

Report From Agency
FINAL REPORT
CLEARINGHOUSE RULE 19-047
CHAPTER PI 30
SPECIAL EDUCATION AID

Analysis by the Department of Public Instruction

Statutory authority: s. 227.11 (2) (a) (intro.), Stats.

Statute interpreted: s. 115.881, Stats.

The proposed rule seeks to provide clarity in determining costs for providing special education related services to a child for the purpose of receiving high cost special education aid. The areas clarified by this rule are as follows: 1) determining nonadministrative costs for providing special education and related services to a child, distinct from such costs for other children; 2) determining how equipment and other capital costs are considered in the context of “the previous school year” as given in s. 115.881 (1), Stats.; 3) clarifying what is meant by “federal medicaid,” as given in s. 115.881 (1), Stats., for the purpose of determining claims under the program; and 4) determining how the \$30,000 threshold for special education costs is evaluated against the other funding sources listed in statute.

The hearing notice was published in the November 25, 2019 edition of the Wisconsin Administrative Register. A public hearing was held on December 20, 2019.

No persons testified at the December 20, 2019 hearing. However, the following persons submitted written testimony:

NAME	ORGANIZATION	IN FAVOR OR GENERALLY IN FAVOR	OPPOSED OR GENERALLY OPPOSED	OTHER
Dr. Christine Anderson	Twin Lakes #4 School District			X

Summary of public comments relative to the rule and the agency’s response to those comments:

Comments on the Rule

- The respondent offered comments that were not germane to the subject of the proposed rule, but spoke to the difficulty of maintaining school district operations under the current funding model of open enrollment, which can be exacerbated by high-cost special education pupils enrolling into the school district after the third Friday count date, as an example.

Agency Response: The above comments are outside the scope of the proposed rule. No changes were made as a result.

Changes made as a result of oral or written testimony:

- No changes were made.

Changes to the analysis or the fiscal estimate:

- No changes were made.

Responses to Clearinghouse Report:

1. Statutory Authority:

- The rule determines that costs funded by private gift or grant moneys are ineligible for reimbursement because s. 115.881 (2), Stats., only allows the Department to reimburse each applicant in the amount equal to 90 percent of the costs incurred by the applicant that exceed \$30,000 per child. When the cost of a child is paid using private gift or grant moneys, the portion of that cost that was paid using private gifts or grant moneys is not considered a cost incurred by the applicant. As such, the rule provides that such costs that have already been reimbursed in full by private gift or grant monies cannot be reimbursed again with state monies. No changes were made.

2. Form, Style and Placement in Administrative Code:

- The changes were accepted.

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

- The changes were accepted.

Changes deemed necessary by the Department to improve implementation of the rule:

- The proposed rule's definition for specified services under s. PI 30.02 (17) was a clerical error based on a previous draft of the rule. The definition has been corrected to include nursing, social work, psychology, guidance counseling, speech-language pathology, and audiology. The language of the corrected definition parallels that under s. 121.76 (1) (c), Stats., modified to exclude the administrative functions of supervision and coordination, which are ineligible under s. 115.881, Stats., and to exclude transportation, which is defined separately under s. PI 30.02 (22).