



Wisconsin Legislative Council

RULES CLEARINGHOUSE

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CLEARINGHOUSE RULE 23-016

Comments

[NOTE: All citations to “Manual” in the comments below are to the Administrative Rules Procedures Manual, prepared by the Legislative Council Staff and the Legislative Reference Bureau, dated November 2020.]

2. Form, Style and Placement in Administrative Code

a. SECTION 7 of the proposed rule repeals s. DCF 201.06 (4) (b), which leaves only one paragraph remaining under sub. (4). Because the repeal of par. (b) results in one remaining subunit, that remaining subunit, par. (a), should be consolidated, renumbered, and amended so that sub. (4) is a single rule unit. [s. 1.11 (4), Manual.]

b. The department should review and update the introductory clause for the proposed rule that identifies the provisions treated in the proposed rule. For example, the introductory clause lists the creation of s. DCF 201.04 (2g), but that provision is not created in the text of the rule.

3. Conflict With or Duplication of Existing Rules

The department should review whether ss. DCF 201.038 and 201.04 (5) should be amended to reflect the department’s payment for registration or enrollment fees. For example, the department should review whether these fees should be listed in the written payment agreement as described in s. DCF 201.038 (5). The department should also review whether “registration or enrollment fees” are considered “payments for child care services” for purposes of recovering or recouping the overpayment of such fees.

4. Adequacy of References to Related Statutes, Rules and Forms

a. In the “statutes interpreted” section of the rule analysis, the citation to s. 49.155 (6), Stats., should be revised to read s. 49.155 (6) (a) to (c), Stats.

b. In SECTION 4 of the proposed rule, s. DCF 201.04 (2r) (a) (as renumbered), regarding electronic payments and overpayments, includes a cross-reference to sub. (2g). There is no sub. (2g) in either the current rule or the proposed rule. The agency should review the intent of this cross-reference and revise accordingly.

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

a. The “summary of the rule” in the rule analysis should mention the change made in SECTION 7 of the proposed rule, which repeals a provision related to the applicable minimum wage of in-home providers.

b. In SECTION 5 of the proposed rule, it is unclear if the rule is treating a provider’s “registration or enrollment fees” as one fee, or two separate fees. The department should review its intent for purposes of complying with 45 C.F.R. s. 98.45 (L) (3). Consider creating a definition and revising accordingly for consistent use of the defined term.

c. It is unclear how the department will determine the “maximum fee amount” referenced in SECTION 5 of the proposed rule. In ch. DCF 201, the term “maximum rate” and “copayment” are defined. Does the department intend for the maximum fee amount to be identical to what the provider charges to private-paying parents, consistent with 45 C.F.R. s. 98.45 (L) (3)? If so, then “maximum fee amount” could be defined to reference that the fees will be based upon what is charged to private-paying parents. If the department will be creating a schedule or fixed maximum fee amount, then the department should promulgate this by rule, similar to the copayment schedule promulgated in Table DCF 201.08.