

2013 DRAFTING REQUEST

Bill

Received: 12/14/2012 Received By: fknepp
Wanted: As time permits Same as LRB:
For: Administration-Budget 267-7980 By/Representing: Iwata
May Contact: Drafter: fknepp
Subject: Public Assistance - fdshre(SNAP) Addl. Drafters:
Extra Copies:

Submit via email: YES
Requester's email:
Carbon copy (CC) to: fern.knepp@legis.wisconsin.gov
pkahler@legis.wisconsin.gov

Pre Topic:

DOA:.....Iwata, BB0310 -

Topic:

Work requirements for FoodShare

Instructions:

See attached

Drafting History:

<u>Vers.</u>	<u>Drafted</u>	<u>Reviewed</u>	<u>Typed</u>	<u>Proofed</u>	<u>Submitted</u>	<u>Jacketed</u>	<u>Required</u>
/?	fknepp 1/2/2013			_____			
/P1	fknepp 1/22/2013	kfollett 1/7/2013	phenry 1/8/2013	_____	srose 1/8/2013		
/P2	fknepp 1/30/2013	kfollett 1/23/2013	phenry 1/23/2013	_____	mbarman 1/23/2013		

<u>Vers.</u>	<u>Drafted</u>	<u>Reviewed</u>	<u>Typed</u>	<u>Proofed</u>	<u>Submitted</u>	<u>Jacketed</u>	<u>Required</u>
/P3	fknepp 2/7/2013	kfollett 1/30/2013	jmurphy 1/31/2013	_____	sbasford 1/31/2013		
/1		kfollett 2/7/2013	jfrantze 2/7/2013	_____	sbasford 2/7/2013		

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/P3		kfollett 1/30/2013	jmurphy 1/31/2013	_____	sbasford 1/31/2013		

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Jan 1/30

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May Contact: Drafter: fknepp
Subject: Public Assistance - fdshre(SNAP) Addl. Drafters:
Extra Copies:

Submit via email: YES
Requester's email:
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pkahler@legis.wisconsin.gov

Pre Topic:

DOA:.....Iwata, BB0310 -

Topic:

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Instructions:

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/?	fknepp	1/11/12 1/7	ph	1/8 ph	JK		

FE Sent For:

<END>

Knepp, Fern

From: Hanaman, Cathlene
Sent: Friday, December 14, 2012 3:18 PM
To: Kahler, Pam; Knepp, Fern
Subject: FW: [Possible SPAM] Statutory Language Drafting Request - BB0310
Attachments: ABAWD statutory language.docx

Importance: Low

From: Yuko.Iwata@wisconsin.gov [<mailto:Yuko.Iwata@wisconsin.gov>]
Sent: Friday, December 14, 2012 3:15 PM
To: Hanaman, Cathlene
Cc: Thornton, Scott - DOA; Gauger, Michelle C - DOA; Iwata, Yuko - DOA
Subject: [Possible SPAM] Statutory Language Drafting Request - BB0310
Importance: Low

Biennial Budget: 2013-15

Topic: Implementing work requirements for FoodShare program

Tracking Code: BB0310

SBO Team: HSI

SBO Analyst: Iwata, Yuko - DOA
Phone: (608) 267-7980
E-mail: Yuko.Iwata@wisconsin.gov

Agency Acronym: DHS

Agency Number: 435

Priority: High

Intent:

To implement work requirements for able-bodied adults without dependents (ABAWD) who receive FoodShare benefits.

Attachments: True

Please send completed drafts to statlanguage@wisapps.wi.gov

Implement ABAWD provisions

Decision Needed

What statutory language changes are needed to implement work requirements for able-bodied adults without dependents (ABAWD) who receive FoodShare benefits?

Background

1. The Supplemental Nutrition Assistance Program (SNAP) is termed FoodShare in Wisconsin. For consistency, this paper will use the term FoodShare when referring to federal SNAP policy as well as the specific Wisconsin program.
2. Federal law provides two options for states to implement a work requirement as a condition of FoodShare eligibility. First, 7 CFR 273.7(f)(1) allows a state to sanction a FoodShare recipient for refusing to participate in an employment and training program. This is commonly called a mandatory FoodShare Employment and Training (FSET) policy; this policy can apply to adults with or without dependents. Second, the Personal Responsibility and Work Opportunity Reconciliation Act of 1996 (PRWORA) established provisions at 7 CFR 273.24 which allow states to require ABAWDs to meet a minimum work requirement in order to continue to receive FoodShare benefits.
3. Federal policy provides that if a state chooses a mandatory FSET policy and the ABAWD work requirement, the ABAWD policy takes precedence over a mandatory FSET policy. If the ABAWD policy (explained further below) were enacted in Wisconsin and the Legislature directed the Department to enforce a mandatory FSET policy in the future, ABAWDs age 18 to 50 who did not meet the work requirement would be subject to a 3 month limit of benefits in a 36 month period. All FoodShare members aged 50 to 60 and FoodShare members over age 18 who are pregnant or have a child over the age of 12 weeks would be subject to the mandatory FSET policy.

