

ADMINISTRATIVE RULES REPORT TO LEGISLATURE

**By the Department of Health and Family Services relating to ch. HFS 1, Uniform Fee System and
ch. HFS 65, Supportive Services for Families with Disabled Children**

CLEARINGHOUSE RULE CR08-017

Basis and Purpose of Proposed Rule

- Section 46.03 (18), Stats., requires the Department to establish a uniform system of fees for services provided or purchased by the Department, or a county department under s. 46.215, 46.22, 51.42, or 51.437, Stats.
- Section 46.10 (1) to (14) (a), Stats., establishes parental liability for services provided or purchased by the Department or county department for minor children and requires fees for services received by minor children to be paid in accordance with the fee schedule established by the Department. Section 46.10 (1) to (14) (a) also establishes requirements for fee collection.
- Section 46.27 (2) (h) 1., Stats., requires rules for long-term community support service fee schedule be part of the uniform fee schedule under s. 46.03 (18), Stats.
- Section 46.985 (2) (a) 8., Stats., requires the Department to promulgate rules for determining a family's ability to bear the cost of the services and goods it needs under the family support program.
- Section 227.11 (2), Stats., provides state agencies with general rulemaking authority.

Families with children who have long-term care support needs receive services from a number of programs implemented by county human and social services agencies under the Children's Long-Term Support (CLTS) Waivers; the Community Integration Program (CIP1); the Community Options Program (COP); and the Family Support Program (FSP). As required under s. 46.10 (1) to (14) (a), Stats., parents of children who receive these services pay a portion of the costs for these services.

The Department's order proposes to create rules under ch. HFS 1, to codify, in administrative rule, the schedule by which county agencies determine the limits on parental payments required under s. 46.10 (1) to (14) (a), Stats., for services received by children with long-term support needs under the various programs. The Department established the parental payment limits for services received under these programs in 2005. The parental payment limits are currently implemented under s. HFS 1.03 (13m). The proposal to codify the parental payment limits in rules only slightly modifies the schedule pursuant to which the limits are determined. This was done to assure a consistent application across family size.

The Department also proposes to provide that counties using s. HFS 65.05 (7) to determine parental payment limits for services received by families under the Family Support Program be determined using the same schedule as is applicable to the services identified in the preceding paragraph. Under s. HFS 65.05 (7) counties assess parental payment limits after calculating parent's annual gross income, which is adjusted by a budget allowance for the family size according to Federal Poverty Level (FPL) guidelines, liability for medical expenses, any amounts payable by parents for other services under ch.

HFS 1, and other reductions as determined by the county implementing the program.

The proposed rules would not result in a loss of services nor any changes to services to families.

Responses to Legislative Council Rules Clearinghouse Recommendations

The Department accepted the comments made by the Legislative Council Rules Clearinghouse and modified the proposed rule where suggested except as follows:

Clearinghouse Comment 5.g.: “Section HFS 1.065 (3) (a) requires the county administrative agency to determine the annual parental income. The term “income” should be defined, as is done in s. HFS 1.03 (11) (b) 1., so that participants can be aware of the items included in income.”

Department Response: The Department is using the term “income” as defined under s. HFS 1.01 (2) (h) in order to remain consistent with current practice. County administrative agencies use the adjusted gross income from parents’ tax forms, which includes all the items listed in s. HFS 1.01 (2) (h) when determining the parental payment limit. The Department used the definition of “income” from s. HFS 1.01 (2) (h) when determining the fiscal estimate for this proposed order.

Final Regulatory Flexibility Analysis

The rules do not affect businesses.

Changes to the Analysis or Fiscal Estimate

Analysis

No changes were made to the analysis.

Fiscal Estimate

No changes were made to the fiscal estimate.

Public Hearing Summary

The Department held public hearings on March 26, 2008 from 3:00 p.m. to 6:00 p.m. via videoconferencing in Madison at the UW-Madison campus, Stevens Point at the UW-Stevens Point campus, LaCrosse at the UW-Lacrosse campus, Waukesha at the UW-Waukesha campus, and Menasha at the UW-Fox Valley campus.

The public hearing notice was posted on the Wisconsin Administrative Rules Website on February 23, 2008. The Department emailed notice of the hearings to all county administrative agencies and to all of the members of the Department’s Children’s Long-Term Support (CLTS) Council and the Autism Council one month prior to the hearing. The county administrative agencies shared the notices with families receiving long-term support services. The Department also disseminated public hearing notices at three regional meetings with county administrative agencies. The public hearings were also an agenda item at the CLTS Council meeting on March 11, 2008.

No person attended the public hearings or submitted written or verbal comments about the proposed rules.