



State of Wisconsin
Department of Employee Trust Funds
Robert J. Conlin
SECRETARY

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Correspondence Memorandum

Date: July 22, 2016
To: Group Insurance Board
From: David H. Nispel, General Counsel
Dan Hayes, Attorney
Subject: Clearinghouse Rule #16-034
Proposed Administrative Rule Making Technical and Minor
Substantive Changes to Existing Administrative Rules

Staff recommends the Board approve the final version of this proposed rule.

The Department of Employee Trust Funds (ETF) proposes to revise existing administrative rules of the Department to make technical updates to existing ETF rules, delete obsolete language in ETF rules, create consistency with provisions in 2015 Wisconsin Act 55 (2015-17 State Budget), and make other minor substantive changes. A copy of the Final Draft Report on Clearinghouse Rule #16-034 is attached.

Specifically:

- The proposed rule modifies the eligibility requirements for Income Continuation Insurance for employees of local units of government to make the requirements consistent with changes made in 2015 Wisconsin Act 55 for state employees. This is accomplished by removing the requirement that an employee participate in the WRS for at least 6 months from the definition of “eligible employee.” Other minor changes were also made to make the local government program eligibility rules consistent with the program for state employees.
- The proposed rule makes minor changes to the definition of “dependent” for purposes of life insurance offered to state employees in order to provide flexibility that will be beneficial to the implementation of ETF’s Benefit Administration System. These changes remove the requirement that the dependent be unmarried and that the dependent be at least 14 days old. It also changes the maximum age of a dependent from 25 to 26 (if a full time student) to make it consistent with the Group Health Insurance Program. Finally, it removes the requirement that a dependent rely upon the employee for at least 50% of support and maintenance.

Reviewed and approved by Robert J. Conlin, Secretary

Electronically Signed 8/8/16

Board	Mtg Date	Item #
GIB	8.16.16	6

Board approval of the final version of the proposed rule is the next step in the administrative rule promulgation process. If approved by the Board, the rule will be submitted to the Governor's Office and the State Legislature for consideration. Prior to this date, the following action has been taken:

- Scope Statement approved by the Governor (January 27, 2016)
- Scope statement published in the Wisconsin Administrative Register (February 1, 2016)
- Scope statement approved by ETF Secretary (February 11, 2016)
- Pre-submission of proposed rule for editing submitted to the Legislative Reference Bureau (April 14, 2016)
- Pre-submission editorial suggestions received from Legislative Reference Bureau (April 20, 2016)
- Proposed rule and report submitted to the Legislative Council Administrative Rules Clearinghouse (May 12, 2016)
- Proposed rule and economic impact analysis submitted to the Governor's Office, Department of Administration and Legislative Reference Bureau along with a notice of the scheduled public hearing (May 12, 2016)
- Proposed rule and economic impact analysis submitted to the Senate Chief Clerk and Assembly Chief Clerk (May 12, 2016)
- Proposed rule, fiscal estimate and economic impact analysis posted on ETF's website (May 23, 2016)
- Notice of hearing published in the Wisconsin Administrative Register (May 23, 2016)
- Legislative Council Clearinghouse Report received (June 8, 2016)
- Public hearing for proposed rule (June 15, 2016)

One change to the rule was made in response to the single comment received in the Legislative Council Clearinghouse Report. The rule now conforms to recommended form and style.

Staff will be at the Board meeting to answer any questions.

Attachment: Final Draft Report on Clearinghouse Rule #16-034

Attachment

**State of Wisconsin
Department of Employee Trust Funds
Group Insurance Board**

FINAL DRAFT REPORT ON CLEARINGHOUSE RULE #16-034

An order to repeal ETF 50.10 (1) (a) to (c) and (2); to renumber and amend ETF 50.10 (1) (intro.); and to amend ETF 10.01 (2) (a) 1. and 2., relating to technical and minor substantive changes in existing ETF administrative rules.

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Department of Administration s. 227.137 Report	None
Energy Impact Report	None
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The scope statement for this rule, SS 007-16, was approved by the Governor on January 27, 2016, published in Register No. 722A1, on February 1, 2016, and approved by ETF Secretary Robert Conlin on February 11, 2016.

Agency Person to be Contacted for Questions

Please direct any questions about the proposed rule to David Nispel, General Counsel, Department of Employee Trust Funds, P.O. Box 7931, Madison WI 53707. Telephone: (608) 264-6936. E-mail address: david.nispel@etf.wi.gov.

