

The Governor approved this Statement of Scope on September 14, 2015.

STATEMENT OF SCOPE
DEPARTMENT OF HEALTH SERVICES

Rule No.: DHS 78

Relating to: Telecommunication assistance for deaf, deaf blind, and severely hard of hearing

Rule Type: Permanent

Type of Statement of Scope: Original

1. Finding/nature of emergency (Emergency Rule only):

Not Applicable.

2. Detailed description of the objective of the proposed rule:

The objective of the proposed rulemaking is to update and clarify the rules to reflect current program operations and the changes in technology available to assist deaf, deafblind and severely hard of hearing persons that have occurred since the rule was last revised in 2003.

3. Description of the existing policies relevant to the rule, new policies proposed to be included in the rule, and an analysis of policy alternatives:

The Telecommunication Assistance Program (TAP) as defined by s. 46.297, Stats., subject to the availability of funds, provide assistance to income eligible deaf, severely hard of hearing and deafblind persons to secure telecommunication devices capable of serving their needs. Currently TAP provides co-payment assistance to deaf, hard of hearing and deafblind persons in collaboration with the Telecommunication Equipment Purchase Program (TEPP) offered by the Public Service Commission. Under ch. DHS 78, to receive assistance from TAP, individuals must complete a TEPP application form, making it unclear that TAP is a separate and distinct program from TEPP. Chapter DHS 78 also includes application processing procedures, and eligibility requirements.

The processes and procedures currently prescribed in ch. DHS 78 are outdated and do not reflect the program's current needs and objectives, and may not be accurate. The department proposes to update the rules to clarify the distinction between the department's telecommunication assistance program and the universal service fund telecommunications equipment purchase program implemented by the Public Service Commission under s.196.218, Stats.; to clarify eligibility requirements; to revise application and processing requirements; to reflect current program operations; and to reflect the changes in technology available to assist the deaf, deafblind and severely hard of hearing persons that have occurred since the rule was last revised in 2003.

Alternatives

There are no reasonable alternatives to the rulemaking. The existing rule is outdated and does not adequately reflect the purpose of s. 46.297, Stats.

4. Detailed explanation of statutory authority for the rule (including the statutory citation and language):

Section 46.297 (1) to (4), Stats., reads:

(1) ASSISTANCE. From the appropriation under s. 20.435 (7) (d), the department shall, subject to the availability of funds, provide assistance to hearing-impaired persons to secure telecommunication devices capable of serving their needs. Except in extraordinary circumstances, the department shall purchase or provide funds for the purchase of telecommunication devices.

(2) ELIGIBILITY. A person is eligible to receive assistance under sub. (1) if all of the following conditions are met:

(a) The person is certified as deaf or severely hearing impaired by a physician, an audiologist licensed under subch. II of ch. 459 or the department.

(b) The adjusted gross income of the person's family is equal to or less than 200% of the poverty line established under 42 USC 9902 (2).

(3) HEARING RIGHTS. Any person aggrieved by a decision of the department under this section has a right to a contested case hearing under ch. 227.

(4) DEPARTMENTAL DUTIES. The department shall:

(a) Promulgate rules necessary for the administration of this section.

(b) Establish application procedures and determine eligibility.

Section 227.11 (2) (a), Stats., reads: Rule-making authority is expressly conferred on an agency as follows:

(a) Each agency may promulgate rules interpreting the provisions of any statute enforced or administered by the agency, if the agency considers it necessary to effectuate the purpose of the statute, but a rule is not valid if the rule exceeds the bounds of correct interpretation. All of the following apply to the promulgation of a rule interpreting the provisions of a statute enforced or administered by an agency:

1. A statutory or nonstatutory provision containing a statement or declaration of legislative intent, purpose, findings, or policy does not confer rule-making authority on the agency or augment the agency's rule-making authority beyond the rule-making authority that is explicitly conferred on the agency by the legislature.

2. A statutory provision describing the agency's general powers or duties does not confer rule-making authority on the agency or augment the agency's rule-making authority beyond the rule-making authority that is explicitly conferred on the agency by the legislature.

3. A statutory provision containing a specific standard, requirement, or threshold does not confer on the agency the authority to promulgate, enforce, or administer a rule that contains a standard, requirement, or threshold that is more restrictive than the standard, requirement, or threshold contained in the statutory provision.

5. Estimate of amount of time that state employees will spend developing the rule and of other resources necessary to develop the rule :

The department estimates that it will take approximately 200 hours of time. The department may consult with the Governor's Council for the Deaf and Hard of Hearing.

6. List with description of all entities that may be affected by the proposed rule :

The entities that may be affected by the proposed rule include individuals applying for program assistance; telecommunication equipment vendors; physicians; audiologists; the Wisconsin Association of the Deaf; the Hearing Loss Association of America; and Hands and Voices of Wisconsin.

7. Summary and preliminary comparison with any existing or proposed federal regulation that is intended to address the activities to be regulated by the proposed rule :

There are no existing or proposed federal regulations that address the activities to be regulated by the rules.

8. Anticipated economic impact of implementing the rule :

The proposed rule is anticipated to have little to no economic impact if promulgated.

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