CR 92-42

STATE OF WISCONSIN)
)
OFFICE OF THE COMMISSIONER OF INSURANCE)

I, Robert D. Haase, Commissioner of Insurance and custodian of the official records of this office, certify that the attached rule-making order affecting ss Ins 17.01 and 17.28, Wis. Adm. Code, relating to Patients Compensation Fund and Mediation Fund fees for 1992-1993 and Patients Compensation Fund refund procedures, was issued by this office on June 1, 1992.

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 whole of the original.

Dated at Madison, Wisconsin, this 1st day of June, 1992.

Robert D. Haase
Commissioner of Insurance

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8-1-92

ORDER OF THE OFFICE OF THE COMMISSIONER OF INSURANCE

AND OF THE BOARD OF GOVERNORS OF THE PATIENTS COMPENSATION FUND

REPEALING, RENUMBERING AND AMENDING, AMENDING, REPEALING

AND RECREATING, AND CREATING A RULE

To repeal Ins 17.28 (3m) (b), (4) (e) 2, (L) (title) and (m) (title); renumbering and amending Ins 17.28 (4) (d), (L) and (m); to amend Ins 17.01 (3) and 17.28 (4) (cm), (e) (title) and 1, (f), (j) 3, (5) and (6) (intro.), (a) to (j), (k) (intro.), (L) (intro.) and 1, (Lm) (intro.), (m) and (n); to repeal and recreate Ins 17.28 (4) (c); and to create Ins 17.28 (6) (gm) and (hm), relating to patients compensation fund and mediation fund fees for 1992-93 and patients compensation fund refund procedures.

ANALYSIS PREPARED BY THE OFFICE OF THE COMMISSIONER OF INSURANCE

Statutory authority: ss. 601.41 (3), 655.004, 655.27 (3) (b) and 655.61 (1), Stats.

Statutes Interpreted: ss. 655.27 (3) (b) and (br) and 655.61 (1), Stats.

This rule establishes the annual fees that health care providers participating in the patients compensation fund (fund) must pay for fiscal

year 1992-93. These fees were approved by the board of governors of the fund at its meeting on February 12, 1992. Based on the recommendations of the fund's actuaries, the fees for all classes of health care providers will increase by 4% over the fees charged for fiscal year 1991-92, except that there will not be any increase in the fees charged for corporations and partnerships. In addition, a corporation with only a single shareholder will no longer be assessed a fund fee based on the actuarial assumption that the fee paid by the provider is sufficient to cover both the individual and corporate or partnership risk.

The annual fee for the operation of the mediation system, as requested by the director of state courts for fiscal year 1992-93, will be $60 per physician and $3 per occupied bed for hospitals.

The rule repeals an obsolete provision that permitted licensed providers who are publicly employed to claim an exemption from the fund. 1989 Wisconsin Act 187 prohibits state, county, municipal and federal employes from participating in the fund while acting within the scope of that employment.

Recent legislation, 1991 Wisconsin Act 214 (Senate Bill 453), provides that a physician or nurse anesthetist whose principal place of practice is not Wisconsin may participate in the fund, but the fund will cover only the Wisconsin portion of the provider's practice. The board of governors of the fund recommended the creation of a separate classification for physicians and nurse anesthetists who do not have Wisconsin as a principal place of practice. The annual fee for this classification will be 50% of the annual fee for a health care provider whose principal place of practice is Wisconsin.

This rule also makes a change in the method of calculating refunds for health care providers. Currently, a provider must furnish the fund with notice of eligibility for an exemption from the fund or a change of classification resulting in a decrease in the provider's annual fee, either in advance or within a specified number of days, in order to be eligible for a full refund or credit. This rule permits the fund to issue full refunds and credits, regardless of the date of notification to the fund.

The rule makes other technical corrections for consistency with statutory language and for better organization.

An identical emergency rule was published on April 28, 1992, and will remain in effect until the permanent rule is promulgated.

SECTION 1. Ins 17.01 (3) is amended to read:

Ins 17.01 (3) FEE SCHEDULE. (intro.) The following fee schedule shall be effective July 1, ~~1991~~ 1992:

(a) For physicians - ~~$-0-00~~ $60.00

(b) For hospitals, per occupied bed - ~~$-0-00~~ $ 3.00

SECTION 2. Ins 17.28 (3m) (b) is repealed.

SECTION 3. Ins 17.28 (4) (c), as affected by Clearinghouse Rule No. 91-165, is repealed and recreated to read:

Ins 17.28 (4) (c) A provider or person acting on the provider's behalf shall notify the fund in the form specified by the fund if any of the following occurs:

1. The provider is exempt under sub. (3m) (a) or (c).

2. The provider is no longer eligible to participate in the fund under s. 655.003 (1) or (3), Stats.

3. This state is no longer a principal place of practice for the provider.

4. The provider has temporarily or permanently ceased practice or has ceased operation.

5. The provider's classification under sub. (6) has changed.

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

Ins 17.28 (4) (cm) Eligibility for exemption; refund. If a provider ~~becomes eligible for~~ claims an exemption ~~under sub. (3m) (a)~~ 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 semimonthly period from the date the provider becomes eligible for the exemption ~~or the date the fund receives the provider's signed exemption form, whichever is later,~~ to the due date of the next payment.

SECTION 5. Ins 17.28 (4) (d) is renumbered Ins 17.28 (4) (d) 1 and amended to read:

Ins 17.28 (4) (d) (title) Change of classification; increased annual fee. 1. (intro.) If a ~~provider changes class or type, including a change from part-time to full-time practice, resulting~~ provider's change of classification under sub. (6) during a fiscal year results in an increased annual fee, the fund shall adjust the provider's annual fee to equal the sum of the following:

a. One twenty-fourth of the annual fee for the provider's former ~~class or type~~ classification for each full semimonthly period from the due date of the provider's first payment during the current fiscal year to the date of the change.

b. One twenty-fourth of the annual fee for the provider's new ~~class or type~~ classification for each full or partial semimonthly period from the date of the change to the next June 30.

SECTION 6. Ins 17.28 (4) (e) (title) and 1 are amended to read:

Ins 17.28 (4) (e) (title) Change of classification; decreased annual fee. 1. If a ~~provider changes class or type, including a change from full time to part time practice, resulting~~ provider's change of classification under sub. (6) during a fiscal year results in a decreased annual fee, the fund shall adjust the provider's annual fee to equal the sum of the following:

a. One twenty-fourth of the annual fee for the provider's former ~~class or type~~ classification for each full or partial semimonthly period from the due date of the provider's first payment during the current fiscal year to the date of the change.

b. One twenty-fourth of the annual fee for the provider's new ~~class or type~~ classification for each full semimonthly period from the date of the change to the next June 30.

SECTION 7. Ins 17.28 (4) (e) 2 is repealed.

SECTION 8. Ins 17.28 (4) (f), as affected by Clearinghouse Rule No. 91-165, is amended to read:

Ins 17.28 (4) (f) (title) Refund of other charges. If a provider is entitled to a refund or credit under this subsection ~~has paid interest under par. (j)~~, the fund shall also issue a refund or credit of the ~~interest~~ unearned portion of any amounts paid as administrative service charges, interest or surcharges, using the same method used to calculate a refund or credit of an annual fee. A mediation fund fee is refundable only if the provider did not participate in the patients compensation fund for any part of the fiscal year.

SECTION 9. Ins 17.28 (4) (j) 3, as created by Clearinghouse Rule No. 91-165, is amended to read:

Ins 17.28 (4) (j) 3. A ~~nonrefundable~~ $3 administrative service charge.

SECTION 10. Ins 17.28 (4) (L) (title) and (m) (title), as created by Clearinghouse Rule No. 91-165, are repealed.

SECTION 11. Ins 17.28 (4) (L), as created by Clearinghouse Rule No. 91-165, is renumbered Ins 17.28 (4) (d) 2 and amended to read:

Ins 17.28 (4) (d) 2. ~~If a provider changes class or type, resulting in an increased annual fee as calculated under par. (d), the~~ The fund shall bill the provider for the total amount of the increase under subd. 1 if the provider has already paid the total annual fee, or shall prorate the increase over the remaining instalment payments.

SECTION 12. Ins 17.28 (4) (m), as created by Clearinghouse Rule No. 91-165, is renumbered Ins 17.28 (4) (e) 2 and amended to read:

Ins 17.28 (4) (e) 2. ~~If a provider changes class or type, resulting in a decreased annual fee as calculated under par. (e), the~~ The fund shall ~~prorate~~ credit the amount of the decrease under subd. 1 over any remaining instalment payments. If the provider has already paid the total annual fee, the fund shall issue a refund if the amount of the refund is more than $10. The fund shall credit any amount of $10 or less to the provider's account. If the provider no longer participates in the fund, a credit of $10 or less shall lapse to the fund.

SECTION 13. Ins 17.28 (5) and (6) (intro.), (a) to (j), (k) (intro.), (L) (intro.) and 1, (Lm) (intro.), (m) and (n) are amended to read:

Ins 17.28 (5) FILING OF CERTIFICATES OF INSURANCE. An insurance company required under s. 655.23 (3) (b), Stats., to file a certificate of insurance on behalf of a provider shall file the certificate with the fund within 45 days after the original issuance and each renewal and within 45 days

after a change of ~~class or type that would affect the provider's fee under sub. (4) (i) or (m)~~ classification under sub. (6).

(6) FEE SCHEDULE. (intro.) The following fee schedule shall be effective from July 1, ~~1991~~ 1992 to June 30, ~~1992~~ 1993:

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

Class 1	~~$2,571~~	$2,674	Class 3	~~$12,854~~	$13,370
Class 2	~~$5,142~~	$5,348	Class 4	~~$15,425~~	$16,044

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

Class 1	~~$1,286~~	$1,337	Class 3	~~$6,427~~	$6,685
Class 2	~~$2,572~~	$2,674	Class 4	~~$7,716~~	$8,022

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

All classes	~~$1,543~~	$1,604

(d) For a medical college of Wisconsin, inc., full-time faculty member:

Class 1	~~$1,028~~	$1,070	Class 3	~~$5,140~~	$5,348
Class 2	~~$2,056~~	$2,139	Class 4	~~$6,168~~	$6,418

(g) For a part-time physician with an office practice only and no hospital admissions who practices less than 500 hours in a fiscal year:

~~$643~~ $669

(h) For a nurse anesthetist for whom this state is a principal place of practice: ~~$688~~ $716

(i) For a hospital:

1. Per occupied bed ~~$169~~ $176; plus

2. Per 100 outpatient visits during the last calendar year for which totals are available ~~$8.40~~ $8.74

(j) For a nursing home, as described under s. 655.001 (8), 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 ~~$32~~ $33

(k) (intro.) For a partnership comprised of physicians or nurse anesthetists, organized for the primary purpose of providing the medical services of physicians or nurse anesthetists, whichever of the following is applicable:

(L) (intro.) For a 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,whichever of the following is applicable:

1. If the total number of shareholders and employed physicians or nurse anesthetists is from ~~1~~ 2 to 10 $100.00

(Lm) (intro.) For a corporation organized under ch. 181, Stats., for the primary purpose of providing the medical services of physicians or nurse anesthetists, which of the following is applicable:

(m) For an operational cooperative sickness care plan:

1. Per 100 outpatient visits during the last calendar year for which totals are available ~~$0.21~~ $0.22; plus

2. 2.5% of the total annual ~~fund~~ fees assessed against all of the employed physicians ~~employed on July 1 of the previous fiscal year~~.

(n) For an ambulatory surgery center, as defined in s. HSS 123.14 (2) (a), which is a separate entity not part of a hospital, partnership or

corporation subject to ch. 655, Stats.:

Per 100 outpatient visits during the last calendar year for which totals are available ~~$42~~ $44

SECTION 14. Ins 17.28 (6) (gm) and (hm) are created to read:

Ins 17.28 (6) (gm) For a physician for whom this state is not a principal place of practice:

Class 1	$1,337	Class 3	$6,685
Class 2	2,674	Class 4	8,022

(hm) For a nurse anesthetist for whom this state is not a principal place of practice: $358

SECTION 15. INITIAL APPLICABILITY. This rule first applies to mediation fund fees and patients compensation fund fees for fiscal year 1992-93.

SECTION 16. 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 15th day of June 1992.

Robert D. Haase
Commissioner of Insurance