

# WISCONSIN LEGISLATIVE COUNCIL STAFF

## ***RULES CLEARINGHOUSE***

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## **CLEARINGHOUSE RULE 00-095**

### **Comments**

**[NOTE: All citations to “Manual” in the comments below are to the Administrative Rules Procedures Manual, prepared by the Revisor of Statutes Bureau and the Legislative Council Staff, dated September 1998.]**

#### **1. Statutory Authority**

Section HFS 120.31 (3) allows for rerelease of individual raw patient data elements to subsequent users with written approval of the department. The department should review this rule for consistency with s. 153.45 (4), Stats. That statute requires the department to prohibit purchasers of data from rereleasing individual data elements of health care data files.

#### **2. Form, Style and Placement in Administrative Code**

a. If the rule affects a small business, as defined in s. 227.114 (1) (a), Stats., a regulatory flexibility analysis should be added to the rule.

b. Several titles in the table of contents to ch. HFS 120 do not coincide with the titles in the text. For example, see the titles to ss. HFS 120.05, 120.06, 120.10 and 120.16 and subch. III of ch. HFS 120.

c. Section HFS 120.03 (intro.) should read: “Unless otherwise indicated, in this chapter:”. The term “facility” is defined in s. HFS 120.03 (10), but is defined differently elsewhere in the rule. [See s. HFS 120.11 (2).]

d. In s. HFS 120.03 (5), is “normal charges” a commonly understood term?

e. In s. HFS 120.03 (17), “or “IRB”” should be inserted before “means” and “(IRB)” should be deleted from s. HFS 120.31 (2) (a).

f. In the definition of “patient” in s. HFS 120.03 (21), a cross-reference to the statutory definition of “patient” is provided followed by a repetition of the statutory definition. This is not done for other definitions in the rule which have statutorily equivalent definitions. There should be consistency among the definitions in the rule in cross-referencing the statutory definitions.

g. In s. HFS 120.09 (1) (b), the definition of “room and board” should be moved to after the definition of “reportable price increase,” to maintain alphabetical order.

h. For consistency with the remainder of the rule, “For the purposes of” should be changed to “In” in s. HFS 120.10 (1).

i. In s. HFS 120.12 (2) (c) 2. a., “this subd. 2. b.” should replace “subpar. b.”

j. In several places in the rule, what is drafted as introductory material does not end in a colon and lead into the subunits. [See s. 1.03 (8), Manual.] For example, in s. HFS 120.12 (2) (d) 7. and (3) (d) 7., 7. (intro.) should become “7. a.” and the subsequent subdivision paragraphs should be “b.” and “c.”

k. In s. HFS 120.21 (2) (a), “Payer” should replace “Payor” since “payer” is a defined term.

l. There are several references to “medicaid” in the rule. Since “medical assistance” is a defined term, it should replace the references to “medicaid.”

#### **4. Adequacy of References to Related Statutes, Rules and Forms**

In s. HFS 120.09 (1) (e), a cross-reference to ch. 985, Stats., should be inserted.

#### **5. Clarity, Grammar, Punctuation and Use of Plain Language**

a. In the note to the definition of “raw data elements” in s. HFS 120.03 (28), a definition and examples of aggregate information are included. If a definition of aggregate data is needed, this should be provided in the definition section and not in the note to the definition of “raw data elements.”

b. In s. HFS 120.04 (3), the term “net expenditures” should be defined or explained.

c. In s. HFS 120.04 (3) (a) 2. and 3., the department specifies the basis for determining assessments on hospitals and ambulatory surgery centers; i.e., gross private-pay patient revenues for hospitals and the number of reported surgical procedures for ambulatory surgery centers. However, subd. 4. does not specify the basis for determining assessments on other providers. Will it be the total amount to be paid by the provider group divided by the number of persons in the provider group?

- d. In s. HFS 120.11 (1), the comma after “hospitals” should be changed to “and.”
- e. In s. HFS 120.14 (1) (c) 2. j., “insureds” should replace “insured’s.” In subd. 4. a. and b., “the physician’s” should replace “their.”
- f. There are several references in subch. IV to the department’s Web site. It would be helpful if a note were inserted at the beginning of the subchapter showing the uniform resource locator (URL) for the Web site.
- g. In s. HFS 120.22 (2) (f), the word “elements” should be inserted after the term “raw data” if this is intended to have the same meaning as “raw data elements” in the definition section.
- h. In ss. HFS 120.23 (4) (intro.), 120.24 (4) (intro.), 120.25 (4) (intro.) and 120.26 (4) (intro.), the introductory paragraphs should be rephrased so that they are suggestions rather than authorizations. For example, s. HFS 120.23 (4) (intro.) could read: “Some suggestions for using the report are as follows:”.
- i. In s. HFS 120.23 (4) (b) 1., “important factors consumers should consider when selecting a health care provider” should be replaced with a less directive phrase, such as “important factors consumers might consider when selecting a health care provider.”
- j. Section HFS 120.24 (2) refers to hospitals that have increased their rates. Does this provision apply only to hospitals that have increased their rates by more than the increase in the Consumer Price Index? [See s. HFS 120.09 (1) (f).] This should be clarified.
- k. In s. HFS 120.30 (5) (c) 2. c., do the key identifiers need to be specified? If they are the identifiers that are set forth in s. 153.50 (3) (b), Stats., perhaps these should be specified in the rule.
- l. In s. HFS 120.31 (2) (d), this provision seems to preclude the board from meeting more than once a month. It may be better to rephrase this provision as saying that the Independent Review Board shall meet as often as necessary to review policies and requests for custom data or custom analysis of physician office data.