

# Statement of Scope

## Department of Children and Families

**Rule Number:** DCF 1

**Relating to:** Fees for Child Welfare and Community-Based Youth Justice Services

**Rule Type:** Permanent

This statement of scope was approved by the governor on August 4, 2022.

### **1. Detailed description of the objective of the proposed rule.**

The department will continue work begun under SS 067-18 to create a new rule chapter on fees for child welfare and community-based youth justice services purchased or provided by the department or county departments of social or human services. Fees for child welfare services had been administered under ch. DHS 1 following the transfer of these programs to the department until the Department of Health Services repealed and recreated the rule effective January 1, 2020. The scope of the fee provisions in ch. DCF 1 will be similar to ch. DHS 1.

The new rule chapter will also include a section on the application of ch. DCF 150 to the determination of child support for a child placed in out-of-home care when child support is ordered under ch. 48 or 938, Stats. The child support section will include a provision on the operation and implementation of the assignment of income sources in an amount sufficient to ensure payment of the child support order.

### **2. Detailed explanation of statutory authority for the rule.**

Section 49.32 (1), Stats., provides that the department shall establish a uniform system of fees for services provided or purchased by the department or by a county department of social services or human services under the children's code in ch. 48, Stats.; children and family support services under subch. III of ch. 49, Stats.; and community-based juvenile delinquency-related services under ch. 938, Stats., except as provided under ss. 49.345 (14) (b) and (c) and 49.22 (6), Stats. The uniform system of fees does not apply when the department determines that a fee is administratively unfeasible or would significantly prevent accomplishing the purpose of the service.

Section 49.345 (14) (g), Stats., provides that for purposes of determining child support under s. 49.345 (14) (b), Stats., the department shall promulgate rules related to the application of the standard established by the department under s. 49.22 (9), Stats., to a child support obligation for the care and maintenance of a child who is placed by a court order under s. 48.32, 48.355, 48.357, 938.183, 938.355, or 938.357, Stats., in a residential, nonmedical facility, such as a foster home, group home, subsidized guardianship home, or residential care center for children and youth. The rules shall take into account the needs of any person, including dependent children other than the child, whom either parent is legally obligated to support.

Section 49.345 (14) (e), Stats., provides that an order for child support issued under s. 48.355 (2) (b) 4. or (4g) (a), 48.357 (5m) (a), 48.363 (2), 938.183 (4), 938.355 (2) (b) 4., 938.357 (5m) (a), or 938.363 (2), Stats., constitutes an assignment of all commissions, earnings, salaries, wages, pension benefits, income continuation insurance benefits under s. 40.62, duty disability benefits under s. 40.65, benefits under ch. 102 or 108, and other money due or to be due in the future to the county department of social services or human services in the county where the order was entered or to the department, depending upon the placement of the child as specified by rules promulgated under subd. 5. The assignment shall be for an amount sufficient to ensure payment under the order. Section 49.345 (14) (e) 5., Stats., provides that the department shall promulgate rules for the operation and implementation of assignments under s. 49.345 (14) (e), Stats.

Section 227.11 (2) (a), Stats., expressly confers rule-making authority on each agency to promulgate rules interpreting the provisions of any statute enforced or administered by the agency.

**3. Estimate of amount of time that state employees will spend developing the rule and of other resources necessary to develop the rule.**

175 hours

**4. List with description of all entities that may be affected by the proposed rule.**

County human and social service departments and their contractors, the department's Division of Milwaukee Child Protective Services and its contractors, parents and guardians of children receiving child welfare or juvenile justice services, adult family members receiving related services, parents of children in out-of-home care, children's courts, and child support agencies.

**5. Summary and preliminary comparison with any existing or proposed federal regulation that is intended to address the activities to be regulated by the proposed rule.**

42 USC 671 (a) (17) provides that a Title IV-E state plan shall provide that, where appropriate, all steps will be taken, including cooperative efforts with the State agencies administering the plans approved under parts A and D, to secure an assignment to the State of any rights to support on behalf of each child receiving foster care maintenance payments under this part.

**6. Anticipated economic impact of implementing the rule (note if the rule is likely to have a significant economic impact on small business):**

Minimal or no economic impact on small business

**Contact Person:**

Shelby McCulley  
Division of Safety and Permanence  
(608) 422-6998  
shelbya.mcculley@wisconsin.gov

Jill Mueller  
Office of Legal Counsel  
(608) 422-7046  
jill.mueller@wisconsin.gov