

## Clearinghouse Rule 10-146

### PROPOSED ORDER OF DEPARTMENT OF HEALTH SERVICES TO ADOPT RULES

The Wisconsin Department of Health Services proposes **to repeal and recreate** DHS 1.03 (20) (c) and 1.06 (3) (d) and (e), rules relating to records status and retention period for records of clients who have unpaid liability to the Department or counties.

#### SUMMARY OF PROPOSED RULE

**Statute interpreted:**

Sections 46.03 (18) and 46.10 (1) to (14) (a), Stats.

**Statutory authority:** Section 227.11 (2), Stats.

**Explanation of agency authority:**

- Section 227.11 (2) (a), Stats., allows agencies to promulgate rules interpreting the provision of any statute enforced or administered by the agency if the agency considers it necessary to effectuate the purpose of the statute.

**Related statute or rule:**

Chapter 46, Stats.

**Plain language analysis:**

In this order, the Department proposes to promote uniformity and cost savings by revising the status and retention period for records of clients who have unpaid liability to the Department or counties. The changes include repealing and recreating rules to more clearly state when a client record may be closed. The changes also include reducing the retention period for closed inpatient mental health records under s. DHS 1.06 (3) (e) from 10 years to 5 years. The current rules are confusing for Department and county staff and have led to different interpretations. The proposed changes may decrease costs and should increase uniformity and accountability for counties and the Department.

**Summary of, and comparison with, existing or proposed federal regulations:**

There appear to be no existing proposed federal regulations that are the same or similar to the proposed rules.

**Comparison with rules in adjacent states:**

**Illinois:** There appear to be no administrative rules that are the same or similar to the proposed rules.

**Iowa:** There appear to be no administrative rules that are the same or similar to the proposed rules.

**Michigan:** There appear to be no administrative rules that are the same or similar to the proposed rules.

**Minnesota:** There appear to be no administrative rules that are the same or similar to the proposed rules.

**Summary of factual data and analytical methodologies:**

The Department analyzed ss. 46.03 (18) and 46.10 (1) to (14) (a), Stats., the Department's current practices and existing rules when deciding how to revise the rules proposed in this order.

**Analysis and supporting documents used to determine effect on small business:**

The proposed rules relate to the status and retention periods of client records relating to payment for the services. The proposed rules do not affect businesses.

**Effect on small business:**

The proposed rules do not affect businesses.

**Agency contact person:**

Troy K. Kitzrow  
Supervisor, Billing and Collections  
Bureau of Fiscal Services  
Division of Enterprise Services  
Department of Health Services  
1 West Wilson Street; Room 750  
Madison, WI 53707  
608-261-5984

**Place where comments are to be submitted and deadline for submission:**

The Department of Health Services will adopt the rules in this order without public hearing unless on or before February 1, 2011, the Department of Health Services is petitioned for a public hearing by 25 natural persons who will be affected by the rule; a municipality which will be affected by the rule; or an association which is representative of a farm, labor, business or professional group that will be affected by the rule:

**Comments may be submitted until February 1, 2011 to:**

Troy K. Kitzrow  
Supervisor, Billing and Collections  
Bureau of Fiscal Services  
Division of Enterprise Services  
Department of Health Services  
1 West Wilson Street; Room 750  
Madison, WI 53707  
608-261-5984

**TEXT OF PROPOSED RULE**

**SECTION 1.** DHS 1.03 (20) (c) is repealed and recreated to read:

DHS 1.03 (20) PAYMENT PERIOD. (c) Third-party sources have been exhausted and the responsible parties have a permanent inability or unlikely future ability to pay.

**SECTION 2.** DHS 1.06 (3) (d) and (e) are repealed and recreated to read:

DHS 1.06 (3) (d) *Closing client records; record retention period.* Client records may be closed after the department or payment approval authority determines that any one of the conditions listed under s. DHS 1.03 (20) (a) to (c) applies. Closed client records shall be maintained for at least 5 years.

(e) *Audits.* Open and closed client records shall be made available for audit.

EFFECTIVE DATE: This rule 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 Services

Dated:

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Karen E Timberlake, Department Secretary

SEAL: