

RULES CLEARINGHOUSE

Ronald Sklansky
Director
(608) 266-1946

Richard Sweet
Assistant Director
(608) 266-2982



David J. Stute, Director
Legislative Council Staff
(608) 266-1304

One E. Main St., Ste. 401
P.O. Box 2536
Madison, WI 53701-2536
FAX: (608) 266-3830

CLEARINGHOUSE REPORT TO AGENCY

[THIS REPORT HAS BEEN PREPARED PURSUANT TO S. 227.15, STATS. THIS IS A REPORT ON A RULE AS ORIGINALLY PROPOSED BY THE AGENCY; THE REPORT MAY NOT REFLECT THE FINAL CONTENT OF THE RULE IN FINAL DRAFT FORM AS IT WILL BE SUBMITTED TO THE LEGISLATURE. THIS REPORT CONSTITUTES A REVIEW OF, BUT NOT APPROVAL OR DISAPPROVAL OF, THE SUBSTANTIVE CONTENT AND TECHNICAL ACCURACY OF THE RULE.]

CLEARINGHOUSE RULE 98-202

AN ORDER to repeal DWD 16.03 (1) and 16.06 (3) (a); to renumber DWD 11.055 and 16.03 (2); to renumber and amend DWD 16.03 (3) and (5) and 16.06 (3) (a) to (c); to amend chapter DWD 16 (title) and DWD 16.01, 16.02, 16.03 (4), 16.04, 16.05, 16.06 (3) (intro.) and (4), 16.08, 16.09 and 16.10; to repeal and recreate DWD 16.06 (1) and 16.07; and to create DWD 16.03 (2), (5), (6), (8) and (9) and 16.08 (5), relating to the emergency assistance program.

Submitted by **DEPARTMENT OF WORKFORCE DEVELOPMENT**

12-14-98 RECEIVED BY LEGISLATIVE COUNCIL.
01-15-99 REPORT SENT TO AGENCY.

RNS:AS:kjf;jal

LEGISLATIVE COUNCIL RULES CLEARINGHOUSE REPORT

This rule has been reviewed by the Rules Clearinghouse. Based on that review, comments are reported as noted below:

1. STATUTORY AUTHORITY [s. 227.15 (2) (a)]

Comment Attached

YES

NO

2. FORM, STYLE AND PLACEMENT IN ADMINISTRATIVE CODE [s. 227.15 (2) (c)]

Comment Attached

YES

NO

3. CONFLICT WITH OR DUPLICATION OF EXISTING RULES [s. 227.15 (2) (d)]

Comment Attached

YES

NO

4. ADEQUACY OF REFERENCES TO RELATED STATUTES, RULES AND FORMS
[s. 227.15 (2) (e)]

Comment Attached

YES

NO

5. CLARITY, GRAMMAR, PUNCTUATION AND USE OF PLAIN LANGUAGE [s. 227.15 (2) (f)]

Comment Attached

YES

NO

6. POTENTIAL CONFLICTS WITH, AND COMPARABILITY TO, RELATED FEDERAL
REGULATIONS [s. 227.15 (2) (g)]

Comment Attached

YES

NO

7. COMPLIANCE WITH PERMIT ACTION DEADLINE REQUIREMENTS [s. 227.15 (2) (h)]

Comment Attached

YES

NO

WISCONSIN LEGISLATIVE COUNCIL STAFF

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CLEARINGHOUSE RULE 98-202

Comments

[NOTE: All citations to "Manual" in the comments below are to the Administrative Rules Procedures Manual, prepared by the Revisor of Statutes Bureau and the Legislative Council Staff, dated September 1998.]

1. Statutory Authority

For consistency with s. 49.138 (1m) (intro.), Stats., s. DWD 16.07 (2) should specify that the maximum payment amount does not apply to cases of need due to an energy crisis.

2. Form, Style and Placement in Administrative Code

a. Instead of renumbering all of s. DWD 11.055 as ch. DWD 16, each provision of s. DWD 11.055 should be renumbered, renumbered and amended, or repealed. Because the drafter is renumbering a section as a chapter, it is confusing and at times unclear what is being changed.

b. All of the titles in the rule should follow the format in s. 1.05 (2), Manual. For example, the title of ch. DWD 16 should be written in solid capital letters. The section titles should be shown with only the initial letter capitalized.

c. Section DWD 16.03 (7) refers to the "other programs eligibility manual." Does this manual include any substantive provisions that are not included in statute or rule? If so, the department should determine whether they should be promulgated as a rule under s. 227.10 (1), Stats.

d. Section DWD 16.05 (1) (intro.) is not written as an introduction to pars. (a) to (f). The department should retain "following" and the colon and delete the underscored language

that immediately precedes the colon. This comment also applies to s. DWD 16.06 (1) (intro.) and (3) (intro.).

- e. In s. DWD 16.06 (3) (b), "Any of the following" should follow "grant."

4. Adequacy of References to Related Statutes, Rules and Forms

- a. In ss. DWD 16.01 and 16.02, all instances of "section" should be stricken and "chapter" should be inserted.

- b. In s. DWD 16.05 (1) (b), "12.09 (1) (c)" should be replaced with "12.09 (2) (c)."

- c. In s. DWD 16.05 (2) (e), "(a)" should be inserted after "s. 968.075 (1)."

- d. In s. DWD 16.08 (1), "sub. (5) (b)" should be stricken and "s. DWD 16.05 (2)" should be inserted.

5. Clarity, Grammar, Punctuation and Use of Plain Language

- a. In s. DWD 16.02, "~~s.~~" should not be stricken and "s." should be deleted.

- b. In s. DWD 16.03 (8), it would be clearer if "qualified relative" in the last sentence were replaced with "qualified caretaker relative."

- c. In s. DWD 16.05 (1) (a), it is not clear what is meant by "Once established, residence shall be retained until abandoned." Can it be clarified as to how a person abandons residence?

- d. In s. DWD 16.06 (1) (a), it would be clearer to replace "amount" with "cost."

- e. In s. DWD 16.03 (3) (b), the supplemental payment under s. 49.775, Stats., is a payment for children of recipients. It should be clarified that this is the payment that is not counted.

**State of Wisconsin
Department of Workforce Development**

DWD 16

Emergency Assistance

The Wisconsin Department of Workforce Development proposes an order to repeal DWD 16.03(1) and 16.06(3)(a); to renumber DWD 11.055 and 16.03(2); to renumber and amend DWD 16.03(3) and (5) and 16.06(3)(a) to (c); to amend ch. DWD 16(title) and DWD 16.01, 16.02, 16.03(4), 16.04, 16.05, 16.06(3)(intro.) and (4), 16.08, 16.09, 16.10(title) and 16.10; to repeal and recreate DWD 16.06(1) and 16.07; and to create DWD 16.03(2), (5), (6), (8) and (9) and 16.08(5), relating to the emergency assistance program.

Analysis

Statutory authority for rule: sec. 49.138, Stats.
Statute interpreted by the rule: sec. 49.138, Stats.

This proposed rule codifies changes to the state's policies on emergency assistance that have been enacted in the statutes and implemented through the Wisconsin Works (W-2) program contracts. The principal changes are:

Outdated references to AFDC are removed and cross-references to W-2 are added. The definitions section of the rule is amended to reflect the operation of W-2. The term "needy person" is defined as a person who meets the eligibility criteria of the rule.

Total financial need is determined by the W-2 agency which (a) adds together the amount of unpaid expenses for the emergency assistance group and the amount of the needs due to the emergency group; (b) adds together the available income and resources of the emergency assistance group; and (c) subtracts the total in (b) from the total in (a).

The amount of the emergency assistance payment is the lowest of: (a) the amount of total financial need; (b) the total of the maximum payment amount per group member (\$150) multiplied by the number of members of the emergency assistance group; or (c) the amount requested by the group.

Emergency assistance may be issued once in a 36 month period, except that emergency assistance provided in cases of fire, flood, natural disaster, energy crisis, or when a member of an emergency assistance group is a victim of domestic abuse, may be provided once in a 12 month period.

SECTION 1. ³ ~~s~~ DWD 11.055 is renumbered ch. DWD 16.

SECTION 2. ² ch. DWD 16 (title) is amended to read:

Chapter DWD 16

Emergency Assistance for Families With Needy Children

SECTION 3. DWD 16.01 is amended to read:

^{u/l} **DWD 16.01 PURPOSE.** This section implements ~~s. 49.19 (11) (b)~~, s. 49.138, Stats.,

which directs the department to administer a program of emergency assistance ~~under the AFDC program~~ for persons who are in need due to fire, flood, natural disaster, homelessness or energy crisis and who meet the eligibility criteria under this section ~~and the eligibility criteria for federal financial participation under 45 CFR 233.120.~~

SECTION 4. DWD 16.02 is amended to read:

^{chapter} **DWD 16.02 APPLICABILITY.** This section applies to all applicants for AFDC emergency assistance, all recipients of AFDC emergency assistance and all county and tribal economic support agencies and W-2 agencies administering the AFDC emergency assistance program under ~~s. 49.19 (11) (b)~~ s. 49.138, Stats.

SECTION 5. DWD 16.03(1) is repealed.

SECTION 6. DWD 16.03 (2) and (3) are renumbered DWD 16.03 (3) and (1) respectively, and as renumbered DWD 16.03(3) is amended to read:

DWD 16.03(3) "~~AFDC emergency~~ Emergency assistance group" or "group" means a ~~child or children under the age of 21~~ one or more dependent children as defined by s. 49.141(1)(c), Stats. and a qualified caretaker relative ~~or relatives specified in s. DWD 11.17 (1)~~ with whom the child is living or was living at the time the emergency occurred.

SECTION 7. DWD 16.03(2) is created to read:

Renumbered

(1)

(3)

(3)

(1)

ack

DWD 16.03(2) "Emergency assistance" means the program under sec. 49.138, Stats., for emergency assistance to families with needy children in cases of fire, flood, natural disaster, homelessness or energy crisis.

SECTION 8. DWD 16.03(4) is amended to read:

DWD 16.03(4) "Emergency shelter facility" means any facility, the primary purpose of which is to provide temporary or transitional shelter for the homeless in general or specific populations of the homeless ~~under 24 CFR 576.3.~~

SECTION 9. DWD 16.03(5) is renumbered DWD 16.03(7) and amended to read:

DWD 16.03(7) "Other programs eligibility ~~handbook~~ manual" means the other programs ~~handbook~~ manual issued by the department's division of economic support for use by agencies in determining eligibility for public assistance programs including ~~AFDC~~ emergency assistance. *rule?*

SECTION 10. DWD 16.03(5),(6),(8) and (9) are created to read:

DWD 16.03(5) "Migrant worker" has the meaning given in s. 103.90(5), Stats.

(6) "Needy person" means a person who meets the eligibility criteria in ss. DWD 16.05 and 16.06.

DWD 16.03(8) "Qualified caretaker relative" means a caretaker of a child whose relationship to the caretaker or the caretaker's spouse is one of the following: son, daughter, grandson, granddaughter, stepson, stepdaughter, brother, sister, stepbrother, stepsister, half brother or half sister, nephew, niece, uncle, aunt, first cousin or grand, great-grand or great-great grand son, daughter, nephew or niece. A qualified caretaker relative continues to be a qualified *caretaker* relative even when the relationship is terminated by death or divorce. *✓*

(9) "W-2 Agency" or "agency" means an entity that is administering the Wisconsin works program as a contractor under s. 49.143, Stats.

SECTION 11. DWD 16.04 is amended to read:

DWD 16.04 APPLICATION. Application for AFDC emergency assistance shall be made on a form prescribed by the department. Upon receipt of a completed application, the agency shall verify that the emergency was due to fire, flood, natural disaster, homelessness or an energy crisis. Verification of eligibility shall not delay the provision of assistance.

NOTE: An application form for emergency assistance may be obtained from a county or tribal economic support agency or a Wisconsin Works (W-2) agency. The addresses of the Wisconsin works agencies may be obtained by calling the division of economic support at 608-261-6753.

SECTION 12. DWD 16.05 is amended to read:

DWD 16.05 NONFINANCIAL ELIGIBILITY. (1) CRITERIA. The AFDC emergency assistance group shall meet all of the following nonfinancial eligibility criteria in this subsection *o* *keep as is, add "all of"* *7*

(a) The group members ~~meet the residence criteria in s. DWD 11.15;~~ shall live in Wisconsin and intend to reside in Wisconsin, except a migrant worker is not required to meet the requirement as to intent to reside in Wisconsin. A never-married child under age 18 is a Wisconsin resident when he or she is under the legal custody of the department or an agency, regardless of the state in which he or she is living. Once established, residence shall be retained until abandoned. Wisconsin residence shall not be lost when a dependent child or caretaker relative is temporarily absent from Wisconsin for the purpose of visiting, hospitalization or education. *comb... in?* *?* *4*

Dec 7 (b) The group members are citizens or qualifying aliens as defined in s. DWD 11.16; 12.09(1)(c). *2, -* *4*

(c) The child for whom assistance is requested is or, within 6 months prior to the month of application for AFDC emergency assistance, was living with a qualified caretaker relative as

specified in ~~s. DWD 11.17~~ in a place of residence maintained as the caretaker relative's own home;

(d) Assistance is needed to avoid destitution of the child or to provide a living arrangement for the child in a home;

(e) The child's destitution or need for living arrangements did not result from the child or a qualified caretaker relative ~~specified in s. DWD 11.17~~ refusing without good cause to accept employment or training for employment; ~~and~~

(f) As determined by the agency, the group's need has resulted from an emergency due to one or more of the following causes:

1. Fire;
2. Flood;
3. A natural disaster such as a tornado, earthquake, electrical storm or windstorm, hail, sleet, a mud or rock slide, or a natural explosion such as lightning striking an object that then explodes;
4. Homelessness as determined under ~~par. (b)~~ sub. (2). The cause of the homelessness need not be the result of a natural disaster; ~~or~~
5. An energy crisis, including lack of essential home heating or imminent loss of essential home heating, with an immediate threat to the health or safety of the group either existing or likely to exist.

(2) **ELIGIBILITY DUE TO HOMELESSNESS.** An AFDC emergency assistance group shall be considered homeless for purposes of determining nonfinancial eligibility under ~~par. (a)~~ sub. (1) if the group needs AFDC emergency assistance to obtain a permanent living accommodation and if any of the following conditions apply:

- (a) The group lacks a fixed, regular and adequate nighttime residence;

(b) The group has a current residence that is a shelter designed for temporary accommodation such as a motel, hotel or emergency shelter facility;

(c) The group has to leave or has already left its current housing because it is uninhabitable as determined by the local building inspector, the local health department or other appropriate local authority;

(d) The group is living in a place that is not designed for, or ordinarily used as, a regular sleeping accommodation; or

(e) A member of the group was subject to domestic abuse as defined under s. 968.075 (1), Stats.

La SECTION 13. DWD 16.06(1) is repealed and recreated to read:

DWD 16.06(1) TOTAL FINANCIAL NEED. The W-2 agency shall compute the total financial need of the emergency assistance group by following the steps in this subsection.

cont (a) The W-2 agency shall determine the amount of unpaid expenses for the group and the amount of the needs due to emergency for the group and shall add these two amounts together.

(b) The W-2 agency shall determine the available income of the group and the available resources of the group and shall add these two amounts together.

(c) The W-2 agency shall subtract the total of par. (b) from the total of par. (a). The result is the total financial need of the emergency assistance group.

SECTION 14. DWD 16.06(3)(intro.) is amended to read:

DWD 16.06(3)(intro.) The agency shall determine the amount of income available to the AFDC emergency assistance group in accordance with s. DWD 41.2812.09(3)(b) except that: as provided in this subsection.

SECTION 15. DWD 16.06(3)(a) is repealed.

SECTION 16. DWD 16.06(3)(b) to (d) are renumbered DWD 16.06(3)(a) to (c) and, as renumbered, DWD 16.06(3)(a) and (b) are amended to read:

DWD 16.06(3)(a) Supplemental security income received by an AFDC emergency assistance group member in the month of the emergency is not counted;

(b) An AFDC Any of the following grant grants received in the month of the emergency is not counted; and: a W-2 benefit under s. 49.148, Stats.; a kinship care payment under s. 48.57(3m), Stats.; or an SSI supplemental payment under s. 49.775, Stats.

SECTION 17. DWD 16.06(4) is amended to read:

DWD 16.06(4) The agency shall determine the amount of assets available to the AFDC emergency assistance group in accordance with s. DWD ~~11.27~~ 12.09(3)(a), except that an asset with a fair market value of less than \$3,000 that would require liquidation at a loss ~~or an asset maintained in an education and employability account under s. DWD 11.27 (1m)~~ is exempt from consideration. No asset may be considered available unless the AFDC emergency assistance group can make it available within 30 days. Assets shall be considered ~~available as provided in 45 CFR 233.20 (a) (3) (ii) (D), that is,~~ both when actually available and when the group has a legal interest in a liquidated sum and has the legal ability to make the sum available for support and maintenance. No available real property may be included in determining the AFDC emergency assistance group's assets.

SECTION 18. DWD 16.07 is repealed and recreated to read:

DWD 16.07 PAYMENT AMOUNT. (1) The emergency assistance payment shall be the lowest of the following three amounts:

- (a) The total of the maximum payment amount per group member multiplied by the number of members of the emergency assistance group.
- (b) The amount requested by the group.

- (c) The total financial need due to the emergency, as determined in s. DWD 16.06(1).
- (2) The maximum payment amount per group member is \$150. *WWD 16.08*

NOTE: Sec. 49.138(1), Stats., provides that the department shall establish the maximum amount of emergency assistance aid to be granted per family member and need not establish this amount per rule, and that the department shall publish the maximum amount and annual changes to it in the Wisconsin Administrative Register.

SECTION 19. DWD 16.08 is amended to read:

DWD 16.08 ELIGIBILITY DETERMINATION AND PAYMENT PROCEDURES.

(1) The agency shall determine eligibility for AFDC emergency assistance within 5 working days after receiving a completed application and, if the group is found eligible, shall issue a payment to the AFDC emergency assistance group within the same 5 working days except that, if the group is eligible under sub. (5)(b), the agency shall issue a payment, following the eligibility determination, within 5 working days of the date that the group notifies the agency that a permanent living accommodation has been obtained. The payment may be made in the form of cash, a voucher or a vendor payment.

(2) The agency shall notify the applicant in writing of the eligibility determination. If the application is denied, the notice shall include reasons for the denial and information about the opportunity to appeal that decision under ~~sub. (10)~~ s. DWD 12.22.

(3)(a) Except as provided in sub. (5), AFDC emergency assistance may be issued to an AFDC emergency assistance group ~~for one period of 30 days within any 12 consecutive months~~ once in a 36 month period.

(b) ~~The date of the first authorized payment begins the 30 day period, and the period ends 30 days after the initial payment, whether or not additional requests or payments for the same emergency are made.~~

(4) ~~AFDC emergency~~ Emergency assistance payments shall not be used for activities related to or the costs of providing temporary or transitional shelter or housing except if a group is in need of assistance due to a fire, flood or natural disaster.

SECTION 20. DWD 16.08(5) is created to read:

DWD 16.08(5) Emergency assistance provided in cases of fire, flood, natural disaster, energy crisis, or homelessness under s. DWD 16.05(2)(e) may be provided to an emergency assistance group once in a 12-month period.

SECTION 21. DWD 16.09 is amended to read:

DWD 16.09(1) In determining the ~~AFDC~~ emergency assistance group's total need, the agency shall consider the social service needs of the group and shall make appropriate referrals to assist the group in meeting those needs.

(2) Social service needs include but are not limited to the need for:

(a) Information and referral to the appropriate service agency; ~~—~~

(b) Counseling; ~~—~~

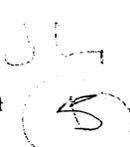
(c) Family shelter; ~~and~~

(d) Child care funding ~~through the county or tribal human services or social services agency.~~

SECTION 22. DWD 16.10(title) is amended to read:

DWD 16.10 REVIEW OF AGENCY DECISIONS. *tu) l. Adam Dampes*

SECTION 23. DWD 16.10 is amended to read:

DWD 16.10 Any person whose application for ~~AFDC~~ emergency assistance is not acted upon promptly after filing of the application, or is denied in whole or in part, whose award is modified or canceled, or who believes the award to be insufficient, may request a fair hearing in accordance with s. 49.21(1), Stats petition the agency for a review as provided under s. *prosecutor's involvement* 

49.138(4), Stats. A request shall be in writing and shall be submitted to the Wisconsin works agency so that it is received there within 45 days after the decision or failure to act which is being appealed. The standard for reasonable promptness shall be the requirements established by s. DWD 16.08(1). The standard for good cause shall be circumstances beyond the control of the applicant or participant which cannot be remedied by the applicant or participant and which prevent the applicant or participant from attending a scheduled review.

NOTE: s. 49.138(4), Stats., provides as follows:

“49.138(4)(a) Any individual whose application for emergency assistance under this section is not acted upon with reasonable promptness, after the filing of the application, as defined by the department by rule, or is denied in whole or in part, or who believes that the assistance amount was calculated incorrectly, may petition the administering agency for a review of such action. Review is unavailable if the action by the administering agency occurred more than 45 days prior to submission of the petition for review.

(b) Upon a timely petition under par. (a), the administering agency shall give the petitioner reasonable notice and opportunity for a review. The administering agency shall render its decision as soon as possible after the review and shall send by 1st class mail a certified copy of its decision to the petitioner. The administering agency shall deny a petition for review or shall refuse to grant relief if the petitioner does any of the following:

- 1. Withdraws the petition in writing.**
- 2. Abandons the petition. Abandonment occurs if the petitioner fails to appear in person or by representative at a scheduled review without good cause, as defined by the department by rule.**

(c) If the administering agency is a Wisconsin works agency, the department may review the decision of the Wisconsin works agency if, within 14 days after the date on which the certified copy of the decision of the Wisconsin works agency is mailed, the applicant or participant petitions the department for a review of that decision.”

SECTION 24. EFFECTIVE DATE. This rule shall take effect on the first day of the month following publication in the Wisconsin administrative register as provided in s.227.22(2)(intro.), Stats.

(End)

Tommy G. Thompson
Governor

Linda Stewart
Secretary



**OFFICE OF THE
SECRETARY**

201 East Washington Avenue
P.O. Box 7946
Madison, WI 53707-7946
Telephone: (608) 266-7552
Fax: (608) 266-1784
<http://www.dwd.state.wi.us/>

State of Wisconsin

Department of Workforce Development

July 15, 1999

JUL 16 REC'D

President of the Senate
220 South, State Capitol
Madison, Wisconsin 53702

Speaker of the Assembly
211 West, State Capitol
Madison, Wisconsin 53702

Notice of Administrative Rules in Final Draft Form

Clearinghouse rule number: 98-202

Rule number: DWD 16

Relating to: Emergency Assistance

Dear Senator Risser and Representative Jensen:

I have enclosed proposed rules and a rule report for referral to the appropriate legislative standing committees. The report consists of a summary of the public hearing comments and the agency response, Legislative Council Rules Clearinghouse Report and the agency response, a fiscal estimate, and a regulatory flexibility analysis.

If you have any questions regarding this matter, please do not hesitate to contact us.

Respectfully submitted,

A handwritten signature in cursive script that reads "Linda Stewart".

Linda Stewart, Ph.D.
Secretary



**State of Wisconsin
Department of Workforce Development**

Rules in Final Draft Form

Rule No.: DWD 16

Relating to: Emergency Assistance

**State of Wisconsin
Department of Workforce Development**

DWD 16

Emergency Assistance

The Wisconsin Department of Workforce Development proposes an order to repeal DWD 11.055 and create DWD chapter 16 relating to the emergency assistance program.

Analysis

Statutory authority for rule: sec. 49.138, Stats.
Statute interpreted by the rule: sec. 49.138, Stats.

This proposed rule codifies changes to the state's policies on emergency assistance that have been enacted in the statutes and implemented through the Wisconsin Works (W-2) program contracts. The principal changes are:

Outdated references to AFDC are removed and cross-references to W-2 are added. The definitions section of the rule is amended to reflect the operation of W-2. The term "needy person" is defined as a person who meets the eligibility criteria of the rule.

Total financial need is determined by the W-2 agency which (a) adds together the amount of unpaid expenses for the emergency assistance group and the amount of the cost of needs due to the emergency for the group; (b) adds together the available income and resources of the emergency assistance group; and (c) subtracts the total in (b) from the total in (a).

The amount of the emergency assistance payment is the lowest of: (a) the amount of total financial need; (b) the total of the maximum payment amount per group member (\$150) multiplied by the number of members of the emergency assistance group; or (c) the amount requested by the group.

Emergency assistance may be issued once in a 36-month period, except that emergency assistance provided in cases of fire, flood, natural disaster, energy crisis, or homelessness when a member of the emergency assistance group is a victim of domestic abuse may be provided once in a 12-month period.

SECTION 1. DWD 11.055 is repealed.

SECTION 2. Chapter DWD 16 is created.

Chapter DWD 16

EMERGENCY ASSISTANCE FOR FAMILIES WITH NEEDY CHILDREN

DWD 16.01 Purpose. This chapter implements s. 49.138, Stats., which directs the department to administer a program of emergency assistance for persons who are in need due to fire, flood, natural disaster, homelessness, or energy crisis and who meet the eligibility criteria under this chapter.

DWD 16.02 Applicability. This chapter applies to all applicants for emergency assistance, all recipients of emergency assistance, and all county and tribal economic support agencies and W-2 agencies administering the emergency assistance program under s. 49.138, Stats.

DWD 16.03 Definitions. In this chapter:

(1) "Destitution" means extreme want of resources or of the means of subsistence.

(2) "Emergency assistance" means the program under s. 49.138, Stats., for emergency assistance to families with needy children in cases of fire, flood, natural disaster, homelessness, or energy crisis.

(3) "Emergency assistance group" or "group" means family as referred to in s. 49.138, Stats., and includes one or more dependent children as defined by s. 49.141(1)(c), Stats., and a qualified caretaker relative with whom the child is living or was living at the time the emergency occurred.

(4) "Emergency shelter facility" means any facility, the primary purpose of which is to provide temporary or transitional shelter for the homeless in general or specific populations of the homeless.

(5) "Migrant worker" has the meaning given in s. 103.90(5), Stats.

(6) "Needy person" means a person who meets the eligibility criteria in ss. DWD 16.05 and 16.06.

(7) "Qualified caretaker relative" means a caretaker of a child whose relationship to the caretaker or the caretaker's spouse is one of the following: son, daughter, grandson, granddaughter, stepson, stepdaughter, brother, sister, stepbrother, stepsister, half brother or half sister, nephew, niece, uncle, aunt, first cousin or grand, great-grand or great-great grand son, daughter, nephew, or niece. A qualified caretaker relative continues to be a qualified relative even when the relationship is terminated by death or divorce.

(8) "W-2 Agency" or "agency" means an entity that is administering the Wisconsin works program as a contractor under s. 49.143, Stats.

DWD 16.04 Application. Application for emergency assistance shall be made on a form prescribed by the department. Upon receipt of a completed application, the agency shall verify that the emergency was due to fire, flood, natural disaster, homelessness, or an energy crisis. Verification of eligibility shall not delay the provision of assistance.

NOTE: An application form for emergency assistance may be obtained from a county or tribal economic support agency or a Wisconsin Works (W-2) agency. The addresses of the Wisconsin works agencies may be obtained by calling the division of economic support at 608-261-6753.

DWD 16.05 Nonfinancial eligibility. (1) **CRITERIA.** The emergency assistance group shall meet all of the following nonfinancial eligibility criteria:

(a) The group members shall live in Wisconsin and intend to reside in Wisconsin, except a migrant worker is not required to meet the requirement as to intent to reside in Wisconsin. A never-married child under age 18 is a Wisconsin resident when he or she is under the legal custody of the department or an agency, regardless of the state in which he or she is living. Wisconsin residence shall not be lost when a dependent child or caretaker relative is temporarily absent from Wisconsin for the purpose of visiting, hospitalization, or education.

(b) The group members are citizens or qualifying aliens as defined in s. DWD 12.09(2)(c).

(c) The child for whom assistance is requested is or, within 6 months prior to the month of application for emergency assistance, was living with a qualified caretaker relative in a place of residence maintained as the caretaker relative's own home.

(d) Assistance is needed to avoid destitution of the child or to provide a living arrangement for the child in a home.

(e) The child's destitution or need for living arrangements did not result from the child or a qualified caretaker relative refusing without good cause to accept employment or training for employment.

(f) As determined by the agency, the group's need has resulted from an emergency due to one or more of the following causes:

1. Fire.
2. Flood.
3. A natural disaster such as a tornado, earthquake, electrical storm, windstorm, hail, sleet, a mud or rock slide, or a natural explosion such as lightning striking an object that then explodes.
4. Homelessness as determined under sub. (2). The cause of the homelessness need not be the result of a natural disaster.
5. An energy crisis, including lack of essential home heating or imminent loss of essential home heating, with an immediate threat to the health or safety of the group either existing or likely to exist.

(2) ELIGIBILITY DUE TO HOMELESSNESS. An emergency assistance group shall be considered homeless for purposes of determining nonfinancial eligibility under sub. (1) if the group needs emergency assistance to obtain a permanent living accommodation and if any of the following conditions apply:

- (a) The group lacks a fixed, regular, and adequate nighttime residence.
- (b) The group has a current residence that is a shelter designed for temporary accommodation such as a motel, hotel, or emergency shelter facility.
- (c) The group has to leave or has already left its current housing because it is uninhabitable as determined by the local building inspector, the local health department, or other appropriate local authority.
- (d) The group is living in a place that is not designed for, or ordinarily used as, a regular sleeping accommodation.
- (e) A member of the group was subject to domestic abuse as defined under s. 968.075 (1)(a), Stats.

DWD 16.06 Financial Eligibility. (1) **TOTAL FINANCIAL NEED.** The W-2 agency shall compute the total financial need of the emergency assistance group by following these steps:

(a) The W-2 agency shall determine the amount of unpaid expenses for the group and the cost of the needs due to emergency for the group and add these two amounts together.

(b) The W-2 agency shall determine the available income of the group and the available resources of the group and add these two amounts together.

(c) The W-2 agency shall subtract the total of par. (b) from the total of par. (a). The result is the total financial need of the emergency assistance group.

(2) **PHYSICAL NEEDS.** Physical needs may include:

(a) Food

(b) Clothing

(c) Temporary housing when the group is in need of assistance because of fire, flood or, natural disaster

(d) First month's rent plus the security deposit

(e) Home energy. This may include heating fuel, electricity, and repair or replacement services necessary to attain or maintain the basic heat and electricity requirements of an average household.

(f) Household items

(g) Home repairs and appliances

(h) Transportation

(i) Medical care

(3) **INCOME.** The agency shall determine the amount of income available to the emergency assistance group in accordance with s. DWD 12.09(3)(b), except any of the following grants received in the month of the emergency is not counted:

(a) W-2 benefits under s. 49.148, Stats.

(b) Kinship care payments under s. 48.57(3m), Stats.

(c) Supplemental security income

(d) SSI supplemental payment for children of recipients under s. 49.775, Stats.

(4) **ASSETS.** The agency shall determine the amount of assets available to the emergency assistance group in accordance with s. DWD 12.09(3)(a), except that an asset with a fair market value of less than \$3,000 that would require liquidation at a loss is exempt from consideration. No asset may be considered available unless the emergency assistance group can make it available within 30 days. Assets shall be considered both when actually available and when the group has a legal interest in a liquidated sum and has the legal ability to make the sum available for support and maintenance. No available real property may be included in determining the emergency assistance group's assets.

DWD 16.07 Payment amount. The emergency assistance payment shall be the lowest of the following three amounts:

- (1) The total of the maximum payment amount per group member multiplied by the number of members of the emergency assistance group.
- (2) The amount requested by the group.
- (3) The total financial need due to the emergency, as determined in s. DWD 16.06(1).

