

ORDER OF THE DEPARTMENT OF ADMINISTRATION

The Wisconsin Department of Administration adopts an order to amend Adm 45.01, 45.02, 45.03(2), (3), (6) and (9), 45.04(1) and (2) and (2)(b), 45.05, and 45.06(1) relating to Low Income Assistance Public Benefits.

Analysis Prepared by the Department of Administration:

Statutory Authority: ss. 16.004(1), 16.957(2)(c), and s. 227.11 Stats.

Statutes Interpreted: s. 16.957(1) to (4), Stats.

Explanation of agency authority: Under s. 16.957(2)(c), Stats., the Department of Administration is required to promulgate rules for state low-income assistance programs.

Related statute or rule: None

Plain language analysis of proposed amendments: 1999 Wisconsin Act 9 included major provisions relating to aspects of electric utility regulation, commonly referred to as “Reliability 2000.” That legislation created a new statutory framework within which public benefit programs relating to low-income energy assistance and energy conservation and renewable energy were continued and expanded. 2005 Wisconsin Act 141 revised many of the provisions of the earlier Act 9 and transferred responsibility and funding for energy conservation and renewable programs to non-municipal electric utilities under supervision of the Public Service Commission. However, low income assistance programs for non-municipal electric utility customers were not changed and continue to be funded as they have been and remain the responsibility of the Department of Administration. The rule revisions remove “public benefits” terminology to clarify that the rule applies only to the low-income assistance program in compliance with 2005 Wisconsin Act 141

The amendments also change the term “secured correctional facility” to “juvenile correctional facility” as amended in 2005 Wisconsin Act 344 (s. 938.02(10p), Stats.).

Lastly, the amendment removes the requirement that the department consult with the Council on Utility Public Benefits prior to announcing new or continued low-income assistance programs. This requirement is redundant to that already stated in s. 16.957(2) intro., Stats.

Summary of, and comparison with, existing or proposed federal regulations: No known existing or proposed federal regulations comparable to the rules.

Comparison with rules in adjacent states: Each of the four states adjacent to Wisconsin operates programs that provide assistance to low-income households that face difficulty dealing with utility bills. In general, these programs implement federally mandated and funded programs. While the programs differ substantially between states in the details of their structure, each has promulgated rules governing the programs.

- Title 89 of the Illinois Administrative Code, Chapter 1, Subchapter b, Part 109 addresses the low-income home energy assistance program. Included in this rule

are subparts B & C which govern the energy assistance or bill payment program and the weatherization program respectively.

- Michigan Administrative Rule 400.7001 – 7049 governs the “State Emergency Relief Program” which includes provisions for assistance with utility charges.
- Iowa Administrative Code [427], Chapter 5 establishes the eligibility, method of administration, and hearing and appeals provision of the Weatherization Assistance Program. IAC [427] Chapter 10 establishes similar provisions for the Low Income Energy Assistance Program. Additionally, Iowa has created the Affordable Heating Program under IAC 427 Chapter 11 to provide energy assistance in addition to the federal low income energy assistance program for households whose incomes falls below 110% of the federal poverty income guidelines rather than the 150% limit for the Low Income Assistance Program.
- Minnesota Rule 3300.0800 – 3300.1900 establishes the procedures for operation of the Minnesota weatherization program.

Summary of factual data and analytical methodologies: The department relied on the following sources to draft the rules or to determine the impact on small businesses:

- 2005 Wisconsin Act 141 transferred the energy assistance and renewable energy responsibilities to the Public Service Commission. The rule amendments remove references to the “public benefits” programs to comply with 2005 Wisconsin Act 141. There are no new reporting requirements or operational standards resulting from the proposed rule amendments.

Analysis and supporting documents used to determine effect on small business or in preparation of economic impact report: The rules will have no effect on small businesses. The rule amendments revise terminology to comply with recent statutory changes.

Effect on small business: None.

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Place where comments are to be submitted and deadline for submission:

Comments may be submitted to the agency contact person that is listed above and via the Wisconsin Administrative Rules Website at <http://adminrules.wisconsin.gov> by January 15, 2008.

Final Regulatory Flexibility Analysis:

Pursuant to s. 227.114, Stats., the rule amendments herein are not expected to negatively impact on small businesses.

Fiscal Effect: None.

TEXT OF RULE:

Section 1. Adm 45 (title), 45.01 and 45.02 are amended to read:

Low-Income Assistance ~~Public Benefits~~

Adm 45.01 Authority. Sections 16.004 (1) and 16.957 (2) (c) 2., Stats., authorize the department to promulgate rules for low-income assistance ~~public benefits~~ programs.

Adm 45.02 Purpose. The purpose of this chapter is to establish general eligibility and application requirements and procedures for assistance under a low-income ~~public benefits~~ assistance program established under s. 16.957 (2) (a), Stats.

Section 2. Adm 45.03(2) and (3) are amended to read:

45.03 (2) “Benefit” means an award of financial or other assistance by the department or a contractor designated by the department to an eligible household under a ~~public benefits~~ low-income assistance program.

45.03 (3) “Contractor” means a community action agency described in s. 46.30 (2) (a) 1., Stats., a nonstock, nonprofit corporation organized under ch. 181, Stats., or a local unit of government under contract with the department that provides services under a ~~public benefits~~ low-income assistance program.

Section 3. Adm 45.03(6) is amended to read:

45.03 (6) “Low income ~~public benefits~~ assistance program” means a program established in accordance with s. 16.957 (2) (a), Stats.

Section 4. Adm 45.03(9) is amended to read:

45.03 (9) “~~Secured Juvenile~~ secure juvenile correctional facility” has the meaning specified in s. 938.02(15m) (10p), Stats.

Section 5. Adm 45.04(1) and (2) are amended to read:

Adm 45.04 Eligibility requirements. (1) A person or household eligible to receive fuel bill payment assistance, early identification crisis assistance, weatherization or conservation services, and similar low-income assistance from federally funded programs specified in ss. 16.26 and 16.27, Stats., shall be eligible for assistance through a low-income ~~public benefits~~ assistance program.

45.04 (2) The following are not eligible for assistance under a low-income ~~public benefits~~ assistance program:

Section 6. Adm 45.04(2)(b) is amended to read:

45.04 (2) (b) A person who is imprisoned in a state prison or a person placed at a ~~secure juvenile~~ secure juvenile correctional facility or a secured child caring institution.

Section 7. Adm 45.05 and 45.06(1) are amended to read:

Adm 45.05 Program elements. ~~In consultation with the council on utility public benefits, the~~ The department shall annually announce new or continued programs offered by the department that will provide low-income assistance. The department shall also provide specific information on the application process, where to obtain an application, the eligibility criteria, and where to file the application for each program created or continued under s. 16.957 (2) (a), Stats.

Adm 45.06 Application requirements. (1) A person or household may apply for a benefit from a low-income ~~public benefits~~ assistance program by completing an application on forms prescribed by the department. At a minimum an application shall contain the names and ages of all household members, residence address, actual or estimated fuel use, documentation of income, the names of home energy providers and the social security number of the head-of-household.

END OF RULE TEXT

Effective Date: This rule shall take effect on the first day of the month following publication in the Wisconsin Administrative Register as provided in s. 227.22(2)(intro.), Stats.

Dated: June 25, 2008

Michael L. Morgan
Secretary of Administration