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WISCONSIN LEGISLATIVE COUNCIL 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 02-050

AN ORDER to repeal DWD 12.22 (3) and 17.03 (a) (title) and (b); to renumber DWD 17.03 (3) (a) and 17.05; to renumber and amend DWD 17.06, 17.07 (1), (2) and (3); to amend DWD 12.03 (intro.), (11) and (19), 12.09 (2) (e) 2. and (n) and (3) (b) 2. a., 12.15 (2), 12.16 (4) (c), chapter DWD 17 (title), 17.01 (1) and (2), 17.02 (1), (2), (3), (6), (7), (10), (14) and (15), 17.03 (1), (2), (4) (intro.) and (note), 17.04 (1) (d) 2. and 3., (2) (intro.) and (note), and 17.10 (note); to repeal and recreate DWD 12.09 (2) (c) and (e) 1., 17.02 (8), (11) and (12) and 17.04 (1) (d) 1.; and to create DWD 12.03 (32m), 12.15 (3), 12.16 (3) (b) 6. and (4) (d) 2. f., 17.02 (7m) and (14m), 17.05, 17.06, 17.07 and 17.10 (2), relating to Wisconsin works.

Submitted by **DEPARTMENT OF WORKFORCE DEVELOPMENT**

04-15-02 RECEIVED BY LEGISLATIVE COUNCIL.

05-09-02 REPORT SENT TO AGENCY.

RNS:RJC:ksm;tlu

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



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CLEARINGHOUSE RULE 02-050

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.]

1. Statutory Authority

a. Under what authority does the department propose, in s. DWD 12.15 (2), that W-2 agencies administer a screening tool to screen for mental health and substance abuse issues in W-2 participants?

b. In s. DWD 17.05, under what authority does the department purport to delegate the authority to promulgate rules to the Department of Health and Family Services establishing standards of competency and training requirement for income maintenance workers? Although the provision cites s. 20.901, Stats., nowhere in that statutory section is a department given the authority to delegate authority to promulgate administrative rules. The statutory authority for this provision ought to be reviewed and, at a minimum, better explained.

2. Form, Style and Placement in Administrative Code

a. In s. DWD 12.03 (intro.), the new, underscored material should follow the old, stricken material. [s. 1.06, Manual.]

b. Throughout s. DWD 12.09 (2) (c), parenthetical citations are used to refer to various provisions of federal law. The rule should avoid the use of parentheses in this manner. If certain material is important to the thought or concept expressed in the rule, the material should be set apart with commas, not parentheses. In the alternative, the material could be placed in an explanatory note to the rule.

c. The material in s. DWD 12.15 (3) (c) (intro.), is not really introductory material. Therefore, the introduction should be renumbered subd. 1. and the remaining subdivisions should be renumbered accordingly.

d. In s. DWD 17.04 (2) (intro.), the phrase "do all of the following" should be inserted immediately before the colon.

e. In s. DWD 17.07, it is noted that sub. (3) contains a title and subs. (1) and (2) do not. Titles should be used in a consistent manner. Thus, if any subsection of a particular rule section is titled, then all of the subsections in that section should be titled. Accordingly, either sub. (3) needs to have its title eliminated, or subs. (1) and (2) need their own titles.

f. In s. DWD 17.07 (2), where the date is supposed to appear, the following text should be inserted: "the effective date of this section [revisor inserts date]."

g. It would seem that SECTION 34 of the rule ought to renumber the note from s. DWD 17.07 to s. DWD 17.10 prior to amending it.

3. Conflict With or Duplication of Existing Rules

In s. DWD 12.09 (2) (c) (intro.), the rule indicates that certain qualified aliens "may be" eligible for W-2. It is noted that current s. DWD 12.09 (2) (intro.) indicates that an individual is eligible for W-2 if he or she meets the nonfinancial eligibility requirements which follow. Does the phrase "may be" indicate that these aliens may not be eligible even if they meet all of the other nonfinancial eligibility requirements? If so, this would appear to be a conflict with sub. (2) (intro.). Perhaps the second sentence of s. DWD 12.09 (2) (c) (intro.) could be rewritten substantially as follows: "An individual is a qualified alien if he or she is any of the following:"

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

a. In s. DWD 12.09 (2) (c) 6., can the actual effective date of the federal law be stated here?

b. In s. DWD 12.09 (2) (c) 13. c., the references to "subdivisions a. or b." should be changed to a reference to "subd. 13. a. or b."

c. In s. DWD 12.09 (2) (e) 1., the end of that provision refers to a parent having "good cause for failing to cooperate." It would be helpful to include a cross-reference to how one is determined to have "good cause." Perhaps, a cross-reference to ch. DWD 15 would be appropriate.

d. In s. DWD 12.09 (2) (e) 2., the reference to "chapter DWD 15" should be to "ch. DWD 15."

e. It is noted that s. DWD 12.03 (11) defines "domestic abuse" by means of a cross-reference to various provisions of the statutes. Section DWD 12.15 (3) (a) (intro.) seems

to further qualify or define "domestic abuse." It would seem appropriate to include a phrase in the latter clarification of domestic abuse indicating that the definition included in s. DWD 12.15 (3) is in addition to, or in place of, the definition provided in s. DWD 12.03 (11).

f. Section DWD 12.15 (3) (b) 5. refers to "the department's 12-hour training." An appropriate cross-reference to the rule provision containing this training should be included. In addition, the phrase "to a W-2 applicant or participant" at the end of the sentence should be replaced by the phrase "under subds. 1., 2., or 4."

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

a. In s. DWD 12.09 (2) (c) 10., should the reference to "child" be a reference to a "minor child"? If so, the rule should be clarified.

b. In s. DWD 12.09 (2) (c) 13. (intro.), the rule refers to an "alien who is lawfully residing." Should the rule refer to "an alien who is lawfully residing in this state"? If so, the rule should be clarified. This comment also applies to subd. 14.

c. In s. DWD 12.09 (2) (e) 2., the provision uses the terms "Wisconsin Works group" and "W-2 group." Since the current rule only defines the term "Wisconsin Works group," it would seem appropriate to just use that term. In the alternative, the current rule, in s. DWD 12.03 (40) could be revised to also include the term "W-2 group" in the definition of "Wisconsin Works group." In any event, the rule should use consistent terminology within the same provision of the rule. Thus, s. DWD 12.09 (2) (e) 2. should be revised.

d. In s. DWD 12.09 (2) (n), the phrase "job opportunities and basic skills program under s. 49.193, 1997 Stats.," can simply be replaced by the term "JOBS" or, if desired, the phrase "JOBS program," since "JOBS" is a defined term in the rule.

e. Section DWD 12.15 (2) uses the term "screening tool." The term is vague in the context of the rule. A definition or description of the term should be provided to clarify the rule.

f. In s. DWD 12.15 (3) (c) 3. e., should "Domestic abuse" replace "Domestic violence" for consistency with the remainder of the rule?

g. In s. DWD 12.15 (3) (b), the rule uses the term "screening instrument." Is this different than a "screening tool" as used in s. DWD 12.15 (2)? If so, the term should be clarified. If it is the same term, consistent terminology should be used throughout the rule.

h. In s. DWD 12.15 (3) (b) 3., may the individual also voluntarily and confidentially disclose that his or her child has been the victim of domestic abuse? If so, the rule should be clarified.

i. In s. DWD 12.16 (4) (c), the period at the end of the sentence being amended should not be underscored.

j. In s. DWD 17.02 (12), the term "American Indian nation" should be replaced by the phrase "American Indian tribe or band" to be consistent with other provisions of the rule.

k. In s. DWD 17.02 (14m), the term "Resource specialist" in the second sentence should be placed in quotation marks.

l. In s. DWD 17.03 (2), the phrase "shall not" should be replaced by the phrase "may not."

m. In the treatment clause of SECTION 22 of the rule, the word "are" should be inserted immediately before the word "amended." In addition, the term "DWD 17.03" should be inserted before the "(4)" in the text of that SECTION.

n. In s. DWD 17.05, is it the intent that the rules promulgated by the Department of Health and Family Services supersede the provisions of newly created s. DWD 17.06, relating to training of W-2 workers? It would appear that the Department of Workforce Development will still be responsible for the training of W-2 workers. The rule should be clarified.

o. In s. DWD 17.06 (2) (b), the first sentence should be rewritten so that it begins substantially as follows: "No FEP may make independent" In addition, the second sentence should be rewritten in the affirmative, substantially as follows: "To successfully complete the initial W-2 training, an FEP shall attend all class hours and shall participate in all instructional activities." The article "an" should also be used before "FEP" in par. (c).

p. In s. DWD 17.06 (4) (intro.), the term "DWD" should be deleted in the first sentence. In addition, the word "the" should be inserted before the word "training" at the end of the second sentence. In addition, the phrase "do all of the following" should be inserted immediately before the colon.

q. In s. DWD 17.10 (3), should the phrase "or W-2" be inserted immediately after the first occurrence of the term "IM"?

r. In s. DWD 17.07 (1) (d) (intro.), the phrase "all of the following" should be inserted immediately prior to the colon.

s. In s. DWD 17.07 (3) (intro.), the term "DWD" should be deleted. In addition, the word "the" should be inserted before the word "training" at the end of the second sentence. Finally, the phrase "include all of the following" should be inserted immediately before the colon.

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State of Wisconsin
Department of Workforce Development

Chapters DWD 12 and 17

WISCONSIN WORKS

The Wisconsin Department of Workforce Development proposes an order to repeal ss. DWD 12.22(3), 17.03(a)(title), and 17.03(3)(b); to renumber ss. DWD 17.03(3)(a) and 17.05; to renumber and amend ss. DWD 17.06, 17.07(1), 17.07(2), and 17.07(3); to amend ss. DWD 12.03(intro), 12.03(11), 12.03(19), 12.09(2)(e)2., 12.09(2)(n), 12.09(3)(b)2.a., 12.15(2), 12.16(4)(c), chapter DWD 17(title), 17.01(1), 17.01(2), 17.02(1), 17.02(2), 17.02(3), 17.02(6), 17.02(7), 17.02(10), 17.02(14), 17.02(15), 17.03(1), 17.03(2), 17.03(4)(intro), 17.03(note), 17.04(1)(d)2., 17.04(1)(d)3., 17.04(2)(intro), 17.04(note), and 17.10(note); to repeal and recreate ss. DWD 12.09(2)(c), 12.09(2)(e)1., 17.02(8), 17.02(11), 17.02(12), and 17.04(1)(d)1.; and to create ss. DWD 12.03(32m), 12.15(3), 12.16(3)(b)6., 12.16(4)(d)2.f., 17.02(7m), 17.02(14m), 17.05, 17.06, 17.06(note), 17.07, 17.07(note), and 17.10(2), relating to Wisconsin works.

Analysis Prepared by the Department of Workforce Development

Statutory authority: ss. 20.901, 49.143 (2)(c), 49.145(1), 49.145(2)(c), 49.145(2)(f), 49.145(2)(n), 49.147(5)(b)2., 49.33, 103.005(17), and 227.11, Stats.; ss. 49.145(3), 49.147(4)(am), and 49.147(5)(bm), Stats., as amended by 2001 Wisconsin Act 16; and s. 49.1473, Stats., as created by 2001 Wisconsin Act 16

Statutes interpreted: ss. 20.901, 49.143 (2)(c), 49.145(1), 49.145(2)(c), 49.145(2)(f), 49.145(2)(n), 49.147(5)(b)2., 49.33, and 103.005(17), Stats.; ss. 49.145(3), 49.147(4)(am), and 49.147(5)(bm), Stats., as amended by 2001 Wisconsin Act 16; and s. 49.1473, Stats., as created by 2001 Wisconsin Act 16

Domestic abuse screening and training. The proposed rule implements the requirement in 2001 Wisconsin Act 16 that W-2 agencies screen W-2 applicants and participants for domestic abuse and train W-2 agency employees in domestic abuse issues. The domestic abuse screening will be implemented as part of a comprehensive screening of each applicant and participant for mental health, learning disabilities, substance abuse, traumatic brain injury, and domestic abuse.

For the purposes of the screening and training provision, "domestic abuse" includes acts that affect the individual or the individual's dependent child and are engaged in by a spouse or former spouse, an adult with whom the individual has or had a dating relationship, an adult with whom the person has a child in common, an adult or minor family member, or an adult or minor with whom the person resides or formerly resided. The acts include physical acts that result in injury; sexual abuse; threats of, or attempts at, physical or sexual abuse; emotional abuse; verbal abuse; deprivation or destruction of

physical or economic resources; neglect or deprivation of medical care; forced isolation; and stalking or harassment. The W-2 agency will use the screening instrument to assess the potential that the individual or the individual's dependent child is or has been a victim of domestic abuse or is at risk of further domestic abuse. The screening will occur during the initial employability planning process for applicants and during the next review or change of employment placement for current participants. A W-2 agency may also administer a domestic abuse screening to a W-2 participant if the agency worker has reason to believe that the participant may need domestic abuse services. A W-2 agency employee shall attend the department's 12-hour training on domestic abuse prior to administering a domestic abuse screening instrument to a W-2 applicant or participant.

If a W-2 agency identifies an individual as a past or present victim of domestic abuse or determines that the individual is at risk of domestic abuse or if the individual identifies himself or herself as a past or present victim of domestic abuse or as an individual who is at risk of further abuse, the W-2 agency shall provide the individual with information on community-based domestic abuse services. The information that a W-2 agency gives to an individual on community-based domestic abuse services shall be provided orally and in writing; current and updated as necessary; culturally appropriate for the individual participant; and provided in languages other than English as appropriate, in accordance with the W-2 contract requirements under s. 49.143 (2), Stats. The information shall include information on local providers of shelters or programs for battered individuals, sexual assault provider services, medical services, sexual assault nurse examiners services, domestic violence and sexual assault hotlines, legal and medical counseling and advocacy, mental health care, counseling, and support groups. If the individual elects to receive counseling or supportive services, the W-2 agency shall provide appropriate community-based referrals. A W-2 participant may refuse to be screened for domestic abuse or may refuse information on or referrals to community-based domestic abuse services without sanction. Participation in the domestic abuse screening and information and referral process may not be a condition of eligibility for a W-2 participant.

W-2 transitions extensions. The proposed rule specifies the criteria for an extension of the 24-month time limit for W-2 transitions placement. Section 49.147(3)(c) and (4)(b), Stats., provide criteria for determining eligibility for an extension for trial job and community service job placements, but s. 49.147(5)(b)2., Stats., provides no criteria for determining eligibility for an extension for a W-2 transitions placement. The department proposes that the W-2 transitions time limit may be extended on a case-by-case basis by the department or by the Wisconsin works agency with the approval of the department if the participant has made all appropriate efforts to find unsubsidized employment by participating in all assigned activities and significant barriers prevent advancement to a higher W-2 employment position or unsubsidized employment.

Qualified alien. The definition of qualified alien for purposes of W-2 nonfinancial eligibility is amended to reflect changes in federal law. The federal statutory scheme provides that to be eligible for a program funded by a Temporary Assistance to Needy Families (TANF) grant an individual must be a U.S. citizen, a national of the United States, or a qualified alien. Under federal law certain categories of aliens may be eligible for TANF, certain categories of aliens may not be eligible for TANF, and a state may

choose to serve certain categories of aliens but may not use federal money. The department has chosen to use state maintenance of effort funds to serve as many categories of qualified aliens as are permitted under federal law. Relevant federal law may be found at 8 USC 1611, 8 USC 1612, 8 USC 1613, 8 USC 1641(b), 22 USC 7105, and 8 CFR 289.2.

Training rules. Chapter DWD 17 is amended to reflect the deletion of Wisconsin Works from the statutory definition of income maintenance program at s. 49.33, Stats., pursuant to 2001 Wisconsin Act 16. Under s. 49.33(3), Stats., the department retains authority for the promulgation of rules establishing standards of competency, including training requirements, for income maintenance workers. With the transfer of the food stamp program to the Department of Health and Family Services that will be effective July 2002, there will be no income maintenance programs otherwise within the authority of DWD. Pursuant to s. 20.901, Stats., the department proposes to cooperatively share authority for the training of workers in the income maintenance programs under the responsibility of the Department of Health and Family Services and delegate authority to promulgate rules establishing standards of competency and training requirements for income maintenance workers to the Department of Health and Family Services. The rules promulgated by the Department of Health and Family Services would supercede the provisions affecting income maintenance workers in Chapter DWD 17 upon their effective date.

Chapter DWD 17 is also amended to create a training requirement for W-2 resource specialists who perform application entry, provide an initial assessment of a potential W-2 applicant's needs, make referrals to service providers, or evaluate an individual's need for W-2. Training for resource specialists will include 6 hours on domestic abuse awareness.

The definition of financial and employment planner (FEP) is clarified to state that for purposes of the training requirements a FEP means a case manager employed by a W-2 agency who determines eligibility, assists in the process of determining eligibility, or performs case management functions.

Miscellaneous statutory updates. Other amendments made to reflect statutory changes include:

- Addition of employer-sponsored training to the education or training activities allowed under W-2 community service job and W-2 transitions placements.
- Exclusion of student financial aid in determining W-2 financial eligibility.
- Amendment of section 49.145(2)(n), Stats., on extending the 60-month TANF time limit.
- Extension of child support cooperation requirements to noncustodial parents.
- Repeal of language referring to s. 49.21, 1997 Stats., regarding fair hearings.

References to Chapter DWD 11 in Chapter DWD 12, relating to the Aid to Families with Dependent Children program, have been deleted because that chapter has been repealed.

SECTION 1. DWD 12.03 (intro), (11), and (19) are amended to read:

DWD 12.03 (intro) Unless otherwise provided, (11) in this chapter:

DWD 12.03 (11) "Domestic abuse" has the meaning given in ^{stat} ~~s~~-ss. 968.075(1) or 813.12(1)(a), Stats.

DWD 12.03 (19) "JOBS" means the job opportunities and basic skills training program established under 42 USC 682 and s. 49.193, 1997 Stats., for the purpose of assisting AFDC recipients to develop marketable skills and obtain gainful employment.

SECTION 2. DWD 12.03 (32m) is created to read:

DWD 12.03 (32m) "TANF" or "temporary assistance for needy families" means a federal block grant under 42 USC 601-619.

SECTION 3. DWD 12.09 (2)(c) and (2)(e)1. are repealed and recreated to read:

DWD 12.09 (2)(c) The individual is a United States citizen, national of the United States, or qualified alien. The following qualified aliens may be eligible for W-2:

1. An alien lawfully admitted to the United States for permanent residence under the immigration and nationality act (8 USC 1101 et seq.).
2. An alien who is granted asylum under section 208 of the immigration and nationality act (8 USC 1158).
3. A refugee who is admitted to the United States under section 207 of the immigration and nationality act (8 USC 1157).
4. An alien who has been certified as a victim of trafficking under 22 USC 7105(b)(1)(E).
5. An alien who is paroled into the United States under section 212(d)(5) of the immigration and nationality act (8 USC 1182(d)(5)) for a period of at least one year.
6. An alien whose deportation is being withheld under section 243(h) of the immigration and nationality act (8 USC 1253, as in effect immediately before the effective date of section 307 of division C of public law 104-208) or section 241(b)(3) of the act (8 USC 1231 (b)(3)).

can data be specified?

7. An alien who is granted status as a Cuban and Haitian entrant, as defined in section 501(e) of the refugee education assistance act of 1980 (8 USC 1522(note))

8. An American Indian born in Canada who is at least 50% American Indian by blood.

9. An American Indian born outside of the United States who is a member of a federally-recognized Indian tribe.

10. A alien who has been battered or whose child has been battered, who is no longer residing in the same household with the batterer, and who meets the requirements of 8 USC 1641(c). 3

11. An alien who is granted conditional entry pursuant to section 203(a)(7) of the immigration and nationality act (8 USC 1153(a)(7)), as in effect prior to April 1, 1980.

12. An alien who is admitted to the United States as an Amerasian immigrant, as described in section 584 of the foreign operations, export financing, and related programs appropriations act of 1988 (8 USC 1101(note)). 5

13. An alien who is lawfully residing and is one of the following:

a. An armed forces veteran who received an honorable discharge that was not on account of alienage and who completed either 24 months of continuous active duty or the full period for which the individual was called, unless the individual received a hardship discharge under 10 USC 1173, early discharge under 10 USC 1171, or a discharge due to a disability incurred or aggravated in the line of duty.

b. On active duty in the armed forces of the United States, other than active duty for training. 4

c. The spouse of an individual described in subdivision a. or b., or the unremarried surviving spouse of an individual described in subdivision a. or b. if the marriage was for one year or more or the individuals had a child in common. 13.

14. An alien who is legally present and authorized to work by the immigration and naturalization service. 5

DWD 12.09 (2)(e)1. Subject to subd. 2. and chapter DWD 15, every parent in the individual's Wisconsin works group fully cooperates in good faith with efforts directed at establishing paternity and 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 unless the parent has good cause for failing to cooperate. - as noted in (b) 2/15

SECTION 4. DWD 12.09 (2)(e)2., 12.09 (2)(n), 12.09 (3)(b)2.a., and 12.15 (2) are amended to read:

DWD 12.09 (2)(e)2. An individual who is a member of a Wisconsin works group that fails 3 times without good cause to meet the requirements under subd. 1. in chapter DWD 15 remains ineligible until the individual cooperates all the members of the W-2 group cooperate or for a period of 6 months, whichever is later.

DWD 12.09 (2)(n) Beginning on the date on which the individual has attained the age of 18, the total number of months in which the individual, or any other adult member of the Wisconsin works group, has actively participated in the job opportunities and basic skills program under s. 49.193, 1997 Stats., has participated in a Wisconsin works employment position, or has participated in any TANF-funded program in this state or any other state and has received TANF cash assistance while in that program 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 the JOBS program or s. DWD-11.19 (2) or (2m) 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, 1997 Stats., on or after October 1, 1996, counts toward the 60-month limit. 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:

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 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, any student financial aid received under any federal or state program, any scholarship used for tuition and books, 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.

DWD 12.15 (2) EMPLOYABILITY PLAN. The FEP shall, in consultation with the W-2 participant, develop a written employability plan for a W-2 participant which includes the participant's W-2 employment position placement, required activities under s. DWD 12.16, and an identified unsubsidized employment goal. As part of the employability planning process, the W-2 agency shall administer a screening tool, provided by the department, to each applicant and participant that will screen for mental health, learning disabilities, substance abuse, traumatic brain injury, and domestic abuse.

(3)
①
What about?

SECTION 5. DWD 12.15 (3) and 12.16 (3)(b)6. are created to read:

DWD 12.15 (3) DOMESTIC ABUSE. (a) *Domestic abuse definition.* For the purposes of this section, "domestic abuse" includes any of the following acts that affect the individual or the individual's dependent child and are engaged in by a spouse or former spouse, an adult with whom the individual has or had a dating relationship, an adult with whom the person has a child in common, an adult or minor family member, or an adult or minor with whom the person resides or formerly resided:

Wisconsin
The Act

1. Physical acts that result in injury.
2. Sexual abuse.
3. Threats of, or attempts at, physical or sexual abuse.
4. Emotional abuse.
5. Verbal abuse.
6. Deprivation or destruction of physical or economic resources.
7. Neglect or deprivation of medical care.
8. Forced isolation.
9. Stalking or harassment.

(b) *Screening.* 1. As part of the initial employability planning process, the W-2 agency shall use the screening instrument under sub. (2) to assess the potential that the individual or the individual's dependent child is or has been a victim of domestic abuse or is at risk of further domestic abuse, unless the applicant has voluntarily disclosed the information pursuant to subd. 3.

2. If a W-2 participant was not screened during his or her initial employability planning process, a W-2 agency shall use the screening instrument under sub. (2) to assess the potential that an individual or the individual's child is or has been a victim of domestic abuse or is at risk of further domestic abuse at the participant's next review or at the time of the participant's next change of employment placement, whichever is sooner.

3. A W-2 agency shall allow an individual to voluntarily and confidentially disclose that he or she is or has been a victim of domestic abuse or is at risk of further domestic abuse. *or child?*

4. A W-2 agency may also administer a domestic abuse screening to a W-2 participant if the agency worker has reason to believe that the participant may need domestic abuse services.

5. A W-2 agency employee shall attend the department's 12-hour training on domestic abuse prior to administering a domestic abuse screening instrument to a W-2 applicant or participant. *under subd. 1.2*

(c) *Information and referral.* If a W-2 agency identifies an individual as a past or present victim of domestic abuse or determines that the individual is at risk of domestic abuse or if the individual identifies himself or herself as a past or present victim of domestic abuse or as an individual who is at risk of further abuse, the W-2 agency shall provide the individual with information on community-based domestic abuse services.

1. The evidence that is sufficient to establish that an individual is or has been a victim of domestic abuse or is at risk of further domestic abuse shall be a positive identification on the department-provided screening instrument or a voluntary disclosure of the information by the participant.

2. The information that a W-2 agency gives to an individual on community-based domestic abuse services shall be:

a. Provided orally and in writing.

- b. Current and updated as necessary.
- c. Culturally appropriate for the individual participant.
- d. Provided in languages other than English as appropriate in accordance with the W-2 contract requirements under s. 49.143 (2), Stats.

3. The information that a W-2 agency provides to an individual on community-based domestic abuse services shall include information on local providers of the following domestic abuse services:

- a. Shelters or programs for battered individuals.
- b. Sexual assault provider services.
- c. Medical services.
- d. Sexual assault nurse examiners services.
- e. Domestic violence and sexual assault hotlines.
- f. Legal and medical counseling and advocacy.
- g. Mental health care.
- h. Counseling.
- i. Support groups.

4. If the individual elects to receive counseling or supportive services, the W-2 agency shall provide appropriate community-based referrals to the individual.

(d) *Voluntary participation.* A W-2 participant may refuse to be screened for domestic abuse or may refuse information on or referrals to community-based domestic abuse services without sanction. Participation in the domestic abuse screening and information and referral process may not be a condition of eligibility for a W-2 participant.

DWD 12.16 (3)(b)6. Employer-sponsored training.

SECTION 6. DWD 12.16 (4)(c) is amended to read:

DWD 12.16 (4)(c) *Time-limited participation.* An individual may participate in a transitional placement for a maximum of 24 months. The months need not be consecutive. This period may be extended on a case-by-case basis by the department or by the Wisconsin works agency with the approval of the department if the participant has made all appropriate efforts to find unsubsidized employment by participating in all

assigned activities and significant barriers prevent advancement to a higher W-2 employment position or unsubsidized employment.

SECTION 7. DWD 12.16(4)(d)2.f. is created to read:

DWD 12.16(4)(d)2.f. Employer-sponsored training.

SECTION 8. DWD 12.22 (3) is repealed. — *SPD*

SECTION 9. Chapter DWD 17 (title) is amended to read:

W-2 AND INCOME MAINTENANCE WORKERS

SECTION 10. DWD 17.01 (1) and (2) are amended to read:

DWD 17.01 Introduction. (1) AUTHORITY AND PURPOSE. This chapter is promulgated under authority set forth in ss. 49.33(3), ~~and 49.143 (2) (c), and 103.005 (17),~~ Stats., to ensure that each income maintenance worker, financial and employment planner, and resource specialist employed by a county agency, tribal agency, or W-2 agency has successfully completed a training program to achieve acceptable IM or W-2 worker job performance. Successful completion of prescribed training is required for all new IM and W-2 workers. The department shall make ongoing training available for experienced IM and W-2 workers.

(2) APPLICABILITY. This chapter applies to county income maintenance agencies, tribal income maintenance agencies, W-2 agencies, and the income maintenance workers, financial and employment planners, and resource specialists employed by those agencies.

SECTION 11. DWD 17.02 (1), (2), (3), (6), and (7) are amended to read:

DWD 17.02 (1) “Automated system” means a computer-supported process used by the department or the department of health and family services, including CARES.

DWD 17.02 (2) “CARES” means the department and the department of health and family services’ automated client assistance for re-employment and economic support.

Note: CARES is the automated system used by DWD and DHFS to determine eligibility, calculate benefits, and retain data for income maintenance programs and W-2.

DWD 17.02 (3) “Case management” means the family-centered and goal-oriented process for assessing the needs of a W-2 or IM group member and his or her family for employment, training, and supportive services and assisting the W-2 or IM group member in obtaining services to achieve self-sufficiency.

DWD 17.02 (6) “Eligibility determination” means the act or process by which the situation of a person or a group is compared to a set of standards to determine whether the person or group meets the criteria for receiving W-2 or a specific type of income maintenance.

DWD 17.02 (7) “Experienced IM worker” means an IM worker employed by a county, or tribal or W-2 agency before December 1, 1999, or an IM worker who has completed initial income maintenance training.

SECTION 12. DWD 17.02 (7m) is created to read:

DWD 17.02 (7m) “Experienced FEP” means a FEP who completed initial FEP training.

SECTION 13. DWD 17.02 (8) is repealed and recreated to read:

DWD 17.02 (8) “Financial and employment planner” or “FEP” means a case manager employed by a Wisconsin works agency who determines eligibility, assists in the process of determining eligibility, or performs case management functions.

SECTION 14. DWD 17.02 (10) is amended to read:

DWD 17.02 (10) “IM and W-2 handbooks, manuals, and instructional materials” means ~~department-issued income maintenance~~ handbooks, manuals, and memos that are addressed to county agencies, tribal agencies, and W-2 agencies and set forth eligibility and benefit criteria and case maintenance and case processing information for Wisconsin works, food stamps, and Medicaid and are issued by the department or the department of health and family services.

SECTION 15. DWD 17.02 (11) and (12) are repealed and recreated to read:

DWD 17.02 (11) “Income maintenance” or “IM” has the same meaning as “income maintenance program” in s. 49.33 (1)(b), Stats.

Note: Section 49.33(1)(b) provides that "income maintenance program" means the medical assistance program under subch. IV of ch. 49, the badger care health care program under s. 49.665, or the food stamp program under 7 USC 2011 to 2036."

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DWD 17.02 (12) "Income maintenance worker" or "IM worker" means a person employed by a county or governing body of a federally-recognized American Indian nation and whose duties include determinations or redeterminations of income maintenance eligibility.

SECTION 16. DWD 17.02 (14) is amended to read:

DWD 17.02 (14) "New IM worker" means a person who is employed by a county agency, or tribal agency, or ~~W-2 agency~~ as an IM worker on or after December 1, 1999, including a permanent employee who transfers into an IM worker position and who has not completed initial income maintenance training.

SECTION 17. DWD 17.02 (14m) is created to read:

DWD 17.02 (14m) "Resource specialist" means a worker employed by a Wisconsin works agency who performs application entry, provides an initial assessment of a potential W-2 applicant's needs, makes referrals to service providers, or evaluates an individual's need for W-2. Resource specialist may also include a worker employed by an agency contracted with the department to provide access services.

SECTION 18. DWD 17.02 (15) is amended to read:

DWD 17.02 (15) "Tribal agency" means an agency designated by the elected tribal governing body of a federally-recognized Wisconsin Indian tribe or band and contracted by the department of health and family services to administer Wisconsin works, Medicaid, or food stamps or contracted by the department to administer Wisconsin works.

SECTION 19. DWD 17.03 (1) and (2) are amended to read:

DWD 17.03 Initial income maintenance training. (1) The department shall make initial IM worker training available to new IM workers directly or through contractors. The county ~~agency, or tribal agency, or W-2 agency~~ shall ensure that each new IM

worker completes the department's initial training during the first 6 months of employment.

(2) The new IM worker shall not make independent decisions related to eligibility for income maintenance programs or perform case management functions until the initial income maintenance training is successfully completed. Successful completion requires attendance for all class hours and involvement and participation in all instructional activities. The county ~~agency, or tribal agency, or W-2 agency~~ shall develop evaluation strategies to ensure that the new IM worker achieves a minimum standard of competence.

SECTION 20. DWD 17.03 (3)(a) (title) and (3)(b) are repealed.

SECTION 21. DWD 17.03 (3)(a) is renumbered DWD 17.03 (3).

SECTION 22. DWD 17.03 (4)(intro) and (note) amended to read:

(4) A county ~~agency, or tribal agency, or W-2 agency~~ may develop its own training to implement the DWD standardized curriculum under sub. (3), with approval by the department. A county ~~agency, or tribal agency, or W-2 agency~~ that chooses not to participate in the initial training for new IM workers offered by the department or its contractors shall submit a training implementation plan to the department for approval at least 45 days before the planned start date of training. Training plans shall be submitted to the department on an annual basis. The plan shall:

Note: Send the proposed IM training implementation plan to: Training Section, DWD Division of ~~Economic Support Workforce Solutions~~, P.O. Box 7935 7972, Madison, WI 53707-7935 7972. A copy of the department's training schedule for new and experienced workers may be obtained by writing the above address.

SECTION 23. DWD 17.04 (1)(d)1. is repealed and recreated to read:

DWD 17.04 (1)(d)1. Programmatic techniques that provide intermediate or advanced training in skills that ensure accuracy in program delivery.

SECTION 24. DWD 17.04 (1)(d)2. and 3. are amended to read:

DWD 17.04 (1)(d)2. Special needs of the ~~W-2 participant~~ IM recipient or a family member ~~that affect the W-2 participant's employability~~, including substance abuse, domestic abuse, and physical or mental disabilities.

DWD 17.04 (1)(d)3. Community resources and supportive services available to assist ~~W-2 participants~~ IM recipients.

SECTION 25. DWD 17.04 (2) (intro) and DWD 17.04 (note) are amended to read:

DWD 17.04 (2) (intro) COMPARABLE TRAINING. A county agency, or tribal agency, ~~or W-2 agency~~ may develop its own training to implement the DWD standardized curriculum under sub. (1), with approval by the department. A county agency, or tribal agency, ~~or W-2 agency~~ that chooses not to participate in training offered by the department or its contractors shall submit a training implementation plan to the department for approval at least 45 days before the planned start date of training. Training plans shall be submitted to the department on an annual basis. The plan shall:

Note: Send the proposed IM training implementation plan to: Training Section, DWD Division of Economic Support Workforce Solutions, P.O. Box ~~7935~~ 7972, Madison, WI 53707-~~7935~~ 7972. A copy of the department's training schedule for new and experienced workers may be obtained by writing the above address.

SECTION 26. DWD 17.05 is renumbered DWD 17.08.

SECTION 27. DWD 17.05 is created to read:

DWD 17.05 Cooperation and delegation of IM worker rule authority. Pursuant to s. 20.901, Stats., the department cooperatively shares authority for the training of workers in the income maintenance programs under the responsibility of the department of health and family services and delegates authority to promulgate rules establishing standards of competency and training requirements for income maintenance workers to the department of health and family services. The rules promulgated by the department of health and family services shall supercede this chapter upon their effective date.

SECTION 28. DWD 17.06 is renumbered DWD 17.09 and, as renumbered, is amended to read:

DWD 17.09 Local responsibility for implementing updates. Each county agency, tribal agency, and W-2 agency shall ensure that all IM and W-2 workers are trained in a timely manner on all relevant IM and W-2 policy and procedure and automated system updates that are issued by the department or the department of health and family services.

Note: These updates include Handbook and Manual releases, ~~DES~~ DWS Administrator's Memos, and Operations Memos.

SECTION 29. DWD 17.06 and DWD 17.06 (note) are created to read:

DWD 17.06 Initial W-2 worker training. (1) FEPS AND RESOURCE SPECIALISTS. The department shall make initial W-2 worker training available to new financial and employment planners and resource specialists directly or through contractors. The W-2 agency shall ensure that each financial and employment planner and resource specialist completes the department's initial training during the first 6 months of employment.

(2) FINANCIAL AND EMPLOYMENT PLANNERS. (a) The department shall develop a standardized curriculum for training new financial and employment planners. The approved curriculum shall include courses, independent study, and closely supervised practical experience and shall ensure that learning objectives support an acceptable standard of competency at completion. The curriculum may vary depending on job function and may include the following:

1. Program philosophy.
 2. Policy and procedure in W-2 handbooks, manuals, and instructional materials.
 3. Eligibility determination.
 4. Automated systems used the W-2 program.
 5. Interpersonal skills needed to perform W-2 functions.
 6. Case management information and skills, including:
 - a. Employment and training information for W-2 participants, including job readiness assessment, training opportunities, job search activities, labor market information, and job retention skills.
 - b. Special needs of the W-2 participant or a family member that affect the W-2 participant's employability, including substance abuse, domestic abuse, and physical or mental disabilities.
 - c. Community resources and supportive services available to assist W-2 participants.
- (b) A FEP shall not make independent decisions related to eligibility or perform case management functions until the initial W-2 training is successfully completed. Successful completion requires attendance for all class hours and involvement and participation in all instructional activities. The W-2 agency shall develop evaluation strategies to ensure that the new FEP achieves a minimum standard of competence.

(c) Within the first year of employment, a FEP shall complete 12 hours of training in domestic abuse awareness, including case management strategies and the department's comprehensive screening tool.

(3) RESOURCE SPECIALIST. The department shall develop a standardized curriculum for training new resource specialists. The approved curriculum shall include courses, independent study, and closely supervised practical experience and shall ensure that learning objectives support an acceptable standard of competency at completion. The curriculum may vary depending on job function and may include the following:

1. Program philosophy.
2. Policy and procedure in W-2 handbooks, manuals, and instructional materials.
3. Eligibility determination.
4. Automated systems used the W-2 program.
5. Interpersonal skills needed to perform W-2 functions.
6. Case management information and skills, including:
 - a. Employment and training information for W-2 participants, including job readiness assessment, training opportunities, job search activities, labor market information, and job retention skills.
 - b. Special needs of the W-2 participant or a family member that affect the W-2 participant's employability, including substance abuse, domestic abuse, and physical or mental disabilities.
 - c. Community resources and supportive services available to assist W-2 participants.
7. Within the first year of employment, a resource specialist shall complete 6 hours of training on domestic abuse awareness.

(4) COMPARABLE TRAINING. A W-2 agency may develop its own training to implement the DWD standardized curriculum under sub. (2) or (3), with approval by the department. A W-2 agency that chooses not to participate in the initial training for new W-2 workers offered by the department or its contractors shall submit a training implementation plan to the department for approval at least 45 days before the planned start date of training. Training plans shall be submitted to the department on an annual basis. The plan shall:

the [do all of the following]

(a) Specify the number of hours of classroom training, independent study, planned exercises, and activities.

(b) State how W-2 handbooks, manuals, and instructional materials will be used.

(c) Explain how training will address the interpersonal and case management skills needed to perform the W-2 function.

(d) Specify the number of hours of supervised practical experience, including the use of automated systems, W-2 program policy and procedure application, and case management techniques.

(e) Indicate the length of the training program.

(f) Describe how learning will be evaluated.

(g) Include the name, address, position title, and qualifications of each trainer.

Note: Send the proposed W-2 training implementation plan to: Training Section, DWD Division of Workforce Solutions, P.O. Box 7972, Madison, WI 53707-7972. A copy of the department's training schedule for new and experienced workers may be obtained by writing the above address.

SECTION 30. DWD 17.07 (1) is renumbered DWD 17.10 (1) and, as renumbered, is amended to read:

DWD 17.10 Reports and records. (1) ANNUAL REPORT OF ALL IM WORKER TRAINING. Each county ~~agency, or tribal agency, and W-2 agency~~ shall submit to the department by February 1 of each calendar year a report that documents training completed by all new and experienced IM workers during the previous calendar year.

~~17.10 (2)~~
SECTION 31. DWD 17.07 (2) and (3) are renumbered DWD 17.10 (3) and (4) respectively and, as renumbered, are amended to read:

DWD 17.10 (3) REPORT OF INITIAL IM OR W-2 WORKER TRAINING. Each county agency, tribal agency, and W-2 agency shall submit to the department by the first day of each month a list of IM workers who are required to complete initial IM or W-2 worker training.

DWD 17.10 (4) PERSONNEL FILE. Each county agency, tribal agency, and W-2 agency shall include in the personnel file of all new and experienced IM and W-2 workers information needed to document successful completion of training, including the title of the training program, dates of training, trainer's or sponsoring organization's

name, number of hours of training, and location of training. The county, tribal, or W-2 agency shall make the training records available to the department upon request.

SECTION 32. DWD 17.07 and (note) are created to read:

DWD 17.07 Ongoing training for FEPs. (1) The department shall develop an ongoing course or courses for experienced FEPs and shall make the course or courses available each year directly or through contractors. The department shall annually define required training courses and develop a standardized curriculum for each job function as needed. The curriculum shall include the following:

- (a) Policy and procedure in W-2 handbooks, manuals, and instructional materials.
- (b) Automated systems used in the W-2 program.
- (c) Interpersonal skills needed to perform W-2 functions.
- (d) Enhanced case management information and skills, including:

1. Employment and training information for W-2 participants, including job readiness assessment, training opportunities, job search activities, labor market information, and job retention skills.

2. Special needs of the W-2 participant or a family member that affect the W-2 participant's employability, including substance abuse, domestic abuse, and physical or mental disabilities.

3. Community resources and supportive services available to assist W-2 participants.

(2) An experienced FEP who has not completed the department's 12 hour training in domestic abuse awareness including case management strategies and the department's comprehensive screening tool by [effective date of rule] shall complete this training before [one year after effective date of rule].

(3) COMPARABLE TRAINING. A W-2 agency may develop its own training to implement the DWD standardized curriculum under sub. (1), with approval by the department. A W-2 agency that chooses not to participate in training offered by the department or its contractors shall submit a training implementation plan to the department for approval at least 45 days before the planned start date of training. Training plans shall be submitted to the department on an annual basis. The plan shall:

(a) Specify the number of hours of classroom training, independent study, planned exercises, and activities.

(b) Indicate the length of the training program.

(c) Describe how learning will be evaluated.

(d) Include the name, address, position title, and qualifications of each trainer.

Note: Send the proposed W-2 training implementation plan to: Training Section, DWD Division of Workforce Solutions, P.O. Box 7972, Madison, WI 53707-7972. A copy of the department's training schedule for new and experienced workers may be obtained by writing the above address.

SECTION 33. DWD 17.10 (2) is created to read:

DWD 17.10 (2) ANNUAL REPORT OF ALL W-2 WORKER TRAINING. Each W-2 agency shall submit to the department by the second Friday in January of each calendar year a report that documents training completed by all new and experienced W-2 workers during the previous calendar year.

Note: annual form 01 will sub.

SECTION 34. DWD 17.10 (note) is amended to read:

DWD 17.10 Note: Send the monthly list of IM or W-2 workers who are required to complete initial IM or W-2 worker training and the annual report on training to: Training Section, Division of ~~Economic Support~~ Workforce Solutions, P.O. Box ~~7935~~ 7972, Madison, WI 53707-~~7935~~ 7972.

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.

3-1-02

Scott McCallum
Governor

Jennifer Alexander
Secretary



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**State of Wisconsin
Department of Workforce Development**

August 29, 2002

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: 02-50

Rule number: DWD 12, 17, 23

Relating to: Wisconsin works

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,

A handwritten signature in black ink that reads "Jennifer Alexander". The signature is written in a cursive, flowing style.

Jennifer Alexander
Secretary

Scott McCallum
Governor

Jennifer Alexander
Secretary



State of Wisconsin

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Rule Analysis for Legislative Review

**Proposed rules relating to Wisconsin Works
DWD 12, 17, and 23
CR 02-50**

Need for rules

The proposed rules implement the requirement in 2001 Wisconsin Act 16 that W-2 agencies screen W-2 applicants and participants for domestic abuse and train W-2 agency employees in domestic abuse issues. The domestic abuse screening is being implemented as part of a comprehensive functional screening for various barriers to unsubsidized employment and self-sufficiency.

The rules on training income maintenance workers are amended to reflect the deletion of W-2 from the statutory definition of income maintenance program and new training requirements for W-2 resource specialists are created.

Public hearing response

A public hearing was held in Madison on May 13, 2002. A summary of the hearing comments and the department's responses is attached.

Response to Legislative Council staff recommendations

The department's response to comments not accepted is attached.

Final regulatory flexibility analysis

Privately-run W-2 agencies may be affected by the rule change. All W-2 agencies were notified of the proposed rule changes. No comments were received on the impact on small business and the rule is not expected to have a significant economic impact on a substantial number of small businesses. The screening may result in an increased number of referrals for assessments and increased need for special services, resulting in some increased cost to W-2 agencies. The extension of training requirements to resource specialists will require agencies to train more employees.

Department contacts

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State of Wisconsin
Department of Workforce Development

Chapters DWD 12, 17, 23

WISCONSIN WORKS

The Wisconsin Department of Workforce Development proposes an order to repeal ss. DWD 12.22(3), 17.02(4), 17.02(6), 17.02(7), 17.02(8), 17.02(9), 17.02(10), 17.02(11), 17.02(12), 17.02(13), 17.02(14), and 17.02(15); to renumber ss. DWD 17.02(5), 17.02(16), and 17.02(17); to renumber and amend ss. DWD 17.04(2); to amend ss. DWD 12.03(intro), 12.03(11), 12.03(19), 12.05(1), 12.09(2)(e)2., 12.09(2)(n), 12.09(3)(b)2.a., 12.15(1), 12.15(2), 12.16(4)(c), 17.01, 17.02(2)(note), 17.04(1)(intro), 17.04(1)(a), 17.04(1)(b), 17.04(1)(c), 17.04(note), 17.06, 17.06(note), 17.07, and 17.07(note); to repeal and recreate ss. 12.03(12), 12.03(13), 12.09(2)(c), 12.09(2)(e)1., chapter DWD 17(title), and 17.03; and to create ss. DWD 12.03(14m), 12.03(31h), 12.03(32m), 12.15(3), 12.16(3)(b)6., 12.16(4)(d)2.f., 17.02(5), 17.02(6), 17.02(7), 17.02(8), 17.02(9), 17.02(12), 17.02(13), 17.04(2), chapter DWD 23(title) and chapter DWD 23, relating to Wisconsin works.

Analysis Prepared by the Department of Workforce Development

Statutory authority: ss. 49.143 (2)(c), 49.145(1), 49.145(2)(c), 49.145(2)(f), 49.145(2)(n), 49.147(5)(b)2., 49.33, 103.005(17), and 227.11, Stats.; ss. 49.145(3), 49.147(4)(am), and 49.147(5)(bm), Stats., as amended by 2001 Wisconsin Act 16; and s. 49.1473, Stats., as created by 2001 Wisconsin Act 16

Statutes interpreted: ss. 49.143 (2)(c), 49.145(1), 49.145(2)(c), 49.145(2)(f), 49.145(2)(n), 49.147(5)(b)2., 49.33, and 103.005(17), Stats.; ss. 49.145(3), 49.147(4)(am), and 49.147(5)(bm), Stats., as amended by 2001 Wisconsin Act 16; and s. 49.1473, Stats., as created by 2001 Wisconsin Act 16

Domestic abuse screening and training. The proposed rule implements the requirement in 2001 Wisconsin Act 16 that W-2 agencies screen W-2 applicants and participants for domestic abuse and train W-2 agency employees in domestic abuse issues. The domestic abuse screening will be implemented as part of a comprehensive functional screening of each applicant and participant for barriers to unsubsidized employment and self-sufficiency.

For the purposes of the screening and training provision, "domestic abuse" includes acts that affect the individual and are engaged in by a spouse or former spouse, an adult with whom the individual has or had a dating relationship, an adult with whom the person has a child in common, an adult or minor family member, or an adult or minor with whom the person resides or formerly resided. The acts include physical acts that result in pain, injury, or illness; sexual abuse or sexual assault; threats of, or attempts at, physical

or sexual abuse; emotional or mental abuse; verbal abuse; deprivation or destruction of physical or economic resources; neglect or deprivation of medical care; forced isolation; and stalking or harassment. The W-2 agency will use the screening to assess the potential that the applicant or participant is or has been a victim of domestic abuse or is at risk of further domestic abuse. The screening will occur during the initial employability planning process for applicants and during the next review or change of employment placement for current participants. A W-2 agency may also administer a domestic abuse screening to a W-2 participant at any time that the participant requests it or if the agency worker has reason to believe that the participant may need domestic abuse services. A W-2 agency employee shall attend the department's 12-hour training on domestic abuse prior to administering a domestic abuse screening instrument to a W-2 applicant or participant.

If a W-2 agency identifies an individual as a past or present victim of domestic abuse or determines that the individual is at risk of domestic abuse or if the individual identifies himself or herself as a past or present victim of domestic abuse or as an individual who is at risk of further abuse, the W-2 agency shall provide the individual with information on community-based domestic abuse services. The information that a W-2 agency gives to an individual on community-based domestic abuse services shall be provided orally and in writing; current and updated as necessary; culturally appropriate for the individual participant; and provided in languages other than English as appropriate, in accordance with the W-2 contract requirements under s. 49.143 (2), Stats. The information shall include information on law enforcement for immediate protection, local providers of shelters or programs for battered individuals, sexual assault provider services, medical services and counseling, sexual assault nurse examiners services, domestic violence and sexual assault hotlines, legal counseling and advocacy, mental health care, counseling, and support groups. If the individual elects to receive counseling or supportive services, the W-2 agency shall provide appropriate community-based referrals. A W-2 participant may refuse to be screened for domestic abuse or may refuse information on or referrals to community-based domestic abuse services without sanction. Participation in the domestic abuse screening and information and referral process may not be a condition of eligibility for a W-2 participant.

W-2 transitions extensions. The proposed rule specifies the criteria for an extension of the 24-month time limit for W-2 transitions placements. Section 49.147(3)(c) and (4)(b), Stats., provide criteria for determining eligibility for an extension for trial job and community service job placements, but s. 49.147(5)(b)2., Stats., provides no criteria for determining eligibility for an extension for a W-2 transitions placement. The department proposes that the W-2 transitions time limit may be extended on a case-by-case basis by the department or by the Wisconsin works agency with the approval of the department if the participant has made all appropriate efforts to find unsubsidized employment by participating in all assigned activities and significant barriers prevent advancement to a higher W-2 employment position or unsubsidized employment.

Qualified alien. The definition of qualified alien for purposes of W-2 nonfinancial eligibility is amended to reflect changes in federal law. The federal statutory scheme provides that to be eligible for a program funded by a Temporary Assistance for Needy Families (TANF) grant an individual must be a U.S. citizen, a national of the United

States, or a qualified alien. Under federal law certain categories of aliens may be eligible for TANF, certain categories of aliens may not be eligible for TANF, and a state may choose to serve certain categories of aliens but may not use federal money. The department has chosen to use state maintenance of effort funds to serve as many categories of qualified aliens as are permitted under federal law. Relevant federal law may be found at 8 USC 1611, 8 USC 1612, 8 USC 1613, 8 USC 1641(b), 22 USC 7105, and 8 CFR 289.2.

Training rules. Chapter DWD 17 is amended to reflect the deletion of Wisconsin Works from the statutory definition of income maintenance program at s. 49.33, Stats., pursuant to 2001 Wisconsin Act 16. The proposed ch. DWD 17 specifies the training requirements for W-2 workers, and the proposed ch. DWD 23 specifies the training requirements for income maintenance workers.

Chapter DWD 17 is amended to create a training requirement for W-2 resource specialists who perform application entry, provide an initial assessment of a potential W-2 applicant's needs, make referrals to service providers, or evaluate an individual's need for W-2. Training for resource specialists will include 6 hours on domestic abuse awareness.

The definition of financial and employment planner (FEP) is clarified to state that for purposes of the training requirements a FEP means a case manager employed by a W-2 agency who determines eligibility, assists in the process of determining eligibility, or performs case management functions.

Miscellaneous statutory updates. Other amendments made to reflect statutory changes include:

- Addition of employer-sponsored training to the education or training activities allowed under W-2 community service job and W-2 transitions placements.
- Exclusion of student financial aid in determining W-2 financial eligibility.
- Amendment of section 49.145(2)(n), Stats., on extending the 60-month TANF time limit.
- Extension of child support cooperation requirements to noncustodial parents.
- Repeal of language referring to s. 49.21, 1997 Stats., regarding fair hearings.

References to Chapter DWD 11 in Chapter DWD 12, relating to the Aid to Families with Dependent Children program, have been deleted because that chapter has been repealed.

SECTION 1. DWD 12.03 (intro) is amended to read:

DWD 12.03 (intro) ~~In~~ Unless otherwise provided, in this chapter:

SECTION 2. DWD 12.03 (11) is amended to read:

DWD 12.03 (11) “Domestic abuse” has the meaning given in ~~s.~~ ss. 968.075(1) or 813.12(1)(a), Stats.

SECTION 3. DWD 12.03 (12) and (13) are repealed and recreated to read:

DWD 12.03 (12) “Employability plan” means a written agreement developed by a FEP in consultation with a participant that details a logical, sequential series of actions to move the participant from dependency to self-sufficiency. The “employability plan” includes the participant’s goal, precise tasks required of both the W-2 agency and the participant, and supportive services needed by the participant.

DWD 12.03 (13) “Financial and employment planner” or “FEP” means a case manager employed by a Wisconsin works agency who determines eligibility, assists in the process of determining eligibility, or performs case management functions.

SECTION 4. DWD 12.03 (14m) is created to read:

DWD 12.03 (14m) “Formal assessment” means the process of making a determination that a condition exists, establishing the extent and severity of a condition, and, if appropriate, what alternative services or accommodations in jobs or work assignments might permit the recipient to engage in work, either immediately or after some other intervention. A “formal assessment” shall be completed by a qualified assessing agency or business.

SECTION 5. DWD 12.03 (19) is amended to read:

DWD 12.03 (19) “JOBS” means the job opportunities and basic skills training program established under 42 USC 682 and s. 49.193, 1997 Stats., for the purpose of assisting AFDC recipients to develop marketable skills and obtain gainful employment.

SECTION 6. DWD 12.03 (31h) and (32m) are created to read:

DWD 12.03 (31h) "Screening" means a process of determining if an individual is at risk of a certain condition or barrier. A "screening" is intended to determine the likelihood that a person requires additional assessment to uncover a particular barrier. A "screening" does not result in a specific diagnosis.

DWD 12.03 (32m) "TANF" or "temporary assistance for needy families" means a federal block grant under 42 USC 601-619.

SECTION 7. DWD 12.05 (1) is amended to read:

DWD 12.05 (1) Comply with s. 49.141 to 49.161, Stats., applicable federal law, this chapter, and related program procedures.

SECTION 8. DWD 12.09 (2)(c) and (2)(e)1. are repealed and recreated to read:

DWD 12.09 (2)(c) The individual is a United States citizen, national of the United States, or qualified alien. An individual is a qualified alien if he or she is any of the following:

1. An alien lawfully admitted to the United States for permanent residence under the immigration and nationality act, 8 USC 1101 et seq.
2. An alien who is granted asylum under section 208 of the immigration and nationality act, 8 USC 1158.
3. A refugee who is admitted to the United States under section 207 of the immigration and nationality act, 8 USC 1157.
4. An alien who has been certified as a victim of trafficking under 22 USC 7105(b)(1)(E).
5. An alien who is paroled into the United States under section 212(d)(5) of the immigration and nationality act, 8 USC 1182(d)(5), for a period of at least one year.
6. An alien whose deportation is being withheld under section 243(h) of the immigration and nationality act, 8 USC 1253 as in effect March 31, 1997, or section 241(b)(3) of the act, 8 USC 1231(b)(3).
7. An alien who is granted status as a Cuban and Haitian entrant, as defined in section 501(e) of the refugee education assistance act of 1980, 8 USC 1522(note).

8. An American Indian born in Canada who is at least 50% American Indian by blood.

9. An American Indian born outside of the United States who is a member of a federally-recognized Indian tribe.

10. A alien who has been battered or whose child has been battered, who is no longer residing in the same household with the batterer, and who meets the requirements of 8 USC 1641(c).

11. An alien who is granted conditional entry pursuant to section 203(a)(7) of the immigration and nationality act, 8 USC 1153(a)(7), as in effect prior to April 1, 1980.

12. An alien who is admitted to the United States as an Amerasian immigrant, as described in section 584 of the foreign operations, export financing, and related programs appropriations act of 1988, 8 USC 1101(note).

13. An alien who is lawfully residing in the United States and is one of the following:

a. An armed forces veteran who received an honorable discharge that was not on account of alienage and who completed either 24 months of continuous active duty or the full period for which the individual was called, unless the individual received a hardship discharge under 10 USC 1173, early discharge under 10 USC 1171, or a discharge due to a disability incurred or aggravated in the line of duty.

b. On active duty in the armed forces of the United States, other than active duty for training.

c. The spouse of an individual described in subd. 13a. or b., or the unremarried surviving spouse of an individual described in subd. 13.a. or b. if the marriage was for one year or more or the individuals had a child in common.

14. An alien who is lawfully residing in the United States and authorized to work by the immigration and naturalization service.

DWD 12.09 (2)(e)1. Subject to subd. 2. and ch. DWD 15, every parent in the individual's Wisconsin works group fully cooperates in good faith with efforts directed at establishing paternity and 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 unless the W-2 agency determines that the parent has good cause for failing to cooperate pursuant to ch. DWD 15.

SECTION 9. DWD 12.09 (2)(e)2., 12.09 (2)(n), 12.09 (3)(b)2.a., 12.15(1)(title), and 12.15 (2) are amended to read:

DWD 12.09 (2)(e)2. An individual who is a member of a Wisconsin works group that fails 3 times without good cause to meet the requirements ~~under subd. 1, in ch. DWD 15~~ remains ineligible until ~~the individual cooperates~~ all the members of the Wisconsin works group cooperate or for a period of 6 months, whichever is later.

DWD 12.09 (2)(n) Beginning on the date on which the individual has attained the age of 18, the total number of months in which the individual, or any other adult member of the Wisconsin works group, has actively participated in the ~~job opportunities and basic skills program under s. 49.193, Stats.,~~ JOBS program, has participated in a Wisconsin works employment position, or has participated in any TANF-funded program in this state or any other state and has received TANF cash assistance while in that program 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 the JOBS program or s. ~~DWD-11.19 (2) or (2m)~~ 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, 1997 Stats., on or after October 1, 1996, counts toward the 60-month limit. 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:

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~~

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, any student financial aid received under any federal or state program, any scholarship used for tuition and books, 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.

DWD 12.15(1)(title) INITIAL ASSESSMENT.

DWD 12.15 (2) EMPLOYABILITY PLAN. The FEP shall, in consultation with the W-2 participant, develop a written employability plan for a W-2 participant which includes the participant's W-2 employment position placement, required activities under s. DWD 12.16, and an identified unsubsidized employment goal. As part of employability planning, the W-2 agency shall administer a functional screening developed by the department. One of the purposes of the screening shall be to determine whether a formal assessment is necessary. The development of the employability plan shall take into consideration any screening or formal assessment results. A W-2 participant may refuse to participate in the functional screening without sanction. Participation in the functional screening may not be a condition of eligibility for a W-2 participant. Nothing in this subsection may be construed to limit the ability of a W-2 agency to require a W-2 participant to comply with ss. DWD 12.08 and 12.09 or required activities under s. DWD 12.16.

SECTION 10. DWD 12.15 (3) and 12.16 (3)(b)6. are created to read:

DWD 12.15 (3) DOMESTIC ABUSE. (a) *Domestic abuse definition.* For purposes of this section, "domestic abuse" means any of the following acts that affect the individual and are engaged in by a spouse or former spouse, an adult with whom the individual has or had a dating relationship, an adult with whom the person has a child in common, an adult or minor family member, or an adult or minor with whom the person resides or formerly resided:

1. Physical acts that result in pain, illness, or injury.
2. Sexual abuse or sexual assault.
3. Threats of, or attempts at, physical or sexual abuse.
4. Emotional or mental abuse.
5. Verbal abuse.
6. Deprivation or destruction of physical or economic resources.
7. Neglect or deprivation of medical care.
8. Forced isolation.
9. Stalking or harassment.

(b) *Screening.* 1. As part of the initial employability planning process, the W-2 agency shall administer a screening to assess the potential that the individual is or has been a victim of domestic abuse or is at risk of further domestic abuse, unless the applicant has voluntarily disclosed the information pursuant to subd. 3.

2. If a W-2 participant was not screened during his or her initial employability planning process, a W-2 agency shall administer a screening to assess the potential that an individual is or has been a victim of domestic abuse or is at risk of further domestic abuse at the participant's next review or at the time of the participant's next change of employment placement, whichever is sooner.

3. A W-2 agency shall allow an individual to voluntarily and confidentially disclose that he or she is or has been a victim of domestic abuse or is at risk of further domestic abuse.

4. A W-2 agency may also administer a domestic abuse screening to a W-2 participant at any time that the participant requests it or if the agency worker has reason to believe that the participant may need domestic abuse services.

5. A W-2 agency employee shall attend the department's 12-hour training on domestic abuse pursuant to s. DWD 17.03 (2)(c) or DWD 17.04 (2) prior to administering a domestic abuse screening under subds. 1., 2., or 4.

(c) *Information and referral.* 1. If a W-2 agency identifies an individual as a past or present victim of domestic abuse or determines that the individual is at risk of domestic abuse or if the individual identifies himself or herself as a past or present victim of

domestic abuse or as an individual who is at risk of further abuse, the W-2 agency shall provide the individual with information on community-based domestic abuse services.

2. The evidence that is sufficient to establish that an individual is or has been a victim of domestic abuse or is at risk of further domestic abuse shall be a positive identification on the department-provided screening instrument or a voluntary disclosure of the information by the participant.

3. The information that a W-2 agency gives to an individual on community-based domestic abuse services shall be:

- a. Provided orally and in writing.
- b. Current and updated as necessary.
- c. Culturally appropriate for the individual participant.

d. Provided in languages other than English as appropriate in accordance with the W-2 contract requirements under s. 49.143 (2), Stats.

4. The information that a W-2 agency provides to an individual on community-based domestic abuse services shall include information on local providers of the following domestic abuse services:

- a. Law enforcement for immediate protection.
- b. Shelters or programs for battered individuals.
- c. Sexual assault provider services.
- d. Medical services and counseling.
- e. Sexual assault nurse examiners services.
- f. Domestic abuse and sexual assault hotlines.
- g. Legal counseling and advocacy.
- h. Mental health care.
- i. Counseling.
- j. Support groups.

5. If the individual elects to receive counseling or supportive services, the W-2 agency shall provide appropriate community-based referrals to the individual.

(d) *Voluntary participation.* A W-2 participant may refuse to be screened for domestic abuse or may refuse information on or referrals to community-based domestic abuse services without sanction. Participation in the domestic abuse screening and

information and referral process may not be a condition of eligibility for a W-2 participant.

DWD 12.16 (3)(b)6. Employer-sponsored training.

SECTION 11. DWD 12.16 (4)(c) is amended to read:

DWD 12.16 (4)(c) *Time-limited participation.* An individual may participate in a transitional placement for a maximum of 24 months. The months need not be consecutive. This period may be extended on a case-by-case basis by the department or by the Wisconsin works agency with the approval of the department if the participant has made all appropriate efforts to find unsubsidized employment by participating in all assigned activities and significant barriers prevent advancement to a higher W-2 employment position or unsubsidized employment.

SECTION 12. DWD 12.16(4)(d)2.f. is created to read:

DWD 12.16(4)(d)2.f. Employer-sponsored training.

SECTION 13. DWD 12.22 (3) is repealed.

SECTION 14. Chapter DWD 17 (title) is repealed and recreated to read:

W-2 WORKER TRAINING

SECTION 15. DWD 17.01 is amended to read:

DWD 17.01 Introduction. (1) AUTHORITY AND PURPOSE. This chapter is promulgated under authority set forth in ss. ~~49.33(3) and 49.143 (2) (c)~~, and 103.005 (17), Stats., to ensure that each ~~income maintenance worker~~ financial and employment planner and resource specialist employed by a ~~county agency, tribal agency, or~~ W-2 agency has successfully completed a training program to achieve acceptable ~~IM~~ W-2 worker job performance. Successful completion of prescribed training is required for all new ~~IM~~ W-2 workers. The department shall make ongoing training available for experienced ~~IM~~ W-2 workers.

(2) APPLICABILITY. This chapter applies to ~~county income maintenance agencies, tribal income maintenance agencies, W-2 agencies, and the income maintenance workers~~ financial and employment planners and resource specialists employed by those agencies.

SECTION 16. DWD 17.02 (2)(note) is amended to read:

DWD 17.02 (2) Note: CARES is the automated system used by DWD to determine eligibility, calculate benefits, and retain data for ~~income maintenance programs~~ W-2.

SECTION 17. DWD 17.02 (4) is repealed.

SECTION 18. DWD 17.02 (5) is renumbered DWD 17.02 (4).

SECTION 19. DWD 17.02 (6), (7), (8), (9), (10), (11), (12), (13), (14), and (15) are repealed.

SECTION 20. DWD 17.02 (5), (6), (7), (8), and (9) are created to read:

DWD 17.02 (5) “Experienced FEP” means a FEP who has completed initial FEP training.

DWD 17.02 (6) “Experienced resource specialist” means a resource specialist employed by a W-2 agency before “the effective date of this section [revisor inserts date]” or a resource specialist who has completed initial resource specialist training.

DWD 17.02 (7) “Financial and employment planner” or “FEP” means a case manager employed by a Wisconsin works agency who determines eligibility, assists in the process of determining eligibility, or performs case management functions.

DWD 17.02 (8) “New resource specialist” means a person who is employed by a W-2 agency as a resource specialist on or after “the effective date of this section [revisor inserts date]”, including a permanent employee who transfers into a resource specialist position and who has not completed initial resource specialist training.

DWD 17.02 (9) “Resource specialist” means a worker employed by a Wisconsin works agency who performs application entry, provides an initial assessment of a potential W-2 applicant’s needs, makes referrals to service providers, or evaluates an individual’s need for W-2. “Resource specialist” may also include a worker employed by an agency contracted with the department to provide access services.

SECTION 21. DWD 17.02 (16) and (17) are renumbered DWD 17.02 (10) and (11), respectively.

SECTION 22. DWD 17.02 (12) and (13) are created to read:

DWD 17.02 (12) “W-2 handbooks, manuals, and instructional materials” means department-issued handbooks, manuals, and memos that are addressed to W-2 agencies and set forth eligibility and benefit criteria and case maintenance and case processing information for Wisconsin works.

DWD 17.02 (13) “W-2 worker” means a resource specialist and a financial and employment planner.

SECTION 23. DWD 17.03 is repealed and recreated to read:

DWD 17.03 Initial W-2 worker training. (1) FEPS AND RESOURCE SPECIALISTS. The department shall make initial W-2 worker training available to new FEPs and resource specialists directly or through contractors. The W-2 agency shall ensure that each FEP and resource specialist completes the department’s initial training during the first 6 months of employment.

(2) FINANCIAL AND EMPLOYMENT PLANNERS. (a) The department shall develop a standardized curriculum for training new FEPs. The approved curriculum shall include courses, independent study, and closely supervised practical experience and shall ensure that learning objectives support an acceptable standard of competency at completion. The curriculum may vary depending on job function and may include the following:

1. Program philosophy.
2. Policy and procedure in W-2 handbooks, manuals, and instructional materials.
3. Eligibility determination.
4. Automated systems used the W-2 program.
5. Interpersonal skills needed to perform W-2 functions.
6. Case management information and skills, including:
 - a. Employment and training information for W-2 participants, including job readiness assessment, training opportunities, job search activities, labor market information, and job retention skills.

b. Special needs of the W-2 participant or a family member that affect the W-2 participant's employability, including substance abuse, domestic abuse, and physical or mental disabilities.

c. Community resources and supportive services available to assist W-2 participants.

(b) No FEP may make independent decisions related to eligibility or perform case management functions until the initial W-2 training is successfully completed. To successfully complete the initial W-2 training, a FEP shall attend all class hours and shall participate in all instructional activities. The W-2 agency shall develop evaluation strategies to ensure that the new FEP achieves a minimum standard of competence.

(c) Within the first year of employment, a FEP shall complete 12 hours of training in domestic abuse awareness, including case management strategies and the department's comprehensive screening tool.

(3) RESOURCE SPECIALIST. (a) The department shall develop a standardized curriculum for training new resource specialists. The approved curriculum shall include courses, independent study, and closely supervised practical experience and shall ensure that learning objectives support an acceptable standard of competency at completion. The curriculum may vary depending on job function and may include the following:

1. Program philosophy.

2. Policy and procedure in W-2 handbooks, manuals, and instructional materials.

3. Eligibility determination.

4. Automated systems used the W-2 program.

5. Interpersonal skills needed to perform W-2 functions.

6. Case management information and skills, including:

a. Employment and training information for W-2 participants, including job readiness assessment, training opportunities, job search activities, labor market information, and job retention skills.

b. Special needs of the W-2 participant or a family member that affect the W-2 participant's employability, including substance abuse, domestic abuse, and physical or mental disabilities.

c. Community resources and supportive services available to assist W-2 participants.

(b) No new resource specialist may make independent decisions related to providing an initial assessment of a potential W-2 applicant's needs, making referrals to service providers, or evaluating an individual's need for W-2 until the initial W-2 training is successfully completed. To successfully complete the initial W-2 training, a new resource specialist shall attend all class hours and shall participate in all instructional activities. The W-2 agency shall develop evaluation strategies to ensure that the new resource specialist achieves a minimum standard of competence.

(c) Within the first year of employment, a resource specialist shall complete 6 hours of training on domestic abuse awareness.

(4) **COMPARABLE TRAINING.** A W-2 agency may develop its own training to implement the standardized curriculum under sub. (2) or (3), with approval by the department. A W-2 agency that chooses not to participate in the initial training for new W-2 workers offered by the department or its contractors shall submit a training implementation plan to the department for approval at least 45 days before the planned start date of the training. Training plans shall be submitted to the department on an annual basis. The plan shall do all of the following:

(a) Specify the number of hours of classroom training, independent study, planned exercises, and activities.

(b) State how W-2 handbooks, manuals, and instructional materials will be used.

(c) Explain how training will address the interpersonal and case management skills needed to perform the W-2 function.

(d) Specify the number of hours of supervised practical experience, including the use of automated systems, W-2 program policy and procedure application, and case management techniques.

(e) Indicate the length of the training program.

(f) Describe how learning will be evaluated.

(g) Include the name, address, position title, and qualifications of each trainer.

Note: Send the proposed W-2 training implementation plan to: Training Section, DWD Division of Workforce Solutions, P.O. Box 7972, Madison, WI 53707-7972. A copy of the department's training schedule for new and experienced workers may be obtained by writing the above address.

SECTION 24. DWD 17.04 (1)(intro), (1)(a), (1)(b), and (1)(c) are amended to read:

DWD 17.04 Ongoing training for experienced ~~IM~~ W-2 workers. (1) STANDARD CURRICULUM. The department shall develop an ongoing course or courses for experienced ~~IM workers~~ resource specialists and FEPs and shall make the course or courses available each year directly or through contractors. The department shall annually define required training courses and develop a standardized curriculum for each job function as needed. The curriculum shall include the following:

- (a) Policy and procedure in ~~IM~~ W-2 handbooks, manuals, and instructional materials.
- (b) Automated systems used in the ~~IM~~ W-2 program.
- (c) Interpersonal skills needed to perform ~~IM~~ W-2 functions.

SECTION 25. DWD 17.04 (2) is renumbered DWD 17.04 (3) and, as renumbered, is amended to read:

DWD 17.04 (3) COMPARABLE TRAINING. A ~~county agency, tribal agency, or W-2 agency~~ may develop its own training to implement the ~~DWD~~ standardized curriculum under sub. (1), with approval by the department. A ~~county agency, tribal agency, or W-2 agency~~ that chooses not to participate in training offered by the department or its contractors shall submit a training implementation plan to the department for approval at least 45 days before the planned start date of the training. Training plans shall be submitted to the department on an annual basis. The plan shall include all of the following:

SECTION 26. DWD 17.04 (2) is created to read:

DWD 17.04 (2) DOMESTIC ABUSE TRAINING. An experienced FEP who has not completed the department's 12 hour training in domestic abuse awareness including case management strategies and the department's comprehensive screening tool by "the effective date of this section [revisor inserts date]" shall complete this training before "one year after effective date of this section [revisor inserts date]".

SECTION 27. DWD 17.04 (note) is amended to read:

Note: Send the proposed ~~IM~~ W-2 training implementation plan to: Training Section, DWD Division of ~~Economic Support~~ Workforce Solutions, P.O. Box ~~7935-7972~~, Madison, WI 53707-~~7935-7972~~.

A copy of the department's training schedule for new and experienced workers may be obtained by writing the above address.

SECTION 28. DWD 17.06 and DWD 17.06(note) are amended to read:

DWD 17.06 Local responsibility for implementing updates. ~~Each county agency, tribal agency, and W-2 agency~~ shall ensure that all IM W-2 workers are trained in a timely manner on all IM W-2 policy and procedure and automated system updates that are issued by the department.

Note: These updates include Handbook and Manual releases, ~~DES~~ DWS Administrator's Memos, and Operations Memos.

SECTION 29. DWD 17.07 and 17.07 (note) are amended to read:

DWD 17.07 Reports and records. (1) ANNUAL REPORT OF ALL IM W-2 WORKER TRAINING. Each ~~county agency, tribal agency, and W-2 agency~~ shall submit to the department by ~~February 1~~ the second Friday in January of each calendar year a report that documents training completed by all new and experienced ~~IM workers~~ FEPs and resource specialists during the previous calendar year.

(2) REPORT OF INITIAL IM W-2 WORKER TRAINING. Each ~~county agency, tribal agency, and W-2 agency~~ shall submit to the department by the first day of each month a list of ~~IM workers~~ FEPs and resource specialists who are required to complete initial IM W-2 worker training.

(3) PERSONNEL FILE. Each ~~county agency, tribal agency, and W-2 agency~~ shall include in the personnel file of all new and experienced IM W-2 workers information needed to document successful completion of training, including the title of the training program, dates of training, trainer's or sponsoring organization's name, number of hours of training, and location of training. The ~~county, tribal, or W-2~~ agency shall make the training records available to the department upon request.

Note: Send the monthly list of IM W-2 workers who are required to complete initial IM W-2 worker training and the annual report on training to: Training Section, Division of ~~Economic Support~~ Workforce Solutions, P.O. Box ~~7935~~ 7972, Madison, WI 53707-~~7935~~ 7972.

SECTION 30. Chapter DWD 23 (title) is created to read:

**Chapter DWD 23
IM WORKER TRAINING**

SECTION 31. Chapter DWD 23 is created to read:

DWD 23.01 Introduction. (1) **AUTHORITY AND PURPOSE.** This chapter is promulgated under authority set forth in ss. 49.33 (3), Stats., to ensure that each income maintenance worker employed by a county or tribal agency has successfully completed a training program to achieve acceptable IM worker job performance. Successful completion of prescribed training is required for all new IM workers. The department shall make ongoing training available for experienced IM workers.

(2) **APPLICABILITY.** This chapter applies to county and tribal income maintenance agencies and the income maintenance workers employed by those agencies.

DWD 23.02 Definitions. In this chapter:

(1) “Automated system” means a computer-supported process used by the department and the department of health and family services, including CARES.

(2) “CARES” means the department’s and the department of health and family services’ automated client assistance for re-employment and economic support.

Note: CARES is the automated system used by DWD and DHFS to determine eligibility, calculate benefits, and retain data for income maintenance programs and W-2.

(3) “Case management” means the family-centered and goal-oriented process for assessing the needs of an IM group member and his or her family for employment, training, and supportive services and assisting the IM group member in obtaining services to achieve self-sufficiency.

(4) “County agency” means the agency established under s. 46.215, 46.22, or 46.23, Stats.

(5) “Department” means the Wisconsin department of workforce development.

(6) “Eligibility determination” means the act or process by which the situation of a person or a group is compared to a set of standards to determine whether the person or group meets the criteria for receiving a specific type of income maintenance.

(7) "Experienced IM worker" means an IM worker employed by a county, tribal or W-2 agency before December 1, 1999, or an IM worker who has completed initial income maintenance training.

(8) "IM handbooks, manuals, and instructional materials" means income maintenance handbooks, manuals, and memos that are issued by the department of health and family services and addressed to county and tribal agencies and set forth eligibility and benefit criteria and case maintenance and case processing information.

(9) "Income maintenance" or "IM" has the same meaning as "income maintenance program" in s. 49.33 (1)(b), Stats.

Note: Section 49.33(1)(b) provides that "'income maintenance program' means the medical assistance program under subch. IV of ch. 49, the badger care health care program under s. 49.665, or the food stamp program under 7 USC 2011 to 2036."

(10) "Income maintenance worker" or "IM worker" means a person employed by a county, a governing body of a federally recognized American Indian whose duties include determinations or redeterminations of income maintenance program eligibility.

(11) "New IM worker" means a person who is employed by a county or tribal agency as an IM worker on or after December 1, 1999, including a permanent employee who transfers into an IM worker position and who has not completed initial income maintenance training.

(12) "Tribal agency" means an agency designated by the elected tribal governing body of a federally-recognized Wisconsin Indian tribe or band and contracted by the department or the department of health and family services to administer an income maintenance program.

DWD 23.03 Initial income maintenance training. (1) The department shall make initial IM worker training available to new IM workers directly or through contractors. The county or tribal shall ensure that each new IM worker completes the department's initial training during the first 6 months of employment.

(2) The new IM worker may not make independent decisions related to eligibility for income maintenance programs or perform case management functions until the initial income maintenance training is successfully completed. Successful completion requires attendance for all class hours and involvement and participation in all instructional

activities. The county or tribal agency shall develop evaluation strategies to ensure that the new IM worker achieves a minimum standard of competence.

(3) The department shall develop a standardized curriculum for training new IM workers. The approved curriculum shall include courses, independent study, and closely supervised practical experience that total at least 100 hours and shall ensure that learning objectives support an acceptable standard of competency at completion. The curriculum may vary depending on job function and may include program philosophy, policy and procedure, eligibility determination, case management, interpersonal skills, and automated systems.

(4) A county or tribal agency may develop its own training to implement the DWD standardized curriculum under sub. (3), with approval by the department. A county or tribal agency that chooses not to participate in the initial training for new IM workers offered by the department or its contractors shall submit a training implementation plan to the department for approval at least 45 days before the planned start date of training. Training plans shall be submitted to the department on an annual basis. The plan shall:

(a) Specify the number of hours of classroom training, independent study, planned exercises, and activities.

(b) State how IM handbooks, manuals, and instructional materials will be used.

(c) Explain how training will address the interpersonal and case management skills needed to perform the IM function.

(d) Specify the number of hours of supervised practical experience, including the use of automated systems, IM program policy and procedure application, and case management techniques.

(e) Indicate the length of the training program.

(f) Describe how learning will be evaluated.

(g) Include the name, address, position title, and qualifications of each trainer.

Note: Send the proposed IM training implementation plan to: Training Section, DWD Division of Workforce, P.O. Box 7972, Madison, WI 53707-7972. A copy of the department's training schedule for new and experienced workers may be obtained by writing the above address.

DWD 23.04 Ongoing training for experienced IM workers. (1) The department shall develop an ongoing course or courses for experienced IM workers and shall make the course or courses available each year directly or through contractors. The department

shall annually define required training courses and develop a standardized curriculum for each job function as needed. The curriculum shall include the following:

- (a) Policy and procedure in IM handbooks, manuals, and instructional materials.
- (b) Automated systems used in IM programs.
- (c) Interpersonal skills needed to perform IM functions.
- (d) Enhanced case management information and skills, including:

1. Programmatic techniques that provide intermediate or advanced training in skills that ensure accuracy in program delivery.

2. Special needs of the IM recipient or a family member, including substance abuse, domestic abuse, and physical or mental disabilities.

3. Community resources and supportive services available to assist IM participants.

(2) A county or tribal agency may develop its own training to implement the DWD standardized curriculum under sub. (1), with approval by the department. A county or tribal agency that chooses not to participate in training offered by the department or its contractors shall submit a training implementation plan to the department for approval at least 45 days before the planned start date of training. Training plans shall be submitted to the department on an annual basis. The plan shall:

(a) Specify the number of hours of classroom training, independent study, planned exercises, and activities.

(b) Indicate the length of the training program.

(c) Describe how learning will be evaluated.

(d) Include the name, address, position title, and qualifications of each trainer.

Note: Send the proposed IM training implementation plan to: Training Section, DWD Division of Workforce Solutions, P.O. Box 7972, Madison, WI 53707-7972. A copy of the department's training schedule for new and experienced workers may be obtained by writing the above address.

DWD 23.05 Trainer qualifications. The department shall ensure that the person doing the training has:

(1) Knowledge of the programs and procedures in which the person will conduct training as evidenced by prior experience or education.

(2) Experience or education in training techniques or adult education.

DWD 23.06 Local responsibility for implementing updates. Each county or tribal agency shall ensure that new and experienced IM workers are trained in a timely manner on all IM policy and procedure and automated system updates that are issued by the department or the department of health and family services.

Note: These updates include Handbook and Manual releases, Administrator's Memos, and Operations Memos.

DWD 23.07 Reports and records. (1) ANNUAL REPORT OF ALL IM WORKER TRAINING. Each county or tribal agency shall submit to the department by February 1 of each calendar year a report that documents training completed by all new and experienced IM workers during the previous calendar year.

(2) REPORT OF INITIAL IM WORKER TRAINING. Each or tribal agency shall submit to the department by the first day of each month a list of IM workers who are required to complete initial IM worker training.

(3) PERSONNEL FILE. Each county or tribal agency shall include in the personnel file of all new and experienced IM workers information needed to document successful completion of training, including the title of the training program, dates of training, trainer's or sponsoring organization's name, number of hours of training, and location of training. The county or tribal agency shall make the training records available to the department upon request.

Note: Send the monthly list of IM workers who are required to complete initial IM worker training and the annual report on training to: Training Section, Division of Workforce Solutions, P.O. Box 7972, Madison, WI 53707-7972.

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.

Summary of Public Hearing
Proposed rules relating to Wisconsin Works
Chapters DWD 12, 17, and 23
CR 02-50

A public hearing was held in Madison on May 13, 2002. The record remained open until May 15 for receipt of written comments.

Comments were received from:

1. Patti Seger, Policy Development Coordinator
Wisconsin Coalition Against Domestic Violence (WCADV)
Madison
2. Kitty Kocol, Executive Director
Wisconsin Department of Justice, Office of Crime Victim Services (DOJ/CVS)
Madison
3. Mary Lauby, Executive Director
Wisconsin Coalition Against Domestic Violence (WCADV-supp.)
Madison
Mary Lauby's comments were submitted in response to a department request for the opinion of WCADV on hearing comments submitted by Kitty Kocol of the Wisconsin Department of Justice, Office of Crime Victim Services.
4. Lisa Macaulay, Policy Specialist
Wisconsin Coalition Against Sexual Assault (WCASA)
Madison
5. Carol Medaris, Project Attorney
Wisconsin Council on Children and Families (WCCF)
Madison
6. Pat DeLessio, Attorney at Law
Legal Action of Wisconsin, Inc. (LAW)
Milwaukee

The following individuals observed the hearing for information only:

1. Amy Krymkowski, The Milwaukee Women's Center, Milwaukee
2. Eva Shiffrin, Wisconsin Coalition Against Sexual Assault, Madison

Copies of the written comments are attached.