



WISCONSIN LEGISLATIVE COUNCIL RULES CLEARINGHOUSE

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CLEARINGHOUSE RULE 17-066

Comments

[NOTE: All citations to “Manual” in the comments below are to the Administrative Rules Procedures Manual, prepared by the Legislative Reference Bureau and the Legislative Council Staff, dated December 2014.]

1. Statutory Authority

Section 49.151 (1m) (f), Stats., authorizes the agency to specify, by rule, what other behavior or action constitutes a refusal to participate in a Wisconsin Works employment position. This could also be cited in the statutory authority section.

2. Form, Style and Placement in Administrative Code

In s. DCF 101.195 (3) (a), the phrase, “For purposes of this subsection” should be rephrased, “In this subsection”.

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

Because all of the paragraphs in s. 49.151 (1m), Stats., are being interpreted by the rule, when citing this subsection in both the statutes interpreted and the summary of proposed rules, pars. (a) to (f) do not need to be listed.

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

a. In SECTION 1, it is unclear what the term “nonparticipation” means. Does it mean a refusal to participate? Does it mean that the person did not show up for work or a scheduled meeting or training? This term should be defined.

b. In SECTION 1, it is unclear what it means for a participant’s benefits to be restored. For example, is the restoration of benefits only prospective or does it also include back pay? If it may

be either retrospective or prospective, or both, who makes this determination, when is this determination made, and upon what grounds is it made? The agency should specify what it means for benefits to be restored.

c. In s. DCF 101.21 (1), should the sanction for a refusal to participate be specified?

d. In s. DCF 101.21 (1) (a) 5. (intro.), it appears that in the last sentence the word “all” should be changed to “any”. In subpar. a., both instances of the phrase “specified under” should be revised to “defined in”. Also, consider identifying, either in a Note to the rule or in the plain language analysis for the proposed rule, that the definition for “misconduct” is similar to the definition for that term under the unemployment insurance laws, s. 108.04 (5), Stats.

e. In s. DCF 101.21 (1) (c) 6., it is unclear what level of employee requirements would disqualify the individual. For example, are reasonable negotiations permitted? Consider inserting the word “unreasonable” before “requirement”. Compare, for example, s. DWD 128.01 (4) (a) 1. and 7.