


AUGUST 5, 1996

STATE OF WISCONSIN  
Department of Health and Family Services  
Division of Supportive Living

To: Area Administrators/Assistant Area Administrators  
Bureau Directors  
County Department of Community Programs Directors  
County Departments of Developmental Disabilities Services Directors  
County Departments of Human Services Directors  
County Departments of Social Services Directors  
Program Office Directors/Section Chiefs  
Tribal Chairpersons/Human Services Facilitators

From: Gerald A. Born  
Administrator 

Re: Detention Under s. 51.15 In A Non-Hospital Setting

The Division of Supportive Living (DSL) has received a request to certify a county-operated facility which provides emergency mental health services of a residential nature, but in a non-hospital setting. The plan is for these emergency mental health services to include detention, evaluation, and treatment in accordance with s. 51.15, Stats. Department staff reviewed the legal and clinical implications of the request and determined that this is an appropriate option when properly implemented.

Paragraphs 51.15(2)(a) and (d) of the statutes allow law enforcement officers to transport detained individuals to an approved private treatment facility (if the facility agrees to detain the individual), or to an approved public treatment facility. Subsection 51.01(19) defines an approved treatment facility as any publicly or privately operated facility (or unit thereof) which provides treatment to mentally ill, alcohol, drug dependent or developmentally disabled persons including, but not limited to, inpatient and outpatient treatment programs, community support programs and rehabilitation programs.

Emergency mental health service programs certified under HSS 61.74 as meeting the standards established by the Department are approved treatment facilities. Therefore, a 51.42 Board designated certified program under s. HSS 61.74 for the provision of emergency mental health services, including evaluation and treatment, can legally be used as a detention facility under s. 51.15 of the Statutes, in appropriate cases.

It is important that the county provide some screening mechanism to insure that the persons who are detained in such a program are those who do not need hospital level inpatient services. The program staff needs to assess the client's level of risk of dangerousness to determine whether a lesser degree of containment than a psychiatric hospitalization is feasible. There must be sufficient observation, monitoring, evaluation, treatment and supervision of the detained client to provide safety and security. Arrangements for transportation to an inpatient hospital must be made available if the client's level of risk of dangerousness is assessed to require a more restrictive setting. Except for trained and supervised volunteers, only mental health personnel who are qualified under the provisions of the Wisconsin Administrative Code may be assigned to the detention and treatment facility.

The new administrative rules HSS 34 for Emergency Mental Health Service Programs include standards for crisis stabilization services. Until the new rules are adopted these new standards can be used as a guide in the development of non-hospital detention facilities. The new standards state, in part, that an emergency mental health service program shall develop and implement written policies that

pertain to the following: required staff and qualified personnel, program operation and services, risk assessment criteria, agreements with law enforcement, medical/clinical back-up and supervision, orientation and ongoing training, documentation/client service records, client rights and client satisfaction.

The target date for promulgating these standards is October 1996. Once the rules are promulgated, programs that meet the standards can claim Medicaid for this service, including crisis stabilization.

The development of alternative non-inpatient settings for the detention of emergency mental health clients, establishes a new precedent in Wisconsin; because only hospitals have been used for detention under s. 51.15 prior to this. The facility could be used for detention of persons who are detained by law enforcement officers in accordance with s. 51.15, Stats. This will benefit clients who can be safely detained in non-hospital settings.

If you are interested in exploring this option, I encourage you to inform the law enforcement staff of your community about this option and clarify the process to be used to detain persons in non-hospital settings.

CENTRAL OFFICE CONTACT:      George Hulick  
   Bureau of Community Mental Health  
   (608) 266-0907

cc      AMI Chapters  
         Consumer Organizations  
         Wisconsin Coalition for Advocacy