

Chapter DHS 251

COUNTY RELIEF PROGRAMS

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Note: Chapter HSS 230 was repealed and recreated as an emergency rule effective January 1, 1996. Chapter 230 as it existed on May 31, 1996 was repealed and a new chapter HSS 230 was created effective June 1, 1996. Chapter HSS 230 was renumbered chapter HFS 251 under s. 13.93 (2m) (b) 1., Stats., and corrections made under s. 13.93 (2m) (b) 7., Stats., Register January 2003 No. 565. Chapter HFS 251 was renumbered chapter DHS 251 under s. 13.92 (4) (b) 1., Stats., and corrections made under s. 13.92 (4) (b) 7., Stats., Register January 2009 No. 637.

DHS 251.01 Authority and purpose. This chapter is adopted under the authority of s. 49.02 (7m), Stats., to provide procedures for a county relief agency to follow to obtain a relief block grant, standards for county relief agencies to follow in making eligibility determinations under s. 49.015, Stats., standards for waiver of an eligibility requirement under s. 49.015 (3) (b), Stats., and procedures for appealing eligibility determinations.

History: Register, May, 1996, No. 485, eff. 6-1-96.

DHS 251.02 Applicability. This chapter applies to counties that choose to have a relief block grant program under subch. II of ch. 49, Stats., and therefore are required to determine eligibility for relief and to implement an appeal procedure for applicants who are denied relief or recipients whose relief payment is reduced, suspended or terminated.

History: Register, May, 1996, No. 485, eff. 6-1-96.

DHS 251.03 Definitions. In this chapter:

(1) "AFDC" means aid to families with dependent children, a public assistance program under title IV-A of the Social Security Act of 1935, as amended, and s. 49.19, Stats.

(2) "Benefits" means payment or services, including health care services and voucher payments made to third parties on behalf of dependent persons or directly to dependent persons.

(3) "Department" means the Wisconsin department of health services.

(4) "Dependent person" means an individual who is eligible for relief under s. 49.015, Stats.

(5) "Failure to comply" means an action or inaction of a relief recipient that violates a relief agency rule without good cause.

(6) "Grant diversion" has the meaning given in s. 49.053 (1m), Stats.

Note: 1995 Wis. Act 27 repealed s. 49.053, Stats.

(7) "Health care services" has the meaning given in s. 49.01 (2g), Stats.

(8) "Medical assistance divestment" means the disposal of an asset for less than its fair market value with the consequence that the individual who does this is ineligible for medical assistance under the provisions of s. 49.453, Stats., and s. DHS 103.065.

(9) "Recipient" means an individual who is determined eligible for or is receiving benefits from a relief agency.

(10) "Relief" means assistance that is provided to a dependent person and funded by a relief block grant.

(11) "Relief agency" means a county department under s. 46.215, 46.22 or 46.23, Stats., that is designated by the county governing body to administer relief, or an agency under contract with a county department to administer relief.

(12) "Relief agency rules" means the rules adopted by a relief agency for administering the relief agency's relief block grant program.

(13) "Relief block grant" means a block grant awarded to a county under s. 49.025 or 49.027, Stats.

Note: Sections 49.025 and 49.027, Stats., were repealed by 2011 Wis. Act 28.

(14) "Sanction" means discontinuation or reduction of medical or nonmedical benefits for failure to comply with a relief agency's written program requirements under the block grant program.

(15) "SSI" means supplemental security income, the assistance program under section 1613 of title XVI of the Social Security Act of 1935, as amended and s. 49.77, Stats.

(16) "Work relief" means a component of the relief program operated by a relief agency in which the relief agency requires recipients, in exchange for their benefits, to do work or training which the recipients are capable of performing on work projects or training authorized and sponsored by the relief agency.

(17) "Work requirements" means the relief agency's rules for the work relief and grant diversion components of its relief program.

History: Register, May, 1996, No. 485, eff. 6-1-96; corrections in (1) and (8) were made under s. 13.93 (2m) (b) 7., Stats., Register, February, 2001, No. 542; corrections in (3) and (8) made under s. 13.92 (4) (b) 6. and 7., Stats., Register January 2009 No. 637.

DHS 251.04 Application for relief block grant.

(1) RESOLUTION. (a) If a county chooses to have a relief block grant program, the county board shall designate a relief agency and shall adopt a resolution directing the relief agency to apply for a relief block grant and provide a copy of the resolution to the department.

(b) If a county at any time elects not to provide any relief block grant benefits, medical or nonmedical, the county board shall pass a resolution indicating this and shall send a copy of the resolution to the department.