NOTE: The maximum payment amount per group member is \$150 for cases of need due to fire, flood, natural disaster, and homelessness. The maximum payment amount does not apply to cases of need due to an energy crisis. Changes to the maximum payment amount will be announced in the Administrative Register.

DWD 16.08 Eligibility determination and payment procedures. (1) The agency shall determine eligibility for emergency assistance within 5 working days after receiving a completed application. If the group is found eligible, the agency shall issue a payment to the emergency assistance group within the same 5 working days, except if the group's eligibility is due to homelessness under s. DWD 16.05 (2), the agency shall issue a payment, following the eligibility determination, within 5 working days of the date that the group notifies the agency that a permanent living accommodation has been obtained. The payment may be made in the form of cash, a voucher, or a vendor payment.

(2) The agency shall notify the applicant in writing of the eligibility determination. If the application is denied, the notice shall include reasons for the denial and information about the opportunity to appeal that decision under s. DWD 12.22.

(3) Except as provided in sub. (5), emergency assistance may be issued to an emergency assistance group once in a 36-month period.

(4) Emergency assistance payments shall not be used for activities related to or the costs of providing temporary or transitional shelter or housing, except if a group is in need of assistance due to a fire, flood, or natural disaster.

(5) Emergency assistance provided in cases of fire, flood, natural disaster, energy crisis, or homelessness when a member of the emergency assistance group is a victim of domestic abuse, as defined in s. 968.075 (1)(a), Stats., may be provided to an emergency assistance group once in a 12-month period.

DWD 16.09 Social services. (1) In determining the emergency assistance group's total need, the agency shall consider the social service needs of the group and make appropriate referrals to assist the group in meeting those needs.

(2) Social service needs include but are not limited to the need for:

- (a) Information and referral to the appropriate service agency
- (b) Counseling
- (c) Family shelter
- (d) Child care funding.

DWD 16.10 Review of agency decisions. (1) An emergency assistance applicant or participant may petition the agency for a review as provided under s. 49.138(4), Stats., if one of the following occurs or is alleged by the applicant or participant:

(a) The application for emergency assistance was not acted upon promptly after filing.

The standard for reasonable promptness shall be the requirements established by s. DWD 16.08(1).

(b) The application is denied in whole or in part.

(c) The emergency assistance award is modified or canceled.

(d) The award is insufficient.

NOTE: s. 49.138(4), Stats., provides as follows: "(a) Any individual whose application for emergency assistance under this section is not acted upon with reasonable promptness, after the filing of the application, as defined by the department by rule, or is denied in whole or in part, or who believes that the assistance amount was calculated incorrectly, may petition the administering agency for a review of such action. Review is unavailable if the action by the administering agency occurred more than 45 days prior to submission of the petition for review.

(b) Upon a timely petition under par. (a), the administering agency shall give the petitioner reasonable notice and opportunity for a review. The

administering agency shall render its decision as soon as possible after the review and shall send by 1st class mail a certified copy of its decision to the petitioner. The administering agency shall deny a petition for review or shall refuse to grant relief if the petitioner does any of the following:

1. Withdraws the petition in writing.
2. Abandons the petition. Abandonment occurs if the petitioner fails to appear in person or by representative at a scheduled review without good cause, as defined by the department by rule.

(c) If the administering agency is a Wisconsin works agency, the department may review the decision of the Wisconsin works agency if, within 14 days after the date on which the certified copy of the decision of the Wisconsin works agency is mailed, the applicant or participant petitions the department for a review of that decision.”

(2) In determining whether a petition for review is abandoned under s. 49.138 (4)(b)2, Stats., the standard for good cause shall be circumstances beyond the control of the applicant or participant that cannot be remedied by the applicant or participant and which prevent the applicant or participant from attending a scheduled review.

EFFECTIVE DATE. This rule shall take effect on the first day of the month following publication in the Wisconsin administrative register as provided in s. 227.22(2)(intro.), Stats.

Tommy G. Thompson
Governor

Linda Stewart
Secretary



State of Wisconsin

Department of Workforce Development

OFFICE OF THE SECRETARY

201 East Washington Avenue
P.O. Box 7946
Madison, WI 53707-7946
Telephone: (608) 266-7552
Fax: (608) 266-1784
<http://www.dwd.state.wi.us/>

Rule Report

Rule number: DWD 16

Clearinghouse rule number: 98-202

Relating to: Emergency Assistance

Agency contact person for substantive questions:

Dianne Reynolds
Legislative Liaison, DWD Division of Economic Support
266-0988

Agency contact person for internal processing:

Elaine Pridgen
DWD Administrative Rules Coordinator
267-9403

There were no public comments received on this rule.

Tommy G. Thompson
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State of Wisconsin
Department of Workforce Development

Response to Legislative Council Clearinghouse Report

Clearinghouse Rule No.: 98-202
Rule No.: DWD 16
Relating To: Emergency Assistance

Agency contact person for substantive questions.

Name: Dianne Reynolds
Title: Legislative Liaison, DWD Division of Economic Support
Telephone No. 266-0988

Legislative Council report recommendations accepted in whole.

Yes No

1. Review of statutory authority (s.227.15(2)(a))
 - a. Accepted
 - b. Accepted in part
 - c. Rejected
 - d. Comments attached

2. Review of rules for form, style and placement in administrative code (s.227.15(2)(c))
 - a. Accepted
 - b. Accepted in part
 - c. Rejected
 - d. Comments attached

3. Review rules for conflict with or duplication of existing rules (s.227.15(2)(d))
- a. Accepted
 - b. Accepted in part
 - c. Rejected
 - d. Comments attached
4. Review rules for adequate references to related statutes, rules and forms (s.227.15(2)(e))
- a. Accepted
 - b. Accepted in part
 - c. Rejected
 - d. Comments attached
5. Review language of rules for clarity, grammar, punctuation and plainness (s.227.15(2)(f))
- a. Accepted
 - b. Accepted in part
 - c. Rejected
 - d. Comments attached
6. Review rules for potential conflicts with, and comparability to, related federal regulations (s.227.15(2)(g))
- a. Accepted
 - b. Accepted in part
 - c. Rejected
 - d. Comments attached
7. Review rules for permit action deadline (s.227.15(2)(h))
- a. Accepted
 - b. Accepted in part
 - c. Rejected
 - d. Comments attached

Comments

2. c. The "other programs eligibility manual" has been discontinued.

5.c. The sentence "once established, residence shall be retained until abandoned" has been deleted.

FISCAL ESTIMATE
DOA-2048 E (R 07/97)

ORIGINAL UPDATED
 CORRECTED SUPPLEMENTAL

LRB or Bill No./Adm. Rule No.
DWD 16
Amendment No. if Applicable

Subject
Emergency Assistance

Fiscal Effect

State: No State Fiscal Effect

Check columns below only if bill makes a direct appropriation
or affects a sum sufficient appropriation.

Increase Costs - May be possible to Absorb
Within Agency's Budget Yes No

Increase Existing Appropriation Increase Existing Revenues
 Decrease Existing Appropriation Decrease Existing Revenues
 Create New Appropriation

Decrease Costs

Local: No local government costs

1. Increase Costs
 Permissive Mandatory
2. Decrease Costs
 Permissive Mandatory

3. Increase Revenues
 Permissive Mandatory
4. Decrease Revenues
 Permissive Mandatory

5. Types of Local Governmental Units Affected:
 Towns Villages Cities
 Counties Others _____
 School Districts WTCS Districts

Fund Sources Affected

GPR FED PRO PRS SEG SEG-S

Affected Ch. 20 Appropriations

Assumptions Used in Arriving at Fiscal Estimate

The rule is based on the funding assumptions in the current budget, 1997 Act 27.

Long-Range Fiscal Implications

None.

Agency/Prepared by: (Name & Phone No.)
DWD/DES Howard Bernstein 266-9427

Authorized Signature/Telephone No.



Date
12/11/98

FISCAL ESTIMATE WORKSHEET

1997 Session

Detailed Estimate of Annual Fiscal Effect
DOA-2047 (R 07-97)

ORIGINAL UPDATED
 CORRECTED SUPPLEMENTAL

LRB or Bill No./Adm. Rule No.
DWD 16

Amendment No.

Subject
Emergency Assistance

I. One-time Costs or Revenue Impacts for State and/or Local Government (do not include in annualized fiscal effect):
\$0

II. Annualized Costs:	Annualized Fiscal impact on State funds from:	
A. State Costs by Category	Increased Costs	Decreased Costs
State Operations - Salaries and Fringes	\$0	\$ -0
(FTE Position Changes)	(FTE)	(- FTE)
State Operations - Other Costs		-
Local Assistance		-
Aids to Individuals or Organizations		-
TOTAL State Costs by Category	\$0	\$ -0
B. State Costs by Source of Funds	Increased Costs	Decreased Costs
GPR	\$	\$ -
FED		-
PRO/PRS		-
SEG/SEG-S		-
III. State Revenues -	Increased Rev.	Decreased Rev.
Complete this only when proposal will increase or decrease state revenues (e.g., tax increase, decrease in license fee, etc.)		
GPR Taxes	\$	\$ -
GPR Earned		-
FED		-
PRO/PRS		-
SEG/SEG-S		-
TOTAL State Revenues	\$0	\$ -0

NET ANNUALIZED FISCAL IMPACT

	<u>STATE</u>	<u>LOCAL</u>
NET CHANGE IN COSTS	\$0	\$0 _____
NET CHANGE IN REVENUES	\$0	\$0 _____

Agency/Prepared by: (Name & Phone No.)
DWD/ASD Howard Bernstein 266-9427

Authorized Signature/Telephone No.
Howard Bernstein 266-9427

Date
12/11/98

Tommy G. Thompson
Governor

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Final Regulatory Flexibility Analysis

Clearinghouse rule number: 98-202

Rule number: DWD 16

Relating to: Emergency Assistance

Final regulatory flexibility analysis not required. (Statement of determination required.)

Privately-run W-2 agencies will be affected by the rule change, but the rule will not have a significant economic impact because there is no material change from current procedures.

1. Reason for including or failing to include the following methods for reducing impact of the rule on small businesses: Less stringent compliance or reporting requirements; less stringent schedules or deadlines for compliance or reporting requirements; simplification of compliance or reporting requirements; establishment of performance standards to replace design or operational standards; exemption from any or all requirements.
2. Issues raised by small businesses during hearings, changes in proposed rules as a result of comments by small businesses and reasons for rejecting any alternatives suggested by small businesses.
3. Nature and estimated cost of preparation of any reports by small businesses.
4. Nature and estimated cost of other measures and investments required of small businesses.
5. Additional cost to agency of administering or enforcing a rule which includes any of the methods in 1. for reducing impact on small business.
6. Impact on public health, safety and welfare caused by including any of the methods in 1. for reducing impact on small businesses.