

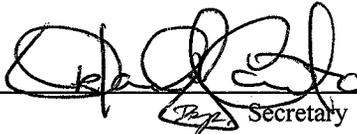
Rules Certificate

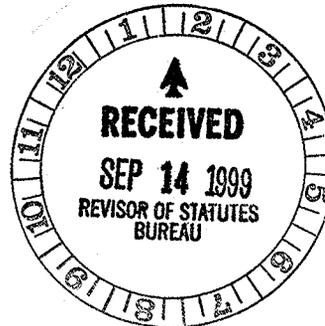
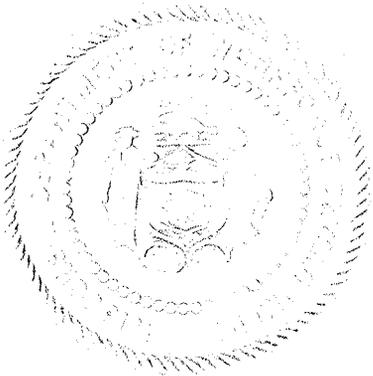
STATE OF WISCONSIN)
) SS
DEPARTMENT OF WORKFORCE DEVELOPMENT)

I, Linda Stewart, Secretary of the Department of Workforce Development, and custodian of the official records, certify that the annexed rules, relating to Emergency Assistance, were duly approved and adopted by this department on September 14, 1999.

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

IN TESTIMONY WHEREOF, I have hereunto set my hand and affixed the official seal of the of the Department of Workforce Development at 201 E. Washington Avenue in the city of Madison, this 14th day of September 1999.


Secretary



Order Adopting Rules

Pursuant to authority vested in the Department of Workforce Development by section 49.138, Stats., the Department of Workforce Development repeals DWD 11.055 and adopts rules of Wisconsin Administrative Code DWD Chapter 16 relating to Emergency Assistance.

The attached rules shall take effect on November 1, 1999, pursuant to section 227.22, Stats.

Adopted at Madison, Wisconsin, this

14th day of September 1999.

Department of Workforce Development



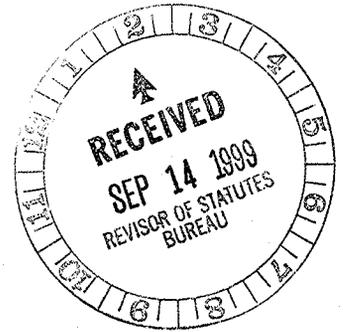
Secretary



**State of Wisconsin
Department of Workforce Development**

DWD 16

Emergency Assistance



The Wisconsin Department of Workforce Development proposes an order to repeal DWD 11.055 and create DWD chapter 16 relating to the emergency assistance program.

Analysis

Statutory authority for rule: sec. 49.138, Stats.
Statute interpreted by the rule: sec. 49.138, Stats.

This proposed rule codifies changes to the state's policies on emergency assistance that have been enacted in the statutes and implemented through the Wisconsin Works (W-2) program contracts. The principal changes are:

Outdated references to AFDC are removed and cross-references to W-2 are added. The definitions section of the rule is amended to reflect the operation of W-2. The term "needy person" is defined as a person who meets the eligibility criteria of the rule.

Total financial need is determined by the W-2 agency which (a) adds together the amount of unpaid expenses for the emergency assistance group and the amount of the cost of needs due to the emergency for the group; (b) adds together the available income and resources of the emergency assistance group; and (c) subtracts the total in (b) from the total in (a).

The amount of the emergency assistance payment is the lowest of: (a) the amount of total financial need; (b) the total of the maximum payment amount per group member (\$150) multiplied by the number of members of the emergency assistance group; or (c) the amount requested by the group.

Emergency assistance may be issued once in a 36-month period, except that emergency assistance provided in cases of fire, flood, natural disaster, energy crisis, or homelessness when a member of the emergency assistance group is a victim of domestic abuse may be provided once in a 12-month period.

SECTION 1. DWD 11.055 is repealed.

SECTION 2. Chapter DWD 16 is created.

Chapter DWD 16

EMERGENCY ASSISTANCE FOR FAMILIES WITH NEEDY CHILDREN

DWD 16.01 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, or energy crisis and who meet the eligibility criteria under this chapter.

DWD 16.02 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.

DWD 16.03 Definitions. In this chapter:

- (1) "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, 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.
- (5) "Migrant worker" has the meaning given in s. 103.90(5), Stats.
- (6) "Needy person" means a person who meets the eligibility criteria in ss. DWD 16.05 and 16.06.

(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.

DWD 16.04 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, or an energy crisis. Verification of eligibility shall not delay the provision of assistance.

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. The addresses of the Wisconsin works agencies may be obtained by calling the division of economic support at 608-261-6753.

DWD 16.05 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. DWD 12.09(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.

(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.

(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. An energy crisis, including lack of essential home heating or imminent loss of essential home heating, with an immediate threat to the health or safety of the group either existing or likely to exist.

(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 to leave or 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.

DWD 16.06 Financial Eligibility. (1) **TOTAL FINANCIAL NEED.** The W-2 agency shall compute the total financial need of the emergency assistance group by following these steps:

(a) The W-2 agency shall determine the amount of unpaid expenses for the group and the cost of the needs due to emergency for the group and add these two amounts together.

(b) The W-2 agency shall determine the available income of the group and the available resources of the group and add these two amounts together.

(c) The W-2 agency shall subtract the total of par. (b) from the total of par. (a). The result is the total financial need of the emergency assistance group.

(2) **PHYSICAL NEEDS.** Physical needs may include:

(a) Food

(b) Clothing

(c) Temporary housing when the group is in need of assistance because of fire, flood or, natural disaster

(d) First month's rent plus the security deposit

(e) Home energy. This may include heating fuel, electricity, and repair or replacement services necessary to attain or maintain the basic heat and electricity requirements of an average household.

(f) Household items

(g) Home repairs and appliances

(h) Transportation

(i) Medical care

(3) **INCOME.** The agency shall determine the amount of income available to the emergency assistance group in accordance with s. DWD 12.09(3)(b), except any of the following grants received in the month of the emergency is not counted:

(a) W-2 benefits under s. 49.148, Stats.

(b) Kinship care payments under s. 48.57(3m), Stats.

(c) Supplemental security income

(d) SSI supplemental payment for children of recipients under s. 49.775, Stats.

(4) **ASSETS.** The agency shall determine the amount of assets available to the emergency assistance group in accordance with s. DWD 12.09(3)(a), except that an asset with a fair market value of less than \$3,000 that would require liquidation at a loss is exempt from consideration. No asset may be considered available unless the emergency assistance group can make it available within 30 days. Assets shall be considered both when actually available and when the group has a legal interest in a liquidated sum and has the legal ability to make the sum available for support and maintenance. No available real property may be included in determining the emergency assistance group's assets.

DWD 16.07 Payment amount. The emergency assistance payment shall be the lowest of the following three amounts:

- (1) The total of the maximum payment amount per group member multiplied by the number of members of the emergency assistance group.
- (2) The amount requested by the group.
- (3) The total financial need due to the emergency, as determined in s. DWD 16.06(1).

NOTE: The maximum payment amount per group member is \$150 for cases of need due to fire, flood, natural disaster, and homelessness. The maximum payment amount does not apply to cases of need due to an energy crisis. Changes to the maximum payment amount will be announced in the Administrative Register.

DWD 16.08 Eligibility determination and payment procedures. (1) The agency shall determine eligibility for emergency assistance within 5 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 5 working days, except if the group's eligibility is due to homelessness under s. DWD 16.05 (2), 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. 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. DWD 12.22.

(3) Except as provided in sub. (5), emergency assistance may be issued to an emergency assistance group once in a 36-month period.

(4) 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.

(5) Emergency assistance provided in cases of fire, flood, natural disaster, energy crisis, or homelessness when a member of the emergency assistance group is a victim of domestic abuse, as defined in s. 968.075 (1)(a), Stats., may be provided to an emergency assistance group once in a 12-month period.

DWD 16.09 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.

DWD 16.10 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. DWD 16.08(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: s. 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 participant that cannot be remedied by the applicant or participant and which prevent the applicant or participant from attending a scheduled review.

EFFECTIVE DATE. This rule shall take effect on the first day of the month following publication in the Wisconsin administrative register as provided in s. 227.22(2)(intro.), Stats.