

ARKANSAS REGISTER

Transmittal Sheet

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Secretary of State
State Capitol Room 01
Little Rock, Arkansas 72201-1094

For Office
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Name of Agency Arkansas Insurance Department

Department Legal Division

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Statutory Authority for Promulgating Rules ACA §§23-61-108, 23-61-303 & 23-99-510, 25-15-203

Date

Intended Effective Date

Legal Notice Published November 12, 1997

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Filed with Legislative Council November 6, 1997

 Other

Reviewed by Legislative Council . June 19, 1998

Adopted by State Agency May 14, 1998

CERTIFICATION OF AUTHORIZED OFFICER

I Hereby Certify That The Attached Rules Were Adopted
In Compliance with Act 434 of 1967 As Amended

Jean Langford
Signature

(501) 371-2820
Phone Number

Chief Counsel
Title

May 4, 1998
Date

FILED
ARK. REGISTER DIV.
MAY -4, PM 2:10
BY _____
STATE OF ARKANSAS

**RULE AND REGULATION 70
DIABETES SELF-MANAGEMENT ACT OF 1997**

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STATE OF ARKANSAS
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Section 1. Purpose

The purpose of this Regulation is to implement and coordinate compliance with the Arkansas diabetes self-management benefits mandated for inclusion in insurance and HMO policies and contracts under the provisions of Arkansas Act 1249 of 1997, effective August 1, 1997, codified at Ark. Code Ann. §§23-79-601, et seq.

Section 2. Authority

This Rule is issued pursuant to the authority vested in the Commissioner under Ark. Code Ann. §§23-61-108 and 25-15-203, Act 1249 of 1997, and other applicable provisions of Arkansas law as amended.

Section 3. Applicability and Scope

A. APPLICATION. (1) This Rule shall apply to every disability (health) insurer, hospital or medical service corporation, health maintenance organization ("HMO"), and fraternal benefit society licensed by the Arkansas Insurance Commissioner ("Commissioner"). This Rule applies to group and individual policies or contracts issued on an expense-incurred, service, or pre-paid risk-sharing basis by authorized licensees of the Insurance Commissioner. This Rule shall be applicable to any health insurance policy which is delivered, issued, issued for delivery, renewed, extended, or modified in this State on and after the effective date of this Rule as adopted by the Commissioner.

(2) This Rule shall be applicable to a disability policy, or a health insurance policy providing coverage or benefits to an Arkansas resident as expressly defined in accordance with Act 1249 of 1997, in A.C.A. §23-79-601(3), whether the health care insurer or other entity which provides the coverage is located within or outside the State of Arkansas or not; and the policy shall be deemed to be delivered in this State within the meaning of Act 1249 of 1997.

B. EXCLUSIONS. This Regulation shall not apply to disability income, specified disease, Medicare Supplement, hospital indemnity, limited benefit or accident-only policies. This Rule shall not apply to Champus supplement, long term care plans, short-term renewable individual health insurance (disability) policies which expire after six (6) months, medical payments under homeowner or automobile insurance policies, or to workers' compensation or employers' liability insurance policies or contracts.

Section 4. Effective Date

The effective date of this Rule is May 14, 1998, upon signature of the Commissioner and statutory filing.

Section 5. Definitions

As used in this Rule:

A. COMMISSIONER means the Arkansas Insurance Commissioner.

B. DEPARTMENT means the Arkansas Insurance Department.

C. DIABETES means and shall include Type 1, Type 2, or Gestational Diabetes, Diabetes Insipidus, and other specific types, and means diabetes mellitus, a common chronic, serious systemic disorder of energy metabolism which includes a heterogeneous group of metabolic disorders which can be characterized by an elevated blood glucose level. The terms diabetes and diabetes mellitus are considered synonymous and defined to include persons using insulin, persons not using insulin, individuals with elevated blood glucose levels induced by pregnancy, or persons with other medical conditions or medical therapies which wholly or partially consist of elevated blood glucose levels.

D. DIABETES EDUCATOR or HEALTH CARE PROVIDER means only an individual, licensed by one of the following Arkansas State Boards, who has completed such Arkansas State Board's educational program that is in compliance with the National Standards for Diabetes Self-Management Educational Programs as developed by the American Diabetes Association, and only those duly certified to instruct in diabetes self-management, including but not limited to:

1. The Arkansas State Medical Board;
2. The Arkansas Board of Podiatric Medicine;
3. The Arkansas State Board of Optometry;
4. The Arkansas State Board of Pharmacy;
5. The Arkansas State Board of Nursing;
6. The Arkansas State Board of Physical Therapy;
7. The Arkansas Dietetics Licensing Board; and
8. Other Arkansas State licensing agencies, boards or commissions for medical professionals.

E. DIABETES SELF-MANAGEMENT TRAINING means instruction in an inpatient or outpatient setting, including medical nutrition therapy, relating to diet, caloric intake and diabetes management but excluding programs the primary purposes of which are weight reduction. The training is to enable diabetic patients to understand the diabetic management process and daily management of diabetic therapy as a method of avoiding frequent hospitalizations and complications when the instruction is provided in accordance with a program in compliance with the National Standards for Diabetes Self-Management Education Program developed by the American Diabetes Association.

F. HEALTH CARE INSURER under A.C.A. §23-79-601 means any insurance company, fraternal benefit society, hospital and/or medical services corporation, or health maintenance organization issuing or delivering a health (disability) insurance policy subject to the Arkansas Insurance Code, codified as Ark. Code Ann. §§23-60-101, et seq., or its successor laws; and in particular, the provisions of Ark. Code Ann. §§23-74-101, et seq., as to fraternal benefit societies; and provisions of Ark. Code Ann. §§23-75-101, et seq., as to hospital or medical service corporations; and the provisions of Ark. Code Ann. §23-76-101, et seq. as to health maintenance organizations.

G. HEALTH INSURANCE POLICY means a group or individual disability insurance policy, contract or plan which provides medical coverage on an expense-incurred, service, or prepaid

1 risk-sharing basis issued by authorized stock and mutual insurers, authorized fraternal benefit
2 societies, authorized hospital or medical service corporations, and authorized health
3 maintenance organizations.

4 5 **Section 6. Coverage Mandated; Limitations** 6

7 A. Pursuant to Section 2 of Act 1249 of 1997, every individual and group health insurance
8 policy as defined in this Rule shall include coverage for one (1) per lifetime training program per
9 insured for diabetes self-management training, when medically necessary. Training which is
10 compensable under the policy may include one (1) or more than one (1) visit from the physician
11 or health care provider. The diabetes self-management training which is compensable under
12 the policy shall include additional training sessions offered by the health care provider, as
13 prescribed by a physician, on grounds of medical necessity and when the diabetic patient's
14 condition changes or worsens upon a determination by that physician that it is a significant
15 change in the diabetic patient's condition.

16 B. Any training for diabetes self-management shall only be covered in the health care policy
17 when medically necessary as determined by a physician, and only if it is provided by an
18 appropriately licensed health care provider credentialed as required by Act 1249 of 1997 and
19 defined in Subsection (D) of Section 5 above. As to additional requirements, the physician for
20 the diabetic patient must be licensed under Ark. Code Ann. §§17-95-201, et seq. The diabetes
21 educator shall only provide diabetes self-management training within his or her scope of
22 practice after having demonstrated expertise in diabetes care and treatment. The physician or
23 diabetes educator shall only provide such training after having completed an education training
24 program required by his or her licensing board when such program is in compliance with the
25 National Standards for Diabetes Self-Management Education Program, developed by the
26 American Diabetes Association. For the patient's training to be compensable under the health
27 care policy, the physician must issue a written prescription ordering the training for the patient
28 and/or the patient's parent, spouse or legal guardian. For compensable coverage, the training
29 must be successfully completed by the diabetic patient and parent, spouse or legal guardian;
30 the health care provider must certify such successful completion; and shall provide such written
31 certification to the referring physician and health care insurer providing the coverage.

32 A health care insurer is not required to pay benefits unless and until the health care
33 provider provides certification that the insured individual has successfully completed the
34 diabetes self-management training. Additionally and to facilitate the payment of benefits due
35 under this Rule, health care insurers shall routinely obtain from all appropriate Arkansas State
36 Licensing Boards a list of licensed or certified health care professionals who have demonstrated
37 expertise in diabetes care and treatment and have completed the educational program in
38 compliance with the ADA program required by that Arkansas State Licensing Board.

