Statement of Scope

Department of Children and Families

Rule Number: DCF 102
Relating to: Wisconsin Works filing a good cause claim for noncooperation with child support
Rule Type: Permanent

This statement of scope was approved by the governor on August 20, 2021.

1. Finding/nature of emergency (for emergency rules only)

NA

2. Detailed description of the objective of the rules

The current rule requires that a Wisconsin Works applicant or participant who claims good cause for not cooperating with efforts directed at establishing paternity and obtaining support payments sign a good cause claim form in the presence of a notary public. The proposed rule will repeal the requirement that a good cause claim form be signed in the presence of a notary public.

The current requirement that the good cause claim be signed in the presence of a notary public can be an undue burden on applicants or participants. Removing this requirement from rule would make the good cause claim process more participant-friendly and allow participants and applicants to complete and sign this form in the online application system ACCESS.

3. Detailed explanation of statutory authority for the rule

Section 49.145 (2) (f), Stats., provides that, as a condition of eligibility for Wisconsin Works, every parent in an individual's Wisconsin works group must fully cooperate in good faith with all of the following:

- Efforts directed at establishing the paternity of any minor child of that parent.
- Efforts directed at obtaining support payments or any other payments or property to which that parent and any minor child of that parent may have rights or for which that parent may be responsible.

The cooperation shall be in accordance with federal law and regulations and rules promulgated by the department applicable to paternity establishment and collection of support payments and may not be required if the parent has good cause for refusing to cooperate, as determined by the department in accordance with federal law and regulations.

Section 227.11 (2) (a) (intro.), Stats., expressly confers rule-making authority on each agency to promulgate rules interpreting the provisions of any statute enforced or administered by the agency.

4. Estimate of amount of time that state employees will spend developing the rule and of other resources necessary to develop the rule

50 hours

5. List with description of all entities that may be affected by the rule

Wisconsin Works agencies, applicants, and participants.

6. Summary and preliminary comparison with any existing or proposed federal regulation that is intended to address the activities to be regulated by the rule

42 USC 608 specifies requirements and prohibitions for assistance funded by the Temporary Assistance for Needy Families block grant. Under 42 USC 608 (a) (2), if the child support agency determines that an individual is not cooperating with the State in establishing paternity or in establishing, modifying, or enforcing a support order with respect to a child of the individual, and the individual does not qualify for any good cause or other exception established by the State under 42 USC 654 (29), then the State--

(A) shall deduct from the assistance under the Temporary Assistance for Needy Families an amount equal to not less than 25 percent of the amount of such assistance; and
(B) may deny the family any assistance under the State program.

Under 42 USC 654 (a) (29), the child support agency determines whether an individual is cooperating with 42 USC 608 (a) (29), and the agency administering the assistance program determines whether the individual has good cause for noncooperation, taking into account the best interests of the child.

Federal regulation does not require the use of a notary when applying for good cause.

7. Anticipated economic impact of implementing the rule (note if the rule is likely to have a significant economic impact on small businesses)

None or minimal

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