



WISCONSIN LEGISLATIVE COUNCIL RULES CLEARINGHOUSE

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CLEARINGHOUSE RULE 19-070

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 December 2014.]

1. Statutory Authority

a. The department could consider the following changes to the description of statutory authority for the proposed order:

- (1) Cite more generally to s. 49.858 (2), Stats., to encompass the authority for rules relating to payments, as proposed in SECTION 3 of the proposed order.
- (2) Add a reference to s. 49.853 (2), Stats., which provides authority for the changes in SECTION 6 of the proposed order.
- (3) Remove the reference to s. 49.854 (1) (f), Stats., as that paragraph does not authorize promulgation. However, that provision could be referenced in the listing of statutes interpreted.

b. In the listing of statutes interpreted, the department could consider adding references to ss. 49.853 (2), 49.857 (1) (g), and 767.511 (1), Stats.

2. Form, Style and Placement in Administrative Code

a. The department could consider whether, in light of the text stricken from s. DCF 152.06 (5) (c) in SECTION 3, the remaining text is relevant to the child support lien docket. If it is relevant, then the department should consider clarifying its relevance. If it is not, the department could consider repealing the entire paragraph to avoid unnecessary repetition of statutory language, or placing the provision elsewhere in DCF’s administrative code.

b. The department should consider repealing s. DCF 152.06 (5) (d) (Note) in light of the repeal of s. DCF 152.06 (5) (d) in SECTION 4. If repeal occurs, the treatment and introductory clauses should be revised accordingly.

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

a. In the explanation of agency authority, the reference in the second paragraph to “s. 48.857 (1) (g), Stats.” should be revised to “s. 49.857 (1) (g), Stats.”.

b. In the summary of the proposed rule, the department could reference s. 767.511 (1), Stats., which requires that support amounts be expressed as a fixed sum, rather than a percentage, subject to certain exceptions. Also, the reference to “s. 49.852 (2), Stats.” should be revised to “s. 49.853 (2), Stats.”.

c. In the summary of factual data and analytical methodologies, the statutory reference in the third paragraph should read “s. 49.854 (1) (f) 5., Stats.”.

d. When summarizing the related federal requirements, the department could consider more precise citations to the specific federal requirements that are referenced by citing 42 U.S.C. s. 666 (a) (4) and 45 C.F.R. s. 302.70 (a) (4).

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

a. In the summary of the proposed rule, the department should expand on how the proposed rule clarifies lien payment procedures to enable the reader to understand the content of the rule and the changes made in SECTIONS 3 and 4. [s. 1.02 (2) (b), Manual.]

b. In s. DCF 152.06 (5) (b) under SECTION 3, the department should clarify the appropriate sum of the payment amount. For example, the department could state “... and be in an amount equal to the total lien amount on the child support lien docket plus the monthly amount due” or other, similar language that matches the department’s intent.

c. In SECTION 6 of the proposed rule, the department could consider replacing “a designee” with “its designee” to clarify that the department possesses the authority to name the designee.