

CR 90-198

CERTIFICATE

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

I, Patricia A. Goodrich, Secretary of the Department of Health and Social Services and custodian of the official records of the Department, do hereby certify that the annexed rules relating to coverage of nurse practitioner services under the Medical Assistance program were duly approved and adopted by this Department on December 12, 1990.

I further certify that this copy has been compared by me with the original on file in the Department and that this copy is a true copy of the original, and of the whole of the 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 12th day of December, 1990.

SEAL:

Patricia A. Goodrich

Patricia A. Goodrich
Secretary

CR 90-198

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ORDER OF THE
DEPARTMENT OF HEALTH AND SOCIAL SERVICES
AMENDING, REPEALING AND RECREATING, AND CREATING RULES

To amend HSS 101.03(108); to repeal and recreate HSS 105.19, 105.20 and 107.12; and to create HSS 105.201, 107.121 and 107.122, relating to Medical Assistance coverage of independent nurse, nurse practitioner and nurse mid-wife services.

Analysis Prepared by the Department of Health and Social Services

This order implements s. 49.46(2)(b)6g, Stats., as amended by 1989 Wisconsin Act 336, to make nurse practitioner services a covered benefit under the Medical Assistance (MA) Program for both medically and categorically needy MA recipients. As required by the Omnibus Budget Reconciliation Act (OBRA) of 1989, P.L. 101-239, the rules define the requirements for MA Program certification and describe services performed under a physician's written protocol and nursing procedures which will be reimbursed as MA benefits. These services may include medically necessary diagnostic, preventive, therapeutic, rehabilitative or palliative services as defined by protocols, with prior authorization requirements similar to those required of physician providers.

Certification and covered services for independent nurses and nurse midwives have been restructured and more clearly defined to comply with federal requirements in consequence of the addition of nurse practitioner services as a federally mandated MA benefit.

Similar emergency rules have been in effect since July 1, 1990. The provider certification requirements were amended by emergency order effective September 6, 1990.

The Department's authority to amend, repeal and recreate and create these rules is found in s. 49.45(10), Stats. The rules interpret s. 49.46(2)(b)6g, Stats., as amended by 1989 Wisconsin Act 336.

SECTION 1. HSS 101.03(108) is amended to read:

HSS 101.03(108) "Nurse practitioner" means a registered nurse who meets the requirements of s. HSS 105.20(2).

SECTION 2. HSS 105.19 and 105.20 are repealed and recreated to read:

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.

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.

SECTION 3. HSS 105.201 is created to read:

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.

SECTION 4. HSS 107.12 is repealed and recreated to read:

HSS 107.12 INDEPENDENT NURSING SERVICES. (1) DEFINITIONS. In this section:

(a) "Extended care" means home nursing services provided for 8 or more hours in a calendar day.

(b) "Part-time, intermittent care" means home nursing services provided for less than 8 hours in a calendar day.

(2) COVERED SERVICES. (a) Services provided by a certified registered nurse (RN) in independent practice are those services prescribed by a physician which comprise the practice of professional nursing as described under s. 441.11(3), Stats., and s. N 6.03. Services provided by a certified licensed practical nurse (LPN) are those services which comprise the practice of practical nursing under s. 441.11(4), Stats., and s. N 6.04. An LPN may provide nursing services delegated by an RN as delegated nursing acts under the requirements of s. N 6.03 and guidelines established by the board of nursing. The following services are available only when documentation is provided to the department that an existing home health agency cannot provide the services and if the prescription calls for a level of care which the nurse is licensed to provide:

1. Nursing services provided in the home on a part-time, intermittent basis when prescribed by a physician; and

2. Extended care home nursing services provided in the home when prescribed by a physician and if the prescription calls for a level of care which the nurse is licensed to provide.

These extended care services are available for recipients who need more continuous care in the home than can be provided on a part-time, intermittent basis.

