

Title 23. Public Utilities and Regulated Industries
Chapter I. State Insurance Department, Department of Commerce
Subchapter B. Life, Health, and Accident
Part 113. Diabetes Self-Management Act of 1997

Codification Notes. This part as promulgated prior to codification into the Code of Arkansas Rules provided as follows:

"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 4. Effective Date

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

"Section 10. Severability

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

Subpart 1. Generally

23 CAR § 113-101. Purpose.

The purpose of this part 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 Acts 1997, No. 1249, effective August 1, 1997, codified at Arkansas Code § 23-79-601 et seq.

Authority. Arkansas Code § 23-79-605.

Codification Notes. "HMO" means health maintenance organization.

23 CAR § 113-102. Applicability and scope.

(a) Application.

(1)(A) This part shall apply to every disability (health) insurer, hospital or medical service corporation, health maintenance organization (HMO), and fraternal benefit society licensed by the Insurance Commissioner.

(B) This part applies to group and individual policies or contracts issued on an expense-incurred, service, or prepaid risk-sharing basis by authorized licensees of the commissioner.

(C) This part shall be applicable to any health insurance policy that is delivered, issued, issued for delivery, renewed, extended, or modified in this state on and after the effective date of this part as adopted by the commissioner.

(2) This part 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 Acts 1997, No. 1249, in Arkansas Code § 23-79-601(3), whether the healthcare insurer or other entity that 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 Acts 1997, No. 1249.

(b) Exclusions.

(1) This part shall not apply to disability income, specified disease, Medicare supplement, hospital indemnity, limited benefit, or accident-only policies.

(2) This part shall not apply to Champus supplement, long-term care plans, short-term renewable nonrenewable individual health insurance (disability) policies that expire after six (6) months, medical payments under homeowner or automobile insurance policies, or to workers' compensation or employers' liability insurance policies or contracts.

Authority. Arkansas Code § 23-79-605.

23 CAR § 113-103. Definitions.

As used in this part:

(1) "Commissioner" means the Insurance Commissioner;

(2) "Department" means the State Insurance Department;

(3)(A) "Diabetes" means and shall include Type I, Type II, or gestational diabetes, diabetes insipidus, and other specific types, and means diabetes mellitus, a common chronic, serious systemic disorder of energy metabolism that includes a heterogeneous group of metabolic disorders that can be characterized by an elevated blood glucose level.

(B) The terms "diabetes" and "diabetes mellitus" are considered synonymous and defined to include:

- (i) Persons using insulin;
- (ii) Persons not using insulin;
- (iii) Individuals with elevated blood glucose levels induced by pregnancy; or
- (iv) Persons with other medical conditions or medical therapies that wholly or partially consist of elevated blood glucose levels;

(4) "Diabetes educator" or "healthcare provider" means only an individual, licensed by one (1) 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 Education and Support as developed by the American Diabetes Association, and only those duly certified to instruct in diabetes self-management, including, but not limited to:

- (A) The Arkansas State Medical Board;
- (B) The Arkansas Board of Podiatric Medicine;
- (C) The State Board of Optometry;
- (D) The Arkansas State Board of Pharmacy;
- (E) The Arkansas State Board of Nursing;
- (F) The Arkansas State Board of Physical Therapy;

(G) The Arkansas Dietetics Licensing Board; and

(H) Other Arkansas state licensing agencies, boards, or commissions for medical professionals;

(5)(A) "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.

(B) 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 and Support developed by the American Diabetes Association;

(6) "Health insurance policy" means a group or individual disability insurance policy, contract, or plan that provides medical coverage on an expense-incurred, service, or prepaid risk-sharing basis issued by authorized:

(A) Stock and mutual insurers;

(B) Fraternal benefit societies;

(C) Hospital or medical service corporations; and

(D) Health maintenance organizations; and

(7) "Healthcare insurer" under Arkansas Code § 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 Arkansas Code § 23-60-101 et seq., or its successor laws, and in particular, the provisions of:

(A) Arkansas Code § 23-74-101 et seq., as to fraternal benefit societies;

(B) Arkansas Code § 23-75-101 et seq., as to hospital or medical service corporations; and

(C) Arkansas Code § 23-76-101 et seq., as to health maintenance organizations.

Authority. Arkansas Code § 23-79-605.

23 CAR § 113-104. Coverage mandated — Limitations.

(a)(1) Pursuant to Acts 1997, No. 1249, § 2, every individual and group health insurance policy as defined in this part shall include coverage for one (1) per lifetime training program per insured for diabetes self-management training, when medically necessary.

(2) Training that is compensable under the policy may include one (1) or more than one (1) visit from the physician or healthcare provider.

(3) The diabetes self-management training that is compensable under the policy shall include additional training sessions offered by the healthcare provider, as prescribed by a physician, on grounds of medical necessity and when the diabetic patient's condition changes or worsens upon a determination by that physician that it is a significant change in the diabetic patient's condition.

(b)(1) Any training for diabetes self-management shall only be covered in the healthcare policy:

(A) When medically necessary as determined by a physician; and

(B) If it is provided by an appropriately licensed health care provider credentialed as required by Acts 1997, No. 1249, and defined in 23 CAR § 113-103(4).

(2)(A) As to additional requirements, the physician for the diabetic patient must be licensed under Arkansas Code § 17-95-201 et seq.

(B) The diabetes educator shall only provide diabetes self-management training within his or her scope of practice after having demonstrated expertise in diabetes care and treatment.

(C) The physician or diabetes educator shall only provide such training after having completed an education training program required by his or her licensing board when such program is in compliance with the National Standards for Diabetes Self-Management Education and Support, developed by the American Diabetes Association.

(3) For the patient's training to be compensable under the healthcare policy, the physician must issue a written prescription ordering the training for the:

(A) Patient; and/or

(B) Patient's:

(i) Parent;

(ii) Spouse; or

(iii) Legal guardian.

(4) For compensable coverage, the:

(A) Training must be successfully completed by the:

(i) Diabetic patient; and

(ii) Parent, spouse, or legal guardian;

(B) Healthcare provider must certify such successful completion; and

(C) Healthcare provider shall provide such written certification to the referring physician and healthcare insurer providing the coverage.

(5)(A) A healthcare insurer is not required to pay benefits unless and until the healthcare provider provides certification that the insured individual has successfully completed the diabetes self-management training.

(B) Additionally and to facilitate the payment of benefits due under this part, healthcare insurers shall routinely obtain from all appropriate Arkansas state licensing boards a list of licensed or certified health care professionals who have:

(i) Demonstrated expertise in diabetes care and treatment; and

(ii) Completed the educational program in compliance with the ADA program required by that Arkansas state licensing board.

(c) The coverage required under this part and Acts 1997, No. 1249, shall be consistent with other benefits provided in the health insurance policy and subject to all policy limitations, applicable deductibles, coinsurance, other patient cost-sharing amounts or out-of-pocket limits, as well as referral, prior authorization, or other utilization review requirements or processes.

(d) The provisions of Acts 1997, No. 1249, and this part do not prohibit healthcare insurers from selectively negotiating contracts with qualified providers of diabetes self-

management training programs, to the extent such contracts are not inconsistent with this part.

(e)(1) The healthcare insurers may legitimately exclude from coverage diabetes self-management training, diabetes equipment, supplies, and related services that are not medically necessary for the treatment of Type I, Type II, or gestational diabetes or other types, provided that such determinations are:

(A) Made by the patient's licensed physician or physicians;

(B) Consistent with Acts 1997, No. 1249, and this part, as well as other applicable laws and rules; and

(C) Not at variance with generally accepted standards of the medical profession.

(2) Nothing in this part 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 part.

Authority. Arkansas Code § 23-79-605.

Codification Notes. "ADA" means American Diabetes Association.

23 CAR § 113-105. Standards for diabetes self-management training.

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

(1) **Needs assessment.**

(A) The healthcare 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.

