

CR 86-42

CERTIFICATE

STATE OF WISCONSIN)
) SS
DEPARTMENT OF HEALTH AND SOCIAL SERVICES)

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OCT 29 1986
10:40 am
Revisor of Statutes
Bureau

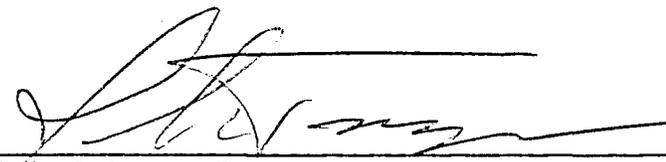
TO ALL TO WHOM THESE PRESENTS SHALL COME, GREETINGS:

I, Linda Reivitz, Secretary of the Department of Health and Social Services and custodian of the official records of said Department, do hereby certify that the annexed rules relating to regulation of local general relief agency use of a 31 to 60 day sanction for recipients who do not comply with agency work requirements were duly approved and adopted by this Department on October 29, 1986.

I further certify that this copy has been compared by me with the original on file in this Department and that the same is a true copy thereof, and of the whole of such original.

IN TESTIMONY WHEREOF, I have hereunto set my hand and affixed the official seal of the Department at the State Office Building, 1 W. Wilson Street, in the city of Madison, this 29th day of October, 1986.

SEAL:



Linda Reivitz, Secretary
Department of Health and Social Services

1-1-87

ORDER OF THE
DEPARTMENT OF HEALTH AND SOCIAL SERVICES
ADOPTING RULES

To create HSS 230, relating to standards for determination of general relief benefit discontinuation due to failure to comply with work relief or grant diversion rules.

Analysis Prepared by the Department of Health and Social Services

The Department of Health and Social Services is directed under ss. 49.05(10) and 49.053(12), Stats., as created by 1985 Wisconsin Act 29, to develop standards for general relief agencies that intend to sanction a recipient for not complying with work requirements by discontinuing general relief benefits for a period of 31 to 60 days. This sanction must be based upon at least two failures by the recipient to comply with the work relief rules or grant diversion rules of the agency.

General relief is a program of financial and in-kind assistance provided by local governments primarily to non-elderly single persons and childless couples who need help to obtain food, shelter, fuel, medical care and other necessities for life and who are not eligible for other types of public assistance.

Under ss. 49.05(8) and 49.053(10), Stats., a county or municipal general relief agency may discontinue payment of general relief to a recipient for up to 60 days when the recipient does not comply with the agency's work requirements. However, benefits may be discontinued for more than 30 days for this reason only if the recipient has not complied in at least two instances with the agency's work requirements and provided that the agency conforms to standards established by the Department under ss. 49.05(10) and 49.053(12), Stats., for imposing a sanction of more than 30 days.

Proposed ch. HSS 230, Wis. Adm. Code, requires that general relief agencies operating work relief or grant diversion programs for recipients and wanting to discontinue benefits for 31 to 60 days when a recipient does not comply with agency work requirements adopt written rules for work relief and grant diversion, provide copies of the rules to general relief recipients, inform recipients of any change in the rules before the change takes effect, inform the recipient in writing of any sanction of more than 30 days that is to be imposed on the recipient, specify the types of recipient behavior that constitute failure to comply subject to a sanction of more than 30 days, establish good cause reasons for a recipient not to comply with a work requirement, do not impose more than one sanction for a single failure of a recipient to comply with agency work requirements, and do not apply a sanction of over 30 days for a second failure to comply if the most recent previous failure to comply occurred more than 180 days earlier.

Pursuant to authority vested in the Department of Health and Social Services by ss. 49.05(10) and 49.053(12), Stats., the Department of Health and Social Services hereby adopts rules interpreting ss. 46.03(8), 49.05(10) and 49.053(12), Stats., as follows:

SECTION 1. HSS 230 is created to read:

CHAPTER HSS 230
STANDARDS FOR DISCONTINUING GENERAL RELIEF
FOR 31 TO 60 DAYS

HSS 230.01 Introduction

HSS 230.02 Standards for Work Relief and Grant Diversion

HSS 230.01 INTRODUCTION. (1) AUTHORITY AND PURPOSE. This chapter is adopted under the authority of ss. 49.05(10) and 49.053(12), Stats., to provide standards for agencies that intend to discontinue general relief benefits to a recipient from 31 to 60 days based upon the recipient's failure to comply 2 or more times with the agency's work relief or grant diversion rules.

(2) APPLICABILITY. This chapter applies to all agencies that choose to impose sanctions of 31 to 60 days on general relief recipients who fail to comply 2 or more times with agency work requirements.

(3) DEFINITIONS. In this chapter:

(a) "Agency" means a county department of public welfare or social services organized under ss. 46.034, 46.22, or 49.51, Stats., a human services department created under s. 46.23, Stats., or a municipal agency that administers general relief under s. 49.02, Stats.

(b) "Agency rules" means the rules adopted by the agency under ss. 49.05(1m) and 49.053(9), Stats., for purposes of administering the work relief and grant diversion components of its general relief program.

(c) "Benefit" means the payment provided under s. 49.032, Stats.

(d) "Department" means the Wisconsin department of health and social services.

(e) "Discontinuation" means the cessation of benefits to a recipient, except emergency medical treatment or hospitalization described in s. 49.02(5), Stats.

Note: "Benefit denial" in ss. 49.05(10) and 49.053(12), Stats., has essentially the same meaning as "benefit discontinuation" in the same statutes and "discontinuation" in this chapter. Some agencies require reapplication for resumption of benefits following discontinuation for the recipient's failure to comply with agency work requirements. When a reapplication is made for benefits to begin before the end of the period during which the cessation of benefits sanction is in effect, that application will be denied, which is in effect confirmation of the discontinuation decision.

(f) "Failure to comply" means an action or inaction of a recipient that violates agency rules without good cause, or an occasion consisting of 2 or more actions or inactions of a recipient that violate agency rules without good cause.

(g) "Grant diversion" means a component of the general relief program operated by an agency in accordance with s. 49.053, Stats., in which the agency uses all or part of a recipient's benefits to subsidize an employer at up to 50 percent of the wages the employer pays the recipient for a job performed by the recipient for a period not to exceed 6 months, under a written contract between the agency and the employer.

(h) "Recipient" means an individual eligible for or receiving benefits from an agency.

(i) "Sanction" means a discontinuation of benefits.

(j) "Work relief" means a component of the general relief program operated by an agency in accordance with s. 49.05, Stats., in which the agency requires recipients, in exchange for their benefits, to do work which the recipients are capable of performing on work projects authorized and sponsored by the county or municipality.

(k) "Work requirements" means the agency's rules for the work relief and grant diversion components of its general relief program.

HSS 230.02 STANDARDS FOR WORK RELIEF AND GRANT DIVERSION.

(1) CONDITIONS FOR IMPOSING 31 TO 60 DAY SANCTIONS. An agency may impose a sanction of 31 to 60 days on a recipient for failure to comply with agency work requirements only if the recipient has failed 2 or more times to comply with the requirements and provided that:

(a) The agency has rules setting forth its work requirements, the rules are in writing, and the rules are based on and comply with ss. 49.002, 49.05 and 49.053, Stats.;

(b) The agency notifies the recipient in writing of the intent to impose the sanction before the sanction takes effect, and of the duration of the sanction. The notice shall include the agency's proposed action affecting the recipient's eligibility for general relief and payments;

(c) The sanction is imposed on a recipient in accordance with the procedural rights provisions of s. 49.037(6) to (10), Stats.;

(d) If the agency offers the recipient an informal method of resolving a dispute about the basis for discontinuing benefits, whether a sanction should be applied or the duration of the sanction, the recipient may reject the informal process without prejudicing his or her right to the formal process under s. 49.037(6) to (10), Stats.;

(e) The agency specifies in its rules the actions or inactions of recipients that constitute failures to comply which are subject to sanctions, excluding failures to comply for good cause under par. (f);

(f) The agency identifies in its rules the situations and circumstances which shall be considered good cause for a recipient's failure to comply, which shall include situations and circumstances beyond the reasonable control of the recipient;

(g) A single failure to comply does not result in more than one sanction;

(h) The previous failure to comply, which is being used as the basis for applying a 31 to 60 day sanction, resulted in a discontinuation for at least one day. No sanction that has been overturned by the county or municipality under s. 49.037(9), Stats., or by the court under s. 49.037(10), Stats., may be used as a basis for a subsequent 31 to 60 day sanction;

(i) A sanction for 31 to 60 days is not imposed on a recipient when the most recent previous failure to comply occurred more than 180 calendar days, excluding the sanction period, before the present failure to comply;

(j) The recipient while employed under the grant diversion program is either subject to the work rules which are applied to all other employes of the employer who are in the same class or to agency rules as agreed to in the contract under s. 49.053(lm), Stats., between the municipality or county and the employer;

(k) The agency makes provision in its rules for determining if the termination of the recipient's employment under the grant diversion program due to an action or inaction by the recipient constitutes a failure to comply with the agency's rules; and

(1) Failures to comply with an agency's work relief rules are not added to failures to comply with an agency's grant diversion rules in the determination of a sanction upon a recipient. Similarly, failures to comply with an agency's grant diversion rules are not added to failures to comply with an agency's work relief rules in the determination of a sanction upon a recipient.

(2) AGENCY RULE INFORMATION. The agency shall provide a written copy of its work relief rules to each recipient required to participate in work relief, and a written copy of its grant diversion rules and the employer's work rules, if applicable, to each recipient required to participate in grant diversion, and shall provide changes in these rules to recipients. The agency shall explain the rules to the recipient and shall give the recipient an opportunity to comply with the rules prior to citing the recipient for failure to comply.

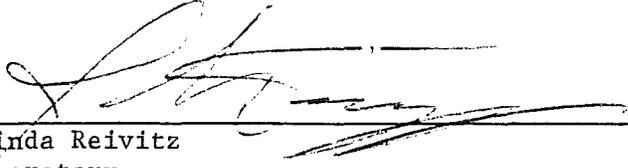
(3) SANCTION PERIODS. The agency may establish different sanctions expressed in numbers of days within the 31 to 60 day range that are appropriate to the severity of the failure to comply.

The rules contained in this order shall take effect on the first day of the month following publication in the Wisconsin Administrative Register as provided in s. 227.22(2), Stats.

WISCONSIN DEPARTMENT OF HEALTH AND SOCIAL SERVICES

Date: 10/29/86

By:



Linda Reivitz
Secretary

Seal:



State of Wisconsin

DEPARTMENT OF HEALTH AND SOCIAL SERVICES

1 West Wilson Street, Madison, Wisconsin 53702

Anthony S. Earl
Governor

Linda Reivitz
Secretary

October 29, 1986

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OCT 29 1986

Mailing Address:
Post Office Box 7850
Madison, WI 53707

Mr. Orlan Prestegard
Revisor of Statutes
9th Floor - 30 on the Square
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Revisor of Statutes
Bureau

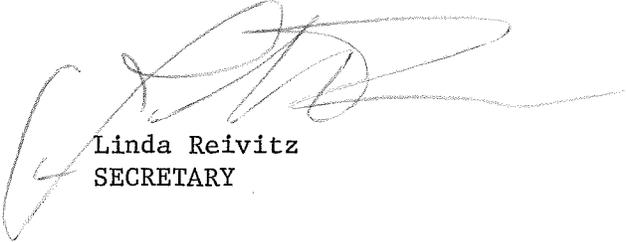
Dear Mr. Prestegard:

As provided in s. 227.20, Stats., there is hereby submitted a certified copy of HSS 230, administrative rules relating to regulation of local general relief agency use of a 31 to 60 day sanction for recipients who do not comply with agency work requirements.

These rules are also being submitted to the Secretary of State as required by s. 227.20, Stats.

These rules affect General Relief recipients and county agencies that administer General Relief. They do not directly affect small businesses as defined in s. 227.114(1)(a), Stats.

Sincerely,



Linda Reivitz
SECRETARY

Enclosure