



WISCONSIN LEGISLATIVE COUNCIL RULES CLEARINGHOUSE

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CLEARINGHOUSE RULE 11-026

Comments

[NOTE: All citations to “Manual” in the comments below are to the Administrative Rules Procedures Manual, prepared by the Legislative Reference Bureau and the Legislative Council Staff, dated September 2008.]

1. Statutory Authority

In s. DCF 52.66 (6), the department may order a rate for a facility that has not submitted all of the required information. Because the statutes do not address this scenario, it may be more appropriate for the department to notify the facility of an approved rate, as it will for a facility that has submitted all of its information, and permit the facility to participate in mediation if it does not agree with the rate instead of ordering a rate and, presumably, not permitting a review or appeal of the ordered rate.

2. Form, Style and Placement in Administrative Code

- a. The proposed rule creates s. DCF 52.12 (10), but sub. (10) already exists.
- b. Section DCF 52.12 (5) (cm) should have a title to be consistent with the other paragraphs in that subsection.
- c. The treatment clause to create subch. IX of ch. DCF 52 should be written as “Subchapter IX of chapter DCF 52 [precedes DCF 52.64] is created to read?”. This comment also applies to the creation of subch. VII of ch. DCF 57.
- d. Section DCF 52.65 (1) and (2) refer to OMB Circulars A-87 and A-12. The department should ensure compliance with s. 2.08, Manual, regarding incorporation of standards by reference.

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

- a. In s. DCF 54.01 (4) (a) and (gm), ss. DCF 56.23 and 56.13 (5) and (6) are cited, but those provisions do not exist. Are they included in emergency rules?
- b. In s. DCF 54.02 (3) (c) 7., the citation to s. DCF 54.66 (1) (a) is incorrect.
- a. In s. DCF 54.09 (1) (b), the citation to s. DCF 54.06 (10) (a) should be to s. DCF 54.06 (8) (a).

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

- a. In s. DCF 52.68 (1), it is not clear why “and shall be reviewed by the department” is included. The section provides that the county must submit the approval of an extraordinary payment to the department but does not provide any review procedure. This comment also applies to ss. DCF 54.11 (1) and 57.64 (1).
- b. In s. DCF 52.68 (3) (c), “Amount and time period” should be qualified with a phrase such as “of the extraordinary payment requested”. This comment also applies to ss. DCF 54.11 (3) (c) and 57.64 (3) (c).
- c. In s. DCF 52.68 (4), there is no requirement to notify the provider of whether the county has approved or denied the request. This comment also applies to ss. DCF 54.11 (4) and 57.64 (4).
- d. In s. DCF 54.01 (3), it appears that “nonstatutory provision of this chapter” should be replaced with “provision of this chapter that is not a statutory requirement”.
- e. In s. DCF 54.06 (5), “five” should be replaced with “5”. This comment also applies to s. DCF 57.045 (2) (b).
- f. In the text of current s. DCF 57.12 (3), “person’s person” should replace “person’s”.
- g. In s. DCF 57.27 (3) (e), “de-briefing” should be replaced with “debriefing”.