(b) 1. A plan of care including physician's orders shall be established for every recipient accepted for care and shall be incorporated in the recipient's medical record. An initial plan of care shall be developed within 72 hours after acceptance, which shall include the physician's orders and preliminary treatment goals and methods for delivering needed care. The total plan of care shall be developed in consultation with the recipient and the recipient's physician and shall be signed by the physician within 20 working days following the recipient's admission for care. The total plan of care shall include, besides the physician's orders:

- a. Measurable time-specific goals, with benchmark dates for review; and
- b. The methods for delivering needed care, and an indication of which, if any, other professional disciplines are responsible for delivering the care.

2. The total plan of care shall be reviewed by the attending physician as often as required by the recipient's condition, but not less often than every 62 days. The RN or LPN shall promptly notify the physician of any change in the recipient's condition that suggests a need to modify the plan of care.

(c) Drugs and treatment shall be administered by the RN or LPN only as ordered by the attending physician. The nurse shall immediately record and sign oral orders and shall obtain the physician's countersignature within 10 working days.

(d) Reasonable time spent on recordkeeping, travel time to and from the recipient's residence to provide needed care and medically necessary actual service time in the recipient's residence are covered services under this section.

(3) PRIOR AUTHORIZATION. (a) Prior authorization is required for:

1. Part-time, intermittent home nursing services beyond 50 hours per recipient per calendar year; and

2. All extended care home nursing services.

(b) Part-time intermittent care or extended home nursing for which prior authorization is requested is limited to no more than 12 continuous hours in each 24 hours, no more than 60 hours per week, for the number of weeks care continues to be medically necessary, when provided by a single provider for a recipient.

(c) A request for prior authorization of part-time intermittent care or extended home nursing services performed by an LPN shall include the name and license number of the registered nurse supervising the LPN.

(4) OTHER LIMITATIONS. Documentation and recordkeeping. Each independent RN or LPN shall document the care and services provided. Documentation required under sub. (2)(a) of the unavailability of a home health agency shall include names of agencies contacted, dates of contact and any other information pertinent to this requirement under sub. (2)(a).

SECTION 5. HSS 107.121 and 107.122 are created to read:

HSS 107.121 NURSE-MIDWIFE SERVICES. (1) COVERED SERVICES. Covered services provided by a certified nurse-midwife may include the care of mothers and their babies throughout the maternity cycle, including pregnancy, labor, normal childbirth and the immediate postpartum period, provided that the nurse-midwife services are provided within the limitations established in s. 441.15(2), Stats., and ch. N 4.

(2) LIMITATION. Coverage for nurse-midwife services for management and care of the mother and newborn child shall end after the sixth week of postpartum care.

HSS 107.122 INDEPENDENT NURSE PRACTITIONER SERVICES. (1) COVERED SERVICES. Services provided by a certified nurse practitioner, including a clinical nurse specialist, which are covered by the MA program are those medical services delegated by a licensed physician by a written protocol developed with the nurse practitioner pursuant to the

requirements set forth in s. N 6.03(2) and guidelines set forth by the Medical examining board and the board of nursing. General nursing procedures are covered services when performed by a certified nurse practitioner or clinical nurse specialist in accordance with the requirements of s. N 6.03(1). These services may include those medically necessary diagnostic, preventive, therapeutic, rehabilitative or palliative services provided in a medical setting, the recipient's home or elsewhere. Specific reimbursable delegated medical acts and nursing services are the following:

(a) Under assessment and nursing diagnosis:

1. Obtaining a recipient's complete health history and recording the findings in a systematic, organized manner;
2. Evaluating and analyzing a health history critically;
3. Performing a complete physical assessment using techniques of observation, inspection, auscultation, palpation and percussion, ordering appropriate laboratory and diagnostic tests and recording findings in a systematic manner;
4. Performing and recording a developmental or functional status evaluation and mental status examination using standardized procedures; and
5. Identifying and describing behavior associated with developmental processes, aging, life style and family relationships;

(b) Under analysis and decision-making:

