

CR 85-213

CERTIFICATE

STATE OF WISCONSIN)
) SS
DEPARTMENT OF HEALTH AND SOCIAL SERVICES)

RECEIVED

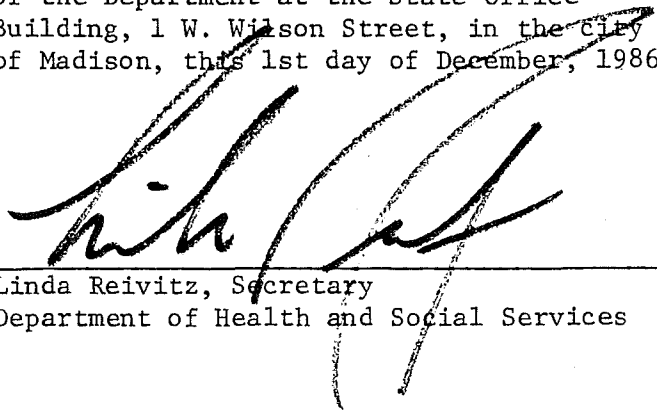
DEC 1 1986

2:30 pm
Revisor of Statutes
Bureau

I, Linda Reivitz, Secretary of the Department of Health and Social Services and custodian of the official records of the Department, do hereby certify that the annexed rules relating to supportive services for families with disabled children living at home were duly approved and adopted by this Department on December 1, 1986.

I further certify that this copy has been compared by me with the original on file in the Department and that this copy is a true copy of the original, and of the whole of the original.

IN TESTIMONY WHEREOF, I have hereunto set my hand and affixed the official seal of the Department at the State Office Building, 1 W. Wilson Street, in the City of Madison, this 1st day of December, 1986.



SEAL:

Linda Reivitz, Secretary
Department of Health and Social Services

2-1-87

ORDER OF THE
DEPARTMENT OF HEALTH AND SOCIAL SERVICES
ADOPTING RULES

To create HSS 65, relating to supportive services for families with disabled children living at home.

Analysis Prepared by the Department of Health and Social Services

Section 46.985(2)(a), Stats., as created by 1985 Wisconsin Act 29, directs the Department to promulgate rules that will implement a program of supportive services for families that have a disabled child who lives at home or who could live at home if these services were available to the family. A disabled child is one who is physically, mentally or emotionally impaired and is, or is likely to be, substantially limited in being able to perform at least 3 of 7 functions of daily living, among which are mobility, learning, self-care and self-direction.

These are the rules for the family support program. The rules cover application by a county department of community programs, a county department of developmental disabilities services or a county department of human services to participate in the program and receive program funds; the appointment by a participating county department of an agency to administer the program; application by families to the administering agency for supportive services; and the duties of the administering agency.

Pursuant to the authority vested in the Department of Health and Social Services by s. 46.985(2)(a), Stats., the Department of Health and Social Services hereby adopts rules interpreting s.46.985, Stats., as follows:

SECTION 1. HSS 65 is created to read:

CHAPTER HSS 65
SUPPORTIVE SERVICES FOR FAMILIES WITH DISABLED CHILDREN

HSS 65.01	Introduction
HSS 65.02	Definitions
HSS 65.03	Application by a County Department
HSS 65.04	Family Eligibility and Application
HSS 65.05	Duties of the Administering Agency
HSS 65.06	Criteria for Exceeding the \$3,000 Maximum
HSS 65.07	Families with a Disabled Son or Daughter at Least 21 but Less than 24 Years of Age
HSS 65.08	Departmental Hearings

HSS 65.01 INTRODUCTION. (1) AUTHORITY AND PURPOSE. This chapter is promulgated pursuant to s. 46.985(2)(a), Stats., for the purpose of establishing procedures, criteria and requirements relating to the distribution of funds to county departments established under s. 46.23, 51.42 or 51.437, Stats., for the provision of goods and services to families who have a disabled child living in the home.

(2) TO WHOM THIS CHAPTER APPLIES. This chapter applies to the department, to county departments and to administering agencies designated by county departments under s.46.985(3)(d), Stats.

HSS 65.02 DEFINITIONS. In this chapter:

(1) "Administering agency" has the meaning prescribed in s.46.985(1)(a), Stats., namely, a county department or a human service agency that administers the program under a contract with a county department.

(2) "Child" has the meaning prescribed in s.46.985(1)(b), Stats., namely, a person under 24 years of age.

(3) "County department" means the county department of human services established under s. 46.23, Stats., the county department of community programs established under s. 51.42, Stats., or the county department of developmental disabilities services established under s. 51.437, Stats.

(4) "Department" means the Wisconsin department of health and social services.

(5) "Disabled" has the meaning prescribed in s.46.985(1)(d), Stats., namely, having a severe physical, emotional or mental impairment which is diagnosed medically, behaviorally or psychologically, which is characterized by the need for individually planned and coordinated care, treatment, vocational rehabilitation or other services and which has resulted in or is likely to result in a substantial limitation on the ability to function in at least 3 of the following areas:

- (a) Self-care;
- (b) Receptive and expressive language;
- (c) Learning;
- (d) Mobility;
- (e) Self-direction;
- (f) Capacity for independent living; and
- (g) Economic self-sufficiency.

(6) "Expenses" in reference to farm self-employment, non-farm self-employment, rent or royalties, means those expenses permitted by the internal revenue code with the exception of depreciation on business, farm or rental property and with the addition of actual principal payments on that property.

(7) "Family" has the meaning prescribed in s.46.985(1)(e), Stats., namely, a group that lives together and that consists of at least one disabled child and his or her parent.

(8) "Family support advisory committee" means the committee established under s.46.985(3)(a), Stats.

(9) "Income" means gross wages and salary; income after expenses from farm self-employment, non-farm self-employment, rent or royalties; unemployment compensation; worker's compensation; social security;

supplemental security income under s. 49.177, Stats.; railroad retirement benefits; pensions and annuities, including veterans pensions and disability payments; support money such as child support, adoption assistance, alimony or spousal maintenance; cash public assistance such as aid to families with dependent children under s. 49.19, Stats., relief to needy Indian persons under s. 49.046, Stats., and general relief under ss. 49.002 to 49.043 and 49.05 to 49.123, Stats.; interest; and dividends.

(10) "Parent", unless otherwise qualified, has the meaning prescribed in s. 46.985(1)(f), Stats., namely, a parent, guardian, legal custodian or a person acting in the place of a parent, but does not include a foster parent or any other paid care provider.

(11) "Program" has the meaning prescribed in s. 46.985(1)(g), Stats., namely, the family support program in a service area.

(12) "Proposed budget" means the budget developed under s. 46.031(1) and (2), Stats., by a county department.

(13) "Service area" has the meaning prescribed in s. 46.985(1)(h), Stats., namely, a county or group of counties served by a county department.

HSS 65.03 APPLICATION BY A COUNTY DEPARTMENT. (1) A county department may initially apply for funding under this chapter by submitting a program proposal to the department at the time that the department requests program proposals. The program proposal shall include:

(a) A statement signed by the county department director indicating the county department's intent to participate in the program;

(b) A proposed first year budget; and

(c) A detailed program plan that shall include:

1. A narrative description of the proposed program;

2. A projection of the number of families to be assessed and served;

3. Identification of any target families to be given priority consideration for available funds;

4. A description of outreach procedures to ensure program availability to disabled children;

5. A description of the methods to be applied to determine family needs;

6. A description of the process to be used for developing and monitoring service plans;

7. A description of the system to be used to coordinate the provision of services and goods to participating families;

8. A description of the strategy to be employed to promote the creation of informal support and advocacy systems for families;

9. A description of the means to be used to monitor the program; and

10. A description of how the program will operate in conjunction with other publicly-funded programs for disabled children.

(2) The program plan and budget for subsequent years shall include the information specified under sub.(1)(c), shall be developed with assistance from the family support advisory committee and shall be submitted as part of the county's proposed budget pursuant to s.46.031, Stats.

(3) The department shall select county departments to participate in the program based on the adequacy of the program plan developed under sub. (1)(c), the experience of the administering agency in assessing and meeting the needs of children with disabilities and their families, and the administering agency's demonstrated ability to manage supportive service programs.

(4) A county department selected to participate in the program shall act as the administering agency or shall contract with a human services agency in the service area to act as the administering agency.

HSS 65.04 FAMILY ELIGIBILITY AND APPLICATION. (1) A family shall be eligible to receive supportive services under this chapter if it meets the following requirements:

(a) The parent has a disabled child whom the parent wants to keep at home or return to the home from an institution or other out-of-home placement;

(b) The parent will be able to take care of the disabled child at home if financial, physical or other barriers are reduced or eliminated and adequate supportive services are provided;

(c) The family resides in a service area which has a family support program; and

(d) The family agrees to provide to the administering agency information necessary for assessing the family's ability to pay under s. HSS 65.05(7).

(2) A family requesting supportive services shall file an application with the administering agency in the service area in which the family resides on a form provided by the administering agency.

HSS 65.05 DUTIES OF THE ADMINISTERING AGENCY. (1) SETTING PRIORITIES FOR AVAILABLE FUNDING. (a) Administering agencies shall allocate available funding to families who meet eligibility requirements under s. HSS 65.04 on a first-come, first-served basis, except that an amount of funds may be reserved to ensure provision of goods and services to the following families:

1. Families in a crisis situation;
2. Families considering out-of-home placement for a child; and
3. Families planning to bring a child home from an out-of-home placement.

(b) An administering agency may not provide supportive services for a family whose disabled child is at least 21 but less than 24 years of age unless a request is submitted under s. HSS 65.07 and is approved by the department.

(2) DEVELOPING APPLICATION PROCEDURES. (a) Administering agencies shall develop written application procedures which shall be provided to any family requesting services under this chapter.

(b) Application information required by the administering agency shall include:

1. The age of the child; and
2. A description of the child's disability or disabilities.

(3) CONDUCTING NEEDS ASSESSMENTS. Within the limits of available funds, the administering agency shall conduct a family needs assessment for each family whose application for supportive services has been approved. The needs assessment shall be conducted as follows:

(a) The needs assessment shall be conducted by a person or persons who are knowledgeable about the child's condition;

(b) One or both parents shall participate in the needs assessment process;

(c) During the assessment process the child shall be seen by the person or persons conducting the assessment; and

(d) The assessment shall take place in the family home unless the family chooses another setting.

(4) DEVELOPING SERVICE PLANS. Within the limits of available funds, the administering agency shall develop a written service plan for each family whose application for supportive services has been approved within 60 days after receipt of the application. The service plan shall include:

- (a) A description of the child and the child's family;
- (b) A description of the child's current living situation;
- (c) A description of the supportive goods and services currently provided to the child and family;
- (d) A description of unmet supportive goods and service needs;

(e) A list of the goods and services to be provided through the program and those provided through other public and private sources, along with a timetable and an estimate of the annual costs to the program for provision of the goods and services provided through it; and

(f) A written service plan participation agreement signed by the disabled child's parent or parents and a representative of the administering agency.

(5) COORDINATING PUBLICLY-FUNDED PROGRAMS FOR DISABLED CHILDREN. The administering agency shall appoint a staff person whose responsibilities shall include coordinating the family support program and the use of its funds with other publicly-funded programs for disabled children.

(6) PURCHASING GOODS AND SERVICES. (a) Administering agencies shall use funds allocated under this chapter to purchase a broad range of goods and services within the following categories:

1. Architectural modification of the family home;
2. Child care;
3. Counseling and therapeutic resources;
4. Dental and medical care not otherwise covered by private medical insurance or public assistance programs;
5. Specialized diagnoses and evaluation;
6. Specialized diet, nutrition and clothing;
7. Specialized equipment and supplies;
8. Homemaker services;
9. In-home services and attendant care;
10. Home training and parent courses;
11. Recreation and alternative activities;
12. Respite care;
13. Transportation;
14. Specialized utility costs;
15. Vehicle modification; and
16. Other goods and services as approved by the department based on demonstrated family needs.

(b) Funds distributed under this chapter may be used only to provide those goods and services necessary to meet the family's unmet needs described under subs. (3) and (4) and to fund all or any part of the cost of services included in the family's service plan under sub. (4).

(c) Funds distributed under this chapter may not be used to provide goods and services to a child in an out-of-home placement, except that funds may be used up to 6 months in advance of a child's planned return home to purchase goods and services described under subs. (3) and (4) and identified as necessary to facilitate the child's return home.

(d) Funds distributed under this chapter may not be used to supplant funds currently provided to the family from another funding source.

(7) ASSESSING A FAMILY'S ABILITY TO PAY. (a) For purposes of this subsection, "parents" means the child's birth parents or, if an order for adoption has been entered, the child's adoptive parents. "Parents" does not include any persons whose parental rights have been terminated.

(b) An assessment of the family's ability to pay the cost or a portion of the cost of services and goods shall be made as follows:

1. The annual income of the disabled child shall be determined;
2. If the child is under 18, the annual income of the disabled child's parents shall be determined;
3. The income, if any, of other persons who depend on the child or his or her parents for support shall be included, except that the earnings of children who are students shall be disregarded;
4. A minimum budget allowance for a family size shall be determined according to s. HSS 1.03(12)(c) and shall include the number of persons whose income the agency counted under subs. 1. to 3. adjusted upward by one person for each disabled person in the family;
5. The family's ability to pay shall be 3% of the amount determined after subtracting the allowance under subd. 4 from the sum of subs. 1. to 3.;
6. The family's ability to pay as determined under subd. 5 shall be adjusted downward for each of the following:
 - a. Annual amounts payable by the family for medical expenses including medical insurance premiums of all family members whose income is countable and any expenses related to the exceptional needs of a disabled person; and
 - b. Annual amounts payable by the family for other services subject to the uniform fee system under ch. HSS 1; and
7. The assessment of a family's ability to pay may be further reduced by the administering agency if documentation can be provided that the assessment would cause a hardship to the family.

(c) Ability to pay under this subsection shall be redetermined at least once a year or when there is a change in the factors that determine ability to pay including family income or family size. If a redetermined ability to pay amount during a grant year and the ability to pay amount determined at the beginning of the grant year differ by \$100 or more, the administering agency shall recompute the grant amount in sub. (8). The agency may redetermine grant size when the ability to pay amounts differ by less than \$100.

(d) The ability to pay provisions in this subsection apply only to service plan participation agreements that are implemented after the effective date of this subsection.

Note: Administering agencies may request computation schedules to assist with the calculations required under this subsection by writing to the Bureau of Community Programs, Division of Community Services, P.O. Box 7851, Madison, Wisconsin, 53707.

(8) ESTABLISHING THE GRANT AMOUNT. The annual grant to a family shall be no less than the amount needed to meet the family's unmet needs as determined under sub. (3), but may not exceed the lesser of the following:

(a) The level of financial need for goods and services determined according to the individual family needs assessment less the family's adjusted annual ability to pay as determined under sub. (7); or

(b) A sum of \$3,000 for each disabled child in the family, unless a larger amount is authorized under s. HSS 65.06.

(9) REPORTING PROGRAM INFORMATION. Program reporting shall be as follows:

(a) Each administering agency shall submit reports to the department that provide individual child and family information at the time of the initial needs assessment and at 6-month intervals following the initial needs assessment if changes have occurred; and

(b) Each administering agency shall submit fiscal reports as required by the department to show the types of services and goods needed by each family and the program dollars expended to provide each of those services.

(10) INFORMING FAMILIES OF GRIEVANCE PROCEDURES AND DEPARTMENTAL HEARINGS. (a) At the time that a family applies for the program and when the administering agency conducts the needs assessment and does service planning, the agency shall inform the family of the family's right to file a grievance in accordance with procedures established under s. 51.61(5), Stats., and ch. HSS 94 and of its right to request a departmental hearing under s. 227.42, Stats., and s. HSS 65.08.

(b) The administering agency shall make copies of the grievance procedures established under s. 51.61(5), Stats., and ch. HSS 94 available to each family that applies for the program.

(11) DENYING, REDUCING OR TERMINATING SERVICES. When an administering agency denies or reduces services to a family, or terminates a service plan participation agreement, the administering agency shall:

(a) Notify the family in writing of the reasons for the service denial or reduction or termination of the service plan participation agreement; and

(b) Give the family a copy of the grievance procedures established under s.51.61(5), Stats., and ch. HSS 94 and written notice of the family's right to a departmental hearing under s. 227.42, Stats., and s. HSS 65.08.

HSS 65.06 CRITERIA FOR EXCEEDING THE \$3,000 MAXIMUM. An administering agency may submit a written request to the department to provide a family with funding in excess of \$3,000 for each disabled child per year. The request shall include:

(1) The name or client number of the child to be served;

(2) Identification of the family's unmet supportive goods and service needs under s. HSS 65.05(3) and (4) that cannot be met through other resources;

(3) A description of the other resources used to help meet the family's needs; and

(4) A declaration of the availability of program funding to assist the family beyond the established maximum.

HSS 65.07 FAMILIES WITH A DISABLED SON OR DAUGHTER AT LEAST 21 BUT LESS THAN 24 YEARS OF AGE. An administering agency may submit a written request to the department to provide assistance to a family with a disabled son or daughter who is at least 21 but less than 24 years of age. The request shall include:

(1) The name or client number of the child to be served;

(2) A description of the family's unmet supportive goods and service needs under s. HSS 65.05(3) and (4) that cannot be met through other resources;

(3) A description of the other resources that have been explored to meet the family's needs;

(4) A description of the efforts to help the person make a transition to adult living and other age-appropriate activities; and

(5) The amount of program funding that would be needed for the person and the estimated length of time for which the funding would be needed.

HSS 65.08 DEPARTMENTAL HEARINGS. (1) Regardless of whether a family elects to file a grievance in accordance with the grievance procedures established under s.51.61(5), Stats., and ch. HSS 94, a family may request a departmental hearing under s. 227.42, Stats., to appeal an administering

agency's denial of an application or termination of a service plan participation agreement.

(2) A request for a departmental hearing shall be submitted in writing to the department's office of administrative hearings and shall:

(a) Be received by the office of administrative hearings within 90 days of the date of the application denial or termination of the service plan participation agreement notice required under s. HSS 65.05(11)(a); and

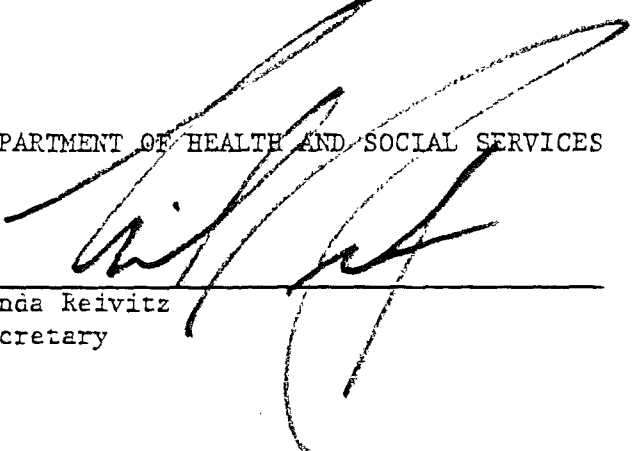
(b) Include a copy of the notice and a statement giving the reasons and any relevant facts supporting the family's position that services were unfairly denied or terminated.

Note: A request for a departmental hearing should be mailed to: Office of Administrative Hearings, Post Office Box 7875, Madison, Wisconsin 53707.

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

DEPARTMENT OF HEALTH AND SOCIAL SERVICES

Date: December 1, 1986



Linda Reivitz
Secretary

Seal:



State of Wisconsin

DEPARTMENT OF HEALTH AND SOCIAL SERVICES

1 West Wilson Street, Madison, Wisconsin 53702

Anthony S. Earl
Governor

Linda Reivitz
Secretary

December 1, 1986

Mailing Address:
Post Office Box 7850
Madison, WI 53707

Mr. Orlan Prestegard
Revisor of Statutes
9th Floor - 30 on the Square
Madison, Wisconsin 53702

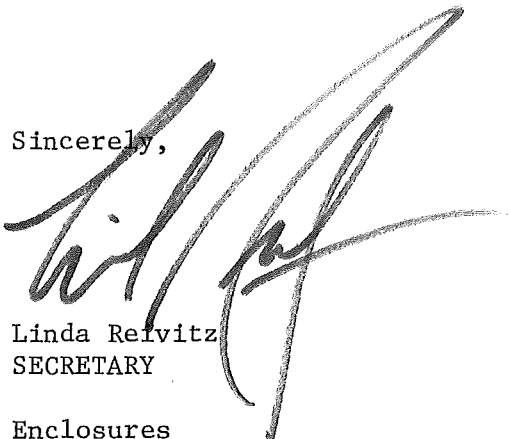
Dear Mr. Prestegard:

As provided in s. 227.20, Stats., there is hereby submitted a certified copy of HSS 65, administrative rules relating to supportive services for families with disabled children living at home.

These rules are also being submitted to the Secretary of State as required by s. 227.20, Stats.

These rules affect county agencies or human service agencies which administer the Family Support program, and do not affect small businesses as defined in s. 227.114(1)(a), Stats.

Sincerely,


Linda Reivitz
SECRETARY

Enclosures