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**DATE:** December 18, 2015

**TO:** County Community Program, Social Service and Human Service Agencies

**FROM:** Julie Anstett, Director, Area Administration

**RE:** 2016 Purchase of Service Contracts, Audit Procedures, and Waivers

This memo is released on an annual basis to assist county departments of human services, social services, and community programs in planning for contracts, audits, and contract/audit waivers for the upcoming calendar year.

The Wisconsin Department of Health Services (DHS) Financial Management Manual (FMM) contains policy material, along with the Purchase of Services (POS) Model Contract Language and instructions. The synopsis of contract and audit requirements outlined in this memo serves as a quick reference. For complete information refer to the Financial Management Manual online:

- [Wisconsin Department of Health Services Financial Management Manual \(FMM\)](#)
- [2004 Update – Model Purchase of Services Contract – Chapter B7](#)

Use of the base model contract is not required, but it is provided as convenient and appropriate contract language that meets the purchase of service contracting requirements found in Wis. Stat. § 46.036. Counties are required to use either the model contract or an adaptation of the model contract that meets statutory requirements. It is also necessary to use the Community-Based Residential Facility (CBRF) Model Contract or an adaptation in which all elements of the model CBRF contract are included. Counties are encouraged to have their legal counsel review all contracts utilized (either the model contract or an adaptation of the model contract) to assure compliance with state statute and the county's specific contracting needs.

In summary, any contract, other than the state model contract, utilized for Medicaid (MA) Waiver purchases must be pre-approved by DHS, and a signed Provider Agreement must be executed prior to payment for purchases to be in compliance.

Requirements for provider contracts for Family Care Managed Care Organizations (MCOs) are contained in the Health and Community Supports Contract between DHS and the MCO. These requirements incorporate federal Medicaid managed care requirements. MCOs should refer to the Health and Community Supports Contract for provider contract requirements, not the FMM. MCOs cannot apply to the Area Administration Regional Office for a waiver of contract requirements with providers.

## **CONTRACT REQUIREMENTS/CONTRACT WAIVERS**

**Contracts are not required (therefore, no contract waiver is necessary) when:**

- ◆ A provider under contract with a county agency obtains services from another vendor (ancillary services).
- ◆ Placement is in a CBRF that is owned or operated by the county making the placement.
- ◆ Paying for services or items through the Family Support Program between a family and the county agency.
- ◆ A payment is made directly to a client from a county agency. (Note: Individual client vouchers cannot be used in lieu of formal contracts for CBRF services.)

Contracts are required in all other circumstances. There are some instances listed below in which the regional office waives the requirement for a contract.

**Contracts that are required, but are automatically waived by the Regional Office:**

DHS considers the contracting process a good business practice that when properly executed, protects both the county and the provider. It is the intent of DHS to encourage the development of contracts. However, DHS recognizes that in some instances the imposition of rigid contracting procedures is a deterrent to the delivery of services.

Through this memo, the Regional Office is granting an automatic blanket waiver for required contracts in the following circumstances:

- ◆ For purchases of \$10,000 or less in a calendar year.
- ◆ For emergency or one-time unanticipated client-specific services (less than \$10,000 in a calendar year).

It is the county agency's responsibility to assure that the specific situations in which you do not seek contracts fit into either the "not required" or "waived" criteria outlined above. The county is responsible for contracting for all other purchased services.

## **AUDIT REQUIREMENTS/AUDIT WAIVERS**

Wis. Stat. § 46.036 requires an audit from providers that receive more than \$25,000 from DHS or from a county. The statutes allow DHS to waive audits on a case-by-case basis. In addition, Wis. Stat. § 66.0143 authorizes a waiver of state mandates, which many counties have used to increase the threshold for requiring audits. Information on obtaining waivers under Wis. Stat. § 66.0143 is on the Department of Revenue's website at [Instructions for Request for Exemption from State Mandates](#).

DHS cannot waive audits that are required under the Single Audit Act Amendments of 1996. This law is implemented through 2 CFR, Part 200, "Uniform Administrative Requirements, Cost Principles, and Audit Requirements for Federal Awards," and requires nonprofits and local governments that expend more than \$750,000 in federal funds to have audits in accordance with 2 CFR Part 200, Subpart F.

Wis. Stat. § 46.036 applies to county operations, including Family Care MCOs operated by a county agency. MCOs must follow the audit waiver process described in this memorandum if they want to request waivers of provider audits.

**Audits are not required (therefore no audit waiver is necessary):**

- ◆ For contracts under \$25,000 or
- ◆ For contracts under a higher threshold amount approved through a Wis. Stat. § 66.0143 waiver.

**Audits that are required, but may be waived by the Regional Office:**

*(References in this section are to [DHS form F-00945i, Risk Identification and Assessment Worksheet Instructions](#). Please review this document for guidance on matching audit requirements to the level of assessed risk a county assumes in administering DHS programs when completing [DHS form F-00945, Purchase of Service Audit Waiver Request/ Risk Identification and Assessment Worksheet](#).)*

The provider must furnish the county with an annual audit for purchases exceeding \$25,000, or the higher threshold amount if a Wis. Stat. § 66.0143 waiver is received, unless the county obtains a waiver for the audit from the DHS Regional Office. Waiver requests should be made using DHS form [F-00945](#), Purchase of Service Audit Waiver Request.

Waiver of the audit is appropriate only if the county does not need to have an audit according to federal audit requirements. If the provider does not need to have a federal audit, the Regional Office may decide to approve waiving the audit when:

- ◆ The county has assessed the level of risk at low as documented by the “Risk Identification and Assessment Worksheet.”
- ◆ The county has increased other monitoring efforts to reduce risk to a low level.
  - A description of the alternate form of financial and program compliance monitoring that the county will implement in lieu of an audit must be documented on the Purchase of Service Audit Waiver Request form, [F-00945](#).
- ◆ The contract is funded solely with federal funds.
- ◆ DHS funding is a very small part of the provider’s overall business.
- ◆ An audit would be a hardship on the provider.
- ◆ Audited information is not needed.

Requests for a waiver are to be submitted to the DHS Regional Office on the Purchase of Service Audit Waiver Request form, [F-00945](#), during contract negotiation **before the contract is signed**. Requests for audit waivers **after the contract is signed** will be considered in exceptional situations only.

The Purchase of Service Audit Waiver Request form, [F-00945](#), and the Risk Identification and Assessment Worksheet can be submitted to the Regional Office either by email or by regular mail. These forms have been converted into an electronic format and can be found on the [DHS Area Administration](#) webpage.

Audit waiver requests for programs funded through the Area Agency on Aging must be sent to the appropriate Area Agency on Aging office. Please contact the Area Agency on Aging office for the procedures to use in requesting an audit waiver. In Dane County, please contact the Dane County Area Agency on Aging at 608-261-9930 or [aaa@countyofdane.com](mailto:aaa@countyofdane.com). In Milwaukee County, please contact the Milwaukee County Area Agency on Aging at 414-289-6874 or 866-229-9695 or [Jonette.arms@milwaukeecountywi.gov](mailto:Jonette.arms@milwaukeecountywi.gov). For the balance of the state, please contact the Greater Wisconsin Agency on Aging Resources at 608-243-5670 or [info@gwaar.org](mailto:info@gwaar.org).

Audit waiver requests for providers that receive any other sources of DHS funding must be sent to the Area Administrator in the Regional Office using the Purchase of Service Audit Waiver Request form, [F-00945](#), and the Risk Identification and Assessment Worksheet.

**Audits that are required, but may be waived by the county:**

For contracts with small residential care providers, such as family group homes and adult family homes, the county rather than the state has the authority to grant a waiver to the audit requirement. For contracts under \$25,000, an audit is not required, so no waiver is necessary. For contracts over \$25,000, the county can provide a waiver by using the same audit waiver criteria the Regional Office uses, including the Risk Identification and Assessment Worksheet.

1. If the provider agency is at low risk as determined by the Risk Identification and Assessment Worksheet and the cost of an audit exceeds five percent of the total contract (as verified by written bid), an alternate year audit schedule that covers both years may be approved.
2. If it is determined that an audit would not be cost effective or would otherwise place an undue burden upon the provider, the audit requirement may be waived. Specific circumstances must be documented that support the granting of a waiver and indicate an alternate form of financial monitoring and program compliance, which will be substituted for an audit.