



WISCONSIN LEGISLATIVE COUNCIL RULES CLEARINGHOUSE

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CLEARINGHOUSE RULE 05-077

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 January 2005.]

2. Form, Style and Placement in Administrative Code

a. The agency needs to review the entire rule to conform to general drafting format and style. (See Part 1 of the Manual.) In particular, see ss. 1.02 and 1.04, relating to the arrangement of rule-making orders, should be used to revise the rule.

b. In s. HEA 15.01, the phrase “as created by 2001 Wisconsin Act 16” is unnecessary and should be deleted.

c. In s. HEA 15.02, an introduction should be inserted before sub. (1) and it should read: “In this chapter:”. Subsection (2) should be stated in the following format:

(2) “Eligible institution” means...which provides any of the following:

- (a) A program that....
- (b) A program that....
- (c) A program that...under s. 441.04 or 441.10, Stats.
- (d) A program that....

d. In s. HEA 15.02 (4) and (5), the word “Period” and the phrase “Nursing Student Loan Program” all should be shown in lowercase.

e. In s. HEA 15.03 (2), it appears that the appropriate cross-reference is to s. 36.27 (2), Stats.

f. In s. HEA 15.03 (3), the phrase “in a program as defined in HEA 15.02 (2)” is unnecessary and should be deleted.

g. In s. HEA 15.03 (4), the phrase “Nursing Student Loan” should be replaced by the word “loan,” which is a defined term in s. HEA 15.02.

h. In s. HEA 15.06 (1), the last sentence should begin with the phrase “Except as provided in sub. (2), the.”

i. Section HEA 15.07 (4) should conclude with the phrase “granted by the board under s. HEA 15.08.”

j. In s. HEA 15.10, the phrase “Administrative rule HEA 15” should be replaced by the phrase “This chapter.”

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

a. In the definition of “Eligible institution” (s. HEA 15.02 (2)), the phrase “diploma in nursing” is used. This is also used in the statutory language creating the program; however, the intended scope of the term is somewhat unclear. For example, would a “diploma” for a certified nurse assistant be eligible, or a foreign nursing diploma? This aspect of the rule may need clarification.

b. In s. HEA 15.02 (4), the phrase “from an eligible institution” should be inserted after the word “withdrawal.”

c. The rule requires in s. HEA 15.03 (1) that the borrower be a “resident of the United States, either a citizen or an alien lawfully admitted for permanent residence by the federal immigration and naturalization service.” If an alien has been lawfully admitted, but not for “permanent residence” it does not appear the rule would allow such an individual to receive a loan. If this is not the intended result, the rule needs revision and clarification.

d. The use of the residency standards for loan recipients that are the same as for the University of Wisconsin may be problematic. For example, are those standards appropriate for students enrolling in technical college programs? This aspect of the rule should be reviewed to assure it provides a workable standard.

e. Section HEA 15.03 (4) refers to determining need based on “recognized federal methodology.” The rule should either explain this methodology or include an appropriate cross-reference to it. [See, also, s. HEA 15.05 (2).]

f. It is unclear how the board will administer the requirement to give specific “preferences” under s. HEA 15.03 (5). It is also unclear how loans will be made if the number of applicants in the named categories exceeds the corresponding amount of funds available for loans.

g. In s. HEA 15.04 (2), the rule should be clarified to specify that interest shall not accrue during periods of at least “half-time enrollment” in an eligible institution if that is what is

intended. Also, the word “the” should be inserted before the word “grace”; the phrase “under s. HEA 15.06” should be inserted after the word “forgiveness”; and the phrase “under s. HEA 15.08” should be inserted after the second occurrence of the word “repayment.” Finally, either a standard for lowering the interest rate below 5% should be included in the rule or the ability of the board to change the interest rate without rule-making should be eliminated. Preferably, any new interest rate imposed should be accomplished by rule-making.

In s. HEA 15.06 (1), it is unclear how the proration will be done for less than full-time employment. For example, will half-time employment mean that 12.5% of the principle and interest will be forgiven? Also, is there a standard that will be used to determine full-time employment?

h. Section HEA 15.06 (4) and (5) are unnecessary and should be deleted. The requirement to hold a license in nursing is expressed in s. HEA 15.06 (1) and the fact that no interest will be charged during a forgiveness period is expressed in s. HEA 15.04 (2).

i. In s. HEA 15.07 (1), it appears that it would be more accurate to replace the word “complete” with the word “earn.”

j. In s. HEA 15.07 (2), the rule provides that under certain conditions the repayment period begins “immediately.” Does this mean that payments are due “immediately”? This could be clarified.

k. In s. HEA 15.07 (3), does the \$50 minimum payment apply regardless of the amount of a loan?

l. In s. HEA 15.08 (3), the term “federally tax exempt” appears to refer to a particular type of entity under the federal Internal Revenue Code. An appropriate cross-reference to this federal provision should be included in the text of the rule.

m. In s. HEA 15.08 (5), will a borrower who becomes pregnant and then gives birth be entitled to 21 months of deferral, since the language of the rule could be interpreted to grant a person a 12-month deferral for any of the described conditions?

n. Under s. HEA 15.09, the rule authorizes “the board” to grant forbearance on loans, but under s. HEA 15.06 (2), the executive secretary of the board is authorized to allow additional periods of deferment in exceptional situations. The agency may wish to be more specific as to the authority exercised by the executive secretary with regard to the program.

o. Section HEA 15.10 would be more clearer if it were written to read: “This chapter applies to all loans made on or after....” The text should include the actual date upon which the program began.