

WISCONSIN LEGISLATIVE COUNCIL STAFF

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FORM 2

RULES CLEARINGHOUSE

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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 00-129

AN ORDER to repeal DWD 12.09 (3) (b) 2. b.; to amend DWD 12.05 (10), 12.09 (2) (n) (intro.) and (3) (b) 2. a., 12.11 (1), 12.13, 12.17 (1) (b), 12.18 (1) (b), 12.20 (2) and 56.04 (1); to repeal and recreate DWD 12.09 (2) (d), 12.26, 56.08 (1) (intro.) (a) and (c) and Table 56.08 Note; and to create DWD 56.02 (12m), 56.02 (25), 56.08 (1) (d), (e), (f) and (g) and 56.08 Note, relating to W-2 eligibility and child care copayments.

Submitted by **DEPARTMENT OF WORKFORCE DEVELOPMENT**

08-31-00 RECEIVED BY LEGISLATIVE COUNCIL.
09-22-00 REPORT SENT TO AGENCY.

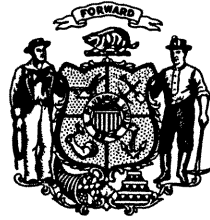
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CLEARINGHOUSE RULE 00-129

Comments

[NOTE: All citations to "Manual" in the comments below are to the Administrative Rules Procedures Manual, prepared by the Revisor of Statutes Bureau and the Legislative Council Staff, dated September 1998.]

2. Form, Style and Placement in Administrative Code

Section DWD 56.08 (1) should be written as an introductory paragraph, or the subsequent paragraphs should be renumbered as subsections instead of paragraphs.

4. Adequacy of References to Related Statutes, Rules and Forms

In the note to s. DWD 56.08 (1), "S." should be replaced with the word "Section."

5. Clarity, Grammar, Punctuation and Use of Plain Language

a. In s. DWD 12.11 (1), "DWD" should be inserted before "12.09 (2) and (3)" and "DWD" should be inserted before "12.26 (2)."

b. Section DWD 12.18 (1) (b) should not cite both ss. 49.148 (1) (b) and 49.148 (1) (b) 1m., Stats., since subd. 1m. is included in the first citation. Therefore, SECTION 9 should be deleted.

c. In s. DWD 12.26 (2), the language regarding what foster care payments must be allocated to should be deleted as it is not within the scope of rules regarding eligibility for child care funding. The subsection should simply state that those funds will not be considered in determining the family's income.

d. In s. DWD 56.08 (1) (c), are children actually responsible for making a copayment?
[See also the note to Table DWD 56.08.]

e. In s. DWD 56.08 (1) (d), (e) and (f), it appears that if a family is eligible to receive child care funding for a child in the family for whom kinship care or foster care payments are not received, then the family must also pay a co-pay for any kinship care or foster children in the family. If the intent is to clarify that a family that has both types of children may still be required to pay a co-pay for the children who are not kinship care or foster children, the sections should be rewritten. This comment also applies to the note to Table DWD 56.08.

**State of Wisconsin
Department of Workforce Development**

**Chapters DWD 12 and 56
W-2 Eligibility and Child Care Copayments**

The Wisconsin Department of Workforce Development proposes an order to repeal DWD 12.09(3)(b)2.b.; to amend DWD 12.05(10), 12.09(2)(n)(intro), 12.09(3)(b)2.a., 12.11(1), 12.13, 12.17(1)(b), 12.18(1)(b), 12.20(2), 56.04(1); to repeal and recreate DWD 12.09(2)(d), 12.26, 56.08(1)(intro), 56.08(1)(a), 56.08(1)(c), Table 56.08 (note); and to create DWD 56.02(12m), 56.02(25), 56.08(1)(d), 56.08(1)(e), 56.08(1)(f), 56.08(1)(g), and 56.08(note), relating to W-2 eligibility and child care copayments.

Analysis Prepared by the Department of Workforce Development

Statutory authority: ss. 49.145(2)(d), 49.145(2)(n)1.a., 49.145(3)(b)1., 49.145(4), 49.147(6)(a)2., 49.148(1), 49.155(1m)(d), and 49.155(5), and 227.11, Stats., as affected by 1999 Wisconsin Act 9

Statutes interpreted: ss. 49.145(2)(d), 49.145(2)(n)1.a., 49.145(3)(b)1., 49.145(4), 49.147(6)(a)2., 49.148(1), 49.155(1m)(d), and 49.155(5), Stats., as affected by 1999 Wisconsin Act 9

Substantive changes

1. Copayment responsibility is eliminated for foster parents and for kinship care relatives who are caring for a kinship care child under court order, unless they are receiving a child care subsidy for another child who is not a foster or kinship care child. Foster parents and kinship care relatives currently pay the minimum copayment based on number of children in child care and type of care received, unless they are receiving a child care subsidy for another child who is not a foster or kinship care child. Kinship care relatives caring for a child without a court order will continue to pay the minimum copayment. for
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worse?

