

Chapter HSS 206

WORK SUPPLEMENTATION FOR AFDC RECIPIENTS

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Note: The subject matter of ch. HSS 206 was created as part of a emergency rule effective 12-31-86.

**HSS 206.01 Introduction.** (1) **AUTHORITY AND PURPOSE.** This chapter is promulgated under the authority of ss. 49.50 (7g) (e) and 227.11 (2) (a), Stats., to provide rules for administration of work supplementation programs.

(2) **APPLICABILITY.** This chapter applies to all income maintenance agencies in counties or tribal areas where work supplementation programs are established, to all agencies that administer work supplementation programs, to all businesses, individuals and public and private agencies that provide work supplementation program jobs and to any AFDC recipient participating in a work supplementation program.

(3) **DEFINITIONS.** In this chapter:

(a) "Administrative agency" means a governmental unit, individual, corporation, including a nonprofit corporation, or partnership or any other association that develops WSP jobs, refers recipients to WSP jobs, counsels participants, and monitors the performance and progress of participants.

(b) "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., and ch. HSS 201.

(c) "Base grant" means the total AFDC monthly family allowance for which the family is eligible as determined under s. 49.19 (11) (a), Stats.

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

(e) "Earned income disregard" means that part of a participant's monthly gross earnings on the WSP job that is not counted as income when determining need for AFDC, and that consists of the deductions allowed under s. 49.19 (5) (a), Stats.

(f) "Employability assessment" means tests, interviews and other methods of ascertaining the interests, attitudes, aptitudes, skills and knowledge of recipients that are related to obtaining and holding a job.

(g) "FFP" means federal financial participation, that is, federal government reimbursement for allowable administrative costs of the work supplementation program.

(h) "Income maintenance agency" means a county department of social services or human services, or an American Indian organization that administers income maintenance or job training programs.

(i) "Job search" means a structured and systematic set of activities directed at getting an individual an unsubsidized job.

(j) "Medical assistance" means the assistance program operated by the department under ss. 49.43 to 49.497, Stats., and chs. HSS 101 to 108.

(k) "Participant" means an AFDC recipient who volunteers to take part in a work supplementation program.

(l) "Recipient" means an AFDC recipient.

(m) "Residual grant" means the portion of a recipient's base grant that is provided directly to the recipient when the recipient is a participant in WSP.

(n) "Wage pool" means a fund administered by the department which is made up of diverted amounts of base grants and from which wage subsidies are paid to private for-profit, private non-profit and public sector employers under WSP.

(o) "WEJT" means a work experience and job training program under s. 49.50 (7j), Stats., and ch. HSS 210.

(p) "WSP" or "work supplementation program" means a grant diversion project under s. 49.50 (7g), Stats., in which all or part of a recipient's base grant is paid to a private for-profit, private non-profit or public sector employer for a certain period of time as a subsidy to induce that employer to employ the recipient for at least that period of time and through this experience prepare the recipient for the unsubsidized job market.

(q) "WSP job" means a job subsidized by WSP.

(r) "WSP placement" means a placement in a WSP job.

(s) "WSP services" means counseling, training, educational and other supportive services available to a participant while in a WSP job.

History: Cr. Register, July, 1987, No. 379, eff. 8-1-87; am. (3) (o), Register, March, 1990, No. 411, eff. 4-1-90.

**HSS 206.02 Establishment of work supplementation programs.** (1) The department or its designated representative, which may be a WEJT administrative agency in a WEJT county or the income maintenance agency in a non-WEJT county, shall select an agency to administer the work supplementation program in each county participating in the program. Preference shall be given to establishing the WSP program in WEJT counties. An income maintenance agency may be designated as the administrative agency.

(2) The following criteria shall be used in selecting the administrative agency:

(a) The agency shall be experienced in providing employment and training services;

(b) The agency shall be experienced in providing services to AFDC recipients or other economically disadvantaged persons;

(c) The agency shall have a demonstrated capability of exercising programmatic and financial control over a WSP program;

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(d) The agency shall give evidence of willingness to coordinate and cooperate with other employment and training programs and providers in the provision of WSP services to WSP participants; and

(e) The agency shall demonstrate an understanding of the purpose and functions of a WSP program.

(3) In order to receive FFP for WSP, the administrative agency shall comply with s. 49.50, Stats., this chapter and related program procedures.

History: Cr. Register, July, 1987, No. 379, eff. 8-1-87; am. Register, March, 1990, No. 411, eff. 4-1-90.

**HSS 206.03 Income maintenance agency responsibilities.** The income maintenance agency in a WSP county shall:

(1) Sign up recipients to participate in WSP;

(2) Determine the portion of a participating recipient's base grant to be diverted to the wage pool and the portion to be paid to the recipient, as follows:

(a) From the monthly gross earnings of the WSP job, the income maintenance agency shall subtract in the order shown:

1. Allowable work-related expenses of \$90, as provided in s. 49.19 (5) (a) 2, Stats.;

2. The \$30 and  $\frac{1}{2}$  disregard, as provided in s. 49.19 (5) (a) 4, Stats., or the \$30 and  $\frac{1}{6}$  disregard, as provided in s. 49.19 (5) (am), Stats.; and

3. Dependent care costs up to \$175 each month for each child age 2 or over or incapacitated adult, and up to \$200 each month for each child under age 2, as provided in s. 49.19 (5) (a) 4s, Stats., if not paid by the WSP agency under s. HSS 206.04 (4m) (b);

(b) The amount remaining is the total available income;

(c) From the base grant the income maintenance agency shall subtract the total available income determined under par. (b). The portion of the base grant equal to the total available income shall then be diverted to the wage pool. The remainder is the residual grant which shall be paid to the participant. The amount of the residual grant to which a recipient is entitled shall be fixed for the duration of the WSP job;

(3) Consider that the participant's receipt of the base grant plus full WSP wages for a month constitutes an overpayment, and that the excess over the base payment is subject to recoupment;

(4) Apply the earned income disregard for the length of the WSP job;

(5) Require the recipient to complete and sign an authorization form to divert the recipient's grant to the employer after the recipient begins employment;

(6) Judge that the completion and signing of an authorization form by the recipient to divert the grant to the employer constitutes adequate notice of a change in the manner or form of payment of the grant pursuant to 45 CFR 205.10 (a) (4); and

(7) Provide for generating a supplemental AFDC payment and immediate reinstatement to full AFDC grant status if an employer fails to pay a recipient.

**History:** Cr. Register, July, 1987, No. 379, eff. 8-1-87; emerg. r. and recr. (2) (a), eff. 10-2-89; r. and recr. (2) (a), Register, March, 1990, No. 411, eff. 4-1-90.

**HSS 206.04 Administrative agency responsibilities.** The administrative agency providing WSP services shall:

(1) Cooperate with the income maintenance agency to ensure that in non-WEJT counties potential WSP participants first complete job search and employability assessment;

(2) Coordinate WSP program operation and job development with appropriate local employment and training service providers;

(3) Develop WSP jobs and provide participating employers with a wage subsidy for providing a WSP job which may not exceed \$400 per month per participant for the length of time the participant is in the WSP job, with the department paying the participating employer from a centrally administered wage pool. WSP jobs shall be full-time for at least 32 hours a week and not temporary;

(4) Refer participants for placement in WSP jobs for up to 9 months;

(4m) Ensure that child care, if needed, is available so that the individual is able to participate in a WSP job. The WSP agency shall assist the individual in arranging payment for child care expenses as follows:

(a) The child care provider chosen by the participant may be one who is not required to be licensed by the department or certified by the county;

(b) Actual child care expenses up to the maximum reimbursement rates under s. HSS 55.74 shall be paid to the provider after a bill has been submitted to the WSP agency when the individual is participating in a WSP job; and

(c) WSP payment of child care expenses may not duplicate payment received from any other source for the same purpose or after child care expenses are budgeted to calculate the residual grant under s. HSS 206.03 (2) (a).

(5) Monitor the performance and progress of participants in WSP jobs;

(6) Counsel participants on job-keeping and searching for an unsubsidized job;

(7) Ensure that an individual in a WSP job is paid for the hours of labor performed at the higher hourly rate of the following 2 standards, except that if the labor performed is for a municipality defined under s. 66.293 (3) (b), Stats., the hourly rate shall be as provided under s. 66.293, Stats.:

(a) The hourly rate paid to entry-level employes of that employer who perform similar duties; or

(b) The federal minimum hourly wage prescribed in 29 USC 206 (a) 1; Register, March, 1990, No. 411

(8) Require that WSP jobs meet state and local standards for health and safety;

(9) Ensure that WSP jobs are not used for political, electoral or partisan activities;

(10) Ensure that WSP jobs do not result in full or partial displacement of currently employed workers. Partial displacement includes reductions made by the employer in hours, wages or employment benefits;

(11) Ensure that no participant is hired into or remains working in a job when any other worker of the employer is on layoff from the same or from a substantially equivalent job or has been bumped from the job or has recall or bumping rights to that job;

(12) Not refer a participant to a WSP job that is created due to a continuing strike, lockout or other bona fide labor dispute, and shall ensure that no participant is placed in such a WSP job;

(13) Ensure that the department does not make payments to employers for the training and employment of participants during periods of work stoppage;

(14) Ensure that no participant is placed in a job for which the wages or working conditions are substantially less favorable than those prevailing for similar work in the locality;

(15) Ensure that each participant receives the same wages and benefits and is subject to the same working conditions as employees with the same seniority who perform substantially equivalent jobs in the same organization unit;

(16) Ensure that the employer attends to any job injuries to participants in the same manner as job injuries to regular employees;

(17) Ensure that the employer considers participants to be employees of the work site for purposes of unemployment insurance and workers' compensation;

(18) Ensure that the employer provides written rules for the participant's job which shall be the same as the work rules applicable to other employees at the work site. The work rules shall include job duties, work days and hours, and activities prohibited on the work site;

(19) Encourage the employer to offer the participant unsubsidized employment with at least equivalent wages, hours and working conditions for 9 months after the end of the wage subsidy; and

(20) Ensure that in regard to each participant the employer enters into a formal contract with the agency which incorporates a detailed agreement about training of the participant and expectations concerning the participant's period of employment, including job performance expectations.

**History:** Cr. Register, July, 1987, No. 379, eff. 8-1-87; emerg. cr. (4m), eff. 10-2-89; cr. (4m), Register, March, 1990, No. 411, eff. 4-1-90.

**HSS 206.05 Participation.** (1) **CONDITIONS FOR PARTICIPATION.** The participation of AFDC recipients in work supplementation programs shall be voluntary. To participate in a work supplementation program, a recipient:

(a) Shall have completed a formal job-search without having obtained employment;

(b) Shall have gone through an employability assessment resulting in an employability plan based on prior training, education, experience and skills;

(c) Shall have satisfactorily completed classroom training or work experience identified as needed in the employability assessment;

(d) May not be currently employed;

(e) Shall have been receiving AFDC for at least 3 months; and

(f) Shall complete and sign a form provided by the income maintenance agency to authorize diversion of all or part of the recipient's grant to the employer after the recipient begins employment.

(2) **EFFECTS OF PARTICIPATION ON ELIGIBILITY FOR AFDC AND MEDICAL ASSISTANCE.** (a) A recipient shall maintain eligibility for AFDC for the duration of the recipient's participation in WSP.

(b) A recipient shall remain eligible for medical assistance for the duration of the recipient's participation in WSP.

(c) A recipient is exempt from monthly reporting under ch. HSS 205, except for purposes of food stamp eligibility, for the duration of the recipient's participation in WSP.

(3) **COMPLIANCE WITH EMPLOYER WORK RULES.** Participants shall comply with employer work rules. The failure of a participant to comply with the work rules shall constitute good cause for the employer to dismiss the participant from the WSP job, except that the employer may not dismiss the participant without first conferring with the administrative agency to consider the grounds for the action and alternatives to dismissal.

(4) **NOTICE AND RIGHT TO A FAIR HEARING.** (a) The administrative agency shall send written notice to a participant who has quit a WSP job. The notice shall include:

1. The reasons for the decision to dismiss the participant from WSP;

2. An explanation of the participant's right to explain any disagreement with the proposed action by contacting the agency within 10 working days after the date of the notice;

3. An explanation of the participant's right to appeal the decision in accordance with par. (b); and

4. An explanation of the participant's right to resume full AFDC grant status.

(b) Any participant adversely affected by an agency decision under this chapter may request a fair hearing in accordance with s. 49.50 (8), Stats., and s. PW-PA 20.18 [ch. HSS 225]. The request for a fair hearing shall be addressed to the department's office of administrative hearings.

Note: The mailing address of the Office of Administrative Hearings is P.O. Box 7875, Madison, Wisconsin 53707.

(5) **RETURN TO FULL AFDC GRANT STATUS.** When a recipient completes a WSP placement, leaves the WSP job before completing the WSP placement, Register, March, 1990, No. 411

ment or is dismissed from the WSP job, and does not have an unsubsidized job, the recipient shall be returned to full AFDC grant status if the recipient continues to meet the eligibility requirements for AFDC.

History: Cr. Register, July, 1987, No. 379, eff. 8-1-87.