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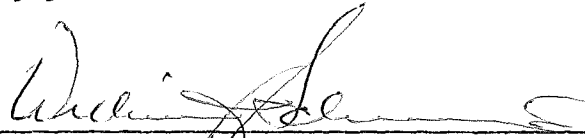
PW - PA 20.18

STATE OF WISCONSIN )  
DEPARTMENT OF HEALTH AND SOCIAL SERVICES ) SS.

I, Wilbur J. Schmidt, Secretary of the State Department of Health and Social Services, and custodian of the official records of said Department, do hereby certify that Rule PW-PA 20.18 was duly repealed and recreated by the State Board of Health and Social Services on June 11, 1969 as shown by the copy annexed hereto.

I further certify that said copy has been compared by me with the original on file in this Department and that the same is a true copy thereof, and of the whole of such original.

IN TESTIMONY WHEREOF, I have hereunto set my hand at the State Office Building in the City of Madison, this 13 day of June, A.D. 1969.



Secretary, State Department of Health & Social Services

ORDER OF THE STATE DEPARTMENT OF HEALTH  
AND SOCIAL SERVICES REPEALING AND  
RECREATING RULE PW-PA 20.18

Pursuant to authority vested in the State Department of Health and Social Services by section 46.014 (3) and 49.50 (2), Wis. Stats., the State Department of Health and Social Services hereby repeals and recreates Rule PW-PA 20.18. (The rule as repealed and recreated is shown by the attached.)

Rule PW-PA 20.18 as repealed and recreated herein shall take effect on August 1, 1969 pursuant to the authority granted by section 227.026 (1) (b), Stats.:

Dated: June 13, 1969

State Department of Health and Social Services

  
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Wilbur J. Schmidt, Secretary

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 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 a 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 sixty 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 subsequent 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.