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(FORM UPDATED: 08/11/2010)

WISCONSIN STATE LEGISLATURE ... PUBLIC HEARING - COMMITTEE RECORDS

2009-10

(session year)

Joint

(Assembly, Senate or Joint)

Committee for Review of Administrative Rules ...

COMMITTEE NOTICES ...

- Committee Reports ... **CR**
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- Public Hearings ... **PH**

INFORMATION COLLECTED BY COMMITTEE FOR AND AGAINST PROPOSAL

- Appointments ... **Appt** (w/Record of Comm. Proceedings)
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- Hearing Records ... bills and resolutions (w/Record of Comm. Proceedings)
(**ab** = Assembly Bill) (**ar** = Assembly Resolution) (**ajr** = Assembly Joint Resolution)
(**sb** = Senate Bill) (**sr** = Senate Resolution) (**sjr** = Senate Joint Resolution)
- Miscellaneous ... **Misc**

* Contents organized for archiving by: Stefanie Rose (LRB) (June 2012)

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Department of Children and Families

Rule Report for Legislative Review

Transitional Jobs for Low-Income Adults

Chapter DCF 110 CR 10-078

Basis and Purpose of the Proposed Rules

The rules implement a transitional jobs demonstration project under s. 49.162, Stats., as created by 2009 Wisconsin Act 28 and affected by 2009 Wisconsin Act 333.

Public Hearing Summary

A public hearing was held in Madison on August 5, 2010. No comments were received.

Response to Legislative Council Staff Recommendations

All comments were accepted.

Changes to Analysis Prepared under Section 227.14 (2), Stats.

- The eligibility criteria “not eligible to receive a Wisconsin Works grant under s. 49.148, Stats.” was changed to “not eligible to receive Wisconsin Works under ss. 49.141 to 49.161, Stats.”
- Time spent in orientation was removed from the determination of the maximum number of hours that an individual may participate in the transitional jobs demonstration project.

Final Regulatory Flexibility Analysis

The proposed rule affects small businesses but does not have a significant economic impact on a substantial number of small businesses as defined in s. 227.114 (1), Stats. There is a potential for small businesses to receive a wage subsidy for jobs created under the transitional jobs program.

Department Contacts

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**State of Wisconsin
Department of Children and Families**

Transitional Jobs for Low-Income Adults

DCF 110

The Wisconsin Department of Children and Families proposes to order the creation of chapter DCF 110, relating to transitional jobs for low-income adults.

Analysis Prepared by the Department of Children and Families

Statutory authority: Sections 49.162 (3) (c) and 227.11 (2) (a), Stats.

Statutes interpreted: Section 49.162, Stats., as created by 2009 Wisconsin Act 28 and affected by 2009 Wisconsin Act 333

Explanation of Agency Authority

Section 49.162, Stats., as created by 2009 Wisconsin Act 28, provides that the department shall conduct a demonstration project that offers transitional jobs to low-income adults. The department shall seek federal funds to pay for the cost of operating the demonstration project and may conduct the project only to the extent that the department obtains federal funds. Section 49.162 (3) (c), Stats., provides that the department shall promulgate rules for the operation of the demonstration project.

2009 Wisconsin Act 333 amends s. 49.162, Stats., if the department determines that expanding the transitional jobs program as provided in Act 333 is the preferred mechanism for obtaining some or all of the federal funding under the Temporary Assistance to Needy Families (TANF) Emergency Contingency Fund of the American Recovery and Reinvestment Act of 2009 (ARRA). The department must publish a notice in the *Wisconsin Administrative Register* that states the date on which the department made that determination. The changes to s. 49.162, Stats., in Act 333 are effective on the date that the department made the determination. The changes in Act 333 are effective July 1, 2010. Act 333 provides that the department shall publish a second notice in the *Wisconsin Administrative Register* when federal funding under the TANF Emergency Contingency Fund is no longer available.

Summary of the Rules

The proposed rules will allow the department to conduct a demonstration project that provides subsidized, wage-paying transitional jobs and supportive services to low-income adults. The purpose of the transitional jobs demonstration project is to provide low-

income adults with immediate income and the opportunity for the development of basic skills, appropriate work habits, a positive work history, and longer-term career preparation with the goal that they will be more likely to obtain and maintain unsubsidized employment.

An individual may be eligible to participate in the transitional jobs demonstration project only if all of the following criteria are met:

- The individual is at least 21 but not more than 64 years of age.
- The individual is not eligible to receive Wisconsin Works under s. 49.141 to 49.161, Stats.
- The individual has been unemployed for at least the 4 prior calendar weeks.
- The individual is not eligible to receive unemployment insurance benefits.
- The individual's annual household income is below 150 percent of the federal poverty line.
- If the employment of an individual as a transitional worker is expected to be subsidized by the Temporary Assistance for Needy Families program, the individual shall be one or more of the following at the time of eligibility determination:
 - Less than 25 years of age.
 - A biological parent, adoptive parent, or primary relative caregiver of a child under the age of 18.

An individual may participate in the transitional jobs demonstration project for a maximum of 1,040 hours of subsidized work and training.

A contractor shall conduct periodic orientations for individuals that the contractor has determined are eligible to participate in the transitional jobs demonstration project. During the orientation, the contractor shall encourage and assist eligible individuals to recognize their strengths, assets, aspirations, resilience, and potential to achieve economic stability; identify and address barriers to employment; and develop an individualized plan for obtaining unsubsidized employment.

A contractor is the employer of a transitional worker and shall pay the transitional worker's wages; the employer's share of federal Social Security and Medicare taxes; unemployment insurance contributions or taxes, if any; and worker's compensation insurance premiums, if any. A contractor may subcontract these responsibilities with prior approval by the department. Wages shall be paid at not less than the minimum wage for hours working at a work site and at the minimum wage for hours participating in orientation and training.

A transitional worker may be part of a work crew that goes to different work sites under the supervision of a contractor or may be individually placed with a host. If a transitional worker is placed with a host, the host shall assign a supervisor to oversee the transitional worker's daily responsibilities; assist the transitional worker with the proper completion of time sheets; and communicate with the contractor regarding issues arising in the workplace and the progress of the transitional worker in developing basic skills, appropriate work habits, a positive work history, and longer-term career preparation.

The contractor and host of a transitional worker shall ensure that the employment of a transitional worker does not have the effect of filling a vacancy created by an employer terminating a regular employee or otherwise reducing its work force for the purpose of hiring a transitional worker, filling a position when any other person is on layoff or strike from the same or a substantially equivalent job within the same organizational unit, or filling a position when any other person is engaged in a labor dispute regarding the same or a substantially equivalent job within the same organizational unit.

A contractor may provide education and training to a transitional worker directly or by subcontract with local training providers if the transitional worker is working at least 20 hours per week in a transitional job and the combined hours of the transitional job and participation in education and training do not exceed 40 hours per week. The education and training provided shall be consistent with the transitional worker's plan for obtaining unsubsidized employment and complementary to the transitional worker's transitional job.

A contractor may provide to a current or former transitional worker economic and non-economic incentives and supports, including training stipends, uniform allowances, assistance in obtaining a driver's license, parenting support groups, earnings supplements, and retention bonuses. An economic incentive or support shall assist a current or former transitional worker obtain or maintain unsubsidized employment.

A contractor shall provide a transitional worker with activities and resources that assist the transitional worker's search for unsubsidized employment. A contractor shall monitor a former transitional worker during his or her first 6 months of unsubsidized employment to assist with job retention and advancement, unless the contractor's contract to operate a transitional jobs program has ended.

