

To:
Personal Care
Agencies
Physician Clinics
Physicians
HMOs and Other
Managed Care
Programs

Change in requirements for personal care registered nurse supervisory visits

A personal care-only provider or recipient may ask Wisconsin Medicaid to extend the time period between required home visits by the supervising registered nurse with the approval of the recipient or the recipient's guardian, the recipient's physician, and the supervising registered nurse. Completing and submitting the attached forms and revised plan of care to Wisconsin Medicaid results in a variance of the requirement that a home visit must occur at least every 60 days, thus allowing visits to occur less frequently. Recipients receiving personal care from home health agencies, which must follow Medicare guidelines, are not eligible to receive this variance.

Background

Wisconsin Medicaid personal care rules (HFS 107.112[3][c], Wis. Admin. Code) require that at least every 60 days a supervising registered nurse (RN) must review the recipient's plan of care, evaluate the recipient's condition, and conduct a supervisory evaluation of the personal care worker. This review must include, among other things, a visit to the recipient's home. Some personal care recipients request that the supervising RN not be required to visit the recipient's home this often.

Home visit variance requirements

Code requirements

The Department of Health and Family Services (DHFS) may grant a variance to the RN 60-day supervisory home visit rule if it finds that all the criteria outlined in HFS 106.13, Wis. Admin. Code, are met. Attachment 1 of this *Wisconsin Medicaid and BadgerCare Update* contains the applicable code.

Required forms

For the DHFS to grant the variance, the following two forms are required to be completed and submitted to Wisconsin Medicaid:

- The "Medical Professional Statement in Support of Request for Variance of 60-Day Supervisory Visit Requirement" form, completed and signed by the supervising RN and the recipient's physician (refer to Attachment 2 for a copy of this form).
- The "Recipient Request for Variance of 60-Day Supervisory Visit Requirement" form, completed and signed by the recipient (refer to Attachment 3 for a copy of this form).

The personal care agency requesting the variance is required to submit the completed and signed forms along with an updated plan of care to:

Wisconsin Medicaid
Prior Authorization
Suite 88
6406 Bridge Road
Madison, WI 53784-0088

These documents may either be submitted with a prior authorization (PA) request, or separately at any time. The request for a variance is *not* part of a PA request and does not affect PA.

Terms of the variance

The variance will be effective when Wisconsin Medicaid sends a letter to the personal care agency acknowledging receipt of properly completed forms and the updated plan of care. Once the personal care agency receives a response from Wisconsin Medicaid, the terms of the updated plan of care, rather than the administrative rule, will govern the required frequency of the RN supervisory home visits. Under no circumstances may the RN supervisory visits be less frequent than once every 365 days.

Each variance request is recipient specific; a request must be submitted for each individual. If a recipient's personal care is shared by more than one agency, each agency must submit a variance request. The variance will remain in effect until terminated.

Subcontracted personal care providers

In cases involving subcontracted personal care providers, the variance agreement is between the subcontracted personal care provider, the

recipient or recipient's guardian, the recipient's physician, and the supervising RN. The subcontracted provider should submit the variance request. The certified billing provider shall retain legal and fiscal responsibility for the services provided.

Determining frequency of visits under the variance

The physician and supervising RN must determine that the frequency of RN supervisory visits specified in the plan of care is adequate to:

- Determine whether the health, safety, and welfare of the recipient is being adequately protected.
- Evaluate the recipient's condition and need for service.
- Review the recipient's plan of care at least every 60 days and update it as necessary.
- Evaluate the competency of the personal care worker to perform the services specified in the plan.
- Observe the worker providing care.
- Regularly review the personal care worker's work and otherwise supervise him or her.
- Comply with the standards of practice for registered nurses, to the extent applicable.

The recipient or the recipient's guardian, the supervising RN, and the recipient's physician are required to establish a routine and emergency communication process if seeking a variance.

Changing the frequency of visits under the variance

More frequent visits

If any of the interested parties (the recipient or the recipient's guardian, the recipient's

Once the personal care agency receives a response from Wisconsin Medicaid, the terms of the updated plan of care, rather than the administrative rule, will govern the required frequency of the RN supervisory home visits.

physician, the supervising RN, or the personal care agency) wish to have more frequent visits (not exceeding the standard 60-day interval), the increase must be made. For example, if the plan of care in the original variance agreement specified supervisory visits two times per year and the recipient later decides he or she requires visits four times per year, the frequency of visits must be increased. The plan of care *must* then be updated to reflect the change, even if the other parties do not think that more frequent visits are needed. There is no need to submit another request for variance to Wisconsin Medicaid.

Less frequent visits

If any of the interested parties (the recipient or the recipient's guardian, the recipient's physician, the supervising RN, or the personal care agency) wish to decrease the frequency of visits under the variance, all interested parties must agree to the change. For example, if the plan of care in the original variance agreement specified supervisory visits four times per year and the recipient later decides he or she requires visits only two times per year, the decrease in frequency may take place only if the recipient or recipient's guardian and the supervising RN sign an updated plan of care consenting to the change.

In addition, the recipient's physician must agree to the change and sign either the updated plan of care or a medical order approving the change. There is no need to submit another request for the variance to Wisconsin Medicaid if decreasing the frequency of visits. The period between visits may not exceed 365 days.

Termination of the variance

The variance must be terminated at the request of *any* of the interested parties (the recipient or the recipient's guardian, the recipient's physician, the supervising RN, or the personal care agency). Wisconsin Medicaid may also terminate a variance at any time if concerned about the health, welfare, and safety of the recipient.

When the variance is terminated, the personal care provider is required to update the plan of care and notify the recipient or the recipient's guardian, the recipient's physician, and the supervising RN that the variance has been terminated. The RN will then make supervisory visits to the recipient's home at least every 60 days. It is not necessary to notify Wisconsin Medicaid that the variance has been terminated.

Frequency of reimbursement

Wisconsin Medicaid reimburses only for those supervisory visits made to the recipient's home whether every 60 days or 365 days.

Documentation

Wisconsin Medicaid requires that any change in the frequency of visits must be documented in the plan of care *before* the change occurs. If the frequency of supervisory visits requested in the plan of care in the original variance agreement is changed, the new frequency must be listed in a new plan of care. Providers are required to document:

- When the change in the frequency of visits will occur.
- The reason for the change in the frequency of visits.
- Who requested the change in the frequency of visits.

If the frequency of supervisory visits requested in the plan of care in the original variance agreement is changed, the new frequency must be listed in a new plan of care.

- That all three parties (the recipient or the recipient's guardian, the RN supervisor, and the recipient's physician) agree with the change in the frequency of visits if it is less frequent.

A copy of the request for variance and medical professional statement must be kept along with the plan of care in the recipient's medical record kept by the personal care agency and must be made available to the DHFS upon request.

Requirements *not* affected by variance

Wisconsin Medicaid rules include a number of other requirements designed to help assure adequate ongoing evaluation of the recipient's condition, review of the recipient's plan of care, and supervision of the personal care worker. These requirements are *not* affected by filing the attached forms. Strict compliance is required with all of the requirements for personal care services including the Wisconsin Administrative Code requirements in Attachment 4.

Recipients not eligible to receive this variance

Recipients receiving personal care from home health agencies are not eligible to receive this variance. Licensed or certified home health agencies are required to continue to follow *Medicare* guidelines and HFS 133, Wis. Admin. Code, and therefore, their recipients are not eligible for any variance of the RN supervisory visit requirements.

The *Wisconsin Medicaid and BadgerCare Update* is the first source of program policy and billing information for providers.

Although the *Update* refers to Medicaid recipients, all information applies to BadgerCare recipients also.

Wisconsin Medicaid and BadgerCare are administered by the Division of Health Care Financing, Wisconsin Department of Health and Family Services, P.O. Box 309, Madison, WI 53701-0309.

For questions, call Provider Services at (800) 947-9627 or (608) 221-9883 or visit our Web site at www.dhfs.state.wi.us/medicaid/.

HMO disclaimer

This *Update* contains Medicaid fee-for-service policy and applies to providers of services to recipients on fee-for-service Medicaid only. For Medicaid HMO or managed care policy, contact the appropriate managed care organization. Wisconsin Medicaid HMOs are required to provide at least the same benefits as those provided under fee-for-service arrangements.

Wisconsin Medicaid rules include a number of other requirements designed to help assure adequate ongoing evaluation of the recipient's condition, review of the recipient's plan of care, and supervision of the personal care worker.

ATTACHMENT 1

HFS 106.13, Wisconsin Administrative Code

The following criteria from HFS 106.13, Wis. Admin. Code, must be met for the Department of Health and Family Services to grant a variance to the registered nurse 60-day supervisory home visit rule:

1. The waiver or variance will not adversely affect the health, safety, or welfare of any recipient;
2. Either:
 - a) Strict enforcement of a requirement would result in unreasonable hardship on the provider or on a recipient; or
 - b) An alternative to a rule, including a new concept, method, procedure or technique, new equipment, new personnel qualifications, or the implementation of a pilot project is in the interests of better care or management;
3. The waiver or variance is consistent with all applicable state and federal statutes and federal regulations;
4. Consistent with the Medicaid State Plan and with the federal Health Care Financing Administration and other applicable federal program requirements, federal financial participation is available for all services under the waiver or variance; and
5. Services relating to the waiver or variance are medically necessary.

ATTACHMENT 2

Medical Professional Statement in Support of Request for Variance of 60-Day Supervisory Visit Requirement

(The "Medical Professional Statement in Support of Request for Variance of 60-Day Supervisory Visit Requirement" form is on the following two pages.)



**WISCONSIN MEDICAID
MEDICAL PROFESSIONAL STATEMENT IN SUPPORT OF REQUEST
FOR VARIANCE OF 60-DAY SUPERVISORY VISIT REQUIREMENT**

Before completing this form, read the statement on the reverse side.

Personal Care Agency Name	Personal Care Agency Telephone Number
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Personal Care Agency Address (Street, City, Zip Code)

Subcontracted Personal Care Agency (if applicable)
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Medicaid Recipient's Name	Recipient's Medicaid Identification Number
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1. In my professional judgment, this recipient does not require a supervisory home visit by a registered nurse (RN) supervisor every 60 days.
2. The frequency of supervisory home visits by an RN supervisor under the variance is specified in the plan of care (attached). (Period may not exceed 365 days.) I have read the updated, attached plan of care and I agree with the period between RN visits indicated.
3. The variance in frequency of visits will not adversely affect the health, safety, or welfare of the recipient.
4. The findings indicated above are based upon such examinations, reviews and/or other inquiries as I find to be necessary and appropriate within my professional judgment.
5. I will monitor the recipient's condition as I find to be necessary and appropriate to determine whether the frequency of RN visits should be changed.
6. I will continue to follow the Medicaid requirements not affected by this variance, as defined in the Medicaid administrative rules.
7. The recipient has been instructed how to get in touch with me for routine matters or in case of an emergency.
8. I will change the plan of care or sign a medical order increasing the frequency of RN visits if I feel that the recipient requires more visits than specified in the plan of care.

SIGNATURE — Recipient's Physician*	Date Signed
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SIGNATURE — RN Supervisor	Date Signed
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* The physician who signed written orders for the recipient's personal care.

Retain a copy of this form for your records.

Submit this completed and signed form with a completed and signed "Recipient Request for Variance of 60-Day Supervisory Visit Requirement" and an updated plan of care to:

Wisconsin Medicaid
Prior Authorization
Suite 88
6406 Bridge Road
Madison, WI 53784-0088

**MEDICAL PROFESSIONAL STATEMENT IN SUPPORT OF
REQUEST FOR VARIANCE OF 60-DAY SUPERVISORY VISIT REQUIREMENT**
HCF 1174 (10/01)

Wisconsin Medicaid requires specific information to enable the Medicaid program to authorize and pay for medical services provided to eligible recipients.

Recipients are required to give providers full, correct, and truthful information for the submission of correct and complete claims for Medicaid reimbursement. This information shall include but is not limited to information concerning eligibility status, accurate name, address, and Medicaid identification number (HFS 104.02 [4], Wis. Admin. Code).

Under s. 49.45 (4), Wis. Stats., personally identifiable information about Medicaid applicants and recipients is confidential and is used for purposes directly related to the Medicaid program administration such as determining eligibility of the applicant or processing provider claims for reimbursement. Failure to supply the information requested by the form may result in denial of Medicaid payment for these services.

This form is authorized under HFS 106.13, Wis. Admin. Code. Completion of this form is mandatory to obtain a variance from Wisconsin Medicaid's 60-day registered nurse (RN) visit requirement under s. HFS 105.17(2)(b)(3) and 107.112(3)(c), Wis. Admin. Code, such that visits may be made less often than every 60 days. The variance may be granted only to personal care-only agencies, not home health agencies.

ATTACHMENT 3

Recipient Request for Variance of 60-Day Supervisory Visit Requirement

(The "Recipient Request for Variance of 60-Day Supervisory Visit Requirement" form is on the following pages.)

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**WISCONSIN MEDICAID
RECIPIENT REQUEST FOR VARIANCE OF
60-DAY SUPERVISORY VISIT REQUIREMENT**

Medicaid Recipient's Name

Recipient's Medicaid ID Number

Before completing this form, read the statement on the reverse side.

