STATE OF WISCONSIN
DEPARTMENT OF ADMINISTRATION
DOA-2049 (R09/2016)

DIVISION OF EXECUTIVE BUDGET AND FINANCE
101 EAST WILSON STREET, 10TH FLOOR
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MADISON, WI 53707-7864
FAX: (608) 267-0372

# ADMINISTRATIVE RULES
## Fiscal Estimate & Economic Impact Analysis

1. Type of Estimate and Analysis
☒ Original ☐ Updated ☐ Corrected

2. Date
June 23, 2025

3. Administrative Rule Chapter, Title and Number (and Clearinghouse Number if applicable)
DHS 75, 105, and 107

4. Subject
Intensive Outpatient Treatment Service, Integrated Day Treatment Service, Integrated Behavioral Health Stabilization Service, Opioid Use Disorder Programs, Qualified Treatment Trainees

5. Fund Sources Affected
☒ GPR ☒ FED ☐ PRO ☐ PRS ☐ SEG ☐ SEG-S

6. Chapter 20, Stats. Appropriations Affected
20.435 (5)

7. Fiscal Effect of Implementing the Rule
☒ No Fiscal Effect ☐ Increase Existing Revenues ☐ Increase Costs ☐ Decrease Costs
☐ Indeterminate ☐ Decrease Existing Revenues ☐ Could Absorb Within Agency's Budget

8. The Rule Will Impact the Following (Check All That Apply)
☒ State's Economy ☒ Specific Businesses/Sectors
☐ Local Government Units ☐ Public Utility Rate Payers
☐ Small Businesses **(if checked, complete Attachment A)**

9. Estimate of Implementation and Compliance to Businesses, Local Governmental Units and Individuals, per s. 227.137(3)(b) (1).
$Indeterminate - less than $10,000

10. Would Implementation and Compliance Costs Businesses, Local Governmental Units and Individuals Be $10 Million or more Over Any 2-year Period, per s. 227.137(3)(b)(2)?
☐ Yes ☒ No

11. Policy Problem Addressed by the Rule
The proposed rule seeks to remove regulatory barriers and increase access to treatment services by clarifying community substance use services standards and aligning Medical Assistance coverage policy. Changes to service standards include:

-Amending language in ch. DHS 75 to align with updated federal requirements and allowances regarding prescribing Schedule III Buprenorphine medication for opioid use disorders to more than 30 individuals.
-Amending the outpatient applicability standards in ch. DHS 75 to include exemptions for ch. DHS 35 certified outpatient mental health clinics and licensed rural health clinics to expand the eligible provider pool for treatment services.
-Amending ss. DHS 75.51 and 75.52 to expand integrated treatment for mental health and substance use disorders in intensive outpatient and day treatment/partial hospitalization levels of care respectively.
-Amending ss. DHS 75.56 to allow for integrated behavioral health stabilization services for less than 24 hours in community-based settings.
-Amending DHS 75.56 to allow individuals experiencing suicidal ideation admission into crisis stabilization services.
-Removing all references in ch. DHS 75 requiring hepatitis testing in various settings.

To align Medical Assistance coverage policy with these changes, the propsoed rule will: 1) create certification and reimbursement for intensive outpatient program services; 2) amend certification and reimbursement to include integrated day treatment services; and 3) clarify allowable providers of substance use disorder and mental health services, including qualified treatment trainees.

12. Summary of the Businesses, Business Sectors, Associations Representing Business, Local Governmental Units, and Individuals that may be Affected by the Proposed Rule that were Contacted for Comments.
Many individuals and agencies providing substance use services, associations representing agencies that provide substance use services, county and municipal staff have signed up to get email updates from DHS on projects related to

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substance use services. The Department issued an email on May 12, 2025 to lists maintained for these audiences inviting them to provide feedback on the economic impact of these rule changes. This message was delivered to more than 45,900 email addresses.

In accordance with s. 227.137 (3), Stats., a draft of the proposed rule was posted to solicit feedback on the economic impact of the proposed rule. That comment period ran from May 12 to 26, 2025, and the Department received 15 comments from practitioners, organzations, and individuals regarding the proposed rules.

13. Identify the Local Governmental Units that Participated in the Development of this EIA.

County human service departments were incldued in solicitation for public comment.

14. Summary of Rule's Economic and Fiscal Impact on Specific Businesses, Business Sectors, Public Utility Rate Payers, Local Governmental Units and the State's Economy as a Whole (Include Implementation and Compliance Costs Expected to be Incurred)

Outpatient mental health clinics and licensed rural health clinics will be able to provide substance use treatment services to individuals when co-occurring with the provision of mental health treatment services, which will eliminate the need for such clinics to incur additional costs for certification under ch. DHS 75.

Behavioral health providers will have the opportunity to provide integrated services at the intensive outpatient and day treatment/partial hospitalization levels of care, which will eliminate the duplicative cost for separate mental health and substance use program certifications.

Providers certified under s. DHS 75.56 will be able to provide short-term, less than 24 hour, integrated behavioral health stabilization services in the community, thereby minimizing the costs associated with emergency room and residential care.

The proposed rule is expected to have a minimal fiscal impact for Medical Assistance providers. Day Treatment providers will have the opportunity to provide integrated services at the intensive outpatient and day treatment/partial hospitalization levels of care, which will eliminate the duplicative cost for separate mental health and substance use program certifications. There may be a small impact to Medicaid providers who begin providing a new intensive outpatient program (e.g., costs of Medicaid enrollment, DQA certification application).

The proposed rule changes which effects DHS 75.59 and 75.60 certififed opioid disorder programs is expected to have minimal fiscal impacts. This change provides flexibility to the provider to meet the needs of individuals and allow coordination of care with an individual's community treatment providers. The proposed rules also remove requirements for hepatitis testing. Existing hepatitis testing requirements result in additional costs when patients are uninsured or underinsured, and removing those requirements will result in cost savings.

The rule is not anticipated to have any particular impact on small businesses or other business sectors.

15. Benefits of Implementing the Rule and Alternative(s) to Implementing the Rule

There are no reasonable alternatives to the proposed rulemaking to amend ss. DHS 75.60 (4) (b) and (8) (a). Due to changes in requirements at the federal level, if the Data 2000X Waiver language is not removed, it will be impossible for providers to meet the requirements in DHS 75 which would typically lead to citations from the Division of Quality Assurance.

All clinics providing substance use disorder treatment must currently be certified under ch. DHS 75. If an exemption is not added to ch. DHS 75 for ch. DHS 35 certified providers treating co-occurring substance use disorder treatment, those clinics will either not be able to provide integrated treatment unless they go through the process of obtaining a

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certification under ch. DHS 75. The Department is aware that, due to this current barrier, some providers have simply chosen to not serve individuals with co-occurring mental health and substance use disorders.

The Department could potentially create levels of care specific to mental health needs outside of ch. DHS 75. This alternative is not feasible, because mental health and substance use services are often co-occurring, and such actions would result in incongruency between what is available for treatment services. Additionally, this will further cause strain on the behavioral health workforce.

There are no reasonable alternatives to amending s. DHS 75.56 to permit short-term, non-residential care. "Residential" is undefined in that section of the rule, and the plain meaning of the term conflicts with providing service in a community-based setting for less than 24 hours. Crisis stabilization is designed for short-term, acute stays that may vary in length from a few hours to several days. Once the crisis is resolved, an individual should be discharged to less restrictive care as soon as possible.

There are no reasonable alternatives to amending s. DHS 75.56 regarding excluding patients with recent suicide attempts or ideation. As written, the rule conflicts with other general provisions in s. DHS 75.19, and access to stabilization services is essential for an individual in crisis, especially those with higher acuity.

There are no alternatives to removing mandatory hepatitis testing requirements. If not removed, providers will continue to test for hepatitis or be cited by the Division of Quality Assurance for not completing the testing. Public health departments will struggle to manage the volume of screening referrals with corresponding management plans.

There are no reasonable policy alternatives for Medical Assistance reimbursement of intensive outpatient level of care. The proposed changes would create certification and reimbursement for this needed level of care. This provides congruency between mental health and substance use services. If coverage is not added for this level of care, there is potential for Medical Assistance members to receive the inappropriate level of care which could result in poor health outcomes.

There are no reasonable alternatives for the Medical Assistance program to update integrated day treatment services. The proposed changes would allow a new integrated level of care. This provides congruency between mental health and substance use services. If coverage is not adjusted for this integrated care, there is potential for Medical Assistance members to seek out multiple disjointed treatment services which could result in poor health outcomes.

There are no reasonable alternatives for the Medical Assistance program to clarifying appropriate providers of substance use services. The lack of clarity contributes to confusion among providers, who experience difficulty understanding which professionals can deliver the service, artificially limiting member access to the service, and requiring substantial Department technical assistance efforts.

16. Long Range Implications of Implementing the Rule

Modifying ch. DHS 75 and related Medical Assistance rules will allow for increased flexibility for community substance use treatment providers. The Department anticipates that these changes will expand the array of behavioral health services the Department certifies and reimburses. The rule also expands the pool of providers who can render the services identified in the rule, therefore expanding access to services in the long term.

17. Compare With Approaches Being Used by Federal Government

The Centers for Disease Control and Prevention (CDC) urges the public health and substance use disorder (SUD) treatment community to increase the number of people with SUD who are tested and treated for HIV and viral hepatitis. Modifications proposed with DHS 75.59 and DHS 75.60 provide flexibility and remove barriers for individuals seeking opioid treatment services.

18. Compare With Approaches Being Used by Neighboring States (Illinois, Iowa, Michigan and Minnesota)

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Illinois:
Illinois rules for substance use treatment align with ASAM levels of care, although they do not appear to include specific requirements related to hepatitis testing, crisis stabilization, or integrated co-occurring treatment services for individuals with mental health and substance use disorders. Ill. Admin. Code tit. 77, p. 2060. As of October 2024, Illinois Medicaid rules reference the certification requirements noted above. There are no additional Medicaid details for comparison.

Iowa:
Iowa rules for substance use disorder treatment align with ASAM levels of care, although they do not appear to include specific requirements related to of hepatitis testing, crisis stabilization, or integrated co-occurring treatment services for individuals with mental health and substance use disorders. I.C.A. ch. 155. As of October 2024, Iowa Medicaid rules reference the certification requirements noted above. There are no additional Medicaid details for comparison.

Michigan:
Michigan rules were revised in 2023 in the following areas: branch locations; mobile units; naloxone access; staff development and training; outpatient counseling providers; medication assisted treatment; prevention, residential and inpatient programs. The rule does not address the provision of hepatitis testing, crisis stabilization, or integrated co-occurring treatment services for individuals with mental health and substance use disorders. Mich. Admin. Code, R. 325.1301 to 235.1399. As of October 2024, Michigan Medicaid rules reference the certification requirements noted above. There are no additional Medicaid details for comparison.

Minnesota:
Minnesota rules utilize their statewide placement tool that is consistent with ASAM levels of care. Minnesota has provisions for integrated care of co-occurring treatment services for individuals with mental health and substance use disorders. Minnesota's rules and statutes also incorporate language related to behavioral health crisis facilities grants. The statute does not address the provision of hepatitis testing. Minn. Stat. ch. 245G; Minn. Stat. s. 245.4863. As of October 2024, Minnesota Medicaid rules reference the certification requirements noted above. There are no additional Medicaid details for comparison.

| 19. Contact Name | 20. Contact Phone Number |
|---|---|
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## ATTACHMENT A

1. Summary of Rule's Economic and Fiscal Impact on Small Businesses (Separately for each Small Business Sector, Include Implementation and Compliance Costs Expected to be Incurred)

2. Summary of the data sources used to measure the Rule's impact on Small Businesses

3. Did the agency consider the following methods to reduce the impact of the Rule on Small Businesses?

☐ Less Stringent Compliance or Reporting Requirements
☐ Less Stringent Schedules or Deadlines for Compliance or Reporting
☐ Consolidation or Simplification of Reporting Requirements
☐ Establishment of performance standards in lieu of Design or Operational Standards
☐ Exemption of Small Businesses from some or all requirements
☐ Other, describe:

4. Describe the methods incorporated into the Rule that will reduce its impact on Small Businesses

5. Describe the Rule's Enforcement Provisions

6. Did the Agency prepare a Cost Benefit Analysis (if Yes, attach to form)

☐ Yes ☐ No