1. Discriminating between normal and abnormal findings associated with growth and development, aging and pathological processes;
2. Discriminating between normal and abnormal patterns of behavior associated with developmental processes, aging, life style, and family relationships as influenced by illness;
3. Exercising clinical judgment in differentiating between situations which the nurse practitioner can manage and those which require consultations or referral; and

4. Interpreting screening and selected diagnostic tests;

(c) Under management, planning, implementation and treatment:

1. Providing preventive health care and health promotion for adults and children;

2. Managing common self-limiting or episodic health problems in recipients according to protocol and other guidelines;

3. Managing stabilized illness problems in collaboration with physicians and other health care providers according to protocol;

4. Prescribing, regulating and adjusting medications as defined by protocol;

5. Recommending symptomatic treatments and non-prescription medicines;

6. Counseling recipients and their families about the process of growth and development, aging, life crises, common illnesses, risk factors and accidents;

7. Helping recipients and their families assume greater responsibility for their own health maintenance and illness care by providing instruction, counseling and guidance;

8. Arranging referrals for recipients with health problems who need further evaluation or additional services; and

9. Modifying the therapeutic regimen so that it is appropriate to the developmental and functional statuses of the recipient and the recipient's family;

(d) Under evaluation:

1. Predicting expected outcomes of therapeutic regimens;

2. Collecting systematic data for evaluating the response of a recipient and the recipient's family to a therapeutic regimen;

3. Modifying the plan of care according to the response of the recipient;

4. Collecting systematic data for self-evaluation and peer review; and

5. Utilizing an epidemiological approach in examining the health care needs of recipients in the nurse practitioner's caseload;

- (e) Physician services described under s. HSS 107.06 that are under protocol;
- (f) Services under s. HSS 107.08 performed for an inpatient in a hospital;
- (g) Outpatient hospital services, as described in s. HSS 107.08 (1)(b);
- (h) Family planning services, as described in s. HSS 107.21;
- (i) Early and periodic screening, diagnosis and treatment (EPSDT) services, as described in s. HSS 107.22;
- (j) Prescriptions for drugs and recipient transportation; and
- (k) Disposable medical supplies, as described in s. HSS 107.24.

(2) PRIOR AUTHORIZATION. (a) Services under sub. (1)(e) to (k) are subject to applicable prior authorization requirements for those services.

(b) Requests for prior authorization shall be accompanied by the written protocol.

(3) OTHER LIMITATIONS. (a) No services under this section may be reimbursed without a written protocol developed and signed by the nurse practitioner and the delegating physician, except for general nursing procedures described under s. N 6.03(1). The physician shall review a protocol according to the requirements of s. 448.03(2)(e), Stats., and guidelines established by the medical examining board and the board of nursing, but no less than once each calendar year. A written protocol shall be organized as follows:

1. Subjective data;
2. Objective data;
3. Assessment;
4. Plan of care; and
5. Evaluation.

(b) Prescriptions for drugs are limited to those drugs allowed under protocol for prescription by a nurse practitioner, except that controlled substances may not be prescribed by a nurse practitioner.

(4) NON-COVERED SERVICES. Non-covered services are:

(a) Mental health and alcohol and other drug abuse services;

(b) Services provided to nursing home residents or hospital inpatients which are included in the daily rates for a nursing home or hospital;

(c) Rural health clinic services;

(d) Dispensing durable medical equipment; and

(e) Medical acts for which the nurse practitioner or clinical nurse specialist does not have written protocols as specified in this section. In this paragraph, "medical acts" means acts reserved by professional training and licensure to physicians, dentists and podiatrists.

The repeals and rules contained in this order shall take effect on the first day of the month following publication in the Wisconsin Administrative Register as provided in s. 227.22(2), Stats.

WISCONSIN DEPARTMENT OF HEALTH
AND SOCIAL SERVICES

Date: December 12, 1990

By: Patricia A. Goodrich
Patricia A. Goodrich
Secretary

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