

# WISCONSIN LEGISLATIVE COUNCIL STAFF

## *RULES CLEARINGHOUSE*

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## CLEARINGHOUSE RULE 95-092

### Comments

**[NOTE: All citations to “Manual” in the comments below are to the Administrative Rules Procedures Manual, prepared by the Revisor of Statutes Bureau and the Legislative Council Staff, dated October 1994.]**

#### 1. Statutory Authority

Under current s. 302.386 (3) (a), Stats., the Department of Corrections (DOC) may require a resident housed in a prison or in a secured juvenile correctional facility, who earns wages during residency and receives medical or dental services, to pay a deductible, coinsurance, copayment or similar charge for the medical or dental services that he or she receives. The statutory provision proposed in the 1995-97 Biennial Budget Bill [s. 302.386 (3) (b), Stats., created in SECTION 6371 of 1995 Assembly Bill 150], which cross-references s. 302.386 (3) (a), Stats., also applies only to a wage-earning resident of a prison or secured juvenile correctional facility. In contrast, ch. DOC 316 applies to any resident housed in a prison or in a secured juvenile correctional facility and is specifically not limited to inmates who earn wages.

Since the authority to charge a \$2.50 copayment under both current and proposed statutory provisions applies to only wage-earning inmates, ch. DOC 316 should be similarly limited so as not to exceed statutory authority.

[*Note:* Although it is unusual to promulgate a rule to interpret and implement a proposed statutory revision prior to enactment, authority for ch. DOC 316 can be found in the current language of s. 302.386 (3) and (4), Stats.]

#### 2. Form, Style and Placement in Administrative Code

a. The key terms, “dental services,” “medical services” and “nursing services” are defined in s. DOC 316.02. Section DOC 316.03 fails to use these terms appropriately. In particu-

lar, the first sentence should include a reference to “nursing services” in the phrase “...necessary medical or dental services” and the following sentence should be eliminated: “For the purpose of this chapter, medical services includes nursing services.”

b. The definitions of “dental services,” “medical services” and “nursing services” essentially define these terms as “any practice” permitted under the particular chapter of the state statutes regulating the profession. The definitions also contain a phrase that specifies that the defined terms include a “face-to-face contact wherein an inmate refuses to consent to a service.” Consideration should be given to placing this provision in a substantive section of the rule. For example, before the period in sub. (1) of s. DOC 316.04, the following phrase could be added: “, including any face-to-face contact wherein an inmate refuses to consent to a service offered in response to an inmate’s request.”

c. Latin terms should be avoided in rules. [See s. 1.01 (1), Manual.] Therefore, “bona fide” should either be deleted from s. DOC 316.04 (1) or replaced by a word such as “actual.”

### **5. Clarity, Grammar, Punctuation and Use of Plain Language**

a. In the fourth line of s. DOC 316.01, there is an unnecessary period after “a”.

b. The term “inmate trust account” in s. DOC 316.06 (1) should be defined. If it has the same meaning as “general account,” which is defined in s. DOC 309.02 (7), the latter term should be substituted.

c. In subs. (2) and (3) of s. DOC 316.06, the word “reflect” should be changed to “reflects.”