

**State of Wisconsin
Department of Children and Families**

Adoption Assistance Supplemental Payments

DCF 50

The statement of scope for this rule, SS 118-23, was approved by the governor on December 21, 2023, published in Register 816B on December 26, 2023, and approved by Secretary Emilie Amundson on January 9, 2024. This emergency rule was approved by the Governor on February 8, 2024.

The Wisconsin Department of Children and Families proposes an order to amend s. DCF 50.11 (1) (b) 2. b., relating to adoption assistance supplemental payments.

Finding of Emergency

The Department of Children and Families finds that an emergency exists and that an emergency rule may be necessary for the immediate preservation of the public welfare. The facts constituting the emergency are as follows:

The department has discovered an error in its automation system that has resulted in lack of conformity between the rate for adoption assistance agreements entered into and the existing rule on determining adoption assistance supplemental payment amounts.

Analysis Prepared by the Department of Children and Families

Statutory authority: Section 227.11 (2) (a), Stats.

Statutes interpreted: Section 48.975, Stats.

Related statutes and rules: DCF 55 and 56

Explanation of Agency Authority

The department administers the adoption assistance program under s. 48.975, 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.

Summary of the Rule

The department recently discovered that the way the department's child welfare automation system eWiSACWIS was built and has been operating is not congruent with the adoption assistance rule on determining the amount of a supplemental payment based on a child's identified needs. Section DCF 50.11 (1) (b) 2. b. provides that, for an adoption assistance agreement entered into on or after July 1, 2011, a supplemental payment is only available if a child has a total of 5 or more needs that have been identified as moderate or intensive using the department's assessment tool.

The rules remove the threshold eligibility requirement of "a total of 5 or more needs" for adoption assistance supplemental payments. This change will maintain the status quo for families

and align the methodology for determining supplemental payments under the adoption assistance rule with the methodology in the subsidized guardianship rule. A child will need at least one need that has been identified as moderate or intensive to receive a supplemental payment, just as with foster care and subsidized guardianship.

Summary of Related Federal Law

The adoption assistance program is authorized under 42 USC 673. The program provides partial reimbursement to states to facilitate the timely placement of children whose special needs or circumstances would otherwise make it difficult to place them with adoptive families.

42 USC 673 (a) (3) provides that the amount of an adoption assistance payment shall be determined through agreement between the adopting parents and the state agency, which shall take into account the circumstances of the adopting parents and the needs of the child being adopted and may be adjusted periodically with the concurrence of the adopting parents.

Summary of Data and Analytical Methodologies

Not applicable

Comparison to Adjacent States

Not applicable

Effect on Small Businesses

The rule does not affect small businesses as defined in s. 227.114 (1), Stats.

Analysis Used to Determine Effect on Small Businesses

The adoption assistance program affects the department and families who adopt a child from the public child welfare system.

Agency Contact

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Rule Text

SECTION 1. DCF 50.11 (1) (b) 2. b. is amended to read:

DCF 50.11 (1) (b) 2. b. For an adoption assistance agreement entered into on or after July 1, 2011, the rate schedule under s. DCF 56.23 (2) (a) if the child has ~~a total of 5 or more~~ needs that have been identified as moderate or intensive in the areas listed in s. DCF 56.23 (2) (a) 1. a. to e.

SECTION 2. EFFECTIVE DATE. This rule takes effect upon publication in the state newspaper and shall remain in effect for 150 days, as provided in s. 227.24 (1) (c), Stats., subject to extensions under s. 227.24 (2), Stats.