



WISCONSIN LEGISLATIVE COUNCIL RULES CLEARINGHOUSE

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CLEARINGHOUSE RULE 09-094

Comments

[NOTE: All citations to “Manual” in the comments below are to the Administrative Rules Procedures Manual, prepared by the Legislative Reference Bureau and the Legislative Council Staff, dated September 2008.]

1. Statutory Authority

Section Ins 3.36 (4) (b) provides that insurers may credit against the required four years of intensive level services required under s. 632.895 (12m), Stats., any previous intensive services the insured received, regardless of payor. This limitation does not appear to be permitted by the statute, which contemplates the minimum coverage being available as of the effective date of this law.

2. Form, Style and Placement in Administrative Code

a. The definitions subsection should be numbered s. Ins 3.36 (2). Section Ins 3.36 (3) is used for two subsections, “Definitions” and “Verified Diagnosis.”

b. In s. Ins 3.36 (3) (b), “Department of Health Services” should be lower case. [See s. 1.01 (4), Manual.] Throughout the rule, “Department” should be lower case.

c. In s. Ins 3.36 (3) (n), the terms in the definition of “Waiver program” should not be capitalized. Also, “and” should replace the ampersand.

d. Since s. Ins 3.36 (3) (intro.) is not actually introductory material, it should be par. (a) and the remaining paragraphs should be renumbered. [See s. 1.03 (2) (h), Manual.]

e. Throughout the rule, use and format of titles should be reviewed. [See s. 1.05, Manual.] Subsection titles are written in solid capital letters and paragraph titles are written with

an initial capital letter and italicized. Section Ins 3.36 (4) (a) should have a title since the other paragraphs in sub. (4) have titles. Also see sub. (5) (a) and (b).

f. Throughout the rule, “shall” should replace “must.” [See s. 1.01 (2), Manual.] For example, see s. Ins 3.36 (5) (a) (intro.) and (14) (c) and (d).

g. Section Ins 3.36 (8) is improperly divided into only one paragraph. [See s. 1.03 (1) (a), Manual.] Therefore, par. (a) should be sub. (8) (intro.) and the other subunits should be elevated one level.

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

a. In the first s. Ins 3.36 (3) (c), it is not necessary to separately reference s. 632.835 (3m) (b) 2. a., Stats. It is encompassed in the reference to s. 632.835 (3m) (b) 2., Stats.

b. In s. Ins 3.36 (8) (a) 3., the references to “subpar. 1.” and “subpar. 2.” should be to “subd. 1.” and “subd. 2.” respectively.

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

a. In s. Ins 3.36 (1), “that are” should be inserted after the word “dependents.” In addition, this paragraph is comprised of one long sentence that is difficult to understand. The paragraph should be broken up into more than one sentence.

b. In s. Ins 3.36 (3) (c), should the word “and” before s. Ins 18.10 (4) be the word “or”? Also, “specified in” should replace “defined in.” In light of these comments and the comment under category 4., it may be simpler and clearer to spell out the standards here rather than cross-reference them.

c. In s. Ins 3.36 (3) (d), “the condition of” should be inserted after the word “improve.”

d. In s. Ins 3.36 (3) (g) 5., “present” should be deleted.

e. In s. Ins 3.36 (3) (g) 6., should the word “supervising” be inserted before the word “provider”?

f. In s. Ins 3.36 (3) (h) and (i), definitions are not supposed to contain substantive material. The required number of hours of training, experience, and coursework should be placed in a separate subsection addressing that specific issue.

g. In s. Ins 3.36 (3) (L), may therapy be provided by a qualified therapist as well as by a qualified provider? Also, the terms defined in par. (L) and (m) should be reversed so that they are in alphabetical order.

h. In s. Ins 3.36 (5) (a) (intro.), “in” after the word “paraprofessional” should be replaced by the word “under.”

i. In s. Ins 3.36 (5) (b) 1., does the adjective “qualified” modify all of the nouns in that subdivision? This comment also applies to s. Ins 3.36 (10) (d).

j. In s. Ins 3.36 (6) (b), does this paragraph always refer to an interruption in service? What if there is a delay in beginning treatment?

k. In s. Ins 3.36 (8) (a) (intro.), a comma should be inserted after the first word "strategy." In addition, the last line of that introductory paragraph should read: "by demonstrating significant improvement in at least one of the following:".

l. In s. Ins 3.36 (8) (a) 2. c., must the entire body of studies include 20 or more participants, or must each study include that many participants?

m. In s. Ins 3.36 (10) (b), the word "shall" should be replaced by "may". The entire rule should be reviewed for instances of this error. [See s. 1.01 (2), Manual.]

n. In s. Ins 3.36 (10) (d), it appears that "for treatment rendered" in the last line is redundant.

o. In s. Ins 3.36 (12), first line, the word "to" should be replaced by "on."

p. In s. Ins 3.36 (14) (c), should paraprofessionals be referenced at the end of the last sentence?