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## WISCONSIN LEGISLATIVE COUNCIL RULES CLEARINGHOUSE

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### CLEARINGHOUSE RULE 03-021

#### 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 2002.]**

#### 1. Statutory Authority

a. Section HFS 102.01 (5) (e) states that the department will determine the eligibility of a person who applies solely for benefits under the family planning demonstration project and is under the age of 18 “without regard to the person’s parent or parents.” This appears to conflict with s. 49.45 (24r), Stats., which requires that the woman’s family income does not exceed 185% of the poverty line for a family the size of the woman’s family, and thus generally appears to require taking into account parental income for women who are under the age of 18, regardless of whether the woman is under the care of the parent for the purposes of s. 49.19 (1), Stats.

b. Under s. HFS 103.03, persons are required to meet both nonfinancial and financial conditions for eligibility. Section HFS 103.03 (1) (a) and (i) create what is referred to in the title to s. HFS 103.03 (1) as a “family planning waiver” allowing a woman meeting the specified conditions under sub. (1) (i) to be “non-financially eligible” for the family planning demonstration project. Such a woman:

- Under s. HFS 103.04 (10) (b) would meet financial conditions for eligibility if the income for a “fiscal test group,” defined in s. HFS 103.04 (11) (b), is no greater than 185% of the poverty line for a family the size of the fiscal test group. This apparently conflicts with s. 49.45 (24r), Stats., which requires that the person’s family income (not a fiscal test group’s income, which appears to exclude income of parents of a woman under age 18) not exceed 185% of the poverty line for a family the size of the woman’s family (not the size of the fiscal test group).

- Under s. HFS 103.04 (10) (c) would meet financial conditions for eligibility if the income for a “family fiscal unit,” defined in s. HFS 103.04 (11) (c), is no greater than “185% of the poverty line for a family the size of the family fiscal unit or a prorated amount.” This apparently conflicts with s. 49.45 (24r), Stats., which requires that the person’s family income (not a family fiscal unit’s income, which appears to exclude the income of parents of a woman under age 18) not exceed 185% of the poverty line for a family the size of the woman’s family (not the size of the family fiscal unit). Also, if a prorated amount is less than 185% of the poverty line, what is the statutory authority for determining eligibility at this level?
- Under s. HFS 103.04 (10) (d) would meet financial conditions for eligibility if the specified criteria were met “regardless of their income.” This would appear to conflict with s. 49.45 (24r), Stats., which requires that the woman’s family income not exceed 185% of the poverty line for a family the size of the woman’s family.

## **2. Form, Style and Placement in Administrative Code**

In the third line of s. HFS 102.01 (6), “the department’s” replaces “its” in the current rule, and therefore “its” should be stricken and “the department’s” should be underlined.

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

a. Lines 5 and 6 of the analysis refer to the Centers for “Medicare and Medicaid” Services, and lines 7 and 8 switch “Medicaid” and “Medicare” in the Center’s name. The order of “Medicare” and “Medicaid” should be verified in the title the first time it is mentioned before use of the acronym “CMS,” and then the acronym should be used in subsequent references.

b. In the second line of s. HFS 102.04 (3) (c), “and” should be replaced with a comma and “persons eligible” should be inserted between “or” and “for.”

c. In s. HFS 103.03 (1) (i) 3., the word “through” should be replaced by the word “to.”

d. Section HFS 103.04 (10) (a) would be clearer if it read as follows: “A person that meets the requirements of s. HFS 103.03 . . . and meets the income limits of par. (b) or (c) or the criteria of par. (d) . . . .” This would tell the reader that the provisions of s. HFS 103.03 and one of the provisions of s. 103.04 (10) must be met in order for a person to be eligible.

e. In s. HFS 103.04 (11) (d), “After applying the income disregards and deductions found in s. HFS 103.07 (2) and (3) to the gross income” is redundantly stated both at the beginning and the end of the sentence. One of the repetitions should be deleted.

f. In s. HFS 103.11 (3) (b) 6., a cross-reference to the provision describing the “applicable income limits” would be useful.