

## Chapter DHS 40

### MENTAL HEALTH DAY TREATMENT SERVICES FOR CHILDREN

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**Note:** Chapter HFS 40 was renumbered to chapter DHS 40 under s. 13.92 (4) (b) 1., Stats., and corrections made under s. 13.92 (4) (b) 7., Stats., Register November 2008 No. 635.

**DHS 40.01 Authority and purpose.** (1) This chapter is promulgated under the authority of s. 51.42 (7) (b), Stats., to establish standard definitions, program criteria and patient characteristics for mental health day treatment services for children in support of full and appropriate use of these services and to assure their availability, quality and effectiveness.

(2) This chapter is not intended to regulate other forms of day services for children such as those operated by alcohol and other drug abuse treatment programs under ch. DHS 75.

(3) An agency providing mental health day treatment services to children may operate a total program of compatible services designed to serve youth with a variety of treatment needs. If this is the case, this chapter applies only to the mental health day services part of that agency's total program.

(4) Mental health services certified under this chapter shall be coordinated with other services or programs in which a child and his or her family participate.

(5) While it is expected that some programs certified under this chapter may provide educational services in addition to mental health services, this chapter applies only to the mental health day services part of those programs. Educational services are to be offered by arrangement with local educational agencies responsible for providing educational services to children participating in the program. Because educational services are regulated by federal and state agencies other than the department, it is the intent of this chapter that the educational and mental health portions of programs be highly coordinated but parallel services. The educational component will be regulated by the Wisconsin department of public instruction and the federal and state statutes and regulations which the department of public instruction enforces. No requirement in this chapter may be read as modifying or limiting in any way the educational rights and obligations of the children in the program, their parents, guardians or legal custodians, or of local educational agencies providing services in cooperation with a mental health day treatment service program certified under this chapter.

**History:** Cr. Register, August, 1996, No. 488, eff. 9-1-96; correction in (2) made under s. 13.93 (2m) (b) 7., Stats., Register December 2004 No. 588; correction in (2) made under s. 13.92 (4) (b) 7., Stats., Register November 2008 No. 635.

**DHS 40.02 Applicability.** This chapter applies to all programs providing mental health day treatment services for children in the state of Wisconsin.

**History:** Cr. Register, August, 1996, No. 488, eff. 9-1-96.

**DHS 40.03 Definitions.** In this chapter:

(1) "Certification" means approval by the department under this chapter of a mental health day treatment services program for children.

(2) "Child" means a person under 21 years of age.

(3) "Client" means a child receiving mental health day treatment services from a program.

(4) "Community-based program" means a program providing non-residential mental health day services for children in a free-standing facility not affiliated with a school or a hospital.

(5) "Department" means the Wisconsin department of health services.

(6) "Direct clinical services" means face to face patient contact.

(7) "DSM IV" means the Diagnostic and Statistical Manual of Mental Disorders IV (4th edition) published by the American psychiatric association.

(8) "Full-time client" means a client who is present in the program for 25 or more hours a week.

(9) "Guardian" means the person or agency appointed by a court under ch. 54, Stats., to have care, custody, and control of a child in place of a parent of the child, or a legal guardian appointed by a court under ch. 48, Stats., when a parent's rights have been terminated.

(10) "Hospital-based program" means a program providing mental health day treatment services for children in a facility which is a part of or directly affiliated with a hospital as defined in s. 50.33 (2), Stats.

(11) "Level I services" means services designed to assist clients whose needs are principally derived from conduct disorders or oppositional disorders and are best met by extended participation in a therapeutic milieu of structured services including individual, group and family counseling, educational support or direct academic instruction and recreational therapy.

(12) "Level II services" means services designed to assist clients whose needs are principally derived from intransigent and severe mental health disorders and are best met by intense, extended psychiatric or psychotherapeutic treatment in combination with a continuum of other individual and family support services.

(13) "Level III services" means services designed to assist clients whose needs are principally derived from an acute episode of a mental health disorder and are best met by intense, short-term treatment in a psychiatric or psychotherapeutic setting.

(14) "Local educational agency" means a school district defined in s. 115.01 (3), Stats., a cooperative educational services agency (CESA) established under ch. 116, Stats., or a county handicapped children's education board (CHCEB) established under s. 115.817, Stats.

(15) "Mental health day treatment services for children" means non-residential care provided on prescription of a physician in a clinically supervised setting that provides case management and an integrated system of individual, family and group counseling or therapy or other services assembled pursuant to an individually prepared plan of treatment that is based upon a multi-disciplinary assessment of the client and his or her family and is designed to alleviate emotional or behavioral problems experi-

enced by the client related to his or her mental illness or severe emotional disturbance.

(16) “Mental illness” means a medically diagnosable mental health disorder which is severe in degree and which substantially diminishes a child’s ability to carry out activities of daily living appropriate for the child’s age.

(17) “Parent” means a biological parent, a husband who has consented to the artificial insemination of his wife under s. 891.40, Stats., a male who is presumed to be the father under s. 891.41, Stats., or has been adjudicated the child’s father either under s. 767.89, Stats., or by final order or judgment of a court of competent jurisdiction in another state, or an adoptive parent.

(18) “Physical restraint” means any manual method such as basket holds or prone or supine containment or a mechanical device that the individual cannot remove easily and which restricts the freedom of movement or normal range of motion of one or more limbs or the entire body, but not including:

(a) Mechanical supports used to achieve proper body position, balance or alignment, such as arm splints to reduce contractures or leg braces to support the legs while standing or walking. Mechanical supports are used to enhance independent functioning whereas physical restraints are used to limit independent functioning; or

(b) Physical guidance and prompting techniques of brief duration.

(19) “Program” means a mental health day treatment service program for children.

(20) “Psychotherapy” has the meaning prescribed in s. DHS 101.03 (145).

(21) “Psychotropic medication” means an antipsychotic, an antidepressant, lithium carbonate or a tranquilizer or any other drug used to treat, manage or control psychiatric symptoms or disordered behavior.

**Note:** Examples of drugs other than an antipsychotic or antidepressant, lithium carbonate or tranquilizer used to treat, manage or control psychiatric symptoms or disordered behavior include, but are not limited to, carbamazepine (Tegretol), which is typically used for control of seizures but may be used to treat a bi-polar disorder, and propranolol (Inderal), which is typically used to control high blood pressure but may be used to treat explosive behavior or anxiety states.

(22) “Qualified mental health professional” means a program staff member who meets the experiential and educational qualifications identified in s. DHS 40.06 (4) (a) to (h).

(23) “School-based program” means a program providing mental health day services for children in a facility operated by a local educational agency, with the local education agency providing space in the program to offer mental health day services to youth in close coordination with the educational program provided by the local educational agency.

(24) “Severe emotional disturbance” has the meaning prescribed for “severely emotionally disturbed” in s. DHS 107.32 (1) (a) 2.

