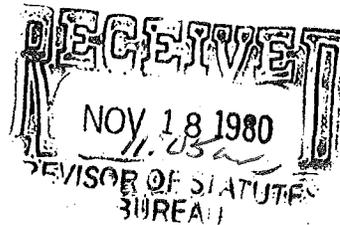


CERTIFICATE

STATE OF WISCONSIN )  
 )  
DEPARTMENT OF HEALTH AND SOCIAL SERVICES)

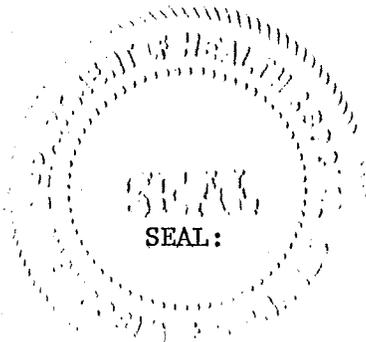


TO ALL TO WHOM THESE PRESENTS SHALL COME, GREETINGS:

I, Donald E. Percy, Secretary of the Department of Health and Social Services and custodian of the official records of said department do hereby certify that the annexed amendments to rules relating to the Uniform Fee System, were duly approved and adopted by this department on November 13, 1980.

I further certify that said copy has been compared by me with the original on file in this department and that the same is a true copy thereof, and of the whole of such original.

IN TESTIMONY WHEREOF, I have hereunto set my hand and affixed the official seal of the department at the State Office Building, 1 W. Wilson Street, in the city of Madison, this 17th day of November, A.D. 1980



Donald E. Percy, Secretary  
Department of Health and Social Services

ORDER OF  
THE DEPARTMENT OF HEALTH AND SOCIAL SERVICES  
AMENDING RULES

Relating to rules concerning the Uniform Fee System under ss. 46.03 (18) and 46.10, Stats.

Analysis prepared by the Department of Health and Social Services.

The primary reason for this proposed order to amend rules is to implement changes to s. 46.10 (14), Wis. Stats., brought about by Chapter 221, Laws of 1979. The new provisions of s. 46.10 (14), Stats., will go into effect on January 1, 1981. The intent of the statutory and rule changes is to set the liability of parents for inpatient and other residential care to children at the full cost while providing for an ability to pay benefit to parents after they have used up all payable third party benefits. This ability to pay benefit may be compared to the Medical Assistance principle of providing a benefit of "last resort." In this instance, the "last resort" is non-third party, government funds to operate the program.

These changes are needed because several large insurance carriers have extended current statutory and rule provisions designed to protect parents from catastrophic uninsured payments to limit insurance coverage. These insurance policies have usually resulted in payments of \$4.00 per day for inpatient care subject to s. 46.10 (14), Stats. These same carriers usually provide substantially higher coverage for inpatient care not subject to s. 46.10 (14). It is estimated that those reduced insurance payments have cost the Medical Assistance Program over \$1.1 Million a year.

The billing to parents and their insurers would work as follows: For medically related services, parents' insurers would be billed for the full cost of care as indicated by cost-related fees. For any costs not paid by insurers, parents would be billed according to ability to pay standards set by the department.

The changed rule continues a principle from previous statutes and versions of HSS 1. This principle involves billing parents for residential care according to their ability to pay up to an amount that represents what the parents would pay to maintain a child in their own home. The amount used in these rules as an average maintenance estimate is \$5.00 per day or \$152 per month.

The changed rule continues another billing principle for non-residential services. This second principle seeks to minimize situations where long-term residential care is less expensive to parents than non-residential services. In order to maintain this principle, billing maximums are set so that parents will pay no more than \$152 per month for non-residential services provided to their children.

The sections of the rule that implement the changes to s. 46.10 (14), Stats., are as follows:

1.01 (2) (j)	amended
1.02 (2) intro	amended
1.02 (2) (a) and (b)	repealed
1.02 (6)	repealed
1.02 (7)	repealed
1.02 (8) renumbered to 1.02 (6)	and amended
1.03 (18) (a)	repealed and recreated
1.03 (21)	created
1.05 (12) (b)	amended

Other changes to HSS 1 are as follows:

HSS 1.01 (4) (c) 1. This proposed amendment will allow agencies funded under Title XX of the Social Security Act to charge for listed services they provide to clients who are not eligible for federal financial participation. The rule in its present form prohibits billings to clients with or without ability to pay even though the services are not funded by the Title XX program and there is no other way to fund the services apart from county tax dollars.

HSS 1.01 (4) (d) 2. is being amended to correct a reference error.

HSS 1.01 (5) is repealed because Chapter 221, Laws of 1979, repealed s. 46.35 (5) Stats., which tied fees for services provided under the child support and establishment of paternity program directly to the Uniform Fee System under s. 46.03 (18). Amendments to s. 46.25 (6), Stats., by the same act provide a separate authority for charging fees for those services.

Section HSS 1.03 (18) (c) is new policy that will allow agencies to bill for residential care under the Children's Code up to the level of a previously ordered support payment. This new section brings HSS 1 into conformity with s. 48.36, Stats., as amended by Ch. 221, (section 369), Laws of 1979.

HSS 1.05 (12) (e) is being amended to get equity in policy about billing parents for residential care -- regardless of the statutory chapter under which a child is placed in care. Under present rules, parents of children placed in foster or institutional care under Chapter 48 are supposed to have their payments applied before the child's own resources (such as social security or other resources) are applied to any remaining balance. This current policy, based on a section of Chapter 48 which has been rescinded, has not been uniformly understood or implemented. For other residential services, the child's resources are applied first and then the parents. While the original rule proposal favored applying parental payments to the account first, written comment, widespread practice and administrative simplicity have indicated that the final rule draft should favor the approach of applying the child's resources to the account first and then the parents. (See special attached Analysis for Notification of Standing Committees).

Pursuant to authority vested in the Department of Health and Social Services by Sections 46.03 (18) and 46.10, Wis. Stats., the department amends rules interpreting sections 46.03 (18) and 46.10, Wis. Stats., as follows:

Section HSS 1.01 (2) (j) of the Wis. Adm. Code is amended to read:

HSS 1.01 (2) (j) "Parental payment limit" means ~~the dollar amount specified in s. 46.10 (14), Stats., for parental liability for services described in that section~~ an amount set by the department according to HSS 1.03 (21) as a maximum daily or monthly billing amount to parents as an ability to pay ceiling for care or services to minors.

Section HSS 1.01 (4) (c) 1. of the Wis. Adm. Code is amended to read:

HSS 1.01 (4) (c) 1. Services offered, ~~and defined and funded~~ and funded under the state plan for Title XX of the Social Security Act which are specifically exempted from fee charging in the plan.

Section HSS 1.01 (4) (d) 2. of the Wis. Adm. Code is amended to read:

HSS 1.01 (4) (d) 2. Agencies seeking an exemption of a service not listed in HSS ~~1.04~~ 1.01 (4) (c) shall submit a request containing documentation. At a minimum data must include a full review for 3 continuous months of the maximum monthly payment rates computed according to HSS 1.03 for all clients receiving the service.

Section HSS 1.01 (5) of the Wis. Adm. Code is repealed.

Section HSS 1.02 (2) (intro) of the Wis. Adm. Code is amended to read:

HSS 1.02 (2) EXTENT OF LIABILITY. Liability for a service shall equal the fee, as determined pursuant to these rules, times the number of units of service provided, ~~except as follows:~~

Section HSS 1.02 (2) (a) and (b) are repealed.

Section HSS 1.02 (6) of the Wis. Adm. Code is repealed.

Section HSS 1.02 (7) of the Wis. Adm. Code is repealed.

Sections HSS 1.02 (8) and (9) of the Wis. Adm. Code are renumbered HSS 1.02 (6) and (7) respectively.

Section HSS 1.02 (6) of the Wis. Adm. Code as renumbered herein is amended to read:

HSS 1.02 ~~(8)~~ (6) DISCHARGE OF LIABILITY OTHER THAN BY MEANS OF FULL PAYMENT. ~~At the end of a treatment episode, the~~ The liability of responsible parties remaining after recovery of benefits from all applicable insurance shall be deemed discharged if responsible parties provide persons with billing responsibility with full financial information and obtain a waiver as follows:

(a) For all care and services except for adult inpatient mental-hygiene, the liability of responsible parties (other than clients residing in non-medical facilities) may be discharged by less than full payment if by having-paid they pay the lesser of liability remaining after crediting third-party payments each month or the monthly payment rate as calculated in section HSS 1.03 (12) or (13) and adjusted, as appropriate, under sections HSS 1.03 (14) and (18) (a). Clients residing in non-medical facilities must pay each month according to the provisions of HSS 1.03 (2) - (6) in order to have their liability discharged other than by means of full payment.

(b) For adult inpatient mental-hygiene care and services, when liability remaining exceeds \$1000 or discharge of liability at the maximum monthly payment rate would exceed 5 years, by-entering responsible parties may enter into an agreement with the appropriate payment approval authority to pay a substantial portion of the liability outstanding as a lump sum.

Section HSS 1.03 (18) (a) of the Wis. Adm. Code is repealed and recreated to read:

HSS 1.03 (18) (a) Parental payment limits set according to HSS 1.03 (21) shall be applied to the billings to parents for each child who receives care or services. When parents of a client are divorced or separated, the total billed to both parents for the care of a child may not exceed the one billing limit used for the care or service received by the child. When a minor child and an adult from one family receive services, the parental payment limit shall not apply to billings for services to the adult. Parental payment limits shall be applied to care and services as follows:

1. For outpatient psychotherapy normally covered by health insurance and purchased or provided by county agencies, parents who provide full insurance information and necessary authorizations for billing all applicable insurance shall not be billed a total amount per child per month greater than the monthly parental payment limit per month for each child who receives service.

NOTE: See note at end of section.

2. For other services normally covered by health insurance, parents who provide full insurance information and necessary authorizations for billing all applicable insurance shall not be billed more than the daily parental payment limit per day for each child who receives service.

3. For residential care not normally covered by health insurance, the following applies:

- a. When a child is in care for less than 20 days in a calendar month, the parents shall not be billed more than the daily parental payment limit per day for that child's care.

- b. When a child is in care for more than 20 days in a calendar month, the payment approval authority shall adopt an agency policy for parental payment limits according to either the daily or monthly limit. The limit chosen shall apply uniformly to all parents.

c. When the daily limit is used, agencies may prorate daily billings for all families served by the agency according to their ability to pay. Under this prorating approach, the billing shall be the lesser of the daily limit or the family's monthly payment amount determined by HSS 1.03 (12) or (13) multiplied by 12 and divided by 365.

Note: Example. If the maximum monthly payment for the family is \$80, the daily rate would be \$2.63.

$$(\$80/\text{month} \times 12 \text{ months/year} \div 365 \text{ days/year} = \$2.63/\text{day})$$

d. As an alternative to c., when the daily limit is used, agencies may bill all parents the daily limit for each day of care up to their monthly payment rate determined according to subsections (12) or (13).

4. For all other care and services, the parents shall not be billed more than the daily parental payment limit.

Note: For outpatient psychotherapy purchased or provided by county agencies, the maximum billing rate to qualified parents for outpatient psychotherapy was \$4.00 per day per child client for such care from September 1, 1977 through December 31, 1979. For such care from January 1, 1980 through June 30, 1980, the maximum rate for this service was \$120 per month per child client. From July 1, 1980 through December 31, 1980, the maximum rate was \$152 per month per child client.

For all other services, the maximum billing rate for care from September 1, 1977 through June 30, 1980 was \$4.00 per day per child client. From July 1, 1980 through December 31, 1980 the maximum rate for all other services was \$5.00 per day per child client.

Section HSS 1.03 (18) (c) of the Wis. Adm. Code is created to read:

HSS 1.03 (18) (c) Pre-existing child support orders. When residential care is provided under Ch. 48, Stats., and there is a support order under Ch. 52 or 767, Stats., in existence before the Ch. 48 disposition, the billing amount to parents for residential care shall not be less than the previously ordered amount attributable to the child client. This provision supercedes maximum billing limitations of sections 1.03 (12) and (18) (a).

