

## Chapter PW-PA 20

## PUBLIC ASSISTANCE

PW-PA 20.17 Confidential nature of PW-PA 20.18 Fair hearings records

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 employe of the agency.

(b) *Inspection of records.* Inspection of agency records by persons other than employes 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 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 ss. 46.03 (8) and 49.50 (8) (9), 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 corrected 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, 1976, No. 230, eff. 3-1-76; 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. History: Emerg. cr. eff. 8-16-78; cr. Register, December, 1978, No. 276, eff. 1-1-79; r. Register, June, 1989, No. 402, eff. 7-1-89.

Note: See ch. HSS 222 for replacement rules.