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## WISCONSIN LEGISLATIVE COUNCIL RULES CLEARINGHOUSE

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### CLEARINGHOUSE RULE 08-026

#### 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. In both SECTIONS of the rule, the entire citation should be shown in the text. For example, in SECTION 1, “ETF 10.08 (2) (b)” should be inserted before “4.”

b. In s. ETF 50.30 (4), “shall” should replace “must” and “The” should replace “Such.” Also, “subs.” should be replaced with “subsection.” [See s. 1.07, Manual.]

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

a. In the analysis to the rule, “Stats.” should replace “Wis. Stats.”

b. In s. ETF 50.30 (4), “Stats.” should be inserted after the fourth statutory citation.

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

a. The “plain language analysis” in the analysis to the rule states that a purpose of the rule is to enable participants to continue to receive **private benefits** offered by their employer, such as health insurance, while they are receiving disability benefits under s. 40.63, Stats. The meaning of the term “private benefits” is unclear. If the term “private benefits” refers to benefits other than those provided under ch. 40, Stats., the analysis should be redrafted to specifically state this. If the term has some other meaning, it should be more clearly stated.

b. SECTION 2 should be drafted to effectuate the intent of the rule more clearly. The apparent intent of the rule is to clearly state that (as specifically authorized in s. 40.63 (1) (c),

Stats.) a person who is placed on an administrative leave of absence and who is not expected to resume active service may qualify for a disability benefit under s. 40.63, Stats. However, this intent is obscured because the proposed subsection, rather than stating this directly, indirectly states that a “termination of employment” does “not preclude” a participating employer from placing the participant on administrative leave of absence if the employee is not expected to resume active service. In addition, this intent is obscured because the first sentence of the subsection, without mentioning anything about an administrative leave of absence, states that a participant must terminate all participating employment in order to be eligible for disability benefit under s. 40.63, Stats.