

STATEMENT OF SCOPE

DEPARTMENT OF CHILDREN AND FAMILIES

Rule No.: Chapter DCF 1
Relating to: The Uniform Fee System
Rule type: Permanent

This statement of scope was approved by the governor on May 18, 2018.

1. Finding/nature of emergency (Emergency Rule only): Not applicable

2. Detailed description of the objective of the proposed rule:

The proposed rulemaking order will create ch. DCF 1, relating to a uniform fee system required under s. 49.32, Stats. The scope of the proposed ch. DCF 1 will be similar to ch. DHS 1, which is the Department of Health Services' uniform fee system rule. Chapter DHS 1 became effective in September 1978, at which time a number of current Department of Children and Families (DCF) programs, including child welfare services and community-based juvenile justice, were administered by DHFS. 2007 Wisconsin Act 20, which created DCF in 2008, provided that DHS 1 applied to DCF programs until the Department created its own uniform fee system rule. DHS has proposed to repeal and recreate DHS 1, when completed, Ch. DHS 1 will no longer apply to child welfare services. Therefore a new DCF chapter addressing a uniform fee system is necessary to carry out the requirements of s. 49.32, Stats.

3. Detailed explanation of statutory authority for the rule (including statutory citation and language):

Section 49.32 (1), Stats., provides that the department shall establish a uniform system of fees for services under this subchapter III of ch. 49, ch. 48, and community-based juvenile delinquency-related services under ch. 938.

Section 49.345 (14) (a), Stats., provides that liability of certain persons specified in statute to pay for care and maintenance of persons under 18 years of age in residential, nonmedical facilities such as group homes, foster homes, subsidized guardianship homes, and residential care centers for children and youth is determined in accordance with the cost-based fee established under s. 49.32 (1), Stats.

Section 49.345 (14) (a), Stats., also provides the department shall bill the liable person up to any amount of liability not paid by an insurer or by other 3rd-party benefits, subject to rules that include formulas governing ability to pay established by the department under s. 49.32 (1), Stats.

Section 49.345 (14) (e) 5., Stats., requires the department to promulgate rules for the operation and implementation of assignments of all commissions, earnings, salaries, wages, pension benefits, income continuation insurance benefits under s. 40.62, duty disability benefits under s. 40.65, benefits under ch. 102 or 108, and other money due or to be due in the future to the county department under s. 46.215, 46.22, or 46.23 in the county where the order was entered or to the department, depending upon the placement of the child.

Section 227.11 (2) (a) (intro.), Stats., expressly confers rule-making authority on each agency to promulgate rules interpreting the provisions of any statute enforced or administered by the agency if the agency considers it necessary to effectuate the purpose of the statute.

4. Estimate of the amount of time that state employees will spend developing the rule and of other resources necessary to develop the rule:

Based on the DHS estimate of 2,080 hours for ch. DHS 1, DCF staff may spend up to 1,000 hours on the rule. DCF will benefit from work done by DHS to recreate ch. DHS 1.

5. List with description all entities that may be affected by the proposed rule:

The rule will affect county human and social service departments, subcontractors of county departments, the direct service operations of DCF, and subcontractors of DCF that provide children and family services, primarily child welfare services and community-based youth justice services. There are 72 county human or social service departments. The DCF direct service operations include the Division of Milwaukee Child Protective Services and the Public Adoptions Program.

The rule will affect clients of children and family service programs, including parents and guardians of children receiving services and adult family members receiving services as part of the family.

6. Summary and preliminary comparison with any existing or proposed federal regulation that is intended to address the activities to be regulated by the proposed rule:

No comparable federal regulation exists and none is anticipated.

7. Anticipated economic impact of implementing the rule:

None or minimal.

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