**History:** Cr. Register, August, 1996, No. 488, eff. 9-1-96; corrections in (14), (20) and (24) made under s. 13.93 (2m) (b) 7., Stats., Register January 2004 No. 577; corrections in (5), (9), (17), (20) and (24) made under s. 13.92 (4) (b) 6. and 7., Stats., Register November 2008 No. 635.

**DHS 40.04 Certification.** (1) APPLICATION. (a) An organization wanting to be certified to operate a mental health day treatment services program for children shall apply to the department for certification on a form provided by the department and shall include with the application form all other supporting materials requested by the department.

**Note:** For a copy of the application form, write Program Certification Unit, Division of Disability and Elder Services, P.O. Box 309, Madison, Wisconsin 53707.

(b) An organization may apply for certification to operate:

1. A community-based program;
2. A school-based program; or
3. A hospital-affiliated program.

(c) The organization shall indicate in its application the level or levels under s. DHS 40.07 (1) at which it intends to offer services.

(2) CERTIFICATION PROCESS. (a) On receipt of an application for initial certification or renewal of certification, the department shall:

1. Review the application and its supporting documents; and
2. Designate a representative to conduct an on-site survey of the program, including interviewing program staff.

(b) The department’s designated representative shall do all of the following:

1. Interview a randomly selected, representative sample of present or former clients of the program, if any, provided that the clients indicate a willingness to be contacted;
2. Review the results of any grievances filed against the program during any preceding period of certification, pursuant to s. DHS 94.27;
3. Review a randomly selected, representative sample of client records; and
4. Review program policies and records, and interview program staff to a degree sufficient to ensure that staff have knowledge of the statutes, rules and standards of practice that apply to the program and its clients.

(c) The certification survey under par. (b) shall be used to determine the extent of the program’s compliance with the standards specified in this chapter. Certification decisions shall be based on a reasonable assessment of the program. The indicators by which compliance with the standards is determined shall include:

1. Statements made by the applicant or the applicant’s designated agent, authorized administrative personnel and staff members;
2. Documentary evidence provided by the applicant;
3. Answers to questions concerning the implementation of program policies and procedures, as well as examples of implementation provided to assist the department in making a judgment regarding the applicant’s compliance with the standards in this chapter;
4. On-site observations by surveyors from the department;
5. Reports by clients regarding the program’s operations; and
6. Information from grievances filed by clients.

(d) The applicant shall make available for review by the designated representative of the department all documentation necessary to establish whether the program is in compliance with the standards in this chapter, including, but not limited to, the written policies and procedures of the program, work schedules of staff, program appointment records, credentials of staff and treatment records.

(e) The designated representative of the department who reviews the documents under pars. (a) to (d) and interviews clients under par. (b) 1. shall preserve the confidentiality of all client information obtained during the certification process, in compliance with ch. DHS 92.

(3) ISSUANCE OF CERTIFICATION. (a) Within 60 days after receiving a completed application for initial certification or renewal of certification, the department shall:

1. Certify the program if all requirements for certification are met or deny certification if any requirement has not been met;
2. If the application for certification is denied, provide the applicant reasons in writing for the denial and identify the requirements for certification which the program has not met; and
3. State in a notice of denial that the applicant has a right to request a hearing on that decision under sub. (8) and a right to submit a plan under par. (b) to correct program deficiencies in order to begin operation of the program.

(b) 1. Within 10 days after receiving a notice of denial under par. (a), an applicant may submit to the department a plan to correct program deficiencies.

2. The plan of correction shall indicate the date on which the applicant will have remedied the deficiencies of the program. Within 60 days after that date, the department shall determine whether the corrections have been made. If the corrections have been made, the department shall certify the program.

(c) The department may limit the initial certification of a program to a period of one year.

**(4) CONTENT OF CERTIFICATION.** Certification shall be issued only for the location and program named and may not be transferred or assigned to another program. A program shall notify the department of a change of administration, ownership, program name or any other program change that may affect compliance with this chapter no later than the effective date of the change.

**(5) EFFECTIVE DATE OF CERTIFICATION.** (a) The date of certification shall be the date that the department determines, by means of an on-site survey, that an applicant is in compliance with this chapter.

(b) The department may change the date of certification if the department has made an error in the certification process. A date of certification which is adjusted under this paragraph may not be earlier than the date the written application under sub. (1) was submitted to the department.

**(6) RENEWAL.** (a) Certification is valid for a period of 3 years unless sooner suspended or revoked or unless a shorter period of time is specified under the sub. (3) (c) at the time of approval.

(b) The department shall send written notice of expiration and an application for renewal of certification to a certified program at least 30 days prior to expiration of the certification. If the department does not receive an application for renewal of certification before the expiration date, the program's certification shall be terminated.

**(7) ACTION AGAINST A CERTIFIED PROGRAM.** The department may terminate, suspend or refuse to renew a program's certification after providing the program with prior written notice of the proposed action which shall include the reason for the proposed action and notice of opportunity for a hearing under sub. (8) whenever the department finds that:

(a) A program staff member has had sexual contact, as defined in s. 940.225 (5) (b), Stats., or sexual intercourse, as defined in s. 940.225 (5) (c), Stats., with a client;

(b) A program staff member who is required to have a professional license claimed to be licensed when he or she was not licensed, has had his or her license suspended or revoked or has allowed his or her license to expire;

(c) A program staff member has been convicted of a criminal offense related to the provision of or claiming reimbursement for services under the medicare program under 42 CFR 400 to 424, or under this state's or any other state's medicaid program under 42 CFR 430 to 456. In this paragraph, "convicted" means that a judgment of conviction has been entered by a federal, state or local court, regardless of whether an appeal from that judgment is pending;

(d) A program staff member has been convicted of a criminal offense related to the provision of care, treatment or services to a person who is mentally ill, developmentally disabled, alcoholic or drug dependent, or has been convicted of a crime against a child under ch. 948, Stats.;

(e) The program has submitted or caused to be submitted statements, for purposes of obtaining certification under this chapter, which it knew or should have known were false;

(f) The program fails to maintain compliance with or is in substantial noncompliance with one or more of the requirements set forth in this chapter;

(g) A program staff member signed billing or other documents as the provider of service when the service was not provided by the program; or

(h) There is no documentary evidence in a client's treatment file that the client received services for which bills had been submitted to a third-party payer.

**(8) RIGHT TO A HEARING.** If the department denies, terminates, suspends or refuses to renew a certification, an applicant or program may request a hearing under s. 227.42, Stats. The request for a hearing shall be submitted in writing to and received by the department's office of administrative hearings within 30 days after the date on the notice required under sub. (2) or (6).

**Note:** The mailing address of the Office of Administrative Hearings is P.O. Box 7875, Madison, WI 53707.

**(9) REAPPLICATION.** If an application for certification is denied, the organization may not reapply for certification for 2 years following the date on which certification was denied.

**(10) DISSEMINATION OF RESULTS.** Upon completing action on an application for certification, staff of the department responsible for certification shall provide a summary of the results of the process to the applicant program, to the subunit within the department responsible for monitoring community mental health programs and to the department under s. 51.42, Stats., in the county in which the program is located.

**History:** Cr. Register, August, 1996, No. 488, eff. 9-1-96; correction in (2) (e) made under s. 13.93 (2m) (b) 7., Stats., Register January 2004 No. 577; corrections in (2) (b) 2. and (e) made under s. 13.92 (4) (b) 7., Stats., Register November 2008 No. 635.

**DHS 40.05 Waivers. (1) POLICY.** The department may grant a waiver of any requirement of this chapter on request when the department determines that granting the waiver would not diminish the effectiveness of the mental health day services program, violate the purposes of the program or adversely affect client health, safety or welfare, and it is determined that:

(a) Strict enforcement of the requirement would result in unreasonable hardship to the provider or to the client; or

(b) An alternative to the requirement, including a new concept, method, procedure or technique, new equipment, new personnel qualification or the implementation of a pilot project is in the interests of better client care or program management.

**(2) WAIVER.** A program may submit a request to the department for a waiver of any requirement in this chapter, except a requirement related to admission criteria under s. DHS 40.08 or client rights under ch. DHS 94.

**(3) APPLICATION.** An application for a waiver shall be made in writing to the department and shall specify:

(a) The requirement from which the waiver is requested;

(b) The time period for which the waiver is requested;

(c) Any alternative action which the program proposes;

(d) The reason for the request; and

(e) Assurance that the requested waiver would meet the requirements of sub. (1).

**(4) GRANT OR DENIAL.** (a) The department may require additional information from the program before acting on the program's request for a waiver.

(b) The department shall grant or deny each request for waiver in writing. Notice of denial shall contain the reasons for denial. If a notice of a denial is not issued within 60 days after the department receives a completed request, the requested waiver shall take effect.

(c) The department may impose any conditions on the granting of a waiver which it deems necessary.

(d) The department may limit the duration of a waiver.

(e) The department's decision to grant or deny a waiver shall be final.

**History:** Cr. Register, August, 1996, No. 488, eff. 9-1-96; correction in (2) made under s. 13.92 (4) (b) 7., Stats., Register November 2008 No. 635.

**DHS 40.06 Personnel qualifications. (1) POLICIES.**

(a) A mental health day services program shall have written personnel policies.

(b) A program shall maintain written documentation of employee qualifications and shall make that information available for inspection by clients, their parents or guardians and the department.

**(2) GENERAL QUALIFICATIONS.** (a) Each employee shall have the ability and emotional stability to carry out his or her assigned duties.

(b) 1. An applicant for employment shall provide character references from at least 2 people and references from all previous employers within the last 5 years and verification from educational institutions of degrees obtained.

2. References shall be documented either by letter or in a record of verbal contact giving dates, person making the contact, persons contacted and contact content.

(c) A program shall obtain a state criminal records check on each applicant before allowing that person to work for the program, and the program's governing board shall obtain a state criminal records check on a person being considered for appointment to be center director before allowing the person to work as program director. If the person lived in another state, a criminal records check shall be requested from that state.

**Note:** For a state of Wisconsin criminal records check, obtain the name, sex, race and date of birth of the person about whom you are requesting the check. Send this information in a stamped self-addressed envelope to the Crime Information Bureau, Wisconsin Department of Justice, P.O. Box 2718, Madison, WI 53701-2718. There is a \$2 fee per check for nonprofit agencies and a \$5 fee per check for government agencies. Those agencies must specify their tax exempt number. For all other agencies there is a \$13 fee per check.

**(3) QUALIFICATIONS OF PROGRAM DIRECTOR.** (a) A program shall have a program director. The program director shall have overall responsibility for operation of the program. The program director shall:

1. Possess a thorough knowledge of mental health services for children and their families and have demonstrated skills in leadership and program management;

2. Be a graduate of an accredited college or university and meet the qualifications for any of the program staff listed in sub. (4) (a) to (g), or demonstrate equivalent experience in children's mental health services; and

3. Have at least 2 years of relevant experience in an administrative or supervisory position.

(b) One or more staff members qualified under sub. (4) (a) to (g) shall be identified by the program director as persons to whom authority may be delegated in the absence of the program director. Either the program director or a person with delegated authority to be responsible for operation of the program shall be on the premises at all times the program is in operation.

**(4) QUALIFICATIONS OF CLINICAL STAFF.** (a) The clinical coordinator shall be a psychiatrist qualified under s. DHS 61.06 (2), a licensed psychologist listed or eligible to be listed in the national register of health service providers in psychology or a mental health professional. A mental health professional shall have a master's degree in psychology, clinical psychology, school psychology, counseling and guidance, counseling psychology, clinical social work, marriage and family counseling or mental health nursing, or a master's degree in a behavioral science or a related field from a graduate program that meets nationally recognized accreditation requirements approved by the department, with a minimum of 28 hours of graduate course credit in mental health theory and supervised clinical training; and have either 3,000 hours of supervised clinical experience in a practice where the majority of the clients are children with mental illness or severe

emotional disturbance, or 1,500 hours of supervised clinical experience in a program certified under this chapter.

(b) Psychiatrists shall be physicians licensed under ch. 448, Stats., to practice medicine and surgery and shall have completed 3 years of residency training in psychiatry in a program approved by the American medical association and be either board-certified or eligible for certification in child psychiatry by the American board of psychiatry and neurology. If a program can demonstrate that no board-certified or eligible child psychiatrists are available, psychiatrists who have had a minimum of 2 years of clinical experience working with children may be employed.

(c) Registered nurses shall be licensed as registered nurses under s. 441.06, Stats. Licensed practical nurses shall hold a current license under s. 441.10, Stats. Registered and licensed practical nurses shall have had either training in psychiatric nursing, including training in work with children with mental health disorders, or one year of experience working in a clinical setting with these children.

(d) Psychologists shall be licensed under ch. 455, Stats., and shall have a minimum of one year of training or work experience related directly to the assessment and treatment of children with mental health disorders.

(e) Clinicians shall have a master's degree from a graduate school of social work accredited by the council on social work education, or a master's degree in behavioral science or a related field from a graduate program that meets nationally recognized accreditation requirements, with a minimum of 28 hours of graduate course credit in social service, marriage and family counseling, mental health theory, human behavior or similar area of study, and shall have a minimum of one year of experience working in a clinical setting serving children with mental health disorders.

(f) Occupational therapists shall have a bachelor's degree, a minimum of one year of experience working with children with mental disorders and shall meet the requirements of s. DHS 105.28 (1).

(g) Specialists in specific areas of therapeutic assistance, such as rehabilitation counselors, recreational therapists, music therapists and vocational counselors shall have complied with the appropriate certification or registration procedures for their profession as required by state statutes and administrative rules or the governing body regulating their profession, and shall have at least one year of educational or work experience serving children with mental health disorders.

(h) Other qualified mental health professionals shall have at least a bachelor's degree in a relevant area of education or human services and a minimum of 2 years of work experience serving children with mental health disorders, or a minimum of 6 years of work experience and training providing direct services to children with mental health disorders.

(i) Certified occupational therapy assistants shall have at least one year of experience working with children with mental disorders and shall meet the requirements s. DHS 105.28 (2).

(j) Mental health technicians shall be paraprofessionals who are employed on the basis of personal aptitude and life experience which suggest they are able to provide positive and effective services for children with mental health disorders. A mental health technician shall have a suitable period of orientation and in-service training and shall work under the supervision of the program's clinical coordinator.

**(5) CLINICAL SUPERVISION.** (a) Each program shall develop and implement a written policy for clinical supervision of all staff who provide treatment for children in the program.

(b) Clinical supervision of individual program staff shall include direct clinical review and assessment of each staff person's performance in providing treatment services to children in the program, and letting the staff member know how well he or she is doing and what improvements are needed.

(c) Clinical supervision shall be provided by the clinical coordinator or other staff member who meets the qualifications for a clinical coordinator under sub. (4) (a).

(d) Clinical supervision shall be accomplished by one or both of the following means:

1. Individual, face to face sessions with the staff member to review cases, assess performance and let the staff member know how he or she is doing; or
2. Individual side-by-side sessions in which the supervisor is present while the staff person provides treatment or counseling for a client and in which the supervisor assesses, teaches and gives advice regarding the staff member's performance with the particular client.

(e) A minimum of 2 hours per month of clinical supervision shall be provided for each mental health professional on staff providing services to clients or their families.

(f) Clinical supervision provided for individual program staff shall be documented in writing.

**(6) ORIENTATION AND IN-SERVICE TRAINING.** (a) *Orientation.* Each program shall develop and implement an orientation program which all new staff and regularly scheduled volunteers shall complete. The orientation shall be designed to ensure that staff and volunteers know and understand the following:

1. Pertinent parts of this chapter;
2. The program's policies and procedures;
3. Job responsibilities of staff persons in the program;
4. Applicable parts of chs. 48, 51, 55 and 115, Stats., (including s. 48.981) and any related administrative rules;
5. Basic mental health treatment concepts applicable to providing day services for children and their families;
6. The provisions of ch. DHS 94 and s. 51.61, Stats., regarding patient rights;
7. The provisions of ch. DHS 92 regarding confidentiality of treatment records; and
8. Techniques and procedures for providing non-violent crisis management for individuals or for groups of children.

(b) *Inservice training.* 1. Each program shall develop and implement a training program for all staff, which shall include:

- a. Time set aside for in-service training;
- b. Presentations by community resource staff from other agencies;
- c. Attendance at conferences and workshops; and
- d. Discussion and presentation of current principles and methods of treatment for children with mental illness or severe emotional disturbance.

2. Each staff person shall participate in a minimum of 48 hours of documented training each year on topics relevant to that staff person's responsibilities in the program. This training may include inservice training and consultation provided by staff of the program or consultants.

**History:** Cr. Register, August, 1996, No. 488, eff. 9-1-96; corrections in (4) (f), (i) and (6) (a) 7. made under s. 13.93 (2m) (b) 7, Stats., Register January 2004 No. 577; corrections in (4) (a), (f), (i), (6) (a) 6. and 7. made under s. 13.92 (4) (b) 7., Stats., Register November 2008 No. 635.

#### **DHS 40.07 Required personnel and services.**

**(1) CLINICAL SERVICES.** (a) *Level I programs.* A program operating at Level I shall make available at least the following hours of direct clinical services, provided either by program staff or by professionals under contract to the program:

1. One hour per week of psychiatric or psychological consultation for every 4 full-time clients in the program;
2. One hour per week of services by a physician or registered nurse for every 4 full-time clients in the program. In addition, the program shall arrange for emergency and other necessary medical and nursing services to be readily available at all times clients are present in the program;

3. One hour per week of individual or family therapy by either a clinician or a clinical psychologist for each full-time client in the program. A program may select a particular type of professional or combination of professionals to provide those services based upon the specific needs of the clients served by the program;

4. One hour per week of social work services, including case management, community liaison, family contacts, interagency communication and similar services, for every 2 full-time clients in the program, provided by a person with a bachelor's or master's degree in social work or a qualified mental health professional;

5. Two hours per week of occupational therapy services provided by registered occupational therapists or structured recreational or vocational services for each full-time client in the program. A program may select the specific professional or combination of professionals to provide those services based upon the specific needs of the clients served by the program; and

6. Two hours per week of individual or group counseling by qualified mental health professionals for each full-time client in the program.

(b) *Level II programs.* A program operating at Level II shall make available at least the following hours of direct clinical services provided either by program staff or professionals under contract to the program:

1. One hour per week of psychiatric or psychological consultation for every 2 full-time clients in the program;

2. One hour per week of services by a registered nurse for each full-time client in the program. In addition the program shall arrange for emergency and other necessary medical and nursing services to be readily available at all times clients are present;

3. Two hours per week of individual or family therapy by either a clinician or a clinical psychologist for each full-time client in the program. A program may select a particular type of professional or combination of professionals to provide those services based upon the specific needs of the clients served by the program;

4. One hour per week of social work services, including case management, community liaison, family contacts, interagency communication and similar services, for every 2 full-time clients in the program, provided by a person with a bachelor's or master's degree in social work or a qualified mental health professional;

5. Three hours per week of occupational therapy services provided by a registered occupational therapist or 3 hours per week of structured recreational or vocational services provided by specialists in specific areas of therapeutic assistance for each full-time client in the program, or a combination of the 3 services. A program shall select the type and mix of services under this category which best meets the needs of the clients the program is intended to serve; and

6. Three hours per week of individual or group counseling by qualified mental health professionals for each full-time client in the program.

(c) *Level III programs.* A program operating at Level III shall make available at least the following hours of direct clinical services provided either by program staff or professionals under contract to the program:

1. One hour per week of psychiatric or psychological consultation for every full-time client in the program;

2. A registered nurse on duty at all times that clients are present;

3. Three hours per week of individual or family therapy by either a clinician or a clinical psychologist for each full-time client in the program. A program may select a particular type of professional or combination of professionals to provide those services based upon the specific needs of the clients served by the program;

4. One hour per week of social work services, including case management, community liaison, family contacts, interagency

communication and similar services for every full-time client in the program, provided by a person with a bachelor's or master's degree in social work or a qualified mental health professional;

5. Four hours per week of occupational therapy services provided by a registered occupational therapist or 4 hours per week structured recreational or vocational services provided by specialists in specific areas of therapeutic assistance for each full-time client in the program, or a combination of the 3 services. A program shall select the type and mix of services under this category which best meets the needs of the clients the program is intended to serve; and

6. Four hours per week of individual or group counseling by qualified mental health professionals for each full-time client in the program.

