



**WISCONSIN STATE LEGISLATURE ...  
PUBLIC HEARING - COMMITTEE RECORDS**

**2009-10**

(session year)

**Joint**

(Assembly, Senate or Joint)

**Committee for Review of Administrative Rules ...**

**COMMITTEE NOTICES ...**

- Committee Reports ... **CR**
- Executive Sessions ... **ES**
- Public Hearings ... **PH**

**INFORMATION COLLECTED BY COMMITTEE FOR AND AGAINST PROPOSAL**

- Appointments ... **Appt** (w/Record of Comm. Proceedings)
- Clearinghouse Rules ... **CRule** (w/Record of Comm. Proceedings)
- Hearing Records ... bills and resolutions (w/Record of Comm. Proceedings)  
(**ab** = Assembly Bill)                      (**ar** = Assembly Resolution)                      (**ajr** = Assembly Joint Resolution)  
(**sb** = Senate Bill)                              (**sr** = Senate Resolution)                              (**sjr** = Senate Joint Resolution)
- Miscellaneous ... **Misc**



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**Rule Report for Legislative Review**

**Home Visitation to Prevent Child Abuse and Neglect**

**Chapter DCF 35**  
**CR 10-028**

**Basis and Purpose of the Proposed Rules**

Under s. 48.983, Stats., a county, private agency, or Indian tribe may apply to the department for an annual grant that will be used to operate a home visiting program to prevent child abuse and neglect and promote healthy birth outcomes. The department shall determine the amount of a grant based on a formula that the department shall promulgate by rule. The criteria to be used in determining the grant amount are in statute. The rule weights the criteria.

**Public Hearing Summary**

A public hearing was held in Madison on April 6, 2010. A summary of the hearing comments and the department's responses is attached.

**Response to Legislative Council Staff Recommendations**

All comments were accepted.

**Changes to Analysis Prepared under Section 227.14 (2), Stats.**

- Reworded language on poor birth outcomes in response to Legislative Council comment.
- Clarified that home visitation services may be provided until a child reaches 5 years of age if risk factors for child abuse or neglect continue to be present.

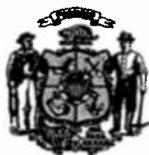
**Final Regulatory Flexibility Analysis**

The proposed rules affect small businesses but do not have a significant economic impact on a substantial number of small businesses as defined in s. 227.114 (1), Stats.

**Department Contacts**

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**State of Wisconsin  
Department of Children and Families**

**Home Visitation to Prevent Child Abuse and Neglect**

**DCF 35**

The Wisconsin Department of Children and Families proposes an order to create Chapter DCF 35, relating to home visitation to prevent child abuse and neglect and affecting small businesses.

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**Analysis Prepared by the Department of Children and Families**

**Statutory authority:** Sections 48.983 (2) and 227.11 (2) (a), Stats.

**Statutes interpreted:** Section 48.983, Stats.

**Related statutes or rules:** NA

**Explanation of agency authority**

Under s. 48.983, Stats., as affected by 2009 Wisconsin Acts 28 and 82, a county, private agency, or Indian tribe may apply to the department for an annual grant that will be used to operate a home visiting program to prevent child abuse and neglect and promote healthy birth outcomes.

The home visiting program will provide case management services that will begin when a woman who is eligible for Medical Assistance is pregnant if an assessment indicates the presence of risk factors for poor birth outcomes or child abuse and neglect. Home visitation services may be provided to a family with a child identified as being at risk of child abuse or neglect until the child reaches 3 years of age. If risk factors for child abuse or neglect continue to be present when the child reaches 3 years of age, home visitation program services may be provided until the child reaches 5 years of age.

One of the purposes for which the grant may be used is to reimburse a case management provider for the amount of the allowable charges under the Medical Assistance program that is not reimbursed by the federal government. The grants may also be used for flexible funds for appropriate expenses of each participating family, worker training activities, and a grantee's start-up costs and capacity building.

The minimum amount of a grant is \$10,000. The county, private agency, or Indian tribe shall agree to match at least 25% of the grant amount annually in funds or in-kind contributions. The department shall determine the amount of a grant awarded to a

county, private agency, or Indian tribe in excess of \$10,000 based on the need for a grant, as determined by a formula that the department shall promulgate by rule. The formula shall determine need based on the number of births that are funded by Medical Assistance in that county, the area in which that private agency is providing services, or the reservation of that Indian tribe and on the rate of poor birth outcomes, including infant mortality, premature births, low birth weights, and racial or ethnic disproportionality in the rates of those outcomes, in that county, the area in which that private agency is providing services, or the reservation of that Indian tribe.

### **Summary of the proposed rule**

The minimum amount of a grant is \$10,000. The department shall determine the amount of an initial grant awarded to a county, private agency, or Indian tribe in excess of the minimum amount based the following weighted criteria applied to the population in that county, the area in which the private agency is providing services, or the reservation of that Indian tribe:

- The number of births that are funded by Medical Assistance shall be weighted 40%.
- The rates of poor birth outcomes shall be weighted a combined total of 30% as follows:
  - The infant mortality rate shall be weighted 10%.
  - The premature birth rate shall be weighted 10%.
  - The rate of low birth weights shall be weighted 10%.
- The level of racial or ethnic disproportionality in poor birth outcomes shall be weighted 30%, with each factor weighted 10%.

### **Summary of factual data and analytical methodologies**

Despite a steady decline in the white infant mortality rate over the last 20 years, the black infant mortality rate has essentially remained the same.

The UW-Extension website has a directory of home visiting programs in Wisconsin at <http://www.uwex.edu/ces/flp/homevisit/directory/index.cfm>.

### **Comparison with rules in adjacent states**

Other states fund home visiting programs with purposes that include promoting healthy birth outcomes and preventing child abuse and neglect. The formulas for distributing the funds are not in rule.

### **Summary of existing or proposed federal regulations**

None

### **Effect on small businesses**

The proposed rule will affect small businesses as defined in s. 227.114 (1), Stats., but will not have a significant economic impact on a substantial number of businesses.

**Analysis used to determine effect on small businesses**

Private agencies are eligible to apply for a grant.

**Agency contact person**

Kim Eithun, Division of Safety and Permanence, (608) 261-7836,  
kim.eithun@wisconsin.gov

**Place where comments are to be submitted and deadline for submission**

Comments may be submitted to Elaine Pridgen, Office of Legal Counsel, Department of Children and Families, 201 E. Washington Avenue, P.O. Box 8916, Madison, WI, 53708-8916 or [dcfpublichearing@wisconsin.gov](mailto:dcfpublichearing@wisconsin.gov). The comment deadline is April 7, 2010.

**SECTION 1. Chapter DCF 35 is created to read:**

**Chapter DCF 35**

**Home Visitation to Prevent Child Abuse and Neglect**

**DCF 35.01 Authority and purpose.** This chapter is promulgated under the authority of s. 48.983 (2), Stats., to establish a formula that will be used to determine the amount of an initial grant in excess of the minimum amount under the child abuse and neglect prevention program.

**DCF 35.02 Definitions.** In this chapter,

- (1) "Grant" means a grant authorized under s. 48.983, Stats.
- (2) "Infant mortality" means the death of a baby within the first year of life.
- (3) "Low birth weight" means a birth weight under 2,500 grams.
- (4) "Premature birth" means the birth of a baby fewer than 37 weeks after

conception.

**DCF 35.03 Formula to determine grant amount.** The minimum amount of a grant is \$10,000. The department shall determine the amount of an initial grant awarded to a county, private agency, or Indian tribe in excess of the minimum amount based the following weighted criteria applied to the population in that county, the area in which the private agency is providing services, or the reservation of that Indian tribe:

- (1) The number of births that are funded by Medical Assistance under subch. IV of ch. 49, Stats., shall be weighted 40 percent.
- (2) The rate of poor birth outcomes shall be weighted a combined total of 30 percent as follows:
  - (a) The infant mortality rate shall be weighted 10 percent.

(b) The premature birth rate shall be weighted 10 percent.

(c) The rate of low birth weights shall be weighted 10 percent.

(3) The level of racial or ethnic disproportionality in poor birth outcomes under sub. (2) shall be weighted 30 percent. The level of racial or ethnic disproportionality in sub. (2) (a), (b), and (c) shall each be weighted 10 percent.

**SECTION 2. EFFECTIVE DATE.** This rule shall take effect the first day of the month following publication in the Administrative Register as provided in s. 227.22 (2) (intro.), Stats.

**Department of Children and Families  
Hearing Summary**

**Proposed Rules Relating to Home Visitation to Prevent Child Abuse and Neglect  
DCF 35  
CR 10-028**

A public hearing was held in Madison on April 6, 2010.

11 people commented or registered against the proposed rules

0 commented in support of the proposed rules

3 people observed for information only

**The following commented or registered against the proposed rules:**

- |  |   |
|--|---|
| 1. Collen Homb, Family Development Director<br>Lakeshore CAP<br>Manitowoc County                                       | 2. Maria Coakley, Prevention Manager<br>Children's Service Society of WI<br>Marathon County                       |
| 3. Bonnie Phernetton, Manager<br>Family Services<br>Brown and Door Counties  | 4. Terri Brooks, Healthy Beginnings Manager<br>Waupaca County   |
| 5. Jennifer Bisonette, Family Services Program<br>Mino-Maajisewin<br>Lac Courte Oreilles                               | 6. Peter Schuler, Director<br>Waukesha County Health and Human Services Department                                |
| 7. Jennifer Plisch, Forensic Interviewer<br>Children's Service Society of WI<br>Marathon County                        | 8. Jennifer Hammel, Director<br>Child Abuse Prevention Fund<br>Children's Hospital and Health System<br>Milwaukee |
| 9. Audrey Laszewski, Project Director<br>The Early Years Home Visitation Outcomes<br>Project of Wisconsin<br>Green Bay | 10. Mary Jo Tittl, Executive Director<br>Family Resource Center of Sheboygan County<br>Plymouth                   |
| 11. Karen Apitz, Parents as Teachers and Early<br>Learning Coordinator<br>Parents Plus, Inc.<br>Plymouth               |   |

**The following observed for information only:**

- |   |   |
|---|---|
| 1. Michele Dickinson<br>UW Extension<br>Madison | 3. Jennifer Park-Mroch<br>UW Extension<br>Madison |
| 2. Pence Revington<br>UW Extension<br>Madison   |   |

### **Comment 1**

The criteria in the proposed rule are not comprehensive. It is good to address poor birth outcomes, but it should not be the exclusive focus. The rule should include child abuse and neglect risk factors, reporting rates, and substantiation rates. It should also require adherence to best practice standards and critical elements for success, including an evaluation plan that focuses on key outcomes.

The focus on birth outcomes and racial or ethnic disparities gives an unfair advantage to certain communities and limits eligibility for substantial funding to only a few select communities.

*Department response:* The criteria for awarding grants are in ss. 48.983 (5) and (6), Stats., and the RFP. The RFP will incorporate lessons learned from the experience of the current Family Foundation sites.

The criteria for determining the amount of funds to be provided are in s. 48.983 (2), Stats. This section provides that if a county, private agency, or tribe applies and is selected to participate in the program, the department shall award a grant with a minimum amount of \$10,000. The department shall determine the amount of a grant in excess of the minimum amount based on a formula that the department shall promulgate by rule. The formula shall be based on the number of births that are funded by Medical Assistance, the rate of poor birth outcomes, and racial or ethnic disproportionality in the rates of those outcomes.

The rule assigns weight to the criteria provided in s. 48.983 (2), Stats.

As a point of information, it is not appropriate to compare child abuse substantiation rates across counties because Wisconsin has a county-based child abuse substantiation system and the counties apply different standards. In 2007, the percent of child protective services reports that were substantiated following an assessment ranged from 4.9% to 52.4% in different counties. The federal Administration for Children and Families has directed the state to move toward a common standard.

### **Comment 2**

We were one of the original pilot sites and have received stable funding and technical assistance from 1999 to 2010. Our program has demonstrated positive impacts on families served. We have leveraged other funding based on the state funding and have developed a strong public/private partnership. Without the Family Foundations funding, our program may end. This may increase the risk for additional out-of-home placements of children who are abused or neglected.

Act 82 was intended to broaden the field of possible applicants for funding and make the program statewide. It makes little sense to end proven long-term effective programs to relocate fiscal resources to other localities at the direct expense of communities losing the resources.

*Department Response:* The program originally known as Prevention of Child Abuse and Neglect (POCAN) and now known as Family Foundations was created by 1997 Wisconsin Act 294. This act provided that in the 1997-99 state fiscal biennium, no more than 6 rural counties, 3 urban counties, and 2 Indian tribes may be selected by the department to participate in the program. The department selected Brown, Door, Fond du Lac, Manitowoc, Marathon, Portage,

Vernon, Waukesha, and Waupaca counties and the Lac Courte Oreilles tribe. It had been envisioned that these counties and the tribe would run home visitation programs as a pilot and programs would eventually be available statewide. Funding was never increased sufficiently for that to happen. The original 9 counties and 1 tribe have continued to receive funding through 2010.

Significant statutory changes were made to the program by 2009 Wisconsin Act 28 and 2009 Wisconsin Act 82. The department is implementing the statutory changes. Act 82 did not increase funding for the program.

### **Comment 3**

Federal health reform provides funding for home visitation programs that have been operating a minimum of 3 years. I am concerned that these changes are setting up the state to be ineligible to receive this funding.

*Department response:* The 3-year requirement regarding home visitation programs in the federal Patient Protection and Affordable Care Act applies to the service delivery model, not an individual program that receives a grant. The majority of grant funds are required to be used to fund programs that use an evidence-based service delivery model, which is described, in part, as follows:

The model conforms to a clear consistent home visitation model that has been in existence for at least 3 years and is research-based, grounded in relevant empirically-based knowledge, linked to program determined outcomes, associated with a national organization or institution of higher education that has comprehensive home visitation program standards that ensure high quality service delivery and continuous program quality improvement, and has demonstrated significant, (and in the case of the service delivery model described in item (aa), sustained) positive outcomes...

Section 2951 of the Patient Protection and Affordable Care Act (P.L. 111-148) creates section 511 of the Social Security Act on Maternal, Infant, and Early Childhood Home Visiting Programs. Requirements on the service delivery model are at section 511 (d)(3)(A).

There is also a provision that allows some funding for new service delivery approaches that meet certain criteria and are rigorously evaluated.

Further information on service delivery models for home visitation programs with purposes of preventing child abuse or neglect and promoting healthy birth outcomes is available at [www.childwelfare.gov/preventing/programs/homevisit.cfm](http://www.childwelfare.gov/preventing/programs/homevisit.cfm). A directory of Wisconsin home visitation programs that is searchable by program model is available at [www.uwex.edu/ces/flp/homevisit/directory/index.cfm](http://www.uwex.edu/ces/flp/homevisit/directory/index.cfm).

LRB or Bill No./Adm. Rule No.

DCF 35

Amendment No. if Applicable

- ORIGINAL       UPDATED  
 CORRECTED       SUPPLEMENTAL

FISCAL ESTIMATE  
 DOA-2048 N(R03/97)

**Subject**

Home visitation to prevent child abuse and neglect

**Fiscal Effect**

State:  No State Fiscal Effect

Check columns below only if bill makes a direct appropriation  
 or affects a sum sufficient appropriation.

Increase Costs - May be possible to Absorb  
 Within Agency's Budget  Yes  No

- Increase Existing Appropriation       Increase Existing Revenues  
 Decrease Existing Appropriation       Decrease Existing Revenues  
 Create New Appropriation

Decrease Costs

Local:  No local government costs

1.  Increase Costs  
 Permissive       Mandatory  
 2.  Decrease Costs  
 Permissive       Mandatory

3.  Increase Revenues  
 Permissive       Mandatory  
 4.  Decrease Revenues  
 Permissive       Mandatory

5. Types of Local Governmental Units Affected:  
 Towns       Villages       Cities  
 Counties       Others \_\_\_\_\_  
 School Districts       WTCS Districts

**Fund Sources Affected**

- GPR     FED     PRO     PRS     SEG     SEG-S

**Affected Ch. 20 Appropriations**

**Assumptions Used in Arriving at Fiscal Estimate**

The criteria for determining the amount of a grant are provided in statute. The rule weights the criteria.

