

Chapter Ins 17

PATIENTS COMPENSATION FUND

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Ins 17.001 Definitions. (ss. 619.04 and 655.003, Stats.) As used in this chapter:

(1) "Board" means the board of governors established pursuant to s. 619.04 (3), Stats.;

(2) "Fund" means the patients compensation fund established pursuant to s. 655.27 (1), Stats., except as defined in s. Ins 17.24;

(3) "Hearing" includes both hearings and rehearings, and these rules shall cover both so far as applicable, except where otherwise specifically provided by statute or in chapter Ins 17.

(4) "Plan" means the Wisconsin health care liability insurance plan established by s. Ins 17.25 pursuant to s. 619.01 (1) (a), Stats.;

(5) "Commissioner" means the commissioner of insurance or deputy whenever detailed by the commissioner or discharging the duties and exercising the powers of the commissioner during an absence or a vacancy in the office of the commissioner, as provided by s. 601.11 (1) (b), Stats.

History: Cr. Register, July, 1979, No. 283, eff. 8-1-79.

Ins 17.01 Payment of compensation fund fees (ss. 655.21 and 655.27, Stats.) (1) PURPOSE. This rule implements the provisions of ch. 655, Stats., relating to the payment of fees to the patients compensation fund.

(2) SCOPE. This rule applies to each health care provider as defined in s. 655.001, Stats., except hospitals, nursing homes or other facilities subject to regulation by the department of health and social services.

(3) DEFINITIONS. For the purpose of this rule the definition of terms used shall be those definitions set forth in s. 655.001, Stats.

(4) PAYMENT OF FEES TO FINANCE PATIENTS COMPENSATION PANELS.
(a) Once in each fiscal year each physician operating in this state shall

pay, in accordance with a billing schedule adopted by the commissioner, the annual fee established by s. 655.21 (1) (a), Stats.

(b) Such fee is due and payable upon receipt of the billing by the physician.

(c) Any physician who has not paid the fee within 30 days from the date the billing is received shall be deemed to be in noncompliance with s. 655.21 (1) (a), Stats.

(d) The commissioner shall notify the department of regulation and licensing of each physician who has not paid the fee and who is, therefore, in noncompliance with s. 655.21 (1) (a), Stats.

(e) The commissioner may upon a showing of sufficient cause extend the period for a payment for an additional period of time to be determined by the commissioner.

(5) PAYMENT OF OPERATING FEES TO PATIENTS COMPENSATION FUND.

(a) Once in each fiscal year each health care provider, except hospitals, nursing homes or other facilities subject to regulation by the department of health and social services, shall pay in accordance with a billing schedule adopted by the commissioner the annual fee determined in accordance with s. 655.27 (3) (c), Stats.

(b) Such fees are due and payable upon receipt of the billing by the health care provider.

(c) Any health care provider who has not paid the fee within thirty days from the date the billing is received shall be deemed to be in noncompliance with s. 655.23 (1), Stats., and subject to the penalty provisions of s. 655.23 (6) and (7), Stats.

(d) The commissioner shall notify the department of regulation and licensing of each health care provider who has not paid the fee and who is, therefore, in noncompliance with s. 655.23(1), Stats.

(e) The commissioner may upon a showing of sufficient cause extend the period for payment of fees for an additional period of time to be determined by the commissioner.

History: Cr. Register, August, 1978, No. 272, eff. 9-1-78.

Ins 17.02 Petition for declaratory rulings. (ss. 619.04 and 655.003, Stats.) (1) Petitions for declaratory rulings shall be governed by s. 227.06, Stats.

(2) Such petitions shall be filed with the commissioner who shall investigate, give notice, etc.

(3) All final determinations shall be made by the board.

History: Cr. Register, July, 1979, No. 283, eff. 8-1-79.

Ins 17.03 How proceedings initiated. (ss. 619.04 and 655.003, Stats.) Proceedings for a hearing upon a matter may be initiated: (1) On a complaint by any individual, corporation, partnership or association which is aggrieved, filed in triplicate (original and 2 copies) with the commissioner.

(b) "Fees", "operating fees" or "annual fees" means those fees charged for each fiscal year of participation, July 1 to June 30.

(c) "Class" of physicians or surgeons means those classes currently in use by the Wisconsin Health Care Liability Insurance Plan, as authorized by s. Ins 17.25 (12), (b).

(4) PRO RATA FEES. A health care provider may enter or exit the Fund at a date other than July 1 or June 30.

(a) If a health care provider enters the Fund subsequent to July 1, the provider shall be charged a fee of one-twelfth the annual fee for that class of provider for each month or part of month between the date of entry and the next June 30.

(b) Notwithstanding the provisions of par. (a) no fee shall be charged for entry to the Fund after each June 1.

(c) If a health care provider exits the Fund prior to June 30, the provider shall be entitled to a refund of one-twelfth the annual fee for that class for each full month between the date of exit and the next June 30.

(d) The effective date of the proof of financial responsibility required under s. 655.23 (2), Stats., as it applies to each individual health care provider, shall determine the date of entry to the Fund. The cancellation or withdrawal of such proof shall establish the date of exit.

