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Chapter HFS 107

COVERED SERVICES

HFS 107.01 General statement of coverage.
HFS 107.02 General limitations.
HFS 107.03 Services not covered.
HFS 107.035 Definition and identification of experimental services.
HFS 107.04 Coverage of out−of−state services.
HFS 107.05 Coverage of emergency services provided by a person not a certified provider.
HFS 107.06 Physician services.
HFS 107.065 Anesthesiology services.
HFS 107.07 Dental services.
HFS 107.08 Hospital services.
HFS 107.09 Nursing home services.
HFS 107.10 Drugs.
HFS 107.11 Home health services.
HFS 107.112 Personal care services.
HFS 107.113 Respiratory care for ventilator−assisted recipients.
HFS 107.12 Private duty nursing services.
HFS 107.121 Nurse−midwife services.
HFS 107.122 Independent nurse practitioner services.
HFS 107.13 Mental health services.
HFS 107.14 Podiatry services.
HFS 107.15 Chiropractic services.
HFS 107.16 Physical therapy.
HFS 107.17 Occupational therapy.
HFS 107.18 Speech and language pathology services.
HFS 107.19 Audiology services.
HFS 107.20 Vision care services.
HFS 107.21 Family planning services.
HFS 107.22 Early and periodic screening, diagnosis and treatment (EPSDT) services.
HFS 107.23 Transportation.
HFS 107.24 Durable medical equipment and medical supplies.
HFS 107.25 Diagnostic testing services.
HFS 107.26 Dialysis services.
HFS 107.27 Blood.
HFS 107.28 Health maintenance organization and prepaid health plan services.
HFS 107.29 Rural health clinic services.
HFS 107.30 Ambulatory surgical center services.
HFS 107.31 Hospice care services.
HFS 107.32 Case management services.
HFS 107.33 Ambulatory prenatal services for recipients with presumptive eligibility.
HFS 107.34 Prenatal care coordination services.
HFS 107.36 School−based services.

Note: Chapter HSS 107 as it existed on February 28, 1986 was repealed and a new chapter HSS 107 was created effective March 1, 1986. Chapter HSS 107 was renumbered Chapter HFS 107 under s. 13.93 (2m) (b) 1., Stats., and corrections made under s. 13.93 (2m) (b) 6. and 7., Stats., Register, January, 1997, No. 493.

HFS 107.01 General statement of coverage. (1) The department shall reimburse providers for medically necessary and appropriate health care services listed in ss. 49.46 (2) and 49.47 (6) (a), Stats., when provided to currently eligible medical assistance recipients, including emergency services provided by persons or institutions not currently certified. The department shall also reimburse providers certified to provide case management services as defined in s. HFS 107.32 to eligible recipients.

(2) Services provided by a student during a practicum are reimbursable under the following conditions:

(a) The services meet the requirements of this chapter;

(b) Reimbursement for the services is not reflected in prospective payments to the hospital, skilled nursing facility or intermediate care facility at which the student is providing the services;

(c) The student does not bill and is not reimbursed directly for his or her services;

(d) The student provides services under the direct, immediate on−premises supervision of a certified provider; and

(e) The supervisor documents in writing all services provided by the student.

History: Cr. Register, February, 1986, No. 362, eff. 3−1−86; am. (1), Register, February, 1988, No. 386, eff. 3−1−88.

HFS 107.02 General limitations. (1) PAYMENT. (a) The department shall reject payment for claims which fail to meet program requirements. However, claims rejected for this reason may be eligible for reimbursement if, upon resubmission, all program requirements are met.

(b) Medical assistance shall pay the deductible and coinsurance amounts for services provided under this chapter which are not paid by medicare under 42 USC 1395 to 1395zz, and shall pay the monthly premiums under 42 USC 1395v. Payment of the coinsurance amount for a service under medicare part B, 42 USC 1395j to 1395w, may not exceed the allowable charge for this service under MA minus the medicare payment, effective for dates of service on or after July 1, 1988.

(2) NON−REIMBURSABLE SERVICES. The department may reject payment for a service which ordinarily would be covered if the service fails to meet program requirements. Non−reimbursable services include:

(a) Services which fail to comply with program policies or state and federal statutes, rules and regulations, for instance, sterilizations performed without following proper informed consent procedures, or controlled substances prescribed or dispensed illegally;

(b) Services which the department, the PRO review process or the department fiscal agent's professional consultants determine to be medically unnecessary, inappropriate, in excess of accepted standards of reasonableness or less costly alternative services, or of excessive frequency or duration;

(c) Non−emergency services provided by a person who is not a certified provider;

(d) Services provided to recipients who were not eligible on the date of the service, except as provided under a prepaid health plan or HMO;

(e) Services for which records or other documentation were not prepared or maintained, as required under s. HFS 106.02 (9);

(f) Services provided by a provider who fails or refuses to prepare or maintain records or other documentation as required under s. HFS 106.02 (9);

(g) Services provided by a provider who fails or refuses to provide access to records as required under s. HFS 106.02 (9) (e) 4.;

(h) Services for which the provider failed to meet any or all of the requirements of s. HFS 106.03, including but not limited to the requirements regarding timely submission of claims;

(i) Services provided inconsistent with an intermediate sanction or sanctions imposed by the department under s. HFS 106.08; and

(j) Services provided by a provider who fails or refuses to meet and maintain any of the certification requirements under ch. HFS 105 applicable to that provider.

(2m) SERVICES REQUIRING A PHYSICIAN'S ORDER OR PRESCRIPTION. (a) The following services require a physician's order or prescription to be covered under MA:

1. Skilled nursing services provided in a nursing home;

2. Intermediate care services provided in a nursing home;

3. Home health care services;

4. Independent nursing services;

5. Respiratory care services for ventilator−dependent recipients;

6. Physical and occupational therapy services;

7. Mental health and alcohol and other drug abuse (AODA) services;

8. Speech pathology and audiology services;

9. Medical supplies and equipment, including rental of durable equipment, but not hearing aid batteries, hearing aid accessories or repairs;

10. Drugs, except when prescribed by a nurse practitioner under s. HFS 107.122, a podiatrist under s. HFS 107.14 or an advanced practice nurse prescriber under s. HFS 107.10;

11. Prosthetic devices;

12. Laboratory, diagnostic, radiology and imaging test services;

13. Inpatient hospital services;

14. Outpatient hospital services;

15. Inpatient hospital IMD services;

16. Hearing aids;

18. Hospital private room accommodations;

19. Personal care services; and

20. Hospice services.

(b) Except as otherwise provided in federal or state statutes, regulations or rules, a prescription or order shall be in writing or be given orally and later be reduced to writing by the provider filling the prescription or order, and shall include the date of the prescription or order, the name and address of the prescriber, the prescriber's MA provider number, the name and address of the recipient, the recipient's MA eligibility number, an evaluation of the service to be provided, the estimated length of time required, the brand of drug or drug product equivalent medically required and the prescriber's signature. For hospital patients and nursing home patients, orders shall be entered into the medical and nursing charts and shall include the information required by this paragraph. Services prescribed or ordered shall be provided within one year of the date of the prescription.

(c) A prescription for specialized transportation services shall include an explanation of the reason the recipient is unable to travel in a private automobile, or a taxicab, bus or other common carrier. A prescription for a recipient not declared legally blind or not determined to be indefinitely disabled, as defined under s. HFS 107.23 (1) (c) shall specify the length of time for which the recipient shall require the specialized transportation, which may not exceed 90 days.

(3) PRIOR AUTHORIZATION. (a) *Procedures for prior authorization.* The department may require prior authorization for covered services. In addition to services designated for prior authorization under each service category in this chapter, the department may require prior authorization for any other covered service for any reason listed in par. (b). The department shall notify in writing all affected providers of any additional services for which it has decided to require prior authorization. The department or its fiscal agent shall act on 95% of requests for prior authorization within 10 working days and on 100% of requests for prior authorization within 20 working days from the receipt of all information necessary to make the determination. The department or its fiscal agent shall make a reasonable attempt to obtain from the provider the information necessary for timely prior authorization decisions. When prior authorization decisions are delayed due to the department's need to seek further information from the provider, the recipient shall be notified by the provider of the reason for the delay.

(b) *Reasons for prior authorization.* Reasons for prior authorization are:

1. To safeguard against unnecessary or inappropriate care and services;

2. To safeguard against excess payments;

3. To assess the quality and timeliness of services;

4. To determine if less expensive alternative care, services or supplies are usable;

5. To promote the most effective and appropriate use of available services and facilities; and

6. To curtail misutilization practices of providers and recipients.

(c) *Penalty for non−compliance.* If prior authorization is not requested and obtained before a service requiring prior authorization is provided, reimbursement shall not be made except in extraordinary circumstances such as emergency cases where the department has given verbal authorization for a service.

(d) *Required information.* A request for prior authorization submitted to the department or its fiscal agent shall, unless otherwise specified in chs. HFS 101 to 108, identify at a minimum:

1. The name, address and MA number of the recipient for whom the service or item is requested;

2. The name and provider number of the provider who will perform the service requested;

3. The person or provider requesting prior authorization;

4. The attending physician's or dentist's diagnosis including, where applicable, the degree of impairment;

5. A description of the service being requested, including the procedure code, the amount of time involved, and dollar amount where appropriate; and

6. Justification for the provision of the service.

(e) *Departmental review criteria.* In determining whether to approve or disapprove a request for prior authorization, the department shall consider:

1. The medical necessity of the service;

2. The appropriateness of the service;

3. The cost of the service;

4. The frequency of furnishing the service;

5. The quality and timeliness of the service;

6. The extent to which less expensive alternative services are available;

7. The effective and appropriate use of available services;

8. The misutilization practices of providers and recipients;

9. The limitations imposed by pertinent federal or state statutes, rules, regulations or interpretations, including medicare, or private insurance guidelines;

10. The need to ensure that there is closer professional scrutiny for care which is of unacceptable quality;

11. The flagrant or continuing disregard of established state and federal policies, standards, fees or procedures; and

12. The professional acceptability of unproven or experimental care, as determined by consultants to the department.

(f) *Professional consultants.* The department or its fiscal agent may use the services of qualified professional consultants in determining whether requests for prior authorization meet the criteria in par. (e).

(g) *Authorization not transferable.* Prior authorization, once granted, may not be transferred to another recipient or to another provider. In certain cases the department may allow multiple services to be divided among non−billing providers certified under one billing provider. For example, prior authorization for 15 visits for occupational therapy may be performed by more than one therapist working for the billing provider for whom prior authoriza-

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tion was granted. In emergency circumstances the service may be provided by a different provider.

(h) *Medical opinion reports.* Medical evaluations and written medical opinions used in establishing a claim in a tort action against a third party may be covered services if they are prior−authorized. Prior authorization shall be issued only where:

1. A recipient has sustained personal injuries requiring medical or other health care services as a result of injury, damage or a wrongful act caused by another person;

2. Services for these injuries are covered under the MA program;

3. The recipient or the recipient's representative has initiated or will initiate a claim or tort action against the negligent third party, joining the department in the action as provided under s. 49.89, Stats.; and

4. The recipient or the recipient's representative agrees in writing to reimburse the program in whole for all payments made for the prior−authorized services from the proceeds of any judgment, award, determination or settlement on the recipient's claim or action.

(i) *Significance of prior authorization approval.* 1. Approval or modification by the department or its fiscal agent of a prior authorization request, including any subsequent amendments, extensions, renewals, or reconsideration requests:

a. Shall not relieve the provider of responsibility to meet all requirements of federal and state statutes and regulations, provider handbooks and provider bulletins;

b. Shall not constitute a guarantee or promise of payment, in whole or in part, with respect to any claim submitted under the prior authorization; and

c. Shall not be construed to constitute, in whole or in part, a discretionary waiver or variance under s. HFS 106.13.

2. Subject to the applicable terms of reimbursement issued by the department, covered services provided consistent with a prior authorization, as approved or modified by the department or its fiscal agent, are reimbursable provided:

a. The provider's approved or modified prior authorization request and supporting information, including all subsequent amendments, renewals and reconsideration requests, is truthful and accurate;

b. The provider's approved or modified prior authorization request and supporting information, including all subsequent amendments, extensions, renewals and reconsideration requests, completely and accurately reveals all facts pertinent to the recipient's case and to the review process and criteria provided under s. HFS 107.02 (3);

c. The provider complies with all requirements of applicable state and federal statutes, the terms and conditions of the applicable provider agreement pursuant to s. 49.45 (2) (a) 9., Stats., all applicable requirements of chs. HFS 101 to 108, including but not limited to the requirements of ss. HFS 106.02, 106.03, 107.02, and 107.03, and all applicable prior authorization procedural instructions issued by the department under s. HFS 108.02 (4);

d. The recipient is MA eligible on the date of service; and

e. The provider is MA certified and qualified to provide the service on the date of the service.

(4) COST−SHARING. (a) *General policy.* The department shall establish cost−sharing provisions for MA recipients, pursuant to s. 49.45 (18), Stats. Cost−sharing requirements for providers are described under s. HFS 106.04 (2), and services and recipients exempted from cost−sharing requirements are listed under s. HFS 104.01 (12) (a).

(b) *Notification of applicable services and rates.* All services for which cost−sharing is applicable shall be identified by the department to all recipients and providers prior to enforcement of the provisions.

(d) *Limitation on copayments for prescription drugs.* Providers may not collect copayments in excess of $5 a month from a recipient for prescription drugs if the recipient uses one pharmacy or pharmacist as his or her sole provider of prescription drugs.

History: Cr. Register, February, 1986, No. 362, eff. 3−1−86; r. and recr. (1) and am. (14) (c) 12. and 13., Register, February, 1988, No. 386, eff. 3−1−88; cr. (4) (c) 14., Register, April, 1988, No. 388, eff. 7−1−88; r. and recr. (4) (c), Register, December, 1988, No. 396, eff. 1−1−89; emerg. am. (4) (a), r. (4) (c), eff. 1−1−90; am. (4) (a) r. (4) (c), Register, September, 1990, No. 417, eff. 10−1−90; am. (2) (b), r. (2) (c), renum. (2) (d) and (e) to be (2) (c) and (d), cr. (2m), Register, September, 1991, No. 429, eff. 10−1−91; emerg. cr. (3) (i), eff. 7−1−92; am. (2) (c) and (d), cr. (2) (e) to (j) and (3) (i), Register, February, 1993, No. 446, eff. 3−1−93; r. (2m) (a) 17., Register, November, 1994, No. 467, eff. 12−1−94; am. (2) (a), Register, January, 1997, No. 493, eff. 2−1−97; correction in (4) (a) made under s. 13.93 (2m) (b) 7., Stats., Register, April, 1999, No. 520; correction in (3) (h) 3. made under s. 13.93 (2m) (b) 7., Stats., Register, October, 2000, No. 538; **CR 03−033: am. (2m) (a) 10. and (c) Register December 2003 No. 576, eff. 1−1−04**.

HFS 107.03 Services not covered. The following services are not covered services under MA:

(1) Charges for telephone calls;

(2) Charges for missed appointments;

(3) Sales tax on items for resale;

(4) Services provided by a particular provider that are considered experimental in nature;

(5) Procedures considered by the department to be obsolete, inaccurate, unreliable, ineffectual, unnecessary, imprudent or superfluous;

(6) Personal comfort items, such as radios, television sets and telephones, which do not contribute meaningfully to the treatment of an illness;

(7) Alcoholic beverages, even if prescribed for remedial or therapeutic reasons;

(8) Autopsies;

(9) Any service requiring prior authorization for which prior authorization is denied, or for which prior authorization was not obtained prior to the provision of the service except in emergency circumstances;

(10) Services subject to review and approval pursuant to s. 150.21, Stats., but which have not yet received approval;

(11) Psychiatric examinations and evaluations ordered by a court following a person's conviction of a crime, pursuant to s. 972.15, Stats.;

(12) Consultations between or among providers, except as specified in s. HFS 107.06 (4) (e);

(13) Medical services for adult inmates of the correctional institutions listed in s. 302.01, Stats.;

(14) Medical services for a child placed in a detention facility;

(15) Expenditures for any service to an individual who is an inmate of a public institution or for any service to a person 21 to 64 years of age who is a resident of an institution for mental diseases (IMD), unless the person is 21 years of age, was a resident of the IMD immediately prior to turning 21 and has been continuously a resident since then, except that expenditures for a service to an individual on convalescent leave from an IMD may be reimbursed by MA.

(16) Services provided to recipients when outside the United States, except Canada or Mexico;

(17) Separate charges for the time involved in completing necessary forms, claims or reports;

(18) Services provided by a hospital or professional services provided to a hospital inpatient are not covered services unless billed separately as hospital services under s. HFS 107.08 or 107.13 (1) or as professional services under the appropriate provider type. No recipient may be billed for these services as non−covered;

(19) Services, drugs and items that are provided for the purpose of enhancing the prospects of fertility in males or females, including but not limited to the following:

(a) Artificial insemination, including but not limited to intra−cervical and intra−uterine insemination;

(b) Infertility counseling;

(c) Infertility testing, including but not limited to tubal patency, semen analysis or sperm evaluation;

(d) Reversal of female sterilization, including but not limited to tubouterine implantation, tubotubal anastomoses or fimbrioplasty;

(e) Fertility−enhancing drugs used for the treatment of infertility;

(f) Reversal of vasectomies;

(g) Office visits, consultations and other encounters to enhance the prospects of fertility; and

(h) Other fertility−enhancing services and items;

(20) Surrogate parenting and related services, including but not limited to artificial insemination and subsequent obstetrical care;

(21) Ear lobe repair;

(22) Tattoo removal;

(23) Drugs, including hormone therapy, associated with transsexual surgery or medically unnecessary alteration of sexual anatomy or characteristics;

(24) Transsexual surgery;

(25) Impotence devices and services, including but not limited to penile prostheses and external devices and to insertion surgery and other related services; and

(26) Testicular prosthesis.

History: Cr. Register, February, 1986, No. 362, eff. 3−1−86; emerg. r. and recr. (15), eff. 8−1−88; r. and recr. (15), Register, December, 1988, No. 396, eff. 1−1−89; emerg. am. (15), eff. 6−1−89; am. (15), Register, February, 1990, No. 410, eff. 3−1−90; am. (10), (12), (16) and (17), cr. (18), Register, September, 1991, No. 429, eff. 10−1−91; am. (17) and (18), cr. (19) to (26), Register, January, 1997, No. 493, eff. 2−1−97; correction in (13) made under s. 13.93 (2m) (b) 7., Stats., Register, October, 2000, No. 538.

HFS 107.035 Definition and identification of experimental services. (1) DEFINITION. "Experimental in nature," as used in s. HFS 107.03 (4) and this section, means a service, procedure or treatment provided by a particular provider which the department has determined under sub. (2) not to be a proven and effective treatment for the condition for which it is intended or used.

(2) DEPARTMENTAL REVIEW. In assessing whether a service provided by a particular provider is experimental in nature, the department shall consider whether the service is a proven and effective treatment for the condition which it is intended or used, as evidenced by:

(a) The current and historical judgment of the medical community as evidenced by medical research, studies, journals or treatises;

(b) The extent to which medicare and private health insurers recognize and provide coverage for the service;

(c) The current judgment of experts and specialists in the medical specialty area or areas in which the service is applicable or used; and

(d) The judgment of the MA medical audit committee of the state medical society of Wisconsin or the judgment of any other committee which may be under contract with the department to perform health care services review within the meaning of s. 146.37, Stats.

(3) EXCLUSION OF COVERAGE. If on the basis of its review the department determines that a particular service provided by a particular provider is experimental in nature and should therefore be denied MA coverage in whole or in part, the department shall send written notice to physicians or other affected certified providers who have requested reimbursement for the provision of the experimental service. The notice shall identify the service, the basis for its exclusion from MA coverage and the specific circumstances, if any, under which coverage will or may be provided.

(4) REVIEW OF EXCLUSION FROM COVERAGE. At least once a year following a determination under sub. (3), the department shall reassess services previously designated as experimental to ascertain whether the services have advanced through the research and experimental stage to become established as proven and effective means of treatment for the particular condition or conditions for which they are designed. If the department concludes that a service should no longer be considered experimental, written notice of that determination shall be given to the affected providers. That notice shall identify the extent to which MA coverage will be recognized.

History: Cr. Register, February, 1986, No. 362, eff. 3−1−86.

HFS 107.04 Coverage of out−of−state services. All non−emergency out−of−state services require prior authorization, except where the provider has been granted border status pursuant to s. HFS 105.48.

History: Cr. Register, February, 1986, No. 362, eff. 3−1−86; correction made under s. 13.93 (2m) (b) 7., Stats., Register, April, 1999, No. 520.

HFS 107.05 Coverage of emergency services provided by a person not a certified provider. Emergency services necessary to prevent the death or serious impairment of the health of a recipient shall be covered services even if provided by a person not a certified provider. A person who is not a certified provider shall submit documentation to the department to justify provision of emergency services, according to the procedures outlined in s. HFS 105.03. The appropriate consultant to the department shall determine whether a service was an emergency service.

History: Cr. Register, February, 1986, No. 362, eff. 3−1−86.

HFS 107.06 Physician services. (1) COVERED SERVICES. Physician services covered by the MA program are, except as otherwise limited in this chapter, any medically necessary diagnostic, preventive, therapeutic, rehabilitative or palliative services provided in a physician's office, in a hospital, in a nursing home, in a recipient's residence or elsewhere, and performed by or under the direct, on−premises supervision of a physician within the scope of the practice of medicine and surgery as defined in s. 448.01 (9), Stats. These services shall be in conformity with generally accepted good medical practice.

(2) SERVICES REQUIRING PRIOR AUTHORIZATION. The following physician services require prior authorization in order to be covered under the MA program:

(a) All covered physician services if provided out−of−state under non−emergency circumstances by a provider who does not have border status. Transportation to and from these services shall also require prior authorization, which shall be obtained by the transportation provider;

(b) All medical, surgical, or psychiatric services aimed specifically at weight control or reduction, and procedures to reverse the result of these services;

(c) Surgical or other medical procedures of questionable medical necessity but deemed advisable in order to correct conditions that may reasonably be assumed to significantly interfere with a recipient's personal or social adjustment or employability, an example of which is cosmetic surgery;

(d) Prescriptions for those drugs listed in s. HFS 107.10 (2);

(e) Ligation of internal mammary arteries, unilateral or bilateral;

(f) Omentopexy for establishing collateral circulation in portal obstruction;

(g) 1. Kidney decapsulation, unilateral and bilateral;

2. Perirenal insufflation; and

3. Nephropexy: fixation or suspension of kidney (independent procedure), unilateral;

(h) Female circumcision;

(i) Hysterotomy, non−obstetrical or vaginal;

(j) Supracervical hysterectomy, that is, subtotal hysterectomy, with or without removal of tubes or ovaries or both tubes and ovaries;

(k) Uterine suspension, with or without presacral sympathectomy;

(L) Ligation of thyroid arteries as an independent procedure;

(m) Hypogastric or presacral neurectomy as an independent procedure;

(n) 1. Fascia lata by stripper when used as treatment for lower back pain;

2. Fascia lata by incision and area exposure, with removal of sheet, when used as treatment for lower back pain;

(o) Ligation of femoral vein, unilateral and bilateral, when used as treatment for post−phlebitic syndrome;

(p) Excision of carotid body tumor without excision of carotid artery, or with excision of carotid artery, when used as treatment for asthma;

(q) Sympathectomy, thoracolumbar or lumbar, unilateral or bilateral, when used as treatment for hypertension;

(r) Splanchnicectomy, unilateral or bilateral, when used as treatment for hypertension;

(s) Bronchoscopy with injection of contrast medium for bronchography or with injection of radioactive substance;

(t) Basal metabolic rate (BMR);

(u) Protein bound iodine (PBI);

(v) Ballistocardiogram;

(w) Icterus index;

(x) Phonocardiogram with interpretation and report, and with indirect carotid artery tracings or similar study;

(y) 1. Angiocardiography, utilizing C02 method, supervision and interpretation only;

2. Angiocardiography, either single plane, supervision and interpretation in conjunction with cineradiography or multi−plane, supervision and interpretation in conjunction with cineradiography;

(z) 1. Angiography — coronary: unilateral, selective injection, supervision and interpretation only, single view unless emergency;

2. Angiography — extremity: unilateral, supervision and interpretation only, single view unless emergency;

(za) Fabric wrapping of abdominal aneurysm;

(zb) 1. Mammoplasty, reduction or repositioning, one−stage — bilateral;

2. Mammoplasty, reduction or repositioning, two−stage — bilateral;

3. Mammoplasty augmentation, unilateral and bilateral;

4. Breast reconstruction and reduction.

(zc) Rhinoplasty;

(zd) Cingulotomy;

(ze) Dermabrasion;

(zf) Lipectomy;

(zg) Mandibular osteotomy;

(zh) Excision or surgical planning for rhinophyma;

(zi) Rhytidectomy;

(zj) Constructing an artificial vagina;

(zk) Repair blepharoptosis, lid retraction;

(zL) Any other procedure not identified in the physicians' "current procedural terminology", fourth edition, published by the American medical association;

Note: The referenced publication is on file and may be reviewed in the department's division of health care financing. Interested persons may obtain a copy by writing American Medical Association, 535 N. Dearborn Avenue, Chicago, Illinois 60610.

(zm) Transplants;

1. Heart;

2. Pancreas;

3. Bone marrow;

4. Liver;

5. Heart−lung; and

6. Lung

Note: For more information about prior authorization, see s. HFS 107.02 (3).

(zn) Drugs identified by the department that are sometimes used to enhance the prospects of fertility in males or females, when proposed to be used for treatment of a non−fertility related condition;

(zo) Drugs identified by the department that are sometimes used to treat impotence, when proposed to be used for treatment of a non−impotence related condition;

(3) LIMITATIONS ON STERILIZATION. (a) *Conditions for coverage.* Sterilization is covered only if:

1. The individual is at least 21 years old at the time consent is obtained;

2. The individual has not been declared mentally incompetent by a federal, state or local court of competent jurisdiction to consent to sterilization;

3. The individual has voluntarily given informed consent in accordance with all the requirements prescribed in subd. 4. and par. (d); and

4. At least 30 days, but not more than 180 days, have passed between the date of informed consent and the date of the sterilization, except in the case of premature delivery or emergency abdominal surgery. An individual may be sterilized at the time of a premature delivery or emergency abdominal surgery if at least 72 hours have passed since he or she gave informed consent for the sterilization. In the case of premature delivery, the informed consent must have been given at least 30 days before the expected date of delivery.

(b) *Sterilization by hysterectomy.* 1. A hysterectomy performed solely for the purpose of rendering an individual permanently incapable of reproducing or which would not have been performed except to render the individual permanently incapable of reproducing is a covered service only if:

a. The person who secured authorization to perform the hysterectomy has informed the individual and her representative, if any, orally and in writing, that the hysterectomy will render the individual permanently incapable of reproducing; and

b. The individual or her representative, if any, has signed and dated a written acknowledgment of receipt of that information prior to the hysterectomy being performed.

2. A hysterectomy may be a covered service if it is performed on an individual:

a. Already sterile prior to the hysterectomy and whose physician has provided written documentation, including a statement of the reason for sterility, with the claim form; or

b. Requiring a hysterectomy due to a life−threatening situation in which the physician determines that prior acknowledgment is not possible. The physician performing the operation shall provide written documentation, including a clear description of the nature of the emergency, with the claim form.

Note: Documentation may include an operative note, or the patient's medical history and report of physical examination conducted prior to the surgery.

3. If a hysterectomy was performed for a reason stated under subd. 1. or 2. during a period of the individual's retroactive eligibility for MA under s. HFS 103.08, the hysterectomy shall be covered if the physician who performed the hysterectomy certifies in writing that:

a. The individual was informed before the operation that the hysterectomy would make her permanently incapable of reproducing; or

b. The condition in subd. 2. was met. The physician shall supply the information specified in subd. 2.

(c) *Documentation.* Before reimbursement will be made for a sterilization or hysterectomy, the department shall be given documentation showing that the requirements of this subsection were met. This documentation shall include a consent form, an acknowledgment of receipt of hysterectomy information or a physician's certification form for a hysterectomy performed without prior acknowledgment of receipt of hysterectomy information.

Note: Copies of the consent form and the physician's certification form are reproduced in the Wisconsin medical assistance physician provider handbook.

(d) *Informed consent.* For purposes of this subsection, an individual has given informed consent only if:

1. The person who obtained consent for the sterilization procedure offered to answer any questions the individual to be sterilized may have had concerning the procedure, provided a copy of the consent form and provided orally all of the following information or advice to the individual to be sterilized:

a. Advice that the individual is free to withhold or withdraw consent to the procedure at any time before the sterilization without affecting the right to future care or treatment and without loss or withdrawal of any federally funded program benefits to which the individual might be otherwise entitled;

b. A description of available alternative methods of family planning and birth control;

c. Information that the sterilization procedure is considered to be irreversible;

d. A thorough explanation of the specific sterilization procedure to be performed;

e. A full description of the discomforts and risks that may accompany or follow the performing of the procedure, including an explanation of the type and possible effects of any anesthetic to be used;

f. A full description of the benefits or advantages that may be expected as a result of the sterilization; and

g. Advice that the sterilization will not be performed for at least 30 days, except under the circumstances specified in par. (a) 4.

2. Suitable arrangements were made to ensure that the information specified in subd. 1. was effectively communicated to any individual who is blind, deaf, or otherwise handicapped;

3. An interpreter was provided if the individual to be sterilized did not understand the language used on the consent form or the language used by the person obtaining consent;

4. The individual to be sterilized was permitted to have a witness of his or her choice present when consent was obtained;

5. The consent form requirements of par. (e) were met;

6. Any additional requirement of state or local law for obtaining consent, except a requirement for spousal consent, was followed; and

7. Informed consent is not obtained while the individual to be sterilized is:

a. In labor or childbirth;

b. Seeking to obtain or obtaining an abortion; or

c. Under the influence of alcohol or other substances that affect the individual's state of awareness.

(e) *Consent form.* 1. Consent shall be registered on a form prescribed by the department.

Note: A copy of the informed consent form can be found in the Wisconsin medical assistance physician provider handbook.

2. The consent form shall be signed and dated by:

a. The individual to be sterilized;

b. The interpreter, if one is provided;

c. The person who obtains the consent; and

d. The physician who performs the sterilization procedure.

3. The person securing the consent and the physician performing the sterilization shall certify by signing the consent form that:

a. Before the individual to be sterilized signed the consent form, they advised the individual to be sterilized that no federally funded program benefits will be withdrawn because of the decision not to be sterilized;

b. They explained orally the requirements for informed consent as set forth on the consent form; and

c. To the best of their knowledge and belief, the individual to be sterilized appeared mentally competent and knowingly and voluntarily consented to be sterilized.

4. a. Except in the case of premature delivery or emergency abdominal surgery, the physician shall further certify that at least 30 days have passed between the date of the individual's signature on the consent form and the date upon which the sterilization was performed, and that to the best of the physician's knowledge and belief, the individual appeared mentally competent and knowingly and voluntarily consented to be sterilized.

b. In the case of premature delivery or emergency abdominal surgery performed within 30 days of consent, the physician shall certify that the sterilization was performed less than 30 days but not less than 72 hours after informed consent was obtained because of premature delivery or emergency abdominal surgery. In the case of premature delivery, the physician shall state the expected date of delivery. In the case of abdominal surgery, the physician shall describe the emergency.

5. If an interpreter is provided, the interpreter shall certify that the information and advice presented orally was translated, that the consent form and its contents were explained to the individual to be sterilized and that to the best of the interpreter's knowledge

(4) OTHER LIMITATIONS. (a) *Physician's visits.* A maximum of one physician's visit per month to a recipient confined to a nursing home is covered unless the recipient has an acute condition which warrants more frequent care, in which case the recipient's medical record shall document the necessity of additional visits. The attending physician of a nursing home recipient, or the physician's assistant, or a nurse practitioner under the supervision of a physician, shall reevaluate the recipient's need for nursing home care in accordance with s. HFS 107.09 (4) (m).

(b) *Services of a surgical assistant.* The services of a surgical assistant are not covered for procedures which normally do not require assistance at surgery.

(c) *Consultations.* Certain consultations shall be covered if they are professional services furnished to a recipient by a second physician at the request of the attending physician. Consultations shall include a written report which becomes a part of the recipient's permanent medical record. The name of the attending physician shall be included on the consultant's claim for reimbursement. The following consultations are covered:

1. Consultation requiring limited physical examination and evaluation of a given system or systems;

2. Consultation requiring a history and direct patient confrontation by a psychiatrist;

3. Consultation requiring evaluation of frozen sections or pathological slides by a pathologist; and

4. Consultation involving evaluation of radiological studies or radiotherapy by a radiologist;

(d) *Foot care.* 1. Services pertaining to the cleaning, trimming, and cutting of toenails, often referred to as palliative care, maintenance care, or debridement, shall be reimbursed no more than one time for each 31−day period and only if the recipient's condition is one or more of the following:

a. Diabetes mellitus;

b. Arteriosclerosis obliterans evidenced by claudication; or

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http://docs.legis.wisconsin.gov/code/admin_code

c. Peripheral neuropathies involving the feet, which are associated with malnutrition or vitamin deficiency, carcinoma, diabetes mellitus, drugs and toxins, multiple sclerosis, uremia or cerebral palsy.

2. The cutting, cleaning and trimming of toenails, corns, callouses and bunions on multiple digits shall be reimbursed at one inclusive fee for each service which includes either one or both appendages.

3. For multiple surgical procedures performed on the foot on the same day, the physician shall be reimbursed for the first procedure at the full rate and the second and all subsequent procedures at a reduced rate as determined by the department.

4. Debridement of mycotic conditions and mycotic nails shall be a covered service in accordance with utilization guidelines established and published by the department.

5. The application of unna boots is allowed once every 2 weeks, with a maximum of 12 applications for each 12−month period.

(e) *Second opinions.* A second medical opinion is required when a selected elective surgical procedure is prescribed for a recipient. On this occasion the final decision to proceed with surgery shall remain with the recipient, regardless of the second opinion. The second opinion physician may not be reimbursed if he or she ultimately performs the surgery. The following procedures are subject to second opinion requirements:

1. Cataract extraction, with or without lens implant;
2. Cholecystectomy;
3. D. & C., diagnostic and therapeutic, or both;
4. Hemorrhoidectomy;
5. Hernia repair, inguinal;
6. Hysterectomy;
7. Joint replacement, hip or knee;
8. Tonsillectomy or adenoidectomy, or both; and
9. Varicose vein surgery.

(f) *Services performed under a physician's supervision.* Services performed under the supervision of a physician shall comply with federal and state regulations relating to supervision of covered services. Specific documentation of the services shall be included in the recipient's medical record.

(g) *Dental services.* Dental services performed by a physician shall be subject to all requirements for MA dental services described in s. HFS 107.07.

(h) *Obesity−related procedures.* Gastric bypass or gastric stapling for obesity is limited to medical emergencies, as determined by the department.

(i) *Abortions.* 1. Abortions, both surgically−induced and drug−induced, are limited to those that comply with s. 20.927, Stats.

2. Services, including drugs, directly related to non−surgical abortions shall comply with s. 20.927, Stats., may only be prescribed by a physician, and shall comply with MA policy and procedures as described in MA provider handbooks and bulletins.

(5) NON−COVERED SERVICES. The following services are not covered services:

(a) Services and items that are provided for the purpose of enhancing the prospects of fertility in males or females, within the meaning of s. HFS 107.03 (19).

(b) Abortions performed which do not comply with s. 20.927, Stats.;

(c) Services performed by means of a telephone call between a physician and a recipient, including those in which the physician provides advice or instructions to or on behalf of a recipient, or between or among physicians on behalf of the recipient;

(d) As separate charges, preoperative and postoperative surgical care, including office visits for suture and cast removal, which commonly are included in the payment of the surgical procedure;

(e) As separate charges, transportation expenses incurred by a physician, to include but not limited to mileage;

(f) Dab's and Wynn's solution;

(g) Except as provided in sub. (3) (b) 1., a hysterectomy if it was performed solely for the purpose of rendering an individual permanently incapable of reproducing or, if there was more than one purpose to the procedure, it would not have been performed but for the purpose of rendering the individual permanently incapable of reproducing;

(h) Ear piercing;

(i) Electrolysis;

(j) Tattooing;

(k) Hair transplants;

(L) Vitamin C injections;

(m) Lincocin (lincomycin) injections performed on an outpatient basis;

(n) Orthopedic shoes and supportive devices such as arch supports, shoe inlays and pads;

(o) Services directed toward the care and correction of "flat feet";

(p) Sterilization of a mentally incompetent or institutionalized person, or of a person who is less than 21 years of age;

(q) Inpatient laboratory tests not ordered by a physician or other responsible practitioner, except in emergencies;

(r) Hospital care following admission on a Friday or Saturday, except for emergencies, accident care or obstetrical cases, unless the hospital can demonstrate to the satisfaction of the department that the hospital provides all of its services 7 days a week;

(s) Liver injections;

(t) Acupuncture;

(u) Phonocardiogram with interpretation and report;

(v) Vector cardiogram;

(w) Non−emergency gastric bypass or gastric stapling for obesity; and

(x) Separate charges for pump technician services.

Note: For more information on non−covered services, see s. HFS 107.03.

History: Cr. Register, February, 1986, No. 362, eff. 3−1−86; cr. (2) (cm), (4) (h) and (5) (y), am. (4) (a) 3. Register, February, 1988, No. 386, eff. 3−1−88; am. (4) (a) 1. c., p. and q., cr. (4) (a) 1. r., Register, April, 1988, No. 388, eff. 7−1−88; r. (2) (cm) and (5) (y), r. and recr. (4) (h), Register, December, 1988, No. 396, eff. 1−1−89; r. (2) (zh), (zk), (zo), (zp) and (4) (a), renum. (2) (zi) to (zw) to be (zh) to (zs) and am. renum. (4) (b) to (h) to be (4) (a) to (g), cr. (2) (zt), r. (4) (a), Register, September, 1991, No. 429, eff. 10−1−91; r. and recr. (2) (h) and (5) (a), r. (2) (zb), (zc), zl), (zn), (zp), (zq) and (zs), renum. (2) (zd), (ze) to (zk), (zm), (zo), (zr) and (zt) to be(zb), (zc) to (zi), (zj), (zk), (zl) and (zm) and am.(2) (zc) and (zm), am. (5) (w) and (x), cr. (2) (zn) and (zo), (4) (h) and (i), Register, January, 1997, No. 493, eff. 2−1−97; correction in (4) (a) made under s. 13.93 (2m) (b) 7., Stats., Register, April, 1999, No. 520.

HFS 107.065 Anesthesiology services. (1) COVERED SERVICES. Anesthesiology services covered by the MA program are any medically necessary medical services applied to a recipient to induce the loss of sensation of pain associated with surgery, dental procedures or radiological services. These services are performed by an anesthesiologist certified under s. HFS 105.05, or by a nurse anesthetist or an anesthesiology assistant certified under s. HFS 105.055. Anesthesiology services shall include preoperative, intraoperative and postoperative evaluation and management of recipients as appropriate.

(2) OTHER LIMITATIONS. (a) A nurse anesthetist shall perform services in the presence of a supervising anesthesiologist or performing physician.

(b) An anesthesiology assistant shall perform services only in the presence of a supervising anesthesiologist.

History: Cr. Register, September, 1991, No. 429, eff. 10−1−91.

HFS 107.07 Dental services. (1) COVERED SERVICES. (a) *General.* Covered dental services are the services identified in this subsection and the MA dental provider handbook which are provided by or under the supervision of a dentist or physician and within the scope of practice of dentistry as defined in s. 447.02, Stats., except when limited under subs. (2) and (3).

(b) *Diagnostic procedures.* Covered diagnostic procedures are:

1. Clinical oral examinations; and

2. Radiographs:

a. Intraoral — occlusal, single film;

b. Extraoral, in emergency or trauma situations only and excluding panoramic films; and

c. Bitewing films, when required to substantiate prior authorization.

(c) *Preventive procedures.* Covered preventive procedures are:

1. Dental prophylaxis — scaling and polishing, including prophylaxis treatment paste, if used; and

2. Space maintenance fixed unilateral, for premature loss of second primary molar only.

(d) *Restorative procedures.* Covered restorative procedures are:

1. Amalgam restorations, includes polishing — primary and permanent teeth;

2. Pin retention, exclusive of restoration;

3. Acrylic, plastic, silicate or composite restoration; and

4. Crowns:

a. Stainless steel — primary cuspid and posteriors only;

b. Stainless steel — primary lateral and centrals; and

c. Recement crowns; and

5. Recement inlays and facings.

(e) *Endodontic procedures.* Covered endodontic procedures are:

1. Vital or non−vital pulpotomy — primary teeth only;

2. Root canal therapy — gutta percha or silver points only:

a. Anterior exclusion of final restoration;

b. Bicuspids exclusion of final restoration;

c. Apexification or therapeutic apical closure; and

d. Molar, exclusive of final restoration; and

3. Replantation and splinting of traumatically avulsed tooth.

(f) *Removable prosthodontic procedures.* Covered removable prosthodontic procedures are:

1. Complete upper dentures, including 6 months' postdelivery care;

2. Complete lower dentures, including 6 months' postdelivery care;

3. Relining upper complete denture;

4. Relining lower complete denture; and

5. Repair damaged complete or partial dentures.

(g) *Fixed prosthodontic procedures.* Covered fixed prosthodontic procedures are:

1. Recement bridges;

2. Metallic, inlay, onlaying cusps retainer;

3. Crown bridge retainers;

4. Bridge pontics;

5. Cast or prefabricated post and core for bridge retainers only;

6. Stress breakers.

(h) *Periodontic procedures.* Covered periodontic procedures are:

1. Gingivectomy or gingivoplasty; and

2. Gingival curettage for each quadrant.

(i) *Oral surgery procedures.* Covered oral surgery procedures, including anesthetics and routine postoperative care, are:

1. Simple extractions, including sutures;

2. Extraction of impacted teeth under emergency circumstances;

3. Oral antral fistula closure and antral root recovery;

4. Biopsy of oral tissue, hard or soft;

5. Excision of tumors, but not hyperplastic tissue;

6. Removal of cysts and neoplasms, to include local anesthetic and routine postoperative care;

7. Surgical incision:

a. Incision and drainage of abscess whether intraoral or extraoral;

b. Sequestrectomy for osteomyelitis;

c. Removal of reaction−producing foreign bodies from the skin or subcutaneous tissue and the musculo−skeletal system; and

d. Maxillary sinusotomy for removal of tooth fragment or foreign body;

8. Treatment of fractures — simple (maxillae, mandible, malar, alveolus and facial);

9. Treatment of fractures — compound or comminuted (maxillae, mandible, malar, aveolus and facial);

10. Reduction of dislocation and management of temporomandibular joint dysfunctions; and

11. Other oral surgery — suture of soft tissue wound or injury apart from other surgical procedure.

(j) *Orthodontic records.* Orthodontic records applicable to orthodontic cases only are covered.

(k) *Adjunctive general services.* Covered adjunctive general services are:

1. Unclassified treatment, palliative (emergency) treatment, per visit; and

2. Annual oral examination for patients seen in a nursing home.

(2) SERVICES REQUIRING PRIOR AUTHORIZATION. (a) The dental services listed under par. (c) require prior authorization. In addition, the department may require prior authorization for other covered dental services where necessary to meet the program objectives stated in s. HFS 107.02 (3). A request for prior authorization of dental services submitted to the department by a dentist or physician shall identify the items enumerated in s. HFS 107.02 (3) (d), and in addition:

1. The age and occupation of the recipient;

2. The service or procedure requested;

3. An estimate of the fee associated with the provision of the service, if requested by the department; and

4. Diagnostic casts, dentist's statement, physician's statement and radiographs if requested by the department.

(b) In determining whether to approve or disapprove a request for prior authorization, the department shall ensure consideration of criteria enumerated in s. HFS 107.02 (3) (e).

(c) The following dental services require prior authorization in order to be reimbursed under MA:

1. All covered dental services if provided out−of−state under nonemergency circumstances by non−border status providers;

2. Surgical or other dental procedures of a marginal dental necessity but deemed advisable in order to correct conditions that may reasonably be assumed to significantly interfere with a recipient's personal or social adjustment or employability;

3. Preventive procedures:

a. Fluoride treatments; and

b. Prophylaxis procedures for recipients who are physically handicapped, mentally handicapped or both, 4 times per year;

4. Space management therapy:

a. Fixed unilateral for first primary molars; and

b. Fixed bilateral type;

5. Restorative procedures:

a. Stainless steel, laterals and centrals, primary teeth;

b. Stainless steel crowns for the first permanent molars for children under age 21 only;

6. Endodontics, gutta percha or silver points only:

a. Molars excluding final restoration;

b. Root amputation/apicoectomy — anteriors only; and

c. Retrograde fillings;

7. Periodontics — surgical, including postoperative services:

a. Gingivectomy or gingivoplasty; and

b. Gingival curettage;

8. Prosthodontics — removable, complete dentures or relining complete dentures, including 6 months postdelivery care. If the request is approved, the recipient shall be eligible on the date the authorized prosthodontic treatment is started, which is the date the final impressions were taken. Once started, the service shall be reimbursed to completion, regardless of the recipient's eligibility;

9. Prosthodontics — fixed. Metallic inlay onlaying cusps retainer, bridge pontics, cast or prefabricated post and core for bridge retainers, crown bridge retainers and stress breakers may be prior authorized only if the following conditions apply:

a. The recipient cannot wear a removable partial or complete denture;

b. The recipient has periodontically healthy teeth; and

c. The recipient demonstrates good oral hygiene.

10. Oral surgery, including anesthetics and routine postoperative care:

a. Surgical incision to remove a foreign body from skin or from subcutaneousareolar tissue, or to remove a foreign body from hard tissues;

b. Excision of hyperplastic tissue, by quadrant or sextant; sialolithotomy;

c. Obturator for surgically excised palate;

d. Palatal lift prosthesis;

e. Osteoplasty for orthognathic deformity if the case is an EPSDT referral;

f. Frenulectomy if the case is an EPSDT referral; and

g. Temporomandibular joint surgery when performed by a dentist who meets the specific qualifications established by the department in a provider bulletin for this type of surgery. The prior authorization request shall include documentation of all prior treatment of the recipient for the condition and evidence of necessity for the surgery;

11. Orthodontics. The diagnostic work−up shall be performed and submitted with the prior authorization request. If the request is approved, the recipient is required to be eligible on the date the authorized orthodontic treatment is started as demonstrated by the placement of bands for comprehensive orthodontia. Once started, the service shall be reimbursed to completion, regardless of the recipient's eligibility;

12. General services:

a. General anesthesia;

b. Nonemergency hospitalization; and

13. Adjunctive general services — hospital calls, limited to 2 calls per hospital stay.

(3) OTHER LIMITATIONS. (a) A full−mouth intra−oral series of radiographs, including bitewings, shall be reimbursed for children only once per patient per dentist during a 3−year period.

(b) Bitewing films shall be reimbursed only when required for review of a prior authorization request.

(c) Prophylaxis procedure shall be reimbursed for children only once per recipient per dentist during a 6−month period, and for adults only once per recipient per dentist during a 12−month period.

(d) Root canal therapy shall be limited to recipients under age 21.

(e) An initial oral examination shall be reimbursed only once during the lifetime of each recipient per dentist.

(f) Periodic oral examinations shall be reimbursed for children only once per recipient per dentist during a 6−month period, and for adults only once per recipient per dentist during a 12−month period.

(g) Oral examinations performed in the nursing home shall be allowed once a year per recipient per dentist.

(h) An orthodontia case shall be considered for prior approval only when the case is the result of an EPSDT referral.

(i) Amalgam restorations on primary teeth are allowed once in each 12−month period for each tooth.

(j) Amalgam, composite and acrylic restorations on permanent teeth are allowed once in each 36−month period for each tooth.

(k) Recementation of space maintainers shall be reimbursed for children under age 13.

(L) Surgical exposure of impacted or unerupted teeth performed for orthodontic reasons or to aid eruption is covered if the individual is under age 21 and the case is the result of an EPSDT referral.

(m) Surgical extraction of impacted teeth is covered, provided that an operation report is submitted, in the following circumstances:

1. If the impacted tooth is associated with pain, a cyst or tumor which may cause ill effects or a life−threatening condition if the tooth is not removed; or

2. If the impacted tooth is associated with fracture of the jaw.

(n) Diagnostic casts are covered only if the department's dental consultant requires them to review the case for prior authorization.

(o) Upper and lower acrylic partial dentures shall be reimbursed only if the recipient is under age 21 and the case is a result of an EPSDT referral.

(p) Panoramic x−rays shall be reimbursed only for diagnostic needs in cases of emergency which require oral surgery.

(q) Temporomandibular joint surgery is a covered service only when performed after all necessary non−surgical medical or dental treatment has been provided by a multidisciplinary temporomandibular joint evaluation program or clinic approved by the department, and that treatment has been determined unsuccessful.

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

(a) Dental implants and transplants;

(b) Fluoride mouth rinse;

(c) Services for purely esthetic or cosmetic purposes;

(d) Overlay dentures, partial dentures, duplicate dentures and adjustments;

(e) Cu−sil dentures;

(f) Panoramic radiographs which include bitewings;

(g) Training in preventive dental care;

(h) Cement bases as a separate item;

(i) Composite crowns (acid etch);

(j) Single unit crowns, except as otherwise stated in sub. (1) (d) 4. and (g) 5.;

(k) Precision attachments;

(L) Cast and prefabricated post and core;

(m) Professional visits, other than for the annual examination of a nursing home resident;

(n) Dispensing of drugs;

(o) Adult full−mouth x−ray series;

(p) Adjunctive periodontal services;

(q) Surgical removal of erupted teeth, except as otherwise stated in sub. (3);

(r) Alveoplasty and stomatoplasty;

(s) All non−surgical medical or dental treatment for a temporomandibular joint condition;

(t) Osteoplasty, except as otherwise stated in sub. (2);

(u) Bitewing x−rays, except as otherwise stated in sub. (3); and

(v) Diagnostic casts, except as otherwise stated in sub. (3).

Note: For more information about non−covered services, see s. HFS 107.03.

(5) UNUSUAL CIRCUMSTANCES. In certain unusual circumstances the department may request that a non−covered service be performed, including but not limited to diagnostic casts, in order to substantiate a prior authorization request. In these cases the service shall be reimbursed.

History: Cr. Register, February, 1986, No. 362, eff. 3−1−86; am. (1) (c) 10. and (2) (c) 9. e. and f., cr. (2) (c) 9. g. and (3) (8), r. and recr. (4) (q), Register, February, 1988, No. 386, eff. 3−1−88; r. and recr. (1) (g) and (4) (j), renum. (2) (c) 9. to 12. and (4) (k) to (t) to be (2) (c) 10. to 13. and (4) (m) to (v), cr. (2) (c) 9., (4) (k) and (L), Register, December, 1989, No. 408, eff. 1−1−90; correction in (4) (j) made under s. 13.93 (2m) (b) 7., Stats., Register, December, 1989, No. 408.

HFS 107.08 Hospital services. (1) COVERED SERVICES. (a) *Inpatient services.* Covered hospital inpatient services are those medically necessary services which require an inpatient stay ordinarily furnished by a hospital for the care and treatment of inpatients, and which are provided under the direction of a physician or dentist in an institution certified under s. HFS 105.07 or 105.21.

(b) *Outpatient services.* Covered hospital outpatient services are those medically necessary preventive, diagnostic, rehabilitative or palliative items or services provided by a hospital certified under s. HFS 105.07 or 105.21 and performed by or under the direction of a physician or dentist for a recipient who is not a hospital inpatient.

(2) SERVICES REQUIRING PRIOR AUTHORIZATION. The following covered services require prior authorization:

(a) Covered hospital services if provided out−of−state under non−emergency circumstances by non−border status providers;

(b) Hospitalization for non−emergency dental services; and

(c) Hospitalization for the following transplants;

1. Heart;

2. Pancreas;

3. Bone marrow;

4. Liver;

5. Heart−lung;

6. Lung; and

(d) Hospitalization for any other medical service noted in s. HFS 107.06 (2), 107.07 (2) (c), 107.10 (2), 107.16 (2), 107.17 (2), 107.18 (2), 107.19 (2), 107.20 (2) or 107.24 (3). The admitting physician shall either obtain the prior authorization directly or ensure that prior authorization has been obtained by the attending physician or dentist.

Note: For more information on prior authorization, see s. HFS 107.02 (3).

(3) OTHER LIMITATIONS. (a) *Inpatient limitations.* The following limitations apply to hospital inpatient services:

1. Inpatient admission for non−therapeutic sterilization is a covered service only if the procedures specified in s. HFS 107.06 (3) are followed; and

2. A recipient's attending physician shall determine if private room accommodations are medically necessary. Charges for private room accommodations shall be denied unless the private room is medically necessary and prescribed by the recipient's attending physician. When a private room is not medically necessary, neither MA nor the recipient may be held responsible for the cost of the private room charge. If, however, a recipient requests a private room and the hospital informs the recipient at the time of admission of the cost differential, and if the recipient understands and agrees to pay the differential, then the recipient may be charged for the differential.

(b) *Outpatient limitations.* The following limitations apply to hospital outpatient services:

1. For services provided by a hospital on an outpatient basis, the same requirements shall apply to the hospital as apply to MA−certified non−hospital providers performing the same services;

2. Outpatient services performed outside the hospital facility may not be reimbursed as hospital outpatient services; and

3. All covered outpatient services provided during a calendar day shall be included as one outpatient visit.

(c) *General limitations.* 1. MA−certified hospitals shall meet the requirements of ch. HFS 124.

2. If a hospital is certified and reimbursed as a type of provider other than a hospital, the hospital is subject to all coverage and reimbursement requirements for that type of provider.

3. On any given calendar day a patient in a hospital shall be considered either an inpatient or an outpatient, but not both. Emergency room services shall be considered outpatient services unless the patient is admitted as an inpatient and counted on the midnight census. Patients who are same day admission and discharge patients and who die before the midnight census shall be considered inpatients.

4. All covered services provided during an inpatient stay, except professional services which are separately billed, shall be considered hospital inpatient services.

(4) NON−COVERED SERVICES. (a) The following services are not covered hospital services:

1. Unnecessary or inappropriate inpatient admissions or portions of a stay;

2. Hospitalizations or portions of hospitalizations disallowed by the PRO;

3. Hospitalizations either for or resulting in surgeries which the department views as experimental due to questionable or unproven medical effectiveness;

4. Inpatient services and outpatient services for the same patient on the same date of service unless the patient is admitted to a hospital other than the facility providing the outpatient care;

5. Hospital admissions on Friday or Saturday, except for emergencies, accident or accident care and obstetrical cases, unless the hospital can demonstrate to the satisfaction of the department that the hospital provides all of its services 7 days a week; and

6. Hospital laboratory, diagnostic, radiology and imaging tests not ordered by a physician, except in emergencies;

(b) Neither MA nor the recipient may be held responsible for charges or services identified in par. (a) as non−covered, except that a recipient may be billed for charges under par. (a) 3. or 5., if the recipient was notified in writing in advance of the hospital stay that the service was not a covered service.

(c) If hospital services for a patient are no longer medically necessary and an appropriate alternative care setting is available but the patient refuses discharge, the patient may be billed for continued services if he or she receives written notification prior to the time medically unnecessary services are provided.

(d) The following professional services are not covered as part of a hospital inpatient claim but shall be billed by an appropriately certified MA provider;

1. Services of physicians, including pathologists, radiologists and the professional−billed component of laboratory and radiology or imaging services, except that services by physician intern and residents services are included as hospital services;

2. Services of psychiatrists and psychologists, except when performing group therapy and medication management, includ-

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ing services provided to a hospital inpatient when billed by a hospital, clinic or other mental health or AODA provider;

3. Services of podiatrists;

4. Services of physician assistants;

5. Services of nurse midwives, nurse practitioners and independent nurses when functioning as independent providers;

6. Services of certified registered nurse anesthetists;

7. Services of anesthesia assistants;

8. Services of chiropractors;

9. Services of dentists;

10. Services of optometrists;

11. Services of hearing aid dealers [instrument specialist];

12. Services of audiologists;

13. Any of the following provided on the date of discharge for home use:

a. Drugs;

b. Durable medical equipment; or

c. Disposable medical supplies;

14. Specialized medical vehicle transportation; and

15. Air, water and land ambulance transportation.

(e) Professional services provided to hospital inpatients are not covered hospital inpatient services but are rather professional services and subject to the requirements in this chapter that apply to the services provided by the particular provider type.

(f) Neither a hospital nor a provider performing professional services to hospital inpatients may impose an unauthorized charge on recipients for services covered under this chapter.

(g) For provision of inpatient psychiatric care by a general hospital, the services listed under s. HFS 107.13 (1) (f) are non−covered services.

Note: For more information on non−covered services, see s. HSS 107.03.

History: Cr. Register, February, 1986, No. 362, eff. 3−1−86; am. (4) (e) and (f), cr. (4) (g), Register, February, 1988, No. 388, eff. 3−1−88; correction in (3) (g) made under s. 13.93 (2m) (b) 7., Stats., Register, June, 1990, No. 414; emerg. renum. (4) to be (4) (a) and am. (4) (a) (intro.) 1., 2., 4., 6. and 7., cr. (4) (b) to (f) eff. 1−1−91; r. and recr. Register, September, 1991, No. 429, eff. 10−1−91.

HFS 107.09 Nursing home services. (1) DEFINITION. In this section, "active treatment" means an ongoing, organized effort to help each resident attain his or her developmental capacity through the resident's regular participation, in accordance with an individualized plan, in a program of activities designed to enable the resident to attain the optimal physical, intellectual, social and vocational levels of functioning of which he or she is capable.

(2) COVERED SERVICES. Covered nursing home services are medically necessary services provided by a certified nursing home to an inpatient and prescribed by a physician in a written plan of care. The costs of all routine, day−to−day health care services and materials provided to recipients by a nursing home shall be reimbursed within the daily rate determined for MA in accordance with s. 49.45 (6m), Stats. These services are the following:

(a) Routine services and costs, namely:

1. Nursing services;

2. Special care services, including activity therapy, recreation, social services and religious services;

3. Supportive services, including dietary, housekeeping, maintenance, institutional laundry and personal laundry services, but excluding personal dry cleaning services;

4. Administrative and other indirect services;

5. Physical plant, including depreciation, insurance and interest on plant;

6. Property taxes; and

7. Transportation services provided on or after July 1, 1986;

(b) Personal comfort items, medical supplies and special care supplies. These are items reasonably associated with normal and routine nursing home services which are listed in the nursing home payment formula. If a recipient specifically requests a brand name which the nursing home does not routinely supply and for which there is no equivalent or close substitute included in the daily rate, the recipient, after having been informed in advance that the equivalent or close substitute is not available without charge, will be expected to pay for that brand item at cost out of personal funds; and

(c) Indirect services provided by independent providers of service.

Note: Copies of the Nursing Home Payment Formula may be obtained from Records Custodian, Division of Health Care Financing, P.O. Box 309, Madison, Wisconsin 53701.

Note: Examples of indirect services provided by independent providers of services are services performed by a pharmacist reviewing prescription services for a facility and services performed by an occupational therapist developing an activity program for a facility.

(3) SERVICES REQUIRING PRIOR AUTHORIZATION. The rental or purchase of a specialized wheelchair for a recipient in a nursing home, regardless of the purchase or rental cost, requires prior authorization from the department.

Note: For more information on prior authorization, see s. HFS 107.02 (3).

(4) OTHER LIMITATIONS. (a) *Ancillary costs.* 1. Treatment costs which are both extraordinary and unique to individual recipients in nursing homes shall be reimbursed separately as ancillary costs, subject to any modifications made under sub. (2) (b). The following items are not included in calculating the daily nursing home rate but may be reimbursed separately:

a. Oxygen in liters, tanks, or hours, including tank rentals and monthly rental fees for concentrators;

b. Tracheostomy and ventilatory supplies and related equipment, subject to guidelines and limitations published by the department in the provider handbook;

c. Transportation of a recipient to obtain health treatment or care if the treatment or care is prescribed by a physician as medically necessary and is performed at a physician's office, clinic, or other recognized medical treatment center, if the transportation service is provided by the nursing home, in its controlled equipment and by its staff, or by common carrier such as bus or taxi, and if the transportation service was provided prior to July 1, 1986. Transportation shall not be reimbursed as an ancillary service on or after July 1, 1986; and

d. Direct services provided by independent providers of service only if the nursing home can demonstrate to the department that to pay for the service in question as an add−on adjustment to the nursing home's daily rate is equal in cost or less costly than to reimburse the independent service provider through a separate billing. The nursing home may receive an ancillary add−on adjustment to its daily rate in accordance with s. 49.45 (6m) (b), Stats. The independent service provider may not claim direct reimbursement if the nursing home receives an ancillary add−on adjustment to its daily rate for the service.

2. The costs of services and materials identified in subd. 1. which are provided to recipients shall be reimbursed in the following manner:

a. Claims shall be submitted under the nursing home's provider number, and shall appear on the same claim form used for claiming reimbursement at the daily nursing home rate;

b. The items identified in subd. 1. shall have been prescribed in writing by the attending physician, or the physician's entry in the medical records or nursing charts shall make the need for the items obvious;

c. The amounts billed shall reflect the fact that the nursing home has taken advantage of the benefits associated with quantity purchasing and other outside funding sources;

d. Reimbursement for questionable materials and services shall be decided by the department;

e. Claims for transportation shall show the name and address of any treatment center to which the patient recipient was trans-

ported, and the total number of miles to and from the treatment center; and

f. The amount charged for transportation may not include the cost of the facility's staff time, and shall be for an actual mileage amount.

(b) *Independent providers of service.* Whenever an ancillary cost is incurred under this subsection by an independent provider of service, reimbursement may be claimed only by the independent provider on its provider number. The procedures followed shall be in accordance with program requirements for that provider specialty type.

(c) *Services covered in a Christian Science sanatorium.* Services covered in a Christian Science sanatorium shall be services ordinarily received by inpatients of a Christian Science sanatorium, but only to the extent that these services are the Christian Science equivalent of services which constitute inpatient services furnished by a hospital or skilled nursing facility.

(d) *Wheelchairs.* Wheelchairs shall be provided by skilled nursing and intermediate care facilities in sufficient quantity to meet the health needs of patients who are recipients. Nursing homes which specialize in providing rehabilitative services and treatment for the developmentally or physically disabled, or both, shall provide the special equipment, including commodes, elevated toilet seats, grab bars, wheelchairs adapted to the recipient's disability, and other adaptive prosthetics, orthotics and equipment necessary for the provision of these services. The facility shall provide replacement wheelchairs for recipients who have changing wheelchair needs.

(e) *Determination of services as skilled.* In determining whether a nursing service is skilled, the following criteria shall be applied:

1. Where the inherent complexity of a service prescribed for a patient is such that it can be safely and effectively performed only by or under the direct supervision of technical or professional personnel, the service shall constitute a skilled service;

2. The restoration potential of a patient shall not be the deciding factor in determining whether a service is to be considered skilled or nonskilled. Even where full recovery or medical improvement is not possible, skilled care may be needed to prevent, to the extent possible, deterioration of the condition or to sustain current capacities. For example, even though no potential for rehabilitation exists, a terminal cancer patient may require skilled services as defined in this paragraph and par. (f); and

3. A service that is ordinarily nonskilled shall be considered a skilled service where, because of medical complications, its performance or supervision or the observation of the patient necessitates the use of skilled nursing or skilled rehabilitation personnel. For example, the existence of a plaster cast on an extremity generally does not indicate a need for skilled care, but a patient with a preexisting acute skin problem or with a need for special traction of the injured extremity might need to have technical or professional personnel properly adjust traction or observe the patient for complications. In these cases, the complications and special services involved shall be documented by physician's orders and nursing or therapy notes.

(f) *Skilled nursing services or skilled rehabilitation services.* 1. A nursing home shall provide either skilled nursing services or skilled rehabilitation services on a 7−day−a−week basis. If, however, skilled rehabilitation services are not available on a 7−day−a−week basis, the nursing home would meet the requirement in the case of a patient whose inpatient stay is based solely on the need for skilled rehabilitation services if the patient needs and receives these services on at least 5 days a week.

Note: For example, where a facility provides physical therapy on only 5 days a week and the patient in the facility requires and receives physical therapy on each of the days on which it is available, the requirement that skilled rehabilitation services be provided on a daily basis would be met.

2. Examples of services which could qualify as either skilled nursing or skilled rehabilitation services are:

a. Overall management and evaluation of the care plan. The development, management and evaluation of a patient care plan based on the physician's orders constitute skilled services when, in terms of the patient's physical or mental condition, the development, management and evaluation necessitate the involvement of technical or professional personnel to meet needs, promote recovery and actuate medical safety. This includes the management of a plan involving only a variety of personal care services where in light of the patient's condition the aggregate of the services necessitates the involvement of technical or professional personnel. Skilled planning and management activities are not always specifically identified in the patient's clinical record. In light of this, where the patient's overall condition supports a finding that recovery or safety can be assured only if the total care required is planned, managed, and evaluated by technical or professional personnel, it is appropriate to infer that skilled services are being provided;

b. Observation and assessment of the patient's changing condition. When the patient's condition is such that the skills of a nurse or other technical or professional person are required to identify and evaluate the patient's need for possible modification of treatment and the initiation of additional medical procedures until the patient's condition is stabilized, the services constitute skilled nursing or rehabilitation services. Patients who in addition to their physical problems exhibit acute psychological symptoms such as depression, anxiety or agitation may also require skilled observation and assessment by technical or professional personnel for their safety and the safety of others. In these cases, the special services required shall be documented by a physician's orders or nursing or therapy notes; and

c. Patient education. In cases where the use of technical or professional personnel is necessary to teach a patient self−maintenance, the teaching services constitute skilled nursing or rehabilitative services.

(g) *Intermediate care facility services (ICF).* 1. Intermediate care services include services that are:

a. Considered appropriate by the department and provided by a Christian Science sanatorium either operated by or listed and certified by the First Church of Christ Scientist, Boston, Mass.; or

b. Provided by a facility located on an Indian reservation that furnishes, on a regular basis, health−related services and is licensed pursuant to s. 50.03, Stats., and ch. HFS 132.

2. Intermediate care services may include services provided in an institution for developmentally disabled persons if:

a. The primary purpose of the institution is to provide health or rehabilitation services for developmentally disabled persons;

b. The institution meets the standards in s. HFS 105.12; and

c. The developmentally disabled recipient for whom payment is requested is receiving active treatment and meeting the requirements of 42 CFR 442.445 and 442.464, s. HFS 132.695 and ch. HFS 134.

3. Intermediate care services may include services provided in a distinct part of a facility other than an intermediate care facility if the distinct part:

a. Meets all requirements for an intermediate care facility;

b. Is an identifiable unit, such as an entire ward or contiguous ward, a wing, a floor, or a building;

c. Consists of all beds and related facilities in the unit;

d. Houses all recipients for whom payment is being made for intermediate care facility services, except as provided in subd. 4.;

e. Is clearly identified; and

f. Is approved in writing by the department.

4. If the department includes as intermediate care facility services those services provided by a distinct part of a facility other than an intermediate care facility, it may not require transfer of a recipient within or between facilities if, in the opinion of the attending physician, transfer might be harmful to the physical or mental health of the recipient.

(h) *Determining the appropriateness of services at the skilled level of care.* 1. In determining whether the services needed by a recipient can only be provided in a skilled nursing facility on an inpatient basis, consideration shall be given to the patient's condition and to the availability and feasibility of using more economical alternative facilities and services.

2. If a needed service is not available in the area in which the individual resides and transporting the person to the closest facility furnishing the services would be an excessive physical hardship, the needed service may be provided in a skilled nursing facility. This would be true even though the patient's condition might not be adversely affected if it would be more economical or more efficient to provide the covered services in the institutional setting.

3. In determining the availability of alternative facilities and services, the availability of funds to pay for the services furnished by these alternative facilities shall not be a factor. For instance, an individual in need of daily physical therapy might be able to receive the needed services from an independent physical therapy practitioner.

(i) *Resident's account.* 1. Each recipient who is a resident in a public or privately−owned nursing home shall have an account established for the maintenance of earned or unearned money payments received, including social security and SSI payments. The payee for the account shall be the recipient, a legal representative of the recipient or a person designated by the recipient as his or her representative.

2. If it is determined by the agency making the money payment that the recipient is not competent to handle the payments, and if no other legal representative can be appointed, the nursing home administrator may be designated as the representative payee. The need for the representative payee shall be reviewed when the annual review of the recipient's eligibility status is made.

3. The recipient's account shall include documentation of all deposits and withdrawals of funds, indicating the amount and date of deposit and the amount, date and purpose of each withdrawal.

4. Upon the death or permanent transfer of the resident from the facility, the balance of the resident's trust account and a copy of the account records shall be forwarded to the recipient, the recipient's personal representative or to the legal guardian of the recipient. No facility or any of its employees or representatives may benefit from the distribution of a deceased recipient's personal funds unless they are specifically named in the recipient's will or constitute an heir−at−law.

5. The department's determination that a facility has violated this paragraph shall be cause for the facility to be decertified from MA.

(j) *Bedhold.* 1. Bedhold payments shall be made to a nursing home for an eligible recipient during the recipient's temporary absence for hospital treatment, a therapeutic visit or to participate in a therapeutic rehabilitative program, if the following criteria are met:

a. The facility's occupancy level meets the requirements for bedhold reimbursement under the nursing home reimbursement formula. The facility shall maintain adequate records regarding occupancy and provide these records to the department upon request;

b. For bedholds resulting from hospitalization of a recipient, reimbursement shall be available for a period not to exceed 15 days for each hospital stay. There is no limit on the number of stays per year. No recipient may be administratively discharged from the nursing home unless the recipient remains in the hospital longer than 15 days;

c. The first day that a recipient is considered absent from the home shall be the day the recipient leaves the home, regardless of the time of day. The day of return to the home does not count as a bedhold day, regardless of the time of day;

d. A staff member designated by the nursing home administrator, such as the director of nursing service or social service director, shall document the recipient's absence in the recipient's chart and shall approve in writing each leave;

e. Claims for bedhold days may not be submitted when it is known in advance that a recipient will not return to the facility following the leave. In the case where the recipient dies while hospitalized, or where the facility is notified that the recipient is terminally ill, or that due to changes in the recipient's condition the recipient will not be returning to the facility, payment may be claimed only for those days prior to the recipient's death or prior to the notification of the recipient's terminal condition or need for discharge to another facility;

f. For bedhold days for therapeutic visits or for participation in therapeutic/rehabilitative programs, the recipient's physician shall record approval of the leave in the physician's plan of care. This statement shall include the rationale for and anticipated goals of the leave as well as any limitations regarding the frequency or duration of the leave; and

g. For bedhold days due to participation in therapeutic/rehabilitative programs, the program shall meet the definition of therapeutic/rehabilitative program under s. HFS 101.03 (175). Upon request of the department, the nursing home shall submit, in writing, information on the dates of the program's operation, the number of participants, the sponsorship of the program, the anticipated goals of the program and how these goals will be accomplished, and the leaders or faculty of the program and their credentials.

2. Bedhold days for therapeutic visits and therapeutic/rehabilitative programs and hospital bedhold days which are not separately reimbursed to the facility by MA in accordance with s. 49.45 (6m), Stats., may not be billed to the recipient or the recipient's family.

(k) *Private rooms.* Private rooms shall not be a covered service within the daily rate reimbursed to a nursing home, except where required under s. HFS 132.51 (2) (b). However, if a recipient or the recipient's legal representative chooses a private room with full knowledge and acceptance of the financial liability, the recipient may reimburse the nursing home for a private room if the following conditions are met:

1. At the time of admission the recipient or legal representative is informed of the personal financial liability encumbered if the recipient chooses a private room;

2. Pursuant to s. HFS 132.31 (1) (d), the recipient or legal representative documents the private room choice in writing;

3. The recipient or legal representative is personally liable for no more than the difference between the nursing home's private pay rate for a semi−private room and the private room rate; and

4. Pursuant to s. HFS 132.31 (1) (d), if at any time the differential rate determined under subd. 3. changes, the recipient or legal representative shall be notified by the nursing home administrator within 15 days and a new consent agreement shall be reached.

(L) *Assessment.* No nursing home may admit any patient unless the patient is assessed in accordance with s. 46.27 (6), Stats.

(m) *Physician certification of need for SNF or ICF inpatient care.* 1. A physician shall certify at the time that an applicant or recipient is admitted to a nursing home or, for an individual who applies for MA while in a nursing home before the MA agency authorizes payment, that SNF or ICF nursing home services are or were needed.

2. Recertification shall be performed by a physician, a physician's assistant, or a nurse practitioner under the supervision of a physician as follows:

a. Recertification of need for inpatient care in an SNF shall take place 30, 60 and 90 days after the date of initial certification and every 60 days after that;

b. Recertification of need for inpatient care in an ICF shall take place no earlier than 60 days and 180 days after initial certification, at 12, 18 and 24 months after initial certification, and every 12 months after that; and

c. Recertification shall be considered to have been done on a timely basis if it was performed no later than 10 days after the date required under subd. 2. a. or b. , as appropriate, and the department determines that the person making the certification had a good reason for not meeting the schedule.

(n) *Medical evaluation and psychiatric and social evaluation — SNF.* 1. Before a recipient is admitted to an SNF or before payment is authorized for a resident who applies for MA, the attending physician shall:

a. Undertake a medical evaluation of each applicant's or recipient's need for care in the SNF; and

b. Devise a plan of rehabilitation, where applicable.

2. A psychiatric and a social evaluation of an applicant's or recipient's need for care shall be performed by a provider certified under s. HFS 105.22.

3. Each medical evaluation shall include: diagnosis, summary of present medical findings, medical history, documentation of mental and physical status and functional capacity, prognosis, and a recommendation by the physician concerning admission to the SNF or continued care in the SNF.

(o) *Medical evaluation and psychological and social evaluation — ICF.* 1. Before a recipient is admitted to an ICF or before authorization for payment in the case of a resident who applies for MA, an interdisciplinary team of health professionals shall make a comprehensive medical and social evaluation and, where appropriate, a psychological evaluation of the applicant's or recipient's need for care in the ICF within 48 hours following admission unless the evaluation was performed not more than 15 days before admission.

2. In an institution for mentally retarded persons or persons with related conditions, the team shall also make a psychological evaluation of need for care. The psychological evaluation shall be made before admission or authorization of payment, but may not be made more than 3 months before admission.

3. Each evaluation shall include: diagnosis; summary of present medical, social and, where appropriate, developmental findings; medical and social family history; documentation of mental and physical status and functional capacity; prognosis; kinds of services needed; evaluation by an agency worker of the resources available in the home, family and community; and a recommendation concerning admission to the ICF or continued care in the ICF.

4. If the comprehensive evaluation recommends ICF services for an applicant or recipient whose needs could be met by alternate services that are not then available, the facility shall enter this fact in the recipient's record and shall begin to look for alternative services.

(p) *MA agency review of need for admission to an SNF or ICF.* Medical and other professional personnel of the agency or its designees shall evaluate each applicant's or recipient's need for admission to an SNF or ICF by reviewing and assessing the evaluations required under pars. (n) and (o).

(q) *Physician's plan of care for SNF or ICF resident.* 1. The level of care and services to be received by a recipient from the SNF or ICF shall be documented in the physician's plan of care by the attending physician and approved by the department. The physician's plan of care shall be submitted to the department whenever the recipient's condition changes.

2. A physician's plan of care shall be required at the time of application by a nursing home resident for MA benefits. If a physician's plan of care is not submitted to the department by the nursing home at the time that a resident applies for MA benefits, the department shall not certify the level of care of the recipient until the physician's plan of care has been received. Authorization shall be covered only for the period of 2 weeks prior to the date of submission of the physician's plan of care.

3. The physician's plan of care shall include diagnosis, symptoms, complaints and complications indicating the need for admission; a description of the functional level of the individual; objectives; any orders for medications, treatments, restorative and rehabilitative services, activities, therapies, social services or diet, or special procedures recommended for the health and safety of the patient; plans for continuing care, including review and modification to the plan of care; and plans for discharge.

4. The attending or staff physician and a physician assistant and other personnel involved in the recipient's care shall review the physician's plan of care at least every 60 days for SNF recipients and at least every 90 days for ICF recipients.

(r) *Reports of evaluations and plans of care − ICF and SNF.* A written report of each evaluation and the physician's plan of care shall be made part of the applicant's or recipient's record:

1. At the time of admission; or

2. If the individual is already in the facility, immediately upon completion of the evaluation or plan.

(s) *Recovery of costs of services.* All medicare−certified SNF facilities shall recover all medicare−allowable costs of services provided to recipients entitled to medicare benefits prior to billing MA. Refusal to recover these costs may result in a fine of not less than $10 nor more than $100 a day, as determined by the department.

(t) *Prospective payment system.* Provisions regarding services and reimbursement contained in this subsection are subject to s. 49.45 (6m), Stats.

(u) *Active treatment.* All developmentally disabled residents of SNF or ICF certified facilities who require active treatment shall receive active treatment subject to the requirements of s. HFS 132.695.

(v) *Permanent reduction in MA payments when an IMD resident is relocated to the community.* If a facility determined by the federal government or the department to be an institution for mental diseases (IMD) or by the department to be at risk of being determined to be an IMD under 42 CFR 435.1009 or s. 49.43 (6m), Stats., agrees under s. 46.266 (9), Stats., to receive a permanent limitation on its payment under s. 49.45 (6m), Stats., for each resident who is relocated, the following restrictions apply:

1. MA payment to a facility may not exceed the payment which would otherwise be issued for the number of patients corresponding to the facility's patient day cap set by the department. The cap shall equal 365 multiplied by the number of MA−eligible residents on the date that the facility was found to be an IMD or was determined by the department to be at risk of being found to be an IMD, plus the difference between the licensed bed capacity of the facility on the date that the facility agrees to a permanent limitation on its payments and the number of residents on the date that the facility was found to be an IMD or was determined by the department to be at risk of being found to be an IMD. The patient day cap may be increased by the patient days corresponding to the number of residents ineligible for MA at the time of the determination but who later become eligible for MA.

2. The department shall annually compare the MA patient days reported in the facility's most recent cost report to the patient

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http://docs.legis.wisconsin.gov/code/admin_code

day cap under subd. 1. Payments for patient days exceeding the patient day cap shall be disallowed.

(5) NON–COVERED SERVICES. The following services are not covered services:

(a) Services of private duty nurses when provided in a nursing home;

(b) For Christian Science sanatoria, custodial care and rest and study;

(c) Inpatient nursing care for ICF personal care and ICF residential care to residents who entered a nursing home after September 30, 1981; form

(d) ICF−level services provided to a developmentally disabled person admitted after September 15, 1986, to an ICF facility other than to a facility certified under s. HFS 105.12 as an intermediate care facility for the mentally retarded unless the provisions of s. HFS 132.51 (2) (d) 1. have been waived for that person; and

(e) Inpatient services for residents between the ages of 21 and 64 when provided by an institution for mental disease, except that services may be provided to a 21 year old resident of an IMD if the person was a resident of the IMD immediately prior to turning 21 and continues to be a resident after turning 21.

Note: For more information about non−covered services, see s. HFS 107.03.

History: Cr. Register, February, 1986, No. 362, eff. 3−1−86; renum. (1) to (4) to be (2) to (5) and am. (4) (g) 2. and (5) (6) and (c), cr. (1) (4) (u), (5) (d) and (e), Register, February, 1988, No. 386, eff. 3−1−88; emerg. cr. (4) (v), eff. 8−1−88; cr. (4) (v), Register, December, 1988, No. 396, eff. 1−1−89; correction in (4) (a) 1. intro. made under s. 13.93 (2m) (b) 7., Stats., Register, April, 1999, No. 520; corrections in (4) (v) (intro.) made under s. 13.93 (2m) (b) 7., Stats., Register, October, 2000, No. 538.

HFS 107.10 Drugs. (1) COVERED SERVICES. Drugs and drug products covered by MA include legend and non−legend drugs and supplies listed in the Wisconsin medicaid drug index which are prescribed by a physician licensed under s. 448.04, Stats., by a dentist licensed under s. 447.05, Stats., by a podiatrist licensed under s. 448.04, Stats., by an optometrist licensed under ch. 449, Stats., by an advanced practice nurse prescriber licensed under s. 441.16, Stats., or when a physician delegates the prescribing of drugs to a nurse practitioner or to a physician's assistant certified under s. 448.04, Stats., and the requirements under s. N 6.03 for nurse practitioners and under s. Med 8.08 for physician assistants are met.

Note: The Wisconsin medicaid drug index is available from the Division of Health Care Financing, P.O. Box 309, Madison, WI 53701.

(2) SERVICES REQUIRING PRIOR AUTHORIZATION. The following drugs and supplies require prior authorization:

(b) All schedules III and IV stimulant drugs;

(c) Medically necessary, specially formulated nutritional supplements and replacement products, including enteral and parenteral products used for the treatment of severe health conditions such as pathologies of the gastrointestinal tract or metabolic disorders, as described in the MA provider handbooks and bulletins.

(d) Drugs the department has determined entail substantial cost or utilization problems for the MA program. These drugs shall be noted in the Wisconsin medicaid drug index;

(e) Any drug produced by a manufacturer who has not entered into a rebate agreement with the federal secretary of health and human services, as required by 42 USC 1396r−8, if the prescribing provider under sub. (1) demonstrates to the department's satisfaction that no other drug sold by a manufacturer who complies with 42 USC 1396r−8 is medically appropriate and cost−effective in treating the recipient's condition;

(f) Drugs identified by the department that are sometimes used to enhance the prospects of fertility in males or females, when proposed to be used for treatment of a condition not related to fertility; and

(g) Drugs identified by the department that are sometimes used to treat impotence, when proposed to be used for the treatment of a condition not related to impotence.

Note: For more information on prior authorization, see s. HFS 107.02 (3).

(3) OTHER LIMITATIONS. (a) Dispensing of schedule III, IV and V drugs shall be limited to the original dispensing plus 5 refills, or 6 months from the date of the original prescription, whichever comes first.

(b) Dispensing of non−scheduled drugs shall be limited to the original dispensing plus 11 refills, or 12 months from the date of the original prescription, whichever comes first.

(c) Generically−written prescriptions for drugs listed in the federal food and drug administration approved drug products publication shall be filled with a generic drug included in that list. Prescription orders written for brand name drugs which have a lower cost commonly available generic drug equivalent shall be filled with the lower cost drug product equivalent, unless the prescribing provider under sub. (1) writes "brand medically necessary" on the face of the prescription.

(d) Except as provided in par. (e), legend drugs shall be dispensed in the full amounts prescribed, not to exceed a 34−day supply.

(e) The following drugs may be dispensed in amounts up to but not to exceed a 100−day supply, as prescribed by a physician:

1. Digoxin, digitoxin, digitalis;
2. Hydrochlorothiazide and chlorothiazide;
3. Prenatal vitamins;
4. Fluoride;
5. Levothyroxine, liothyronine and thyroid extract;
6. Phenobarbital;
7. Phenytoin; and
8. Oral contraceptives.

(f) Provision of drugs and supplies to nursing home recipients shall comply with the department's policy on ancillary costs in s. HFS 107.09 (4) (a).

(g) Provision of special dietary supplements used for tube feeding or oral feeding of nursing home recipients shall be included in the nursing home daily rate pursuant to s. HFS 107.09 (2) (b).

(h) To be included as a covered service, a non−legend drug shall be used in the treatment of a diagnosable medical condition and be a rational part of an accepted medical treatment plan. The following general categories of non−legend drugs are covered:

1. Antacids;
2. Analgesics;
3. Insulins;
4. Contraceptives;
5. Cough preparations;
6. Ophthalmic lubricants; and
7. Iron supplements for pregnant women.
8. Non−legend drugs not within one of the categories described under subds. 1. to 7. that previously had legend drug status and that the department has determined to be cost effective in treating the condition for which the drugs are prescribed.

(i) Any innovator multiple–source drug is a covered service only if the prescribing provider under sub. (1) certifies by writing the phrase "brand medically necessary" on the prescription to the pharmacist that the innovator brand drug, rather than a generic drug, is medically necessary. The prescribing provider shall document in the patient's record the reason why the innovator brand drug is medically necessary. The innovators of multiple source drug are identified in the Wisconsin medicaid drug index.

(j) A drug produced by a manufacturer who does not meet the requirements of 42 USC 1396r−8 may be a covered service if the department determines that the drug is medically necessary and cost−effective in treating the condition for which it is prescribed.

(k) The department may determine whether or not a drug judged by the U.S. food and drug administration to be "less than

effective"shall be reimbursed under the program based on the medical appropriateness and cost−effectiveness of the drug.

(L) Services, including drugs, directly related to non−surgical abortions shall comply with s. 20.927, Stats., may only be prescribed by a physician, and shall comply with MA policy and procedures as described in MA provider handbooks and bulletins.

(4) NON–COVERED SERVICES. The department may create a list of drugs or drug categories to be excluded from coverage, known as the medicaid negative drug list. These non−covered drugs may include drugs determined "less than effective" by the U.S. food and drug administration, drugs not covered by 42 USC 1396r−8, drugs restricted under 42 USC 1396r−8 (d) (2) and experimental or other drugs which have no medically accepted indications. In addition, the following are not covered services:

(a) Claims of a pharmacy provider for reimbursement for drugs and medical supplies included in the daily rate for nursing home recipients;

(b) Refills of schedule II drugs;

(c) Refills beyond the limitations imposed under sub. (3) (a) and (b);

(d) Personal care items such as non−therapeutic bath oils;

(e) Cosmetics such as non−therapeutic skin lotions and sun screens;

(f) Common medicine chest items such as antiseptics and band−aids;

(g) Personal hygiene items such as tooth paste and cotton balls;

(h) "Patent" medicines such as drugs or other medical preparations that can be bought without a prescription;

(i) Uneconomically small package sizes;

(j) Items which are in the inventory of a nursing home;

(k) Drugs not listed in the medicaid index, including over−the−counter drugs not included in sub. (3) (h) and legend drugs;

(L) Drugs included in the medicaid negative drug formulary maintained by the department; and

(m) Drugs produced by a manufacturer who does not meet the requirements of 42 USC 1396r−8, unless sub. (2) (e) or (3) (j) applies.

(n) Drugs provided for the treatment of males or females for infertility or to enhance the prospects of fertility;

(o) Drugs provided for the treatment of impotence;

(p) Drugs, including hormone therapy, associated with transsexual surgery or medically unnecessary alteration of sexual anatomy or characteristics;

(q) Drugs or combinations of drugs that are administered to induce abortions, when the abortions do not comply with s. 20.927, Stats., and s. HFS 107.10 (3) (L).

(r) Food;

(s) Infant formula, except when the product and recipient's health condition meet the criteria established by the department under sub. (2) (c) to verify medical need; and

(t) Enteral nutritional products that do not meet the criteria established by the department under sub. (2) (c) to verify medical need, when an alternative nutrition source is available, or that are solely for the convenience of the caregiver or the recipient.

(5) DRUG REVIEW, COUNSELING AND RECORDKEEPING. In addition to complying with ch. Phar 7, a pharmacist shall fulfill the requirements of 42 USC 1396r−8 (g) (2) (A) as follows:

(a) The pharmacist shall review the drug therapy before each prescription is filled or delivered to an MA recipient. The review shall include screening for potential drug therapy problems including therapeutic duplication, drug–disease contraindications, drug–drug interactions, including serious interactions with non−legend drugs, incorrect drug dosage or duration of drug treatment, drug–allergy interactions and clinical abuse or misuse.

(b) The pharmacist shall offer to discuss with each MA recipient, the recipient's legal representative or the recipient's caregiver who presents the prescription, matters which, in the exercise of the pharmacist's professional judgment and consistent with state statutes and rules governing provisions of this information, the pharmacist deems significant, including the following:

1. The name and description of the medication;

2. The route, dosage form, dosage, route of administration, and duration of drug therapy;

3. Specific directions and precautions for preparation, administration and use by the patient;

4. Common severe side effects or adverse effects or interactions and therapeutic contraindications that may be encountered, including how to avoid them, and the action required if they occur;

5. Techniques for self−monitoring drug therapy;

6. Proper storage;

7. Prescription refill information; and

8. Action to be taken in the event of a missed dose.

(c) The pharmacist shall make a reasonable effort to obtain, record and maintain at least the following information regarding each MA recipient for whom the pharmacist dispenses drugs under the MA program:

1. The individual's name, address, telephone number, date of birth or age and gender;

2. The individual's history where significant, including any disease state or states, known allergies and drug reactions, and a comprehensive list of medications and relevant devices; and

3. The pharmacist's comments relevant to the individual's drug therapy.

(d) Nothing in this subsection shall be construed as requiring a pharmacist to provide consultation when an MA recipient, the recipient's legal representative or the recipient's caregiver refuses the consultation.

History: Cr. Register, February, 1986, No. 362, eff. 3−1−86; am. (3) (h), Register, February, 1988, No. 386, eff. 3−1−88; emerg. am. (2) (e) and (f), (4) (k), cr. (2) (g), (3) (j) and (k), (4) (L), eff. 4−27−91; r. and recr. Register, December, 1991, No. 432, eff. 1−1−92, r. and recr. (2) (c), am. (2) (d) and (e), cr. (2) (f) and (g), (3) (L) and (4) (n) to (t), Register, January, 1997, No. 493, eff. 2−1−97; **CR 03−033: am. (1), (2) (d), (3) (b) to (d), (h) (intro.), (i), (4) (L) and (5) (a), r. (2) (a), cr. (3) (h) 8. Register December 2003 No. 576, eff. 1−1−04**.

HFS 107.11 Home health services. (1) DEFINITIONS. In this section:

(a) "Community−based residential facility" has the meaning prescribed in s. 50.01 (1g), Stats.

(b) "Home health aide services" means medically oriented tasks, assistance with activities of daily living and incidental household tasks required to facilitate treatment of a recipient's medical condition or to maintain the recipient's health.

(c) "Home health visit" or "visit" means a period of time of any duration during which home health services are provided through personal contact by agency personnel of less than 8 hours a day 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 provider employed by a home health agency, by a home health provider under contract to a home health agency according to the requirements of s. HFS 133.19 or by arrangement with a home health agency. A visit begins when the home health provider enters the residence to provide a covered service and ends when the worker leaves the residence.

(d) "Home health provider" means a person who is an RN, LPN, home health aide, physical or occupational therapist, speech pathologist, certified physical therapy assistant or certified occupational therapy assistant.

(e) "Initial visit" means the first home health visit of any duration in a calendar day provided by a registered nurse, licensed practical nurse, home health aide, physical or occupational thera-

pist or speech and language pathologist for the purpose of delivering a covered home health service to a recipient.

(f) "Subsequent visit" means each additional visit of any duration following the initial visit in a calendar day provided by an RN, LPN or home health aide for the purpose of delivering a covered home health service to a recipient.

(g) "Unlicensed caregiver" means a home health aide or personal care worker.

(2) COVERED SERVICES. Services provided by an agency certified under s. HFS 105.16 which are covered by MA are those reasonable and medically necessary services required in the home to treat the recipient's condition. Covered services are: skilled nursing services, home health aide services and medical supplies, equipment and appliances suitable for use in the recipient's home, and therapy and speech pathology services which the agency is certified to provide. These services are covered only when performed according to the requirements of s. HFS 105.16 and provided in a recipient's place of residence which is other than a hospital or nursing home. Home health skilled nursing and therapy services are covered only when provided to a recipient who, as certified in writing by the recipient's physician, is confined to a place of residence except that intermittent, medically necessary, skilled nursing or therapy services are covered if they are required by a recipient who cannot reasonably obtain these services outside the residence or from a more appropriate provider. Home health aide services may be provided to a recipient who is not confined to the home, but services shall be performed only in the recipient's home. Services are covered only when included in the written plan of care with supervision and coordination of all nursing care for the recipient provided by a registered nurse. Home health services include:

(a) Skilled nursing services provided in a recipient's home under a plan of care which requires less than 8 hours of skilled nursing care per calendar day and specifies a level of care which the nurse is qualified to provide. These are:

1. Nursing services performed by a registered nurse, or by a licensed practical nurse under the supervision of a registered nurse, according to the written plan of care and accepted standards of medical and nursing practice, in accordance with ch. N 6;

2. Services which, due to the recipient's medical condition, may be only safely and effectively provided by an RN or LPN;

3. Assessments performed only by a registered nurse; and

4. Teaching and training of the recipient, the recipient's family or other caregivers requiring the skills on an RN or LPN.

Note: For a further description of skilled nursing services, refer to the Wisconsin Medical Assistance Home Health Agency Provider Handbook, Part L, Division II.

(b) Home health aide services are:

1. Medically oriented tasks which cannot be safely delegated by an RN as determined and documented by the RN to a personal care worker who has not received special training in performing tasks for the specific individual, and which may include, but are not limited to, medically oriented activities directly supportive of skilled nursing services provided to the recipient. These may include assistance with and administration of oral, rectal and topical medications ordinarily self−administered and supervised by an RN according to 42 CFR 483.36 (d), chs. HFS 133 and N 6, and assistance with activities directly supportive of current and active skilled therapy and speech pathology services and further described in the Wisconsin medical assistance home health agency provider handbook;

2. Assistance with the recipient's activities of daily living only when provided on conjunction with a medically oriented task that cannot be safely delegated to a personal care worker as determined and documented by the delegating RN. Assistance with the recipient's activities of daily living consists of medically oriented tasks when a reasonable probability exists that the recipient's medical condition will worsen during the period when assistance is provided, as documented by the delegating RN. A recipient whose medical condition has exacerbated during care activities sometime in the past 6 months is considered to have a condition which may worsen when assistance is provided. Activities of daily living include, but are not limited to, bathing, dressing, grooming and personal hygiene activities, skin, foot and ear care, eating, elimination, ambulation, and changing bed positions; and

3. Household tasks incidental to direct care activities described in subds. 1. and 2.

Note: For further description of home health aide services, refer to the Wisconsin Medical Assistance Home Health Agency Provider Handbook, Part L, Division II.

(c) 1. These are services provided in the recipient's home which can only be safely and effectively performed by a skilled therapist or speech pathologist or by a certified therapy assistant who receives supervision by the certified therapist according to 42 CFR 484.32 for a recipient confined to his or her home.

2. Based on the assessment by the recipient's physician of the recipient's rehabilitation potential, services provided are expected to materially improve the recipient's condition within a reasonable, predictable time period, or are necessary to establish a safe and effective maintenance program for the recipient.

3. In conjunction with the written plan of care, a therapy evaluation shall be conducted prior to the provision of these services by the therapist or speech pathologist who will provide the services to the recipient.

4. The therapist or speech pathologist shall provide a summary of activities, including goals and outcomes, to the physician at least every 62 days, and upon conclusion of therapy services.

(3) PRIOR AUTHORIZATION. Prior authorization is required to review utilization of services and assess the medical necessity of continuing services for:

(a) All home health visits when the total of any combination of skilled nursing, home health aide, physical and occupational therapist and speech pathologist visits by all providers exceeds 30 visits in a calendar year, including situations when the recipient's care is shared among several certified providers;

(b) All home health aide visits when the services are provided in conjunction with private duty nursing under s. HFS 107.12 or the provision of respiratory care services under s. HFS 107.113;

(c) All medical supplies and equipment for which prior authorization is required under s. HFS 107.24;

(d) All home health aide visits when 4 or more hours of continuous care is medically necessary; and

(e) All subsequent skilled nursing visits.

(4) OTHER LIMITATIONS. (a) The written plan of care shall be developed and reviewed concurrently with and in support of other health sustaining efforts for the recipient in the home.

(b) All durable medical equipment and disposable medical supplies shall meet the requirements of s. HFS 107.24.

(c) Services provided to a recipient who is a resident of a community−based residential facility shall be rendered according to the requirements of ch. HFS 83 and shall not duplicate services that the facility has agreed to provide.

(d) 1. Except as provided in subd. 2., home health skilled nursing services provided by one or more providers are limited to less than 8 hours per day per recipient as required by the recipient's medical condition.

2. If the recipient's medical condition worsens so that 8 or more hours of direct, skilled nursing services are required in a calendar day, a maximum of 30 calendar days of skilled nursing care may continue to be reimbursed as home health services, beginning on the day 8 hours or more of skilled nursing services became necessary. To continue medically necessary services after 30 days, prior authorization for private duty nursing is required under s. HFS 107.12 (2).

(e) An intake evaluation is a covered home health skilled nursing service only if, during the course of the initial visit to the recipient, the recipient is admitted into the agency's care and covered

skilled nursing services are performed according to the written physician's orders during the visit.

(f) A skilled nursing ongoing assessment for a recipient is a covered service:

1. When the recipient's medical condition is stable, the recipient has not received a covered skilled nursing service, covered personal care service, or covered home visit by a physician service within the past 62 days, and a skilled assessment is required to re−evaluate the continuing appropriateness of the plan of care. In this paragraph, "medically stable" means the recipient's physical condition is non−acute, without substantial change or fluctuation at the current time.

2. When the recipient's medical condition requires skilled nursing personnel to identify and evaluate the need for possible modification of treatment;

3. When the recipient's medical condition requires skilled nursing personnel to initiate additional medical procedures until the recipient's treatment regimen stabilizes, but is not part of a longstanding pattern of care; or

4. If there is a likelihood of complications or an acute episode.

(g) Teaching and training activities are covered services only when provided to the recipient, recipient's family or other caregiver in conjunction with other covered skilled nursing care provided to the recipient.

(h) A licensed nurse shall administer medications to a minor child or to an adult who is not self−directing, as determined by the physician, to direct or administer his or her own medications, when a responsible adult is not present to direct the recipient's medication program.

(i) Services provided by an LPN which are not delegated by an RN under s. N 6.03 are not covered services.

(j) Skilled physical and occupational therapy and speech pathology services are not to include activities provided for the general welfare of the recipient or activities to provide diversion for the recipient or to motivate the recipient.

(k) Skilled nursing services may be provided for a recipient by one or more home health agencies or by an agency contracting with a nurse or nurses only if the agencies meet the requirements of ch. HFS 133 and are approved by the department.

(L) RN supervision and administrative costs associated with the provision of services under this section are not separately reimbursable MA services.

(m) Home health aide service limitations are the following:

1. A home health aide may provide assistance with a recipient's medications only if the written plan of care documents the name of the delegating registered nurse and the recipient is aged 18 or more;

2. Home health aide services are primarily medically oriented tasks, as determined by the delegating RN, when the instability of the recipient's condition as documented in the medical record is such that the recipient's care cannot be safely delegated to a personal care worker under s. HFS 107.112;

3. A home health aide visit which is a covered service shall include at least one medically oriented task performed during a visit which cannot, in the judgment of the delegating RN, be safely delegated to a personal care worker; and

4. A home health aide, rather than a personal care worker, shall always provide medically oriented services for recipients who are under age 18.

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

(a) Services that are not medically necessary;

(b) Skilled nursing services provided for 8 or more hours per recipient per day;

(c) More than one initial visit per day by a home health skilled nurse, home health aide, physical or occupational therapist or speech and language pathologist;

(d) Private duty nursing services under s. HFS 107.12, unless the requirements of sub. (4) (d) 2. apply;

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

(f) Supervision of the recipient when supervision is the only service provided at the time;

(g) Hospice care provided under s. HFS 107.31;

(h) Mental health and alcohol or other drug abuse services provided under s. HFS 107.13 (2), (3), (3m), (4) and (6);

(i) Medications administration by a personal care worker or administration by a home health aide which has not been delegated by an RN according to the relevant provisions of ch. HFS 133.

(j) Skilled nursing services contracted for by a home health agency unless the requirements of s. HFS 133.19 are met and approved by the department;

(k) Occupational therapy, physical therapy or speech pathology services requiring only the use of equipment without the skills of the therapist or speech pathologist;

(L) Skilled nursing visits:

1. Solely for the purpose of ensuring that a recipient who has a demonstrated history of noncompliance over 30 days complies with the medications program;

2. To administer or assist with medication administration of an adult recipient who is capable of safely self−administering a medication as determined and documented by the RN;

3. To inject a recipient who is capable of safely self−injecting a medication, as described and documented by the RN;

4. To prefill syringes for self−injection when, as determined and documented by the RN, the recipient is capable of prefilling or a pharmacy is available to prefill; and

5. To set up medication for self−administration when, as determined and documented by the RN, the recipient is capable or a pharmacy is available to assist the recipient;

(m) Home health services to a recipient who is eligible for covered services under the medicare program or any other insurance held by the recipient;

(n) Services that are not medically appropriate. In this paragraph,"medically appropriate" means a service that is proven and effective treatment for the condition for which it is intended or used;

(o) Parenting;

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

(q) A visit made by a skilled nurse, physical or occupational therapist or speech pathologist solely to train other home health workers;

(r) Any home health service included in the daily rate of the community−based residential facility where the recipient is residing;

(s) Services when provided to a recipient by the recipient's spouse or parent if the recipient is under age 18;

(t) Skilled nursing and therapy services provided to a recipient who is not confined to a place of residence when services are reasonably available outside the residence;

(u) Any service which is performed in a place other than the recipient's residence; and

(v) Independent nursing services under sub. (6).

(6) UNAVAILABILITY OF A HOME HEALTH AGENCY. (a) *Definition.* In this subsection, "part−time, intermittent care" means skilled nursing services provided in a recipient's home under a

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http://docs.legis.wisconsin.gov/code/admin_code

plan of care which requires less than 8 hours of skilled care in a calendar day.

(b) *Covered services.* 1. Part−time, intermittent nursing care may be provided by an independent nurse certified under s. HFS 105.19 when an existing home health agency cannot provide the services as appropriately documented by the nurse, and the physician's prescription specifies that the recipient requires less than 8 hours of skilled nursing care per calendar day and calls for a level of care which the nurse is licensed to provide as documented to the department.

2. Services provided by an MA−certified registered nurse are those services prescribed by a physician which comprise the practice of professional nursing as described under s. 441.001 (4), Stats., and s. N 6.03. Services provided by an MA−certified licensed practical nurse are those services which comprise the practice of practical nursing under s. 441.001 (3), Stats., and s. N 6.04. An LPN may provide nursing services delegated by an RN as delegated nursing acts under the requirements of ss. N 6.03 and 6.04 and guidelines established by the state board of nursing.

3. A written plan of care shall be established for every recipient admitted for care and shall be signed by the physician and incorporated into the recipient's medical record. A written plan of care shall be developed by the registered nurse or therapist within 72 hours after acceptance. The written plan of care shall be developed by the registered nurse or therapist in consultation with the recipient and the recipient's physician and shall be signed by the physician within 20 working days following the recipient's admission for care. The written plan of care shall include, in addition to the medication and treatment orders:

a. Measurable time−specific goals;

b. Methods for delivering needed care, and an indication of which, if any, professional disciplines are responsible for delivering the care;

c. Provision for care coordination by an RN when more than one nurse is necessary to staff the recipient's case;

d. Identification of all other parties providing care to the recipient and the responsibilities of each party for that care; and

e. A description of functional capabilities, mental status, dietary needs and allergies.

4. The written plan of care shall be reviewed, signed and dated by the recipient's physician as often as required by the recipient's condition but at least every 62 days. The RN shall promptly notify the physician of any change in the recipient's condition that suggests a need to modify the plan of care.

5. a. Except as provided in subd. 5. b., drugs and treatment shall be administered by the RN or LPN only as ordered by the recipient's physician or his or her designee. The nurse shall immediately record and sign oral orders and shall obtain the physician's countersignature within 10 working days.

b. Drugs may be administered by an advanced practice nurse prescriber as authorized under ss. N 8.06 and 8.10.

6. Supervision of an LPN by an RN or physician shall be performed according to the requirements under ss. N 6.03 and 6.04 and the results of supervisory activities shall be documented and communicated to the LPN.

(c) *Prior authorization.* 1. Prior authorization requirements under sub. (3) apply to services provided by an independent nurse.

2. A request for prior authorization of part−time, intermittent care performed by an LPN shall include the name and license number of the registered nurse supervising the LPN.

(d) *Other limitations.* 1. Each independent RN or LPN shall document the care and services provided. Documentation required under par. (b) of the unavailability of a home health agency shall include names of agencies contacted, dates of contact and any other pertinent information.

2. Discharge of a recipient from nursing care under this subsection shall be made in accordance with s. HFS 105.19 (9).

3. The limitations under sub. (4) apply.

4. Registered nurse supervision of an LPN is not separately reimbursable.

(e) *Non−covered services.* The following services are not covered services under this subsection:

1. Services listed in sub. (5);

2. Private duty nursing services under s. HFS 107.12; and

3. Any service that fails to meet the recipient's medical needs or places the recipient at risk for a negative treatment outcome.

History: Cr. Register, February, 1986, No. 362, eff. 3−1−86; r. and recr. Register, April, 1988, No. 388, eff. 7−1−88; am. (3) (d) and (e), cr. (3) (f), Register, December, 1988, No. 396, eff. 1−1−89; emerg. r. and recr. eff. 7−1−92; r. and recr. Register, February, 1993, No. 446, eff. 3−1−93; emerg. cr. (3) (ag), eff. 1−1−94; correction in (6) (b) 1. made under s. 13.93 (2m) (b) 7., Stats., Register, April, 1999, No. 520; corrections in (1) (c), (2) (b) 1. and (5) (i) and (j) made under s. 13.93 (2m) (b) 7., Stats., Register, October, 2000, No. 538; correction in (4) (k) made under s. 13.93 (2m) (b) 7., Stats., Register February 2002 No. 554; **CR 03−033: am. (6) (b) 5. Register December 2003 No. 576, eff. 1−1−04; corrections in (6) (b) 2. made under s. 13.93 (2m) (b) 7., Stats., Register December 2003 No. 576.**

HFS 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. HFS 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 those recipients 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. (a) Prior authorization is required for personal care services in excess of 250 hours per calendar year.

(b) Prior authorization is required under par. (a) for specific services listed in s. HFS 107.11 (2). Services listed in s. HFS 107.11 (2) (b) are covered personal care services, regardless of the recipient's age, only when:

1. Safely delegated to a personal care worker by a registered nurse;

2. The personal care worker is trained and supervised by the provider to provide the tasks; and

3. The recipient, parent or responsible person is permitted to participate in the training and supervision of the personal care worker.

(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. HFS 105.17 (3) and who is employed by or is under contract to a provider certified under s. HFS 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; and

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 one−third of the time spent by a personal care worker may be in performing housekeeping activities.

(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 subs. (1) (b) and (2) (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.

History: Cr. Register, April, 1988, No. 388, eff. 7−1−88; renum. (2) to be (2) (a), cr. (2) (b), am. (3) (e), Register, December, 1988, No. 396, eff. 1−1−89; r. and recr. (2) (b), r. (3) (f), am. (4) (f), Register, February, 1993, No. 446, eff. 3−1−93; emerg. am. (2) (a), (4) (e), eff. 1−1−94.

HFS 107.113 Respiratory care for ventilator−assisted recipients. (1) COVERED SERVICES. Services, medical supplies and equipment necessary to provide life support for a recipient who has been hospitalized for at least 30 consecutive days for his or her respiratory condition and who is dependent on a ventilator for at least 6 hours per day shall be covered services when these services are provided to the recipient in the recipient's home. A recipient receiving these services is one who, if the services were not available in the home, would require them as an inpatient in a hospital or a skilled nursing facility, has adequate social support to be treated at home and desires to be cared for at home, and is one for whom respiratory care can safely be provided in the home. Respiratory care shall be provided as required under ss. HFS 105.16 and 105.19 and according to a written plan of care under sub. (2) signed by the recipient's physician for a recipient who lives in a residence that is not a hospital or a skilled nursing facility. Respiratory care includes:

(a) Airway management, consisting of:

1. Tracheostomy care: all available types of tracheostomy tubes, stoma care, changing a tracheostomy tube, and emergency procedures for tracheostomy care including accidental extubation;

2. Tracheal suctioning technique; and

3. Airway humidification;

(b) Oxygen therapy: operation of oxygen systems and auxiliary oxygen delivery devices;

(c) Respiratory assessment, including but not limited to monitoring of breath sounds, patient color, chest excursion, secretions and vital signs;

(d) Ventilator management, as follows:

1. Operation of positive pressure ventilator by means of tracheostomy to include, but not limited to, different modes of ventilation, types of alarms and responding to alarms, troubleshooting ventilator dysfunction, operation and assembly of ventilator circuit, that is, the delivery system, and proper cleaning and disinfection of equipment;

2. Operation of a manual resuscitator; and

3. Emergency assessment and management including cardiopulmonary resuscitation (CPR);

(e) The following modes of ventilatory support:

1. Positive pressure ventilation by means of a nasal mask or mouthpiece;

2. Continuous positive airway pressure (CPAP) by means of a tracheostomy tube or mask;

3. Negative pressure ventilation — iron lung, chest shell or pulmowrap;

4. Rocking beds;

5. Pneumobelts; and

6. Diaphragm pacing;

(f) Operation and interpretation of monitoring devices:

1. Cardio−respiratory monitoring;

2. Pulse oximetry; and

3. Capnography;

(g) Knowledge of and skills in weaning from the ventilator;

(h) Adjunctive techniques:

1. Chest physiotherapy; and

2. Aerosolized medications; and

(i) Case coordination activities performed by the registered nurse designated in the plan of care as case coordinator. These activities include coordination of health care services provided to the recipient at home and coordination of these services with any other health or social service providers serving the recipient.

(2) PLAN OF CARE. A recipient's written plan of care shall be based on the orders of a physician, a visit to the recipient's home by the registered nurse and consultation with the family and other household members. The plan of care established by a home health agency or independent provider for a recipient to be discharged from a hospital shall consider the hospital's discharge plan for the recipient. The written plan of care shall be reviewed, signed and dated by the recipient's physician and renewed at least every 62 days and whenever the recipient's condition changes.

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Telephone orders shall be documented in writing and signed by the physician within 10 working days. The written physician's plan of care shall include:

(a) Physician orders for treatments provided by the necessary disciplines specifying the amount and frequency of treatment;

(b) Medications, including route, dose and frequency;

(c) Principal diagnosis, surgical procedures and other pertinent diagnosis;

(d) Nutritional requirements;

(e) Necessary durable medical equipment and disposable medical supplies;

(f) Ventilator settings and parameters;

(g) Procedures to follow in the event of accidental extubation;

(h) Identification of back−ups in the event scheduled personnel are unable to attend the case;

(i) The name of the registered nurse designated as the recipient's case coordinator;

(j) A plan for medical emergency, to include:

1. Description of back−up personnel needed;

2. Provision for reliable, 24−hour a day, 7 days a week emergency service for repair and delivery of equipment; and

3. Specification of an emergency power source; and

(k) A plan to move the recipient to safety in the event of fire, flood, tornado warning or other severe weather, or any other condition which threatens the recipient's immediate environment.

(3) PRIOR AUTHORIZATION. (a) All services covered under sub. (1) and all home health services under s. HFS 107.11 provided to a recipient receiving respiratory care shall be authorized prior to the time the services are rendered. Prior authorization shall be renewed every 12 calendar months if the respiratory care under this section is still needed. The prior authorization request shall include the name of the registered nurse who is responsible for coordination of all care provided under the MA program for the recipient in his or her home. Independent MA−certified respiratory therapists or nurses in private practice who are not employees of or contracted to a home health agency but are certified under s. HFS 105.19 (1) (b) to provide respiratory care shall include in the prior authorization request the name and license number of a registered nurse who will participate, on 24−hour call, in emergency assessment and management and who will be available to the respiratory therapist for consultation and assistance.

(4) OTHER LIMITATIONS. (a) Services under this section shall not be reimbursed if the recipient is receiving respiratory care from an RN, licensed practical nurse or respiratory therapist who is providing these services as part of the rental agreement for a ventilator or other respiratory equipment.

(b) Respiratory care provided to a recipient residing in a community−based residential facility (CBRF) as defined in s. 50.01 (1g), Stats., shall be in accordance with the requirements of ch. HFS 83.

(c) Durable medical equipment and disposable medical supplies shall be provided in accordance with conditions set out in s. HFS 107.24.

(d) Respiratory care services provided by a licensed practical nurse shall be provided under the supervision of a registered nurse and in accordance with standards of practice set out in s. N 6.04.

(e) Case coordination services provided by the designated case coordinator shall be documented in the clinical record, including the extent and scope of specific care coordination provided.

(f) In the event that a recipient receiving services at home who is discharged from the care of one respiratory care provider and admitted to the care of another respiratory care provider continues to receive services at home under this section, the admitting provider shall coordinate services with the discharging provider to ensure continuity of care. The admitting provider shall establish the recipient's plan of care as provided under sub. (2) and request prior authorization under sub. (3).

(g) Travel, recordkeeping and RN supervision of a licensed practical nurse are not separately reimbursable services.

(5) NON–COVERED SERVICES. The following services are not covered services:

(a) Parenting;

(b) Supervision of the recipient when supervision is the only service provided;

(c) Services provided without prior authorization;

(d) Services provided by one individual in excess of 12 continuous hours per day or 60 hours per week;

(e) Services provided in a setting other than the recipient's place of residence; and

(f) Services that are not medically appropriate.

History: Cr. Register, February, 1993, No. 446, eff. 3−1−93; correction in (4) (c) made under s. 13.93 (2m) (b) 7., Stats., Register, April, 1999, No. 520.

HFS 107.12 Private duty nursing services. (1) COVERED SERVICES. (a) Private duty nursing is skilled nursing care available for recipients with medical conditions requiring more continuous skilled care than can be provided on a part−time, intermittent basis. Only a recipient who requires 8 or more hours of skilled nursing care and is authorized to receive these services in the home setting may make use of the approved hours outside of that setting during those hours when normal life activities take him or her outside of that setting. Private duty nursing may be provided according to the requirements under ss. HFS 105.16 and 105.19 when the written plan of care specifies the medical necessity for this type of service.

(b) Private duty nursing services provided by a certified registered nurse in independent practice are those services prescribed by a physician which comprise the practice of professional nursing as described under s. 441.001 (4), Stats., and s. N 6.03. Private duty nursing services provided by a certified licensed practical nurse are those services which comprise the practice of practical nursing under s. 441.001 (3), Stats., and s. N 6.04. An LPN may provide private duty nursing services delegated by a registered nurse as delegated nursing acts under the requirements of ch. N 6 and guidelines established by the state board of nursing.

(c) Services may be provided only when prescribed by a physician and the prescription calls for a level of care which the nurse is licensed and competent to provide.

(d) 1. A written plan of care, including a functional assessment, medication and treatment orders, shall be established for every recipient admitted for care and shall be incorporated in the recipient's medical record within 72 hours after acceptance in consultation with the recipient and the recipient's physician and shall be signed by the physician within 20 working days following the recipient's admission for care. The physician's plan of care shall include, in addition to the medication and treatment orders:

a. Measurable time−specific goals;

b. Methods for delivering needed care, and an indication of which other professional disciplines, if any, are responsible for delivering the care;

c. Provision for care coordination by an RN when more than one nurse is necessary to staff the recipient's case; and

d. A description of functional capability, mental status, dietary needs and allergies.

2. The written plan of care shall be reviewed and signed by the recipient's physician as often as required by the recipient's condition, but not less often than every 62 days. The RN shall promptly notify the physician of any change in the recipient's condition that suggests a need to modify the plan of care.

(e) 1. Except as provided in subd. 2., drugs and treatment shall be administered by the RN or LPN only as ordered by the recipient's physician or his or her designee. The nurse shall immediately

record and sign oral orders and shall obtain the physician's countersignature within 10 working days.

2. Drugs may be administered by an advanced practice nurse prescriber as authorized under ss. N 8.06 and 8.10.

(f) Medically necessary actual time spent in direct care that requires the skills of a licensed nurse is a covered service.

(2) PRIOR AUTHORIZATION. (a) Prior authorization is required for all private duty nursing services.

(b) Private duty nursing for which prior authorization is requested is limited to 12 continuous hours in each 24 hour period and no more than 60 hours in a calendar week for the number of weeks care continues to be medically necessary, when provided by a single provider for all recipients combined who are receiving services from the provider. A prior authorization request for 2 consecutive 12−hour periods shall not be approved.

(c) A request for prior authorization of private duty nursing services performed by an LPN shall include the name and license number of the registered nurse or physician supervising the LPN.

(d) A request for prior authorization for care for a recipient who requires more than one private duty nurse to provide medically necessary care shall include the name and license number of the RN performing care coordination responsibilities.

(3) OTHER LIMITATIONS. (a) Discharge of a recipient from private duty nursing care shall be made in accordance with s. HFS 105.19 (9).

(b) An RN supervising an LPN performing services under this section shall supervise the LPN as often as necessary under the requirements of s. N 6.03 during the period the LPN is providing services, and shall communicate the results of supervisory activities to the LPN. These activities shall be documented by the RN.

(c) Each private duty nurse shall document the nature and scope of the care and services provided to the recipient in the recipient's medical record.

(d) Services performed in two consecutive 12−hour periods under sub. (2) (b) are not reimbursable.

(e) Travel time, recordkeeping and RN supervision of an LPN are not separately reimbursable services.

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

(a) Any services not included in the physician's plan of care;

(b) Any services under s. HFS 107.11;

(c) Skilled nursing services performed by a recipient's spouse or parent if the recipient is under age 21;

(d) Services that were provided but not documented; and

(e) Any service that fails to meet the recipient's medical needs or places the recipient at risk for a negative treatment outcome.

History: Cr. Register, February, 1986, No. 362, eff. 3−1−86; emerg. r. and recr. eff. 7−1−90; r. and recr. Register, January, 1991, No. 421, eff. 2−1−91; emerg. r. and recr. eff. 7−1−92; r. and recr. Register, February, 1993, No. 446, eff. 3−1−93; **CR 03−033: am. (1) (e) Register December 2003 No. 576, eff. 1−1−04; corrections in (1) (b) made under s. 13.93 (2m) (b) 7., Stats., Register December 2003 No. 576.**

HFS 107.121 Nurse−midwife services. (1) COVERED SERVICES. Covered services provided by a certified nurse−midwife may include the care of mothers and their babies throughout the maternity cycle, including pregnancy, labor, normal childbirth and the immediate postpartum period, provided that the nurse−midwife services are provided within the limitations established in s. 441.15 (2), Stats., and ch. N 4.

(2) LIMITATION. Coverage for nurse−midwife services for management and care of the mother and newborn child shall end after the sixth week of postpartum care.

History: Cr. Register, January, 1991, No. 421, eff. 2−1−91.

HFS 107.122 Independent nurse practitioner services. (1) COVERED SERVICES. Services provided by a nurse practitioner, including a clinical nurse specialist, which are covered by the MA program are those medical services delegated by a licensed physician by a written protocol developed with the nurse practitioner pursuant to the requirements set forth in s. N 6.03 (2) and guidelines set forth by the medical examining board and the board of nursing. General nursing procedures are covered services when performed by a certified nurse practitioner or clinical nurse specialist in accordance with the requirements of s. N 6.03 (1). These services may include those medically necessary diagnostic, preventive, therapeutic, rehabilitative or palliative services provided in a medical setting, the recipient's home or elsewhere. Specific reimbursable delegated medical acts and nursing services are the following:

(a) Under assessment and nursing diagnosis:

1. Obtaining a recipient's complete health history and recording the findings in a systematic, organized manner;

2. Evaluating and analyzing a health history critically;

3. Performing a complete physical assessment using techniques of observation, inspection, auscultation, palpation and percussion, ordering appropriate laboratory and diagnostic tests and recording findings in a systematic manner;

4. Performing and recording a developmental or functional status evaluation and mental status examination using standardized procedures; and

5. Identifying and describing behavior associated with developmental processes, aging, life style and family relationships;

(b) Under analysis and decision−making:

1. Discriminating between normal and abnormal findings associated with growth and development, aging and pathological processes;

2. Discriminating between normal and abnormal patterns of behavior associated with developmental processes, aging, life style, and family relationships as influenced by illness;

3. Exercising clinical judgment in differentiating between situations which the nurse practitioner can manage and those which require consultations or referral; and

4. Interpreting screening and selected diagnostic tests;

(c) Under management, planning, implementation and treatment:

1. Providing preventive health care and health promotion for adults and children;

2. Managing common self−limiting or episodic health problems in recipients according to protocol and other guidelines;

3. Managing stabilized illness problems in coloration with physicians and other health care providers according to protocol;

4. Prescribing, regulating and adjusting medications as defined by protocol;

5. Recommending symptomatic treatments and non−prescription medicines;

6. Counseling recipients and their families about the process of growth and development, aging, life crises, common illnesses, risk factors and accidents;

7. Helping recipients and their families assume greater responsibility for their own health maintenance and illness care by providing instruction, counseling and guidance;

8. Arranging referrals for recipients with health problems who need further evaluation or additional services; and

9. Modifying the therapeutic regimen so that it is appropriate to the developmental and functional statuses of the recipient and the recipient's family;

(d) Under evaluation:

1. Predicting expected outcomes of therapeutic regimens;

2. Collecting systematic data for evaluating the response of a recipient and the recipient's family to a therapeutic regimen;

3. Modifying the plan of care according to the response of the recipient;

4. Collecting systematic data for self−evaluation and peer review; and

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5. Utilizing an epidemiological approach in examining the health care needs of recipients in the nurse practitioner's caseload;

(e) Physician services described under s. HFS 107.06 that are under protocol;

(f) Services under s. HFS 107.08 performed for an inpatient in a hospital;

(g) Outpatient hospital services, as described in s. HFS 107.08 (1) (b);

(h) Family planning services, as described in s. HFS 107.21;

(i) Early and periodic screening, diagnosis and treatment (EPSDT) services, as described in s. HFS 107.22;

(j) Prescriptions for drugs and recipient transportation; and

(k) Disposable medical supplies, as described in s. HFS 107.24.

(2) PRIOR AUTHORIZATION. (a) Services under sub. (1) (e) to (k) are subject to applicable prior authorization requirements for those services.

(b) Requests for prior authorization shall be accompanied by the written protocol.

(3) OTHER LIMITATIONS. (a) No services under this section may be reimbursed without a written protocol developed and signed by the nurse practitioner and the delegating physician, except for general nursing procedures described under s. N 6.03 (1). The physician shall review a protocol according to the requirements of s. 448.03 (2) (e), Stats., and guidelines established by the medical examining board and the board of nursing, but no less than once each calendar year. A written protocol shall be organized as follows:

1. Subjective data;
2. Objective data;
3. Assessment;
4. Plan of care; and
5. Evaluation.

(b) Prescriptions for drugs are limited to those drugs allowed under protocol for prescription by a nurse practitioner, except that controlled substances may not be prescribed by a nurse practitioner.

(4) NON−COVERED SERVICES. Non−covered services are:

(a) Mental health and alcohol and other drug abuse services;

(b) Services provided to nursing home residents or hospital inpatients which are included in the daily rates for a nursing home or hospital;

(c) Rural health clinic services;

(d) Dispensing durable medical equipment; and

(e) Medical acts for which the nurse practitioner or clinical nurse specialist does not have written protocols as specified in this section. In this paragraph, "medical acts" means acts reserved by professional training and licensure to physicians, dentists and podiatrists.

History: Emerg. cr. eff. 7−1−90; cr. Register, January, 1991, No. 421, eff. 2−1−91; correction in (1) (e) made under s. 13.93 (2m) (b) 7., Stats., Register, April, 1999, No. 520.

HFS 107.13 Mental health services. (1) INPATIENT CARE IN A HOSPITAL IMD. (a) *Covered services.* Inpatient hospital mental health and AODA care shall be covered when prescribed by a physician and when provided within a hospital institution for mental disease (IMD) which is certified under ss. HFS 105.07 and 105.21, except as provided in par. (b).

(b) *Conditions for coverage of recipients under 21 years of age.* 1. Definition. In this paragraph, "individual plan of care"or "plan of care" means a written plan developed for each recipient under 21 years of age who receives inpatient hospital mental health or AODA care in a hospital IMD for the purpose of improving the recipient's condition to the extent that inpatient care is no longer necessary.

2. General conditions. Inpatient hospital mental health and AODA services provided in a hospital IMD for recipients under age 21 shall be provided under the direction of a physician and, if the recipient was receiving the services immediately before reaching age 21, coverage shall extend to the earlier of the following:

a. The date the recipient no longer requires the services; or

b. The date the recipient reaches age 22.

3. Certification of need for services. a. For recipients under age 21 receiving services in a hospital IMD, a team specified in subd. 3. b. shall certify that ambulatory care resources do not meet the treatment needs of the recipient, proper treatment of the recipient's psychiatric condition requires services on an inpatient basis under the direction of a physician, and the services can reasonably be expected to improve the recipient's condition or prevent further regression so that the services will be needed in reduced amount or intensity or no longer be needed. The certification specified in this subdivision satisfies the requirement for physician certification in subd. 7. In this subparagraph, "ambulatory care resources" means any covered service except hospital inpatient care or care of a resident in a nursing home.

b. Certification under subd. 3. a. shall be made for a recipient when the person is admitted to a facility or program by an independent team that includes a physician. The team shall have competence in diagnosis and treatment of mental illness, preferably in child psychology, and have knowledge of the recipient's situation.

c. For a recipient who applies for MA eligibility while in a facility or program, the certification shall be made by the team described in subd. 5. b. and shall cover any period before application for which claims are made.

d. For emergency admissions, the certification shall be made by the team specified in subd. 5. b. within 14 days after admission.

4. Active treatment. Inpatient psychiatric services shall involve active treatment. An individual plan of care described in subd. 5. shall be developed and implemented no later than 14 days after admission and shall be designed to achieve the recipient's discharge from inpatient status at the earliest possible time.

5. Individual plan of care. a. The individual plan of care shall be based on a diagnostic evaluation that includes examination of the medical, psychological, social, behavioral and developmental aspects of the recipient's situation and reflects the need for inpatient psychiatric care; be developed by a team of professionals specified under subd. 5. b. in consultation with the recipient and parents, legal guardians or others into whose care the recipient will be released after discharge; specify treatment objectives; prescribe an integrated program of therapies, activities, and experiences designed to meet the objectives; and include, at an appropriate time, post−discharge plans and coordination of inpatient services with partial discharge plans and related community services to ensure continuity of care with the recipient's family, school and community upon discharge.

b. The individual plan of care shall be developed by an interdisciplinary team that includes a board−eligible or board−certified psychiatrist; a clinical psychologist who has a doctorate and a physician licensed to practice medicine or osteopathy; or a physician licensed to practice medicine or osteopathy who has specialized training and experience in the diagnosis and treatment of mental diseases, and a psychologist who has a master's degree in clinical psychology or who is certified by the state. The team shall also include a psychiatric social worker, a registered nurse with specialized training or one year's experience in treating mentally ill individuals, an occupational therapist who is certified by the American occupation therapy association and who has specialized training or one year of experience in treating mentally ill individuals, or a psychologist who has a master's degree in clinical psychology or who has been certified by the state. Based on education and experience, preferably including competence in child psychiatry, the team shall be capable of assessing the recipient's

immediate and long−range therapeutic needs, developmental priorities, and personal strengths and liabilities; assessing the potential resources of the recipient's family; setting treatment objectives; and prescribing therapeutic modalities to achieve the plan's objectives.

c. The plan shall be reviewed every 30 days by the team specified in subd. 5. b. to determine that services being provided are or were required on an inpatient basis, and to recommend changes in the plan as indicated by the recipient's overall adjustment as an inpatient.

d. The development and review of the plan of care under this subdivision shall satisfy the utilization control requirements for physician certification and establishment and periodic review of the plan of care.

6. Evaluation. a. Before a recipient is admitted to a psychiatric hospital or before payment is authorized for a patient who applies for MA, the attending physician or staff physician shall make a medical evaluation of each applicant's or recipient's need for care in the hospital, and appropriate professional personnel shall make a psychiatric and social evaluation of the applicant's or recipient's need for care.

b. Each medical evaluation shall include a diagnosis, a summary of present medical findings, medical history, the mental and physical status and functional capacity, a prognosis, and a recommendation by a physician concerning admission to the psychiatric hospital or concerning continued care in the psychiatric hospital for an individual who applies for MA while in the hospital.

7. Physician certification. a. A physician shall certify and recertify for each applicant or recipient that inpatient services in a psychiatric hospital are or were needed.

b. The certification shall be made at the time of admission or, if an individual applies for assistance while in a psychiatric hospital, before the agency authorizes payment.

c. Recertification shall be made at least every 60 days after certification.

8. Physician's plan of care. a. Before a recipient is admitted to a psychiatric hospital or before payment is authorized, the attending physician or staff physician shall document and sign a written plan of care for the recipient or applicant. The physician's plan of care shall include diagnosis, symptoms, complaints and complications indicating the need for admission; a description of the functional level of the individual; objectives; any orders for medications, treatments, restorative and rehabilitative services, activities, therapies, social services, diet or special procedures recommended for the health and safety of the patient; plans for continuing care, including review and modification to the plan of care; and plans for discharge.

b. The attending or staff physician and other personnel involved in the recipient's care shall review each plan of care at least every 30 days.

9. Record entries. A written report of each evaluation under subd. 6. and the plan of care under subd. 8. shall be entered in the applicant's or recipient's record at the time of admission or, if the individual is already in the facility, immediately upon completion of the evaluation or plan.

(c) *Eligibility for non−institutional services.* Recipients under age 22 or over age 64 who are inpatients in a hospital IMD are eligible for MA benefits for services not provided through that institution and reimbursed to the hospital as hospital services under s. HFS 107.08 and this subsection.

(d) *Patient's account.* Each recipient who is a patient in a state, county, or private psychiatric hospital shall have an account established for the maintenance of earned or unearned money payments received, including social security and SSI payments. The account for a patient in a state mental health institute shall be kept in accordance with s. 46.07, Stats. The payee for the account may be the recipient, if competent, or a legal representative or bank officer except that a legal representative employed by a county department of social services or the department may not receive payments. If the payee of the resident's account is a legally authorized representative, the payee shall submit an annual report on the account to the U.S. social security administration if social security or SSI payments have been paid into the account.

(e) *Professional services provided to hospital IMD inpatients.* In addition to meeting the conditions for provision of services listed under s. HFS 107.08 (4), including separate billing, the following conditions apply to professional services provided to hospital IMD inpatients:

1. Diagnostic interviews with the recipient's immediate family members shall be covered services. In this subdivision, "immediate family members" means parents, guardian, spouse and children or, for a child in a foster home, the foster parents;

2. The limitations specified in s. HFS 107.08 (3) shall apply; and

3. Electroconvulsive therapy shall be a covered service only when provided by a certified psychiatrist in a hospital setting.

(f) *Non−covered services.* The following services are not covered services:

1. Activities which are primarily diversional in nature such as services which act as social or recreational outlets for the recipient;

2. Mild tranquilizers or sedatives provided solely for the purpose of relieving the recipient's anxiety or insomnia;

3. Consultation with other providers about the recipient's care;

4. Conditional leave, convalescent leave or transfer days from psychiatric hospitals for recipients under the age of 21;

5. Psychotherapy or AODA treatment services when separately billed and performed by masters level therapists or AODA counsellors certified under s. HFS 105.22 or 105.23;

6. Group therapy services or medication management for hospital inpatients whether separately billed by an IMD hospital or by any other provider as an outpatient claim for professional services;

7. Court appearances, except when necessary to defend against commitment; and

8. Inpatient services for recipients between the ages of 21 and 64 when provided by a hospital IMD, except that services may be provided to a 21 year old resident of a hospital IMD if the person was a resident of that institution immediately prior to turning 21 and continues to be a resident after turning 21. A hospital IMD patient who is 21 to 64 years of age may be eligible for MA benefits while on convalescent leave from a hospital IMD.

Note: Subdivision 8 applies only to services for recipients 21 to 64 years of age who are actually residing in a psychiatric hospital or an IMD. Services provided to a recipient who is a patient in one of these facilities but temporarily hospitalized elsewhere for medical treatment or temporarily residing at a rehabilitation facility or another type of medical facility are covered services.

Note: For more information on non−covered services, see ss. HFS 107.03 and 107.08 (4).

(2) OUTPATIENT PSYCHOTHERAPY SERVICES. (a) *Covered services.* Outpatient psychotherapy services shall be covered services when prescribed by a physician, when provided by a provider who meets the requirements of s. HFS 105.22, and when the following conditions are met:

1. A differential diagnostic examination is performed by a certified psychotherapy provider. A physician's prescription is not necessary to perform the examination;

2. Before the actual provision of psychotherapy services, a physician prescribes psychotherapy in writing;

3. Psychotherapy is furnished by:

a. A provider who is a licensed physician or a licensed psychologist as provided under s. HFS 105.22 (1) (a) or (b), and who is working in an outpatient facility under s. HFS 105.22 (1) (c) or (d); or who is working in private practice; or

b. A provider under s. HFS 105.22 (3) who is working in an outpatient facility under s. HFS 105.22 (1) (c) or (d) which is certified to participate in MA;

4. Psychotherapy is performed only in:

a. The office of a provider;

b. A hospital outpatient clinic;

c. An outpatient facility;

d. A nursing home;

e. A school; or

f. A hospital;

5. The provider who performs psychotherapy shall engage in face−to−face contact with the recipient for at least 5/6 of the time for which reimbursement is claimed under MA;

6. Outpatient psychotherapy services of up to $500 per recipient in a calendar year for hospital outpatient service providers billing on the hospital claim form, or 15 hours or $500 per recipient in a calendar year for non−hospital outpatient providers, whichever limit is reached first, may be provided without prior authorization by the department; and

7. If reimbursement is also made to any provider for AODA treatment services under sub. (3) during the same year for the same recipient, the hours reimbursed for these services shall be considered part of the $500 or 15−hour psychotherapy treatment services limit before prior authorization is required. For hospital outpatient providers billing on the hospital claim form, these services shall be included in the $500 limit before prior authorization is required. If several psychotherapy or AODA treatment service providers are treating the same recipient during the year, all the psychotherapy and AODA treatment services shall be considered in the $500 or 15−hour total limit before prior authorization is required. However, if a recipient is hospitalized as an inpatient in an acute care general hospital or IMD with a diagnosis of, or for a procedure associated with, a psychiatric or alcohol or other drug abuse condition, reimbursement for any inpatient psychotherapy or AODA treatment services is not included in the $500, 15−hour limit before prior authorization is required for outpatient psychotherapy or AODA treatment services. For hospital inpatients, the differential diagnostic examination for psychotherapy and the medical evaluation for AODA treatment services also are not included in the limit before prior authorization is required.

(b) *Prior authorization.* 1. Reimbursement may be claimed for treatment services beyond 15 hours or $500, whichever limit is attained first, after receipt of prior authorization from the department. Services reimbursed by any third−party payer shall be included when calculating the 15 hours or $500 of service.

2. The department may authorize reimbursement for a specified number of additional hours of non−hospital outpatient care or visits for hospital outpatient services to be provided to a recipient with the calendar year. The department shall require periodic progress reports and subsequent prior authorization requests in instances where additional services are approved.

3. Persons who review prior authorization requests for the department shall meet the same minimum training that providers are expected to meet.

4. A prior authorization request shall include the following information:

a. The names, addresses and MA provider or identifier numbers of the providers conducting the diagnostic examination or medical evaluation and performing psychotherapy services;

b. A copy of the physician's prescription for treatment;

c. A detailed summary of the differential diagnostic examination, setting forth the severity of the mental illness or medically significant emotional or social dysfunction, the medical necessity for psychotherapy and the expected outcome of treatment;

d. A copy of the treatment plan which shall relate to the findings of the diagnostic examination or medical evaluation and specify behavior and personality changes being sought; and

e. A statement of the estimated frequency of treatment sessions, the estimated cost of treatment and the anticipated location of treatment.

5. The department's decision on a prior authorization request shall be communicated to the provider in writing.

(c) *Other limitations.* 1. Collateral interviews shall be limited to members of the recipient's immediate family. These are parents, spouse and children or, for children in foster care, foster parents.

2. No more than one provider may be reimbursed for the same psychotherapy session, unless the session involves a couple, family group or is a group therapy session. In this subdivision, "group therapy session" means a session not conducted in a hospital for an inpatient recipient at which there are more than one but not more than 10 individuals receiving psychotherapy services together from one or 2 providers. Under no circumstances may more than 2 providers be reimbursed for the same session.

3. Emergency psychotherapy may be performed by a provider for a recipient without a prescription for treatment or prior authorization when the provider has reason to believe that the recipient may immediately injure himself or herself or any other person. A prescription for the emergency treatment shall be obtained within 48 hours of the time the emergency treatment was provided, excluding weekends and holidays. Services shall be incorporated within the limits described in par. (b) and this paragraph, and subsequent treatment may be provided if par. (b) is followed.

4. Diagnostic testing and evaluation for mental health, day treatment and AODA services shall be limited to 6 hours every 2 years per recipient as a unique procedure. Any diagnostic testing and evaluation in excess of 6 hours shall be counted toward the therapy prior authorization limits and may, therefore, be subject to prior authorization.

5. Services under this subsection are not reimbursable if the recipient is receiving community support program services under sub. (6).

6. Professional psychotherapy services provided to hospital inpatients in general hospitals, other than group therapy and medication management, are not considered inpatient services. Reimbursement shall be made to the psychiatrist or psychologist billing providers certified under s. HFS 105.22 (1) (a) or (b) who provide mental health professional services to hospital inpatients in accordance with requirements of this subsection.

(d) *Non−covered services.* The following services are not covered services:

1. Collateral interviews with persons not stipulated in par. (c) 1., and consultations, except as provided in s. HFS 107.06 (4) (d);

2. Psychotherapy for persons with the primary diagnosis of mental retardation, except when they experience psychological problems that necessitate psychotherapeutic intervention;

3. Psychotherapy provided in a person's home;

4. Self−referrals. For purposes of this paragraph, "self−referral"means that a provider refers a recipient to an agency in which the provider has a direct financial interest, or to himself or herself acting as a practitioner in private practice; and

5. Court appearances except when necessary to defend against commitment.

Note: For more information on non−covered services, see s. HFS 107.03.

(3) ALCOHOL AND OTHER DRUG ABUSE OUTPATIENT TREATMENT SERVICES. (a) *Covered services.* Outpatient alcohol and drug abuse treatment services shall be covered when prescribed by a physician, provided by a provider who meets the requirements of s. HFS 105.23, and when the following conditions are met:

1. The treatment services furnished are AODA treatment services;

2. Before being enrolled in an alcohol or drug abuse treatment program, the recipient receives a complete medical evaluation,

including diagnosis, summary of present medical findings, medical history and explicit recommendations by the physician for participation in the alcohol or other drug abuse treatment program. A medical evaluation performed for this purpose within 60 days prior to enrollment shall be valid for reenrollment;

3. The supervising physician or psychologist develops a treatment plan which relates to behavior and personality changes being sought and to the expected outcome of treatment;

4. Outpatient AODA treatment services of up to $500 or 15 hours per recipient in a calendar year, whichever limit is reached first, may be provided without prior authorization by the department;

5. AODA treatment services are performed only in the office of the provider, a hospital or hospital outpatient clinic, an outpatient facility, a nursing home or a school;

6. The provider who provides alcohol and other drug abuse treatment services engages in face−to−face contact with the recipient for at least 5/6 of the time for which reimbursement is claimed; and

7. If reimbursement is also made to any provider for psychotherapy or mental health services under sub. (2) during the same year for the same recipient, the hours reimbursed for these services shall be considered part of the $500 or 15−hour AODA treatment services limit before prior authorization is required. For hospital outpatient service providers billing on the hospital claim form, these services shall be included in the $500 limit before prior authorization is required. If several psychotherapy or AODA treatment service providers are treating the same recipient during the year, all the psychotherapy or AODA treatment services shall be considered in the $500 or 15−hour total limit before prior authorization is required. However, if a recipient is hospitalized as an inpatient in an acute care general hospital or IMD with a diagnosis of, or for a procedure associated with, a psychiatric or alcohol or other drug abuse condition, reimbursement for any inpatient psychotherapy or AODA treatment services is not included in the $500, 15−hour limit before prior authorization is required. For hospital inpatients, the differential diagnostic examination for psychotherapy or AODA treatment services and the medical evaluation for psychotherapy or other mental health treatment or AODA treatment services are also not included in the limit before prior authorization is required.

(b) *Prior authorization.* 1. Reimbursement beyond 15 hours or $500 of service may be claimed for treatment services furnished after receipt of prior authorization from the department. Services reimbursed by any third−party payer shall be included when calculating the 15 hours or $500 of service.

2. The department may authorize reimbursement for a specified additional number of hours of outpatient AODA treatment services or visits for hospital outpatient services to be provided to a recipient in a calendar year. The department shall require periodic progress reports and subsequent prior authorization requests in instances where additional services are approved.

3. Persons who review prior authorization requests for the department shall meet the same minimum training requirements that providers are expected to meet.

4. A prior authorization request shall include the following information:

a. The names, addresses and MA provider or identifier numbers of the providers conducting the medical evaluation and performing AODA services;

b. A copy of the physician's prescription for treatment;

c. A copy of the treatment plan which shall relate to the findings of the medical evaluation and specify behavior and personality changes being sought; and

d. A statement of the estimated frequency of treatment sessions, the estimated cost of treatment and the anticipated location of treatment.

5. The department's decision on a prior authorization request shall be communicated to the provider in writing.

(c) *Other limitations.* 1. No more than one provider may be reimbursed for the same AODA treatment session, unless the session involves a couple, a family group or is a group session. In this paragraph,"group session" means a session not conducted in a hospital for an inpatient recipient at which there are more than one but not more than 10 recipients receiving services together from one or 2 providers. No more than 2 providers may be reimbursed for the same session. No recipient may be held responsible for charges for services in excess of MA coverage under this paragraph.