39 C. The coverage required under this Rule and Act 1249 of 1997 shall be consistent with
40 other benefits provided in the health insurance policy and subject to all policy limitations,
41 applicable deductibles; coinsurance; other patient cost-sharing amounts or out-of pocket limits;
42 as well as referral, prior authorization or other utilization review requirements or processes.

43 D. The provisions of Act 1249 of 1997 and this Rule do not prohibit health care insurers
44 from selectively negotiating contracts with qualified providers of diabetes self-management
45 training programs, to the extent such contracts are not inconsistent with this Rule.

46 E. The health care insurers may legitimately exclude from coverage diabetes self-
47 management training, diabetes equipment, supplies and related services which are not
48 medically necessary for the treatment of Type 1, Type 2 or gestational diabetes or other types;
49 provided that such determinations are made by the patient's licensed physician(s); and provided
50 that such determinations are consistent with Act 1249 of 1997 and this Rule, as well as other
51 applicable laws and rules and regulations; and provided that such determinations are not at

variance with generally accepted standards of the medical profession. Nothing in this Rule shall be deemed to exclude or prohibit review and final determination of a claim on appeal as provided by the applicable health insurance policy or plan, after initial coverage determination on medical necessity is made by a licensed physician as required by this Rule.

Section 7. Standards for Diabetes Self-Management Training

The diabetes education process for self-management training shall include the following standards:

(1) **Needs Assessment.** The health care provider shall conduct an individualized educational needs assessment with the participation of the patient, family, legal guardian, or support systems to be used in the development of the educational plan and interventions. The educational needs assessment shall include, but not be limited to, the following:

- (A) Health history;
- (B) Medical history;
- (C) Previous use of medication;
- (D) Diet history;
- (E) Current mental health status;
- (F) Use of health care delivery systems;
- (G) Life-style practices such as occupation, education, financial status, social and cultural and religious practices, health beliefs and attitudes or preventive behaviors;
- (H) Physical and psychological factors including age, mobility, visual acuity, manual dexterity, alertness, attention span, and ability to concentrate;
- (I) Barriers to learning such as education, literacy level, perceived learning needs, motivation to learn, and attitude;
- (J) Family and social support; and
- (K) Previous diabetes education, including actual knowledge and skills.

(2) **Education Plan.** The health care provider shall develop a written education plan in collaboration with the patient, his parent, spouse or legal guardian from information obtained in the needs assessment, including the following:

- (A) Desired patient outcomes;
- (B) Measurable, behaviorally-stated learner objectives; and
- (C) Instructional methods.

(3) **Education Intervention.** The health care provider shall create an educational setting conducive to learning with adequate resources for space, teaching and audio-visual aids to facilitate the educational process. The health care provider shall use a planned content outline. The content outline shall be provided based on the needs assessment, and may include:

- (A) Diabetes pathophysiology;
- (B) Stress and psychological adjustment;
- (C) Family involvement in disease management;
- (D) Medical nutrition therapy as defined by the American Diabetes Association;
- (E) Exercise and physical activity;
- (F) Medications and insulin administration;
- (G) Blood glucose monitoring and use of results;
- (H) Diabetes management which is the relationship between nutrition, exercise, medication, and blood glucose levels;
- (I) Prevention, detection, and treatment of acute complications;
- (J) Prevention, detection and treatment of chronic complications;
- (K) Foot, skin and dental care;
- (L) Behavior change strategies, goal setting risk factor reduction, and problem solving;

- (M) Benefits, risks, and management options for improving glucose control;
- (N) Uses of health care systems and community resources; and
- (O) Preconception care, pregnancy and gestational diabetes.

(4) **Evaluation of Learner Outcomes.** The health care provider shall review and evaluate the degree to which the person with diabetes is able to demonstrate diabetes self-management skills as identified by behavioral objectives.

(5) **Plan for Follow-up for Continuing Learning Needs.** The health care provider shall review the educational plan and recommend any additional educational interventions to meet continuing learning needs.

(6) **Documentation.** The health care provider shall maintain written files and shall thereby completely and accurately document the educational experiences provided, and communicate such to the referring physician.

Section 8. Equipment, Supplies and Appliances

Health insurance policies shall provide coverage in accordance with Section 6(c), for the equipment, supplies and services listed in this section prescribed by an insured's physician licensed under Ark. Code Ann. §§17-19-201, et seq., which are medically necessary for the treatment of diabetes mellitus, including and not limited to Type 1, Type 2, and gestational diabetes.

(1) Blood glucose monitors, which include all commercially available blood glucose monitors designed for patient use and for persons who have been diagnosed with diabetes;

(2) Blood glucose monitors for the legally blind, which include all commercially available blood glucose monitors designed for patient use with adaptive devices and for persons who are legally blind and have been diagnosed with diabetes;

(3) Test strips for glucose monitors, which include all test strips approved by the Federal Food and Drug Administration, glucose control solutions, lancet devices, and lancets for monitoring glycemic control;

(4) Visual reading and urine testing strips, which include visual reading strips for glucose, urine testing strips for ketones, or urine test strips for both glucose and ketones. Urine test strips for glucose only are not acceptable as the sole method of monitoring;

(5) Insulin, which includes all commercially available insulin preparations including insulin analog preparations available in either vial or cartridge;

(6) Injection aids, which include devices used to assist with insulin injection;

(7) Syringes, which include insulin syringes, pen-like insulin injection devices, pen needles for pen-like insulin injection devices;

(8) Insulin pumps as prescribed by the physician and appurtenances thereto, which include insulin infusion pumps and supplies such as skin preparations, adhesive supplies, infusion sets, cartridges, batteries and other disposable supplies needed to maintain insulin pump therapy. These include durable and disposable devices used to assist in the injection of insulin;

(9) Oral agents for controlling the blood sugar level, which are prescription drugs;

(10) Podiatric appliances for prevention of complications associated with diabetes, which include therapeutic molded or depth-inlay shoes, replacement inserts, preventive devices, and shoe modifications for prevention and treatment; and

(11) Glucagon Emergency Kits and injectable glucagon.

Section 9. Penalties

Health care insurers who fail to comply with the provisions of this Rule shall be subject to investigations and administrative proceedings and penalties for trade practice violations enumerated in Ark. Code Ann. §§23-66-201, and following, and other applicable laws and rules.

1 **Section 10. Severability**

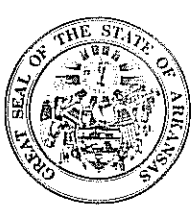
2
3 Any section or provision of this Rule held by a court to be invalid or unconstitutional will not
4 affect the validity of any other section or provision of this Rule.
5

6
7
8 

9
10 MIKE PICKENS
11 INSURANCE COMMISSIONER
12 STATE OF ARKANSAS

13 5/4/98

14
15 DATE



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STATE OF ARKANSAS

**Re: Error Correction Pages: Final and Adopted Rule and Regulation
70, "Diabetes Self-Management Act of 1997"**

Dear State Offices:

Enclosed are 2 correction pages for substitution in Final Rule 70 which we filed with your Offices a few weeks ago. Our mailout to the industry netted us a couple of comments on one citation error and one word error.

On page one we meant to say "nonrenewable" policies; and the enclosed corrected first page substitutes that for "renewable" on line 47 or so.

In Section 8, the correct citation to the State Medical Practices Act is Ark. Code Ann. Section 17-95-201 on line 18 of page 5. See the enclosed corrected page 5. The earlier citation of this Act on Rule Page 3 was correct we noted.

Thank you for your assistance. It is gratifying to know that we have industry participation in our final rule products – they do read and study our materials.

Sincerely,

Jean Langford
Jean Langford
Chief Counsel
Legal Division

JL:maw

Enclosures – Correction Page 1 and Page 5

**RULE AND REGULATION 70
DIABETES SELF-MANAGEMENT ACT OF 1997**

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- (M) Benefits, risks, and management options for improving glucose control;
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Section 9. Penalties

Health care insurers who fail to comply with the provisions of this Rule shall be subject to investigations and administrative proceedings and penalties for trade practice violations enumerated in Ark. Code Ann. §§23-66-201, and following, and other applicable laws and rules.