

1997-98 SESSION  
COMMITTEE HEARING  
RECORDS

Committee Name:

*Joint Committee for  
Review of  
Administrative Rules  
(JCR-AR)*

Sample:

- Record of Comm. Proceedings
- 97hrAC-EdR\_RCP\_pt01a
- 97hrAC-EdR\_RCP\_pt01b
- 97hrAC-EdR\_RCP\_pt02

- Appointments ... Appt
- 
- Clearinghouse Rules ... CRule
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- Committee Hearings ... CH
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- Committee Reports ... CR
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- Executive Sessions ... ES
- 97hr\_JCR-AR\_ES\_pt01a
- Hearing Records ... HR
- 
- Miscellaneous ... Misc
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- Record of Comm. Proceedings ... RCP
-

JCRAR - Jan. 8, 1997  
Executive Session

**JOSEPH F. ANDREA**  
STATE SENATOR

22nd District

Capitol Address:  
State Capitol  
P.O. Box 7882  
Madison, WI 53707-7882  
Telephone: (608) 267-8979

Home Address:  
2405-45th Street  
Kenosha, WI 53140  
Telephone: (414) 657-6656

Legislative Hotline (toll-free):  
1-800-362-9696



Member:  
Joint Committee on Finance  
Transportation Projects Commission  
Senate Committee on Transportation  
& Utilities  
Joint Survey Committee on  
Retirement Systems  
National Conferences of  
State Legislatures

4 March 1992

Patrick Fiedler, Secretary  
Department of Corrections  
149 East Wilson  
Madison, Wisconsin 53707  
TO BE HAND DELIVERED

Dear Secretary Patrick,

Frankly, I was appalled when I read Paul Willems', Families of Murdered Victims, March 3 letter addressed to you.

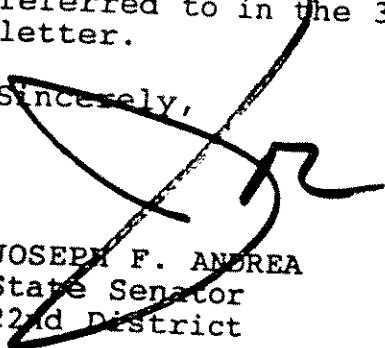
Without going into detail, I'd like to know what can be done to limit phone use by inmates. I can appreciate the horror these women have experienced to receive a call from an inmate. And, I might add, Secretary, that collect calls to my office from correctional centers around the state are not unusual.

The letter writing episode is outrageous. These members have all experienced trauma and unspeakable grief. To receive a letter from an inmate relieves the terror.

My purpose for writing is to let you know that I stand firmly behind Paul Willems and the group he represents in this matter. There's absolutely no doubt in my mind that our correctional system must restrict the use of the phone and the U.S. Mail.

While I trust that you will respond directly to Paul Willems, I would appreciate receiving a copy of this correspondence. As well, I am most anxious to learn your personal views regarding the quality of life as referred to in the 3rd paragraph on the second page of Mr. Willems' letter.

Sincerely,

  
JOSEPH F. ANDREA  
State Senator  
22nd District

## STAMPING INMATE MAIL

Under the Department of Corrections' (department) policies, inmates' outgoing mail is generally not censored or reviewed before it is sent. Inmates are allowed to write to anyone they choose to write. They are not limited in the number of letters they write or the length of the letters they send. Letters sent to over a dozen agencies and authorities such as newspapers or legislators may not be opened or read. Inmate mail may be opened only if it is between inmates or the prison authorities have reason to believe a regulation is being broken.

One of the unfortunate side-effects of this magnanimous policy is that inmates have abused it by using the mail to perpetrate or attempt to carry out criminal acts and other unsavory behavior. Over the years the department has experienced a steady increase in complaints caused by inmates' use of the mail. Inmates have used false names and titles in mail to defraud members of the public, credit card companies, and businesses. Inmates have sent pornographic mail to female minors whose names or pictures appear in newspapers. Inmates have ordered huge quantities of books and magazines, records, cassettes, computer equipment and CDs with no intention of paying. Significant credit card scams have been run through the mail by prison inmates while they are in prison; the fraud involved both in-state and out-of-state people. Inmates convicted of molesting children send the child victims mail threatening or attempting to seduce them, compounding the already substantial trauma of the children and their parents and making them victims once again.

Understandably, the public reacts with outrage, usually directed against this department, when these things happen. The public, including District Attorneys and legislators, sees this department as unwilling or unable to control our inmates. The people defrauded by inmates often demand that the state make them whole for the loss they suffered at the hands of an inmate.

Since protecting the public is one of this agency's most important objectives, and the complaints also take up considerable investigatory and disciplinary resources, the department decided to find a remedy for the problem. A decision was made that the remedy should not undercut the privacy of the inmate mail in the sense that we would not change the rules so we could open or read inmate mail. After long and deliberate consideration this agency decided to use the following procedure: stamp all envelopes mailed by inmates with a statement that the mail came from the Wisconsin prison system.

In this way we do not open or censor the mail, we simply leave it up to the recipient of the mail to decide if she or he wants to open the mail. If the recipient of the mail decides to open and read the mail, she or he is alerted to the fact that it came from

a prison inmate and any financial offers, orders, etc., contained therein may be suspect. Since it is a matter of public record that a person is an inmate in a Wisconsin prison, there is no harm caused to the inmate by labelling the mail.

Federal courts have upheld similar procedures in other states. The federal prisons' regulations also say that federal inmates' mail may be stamped with a message from the institution. I am confident no inmate's rights are violated by this procedure.

Prepared by Gregory Smith  
Assistant Legal Counsel  
Department of Corrections

6-25-96

ORDER OF THE  
DEPARTMENT OF HEALTH AND SOCIAL SERVICES  
REPEALING AND RECREATING RULES

The Legislature in s. 275(2) of 1995 Wisconsin Act 289 directed to Department to promulgate rules relating to public assistance required under chs. 46, 48 and 49, Stats., as affected by the Acts of 1995, before July 1, 1996, for the period before permanent rules take effect, by using emergency rulemaking procedures but without having to make a finding of emergency. These are public assistance-related rules. They are for administration of child care funds. They will take effect on July 1, 1996.

Analysis Prepared by the Department of Health and Social Services

The Department's rules for county agency, tribal agency and other child care administrative agency administration of funds for child day care under s. 46.98, Stats., are revised by this order to bring the rules into compliance with statute changes made by 1995 Wisconsin Acts 27 and 289 and changes in federal regulations, including federal regulations for child care and development block grant funding, 45 CFR Parts 98 and 99, and at-risk child care, 45 CFR Part 257, since the rules were last revised in late 1991; to make policies relating to eligibility for low-income child care more like child care eligibility policies under the Job Opportunities and Basic Skills (JOBS) training program under 42 USC 682 and s. 49.193, Stats.; to prevent and deal with fraud; and to clarify the applicability of certain policies.

Key changes are the following:

1. Income Eligibility

Income eligibility for low income child care is changed to be in compliance with changes made in s. 46.98(4), Stats., by Act 289.

2. Costs Charged to Parents

Parent co-payment responsibilities are revised to be those established in state law based on family income and the cost of care.

3. Eligibility for Parents in Training or Educational Programs

Parent eligibility to receive low-income child care funds when the parents are in training or educational programs is modified so that only parents under 20 years of age enrolled in high school or an equivalent program are eligible, in compliance with Act 289 changes in the statutes.

4. Loss of Eligibility

A local agency is permitted to determine that a parent is no longer eligible for child care funds if the parent fails to make required co-payments or provides false information to the agency about income or other matters affecting eligibility.

#### 5. Recovery of Funds

Rules are added in compliance with 1995 Wisconsin Act 27 to provide for recovery of funds from a parent if the parent was not eligible for the child care funds, and for recovery of an overpayment made to a provider when the provider is responsible for the overpayment.

#### 6. Reimbursement

Local agencies are permitted to reimburse parents under certain circumstances for the cost of child care services or to make funds available to parents for the purchase of child care services, and local agencies are directed when to reimburse child care providers on the basis of authorized units of service or for days of attendance.

#### 7. Authorized Child Care Providers

Local agencies are permitted to make payments, under certain conditions, to child care providers who are not licensed or certified, including:

- a. When an AFDC recipient is involved in orientation, enrollment or initial assessment in the JOBS program.
- b. When child care is on-site and short-term for parents in training or education programs.
- c. When short-term care is needed for a child who is ill and not allowed to receive care from a regulated provider.

#### 8. Higher Rates for Higher Quality Care

Local agencies are required to pay higher rates for child care to providers who meet higher quality of care standards, as allowed under federal regulations.

#### 9. Reimbursement Rate Categories

Reimbursement rates are required for two age categories and five provider types, a change from earlier policy.

#### 10. Elimination of Rules for Respite Child Care

Rules for respite child care are eliminated, now that there is no longer a separate funding program. The 1995-97 state budget folded funding for respite child care into general community aids allocations for counties.

### ORDER

Pursuant to authority vested in the Department of Health and Social Services by ss. 46.98(2)(b), (2r)(d), (4)(d) and (e)2. and (5)(e) and 227.11(2), Stats., and s. 275(2) of 1995 Wisconsin Act 289, the Department of Health and Social Services hereby repeals and recreates rules interpreting s. 46.98, Stats., as affected by 1995 Wisconsin Acts 27 and 289, as follows:

SECTION 1. HSS 55.70 to 55.76 are repealed and recreated to read:

Subchapter VII - Administration of Child Care Funds

**HSS 55.70 AUTHORITY, PURPOSE AND APPLICABILITY.** This subchapter is promulgated under the authority of ss. 46.98(2)(b), (2r)(d), (4)(d) and (e)2. and (5)(e) and 227.11(2), Stats., to provide definitions, procedures and standards for the administration of child care funds, including the distribution to county agencies of low-income child care funds under s. 46.98(4)(a), Stats., the use of those funds by county or tribal agencies or JOBS administrative agencies and the eligibility of parents for low-income child care for their children. This subchapter applies to the department, county and tribal agencies, JOBS administrative agencies, private agencies under contract to administer child care funds, both licensed and certified providers of child care and eligible parents.

**HSS 55.71 DEFINITIONS.** The definitions in subch. VI apply to this subchapter, except the definition of "parent" under s. HSS 55.56(12). In addition, in this subchapter:

(1) "AFDC" means aid to families with dependent children, a public assistance program under title IV-A of the Social Security Act of 1935, as amended, ss. 49.19 to 49.41, Stats., and ch. HSS 201.

