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CLEARINGHOUSE RULE 95-229

Comments

[NOTE: All citations to “Manual” in the comments below are to the Administrative Rules Procedures Manual, prepared by the Revisor of Statutes Bureau and the Legislative Council Staff, dated October 1994.]

1. Statutory Authority

a. Section HSS 201.303 (3) (a) states that the department must select the Aid to Families with Dependent Children (AFDC) groups to participate in the benefit cap demonstration project. However, the waiver terms and conditions for the benefit cap demonstration project contained in the waiver authority from the Federal Department of Health and Human Services provide that “each current AFDC case and newly approved AFDC case will be randomly assigned to one of three groups” [page 2]. This appears to require the department to assign all AFDC groups to one of the three groups included in the benefit cap demonstration project instead of allowing the selection of certain groups for assignment to one of the three groups.

b. Section HSS 201.303 (3) (c) and (4) (b) provide that the department must contract with county and tribal agencies to provide family planning services to AFDC groups assigned to the AFDC benefit cap demonstration project and that such agencies must develop an annual plan for the provision of such family planning education services. However, the waiver terms and conditions for the benefit cap demonstration project contained in the waiver authority from the Federal Department of Health and Human Services provide that “All AFDC recipients will be offered family planning services and instructions in parenting skills at the time of each application and review of eligibility [page 4].” This provision appears to require two things that are not required under s. HSS 201.303: (1) the county or tribal agency must offer family planning services at the time of each application and review of eligibility; and (2) the county or tribal agency must also offer instructions in parenting skills at the time of each application and review of eligibility.

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

a. In s. HSS 201.30 (1), a period should be inserted after both instances of the cite to s. 49.19 (11) (a) 7., Stats.

b. In s. HSS 201.303 (1), the cite to s. 49.50 (2), Stats., should be to s. 49.33 (4), Stats. Section 49.50 (2), Stats., was renumbered in 1995 Wisconsin Act 27. [Although the renumbering will not take effect until July 1, 1996, the rule probably will not take effect prior to that date. Consequently, no confusion should result from citing the renumbered statute.]

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

a. In s. HSS 201.303 (3) (b) 1. to 3., the drafter may wish to consider replacing “in which” with “for whom.” Also, the drafter may wish to consider replacing the semicolons with periods and deleting “; and” from subd. 2. to facilitate inserting or deleting subdivisions in the future. This comment also applies to s. HSS 201.303 (5) 1. to 5. and to s. HSS 201.303 (5) 2. a. and b.

b. In s. HSS 201.303 (4) (a), because the benefit cap also applies to current recipients of AFDC, this subsection should include current recipients in the individuals who must be informed of the benefit cap.

c. Section HSS 201.303 (5) (a) 2. a. should require that the sexual assault has been reported to a law enforcement agency instead of requiring the recipient to have reported the incident. This is what is contemplated under s. 49.19 (11s) (b) 2., Stats.

d. In s. HSS 201.303 (5) (a) 3., it is unclear why the cite to s. HSS 201.14 is included. Should the phrase “is deprived of parental support under” be inserted before the cite?

e. In s. HSS 201.303 (5) (c), the phrase “These children shall be deemed recipients for AFDC purposes...” is confusing because these children will not be included in determining the family size for the purposes of determining the AFDC grant. Perhaps that sentence would be clearer if it only stated that such children will be categorically eligible for Medical Assistance, food stamps and child care.