

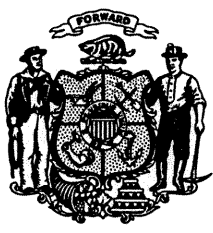
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LCRC
FORM 2

WISCONSIN LEGISLATIVE COUNCIL STAFF

RULES CLEARINGHOUSE

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Director
(608) 266-1946



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Legislative Council Staff
(608) 266-1304

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One E. Main St., Ste. 401
P.O. Box 2536
Madison, WI 53701-2536
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CLEARINGHOUSE REPORT TO AGENCY

[THIS REPORT HAS BEEN PREPARED PURSUANT TO S. 227.15, STATS. THIS IS A REPORT ON A RULE AS ORIGINALLY PROPOSED BY THE AGENCY; THE REPORT MAY NOT REFLECT THE FINAL CONTENT OF THE RULE IN FINAL DRAFT FORM AS IT WILL BE SUBMITTED TO THE LEGISLATURE. THIS REPORT CONSTITUTES A REVIEW OF, BUT NOT APPROVAL OR DISAPPROVAL OF, THE SUBSTANTIVE CONTENT AND TECHNICAL ACCURACY OF THE RULE.]

CLEARINGHOUSE RULE 00-066

AN ORDER to renumber DWD 16.05 (1) (f) (5); to amend DWD 16.01, 16.03 (2), 16.04 and 16.07 (Note); and to create DWD 16.05 (1) (em) and (f) 5. and (3) and (Note) and 16.08 (6), relating to emergency assistance for families facing impending homelessness.

Submitted by **DEPARTMENT OF WORKFORCE DEVELOPMENT**

04-03-00 RECEIVED BY LEGISLATIVE COUNCIL.

04-27-00 REPORT SENT TO AGENCY.

RNS:MM:rv;jal

LEGISLATIVE COUNCIL RULES CLEARINGHOUSE REPORT

This rule has been reviewed by the Rules Clearinghouse. Based on that review, comments are reported as noted below:

1. STATUTORY AUTHORITY [s. 227.15 (2) (a)]

Comment Attached YES NO

2. FORM, STYLE AND PLACEMENT IN ADMINISTRATIVE CODE [s. 227.15 (2) (c)]

Comment Attached YES NO

3. CONFLICT WITH OR DUPLICATION OF EXISTING RULES [s. 227.15 (2) (d)]

Comment Attached YES NO

4. ADEQUACY OF REFERENCES TO RELATED STATUTES, RULES AND FORMS
[s. 227.15 (2) (e)]

Comment Attached YES NO

5. CLARITY, GRAMMAR, PUNCTUATION AND USE OF PLAIN LANGUAGE [s. 227.15 (2) (f)]

Comment Attached YES NO

6. POTENTIAL CONFLICTS WITH, AND COMPARABILITY TO, RELATED FEDERAL
REGULATIONS [s. 227.15 (2) (g)]

Comment Attached YES NO

7. COMPLIANCE WITH PERMIT ACTION DEADLINE REQUIREMENTS [s. 227.15 (2) (h)]

Comment Attached YES NO

WISCONSIN LEGISLATIVE COUNCIL STAFF

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CLEARINGHOUSE RULE 00-066

Comments

[NOTE: All citations to "Manual" in the comments below are to the Administrative Rules Procedures Manual, prepared by the Revisor of Statutes Bureau and the Legislative Council Staff, dated September 1998.]

1. Statutory Authority

What is the statutory authority for the requirement in s. DWD 16.08 (6) that an emergency assistance payment for impending homelessness may not be made unless the agency has confirmed 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 payment on behalf of the group? Also, this provision is not explained in the analysis to the rule, as it should be.

2. Form, Style and Placement in Administrative Code

a. The material in each subdivision of s. DWD 16.05 (3) (a) and (b) should be followed by a period. Also, from the analysis, it appears that both pars. (a) and (b) must be satisfied. This subsection could be simplified if the last sentence of sub. (3) (intro.) were written as follows: "The W-2 agency shall verify that a landlord, bank or local government has issued the group either a five-day notice terminating tenancy for nonpayment of rent pursuant to s. 704.17, Stats., or a notice of foreclosure and that the emergency assistance group is experiencing . . . :". Subdivisions 1. to 6. of par. (a) could be numbered pars. (a) to (f).

b. In s. DWD 16.08 (6), "s." should be inserted before the rule citation. Also, "may not" should replace "shall not."

4. Adequacy of References to Related Statutes, Rules and Forms

A reference to s. 49.138 (1m) (intro.), Stats., should be added to the citation of statutory authority. In addition, it is suggested that the phrase "as affected by 1999 Wisconsin Act 9" be added to that citation and the citation to s. 49.138 (1m) (am), Stats.

State of Wisconsin
Department of Workforce Development



NOTICE OF PUBLIC HEARING

**Emergency Assistance for Families Facing Impending Homelessness
Ch. DWD 16**

NOTICE IS HEREBY GIVEN that pursuant to ss. 49.138(1m)(am) and 227.11, Stats., the Department of Workforce Development proposes to hold a public hearing to consider the creation and amendment of rules affecting ch. DWD 16 relating to emergency assistance for families facing impending homelessness. *as off by Act 9?*

Hearing Information

**April 28, 2000
Friday
1:30 p.m.**

**MADISON
G.E.F. 1 Building, Room 400X
201 E. Washington Avenue**

Interested persons are invited to appear at the hearing and will be afforded the opportunity to make an oral presentation of their positions. Persons making oral presentations are requested to submit their facts, views, and suggested rewording in writing.

An accessible entrance to the building is available via a ramp from the corner of Washington Avenue and Webster Street to the Butler Street entrance. If you have special needs or circumstances that may make communication or accessibility difficult at the hearing, please call (608) 267-9403 at least 10 days prior to the hearing date. Accommodations such as ASL interpreters, English translators, or materials in audiotape format will be made available on request to the fullest extent possible.

Analysis Prepared by the Department of Workforce Development

Statutory authority: Secs. 49.138(1m)(am) and 227.11, Stats.
Statute interpreted by the rule: Sec. 49.138(1m)(am), Stats.

The proposed rules implement the provision of 1999 Wisconsin Act 9 that extends eligibility for Emergency Assistance to families facing impending homelessness. Emergency Assistance is a program that has provided financial assistance to low-income families in need due to homelessness, fire, flood, natural disaster, or energy crisis and will now also include families facing impending homelessness. The maximum payment per family is \$150 per member in cases of need due to fire, flood, natural disaster, homelessness, and impending homelessness and unlimited in cases of need due to energy crisis. Assistance is available once every 36 months for homelessness and impending homelessness and once

every 12 months for families in need due to fire, flood, natural disaster, energy crisis, or homelessness when a member of the family is a victim of domestic abuse.

The proposed rules instruct W-2 agencies on the conditions for eligibility and the type of verification required to implement the provision of assistance to families facing impending homelessness. The rules provide that assistance may be provided to families 1) who have received a notice terminating tenancy for nonpayment of rent or a notice of foreclosure from a bank or local government and 2) who are experiencing a financial crisis as defined by the department. A financial crisis is defined as loss of wages due to illness or injury, loss of employment that does not include voluntarily leaving appropriate employment without good cause, loss of income due to a second parent leaving the household, car repair expenses necessary for transportation to work, medical expenses, and other conditions as determined by the W-2 agency.

The proposed rules also require a qualified caretaker relative to be 18 years of age or older, except in limited circumstances. These circumstances include a minor emancipated due to marriage; an individual with no living parent, legal guardian, or other appropriate adult relative whose whereabouts are known; an individual's whose parent, guardian, or appropriate relative does not allow the individual to live with him or her; an individual or individual's child has been abused or is subject to abuse in the residence of the individual's parent or legal guardian; an individual or minor child face imminent or serious harm if they live in the same residence as the parent or guardian; or the W-2 agency otherwise determines that it is in the best interest of the individual's child to waive the general prohibition of assistance to unmarried caretakers who are under 18 years of age. The prohibition of assistance to teenage parents not living in adult-supervised settings, except in limited circumstances, is required for programs funded by Temporary Assistance to Needy Families (TANF) at 42 USC 608(a)(5).

Initial Regulatory Flexibility Analysis

Privately-run W-2 agencies will be affected by the rule change, but the rule will not have a significant economic impact because there is no material change from current procedures.

Fiscal Impact

The proposed rules have no fiscal impact. The rules instruct W-2 agencies on the conditions for eligibility and the type of verification required to implement the statutory expansion of the program to families facing impending homelessness. The expansion of the program may result in additional program costs or a slightly higher workload for counties that administer Emergency Assistance, but these additional costs were contemplated with the enactment of the statutory amendments and are not a result of the proposed rules.

Contact Information

The proposed rules are available on the DWD web site at <http://www.dwd.state.wi.us/dwd/hearings.htm>. A paper copy may be obtained at no charge by contacting:

Elaine Pridgen
Office of Legal Counsel
Dept. of Workforce Development
P.O. Box 7946
Madison, WI 53707-7946
(608) 267-9403

pridgel@dwd.state.wi.us

Written Comments

Written comments on the proposed rules received at the above address no later than **May 3, 2000**, will be given the same consideration as testimony presented at the hearing.

Mark B. Linn

Secretary or designee

4/3/00

Date

**State of Wisconsin
Department of Workforce Development**

DWD 16

Emergency Assistance for Families Facing Impending Homelessness

The Wisconsin Department of Workforce Development proposes an order to renumber DWD 16.05(1)(f)5; to amend DWD 16.01, 16.03(2), 16.04, and 16.07(note); and to create DWD 16.05(1)(em), 16.05(1)(f)5, 16.05(3), 16.05 (note), and 16.08(6) relating to emergency assistance for families facing impending homelessness.

Analysis Prepared by the Department of Workforce Development

Statutory authority:

ss. 49.138(1m)^{(intro) and}(am) and 227.11, Stats. (4)

Statute interpreted by the rule:

s. 49.138(1m)(am), Stats.

as off. by Act 9

The proposed rules implement the provision of 1999 Wisconsin Act 9 that extends eligibility for Emergency Assistance to families facing impending homelessness. Emergency Assistance is a program that has provided financial assistance to low-income families in need due to homelessness, fire, flood, natural disaster, or energy crisis and will now also include families facing impending homelessness. The maximum payment per family is \$150 per member in cases of need due to fire, flood, natural disaster, homelessness, and impending homelessness and unlimited in cases of need due to energy crisis. Assistance is available once every 36 months for homelessness and impending homelessness and once every 12 months for families in need due to fire, flood, natural disaster, energy crisis, or homelessness when a member of the family is a victim of domestic abuse.

The proposed rules instruct W-2 agencies on the conditions for eligibility and the type of verification required to implement the provision of assistance to families facing impending homelessness. The rules provide that assistance may be provided to families 1) who have received a notice terminating tenancy for nonpayment of rent or a notice of foreclosure from a bank or local government and 2) who are experiencing a financial crisis as defined by the department. A financial crisis is defined as loss of wages due to illness or injury, loss of employment that does not include voluntarily leaving appropriate employment without good cause, loss of income due to a second parent leaving the household, car repair expenses necessary for transportation to work, medical expenses, and other conditions as determined by the W-2 agency.

The proposed rules also require a qualified caretaker relative to be 18 years of age or older, except in limited circumstances. These circumstances include a minor emancipated due to marriage; an individual with no living parent, legal guardian, or other appropriate adult relative

whose whereabouts are known; an individual's whose parent, guardian, or appropriate relative does not allow the individual to live with him or her; an individual or individual's child has been abused or is subject to abuse in the residence of the individual's parent or legal guardian; an individual or minor child face imminent or serious harm if they live in the same residence as the parent or guardian; or the W-2 agency otherwise determines that it is in the best interest of the individual's child to waive the general prohibition of assistance to unmarried caretakers who are under 18 years of age. The prohibition of assistance to teenage parents not living in adult-supervised settings, except in limited circumstances, is required for programs funded by Temporary Assistance to Needy Families (TANF) at 42 USC 608(a)(5). *OK*

SECTION 1. DWD 16.01, 16.03(2), and 16.04 are amended to read:

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, impending homelessness, or energy crisis and who meet the eligibility criteria under this chapter.

DWD 16.03 (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.

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, impending homelessness, or an energy crisis. Verification of eligibility shall not delay the provision of assistance.

SECTION 2. DWD 16.05(1)(em) is created to read:

DWD 16.05 (1) (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
should be added to
16.03(7)
def of
"qualified caretaker relative"

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. B

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. ck

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.

SECTION 3. DWD 16.05(1)(f)5. is renumbered as DWD 16.05(1)(f)6.

SECTION 4. DWD 16.05(1)(f)5., 16.05(3), and 16.05(note) are created to read:

DWD 16.05(1)(f)5. Impending homelessness as determined under sub. (3).

DWD 16.05(3) ELIGIBILITY DUE TO IMPENDING HOMELESSNESS. An emergency assistance group shall be considered to be facing impending homelessness for purposes of determining nonfinancial eligibility under sub. (1) if the 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 that: ^{any...} all...

(a) The emergency assistance group is experiencing a financial crisis that may include, but is not limited to:

1. Loss of wages due to illness or injury of a member of the emergency assistance group. ② periods

2. Loss of employment that does not include voluntarily leaving appropriate employment without good cause
3. Loss of income due to a second parent leaving the group
4. Car repair expenses that are necessary for transportation to work
5. Medical expenses that are not the responsibility of a third party
6. Other conditions as determined by the W-2 agency

(b) A landlord, bank, or local government has issued the group either:

1. A five-day notice terminating tenancy for nonpayment of rent pursuant to s. 704.17, Stats.
2. A notice of foreclosure

Note: s. 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. 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."

SECTION 5. DWD 16.07 note is amended to read:

Note: The maximum payment amount per group member is \$150 for cases of need due to fire, flood, natural disaster, and homelessness, and impending 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.

SECTION 6. DWD 16.08 (6) is created to read:

DWD 16.08 (6) The W-2 agency shall not issue an emergency assistance payment for impending homelessness pursuant to ^{A.} DWD 16.05(3) unless the agency has confirmed 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.

(payment directly?)

Not mentioned in analysis or statute.

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.

Tommy G. Thompson
Governor

Jennifer Reinert
Secretary



State of Wisconsin

Department of Workforce Development

OFFICE OF THE SECRETARY

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Fax: (608) 266-1784
<http://www.dwd.state.wi.us/>

October 17, 2000

Senator Judith B. Robson, Chair
Senate Committee on Human Services
and Aging
Room 15 South, State Capitol
INTER-D

Representative Bonnie L. Ladwig, Chair
Assembly Committee on Children
and Families
Room 113 West, State Capitol
INTER-D

Dear Senator Robson and Representative Ladwig:

In response to concerns expressed at a meeting with Senator Robson, the department is submitting a germane modification to a rule currently under review by the Senate Committee on Human Services and Aging and the Assembly Committee on Children and Families. The rule is ch. DWD 16, relating to emergency assistance for families facing impending homelessness. The change clarifies that the eligibility for emergency assistance for impending homelessness may include a financial crisis caused by a W-2 sanction that is subsequently overturned.

In SECTION 4 of the proposed rule, s. DWD 16.05(3)5 is renumbered as s. DWD 16.05(3)6 and a new s. DWD 16.05(3)5 is created to read "Loss of W-2 benefits due to a sanction that is subsequently overturned through the dispute resolution process under s. 49.152, Stats."

Thank you for your consideration.

Respectfully submitted,

A handwritten signature in black ink, appearing to read 'Jennifer Reinert' followed by a flourish and the initials 'J.R.'.

Jennifer Reinert
Secretary

Copy:

Senate Committee on Human Services and Aging members
Assembly Committee on Children and Families members
Carol Medaris, Wisconsin Council on Children and Families
Pat DeLessio, Legal Action of Wisconsin-Milwaukee
Robert Andersen, Legal Action of Wisconsin-Madison

AUG 31 2000

Tommy G. Thompson
Governor

Linda Stewart
Secretary



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**State of Wisconsin
Department of Workforce Development**

August 30, 2000

President of the Senate
220 South, State Capitol
Madison, Wisconsin 53702

Speaker of the Assembly
211 West, State Capitol
Madison, Wisconsin 53702

Notice of Administrative Rules in Final Draft Form

Clearinghouse rule number: CR 00-066

Rule number: DWD 16

Relating to: Emergency assistance for families facing impending homelessness

Dear Senator Risser and Representative Jensen:

I have enclosed proposed rules in final draft form and a rule report as required by s. 227.19(3), Stats., for referral to the appropriate legislative standing committees. If you have any questions regarding this matter, please do not hesitate to contact us.

Respectfully submitted,

Linda Stewart, Ph.D.
Secretary

Tommy G. Thompson
Governor

Linda Stewart
Secretary



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SECRETARY**

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State of Wisconsin

Department of Workforce Development

Rule Analysis for Legislative Review

Proposed rules relating to emergency assistance for families facing impending homelessness

**DWD 16
(CR 00-066)**

Need for rules

The proposed rules implement the provision in 1999 Wisconsin Act 9 that extends eligibility for Emergency Assistance to families facing impending homelessness. The rules require W-2 agencies to determine that the family is experiencing a financial crisis due to reasons that are either beyond the control of an adult member of the family or that constitute good cause. W-2 agencies must also verify that a family has received a notice that they will be required to leave their current housing if they do not make a payment to a landlord, bank, or local government immediately.

Public hearing response

A summary of comments received and the department's response is attached.

Response to Legislative Council staff recommendations

The department's response is attached.

Final regulatory flexibility analysis

Privately-run W-2 agencies and subcontractors of W-2 agencies will be affected by this rule. These rules add no significant economic impact beyond what was considered in the statute.

Fiscal effect

These rules add no significant fiscal effect beyond the statute.

Department contacts

Dianne Reynolds
Economic Support Supervisor
G100 GEF 1
266-0988

Elaine Pridgen
Administrative Rules Coordinator
331A GEF 1
267-9403

**State of Wisconsin
Department of Workforce Development**

DWD 16

Emergency Assistance for Families Facing Impending Homelessness

The Wisconsin Department of Workforce Development proposes an order to renumber DWD 16.05(1)(f)5; to amend DWD 16.01, 16.03(2), 16.04, and 16.07(note); and to create DWD 16.05(1)(em), 16.05(1)(f)5, 16.05(3), 16.05 (note), and 16.08(6) relating to emergency assistance for families facing impending homelessness.

Analysis Prepared by the Department of Workforce Development

Statutory authority: s. 49.138(1m) and (1m)(am), Stats., as affected by 1999 Wisconsin Act 9

Statutes interpreted: s. 49.138(1m) and (1m)(am), Stats., as affected by 1999 Wisconsin Act 9

The proposed rules implement the provision of 1999 Wisconsin Act 9 that extends eligibility for Emergency Assistance to families facing impending homelessness. Emergency Assistance is a program that has provided financial assistance to low-income families in need due to homelessness, fire, flood, natural disaster, or energy crisis and will now also include families facing impending homelessness. The maximum payment per family is \$150 per member in cases of need due to fire, flood, natural disaster, homelessness, and impending homelessness and unlimited in cases of need due to energy crisis. Assistance is available once every 36 months for homelessness and impending homelessness and once every 12 months for families in need due to fire, flood, natural disaster, energy crisis, or homelessness when a member of the family is a victim of domestic abuse.

The proposed rules instruct W-2 agencies on the conditions for eligibility and the type of verification required to implement the provision of assistance to families facing impending homelessness. The rules require that the W-2 agency determine that the emergency assistance group is experiencing a financial crisis due to reasons that are beyond the control of an adult member of the group or that constitute good cause as determined by the W-2 agency. The W-2 agency will verify that the financial crisis was caused by loss of employment that does not include voluntarily leaving appropriate employment without good cause; 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; loss of income due to a second parent leaving the group; 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; or other reasonable circumstances as determined by the W-2 agency.

The rules also require W-2 agencies to verify that the emergency assistance group has received at least one of the following notices: a notice terminating tenancy for failure to pay rent that meets the minimum requirements of s. 704.17, Stats.; a summons and complaint for an eviction action which is based on failure to pay rent; a notice of foreclosure for failure to pay property taxes or a mortgage; a summons and complaint for a foreclosure action that is based on failure to pay property taxes or a mortgage; or 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.

Emergency assistance payments for impending homelessness may be issued to obtain new housing or retain current housing. If an emergency assistance group requests that the emergency assistance payment be made to obtain new housing, the agency shall issue a payment within 5 working days of the date that the group notifies the agency that they have obtained new accommodations. If an emergency assistance group requests that the emergency assistance payment be made to retain current housing, 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 within 5 days of the date that the agency receives this confirmation from the landlord, bank, or local government.

The proposed rules also prohibit assistance to teenage parents not living in adult-supervised settings, except in limited circumstances, as required for programs funded by Temporary Assistance to Needy Families (TANF) at 42 USC 608(a)(5). The proposed rules require a qualified caretaker relative to be 18 years of age or older, except in the following circumstances: a minor emancipated due to marriage; an individual with no living parent, legal guardian, or other appropriate adult relative whose whereabouts are known; an individual's whose parent, guardian, or appropriate relative does not allow the individual to live with him or her; an individual or individual's child has been abused or is subject to abuse in the residence of the individual's parent or legal guardian; an individual or minor child face imminent or serious harm if they live in the same residence as the parent or guardian; or the W-2 agency otherwise determines that it is in the best interest of the individual's child to waive the general prohibition of assistance to unmarried caretakers who are under 18 years of age.

SECTION 1. DWD 16.01, 16.03(2), and 16.04 are amended to read:

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, impending homelessness, or energy crisis and who meet the eligibility criteria under this chapter.

DWD 16.03 (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.

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, impending homelessness, or an energy crisis. Verification of eligibility shall not delay the provision of assistance.

SECTION 2. DWD 16.05(1)(em) is created to read:

DWD 16.05 (1) (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.

SECTION 3. DWD 16.05(1)(f)5. is renumbered as DWD 16.05(1)(f)6.

SECTION 4. DWD 16.05(1)(f)5., 16.05(3), and 16.05(note) are created to read:

DWD 16.05(1)(f)5. Impending homelessness as determined under sub. (3).

DWD 16.05(3) ELIGIBILITY DUE TO IMPENDING HOMELESSNESS. An emergency assistance group shall be considered to be facing impending homelessness for purposes of determining nonfinancial eligibility under sub. (1) if the 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.

(a) The W-2 agency shall determine that 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.

(b) The W-2 agency shall verify that the financial crisis was caused by one or more of the following:

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

2. 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.

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

4. 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.

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

(c) The W-2 agency shall verify that the emergency assistance group has received at least one of the following notices:

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

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

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

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

5. 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: s. 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. 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."

SECTION 5. DWD 16.07 note is amended to read:

Note: The maximum payment amount per group member is \$150 for cases of need due to fire, flood, natural disaster, and homelessness, and impending 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.

SECTION 6. DWD 16.08 (6) is created to read:

DWD 16.08 (6) Emergency assistance payments for impending homelessness under s. DWD 16.05(3) 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.

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.

Summary of Public Hearing

Proposed rules relating to emergency assistance for families facing impending homelessness

**DWD 16
(CR 00-066)**

A public hearing was held in Madison on April 28, 2000. The hearing record remained open until May 5, 2000, for receipt of written comments.

Comments were received from:

1. Eileen S. Newby, Economic Support Supervisor
Ozaukee County Department of Social Services
Port Washington
2. Pamela Fendt, Co-Chair
W-2 Monitoring Task Force of the Milwaukee County Board of Supervisors
Milwaukee
3. Carol Medaris, Project Attorney
Wisconsin Council on Children and Families (WCCF)
Madison
4. Pat DeLessio, Attorney at Law
Legal Action of Wisconsin, Inc. (LAW)
Milwaukee
5. Robert J. Andersen, Staff Attorney
Legal Action of Wisconsin, Inc. (LAW)
Madison

Copies of all five comments are attached.

Three MSW students, Hayley Williamson, Wendy Burkey, and Melinda Jo Praver, observed the public hearing for information only.

Summary of comments	Department response
<p>1. Eileen Newby Ozaukee County DSS</p> <p>There should be a central registry of emergency assistance recipients to make verifying an applicant's past receipt of EA easier when the applicant has not continuously lived in the same county or had a continuous history on CARES.</p>	<p>Requiring that all emergency assistance recipients be tracked in CARES would be cumbersome and expensive. Given competing priorities, implementing such a system is not feasible at this time. The department will continue to consider possible implementation in the future.</p>
<p>2. Pamela Fendt W-2 Monitoring Task Force of the Milwaukee County Board of Supervisors</p> <p>a. Requiring a termination notice or foreclosure notice excludes families who are not the official tenants.</p>	<p>The department acknowledges that these families would not meet the impending homelessness eligibility criteria, but no change is made because responsible administration of the program requires some verification of eligibility. These families may obtain EA based on homelessness if they move into a shelter temporarily.</p>
<p>b. Definition of "financial crisis" should include fluctuations in income due to an employer reducing work hours.</p>	<p>Department agrees. See s. DWD 16.05(3)(b)(2).</p>
<p>c. Definition of "financial crisis" should include loss of income due to W-2 sanctions.</p>	<p>No change. DWD 16.05(3)(a) requires that the financial crisis be 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. A sanction due to noncompliance with W-2 policies without good cause would not meet this standard.</p>
<p>d. Definition of "financial crisis" should include problems with public assistance beyond the control of the recipient.</p>	<p>No change to rule language. Could be included under "other reasonable circumstances" provision.</p>
<p>e. Department's definition of "financial crisis" gives discretion to W-2 agencies to determine "other reasonable conditions." We want EA for impending homelessness to be administered in a uniform manner among the different W-2 agencies (see attached chart on varying amounts of housing assistance provided by Milwaukee W-2 agencies from their own funding). Discretion in W-2 program often not in favor of participants.</p>	<p>The department recognizes that it cannot specify every conceivable cause of a financial crisis. Examples of what are expected to be the most common reasons are given to guide W-2 agencies in administering the program equitably. Agencies will fill in gaps in the policy under the "other reasonable circumstances" provision in conjunction with guidance provided in the rest of the policy.</p>

Summary of comments	Department response
<p>Fendt continued</p> <p>f. We are concerned with the new development of Milwaukee W-2 agencies administering a portion of EA. We are concerned that the diversionary focus of W-2 may be applied to EA. The underutilization of Medicaid, food stamps, and child care subsidies shows parents' reluctance to go through W-2 system or lack of knowledge about different eligibility criteria.</p>	<p>The department will emphasize to W-2 agencies that emergency assistance has independent eligibility criteria.</p>
<p>g. If W-2 agencies do administer EA, there should be one designated staff person as EA contact. This will avoid possibility of W-2 worker making compliance with W-2 a factor in EA eligibility.</p>	<p>Some agencies have a designated staff person that handles EA and others do not. Agencies have discretion to determine staffing patterns. Compliance with W-2 may be a factor in EA eligibility if a family is in financial crisis due to noncompliance with W-2 without good cause.</p>
<p>h. Rules should require common operating procedures and common staff training among W-2 agencies.</p>	<p>The department will be offering new training on housing issues to assist W-2 agencies implement this program and help low-income families overcome housing problems that hinder their ability to maintain steady employment. Operating procedures are within the discretion of each agency.</p>
<p>3. Carol Medaris, WCCF</p>	
<p>a. In definition of "financial crisis," loss of wages subsection should include wage loss due to reduction in hours.</p>	<p>Department agrees. See s. DWD 16.05(3)(b)2.</p>
<p>b. In definition of "financial crisis," loss of employment subsection should include family crises that cause absences from work, such as child care problems, domestic violence, children's illnesses, lack of transportation, and school suspensions.</p>	<p>Department agrees. See s. DWD 16.05(3)(b)2.</p>
<p>c. Definition of financial crisis should include W-2 sanctions that are later overturned.</p>	<p>Because W-2 payments are issued prospectively, appeals are usually resolved before the participant experiences a loss of income. Since it will not be common to experience a financial crisis as a result of a W-2 sanction that has been overturned, this circumstance is not added as an example in the policy. If it does occur, a family could be eligible under the "other reasonable circumstances" provision.</p>

Summary of comments	Department response
<p>Medaris continued</p> <p>d. Definition of financial crisis should include lack of income because the individual has been unable to obtain employment and is ineligible for W-2 due to time limits or a job readiness determination.</p>	<p>No change to rule language. Some individuals who have been determined ready for unsubsidized employment may meet the financial crisis eligibility criteria under the “other reasonable circumstances” provision if the W-2 agency finds that they have conducted a diligent search for employment that has been unsuccessful. W-2 agencies should also reevaluate these individuals for enrollment or reenrollment in W-2. In addition to EA, there are other sources of assistance available during the transition to employment income, such as job access loans, community reinvestment funds, and emergency payments from W-2 funds.</p>
<p>e. Definition of financial crisis should include W-2 participants waiting for their first check.</p>	<p>No change to rule language. Some individuals may meet the financial crisis eligibility criteria under the “other reasonable circumstances” provision, particularly if they were in financial crisis prior to their application for W-2. There are also other programs to meet this need, such as a job access loans, community reinvestment funds, and emergency payments from W-2 funds.</p>
<p>f. DWD 16.05(3) should allow any notice terminating tenancy for nonpayment. Landlord may give [14-day] notice that doesn’t provide opportunity to cure by payment and change mind when contacted by W-2 agency or may give notice allowing more than the statutory minimum of five days to cure.</p>	<p>Department agrees.</p>
<p>g. DWD 16.08(6) should allow EA payments to new landlord. Statutory language provides for payments “to obtain or retain” permanent housing.</p>	<p>Department agrees.</p>
<p>4. Pat DeLessio, LAW-Milwaukee</p> <p>a. Financial crisis should not be defined in relation to certain acts, such as loss of wages or car repair expenses. It should be defined to include any situation in which a family finds itself unable to pay for its housing needs because of lack of money.</p> <p>b. If financial crisis is defined in relation to certain acts, the list should be expanded. Definition of financial crisis should include loss of employment or reduction in hours, lack of child care or transportation, or a family crisis.</p>	<p>The financial crisis must be 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. The list of causes of a financial crisis is not limited to certain acts. There are examples given, but the list includes the open-ended “other reasonable circumstances,” which allows other causes.</p> <p>Department agrees. See s. DWD 16.05(3)(b)2.</p>

Summary of comments	Department response
<p>DeLessio continued</p> <p>c. Definition of financial crisis should include W-2 sanctions that are later overturned.</p>	<p>Because W-2 payments are issued prospectively, appeals are usually resolved before the participant experiences a loss of income. Since it will not be common to experience a financial crisis as a result of a W-2 sanction that has been overturned, this circumstance is not added as an example in the policy. If it does occur, a family could be eligible under the “other reasonable circumstances” provision.</p>
<p>d. Definition of financial crisis should include lack of income because the individual has been unable to obtain employment and is ineligible for W-2 due to time limits or a job readiness determination.</p>	<p>No change to rule language. Some individuals who have been determined ready for unsubsidized employment may meet the financial crisis eligibility criteria under the “other reasonable circumstances” provision if the W-2 agency finds that they have conducted a diligent search for employment that has been unsuccessful. W-2 agencies should also reevaluate these individuals for enrollment or reenrollment in W-2. In addition to EA, there are other sources of assistance available during the transition to employment income, such as job access loans, community reinvestment funds, and emergency payments from W-2 funds.</p>
<p>e. Definition of financial crisis should include W-2 participants waiting for their first check.</p>	<p>No change to rule language. Some individuals may meet the financial crisis eligibility criteria under the “other reasonable circumstances” provision, particularly if they were in financial crisis prior to their application for W-2. There are also other programs to meet this need, such as a job access loans, community reinvestment funds, and emergency payments from W-2 funds.</p>
<p>f. DWD 16.05(3)(b)1. should include any notice terminating tenancy, whether a 5-, 14-, or 28-day notice.</p>	<p>The original version of the proposed rule allowed only a 5-day notice terminating tenancy for failure to pay rent. The current version allows any notice terminating tenancy for failure to pay rent that meet the minimum statutory requirements of s. 704.17, Stats. A 28-day notice terminating tenancy for any reason or no reason at all is not acceptable because s. 49.138(1m)(am), Stats., requires that the “family has been notified that it will be required to leave its current housing if it does not make that [rent] payment immediately.”</p>
<p>g. DWD 16.08(6) should allow EA payments to new landlord. Statutory language provides for payments “to obtain or retain” permanent housing.</p>	<p>Department agrees.</p>

Summary of comments	Department response
<p>5. Robert Andersen, LAW-Madison</p> <p>a. I was involved in the legislative process that produced the statutory change that is the basis for this administrative rule. The statutory intent is to allow EA for impending homelessness either to obtain new housing or retain existing accommodations.</p>	<p>Department agrees. See s. DWD 16.08(6).</p>
<p>b. Department should be commended for making assistance available upon receipt of notice of eviction, rather than upon commencement of formal proceedings in court for eviction. The commencement of formal proceedings is improper because it is often too late to save existing tenancies, would encourage landlords to file eviction actions to get EA, would require EA to be used for landlords' court costs, and would not guarantee that landlords would cancel their eviction proceedings because the landlords would simply ask the courts to hold the cases open.</p>	
<p>c. Department should be commended for requiring a landlord, bank, or local government to agree to waive proceeding with an eviction or foreclosure action based on notice received in return for receiving EA. This is not a requirement of a landlord. Landlords may reject the cash assistance. Many will. That is why EA should be available to apply to a security deposit or first month's rent in a new tenancy. However, the agency can set the condition for those landlords who do accept the assistance. If a landlord fails to comply with the condition, that is for the tenant to raise in court in the eviction proceeding. The agency's obligation is completed with the provision of assistance. The agency would not be satisfying its obligation if it gave EA to a landlord that evicted the tenant anyway.</p>	



April 12, 2000

Elaine Pridgen
Office of Legal Counsel
Department of Workforce Development
P.O. box 7946
Madison, WI 53707-7946

Dear Ms Pridgen:

The following comments are submitted for the below noted hearing.

Re: Public Hearing
Emergency Assistance for Families Facing Impending Homelessness
Ch. DWD 16

This extension of eligibility for Emergency Assistance will exacerbate an existing problem in the administration of this program that DWD and its predecessor, DHSS, have failed to remedy. The problem relates to the condition that assistance is only available once in 12 months or once in 36 months depending upon the qualifying condition. There is no central registry of Emergency Assistance recipients. Therefore, it is virtually impossible to verify if the requisite time period for repeat eligibility has elapsed.

Even without this expansion, this has been a chronic problem for local agencies. Unless the applicant had continuously lived in the county or had a continuous history on CARES or the earlier public assistance computer network, CRN, it has often been very hard to verify residence in the last year or 36 months. When residence can be verified and it is out of the county of application, it is often difficult to contact the Emergency Assistance program provider. Not all social or human services agencies administer the Emergency Assistance program and many employees are not aware of the program. As a result, it can take many phone calls before reaching the correct staff person or being referred to a contract agency.

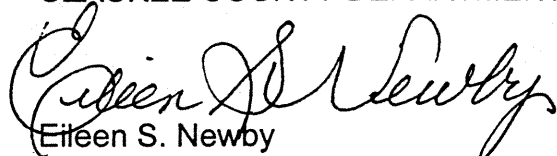
This problem could easily be resolved by the State maintaining a central registry with a single contact point. Emergency Assistance agencies could be required to report

recipients and qualifying conditions to the central registry. Verification of past receipt would then be as easy as a single phone call or email. This would not be a large workload or data maintenance issue because no information would need to be retained for longer than 36 months unless the State wanted to track participation for a longer period of time.

It is probably nearly five years since I last submitted a request for a central registry. Surely the availability of inexpensive commercial software and the computer proficiency of many State staff make this an easily achievable project. This current expansion of eligibility for Emergency Assistance should be accompanied by the immediate development of a central registry of recipients.

Thank you for this opportunity to address this issue.

Sincerely,
OZAUKEE COUNTY DEPARTMENT OF SOCIAL SERVICES


Eileen S. Newby
Economic Support Supervisor

*Pamela Fendt, co-chair
W-2 Monitoring Task Force of the Milwaukee County Board of Supervisors*

Public Hearing Testimony on Rules for Emergency Assistance Program
4-28-00

The W-2 Monitoring Task Force of the Milwaukee County Board of Supervisors welcomes the expansion of the Emergency Assistance program to include a new provision to provide funding for families facing "impending homelessness" as an important improvement to the program and one that members of our group worked to have included. We do, however, have the following concerns about the rules for the expanded Emergency Assistance Program.

Impending Homelessness is defined and verified by either a 5 day eviction notice from a landlord, or a notice of foreclosure.

This definition of "impending homelessness" does not take into consideration information from Milwaukee area landlords and social service providers that low-income families are increasingly doubling or even tripling up in apartments because they cannot afford to maintain an apartment themselves. When these living situations become untenable, some of these families will not have recourse to assistance to the Emergency Assistance program because they are not the official tenants. The Task Force would view an expansion of the rules to recognize this type of situation as an important addition.

Similarly, in terms of the scenarios that form the definition of "financial crisis," the Task Force believes that the options presented do not fully represent the types of circumstances that would lead to loss of wages or income.

The type of situations missing from the current rules include:

- **Fluctuations In Income Due To The Type Of Employer:** Fast food restaurants, retail stores, and temporary agencies are all common employers for entry level workers or those making the transition from welfare to work. Employees in these industries often face changing schedules and assignments that can mean a loss in income related to hours, days or even weeks of not working.
- **W-2 Sanctions:** Data on W-2 participants in Milwaukee County reveals that in each month of 1999, one third of the W-2 caseload was being sanctioned for roughly one-half of their grant check.
- **Problems With Public Assistance Benefits Beyond The Control Of The Client:** Participants in the W-2, SSI, Kinship Care, or Caretaker Supplement programs may face situations such as computer problems or lost paperwork that lead to cuts or delays in income.

We strongly urge that more be done to spell out additional reasons for loss of income that would encompass these concerns..

The rules also allow W-2 agencies to establish "Other conditions determined reasonable by the W-2 Agency" to represent a financial crisis.

In Milwaukee, the administration of a portion of the Emergency Assistance program by W-2 agencies is a new development. The Task Force has serious concerns about this development. One fear is that the diversionary focus of the W-2 program will incorrectly be applied to the Emergency Assistance Program by the W-2 agencies in Milwaukee County.

In addition, some of the under-utilization of other support programs such as Medicaid, Food Stamps, and the child care subsidy has been linked to needy parents' reluctance to go through the W-2 system, or to their lack of understanding about how eligibility for W-2 differs from that of other programs. We do not want families who would be eligible for assistance through the expanded Emergency Assistance Program to forego it for similar reasons.

Because we have received reports that discretion in the W-2 program is often not administered in favor of the participants, Task Force members are also concerned that W-2 agencies will adopt differing interpretations of other reasonable conditions. Our background research on the types of emergency housing assistance W-2 agencies provide out of their own funding found great variation in the amount and types of assistance and the decision-making processes for providing such assistance (see attached chart). We want Emergency Assistance to be administered in a uniform manner.

If the W-2 Agencies remain the administrative entity, then the Task Force recommends that one designated staff person be the contact person for the Emergency Assistance program, so they can become well-versed in the program and how to operate it.

Task Force members take this position because we fear that compliance within W-2 would become a decision-making factor for receipt of Emergency Assistance. There appear to be cases where it would not be appropriate for W-2 clients (i.e. those being sanctioned) to apply for Emergency Assistance through their own FEP (Financial and Employment Planner). In addition, the reception staff would need to understand the new program and make referrals to the designated staff person.

We would further hope that rules would require the W-2 Agencies to use common operating procedures and to develop common training for their designated staff.

The W-2 Monitoring Task Force is seeking to ensure the equitable administration and accountability of this publicly-funded program.

In closing I would like to thank the Department for holding this hearing and make a procedural observation. The notification for the hearing on the DWD website was posted April 6, 2000 and the deadline for written comments in lieu of traveling to Madison and participating in the hearing was listed as April 7, 2000.

submitted by Pamela Fendt, co-chair
W-2 Monitoring Task Force of the Milwaukee County Board of Supervisors

Emergency Assistance Program Usage in Milwaukee County
Homeless Cases and Funding

	Cases	Funding
1995	775	\$342,341
1996	1,036	\$581,952
1997	929	\$519,642
1998	925	\$521,054
1999	716	\$411,001

**Information from W-2 Agencies on Funds Expended for Emergency Housing Needs
Compiled for the W-2 Monitoring Task Force of the Milwaukee County Board of Supervisors**

October 1999

JOB ACCESS LOANS LET FOR HOUSING-RELATED NEEDS

<u>W-2 Agency</u>	<u>Funding Expended</u>	<u>Number of Families Served</u>	<u>Average</u>
Maximus	\$68,745	202	\$340
YW Works	\$16,145	26	\$621
Employment Solutions [2 REGIONS]	\$100,000 (approximately)	165	\$606
OIC	\$114,543	211	\$543
UMOS	<input type="text"/>	82	

OTHER FUNDING GRANTED TO W-2 PARTICIPANTS TO ADDRESS HOUSING NEEDS

<u>W-2 Agency</u>	<u>Funding Expended</u>	<u>Source</u>	<u>Number of Families Served</u>	<u>Average</u>
Maximus	\$60,903	"Special Needs Grants" rent expenses	303	\$201
YW Works	\$61,948	"Emergency Assistance Funds" housing	131	\$473
Employment Solutions [2 REGIONS]	\$75,891	"Second Chance Housing Program"*	170	\$446
OIC	\$4,652	"Grant Funds" rental	9	\$517
UMOS		NO INFORMATION AT THIS TIME		

*Funded Through Community Reinvestment Plan



"For these are all our children . . .
we will all profit by, or pay for,
whatever they become." James Baldwin

RESEARCH • EDUCATION • ADVOCACY

May 3, 2000

FAXED AND MAILED

Elaine Pridgen
Office of Legal Counsel
Dept. of Workforce Development
P.O. Box 7946
Madison, WI 53707-7946

Re: Rule relating to emergency assistance
for families facing impending homelessness

Dear Ms. Pridgen,

This letter constitutes my comments on the above-described, proposed rule.

DWD 16.05(3)(a). The examples in these categories should be broadened to include at least the typical causes advocates are seeing for financial crises among low-income families.

In subsection 1, for example, causes for loss of wages should include losses due to reductions in hours.

In subsection 2, the loss of employment section should be broadened significantly to include a more comprehensive list of typical causes for lost employment. In particular, workers in low-wage, entry-level jobs, are unlikely to be afforded the flexibility needed to retain a job when family crises cause absences from work. Examples are child care problems, domestic violence, school suspensions, children's illnesses, lack of transportation, and other family circumstances causing absence from work.

In addition, a new category should be added for those with a connection to W-2 but who are not receiving any cash assistance. For example, those who reach W-2 time limits or are found job ready, those waiting for their first W-2 check, and those who have been sanctioned but whose sanctions are later overturned.



A MEMBER OF THE NATIONAL ASSOCIATION OF CHILD ADVOCATES

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Madison

WCCF: Emergency Assistance rule
May 3, 2000
Page 2

DWD 16.05(3)(b)1. This should be changed to include any eviction or termination notice which is due to non-payment of rent. Some landlords may give notices involving longer periods to pay. Others may give eviction notices that do not indicate a willingness to accept payment to cure, but who may in fact be agreeable to withdrawing the eviction upon payment once they are contacted by the W-2 agency. The important concern that the legislation means to address is to avoid an eviction caused by a failure to pay rent where an agreement can be worked out.

DWD 16.08(6). This provision should be changed to allow for EA payments to a new landlord in eviction cases where either the landlord does not agree to waive the eviction, or the family agrees that it would be better to move to a new home. The latter may occur in cases where the housing has been allowed to deteriorate or the tenant family needs to find cheaper housing or for other good reasons.

Such a change is clearly within the statutory language, which provides for EA payments to be used for families "to obtain or retain" permanent housing. It simply allows families to obtain suitable housing without first going through a period of homelessness, as is the case now.

Respectfully submitted,



Carol W. Medaris
Project Attorney

Medaris

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May 3, 2000

Elaine Pridgen
Office of Legal Counsel
Department of Workforce Development
P. O. Box 7946
Madison, Wisconsin 53707-7946

Re: Proposed Rules - Emergency Assistance

Dear Ms. Pridgen:

The following are comments this office is submitting in response to DWD's notice of proposed rulemaking regarding the emergency assistance program.

1. Section 16.05(3)(a) regarding eligibility for emergency assistance defines financial crisis in relation to certain acts, such as loss of wages due to illness or car repair expenses. The statutory section, 49.138(1m)(am), does not limit the term "financial crisis" in such a manner. Therefore, neither should the rules. Financial crisis should be defined to include any situation in which a family finds itself unable to pay for its housing needs because of a lack of money. Since emergency assistance is available only once every three years, families will be prevented from relying on this funding and limit its use to true emergencies.

Assuming DWD does define financial crisis, the list should be expanded to include the following:

- a) loss of wages from reduction in work hours or loss of employment, due to any of the following, but not limited thereto, adverse working conditions, lack of child care or transportation, or a family crisis such as illness of a family member, domestic violence situation, the suspension or expulsion of a child from school,

De Lessio 1

Elaine Pridgen

May 3, 2000

Page Two

- b) lack of income while waiting for the first W-2 payment,
- c) lack of, or delay in, receipt of income due to W-2 sanction which is later found to be improper, and
- d) lack of income because the individual has not been able to obtain employment and he/she does not qualify for W-2 because he/she has been found job ready or has exhausted his/her time limits.

All of the above are situations which this office routinely encounters in representing low income families. They all represent common reasons for the non-payment of rent.

2. Section 16.05(3)(b)(1) should be amended to include any notice terminating tenancy. Assistance should be provided whether a 5, 14, or 28 day notice is involved. A notice for non-payment of rent can be a 5 or a 14 day notice. In addition, a family may receive a 28 day notice for any or no reason at all. For example, such a notice may be given in retaliation for contacting a city building inspector. The family may lack the funds to move, thereby creating impending homelessness. Section 49.138(1m)(intro) allows emergency assistance to be used to "obtain or retain" a permanent living accommodation. Emergency assistance must be available for all families who are facing eviction, regardless of the reason, who do not have the necessary funds to either retain their current housing (if it remains available) or to obtain replacement housing.
3. Section 16.08(6) - this section should also be amended to make it clear that emergency assistance is available not only to retain current housing, but if that is not desirable or possible, to obtain replacement housing. An individual facing eviction may not want to stay in his/her current housing for a variety of reasons, such as code violations, his/her financial crisis is expected to last for a period of time that requires relocation to cheaper housing to avoid falling behind in rent again in the immediately foreseeable future, the landlord is not properly maintaining the property, the neighborhood is unsafe, or there is a need to be closer to a child's school. Section 16.08(6) should be amended to provide that a payment should be made to the present landlord if the individual wants to stay

Elaine Pridgen
May 3, 2000
Page Three

in the present rental and the landlord is willing to waive any right to proceed with an eviction or to give a reasonable assurance of future continued occupancy. If the individual does not want to retain the current housing and/or the landlord, bank or local government will not agree to waive the right to proceed with an eviction or foreclosure or to give such an assurance, payment should be made to help the family obtain replacement housing, and not to the present landlord, bank or local government.

We believe the above amendments are crucial to assisting families in avoiding homelessness. The legislature intended these funds to avoid homelessness and not to pay off creditors, regardless of the validity of their claim.

Your consideration of the above is appreciated.

Very truly yours,



Patricia DeLessio
Attorney at Law

PDL/eca

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May 4, 2000

Elaine Pridgen
Office of Legal Counsel
Dept. Of Workforce Development
P.O. Box 7946
Madison, WI 53707-7946

Re: DWD 16, relating to emergency assistance for families facing impending homelessness.

Dear Ms. Pridgen:

I am writing to supplement the written comments which were provided to your office on May 3, 2000, by Attorney Pat DeLessio of our organization. I was involved in the legislative process that produced the change in the statutes which was the basis for this administrative rule.

I agree with the analysis presented by Ms. DeLessio -- that the intent of the statute is to provide emergency assistance to prevent persons from becoming homeless, where their lack of resources will otherwise lead to that unfortunate result. As a result, I agree with her conclusion that the statute covers the use of emergency assistance to be applied toward a security deposit or to a first month's rent in a new tenancy -- if that is necessary to prevent homelessness -- as well as does the statute cover financial assistance to prevent an eviction.

The reason why the legislature changed the statutes governing emergency assistance is that so many families have become homeless over the past few years. The legislature has heard from many people that a large part of the problem is that applicants for W-2 do not receive their first payment of assistance until weeks after they have begun participation in W-2. Unfortunately, many of these families are already facing a housing crisis when they apply for W-2..

The legislature and the governor were presented with proposals that would have expedited the payment of the first cash assistance due to families to address this problem; however, those proposals were not approved because of administrative difficulties in their implementation or because of philosophical opposition to what those proposals might do to the nature of W-2. Instead, the legislature and the governor chose to amend the emergency assistance program to make funds available once every three years to cover *impending homelessness*.

Andersen 1

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With this legislative background, it is clear that funds could be used to help a family find a new tenancy (once every three years), if that is more appropriate than to pay to maintain an existing tenancy. For one thing, a family may be so far behind in rent at an old tenancy that emergency assistance will not prevent eviction. For another, the tenant may have good reason for leaving an old tenancy where the conditions of that tenancy are corrupt. That would be for the tenant to decide, not the administrative agency. The agency's only obligation is to provide emergency assistance once every three years to a family that is otherwise facing homelessness.

Of course, emergency assistance can also be used to pay an existing landlord to prevent an imminent eviction. The department should be commended for making assistance available to persons based on their receipt of a notice of eviction, rather than for it to be based on the commencement of formal proceedings in court for eviction. Basing the provision of assistance on the commencement of formal proceedings would be improper for several reasons: (1) it would be too late to save existing tenancies in many cases, where that is the goal; (2) it would encourage landlords to file eviction actions in order to get emergency assistance; (3) it would require emergency assistance to be used to pay for court costs of the landlords; and (4) it would not guarantee that landlords would cancel their eviction proceedings, because the landlords would simply ask the courts to hold the cases open.

This last point highlights another essential ingredient of these administrative rules. A necessary concomitant part of the payment of any cash assistance to a landlord is that the landlord will not continue with the present eviction proceeding. If the landlord does not so refrain, then the purpose of the assistance, and indeed the statutory requirement, *to prevent homelessness*, will have been frustrated. The department is to be commended for its inclusion of the provision in DWD 16.08 (6), requiring the landlord, bank or local government to agree to waive proceeding with the eviction or foreclosure action in return for receiving the emergency assistance.

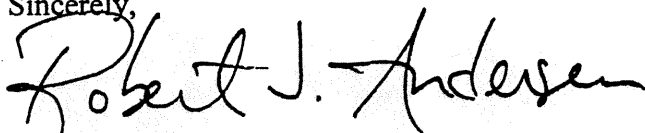
It is perfectly within the province of the administrative agency to set this condition for the payment of assistance. This is not a requirement of a landlord. If a landlord does not want to accept the cash assistance, the landlord is free to reject it. Many will. Indeed, this is another reason why cash assistance should be available to be applied to a security deposit or to the first month's rent in a new tenancy. However, the agency can certainly set the condition for those landlords who *do* accept the assistance. If a landlord fails to comply with the condition, that is for the tenant to raise in court in the eviction proceeding. The agency's obligation is completed with the provision of assistance. The agency would not be satisfying its obligation if it gave emergency assistance to a landlord that *did not prevent homelessness*, because the landlord evicted the tenant anyway.

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In summary, I applaud the recommendations of the department. I would also like to recommend that the rule be amended so that it covers assistance that may be applied toward security deposits or toward first months' rents in new tenancies for persons otherwise facing homelessness.

If there is any further information you would like from me for from our organization, please feel free to contact me.

Sincerely,

A handwritten signature in black ink that reads "Robert J. Andersen". The signature is written in a cursive style with a large initial "R".

Robert J. Andersen
Staff Attorney

Response to Legislative Council Comments

Proposed rules relating to emergency assistance for families facing impending homelessness

DWD 16 (CR 00-066)

Comment 1: What is the statutory authority for the requirement in s. DWD 16.08 (6) that an emergency assistance payment for impending homelessness may not be made to retain current housing unless the agency has confirmed 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 payment on behalf of the group?

Response: S. 49.138(1m), Stats., provides that emergency assistance in cases of impending homelessness may be used only to obtain or retain a permanent living accommodation. The department's requirement that a landlord, bank, or local government waive the right to proceed with an eviction or foreclosure in consideration for receiving the emergency assistance payment is necessary to effectively administer the program and comply with this statutory mandate. Alternative interpretations would either severely limit the effectiveness of the program or violate clear statutory language.

The department expects that most applicants for emergency assistance (EA) for impending homelessness will be tenants who have received a 5-day notice for failure to pay rent. There are two ways that EA could assist tenants in that situation retain their current housing: Either payment of the EA plus other resources available to a tenant are legally sufficient to prevent eviction or the landlord agrees to waive the right to proceed with eviction in consideration for receiving the payment.

To be legally sufficient to prevent eviction, the full rent owed must be received by the landlord before the expiration of the 5-day notice. The EA grant amount is based on the number of people in the assistance group. It will often be less than the full rent owed and hence not legally sufficient to prevent an eviction. The short time frame of a 5-day notice also limits the situations where EA payments will be legally sufficient to prevent eviction.

The waiver requirement increases the number of situations where the EA program can assist landlords and tenants maintain a tenancy when that is what both parties want to do. With the waiver requirement, the department can authorize payments that may not be legally sufficient to prevent eviction on their face, but will serve to stop the eviction because the landlord is willing to waive the right to proceed in consideration for receiving the payment. This might occur when the EA would be received by the landlord after the expiration of the 5-day notice. Or it might occur when the EA payment is less than the rent owed, but the landlord is willing to work out a payment plan and drop the eviction.

The EA payment may not be legally sufficient to prevent an eviction, but it serves the interests of the program and the affected parties to issue a payment as long as the landlord waives the right to proceed with an eviction.

The waiver requirement does not harm landlords. They are not required to waive their rights. When landlords are unwilling to waive the right to proceed with an eviction, W-2 agencies will advise emergency assistance applicants that they should obtain new housing and apply the EA payment toward the security deposit or first month's rent in the new tenancy.

If there is no waiver requirement and EA payments are allowed that are not legally sufficient to prevent eviction, some landlords will accept the money as payment owed to a creditor and evict anyway. This would violate clear statutory language that payments be used only to obtain or retain a permanent living accommodation. The program intent of issuing payments that prevent homelessness would not be accomplished. And the EA recipient would not be eligible to apply for this assistance again for 36 months but would have received none of the intended benefit of the program. The department's requirement that a landlord waive the right to proceed with an eviction is the only statutory interpretation that complies with clear statutory language and accomplishes the program intent.

Other comments were accepted or rendered moot by revisions.

LRB or Bill No./Adm. Rule No.
ch. DWD 16

Amendment No. if Applicable

FISCAL ESTIMATE
DOA-2048 N(R03/97)

- ORIGINAL
- CORRECTED
- UPDATED
- SUPPLEMENTAL

Subject
Emergency Assistance for Families Facing Impending Homelessness

Fiscal Effect

State: No State Fiscal Effect

Check columns below only if bill makes a direct appropriation
or affects a sum sufficient appropriation.

Increase Costs - May be possible to Absorb
Within Agency's Budget Yes No

- Increase Existing Appropriation
- Decrease Existing Appropriation
- Create New Appropriation
- Increase Existing Revenues
- Decrease Existing Revenues

Decrease Costs

Local: No local government costs

- | | | |
|--|--|--|
| 1. <input type="checkbox"/> Increase Costs
<input type="checkbox"/> Permissive <input type="checkbox"/> Mandatory
2. <input type="checkbox"/> Decrease Costs
<input type="checkbox"/> Permissive <input type="checkbox"/> Mandatory | 3. <input type="checkbox"/> Increase Revenues
<input type="checkbox"/> Permissive <input type="checkbox"/> Mandatory
4. <input type="checkbox"/> Decrease Revenues
<input type="checkbox"/> Permissive <input type="checkbox"/> Mandatory | 5. Types of Local Governmental Units Affected:
<input type="checkbox"/> Towns <input type="checkbox"/> Villages <input type="checkbox"/> Cities
<input type="checkbox"/> Counties <input type="checkbox"/> Others _____
<input type="checkbox"/> School Districts <input type="checkbox"/> WTCS Districts |
|--|--|--|

Fund Sources Affected
 GPR FED PRO PRS SEG SEG-S

Affected Ch. 20 Appropriations

Assumptions Used in Arriving at Fiscal Estimate

The proposed rules have no fiscal impact. The rules instruct W-2 agencies on the conditions for eligibility and the type of verification required to implement the statutory expansion of the program to families facing impending homelessness. The expansion of the program may result in additional program costs or a slightly higher workload for counties that administer Emergency Assistance, but these additional costs were contemplated with the enactment of the statutory amendments and are not a result of the proposed rule.

Long-Range Fiscal Implications

Agency/Prepared by: (Name & Phone No.)
DWD/Ceri Jenkins 261-6962

Authorized Signature/Telephone No.
Howard Draxton 261-9427

Date
4/3/00

FISCAL ESTIMATE WORKSHEET

1999 Session

Detailed Estimate of Annual Fiscal Effect
DOA-2047 (R10/94)

ORIGINAL UPDATED
 CORRECTED
SUPPLEMENTAL

LRB or Bill No./Adm. Rule No. ch. DWD 16	Amendment No.
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Subject
Emergency Assistance for Families Facing Impending Homelessness

I. One-time Costs or Revenue Impacts for State and/or Local Government (do not include in annualized fiscal effect):
0

II. Annualized Costs:	Annualized Fiscal impact on State funds from:	
	Increased Costs	Decreased Costs
A. State Costs by Category		
State Operations - Salaries and Fringes	\$0	\$0 -
(FTE Position Changes)	0 (FTE)	(- FTE)
State Operations - Other Costs	0	0
Local Assistance	0	0
Aids to Individuals or Organizations	0	0
TOTAL State Costs by Category	\$0	\$ -
B. State Costs by Source of Funds	Increased Costs	Decreased Costs
GPR	\$0	\$0-
FED	0	0
PRO/PRS	0	0
SEG/SEG-S	0	0
III. State Revenues - Complete this only when proposal will increase or decrease state revenues (e.g., tax increase, decrease in license fee, etc.)	Increased Rev.	Decreased Rev.
GPR Taxes	\$	\$ -
GPR Earned		-
FED		-
PRO/PRS		-
SEG/SEG-S		-
TOTAL State Revenues	\$0	\$0-

NET ANNUALIZED FISCAL IMPACT

	STATE	LOCAL
NET CHANGE IN COSTS	\$0	\$0
NET CHANGE IN REVENUES	\$0	\$0

Agency/Prepared by: (Name & Phone No.)
DWD/ Ceri Jenkins 261-6962

Authorized Signature/Telephone No. *[Signature]* 261-9427 Date 4/3/00