

Report From Agency
Department of Children and Families
Rule Report for Final Draft Form of Proposed Rules
Emergency Assistance Program Integrity
Clearinghouse Rule 23-073
DCF 120

Basis and Purpose of the Proposed Rules

The primary purpose of the proposed rules is to implement the Emergency Assistance overpayment provisions in s. 49.138 (5), Stats.

Public Hearing

Forward Service Corporation submitted a comment listing the pros and cons of the extension of the Emergency Assistance eligibility determination timeline from 5 to 10 days. The pros include that the additional time can be used to better manage timeframes, educate clients, and ensure more accurate processing of applications and determining eligibility and the con is the potential delay in clients receiving funds. Agencies should still process applications as quickly as possible.

Responses to Legislative Council Rules Clearinghouse Comments

All comments were accepted, except the following:

Comment 2. b.: The department agrees that ch. DCF 101, Wisconsin Works, is outside the scope of this proposed rule. The department will consider updating the definition of “intentional program violation” in the Wisconsin Works rules to refer to the statutory definition in s. 49.001 (3m), Stats., when the Wisconsin Works rules are next revised. DCF 101.23 (1) (f) does not currently refer to s. 49.001 (3m), Stats., because the rule was created before the statute existed.

Comment 2. c.: A definition of “overpayment” is not needed in the Emergency Assistance rule because the term is not used in a way that is any different from the everyday understanding of the term or a common dictionary definition. The purpose of the definition of “overpayment” in the Wisconsin Works rule is to emphasize that a recipient is responsible for the repayment of an overpayment regardless of whether the overpayment was due to client error, administrative error, or intentional program violation. For Emergency Assistance, recipients are responsible for overpayments due to intentional program violation or client error and Wisconsin Works agencies are responsible for overpayments due to administrative error.

Comment 2. d.: Recoupment is not a viable collection method for overpayments of Emergency Assistance because there are no continuing benefits. Emergency Assistance may be provided to a family with a needy child only once in a 12-month period. Also, recipients of Emergency Assistance are not responsible for overpayments due to administrative error.

Comment 2. e.: The department will consider updating the setoff language in s. DCF 101.23 (8) when the Wisconsin Works rules are next revised.

Changes to the Analysis or to the Fiscal Estimate

In the analysis “any other legal means” was changed to “any other authorized collection method.” No changes were made to the fiscal estimate.

Final Regulatory Flexibility Analysis

The rule does not affect small business as defined in s. 227.114 (1), Stats.

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