

**Chapter HFS 66**

**TREATMENT ALTERNATIVE PROGRAM**

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**Note:** Chapter HSS 66 was renumbered HFS 66 under s. 13.93 (2m) (b) 1., Stats., and corrections made under s. 13.93 (2m) (b) 6. and 7., Register, July, 1997, No. 499.

**HFS 66.01 Introduction. (1) AUTHORITY AND PURPOSE.** This chapter implements the alcohol or other drug abuse (AODA) treatment alternative program (TAP) under s. 46.65, Stats., for persons referred from the criminal justice system. The program consists of grants made by the department to local agencies to provide TAP services, including assessment and treatment services, to persons likely to benefit from those services who are referred from courts, law enforcement agencies, probation and parole agents and other parts of the criminal justice system. Substance abuse treatment is a substitute for incarceration.

**(2) APPLICABILITY.** This chapter applies to the department and to local TAP agencies.

**History:** Cr. Register, January, 1989, No. 397, eff. 2-1-89.

**HFS 66.02 Definitions.** In this chapter:

**(1) "Admission"** means that a potential client has undergone an assessment and has been found appropriate to participate in TAP.

**(2) "Alcohol abuse"** means the use of alcohol for non-medical purposes in a manner which interferes with one or more of the following: the person's physical health, psychological functioning, social adaptation, educational performance or occupational functioning.

**(3) "AODA"** means alcohol or other drug abuse.

**(4) "Assessment"** means the evaluation of a potential client's suitability for substance abuse treatment.

**(5) "Case management plan"** means an individualized plan for securing, coordinating and monitoring the appropriate treatment interventions and services for a TAP client's successful treatment and criminal justice system outcome.

**(6) "Client"** means a person who has been assessed by the TAP agency and found to be in need of treatment.

**(7) "Criminal justice system"** means the officers, agencies and officials engaged in detecting, apprehending, prosecuting, adjudicating and maintaining custody of or supervising persons who have committed crimes.

**(8) "Criminal justice system component"** means any functioning part of the criminal justice system from law enforcement through parole supervision.

**(9) "Criterion"** means a standard, principle or test by which a potential TAP client is measured to determine whether he or she is suitable for AODA treatment.

**(10) "Department"** means the Wisconsin department of health and family services.

**(11) "Drug dependent"** has the meaning prescribed in s. 51.01 (8), Stats., namely, a person who uses one or more drugs to the extent that the person's health is substantially impaired or his or her social or economic functioning is substantially disrupted.

**(12) "Identification"** means the act of establishing whether someone accused or convicted of a crime is potentially eligible for TAP.

**(13) "Monitoring"** means supervising or overseeing clients through the application of specific criteria to determine progress and success or failure.

**(14) "Potential client"** means a person referred by a criminal justice system component to a TAP agency for assessment.

**(15) "Professional staff"** means a TAP agency staff member who has direct responsibility for the provision of TAP services to clients.

**(16) "Referral"** means the assignment by a criminal justice system component of a potential client to a TAP agency for assessment or the assignment by a TAP agency of a client to the most appropriate, available treatment agency.

**(17) "RFP"** means a request for proposals, a document issued by the department to solicit applications for project support, and which defines project priorities, who may apply for funding, the amounts available for support of given types of projects, the term of projects, application procedures and review criteria.

**(18) "Screening"** means a systematic examination of all accused or convicted offenders at a particular point in criminal justice system processing to determine their potential suitability for TAP.

**(19) "TAP"** means the treatment alternative program authorized under s. 46.65, Stats., to provide alcohol or other drug abuse services, as a treatment alternative in lieu of incarceration for eligible persons in need of those services.

**(20) "TAP agency"** means an agency or organization under s. HFS 66.03 (1) that meets the requirements of this chapter and either has been awarded a grant by the department to provide TAP services or has not been awarded a grant by the department for this purpose.

**(21) "Treatment"** means psychological, educational, social, chemical, medical or somatic techniques designed to bring about rehabilitation of an alcohol or other drug dependent person.

**(22) "Treatment agency"** means a public or private agency that is approved by the department under ch. HFS 61 to provide AODA treatment services.

**(23) "Urinalysis"** means examination of urine samples by various technical methods to determine the presence or absence of specified drugs or their metabolized traces.

**(24) "Voluntary informed consent"** means agreement by a potential client to participate in TAP after a thorough explanation of its advantages and disadvantages, including potential benefits, sanctions by the criminal justice system, TAP agency and treatment agency rules and the likely consequences of successful or unsuccessful termination.

**History:** Cr. Register, January, 1989, No. 397, eff. 2-1-89.

**HFS 66.03 Application for a grant. (1) ELIGIBILITY.** To be eligible for a TAP grant an agency shall be certified to operate one or more AODA programs under ch. HFS 75 and shall be one of the following:

(a) A county department of community programs established under s. 51.42, Stats.;

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

(c) A private nonprofit corporation organized under ch. 181, Stats.;

(d) A tribal agency appointed by the governing body of a federally recognized Wisconsin tribe or band of Indians;

(e) A non-profit minority agency. In this paragraph, "minority agency" means that at least 50% of the members of the agency's board of directors are members of a minority group and at least 50% of the persons served or to be served by the agency are members of a minority group. In this paragraph, "minority group" means blacks, Hispanics, Asians, Pacific islanders, or American Indians.

**(2) MAKING APPLICATION.** The department shall solicit applications for TAP grants by preparing and distributing a request for proposals (RFP). Application for a TAP grant shall be made no later than the date specified in the RFP on a form furnished by the department and in accordance with instructions contained in the RFP.

**Note:** To obtain copies of the TAP RFP and the TAP grant application form, write: Bureau of Substances Abuse Services, Division of Disability and Elder Services, P.O. Box 7851, Madison, Wisconsin 53707.

**(3) REVIEW OF APPLICATIONS.** (a) The department shall review all applications for a TAP grant for compliance with the form and content specifications of the RFP, and may reject any application that fails to meet those specifications.

(b) The department shall convene a committee to review applications that meet the form and content specifications in the RFP. The committee shall score and rank applications in accordance with the criteria described in the RFP and the weight assigned in the RFP to each criterion.

**(4) DECISION.** The secretary of the department shall make the final decision on an application for a TAP grant based on the results of the review under sub. (3) (b), geographical coverage considerations and available funds. The department may reject any application or all applications and may negotiate any grant award.

**(5) CONDITION.** As a condition for receiving a TAP grant or other funding for TAP within the limits of funds provided, an agency shall agree in writing to comply with this chapter and funding procedures of the department.

**History:** Cr. Register, January, 1989, No. 397, eff. 2-1-89; correction in (1) (intro.) made under s. 13.93 (2m) (b) 7., Stats., Register December 2004 No. 588.

**HFS 66.04 Organization and administration.** Each TAP agency shall, within 6 weeks after being notified that it has been awarded a grant, provide the department with the following documents:

(1) Articles of incorporation or written assurances from the parent agency or organization, if any, or the TAP agency board of directors or executive director, that the TAP agency will function as a full-time and independent unit;

(2) An organizational chart showing the TAP agency as an independently functioning entity;

(3) Written confirmation that a full-time and qualified administrator with experience in the field of substance abuse or criminal justice, or both, has been appointed or hired. The confirmation shall include a job description for the TAP agency administrator; and

(4) Written policies and procedures governing the services and operation of the program.

**History:** Cr. Register, January, 1989, No. 397, eff. 2-1-89.

**HFS 66.05 Agreements and communication.**

**(1) TAP AGENCY AND CRIMINAL JUSTICE SYSTEM.** Each TAP agency shall negotiate a written agreement with local criminal justice system components to assure the effective and accountable operation of the local TAP and maintain necessary communica-

tions in regard to potential clients referred from the criminal justice system. The written agreement shall include:

(a) Documentation of meetings convened by TAP agency staff with criminal justice system components, including prosecuting attorneys, courts, law enforcement officers, probation and parole agents and jail administrators, to provide them with an explanation and written description of the TAP agency mission and services and to conclude the written agreement, and to produce an outline of mutual responsibilities and procedures for client service delivery and minimum requirements for effective interagency communication;

(c) Written procedures for the working relationship between the TAP agency and each participating criminal justice system component that specify client screening responsibilities, referral arrangements, court appearance or testimony requirements, progress reporting, termination criteria and protocols; and

(d) A written schedule and protocol for regular communications between the TAP agency and participating criminal justice system components, including the courts.

**(2) TAP AGENCY AND TREATMENT AGENCIES.** Each TAP agency shall establish and maintain working relationships and mutual agreements with treatment agencies to assure the availability of treatment agency options, effective client referrals and necessary tracking and monitoring activities. The establishment and maintenance of working relationships and mutual agreements shall be evidenced by the following:

(a) Within 6 weeks after the start-up of the program, documentation of meetings convened by TAP personnel with representatives of state and local authorities that license, approve or certify substance abuse treatment providers to:

1. Provide them with an explanation and written description of TAP services and requirements; and

2. Solicit cooperation from treatment agencies that are willing to serve TAP clients and provide a locally available continuum of care;

(b) A written agreement between the TAP agency and each cooperating treatment agency that at a minimum specifies client eligibility criteria for participation in TAP, standard procedures for referrals, services usually provided during treatment, treatment success and failure criteria and routine TAP monitoring, progress reporting and termination notification requirements; and

(c) A written schedule and protocol for regular communications between the TAP agency and cooperating treatment agencies.

**History:** Cr. Register, January, 1989, No. 397, eff. 2-1-89.

**HFS 66.06 Eligibility for treatment.** Any person is eligible for treatment if he or she:

(1) Is involved with the criminal justice system as evidenced by a formal charge or diversion agreement; is charged with or convicted of a misdemeanor or a felony; or is currently or has previously been determined drug dependent as evidenced by the client's own testimony, medical or social histories from treatment agencies, a physical examination or a urinalysis or other laboratory test;

(2) Has given informed voluntary consent to participate, as evidenced by the person's signature on a written agreement to participate and to comply with TAP requirements, including the release of information for monitoring client participation and progress, that are detailed in the written agreement. The agreement shall be read to or by the client before the client signs it; and

(3) If a parolee or probationer under supervision of the department of corrections is recommended as appropriate for participation by his or her probation and parole agent.

**History:** Cr. Register, January, 1989, No. 397, eff. 2-1-89.

**HFS 66.07 Early identification of potential clients.** To assure the earliest possible identification and screening of

potential TAP clients within the criminal justice system, each TAP agency shall develop:

(1) Written procedures for the initial screening of potential TAP clients, for use by cooperating criminal justice system components. The procedures shall clearly specify TAP agency and criminal justice system responsibilities to ensure that potential TAP clients are identified from the pool of detainees, arrestees and offenders; and

(2) Records that document that the TAP agency has sought to have potential clients referred to it by the criminal justice system at the earliest point possible in the involvement of these persons with the criminal justice system.

**History:** Cr. Register, January, 1989, No. 397, eff. 2-1-89.

**HFS 66.08 Assessment and referral for treatment and monitoring.** (1) **ASSESSMENT.** Each TAP agency shall have a standardized assessment process for persons referred from the criminal justice system to ensure that all eligibility criteria are met and that a person who is referred for TAP is appropriate for the program. The assessment process shall include:

(a) A face-to-face interview with each potential client by a qualified TAP staff member within a specified period of time after the date of the initial referral from the criminal justice system;

(b) Application of standardized assessment instruments and procedures for confirming the eligibility of a potential client, including instruments and procedures that disclose a potential client's drug dependent status and current and past involvement with the criminal justice system;

(c) A determination of the most appropriate type of AODA treatment for each client; and

(d) The client's agreement to participate in TAP, including his or her understanding of confidentiality requirements and his or her agreement to follow TAP agency and treatment agency policies and procedures.

(2) **REFERRAL.** Within 48 hours after the assessment under sub. (1) is completed, excluding weekends, a client shall be referred to a treatment program. If a treatment placement is not immediately available, TAP staff shall monitor the client during the interim period.

(3) **TESTING OF SPECIMENS.** Each TAP agency shall:

(a) Have written procedures for conducting urinalysis and other tests that detect the presence of drugs used by a client, including procedures for collecting, processing and analyzing specimens and recording positive results;

(b) Maintain records of all specimens collected and the frequency of testing for each phase of a client's TAP participation and progress. A client referred to outpatient treatment shall comply with on-site, random requests for specimen submissions at least during the first 6 months of TAP participation; and

(c) Have a written contract with a laboratory certified under 42 CFR 493 to conduct confirmatory urinalyses and other tests of specimens. The contract shall delineate all quality control procedures and standards and shall specify how a chain of custody of the specimen will be established to ensure that the urinalysis and other tests are legally acceptable evidence.

(4) **CASE MANAGEMENT.** (a) The TAP agency shall develop an individualized written case management plan for each client. The plan shall be approved by the client and the treatment agency. The plan shall specify:

1. The treatment services to be delivered;

2. The frequency of and justification for contacts with TAP agency and treatment agency counselors; and

3. The content and frequency of treatment agency progress reports to the TAP agency and the referring criminal justice system component.

(b) The referring criminal justice system component shall be kept informed about each referred client's progress, as follows:

1. The TAP agency shall give written notice of the person's admission into the TAP program and placement of the client in a treatment program, and shall submit a copy of the case management plan under par. (a) to the criminal justice system component;

2. The TAP agency shall require treatment agencies to submit treatment progress reports to the TAP agency and the criminal justice system component, at least monthly; and

3. The TAP agency shall, within 24 hours after a client's termination, notify the referring criminal justice system component of the client's termination.

(c) The TAP agency shall maintain a separate file for each TAP client, which shall include:

1. A record of all treatment services provided to the client from admission to termination; and

2. Written and signed notations by each TAP agency counselor involved with the client, specifying the date and content of all face-to-face and telephone contacts with the client, the referring justice system component and the client's treatment agency.

(5) **TERMINATION CRITERIA.** Each TAP agency shall establish written criteria for successful and unsuccessful termination of clients from TAP participation. The criteria shall be agreed to by cooperating criminal justice system components and treatment agencies and shall include:

(a) In regard to criteria measuring successful termination:

1. Completion of a written case management plan as required under sub. (4) within 15 days after admission into TAP; and

2. Compliance with any court order or other legal order relating to the client; and

(b) In regard to criteria measuring unsuccessful termination:

1. The client's unexcused absence from a specified number of scheduled TAP agency or treatment agency appointments;

2. The client's continued alcohol or other drug use or abuse as documented by a specified number of positive urinalysis tests or other test of specimens;

3. Re-arrest of the client; or

4. The client's lack of participation or cooperation in the treatment program as documented by the treatment agency counselor's written complaints of the client's non-compliance with TAP agency or treatment agency requirements.

**History:** Cr. Register, January, 1989, No. 397, eff. 2-1-89.

**HFS 66.09 Staff training.** Each TAP agency shall:

(1) Ensure that all staff understand the TAP agency mission, philosophy and operating procedures;

(2) Have a written master plan for staff training that identifies training goals and specifies training procedures and schedules;

(3) Prepare and annually update a written training plan for each staff member. Each staff member shall receive at least 32 hours of training each year on pharmacology, sentencing practices, assessment of drug dependency, substance abuse treatment modalities, treatment expectations and case management; and

(4) Maintain a personnel file for each staff member that includes his or her written job responsibilities and performance guidelines and a record of in-service training completed.

**History:** Cr. Register, January, 1989, No. 397, eff. 2-1-89.

**HFS 66.10 Data collection.** (1) Upon request of the department, each TAP agency shall submit the following program information to the department on forms provided by the department:

(a) The number of potential clients identified and referred to the TAP agency from each cooperating criminal justice system component;

(b) The number of clients admitted by the TAP agency;

(c) Each client's socio-economic and demographic characteristics, including age, race, sex, education and employment status;

(d) The criminal charge against each client, the client's drug dependent status, the primary drug of abuse or other diagnosis and the results of urinalysis and other diagnostic testing;

(e) Each client's treatment progress and status, and any client rearrests and intervening court appearances;

(f) The number and type of services provided by TAP agency and treatment agency staff to each client; and

(g) Expenditures for the TAP agency by budget line-item category during a reporting period.

**(2)** The department shall analyze all data collected from TAP agencies and other sources to determine program effectiveness and for purposes of public information and management planning.

**(3)** The department may not require the submission of client-identifiable data except for research purposes. No client-identifiable data may be published.

**History:** Cr. Register, January, 1989, No. 397, eff. 2-1-89.