**Long-Range Fiscal Implications**

None

Agency/Prepared by: (Name & Phone No.)  
 Elaine Pridgen 267-9403

Authorized Signature/Telephone No.  
 Kimmie Collins 262-8692

Date



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## WISCONSIN LEGISLATIVE COUNCIL RULES CLEARINGHOUSE

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*Clearinghouse Director*

**Terry C. Anderson**  
*Legislative Council Director*

**Richard Sweet**  
*Clearinghouse Assistant Director*

**Laura D. Rose**  
*Legislative Council Deputy Director*

### CLEARINGHOUSE REPORT TO AGENCY

[THIS REPORT HAS BEEN PREPARED PURSUANT TO S. 227.15, STATS. THIS IS A REPORT ON A RULE AS ORIGINALLY PROPOSED BY THE AGENCY; THE REPORT MAY NOT REFLECT THE FINAL CONTENT OF THE RULE IN FINAL DRAFT FORM AS IT WILL BE SUBMITTED TO THE LEGISLATURE. THIS REPORT CONSTITUTES A REVIEW OF, BUT NOT APPROVAL OR DISAPPROVAL OF, THE SUBSTANTIVE CONTENT AND TECHNICAL ACCURACY OF THE RULE.]

#### CLEARINGHOUSE RULE 10-028

AN ORDER to create chapter DCF 35, relating to home visitation to prevent child abuse and neglect and affecting small businesses.

Submitted by **CHILDREN AND FAMILIES**

03-01-2010 RECEIVED BY LEGISLATIVE COUNCIL.

03-29-2010 REPORT SENT TO AGENCY.

RNS:MS

**LEGISLATIVE COUNCIL RULES CLEARINGHOUSE REPORT**

This rule has been reviewed by the Rules Clearinghouse. Based on that review, comments are reported as noted below:

1. STATUTORY AUTHORITY [s. 227.15 (2) (a)]  
Comment Attached      YES       NO
2. FORM, STYLE AND PLACEMENT IN ADMINISTRATIVE CODE [s. 227.15 (2) (c)]  
Comment Attached      YES       NO
3. CONFLICT WITH OR DUPLICATION OF EXISTING RULES [s. 227.15 (2) (d)]  
Comment Attached      YES       NO
4. ADEQUACY OF REFERENCES TO RELATED STATUTES, RULES AND FORMS  
[s. 227.15 (2) (e)]  
Comment Attached      YES       NO
5. CLARITY, GRAMMAR, PUNCTUATION AND USE OF PLAIN LANGUAGE [s. 227.15 (2) (f)]  
Comment Attached      YES       NO
6. POTENTIAL CONFLICTS WITH, AND COMPARABILITY TO, RELATED FEDERAL  
REGULATIONS [s. 227.15 (2) (g)]  
Comment Attached      YES       NO
7. COMPLIANCE WITH PERMIT ACTION DEADLINE REQUIREMENTS [s. 227.15 (2) (h)]  
Comment Attached      YES       NO



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## WISCONSIN LEGISLATIVE COUNCIL RULES CLEARINGHOUSE

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**Laura D. Rose**  
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### CLEARINGHOUSE RULE 10-028

#### Comments

**[NOTE:** All citations to “Manual” in the comments below are to the Administrative Rules Procedures Manual, prepared by the Legislative Reference Bureau and the Legislative Council Staff, dated September 2008.]

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

a. If the word “grant” is going to be used instead of “Child Abuse and Neglect Prevention Grant,” then s. DCF 35.02 should include a definition of “grant.”

b. As written, s. DCF 35.03 (3) does not clarify that the weighted 30% for poor birth outcomes is a total weight for each of the three poor birth outcomes listed in sub. (2) (a) to (c). The department should rewrite this subsection to clarify that the 30% is a combined total and that the weighted 10% is for each individual poor birth outcome.