The department shall reimburse a contractor for wages paid to transitional workers at the minimum wage rate for each hour actually worked; the employer's share of federal Social Security and Medicare taxes; unemployment contributions or taxes, if any; and worker's compensation insurance premiums, if any. The department may reimburse a contractor for expenditures incurred by the contractor related to operating a transitional jobs program, including the costs of orientation, supervision, training, and providing job supports to current and former transitional workers.

Summary of Related Federal Requirements

The American Recovery and Reinvestment Act of 2009 created the TANF Emergency Contingency Fund under which states can receive 80% federal funding for spending increases in federal fiscal years 2009 and 2010 over federal fiscal years 2007 or 2008 in certain categories of TANF-related expenditures. The three categories are basic assistance, non-recurrent short-term benefits, and subsidized employment.

TANF is a federal block grant that provides states with funds that can be used for a wide range of activities that are aimed at any of the four purposes of TANF:

- Assisting needy families so that children can be cared for in their own homes.
- Reducing the dependency of needy parents by promoting job preparation, work, and marriage.
- Preventing out-of-wedlock pregnancies.
- Encouraging the formation and maintenance of two-parent families.

Guidance issued by the Administration for Children and Families (ACF) on the TANF Emergency Contingency Fund states that under limited circumstances an adult without a dependent child can receive a TANF service, as long as it is reasonably calculated to accomplish a purpose of the TANF program and does not constitute "assistance" as defined in the TANF regulations. ACF has indicated that services to noncustodial parents and older youth could satisfy one or more of the statutory purposes of the TANF program. Examples of services that could be provided include subsidized employment, job skills training, employment counseling, and employment placement services. (<http://www.acf.hhs.gov/programs/ofa/recovery/tanf-faq.htm>)

Summary of Factual Data and Analytical Methodologies

The deadline for earning federal funds under the TANF Emergency Contingency Fund is September 30. Funds that have been earned may be spent after September 30.

Comparison to Adjacent States

As of June 3, thirty states had been awarded a share of the TANF Emergency Contingency Fund for increased expenses on subsidized employment, including Michigan, Minnesota, Iowa, and Illinois.

Effect on Small Businesses

The proposed rules will affect small businesses as defined in s. 227.114 (1), Stats., but will not have a significant economic impact on a substantial number of businesses.

Analysis Used to Determine Effect on Small Businesses

There is a potential for small businesses to receive a wage subsidy for jobs created with ARRA funding.

Agency Contact Person

Peter Madaus, Division of Family and Economic Security, (608) 261-6964, peter.madaus@wisconsin.gov.

Place Where Comments are to be Submitted and Deadline for Submission

Comments may be submitted to Elaine Pridgen, Office of Legal Counsel, Department of Children and Families, 201 E. Washington Avenue, P.O. Box 8916, Madison, WI, 53708-8916 or dcfpublichearing@wisconsin.gov. The comment deadline is August 6, 2010.

SECTION 1. Chapter DCF 110 is created to read:

Chapter DCF 110

TRANSITIONAL JOBS FOR LOW-INCOME ADULTS

DCF 110.01 Authority and purpose. This chapter is promulgated under the authority of s. 49.162, Stats., to allow the department to conduct a demonstration project that provides subsidized, wage-paying transitional jobs and supportive services to low-income adults. The purpose of the transitional jobs demonstration project is to provide low-income adults with immediate income and the opportunity for the development of basic skills, appropriate work habits, a positive work history, and longer-term career preparation with the goal that they will be more likely to obtain and maintain unsubsidized employment.

DCF 110.02 Definitions. In this chapter:

(1) “Contractor” means an entity that has been awarded a contract for the operation of a transitional jobs program.

(2) “Department” means the Wisconsin department of children and families.

(3) “Host” means an entity providing a transitional job work site and day-to-day supervision of a transitional worker.

(4) “Minimum wage” means the higher of the federal minimum hourly wage under 29 USC 206 (a) (1) or the state minimum wage under s. DWD 272.03.

(5) “Poverty line” means the poverty guidelines updated periodically in the Federal Register by the federal department of health and human services under the authority of 42 USC 9902(2).

(6) "Relative" means a parent, stepparent, brother, sister, stepbrother, stepsister, half brother, half sister, brother-in-law, sister-in-law, first cousin, 2nd cousin, nephew, niece, uncle, aunt, stepuncle, stepaunt, or any person of a preceding generation as denoted by the prefix of grand, great, or great-great, whether by blood, marriage, or legal adoption, or the spouse of any person named in this subsection, even if the marriage is terminated by death or divorce.

(7) "Transitional job" means a subsidized wage-paying employment position under s. 49.162, Stats., that is focused on the development of appropriate work habits, basic skills, and a performance record to increase the likelihood of obtaining and maintaining unsubsidized employment.

(8) "Transitional worker" means an individual who is employed in a transitional job.

DCF 110.03 Eligibility. (1) An individual may be eligible to participate in the transitional jobs demonstration project only if all of the following criteria are met:

- (a) The individual is at least 21 but not more than 64 years of age.
- (b) The individual is not eligible to receive Wisconsin Works under s. 49.141 to 49.161, Stats.
- (c) The individual has been unemployed for at least the 4 prior calendar weeks.
- (d) The individual is not eligible to receive unemployment insurance benefits under ch. 108, Stats.
- (e) The individual's annual household income is below 150 percent of the federal poverty line.
- (f) If the employment of an individual as a transitional worker is expected to be subsidized by the Temporary Assistance for Needy Families program under 42 USC 601

to 619, the individual shall be one or more of the following at the time of eligibility determination:

1. Less than 25 years of age.
2. A biological parent, adoptive parent, or primary relative caregiver of a child under the age of 18.

(2) An individual may participate in the transitional jobs demonstration project for a maximum of 1,040 hours of subsidized work under s. DCF 110.05 and training under s. DCF 110.06.

DCF 110.04 Orientation. (1) A contractor shall conduct periodic orientations for individuals that the contractor has determined are eligible to participate in the transitional jobs demonstration project. During the orientation, the contractor shall encourage and assist eligible individuals to do all of the following:

(a) Recognize their strengths, assets, aspirations, resilience, and potential to achieve economic stability.

(b) Identify and address barriers to employment.

(c) Develop an individualized plan for obtaining unsubsidized employment.

(2) A contractor shall pay an individual that participates in the orientation at the minimum wage rate for time spent participating.

(3) The orientation shall be at least 20 hours per week for no more than 4 weeks.

DCF 110.05 Subsidized work. (1) **CONTRACTOR IS EMPLOYER.** (a) Except as provided in par. (b), a contractor is the employer of a transitional worker and shall pay the transitional worker's wages; the employer's share of federal social security and

medicare taxes; unemployment insurance contributions or taxes, if any; and worker's compensation insurance premiums, if any.

(b) A contractor may subcontract responsibilities under par. (a) with prior approval by the department.

(2) HOURS PER WEEK. A contractor shall employ a transitional worker for a minimum of 20 hours per week and a maximum of 40 hours per week.

(3) WAGES. A contractor that employs a transitional worker shall pay the transitional worker for hours working at a work site under sub. (4) at not less than the minimum wage.

(4) WORK SITES. A transitional worker's work site may be any of the following:

(a) An individual placement with a host.

(b) As part of a work crew that goes to different work sites under the supervision of a contractor.

(5) HOSTS. (a) A host shall develop and maintain an accurate description of any transitional job position at the host's work site.

(b) If a transitional worker is placed with a host, the host shall assign a supervisor to perform all of the following duties:

1. Oversee the transitional worker's daily responsibilities.

2. Assist the transitional worker with the proper completion of time sheets.

3. Communicate with the contractor regarding issues arising in the workplace and the progress of the transitional worker in developing basic skills, appropriate work habits, a positive work history, and longer-term career preparation.

(c) A host may hire a transitional worker as a regular employee at any time during or after the term of the transitional job.

(6) NONDISPLACEMENT. The contractor and host of a transitional worker shall ensure that the employment of a transitional worker does not do any of the following:

a. Have the effect of filling a vacancy created by an employer terminating a regular employee or otherwise reducing its work force for the purpose of hiring a transitional worker.

b. Fill a position when any other person is on layoff or strike from the same or a substantially equivalent job within the same organizational unit.

c. Fill a position when any other person is engaged in a labor dispute regarding the same or a substantially equivalent job within the same organizational unit.

DCF 110.06 Training. (1) A contractor may provide education and training to a transitional worker directly or by subcontract with local training providers.

(2) The education and training provided shall be consistent with the transitional worker's plan for obtaining unsubsidized employment under s. DCF 110.04 (1) (c) and complementary to the transitional worker's transitional job.

(3) A contractor may pay a transitional worker at the minimum wage for hours of participation in education and training if the transitional worker is working at least 20 hours per week in a transitional job and the combined hours of the transitional job and participation in education and training do not exceed 40 hours per week.

DCF 110.07 Job supports. A contractor may provide to a current or former transitional worker economic and non-economic incentives and supports, including

training stipends, uniform allowances, assistance in obtaining a driver's license, parenting support groups, earnings supplements, and retention bonuses. An economic incentive or support shall assist a current or former transitional worker obtain or maintain unsubsidized employment.

DCF 110.08 Unsubsidized employment. (1) A contractor shall provide a transitional worker with activities and resources that assist the transitional worker's search for unsubsidized employment.

(2) A contractor shall monitor a former transitional worker during his or her first 6 months of unsubsidized employment to assist with job retention and advancement, unless the contractor's contract to operate a transitional jobs program has ended.

DCF 110.09 Department reimbursement. (1) The department shall reimburse a contractor for all of the following costs incurred by the contractor that are attributable to employment of transitional workers:

(a) Wages paid to transitional workers at the minimum wage rate for each hour actually worked.

(b) Employer's share of federal social security and medicare taxes; state and federal unemployment contributions or taxes, if any; and worker's compensation insurance premiums, if any.

(2) The department may reimburse a contractor for expenditures incurred by the contractor related to operating a transitional jobs program, including the costs of orientation under s. DCF 110.04, supervision under s. DCF 110.05 (5) (b), training under

s. DCF 110.06, and providing job supports to current and former transitional workers under s. DCF 110.07.

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



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 10-078

AN ORDER to create chapter DCF 110, relating to transitional jobs for low-income adults.

Submitted by **CHILDREN AND FAMILIES**

06-29-2010 RECEIVED BY LEGISLATIVE COUNCIL.

07-19-2010 REPORT SENT TO AGENCY.

RNS:LR

LEGISLATIVE COUNCIL RULES CLEARINGHOUSE REPORT

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

1. STATUTORY AUTHORITY [s. 227.15 (2) (a)]
Comment Attached YES NO
2. FORM, STYLE AND PLACEMENT IN ADMINISTRATIVE CODE [s. 227.15 (2) (c)]
Comment Attached YES NO
3. CONFLICT WITH OR DUPLICATION OF EXISTING RULES [s. 227.15 (2) (d)]
Comment Attached YES NO
4. ADEQUACY OF REFERENCES TO RELATED STATUTES, RULES AND FORMS
[s. 227.15 (2) (e)]
Comment Attached YES NO
5. CLARITY, GRAMMAR, PUNCTUATION AND USE OF PLAIN LANGUAGE [s. 227.15 (2) (f)]
Comment Attached YES NO
6. POTENTIAL CONFLICTS WITH, AND COMPARABILITY TO, RELATED FEDERAL
REGULATIONS [s. 227.15 (2) (g)]
Comment Attached YES NO
7. COMPLIANCE WITH PERMIT ACTION DEADLINE REQUIREMENTS [s. 227.15 (2) (h)]
Comment Attached YES NO



WISCONSIN LEGISLATIVE COUNCIL RULES CLEARINGHOUSE

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CLEARINGHOUSE RULE 10-078

Comments

[NOTE: All citations to “Manual” in the comments below are to the Administrative Rules Procedures Manual, prepared by the Legislative Reference Bureau and the Legislative Council Staff, dated September 2008.]

2. Form, Style and Placement in Administrative Code

a. In the explanation of agency authority, the first use of the acronym “TANF” should be preceded by the term “temporary assistance for needy families.”

b. In s. DCF 110.05 (4), pars. (a) and (b) should be phrases, not sentences. For example, par. (a) could read “An individual placement with a host.” Paragraph (b) could read “As part of a work crew that goes to different work sites under the supervision of a contractor.”

c. In s. DCF 110.07, last sentence, “to” should be inserted before the word “obtain.”

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

In s. DCF 110.09 (2), the rule referenced for supervision should be s. DCF 110.05 (5) (b).



LRB or Bill No./Adm. Rule No. DCF 110
Amendment No. if Applicable

FISCAL ESTIMATE
DOA-2048 N(R03/97)

- ORIGINAL UPDATED
 CORRECTED SUPPLEMENTAL

Subject
Transitional jobs for low-income adults

Fiscal Effect

State: No State Fiscal Effect

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

<input type="checkbox"/> Increase Existing Appropriation <input type="checkbox"/> Decrease Existing Appropriation <input type="checkbox"/> Create New Appropriation	<input type="checkbox"/> Increase Existing Revenues <input type="checkbox"/> Decrease Existing Revenues	<input type="checkbox"/> Increase Costs - May be possible to Absorb Within Agency's Budget <input type="checkbox"/> Yes <input type="checkbox"/> No <input type="checkbox"/> Decrease Costs
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Local: No local government costs

1. <input type="checkbox"/> Increase Costs <input type="checkbox"/> Permissive <input type="checkbox"/> Mandatory 2. <input type="checkbox"/> Decrease Costs <input type="checkbox"/> Permissive <input type="checkbox"/> Mandatory	3. <input type="checkbox"/> Increase Revenues <input type="checkbox"/> Permissive <input type="checkbox"/> Mandatory 4. <input type="checkbox"/> Decrease Revenues <input type="checkbox"/> Permissive <input type="checkbox"/> Mandatory	5. Types of Local Governmental Units Affected: <input type="checkbox"/> Towns <input type="checkbox"/> Villages <input type="checkbox"/> Cities <input type="checkbox"/> Counties <input type="checkbox"/> Others _____ <input type="checkbox"/> School Districts <input type="checkbox"/> WTCS Districts
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Fund Sources Affected <input type="checkbox"/> GPR <input type="checkbox"/> FED <input type="checkbox"/> PRO <input type="checkbox"/> PRS <input type="checkbox"/> SEG <input type="checkbox"/> SEG-S	Affected Ch. 20 Appropriations
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Assumptions Used in Arriving at Fiscal Estimate

Section 49.162 (3) (b), Stats., provides that the department shall seek federal funds to pay for the cost of operating the transitional jobs demonstration project and may conduct the project only to the extent that the department obtains federal funds.

On June 23, the Joint Committee on Finance approved an increase in expenditure authority in the department's economic support federal block grant aids appropriation [s. 20.437 (2) (md)] of \$17,151,500 FED in 2010-11 to reflect the allocation of federal American Recovery and Reinvestment Act of 2009 funds in the department to support the transitional jobs demonstration project. It is assumed that this represents one-half the total funding for the demonstration project.

Long-Range Fiscal Implications
None

Agency/Prepared by: (Name & Phone No.) Susan Robillard 266-7357	Authorized Signature/Telephone No. Robert Nikolay 261-4339	Date 8-24-10
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