

# Wisconsin Department of Health Services County Guide to DHS 1

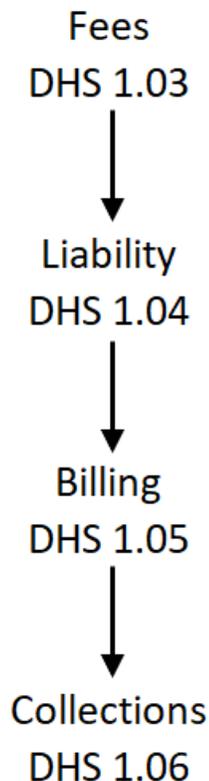
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This document is a companion to the administrative rule ch. DHS 1: Uniform Fees, Liability and Collections (hereafter referred to as DHS 1). This is a reference document intended to give a plain language overview of DHS 1 and to assist counties with the most common situations that may arise. A complete copy of DHS 1 can be obtained here: [Wisconsin Legislature: Chapter DHS 1](#).<sup>i</sup> For additional support and assistance, contact your region's Area Administrator. Your region's Area Administrator can be found here: [Area Administration Regions](#).<sup>ii</sup>

This document replaces any previous guidance regarding DHS 1.

DHS 1 applies to all services provided by counties under Wis. Stat. § 51.42. This includes fee-for-service, non-fee-for-service, inpatient services, and outpatient services. The material covered in this guide likewise applies uniformly to all these services.

The activities covered under DHS 1 can be viewed as occurring in a general sequence of events. First, fees are established for services. Then when a service is provided a liability is incurred. Billing occurs next and finally collections are made. This guide covers the main components of these four sections of DHS 1.



## Acronyms

AR – Account(s) Receivable

ATP – Ability to Pay

MMPS – Maximum Monthly Payment Schedule

SSDI – Social Security Disability Insurance

SSI – Supplemental Security Income

## Sections 1.03: Fees, 1.04: Liability, 1.05: Billing and 1.06: Collections

### FEES: DHS 1.03

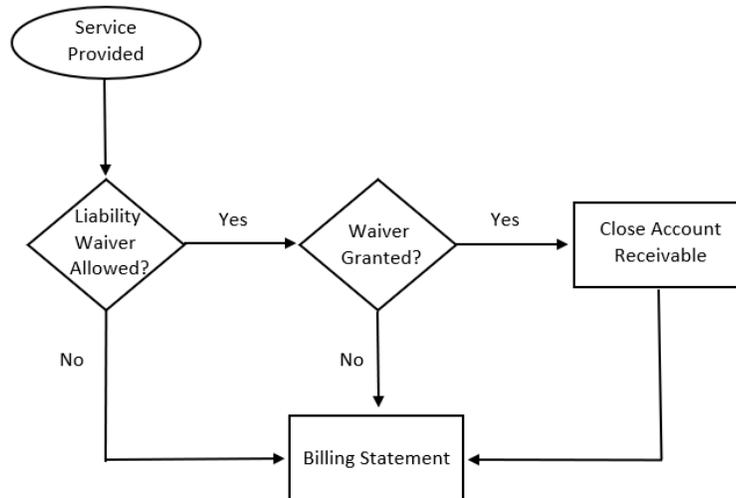
Counties are to set the fees for the services they provide. Counties are responsible for setting fees for the services they provide under Wis. Stat. § 51.42. This includes fee-for-service, non-fee-for-service, inpatient services, and outpatient services. County fees are to be set and approved annually by the county board of supervisors.

**NOTE:** The Wisconsin Department of Health Services (DHS) publishes a [MMPS](#)<sup>iii</sup> each calendar year. This schedule is not a fee schedule and counties should not use this schedule as a fee schedule. The MMPS shows the maximum payment the county can expect from a liable party each month toward the total outstanding balance. The MMPS is utilized in the ATP determination process.



## Liability: DHS 1.04

### LIABILITY FLOW CHART



A liability takes place when a service is provided. The amount of the liability is the fee established under DHS 1.03. Liable persons include:

- A client who is 18 years or older.
- A spouse of the client.
- A parent or guardian of the client.

For a complete list of liable persons refer to DHS 1.04(1).

### Waiver of Liability (optional)

The county has the option to permanently waive a liability for any of the following reasons:

- The client receives medical assistance. Medical assistance is a state health care benefit program for people who meet income rules.
- The client receives SSDI or SSI.
- The liable party has no ATP per DHS 1.05(4).
- The liability is for a service the county determines fee collection would be administratively unfeasible.
- The county determines assignment of liability would prevent accomplishing the purpose of the service.

Although waiver of liability is not mandatory, if the county uses this option the waiver is permanent. Once a liability has been waived the county may not go back and review a liable party's ability to pay in order to initiate collection efforts. The only exception is if false financial information by the liable party led to the decision to waive the liability.

Waived liability information must appear on the monthly billing statement (see DHS 1.05(5)(e)).

## **Exceptions to Waiver Option**

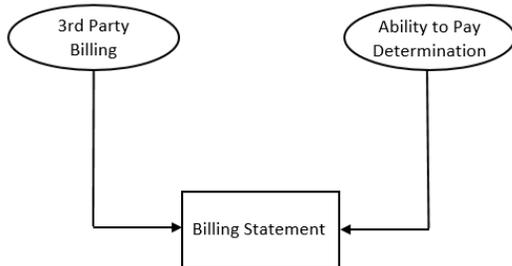
Refusal by the liable party to provide financial information or false financial information excludes the county from waiving the liability.

If the liable party refuses to provide information sufficient to bill a third-party payer, such as insurance, the liable party is responsible for the full amount (100%) and the county is not allowed to waive the liability.

Claims payable by an insurer or any third party cannot be waived, see s. 46.10(8)(d).

