



WISCONSIN LEGISLATIVE COUNCIL RULES CLEARINGHOUSE

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CLEARINGHOUSE RULE 02-039

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.]

2. Form, Style and Placement in Administrative Code

a. In s. DWD 15.03 (2) (a) (intro.), it appears that the phrase “all of” should be inserted after the word “including.” The entire rule should be reviewed for the appropriate insertion of phrases such as “all of” or “any of” in introductory material. The use of these phrases will make clear to the reader whether all of the conditions, or any of the conditions, following the introductory material need be met.

b. In s. DWD 15.03 (8), the word “must” should be replaced by the word “shall.”

c. Section DWD 15.08 (3) should be numbered as sub. (2) and the subsequent subsections should be renumbered.

d. In s. DWD 15.08 (5), the introductory paragraph should be numbered par. (a) as it does not contain text introducing the subsequent paragraphs and the remaining paragraphs should be renumbered accordingly.

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

a. In the notes to s. DWD 15.02 (2), (5), (8), (9), (10), (11) and (12), the sentence should begin with “Section” instead of “Sec.”

b. In s. DWD 15.03 (3) (c), the notation “ss.” should be replaced by the notation “s.” since the disjunctive word “or” is used in the citation.

c. The rule refers to a good cause claim form. The department should ensure that the requirements of s. 227.14 (3), Stats., are met.

5. Clarity, Grammar, Punctuation and Use of Plain Language

a. In the notes to s. DWD 15.02 (2), (5), (8) and (9), in order to accurately quote the statutes cited, the word being defined should be capitalized or the initial quotation mark should be placed later in the sentence.

b. In s. DWD 15.02 (4), “the individual or child would be subject” should be replaced with “subjecting an individual or child.”

c. In s. DWD 15.02 (7), “it” should be replaced with “is.”

d. In s. DWD 15.03 (1) (b) 2., “Obtaining” is somewhat confusing. It may be clearer to state that the person must cooperate in fulfilling any support obligation he or she may have.

e. In s. DWD 15.03 (2) (a) 5., would it be more accurate if “after” were replaced with “if”?

f. In s. DWD 15.03 (2), why are there differences in the lists of acts of cooperation for a custodial parent and a noncustodial parent? For example, why must a custodial parent sign an affidavit when the noncustodial parent need not? Also, why must a custodial parent attend interviews and respond to written requests for information when the noncustodial parent need not? [See also s. DWD 15.03 (4).]

g. In s. DWD 15.04 (3), will it be clear to the reader what is meant by “Upon initial contact”?

h. Section DWD 15.05 (intro.) provides that a parent may request a good cause exemption when the W-2 agency determines it is in the best interest of the child and parent. However, s. DWD 15.06 (1) states that the W-2 agency must provide a good cause claim form to anyone upon request. It appears that s. DWD 15.05 should simply permit a parent to request a good cause exemption.

i. Section DWD 15.05 (1) uses the phrase “illegal child kidnapping or domestic abuse.” The use of the word “illegal” implies that there may be permissible forms of child kidnapping or domestic abuse. The word “illegal” probably should be deleted.

j. In s. DWD 15.05 (5), the phrase “discussions have not gone on for more than 3 months” seems vague. Perhaps it would be clearer to state that the parent sought the assistance of the social services agency not more than three months ago.

k. In s. DWD 15.06 (3), the applicant must submit corroborative evidence within 20 days after the claim was made. In s. DWD 15.08 (4), the W-2 agency is required to make a good cause determination within 45 days after the claim was signed. It would be helpful to use a consistent verb regarding when to begin counting for these time limits.

l. Section DWD 15.06 (4) (f) refers to a statement sworn or affirmed to be true under penalty of false swearing under s. 946.32, Stats., and signed in the presence of a W-2 agency worker. The department should ensure that a W-2 agency worker who is not also a notary public has the authority to administer an oath that will be recognized as a prerequisite for a criminal prosecution under s. 946.32, Stats. Also, in sub. (4) (g), the rule should be clear as to what conduct the other parent has allegedly perpetrated.

m. In s. DWD 15.07, “benefits” should be inserted after “Wisconsin Works.”

n. In s. DWD 15.085 (1) (a), “in addition” should be replaced with “and.” Also, the section should specify what the applicant’s or participant’s statement should include since the statement is not described. Note that the word “applicant” should be replaced by the word “applicant’s.”

o. In s. DWD 15.08 (1) (b), “does” in the first sentence should be replaced with “do.” Also, “basis for” should perhaps be replaced with “information to make.”

p. In s. DWD 15.08 (5) (b), “shall” should be replaced with “may.”

q. In s. DWD 15.08 (6), in the introductory paragraph, “the W-2 agency shall do all of the following” should be inserted at the end of the sentence and “The W-2 agency shall” should be deleted from the beginning of each paragraph’s text.

r. In s. DWD 15.10 (4), “the hearing” should be replaced with a phrase such as “a hearing decision for food stamp eligibility.”