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CLEARINGHOUSE RULE 98-071

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

- a. In s. HFS 90.11 (2) (a) 2., the notation “s.” should be inserted before “HSS 65.05 (7).”
- b. In s. HFS 90.12 (5) (d), there should not be a subd. 1., because there is no subd. 2. The “1.” should be deleted and the remaining subunits should be renumbered accordingly.

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

- a. In s. HFS 90.12 (5) (a) 1., the comma following “sub. (6)” on line 5 should be deleted.
- b. In s. HFS 90.12 (5) (b) 2. c., should the notification to the department of the party’s consent or refusal to participate in mediation be in writing? If so, the phrase “in writing” should be inserted after the word “department” on line 1 and the Note following subd. 3. should indicate that the party’s written notification under subd. 2. c. should be sent to the address indicated in the Note. Finally, the semicolon at the end of subd. 2. c. should be replaced by a period.
- c. In s. HFS 90.12 (5) (e) 3., what specific information is the mediator required to report to the department “for the purpose of administering the mediation program”?
- d. In s. HFS 90.12 (5) (g), there is an extra period at the end of the second sentence. Also, this provision should begin with the phrase “Except as provided in subds. 2. and 3.”

e. In s. HFS 90.12 (6), the rule retains, with some modifications, the language in current s. HFS 90.12 (5) relating to resolving disputes by means of a hearing by an impartial decisionmaker. However, the rule analysis does not mention that the hearing process is retained; it only briefly mentions the establishment of a state-level mediation process. In fact, the parenthetical language in the second paragraph of the cover letter to the Rules Clearinghouse may give the impression that the hearing process has been replaced by the state-level mediation process. The analysis should be rewritten to clarify that in addition to creation of the state-level mediation system, the hearing process is retained, with modifications, in a new location in the rule. The analysis should contain a brief explanation of the statewide mediation system and the modified hearing process, the interrelationship between those two dispute resolution mechanisms and when each one is to be used.

f. In s. HFS 90.12 (6) (a) 1., the comma after the “(5)” on line 5 should be deleted.

g. In s. HFS 90.12 (6) (d) 4. e., is the birth to 3 program coordinator the state coordinator or a local coordinator? Will the impartial decisionmaker know to whom and where the decision is to be sent? Perhaps a note with that information should be included in the rule.

h. In s. HFS 90.12 (6) (d) 4. f., it appears that the reference to “par. (d)” should be replaced by a reference to “par. (e).”