

**ADMINISTRATIVE RULES
REPORT TO LEGISLATURE
CLEARINGHOUSE RULE CR-08-108**

By the Department of Health Services relating to ch. DHS 105, Provider Certification

Basis and Purpose of Proposed Rule

Section 49.45 (2) (a) 11., Stats., requires the Department to promulgate rules establishing criteria for certification of providers of medical assistance.

The Department proposes to amend ch. DHS 105 to allow federally recognized American Indian tribes or bands in Wisconsin to be certified by Wisconsin Medicaid as providers of personal care services. The proposed amendment would increase the number of providers available in Wisconsin to provide personal care services.

The Department believes that the proposed change is necessary in order to allow tribal government agencies to become personal care agencies, thereby providing tribal members access to culturally sensitive personal care providers in their own communities.

Responses to Legislative Council Rules Clearinghouse Recommendations

The Department accepted the comments made by the Legislative Council Rules Clearinghouse and made modifications where suggested.

Final Regulatory Flexibility Analysis

The proposed rule does not affect small business.

Changes to the Analysis or Fiscal Estimate

Analysis

As suggested by the Legislative Council Rules Clearinghouse, information was added to the rule's analysis about the communication exchanges between the Department and the Home Care Consumer Advisory Committee and the Home Care Advisory Committee.

Fiscal Estimate

As suggested by the Legislative Council Rules Clearinghouse, the Department made corrections in wording.

Public Hearing Summary

On January 2, 2009, the Department began accepting public comments on the proposed rule via the Wisconsin Administrative Rules web site. Two public hearings were held. One hearing was held in Wausau on February 3, 2009, while a second public hearing was held in Madison on February 4, 2009. The hearing record closed on February 18, 2009. Three people attended the public hearing in Madison, while there were no attendees at the Wausau public hearing. Three written comments were received, two of which were from the attendees at the public hearing.

List of Public Hearing Attendees and Commenters

The following is a complete list of the persons who attended the public hearing or submitted comments on the proposed rule, the position taken by the commenter and whether or not the individual provided written or oral comments.

| Name and Address | Position Taken (Support or Opposed) | Action (Oral or Written) |
|---|--|-----------------------------|
| 1. Linda Dawson Reinhart Boerner Van Deuren S.C. P.O. Box 2018 Madison, WI 53701-2018 | Support | Both |
| 2. Amy Weiss Gemini Employee Leasing Inc. 840 Enterprise Drive #2 P.O. Box 230 Slinger, WI 53086 | Support | Oral |
| 3. John M. Alberts Alberts and Associates Governmental Lobbying W285 Oosty Ave. Oconomowoc, WI 53066 | Support | Both |
| 4. Nancy Miller-Korth Stockbridge-Munsee Health and Wellness Center W12802 County Road A P.O. Box 86 Bowler, WI 54416 | Support | Written |

Public Comments and Department Responses

The number(s) following each comment corresponds to the number assigned to the individual listed in the Public Hearing Attendees and Commenters section of this document.

| Rule Provision | Public Comment | Department Response |
|-------------------------|--|--|
| DHS 105.17 (1) (intro.) | The commenters support the proposal to add tribes to the list of organizations that may be certified to provide personal care services. (1, 2, 3, 4) | The Department appreciates the support for its rulemaking proposal expressed by the commenters. |
| DHS 105.17 (1) (intro.) | To avoid a potential shortage of personal care provider agencies as more counties move to Family Care, the Department should add an additional category of certified personal care providers. The new category of provider would be described as "a Wisconsin legal entity that meets the following requirements." The comment appears to refer to the requirements listed in the paragraphs which follow s. DHS 105.17 (1) (intro.). (1, 2) | The Department will not make a change at this time. A legislative solution to this issue is being sought through the biennial budget bill. |