

## Chapter DHS 65

## SUPPORTIVE SERVICES FOR FAMILIES WITH DISABLED CHILDREN

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**Note:** Section 46.985, Stats., was repealed by 2015 Wis. Act 55 rendering Chapter DHS 65 unenforceable and without effect. Chapter DHS 65 will be repealed in future rulemaking.

**Note:** Chapter HFS 65 was renumbered to chapter HFS 65 under s. 13.93 (2m) (b) 1., Stats., and corrections made under s. 13.93 (2m) (b) 6. and 7., Stats., Register, July, 1997, No. 499. Chapter HFS 65 was renumbered to chapter DHS 65 under s. 13.92 (4) (b) 1., Stats., and corrections made under s. 13.92 (4) (b) 7., Stats., Register November 2008 No. 635.

**DHS 65.01 Introduction.** (1) **AUTHORITY AND PURPOSE.** This chapter is promulgated pursuant to s. 46.985 (2) (a), Stats., for the purpose of establishing procedures, criteria and requirements relating to the distribution of funds to county departments established under s. 46.23, 51.42 or 51.437, Stats., for the provision of goods and services to families who have a disabled child living in the home.

(2) **TO WHOM THIS CHAPTER APPLIES.** This chapter applies to the department, to county departments and to administering agencies designated by county departments under s. 46.985 (3) (d), Stats.

**History:** Cr. Register, January, 1987, No. 373, eff. 2–1–87.

**Note:** Section 46.985, Stats., was repealed by 2015 Wis. Act 55 rendering Chapter DHS 65 unenforceable and without effect. Chapter DHS 65 will be repealed in future rulemaking.

**DHS 65.02 Definitions.** In this chapter:

(1) “Administering agency” has the meaning prescribed in s. 46.985 (1) (a), Stats., namely, a county department or a human service agency that administers the program under a contract with a county department.

(2) “Child” has the meaning prescribed in s. 46.985 (1) (b), Stats., namely, a person under 24 years of age.

(3) “County department” means the county department of human services established under s. 46.23, Stats., the county department of community programs established under s. 51.42, Stats., or the county department of developmental disabilities services established under s. 51.437, Stats.

(4) “Department” means the Wisconsin department of health services.

(5) “Disabled” has the meaning prescribed in s. 46.985 (1) (d), Stats., namely, having a severe physical, emotional or mental impairment which is diagnosed medically, behaviorally or psychologically, which is characterized by the need for individually planned and coordinated care, treatment, vocational rehabilitation or other services and which has resulted in or is likely to result in a substantial limitation on the ability to function in at least 3 of the following areas:

- (a) Self–care;
- (b) Receptive and expressive language;
- (c) Learning;
- (d) Mobility;
- (e) Self–direction;
- (f) Capacity for independent living; and
- (g) Economic self–sufficiency.

(7) “Family” has the meaning prescribed in s. 46.985 (1) (e), Stats., namely, a group that lives together and that consists of at least one disabled child and his or her parent.

(8) “Family support advisory committee” means the committee established under s. 46.985 (3) (a), Stats.

(10) “Parent”, unless otherwise qualified, has the meaning prescribed in s. 46.985 (1) (f), Stats., namely, a parent, guardian, legal custodian or a person acting in the place of a parent, but does not include a foster parent or any other paid care provider.

(11) “Program” has the meaning prescribed in s. 46.985 (1) (g), Stats., namely, the family support program in a service area.

(12) “Proposed budget” means the budget developed under s. 46.031 (1) and (2), Stats., by a county department.

(13) “Service area” has the meaning prescribed in s. 46.985 (1) (h), Stats., namely, a county or group of counties served by a county department.

**History:** Cr. Register, January, 1987, No. 373, eff. 2–1–87; correction in (9) made under s. 13.93 (2m) (b) 7., Stats., Register December 2004 No. 588; CR 08–017: r. (6) and (9) Register June 2008 No. 630, eff. 7–1–08; correction in (4) made under s. 13.92 (4) (b) 6., Stats., Register November 2008 No. 635.

**DHS 65.03 Application by a county department.**

(1) A county department may initially apply for funding under this chapter by submitting a program proposal to the department at the time that the department requests program proposals. The program proposal shall include:

- (a) A statement signed by the county department director indicating the county department’s intent to participate in the program;
- (b) A proposed first year budget; and
- (c) A detailed program plan that shall include:
  1. A narrative description of the proposed program;
  2. A projection of the number of families to be assessed and served;
  3. Identification of any target families to be given priority consideration for available funds;
  4. A description of outreach procedures to ensure program availability to disabled children;
  5. A description of the methods to be applied to determine family needs;
  6. A description of the process to be used for developing and monitoring service plans;
  7. A description of the system to be used to coordinate the provision of services and goods to participating families;
  8. A description of the strategy to be employed to promote the creation of informal support and advocacy systems for families;
  9. A description of the means to be used to monitor the program; and
  10. A description of how the program will operate in conjunction with other publicly–funded programs for disabled children.

(2) The program plan and budget for subsequent years shall include the information specified under sub. (1) (c), shall be developed with assistance from the family support advisory committee and shall be submitted as part of the county’s proposed budget pursuant to s. 46.031, Stats.

(3) The department shall select county departments to participate in the program based on the adequacy of the program plan developed under sub. (1) (c), the experience of the administering

agency in assessing and meeting the needs of children with disabilities and their families, and the administering agency's demonstrated ability to manage supportive service programs.

(4) A county department selected to participate in the program shall act as the administering agency or shall contract with a human services agency in the service area to act as the administering agency.

**History:** Cr. Register, January, 1987, No. 373, eff. 2-1-87.

**DHS 65.04 Family eligibility and application.** (1) A family shall be eligible to receive supportive services under this chapter if it meets the following requirements:

(a) The parent has a disabled child whom the parent wants to keep at home or return to the home from an institution or other out-of-home placement;

(b) The parent will be able to take care of the disabled child at home if financial, physical or other barriers are reduced or eliminated and adequate supportive services are provided;

(c) The family resides in a service area which has a family support program; and

(d) The family agrees to provide to the administering agency full financial information as defined in s. DHS 1.01 (2) (g).

(2) A family requesting supportive services shall file an application with the administering agency in the service area in which the family resides on a form provided by the administering agency.

**History:** Cr. Register, January, 1987, No. 373, eff. 2-1-87; CR 08-017: am. (1) (d) Register June 2008 No. 630, eff. 7-1-08; correction in (1) (d) made under s. 13.92 (4) (b) 7., Stats., Register November 2008 No. 635.

**DHS 65.05 Duties of the administering agency.**

(1) SETTING PRIORITIES FOR AVAILABLE FUNDING. (a) Administering agencies shall allocate available funding to families who meet eligibility requirements under s. DHS 65.04 on a first-come, first-served basis, except that an amount of funds may be reserved to ensure provision of goods and services to the following families:

1. Families in a crisis situation;
2. Families considering out-of-home placement for a child; and
3. Families planning to bring a child home from an out-of-home placement.

(b) An administering agency may not provide supportive services for a family whose disabled child is at least 21 but less than 24 years of age unless a request is submitted under s. DHS 65.07 and is approved by the department.

(2) DEVELOPING APPLICATION PROCEDURES. (a) Administering agencies shall develop written application procedures which shall be provided to any family requesting services under this chapter.

(b) Application information required by the administering agency shall include:

1. The age of the child; and
2. A description of the child's disability or disabilities.

(3) CONDUCTING NEEDS ASSESSMENTS. Within the limits of available funds, the administering agency shall conduct a family needs assessment for each family whose application for supportive services has been approved. The needs assessment shall be conducted as follows:

(a) The needs assessment shall be conducted by a person or persons who are knowledgeable about the child's condition;

(b) One or both parents shall participate in the needs assessment process;

(c) During the assessment process the child shall be seen by the person or persons conducting the assessment; and

(d) The assessment shall take place in the family home unless the family chooses another setting.

(4) DEVELOPING SERVICE PLANS. Within the limits of available funds, the administering agency shall develop a written service

plan for each family whose application for supportive services has been approved within 60 days after receipt of the application. The service plan shall include:

(a) A description of the child and the child's family;

(b) A description of the child's current living situation;

(c) A description of the supportive goods and services currently provided to the child and family;

(d) A description of unmet supportive goods and service needs;

(e) A list of the goods and services to be provided through the program and those provided through other public and private sources, along with a timetable and an estimate of the annual costs to the program for provision of the goods and services provided through it; and

(f) A written service plan participation agreement signed by the disabled child's parent or parents and a representative of the administering agency.

(5) COORDINATING PUBLICLY-FUNDED PROGRAMS FOR DISABLED CHILDREN. The administering agency shall appoint a staff person whose responsibilities shall include coordinating the family support program and the use of its funds with other publicly-funded programs for disabled children.

(6) PURCHASING GOODS AND SERVICES. (a) Administering agencies shall use funds allocated under this chapter to purchase a broad range of goods and services within the following categories:

1. Architectural modification of the family home;
2. Child care;
3. Counseling and therapeutic resources;
4. Dental and medical care not otherwise covered by private medical insurance or public assistance programs;
5. Specialized diagnoses and evaluation;
6. Specialized diet, nutrition and clothing;
7. Specialized equipment and supplies;
8. Homemaker services;
9. In-home services and attendant care;
10. Home training and parent courses;
11. Recreation and alternative activities;
12. Respite care;
13. Transportation;
14. Specialized utility costs;
15. Vehicle modification; and
16. Other goods and services as approved by the department based on demonstrated family needs.

(b) Funds distributed under this chapter may be used only to provide those goods and services necessary to meet the family's unmet needs described under subs. (3) and (4) and to fund all or any part of the cost of services included in the family's service plan under sub. (4).

(c) Funds distributed under this chapter may not be used to provide goods and services to a child in an out-of-home placement, except that funds may be used up to 6 months in advance of a child's planned return home to purchase goods and services described under subs. (3) and (4) and identified as necessary to facilitate the child's return home.

(d) Funds distributed under this chapter may not be used to supplant funds currently provided to the family from another funding source.

(7) PARENTAL PAYMENT LIMIT. The administering agency shall determine the parental payment limit for family support services in accordance with s. DHS 1.065.

(8) ESTABLISHING THE GRANT AMOUNT. The annual grant to a family shall be no less than the amount needed to meet the family's unmet needs as determined under sub. (3), but may not exceed the lesser of the following:

(a) The level of financial need for goods and services determined according to the individual family needs assessment less the family's adjusted annual ability to pay as determined under sub. (7); or

(b) A sum of \$3,000 for each disabled child in the family, unless a larger amount is authorized under s. DHS 65.06.

**(9) REPORTING PROGRAM INFORMATION.** Program reporting shall be as follows:

(a) Each administering agency shall submit reports to the department that provide individual child and family information at the time of the initial needs assessment and at 6-month intervals following the initial needs assessment if changes have occurred; and

(b) Each administering agency shall submit fiscal reports as required by the department to show the types of services and goods needed by each family and the program dollars expended to provide each of those services.

**(10) INFORMING FAMILIES OF GRIEVANCE PROCEDURES AND DEPARTMENTAL HEARINGS.** (a) At the time that a family applies for the program and when the administering agency conducts the needs assessment and does service planning, the agency shall inform the family of the family's right to file a grievance in accordance with procedures established under s. 51.61 (5), Stats., and ch. DHS 94 and of its right to request a departmental hearing under s. 227.42, Stats., and s. DHS 65.08.

(b) The administering agency shall make copies of the grievance procedures established under s. 51.61 (5), Stats., and ch. DHS 94 available to each family that applies for the program.

**(11) DENYING, REDUCING OR TERMINATING SERVICES.** When an administering agency denies or reduces services to a family, or terminates a service plan participation agreement, the administering agency shall:

(a) Notify the family in writing of the reasons for the service denial or reduction or termination of the service plan participation agreement; and

(b) Give the family a copy of the grievance procedures established under s. 51.61 (5), Stats., and ch. DHS 94 and written notice of the family's right to a departmental hearing under s. 227.42, Stats., and s. DHS 65.08.

**History:** Cr. Register, January, 1987, No. 373, eff. 2–1–87; CR 08–017: r. and recr. (7) Register June 2008 No. 630, eff. 7–1–08; corrections in (7), (10) and (11) (b) made under s. 13.92 (4) (b) 7., Stats., Register November 2008 No. 635.

**DHS 65.06 Criteria for exceeding the \$3,000 maximum.** An administering agency may submit a written request to the department to provide a family with funding in excess of \$3,000 for each disabled child per year. The request shall include:

(1) The name or client number of the child to be served;

(2) Identification of the family's unmet supportive goods and service needs under s. DHS 65.03 (3) and (4) that cannot be met through other resources;

(3) A description of the other resources used to help meet the family's needs; and

(4) A declaration of the availability of program funding to assist the family beyond the established maximum.

**History:** Cr. Register, January, 1987, No. 373, eff. 2–1–87.

**DHS 65.07 Families with a disabled son or daughter at least 21 but less than 24 years of age.** An administering agency may submit a written request to the department to provide assistance to a family with a disabled son or daughter who is at least 21 but less than 24 years of age. The request shall include:

(1) The name or client number of the child to be served;

(2) A description of the family's unmet supportive goods and service needs under s. DHS 65.05 (3) and (4) that cannot be met through other resources;

(3) A description of the other resources that have been explored to meet the family's needs;

(4) A description of the efforts to help the person make a transition to adult living and other age-appropriate activities; and

(5) The amount of program funding that would be needed for the person and the estimated length of time for which the funding would be needed.

**History:** Cr. Register, January, 1987, No. 373, eff. 2–1–87.

**DHS 65.08 Departmental hearings.** (1) Regardless of whether a family elects to file a grievance in accordance with the grievance procedures established under s. 51.61 (5), Stats., and ch. DHS 94, a family may request a departmental hearing under s. 227.42, Stats., to appeal an administering agency's denial of an application or termination of a service plan participation agreement.

(2) A request for a departmental hearing shall be submitted in writing to the department of administration's division of hearings and appeals and shall:

(a) Be received by the division of hearings and appeals within 90 days of the date of the application denial or termination of the service plan participation agreement notice required under s. DHS 65.05 (11) (a); and

(b) Include a copy of the notice and a statement giving the reasons and any relevant facts supporting the family's position that services were unfairly denied or terminated.

**Note:** A request for a hearing should be mailed to: Division of Hearings and Appeals, Post Office Box 7875, Madison, Wisconsin 53707.

**History:** Cr. Register, January, 1987, No. 373, eff. 2–1–87; correction in (1) made under s. 13.92 (4) (b) 7., Stats., Register November 2008 No. 635.