

CR 86-94

CERTIFICATE

RECEIVED

OCT 7 1986  
1:40 PM  
Revisor of Statutes  
Bureau

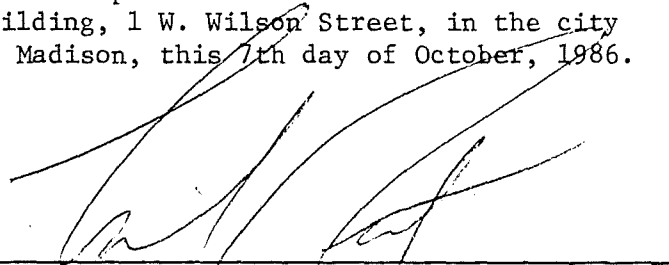
STATE OF WISCONSIN )  
 )  
DEPARTMENT OF HEALTH AND SOCIAL SERVICES)

TO ALL TO WHOM THESE PRESENTS SHALL COME, GREETINGS:

I, Linda Reivitz, Secretary of the Department of Health and Social Services and custodian of the official records of said Department, do hereby certify that the annexed amendments to rules relating to registration of recipients of Aid to Families with Dependent Children for the Wisconsin Employment Opportunities Program were duly approved and adopted by this Department on October 7, 1986.

I further certify that this 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 Street, in the city of Madison, this 7th day of October, 1986.



SEAL:

Linda Reivitz, Secretary  
Department of Health and Social Services

10-7-86

ORDER OF THE  
DEPARTMENT OF HEALTH AND SOCIAL SERVICES  
REPEALING, RENUMBERING, AMENDING, AND CREATING RULES

To repeal HSS 208.02(5) and 208.09; to renumber HSS 201.03(3) to (13); to renumber and amend HSS 201.10(2)(b); to amend HSS 201.14(3)(e)1, 201.28(15)(b)3.c., 208.04(1)(d), and 208.05(8); to repeal and recreate HSS 201.03(14), 201.14(3)(b), 201.19, 201.28(1)(b), 201.29(2), 208.01(3)(1), and 208.02(1) to (4); and to create HSS 201.03(3), (15) and (17) and 201.10(2)(b)2, relating to registration of recipients of Aid to Families with Dependent Children for the Wisconsin Employment Opportunities Program.

Analysis Prepared by the Department of Health and Social Services

The Wisconsin Employment Opportunities Program (WEOP) is a program of job placement, job training and job-related supportive services for recipients of Aid to Families with Dependent Children (AFDC) who are required, as a condition of receiving financial assistance, to register for and accept employment or training to prepare for employment. WEOP was established in 1983-84 as an alternative to the former work incentive program (WIN).

This proposed order makes several changes in rules relating to registration of AFDC recipients for WEOP. The major change would be to require that all members of an applicant group register for WEOP at the time of the group's application for AFDC. The requirement to register for WEOP when applying for AFDC does not change the existing conditions for participation as only those persons who are nonexempt or who volunteer for WEOP will be referred to a WEOP agency.

Current rules require only nonexempt recipients and volunteers to register for WEOP at the time of application for AFDC. Recipients whose status changes following initial registration, those whose youngest child reaches the age of six, for example, must go to the income maintenance office to sign the WEOP registration forms or must complete the registration process by mail at the time of the change in status. Under the current procedures, WEOP registration of recipients whose status has changed does not always occur at the time that it should. Failure to register these recipients for WEOP in a timely manner has been cited as an error in state and federal reviews of the accuracy of AFDC eligibility and payment determination. Error rates have been so high that the state could be required to pay a penalty to the federal government.

Providing for registration of all members of an applicant group at the time of application for AFDC will eliminate an extra step for recipients whose status changes and will also ensure that AFDC recipients are registered for WEOP at the time that they are required to meet the registration requirement. It will not change the conditions of participation.

The proposed order also updates the rules by replacing obsolete references to the WIN program with references to WEOP. Language regarding eligibility

sanctions for failure to participate in WEOP is moved from ch. HSS 208, the rules for WEOP, to ch. HSS 201, the rules for AFDC, where it fits more appropriately. Language is added to the sanction provision to clarify that, if circumstances of an AFDC unemployed parent household change during the sanction period due to the absence or incapacitation of the principal wage earner, the household members may reapply for AFDC and not be subject to the same sanction. In addition, language complying with s. 2634 of the federal Deficit Reduction Act, P.L. 98-369, is added. This new language provides that, if no protective payee can be found, an income maintenance agency may continue to make AFDC payments for eligible family members to a recipient who has been sanctioned for failure to meet WEOP requirements or who has failed to meet child support requirements. Under current rules, AFDC payments for eligible family members of a recipient who fails to meet WEOP requirements may be made only as protective payments or vendor payments while payments for eligible family members of a recipient who fails to meet child support requirements may be made only as protective payments.

Pursuant to the authority vested in the Department of Health and Social Services by s.49.50(2) and (7), Stats., the Department of Health and Social Services hereby repeals, renumbers, amends, and creates rules interpreting ss. 46.03(8), 49.19(4) and (5) and 49.50(7), Stats., as follows:

SECTION 1. HSS 201.03(3) to (12) are renumbered HSS 201.03(4) to (13).

SECTION 2. HSS 201.03(3) is created to read:

HSS 201.03(3) "AFDC unemployed parent group" means an AFDC group in which the child or children are deprived of parental support because the principal wage earner in the group is unemployed.

SECTION 3. HSS 201.03(13) is renumbered HSS 201.03(16).

SECTION 4. HSS 201.03(14) is repealed and recreated to read:

HSS 201.03(14) "Principal wage earner" means the person who is listed on line one or 2 of the application for AFDC in an AFDC unemployed parent group, who earned the most income during the 24 month period preceding the most recent application, and who meets the requirements for past and current employment under 45 CFR 233.100.

SECTION 5. HSS 201.03(15) is created to read:

HSS 201.03(15) "Registrant" means a person registered for WEOP.

SECTION 6. HSS 201.03(17) is created to read:

HSS 201.03(17) "WEOP" means the Wisconsin employment opportunities program established under 42 USC 645 and s. 49.50(7), Stats., for the purpose of assisting AFDC recipients to develop marketable work skills and obtain gainful employment.

SECTION 7. HSS 201.10(2)(b) is renumbered HSS 201.10(2)(b)1. and amended to read:

HSS 201.10(2)(b)1. A protective payment shall be made whenever there is a refusal to assign child support rights to the state or to cooperate in establishing paternity and obtaining support. When there is a refusal to register with or a failure to cooperate with ~~the work incentive program~~ WEOP, the payment to any remaining eligible persons shall be in the form of a protective payment or a vendor payment.

SECTION 8. HSS 201.10(2)(b)2. is created to read:

HSS 201.10(2)(b)2. If, after making reasonable efforts, the agency is unable to locate an appropriate person to whom protective payments can be made, payments for the remaining eligible group members may continue to be made to a caretaker relative who has been sanctioned under s. HSS 201.19(2) for failure to meet WEOP requirements or who has failed to meet child support requirements under s. HSS 201.18.

SECTION 9. HSS 201.14(3)(b) is repealed and recreated to read:

HSS 201.14(3)(b) The principal wage earner shall be referred to a WEOP agency unless exempt from WEOP participation under s. HSS 201.19. A principal wage earner who is exempt from WEOP participation under s. HSS 201.19(1)(h) shall register with the state employment service.

SECTION 10. HSS 201.14(3)(e)1. is amended to read:

HSS 201.14(3)(e)1. In this paragraph, "quarter of work" means a period of 3 consecutive calendar months ending on March 31, June 30, September 30 or December 31, in which the parent received gross earned income of not less than \$50 in the quarter, or in which he or she participated in a community work experience program under s. 409 of the Social Security Act of 1935, as amended, or was ~~registered~~ enrolled in the a work incentive (WIN) program established under 42 USC 632 or a WIN demonstration program established under 42 USC 645.

SECTION 11. HSS 201.19 is repealed and recreated to read:

HSS 201.19 WEOP. (1) REGISTRATION. All persons in an AFDC group shall register for WEOP as a condition of eligibility for AFDC. Participation in WEOP shall not be required of an AFDC recipient who is:

(a) The caretaker relative for a child under age 6 living in the home, when there are only brief and infrequent absences of the caretaker relative

from the child. Only one person in an AFDC group may be exempt for this reason;

(b) Age 65 or older;

(c) The spouse of the principal wage earner if the principal wage earner is assigned mandatory status under s. HSS 208.02(3);

(d) Working at least 30 hours per week in a job expected to last a minimum of 30 days;

(e) Under age 16, or age 16 or age 17 and enrolled as a full-time student in an elementary or secondary school or a vocational or technical school that is equivalent to a secondary school. A student shall be considered enrolled if the student has not graduated, has not been legally excused from school attendance by the school board, or has an excused absence for no more than 30 days due to a physical or mental condition;

(f) An 18-year old full-time student in a high school, or in the equivalent level of vocational or technical training, who is reasonably expected to complete the program before reaching age 19, or, an 18-year old enrolled in and regularly attending a high school program leading to a high school diploma;

(g) Incapacitated, ill or injured with a medically-determined physical or mental impairment which prevents the person from temporarily or permanently participating in WEOP activities or holding a job. Unless the medical condition is determined by a physician to be permanent, the person shall be reexamined by a physician annually or on or before the date a physician stated the incapacity is expected to cease, whichever comes first. Any person who is exempt from participation in WEOP on the basis of incapacitation for more than 60 days shall be referred to the department's division of vocational rehabilitation;

(h) Living in a county without a WEOP office or living so far from the WEOP office that he or she cannot get to it within one hour with available transportation. The time required to take children to and from child care shall not be included in this computation. Available transportation means transportation which is available to the person on a regular basis and includes public transportation and private vehicles;

(i) Needed, as determined by the agency, to remain at home to look after another member of the household because of that person's medical condition; or

(j) Medically-verified pregnant and in the third trimester of pregnancy.

(2) SANCTION. (a) Upon receiving written notice from the WEOP agency that a registrant who does not meet an exemption under sub.(1) has failed without good cause to participate in the program, the agency shall:

1. Change the WEOP status of the registrant from mandatory to sanction; and

2. Send written notice to the primary person which specifies:

a. That AFDC benefits are terminated or reduced because the registrant did not have good cause for failing to participate in WEOP and gives a specific reason for the action;

b. The beginning date, length of sanction and person or persons in the AFDC group to whom the sanction applies; and

c. The registrant's right to apply for a fair hearing in accordance with s. PW-PA 20.18 [ch. HSS 225].

(b) If the registrant does not request a fair hearing or if, after a fair hearing has been held, the hearing officer finds that the registrant has failed to participate in WEOP without good cause, the agency shall:

1. Deny aid to all persons in an AFDC unemployed parent group when the principal wage earner fails to participate in WEOP without good cause; or

2. Deny aid to any nonexempt caretaker relative or nonexempt dependent child who has failed to participate in WEOP without good cause, but continue to provide aid to each remaining eligible child and adult in the household.

(c) A sanction applied under par. (b) shall be effective:

1. For 3 calendar months following the first occurrence of nonparticipation; or

2. For 6 calendar months following the second and each subsequent occurrence of nonparticipation.

(d) If the circumstances of an AFDC unemployed parent group change during the sanction period due to the absence or incapacitation of the principal wage earner, the group members may reapply for aid and not be subject to the same sanction. If the principal wage earner reenters the group or the incapacitation ends, the sanction shall be reinstated beginning in the next possible month following the change in case status and shall continue for the time remaining in the sanction period.

(e) The sanction period under par. (c) shall include any other period during which the sanctioned AFDC unemployed parent group, nonexempt primary person or nonexempt dependent child is ineligible for AFDC.

SECTION 12. HSS 201.28(1)(b) is repealed and recreated to read:

HSS 201.28(1)(b) Payments received by a participant in the WEOP program to reimburse him or her for the costs of participation or to serve as an incentive for participation shall be exempt.

SECTION 13. HSS 201.28(15)(b)3.c. is amended to read:

HSS 201.28(15)(b)3.c. The source of the earned income is public service employment established by ~~the WIN program~~ WEOP.

SECTION 14. HSS 201.29(2) is repealed and recreated to read:

HSS 201.29(2) If required by the agency, a home visit shall be conducted prior to release of the check. This requirement does not affect the amount of the check.

SECTION 15. HSS 208.01(3)(i) is repealed and recreated to read:

HSS 208.01(3)(i) "Principal wage earner" means the person who is listed on line one or 2 of the application for AFDC in an AFDC unemployed parent group, who earned the most income during the 24 month period preceding the most recent application, and who meets the requirements for past and current employment under 45 CFR 233.100.

SECTION 16. HSS 208.02(1) to (4) are repealed and recreated to read:

HSS 208.02 (1) A properly witnessed signature under s. HSS 201.05(5) on the application for AFDC shall constitute WEOP registration for each person included in the AFDC group at the time of application or added to the AFDC group at a later date.

(2) The WEOP status of each recipient shall be determined by the income maintenance agency to be one of the following:

(a) Exempt status, which signifies that the recipient is not required to participate in WEOP for reasons specified under s. HSS 201.19(1);

(b) Mandatory status, which signifies that the recipient does not meet an exemption under s. HSS 201.19(1); or

(c) Voluntary status, which signifies that the recipient has chosen to participate even though he or she qualifies for an exemption under s. HSS 201.19(1).

(3) Only those AFDC recipients who are not exempt under s. HSS 201.19(1) or who volunteer to participate shall be referred to a WEOP agency for participation and shall be informed that reimbursement is available for child care expenses.

(4) At the time of application for AFDC and at the time of the eligibility review immediately prior to a WEOP referral, the income maintenance agency shall give the person who signs the application form written information about the rights and responsibilities of WEOP participants, and the income maintenance agency shall give each registrant assigned to mandatory status under sub.(2) who is referred to the WEOP agency written notice of appeal rights at the time of referral.

SECTION 17. HSS 208.02(5) is repealed.

SECTION 18. HSS 208.04(1)(d) is amended to read:

HSS 208.04(1)(d) If the registrant fails to respond to the appointment notices or if the reason for not keeping the appointment is not deemed to be good cause under s. HSS 208.08(3), the registrant shall be referred back to the income maintenance agency and sanction shall be applied under s. HSS ~~208.09~~ 201.19(2).

SECTION 19. HSS 208.05(8) is amended to read:

HSS 208.05(8) The job wages of the principal wage earner working 100 or more hours per month, minus the AFDC allowed work-related expenses and health insurance premiums not normally paid by the employer, equal less than the AFDC-U grant;

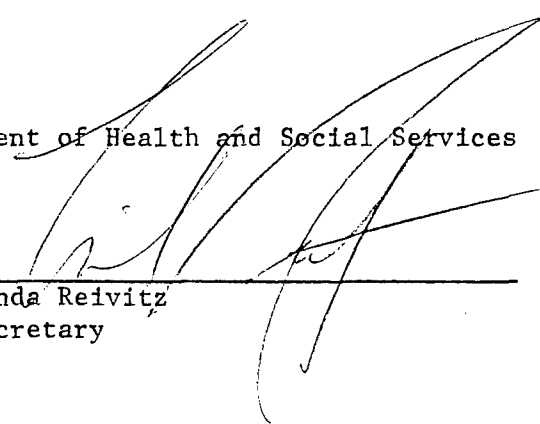
SECTION 20. HSS 208.09 is repealed.

The repeals and rules contained in this order shall take effect on the first day of the month following publication in the Wisconsin Administrative Register as provided in s. 227.22(2), Stats.

Department of Health and Social Services

Date: October 7, 1986

By:

  
\_\_\_\_\_  
Linda Reivitz  
Secretary

Seal:





State of Wisconsin

DEPARTMENT OF HEALTH AND SOCIAL SERVICES

1 West Wilson Street, Madison, Wisconsin 53702

Anthony S. Earl  
Governor

Linda Reivitz  
Secretary

October 7, 1986

Mailing Address:  
Post Office Box 7850  
Madison, WI 53707

Mr. Orlan Prestegard  
Revisor of Statutes  
9th Floor - 30 on the Square  
Madison, Wisconsin 53702

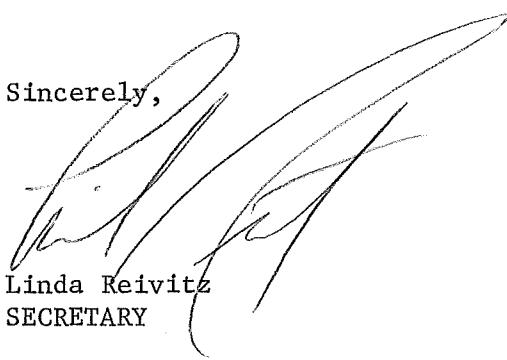
Dear Mr. Prestegard:

As provided in s. 227.20, Stats., there is hereby submitted a certified copy of HSS 201 and 208, administrative rules relating to registration of recipients of Aid to Families with Dependent Children for the Wisconsin Employment Opportunities Program.

These rules are also being submitted to the Secretary of State as required by s. 227.20, Stats.

These rule changes affect AFDC recipients and county agencies which administer the AFDC program, and therefore do not affect small businesses as defined in s. 227.114(1)(a), Stats.

Sincerely,

  
Linda Reivitz  
SECRETARY

Enclosure