

CR 84-240

CERTIFICATE

STATE OF WISCONSIN)
) SS
DEPARTMENT OF HEALTH AND SOCIAL SERVICES)

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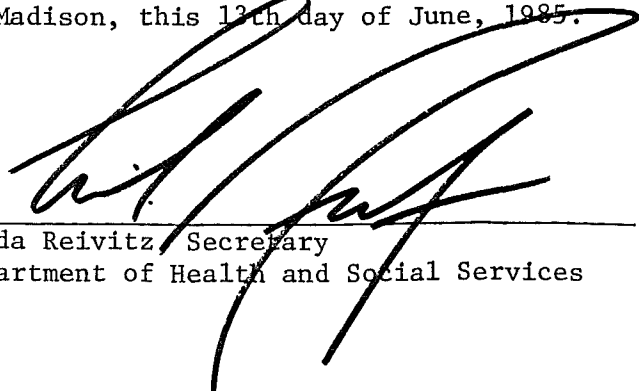
JUN 14 1985
4:10 pm
Revisor of Statutes
Bureau

TO ALL TO WHOM THESE PRESENTS SHALL COME, GREETINGS:

I, Linda Reivitz, Secretary of the Department of Health and Social Services and custodian of the official records of said Department, do hereby certify that the annexed rules relating to facilitating the adoption of children who have special needs were duly approved and adopted by this Department on June 13, 1985.

I further certify that this copy has been compared by me with the original on file in this Department and that the same is a true copy thereof, and of the whole of such original.

IN TESTIMONY WHEREOF, I have hereunto set my hand and affixed the official seal of the Department at the State Office Building, 1 W. Wilson Street, in the city of Madison, this 13th day of June, 1985.



Linda Reivitz, Secretary
Department of Health and Social Services

SEAL:

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JUN 14 1985

ORDER OF THE
DEPARTMENT OF HEALTH AND SOCIAL SERVICES
REPEALING, RENUMBERING, AMENDING, AND CREATING RULES

Revisor of Statutes
Bureau

To repeal HSS 50.02(3); to renumber HSS 50.02 to 50.05; to amend HSS 50.03(1)(c) and (2), as renumbered; to repeal and recreate HSS 50 (title) and 50.01; and to create HSS 50.02, 50.05(1)(c) and (3) and 50.07 to 50.10, relating to facilitating the adoption of children who have special needs.

Analysis Prepared by the Department of Health and Social Services

Many children in Wisconsin are available for adoption but cannot easily be placed in adoptive homes because the children have special needs. Section 48.55, Stats., directs the Department to establish a state adoption information exchange to help find adoptive homes for these children.

Sections HSS 50.07 to 50.10 establish an adoption information exchange to be operated by the Department directly or through a contract with an individual or a private agency to maintain a central registry of special needs children and prospective adoptive parents and prepare a book of descriptions, including photos, of individual special needs children for distribution to adoption agencies. Adoption agencies are required to report information about special needs children to the exchange and to update that information. The exchange is expected to provide adoption agencies and self-referred prospective adoptive families with information about special needs children in an effort to match children and families, to make periodic inquiries to ascertain the progress being made in placing children who are registered with the exchange, and, in general, to promote and facilitate adoptions of these children. The central registry and the adoption photo listing book, which are part of the exchange, take the place of the adoption resources exchange list currently provided for in ch. HSS 50.

Incidental to the addition of these sections, the Department's existing rules regarding the provision of adoption subsidies to families adopting children with special needs are renumbered, the introduction to the chapter is revised and the definitions of technical terms used in the chapter are updated.

Pursuant to the authority vested in the Department of Health and Social Services by ss.48.55, 48.975 and 227.014(2), Stats., the Department of Health and Social Services hereby adopts rules interpreting ss.48.55 and 48.975, Stats., as follows:

SECTION 1. HSS 50 (title) is repealed and recreated to read:

CHAPTER HSS 50

ADOPTION OF CHILDREN WITH SPECIAL NEEDS

SECTION 2. Subchapter I. (title) of HSS 50 is created to read:

SUBCHAPTER I

GENERAL PROVISIONS

SECTION 3. HSS 50.01 is repealed and recreated to read:

HSS 50.01 INTRODUCTION. (1) STATEMENT OF INTENT. The intent of this chapter is to facilitate the placement of all children in Wisconsin who are legally available for adoption by providing adoption subsidies to families adopting children with special needs and by establishing an adoption information exchange to help find adoptive homes for these children.

(2) PURPOSE OF RULES. This chapter establishes criteria to be used by the department in determining when an adoption subsidy, as authorized by s.48.975, Stats., may be provided, specifies limitations on the granting of adoption subsidies, sets procedures for application for a subsidy and establishes an adoption information exchange, as required by s.48.55, Stats., to be operated by the department directly or through a contract with an individual or private agency to assist in finding the best adoptive homes available for the placement of children with special needs.

(3) TO WHOM THE RULES APPLY. This chapter applies to the department, adoption agencies, any individual or private agency under contract to the department to operate the adoption information exchange, adoptive parents, prospective adoptive parents and special needs children.

(4) DEFINITIONS. In this chapter:

(a) "Administrative review" means a review of the plan of services for a child conducted by a panel of persons selected by the adoption agency, at least one of whom is not responsible for the case management or for the supervision or delivery of services to either the child who is subject to the review or the child's parents.

(b) "Adoption" means a method provided by law to establish the legal relationship of parent and child between persons who are not related by birth, with the same mutual rights and obligations that exist between children and their birth parents.

(c) "Adoption agency" means a county agency authorized to place children for adoption under s.48.57, Stats., the department or an agency licensed under s.48.60, Stats., and authorized under s.48.61, Stats., to accept guardianship and to place children under its guardianship for adoption.

(d) "Adoption information exchange" or "exchange" means a department program created to facilitate the adoption of special needs children by disseminating information about the children to adoption agencies and prospective adoptive families.

(e) "Adoption photo listing book" means a publication which lists individual special needs children and includes photographs and descriptions of them.

(f) "Adoptive family" means a husband and wife jointly or an unmarried adult.

(g) "Child" means a person under 18 years of age.

(h) "Department" means the Wisconsin department of health and social services.

(i) "Division" means the department's division of community services.

(j) "Guardian" has the meaning prescribed in s.48.02(8), Stats.

(k) "Legal risk" means a condition of a child in which the severance of the legal rights of the child's birth parents through termination of parental rights proceedings under the laws of the state or the federal government has not been completed or the court's decision is being legally contested.

(l) "Legally free" means the status of a child when the legal rights of the birth parents of the child have been severed through a termination of parental rights proceedings according to the laws of the state or the federal government, or both, and the court has transferred guardianship and custody of the child pending adoptive placement.

(m) "Maintenance assistance card" means a card issued monthly for the purpose of identifying the recipient as being eligible for medical assistance under title XIX of the Social Security Act of 1935, as amended, 42 USC 1396, and ss.49.43 to 49.49, Stats.

(n) "Maintenance subsidy" means a payment not to exceed the amount of the foster care maintenance payment which would have been paid if the child with respect to whom the subsidy payment is made had been in a family foster home.

(o) "Medical subsidy" means that a medical assistance card is issued by the department for the adoptive child in conjunction with the maintenance subsidy.

(p) "Regions" means the 6 geographical areas of Wisconsin designated by the department as its principal field administrative areas.

(q) "Registration" means the required listing of information about special needs children or the voluntary listing of information about prospective adoptive families with the adoption information exchange.

(r) "Special needs child" means a legally free child for whom it is difficult to find an adoptive home.

(s) "Subsidized adoption" has the meaning prescribed in s.48.975(1), Stats., namely, payments made by the department to the parents of an adopted child which are designed to assist in the cost of care of the child after adoption.

(t) "Sustaining care" means the placement of children under s.48.428, Stats.

SECTION 4. Subchapter II (title) of HSS 50 is created to read:

SUBCHAPTER II

SUBSIDIZED ADOPTIONS

SECTION 5. HSS 50.02(3) is repealed.

SECTION 6. HSS 50.02 to 50.05 are renumbered HSS 50.03 to 50.06.

SECTION 7. HSS 50.02 is created to read:

HSS 50.02 SUBSIDIZED ADOPTIONS. Sections HSS 50.03 to 50.06 specify procedures and criteria to be used in granting adoption subsidies and apply to the department, adoption agencies and adoptive parents, except that the adoption of American Indian children is subject to 25 USC 1901 to 1963.

SECTION 8. HSS 50.03(1)(c) and (2), as renumbered, are amended to read:

HSS 50.03(1)(c) AVAILABILITY FOR ADOPTION. A child shall be considered available for adoption if the child is in the guardianship of the department, ~~a county agency under s. 48.57(1)(e) or (hm), State,~~ or a child placing an adoption agency authorized to place children for adoption and the department, county agency or child placing adoption agency decides that the child cannot or should not return to the home of his or her parents. If the child is an American Indian, adoption procedures shall be in accordance with 25 USC 1901-1963.

HSS 50.03 (2) REASONABLE PLACEMENT EFFORT. All reasonable efforts shall be made to place the child without a subsidy including the following:

(a) A review of all the approved and available homes associated with the ~~child-placing~~ adoption agency;

(b) A canvas of local adoption agencies and adoptive parent organizations; and

(c) Registration of the child with the adoption resource information exchange for at least one month's circulation.

SECTION 9. HSS 50.05(1)(c) and (3) are created to read:

HSS 50.05(1)(c) Benefits paid under aid to families with dependent children (AFDC) are not considered unearned income and may not affect the amount of the adoption subsidy.

(3) FAMILY CIRCUMSTANCES. The family's circumstances shall meet one of the following criteria:

(a) The financial impact of providing for an adoptee would result in a significant burden on the family's financial resources;

(b) Although the family's financial resources are substantial, unusual circumstances place demands on the family income to the extent that providing for an adoptee would result in an undue financial burden;

(c) The family does not have health insurance, or the coverage of the insurance is not sufficient to cover the expected medical needs of the adoptee; or

(d) Resources needed by the adoptee are not available in the family's community and the expense of gaining access to the necessary resources would place a significant financial burden on the family.

SECTION 10. Subchapter III (title) of HSS 50 is created to read:

SUBCHAPTER III

ADOPTION INFORMATION EXCHANGE

SECTION 11. HSS 50.07 to 50.10 are created to read:

HSS 50.07 ADOPTION INFORMATION EXCHANGE. Sections HSS 50.07 to 50.10 establish an adoption information exchange to be operated by the department directly or through a contract with an individual or a private agency. These sections apply to the department, adoption agencies, prospective adoptive parents and to an individual or a private agency if under contract with the department to operate the adoption information exchange, except that Indian tribal child-placing agencies may draw upon services of the adoption information exchange but are not obligated under these rules to participate in the exchange.

HSS 50.08 ADOPTION INFORMATION EXCHANGE RESPONSIBILITIES.

(1) REGISTRATION. The exchange shall maintain an ongoing central registry which shall include the following services:

(a) The exchange shall register all special needs children. Special needs children include:

1. Children who have special needs due to medical, psychological, developmental or behavioral conditions;

2. Children who have special needs due to special circumstances such as age, sibling group, sex, race or national or cultural origin;

3. Children who have not been placed for adoption within 60 days after being legally freed; or

4. Foreign-born children who have been referred to the department for adoptive placement in Wisconsin.

(b) Children may be considered to have special needs when they are placed in sustaining care or when they are at legal risk. However:

1. The exchange may register children who have been placed in sustaining care under s.48.428, Stats., only when the court involved gives written permission; and

2. The exchange may register legal risk children either with the written consent of the court or by written consent of the adoption agency

and the child's parent or guardian. The registration information shall include information describing the nature of the legal risk.

(c) The exchange shall register prospective adoptive families who have either referred themselves to the exchange or who have been referred to the exchange by an adoption agency.

(d) The exchange may register special needs children with out-of-state exchanges and use the resources of those exchanges, but only with written permission from the child's guardian or the agency responsible for the child. The exchange may recommend the use of specific out-of-state exchanges for a particular child.

(e) The exchange shall withdraw a child's registration when the adoption agency notifies the exchange in writing that the child has been adopted, has reached age 18, has been emancipated by marriage or has died.

(f) The exchange shall withdraw a prospective adoptive family's registration when the family or agency notifies the exchange in writing that the family has adopted a child, that they are no longer interested in adopting a special needs child or after one year if the family or agency has not responded to inquiries from the exchange.

(2) MATCHING SERVICE. The exchange shall attempt to match children listed in the adoption photo listing book under sub. (3) and prospective adoptive families registered with the exchange by:

(a) Giving self-referred prospective adoptive families information about the exchange, special needs adoption and home study requirements; referring the family to adoption agencies serving their geographic area; and following up on the family's referral; and

(b) Contacting adoption agencies to provide them with information on registered prospective adoptive families that would be appropriate for a registered or photo-listed child based on the child's needs and circumstances.

(3) ADOPTION PHOTO LISTING BOOK. The adoption information exchange shall develop and maintain a book which shall:

(a) Include information about and a photograph of each registered child, except for a child deferred from the listing under s.HSS 50.10. This information shall be edited to concisely describe the child in a positive and uniform manner;

(b) Be made available to all adoption agencies in the state, adoptive parent groups, child advocacy groups, other interested groups and child-placing agencies in other states;

(c) Be updated at least monthly to revise, add to, or delete from the listing of available special needs children; and

(d) Include a listing of out-of-state special needs children. If the exchange is operated by an individual or private agency under a contract

with the department, there shall be written case-by-case approval by the department for each out-of-state special needs child listed.

(4) PROGRESS INQUIRIES. The exchange shall make inquiries of adoption agencies at least semi-annually to determine the progress toward adoption of children registered with the exchange.

(5) TELEPHONE INFORMATION SERVICE. The exchange shall maintain a central telephone number which people can call to get information about the exchange and about adoption of special needs children and shall publish and disseminate the telephone number of the exchange.

(6) PUBLIC INFORMATION. The exchange shall develop and distribute informational pamphlets, brochures, displays and media outreach materials to provide information regarding the services available from the exchange and to promote the adoption of special needs children.

(7) STATISTICAL REPORTING. The exchange shall compile statistics. If the exchange is operated by an individual or private agency under a contract, a semi-annual statistical report shall be submitted to the department and shall include the following information:

(a) The number of children registered during the reporting period and the total number of children currently registered;

(b) The number of children listed in the adoption photo listing book during the reporting period and the total number of children currently listed;

(c) The number of children listed in the adoption photo listing book who were placed for adoption within the previous 6 months and the average number of days that a child was listed prior to adoptive placement;

(d) The number of adoption inquiries received for each child listed in the adoption photo listing book during the reporting period;

(e) The number of children deferred from listing during the reporting period under each of the circumstances specified in s. HSS 50.10(1).

(f) A semi-annual financial report; and

(g) Any other information needed by the department for its information system.

HSS 50.09 ADOPTION AGENCY RESPONSIBILITIES. (1) REGISTRATION. An adoption agency shall register each special needs child under its guardianship with the exchange within 60 days after the agency has been authorized to place the child for adoption and shall include the following information about each child:

(a) The child's name, birth date, sex, race and the birth parents' religious preference;

(b) A recent black and white photograph of the child;

- (c) A brief narrative description of the child;
- (d) The name, date of birth and sex of any of the child's siblings who are also available for adoption, and whether they are being placed individually or as a sibling group;
- (e) A brief social history, including the child's placement history, and the date when guardianship becomes effective;
- (f) An assessment of the child's current abilities and projected functional level as an adult;
- (g) The child's school placement level and an assessment of his or her special education needs;
- (h) Other information as needed to be compatible with out-of-state exchanges for children to be listed also with those exchanges; and
- (i) A description of the nature of legal risk if adoption of the child is considered a legal risk.

(2) LISTING AND REGISTRATION UPDATES. The adoption agency shall provide updating registration information to the exchange as follows:

- (a) Within 10 working days after a change occurs, the agency shall report changes in the child's status, including:
 1. Circumstances relating to a change in the deferral from the child being listed in the adoption photo listing book; and
 2. Notice of the child's placement for adoption.
- (b) Within 10 working days after the first 12 months that a child has been registered and after each subsequent 12-month period, the adoption agency shall submit updating information which includes a new written description and recent photograph of the child.
- (c) Within 10 working days after a change occurs, the agency shall give notice that a prospective adoptive family has either adopted a child or is no longer interested in adopting a special needs child.

HSS 50.10 DEFERRAL FROM LISTING A SPECIAL NEEDS CHILD IN THE ADOPTION PHOTO LISTING BOOK. (1) REQUEST FOR DEFERRAL. An adoption agency may submit a written request to the exchange for a deferral from listing a special needs child in the adoption photo listing book for one or more of the following reasons:

- (a) The child is in an adoptive placement but is not yet legally adopted;
- (b) The child's foster parents or a prospective adoptive family has applied to adopt the child;

(c) Diagnostic study or testing is required to clarify the child's problems and provide an adequate description of the child's condition;

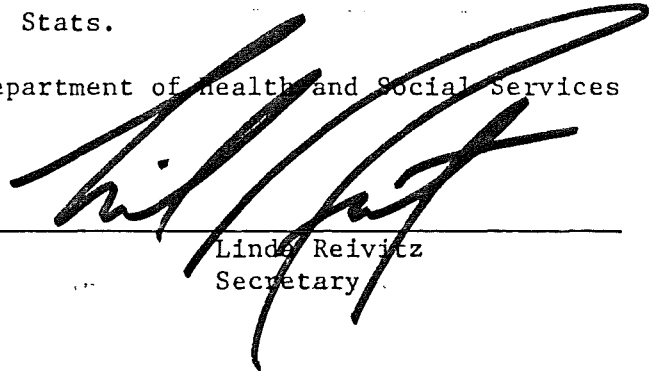
(d) The child is currently in a hospital or child care institution and the continuing need for daily professional care does not permit placement in a family setting; and

(e) The child is over 14 years of age and the child elects to defer listing for a period of time as determined by the child and his or her legal guardian with concurrence of the court or an administrative review.

(2) DEFERRAL DETERMINATION. Upon receipt of a written request for deferral, the exchange shall grant the request, except that a deferral based on sub. (1)(b), (c) or (d) shall be for no more than a one-time 90-day period.

The repeals and rules contained in this order shall take effect on the first day of the month following publication in the Wisconsin Administrative Register as provided in s.227.026(1), Stats.

Department of Health and Social Services



Linda Reivitz
Secretary

Date: June 13, 1985

Seal:

