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DCTS Action Memo 2020-07

To: County Departments of Community Programs  
County Departments of Health and Human Services  
County Departments of Human Services

From: Rose Kleman, Administrator

## Reimbursement for Emergency Detention Services Provided to Non-Wisconsin Residents

### Document summary

This memo explains which emergency detention services provided to non-Wisconsin residents and funded by county agencies are eligible for reimbursement from the Department of Health Services (DHS) and how to obtain reimbursement for these services.

### Background

[Wisconsin Stat. § 20.435\(5\)\(da\)](#) provides funding to DHS to reimburse county agencies for costs associated with providing emergency detention services to non-Wisconsin residents. Reimbursement is available for cases in which the non-Wisconsin resident was detained under [Wis. Stat. § 51.15\(1\)](#) by a law enforcement official and this detention was approved by a county human service agency (or a county human service agency's designated authority). Reimbursement also is available for non-Wisconsin residents who voluntarily admit themselves to an inpatient psychiatric or substance use treatment facility in Wisconsin. In these cases, it must be demonstrated that the non-Wisconsin resident met the statutory basis for emergency detention under [Wis. Stat. § 51.15\(1\)](#).

### Determining residency

Reimbursement to counties under [Wis. Stat. § 51.22\(3\)](#) does not apply to people who have established Wisconsin residency, even if the person's Wisconsin county of residence may be in dispute. A county agency should consult with their corporation counsel or other legal advisors on questions regarding residency. In brief, the following criteria must be present simultaneously to establish residency:

- Physical presence is within the state/county.
- Physical presence is voluntary (per the individual or by the choice of their legal guardian).
- The individual has the intent to remain.
- The intent to remain includes a place of fixed habitation within the state/county.

The following information may be helpful to establish whether an individual has an intent to remain. A person or his/her legal guardian, on behalf of their ward, must have the intent to remain for the foreseeable future in the county where he or she is physically present. Generally, intent to remain may be expressed verbally or in writing by the individual or his/her guardian, although a written expression of intent is preferable. No specific time period must have elapsed to establish the intent to remain for

Wisconsin residency. Situations such as, but not limited to, seasonal employment in Wisconsin, an extended vacation, temporarily caring for a sick relative, or for education/training purposes do not alone qualify as having the intent to remain. Other facts that may be considered as indicators of intent include, but are not limited to, the location where the individual files tax returns or maintains a driver's license.

DHS will work with the county agency to complete an appropriate review of information, if necessary. DHS maintains the authority to determine residency and approval of the reimbursement request.

### **Responsibilities of county agencies**

The county agency in which a person is emergency detained is responsible under [Wis. Stat. § 51.42\(1\)\(b\)](#) for providing emergency services needed by a non-Wisconsin resident that may include placement of the person into any of the following:

- An inpatient psychiatric or substance use treatment facility.
- A crisis intervention program for people with a mental illness and/or substance use issues.
- A community-based program appropriate to meet the person's crisis-related treatment needs.

The county agency crisis intervention worker (or designee) must triage with local law enforcement officials to assure the person is admitted to the most appropriate and least restrictive setting to treat the person's needs. Also, the county agency must monitor the person's progress while in treatment to assure the person is not retained in the facility longer than necessary to achieve clinical stability sufficient for discharge into the community. Upon discharge, the treating facility must assure the person has a discharge plan for community-based services in the person's home state. The county where the person was detained must assist the person to return to their home state.

Following the initial detention, the county where the person was detained must initiate a probable cause hearing in circuit court within 72 hours of the initial detention, not counting weekends and legal holidays. A commitment hearing is required within 14 days of the detention (including weekends and holidays), if the person is not able to be safely discharged during the intervening time periods.

County agencies that initiate and approve the placement of a non-Wisconsin resident in a mental health institution or other psychiatric programming are responsible for completing all legal and case management activities to assure the person is appropriately served. This typically includes arranging probable cause and final commitment hearings, supporting necessary emergency treatment, and arranging for transport of the person from Wisconsin to their home state upon discharge.

When a detained non-Wisconsin resident is receiving inpatient treatment in a hospital or a setting other than a state mental health institute, the county agency where the person was detained is encouraged to retain the person in the hospital or other treatment setting if it appears the person will stabilize sufficiently for safe discharge within seven calendar days or less following the emergency detention order. Retaining the person in the setting where the detention occurred assures a continuity of treatment and a prompt, orderly discharge. If it appears the person will continue to need inpatient treatment for a period longer than seven days following the emergency detention order, the person may be transferred to a state mental health institute.

When a jailed non-Wisconsin resident requires emergency mental health and/or substance use disorder services, the county where the jail is located is responsible for providing those services. These services

may be provided to the person in the jail or in an inpatient treatment facility. The county where the jail is located is eligible for reimbursement from DHS for allowable services provided to a non-Wisconsin resident. As with other emergency detentions, supporting documentation is required for all emergency mental health and/or substance use disorder services to non-Wisconsin residents who are inmates of Wisconsin county jails.

### **Services eligible for reimbursement**

The following types of services provided to non-Wisconsin residents who are emergency detained are eligible for reimbursement from DHS under the appropriation [Wis. Stat. § 20.435\(5\)\(da\)](#):

- Medical clearance services from a medical hospital.
- An inpatient psychiatric or substance use treatment facility.
- A crisis intervention program for people with a mental illness and/or a substance use issue.
- A community-based treatment program appropriate to meet the crisis-related treatment needs.
- Transportation of the person to attend applicable court hearings.
- Transportation and related expenses to return a person to their home state.
- Other needed services with approval from the Division of Care and Treatment Services such as, but not limited to, ambulance services in special situations.

Reimbursement to counties may also apply to non-Wisconsin residents who voluntarily admit themselves to an inpatient psychiatric or substance use treatment facility in Wisconsin; however, this only applies when it can be demonstrated that the person met the statutory basis for emergency detention. Evidence of such demonstration must be included in documentation submitted for reimbursement.

### **Obligation to recover costs before submitting reimbursement request**

Prior to presenting reimbursement requests to DHS, providers of treatment and services must first attempt to recover costs of emergency detention services from the person's resources under [Wis. Stat. § 46.10](#). This includes billing the person for their care, billing their insurance carrier, and/or billing Medicaid/Medicare. County agencies are responsible for monitoring these situations and following acceptable accounting practices. When the remaining balance for a non-Wisconsin resident is known, reimbursement authorization from DHS can be requested. Any double payments or over payments from third party payment sources should be brought to the attention of DHS to ensure the DHS reimbursement amount is correct.

### **Rules for reimbursement**

Counties are expected to request reimbursement from DHS at the reduced or flat rate paid under contract by the county for other services. A typical example is where the basic daily inpatient hospital rate includes ancillary charges, plus added doctor's fees. Billing statements submitted to DHS for reimbursement must reflect the reduced or flat rate where such a rate exists.

When a person is detained in a facility other than a state mental health institute, requests may be made for any services identified as eligible for reimbursement. Appropriate documentation must accompany requests for reimbursement including evidence of cost and/or payment. County agencies must assure services were necessary and court intervention was accessed to support the emergency detention, commitment, and/or settlement agreement.

Counties are expected to utilize the most cost efficient modes of transportation when supporting a non-Wisconsin resident's return to their home state. Decisions on transportation should be based on the person's presenting clinical needs and the distance involved. Reimbursement requests may include costs related to the mode of transportation (mileage costs for agency vehicles and/or volunteer drivers and fares related to bus, train, and/or airplane), staff-related travel expenses when staff are required to accompany the person, and a family member's travel expenses if a family member needs to accompany the person. The cost of transportation and related travel expenses cannot exceed the amount of reimbursement a county agency allows for employees for the same type of expenses. DHS reserves the right to deny any travel-related expenses that are deemed unnecessary or inappropriate.

There is a one-year time limit for a county agency to request authorization for reimbursement following discharge of a non-Wisconsin resident who was detained. A full year is provided to allow sufficient time for providers to seek payment from other third party payers and to allow sufficient time for counties to receive billing statements from providers. Exceptions to the one-year time limit may be made for situations beyond the county agency's control.

Counties should notify Winnebago Mental Health Institute as soon as possible that a person presented for admission is a non-Wisconsin resident. Once the person is determined to be a non-Wisconsin resident, staff at Winnebago Mental Health Institute will reassign the cost of care from the county to a state funding source. Once the non-Wisconsin resident status is established, reimbursement can be requested for services and costs incurred by the county. Generally, counties are responsible for costs of service to a non-Wisconsin resident during the first 72 hours of care or until the probable cause hearing. Determining the appropriate cost center is dependent on the county verifying residency. Counties will be billed until sufficient information is provided to confirm the person is a non-Wisconsin resident.

### **Applying for reimbursement**

Follow these steps to apply for reimbursement from DHS.

1. Complete [F-20572, Request for State Public Funding for Non-Residents](#)
2. Attach:
  - Evidence of person's non-Wisconsin resident status.
  - Law enforcement report from the emergency detention.
  - Applicable court orders for probable cause and/or commitment orders (or settlement agreement).
  - Billing statements from the providers of treatment or services.
  - Statement from the county agency explaining any other third party payments the county received or is expected to receive (examples: personal funds, insurance payments, Medicaid/Medicare). This statement is not necessary if there are no third party payers.
  - Other documentation, such as clinical assessments, should NOT be included, unless the information is needed to document a voluntary admission that met the standards of an emergency detention.
3. Submit the form and the attachments by mail or fax to:  
Emergency Detention Coordinator  
Division of Care and Treatment Services  
PO Box 7851  
Madison, WI 53707-7851  
Fax: 608-266-2579

Upon approval of a reimbursement request, DHS will issue reimbursement on CARS Profile 931 Non-Resident Reimbursement. The prior state-county contract Appendix 531 has been modified to Appendix 931 to support this funding. Reimbursement will be made according to the schedule in the state-county contract. County reporting to CARS is no longer required.

DHS is the sole authority for the review and approval of requests for reimbursement of costs related to the emergency detention of non-Wisconsin residents. DHS will work with counties to address questions and missing information on reimbursement requests. DHS reserves the right to deny requests for reimbursement when information is considered inaccurate and/or inadequate.

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