

Clearinghouse Rule 96-154

CERTIFICATE

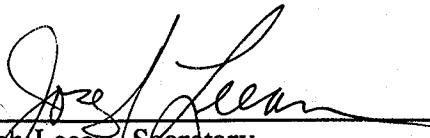
STATE OF WISCONSIN)
) SS
DEPARTMENT OF HEALTH AND FAMILY SERVICES)

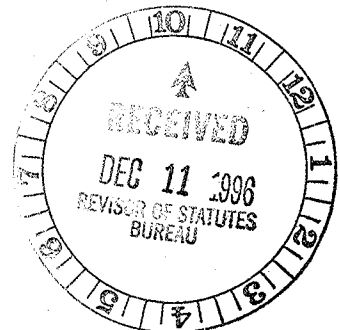
I, Joseph Leean, Secretary of the Department of Health and Family Services and custodian of the official records of the Department, do hereby certify that the annexed rules relating to elimination of coverage under the Medical Assistance program for services that are medically unnecessary were duly approved and adopted by this Department on December 11, 1996.

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

IN TESTIMONY WHEREOF, I have hereunto set my hand and affixed the official seal of the Department at the State Office Building, 1 W. Wilson Street, in the city of Madison, this 11th day of December, 1996.

SEAL:


Joseph Leean, Secretary
Department of Health and Family Services



96-154
2-1-97

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

To repeal HSS 105.36(2)(e) and (7)(b)6., 107.06(2)(zb), (zc), (zl), (zn), (zp) and (zq) and (Note) and (zs) and 107.21(1)(d)4.; to renumber HSS 105.36(2)(f) and (g) and (7)(b)7., 107.06(2)(zd) to (zk), (zo), (zr) and (zt), and 107.21(1)(d)5. to 8.; to renumber and amend HSS 107.06(2)(zm); to amend HSS 105.36(7)(b)5., 107.02(2)(a), 107.03(17) and (18) and 107.06(2)(zc), as renumbered, and (5)(w) and (x), 107.10(2)(d) and (e) and 107.24(5)(j) and (k); to repeal and recreate HSS 107.06(2)(h), 107.06(5)(a), 107.10(2)(c) and 107.21(1)(c)3. and (3); to create HSS 107.03(19) to (26), 107.06(2)(zb)4., (zn) and (zo) and (4)(h) and (i), 107.10(2)(f) and (g), (3)(l) and (4)(n) to (t) and 107.24(5)(l) to (p), relating to elimination of coverage under the medical assistance (MA) program for services that are medically unnecessary, including services and items that enhance fertility in males or females, and limitation of coverage of certain other services to medically necessary situations.

Analysis Prepared by the Department of Health and Family Services

These amendments to the Department's rules for the medical assistance (MA) program eliminate coverage of some services that the Department has determined are not medically necessary and limit the coverage of certain other services to medically necessary situations. They also remove the requirement of prior authorization for sterilizations.

MA coverage will be discontinued for services and items that are provided for the purpose of enhancing fertility in males or females, including but not limited to artificial insemination, infertility counseling, impotence and infertility testing, impotence devices, reversal of female sterilizations, reversal of vasectomies, office visits and other medical encounters to enhance fertility, and other fertility-enhancing services and items. Drugs that are used to treat infertility and drugs that are used to treat impotence will not be covered when used for those purposes but will be covered when used for other medical purposes.

MA coverage will be prohibited for other services determined to be medically unnecessary, including services related to surrogate parenting, ear lobe repair, tattoo removal and drugs, including hormone therapy, associated with transsexual surgery. Under current rules the MA program requires prior authorization for most of these services and pays infrequently for them.

The order also eliminates MA coverage for non-medical food and for non-emergency intestinal bypass or gastric stapling. Services, including drugs, related to non-surgical abortions must comply with current state abortion statutes (s. 20.927, Stats.), must only be prescribed by a physician, and must comply with MA provider handbooks and bulletins. This order strengthens the Department's ability to assure compliance with current abortion statutes.

The Department's authority to repeal, renumber, renumber and amend, amend, repeal and recreate and create these rules is found in s. 49.45(10), Stats. The rules interpret s. 49.46(2) Stats.

SECTION 1. HSS 105.36(2)(e) is repealed.

SECTION 2. HSS 105.36(2)(f) and (g) are renumbered 105.36(2)(e) and (f).

SECTION 3. HSS 105.36(7)(b)5. is amended to read:

HSS 105.36(7)(b)5. Instructions on the use of the chosen method, provision of supplies and schedule for revisits; and

SECTION 4. HSS 105.36(7)(b)6. is repealed.

SECTION 5. HSS 105.36(7)(b)7. is renumbered 105.36(7)(b)6.

SECTION 6. HSS 107.02(2)(a) is amended to read:

HSS 107.02(2)(a) Services which fail to comply with program policies or state and federal statues, rules and regulations, for instance, sterilizations performed without prior authorization and without following proper informed consent procedures, or controlled substances prescribed or dispensed illegally;

SECTION 7. HSS 107.03(17) and (18) are amended to read:

HSS 107.03(17) Separate charges for the time involved in completing necessary forms, claims or reports; and

(18) Services provided by a hospital or professional services provided to a hospital inpatient are not covered services unless billed separately as hospital services under s. HSS 107.08 or 107.13 (1) or as professional services under the appropriate provider type. No recipient may be billed for these services as non-covered;

SECTION 8. HSS 107.03(19) to (26) are created to read:

HSS 107.03(19) Services, drugs and items that are provided for the purpose of enhancing the prospects of fertility in males or females, including but not limited to the following:

(a) Artificial insemination, including but not limited to intra-cervical and intra-uterine insemination;

(b) Infertility counseling;

(c) Infertility testing, including but not limited to tubal patency, semen analysis or sperm evaluation;

(d) Reversal of female sterilization, including but not limited to tubouterine implantation, tubotubal anastomoses or fimbrioplasty;

(e) Fertility-enhancing drugs used for the treatment of infertility;

(f) Reversal of vasectomies;

(g) Office visits, consultations and other encounters to enhance the prospects of fertility;

and

(h) Other fertility-enhancing services and items;

(20) Surrogate parenting and related services, including but not limited to artificial insemination and subsequent obstetrical care;

(21) Ear lobe repair;

(22) Tattoo removal;

(23) Drugs, including hormone therapy, associated with transsexual surgery or medically unnecessary alteration of sexual anatomy or characteristics;

(24) Transsexual surgery;

(25) Impotence devices and services, including but not limited to penile prostheses and external devices and to insertion surgery and other related services; and

(26) Testicular prosthesis.

SECTION 9. HSS 107.06(2)(h) is repealed and recreated to read:

HSS 107.06(2)(h) Female circumcision;

SECTION 10. HSS 107.06(2)(zb) and (zc) are repealed.

SECTION 11. HSS 107.06(2)(zd) is renumbered 107.06(2)(zb).

SECTION 12. HSS 107.06(2)(zb)4. is created to read:

HSS 107.06(2)(zb)4. Breast reconstruction and reduction;

SECTION 13. HSS 107.06(2)(ze) to (zk) are renumbered 107.06(2)(zc) to (zi) and HSS 107.06(2)(zc), as renumbered, is amended to read:

HSS 107.06(2)(zc) 1. Rhinoplasty, ~~primary~~;

2. Rhinoplasty, complete;

3. Rhinoplasty, including major septal repair;

SECTION 14. HSS 107.06(2)(zl) is repealed.

SECTION 15. HSS 107.06(2)(zm) is renumbered 107.06(2)(zj) and amended to read:

HSS 107.06(2)(zj) Constructing an artificial vagina;

SECTION 16. HSS 107.06(2)(zn) is repealed.

SECTION 17. HSS 107.06(2)(zo) is renumbered 107.06(2)(zk).

SECTION 18. HSS 107.06(2)(zp) and (zq) and Note are repealed.

SECTION 19. HSS 107.06(2)(zr) is renumbered 107.06(2)(zl).

SECTION 20. HSS 107.06(2)(zs) is repealed.

SECTION 21. HSS 107.06(2)(zt) is renumbered 107.06(2)(zm).

SECTION 22. HSS 107.06(2)(zn) and (zo) are created to read:

HSS 107.06(2)(zn) Drugs identified by the department that are sometimes used to enhance the prospects of fertility in males or females, when proposed to be used for treatment of a non-fertility related condition;

(zo) Drugs identified by the department that are sometimes used to treat impotence, when proposed to be used for treatment of a non-impotence related condition;

SECTION 23. HSS 107.06(4)(h) and (i) are created to read:

HSS 107.06(4)(h) Obesity-related procedures. Gastric bypass or gastric stapling for obesity is limited to medical emergencies, as determined by the department.

(i) Abortions. 1. Abortions, both surgically-induced and drug-induced, are limited to those that comply with s. 20.927, Stats.

2. Services, including drugs, directly related to non-surgical abortions shall comply with s. 20.927, Stats., may only be prescribed by a physician, and shall comply with MA policy and procedures as described in MA provider handbooks and bulletins.

SECTION 24. HSS 107.06(5)(a) is repealed and recreated to read:

HSS 107.06(5)(a) Services and items that are provided for the purpose of enhancing the prospects of fertility in males or females, within the meaning of s. HSS 107.03(19).

SECTION 25. HSS 107.06(5)(w) and (x) are amended to read:

HSS 107.06(5)(w) ~~Intestinal~~ Non-emergency gastric bypass or gastric stapling for obesity; and

(x) Separate charges for pump technician services; ~~and~~.

SECTION 26. HSS 107.10(2)(c) is repealed and recreated to read:

HSS 107.10(2)(c) Medically necessary, specially formulated nutritional supplements and replacement products, including enteral and parenteral products used for the treatment of severe health conditions such as pathologies of the gastrointestinal tract or metabolic disorders, as described in the MA provider handbooks and bulletins.

SECTION 27. HSS 107.10(2)(d) and (e) are amended to read:

HSS 107.10(2) (d) Drugs which have been demonstrated to entail substantial cost or utilization problems for the MA program, including antibiotics which cost \$100 or more a day. These drugs shall be noted in the Wisconsin medicaid drug index; and

(e) Any drug produced by a manufacturer who has not entered into a rebate agreement with the federal secretary of health and human services, as required by 42 USC 1396r-8, if the prescribing provider under sub. (1) demonstrates to the department's satisfaction that no other drug sold by a manufacturer who complies with 42 USC 1396r-8 is medically appropriate and cost-effective in treating the recipient's condition;

SECTION 28. HSS 107.10(2)(f) and (g), (3)(l) and (4)(n) to (t) are created to read:

HSS 107.10(2)(f) Drugs identified by the department that are sometimes used to enhance the prospects of fertility in males or females, when proposed to be used for treatment of a condition not related to fertility; and

(g) Drugs identified by the department that are sometimes used to treat impotence, when proposed to be used for the treatment of a condition not related to impotence.

(3)(l) Services, including drugs, directly related to non-surgical abortions shall comply with s. 20.927, Stats., may only be prescribed by a physician, and shall comply with MA policy and procedures as described in MA provider handbooks and bulletins.

(4)(n) Drugs provided for the treatment of males or females for infertility or to enhance the prospects of fertility;

(o) Drugs provided for the treatment of impotence;

(p) Drugs, including hormone therapy, associated with transsexual surgery or medically unnecessary alteration of sexual anatomy or characteristics;

(q) Drugs or combinations of drugs that are administered to induce abortions, when the abortions do not comply with s. 20.927, Stats., and s. HSS 107.10(3)(l);

(r) Food;

(s) Infant formula, except when the product and recipient's health condition meet the criteria established by the department under sub. (2)(c) to verify medical need; and

(t) Enteral nutritional products that do not meet the criteria established by the department under sub. (2)(c) to verify medical need, when an alternative nutrition source is available, or that are solely for the convenience of the caregiver or the recipient.

SECTION 29. HSS 107.21(1)(c)3. is repealed and recreated to read:

HSS 107.21(1)(c)3. Diagnostic and other procedures not for the purpose of enhancing the prospects of fertility in males or females:

- a. Endometrial biopsy when performed after a hormone blood test;
- b. Laparoscopy;
- c. Cervical mucus exam;
- d. Vasectomies;
- e. Culdoscopy; and
- f. Colposcopy;

SECTION 30. HSS 107.21(1)(d)4. is repealed.

SECTION 31. HSS 107.21(1)(d)5. to 8. are renumbered 107.21(1)(d)4. to 7.

SECTION 32. HSS 107.21(3) is repealed and recreated to read:

HSS 107.21(3) NON-COVERED SERVICES. The following services are not covered services:

(a) The sterilization of a recipient under the age of 21 or of a recipient declared legally incapable of consenting to such a procedure;

(b) Services and items that are provided for the purpose of enhancing the prospects of fertility in males or females, including but not limited to:

1. Artificial insemination, including but not limited to intra-cervical or intra-uterine insemination;

2. Infertility counseling;

3. Infertility testing, including but not limited to tubal patency, semen analysis or sperm evaluation;

4. Reversal of female sterilizations, including but not limited to tubouterine implantation, tubotubal anastomoses or fimbrioplasty;

5. Fertility-enhancing drugs provided for the treatment of infertility;

6. Reversal of vasectomies;

7. Office visits, consultations and other encounters to enhance fertility; and

8. Other fertility-enhancing services and items;

(c) Impotence devices and services, including but not limited to penile prostheses and external devices and to insertion surgery and other related services;

(d) Testicular prosthesis; and

(e) Services that are not covered under ss. HSS 107.03 and 107.06(5).

SECTION 33. HSS 107.24(5)(j) to (k) are amended to read:

HSS 107.24(5)(j) All repairs of a hearing aid or other assistive listening device performed by a dealer within 12 months after the purchase of the hearing aid or other assistive listening device. These are included in the purchase payment and not as separate services; and

(k) Hearing aid or other assistive listening device batteries which are provided in excess of the guidelines enumerated in the MA speech and hearing provider handbook;

SECTION 34. HSS 107.24(5)(l) to (p) are created to read:

HSS 107.24(5)(l) Items that are provided for the purpose of enhancing the prospects of fertility in males or females;

(m) Impotence devices, including but not limited to penile prostheses;

(n) Testicular prosthesis;

(o) Food; and

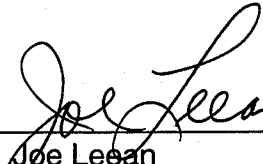
(p) Infant formula and enteral nutritional products except as allowed under

s. HSS 107.10(2)(c).

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

Wisconsin Department of Health and
Family Services

Dated: December 11, 1996

By: 
Joe Leean
Secretary

SEAL:

