

CR 88-45

CERTIFICATE

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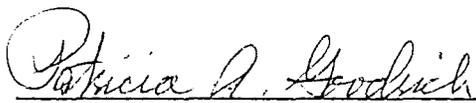
STATE OF WISCONSIN)
) SS
DEPARTMENT OF HEALTH AND SOCIAL SERVICES)

I, Patricia A. Goodrich, 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 financial and medical assistance to help families adopt children with special needs were duly approved and adopted by this Department on October 27, 1988.

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 27th day of October, 1988.

SEAL:



Patricia A. Goodrich, Secretary
Department of Health and Social Services

1-1-89

ORDER OF THE
DEPARTMENT OF HEALTH AND SOCIAL SERVICES
RENUMBERING, AMENDING AND CREATING RULES

To renumber HSS 50.01(4)(d) to (s) and 50.05(3); to amend HSS 50.01(1), and (2), 50.01(4)(d), (m), (o) and (p), as renumbered, subch. II (title), 50.02, 50.03 (title), (intro.), (1)(a), (2) (intro.) and (3)(b), 50.04 (title), (1), (3), (4) and (6), 50.05 (title) and (intro.), (1) and (2)(intro.), and 50.06 (title), (1)(intro.), (a) and (d) and (3)(a)(intro.), 1, 2(intro.) and 3; and to create HSS 50.03(1)(d) and 50.05(2)(d) and (3), relating to financial and medical assistance to help families adopt children with special needs.

Analysis Prepared by the Department of Health and Social Services

Some children available for adoption have special needs which makes it difficult to place them in adoptive homes. The Department facilitates the adoptive placement of these children by operating an adoption information exchange and providing financial and medical assistance to adoptive parents.

The Department's rules on adoption of children with special needs are amended by this order to substitute "adoption assistance" for "adoption subsidy" as the term of preference now used in state statutes and Federal government regulations to describe payments to parents for care of the child and help with medical bills; clarify that adoption assistance is for Wisconsin children and not children brought into Wisconsin from other states, and that adoption assistance will not be reduced when a child obtains unearned income due to the death or disability of an adoptive parent; implements new Federal government requirements that the state in which an adopted child resides is responsible for providing Medicaid benefits to the child in accordance with that state's procedures if the child is eligible for Medicaid in that state, and that states reimburse parents for the non-recurring expenses (for instance, attorney fees) of adopting a special needs child; and provide that if an adoptee with Wisconsin adoption assistance moves to another state and is not eligible for Medicaid in that state, that the Department will make Medical Assistance available for that person in accordance with ss. 49.43 to 49.497, Stats.

The Department's authority to adopt these rules is found in s. 48.975(5), Stats. The rules interpret s. 48.975, Stats.

SECTION 1. HSS 50.01(1) and (2) are amended to read:

HSS 50.01 INTRODUCTION. (1) STATEMENT OF INTENT. The intent of this chapter is to facilitate the placement of all children in Wisconsin who are legally available for adoption by providing adoption ~~subsidies~~ assistance to families adopting children with special needs and by establishing an adoption information exchange to help find adoptive homes for these children.

(2) PURPOSE OF RULES. This chapter establishes criteria to be used by the department in determining when an ~~adoption subsidy~~ adoption assistance, as authorized by s. 48.975, Stats., may be provided, specifies limitations on the granting of adoption ~~subsidies~~ assistance, sets procedures for application for a ~~subsidy~~ adoption assistance and establishes an adoption information exchange, as required by s.48.55, Stats., to be operated by the department directly or through a contract with an individual or private agency to assist in finding the best adoptive homes available for the placement of children with special needs.

SECTION 2. HSS 50.01(4)(d) to (r) are renumbered HSS 50.01(4)(e) to (s), and HSS 50.01(4)(n), (o) and (p), as renumbered, are amended to read:

HSS 50.01(4)(n) "~~Maintenance (medical)~~ Medical assistance card" means a card issued monthly for the purpose of identifying the recipient as being eligible for medical assistance under title XIX of the Social Security Act of 1935, as amended, 42 USC 1396, and ss. 49.43 to ~~49.49~~ 49.497, Stats.

(o) "Maintenance ~~subsidy~~ adoption assistance" means a payment not to exceed the amount of the foster care maintenance payment which would have been paid if the child with respect to whom the ~~subsidy~~ adoption assistance payment is made had been in a family foster home.

(p) "Medical ~~subsidy~~ adoption assistance" means that a medical assistance card is issued by the department for the adoptive child in conjunction with the maintenance ~~subsidy~~ adoption assistance.

SECTION 3. HSS 50.01(4)(s) is renumbered HSS 50.01(4)(d), and HSS 50.01(4)(d), as renumbered, is amended to read:

HSS 50.01(4)(d) "~~Subsidized adoption~~ Adoption assistance" has the meaning prescribed in s. 48.975(1), Stats., namely, payments made by the department to the parents of an adopted child which are designed to assist in the cost of care of the child after legal adoption.

SECTION 4. Subchapter II (title) of HSS 50 is amended to read:

SUBCHAPTER II

ADOPTION ASSISTANCE

SECTION 5. HSS 50.02 and HSS 50.03(title), (intro.) and (1)(a) are amended to read:

HSS 50.02 ADOPTION WITH ADOPTION ASSISTANCE. Sections HSS 50.03 to 50.06 specify procedures and criteria to be used in granting adoption ~~subsidies~~ assistance and apply to the department, adoption agencies and adoptive parents, except that the adoption of American Indian children is subject to 25 USC 1901 to 1963.

HSS 50.03 (title) ELIGIBILITY FOR ADOPTION ASSISTANCE. (intro.) In order for a child to be adopted with a ~~subsidy~~ adoption assistance, the following circumstances shall exist:

(1) ELIGIBILITY CRITERIA FOR THE CHILD. (a) Age. The child shall be less than 18 years of age at the time of adoption except that eligibility for a ~~subsidy~~ adoption assistance may continue up to age 19 if the adoptee is full-time in high school or the equivalent, or age 21 if the department determines that the adoptee has a mental or physical handicap which warrants the continuation of assistance under 42 USC 673, and the adoptee is not eligible for other benefits, such as social security income. In this paragraph, "equivalent" means any training for competitive employment, such as beauty school, apprenticeship, trade school or ~~general education~~ high school equivalency diploma ~~(GED) program~~ .

SECTION 6. HSS 50.03(1)(d) is created to read:

HSS 50.03(1)(d) Wisconsin responsibility. A child brought to Wisconsin for adoption from another state under the interstate compact on the placement of children, ss. 48.988 and 48.989, Stats., or from another nation under an orphan, relative or medical immigrant visa may not be provided adoption assistance from this state.

SECTION 7. HSS 50.03(2)(intro.) and (c) and (3)(b) are amended to read:

HSS 50.03(2) REASONABLE PLACEMENT EFFORT. (intro.) All reasonable efforts shall be made to place the child without a ~~subsidy~~ adoption assistance, including the following:

(c) Registration of the child with the Wisconsin adoption ~~information~~ exchange ~~for at least one month's circulation~~ .

(3)(b) Subsection (2) shall be waived if a child is in an adoptive placement without a ~~subsidy~~ adoption assistance and, prior to making the adoption final, problems specified under sub. (1)(b)3 or s. HSS 50.05(3) arise and the family requests a ~~subsidy~~ adoption assistance.

SECTION 8. HSS 50.04(title), (1), (3), (4) and (6) are amended to read:

HSS 50.04(title) APPLICATION FOR ADOPTION ASSISTANCE. (1) TIMING. An application for ~~subsidy~~ adoption assistance shall be completed and approved before an adoptive placement occurs, except under the circumstances noted in s. HSS 50.03(3)(b).

(3) CHILD AND FAMILY SUMMARY. Information documenting the need for ~~an adoption~~ ~~subsidy~~ adoption assistance shall be recorded on the child and family summary form and submitted with the completed application form for approval or disapproval by the division regional director or designee.

(4) ADOPTION ASSISTANCE AGREEMENT. The parents' ~~subsidy~~ adoption assistance agreement shall be completed and signed by the parent or parents, the adoption worker and the division regional director or designee. Copies of the signed agreement shall be given to the parent or parents and placed in the child's record.

(6) APPEAL PROCESS. Applicants not satisfied with the action taken on their application or on the conditions governing the ~~subsidy~~ adoption assistance award may, prior to legal adoption, request a review by the division administrator or designee or may appeal the decision under ch. 227, Stats.

SECTION 9. HSS 50.05(title), (intro.) and (1) are amended to read:

HSS 50.05(title) AMOUNT OF ADOPTION ASSISTANCE. (intro.) To determine the amount of a ~~subsidy~~ adoption assistance, the following procedures shall apply:

(1) MAINTENANCE ADOPTION ASSISTANCE. (a) Each adoptive child's situation shall be considered individually in computing the ~~subsidy~~ adoption assistance which shall be based on the uniform foster care rates specified in s. 49.19(12), Stats., and difficulty-of-care levels specified in s. HSS 56.10(3).

(b) The amount of ~~the~~ ~~subsidy~~ adoption assistance shall be the total computed maintenance ~~subsidy~~ adoption assistance minus the amount of the adoptive child's unearned income from other sources.

(c) Benefits paid under aid to families with dependent children (AFDC) are not considered unearned income and may not affect the amount of ~~the~~ adoption ~~subsidy~~ assistance.

SECTION 10. HSS 50.05(2)(intro.), (a) and (b) are renumbered HSS 50.05(2)(a), (b) and (c), and HSS 50.05(2)(a), as renumbered, is amended to read:

HSS 50.05(2) MEDICAL SUBSIDY. (a) A ~~medical~~ ~~subsidy~~ Medical adoption assistance shall be granted to all cases approved for a maintenance ~~subsidy~~ adoption assistance.

SECTION 11. HSS 50.05(2)(d) is created to read:

HSS 50.05(2)(d) Medical benefits provided under title XIX of the Social Security Act of 1935, as amended, are available to the adoptee in accordance with the procedures of the state in which the adoptee resides. If an adoptee with Wisconsin adoption assistance is not eligible in the state of residence, the department shall provide medical assistance in accordance with ss. 49.43 to 49.497, Stats., and chs. HSS 101 to 108. The department shall facilitate provision of eligible medical benefits through the interstate compact on adoption and medical assistance referenced in s. 48.9985, Stats.

SECTION 12. HSS 50.05(3) is renumbered 50.05(4).

SECTION 13. HSS 50.05(3) is created to read:

HSS 50.05(3) NON-RECURRING ADOPTION EXPENSES. When a child is adopted with adoption assistance, the department shall reimburse adoptive parents for non-recurring adoption expenses up to a \$2000 maximum. In this subsection, "non-recurring adoption expenses" means reasonable and necessary adoption fees, court costs, attorney fees and other expenses which are directly related to the legal adoption of a child with special needs and which are not incurred in violation of state or federal laws.

SECTION 14. HSS 50.06(title), (1)(intro.), (a) and (d) and (3)(a)(intro.), 1, 2(intro.) and 3 are amended to read:

HSS 50.06(title) RESPONSIBILITIES UNDER THE PROGRAM. (1) ADOPTION ASSISTANCE AGREEMENT. (intro.) There shall be a written ~~subsidized~~ adoption assistance agreement signed by the adoptive parents and a division representative which shall cover:

(a) The amount of ~~the subsidy~~ adoption assistance;

(d) Circumstances under which ~~the subsidy~~ adoption assistance may be terminated, temporarily suspended, or reduced; and

(3)(a)(intro.) Review annually the need for continuing, temporarily suspending or adjusting ~~the subsidy~~ adoption assistance, and:

1. Recertify if continuation of ~~the subsidy~~ adoption assistance is justified even if an adoptive family and adoptee move to another state;

2. (intro.) Discontinue ~~the subsidy~~ adoption assistance based on ~~one~~ any of the following circumstances:

3. Temporarily suspend or adjust ~~the subsidy~~ adoption assistance based on either of the following circumstances:

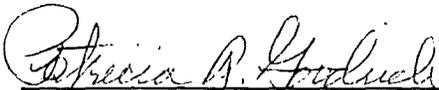
a. When the adoptee becomes eligible for or there is a change in the amount of special benefits such as social security, veterans or other benefits, except when these benefits are obtained as a result of a condition of an adoptive parent; or

b. When the adoptee has been placed in an institution or other alternate care facility at public expense;

The rules 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

Date: October 27, 1988

By: 
Patricia A. Goodrich, Secretary

SEAL:



State of Wisconsin \ DEPARTMENT OF HEALTH AND SOCIAL SERVICES

DIVISION OF POLICY AND BUDGET

1 West Wilson Street
P.O. Box 7850
Madison, Wisconsin 53707

October 27, 1988

Mr. Orlan Prestegard
Revisor of Statutes
7th Floor - 30 on the Square
Madison, Wisconsin 53702

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Dear Mr. Prestegard:

As provided in s. 227.20, Stats., there is hereby submitted a certified copy of HSS 50, administrative rules relating to financial and medical assistance to help families adopt children with special needs.

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

These rules affect families that adopt Wisconsin children who are available for adoption but who have special needs that make them hard to place. The rules do not affect small businesses as defined in s. 227.114(1)(a), Stats.

Sincerely,

Patricia A. Goodrich
SECRETARY

Enclosure