

Clearinghouse Rule 94-193

CERTIFICATE


STATE OF WISCONSIN)
) SS
DEPARTMENT OF HEALTH AND SOCIAL SERVICES)

I, Joseph Leean, Secretary of the Department of Health and Social Services and custodian of the official records of the Department, do hereby certify that the annexed rules relating to assessment and treatment of intoxicated drivers were duly approved and adopted by this Department on June 11, 1996.

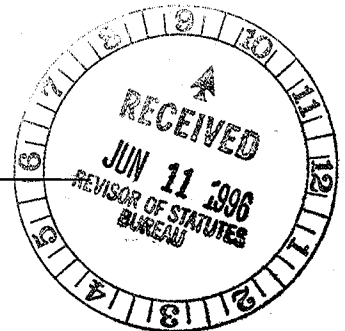
I further certify that this copy has been compared by me with the original on file in the Department and that this copy is a true copy of the original, and of the whole of the original.

IN TESTIMONY WHEREOF, I have hereunto set my hand and affixed the official seal of the Department at the State Office Building, 1 W. Wilson Street, in the city of Madison, this 11th day of June, 1996.

SEAL:

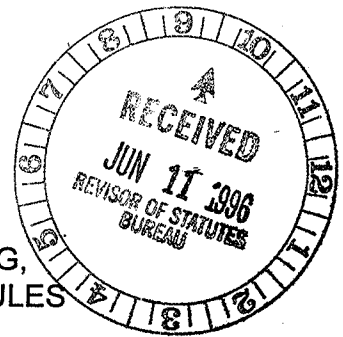


Joseph Leean, Secretary
Department of Health and Social Services



94-193
8-1-96

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



To repeal HSS 62 (Preface); to renumber HSS 62.05 (intro.), (1) and (7)(b) to (d), and 62.08; to renumber and amend HSS 62.06 (intro.), (1) and (2); to amend HSS 62.02 (1), 62.05 (1), as renumbered, and (2) (a) to (e) and (f) 3, 62.07 (1) (a) and (2) (a) (intro.) and 62.09 (1), as renumbered; to repeal and recreate HSS 62.02 (2) and 62.03 (1) and (2); and to create HSS 62.05(7)(b) and 62.08, relating to assessment and treatment of intoxicated drivers.

Analysis Prepared by the Department of Health and Social Services

Recent session laws, 1993 Wisconsin Act 16 and 1995 Wisconsin Act 27, made significant changes in the Intoxicated Driver Program (IDP) under ss. 343.30 (1q) and 343.305 (9), Stats. Section 346.655, Stats., was amended by Act 16 and further revised by Act 27 to provide that counties retain 70.8% of the monies collected from the driver improvement surcharge rather than send all of the monies collected to the state. This change had the effect of significantly reducing the role of the Department of Health and Social Services in the program while leaving intact the responsibilities of counties and other state agencies. This rulemaking order modifies the Department's rules for the IDP to eliminate several Department functions and thereby bring the rules into conformity with the statutes.

The Department's authority to repeal, renumber, renumber and amend, amend, repeal and recreate and create these rules is found in ss. 343.30 (1q) (c) 2 and 343.305 (10) (c) 2, Stats. The rules interpret s. 46.03(18)(f), Stats., as amended by 1995 Wisconsin Act 27, ss. 343.30 (1q) (c), and 343.305 (10) (c), Stats., and s. 346.655, Stats., as amended by 1995 Wisconsin Act 27.

SECTION 1. HSS 62 (Preface) is repealed.

SECTION 2. HSS 62.02 (1) is amended to read:

HSS 62.02 BOARD RESPONSIBILITY FOR SERVICES. (1) RESPONSIBILITIES.

The board shall be responsible for establishing and providing assessment and driver safety plan development for clients residing in a county under the board's responsibility, another state or referred by another board; providing treatment programs for county residents within the limits of available funding; determining whether the board staff or the board-approved agency will maintain all the client files on the assessment and driver safety plan, including final and related reports, and who will distribute the final report; authorizing treatment programs in other states; providing notice to the department of transportation whenever the board staff approves an extension on the 14 days for assessment; monitoring provision of assessment and treatment services to ensure compliance with this chapter; and furnishing required reports to clients, the department of transportation, and program providers which show compliance or noncompliance with assessment and with all plans other than those

recommending only traffic safety schools.

SECTION 3. HSS 62.02 (2) is repealed and recreated to read:

HSS 62.02 (2) **DESIGNATED COORDINATOR.** (a) The board shall assign or contract for a person to be the designated coordinator for implementation of the board's responsibilities under sub. (1).

(b) The designated coordinator may organize an IPID committee which shall meet on a regular basis as determined by the committee.

(c) In collaboration with the IPID committee, if any, the designated coordinator shall conclude agreements with other agencies which cover:

1. Identification of liaison staff from the other IPID agencies and organizations;
2. Participation in program development and sharing of information;
3. Establishment of procedures for referrals and for tracking and reporting on clients;
4. Approval of treatment programs and traffic safety schools for clients with assessment findings of irresponsible use who are multiple-offense clients or have a documented extenuating factor, such as a language barrier, a hearing impairment or a developmental disability;
5. Approval of additional screening instruments used during assessment to avoid loss of reliability due to repetitive use on any client; and
6. Assurance of adherence to 42 CFR Part 2 and ch. HSS 92 on confidentiality of alcohol and drug abuse assessment and treatment records in accordance with s. 51.30 (4) (c), Stats.

(d) The designated coordinator shall provide or arrange for assistance and consultation to the courts which includes but is not limited to:

1. Identification of the location, phone number and costs for that board area's designated facility for performance of assessments for county and out-of-state residents;
2. Provision of information to the courts about that board area's assessment process, for the courts' oral explanation or use as handout material for the clients;
3. Ensuring that the court's order refers a Wisconsin client directly to a facility in the client's county of residence and refers an out-of-state client to the facility in the county of conviction or to a border county facility when this is more convenient for the client;
4. Consultation on the use of the court-ordered form; and
5. Explanation of the information contained in the reports under s. HSS 62.05, even

though the court will not receive the reports related to the client that the court orders to assessment. The explanation shall include the board's or its approved agency's requirements concerning confidentiality, prohibition of redisclosure, and the need for client consent to release the reports or any updated reports whenever the court considers waiving assessment due to a client's prior participation in assessment or a driver safety plan or due to a voluntary assessment, compliance for an occupational license or a department of transportation referral under ss. 343.10 (2) (e), 343.16 (5) (a), 343.30 (1q) and 343.305 (10), Stats.

(e) The designated coordinator shall be knowledgeable about the sentencing procedure of each court in the board's geographic area and shall provide consultation to all assessment facilities and program providers on each court's practices.

(f) The designated coordinator shall obtain documentation from all assessment facilities and treatment program providers that they have established procedures for adequate service provision, notice to the client of the appeal process to the facility or board staff prior to submission to the department of transportation of any reports of noncompliance, smooth referral flow, specification that all reports are to be submitted to either board staff or the board-approved agency, client compliance monitoring through submission of the final report on completion or noncompliance, and timely response to court orders and department of transportation orders for clients to be assessed and driver safety plans developed.

(g) The designated coordinator shall assist the board in ensuring that board-operated or board-contracted assessment facility and program provider costs and client liability for fees are determined as specified under ch. HSS 1, except that, as specified in s. 46.03 (18) (f), Stats., the client remains fully liable for the fee for the assessment and any traffic safety school fee.

SECTION 4. HSS 62.03 (1) and (2) are repealed and recreated to read:

HSS 62.03 (1) Assessments shall be performed by alcohol and other drug abuse professionals employed by public treatment facilities defined in s. 51.45 (2) (c), Stats., which are designated by boards to perform assessments, and who have successfully completed assessment training specified in s. HSS 62.06, and show competency in assessment skills as evidenced through regular supervisory evaluations.

(2)(a) The principal method for assessment shall be a personal interview with the client to make a finding about the extent of the problem with alcohol or controlled substance use. The assessment may also make use of information provided by other persons, review of relevant records or reports on the client, and additional information-gathering measures found useful in the particular case.

(b) The assessment interview shall include application of the department's instrument for alcohol and other impairing drugs or a controlled substances' assessment. These assessment instruments, such as the "Wisconsin Assessment of the Impaired Driver (WAID)," used by assessors, shall incorporate standard criteria for substantiating findings and provide uniform nomenclature for reporting on state forms. The designated coordinator

shall periodically monitor assessment reports in accordance with the federal confidentiality regulations, 42 CFR Part 2, in order to ensure appropriate application of the uniform instruments; and

(c) The assessment interview may include additional information-gathering instruments and tests deemed appropriate by the assessment facility and approved by the IPID committee.

SECTION 5. HSS 62.05 (intro.) and (1) are renumbered 62.05 (1) and (1m) and 62.05 (1), as renumbered, is amended to read:

HSS 62.05 REPORTING REQUIREMENTS. (1) Standard reporting forms, which include provisions for consent by client signature for the release of information, are available from the ~~departments~~ department of transportation and ~~health and social services~~ and shall be used for routine reporting on all clients. Other forms may be developed and used by IPID committees or the designated coordinators to meet special needs.

SECTION 6. HSS 62.05 (2) (a) to (e) and (f)3 are amended to read:

HSS 62.05 (2) (a) Obtain a unique client number from the board and follow the board's required registration procedures specified in ~~the department's~~ information system manuals, handbooks and policy directives for each court-ordered or department of transportation-ordered assessment client;

(b) Submit the required report on assessment findings and the driver safety plan to the board staff or the board-approved agency, the department of transportation, the program provider and the client within 14 days following the court order or department of transportation order for assessment. ~~4.~~ Based on a request by the assessment facility and client, the board staff may extend the period not more than 20 working days. Written notice for any extension shall be submitted by the board staff to the department of transportation.

~~2. The department shall investigate department of transportation reports of non-compliance with this paragraph;~~

(c) Ensure that the ~~required~~ report on assessment findings and the driver safety plan are sent to, and restricted for use only with, the parties listed in par. (b);

(d) Ensure that the ~~required~~ report on client driver safety plan completion or noncompliance is submitted to, and restricted for use only with, the parties listed in par. (b);

(e) Use uniform nomenclature to report client information on ~~required~~ standard forms ~~in accordance with department instructions;~~ and

(f) 3. The local appeal steps shall be based on the ~~department's~~ board's intoxicated driver appeal policy guidelines which are in addition to the board's existing client rights and grievance procedures under ss. HSS 61.11 to 61.13.

SECTION 7. HSS 62.05(7)(b) to (d) are renumbered 62.05(c) to (e).

SECTION 8. HSS 62.05(7)(b) is created to read:

HSS 62.05(7)(b) Failure of the client to pay the driver safety plan fee required under s.46.03(18)(f), Stats., if the person is found to have the ability to pay the fee.

SECTION 9. HSS 62.06 (intro.), (1) and (2) are renumbered 62.06 (1) to (3) and amended to read:

HSS 62.06 TRAINING REQUIREMENTS. (1) **GENERAL REQUIREMENT.** All assessment providers and driver safety plan program providers shall receive training from their respective agencies for the routine processing of court-ordered and department of transportation-ordered clients. ~~Information and training assistance may be requested from the department.~~ Information may be requested from the department of transportation.

(2) **ASSESSMENT STAFF TRAINING.** Facilities providing assessment shall arrange for ~~department approved~~ assessment training for all assessment personnel. With assistance from the designated coordinator, assessment personnel shall be oriented to local procedures for clients, including identification of approved program providers.

(3) **PROGRAM PROVIDER TRAINING.** Driver safety plan program providers shall be familiar with state uniform reporting requirements and shall be responsible for providing the training necessary for competent service provision. Board-operated and board-contracted providers may request assistance from the designated coordinator.

SECTION 10. HSS 62.07 (1) (a) and (2) (a) (intro.) are amended to read:

HSS 62.07 (1) (a) The client shall be shown a list of all approved county-approved public and private program providers in the board area, as well as other approved county-approved program providers close to where the client lives, who offer the programs required to fulfill the driver safety plan;

(2) **SEPARATION OF ASSESSMENT AND PROGRAM PROVISION.** (a) (intro.) The facility that assesses a client may not also provide the client with the program or programs called for in the client's driver safety plan unless the department designated coordinator has approved the facility to do both in accordance with the following criteria:

SECTION 11. HSS 62.08 is renumbered 62.09 and 62.09(1), as renumbered, is amended to read:

HSS 62.09 ENFORCEMENT. (1) **COMPLIANCE REQUIRED.** All board-operated and board-contracted assessment providers and program providers shall comply with this chapter ~~as a condition for department funding.~~ Compliance shall be enforced as specified under s. ~~HSS-61-20.~~

SECTION 12. HSS 62.08 is created to read:

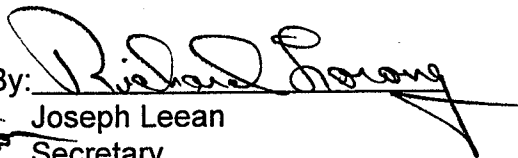
HSS 62.08 ALLOCATION OF FUNDS. The department shall distribute emergency funds authorized under s.20.435(7)(hy), Stats., and surcharge revenues authorized under ss.

ss. 20.435(7)(hz) and 346.655, Stats., by an allocation process developed in consultation with county representatives.

The rules contained in this order shall take effect on the first day of the month following publication in the Wisconsin Administrative Register as provided in s. 227.22 (2) (intro.), Stats.

Wisconsin Department of Health and
Social Services

Date: June 11, 1996

By: 
Joseph Leean
Secretary

Seal: