

Chapter HSS 105

MEDICAL ASSISTANCE: PROVIDER CERTIFICATION

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Note: Chapter HSS 105 as it existed on February 28, 1986 was repealed and a new chapter HSS 105 was created effective March 1, 1986.

HSS 105.01 Introduction. (1) **PURPOSE.** This chapter identifies the terms and conditions under which providers of health care services are certified for participation in the medical assistance program (MA).

(2) **DEFINITIONS.** In this chapter:

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(a) "Group billing provider" means an entity which provides or arranges for the provision of medical services by more than one certified provider.

(b) "Provider assistant" means a provider such as a physical therapist assistant whose services must be provided under the supervision of a certified or licensed professional provider, and who, while required to be certified, is not eligible for direct reimbursement from MA.

(3) GENERAL CONDITIONS FOR PARTICIPATION. In order to be certified by the department to provide specified services for a reasonable period of time as specified by the department, a provider shall:

(a) Affirm in writing that, with respect to each service for which certification is sought, the provider and each person employed by the provider for the purpose of providing the service holds all licenses or similar entitlements as specified in chs. HSS 101 to 108 and required by federal or state statute, regulation or rule for the provision of the service;

(b) Affirm in writing that neither the provider, nor any person in whom the provider has a controlling interest, nor any person having a controlling interest in the provider, has, since the inception of the medicare, medicaid, or title 20 services program, been convicted of a crime related to, or been terminated from, a federal-assisted or state-assisted medical program;

(c) Disclose in writing to the department all instances in which the provider, any person in whom the provider has a controlling interest, or any person having a controlling interest in the provider has been sanctioned by a federal-assisted or state-assisted medical program, since the inception of medicare, medicaid or the title 20 services program;

(d) Furnish the following information to the department, in writing:

1. The names and addresses of all vendors of drugs, medical supplies or transportation, or other providers in which it has a controlling interest or ownership;

2. The names and addresses of all persons who have a controlling interest in the provider; and

3. Whether any of the persons named in compliance with subd. 1 or 2, is related to another as spouse, parent, child or sibling; and

(e) Execute a provider agreement with the department.

(4) PROVIDERS REQUIRED TO BE CERTIFIED. The following types of providers are required to be certified by the department in order to participate in the MA program:

(a) Institutional providers;

(b) Non-institutional providers;

(c) Provider assistants; and

(d) Group billing providers.

(5) PERSONS NOT REQUIRED TO BE INDIVIDUALLY CERTIFIED. The following persons are not required to be individually certified by the department in order to participate in the MA program:

HSS 105.15 Certification of pharmacies. For MA certification, pharmacies shall meet the requirements for registration and practice enumerated in ss. 450.02 and 450.04, Stats., and chs. Phar 1 to 6.

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

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

(1) HOME HEALTH AGENCY SERVICES. For MA certification, a home health agency shall provide at least part-time or intermittent skilled nursing services, or both, which are performed by a registered nurse, home health aide services and medical supplies and equipment, on a visiting basis, in a place of residence used as a recipient's home. The home health agency or qualified professionals under contract to the home health agency may provide physical therapy, occupational therapy and speech and language pathology services. Home health services shall be provided in accordance with orders from the recipient's physician in a written plan of care that the physician reviews at least every 60 days.

(2) HOME HEALTH AIDES. (a) *Assignment and duties.* Home health aides shall be assigned to specific recipients by a registered nurse. Written instructions for patient care shall be prepared by a registered nurse, a physical or occupational therapist or a speech and language pathologist, as appropriate. Duties shall include tasks such as assisting the recipient with personal hygiene, dressing, feeding, transfer or ambulatory needs as an extension of therapy services, assistance with medications that are normally self-administered, reporting changes in the recipient's condition and needs, and completing appropriate records. Any household tasks performed shall be incidental to the recipient's health care needs and may occupy no more than 25% of the home health aide's time during a visit.

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

(b) *Supervision.* The registered nurse, or a therapist or speech and language pathologist, as appropriate, when other services are provided, shall make a supervisory visit to the recipient's residence at least once every 60 days, either to observe and assist when the home health aide is present or, when the aide is absent, to assess relationships and determine whether goals are being met.

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

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

(5) SPEECH AND LANGUAGE PATHOLOGISTS. Speech and language pathologists may be employed by the home health agency or by an

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agency under contract to the home health agency, or may be independent providers under contract to the home health agency.

History: Cr. Register, February, 1986, No. 362, eff. 3-1-86; am. (intro.), (1) and (2), r. and recr. (3), cr. (4) and (5), Register, April, 1988, No. 388, eff. 7-1-88.

HSS 105.17 Certification of personal care providers. (1) REQUIREMENTS. For MA certification, a personal care provider shall be a home health agency licensed under s. 141.15, Stats., and ch. HSS 133. A certified provider shall:

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

- (m) Bill the medical assistance program for personal care services, for registered nurse supervisory visits and for disposable medical supplies;
- (n) Give full consideration to a recipient's preferences for service arrangements and choice of personal care workers;
- (o) Document a grievance mechanism to resolve recipients' complaints about personal care services, including a personal care provider's decision not to hire a recipient's choice of a personal care worker;
- (p) Perform all functions and provide all services specified in a written personal care provider contract between the personal care provider and personal care workers under contract, and maintain a copy of that contract on file. Document performance of personal care workers under contract by maintaining time sheets of personal care workers which will document the types and duration of services provided, by funding source;
- (q) Provide a written plan of operation describing the entire process from referral through delivery of services and follow-up;
- (r) Provide the personal care worker with the basic materials and equipment needed to deliver personal care services;
- (s) Cooperate with other health and social service agencies in the area and with interested community referral groups to avoid duplication of services and to provide coordination of personal care services to recipients; and
- (t) Evaluate each personal care worker's work performance on a periodic basis.

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

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

1. Be licensed in Wisconsin pursuant to s. 441.06, Stats.;
2. Be a public health nurse or be currently or previously employed by a home health agency, an independent living center or a hospital rehabilitation unit; and
3. Provide documentation of experience in providing personal care services in the home.

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

1. Evaluate the need for service and make referrals to other services as appropriate;
2. Secure written orders from the recipient's physician. These orders are to be renewed once every 3 months unless the physician specifies that orders covering a period of time up to one year are appropriate, or when the recipient's needs change, whichever occurs first;
3. Develop a plan of care for the recipient, giving full consideration to the recipient's preferences for service arrangements and choice of personal care workers, interpret the plan to the personal care worker, include a copy of the plan in the recipient's health record, and review the plan at least every 60 days and update it as necessary;

4. Develop appropriate time and service reporting mechanisms for personal care workers and instruct the workers on their use;
5. Give the worker written instructions about the services to be performed and demonstrate to the worker how to perform the services; and
6. Evaluate the competency of the worker to perform the services.

(3) **QUALIFICATIONS AND DUTIES OF PERSONAL CARE WORKERS.** (a) *Qualifications.* Personal care workers shall have the following qualifications:

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

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

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

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

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

1. Perform tasks assigned by the RN supervisor;
2. Report in writing to the RN supervisor on each assignment;
3. Report any changes in the recipient's condition to the RN supervisor; and
4. Confer as required with the RN supervisor regarding the recipient's progress.

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

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

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(1) Records of supervisory visits.

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