PETITION TO REPEAL UNAUTHORIZED RULE

Clearinghouse Rule 18-040

The Department of Health Services hereby petitions the Joint Committee for Review of Administrative Rules to use the process provided in s. 227.26 (4), Stats. The Department has determined that s. DHS 107.09 (4) (v) contains an "unauthorized rule." The Department submits the following analysis and proposed rule:

I. ANALYSIS

A. **Statute/s that the proposed rule interprets**
None.

B. **Statute/s that authorizes promulgation**
Section 227.26 (4), Stats.

C. **Related statute/s**
None.

D. **Related rule/s**
None.

E. **Explanation of the agency's authority to promulgate the proposed rule**
The proposed rule, which strikes language from s. DHS 107.09 (4) (v), is authorized by s. 227.26 (4), Stats.

F. **Brief summary of the proposed rule**
Section DHS 107.09 (4) (v) contains a reference to s. 46.266 (9), Stats. This statute was repealed by 2015 WI Act 55. The proposed rule strikes the reference.

G. **Electronic mail address and telephone number of agency contact person**
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II. PROPOSED RULE

SECTION 1. DHS 107.09 (4) (v) is amended to read:

Permanent reduction in MA payments when an IMD resident is relocated to the community. If a facility determined by the federal government or the department to be an institution for mental diseases (IMD) or by the department to be at risk of being determined to be an IMD under 42 CFR 435.1009 or s. 49.43 (6m), Stats., agrees ~~under s. 46.266 (9), Stats.,~~ to receive a permanent limitation on its payment under s. 49.45 (6m), Stats., for each resident who is relocated, the following restrictions apply:

SECTION 2. DHS 107.09 (4) (v) (note) is repealed.

SECTION 3. 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.