(5) EFFECTIVE DATE AND EXPIRATION DATE OF FEE SCHEDULES. The effective date of the fee schedule contained in this section shall be the current July 1 and shall expire the next subsequent June 30.

(6) FEE SCHEDULE. The following fee schedule shall be effective from July 1, 1983 to June 30, 1984.

(a) For physicians and surgeons

Class 1	\$ 538.00	Class 6	\$3,319.00
Class 2	968.00	Class 7	3,874.00
Class 3	1,549.00	Class 8	269.00
Class 4	1,662.00	Class 9	6,090.00
Class 5	2,765.00		

(b) For resident physicians and surgeons, or fellowships, in post graduate medical education.

Class 1	\$ 323.00	Class 5	\$1,660.00
Class 2	581.00	Class 6	1,993.00
Class 3	930.00	Class 7	2,326.00
Class 4	998.00	Class 9	3,656.00

(c) For resident physicians and surgeons, practice outside residency or fellowship.

All classes \$ 419.00

(d) For medical college of Wisconsin full time faculty

Class 1	\$ 221.00	Class 5	\$1,136.00
Class 2	398.00	Class 6	1,364.00
Class 3	636.00	Class 7	1,591.00
Class 4	683.00	Class 9	2,502.00

(e) For medical college of Wisconsin resident physicians and surgeons

1. Class 1	\$ 269.00	Class 5	\$1,383.00
Class 2	484.00	Class 6	1,660.00
Class 3	775.00	Class 7	1,937.00
Class 4	831.00	Class 9	3,045.00

2. The assessment paid by medical college of Wisconsin shall be determined by multiplying the resident class fee by the number of resident physician exposures in that class as determined by audit by the primary insurance carrier. Initial assessments, payable on issuance of the policy, shall be computed on the basis of the number of exposures per class during the prior participation period. Final assessments, payable at the end of the policy period, shall be the initial assessment adjusted for actual physician exposures during the participation period as determined by audit by the primary insurance carrier.

(f) For government employes—state, federal, municipal.

Class 1	\$ 404.00	Class 6	\$2,493.00
Class 2	727.00	Class 7	2,909.00
Class 3	1,164.00	Class 8	202.00
Class 4	1,248.00	Class 9	4,573.00
Class 5	2,077.00		

(g) For retired or part time physicians and surgeons, office practice only, less than 500 hours per annum.

Class 1	Physicians	\$ 323.00
Class 8	Osteopathic physicians	162.00

(h) For nurse anesthetists \$ 162.00

(i) For podiatrists, nonsurgical \$ 313.00
For podiatrists, surgical \$1,756.00

For retired or part time podiatrists, nonsurgical office practice only, less than 500 hours practice per annum \$ 188.00

For residents in post graduate podiatric medical education \$1,054.00

(j) For hospitals—per occupied bed \$ 55.00

(k) For nursing homes—per occupied bed \$ 10.00

History: Cr. Register, June, 1980, No. 294, eff. 7-1-80; am. (6), Register, June, 1981, No. 306, eff. 7-1-81; r. and recr. (6), Register, June, 1982, No. 318, eff. 7-1-82; am. (6) (h) and (i), Register, August, 1982, No. 320, eff. 9-1-82, am. (6), Register, June, 1983, No. 330, eff. 7-1-83; am. (6) (i), Register, September, 1983, No. 333, eff. 10-1-83.

Ins 17.29 Servicing agent. (1) PURPOSE. The purpose of this section is to implement and interpret the provisions of s. 655.27 (2), Stats., relating to contracting for patients compensation fund services.

(2) SCOPE. This section applies to administration and staff services for the fund.

(3) SELECTION. The selection of a servicing agent shall conform with s. 16.765, Stats. The commissioner, with the approval of the board, shall Register, February, 1984, No. 338

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select a servicing agent through the competitive negotiation process to provide services for the fund based on criteria established by the board.

(4) **TERM SERVED AND SELECTION FOR SUCCEEDING PERIODS.** The term served by the servicing agent shall be as established by the commissioner with the approval of the board but the contract shall include a provision for its cancellation if performance or delivery is not made in accordance with its terms and conditions.

(5) **FUNCTIONS.** (a) The servicing agent shall perform functions agreed to in the contract between the servicing agent and the office of the commissioner of insurance as approved by the board. The contract shall provide for an annual report to the commissioner and board of all expenses incurred and subcontracting arrangements.

(b) Additional functions to be performed by the servicing agent may include but are not limited to:

1. Hiring legal counsel.
2. Establishment and revision of case reserves.
3. Contracting for annuity payments as part of structured settlements.
4. Investigation and evaluation of claims.
5. Negotiation to settlement of all claims made against the fund except those responsibilities retained by the claim committee of the board.
6. Filing of reports to the board.
7. Review of panel decisions and court verdicts and recommendations of appeals as needed.

History: Cr. Register, February, 1984, No. 338, eff. 3-1-84.