# Chapter HSS 105

## PROVIDER CERTIFICATION



Note: Chapter HSS 105 as it existed on February 28, 1986 was repealed and a new chapter HSS 105 was created effective March 1, 1986.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

(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:

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tract 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

(i) Records of supervisory visits.

History: Cr. Register, April, 1988, No. 388, eff. 7-1-88; emerg. am. (1) (intro.), eff. 7-1-88; am. (1) (intro.), Register, December, 1988, No. 396, eff. 1-1-89.

**HSS 105.19 Certification of independent nurses.** (1) For MA certification, an independent registered nurse shall be licensed pursuant to s. 441.06, Stats.

(2) For MA certification, an independent licensed practical nurse shall be licensed pursuant to s. 441.10, Stats.

History: Cr. Register, February, 1986, No. 362, eff. 3-1-86; r. and recr. Register, January, 1991, No. 421, eff. 2-1-91.

**HSS 105.20 Certification of nurse practitioners.** (1) QUALIFICATIONS. For MA certification, a nurse practitioner shall be licensed as a registered nurse pursuant to s. 441.06, Stats., and fulfill one of the following requirements:

(a) If practicing as a pediatric nurse practitioner, be currently certified by the American nurses' association or by the national board of pediatric nurse practitioners and associates;

(b) If practicing as any family nurse practitioner, be currently certified by the American nurses' association; or

(c) If practicing as any other primary care nurse practitioner or as a clinical nurse specialist, be currently certified by the American nurses' association, the national certification board of pediatric nurse practitioners and associates, or the nurses' association of the American college of obstetricians and gynecologists' certification corporation, or have a master's degree in nursing from a school accredited by a program designed to prepare a registered nurse for advanced clinical nurse practice.

(2) PROTOCOLS. A written protocol covering a service or delegated medical act that may be provided and procedures that are to be followed for provision of services by nurse practitioners shall be developed and maintained by the nurse practitioner and the delegating licensed physician according to the requirements of s. N 6.03 (2) and the guidelines set forth by the board of nursing. This protocol shall include, but is not limited to, explicit agreements regarding those delegated medical acts which the nurse practitioner or clinical nurse specialist is delegated by the physician to provide. A protocol shall also include arrangements for communication of the physician's directions, consultation with the physician, assistance with medical emergencies, patient referrals and other provisions relating to medical procedures and treatment.

History: Cr. Register, February, 1986, No. 362, eff. 3-1-86; r. and recr. Register, January, 1991, No. 421, eff. 2-1-91.

**HSS 105.201 Certification of nurse-midwives.** For MA certification, a nurse midwife shall be certified as a registered nurse under s. HSS 105.19 (1) and shall be certified as a nurse midwife under ch. N 4.

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

**HSS 105.21 Certification of psychiatric hospitals.** (1) REQUIREMENTS. For MA certification, psychiatric hospitals shall:

(a) Be approved pursuant to s. 50.35, Stats., and ch. HSS 124, and either be certified for participation in medicare or accredited by the joint commission on the accreditation of hospitals (JCAH);

(b) Have a utilization review plan that meets the requirements of 42 CFR 405.1035, 405.1037 and 405.1038;

(c) If participating in the PRO review program, meet the requirements of that program and any other requirements established under the state contract with the PROs;

(d) If providing outpatient psychotherapy, comply with s. HSS 105.22;

(e) If providing outpatient alcohol and other drug abuse services, comply with s. HSS 105.23; and

(f) If providing day treatment services, comply with s. HSS 105.24.

(2) WAIVERS AND VARIANCES. The department shall consider applications for waivers or variances of the requirements in sub. (1) if the requirements and procedures stated in s. HSS 106.11 are followed.

Note: For covered mental health services, see s. HSS 107.13.

History: Cr. Register, February, 1986, No. 362, eff. 3-1-86; correction in (1) (a) made under s. 13.93 (2m) (b) 7, Stats., Register, June, 1990, No. 414.

**HSS 105.22 Certification of psychotherapy providers.** (1) TYPES OF PSYCHOTHERAPY PROVIDERS. For MA certification, psychotherapy providers shall be one of the following:

(a) A physician meeting the requirements of s. HSS 105.05 (1) who has completed a residency in psychiatry. Proof of residency shall be provided to the department. Proof of residency shall either be board-certification from the American board of psychiatry and neurology or a letter from the hospital in which the residency was completed;

(b) A psychologist licensed under ch. 455, Stats., who is listed or eligible to be listed in the national register of health services providers in psychology;

(c) A board-operated outpatient facility certified under ss. HSS 61.91 to 61.98; or

(d) An outpatient facility certified under ss. HSS 61.91 to 61.98, which provides MA services under contract to a board.

(2) AGREEMENT WITH BOARD. All providers certified under sub. (1) (a), (b), or (d) shall have a written agreement with a board to be eligible for reimbursement for psychotherapy services.

(3) STAFFING OF OUTPATIENT FACILITIES. (a) To provide psychotherapy reimbursable by MA, personnel employed by an outpatient facility deemed a provider under sub. (1) (d) shall be individually certified and shall work under the supervision of a physician or psychologist who meets the requirements of sub. (1) (a) or (b). Persons employed by a board-operated or hospital outpatient psychotherapy facility need not be individually certified as providers but may provide psychotherapy services upon the department's issuance of certification to the facility by which they are employed. In this case, the facility shall provide a list of the names of persons employed by the facility who are performing psychotherapy services for which reimbursement may be claimed under MA. This listing shall certify the credentials possessed by the named persons which would qualify them for certification under the standards spec-

**HSS 105.26 Certification of chiropractors.** For MA certification, chiropractors shall be licensed pursuant to s. 446.02, Stats.

Note: For covered chiropractic services, see s. HSS 107.15.

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

**HSS 105.265 Certification of podiatrists.** For MA certification, podiatrists shall be licensed under ss. 448.02 (1) and 448.04 (1) (d), Stats., and ch. Med 6 and registered under s. 448.07, Stats., and ch. Med 14.

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

**HSS 105.27 Certification of physical therapists and assistants.** (1) PHYSICAL THERAPISTS. For MA certification, physical therapists shall be licensed pursuant to ss. 448.05 and 448.07, Stats., and ch. Med 7.

(2) PHYSICAL THERAPIST ASSISTANTS. For MA certification, physical therapist assistants shall have graduated from a 2-year college-level program approved by the American physical therapy association, and shall provide their services under the direct, immediate, on-premises supervision of a physical therapist certified pursuant to sub. (1). Physical therapist assistants may not bill or be reimbursed directly for their services.

Note: For covered physical therapy services, see s. HSS 107.16.

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

**HSS 105.28 Certification of occupational therapists and assistants.** (1) OCCUPATIONAL THERAPISTS. For MA certification, an occupational therapist shall:

(a) Be certified by the American occupational therapy association as an occupational therapist, registered; or

(b) Have graduated from a program in occupational therapy accredited by the council on medical education of the American medical association and the American occupational therapy association, have completed the required field work experience, and have made application to the American occupational therapy association for the certification examination for occupational therapist, registered. Certification under this paragraph shall be valid until 8 weeks after the examination is taken. On passing the examination, the therapist shall obtain certification by the American occupational therapy association in the calendar year in which the examination is taken. An individual certified under this paragraph for medical assistance who fails the examination may be recertified for medical assistance only under the conditions of par. (a).

(2) OCCUPATIONAL THERAPY ASSISTANTS. For MA certification, occupational therapy assistants shall be certified by the American occupational therapy association. Occupational therapy assistants may not bill or be reimbursed directly for their services. Occupational therapy assistants shall provide services under the direct, immediate on-premises supervision of an occupational therapist certified under sub. (1), except

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