



WISCONSIN LEGISLATIVE COUNCIL RULES CLEARINGHOUSE

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CLEARINGHOUSE RULE 03-085

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 October 2002.]

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

In s. HFS 2.04 (6) (a) 4., a reference to ch. 227, Stats., also should be inserted.

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

- a. In s. HFS 2.04 (2), second line, the word “payment” should be replaced by “paid.”
- b. In s. HFS 2.04 (5), there is a reference to “associated administrative payments.” Is this the same as the “administrative costs” referred to in s. HFS 2.04 (2)? If so, the same term should be used consistently.
- c. In s. HFS 2.04 (5), why is the 10% limit in sub. (3) not applicable to sub. (5)? If funds are paid to an entity on behalf of a recipient, any recovery made from those payments is going to affect the recipient, not the entity who receives benefits on behalf of the recipient. Therefore, should recipients who have entities receiving funds on their behalf be treated the same as recipients who have no such entity?
- d. Section HFS 2.04 (6) (b) states that a recipient is entitled to no prior written notice if an overpayment was the result of a computer processing or clerical error. Why is this type of error treated differently than any other error, if it affects a recipient in the same way?
- e. Section HFS 2.04 (3) deals with a situation in which benefits have been incorrectly paid to an individual currently eligible to receive benefits. Subsection (4) deals with the situation in which benefits have been incorrectly paid to an individual who is no longer eligible to receive

benefits. The latter provision also requires the department to send a notice of intent to recover under sub. (6) before it can take further legal action. Subsection (6) (b) indirectly states that a notice of intent to recover must be sent in certain cases under sub. (3) to an individual currently eligible to receive benefits. The rule would be clarified if s. HFS 2.04 (3) stated positively that a notice of intent to recover under sub. (6) (a) is required except in those circumstances stated in sub. (6) (b). [See also s. HFS 2.05 (5). Are there circumstances under which sub. (5) requires that a notice of intent to recover be sent?]