

State of Wisconsin  
Department of Health Services  
Division of Mental Health and Substance Abuse Services

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DMHSAS Info Memo 2014-02

**Index Title: MA Reimbursement for Emergency Mental Health Services**

To: DMHSAS Listserv

For: Area Administrators / Human Services Area Coordinators  
Bureau Directors/ Program Office Directors / Section Chiefs  
County Departments of Community Programs Directors  
County Departments of Developmental Disabilities Services Directors  
County Departments of Human Services Directors  
County Departments of Social Services Directors  
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From: Linda A Harris, Administrator  
Division of Mental Health and Substance Abuse Services

Subject: MA Reimbursement for Emergency Mental Health Services

**Document Summary**

On December 16, 2013, the Department of Health Services (DHS) formally adopted the November 11, 2013 Administrative Law Judge decision in the matter of Milwaukee County Behavioral Health Division, case number ML-12-0156, regarding whether the definition of emergency mental health services for purposes of Medicaid (MA) reimbursement is most appropriately contained in the MA rules, Wis. Admin. Code § DHS 101.03(52), or in the emergency detention (ED) statute, Wis Stat. § 51.15.

The ruling states that for the purposes of MA reimbursement, the definition of emergency mental health services is most appropriately contained in MA rules, Wis. Admin. Code § DHS 101.03(52), which states,

(52) "Emergency Services" means those services which are necessary to prevent the death or serious impairment of the health of the individual.

This decision determines the appropriate protocol for the Certificate of Need (CON). If the reason for the ED was that the individual (under age 21) was only a risk to others, then the admission is **NOT** an emergency under MA standards and the CON must be completed by a physician independent of the institution prior to the admission for the treatment to be MA compensable. If the ED is for protection of the individual (for example, related to a suicide attempt), the admission and treatment of that individual can be authorized by a CON completed after admission by a team that includes a physician who has an employment or consultant relationship with the admitting institution.

**Changes to Wisconsin Mental Health Institutes Billing Practices**

Effectively immediately, the Wisconsin Mental Health Institutes (Winnebago Mental Health Institute and Mendota Mental Health Institute) will be making a determination as to whether the subject of an ED is admitted solely as a danger to others. If so determined, DHS will no longer seek MA reimbursement unless an appropriate CON is completed prior to admission. DHS estimates that approximately 20% of ED admissions will no longer be reimbursable due to this change.

The Department of Health Services will continue to seek reimbursement on behalf of the counties for admissions where the individual was admitted as a danger to him/herself OR as a danger to both him/herself and others.

This recent decision does not change whether and how individuals are referred from the counties for EDs, nor will there be any change in how such individuals will be clinically treated at the MHIs.

### **Emergency Detention Documentation**

Wisconsin Mental Health Institute staff will use emergency detention documentation to determine if the nature of the ED meets the standards to be billed to MA. DHS recommends that counties work with local law enforcement and other involved entities to ensure that emergency detention documentation is thoroughly and accurately completed to ensure proper determination by institute staff.

### **Non-Emergency Detention Civil Commitments**

This recent decision does not change the Certificate of Need (CON) requirements for counties when admitting civil patients under age 21 to the MHIs on anything other than an ED. DHS will NOT seek reimbursement until a CON has been received. DHS will send no more than three (3) reminders to counties that a CON is required. If no CON is received, DHS will not bill MA for that admission and will seek payment from the counties

In addition to this notification, the DHS Division of Mental Health and Substance Abuse Services intends to provide opportunities to discuss this change at upcoming Area Administration meetings.

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