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CLEARINGHOUSE RULE 99−009

Comments

[<u>NOTE</u>: All citations to "Manual" in the comments below are to the <u>Administrative Rules Procedures Manual</u>, prepared by the Revisor of Statutes Bureau and the Legislative Council Staff, dated September 1998.]

<u>4. Adequacy of References to Related Statutes, Rules and Forms</u>

In s. HFS 77.06 (1) (intro.) and (2) (intro.), the reference to "sub. (4)" should be changed to "sub. (3)."

<u>5. Clarity, Grammar, Punctuation and Use of Plain Language</u>

a. In s. HFS 77.02, it appears that the language following the statutory citation on line 4 could be deleted. This material is covered in s. HFS 77.04 (1) (b). If, for some reason, it is determined to be necessary in s. HFS 77.02, it should be moved to a separate sentence, to improve readability.

b. In s. HFS 77.03 (1), does "administrative agency" refer to the department's six region-based coordinators for the deaf and hard of hearing services referenced in the second paragraph of the analysis? Since this is a newly defined term, it should be explained in the analysis.

c. Section HFS 77.04 (3) (b) 4. and 5. refer to final payment being "determined by the department on an annual basis." What does this requirement mean? Will the department set a payment rate for these types of services every year? Where will the reimbursement rate be set forth? In an administrative rule?

d. The timing of actions relating to reimbursements for interpreting services set forth in s. HFS 77.05 does not make sense. Subsections (1) and (2), read together, require that, except in emergencies, a person or entity requesting reimbursement for interpreting services must make the request at least 48 hours in advance of the time an interpreter is needed. However, sub. (3) gives the Department of Health and Family Services (DHFS) five working days after receipt of the request to grant or deny the request. If granted, DHFS gives the requester a list of certified and verified interpreters so that the requester may arrange for the interpreting services. If denied, DHFS must inform the requester in writing of the reasons for the denial and the right and procedure to request a hearing. Thus, it appears that if the requester does not request reimbursement for services until close to the time that services are needed, the requester may not have a response as to whether such services will be reimbursed or have the list of persons to contact to perform interpreting services by the time such services are to be performed. This section should be reviewed and modified as necessary.

e. Section HFS 77.06 (1) (a) sets forth the order in which interpreters certified by the National Registry of Interpreters of the Deaf, Inc., are to be reimbursed for services. It is unclear how the interpreters listed in subds. 3. and 4. differ from each other. Subdivision 3. refers to an interpreter who "has an interpretation and transliteration certificate; certificate of interpretation or certificate of transliteration." Subdivision 4. refers to an interpreter who "has an interpretation certificate or a transliteration certificate." How does the language in subd. 4. differ from the language following the semicolon in subd. 3.? These two provisions should be reviewed and reconciled. Also, in s. HFS 77.06, the language in sub. (1) (intro.) indicates that it applies to reimbursement for certified ***and*** verified sign language interpreters listed in the registry. The language in sub. (1) (a) (intro.) refers just to "interpreters certified . . ." and the language in sub. (1) (b) refers just to "interpreters verified . . . ." If it is the department's intent that interpreters who are either certified or verified, but not necessarily both, are to be reimbursed, it is suggested that the phrase "certified and verified" in sub. (1) (intro.) be deleted.

f. In s. HFS 77.06 (2) (a), the insertion of the three colons in the provision makes its meaning unclear. The provision should be reviewed and the punctuation revised as necessary to make its meaning clear.

g. In s. HFS 77.06 (3), it is not clear whether the services described will be reimbursed.

h. In s. HFS 77.06 (4) (a), the second sentence requires the department to make a reasonable effort to inform the interpreter of a cancellation. If the department is no longer scheduling interpreters, why is the department responsible for informing an interpreter of a cancellation?

i. In s. HFS 77.07 (3) (a), reference is made to determining payment to an interpreter on an individual basis "in accordance with department policy and procedures." Where are those policies and procedures set forth? Will they be in an administrative rule?

j. In s. HFS 77.09 (1) (e), the slash should be removed between "certification" and "verification." Section 1.01 (9) (a), Manual, states that slashed alternatives should not be used in drafting administrative rules. Instead, it should be determined whether the sentence means "and" or "or" and the appropriate word should be used. If the thought to be expressed involves a choice between one or two alternatives, or both, the proper phrasing to be used is "____ or ____, or both."

k. In s. HFS 77.10 (1), the word “and” on line 2 should be replaced by the phrase “that is.”