

 <p style="text-align: center;">DIVISION OF ADULT INSTITUTIONS</p> <p style="text-align: center;">POLICY AND PROCEDURES</p>	DAI Policy #: 303.72.01	Page 1 of 6
	Original Effective Date: 09/11/14	New Effective Date: 09/11/14
	Supersedes: N/A	Dated: N/A
	Administrator's Approval: Cathy A. Jess, Administrator	
Required Posting or Restricted:		
<input checked="" type="checkbox"/> Inmate <input checked="" type="checkbox"/> All Staff <input type="checkbox"/> Restricted		
Chapter: 303 Discipline		
Subject: Establishing Restitution for Disciplinary Dispositions		

POLICY

The Division of Adult Institutions shall impose restitution as a disciplinary disposition for an inmate in a consistent manner when an inmate engages in behavior that results in costs for the Department of Corrections.

REFERENCES

Wisconsin Statutes s. 71.93 – Setoffs for other state agencies
Wisconsin Statutes s. 73.03(52) – Powers and duties defined
Wisconsin Statutes s. 73.03(52m) – Powers and duties defined
Wisconsin Statutes s. 73.03(52n) – Powers and duties defined
Wisconsin Statutes s. 146.81 – Health care providers
Wisconsin Administrative Code s. DOC 303.72(5) – Other penalties – Restitution
Wisconsin Administrative Code s. DOC 303.84 – Sentencing procedure and schedule of penalties
Wisconsin Administrative Code s. DOC 309.20(3) – Personal Property
DAI Policy 310.00.03 – Inmate Property Depreciation Schedule
DAI Policy 310.00.03 – Inmate Property Depreciation Calculator and Schedule
DAI Policy 500.70.04 – Psychological Input to Security Decisions

DEFINITIONS, ACRONYMS, AND FORMS

BHS – Bureau of Health Services

DAI – Division of Adult Institutions

DOC – Department of Corrections

DOR – Department of Revenue

DOC-84 – Disciplinary Hearing – Reason for Decision and Evidence Relied On

DOC-1163A – Authorization for Use and Disclosure of Protected Health Information (PHI)

DOC-2708 – Notice of Intent to Charge Restitution For Off-Site Medical Care

DOC-2709 – Order to Pay Restitution for Off-Site Medical Care

DOC-3509 – Psychology Input for Security Decisions

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Health Care Providers – Licensed health professionals under Wisconsin Statutes s. 146.81.

HIPAA – Health Insurance Portability and Accountability Act

ICE – Institution Complaint Examiner

ICRS – Inmate Complaint Review System

IRS – Internal Revenue Service

Off-Site Medical Care – Medical care provided by a community health care provider at a non-DOC location such as a hospital or clinic.

PSU – Psychological Services Unit

Restitution – Payment for the replacement or repair of stolen, destroyed and damaged property or for off-site medical bills incurred as the result of a conduct violation by an inmate. It may also include escape expenses or any other expenses caused by the inmate's actions.

Tax Refund Intercept Program (TRIP) – A program through the Wisconsin Department of Revenue that authorizes that agency to intercept taxpayer refunds, other refundable credits, and lottery prizes to be applied against the amount the taxpayer owes to certain state agencies, local governments, the IRS, federally recognized tribes located in Wisconsin, and other states. State agencies and other governmental entities intending to participate in the refund interception program must enter into a written agreement with DOR.

Third Party Administrator (TPA) – Entity that pays bills on behalf of the DOC for off-site inmate medical care and maintains records that include the name of the inmate patient, inmate DOC number, medical provider, date(s) of service, diagnoses, treatments, procedures, and amounts charged and paid.

PROCEDURE

- I. Setting Restitution As A Disposition For Damage to State Property**
 - A. When the hearing officer/committee imposes restitution as a penalty, it may be ordered as full or partial restitution.
 1. The facility may withhold money from earnings or take money from an inmate's account to satisfy payment of the ordered restitution.
 2. Restitution may also be collected via TRIP upon an inmate's release from a DAI facility.
 - B. Facilities shall create a procedure to establish restitution costs. These costs shall be reviewed and updated annually.

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- C. If the exact amount of restitution is unknown at the time of the hearing, the hearing officer/committee may impose an estimated maximum restitution amount.
 - 1. If the cost for the repair/replacement is less than the estimated restitution amount, only the actual cost shall be charged.
 - 2. The facilities shall develop a procedure to amend the amount of restitution when the actual cost is less than the initial estimated amount.
 - 3. If the actual cost exceeds the estimated restitution, the restitution shall not be increased.
 - D. The value of the damaged or destroyed item(s) shall not be depreciated when determining a restitution amount.
 - E. DAI shall not reimburse an inmate for property damage or destruction caused by another inmate.
 - F. DAI shall not reimburse an inmate for personal property inadvertently damaged or destroyed by staff due to an inmate's actions.
 - G. Hearing officers/committees may consider imposing restitution for property damage when an inmate appeared to be experiencing mental health issues at the time of the incident (e.g. delusional beliefs, hearing voices).
 - 1. The hearing officer/committee shall request that PSU staff complete a DOC-3509 per DAI Policy 500.70.04.
 - 2. The hearing officer/committee shall document consideration of the information from the DOC-3509 on the DOC-84.
- II. Setting Restitution As A Disposition For Damage to Another Inmate's Property**
- A. When the hearing officer/committee imposes restitution as a penalty, it may be ordered as full or partial restitution.
 - 1. The facility may withhold money from earnings or take money from an inmate's account to satisfy payment of the ordered restitution.
 - 2. Restitution may also be collected via TRIP upon an inmate's release from a DAI facility.
 - B. Follow DAI 310.00.03 to determine fair compensation for the damage of loss of a property item.
- III. Setting Restitution As A Disposition For Payment for Off-Site Medical Care for Inmates**
- A. The hearing officer/committee may consider charging restitution for the cost of off-site medical care for an inmate related to his/her own acts of self-harm behavior or suicide attempts.
 - 1. The hearing officer/committee shall request that PSU staff complete a DOC-3509 per DAI Policy 500.70.04.

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2. The hearing officer/committee shall document consideration of the information from the DOC-3509 on the DOC-84.
- B. The hearing officer/committee may consider charging restitution for the cost of off-site medical care for injury to another person when an inmate appeared to be experiencing mental health issues at the time of the incident (e.g. delusional beliefs, hearing voices).
1. The hearing officer/committee shall request that PSU staff complete a DOC-3509 per DAI Policy 500.70.04.
 2. The hearing officer/committee shall document consideration of the information from the DOC-3509 on the DOC-84.
- C. When the hearing officer/committee decides to charge restitution, the inmate shall be given DOC-2708 which informs the inmate that partial or full restitution is being charged and the amount of restitution is being held open until the actual amount paid by the DOC for the off-site medical care can be obtained approximately 45 to 60 days following provision of the medical care.
- D. Restitution charged to an inmate for medical care shall be based upon the actual amount paid by the DOC to an off-site health provider, as documented in TPA records.
1. The TPA records may include amount(s) paid for ambulance, facility and professional fees.
 2. No additional fees shall be charged, such as DOC transportation costs/staff wages.
- E. When the hearing officer/committee decides to charge restitution, they shall request the facility's Business Office email the DOC Health Information Supervisor/HIPAA Compliance Officer in BHS Central Office to request the TPA payment information. Email shall include:
1. Name and DOC number of each inmate who received medical care from an off-site health provider related to the incident resulting in the conduct report..
 2. The date(s) upon which the off-site medical care was provided; i.e., date(s) of service.
 3. Note that the email shall not include conduct report information or the name/DOC number of the inmate being charged restitution, if different from the injured inmate.
- F. DAI staff, including hearing officers, members of a hearing committee, or Business Office and Health Services Unit staff shall not contact an off-site health provider to obtain any billing or payment information.
- G. The designated BHS staff shall track requests received from Business Offices and review TPA records approximately 45 to 60 days following the date(s) of service provided in the email.

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1. The BHS staff shall only review TPA records from the day of the incident, and the day(s) immediately following when an inmate is hospitalized due to an injury from the incident on which the conduct report is based.
 2. The BHS staff shall provide only the total amount paid for the off-site medical care to the requesting Business Office, and shall not include any diagnostic or treatment information.
- H. Upon receipt of the total amount paid for the off-site medical care, the Correctional Management Services Director/designee shall fully complete the DOC-2709 and provide it to the inmate.
1. The facility may withhold money from earnings or take money from an inmate's account to satisfy payment of the ordered restitution.
 2. Restitution may also be collected via TRIP upon an inmate's release from DAI facility.
- I. An inmate charged restitution for off-site medical care provided to himself/herself may obtain TPA payment and/or treatment information by signing a DOC-1163A and submitting it to the Health Information Supervisor/HIPAA Compliance Officer in BHS – Central Office.
- J. An inmate charged restitution for off-site medical care provided to another inmate may not obtain any payment or treatment information about the other inmate due to confidentiality laws.
- K. Upon receipt of the restitution amount, an inmate may challenge the amount and the reasonableness of the amount directly to the Warden in writing before filing a complaint via the ICRS.

Administrator's Approval: _____ **Date Signed:** _____
Cathy A. Jess, Administrator

DIVISION OF ADULT INSTITUTIONS FACILITY IMPLEMENTATION PROCEDURES

Facility: Name		
Original Effective Date:	DAI Policy Number: 303.72.01	Page 6 of 6
New Effective Date: 00/00/00	Supersedes Number:	Dated:
Chapter: 303 Discipline		
Subject: Establishing Restitution for Disciplinary Dispositions		
Will Implement <input type="checkbox"/> As written <input type="checkbox"/> With below procedures for facility implementation		
Warden's/Center Superintendent's Approval:		

REFERENCES

DEFINITIONS, ACRONYMS, AND FORMS

FACILITY PROCEDURE

- I.
 - A.
 - B.
 - 1.
 - 2.
 - a.
 - b.
 - c.
 - 3.
 - C.

II.

III.

RESPONSIBILITY

I. Staff

II. Inmate

III. Other