Chapter HSS 105

MEDICAL ASSISTANCE: PROVIDER CERTIFICATION

HSS 105.01 Introduction (p. 59)
HSS 105.02 Requirements for maintaining certification (p. 62)
HSS 105.03 Participation by non-certified persons (p. 64)
HSS 105.04 Supervision of provider assistants (p. 64)
HSS 105.05 Certification of physicians and assistants (p. 64)
HSS 105.06 Certification of dentists (p. 65)
HSS 105.07 Certification of general hospitals (p. 65)
HSS 105.08 Certification of skilled nursing facilities (p. 65)
HSS 105.09 Medicare bed requirement (p. 65)
HSS 105.10 Certification of SNFs and ICFs with deficiencies (p. 66)
HSS 105.11 Certification of intermediate care facilities (p. 66)
HSS 105.12 Certification of ICFs for mentally retarded persons or persons with related conditions (p. 66)
HSS 105.15 Certification of pharmacies (p. 67)
HSS 105.16 Certification of home health agencies (p. 67)
HSS 105.17 Certification of personal care providers (p. 68)
HSS 105.19 Certification of licensed practical nurses (p. 69)
HSS 105.20 Certification of registered nurses (p. 69)
HSS 105.21 Certification of psychiatric hospitals (p. 69)
HSS 105.22 Certification of psychotherapy providers (p. 70)
HSS 105.23 Certification of alcohol and other drug abuse (AODA) treatment providers (p. 72)
HSS 105.24 Certification of day treatment or day hospital service providers (p. 73)
HSS 105.25 Certification of alcohol and other drug abuse (AODA) day treatment providers (p. 73)
HSS 105.26 Certification of chiropractors (p. 74)
HSS 105.27 Certification of physical therapists and assistants (p. 74)
HSS 105.28 Certification of occupational therapists and assistants (p. 74)
HSS 105.29 Certification of speech and hearing clinics (p. 75)
HSS 105.30 Certification of speech pathologists (p. 75)
HSS 105.31 Certification of audiologists (p. 75)
HSS 105.32 Certification of optometrists (p. 75)
HSS 105.33 Certification of opticians (p. 75)
HSS 105.34 Certification of rehabilitation agencies (p. 75)
HSS 105.35 Certification of rural health clinics (p. 76)
HSS 105.36 Certification of family planning clinics or agencies (p. 76)
HSS 105.37 Certification of early and periodic screening, diagnosis and treatment (EPSDT) providers (p. 80)
HSS 105.38 Certification of ambulance providers (p. 82)
HSS 105.39 Certification of specialized medical vehicle providers (p. 82)
HSS 105.40 Certification of durable medical equipment and medical supply vendors (p. 84)
HSS 105.41 Certification of hearing aid dealers (p. 85)
HSS 105.42 Certification of physician office laboratories (p. 85)
HSS 105.43 Certification of hospital and independent clinical laboratories (p. 85)
HSS 105.44 Certification of portable x-ray providers (p. 85)
HSS 105.45 Certification of dialysis facilities (p. 85)
HSS 105.46 Certification of blood banks (p. 86)
HSS 105.47 Certification of health maintenance organizations and prepaid health plans (p. 86)
HSS 105.48 Certification of out-of-state providers (p. 86)
HSS 105.49 Certification of ambulatory surgical centers (p. 87)
HSS 105.50 Certification of hospices (p. 87)
HSS 105.51 Certification of case management agency providers (p. 87)

Note: Chapter HSS 105 as it existed on February 28, 1986 was repealed and a new chapter HSS 105 was created effective March 1, 1986.

HSS 105.01 Introduction. (1) PURPOSE. This chapter identifies the terms and conditions under which providers of health care services are certified for participation in the medical assistance program (MA).

(2) DEFINITIONS. In this chapter:

(a) "Group billing provider" means an entity which provides or arranges for the provision of medical services by more than one certified provider.

(b) "Provider assistant" means a provider such as a physical therapist assistant whose services must be provided under the supervision of a certified or licensed professional provider, and who, while required to be certified, is not eligible for direct reimbursement from MA.

(3) GENERAL CONDITIONS FOR PARTICIPATION. In order to be certified by the department to provide specified services for a reasonable period of time as specified by the department, a provider shall:

(a) Affirm in writing that, with respect to each service for which certification is sought, the provider and each person employed by the provider for the purpose of providing the service holds all licenses or similar entitlements as specified in chs. HSS 101 to 108 and required by federal or state statute, regulation or rule for the provision of the service;

(b) Affirm in writing that neither the provider, nor any person in whom the provider has a controlling interest, nor any person having a controlling interest in the provider, has, since the inception of the medicare, medicaid, or title 20 services program, been convicted of a crime related to, or been terminated from, a federal-assisted or state-assisted medical program;

(c) Disclose in writing to the department all instances in which the provider, any person in whom the provider has a controlling interest, or any person having a controlling interest in the provider has been sanctioned by a federal-assisted or state-assisted medical program, since the inception of medicare, medicaid or the title 20 services program;

(d) Furnish the following information to the department, in writing:

1. The names and addresses of all vendors of drugs, medical supplies or transportation, or other providers in which it has a controlling interest or ownership;

2. The names and addresses of all persons who have a controlling interest in the provider; and

3. Whether any of the persons named in compliance with subd. 1 or 2, is related to another as spouse, parent, child or sibling; and

(e) Execute a provider agreement with the department.

(4) PROVIDERS REQUIRED TO BE CERTIFIED. The following types of providers are required to be certified by the department in order to participate in the MA program:

(a) Institutional providers;

(b) Non-institutional providers;

(c) Provider assistants; and

(d) Group billing providers.

(5) PERSONS NOT REQUIRED TO BE INDIVIDUALLY CERTIFIED. The following persons are not required to be individually certified by the department in order to participate in the MA program:

(a) Technicians or support staff for a provider, including:

1. Dental hygienists;

2. Medical record librarians or technicians;

3. Hospital and nursing home administrators, clinic managers, and administrative and billing staff;

4. Nursing aides, assistants and orderlies;

5. Home health aides;

6. Dieticians;

7. Laboratory technologists;

8. X-ray technicians;

9. Patient activities coordinators;

10. Volunteers; and

11. All other persons whose cost of service is built into the charge submitted by the provider, including housekeeping and maintenance staff; and

(b) Providers employed by or under contract to certified institutional providers, including but not limited to physicians, therapists, nurses and provider assistants. These providers shall meet certification standards applicable to their respective provider type.

(6) NOTIFICATION OF CERTIFICATION DECISION. Within 60 days after receipt by the department or its fiscal agent of a complete application for certification, including evidence of licensure or medicare certification, or both, if required, the department shall either approve the application and issue the certification or deny the application. If the application for certification is denied, the department shall give the applicant reasons, in writing, for the denial.

History: Cr. Register, February, 1986, No. 362, eff. 3-1-86; r. (2) (b) and (c), (5) (a) 6., renum. (2) (d) and (5) (a) 7. to 12. to be (2) (b) and (5) (a) 6. to 11., Register, February, 1988, No. 386, eff. 3-1-88.

HSS 105.02 Requirements for maintaining certification. Providers shall comply with the requirements in this section in order to maintain MA certification.

(1) CHANGE IN PROVIDER STATUS. Providers shall report to the department in writing any change in licensure, certification, group affiliation, corporate name or ownership by the time of the effective date of the change. The department may require the provider to complete a new provider application and a new provider agreement when a change in status occurs. A provider shall immediately notify the department of any change of address but the department may not require the completion of a new provider application or a new provider agreement for a change of address.

(2) CHANGE IN OWNERSHIP. (a) *Non-nursing home provider.* In the event of a change in the ownership of a certified provider, except a nursing home, the provider agreement shall automatically terminate, except that the provider shall continue to maintain records required by subs.

(4), (6) and (7) unless an alternative method of providing for maintenance of these records has been established in writing and approved by the department.

(b) *Nursing home provider.* In the event of a change in the ownership of a nursing home, the provider agreement shall automatically be assigned to the new owner.

(3) RESPONSE TO INQUIRIES. A provider shall respond as directed to inquiries by the department regarding the validity of information in the provider file maintained by the department or its fiscal agent.

(4) MAINTENANCE OF RECORDS. Providers shall prepare and maintain whatever records are necessary to fully disclose the nature and extent of services provided by the provider under the program. Records to be maintained are those enumerated in subs. (6) and (7). All records shall be retained by providers for a period of not less than 5 years from the date of payment by the department for the services rendered, unless otherwise stated in chs. HSS 101 to 108. In the event a provider's participation in the program is terminated for any reason, all MA-related records shall remain subject to the conditions enumerated in this subsection and sub. (2).

(5) PARTICIPATION IN SURVEYS. Nursing home and hospital providers shall participate in surveys conducted for research and MA policy purposes by the department or its designated contractors. Participation involves accurate completion of the survey questionnaire and return of the completed survey form to the department or to the designated contractor within the specified time period.

(6) RECORDS TO BE MAINTAINED BY ALL PROVIDERS. All providers shall maintain the following records:

(a) Contracts or agreements with persons or organizations for the furnishing of items or services, payment for which may be made in whole or in part, directly or indirectly, by MA;

(b) MA billings and records of services or supplies which are the subject of the billings, that are necessary to fully disclose the nature and extent of the services or supplies; and

(c) Any and all prescriptions necessary to disclose the nature and extent of services provided and billed under the program.

(7) RECORDS TO BE MAINTAINED BY CERTAIN PROVIDERS. (a) *Specific types of providers.* The following records shall be maintained by hospitals, skilled nursing facilities (SNFs), intermediate care facilities (ICFs) and home health agencies, except that home health agencies are not required to maintain records listed in subds. 5, 11 and 14, and SNFs, ICFs and home health agencies are not required to maintain records listed in subd. 4:

1. Annual budgets;

2. Patient census information, separately:

a. For all patients; and

b. For MA recipients;

3. Annual cost settlement reports for medicare;

4. MA patient logs as required by the department for hospitals;

5. Annual MA cost reports for SNFs, ICFs and hospitals;

6. Independent accountants' audit reports;

7. Records supporting historical costs of buildings and equipment;

8. Building and equipment depreciation records;

9. Cash receipt and receivable ledgers, and supporting receipts and billings;

10. Accounts payable, operating expense ledgers and cash disbursement ledgers, with supporting purchase orders, invoices, or checks;

11. Records, by department, of the use of support services such as dietary, laundry, plant and equipment, and housekeeping;

12. Payroll records;

13. Inventory records;

14. Ledger identifying dates and amounts of all deposits to and withdrawals from MA resident trust fund accounts, including documentation of the amount, date, and purpose of the withdrawal when withdrawal is made by anyone other than the resident. When the resident chooses to retain control of the funds, that decision shall be documented in writing and retained in the resident's records. Once that decision is made and documented, the facility is relieved of responsibility to document expenditures under this subsection; and

15. All policies and regulations adopted by the provider's governing body.

(b) *Prescribed service providers.* The following records shall be kept by pharmacies and other providers of services requiring a prescription:

1. Prescriptions which support MA billings;

2. MA patient profiles;

3. Purchase invoices and receipts for medical supplies and equipment billed to MA; and

4. Receipts for costs associated with services billed to MA.

(8) PROVIDER AGREEMENT DURATION. The provider agreement shall, unless terminated, remain in full force and effect for a maximum of one year from the date the provider is accepted into the program. In the absence of a notice of termination by either party, the agreement shall automatically be renewed and extended for a period of one year.

History: Cr. Register, February, 1986, No. 362, eff. 3-1-86.

HSS 105.03 Participation by non-certified persons. (1) REIMBURSEMENT FOR EMERGENCY SERVICES. If a resident of Wisconsin or of another state who is not certified by MA in this state provides emergency services to a Wisconsin recipient, that person shall not be reimbursed for those services by MA unless the services are covered services under ch. HSS 107 and:

(a) The person submits to the fiscal agent a provider data form and a claim for reimbursement of emergency services on forms prescribed by the department;

(b) The person submits to the department a statement in writing on a form prescribed by the department explaining the nature of the emergency, including a description of the recipient's condition, cause of emergency, if known, diagnosis and extent of injuries, the services which were provided and when, and the reason that the recipient could not receive services from a certified provider; and

(c) The person possesses all licenses and other entitlements required under state and federal statutes, rules and regulations, and is qualified to provide all services for which a claim is submitted.

(2) REIMBURSEMENT PROHIBITED FOR NON-EMERGENCY SERVICES. No non-emergency services provided by a non-certified person may be reimbursed by MA.

(3) REIMBURSEMENT DETERMINATION. Based upon the signed statement and the claim for reimbursement, the department's professional consultants shall determine whether the services are reimbursable.

History: Cr. Register, February, 1986, No. 362, eff. 3-1-86.

HSS 105.04 Supervision of provider assistants. Provider assistants shall be supervised. Unless otherwise specified under ss. HSS 105.05 to 105.49, supervision shall consist of at least intermittent face-to-face contact between the supervisor and the assistant and a regular review of the assistant's work by the supervisor.

History: Cr. Register, February, 1986, No. 362, eff. 3-1-86.

HSS 105.05 Certification of physicians and assistants. (1) PHYSICIANS. For MA certification, physicians shall be licensed to practice medicine and surgery pursuant to ss. 448.05 and 448.07, Stats., and chs. Med 1, 2, 3, 4, 5, and 14.

(2) PHYSICIAN ASSISTANTS. For MA certification, physician assistants shall be certified and registered pursuant to ss. 448.05 and 448.07, Stats., and chs. Med 8 and 14.

Note: For covered physician services, see s. HSS 107.06.

History: Cr. Register, February, 1986, No. 362, eff. 3-1-86.

HSS 105.06 Certification of dentists. For MA certification, dentists shall be licensed pursuant to s. 447.05, Stats.

Note: For covered dental services, see s. HSS 107.07.

History: Cr. Register, February, 1986, No. 362, eff. 3-1-86.

HSS 105.07 Certification of general hospitals. For MA certification, hospitals shall be approved pursuant to s. 50.35, Stats., and ch. HSS 124, shall either have a medicare provider agreement or be accredited by the joint commission on the accreditation of hospitals (JCAH), and shall have a utilization review plan that meets the requirements of 42 CFR 405.1035. In addition:

(1) Hospitals providing outpatient psychotherapy shall meet the requirements specified in s. HSS 105.22 (1) (2) and (3);

(2) Hospitals providing outpatient alcohol and other drug abuse services shall meet the requirements specified in s. HSS 105.23;

(3) Hospitals providing day treatment services shall meet the requirements specified in s. HSS 105.24;

(4) Hospitals participating in the peer review organization (PRO) review program shall meet the requirements of 42 CFR 405.1035 and any additional requirements established under state contract with the PRO.

Note: For covered hospital services, see s. HSS 107.08.

History: Cr. Register, February, 1986, No. 362, eff. 3-1-86.

HSS 105.08 Certification of skilled nursing facilities. For MA certification, skilled nursing facilities shall be licensed pursuant to s. 50.03, Stats., and ch. HSS 132.

Note: For covered nursing home services, see s. HSS 107.09.

History: Cr. Register, February, 1986, No. 362, eff. 3-1-86.

HSS 105.09 Medicare bed requirement. (1) DEFINITION. In this section, "sufficient number of medicare-certified beds" means a supply of beds that accommodates the demand for medicare beds from both the home county and contiguous counties so that no dual eligible recipient is denied access to medicare SNF benefits because of a lack of available beds. In this subsection, "dual eligible recipient" means a person who qualifies for both medical assistance and medicare.

(2) MEDICARE BED OBLIGATION. Each county shall have a sufficient number of skilled nursing beds certified by the medicare program pursuant to ss. 49.45 (6m) (g) and 50.02 (2), Stats. The number of medicare-certified beds required in each county shall be at least 3 beds per 1000 persons 65 years of age and older in the county.

(3) PENALTY. (a) If a county does not have sufficient medicare-certified beds as determined under sub. (1), each SNF within that county which does not have one or more medicare-certified beds shall be subject to a fine to be determined by the department of not less than $10 nor more than $100 for each day that the county continues to have an inadequate number of medicare-certified beds.

(b) The department may not enforce penalty in par. (a) if the department has not given the SNF prior notification of criteria specific to its county which shall be used to determine whether or not the county has a sufficient number of medicare-certified beds.

(c) If the number of medicare-certified beds in a county is reduced so that the county no longer has a sufficient number of medicare-certified beds under sub. (1), the department shall notify each SNF in the county of the number of additional medicare-certified beds needed in the county. The department may not enforce the penalty in par. (a) until 90 days after this notification has been provided.

(4) EXEMPTIONS. (a) In this subsection, a "swing-bed hospital" means a hospital approved by the federal health care financing administration to furnish skilled nursing facility services in the medicare program.

(b) A home or portion of a home certified as an ICF/MR is exempt from this section.

(c) The department may grant an exemption based on but not limited to:

1. Availability of a swing-bed hospital operating within a 30 mile radius of the nursing home; or

2. Availability of an adequate number of medicare-certified beds in a facility within a 30 mile radius of the nursing home.

(d) A skilled nursing facility located within a county determined to have an inadequate number of medicare-certified beds and which has less than 100 beds may apply to the department for partial exemption from the requirements of this section. An SNF which applies for partial exemption shall recommend to the department the number of medicare-certified beds that the SNF should have to meet the requirements of this section based on the facility's analysis of the demand for medicare-certified beds in the community. The department shall review all recommendations and issue a determination to each SNF requesting a partial exemption.

History: Cr. Register, February, 1986, No. 362, eff. 3-1-86; renum. (1), (2), (3) (a) and (b) to be (2), (3), (4) (a) and (b) and am. (2) and (4) (b), cr. (1), (4) (c) and (d), Register, February, 1988, No. 386, eff. 7-1-88.

HSS 105.10 Certification of SNFs and ICFs with deficiencies. If the department finds a facility deficient in meeting the standards specified in s. HSS 105.08, 105.09, 105.11 or 105.12, the department may nonetheless certify the facility for MA under the conditions specified in s. HSS 132.21 and 42 CFR 442, Subpart C.

History: Cr. Register, February, 1986, No. 362, eff. 3-1-86.

HSS 105.11 Certification of intermediate care facilities. For MA certification, intermediate care facilities shall be licensed pursuant to s. 50.03, Stats., and ch. HSS 132.

