

**2001 DRAFTING REQUEST**

**Bill**

Received: 09/20/2000

Received By: kenneda

Wanted: As time permits

Identical to LRB:

For: Administration-Budget (608) 267-9546

By/Representing: Jablonsky

This file may be shown to any legislator: NO

Drafter: kenneda

May Contact:

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Subject: Mental Health - miscellaneous

Extra Copies:

**Pre Topic:**

DOA:.....Jablonsky -

**Topic:**

Inpatient competency evaluation charge-back

**Instructions:**

See Attached

**Drafting History:**

<u>Vers.</u>	<u>Drafted</u>	<u>Reviewed</u>	<u>Typed</u>	<u>Proofed</u>	<u>Submitted</u>	<u>Jacketed</u>	<u>Required</u>
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# DHFS

*Department of Health and Family Services*  
2001-2003 Biennial Budget Statutory Language Request  
September 11, 2000

## Inpatient Competency Evaluation Charge-Back

### Current Language

s.51.42(3)(as)  
s.971.14(2)(d)

### Proposed Change

Amend current language to require counties to pay the daily rate at the state Mental Health Institutes (MHIs) for all days that an adult county resident remains at the institutes after the county is notified that the person's examination to determine competency to stand trial has been completed. The counties' liability would begin 48 hours after receipt of notification, with Saturdays, Sundays and legal holidays excepted. (See attached.)

### Effect of the Change

Counties will be less likely to leave their residents in MHIs after an examination for competency to stand trial is completed. As a result, unnecessary costs to the state and unmanageable population levels will be avoided.

### Rationale for the Change

Current law in Wisconsin provides that if courts order inpatient competency-to-stand-trial examinations at the state MHIs, the court must arrange for transportation to the facility "within a reasonable time" after the exam is ordered. Courts are also required to arrange for transportation of the person back to a county jail "within a reasonable time" after receiving notice that the exam has been completed. When an individual is being evaluated for competency to stand trial, the cost of the stay at the MHIs is borne solely by the state.

The state MHIs are experiencing significant delays in the time it takes counties to transport their residents back to jail after being notified that a competency examination has been completed. These delays result in unnecessary costs to the state and can also lead to unmanageable population levels at the MHIs.

In the case of juvenile competency exams, current law requires counties to pay the full cost of the juvenile's entire stay in a facility. However, for adult examinations, there is currently no incentive for counties to return individuals who have undergone an examination to the county

jail quickly after the exam has been completed, because the state pays the full cost of the stay at the MHIs.

Requiring counties to pay the daily rate for all days that an individual remains in an MHI after being notified that the examination is complete will provide a proper incentive for counties to transport people in a timely manner.

**Desired Effective Date:** Upon Passage of the Budget Bill  
**Agency:** DHFS  
**Agency Contact:** Ellen Hadidian  
**Phone:** 266-8155

Section 971.14(2)(d) of the Statutes is amended to read:

Section 971.14(2)(d) If the court orders that the examination be conducted on an inpatient basis, the sheriff of the defendant's county of residence shall transport ~~it shall arrange for the transportation of~~ any defendant not free on bail to the examining facility within a reasonable time after the examination is ordered and shall transport ~~for the~~ defendant to be returned to the jail within a reasonable time after the sheriff and county department of community programs of the defendant's county of residence receive ~~receiving~~ notice from the examining facility that the examination has been completed.

Section 51.42(3)(as)1 of the Statutes is amended to read:

Section 51.42(3)(as)1 A county department of community programs shall authorize all care of any patient in a state, local or private facility under a contractual agreement between the county department of community programs and the facility, unless the county department of community programs governs the facility. The need for inpatient care shall be determined by the program director or designee in consultation with and upon the recommendation of a licensed physician trained in psychiatry and employed by the county department of community programs or its contract agency. In cases of emergency, a facility under contract with any county department of community programs shall charge the county department of community programs having jurisdiction in the county where the patient is found. The county department of community programs shall reimburse the facility for the actual cost of all authorized care and services less applicable collections under s. 46.036, unless the department of health and family services determines that a charge is administratively infeasible, or unless the department of health and family services, after individual review, determines that the charge is not attributable to the cost of basic care and services. Except as provided in subd. 1m., a A county department of community programs may not reimburse any state institution or receive credit for collections for care received therein by nonresidents of this state, interstate compact clients, transfers under s. 51.35 (3), and transfers from Wisconsin state prisons under s. 51.37 (5) (a), commitments under s. 975.01, 1977 stats., or s. 975.02, 1977 stats., or s. 971.14, 971.17 or 975.06 or admissions under s. 975.17, 1977 stats., or

children placed in the guardianship of the department of health and family services under s. 48.427 or 48.43 or under the supervision of the department of corrections under s. 938.183 or 938.355. The exclusionary provisions of s. 46.03 (18) do not apply to direct and indirect costs which are attributable to care and treatment of the client."

Section 51.42(3)(as)1m of the Statutes is created to read:

Section 51.42(3)(as)1m. A county department of community programs shall reimburse a mental health institute at its daily rate for custody of any county resident examined at the mental health institute under s. 971.14(2) for all days the person remains in custody at the mental health institute commencing 48 hours, not including Saturdays, Sundays and legal holidays, after the sheriff and county department receive notice under s. 971.14(2)(d) that the examination has been completed.



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DOA:.....Jablonsky – Inpatient competency evaluation charge-back

FOR 2001-03 BUDGET — NOT READY FOR INTRODUCTION

do not gen

1 AN ACT ...; relating to: the budget.

*Analysis by the Legislative Reference Bureau*

✓ HEALTH AND HUMAN SERVICES

✓ MENTAL ILLNESS AND DEVELOPMENTAL DISABILITIES

Under current law, if a court during a trial for violation of a crime has reason to doubt the defendant's competency to proceed, the court must order the defendant to be examined, on an inpatient or outpatient basis, as determined by DHFS. For an inpatient examination, the court must arrange for the defendant's transportation to the examining facility within a reasonable time and for return of the defendant to the jail within a reasonable time after receiving notice from the facility that the examination has been completed. Also under current law, a county department of community programs may not reimburse a state institution for care provided by the institution to certain persons, including criminal defendants who are ordered to be examined by mental health institutes for competency to undergo trial.

This bill requires that, for a defendant in a criminal trial who has been ordered to receive an examination for mental competency to undergo trial, the sheriff of the defendant's county of residence transport the defendant to the examining facility. Further, the bill requires that the sheriff transport the defendant to jail within a reasonable time after the sheriff and the county department of community programs receive notice from the facility that the examination has been completed. The bill requires that a county department of community programs reimburse a mental health institute at the institute's daily rate for all days of custody of a county resident

who is examined for competency to proceed in a criminal trial, beginning 48 hours after the sheriff and county department receive notice that the examination has been completed. The 48-hour period may not include Saturdays, Sundays, and legal holidays.

For further information see the *state and local* fiscal estimate, which will be printed as an appendix to this bill.

*The people of the state of Wisconsin, represented in senate and assembly, do enact as follows:*

SECTION 1. 51.42 (3) (as) 1. of the statutes is amended to read:

51.42 (3) (as) 1. A county department of community programs shall authorize all care of any patient in a state, local or private facility under a contractual agreement between the county department of community programs and the facility, unless the county department of community programs governs the facility. The need for inpatient care shall be determined by the program director or designee in consultation with and upon the recommendation of a licensed physician trained in psychiatry and employed by the county department of community programs or its contract agency. In cases of emergency, a facility under contract with any county department of community programs shall charge the county department of community programs having jurisdiction in the county where the patient is found. The county department of community programs shall reimburse the facility for the actual cost of all authorized care and services less applicable collections under s. 46.036, unless the department of health and family services determines that a charge is administratively infeasible, or unless the department of health and family services, after individual review, determines that the charge is not attributable to the cost of basic care and services. ~~A~~ Except as provided in subd. 1m., a county department of community programs may not reimburse any state institution or receive credit for collections for care received therein by nonresidents of this state,