(2) "Center slots" or "slots" means the number of places for children within the licensed capacity of a day care center.

(3) "Child care administrative agency" means a county agency, tribal agency, JOBS administrative agency, food stamp employment and training program administrative agency or other agency having a contract with the department to administer child care funds.

(4) "Child care funds" means funding allocated by the state to child care administrative agencies for child care purposes under ss. 46.98(3), 49.191, 49.193, 49.26 or 49.27, Stats.

(5) "Child care price" means the amount regularly charged by a provider to a parent who pays for the child care services out of his or her personal funds.

(6) "Child care provider" or "provider" means a provider licensed under s. 48.65, Stats., certified under s. 48.651, Stats., or established or contracted for under s. 120.13(14), Stats.

(7) "Department" means the Wisconsin department of workforce development.

(8) "Economic support agency" means a county department of social services or human services or a tribal agency which administers economic support programs including AFDC.



(9) "Employability plan" means a plan approved by a JOBS administrative agency or a food stamp employment and training program with an identified employment goal, a description of activities to be completed by the participant and a description of supportive services to be provided to the participant.

(10) "Family" means one or more adults and children, if any, related by blood or law and residing in the same household. Where adults other than spouses reside together, each is considered a separate family, except for a nonmarital parent. An emancipated minor and child living under the care of an individual is considered a one-person family.

(11) "Formula" means a prescribed method for determining funding allocations.

(12) "Food stamp employment and training program" means the program established under s. 49.124, Stats., for the purpose of assisting food stamp recipients to develop marketable work skills and obtain gainful employment.

(13) "Income" means money, wages or salary, net income from non-farm self-employment, net income from farm self-employment, social security, dividends, interest on savings or bonds, income from estates or trusts, net rental income or royalties, public assistance, Supplemental Security Income (SSI), pensions and annuities, unemployment compensation, worker's compensation, alimony and other maintenance payments, child support payments and veteran pensions.

(14) "Income-eligible" means family income as established in s. 46.98(4)(a) and (am), Stats.

(15) "JOBS" means the job opportunities and basic skills training program established under 42 USC 682 and s. 49.193, Stats., for the purpose of assisting AFDC recipients to develop marketable work skills and obtain gainful employment.

(16) "JOBS administrative agency" means a public or private organization that has a contract with the department to provide JOBS services to AFDC recipients referred to the agency by economic support agencies.

(17) "Low-income child care" means child care that is provided for a person who is eligible for funding for that child care under s. 46.98(4)(a) and (am), Stats., and 42 USC 9858.

(18) "Parent" has the meaning prescribed in s. 46.98(1)(c), Stats., namely, a parent, guardian, foster parent, legal custodian or person acting in place of a parent. In this subsection, "person acting in place of a parent" means a person to whom the child is related in one of the ways listed in s. HSS 201.17(1).

(19) "Poverty line" means the annually updated poverty income thresholds by family size published by the U.S. department of health and human services in the federal register.

Note: The federal poverty guidelines for 1996 were published in the Federal Register, March 4, 1996, 8286.

(20) "Rate" means the maximum amount a county or tribal agency will pay for child care.

(21) "Special need" means emotional, behavioral, physical or personal needs of a child requiring more than the usual amount of care and supervision for the child's age, as documented by a physician, psychologist, special educator or other qualified professional. A special need includes a developmental disability.

(22) "Tribe" means a Wisconsin American Indian tribe recognized by the federal government.

(23) "Voucher" means an authorization for reimbursement.

HSS 55.72 DEPARTMENT OF WORKFORCE DEVELOPMENT RESPONSIBILITIES.

(1) GENERAL. The department shall maintain oversight responsibility for administration by child care administrative agencies of the child care funding program.

(2) RATE APPROVAL. The department shall review and approve the methods employed by counties and tribes for determining reasonable and customary child care rates as required under s. HSS 55.74(3).

(3) ASSISTANCE TO COUNTIES, TRIBES AND JOBS ADMINISTRATIVE AGENCIES. The department shall provide information and technical assistance to county and tribal agencies and JOBS administrative agencies regarding administration of the child care funding program.

(4) FUNDS DISTRIBUTION. The department shall distribute low-income child care funds to county agencies through a formula which shall be developed each year in accordance with all of the following procedures:

(a) A child care advisory committee appointed by the secretary shall review the formula annually and make recommendations to the department;

(b) All of the following criteria shall be considered in developing the allocation formula:

1. The number of recipients of AFDC in each county;
2. The number of parents in each county who work and have children of child care age;

3. The number of children in income-eligible families; and
4. Each county's expenditure history; and

(c) The department shall consider the availability of reliable and current county-by-county data.

(5) RATE REVIEW. (a) The department shall annually review child care rates set by each county and tribe, and shall approve or disapprove each county agency's rates and tribal agency's rates based on the following criteria:

1. The rate-setting method is in accordance with rate-setting requirements specified under ss. HSS 55.74(3) and 55.75; and

2. The rate-setting method documents that the maximum allowable rate permits all eligible parents a reasonable choice of day care providers.

(b) The department may grant a variance to a nonstatutory requirement under ss. HSS 55.73 to 55.77 on written request of a county or tribal agency if the department is convinced that an alternative means meets the intent of the requirement.

(c) The department may set maximum rates for multi-county or multi-tribe areas based on surveys or another methodology instead of setting rates based on each county's or tribes survey.

HSS 55.73 GENERAL CHILD CARE POLICIES. (1) APPLICABILITY. This section applies to all of the following child care funding sources and the child care administrative agencies responsible for administration of those funds:

- (a) Low-income child care under s. 46.98(3) and (4), Stats.;
- (b) At-risk child care under s. 46.98(2m) and (2r), Stats.;
- (c) Child care for the JOBS program under s. 49.193(8), Stats.;
- (d) Child care for AFDC recipients who are participating in self-initiated education or training activities as specified under s. 49.191(1)(a), Stats., and s. HSS 206.15;
- (e) Child care for AFDC recipients who are working with child care costs in excess of the amount of the child care disregard under s. 49.191(1)(b), Stats., and child care costs incurred before the child care disregard under s. 49.19(5)(a), Stats., becomes available, as specified under s. 49.50(6e)(b), Stats.;
- (f) Child care for former AFDC recipients as specified under s. 49.50(6g), Stats.;
- (g) Child care for participants in the learnfare program under s. 49.50(7), Stats.; and
- (h) Child care for participants in the food stamp employment and training program under s. 49.124, Stats.

(2) **NON-APPLICABILITY.** Except for sub. (3) related to authorized providers, this section does not apply to family services program child care funds provided to tribes and used for child care. Requirements for tribes using family services program funds shall be set in the terms of the contract.

(3) **AUTHORIZED PROVIDERS.** (a) A child care administrative agency may pay for child care services from any of the following child care providers:

1. Providers licensed by the department under ch. HSS 45 or 55;
2. Providers certified by a county or tribal agency under standards specified in s. HSS 55.61 or 55.62; or
3. Programs established and provided by a school board under s. 120.13(14), Stats.

(b) A child care administrative agency may purchase services from a child care provider other than a child care provider under par. (a) only when one of the following conditions is met:

1. The care is an arrangement for parents in training or counseling programs and the child care is provided at the training or counseling site;
2. The care is a short-term arrangement when a child is ill and not able to receive care from a regulated child care provider or the provider has an emergency due to illness or other circumstance;
3. The care is for a JOBS enrollee to attend a JOBS program activity prior to the development of an employability plan under s. 49.193(4), Stats., approved by a JOBS administrative agency; or
4. The care is for a food stamp employment and training program enrollee to attend a program activity prior to the development of an employability plan.

(c) A child care administrative agency may not purchase services or issue vouchers for child care services provided by a person legally responsible under s. 49.90, Stats., for a child.

(d) A child care administrative agency may not purchase services or issue vouchers for child care services provided by a person residing in the child's household.

(e) An in-home care arrangement may be authorized for reimbursement only in one of the following circumstances:

1. The child has a special need;
2. Licensed or certified care is not available during the times care is needed, such as during evening hours;
3. Care is provided to 3 or more children from the same family; or

4. Licensed or certified care is not available within a reasonable geographic distance.

(4) PROVISION AND PURCHASE OF SERVICE. (a) A child care administrative agency shall provide child care services directly, provide child care services by contracting with child care providers, provide vouchers to parents for the purchase of child care services or, in accordance with par. (e), reimburse parents upon presentation of a receipt from the provider or make payments to parents. The child care administrative agency shall offer vouchers to each parent approved for child care funding.

(b) 1. A child care administrative agency shall use a portion of its child care funds and may use all of its child care funds to provide vouchers to eligible parents, as follows:

a. A child care administrative agency shall offer a voucher to each eligible parent to the extent that allocated funds are available;

b. A voucher shall be in writing and shall authorize a parent to obtain stipulated child care services from a provider under sub. (2); and

c. The voucher shall set a maximum amount of authorized reimbursement which is less than the county or tribal maximum rate or the provider's weekly price, minus any co-payment that the parent is required to make.

2. Parents using vouchers for the payment of child care services may receive child care services from a provider whose price is higher than the county or tribal maximum rate and pay the difference between the provider's price and the county or tribal maximum rate in addition to any required parents' co-payment.

(c) If a child care administrative agency purchases child care services by contract with a provider, billing and collection procedures shall be subject to ch. HSS 1. If a county or tribal agency purchases child care services by means of a voucher issued to the parents, billing and collection of any parent co-payment requirement is the responsibility of the provider.

(d) A child care administrative agency shall reimburse child care providers as follows:

1. For licensed group and family day care centers, the agency shall make payments based on authorized units of service, adjusting future authorized units of service when excessive absence occurs;

2. For certified providers, the agency shall reimburse for units of service used by each child, up to the maximum number of approved units, with the reimbursement rate increased by 10 percent to account for absent days; and

3. For licensed group and family day care centers, the agency may make payments to licensed providers based on units of service used by each child, up to the maximum number of approved units, when the schedule of child care to be used is expected to vary widely, with the reimbursement rate increased by 10 percent to account for absent days.

(e) A child care administrative agency may reimburse or make payments to a parent for child care services only when the care is provided by an in-home provider, when a payment to the parent is the only way to assure access to needed services on an emergency or temporary basis, or when a parent is being reimbursed for child care services previously paid for by the parent.

(5) **ELIGIBILITY REDETERMINATION.** A child care administrative agency shall redetermine parent need for service and eligibility at least every 6 months.

(6) **PARENTAL CHOICE AND PARENTS' PAYMENT.** (a) Parent choice of provider. Parents may choose the particular licensed or certified child care provider for their child, except that parents may use in-home day care if one of the criteria under sub. (3)(e) is met.

(b) Parent payments. When a parent is required to make co-payments for child care, the co-payments shall be in accordance with a payment schedule under s. HSS 55.76(5).

(7) **RECOUPMENT.** (a) A child care administrative agency shall take all reasonable steps necessary to recoup or recover from a parent funds paid to a child care provider or to that parent when the parent was not eligible for that level of child care benefit.

(b) A child care administrative agency shall take all reasonable steps necessary to recoup or recover from a provider any overpayments made for child care services for which the provider was responsible.

**HSS 55.74 COUNTY AND TRIBAL AGENCY RESPONSIBILITIES.** (1) **GENERAL.** Each county and tribal agency shall administer child care funds specified in s. HSS 55.73(1) in accordance with the requirements set forth in this section. A county or tribal agency may subcontract for administration of child care funds with the approval of the department.

(2) **FUNDING SOURCE PRIORITY.** County and tribal agencies shall ensure that parents are served first by child care funding sources guaranteed to AFDC recipients and former AFDC recipients who meet applicable eligibility criteria.

(3) **RATE-SETTING METHOD.** Each county and tribal agency shall submit a written statement to the department which describes the method by which the county or tribal agency has determined reasonable and customary rates and the maximum rate that the county or tribal agency will allow for the purchase of child care services. The department may prescribe standard units of service by which rates are set in order to achieve statewide consistency.

(4) **INFORMATION TO PROVIDERS.** County and tribal agencies shall distribute information to child care providers regarding child care funding policies.

(5) WAITING LIST. (a) If funding is not sufficient to meet the needs of all parents eligible for low-income child care funds under s. 46.98(4), Stats., a county shall establish a waiting list for parents who cannot be accommodated by available funding. The waiting list shall include a parent's name, address and phone number, priority status, and the date of the parent's application.

(b) The county shall place a parent's name on the waiting list when an application is received by phone or in writing and the parent's eligibility appears likely. Documentation of eligibility is not required before placing a name on the waiting list.

(c) The county shall at least annually update the waiting list to ensure that families on the list still need child care and are still likely to be eligible.

(d) The county shall submit information to the department upon request on the number of parents on the waiting list and the number and ages of the children on the waiting list, by category of eligibility under s. HSS 55.76.

HSS 55.75 ESTABLISHING COUNTY AND TRIBAL AGENCY CHILD CARE RATES.

(1) ESTABLISHMENT OF MAXIMUM RATES. (a) Responsibility. 1. Except as provided in subd. 2., a county or tribal agency shall annually set reasonable and customary maximum child care rates in accordance with the policies and procedures set out in this section unless the department sets maximum rates for a multicounty area which includes the particular county or tribal area.

2. A tribal agency may use the maximum rates established by a neighboring county rather than establish its own rates.

(b) Survey. The county or tribal agency, except a tribal agency under par. (a) 2., shall annually contact all licensed group day care centers and family day care centers in the county to determine the child care prices they charge to the general community.

(c) Group. The county or tribal agency shall set separate maximum rates for the following groups of children:

1. Infants and toddlers under 2 years of age; and
2. Children age 2 and older.

(d) Types of care. To the extent permitted by federal statutes and regulations, the rates for each group under par. (c) shall be set separately for each of the following types of care:

1. Licensed group day care centers;
2. Licensed family day care centers;
3. Regularly certified family day care providers;
4. Provisionally certified family day care providers; and

## 5. Certified in-home providers.

(2) **MAXIMUM RATES.** (a) Group day care centers. In setting maximum rates for group day care centers, the county or tribal agency shall comply with the following:

1. Maximum rates shall be set so that at least 75 percent of the group day care center slots in the county or tribal area may be purchased at or below the maximum rate. The number of slots attributed to a center shall be equal to the center's licensed capacity;

2. In determining whether 75 percent of the day care slots can be purchased at or below the maximum rate, the county or tribal agency may exclude day care centers which operate less than 5 days a week or 5 hours a day, which receive funding from a county department established under s. 51.42 or 51.437, Stats., or which do not have a set day care price; and

3. Reduced maximum rates may not be set for siblings.

(b) Family day care centers. In setting maximum rates for family day care centers, the county or tribal agency shall comply with the following:

1. Maximum rates shall be met so that at least 75 percent of the family day care center slots in the county or tribal area may be purchased at or below the maximum rates. The number of slots attributed to a center shall be equal to the center's licensed capacity; and

2. Reduced maximum rates may not be set for siblings.

(c) Certified family day care. To the extent permitted by federal statutes and regulations, maximum rates for certified family day care shall comply with s. 46.98(4)(dg) and (dm), Stats.

(d) Certified in-home day care. For certified in-home care, the county or tribal agency shall establish the maximum rate at the level of the state minimum wage established under ch. 104, Stats., and ch. IND 72.

(e) Other day care providers. For a day care program established and provided by a school board or for a certified school-age day care program, the county or tribal agency shall establish maximum rates in accordance with par. (a) or (b).

