



WISCONSIN LEGISLATIVE COUNCIL RULES CLEARINGHOUSE

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CLEARINGHOUSE RULE 09-059

Comments

[NOTE: All citations to “Manual” in the comments below are to the Administrative Rules Procedures Manual, prepared by the Legislative Reference Bureau and the Legislative Council Staff, dated September 2008.]

2. Form, Style and Placement in Administrative Code

a. The citations to s. 49.138, Stats., in the “Explanation of agency authority” section on page 1, and in the “Payment amounts for types of need other than energy crisis” section on page 3, should be more specific. The citations should be to s. 49.138 (1m), Stats.

b. The heading “Summary of the rule” should be relabeled “Plain language analysis.” [s. 1.02 (2) (a), Manual.]

c. The headings in the “rule summary” should be reorganized to match the order of headings listed in s. 1.02 (2) (a), Manual. On page 1, “Related statutes or rules” should follow “Explanation of agency authority.” On page 5, “Summary of factual data and analytical methodologies” should follow “Comparison with rules in adjacent states” on page 6.

d. In s. DCF 120.05 (3) (intro.), the underscored material should be replaced by the phrase “and any of the following apply.” Also, because the first sentence of par. (a) does not grammatically lead into the following subunits, it should be numbered as subd. 1.; subds. 1. and 2. (intro.) then should be consolidated into subd. 1.; and subd. 3. should be renumbered as subd. 2.

e. The creation of s. DCF 120.05 (3) (c) and (d) is not explained in the rule summary. Also, the changes to s. DCF 120.08 (4) and (5) (intro) are not explained. Because the rule

summary appears to be an exhaustive list of the changes made to ch. DCF 120, these additions and changes should be explained.

f. The effective date should be included as a separate section following the text of the rule on page 12. [s. 1.02 (4), Manual.]

3. Conflict With or Duplication of Existing Rules

Under current s. DCF 120.05 (2) (e), if a member of a group is subject to domestic abuse, then the group is considered “homeless.” Proposed s. DCF 120.05 (3) (d) states that this group would also be considered as “impending homeless.” Is it necessary to include this group in both provisions? If so, this should be explained in the rule summary.

5. Clarity, Grammar, Punctuation and Use of Plain Language

a. On page 1, under the “Explanation of agency authority” section, the meaning of the sentence starting with “Needy person has the meaning...” is unclear. It appears that “needy person” is the defined term used in s. DCF 120.03 (6). If so, quotation marks should be placed around the phrase and the sentence should be rewritten to state: “The term ‘needy person’ has the meaning....”

b. The phrase “9 types for needs” in the first paragraph under “Financial eligibility” on page 2 is confusing. First, the use of the word “for” is improper. Also, what are “9 types?” Is this shorthand for the list of physical needs listed in s. DCF 120.06 (2)? If so, the department should consider rewriting this phrase to read “9 types of physical needs.” Because there is also a reference to “9 types” on page 4, the phrase “9 types of physical needs” should be repeated on page 4 as well.

c. Before using the abbreviations “SSI” and “SSI supplemental” in the first paragraph under “Financial eligibility” on page 2, the full phrase should be used. [s. 1.01 (8), Manual.] Also, these two terms appear to be inconsistent when referred to at the top of page 3. If the terms on pages 2 and 3 are inconsistent after the abbreviations are written in full, the department should update the terms on page 3.

d. The description of how the rule changes the payment amounts per family and per group member is confusing. A table could be provided that includes the equations used to calculate the maximum group or family amounts to illustrate what is being described. Also, the total group dollar amount listed for 7+ members (“\$110 for each additional member”) is incorrectly stated. It should be rewritten “\$770 plus \$110 for each additional member.”

e. Section DCF 120.07 (1) (b) limits what financial needs can be included from the list in current s. DCF 120.06 (2). This change should be stated in the “Financial needs” section on page 4. The department should also consider explaining why the financial needs are limited in the rule.

f. The first bulletpoint at the bottom of page 4 states that a group is eligible for energy crisis assistance if the group has “exhausted resources.” What does this phrase mean? Does it

mean that the group had to use up the Wisconsin Home Energy Assistance Program (WHEAP) money it was given or could the group simply have been denied WHEAP money? The meaning of this phrase should be clarified.

g. In s. DCF 120.05 (3) (b) 1., the word “they” should be replaced by the word “it.”

h. In s. DCF 120.05 (3) (c), it appears that the word “because” should be inserted after the word “housing.”

i. Section DCF 120.05 (4) (c) would be more clear if it were rewritten to read: “The lack of, or imminent lack of, essential utility service....”

j. Section DCF 120.06 should indicate its purpose. For example, an introductory clause could be inserted to read: “In order to be eligible for emergency assistance, all of the following conditions shall be met:”. Also, in sub. (1), the term “poverty line” should be defined, possibly by an appropriate cross-reference.

k. The phrase “essential utility service” in s. DCF 120.07 (2) (b) is vague. What does “essential” mean? Are all utility services essential, and if not, what is excluded? Also, who determines what is essential? The department should consider whether this word is necessary, and if so, should define what it means.