



WISCONSIN LEGISLATIVE COUNCIL RULES CLEARINGHOUSE

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CLEARINGHOUSE RULE 17-006

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 December 2014.]

1. Statutory Authority

a. In s. DHS 78.05 (1), the proposed rule adds a “medical professional” to the list of individuals qualified to certify an applicant as deaf, deafblind, or severely hard of hearing. However, s. 46.297 (2) (a), Stats., does not include a “medical professional” as an individual qualified to certify a person as deaf or hard of hearing. Furthermore, the term “medical professional” is not defined in the proposed rule.

b. In s. DHS 78.05 (3) (a), the proposed rule revises the income eligibility provision to consider the individual’s “household” rather than “family” income, without any familial relationship. However, s. 46.297 (2) (b), Stats., authorizes only the consideration of “family” income. The agency could instead consider creating a definition for the word “family”, to include, for example, a spouse, domestic partner under ch. 770, Stats., parent, child, or sibling, who resides with the individual.

2. Form, Style and Placement in Administrative Code

a. The “Statutes interpreted” section of the rule summary should cite s. 46.297, Stats. That section as a whole is administered by the agency. [s. 1.02 (2m) (b), Manual.]

b. In the “Statutory authority” section of the rule summary, the citation to s. 46.297, Stats., should more precisely cite to sub. (4) (a) of that section. A reference to “; Stats.” should also be added to the end of that citation. Lastly, the citation to s. 227.11 (2) (a), Stats., should be removed,

as s. 46.297 (4) (a), Stats., provides specific authority to promulgate the rule. [s. 1.02 (2m) (a), Manual.]

c. The “Explanation of agency authority” section of the rule summary should be revised to provide a plain language explanation of agency authority to promulgate the proposed rule, rather than reciting the statutes. [s. 227.14 (2) (a) 1., Stats.]

d. In the “Related statutes or rules” section of the rule summary, it appears that citations to the telecommunications equipment purchase program (TEPP) under s. 196.218, Stats., and s. PSC 160.071 (1m), Wis. Adm. Code., should be added. Should citations to chs. DHS 77 and 143 also be added?

e. The proposed amendment of s. DHS 78.03 (4) incorrectly underlines “public service commission” as new material even though that material appears to be unchanged by the proposed rule.

f. In s. DHS 78.03 (8), the insertion of the phrase “of Wisconsin” could be removed, as the term “public service commission” is defined in s. DHS 78.03 (4).

g. In SECTION 2 of the proposed rule, the newly created section should be designated as s. DHS 78.03 (2m), in order to place the defined term in alphabetical order within the section. [ss. 1.01 (7) (a) and 1.03 (5) (b), Manual.] Also, because this subsection’s numbering interrupts the subsections treated in SECTION 1 of the proposed rule, and creates rather than amends that intervening subsection, SECTION 1 of the proposed rule should be divided into two SECTIONS: SECTION 1 should amend s. DHS 78.03 (1), and SECTION 3 should amend the remaining subsections. The subsequent SECTIONS should be renumbered accordingly. [s. 1.04 (2) (a) 4. and (b), Manual.]

h. In s. DHS 78.04 (1) (a), consider further amending the provision to conform the punctuation at the end of the paragraph to the proper style. All subunits of a rule should end with a period, rather than a semicolon and the word “and”. If needed, alter the introductory material in sub. (1) to specify that “all of” the following materials must be submitted. [s. 1.03 (3) and (4), Manual.]

i. In s. DHS 78.04 (1) (b) (Note), consider repealing and recreating the provision, as the provision is removed and replaced in its entirety. [ss. 1.06 (1) (b) and 1.065, Manual.] If the treatment is revised, it should be treated separately from the other provisions in that SECTION of the proposed rule, and the SECTION should be divided into multiple SECTIONS for the separate, intervening, treatments. [Compare, for example, comment 2. g., above.]

j. In s. DHS 78.04 (2) (c), revise the treatment to repeal, rather than amend, the provision as it is removed in its entirety. [s. 1.06 (1) (b), Manual.] The provision should be treated separately from the other provisions in that SECTION of the proposed rule. [Compare, for example, comment 2. g., above.]

k. Sections DHS 78.04 (2) (f) and 78.07 (1) both use the term “approved telecommunication devices”. Consider defining that term or adding a Note to specify how an individual may determine what devices are approved.

1. The treatment clause for the proposed rule should be updated to reflect any revisions made in accordance with these comments.

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

In s. DHS 78.07 (1), the phrase “department approved” should be hyphenated.