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CLEARINGHOUSE RULE 94-177

Comments

[NOTE: All citations to “Manual” in the comments below are to the Administrative Rules Procedures Manual, prepared by the Revisor of Statutes Bureau and the Legislative Council Staff, dated October 1994.]

2. Form, Style and Placement in Administrative Code

a. In s. HSS 348.03 (8), the term “intensive supervision program” should precede the acronym for that phrase, “ISP,” and the definition should be moved to precede the definition of “intensive surveillance” in sub. (7), to preserve alphabetical order.

b. In the definition of “sanctions” in s. HSS 348.03 (12), the language following the comma on line 2 is substantive material which should not be included in a definition, pursuant to s. 1.01 (7) (b), Manual. That language should be moved to another provision of the rule.

c. In s. HSS 348.04 (2) (a) (intro.), a “s.” should be inserted prior to “48.33, Stats.” on line 3.

5. Clarity, Grammar, Punctuation and Use of Plain Language

a. In s. HSS 348.03 (1), the phrase “county department” should be inserted prior to the phrase “staff member” on line 1, if a caseworker is in all instances a member of a county department staff, as the lead caseworker is. If a caseworker (as opposed to a lead caseworker) may in some instances be on the staff of an agency other than a county department, the definition should reflect that. [See, also, comment j, (5), below on this point.]

b. In s. HSS 348.03 (6), the sentence might read better if the word “necessary” were inserted after the word “services” on line 3 and the phrase “to prevent” on that line were changed to “and preventing,” if that preserves the intended meaning.

c. In s. HSS 348.03 (7), what is meant by “collateral” contacts. Are these just contacts by telephone? If so, “telephone” would be a better choice than “collateral.” If, however, there are “collateral” contacts other than telephone contacts, as distinguished from face-to-face contacts, the other types of collateral contacts should be set forth.

d. In the definition of “sanctions” in s. HSS 348.03 (12), several actions are listed that may be taken “by the caseworker” when a youth fails to cooperate with Intensive Supervision Program (ISP) rules and conditions. These actions include warnings, revision of ISP rules and conditions, changes in the case plan, placement in secure detention for not more than 72 hours and requested revision of the dispositional order. Since the lead caseworker is defined in sub. (9) as the one responsible for case management and decision-making, it appears that many, if not all, of the delineated actions would have to be taken by the lead caseworker rather than by a regular caseworker. This provision should be reviewed with regard to the appropriateness of having a regular caseworker take the delineated actions. [Also note that, pursuant to comment 2, b, above, the language setting forth the actions should be moved out of the definition.]

e. In s. HSS 348.04 (2) 3, it appears that the word “indicates” should be replaced by the word “indicate,” in order to be consistent with the phrase “they are willing.”

f. In s. HSS 348.04 (3) (intro.), it is suggested that the phrase “that a youth while in the program:” be rewritten to read “that, while participating in the program, a youth:”.

g. In s. HSS 348.04 (3) (d), it is unclear whether the provision means that service providers must protect youths from abuse or neglect by other persons or whether it means that the youth must be protected from being abused or neglected by those service providers. If the former is meant, the phrase “by program service providers” should be moved to follow the word “protected.”

h. In s. HSS 348.04 (3) (h), does the reference to “department” mean the state Department of Health and Social Services or is it supposed to be a reference to county department programs? If the latter, the word “county” must precede “department,” to avoid confusion with the state Department.

i. The following comments pertain to s. HSS 348.04 (4):

(1) As a general note, the requirements of s. HSS 348.04 (4) are not clearly set forth, due to a lack of organization and a lack of clarity in the wording of certain portions of the subsection. The subsection is entitled “ISP COMPONENTS,” which leads the reader to think that the requisite components of a county department’s ISP will be spelled out. However, the subsection commingles information about the various required components of an ISP with provisions relating to the requirement that a county department set forth in writing an explanation of the various components of its ISP. Also, the subsection at times appears to address general requirements that all ISP’s must meet, but in other instances is written in such a way that it appears more tailored to a particular youth’s participation in the program.

(2) The first problem is in par. (a), titled “Statement describing components,” which requires a county department to “develop written components of its

ISP” and then states that the ISP “shall include all components in this section.” The lack of clarity and specificity in this language makes it difficult to determine what requirements the department intends to set forth in this provision. Does the department intend, by the language requiring a county department to “develop written components of its ISP,” to require a county department to develop a written description of all components of its program, including the goals of the program, the services to be offered, the way in which the case plan will be developed for each youth and family and the contents of such case plans? [In other words, all of the items set forth in sub. (4)?] If so, that requirement should be clearly stated. Does the department also intend to actually set forth the required components of an ISP? If so, it is inadequate to state in the second sentence of par. (a) that the “ISP shall include all components in this section.” It would be useful for the department to actually set forth those required components in one place, rather than simply referring to all components “in this section.”

