

CR 10-145

**ORDER OF
DEPARTMENT OF HEALTH SERVICES
TO ADOPT RULES**

The Wisconsin Department of Health Services proposes to **repeal** s. DHS 88.06 (4), relating to resource center referrals by licensed adult family homes.

SUMMARY OF PROPOSED RULE

Statute interpreted: Section 50.033, Stats.

Statutory authority: Sections 50.033 (2) and 227.11 (2), Stats.

Explanation of agency authority:

- Section 50.033 (2), Stats., authorizes the Department to establish rules for the operation of licensed adult family homes designed to protect and promote the health, safety and welfare of adults receiving care and maintenance.
- 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:

See the “Statutes interpreted” section.

Plain language analysis:

Section 50.033 (2s), Stats.(2005-06) required licensed adult family homes to, within the time period specified by the Department by rule, refer to a resource center under s. 46.283, Stats., persons seeking admission, who were at least 65 years of age or who had a developmental disability or physical disability lasting at least 90 days, unless specified conditions applied. The required rules were promulgated by the Department under s. DHS 88.06 (4).

Section 50.033 (2s), Stats., was repealed by 2007 Act 20. The Department proposes in this order to repeal s. DHS 88.06 (4) because the rules are no longer required.

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

No comparison with existing or proposed federal regulations was made. The proposed rules change brings the rules into conformity with s. 50.033, Stats., which no longer requires adult family home referrals to resource centers or rules specifying the time period within which the referrals were to be made.

Comparison with rules in adjacent states:

No comparison with rules in adjacent states was made. The proposed rules change brings the rules into conformity with s. 50.033, Stats., which no longer requires adult family home referrals to resource centers or rules specifying the time period within which the referrals were to be made.

Illinois:

Not applicable.

Iowa:

Not applicable.

Michigan:

Not applicable.

Minnesota:

Not applicable.

Summary of factual data and analytical methodologies:

The Department reviewed 2007 Act 20.

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

The rules will not have a fiscal effect on businesses.

Effect on small business:

The rules will not have a fiscal effect on businesses.

Agency contact person:

Pat Benesh, Quality Assurance Program Spec-Senior
Division of Quality Assurance
1 West Wilson St., Room 534
Madison, WI 53701
Phone: 608-264-9896
Fax: 608-267-0352
patricia.benesh@wisconsin.gov

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

The Department did not hold a public hearing on the proposed rules. Pursuant to s. 227.16 (2) (b), Stats., a public hearing was not required. The proposed changes bring the existing rules into conformity with s. 50.033, Stats., which was revised under 2007 Act 20.

Comments were to be submitted by February 1, 2011 to:

Pat Benesh, Quality Assurance Program Spec-Senior
Division of Quality Assurance
1 West Wilson St., Room 534
Madison, WI 53701
Phone: 608-264-9896

Fax: 608-267-0352
patricia.benesh@wisconsin.gov

TEXT OF RULE

SECTION 1. DHS 88.06 (4) is repealed.

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.

Dated: April 15, 2011

Wisconsin Department of Health Services

Dennis G. Smith, Department Secretary

SEAL: