

ords in the office of the register of deeds for any other purpose is hereby prohibited in accordance with the terms of section 49.53, Wis. Stats.

(d) The use or disclosure of information for war related purposes, which concerns applicants and recipients of aid to dependent children, old age assistance, aid to the blind and aid to the disabled, shall be deemed to permit providing pertinent information in accordance with the following provisions:

1. The provision shall be limited to the duration of the war;

2. Assurance shall be available that the information is being released only to duly authorized representatives of an established governmental authority having specific responsibility for making administrative determinations or recommendations with respect to: (a) the loyalty or fitness of persons who may be utilized in the military or naval forces or in essential war activities, or (b) persons who may be suspected of engaging in activities inimical to the prosecution of the war;

3. Such information as is furnished shall be specifically related to the purposes outlined above. Proper assurance that the use of the information shall be limited to the purpose for which it is made available shall be obtained;

4. Case record material which contains personal information that has no direct bearing on the purpose for which the information is sought shall not be made available but an agency representative may present the pertinent factual information known to the agency and make proper interpretation of the total agency record with specific relation to the question at issue, including consideration as to whether the information available is sufficiently current to be relevant.

(4) RESPONSIBILITY FOR USE OF INFORMATION. In the event that information is supplied from the case records or any other source, the person or agency so informed will be held responsible for the proper use of such information.

(5) SUBPOENAS. Subpoenas *duces tecum* for the production of agency records containing information concerning applicants and recipients of aid to dependent children, aid to the blind, aid to the disabled, or old age assistance shall be obeyed except that objection shall be raised that section 49.53, Wis. Stats., prohibits the production of such case records for any purpose not connected with the administration of such aids, pensions or assistance.

(6) HEARINGS. Hearings under section 49.50 (8), Wis. Stats., shall be public or private in the election of the applicant or recipient.

(7) PUBLIC NOTICE. A printed notice containing the pertinent laws and rules relating to the misuse of the index of old age assistance liens shall be posted in plain view in the offices of the register of deeds.

PUBLIC NOTICE

Persons using the index to old age assistance liens or other records relating to old age assistance are hereby notified of the legal restrictions relating to the proper use of such information.

Federal Social Security Act, Title I, Sec. 2 (a): A state plan for old age assistance must be effective July 1, 1941, provide safeguards

which restrict the use or disclosure of information concerning applicants and recipients to purposes directly connected with the administration of old age assistance.

Section 49.53, Wisconsin Statutes: Limitation on giving information; department rules. The use or disclosure of information concerning applicants and recipients for any purpose not connected with the administration of aid to dependent children, blind aid and old age assistance is prohibited. The department shall in conformity with the federal social security act and rules or regulations made pursuant thereto adopt rules and regulations restricting the use and disclosure of information concerning such applicants and recipients to become effective upon publication in the official state paper, and copies thereof shall be filed with the secretary of state and county clerks. Any person violating this section or any rule or regulation promulgated hereunder shall be punished by a fine of not less than twenty-five dollars nor more than five hundred dollars, or by imprisonment not less than ten days nor more than one year, or by both such fine and imprisonment.

PW-PA 20.17 (4) Responsibility for use. In the event that information is supplied from the case records or *any other source*, the person or agency so informed will be held responsible for the proper use of such information.

PW-PA 20.17 (3) (c) paragraph "c". The use or disclosure of information secured from old age assistance liens filed in the office of the county register of deeds in connection with a proper search of title is deemed to be for a purpose directly connected with the administration of old age assistance within the meaning of section 49.53, Wis. Stats. The use or disclosure of any information secured in the course of any search of such records in the office of the register of deeds for any other purpose is hereby prohibited in accordance with the terms of section 49.53, Wis. Stats.

STATE DEPARTMENT OF PUBLIC WELFARE
WILBUR J. SCHMIDT, *Director*

History: 1-2-56; am. (7), Public Notice, Register, April, 1967, No. 136, eff. 5-1-67.

PW-PA 20.18 Fair hearings. (1) **LEGAL BASIS.** This rule is adopted pursuant to sections 46.03 (8) and 49.50 (8) and (9), Wis. Stats., and to conform with the requirements of titles I, IV, X, XIV and XIX of the U. S. social security act relating to complaints, hearings, and reviews of public assistance, medical assistance and food stamp claims.

(2) **DEFINITIONS.** (a) A claimant is defined as a person seeking an opportunity to file an application, a person who has filed an application and is awaiting the agency's decision, a person whose application has been approved, a person receiving assistance or whose assistance payment has been suspended, or a person still considering himself entitled to assistance although he has been denied assistance or his payment has been discontinued, or has been denied or excluded from a service program.

(b) A hearing is defined as an orderly, readily available proceeding before an impartial employee of the state agency, in which a

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dissatisfied claimant or his representative may present his case with the help of witnesses to show why action or inaction in his case should be corrected by the state agency; it is not an adversary proceeding, but rather a continuation of the administrative process in which the claimant invokes the responsibility of the state agency through a quasi-judicial hearing in the particular case.

(c) A request for a hearing is defined as any clear expression on the part of the claimant to the effect that he wishes to go beyond the usual procedure for adjusting complaints with the county agency, and that he wants an opportunity to present his case to the division of family services. The specific wording of such a request is immaterial.

(d) The date of the request for hearing is defined as the date on which the request is received.

(3) PURPOSES. The major purposes of hearings are:

(a) To provide an opportunity for a dissatisfied claimant to assert his claim to public assistance, medical assistance, food stamps or services related to any of such programs and secure, in an administrative proceeding, equity of treatment in his case in relation to the assistance law and program.

(b) To enable the county and claimants, jointly, to ascertain the factual basis on which, through proper application of the assistance law and agency policy, a just decision may be reached.

(c) To contribute to uniformity in the application of the assistance law and policy by assuring that every claimant is fully informed of his rights, that hearings on any grievance are readily available, and that instances of inequitable treatment are speedily remedied by prompt execution of hearing decisions.

(d) To safeguard claimants from mistaken, negligent, unreasonable or arbitrary action. The hearing process is not a substitute for proper and efficient administration and is not designed to produce any result that could not have been produced through regular administrative processes.

(e) To reveal aspects of county agency policy that constitute a misconstruction of law, state rules or policy.

(f) To provide a method whereby evidence may be obtained for referral to proper state policy-making authority, which evidence may show the need for modification of a state policy or policies.

(4) REQUIREMENTS. (a) Every claimant at the time of his application, and when other administrative decisions are made shall be informed in writing of his right to a fair hearing if his application is not acted upon with reasonable promptness, or if he is not satisfied with the action taken, and the method by which he may obtain a hearing.

(b) Every claimant may obtain a hearing before the division of family services in relation to an application not acted upon with reasonable promptness or if he is dissatisfied with the action taken.

(c) The request for a hearing must be timely. No review will be provided in any case where the decision or inaction to be reviewed arose more than 60 days prior to the request for a hearing.

(5) REQUEST FOR HEARING. A complaint may be initiated orally in person, by letter or by form and if not adjusted by the county

agency to the satisfaction of the claimant a request for hearing will be completed and a hearing will be scheduled. Requests for hearing shall usually be on the simple form supplied by the state agency, but no written request shall be rejected for lack of formality. An oral request for a hearing made in person will be accepted, but shall be reduced to writing and signed by the claimant before the hearing will be scheduled. No request shall be dismissed without hearing unless the claimant shall remove from the jurisdiction, die, withdraw his request in writing, or abandon the proceedings. The proceedings may be considered abandoned if neither the claimant nor his representative appears at the time and place set for hearing, and if, within a reasonable time after the mailing of an inquiry as to whether he wishes any further action taken on his request for a hearing, no reply is received by the state agency.

(6) **FAIR HEARING.** (a) Hearings shall be held at a time convenient to the claimant and agency staff easily accessible to the claimant and, whenever possible, on the premises of the county department of social services, subject to the judgment of the hearing officer. Adequate preliminary notice shall be given to the claimant and his representative, if any, including information about the procedure at the hearing.

(b) The hearing shall be conducted by a hearing officer, duly appointed and qualified under the state civil service laws, who has not taken any part in the particular action under consideration.

(c) The claimant shall have the opportunity to examine all documents and records used at the hearing; have the option to present his case, or be represented; have the opportunity to bring witnesses, to establish all pertinent facts and circumstances, to advance any arguments without undue interference, and to question or refute any testimony or evidence.

(d) The claimant may question interpretation of the law, and the reasonableness and equity of policies practiced under the law, if he is aggrieved by their application to his situation.

(e) The hearing is subject to the requirements of due process, but is an informal administrative procedure.

(7) **DECISIONS.** (a) The transcript of testimony and the exhibits, papers and requests filed in the proceeding constitute the exclusive record for decision and are available to the claimant at any reasonable time after the decision upon request.

(b) The decision on the hearing shall be in writing in the name of the division of family services by the secretary of the department or his designee.

(c) The decision shall set forth the issue or issues, citation of law or precedents, the reasoning that led to the decision, the principal and relevant facts elicited at the hearing, and the action taken. These factors shall be grouped under appropriate headings such as preliminary recitals, findings of fact, conclusions of law and order. A certified copy of the decision shall be mailed to the claimant (and his attorney if any) and the county agency charged with the administration of the services, aid or assistance involved.

(d) If the decision is mandatory upon the county treasurer, a certified copy of the decision shall be mailed to him and to the county clerk. It shall be the duty of the state agency to ascertain from sub-

sequent payrolls and otherwise that there has been compliance with the order.

(8) **ALLOCATION OF RESPONSIBILITY.** The functions relating to fair hearings are allocated to the division of family services. All final decisions, except cases wherein the request for review has been abandoned, shall be based upon hearings conducted by the hearing officer duly appointed pursuant to state civil service laws and responsible to the division, provided that if emergency needs so require the division administrator or any other employee duly designated by him may serve as a hearing officer. Such decisions shall be binding upon the state and county agencies involved and shall be enforced by appropriate legal and fiscal sanctions.

History: 1-2-56; am. (1), Register, April, 1967, No. 136, eff. 5-1-67; r. and rec., Register, July, 1969, No. 163, eff. 8-1-69.

PW-PA 20.19 Relief claims proceedings. (1) **PRACTICE.** Proceedings under this rule shall be considered administrative in character. The rules of practice at hearings will conform generally to the rules of practice before courts of equity. The aim is to secure the facts in as direct and simple a manner as possible.

(2) **PLEADINGS.** (a) Complaints and answers need not be verified.

(b) The proceedings shall be deemed to be at issue when an answer or demurrer is filed or when the time for answering or otherwise pleading to the complaint has expired.

(c) The answers to the complaints shall specifically and particularly set forth in writing a statement of the reasons upon which defendant relies to defeat the proceeding. For this purpose, evidentiary facts may be pleaded. A general denial shall be deemed to be no pleading. Failure to deny an allegation of the complaint shall be deemed to be an admission thereof.

(d) Amendment may be made to any pleading upon application and cause shown. The department may, on its own motion, modify or change its order and findings at any time within 20 days from the date thereof, if it shall discover a mistake therein.

(e) Except upon order of a court, proceedings in which an order has been rendered shall be reopened for reception of further evidence or for further consideration only upon written consent of all parties to the proceedings or in accordance with section 270.50, Wis. Stats. Motions under section 270.50, Wis. Stats., shall not be received after 20 days of the date of the order.

(3) **PROOF OF CLAIM.** (a) The dates when and the amount of relief claimed to have been given to the recipient may be established prima facie by affidavit of the relief official who ordered the relief given or by affidavit of the clerk of the county or municipality which paid for and granted the relief. Such affidavit shall show the expenditures by months, listing separately for each month the total monthly expenditures for food, clothing, fuel, utilities, housing, medicine, medical and surgical treatment, hospital care, hospitalization, nursing, transportation, water, household equipment, other commodities or services, cash, or funeral expenses.

(b) If relief is given only intermittently, the particular dates of the intermittent relief grants shall be stated. In order to show the date of the first and last grant of aid in a continuous series where

relief is given continuously over several months, the charge for the month shall run from the date of the first order to the end of the month and the charge for the last month in the series shall run from the first of the last month to the date of the last order in that month.

(c) The opposing party shall have the right to call adversely as a witness the person who made such affidavit or any other person who would otherwise have knowledge of the facts therein stated.