

CR 86-241

CERTIFICATE

STATE OF WISCONSIN )  
 )  
DEPARTMENT OF HEALTH AND SOCIAL SERVICES)

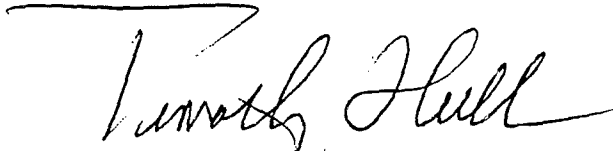
RECEIVED

APR 10 1987  
*10:40 am*  
Revisor of Statutes  
Bureau

I, Timothy F. Cullen, Secretary of the Department of Health and Social Services and custodian of the official records of the Department, do hereby certify that the annexed rules relating to appeal of a probation or parole revocation decision were duly approved and adopted by this Department on April 8, 1987.

I further certify that this copy has been compared by me with the original on file in the Department and that this copy is a true copy of the original, and of the whole of the original.

IN TESTIMONY WHEREOF, I have hereunto set my hand and affixed the official seal of the Department at the State Office Building, 1 W. Wilson Street, in the city of Madison, this 8th day of April, 1987.



\_\_\_\_\_  
Timothy F. Cullen, Secretary  
Department of Health and Social Services

SEAL:

6-1-87

ORDER OF THE  
DEPARTMENT OF HEALTH AND SOCIAL SERVICES  
AMENDING RULES

To amend HSS 31.05(10), relating to appeal of a probation or parole revocation decision.

Analysis Prepared by the Department of Health and Social Services

This order makes permanent a recently-adopted emergency rule which amended s.HSS 31.05(10) to clarify time limits for filing documents which relate to the appeal of probation and parole revocation decisions.

The impetus for the amendment was a recent ruling by the Dane County Circuit Court that s. HSS 31.05(10), which states that appeal documents must be filed with the Department Secretary within 10 working days of a hearing examiner's decision, requires that the documents be received in the Secretary's office within the 10-day limit. The Department's practice has been to consider an appeal document to be timely filed if the document has been mailed and postmarked within 10 working days after the decision, regardless of the date the document is received in the Secretary's office. More time is needed in many cases to file an appeal than would be permitted in the court's interpretation of the 10-day limit, especially for clients in outlying counties and for the Department's agents in outlying counties who need more time to object to the release of a client who is believed to be a danger to the public.

The rule change makes clear that materials to support an appeal of a hearing examiner's decision that are mailed to the Secretary and postmarked within 10 working days after the date of the hearing examiner's decision are considered filed with the Secretary within the 10 working day limit no matter when they are actually received in the Secretary's office.

The Department's authority to amend this rule is found in ss. 57.06 and 227.11(2), Stats. The rule interprets s. 57.06(3), Stats.

Pursuant to the authority vested in the Department of Health and Social Services by ss.57.06 and 227.11(2), Stats., the Department of Health and Social Services hereby amends a rule interpreting s.57.06(3), Stats., as follows:

SECTION 1. HSS 31.05 (10) is amended as follows:

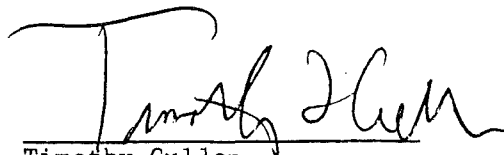
HSS 31.05 (10) MATERIALS SUBMITTED FOR REVIEW. The client's attorney, if any, the client or the bureau shall submit all relevant materials, including petitions, letters, briefs and reply briefs, to the secretary and the other party. Materials submitted for review shall be filed with the secretary within 10 working days ~~from~~ after the date of the decision. An extension of this time limit may be granted by the secretary. Materials postmarked within 10 working days after the date of the decision shall be considered to be filed within the 10 working day limit.

The rule contained in this order shall take effect on the first day of the month following publication in the Wisconsin Administrative Register, as provided in s. 227.22(2), Stats.

Wisconsin Department of Health  
and Social Services

Dated: April 8, 1987

By:



Timothy Cullen  
Secretary

Seal

10-16-7/426



State of Wisconsin \

DEPARTMENT OF HEALTH AND SOCIAL SERVICES

OFFICE OF THE SECRETARY  
1 WEST WILSON STREET  
P.O. BOX 7850  
MADISON, WISCONSIN 53707

April 8, 1987

Mr. Orlan Prestegard  
Revisor of Statutes  
9th Floor - 30 on the Square  
Madison, Wisconsin 53702

Dear Mr. Prestegard:

As provided in s. 227.20, Stats., there is hereby submitted a certified copy of HSS 31.05(10), administrative rules relating to appeal of a probation or parole revocation decision.

These rules are also being submitted to the Secretary of State as required by s. 227.20, Stats.

These rule changes do not affect small businesses as defined in s. 227.114(1)(a), Stats., because they apply to the Department and to Division of Corrections' clients who are on probation or parole.

Sincerely,

A handwritten signature in cursive script that reads 'Timothy F. Cullen'.

Timothy F. Cullen  
SECRETARY

Enclosure