## Billing: DHS 1.05

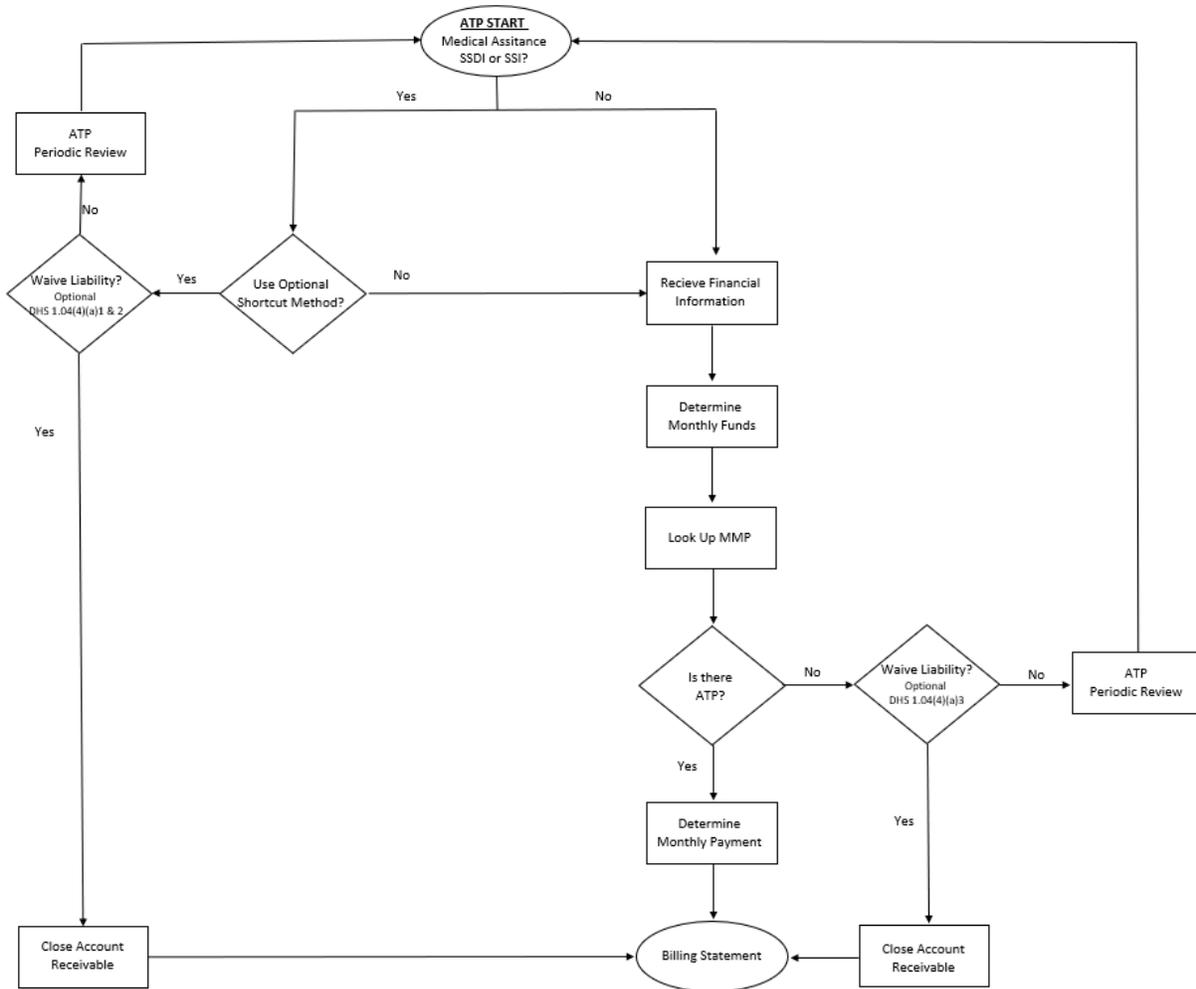
### BILLING FLOW CHART



Each month during the collection period the county must send a billing statement showing the outstanding liability and the monthly payment amount, if any, that is due. The county must file claims with any third-party payers and include the claim information on the billing statement. If there is no third-party to bill or if a balance will remain after third-party payments are received, an ATP determination must be completed and, if applicable, a monthly payment amount must be set prior to sending a billing statement.

Determining ATP and any monthly payment is a multistep process that includes various courses of action depending on individual circumstances.

## ABILITY TO PAY FLOWCHART



### Notes:

- There can be more than one liable individual and each liable party's information must be considered when determining ATP and the monthly payment amount. For example, if a client is married, financial information and circumstances for both spouses are to be included when looking at ATP and setting the payment amount.
- When a determination of no ATP is made the county may not take any actions to collect (see DHS 1.06(3)). Co-insurance, co-payments, deductibles, etc., are all subject to ATP.
- When a determination of no ATP is made the county is not required to waive the liability. As long as the statute of limitations has not run out, the county can keep the account open and periodically review ATP to see if the individual's ATP has changed.

## Determining ATP

There are two allowable methods for determining ATP. The longer method involves reviewing financial information and the present needs of the person or lawful dependents. The second is an optional shortcut method for individuals receiving medical assistance, SSDI and/or SSI. If the individual is not receiving medical assistance, SSDI, or SSI then the ATP long method must be used.

## ATP Determination – Long Method

An ATP determination begins with completion of a financial responsibility form by the liable party. State [form F-80130<sup>iv</sup>](#) is provided as a resource, but counties are not required to use this form. The county may develop their own form as long as the form complies with DHS 1.05(4)(a). Long method steps include:

1. Receive completed financial responsibility form.
2. Calculate total monthly gross income and number of persons dependent on family income for support.
3. Look up monthly income and number of family members on the MMPS to determine the maximum allowed monthly payment.

### ATP Examples Using MMPS

**Example 1**

GROSS MONTHLY INCOME		PERSONS LIVING IN FAMILY			
From	To	1	2	3	4
2,700	2,725	173	76	0	0
2,726	2,750	175	83	0	0

Income between \$2,700 and \$2,725 and 2 family members.  
County may set monthly amount to be billed between \$0 and \$76.  
If county sets amount to bill at \$0 proceed to Step 5 below.

**Example 2**

GROSS MONTHLY INCOME		PERSONS LIVING IN FAMILY			
From	To	1	2	3	4
2,700	2,725	173	76	0	0
2,726	2,750	175	83	0	0

Income between \$2,700 and \$2,725 and 3 family members.  
There is no ATP. Proceed to Step 5 below.

4. When the maximum monthly payment allowed is greater than zero (Example 1 above):
  - a. The county sets the monthly payment amount to be billed.
  - b. The monthly billed amount can be equal to or lower than the amount on the MMPS.
  - c. The monthly billed amount may not be greater than the amount on the MMPS.
  - d. The monthly payment amount set by the county is included on the monthly billing statement along with the due date.
  - e. If the county sets the monthly payment amount to zero, the individual is considered to have no ATP. Proceed to step 5 below.
5. When the maximum monthly payment allowed is zero (Example 2 above):
  - a. There is no ATP and the county may not take action to collect. This includes collection of co-insurance, co-pays, deductibles, etc.
  - b. The county can do either of the following:
    1. Waive the liability and close the account – see DHS 1.04(a)3.