2. Foster care payments received pursuant to s. 46.261, Stats., and kinship care payments received pursuant to s. 48.57 (3m) or (3n), Stats., will be considered to be allocated toward the care of the child for whom they are received and will not be included in determining financial eligibility for child care subsidies under s. 49.155, Stats., for other children in the household. Currently, these payments are counted as household income and some families become ineligible for child care subsidies for their own children if they care for foster children or kinship care children.

Clarifications

Two changes made to the child care copayment table in March 2000 are incorporated into rule language. Children who are authorized for child care assistance for 20 hours or less are subject to 50% of the copayment amounts. Also, parents who have left a W-2 employment position for unsubsidized employment pay the minimum copayment amount based on number of children in the family in child care and the type of child care selected for the first month of the unsubsidized employment.

Statutory updates

Several updates are made to bring the rules in compliance with changes made in 1999 Wisconsin Act 9. The 60-day residency requirement for W-2 is repealed. Earned income of dependent children and child support income is excluded in determining W-2 eligibility. A job access loan may be used to purchase a car. Language changes are made regarding JOBS participation and eligibility reviews. A reference to a statutory section that lists the grant amounts for prorated community service jobs is added. Language on child care eligibility which duplicated obsolete statutory provisions is repealed.

SECTION 1. DWD 12.05 (10) is amended to read:

DWD 12.05(10). Refer individuals who have been determined eligible under s. 49.155 (1m), Stats., and s. DWD 12.26 for a child care subsidy to the county child care agency under s. 46.215, 46.22 or 46.23, Stats., for child care assistance.

SECTION 2. DWD 12.09(2)(d) is repealed and recreated to read:

DWD 12.09(2)(d). The individual has residence in this state.

SECTION 3. DWD 12.09(2)(n)(intro) is amended to read:

DWD 12.09(2)(n)(intro) Beginning on the date on which the individual has attained the age of 18, the total number of months in which the individual has actively participated in the job opportunities and basic skills program under s. 49.193, Stats., or has participated in a Wisconsin works employment position or both does not exceed 60 months. The months need not be consecutive. For purposes of determining the number of monthly benefit payments permitted under s. 49.145 (2) (n), Stats., and this section, a JOBS program participant or W-2 participant shall be considered to have received a monthly benefit in a month in which, as a result of a sanction under s. DWD 11.19 (2) or (2m) or 12.18 (1) (b) or (c) or 12.21, a reduced monthly AFDC or W-2 benefit or no

monthly AFDC or W-2 benefit is paid. Participation in the job opportunities and basic skills program under s. 49.193, Stats., ~~begins to count on or after October 1, 1996, counts~~ toward the 60-month limit ~~beginning on October 1, 1996~~. A Wisconsin works agency may extend the time limit only if the Wisconsin works agency determines that unusual circumstances exist that warrant an extension of the participation period. The department may review, approve or overturn a W-2 agency's decision related to an extension of the 60-month limit. In this paragraph, "unusual circumstances" means any of the following:

SECTION 4. DWD 12.09 (3)(b)2.a. is amended to read:

DWD 12.09 (3)(b) 2.a. All earned and unearned income of the individual except any federal earned income credit received under section 32 of the internal revenue code as defined in s. 71.01 (6), Stats., any state earned income credit received under s. 71.07 (9e), Stats., any federal earned income credit payment made by an employer under section 3507 of the internal revenue code, and any W-2 employment position wages or benefits under s. 49.148, Stats. In determining the earned and unearned income of the individual, the Wisconsin works agency may not include income earned by a dependent child of the individual.

SECTION 5. DWD 12.09 (3)(b)2.b. is repealed.

SECTION 6. DWD 12.11 (1) is amended to read:

DWD 12.11 (1) The W-2 agency shall verify that an individual meets nonfinancial and financial eligibility criteria under s. 12.09 (2) and (3) prior to placing an individual in a W-2 employment position, nonfinancial and financial eligibility criteria under ~~s. 12.26~~ (2) s. 49.155 (1m), Stats., and s. DWD 12.26 prior to providing a child care subsidy or other appropriate eligibility criteria prior to providing any other W-2 benefit or service.

SECTION 7. DWD 12.13 is amended to read:

DWD 12.13 Review of eligibility. A W-2 agency shall periodically review an individual's eligibility. A W-2 employment position participant remains eligible under s. DWD 12.09 (3) until the W-2 group's assets ~~exceed the asset limits for at least 2 months~~

or until the or income of the ~~W-2 group~~ is expected to exceed the asset or income limits under s. DWD 12.09 (3) for at least 2 consecutive months.

SECTION 8. DWD 12.17(1)(b) is amended to read:

DWD 12.17(1)(b) The individual needs the loan to obtain or continue employment. Fulfillment of this requirement includes a loan that is needed to repair or purchase a vehicle that is needed to obtain or continue employment.

SECTION 9. DWD 12.18(1)(b) is amended to read:

DWD 12.18(1)(b) *Community service jobs*. For a participant in a community service job, a monthly grant in the amount provided under s. 49.148(1)(b); or 49.148(1)(b)1m., Stats. For every hour that the participant misses work or education or training activities without good cause including any activity under s. DWD 12.16(3)(c)2., the Wisconsin works agency shall reduce the grant amount by the amount provided under s. 49.148(1)(b), Stats. Good cause shall be determined by the financial and employment planner as provided under s. DWD 12.20.

SECTION 10. DWD 12.20 (2) is amended to read:

DWD 12.20 (2) Child care under s. 49.155, Stats., and s. DWD 12.26 was necessary for the W-2 participant to participate in W-2 required activities under s. DWD 12.16 or accept employment, child care was unavailable, and the W-2 agency was unable to provide or refer for alternate child care arrangements.

SECTION 11. DWD 12.26 is repealed and recreated to read:

DWD 12.26 Child care. (1) In two-parent families, both parents shall meet the eligibility criteria of s. 49.155 (1m), Stats., unless the W-2 agency determines that one parent has a disability or health condition that makes that parent unable to participate in activities under s. 49.155(1m)(a), Stats., and is unable to provide the child care necessary for the other parent to participate in activities under s. 49.155(1m)(a), Stats.

(2) Foster care payments received pursuant to s. 46.261, Stats., and kinship care payments received pursuant to s. 48.57 (3m) or (3n), Stats., shall be allocated toward the care of the child for whom they are received and not considered in determining financial

eligibility for child care subsidies under s. 49.155 (1m)(c), Stats., for other children in the household.

SECTION 12. DWD 56.02 (12m) and (25) are created to read:

DWD 56.02(12m) “Foster parent” means a person required to be licensed under s. 48.62(1)(a), Stats.

DWD 56.02 (25) “Wisconsin works employment position” has the meaning given in s. DWD 12.03 (39).

SECTION 13. DWD 56.04 (1) is amended to read:

DWD 56.04(1) APPLICABILITY. This section applies to child care funding sources under ~~s. 49.175 (1) (e), Stats.,~~ s. 49.155, Stats., excluding s. 49.155 (1g), Stats., and the child care administrative agencies responsible for administration of those funds.

SECTION 14. DWD 56.08 (1)(intro), (a), and (c) are repealed and recreated to read:

DWD 56.08 Parent copayments. (1) SCHEDULE. The department shall set a schedule for parent copayment responsibilities for all parents who receive child care financial assistance under s. 49.155, Stats., excluding s. 49.155 (1g), Stats.

(a) The copayment schedule is provided by Table DWD 56.08.

Note: This copayment schedule is current as of [insert effective date]. DWD may make future adjustments to the schedule as described in sub. (3).

(c) Children who are authorized for child care assistance for 20 hours or less are responsible for 50% of the amount listed in the copayment schedule based on family size, family gross income, the number of children in a given family in child care, and the type of care selected.

SECTION 15. DWD 56.08(1) (d), (e), (f), (g), and (note) are created to read:

DWD 56.08(1)(d) Foster parents do not have a copayment responsibility for the foster children in their care, unless they are receiving a child care subsidy for another child who is not a foster or kinship care child.

(e) Kinship care relatives who are providing care for a child under court order do not have a copayment responsibility for the kinship care child in their care, unless they are receiving a child care subsidy for another child who is not a kinship care or foster child.

(f) Kinship care relatives who are providing care for a child without a court order are responsible for the minimum copayment based on the number of children in the family in child care and the type of child care selected for the kinship care child in their care, unless they are receiving a child care subsidy for another child who is not a kinship care or foster child.

(g) Parents who have left a Wisconsin works employment position for unsubsidized employment may pay the minimum copayment amount based on the number of children in the family in child care and the type of child care selected for the first month of the unsubsidized employment.

Note: S. 49.155(5), Stats., provides: "An individual who is under the age of 20 and is attending high school or participating in a course of study meeting the standards established under s.115.29 (4) for the granting of a declaration of equivalency to high school graduation may not be determined liable for more than the minimum copayment amount for the type of child care received and the number of children receiving child care.

