

ORDER OF
THE DEPARTMENT OF HEALTH AND FAMILY SERVICES
REPEALING, RENUMBERING, RENUMBERING AND AMENDING, AMENDING,
REPEALING AND RECREATING, AND CREATING RULES

The Wisconsin Department of Health and Family Services proposes **to repeal** HFS 10.13 (31), 10.51 (2) (b) (Note), 10.72 (4), 13.05 (7) (b) 2., 83.33 (3) (j) (Note), 124.28 (3), 124.28 (4) (Note), 131.63 (3) (a) and (b) (Note); **to renumber** HFS 10.13 (1), 54.03 (2) (a) 1. a. to c., 124.28 (4), 131.63 (3) (b); **to renumber and amend** HFS 10.72 (5), HFS 13.05 (7) (b) 1., and 124.14 (1) (a); **to amend** HFS 10.13 (24) and (27), 10.21 (3) (a), 10.23 (2) (d) 1., (i), (j), (3) (a) 2. (intro.), and (6) (c) (title), 10.24 (3) (c), (f), (7) (title) and (7), 10.31 (6) (a), 10.32 (1) (b) 2., and (c), 10.33 (1) (c), (2) (a), (c) and (d), 10.34 (3) (a), 10.36 (2) (b) and (3), 10.37 (1) (a), 10.42 (6) (a) and (7), 10.43 (5) and (title), 10.44 (4) (c) 5., 10.46 (3) (f), 10.51 (1) (g), 10.51 (2) (b), 10.52 (3) (b) 4., 10.52 (4) (a) and (e), 10.53 (1) (a) to (c), 10.53 (2) (a) to (c), 10.54 (1) intro. (a) and (3), 10.55 (1) (a) and (f) (Note), (2), (3) (Note) and (4) (b), 10.56 (3) title, HFS 13.03 (15), 13.05 (6) (c) (intro), 52.21 (8) (Note), 52.42 (5) (b) (e) and (7) (d) 6., 52.43 (1), 52.47 (6) (a) 1. (Note), 52.51 (1) (a) 1., (b), and (2) (a), 52.55 (4) (a) and (12), 52.56 (5) (a), (7), and (9), 52.62 (2) (Note), 55.43 (1) (d), 55.44 (5) (d), 83.33 (3) (j) 1.; 124.08 (2) (c) 3., (3) (a), (4) (c), (e) (title), and (f) 2., 124.15 (4) (a), 124.40 (2) (a) and (b), 136.03 (2) (a) to (d), 181.04 (title), 252.02 (3) and (15), 252.22 and 252.23; **to repeal and recreate** HFS 10.13 (28), 10.72 (3), HFS 55 Appendix A, 59.01 (5), 94.05 (4) (b) (Note), 124.16 (2) (b), 124.28 (2), 131.63 (2), 181.04 (5); and **to create** HFS 10.13 (1), (3m), and (25m), 10.51 (1) (h) and (Note) and (3), 10.52 (3) (b) 5m., HFS 52.11 (10) (b) (Note), 52.12 (3) (e) (Note), (4) (c) (Note), and (9) (b) Note, 52.45 (1) (a) (Note), 54.01 (3m), 54.02 (3) (a) (Note), (3) (er), and (3m), 54.04 (2) (d) (Note) and (j), 55.42 (2) (a) 1., 55.43 (2) (a) 8., 55.44 (5) (d) (Note), HFS 55 Appendix B, 57.01 (4), 57.04 (6) (a) 2. (Note), and (7), 57.06 (15), 59.03 (1) (Note) and (2) (a) (Note), 59.05 (15), 59.07 (1) (a) (Note) and (b) (Note), 59.08, 124.15 (1) (a), 136.03 (2) (e) and (f), and 252.23 (Note), relating to family care; reporting and investigation of caregiver misconduct; residential care centers for children and youth, child-placing agencies, day camps for children and day care programs established by school boards; group foster care; shelter care for children; community-based residential care facilities; patient rights and resolution of grievances; hospitals; hospices; embalming standards; reporting blood test results; and electronic benefits transfer.

Analysis Prepared by the Department of Health and Family Services

Statutory Authority: Sections 46.286 (4) to (7), 46.287 (2) (a) 1. (intro.), 46.288, 48.67, 49.797 (7), 50.02 (2) and (3), 50.36 (1) and (2), 50.95, 51.61 (5) and (9), 146.40 (4g) and (4r), 157.01, 227.11 (2), 250.04 (7), and 254.13, Stats.

Plain language analysis

The proposed rulemaking order contains a variety of minor and technical changes relating to chs. HFS 10, family care; HFS 13, reporting and investigation of caregiver misconduct; HFS 52, residential care centers for children and youth, HFS 54, child-placing agencies; HFS 55, day camps for children and day care programs established by school boards; HFS 57 group foster care; HFS 59, shelter care for children; HFS 83, community-based residential care facilities; HFS 94, patient rights and resolution of grievances; HFS 124, hospitals; HFS 131, hospices;

HFS 136, embalming standards; HFS 181, reporting blood test results; and HFS 252, electronic benefits transfer.

In order to keep the Department's body of the administrative code updated, the Department proposes to make a variety of minor and technical changes to a number of its administrative rules. The Department is issuing these changes in a single order to conserve limited agency resources.

Summary of Proposed Changes

HFS 10, Family Care - The Department proposes to revise HFS 10 to create a definition of "action" and "appeal" in reference to acts taken by an aging and disability resource center or county economic support unit; to create a definition of "frail elder"; to revise the definition of "requires ongoing care, assistance or supervision"; to simplify the description of a "family care target group"; to correct the usage of the term "screen" versus "screening" relating to eligibility; to change the reference concerning the council on long-term care; to replace the word "complaints" with the word "appeals" and to make miscellaneous word changes; to update notes and internal cross-references; to expand the circumstances for notification of due process and hearing rights; to clarify when a fair hearing may be had; and to include an additional provision on client rights. These changes are located in SECTIONS 1 to 31 of the order.

HFS 13, Reporting and investigation of caregiver misconduct - The Department proposes to revise HFS 13 to change the definition of "non-client resident" to have the meaning specified in s. 50.065 (1) (cn), Stats.; to remove the requirement that the Department send notices of decisions on caregiver misconduct by certified mail; and to adjust the time within which the subject of a substantiation decision of caregiver misconduct can request a hearing. These changes are located in SECTIONS 32 to 35 of the order.

HFS 52, Residential care centers for children and youth - The Department proposes to revise HFS 52 to create or update notes to include the Department's website address and or list of field office addresses; to remove citations to individual sections of the Wisconsin Commercial Building Code; and to remove the time interval within which building inspections are required. These changes are located in SECTIONS 36 to 46 of the order.

HFS 54, Child-placing agencies - The Department proposes to revise HFS 54 to create or update notes to include the Department's website address and or list of field office addresses; to include a requirement that agencies comply with federal, state, and local laws and license provisions; to identify the reasons that a license may be denied, revoked, suspended or enforcement actions and license conditions may be implemented; to include a provision requiring licensees to observe the patient rights under ch. 51.61, Stats.; and to include the prohibition under s. 48.60, Stats., that disallows placements of a child in an agency by the Department or Department of Corrections, if a Department review fails to show the need for additional placement resources. These changes are located in SECTIONS 47 to 50 of the order.

HFS 55, Day camps for children and day care programs established by school boards - The Department proposes to revise HFS 55 to require staff training on sudden infant death syndrome, if the camp is licensed to care for children under 1 year of age; to remove citations to individual sections of the Wisconsin Commercial Building Code; to create a note explaining the USDA Child and Adult Care Food Program meal pattern requirements; to update Appendix A, field office locations; to create Appendix B, relating to meal patterns for children 1-12 years of

age; to create a provision to ban smoking on the premises as defined in the rule; and to clarify an internal cross reference in s. 55.44 (5) (d). These changes are located in SECTIONS 51 to 57 of the order.

HFS 57, Group foster care - The Department proposes to revise HFS 57 to create or update notes to include the Department's website address and or list of field office addresses; to include a provision requiring licensees to observe the patient rights under ch. 51.61, Stats; and to include a requirement that licensees comply with federal, state, and local laws and license provisions. These changes are located in SECTIONS 58 to 59 of the order.

HFS 59, Shelter care for children - The Department proposes to revise HFS 59 to include a requirement that licensees comply with federal, state, and local laws and license provisions; to remove citations to individual sections of the Wisconsin Commercial Building Code; to include a provision requiring licensees to observe the patient rights under ch. 51.61, Stats.; to identify the reasons that a license may be denied, revoked, suspended, an enforcement action taken, or when license conditions may implemented. These changes are located in SECTIONS 60 to 64 of the order.

HFS 83, Community-based residential care facilities - The Department proposes to revise HFS 83 to remove the requirement that controlled substances be destroyed by using U.S. drug enforcement agency (DEA) procedures and the related note. These changes are located in SECTIONS 65 to 66.

HFS 94, Patient rights and resolution of grievances - The Department proposes to revise HFS 94 to create or update notes to include the Department's website address and or list of field office addresses. These changes are located in SECTIONS 67 to 67.

HFS 124, Hospital - The Department proposes to revise HFS 124 to clarify provisions on infection control; to create a definition for "automated dispensing system; to revise the definition of "dietician"; to update references to the life safety code; and to update the provisions for critical access hospital bed complement. These changes are located in SECTIONS 68 to 77.

HFS 131, Hospices - The Department proposes to revise HFS 131 to update references to the life safety code. These changes are located in SECTIONS 78 to 80.

HFS 136, Embalming standards -The Department proposes to revise HFS 136 to include medical schools and mortuary schools locations where embalming may occur. These changes are located in SECTIONS 81 to 82 of this order.

HFS 181, Reporting of blood test results - The Department proposes to revise HFS 181 relating to accessibility and the reporting responsibilities for blood sample test results. These changes clarify the role of the Department in communicating blood sample test results with health care providers. These changes are located in SECTIONS 83 to 84 of this order.

HFS 252, Electronic benefit transfer - The Department proposes to revise HFS 252 to amend the definition of "coupon" and "IPV" ("intentional program violation"); to increase the time within which a recipient can contact customer service for dispute resolution; and to remove the requirement that food stamp groups moving out of Wisconsin have electronic food stamp benefits converted to paper coupons. These changes are located in SECTIONS 85 to 87 of this order.

Anticipated costs incurred by private sector:

The proposed revisions to these rules are minor or technical and have little to no substantive effect on those regulated by these rules. Consequently, no costs to the private sector are anticipated.

Effect on small business:

Some of the rules contained in this order affect small business, however, the proposed revisions to these rules are minor or technical and have little to no substantive effect on those regulated by these rules.

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Order

SECTION 1. HFS 10.13 (1) is renumbered 10.13 (1m).

SECTION 2. HFS 10.13 (1), (3m), and (25m) are created to read:

HFS 10.13 (1) "Action" means any of the following:

(a) Any of the following acts taken by an aging and disability resource center or county economic support unit:

1. Denial of eligibility under s. HFS 10.31 (5) or 10.32 (4).
2. Determination of cost sharing requirements under s. HFS 10.34.
3. Determination of entitlement under s. HFS 10.36.

(b) Any of the following acts taken by a care management organization:

1. The denial or limited authorization of a requested service, including the type or level of service.
2. The reduction, suspension, or termination of a previously authorized service.
3. The denial, in whole or in part, of payment for a service.
4. The failure to provide services and support items included in the individualized service plan in a timely manner, as defined in the health and community services contract.

5. The failure to act in a timely manner as specified in subchapter V of this chapter to resolve grievances or appeals.

6. The development of an individualized service plan that is unacceptable to the member because any of the following apply:

a. The plan is contrary to an enrollee's wishes insofar as it requires the enrollee to live in a place that is unacceptable to the enrollee.

b. The plan does not provide sufficient care, treatment, or support to meet the enrollee's needs and identified family care outcomes.

c. The plan requires the enrollee to accept care, treatment or support items that are unnecessarily restrictive or unwanted by the enrollee.

7. Termination of the family care benefit or involuntary disenrollment from a CMO.

(3m) "Appeal" means a request for review of an action.

(25m) "Frail elder" means an individual aged 65 or older who has a physical disability, or an irreversible dementia, that restricts the individual's ability to perform normal daily tasks or that threatens the capacity of the individual to live independently.

SECTION 3. HFS 10.13 (24) and (27) are amended to read:

HFS 10.13 (24) "Financial eligibility and cost-sharing ~~screen~~screening" means a uniform screening tool prescribed by the department that is used to determine financial eligibility and cost-sharing under s. 46.286 (1) (b) and (2), Stats., and ss. HFS 10.32 and 10.34.

(27) "Functional ~~screen~~screening" means a uniform screening tool prescribed by the department that is used to determine functional eligibility under s. 46.286 (1) (a) ~~and (4m)~~, Stats., and ss. HFS 10.32 and 10.33.

SECTION 4. HFS 10.13 (28) is repealed and recreated to read:

HFS 10.13 (28) "Grievance" means an expression of dissatisfaction about any matter that is not an action.

SECTION 5. HFS 10.13 (31) is repealed.

SECTION 6. HFS 10.21 (3) (a) is amended to read:

HFS 10.21 (3) (a) The secretary's council on long-term care ~~established under s. 46.282 (1), Stats.~~

SECTION 7. HFS 10.23 (2) (d) 1., (3) (a) 2. (intro.), and (6) (c) (title) are amended to read:

HFS 10.23 (2) (d) 1. The resource center shall ensure that people from its target populations have access to the services of a benefit specialist, including information about and assistance in applying for public and private benefits for which they may be eligible, assistance

in preparing and filing ~~complaints, grievances, appeals, and~~ requests for department review or fair hearing, and representation in grievance resolution and fair hearings.

(3) (a) 2. (intro) A resource center shall offer a functional ~~screen~~ screening and a financial eligibility and cost-sharing ~~screen~~ screening to any individual over the age of 17 years and 9 months who appears to have a disability or condition requiring long-term care and who meets any of the following conditions:

(6) (c) (title) ~~Complaint Grievance and grievance appeal~~ processes. Implement a process for reviewing client complaints and resolving client grievances as required under s. HFS 10.53 (1).

SECTION 8. HFS 10.24 (3) (c) and (f), (7) and (title) are amended to read:

HFS 10.24 (3) (c) Referrals for, and timeliness of, pre-admission consultation under s. 46.283 (4) (g), Stats., and the functional ~~screen~~ screening.

(f) ~~Complaints, grievances~~ Grievances, appeals and fair hearings and their disposition.

(7) ~~FUNCTIONAL SCREEN SCREENING ACCURACY AND RELIABILITY~~. The department shall measure the accuracy and reliability of functional ~~screen~~ screening, including whether screens result in payment of appropriate rates to CMOs.

SECTION 9. HFS 10.31 (6) (a) is amended to read:

HFS 10.31 (6) (a) *Decision date*. Except as provided in par. (b), as soon as practicable, but not later than 30 days from the date the agency receives an application that includes at least the applicant's name, address, unless the applicant is homeless, and signature, the agency shall determine the applicant's eligibility and cost sharing requirements for the family care benefit, using a functional ~~screening~~ screen and a financial eligibility and cost-sharing ~~screening~~ screen prescribed by the department. If the applicant is a family care spouse, the agency shall notify both spouses in accordance with the requirements of s. 49.455 (7), Stats.

SECTION 10. HFS 10.32 (1) (b) 2. and (c) are amended to read:

HFS 10.32 (1) (b) 2. An applicant who, on the date that the family care benefit first became available in the county, was receiving services in a long-term care facility funded under any of the programs specified under s. HFS 10.33 (3) ~~(b)~~ (c) administered by that county.

(c) *Family care target group*. The person has a physical disability, ~~infirmities of aging or, if the person is a resident of a county that has operated a care management organization before July 1, 2004, is a frail elder, or has~~ a developmental disability.

SECTION 11. HFS 10.33 (1) (c) and (2) (a), (c), and (d) are amended to read:

HFS 10.33 (1) (c) "Requires ongoing care, assistance or supervision" means ~~having the conditions or needs described in s. HFS 10.33 (2) (a) a person cannot safely or appropriately perform one or more ADLs or IADLs, as is evidenced by findings from functional screening.~~

(2) (a) *Determination*. Functional eligibility for the family care benefit shall be determined pursuant to s. 46.286 (1) ~~and (4)~~, Stats., and this chapter, using a uniform functional

~~screen~~screening prescribed by the department. To have functional eligibility for the family care benefit, the functional eligibility condition under par. (b) shall be met and, except as provided under sub. (3), the functional capacity level under par. (c) or (d) shall be met.

(c) *Comprehensive functional capacity level.* A person is functionally eligible at the comprehensive level if the person requires ongoing care, assistance or supervision from another person, as is evidenced by any of the following findings from application of the functional ~~screen~~screening:

(d) Intermediate functional capacity level. A person is functionally eligible at the intermediate level if the person is at risk of losing his or her independence or functional capacity unless he or she receives assistance from others, as is evidenced by a finding from application of the functional ~~screening screen~~ that the person needs assistance to safely or appropriately perform either of the following:

SECTION 12. HFS 10.34 (3) (a) is amended to read:

HFS 10.34 (3) (a) *Conditions of financial eligibility.* Eligibility under this subsection is effective beginning July 1, 2000. For persons who are not eligible for medical assistance, financial eligibility and cost sharing requirements for the family care benefit shall be determined pursuant to applicable provisions of s. 46.286 (1) (b) and (2), Stats., and this chapter. The maximum cost-sharing requirement for a non-MA-eligible person shall be determined by a county agency using a uniform financial eligibility and cost-sharing ~~screen~~screening prescribed by the department. A non-MA-eligible person is financially eligible for the family care benefit if the projected cost of the person's care plan exceeds the person's maximum cost-sharing requirement.

SECTION 13. HFS 10.36 (2) (b) and (3) are amended to read:

HFS 10.36 (2) (b) *Non-MA eligibles.* A person who is not eligible for medical assistance is not entitled to the family care benefit ~~before July 1, 2000~~ until the date established by the department in accordance with s. 46.286 (3) (d) Stats.

(3) ELIGIBILITY WITHOUT ENTITLEMENT. A person who is found eligible but who does not meet any of the conditions of sub. (1) (a) to (c) is not entitled to the family care benefit. The person may be placed on a waiting list to receive the family care benefit when funds are available. The county agency shall inform the person of his or her right to receive a new functional ~~screen~~screening or financial eligibility and cost-sharing ~~screen~~screening if the person's circumstances change. Waiting lists under this subsection shall conform to criteria established by the department. While waiting for enrollment, a person who has been found eligible but not entitled may purchase services from a CMO as provided under s. HFS 10.37.

SECTION 14. HFS 10.37 (1) (a) is amended to read:

HFS 10.37 (1) (a) "Case management" means assessment, care planning, assistance in arranging and coordinating services in the care plan, assistance in filing ~~complaints and grievances and appeals~~ and obtaining advocacy services, and periodic reassessment and updates to the person's care plan.

SECTION 15. HFS 10.42 (6) (a) and (7) are amended to read:

HFS 10.42 (6) (a) The secretary's council on long-term care established under s. 46.282 (1), Stats.

(7) The department shall annually provide to the members of the secretary's council on long-term care copies of the standard CMO contract the department proposes to use in the next contract period and seek the advice of the council regarding the contract's provisions. The department shall consider any recommendations of the council and may make revisions, as appropriate, based on those recommendations. If the department proposes to modify the terms of the standard contract, including adding or deleting provisions, in contracting with one or more organizations, the department shall seek the advice of the council and consider any recommendations of the council before making the modifications.

SECTION 16. HFS 10.43 (5) and (title) are amended to read:

HFS 10.43 (5) COMPLAINT AND GRIEVANCE AND APPEAL PROCESSES. The organization shall have a process for reviewing client complaints and resolving client grievances and appeals that meets the requirements under s. HFS 10.53 (2).

SECTION 17. HFS 10.44 (4) (c) 5. is amended to read:

HFS 10.44 (4) (c) 5. Protection of enrollee rights, including processes for protecting confidentiality and for considering and acting on complaints and resolving grievances and appeals.

SECTION 18. HFS 10.46 (3) (f) is amended to read:

HFS 10.46 (3) (f) Complaints, grievances Grievances, appeals and fair hearings and their disposition.

SECTION 19. HFS 10.51 (1) (g) is amended to read:

HFS 10.51 (1) (g) Support for all clients in understanding their rights and responsibilities related to family care, including due process procedures, and in providing their comments about resource centers, CMOs and services, including through complaints, grievances, appeals and requests for department review and fair hearings. Resource centers, CMOs and county agencies under contract with the Department shall assist clients to identify all rights to which they are entitled and, if multiple grievance, review or fair hearing mechanisms are available, which mechanism will best meet client needs.

SECTION 20. HFS 10.51 (1) (h) and (Note) and (3) are created to read:

HFS 10.51 (1) (h) Support for all clients in the exercise of any rights and available grievance and appeal procedures beyond those specified in this chapter.

Note: Examples of other rights and procedures available to clients include those afforded to persons who receive treatment or services for developmental disability, mental illness or substance abuse under ch. 51, Stats. and HFS 94, and those afforded to persons who reside in a nursing home, community-based residential facility, adult family home or residential care apartment complex, or who receive services from a home health agency under statutes and rules of those programs.

(3) APPLICATION OF OTHER RULES AND REGULATIONS. Nothing in this chapter shall limit or adversely affect the rights afforded to clients in accordance with other state or federal laws or regulations. To the extent that provisions in this chapter differ from provisions affording a client rights under other state or federal laws or regulations, the provision that does most to promote the rights of the client shall be controlling.

SECTION 21. HFS 10.51 (2) (b) is amended to read:

HFS 10.51 (2) (b) ~~Receiving~~Receipt of services identified in the individualized service plan.

SECTION 22. HFS 10.51 (2) (b) (Note) is repealed.

SECTION 23. HFS 10.52 (3) (b) 4. is amended to read:

HFS 10.52 (3) (b) 4. The client's right to ~~make a complaint or file a grievance or appeal~~ with the resource center, county agency or CMO, to request a department review and to request a fair hearing.

SECTION 24. HFS 10.52 (3) (b) 5m. is created to read:

HFS 10.52 (3) (b) 5m. The circumstances under which expedited resolution of a grievance or appeal is available and how to request it.

SECTION 25. HFS 10.52 (4) (a) and (e) are amended to read:

HFS 10.52 (4) (a) A county agency makes a determination or redetermination of eligibility for the family care benefit that results in more limited eligibility or entitlement or increased cost sharing for the client.

(e) The client registers any ~~complaint, grievance or appeal~~ with the department, resource center, county agency, CMO or any contracted service provider.

SECTION 26. HFS 10.53 (1) (a) to (c) is amended to read:

HFS 10.53 (1) (a) The governing board of each resource center shall approve and effectively operate a process for reviewing ~~client complaints~~ and resolving client grievances and appeals. The board may delegate, in writing, its responsibility for review of ~~complaints, appeals~~ and resolution of grievances to a committee of the resource center's senior management, provided the process ensures that the board is made aware of ~~complaints~~, grievances and requests for department review and fair hearings.

(b) The department shall review and approve a resource center's grievance and appeal process as part of its contracting with the resource center.

(c) A resource center shall assist individuals to file and resolve ~~complaints or grievances or appeals~~, including assistance with committing an oral ~~complaint or grievance or appeal~~ to writing.

SECTION 27. HFS 10.53 (2) (a) to (c) is amended to read:

HFS 10.53 (2) (a) The governing board of each CMO shall approve and effectively operate a process for reviewing ~~client complaints~~ and resolving client grievances and appeals. The board may delegate, in writing, its responsibility for review of complaints and resolution of grievances to a committee of the CMO's senior management, provided the process ensures that the board is made aware of ~~complaints~~, grievances and requests for department review and fair hearings.

(b) The department shall review and approve a resource center's grievance and appeal process as part of its contracting with the CMO.

(c) A CMO shall assist individuals to file and resolve ~~complaints or grievances or appeals~~, including assistance with committing an oral ~~complaint or grievance or appeal~~ to writing.

SECTION 28. HFS 10.54 (1) (intro.) (a) and (3) are amended to read:

HFS 10.54 (1) GENERAL REVIEW PROCESS. The department shall establish a process for the timely review, investigation and analysis of the facts surrounding client ~~complaints or grievances or appeals~~ in an attempt to resolve concerns and problems informally, whenever either of the following occurs:

(a) A client makes a ~~complaint or grievance~~ or appeal directly to the department.

(3) CONCURRENT REVIEW PROCESS. Whenever the department receives notice from the department of administration's division of hearings and appeals that it has received a fair hearing request under s. HFS 10.55 (1) (d) to (g), the department shall use the process in sub. (1) to conduct a concurrent review in accordance with s. HFS 10.55 (4).

SECTION 29. HFS 10.55 (1) (a) and (f) (Note), (2), (3) (Note) and (4) (b) are amended to read:

HFS 10.55 (1) (a) Denial of eligibility under s. ~~HFS 40.31 (5)~~ 10.31(6) or 10.32 (4).

(f) **Note:** The rights guaranteed to persons receiving treatment or services for developmental disability, mental illness or substance abuse under ch. 51, Stats., and HFS 94 are also guaranteed under par. (f), and enrollees may request a fair hearing related to such matters in accordance with this section and ch. HA 3, or may choose the grievance resolution procedure under Subchapter III of HFS 94 to grieve a violation of those rights, and if necessary may choose to appeal a provider or CMO grievance decision to the Department of Health and Family Services as specified in HFS 94.42 and HFS 94.44.

(2) LIMITED RIGHT TO FAIR HEARING. An enrollee may contest, through fair hearing, any decision, omission or action of a CMO other than those specified under sub. (1) (d) to (f) only if a CMO grievance decision under s. HFS 10.53 (2) (a) or a department review under s. HFS 10.54 has failed to resolve the matter to the satisfaction of the enrollee within the time period approved by the department in s. HFS 10.53 (2) (b) or specified under s. HFS 10.54 (2).

(3) **Note:** A hearing request ~~should be addressed~~ can be submitted by mail or hand-delivered to the Division of Hearings and Appeals, P.O. Box 7875 at 505 University Ave., Room 201, Madison, WI 53707-53705-5400, Phone 608-266-3096, FAX or faxed to the Division at (608) 264-9885. Hearing requests may be delivered in person to that office at 5005 University Avenue, Room 201, Madison, WI. The Division's telephone number is (608) 266-3096.

(4) (b) When a client has requested a fair hearing under sub. (1) ~~(a) (d)~~ to ~~(i) (g)~~, the department shall concurrently review and investigate the facts surrounding the client's request using the process established under s. HFS 10.54 in an attempt to resolve the problem informally.

SECTION 30. HFS 10.56 (3) (title) is amended to read:

HFS 10.56 (3) ~~CURRENT LIABILITY FOR CONTINUATION OF SERVICES.~~

SECTION 31. HFS 10.72 (5) (Note) is amended to read.

HFS 10.72 (5) **Note:** A hearing request ~~should be addressed~~ can be submitted by mail or hand-delivered to the Division of Hearings and Appeals, ~~P.O. Box 7875~~ 505 University Ave., Room 201, Madison, WI ~~53707~~ 53705-5400, Phone ~~608-266-3096~~, FAX or faxed to the Division at (608) 264-9885. Hearing requests may be delivered in person to that office at 5005 University Avenue, Room 201, Madison, WI. The Division's telephone number is (608) 266-3096.

SECTION 32. HFS 13.03 (15) is amended to read:

HFS 13.03 (15) "Nonclient resident" ~~means a person 12 years of age or older who is not a client of an entity but who resides at the entity and is expected to have access to entity clients~~ has the meaning specified in ss. 48.685 (1) (bm) and 50.065 (1) (cn), Stats.

SECTION 33. HFS 13.05 (6) (c) (intro) is amended to read:

HFS 13.05 (6) (c) *Decision.* After completing its investigation, the department shall prepare a written decision and provide it to the subject of the report. If the decision is mailed, it shall be mailed ~~via certified mail~~ to the subject's last known address, ~~return receipt requested~~. Distribution and content of the written decision shall be as follows:

SECTION 34. HFS 13.05 (7) (b) 1. is renumbered HFS 13.05 (7) (b) and amended to read:

HFS 13.05 (7) (b) An appeal shall be in writing and shall take the form of a request for a hearing. The request for a hearing shall be filed with the department of administration's division of hearings and appeals within 30 calendar days after the date the subject of the report receives the department's decision under sub. (6) of the decision [http://folio.legis.state.wi.us/cgi-bin/om_isapi.dll?clientID=1653849759&infobase=code.nfo&jump=HFS%2013.05%286%29&sofpage=Document - JUMPDEST_HFS 13.05\(6\)](http://folio.legis.state.wi.us/cgi-bin/om_isapi.dll?clientID=1653849759&infobase=code.nfo&jump=HFS%2013.05%286%29&sofpage=Document - JUMPDEST_HFS 13.05(6)). A request for hearing is considered filed ~~when~~ on the date the request is received by that office the division of hearings and appeals.

SECTION 35. HFS 13.05 (7) (b) 2. is repealed.

SECTION 36. HFS 52.11 (10) (b) (Note) is created to read:

HFS 52.11 (10) (b) **Note:** A reporting form may be obtained from the Department's website at <http://www.dhfs.wisconsin.gov> or by writing or telephoning any field office listed in Appendix D.

SECTION 37. HFS 52.12 (3) (e) (Note), (4) (c) (Note), and (9) (b) (Note) are created to read:

HFS 52.12. (3) (e) **Note:** Form CFS 384 may be obtained from the Department's website at [dhfs.wisconsin.gov](http://www.dhfs.wisconsin.gov) or by writing or telephoning any field office listed in Appendix D.

(4) (c) **Note:** A child abuse or neglect reporting form may be obtained from the Department's website at <http://www.dhfs.wisconsin.gov> or by writing or telephoning any field office listed in Appendix D.

(9) (b) **Note:** A statement of responsibility form may be obtained from the Department's website at <http://www.dhfs.wisconsin.gov> or by writing or telephoning any field office listed in Appendix D.

SECTION 38. HFS 52.21 (8) (Note) is amended to read:

HFS 52.21 (8) **Note:** Copies of the Department's age-appropriate HealthCheck examination forms can be obtained from any local public health agency or, from the Department's website at <http://www.dhfs.wisconsin.gov>, or by writing or telephoning any field office of the Department's Division of Children and Family Services, listed in Appendix D.

SECTION 39. HFS 52.42 (5) (b) 5. e. and (7) (d) 6. are amended to read:

HFS 52.42 (5) (b) 5. e. A time-out room which does not use a key lock, pad lock or other lock of similar design and has a type of lock such as a dead bolt lock, magnetic door lock or lock which only requires the turn of a knob to unlock the door, where a staff member is located next to the time-out room door and has the means to unlock the door immediately, if necessary, and that otherwise meets the requirements of this section and chs. Comm 61 to 65, the Wisconsin Commercial Building Code.

(7) (d) 6. Prior to use of a locked unit, written approval to lock exit access doors of the unit is obtained from the Wisconsin department of commerce ~~in accordance with chs. Comm 61 to 65.~~

SECTION 40. HFS 52.43 (1) is amended to read:

HFS 52.43 (1) CLASSROOM SPACE. On-grounds school programs shall have classroom space that is in compliance with the requirements of chs. Comm 61 to 65, the Wisconsin Commercial Building Code and applicable local ordinances.

SECTION 41. HFS 52.45 (1) (a) (Note) is created to read:

HFS 52.45 (1) (a) **Note:** A HealthCheck form may be obtained from any local public health agency, from the Department's website at <http://www.dhfs.wisconsin.gov> or by writing or telephoning any field office listed in Appendix D.

Field Code Changed

SECTION 42. HFS 52.47 (6) (a) 1. (Note) is amended to read:

HFS 52.47 (6) (a) 1. **Note:** Copies of Form CFS-52 Safety Inspection for Day Care Vehicles, may be obtained from the Department's website at <http://www.dhfs.wisconsin.gov> or by writing or telephoning from any field office of the Department's Division of Children and Family Services. ~~See Appendix D for addresses of the Division's field offices listed in Appendix D.~~

SECTION 43. HFS 52.51 (1) (a) 1., (b) and (2) (a) are amended to read:

HFS 52.51 (1) (a) 1. The applicable state building code requirements in chs. Comm 61 to 65, the Wisconsin Commercial Building Code and applicable local ordinances.

(b) *Building inspections.* Before beginning operation as a residential care center, all buildings of the residential care center shall be inspected by the Wisconsin department of commerce ~~and every 2 years thereafter~~ by a certified building inspector and as needed.

(2) HOUSING BLIND AND DISABLED RESIDENTS. (a) Except as provided under par. (b), buildings housing residents unable to take independent action for self-preservation shall be of fire-resistive construction as defined in chs. Comm 61 to 65, the Wisconsin Commercial Building Code or protected by a complete, automatic fire sprinkler system. Sprinkler systems installed shall have residential sprinkler heads or fast response sprinkler heads. A sprinkler system shall meet the requirements of chs. Comm 61 to 65, the Wisconsin Commercial Building Code and any applicable local ordinances for a building of 16 or fewer beds or for a building with 17 or more beds. A sprinkler system shall be installed in accordance with the manufacturer's instructions.

SECTION 44. HFS 52.55 (4) (a) and (12) are amended to read:

HFS 52.55 (4) (a) Smoke detectors shall be installed and in accordance with ~~ss. ch.~~ Comm. 16 and ~~51.245~~ chs. Comm. 61 to 65, the Wisconsin Commercial Building Code, applicable local ordinances, and this section. Individual smoke detectors shall be tested according to the manufacturer's instructions but not less than once a month. Interconnected smoke detectors shall be inspected and maintained in accordance with the manufacturer's or installer's instructions and shall be tested not less than every 3 months. The center shall keep a log of the tests with dates and times.

(12) ISOLATION OF HAZARDS. Centers shall comply with chs. Comm 61 to 65, the Wisconsin Commercial Building Code and applicable local ordinances on isolation of hazards within buildings.

SECTION 45. HFS 52.56 (5) (a), (7), and (9) are amended to read:

HFS 52.56 (5) (a) *Egress requirements.* A center shall comply with chs. Comm 61 to 65, the Wisconsin Commercial Building Code and applicable local ordinances for number and location of exits, type of exits, exit passageways, and illumination of exits and exit signs.

(7) ROOMS BELOW GRADE. Habitable rooms with floors below grade level shall be in compliance with chs. Comm 61 to 65, the Wisconsin Commercial Building Code and applicable local ordinances.

(9) GLASS HAZARDS. Areas of a building where the risk is high for residents either to run into windows or where impact on glass presents a risk or hazard shall have screening or safety glass resistant to shattering. Replacement glass in areas exposed to potential hazardous impact shall meet the standards in chs. 61 to 65, the Wisconsin Commercial Building Code and applicable local ordinances.

SECTION 46. HFS 52.62 (2) (Note) is amended to read:

HFS 52.62 (2) **Note:** ~~A copy of the application form may be obtained from the appropriate field office of the Department's Division of Children and Family Services. See Appendix D for addresses of the Division's field offices.~~ An application form may be obtained from the Department's website at <http://www.dhfs.wisconsin.gov> or by writing or telephoning any field office listed in Appendix D. The completed form and required related materials and information and the license fee should be returned to the ~~same~~ field office responsible for the county where the center is located.

SECTION 47. HFS 54.01 (3m) is created to read:

HFS 54.01 (3m) COMPLIANCE WITH ADMINISTRATIVE RULES AND LAWS. A person who is licensed under this chapter shall operate the agency in compliance with this chapter, the provisions of the license, and applicable state, federal, and local law.

SECTION 48. HFS 54.02 (3) (a) (Note) and (3) (er) and (3m) are created to read:

HFS 54.02 (3) (a) **Note:** An application form may be obtained from the Department's website at <http://www.dhfs.wisconsin.gov> or by writing or telephoning any field office listed in Appendix A.

(3) (er) Pursuant to s. 48.60, Stats., before the department may issue or continue a license under par. (em), the department shall review the need for additional placement resources that would be made available by licensing or continuing the license of any child welfare agency after August 5, 1973, providing care under 48.61 (3), Stats. If the department's review fails to indicate the need for additional placement resources neither the department nor the department of corrections may make any placements to any child welfare agency.

(3m) LICENSE DENIAL OR REVOCATION. The department may deny, revoke or suspend a license, initiate other enforcement actions specified in this chapter or in ch. 48, Stats., or place conditions on a license if the applicant or licensee, a proposed or current employee, a volunteer or any other person having regular contact with the children, has or has been any of the following:

(a) The subject of a pending criminal charge for an action that substantially relates to the care of children or activities of the center.

(b) Convicted of a felony, misdemeanor or other offense that substantially relates to the care of children or activities of the center.

(c) Determined to have abused or neglected a child pursuant to s. 48.981, Stats., or has been determined to have committed an offense which substantially relates to the care of children or the activities of the center.

(d) The subject of a substantiated finding of misconduct in the department's nurse aide registry under s. HFS 129.10.

(e) The subject of a court finding that the person has abandoned his or her child, or has inflicted physical abuse or neglect on the child.

(f) Had a child welfare agency, group home or shelter care facility license revoked or denied within the last 5 years.

(g) Violated any provision of this chapter or ch. 48, Stats., or fails to meet the minimum requirements of this chapter.

(h) Made false statements or withheld information.

SECTION 49. HFS 54.03 (2) (a) 1. a. to c. is renumbered HFS 54.03 (2) (a) 1. to 4.

SECTION 50. HFS 54.04 (2) (d) (Note) and (j) are created to read:

HFS 54.04 (2) (d) **Note:** A health examination form may be obtained from the Department's website at <http://www.dhfs.wisconsin.gov> or by writing or telephoning any field office listed in Appendix A.

(j) The licensee shall be knowledgeable of and ensure that staff members and volunteers observe the patient rights and grievance resolution procedures in s. 51.61, Stats., and ch. HFS 94, for each resident that receives services for treatment of mental illness, a developmental disability, alcoholism or drug dependency. Residents that are not specifically identified as coming under s. 51.61, Stats., and ch. HFS 94 shall have rights and access to grievance resolution procedures that are comparable to those found in s. 51.61, Stats., and ch. HFS 94.

SECTION 51. HFS 55.42 (2) (a) 11. is created to read:

HFS 55.42 (2) (a) 11. If the camp is licensed to care for children under 1 year of age, training in the most recent medically accepted practice to reduce the risk of sudden infant death syndrome.

SECTION 52. HFS 55.43 (1) (d) is amended to read:

HFS 55.43 (1) (d) Buildings and shelters on ~~sites a site~~ used or constructed primarily for day camp purposes shall comply with chs. Comm 61 to 65 ~~and an inspection report shall be filed with the department~~, the applicable Wisconsin Commercial Building Code and applicable local ordinances. A copy of the building inspection report shall be on file with the department.

SECTION 53. HFS 55.43 (2) (a) 8. is created to read:

HFS 55.43 (2) (a) 8. Smoking is prohibited anywhere on the premises ~~of a center~~ when children are present.

SECTION 54. HFS 55.44 (5) (d) is amended to read:

HFS 55.44 (5) (d) The meal and snack patterns listed ~~below in par. (e)~~ shall be used in meal planning. Each meal shall provide 1/3 of the daily nutritional requirements of the child.

SECTION 55. HFS 55.44 (5) (d) (Note) is created to read:

HFS 55.44 (5) (d) **Note:** USDA Child and Adult Care Food Program meal pattern requirements are designed to meet 1/3 of the daily nutritional requirements for children. A copy of the meal pattern requirements for children between 1 year and 12 years old is in Appendix B.

SECTION 56. HFS 55 Appendix A is repealed and recreated to read:

HFS 55 Appendix A:

**Chapter HFS 55
Appendix A**

FIELD OFFICES OF THE DIVISION OF CHILDREN AND FAMILY SERVICES

The Department of Health and Family Services licenses day care centers through five Division of Children and Family Services field offices. Below are addresses and phone numbers of the field offices and related counties.

Northeastern Office

(Green Bay)
200 North Jefferson
Suite 411
Green Bay, WI 54301-5191
(920) 448-5312

Brown, Calumet, Door, Fond du Lac,
Green Lake, Kewaunee, Manitowoc,
Marinette, Marquette, Menominee,
Oconto, Outagamie, Ozaukee,
Shawano, Sheboygan, Washington,
Waupaca, Waushara, Winnebago,

Northern Office

(Rhinelander)
1853 North Stevens Street
P.O. Box 697
Rhinelander, WI 54501-0697
(715) 365-2500

Adams, Ashland, Bayfield, Florence,
Forest, Iron, Juneau, Langlade,
Lincoln, Marathon, Oneida, Portage,
Price, Sawyer, Taylor, Vilas, Wood

Southeastern Office

(Waukesha)
141 N.W. Barstow Street, Room 104
Waukesha, WI 53188-3789
(262) 521-5100

Kenosha, Milwaukee, Racine,
Waukesha

Southern Office

(Madison)
2917 International Lane, Suite 110
Madison, WI 53704
(608) 243-2400

Columbia, Dane, Dodge, Grant, Green,
Iowa, Jefferson Lafayette, Rock, Sauk,
Walworth

Western Office

(Eau Claire)
610 Gibson Street Suite 2,
Eau Claire, WI 547013695
(715) 836-2157

Barron, Buffalo, Burnett, Chippewa,
Clark, Crawford, Douglas, Dunn, Eau
Claire, Jackson, LaCrosse, Monroe,
Pepin, Pierce, Polk, Richland, Rusk,
St. Croix, Trempealeau, Vernon,
Washburn

SECTION 57. HFS 55 Appendix B is created to read:

HFS 55 Appendix B:

**Chapter HFS 55
Appendix B**

CACFP Meal Pattern – Children 1-12 Years of Age

The meal pattern shall contain, as a minimum, each of the following components in the amounts indicated for the specific age group.

	Ages 1 & 2	Ages 3, 4, & 5	Age 6 up to 12
BREAKFAST			
1. Milk, fluid	1/2 cup	3/4 cup	1 cup
2. Juice, ^a fruit or vegetable or Fruit(s) or vegetable(s)	1/4 cup	1/2 cup	1/2 cup
3. Grains/Breads: ^b Bread	1/2 slice	1/2 slice	1 slice
Cornbread, biscuits, rolls, muffins, etc ^b	1/2 serving	1/2 serving	1 serving
Cereal:			
Cold dry	1/4 cup or 1/3 oz ^c	1/3 cup or 1/2 oz ^c	3/4 cup or 1 oz ^c
Hot cooked	1/4 cup total	1/4 cup	1/2 cup
Cooked pasta or noodle products	1/4 cup	1/4 cup	1/2 cup
LUNCH OR SUPPER			
1. Milk	1/2 cup	3/4 cup	1 cup
2. Meat or meat alternate:			
Meat, poultry, fish, cheese	1 oz	1+1/2 oz	2 oz
Alternate protein products ^g	1 oz	1+1/2 oz	2 oz
Yogurt, plain or flavored, unsweetened or sweetened	4 oz or 1/2 cup	6 oz or 3/4 cup	8 oz or 1 cup
Egg	1/2 egg	3/4 egg	1 egg
Cooked drybeans or peas	1/4 Cup	3/8 cup	1/2 cup
Peanut butter or other nut or seed butter	2 Tbsp.	3 Tbsp.	4 Tbsp
Peanuts or soynuts or tree nuts or seeds	1/2 oz = 50% ^d	3/4 oz = 50% ^d	1 oz = 50% ^d
3. Vegetable and/or fruit ^e (at least two)	1/4 cup total	1/2 cup total	3/4 cup total

4. Grains/Breads: ^b			
Bread	1/2 slice	1/2 slice	1 slice
Cornbread, biscuits, rolls, muffins, etc ^b	1/2 serving	1/2 serving	1 serving
Cereal, hot cooked	1/4 cup total	1/4 cup	1/2 cup
Cereal, cold, dry	1/4 cup or 1/3 oz ^c	1/3 cup or 1/2 oz ^c	3/4 cup or 1 oz ^c
Cooked pasta or noodle products	1/4 cup	1/4 cup	1/2 cup

SUPPLEMENT

Select two of the following four components:

1. Milk	1/2 cup	1/2 cup	1 cup
2. Juice, a, f fruit or vegetable ^{or}	1/2 cup	1/2 cup	3/4 cup
Fruit(s) or vegetable(s)	1/2 cup	1/2 cup	3/4 cup
3. Grains/Breads: ^b			
Bread	1/2 slice	1/2 slice	1 slice
^b Cornbread, biscuits, rolls, muffins, etc	1/2 serving	1/2 serving	1 serving
Cereal:			
Cold dry	1/4 cup or 1/3 oz ^c	1/3 cup or 1/2 oz ^c	3/4 cup or 1 oz ^c
Hot cooked	1/4 cup	1/4 cup	1/2 cup
4. Meat or meat alternate			
Meat, poultry, fish, cheese	1/2 oz	1/2 oz	1 oz
Alternate protein products ^g	1/2 oz	1/2 oz	1 oz
Egg, Large ^h	1/2 egg	1/2 egg	1/2 egg
Cooked dry beans or peas	1/8 cup	1/8 cup	1/4 cup
Peanut butter or other nut or seed butter	1 Tbsp.	1 Tbsp.	2 Tbsp.
Peanuts or soynuts or tree nuts or seeds	1/2 oz	1/2 oz	1 oz
Yogurt, plain or flavored, unsweetened or sweetened	2 oz or 1/4 cup	2 oz or 1/4 cup	4 oz or 1/2 cup

a Must be full strength fruit or vegetable juice.

b Bread, pasta or noodle products, and cereal grains shall be whole grain or enriched, cornbread, biscuits, rolls, muffins, etc., shall be made with whole grain or enriched meal or flour.

c Either volume (cup) or weight (oz), whichever is less.

- d No more than 50% of the requirement shall be met with tree nuts or seeds. Tree nuts and seeds shall be combined with another meat/meat alternate to fulfill the requirement. For purpose of determining combinations, 1 oz. of nuts or seeds is equal to 1 oz. of cooked lean meat, poultry or fish.
- e Serve 2 or more kinds of vegetable(s) and/or fruit(s). Full strength vegetable or fruit juice may be counted to meet not more than one-half of this requirement.
- f Juice may not be served when milk is the only other component.
- g Alternate protein products may be used as acceptable meat alternates.
- h One-half egg meets the required minimum amount (one-ounce or less) of meat alternate.

SECTION 58. HFS 57.015 is created to read:

HFS 57.015 COMPLIANCE WITH ADMINISTRATIVE RULES AND LAWS. A person who is licensed under this chapter shall operate the group home in compliance with this chapter, the provisions of the license, and applicable state, federal, and local law.

SECTION 59. HFS 57.24 is created to read:

HFS 57.24 RESIDENT RIGHTS. (1) The licensee shall be knowledgeable of and ensure that staff members and volunteers observe the patient rights and grievance resolution procedures in s. 51.61, Stats., and ch. HFS 94, for each resident that receives services for treatment of mental illness, a developmental disability, alcoholism or drug dependency. Residents that are not specifically identified as coming under s. 51.61, Stats., and ch. HFS 94 shall have rights and access to grievance resolution procedures that are comparable to those found in s. 51.61, Stats., and ch. HFS 94.

(2) A copy of the HFS 94 patient's rights and the group home grievance procedure shall be posted in each group home in a prominent place accessible to residents, staff members and visitors.

Note: Patients' rights information and posters can be obtained at the Department's website at dhs.wisconsin.gov/bqaconsumer/publications/ClientsRtsPubs.htm

SECTION 60. HFS 59.01 (5) is repealed and recreated to read:

HFS 59.01(5) (a) COMPLIANCE WITH ADMINISTRATIVE RULES AND LAWS. A person who is licensed under this chapter shall operate the shelter care facility in compliance with this chapter, the provisions of the license, and applicable state, federal, and local law.

(b) A shelter care facility for more than 8 children shall comply with the Wisconsin Commercial Building Code and applicable local ordinances.

SECTION 61. HFS 59.03 (1) (Note) and (2) (a) (Note) are created to read:

HFS 59.03 (1) **Note:** An application for a license may be obtained from the Department's website at <http://www.dhfs.wisconsin.gov> or by writing or telephoning any field office listed in Appendix A.

(2) (a) **Note:** An application for a license may be obtained from the Department's website at <http://www.dhfs.wisconsin.gov> or by writing or telephoning any field office listed in Appendix A.

SECTION 62. HFS 59.05 (15) is created to read:

HFS 59.05 (15) **RESIDENT RIGHTS.** The licensee shall be knowledgeable of and ensure that staff members and volunteers observe the patient rights and grievance resolution procedures in s. 51.61, Stats., and ch. HFS 94, for each resident that receives services for treatment of mental illness, a developmental disability, alcoholism or drug dependency. Residents that are not specifically identified as coming under s. 51.61, Stats., and ch. HFS 94 shall have rights and access to grievance resolution procedures that are comparable to those found in s. 51.61, Stats., and ch. HFS 94.

SECTION 63. HFS 59.07 (1) (a) (Note) and (b) (Note) are created to read:

HFS 59.07 (1) (a) **Note:** A child record form may be obtained from the Department's website at <http://www.dhfs.wisconsin.gov> or by writing or telephoning any field office listed in Appendix A.

(1) (b) **Note:** The department of justice form JD-1710, Temporary Physical Custody Request may be obtained by writing or telephoning any field office listed in Appendix A or from the Wisconsin Circuit Court website at http://www.courts.state.wi.us/circuit/search_forms.html.

SECTION 64. HFS 59.08 is created to read:

HFS 59.08 **License denial or revocation.** The department may deny, revoke or suspend a license, initiate other enforcement actions specified in this chapter or in ch. 48, Stats., or place conditions on a license if the applicant or licensee, a proposed or current employee, a volunteer or any other person having regular contact with the children, has or has been any of the following:

(1) The subject of a pending criminal charge for an action that substantially relates to the care of children or activities of the facility.

(2) Convicted of a felony, misdemeanor or other offense that substantially relates to the care of children or activities of the facility.

(3) Determined to have abused or neglected a child pursuant to s. 48.981, Stats., or has been determined to have committed an offense which substantially relates to the care of children or the activities of the facility.

(4) The subject of a substantiated finding of misconduct in the department's nurse aide registry under s. HFS 129.10.

(5) The subject of a court finding that the person has abandoned his or her child, or has inflicted physical abuse or neglect on the child.

(6) Had a child welfare agency, group home or shelter care facility license revoked or denied within the last 5 years.

(7) Violated any provision of this chapter or ch. 48, Stats., or fails to meet the minimum requirements of this chapter.

(8) Made false statements or withheld information.

SECTION 65. HFS 83.33 (3) (j) 1. is amended to read:

HFS 83.33 (3) (j) 1. ~~Except for controlled substances, a~~ A resident's prescription medication ~~not returned to the pharmacy for credit or destruction~~ shall be destroyed within 72 hours of a practitioner's order discontinuing its use, the resident's discharge (unless the resident needs the medication at a new location), the resident's death, loss of medication dosage form integrity, removal of the medication from the medication package, or the medication's expiration date. ~~Controlled substances shall be destroyed according to U.S. drug enforcement agency (DEA) procedures for CBRFs. The CBRF shall write to the DEA for instructions for destroying controlled substances.~~

SECTION 66. HFS 83.33 (3) (j) (Note) is repealed.

SECTION 67. HFS 94.05 (4) (b) (Note) is repealed and recreated to read:

HFS 94.05 (4) (b) **Note:** Copies of the rights-denial form may be requested from the Department's website at dhs.wisconsin.gov or by writing to the Division of Disability and Elder Services, P.O. Box ~~78507851~~, Madison, WI 53707-7851.

SECTION 68. HFS 124.08 (2) (c) 3., (3) (a), (4) (c), (e) (title), and (f) 2. are amended to read:

HFS 124.08 (2) (c) 3. Establish a method of control used in relation to the sterilization and disinfection of supplies and solutions, instruments, medications, and other items requiring sterility and disinfection. There shall be a written policy requiring identification of sterile items and specified time periods in which sterile items shall be reprocessed.

(3) (a) *Aseptic technique.* All appropriate personnel shall be educated in the practice of aseptic techniques such as handwashing and scrubbing practices, personal hygiene, masking, ~~and dressing, gloving and other personal protective equipment,~~ techniques, disinfecting and sterilizing techniques and the handling and storage of patient care equipment and supplies; ~~and~~

(4) (c) *Disposal of wastes.* Proper facilities shall be maintained and techniques used for incineration or sterilization of infectious wastes, ~~as well as~~ and sanitary disposal of all other wastes.

(e) (title) *Sterilizing and disinfecting services.* Sterilizing services shall be available at all times.

(f) 2. Soiled ~~bed~~ linen shall be placed immediately in a container available for this purpose and sent to the laundry promptly.

SECTION 69. HFS 124.14 (1) (a) is renumbered HFS 124.14 (1) (am).

SECTION 70. HFS 124.15 (1) (a) is created to read:

HFS 124.15 (1) (a) "Automated dispensing system" means a mechanical system that performs operations or activities, other than compounding or administration, relative to storage, packaging, dispensing or distribution of medications, and which collects, controls, and maintains all transaction information.

SECTION 71. HFS 124.15 (4) (a) is amended to read:

HFS 124.15 (4) (a) *Storage and equipment.* Drugs shall be stored under proper conditions of sanitation, temperature, light, moisture, ventilation, segregation and security. In a pharmacy, current reference materials and equipment shall be provided for the compounding and dispensing of drugs. Hospitals utilizing automated dispensing systems must meet the requirements under Phar 7.09.

SECTION 72. HFS 124.16 (2) (b) is repealed and recreated to read:

HFS 124.16 (2) (b) "Dietitian" means a person who is any of the following:

1. Certified under s. 448.78, Stats.
2. Licensed or certified as a dietitian in another state.

SECTION 73. HFS 124.28 (2) is repealed and recreated to read:

HFS 124.28 (2) LIFE SAFETY CODE. Facilities shall meet the applicable provisions of the 2000 edition of the Life Safety Code (LSC).

SECTION 74. HFS 124.28 (3) is repealed.

SECTION 75. HFS 124.28 (4) is renumbered HFS 124.28 (3).

SECTION 76. HFS 124.28 (4) (Note) is repealed.

SECTION 77. HFS 124.40 (2) (a) and (b) are amended to read:

HFS 124.40 (2) Bed complement. (a) A critical access hospital shall maintain no more than a total of ~~45~~ 25 beds to be used exclusively for acute inpatient care.

(b) If the critical access hospital has an agreement established under 42 USC 1395tt governing the hospital's maintenance of swing beds, the critical access hospital may maintain not more than 25 inpatient beds, ~~of which no more than 15 beds may be used exclusively for acute inpatient care~~ to be used interchangeably for acute care or swing-bed services.

SECTION 78. HFS 131.63 (2) is repealed and recreated to read:

HFS 131.63 (2) LIFE SAFETY CODE. Facilities shall meet the applicable provisions of the 2000 edition of the Life Safety Code (LSC).

SECTION 79. HFS 131.63 (3) (a) and (b) (Note) are repealed.

SECTION 80. HFS 131.63 (3) (b) is renumbered HFS 131.63 (3).

SECTION 81. HFS 136.03 (2) (a) to (d) are amended to read:

HFS 136.03 (2) (a) Funeral establishments holding a current establishment permit issued by the funeral directors examining board:

(b) Hospitals;

(c) Facilities approved by a local medical examiner or coroner if a disaster occurs; ~~or,~~

(d) Private homes as provided in ch. HFS 135.

SECTION 82. HFS 136.03 (2) (e) and (f) are created to read:

HFS 136.03 (e) Mortuaries schools accredited by the American board of funeral service education or otherwise deemed to be equivalent by the funeral directors examining board.

(f) Medical schools approved by the medical examining board.

SECTION 83. HFS 181.04 (title) is amended to read:

HFS 181.04 Reporting responsibility and test result access.

SECTION 84. HFS 181.04 (5) is repealed and recreated to read:

HFS 181.04 (5) Blood sample test results shall be accessible to health care providers treating the person tested. If the blood sample test results indicate lead poisoning or lead exposure, the department shall transmit results of the test to the local health department in the area in which the person tested resides.

SECTION 85. HFS 252.02 (3) and (15) are amended to read:

HFS 252.02 (3) "Coupon" means any coupon, stamp, ~~access device or type of certification certificate, provided under 7 CFR 271, subchapter C,~~ authorization card, cash or check issued in lieu of a coupon, or access device, including an electronic benefit transfer card or personal identification number issued pursuant to the provisions of the Food Stamp Act of 1977, as amended, for the purchase of eligible food.

HFS 252.02 (15) "IPV" or "intentional program violation" has the meaning given in 7 CFR 273.16 (c), and shall consist of having intentionally: a) made a false or misleading statement, or misrepresented, concealed or withheld facts, or b) committed any act that constitutes a violation of the food stamp act, the food stamp program regulations, or any state statute relating to the use, presentation, transfer, acquisition, receipt, ~~or possession,~~ or trafficking of food stamp coupons, authorization cards or reusable documents used as part of an automated benefit delivery system (access device).

SECTION 86. HFS 252.22 and 252.23 are amended to read:

HFS 252.22 **Resolution of disputes.** Recipients shall contact recipient customer service regarding EBT account transaction issues and requests for benefit replacement within ~~60~~ 90 calendar days from the date of the original transaction being disputed. If recipient customer service is unable to resolve the dispute or error, they will refer it to state or county dispute resolution staff. The recipient may request a hearing at anytime in accordance with ch. HA3. A description of the complete dispute resolution process shall be provided in the training material.

HFS 252.23 **Conversion to coupons**. Food stamp groups moving out of an EBT area in Wisconsin shall may not have their electronic food stamp benefits converted to paper coupons as stated in 7 CFR 274.12(g)(6). The actual process will be included in the training material.

SECTION 87. HFS 252.23 (Note) is created to read:

HFS 252.23 **Note**: Effective June 25, 2003, 7 CFR 274.12 (g) (6) (i) as amended gave states the option to either convert electronic benefits to paper coupons or assist clients in finding an authorized retail location where their electronic benefits can be used in another state. Consistent with 7 CFR 274.12 (g) (6) (i), the department chose to discontinue the practice of converting electronic benefits to coupons when the household moved out of state.

This rule takes 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 Health and
Family Services

Dated: September 13, 2004

By: _____
Helene Nelson
Secretary

SEAL: