655.002 (1) (j), Stats., which is wholly owned and operated by a hospital and which has health care liability insurance separate from that of the hospital by which it is owned and operated:

Per occupied bed	~~$33~~	$36

(k) For a partnership comprised of physicians or nurse anesthetists, organized for the primary purpose of providing the medical services of physicians or nurse anesthetists, whichever of the following is applicable:

1. If the total number of partners and employed physicians or nurse anesthetists is from 2 to 10 ~~$100.00~~ $110

2. If the total number of partners and employed physicians or nurse anesthetists is from 11 to 100 ~~$1,000.00~~ $1,100

3. If the total number of partners and employed physicians or nurse anesthetists exceeds 100 ~~$2,500.00~~ $2,750

(L) For a corporation with more than one shareholder organized under ch. 180, Stats., for the primary purpose of providing the medical services of physicians or nurse anesthetists, whichever of the following is applicable:

1. If the total number of shareholders and employed physicians or nurse anesthetists is from 2 to 10 ~~$100.00~~ $110

2. If the total number of shareholders and employed physicians or nurse anesthetists is from 11 to 100 ~~$1,000.00~~ $1,100

3. If the total number of shareholders and employed physicians or nurse anesthetists exceeds 100 ~~$2,500.00~~ $2,750

(Lm) For a corporation organized under ch. 181, Stats., for the primary purpose of providing the medical services of physicians or nurse anesthetists, whichever of the following is applicable:

1. If the total number of employed physicians and nurse anesthetists is from 1 to 10 ~~$100.00~~ $110

2. If the total number of employed physicians and nurse anesthetists is from 11 to 100 ~~$1,000.00~~ $1,100

3. If the total number of employed physicians or nurse anesthetists exceeds 100 ~~$2,500.00~~ $2,750

(m) For an operational cooperative sickness care plan:

1. Per 100 outpatient visits during the last calendar year for which totals are available ~~$0.22~~ $0.24; plus

2. 2.5% of the total annual fees assessed against all of the employed physicians.

(n) For an ambulatory surgery center, as defined in s. HSS 123.14 (2) (a), which is a separate entity not part of a hospital, partnership or corporation subject to ch. 655, Stats.:

Per 100 outpatient visits during the last calendar year for which totals are available $44 $48

SECTION 6. Ins 17.28 (6) (g) is repealed and recreated to read:

Ins 17.28 (6) (g) For a physician who practices fewer than 500 hours during the fiscal year, limited to office practice and nursing home and house calls, and who does not practice obstetrics or surgery or assist in surgical procedures: $735

SECTION 7. Ins 17.35 (2e) is created to read:

Ins 17.35 (2e) REQUIREMENTS FOR GROUP COVERAGE. (a) In this section, "provider" means a health care provider, as defined in s. 655.001 (8), Stats.

(b) An insurer or self-insured provider that provides primary coverage under a group policy or self-insured plan shall do all of the following:

1. At the time of original issuance of the policy or when the self-insured plan takes effect, and each time coverage for an individual provider is added:

a. Furnish each covered provider with a copy of the policy or a certificate of coverage specifying the coverage provided and whether the coverage is limited to a specific practice location, to services performed for a specific employer or in any other way.

b. Include on the first page of the policy or the certificate of coverage, or in the form of a sticker, letter or other form included with the

policy or certificate of coverage, that it is the responsibility of the individual provider to ensure that he or she has health care liability insurance coverage meeting the requirements of ch. 655, Stats., in effect for all of his or her practice in this state, unless the provider is exempt from the requirements of that chapter.

2. For a policy or self-insured plan in effect on October 1, 1993, furnish the documents specified in subd. 1 a and b to each individual covered provider before the next renewal date or anniversary date of the policy or self-insured plan.

3. Notify each covered provider individually when the policy or self-insured plan is cancelled, nonrenewed or otherwise terminated, or amended to affect the coverage provisions.

4. On the certificate of insurance filed with the fund under s. 655.23 (3) (b) or (c), Stats., and s. Ins 17.28 (5), specify whether the coverage is limited to a specific practice location, to services performed for a specific employer or in any other way.

SECTION 8. INITIAL APPLICABILITY. SECTIONS 1, 2, 3, 5 and 6 of this rule first apply on July 1, 1993.

(2) The repeal and recreation of s. Ins 17.28 (5) and the creation of s. Ins 17.35 (2e) (b) 4 by this rule first apply to certificates of insurance based on coverage that is issued, renewed or changed on, or has an anniversary date of, October 1, 1993.

(3) The creation of s. Ins 17.35 (2e) (b) 1 by this rule first applies to policies and self-insured plans issued or taking effect on October 1, 1993, and to individual coverage added after October 1, 1993.

(4) The creation of s. Ins 17.35 (2e) (b) 3 first applies to policies and self-insured plans that are cancelled, nonrenewed or otherwise terminated or amended on October 1, 1993.

SECTION 9. EFFECTIVE DATE. This rule will take effect on the first day of the first month after publication, as provided in s. 227.22 (2) (intro.), Stats.

Dated at Madison, Wisconsin, this 22 day of July 1993.

Josephine W. Musser
Commissioner of Insurance