Statement Explaining Need for Rule

This rule-making is needed to make technical updates to existing ETF rules, create consistency with statutes recently amended by the legislature, and to make other minor substantive changes.

Analysis Prepared by the Department of Employee Trust Funds

1. Statutes interpreted:
Sections 40.02 (20) and 40.61 (3), Stats.
2. Statutory authority:
Sections 40.03 (2) (ig) and 227.11 (2) (a), Stats.
3. Explanation of agency authority:
By statute, the ETF Secretary is expressly authorized, with approval by the Group Insurance Board, to promulgate rules required for the administration of the income continuation and life insurance plans established under subchs. IV to VI of ch. 40 of the Wisconsin statutes.

In addition, each state agency may 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.

4. Related statutes or rules:
There are no other related statutes or administrative rules directly related to this technical rule.

5. Plain language analysis:
The objective of this rule is to make technical updates to existing ETF rules, create consistency with provisions in 2015 Wisconsin Act 55 related to Income Continuation Insurance (ICI), and make other minor substantive changes. Two specific changes are made in this rule:
 - Modifies the definition of “Dependent” for purposes of group life insurance offered to Wisconsin Retirement System members by removing the requirement that the dependent be unmarried, removing the requirement that the employee be responsible for at least 50 percent of support and maintenance for the dependent, removing the requirement that the dependent be more than 14 days old, and changing full time student status from age 25 to age 26 in order to match the age limit for health insurance.
 - Modifies the eligibility requirements related to ICI offered by local units of government in order to make them consistent with eligibility changes made to ICI offered to state employees in the 2015-2017 state budget.
6. Summary of, and comparison with, existing or proposed federal statutes and regulations:
The only federal regulations that may be affected by this proposed rule are provisions of the Internal Revenue Code regulating qualified pension plans. The Wisconsin Retirement System is required to be maintained as a qualified plan by s. 40.015, Stats.
7. Comparison with rules in adjacent states:
Periodically, retirement systems in adjacent states promulgate technical rules to update existing administrative rules.
8. Summary of factual data and analytical methodologies:
The department is proposing this rule to update existing rules and interpretations of existing statutes.
9. Analysis and supporting documents used to determine effect on small business or in preparation of economic impact analysis:
This rule does not have an effect on small businesses because private employers and their employees do not participate in, and are not covered by, the Wisconsin Retirement System. Please see attached economic impact analysis.
10. Effect on small business:
The rule has no effect on small businesses.

Regulatory Flexibility Analysis:

The proposed rule has no effect on small businesses because only governmental employers and their employees may participate in the benefit programs under ch. 40 of the statutes administered by the Department of Employee Trust Funds.

Fiscal Estimate and Economic Impact Statement:

Please see the attached Fiscal Estimate and Economic Impact Statement.

Text of Proposed Rule

SECTION 1. ETF 10.01 (2) (a), 1. and 2. are amended to read:

ETF 10.01 (2) “Dependent” means:

(a) For life insurance purposes, an eligible employee's spouse or domestic partner and an employee's ~~unmarried~~ child, including natural child, stepchild, child of the domestic partner, adopted child, and a child in an adoptive placement under s. 48.837 (1), Stats., ~~who is dependent upon the employee for at least 50% of support and maintenance and~~ who is any of the following:

1. ~~More than 14 days of age, but under~~ Under the age of 19; ~~2.~~
2. Age 19 or over but less than age ~~25~~ 26 if a full-time student, or

SECTION 2. ETF 50.10 (1) (intro.) is renumbered (1) and amended to read:

ETF 50.10 (1) An employee of an employer, other than the state, shall be eligible for income continuation insurance under s. 40.61 (3), Stats., if the requirements of ss. 40.02 (46) and 40.22, Stats., ~~and the following conditions are satisfied:~~ are satisfied.

SECTION 3. ETF 50.10 (1) (a) to (c) and (2) are repealed.

SECTION 4. EFFECTIVE DATE. This rule shall take effect on the first day of the month following publication in the Wisconsin Administrative Register as provided in s. 227.22 (2) (intro.), Stats.



**WISCONSIN LEGISLATIVE COUNCIL
RULES CLEARINGHOUSE**

Scott Grosz
Clearinghouse Director

Terry C. Anderson
Legislative Council Director

Margit S. Kelley
Clearinghouse Assistant Director

Jessica Karls-Ruplinger
Legislative Council Deputy Director

CLEARINGHOUSE REPORT TO AGENCY

[THIS REPORT HAS BEEN PREPARED PURSUANT TO S. 227.15, STATS. THIS IS A REPORT ON A RULE AS ORIGINALLY PROPOSED BY THE AGENCY; THE REPORT MAY NOT REFLECT THE FINAL CONTENT OF THE RULE IN FINAL DRAFT FORM AS IT WILL BE SUBMITTED TO THE LEGISLATURE. THIS REPORT CONSTITUTES A REVIEW OF, BUT NOT APPROVAL OR DISAPPROVAL OF, THE SUBSTANTIVE CONTENT AND TECHNICAL ACCURACY OF THE RULE.]

CLEARINGHOUSE RULE 16-034

AN ORDER to repeal ETF 50.10 (1) (a) to (c) and (2); to renumber and amend ETF 50.10 (1) (intro.); and to amend ETF 10.01 (2) (a) 1. and 2., relating to technical and minor substantive changes in existing ETF administrative rules.

Submitted by **DEPARTMENT OF EMPLOYEE TRUST FUNDS**

05-12-2016 RECEIVED BY LEGISLATIVE COUNCIL.

06-08-2016 REPORT SENT TO AGENCY.

MSK:DWS

LEGISLATIVE COUNCIL RULES CLEARINGHOUSE REPORT

This rule has been reviewed by the Rules Clearinghouse. Based on that review, comments are reported as noted below:

1. STATUTORY AUTHORITY [s. 227.15 (2) (a)]
Comment Attached YES NO

2. FORM, STYLE AND PLACEMENT IN ADMINISTRATIVE CODE [s. 227.15 (2) (c)]
Comment Attached YES NO

3. CONFLICT WITH OR DUPLICATION OF EXISTING RULES [s. 227.15 (2) (d)]
Comment Attached YES NO

4. ADEQUACY OF REFERENCES TO RELATED STATUTES, RULES AND FORMS [s. 227.15 (2) (e)]
Comment Attached YES NO

5. CLARITY, GRAMMAR, PUNCTUATION AND USE OF PLAIN LANGUAGE [s. 227.15 (2) (f)]
Comment Attached YES NO

6. POTENTIAL CONFLICTS WITH, AND COMPARABILITY TO, RELATED FEDERAL REGULATIONS [s. 227.15 (2) (g)]
Comment Attached YES NO

7. COMPLIANCE WITH PERMIT ACTION DEADLINE REQUIREMENTS [s. 227.15 (2) (h)]
Comment Attached YES NO



WISCONSIN LEGISLATIVE COUNCIL RULES CLEARINGHOUSE

Scott Grosz
Clearinghouse Director

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Legislative Council Director

Jessica Karls-Ruplinger
Legislative Council Deputy Director

CLEARINGHOUSE RULE 16-034

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.]

2. Form, Style and Placement in Administrative Code

The purpose of the plain language analysis is to provide an understandable and objective description of the effect of the rule. It is not adequate to simply call these technical changes. Please describe each change made to the rule in specific. [See s. 1.02 (2) (b), Manual.]

Response to Legislative Council Staff Recommendations

ETF implemented all of the Legislative Council Staff recommendations contained in the Clearinghouse Report.

List of Persons Who Appeared or Registered at the Public Hearing.

No persons appeared or registered either for or against the rule at the public hearing on June 15, 2016.

Summary of Public Comments.

No person wished to testify concerning the rule. The record was held open for written comments until 4:30 p.m. on June 15, 2016, but no comments were received.

Modifications to Rule as Originally Proposed as a Result of Public Comments.

None.

Modifications to the Analysis Accompanying the Proposed Rule.

None.

Modifications to the Initial Fiscal Estimate.

None.

Effective Date.

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

Respectfully submitted,

DEPARTMENT OF EMPLOYEE TRUST FUNDS

Robert J. Conlin
Secretary

Date: _____

ADMINISTRATIVE RULES Fiscal Estimate & Economic Impact Analysis

1. Type of Estimate and Analysis
 Original Updated Corrected

2. Administrative Rule Chapter, Title and Number
ETF 10, 50

3. Subject
Technical and minor substantive changes in existing ETF administrative rules

4. Fund Sources Affected <input type="checkbox"/> GPR <input type="checkbox"/> FED <input type="checkbox"/> PRO <input type="checkbox"/> PRS <input type="checkbox"/> SEG <input type="checkbox"/> SEG-S	5. Chapter 20, Stats. Appropriations Affected
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6. Fiscal Effect of Implementing the Rule <input checked="" type="checkbox"/> No Fiscal Effect <input type="checkbox"/> Increase Existing Revenues <input type="checkbox"/> Indeterminate <input type="checkbox"/> Decrease Existing Revenues	<input type="checkbox"/> Increase Costs <input type="checkbox"/> Could Absorb Within Agency's Budget <input type="checkbox"/> Decrease Cost	
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7. The Rule Will Impact the Following (Check All That Apply)

<input type="checkbox"/> State's Economy <input type="checkbox"/> Local Government Units	<input type="checkbox"/> Specific Businesses/Sectors <input type="checkbox"/> Public Utility Rate Payers <input type="checkbox"/> Small Businesses (if checked, complete Attachment A)	
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8. Would Implementation and Compliance Costs Be Greater Than \$20 million?
 Yes No

9. Policy Problem Addressed by the Rule
The objective of this technical rule is to make technical updates to existing ETF rules, delete obsolete language in ETF rules, create consistency with provisions in 2015 Wisconsin Act 55 related to Income Continuation Insurance, and make other minor substantive changes.

10. Summary of the businesses, business sectors, associations representing business, local governmental units, and individuals that may be affected by the proposed rule that were contacted for comments.
Information, including the proposed rule language, will be made available by posting on the ETF website and the Wisconsin administrative rules website and by submitting the information to the Governor's Office of Regulatory Compliance.

11. Identify the local governmental units that participated in the development of this EIA.
None

12. Summary of Rule's Economic and Fiscal Impact on Specific Businesses, Business Sectors, Public Utility Rate Payers, Local Governmental Units and the State's Economy as a Whole (Include Implementation and Compliance Costs Expected to be Incurred)
No substantive impact is anticipated.

13. Benefits of Implementing the Rule and Alternative(s) to Implementing the Rule
Implementation of the Rule will update ETF administrative code provisions to be consistent with recent statutory changes. This will enhance clarity and minimize confusion for the general public and public employers.

14. Long Range Implications of Implementing the Rule
Implementation will bring the affected ETF rules into compliance with recent legislative changes, update affected ETF rules to reflect current administrative practices and delete obsolete language from ETF rules.

15. Compare With Approaches Being Used by Federal Government
Not applicable.

16. Compare With Approaches Being Used by Neighboring States (Illinois, Iowa, Michigan and Minnesota)
Periodically, retirement systems in adjacent states promulgate technical rules to update existing administrative rules.

STATE OF WISCONSIN
DEPARTMENT OF ADMINISTRATION
DOA-2049 (R03/2012)

DIVISION OF EXECUTIVE BUDGET AND FINANCE
101 EAST WILSON STREET, 10TH FLOOR
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ADMINISTRATIVE RULES
Fiscal Estimate & Economic Impact Analysis

17. Contact Name

David Nispel

18. Contact Phone Number

(608) 264-6936

This document can be made available in alternate formats to individuals with disabilities upon request.

ADMINISTRATIVE RULES
Fiscal Estimate & Economic Impact Analysis

ATTACHMENT A

1. Summary of Rule's Economic and Fiscal Impact on Small Businesses (Separately for each Small Business Sector, Include Implementation and Compliance Costs Expected to be Incurred)

2. Summary of the data sources used to measure the Rule's impact on Small Businesses

3. Did the agency consider the following methods to reduce the impact of the Rule on Small Businesses?

- Less Stringent Compliance or Reporting Requirements
- Less Stringent Schedules or Deadlines for Compliance or Reporting
- Consolidation or Simplification of Reporting Requirements
- Establishment of performance standards in lieu of Design or Operational Standards
- Exemption of Small Businesses from some or all requirements
- Other, describe:

4. Describe the methods incorporated into the Rule that will reduce its impact on Small Businesses

5. Describe the Rule's Enforcement Provisions

6. Did the Agency prepare a Cost Benefit Analysis (if Yes, attach to form)

- Yes No
-