



State of Wisconsin  
2017 - 2018 LEGISLATURE

LRB-3943/1  
TJD:klm

## 2017 ASSEMBLY BILL 542

October 18, 2017 - Introduced by COMMITTEE ON HEALTH. Referred to Committee on Health.

- 1 **AN ACT relating to:** changes to administrative rules for mental health services  
2 providers and mental health services provided in schools.

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*Analysis by the Legislative Reference Bureau*

This bill makes various changes to the administrative rules for mental health services providers and mental health services provided in schools in order to conform those rules to the statutory requirements for the Medical Assistance program. Among other things, the bill changes the administrative rules to allow licensed clinical social workers, licensed marriage and family therapists, and licensed professional counselors to be certified as mental health service providers and requires coverage of mental health services by these providers, as well as mental health services by licensed physicians and psychologists, under the Medical Assistance program to the extent that the services are provided at a school. The bill also changes administrative rule provisions regarding reimbursement for outpatient psychotherapy services and alcohol and other drug abuse services under the Medical Assistance program to conform to statutory requirements, including allowing reimbursement for certain services by certified providers regardless of whether the school site is designated as a clinic office and regardless of whether the provider is employed by, a contractor of, or affiliated with a clinic.

For further information see the *state* fiscal estimate, which will be printed as an appendix to this bill.

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*The people of the state of Wisconsin, represented in senate and assembly, do enact as follows:*

**ASSEMBLY BILL 542****SECTION 1**

1           **SECTION 1.** DHS 105.22 (1) (ad), (ae) and (af) of the administrative code are  
2 created to read:

3           DHS 105.22 (1) (ad) A clinical social worker licensed under ch. 457, Stats.;

4           (ae) A marriage and family therapist licensed under s. 457.10, Stats.;

5           (af) A professional counselor licensed under s. 457.12, Stats.;

6           **SECTION 2.** DHS 105.22 (1) (ak) of the administrative code is created to read:

7           DHS 105.22 (1) (ak) For outpatient mental health services provided in a school,  
8 a licensed treatment professional, as defined in s. DHS 35.03 (9g), who is not  
9 described in par. (a), (ad), (ae), (af), or (b).

10          **SECTION 3.** DHS 105.22 (1) (b) of the administrative code is amended to read:

11          DHS 105.22 (1) (b) A psychologist licensed under ch. 455, Stats., ~~who is listed~~  
12 ~~or eligible to be listed in the national register of health service providers in~~  
13 ~~psychology;~~

14          **SECTION 4.** DHS 105.22 (3) of the administrative code is amended to read:

15          DHS 105.22 (3) REIMBURSEMENT FOR OUTPATIENT PSYCHOTHERAPY SERVICES.  
16 Reimbursement shall be made to any certified outpatient mental health clinic  
17 meeting the requirement under sub. (1) (c) for services rendered by any provider who  
18 meets the applicable requirements under ch. DHS 35 and working for that clinic,  
19 except that a provider certified under sub. (1) (a), (ad), (ae), (af), (b), or (bm) may be  
20 reimbursed directly. Except for services described in s. 49.45 (30e), Stats.,  
21 psychotherapy services provided by providers certified under sub. (1) (ad), (ae), and  
22 (af) shall be reimbursed regardless of whether the services are provided under a  
23 certified program. Providers certified under sub. (1) (ad), (ae), and (af) may provide  
24 psychotherapy services that are not described in s. 49.45 (30e), Stats., without  
25 supervision by another health care provider. Reimbursement shall be made for

**ASSEMBLY BILL 542****SECTION 4**

1 mental health services provided by providers certified under sub. (1) (a), (ad), (ae),  
2 (af), (ak), (b), or (bm) in a school regardless of whether the school site is designated  
3 as a clinic office and regardless of whether the provider is employed by, a contractor  
4 of, or affiliated with a clinic.

5 **SECTION 5.** DHS 105.23 (1) (c) of the administrative code is amended to read:

6 DHS 105.23 (1) (c) A provider certified under s. DHS 105.05 (1) or 105.22 (1)  
7 (ad), (ae), (af), or (b).

8 **SECTION 6.** DHS 105.23 (1) (d) of the administrative code is created to read:

9 DHS 105.23 (1) (d) For AODA services provided at a school, a mental health  
10 clinic or a provider certified under s. DHS 105.22 (1) (a), (ad), (ae), (af), (ak), (b), or  
11 (bm).

12 **SECTION 7.** DHS 105.23 (2) (a) 1. and 2. of the administrative code are amended  
13 to read:

14 DHS 105.23 (2) (a) 1. Meet the requirements in s. DHS 105.22 (1) (ad), (ae), (af)  
15 or (b) or 105.05 (1); or

16 2. Be an AODA counselor certified by the Wisconsin alcoholism and drug abuse  
17 counselor certification board and work under the supervision of a provider who is a  
18 licensed physician or licensed psychologist and employed by the same facility, except  
19 that a provider who meets the requirements in s. DHS 105.22 (1) (ad), (ae), or (af) may  
20 provide services that are not described in s. 49.45 (30e), Stats., without supervision.

21 **SECTION 8.** DHS 105.23 (2) (c) of the administrative code is created to read:

22 DHS 105.23 (2) (c) A provider who meets the requirements in s. DHS 105.22  
23 (1) (ad), (ae), (af), or (b) may provide AODA services that are not described under s.  
24 49.45 (30e), Stats., without supervision by another health care provider.

25 **SECTION 9.** DHS 105.23 (3) (a) of the administrative code is amended to read:

**ASSEMBLY BILL 542****SECTION 9**

1 DHS 105.23 (3) (a) For the services of any provider employed by or under  
2 contract to a certified AODA facility, reimbursement shall be made to the facility; and

3 **SECTION 10.** DHS 105.23 (3) (b) of the administrative code is amended to read:

4 DHS 105.23 (3) (b) For the services of any provider ~~who is a physician or~~  
5 ~~licensed psychologist defined~~ under sub. (1) (c) in private practice, reimbursement  
6 shall be to the ~~physician or psychologist~~ individual provider. A provider who meets  
7 the requirements under s. DHS 105.22 (1) (ad), (ae), (af), or (b) shall be reimbursed  
8 for AODA services, except those services described in s. 49.45 (30e), Stats.,  
9 regardless of whether the AODA services are provided through a certified program;  
10 and

11 **SECTION 11.** DHS 105.23 (3) (c) of the administrative code is created to read:

12 DHS 105.23 (3) (c) For AODA services provided at a school by a provider under  
13 sub. (1) (d), reimbursement shall be made to the individual provider.

14 **SECTION 12.** DHS 107.13 (2) (a) 3. a. of the administrative code is amended to  
15 read:

16 DHS 107.13 (2) (a) 3. a. A provider who is a licensed physician, licensed  
17 psychologist, ~~or a licensed and certified advanced practice nurse prescriber,~~ clinical  
18 social worker, marriage and family therapist, or professional counselor; who is  
19 individually certified under s. DHS 105.22 (1) (a), (ad), (ae), (af), (b), or (bm); and who  
20 is working in an outpatient mental health clinic certified under s. DHS 105.22 or in  
21 private practice.

22 **SECTION 13.** DHS 107.13 (2) (a) 3. c. of the administrative code is created to  
23 read:

**ASSEMBLY BILL 542****SECTION 13**

1 DHS 107.13 (2) (a) 3. c. For mental health services provided at a school, a  
2 mental health clinic or a provider certified under s. DHS 105.22 (1) (a), (ad), (ae), (af),  
3 (ak), (b), or (bm).

4 **SECTION 14.** DHS 107.13 (2) (a) 4. e. of the administrative code is amended to  
5 read:

6 DHS 107.13 (2) (a) 4. e. A school. A mental health clinic or licensed treatment  
7 professional, as defined in s. DHS 35.03 (9g), is not required to designate the school  
8 site as a clinic office for mental health services provided at a school to be covered.

9 **SECTION 15.** DHS 107.13 (2) (a) 5. of the administrative code is amended to  
10 read:

11 DHS 107.13 (2) (a) 5. The Except for mental health services provided in a  
12 school, the provider who performs psychotherapy shall engage in face-to-face  
13 contact with the recipient for at least 5/6 of the time for which reimbursement is  
14 claimed under MA;

15 **SECTION 16.** DHS 107.13 (2) (b) 4m. of the administrative code is created to  
16 read:

17 DHS 107.13 (2) (b) 4m. Prior authorization is not required for mental health  
18 services provided in a school by a provider specified under s. DHS 105.23 (1) (d).

19 **SECTION 17.** DHS 107.13 (2) (c) 6. of the administrative code is amended to read:

20 DHS 107.13 (2) (c) 6. Professional psychotherapy services provided to hospital  
21 inpatients in general hospitals, other than group therapy and medication  
22 management, are not considered inpatient services. Reimbursement shall be made  
23 to the psychiatrist, clinical social worker, marriage and family therapist,  
24 professional counselor, psychologist, or advanced practice nurse prescriber billing  
25 providers certified under s. DHS 105.22 (1) (a), (ad), (ae), (af), (b), or (bm) who provide

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1 mental health professional services to hospital inpatients in accordance with  
2 requirements of this subsection.

3 **SECTION 18.** DHS 107.13 (2) (c) 7. of the administrative code is created to read:

4 DHS 107.13 (2) (c) 7. This paragraph does not apply to mental health services  
5 provided in a school by a provider specified under s. DHS 105.23 (1) (d).

6 **SECTION 19.** DHS 107.13 (2) (c) 8. of the administrative code is created to read:

7 DHS 107.13 (2) (c) 8. A prescription from a physician or other health care  
8 provider is not required for reimbursement for psychotherapy services provided by  
9 a clinical social worker, marriage and family therapist, professional counselor, or  
10 psychologist who is certified under s. DHS 105.22 (1) (ad), (ae), (af), or (b).

11 **SECTION 20.** DHS 107.13 (3) (a) (intro.), 2. and 3. of the administrative code are  
12 amended to read:

13 DHS 107.13 (3) (a) (intro.) ~~Outpatient~~ Except as provided in par. (am),  
14 outpatient alcohol and drug abuse treatment services shall be covered when  
15 prescribed by a physician, provided by a provider who meets the requirements of s.  
16 DHS 105.23, and when the following conditions are met:

17 2. Before being enrolled in an alcohol or drug abuse treatment program, the  
18 recipient receives a complete medical evaluation, including diagnosis, summary of  
19 present medical findings, medical history and, subject to par. (am), explicit  
20 recommendations by the physician for participation in the alcohol or other drug  
21 abuse treatment program. A medical evaluation performed for this purpose within  
22 60 days prior to enrollment shall be valid for reenrollment;

23 3. The ~~supervising physician or a psychologist,~~ clinical social worker, marriage  
24 and family therapist, or professional counselor develops a treatment plan which

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1 relates to behavior and personality changes being sought and to the expected  
2 outcome of treatment;

3 **SECTION 21.** DHS 107.13 (3) (a) 5. of the administrative code is amended to  
4 read:

5 DHS 107.13 (3) (a) 5. AODA treatment services are performed only in the office  
6 of the provider, a hospital or hospital outpatient clinic, an outpatient facility, a  
7 nursing home, or a school. A mental health clinic or licensed treatment professional,  
8 as defined in s. DHS 35.03 (9g), is not required to designate the school site as a clinic  
9 office for mental health services provided at a school to be covered;

10 **SECTION 22.** DHS 107.13 (3) (am) of the administrative code is created to read:

11 DHS 107.13 (3) (am) Outpatient alcohol and other drug abuse treatment  
12 services provided by a provider who meets the requirements of s. DHS 105.23 and  
13 who is a clinical social worker, marriage and family therapist, professional counselor,  
14 or psychologist shall be covered regardless of whether the services are prescribed by  
15 a physician or other health care provider.

16 (END)