

## ADMINISTRATIVE RULES – NOTICE OF PUBLIC HEARING

### Health and Family Services

Ch. HFS 1, Uniform Fee System and  
Ch. HFS 65, Supportive Services for Families with Disabled Children

NOTICE IS HEREBY GIVEN that pursuant to ss. 46.03 (18), 46.10 (1) to (14) (a), s. 46.27 (2) (h) 1., 46.985, (2) (a) 8., and 227.11 (2), Stats., and interpreting ss. 46.011 (1g), 46.27 (11), 46.275, 46.277, 46.278, Stats., the Wisconsin Department of Health and Family Services will hold public hearings to consider the **repeal of** HFS 65.02 (6) and (9); **amendment of** HFS 1.01 (1) and (2) (j), 1.02 (6) (d), 1.03 (12) (c) (intro.) and (21) (intro.), and 65.04 (1) (d); **repeal and re-creation of** HFS 65.05 (7); and **creation** HFS 1.02 (6) (f) and 1.065, relating to determining parental payment limits for children's long term support services and family support services at the dates, times, and locations listed below.

#### Hearing Date(s) and Location(s)

Date and Time	Location
March 26, 2008 3:00 – 6:00 p.m.	UW - Stevens Point Collins Classroom Center 124 2100 Main Street Stevens Point WI 54481 By Videoconference
March 26, 2008 3:00 – 6:00 p.m.	UW – Waukesha Room C103 1500 University Drive Waukesha WI 53188 By Videoconference
March 26, 2008 3:00 – 6:00 p.m.	By Videoconference UW – Madison Pyle Center Room 227 702 Langdon St Madison WI 53706
March 26, 2008 3:00 – 6:00 p.m.	UW- Menasha Fox Valley Room 1838 1478 Midway Rd Menasha WI 54952 By Videoconference
March 26, 2008 3:00 – 6:00 p.m.	UW - LaCrosse Communications Wing 102 1725 State St LaCrosse WI 54601 By Videoconference

The hearing sites are fully accessible to people with disabilities. If you are hearing impaired, do not speak English or have circumstances that might make communication at a hearing difficult; you require an interpreter or a non-English large print or taped version of the proposed rules, contact the person at the address or telephone number given below at least 10 days before the hearing. With less than 10

days notice, an interpreter may not be available. The public hearings will be held via video conferencing with it originating from UW-Madison, Pyle Center.

### **Place Where Written Comments May be Submitted**

Written comments may be submitted at the public hearing or submitted to the contact person listed below. Comments may also be made using the Wisconsin Administrative Rule Website at <http://adminrules.wisconsin.gov>.

### **Deadline for Comment Submission**

The deadline for submitting comments to the Department is 6:00 p.m. on March 26, 2008.

## **Analysis Prepared by the Department of Health and Family Services**

**Statute interpreted:** Sections 46.011 (1g), 46.27 (11), 46.275, 46.277, 46.278, Stats.

**Statutory authority:** Sections 46.03 (18), 46.10 (1) to (14) (a), s. 46.27 (2) (h) 1., 46.985, (2) (a) 8., and 227.11 (2), Stats.

### **Explanation of agency authority:**

- Section 46.03 (18), Stats., requires the Department to establish a uniform system of fees for services provided or purchased by the Department, or a county department under s. 46.215, 46.22, 51.42, or 51.437, Stats.
- Section 46.10 (1) to (14) (a), Stats., establishes parental liability for services provided or purchased by the Department or county department for minor children and requires fees for services received by minor children to be paid in accordance with the fee schedule established by the department. Section 46.10 (1) to (14) (a) also establishes requirements for fee collection.
- Section 46.27 (2) (h) 1., Stats., requires rules for long-term community support service fee schedule be part of the uniform fee schedule under s. 46.03 (18), Stats.
- Section 46.985, (2) (a) 8., Stats., requires the Department to promulgate rules for determining a family's ability to bear the cost of the services and goods it needs under the family support program.
- Section 227.11 (2), Stats., provides state agencies with general rulemaking authority.

**Related statute or rule:** See the "Statute interpreted" section

### **Plain language analysis:**

Families with children who have long-term care support needs receive services from a number of programs implemented by county human and social services agencies under the Children's Long-Term Support (CLTS) Waivers; the Community Integration Program (CIP1); the Community Options Program (COP); and the Family Support Program (FSP). As required under s. 46.10 (1) to (14) (a), Stats., parents of children who receive these services pay a portion of the costs for these services.

The Department's order proposes to create rules under ch. HFS 1, to codify, in administrative rule, the schedule by which county agencies determine the limits on parental payments required under s. 46.10 (1) to (14) (a), Stats., for services received by children with long-term supports needs under the various programs. The Department established the parental payment limits for services received under these programs in 2005. The parental payment limits are currently implemented under s. HFS 1.03 (13m).

The proposal to codify the parental payment limits in rules only slightly modifies the schedule pursuant to which the limits are determined. This was done to assure a consistent application across family size. The proposed codification of the schedule would not result in a loss of services nor any changes to services to families.

The Department also proposes to provide that counties using s. HFS 65.05 (7), to determine parental payment limits for services received by families under the Family Support Program be determined using the same schedule as is applicable to the services identified in the preceding paragraph. Under s. HFS 65.05 (7), counties assess parental payment limits after calculating parent's annual gross income, which is adjusted by a budget allowance for the family size according to Federal Poverty Level (FPL) guidelines, liability for medical expenses, any amounts payable by parents for other services under ch. HFS 1, and other reductions as determined by the county implementing the program.

Under the proposed rule, counties which currently collect fees under s. HFS 65.05 (7) would assess parents who have annual incomes at or above 330% of the FPL a percentage (which could range from a minimum 1% to a maximum 41%) of the child's plan costs. The parental payment limits for these families would be determined by counties after calculating the parent's annual gross income, adjusted by a standard allowance; or actual medical or dental expenses claimed on the parent's federal income tax form Schedule A, whichever is higher, the family's poverty level for the family size, and the child's service plan costs. Under this schedule, counties would not collect parental payments from families who have annual incomes below 330% of the FPL.

Overall, the proposed change in the manner in which the parental payment limits are calculated for services provided under the Family Support Program would result in parents paying in proportion to their income levels and a unified system for calculating parental payments for children's long term support services.

**Summary of, and comparison with, existing or proposed federal regulations:**

There are no proposed or existing federal regulations that are similar to the proposed rules.

**Comparison with rules in adjacent states:**

**Illinois:** There are no proposed or existing state regulations that are similar to the proposed rules.

**Iowa:** There are no proposed or existing state regulations that are similar to the proposed rules.

**Michigan:** There are no proposed or existing state regulations that are similar to the proposed rules.

**Minnesota:** There are no proposed or existing state regulations that are similar to the proposed rules.

**Summary of factual data and analytical methodologies:**

Prior to the implementation of the parental payment limit in July 2005, the Department sought and received input regarding the parental payment limit for all children's long-term support programs including the family support program, and the community options program from the Council for Children with Long-Term Support Needs, which provides recommendations to the Department regarding administrative infrastructure, accountability measures and mechanisms, financing systems, training programs, and program design elements that address the needs of children with long-term support needs. The Department also sought and received input from the Wisconsin Human Services Association, Wisconsin Counties' Association, and Disability Rights Wisconsin.

**Analysis and supporting documents used to determine effect on small business:**

The proposed rule would not affect businesses.

**Initial Regulatory Flexibility Analysis**

The proposed rule would not affect businesses.

### **Small Business Regulatory Coordinator**

Rosie Greer

[Greerrj@dhfs.state.wi.us](mailto:Greerrj@dhfs.state.wi.us)

608-266-1279

### **Fiscal Estimate**

Families with children who have long-term care support needs receive services from a number of programs implemented by county human and social services agencies under the Children's Long-Term Support (CLTS) Waivers; the Community Integration Program (CIP1); the Community Options Program (COP); and the Family Support Program (FSP). As required under s. 46.10 (1) to (14) (a), Stats., parents of children who receive these services pay a portion of the costs for these services.

The Department's order proposes to create rules under ch. HFS 1, to codify, in administrative rule, the schedule by which county agencies determine the limits on parental payments required under s. 46.10 (1) to (14) (a), Stats., for services received by children with long-term supports needs under the various programs. The Department established the parental payment limits for services received under these programs in 2005. The parental payment limits are currently implemented under s. HFS 1.03 (13m). The proposal to codify the parental payment limits in rules only slightly modifies the schedule pursuant to which the limits are determined. This was done to assure a consistent application across family size. The proposed codification of the schedule would not result in a loss of services nor any changes to services to families.

The Department also proposes to provide that counties using s. HFS 65.05 (7), to determine parental payment limits for services received by families under the Family Support program be determined using the same schedule as is applicable to the services identified in the preceding paragraph. Under s. HFS 65.05 (7), counties assess parental payment limits after calculating parent's annual gross income, which is adjusted by a budget allowance for the family size according to Federal Poverty Level (FPL) guidelines, liability for medical expenses, any amounts payable by parents for other services under ch. HFS 1, and other reductions as determined by the county implementing the program.

Under the proposed rule, counties which currently collect fees under s. HFS 65.05 (7) would assess parents who have annual incomes at or above 330% of the FPL a percentage (which could range from a minimum 1% to a maximum 41%) of the child's plan costs. The parental payment limits for these families would be determined by counties after calculating the parent's annual gross income, adjusted by a standard allowance; or actual medical or dental expenses claimed on the parent's federal income tax form Schedule A, whichever is higher, the family's poverty level for the family size, and the child's service plan costs. Under this schedule, counties would not collect parental payments from families who have annual incomes below 330% of the FPL.

The amount of the annualized payments collected by counties under the proposed rule is indeterminate due to a number of variables that are difficult to quantify. Counties differ in how they collect parental payments for the Family Support Program, which may affect whether they currently use the fee schedule established by the Department under s. HFS 1.03 (13m), or the fee schedule under s. HFS 65.05 (7), or both to determine parental payment limits. Under the proposed rules, counties would collect parental payments from families receiving services under the Family Support Program, whose incomes are at or above 330% of the FPL who do not currently pay parental fees. Counties could also collect higher parental payments from families who have incomes at or above 330% of the FPL, because the payment limits would be determined in proportion to the costs of the child's service plan, family size, and income level. At the same time, counties would collect no fees from families whose incomes are below 330% of the FPL.

Counties would not incur additional costs associated with implementing the proposed change, since counties already have the staff expertise and appropriate calculation tables from the Department needed to determine the parental payment liability. This proposed order, in general, would provide a unified system for calculating parental payments for children's long term support services. The proposed rules would not have a fiscal effect on the Department. The proposed rules do not affect businesses.

**Obtaining Copies of Rules and Fiscal Estimate**

A copy of the full text of the rules and the fiscal estimate can be obtained at no charge from the Wisconsin Administrative Rules Website at <http://adminrules.wisconsin.gov> or by contacting the person listed below.

**Agency contact person:**

Katie Sepnieski  
1 W Wilson Room 418  
PO Box 7815  
Madison WI 53707  
608-267-3377