

## Chapter DHS 86

### APPEALING INDEPENDENT PROFESSIONAL REVIEW DETERMINATIONS AT THE STATE CENTERS FOR THE DEVELOPMENTALLY DISABLED

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**Note:** Chapter HSS 86 was renumbered Chapter HFS 86 under s. 13.93 (2m) (b) 1., Stats. and corrections made under s. 13.93 (2m) (b) 6. and 7., Stats., Register, December, 1999, No. 528. **Chapter HFS 86 was renumbered to chapter DHS 86 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 86.01 Authority and purpose.** This chapter is promulgated under the authority of s. 51.437 (4rm) (c) 3., Stats., to establish a process for county agencies to appeal independent professional review determinations which designate residents of the state centers for the developmentally disabled appropriate for community care and which result in billings to a county.

**History:** Cr. Register, April, 1996, No. 484, eff. 5-1-96.

**DHS 86.02 Applicability.** This chapter applies to the department and to county agencies.

**History:** Cr. Register, April, 1996, No. 484, eff. 5-1-96.

**DHS 86.03 Definitions.** In this chapter:

(1) "County agency" means one of the following:

(a) A county department of developmental disabilities services established under s. 51.437, Stats.

(b) A county department of community programs established under s. 51.42, Stats., if under s. 51.437 (4g) (b), Stats., the county board of supervisors has transferred the powers and duties of the county department of developmental disabilities services to the county department under s. 51.42, Stats.

(c) A county department of human services established under s. 46.23, Stats.

(2) "Department" means the Wisconsin department of health services.

(3) "Independent professional review" means the on-site utilization review at least every 6 months of persons residing at a state center for the developmentally disabled by one or more independent professional review teams under 42 USC 1396a (a) (31) and 42 CFR 456 Subpt. F.

(4) "Medical assistance" means the assistance program operated by the department under ss. 49.43 to 49.47 and 49.49 to 49.497, Stats.

(5) "Person appropriate for community care" means an individual residing at a state center for the developmentally disabled whose care needs are deemed by an independent professional

review as feasible to be met by noninstitutional services and for whom there is adequate state and federal funding to provide community services.

(6) "Secretary" means the head of the department.

(7) "State center for the developmentally disabled" or "center" means a department-operated residential institution for the care of developmentally disabled persons.

**Note:** There are 3 state centers for developmentally disabled persons in Wisconsin: Central Center in Madison, Northern Center near Chippewa Falls and Southern Center near Union Grove.

**History:** Cr. Register, April, 1996, No. 484, eff. 5-1-96; **correction in (2) made under s. 13.92 (4) (b) 6., Stats., Register November 2008 No. 635.**

**DHS 86.04 Appeal.** (1) The department shall provide written notification to a county agency of an independent professional review determination that a person from the county who is a resident of a center is a person appropriate for community care.

(2) Within 60 days following the date of the written notice under sub. (1) that a center resident is a person appropriate for community care, the county agency may appeal the determination of the independent professional review team to the secretary. The appeal shall document in writing the reasons for the county agency's disagreement with the decision of the independent professional review team.

(3) Within 45 days of receipt of a written appeal from a county agency, the secretary shall rule on the appeal and communicate in writing a decision to the county agency. The secretary's decision is the final administrative decision.

**History:** Cr. Register, April, 1996, No. 484, eff. 5-1-96.

**DHS 86.05 Billing.** Unless, following an appeal under s. DHS 86.04 (2), the secretary under s. DHS 86.04 (3) decides in favor of a county agency, the department shall bill the county agency for 10% of the rate paid by medical assistance for a person appropriate for community care, effective 180 days following the date of the written notice under s. DHS 86.04 (1), except that on written request of a county agency the department may delay the effective date of the 10% charge up to 60 days for a resident whose plan for community services has been approved by the department but is awaiting implementation. Payment is due from the county agency within 60 days of the billing date, subject to provisions of the contract between the department and the county agency.

**History:** Cr. Register, April, 1996, No. 484, eff. 5-1-96.