

## Chapter DWD 16

### EMERGENCY ASSISTANCE FOR FAMILIES WITH NEEDY CHILDREN

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**DWD 16.01 Purpose.** This chapter implements s. 49.138, Stats., which directs the department to administer a program of emergency assistance for persons who are in need due to fire, flood, natural disaster, homelessness, impending homelessness, or energy crisis and who meet the eligibility criteria under this chapter.

**History:** Cr. Register, October, 1999, No. 526, eff. 11-1-99; am. Register, January, 2001, No. 541, eff. 2-1-01.

**DWD 16.02 Applicability.** This chapter applies to all applicants for emergency assistance, all recipients of emergency assistance, and all county and tribal economic support agencies and W-2 agencies administering the emergency assistance program under s. 49.138, Stats.

**History:** Cr. Register, October, 1999, No. 526, eff. 11-1-99.

**DWD 16.03 Definitions.** In this chapter:

(1) "Destitution" means extreme want of resources or of the means of subsistence.

(2) "Emergency assistance" means the program under s. 49.138, Stats., for emergency assistance to families with needy children in cases of fire, flood, natural disaster, homelessness, impending homelessness, or energy crisis.

(3) "Emergency assistance group" or "group" means family as referred to in s. 49.138, Stats., and includes one or more dependent children as defined by s. 49.141 (1) (c), Stats., and a qualified caretaker relative with whom the child is living or was living at the time the emergency occurred.

(4) "Emergency shelter facility" means any facility, the primary purpose of which is to provide temporary or transitional shelter for the homeless in general or specific populations of the homeless.

(5) "Migrant worker" has the meaning given in s. 103.90 (5), Stats.

(6) "Needy person" means a person who meets the eligibility criteria in ss. DWD 16.05 and 16.06.

(7) "Qualified caretaker relative" means a caretaker of a child whose relationship to the caretaker or the caretaker's spouse is one of the following: son, daughter, grandson, granddaughter, stepson, stepdaughter, brother, sister, stepbrother, stepsister, half brother or half sister, nephew, niece, uncle, aunt, first cousin or grand, great-grand or great-great grand son, daughter, nephew, or niece. A qualified caretaker relative continues to be a qualified relative even when the relationship is terminated by death or divorce.

(8) "W-2 Agency" or "agency" means an entity that is administering the Wisconsin works program as a contractor under s. 49.143, Stats.

**History:** Cr. Register, October, 1999, No. 526, eff. 11-1-99; am. (2), Register, January, 2001, No. 541, eff. 2-1-01.

**DWD 16.04 Application.** Application for emergency assistance shall be made on a form prescribed by the department. Upon receipt of a completed application, the agency shall verify that the emergency was due to fire, flood, natural disaster, home-

lessness, impending homelessness, or an energy crisis. An agency shall consider the application complete if the application includes a legible name; address, if available; reason for the emergency; signature by the applicant or the applicant's representative and has been completed to the best of the applicant's or representative's ability. Verification of eligibility shall not delay the provision of assistance.

**Note:** An application form for emergency assistance may be obtained from a county or tribal economic support agency or a Wisconsin Works (W-2) agency. Contact information for Wisconsin works agencies may be found at <http://www.dwd.state.wi.us/dws/w2/resources/agencyProfiles.htm>.

**History:** Cr. Register, October, 1999, No. 526, eff. 11-1-99; am. Register, January, 2001, No. 541, eff. 2-1-01; CR 06-044; am. Register November 2006 No. 611, eff. 12-1-06.

**DWD 16.05 Nonfinancial eligibility. (1) CRITERIA.** The emergency assistance group shall meet all of the following nonfinancial eligibility criteria:

(a) The group members shall live in Wisconsin and intend to reside in Wisconsin, except a migrant worker is not required to meet the requirement as to intent to reside in Wisconsin. A never-married child under age 18 is a Wisconsin resident when he or she is under the legal custody of the department or an agency, regardless of the state in which he or she is living. Wisconsin residence shall not be lost when a dependent child or caretaker relative is temporarily absent from Wisconsin for the purpose of visiting, hospitalization, or education.

(b) The group members are citizens or qualifying aliens as defined in s. DWD 12.09 (2) (c).

(c) The child for whom assistance is requested is or, within 6 months prior to the month of application for emergency assistance, was living with a qualified caretaker relative in a place of residence maintained as the caretaker relative's own home.

(d) Assistance is needed to avoid destitution of the child or to provide a living arrangement for the child in a home.

(e) The child's destitution or need for living arrangements did not result from the child or a qualified caretaker relative refusing without good cause to accept employment or training for employment.

(em) An individual under 18 years of age is ineligible to be a qualified caretaker relative unless:

1. The individual is or has ever been married.

2. The individual has no parent, legal guardian, or other appropriate adult relative who would meet applicable criteria to act as the individual's legal guardian who is living or whose whereabouts are known.

3. No living parent, legal guardian, or other appropriate adult relative who would meet applicable criteria to act as the individual's legal guardian allows the individual to live in the home of the parent, guardian, or relative.

4. The individual or the child for whom assistance is requested is being or has been subjected to serious physical or emotional harm, sexual abuse, or exploitation in the residence of the individual's own parent or legal guardian.

5. Substantial evidence exists of an act or failure to act that presents an imminent or serious harm if the individual and the minor child lived in the same residence with the individual's own parent or legal guardian.

6. The W-2 agency otherwise determines that it is in the best interest of the individual's child to waive the general prohibition on assistance to unmarried caretakers who are under 18 years of age.

(f) As determined by the agency, the group's need has resulted from an emergency due to one or more of the following causes:

1. Fire.
2. Flood.
3. A natural disaster such as a tornado, earthquake, electrical storm, windstorm, hail, sleet, a mud or rock slide, or a natural explosion such as lightning striking an object that then explodes.
4. Homelessness as determined under sub. (2). The cause of the homelessness need not be the result of a natural disaster.
5. Impending homelessness as determined under sub. (3).
6. An energy crisis, including lack of essential home heating or imminent loss of essential home heating, with an immediate threat to the health or safety of the group either existing or likely to exist.

**(2) ELIGIBILITY DUE TO HOMELESSNESS.** An emergency assistance group shall be considered homeless for purposes of determining nonfinancial eligibility under sub. (1) if the group needs emergency assistance to obtain a permanent living accommodation and if any of the following conditions apply:

- (a) The group lacks a fixed, regular, and adequate nighttime residence.
- (b) The group has a current residence that is a shelter designed for temporary accommodation such as a motel, hotel, or emergency shelter facility.
- (c) The group has to leave or has already left its current housing because it is uninhabitable as determined by the local building inspector, the local health department, or other appropriate local authority.
- (d) The group is living in a place that is not designed for, or ordinarily used as, a regular sleeping accommodation.
- (e) A member of the group was subject to domestic abuse as defined under s. 968.075 (1) (a), Stats.

**(3) ELIGIBILITY DUE TO IMPENDING HOMELESSNESS.** An emergency assistance group shall be considered to be facing impending homelessness for purposes of determining nonfinancial eligibility under sub. (1) if the group is experiencing a financial crisis that makes it very difficult to make a rent payment, mortgage payment, or property tax payment and the group has been notified that it will be required to leave its current housing if it does not make that payment immediately.

(a) The W-2 agency shall determine that the emergency assistance group is experiencing a financial crisis due to reasons that are either beyond the control of an adult member of the group or that constitute good cause as determined by the W-2 agency.

(b) The W-2 agency shall verify that the financial crisis was caused by one or more of the following:

1. Loss of employment that does not include voluntarily leaving appropriate employment without good cause.
2. Substantial loss of wages due to illness or injury of a group member, domestic violence, lack of child care, a transportation breakdown, or a reduction of work hours by an employer.
3. Loss of income due to a second parent leaving the group.
4. Exceptional, unexpected, and necessary expenses that are not the responsibility of a third party, such as car repair expenses necessary for transportation to work or medical expenses required to be paid.

5. Loss of W-2 benefits due to a sanction that is subsequently overturned through the dispute resolution process under s. 49.152, Stats.

6. Other reasonable circumstances as determined by the W-2 agency.

(c) The W-2 agency shall verify that the emergency assistance group has received at least one of the following notices:

1. A notice terminating tenancy for failure to pay rent that meets the minimum requirements of s. 704.17, Stats.
2. A summons and complaint for an eviction action which is based on failure to pay rent.
3. A notice of foreclosure for failure to pay property taxes or a mortgage.
4. A summons and complaint for a foreclosure action that is based on failure to pay property taxes or a mortgage.
5. A writ of assistance, notice of sale, or other verifiable documentation that a foreclosure judgment has been entered against a member of the emergency assistance group and the group will be required to vacate the premises imminently.

**Note:** Section 799.40 (4), Stats., provides: "The court shall stay the proceedings in a civil action of eviction if the tenant applies for emergency assistance under s. 49.138. The tenant shall inform the court of the outcome of the determination of eligibility for emergency assistance. The stay remains in effect until the tenant's eligibility for emergency assistance is determined and, if the tenant is determined to be eligible, until the tenant receives the emergency assistance."

**History:** Cr. Register, October, 1999, No. 526, eff. 11-1-99; cr. (1) (em), (f) 5., and (3), renum. (1) (f) 5. to be (1) (f) 6., Register, January, 2001, No. 541, eff. 2-1-01.

**DWD 16.06 Financial eligibility. (1) TOTAL FINANCIAL NEED.** The W-2 agency shall compute the total financial need of the emergency assistance group by following these steps:

- (a) The W-2 agency shall determine the amount of unpaid expenses for the group and the cost of the needs due to emergency for the group and add these two amounts together.
- (b) The W-2 agency shall determine the available income of the group and the available resources of the group and add these two amounts together.
- (c) The W-2 agency shall subtract the total of par. (b) from the total of par. (a). The result is the total financial need of the emergency assistance group.

**(2) PHYSICAL NEEDS.** Physical needs may include:

- (a) Food
- (b) Clothing
- (c) Temporary housing when the group is in need of assistance because of fire, flood or, natural disaster
- (d) First month's rent plus the security deposit
- (e) Home energy. This may include heating fuel, electricity, and repair or replacement services necessary to attain or maintain the basic heat and electricity requirements of an average household.
- (f) Household items
- (g) Home repairs and appliances
- (h) Transportation
- (i) Medical care

**(3) INCOME.** The agency shall determine the amount of income available to the emergency assistance group in accordance with s. DWD 12.09 (3) (b), except any of the following grants received in the month of the emergency is not counted:

- (a) W-2 benefits under s. 49.148, Stats.
- (b) Kinship care payments under s. 48.57 (3m), Stats.
- (c) Supplemental security income.
- (d) SSI supplemental payment for children of recipients under s. 49.775, Stats.

**(4) ASSETS.** The agency shall determine the amount of assets available to the emergency assistance group in accordance with s. DWD 12.09 (3) (a), except that an asset with a fair market value of less than \$3,000 that would require liquidation at a loss is

exempt from consideration. No asset may be considered available unless the emergency assistance group can make it available within 30 days. Assets shall be considered both when actually available and when the group has a legal interest in a liquidated sum and has the legal ability to make the sum available for support and maintenance. No available real property may be included in determining the emergency assistance group's assets.

**History:** Cr. Register, October, 1999, No. 526, eff. 11-1-99.

**DWD 16.07 Payment amount.** The emergency assistance payment shall be the lowest of the following 3 amounts:

(1) The total of the maximum payment amount per group member multiplied by the number of members of the emergency assistance group.

(2) The amount requested by the group.

(3) The total financial need due to the emergency, as determined in s. DWD 16.06 (1).

**Note:** The maximum payment amount per group member is \$150 for cases of need due to fire, flood, natural disaster, homelessness, and impending homelessness. The maximum payment amount does not apply to cases of need due to an energy crisis. Changes to the maximum payment amount will be announced in the Administrative Register.

**History:** Cr. Register, October, 1999, No. 526, eff. 11-1-99.

**DWD 16.08 Eligibility determination and payment procedures.** (1) The agency shall determine eligibility for emergency assistance within 5 working days after receiving a completed application. If the group is found eligible, the agency shall issue a payment to the emergency assistance group within the same 5 working days, except as provided in subs. (4) and (5). The payment may be made in the form of cash, a voucher, or a vendor payment.

(2) The agency shall notify the applicant in writing of the eligibility determination. If the application is denied, the notice shall include reasons for the denial and information about the opportunity to appeal that decision under s. DWD 12.22.

(3) Emergency assistance payments shall not be used for activities related to or the costs of providing temporary or transitional shelter or housing, except if a group is in need of assistance due to a fire, flood, or natural disaster.

(4) If the emergency assistance group's eligibility is due to homelessness under s. DWD 16.05 (2), the agency shall issue a payment, following the eligibility determination, within 5 working days of the date that the group notifies the agency that a permanent living accommodation has been obtained.

(5) Emergency assistance payments for impending homelessness under s. DWD 16.05 (3) may be issued to obtain a new permanent living accommodation or retain a current permanent living accommodation.

(a) If an emergency assistance group requests that the emergency assistance payment be made to obtain a new permanent living accommodation, the agency shall issue a payment, following the eligibility determination, within 5 working days of the date that the group notifies the agency that a permanent living accommodation has been obtained.

(b) If an emergency assistance group requests that the emergency assistance payment be made to retain a current permanent living accommodation, the W-2 agency shall confirm that the landlord, bank, or local government agrees to waive any right to

proceed with an eviction or foreclosure action based on the notice served in consideration for receiving the emergency assistance payment on behalf of the group. The agency shall issue a payment, following the eligibility determination, within 5 days of the date that the agency receives this confirmation from the landlord, bank, or local government.

(6) Emergency assistance may be provided to an emergency assistance group once in a 12-month period.

**History:** Cr. Register, October, 1999, No. 526, eff. 11-1-99; cr. (6), Register, January, 2001, No. 541, eff. 2-1-01; **CR 06-044: am. (1), r. (3), renum. (4) to be (3), cr. (4), renum. (5) to be (6) and am., renum. (6) to be (5), Register November 2006 No. 611, eff. 12-1-06.**

**DWD 16.09 Social services.** (1) In determining the emergency assistance group's total need, the agency shall consider the social service needs of the group and make appropriate referrals to assist the group in meeting those needs.

(2) Social service needs include but are not limited to the need for:

- Information and referral to the appropriate service agency
- Counseling
- Family shelter
- Child care funding.

**History:** Cr. Register, October, 1999, No. 526, eff. 11-1-99.

**DWD 16.10 Review of agency decisions.** (1) An emergency assistance applicant or participant may petition the agency for a review as provided under s. 49.138 (4), Stats., if one of the following occurs or is alleged by the applicant or participant:

(a) The application for emergency assistance was not acted upon promptly after filing. The standard for reasonable promptness shall be the requirements established by s. DWD 16.08 (1).

(b) The application is denied in whole or in part.

(c) The emergency assistance award is modified or canceled.

(d) The award is insufficient.

**Note:** s. 49.138(4), Stats., provides as follows: "(a) Any individual whose application for emergency assistance under this section is not acted upon with reasonable promptness, after the filing of the application, as defined by the department by rule, or is denied in whole or in part, or who believes that the assistance amount was calculated incorrectly, may petition the administering agency for a review of such action. Review is unavailable if the action by the administering agency occurred more than 45 days prior to submission of the petition for review.

(b) Upon a timely petition under par. (a), the administering agency shall give the petitioner reasonable notice and opportunity for a review. The administering agency shall render its decision as soon as possible after the review and shall send by 1st class mail a certified copy of its decision to the petitioner. The administering agency shall deny a petition for review or shall refuse to grant relief if the petitioner does any of the following:

1. Withdraws the petition in writing.

2. Abandons the petition. Abandonment occurs if the petitioner fails to appear in person or by representative at a scheduled review without good cause, as defined by the department by rule.

(c) If the administering agency is a Wisconsin works agency, the department may review the decision of the Wisconsin works agency if, within 14 days after the date on which the certified copy of the decision of the Wisconsin works agency is mailed, the applicant or participant petitions the department for a review of that decision."

(2) In determining whether a petition for review is abandoned under s. 49.138 (4) (b) 2., Stats., the standard for good cause shall be circumstances beyond the control of the applicant or participant that cannot be remedied by the applicant or participant and which prevent the applicant or participant from attending a scheduled review.

**History:** Cr. Register, October, 1999, No. 526, eff. 11-1-99.