

STATEMENT OF SCOPE

Office of the Commissioner of Insurance

Rule No.: Agency 145 - INS 17.28 (3) (c), and (4) (f), Wis. Adm. Code

Relating to: Injured Patients and Families Compensation Fund refund procedures and ISO codes modifications

Rule Type: Permanent

1. Finding/nature of emergency:

NA

2. Detailed description of the objective of the proposed rule:

The injured patients and families compensation fund ("fund") objective is to amend the Insurance Services Office Inc. ("ISO") codes for the classification of health care provider specialties in accordance with Wis. Stat. § 655.27 (3) (c) 1. These codes periodically are changed, amended and expanded as the practice of medicine changes. The proposed rule will track those changes to ensure the ISO codes used for the fund fees are current and accurate. Additionally, the proposed rule will amend the fund procedures for refunding administrative fees associated with installment payments of the annual fund fees to keep in balance the administrative cost incurred with the administrative fee. Currently the administrative fee for installment billing is \$3.00; however, a disproportionate amount of staff time is required to be expended in order to accurately refund that fee. The proposed rule will eliminate the requirement for the fund administrative staff to refund the \$3.00 installment fee and any accrued interest.

3. Description of the existing policies relevant to the rule, new policies proposed to be included in the rule, and an analysis of policy alternatives:

The ISO classification code modifications are the numerical designation for a health care provider's specialty and are used to classify the provider for assessment purposes consistent with Wis. Stat. § 655.27 (3) (c). The proposed rule will track changes in the ISO codes to ensure the ISO codes used for the Fund fees are current and accurate. Currently the fund administrative staff is required to track and calculate accrued interest for any installment fees paid by a provider when the provider is eligible for a fund fee refund. Providers may receive a refund of fund fees, administrative service charges or surcharges with interest when providers cease practicing, changed practice codes to a lower fee class, are eligible for an exemption from the fund or paid fund fees but are not eligible for fund coverage. The proposed rule will amend the Fund procedures for refunding various fees associated with the annual Fund fees to keep in balance the administrative cost to the Fund in staff time expended to refund the administrative fee charged in comparison to the amount of the administrative fee to be refunded. The proposed revision would exclude the \$3.00 fee for installment billing from the administrative fees that are refundable.

4. Detailed explanation of statutory authority for the rule (including the statutory citation and language):

The Fund was established by and operated under Wis. Stat. Ch. 655. The commissioner of insurance with approval of the board of governors ("board") is required to establish Fund fees and promulgate rules under ch. 227, in accordance with Wis. Stats. § 655.27 (3) (b) 1., and § 655.004. One such responsibility is ensuring fees are properly assessed in compliance with Wis. Stat. § 655.27 (3) (a) and include an amount sufficient to cover interest not earned and administrative costs incurred when fees are not paid on an annual basis under Wis. Stat. § 655.27 (3) (b). The proposed rule will amend the procedure regarding

installment fees paid to ensure the incurred administrative costs are covered by the installment fees. To ensure Fund fees are assessed accurately Wis. Stat. § 655.27 (3) (a) 1., requires that the annual fee assessment consider past and prospective loss and expense experience for the different types of practices. The ISO codes must be accurate in order to properly establish the classifications for fund fee assessments. The proposed rule includes changes to the ISO code listing to address corrections to several classifications and will add new classification specialties. ISO codes are the numerical designation for a health care provider's specialty and are used to classify the provider for assessment purposes.

5. Estimate of amount of time that state employees will spend developing the rule and of other resources necessary to develop the rule:

120 hours of time including the time of state employees and of the Board of Governors of the Injured Patients and Families Compensation Fund.

6. List with description of all entities that may be affected by the proposed rule:

All health care provider participants in the fund as set forth in s. 655.002 (1), Wis. Stat., are required to pay assessments for their medical malpractice coverage under Ch. 655, Wis. Stat. The proposed ISO code amendments will add clarity and correct errors. The ISO codes will be used to accurately assess the fund participating providers by their practice.

7. Summary and preliminary comparison with any existing or proposed federal regulation that is intended to address the activities to be regulated by the proposed rule:

There is no existing or proposed federal regulation addressing any medical malpractice fund like the Wisconsin Injured Patients and Families Compensation Fund.

8. Anticipated economic impact of implementing the rule (note if the rule is likely to have a significant economic impact on small businesses):

The proposed rule changes will have a minimal economic impact as the additional ISO codes will more accurately capture and assign fund fees based upon a providers practice and the changes to the refund process will have a negligible impact as the administrative fee is \$3.00 per quarter that will no longer be refunded.

Contact Person: Julie E. Walsh, Senior Attorney, 608-264-8101


Terri Carlson, Fund Director

10.26.17
Date


Kate Ludlum, Insurance Administrator

10-27-17
Date


J.P. Wieske, Deputy Commissioner

10-27-17
Date

Date Submitted



SCOTT WALKER
OFFICE OF THE GOVERNOR
STATE OF WISCONSIN

P.O. Box 7863
MADISON, WI 53707

March 13, 2018

Ted Nickel
Commissioner
Office of Commissioner of Insurance
125 South Webster Street
Madison, Wisconsin 53703-3474

**RE: Scope Statement for INS 17.28 relating to injured patients and families
compensation fund refund procedures and ISO codes modifications**

Dear Commissioner Nickel,

I hereby approve the statement of scope submitted on October 27, 2017 to SBO, pursuant to Wisconsin Statutes § 227.135, in regards to a proposed rule modifying Chapter INS 17.28 of the Wisconsin Administrative Code. You may send the scope statement to the Legislative Reference Bureau for publication pursuant to Wisconsin Statutes § 227.135(3).

Sincerely,

Scott Walker
Governor



State of Wisconsin / OFFICE OF THE COMMISSIONER OF INSURANCE

Scott Walker, Governor
Theodore K. Nickel, Commissioner

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May 8, 2018

Section Ins 17.28 (3) (c) and (4) (f), Wis. Adm. Code, relating to the Injured Patients and Families Compensation Fund to amend the refund procedures and modify the Insurance Services Office Inc. (ISO) codes.

Statement of Scope of a Proposed Rule SS 032-18

In accordance with s. 227.135 (1) and (2), Stats., I hereby certify that I am the individual with the policy-making powers for the Office of the Commissioner of Insurance, that the above-listed Statement of Scope was published in the Wisconsin Administrative Register No. 747B on March 26, 2018 and a Preliminary public hearing was published in the Wisconsin Administrative Register No. 748A1, on April 2, 2018. The public hearing was held on April 11, 2018 and a report summarizing the hearing and any comments was received by me on May 7, 2018. I have reviewed the report and I approve this Statement of Scope.

Work may now commence on this proposed rule.



JP Wieske, Deputy Commissioner
Office of the Commissioner of Insurance