I, _____ (Medicaid recipient or guardian of recipient), request that Wisconsin Medicaid not require a nurse to visit my home every 60 days. I have read (or have had read to me) the attached "Medical Professional Statement in Support of Request for Variance of 60-Day Supervisory Visit Requirement" form and the updated plan of care. I agree with the period between registered nurse (RN) visits indicated in the updated plan of care. I understand that:

1. I have the right to RN visits at least once every 60 days if I want them.
2. I may contact my physician, RN, or personal care agency if I want more frequent RN visits.
3. I will contact my RN, personal care agency, or physician if I have problems with my personal care worker.
4. I am expected to notify my Medicaid provider of any changes in my medical condition.
5. The nurse and my physician have the required contact plan in place that provides for both routine and emergency contact with them.
6. I may increase the frequency of visits at any time.
7. My physician, RN, personal care agency, or Wisconsin Medicaid may increase the frequency of visits at any time with or without my agreement.

SIGNATURE — Medicaid Recipient or Guardian

Date Signed

Medicaid Billing Provider's Name

Provider's Telephone Number

Medicaid Billing Provider's Address (Street, City, Zip Code)

Wisconsin Medicaid requires specific information to authorize and pay for medical services provided to eligible recipients.

Recipients are required to give providers full, correct, and truthful information for the submission of correct and complete claims for Medicaid reimbursement. This information shall include but is not limited to information concerning eligibility status, accurate name, address, and Medicaid identification number (HFS 104.02 [4], Wis. Admin. Code).

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ATTACHMENT 4

Wisconsin Administrative Code requirements not affected by variance

- A certified [personal care] provider shall:
 - ✓ Supervise the provision of personal care services.
 - ✓ Ensure that qualifications and requirements of the registered nurse supervisor and personal care worker ... are being met.
 - ✓ Evaluate each personal care worker's work performance on a periodic basis. (s. HFS 105.17[1][k],[L], and [t], Wis. Admin. Code.)

- The RN supervisor shall:
 - ✓ Evaluate the need for service and make referrals to other services as appropriate.
 - ✓ Secure written orders from the recipient's physician ... once every 3 months unless the physician specifies that orders covering a period of time up to one year are appropriate.
 - ✓ Develop a plan of care for the recipient, ... interpret the plan to the personal care worker; ... and review the plan at least every 60 days and update it as necessary.
 - ✓ Evaluate the competency of the worker to perform the services. (s. HFS 105.17[2][b]1., 2., 3. and 6., Wis. Admin. Code.)

- Personal care workers shall:
 - ✓ Perform tasks assigned by the RN supervisor.
 - ✓ Report any changes in the recipient's condition to the RN supervisor.
 - ✓ Confer as required with the RN supervisor regarding the recipient's progress. (s. HFS 105.17[3][b] 1., 3., and 4., Wis. Admin. Code.)

- Personal care services shall be provided upon written orders of a physician ... according to a written plan of care. The personal care worker shall be assigned by the supervising registered nurse to specific recipients to do specific tasks for those recipients for which the personal care worker has been trained. The personal care worker's training for these specific tasks shall be assured by the supervising registered nurse. The personal care worker is limited to performing only those tasks and services as assigned for each recipient and for which he or she has been specifically trained. (s. HFS 107.112[1][a], Wis. Admin. Code.)

- Personal care services shall be performed under the supervision of a registered nurse by a personal care worker who meets the requirements of s. HFS 105.17 (3) and who is employed by or is under contract to a provider certified under s. HFS 105.17. (s. HFS 107.112[3][a], Wis. Admin. Code.)

- Services shall be performed according to a written plan of care for the recipient developed by a registered nurse. ... The plan shall be based on the registered nurse's visit to the recipient's home and shall include:
 - ✓ Review and interpretation of the physician's orders;
 - ✓ Frequency and anticipated duration of service;
 - ✓ Evaluation of the recipient's needs and preferences; and
 - ✓ Assessment of the recipient's social and physical environment, including family involvement, living conditions, the recipient's level of functioning and any pertinent cultural factors such as language. (s. HFS 107.112(3)(b), Wis. Admin. Code.)

Wisconsin Statutes and Administrative Code Relating to the Practice of Nursing

Wisconsin Medicaid reminds providers that if an RN supervisor delegates a nursing act to an unlicensed person, such as a personal care worker, he or she is required under N 6.03(3), Wis. Admin. Code, to:

- Delegate tasks commensurate with educational preparation and demonstrated abilities of the person supervised.
- Provide direction and assistance to those supervised.
- Observe and monitor the activities of those supervised.
- Evaluate the effectiveness of acts performed under supervision.

In accordance with N 6.05, Wis. Admin. Code, a violation of the standards of practice constitutes unprofessional conduct or misconduct and may result in the board limiting, suspending, revoking, or denying renewal of the license, or in the board reprimanding an RN.