FSET policy: Mandatory or Voluntary Option

4. States are federally mandated to offer a FSET program for FoodShare participants. The intent of FSET is to provide participants with the education, skills, or work experience necessary to obtain competitive employment, enhance earning potential, and promote self-sufficiency.
5. States have an option to make FSET a voluntary or mandatory program. Under a mandatory program, the minimum sanction periods for non-participation set by law are one month for the first instance, three months for the second, and six months for the third. SNAP policy gives States the options to 1) set disqualification periods longer than these minimum

mandatory periods, 2) make the disqualification permanent upon the third occurrence, and 3) sanction the entire household whenever the head of household fails to comply with E&T program requirements. Wisconsin has had a voluntary program since March 1, 2008.

6. Wisconsin ss. 49.79 (9) outlines the provisions of the current FSET program and the provisions of a mandatory FSET program. Wisconsin statutes state that the Department, “may require able individuals who are 18 to 60 years of age who are not participants in a Wisconsin Works employment position to participate in the employment and training program under this subsection”¹. The statutes then describe the exceptions to the policy and the penalty for non-participation. The proposed ABAWD legislation would not change these statutes.

ABAWD Policy

7. The Personal Responsibility and Work Opportunity Reconciliation Act of 1996 (PRWORA) limits the receipt of FoodShare benefits to 3 months in a 3 year period for ABAWDs who are not working, or are not participating in the FSET program or a workfare job site for at least 20 hours per week². ABAWD are individuals ages 18 to 50, who are not responsible for the care of a child or incapacitated household member, are not medically certified as physically or mentally unfit for employment and are not pregnant.
8. ABAWDs who exhaust their three months of benefits lose their eligibility to receive FoodShare for the remainder of the 36-month period. They can regain eligibility during this time by meeting the work requirement for 30 days, after which they remain eligible to receive FoodShare for as long as they continue to meet the work requirement. If they fail to meet the work requirement a second time, they can receive FoodShare for up to three additional months. These three months must be used consecutively. After that point and for the balance of the 36-month period, they can receive FoodShare only in those months in which they meet the work requirement.
9. Individuals may be exempt from ABAWD work requirements of the FoodShare program if they are in school at least part time. Individuals participating in treatment for alcohol and other drug addictions are also exempt from work requirements.
10. The State of Wisconsin has exempted ABAWDs from the ABAWD work requirement through a combination of federal waivers and state options since 2002. The initial reason for the waiver was to improve the FoodShare error rate and decrease income maintenance (IM) workload. The American Recovery and Reinvestment Act suspended the 3 month time limit for ABAWDs between April 1, 2009, to September 30, 2010, for all FoodShare programs in the nation. The Department of Health Services has advised the Federal Food and Nutrition Service (FNS) that it intends to implement the ABAWD provisions after July 1, 2014.

¹ 49.79 (9)(a)1.

² 7 CFR 273.24(d)(3)

11. FNS provides states with flexibility in applying the ABAWD requirement. There are two primary exemptions³:
 - 1) FNS allows states to exempt up to 15 percent of unemployed ABAWDS from the 3-month limit. If the state does not use all of its exemptions in a given year, it may be able to roll some exemption authority from one year to the next.
 - 2) States with areas of high unemployment can apply for a waiver to expand the number of exemptions based on local unemployment rates or data showing areas that do not have a sufficient number of available jobs to provide employment for individuals.
12. Under the proposed ABAWD policy, the Department would exempt 15% of ABAWDS. The Department does not plan to exempt areas of high unemployment at this time.
13. State statutes do not currently contain any language relating to the provisions of the ABAWD policy.
14. The Department intends to phase in the ABAWD policy from July 1, 2013 to July 1, 2014.

FSET Program Administration

15. The FSET program is currently administered by a combination of counties, a workforce development board, and other agencies. Funds are allocated based on a county, rather than regional, model. The Department intends for county income maintenance consortia to continue to determine FoodShare eligibility under the ABAWD policy, but plans to contract regional Workforce Development Boards or other entities to administer the FSET program.

Current Language

Wisconsin ss 49.79 (9) describes the current FSET program and the provisions of a mandatory FSET policy.

Wisconsin ss 49.79(9)(a) 1 states, “The Department may contract, or a county department, multicounty consortium, or tribal governing body may subcontract, with a Wisconsin Works agency or another provider to administer the employment and training program under this subsection.”

Proposed Change

Do not change the mandatory FSET program as described in ss. 49.79 (9).

Revise the entities that the Department may contract with for the FSET program. Rephrase 49.79 (9)(a) 1 to specify that the Department may contract with a Workforce Development Board or tribal governing body or other agency to administer the employment and training program. Note that multicounty consortia will continue to be responsible for FoodShare eligibility determinations and for a referral to the FoodShare and Employment Training Program but will not be an allowable FoodShare and Employment Training Program contractor once the policy is implemented statewide.

Add statutory language allowing, but not requiring, the Department to implement the ABAWD provisions of PRWORA. Use the definition of ABAWD in federal regulations at 7 CFR 273.24 (c)

³ Federal ABAWD work requirement exemptions are found in 7 CFR 273.24(f) and (g).

and indicate that, if DHS implements the policy, FoodShare participants must meet the mandatory work requirement in 7 CFR 273.24 (a)(1).

Provide that, if the Department implements the ABAWD policy, it would limit the receipt of FoodShare benefits to 3 months in a 3 year period for ABAWDS who are not working, or are not participating in the FSET program or a workfare job site for at least 20 hours per week.

Allow the Department to implement a 15% exemption to the ABAWD policy following receipt of federal approval for a 15% exemption policy. ←

Desired Effective Date: July 1, 2013, but allow DHS to continue existing FSET contracts until the new policy is implemented statewide beginning July 1, 2014.

Agency: DHS
Agency Contact: Carrie Schneck
Phone: 266-5362



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*** This section is current through the December 13, 2012 ***
*** issue of the Federal Register ***

TITLE 7 -- AGRICULTURE
SUBTITLE B -- REGULATIONS OF THE DEPARTMENT OF AGRICULTURE
CHAPTER II -- FOOD AND NUTRITION SERVICE, DEPARTMENT OF AGRICULTURE
SUBCHAPTER C -- FOOD STAMP AND FOOD DISTRIBUTION PROGRAM
PART 273 -- CERTIFICATION OF ELIGIBLE HOUSEHOLDS
SUBPART G--PROGRAM ALTERNATIVES

Go to the CFR Archive Directory

7 CFR 273.24

§ 273.24 Time limit for able-bodied adults.

(a) Definitions. For purposes of the food stamp time limit, the terms below have the following meanings:

(1) Fulfilling the work requirement means:

(i) Working 20 hours per week, averaged monthly; for purposes of this provision, 20 hours a week averaged monthly means 80 hours a month;

(ii) Participating in and complying with the requirements of a work program 20 hours per week, as determined by the State agency;

(iii) Any combination of working and participating in a work program for a total of 20 hours per week, as determined by the State agency; or

(iv) Participating in and complying with a workfare program;

(2) Working means:

(i) Work in exchange for money;

(ii) Work in exchange for goods or services ("in kind" work); or

(iii) Unpaid work, verified under standards established by the State agency.

7 CFR 273.24

(iv) Any combination of paragraphs (a)(2)(i), (a)(2)(ii) and (a)(2)(iii) of this section.

(3) Work Program means:

(i) A program under the Workforce Investment Act (Pub. L. 105-220);

(ii) A program under section 236 of the Trade Act of 1974 (19 U.S.C. 2296); or

(iii) An employment and training program, other than a job search or job search training program, operated or supervised by a State or political subdivision of a State that meets standards approved by the Governor of the State, including a program under § 273.7(f). Such a program may contain job search or job search training as a subsidiary component as long as such component is less than half the requirement.

(4) Workfare program means:

(i) A program under § 273.7(m); or

(ii) A comparable program established by a State or political subdivision of a State.

~~(b) General Note.~~ Individuals are not eligible to participate in the Food Stamp Program as a member of any household if the individual received food stamps for more than three countable months during any three-year period, except that individuals may be eligible for up to three additional countable months in accordance with paragraph (e) of this section.

(1) Countable months. Countable months are months during which an individual receives food stamps for the full benefit month while not:

(i) Exempt under paragraph (c) of this section;

(ii) Covered by a waiver under paragraph (f) of this section;

(iii) Fulfilling the work requirement as defined in paragraph (a)(1) of this section; or

(iv) Receiving benefits that are prorated in accordance with § 273.10.

(2) Good cause. As determined by the State agency, if an individual would have worked an average of 20 hours per week but missed some work for good cause, the individual shall be considered to have met the work requirement if the absence from work is temporary and the individual retains his or her job. Good cause shall include circumstances beyond the individual's control, such as, but not limited to, illness, illness of another household member requiring the presence of the member, a household emergency, or the unavailability of transportation.

(3) Measuring the three-year period. The State agency may measure and track the three-year period as it deems appropriate. The State agency may use either a "fixed" or "rolling" clock. If the State agency chooses to switch tracking methods it must inform FNS in writing. With respect to a State, the three-year period:

(i) Shall be measured and tracked consistently so that individuals who are similarly situated are treated the same; and

(ii) Shall not include any period before the earlier of November 22, 1996, or the date the State notified food stamp recipients of the application of Section 824 of the Personal Responsibility and Work Opportunity Reconciliation Act of 1996 (Pub. L. 104-193).

(4) Treatment of income and resources. The income and resources of an individual made ineligible under this

paragraph (b) shall be handled in accordance with § 273.11(c)(2).

(5) Benefits received erroneously. If an individual subject to this section receives food stamp benefits erroneously, the State agency shall consider the benefits to have been received for purposes of this provision unless or until the individual pays it back in full.

(6) Verification. Verification shall be in accordance with § 273.2(f)(1) and (f)(8).

(7) Reporting. A change in work hours below 20 hours per week, averaged monthly, is a reportable change in accordance with § 273.12(a)(1)(viii). Regardless of the type of reporting system the State agency assigns to potential ABAWDs, the State agency must adhere to the statutory requirements of time-limited benefits for individuals who are subject to the work requirement. The State agency may opt to consider work performed in a job that was not reported according to the requirements of § 273.12 "work."

 The time limit does not apply to an individual if he or she is:

- (1) Under 18 or 50 years of age or older;
 - (2) Determined by the State agency to be medically certified as physically or mentally unfit for employment. An individual is medically certified as physically or mentally unfit for employment if he or she:
 - (i) Is receiving temporary or permanent disability benefits issued by governmental or private sources;
 - (ii) Is obviously mentally or physically unfit for employment as determined by the State agency; or
 - (iii) If the unfitness is not obvious, provides a statement from a physician, physician's assistant, nurse, nurse practitioner, designated representative of the physician's office, a licensed or certified psychologist, a social worker, or any other medical personnel the State agency determines appropriate, that he or she is physically or mentally unfit for employment.
 - (3) Is a parent (natural, adoptive, or step) of a household member under age 18, even if the household member who is under 18 is not himself eligible for food stamps;
 - (4) Is residing in a household where a household member is under age 18, even if the household member who is under 18 is not himself eligible for food stamps;
 - (5) Is otherwise exempt from work requirements under section 6(d)(2) of the Food Stamp Act, as implemented in regulations at § 273.7(b); or
 - (6) Is pregnant.
- (d) Regaining eligibility. (1) An individual denied eligibility under paragraph (b) of this section, or who did not reapply for benefits because he was not meeting the work requirements under paragraph (b) of this section, shall regain eligibility to participate in the Food Stamp Program if, as determined by the State agency, during any 30 consecutive days, he or she:
- (i) Worked 80 or more hours;
 - (ii) Participated in and complied with the requirements of a work program for 80 or more hours;
 - (iii) Any combination of work and participation in a work program for a total of 80 hours; or participated in and complied with a workfare program; or

(iv) At State agency option, verifies that the he or she will meet one of the requirements in paragraphs (d)(1)(i), (d)(1)(ii), (d)(1)(iii), or (d)(1)(v) of this section, within the 30 days subsequent to application; or

(v) Becomes exempt.

(2) An individual regaining eligibility under paragraph (d)(1) of this section shall have benefits calculated as follows:

(i) For individuals regaining eligibility by working, participating in a work program, or combining hours worked and hours participating in a work program, the State agency may either prorate benefits from the day the 80 hours are completed or from the date of application, or

(ii) For individuals regaining eligibility by participating in a workfare program, and the workfare obligation is based on an estimated monthly allotment prorated back to the date of application, then the allotment issued must be prorated back to this date.

(3) There is no limit on how many times an individual may regain eligibility and subsequently maintain eligibility by meeting the work requirement.

(e) Additional three-month eligibility. An individual who regained eligibility under paragraph (d) of this section and who is no longer fulfilling the work requirement as defined in paragraph (a) of this section is eligible for a period of three consecutive countable months (as defined in paragraph (b) of this section), starting on the date the individual first notifies the State agency that he or she is no longer fulfilling the work requirement, unless the individual has been satisfying the work requirement by participating in a work or workfare program, in which case the period starts on the date the State agency notifies the individual that he or she is no longer meeting the work requirement. An individual shall not receive benefits under this paragraph (e) more than once in any three-year period.

(f) Waivers.

(1) General. On the request of a State agency, FNS may waive the time limit for a group of individuals in the State if we determine that the area in which the individuals reside:

(i) Has an unemployment rate of over 10 percent; or

(ii) Does not have a sufficient number of jobs to provide employment for the individuals.

(2) Required data. The State agency may submit whatever data it deems appropriate to support its request. However, to support waiver requests based on unemployment rates or labor force data, States must submit data that relies on standard Bureau of Labor Statistics (BLS) data or methods. A non-exhaustive list of the kinds of data a State agency may submit follows:

(i) To support a claim of unemployment over 10 percent, a State agency may submit evidence that an area has a recent 12 month average unemployment rate over 10 percent; a recent three month average unemployment rate over 10 percent; or an historical seasonal unemployment rate over 10 percent; or

(ii) To support a claim of lack of sufficient jobs, a State may submit evidence that an area: is designated as a Labor Surplus Area (LSA) by the Department of Labor's Employment and Training Administration (ETA); is determined by the Department of Labor's Unemployment Insurance Service as qualifying for extended unemployment benefits; has a low and declining employment-to-population ratio; has a lack of jobs in declining occupations or industries; is described in an academic study or other publications as an area where there are lack of jobs; has a 24-month average unemployment rate 20 percent above the national average for the same 24-month period. This 24-month period may not be any earlier than the same 24-month period the ETA uses to designate LSAs for the current fiscal year.

(3) Waivers that are readily approvable. FNS will approve State agency waivers where FNS confirms:

- (i) Data from the BLS or the BLS cooperating agency that shows an area has a most recent 12 month average unemployment rate over 10 percent;
- (ii) Evidence that the area has been designated a Labor Surplus Area by the ETA for the current fiscal year; or
- (iii) Data from the BLS or the BLS cooperating agency that an area has a 24 month average unemployment rate that exceeds the national average by 20 percent for any 24-month period no earlier than the same period the ETA uses to designate LSAs for the current fiscal year.

(4) Effective date of certain waivers. In areas for which the State certifies that data from the BLS or the BLS cooperating agency show a most recent 12 month average unemployment rate over 10 percent; or the area has been designated as a Labor Surplus Area by the Department of Labor's Employment and Training Administration for the current fiscal year, the State may begin to operate the waiver at the time the waiver request is submitted. FNS will contact the State if the waiver must be modified.

(5) Duration of waiver. In general, waivers will be approved for one year. The duration of a waiver should bear some relationship to the documentation provided in support of the waiver request. FNS will consider approving waivers for up to one year based on documentation covering a shorter period, but the State agency must show that the basis for the waiver is not a seasonal or short term aberration. We reserve the right to approve waivers for a shorter period at the State agency's request or if the data is insufficient. We reserve the right to approve a waiver for a longer period if the reasons are compelling.

(6) Areas covered by waivers. States may define areas to be covered by waivers. We encourage State agencies to submit data and analyses that correspond to the defined area. If corresponding data does not exist, State agencies should submit data that corresponds as closely to the area as possible.

(g) 15 percent exemptions. (1) For the purpose of establishing the 15 percent exemption for each State agency, the following terms are defined:

(i) Caseload means the average monthly number of individuals receiving food stamps during the 12-month period ending the preceding June 30.

(ii) Covered individual means a food stamp recipient, or an applicant denied eligibility for benefits solely because he or she received food stamps during the 3 months of eligibility provided under paragraph (b) of this section, who:

- (A) Is not exempt from the time limit under paragraph (c) of this section;
- (B) Does not reside in an area covered by a waiver granted under paragraph (f) of this section;
- (C) Is not fulfilling the work requirements as defined in paragraph (a)(1) of this section; and
- (D) Is not receiving food stamp benefits under paragraph (e) of this section.

(2) Subject to paragraphs (h) and (i) of this section, a State agency may provide an exemption from the 3-month time limit of paragraph (b) of this section for covered individuals. Exemptions do not count towards a State agency's allocation if they are provided to an individual who is otherwise exempt from the time limit during that month.

(3) For each fiscal year, a State agency may provide a number of exemptions such that the average monthly number of exemptions in effect during the fiscal year does not exceed 15 percent of the number of covered individuals in the State, as estimated by FNS, based on FY 1996 quality control data and other factors FNS deems appropriate, and adjusted by FNS to reflect changes in:

(i) The State agency's caseload; and

(ii) FNS's estimate of changes in the proportion of food stamp recipients covered by waivers granted under paragraph (f) of this section.

(4) State agencies must not discriminate against any covered individual for reasons of age, race, color, sex, disability, religious creed, national origin, or political beliefs. Such discrimination is prohibited by this part, the Food Stamp Act, the Age Discrimination Act of 1975 (Public Law 94-135), the Rehabilitation Act of 1973 (Public Law 93-112, section 504), and title VI of the Civil Rights Act of 1964 (*42 U.S.C. 2000d*). Enforcement action may be brought under any applicable Federal law. Title VI complaints will be processed in accord with 7 CFR part 15.

(h) Adjustments. FNS will make adjustments as follows:

(1) Caseload adjustments. FNS will adjust the number of exemptions estimated for a State agency under paragraph (g)(2) of this section during a fiscal year if the number of food stamp recipients in the State varies from the State's caseload by more than 10 percent, as estimated by FNS.

(2) Exemption adjustments. During each fiscal year, FNS will adjust the number of exemptions allocated to a State agency based on the number of exemptions in effect in the State for the preceding fiscal year.

(i) If the State agency does not use all of its exemptions by the end of the fiscal year, FNS will increase the estimated number of exemptions allocated to the State agency for the subsequent fiscal year by the remaining balance.

(ii) If the State agency exceeds its exemptions by the end of the fiscal year, FNS will reduce the estimated number of exemptions allocated to the State agency for the subsequent fiscal year by the corresponding number.

(i) Reporting requirement. The State agency will track the number of exemptions used each month and report this number to the regional office on a quarterly basis as an addendum to the quarterly Employment and Training Report (Form FNS-583) required by § 273.7(c)(8).

(j) Other Program rules. Nothing in this section will make an individual eligible for food stamp benefits if the individual is not otherwise eligible for benefits under the other provisions of this part and the Food Stamp Act.

(Approved by the Office of Management Budget under control number 0584-0064.)

HISTORY: [64 FR 48246, 48257, Sept. 3, 1999; 66 FR 4438, 4469, Jan. 17, 2001; 66 FR 8886, Feb. 5, 2001; 66 FR 29661, June 1, 2001; 67 FR 41589, 41618, June 19, 2002; 71 FR 33376, 33384, June 9, 2006; 75 FR 23565, May 4, 2010]

AUTHORITY: AUTHORITY NOTE APPLICABLE TO ENTIRE PART:
7 U.S.C. 2011-2036.

NOTES: [EFFECTIVE DATE NOTE: 71 FR 33376, 33384, June 9, 2006, amended paragraph (a)(4)(i), effective Aug. 8, 2006; 75 FR 23565, May 4, 2010, provides this document announces approval by OMB of the information collection requirements contained in the final rule published at 75 FR 4912, Jan. 29, 2010.]

NOTES APPLICABLE TO ENTIRE TITLE:

CROSS REFERENCES: Animal and Plant Health Inspection Service, Department of Agriculture, see 7 CFR chapter III; 9 CFR chapter I.

Commodity Futures Trading Commission, see 17 CFR chapter I.

Commodity Credit Corporation, Department of Agriculture, see 7 CFR chapter XIV.

Customs Service, Department of the Treasury, see 19 CFR chapter I.

Farm Credit Administration, see 12 CFR chapter VI.

Farmers Home Administration, Department of Agriculture, see 7 CFR chapter XVIII.
Federal Crop Insurance Corporation, Department of Agriculture, see 7 CFR chapter IV.
Fish and Wildlife Service, Department of the Interior, see 50 CFR chapters I and IV.
Food and Drug Administration, Department of Health and Human Services, see 21 CFR chapter I.
Food Safety and Inspection Service, Meat and Poultry Inspection, Department of Agriculture, see 9 CFR chapter III.
Forest Service, Department of Agriculture, see 36 CFR chapter II.
Rural Electrification Administration, Department of Agriculture, see 7 CFR chapter XVII.
Soil Conservation Service, Department of Agriculture, see 7 CFR chapter VI.
United States International Trade Commission, see 19 CFR chapter II.
Other regulations issued by the Department of Agriculture appear in chapters I to XLI of title 7, and chapter 4 of title 48.

NOTES APPLICABLE TO ENTIRE CHAPTER:

[PUBLISHER'S NOTE: For Federal Register citations concerning Chapter II Policy Statements, see: *62 FR 55141*, Oct. 23, 1997.]

EDITORIAL NOTE: Nomenclature changes to Chapter II appear at *59 FR 60061*, Nov. 22, 1994, and *60 FR 19490*, Apr. 19, 1995.

NOTES APPLICABLE TO ENTIRE SUBCHAPTER:

[PUBLISHER'S NOTE: Nomenclature changes to Subchapter C appear at *65 FR 64581*, *64586*, Oct. 30, 2000.]

NOTES APPLICABLE TO ENTIRE PART:

EDITORIAL NOTE: OMB control numbers relating to this part 273 are contained in § 271.8.

CASE NOTES Applicable to entire Part:Part Note



In 7-2-2013

DOA:.....Iwata, BB0310 – Work requirements for FoodShare

FOR 2013-2015 BUDGET – NOT READY FOR INTRODUCTION

HEALTH AND HUMAN SERVICES

PUBLIC ASSISTANCE ← (CS)

Don't Gen

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AN ACT ...; relating to: the budget.

Analysis by the Legislative Reference Bureau

Under current law, DHS administers the federal Supplemental Nutrition Assistance Program (SNAP), formerly known as the food stamp program and currently known in Wisconsin as FoodShare, under which eligible households receive benefits to purchase food at retail food stores. Under current law, DHS may require a recipient of SNAP benefits who is able and who is 18 to 60 years of age to participate in the FoodShare employment and training program (FSET) to be eligible for SNAP benefits, with exceptions for an individual who is participating in a Wisconsin Works employment position, an individual who is the caretaker of a child under the age of 12 weeks, and an individual who is enrolled at least half time in school or in a training program or an institution of higher education. Currently, DHS may contract with a county, multicounty consortium, or tribal governing body to administer FSET. Under this bill, beginning July 1, 2014, DHS may contract with a local workforce development board, a tribal governing body, or other agency to administer FSET.

This bill also authorizes DHS to implement a federal policy under which DHS may limit the amount of SNAP benefits that an able-bodied adult may receive to three months during a three-year period if the adult does not meet certain work requirements. An able-bodied adult, as defined by the bill, is an individual who is 18 to 50 years old, is fit for employment, is not a parent of a household member who is younger than 18, is not pregnant, and is not otherwise exempt from specific work

49

requirements under federal law. DHS may implement this policy in addition to the current employment and training program.

The people of the state of Wisconsin, represented in senate and assembly, do enact as follows:

1 **SECTION 1.** 49.78 (1) (b) of the statutes [✓] is amended to read:

2 49.78 (1) (b) “Income maintenance program” means the Medical Assistance
3 program under subch. IV of ch. 49, the Badger Care health care program under s.
4 49.665, the food stamp program under 7 USC 2011 to 2036 except for the employment
5 and training program described in s. 49.79 (9), or the cemetery, funeral, and burial
6 expenses program under s. 49.785.

X ****NOTE: You [✓] instructions indicate that multicounty consortia will continue to
make eligibility decisions and referrals for FSET. Is this definition change consistent with
your intent?

History: 1995 a. 27 ss. 2041 to 2049, 2933 to 2936, 3084 to 3087, 3130; 1995 a. 289, 417; 1997 a. 27; 2001 a. 16; 2003 a. 33 ss. 1308, 1448, 9160; Stats. 2003 s. 49.78; 2005 a. 25; 2007 a. 20; 2009 a. 15, 28; 2011 a. 32.

7 **SECTION 2.** 49.79 (9) (a) 1. of the statutes [✓] is amended to read:

8 49.79 (9) (a) 1. The department shall administer an employment and training
9 program for recipients under the food stamp program and may contract with ~~county~~
10 ~~departments under ss. 46.215, 46.22, and 46.23, multicounty consortia, and with~~
11 local workforce development boards established under 29 USC 2832, tribal
12 governing bodies, or other agencies to carry out the administrative functions. The
13 ~~department may contract, or a county department, multicounty consortium, or A~~
14 local workforce development board, tribal governing body, or other agency may
15 subcontract, with a Wisconsin Works agency or another provider to administer the
16 employment and training program under this subsection. Except as provided in
17 subs. 2. and 3., the department may require able individuals who are 18 to 60 years
18 of age who are not participants in a Wisconsin Works employment position to
19 participate in the employment and training program under this subsection.

***NOTE: Please confirm that these changes are consistent with your intent, specifically the authority of the local workforce development board and tribal governing body to subcontract with other entities.

***NOTE: Your instructions explain that you are intending to prevent multicounty consortia from qualifying as a contractor. Are there specific other agencies that you are intending to capture with the phrase "or other agency"? It may be useful to narrow the phrase "or other agency" because, as drafted, the phrase is ambiguous and could be interpreted to include a multi-county consortia. Additionally, there are many other defined terms in ch. 49 that could be used to define "or other agency," including child support agency, Wisconsin Works agency, relief agency, and local agency. Would this be consistent with your intent?

+
X
+

?

Ins 3-1

History: 2001 a. 16 ss. 1656sy to 1656tjk, 1656tjm to 1656tp, 1656tr, 1656ts to 1656tx, 1838sb to 1838td.; Stats 2001 s. 49.79; 2003 a. 33; 2005 a. 25; 2005 a. 443 s. 265; 2007 a. 20 ss. 1397, 1399 to 1407, 1662 to 1669; 2011 a. 32.

SECTION 3. 49.79 (10) of the statutes is created to read:

2 **49.79 (10) ELIGIBILITY AND WORK REQUIREMENTS FOR ABLE-BODIED ADULTS.** (a) In
3 this subsection, "able-bodied adult" means an individual who is not any of the
4 following:

- 5 1. Younger than 18 years of age.
- 6 2. 50 years of age or older.
- 7 3. Determined by the department to be medically certified as physically or
8 mentally unfit for employment, as described in 7 CFR 273.24 (c) (2).
- 9 4. A parent of a household member who is younger than 18 years old, even if
10 the household member who is younger than 18 years old is not eligible for food
11 stamps.
- 12 5. Residing in a household that includes a household member who is younger
13 than 18 years old, even if the household member who is younger than 18 years old
14 is not eligible for food stamps.
- 15 6. Exempt from the work requirement under the food stamp program, as
16 described in 7 CFR 273.24 (c) (5).
- 17 7. Pregnant.

