

## Chapter PW-PA 20

## PUBLIC ASSISTANCE

PW-PA 20.17 Confidential nature of PW-PA 20.24 Student 18-year old aid records program  
 PW-PA 20.18 Fair hearings

**PW-PA 20.14 Aid to distressed counties.** History: 1-2-56; am. Register, April, 1967, No. 136, eff. 5-1-67, am. Register, February, 1975, No. 230, eff. 3-1-75; r. Register, October, 1988, No. 394, eff. 11-1-88.

**PW-PA 20.15 Reimbursement for state dependents.** History: 1-2-56; cr. (6), Register, July, 1978, No. 271, eff. 8-1-78; r. Register, October, 1988, No. 394, eff. 11-1-88.

**PW-PA 20.17 Confidential nature of records.** (1) RECORDS AND OFFICES AFFECTED. Pursuant to s. 49.53, Stats., case records and all financial data pertaining thereto on file in the county agency administering aid to dependent children, medical assistance, food stamps, social security aid payrolls on file in the offices of the county clerk and county treasurer, and old age assistance liens filed in the office of the register of deeds fall within the purview of this rule.

(2) ADMINISTRATIVE AGENCY RECORDS. (a) *Custody.* All agency records shall be safely kept and shall not be removed from the files and offices except when in the custody of a responsible official or employee of the agency.

(b) *Inspection of records.* Inspection of agency records by persons other than employees of the county agency administering aid to dependent children, medical assistance, and food stamps of the state department of health and social services and of the federal department of health, education and welfare shall be permitted only pursuant to signed request and written permission of the chief administrative officer of the agency, and a record shall be kept of said permission; provided that officials of the county shall not be required to sign such a request but shall be entitled to secure information for any purpose connected with the administration of the social security aids in accordance with the provisions and limitations of the law.

(c) *Privileged communications.* Social and medical information shall be deemed to be strictly confidential.

(3) ADMINISTRATIVE USES DEFINED. (a) Use of disclosure of information concerning applicants and recipients for any purpose connected with the administration of aid to dependent children, medical assistance and food stamps shall be deemed to permit providing pertinent information to other agencies administering relief, providing hospital or medical care or service, to assist applicants or recipients or their families so as to ameliorate or eliminate public dependency and to assure economical expenditures of public funds.

(b) The use or disclosure of financial information secured by proper public officials from the records of the county treasurer or county clerk in connection with fiscal governmental functions is deemed to be for a purpose directly connected with the administration of the social security aids within the meaning of s. 49.53, Stats.

(c) The use or disclosure of information secured from old age assistance liens filed in the office of the county register of deeds in connection with a proper search of title is deemed to be for a purpose directly connected with the administration of old age assistance within the meaning of s. 49.53, Stats. The use or disclosure of any information secured in the course of any search of such records in the office of the register of deeds for any purpose is hereby prohibited in accordance with the terms of s. 49.53, Stats.

(4) **RESPONSIBILITY FOR USE OF INFORMATION.** In the event that information is supplied from the case records or any other source, the person or agency so informed will be held responsible for the proper use of such information.

(5) **SUBPOENAS.** Subpoenas duces tecum for the production of agency records containing information concerning applicants and recipients of aid to dependent children, medical assistance and food stamps shall be obeyed except that objection shall be raised that s. 49.53, Stats., prohibits the production of such case records for any purpose not connected with the administration of such aids, pensions, or assistance.

(6) **HEARINGS.** Hearing under s. 49.50 (8), Stats., shall be public or private in the election of the applicant or recipient.

(7) **PUBLIC NOTICE.** A printed notice containing the pertinent laws and rules relating to the misuse of the index of old age assistance liens shall be posted in plain view in the offices of the register of deeds:

#### PUBLIC NOTICE

Persons using the index to old age assistance liens or other records relating to old age assistance are hereby notified of the legal restrictions relating to the proper use of such information.

Federal Social Security Act, Title I, Sec. (2) (a): A state plan for old age assistance must provide safeguards which restrict the use or disclosure of information concerning applicants and recipients to purposes directly connected with the administration of old age assistance.

Section 49.53, 1971 Wisconsin Statutes: "LIMITATION ON GIVING INFORMATION. (1) Except as provided under sub. (2), no person may use or disclose information concerning applicants and recipients of aid to families with dependent children, social services under s. 49.01, or supplemental payments under s. 49.177, for any purpose not connected with the administration of the programs. Any person violating this subsection may be fined not less than \$25 nor more than \$500 or imprisoned in the county jail not less than 10 days nor more than one year or both.

(2) (a) Each county agency administering aid to families with dependent children shall maintain a monthly report at its office showing the names and address addresses of all persons receiving such aids together with the amount paid during the preceding month. Nothing in this paragraph shall be construed to authorize or require the disclosure in such report of any information (names, addresses, amounts of aid or otherwise) pertaining to adoptions, aid furnished to or in behalf of unmarried mothers under s. 49.19 (4) (d) and (g), or aid furnished for the care of children in foster homes under s. 49.19 (10).

(b) Such report shall be open to public inspection at all times during regular office hours and may be destroyed after the next succeeding report becomes available. Any person except any public officer, seeking permission to inspect such book shall prove his identity and shall be required to sign a statement setting forth his address and his reasons for making such request and indicating that he understands the provisions of par. (c) with respect to the use of the information obtained. The use of a fictitious name is a violation of this section. Within 72 hours after any such record has been inspected, the agency shall mail to each person whose record was inspected a notification of that fact and the name and address of the person making such inspection. The agency shall keep a record of such requests.

(c) It is unlawful to use any information obtained through access to such report for political or commercial purposes. The violation of this provision is punishable upon conviction as provided in sub. (1)."

PW-PA 20.17 (3) (c) paragraph "c". "The use or disclosure of information secured from old age assistance liens filed in the office of the county register of deeds in connection with a proper search of title is deemed to be for a purpose directly connected with the administration of old age assistance within the meaning of section 49.53, 1971 Wis. Stats. The use or disclosure of any information secured in the course of any search of such records in the office of the register of deeds for any other purpose is hereby prohibited in accordance with the terms of section 49.53, 1971 Wis. Stats."

PW-PA 20.17 (4) "Responsibility for use. In the event that information is supplied from the case records or any other source, the person or agency so informed will be held responsible for the proper use of such information."

## STATE DEPARTMENT OF HEALTH & SOCIAL SERVICES

Wilbur J. Schmidt, Secretary

History: 1-2-56; am.(7), Register, April, 1967, No. 136, eff. 5-1-67; am. Register, February, 1975, No. 230, eff. 3-1-75.

**PW-PA 20.18 Fair hearings.** (1) **LEGAL BASIS.** This rule is adopted pursuant to sections 46.03 (8) and 49.50 (8) (9), Wis. Stats., and to conform with the requirements of Titles IV, XIX and XX of the U.S. Social Security Act, the U.S. Food Stamp Act and Wis. Stat. 49.046 (3) relating to complaints, hearings, and reviews of public assistance, medical assistance, social service and food stamp claims.

(2) **DEFINITIONS.** (a) A claimant is defined as a person seeking an opportunity to file an application, a person who has filed an application and is awaiting the agency's decision, a person whose application has been approved, a person receiving assistance or whose assistance payment has been reduced or a person who still considers entitlement to assistance to exist although such assistance has been denied or payment has been discontinued or a person who has been denied or excluded from a service program.

(b) A hearing is defined as an orderly, readily available proceeding before an impartial employe of the state agency, in which a dissatisfied claimant or the claimant's representative may present with the help of witnesses why action or inaction in the claimant's case should be cor-

rected by the state agency; it is not an adversary proceeding, but rather a continuation of the administrative process in which the claimant invokes the responsibility of the state agency through a quasi-judicial hearing in the particular case.

(c) A request for a hearing is defined as any clear expression of desire on the part of the claimant to go beyond the usual procedure for adjusting complaints with the county agency and an opportunity to present the case to the state department of health and social services. The specific wording of such a request is immaterial.

(d) The date of the request for hearing is defined as the date on which the request is received.

(3) PURPOSES. The major purposes of hearings are:

(a) To provide an opportunity for a dissatisfied claimant to assert personal claim to public assistance, medical assistance, food stamps or services related to any of such programs and secure, in an administrative proceeding, equity of treatment in relation to the assistance law and program.

(b) To enable the county and claimants, jointly, to ascertain the factual basis on which, through proper application of the assistance law and agency policy, a just decision may be reached.

(c) To contribute to uniformity in the application of the assistance law and policy by assuring that all claimants are fully informed of their rights, that hearings on any grievance are readily available, and that instances of inequitable treatment are speedily remedied by prompt execution of hearing decisions.

(d) To safeguard claimants from mistaken, negligent, unreasonable or arbitrary action. The hearing process is not a substitute for proper and efficient administration and is not designed to produce any result that could not have been produced through regular administrative processes.

(e) To reveal aspects of county agency policy that constitute a misconstruction of law, state rules or policy.

(f) To provide a method whereby evidence may be obtained for referral to proper state policy-making authority, which evidence may show the need for modification of a state policy or policies.

(4) REQUIREMENTS. (a) Every claimant at the time of application, and when other administrative decisions are made shall be informed in writing of the right to a fair hearing when an application is not acted upon with reasonable promptness, or if not satisfied with the action taken, and the method by which a hearing may be obtained.

(b) Every claimant may obtain a hearing before the state department of health and social services in relation to an application not acted upon with reasonable promptness, or if not satisfied with the action taken.

(c) The request for a hearing must be timely. No review will be provided in any case where the decision or inaction to be reviewed involves a case question which arose more than 90 days prior to the request for a hearing. In cases involving discontinuance or reduction of the amount of the grant aid shall not be discontinued or reduced prior to receipt of the written fair hearing decision when a petition for a hearing is received

within 10 days of the date on the advance notice that the discontinuance or change in grant is effective.

(5) **REQUEST FOR A HEARING.** A complaint may be initiated orally in person, by letter or by form and if not adjusted by the county agency to the satisfaction of the claimant a request for hearing will be completed and a hearing will be scheduled. Requests for hearing shall usually be on the simple form supplied by the state agency, but no written request shall be rejected for lack of formality. An oral request for a hearing made in person will be accepted, but shall be reduced to writing and signed by the claimant before the hearing will be scheduled. No request shall be dismissed without hearing unless the claimant shall remove from the jurisdiction, die, withdraw the request in writing, or abandon the proceedings. The proceedings may be considered abandoned if neither the claimant nor the claimant's representative appears at the time and place set for hearing, and if, within a reasonable time after the mailing of an inquiry as to whether the claimant wishes any further action taken on the request for a hearing, no reply is received by the state agency.

(6) **FAIR HEARING.** (a) Hearings shall be held at a time convenient to the claimant and agency staff easily accessible to the claimant and, whenever possible, on the premises of the county department of social services, subject to the judgment of the hearing officer. Adequate preliminary notice shall be given to the claimant and representative, if any, including information about the procedure at the hearing.

(b) The hearing shall be conducted by a hearing officer, duly appointed and qualified under the state civil service laws, who has not taken any part in the particular action under consideration.

(c) The claimant shall have the opportunity to examine all documents and records used at the hearing; have the option to self representation, or to be represented; have the opportunity to bring witnesses, to establish all pertinent facts and circumstances, to advance any arguments without undue interferences, and to question or refute any testimony or evidence.

(d) The claimant may question interpretation of the law, and the reasonableness and equity of policies practiced under the law, if aggrieved by their application.

(e) The hearing is subject to the requirements of due process, but is an informal administrative procedure.

(7) **DECISIONS.** (a) The transcript of testimony and the exhibits, papers and requests filed in the proceeding constitute the exclusive record for decision and are available to the claimant at any reasonable time after the decision upon request.

(b) The decision on the hearing shall be in writing in the name of the state department of health and social services by the secretary or designee of the department.

(c) The decision shall set forth the issue or issues, citation of law or precedents, the reasoning that led to the decision, the principal and relevant facts elicited at the hearing, and the action taken. These factors shall be grouped under appropriate headings such as preliminary recitals, findings of fact, conclusions of law and order. A certified copy of the decision shall be mailed to the claimant (and attorney if any) and the

county agency charged with the administration of the services, aid or assistance involved.

(d) If the decision is mandatory upon the county treasurer, a certified copy of the decision shall be mailed to the county treasurer and to the county clerk. It shall be the duty of the state agency to ascertain from subsequent payrolls and otherwise that there has been compliance with the order.

(8) **ALLOCATION OF RESPONSIBILITY.** The functions relating to fair hearings are allocated to the office of administrative hearings and rules. All final decisions, except cases wherein the request for review has been abandoned, shall be based upon hearings conducted by the hearing officer duly appointed pursuant to state civil service laws and responsible to the office of administrative hearings and rules provided that if emergency needs so require any other employe duly designated by the secretary of the state department of health and social services may serve as a hearing officer. Such decisions shall be binding upon the state and county agencies involved and shall be enforced by appropriate legal and fiscal sanctions.

History: 1-2-56; am. (1), Register, April 1967, No. 136, eff. 5-1-67; r. and recr., Register, July, 1969, No. 163, eff. 8-1-69; am. (4) (c), Register, September, 1971, No. 189, eff. 10-1-71; am. Register, February, 1975, No. 230, eff. 3-1-75; am. Register, August, 1978, No. 272, eff. 9-1-78.

**PW-PA 20.19 Relief claims proceedings.** History: 1-2-56; am. Register, October, 1962, No. 82, eff. 11-1-62; r. Register, October, 1988, No. 394, eff. 11-1-88.

**PW-PA 20.24 Student 18-year-old aid program (s. 49.20, Stats.) (1) INTRODUCTION.** This program is based on s. 49.20 of the Wisconsin Statutes which was signed into law as part of chapter 418, Laws of 1977, on May 18, 1978.

(a) *Purpose.* In accordance with s. 49.20, Stats., this program is to provide state aid to 18-year-old high school students who become ineligible for aid to families with dependent children solely because of turning age 18.

(b) *Definitions.* 1. AFDC. "AFDC" means aid to families with dependent children.

2. AFDC case. For purposes of this rule the "AFDC case" consists of all those persons whose needs were being met by the same AFDC grant as the 18-year-old's, during the month in which he or she turned 18.

3. Caretaker relative. A "caretaker relative" includes all of the following: father, mother, stepfather, stepmother, brother, sister, stepbrother, stepsister, half brother or half sister, nephew, niece, aunt, uncle, first cousin, or any of these denoted by prefixes of grand, great or great-great.

4. Enrolled. "Enrolled" means having selected a program of studies for the semester in which a person is attending or plans to attend school. Confirmation of enrollment or of a plan to enroll may be obtained from a local school official.

5. Regularly attending. Persons attending classroom instruction during the normal school year shall be considered "regularly attending" school. When absence from school is due to illness, convalescence, a fam-

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ily emergency, or an official school vacation, they are also considered to be regularly attending. If summer school sessions are offered as an option in a school system, a person is not required to participate in order to be considered regularly attending. Summer is considered to be an official school vacation.

6. Agency. The "agency" means the local agency that administers the AFDC program.

(2) APPLICATION. (a) Application for this program shall be made in behalf of the 18-year-old by the caretaker relative with whom the 18-year-old is living.

(b) Application for this program shall also constitute application for Medical Assistance for the 18-year-old. Eligibility of the 18-year-old for the Medical Assistance program shall be determined in accordance with the criteria specific to the Medical Assistance program.

(c) Application shall be made on the forms as prescribed by the department.

(3) ELIGIBILITY. The 18-year-old must meet the following nonfinancial and financial requirements:

(a) *Nonfinancial requirements.* The nonfinancial requirements are met if the person:

1. Is 18 years of age.
2. Is a Wisconsin resident.
3. Is enrolled in and regularly attending a secondary education program leading to a high school diploma.
4. Received AFDC, but not as a foster child during the month in which he or she become 18.
5. Is living with the caretaker relative.
6. Is deprived of parental support or care because of any of the following reasons:
  - a. death of a legal parent
  - b. continued absence of a legal parent from the home
  - c. incapacitation of a legal parent
  - d. unemployment of the legal father

(b) *Financial requirements.* 1. The 18-year-old's nonexempt assets shall not exceed the AFDC program asset limitations.

2. Exempt assets are:

- a. Real and personal property owned by the 18-year-old which would be exempt property under the AFDC program.
- b. One vehicle, if it is owned by the 18-year-old, is driven on the road or is a snowmobile, and is state registered.

c. Assets which are placed in an educational fund according to the criteria in subd. 7.

3. The nonexempt income of the person whose 18th birthday caused the AFDC case to be no longer eligible for AFDC shall not exceed the appropriate family allowance for one specified in s. 49.19 (11), Stats.

4. The nonexempt income of the person whose 18th birthday causes the AFDC payment to be reduced shall not exceed the difference between the appropriate family allowance specified in s. 49.19 (11), Stats., for the number of persons in the AFDC case including the 18-year-old and the number of persons in the AFDC case, excluding the 18-year-old.

5. Nonexempt income includes all unearned income of the 18-year-old that is not subject to the criteria in subd. 7.

6. All earned income of the 18-year-old shall be exempt.

7. If, starting with the end of the second year of high school, there is a plan for the 18-year-old to continue education or training beyond high school, unearned income set aside in an education fund shall be exempted in the financial eligibility determination. This fund may contain up to an amount sufficient to defray two year's expenses.

(4) PAYMENT. (a) Payment shall be made by check or by vendor payment.

(b) The payment amount for the person whose 18th birthday caused the AFDC case to be no longer eligible for AFDC shall be the difference between the appropriate family allowance for one, specified in s. 49.19 (11), Stats., and the 18-year-old's nonexempt unearned income.

(c) The payment amount for the person whose 18th birthday causes the AFDC payment to be reduced shall be computed according to the following procedure:

1. From the appropriate family allowance specified in s. 49.19 (11), Stats., for the number of persons in the AFDC case, subtract the family allowance for that AFDC case less one.

2. From the result in subd. 1., subtract the 18-year-old's nonexempt unearned income.

The remainder in subd. 2. is the payment amount.

(5) PAYEE. The payee shall be the caretaker relative with whom the 18-year-old is living.

(6) PROGRAM ADMINISTRATION. (a) All agencies are required to administer this program.

(b) The administration of this program shall be within the same limitations and in accordance with the same procedures used to administer the AFDC program with respect to verification procedures, reimbursement to the agency, promptness on notification of decision on application, correction of overpayments and underpayments, and all other administrative procedures unless stated to the contrary within this subsection.



(c) Reimbursement to the agency for this program shall be solely from state funds which are not federally matchable.

(d) A home visit shall be made prior to the initial payment if the 18-year-old's living situation has changed.

(e) The agency shall verify the recipient's regular attendance of school every 3 months.

(f) The agency shall review the entire eligibility of the recipient every 6 months.

(g) The agency shall meet reporting requirements for this program as specified by the department of health and social services.

(h) Agencies shall notify all AFDC cases whose benefits are reduced or discontinued because of an AFDC case member becoming 18 years of age of this state program at the same time the 10-day notice of reduction or discontinuance of AFDC is sent.

(7) **RIGHTS AND RESPONSIBILITIES.** Rights and responsibilities of AFDC recipients are equally applicable to recipients of student 18-year-old aid.

History: Emerg. cr. eff. 8-16-78; cr. Register, December, 1978, No. 276, eff. 1-1-79.

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