Note: For covered nursing home services, see s. HSS 107.09.

History: Cr. Register, February, 1986, No. 362, eff. 3-1-86.

HSS 105.12 Certification of ICFs for mentally retarded persons or persons with related conditions. For MA certification, institutions for mentally retarded persons or persons with related conditions shall be licensed pursuant to s. 50.03, Stats., and ch. H 34 [HSS 134].

Note: For covered ICF/MR services, see HSS 107.09.

History: Cr. Register, February, 1986, No. 362, eff. 3-1-86.

HSS 105.15 Certification of pharmacies. For MA certification, pharmacies shall meet the requirements for registration and practice enumerated in ss. 450.02 and 450.04, Stats., and chs. Phar 1 to 6.

History: Cr. Register, February, 1986, No. 362, eff. 3-1-86.

HSS 105.16 Certification of home health agencies. For MA certification, a home health agency shall be certified to participate in medicare as a home health agency, be licensed pursuant to ch. HSS 133 and meet the requirements of this section as follows:

(1) HOME HEALTH AGENCY SERVICES. For MA certification, a home health agency shall provide at least part-time or intermittent skilled nursing services, or both, which are performed by a registered nurse, home health aide services and medical supplies and equipment, on a visiting basis, in a place of residence used as a recipients's home. The home health agency or qualified professionals under contract to the home health agency may provide physical therapy, occupational therapy and speech and language pathology services. Home health services shall be provided in accordance with orders from the recipient's physician in a written plan of care that the physician reviews at least every 60 days.

(2) HOME HEALTH AIDES. (a) *Assignment and duties.* Home health aides shall be assigned to specific recipients by a registered nurse. Written instructions for patient care shall be prepared by a registered nurse, a physical or occupational therapist or a speech and language pathologist, as appropriate. Duties shall include tasks such as assisting the recipient with personal hygiene, dressing, feeding, transfer or ambulatory needs as an extension of therapy services, assistance with medications that are normally self-administered, reporting changes in the recipient's condition and needs, and completing appropriate records. Any household tasks performed shall be incidental to the recipient's health care needs and may occupy no more than 25% of the home health aide's time during a visit.

Note: Examples of household tasks are meal preparation, shopping, housework and laundry.

(b) *Supervision.* The registered nurse, or a therapist or speech and language pathologist, as appropriate, when other services are provided, shall make a supervisory visit to the recipient's residence at least once every 60 days, either to observe and assist when the home health aide is present or, when the aide is absent, to assess relationships and determine whether goals are being met.

(3) PHYSICAL THERAPISTS. Physical therapists may be employed by the home health agency or by an agency under contract to the home health agency, or may be independent providers under the contract to the home health agency.

(4) OCCUPATIONAL THERAPISTS. Occupational therapists may be employed by the home health agency or by an agency under contract to the home health agency, or may be independent providers under contract to the home health agency.

(5) SPEECH AND LANGUAGE PATHOLOGISTS. Speech and language pathologists may be employed by the home health agency or by an

agency under contract to the home health agency, or may be independent providers under contract to the home health agency.

History: Cr. Register, February, 1986, No .362, eff. 3-1-86; am. (intro.), (1) and (2), r. and recr. (3), cr. (4) and (5), Register, April, 1988, No. 388, eff. 7-1-88.

HSS 105.17 Certification of personal care providers. (1) REQUIREMENTS. For MA certification, a personal care provider shall be a home health agency licensed under s. 141.15, Stats., and ch. HSS 133, a county department established under s. 46.215, 46.22 or 46.23, Stats., a county department established under s. 51.42 or 51.437, Stats., which has the lead responsibility in the county for administering the community options program under s. 46.27, Stats., or an independent living center as defined in s. 46.96 (1) (a), Stats. A certified provider shall:

(a) Possess the capacity to enter into a legally binding contract;

(b) Present a proposal to the department to provide personal care services that:

1. Documents cost-effective provision of services;

2. Documents a quality assurance mechanism and quality assurance activities;

3. Demonstrates that employes possess knowledge of and training and experience with special needs, including independent living needs, of the recipient group or groups receiving services;

(c) Document adequate resources to maintain a cash flow sufficient to cover operating expenses for 60 days;

(d) Document a financial accounting system that complies with generally accepted accounting principles;

(e) Maintain the records identified in sub. (4);

(f) Document a system of personnel management if more than one personal care worker is employed;

(g) Maintain the following records for each recipient:

1. The nursing assessment, physician prescription, plan of care, personal care worker's assignment and record of all assignments, and record of registered nurse supervisory visits;

2. The record of all visits by the personal care worker, including observations and assigned activities completed and not completed; and

3. A copy of written agreements between the personal care provider and RN supervisor, if applicable;

(h) Employ or contract with personal care workers to provide personal care services;

(i) Employ trained workers as described under sub. (3), or train or arrange and pay for training of employed or subcontracted personal care workers as necessary;

(j) Employ or contract with at least one registered nurse;

(k) Supervise the provision of personal care services;

(l) Ensure that qualifications and requirements of the registered nurse supervisor and personal care worker under subs. (2) and (3) are met or are being met;

(m) Bill the medical assistance program for personal care services, for registered nurse supervisory visits and for disposable medical supplies;

(n) Give full consideration to a recipient's perferences for service arrangements and choice of personal care workers;

(o) Document a grievance mechanism to resolve recipients' complaints about personal care services, including a personal care provider's decision not to hire a recipient's choice of a personal care worker;

(p) Perform all functions and provide all services specified in a written personal care provider contract between the personal care provider and personal care workers under contract, and maintain a copy of that contract on file. Document performance of personal care workers under contract by maintaining time sheets of personal care workers which will document the types and duration of services provided, by funding source;

(q) Provide a written plan of operation describing the entire process from referral through delivery of services and follow-up;

(r) Provide the personal care worker with the basic materials and equipment needed to deliver personal care services;

(s) Cooperate with other health and social service agencies in the area and with interested community referral groups to avoid duplication of services and to provide coordination of personal care services to recipients; and

(t) Evaluate each personal care worker's work performance on a periodic basis.

(2) QUALIFICATIONS AND DUTIES OF THE REGISTERED NURSE SUPERVISOR.

(a) *Qualifications.* An RN supervisor under contract with or employed by a personal care provider shall have the following qualifications:

1. Be licensed in Wisconsin pursuant to s. 441.06, Stats.;

2. Be a public health nurse or be currently or previously employed by a home health agency, an independent living center or a hospital rehabilitation unit; and

3. Provide documentation of experience in providing personal care services in the home.

(b) *Duties.* The RN supervisor shall perform the following duties:

1. Evaluate the need for service and make referrals to other services as appropriate;

2. Secure written orders from the recipient's physician. These orders are to be renewed once every 3 months unless the physician specifies that orders covering a period of time up to one year are appropriate, or when the recipient's needs change, whichever occurs first;

3. Develop a plan of care for the recipient, giving full consideration to the recipient's preferences for service arrangements and choice of per-

sonal care workers, interpret the plan to the personal care worker, include a copy of the plan in the recipient's health record, and review the plan at least every 60 days and update it as necessary;

4. Develop appropriate time and service reporting mechanisms for personal care workers and instruct the workers on their use;

5. Give the worker written instructions about the services to be performed and demonstrate to the worker how to perform the services; and

6. Evaluate the competency of the worker to perform the services.

(3) QUALIFICATIONS AND DUTIES OF PERSONAL CARE WORKERS. (a) *Qualifications.* Personal care workers shall have the following qualifications:

1. Be trained in the provision of personal care services. Training shall consist of a minimum of 40 classroom hours, at least 25 of which shall be devoted to personal and restorative care, or 6 months of equivalent experience acquired before July 1, 1988. Training shall emphasize techniques for and aspects of caring for the population served by the provider;

2. Provide documentation of required training to the personal care provider for the provider's records;

3. Be a person who is not a legally responsible relative of the recipient under s. 49.90 (1), Stats.; and

4. Be a person who has not been convicted of a crime which directly relates to the occupation of providing personal care or other health care services.

(b) *Duties.* Personal care workers shall perform the following duties:

1. Perform tasks assigned by the RN supervisor;

2. Report in writing to the RN supervisor on each assignment;

3. Report any changes in the recipient's condition to the RN supervisor; and

4. Confer as required with the RN supervisor regarding the recipient's progress.

(4) ANNUAL REVIEW OF PERSONAL CARE PROVIDERS. The department's bureau of quality compliance shall conduct an annual on-site review of each personal care provider. Records to be reviewed include:

(a) Written personnel policies;

(b) Written job descriptions;

(c) A written plan of operations indicating the entire process from making referrals through delivery of services and follow-up;

(d) A written statement defining the scope of personal care services provided, including the population being served, service needs and service priorities;

(e) A written record of personal care workers' 40 hours of training;

(f) Workers' time sheets;

(g) Health care records of recipients;

(h) Contracts with workers and other agencies; and

(i) Records of supervisory visits.

History: Cr. Register, April, 1988, No. 388, eff. 7-1-88; emerg. am. (1) (intro.), eff. 7-1-88; am. (1) (intro.), Register, December, 1988, No. 396, eff. 1-1-89.

Next page is numbered 69

HSS 105.19 Certification of licensed practical nurses. For MA certification, licensed practical nurses shall be licensed pursuant to s. 441.10, Stats.

History: Cr. Register, February, 1986, No. 362, eff. 3-1-86.

HSS 105.20 Certification of registered nurses. (1) GENERAL. For MA certification, registered nurses shall be registered pursuant to s. 441.06, Stats.

(2) NURSE PRACTITIONERS. (a) In addition to being a registered nurse, a nurse practitioner shall meet the requirements of 42 CFR 481.2 and shall be:

1. Employed by a rural health clinic;

2. Employed by an EPSDT provider under s. HSS 105.37 (1) if providing EPSDT health assessment and evaluation services; or

3. A provider of nursing home recertifications under s. HSS 107.09 (3) (m)2, consistent with the requirements of s. 441.11 (4), Stats.

(b) A nurse practitioner shall meet one of the following requirements:

1. Certification as a primary care nurse practitioner by the American nurses' association or by the national board of pediatric nurse practitioners and associates;

2. Satisfactory completion of a formal one-year academic program which prepares registered nurses to perform an expanded role in the delivery of primary care, which includes at least 4 months of classroom instruction and a component of supervised clinical practice, and awards a degree, diploma or a certificate to persons who successfully complete the program; or

3. Successful completion of a formal education program intended to prepare registered nurses to perform an expanded role in the delivery of primary care, but which does not meet the requirements of subd. 2., and performance of an expanded role in the delivery of primary care for a total of 12 months during the 18-month period immediately preceding July 1, 1978.

(c) A nurse practitioner shall develop and maintain with a licensed physician a written protocol of services provided and procedures to follow. This protocol shall include but need not be limited to explicit agreements on the expanded primary care services which can be provided by the nurse practitioner. The protocol shall also include arrangements for communication of the physician's directions, consultation with the physician, assistance with medical emergencies, patient referrals, and other agreed-to provisions. In rural health clinics, the written patient care policies shall be considered sufficient evidence of a joint written protocol.

(3) NURSE MIDWIVES. In addition to being a registered nurse, a nurse midwife shall be certified pursuant to ch. N 6.

Note: For covered independent nursing and nurse-midwife services, see s. HSS 107.12.

History: Cr. Register, February, 1986, No. 362, eff. 3-1-86.

HSS 105.21 Certification of psychiatric hospitals. (1) REQUIREMENTS. For MA certification, psychiatric hospitals shall:

(a) Be approved pursuant to s. 50.35, Stats., and ch. H 24 [HSS 124], and either be certified for participation in medicare or accredited by the joint commission on the accreditation of hospitals (JCAH);

(b) Have a utilization review plan that meets the requirements of 42 CFR 405.1035, 405.1037 and 405.1038;

(c) If participating in the PRO review program, meet the requirements of that program and any other requirements established under the state contract with the PROs;

(d) If providing outpatient psychotherapy, comply with s. HSS 105.22;

(e) If providing outpatient alcohol and other drug abuse services, comply with s. HSS 105.23; and

(f) If providing day treatment services, comply with s. HSS 105.24.

(2) WAIVERS AND VARIANCES. The department shall consider applications for waivers or variances of the requirements in sub. (1) if the requirements and procedures stated in s. HSS 106.11 are followed.

Note: For covered mental health services, see s. HSS 107.13.

History: Cr. Register, February, 1986, No. 362, eff. 3-1-86.

HSS 105.22 Certification of psychotherapy providers. (1) TYPES OF PSYCHOTHERAPY PROVIDERS. For MA certification, psychotherapy providers shall be one of the following:

(a) A physician meeting the requirements of s. HSS 105.05 (1) who has completed a residency in psychiatry. Proof of residency shall be provided to the department. Proof of residency shall either be board-certification from the American board of psychiatry and neurology or a letter from the hospital in which the residency was completed;

(b) A psychologist licensed under ch. 455, Stats., who is listed or eligible to be listed in the national register of health services providers in psychology;

(c) A board-operated outpatient facility certified under ss. HSS 61.91 to 61.98; or

(d) An outpatient facility certified under ss. HSS 61.91 to 61.98, which provides MA services under contract to a board.

(2) AGREEMENT WITH BOARD. All providers certified under sub. (1) (a), (b), or (d) shall have a written agreement with a board to be eligible for reimbursement for psychotherapy services.

(3) STAFFING OF OUTPATIENT FACILITIES. (a) To provide psychotherapy reimbursable by MA, personnel employed by an outpatient facility deemed a provider under sub. (1) (d) shall be individually certified and shall work under the supervision of a physician or psychologist who meets the requirements of sub. (1) (a) or (b). Persons employed by a board-operated or hospital outpatient psychotherapy facility need not be individually certified as providers but may provide psychotherapy services upon the department's issuance of certification to the facility by which they are employed. In this case, the facility shall provide a list of the names of persons employed by the facility who are performing psy-

chotherapy services for which reimbursement may be claimed under MA. This listing shall certify the credentials possessed by the named persons which would qualify them for certification under the standards specified in this subsection. A facility, once certified, shall promptly advise the department in writing of the employment or termination of employes who will be or have been providing psychotherapy services under MA.

(b) A person eligible under this subsection to provide psychotherapy services as an employe of a board-operated or hospital outpatient psychotherapy facility shall be one of the following:

1. A person with a master's degree in social work from a graduate school of social work accredited by the council on social work education, with course work emphasis in case work or clinical social work and who is listed in or eligible to be listed in either the national association of social workers (NASW) register of clinical social workers or the national registry of health care providers in clinical social work;

2. A person with a master's degree in psychiatric mental health nursing from a graduate school of nursing accredited by the national league for nursing;

3. A person with any of the following master's degrees and course work emphasis in clinical psychology: counseling and guidance, counseling psychology, clinical psychology, psychology or school psychology, if the person has met the equivalent of the requirements for registration in the national registry of health care providers in clinical social work or in the NASW register of clinical social workers; or

4. A physician meeting the requirements of sub. (1) (a) or a psychologist meeting the requirements of sub. (1) (b).

(c) Providers defined by par. (b) 1 to 3 shall also have 3,000 hours of supervised experience in clinical practice subsequent to the acquisition of an acceptable masters degree. In this paragraph, "supervised" during the 3,000 hour period means a minimum of one hour a week of face-to-face supervision by another person meeting the minimum qualifications to be a provider.

(4) REIMBURSEMENT FOR OUTPATIENT PSYCHOTHERAPY SERVICES. Outpatient psychotherapy services shall be reimbursed as follows:

(a) For the services of any provider working in a certified outpatient facility, reimbursement shall be to the facility; and

(b) For the services of any provider in private practice who is licensed and certified according to sub. (1) (a) or (b), reimbursement shall be to that provider.

(5) REIMBURSEMENT FOR INPATIENT PSYCHOTHERAPY SERVICES. Reimbursement shall be made to providers defined in sub. (1) (a) and (b) who provide psychotherapy services to a recipient while the recipient is an inpatient in a general or acute care hospital or in a psychiatric facility. Psychotherapy services provided to inpatients in general hospitals or in psychiatric facilities shall be reimbursed as follows:

(a) For the services of a provider who is a physician under sub. (1) (a) or a psychologist under sub. (1) (b) employed by or under contract to an outpatient facility, reimbursement shall be to the facility; and

(b) For the services of any provider who is a physician under sub. (1) (a) or a psychologist under sub. (1) (b) in private practice, reimbursement shall be to the physician or psychologist.

Note: For covered mental health services, see s. HSS 107.13.

History: Cr. Register, February, 1986, No. 362, eff. 3-1-86.

HSS 105.23 Certification of alcohol and other drug abuse (AODA) treatment providers. (1) TYPES OF PROVIDERS. For MA certification, an outpatient alcohol and other drug abuse (AODA) treatment provider shall be:

(a) An outpatient facility operated by a board and certified under ss. HSS 61.50 to 61.68;

(b) An outpatient facility under contract to a board, certified under ss. HSS 61.50 to 61.68; or

(c) A provider under s. HSS 105.05 (1) or 105.22 (1) (b) who has a written agreement with a board or a facility under sub. (1) (a) or (b), if the recipient being treated is enrolled in an AODA program at the facility.

(2) STAFFING REQUIREMENTS. (a) To provide AODA services reimbursable under MA, personnel employed by an outpatient facility under sub. (1) (a) or (b) shall:

1. Meet the requirements in s. HSS 105.22 (3) or 105.05 (1); or

2. Be an AODA counselor certified by the Wisconsin alcoholism and drug abuse counselor certification board and work under the supervision of a provider who is a licensed physician or licensed psychologist and employed by the same facility.

Note: Certification standards of the Wisconsin Alcoholism and Drug Abuse Counselor Certification Board may be obtained by writing the Wisconsin Alcoholism and Drug Abuse Counselor Certification Board, Inc., 416 East Main Street, Waukesha, WI 53186.

(b) The facility shall provide the department with a list of persons employed by the facility who perform AODA services for which reimbursement may be claimed under MA. The listing shall identify the credentials possessed by the named persons which would qualify them for certification under the standards specified in par. (a). A facility, once certified, shall promptly advise the department in writing of the employment or termination of employes who will be or have been providing AODA services under MA.

(3) REIMBURSEMENT FOR AODA SERVICES. Reimbursement for outpatient AODA treatment services shall be as follows:

(a) For the services of any provider employed by or under contract to a certified AODA facility, reimbursement shall be made to the facility; and

(b) For the services of any provider who is a physician or licensed psychologist defined under sub. (1) (c) in private practice, reimbursement shall be to the physician or psychologist.

Note: For covered alcohol and other drug abuse treatment services, see HSS 107.13 (3).

History: Cr. Register, February, 1986, No. 362, eff. 3-1-86.

HSS 105.24 Certification of day treatment or day hospital service providers. (1) REQUIREMENTS. For MA certification, a day treatment or day hospital service provider shall:

(a) Be either:

1. A medical program operated by a board and certified under s. HSS 61.75; or

2. A medical program under contract to a board and certified under s. HSS 61.75; and

(b) Meet the following personnel and staffing requirements:

1. A registered nurse and a registered occupational therapist shall be on duty to participate in program planning, program implementation and daily program coordination;

2. The day treatment program shall be planned for and directed by designated members of an interdisciplinary team that includes a social worker, a psychologist, an occupational therapist and a registered nurse or a physician, physician's assistant or another appropriate health care professional;

3. A written patient evaluation involving an assessment of the patient's progress by each member of the multidisciplinary team shall be made at least every 60 days; and

4. For the purposes of daily program performance, coordination guidance and evaluation:

a. One qualified professional staff member such as an OTR, masters degree social worker, registered nurse, licensed psychologist or masters degree psychologist for each group, or one certified occupational therapy assistant and one other paraprofessional staff person for each group; and

b. Other appropriate staff, including volunteer staff.

(2) BILLING AND REIMBURSEMENT. (a) Reimbursement for medical day treatment or day hospital services shall be at a rate established and approved by the department.

(b) Reimbursement payable under par. (a) shall be subject to reductions for third party recoupments. For day treatment or day hospital services provided under MA, the board shall be responsible for 10 percent of the amount reimbursable under par. (a).

(c) Billing submitted for medical day treatment or day hospital services shall verify that the service has been approved by the board, except in the case of billing for services at state-operated facilities.

Note: For covered day treatment and day hospital services, see s. HSS 107.13 (4).

History: Cr. Register, February, 1986, No. 362, eff. 3-1-86.

HSS 105.25 Certification of alcohol and other drug abuse (AODA) day treatment providers. (1) TYPES OF PROVIDERS. For MA certification, an alcohol and other drug abuse (AODA) day treatment provider shall be certified under ss. HSS 61.61 and 105.23.

(2) STAFFING REQUIREMENTS. (a) An alcohol and drug counselor certified as provided in s. HSS 61.06 (14) shall be on duty during all hours in

which services are provided to participate in treatment planning and implementation and daily program coordination.

(b) A treatment plan for each participating recipient shall be developed, directed and monitored by designated members of an interdisciplinary treatment team which includes an alcohol and drug counselor II or III, certified as provided in s. HSS 61.06 (14), a physician or licensed psychologist, and other health care professionals. The treatment team shall maintain a written record of each recipient's treatment and progress toward meeting the goals described in the recipient's plan of care.

(c) All treatment shall be coordinated and provided by at least one qualified professional staff member who has demonstrated experience in delivering direct treatment to persons with alcohol and other drug abuse problems. Other staff members, such as an AODA counselor I who has filed for certification with the Wisconsin alcoholism and drug counselor certification board, inc., may assist in treatment under the supervision of a qualified professional staff member.

History: Emerg. cr. eff. 3-9-89; cr. Register, December, 1989, No. 408, eff. 1-1-90.

HSS 105.26 Certification of chiropractors. For MA certification, chiropractors shall be licensed pursuant to s. 446.02, Stats.

Note: For covered chiropractic services, see s. HSS 107.15.

History: Cr. Register, February, 1986, No. 362, eff. 3-1-86.

Emergency 105.26[27] 1-1-90

HSS 105.27 Certification of physical therapists and assistants. (1) PHYSICAL THERAPISTS. For MA certification, physical therapists shall be licensed pursuant to ss. 448.05 and 448.07, Stats., and ch. Med 7.

(2) PHYSICAL THERAPIST ASSISTANTS. For MA certification, physical therapist assistants shall have graduated from a 2-year college-level program approved by the American physical therapy association, and shall provide their services under the direct, immediate, on-premises supervision of a physical therapist certified pursuant to sub. (1). Physical therapist assistants may not bill or be reimbursed directly for their services.

Note: For covered physical therapy services, see s. HSS 107.16.

History: Cr. Register, February, 1986, No. 362, eff. 3-1-86.

HSS 105.28 Certification of occupational therapists and assistants. (1) OCCUPATIONAL THERAPISTS. For MA certification, an occupational therapist shall:

(a) Be certified by the American occupational therapy association as an occupational therapist, registered; or

(b) Have graduated from a program in occupational therapy accredited by the council on medical education of the American medical association and the American occupational therapy association, have completed the required field work experience, and have made application to the American occupational therapy association for the certification examination for occupational therapist, registered. Certification under this paragraph shall be valid until 8 weeks after the examination is taken. On passing the examination, the therapist shall obtain certification by the American occupational therapy association in the calendar year in which

the examination is taken. An individual certified under this paragraph for medical assistance who fails the examination may be recertified for medical assistance only under the conditions of par. (a).

(2) OCCUPATIONAL THERAPY ASSISTANTS. For MA certification, occupational therapy assistants shall be certified by the American occupational therapy association. Occupational therapy assistants may not bill or be reimbursed directly for their services. Occupational therapy assistants shall provide services under the direct, immediate on-premises supervision of an occupational therapist certified under sub. (1), except that they may provide services under the general supervision of an occupational therapist certified under sub. (1) under the following circumstances:

(a) The occupational therapy assistant is performing services which are for the purpose of providing activities of daily living skills;

(b) The occupational therapy assistant's supervisor visits the recipient on a bi-weekly basis or after every 5 visits by the occupational therapy assistant to the recipient, whichever is greater; and

(c) The occupational therapy assistant and his or her supervisor meet to discuss treatment of the recipient after every 5 contacts between the occupational therapy assistant and the recipient.

Note: For covered occupational therapy services, see s. HSS 107.17.

History: Cr. Register, February, 1986, No. 362, eff. 3-1-86.

Next page is numbered 75

HSS 105.29 Certification of speech and hearing clinics. For MA certification, speech and hearing clinics shall be currently accredited by the American speech and hearing association (ASHA) pursuant to the guidelines for "accreditation of professional services programs in speech pathology and audiology" published by ASHA.

History: Cr. Register, February, 1986, No. 362, eff. 3-1-86.

HSS 105.30 Certification of speech pathologists. For MA certification, speech pathologists shall:

(1) Possess a current certification of clinical competence from the American speech and hearing association;

(2) Have completed the educational requirements and work experience necessary for such a certificate; or

(3) Have completed the educational requirements and be in the process of accumulating the work experience required to qualify for the certificate of clinical competence under sub. (1).

Note: For covered speech pathology services, see. s. HSS 107.18.

History: Cr. Register, February, 1986, No. 362, eff. 3-1-86.

HSS 105.31 Certification of audiologists. For MA certification, audiologists shall:

(1) Possess a certificate of clinical competence from the American speech and hearing association (ASHA);

(2) Have completed the educational requirements and work experience necessary for the certificate; or

(3) Have completed the educational requirements and be in the process of accumulating the work experience required to qualify for the certificate under sub. (1).

Note: For covered audiology services, see s. HSS 107.19.

History: Cr. Register, February, 1986, No. 362, eff. 3-1-86; am. (1) and (3), Register, May, 1990, No. 413, eff. 6-1-90.

HSS 105.32 Certification of optometrists. For MA certification, optometrists shall be licensed and registered pursuant to ss. 449.04 and 449.06, Stats.

Note: For covered vision care services, see s. HSS 107.20.

History: Cr. Register, February, 1986, No. 362, eff. 3-1-86.

HSS 105.33 Certification of opticians. For MA certification, opticians shall practice as described in s. 449.01 (2), Stats.

Note: For covered vision care services, see s. HSS 107.20.

History: Cr. Register, February, 1986, No. 362, eff. 3-1-86.

HSS 105.34 Certification of rehabilitation agencies. For MA certification on or after January 1, 1988, a rehabilitation agency providing outpatient physical therapy, or speech and language pathology form, or occupational therapy shall be certified to participate in medicare as an outpatient rehabilitation agency under 42 CFR 405.1702 to 405.1726.

History: Cr. Register, February, 1986, No. 362, eff. 3-1-86; am. Register, February, 1988, No. 386, eff. 3-1-88.

HSS 105.35 Certification of rural health clinics. For MA certification, a rural health clinic shall be:

(1) Certified to participate in medicare;

(2) Licensed as required under all other local and state laws; and

(3) Staffed with persons who are licensed, certified form or registered in accordance with appropriate state laws.

Note: For covered rural health clinic services, see s. HSS 107.29.

History: Cr. Register, February, 1986, No. 362, eff. 3-1-86.

HSS 105.36 Certification of family planning clinics or agencies. For MA certification, family planning clinics or agencies shall meet the following conditions:

(1) GENERAL. In order to qualify for MA reimbursement, family planning clinics shall certify to the department that:

(a) An MA card has been shown before services are provided;

(b) Services are prescribed by a physician or are provided by a nurse midwife as provided under s. 411.15, Stats.; and

(c) No sterilization procedures are available to persons who are mentally incompetent, institutionalized or under the age of 21.

