

Clearinghouse Rule 07-060

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**PROPOSED ORDER OF  
DEPARTMENT OF HEALTH AND FAMILY SERVICES  
TO ADOPT RULES**

The Wisconsin Department of Health and Family Services proposes **to renumber** HFS 133.02 (1); **to amend** HFS 133.02 (4) and (11), 133.03 (3) (Note), (5), and (8) (Note), 133.03 (4) (b) 3., 133.05 (2) (b) 1., 133.06 (4) (d) 1. and 3., 133.08 (2) (a), 133.09 (1), (3) (a) 1. 2. and 3. b. and c., and (b), 133.13, 133.14 (2) (c) and (g), 133.15 (1), 133.16, 133.17 (1) and (3), 133.20 (title), (1), (3), and (4) and (title), 133.21 (5) (d), (e), (h) and (i); **to repeal and recreate** HFS 133.06 (4) (d) 2., 133.08 (2) (intro.), 133.09 (2), 133.18; and to **create** HFS 133.02 (1), (1e), (1s), and (10m), 133.03 (3) (i), 133.06 (4) (d) Note, (g) and (5), 133.08 (2) (i) and (j), rules relating to home health care agencies and affecting small businesses.

**SUMMARY OF PROPOSED RULE**

**Statute interpreted:** Section 50.49, Stats.

**Statutory authority:** Sections 50.49 (2) (a) and (b) and 227.11 (2) (a), Stats.

**Explanation of agency authority:**

Section 50.49 (2) (a) and (b), Stats., gives the Department authority to develop, establish and enforce standards for the care, treatment, health, safety, welfare and comfort of patients by home health agencies and for the maintenance and operation of home health agencies which will promote safe and adequate care and treatment of such patients by home health agencies.

**Related statute or rule:** Section 50.49, Stats., and chs. HFS 105.01 to 105.03, 105.16, and 107.01 to 107.05.

**Plain language analysis:**

The Department regulates home health agencies under ch. HFS 133, s. 50.49, Stats., and 42 CFR 484 to enforce standards for the care, treatment, health, safety, welfare and comfort of patients by home health agencies and for the maintenance and operation of home health agencies. Through this rulemaking initiative, the Department proposes to amend ch. HFS 133 by eliminating or modifying rules that are overly prescriptive or inconsistent with federal certification regulations under 42 CFR 484. The Department proposes to update ch. HFS 133 by doing the following:

1. Clarifying provisions under s. HFS 133.08 (2) relating to patient rights and charges for services.
2. Requiring registered nurse (RN) supervisory visits to the homes of patients who receive skilled nursing care to be made every 2 weeks instead of every 2 months. The existing requirement relating to supervisory visits to patients who do not receive skilled nursing care or skilled services is unchanged.

3. Stating the criteria that the Department will use when determining, under s. 50.49 (6) (a), Stats., whether an applicant or home health agency licensee is fit and qualified to hold a home health agency license.
4. Codifying, in rule, the home health agency's responsibilities under s. 50.065, Stats., and ch. HFS 133 relating to caregiver background checks and abuse reporting and investigation.
5. Requiring home health agencies to provide staff training and proper equipment to minimize the risk of infection and to monitor for compliance.
6. Making the time to complete a discharge summary under s. HFS 133.21 (5) (i) consistent with the time to complete a discharge summary under s. HFS 133.09 (3) (b). Currently s. HFS 133.09 (3) (b) requires agencies to complete a discharge summary within 30 days after a patient is discharged and s. HFS 133.21 (5) (i), requires agencies to complete a discharge summary within 15 days after a patient is discharged.
7. Increasing the time within which home health agencies are required to obtain a physician's signature (or under proposed rules an advanced nurse prescriber's signature) on an order for treatment or drugs from 20 calendar days to 20 working days.
8. Recognizing advanced nurse prescribers' authority under ch. 50.49 (1) (b), Stats., to admit and discharge patients, develop and review plans of care and to order drugs or treatment for patients.
9. Creating and updating definitions to reflect currently used terminology.
10. Making minor, technical changes to rule provisions.

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

Home health agencies seeking reimbursement for services provided through the Medicare and Medicaid programs must operate under 42 CFR 484, the federal conditions of participation. The federal conditions of participation and ch. HFS 133 are substantially similar in that both sets of regulations set forth the conditions and standards for operations. The most significant difference is that the state requirements provide more specificity than the more general federal regulations.

**Comparison with rules in adjacent states:**

Minnesota rules, Minn. R. Chapter 4668, are similar to the proposed and existing rules in that each rule provides standards for the provision of nursing services, patient plans of care, frequency of visits, infection control, staff training, periodic supervision of home health aide tasks, medication and treatment orders and clinical records. One distinction is Minnesota rules require home health agencies to establish an internal system for receiving, investigating and resolving complaints from clients. Wisconsin has no comparable standard.

Illinois Home Health Agency, 79 Ill. Adm. Code Part 245 is similar to the proposed and existing rules as it includes requirements relative to nursing services, patient care plan, home health aide services, clinical records, staff training and the provision of services. One significant

distinction is that Illinois requirements are more prescriptive and process oriented. The Illinois code outlines the specific duties of agency staff, requires extensive policies and procedures regarding the internal operations of the agency and mandates completion of a detailed staff training program or a specific equivalency standard.

Iowa and Michigan do not have an administrative code for home health agencies.

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

The Department relied on all of the following sources to determine the proposed rules' impact on home health agencies and to draft the proposed rules:

- An advisory committee consisting of Department staff as well as members of the Department's statutorily required Home Care Advisory Committee (HCAC). The HCAC is composed of representatives from the Wisconsin Home Care Organization, advocates, home health agency administrators and other agency staff. The HCAC reviewed proposed drafts of the rules after each change was made and the rules were revised based upon comments by the HCAC.
- The 2002 Economic Census – Wisconsin Geographic Series, compiled by the U.S. Census Bureau every 5 years for each year ending in "2" or "7" contains the latest available economic data compiled from businesses located in Wisconsin.
- Criteria adopted by the Department and approved by the Wisconsin Small Business Regulatory Review Board to determine whether the Department's proposed rules have a significant economic impact on a substantial number of small businesses. Pursuant to the Department's criteria, a proposed rule will have a significant economic impact on a substantial number of small businesses if at least 10% of the businesses affected by the proposed rules are small businesses and if operating expenditures, including annualized capital expenditures, increase by more than the prior year's consumer price index, or revenues are reduced by more than the prior year's consumer price index. For the purposes of this rulemaking, 2006 is the index year. The consumer price index is compiled by the U.S. Department of Labor, Bureau of Labor Statistics and for 2006 is 3.2 percent.
- Section 227.114 (1) (a), Stats., defines "small business" as a business entity, including its affiliates, which is independently owned and operated and not dominant in its field, and which employees 25 or fewer full-time employees or which has gross annual sales of less than \$5,000,000.
- Data reported by the 129 home health agencies responding to the Department's 2005 annual home health agency survey and published in "Wisconsin Home Health Agency Directory, 2005," was used to determine small businesses. The full citation for this document is as follows: Wisconsin Department of Health and Family Services, Division of Public Health, Bureau of Health Information Policy, *Wisconsin Home Health Agency Directory, 2005*, (PPH 5378-05) December 2006.
- Data reported in the Wisconsin Department of Health and Family Services, Division of Public Health, Bureau of Health Information Policy, *Wisconsin Home Health Agencies and Patients*, 2005, (PPH 5354-05) February 2007.

- Department of Workforce Development Office of Economic Advisors (<http://dwd.wisconsin.gov/oea>) May 2005 Occupational Employment Statistics (released 6/2006).

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

Home health agencies, both publicly and privately owned, are regulated by the Department under ch. HFS 133 and ch. 50, Stats. These agencies are commonly referred to as state-only licensed home health agencies. If a home health agency participates as a provider in the Medicaid and Medicare programs, the home health agency is also regulated by the Department under 42 CFR 484 and commonly referred to as a state licensed and federally certified home health agency. Of the 172 licensed home health agencies operating in Wisconsin as of April 2007, approximately 162 agencies are state licensed and federally certified and 10 hold state-only licensure. At least 75% of all licensed agencies may be considered small businesses with estimated average gross annual revenues of \$1.8 million per agency.

Home health agencies primarily provide services and care to patients in the homes of their patients. These services include skilled nursing services, therapy services, medical social services and home health aide services. Through this rulemaking, the Department proposes to amend ch. HFS 133 to repeal or revise provisions that may be overly prescriptive, and inconsistent with federal regulations governing home health agencies. Home health care providers, particularly those who are both state licensed and federally certified have expressed concern about the ambiguity between the state and federal regulations. The Department anticipates that revising the rules as specified in the "Plain Language Analysis" section of this rulemaking order will make the rules more consistent with federal regulations.

Most of the proposed changes are non-substantive and technical in nature. The proposed rules, however, makes two substantive revisions that may affect costs of home health agencies.

The first such revision requires agencies to provide staff training and proper supplies to minimize the risk of infection and monitor for compliance. This requirement is expected to affect a minimal number of agencies because most agencies already meet this standard. Any agency that does not have a training program may establish one using the Centers for Disease Control guidelines that are downloadable from the Internet or accessed through the mails. Costs for sundry supplies (e.g., gloves, masks, etc.) are also expected to be minimal as it is likely that most agencies also already have such supplies.

The second substantive revision would require agencies to decrease the intervals within which a registered nurse (RN) makes supervisory visits to patients who receive skilled care from every 2 months to every 2 weeks. This proposed requirement is consistent with the provisions under 45 CFR 484.36 (d) (2), the RN supervisory requirements under which federally certified agencies operate, and would only affect the 10 state-only licensed agencies (and any newly licensed agency that chooses state-only licensure). Requiring all agencies to conduct RN supervisory visits under the same standards is expected to create continuity and consistency among state-only licensed, and state and federally licensed agencies. In addition, the increased visits will help to ensure the health, safety, and welfare of patients who increasingly need skilled care for conditions such as open wounds or skin lesions, chronic pain, cognitive or behavioral disabilities, or terminal care.

The costs that the proposed increase in RN supervisory visits would have on state-only licensed facilities are difficult to estimate because of the multiple variables that would need to be considered. These variables include the number of patients in an agency receiving skilled care; the span of time over which each patient receives skilled care; the actual number of visits per patient conducted previous to the proposed rules; the number of visits that would need to increase over those currently being conducted; and the actual schedule each agency uses to conduct the visits. Consequently, the costs for this requirement will continually fluctuate due to these variables. Therefore, we can assume that an agency may see no change in costs or that at any given time an agency may see an increase or decrease in costs.

Because detailed data for the state-only licensed agencies is not yet available, the Department used the 2005 annual survey data for the four state-only licensed agencies that responded to the survey and would have been impacted by proposed increase in RN supervisory visits. Using this data, the Department was able to estimate costs on a per patient basis. Assuming a rate of \$26.46 per RN supervisory visit, and accounting for variables previously noted, the Department estimates the proposed increase in RN visits would be \$91 per skilled nursing patient for a total of \$5,849 per year (or \$1,462 per year, per agency) for the four sample agencies. It is likely that any increased costs relating to this requirement would be passed from the agency to the patient or private insurance for subsequent reimbursement.

The 10 state-only agencies affected by the increase in the RN supervisory visits would represent only about 5.8% of all agencies licensed in Wisconsin and if we accept that the estimated \$1,462 cost increase for the 2005 state-only sample agencies would be representative of the cost increases for the 10 state-only agencies, such increase would be 0.001 percent of the average, annual gross revenue of \$1.8 million for home health agencies.

Despite the possible fluctuations in costs, the Department believes that the proposed requirement would not increase annual costs above the 2006 CPI rate of 3.2% or decrease revenues more than that rate. Consequently, the proposed RN supervisory requirement would not have a significant economic impact on home health agencies.

Overall, the proposed revisions are expected to lower costs for home health agencies in Wisconsin.

**Effect on Small Business:**

Pursuant to the foregoing analysis, the proposed rules will affect a substantial number of small businesses that are home health agencies, but the proposed rules will not have a significant economic impact on these businesses.

**Agency contact person:**

Pat Benesh, Quality Assurance Program Spec-Senior  
Division of Quality Assurance  
1 West Wilson St.  
Room 1150  
Madison, WI 53701  
Phone: 608-264-9896  
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### Place where comments are to be submitted and deadline for submission

Comments may be submitted to the agency contact person that is listed above until the date stated in the upcoming notice of public hearing. The deadline for submitting comments and the notice of public hearing will be posted on the Wisconsin Administrative Rules Website at <http://adminrules.wisconsin.gov> when the hearing is scheduled.

### RULE TEXT

SECTION 1. HFS 133.02 (1) is renumbered HFS 133.02 (1m):

SECTION 2. HFS 133.02 (1), (1e), (1s), and (10m) are created to read:

HFS 133.02 (1) "Advanced practice nurse" has the meaning given in s. N 8.02 (1).

(1e) "Advanced practice nurse prescriber" has the meaning given in s. N 8.02 (2).

(1s) "Caregiver" has the meaning given in s. 50.065 (1) (ag), Stats.

(10m) "Registry" has the meaning specified in s. HFS 129.03 (18).

SECTION 3. HFS 133.02 (4) and (11) are amended to read:

HFS 133.02 (4) "Home health aide" means an individual whose name is on the registry and who is eligible for employment in a home health agency, and who is employed by or under contract to a home health agency to provide home health aide services under supervision of a registered nurse.

(11) "Social worker" means ~~a person who has a degree in social work from a school of social work accredited by the council on social work education~~ an individual who holds a social worker certificate under s. 457.08, Stats., and has had one year of social work experience in a health care setting.

SECTION 4. HFS 133.03 (3) (Note), (5), and (8) (Note) are amended to read:

HFS 133.03 (3) Note: To obtain a copy of the license application form, send your request to the ~~Bureau~~ Division of Quality Assurance, P.O. Box 2969, Madison, Wisconsin 53701-2969. The street address is 1 W. Wilson St. in Madison ~~and the telephone number is 608-266-8484.~~ The e-mail address is [Plicnsghomesfdds@dhfs.state.wi.us](mailto:Plicnsghomesfdds@dhfs.state.wi.us). The completed application form should be sent to the same office.

(5) LICENSURE TERM. A home health agency regular license is valid indefinitely unless ~~suspended or~~ revoked or voluntarily surrendered.

(8) Note: The mailing address of the Division of Hearing and Appeals is: P.O. Box 7875, Madison, WI 53707-~~7875~~. The facsimile transmission number is 608-267-2744. The hearing request may be delivered in person to the Division of Hearings and Appeals at: 5005 University Avenue, ~~Room Suite~~ 201, Madison, WI.

SECTION 5. HFS 133.03 (3) (i) is created to read:

HFS 133.03 (3) (i) The department may use any of the following information to determine that a home health agency applicant or owner is fit and qualified:

1. Any adverse action against the applicant or owner by the licensing agency of any state that resulted in denial, suspension, enjoining, or revocation of a health care agency or health care facility license.
2. Any adverse action initiated by a state or federal agency based on non-compliance that resulted in civil money penalties, termination of a provider agreement, suspension of payments, or the appointment of temporary management of the facility.
3. Any conviction of the applicant for a crime involving neglect or abuse of patients or of the elderly or involving assaultive behavior or wanton disregard for the health or safety of others, or any act of elder abuse under s. 46.90, Stats.
4. Any conviction of the applicant or owner for a crime related to the delivery of health care services or items, or for providing health care without a license.
5. Any conviction of the applicant or owner for a crime involving a controlled substance under ch. 161, Stats.
6. Any conviction of the applicant or owner for a crime involving a sexual offense.
7. Any prior financial failure of the applicant or owner that resulted in bankruptcy or in the closing of a health care agency or health care facility or the relocation or discharge of a health care agency's or health care facility's patients.
8. Any unsatisfied judgment against the applicant or owner or any debts that are at least 90 days past due.

SECTION 6. HFS 133.03 (4) (b) 3. is amended to read:

HFS 133.03 (4) (b) 3. During the provisional period specified in subd. 2., the home health agency shall actively serve at least 10 patients requiring skilled nursing care or other therapeutic services in Wisconsin. At least seven of the 10 patients shall be actively receiving skilled nursing services when the home health agency submits a written request for an on-site licensure survey. At least 3 patients shall be receiving skilled nursing services at the time of the on-site licensure survey.

SECTION 7. HFS 133.05 (2) (b) 1. is amended to read:

HFS 133.05 (2) (b) 1. Review annually and make recommendations to the governing body concerning the agency's scope of services offered, admission and discharge policies, medical supervision and plans of ~~treatment care~~, emergency care, clinical records, personnel qualifications, and program evaluation;

SECTION 8. HFS 133.06 (4) (d) 1. and 3. are amended to read:

HFS 133.06 (4) (d) *Health*. 1. 'Physical health of new employees.' ~~Every~~ Each new employee, prior to having direct patient contact, shall be certified in writing by a physician,

physician's assistant or registered nurse as having been screened for tuberculosis, ~~infection~~ and ~~found free from~~ clinically apparent communicable disease that may be transmitted to a patient during the normal performance of the employee's duties. The ~~employee's certification~~ screening shall occur within 90 days prior to the employee having direct patient contact.

3. 'Disease surveillance.' Agencies shall develop and implement written policies for control of communicable diseases which take into consideration control procedures incorporated by reference in ch. HFS 145 and which ensure that employees with symptoms or signs of communicable disease or infected skin lesions are not permitted to work unless authorized to do so by a physician or physician's assistant or advanced practice nurse.

SECTION 9. HFS 133.06 (4) (d) 2. is repealed and recreated to read:

HFS 133.06 (4) (d) 2. 'Continuing employees'. Each employee having direct patient contact shall be screened for clinically apparent communicable disease by a physician, physician's assistant, or registered nurse based on the likelihood of their exposure to a communicable disease, including tuberculosis. Exposure to a communicable disease may be in the community or other exposure.

SECTION 10. HFS 133.06 (4) (d) Note, (g) and (5) are created to read:

HFS 133.06 (d) Note: The Americans with Disabilities Act and the Rehabilitation Act of 1973 prohibits the termination or non-hiring of an employee based solely on an employee having an infectious disease, illness or condition.

(g) *Background checks and misconduct reporting and investigation.* Each home health agency shall comply with the caregiver background check and misconduct reporting requirements in s. 50.065, Stats., and ch. HFS 12, and the caregiver misconduct reporting and investigation requirements in ch. HFS 13.

(5) INFECTION CONTROL AND PREVENTION. Each home health agency shall do all of the following:

(a) Develop and implement initial orientation and ongoing education and training for all staff having direct patient contact, including students, trainees and volunteers, in the epidemiology, modes of transmission and prevention of infections and the need for routine use of current infection control measures as recommended by the U.S. centers for disease control and prevention.

(b) Provide equipment and supplies necessary for all staff having direct patient care contact to minimize the risk of infection while providing patient care.

(c) Monitor adherence to evidence-based standards of practice related to protective measures. When monitoring reveals a failure to follow evidence-based standards of practice, then counseling, education, or retraining shall be provided.

SECTION 11. HFS 133.08 (2) (intro.) is repealed and recreated to read:

HFS 133.08 (2) POLICIES. The home health agency shall provide the patient with a written notice of the patient's rights in advance of furnishing care to the patient or during the initial evaluation visit before the initiation of treatment. Each patient receiving care from the



agency shall have all of the following rights:

SECTION 12. HFS 133.08 (2) (a) is repealed and recreated to read:

HFS 133.08 (2) (a) To be fully informed, as evidenced by home health agency documentation, of all rules and regulations governing patient responsibilities;

SECTION 13. HFS 133.08 (2) (i) and (j) are created to read:

HFS 133.08 (2) (i) To exercise his or her rights as a patient of the home health agency;

(j) To have the patient's family or legal representative exercise the patient's rights when the patient has been judged incompetent by a court of law.

SECTION 14. HFS 133.09 (1), (3) (a) 1. 2. and 3. b. and c., and (b) are amended to read:

HFS 133.09 (1) ACCEPTANCE OF PATIENTS. A patient shall be accepted for service on the basis of reasonable expectation that the patient's medical, nursing and social needs can be met adequately by the home health agency in the patient's place of residence. No patient may be provided services except under a plan of care established by a physician or an advanced practice nurse prescriber.

(3) DISCHARGE OF PATIENTS. (a) *Notice of discharge*. 1. A home health agency may not discharge a patient for any reason until the agency has discussed the discharge with the patient or the patient's legal representative and the patient's attending physician or advanced practice nurse prescriber, and has provided written notice to the patient or the patient's legal representative in the timelines specified in this paragraph.

2. The home health agency shall provide the written notice, except when a patient is discharged due to hospital admission that occurs near the end of a 60-day episode of treatment, required under subd. 1. to the patient or the patient's legal representative at least 10 working days in advance of discharge if the reason for discharge is any of the following:

3. b. The attending physician or advanced practice nurse prescriber orders the discharge of emergency medical reasons.

c. The patient no longer needs home health care as determined by the attending physician or advanced practice nurse prescriber.

(b) *Discharge summary*. The home health agency shall complete a written discharge summary within 30 calendar days following discharge of a patient. The discharge summary shall include a description of the care provided and the reason for discharge. The home health agency shall place a copy of the discharge summary in the former patient's medical record. Upon request, the home health agency shall provide a copy of the discharge summary to the former patient, the patient's legal representative, the attending physician, or advanced practice nurse prescriber.

SECTION 15. HFS 133.09 (2) is repealed and created to read:

HFS 133.09 (2) SERVICE AGREEMENT. Before care is initiated, the home health agency shall inform the patient, orally and in writing, of the extent to which payment may be

expected from other sources, the charges for services that will not be covered by other sources and charges that the individual may have to pay.

SECTION 16. HFS 133.13 is amended to read:

**HFS 133.13 Emergency notification.** Home health agency personnel shall promptly notify a patient's physician, advanced practice nurse prescriber, or other appropriate medical personnel and guardian, if any, of any significant changes observed or reported in the patient's condition.

SECTION 17. HFS 133.14 (2) (c) and (g) are amended to read:

HFS 133.14 (2) (c) Initiate the plan of ~~treatment~~ care and necessary revisions;

(g) Promptly inform the physician or advanced practice nurse prescriber and other personnel participating in the patient's care of changes in the patient's condition and needs;

SECTION 18. HFS 133.15 (1) is amended to read:

**HFS 133.15 Therapy services.** (1) PROVISION OF SERVICES. Physical therapy, occupational therapy, speech therapy, and other therapy services provided directly by the home health agency or arranged for under s. HFS 133.19, shall be given in accordance with the plan of ~~treatment~~ care developed under s. HFS 133.20. Individuals providing these services shall perform the duties under s. HFS 133.14 (2) (a), (c), (f), (h) and (i).

SECTION 19. HFS 133.16 is amended to read:

**HFS 133.16 Medical social services.** If offered, medical social services shall be provided by a social worker in accordance with the plan of ~~treatment~~ care developed under s. HFS 133.20. Individuals providing these services shall perform the duties under s. HFS 133.14 (2) (c), (f), (h) and (i).

SECTION 20. HFS 133.17 (1) and (3) are amended to read:

**HFS 133.17 Home health aide services.** (1) PROVISION OF SERVICES. When a home health agency provides or arranges for home health aide services, the services shall be given in accordance with the plan of ~~treatment~~ care provided for under s. HFS 133.20, and shall be supervised by a registered nurse or, when appropriate, by a therapist.

(3) ASSIGNMENTS. Home health aides shall be assigned to specific patients by a registered nurse. Written instructions for patient care shall be prepared and updated for the aides at least each 60 days by a registered nurse or appropriate therapist, consistent with the plan of ~~treatment~~ care under s. HFS 133.20. These instructions shall be reviewed by the immediate supervisors with their aides.

SECTION 21. HFS 133.18 is repealed and recreated to read:

HFS 133.18 (1) If a patient receives skilled nursing care, a registered nurse shall make a supervisory visit to each patient's residence at least every 2 weeks. The visit may be made when the home health aide is present or when the home health aide is absent. If the patient is not receiving skilled nursing care, but is receiving another skilled service, the supervisory visit

may be provided by the appropriate therapist.

(2) If home health aide services are provided to a patient who is not receiving skilled nursing care, physical, occupational or speech-language therapy, the registered nurse shall make a supervisory visit to the patient's residence, when the home health aide is present or when the home health aide is absent, at least every 60 days to observe or assist, to assess relationships, and to determine whether goals are being met and whether home health services continue to be required.

SECTION 22. HFS 133.20 (title), (1), (3), and (4) and (title) are amended to read:

**HFS 133.20 Plan of ~~treatment care~~.** (1) REQUIREMENT. A plan ~~treatment~~ of care, including physician's or advanced practice nurse prescriber's orders, shall be established for every patient accepted for ~~care treatment~~ and shall be incorporated in the patient's medical record. An initial plan shall be developed within 72 hours of acceptance. The total plan of ~~treatment care~~ shall be developed in consultation with the patient, home health agency staff, contractual providers, and the patient's physician or advanced practice nurse prescriber and shall be signed and dated by the physician or advanced practice nurse prescriber within 20 working days following the patient's admission for care.

(3) REVIEW OF PLAN. The total plan of ~~treatment care~~ shall be reviewed by the attending physician or advanced practice nurse prescriber, and appropriate agency personnel as often as required by the patient's condition, but no less often than every 60 days. The agency shall promptly notify the physician or the advanced practice nurse prescriber of any changes in the patient's condition that suggest a need to modify the plan of ~~treatment care~~.

(4) ~~PHYSICIAN'S ORDERS~~. Drugs and treatment shall be administered by the agency staff only as ordered by the attending physician or advanced practice nurse prescriber. The nurse or therapist shall immediately record and sign and date oral orders and obtain the physician's or the advanced practice nurse prescriber's countersignature and date within 20 ~~calendar~~working days.

SECTION 23. HFS 133.21 (5) (d), (e), (h) and (i) are amended to read:

HFS 133.21 (5) (d) Plan of ~~treatment care~~;

(e) Physician's or advanced practice nurse prescriber's orders;

(h) Summaries of reviews of the plan of ~~treatment care~~; and

(i) Discharge summary, completed within ~~45~~30 days following discharge.

SECTION 24. 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) (intro.), Stats.

Wisconsin Department of Health and Family  
Services

Dated:

SEAL:

Kevin Hayden, Department Secretary