



WISCONSIN LEGISLATIVE COUNCIL RULES CLEARINGHOUSE

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CLEARINGHOUSE RULE 07-054

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 January 2005.]

2. Form, Style and Placement in Administrative Code

In s. DWD 128.01 (3) (intro.) and (4) (intro.), the first sentence appears to contain a definition. The agency should follow s. 1.01 (7), Manual, for placement and format of definitions. The defined term should be placed in quotation marks and preceded by a phrase such as “In this chapter,” or “In this section.”

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

a. In the rule summary, under “Statutes interpreted,” “Section 108.04 (1) (b) 1., (2) (a) 1., (7) (c), and (8) (e), Stats.” should replace “Sections 108.04 (2) (a) 1., 108.04 (1) (b) 1., 108.04 (7) (c), 108.04 (8) (e), Stats.”

b. In the rule summary, under “Related statutes and rules,” “Section 108.04 (2) (a) 2. and 3. and (b), Stats.” should replace “Sections 108.04 (2) (a) 2. and 3. and 108.04 (2) (b), Stats.”

c. In s. DWD 128.01 (1), are the references to s. 108.04 (2), Stats., and s. 108.04 (1) (b) 1., (7) (c), and (8) (e), Stats., necessary? The information in the first two sentences of s. DWD 128.01 (1) is repetitive. Instead, the agency might consider replacing the first two sentences of s. DWD 128.01 (1) with the following sentence: “Under s. 108.04, Stats., a claimant is eligible for unemployment benefits only if the claimant is able to work and available for work.” [If the statutory references are not removed in s. DWD 128.01 (1), then “s. 108.04 (1) (b) 1., (7) (c), and (8) (e), Stats.” should replace “ss. 108.04 (1) (b) 1., 108.04 (7) (c), and 108.04 (8) (e), Stats.”]

d. In s. DWD 128.01 (6), “s. DWD 128.03” should replace “s. DWD 128.02.”

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

a. Throughout the proposed rule, “suitable work” and “work” are used interchangeably. For example, in s. DWD 128.01 (3) (intro.), the first sentence refers to “suitable work,” while the second sentence refers to “work.” “Suitable work” is defined in s. DWD 100.02 (61). The agency should ensure that “suitable work” and “work” are used appropriately.

b. In s. DWD 128.01 (1), the following sentence should replace the last sentence of the subsection: “The department may determine the claimant’s ability to work and availability for work at any time through questioning of the claimant and other procedures.”

c. In s. DWD 128.01 (3) (intro.) and (4) (intro.) and (b), “may” should replace “shall.” [s. 1.01 (2), Manual.]

d. In s. DWD 128.01 (3) (b), the agency should clarify “restrictions.”

e. In s. DWD 128.01 (4) (a) 1., “is” should replace “will be” on lines 4 and 6 of the subdivision.

f. In s. DWD 128.01 (4) (a) 2., “trades or” should be deleted on lines 3, 5, and 6 of the subdivision, and “an” should replace “a” on line 6 of the subdivision. On line 4, “the” should replace “such.”

g. In s. DWD 128.01 (4) (a) 2., “the department shall consider” should replace “consideration shall be given to.”

h. In s. DWD 128.01 (4) (a) 2., “restricted by an immediate family member’s medical or health condition or other infirmity requiring essential care” should replace “restricted by a medical or health condition or other infirmity of a member of the claimant’s immediate family requiring essential care.”

i. In s. DWD 128.01 (4) (a) 2., a comma should be inserted after “market” on line 10 of the subdivision.

j. In s. DWD 128.01 (4) (a) 3., “the department may consider” should replace “consideration may be given to.”

k. In s. DWD 128.01 (4) (a) 8. (title), “information” should be inserted after “Occupational.”

l. In s. DWD 128.01 (4) (b), “that recalls the claimant” should be inserted after “employer” on line 3 of the paragraph. Also, “determining” should replace “testing” on line 5 of the paragraph.

m. In s. DWD 128.01 (7) (a), “a” should replace “some.”

n. In s. DWD 128.03 (1), “A representative of the” should be replaced by “The.”