Section HSS 1.03 (21) of the Wis. Adm. Code is created to read:

HSS 1.03 (21) PARENTAL PAYMENT LIMIT. The parental payment limits shall be determined as follows:

(a) The daily parental payment limit shall be \$5.00 subject to adjustment by the department according to par. (b).

(b) The daily parental payment limit shall be adjusted upward or downward in direct proportion to the Consumer Price Index. The adjustment shall be rounded downward to the nearest whole dollar. The base date for computing the adjustments shall be date of the last published Consumer Price Index for Milwaukee in 1979. The base dollar amount shall be \$5.00 per day. This adjustment shall be computed at the end of each calendar year and shall be effective the following July.

(c) The monthly parental payment limit shall be the daily limit multiplied by 365 with the product divided by 12.

Section HSS 1.05 (12) (b) of the Wis. Adm. Code is amended to read:

HSS 1.05 (12) (b) When a responsible party has liability for adult inpatient mental-health care and for some other type of service, payments shall not be applied to the adult inpatient mental-health liability until other liabilities have been satisfied according to these rules.

Section HSS 1.05 (12) (e) of the Wis. Adm. Code is amended to read:

HSS 1.05 (12) (e) For clients residing in facilities, payments from client's own income shall be applied to the liability incurred during the month the income is received except that retroactive benefits may be applied to liability incurred back to the date of entitlement. The priority of payments for clients residing in facilities is as follows:

~~1. Payments from any responsible parent for a child under the custody in accordance with ch. 48, Stats.~~

~~2.~~ 1. Payment from any unearned income of the client.

~~3.~~ 2. Payment from any earned income of the client.

3. Payment from any excess assets of the client.

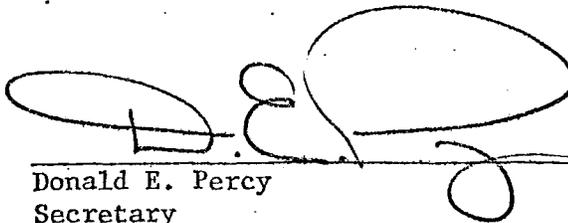
4. Payment from any other responsible party.

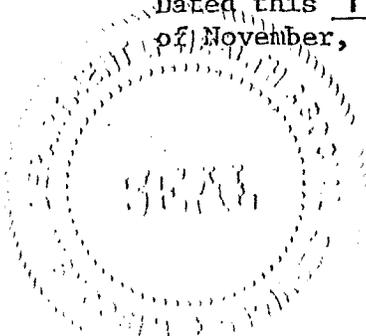
~~5. Payment from any excess assets of the client.~~

The amendments in this order shall take effect on the first day of the month following publication or January 1, 1981, whichever is later.

DEPARTMENT OF HEALTH AND SOCIAL SERVICES

Dated this 17<sup>th</sup> day  
of November, 1980

  
\_\_\_\_\_  
Donald E. Percy  
Secretary



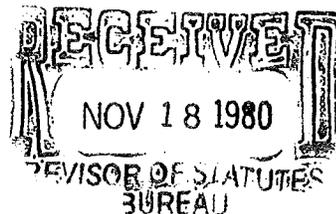


State of Wisconsin \

DEPARTMENT OF HEALTH & SOCIAL SERVICES

OFFICE OF THE SECRETARY  
1 WEST WILSON STREET  
MADISON, WISCONSIN 53702

November 18, 1980



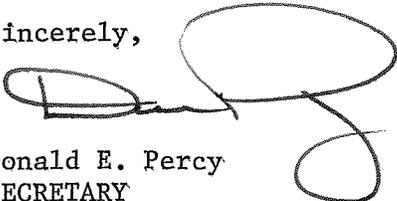
Mr. Orlan Prestegard  
Revisor of Statutes  
411 West, State Capitol  
Madison, Wisconsin 53702

Dear Mr. Prestegard:

As provided in section 227.023, Wis. Stats., there is hereby submitted a certified copy of HSS 1 relating to the Uniform Fee System under ss. 46.03(18) and 46.10, Wis. Stats.

This rule is being submitted to the Secretary of State as required by section 227.023, Wis. Stats.

Sincerely,

  
Donald E. Percy  
SECRETARY

Enclosure