

Chapter PW-PA 20

PUBLIC ASSISTANCE

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PW-PA 20.02 Inmate of public institution. (1) **PURPOSE.** The purpose of this rule is to define the term "public institution" in relation to eligibility for aid payable under sections 49.18, 49.20 to 49.37 and 49.61, Wis. Stats., and to specify under what conditions federal and state reimbursement will be allowed for such aid granted to persons being cared for in public institutions. Subsections (3) and (4) shall not apply to state reimbursement for old-age assistance paid to residents of public institutions who are not prevented from receiving assistance by section 49.20 (2), Wis. Stats.

(2) **DEFINITION OF PUBLIC INSTITUTION.** The term "public institution" means an institution that provides shelter, custody, treatment, or care and that is operated by a governmental unit or over which a governmental unit exercises administrative control.

(3) **DETERMINATION OF PUBLIC OR PRIVATE NATURE OF INSTITUTION.** In all instances in which (a) any public funds are appropriated for financing the operation of an institution or in which (b) a public institution is leased to a private individual, approval shall be secured of the department before assistance under sections 49.18, 49.20 to 49.37 and 49.61, Wis. Stats., may be paid. In making the determination, consideration shall be given to whether there is public control of any aspect of the administration as a result of public financial support; through selection or appointment of the governing body; through selection, appointment, or payment of staff; through participation in establishing admission policies or fees; through control of decisions on applications or control of financial arrangements with persons accepted; through control of any aspect of operation through standards that differ from those covering institutions entirely privately owned and operated. The method by which the foregoing criteria are applied shall be prescribed by the department.

(4) **PUBLIC MEDICAL INSTITUTIONS.** For the purpose of obtaining federal reimbursement for aid payable under sections 49.18 and 49.61,

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 Wis. Stats., to patients in public medical institutions, the term "medical institution" means an institution (other than an institution for tuberculosis or mental diseases) and for aid payable under sections 49.20 to 49.37 the term "medical institution" means an institution (other than an institution for tuberculosis) that meets the criteria promulgated by the state board of public welfare on the advice of the joint committee on standards, known as STANDARDS FOR MAINTENANCE AND OPERATION OF COUNTY HOMES, INFIRMARIES, GENERAL HOSPITALS AND PUBLIC MEDICAL INSTITUTIONS, Ch. PW 1.

(a) The method by which the foregoing criteria are applied shall be prescribed by the department. The state of Wisconsin general hospital and the Milwaukee county general hospital and the Wisconsin orthopedic hospital for children are by the nature of their operation hereby determined to be medical institutions in accordance with the foregoing criteria.

History: 1-2-56; am. Register, January, 1967, No. 133, eff. 2-1-67.

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 PW-PA 20.03 Need determination. (1) PURPOSE. This rule is adopted to effectuate on a state-wide basis, the determination of need for public assistance of applicants for and recipients of old age assistance, aid to the blind, aid to dependent children, and aid to totally and permanently disabled persons in order to insure in so far as possible equitable treatment of persons in need throughout the state.

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 (2) DETERMINATION OF ELIGIBILITY AND AMOUNT OF PAYMENT. Eligibility for aid and the amount to be paid as old age assistance, aid to the blind, aid to dependent children, and aid to totally and permanently disabled persons shall be determined by the county agency in accordance with standards prescribed by the division of public assistance of the state department of public welfare. The division shall define need standards within the statutory requirements which shall include published instructions to the county operating agencies regarding the items of need to be included and how the cost of these items is to be determined, the method of considering resources, and general principles of budgeting to be applied to the individual circumstances. In effect, the division shall define need within the statutory provisions as set forth in sections 49.21 (1), 49.18 (1), 49.19 (5), and 49.61 (6), Wis. Stats.

(3) EFFECTIVE DATE. This rule shall be effective November 15, 1950, for purposes of determining eligibility and the amount of assistance in the program for aid to totally and permanently disabled persons, and as of a date to be specified by the division of public assistance in the other social security aid programs.

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 PW-PA 20.05 Responsibility of relative to support. When a relative enumerated in section 52.01, Wis. Stats., is not assisting an applicant for aid to the blind, aid to dependent children, old-age assistance or aid to the disabled and refuses to assist and when there is reasonable doubt as to liability or ability of such relative to assist, no application for aid to the blind under section 49.18, Wis. Stats., nor aid to dependent children under section 49.19, Wis. Stats., nor old-age assistance under sections 49.20 through 49.37, Wis. Stats., nor aid to the disabled under section 49.61, Wis. Stats., shall be denied by the

county agency until such agency shall have secured an order from a court of competent jurisdiction under section 52.01, Wis. Stats.; provided also that it is deemed to be the responsibility of the county agency in such case to petition under section 52.01, Wis. Stats.

History: 1-2-56; am. Register, April, 1967, No. 136, eff. 5-1-67.

PW-PA 20.06 Relatives eligible for aid to dependent children. Section 49.19 (1) (a), Wis. Stats., and Title IV, section 406 (a), Federal Social Security Act are construed to permit payments of public assistance grants in behalf of dependent children who are living with a person included in one of the following groups: (1) Any blood relative, including those of half-blood, except cousins, nephews, or nieces.

Note: Relationships to persons of preceding generations as denoted by prefixes of grand, great, or great-great are within this definition.

(2) Stepfather, stepmother, stepbrother, and stepsister.

(3) Persons who legally adopt a child or his parent as well as the natural and other legally adopted children of such persons.

Note: Other relatives of persons who adopt children are relatives of such adopted children within this definition.

(4) Spouses of any persons named in the above groups.

Note: Such relatives may be considered within the scope of this provision though the marriage is terminated by death or divorce.

PW-PA 20.07 Incapacitation for gainful work; dependent children.

(1) **PURPOSE.** This rule is adopted to promote the rehabilitation of dependent persons in keeping with the legislative intent expressed in section 49.02 (6), Wis. Stats., to determine the eligibility of applicants for aid to dependent children as required under sections 49.19 (1), (2), (3) and (4), Wis. Stats., to determine the amount of aid needed (including necessary medical aid for the incapacitated parent) as directed under sections 49.19 (5) and 49.46, Wis. Stats., and further to carry out the department's responsibilities as expressly stated or implied under sections 46.206 and 49.50 (2) and (6), Wis. Stats.

(2) **DETERMINATION OF ELIGIBILITY.** The decision as to eligibility because of the incapacitation of a parent shall be made by the county agency. Such decision shall be based upon (a) a physician's opinion as to whether or not there is physical or mental disability and (b) a consideration of relevant social and employability factors.

(3) **EXAMINATION AND REPORT.** With respect to any application for aid to dependent children in which incapacitation of a parent is claimed as the basis for eligibility, such parent shall be examined by a licensed physician and he shall report his findings in writing on a form prescribed by the department for this purpose. For purposes of reimbursement under section 49.52, Wis. Stats., fees paid physicians for examinations made under this rule may be reported as expenditures incurred in administration. A physician's report shall be obtained and the decision of the county administrator recorded on the prescribed form before aid may be granted. A completed copy of the report shall be sent to the department for all examinations made. Reexamination for purposes of determining continuing eligibility

shall be made as often as indicated by the physician's report or by observation of the person's physical condition, but at least once in any twelve-month period.

(4) EXCEPTIONS. (a) A medical examination is not required if the incapacitated parent has been found eligible for aid to the blind or for aid to totally and permanently disabled persons.

(b) A medical reexamination for purposes of determining continuing eligibility may not be required in the discretion of the county agency if the examining physician indicates in his report that the disability is permanent and that the incapacitated parent will never be employable.

(c) If the incapacitated parent is receiving care at a mental, tuberculosis, or veteran's hospital, a reexamination is not required during the time he is receiving such care.

History: 1-2-56; am. Register, April, 1967, No. 136, eff. 5-1-67.

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PW-PA 20.09 Determination of blindness for aid. (1) **PURPOSE.** This rule is adopted to promote the rehabilitation of dependent persons in keeping with the legislative intent expressed in section 49.02 (6), Wis. Stats., to determine the eligibility of applicants for aid to the blind as required under section 49.18 (4), Wis. Stats., to determine need for medical care that may be provided under section 49.46, Wis. Stats., and further to carry out the department's responsibilities as expressly stated or implied under sections 49.50 (2) and (6), Wis. Stats.

(2) **DEFINITION OF BLINDNESS.** For purposes of aid to the blind, a person shall be considered as blind if the vision in the better eye when corrected with the best possible glasses is recorded as 20/200 or less, or there is an equally disabling loss of the visual field.

(3) **EXAMINATION AND REPORT.** Each applicant for aid to the blind shall be given an eye examination by a physician skilled in eye diseases selected by the county agency, or by an optometrist at the option of the applicant. The examiner shall report his findings in writing on a form prescribed by the department for this purpose. A completed copy of the report shall be sent to the department for all examinations made. For purposes of reimbursement under section 49.52, Wis. Stats., fees paid examiners for examinations under this rule may be reported as expenditures incurred in administration.

(4) **REEXAMINATION.** Examination for purposes of determining continuing eligibility shall be made at least once in any continuous two-year period or within the time specified by the department. A completed copy of the examiner's report shall be sent to the department for all reexaminations made. Reexamination need not be made if the department finds that there is complete loss of vision in both eyes or that there is no possibility of restoration of sight.

(5) **DETERMINATION OF ELIGIBILITY.** The decision as to eligibility because of blindness shall be made by the department, which shall establish methods of determining visual efficiency. Such decision shall be based upon the recommendation of a consulting ophthalmologist employed by the department who shall review the examiner's report. The department shall promptly notify the county agency of its decision. Aid to the blind shall not be granted until the division of public assistance has notified the county agency that the applicant's loss of

vision is sufficient to qualify him for aid; provided that when a re-examination is made to determine continued eligibility such aid may be continued until the division of public assistance notifies the county agency with respect to any case that such eligibility no longer continues.

History: 1-2-56; am. (1) and (2), Register, March, 1963, No. 87, eff. 4-1-63; am. Register, April, 1967, No. 136, eff. 5-1-67.

PW-PA 20.10 Payment of aid to the disabled. All payments of aid to the disabled shall be made under the following conditions:

(1) **APPROVAL OF CERTIFICATE OF DISABILITY.** Before aid may be granted the report of the examining physician must be submitted by the county agency to the state department of public welfare for review by the department and its physician consultant and the county agency notified of approval by the division of public assistance. Aid to totally and permanently disabled persons shall not be granted until such division has notified the county agency of such approval; provided that when a reexamination is made to determine continued eligibility such aid may be continued until the division of public assistance notifies the county agency with respect to any case that such eligibility no longer continues.

(2) **LIMITATIONS.** (b) Aid under this program is limited to persons the cost of whose care cannot be provided by parents or other legally responsible persons consistent with standards of public assistance applied in the social security aids.

History: 1-2-56; r. (2) (a), Register, June, 1967, No. 138, eff. 7-1-67.

PW-PA 20.11 Payment of aids. All payments to recipients of old-age assistance, aid to families with dependent children (including payments on behalf of children in foster homes or a child-caring institution pursuant to section 49.19 (10), Wis. Stats.), aid to the blind, and aid to totally and permanently disabled persons, shall be made under the following provisions:

(1) **CASH.** Payment shall be made by county check payable to the beneficiary or to a person judicially appointed as the legal representative of such beneficiary by the courts under chapter 319, Wis. Stats., or a protective payee and shall not be subject to discount but redeemable in cash in the amount of its full face value upon demand; provided that in the case of aid to totally and permanently disabled persons such county check, payable to the beneficiary, may be delivered to the attorney-in-fact who has been authorized to receive it by the voluntarily executed power of attorney of such beneficiary; and provided further, that nothing in this rule shall be deemed to supersede any provision of section PW-PA 20.06 governing relatives' eligibility for aid to families with dependent children.

(2) **RESTRICTION ON USE OF ASSISTANCE NOT PERMITTED.** Payment must consist of an unconditional transfer and delivery of said check to the recipient for expenditures by him in his discretion and shall not be made in lieu of wages or with respect to work done.