(2) PRINCIPLES OF OPERATION. (a) Family planning services shall be made available:

1. Upon referral from any source or upon the patient's own application;

2. Without regard to race, nationality, religion, family size, martial status, maternity, paternity, handicap or age, in conformity with the spirit and intent of the civil rights act of 1964, as amended, and the rehabilitation act of 1973, as amended;

3. With respect for the dignity of the individual; and

4. With efficient administrative procedures for registration and delivery of services, avoiding prolonged waiting and multiple visits for registration. Patients shall be seen on an appointment basis whenever possible.

(b) Acceptance of family planning service shall be voluntary, and individuals shall not be subjected to coercion either to receive services or to employ or not to employ any particular method of family planning. Acceptance or nonacceptance of family planning services shall not be a prerequisite to eligibility for or receipt of any other service funded by local, state, or federal tax revenue.

(c) A variety of medically approved methods of family planning, including the natural family planning method, shall be available to persons to whom family planning services are offered and provided.

(d) The clinic shall not provide abortion as a method of family planning.

(e) Diagnostic and treatment services for infertility shall be provided for in the family planning clinic. If these services are not available, the clinic shall make referrals to an appropriate, certified provider of these services.

(f) Efforts shall be made to obtain third party payments when available for services provided.

(g) All personal information obtained shall be treated as privileged communication, shall be held confidential, and shall be divulged only upon the recipient's written consent except when necessary to provide services to the individual or to seek reimbursement for the services. The agency director shall ensure that all participating agencies preserve the confidentiality of patient records. Information may be disclosed in summary, statistical or other form which does not identify specific recipients.

(3) ADMINISTRATION. (a) The family planning clinic shall have a governing body which is responsibile for the conduct of the staff and the operation of the clinic.

(b) A designated person shall be responsible for the day-to-day operation of the clinic.

(c) Written policies and procedures shall be developed which govern the utilization of staff, services to patients and the general operation of the clinic.

(d) Job descriptions for volunteer and paid staff shall be prepared to assist staff members in the performance of their duties.

(e) Each clinic shall have a record system that includes the following components:

1. Patient records:

a. With pertinent medical and social history;

b. With all patient contacts and outcomes;

c. With accumulated data on supplies, staffing, appointments and other administrative functions;

d. For purposes of following up on patients for medical services or referrals to other community resources; and

e. For purposes of program evaluation;

2. Fiscal records accounting for cash flow; and

3. Organizational records to document staff time, governing body meetings, administrative decisions and fund raising.

(f) Each clinic shall engage in a continuing effort of evaluating, reporting, planning and implementing changes in program operation.

(g) Each clinic shall develop a system of appointments and referrals which is flexible enough to meet community needs.

(h) Each clinic shall make provision for a medical back-up for patients who experience family planning related problems at a time when the clinic staff is unavailable.

(4) STAFFING. (a) Clinic staff, either paid or volunteer, shall perform the following functions:

1. Outreach workers or community health personnel shall have primary responsibility to contact individuals in need of family planning services, initiate family planning counseling, and assist in receiving, successfully using and continuing medical services;

2. The secretary or receptionist shall greet patients at the clinic, arrange for services and perform a variety of necessary clerical duties;

3. The interviewer or counselor shall take social histories, provide family planning information to patients and counsel patients regarding their family planning and related problems;

4. The nurse or clinic aide shall assist the physician in providing medical services to the patient;

5. The physician shall be responsible for providing or exercising supervision over all medical and related services provided to patients; and

6. The clinic coordinator shall oversee the operation of the clinic.

(b) 1. Training programs shall be developed for new staff, and time shall be made available periodically for their training.

2. For existing staff, time shall be made available for staff conferences and for inservice training in new techniques and procedures.

3. For volunteers, time shall be made available for staff to coordinate, train, and supervise them to be an effective, integral part of the clinic.

(c) Paraprofessional personnel may be hired and trained.

(5) PATIENT AND COMMUNITY OUTREACH. Each clinic shall have an active outreach effort aimed at:

(a) Recruiting and retaining patients in the family planning clinic, through:

1. A system of identifying the primary target populations;

2. A method of contacting the target population;

3. Procedures for family planning counseling and motivating appropriate persons to avail themselves of family planning medical services;

4. Assisting individuals in receiving family planning medical services;

5. Activities designed to follow-up potential and actual family planning patients as indicated; and

6. A record system sufficient to support the functions in subds. 1 to 5;

(b) Meeting all human needs through appropriate and effective referral to other community resources; and

(c) Increasing community awareness and acceptance of the family planning clinic through:

1. The use of mass media;

2. Presentations to community organizations and agencies;

3. Public information campaigns utilizing all channels of communication;

4. Development of formal referral arrangements with community resources; and

5. Involvement of appropriate community residents in the operation of the family planning clinic.

(6) PATIENT EDUCATION AND COUNSELING. At the time the patient is to receive family planning medical services, the following components of social services shall be provided:

(a) An intake interview designed to obtain pertinent information regarding the patient, to explain the conditions under which services are provided and to create the opportunity for a discussion of the patient's problems;

(b) A group or individual information session which includes:

1. Reproductive anatomy and physiology;

2. Methods of contraception, including how they work, side effects and effectiveness;

3. An explanation of applicable medical procedures;

4. An opportunity for patients to ask questions and discuss their concerns; and

5. An optional discussion of such topics as breast and cervical cancer, venereal disease, human sexuality or vaginopathies; and

(c) An exit interview which is designed to:

1. Clarify any areas of concern or questions regarding medical services;

2. Elicit from the patient evidence of a complete understanding of the use of family planning methods;

3. Effectively inform the patient what procedures are to be followed if problems are experienced;

4. Inform the patient about the clinic's follow-up procedures and possible referral to other community resources; and

5. Arrange for the next visit to the clinic.

(7) MEDICAL SERVICES. (a) All medical and related services shall be provided by or under the supervision and responsibility of a physician.

(b) The following medical services shall be made available:

1. Complete medical and obstetrical history;

2. Physical examination;

3. Laboratory evaluation;

4. Prescription of the family planning method selected by the patient unless medically contraindicated;

5. Instructions on the use of the chosen method, provision of supplies and schedule for revisits;

6. Infertility screening and diagnosis; and

7. Referral to inpatient service when necessary to treat complications of contraceptive services provided by the clinic.

(c) Equipment and supplies in the clinic shall be commensurate with the services offered. Sufficient first aid equipment shall be available for use when needed.

(d) Treatment for minor vaginal infections and venereal disease may be made available either by the clinic or through referral.

(8) FACILITIES. The family planning clinic shall be designed to provide comfort and dignity for the patients and to facilitate the work of the staff. A clinic facility shall be adequate for the quantity of services provided, and shall include:

(a) A comfortable waiting room with an area for patient reception, record processing and children's play;

(b) Private interviewing and counseling areas;

(c) A group conference room for staff meetings and patient education;

(d) A work room or laboratory area with sufficient equipment and nearby storage space, none of which is accessible to the patient;

(e) A sufficient number of private and well-equipped examining rooms with proximal dressing areas which ensure the dignity of the patient;

(f) Adequate toilet facilities, preferably near the dressing room; and

(g) Arrangements for routine and restorative facility maintenance.

Note: For covered family planning services, see s. HSS 107.21.

History: Cr. Register, February, 1986, No. 362, eff. 3-1-86.

HSS 105.37 Certification of early and periodic screening, diagnosis and treatment (EPSDT) providers. (1) EPSDT HEALTH ASSESSMENT AND EVALUATION SERVICES. (a) *Eligible providers.* The following providers are eligible for certification as providers of EPSDT health assessment and evaluation services:

1. Physicians;

2. Outpatient hospital facilities;

3. Health maintenance organizations;

4. Visiting nurse associations;

5. Clinics operated under a physician's supervision;

6. Local public health agencies;

7. Home health agencies;

8. Rural health clinics;

9. Indian health agencies; and

10. Neighborhood health centers.

(b) *Procedures and personnel requirements.* 1. EPSDT providers shall provide periodic comprehensive child health assessments and evaluations of the general health, growth, development and nutritional status of infants, children and youth. Immunizations shall be administered at the time of the screening if determined medically necessary and appropriate. The results of a health assessment and evaluation shall be explained to the recipient's parent or guardian and to the recipient if appropriate.

2. EPSDT health assessment and evaluation services shall be delivered under the supervision of skilled medical personnel. In this section "skilled medical personnel" means physicians, physician assistants, nurse practitioners, public health nurses or registered nurses. Skilled medical personnel who perform physical assessment screening procedures shall have successfully completed either a formal pediatric assessment or an inservice training course on physical assessments approved by the department. Individual procedures may be completed by paraprofessional staff who are supervised by skilled medical personnel. Registered nurses who perform EPSDT physical assessments shall have satisfactorily completed a curriculum for pediatric physical assessments approved by the department.

3. All conditions uncovered which warrant further care shall be diagnosed or treated or both by the provider, if appropriate, or referred to other appropriate providers. A referral may either be a direct referral to the appropriate health care provider or a referral recommendation submitted through the agency responsible for the patient's case management and advocacy.

4. Health maintenance organizations and prepaid health plans providing EPSDT services shall meet all requirements of 42 CFR 441.60 in addition to the requirements under subds. 1 to 3.

(c) *Records and documentation.* 1. Certified providers of EPSDT screening services shall:

a. Complete the department's EPSDT claim form and an individual health and developmental history for each client; and

b. Maintain a file on each client receiving EPSDT services which includes a copy of the EPSDT claim form, individual health and developmental history and follow-up for necessary diagnosis and treatment services.

2. The EPSDT provider shall release information on the results of the health assessment to appropriate health care providers and health authorities when authorized by the patient or the patient's parent or guardian to do so.

(2) EPSDT CASE MANAGEMENT ACTIVITIES. (a) *Case management reimbursement.* Providers certified under sub. (1) as providers of EPSDT health assessment and evaluation services shall be eligible to receive reimbursement for EPSDT case management in accordance with the limitations contained in the case management agreement between the provider and the department.

(b) *Case management plan.* 1. All EPSDT providers who apply to receive reimbursement for EPSDT case management services shall submit to the department a case management plan. The case management plan

shall describe the geographic service area, target population, coordination with support activities conducted by the department and other health-related services, case management activities and the method of documenting the activities.

2. The department shall evaluate the adequacy of each provider's case management plan according to the case management requirements of the proposed service area and target population, the extent to which the plan would ensure that children receive the necessary diagnosis and treatment services for conditions detected during EPSDT health examinations, the proposed coordination with the EPSDT central notification system and other health related services, and proposed methods for documenting case management services. Based on the evaluation, the department shall either approve or deny the provider's request for reimbursement of case management activities and shall impose on providers as conditions for reimbursement any personnel, staffing or procedural requirements that it determines are necessary pursuant to 42 CFR 441 Part B.

(c) *Records and documentations.* Providers shall maintain records and documentation required by the department in order to verify appropriate use of funds provided by the department for EPSDT case management activities.

(3) DIAGNOSIS AND TREATMENT SERVICES. Providers of diagnosis and treatment services for EPSDT recipients shall be certified according to the appropriate provisions of this chapter.

Note: For covered EPSDT services, see s. HSS 107.22.

History: Cr. Register, February, 1986, No. 362, eff. 3-1-86.

HSS 105.38 Certification of ambulance providers. For MA certification, ambulance service providers shall be licensed pursuant to s. 146.50, Stats., and ch. H 20 [HSS 110], and shall meet ambulance inspection standards adopted by the Wisconsin department of transportation under s. 341.085, Stats., and found in ch. Trans 157.

Note: Copies of licensure applications for ambulance service providers can be obtained from the Emergency Services Section, Division of Health, P.O. Box 309, Madison, Wisconsin, 53701. For covered transportation services, see s. HSS 107.23.

History: Cr. Register, February, 1986, No. 362, eff. 3-1-86.

HSS 105.39 Certification of specialized medical vehicle providers. (1) For MA certification, specialized medical vehicle providers shall meet the requirements of this section and shall sign the affidavit required under sub. (6) stipulating that they are in compliance with the requirements of this section.

(2) VEHICLES. (a) Insurance of not less than $100,000 personal liability for each person and not less than $300,000 personal liability for each occurrence shall be carried on all vehicles used in transporting recipients.

(b) Vehicle inspections shall be performed at least every 7 days, by an assigned driver, to ensure:

1. The proper functioning of all headlights, emergency flasher lights, turn signal lights, tail lights, brake lights, clearance lights, windshield wipers, brakes, front suspension and steering mechanisms, shock absorbers, heater and defroster systems, doors and ramps, moveable windows and passenger and driver restraint systems;

2. That all tires are properly inflated according to vehicle or tire manufacturers' recommendations and that all tires possess a minimum of 1/8-inch of tread at the point of greatest wear; and

3. That windshields and mirrors are free from cracks or breaks.

(c) The driver inspecting the vehicle shall document all vehicle inspections in writing, noting any deficiencies.

(d) All deficiencies shall be corrected before any recipient is transported in the vehicle. Corrections shall be documented by the driver. Documentation shall be retained for not less than 12 months, except as authorized in writing by the department.

(e) Windows, windshield and mirrors shall be maintained in a clean condition with no obstruction to vision.

(f) Smoking is not permitted in the vehicle.

(g) Police, sheriff's department and ambulance emergency telephone numbers shall be posted on the dash of the vehicle in an easily readable manner. If the vehicle is not equipped with a working two-way radio, sufficient money in suitable denominations shall be carried to enable not less than 3 local telephone calls to be made from a pay telephone.

(3) VEHICLE EQUIPMENT. (a) The vehicle shall be equipped at all times with a jack and lug wrench, a flashlight in working condition, a first aid kit containing 2 rolls of sterile gauze, sterile gauze compression bandages equal in number to the passenger-carrying capacity of the vehicle, one roll of adhesive tape and one tourniquet, and a fire extinguisher. The fire extinguisher shall be periodically serviced as recommended by the local fire department.

(b) The vehicle shall be equipped with passenger restraint devices, including restraint devices for wheelchairbound recipients if these recipients are carried, and these devices shall be used. Wheelchair restraints shall secure both the passenger and the wheelchair.

(c) Provision shall be made for secure storage of removable equipment and passenger property in order to prevent projectile injuries to passengers and the driver in the event of an accident.

(4) DRIVERS. (a) Each driver shall possess a valid Wisconsin chauffeur's license which shall be unrestricted, except that the vision restrictions may be waived if the driver's vision is corrected to an acuity of 20/30 or better by the use of eyeglasses. In this event, the driver shall wear corrective eyeglasses while transporting recipients.

(b) All drivers shall hold a current card issued as proof of successful completion of the American red cross basic course in first aid, or equivalent.

(c) Within 30 days of the date of employment or the date the specialized transportation service is certified as a provider, all drivers shall receive specific instruction on care and handling of epileptics in seizure. Drivers who attest in writing that they have had prior training in the care and handling of seizure victims shall be considered to have met this requirement.

(5) COMPANY POLICY. Company policies and procedures shall include:

(a) Compliance with all applicable state and local laws governing the conduct of company business;

(b) Establishment and implementation of scheduling policies that assure timely pick-up and delivery of passengers going to and returning from medical appointments;

(c) Documentation that transportation services for which MA reimbursement is sought are:

1. For medical purposes only;

2. Ordered by the attending provider of medical service; and

3. Provided only to persons who require this transportation because they lack other means of transport, and who are also physically or mentally incapable of using public transportation;

(d) Maintenance of records of services for 5 years, unless otherwise authorized in writing by the department; and

(e) On request of the department, making available for inspection records that document both medical service providers' orders for services and the actual provision of services.

(6) AFFIDAVIT. The provider shall submit to the department a notarized affidavit attesting that the provider meets the requirements listed in this section. The affidavit shall be on a form developed by and available from the department, and shall contain the following:

(a) A statement of the requirements listed in this section;

(b) The date the form is completed by the provider;

(c) The provider's business name, address, telephone number and type of ownership;

(d) The name and signature of the provider or a person authorized to act on behalf of the provider; and

(e) A notarization.

Note: For covered transportation services, see s. HSS 107.23.

History: Cr. Register, February, 1986, No. 362, eff. 3-1-86.

HSS 105.40 Certification of durable medical equipment and medical supply vendors. (1) Except as provided in sub. (2), vendors of durable medical equipment and medical supplies shall be eligible to participate in the MA program.

(2) Orthotists and prosthetists who develop and fit appliances for recipients shall be certified by the American board for certification in orthotics and prosthetics (A.B.C.). Certification shall be a result of successful participation in an A.B.C. examination in prosthetics, orthotics, or both, and shall be for:

(a) Certified prosthetist (C.P.);

(b) Certified orthotist (C.O.); or

(c) Certified prosthetist and orthotist (C.P.O.)

Note: For covered durable medical equipment and medical supply services, see s. HSS 107.24.

History: Cr. Register, February, 1986, No. 362, eff. 3-1-86.

HSS 105.41 Certification of hearing aid dealers. For MA certification, hearing aid dealers shall be licensed pursuant to s. 459.05, Stats.

Note: For covered hearing aids and supplies, see s. HSS 107.24.

History: Cr. Register, February, 1986, No. 362, eff. 3-1-86.

HSS 105.42 Certification of physician office laboratories. (1) REQUIREMENTS. For MA certification, physician office laboratories, except as noted in sub. (2), shall be licensed pursuant to s. 143.15, Stats., and ch. HSS 165.

(2) EXCEPTION. Physician office laboratories servicing no more than 2 physicians, chiropractors or dentists, and not accepting specimens on referral from outside providers, are not required to be licensed under s. 143.15, Stats., or to meet ch. HSS 165 standards. These laboratories, however, shall submit an affidavit to the department declaring that they do not accept outside specimens.

(3) MEDICARE CERTIFICATION REQUIREMENT. Physician office laboratories which accept referrals of 100 or more specimens a year in a specialty shall be certified to participate in medicare in addition to meeting the requirements under sub. (1).

Note: For covered diagnostic testing services, see s. HSS 107.25.

History: Cr. Register, February, 1986, No. 362, eff. 3-1-86.

HSS 105.43 Certification of hospital and independent clinical laboratories. For MA certification, a clinical laboratory that is a hospital laboratory or an independent laboratory shall be licensed pursuant to s. 143.15, Stats., and ch. HSS 165. In addition, the laboratory shall be certified to participate in medicare and meet the requirements of 42 CFR 405.1310 to 405.1317.

Note: For covered diagnostic testing services, see s. HSS 107.25.

History: Cr. Register, February, 1986, No. 362, eff. 3-1-86.

HSS 105.44 Certification of portable x-ray providers. For MA certification, a portable x-ray provider shall be directed by a physician or group of physicians, registered pursuant to s. 140.54, Stats., and ch. HSS 157, certified to participate in medicare, and shall meet the requirements of 42 CFR 405.1411 to 405.1416.

Note: For covered diagnostic testing services, see s. HSS 107.25.

History: Cr. Register, February, 1986, No. 362, eff. 3-1-86.

HSS 105.45 Certification of dialysis facilities. For MA certification, dialysis facilities shall meet the requirements enumerated in ss. H 52.05 and 52.06 [HSS 152.05 and 152.08], and shall be certified to participate in medicare.

Note: For covered dialysis services, see s. HSS 107.26.

History: Cr. Register, February, 1986, No. 362, eff. 3-1-86.

HSS 105.46 Certification of blood banks. For MA certification, blood banks shall be licensed or registered with the U.S. food and drug administration and shall be approved pursuant to s. 143.15, Stats., and s. HSS 165.05.

Note: For covered blood services, see s. HSS 107.27.

History: Cr. Register, February, 1986, No. 362, eff. 3-1-86.

HSS 105.47 Certification of health maintenance organizations and prepaid health plans. (1) CONTRACTS AND LICENSING. For MA certification, a health maintenance organization or prepaid health plan shall enter into a written contract with the department to provide services to enrolled recipients and shall be licensed by the Wisconsin commissioner of insurance.

(2) REQUIREMENTS FOR HEALTH MAINTENANCE ORGANIZATIONS. For MA certification, an HMO shall:

(a) Meet the requirements of 42 CFR 434.20 (c);

(b) Make services it provides to individuals eligible under MA accessible to these individuals, within the area served by the organization, to the same extent that the services are made accessible under the MA state plan to individuals eligible for MA who are not enrolled with the organization; and

(c) Make adequate provision against the risk of insolvency, which is satisfactory to the department and which ensures that individuals eligible for benefits under MA are not held liable for debts of the organization in case of the organization's insolvency.

Note: For covered health maintenance organization and prepaid health plan services, see s. HSS 107.28.

History: Cr. Register, February, 1986, No. 362, eff. 3-1-86.

HSS 105.48 Certification of out-of-state providers. (1) BORDER STATUS. (a) *Border status certification.* 1. Providers enumerated in subds. 2 to 5 whose normal practice includes providing service to Wisconsin recipients may be certified as Wisconsin border status providers if they meet the requirements for certification outlined in this chapter. Certified border status providers shall be subject to the same rules and contractual agreements as Wisconsin providers.

2. Hospitals in Ironwood and Iron Mountain, Michigan, and in Winona and Red Wing, Minnesota may apply for certification as Wisconsin border status providers of inpatient and outpatient services. Hospitals in other communities listed in subd. 4 are eligible for border status certification only as hospital outpatient service providers.

3. Out-of-state independent laboratories, regardless of location, may apply for certification as Wisconsin border status providers.

4. Non-hospital and non-nursing home providers located in the following communities may apply for certification as Wisconsin border status providers:

IOWA	ILLINOIS	MINNESOTA	MICHIGAN
Dubuque	Antioch	Duluth	Bessemer
Guttenberg	Durland	Hastings	Crystal Falls
Lansing	East Dubuque	Kingsdale	Iron Mountain
McGregor	Freeport	LaCrescent	Iron River
	Galena	Lake City	Ironwood
	Harvard	Markville	Kingsford
	Hebron	Minneapolis	Marenisco
	Richmond	Red Wing	Menominee
	Rockford	Rochester	Norway
	South Beloit	Rush City	Wakefield
	Stockton	St. Paul	Watersmeet
	Warren	Stillwater	
	Woodstock	Taylor Falls	
		Wabasha	
		Winona	
		Wrenshall	

5. Out-of-state providers at locations other than those in subd. 4 may apply to the department for border status certification, except that out-of-state nursing homes are not eligible for border status. Requests for border status shall be considered by the department on a case-by-case basis.

(b) *Review of border status certification.* The department may review border status certification annually. Border status certification may be cancelled by the department if it is found to be no longer warranted by medical necessity, volume or other considerations.

(2) LIMITATION ON CERTIFICATION OF OUT-OF-STATE PROVIDERS. (a) Providers certified in another state whose services are not covered in Wisconsin shall be denied border status certification in the Wisconsin program.

Note: Examples of provider types whose services are not covered in Wisconsin are music therapists and art therapists.

(b) Providers denied certification in another state shall be denied certification in Wisconsin, except that providers denied certification in another state because their services are not MA-covered in that state may be eligible for Wisconsin border status certification if their services are covered in Wisconsin.

History: Cr. Register, February, 1986, No. 362, eff. 3-1-86.

HSS 105.49 Certification of ambulatory surgical centers. For MA certification, an ambulatory surgical center shall be certified to participate in medicare as an ambulatory surgical center under 42 CFR 416.39.

Note: For covered ambulatory surgical center services, see s. HSS 107.30.

History: Cr. Register, February, 1986, No. 362, eff. 3-1-86; am. Register, February, 1988, No. 386, eff. 3-1-88.

HSS 105.50 Certification of hospices. For MA certification, a hospice shall be certified to participate in medicare as a hospice under 42 CFR 418.50 to 418.100.

History: Cr. Register, February, 1988, No. 386, eff. 3-1-88.

HSS 105.51 Certification of case management agency providers. (1) AGENCY. For MA certification, a provider of case management services shall be an agency with state statutory authority to operate one or more community human service programs. A case management agency may be a county or Indian tribal department of community programs, a de-

partment of social services, a department of human services, or a county or tribal aging unit. Each applicant agency shall specify each population eligible for case management under s. HSS 107.32 (1) (a) 2 for which it will provide case management services. Each certified agency shall offer all 3 case management components described under s. HSS 107.32 (1) so that a recipient can receive the component or components that meet his or her needs.

(2) EMPLOYED PERSONNEL. (a) To provide case assessment or case planning services reimbursable under MA, persons employed by or under contract to the case management agency under sub. (1) shall:

1. Possess a degree in a human services-related field, possess knowledge regarding the service delivery system, the needs of the recipient group or groups served, the need for integrated services and the resources available or needing to be developed, and have acquired at least one year of supervised experience with the type of recipients with whom he or she will work; or

2. Possess 2 years of supervised experience or an equivalent combination of training and experience.

Note: The knowledge required in subd. 1 is typically gained through supervised experience working with persons in the target population.

(b) To provide ongoing monitoring and service coordination reimbursable under MA, personnel employed by a case management agency under sub. (1) shall possess knowledge regarding the service delivery system, the needs of the recipient group or groups served, the need for integrated services and the resources available or needing to be developed.

(3) SUFFICIENCY OF AGENCY CERTIFICATION FOR EMPLOYED PERSONNEL. Individuals employed by or under contract to an agency certified to provide case management services under this section may provide case management services upon the department's issuance of certification to the agency. The agency shall maintain a list of the names of individuals employed by or under contract to the agency who are performing case management services for which reimbursement may be claimed under MA. This list shall certify the credentials possessed by the named individuals which qualify them under the standards specified in sub. (2). Upon request, an agency shall promptly advise the department in writing of the employment of persons who will be providing case management services under MA and the termination of employes who have been providing case management services under MA.

(4) CONTRACTED PERSONNEL. Persons under contract with a certified case management agency to provide assessments or case plans shall meet the requirements of sub. (2) (a), and to provide ongoing monitoring and service coordination, shall meet the requirements of sub. (2) (b).

(5) RECORDKEEPING. The case manager under s. HSS 107.32 (1) (d) shall maintain a file for each recipient receiving case management services which includes the following:

(a) The assessment document;

(b) The case plan;

(c) Service contracts;

(d) Financial forms;

(e) Release of information forms;

(f) Case reviews;

(g) A written record of all monitoring and quality assurance activities; and

(h) All pertinent correspondence relating to the recipient's case management.

(6) REIMBURSEMENT. (a) Case management services shall be reimbursed when the services are provided by certified providers or their subcontractors to recipients eligible for case management.

(b) Payment shall be made to certified providers of case management services according to terms of reimbursement established by the department.

(7) COUNTY ELECTION TO PARTICIPATE. (a) The department may not certify a case management agency for a target population unless the county board or tribal government of the area in which the agency will operate has elected to participate in providing benefits under s. HSS 107.32 through providers operating in the county or tribal area. The county board or tribal government may terminate or modify its participation by giving a 30 day written notice to the department. This election is binding on any case management agencies providing services within the affected county or tribal area.

(b) Any case management agency provider requesting certification under this section shall provide written proof of the election of the county or tribal government to participate under this subsection.

History: Cr. Register, February, 1988, No. 386, eff. 3-1-88.