

Chapter DHS 68

SUPPORT FOR PERSONS WITH DEMENTIA AND THEIR CAREGIVERS

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Note: Chapter HSS 68 is renumbered chapter HFS 68 under s. 13.93 (2m) (b) 1., Stats., and corrections made under s. 13.93 (2m) (b) 6. and 7., Stats., Register, July, 1997, No. 499. Chapter HFS 68 was renumbered to chapter DHS 68 under s. 13.92 (4) (b) 1., Stats., and corrections made under s. 13.92 (4) (b) 7., Stats., Register November 2008 No. 635.

DHS 68.01 Introduction. (1) **AUTHORITY AND PURPOSE.** This chapter is promulgated pursuant to ss. 46.87 and 227.11 (2) (a), Stats., section 3023 (28m) of 1985 Wis. Act 29, and 2015 Wis. Act 273 to establish procedures and criteria for distributing funds for the provision of service payments, goods and services to persons with dementia and to their caregivers. The payments, goods and services provided in accordance with this chapter are intended to help make available a diverse array of community services directed at preventing or delaying institutionalization of persons who have dementia and enhancing the quality of their lives, and to provide assistance to family members and others who take care of persons with dementia without compensation.

(2) **TO WHOM THE CHAPTER APPLIES.** The chapter applies to the department, county boards, administering agencies designated by county boards under s. 46.87 (3) (c), Stats., tribes, and private nonprofit organizations selected by the department under s. DHS 68.04.

History: Cr. Register, March, 1989, No. 399, eff. 4-1-89; CR 17-032: am. Register June 2018 No. 750, eff 7-1-18.

DHS 68.02 Definitions. In this chapter:

(1) “Administering agency” means any of the following:

(a) The county agency selected by the county board under s. 46.87 (3) (c), Stats.

(b) The agency selected by a tribal government under s. 46.87 (3) (d), Stats.

(c) A private nonprofit organization selected by the department under s. DHS 68.04.

(2) “Adult family home” means:

(a) A home certified by a county department of social services established under s. 46.215 or 46.22, Stats., or a county department of human services established under s. 46.23, Stats., in which one or 2 adults unrelated to the operator reside and which provides a structured living arrangement for residents whose physical, developmental and emotional functioning is likely to be maximized in this family-type living arrangement; or

(b) A home certified under s. 50.032, Stats., and ch. DHS 82.

(4) “Caregiver” means any person other than a paid provider who provides care for a person with dementia.

(5) “Community-based residential facility” or “CBRF” means a facility licensed under ch. DHS 83 in which 3 [5] or more unrelated adults reside and receive care and treatment or services above the level of room and board but not including nursing care.

(6) “County agency” means an agency designated by a county board under s. 46.87 (3) (c), Stats., to administer the program, namely, a county department of social services created under s. 46.215 or 46.22, Stats., a county department of human services created under s. 46.23, Stats., a county aging unit, or a resource center authorized under s. 46.283, Stats., and ch. DHS 10.

(6m) “Dementia” means a degenerative disease of the central nervous system characterized especially by premature cognitive deterioration. This includes Alzheimer’s disease and related diagnoses which are similarly marked by irreversible deterioration of intellectual faculties with concomitant emotional disturbance resulting from organic brain disorder, such as:

(a) Chronic Traumatic Encephalopathy.

(b) Creutzfeldt-Jakob Syndrome.

(c) Frontotemporal dementias.

(d) Huntington’s disease.

(e) Korsakoff’s Syndrome.

(f) Lewy-body disease.

(g) Parkinson’s disease.

(h) Progressive supranuclear palsy.

(i) Vascular dementia.

(j) Any other neurocognitive brain disorder that results in the irreversible deterioration of intellectual faculties.

(7) “Department” means the Wisconsin department of health services.

(8) “Expand services” means to expand the staffing, size of physical plant, or programming for an existing service offered by a service provider and included in a category listed under s. DHS 68.06 (2) (b) in order to increase by at least 10% over the number served prior to expansion the number of persons with dementia or their caregivers who are served by the provider, or to significantly improve, in the judgment of the administering agency contracting with the provider, the quality of services or service delivery for persons with dementia or for their caregivers. A service is no longer defined as “expanded” 3 years after the starting date of its expansion.

(9) “Goods and services” means, unless otherwise qualified, goods and services purchased or provided under any of the categories listed under s. DHS 68.06 (2) (b).

(10) “Household” means a person with dementia living alone or a person with dementia and the caregiver or caregivers with whom he or she lives, except that for purposes of determining financial eligibility under s. DHS 68.07 (3) and for purposes of determining ability to pay for the cost of program goods and services under s. DHS 68.08, “household” means only the person with dementia and spouse.

(11) “Income” means gross earnings including money, wages or salary, net income from non-farm self-employment and net in-

come from farm self-employment, and unearned income including social security, dividends, interest on savings or on money loaned, income from estates or trusts, net rental income or royalties, public assistance, pensions or annuities, unemployment compensation, worker's compensation, maintenance payments under s. 767.56, Stats., child support, family support, veterans' pensions, and educational grants given for living expenses.

Note: "Public assistance" includes but is not limited to programs such as aid to families with dependent children (AFDC) and supplemental security income (SSI).

(12) "Medical assistance" means the assistance program operated by the department under ss. 49.43 to 49.497, Stats.

(13) "New program" means any goods or services under one or more of the categories listed under s. DHS 68.06 (2) developed or offered for the first time by a service provider under contract with an administering agency, to clients or beneficiaries, at least half of whom are persons with dementia or their caregivers. A program is no longer defined as "new" 3 years after its starting date.

(14) "Private nonprofit organization" has the meaning prescribed for "nonprofit organization" in s. 108.02 (19), Stats.

(15) "Program" means, unless otherwise qualified, the Alzheimer's family and caregiver support program under s. 46.87, Stats.

(16) "Residential facility" means an adult family home or a community-based residential facility.

(17) "Respite" means temporary relief from caregiving responsibilities.

(18) "Respite services" means any service granting respite, which is provided at home, such as assisting services, help with household chores, assistance with providing personal care, medication management or wound care for the person with dementia, or provided by an adult day center or short-term in an institutional setting. Respite services may also include expenses related to caregivers attending support groups, receiving individual counseling, activities related to maintaining the caregiver's physical or psychological well-being, or other services approved by the administering agency.

(19) "Tribal government" means a governing body of a tribe.

(20) "Tribal service area" means the geographic area designated by a tribe, and approved by the U.S. Bureau of Indian Affairs or Indian Health Service, in which a tribal government provides services to its members.

(21) "Tribe" has the meaning given in s. 46.87 (1) (c), Stats.

History: Cr. Register, March, 1989, No. 399, eff. 4-1-89; correction in (2) (b) made under s. 13.93 (2m) (b) 7., Stats., Register December 2004 No. 588; corrections in (2) (b), (5), (7) and (11) made under s. 13.92 (4) (b) 6. and 7., Stats., Register November 2008 No. 635; CR 17-032: r. and recr. (1), r. (3), am. (4), (6), cr. (6m), am. (8), (10), (13), cr. (17) to (21) Register June 2018 No. 750, eff. 7-1-18; correction in (6), (10), (18) made under s. 35.17, Stats., Register June 2018 No. 750.

DHS 68.03 Allocation of funds. Each administering agency shall receive no less than \$5,000 per year in funds available under s. 20.435 (7) (b) and (o), Stats.

History: Cr. Register, March, 1989, No. 399, eff. 4-1-89; corrections made under s. 13.93 (2m) (b) 7., Stats., Register, October, 2000, No. 538; corrections in (1) (intro.) and (2) made under s. 13.93 (2m) (b) 7., Stats., Register December 2004 No. 588; CR 17-032: r. and recr. Register June 2018 NO. 750, eff. 7-1-18.

DHS 68.04 Selection and reporting responsibilities of administering agencies. (1) ADMINISTRATION BY COUNTY AGENCY OR TRIBE. (a) *Letter of intent.* A county board or tribal government may apply to serve as the administering agency by submitting to the department an initial letter of intent that includes all of the following:

1. A signed statement indicating intent to administer the program.

2. The name and contact information for the responsible contact person.

3. A description of the program and services related to dementia that will be provided.

4. A description and contact information for any service provider contracted with to provide the program and services described in subd. 3.

5. An estimate of the number of households and residents of residential facilities to be served over the next calendar year.

6. The maximum amount payable in a calendar year to or on behalf of any person participating in the program and services described in subd. 3.

7. A description of the waiting list policy.

8. Any other information relating to the program's knowledge of dementia, ability to manage supportive service programs, and its experience in assessing and meeting the needs of persons with dementia and their caregivers.

(b) *Exemption.* The following are not required to submit letters of intent under par. (a):

1. A county board or tribal government that submitted a letter of intent prior to the effective date of this chapter and that served as the administering agency each year following approval by the department.

2. A county board, tribal government, or private nonprofit organization that submits an initial letter of intent to the department, receives approval by the department to serve as the administering agency, and continues to serve as the administering agency each year following approval.

(2) ADMINISTRATION BY PRIVATE NONPROFIT ORGANIZATION. (a) The department shall solicit letters of intent from private nonprofit organizations, and may approve one or more private nonprofit organizations to administer the program for the following calendar year, if any of the following occur:

1. Neither a county agency nor a tribal government submits a letter of intent under sub. (1).

2. Both the county agency and tribal government notify the department that they do not intend to administer the program for the following calendar year.

3. The department denies approval to administer the program for the following calendar year to the county agency and tribal government that submitted letters of intent under sub. (1) (a) or were exempt from submitting a letter of intent under sub. (1) (b).

(b) A private nonprofit organization may apply to administer the program under par. (a) by submitting to the department an initial letter of intent, as provided in sub. (1) (a).

(3) DEPARTMENT SELECTION AND APPROVAL. (a) The department may approve county board, tribal government, or private nonprofit organization to serve as the administering agency as provided in this section, if it determines that the county board, tribal government, or private nonprofit organization is able to administer the program as required under this chapter.

(b) The department may deny approval of a county board, tribal government, or private nonprofit organization to serve as the administering agency for the following calendar year if it determines that the information provided in the letter of intent is incomplete or inaccurate, or the county board, tribal government, or private nonprofit organization is unable to adequately administer the program as provided under this chapter.

(4) CHANGE OF ADMINISTERING AGENCY. If a county board or tribal government that is not serving as the administering agency for the program submits a letter of intent to participate under this section, the private nonprofit organization selected by the

department to administer the program shall continue to serve as the administering agency for the remainder of the calendar year.

(5) **NOTIFICATION TO THE DEPARTMENT OF CHANGES.** Pursuant to s. 46.87 (7), Stats., the county board or tribal government or the private nonprofit organization selected under sub. (3) to serve as the administering agency for the program shall notify the department in writing within 15 working days after any of the following occurs:

(a) The county board or tribal government designates a new agency.

(b) The administering agency decides to terminate participation in the program.

(c) The administering agency decides to make a change in the program or services which would result in a substantial difference from the description of the county's program and services contained in the letter of intent or budget most recently submitted to the department. The administering agency shall notify the department when it does any of the following:

1. Contracts with a service provider to develop a new program or expand services.

2. Discontinues providing, purchasing, or making payments for goods and services under one or more categories listed in s. DHS 68.06 (2) (b).

3. Changes its waiting list policy.

4. Establishes a maximum payment of less than \$4,000 in a calendar year for each person with dementia who is participating in the program.

5. Changes the agency it contracts with to provide goods and services under any of the categories listed under s. DHS 68.06 (2) (b).

(6) **NOTICE TO PARTICIPANTS OF CHANGES.** The administering agency shall notify each affected caregiver in writing of any change identified under sub. (5) (b) or (c) 2. or 5. at least 10 working days prior to implementing that change.

(7) **RECORDS AND REPORTS.** The administering agency shall maintain program records and submit reports as required by the department.

History: Cr. Register, March, 1989, No. 399, eff. 4-1-89; am. (1), Register, October, 2000, No. 538, eff. 11-1-00; correction in (1) (b) made under s. 13.92 (4) (b) 7., Stats., Register November 2008 No. 635; CR 17-032: r. and recr. (1) to (3), am. (4), (5) (intro.), (a), (b), (c) (intro.), 1. to 4. Register June 2018 No. 750, eff. 7-1-18; correction in (2) (a) 3., (b), (5) made under s. 35.17, Stats., Register June 2018 No. 750.

DHS 68.05 Program budget requirement; county, tribal, or nonprofit agency. (1) An administering agency shall annually prepare a budget for the program and shall submit the budget to the department each year by November 30. This budget shall be part of either the proposed budget required under s. 46.031, Stats., or the plan for older people required by the department and prepared by the county or tribal aging unit under s. 46.87 (3) (c) 4., Stats. The budget shall include at least, all the following information:

(a) The total amount of allocated funds anticipated for the program for the calendar year.

(b) The number of households anticipated to be enrolled and served for the calendar year.

(c) The planned distribution of allocated funds by purpose under s. DHS 68.06 (1).

(d) The method or methods for paying for goods and services under s. DHS 68.09.

(e) The maximum amount payable in a calendar year to or on behalf of any participating person with dementia, if that amount is less than \$4,000.

(f) A brief description of any limitations on goods and services that are to be provided, purchased or contracted for.

(g) Brief descriptions of any new programs or expanded services.

(h) A summary of the waiting list policy.

(i) The name and phone number of the principal contact person at the county, tribal, or nonprofit agency for the program.

(2) The department may terminate an administering agency's participation in the program if it determines that the information provided by the administering agency in the distinct budget is insufficient or inconsistent with the purposes and procedures of the program as defined in s. 46.87, Stats., and this chapter, or the agency does not submit the distinct budget by November 30.

(3) The administering agency's contract with the department under s. 46.031 (2g) (a), Stats., shall include the name of the agency and the amount of the allocation for the contract year.

History: Cr. Register, March, 1989, No. 399, eff. 4-1-89; CR 17-032: am. (1), r. (2) Register June 2018 No. 750, eff. 7-1-18; renun. (1) to DHS 68.05 under s. 13.92 (4) (b) 1., Stats., Register June 2018 No. 750.

DHS 68.06 Allowable use of funds. (1) PURPOSES. As permitted by s. 46.87 (5), Stats., the administering agency may use allocated funds for any of the following purposes:

(a) To pay for the cost of goods and services provided to or purchased for or by households and for limited transportation and supplemental services for a caregiver of a person living in a residential facility who is found eligible to participate in the program under s. DHS 68.07. The program may not be used to pay fees associated with the cost of permanent placement in an assisted living facility or other living arrangement that is not a CBRF or adult family home as defined under s. DHS 68.02.

(b) To contract with service providers to develop new programs or expand services.

(c) To provide outreach, that is, to search out persons in need of support by the program, or to provide activities designed to develop or enhance public awareness of dementia.

(d) To develop or assist support groups for persons with dementia and caregivers.

(e) To pay for program administration, except that no more than 10% of funds allocated for the program may be used for this purpose.

(2) **GOODS AND SERVICES.** (a) A household or a person living in a residential facility who is participating in the program may not be restricted from purchasing goods and services listed under this subsection and identified under s. DHS 68.08 from providers who are located outside of the county to which application is made.

(b) The administering agency at the time of need determination under s. DHS 68.08 shall enumerate to households and individuals participating in the program the goods or services that may be purchased or provided to accomplish the purposes listed under sub. (1), which shall be limited to goods and services that can be provided under any of the following categories:

1. Adaptive equipment.
2. Adult day center services.
3. Advocacy and legal assistance.
4. Caregiver counseling and therapeutic resources.
5. Case management and service coordination.
6. Companion services.
7. Crisis intervention.
8. Daily living skills training.
9. Emergency housing and energy assistance.

10. Employment –related support services.
11. Health screening and accessibility.
12. Home-delivered meals for people with dementia and caregivers that are not Title III-C2 eligible.
13. Household chores.
14. In-home personal care.
15. Inpatient treatments not covered by the person’s primary health insurance.
16. Intake and assessment.
17. Interpreter services.
18. Outreach to individuals, groups or the community.
19. Protective placement or guardianship.
20. Recreation and social activities, including Memory Cafés and social events.
21. Respite, including short-term respite in a residential facility.
22. Support groups.
23. Transportation and.
24. Any other goods and services necessary to maintain the person with dementia as a member of the household.

(3) **ADMINISTRATION.** Administering agencies may use program funds to pay for the cost of administering the program only if the costs are incurred under one or both of the following categories:

- (a) Training and development.
- (b) Agency and systems management.

Note: For descriptions of the categories listed under subs.(2) and (3), write the Division of Disability and Elder Services, Bureau on Aging and Long-Term Care Resources, P.O. Box 7851, Madison, Wisconsin 53707.

(4) **NON-SUPPLANTING.** Program funds may not be used to purchase goods and services that are otherwise covered by a person’s private health or long term care insurance, or be spent in place of other federal, state or local programs that would, in the absence of the Alzheimer’s and Dementia Family Caregiver Program, be available to the family.

History: Cr. Register, March, 1989, No. 399, eff. 4-1-89; CR 17-032: am. (1) (intro.), (a) to (d), r. and recr. (2) (b), am. (3) (a), cr. (4) Register June 2018 No. 750, eff. 7-1-18; correction in (2) (a), (b) (intro.) made under s. 13.92 (4) (b) 7., Stats., Register June 2018 No. 750.

DHS 68.07 Client eligibility. In accordance with s. 46.87 (5), Stats., the administering agency of each county or tribe shall determine the eligibility of each household that applies to participate in that county or tribe’s program by establishing that the household or person meets all of the following conditions:

(1) **DIAGNOSIS OF CONDITION.** At least one member of the household or the person who lives in a residential facility has received a final, tentative or preliminary documented diagnosis of dementia from a physician or other qualified medical provider.

(2) **RESIDENCY.** The person in the household who has dementia, or that person’s caregiver, meets one of the following conditions:

- (a) Resides in the county or tribal service area.
- (b) The person with dementia lives in a residential facility located in the county or tribal service area.

(3) **HOUSEHOLD INCOME.** The person with dementia and that person’s spouse are expected to have a joint income of no more than \$48,000 for the 12-month period immediately following application for the program, except that in determining the income of a household with a joint gross income of more than \$48,000, the administering agency shall subtract any expenses attributable to the dementia-related needs of the person with a dementia diagnosis or of the person’s caregiver. If the net income determined

by subtracting dementia-related expenses for a household is \$48,000 or less, the household shall be considered as having met the household income eligibility condition.

History: Cr. Register, March, 1989, No. 399, eff. 4-1-89; CR 17-032: am. Register June 2018 No. 750, eff. 7-1-18; correction in (2) (b) made under s. 35.17, Stats., Register June 2018 No. 750.

DHS 68.08 Determination of need. The amount paid or expended for each person diagnosed with dementia may not exceed \$4,000 in any calendar year. For the purpose of calculating the funds to be paid to or expended for a household or individual participating in the program, the administering agency shall conduct a needs assessment to determine all of the following:

(1) The goods and services needed by the household to enable it to maintain the person with dementia as a member of the household.

(2) The goods and services reasonably needed by a person with dementia living in a residential facility that are not included in residential fees paid to the facility.

(3) The cost of each good and service that is needed.

History: Cr. Register, March, 1989, No. 399, eff. 4-1-89; corrections in (1) (c), (2) (a) and (b) made under s. 13.92 (4) (b) 7. Stats., Register November 2008 No. 635; CR 17-032: r. and recr. Register June 2018 No. 750, eff. 7-1-18.

DHS 68.09 Method of payment. The payment by an administering agency for goods and services shall be made using one or more of the following methods:

(1) Payment made to a service provider on behalf of the person with dementia or the person’s caregiver.

(2) Payment made to a service provider under contract with the administering agency to develop new programs or to expand services.

(3) Payment made to the household of a person with dementia pursuant to accounting requirements set forth by the administering agency.

(4) Payment made to a residential facility in which a person with dementia resides for the purchase of goods or services, or both, pursuant to accounting requirements set forth by the administering agency. Payments may not be made to cover the cost of goods or services that a residential facility is required to provide under a program, other than the Alzheimer’s family and caregiver support program.

History: Cr. Register, March, 1989, No. 399, eff. 4-1-89; CR 17-032: am. (1) to (4) Register June 2018 No. 750, eff. 7-1-18.

DHS 68.10 Hearing. (1) **JURISDICTION.** Any household or individual participating in the program or caregiver may appeal the following actions by an administering agency:

- (a) Denial of an application to participate in a program.
- (b) The calculation of funds to be paid to or expended for a household or a person with dementia living in a residential facility and participating in the program.
- (c) Reduction, suspension, limitation or termination of goods and services provided under this chapter.
- (d) Change of provider of goods and services provided under this chapter.
- (e) Change of method of payment for goods and services provided under this chapter.
- (f) Change of the maximum amount payable in a calendar year to or on behalf of any participating person with dementia.

(2) **NOTIFICATION OF APPEAL RIGHTS.** At the time an administering agency takes any of the actions under sub. (1), it shall inform the household, individual participating in the program, any caregiver, and any guardian or protective payee, in writing, of the

right to a hearing under this chapter and of the procedure for requesting a hearing.

(3) REQUEST FOR HEARING. A household or individual participating in the program or caregiver wishing to contest an action under sub. (1) shall file a written request for a hearing with the department of administration's division of hearings and appeals within 45 days after the date of the action for which review is sought. A hearing request shall be considered filed on the date of receipt by the division of hearings and appeals.

Note: The mailing address of the Office of Administrative Hearings is P.O. Box 7875, Madison, Wisconsin 53707-7875.

(4) ARRANGEMENTS FOR A HEARING. In response to a request for a hearing under this section, the director of the office of administrative hearings shall appoint a hearing examiner, set a date

for the hearing and notify the parties at least 10 days before the hearing of the date, time and place of the hearing and of the procedures to be followed.

History: Cr. Register, March, 1989, No. 399, eff. 4-1-89; CR 17-032: am. (1) (a) to (f) Register June 2018 No. 750, eff. 7-1-18.

DHS 68.11 Exceptions to requirements. The department may grant an exception to an administering agency of any requirement made of the administering agency under this chapter, except a requirement under s. DHS 68.03 or 68.10 (2), if the department is convinced that an alternative to the requirement meets the intent of and is in compliance with s. 46.87, Stats. The department shall respond in writing to a written request for an exception within 30 days after receiving the request.

History: Cr. Register, March, 1989, No. 399, eff. 4-1-89.