



WISCONSIN LEGISLATIVE COUNCIL RULES CLEARINGHOUSE

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CLEARINGHOUSE RULE 18-092

Comments

[NOTE: All citations to “Manual” in the comments below are to the Administrative Rules Procedures Manual, prepared by the Legislative Reference Bureau and the Legislative Council Staff, dated December 2014.]

1. Statutory Authority

a. The proposed rule appears to meet the standard that is required to submit a petition under s. 227.26 (4) Stats., for expedited repeal of an unauthorized rule. An “unauthorized rule” is a rule for which an agency lacks the authority to promulgate the rule due to the repeal or amendment of the law that previously authorized its promulgation. In this case, 2013 Wisconsin Act 20 repealed ch. 149, 2011 Stats., which governed the Health Insurance Risk-Sharing Plan Authority (commonly referred to as HIRSP). The proposed rule removes the corollary administrative rule provisions under the Office of the Commissioner of Insurance.

b. The rule summary’s listing of statutory authority should be revised to cite the specific statutory provision that granted rulemaking authority for the original rule. The citation to s. 227.26 (4), Stats., should be removed, as that provision establishes the expedited rulemaking process and does not remove or confer rulemaking authority for the subject matter addressed in the proposed rule. [s. 1.02 (2m) (a), Manual.]

c. The rule summary’s explanation of agency authority should be updated to reflect any revisions made in accordance with the previous comment.

2. Form, Style and Placement in Administrative Code

a. The relating clause in the caption for the proposed rule is incomplete. The relating clause explains that this is an order to “repeal Ins. 5.03 (5) and 5.17 (1) (a) 2.”. The text of the rule,

however, also amends ss. Ins. 5.01 (1) and 5.17 (5). The relating clause should be revised to reflect this. [s. 1.02 (1) (a), Manual.]

b. The rule summary's listing of statutes interpreted should be revised to cite the specific statutory provision that was interpreted for administration and enforcement in the original rule. The citations to ss. 227.10 (2) and 227.26 (4), Stats., should be removed, as those provisions govern administrative rulemaking procedures and do not identify a subject matter that is administered by the agency. [s. 1.02 (2m) (a) and (b), Manual.]

c. In the rule summary, a heading and entry should be inserted for related statutes or rules. [ss. 227.14 (2) (a) 1. and 227.26 (4) (b) 1., Stats.]