S. 49.26(1)(e), Stats., prohibits copayment responsibility for minor teen parents who are Learnfare participants. 7 USC 2015 prohibits copayment responsibility for participants in the Food Stamp Employment and Training program.

SECTION 16. Table DWD 56.08 (note) is repealed and recreated to read:

Table DWD 56.08 (note) The copayment rate for teen parents who are not Learnfare participants is found by selecting the lowest income line (70%) FPL and then finding the copayment listed, under either licensed care or certified care, for the appropriate number of children. Parents who have left a W-2 employment position for unsubsidized work also qualify for the minimum copay for one month. Children who are authorized for 20 hours or less are subject to one half of their share of the family copay listed above. No copay is required for parents who participate in Learnfare or Food Stamp Employment and Training. Foster parents do not have a copayment responsibility for the foster children in their care, unless they are receiving a child care subsidy for another child who is not a foster child or kinship care child. Kinship care relatives caring for a child under court order do not have a copayment responsibility, unless they are receiving a child care subsidy for another child who is not a kinship care or foster child. Kinship care relatives

caring for a child without a court order pay the minimum copay, unless they are receiving a child care subsidy for another child who is not a kinship care or foster child.

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

NOV 01 2000

Tommy G. Thompson
Governor

Jennifer Reinert
Secretary



OFFICE OF THE SECRETARY

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**State of Wisconsin
Department of Workforce Development**

October 31, 2000

President of the Senate
220 South, State Capitol
Madison, Wisconsin 53702

Speaker of the Assembly
211 West, State Capitol
Madison, Wisconsin 53702

Notice of Administrative Rules in Final Draft Form

Clearinghouse rule number: 00-129

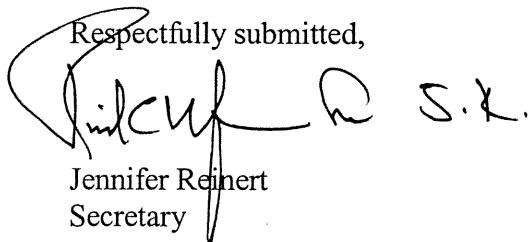
Rule number: Chapters DWD 12 and 56

Relating to: W-2 eligibility and child care copayments

Dear Senator Risser and Representative Jensen:

I have enclosed proposed rules in final draft form and a rule report as required by s. 227.19(3), Stats., for referral to the appropriate legislative standing committees. If you have any questions regarding this matter, please do not hesitate to contact us.

Respectfully submitted,

 S.R.

Jennifer Reinert
Secretary

Tommy G. Thompson
Governor

Jennifer Reinert
Secretary



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State of Wisconsin
Department of Workforce Development

Rule Analysis for Legislative Review

Proposed rules relating to W-2 eligibility and child care copayments
Chapters DWD 12 and 56
(CR 00-129)

Need for rules

Child care copayment responsibility is eliminated for foster parents and kinship care relatives who are caring for a kinship care child under court order. Also, foster care payments and kinship care payments will not be considered family income in determining financial eligibility for child care subsidies for other children in the household. Currently, some families become ineligible for child care subsidies for their own children if they care for foster children or kinship care children. Other changes clarify rule language or bring the rules into compliance with changes made in 1999 Wisconsin Act 9.

Public hearing response

The department received a comment from Carol Medaris of the Wisconsin Council on Children and Families. A copy of her comment and the department's response are attached.

Response to Legislative Council staff recommendations

For response to comment 5e, see public hearing response. Other comments were accepted.

Final regulatory flexibility analysis

Privately-run W-2 agencies will be affected by the rule changes, but the rules will not have a significant impact on a substantial number of small businesses.

Fiscal effect

The fiscal effect of the elimination of copayment responsibility for foster parents and kinship care relatives is expected to be approximately \$173,160 (740 children x \$4.50/week copay adjustment x 52 weeks). This fiscal impact will be absorbed within the agency budget.

Other changes are not expected to have a significant fiscal effect.

Department contacts

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**State of Wisconsin
Department of Workforce Development**

**Chapters DWD 12 and 56
W-2 Eligibility and Child Care Copayments**

The Wisconsin Department of Workforce Development proposes an order to repeal DWD 12.09(3)(b)2.b., 56.02(14), and 56.02(18)(note); to renumber DWD 56.02(12), 56.02(15m), 56.02(16m), and 56.02(20m); to amend DWD 12.05(10), 12.09(2)(n)(intro), 12.09(3)(b)2.a., 12.11(1), 12.13, 12.17(1)(b), 12.18(1)(b), 12.20(2), and 56.04(1); to repeal and recreate DWD 12.09(2)(d), 12.26, 56.08(1), Table 56.08 (note); and to create DWD 56.02(12), 56.02(25), 56.08(2), and 56.08(note), relating to W-2 eligibility and child care copayments.

Analysis Prepared by the Department of Workforce Development

Statutory authority: Secs. 49.145(2)(d), 49.145(2)(n)1.a., 49.145(3)(b)1., 49.145(4), 49.147(6)(a)2., 49.155(1m)(d), 49.155(5), and 227.11, Stats., as affected by 1999 Wisconsin Act 9

Statutes interpreted: Secs. 49.145(2)(d), 49.145(2)(n)1.a., 49.145(3)(b)1., 49.145(4), 49.147(6)(a)2., 49.155(1m)(d), and 49.155(5), Stats., as affected by 1999 Wisconsin Act 9

Substantive changes

1. Copayment responsibility is eliminated for foster parents and for kinship care relatives who are caring for a kinship care child under court order. Foster parents and kinship care relatives currently pay the minimum copayment based on number of children in child care and type of care received, unless they are receiving a child care subsidy for another child who is not a foster or kinship care child. Kinship care relatives caring for a child without a court order will continue to pay the minimum copayment unless they are receiving a child care subsidy for another child who is subject to a copayment greater than the minimum copay.

2. Foster care payments received pursuant to s. 46.261, Stats., and kinship care payments received pursuant to s. 48.57 (3m) or (3n), Stats will not be considered family income in determining financial eligibility for child care for other children in the household. Currently, these payments are counted as household income and some families become ineligible for child care subsidies for their own children if they care for foster children or kinship care children.

Clarifications

Two changes made to the child care copayment table in March 2000 are incorporated into rule language. Families with children who are authorized for child care assistance for 20 hours or less are subject to 50% of the copayment amounts for those children. Also, parents who have left a W-2 employment position for unsubsidized employment pay the minimum copayment amount based on number of children in the family in child care and the type of child care selected for the first month of the unsubsidized employment.

Statutory updates

Several updates are made to bring the rules in compliance with changes made in 1999 Wisconsin Act 9. The 60-day residency requirement for W-2 is repealed. Earned income of dependent children and child support income is excluded in determining W-2 eligibility. A job access loan may be used to purchase a car. Language changes are made regarding JOBS participation and eligibility reviews. Language on child care eligibility that duplicated obsolete statutory provisions is repealed.

SECTION 1. DWD 12.05 (10) is amended to read:

DWD 12.05(10). Refer individuals who have been determined eligible under s. 49.155 (1m), Stats., and s. DWD 12.26 for a child care subsidy to the county child care agency under s. 46.215, 46.22 or 46.23, Stats., for child care assistance.

SECTION 2. DWD 12.09(2)(d) is repealed and recreated to read:

DWD 12.09(2)(d). The individual has residence in this state.

SECTION 3. DWD 12.09(2)(n)(intro) is amended to read:

DWD 12.09(2)(n)(intro) Beginning on the date on which the individual has attained the age of 18, the total number of months in which the individual has actively participated in the job opportunities and basic skills program under s. 49.193, Stats., or has participated in a Wisconsin works employment position or both does not exceed 60 months. The months need not be consecutive. For purposes of determining the number of monthly benefit payments permitted under s. 49.145 (2) (n), Stats., and this section, a JOBS program participant or W-2 participant shall be considered to have received a monthly benefit in a month in which, as a result of a sanction under s. DWD 11.19 (2) or (2m) or 12.18 (1) (b) or (c) or 12.21, a reduced monthly AFDC or W-2 benefit or no monthly AFDC or W-2 benefit is paid. Participation in the job opportunities and basic skills program under s. 49.193, Stats., ~~begins to count~~ on or after October 1, 1996, counts

toward the 60-month limit ~~beginning on October 1, 1996~~. A Wisconsin works agency may extend the time limit only if the Wisconsin works agency determines that unusual circumstances exist that warrant an extension of the participation period. The department may review, approve or overturn a W-2 agency's decision related to an extension of the 60-month limit. In this paragraph, "unusual circumstances" means any of the following:

SECTION 4. DWD 12.09 (3)(b)2.a. is amended to read:

DWD 12.09 (3)(b) 2.a. All earned and unearned income of the individual except any federal earned income credit received under section 32 of the internal revenue code as defined in s. 71.01 (6), Stats., any state earned income credit received under s. 71.07 (9e), Stats., any federal earned income credit payment made by an employer under section 3507 of the internal revenue code, and any W-2 employment position wages or benefits under s. 49.148, Stats. In determining the earned and unearned income of the individual, the Wisconsin works agency may not include income earned by a dependent child of the individual.

SECTION 5. DWD 12.09 (3)(b)2.b. is repealed.

SECTION 6. DWD 12.11 (1) is amended to read:

DWD 12.11 (1) The W-2 agency shall verify that an individual meets nonfinancial and financial eligibility criteria under s. DWD 12.09 (2) and (3) prior to placing an individual in a W-2 employment position, nonfinancial and financial eligibility criteria under ~~s. DWD 12.26 (2)~~ s. 49.155 (1m), Stats., and s. ~~DWD 12.26~~ prior to providing a child care subsidy or other appropriate eligibility criteria prior to providing any other W-2 benefit or service.

SECTION 7. DWD 12.13 is amended to read:

DWD 12.13 Review of eligibility. A W-2 agency shall periodically review an individual's eligibility. A W-2 employment position participant remains eligible under s. DWD 12.09 (3) until the W-2 group's assets ~~exceed the asset limits for at least 2 months~~

~~or until the~~ or income of the ~~W-2 group~~ is expected to exceed the asset or income limits under s. DWD 12.09 (3) for at least 2 consecutive months.

SECTION 8. DWD 12.17(1)(b) is amended to read:

DWD 12.17(1)(b) The individual needs the loan to obtain or continue employment. Fulfillment of this requirement includes a loan that is needed to repair or purchase a vehicle that is needed to obtain or continue employment.

SECTION 9. DWD 12.20 (2) is amended to read:

DWD 12.20 (2) Child care under s. 49.155, Stats., and s. DWD 12.26 was necessary for the W-2 participant to participate in W-2 required activities under s. DWD 12.16 or accept employment, child care was unavailable, and the W-2 agency was unable to provide or refer for alternate child care arrangements.

SECTION 10. DWD 12.26 is repealed and recreated to read:

DWD 12.26 Child care. (1) In two-parent families, both parents shall meet the eligibility criteria of s. 49.155 (1m), Stats., unless the agency that determines child care eligibility verifies that one parent has a disability or health condition that makes that parent unable to participate in activities under s. 49.155(1m)(a), Stats., and is unable to provide the child care necessary for the other parent to participate in activities under s. 49.155(1m)(a), Stats.

(2) Foster care payments received pursuant to s. 46.261, Stats., and kinship care payments received pursuant to s. 48.57 (3m) or (3n), Stats., shall not be considered as family income in determining financial eligibility for child care subsidies under s. 49.155 (1m)(c), Stats.

SECTION 11. DWD 56.02 (12) is renumbered 56.08(11).

SECTION 12. DWD 56.02(12) is created to read:

DWD 56.02(12) “Foster parent” means a person required to be licensed under s. 48.62(1)(a), Stats.

SECTION 13. DWD 56.02(14) is repealed.

SECTION 14. DWD 56.02(15m) and 56.02(16m) are renumbered DWD 56.02(15) and DWD 56.02(16), respectively.

SECTION 15. DWD 56.02(18)(note) is repealed.

SECTION 16. DWD 56.02(20m) is renumbered DWD 56.02(20).

SECTION 17. DWD 56.02 (25) is created to read:

DWD 56.02(25). “Wisconsin works employment position” has the meaning given in s. DWD 12.03 (39).

SECTION 18. DWD 56.04 (1) is amended to read:

DWD 56.04(1) APPLICABILITY. This section applies to child care funding sources under ~~s. 49.175 (1) (e), Stats.,~~ s. 49.155, Stats., excluding s. 49.155 (1g), Stats., and the child care administrative agencies responsible for administration of those funds.

SECTION 19. DWD 56.08 (1) is repealed and recreated to read:

DWD 56.08 Parent copayments. (1) SCHEDULE. The department shall set a schedule for parent copayment responsibilities for all parents who receive child care financial assistance under s. 49.155, Stats., excluding s. 49.155 (1g), Stats. Copayment amounts will be based on family size, family gross income, the number of children in a given family in child care, and the type of child care selected. The copayment schedule is provided in Table DWD 56.08.

Note: This copayment schedule is current as of [insert effective date]. DWD may make future adjustments to the schedule as described in sub. (3).

SECTION 20. DWD 56.08 (2) is created to read:

DWD 56.08(2) Exceptions. (a) Families with children who are authorized for child care assistance for 20 hours or less are responsible for 50% of the amount listed in the copayment schedule for those children, based on family size, family gross income, the number of children in a given family in child care, and the type of care selected.

(b) Foster parents do not have a copayment responsibility for the foster children in their care.

(c) Kinship care relatives who are providing care for a child under court order do not have a copayment responsibility for the kinship care child in their care.

Note: Kinship care relatives do not have to be receiving payments under s. 48.57(3m) or (3n), Stats., for this paragraph to apply.

(d) Kinship care relatives who are providing care for a child without a court order are responsible for the minimum copayment based on the number of children in the family in child care and the type of child care selected for the kinship care child in their care, unless they are receiving a child care subsidy for another child is subject to a copayment greater than the minimum copay.

Note: Kinship care relatives do not have to be receiving payments under s. 48.57(3m) or (3n), Stats., for this paragraph to apply.

(e) Parents who have left a Wisconsin works employment position for unsubsidized employment may pay the minimum copayment amount based on the number of children in the family in child care and the type of child care selected for the first month of the unsubsidized employment.

Note: Sec. 49.155(5), Stats., provides: "An individual who is under the age of 20 and is attending high school or participating in a course of study meeting the standards established under s.115.29 (4) for the granting of a declaration of equivalency to high school graduation may not be determined liable for more than the minimum copayment amount for the type of child care received and the number of children receiving child care."

Sec. 49.26(1)(e), Stats., prohibits copayment responsibility for minor teen parents who are Learnfare participants.

7 USC 2015 prohibits copayment responsibility for participants in the Food Stamp Employment and Training program.

SECTION 21. Table DWD 56.08 (note) is repealed and recreated to read:

Table DWD 56.08 (note) The copayment rate for teen parents who are not Learnfare participants is found by selecting the lowest income line (70%) FPL and then finding the copayment listed, under either licensed care or certified care, for the appropriate number of children. Parents who have left a W-2 employment position for unsubsidized work also qualify for the minimum copay for one month. Families with children who are authorized for 20 hours or less are subject to one half of their share of the family copay listed above for those children. No copay is required for parents who participate in Learnfare or Food Stamp Employment and Training. Foster parents do not have a copayment responsibility for the foster children in their care. Kinship care relatives caring for a child under court order do not have a copayment responsibility. Kinship care relatives caring for a child

without a court order pay the minimum copay, unless they are receiving a child care subsidy for another child who is subject to a copayment greater than the minimum copay.

EFFECTIVE DATE. This rule shall take effect on the first day of the month following publication in the Wisconsin administrative register as provided s.

227.22(2)(intro.), Stats.,

Summary of Public Hearing

Proposed rules relating to W-2 eligibility and child care copayments

Chapters DWD 12 and 56 (CR 00-129)

A public hearing was held in Madison on September 29, 2000. The hearing record remained open until October 6, 2000 for receipt of written comments. A comment was received from Carol Medaris of the Wisconsin Council on Children and Families. A copy is attached.

Summary of comment

The rule language appears to make the elimination of child care copayment responsibility for foster parents and some kinship care relatives and the minimum copayment responsibility for other kinship care relatives contingent on these families not receiving child care subsidies for other children. Is that the department's intent?

Department response

Yes, that was intent in the original draft of the proposed rules. Copayment responsibility is based on family income, family size, number of receiving child care, and the type of child care chosen. The copayment amount is based on an amount that has been determined reasonable for the family to pay. Copayment amounts are generally determined for a family, not for individuals in a family. Creating exceptions for individuals in a family does not fit into the system easily.

The current draft of the proposed rules drops the contingency for families with a child who is not subject to a copayment. Under s. DWD 56.08(2)(b) and (c), foster parents and kinship care relatives caring for a kinship care child under court order will not have copayment responsibility for the foster children and kinship care children in their care, regardless of whether the family is receiving child care assistance for other children in the family.

The contingency is retained for kinship care relatives caring for a kinship care child without a court order. Under s. DWD 56.08(2)(d), these kinship care relatives are responsible for the minimum copayment for the kinship care child, unless the family is receiving child care assistance for another child who is subject to a copayment greater than the minimum copay.



"For these are all our children . . .
we will all profit by, or pay for,
whatever they become." James Baldwin

RESEARCH • EDUCATION • ADVOCACY

October 6, 2000

FAXED AND MAILED

Elaine Pridgen
Office of Legal Counsel
Department of Workforce Development
P.O. Box 7946
Madison, WI 53707-7946

Re: Proposed rules affecting DWD 12 and 56, relating to W-2 eligibility and
child care copayments

Dear Ms. Pridgen,

This letter constitutes my written comments on the above-described proposed rules. My comments center on the wording in Sections 15 and 16, that provides for removing all copayment responsibility for foster children and kinship care children placed under court order, and limiting copays for other kinship care children to the minimum amount.

