

Chapter DCF 120

EMERGENCY ASSISTANCE

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Note: Chapter DWD 16 was renumbered to chapter DCF 120 under s. 13.92 (4) (b) 1., Stats., Register November 2008 No. 635.

DCF 120.01 Purpose. This chapter implements s. 49.138, Stats., which directs the department to administer a program of emergency assistance for persons who are in need due to fire, flood, natural disaster, homelessness, impending homelessness, or energy crisis and who meet the eligibility criteria under this chapter.

History: Cr. Register, October, 1999, No. 526, eff. 11-1-99; am. Register, January, 2001, No. 541, eff. 2-1-01.

DCF 120.02 Applicability. This chapter applies to all applicants for emergency assistance, all recipients of emergency assistance, and all county and tribal economic support agencies and W-2 agencies administering the emergency assistance program under s. 49.138, Stats.

History: Cr. Register, October, 1999, No. 526, eff. 11-1-99.

DCF 120.03 Definitions. In this chapter:

(1m) “Client error” means an error caused by an individual who is a member of an emergency assistance group reporting incorrect information or failing to report information due to a misunderstanding or mistake that results in an overpayment of emergency assistance.

(1p) “Destitution” means extreme want of resources or of the means of subsistence.

(2) “Emergency assistance” means the program under s. 49.138, Stats., for emergency assistance to families with needy children in cases of fire, flood, natural disaster, homelessness, impending homelessness, or energy crisis.

(3) “Emergency assistance group” or “group” means family as referred to in s. 49.138, Stats., and includes one or more dependent children as defined by s. 49.141 (1) (c), Stats., and a qualified caretaker relative with whom the child is living or was living at the time the emergency occurred.

(4) “Emergency shelter facility” means any facility, the primary purpose of which is to provide temporary or transitional shelter for the homeless in general or specific populations of the homeless.

(4m) “Intentional program violation” has the meaning given in s. 49.001 (3m), Stats.

(5) “Migrant worker” has the meaning given in s. 103.90 (5), Stats.

(5m) “Misrepresentation” includes an intentional program violation and a client error.

(6) “Needy person” means a person who meets the eligibility criteria in ss. DCF 120.05 and 120.06.

(6m) “Poverty line” means the poverty line as defined and revised annually under 42 USC 9902 (2).

(7) “Qualified caretaker relative” means a caretaker of a child

whose relationship to the caretaker or the caretaker’s spouse is one of the following: son, daughter, grandson, granddaughter, stepson, stepdaughter, brother, sister, stepbrother, stepsister, half brother or half sister, nephew, niece, uncle, aunt, first cousin or grand, great-grand or great-great grand son, daughter, nephew, or niece. A qualified caretaker relative continues to be a qualified relative even when the relationship is terminated by death or divorce.

(8) “W-2 Agency” or “agency” means an entity that is administering the Wisconsin works program as a contractor under s. 49.143, Stats.

History: Cr. Register, October, 1999, No. 526, eff. 11-1-99; am. (2), Register, January, 2001, No. 541, eff. 2-1-01; correction in (6) made under s. 13.92 (4) (b) 7., Stats., Register November 2008 No. 635; CR 09-059: cr. (6m) Register December 2009 No. 648, eff. 1-1-10; CR 23-073: cr. (1m), (4m), (5m) Register September 2024 No. 825, eff. 10-1-24; renum. (1) to (1p) under s. 13.92 (4) (b) 1., Stats., Register September 2024 No. 824

DCF 120.04 Application. Application for emergency assistance shall be made on a form prescribed by the department. Upon receipt of a completed application, the agency shall verify that the emergency was due to fire, flood, natural disaster, homelessness, impending homelessness, or an energy crisis. An agency shall consider the application complete if the application includes a legible name; address, if available; reason for the emergency; signature by the applicant or the applicant’s representative and has been completed to the best of the applicant’s or representative’s ability.

Note: An application form for emergency assistance may be obtained from a county or tribal economic support agency or a Wisconsin Works (W-2) agency. Contact information for Wisconsin works agencies may be found at <https://dcf.wisconsin.gov/w2/parents/locator>.

History: Cr. Register, October, 1999, No. 526, eff. 11-1-99; am. Register, January, 2001, No. 541, eff. 2-1-01; CR 06-044: am. Register November 2006 No. 611, eff. 12-1-06; CR 23-073: am. Register September 2024 No. 824, eff. 10-1-24.

DCF 120.05 Nonfinancial eligibility. **(1) CRITERIA.** The emergency assistance group shall meet all of the following nonfinancial eligibility criteria:

(a) The group members shall live in Wisconsin and intend to reside in Wisconsin, except a migrant worker is not required to meet the requirement as to intent to reside in Wisconsin. A never-married child under age 18 is a Wisconsin resident when he or she is under the legal custody of the department or an agency, regardless of the state in which he or she is living. Wisconsin residence shall not be lost when a dependent child or caretaker relative is temporarily absent from Wisconsin for the purpose of visiting, hospitalization, or education.

(b) The group members are citizens or qualifying aliens as defined in s. DCF 101.09 (2) (c).

(c) The child for whom assistance is requested is or, within 6 months prior to the month of application for emergency assistance, was living with a qualified caretaker relative in a place of residence maintained as the caretaker relative’s own home and is

anticipated to live with the qualified caretaker relative in the month following the application date.

(d) Assistance is needed to avoid destitution of the child or to provide a living arrangement for the child in a home.

(e) The child's destitution or need for living arrangements did not result from the child or a qualified caretaker relative refusing without good cause to accept employment or training for employment.

(em) An individual under 18 years of age is ineligible to be a qualified caretaker relative unless:

1. The individual is or has ever been married.
2. The individual has no parent, legal guardian, or other appropriate adult relative who would meet applicable criteria to act as the individual's legal guardian who is living or whose whereabouts are known.

3. No living parent, legal guardian, or other appropriate adult relative who would meet applicable criteria to act as the individual's legal guardian allows the individual to live in the home of the parent, guardian, or relative.

4. The individual or the child for whom assistance is requested is being or has been subjected to serious physical or emotional harm, sexual abuse, or exploitation in the residence of the individual's own parent or legal guardian.

5. Substantial evidence exists of an act or failure to act that presents an imminent or serious harm if the individual and the minor child lived in the same residence with the individual's own parent or legal guardian.

6. The W-2 agency otherwise determines that it is in the best interest of the individual's child to waive the general prohibition on assistance to unmarried caretakers who are under 18 years of age.

(f) As determined by the agency, the group's need has resulted from an emergency due to one or more of the following causes:

1. Fire.
2. Flood.
3. A natural disaster such as a tornado, earthquake, electrical storm, windstorm, hail, sleet, a mud or rock slide, or a natural explosion such as lightning striking an object that then explodes.
4. Homelessness as determined under sub. (2). The cause of the homelessness need not be the result of a natural disaster.
5. Impending homelessness as determined under sub. (3).
6. An energy crisis, as determined under sub. (4).

(2) ELIGIBILITY DUE TO HOMELESSNESS. An emergency assistance group shall be considered homeless for purposes of determining nonfinancial eligibility under sub. (1) if the group needs emergency assistance to obtain a permanent living accommodation and if any of the following conditions apply:

(a) The group lacks a fixed, regular, and adequate nighttime residence.

(b) The group has a current residence that is a shelter designed for temporary accommodation such as a motel, hotel, or emergency shelter facility.

(c) The group has already left its current housing because it is uninhabitable as determined by the local building inspector, the local health department, or other appropriate local authority.

(d) The group is living in a place that is not designed for, or ordinarily used as, a regular sleeping accommodation.

(e) A member of the group was subject to domestic abuse as defined under s. 968.075 (1) (a), Stats.

(3) ELIGIBILITY DUE TO IMPENDING HOMELESSNESS. An emergency assistance group shall be considered to be facing im-

pending homelessness for purposes of determining nonfinancial eligibility under sub. (1) if any of the following apply:

(a) The emergency assistance group is experiencing a financial crisis that makes it very difficult to make a rent payment, mortgage payment, or property tax payment and the group has been notified that it will be required to leave its current housing if it does not make that payment immediately. The W-2 agency shall verify the following:

1. The emergency assistance group is experiencing a financial crisis due to reasons that are either beyond the control of an adult member of the group or that constitute good cause as determined by the W-2 agency.