(3) **DATE.** Payment of assistance shall be made in the month for which the grant of aid is designated, either in the full amount of the monthly allowance or in 2 or more installments. When a single

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payment is made for the full amount of the monthly allowance, it shall be made not later than the fifth day of the month. When the monthly allowance is paid in installments, each installment shall be for equal periods based on a 30-day month. Payment of the first installment shall be made no later than the fifth day of the month and each subsequent installment no later than the fifth day of each installment period. Payment of an initial allowance may be made subsequent to the fifth day of the month and shall be made within the month. Additional payments made to meet increased budgetary needs may be made subsequent to the fifth day of the month and payments correcting any prior underpayment may be made any time prior to the end of the twelfth month following the month in which such underpayment occurred. [EXCEPTION] Payment on behalf of a child in a foster home or child-caring institution pursuant to section 49.19 (10), Wis. Stats., shall be made in arrears and not later than the tenth day of the month following the month for which the payment is made.

(4) **COVERAGE.** Initial payment may include the needs to the first of the month in which aid is applied for and eligibility is shown to have existed as of the first of such month; provided, however, that this provision shall not preclude continuing payments when an eligible recipient moves from one county to another nor adjustments when grants of aid are reinstated after suspension, nor adjustments upon order of the state department of health and social services, division of family services, made in accordance with section 49.50 (8), Wis. Stats., nor in any case or similar cases in which a court decision changes the regulation upon which the case was denied, discontinued or the budget of the recipient was improperly computed, resulting in an improper reduction in the amount of aid.

(5) **ENDORSEMENT.** Pursuant to federal regulation, checks must be endorsed by the payee with his signature; provided that persons unable to write shall endorse their assistance checks either by mark or by finger print in the presence of two witnesses who shall append their signatures and addresses; provided that in the case of aid to totally and permanently disabled persons an attorney-in-fact voluntarily appointed by the beneficiary may cash checks payable to the beneficiary when he is authorized to do so by power of attorney.

History: 1-2-56; am. (1), Register, February, 1959, No. 38, eff. 88 3-1-59; am. Register, March, 1962, No. 75, eff. 4-1-62; am. (4), Register, June, 1970, No. 174, eff. 7-1-70; am. intro. par., and (1) and (3), Register, December, 1970, No. 180, eff. 1-1-71.

PW-PA 20.12 History: 1-2-56; am. Register, December, 1957, No. 24, eff. 1-1-58; am. Register, December, 1961, No. 72, eff. 1-1-62; am. (7) (b), Register, October, 1964, No. 106, eff. 11-1-64; r. Register, January, 1967, No. 133, eff. 2-1-67.

PW-PA 20.13 State relief for Indians. (1) **PURPOSE.** The purpose of this rule is to define the terms "Indian", "tax-free land", and "relief" as used in section 49.046, Wis. Stats., and to provide regulations and administrative interpretations to implement such section.

(2) **DEFINITIONS.** (a) The term "Indian" shall include a person whose proportion of Indian blood is one-fourth or more.

(b) "Tax-free land" is defined as land which is subject to neither assessment nor levy of a real property tax either as a general tax or as a payment in lieu of taxes.

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(c) "Relief" as used in section 49.046, Wis. Stats., means relief as defined in section 49.01(1), Wis. Stats.

(d) "Department" shall mean the state department of public welfare.

(3) ADMINISTRATION. (a) *Agency to administer relief.* The department shall whenever possible appoint the county agency administer-

ing the social security aids, subject to the approval of the county board, to administer relief under section 49.046, Wis. Stats., whenever said department determines that there is need for such relief in a county; provided that the department may elect to appoint the agency administering general relief in a municipality to administer relief under such section in such municipality.

(b) *Standards of relief.* The appointed agency shall grant such relief in accordance with the standards, policies, rules and regulations established by the department. In establishing standards the department shall give consideration to the standards used in establishing need for relief in any community under sections 49.01 and 49.02, Wis. Stats.

(c) *Determination of eligibility.* 1. No person shall be eligible for aid under section 49.046, Wis. Stats., unless he is:

a. An Indian; provided that whenever the head of a family is an Indian eligible for aid under section 49.046, Wis. Stats., the members of his immediate family who are living in the household and who are in need of relief shall also be eligible for aid under such section; and provided further that whenever the head of a family is a non-Indian, the members of his immediate family shall not be eligible for aid under such section.

b. Residing on tax-free land.

c. Ineligible for aid under sections 49.18, 49.19, 49.20 to 49.37, 49.46 or 49.61, Wis. Stats., and under chapters 45 and 48, Wis. Stats.

d. In need of relief.

