

Chapter PW-PA 20

PUBLIC ASSISTANCE

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PW-PA 20.02 Inmate of public institution **History:** 1-2-56; Am. Register, January, 1967, No. 133, eff. 2-1-67; r. Register, February, 1975, No. 230, eff. 3-1-75.

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 aid to dependent children, in order to insure in so far as possible equitable treatment of persons in need throughout the state.

(2) **DETERMINATION OF ELIGIBILITY AND AMOUNT OF PAYMENT.** Eligibility for aid and the amount to be paid as aid to dependent children, shall be determined by the county agency in accordance with standards prescribed by the department of health and social services. The department 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 generally principles of budgeting to be applied to the individual circumstances. In effect, the department shall define need within the statutory provisions as set forth in section 49.19 (5), Wis. Stats.

History: 1-2-56; am. Register, February, 1975, No. 230, eff. 3-1-75.

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 dependent children, 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 dependent children under section 49.19, 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 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; am. Register February, 1975, No. 230, eff. 3-1-75.

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 first cousins, nephews, or nieces and those of half-blood.

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.

History: 1-2-56; am. Register, February, 1975, No. 230, eff. 3-1-75.

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.

PW-PA 20.09 Determination of blindness for aid. **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; r. Register, February, 1975, No. 230, eff. 3-1-75.

PW-PA 20.10 Payment of aid to the disabled. **History:** 1-2-56; r. (2) (a), Register, June, 1967, No. 138, eff. 7-1-67; r. Register, February, 1975, No. 230, eff. 3-1-75.

PW-PA 20.11 Payment of aids. All payments to recipients of 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.), 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 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 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 made 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.

(3m) **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 2 witnesses who shall append their signatures and addresses.

History: 1-2-56; am. (1), Register, February, 1959, No. 38, eff. 3-1-59; am. Register, March, 1962, No. 75, eff. 4-1-62; am. (4) Register, June, 1970, No. 180, eff. 1-1-71; am. Register, February, 1975, No. 230, eff. 3-1-75.

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.

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

(d) "Department" shall mean the state department of health and social services.

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

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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 this section.

b. Residing on tax-free land.

c. Ineligible for aid under section 49.19, or 49.46[✓], 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 health and social services.

History: 1-2-56; am. Register, April, 1967, No. 136, eff. 5-1-67; am. Register, February, 1975, No. 230, eff. 3-1-75.

PW-PA 20.14 Aid to distressed counties. (1) **APPLICATION.** (a) Any county which is financially unable fully to perform its duties with respect to aid to dependent children, may apply for state aid by submitting to the state department of health and social services 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.

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(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.

(c) Effective January 1, 1975, this rule no longer applies to aid to dependent children.

(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 Chapter 67, Wis. Stats.
- (f) Tax delinquences.
- (g) Reasonableness of valuation for taxation purposes.
- (h) Reasonableness of amounts of county expenditures and necessity therefore.
- (i) Such other factors not enumerated which are probative of county's financial condition.

(3) **INVESTIGATION OF APPLICATIONS.** Applications and supporting statements shall be subject to review and investigation by the state department of health and social services.

(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 49.51(5), Wis. Stats., shall be subject to periodic review by the department. Hearings thereon may be held on motion of the department notice to the proper county officers.

History: 1-2-56; am. Register, April, 1967, No. 136, eff. 5-1-67. am. Register, February, 1975, No. 230, eff. 3-1-75.

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

for licensing related to personal qualifications, health, and shall be no younger than 18 years of age.

(d) The foster mother shall not be employed away from the home.

History: Cr. Register, April, 1957, No. 16, eff. 5-1-57; r. and recr. Register, June, 1970, No. 174, eff. 1-1-71.

PW-CY 40.65 Fair hearings. (1) **LEGAL BASIS.** This rule is adopted pursuant to section 48.64 (4), Wis. Stats.

(2) **DEFINITIONS.** (a) A claimant means a person licensed as a foster parent under section 48.62, Wis. Stats., affected by a decision or order issued by a division of the department of health and social services, a county welfare department or a child welfare agency.

(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.

Note: Impartial employee of the state agency is currently defined as a hearing officer of the legal section of DFS.

(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 a division of the department of health and social services, a county welfare department or a child welfare agency, and that he wants an opportunity to present his case to the department of health and social 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 appeal a decision or order issued by a division of the department of health and social services, county welfare agency, or a child welfare agency affecting foster parents or the children involved.

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

(c) To contribute to uniformity in the application of the 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 a division of the department of health and social services, a county welfare department or a child welfare agency policy that constitute a misconstruction of law, state rules or policy.

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(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 department of health and social services in relation to a decision or order 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 which 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 a division of the department of health and social services, a county welfare department or a child welfare 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 a division of the department of health and social services, a county welfare department or a child welfare agency, 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, examine witnesses adversely, 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 an informal administrative procedure subject to the requirements of due process.

(7) **DECISIONS.** (a) The transcript of testimony and the exhibits, papers and request 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 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, finding 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 division of the department of health and social services, a county welfare department or a child welfare agency charged with the administration of the services.

(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, county agencies, and child welfare agencies involved.

History: Cr. Register, August, 1973, No. 212, eff. 9-1-73.

PW-CY 40.70 Definitions. (1) **DAY CAMPING** means an experience in group living in a natural environment. It is a creative, educational experience in cooperative group living in the out-of-doors; carried on during the day time under the supervision of trained leaders. It utilizes resources of the natural surroundings to contribute significantly to mental, physical, social and spiritual growth.

(2) **DEPARTMENT** means the Wisconsin State Department of Public Welfare.

(3) **DIVISION** means the Wisconsin State Division for Children and Youth.

History: Cr. Register, October, 1961, No. 70, eff. 11-1-61.

PW-CY 40.71 License. (1) **LICENSE REQUIREMENTS.** Day Camps providing group care for 4 or more children under 7 years of age and operating for compensation and/or consideration for services must be licensed.

(2) **LICENSE PROCEDURES.** (a) A non-transferable license shall be secured annually from the department, upon appropriate application and compliance with the rules and standards.

(b) Each license shall bear the name of the camp, name of the person licensed, and a description of the premises.

(c) The number of children specified on the license is the maximum number to be received or to be cared for at one time.

(d) There is no fee charged for the license.

(3) **LICENSING EXEMPTIONS.** No license is required for a person or persons who provide: (a) Camping experience for children at the child's own home and/or in homes of relatives or guardians,

(b) Camping experience conducted by public and parochial schools.

(c) Camping given to children on church premises while their parents are attending religious services.

(4) **APPLICATION FOR LICENSE.** An application for a license which shall be made in writing to the department shall include: (a) A statement from the state laboratory of hygiene or certified laboratory indicating that the water source has been tested and found to be safe.

(b) A statement of the purpose of the day camp.

(c) A description of the program and activities designed to carry out the purposes.

(d) A general description of the camp area and its general geographical location.

(e) A completed application form.

(5) **RENEWAL OF LICENSE.** Application for a renewal of license shall be made: (a) Each year in writing to the department on specified forms.

*** NOTE:** Complete bathroom is intended to include stool, washbowl, and a tub or shower.

(b) Whenever there is a change in the conditions described on the last license issued.

(6) **EVALUATION.** (a) A representative of the department shall visit and study each day camp before the initial licensing and each subsequent renewal. The representative shall submit to the department a written evaluation indicating whether the required standards have been met. He may visit at any time to assure continued compliance.

(b) Each camp shall have the continued supervision and consultation of the department and shall submit required reports.

(c) The department at its discretion shall have the authority to make exceptions to any rule or standard, when it is assured that the granting of such an exception will not be detrimental to the children attending the camp.

(7) **PROVISIONAL LICENSES.** A provisional license may be issued and renewed in periods up to two years to any camp whose services are needed, but is temporarily unable to conform to all established minimum requirements.

(8) **REVOCATION OF LICENSE.** (a) The right to operate is dependent upon continued compliance with the required rules and standards.

(b) The license may be revoked by the department in accordance with section 48.71 (1) and (2), Wis. Stats., and with section PW-CY 40.02 dealing with license procedures.

(9) **APPEAL PROCEDURE.** (a) Any person aggrieved by the department's refusal or failure to issue or renew a license, or by its revocation of a license, has the right to an administrative hearing provided for contested cases in chapter 227, Wis. Stats.

(b) Judicial review of the department's decision may be had as provided in chapter 227, Wis. Stats.