2. The financial crisis was caused by one or more of the following:

- a. Loss of employment that does not include voluntarily leaving appropriate employment without good cause.

- b. Substantial loss of wages due to illness or injury of a group member, domestic violence, lack of child care, a transportation breakdown, or a reduction of work hours by an employer.

- c. Loss of income due to a second parent leaving the group.

- d. Exceptional, unexpected, and necessary expenses that are not the responsibility of a third party, such as car repair expenses necessary for transportation to work or medical expenses required to be paid.

- e. Loss of W-2 benefits due to a sanction that is subsequently overturned through the dispute resolution process under s. 49.152, Stats.

- f. Other reasonable circumstances as determined by the W-2 agency.

3. The emergency assistance group has received at least one of the following notices:

- a. A notice terminating tenancy for failure to pay rent that meets the minimum requirements of s. 704.17, Stats.

- b. A summons and complaint for an eviction action which is based on failure to pay rent.

- c. A notice of foreclosure for failure to pay property taxes or a mortgage.

- d. A summons and complaint for a foreclosure action that is based on failure to pay property taxes or a mortgage.

- e. A writ of assistance, notice of sale, or other verifiable documentation that a foreclosure judgment has been entered against a member of the emergency assistance group and the group will be required to vacate the premises imminently.

Note: Section 799.40 (4), Stats., provides: "The court shall stay the proceedings in a civil action of eviction if the tenant applies for emergency assistance under s. 49.138, except that no stay may be granted under this paragraph after a writ of restitution has been issued in the proceedings. If a stay is granted, the tenant shall inform the court of the outcome of the determination of eligibility for emergency assistance. The stay remains in effect until the tenant's eligibility for emergency assistance is determined and, if the tenant is determined to be eligible, until the tenant receives the emergency assistance, except that the stay may not remain in effect for more than 10 working days, as defined in s. 227.01 (14)."

- (b) 1. The emergency assistance group has received written or oral notice that the group will be removed from their rental housing because of a foreclosure action against the owner.

2. The removal of the group from the rental housing is scheduled to occur within 30 days.

3. The group needs emergency assistance to obtain a new permanent living accommodation.

4. The W-2 agency has verified subd. 1. to 3.

(c) The group has to leave its current housing because it is uninhabitable as determined by the local building inspector, the local health department, or other appropriate local authority and the group needs emergency assistance to obtain a new permanent living accommodation.

(d) A member of the group was subject to domestic abuse as defined under s. 968.075 (1) (a), Stats., and the group needs emergency assistance to obtain a new permanent living accommodation or retain a current permanent living accommodation.

(4) ELIGIBILITY DUE TO ENERGY CRISIS. An emergency assistance group is eligible for assistance due to an energy crisis if all of the following apply:

(a) The group has exhausted resources available through the Wisconsin Home Energy Assistance Program, assistance available through a local utility company as required by the public service commission, and any other available energy resources. In this paragraph, “exhausted resources” means either that the group has been denied services from the other sources or other funding sources do not cover the full cost of the group’s energy crisis.

(b) The group needs financial assistance to obtain or maintain heat, electricity, water, or sewer service provided by a utility company.

(c) The lack of, or imminent lack of, utility service providing heat, electricity, water, or sewer is or is likely to be an immediate threat to the health or safety of the group.

(d) The energy crisis is due to reasons beyond the control of adult members of the group or constitute good cause as determined by the W-2 agency.

Note: For more information on the Wisconsin Home Energy Assistance Program (WHEAP), call 1-866-HEATWIS (1-866-432-8947) or click on “where to apply” at <http://www.homeenergyplus.wi.gov/>. For more information on utility assistance required by the Public Service Commission, see PSC 113, PSC 134, and PSC 185. For concerns about utility service, contact the Public Service Commission at 1-800-225-7729 or the “contact us” section of <http://psc.wi.gov>.

History: Cr. Register, October, 1999, No. 526, eff. 11-1-99; cr. (1) (em), (f) 5., and (3), renum. (1) (f) 5. to be (1) (f) 6., Register, January, 2001, No. 541, eff. 2-1-01; correction in (1) (b) made under s. 13.92 (4) (b) 7., Stats., Register November 2008 No. 635; EmR0906: emerg. am. (1) (f) 6. and (3), cr. (3) (b) and (4), eff. 4-22-09; CR 09-059: am. (1) (f) 6., (2) (c) and (3), cr. (3) (b) to (d) and (4) Register December 2009 No. 648, eff. 1-1-10; CR 08-068: am. (1) (c) Register May 2010 No. 653, eff. 6-1-10; correction in (4) (intro.) made under s. 35.17, Stats., Register September 2024 No. 825.

DCF 120.06 Financial eligibility. To be eligible for emergency assistance, all of the following conditions shall be met:

(1) INCOME. The gross income of the emergency assistance group may not exceed 115% of the poverty line. The agency shall determine the amount of income available to the group in accordance with s. DCF 101.09 (4) except any of the following grants received in the month of the emergency is not counted:

(a) Kinship care payments under s. 48.57 (3m) or (3n), Stats.

(b) Foster care payments under s. 48.62, Stats., if the payment is on behalf of a child who is a relative.

(2) ASSETS. The assets of the emergency assistance group may not exceed \$2,500 in combined equity value. In determining the combined equity value of assets under this subsection, the agency shall exclude all of the following:

(a) The equity value of vehicles up to a total equity value of \$10,000. In this paragraph, “equity value of vehicles” means the trade-in value of the vehicles as given in a standard guide on motor vehicle values or as estimated by a sales representative at a local car dealership, minus any debts secured by the vehicles.

(b) One home that serves as the homestead for the emergency assistance group.

History: Cr. Register, October, 1999, No. 526, eff. 11-1-99; corrections in (3) (intro.) and (4) made under s. 13.92 (4) (b) 7., Stats., Register November 2008 No. 635; CR 09-059: r. and recr. Register December 2009 No. 648, eff. 1-1-10; CR 21-090: am. (1), renum. (2) to (2) (intro.) and am., cr. (2) (a), (b) Register July 2022 No. 799, eff. 8-1-22.

DCF 120.07 Payment amounts. (1) An emergency assistance payment for impending homelessness, homelessness,

fire, flood, or natural disaster, the emergency assistance payment shall be the lowest of the following 2 amounts:

(a) The total of the maximum payment amount per group member for that group size multiplied by the number of members in the emergency assistance group.

Note: The maximum payment amount per group member for impending homelessness, homelessness, fire, flood, or natural disaster is the following:

\$600 per group member when the group is 2 members.

\$400 per group member when the group is 3 members.

\$300 per group member when the group is 4 members.

\$240 per group member when the group is 5 members.

\$220 per group member when the group is 6 or more members.

Changes to the maximum payment amounts will be announced in the Administrative Register.

(b) The total financial need due to the emergency, as follows:

1. The financial need due to impending homelessness shall be unpaid rent and related late fees and court costs.

2. The financial need due to homelessness shall be the first month’s rent, security deposit, and necessary household items.

3. The financial need due to fire, flood, or natural disaster shall be the total need in all of the following:

a. Temporary housing.

b. First month’s rent and security deposit.

c. Clothing.

d. Food.

e. Medical care.

f. Transportation.

g. Necessary appliances and household items.

h. Necessary home repairs.

(2) The emergency assistance payment for energy crisis shall be the lowest of the following:

(a) The maximum payment amount for the group.

(b) The amount needed to obtain or maintain essential utility service.

Note: The maximum payment amount for energy crisis is \$750. Changes to the maximum payment amount will be announced in the Administrative Register.

History: Cr. Register, October, 1999, No. 526, eff. 11-1-99; correction in (3) made under s. 13.92 (4) (b) 7., Stats., Register November 2008 No. 635; EmR0906: emerg. am. eff. 4-22-09; CR 09-059: r. and recr. Register December 2009 No. 648, eff. 1-1-10.

DCF 120.08 Eligibility determination and payment procedures. (1) The agency shall determine eligibility for emergency assistance within 10 working days after receiving a completed application. If the group is found eligible, the agency shall issue a payment to the emergency assistance group within the same 10 working days, except as provided in subs. (4) and (5). The payment may be made in the form of cash, a voucher, or a vendor payment.

(2) The agency shall notify the applicant in writing of the eligibility determination. If the application is denied, the notice shall include reasons for the denial and information about the opportunity to appeal that decision under s. DCF 120.10.

(3) Emergency assistance payments shall not be used for activities related to or the costs of providing temporary or transitional shelter or housing, except if a group is in need of assistance due to a fire, flood, or natural disaster.

(4) If the emergency assistance group’s eligibility is due to homelessness under s. DCF 120.05 (2) or impending homelessness under s. DCF 120.05 (3) (b) or (c), the agency shall issue a payment, following the eligibility determination, within 5 working days of the date that the group notifies the agency that a permanent living accommodation has been obtained.

(5) Emergency assistance payments for impending homelessness under s. DCF 120.05 (3) (a) or (d) may be issued to obtain a

new permanent living accommodation or retain a current permanent living accommodation.

(a) If an emergency assistance group requests that the emergency assistance payment be made to obtain a new permanent living accommodation, the agency shall issue a payment, following the eligibility determination, within 5 working days of the date that the group notifies the agency that a permanent living accommodation has been obtained.

(b) If an emergency assistance group requests that the emergency assistance payment be made to retain a current permanent living accommodation, the W-2 agency shall confirm that the landlord, bank, or local government agrees to waive any right to proceed with an eviction or foreclosure action based on the notice served in consideration for receiving the emergency assistance payment on behalf of the group. The agency shall issue a payment, following the eligibility determination, within 5 days of the date that the agency receives this confirmation from the landlord, bank, or local government.

(6) Emergency assistance may be provided to an emergency assistance group once in a 12-month period.

History: Cr. Register, October, 1999, No. 526, eff. 11-1-99; cr. (6), Register, January, 2001, No. 541, eff. 2-1-01; CR 06-044: am. (1), r. (3), renum. (4) to be (3), cr. (4), renum. (5) to be (6) and am., renum. (6) to be (5), Register November 2006 No. 611, eff. 12-1-06; corrections in (2), (4) and (5) (intro.) made under s. 13.92 (4) (b) 7., Stats., Register November 2008 No. 635; EmR0906: emerg. am. (4) and (5) (intro.), eff. 4-22-09; CR 09-059: am. (2), (4) and (5) (intro.) Register December 2009 No. 648, eff. 1-1-10; CR 23-073: am. (1) Register September 2024 No. 825, eff. 10-1-24.

DCF 120.085 Overpayments. (1) MISREPRESENTATION.

(a) The department shall recover an overpayment of emergency assistance from the emergency assistance group that was overpaid if the department determines that the overpayment resulted from a misrepresentation by a group member regarding any fact that had an effect on the group's eligibility for, or the amount of, the emergency assistance granted.

(b) The department shall send a notice of the overpayment determination to the emergency assistance group's address as it appears on the records of the department. The notice shall include the amount and reason for the overpayment and the opportunity for a hearing under ch. 227, Stats. A request for a hearing shall be in writing and received at the address provided on the notice within 30 days after the date printed on the notice.

Note: Neither s. 49.138 (4) (a) nor 49.195 (3), Stats., authorize a review by the W-2 agency.

(c) The department shall attempt to recover the overpayment by entering a repayment agreement with the emergency assistance group. If the department does not receive the group's payment on the debt by the due date 3 times over the life of the repayment agreement, the debt shall be considered delinquent.

(d) If a debt is delinquent under par. (c), no appeal rights are pending, and the time for requesting a hearing has expired, the department may recover the overpayment in any of the following ways:

1. Certification of the debt to the department of revenue under s. 49.85, Stats., for setoff against any state tax refunds or credits owed under s. 71.93, Stats.
2. Warrant and execution under s. 49.195 (3m), Stats., if the amount owed is more than \$300.
3. Any other authorized collection method.

(2) **ADMINISTRATIVE ERROR.** (a) The department shall recover an overpayment of emergency assistance from a W-2 agency if the department determines that the overpayment is the result of an error made by the agency.

(b) The department shall provide notice of the overpayment determination to the W-2 agency with notice that the department will be offsetting the overpayment amount from any payments

otherwise due to the W-2 agency under s. 49.143, Stats. The notice shall be provided at least 30 days prior to the offset.

(c) The W-2 agency may request a review of the overpayment determination following the dispute resolution procedures in the agency contract with the department under s. 49.143, Stats.

(d) If the department's initial attempt at recovery of the overpayment under par. (b) is unsuccessful, the department may use any of the following collection methods:

1. Certification of the debt to the department of revenue under s. 49.85, Stats., for setoff against any state tax refunds or credits owed under s. 71.93, Stats.
2. Warrant and execution under s. 49.195 (3m), Stats.
3. Any other legal means.

(3) **LIMIT ON LIABILITY.** Liability for overpayments shall be limited to the following:

(a) One year after the W-2 agency or the department discovers an administrative error.

(b) Six years after the W-2 agency or the department discovers a client error.

History: CR: 23-073: cr. Register September 2024 No. 825, eff. 10-1-24; correction in (2) (d) 2. made under s. 35.17, Stats., Register September 2024 No. 825.

DCF 120.09 Social services. (1) In determining the emergency assistance group's total need, the agency shall consider the social service needs of the group and make appropriate referrals to assist the group in meeting those needs.

(2) Social service needs include but are not limited to the need for:

- (a) Information and referral to the appropriate service agency
- (b) Counseling
- (c) Family shelter
- (d) Child care funding.

History: Cr. Register, October, 1999, No. 526, eff. 11-1-99.

DCF 120.10 Review of agency decisions. (1) An emergency assistance applicant or participant may petition the agency for a review as provided under s. 49.138 (4), Stats., if one of the following occurs or is alleged by the applicant or participant:

- (a) The application for emergency assistance was not acted upon promptly after filing. The standard for reasonable promptness shall be the requirements established by s. DCF 120.08 (1).
- (b) The application is denied in whole or in part.
- (c) The emergency assistance award is modified or canceled.
- (d) The award is insufficient.

Note: Section 49.138 (4), Stats., provides as follows: "(a) Any individual whose application for emergency assistance under this section is not acted upon with reasonable promptness, after the filing of the application, as defined by the department by rule, or is denied in whole or in part, or who believes that the assistance amount was calculated incorrectly, may petition the administering agency for a review of such action. Review is unavailable if the action by the administering agency occurred more than 45 days prior to submission of the petition for review.

(b) Upon a timely petition under par. (a), the administering agency shall give the petitioner reasonable notice and opportunity for a review. The administering agency shall render its decision as soon as possible after the review and shall send by 1st class mail a certified copy of its decision to the petitioner. The administering agency shall deny a petition for review or shall refuse to grant relief if the petitioner does any of the following:

1. Withdraws the petition in writing.
2. Abandons the petition. Abandonment occurs if the petitioner fails to appear in person or by representative at a scheduled review without good cause, as defined by the department by rule.

(c) If the administering agency is a Wisconsin works agency, the department may review the decision of the Wisconsin works agency if, within 14 days after the date on which the certified copy of the decision of the Wisconsin works agency is mailed, the applicant or participant petitions the department for a review of that decision."

(2) In determining whether a petition for review is abandoned under s. 49.138 (4) (b) 2., Stats., the standard for good cause shall be circumstances beyond the control of the applicant or partici-

pant that cannot be remedied by the applicant or participant and which prevent the applicant or participant from attending a scheduled review.

History: Cr. Register, October, 1999, No. 526, eff. 11-1-99; correction in (1) (a) made under s. 13.92 (4) (b) 7., Stats., Register November 2008 No. 635.