

Publication Date: May 28, 2009

Effective: June 1, 2009 through October 28, 2009

Hearing Date: July 14, 2009

**State of Wisconsin Department of Children and Families
Emergency Rule**

The Wisconsin Department of Children and Families orders the amendment of DCF 101.09(3)(b) and the creation of DCF 101.09(3)(b)1.b., 101.26(3), and 201.08(2)(g), relating to Wisconsin Works and Wisconsin Shares disregard of temporary census income.

Finding of Emergency

The Department of Children and Families finds that an emergency exists and that the attached rule is necessary for the immediate preservation of the public peace, health, safety, or welfare. A statement of facts constituting the emergency is:

Disregarding income earned from temporary employment with the U.S. Census Bureau in determining Wisconsin Works and Wisconsin Shares eligibility and child care copayments is necessary for the public welfare to ensure Wisconsin has a broad pool of available workers to help ensure an accurate Census count, particularly in historically undercounted low-income neighborhoods. Census work is currently ongoing.

Analysis Prepared by the Department of Children and Families

Statutory authority: Sections 49.145 (1), 49.155 (1m), and 227.11 (2) (a), Stats.

Statutes interpreted: Sections 49.145 (1) and (3) and 49.155 (1m), Stats.

Related statutes or rules: NA

Explanation of agency authority

Section 49.145 (1) provides that to be eligible for Wisconsin Works (W-2) employment positions and job access loans for any month, an individual shall meet the financial eligibility requirements in sub. (3). The Department may promulgate rules establishing additional eligibility criteria and specifying how eligibility criteria are to be administered.

Section 49.155 (1m) (c) 1., Stats., provides that in determining financial eligibility for the child care subsidy, the W-2 agency shall calculate the gross income of the family as described in s. 49.145 (3) (b), Stats., for W-2 employment positions and job access loans. An individual shall also satisfy other eligibility criteria established by the department by rule under par. (d).

Summary of the rule

The rule excludes income earned from temporary employment with the U.S. Census Bureau in determining W-2 and child care eligibility and child care copayments. This exclusion applies for up to 12 weeks per year. A W-2 participant who is working for the Census fewer than 30 hour per week may be placed in a pro-rated Community Service Job with hours of Census employment treated the same as hours of other unsubsidized employment in determining participation requirements and payment amounts. Disregarding Census earnings will reduce, but not eliminate, family child care copayment responsibility. In general, a copayment is required from families receiving a child care subsidy under federal law. A family with only Census income will be required to pay a copayment at the lowest level.

Summary of factual data and analytical methodologies

In 2009 and 2010, the U.S. Census Bureau will be recruiting and temporarily employing more than 700,000 people to fill paid, part-time positions to conduct the 2010 census. In 1999 and 2000, the Census Bureau successfully recruited Temporary Assistance for Needy Families (TANF) participants to help fill vacancies and wishes to do the same for the 2010 census.

The Department of Health and Human Service, Administration for Children and Families, encourages states to disregard the income that TANF participants receive as census employees. This will mean that temporary income from census employment will not result in TANF participants losing financial assistance without gaining long-term employment.

Encouraging W-2 participants to work for the Census Bureau by ensuring that benefits will not be lost is critical to the Census Bureau's work. It is important to the Census to employ workers from neighborhoods that have historically been undercounted. W-2 participants can play vital roles in establishing an accurate count, which affects Wisconsin's congressional representation and federal funding distribution.

Census work can help the State meet the required TANF work-participation rate when the W-2 participant is receiving a pro-rata W-2 grant. Disregarding income will avoid confusion resulting from temporary, intermittent employment with varying weekly earnings. In addition, Census jobs will provide W-2 participants with training and work experience while they perform a valuable community service. Children of Census workers will benefit from being in a licensed or certified child care center while their parents are employed.

Most temporary workers will be employed as enumerators in the field for about 4 to 8 weeks. Nationally, about 100,000 people will be employed in 2009 to locate and verify addresses and about 600,000 people will be employed in 2010 for non-response follow-up. Up to 3,500 positions are targeted for Wisconsin in 2009 and 17,400 in 2010.

Thirty-three other states have approved or indicated pending approval of policies allowing disregard of census income in determining TANF eligibility.

Summary of related federal requirements

In general, a copayment is required from families receiving a child care subsidy.

Comparison with rules in adjacent states

All adjacent states have approved or indicated pending approval of TANF guidelines allowing temporary census employees to maintain TANF eligibility.

Agency contact persons

For Wisconsin Works, the agency contact is Rose Prochazka, (608) 267-7398, rose.prochazka@wisconsin.gov. For Wisconsin Shares child care assistance, the agency contact is Sue Mathison, (608) 266-8872, susan.mathison@wisconsin.gov.

TEXT OF RULE

SECTION 1. DCF 101.09 (3) (b) 1. is amended to read:

DCF 101.09 (3) (b) *Income limitations*. 1. The individual is a member of a W-2 group whose gross income is at or below 115% of the poverty line. In this subdivision, "gross income" does not include any ~~payments~~ of the following:
a. Payments or benefits made under any federal law that specifically exempts such payments or benefits from being considered in determining eligibility for any federal means-tested program.

SECTION 2. DCF 101.09 (3) (b)1. b. is created to read:

DCF 101.09 (3) (b) 1. b. Income earned from employment with the United States Census Bureau that does not exceed 12 weeks per year.

SECTION 3. DCF 101.26 (3) is created to read:

DCF 101.26 (3) Income earned from employment with the United States Census Bureau that does not exceed 12 weeks per year shall not be considered as family income in determining financial eligibility for a child care subsidy under s. 49.155 (1m) (c), Stats.

SECTION 4. DCF 201.08 (2) (g) is created to read:

DCF 201.08 (2) (g) Income earned from employment with the United States Census Bureau that does not exceed 12 weeks per year shall not be considered as family income in determining the amount of a parental copayment under sub. (1).

SECTION 5. EFFECTIVE DATE. This rule shall take effect on June 1, 2009, as provided in s. 227.24 (1) (c), Stats.