(3) **HIGHER RATES.** (a) Special need child. A rate higher than the maximum allowed under this section may be set on an case-by-case basis for child care for a child with a special need.

(b) Higher quality. Rates higher than the maximum rates allowed under subs. (1) and (2) shall be paid to child care providers who meet higher quality of care standards under s. HSS 55.90, up to maximums determined by the department.



(4) **SPECIAL RATES.** A county or tribal agency may set maximum reimbursement rates that are different from the rates allowed under sub. (1) and (2) for child care provided for less than a 2-week period, provided sporadically or provided for care of an ill child through negotiations with the child care provider.

**HSS 55.76 LOW-INCOME CHILD CARE.** (1) **USE OF FUNDS.** Low-income child care funds distributed under s. 46.98, Stats., may be expended by a county only to fund services that directly or indirectly benefit parents eligible under this section, as follows:

(a) **Services that directly benefit parents.** Counties shall expend child care funds to provide day care services for parents eligible under this section through the use of vouchers issued to parents or contracts with providers for purchase of services.

(b) **Services that indirectly benefit parents.** Department approval is required for counties to expend child care funds for start up, improvement and expansion of child care services and facilities, and recruitment, education and training for persons providing child care.

(2) **PARENT ELIGIBILITY.** (a) **Need.** To be eligible for low-income child care funds, a parent shall have a need for child care services for a child who is under 13 years of age and shall meet the criteria under par. (b) or (c).

(b) **Eligibility criteria for working parents or parents seeking work.** A parent who is working or seeking work is eligible if one of the following criteria is met:

1. The parent is working, is a recipient of AFDC and has monthly child care expenses exceeding the child care disregard limit under AFDC. These parents are eligible for funding of child care costs which are above the disregard limit up to the county or tribal maximum child care rate;

2. The parent is income-eligible and is in paid employment, including migrant or seasonal labor; or

3. The parent is income-eligible and is actively seeking work. This parent is eligible for the funding of a maximum of 20 hours of child care a week for 60 working days for time related to activities involved in seeking employment.

(c) **Eligibility criteria for parents in training or educational programs.** A parent is eligible if less than 20 years of age and enrolled in a high school or a high school equivalency program or a course of study meeting the standards established under s. 115.29(4), Stats., for the granting of a declaration of equivalency of high school graduation.

(d) **Two parent families.** In two parent families, both parents shall meet eligibility criteria for working, seeking work, or training under par. (b) or (c).

(e) Income eligibility. A parent is income-eligible if standard family income is at or below levels set in s. 46.98(4)(a) and (am), Stats.

(3) LOSS OF ELIGIBILITY. (a) A parent may be determined no longer eligible for child care funds because of false information or serious violation of program requirements provided to county agencies concerning income or eligibility.

(b) The county agency shall send a written notice to the parent and the provider when the parent is determined no longer eligible for child care funds, stating the reasons for that determination. The notice shall specify that the parent's eligibility will end on the 10th day after the date of the notice. The notice shall inform the parent of the right to a fair hearing.

(c) The parent may request a fair hearing. A request for a fair hearing shall comply with the procedures under ch. HSS 225 except that the request shall be sent to the office of administrative hearings so that it is received there within 45 days after the effective date of the action being appealed.

(d) Changes in the manner of payment of child care services are not subject to timely notice requirements under s. HSS 201.09(2)(a) unless the change results in a discontinuation, suspension, reduction or termination of these benefits, or the change forces a change in the parent's child care arrangements.

(e) The provisions of s. HSS 201.09(2)(a) regarding continuation of aid pending results of a hearing do not apply to hearings under this section.

(4) FUNDING PRIORITIES FOR LOW-INCOME CHILD CARE. (a) If funding for low-income child care is insufficient to meet the needs of all eligible parents, a county agency shall place eligible parents who cannot be accommodated by available funding on a waiting list in accordance with s. HSS 55.74(5) and shall distribute funds in accordance with priorities established in s. 46.98(4)(c), Stats.

(b) A county agency may not establish priorities for low-income child care other than those set forth in s. 46.98(4)(c), Stats.

(c) A county agency may not terminate funding provided to any parent eligible under sub. (2) and s. 46.98(4), Stats., in order to give priority to clients identified in s. 46.98(4)(c), Stats.

(5) COSTS CHARGED TO PARENTS. (a) Co-payment requirement. Parents shall be required to make co-payments for child care services provided directly or by voucher or purchased by the county agency. Co-payments shall be required of all parents receiving low-income child care subsidies. A family receiving low-income child care assistance shall be liable for the following percentages of the cost of care received:

1. For a family with an income equal to or less than 75% of the poverty line, 7.5%.

2. For a family with an income greater than 75% of the poverty line but not greater than 95% of the poverty line, 10%.

3. For a family with an income greater than 95% of the poverty line, 10%, plus 1.2857% for every percentage point by which the individual's income exceeds 95% of the poverty line, up to the cost of the child care.

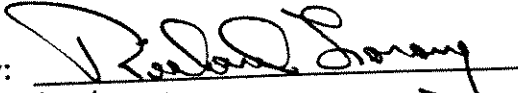
(b) Phase-in of co-payment requirement. The co-payment amount for a family receiving low-income child care assistance on July 1, 1996, shall be gradually increased until the full co-payment under sub. (a) is required on July 1, 1997. The department shall develop a phase-in schedule of the co-payment requirement.

SECTION 2. HSS 55.77 is repealed.

The rules contained in this order shall take effect as emergency rules on July 1, 1996.

Wisconsin Department of Health and Social Services

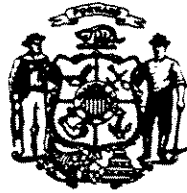
Dated: June 25, 1996

By:   
Joe Leean  
Secretary

SEAL:

Tommy G. Thompson  
Governor

Michael J. Sullivan  
Secretary



Mailing Address  
149 East Wilson Street  
Post Office Box 7925  
Madison, WI 53707-7925  
Telephone (608) 266-2471

**State of Wisconsin**  
**Department of Corrections**

---

August 14, 1996

Members of the Legislature

Dear Member of the Legislature:

Enclosed is a copy of the Department of Corrections' emergency rule promulgated by the Department of Corrections. The emergency rule will be published in the Wisconsin State Journal on August 15, 1996. The effective date of the rule is August 15, 1996.

If you have any questions about the rule, please contact David Whitcomb of the Department's Office of Legal Counsel at 267-3673.

Sincerely,

A handwritten signature in cursive script that reads "Michael J. Sullivan".

Michael J. Sullivan  
Secretary

Attachment

ORDER OF THE  
DEPARTMENT OF CORRECTIONS  
ADOPTING RULES

FINDING OF EMERGENCY

The Department of Corrections finds an emergency exists and that the attached rule is necessary for the immediate preservation of the public peace, health, safety or welfare. A statement of the facts constituting the emergency is:

Wisconsin state prison inmates outgoing mail is generally not reviewed or censored. Inmates have used mail to:

1. Contact the victims of their crimes, which has caused severe emotional distress;
2. Threaten and harass elected officials, law enforcement officers, and other persons; and
3. Defraud mail order and other businesses.

Since November 1, 1993, pursuant to Internal Management Procedure #35, the department has stamped outgoing inmate mail to indicate that the mail was sent from the Wisconsin state prison system. IMP #35 was adopted to protect victims of crime, the public, and businesses from inmate harassment and fraud.

The Wisconsin Court of Appeals ruled in an unpublished decision that IMP #35 had to be promulgated as an administrative rule. In order to protect the public welfare of the state, it is necessary for the department to adopt the following emergency rule to ensure that victims of crime are not further victimized by inmate mail, that members of the public are not threatened or harassed, and that businesses are not defrauded.

ORDER

Pursuant to the authority vested in the Department of Corrections by ss. 301.03(2) and 227.11(2), Stats., the Department of Corrections hereby creates rules requiring the stamping of outgoing inmate mail with a stamp indicating that the mail was sent from the Wisconsin state prison system.

SECTION 1. DOC 309.05(2)(d) is created to read:

DOC 309.05(2)(d) All outgoing inmate mail will be stamped. The stamp will identify the mail as coming from the Wisconsin state prison system.

This rule shall take effect on August 15, 1996, as an emergency rule.

WISCONSIN DEPARTMENT OF CORRECTIONS

Dated: 8/14/96

By: Michael J. Sullivan

Michael J. Sullivan  
Secretary

Seal:

LRB or Bill No./Adm. Rule No.

DOC 309.05(2)(d)

Amendment No. if Applicable

- ORIGINAL       UPDATED  
 CORRECTED       SUPPLEMENTAL

FISCAL ESTIMATE  
DOA-2048 N(R10/94)

**Subject**

Relating to stamping of outgoing inmate mail

**Fiscal Effect**

State:  No State Fiscal Effect

Check columns below only if bill makes a direct appropriation or affects a sum sufficient appropriation.

Increase Costs - May be possible to Absorb Within Agency's Budget     Yes     No

- Increase Existing Appropriation       Increase Existing Revenues  
 Decrease Existing Appropriation       Decrease Existing Revenues  
 Create New Appropriation

Decrease Costs

Local:  No local government costs

1.  Increase Costs  
 Permissive     Mandatory  
2.  Decrease Costs  
 Permissive     Mandatory

3.  Increase Revenues  
 Permissive     Mandatory  
4.  Decrease Revenues  
 Permissive     Mandatory

5. Types of Local Governmental Units Affected:

- Towns     Villages     Cities  
 Counties     Others \_\_\_\_\_  
 School Districts     WTCS Districts

**Fund Sources Affected**

- GPR     FED     PRO     PRS     SEG     SEG-S

**Affected Ch. 20 Appropriations**

**Assumptions Used in Arriving at Fiscal Estimate**

Communication from inmates to their families, friends, government officials, courts, and other people has long been encouraged by the department. This provision requires that each piece of outgoing mail be stamped "This letter has been mailed from the Wisconsin Prison System."

The act of stamping each piece of mail has a negligible effect on the workload of the mailroom, and has no fiscal effect on the department.

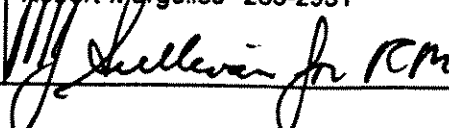
**Long-Range Fiscal Implications**

Agency/Prepared by: (Name & Phone No.)

Department of Corrections  
Barbara Carlson 266-9340

Authorized Signature/Telephone No.

Robert Margolies 266-2931



Date

8/9/96



PROPOSED ORDER OF THE  
DEPARTMENT OF CORRECTIONS  
CREATING RULES

The Wisconsin department of corrections proposes an order to create DOC 309.05 (2) (d).

Statutory authority: ss. 301.03 (2) and 227.11 (2) (a), Stats.  
Statutes interpreted: s. 301.03 (2)

Analysis Prepared by the Department of Corrections

Wisconsin state prison inmates outgoing mail is generally not reviewed or censored. Inmates have used mail to:

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The Wisconsin Court of Appeals ruled in an unpublished decision that IMP #35 had to be promulgated as an administrative rule. In order to protect the public welfare of the state, it is necessary for the department to adopt a rule to ensure that victims of crime are not further victimized by inmate mail, that members of the public are not threatened or harassed, and that businesses are not defrauded.

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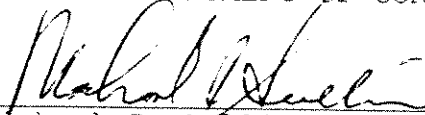
This rule shall take effect on the first day of the month following publication in the Wisconsin administrative register as provided in s.227.22 (2) (intro.), Stats.

WISCONSIN DEPARTMENT OF CORRECTIONS

Dated:

11/2/96

By:

  
Michael J. Sullivan  
Secretary

Seal:

Jimmy G. Thompson  
Governor

Michael J. Sullivan  
Secretary



Mailing Address  
149 East Wilson Street  
Post Office Box 7925  
Madison, WI 53707-7925  
Telephone (608) 266-2471

## State of Wisconsin Department of Corrections

---

December 5, 1996

DEC 06 1996

Senator Richard Grobschmidt  
Joint Committee for Review of Administrative Rules  
Room 404, 100 N. Hamilton Street  
Madison, Wisconsin 53707

Representative Glenn S. Grothman  
Joint Committee for Review of Administrative Rules  
State Capitol, Room 125 West  
Madison, Wisconsin 53708

Dear Senator Grobschmidt and Representative Grothman:

The Department of Corrections has an emergency rule that will expire on January 12, 1997, before it can be replaced by a permanent rule. Pursuant to s. 227.24(2), Stats., I ask the Joint Committee to extend the emergency rule creating DOC 309.05(2)(d) by 60 days.

This emergency rule is required to provide for the stamping of outgoing inmate mail. The Department of Corrections has proposed a permanent rule to provide for the stamping of outgoing inmate mail.

Copies of the order creating an emergency rule and the proposed order creating a permanent rule are attached. If you have any questions about our request to extend the effective period of the emergency rule, please contact Deborah Rychlowski of the Department's Office of Legal Counsel at 266-8426.

Sincerely,

A handwritten signature in black ink that reads "Michael J. Sullivan". The signature is written in a cursive style with a large, prominent "M" and "S".

Michael J. Sullivan  
Secretary

Attachments

cc: JCRAR Members

Tommy G. Thompson  
Governor

Michael J. Sullivan  
Secretary



17  
Mailing Address  
149 East Wilson Street  
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State of Wisconsin  
Department of Corrections

---

September 17, 1996

Mr. Bruce E. Munson, Revisor  
Revisor of Statutes Bureau  
Suite 800  
131 West Wilson Street  
Madison WI 53703-3233

Dear Mr. Munson:

Pursuant to sec. 227.135, Stats., the Department of Corrections submits the enclosed statement of scope of a proposed administrative rule relating to the stamping of outgoing inmate mail. The rule was promulgated as an emergency rule effective August 15, 1996. Enclosed is a copy of the Order of the Department of Corrections adopting the emergency rule.

Sincerely,

A handwritten signature in cursive script that reads "Michael J. Sullivan".

Michael J. Sullivan  
Secretary

cc. James R. Klauser

Enclosures

## STATEMENT OF SCOPE OF PROPOSED RULE

**Subject:**

Administrative Code - Inmate Mail

**Description of Policy Issues:**

*Statement of the objective of the proposed rule:*

The proposed administrative rule makes permanent an emergency rule requiring the stamping of outgoing inmate mail with a stamp identifying the mail as coming from the Wisconsin prison system. The proposed rule is intended to protect victims of crime, the public, and businesses from inmate harassment and fraud carried out through the mail.

There is no other feasible way of ensuring that an addressee of inmate mail is aware that the mail was sent from the Wisconsin prison system.

**Statement of the authority for the rule:**

Sections 301.02 and 301.03, Stats.

**Staff time and administrative costs:**

The proposed rule is identical to the emergency rule. No additional staff time is necessary to develop the administrative rule.

September 17, 1996

ORDER OF THE  
DEPARTMENT OF CORRECTIONS  
ADOPTING RULES

FINDING OF EMERGENCY

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WISCONSIN DEPARTMENT OF CORRECTIONS

Dated:

8/14/96

By:

Michael J. Sullivan  
Michael J. Sullivan  
Secretary

Seal:

**Tommy G. Thompson**  
Governor

**Michael J. Sullivan**  
Secretary



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## State of Wisconsin Department of Corrections

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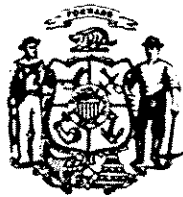
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## State of Wisconsin Department of Corrections

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Revisor of Statutes Bureau  
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September 17, 1996

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ADOPTING RULES

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