

Report From Agency
Department of Children and Families
Rule Report for Final Draft Form of Proposed Rules
Fees for Child Welfare and Community-Based Youth Justice Services
Clearinghouse Rule 24-006
Chapter DCF 1

Basis and Purpose of the Proposed Rules

The primary purpose of the proposed rules is to establish a system of fees for child welfare and community-based youth justice services under ss. 49.32 (1) and 49.345 (14) (a), Stats. The creation of ch. DCF 1 also complies with the requirement in s. 49.345 (14) (g), Stats., that the department promulgate rules on the application of the child support guidelines in ch. DCF 150 to child support ordered in children's or juvenile court.

Public Hearing

Two comments were received. No modifications were made to the rule.

Wisconsin County Human Services Association (WCHSA)

Executive Director John Tuohy commented that WCHSA appreciates the workgroup that the department organized to work on the rule. There were good interactive discussions, and WCHSA appreciates the modifications that the department made to the rule. In particular, they appreciate the efforts to make DCF 1 compatible with DHS 1, especially using the same financial responsibility form and Maximum Monthly Payment Schedule. This will allow counties to use a single bill for fees established under DCF 1 and DHS 1.

ACLU-Wisconsin, Kids Forward, National Center for Youth Law, Juvenile Law Center

The joint comment encourages counties to consider rule language that allows them to waive fees when charging or collecting a fee would be inappropriate due to the needs of the family, would significantly prevent accomplishing the purpose of the service, or would be administratively unfeasible. In nearly all cases, counties will find that fees should not be charged or should be discretionarily waived.

Fees cause immediate and lasting harm to youth and their families while not being a significant revenue source for many local budgets. For families who are already experiencing significant stress due to their system involvement, fees and costs add additional financial stress that is harmful to the youth, the family, and their opportunities for rehabilitation. Racine County eliminated certain fees after seeing fees contribute to a family's homelessness. Families, who are largely unable to pay these fees, develop cynicism towards the system when they are charged costs. Many county services for system-involved youth are meant to build youth skills and rehabilitate, but instead these fees cause economic hardship and can deepen a youth's involvement in the legal system. Indeed, one national study found that youth justice fees increased the likelihood of youth recidivism by 23%. Dane County found that the budget impact of eliminating youth justice detention, home detention and shelter care fees was "pretty negligible" because there was so much work that went

into the collection of such a small amount of money. Counties should take every opportunity provided by ch. DCF 1 to eliminate these fees.

Responses to Legislative Council Rules Clearinghouse Comments

All comments were accepted or rendered moot by revisions, except the following:

Comment 2. c.: The language in s. DCF 1.07 (4) is based on s. 49.345 (14) (e), Stats., which does not include the notice and procedural provisions in s. 767.75, Stats.

Comment 5. l.: The DHS 1 Maximum Monthly Payment Schedule uses the term “persons living in family.” This schedule will also be used for DCF 1, and the department does not want to add language that could be interpreted to mean anything different from the DHS 1 requirements. Counties will often be calculating maximum monthly payment amounts under both DHS 1 and DCF 1 for the same family.

Comment 5. o.: The comparable provision in s. DHS 1.05 (4) (a) 2. uses the phrase “change in the financial circumstances.” The department does not want to add language that could be interpreted to mean anything different from the DHS 1 requirements.

Comment 5. p.: DCF 1.05 (3) (b) (intro.) already specifies that the authority only applies during a fee’s “collection period.”

Changes to the Analysis or to the Fiscal Estimate

Changes to the analysis were made in response to Rules Clearinghouse comments 2. a. and 5. a. No changes were made to the fiscal estimate.

Final Regulatory Flexibility Analysis

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

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