

Chapter HSS 201

AID TO FAMILIES WITH DEPENDENT CHILDREN

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Note: Chapter HSS 201 was created as an emergency rule effective 12-31-82.

Subchapter I — General Provisions

**HSS 201.01 Authority and purpose.** This chapter is adopted pursuant to s. 49.50 (2), Stats., for the purpose of administering the aid to families with dependent children (AFDC) program.

History: Cr. Register, April, 1983, No. 328, eff. 5-1-83.

**HSS 201.02 Applicability.** This chapter applies to all applicants for AFDC and recipients of AFDC, to all persons engaged in the administration and supervision of AFDC, and to all persons who are legally or financially responsible for any applicant or recipient of AFDC.

History: Cr. Register, April, 1983, No. 328, eff. 5-1-83.

**HSS 201.03 Definitions.** In this chapter:

(1) "AFDC" means aid to families with dependent children, a public assistance program under Title IV-A of the Social Security Act of 1935, as amended, and ss. 49.19 to 49.41, Stats.

(2) "AFDC group" means those persons whose financial eligibility for AFDC is determined together.

(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.

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(4) "Agency" means the county department of social services, public welfare or human services, or a tribal agency which administers income maintenance programs.

(5) "Assistance standard" means the monthly dollar amounts under s. 49.19 (11) (a)1. and 2., Stats., used in determining need and the amount of the family allowance in the AFDC program.

(6) "Caretaker" means a qualified relative who has a child under his or her care as specified in s. HSS 201.17.

(7) "Child-in-common" means any child who is the legal responsibility of the primary person and the primary person's spouse, or the other parent when there is no marriage, when all of them are living together.

(8) "Deemed" means, in reference to income and assets, considered available to applicants or recipients for purposes of determining eligibility and grant amount.

(9) "Department" means the department of health and social services.

(10) "Exempt assets" means those assets which are not considered when determining financial eligibility for AFDC.

(11) "Family allowance" means the percentage of the assistance standard under s. 49.19 (11) (a)1. and 2., Stats., designated as the monthly payment level in the AFDC program.

(12) "Legally responsible relative" means a person liable for the support of another person as specified in s. 52.01, Stats.

(13) "Primary person" means the person whose name is listed first on the application form as the person applying for AFDC.

(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.

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

(16) "SSI" means supplemental security income, the assistance program in section 1613 of Title XVI of the Social Security Act of 1935, as amended, and s. 49.177, Stats.

(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.

History: Cr. Register, April, 1983, No. 328, eff. 5-1-83; emerg. r. (14), renum. (13) to be (14), cr. (13) and (15), eff. 6-1-86; r. and recr. (14), renum. (3) to (13) to be (4) to (13) and (16), cr. (3), (15) and (17), Register, November, 1986, No. 371, eff. 12-1-86.

## Subchapter II — AFDC Administration

**HSS 201.04 Introduction.** Agencies shall administer the AFDC program in accordance with ss. 49.19 to 49.41, Stats., and this chapter, and Register, December, 1988, No. 396

agency shall verify those data elements considered appropriate under the circumstances of the case history.

(2) The following items shall be verified, when applicable, within 60 days after the eligibility decision date:

- (a) Social security numbers.
- (b) Age, when it is a requirement for nonfinancial eligibility.
- (c) Citizenship or alien status.
- (d) Pregnancy.
- (e) Assets.

(3) Additional verifications may be obtained on a case-specific basis when statements of the applicant are unclear, incomplete or conflicting, or when circumstances make credibility doubtful.

(4) Social security number and birth date shall be verified only once. Other information contained in the application subject to change shall be re-verified.

(5) An agency may verify the original or a copy of the checking or savings account statement of a recipient who is receiving benefits by means of electronic funds transfer under s. HSS 201.10 (4). The verification shall be done at the time of eligibility review, or more often if the agency director or the director's designee decides more frequent verification is justified.

History: Cr. Register, April, 1983, No. 328, eff. 5-1-83; emerg. cr. (5), eff. 5-30-87; cr. (5), Register, December, 1987, No. 384, eff. 1-1-88.

**HSS 201.09 Eligibility determination. (1) DECISION DATE.** As soon as possible, but no later than 30 days after the date the agency receives a signed application, completed to the best of the applicant's ability, the agency shall conduct a personal interview with the applicant, determine the applicant's eligibility for AFDC and, on finding the applicant eligible, issue the first payment. If a delay in processing the application occurs because necessary information cannot be obtained within the time limits, the agency shall notify the applicant in writing that there is a delay in processing the application, specify the reason for the delay, and inform the applicant of the right to appeal the delay.

(2) **NOTICE OF DECISION.** (a) Timely and adequate notice shall be sent to applicants and recipients to indicate that AFDC has been authorized or that it has been reduced, denied, terminated or changed to a protective or vendor payment or payment by means of electronic funds transfer under s. HSS 201.10 (4). In this subsection, "timely" means in accordance with s. 49.19 (13), Stats. In this subsection, "adequate notice" means a written notice that contains a statement of the action taken, the reasons for and specific regulations supporting the action, and an explanation of the person's right to request a hearing and the circumstance under which aid will be continued if a hearing is requested. Aid shall be continued in all circumstances except where it is not required by federal regulation.

(b) When changes in either state or federal law require automatic grant adjustments for classes of recipients, timely notice of the grant adjustments shall be given. The notice shall be adequate if it includes a

statement of the intended action, the reasons for the intended action, a statement of the specific change in law requiring such action and statement of the circumstances under which a hearing may be obtained and assistance continued.

(3) **REVIEW OF ELIGIBILITY.** A recipient's eligibility shall be redetermined:

(a) When information previously obtained by the agency concerning anticipated changes in the recipient's situation indicates the need for redetermination;

(b) Promptly after a report is obtained which indicates changes in the recipient's circumstances that may affect eligibility;

(c) At any time the agency can justify the need; and

(d) Within 90 days from the date initial eligibility is determined and every 6 months thereafter.

History: Cr. Register, April, 1983, No. 328, eff. 5-1-83; am. (2) (a), Register, December, 1987, No. 384, eff. 1-1-88.

**HSS 201.10 Payment procedures.** (1) **DESIGNATION OF PAYEE.** Checks shall be made payable as appropriate to:

(a) The primary person;

(b) Spouse of the primary person. The spouse shall be living in the home unless designated as protective payee or appointed by a court to be legal representative;

(c) Guardian or conservator of the AFDC recipient; or

(d) An unrelated person acting temporarily for a caretaker relative in an emergency which deprives the child of the relative's care. This person may be the payee only for the time necessary to make and carry out plans for the child's continuing care.

(2) **PROTECTIVE AND VENDOR PAYMENTS.** (a) In this subsection, "protective payment" means a money payment to a payee designated by the agency as the receiver of a recipient's total or partial monthly financial assistance check. In this subsection, "vendor payment" means a money payment made in behalf of a recipient directly to a provider of goods or services.

(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 WEOP, the payment to any remaining eligible persons shall be in the form of a protective payment or a vendor payment.

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.

Register, December, 1987, No. 384

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(c) If continued mismanagement of funds is a threat to the health and safety of the child, all or part of the grant may be a protective payment or part of the grant may be a direct payment and part a protective or vendor payment or both. The agency shall investigate reports of mismanagement before instituting protective or vendor payments.

(d) The agency director or designee shall authorize all protective and vendor payments. The reason for the authorization shall be documented in the case record and shall show the name of the eligible recipient, the name of the protective or vendor payee, and the amount and form of payment authorized. Authorization shall only be made with the recipient's knowledge, providing he or she is able to understand it.

(2m) METHOD OF PAYMENT. Payment shall be made by check or by means of electronic funds transfer under sub. (4).

(3) RESTRICTION ON USE OF ASSISTANCE NOT PERMITTED. Payment shall consist of an unconditional transfer and delivery of the benefits to the payee with no restrictions imposed by the agency on the use of the funds.

(4) ELECTRONIC FUNDS TRANSFER. (a) In this subsection:

1. "EFT" or "electronic funds transfer" means a computerized mechanism for the direct deposit of payments into a checking or savings account in a bank, credit union, or savings and loan association located in Wisconsin, Illinois, Iowa, Minnesota, or Michigan. EFT functions as a "warrant" as that term is used in 45 CFR 234.11 (a).

2. "State account" means a savings account owned by the department for which a record of transactions is provided by the bank, credit union or savings and loan association to the account's owner on a regular basis.

3. "State co-owned account" means a savings account owned jointly by the department and an AFDC recipient and for which a record of transactions is provided by the bank, credit union or savings and loan association to the account's owners on a regular basis.

(b) Payment of monthly AFDC benefits by means of EFT shall be made no later than the 5th working day of the month.

(c) Except as provided under par. (e), payment shall be made by means of EFT if:

1. A recipient who has an individual checking or savings account in a bank, credit union or savings and loan association that accepts electronic funds transfers requests that payments be transferred into that account by means of EFT; or

2. A recipient is required by the agency director or the director's designee to receive assistance payments by means of EFT. An agency may require EFT participation for a recipient who has:

a. Made 2 or more requests for duplicate checks in the past 6 months;

b. Been found guilty of fraud under s. 49.12 or 49.49, Stats., in the past 6 months;

c. Requested EFT participation but been refused ownership of an individual checking or savings account and, in the judgment of the agency

director or the director's designee, would benefit from receiving payments by means of EFT; or

d. Failed to provide verification of a home address and there is reason to believe that the recipient is not a resident of the county in which the AFDC payments are made.

(d) A recipient shall apply to receive assistance payments by means of EFT on a form prescribed by the department.

Note: Application forms are available from county or tribal income maintenance agencies.

(e) The agency director or the director's designee may deny payments by means of EFT to a recipient who cannot produce verification of a home address and there is reason to believe that the recipient is not a resident of the county in which the AFDC payments are made or to a recipient who does not have a checking or savings account in a bank, credit union or savings and loan association in the community in which he or she lives and there is a bank, credit union or savings and loan association located in that community.

(f) If EFT participation is required under par. (c) 2, payments shall be deposited in a state co-owned account. Financial transactions made with an account required under this paragraph shall be limited to AFDC benefit deposits by means of EFT and in-person withdrawals.

(g) If a recipient is required under par. (c) 2 to receive assistance payments by means of EFT and refuses to cooperate in establishing a state co-owned account, payments shall be deposited in a state account. Financial transactions made with an account required under this paragraph shall be limited to AFDC benefit deposits by means of EFT and in-person withdrawals by the recipient.

(h) If it is necessary to identify the AFDC grant in an account, a first-in, first-out accounting procedure shall be used to distinguish the AFDC grant from non-AFDC funds. In this paragraph, "first-in, first-out accounting procedure" means an accounting method under which it is assumed that funds are withdrawn from an account in the order in which they are deposited.

Note: For example, an AFDC grant of \$250.00 is deposited in an account on April 1. The balance in the account is \$250.00. On April 3, a deposit of \$25.00 is made, bringing the new balance to \$275.00. With first-in, first-out accounting, the AFDC funds are identified as the first \$250.00 to be withdrawn from the account after the deposit is made. If a portion of the \$250.00 has been withdrawn from the account and a portion remains in the account, the AFDC funds are the amount of withdrawals plus the amount remaining in the account equal to \$250.00. The non-AFDC funds are the monies remaining after the \$250.00 AFDC grant deposit has been accounted for.

(i) 1. The agency director or the director's designee shall authorize mandatory EFT participation under par. (c) 2 for a period not to exceed 12 months. This authorization shall be reviewed when redetermining the recipient's eligibility as provided in s. HSS 201.09 (3) or whenever the circumstances that required EFT participation change.

2. The agency director or the director's designee may terminate mandatory EFT participation under par. (c) 2 if the circumstances which required EFT participation have changed. In no case may mandatory

EFT participation under par. (c) 2 be required for more than 2 consecutive 12 month periods.

History: Cr. Register, April, 1983, No. 328, eff. 5-1-83; emerg. renum. (2) (b) and am. eff. 6-1-86; renum. (2) (b) to be (2) (b) 1. and am., cr. (2) (b) 2., Register, November, 1986, No. 371, eff. 12-1-86; emerg. cr. (2m) and (4), am. (3), eff. 5-31-87; cr. (2m) and (4), am. (3), Register, December, 1987, No. 384, eff. 1-1-88.

**HSS 201.11 Appeals.** Any applicant or recipient may ask for and shall receive a fair hearing in accordance with established procedures and consistent with applicable state law and federal regulations when grieved by action or inaction of the agency or the department of health and social services.

History: Cr. Register, April, 1983, No. 328, eff. 5-1-83.

**HSS 201.12 Fraud.** When the agency director or designee decides that possible fraud exists, the case shall be referred to the district attorney.

History: Cr. Register, April, 1983, No. 328, eff. 5-1-83.

**HSS 201.13 Agency bond. (1) SURETY BOND.** The person in charge of the administration of AFDC in each county shall furnish a bond having as surety a company authorized to do surety business in this state. The bond shall be in an amount fixed by the board of supervisors of the county in which the bonded person is to perform his or her functions and shall be substantially in the form provided in s. 19.01 (2), Stats.

(2) **APPROVAL AND FILING.** The form of the bond shall be approved by the district attorney, and the bond shall be filed in the office of the clerk of the court in which the bonded person performs his or her functions.

(3) **NOTICE OF BOND.** The clerk shall give notice in writing to the county board or its chairperson and to the department, stating the amount of the bond filed, the name of the surety, the date of filing and the date of approval by the district attorney. The notice shall be given within 5 days after the person required to be bonded has entered upon his or her office or employment. The notice shall be published with the proceedings of the county board.

(4) **AMOUNT FIXED BY COUNTY BOARD.** The provisions of ss. 19.01 (2), (3), (5), (6) and (8), 19.015, and 19.02 to 19.06, Stats., and all other provisions of law relating to official bonds, unless clearly inapplicable or inconsistent with this chapter, shall apply to all matters in connection with the official bonds required by this chapter. As soon as possible after the convening of the November annual meeting of the county board of supervisors in each county, each board shall by resolution fix, and at any subsequent meeting may change, the required amount of the bond.

(5) **JUDGES EXEMPT.** This section shall not apply to judges.

History: Cr. Register, April, 1983, No. 328, eff. 5-1-83.

### Subchapter III — Conditions of Eligibility and Determination of the Grant

**HSS 201.14 Deprivation.** To be eligible for AFDC, children shall be deprived of parental support or shall be pregnant. To be eligible for AFDC, adults shall be either caretakers of deprived children or pregnant. A child is deprived of parental support or care by reason of the following: death of parent, continued absence of a parent from the home, or, if both par-

ents are in the home, incapacitation of a parent, unemployment of a parent, or a parent is an offender working without pay.

(1) **PARENTAL ABSENCE.** The deprivation may be based on continued absence regardless of the length of time a parent is absent.

(2) **INCAPACITATION OF A PARENT.** For deprivation to be based on incapacitation of a parent, eligibility shall depend on a finding of a legal parent's physical or mental incapacity to provide proper parental support or care. The incapacitation shall be expected to last for a period of at least 30 days. The incapacitation decision shall be made by the agency director or a designer based on competent medical testimony. The incapacitation shall be of such a debilitating nature as to reduce substantially or eliminate the parent's ability to support or care for the child. The agency director or a designee may presume incapacitation and initiate payments on the basis of reliable information. If the medical findings later received indicate that the presumed incapacitation does not exist, the agency shall terminate the case with proper notice.

(3) **UNEMPLOYMENT OF A PARENT.** For deprivation to be based on the unemployment of a parent, the principal wage earner shall meet the requirements detailed in this subsection. If AFDC was received the previous month and the deprivation of the child was based on the unemployment of a parent, then the parent who was the principal wage earner remains the principal wage earner. Otherwise, the principal wage earner is the parent who earned the greater amount of income in the 24-month period that ended at the end of the preceding month.

(a) The principal wage earner shall apply for and accept any unemployment compensation to which she or he is entitled.

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(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.

(c) The principal wage earner shall be either currently out of work or employed less than 100 hours a month. If the principal wage earner is out of work and has not received AFDC based on unemployment within the last 4 months, eligibility shall not begin sooner than 30 days from the date the unemployment began. If the principal wage earner worked more than 100 hours in a particular month, this requirement may be met if the parent worked less than 100 hours for each of the 2 preceding months and is expected to work fewer than 100 hours during the next month.

(d) The principal wage earner, who was not receiving AFDC the previous month, shall not have lost employment without good cause or refused a bonafide offer of employment without good cause within 30 days prior to application. If the principal wage earner was receiving AFDC in the month previous to the current determination of eligibility and lost employment without good cause, the principal wage earner shall not be eligible but any one else in the AFDC group shall be eligible if other requirements are met. The following factors shall be considered in determining if employment was lost without good cause or if the principal wage



earner has been offered employment or training for employment which was refused without good cause:

1. There was a definite offer of employment at wages meeting the minimum wage requirements and which are customary for such work in the community; the parent is physically able to engage in such employment; the parent has the means to get to and from the particular job and commuting time to and from the job is under 2 hours per day; risks to health and safety are not adverse; and workmen's compensation protection is available on the particular job.

2. If the social services unit of the agency states in writing in the case record that it is essential to the well-being of the family that this parent should remain in the home, a refusal of employment or loss of employment is considered to have occurred with good cause.

3. Participation in a strike is not good cause to leave employment or to refuse to seek or accept employment.

(e) The principal wage earner shall have either worked 6 out of the last 13 calendar quarters ending within one year prior to the month of application, or have received or have been deemed qualified for unemployment compensation during the last year prior to application.

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 enrolled in a work incentive (WIN) program established under 42 USC 632 or a WIN demonstration program established under 42 USC 645.

a. If the principal wage earner was in a refugee camp, having fled hostilities or conditions in his or her own country, or unable to work due to incapacitation, verified by a physician, during any of the quarters which would have been considered in establishing the quarter count, those quarters shall not be included in the 13 quarters to be considered. The principal wage earner shall have been in a refugee camp or incapacitated for the entire quarter for the quarter to be excluded.

b. Work performed by prisoners in prison industries shall be considered employment for the purpose of determining quarters of work. Prisoners employed under the s. 56.065, Stats., work release plan for prison inmates, are considered gainfully employed, and wages earned and quarters worked under that section shall be used to determine quarters of work.

2. A person shall be considered qualified for unemployment compensation if he or she:

a. Would have been eligible to receive benefits upon filing an application;

b. Performed work not covered by unemployment compensation which, if the work had been covered, would have satisfied the eligibility requirements for unemployed compensation;

c. Is self-employed but would have been eligible for unemployment compensation had the work been performed for a covered employer; or

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d. Was laid off the job and worked 18 or more weeks within the past 52 weeks for one or more employers.

(4) **OFFENDER WORKING WITHOUT PAY.** For deprivation to be based on the parent being an offender working without pay, the parent shall be a convicted offender permitted to live at home but prevented from earning a wage because he or she is required by a court-imposed sentence to perform unpaid public work or unpaid community service.

History: Cr. Register, April, 1983, No. 328, eff. 5-1-83; emerg. r. and recr. (3) (b), am. (3) (e) 1., eff. 6-1-86; r. and recr. (3) (b), am. (3) (e) 1., Register, November, 1986, No. 371, eff. 12-1-86.

**HSS 201.15 Residence.** (1) To be eligible for AFDC, a person shall live in a dwelling located in Wisconsin and intend to reside in Wisconsin, except as provided in subs. (2) and (3).

(2) The residence requirement shall also be met if the person or a member of the family is a migrant farm worker who entered Wisconsin with a job commitment or seeking employment. "Migrant farm worker" means any person whose primary employment in Wisconsin is in the agricultural field or cannery work; who is authorized to work in the United States; who is not immediate family by blood or marriage to the employer as distinguished from a crewleader; and who routinely leaves an established place of residence to travel to another locality to accept seasonal or temporary employment.

(3) A never-married child under age 18 is a Wisconsin resident when he or she is under the legal custody of the department or an agency, regardless of the state in which he or she is living.

(4) Once established, residence shall be retained until abandoned. Wisconsin residence shall not be lost when a dependent child or caretaker relative is temporarily absent from Wisconsin for the purpose of visiting, hospitalization or education.

History: Cr. Register, April, 1983, No. 328, eff. 5-1-83.

**HSS 201.16 Citizenship.** To be eligible for AFDC, a person shall be either a U.S. citizen or a qualifying alien. In this section, "qualifying alien" means an alien lawfully admitted to the United States for permanent residence; an alien lawfully present in the United States as a result of s. 203(a)7, 207(c), 208, or 212(d) (5) of the Immigration and Nationality Act of 1952, as amended, 8 USC 1153, 1157, 1158 and 1182; or an alien otherwise permanently residing in the United States under color of law.

History: Cr. Register, April, 1983, No. 328, eff. 5-1-83.

**HSS 201.17 Required relationships and responsibility.** To be eligible for AFDC a child shall be under the care of a qualified relative.

(1) **QUALIFIED RELATIVE.** The child's relationship to the caretaker or the caretaker's spouse shall be one of the following: son, daughter, grandson, granddaughter, stepson, stepdaughter, brother, sister, stepbrother, stepsister, half brother or half sister, nephew, niece, uncle, aunt, first cousin or grand, great-grand or great-great grand son, daughter, nephew or niece. The caretakers are qualified relatives even when the relationship is terminated by death or divorce.

Register, November, 1986, No. 371

(2) UNDER THE CARE. (a) A child shall be considered under the care of a relative when the relative:

1. Exercises the primary responsibility for the care and control of the child, including making plans for the child; and
2. Maintains a home in which he or she and the child live.

(b) 1. A child may be absent from the caretaker relative's home but still be considered under the care of the caretaker relative, or the caretaker relative may be absent from the home but still be considered the caretaker relative, if the following conditions are met:

a. The continuous absence is expected to be for a period of no more than 6 months;

b. The absence is not the result of removal of the child under a dispositional order issued under s. 48.355, Stats., which places custody of a child outside the home for an indefinite period or a period of 3 months or more; and

c. The caretaker relative continues to exercise responsibility for the care and control of the child.

2. The agency may approve an extension of a child's temporary absence from the home beyond 6 months when a written plan exists which demonstrates that the intent is to return the child to the home of the caretaker relative.

(c) When a never-married minor parent is residing with his or her parent, the parent of the minor parent is considered the caretaker.

History: Cr. Register, April, 1983, No. 328, eff. 5-1-83; r. and recr. (2) (b), Register, July, 1988, No. 391, eff. 8-1-88.

**HSS 201.18 Assignment of support.** (1) The parent or caretaker shall assign all rights to child support and maintenance payments in order to be eligible for AFDC. If there is a refusal to make the assignment, the person who refuses shall not be eligible for AFDC.

(2) The agency shall refer all cases involving paternity and support to the county child support agency. The parent shall cooperate with the local child support agency in identifying or locating the absent parent, in obtaining support payments or any other payments or property and in establishing paternity. If the parent refuses to cooperate, the parent is not eligible unless it is determined under s. HSS 215.03 that there is good cause for the parent to refuse cooperation.

History: Cr. Register, April, 1983, No. 328, eff. 5-1-83.

**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 under ch. HSS 208 shall not be required of an AFDC recipient who is:

(a) The primary caretaker relative for a child under 2 years of age 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;

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(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;

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

(k) Participating in learnfare under s. HSS 201.195.

(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

*emergency  
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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:

*emerg.*  
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*eff.*  
*7-1-89*

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

*emerg.*  
*am.*  
*7-1-89*

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.

*cr. 3.*  
*eff. 7/1/89*  
*emerg.*  
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*7-1-89*  
*emerg.*  
*r. + recr.*  
*8/29/89*

(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.

*emerg. cr.*  
*(f) & (g) eff.*  
*7/1/89*

History: Cr. Register, April, 1983, No. 328, eff. 5-1-83; emerg. r. and recr. eff. 6-1-86; r. and recr. Register, November, 1986, No. 371, eff. 12-1-86; emerg. am. (1) (intro.), (i) and (j), cr. (1) (a), eff. 11-1-87; am. (1) (intro.), (a), (i) and (j), cr. (1) (k), r. (1) (c), Register, December, 1988, No. 396, eff. 1-1-89.

HSS 201.195 Learnfare. (1) AUTHORITY AND PURPOSE. This section is adopted under the authority of s. 49.50(2) and (7)(h)1, 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 participation requirements.

(2) APPLICABILITY. This section applies to all school districts and all county and tribal income maintenance agencies, and to 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.

(3) DEFINITIONS. In this section:

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

(b) "Dropout" means a teenager who has ceased to attend school, continues to reside in the school district, does not attend another 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.

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

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

(e) "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.

(f) "Learnfare" means the program established under s. 49.50(7), Stats., which requires that all teenagers attend school to meet WEOP participation requirements.

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

(h) "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 vocational, technical and adult education school 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.

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

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

(k) "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.

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

(4) PARTICIPATION IN LEARNFARE. (a) A teenager shall attend school full or part time except that 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 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: