

Jim Doyle
Governor

Karen E. Timberlake
Secretary



State of Wisconsin
Department of Health and Family Services

DIVISION OF ENTERPRISE SERVICES

WESTERN REGIONAL OFFICE
610 GIBSON STREET, SUITE 2
EAU CLAIRE WI 54701-3687

Telephone: 715-836-3415
FAX: 715-836-2516
dhfs.wisconsin.gov

DATE: August, 2008

TO: COUNTY DSS, DCP, DHS, & DHHS AGENCIES

FROM: Regional Area Administrator

RE: **2009 POS CONTRACT, AUDIT PROCEDURES, AND WAIVERS**

On July 1, 2008 the Department of Children and Families (DCF) was created and the Department of Health and Family Services became the Department of Health Services (DHS). Through a Memorandum of Understanding (MOU) between DCF and DHS an agreement was made that the Area Administration Regional Office will continue to serve as the State/County contract administrator for all county agencies in the region and will work closely with the contract manager in DHS and the program divisions in DHS and DCF. The requirements discussed in this memo relating to contracts, audits, and waivers are included in the MOU between the two departments.

Chapter B7 of the Wisconsin Department of Health Services 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 FMM. The base model contract is not required, but is provided as convenient and appropriate contract language that meets the purchase of service contracting requirements found in Wisconsin Statute 46.036. Agencies 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. Agencies 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 agency's specific contracting needs.

Chapter B7 of the FMM can be accessed online at <http://www.dhfs.state.wi.us/grants/contract.HTM>

Family Care Managed Care Organization's (MCOs) requirements for provider contracts are contained in the Health and Community Supports Contract between the Department of Health Services 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

When Contracts Are Not Required

Contracts are not required for the following. Therefore, it is not necessary to have a contract waiver for these services.

- ◆ Care provided by foster homes and treatment foster homes licensed under s. 48.62. (Note: Contracts **ARE** required for group homes licensed under s. 48.625.)
- ◆ When a provider under contract with a county agency obtains services from another vendor (ancillary services).
- ◆ When day care is provided via a voucher directly to a client.
- ◆ Placement in a CBRF when the CBRF is owned or operated by the county making the placement.
- ◆ When paying for services or items through the Family Support Program between a family and the county agency.
- ◆ When 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 Which Are Required But Are Automatically Waived By The Regional Office

The Department of Health Services and the Department of Children and Families consider the contracting process a good business practice that, if properly executed, protects both the purchaser and the provider. It is the intent of both Departments to encourage the development of contracts. However, the Departments recognize 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 three circumstances:

- ◆ For purchases of \$10,000 or less in a calendar year.
- ◆ When a child is placed in a group home when another county DSS/DHS/DHHS/DCP is the sponsoring agency. The sponsoring agency must have a contract with a group home (less than \$10,000 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 agency is responsible for contracting for all other purchased services.

AUDIT REQUIREMENTS/AUDIT WAIVERS

Wisconsin Statute 46.036 requires an audit from providers that receive more than \$25,000 from the Department of Health Services, the Department of Children and Families or from another county. The statute allows the Departments to waive audits on a case-by-case basis. In addition, Section 66.0143 of the Wisconsin Statutes authorizes waiver of state mandates.

Section 66.0143 requires the request for a waiver of the \$25,000 threshold be filed with the Wisconsin Department of Revenue. The requester is required to specify the reason for seeking the waiver. The Department of Revenue is required by statute to forward the request to the department administering the funds for approval of the waiver request. The waiver is effective for four years. Additional

information on obtaining waivers under Section 66.0143 is on the Department of Revenue's website at <http://www.dor.state.wi.us/forms/govcty/instruct.html#criteria>

The audit waiver criteria **do not** apply to group homes and residential care facilities that provide out of home residential care for children. Audit reports from these facilities are required to support the Departments' claims to the federal government for the funding that pays for the care of children at these facilities. In addition, the Departments **do not** waive audits that are required under the Single Audit Act Amendments of 1996. This law is implemented through OMB Circular A-133 "Audits of States, Local Governments, and Non-Profit Organizations," and requires non-profits and local governments that expend more than \$500,000 in federal funds to have audits in accordance with Circular A-133.

Wisconsin Statute 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.

When 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 Section 66.0143 waiver.

Audits Which Are Required But May Be Waived By The Regional Office

All references in this section are to the *Provider Agency Audit Guide (PAAG)* that includes guidance on matching audit requirements to the assessed level of risk that an agency will have problems administering department programs. The PAAG is online at www.dhfs.state.wi.us/grants.

The provider must furnish the purchaser with an annual audit for purchases exceeding \$25,000, or the higher threshold amount if a Section 66.0143 waiver is received, unless the purchaser obtains a waiver for the audit from the Regional Office. Waiver of the audit is appropriate only if the agency 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 granting agency assessed the level of risk at low as documented by the "Risk Identification and Assessment Worksheet." (Section 3.1.1).
- ◆ The granting agency increased other monitoring efforts to reduce risk to a low level (Section 3.1.1).
- ◆ The contract is funded solely with federal funds (Section 3.1.3).
- ◆ The department funding is a very small part of the provider's overall business (Section 3.1.4).
- ◆ An audit would be a hardship on the provider (Section 3.1.4).
- ◆ Audited information is not needed (Section 3.1.5).
- ◆ The agency does not operate a group home or child caring institution facility (Section 3.1.5 and Section 7.1.5).

Requests for a waiver are to be submitted to the Regional Office on the attached CY **2009** Purchase of Service Waiver of Audit Request form, during contract negotiation before the contract is signed. Purchasers must also complete the following items to request a waiver:

1. A “Risk Identification and Assessment Worksheet” showing the purchaser’s assessment of risk for the provider (Section 2).
2. A description of the alternate form of financial and program compliance monitoring the purchaser will implement in lieu of an audit (see Section 2.3.3 for examples of monitoring efforts). Include this information in item #6 of the attached CY **2009** Purchase of Service Waiver of Audit Request form.

Requests for audit waivers after the contract is signed will be considered in exceptional situations only.

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.

Audit waiver requests for providers that receive any other sources of DHS and DCF funding must be sent to the Area Administrator in the Regional Office using the attached waiver form and the “Risk Identification and Assessment Worksheet.”

Audits Which Are Required But May Be Waived By The County

For contracts with small residential care providers such as 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 Offices 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, nor would otherwise place an undue burden upon the vendor, the audit requirement may be waived. You must document the specific circumstances 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.

TO:

FROM: _____, Director

_____, County DHS, DSS, DCP, DHHS

RE: **CY 2009 Purchase of Service Waiver of Audit Requirement**

WAIVER REQUEST

1. Date of Request: _____

2. Provider Name: _____

3. Service(s) Being Purchased: _____

4. Total Contract Amount: _____

5. Reasons Audit Waiver is Requested: (Check all that apply)

a) _____ Agency is identified at low risk

i) Risk Identification and Assessment Worksheet attached per Provider Agency Audit Guide
(REQUIRED FOR ALL WAIVER REQUESTS)

b) _____ Audit exceeds 5% of the total contract.

i) Audit Cost: _____

ii) Source of Estimate: _____

c) _____ Corporate Certified Audit Report and statement of program revenues and expenses.

i) Name of Corporation: _____

d) _____ Audit not cost effective or undue burden. Explain: _____

6. Alternate form of financial and program compliance monitoring to be implemented: **(REQUIRED FOR ALL WAIVER REQUESTS)**

7. County Recommendation: Approve Waiver _____ Deny Waiver _____

Comments: _____

REGIONAL OFFICE RESPONSE

Approved _____ Denied _____

Comments: _____

Signature: _____

Date: _____

Illustration 2.1 Risk Identification and Assessment Worksheet

Risk Factors		(Place a checkmark next to the description that best suits the risk factor)	
		Lower Risk	Higher Risk
2.1	<u>Program Characteristics:</u>		
2.1.1	<u>Lifestage of the program</u>	More than two years	Less than two years
2.1.2	<u>Complexity of the program</u>	Low level of complexity	High level of complexity
2.1.3	<u>“Sensitivity” of the program</u>	Low level of sensitivity	High level of sensitivity
2.1.4	<u>Who decides eligibility for the program</u>	Granting agency	Provider
2.1.5	<u>Who decides amount or type of service from the program</u>	Granting agency	Provider
2.1.6	<u>Payment method</u>	Unit-times-unit-price and granting agency has independent means of knowing reasonability of price and number of units.	All other payment methods
2.1.7	<u>Competition</u>	Competitive basis	Not competitive
	Other characteristics:		
2.2	<u>Provider Characteristics:</u>		
2.2.1	<u>Provider’s total funding from the department</u>	Less than \$75,000	Greater than \$75,000
2.2.2	<u>Provider’s length of time in business</u>	More than two years	Less than two years
2.2.3	<u>Provider’s experience and past performance</u>	Extensive experience and history of good performance	Little to no experience or history of problems with performance
2.2.4	<u>Provider’s financial health and practices</u>	No financial difficulties or problems with financial practices	Financial difficulties or problems with financial practices
2.2.5	<u>Provider’s compliance and internal controls</u>	No problems	Some problems
2.2.6	<u>Provider’s fiduciary responsibilities</u>	No fiduciary responsibility	Provider has fiduciary responsibilities
2.2.7	<u>Provider’s subcontracting</u>	Little to no subcontracting or effective contract monitoring function	Extensive subcontracting or ineffective contract monitoring function
	Other characteristics:		
2.3	<u>Granting Agency Characteristics:</u>		
2.3.1	<u>Granting agency’s experience with the provider agency</u>	Extensive experience	Little to no experience
2.3.2	<u>Granting agency’s experience with the program</u>	Extensive experience	Little to no experience
2.3.3	<u>Granting agency’s monitoring methods</u>	All significant risks covered by alternate monitoring	Some significant risks not covered by alternate monitoring
	Other characteristics:		
Overall risk assessment:		Low risk	
		Moderate risk	
		High risk	