(d) *General requirements and conditions.* For purposes of this subsection:

1. Two part-time clients shall be calculated as the equivalent of a full-time client;

2. The minimum hours established for service delivery apply to the overall delivery of services by the program. A specific client may receive more or less of a type of service, depending on the individual treatment plan developed for the client;

3. A program providing services at any level shall ensure that qualified professionals are on staff or available through a contract for purchase of services sufficient to meet the specific treatment needs of each child accepted into the program as identified by the child's treatment plan developed pursuant to s. DHS 40.10;

4. In communities where access to psychiatrists is limited, a program may use a psychologist licensed under ch. 445, Stats., to satisfy the requirement for psychiatric services established in this subsection unless the specific duties to be performed require a physician, such as the prescription of medications; and

5. Group counseling and psychotherapeutic groups shall include no more than 10 clients with one qualified mental health professional or a maximum of 12 clients if 2 qualified mental health professionals are present with the group.

(2) **STAFFING LEVELS.** (a) At all times that clients are present at a program, the program shall have a minimum of 2 staff persons qualified under s. DHS 40.06 (4) on duty, at least one of whom shall be a qualified mental health professional.

(b) If more than 10 clients are present at a program operating at Level I, an additional staff person qualified under s. DHS 40.06 (4) shall be present for every 10 additional clients or fraction thereof.

(c) If more than 10 clients are present at a program operating at Level II or III, an additional staff person qualified under s. DHS 40.06 (4) shall be present for every 5 additional clients or fraction thereof.

(d) At least one male staff member qualified under s. DHS 40.06 shall be present at a program when one or more male clients are present, and at least one similarly qualified female staff member shall be present at a program when one or more female clients are present.

(3) **VOLUNTEERS.** A program may use volunteers. Volunteers who work directly with clients or their families shall have received a minimum of 10 hours of training and shall be supervised by a qualified mental health professional employed by the program. Volunteers may not be counted in calculation of the staff-to-client ratios for the program.

(4) **HOURS OF OPERATION.** The amount of time a client spends at a program shall be established by the individual treatment plan developed under s. DHS 40.10 for the client, but a program shall be in operation and able to provide services for the following period:

(a) A Level I program shall be in operation and available to provide services to clients for a minimum of 4 hours a day, 5 days

a week, and may suspend operations for no more than 12 weeks each year;

(b) A Level II program shall be in operation and available to provide services to clients for a minimum of 6 hours a day, 5 days a week, and may suspend operations for no more than 10 weeks each year; and

(c) A Level III program shall be in operation and available to provide services to clients for a minimum of 8 hours a day, 5 days a week, and may suspend operations for no more than 4 weeks each year.

**History:** Cr. Register, August, 1996, No. 488, eff. 9-1-96.

**DHS 40.08 Admission. (1) CRITERIA AND PROCEDURES.** A program shall establish written criteria and procedures to be used when screening children referred for admission.

(2) **ADMISSION POLICIES.** A program's admission policies shall identify:

(a) Sources from which referrals may be accepted by the program and the process for making referrals;

(b) Procedures which will be used to screen and assess children who have been referred to the program;

(c) Any funding restrictions which will be applied to admissions such as availability of insurance, required support for the placement from other agencies or the family's ability to pay;

(d) The age range of children the program will serve;

(e) Any diagnostic or behavioral requirements the program will apply when selecting clients for admission;

(f) Any client characteristics for which the program has been specifically designed, including the level or levels of service to be provided, whether male or female clients, or both, may be admitted, the nature or severity of disorders including dually diagnosed conditions which can be managed within the program, and the length of time that services may be provided to a client; and

(g) Any priorities which may be applied in selecting among children referred for admission.

(3) **CRITERIA FOR ADMISSION.** For a program to admit a child:

(a) The child shall have a primary psychiatric diagnosis of mental illness or severe emotional disorder;

(b) The child shall be unable to obtain sufficient benefit from a less restrictive treatment program;

(c) Based upon the information available at the time of referral, there shall be a reasonable likelihood that the child will benefit from the services being offered by the program;

(d) The child shall meet one or more of the following criteria:

1. Be exhibiting significant dysfunction in 2 or more of the basic domains of his or her life and requiring the services offered by the program in order to acquire or restore the skills necessary to perform adequately in those areas;

2. Be in need of a period of transition from a hospital, residential treatment center or other institutional setting as part of the process of returning to live in the community; or

3. Be experiencing a period of acute crisis or other severe stress, so that without the level of services provided by the program, he or she would be at high risk of hospitalization or other institutional placement.

(4) **REFERRAL FOR ADMISSION.** Admission to a program shall be arranged through the program director or clinical coordinator or designee. The program director or clinical coordinator or designee shall encourage the child and his or her family or foster family to participate in the intake process, as well as representatives from school, human services and other treatment programs currently serving the child and family. A program shall require the agency referring a child for services to provide all available reports and evaluations that identify the basis for the referral and the child's need for services.

(5) **LETTER CONVEYING ADMISSION DECISION.** The program shall review a referral, make its decision whether to admit the child to the program, and report its decision by letter to the referral source within 30 days after the date of referral.

(6) **ADMISSION PRIORITIES.** If a program has a policy on serving some children ahead of other children or has a waiting list of children who have been accepted for admission but for whom space is not yet available, these priorities and the procedures for the operation of the waiting list shall be in writing and maintained on file by the program.

(7) **ADMISSION SUMMARY.** Once a program has completed its screening of a child referred for services and has decided to admit the child, a designated staff member who is a qualified mental health professional shall prepare a written report summarizing the reasons for admission, identifying the services which will be offered while the initial assessment and treatment plan are prepared under ss. DHS 40.09 and 40.10, and setting the date on which the client may begin attending the program.

(8) **CONSENT FOR ADMISSION.** A child may be admitted to a program only with the written consent of the child's parent or guardian, and of the child if the child is 14 years of age or older; pursuant to an order of a court with jurisdiction over the child under ch. 48 or 55, Stats.; or if authorized by a county department under s. 51.42 or 51.437, Stats., to which the child has been committed pursuant to s. 51.20 (13), Stats.

(9) **CASE MANAGEMENT.** Upon admission to a program, a child shall be assigned a case manager. The case manager shall be responsible for:

(a) Providing the client and his or her parents or guardian, if they are available, a thorough explanation of the nature and goals of the program, the initial assessment, treatment planning and reviews and the rights and responsibilities of clients and their families;

(b) Supervising and facilitating the client's initial assessment, developing and implementing the treatment plan, conducting ongoing case reviews, planning for discharge and implementing the aftercare program;

(c) Coordinating the program's operations on behalf of the client with other agencies and schools serving the client;

(d) Maintaining contact and communication with the client's family and facilitating the family's participation in the treatment plan;

(e) Serving as advocate for the client and his and her family with other agencies and programs to help them obtain necessary services and benefits from those other agencies and programs; and

(f) Mediating, if possible, any disputes or conflicts between the client or client's family and the program or with other programs or agencies serving the client and his or her family, and assisting the client and his or her family in asserting or protecting their rights to care and treatment.

