

CR 94-25

CERTIFICATE

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

I, Gerald Whitburn, Secretary of the Department of Health and Social Services and custodian of the official records of the Department, do hereby certify that the annexed rules relating to school attendance requirements for preteenagers under the Aid to Families with Dependent Children (AFDC) program were duly approved and adopted by this Department on August 4, 1994.

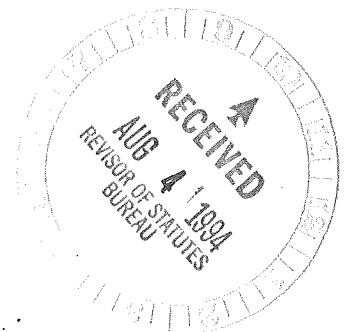
I further certify that this copy has been compared by me with the original on file in the Department and that this copy is a true copy of the original, and of the whole of the original.

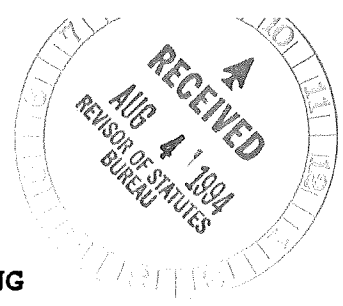
IN TESTIMONY WHEREOF, I have hereunto set my hand and affixed the official seal of the Department at the State Office Building, 1 W. Wilson Street, in the city of Madison, this 4th day of August, 1994.

SEAL:

(Handwritten signature)

Gerald Whitburn, Secretary
Department of Health and Social Services





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

To renumber HSS 201.195(8); to amend HSS 201.195(1), (4), (5)(c) to (f), (6)(a) and (b), and (10)(a)(intro.), 1, 2 and 4 and (b) to (f), as renumbered; to repeal and recreate HSS 201.195(2), (3) and (7); and to create HSS 201.195(8) and (9), relating to participation of Aid to Families with Dependent Children (AFDC) recipients in Learnfare.

Analysis Prepared by the Department of Health and Social Services

Under s.49.50(7), Stats., the Department implemented a program which requires that all teenagers, that is, persons 13 through 19 years of age who reside with a natural or adoptive parent and teen parents, who are included in an Aid to Families with Dependent Children (AFDC) grant under s.49.19, Stats., must attend school, unless they have graduated from high school or have received a high school equivalency diploma. This program is called Learnfare.

The Department requested and received authority from the federal Department of Health and Human Services to expand the school attendance requirement to preteens, that is, persons who are 6 through 12 years of age, reside with a natural or adoptive parent or who are a parent and are included in an AFDC group. Section 49.50(7)(j), Stats., as amended and created by 1993 Wisconsin Act 16, provides that the Department shall implement a pilot program in four counties to permit the application of the Learnfare school attendance requirement to preteens. Rock, Brown, Fond du Lac and Kenosha counties will be participating in the pilot program. The Department will phase the requirement in by age over a 3 year period, beginning on the first day of the fall 1994 school term, as defined in s.115.001(12), Stats. Children who are 10 through 12 years of age will be required to participate in Learnfare beginning in the fall of 1994, children who are 8 through 9 years of age will be required to participate in Learnfare beginning in the fall of 1995 and children who are 6 through 7 years of age will be required to participate in Learnfare beginning in the fall of 1996.

The rules state how the application of the school attendance requirement to 6 through 12 year olds will be phased in, include the requirement that case management be offered to preteen and teenage Learnfare participants the first time the preteen or teenager fails to meet the school attendance requirement, and outline the requirements for applying a sanction to a preteen who fails to meet the school attendance requirements and who fails to participate in case management. The exemption from participation in Learnfare for the 16 through 19 years olds who are not expected to graduate by age 20 is repealed and the payment for the caretaker when the only eligible child is sanctioned is

modified to delete the 3 month time limit for making the payment to conform to s.49.50(7)(h)2, Stats., as amended by 1993 Wisconsin Act 16.

The Department's authority to renumber, amend, repeal and recreate and create these rules is found in s.49.50(2), Stats., and s.49.50(7)(h)1 and 1m, Stats., as affected by 1993 Wisconsin Act 16. The proposed rules interpret ss.46.62 and 49.50(7), Stats., as affected by 1993 Wisconsin Act 16.

SECTION 1. HSS 201.195(1) is amended to read:

HSS 201.195(1) AUTHORITY AND PURPOSE. This section is adopted under the authority of s.49.50(2) and (7)(h)1 and 1m, Stats., to provide rules for the administration of learnfare, a program that requires that all teenagers who are included in a grant under s.49.19, Stats., who are parents or who are residing with a natural or adoptive parent and who have not graduated from high school or received a high school equivalency diploma attend school to meet WEOP JOBS participation requirements, and that all preteens living in a pilot county designated by the department under s.49.50(7)(j), Stats., who are included in a grant under s.49.19, Stats., who are parents or who are residing with a natural or adoptive parent and who have not graduated from high school or received a high school equivalency diploma attend school to meet JOBS participation requirements.

SECTION 2. HSS 201.195(2) and (3) are repealed and recreated to read:

HSS 201.195(2) APPLICABILITY. This section applies to:

(a) All school districts and all county and tribal economic support agencies;

(b) All teenagers included in an AFDC group who are parents or who are residing with a natural or adoptive parent and all AFDC groups which include a teenager who is a parent or who is residing with a natural or adoptive parent; and

(c) In a pilot county designated by the department under s.49.50(7)(j), Stats., all preteens included in an AFDC group who are parents or who are residing with a natural or adoptive parent and all AFDC groups which include a preteen who is a parent or who is residing with a natural or adoptive parent as follows:

1. Beginning on the first day of the fall 1994 school term, as defined in s.115.001(12), Stats., the preteen is 10 to 12 years of age;

2. Beginning on the first day of the fall 1995 school term, as defined in s.115.001(12), Stats., the preteen is 8 to 12 years of age; and

3. Beginning on the first day of the fall 1996 school term, as defined in s.115.001(12), Stats., the preteen is 6 to 12 years of age.

(3) DEFINITIONS. In this section:

(a) "Case management" means intervention for the purpose of assessing family needs, developing a family service plan and assisting in the implementation of the plan for the purpose of furthering regular school attendance by the preteen or the teenager.

(b) "Ceased to attend" means that the preteen or the teenager has 20 consecutive full school days of unexcused absences.

(c) "Dropout" means a preteen or a teenager who has ceased to attend school, has not graduated from high school or received a high school equivalency diploma and does not have an acceptable excuse under s.118.15(1)(b) to (d) or (3), Stats.

(d) "Excused absence" means that the reason for the absence meets the school district's definition of a valid reason for the preteen or the teenager not to attend school.

(e) "Full day" means the entire school day as defined by the school district.

(f) "High school equivalency diploma" means a certificate of educational achievement issued under s.115.29(4), Stats., and ch. PI 5 following completion of a course of study.

(g) "Learnfare" means the program established under s.49.50(7), Stats., which requires that all preteens living in a pilot county designated by the department under s.49.50(7)(j), Stats., and all teenagers attend school to meet the JOBS participation requirements.

(h) "Monthly attendance requirement" means that the preteen or the teenager has no more than 2 full days of unexcused absences in a calendar month.

(i) "Preteen" means a person who is 6 to 12 years of age, lives in a pilot county as provided under s.49.50(7)(j), Stats., is a member of an AFDC group and is a parent or residing with his or her natural or adoptive parent.

(j) "School" has the meaning prescribed in s.49.50(7)(a), Stats., namely, any one of the following:

1. A public school, as described in s.115.01(1), Stats.;
2. A private school, as defined in s.115.001(3r), Stats.;
3. A technical college pursuant to a contract under s.118.15(2), Stats.; or
4. A course of study meeting the standards established by the state superintendent of public instruction under s.115.29(4), Stats., for the granting of a declaration of equivalency of high school graduation.

(k) "School attendance officer" has the meaning prescribed in s.HSS 118.16(1)(b), Stats., namely, an employe designated by the school board to deal with matters relating to school attendance and truancy.

(l) "School district" means the territorial unit for school administration as specified in s.115.01(3), Stats.

(m) "Teenager" means a person who is 13 to 19 years of age, a member of an AFDC group and a parent or residing with his or her natural or adoptive parent.

(n) "Unexcused absence" means that the reason for the absence does not meet the school district's definition of a valid reason for the preteen or the teenager not to attend school.

SECTION 3. HSS 201.195(4), (5)(c) to (f) and (6)(a) and (b) are amended to read:

HSS 201.195(4)(a) A preteen or a teenager shall attend school full or part time except that a preteen or a teenager who has graduated from high school or received a high school equivalency diploma is exempt from the school attendance requirement under this section.

(b) A preteen or a teenager who is required to participate in learnfare under this section shall be considered to be meeting the school attendance requirements under the following circumstances:

1. A preteen or a teenager who is required to attend school shall be considered to have met the attendance requirement by having fewer than 10 full days of unexcused absences from school during the most recently completed school semester.

2. A preteen or a teenager who has 10 or more full days of unexcused absences from school during the most recently completed

school semester or who was a dropout and returned to school during the semester under review or who is unable to verify previous attendance shall comply with the monthly attendance requirement.

3. If the school that the preteen or the teenager is currently enrolled in does not keep daily attendance records, the preteen or the teenager shall be considered to be meeting the school attendance requirement if the school verifies the continuing enrollment of the preteen or the teenager in the semester under review.

4. The preteen or the teenager is not required to comply with the monthly attendance requirements when the school the preteen or the teenager is attending is not in regular session, including during the summer.

(c) ~~Either the~~ The preteen, teenager or the primary person shall cooperate in providing information needed to verify enrollment information or good cause under sub. (7). If ~~neither one~~ none of these individuals cooperates, the preteen or the teenager shall be ineligible for aid as provided under s.HSS 201.22.

(d) A teenager who is required to attend school but has good cause under sub. (7) for not attending may be referred by the agency to the WEOP JOBS program under ~~ch. HSS 208~~.

(e) ~~Either the~~ The preteen or the teenager who is a dropout or the primary person shall notify the agency of the preteen's or teenager's nonattendance at school in compliance with s.HSS 201.07.

(5)(c)1. The agency shall request information from the school attendance officer in the preteen's or the teenager's school district about the preteen's or teenager's attendance in the school district's most recently completed semester of attendance.

2. If information about the preteen's or the teenager's previous school attendance is not available or cannot be verified, the agency shall require the preteen or teenager to meet the monthly attendance requirement for one semester or until the information is obtained.

(d) The agency shall use the attendance information provided by a school to verify attendance for a preteen or a teenager.

(e) The agency shall review a preteen's or a teenager's claim that he or she has a good cause reason under sub. (7) for

not attending school, and shall determine if a preteen should be referred to case management under sub. (8) or if a teenager excused under sub. (7) from attending should be referred to WEOP JOBS under ~~ch. HSS 208.~~

(f) The agency shall administer day care and transportation funds available to ~~teen~~ parents under age 20 under s.49.50(7)(e)†, Stats. Payment for the cost of transportation to and from the child care provider shall be in the amount equal to the cost of transportation by the most appropriate means as determined by the department or the agency.

(6)(a) The school attendance officer shall provide information to the agency about the attendance of a preteen or a teenager who is enrolled in the public school in the school district within 5 working days after the date of receipt of the written request from the agency.

(b) The requirement under 20 USC 1232g and s.118.125(2), Stats., that written consent be given for a school district to make available the attendance records of a pupil shall be met in the case of a preteen or a teenager in an AFDC group by the signature of the parent, guardian, caretaker or pupil on the AFDC application for initial eligibility or eligibility redetermination.

SECTION 4. HSS 201.195(7) is repealed and recreated to read:

HSS 201.195(7) GOOD CAUSE CRITERIA. (a) A preteen or a teenager who is required to attend school to meet the learnfare participation requirements under s.49.50(7)(g), Stats., shall comply except when there is good cause which shall be demonstrated by any of the following circumstances:

1. The preteen or the teenager is the caretaker of a child who is less than 45 days old;

2. The preteen or the teenager is the caretaker of a child who is 45 to 89 days old and child care for the preteen's or the teenager's child is required but:

a. There is no on-site day care at the school;

b. The school has no home instruction program; or

c. The preteen or the teenager has a physician's excuse; or

3. The preteen or the teenager is the caretaker of a child who is 90 or more days old and the preteen or the teenager has a physician's excuse;

4. Child care services for the preteen's or the teenager's child are necessary for the preteen or the teenager to attend school but child care licensed under s.48.65, Stats., certified under s.48.651, Stats., or established under s.120.13(14), Stats., is not available. Child care shall be considered unavailable if there is no space available for the child in day care licensed under s.48.65, Stats., certified under s.48.651, Stats., or established under s.120.13(14), Stats., within reasonable travel time and distance, or if the cost of the care where space is available exceeds the maximum rate established by the county under s.46.98(4), Stats.;

5. Transportation to and from child care is necessary for the preteen's or the teenager's child and there is no public or private transportation available;

6. The preteen or the teenager is temporarily excused from school attendance by the school district under s.118.15(3), Stats.;

7. The preteen or the teenager is prohibited by the school district from attending school and an expulsion under s.120.13(1), Stats., is pending. This exemption no longer applies once the preteen or the teenager has been formally expelled;

8. The preteen or the teenager is unable to attend school because he or she was expelled under s.120.13(1), Stats., and another school is not available because:

a. There is no public or private school within reasonable travel time or distance which will accept the preteen or the teenager;

b. There is no public or private transportation available to another school; or

c. There is a public or private school which will accept the preteen or the teenager but the tuition charge is prohibitive and the preteen's or the teenager's school district refuses to pay the tuition; or

9. The preteen or the teenager failed to attend school for one or more of the following reasons:

a. Illness, injury or incapacity of the preteen or the teenager or a member of the preteen's or the teenager's family. In this subparagraph, "member of the preteen's or the teenager's family" means a spouse, child, parent or other dependent relative who lives with the preteen or the teenager;

b. Court-required appearance or temporary incarceration;

- c. Medical or dental appointments for the preteen or the teenager or his or her child;
- d. Death of a relative or a friend;
- e. Observance of a religious holiday;
- f. Family emergency;
- g. Breakdown in transportation;
- h. Suspension; or
- i. Any other circumstance beyond the control of the preteen or the teenager.

(b) Additional good cause criteria may be defined by the department through the fair hearing process.

SECTION 5. HSS 201.195(8) is renumbered 201.195(10).

SECTION 6. HSS 201.195(8) and (9) are created to read:

HSS 201.195(8) CASE MANAGEMENT. The first time that a preteen or a teenager fails to meet the attendance requirements under sub. (4), the agency shall send a written notice offering case management services to the individual and his or her family. The notice shall include information regarding the components of case management services including assessment, family service plan development and implementation and monitoring of the family service plan.

(9) CRITERIA FOR APPLYING A SANCTION. (a)1. Except as provided under subd. 2, a preteen who fails to meet the attendance requirements under sub. (4) without good cause under sub. (7) may be sanctioned under sub. (10) if all of the following apply:

a. The agency has offered case management services to the preteen and his or her family;

b. The primary person fails or refuses to respond to or rejects an offer of case management or fails or refuses to participate in an assessment or the development of a family service plan, or the preteen or the preteen's family fails or refuses to engage in any activities identified by the case manager in the family service plan as being necessary to improve the preteen's school attendance; and

c. The preteen, without first complying with the attendance requirement under sub. (4)(b)1, fails without good cause under sub. (7) to meet the attendance requirements under sub. (4)(b)2 in a subsequent month.

2. No sanction may be imposed and any existing sanction shall be removed in the next possible payment month in which a sanction is not already being applied for the preteen under any of the following circumstances:

a. The agency has not made a case manager available to a preteen who has failed to meet the attendance requirements under sub. (4);

b. The preteen or preteen's family is unable to comply with the family service plan because a service identified is not available and no appropriate alternative service as determined by the case manager is available; or

c. A good cause reason under sub. (7)(a)9 precluded the preteen or preteen's family from cooperating under subd. 1.b.

(b) A teenager who fails to meet the attendance requirements under sub. (4) without good cause under sub. (7) may be sanctioned under sub. (10) as long as he or she continues to do so or a good cause reason under sub. (7) is verified.

SECTION 7. HSS 201.195(10)(a)(intro.), 1, 2 and 4, and (b) to (f), as renumbered, are amended to read:

HSS 201.195(10)(a)(intro.) Notice. Upon determining that a ~~teenager has failed without a good cause reason under sub. (7) to attend school~~ sanction is proper under sub. (9), the agency shall send written notice to the primary person which specifies:

1. That the preteen or the teenager will be removed from the AFDC grant in the next possible payment month because the preteen required to attend school has failed to meet attendance requirements and has failed to participate in case management or the teenager required to attend school has failed to meet attendance requirements. If the preteen or the teenager is the only child in the grant and ~~benefit continuation under par. (c) or (e) will no longer apply~~, the notice shall also state that the entire grant will be discontinued reduced and only a payment to meet the needs of the caretaker will be made as long as the case continues to meet all other AFDC eligibility criteria;

2. The beginning date of the sanction, and the preteen or the teenager to whom the sanction applies;

4. The preteen's, teenager's or primary person's right to request a fair hearing under par. (b).

(b) Fair hearing. The preteen, teenager or primary person may request a fair hearing in accordance with s.49.50(8), Stats., and s.PW-PA 20.18 [ch.HSS 225] on the agency's determination that the teenager has not been attending school a sanction is proper under sub. (9).

(c) Failure to meet monthly attendance requirement. If the preteen, teenager or primary person does not request a fair hearing under par. (b) or if, after a fair hearing has been held, the hearing officer finds that the teenager has failed without good cause to meet the monthly attendance requirement a sanction is proper under sub. (9), the agency shall discontinue or deny aid to the preteen or the teenager in the next possible payment month in which a sanction is not already being applied for the preteen or the teenager. If application of a sanction would otherwise close the case because the preteen or the teenager is the only eligible child in the grant, benefit payments to meet the needs of the caretaker only shall continue for one time up to 3 months the first time the teenager is sanctioned as long as the case continues to meet all other AFDC eligibility criteria.

(d) Effective period of sanction for failure to meet monthly attendance requirement. A sanction applied under par. (c) shall be effective for one month for each month the preteen fails to meet the monthly attendance requirement and fails to participate in case management or the teenager fails to meet the monthly attendance requirement.

(e) Dropping out of school. 1. If the preteen, teenager or primary person does not request a fair hearing under par. (b) or if, after a fair hearing has been held, the hearing officer finds that the preteen is a dropout and has failed to participate in case management or the teenager is a dropout, the agency shall discontinue or deny aid in the next possible payment month after the preteen or the teenager dropped out to the preteen or the teenager who has ceased to attend school. If application of a sanction would otherwise close the case because the preteen or the teenager is the only eligible child in the grant, benefit payments to meet the needs of the caretaker only shall continue for one time up to 3 months the first time the teenager is sanctioned as long as the case continues to meet all other AFDC eligibility criteria.

2. If the fair hearing decision finds against the preteen or the teenager or if the preteen or the teenager failed to comply with the reporting requirements under s.HSS 201.07, the month or months the preteen was included in the grant but did not meet the school attendance requirements and failed to participate in case management or the teenager was included in the grant but did not meet the school attendance requirements shall be considered an overpayment under s.HSS 201.30(3)(c).

(f) Effective period of sanction for dropping out of school. A sanction applied under par. (e) shall be effective until the for a preteen who is a dropout and who has failed to participate in case management until the preteen provides verification from the case manager that he or she is no longer failing to participate in case management, provides written verification from the school district that he or she has re-enrolled and has met the monthly attendance requirement under sub. (4) for one calendar month or a good cause reason under sub. (7) for failing to attend school is verified. In this paragraph, "no longer failing to participate in case management" means that the preteen's family accepts the offer of case management, participates in an assessment and development of a family service plan and begins to engage in the activities identified as being necessary to improve the preteen's school attendance. A sanction applied under par. (e) shall be effective for a teenager who is a dropout until the teenager provides written verification from the school district that he or she has re-enrolled and has met the monthly attendance requirement under sub. (4) for one calendar month or a good cause reason under sub. (7) is verified. For either a preteen or a teenager, Any any month in which school is in session at least 10 days during that month may be used to meet the attendance requirement under sub. (4). This includes attendance at summer school. The sanction shall be removed in the next possible payment month.

The 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.

Wisconsin Department of Health
and Social Services

Dated: August 4, 1994

By: *Gerald Whitburn*
Gerald Whitburn
Secretary

SEAL:

