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## WISCONSIN LEGISLATIVE COUNCIL RULES CLEARINGHOUSE

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### CLEARINGHOUSE RULE 04-123

#### Comments

**[NOTE: All citations to “Manual” in the comments below are to the Administrative Rules Procedures Manual, prepared by the Revisor of Statutes Bureau and the Legislative Council Staff, dated October 2002.]**

#### **2. Form, Style and Placement in Administrative Code**

a. Section DWD 12.23 (8) appears to define the term “delinquent” for at least the purposes of that subsection and for sub. (9). The term should be defined in sub. (1).

b. In s. DWD 56.04 (5) (a), the introductory material does not grammatically lead into the following subdivisions. Consequently, the introductory material should be renumbered as subdivision 1. and the remaining subdivisions should be renumbered accordingly.

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

- a. In s. DWD 12.23 (1) (a) and (b), “ss.” should be replaced with “s.”
- b. In s. DWD 12.23 (5) (a) 3., a period and comma should be inserted after “Stats.”
- c. In s. DWD 12.23 (9) (a) 4., a period should be inserted after “subd. 2.”
- d. In s. DWD 12.23 (9) (a) 5., a period should be inserted after the first instance of “Stats.”
- e. In s. DWD 12.23 (10) (g) 3., a period should be inserted following “subd. 1.”

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

a. In the sixth paragraph of the summary of the rule, it appears that the word “be” in the second sentence should be replaced by the word “by.”

- b. In s. DWD 12.23 (1), the introduction should simply state, "In this section:".
- c. In s. DWD 12.23 (1), several of the definitions for nouns define a verb. Paragraphs (a), (b), (e) and (f) should be reviewed for use of consistent terminology.
- d. In s. DWD 12.23 (1) (c), "notice of" should be inserted before "the right of appeal."
- e. In s. DWD 12.23 (2) (b), "that" should be inserted before "it was not returned as undeliverable."
- f. In s. DWD 12.23 (3) (b), it appears that "recovery" in the first sentence should be deleted.
- g. In s. DWD 12.23 (4) (a), it appears that the intent of this provision is that more than one method of collection may be used at the same time. This should be clarified. The comment also applies to sub. (8).
- h. In s. DWD 12.23 (5) (b) (intro.), is the intent to withhold the listed amounts from each benefit payment?
- i. Section DWD 12.23 (5) (a) 1. and 3. and (6) make use of the term "liable person." Subsection (5) (a) 2. also makes use of the term "W-2 participant." It appears in all of these instances that the defined term "debtor" should be used. The entire rule should be reviewed for the consistent use of this term.
- j. In s. DWD 12.23 (6), "The value of the benefit liable for recovery under this subsection may not exceed" should be replaced with "The W-2 agency may not recover more than...under this subsection." Also, "with respect to" should be replaced with "for" or "to."
- k. In s. DWD 12.23 (9) (a) 2., "mentioned" should be replaced with "named."
- l. In s. DWD 12.23 (9) (a) 5., in the last sentence, "shall" should be replaced with "may."
- m. In s. DWD 12.23 (9) (b) 2. and 3., it is not clear how opportunities for hearings may be afforded once the sheriff is commanded to execute the warrant. Also in subd. 2., in the last sentence, "shall" should be replaced with "may."
- n. In s. DWD 12.23 (10) (f) 1. b., it is unclear what the "pay period" is. In s. 49.195 (3n) (q) 1. b., Stats., calculation of earnings for a period other than a week is addressed. This language should be included in the rule as well.
- o. In s. DWD 12.23 (10) (g) 1., "in respect to" should be replaced with "for."
- p. In s. DWD 56.04 (5) (e), it appears that "per" should be replaced with "of each."