**History:** Cr. Register, August, 1996, No. 488, eff. 9-1-96.

**DHS 40.09 Initial assessment. (1) MULTIDISCIPLINARY TEAM.** The case manager shall within 5 working days assemble a multidisciplinary and multi-agency treatment team to assess the strengths and the needs of a newly admitted client and his or her family and to prepare a written treatment plan for the client under s. DHS 40.10. The team shall include:

- (a) The client's case manager;
- (b) The program's clinical coordinator;
- (c) An occupational therapist, a clinical social worker or a registered nurse;
- (d) An educational professional from the client's school;
- (e) The client, to the degree the client is willing and able to participate, to the extent appropriate to his or her age, maturity and clinical condition;

(f) The client's parent or guardian, if available and willing to participate;

(g) Representatives of any other profession or agency necessary in order to adequately and appropriately respond to the treatment needs of the client and family which were identified in the referral materials or the intake screening process; and

(h) If the client has been placed under the supervision of a county department or the department by a juvenile court order, the social worker who has been assigned to the case.

(2) **ELEMENTS OF THE INITIAL ASSESSMENT.** The initial assessment shall be carried out by appropriate professionals identified in s. DHS 40.06 (4) (a) to (h), and shall include:

(a) Obtaining and reviewing any existing evaluation of the client and his or her family, after having first obtained any necessary consent for their release and use;

(b) Completing any new test or evaluation which the multidisciplinary team finds is necessary for development of an effective treatment plan for the client and his or her family, including early and periodic screening and diagnosis under s. DHS 107.22; and

(c) Completing an evaluation of:

1. The client's mental health status by a psychiatrist or a clinical psychologist and the clinical coordinator of the program, resulting in a diagnosis of the client on all 5 axes specified in DSM IV. Principal and secondary diagnoses shall be indicated as described in DSM IV if there are multiple diagnoses within axes I and II. The 5 axes in DSM IV are the following:

- a. Axis I: Clinical syndromes and V codes;
- b. Axis II: Developmental disorders and personality disorders;
- c. Axis III: Physical disorders and conditions;
- d. Axis IV: Severity of psychosocial stressors; and
- e. Axis V: Global assessment of functioning;

2. The client's use of drugs or alcohol or both drugs and alcohol;

3. The client's level of academic functioning;

4. The client's level of social and behavioral functioning in the home, school and community;

5. For a client over the age of 15, the client's vocational and independent living skills and needs;

6. Screening for suicide risk and dangerous reactions to psychotropic medications. The assessment process shall include procedures for determining the level of risk of suicide presented by clients and any risk of harm resulting from a dangerous reaction to a psychotropic medication, including:

a. Procedures for assessing and monitoring the effects and side effects of psychotropic medications which the person may be taking, for dealing with the results of a possible medication overdose, an error in medication administration, an unanticipated reaction to the medication or the effects of a concurrent medical illness or condition occurring while the person was receiving the medication;

b. Criteria for deciding when the level of risk of suicide or a reaction to a psychotropic medication requires a face to face response, use of mobile services or hospitalization;

c. Procedures for notifying those around the person such as family members or people with whom the person is living that he or she may be at risk of harming him or herself;

d. Procedures for obtaining a more thorough mental status examination or other forms of in-depth assessment when necessary based on the results of the initial emergency assessment;

e. Procedures for gathering as much information as possible, given the nature and circumstances of the emergency, about the person's health, the medications, if any, that the person has been taking, prior incidents of drug reaction or suicidal behavior, and

other information which can be used to determine the level of risk and the type of response most likely to help the person;

7. The client's relationship with his or her family, including an assessment of family strengths and weaknesses which might affect treatment; and

8. Any other assets and needs of the client and his or her family which affect the client's ability to participate effectively in relationships and activities in home, community and school environments.

**(3) WRITTEN REPORT.** The multi-disciplinary team shall prepare a written report on the initial assessment which:

(a) Describes the client's current mental health status and level of functioning both in terms of assets that the client brings to the treatment program and problems which are to be addressed through treatment;

(b) Provides current baseline data regarding the severity, duration or frequency with which mental health symptoms or problem behaviors have been observed or, if these are not currently evident, describes them as being reported as part of the client's history; and

(c) Establishes primary treatment goals and objectives for the client and his or her family, expressed in measurable terms, which identify the conditions or behaviors which the client will be helped to achieve as well as the dates by which it is anticipated that the client will achieve them.

**History:** Cr. Register, August, 1996, No. 488, eff. 9-1-96; correction in (2) (b) made under s. 13.93 (2m) (b) 7., Stats., Register January 2004 No. 577; correction in (2) (b) made under s. 13.92 (4) (b) 7., Stats., Register November 2008 No. 635.

**DHS 40.10 Treatment plan.** **(1) REQUIREMENT.** The multidisciplinary team shall prepare a written treatment plan for a client based upon the written report under s. DHS 40.09 (3) of the initial assessment of the client. The plan shall be prepared within the following period of time, unless specific factors which require additional time for assessment are documented in the client's record:

(a) Within 30 calendar days after admission for preparation and approval of a Level I or Level II treatment plan; and

(b) Within 10 calendar days after admission for preparation and approval of a Level III treatment plan;

**(2) ELEMENTS.** The written treatment plan shall:

(a) List the specific services which will be provided by the program;

(b) Include a summary of services the client will receive from his or her school or other educational resource, including educational services provided by the program, and from any other agency that is or will be involved with the child and the family, and the process by which educational and other services provided from outside the program will be coordinated with services provided by the program;

(c) Include a statement of staff actions or interventions which will be provided on behalf of the client and the client's family, the frequency with which or duration over which the actions or interventions will be provided and the staff responsible for delivering those services;

(d) Describe the procedure for monitoring and managing any risk of suicide identified during intake assessment or ongoing treatment of the client;

(e) Include short-term and long-term treatment objectives identified by the initial assessment;

(f) Include criteria for measuring the effectiveness and appropriateness of the treatment plan and for determining when the client has met the objectives of the plan; and

(g) Identify any medication the client will be receiving, the name of the physician prescribing the medication, the purpose for which it is prescribed and the plan for monitoring its administration and effects.

**(3) AGREEMENT OR WILLINGNESS TO PARTICIPATE.** (a) The proposed treatment plan shall be submitted for signature to the client, the client's parent, guardian or legal custodian, the clinical coordinator and any service provider who is to be part of the treatment plan. Each of those parties shall sign the plan to indicate agreement with it or a willingness to participate in it.

(b) Program staff shall document a situation in which the parent, guardian, legal custodian or client will not sign the treatment plan or where they sign but indicate that they do not agree with it. Documentation shall include, if known, the reasons why the person is not in agreement with the plan or refuses to sign the document and shall also indicate, if possible, whether the person will continue to participate in the plan despite the lack of agreement or signature.

(c) If the client, parent, guardian or legal custodian or other member of the treatment team is not in agreement with the treatment plan proposed by the program, or indicates an unwillingness to participate in the plan, program staff shall document the steps which will be taken to attempt to resolve the conflict.

**(4) APPROVAL BY PSYCHIATRIST OR PSYCHOLOGIST LICENSED UNDER CH.448, STATS.** A client's treatment plan shall be reviewed for approval by the program psychiatrist or psychologist. The program psychiatrist or psychologist shall sign the plan if he or she finds that the services identified in the plan are necessary to meet the mental health needs of the child. Services may be provided pending approval by the program psychiatrist or psychologist but shall be suspended if he or she does not approve them.

**(5) REVIEW OF CASE PROGRESS.** (a) *Timelines.* The case manager shall reconvene the multidisciplinary treatment planning team according to the following schedule to assess the progress of the case:

1. For programs offering Level I services, within 30 calendar days following approval of the treatment plan and every 60 days thereafter;

2. For programs offering Level II services, within 30 calendar days following approval of the treatment plan and every month thereafter;

3. For programs providing Level III services, within 14 calendar days after approval of the treatment plan and every month thereafter; and

4. More frequently if indicated by the client's condition or family's condition or upon request of the client, the client's parent, guardian, attorney or guardian ad litem, program staff, a county department, or the department responsible for supervising the client pursuant to a court order under ch. 48, 51 or 55, Stats. A request for more frequent review than required under subd. 1., 2. or 3. shall be in writing and shall be documented in the client's treatment record.

(b) *Elements of review.* In reviewing case progress, the multidisciplinary treatment team shall:

1. Identify the client's current status under each of the objectives stated in the original treatment plan and assess the client's progress, lack of progress or regression in each area;

2. Determine the continued appropriateness of the original treatment plan and modify the objectives, proposed achievement dates, interventions, actions or responsible staff in the plan as necessary;

3. Request the participation or assistance of additional community programs or agencies as necessary; and

4. Prepare a written summary of the findings of the review and, if necessary, a revised treatment plan which shall be implemented following approval by the program psychiatrist or psychologist.

(c) *Documentation.* 1. As part of its review of case progress, the treatment team shall prepare a written report which includes all of the following:



a. A description of the client's progress, lack of progress or regression in relation to the treatment objectives established in the treatment plan;

b. Documentation of clinical client contacts and interventions required as part of the treatment plan; and

c. Identification of all days on which services were actually delivered to the client.

2. The written report shall be prepared:

a. Each month in programs providing Level I and Level II services; and

b. Every 2 weeks in programs providing Level III services.

3. The written report shall be maintained as a permanent part of the client's record.

**(6) DISCHARGE PLANNING.** The treatment plan shall include a discharge planning component. When it is determined that the client is approaching attainment of the objectives identified in the treatment plan, the treatment team shall prepare a discharge plan which establishes a process for the client's transition back into the community and identifies aftercare services which will be provided to assist in that transition and to support the client's reintegration into family, school and community activities and programs.

**(7) TERMINATION OF SERVICES.** (a) *Decision.* Services provided to a client under an individual treatment plan may be terminated before client goals for discharge are attained under the following circumstances:

1. By agreement of the client, the program director and the clinical coordinator, and by the court if participation in the program has been required by a court order under ch. 48, 51 or 55, Stats.; or

2. By direction of the program director and the clinical coordinator or attending physician acting upon recommendation of the treatment planning team, if the team determines that:

a. Further participation of the client in the program is unlikely to provide any reasonable benefit to the client;

b. The client's condition requires a greater or more restrictive level of care than can be provided by the program; or

c. The client's behavior or condition is such that it creates a serious risk of harm to other clients in the program or to program staff members and no modifications of the program procedures or services are possible which will ensure the safety of other clients or staff.

(b) *Notice.* 1. Unless the client poses an immediate risk of harm to other clients or staff or subd. 2. applies, the program shall provide the client, his or her parent or guardian, and other agencies providing services to the client pursuant to the treatment plan with at least 7 days prior notice of the intent to end services.

2. When a client has been placed in the program by order of a court under ch. 48, 51 or 55, Stats., the program shall provide that court and the social worker responsible for supervising the implementation of the court order with 14 days prior notice of the intent to end services, unless the client poses an immediate risk of harm to other clients or staff, in order to permit the court to enter an alternative order regarding the care of the client.

**(8) REPORTING OF DEATHS.** Each program shall adopt written policies and procedures for reporting to the department deaths of clients due to suicide, psychotropic medications or use of physical restraints, as required by s. 51.64 (2), Stats.

**Note:** Copies of the form for reporting these deaths can be obtained from any Department regional office. Department regional offices are located in Eau Claire, Green Bay, Madison, Milwaukee, Rhinelander, Spooner and Waukesha.

**History:** Cr. Register, August, 1996, No. 488, eff. 9-1-96.

**DHS 40.11 Program components.** **(1) GENERAL REQUIREMENTS.** Each program certified under this chapter shall provide a combination of service components adequate and appropriate to meet a client's treatment objectives identified in the initial assessment and individual treatment plan.

**(2) REQUIREMENTS FOR SPECIFIC LEVELS OF SERVICES.** A program shall have the following minimum components:

(a) *Level I program.* 1. A program providing Level I services shall provide by program staff or by professionals under contract with the program at least the following treatment options, although the services provided to a particular client and his or her family shall be based on the individual treatment plan for the client:

a. Individual, group and family counseling provided by qualified mental health professionals;

b. A structured therapeutic milieu supervised by qualified mental health professionals in which a positive pattern of social, educational and personal behaviors and coping skills are taught, reinforced and enhanced through a variety of individual and group activities;

c. Case management services designed to ensure that services offered by the program are coordinated with any other treatment or instructional services in which the client or his or her family may be participating;

d. Crisis response services designed to meet the acute needs of a client during periods of time when the client is not present at the program; and

e. For a minimum of 3 months following completion of the program, aftercare services designed to support the reintegration of a client who has completed the program into family, community and school activities and to prevent recurrence of the problems which led to the original placement in the program.

2. A client may continue to participate in a Level I program as long as the review of the client's treatment plan under s. DHS 40.10 (5) indicates that the client remains appropriate for the level of services offered and has not yet met the objectives identified in his or her treatment plan.

(b) *Level II program.* 1. A program providing Level II services shall offer the services required under par. (a) for Level I programs but shall structure those services in such a way as to meet the needs of clients for closer supervision and more severe symptomatology. In addition the program shall offer individual, group and family psychotherapy provided or supervised by a person or persons meeting the criteria in s. DHS 40.06 (4) (a) and delivered pursuant to the treatment plan developed for each client.

2. A client may continue to participate in a Level II program long as the review of the client's treatment plan under s. DHS 40.10 (5) indicates that the client remains appropriate for the level of services and has not yet met the objectives identified in his or her treatment plan.

(c) *Level III program.* 1. A program providing Level III services shall offer the level of services required under par. (b) for Level II programs and, in addition, daily medical rounds, and occupational, speech and language therapy and other medically prescribed therapies as needed pursuant to each client's individual treatment plan.

2. A client may participate in a Level III program for up to 90 days with one extension of an additional 90 days if the treatment planning team documents in writing that this level of service continues to be appropriate for the client and that the client is likely to reach the objectives for treatment within the second 90 day period.

