

 <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: 07/25/22
	Supersedes: 303.72.01	Dated: 09/11/14
	Administrator's Approval: Sarah Cooper, Administrator – 7/15/22	
	Required Posting or Restricted:	
<input checked="" type="checkbox"/> Inmate <input checked="" type="checkbox"/> All Staff <input type="checkbox"/> Restricted		
Chapter: 303 Discipline		
Subject: Establishing Institution Restitution for Disciplinary Dispositions		

POLICY

The Division of Adult Institutions shall impose institution 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 303.70(7) – Minor penalties
Wisconsin Administrative Code s. DOC 303.72(4) – Other penalties
Wisconsin Administrative Code s. DOC 303.84 – Sentencing procedure and schedule of penalties
Wisconsin Administrative Code s. DOC 309.20(3g) – Personal Property
DAI Policy 309.45.02 – Inmate Trust System Deductions
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 Institution Restitution

DOC-2709 – Order to Pay Institution Restitution

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DOC-3509 – Psychology Input for Security Decisions

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

PSU – Psychological Services Unit

Institution Restitution – Full or partial payment to reimburse any person or organization which has incurred expenses or sustained loss including repair or replacement cost of property, the expenses for medical goods and onsite/off-site medical services, incurred as the result of a finding of guilt in a conduct report disposition. Costs of apprehending, holding and return of escaped inmate caused by the inmate's actions may also be included. When the amount of restitution is unknown at the time of the hearing, the hearing officer may impose an estimated maximum restitution amount. If the actual amount of restitution is less than the estimated amount, only the actual amount shall be assessed. Restitution may not exceed an estimated amount if provided. If the inmate has insufficient assets to pay the ordered restitution in full at the time of the hearing, his or her obligation to pay the restitution shall remain in full force and effect until the time it has been paid in full.

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

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.

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PROCEDURE

- I. **Setting Institution Restitution as a Disposition for Damaged/Stolen Property**
 - A. Institution restitution may be imposed as a penalty, in connection with an uncontested or contested disposition resulting in stolen or damages to property and may be ordered as full or partial restitution.
 - B. Hearing officers/committees are not precluded from imposing institution restitution for property damaged in situations where an inmate appeared to be experiencing medical/mental health issues at the time of the incident (e.g. delusional beliefs, hearing voices, self-harm acts).
 1. In such a situation, 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. Facilities shall create a procedure to establish institution restitution replacement/repair costs of the property. These costs shall be reviewed and updated annually.
 - D. When institution restitution is ordered, the inmate shall acknowledge on a DOC 2709. If the exact amount of institution restitution for property damage is unknown at the time of the hearing, a DOC 2708 shall be issued providing notice of the intent to charge institution restitution.
 1. A restitution amount may be noted on the DOC 2708 for the business office to place a hold on the trust accounts funds. This is not an estimation of the cost.
 2. If the cost for the repair/replacement-is less than the estimated institution restitution amount, only the actual cost of the repair or replacement cost shall be charged.
 3. If the cost for the repair/replacement is greater than the estimated institution restitution amount, only the estimated cost of the repair/replacement that was imposed at the hearing shall be charged.
 4. Upon determination of the Institution restitution amount, the Correctional Management Services Director/designee shall fully complete the DOC-2709 and issue to the inmate.
 5. If the inmate has insufficient funds to pay the ordered restitution, the obligation shall remain in effect until it has been paid in full.
 - a. Institution restitution withholdings shall be deducted according to DAI 309.45.02.
 - b. Institution restitution may also be collected via TRIP upon an inmate's release from DAI facility.
 6. Institution restitution amount may not be challenged if an uncontested disposition was accepted.

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- E. DAI is not responsible for loss or damage to property caused by another inmate and shall not reimburse an inmate for property damage or destruction caused by another inmate.
 - 1. DAI shall not reimburse an inmate for personal property inadvertently damaged or destroyed by staff during the course of responding to an inmate's actions.
 - 2. The inmate found guilty of causing damages may be responsible for the institution restitution to the property owner.

II. **Setting Institution Restitution as a Disposition for Medical Services**

- A. Hearing officers/committees are not precluded from imposing institution restitution for the cost of medical services to treat injuries caused by their behavior to self and/or others. This includes but is not limited to circumstances when an inmate appeared to be experiencing medical/mental health issues at the time of the incident (e.g. delusional beliefs, hearing voices, self-harm acts).
 - 1. If applicable, 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.
- B. When a hearing officer/committee decides to charge restitution, the inmate shall be issued DOC-2708 which informs the inmate of intent to charge institution restitution. An estimate for medical services shall not be provided at the time of the hearing.
- C. Institution 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.
- D. When a hearing officer/committee charges restitution, or when it is accepted as an uncontested disposition, the hearing officer/committee or staff member offering the uncontested disposition shall forward the DOC 2708 to the facility's Business Office. The Business office shall then email the DOC Health Information Supervisor/HIPAA Compliance Officer in BHS Central Office to request the TPA payment information. The 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.

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- E. 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.
- F. 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.
 - 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.
- G. 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. Institution restitution withholdings shall be deducted according to DAI 309.45.02.
 - 2. Institution restitution may also be collected via TRIP upon an inmate's release from DAI facility.
- H. An inmate charged institution 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.
- I. An inmate charged institution 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.
- J. Upon receipt of the institution restitution amount, an inmate who has not accepted an uncontested disposition may challenge the amount and the reasonableness of the amount directly to the Warden/designee in writing within ten (10) days of receipt of the DOC-2709 before filing a complaint via the ICRS.

DIVISION OF ADULT INSTITUTIONS FACILITY IMPLEMENTATION PROCEDURES

Facility: Name		
Original Effective Date:	DAI Policy Number: 303.72.01	Page 6 of 6
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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