(d) *Allocation of state funds.* 1. Whenever the department determines that relief pursuant to section 49.046, Wis. Stats., is needed in any county or municipality, it shall request the emergency board to release a sum from the amount appropriated in section 20.670(3), Wis. Stats., sufficient to meet such need. Out of the sum released by such board the department may allocate to the agency administering such relief in such county or municipality such amounts as it shall deem necessary. Such allocated amounts shall be paid to the county treasurer or to the municipality treasurer depending on whether the appointed welfare agency is a county or a municipality agency.

2. The department shall allocate money to the agency administering relief under section 49.046, Wis. Stats., on the same basis whether such agency elects to furnish relief in the form of money grants, commodities, or work relief. Whenever work relief is furnished, the provisions of section 49.05, Wis. Stats., shall apply.

3. The duly appointed agency administering aid under section 49.046, Wis. Stats., shall:

a. Maintain case records in a manner approved by the department.

b. Account to the department for monies allocated to it for relief purposes under section 49.046, Wis. Stats. Any such monies not expended for such relief purposes shall be refunded to the department.

c. Submit to the department such reports as may be required.

d. Make all records pertaining to relief under section 49.046, Wis. Stats., open to inspection at all reasonable hours by duly authorized representatives of the state department of public welfare.

History: 1-2-56; am. Register, April, 1967, No. 136, eff. 5-1-67.

PW-PA 20.14 Aid to distressed counties. (1) **APPLICATION.** (a) Any county which is financially unable fully to perform its duties with

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respect to old-age assistance, aid to dependent children, blind aid, and aid to totally and permanently disabled persons may apply for state aid by submitting to the division of public assistance of the state department of public welfare a request in writing together with a statement giving the information required by section 49.52 (5), Wis. Stats., certified by the proper county officer or officers, or verified under oath.

(b) This rule also applies to allotment of funds under section 20.670 (3) (d), Wis. Stats., upon application of any county or local unit of government claiming financial inability to perform its duties with respect to general relief.

(2) INFORMATION REQUIRED. The information required as it may apply to the financial situation of the particular county will generally fall under the following classes:

- (a) Total indebtedness.
- (b) Tax and debt levy limitations.
- (c) Cash on hand.
- (d) Anticipated revenues from all sources.
- (e) Borrowing ability under Ch. 67, Wis. Stats.
- (f) Tax delinquencies.
- (g) Reasonableness of valuation for taxation purposes.
- (h) Reasonableness of amounts of county expenditures and necessity therefor.

(i) Such other factors not enumerated which are probative of the county's financial condition.

(3) INVESTIGATION OF APPLICATIONS. Applications and supporting statements shall be subject to review and investigation by the division of public assistance of the state department of public welfare.

(4) HEARINGS ON APPLICATIONS. Hearings on applications may be formal or informal in the discretion of the state agency, and will be scheduled to meet the convenience of the state and county officers.

(5) PERIODIC REVIEW OF CONTINUING FINANCIAL AID. Receipt by any county of continued financial aid under section 49.52 (5), Wis. Stats., shall be subject to periodic review by the division. Hearing thereon may be held on motion of the division after notice to the proper county officers.

History: 1-2-56; am. Register, April, 1967, No. 136, eff. 5-1-67.

PW-PA 20.15 Reimbursement for state dependents. (1) COUNTY CLAIMS. Claim for reimbursement for relief granted dependent persons who do not have legal settlement in this state and who have resided less than one year in this state may be made only by a county that has granted the relief directly or has reimbursed a municipality which granted the relief.

(2) REIMBURSABLE RELIEF. The relief granted may be in cash or kind, but there shall be no reimbursement for work relief since the value of the labor shall be deemed to offset the payments. Any recoveries subsequently made by a county or municipality from the dependent person, his property, estate, or relatives shall be deducted from subsequent claims for reimbursement. The relief granted must be reasonable and necessary and adequate for health and decency, and there shall be no discrimination between state dependents and other recipients in the standard of relief given.

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(3) **NOTIFICATION TO STATE.** (a) When a county grants relief or reimburses a municipality for relief accorded a person as a state dependent its county clerk shall file with the state department of public welfare a verified copy of the sworn statement taken under section 49.11 (1), Wis. Stats., together with an affidavit that diligent effort has been made to ascertain the facts relating to the dependent's legal settlement and period of residence in this state and stating the facts relating to such settlement and residence.

(b) The sworn statement of the relief recipient (or other person) under section 49.11 (1), Wis. Stats., must be taken at the time relief is granted, but the verified copy thereof and the clerk's affidavit of investigation on Form AD-256 should be filed together, and the filing with the state department is not limited to 20 days as otherwise provided for the filing of non-resident notices under section 49.11 (3), Wis. Stats., as between counties and municipalities.

(4) **PRESENTATION OF CLAIM TO STATE.** Claim for state reimbursement may be made by the county treasurer either monthly or in aggregate at the expiration of the state dependency status on forms prescribed by the state department of public welfare showing an itemized statement of the account.

(5) **SUPPORTING RECORDS.** Each county shall maintain sufficient records, vouchers, authorizations and receipts as may be necessary to support its claim for reimbursement, which shall be subject to inspection and audit by duly authorized representatives of the state department of public welfare.

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PW-PA 20.16 County agency official bond. (1) **SURETY BOND.** The person in charge of the administration in each county of old-age assistance, aid to the blind, aid to dependent children, and aid to totally and permanently disabled persons, shall furnish a bond having as surety a company authorized to do surety business in this state. The cost of such bond shall be paid for as provided in section 204.11, Wis. Stats. The cost of such bond shall be deemed an administrative expense. Such bond shall be for such amount as shall be fixed by the board of supervisors of the county wherein the bonded person is to perform his functions and shall be substantially in the form provided in section 19.01 (2), Wis. Stats.

(2) **APPROVAL AND FILING.** Each such bond shall be approved as to form by the district attorney and shall be filed in the office of the clerk of the county in which the bonded person performs his functions.

(3) **NOTICE OF BOND.** The clerk shall give notice in writing to the county board or its chairman and to the state department of public welfare stating the amount of the bond filed, the name of the surety, the date of filing and the date of approval by the district attorney. The notice herein required shall be given by January 1, 1947, in the case of bonds first filed after this rule takes effect, and thereafter within 5 days after the person required to be bonded has entered upon his office or employment. Each such notice shall be published with the proceedings of the county board.

(4) **AMOUNT FIXED BY COUNTY BOARD.** The provisions of sections 19.01 (2), (3), (5), (6) and (8), 19.015, 19.02 to 19.06 inclusive, Wis. Stats., and all other provisions of law relating to official bonds unless clearly inapplicable or inconsistent herewith shall apply to all

matters in connection with the official bonds required by this rule. As soon as possible after the convening of the 1946 November annual meeting of the county board of supervisors in each county each such board shall by resolution fix, and at any subsequent meeting may change, the amount of the bond herein required.

(5) JUDGES EXEMPT. This rule shall not apply to judges.

PW-PA 20.17 Confidential nature of records. (1) RECORDS AND OFFICES AFFECTED. Pursuant to section 49.53, Wis. Stats., case records and all financial data pertaining thereto on file in the county agency administering old age assistance, aid to dependent children, aid to the blind and aid to the disabled, social security aid payrolls on file in the offices of the county clerk and county treasurer, and old age assistance liens filed in the office of the register of deeds fall within the purview of this rule.

(2) ADMINISTRATIVE AGENCY RECORDS. (a) *Custody.* All agency records shall be safely kept and shall not be removed from the files and offices except when in the custody of a responsible official or employee of the agency.

(b) *Inspection of records.* Inspection of agency records by persons other than employees of the county agency administering aid to dependent children, old age assistance, aid to the blind and aid to the disabled, of the state department of public welfare and of the federal social security board shall be permitted only pursuant to signed request and written permission of the chief administrative officer of the agency, and a record shall be kept of said permission; provided that officials of the county shall not be required to sign such a request but shall be entitled to secure information for any purpose connected with the administration of the social security aids in accordance with the provisions and limitations of the law.

(c) *Privileged communications.* Social and medical information shall be deemed to be strictly confidential.

(3) ADMINISTRATIVE USES DEFINED. (a) Use or disclosure of information concerning applicants and recipients for any purpose connected with the administration 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 to other agencies administering relief, providing hospital or medical care or service, to assist applicants or recipients or their families so as to ameliorate or eliminate public dependency and to assure economical expenditures of public funds.

(b) The use or disclosure of financial information secured by proper public officials from the records of the county treasurer or county clerk in connection with fiscal governmental functions is deemed to be for a purpose directly connected with the administration of the social security aids within the meaning of section 49.53, Wis. Stats.

(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 rec-

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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.

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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

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 involves a question of application or initial eligibility which arose more than 60 days prior to the request for a hearing. In cases involving discontinuance or the amount of the grant no hearing will be held unless

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the petition for review is received within 15 days of the date that the discontinuance or change in grant is effective. An appeal of the cases involving an incorrect payment of grant resulting in an underpayment are not subject to the limitations set out above.

(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.

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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.

History: 1-2-56; am. (1), Register, April, 1967, No. 136, eff. 5-1-67; r. and recr., Register, July, 1969, No. 163, eff. 8-1-69; am. (4) (c), Register, September, 1971, No. 189, eff. 10-1-71.

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.

(4) **MOTIONS.** (a) Motions not made on the record at the time of hearing shall be filed with the department in writing.

(b) Request for recovery by default will be received upon failure to answer or plead to the complaint within the statutory period. Such request shall be accompanied by affidavit showing the fact that and the date when verified claims were filed upon the clerk of the defendant or defendants, together with copies of such claims incorporated by reference in the affidavit.

(c) When a hearing has been set and a party notified fails to appear, the parties present may offer such proofs or motions as they desire, and the department shall thereafter notify the absent party that unless he file an affidavit showing reasonable excuse for absence and of merit the department will render its decision upon the record made. If the department is satisfied with such affidavit it may in its discretion set the case for further hearing on such conditions as may be just.

(d) Motion for summary judgment upon the pleadings may be submitted by either party pursuant to section 270.635, Wis. Stats., and in event of such motion, the parties shall submit affidavits setting forth the evidentiary facts, including documents or copies thereof for the purpose of determining whether there is a triable issue.

(5) **SERVICE OF PAPERS.** The fact of mailing and the date when a non-resident affidavit was mailed may be proved by affidavit of the clerk or deputy clerk who sent such notice. Such affidavit shall show compliance with the mailing statute in force at the time the notice was mailed. See section 49.11 (7) (d), Wis. Stats., which requires the mailing of notices by registered or certified mail with return receipt requested.

(6) **CONDITIONS PRECEDENT.** No proceeding shall be maintained unless a verified claim for the amount of money due has been duly presented to and disallowed by the county or municipality sought to be charged.

(7) **RESUMES AND TRANSCRIPTS.** (a) The department may at any time prior to decision require or permit the parties to file briefs on either fact or law.

(b) Transcripts of testimony taken or proceedings had before the department will be furnished to parties upon request and payment of the sum of 10 cents per folio and 5 cents per folio for each additional copy thereof. After an appeal has been taken, transcripts will be furnished upon payment of the sum of 5 cents per folio.

(8) **WITNESS FEES.** (a) Witnesses may be paid as provided by section 49.11 (7) (a), Wis. Stats., for attendance at hearings.

(b) Where more than one witness travels in the same car, only one mileage fee shall be allowed, except that all witnesses may receive sufficient mileage fees to cover necessary meals.

(c) Where witnesses travel by public conveyance, actual cost of conveyance plus necessary and reasonable bills for meals and hotels may be allowed.

(d) Interpreters' fees shall be the same as witness fees.

(e) In no case shall any of the above allowances be in excess of the regular mileage allowance. Witness fees shall be proved by submission of receipt of the witness.

History: 1-2-56; am. Register, October, 1962, No. 82, eff. 11-1-62.

PW-PA 20.20 Reimbursement of county administrative costs. For the purpose of promulgating more uniform and standard administrative procedures in county agencies, reimbursement from state and federal funds will be made toward county administrative costs incurred for payments to employees for expenses incurred in performing their duties on the following basis:

(1) The reimbursable portion of the traveling expenses of such employees shall be subject to the same limitations and requirements as are imposed on state employees when such employees incur expenses for similar purposes.

(2) As a limitation on state reimbursement, the provisions of section 20.941, Wis. Stats., relating to the allowance for the use of a personal automobile shall apply to county employees, any part of whose salary or expenses is paid directly or indirectly, by the state.

History: 1-2-56; am. (2), Register, June, 1967, No. 138, eff. 7-1-67.

PW-PA 20.21 Destruction of record material. (1) **PURPOSE.** The purpose of this rule is to define the limitations of section 59.715 (21), Wis. Stats., pertaining to the destruction of case record and other record material in aid to the blind, aid to dependent children, old-age assistance and aid to disabled persons, and in relief for which claim for state reimbursement is made under section 49.04, Wis. Stats., and the destruction of records in Indian relief claims under section 49.046, Wis. Stats.

(2) **RECORDS TO BE PERMANENTLY PRESERVED.** A face sheet or similar record of each case and a financial record of all payments for each aid account shall be permanently preserved.

(a) Face sheet or similar record means a sheet or sheets giving identifying data about the person or persons concerned, sufficient to distinguish the particular person or family, including such information as names, addresses, occupations, relatives, birth and marriage dates and marital status.

(b) Financial record means a financial card or ledger sheet showing all payments made to or in behalf of the individual or family aided, by month, and including a record of all refunds and collections.

(3) **CONDITIONS FOR DESTRUCTION OF OTHER RECORDS.** Records, other than those specified in subsection (2) of this rule, may be destroyed when there has been no case activity on the part of the county department and the particular person or family for a period of 5 years just preceding, except as hereinafter provided.

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- (a) No records may be destroyed in any case in which:
1. An estate against which the county has a claim has not been settled.
 2. There is property on which the county has an old-age assistance lien and the claim has not been settled.
 3. Claims for reimbursement under section 49.04 and section 49.046, Wis. Stats., have not been settled and audited.
- (b) Claims paid by the county, and papers supporting such claims, and cancelled checks for payments made to or in behalf of recipients of aid to the blind, aid to dependent children, old-age assistance, aid to disabled persons or relief to needy Indians may not be destroyed until after 7 years, in accordance with subsections 59.715 (9) and (18), Wis. Stats.

History: 1-2-56; am. Register, October, 1962, No. 82, eff. 11-1-62.

PW-PA 20.22 Liquid assets. (1) **AID TO DEPENDENT CHILDREN.** Where a dependent child or children otherwise eligible for a grant of aid to dependent children together with the parent or parents included in the grant of such aid have more than \$500 in liquid assets, including cash or loan value of insurance, eligibility for grant of aid to dependent children does not exist.

(2) **AID TO TOTALLY AND PERMANENTLY DISABLED PERSONS.** Where a dependent person otherwise eligible for a grant of aid to totally and permanently disabled has more than \$500 in liquid assets, excluding cash or loan value of insurance, eligibility for aid does not exist.

History: Cr. Register, May, 1961, No. 65, eff. 6-1-61.

PW-PA 20.23 Loans on Menominee Enterprises, Inc. bonds. (1) **PURPOSE.** Loans will be made to owners of bonds of Menominee Enterprises, Inc. who are dependent persons in need of a loan for welfare purposes.

(2) **AMOUNT.** The amount of the loan shall not exceed the par value of bonds available for pledging to the state as security for such loan.

(3) **AGREEMENTS.** (a) The department shall prescribe the form of note to be executed.

(b) Loans will bear interest at the rate of 4% per annum from the first day of the month following the date of the execution of the note, such interest to become due and payable each December until such note is paid.

(c) The period for payment of the loan shall not exceed 3 years.

(d) Defaults in interest payments shall be added to the principal of the loan.

(e) Defaults in repayment of a loan shall after 60 days of maturity date result in forfeiture of the pledged bond in the amount of the loan plus all interest. Upon such default, the par value of the bond in excess of the amount due and owing shall be returned to the owner or his estate in the form of fractionated bonds to the lowest \$100 multiple with a cash adjustment for the difference.

(f) The department may extend notes in default upon the execution of a new note by the obligor if such new note is secured by a pledge of a Menominee Enterprise, Inc. bond.

History: Emergency rule, eff. 1-11-64; cr. Register, March, 1964, No. 99, eff. 4-1-64.

Register, September, 1971, No. 189
Public Welfare