

Clearinghouse Rule 98-048



State of Wisconsin / OFFICE OF THE COMMISSIONER OF INSURANCE



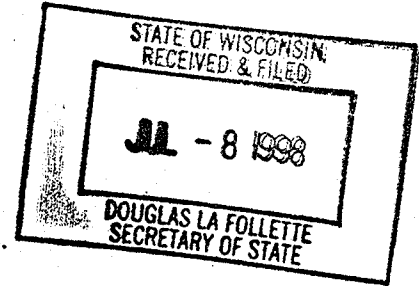
Tommy G. Thompson
Governor

Randy Blumer
Commissioner (Acting)

121 East Wilson Street • P.O. Box 7873
Madison, Wisconsin 53707-7873
Phone: (608) 266-3585 • Fax: (608) 266-9935
E-Mail: ocioci@mail.state.wi.us
http://badger.state.wi.us/agencies/oci/oci_home.htm

STATE OF WISCONSIN
OFFICE OF THE COMMISSIONER OF INSURANCE

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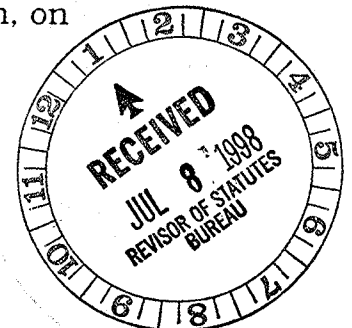


I, Randy Blumer, Commissioner of Insurance and custodian of the official records, certify that the annexed rule affecting Section Ins 17.01(3)(intro.), (a) and (b), 17.28(4)(cm), 17.28(6a) and (b) 17.35(2b)(title), (b), (c) and (d), Wis. Adm. Code, relating to annual patients compensation fund and mediation fund fees for the fiscal year beginning July 1, 1998, is duly approved and adopted by this Office on July 8, 1998.

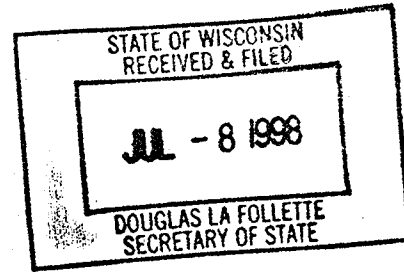
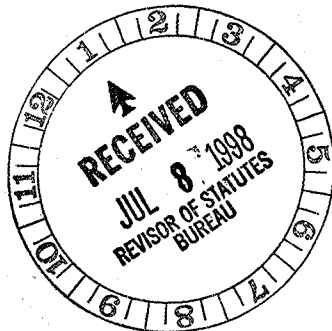
I further certify that I have compared this copy with the original on file in this Office and that it is a true copy of the original, and the whole of the original.

IN TESTIMONY WHEREOF, I have hereunto set my hand at 121 East Wilson Street, Madison, Wisconsin, on July 8, 1998.

Randy Blumer
Randy Blumer
Commissioner of Insurance



9-1-98
98-048



ORDER OF THE OFFICE OF THE COMMISSIONER OF INSURANCE
AND THE BOARD OF GOVERNORS OF THE PATIENTS COMPENSATION FUND
AMENDING AND REPEALING AND RECREATING A RULE

The office of the commissioner of insurance and the board of governors of the patients compensation fund propose an order to amend s. Ins 17.01 (3) (intro.) (a) and (b), s. Ins 17.28 (4) (cm), s. Ins 17.28 (6a), and s. Ins 17.35 (2b) (title), to repeal and recreate s. Ins 17.28 (6) and s. Ins 17.35 (2b) (b), and to create s. Ins 17.35 (2b) (c) and (d), relating to annual patients compensation fund and mediation fund fees for the fiscal year beginning July 1, 1998, to limit fund fee refund requests to the current and immediate prior year only, and to establish standards for the application of the aggregate underlying liability limits upon the termination of a claims-made policy.

ANALYSIS PREPARED BY THE OFFICE OF THE COMMISSIONER OF INSURANCE

Statutory authority: ss. 601.41 (3), 655.004, 655.23 (4), 655.27 (3) (b) and 655.61, Stats.

Statutes interpreted: ss. 655.27 (3) and 655.23 (4), Stats.

The commissioner of insurance, with the approval of the board of governors (board) of the patients compensation fund (fund), is required to establish by administrative rule the annual fees which

participating health care providers must pay to the fund. This rule establishes those fees for the fiscal year beginning July 1, 1998. These fees incorporate changes to class 2 and 3 relativities based on experience factors with an overall impact of zero compared with fees paid for the 1997-98 fiscal year. The board approved this change in relativities with no overall increase in fees at its meeting on February 25, 1998, based on the recommendation of the board's actuarial and underwriting committee.