(B) The educational needs assessment shall include, but not be limited to, the following:

- (i) Health history;
- (ii) Medical history;
- (iii) Previous use of medication;
- (iv) Diet history;
- (v) Current mental health status;
- (vi) Use of healthcare delivery systems;
- (vii) Lifestyle practices, such as:
 - (a) Occupation;
 - (b) Education;
 - (c) Financial status;
 - (d) Social and cultural and religious practices; and
 - (e) Health beliefs and attitudes or preventive behaviors;
- (viii) Physical and psychological factors, including:
 - (a) Age;
 - (b) Mobility;
 - (c) Visual acuity;
 - (d) Manual dexterity;
 - (e) Alertness;
 - (f) Attention span; and
 - (g) Ability to concentrate;
- (ix) Barriers to learning, such as:
 - (a) Education;
 - (b) Literacy level;
 - (c) Perceived learning needs;
 - (d) Motivation to learn; and
 - (e) Attitude;
- (x) Family and social support; and
- (xi) Previous diabetes education, including actual knowledge and

skills;

(2) **Education plan.** The healthcare provider shall develop a written education plan in collaboration with the patient and his or her 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.**

(A) The healthcare provider shall create an educational setting conducive to learning with adequate resources for space, teaching, and audio-visual aids to facilitate the educational process.

(B) The healthcare provider shall use a planned content outline.

(C) The content outline shall be provided based on the needs assessment and may include:

- (i) Diabetes pathophysiology;
- (ii) Stress and psychological adjustment;
- (iii) Family involvement in disease management;
- (iv) Medical nutrition therapy as defined by the American Diabetes

Association;

- (v) Exercise and physical activity;
- (vi) Medications and insulin administration;
- (vii) Blood glucose monitoring and use of results;
- (viii) Diabetes management, which is the relationship between:
 - (a) Nutrition;
 - (b) Exercise;
 - (c) Medication; and
 - (d) Blood glucose levels;
- (ix) Prevention, detection, and treatment of acute complications;
- (x) Prevention, detection, and treatment of chronic complications;
- (xi) Foot, skin, and dental care;

(xii) Behavior change strategies, goal-setting risk factor reduction, and problem solving;

(xiii) Benefits, risks, and management options for improving glucose control;

(xiv) Uses of healthcare systems and community resources; and

(xv) Preconception care, pregnancy, and gestational diabetes;

(4) **Evaluation of learner outcomes.** The healthcare 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 healthcare provider shall:

(A) Review the educational plan; and

(B) Recommend any additional educational interventions to meet continuing learning needs; and

(6) **Documentation.** The healthcare provider shall:

(A) Maintain written files; and

(B) Thereby completely and accurately document the educational experiences provided and communicate such to the referring physician.

Authority. Arkansas Code § 23-79-605.

23 CAR § 113-106. Equipment, supplies, and appliances.

Health insurance policies shall provide coverage in accordance with 23 CAR § 113-104(c) for the equipment, supplies, and services listed in this section prescribed by an insured's physician licensed under Arkansas Code § 17-95-201 et seq., which are medically necessary for the treatment of diabetes mellitus, including and not limited to Type I, Type II, 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 United States Food and Drug Administration, glucose control solutions, lancet devices, and lancets for monitoring glycemic control;

(4)(A) Visual reading and urine testing strips, which include:

(i) Visual reading strips for glucose;

(ii) Urine testing strips for ketones; or

(iii) Urine test strips for both glucose and ketones.

(B) 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:

(A) Insulin syringes;

(B) Pen-like insulin injection devices; and

(C) Pen needles for pen-like insulin injection devices;

(8)(A) 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.

(B) These include durable and disposable devices used to assist in the injection of insulin;

(9) Oral agents for controlling the blood sugar level that 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.

Authority. Arkansas Code § 23-79-605.

23 CAR § 113-107. Penalties.

Healthcare insurers who fail to comply with the provisions of this part shall be subject to investigations and administrative proceedings and penalties for trade practice violations enumerated in the Trade Practices Act, Arkansas Code § 23-66-201 et seq., and other applicable laws and rules.

Authority. Arkansas Code § 23-79-605.