2. Keep the account open and periodically review ATP – see DHS 1.05(4)(a).
6. When ATP is zero and liability is waived:
  - a. The liability is reduced to zero and the account is closed.
  - b. Waiver of liability is permanent. Once any portion of a liability is waived, the county may not take any actions to collect the waived amount.
  - c. Waived amounts are to be included on the monthly billing statements.
7. When ATP is zero and liability is not waived:
  - a. As long as the statute of limitations has not been reached, the AR may be kept open, and ATP periodically reviewed per DHS 1.05(4)(a).

## ATP Determination – Shortcut Method

The shortcut method allows the county to establish a zero ATP for an individual without going through all the steps of the long method. The county can make a determination of no ATP simply by verifying the individual is receiving medical assistance, SSDI and/or SSI. This method is optional.

Whether a determination of no ATP is made by use of the shortcut method or the long method, the county may not engage in any collection efforts when there is no ATP. This includes collection of co-insurance, co-pays, deductibles, etc. When there is zero ATP, the county can do either of the following:

1. Waive the liability and close the account – See DHS 1.04(a)(3) and Step 6 above.
2. Keep the account open and periodically review ATP – See DHS 1.05(4)(a) and Step 7 above.

**Note:** Verification of medical assistance, SSI and/or SSDI are the only shortcut methods allowed. Other short methods, such as if an individual is receiving veterans affairs benefits, are not allowed.

## Billing Statement

When there is ATP, the county must issue monthly billing statements which contain, at a minimum, the following information:

1. An itemization of any services provided during the billing period, including the date the service was provided, the number of units, and the fee amount.
2. Any claim filed with a third-party payer and any expected payment on the claim.
3. The date and amount of any other payments received during the billing period.
4. The total outstanding liability as of the date of the statement.
5. Any liability that was waived under DHS 1.04 (4).
6. The due date and amount of monthly payment required under DHS 1.05(4).

If there is no ATP the county may not issue a billing statement; however, the county may consider periodically issuing an account statement of accrued liability to the liable party. If the county issues an account statement, the statement should clearly state it is not a bill and that payment of the liability is not required unless the liable party has had a change to their financial circumstances. The account statement may remind the liable party that they have an obligation to report to the county any increase to their income.

## **Collections: DHS 1.06**

The county is responsible for collecting payment from the liable person(s). The county may use a collection agency, but it remains the county's responsibility to monitor accounts sent to collections. This includes closing accounts once the statute of limitations has been exhausted.

If there is no ATP the county may not engage in collection efforts; however, the county may consider periodically issuing a review statement of accrued liability to the liable party. If the county issues a review statement, the statement should clearly state it is not a bill and that payment of the liability is not required unless the liable party has had a change to their financial circumstances. The review statement may remind the liable party that they have an obligation to report to the county any increase to their income.

If a liable party has an ability to pay and later loses the ability to pay, all collection efforts must stop unless or until that party's financial circumstance change and a redetermination shows they have an ability to pay.

The county may enter into a settlement agreement with the liable party. Upon receipt of the agreed upon settlement amount, any remaining balance should be reduced to zero and the account closed. The county may not reopen the account on a future date to seek additional payment.

# Frequently Asked Questions

## Fees (DHS 1.03)

**Is the DHS 1.03(2) requirement that counties establish and approve fees annually for services provided by the county a new requirement?**

No. The requirement for counties to establish fees was covered in the prior DHS 1.04(1) and approval of fees in DHS 1.04(1)(g).

**The new version of DHS 1 (registered December 2019 No.768) removed any reference to assessing cost for placements (non-fee for service). Is there other guiding documentation on how to figure fees for non-fee-for-service items?**

DHS 1 does not make a distinction between fee for services and non-fee-for-services. In short, DHS 1 applies to both.

**The county currently uses the MMPS as the amount to charge for outpatient services in any given month regardless of how many times the client is seen. Example: Client has ATP of \$10 and is seen four times in a month. The county writes off all charges for the month down to \$10. Are we interpreting this correctly or does it mean the client is only liable to pay \$10 monthly, similar to a payment plan but no fees need to be reduced by the county?**

No. If a client uses a service with a fee of \$25 and they use the service four times in one month their total liability is \$100. If the schedule shows their maximum payment is \$10 then they would be expected to pay \$10 each month until the \$100 liability is paid in full. The county can set the monthly payment amount lower than the maximum allowed per the MMPS, however, lowering the monthly payment would not reduce the total liability. A lower monthly payment would only stretch out the number of months it will take to satisfy the liability.

## Liability (DHS 1.04)

**Waiver of liability under Wis. Admin. Code DHS § 1.04(4)(a)1 and 2 – Is this waiver optional or required? The language says “may.”**

This is a permissive action so a county is not required to permanently waive the liability.

**If a person refuses to give their insurance information can the county charge them for 100% of the bill?**

Per DHS 1.04(5) if the liable person refuses to provide information (including documentation) sufficient to bill a third-party payer, such as insurance, then they would be liable for the full amount (100%) of the liability. The county would not be able to permanently waive the liability under this circumstance. There would still need to be an ATP determination and if there is no ATP the county cannot actively pursue collection. This would be an AR that could be periodically reviewed per DHS 1.05(4)(a).

## ATP

### **If ATP is zero must the county write-off the balance and close the account?**

Although the county cannot pursue collections when there is no ATP, the county is not required to write-off the balance. The county may keep the AR open and perform periodic reviews of ATP and if the liable person is shown to have an ability to pay then collections can be pursued so long as the statute of limitations has not expired.

### **Are counties required to use the state financial responsibility form F-80130 in determining ATP?**

The link in DHS 1 to form F-80130 is provided as a resource, but counties are not required use this particular form. The county may develop their own form as long as the form complies with DHS 1.05(4)(a).

### **Is the MMPS and ATP the same thing?**

They are not the same. The MMPS is a payment schedule used as a tool in determining ATP. There are many factors a county would look at when determining ATP other than the MMPS such as whether the liable party has Medicaid. If the ATP determination gets to the point where the county is looking at the monthly income, then the MMPS would be used.

### **In the past, for persons with zero ATP, counties were allowed to assign a minimum amount of up to \$25 or 3% of family income. Was this provision removed from the new DHS 1?**

If there is a determination of no ATP the county cannot charge a minimum fee. This was true under the old DHS 1 and remains true under the current DHS 1. Once there is a determination of no ATP all collection efforts must stop. This is covered under DHS 1.06(3). The county may not attempt to engage in collection efforts established under DHS 1 any time that a liable person does not have ability to pay under DHS 1.05(4).

### **Regarding DHS 1.05(6)(c) – Does this paragraph require a written grievance procedure that needs to be specific to DHS 1 or can this procedure be part of the county’s general grievance procedure? Is there any specific language they need to have for this?**

A county may develop a general grievance procedure that includes as a subset the three provisions stated in DHS 1.05(6)(c). While there is no specific language that

is required, the concepts of due process and reasonable time periods are important to consider when developing these procedures. For example, a collection procedure should include a way for a liable person to cure a delinquent payment and get back on track with the payment schedule that was already in place.

**When a consumer has zero ATP, but a spouse has earned income do we include spouse income in ATP?**

Per DHS 1.04(1)(b) a spouse is liable for services provided to the client. Since the spouse is a liable party the ATP determination should include the spouse's financial information.

## **Collections (DHS 1.06)**

**If the accounts are currently at a collection agency, is it the county's responsibility to monitor and cancel these accounts?**

Yes.

**How long can the county keep an account open? Is there a statute of limitations?**

DHS 1 defines the collection period as "the period of time calculated for each unit of service, which begins on the day a service is provided and ends as provided in ss. 893.87 and 893.40, Stats., when the liability has been paid in full, or as provided under any other applicable statute of limitations. The cause of action accrues the month the service is provided." DHS 1.02(3).

The collection period is generally 10 years from the month the service is provided. Wis. Stat. § 893.87. If the liability is converted to a judgment then the collection period is 20 years from the date of the judgment. Wis. Stat. § 893.40. Please contact your legal counsel for more specific guidance.

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<sup>i</sup> [https://docs.legis.wisconsin.gov/code/admin\\_code/dhs/001/1](https://docs.legis.wisconsin.gov/code/admin_code/dhs/001/1)

<sup>ii</sup> <https://www.dhs.wisconsin.gov/areaadmin/index.htm>

<sup>iii</sup> <https://www.dhs.wisconsin.gov/uniform-fee/index.htm>

<sup>iv</sup> <https://www.dhs.wisconsin.gov/forms/index.htm>