- (3) With regard to par. (b), relating to program goals, the rule states that goals “shall be identified based on assessed strengths and needs of the youth and family...” Does this language refer to goals that are supposed to be identified in the county department’s written description of its program? If so, how can goals which are pertinent to the needs of a particular youth and his or her family be included in such a statement? If these goals are something other than general program goals, where are they supposed to be delineated? In an individual youth’s case plan under sub. (4) (d) 1? If that is the case, it would be better to refer only to general program goals in sub. (4) (b) by eliminating reference to a particular youth and family.
- (4) With regard to par. (c), subd. 1 of that provision states that the “statement of written components” prepared by the county department must include assurances that an individual youth and the youth’s family will receive “the services needed, including:” and then goes on to delineate seven specific types of services. Then, subd. 2 states that “the written document” must address the “availability and accessibility of other community services that may be necessary such as:” and then delineates seven additional types of services. It should be clarified what the difference is between the two lists of services. Are the first group of services those that every county department must provide or contract for, while the second set of services must only be provided if they are available and accessible in the community? The rule should be very explicit as to whether a county department would have to provide services from the second group if a youth’s screening and the resultant case plan indicated that those services were necessary.
- (5) With regard to the case plan in sub. (4) (d), it might be preferable to merely state the requirement that a case plan must be developed for a youth and his or her family and filed with the court within 30 days of the dispositional order. The delineation of the actual requirements of a case plan could be

placed in a separate subsection, as are provisions relating to case load requirements and participant rights, for example. The degree of detail relating to the case plan to be included in sub. (4) will be determined by the department's larger organizational decisions regarding this subsection.

- (6) Regarding the actual language relating to the case plan in sub. (4) (d), it is suggested that the second "be" in par. (d) (intro.), line 2, be deleted. Also, in par. (d) 5. b., c., e., f. and m., to what specific person on the "ISP staff" must the youth report? Should it be in all cases the lead caseworker, unless the youth is otherwise instructed? Finally, in some provisions in par. (d) 5, the lead caseworker is required to give permission or otherwise take action relating to a youth in the program, while in other provisions, reference is made to the "ISP caseworker," without reference to whether that is the lead caseworker or another caseworker who may be somewhat involved with the youth. All occurrences of these terms should be reviewed to ensure that the appropriate caseworker is given responsibility for the various actions covered in this provision.

j. The following comments pertain to s. HSS 348.04 (5):

- (1) Section HSS 348.04 (5) (a) provides that the lead caseworker designated for a youth participating in the ISP is "responsible for the case plan under s. HSS 348.04 (4) (d), any decision to take the child into custody under s. HSS 348.05 and the majority, not less than 50%, of the face-to-face contacts." What is meant by being responsible for the case plan? Does this mean being responsible for developing the case plan or also for monitoring the plan on a regular basis to ensure compliance with the plan? Also, the citation to s. HSS 348.04 (4) (d) should be changed to "sub. (4) (d)." Finally, if the intent is that the lead caseworker be responsible for the majority of face-to-face contacts, that is, more than half of those contacts, the phrase "the majority, not less than 50%," should be changed to "more than 50%" because a "majority" is not 50% but rather is more than 50%.
- (2) Subsection (5) (b) provides that a lead caseworker assigned to the ISP full time shall have a case load of no more than 10 clients and a caseworker assigned to the program part time shall have a part-time case load proportionate to the one to 10 ratio. This language implies that the only caseworker that can be a lead caseworker is one who is assigned to the ISP full time. Is this accurate or could a lead caseworker be assigned to the program part time and given a partial case load?
- (3) In sub. (5) (c), the phrase "not less than" on line 2 should be changed to "at least," the word "that" on line 3 should be changed to "the" and the word "will" on line 3 should be changed to "shall."
- (4) In sub. (5) (d), the phrase "no less than" on line 1 should be changed to "at least."

(5) In sub. (5) (e) (intro.), the phrase “other caseworkers” should be changed to “caseworkers other than the lead caseworker.” Also, it should be clarified whether these caseworkers could be from an agency other than the county department administering the ISP. The language in par. (e) 2 relating to agencies providing related services and their responsibilities and requirements for supervision of the youth implies that, in some instances, caseworkers could be from those other agencies. Also, in par. (e) 2, the phrase “a provision of” on line 1 should be deleted. In par. (e) 3, who is responsible for summarizing information from the daily log in the case record? Finally, it is not clear in par. (e) whether more than one caseworker may meet with a youth in order to fulfill the requirement in sub. (5) (c) 1 that each participant in the program receive not less than one face-to-face contact per day with a caseworker. Section 48.534 (1), Stats., provides in part that a caseworker providing services under an ISP may have a case load of no more than 10 children and shall have not less than one face-to-face contact per day with each child who is assigned to that caseworker. The implication of that provision is that one caseworker is assigned to one youth and that multiple caseworkers are not monitoring one individual. The rule should be clarified so that it meets the requirements of s. 48.534 (1), Stats.

k. Section HSS 348.05 (1) provides that a youth’s lead caseworker may, without a hearing, take the youth into custody and place him or her in a secure detention facility for a limited time if, at the dispositional hearing, the court explained those conditions to the youth and informed the youth of the possibility of that sanction. How is the lead caseworker supposed to determine whether or not the court did so?

l. In s. HSS 348.05 (2) (a) (intro.), the word “whether” should be inserted after the word “deciding” on line 1. Also, in sub. (2) (a) 2, how is changing one or more of the rules or conditions of the youth’s program different from changing one or more of the rules or conditions of the youth’s case plan in sub. (2) (a) 3? Finally, in sub. (2) (b) 2, should the severity as well as the number of past violations be considered?

m. In s. HSS 348.05 (3) (c), the word “legal” should be inserted before the word “holidays” on line 3.

n. In s. HSS 348.06 (2), the words “Saturday” and “Sunday” on line 4 should be plural.

o. In s. HSS 348.07 (2), the word “original” should be inserted before the word “dispositional” on line 1 and, in sub. (3), the word “dispositional” should be inserted before the word “order.”