This treatment is made contingent upon these families receiving no child care subsidies for non-foster or non-kinship-care children. The sections read that these parents do not have a copayment responsibility (or are responsible for the minimum copayment) "unless they are receiving a child care subsidy for another child who is not a kinship care or foster child."

This surely cannot be the intent -- that the presence of other children in the home receiving a child care subsidy raises the copay for the foster and kinship care children to the regular, scheduled amounts?

I think what is intended is that the presence of foster or kinship care children receiving special copay treatment does not excuse a family from regular copays for other children in the home. This needs to be reworded to make this clear.

Cordially,


Carol W. Medaris
Project Attorney



A MEMBER OF THE NATIONAL ASSOCIATION OF CHILD ADVOCATES

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www.wccf.org

LRB or Bill No./Adm. Rule No.
Chapters DWD 12 and 56

Amendment No. if Applicable

FISCAL ESTIMATE
DOA-2048 N(R03/97)

- ORIGINAL
- CORRECTED
- UPDATED
- SUPPLEMENTAL

Subject
W-2 Eligibility and Child Care Copayments

Fiscal Effect

State: No State Fiscal Effect

Check columns below only if bill makes a direct appropriation
or affects a sum sufficient appropriation.

Increase Costs - May be possible to Absorb
Within Agency's Budget Yes No

- Increase Existing Appropriation
- Decrease Existing Appropriation
- Create New Appropriation
- Increase Existing Revenues
- Decrease Existing Revenues

Decrease Costs

Local: No local government costs

- 1. Increase Costs
 - Permissive
 - Mandatory
- 2. Decrease Costs
 - Permissive
 - Mandatory

- 3. Increase Revenues
 - Permissive
 - Mandatory
- 4. Decrease Revenues
 - Permissive
 - Mandatory

5. Types of Local Governmental Units Affected:
- Towns
 - Villages
 - Cities
 - Counties
 - Others _____
 - School Districts
 - WTCS Districts

Fund Sources Affected

- GPR
- FED
- PRO
- PRS
- SEG
- SEG-S

Affected Ch. 20 Appropriations

Assumptions Used in Arriving at Fiscal Estimate

The elimination of copayment responsibility for foster parents and kinship care relatives is expected to have a fiscal effect of approximately \$173, 160 (740 children x \$4.50/week copay adjustment x 52 weeks). Other changes are not expected to have a significant fiscal effect.

Long-Range Fiscal Implications
none

Agency/Prepared by: (Name & Phone No.)
James Bates 266-1123

Authorized Signature/Telephone No.

James Bates
266-9427

Date

8/30/00

FISCAL ESTIMATE WORKSHEET

1999 Session

Detailed Estimate of Annual Fiscal Effect
DOA-2047 (R10/94)

ORIGINAL UPDATED
 CORRECTED SUPPLEMENTAL

LRB or Bill No./Adm. Rule No. Chapters DWD 12 and 56	Amendment No.
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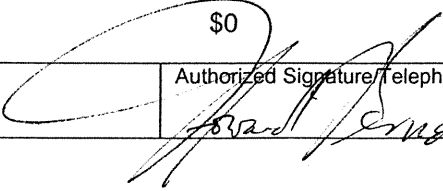
Subject
W-2 Eligibility and Child Care Copayments

I. One-time Costs or Revenue Impacts for State and/or Local Government (do not include in annualized fiscal effect):
0

II. Annualized Costs:	Annualized Fiscal impact on State funds from:	
	Increased Costs	Decreased Costs
A. State Costs by Category		
State Operations - Salaries and Fringes	\$0	\$0 -
(FTE Position Changes)	0 (FTE)	(- FTE)
State Operations - Other Costs	0	0
Local Assistance	0	0
Aids to Individuals or Organizations	173,160	0
TOTAL State Costs by Category	\$173,160	\$ -
B. State Costs by Source of Funds		
GPR	\$0	\$0-
FED	\$173,160	0
PRO/PRS	0	0
SEG/SEG-S	0	0
III. State Revenues - Complete this only when proposal will increase or decrease state revenues (e.g., tax increase, decrease in license fee, etc.)	Increased Rev.	Decreased Rev.
GPR Taxes	\$0	\$ 0-
GPR Earned	0	-0
FED	0	-0
PRO/PRS	0	-0
SEG/SEG-S	0	-0
TOTAL State Revenues	\$0	\$0-

NET ANNUALIZED FISCAL IMPACT

	STATE	LOCAL
NET CHANGE IN COSTS	\$173,160	\$0
NET CHANGE IN REVENUES	\$0	\$0

Agency/Prepared by: (Name & Phone No.) DWD/ James Bates 266-1123	Authorized Signature/Telephone No.  266-9427	Date 8/30/00
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