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Rule Report for Legislative Review

Proposed Rules Relating to Medical Support and Child Support Guidelines Review

DCF 150
CR 09-036

Basis and Purpose of the Proposed Rules

The proposed rules will adopt provisions of a new federal regulation on medical support in child support cases. The proposed rules will also extend the application of the special provisions for low-income payers with income below 125% of the federal poverty guidelines to payers with income below 150% of the federal poverty guidelines. In addition, the proposed rules will establish a new method for determining the child support obligations of split-placement parents.

Changes to Analysis Prepared under Section 227.14 (2), Stats.

- Added the requirement that the plan would cover hospitalization and other medical costs without large out-of-pocket deductibles or copayments to the determination of whether a private health insurance plan is available at a reasonable cost.
- In response to Legislative Council comment 5.c., clarified that the circumstance in which a court may determine whether to order a parent to enroll a child in a private health insurance plan is when a person other than a parent has already enrolled the child. The person other than a parent who would have enrolled the child would generally be a step-parent.
- Corrected typo in statutory reference regarding deviation from the child support standards.

Public Hearing Summary

Public hearings were held in Milwaukee and Madison on June 2-3, 2009. Carol Medaris of the Center for Family Policy and Practice in Madison commented on the proposed rules:

1. Fathers with incomes below 150% of the federal poverty guidelines should not be liable for birth costs.

Department response: CFFP argues, based upon the findings of the National Medical Child Support Working Group, that the establishment of birth costs for fathers with incomes below 150% of the federal poverty guidelines is a deterrent to the establishment of paternity and the mother's willingness to seek prenatal care. However, the findings of that group were never

adopted by the federal Office of Child Support Enforcement. Nor has a clear link been established in Wisconsin that shows that setting birth cost orders is either a deterrent to the establishment of paternity or the mother's willingness to seek prenatal care.

The number of non-marital births continues to rise and it is important for non-marital fathers to accept financial responsibility for the costs associated with the births of their children. Recent rule amendments revised the calculation of birth cost orders to more closely reflect the father's ability to pay and, as such, are likely in the vast majority of cases to significantly reduce the amount owed. Both birth cost orders and child support orders are now calculated with a graduated scale of lower amounts for parents with income below 125% of the federal poverty guidelines. The proposed amendment increases the low-income standard from 125% to 150%.

2. The Milwaukee project in which child support orders are suspended during incarceration if the custodial parent agrees should be applied throughout the state.

Department response: The Department is committed to reviewing the issues raised surrounding incarceration. We anticipate receiving a research report from the Institute for Research on Poverty in late fall that will address issues related to whether suspending child support during periods of incarceration might increase compliance with child support orders and enhance the father's relationship with the children upon release. We have already invited representatives from the Milwaukee Fatherhood Collaborative to participate in discussions related to this issue and welcome participation from the Center for Family Policy and Practice as we move forward to address this issue.

Response to Legislative Council Staff Recommendations

All comments were accepted.

Final Regulatory Flexibility Analysis

The rule does not affect small businesses as defined in s. 227.114 (1), Stats.

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