

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 20.04 Eligibility verification.** (1) As a condition of eligibility, each applicant for or recipient of aid will be required:

(a) To furnish to the state or local agency a social security account number, hereinafter referred to as the SSN, or

(b) To apply for such number through procedures adopted by the state or local agency with the social security administration and provide the number upon receipt.

(2) If the applicant or recipient has complied with the requirements of subsection (1) (b) the state or local agency shall not deny, delay, or discontinue assistance pending the issuance or certification of such numbers.

(3) "Applicant" and "recipient" include the caretaker relative, the children, and any other individual whose needs are considered in determining the amount of assistance.

(4) The state or local agency shall notify the applicant or recipient that the furnishing of the SSN is a condition of eligibility for assistance required by the Social Security Act and that the SSN will be utilized in the administration of the AFDC program.

(5) The above conditions are required by federal regulation 45 CFR 232.10 effective July 1, 1975.

(6) Effective date. January 1, 1977.

**History:** Cr. Register, March, 1977, No. 255, eff. 4-1-77.

**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

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

(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, medical assistance and food stamps 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.** Hearing 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 provide safeguards which restrict the use or disclosure of information concerning applicants and recipients to purposes directly connected with the administration of old age assistance.

Section 49.53, 1971 Wisconsin Statutes: "LIMITATION ON GIVING INFORMATION. (1) Except as provided under sub. (2), no person may use or disclose information concerning applicants and recipients of aid to families with dependent children, social services under s. 49.01, or supplemental payments under s. 49.177, for any purpose not connected with the administration of the programs. Any person violating this subsection may be fined not less than \$25 nor more than \$500 or imprisoned in the county jail not less than 10 days nor more than one year or both.

(2) (a) Each county agency administering aid to families with dependent children shall maintain a monthly report at its office showing the names and addresses of all persons receiving such aids together with the amount paid during the preceding month. Nothing in this paragraph shall be construed to authorize or require

the disclosure in such report of any information (names, addresses, amounts of aid or otherwise) pertaining to adoptions, aid furnished to or in behalf of unmarried mothers under s. 49.19 (4) (d) and (g), or aid furnished for the care of children in foster homes under s. 49.19 (10).

(b) Such report shall be open to public inspection at all times during regular office hours and may be destroyed after the next succeeding report becomes available. Any person except any public officer, seeking permission to inspect such book shall prove his identity and shall be required to sign a statement setting forth his address and his reasons for making such request and indicating that he understands the provisions of par. (c) with respect to the use of the information obtained. The use of a fictitious name is a violation of this section. Within 72 hours after any such record has been inspected, the agency shall mail to each person whose record was inspected a notification of that fact and the name and address of the person making such inspection. The agency shall keep a record of such requests.

(c) It is unlawful to use any information obtained through access to such report for political or commercial purposes. The violation of this provision is punishable upon conviction as provided in sub. (1)."

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, 1971 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, 1971 Wis. Stats."

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."

#### STATE DEPARTMENT OF HEALTH & SOCIAL SERVICES

Wilbur J. Schmidt, Secretary

**History:** 1-2-56; am. (7), Register, April, 1967, No. 136, eff. 5-1-67; am. Register, February, 1975, No. 230, eff. 3-1-75.

**PW-PA 20.18 Fair hearings.** (1) **LEGAL BASIS.** This rule is adopted pursuant to sections 46.03 (8) and 49.50 (8) (9), Wis. Stats., and to conform with the requirements of title IV, and VI 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.

Register, February, 1975, No. 230  
Public Welfare

(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 not satisfied with the action taken, and the method by which he may obtain a hearing.

(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 of initial eligibility which arose more than 60 days prior to the request for a hearing. In cases involving discontinuance of the amount of the grant no hearing will be held unless 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 granting 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 interferences, 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 employe 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; am. Register, February, 1975, No. 230, eff. 3-1-75.

**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 files 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



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**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.

(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.

**Note:** All references to the department of public welfare should be taken as references to the department of health and social services.

(6) **REQUIREMENTS FOR REIMBURSEMENT.** (a) No reimbursement for relief granted to state dependents as defined in s. 49.04 (1), Stats. shall be provided to counties unless the county administering said relief program has adopted written standards relative to the eligibility for and amount of relief granted.

1. The standards so adopted shall be made available to applicants and recipients of relief for which reimbursement is sought under s. 49.04, Stats., and to the public.

2. Benefit standards so issued shall be reasonably adequate for health and decency as provided under (2) of this section.

3. If such standards adopted by a county establish a benefit level less than that provided for the AFDC program under s. 49.19 (11), Stats., the county shall file a statement with the secretary of the department of health and social services containing detailed information demonstrating that the standard as adopted is reasonable and necessary to provide the items listed in s. 49.01 (1), Stats.

(b) No reimbursement for relief granted state dependents under s. 49.04 (1), Stats., shall be provided to counties unless the county administering said relief program makes provision for the following procedural safeguards for all persons for whom reimbursement is sought whose applications are denied in whole or in part.

1. Any denial in whole or in part of an application for relief shall be accompanied by a written statement informing the applicant of the basis of denial with reference to the appropriate standard upon which the denial was based. Said statement shall be provided to the applicant no later than 3 working days from the date of the denial. Said statement shall also inform the applicant of a right to a timely and impartial evidentiary hearing.

2. Any hearing so requested shall be held before an impartial person who has not participated in the decision under review.

3. Any hearing so requested must be held within 5 working days after the request is received. If the hearing is not held within 5 working days the applicant shall be provided with relief until such time as a hearing is held and a decision is rendered.

4. The applicant at the hearing shall be granted the opportunity to present evidence and argument in person or by a representative.

5. The applicant shall be given the opportunity to cross examine all witnesses relied upon by the relief agency.

6. The decision must rest upon evidence presented at the hearing and where there is an issue of credibility or veracity, the decision may not rest on mere uncorroborated hearsay.

7. A written decision shall be issued no later than 5 working days after the hearing and shall indicate the reasons for the final determination and the evidence relied upon in reaching that determination.

(c) The department shall establish a system for ongoing monitoring of compliance with this rule and for the denial of state reimbursement to counties that do not comply with this rule.

**History:** 1-2-56; cr. (6), Register, July, 1978, No. 271, eff. 8-1-78.

**PW-PA 20.16 County agency official bond.** (1) SURETY BOND. The person in charge of the administration in each county of aid to dependent children 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