1 (b) The department may implement a policy that complies with 7 CFR 273.24.
2 If the department implements a policy under this paragraph, all of the following
3 apply:

4 1. The department shall require an able-bodied adult who is participating in
5 the food stamp program to fulfill the work requirement defined under 7 CFR 273.24

6 (a) 1.

7 2. If an able-bodied adult does not fulfill the work requirement, the
8 department may limit the able-bodied adult's eligibility for food stamps to no more
9 than 3 months during a 3-year period.

10 3. The department may exempt up to 15 percent of the able-bodied adults who
11 are participating in the food stamp program from the time limit under subd. 2.

12 (c) If the secretary determines that a waiver, or an amendment to a waiver,
13 is necessary to implement a policy that complies with 7 CFR 273.24, the secretary
14 shall request the waiver or the amendment to the waiver from the federal
15 department of agriculture to permit the secretary to implement a policy that
16 complies with 7 CFR 273.24 as provided under this subsection.

17 **SECTION 9318. Initial applicability; Health Services**

18 (1) FOOD STAMP EMPLOYMENT AND TRAINING PROGRAM CONTRACTS. The treatment
19 of section 49.79 (9) (a) 1. of the statutes first applies to a contract to administer the
20 food stamp employment and training program under section 49.79 (9) of the statutes
21 after June 30, 2014.

22 **SECTION 4. Effective date.**

23 (1) INCOME MAINTENANCE PROGRAM DEFINITION. The treatment of section 49.78
24 (1) (b) of the statutes takes effect on July 1, 2014.

25

(END)

2013-2014 DRAFTING INSERT
FROM THE
LEGISLATIVE REFERENCE BUREAU

LRB-0843/P1ins
FFK:.....

INS 3-1

SECTION 1. 49.79 (9) (b) (intro.) of the statutes is amended to read:

49.79 (9) (b) (intro.) ~~An~~ Except as provided in par. (c), an individual who fails to comply with the work requirements under par. (a) without good cause is ineligible to participate in the food stamp program as follows:

History: 2001 a. 16 ss. 1656sy to 1656tjk, 1656tjm to 1656tp, 1656tr, 1656ts to 1656tx, 1838sb to 1838td.; Stats 2001 s. 49.79; 2003 a. 33; 2005 a. 25; 2005 a. 443 s. 265; 2007 a. 20 ss. 1397, 1399 to 1407, 1662 to 1669; 2011 a. 32.

SECTION 2. 49.79 (9) (c) of the statutes is created to read:

49.79 (9) (c) If the department implements a policy under sub. (10), par. (b) does not apply to an individual who is required to fulfill the work requirement under sub. (10) (b).

END INS 3-1

Knepp, Fern

From: Iwata, Yuko - DOA <Yuko.Iwata@wisconsin.gov>
Sent: Monday, January 21, 2013 4:48 PM
To: Knepp, Fern; Kahler, Pam
Cc: Gauger, Michelle C - DOA
Subject: FW: ABAWD draft

Hello,

Please see drafting suggestions below for drafting on FoodShare and its employment and training program. If you have any questions, please let me know.

Thanks,

Yuko Iwata
Executive Policy and Budget Analyst
Division of Executive Budget and Finance
Department of Administration
(608) 267 – 7980

From: Gauger, Michelle C - DOA
Sent: Monday, January 21, 2013 4:02 PM
To: Iwata, Yuko - DOA
Subject: ABAWD draft

Yuko,

Can you please send this to the LRB drafter working on the FoodShare Employment Training draft?

The Governor's budget will expand certain employment programs operated by the Department of Children and Families. Although there should be limited overlap with the able-bodied adults without dependents, we want to make sure that any individual who is participating in good standing in any of the DCF employment programs will not be denied FoodShare benefits, or required to do additional employment training activities.

From: Major, Katrina L - DOA
Sent: Monday, January 21, 2013 3:53 PM
To: Gauger, Michelle C - DOA
Cc: Kraus, Jennifer - DOA
Subject: fset

Hi Michelle, maybe something like this? Or we can take a look at whatever the drafter comes up with otherwise.

Participation in a work program through the Department of Children and Families, in a quantity that meets the time requirements of this program, will qualify to meet the education and training requirements of this program. These qualifying programs include the following employment and training programs: Wisconsin Works, Transform Milwaukee, or Children First. The department may promulgate rules to allow other employment programs to qualify.

Thanks,
k