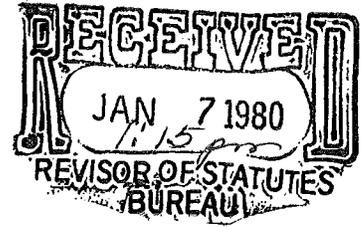


PW-PA 20

CERTIFICATE



STATE OF WISCONSIN )  
 )  
DEPT. OF HEALTH & SOCIAL SERVICES) SS

TO ALL TO WHOM THESE PRESENTS SHALL COME, GREETINGS:

I, Donald E. Percy, Secretary of the Department of Health and Social Services and custodian of the official records of said department do hereby certify that the annexed rules relating to the divestment of property by applicants for Aid to Families with Dependent Children were duly approved and adopted this department on January 4, 1980.

I further certify that said copy has been compared by me with the original on file in this department and that the same is a true copy thereof, and of the whole of such original.

IN TESTIMONY WHEREOF, I have hereunto set my hand and affixed the official seal of the department at the State Office Building, 1 W. Wilson St., in the city of Madison this 4th day of JANUARY, A.D. 1980.

\_\_\_\_\_  
Donald E. Percy, Secretary  
Department of Health and Social Services

SEAL:

ORDER OF THE DEPARTMENT OF HEALTH AND SOCIAL SERVICES ADOPTING RULES

Relating to rules concerning divestment of property by applicants for Aid to Families with Dependent Children.

Analysis prepared by the Department of Health and Social Services

Analysis

Chapter 29, Laws of 1977, created section 49.19(2)(p), Stats., prohibiting the divestment of property in contemplation of the receipt of AFDC, and ordering the department to promulgate rules for the administration of this prohibition. This statute was amended by Chapter 418, Laws of 1977, limiting it to the extent permitted by federal law.

PW-PA 20.08 Divestment is responsive to the statutory order, and further interprets 49.19(2)(p), Stats., prohibiting divestment with the intent to create eligibility for the aid to families with dependent children program. Definitions of terms used in the statute, criteria and methods of determining divestment and appeasement of the value of that which was divested are contained within this rule.

Pursuant to authority vested in the Department of Health and Social Services by sections 227.011(1), and 227.014(2), Wis. Stats., the Department of Health and Social Services adopts rules interpreting section 49.19(2)(p), Wis. Stats., as follows: Sections PW-PA 20.08 of the Wisconsin administrative code are adopted to read:

PW-PA 20.08 Divestment.

- (1) PURPOSE. This rule is adopted to provide for administration of sections 49.19(2)(p), Wis. Stats., regarding eligibility for aid to families with dependent children when divestment of property has occurred within two years prior to the date of application.
- (2) TO WHOM THE RULE APPLIES. Any person who is an applicant after the effective date of this rule for aid to families with dependent children and all persons for whom that person has legal responsibility and for whom aid is being sought.
- (3) DEFINITION. Divestment means the conveyance, transfer or disposition of any property without receiving adequate and full consideration in money or money's worth.
  - (a) "Conveyance, transfer or disposition" is the act of changing legal title or other right of ownership to another person or persons.
  - (b) "Property" is anything to which a person has legal title or other right of ownership be it exempt or nonexempt real or personal property.
  - (c) "Adequate and full consideration" is a minimum of 90% of the available market value minus the costs of transaction on the open market.

(d) "Money or money's worth," henceforth called "value received," is the dollar value which can be attached to that which is received in return for the property and may be in any one or more of the following forms:

1. Cash.
2. Other assets such as accounts receivable, promisory notes (both of which must be valid and collectible to be of value), stocks, bonds, land contract and life estate which are evaluated over an extended time period.
3. Other goods, i.e., other property real or personal.
4. Discharge of a debt.
5. Prepayment of bonafide and irrevocable contract such as mortgage, shelter lease, loan, taxes.
6. Services which shall be assigned a valuation equal to the cost of purchase on the open market. Only those services shall be considered for which there exists a written agreement executed prior to the provision of the services, whether provided by a member of the immediate family, other relative or nonrelative.

#### (4) CRITERIA

(a) Divestment by any person within two years prior to the date of making application for aid shall, unless shown to the contrary, be presumed to have been made in contemplation of receiving aid and shall create ineligibility for such aid until the value of the divested amount is expended by or on behalf of the person's maintenance need and medical care.

NOTE: Person in this context means the one who divested plus all other persons for whom that person has legal responsibility and for whom aid is being sought.

- (b) Eligibility for aid prohibitions related to divestment are applicable to applicants only.
- (c) Divestment shall only be considered when the net value of all of the properties disposed of exceeds \$500.
- (d) When property is owned jointly, the expected share of the value received shall be the same as the share of ownership. All owners shall be assumed to share equally in the absence of evidence to the contrary.
- (e) Divestment does not occur in cases of division of property as part of a divorce or separation action, loss of property due to foreclosure, defunct sales contracts, or repossession of property due to failure to meet payments.

#### (5) DETERMINING DIVESTMENT

(a) Determine the net value of all properties the person has conveyed, transferred or disposed of.

1. Net value is the market value minus the costs of transaction on the open market.
2. Net value is determined as of the date of the transaction.
  - (b) If the net value is \$500 or less divestment shall not be considered.
  - (c) If the net value exceeds \$500, determine the total "value received" in return for all the properties.
  - (d) If the "value received" is equal to or greater than "adequate and full consideration" there is no divestment.
  - (e) If the "value received" is less than "adequate and full consideration" the difference is the "divested amount" and shall be considered an asset.
  - (f) If the "divested amount" plus the person's other assets is \$1500 or less, the divestment shall not be considered a bar to eligibility.
  - (g) If the "divested amount" plus the person's other assets is greater than \$1500, the excess over \$1500 is the "amount of the divestment to be satisfied."
- (6) EXPUNGING DIVESTMENT. The "amount of the divestment to be satisfied shall be "expended" for maintenance needs and medical care, or two years shall have elapsed since the act of divestment, whichever occurs first, to expunge the divestment as related to eligibility for aid.
- (7) DETERMINING "EXPENDED."
  - (a) "Expended" amounts shall be calculated monthly.
  - (b) The monthly calculation shall be the AFDC standard according to the appropriate family size plus actual medical care expenses for that month.

The rules contained in this order shall take effect on the first day of the month following publication in the WISCONSIN ADMINISTRATIVE REGISTER pursuant to authority granted by s. 227.026(1), Wis. Stats.

  
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DONALD E. PERCY, secretary  
department of health and social services

JANUARY 4

1980

Seal: