

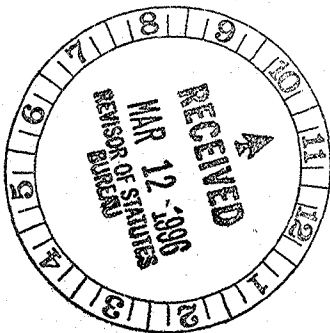
Clearinghouse Rule 95-090

CERTIFICATE

STATE OF WISCONSIN)
) SS
DEPARTMENT OF HEALTH AND SOCIAL SERVICES)


I, Joseph Leean, Secretary of the Department of Health and Social Services and custodian of the official records of the Department, do hereby certify that the annexed rules relating to appeal by a county of an independent professional review determination that a resident of a state center for the developmentally disabled from that county is appropriate for community care were duly approved and adopted by this Department on March 12, 1996.

I further certify that this copy has been compared by me with the original on file in the Department and that this copy is a true copy of the original, and of the whole of the original.



SEAL:

IN TESTIMONY WHEREOF, I have hereunto set my hand and affixed the official seal of the Department at the State Office Building, 1 W. Wilson Street, in the city of Madison, this 12th day of March, 1996.



Joseph Leean, Secretary
Department of Health and Social Services

95-090
5-1-96

**ORDER OF THE
DEPARTMENT OF HEALTH AND SOCIAL SERVICES
CREATING RULES**

To create chapter HSS 86, relating to appeal by a county of an independent professional review determination that a resident of a state center for the developmentally disabled from that county is appropriate for community care.

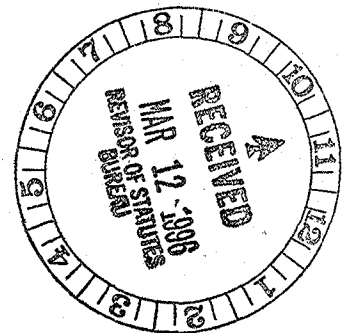
Analysis Prepared by the Department of Health and Social Services

The Department is directed by s. 51.437 (4rm)(c) 3., Stats., to establish by rule a process by which a county agency may appeal a determination which results in billing the county agency for 10% of the rate paid by medical assistance for an individual residing at a state center for the developmentally disabled who is designated as appropriate for community care by an independent professional review. These rules establish the required appeal process.

The rules provide that for a county agency to appeal an independent professional review determination that would result in billing the county for part of the cost of care for a center resident, the county must file its appeal with the Secretary of the Department within 60 days after the date of the notice of the independent professional review determination. The Secretary then has 45 days following receipt of the written appeal to review the independent professional review determination, come to a decision agreeing or disagreeing with it and communicate that decision to the county agency. If the Secretary agrees with the independent professional review determination, the Department will bill the county agency at 10% of the Medical Assistance rate for care provided to the center resident who was found appropriate for community care, effective 180 days after the date of the notice sent to the county agency that the resident is appropriate for community care. If the Secretary agrees with the county, the Department will not bill the county agency for care provided to the center resident.

The Department's authority to create these rules is found in s. 51.437(4rm)(c) 3, Stats. The rules interpret s. 51.437 (4rm)(c)2b and 3, Stats.

SECTION 1. Chapter HSS 86 is created to read:



Chapter HSS 86

APPEALING INDEPENDENT PROFESSIONAL REVIEW DETERMINATIONS AT THE STATE CENTERS FOR THE DEVELOPMENTALLY DISABLED

HSS 86.01	Authority and Purpose
HSS 86.02	Applicability
HSS 86.03	Definitions
HSS 86.04	Appeal
HSS 86.05	Billing

HSS 86.01 AUTHORITY AND PURPOSE. This chapter is promulgated under the authority of s.51.437 (4rm)(c)3., Stats., to establish a process for county agencies to appeal independent professional review determinations which designate residents of the state centers for the developmentally disabled appropriate for community care and which result in billings to a county.

HSS 86.02 APPLICABILITY. This chapter applies to the department and to county agencies.

HSS 86.03 DEFINITIONS. In this chapter:

(1) "County agency" means one of the following:

(a) A county department of developmental disabilities services established under s. 51.437, Stats.

(b) A county department of community programs established under s.51.42, Stats., if under s. 51.437(4g)(b), Stats., the county board of supervisors has transferred the powers and duties of the county department of developmental disabilities services to the county department under s. 51.42, Stats.

(c) A county department of human services established under s. 46.23, Stats.

(2) "Department" means the Wisconsin department of health and social services.

(3) "Independent professional review" means the on-site utilization review at least every 6 months of persons residing at a state center for the developmentally disabled by one or more independent professional review teams under 42 USC 1396a(a)(31) and 42 CFR 456 Subpt.F.

(4) "Medical assistance" means the assistance program operated by the department under ss.49.43 to 49.47 and 49.49 to 49.497, Stats.

(5) "Person appropriate for community care" means an individual residing at a state center for the developmentally disabled whose care needs are deemed by an independent professional review as feasible to be met by noninstitutional services and for whom there is adequate state and federal funding to provide community services.

(6) "Secretary" means the head of the department.

(7) "State center for the developmentally disabled" or "center" means a department-operated residential institution for the care of developmentally disabled persons.

Note: There are 3 state centers for developmentally disabled persons in Wisconsin: Central Center in Madison, Northern Center near Chippewa Falls and Southern Center near Union Grove.

HSS 86.04 APPEAL. (1) The department shall provide written notification to a county agency of an independent professional review determination that a person from the county who is a resident of a center is a person appropriate for community care.

(2) Within 60 days following the date of the written notice under sub. (1) that a center resident is a person appropriate for community care, the county agency may appeal the determination of the independent professional review team to the secretary. The appeal shall document in writing the reasons for the county agency's disagreement with the decision of the independent professional review team.

(3) Within 45 days of receipt of a written appeal from a county agency, the secretary shall rule on the appeal and communicate in writing a decision to the county agency. The secretary's decision is the final administrative decision.

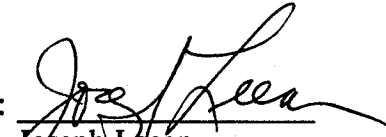
HSS 86.05 BILLING. Unless, following an appeal under s.HSS 86.04(2), the secretary under s.HSS 86.04(3) decides in favor of a county agency, the department shall bill the county agency for 10% of the rate paid by medical assistance for a person appropriate for community care, effective 180 days following the date of the written notice under s. HSS 86.04(1), except that on written request of a county agency the department may delay the effective date of the 10% charge up to 60 days for a resident whose plan for community services has been approved by the department but is awaiting implementation. Payment is due from the county agency within 60 days of the billing date, subject to provisions of the contract between the department and the county agency.

The rules contained in this order 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 and
Social Services

Dated: March 12, 1996

By:


Joseph L. Lean
Secretary

SEAL: