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## WISCONSIN LEGISLATIVE COUNCIL RULES CLEARINGHOUSE

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### CLEARINGHOUSE RULE 02-104

#### 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 September 1998.]**

#### 2. Form, Style and Placement in Administrative Code

a. In s. DWD 56.01, and several other provisions of the rule, “subs.” should be inserted before “(1d) and (1g).”

b. The department should be aware that it is unnecessary to renumber current rule provisions in order to insert a new provision between them. [See s. 1.03 (7), Manual.] For example, the new definition of “child care worker” could be created as s. DWD 56.02 (6m), thereby eliminating the need to renumber sub. (7).

c. In SECTIONS 7 and 15, “to read:” should replace “as:”.

d. In SECTION 21 and elsewhere in the rule, underscored language should immediately follow adjacent stricken language.

e. In s. DWD 56.04 (7) (e), no underscoring is necessary because the entire section is newly created in the rule-making order.

f. The title to s. DWD 56.045 should be created rather than repealed and recreated because there is no title to the current section that is renumbered as s. DWD 56.045. SECTION 27 needs substantial revision since it appears that sub. (4) (e), rather than sub. (2) (e), of s. DWD 56.04 is being affected. It appears that sub. (4) (e) (title) should be repealed; sub. (4) (e) should be renumbered, and s. DWD 56.045 (title) should be created; using three SECTIONS.

g. It appears that a provision should be added to s. DWD 56.08 (3) (a) authorizing the department to adjust the copayment schedule when funding is not sufficient to meet the needs of

all eligible parents applying for child care assistance. It does not appear that any of the factors currently set forth in s. DWD 56.08 (3) specifically refer to this contingency.

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

The statutory references in s. DWD 56.02 (15) should be changed to s. 48.57 (3m) (a) 2., Stats., and s. 48.57 (3n) (a) 2., Stats.

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

a. The analysis to the rule should explain why child support payments are eliminated as a type of income under s. DWD 56.02 (13).

b. Current s. DWD 56.03 (5) requires the department annually to review child care rates. The rule-making order deletes “annually.” The analysis does not explain why this change is made. Is it anticipated that the department will review rates more or less frequently than under the current rule? Should the rule specify a minimum frequency with which rates must be reviewed? This comment applies also to day care center surveys under s. DWD 56.06 (1) (b).

c. Currently, counties maintain waiting lists for families in need of child care assistance under s. DWD 56.05 (5). The rule-making order repeals s. DWD 56.05 (5) and creates s. DWD 56.03 (5) (a), which authorizes the department to establish waiting lists. However, the new section does not address several issues pertaining to waiting lists that are addressed under the current rule, such as whether a parent’s eligibility must be determined before they are placed on the waiting list and whether and how often the waiting list must be updated. Also, is it anticipated that the waiting list will operate on a statewide basis or will a separate waiting list be maintained for each county? Finally, should the rule specify how the information regarding waiting lists is to be transmitted between the department and counties?

d. Section DWD 56.045 states that the department “may” set reimbursement rates for child care services provided for children of migrant workers. Should “may” be changed to “shall”? In other words, if the department does not set the reimbursement rates, how will they be set?

e. Should s. DWD 56.04 (2) (g) explain that an “in-home provider” is one who provides care in the home of the child rather than in the provider’s home? In addition, why do group size limitations not apply to in-home providers?

f. The rule should clarify what is meant by the requirement that child care prices be “documented” in s. DWD 56.06 (1) (b).

g. The rule should clarify what is meant by “submitted” in s. DWD 56.07 (3). Specifically, must a request for review be postmarked or actually received by the department within 30 days from the date the notice was mailed? Also, s. DWD 56.07 (3) should clarify that the “notice” referred to in that section is any notice of departmental action described under sub. (1).

h. Section DWD 56.07 (4) should specify the time frame within which a contested case hearing under that section must be provided.