The board is also required to promulgate by rule the annual fees for the operation of the patients compensation mediation system, based on the recommendation of the director of state courts. This rule implements the director's funding level recommendation by establishing mediation panel fees for the next fiscal year at \$16.00 for physicians and \$1.00 per occupied bed for hospitals, representing a 50% decrease from 1997-98 fiscal year fees.

This rule also limits fund fee refunds to the current fiscal year and the immediate prior fiscal year in s. Ins 17.28 (4) (cm). This rule in s. Ins 17.35 (2b) (b), (c) and (d) sets standards for the application of the aggregate underlying liability limits upon the termination of a claims-made policy based on the actuarial equivalence of an occurrence policy.

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

Ins 17.01 (3) FEE SCHEDULE. (intro.) The following fee schedule shall be effective July 1, ~~1997~~ 1998

(a) For physicians—~~\$38.00~~ \$16.00.

(b) For hospitals, per occupied bed—~~\$3.00~~ \$1.00.

SECTION 2. Ins 17.28 (4) (cm) is amended to read:

Ins 17.28 (4) (cm) Eligibility for exemption, refund. If a provider claims an exemption after paying all or part of the annual fee, the fund shall issue a refund equal to one twenty-fourth of the provider's annual fee for each full semi-monthly period from the date the provider becomes eligible for the exemption to the due date of the next payment. The refund for any past exemption period will be limited to the current fiscal year and the immediate prior fiscal year.

SECTION 3. Ins 17.28 (6a) is amended to read:

Ins 17.28 (6a) FEES FOR OCI APPROVED SELF-INSURED HEALTH CARE

PROVIDERS. The following fee schedule is in effect from July 1, 1997 to June 30, ~~1998~~ 1999 for OCI approved self-insured health care providers who elect, pursuant to s. 655.23 (4) (c) 2, Stats., to increase their per occurrence limit to \$600,000 for each occurrence on or after July 1, 1997, provided such self-insured provider has filed an amended self-insured plan document reflecting the increased coverage levels with the office of the commissioner of insurance and with the patients compensation fund on or before August 15, 1997:

The fees set forth in sub. (6) multiplied by 1.161.

SECTION 4. Ins 17.28 (6) is repealed and recreated to read:

Ins 17.28 (6) FEE SCHEDULE. The following fee schedule is in effect from July 1, 1998, to June 30, 1999:

(a) Except as provided in pars. (b) to (g) and sub. (6e), for a physician for whom this state is a principal place of practice:

Class 1	\$2,721	Class 3	\$11,292
Class 2	\$5,170	Class 4	\$16,326

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

Class 1	\$1,361	Class 3	\$5,648
Class 2	\$2,586	Class 4	\$8,166

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

All classes	\$1,633
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(d) For a medical college of Wisconsin, inc., full-time faculty member:

Class 1	\$1,088	Class 3	\$4,515
Class 2	\$2,067	Class 4	\$6,528

(e) For a physician who practices fewer than 500 hours during the fiscal year, limited to office practice and nursing home and house calls, and who does not practice obstetrics or surgery or assist in surgical procedures: \$680

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

Class 1	\$1,361	Class 3	\$5,648
Class 2	\$2,586	Class 4	\$8,166

(g) For a nurse anesthetist for whom this state is a principal place of practice: \$678

(h) For a nurse anesthetist for whom this state is not a principal place of practice: \$339

(i) For a hospital:

1. Per occupied bed \$167, plus
2. Per 100 outpatient visits during the last calendar year for which totals are available. \$8.35

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

Per occupied bed \$31

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

1. a. If the total number of partners and employed physicians and nurse anesthetists is from 2 to 10 \$95

b. If the total number of partners and employed physicians and nurse anesthetists is from 11 to 100 \$947

c. If the total number of partners and employed physicians and nurse anesthetists exceeds 100 \$2,368

2. The following fee for each of the following employees employed by the partnership as of July 1, 1998:

Employed Health Care Persons	July 1, 1998 Fund Fee
Nurse Practitioner	\$ 680
Advanced Nurse Practitioner	952
Nurse Midwives	5,986
Advanced Nurse Midwives	6,258
Advanced Practice Nurse Prescribers	952
Chiropractors	1,088
Dentists	544
Oral Surgeons	4,082
Podiatrists-Surgical	11,564
Optometrists	544
Physician Assistant	544

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

1. a. If the total number of shareholders and employed physicians and nurse anesthetists is from 2 to 10 \$95
- b. If the total number of shareholders and employed physicians and nurse anesthetists is from 11 to 100 \$947
- c. If the total number of shareholders and employed physicians or nurse anesthetists exceeds 100 \$2,368

2. The following for each of the following employes employed by the corporation as of July 1, 1998:

Employed Health Care Persons	July 1, 1998 Fund Fee
Nurse Practitioner	\$ 680
Advanced Nurse Practitioner	952
Nurse Midwives	5,986

Advanced Nurse Midwives	6,258
Advanced Practice Nurse Prescribers	952
Chiropractors	1,088
Dentists	544
Oral Surgeons	4,082
Podiatrists-Surgical	11,564
Optometrists	544
Physician Assistant	544

(m) For a corporation organized under ch. 181, Stats., for the primary purpose of providing the medical services of physicians or nurse anesthetists, all of the following fees:

1. a. If the total number of employed physicians and nurse anesthetists is from
1 to 10 \$95
- b. If the total number of employed physicians and nurse anesthetists is from
11 to 100 \$947
- c. If the total number of employed physicians or nurse anesthetists
exceeds 100 \$2,368

2. The following for each of the following employees employed by the corporation as of July 1, 1998:

Employed Health Care Persons	July 1, 1998 Fund Fee
Nurse Practitioner	\$ 680
Advanced Nurse Practitioner	952
Nurse Midwives	5,986
Advanced Nurse Midwives	6,258
Advanced Practice Nurse Prescribers	952
Chiropractors	1,088
Dentists	544
Oral Surgeons	4,082

Podiatrists-Surgical	11,564
Optometrists	544
Physician Assistant	544

(n) For an operational cooperative sickness care plan as described under s. 655.002 (1) (f),

Stats., all of the following fees:

1. Per 100 outpatient visits during the last calendar year for which totals are available \$0.20.
2. 2.5% of the total annual fees assessed against all of the employed physicians.
3. The following for each of the following employees employed by the operational cooperative sickness plan as of July 1, 1998:

Employed Health Care Persons	July 1, 1998 Fund Fee
Nurse Practitioner	\$ 680
Advanced Nurse Practitioner	952
Nurse Midwives	5,986
Advanced Nurse Midwives	6,258
Advanced Practice Nurse Prescribers	952
Chiropractors	1,088
Dentists	544
Oral Surgeons	4,082
Podiatrists-Surgical	11,564
Optometrists	544
Physician Assistant	544

(o) For a freestanding ambulatory surgery center, as defined in s. Ins 120.03 (10):

Per 100 outpatient visits during the last calendar year for which totals are available \$40

(p) For an entity affiliated with a hospital, the greater of \$100 or whichever of the following applies:

1. 7% of the amount the entity pays as premium for its primary health care liability insurance, if it has occurrence coverage.

2. 10% of the amount the entity pays as premium for its primary health care liability insurance, if it has claims-made coverage.

SECTION 5. Ins 17.35 (2b) (title) is amended to read:

Ins 17.35 (2b) (title) AGGREGATE LIMITS, UNLIMITED EXTENDED REPORTING ENDORSEMENTS.

SECTION 6. Ins 17.35 (2b) (b) is repealed and recreated to read:

Ins 17.35 (2b) (b) Highest aggregate limit applies. 1. 'Claims-made coverage' The aggregate limit applicable to all claims reported during a reporting year of a claims-made policy shall be the highest limit specified in s. 655.23 (4) (b), Stats., that applies during the reporting year.

2. 'Occurrence coverage.' The limit applicable to all occurrences during an occurrence year of an occurrence policy shall be the highest limit specified in s. 655.23 (4), Stats., that applies during the occurrence year.

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

Ins 17.35 (2b) (c) Unlimited extended reporting endorsements issued before January 1, 1999. Before January 1, 1999, the aggregate limit applicable to an unlimited extended reporting endorsement shall be one of the following:

1. The total amount of the annual aggregate limit specified in s. 655.23 (4), Stats., as it applied on the date of the occurrence, shall be available for each occurrence year, less amounts previously paid under any policy for that occurrence year.

2. The following minimum percentage of the annual aggregate limit specified in s. 655.23 (4), Stats., as it applied to the last reporting year of the canceled or nonrenewed claims-made policy shall be available for all claims reported under the extended reporting endorsement: 100% when the policy was in effect for 1 year or less, including any retroactive coverage period; 130% when the policy was in effect for more than 1 year, but less than or equal to 2 years, including any retroactive coverage period; 150% when the policy was in effect for more than 2 years, but less than or equal to 3 years,

including any retroactive coverage period; 160% when the policy was in effect for more than 3 years,
including any retroactive coverage period.

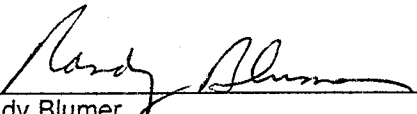
SECTION 8. Ins 17.35 (2b) (d) is created to read:

Ins 17.3 (2b) (d) Unlimited extended reporting endorsements issued on and after January 1, 1999. On and after January 1, 1999 the minimum aggregate limit applicable to an unlimited extended reporting endorsement shall be that specified in subd. (c) 2.

SECTION 9. INITIAL APPLICABILITY. This rule first applies on July 1, 1998.

SECTION 10. EFFECTIVE DATE. This rule will take effect on the first day of the first month after publication, as provided in s. 227.22 (2) (intro), Stats.

Dated at Madison, Wisconsin, this 8th day of July 1998.


Randy Blumer
Commissioner of Insurance (Acting)



FISCAL ESTIMATE WORKSHEET

1995 Session

Detailed Estimate of Annual Fiscal Effect
DOA-2047 (R10/94)

ORIGINAL UPDATED
 CORRECTED SUPPLEMENTAL

LRB or Bill No./Adm. Rule No. Amendment No.
Ins 17.01, 17.28

Subject: Relating to annual Patients Compensation Fund fees for fiscal year 1998-1999
One-time Costs or Revenue Impacts for State and/or Local Government (do not include in annualized fiscal effect):

Annualized Costs:		Annualized Fiscal impact on State funds from:	
		Increased Costs	Decreased Costs
A. State Costs by Category			
State Operations - Salaries and Fringes		\$ -	\$ -
(FTE Position Changes)		(FTE)	(- FTE)
State Operations - Other Costs			-
Local Assistance			-
Aids to Individuals or Organizations			-
TOTAL State Costs by Category		\$ -	\$ -
State Costs by Source of Funds			
GPR		\$ -	\$ -
FED		-	-
PRO/PRS			-
SEG/SEG-S			-
State Revenues - Complete this only when proposal will increase or decrease state revenues (e.g., tax increase, decrease in license fee, etc.)		Increased Rev.	Decreased Rev.
GPR Taxes		\$ -	\$ -
GPR Earned			-
FED			-
PRO/PRS			-
SEG/SEG-S			-
TOTAL State Revenues		\$ -0-	\$ -0-

NET ANNUALIZED FISCAL IMPACT

	<u>STATE</u>	<u>LOCAL</u>
T CHANGE IN COSTS	\$ _____	\$ _____
T CHANGE IN REVENUES	\$ _____	\$ _____

Prepared by: (Name & Phone No.) PCF/Theresa Wedekind 608-266-0953	Authorized Signature/Telephone No. <i>Randy Blumer</i> Randy Blumer, Commissioner	Date 3/12/98
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FISCAL ESTIMATE

DOA-2048 N(R10/94)

- ORIGINAL UPDATED
 CORRECTED SUPPLEMENTAL

Subject

Relating to annual Patients Compensation Fund fees for fiscal year 1998-1999

Fiscal Effect:

State: No State Fiscal Effect

Check columns below only if bill makes a direct appropriation or affects a sum sufficient appropriation.

Increase Costs - May be possible to Absorb Within Agency's Budget Yes No

- Increase Existing Appropriation Increase Existing Revenues
 Decrease Existing Appropriation Decrease Existing Revenues
 Create New Appropriation

Decrease Costs

Local: No local government costs

1. Increase Costs
 Permissive Mandatory
2. Decrease Costs
 Permissive Mandatory

3. Increase Revenues
 Permissive Mandatory
4. Decrease Revenues
 Permissive Mandatory

5. Types of Local Governmental Units Affected:

- Towns Villages Cities
 Counties Others _____
 School Districts WTCS Districts

Fund Sources Affected

- GPR FED PRO PRS SEG SEG-S

Affected Ch. 20 Appropriations

Assumptions Used in Arriving at Fiscal Estimate

The Patients Compensation Fund (Fund) is a segregated fund. Annual Fund fees are established to become effective each July 1, based on actuarial estimates of the Fund's needs for payment of medical malpractice claims. The proposed fees were approved by the Fund's Board at its February 25, 1998, meeting.

There is no effect on GPR.

Estimated revenue for fiscal year 1998-1999 is approximately \$50.6 million, which represents a zero percent increase to fiscal year 1997-1998 revenues.

Long-Range Fiscal Implications

Agency/Prepared by: (Name & Phone No.)

PCF/Theresa Wedekind 608-266-0958

Authorized Signature/Telephone No.

Randy Blumer

Randy Blumer, Commissioner

Date

3/12/98