1 interstate compact clients, transfers under s. 51.35 (3), and transfers from Wisconsin  
 2 state prisons under s. 51.37 (5) (a), commitments under s. 975.01, 1977 stats., or s.  
 3 975.02, 1977 stats., or s. 971.14, 971.17 or 975.06 or admissions under s. 975.17, 1977  
 4 stats., or children placed in the guardianship of the department of health and family  
 5 services under s. 48.427 or 48.43 or under the supervision of the department of  
 6 corrections under s. 938.183 or 938.355. The exclusionary provisions of s. 46.03 (18)  
 7 do not apply to direct and indirect costs which are attributable to care and treatment  
 8 of the client.

History: 1971 c. 125; 1973 c. 90, 198, 333, 336; 1975 c. 39, 198, 199, 224, 422; 1975 c. 428 s. 16; 1975 c. 430 ss. 24 to 31, 80; 1977 c. 26 ss. 37, 38, 75; 1977 c. 29 ss. 612 to 623p, 1656 (18); 1977 c. 193; 1977 c. 203 s. 106; 1977 c. 272; 1977 c. 354 s. 101; 1977 c. 418, 428, 447; 1979 c. 34, 117, 177, 221, 330, 355; 1981 c. 20 ss. 923 to 942, 2202 (20) (d), (n), (q); 1981 c. 93 ss. 105 to 122, 186; 1981 c. 329; 1983 a. 27 ss. 1106 to 1112, 2202 (20); 1983 a. 189 ss. 44, 329 (5); 1983 a. 192, 239, 365, 375, 524; 1985 a. 29, 120, 176; 1987 a. 3, 27, 199, 339, 366; 1989 a. 31, 122; 1991 a. 39, 274, 315; 1993 a. 16, 437, 445; 1995 a. 27 ss. 3260 to 3262, 9126 (19), 9145 (1); 1995 a. 64, 77, 92, 201, 224, 276, 352, 417; 1997 a. 27, 164, 237, 268; 1999 a. 9.

9 **SECTION 2.** 51.42 (3) (as) 1m. <sup>X</sup> of the statutes is created to read:

10 51.42 (3) (as) 1m. A county department of community programs <sup>✓</sup> shall  
 11 reimburse a mental health institute at the institute's daily rate for custody of any  
 12 county resident examined at the mental health institute under s. <sup>✓</sup>971.14 (2) for all  
 13 days that the person remains in custody at the mental health institute, beginning  
 14 48 hours, not including Saturdays, Sundays, and legal holidays, after the sheriff and  
 15 county department receive notice under s. 971.14 (2) (d) <sup>✓</sup> that the examination has  
 16 been completed.

17 **SECTION 3.** 971.14 (2) (d) <sup>X</sup> of the statutes is amended to read:

18 971.14 (2) (d) If the court orders that the examination be conducted on an  
 19 inpatient basis, ~~it shall arrange for the transportation of the sheriff of the defendant's~~  
 20 county of residence shall transport any defendant not free on bail to the examining  
 21 facility within a reasonable time after the examination is ordered and ~~for shall~~  
 22 transport the defendant ~~to be returned~~ to the jail within a reasonable time after  
 23 receiving the sheriff and county department of community programs of the

1 defendant's county of residence receive notice from the examining facility that the  
2 examination has been completed.

History: 1981 c. 367; 1985 a. 29, 176; Sup. Ct. Order, 141 Wis. 2d xiii (1987); 1987 a. 85, 403; 1989 a. 31, 107; Sup. Ct. Order, 158 Wis. 2d xvii (1990); 1991 a. 32; 1995 a. 27 s. 9126 (19); 1995 a. 268; 1997 a. 252.

3

**(END)**



DOA:.....Jablonsky – Inpatient competency evaluation charge-back  
FOR 2001-03 BUDGET — NOT READY FOR INTRODUCTION

1 **AN ACT ...; relating to:** the budget.

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**HEALTH AND HUMAN SERVICES**

**MENTAL ILLNESS AND DEVELOPMENTAL DISABILITIES**

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3 (END)