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CLEARINGHOUSE RULE 95-090

Comments

[NOTE: All citations to “Manual” in the comments below are to the Administrative Rules Procedures Manual, prepared by the Revisor of Statutes Bureau and the Legislative Council Staff, dated October 1994.]

2. Form, Style and Placement in Administrative Code

It appears that ch. HSS 86 would be more appropriately placed with other rules regarding centers for the developmentally disabled or Medical Assistance.

4. Adequacy of References to Related Statutes, Rules and Forms

a. In s. HSS 86.03 (1) (a), the cite to s. 51.437, Stats., could be more specific by including sub. (4g).

b. In s. HSS 86.03 (1) (b), the cite to s. 51.42, Stats., could be more specific by including sub. (3).

c. In s. HSS 86.03 (1) (c), the cite to s. 46.23, Stats., could be more specific by including sub. (3).

d. In s. HSS 86.03 (3), it appears that “(A)” could be deleted from the cite because all of 42 U.S.C. s. 1396a (31) relates to independent professional review.

Also in that subsection, it appears that the cite to 42 C.F.R. s. 456 should be 42 C.F.R. s. 456.1.

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

a. In s. HSS 86.03 (3), “at least every 6 months” should be deleted. Substantive provisions should not be included in rules.

b. The definition in s. HSS 86.03 (4) should be the same as the definition of “Medical assistance” in s. 49.43 (8), Stats.

c. The term defined in s. HSS 86.03 (5), “person appropriate for community care,” is not used in ch. HSS 86. It is suggested that this term be used in ss. HSS 86.04 (1) and (2) and 86.05.

d. In s. HSS 86.03 (6), “head” should be replaced with “secretary.”

e. In s. HSS 86.04 (2), it is unclear whether the county agency may appeal a determination within 60 days following the receipt of the notification or following the date the notification was written by the department. This comment also applies to s. HSS 86.05.

f. In s. HSS 86.04 (3), it appears that “It is not subject to further hearing” is repetitive of the previous sentence in that subsection.

g. In s. HSS 86.05, “under s. HSS 86.04 (3)” should be placed after “on appeal.”

Also in that section, it may facilitate the billing of counties for Medical Assistance to have consistent time limits in the statutes and the administrative rules. Under s. 51.437 (4rm) (c) 2. b., Stats., a county must pay the department 10% of the rate paid by Medical Assistance within 60 days of being billed. Section HSS 86.05 states that the county must pay the 10% 180 days following the date of written notification under s. HSS 86.04 (1). Perhaps s. HSS 86.05 should also use the billing date as a reference point. For example, s. HSS 86.05 could specify that the department will bill the counties 120 days after the notification.