

Joint Committee for Review of Administrative Rules

Office of Sen. Joseph Leibham
Office of Rep. Glenn Grothman
Phone 608-266-2056
Phone 608-264-8486

- **HFS 101 to 107**

Report to the Legislature **Emergency Rule HFS 101 to 107** **The Joint Committee for Review of Administrative Rules**

Produced pursuant to s. 227.26(2)(g)

Chapters HFS 101 to 107, promulgated by the Department of Health and Family Services (DHFS) created an emergency rule that establishes procedures for the Department to implement the Family Planning Demonstration Project, which provides reproductive services to single women or minors aged 15 to 44, who do not have children and whose family income is under 185% of the Federal Poverty Level.

Description of the Problem

At the request of Representative Lorraine Seratti and Senator Mary Lazich, the Joint Committee for Review of Administrative Rules has looked at chs. HFS 101 to 107 and the sensitive nature of providing contraceptives and other reproductive services to minors without parental notification. In addition, the rules exclude parental income as a factor in determining eligibility for minors in the project. As a result, even minors with very high parental incomes would be eligible for the project, which appears to be in violation of the authorizing statute.

Arguments in Favor of Suspension

- *Although the goal of the family planning demonstration project is to reduce pregnancy rates among uninsured, poor women, studies show that contraceptive availability may have no impact on reducing pregnancy rates and may even increase sexual activity.*
- *The Legislative Council Clearinghouse Report indicates that the rule does not account for parental income and therefore exceeds the rule's statutory authority. The statute clearly states that a woman's family income must be under 185% of the Federal Poverty Level.*
- *DHFS should not have a rule that usurps parental authority by providing contraceptives to minor children without parents' knowledge or consent.*
- *It is questionable whether there is any new service provided by this project because a present reproductive service provider testified that a child or woman will receive services regardless of her immediate ability to pay.*
- *If sexual activity increases because of this project, studies indicate the transmission of sexually transmitted diseases will likely rise accordingly.*

Arguments Against Suspension

- *This project is funded by a 90 to 10 federal to state match. If the project ended, the state would lose the federal match for reproductive services provided to eligible women and minors.*

- *DHFS estimates that the increased reproductive services may decrease Medicaid pregnancies and as a result lower the amount of families that require Medical Assistance.*

Action by Joint Committee for Review of Administrative Rules

On April 30, 2003 the Joint Committee for Review of Administrative Rules held a public hearing and an executive session on Emergency Rule ch. HFS 101 to 107. The committee passed a motion 6-4, pursuant to s. 227.26(2)(d), Stats., and for the reasons set forth in s. 227.19(4) (d) 1-3, Stats., to suspend Emergency Rule ch. HFS 101 to 107. This action suspends the rules, which implement the Family Planning Demonstration Project.

On May 27, 2003, JCRAR voted 6-4 to introduce LRB 2654 in the Senate and LRB 2653 in the Assembly. These identical bills change the minimum age of eligibility in the project from 15 to 18. Therefore, children under the age of 18 will no longer be eligible for the project.