

Clearinghouse Rule 21-092

State of Wisconsin Department of Children and Families

Wisconsin Works Filing a Good Cause Claim For Noncooperation with Child Support Section DCF 102.06 (2)

The Wisconsin Department of Children and Families proposes to amend s. DCF 102.06 (2), relating to Wisconsin Works filing a good cause claim for noncooperation with child support.

Analysis Prepared by the Department of Children and Families

Statutory authority: Sections 227.11 (2) (a), Stats.

Statutes interpreted: Section 49.145 (2) (f), Stats.

Related statutes and rules: Chapter DCF 101

Explanation of Agency Authority

The department administers the Wisconsin Works program under ss. 49.141 to 49.161, Stats. Section 49.145 (2) (f), Stats., provides that, as a condition of eligibility for Wisconsin Works, every parent in an individual's Wisconsin works group must fully cooperate in good faith with all of the following:

- Efforts directed at establishing the paternity of any minor child of that parent.
- Efforts directed at obtaining support payments or any other payments or property to which that parent and any minor child of that parent may have rights or for which that parent may be responsible.

The cooperation shall be in accordance with federal law and regulations and rules promulgated by the department applicable to paternity establishment and collection of support payments and may not be required if the parent has good cause for refusing to cooperate, as determined by the department in accordance with federal law and regulations.

Section 227.11 (2) (a), Stats., expressly confers rule-making authority on each agency to promulgate rules interpreting the provisions of any statute enforced or administered by the agency if the agency considers it necessary to effectuate the purpose of the statute.

Summary of the Rule

The current rule requires that a Wisconsin Works applicant or participant who claims good cause for not cooperating with efforts directed at establishing paternity and obtaining support payments swear or affirm under penalty of false swearing pursuant to s. 946.32, Stats., that the statements in the claim are true and shall sign the claim form in the presence of a notary public.

The proposed rule will repeal the notary requirement, which will allow applicants and participants to complete and sign the good cause claim form in the online application system ACCESS. Applicants and participants will still be required to submit evidence corroborating the good cause claim, which may include court, medical, law enforcement, or social services records.

Summary of Factual Data and Analytical Methodologies

The notary requirement is unnecessary and burdensome for applicants, participants, and W-2 agencies.

Summary of Related Federal Law

42 USC 608 specifies requirements and prohibitions for assistance funded by the Temporary Assistance for Needy Families block grant. Under 42 USC 608 (a) (2), if the child support agency determines that an individual is not cooperating with the State in establishing paternity or in establishing, modifying, or enforcing a support order with respect to a child of the individual, and the individual does not qualify for any good cause or other exception established by the State under 42 USC 654 (29), then the State--

- (A) shall deduct from the assistance under the Temporary Assistance for Needy Families an amount equal to not less than 25 percent of the amount of such assistance; and
- (B) may deny the family any assistance under the State program.

Under 42 USC 654 (a) (29), the child support agency determines whether an individual is cooperating with 42 USC 608 (a) (29), and the agency administering the assistance program determines whether the individual has good cause for noncooperation, taking into account the best interests of the child.

Federal law does not require the use of a notary public when applying for good cause.

Comparison to Adjacent States

None of the adjacent states require the use of a notary public when applying for good cause.

Effect on Small Businesses

The proposed rule does not affect small businesses as defined in s. 227.114 (1), Stats.

Analysis Used to Determine Effect on Small Businesses

The impact of the proposed rule is limited to child support agencies, Wisconsin Works agencies, and individuals participating in the Wisconsin Works program. No current Wisconsin Works agency is a small business as defined s. 227.114 (1), Stats.

Agency Contact

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Place Where Comments are to be Submitted and Deadline for Submission

Comments may be submitted to Elaine Pridgen, Department of Children and Families, 201 W. Washington Ave, P.O. Box 8916, Madison, WI, 53708-8916 or dcfpublichearing@wisconsin.gov. The comment deadline is January 6, 2022.

SECTION 1. DCF 102.06 (2) is amended to read:

DCF 102.06 (2) FILING A CLAIM. An applicant or participant may file a good cause claim with the W-2 agency at any time. The applicant or participant shall specify the circumstances that the applicant or participant believes provide sufficient good cause for not cooperating and shall indicate whether the applicant or participant requests that the child support agency proceed without his or her cooperation if good cause is granted, if that is possible. The applicant or participant shall swear or affirm under penalty of false swearing pursuant to s. 946.32, Stats., that the statements in the claim are true ~~and shall sign the claim form in the presence of a notary public.~~ Upon receipt of the good cause claim, the W-2 agency shall notify the child support agency within 2 days that no further action may be taken until it is determined whether good cause exists.

SECTION 2. EFFECTIVE DATE. This rule shall take effect on the first day of the month following publication in the Administrative Register, as provided in s. 227.22 (2) (intro.), Stats.