2. Services under this subsection are not reimbursable if the recipient is receiving community support program services under sub. (6).

3. Professional AODA treatment services other than group therapy and medication management provided to hospital inpatients in general or to inpatients in IMDs are not considered inpatient services. Reimbursement shall be made to the psychiatrist or psychologist billing provider certified under s. HFS 105.22 (1) (a) or (b) or 105.23 who provides AODA treatment services to hospital inpatients in accordance with requirements under this subsection.

4. Medical detoxification services are not considered inpatient services if provided outside an inpatient general hospital or IMD.

(d) *Non−covered services.* The following services are not covered services:

1. Collateral interviews and consultations, except as provided in s. HFS 107.06 (4) (d);

2. Court appearances except when necessary to defend against commitment; and

3. Detoxification provided in a social setting, as described in s. HFS 75.09, is not a covered service.

Note: For more information on non−covered services, see s. HFS 107.03.

(3m) ALCOHOL AND OTHER DRUG ABUSE DAY TREATMENT SERVICES. (a) *Covered services.* Alcohol and other drug abuse day treatment services shall be covered when prescribed by a physician, provided by a provider certified under s. HFS 105.25 and performed according to the recipient's treatment program in a non−residential, medically supervised setting, and when the following conditions are met:

1. An initial assessment is performed by qualified medical professionals under s. HFS 75.03 (12) (a) to (e) for a potential participant. Services under this section shall be covered if the assessment concludes that AODA day treatment is medically necessary and that the recipient is able to benefit from treatment;

2. A treatment plan based on the initial assessment is developed by the interdisciplinary team in consultation with the medical professionals who conducted the initial assessment and in collaboration with the recipient;

3. The supervising physician or psychologist approves the recipient's written treatment plan;

4. The treatment plan includes measurable individual goals, treatment modes to be used to achieve these goals and descriptions of expected treatment outcomes; and

5. The interdisciplinary team monitors the recipient's progress, adjusting the treatment plan as required.

(b) *Prior authorization.* 1. All AODA day treatment services except the initial assessment shall be prior authorized.

2. Any recommendation by the county human services department under s. 46.23, Stats., or the county community programs department under s. 51.42, Stats., shall be considered in review and approval of the prior authorization request.

3. Department representatives who review and approve prior authorization requests shall meet the same minimum training

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requirements as those mandated for AODA day treatment providers under s. HFS 105.25.

(c) *Other limitations.* 1. AODA day treatment services in excess of 5 hours per day are not reimbursable under MA.

2. AODA day treatment services may not be billed as psychotherapy, AODA outpatient treatment, case management, occupational therapy or any other service modality except AODA day treatment.

3. Reimbursement for AODA day treatment services may not include time devoted to meals, rest periods, transportation, recreation or entertainment.

4. Reimbursement for AODA day treatment assessment for a recipient is limited to 3 hours in a calendar year. Additional assessment hours shall be counted towards the mental health outpatient dollar or hour limit under sub. (2) (a) 6. before prior authorization is required or the AODA outpatient dollar or hour limit under sub. (3) (a) 4. before prior authorization is required.

(d) *Non−covered services.* The following are not covered services:

1. Collateral interviews and consultations, except as provided in s. HFS 107.06 (4) (d);

2. Time spent in the AODA day treatment setting by affected family members of the recipient;

3. AODA day treatment services which are primarily recreation−oriented or which are provided in non−medically supervised settings. These include but are not limited to sports activities, exercise groups, and activities such as crafts, leisure time, social hours, trips to community activities and tours;

4. Services provided to an AODA day treatment recipient which are primarily social or only educational in nature. Educational sessions are covered as long as these sessions are part of an overall treatment program and include group processing of the information provided;

5. Prevention or education programs provided as an outreach service or as case−finding; and

6. AODA day treatment provided in the recipient's home.

(4) MENTAL HEALTH DAY TREATMENT OR DAY HOSPITAL SERVICES. (a) *Covered services.* Day treatment or day hospital services are covered services when prescribed by a physician, when provided by a provider who meets the requirements of s. HFS 105.24, and when the following conditions are met:

1. Before becoming involved in a day treatment program, the recipient is evaluated through the use of the functional assessment scale provided by the department to determine the medical necessity for day treatment and the person's ability to benefit from it;

2. The supervising psychiatrist approves, signs and dates a written treatment plan for each recipient and reviews and signs the plan no less frequently than once every 60 days. The treatment plan shall be based on the initial evaluation and shall include the individual goals, the treatment modalities including identification of the specific group or groups to be used to achieve these goals and the expected outcome of treatment;

3. Up to 90 hours of day treatment services in a calendar year may be reimbursed without prior authorization. Psychotherapy services or occupational therapy services provided as component parts of a person's day treatment package may not be billed separately, but shall be billed and reimbursed as part of the day treatment program;

4. Day treatment or day hospital services provided to recipients with inpatient status in a hospital are limited to 20 hours per inpatient admission and shall only be available to patients scheduled for discharge to prepare them for discharge;

5. Reimbursement is not made for day treatment services provided in excess of 5 hours in any day or in excess of 120 hours in any month;

6. Day treatment services are covered only for the chronically mentally ill and acutely mentally ill who have a need for day treatment and an ability to benefit from the service, as measured by the functional assessment scale provided by the department; and

7. Billing for day treatment is submitted by the provider. Day treatment services shall be billed as such, and not as psychotherapy, occupational therapy or any other service modality.

8. The groups shall be led by a qualified professional staff member, as defined under s. HFS 105.24 (1) (b) 4. a., and the staff member shall be physically present throughout the group sessions and shall perform or direct the service.

(b) *Services requiring prior authorization.* 1. Providers shall obtain authorization from the department before providing the following services, as a condition for coverage of these services:

a. Day treatment services provided beyond 90 hours of service in a calendar year;

b. All day treatment or day hospital services provided to recipients with inpatient status in a nursing home. Only those patients scheduled for discharge are eligible for day treatment. No more than 40 hours of service in a calendar year may be authorized for a recipient residing in a nursing home;

c. All day treatment services provided to recipients who are concurrently receiving psychotherapy, occupational therapy or AODA services;

d. All day treatment services in excess of 90 hours provided to recipients who are diagnosed as acutely mentally ill.

2. The prior authorization request shall include:

a. The name, address, and MA number of the recipient;

b. The name, address, and provider number of the provider of the service and of the billing provider;

c. A photocopy of the physician's original prescription for treatment;

d. A copy of the treatment plan and the expected outcome of treatment;

e. A statement of the estimated additional dates of service necessary and total cost; and

f. The demographic and client information form from the initial and most recent functional assessment. The assessment shall have been conducted within 3 months prior to the authorization request.

3. The department's decision on a prior authorization request shall be communicated to the provider in writing. If the request is denied, the department shall provide the recipient with a separate notification of the denial.

(c) *Other limitations.* 1. All assessment hours beyond 6 hours in a calendar year shall be considered part of the treatment hours and shall become subject to the relevant prior authorization limits. Day treatment assessment hours shall be considered part of the 6 hour per 2−year mental health evaluation limit.

2. Reimbursement for day treatment services shall be limited to actual treatment time and may not include time devoted to meals, rest periods, transportation, recreation or entertainment.

3. Reimbursement for day treatment services shall be limited to no more than 2 series of day treatment services in one calendar year related to separate episodes of acute mental illness. All day treatment services in excess of 90 hours in a calendar year provided to a recipient who is acutely mentally ill shall be prior−authorized.

4. Services under this subsection are not reimbursable if the recipient is receiving community support program services under sub. (6).

(d) *Non−covered services.* The following services are not covered services:

1. Day treatment services which are primarily recreation−oriented and which are provided in non−medically supervised set-

tings such as 24 hour day camps, or other social service programs. These include sports activities, exercise groups, activities such as craft hours, leisure time, social hours, meal or snack time, trips to community activities and tours;

2. Day treatment services which are primarily social or educational in nature, in addition to having recreational programming. These shall be considered non−medical services and therefore non−covered services regardless of the age group served;

3. Consultation with other providers or service agency staff regarding the care or progress of a recipient;

4. Prevention or education programs provided as an outreach service, case−finding, and reading groups;

5. Aftercare programs, provided independently or operated by or under contract to boards;

6. Medical or AODA day treatment for recipients with a primary diagnosis of alcohol or other drug abuse;

7. Day treatment provided in the recipient's home; and

8. Court appearances except when necessary to defend against commitment.

Note: For more information on non−covered services, see s. HFS 107.03.

(6) COMMUNITY SUPPORT PROGRAM (CSP) SERVICES. (a) *Covered services.* Community support program (CSP) services shall be covered services when prescribed by a physician and provided by a provider certified under s. HFS 105.255 for recipients who can benefit from the services. These non−institutional services make medical treatment and related care and rehabilitative services available to enable a recipient to better manage the symptoms of his or her illness, to increase the likelihood of the recipient's independent, effective functioning in the community and to reduce the incidence and duration of institutional treatment otherwise brought about by mental illness. Services covered are as follows:

1. Initial assessment. At the time of admission, the recipient, upon a psychiatrist's order, shall receive an initial assessment conducted by a psychiatrist and appropriate professional personnel to determine the need for CSP care;

2. In−depth assessment. Within one month following the recipient's admission to a CSP, a psychiatrist and a treatment team shall perform an in−depth assessment to include all of the following areas:

a. Evaluation of psychiatric symptomology and mental status;

b. Use of drugs and alcohol;

c. Evaluation of vocational, educational and social functioning;

d. Ability to live independently;

e. Evaluation of physical health, including dental health;

f. Assessment of family relationships; and

g. Identification of other specific problems or needs;

3. Treatment plan. A comprehensive written treatment plan shall be developed for each recipient and approved by a psychiatrist. The plan shall be developed by the treatment team with the participation of the recipient or recipient's guardian and, as appropriate, the recipient's family. Based on the initial and in−depth assessments, the treatment plan shall specify short−term and long−term treatment and restorative goals, the services required to meet these goals and the CSP staff or other agencies providing treatment and psychosocial rehabilitation services. The treatment plan shall be reviewed by the psychiatrist and the treatment team at least every 30 days to monitor the recipient's progress and status;

4. Treatment services, as follows:

a. Family, individual and group psychotherapy;

b. Symptom management or supportive psychotherapy;

c. Medication prescription, administration and monitoring;

d. Crisis intervention on a 24−hour basis, including short−term emergency care at home or elsewhere in the community; and

e. Psychiatric and psychological evaluations;

5. Psychological rehabilitation services as follows;

a. Employment−related services. These services consist of counseling the recipient to identify behaviors which interfere with seeking and maintaining employment; development of interventions to alleviate problem behaviors; and supportive services to assist the recipient with grooming, personal hygiene, acquiring appropriate work clothing, daily preparation for work, on−the−job support and crisis assistance;

b. Social and recreational skill training. This training consists of group or individual counseling and other activities to facilitate appropriate behaviors, and assistance given the recipient to modify behaviors which interfere with family relationships and making friends;

c. Assistance with and supervision of activities of daily living. These services consist of aiding the recipient in solving everyday problems; assisting the recipient in performing household tasks such as cleaning, cooking, grocery shopping and laundry; assisting the recipient to develop and improve money management skills; and assisting the recipient in using available transportation;

d. Other support services. These services consist of helping the recipient obtain necessary medical, dental, legal and financial services and living accommodations; providing direct assistance to ensure that the recipient obtains necessary government entitlements and services, and counseling the recipient in appropriately relating to neighbors, landlords, medical personnel and other personal contacts; and

6. Case management in the form of ongoing monitoring and service coordination activities described in s. HFS 107.32 (1) (d).

(b) *Other limitations.* 1. Mental health services under s. HFS 107.13 (2) and (4) are not reimbursable for recipients receiving CSP services.

2. An initial assessment shall be reimbursed only when the recipient is first admitted to the CSP and following discharge from a hospital after a short−term stay.

3. Group therapy is limited to no more than 10 persons in a group. No more than 2 professionals shall be reimbursed for a single session of group therapy. Mental health technicians shall not be reimbursed for group therapy.

(c) *Non−covered services.* The following CSP services are not covered services:

1. Case management services provided under s. HFS 107.32 by a provider not certified under s. HFS 105.255 to provide CSP services;

2. Services provided to a resident of an intermediate care facility, skilled nursing facility or an institution for mental diseases, or to a hospital patient unless the services are performed to prepare the recipient for discharge form the facility to reside in the community;

3. Services related to specific job−seeking, job placement and work activities;

4. Services performed by volunteers;

5. Services which are primarily recreation−oriented; and

6. Legal advocacy performed by an attorney or paralegal.

History: Cr. Register, February, 1986, No. 362, eff. 3−1−86; am. (1) (f) 8., Register, February, 1988, No. 386, eff. 3−1−88; emerg. cr. (3m), eff. 3−9−89; cr. (3m), Register, December, 1989, No. 408, eff. 1−1−90; emerg. cr. (2) (c) 5., (3) (c) 2., (4) (c) 4. and (6), eff. 1−1−90; cr. (2) (c) 5., (3) (c) 2., (4) (c) 4. and (6), Register, September, 1990, No. 417, eff. 10−1−90; emerg. r. and recr. (1) (b) 3., am. (1) (f) 6., eff. 1−1−91; am. (1) (a), (b) 1. and 2., (c), (f) 5., 6. and 8., (2) (a) 1., 3. a. and b., 4. f., 6., 7., (b) 1. and 2., (c) 2., (3) (a) (intro.), 4., 5., 7., (b) 1. and 2., (c) 1. (3) (d) 1. and 2., (4) (a) 3. and 6. and (d) 6., r. and recr. (1) (b) 3. and (e), r. (4) (b) 1. d., renum. (4) (b) 1. c. to be d., cr. (2) (c) 6., (3) (c) 3. and 4., (3) (d) 3., Register, September, 1991, No. 429, eff. 10−1−91; am. (4) (a) 2., cr. (4) (a) 8., Register, February, 1993, No. 446, eff. 3−1−93; corrections in (3) (d) 3. and (3m) (a) 1. made under s. 13.93 (2m) (b) 7., Stats., Register February 2002 No. 554.

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HFS 107.14 Podiatry services. (1) COVERED SERVICES. (a) Podiatry services covered by medical assistance are those medically necessary services for the diagnosis and treatment of the feet and ankles, within the limitations described in this section, when provided by a certified podiatrist.

(b) The following categories of services are covered services when performed by a podiatrist:

1. Office visits;
2. Home visits;
3. Nursing home visits;
4. Physical medicine;
5. Surgery;
6. Mycotic conditions and nails;
7. Laboratory;
8. Radiology;
9. Plaster or other cast material used in cast procedures and strapping or tape casting for treating fractures, dislocations, sprains and open wounds of the ankle, foot and toes;
10. Unna boots; and
11. Drugs and injections.

(2) OTHER LIMITATIONS. (a) Podiatric services pertaining to the cleaning, trimming and cutting of toenails, often referred to as palliative or maintenance care, shall be reimbursed once per 61 day period only if the recipient is under the active care of a physician and the recipient's condition is one of the following:

1. Diabetes mellitus;
2. Arteriosclerosis obliterans evidenced by claudication;
3. Peripheral neuropathies involving the feet, which are associated with:
   a. Malnutrition or vitamin deficiency;
   b. Diabetes mellitus;
   c. Drugs and toxins;
   d. Multiple sclerosis; or
   e. Uremia;
4. Cerebral palsy;
5. Multiple sclerosis;
6. Spinal cord injuries;
7. Blindness;
8. Parkinson's disease;
9. Cerebrovascular accident; or
10. Scleroderma.

(b) The cutting, cleaning and trimming of toenails, corns, callouses and bunions on multiple digits shall be reimbursed at one fee for each service which includes either one or both feet.

(c) Initial diagnostic services are covered when performed in connection with a specific symptom or complaint if it seems likely that treatment would be covered even though the resulting diagnosis may be one requiring non−covered care.

(d) Physical medicine modalities may include, but are not limited to, hydrotherapy, ultrasound, iontophoresis, transcutaneous neurostimulator (TENS) prescription, and electronic bone stimulation. Physical medicine is limited to 10 modality services per calendar year for the following diagnoses only:

1. Osteoarthritis;
2. Tendinitis;
3. Enthesopathy;
4. Sympathetic reflex dystrophy;
5. Subclacaneal bursitis; and
6. Plantar fascitis, as follows:
   a. Synovitis;
   b. Capsulitis;
   c. Bursitis; or
   d. Edema.

(e) Services provided during a nursing home visit to cut, clean or trim toenails, corns, callouses or bunions of more than one resident shall be reimbursed at the nursing home single visit rate for only one of the residents seen on that day of service. All other claims for residents seen at the nursing home on the same day of service shall be reimbursed up to the multiple nursing home visit rate. The podiatrist shall identify on the claim form the single resident for whom the nursing home single visit rate is applicable, and the residents for whom the multiple nursing home visit rate is applicable.

(f) Debridement of mycotic conditions and mycotic nails is a covered service provided that utilization guidelines established by the department are followed.

(3) NON–COVERED SERVICES. The following are not covered services:

(a) Procedures which do not relate to the diagnosis or treatment of the ankle or foot;

(b) Palliative or maintenance care, except under sub. (2);

(c) All orthopedic and orthotic services except plaster and other material cast procedures and strapping or tape casting for treating fractures, dislocations, sprains or open wounds of the ankle, foot or toes;

(d) Orthopedic shoes and supportive devices such as arch supports, shoe inlays and pads;

(e) Physical medicine exceeding the limits specified under sub. (2) (d);

(f) Repairs made to orthopedic and orthotic appliances;

(g) Dispensing and repairing corrective shoes;

(h) Services directed toward the care and correction of "flat feet;"

(i) Treatment of subluxation of the foot; and

(j) All other services not specifically identified as covered in this section.

History: Emerg. cr. eff. 7−1−90; cr. Register, January, 1991, No. 421, eff. 2−1−91.

HFS 107.15 Chiropractic services. (1) DEFINITION. In this section, "spell of illness" means a condition characterized by the onset of a spinal subluxation."Subluxation" means the alteration of the normal dynamics, anatomical or physiological relationships of contiguous articular structures. A subluxation may have biomechanical, pathophysiological, clinical, radiologic and other manifestations.

(2) COVERED SERVICES. Chiropractic services covered by MA are manual manipulations of the spine used to treat a subluxation. These services shall be performed by a chiropractor certified pursuant to s. HFS 105.26.

(3) SERVICES REQUIRING PRIOR AUTHORIZATION. (a) *Requirement.* 1. Prior authorization is required for services beyond the initial visit and 20 spinal manipulations per spell of illness. The prior authorization request shall include a justification of why the condition is chronic and why it warrants the scope of service being requested.

2. Prior authorization is required for spinal supports which have been prescribed by a physician or chiropractor if the purchase or rental price of a support is over $75. Rental costs under $75 shall be paid for one month without prior approval.

(b) *Conditions justifying spell of illness designation.* The following conditions may justify designation of a new spell of illness if treatment for the condition is medically necessary:

1. An acute onset of a new spinal subluxation;
2. An acute onset of an aggravation of pre−existing spinal subluxation by injury; or
3. An acute onset of a change in pre−existing spinal subluxation based on objective findings.

(c) *Onset and termination of spell of illness.* The spell of illness begins with the first day of treatment or evaluation following the onset of a condition under par. (b) and ends when the recipient

improves so that treatment by a chiropractor for the condition causing the spell of illness is no longer medically necessary, or after 20 spinal manipulations, whichever comes first.

(d) *Documentation.* The chiropractor shall document the spell of illness in the patient plan of care.

(e) *Non−transferability of treatment days.* Unused treatment days from one spell of illness shall not be carried over into a new spell of illness.

(f) *Other coverage.* Treatment days covered by medicare or other third−party insurance shall be included in computing the 20 spinal manipulation per spell of illness total.

(g) *Department expertise.* The department may have on its staff qualified chiropractors to develop prior authorization criteria and perform other consultative activities.

Note: For more information on prior authorization, see s. HFS 107.02 (3).

(4) OTHER LIMITATIONS. (a) An x−ray or set of x−rays, such as anterior−posterior and lateral, is a covered service only for an initial visit if the x−ray is performed either in the course of diagnosing a spinal subluxation or in the course of verifying symptoms of other medical conditions beyond the scope of chiropractic.

(b) A diagnostic urinalysis is a covered service only for an initial office visit when related to the diagnosis of a spinal subluxation, or when verifying a symptomatic condition beyond the scope of chiropractic.

(c) The billing for an initial office visit shall clearly describe all procedures performed to ensure accurate reimbursement.

(5) NON−COVERED SERVICES. Consultations between providers regarding a diagnosis or treatment are not covered services.

Note: For more information on non−covered services, see s. HFS 107.03.

History: Cr. Register, February, 1986, No. 362, eff. 3−1−86.

HFS 107.16 Physical therapy. (1) COVERED SERVICES. (a) *General.* Covered physical therapy services are those medically necessary modalities, procedures and evaluations enumerated in pars. (b) to (d), when prescribed by a physician and performed by a qualified physical therapist (PT) or a certified physical therapy assistant under the direct, immediate, on−premises supervision of a physical therapist. Specific services performed by a physical therapy aide under par. (e) are covered when provided in accordance with supervision requirements under par. (e) 3.

(b) *Evaluations.* Covered evaluations, the results of which shall be set out in a written report to accompany the test chart or form in the recipient's medical record, are the following:

1. Stress test;
2. Orthotic check−out;
3. Prosthetic check−out;
4. Functional evaluation;
5. Manual muscle test;
6. Isokinetic evaluation;
7. Range−of−motion measure;
8. Length measurement;
9. Electrical testing:
a. Nerve conduction velocity;
b. Strength duration curve — chronaxie;
c. Reaction of degeneration;
d. Jolly test (twitch tetanus); and
e. "H" test;
10. Respiratory assessment;
11. Sensory evaluation;
12. Cortical integration evaluation;
13. Reflex testing;
14. Coordination evaluation;
15. Posture analysis;
16. Gait analysis;
17. Crutch fitting;
18. Cane fitting;
19. Walker fitting;
20. Splint fitting;
21. Corrective shoe fitting or orthopedic shoe fitting;
22. Brace fitting assessment;
23. Chronic−obstructive pulmonary disease evaluation;
24. Hand evaluation;
25. Skin temperature measurement;
26. Oscillometric test;
27. Doppler peripheral−vascular evaluation;
28. Developmental evaluation:
a. Millani−Comparetti evaluation;
b. Denver developmental;
c. Ayres;
d. Gessell;
e. Kephart and Roach;
f. Bazelton scale;
g. Bailey scale; and
h. Lincoln Osteretsky motion development scale;
29. Neuro−muscular evaluation;
30. Wheelchair fitting — evaluation, prescription, modification, adaptation;
31. Jobst measurement;
32. Jobst fitting;
33. Perceptual evaluation;
34. Pulse volume recording;
35. Physical capacities testing;
36. Home evaluation;
37. Garment fitting;
38. Pain; and
39. Arthrokinematic.

(c) *Modalities.* Covered modalities are the following:

1. Hydrotherapy:
a. Hubbard tank, unsupervised; and
b. Whirlpool;
2. Electrotherapy:
a. Biofeedback; and
b. Electrical stimulation — transcutaneous nerve stimulation, medcolator;
3. Exercise therapy:
a. Finger ladder;
b. Overhead pulley;
c. Restorator;
d. Shoulder wheel;
e. Stationary bicycle;
f. Wall weights;
g. Wand exercises;
h. Static stretch;
i. Elgin table;
j. N−k table;
k. Resisted exercise;
L. Progressive resistive exercise;
m. Weighted exercise;
n. Orthotron;
o. Kinetron;
p. Cybex;
q. Skate or powder board;
r. Sling suspension modalities; and
s. Standing table;
4. Mechanical apparatus:

a. Cervical and lumbar traction; and
b. Vasoneumatic pressure treatment;
5. Thermal therapy:
a. Baker;
b. Cryotherapy — ice immersion or cold packs;
c. Diathermy;
d. Hot pack — hydrocollator pack;
e. Infra−red;
f. Microwave;
g. Moist air heat; and
h. Paraffin bath.

(d) *Procedures*. Covered procedures are the following:
1. Hydrotherapy:
a. Contrast bath;
b. Hubbard tank, supervised;
c. Whirlpool, supervised; and
d. Walking tank;
2. Electrotherapy:
a. Biofeedback;
b. Electrical stimulation, supervised;
c. Iontophoresis (ion transfer);
d. Transcutaneous nerve stimulation (TNS), supervised;
e. Electrogalvanic stimulation;
f. Hyperstimulation analgesia; and
g. Interferential current;
3. Exercise:
a. Peripheral vascular exercises (Beurger−Allen);
b. Breathing exercises;
c. Cardiac rehabilitation — immediate post−discharge from hospital;
d. Cardiac rehabilitation — conditioning rehabilitation program;
e. Codman's exercise;
f. Coordination exercises;
g. Exercise — therapeutic (active, passive, active assistive, resistive);
h. Frenkel's exercise;
i. In−water exercises;
j. Mat exercises;
k. Neurodevelopmental exercise;
L. Neuromuscular exercise;
m. Post−natal exercise;
n. Postural exercises;
o. Pre−natal exercises;
p. Range−of−motion exercises;
q. Relaxation exercises;
r. Relaxation techniques;
s. Thoracic outlet exercises;
t. Back exercises;
u. Stretching exercises;
v. Pre−ambulation exercises;
w. Pulmonary rehabilitation program; and
x. Stall bar exercise;
4. Mechanical apparatus:
a. Intermittent positive pressure breathing;
b. Tilt or standing table;
c. Ultra−sonic nebulizer;
d. Ultra−violet; and
e. Phonophoresis;
5. Thermal:
a. Cryotherapy — ice massage, supervised;
b. Medcosonulator; and
c. Ultra−sound;
6. Manual application:
a. Acupressure, also known as shiatsu;
b. Adjustment of traction apparatus;
c. Application of traction apparatus;
d. Manual traction;
e. Massage;
f. Mobilization;
g. Perceptual facilitation;
h. Percussion (tapotement), vibration;
i. Strapping — taping, bandaging;
j. Stretching;
k. Splinting; and
L. Casting;
7. Neuromuscular techniques:
a. Balance training;
b. Muscle reeducation;
c. Neurodevelopmental techniques — PNR, Rood, Temple−Fay, Doman−Delacato, Cabot, Bobath;
d. Perceptual training;
e. Sensori−stimulation; and
f. Facilitation techniques;
8. Ambulation training:
a. Gait training with crutch, cane or walker;
b. Gait training for level, incline or stair climbing; and
c. Gait training on parallel bars; and
9. Miscellaneous:
a. Aseptic or sterile procedures;
b. Functional training, also known as activities of daily living — self−care training, transfers and wheelchair independence;
c. Orthotic training;
d. Positioning;
e. Posture training;
f. Preprosthetic training — desensitization;
g. Preprosthetic training — strengthening;
h. Preprosthetic training — wrapping;
i. Prosthetic training;
j. Postural drainage; and
k. Home program.

(e) *Physical therapy aide services*. 1. Services which are reimbursable when performed by a physical therapy aide meeting the requirements of subds. 2. and 3. are the following:

a. Performing simple activities required to prepare a recipient for treatment, assist in the performance of treatment, or assist at the conclusion of treatment, such as assisting the recipient to dress or undress, transferring a recipient to or from a mat, and applying or removing orthopedic devices;

Note: Transportation of the recipient to or from the area in which therapy services are provided is not reimbursable.

b. Assembling and disassembling equipment and accessories in preparation for treatment or after treatment has taken place;

Note: Examples of activities are adjustment of restorator, N.K. table, cybex, weights and weight boots for the patient, and the filling, cleaning and emptying of whirlpools.

c. Assisting with the use of equipment and performing simple modalities once the recipient's program has been established and the recipient's response to the equipment or modality is highly predictable; and

Note: Examples of activities are application of hot or cold packs, application of paraffin, assisting recipient with whirlpool, tilt table, weights and pulleys.

d. Providing protective assistance during exercise, activities of daily living, and ambulation activities related to the development of strength and refinement of activity.

Note: Examples of activities are improving recipient's gait safety and functional distance technique through repetitious gait training and increasing recipient's strength through the use of such techniques as weights, pulleys, and cane exercises.

2. The physical therapy aide shall be trained in a manner appropriate to his or her job duties. The supervising therapist is responsible for the training of the aide or for securing documentation that the aide has been trained by a physical therapist. The supervising therapist is responsible for determining and monitoring the aide's competency to perform assigned duties. The supervising therapist shall document in writing the modalities or activities for which the aide has received training.

3. a. The physical therapy aide shall provide services under the direct, immediate, one−to−one supervision of a physical therapist. In this subdivision, "direct immediate, one−to−one supervision" means one−to−one supervision with face−to−face contact between the physical therapy aide and the supervising therapist during each treatment session, with the physical therapy aide assisting the therapist by providing services under subd. 1. The direct immediate one−to−one supervision requirement does not apply to non−billable physical therapy aide services.

b. The department may exempt a facility providing physical therapy services from the supervision requirement under subd. 3. a. if it determines that direct, immediate one−to−one supervision is not required for specific assignments which physical therapy aides are performing at that facility. If an exemption is granted, the department shall indicate specific physical therapy aide services for which the exemption is granted and shall set a supervision ratio appropriate for those services.

Note: For example, facilities providing significant amounts of hydrotherapy may be eligible for an exemption to the direct, immediate one−to−one supervision requirement for physical therapy aides who fill or clean tubs.

4. Physical therapy aides may not bill or be reimbursed directly for their services.

(2) SERVICES REQUIRING PRIOR AUTHORIZATION. (a) *Definition.* In this subsection, "spell of illness" means a condition characterized by a demonstrated loss of functional ability to perform daily living skills, caused by a new disease, injury or medical condition or by an increase in the severity of a pre−existing medical condition. For a condition to be classified as a new spell of illness, the recipient must display the potential to reachieve the skill level that he or she had previously.

(b) *Requirement.* Prior authorization is required under this subsection for physical therapy services provided to an MA recipient in excess of 35 treatment days per spell of illness, except that physical therapy services provided to an MA recipient who is a hospital inpatient or who is receiving physical therapy services provided by a home health agency are not subject to prior authorization under this subsection.

Note: Physical therapy services provided by a home health agency are subject to prior authorization under s. HFS 107.11 (3).

(c) *Conditions justifying spell of illness designation.* The following conditions may justify designation of a new spell of illness:

1. An acute onset of a new disease, injury or condition such as:

a. Neuromuscular dysfunction, including stroke−hemiparesis, multiple sclerosis, Parkinson's disease and diabetic neuropathy;

b. Musculoskeletal dysfunction, including fracture, amputation, strains and sprains, and complications associated with surgical procedures; or

c. Problems and complications associated with physiologic dysfunction, including severe pain, vascular conditions, and cardio−pulmonary conditions.

2. An exacerbation of a pre−existing condition, including but not limited to the following, which requires physical therapy intervention on an intensive basis:

a. Multiple sclerosis;

b. Rheumatoid arthritis; or

c. Parkinson's disease.

3. A regression in the recipient's condition due to lack of physical therapy, as indicated by a decrease of functional ability, strength, mobility or motion.

(d) *Onset and termination of spell of illness.* The spell of illness begins with the first day of treatment or evaluation following the onset of the new disease, injury or medical condition or increased severity of a pre−existing medical condition and ends when the recipient improves so that treatment by a physical therapist for the condition causing the spell of illness is no longer required, or after 35 treatment days, whichever comes first.

(e) *Documentation.* The physical therapist shall document the spell of illness in the patient plan of care, including measurable evidence that the recipient has incurred a demonstrated functional loss of ability to perform daily living skills.

(f) *Non−transferability of treatment days.* Unused treatment days from one spell of illness may not be carried over into a new spell of illness.

(g) *Other coverage.* Treatment days covered by medicare or other third−party insurance shall be included in computing the 35−day per spell of illness total.

(h) *Department expertise.* The department may have on its staff qualified physical therapists to develop prior authorization criteria and perform other consultative activities.

Note: For more information on prior authorization, see s. HFS 107.02 (3).

(3) OTHER LIMITATIONS. (a) *Plan of care for therapy services.* Services shall be furnished to a recipient under a plan of care established and periodically reviewed by a physician. The plan shall be reduced to writing before treatment is begun, either by the physician who makes the plan available to the provider or by the provider of therapy when the provider makes a written record of the physician's oral orders. The plan shall be promptly signed by the ordering physician and incorporated into the provider's permanent record for the recipient. The plan shall:

1. State the type, amount, frequency and duration of the therapy services that are to be furnished the recipient and shall indicate the diagnosis and anticipated goals. Any changes shall be made in writing and signed by the physician, the provider of therapy services or the physician on the staff of the provider pursuant to the attending physician's oral orders; and

2. Be reviewed by the attending physician in consultation with the therapist providing services, at whatever intervals the severity of the recipient's condition requires, but at least every 90 days. Each review of the plan shall be indicated on the plan by the initials of the physician and the date performed. The plan for the recipient shall be retained in the provider's file.

(b) *Restorative therapy services.* Restorative therapy services shall be covered services, except as provided in sub. (4) (b).

(c) *Maintenance therapy services.* Preventive or maintenance therapy services shall be covered services only when one of the following conditions are met:

1. The skills and training of a therapist are required to execute the entire preventive and maintenance program;

2. The specialized knowledge and judgment of a physical therapist are required to establish and monitor the therapy program, including the initial evaluation, the design of the program appropriate to the individual recipient, the instruction of nursing personnel, family or recipient, and the necessary re−evaluations; or

3. When, due to the severity or complexity of the recipient's condition, nursing personnel cannot handle the recipient safely and effectively.

(d) *Evaluations.* Evaluations shall be covered services. The need for an evaluation or re−evaluation shall be documented in the

plan of care. Evaluations shall be counted toward the 35−day per spell of illness prior authorization threshold.

(e) *Extension of therapy services.* Extension of therapy services shall not be approved beyond the 35−day per spell of illness prior authorization threshold in any of the following circumstances:

1. The recipient has shown no progress toward meeting or maintaining established and measurable treatment goals over a 6−month period, or the recipient has shown no ability within 6 months to carry over abilities gained from treatment in a facility to the recipient's home;

2. The recipient's chronological or developmental age, way of life or home situation indicates that the stated therapy goals are not appropriate for the recipient or serve no functional or maintenance purpose;

3. The recipient has achieved independence in daily activities or can be supervised and assisted by restorative nursing personnel;

4. The evaluation indicates that the recipient's abilities are functional for the person's present way of life;

5. The recipient shows no motivation, interest, or desire to participate in therapy, which may be for reasons of an overriding severe emotional disturbance;

6. Other therapies are providing sufficient services to meet the recipient's functioning needs; or

7. The procedures requested are not medical in nature or are not covered services. Inappropriate diagnoses for therapy services and procedures of questionable medical necessity may not receive departmental authorization, depending upon the individual circumstances.

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

(a) Services related to activities for the general good and welfare of recipients, such as general exercises to promote overall fitness and flexibility and activities to provide diversion or general motivation;

(b) Those services that can be performed by restorative nursing, as under s. HFS 132.60 (1) (b) through (d);

(c) Activities such as end−of−the−day clean−up time, transportation time, consultations and required paper reports. These are considered components of the provider's overhead costs and are not covered as separately reimbursable items;

(d) Group physical therapy services; and

(e) When performed by a physical therapy aide, interpretation of physician referrals, patient evaluation, evaluation of procedures, initiation or adjustment of treatment, assumption of responsibility for planning patient care, or making entries in patient records.

Note: For more information on non−covered services, see s. HFS 107.03.

History: Cr. Register, February, 1986, No 362, eff. 3−1−86; emerg. am. (2) (b), (d), (g), (3) (d) and (e) (intro.), eff. 7−1−88; am. (2) (b), (d), (g), (3) (d) and (e) (intro.), Register, December, 1988, No. 396, eff. 1−1−89.

HFS 107.17 Occupational therapy. (1) COVERED SERVICES. Covered occupational therapy services are the following medically necessary services when prescribed by a physician and performed by a certified occupational therapist (OT) or by a certified occupational therapist assistant (COTA) under the direct, immediate, on−premises supervision of a certified occupational therapist or, for services under par. (d), by a certified occupational therapist assistant under the general supervision of a certified occupational therapist pursuant to the requirements of s. HFS 105.28 (2):

(a) Motor skills, as follows:

1. Range−of−motion;
2. Gross/fine coordination;
3. Strengthening;
4. Endurance/tolerance; and
5. Balance;

(b) Sensory integrative skills, as follows:

1. Reflex/sensory status;
2. Body concept;
3. Visual−spatial relationships;
4. Posture and body integration; and
5. Sensorimotor integration;

(c) Cognitive skills, as follows:

1. Orientation;
2. Attention span;
3. Problem−solving;
4. Conceptualization; and
5. Integration of learning;

(d) Activities of daily living skills, as follows:

1. Self−care;
2. Work skills; and
3. Avocational skills;

(e) Social interpersonal skills, as follows:

1. Dyadic interaction skills; and
2. Group interaction skills;

(f) Psychological intrapersonal skills, as follows:

1. Self−identity and self−concept;
2. Coping skills; and
3. Independent living skills;

(g) Preventive skills, as follows:

1. Energy conservation;
2. Joint protection;
3. Edema control; and
4. Positioning;

(h) Therapeutic adaptions, as follows:

1. Orthotics/splinting;
2. Prosthetics;
3. Assistive/adaptive equipment; and
4. Environmental adaptations;

(i) Environmental planning; and

(j) Evaluations or re−evaluations. Covered evaluations, the results of which shall be set out in a written report attached to the test chart or form in the recipient's medical record, are the following:

1. Motor skills:

a. Range−of−motion;
b. Gross muscle test;
c. Manual muscle test;
d. Coordination evaluation;
e. Nine hole peg test;
f. Purdue pegboard test;
g. Strength evaluation;
h. Head−trunk balance evaluation;
i. Standing balance — endurance;
j. Sitting balance — endurance;
k. Prosthetic check−out;
L. Hemiplegic evaluation;
m. Arthritis evaluation; and
n. Hand evaluation — strength and range−of−motion;

2. Sensory integrative skills:

a. Beery test of visual motor integration;
b. Southern California kinesthesia and tactile perception test;
c. A. Milloni−Comparetti developmental scale;
d. Gesell developmental scale;
e. Southern California perceptual motor test battery;

f. Marianne Frostig developmental test of visual perception;

g. Reflex testing;

h. Ayres space test;

i. Sensory evaluation;

j. Denver developmental test;

k. Perceptual motor evaluation; and

L. Visual field evaluation;

3. Cognitive skills:

a. Reality orientation assessment; and

b. Level of cognition evaluation;

4. Activities of daily living skills:

a. Bennet hand tool evaluation;

b. Crawford small parts dexterity test;

c. Avocational interest and skill battery;

d. Minnesota rate of manipulation; and

e. ADL evaluation \ men and women;

5. Social interpersonal skills — evaluation of response in group;

6. Psychological intrapersonal skills:

a. Subjective assessment of current emotional status;

b. Azima diagnostic battery; and

c. Goodenough draw−a−man test;

7. Therapeutic adaptions; and

8. Environmental planning — environmental evaluation.

(2) SERVICES REQUIRING PRIOR AUTHORIZATION. (a) *Definition.* In this subsection, "spell of illness" means a condition characterized by a demonstrated loss of functional ability to perform daily living skills, caused by a new disease, injury or medical condition or by an increase in the severity of a pre−existing medical condition. For a condition to be classified as a new spell of illness, the recipient must display the potential to reachieve the skill level that he or she had previously.

(b) *Requirement.* Prior authorization is required under this subsection for occupational therapy services provided to an MA recipient in excess of 35 treatment days per spell of illness, except that occupational therapy services provided to an MA recipient who is a hospital inpatient or who is receiving occupational therapy services provided by a home health agency are not subject to prior authorization under this subsection.

Note: Occupational therapy services provided by a home health agency are subject to prior authorization under s. HFS 107.11 (3).

(c) *Conditions justifying spell of illness designation.* The following conditions may justify designation of a new spell of illness:

1. An acute onset of a new disease, injury or condition such as:

a. Neuromuscular dysfunction, including stroke−hemiparesis, multiple sclerosis, Parkinson's disease and diabetic neuropathy;

b. Musculoskeletal dysfunction, including fracture, amputation, strains and sprains, and complications associated with surgical procedures;

c. Problems and complications associated with physiologic dysfunction, including severe pain, vascular conditions, and cardio−pulmonary conditions; or

d. Psychological dysfunction, including thought disorders, organic conditions and affective disorders;

2. An exacerbation of a pre−existing condition including but not limited to the following, which requires occupational therapy intervention on an intensive basis:

a. Multiple sclerosis;

b. Rheumatoid arthritis;

c. Parkinson's disease; or

d. Schizophrenia; or

3. A regression in the recipient's condition due to lack of occupational therapy, as indicated by a decrease of functional ability, strength, mobility or motion.

(d) *Onset and termination of spell of illness.* The spell of illness begins with the first day of treatment or evaluation following the onset of the new disease, injury or medical condition or increased severity of a pre−existing medical condition and ends when the recipient improves so that treatment by an occupational therapist for the condition causing the spell of illness is no longer required, or after 35 treatment days, whichever comes first.

(e) *Documentation.* The occupational therapist shall document the spell of illness in the patient plan of care, including measurable evidence that the recipient has incurred a demonstrated functional loss of ability to perform daily living skills.

(f) *Non−transferability of treatment days.* Unused treatment days from one spell of illness may not be carried over into a new spell of illness.

(g) *Other coverage.* Treatment days covered by medicare or other third−party insurance shall be included in computing the 35−day per spell of illness total.

(h) *Department expertise.* The department may have on its staff qualified occupational therapists to develop prior authorization criteria and perform other consultative activities.

Note: For more information about prior authorization, see s. HFS 107.02 (3).

(3) OTHER LIMITATIONS. (a) *Plan of care for therapy services.* Services shall be furnished to a recipient under a plan of care established and periodically reviewed by a physician. The plan shall be reduced to writing before treatment is begun, either by the physician who makes the plan available to the provider or by the provider of therapy when the provider makes a written record of the physician's oral orders. The plan shall be promptly signed by the ordering physician and incorporated into the provider's permanent record for the recipient. The plan shall:

1. State the type, amount, frequency, and duration of the therapy services that are to be furnished the recipient and shall indicate the diagnosis and anticipated goals. Any changes shall be made in writing and signed by the physician, the provider of therapy services or the physician on the staff of the provider pursuant to the attending physician's oral orders; and

2. Be reviewed by the attending physician in consultation with the therapist providing services, at whatever intervals the severity of the recipient's condition requires, but at least every 90 days. Each review of the plan shall be indicated on the plan by the initials of the physician and the date performed. The plan for the recipient shall be retained in the provider's file.

(b) *Restorative therapy services.* Restorative therapy services shall be covered services except as provided under sub. (4) (b).

(c) *Evaluations.* Evaluations shall be covered services. The need for an evaluation or re−evaluation shall be documented in the plan of care. Evaluations shall be counted toward the 35−day per spell of illness prior authorization threshold.

(d) *Maintenance therapy services.* Preventive or maintenance therapy services shall be covered services only when one or more of the following conditions are met:

1. The skills and training of a therapist are required to execute the entire preventive and maintenance program;

2. The specialized knowledge and judgment of an occupational therapist are required to establish and monitor the therapy program, including the initial evaluation, the design of the program appropriate to the individual recipient, the instruction of nursing personnel, family or recipient, and the re−evaluations required; or

3. When, due to the severity or complexity of the recipient's condition, nursing personnel cannot handle the recipient safely and effectively.

(e) *Extension of therapy services.* Extension of therapy services shall not be approved beyond the 35−day per spell of illness

prior authorization threshold in any of the following circumstances:

1. The recipient has shown no progress toward meeting or maintaining established and measurable treatment goals over a 6−month period, or the recipient has shown no ability within 6 months to carry over abilities gained from treatment in a facility to the recipient's home;

2. The recipient's chronological or developmental age, way of life or home situation indicates that the stated therapy goals are not appropriate for the recipient or serve no functional or maintenance purpose;

3. The recipient has achieved independence in daily activities or can be supervised and assisted by restorative nursing personnel;

4. The evaluation indicates that the recipient's abilities are functional for the person's present way of life;

5. The recipient shows no motivation, interest, or desire to participate in therapy, which may be for reasons of an overriding severe emotional disturbance;

6. Other therapies are providing sufficient services to meet the recipient's functioning needs; or

7. The procedures requested are not medical in nature or are not covered services. Inappropriate diagnoses for therapy services and procedures of questionable medical necessity may not receive departmental authorization, depending upon the individual circumstances.

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

(a) Services related to activities for the general good and welfare of recipients, such as general exercises to promote overall fitness and flexibility and activities to provide diversion or general motivation;

(b) Services that can be performed by restorative nursing, as under s. HFS 132.60 (1) (b) to (d);

(c) Crafts and other supplies used in occupational therapy services for inpatients in an institutional program. These are not billable by the therapist; and

(d) Activities such as end−of−the−day clean−up time, transportation time, consultations and required paper reports. These are considered components of the provider's overhead costs and are not covered as separately reimbursable items.

Note: For more information on non−covered services, see s. HFS 107.03.

History: Cr. Register, February, 1986, No. 362, eff. 3−1−86; emerg. am. (2) (b), (d), (g), (3) (c) and (e) (intro.), eff. 7−1−88; am. (2) (b) (d), (g) (3) (c) and (e) (intro.), Register, December, 1988, No. 396, eff. 1−1−89.

HFS 107.18 Speech and language pathology services. (1) COVERED SERVICES. (a) *General.* Covered speech and language pathology services are those medically necessary diagnostic, screening, preventive or corrective speech and language pathology services prescribed by a physician and provided by a certified speech and language pathologist or under the direct, immediate on−premises supervision of a certified speech and language pathologist.

(b) *Evaluation procedures.* Evaluation or re−evaluation procedures shall be performed by certified speech and language pathologists. Tests and measurements that speech and language pathologists may perform include the following:

1. Expressive language:

a. Aphasia evaluation (examples of tests are Eisenson, PICA, Schuell);

b. Articulation evaluation (examples of tests are Arizona articulation, proficiency scale, Goldman−Fristoe test of articulation, Templin−Darley screening and diagnostic tests of articulation);

c. Cognitive assessment (examples are tests of classification, conservation, Piagetian concepts);

d. Language concept evaluation (examples are tests of temporal, spatial, and quantity concepts, environmental concepts, and the language of direction);

e. Morphological evaluation (examples are the Miller−Yoder test and the Michigan inventory);

f. Question evaluation — yes−no, is−are, where, who, why, how and when;

g. Stuttering evaluation;

h. Syntax evaluation;

i. Vocabulary evaluation;

j. Voice evaluation;

k. Zimmerman pre−school language scale; and

L. Illinois test of psycholinguistic abilities;

2. Receptive language:

a. ACLC or assessment of children's language comprehension;

b. Aphasia evaluation (examples of tests are Eisenson, PICA, Schuell);

c. Auditory discrimination evaluation (examples are the Goldman−Fristoe−Woodcock test of auditory discrimination and the Wepman test of auditory discrimination);

d. Auditory memory (an example is Spencer−MacGrady memory for sentences test);

e. Auditory processing evaluation;

f. Cognitive assessment (examples are tests of one−to−one correspondence, and seriation classification conservation);

g. Language concept evaluation (an example is the Boehm test of basic concepts);

h. Morphological evaluation (examples are Bellugi−Klima grammatical comprehension tests, Michigan inventory, Miller−Yoder test);

i. Question evaluation;

j. Syntax evaluation;

k. Visual discrimination evaluation;

L. Visual memory evaluation;

m. Visual sequencing evaluation;

n. Visual processing evaluation;

o. Vocabulary evaluation (an example is the Peabody picture vocabulary test);

p. Zimmerman pre−school language scale; and

q. Illinois test of psycholinguistic abilities;

3. Pre−school speech skills:

a. Diadochokinetic rate evaluation; and

b. Oral peripheral evaluation; and

4. Hearing−auditory training:

a. Auditory screening;

b. Informal hearing evaluation;

c. Lip−reading evaluation;

d. Auditory training evaluation;

e. Hearing−aid orientation evaluation; and

f. Non−verbal evaluation.

(c) *Speech procedure treatments.* The following speech procedure treatments shall be performed by a certified speech and language pathologist or under the direct, immediate, on−premises supervision of a certified speech and language pathologist:

1. Expressive language:

a. Articulation;

b. Fluency;

c. Voice;

d. Language structure, including phonology, morphology, and syntax;

e. Language content, including range of abstraction in meanings and cognitive skills; and

f. Language functions, including verbal, non−verbal and written communication;

2. Receptive language:

a. Auditory processing — attention span, acuity or perception, recognition, discrimination, memory, sequencing and comprehension; and

b. Visual processing — attention span, acuity or perception, recognition, discrimination, memory, sequencing and comprehension;

3. Pre−speech skills:

a. Oral and peri−oral structure;

b. Vegetative function of the oral motor skills; and

c. Volitional oral motor skills; and

4. Hearing/auditory training:

a. Hearing screening and referral;

b. Auditory training;

c. Lip reading;

d. Hearing aid orientation; and

e. Non−verbal communication.

(2) SERVICES REQUIRING PRIOR AUTHORIZATION. (a) *Definition.* In this subsection, "spell of illness" means a condition characterized by a demonstrated loss of functional ability to perform daily living skills, caused by a new disease, injury or medical condition or by an increase in the severity of a pre−existing medical condition. For a condition to be classified as a new spell of illness, the recipient must display the potential to reachieve the skill level that he or she had previously.

(b) *Requirement.* Prior authorization is required under this subsection for speech and language pathology services provided to an MA recipient in excess of 35 treatment days per spell of illness, except that speech and language pathology services provided to an MA recipient who is a hospital inpatient or who is receiving speech therapy services provided by a home health agency are not subject to prior authorization under this subsection.

Note: Speech and language pathology services provided by a home health agency are subject to prior authorization under s. HFS 107.11 (3).

(c) *Conditions justifying spell of illness designation.* The following conditions may justify designation of a new spell of illness:

1. An acute onset of a new disease, injury or condition such as:

a. Neuromuscular dysfunction, including stroke−hemiparesis, multiple sclerosis, Parkinson's disease and diabetic neuropathy;

b. Musculoskeletal dysfunction, including fracture, amputation, strains and sprains, and complications associated with surgical procedures; or

c. Problems and complications associated with physiologic dysfunction, including severe pain, vascular conditions, and cardio−pulmonary conditions;

2. An exacerbation of a pre−existing condition including but not limited to the following, which requires speech therapy intervention on an intensive basis:

a. Multiple sclerosis;

b. Rheumatoid arthritis; or

c. Parkinson's disease; or

3. A regression in the recipient's condition due to lack of speech therapy, as indicated by a decrease of functional ability, strength, mobility or motion.

(d) *Onset and termination of spell of illness.* The spell of illness begins with the first day of treatment or evaluation following the onset of the new disease, injury or medical condition or increased severity of a pre−existing medical condition and ends when the recipient improves so that treatment by a speech and language pathologist for the condition causing the spell of illness is no longer required, or after 35 treatment days, whichever comes first.

(e) *Documentation.* The speech and language pathologist shall document the spell of illness in the patient plan of care, including measurable evidence that the recipient has incurred a demonstrated functional loss of ability to perform daily living skills.

(f) *Non−transferability of treatment days.* Unused treatment days from one spell of illness shall not be carried over into a new spell of illness.

(g) *Other coverage.* Treatment days covered by medicare or other third−party insurance shall be included in computing the 35−day per spell of illness total.

(h) *Department expertise.* The department may have on its staff qualified speech and language pathologists to develop prior authorization criteria and perform other consultative activities.

Note: For more information on prior authorization, see s. HFS 107.02 (3).

(3) OTHER LIMITATIONS. (a) *Plan of care for therapy services.* Services shall be furnished to a recipient under a plan of care established and periodically reviewed by a physician. The plan shall be reduced to writing before treatment is begun, either by the physician who makes the plan available to the provider or by the provider of therapy when the provider makes a written record of the physician's oral orders. The plan shall be promptly signed by the ordering physician and incorporated into the provider's permanent record for the recipient. The plan shall:

1. State the type, amount, frequency, and duration of the therapy services that are to be furnished the recipient and shall indicate the diagnosis and anticipated goals. Any changes shall be made in writing and signed by the physician or by the provider of therapy services or physician on the staff of the provider pursuant to the attending physician's oral orders; and

2. Be reviewed by the attending physician, in consultation with the therapist providing services, at whatever intervals the severity of the recipient's condition requires but at least every 90 days. Each review of the plan shall contain the initials of the physician and the date performed. The plan for the recipient shall be retained in the provider's file.

(b) *Restorative therapy services.* Restorative therapy services shall be covered services except as provided under sub. (4) (b).

(c) *Evaluations.* Evaluations shall be covered services. The need for an evaluation or re−evaluation shall be documented in the plan of care. Evaluations shall be counted toward the 35−day per spell of illness prior authorization threshold.

(d) *Maintenance therapy services.* Preventive or maintenance therapy services shall be covered services only when one or more of the following conditions are met:

1. The skills and training of a therapist are required to execute the entire preventive and maintenance program;

2. The specialized knowledge and judgment of a speech therapist are required to establish and monitor the therapy program, including the initial evaluation, the design of the program appropriate to the individual recipient, the instruction of nursing personnel, family or recipient, and the re−evaluations required; or

3. When, due to the severity or complexity of the recipient's condition, nursing personnel cannot handle the recipient safely and effectively.

(e) *Extension of therapy services.* Extension of therapy services shall not be approved in any of the following circumstances:

1. The recipient has shown no progress toward meeting or maintaining established and measurable treatment goals over a 6−month period, or the recipient has shown no ability within 6 months to carry over abilities gained from treatment in a facility to the recipient's home;

2. The recipient's chronological or developmental age, way of life or home situation indicates that the stated therapy goals are

not appropriate for the recipient or serve no functional or maintenance purpose;

3. The recipient has achieved independence in daily activities or can be supervised and assisted by restorative nursing personnel;

4. The evaluation indicates that the recipient's abilities are functional for the person's present way of life;

5. The recipient shows no motivation, interest, or desire to participate in therapy, which may be for reasons of an overriding severe emotional disturbance;

6. Other therapies are providing sufficient services to meet the recipient's functioning needs; or

7. The procedures requested are not medical in nature or are not covered services. Inappropriate diagnoses for therapy services and procedures of questionable medical necessity may not receive departmental authorization, depending upon the individual circumstances.

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

(a) Services which are of questionable therapeutic value in a program of speech and language pathology. For example, charges by speech and language pathology providers for "language development — facial physical," "voice therapy — facial physical" or "appropriate outlets for reducing stress";

(b) Those services that can be performed by restorative nursing, as under s. HFS 132.60 (1) (b) to (d); and

(c) Activities such as end−of−the−day clean−up time, transportation time, consultations and required paper reports. These are considered components of the provider's overhead costs and are not covered as separately reimbursable items.

Note: For more information on non−covered services, see s. HFS 107.03.

History: Cr Register, February, 1986, No. 362, eff. 3−1−86; am. (1) (a), (b) (intro.), (c) (intro.) (2) (b), (d), (e), (h) and (4) (a), Register, February 1988, No. 386, eff. 3−1−88; emerg. am. (2) (b), (d), (g) and (3) (c), eff. 7−1−88; am. (2) (b), (d), (g), and (3) (c), Register, December, 1988, No. 396, eff. 1−1−89.

HFS 107.19 Audiology services. (1) COVERED SERVICES. Covered audiology services are those medically necessary diagnostic, screening, preventive or corrective audiology services prescribed by a physician and provided by an audiologist certified pursuant to s. HFS 105.31. These services include:

(a) Audiological evaluation;

(b) Hearing aid or other assistive listening device evaluation;

(c) Hearing aid or other assistive listening device performance check;

(d) Audiological tests;

(e) Audiometric techniques;

(f) Impedance audiometry;

(g) Aural rehabilitation; and

(h) Speech therapy.

(2) PRIOR AUTHORIZATION. (a) *Services requiring prior authorization.* The following covered services require prior authorization from the department:

1. Speech therapy;

2. Aural rehabilitation:

a. Use of residual hearing;

b. Speech reading or lip reading;

c. Compensation techniques; and

d. Gestural communication techniques; and

3. Dispensing of hearing aids and other assistive listening devices.

(b) *Conditions for review of requests for prior authorization.* Requests for prior authorization of audiological services shall be reviewed only if these requests contain the following information:

1. The type of treatment and number of treatment days requested;

2. The name, address and MA number of the recipient;

3. The name of the provider of the requested service;

4. The name of the person or agency making the request;

5. The attending physician's diagnosis, an indication of the degree of impairment and justification for the requested service;

6. An accurate cost estimate if the request is for the rental, purchase or repair of an item; and

7. If out−of−state non−emergency service is requested, a justification for obtaining service outside of Wisconsin, including an explanation of why the service cannot be obtained in the state.

Note: For more information on prior authorization, see s. HFS 107.02 (3).

(3) OTHER LIMITATIONS. (a) *Plan of care for therapy services.* Services shall be furnished to a recipient under a plan of care established and periodically reviewed by a physician. The plan shall be reduced to writing before the treatment is begun, either by the physician who makes the plan available to the provider or by the provider of therapy when the provider makes a written record of the physician's oral orders. The plan shall be promptly signed by the ordering physician and incorporated into the provider's permanent record for the recipient. The plan shall:

1. State the type, amount, frequency, and duration of the therapy services that are to be furnished the recipient and shall indicate the diagnosis and anticipated goals. Any changes shall be made in writing and signed by the physician or by the provider of therapy services or physician on the staff of the provider pursuant to the attending physician's oral orders; and

2. Be reviewed by the attending physician in consultation with the therapist providing services, at whatever intervals the severity of the recipient's condition requires but at least every 90 days. Each review of the plan shall contain the initials of the physician and the date performed. The plan for the recipient shall be retained in the provider's file.

(b) *Restorative therapy services.* Restorative therapy services shall be covered services.

(c) *Maintenance therapy services.* Preventive or maintenance therapy services shall be covered services only when one of the following conditions are met:

1. The skills and training of an audiologist are required to execute the entire preventive or maintenance program;

2. The specialized knowledge and judgment of an audiologist are required to establish and monitor the therapy program, including the initial evaluation, the design of the program appropriate to the individual recipient, the instruction of nursing personnel, family or recipient, and the re−evaluations required; or

3. When, due to the severity or complexity of the recipient's condition, nursing personnel cannot handle the recipient safely and effectively.

(d) *Evaluations.* Evaluations shall be covered services. The need for an evaluation or a re−evaluation shall be documented in the plan of care.

(e) *Extension of therapy services.* Extension of therapy services shall not be approved in the following circumstances:

1. The recipient has shown no progress toward meeting or maintaining established and measurable treatment goals over a 6−month period, or the recipient has shown no ability within 6 months to carry over abilities gained from treatment in a facility to the recipient's home;

2. The recipient's chronological or developmental age, way of life or home situation indicates that the stated therapy goals are not appropriate for the recipient or serve no functional or maintenance purpose;

3. The recipient has achieved independence in daily activities or can be supervised and assisted by restorative nursing personnel;

4. The evaluation indicates that the recipient's abilities are functional for the person's present way of life;

5. The recipient shows no motivation, interest, or desire to participate in therapy, which may be for reasons of an overriding severe emotional disturbance;

6. Other therapies are providing sufficient services to meet the recipient's functioning needs; or

7. The procedures requested are not medical in nature or are not covered services. Inappropriate diagnoses for therapy services and procedures of questionable medical necessity may not receive departmental authorization, depending upon the individual circumstances.

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

(a) Activities such as end−of−the−day clean−up time, transportation time, consultations and required paper reports. These are considered components of the provider's overhead costs and are not covered as separately reimbursable items; and

(b) Services performed by individuals not certified under s. HFS 105.31.

Note: For more information on non−covered services, see s. HFS 107.03.

History: Cr. Register, February, 1986, No. 362, eff. 3−1−86; am. (1) (b), (c) and (h), (2) (a) 1. and 3., Register, May, 1990, No. 413, eff. 6−1−90.

HFS 107.20 Vision care services. (1) COVERED SERVICES. Covered vision care services are eyeglasses and those medically necessary services provided by licensed optometrists within the scope of practice of the profession of optometry as defined in s. 449.01, Stats., who are certified under s. HFS 105.32, and by opticians certified under s. HFS 105.33 and physicians certified under s. HFS 105.05.

(2) SERVICES REQUIRING PRIOR AUTHORIZATION. The following covered services require prior authorization by the department:

(a) Vision training, which shall only be approved for patients with one or more of the following conditions:

1. Amblyopia;

2. Anopsia;

3. Disorders of accommodation; and

4. Convergence insufficiency;

(b) Aniseikonic services for recipients whose eyes have unequal refractive power;

(c) Tinted eyeglass lenses, occupational frames, high index glass, blanks (55 mm. size and over) and photochromic lens;

(d) Eyeglass frames and all other vision materials which are not obtained through the MA vision care volume purchase plan;

Note: Under the department's vision care volume purchase plan, MA−certified vision care providers must order all eyeglasses and component parts prescribed for MA recipients directly from a supplier under contract with the department to supply those items.

(e) All contact lenses and all contact lens therapy, including related materials and services, except where the recipient's diagnosis is aphakia or keratoconus;

(f) Ptosis crutch services and materials;

(g) Eyeglass frames or lenses beyond the original and one unchanged prescription replacement pair from the same provider in a 12−month period; and

(h) Low vision services.

Note: For more information on prior authorization, see s. HFS 107.02 (3).

(3) OTHER LIMITATIONS. (a) Eyeglass frames, lenses, and replacement parts shall be provided by dispensing opticians, optometrists and ophthalmologists in accordance with the department's vision care volume purchase plan. The department may purchase from one or more optical laboratories some or all ophthalmic materials for dispensing by opticians, optometrists or ophthalmologists as benefits of the program.

(b) Lenses and frames shall comply with ANSI standards.

(c) The dispensing provider shall be reimbursed only once for dispensing a final accepted appliance or component part.

(d) The department may define minimal prescription levels for lenses covered by MA. These limitations shall be published by the department in the MA vision care provider handbook.

(4) NON−COVERED SERVICES. The following services and materials are not covered services:

(a) Anti−glare coating;

(b) Spare eyeglasses or sunglasses; and

(c) Services provided principally for convenience or cosmetic reasons, including but not limited to gradient focus, custom prosthesis, fashion or cosmetic tints, engraved lenses and anti−scratch coating.

Note: For more information on non−covered services, see s. HFS 107.03.

History: Cr. Register, February, 1986, No. 362, eff. 3−1−86.

HFS 107.21 Family planning services. (1) COVERED SERVICES. (a) *General.* Covered family planning services are the services included in this subsection when prescribed by a physician and provided to a recipient, including initial physical exam and health history, annual office visits and follow−up office visits, laboratory services, prescribing and supplying contraceptive supplies and devices, counseling services and prescribing medication for specific treatments. All family planning services performed in family planning clinics shall be prescribed by a physician, and furnished, directed or supervised by a physician, registered nurse, nurse practitioner, licensed practical nurse or nurse midwife under s. 441.15 (1) and (2) (b), Stats.

(b) *Physical examination.* An initial physical examination with health history is a covered service and shall include the following:

1. Complete obstetrical history including menarche, menstrual, gravidity, parity, pregnancy outcomes and complications of pregnancy or delivery, and abortion history;

2. History of significant illness−morbidity, hospitalization and previous medical care, particularly in relation to thromboembolic disease, any breast or genital neoplasm, any diabetic or prediabetic condition, cephalalgia and migraine, pelvic inflammatory disease, gynecologic disease and venereal disease;

3. History of previous contraceptive use;

4. Family, social, physical health, and mental health history, including chronic illnesses, genetic aberrations and mental depression;

5. Physical examination. Recommended procedures for examination are:

a. Thyroid palpation;

b. Examination of breasts and axillary glands;

c. Auscultation of heart and lungs;

d. Blood pressure measurement;

e. Height and weight measurement;

f. Abdominal examination;

g. Pelvic examination; and

h. Examination of extremities.

(c) *Laboratory and other diagnostic services.* Laboratory and other diagnostic services are covered services as indicated in this paragraph. These services may be performed in conjunction with an initial examination with health history, and are the following:

1. Routinely performed procedures:

a. CBC, or hematocrit or hemoglobin;

b. Urinalysis;

c. Papanicolaou smear for females between the ages of 12 and 65;

d. Bacterial smear or culture (gonorrhea, trichomonas, yeast, etc.) including VDRL — syphilis serology with positive gonorrhea cultures; and

e. Serology;

2. Procedures covered if indicated by the recipient's health history:

a. Skin test for TB;

b. Vaginal smears and wet mounts for suspected vaginal infection;

c. Pregnancy test;

d. Rubella titer;

e. Sickle−cell screening;

f. Post−prandial blood glucose; and

g. Blood test for cholesterol, and triglycerides when related to oral contraceptive prescription;

3. Diagnostic and other procedures not for the purpose of enhancing the prospects of fertility in males or females;

a. Endometrial biopsy when performed after a hormone blood test;

b. Laparoscopy;

c. Cervical mucus exam;

d. Vasectomies;

e. Culdoscopy; and

f. Colposcopy;

4. Procedures relating to genetics, including:

a. Ultrasound;

b. Amniocentesis;

c. Tay−Sachs screening;

d. Hemophilia screening;

e. Muscular dystrophy screening; and

f. Sickle−cell screening; and

5. Colposcopy, culdoscopy, and laparoscopy procedures which may be either diagnostic or treatment procedures.

(d) *Counseling services.* Counseling services in the clinic are covered as indicated in this paragraph. These services may be performed or supervised by a physician, registered nurse or licensed practical nurse. Counseling services may be provided as a result of request by a recipient or when indicated by exam procedures and health history. These services are limited to the following areas of concern:

1. Instruction on reproductive anatomy and physiology;

2. Overview of available methods of contraception, including natural family planning. An explanation of the medical ramifications and effectiveness of each shall be provided;

3. Counseling about venereal disease;

4. Counseling about sterilization accompanied by a full explanation of sterilization procedures including associated discomfort and risks, benefits, and irreversibility;

5. Genetic counseling accompanied by a full explanation of procedures utilized in genetic assessment, including information regarding the medical ramifications for unborn children and planning of care for unborn children with either diagnosed or possible genetic abnormalities;

6. Information regarding teratologic evaluations; and

7. Information and education regarding pregnancies at the request of the recipient, including pre−natal counseling and referral.

(e) *Contraceptive methods.* Procedures related to the prescription of a contraceptive method are covered services. The contraceptive method selected shall be the choice of the recipient, based on full information, except when in conflict with sound medical practice. The following procedures are covered:

1. Those related to intrauterine devices (IUD):

a. Furnishing and fitting of the device;

b. Localization procedures limited to sonography, and up to 2 x−rays with interpretation;

c. A follow−up office visit once within the first 90 days of insertion; and

d. Extraction;

2. Those related to diaphragms:

a. Furnishing and fitting of the device; and

b. A follow−up office visit once within 90 days after furnishing and fitting;

3. Those related to contraceptive pills:

a. Furnishing and instructions for taking the pills; and

b. A follow−up office visit once during the first 90 days after the initial prescription to assess physiological changes. This visit shall include taking blood pressure and weight, interim history and laboratory examinations as necessary.

(f) *Office visits.* Follow−up office visits performed by either a nurse or a physician and an annual physical exam and health history are covered services.

(g) *Supplies.* The following supplies are covered when prescribed:

1. Oral contraceptives;

2. Diaphragms;

3. Jellies, creams, foam and suppositories;

4. Condoms; and

5. Natural family planning supplies such as charts.

(2) SERVICES REQUIRING PRIOR AUTHORIZATION. All sterilization procedures require prior authorization by the medical consultant to the department, as well as the informed consent of the recipient. Informed consent requests shall be in accordance with s. HFS 107.06 (3).

Note: For more information on prior authorization, see HFS 107.02 (3).

(3) NON−COVERED SERVICES. The following services are not covered services:

(a) The sterilization of a recipient under the age of 21 or of a recipient declared legally incapable of consenting to such a procedure;

(b) Services and items that are provided for the purpose of enhancing the prospects of fertility in males or females, including but not limited to:

1. Artificial insemination, including but not limited to intra−cervical or intra−uterine insemination;

2. Infertility counseling;

3. Infertility testing, including but not limited to tubal patency, semen analysis or sperm evaluation;

4. Reversal of female sterilizations, including but not limited to tubouterine implantation, tubotubal anastomoses or fimbrioplasty;

5. Fertility−enhancing drugs provided for the treatment of infertility;

6. Reversal of vasectomies;

7. Office visits, consultations and other encounters to enhance fertility; and

8. Other fertility−enhancing services and items;

(c) Impotence devices and services, including but not limited to penile prostheses and external devices and to insertion surgery and other related services;

(d) Testicular prosthesis; and

(e) Services that are not covered under ss. HFS 107.03 and 107.06 (5).

Note: For more information on non−covered services, see s. HFS 107.03.

History: Cr. Register, February, 1986, No. 362, eff. 3−1−86; r. and recr. (1) (c) 3., (3), r. (1) (d) 4., renum. (1) (d) 5. to 8. to be (1) (d) 4. to 7; Register, January, 1997, No. 493, eff. 2−1−97.

HFS 107.22 Early and periodic screening, diagnosis and treatment (EPSDT) services. (1) COVERED SERVICES. Early and periodic screening and diagnosis to ascertain physical and mental defects, and the provision of treatment as provided in sub. (4) to correct or ameliorate the defects shall be covered services for all recipients under 21 years of age when pro-

vided by an EPSDT clinic, a physician, a private clinic, an HMO or a hospital certified under s. HFS 105.37.

(2) EPSDT HEALTH ASSESSMENT AND EVALUATION PACKAGE. The EPSDT health assessment and evaluation package shall include at least those procedures and tests required by 42 CFR 441.56. The package shall include the following:

(a) A comprehensive health and developmental history;

(b) A comprehensive unclothed physical examination;

(c) A vision test appropriate for the person being assessed;

(d) A hearing test appropriate for the person being assessed;

(e) Dental assessment and evaluation services furnished by direct referral to a dentist for children beginning at 3 years of age;

(f) Appropriate immunizations; and

(g) Appropriate laboratory tests.

(3) SUPPLEMENTAL TESTS. Selection of additional tests to supplement the health assessment and evaluation package shall be based on the health needs of the target population. Consideration shall be given to the prevalence of specific diseases and conditions, the specific racial and ethnic characteristics of the population, and the existence of treatment programs for each condition for which assessment and evaluation is provided.

(4) OTHER NEEDED SERVICES. In addition to diagnostic and treatment services covered by MA, the following services provided to EPSDT patients are covered if the EPSDT health assessment and evaluation indicates that they are needed:

(a) Diagnosis and treatment for defects in vision and hearing, including eyeglasses and hearing aids; and

(b) Dental care, at as early an age as necessary, for the relief of infection, restoration of teeth and maintenance of dental health.

(5) REASONABLE STANDARDS OF PRACTICE. Services under this section shall be provided in accordance with reasonable standards of medical and dental practice determined by the department after consultation with the medical society of Wisconsin and the Wisconsin dental association.

(6) REFERRAL. When EPSDT assessment and evaluation indicates that a recipient needs a treatment service not available under MA, the department shall refer the recipient to a provider willing to perform the service at little or no expense to the recipient's family.

(7) NO CHARGE FOR SERVICES. EPSDT services shall be provided without charge to recipients under 18 years of age.

History: Cr. Register, February, 1986, No. 362, eff. 3−1−86.

HFS 107.23 Transportation. (1) COVERED SERVICES. (a) *Purpose.* Transportation by ambulance, specialized medical vehicle (SMV) or county−approved or tribe−approved common carrier as defined under par. (d) 1., is a covered service when provided to a recipient in accordance with this section.

(b) *Transport by ambulance.* Ambulance transportation shall be a covered service if the recipient is suffering from an illness or injury which contraindicates transportation by other means, but only when provided:

1. For emergency care, when immediate medical treatment or examination is needed to deal with or guard against a worsening of the recipient's condition:

a. From the recipient's residence or the site of an illness or accident to a hospital, physician's office, or emergency care center;

b. From a nursing home to a hospital;

c. From a hospital to another hospital; and

2. For non−emergency care when authorized by a physician, physician assistant, nurse midwife or nurse practitioner by written documentation which states the specific medical problem requiring the non−emergency ambulance transport:

a. From a hospital or nursing home to the recipient's residence;

b. From a hospital to a nursing home;

c. From a nursing home to another nursing home, a hospital, a hospice care facility, or a dialysis center; or

d. From a recipient's residence or nursing home to a hospital or a physician's or dentist's office, if the transportation is to obtain a physician's or dentist's services which require special equipment for diagnosis or treatment that cannot be obtained in the nursing home or recipient's residence.

(c) *Transport by specialized medical vehicle (SMV).* 1. In this paragraph,"indefinitely disabled" means a chronic, debilitating physical impairment which includes an inability to ambulate without personal assistance or requires the use of a mechanical aid such as a wheelchair, a walker or crutches, or a mental impairment which includes an inability to reliably and safely use common carrier transportation because of organic conditions affecting cognitive abilities or psychiatric symptoms that interfere with the recipient's safety or that might result in unsafe or unpredictable behavior. These symptoms and behaviors may include the inability to remain oriented to correct embarkation and debarkation points and times and the inability to remain safely seated in a common carrier cab or coach.

2. SMV transportation shall be a covered service if the recipient is legally blind or is indefinitely disabled as documented in writing by a physician, physician assistant, nurse midwife or nurse practitioner. The necessity for SMV transportation shall be documented by a physician, physician assistant, nurse midwife or nurse practitioner. The documentation shall indicate in a format determined by the department why the recipient's condition contraindicates transportation by a common carrier as defined under par. (d) 1., including accessible mass transit services, or by a private vehicle and shall be signed and dated by a physician, physician assistant, nurse midwife or nurse practitioner. For a legally blind or indefinitely disabled recipient, the documentation shall be rewritten annually. The documentation shall be placed in the file of the recipient maintained by the provider within 14 working days after the date of the physician's, physician assistant's, nurse midwife's or nurse practitioner's signing of the documentation and before any claim for reimbursement for the transportation is submitted.

3. If the recipient has not been declared legally blind or has not been determined by a physician, physician assistant, nurse midwife or nurse practitioner to be indefinitely disabled, the transportation provider shall obtain and maintain a physician's, physician assistant's, nurse midwife's or nurse practitioner's written documentation for SMV transportation. The documentation shall indicate in a format determined by the department why the recipient's condition contraindicates transportation by a common carrier, including accessible mass transit services, or by a private vehicle and shall state the specific medical problem preventing the use of a common carrier, as defined under par. (d) 1., and the specific period of time the service may be provided. The documentation shall be signed and dated by a physician, physician assistant's, nurse midwife or nurse practitioner. The documentation shall be valid for a maximum of 90 days from the date of the physician's, physician assistant's, nurse midwife's or nurse practitioner's signature. The documentation shall be placed in the file of the recipient maintained by the provider within 14 working days after the date of the physician's, physician assistant, nurse midwife's or nurse practitioner's signing of the documentation and before any claim for reimbursement for the transportation is submitted.

4. SMV transportation, including the return trip, is covered only if the transportation is to a location at which the recipient receives an MA−covered service on that day. SMV trips by cot or stretcher are covered if they have been prescribed by a physician, physician assistant, nurse midwife or nurse practitioner. In this subdivision,"cot or stretcher" means a bed−like device used to carry a patient in a horizontal or reclining position.

5. Charges for SMV unloaded mileage are reimbursable only when the SMV travels more than 20 miles by the shortest route available to pick up a recipient and there is no other passenger in the vehicle, regardless of whether or not that passenger is an MA recipient. In this subdivision, "unloaded mileage" means the mileage travelled by the vehicle to pick up the recipient for transport to or from MA−covered services.

6. When a recipient does not meet the criteria under subd. 2., SMV transportation may be provided under par. (d) to an ambulatory recipient who needs transportation services to or from MA−covered services if no other transportation is available. The transportation provider shall obtain and maintain documentation as to the unavailability of other transportation. Records and charges for the transportation of ambulatory recipients shall be kept separate from records and charges for non−ambulatory recipients. Reimbursement shall be made under the common carrier provisions of par. (d).

(d) *Transport by county−approved or tribe−approved common carrier.* 1. In this paragraph, "common carrier" means any mode of transportation approved by a county or tribal agency or designated agency, except an ambulance or an SMV unless the SMV is functioning under subd. 5.

2. Transportation of an MA recipient by a common carrier to a Wisconsin provider to receive MA−covered services shall be a covered service if the transportation is authorized by the county or tribal agency or its designated agency. Reimbursement shall be for the charges of the common carrier, for mileage expenses or a contracted amount the county or tribal agency or its designated agency has agreed to pay a common carrier. A county or tribal agency may develop its own transportation system or may enter into contracts with common carriers, individuals, private businesses, SMV providers and other governmental agencies to provide common carrier services. A county or tribe is limited in making this type of arrangement by sub. (3) (c).

3. Transportation of an MA recipient by a common carrier to an out−of−state provider, excluding a border−status provider, to receive MA−covered services shall be covered if the transportation is authorized by the county or tribal agency or its designated agency. The county or tribal agency or its designated agency may approve a request only if prior authorization has been received for the nonemergency medical services as required under s. HFS 107.04. Reimbursement shall be for the charges of the common carrier, for mileage expenses or a contracted amount the county or tribal agency or its designated agency has agreed to pay the common carrier.

4. Related travel expenses may be covered when the necessary transportation is other than routine, such as transportation to receive a service that is available only in another county, state or country, and the transportation is prior authorized by the county or tribal agency or its designated agency. These expenses may include the cost of meals and commercial lodging enroute to MA−covered care, while receiving the care and when returning from the care, and the cost of an attendant to accompany the recipient. The necessity for an attendant, except for children under 16 years of age, shall be determined by a physician, physician assistant, nurse midwife or nurse practitioner with that determination documented and submitted to the county or tribal agency. Reimbursement for the cost of an attendant may include the attendant's transportation, lodging, meals and salary. If the attendant is a relative of the recipient, reimbursed costs are limited to transportation, commercial lodging and meals. Reimbursement for the costs of meals and commercial lodging shall be no greater than the amounts paid by the state to its employees for those expenses. The costs of more than one attendant shall be reimbursed only if the recipient's condition requires the physical presence of another person. Documentation stating the need for the second attendant shall be from a physician, physician assistant, nurse midwife or nurse practitioner and shall explain the need for the attendant and be maintained by the transportation provider if the provider is not a common carrier. If the provider is a common carrier, the statement of need shall be maintained by the county or tribal agency or its designated agency authorizing the transportation. If the length of attendant care is over 4 weeks in duration, the department shall determine the necessary expenses for the attendant or attendants after the first 4 weeks and at 4−week intervals thereafter. In this subdivision, "attendant" means a person needed by the transportation provider to assist with tasks necessary in transporting the recipient and that cannot be done by the driver or a person traveling with the recipient in order to receive training in the care of the recipient, and "relative" means a parent, grandparent, grandchild, stepparent, spouse, son, daughter, stepson, stepdaughter, brother, sister, half−brother or half−sister, with this relationship either by consanguinity or direct affinity.

5. If a recipient for emergency reasons beyond that person's control is unable to obtain the county or tribal agency's or designee's authorization for necessary transportation prior to the transportation, such as for a trip to a hospital emergency room on a weekend, the county or tribal agency or its designee may provide retroactive authorization. The county or tribal agency or its designee may require documentation from the medical service provider or the transportation provider, or both, to establish that the transportation was necessary.

(2) SERVICES REQUIRING PRIOR AUTHORIZATION. The following covered services require prior authorization from the department:

(a) All non−emergency transportation of a recipient by water ambulance to receive MA−covered services;

(b) All non−emergency transportation of a recipient by fixed−wing air ambulance to receive MA−covered services;

(c) All non−emergency transportation of a recipient by helicopter ambulance to receive MA−covered services;

(d) Trips by ambulance to obtain physical therapy, occupational therapy, speech therapy, audiology services, chiropractic services, psychotherapy, methadone treatment, alcohol abuse treatment, other drug abuse treatment, mental health day treatment or podiatry services;

(e) Trips by ambulance from nursing homes to dialysis centers; and

(f) All SMV transportation to receive MA−covered services, except for services to be received out of state for which prior authorization has already been received, that is over 40 miles for a one−way trip in Brown, Dane, Fond du Lac, Kenosha, La Crosse, Manitowoc, Milwaukee, Outagamie, Sheboygan, Racine, Rock and Winnebago counties from a recipient's residence, and 70 miles for a one−way trip in all other counties from a recipient's residence.

Note: For more information on prior authorization, see s. HFS 107.02 (3).

(3) LIMITATIONS. (a) *Ambulance transportation.* 1. When a hospital−to−hospital or nursing home−to−nursing home non−emergency transfer is made by ambulance, the ambulance provider shall obtain, before the transfer, written certification from the recipient's physician, physician assistant, nurse midwife or nurse practitioner explaining why the discharging institution was not an appropriate facility for the patient's condition and the admitting institution is appropriate for that condition. The document shall be signed by the recipient's physician, physician assistant, nurse midwife or nurse practitioner and shall include details of the recipient's condition. This document shall be maintained by the ambulance provider.

2. If a recipient residing at home requires treatment at a nursing home, the transportation provider shall obtain a written statement from the provider who prescribed the treatment indicating that transportation by ambulance is necessary. The statement shall be maintained by the ambulance provider.

3. For other non−emergency transportation, the ambulance provider shall obtain documentation for the service signed by a physician, physician assistant, nurse midwife, dentist or nurse practitioner. The documentation shall include the recipient's

name, the date of transport, the details about the recipient's condition that preclude transport by any other means, the specific circumstances requiring that the recipient be transported to the office or clinic to obtain a service, the services performed and an explanation of why the service could not be performed in the hospital, nursing home or recipient's residence. Documentation of the physician, dentist, physician assistant, nurse midwife or nurse practitioner performing the service shall be signed and dated and shall be maintained by the ambulance provider. Any order received by the transportation provider by telephone shall be repeated in the form of written documentation within 10 working days of the telephone order or prior to the submission of the claim, whichever comes first.

4. Services of more than the 2 attendants required under s. 146.50 (4), Stats., are covered only if the recipient's condition requires the physical presence of more than 2 attendants for purposes of restraint or lifting. Medical personnel not employed by the ambulance provider who care for the recipient in transit shall bill the program separately.

5. a. If a recipient is pronounced dead by a legally authorized person after an ambulance is requested but before the ambulance arrives at the pick−up site, emergency service only to the point of pick−up is covered.

b. If ambulance service is provided to a recipient who is pronounced dead enroute to a hospital or dead on arrival at the hospital by a legally authorized person, the entire ambulance service is covered.

6. Ambulance reimbursement shall include payment for additional services provided by an ambulance provider such as for drugs used in transit or for starting intravenous solutions, EKG monitoring for infection control, charges for reusable devices and equipment, charges for sterilization of a vehicle including after carrying a recipient with a contagious disease, and additional charges for services provided at night or on weekends, or on holidays. Separate payments for these charges shall not be made.

7. Non−emergency transfers by ambulance that are for the convenience of the recipient or the recipient's family are reimbursed only when the attending physician documents that the participation of the family in the recipient's care is medically necessary and the recipient would suffer hardship if the transfer were not made by ambulance.

(b) *SMV transportation.* 1. Transportation by SMV shall be covered only if the purpose of the trip is to receive an MA−covered service. Documentation of the name and address of the service provider shall be kept by the SMV provider. Any order received by the transportation provider by telephone shall be repeated in the form of written documentation within 10 working days of the telephone order or prior to the submission of the claim, whichever comes first.

2. Charges for waiting time are covered charges. Waiting time is allowable only when a to−and−return trip is being billed. Waiting time may only be charged for one recipient when the transportation provider or driver waits for more than one recipient at one location in close proximity to where the MA−covered services are provided and no other trips are made by the vehicle or driver while the service is provided to the recipient. In this subdivision, "waiting time" means time when the transportation provider is waiting for the recipient to receive MA covered services and return to the vehicle.

3. Services of a second SMV transportation attendant are covered only if the recipient's condition requires the physical presence of another person for purposes of restraint or lifting. The transportation provider shall obtain a statement of the appropriateness of the second attendant from the physician, physician assistant, nurse midwife or nurse practitioner attesting to the need for the service and shall retain that statement.

4. SMV services may only be provided to recipients identified under sub. (1) (c).

5. A trip to a sheltered workshop or other nonmedical facility is covered only when the recipient is receiving an MA−covered service there on the dates of transportation and the medical services are of the level, intensity or extent consistent with the medical need defined in the recipient's plan of care.

6. Trips to school for MA−covered services shall be covered only if the recipient is receiving services on the day of the trip under the Individuals with Disabilities Education Act, 20 USC 33, and the MA−covered services are identified in the recipient's individual education plan and are delivered at the school.

7. Unloaded mileage as defined in sub. (1) (c) 5. is not reimbursed if there is any other passenger in the vehicle whether or not that passenger is an MA recipient.

8. When 2 or more recipients are being carried at the same time, the department may adjust the rates.

9. Additional charges for services at night or on weekends or holidays are not covered charges.

10. A recipient confined to a cot or stretcher may only be transported in an SMV if the vehicle is equipped with restraints which secure the cot or stretcher to the side and the floor of the vehicle. The recipient shall be medically stable and no monitoring or administration of non−emergency medical services or procedures may be done by SMV personnel.

(c) *County−approved or tribe−approved transportation.* 1. Non−emergency transportation of a recipient by common carrier is subject to approval by the county or tribal agency or its designee before departure. The reimbursement shall be no more than an amount set by the department and shall be less per mile than the rates paid by the department for SMV purposes. Reimbursement for urgent transportation is subject to retroactive approval by the county or tribal agency or its designee.

2. The county or tribal agency or its designee shall reimburse the recipient or the vendor for transportation service only if the service is not provided directly by the county or tribal agency or its designee.

3. Transportation provided by a county or tribal agency or its designee shall involve the least costly means of transportation which the recipient is capable of using and which is reasonably available at the time the service is required. Reimbursement to the recipient shall be limited to mileage to the nearest MA provider who can provide the service if the recipient has reasonable access to health care of adequate quality from that provider. Reimbursement shall be made in the most cost−effective manner possible and only after sources for free transportation such as family and friends have been exhausted.

4. The county or tribal agency or its designee may require documentation by the service provider that an MA−covered service was received at the specific location.

5. No provider may be reimbursed more for transportation provided for an MA recipient than the provider's usual and customary charge. In this subdivision, "usual and customary charge" means the amount the provider charges or advertises as a charge for transportation except to county or tribal agencies or non−profit agencies.

(4) NON−COVERED SERVICES. The following transportation services and charges related to transportation services are non−covered services:

(a) Emergency transportation of a recipient who is pronounced dead by a legally authorized person before the ambulance is called;

(b) Transportation of a recipient's personal belongings only;

(c) Transportation of a laboratory specimen only;

(d) Charges for excess mileage resulting from the use of indirect routes to and from destinations;

(e) Transport of a recipient's relatives other than as provided in sub. (1) (d) 4.;

(f) SMV transport provided by the recipient or a relative, as defined in sub. (1) (d) 4., of the recipient;

(g) SMV transport of an ambulatory recipient, except an ambulatory recipient under sub. (1) (c) 1., to a methadone clinic or physician's clinic solely to obtain methadone or related services such as drug counseling or urinalysis;

(h) Transportation by SMV to a pharmacy to have a prescription filled or refilled or to pick up medication or disposable medical supplies;

(i) Transportation by SMV provided solely to compel a recipient to attend therapy, counseling or any other MA−covered appointment; and

(j) Transportation to any location where no MA−covered service was provided either at the destination or pick−up point.

Note: For more information on non−covered services, see s. HFS 107.03.

History: Cr. Register, February, 1986, No. 362, eff. 3−1−86; am. (1) (c) and (4) (5), Register, February, 1988, No. 386, eff. 3−1−88; r. and recr., Register, November, 1994, No. 467, eff. 12−1−94.

HFS 107.24 Durable medical equipment and medical supplies. (1) DEFINITION. In this chapter, "medical supplies" means disposable, consumable, expendable or nondurable medically necessary supplies which have a very limited life expectancy. Examples are plastic bed pans, catheters, electric pads, hypodermic needles, syringes, continence pads and oxygen administration circuits.

(2) COVERED SERVICES. (a) *Prescription and provision.* Durable medical equipment (DME) and medical supplies are covered services only when prescribed by a physician and when provided by a certified physician, clinic, hospital outpatient department, nursing home, pharmacy, home health agency, therapist, orthotist, prosthetist, hearing instrument specialist or medical equipment vendor.

(b) *Items covered.* Covered services are limited to items contained in the Wisconsin durable medical equipment (DME) and medical supplies indices. Items prescribed by a physician which are not contained in one of these indices or in the listing of non−covered services in sub. (5) require submittal of a DME additional request. Should the item be deemed covered, a prior authorization request may be required.

(c) *Categories of durable medical equipment.* The following are categories of durable medical equipment covered by MA:

1. Occupational therapy assistive or adaptive equipment. This is medical equipment used in a recipient's home to assist a disabled person to adapt to the environment or achieve independence in performing daily personal functions. Examples are adaptive hygiene equipment, adaptive positioning equipment and adaptive eating utensils.

2. Orthopedic or corrective shoes. These are any shoes attached to a brace for prosthesis; mismatched shoes involving a difference of a full size or more; or shoes that are modified to take into account discrepancy in limb length or a rigid foot deformation. Arch supports are not considered a brace. Examples of orthopedic or corrective shoes are supinator and pronator shoes, surgical shoes for braces, and custom−molded shoes.

3. Orthoses. These are devices which limit or assist motion of any segment of the human body. They are designed to stabilize a weakened part or correct a structural problem. Examples are arm braces and leg braces.

4. Other home health care durable medical equipment. This is medical equipment used in a recipient's home to increase the independence of a disabled person or modify certain disabling conditions. Examples are patient lifts, hospital beds and traction equipment.

5. Oxygen therapy equipment. This is medical equipment used in a recipient's home for the administration of oxygen or medical formulas or to assist with respiratory functions. Examples are a nebulizer, a respirator and a liquid oxygen system.

6. Physical therapy splinting or adaptive equipment. This is medical equipment used in a recipient's home to assist a disabled person to achieve independence in performing daily activities. Examples are splints and positioning equipment.

7. Prostheses. These are devices which replace all or part of a body organ to prevent or correct a physical disability or malfunction. Examples are artificial arms, artificial legs and hearing aids.

8. Wheelchairs. These are chairs mounted on wheels usually specially designed to accommodate individual disabilities and provide mobility. Examples are a standard weight wheelchair, a lightweight wheelchair and an electrically−powered wheelchair.

(d) *Categories of medical supplies.* Only approved items within the following generic categories of medical supplies are covered:

1. Colostomy, urostomy and ileostomy appliances;
2. Contraceptive supplies;
3. Diabetic urine and blood testing supplies;
4. Dressings;
5. Gastric feeding sets and supplies;
6. Hearing aid or other assistive listening devices batteries;
7. Incontinence supplies, catheters and irrigation apparatus;
8. Parenteral−administered apparatus; and
9. Tracheostomy and endotracheal care supplies.

(3) SERVICES REQUIRING PRIOR AUTHORIZATION. The following services require prior authorization:

(a) Purchase of all items indicated as requiring prior authorization in the Wisconsin DME and medical supplies indices, published periodically and distributed to appropriate providers by the department;

(b) Repair or modification of an item which exceeds the department−established maximum reimbursement without prior authorization. Reimbursement parameters are published periodically in the DME and medical supplies provider handbook;

(c) Purchase, rental, repair or modification of any item not contained in the current DME and medical supplies indices;

(d) Purchase of items in excess of department−established frequencies or dollar limits outlined in the current Wisconsin DME and medical supplies indices;

(e) The second and succeeding months of rental use, with the exception that all hearing aid or other assistive listening device rentals require prior authorization;

(f) Purchase of any item which is not covered by medicare, part b, when prescribed for a recipient who is also eligible for medicare;

(g) Any item required by a recipient in a nursing home which meets the requirements of sub. (4) (c); and

(h) Purchase or rental of a hearing aid or other assistive listening device as follows:

1. A request for prior authorization of a hearing aid or other ALD shall be reviewed only if the request consists of an otological report from the recipient's physician and an audiological report from an audiologist or hearing instrument specialist, is on forms designated by the department and contains all information requested by the department. A hearing instrument specialist may perform an audiological evaluation and a hearing aid evaluation to be included in the audiological report if these evaluations are prescribed by a physician who determines that:

a. The recipient is over the age of 21;

b. The recipient is not cognitively or behaviorally impaired; and

c. The recipient has no special need which would necessitate either the diagnostic tools of an audiologist or a comprehensive evaluation requiring the expertise of an audiologist;

2. After a new or replacement hearing aid or other ALD has been worn for a 30−day trial period, the recipient shall obtain a performance check from a certified audiologist, a certified hearing instrument specialist or at a certified speech and hearing center. The department shall provide reimbursement for the cost of the hearing aid or other ALD after the performance check has shown the hearing aid or ALD to be satisfactory, or 45 days has elapsed with no response from the recipient;

3. Special modifications other than those listed in the MA speech and hearing provider handbook shall require prior authorization; and

4. Provision of services in excess of the life expectancies of equipment enumerated in the MA speech and hearing provider handbook require prior authorization, except for hearing aid or other ALD batteries and repair services.

Note: For more information on prior authorization, see s. HFS 107.02 (3).

(4) OTHER LIMITATIONS. (a) Payment for medical supplies ordered for a patient in a medical institution is considered part of the institution's cost and may not be billed directly to the program by a provider. Durable medical equipment and medical supplies provided to a hospital inpatient to take home on the date of discharge are reimbursed as part of the inpatient hospital services. No recipient may be held responsible for charges or services in excess of MA coverage under this paragraph.

(b) Prescriptions shall be provided in accordance with s. HFS 107.02 (2m) (b) and may not be filled more than one year from the date the medical equipment or supply is ordered.

(c) The services covered under this section are not covered for recipients who are nursing home residents except for:

1. Oxygen. Prescriptions for oxygen shall provide the required amount of oxygen flow in liters;

2. Durable medical equipment which is personalized in nature or custom−made for a recipient and is to be used by the recipient on an individual basis for hygienic or other reasons. These items are orthoses, prostheses including hearing aids or other assistive listening devices, orthopedic or corrective shoes, special adaptive positioning wheelchairs and electric wheelchairs. Coverage of a special adaptive positioning wheelchair or electric wheelchair shall be justified by the diagnosis and prognosis and the occupational or vocational activities of the resident recipient; and

3. A wheelchair prescribed by a physician if the wheelchair will contribute towards the rehabilitation of the resident recipient through maximizing his or her potential for independence, and if the recipient has a long−term or permanent disability and the wheelchair requested constitutes basic and necessary health care for the recipient consistent with a plan of health care, or the recipient is about to transfer from a nursing home to an alternate and more independent setting.

(d) The provider shall weigh the costs and benefits of the equipment and supplies when considering purchase or rental of DME and medical supplies.

Note: The program's listing of covered services and the maximum allowable reimbursement schedules are based on basic necessity. Although the program does not intend to exclude any manufacturer of equipment, reimbursement is based on the cost−benefit of equipment when comparable equipment is marketed at less cost. Several medical supply items are reimbursed according to generic pricing.

(e) The department may determine whether an item is to be rented or purchased on behalf of a recipient. In most cases equipment shall be purchased; however, in those cases where short−term use only is needed or the recipient's prognosis is poor, only rental of equipment shall be authorized.

(f) Orthopedic or corrective shoes or foot orthoses shall be provided only for postsurgery conditions, gross deformities, or when attached to a brace or bar. These conditions shall be described in the prior authorization request.

(g) Provision of hearing aid accessories shall be limited as follows:

1. For recipients under age 18: 3 earmolds per hearing aid, 2 single cords per hearing aid and 2 Y−cords per recipient per year;

2. For recipients over age 18: one earmold per hearing aid, one single cord per hearing aid and one Y−cord per recipient per year; and

3. For all recipients: one harness, one contralateral routing of signals (CROS) fitting, one new receiver per hearing aid and one bone−conduction receiver with headband per recipient per year.

(h) If a prior authorization request is approved, the person shall be eligible for MA reimbursement for the service on the date the final ear mold is taken.

(5) NON–COVERED SERVICES. The following services are not covered services:

(a) Foot orthoses or orthopedic or corrective shoes for the following conditions:

1. Flattened arches, regardless of the underlying pathology;

2. Incomplete dislocation or subluxation metatarsalgia with no associated deformities;

3. Arthritis with no associated deformities; and

4. Hypoallergenic conditions;

(b) Services denied by medicare for lack of medical necessity;

(c) Items which are not primarily medical in nature, such as dehumidifiers and air conditioners;

(d) Items which are not appropriate for home usage, such as oscillating beds;

(e) Items which are not generally accepted by the medical profession as being therapeutically effective, such as a heat and massage foam cushion pad;

(f) Items which are for comfort and convenience, such as cushion lift power seats or elevators, or luxury features which do not contribute to the improvement of the recipient's medical condition;

(g) Repair, maintenance or modification of rented durable medical equipment;

(h) Delivery or set−up charges for equipment as a separate service;

(i) Fitting, adapting, adjusting or modifying a prosthetic or orthotic device or corrective or orthopedic shoes as a separate service;

(j) All repairs of a hearing aid or other assistive listening device performed by a dealer within 12 months after the purchase of the hearing aid or other assistive listening device. These are included in the purchase payment and are not separately reimbursable;

(k) Hearing aid or other assistive listening device batteries which are provided in excess of the guidelines enumerated in the MA speech and hearing provider handbook;

(L) Items that are provided for the purpose of enhancing the prospects of fertility in males or females;

(m) Impotence devices, including but not limited to penile prostheses;

(n) Testicular prosthesis;

(o) Food; and

(p) Infant formula and enteral nutritional products except as allowed under s. HFS 107.10 (2) (c).

History: Cr. Register, February, 1986, No. 362, eff. 3−1−86; emerg. r. and recr. (3) (h) 1. and 2., eff. 7−1−89; am. (2) (d) 6., (3) (e), (h) 4., (4) (c) 2., (5) (j) and (k), r. and recr. (3) (h) (intro.), 1. and 2. and (4) (g), cr. (4) (h), Register, May, 1990, No. 413, eff. 6−1−90; r. and recr. (4) (a), Register, September, 1991, No. 429, eff. 10−1−91; am. (5) (j) to (k), cr. (5) (L) to (p), Register, January, 1997, No. 493, eff. 2−1−97; correction in (4) (b) made under s. 13.93 (2m) (b) 7., Stats., Register Febru-

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ary 2002 No. 554; **CR 03−033: am. (2) (a), (3) (h) 1. (intro.), 2., and (5) (j) Register December 2003 No. 576, eff.1−1−04**.

HFS 107.25 Diagnostic testing services. (1) COVERED SERVICES. Professional and technical diagnostic services covered by MA are laboratory services provided by a certified physician or under the physician's supervision, or prescribed by a physician and provided by an independent certified laboratory, and x−ray services prescribed by a physician and provided by or under the general supervision of a certified physician.

(2) OTHER LIMITATIONS. (a) All diagnostic services shall be prescribed or ordered by a physician or dentist.

(b) Laboratory tests performed which are outside the laboratory's certified areas are not covered.

(c) Portable x−ray services are covered only for recipients who reside in nursing homes and only when provided in a nursing home.

(d) Reimbursement for diagnostic testing services shall be in accordance with limitations set by P.L. 98−369, Sec. 2303.

History: Cr. Register, February, 1986, No. 362, eff. 3−1−86.

HFS 107.26 Dialysis services. Dialysis services are covered services when provided by facilities certified pursuant to s. HFS 105.45.

History: Cr. Register, February, 1986, No. 362, eff. 3−1−86.

HFS 107.27 Blood. The provision of blood is a covered service when provided to a recipient by a physician certified pursuant to s. HFS 105.05, a blood bank certified pursuant to s. HFS 105.46 or a hospital certified pursuant to s. HFS 105.07.

History: Cr. Register, February, 1986, No. 362, eff. 3−1−86.

HFS 107.28 Health maintenance organization and prepaid health plan services. (1) COVERED SERVICES. (a) *HMOs*. 1. Except as provided in subd. 2., all health maintenance organizations (HMOs) that contract with the department shall provide to enrollees all MA services that are covered services at the time the medicaid HMO contract becomes effective with the exception of the following:

a. EPSDT outreach services;

b. County transportation by common carrier;

c. Dental services; and

d. Chiropractic services.

2. The department may permit an HMO to provide less than comprehensive coverage, but only if there is adequate justification and only if commitment is expressed by the HMO to progress to comprehensive coverage.

(b) *Prepaid health plans*. Prepaid health plans shall provide one or more of the services covered by MA.

(c) *Family care benefit*. A care management organization under contract with the department to provide the family care benefit under s. HFS 10.41 shall provide those MA services specified in its contract with the department and shall meet all applicable requirements under ch. HFS 10.

(2) CONTRACTS. The department shall establish written contracts with qualified HMOs and prepaid health plan organizations which shall:

(a) Specify the contract period;

(b) Specify the services provided by the contractor;

(c) Identify the MA population covered by the contract;

(d) Specify any procedures for enrollment or reenrollment of the recipients;

(e) Specify the amount, duration and scope of medical services to be covered;

(f) Provide that the department may evaluate through inspection or other means the quality, appropriateness and timeliness of services performed under the contract;

(g) Provide that the department may audit and inspect any of the contractor's records that pertain to services performed and the determination of amounts payable under the contract and stipulate the required record retention procedures;

(h) Provide that the contractor safeguards recipient information;

(i) Specify activities to be performed by the contractor that are related to third−party liability requirements; and

(j) Specify which functions or services may be subcontracted and the requirements for subcontracts.

(3) OTHER LIMITATIONS. Contracted organizations shall:

(a) Allow each enrolled recipient to choose a health professional in the organization to the extent possible and appropriate;

(b) 1. Provide that all medical services that are covered under the contract and that are required on an emergency basis are available on a 24−hour basis, 7 days a week, either in the contractor's own facilities or through arrangements, approved by the department, with another provider; and

2. Provide for prompt payment by the contractor, at levels approved by the department, for all services that are required by the contract, furnished by providers who do not have arrangements with the contractor to provide the services, and are medically necessary to avoid endangering the recipient's health or causing severe pain and discomfort that would occur if the recipient had to use the contractor's facilities;

(c) Provide for an internal grievance procedure that:

1. Is approved in writing by the department;

2. Provides for prompt resolution of the grievance; and

3. Assures the participation of individuals with authority to require corrective action;

(d) Provide for an internal quality assurance system that:

1. Is consistent with the utilization control requirements established by the department and set forth in the contract;

2. Provides for review by appropriate health professionals of the process followed in providing health services;

3. Provides for systematic data collection of performance and patient results;

4. Provides for interpretation of this data to the practitioners; and

5. Provides for making needed changes;

(e) Provide that the organization submit marketing plans, procedures and materials to the department for approval before using the plans;

(f) Provide that the HMO advise enrolled recipients about the proper use of health care services and the contributions recipients can make to the maintenance of their own health;

(g) Provide for development of a medical record−keeping system that:

1. Collects all pertinent information relating to the medical management of each enrolled recipient; and

2. Makes that information readily available to member health care professionals;

(h) Provide that HMO−enrolled recipients may be excluded from specific MA requirements, including but not limited to copayments, prior authorization requirements, and the second surgical opinion program; and

(i) Provide that if a recipient who is a member of an HMO or other prepaid plan seeks medical services from a certified provider who is not participating in that plan without a referral from a provider in that plan, or in circumstances other than emergency circumstances as defined in 42 CFR 434.30, the recipient shall be liable for the entire amount charged for the service.

History: Cr. Register, February, 1986, No. 362, eff. 3−1−86; cr. (1) (c), Register, October, 2000, No. 538, eff. 11−1−00.

HFS 107.29 Rural health clinic services. Covered rural health clinic services are the following:

(1) Services furnished by a physician within the scope of practice of the profession under state law, if the physician performs the services in the clinic or the services are furnished away from the clinic and the physician has an agreement with the clinic providing that the physician will be paid by it for these services;

(2) Services furnished by a physician assistant or nurse practitioner if the services are furnished in accordance with the requirements specified in s. HFS 105.35;

(3) Services and supplies that are furnished incidental to professional services furnished by a physician, physician assistant or nurse practitioner;

(4) Part−time or intermittent visiting nurse care and related medical supplies, other than drugs and biologicals, if:

(a) The clinic is located in an area in which there is a shortage of home health agencies;

(b) The services are furnished by a registered nurse or licensed practical nurse employed by or otherwise compensated for the services by the clinic;

(c) The services are furnished under a written plan of treatment that is established and reviewed at least every 60 days by a supervising physician of the clinic, or that is established by a physician, physician assistant or nurse practitioner and reviewed and approved at least every 60 days by a supervising physician of the clinic; and

(d) The services are furnished to a homebound recipient. In this paragraph, "homebound recipient" means, for purposes of visiting nurse care, a recipient who is permanently or temporarily confined to a place of residence, other than a hospital or skilled nursing facility, because of a medical or health condition. The person may be considered homebound if the person leaves the place of residence infrequently; and

(5) Other ambulatory services furnished by a rural health clinic. In this subsection, "other ambulatory services" means ambulatory services other than the services in subs. (1), (2), and (3) that are otherwise included in the written plan of treatment and meet specific state plan requirements for furnishing those services. Other ambulatory services furnished by a rural health clinic are not subject to the physician supervision requirements under s. HFS 105.35.

History: Cr. Register, February, 1986, No. 362, eff. 3−1−86.

HFS 107.30 Ambulatory surgical center services. **(1)** COVERED SERVICES. Covered ambulatory surgical center (ASC) services are those medically necessary services identified in this section which are provided by or under the supervision of a certified physician in a certified ambulatory surgical center. The physician shall demonstrate that the recipient requires general or local anesthesia, and a postanesthesia observation time, and that the services could not be performed safely in an office setting. These services shall be performed in conformance with generally−accepted medical practice. Covered ambulatory surgical center services shall be limited to the following procedures:

(a) *Surgical procedures:* 1. Adenoidectomy or tonsillectomy;

2. Arthroscopy;

3. Breast biopsy;

4. Bronchoscopy;

5. Carpal tunnel;

6. Cervix biopsy or conization;

7. Circumcision;

8. Dilation and curettage;

9. Esophago−gastroduodenoscopy;

10. Ganglion resection;

11. Hernia repair;

12. Hernia — umbilical;

13. Hydrocele resection;

14. Laparoscopy, peritoneoscopy or other sterilization methods;

15. Pilonidal cystectomy;

16. Procto−colonoscopy;

17. Tympanoplasty;

18. Vasectomy;

19. Vulvar cystectomy; and

20. Any other surgical procedure that the department determines shall be covered and that the department publishes notice of in the MA provider handbook; and

(b) *Laboratory procedures.* The following laboratory procedures are covered but only when performed in conjunction with a covered surgical procedure under par. (a):

1. Complete blood count (CBC);

2. Hemoglobin;

3. Hematocrit;

4. Urinalysis;

5. Blood sugar;

6. Lee white coagulant; and

7. Bleeding time.

(2) SERVICES REQUIRING PRIOR AUTHORIZATION. Any surgical procedure under s. HFS 107.06 (2) requires prior authorization.

Note: For more information on prior authorization, see s. HFS 107.02 (3).

(3) OTHER LIMITATIONS. (a) A sterilization is a covered service only if the procedures specified in s. HFS 107.06 (3) are followed.

(b) A surgical procedure under sub. (1) (a) which requires a second surgical opinion, as specified in s. HFS 104.04, is a covered service only when the requirements specified by the department and published in the MA provider handbook are followed.

(c) Reimbursement for ambulatory surgical center services shall include but is not limited to:

1. Nursing, technician, and related services;

2. Use of ambulatory surgical center facilities;

3. Drugs, biologicals, surgical dressings, supplies, splints, casts and appliances, and equipment directly related to the provision of a surgical procedure;

4. Diagnostic or therapeutic services or items directly related to the provision of a surgical procedure;

5. Administrative, recordkeeping and housekeeping items and services; and

6. Materials for anesthesia.

(4) NON−COVERED SERVICES. (a) Ambulatory surgical center services and items for which payment may be made under other provisions of this chapter are not covered services. These include:

1. Physician services;

2. Laboratory services;

3. X−ray and other diagnostic procedures, except those directly related to performance of the surgical procedure;

4. Prosthetic devices;

5. Ambulance services;

6. Leg, arm, back and neck braces;

7. Artificial limbs; and

8. Durable medical equipment for use in the recipient's home.

Note: For more information on non−covered services, see s. HFS 107.03.

History: Cr. Register, February, 1986, No. 362, eff. 3−1−86.

HFS 107.31 Hospice care services. **(1)** DEFINITIONS. (a) "Attending physician" means a physician who is a doctor of medicine or osteopathy certified under s. HFS 105.05 and identified by the recipient as having the most significant role in the determination and delivery of his or her medical care at the time the recipient elects to receive hospice care.

(b) "Bereavement counseling" means counseling services provided to the recipient's family following the recipient's death.

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(c) "Freestanding hospice" means a hospice that is not a physical part of any other type of certified provider.

(d) "Interdisciplinary group" means a group of persons designated by a hospice to provide or supervise care and services and made up of at least a physician, a registered nurse, a medical worker and a pastoral counselor or other counselor, all of whom are employees of the hospice.

(e) "Medical director" means a physician who is an employee of the hospice and is responsible for the medical component of the hospice's patient care program.

(f) "Respite care" means services provided by a residential facility that is an alternate place for a terminally ill recipient to stay to temporarily relieve persons caring for the recipient in the recipient's home or caregiver's home from that care.

(g) "Supportive care" means services provided to the family and other individuals caring for a terminally ill person to meet their psychological, social and spiritual needs during the final stages of the terminal illness, and during dying and bereavement, including personal adjustment counseling, financial counseling, respite care and bereavement counseling and follow−up.

(h) "Terminally ill" means that the medical prognosis for the recipient is that he or she is likely to remain alive for no more than 6 months.

(2) COVERED SERVICES. (a) *General.* Hospice services covered by the MA program effective July 1, 1988 are, except as otherwise limited in this chapter, those services provided to an eligible recipient by a provider certified under s. HFS 105.50 which are necessary for the palliation and management of terminal illness and related conditions. These services include supportive care provided to the family and other individuals caring for the terminally ill recipient.

(b) *Conditions for coverage.* Conditions for coverage of hospice services are:

1. Written certification by the hospice medical director, the physician member of the interdisciplinary team or the recipient's attending physician that the recipient is terminally ill;

2. An election statement shall be filed with the hospice by a recipient who has been certified as terminally ill under subd. 1. and who elects to receive hospice care. The election statement shall designate the effective date of the election. A recipient who files an election statement waives any MA covered services pertaining to his or her terminal illness and related conditions otherwise provided under this chapter, except those services provided by an attending physician not employed by the hospice. However, the recipient may revoke the election of hospice care at any time and thereby have all MA services reinstated. A recipient may choose to reinstate hospice care services subsequent to revocation. In that event, the requirements of this section again apply;

3. A written plan of care shall be established by the attending physician, the medical director or physician designee and the interdisciplinary team for a recipient who elects to receive hospice service prior to care being provided. The plan shall include:

a. An assessment of the needs of the recipient;

b. The identification of services to be provided, including management of discomfort and symptom relief;

c. A description of the scope and frequency of services to the recipient and the recipient's family; and

d. A schedule for periodic review and updating of the plan; and

4. A statement of informed consent. The hospice shall obtain the written consent of the recipient or recipient's representative for hospice care on a consent form signed by the recipient or recipient's representative that indicates that the recipient is informed about the type of care and services that may be provided to him or her by the hospice during the course of illness and the effect of the recipient's waiver of regular MA benefits.

(c) *Core services.* The following services are core services which shall be provided directly by hospice employees unless the conditions of sub. (3) apply:

1. Nursing care by or under the supervision of a registered nurse;

2. Physician services;

3. Medical social services provided by a social worker under the direction of a physician. The social worker shall have at least a bachelor's degree in social work from a college or university accredited by the council of social work education; and

4. Counseling services, including but not limited to bereavement counseling, dietary counseling and spiritual counseling.

(d) *Other services.* Other services which shall be provided as necessary are:

1. Physical therapy;

2. Occupational therapy;

3. Speech pathology;

4. Home health aide and homemaker services;

5. Durable medical equipment and supplies;

6. Drugs; and

7. Short−term inpatient care for pain control, symptom management and respite purposes.

(3) OTHER LIMITATIONS. (a) *Short−term inpatient care.* 1. General inpatient care necessary for pain control and symptom management shall be provided by a hospital, a skilled nursing facility certified under this chapter or a hospice providing inpatient care in accordance with the conditions of participation for Medicare under 42 CFR 418.98.

2. Inpatient care for respite purposes shall be provided by a facility under subd. 1. or by an intermediate care facility which meets the additional certification requirements regarding staffing, patient areas and 24 hour nursing service for skilled nursing facilities under subd. 1. An inpatient stay for respite care may not exceed 5 consecutive days at a time.

3. The aggregate number of inpatient days may not exceed 20% of the aggregate total number of hospice care days provided to all MA recipients enrolled in the hospice during the period beginning November 1 of any year and ending October 31 of the following year. Inpatient days for persons with acquired immune deficiency syndrome (AIDS) are not included in the calculation of aggregate inpatient days and are not subject to this limitation.

(b) *Care during periods of crisis.* Care may be provided 24 hours a day during a period of crisis as long as the care is predominately nursing care provided by a registered nurse. Other care may be provided by a home health aide or homemaker during this period. "Period of crisis" means a period during which an individual requires continuous care to achieve palliation or management of acute medical symptoms.

(c) *Sub−contracting for services.* 1. Services required under sub. (2) (c) shall be provided directly by the hospice unless an emergency or extraordinary circumstance exists.

2. A hospice may contract for services required under sub. (2) (d). The contract shall include identification of services to be provided, the qualifications of the contractor's personnel, the role and responsibility of each party and a stipulation that all services provided will be in accordance with applicable state and federal statutes, rules and regulations and will conform to accepted standards of professional practice.

3. When a resident of a skilled nursing facility or an intermediate care facility elects to receive hospice care services, the hospice shall contract with that facility to provide the recipient's room and board. Room and board includes assistance in activities of daily living and personal care, socializing activities, administration of medications, maintaining cleanliness of the recipient's room and supervising and assisting in the use of durable medical equipment and prescribed therapies.

(d) *Reimbursement for services.* 1. The hospice shall be reimbursed for care of a recipient at per diem rates set by the federal health care financing administration (HCFA).

2. A maximum amount, or hospice cap, shall be established by the department for aggregate payments made to the hospice during a hospice cap period. A hospice cap period begins November 1 of each year and ends October 31 of the following year. Payments made to the hospice provider by the department in excess of the cap shall be repaid to the department by the hospice provider.

3. The hospice shall reimburse any provider with whom it has contracted for service, including a facility providing inpatient care under par. (a).

4. Skilled nursing facilities and intermediate care facilities providing room and board for residents who have elected to receive hospice care services shall be reimbursed for that room and board by the hospice.

5. Bereavement counseling and services and expenses of hospice volunteers are not reimbursable under MA.

History: Cr. Register, February, 1988, No. 386, eff. 3−1−88; emerg. am. (2) (a) and (3) (d) 1., r. and recr. (3) (a) 3., renum. (3) (d) 2. to 4. to be 3. to 5. and cr. (3) (d) 2., eff. 7−1−88; am. (2) (a), (3) (a) 1. and (d) 1., r. and recr. (3) (a) 3., renum. (3) (d) 2. to 4. to be 3. to 5. and cr. (3) (d) 2., Register, December, 1988, No. 396, eff. 1−1−89.

HFS 107.32 Case management services. (1) COVERED SERVICES. (a) *General.* 1. Case management services covered by MA are services described in this section and provided by an agency certified under s. HFS 105.51 or by a qualified person under contract to an agency certified under s. HFS 105.51 to help a recipient, and, when appropriate, the recipient's family gain access to, coordinate or monitor necessary medical, social, educational, vocational and other services.

2. Case management services under pars. (b) and (c) are provided under s. 49.45 (25), Stats., as benefits to those recipients in a county in which case management services are provided who are over age 64, are diagnosed as having Alzheimer's disease or other dementia, or are members of one or more of the following target populations: developmentally disabled, chronically mentally ill who are age 21 or older, alcoholic or drug dependent, physically or sensory disabled, or under the age of 21 and severely emotionally disturbed. In this subdivision, "severely emotionally disturbed"means having emotional and behavioral problems which:

a. Are expected to persist for at least one year;

b. Have significantly impaired the person's functioning for 6 months or more and, without treatment, are likely to continue for a year or more. Areas of functioning include: developmentally appropriate self−care; ability to build or maintain satisfactory relationships with peers and adults; self−direction, including behavioral controls, decisionmaking, judgment and value systems; capacity to live in a family or family equivalent; and learning ability, or meeting the definition of "child with exceptional educational needs" under ch. PI 1 and s. 115.76 (3), Stats.;

c. Require the person to receive services from 2 or more of the following service systems: mental health, social services, child protective services, juvenile justice and special education; and

d. Include mental or emotional disturbances diagnosable under DSM−III−R. Adult diagnostic categories appropriate for children and adolescents are organic mental disorders, psychoactive substance use disorders, schizophrenia, mood disorders, schizophreniform disorders, somatoform disorders, sexual disorders, adjustment disorder, personality disorders and psychological factors affecting physical condition. Disorders usually first evident in infancy, childhood and adolescence include pervasive developmental disorders (Axis II), conduct disorder, anxiety disorders of childhood or adolescence and tic disorders.

Note: DSM−111−R is the 1987 revision of the 3rd edition (1980) of the Diagnostic and Statistical Manual of Mental Disorders of the American Psychiatric Association.

3. Case management services under par. (d) are available as benefits to a recipient identified in subd. 2. if:

a. The recipient is eligible for and receiving services in addition to case management from an agency or through medical assistance which enable the recipient to live in a community setting; and

b. The agency has a completed case plan on file for the recipient.

4. The standards specified in s. 46.27, Stats., for assessments, case planning and ongoing monitoring and service coordination shall apply to all covered case management services.

(b) *Case assessment.* A comprehensive assessment of a recipient's abilities, deficits and needs is a covered case management service. The assessment shall be made by a qualified employee of the certified case management agency or by a qualified employee of an agency under contract to the case management agency. The assessment shall be completed in writing and shall include face−to−face contact with the recipient. Persons performing assessments shall possess skills and knowledge of the needs and dysfunctions of the specific target population in which the recipient is included. Persons from other relevant disciplines shall be included when results of the assessment are interpreted. The assessment shall document gaps in service and the recipient's unmet needs, to enable the case management provider to act as an advocate for the recipient and assist other human service providers in planning and program development on the recipient's behalf. All services which are appropriate to the recipient's needs shall be identified in the assessment, regardless of availability or accessibility of providers or their ability to provide the needed service. The written assessment of a recipient shall include:

1. Identifying information;

2. A record of any physical or dental health assessments and consideration of any potential for rehabilitation;

3. A record of the multi−disciplinary team evaluation required for a recipient who is a severely emotionally disturbed child under s. 49.45 (25), Stats.;

4. A review of the recipient's performance in carrying out activities of daily living, including moving about, caring for self, doing household chores and conducting personal business, and the amount of assistance required;

5. Social status and skills;

6. Psychiatric symptomatology, and mental and emotional status;

7. Identification of social relationships and support, as follows:

a. Informal caregivers, such as family, friends and volunteers; and

b. Formal service providers;

8. Significant issues in the recipient's relationships and social environment;

9. A description of the recipient's physical environment, especially in regard to safety and mobility in the home and accessibility;

10. The recipient's need for housing, residential support, adaptive equipment and assistance with decision−making;

11. An in−depth financial resource analysis, including identification of insurance, veterans' benefits and other sources of financial and similar assistance;

12. If appropriate, vocational and educational status, including prognosis for employment, rehabilitation, educational and vocational needs, and the availability and appropriateness of educational, rehabilitation and vocational programs;

13. If appropriate, legal status, including whether there is a guardian and any other involvement with the legal system;

14. Accessibility to community resources which the recipient needs or wants; and

15. Assessment of drug and alcohol use and misuse, for AODA target population recipients.

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http://docs.legis.wisconsin.gov/code/admin_code

(c) *Case planning*. Following the assessment with its determination of need for case management services, a written plan of care shall be developed to address the needs of the recipient. Development of the written plan of care is a covered case management service. To the maximum extent possible, the development of a care plan shall be a collaborative process involving the recipient, the family or other supportive persons and the case management provider. The plan of care shall be a negotiated agreement on the short and long term goals of care and shall include:

1. Problems identified during the assessment;

2. Goals to be achieved;

3. Identification of all formal services to be arranged for the recipient and their costs and the names of the service providers;

4. Development of a support system, including a description of the recipient's informal support system;

5. Identification of individuals who participated in development of the plan of care;

6. Schedules of initiation and frequency of the various services to be made available to the recipient; and

7. Documentation of unmet needs and gaps in service.

(d) *Ongoing monitoring and service coordination.* Ongoing monitoring of services and service coordination are covered case management services when performed by a single and identifiable employee of the agency or person under contract to the agency who meets the requirements under s. HFS 105.51 (2) (b). This person, the case manager, shall monitor services to ensure that quality service is being provided and shall evaluate whether a particular service is effectively meeting the client's needs. Where possible, the case manager shall periodically observe the actual delivery of services and periodically have the recipient evaluate the quality, relevancy and desirability of the services he or she is receiving. The case manager shall record all monitoring and quality assurance activities and place the original copies of these records in the recipient's file. Ongoing monitoring of services and service coordination include:

1. Face to face and phone contacts with recipients for the purpose of assessing or reassessing their needs or planning or monitoring services. Included in this activity are travel time to see a recipient and other allowable overhead costs that must be incurred to provide the service;

2. Face to face and phone contact with collaterals for the purposes of mobilizing services and support, advocating on behalf of a specific eligible recipient, educating collaterals on client needs and the goals and services specified in the plan, and coordinating services specified in the plan. In this paragraph, "collateral" means anyone involved with the recipient, including a paid provider, a family member, a guardian, a housemate, a school representative, a friend or a volunteer. Collateral contacts also include case management staff time spent on case−specific staffings and formal case consultation with a unit supervisor and other professionals regarding the needs of a specific recipient. All contacts with collaterals shall be documented and may include travel time and other allowable overhead costs that must be incurred to provide the service; and

3. Recordkeeping necessary for case planning, service implementation, coordination and monitoring. This includes preparing court reports, updating case plans, making notes about case activity in the client file, preparing and responding to correspondence with clients and collaterals, gathering data and preparing application forms for community programs, and reports. All time spent on recordkeeping activities shall be documented in the case record. A provider, however, may not bill for recordkeeping activities if there was no client or collateral contact during the billable month.

(2) OTHER LIMITATIONS. (a) Reimbursement for assessment and case plan development shall be limited to no more than one each for a recipient in a calendar year unless the recipient's county of residence has changed, in which case a second assessment or case plan may be reimbursed.

(b) Reimbursement for ongoing monitoring and service coordination shall be limited to one claim for each recipient by county per month and shall be only for the services of the recipient's designated case manager.

(c) Ongoing monitoring or service coordination is not available to recipients residing in hospitals, intermediate care or skilled nursing facilities. In these facilities, case management is expected to be provided as part of that facility's reimbursement.

(d) Case management services are not reimbursable when rendered to a recipient who, on the date of service, is enrolled in a health maintenance organization under s. HFS 107.28.

(e) Persons who require institutional care and who receive services beyond those available under the MA state plan but which are funded by MA under a federal waiver are ineligible for case management services under this section. Case management services for these persons shall be reimbursed as part of the regular per diem available under federal waivers and included as part of the waiver fiscal report.

(f) A recipient receiving case management services, or the recipient's parents, if the recipient is a minor child, or guardian, if the recipient has been judged incompetent by a court, may choose a case manager to perform ongoing monitoring and service coordination, and may change case managers, subject to the case manager's or agency's capacity to provide services under this section.

(3) NON–COVERED SERVICES. Services not covered as case management services or included in the calculation of overhead charges are any services which:

(a) Involve provision of diagnosis, treatment or other direct services, including:

1. Diagnosis of a physical or mental illness;

2. Monitoring of clinical symptoms;

3. Administration of medications;

4. Client education and training;

5. Legal advocacy by an attorney or paralegal;

6. Provision of supportive home care;

7. Home health care;

8. Personal care; and

9. Any other professional service which is a covered service under this chapter and which is provided by an MA certified or certifiable provider, including time spent in a staffing or case conference for the purpose of case management; or

(b) Involve information and referral services which are not based on a plan of care.

History: Cr. Register, February, 1988, No. 386, eff. 3−1−88.

HFS 107.33 Ambulatory prenatal services for recipients with presumptive eligibility. (1) COVERED SERVICES. Ambulatory prenatal care services are covered services. These services include treatment of conditions or complications that are caused by, exist or are exacerbated by a pregnant woman's pregnant condition.

(2) PRIOR AUTHORIZATION. An ambulatory prenatal service may be subject to a prior authorization requirement, when appropriate, as described in this chapter.

(3) OTHER LIMITATIONS. (a) Ambulatory prenatal services shall be reimbursed only if the recipient has been determined to have presumptive MA eligibility under s. 49.465, Stats., by a qualified provider under s. HFS 103.11.

(b) Services under this section shall be provided by a provider certified under ch. HFS 105.

History: Cr. Register, February, 1988, No. 386, eff. 3−1−88.

HFS 107.34 Prenatal care coordination services. (1) COVERED SERVICES. (a) *General.* 1. Prenatal care coordina-

tion services covered by MA are services described in this section that are provided by an agency certified under s. HFS 105.52 or by a qualified person under contract with an agency certified under s. HFS 105.52 to help a recipient and, when appropriate, the recipient's family gain access to medical, social, educational and other services needed for a successful pregnancy outcome. Nutrition counseling and health education are covered services when medically necessary to ameliorate identified high−risk factors for the pregnancy. In this subdivision,"successful pregnancy outcome" means the birth of a healthy infant to a healthy mother.

2. Prenatal care coordination services are available as an MA benefit to recipients who are pregnant, from the beginning of the pregnancy up to the sixty−first day after delivery, and who are at high risk for adverse pregnancy outcomes. In this subdivision, "high risk for adverse pregnancy outcome" means that a pregnant woman requires additional prenatal care services and follow−up because of medical or nonmedical factors, such as psychosocial, behavioral, environmental, educational or nutritional factors that significantly increase her probability of having a low birth weight baby, a preterm birth or other negative birth outcome. "Low birth weight" means a birth weight less than 2500 grams or 5.5 pounds and "preterm birth" means a birth before the gestational age of 37 weeks. The determination of high risk for adverse pregnancy outcome shall be made by use of the risk assessment tool under par. (c).

(b) *Outreach.* Outreach is a covered prenatal care coordination service. Outreach is activity which involves implementing strategies for identifying and informing low−income pregnant women who otherwise might not be aware of or have access to prenatal care and other pregnancy−related services.

(c) *Risk assessment.* A risk assessment of a recipient's pregnancy−related needs is a covered prenatal care coordination service. The assessment shall be performed by an employee of the certified prenatal care coordination agency or by an employee of an agency under contract with the prenatal care coordination agency. The assessment shall be completed in writing and shall be reviewed and finalized in a face−to−face contact with the recipient. All assessments performed shall be reviewed by a qualified professional under s. HFS 105.52 (2) (a). The risk assessment shall be performed with the risk assessment tool developed and approved by the department.

(d) *Care planning*. Development of an individualized plan of care for a recipient is a covered prenatal care coordination service when performed by a qualified professional as defined in s. HFS 105.52 (2) (a), whether that person is an employee of the agency or under contract with the agency under s. HFS 105.52 (2). The recipient's individualized written plan of care shall be developed with the recipient. The plan shall identify the recipient's needs and problems and possible services which will reduce the probability of the recipient having a preterm birth, low birth weight baby or other negative birth outcome. The plan of care shall include all possible needed services regardless of funding source. Services in the plan shall be related to the risk factors identified in the assessment. To the maximum extent possible, the development of a plan of care shall be done in collaboration with the family or other supportive persons. The plan shall be signed by the recipient and the employee responsible for the development of the plan and shall be reviewed and, if necessary, updated by the employee in consultation with the recipient at least every 60 days. Any updating of the plan of care shall be in writing and shall be signed by the recipient. The plan of care shall include:

1. Identification and prioritization of all risks found during the assessment, with an attached copy of the risk assessment under par. (c);

2. Identification and prioritization of all services to be arranged for the recipient by the care coordinator under par. (e) 2. and the names of the service providers including medical providers;

3. Description of the recipient's informal support system, including collaterals as defined in par. (e) 1., and any activities to strengthen it;

4. Identification of individuals who participated in the development of the plan of care;

5. Arrangements made for and frequency of the various services to be made available to the recipient and the expected outcome for each service;

6. Documentation of unmet needs and gaps in service; and

7. Responsibilities of the recipient.

(e) *Ongoing care coordination.* 1. In this paragraph, "collaterals" means anyone who is in direct supportive contact with the recipient during the pregnancy such as a service provider, a family member, the prospective father or any person acting as a parent, a guardian, a medical professional, a housemate, a school representative or a friend .

2. Ongoing coordination is a covered prenatal care coordination service when performed by an employee of the agency or person under contract to the agency who serves as care coordinator and who is supervised by the qualified professional required under s. HFS 105.52 (2) (b) 2. The care coordinator shall follow−up the provision of services to ensure that quality service is being provided and shall evaluate whether a particular service is effectively meeting the recipient's needs as well as the goals and objectives of the care plan. The amount of service provided shall be commensurate with the specific risk factors addressed in the plan of care and the overall level of risk. Ongoing care coordination services include:

a. Face−to−face and phone contacts with recipients for the purpose of determining if arranged services have been received and are effective. This shall include reassessing needs and revising the written plan of care. Face−to−face and phone contact with collaterals are included for the purposes of mobilizing services and support, advocating on behalf of a specific eligible recipient, informing collateral of client needs and the goals and services specified in the care plan and coordinating services specified in the care plan. Covered contacts also include prenatal care coordination staff time spent on case−specific staffings regarding the needs of a specific recipient. All billed contacts with a recipient or a collateral and staffings related to the recipient shall be documented in the recipient prenatal care coordination file; and

b. Recordkeeping documentation necessary and sufficient to maintain adequate records of services provided to the recipient. This may include verification of the pregnancy, updating care plans, making notes about the recipient's compliance with program activities in relation to the care plan, maintaining copies of written correspondence to and for the recipient, noting of all contacts with the recipient and collateral, ascertaining and recording pregnancy outcome including the infant's birth weight and health status and preparation of required reports. All plan of care management activities shall be documented in the recipient's record including the date of service, the person contacted, the purpose and result of the contact and the amount of time spent. A care coordination provider shall not bill for recordkeeping activities if there was no client contact during the billable month.

(f) *Health education.* Health education, either individually or in a group setting, is a covered prenatal care coordination service when provided by an individual who is a qualified professional under s. HFS 105.52 (2) (a) and who by education or at least one year of work experience has the expertise to provide health education. Health education is a covered service if the medical need for it is identified in the risk assessment and the strategies and goals for it are part of the care plan to ameliorate a pregnant woman's identified risk factors in areas including, but not limited to, the following:

1. Education and assistance to stop smoking;

2. Education and assistance to stop alcohol consumption;

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3. Education and assistance to stop use of illicit or street drugs;

4. Education and assistance to stop potentially dangerous sexual practices;

5. Education on environmental and occupational hazards related to pregnancy;

6. Lifestyle management consultation;

8. Reproductive health education;

9. Parenting education; and

10. Childbirth education.

(g) *Nutrition counseling.* Nutrition counseling is a covered prenatal care coordination service if provided either individually or in a group setting by an individual who is a qualified professional under s. HFS 105.52 (2) (a) with expertise in nutrition counseling based on education or at least one year of work experience. Nutrition counseling is a covered prenatal care coordination service if the medical need for it is identified in the risk assessment and the strategies and goals for it are part of the care plan to ameliorate a pregnant woman's identified risk factors in areas including, but not limited to, the following:

1. Weight and weight gain;

2. A biochemical condition such as gestational diabetes;

3. Previous nutrition−related obstetrical complications;

4. Current nutrition−related obstetrical complications;

5. Psychological problems affecting nutritional status;

6. Dietary factors affecting nutritional status; and

7. Reproductive history affecting nutritional status.

(2) LIMITATIONS. (a) Reimbursement for risk assessment and development of a care plan shall be limited to no more than one each for a recipient per pregnancy.

(b) Reimbursement of a provider for on−going prenatal care coordination and health education and nutrition counseling provided to a recipient shall be limited to one claim for each recipient per month and only if the provider has had contact with the recipient during the month for which services are billed.

(c) Prenatal care coordination is available to a recipient residing in an intermediate care facility or skilled nursing facility or as an inpatient in a hospital only to the extent that it is not included in the usual reimbursement to the facility.

(d) Reimbursement of a provider for prenatal care coordination services provided to a recipient after delivery shall only be made if that provider provided prenatal care coordination services to that recipient before the delivery.

(e) A prenatal care coordination service provider shall not terminate provision of services to a recipient it has agreed to provide services for during the recipient's pregnancy unless the recipient initiates or agrees to the termination. If services are terminated prior to delivery of the child, the termination shall be documented in writing and the recipient shall sign the statement to indicate agreement. If the provider cannot contact a recipient in order to obtain a signature for the termination of services, the provider will document all attempts to contact the recipient through telephone logs and certified mail.

(f) Reimbursement for prenatal care coordination services shall be limited to a maximum amount per pregnancy as established by the department.

(3) NON−COVERED SERVICES. Services not covered as prenatal care coordination services are the following:

(a) Diagnosis and treatment, including:

1. Diagnosis of a physical or mental illness;

2. Follow−up of clinical symptoms;

3. Administration of medications; and

4. Any other professional service, except nutrition counseling or health education, which is a covered service by an MA certified or certifiable provider under this chapter;

(b) Client vocational training;

(c) Legal advocacy by an attorney or paralegal;

(d) Care monitoring, nutrition counseling or health education not based on a plan of care;

(e) Care monitoring, nutrition counseling or health education which is not reasonable and necessary to ameliorate identified prenatal risk factors; and

(f) Transportation.

History: Cr. Register, June, 1994, No. 462, eff. 7−1−94.

HFS 107.36 School−based services. (1) COVERED SERVICES. (a) *General.* 1. School−based services covered by the MA program are services described in this section that are provided by a school district or CESA.

2. The school district or CESA shall ensure that individuals who deliver the services, whether employed directly by or under contract with the school district or CESA, are licensed under ch. PI 3, Trans 301 or ch. 441, Stats.

3. Notwithstanding s. HFS 106.13 (intro.) and (1) (c), requirements under chs. HFS 101 to 108 as they relate to school−based services, to the extent consistent with 42 CFR ch. IV, may be waived if they are inconsistent with other federal education mandates.

4. Consultation, case monitoring and coordination related to developmental testing under the individuals with disabilities education act, 20 USC 1400 to 1485, are included in the MA−covered services described in this subsection when an IEP results from the testing. Consultation, case monitoring and coordination for IEP services are also included in the covered services described in this subsection.

(b) *Speech, language, hearing and audiological services.* Speech, language, hearing and audiological services for a recipient with a speech, language or hearing disorder that adversely affects the individual's functioning are covered school−based services. These services include evaluation and testing to determine the individual's need for the service, recommendations for a course of treatment and treatment. The services may be delivered to an individual or to a group of 2 to 7 individuals. The services shall be performed by or under the direction of a speech and language pathologist licensed by the department of public instruction under s. PI 3.35 or by an audiologist licensed by the department of public instruction under s. PI 3.355, and shall be identified in the recipient's IEP.

(c) *Occupational therapy services.* Occupational therapy services which identify, treat, or compensate for medical problems that interfere with age−appropriate functional performance are covered school−based services. These services include evaluation to determine the individual's need for occupational therapy, recommendations for a course of treatment, and rehabilitative, active or restorative treatment services. The services may be delivered to an individual or to a group of 2 to 7 individuals. The services shall be performed by or under the direction of an occupational therapist licensed by the department of public instruction under s. PI 3.36 and shall be identified in the recipient's IEP.

(d) *Physical therapy services.* Physical therapy services which identify, treat, or compensate for medical problems are covered school−based services. These services include evaluation to determine the individual's need for physical therapy, recommendations for a course of treatment, and therapeutic exercises and rehabilitative procedures. The services may be delivered to an individual or to a group of 2 to 7 individuals. The services shall be performed by or under the direction of a physical therapist licensed by the department of public instruction under s. PI 3.37 and shall be prescribed by a physician when required by the physical therapists affiliated credentialing board and identified in the recipient's IEP.

(e) *Nursing services.* Professional nursing services relevant to the recipient's medical needs are covered school−based ser-

vices. These services include evaluation and management services, including screens and referrals for treatment of health needs; treatment; medication management; and explanations given of treatments, therapies and physical or mental conditions to family members or school district or CESA staff. The services shall be performed by a registered nurse licensed under s. 441.06, Stats., or a licensed practical nurse licensed under s. 441.10, Stats., or be delegated under nursing protocols pursuant to ch. N 6. The services shall be prescribed or referred by a physician or an advanced practice nurse as defined under s. N 8.02 (1) with prescribing authority granted under s. 441.16 (2), Stats., and shall be identified in the recipient's IEP.

(f) *Psychological counseling and social work services.* Psychological counseling and social work services relevant to the recipient's mental health needs with the intent to reasonably improve the recipient's functioning are covered school−based services. These services include testing, assessment and evaluation that appraise cognitive, emotional and social functioning and self−concept; therapy or treatment that plans, manages and provides a program of psychological counseling or social work services to individuals with psychological or behavioral problems; and crisis intervention. The services may be delivered to an individual or to a group of 2 to 10 individuals. The services shall be performed by a school psychologist, school counselor or school social worker licensed by the department of public instruction under ch. PI 3. The services shall be identified in the individual's IEP.

(g) *Developmental testing and assessments under IDEA.* Developmental testing and assessments under the individuals with disabilities education act (IDEA), 20 USC 1400 to 1485, are covered school–based services when an IEP results. These services include evaluations, tests and related activities that are performed to determine if motor, speech, language or psychological problems exist, or to detect developmental lags for the determination of eligibility under IDEA. The services are also covered when performed by a therapist, psychologist, social worker, counselor or nurse licensed by the department of public instruction under ch. PI 3, as part of their respective duties.

(h) *Transportation.* Transportation services provided to individuals who require special transportation accommodations are covered school–based services if the recipient receives a school–based service other than transportation on the day transportation is provided. These services include transportation from the recipient's home to and from school on the same day if the school–based service is provided in the school, and transportation from school to a service site and back to school or home if the school–based service is provided at a non–school location, such as at a hospital. Transportation shall be performed by a school district, CESA or contracted provider. The service shall be included in the IEP. The covered service that the recipient is transported to and from shall meet MA requirements for that service under ch. HFS 105 and this chapter.

(i) *Durable medical equipment.* Durable medical equipment except equipment covered in s. HFS 107.24 is a covered service if the need for the equipment is identified in the recipient's IEP, the equipment is recipient−specific, the equipment is not duplicative of equipment the recipient currently owns and the equipment is for the recipient's use at school and home. Only durable medical equipment related to speech−language pathology, physical therapy or occupational therapy will be covered under the school based services benefit. The recipient, not the school district or the CESA, shall own the equipment.

(2) LIMITATIONS.. (a) *Age limit.* School−based services may only be provided to MA−eligible recipients between 3 and 21 years of age, or for the school term during which an MA−eligible recipient becomes 21 years of age.

(b) *Medically necessary.* School−based services shall be medically necessary. In this paragraph "medically necessary" has the meaning prescribed in s. HFS 101.03 (96m) and in addition means services that:

1. Identify, treat, manage or address a medical problem or a mental, emotional or physical disability;

2. Are identified in an IEP;

3. Are necessary for a recipient to benefit from special education, as defined in s. PI 3.01 (36); and

4. Are referred or prescribed by a physician or advanced practice nurse, as defined under s. N 8.02 (1), with prescribing authority granted under s. 441.16 (2), Stats., where appropriate, or a psychologist, where appropriate.

(3) NON–COVERED SERVICES.. Services not covered as school−based services are the following:

(a) Art, music and recreational therapies;

(b) Services that are strictly educational, vocational or pre−vocational in nature, or that are otherwise without a defined medical component;

(c) Services that are not in the recipient's IEP or IFSP;

(d) Services performed by a provider not specifically certified under s. HFS 105.53;

(e) General classroom instruction and programming;

(f) Staff development;

(g) In−school services to school staff and parents;

(h) General research and evaluation of the effectiveness of school programs;

(i) Administration or coordination of gifted and talented programs or student assistance programs;

(j) Kindergarten or other routine screening provided free of charge unless resulting in an IEP or IFSP referral;

(k) Diapering;

(L) Durable medical equipment covered under s. HFS 107.24; and

(m) Non−medical feeding.

History: Emerg. cr. eff. 6−15−96; cr. Register, January, 1997, No. 493, eff. 2−1−97; correction in (2) (b) 3. made under s. 13.93 (2m) (b) 7., Stats., Register February 2002 No. 554; **CR 03−033: am. (1) (a) 4., (b) to (i), (2) (a) and (b) 2. Register December 2003 No. 576, eff. 1−1−04**.