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(FORM UPDATED: 08/11/2010)

**WISCONSIN STATE LEGISLATURE ...  
PUBLIC HEARING - COMMITTEE RECORDS**

**2001-02**

(session year)

**Assembly**

(Assembly, Senate or Joint)

**Committee on ... Children and Families (AC-CF)**

**COMMITTEE NOTICES ...**

- Committee Reports ... **CR**
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**INFORMATION COLLECTED BY COMMITTEE FOR AND AGAINST PROPOSAL**

- Appointments ... **Appt** (w/Record of Comm. Proceedings)
- Clearinghouse Rules ... **CRule** (w/Record of Comm. Proceedings)
- Hearing Records ... bills and resolutions (w/Record of Comm. Proceedings)
  - (**ab** = Assembly Bill)                      (**ar** = Assembly Resolution)                      (**ajr** = Assembly Joint Resolution)
  - (**sb** = Senate Bill)                              (**sr** = Senate Resolution)                              (**sjr** = Senate Joint Resolution)
- Miscellaneous ... **Misc**

\* Contents organized for archiving by: Stefanie Rose (LRB) (May 2012)



OFFICE OF LEGAL COUNSEL

Scott McCallum  
Governor

Phyllis J. Dubé  
Secretary

**State of Wisconsin**

Department of Health and Family Services

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August 29, 2002

The Honorable Fred Risser, President  
Wisconsin State Senate  
119 Martin Luther King, Jr., Blvd., Suite 501  
Madison, WI 53702

The Honorable Scott Jensen, Speaker  
Wisconsin State Assembly  
1 East Main, Suite 402  
Madison, WI 53702

Re: Clearinghouse Rule 02-101  
HFS 50, relating to adoption assistance and the use of the state adoption  
information exchange to find adoptive families for children.

Gentlemen:

In accordance with the provisions of s. 227.19 (2), Stats., you are hereby notified that the above-mentioned rules are in final draft form. This notice and the report required by s. 227.19 (3), Stats., are submitted herewith in triplicate.

The rules were submitted to the Legislative Council for review under s. 227.15, Stats. A copy of the Council's report is also enclosed.

If you have any questions about the rules, please contact Jill Duerst at 266-1142.

Sincerely,

Rosie Greer  
Administrative Rules Coordinator

cc Gary Poulson, Deputy Revisor of Statutes  
Senator Judy Robson, JCRAR  
Representative Glenn Grothman, JCRAR  
Jill Duerst, DHFS-DCFS  
Gary Radloff, Secretary's Office

PROPOSED ORDER OF THE DEPARTMENT  
OF HEALTH AND FAMILY SERVICES REPEALING, AMENDING,  
AND CREATING RULES

The Wisconsin Department of Health and Family Services proposes to repeal 50.06 (3) (a) 1., 50.08 (7) (b) and (g), and 50.10; to renumber 50.06 (3) (a) 2. a to f., 3. a. and b., and (b); to amend HFS 50.01 (4) (g), 50.03 (intro.), (1) (c) and (d), (2) (a) 2. and 3., and (c), 50.06 (2) (intro.), 50.07, 50.08 (1) (title) and (intro.), (a) (intro.), (b) 1. to 3., (d) and (e), (2) (intro.) and (b), (3) (title), (intro.) and (a), (4), and (7) (a) and (c) to (f), and (8), 50.09 (1) (intro.), (2) (title), (intro.), (a) (intro.) 1. and 2., and (b), and HFS 51.03 (3); to repeal and recreate HFS 50.01 (4) (j) and 50.06 (3) (a) (intro.); and to create HFS 50.03 (1) (Note), 50.06 (2) (Note), 50.08 (9), 50.09 (1) (title), (Note), and (3) and (4), relating to adoption assistance and the use of the state adoption information exchange to find adoptive families for children.

Analysis Prepared by the Department of Health and Family Services

The proposed rulemaking order amends several provisions of HFS 50 rules for facilitating the adoption of children with special needs to do the following: (1) establish exceptions to an adoption agency's photolisting requirements; (2) replace terms "photolisting book" and "book" to allow for alternative methods of photolisting, such as the Internet; (3) authorize the department to biannually notify adoptive parents of the family's post-placement responsibilities and remove the requirement that the department annually re-certify an adoptive family's need for continuing adoption assistance; (4) include an express time requirement within which an adoptive family must notify the department of changes in circumstances; (5) allow adoption assistance under the interstate compact when federally required; (6) include an express requirement that a child must be available for adoption in order to be eligible for adoption assistance; (7) require that only documented factors be used as a basis of determining that a child is at high risk of developing a moderate or intensive level of special needs; (8) require that the documentation evidencing a mother's drug or alcohol use be documented in a medical or hospital record or other records (9) require that any documentation evidencing inappropriate pre-natal care be documented in a medical or hospital record; (10) for clarification purposes, replace the term "registration" with "photolisting"; and (11) eliminate the need for an adoption agency to register or photolist a child when an adoption agency is not actively seeking an adoptive placement for the child.

The Department's authority to repeal, renumber, amend, repeal and recreate, and create these rules is found in ss. 48.55 (2), 48.975 (5), and 227. 11 (2) (a), Stats. The rule interprets s. 48.55 and s. 48.975, Stats.

SECTION 1. HFS 50.01 (4) (g) is amended to read:

HFS 50.01 (4) (g) "Adoption photolisting ~~book~~" means a publication that lists individual special needs children and includes photographs and descriptions of them.

SECTION 2. HFS 50.01 (4) (j) is repealed and recreated to read:

HFS 50.01 (4) (j) "Child at high risk" means a child in the guardianship of an adoption agency who does not have a known special need under s. HFS 50.03 (1) (b) 1., 2., 3. or 4. but who is at high risk of developing a moderate or intensive level of special needs under s. HFS 50.03 (1) (b) 3. based on one or more of the following:

1. There is documented information that either or both birth parents have a medical diagnosis or medical history which could result in a condition for the child described in s. HFS 50.03 (1) (b) 3. at a later time.

2. The child has experienced 4 or more placements with extended family or foster homes that could affect the normal attachment process.

3. The child experienced neglect in the first 3 years of life or sustained physical injury or physical disease that could have a long-term effect on physical, emotional or intellectual development.

4. There is documented evidence in a medical or hospital record, law enforcement record, social or human service department record, court record, or a record of an agency under a contract with a county department or the department to provide child welfare services that the birth mother used harmful drugs or alcohol during pregnancy which could later result in the child developing special needs as described in s. HFS 50.03 (1) (b) 3.

5. There is documented evidence in a medical or hospital record that the birth mother received inappropriate prenatal care which could later result in the child developing special needs as described in HFS 50.03 (1) (b) 3.

SECTION 3. HFS 50.03 (intro.), (1) (c) and (d), are amended to read:

**HFS 50.03 Eligibility for adoption assistance.** In order for a child to be adopted with adoption assistance the child must be available for adoption and the following circumstances shall exist:

(1) ELIGIBILITY CRITERIA FOR THE CHILD. (c) *Availability for adoption.* A child shall be considered available for adoption if the child is in the guardianship of the department, a county department under s. 48.57(1)(hm), Stats., or an adoption agency and the department, county department, or 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 to 1963.

(d) *Wisconsin responsibility.* A child brought to Wisconsin for adoption from another state under the interstate compact on the placement of children, ss. 48.988 and 48.989, Stats., except as mandated by federal statutes and regulations, or from another nation under an orphan, relative or medical immigrant visa may not be provided adoption assistance from this state.

SECTION 4. HFS 50.03 (1) (Note) is created to read:

HFS 50.03 (1) **Note:** Federal law interpretations as provided in ACYF-CB-PA-01-01 and ACYF-CB-IM-01-08 require that in an interstate adoption, when the sending state public child welfare agency does not have responsibility for placement and care of a child, the public child welfare agency in the adoptive parents' state of residence is responsible for determining whether the child meets the definition of special needs, entering into the adoption assistance agreement, and paying the subsidy for a child who meets eligibility requirements for federally funded adoption assistance.

SECTION 5. HFS 50.03 (2) (a) 2. and 3., and (c) are amended to read:

(2) (a) 2. ~~Registering~~Photolisting the child with the adoption information exchange.

3. Working through the adoption information exchange to register the child with a national adoption exchange.

(c) If the child has a special need under sub. (1) (b) and if the circumstances of either this subsection or sub. (3) exist, the agency shall inform the family of the adoption assistance program and ask the proposed adoptive parents whether they are willing to adopt without adoption assistance. If the family is not willing to adopt without adoption assistance, the requirement that a reasonable, but unsuccessful, effort to place the child without adoption assistance is met. A request for adoption assistance shall not be a basis for removing a child from a current adoptive placement.

SECTION 6. HFS 50.06 (2) (intro.) is amended to read:

HFS 50.06 (2) POST-PLACEMENT RESPONSIBILITIES OF ADOPTIVE PARENTS. After the adoption assistance agreement has been signed and approved by the department and the child has been placed in the home, the adoptive parent shall notify the division within 30 days of the occurrence of any of the following circumstances:

SECTION 7. HFS 50.06 (2) (Note) is created to read:

HFS 50.06 (2) **Note:** Notice may be delivered in person, by mail, or facsimile (fax) to the Division of Children and Family Services, Bureau of Program and Policies, 1 W. Wilson St., P.O. Box 8916, Madison, WI 53708-8916. The toll free telephone number is 866-666-5532. The fax number is 608-264-6750.

SECTION 8. HFS 50.06 (3) (a) (intro.) is repealed and recreated to read:

HFS 50.06 (3) (a) Biannually send written notification to adoptive families of the post-placement responsibilities specified in s. HFS 50.06 (2) (a) to (j). Notification shall include adoptive families who have moved out of state.

SECTION 9. HFS 50.06 (3) (a) 1. is repealed.

SECTION 10. HFS 50.06 (3) (a) 2. a. to f. is renumbered HFS 50.06 (3) (b) 1. to 6.

SECTION 11. HFS 50.06 (3) (a) 3. a. and b. is renumbered HFS 50.06 (3) (c) 1. and 2.

SECTION 12. HFS 50.06 (3) (b) is renumbered HFS 50.06 (3) (d).

SECTION 13. HFS 50.07 is amended to read:

**HFS 50.07 Adoption information exchange.** Sections HFS 50.07 to ~~50.40~~ 50.09 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 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.

SECTION 14. HFS 50.08 (1) (title) and (intro.), (a) (intro.), (b) 1. to 3., (d) and (e), (2) (intro.) and (b), (3) (title), (intro.) and (a), (4), and (7) (a) are amended to read:

**HFS 50.08 Adoption information exchange responsibilities. (1)**

**REGISTRATIONPHOTOLISTING.** The exchange shall maintain an ongoing central photolist registry which shall include the following services:

- (a) The exchange shall ~~register~~photolist all special needs children. Special needs children include:
  - (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~~photolist 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~~photolist ~~legal risk~~-children at legal risk 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~~photolist information shall include ~~information describing the nature~~ a description of the legal risk.
    - 3. Children who have not been placed for adoption within ~~60~~30 days after being legally freed; or
  - (d) The exchange may register or photolist, as appropriate, 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~~-photolisting 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.

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

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

(3) **ADOPTION PHOTOLISTING BOOK.** The adoption information exchange shall develop and maintain a ~~book~~-photolisting, which shall:

(a) Include information about and a photograph of each ~~registered~~ photolisted child, ~~except for a child deferred from the listing under s. HFS 50.10.~~ The information included with the photolisting for a child shall be edited to concisely describe the child in a positive and uniform manner;

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

(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~~ photolisted during the reporting period and the total number of children currently ~~registered~~ listed;

SECTION 15. HFS 50.08 (7) (b) is repealed.

SECTION 16. HFS 50.08 (7) (c) to (f) are amended to read:

(c) The number of children ~~listed in the adoption photo listing book~~ photolisted 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~~ photolisted during the reporting period;

(e) The number of children ~~deferred from listing during the reporting period under each of the circumstances specified in s. HFS 50.10 (1).~~ A semi-annual financial report; and

(f) A semi-annual financial report; and Any other information requested by the department for program management.

SECTION 17. HFS 50.08 (7) (g) is repealed.

SECTION 18. HFS 50.08 (8) is amended to read:

(8) RECORDS RETENTION. The exchange shall destroy all records that pertain to a particular child within one year after the child's ~~registration~~ photolisting is withdrawn or the child is adopted. The records shall be destroyed in a confidential manner.

SECTION 19. HFS 50.08 (9) is created to read:

HFS 50.08 (9) DISCONTINUANCE OF RECRUITMENT EFFORTS. The exchange shall discontinue photolisting and any other recruitment efforts for a child following receipt of a written notice from the adoption agency.

SECTION 20. HFS 50.09 (1) (title) and (Note) are created to read:

HFS 50.09 (1) PHOTOLISTING.

HFS 50.09 **Note:** Photolisting may also be used prior to termination of parental rights for children at legal risk in need of a foster or adoptive home who have a plan for adoption.

SECTION 21. HFS 50.09 (1) (intro.) and (2) (title), (intro.), (a) (intro.), 1. and 2. and (b) are amended to read:

**HFS 50.09 Adoption agency responsibilities.** (1) ~~Photo-listing~~ Photolisting of children a child may occur at any time before ~~or after~~ the termination of parental rights. ~~If within 60 days of the date of the termination of parental rights an adoption agency is not able to meet the requirements for reasonable efforts described in s. HFS 50.03(2), the agency shall register the~~

~~child on the exchange if the child is not currently listed and shall include the following information about the child; Except as provided in sub. (4), an agency shall photolist a child with the exchange within 30 days of the date the child is legally freed for adoption or from the date of an adoptive placement disruption, if the child is not currently photolisted. All of the following information about the child shall be included:~~

~~(2) LISTING AND REGISTRATION PHOTOLISTING UPDATES.~~ The adoption agency shall provide ~~updating registration~~ updated 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: the child's placement for adoption.

~~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 photolisted 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.

SECTION 22. HFS 50.09 (3) and (4) are created to read:

(3) PHOTOLISTING AFTER DISCONTINUATION OF RECRUITMENT EFFORTS. If a child's photolisting has been discontinued under s. HFS 50.08 (9), and the exceptions in sub. (4), do not apply, an agency shall re-photo list the child with the exchange within 30 days of a change that creates a need for an adoptive placement. An agency that photolists a child with the exchange under this subsection shall include and update all of the information specified in s. HFS 50.09 (1) (a) to (i).

(4) EXCEPTIONS. Photolisting is not required if any of the following apply:

(a) The agency meets the requirements for reasonable placement efforts described in s. HFS 50.03 (2).

(b) An exception to reasonable placement efforts as specified in HFS 50.03 (3) is documented in the child's case record by the adoption agency.

(c) The permanency plan for the child includes documentation by the adoption agency that it is not appropriate to seek an adoptive placement.

SECTION 23. HFS 50.10 is repealed.

SECTION 24. HFS 51.03 (3) is amended to read:

HFS 51.03 (3) "Adoption information exchange" means the department program under ss. HFS 50.07 to ~~50.40~~ 50.09, intended to facilitate the adoption of special needs children by disseminating information about the children to adoption agencies and prospective adoptive families.



The rules contained in this order shall take effect on the first day of the month following their publication in the Wisconsin Administrative Register, as stated in s. 227.22 (2) (intro.), Stats.

Wisconsin Department of Health  
and Family Services

Dated:

By: \_\_\_\_\_  
Phyllis J. Dubé  
Secretary

Seal:

**PROPOSED ADMINISTRATIVE RULES - HFS 50  
ANALYSIS FOR LEGISLATIVE STANDING COMMITTEES  
PURSUANT TO S. 227.19 (3), STATS.**

**Need for Rules**

The proposed rulemaking order amends several provisions of HFS 50 rules for facilitating the adoption of children with special needs to do the following: (1) establish exceptions to an adoption agency's photolisting requirements; (2) replace terms "photolisting book" and "book" to allow for alternative methods of photolisting, such as the Internet; (3) authorize the department to biannually notify adoptive parents of the family's post-placement responsibilities and remove the requirement that the department annually re-certify an adoptive family's need for continuing adoption assistance; (4) include an express time requirement within which an adoptive family must notify the department of changes in circumstances; (5) allow adoption assistance under the interstate compact when federally required; (6) include an express requirement that a child must be available for adoption in order to be eligible for adoption assistance; (7) require that only documented factors be used as a basis of determining that a child is at high risk of developing a moderate or intensive level of special needs; (8) require that the documentation evidencing a mother's drug or alcohol use be documented in a medical or hospital record or other records (9) require that any documentation evidencing inappropriate pre-natal care be documented in a medical or hospital record; (10) for clarification purposes, replace the term "registration" with "photolisting"; and (11) eliminate the need for an adoption agency to register or photolist a child when an adoption agency is not actively seeking an adoptive placement for the child.

The Department's authority to repeal, renumber, amend, repeal and recreate, and create these rules is found in ss. 48.55 (2), 48.975 (5), and 227. 11 (2) (a), Stats. The rule interprets s. 48.55 and s. 48.975, Stats.

**Response to Clearinghouse Recommendations**

The Department accepted all of the Clearinghouse recommendations with the following exceptions or clarifications:

**1. Statutory Authority**

Comment: With regard to s. HFS 50.06 (3) (a), as renumbered, it should be noted that eliminating the current rule requirement for an annual review of the need for continuing, temporarily suspending or adjusting adoption assistance cannot pertain to adoption assistance agreements that have been amended, since s. 48.975 (4) (bm), Stats., *requires* that the department annually review any adoption assistance agreement that has been amended.

Response: The annual review reference in s. 48.975 (4) (bm), Stats., refers to the amendments authorized for adoption assistance agreements. This annual review will continue to happen. The annual review referenced in s. HFS 50.06 (3) (a), reflects the annual review that has, in the past, been sent to all adoptive families receiving adoption assistance.

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

Comment 5 a. (2): On line 4 (and in s. HFS 50.06 (3) (a) and the attachment to the fiscal estimate), reference is made to the department *biannually* notifying parents of certain responsibilities. This means notification twice a year. Is that the department's intent, or is *biennial* notification (once every two years) intended? If so, the language should be revised throughout.

Response: Biannual (twice a year) is the intent of the Department.

Comment 5 a. (3): On line 13, reference is made to documentation concerning "other inappropriate pre-natal care." Since the language relating to prenatal care is deleted in s. HFS 50.01 (4) (j) 4. (in SECTION 3), it should also be deleted from the analysis (and the fiscal estimate).

Response: Due to the Clearinghouse comments and public hearing comments, the language relating to "other inappropriate pre-natal care" will be revised and retained.

Comment 5. b.: In s. HFS 50.01 (4) (g) and throughout the rule, the term "photo listing" is written as two words, while it is written as one word in the corresponding statute, s. 48.975 (5) (e), Stats. For consistency, it should be one word in the rule as well. Also in this provision, does the term "publication" continue to work, given the elimination of "book" from the definition of "adoption photo listing" to allow for alternative methods of photo listing, such as the Internet? Would "document" be more appropriate?

Response: The department revised the rule to show the term "photolisting" as one word. As to the term "publication", the department believes that the appropriate term is "publication" as that term is inclusive of paper and electronic posting of documents.

Comment 5 d: Language s added in s. HFS 50.01 (4) (j) 4. (as renumbered) to state that the documented evidence of drug or alcohol use must be in a medical or hospital record. Is there a reason why the same change is not made in s. HFS 50.01 (4) (j) 2., which pertains to providing documented information that a birth parent has a medical diagnosis or medical history which could have an impact on the child? Also, is it possible that evidence of drug or alcohol use would be documented in a *court or social service agency* record, rather than in a medical or hospital record, and if so, why would that not be acceptable documentation? Finally, what is the rationale for eliminating the language regarding a birth mother not having practiced appropriate prenatal care as possibly leading to a child developing special needs? See also comment a. (3), above, regarding this language.

Response: The department accepts the Clearinghouse recommendation concerning other records that evidence of drug or alcohol use by a birth mother, but rejects the recommendation concerning documented evidence concerning the medical or genetic history of a birth parent for the following reasons.

The department currently relies on a number of statutorily prescribed self-disclosure forms to obtain medical and genetic information from the birth parent, when known, including the medical and genetic history of the birth parent's family. Many times, a birth parent is not known or does not know his or her family's medical or genetic history. In addition many genetic diseases do not show up for generations. Consequently, the department believes that requiring

such information to be in a medical or hospital record would be unreasonable and restrictive considering the dynamics of certain diseases and the environment of adoptions.

Comment 5. g.: The reference in s. HFS 50.03 (1) (d) to "federal legislation" mandating payment of adoption assistance should be changed to "federal statutes, regulations or guidelines," for consistency with s. 48.975 (5) (a), Stats. Also, it would be helpful if the rule (or at least the analysis or a note) indicated the circumstances under which federal law *does* mandate payments for children brought into the state for adoption under the interstate compact.

Response: The department accepts the recommendation to use the terms "federal statutes" and "federal regulations", but rejects the recommendation to include the phrase "federal guidelines", within the rule. Federal guidelines are frequently revised based on the federal agency's changing interpretations of the federal law, in which they admit that the prior interpretations were inconsistent with federal law. In the guidelines at hand, the federal agency in 2001 withdrew 15 prior guidelines effective as recently as 2000, and then again withdrew parts of the 2001 guideline later in 2001 because they were inconsistent with statute. Because federal guidelines are many times inconsistent with federal law, the department does not want to be bound by them under administrative rule if the department believes that they are inconsistent with federal law.

### **Public Hearings**

The department held one public hearing on August 12, 2002, in Madison.

A list of persons who attended the hearing or submitted written comments, their comments and the department's response to the comments are included in this document.

### **Final Regulatory Flexibility Analysis**

The provisions in the proposed order will not affect small businesses.

**Department of Health and Family Services  
Division of Children and Family Services  
Public Hearing and Written Comment Summary  
Chapter HFS 50**

**One public hearing on the proposed permanent rules was held as follows:**

Madison, WI on August 12, 2002

Staff in attendance: Jill Duerst, Adoption Assistance Specialist  
Tammara LeMay, Adoption Services Planner

The department held the hearing record open for written comment until August 19, 2002.

Participation in the hearing is tabulated below. The indications of support or opposition reflect the positions indicated on the registrations or written statements filed by the hearing participants.

Registered/Attended: 14

### List of Hearing Registrants/Attendees

The following is a complete list of the persons who attended the public hearing or submitted written comments on the proposed Ch. HFS 50. Each person's name and affiliation is accompanied by an indication of the person's position on the proposed rules and whether or not the person testified or provided written comments. The number preceding a name serves in the summary of hearing comments to indicate the person who made the specific comment.

Name and Address	Position	Action
1. James Sherwood Catholic Charities 2021 North 60 <sup>th</sup> Street Milwaukee WI	Opposes Parts of Rule	Oral and written comments
2. Sue Steinfeldt Lutheran Social Services 3003 A North Richmond Street Appleton WI 54911	Opposes Parts of Rule	Oral and written comments
3. Stephanie Tust DHFS-DCFS/Northeastern Regional Office 200 North Jefferson Street Suite 411 Green Bay WI 54301	Opposes Parts of Rule	Oral and written comments
4. Susan Yaeger 1065 Holly Court Neenah WI 54956	Opposes Parts of Rule	Oral and written comments
5. Jennifer Burns Catholic Charities 5820 3 <sup>rd</sup> Avenue Kenosha WI 53140	Opposes Parts of Rule	Oral and written comments
6. Kathy Ryder-Welter DHFS-DCFS/Western Regional Office 610 Gibson Street Eau Claire, WI 54701	Opposes Parts of Rule	Written comments only
7. Charlotte Vick Crossroads Adoption Services 911 4 <sup>th</sup> Street, Suite 214 Hudson, WI 54016	Opposes Parts of Rule	Written comments only
8. James M. Sampson Children's Service Society of Wisconsin	Opposes Parts of Rule	Written comments only

1212 South 70 <sup>th</sup> Milwaukee, WI		
9. Colleen M. Ellingson Special Needs Adoption Network 1126 South 70 <sup>th</sup> Milwaukee, WI	Opposes Parts of Rule	Written comments only
10. Carol Hakala Lutheran Social Services of Wisconsin & Upper Michigan, Inc. 1101 W. Clairemont Avenue Suite 2H Eau Claire, WI 54701	Opposes Parts of Rule	Written comments only
11. Betsy Rosol Catholic Charities Milwaukee, WI	Unknown	No comments
12. Juliet Kaminske Lutheran Social Services, Appleton, WI	Unknown	No comments
13. Kelly Richardson Catholic Charities, Green Bay, WI	Unknown	No comments
14. Eric Underly LaCausa Inc., Milwaukee, WI	Unknown	No comments

**SUMMARY OF HFS 50**  
**Public Hearing Testimony**  
**Including Written Comments and Departmental Responses**

<b>Rule Reference</b>	<b>Comment</b>	<b>Department Response</b>
General	<p>The hearing notice and fiscal estimate make reference to an adoptive family being able to apply for adoption assistance (if a child is determined not to be eligible at the time of adoption) within three years after the date of adoption or when the adoptive family first became aware of adoption assistance.</p> <p>Where in the administrative code or ch. 48, Stats., can the 3-year timeframe be found? #9</p>	<p>The language in the notice of hearing and the fiscal estimate is in reference to s. HFS 50.065 (2) (a) 2. and 3., which relate to an adoptive parent's right to appeal, after the adoption has been finalized, a department decision (after the adoption became final) not to approve adoption assistance or a decision (before the adoption became final) relating to the amount of adoption assistance, provided in pertinent part, that stated extenuating circumstances occurred and less than 3 years pass, from when the adoptive parents knew or reasonably should have known of such circumstances.</p> <p>This provision provides adoptive parents, after an adoption is final, with the ability to appeal a department's determination concerning adoption assistance for up to 3 years after the adoption has been finalized.</p> <p>The department is not proposing to revise s. HFS 50.065, neither will any of the proposed rule changes affect s. HFS 50.065.</p>
General	<p>Proposed edits to HFS 50 will create two (2) classes of adoption. It increases the risk that additional children are likely to enter the child welfare service delivery system. #1</p>	<p>No change. Consideration of special care needs of children have always determined adoption assistance eligibility. Children not eligible for adoption assistance can access services through county departments of human or social services. Also, adoptive parents, after an adoption is final, may appeal a department's decision (after the adoption became final) not to approve adoption assistance or a decision (before the adoption became final) relating to the</p>



		amount of adoption assistance, provided that certain extenuating circumstances occurred and less than 3 years pass, from when the adoptive parents knew or reasonably should have known of such circumstances. Adoptive parents may also appeal a department's decision concerning adoption assistance before an adoption is final.
General	Concern was expressed that the "Notice of Change" form was not available on the Internet. #4	No change. This comment is outside the scope of the proposed rulemaking order. The department will, however, pursue making this form available on the Internet.
General	Need for consistency regarding what is provided to adoptive parents regarding the child to be adopted. #4	No change. This comment is outside the scope of the proposed rulemaking order. Adoptive parents are currently provided with available facts regarding the child, the child's biological family and the child's background.
General	Follow-up/follow-through by the adoption social worker. #4	No change. This comment is outside the scope of the proposed rulemaking order. Adoption social workers interact with the adoptive family until the time of adoption finalization. The department provides funding to five post adoption resource centers that families can access during and after adoption finalization.
General	Why is it necessary to ask families adopting children with special care needs if they will adopt without receiving adoption assistance? #3	No change. This comment is outside the scope of the proposed rulemaking order. Section HFS 50.03 (2) (c) requires an adoption agency to ask adoptive parents if they are willing to adopt a special care needs child without adoption assistance. The practice is required by s. 48.975, Stats., which in pertinent part, requires the department to provide adoption assistance only after the department has determined that such assistance is needed to assure the child's adoption.
General	Restrict one time adoption expense reimbursement to families receiving a monthly adoption assistance amount. #9	No change. This comment is outside the scope of the proposed rulemaking order.
General	Change Wisconsin policy to allow families to request adoption assistance at time of need rather	No change. This comment is outside the scope of the proposed rulemaking order.

General	<p>than prior to adoption finalization. #9</p> <p>Convene a legislative study committee or statewide task force to review, evaluate, and develop recommendations on adoption assistance rules and policies. #9</p>	<p>No change. This comment is outside the scope of the proposed rulemaking order.</p>
General	<p>Can adoption assistance amendments reflect increase in exceptional dollars? #3</p>	<p>No change. This comment is outside the scope of the proposed rulemaking order. The amount of Adoption assistance granted is determined using 3 categories. The categories are basic, supplemental, and exceptional and may be used singly or in combination. The exceptional category is meant to enhance the supplemental category and includes monies for assistance with extraordinary needs such as special transportation.</p>
General	<p>No provision allowing individual out of state or private agency adoptive families easy inclusion in the pool of available parents who want to adopt special needs children. #7</p> <p>The inability of out-of-state for Wisconsin non-subcontracted private adoption agencies to obtain reimbursement for placing a Wisconsin special needs child. #7</p>	<p>No change. These comments are outside the scope of the proposed rulemaking order.</p>
HFS 50.01 (4) (j) 1.	<p>Deletion of HFS 50.01 (4) (j) 1. Prohibits some children from meeting eligibility to receive adoption assistance. #1, #2, #5, #8, #9, #10</p>	<p>No change. There is no correlation between the ability and inability to locate social or medical background information on a child or a child's birth family and a child's risk of developing special care needs.</p>
HFS 50.01 (4) (j) 5.	<p>Requiring documentation in a medical or hospital record and removing the provision concerning the birth mother's practicing inappropriate pre-natal care restricts some children from meeting eligibility to receive adoption assistance. #1, #2, #3, #5, #6, #7, #8, #9, #10</p>	<p>The department has modified the proposed language to expand the sources where documented evidence of drug or alcohol use by a birth mother can be found. A provision clarifying that the drug or alcohol use is during pregnancy has also been included. The language concerning a birth mother's practice of inappropriate pre-natal care, which could later</p>

		result in the child developing special needs is being retained with a requirement that there be documented evidence of the inappropriate pre-natal care in a medical or hospital record.
HFS 50.03 (1) (c)	Proposed language restricts private adoption agencies from determining if a child can or should not return to parents and who is able to have guardianship of children. #1, #5, #9, #10	The current rule language concerning when a child is considered available for adoption will be retained. County departments have been included.
HFS 50.03 (2) (a)	Current practice is to call other agencies if the agency does not have an adoptive home that will not accept the child without subsidy. The changes in the code would require that the child be photo listed. The Adopt! book comes out quarterly. We are concerned that implementation of this provision will extend the time prior to placement in a permanent adoptive home. #8	The proposed provisions do not affect an agency's ability to contact other agencies when needed or required for additional adoption resources. In addition to the <u>Adopt!</u> publication, children are currently photolisted on the Internet continuously.
HFS 50.08(b)(2)	The changes in the language are fine. The difficulty is that there is not a clear reference to the role of the court under 48.365 (2g) (b) 3 in regard to requiring photo listing.  The practice in many counties, including Milwaukee County, has been for judges to issue a blanket judicial order allowing photo listing - yet no clear statutory language allows such action. This needs to be addressed in Chapter 48 since that direct order allows the adoption information exchange to provide information on children who are not legally free for adoption. #9	No change. This comment is outside the scope of the proposed rulemaking order.
HFS 50.08 (1) (e)	What does "matching" and "registration" mean to	An agency registers a child by photolisting the child.

and (2)	adoptive families? #9	"Matching" involves matching a child with an adoptive family and is determined based on the best interests of the child.
HFS 50.08 (7) f.	<p>The adoption exchange currently provides the majority of information on a quarterly basis (as opposed to a semi-annual basis). It provides some more detailed demographic information on children on a yearly basis. We have always historically gather information for the department whenever requested on a timely basis. We have always found the department respectful of needed timelines for the receipt of information, but would be concerned with blanket language that would require us to put information/data reports in front of answering families' questions.</p> <p>We would request that 50.08 (7) f. also contain the words "with sufficient prior notice or in a contract". #9</p>	<p>No change. The department does not believe that it would be in the best interest of the adoption information exchange program to limit the department's ability to request information needed for program management.</p>
HFS 50.08 (9)	<p>The new language says that the exchange shall discontinue photo listing and any other recruitment efforts for a child following receipt of a written notice from the adoption agency of the child's placement for adoption. In Milwaukee County, we often photo list children only to have the court later change the plan from TPR/Adoption to return home or some other plan. The regulations should address that situation. #8</p> <p>Current code is for children who have a termination of parental rights or are considered "legal risk" but have a plan of adoption and who need an adoptive resource. It appears that new change also allows photo listing for children in need of a foster home.</p>	<p>The Department agrees and has revised the rule language for clarification</p>

	<p>This would be a substantial change and broadening of the role of the adoption exchange and have broad fiscal implications. #8</p>	
50.09 (Note)	<p>It looks like the note expands responsibilities. The assumption is that this pertains only to those children who have a plan of adoption. This might need to be clarified. #9</p>	<p>The Department agrees and has revised the rule language for clarification.</p>
HFS 50.09 (1)	<p>The proposed change reduces the time from 60 days after termination of parental rights to 30 days. It appears that this language change in 50.09 (1) does not match 50.08 (1) (a) (3), which also would need to be changed. #9</p>	<p>The Department agrees and has modified the language in HFS 50.08 (1) (a)(3), to reflect 30 days.</p>