(2) PLAN. The relief agency shall submit to the department for approval a plan for the provision of services to be funded by the relief block grant that includes all of the information specified under s. 49.02 (1) (c), Stats.

(3) REPORT. The relief agency shall annually submit to the department on a form prescribed by the department a report detailing the costs incurred for relief provided to dependent persons in the preceding year. The report shall be filed with the department by March 1 of the year immediately following the year in which the costs were incurred.

History: Register, May, 1996, No. 485, eff. 6-1-96.

DHS 251.05 Procedures for eligibility determination. A relief agency shall do all of the following related to determining eligibility for relief:

(1) Establish written criteria for determining dependency, and review these written criteria at least annually for appropriateness.

(2) Define and report to the department procedures for verification of eligibility. These shall be sufficient to substantiate the fundamental information upon which a determination of eligibility is based.

(3) Establish written standards to be used to determine the type and amount of relief to be furnished.

(4) Develop written policies defining the amounts of income, assets and income and asset disregards allowed for use in deter-

mining eligibility. A relief agency, in determining eligibility, shall disregard the following resources:

- (a) Low-income energy assistance benefits authorized under 42 USC 8621 to 8629.
- (b) Food stamp benefits authorized under 7 USC 2011 to 2029.
- (c) Any other resources prohibited by law from being considered.
- (5) Comply with the requirements of s. 49.015, Stats., in determining an applicant's eligibility for relief.

History: Register, May, 1996, No. 485, eff. 6-1-96.

DHS 251.06 Standards for waiver of certain eligibility requirements. (1) A relief agency may waive the eligibility requirement under s. 49.015 (2) or (2m), Stats., in accordance with relief agency rules, as follows:

- (a) Waiver of the prohibition against receiving AFDC or SSI may be granted in cases of unusual misfortune or hardship as determined by the relief agency director.
- (b) Waiver of the medical assistance divestment barrier to eligibility may be granted only if all attempts at recovery of the divested property have been made and no other resources or assistance is available to the person and unusual misfortune or hardship exists.

(2) A relief agency shall report all waivers to the department in the manner prescribed by the department. The department may deny reimbursement to the county for relief provided as a result of a waiver that the department determines is inappropriate.

History: Register, May, 1996, No. 485, eff. 6-1-96.

DHS 251.07 Procedures for permitting appeal of eligibility determinations. (1) NOTICE. If a relief agency denies an application for relief, or discontinues, suspends or reduces the relief benefit, the relief agency shall provide adequate written notice to the recipient. The notice shall contain all of the following:

- (a) The effective date of the action.
- (b) The reason for the action.
- (c) A statement that the action may be appealed to the relief agency and providing a reasonable period of time for the individual to appeal and a place for an appeal to be filed.

(2) FAIR HEARING. If the relief agency denies, terminates, suspends or reduces a relief benefit, the relief agency shall permit and

enable an applicant or recipient to request a fair hearing. A fair hearing shall do all of the following:

- (a) Permit the applicant or recipient or his or her representative, at a reasonable time before the hearing, to examine records to be used at the hearing.
- (b) Permit the applicant or recipient to present his or her case personally or with the aid of others, including an attorney.
- (c) Permit the applicant or recipient or representative to establish facts and circumstances pertinent to his or her case.
- (d) Provide an impartial decisionmaker who is familiar with the relief program who may not communicate outside the hearing with either party.
- (e) If determined necessary by the impartial decisionmaker, permit the applicant or recipient or his or her representative to subpoena witnesses or compel the attendance of a witness or the production of evidence. A subpoena issued by an attorney shall be in substantially the same form as provided in s. 805.07, Stats.
- (f) Provide for procedures that permit the applicant or recipient or representative to question or refute any testimony or evidence, including permission to confront and cross-examine adverse witnesses.
- (g) Provide, if desired by either party, for the party to make a record of the hearing by means of an electronic device, either sound or video or both, through the services of a court reporter or other means acceptable to both parties.
- (h) Provide for procedures that permit the relief agency or the applicant or recipient to limit the hearing to the written reason for the hearing, the facts in the case and the requested remedy sought.

(3) DECISION. The relief agency shall issue its decision in writing in a timely manner. The hearing decision shall:

- (a) Be based exclusively upon evidence presented at the hearing and the written policies in effect on the date of the action being appealed.
- (b) Inform the applicant or recipient of the evidence and policies relied upon in reaching the decision and whatever rights to review are available and the time limits for the review.
- (c) Inform the applicant or recipient of any remedy provided. The remedy may be the one sought by the individual requesting the hearing or a more appropriate remedy as determined by the impartial decisionmaker.

History: Register, May, 1996, No. 485, eff. 6-1-96.