



Wisconsin Legislative Council

RULES CLEARINGHOUSE

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CLEARINGHOUSE RULE 24-006

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. In the department’s analysis for the proposed rule, consider the scope of the “related laws” that are identified. If the department maintains the robust list of statutes, consider adding others, such as s. 48.975, Stats., and others identified in s. DCF 1.07 (4).

b. Consider adding an initial applicability clause for the proposed rule to identify at what point the new chapter applies to services provided by a county department or the department, or to court orders for child support when a child is placed in a residential nonmedical facility. [s. 1.03 (3), Manual.]

c. The provisions of s. DCF 1.07 (4) appear to model language from s. 767.75, Stats., that is applicable to assignments of income for support obligations ordered under ch. 767, Stats. The department may consider whether to address notice and other procedural provisions contained in s. 767.75, Stats., when creating rules applicable to assignment of income for support obligations under s. 49.345, Stats.

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

a. In the proposed definition of “collection period” under s. DCF 1.02 (3), add cross-references to the applicable statutes of limitations under s. 893.40 or 893.97, Stats., or to s. DCF 1.06 (5) (a).

b. In s. DCF 1.03 (2) (c), consider clarifying whether the single maximum monthly payment amount is determined based on the number of family members receiving services under either ch. DHS 1 or ch. DCF 1, or if the last clause modifies only whether fees were established under either code chapter.

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

a. In the department’s summary of the proposed rule, the pairing of the two sentences in the first bullet point is confusing. Is the purpose to highlight that ch. DHS 1 requires county board

approval while ch. DCF 1 does not require county board approval but rather allows county departments and the department to set the fees directly but using notice and information sharing techniques? If so, consider adding language to highlight that contrast, as the current text presents as two separate issues.

b. In the definition of “collection period” under s. DCF 1.02 (3):

- (1) The term “unit of service,” though currently used in ch. DHS 1, is not defined in that chapter or the proposed rule. Consider defining “unit” or, alternatively, striking that term and instead stating “on the day on which service is provided”. Note that “units” are also referenced in s. DCF 1.05 (7) (a) 1.
- (2) For the ending date of the period, consider language that clarifies that the earliest of the alternatives to occur constitutes the end of the period.

c. In the proposed definition of “maximum monthly payment amount” under s. DCF 1.02 (11), use active, rather than passive, language. For example, “...means the amount that a county department or the department has determined that an individual has the ability to pay toward fee liability per month, based on...”.

d. In the first clause of s. DCF 1.03 (1) (intro.), consider using the plain language phrase “Except as provided under sub. (2),”.

e. In s. DCF 1.03 (3), consider replacing “child” with “minor client” to use the defined terms under s. DCF 1.02.

f. In s. DCF 1.03 (4) (intro.), consider inserting clarifying language such as “if a county department or the department establishes fees under sub. (1), it shall do all of the following:” to avoid an interpretation that either only a county department or the department have to follow the requirements of sub. (4).

g. In s. DCF 1.04 (1) (intro.), consider whether “all” should be replaced with “any”.

h. In s. DCF 1.04 (1) (e), consider moving the reference to s. 48.98, Stats., to the end of the provision, to match the structure of the other subunits.

i. In s. DCF 1.04 (3) (intro.), insert “apply” after “following” or, alternatively, delete “that”.

j. In s. DCF 1.04 (3) (c) (Note), it may be helpful to add an explanation as to the relevance of noncompliance to discretionary waivers. Is the intent to direct the reader to the consequences for failing to pay if fees are not waived? If so, consider adding language to that effect, such as “If a county department or the department does not waive fees, s. DCF 1.05 (8) addresses a liable individual’s noncompliance with an outstanding fee liability.”.

k. In s. DCF 1.05 (2) (a) 3., the reference to the “federal department of labor” should be revised to the “U.S. department of labor”.

l. In s. DCF 1.05 (2) (b) (intro.), consider revising the phrase “living in the liable individual’s family” to better define the scope of the relevant financial information. For example, consider replacing “family” with “household” assuming that scope is consistent with the department’s intent. This same comment applies to the phrase “living the family” [sic.] in s. DCF 1.05 (2) (a) 1.

m. In s. DCF 1.05 (2) (b) 1., is the word “gives” intending to apply to the form both “giving” due regard as provided and “giving” documentation? If so, consider adding punctuation or an additional word to make that two-part requirement more clear, such as “and that provides documentation” or “and that includes documentation”. Also, the department could consider providing examples of acceptable forms of verifying documentation.

n. In s. DCF 1.05 (3) (a) 1., consider replacing the informal phrase “as soon as” with alternative phrasing, such as “upon the county department or the department obtaining sufficient information...”.

o. In s. DCF 1.05 (3) (a) 2., consider clarifying the scope of relevant financial circumstances. It seems that, under s. DCF 1.05 (2) (a) 1. and (b) (intro.), gross monthly income and number of individuals living in the family are the only relevant sources of information for determining the maximum monthly payment amount. Is the use of the phrase “financial circumstances” intended to be broader? Consider the same issue for the reference to “updated financial information” in s. DCF 1.05 (5).

p. In s. DCF 1.05 (3) (b) 2., consider adding a conditional phrase to give this discretionary authority only when an outstanding fee liability exists.

q. In s. DCF 1.05 (7) (Note), consider explaining that the rule’s use of the term “individual” means that those provisions do not apply to liable entities. As written, the Note reads as a substantive, rather than explanatory, provision.

r. In s. DCF 1.05 (8) (intro.), the phrase “conditions is met” should be revised to “conditions are met”.

s. Throughout s. DCF 1.06 (2), a comma exists in each instance of the phrase “residential, nonmedical facility” yet the defined term in s. DCF 1.02 (16) does not include a comma. Select one approach for consistency.