**History:** Cr. Register, August, 1996, No. 488, eff. 9-1-96.

**DHS 40.12 Educational services.** Programs which propose to provide mental health day services in conjunction with educational services shall execute memoranda of understanding or other forms of interagency agreement with each of the local educational agencies responsible for providing educational services to program clients to ensure that an individual client's educational services and mental health day services are coordinated.

**History:** Cr. Register, August, 1996, No. 488, eff. 9-1-96.

**DHS 40.13 Client records. (1) INDIVIDUAL TREATMENT RECORD.** A program shall maintain a treatment record for each client. The treatment record shall include accurate documentation of all staff services provided to the client, all activities in which the client participates and all other interventions with or on behalf of the client and his or her family, and the improvement, regression or other changes exhibited by the client and his or her family while in the program. A treatment record shall include:

- (a) Initial referral materials;
- (b) Notes and reports made while screening the client for admission;
- (c) A copy of the letter under s. DHS 40.08 (5) accepting or rejecting the referral;
- (d) The report under s. DHS 40.09 (3) of the multidisciplinary assessment of the client and his or her family;
- (e) Reports and other evaluations of the client and his or her family which were used in developing the initial assessment, and any necessary releases or authorizations for acquiring and using these reports and evaluations;
- (f) Results of additional evaluations and other assessments performed while the client is enrolled in the program;
- (g) The individual treatment plan for the client and his or her family and the signed approval of the treatment plan;
- (h) Written documentation of services provided to the client and client progress as required under s. DHS 40.10 (5) (c);
- (i) Written summaries of the reviews of the treatment plan pursuant to s. DHS 40.10 (5) (b) 4.;
- (j) Documentation of discharge planning and planned after-care services;
- (k) Medication records, if program staff dispense medications, including documentation of both over-the-counter and prescription medications dispensed to clients. Medication records shall contain documentation of ongoing monitoring of the administration of medications and detection of adverse drug reactions. All medication orders in the client treatment record shall specify the name, type and purpose of the medication, and the dose, route of administration, frequency of administration, person administering and name of the physician who prescribed the medication;
- (L) Records of referrals of the client and his or her family to outside resources;
- (m) Written consent or the court order or county department authorization under s. DHS 40.08 (8) to admission, and any consent for disclosure or authorization for release of information required under s. 51.30, Stats., and ch. DHS 92;

- (n) Records of any grievances lodged by the client, his or her family or other persons relating to the client's treatment, and documentation of the program's response to each grievance; and
- (o) Treatment plan case conference and consultation notes.

**(2) EDUCATION RECORDS.** Education records of a client shall be kept separate from the client's treatment record, and shall comply with federal and state statutes and regulations relating to educational records.

**Note:** Federal and state statutes and regulations relating to educational records are 20 USC 1232g and 34 CFR Pt. 99, and s. 118.125, Stats.

**(3) MAINTENANCE AND SECURITY.** The program director is responsible for the maintenance and security of client treatment records.

**(4) LOCATION AND FORMAT.** Client treatment records shall be kept in a central place, be managed in accordance with standard professional practices for the maintenance of patient mental health records, and arranged in a format which provides for consistent recordkeeping within the program and which facilitates accurate and efficient record retrieval.

**(5) CONFIDENTIALITY AND RETENTION OF RECORDS.** Client treatment records shall be kept confidential and safeguarded and retained as required under s. 51.30, Stats., and ch. DHS 92.

**(6) DISPOSITION UPON PROGRAM CLOSING.** A program shall establish a plan for maintenance and disposition of records in the event the program closes.

**History:** Cr. Register, August, 1996, No. 488, eff. 9-1-96; corrections in (1) (m) and (5) made under s. 13.93 (2m) (b) 7., Stats., Register January 2004 No. 577; corrections in (1) (m) and (5) made under s. 13.92 (4) (b) 7., Stats., Register November 2008 No. 635.

**DHS 40.14 Client rights. (1) POLICIES AND PROCEDURES.** All programs shall comply with s. 51.61, Stats., and ch. DHS 94 on the rights of clients.

**(2) CASE MANAGER'S DUTIES.** A client's case manager shall inform and assist the client and the client's parents or guardian in understanding and asserting their rights.

**(3) CONFLICT RESOLUTION.** (a) Clients and their parents shall be informed that they have the option of using either formal or informal procedures for resolving complaints and disagreements.

(b) A program shall establish a process for informal management of concerns raised by clients, family members and other agencies involved in the care and treatment of clients.

(c) A program shall establish a formal system for receiving and processing grievances which cannot be managed informally. The system shall provide for impartial review of complaints and shall include an option for mediation of disagreements.

**History:** Cr. Register, August, 1996, No. 488, eff. 9-1-96; correction in (1) made under s. 13.92 (4) (b) 7., Stats., Register November 2008 No. 635.

**DHS 40.15 Buildings, grounds and equipment.**

**(1) GENERAL REQUIREMENTS.** All buildings used by a program to provide care and treatment for clients shall comply with the state building code, chs. SPS 361 to 365, and any applicable municipal building regulations.

**(2) FOOD SERVICE.** A program shall make food service available to any clients who are at the program's facility for 4 or more hours during a day. The food service shall comply with s. DHS 190.09.

**History:** Cr. Register, August, 1996, No. 488, eff. 9-1-96; corrections made under s. 13.93 (2m) (b) 7., Stats., Register January 2004 No. 577; correction in (2) made under s. 13.92 (4) (b) 7., Stats., Register November 2008 No. 635; correction in (1) made under s. 13.92 (4) (b) 7., Stats., Register February 2012 No. 674.

**DHS 40.16 Program evaluation. (1) OUTCOME.** (a) Every program shall annually evaluate the effectiveness of services provided to its clients. The means used to carry out this outcome evaluation shall include:

1. A statement of the program's therapeutic, behavioral and skill-based outcome expectations for its clients stated in objectively measurable terms;

2. A process for obtaining and recording accurate information about changes in client performance to meet these outcome expectations during and following program participation;

3. A process for obtaining and recording honest and accurate statements of client, family and referral source satisfaction with program services; and

4. A method for collecting and analyzing the objective and subjective outcome data identified in subds. 1. to 3. in a manner which protects the confidentiality of clients and their families.

(b) Every program shall send the annual report of client service outcomes to the department office which certified the program within 60 days after receiving notification of renewal of certification under s. DHS 40.04 (6) (b) and shall make it available for review as a public record maintained by the program. A form for this report will be supplied by the department.

**(2) OPERATIONS.** (a) In addition to the outcome evaluation under sub. (1), a program shall arrange for an annual review of its program operations to evaluate factors such as the appropriateness of admissions and clients' length of stay, the efficiency of procedures for conducting initial assessments and developing treatment plans, the effectiveness of discharge and aftercare services, the functionality of the program's interagency agreements

and other factors that may contribute to effective use of the program's resources.

(b) The review of program operations may be conducted by an advisory committee established by the program, by a committee of the board of directors of the organization operating the program or by any other appropriate and objective body.

(c) A summary of the review of program operations shall be appended to the annual report prepared under sub. (1) (b).

**History:** Cr. Register, August, 1996, No. 488, eff. 9-1-96.