

STATE PLAN UNDER TITLE XIX OF THE SOCIAL SECURITY ACT

State/Territory: WISCONSIN

ELIGIBILITY CONDITIONS AND REQUIREMENTS

Enforcement of Compliance for Nursing Facilities

Additional Remedies: Describe the criteria (as required at §1919(h)(2)(A)) for applying the additional remedy. Include the enforcement category in which the remedy will be imposed (i.e., category 1, category 2, or category 3 as described at 42 CFR 488.408).

Additional Remedies

The authority for the state to employ additional remedies is found in Wisconsin state statute or federal regulations, as identified below.

1. License suspension, revocation or nonrenewal. (Authority to suspend, revoke or fail to renew a facility's license is found in Chapter 50, Wis. Stats.)

The state may suspend, revoke, or fail to renew a facility's license whenever deficiencies are cited that evidence a substantial failure on the part of the facility to comply with the requirements of Chapter 50, Wis. Stats. and Chapter HSS 132, Wis. Administrative Code. This remedy may be imposed in enforcement category 3 in cases of immediate jeopardy and enforcement category 2 in cases of non-immediate jeopardy.

2. Conditional license. (Authority to issue a conditional license is found in Chapter 50, Wis. Stats.)

The state may issue a conditional license to a facility whenever it determines that a deficiency continues to exist at a facility. This remedy may be imposed in enforcement category 1 in cases of immediate or non-immediate jeopardy.

3. Closure of Facility. (Authority to close a facility is found in Chapter 50, Wis. Stats., and 42 CFR 488.406.)

The state may take action to close a facility whenever an emergency exists that poses immediate jeopardy to resident health or safety. This remedy may be imposed in enforcement category 3 in cases of immediate jeopardy and enforcement category 2 in cases of non-immediate jeopardy.

4. Receivership. (Authority to place a facility in receivership is found in Chapter 50, Wis. Stats.)

In the event that a Wisconsin nursing facility is adjudged to no longer be capable of adequately providing for the needs of its residents or the facility is insolvent or is in

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imminent danger of insolvency, the state can petition the court to assume control of the facility and all of its assets. State *receivership* is distinguished from the concept of *temporary management* insofar as in a receivership, the state takes control of the assets and operation of a facility, whereas, in appointing a temporary manager, the state temporarily appoints an outside party to oversee the operation of a facility until such time as the facility's owners are able to reassume management control of the facility's operations.

The state may petition for the appointment of a receiver for a facility when any of the following conditions exist:

- a. the facility is operating without a license;
- b. the state has suspended, revoked or refused to renew the existing license of the facility;
- c. the state has initiated revocation or nonrenewal procedures and has determined that the lives, health, safety, or welfare of the residents cannot be adequately assured pending a full hearing on license nonrenewal or revocation;
- d. the facility is closing or intends to close and adequate arrangements for relocation of residents have not been made at least 30 days prior to closure;
- e. the state determines that an emergency exists or that appointment of a receiver is necessary to protect the health, safety or welfare of the residents; or
- f. the facility is in violation of s.49.498, Wis. Stats., or a rule promulgated under s. 49.498, meets the criteria established by rule under s.49.498(14)(c) for appointment of a receiver, and there is a need for appointment of a receiver during the period that any of the following applies:
 - there is an orderly closure of the nursing facility; or
 - the nursing facility institutes improvements in order to bring the nursing facility into compliance with the requirements of s.49.498 or a rule promulgated under s. 49.498.

This remedy may be imposed in enforcement category 3 in cases of immediate and non-immediate jeopardy.

5. Injunction. (Authority for injunctive relief is found in Chapter 50, Wis. Stats.)

The state may maintain an action in circuit court for injunction or other process against a facility to restrain and enjoin violation of applicable rules, regulations and statutes when a facility is cited for deficiencies constituting immediate jeopardy to resident health or safety. This remedy may be imposed in enforcement category 3 in cases of immediate jeopardy.

6. Directed Plan of Correction. (Authority to impose a directed plan of correction is found in 42 CFR 488.406 and 488.424.)

The state may develop a plan of correction and, in such cases, the state or the temporary manager appointed by the state will require a facility to take action within specified timeframes whenever a facility:

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- a. is cited for deficiencies constituting immediate jeopardy to resident health or safety;
or
- b. is cited for deficiencies constituting non-immediate jeopardy other than isolated deficiencies that constitute no actual harm with the potential for minimal harm.

This remedy may be imposed in enforcement category 1 in cases of immediate and non-immediate jeopardy.

7. Directed In-Service Training. (Authority to impose directed in-service training is found in 42 CFR 488.406 and 488.425.)

The state may require the staff of a facility to attend an in-service training program if the facility has a pattern of deficiencies that constitute non-immediate jeopardy to resident health or safety other than those that pose no actual harm with the potential for minimal harm. This remedy may be imposed in enforcement category 1 in cases of immediate and non-immediate jeopardy.

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