

Clearinghouse Rule 08-004

State of Wisconsin

**Department of Workforce Development
Division of Family Supports**

**Wisconsin Works
Temporary Absence of a Child and Job Access Loans
Chapter DWD 12**

The Wisconsin Department of Workforce Development proposes an order to renumber and amend DWD 12.10 (2); to amend DWD 12.10 (1) (intro.), 12.17 (2) (a) 1., and 12.17 (2) (a) 2.; and to create DWD 12.10 (1m), 12.10 (2) (b) and (c), and 12.17 (2) (a) 3., relating to Wisconsin Works temporary absence of a child and job access loans and affecting small businesses.

Analysis Prepared by the Department of Workforce Development

Statutory authority: Sections 49.147 (6) (b), 103.005 (17), and 227.11, Stats.

Statutes interpreted: Section 49.147, 49.145 (2) (a), Stats.

Related statute or rule: 42 USC 608 (10)

Explanation of agency authority. Section 49.147 (6) (a), Stats., provides that an individual is eligible to receive a job access loan if, in addition to meeting Wisconsin Works (W-2) eligibility requirements, all of the following conditions are met: (1) the individual needs the loan to address an immediate and discrete financial crisis; (2) the individual needs the loan to obtain or continue employment, including a loan needed to repair or purchase a vehicle that is needed to obtain or continue employment; (3) the individual is not in default on any previous job access loan or repayment of any W-2 overpayments; and (4) the individual is not a migrant worker. Section 49.147 (6) (b), Stats., directs the department to promulgate rules establishing the terms of any job access loan, including: (1) the maximum and minimum loan amounts in any 12-month period; (2) the method of loan disbursement; and (3) the terms and conditions of repayment.

Section 49.145 (2), Stats., provides that an individual is eligible for a W-2 employment position and a job access loan in a month only if all nonfinancial eligibility requirements are met, including the requirement under par. (a) that the individual is a custodial parent.

Section 103.005 (17), Stats., provides that the department shall administer those programs of public assistance that are specified in subch. III of ch. 49.

Summary of the proposed rule. The proposed rules will make changes to the Wisconsin Works program affecting (1) temporary absence of the child from the home due to child welfare issues; and (2) job access loans.

Under the current s. DWD 12.10, a dependent child may be absent from the custodial parent's home but still be considered under the care of the custodial parent if: (a) the dependent child will not be or has not been continuously absent for more than 3 months and the child is expected to return to the custodial parent's home; (b) the absence is not the result of removal of a 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 custodial parent continues to exercise responsibility for the care and control of the child.

The proposed rules will allow a dependent child to be absent from the custodial parent's home due to child welfare issues but still be considered under the care of the custodial parent if the W-2 agency, in consultation with the child welfare agency, determines that there is substantial compliance with the following 9 conditions:

- The child welfare agency confirms the child was removed from the home due to child welfare issues.
- The parent maintains an appropriate home for the child.
- The permanency plan under s. 48.38 (1) (b), Stats., states that the child is expected to be reunified with the parent in the parent's household within 6 months of the initial day of the child's temporary absence from the home.
- The child's out-of-home placement type is consistent with reuniting the child with the parent in the parent's household within 6 months of the initial day of the child's temporary absence from the home.
- The child's absence is not the result of removing the child under a dispositional order under s. 48.355, Stats., which places the child outside the home indefinitely or for longer than 6 months.
- The custodial parent continues to exercise responsibility for the care and control of the child while the child is placed out of the home.
- The custodial parent is cooperating with the W-2 agency.
- The custodial parent is participating in and satisfactorily completing employability plan activities and any other requirements of the W-2 agency.
- The custodial parent is cooperating with child welfare agency activities required for reunification with the child.

A custodial parent of a dependent child who fails to notify the W-2 agency of the absence of the dependent child from the home due to child welfare issues by the end of the 5-day period that begins with the date that the parent knows that the child is absent from the home is not eligible for W-2. The W-2 agency shall accept a report of a child's temporary absence from the home by the child welfare agency as a report from the parent and shall inform the parent of the child welfare agency's report.

The current rules on job access loans provides that W-2 agencies shall issue a job access loan to an eligible individual in an amount not less than \$25 and not more than \$1,600 in any 12-month period. The maximum allowable amount for all loans and the maximum outstanding balance for each individual receiving a job access loan is \$1,600.

The proposed rules will increase the maximum allowable job access loan amount in any 12-month period and the maximum outstanding balance for each individual receiving

a job access loan to \$2,500 if the loan will be used to purchase a vehicle that is needed to obtain or continue employment. The maximum loan amount and outstanding balance will remain at \$1,600 in all other cases.

Summary of factual data and analytical methodologies. A longer W-2 eligibility period when the child is absent from the home due to child welfare issues will support service integration between the W-2 and child welfare programs and help stabilize and support families for reunification with their children.

A \$2,500 maximum job access loan rather than a \$1,600 maximum job access loan is closer to the amount necessary to obtain a vehicle that will be reliable for commuting to work.

Summary of federal requirements. 42 USC 608 (10) requires denial of assistance for a minor child who has been, or is expected by a parent to be absent from the home for a period of 45 consecutive days, or at the option of the State., such period of not less than 30 and not more than 180 consecutive days as the State may provide for the State plan. The State may establish good cause exceptions to this provision as it considers appropriate if the exceptions are provided for in the State plan.

There are no comparable federal requirements relating to job access loans.

Comparison with rules in adjacent states. Iowa. Eligibility for temporary absence of child when the reason for the absence not specifically designated is limited to 3 months. Eligibility for temporary absence if the child is in medical institution limited to one year. Eligibility for individual 16 to 19 years old who is enrolled in elementary or secondary school full time is allowed. No special provision for absence due to child welfare issues.

Minnesota. Eligibility for a child out of the home due to placement in foster care if the placement will not be paid under Title IV-E of the Social Security Act is limited to 6 months. Eligibility for a child out of the home due to vacation, incarceration, or run away is limited to 2 months. Eligibility for absence due to hospitalization or illness is limited to 6 months. Eligibility for absence due to child's enrollment in education curricula that cannot be met by the local public school district is allowed.

Illinois. Eligibility for temporary absence when the reason is not specified is limited to an absence of 3 months or less, except if the absence is due to hospitalization, training, or education. A consent decree exists that allows eligibility for parents whose children have been or could be removed from the home due to allegations of environmental neglect or inadequate shelter, beds, food, or clothing or children who are in custody of the child welfare agency, regardless of the reason, and the child welfare agency has required the parents to obtain adequate living arrangements for the family as a condition of return of the children. Active participants may continue to receive benefits for up to 180 days after the children are removed from the home. Applicants may be approved for benefits for up to 90 days prior to the children's return. A family is not eligible if all children are in custody of the child welfare agency, but the reasons do not fall within the terms of the consent decree.

Michigan. Eligibility for temporary absence when the reason is not specified is limited to an absence of 30 days or less, except if the absence is due to hospitalization,

training, or education. Eligibility for a parent of a child in foster care is allowed for up to one year if there is a plan to return the child to the parent's home.

Effect on small business. The proposed rules affect small businesses, but do not have a significant impact on a substantial number of small businesses. The DWD Small Business Regulatory Coordinator is Elaine Pridgen, elaine.pridgen@dwd.state.wi.us, (608) 267-9403.

Analysis used to determine effect on small businesses. A longer W-2 eligibility period when the child is absent from the home due to child welfare issues may initially increase the amount that private W-2 agencies spend on W-2 benefits. The increased W-2 benefits for families with child welfare issues will help stabilize these families and will address issues that would otherwise be barriers to employment, which will save money that would otherwise need to be spent for W-2 services.

Some private agencies provide child welfare services, especially in Milwaukee. The increased service integration between the W-2 and child welfare programs should decrease costs for child welfare agencies.

Agency contact person. The agency contact for issues related to temporary absence of a child is Jude Morse, W-2 Policy Section, (608) 266-2784, jude.morse@dwd.state.wi.us. The agency contact for issues related to job access loans is Rose Prochazka, W-2 Policy Section, (608) 267-7398, rose.prochazka@dwd.state.wi.us.

Place where comments are to be submitted and deadline for submission. Comments may be submitted to Elaine Pridgen, Office of Legal Counsel, Dept. of Workforce Development, P.O. Box 7946, Madison, WI 53707-7946; fax (608) 266-1784, or elaine.pridgen@dwd.state.wi.us. The comment deadline is February 22, 2008.

SECTION 1. DWD 12.10 (1) (intro.) is amended to read:

DWD 12.10 Temporary absence. (1) DENIAL OF ASSISTANCE FOR A DEPENDENT CHILD WHO IS ABSENT FROM THE HOME FOR A SIGNIFICANT PERIOD. ~~A~~ Except as provided in sub. (1m), a dependent child may be absent from the custodial parent's home but still be considered under the care of the custodial parent if the following conditions are met:

SECTION 2. DWD 12.10 (1m) is created to read:

DWD 12.10 (1m) CHILD'S ABSENCE FROM THE HOME DUE TO CHILD WELFARE ISSUES. A dependent child may be absent from the custodial parent's home due to child welfare issues but still be considered under the care of the custodial parent if the W-2 agency, in consultation with the child welfare agency, determines that there is substantial compliance with the following 9 conditions:

(a) The child welfare agency confirms the child was removed from the home due to child welfare issues.

(b) The parent maintains an appropriate home for the child.

(c) The permanency plan under s. 48.38 (1) (b), Stats., states that the child is expected to be reunified with the parent in the parent's household within 6 months of the initial day of the child's temporary absence from the home.

(d) The child's out-of-home placement type is consistent with reuniting the child with the parent in the parent's household within 6 months of the initial day of the child's temporary absence from the home.

(e) The child's absence is not the result of removing the child under a dispositional order under s. 48.355, Stats., which places the child outside the home indefinitely or for longer than 6 months.

(f) The custodial parent continues to exercise responsibility for the care and control of the child while the child is placed out of the home.

(g) The custodial parent is cooperating with the W-2 agency.

(h) The custodial parent is participating in and satisfactorily completing employability plan activities and any other requirements of the W-2 agency.

(i) The custodial parent is cooperating with child welfare agency activities required for reunification with the child.

SECTION 3. DWD 12.10 (2) is renumbered DWD 12.10 (2) (a) and, as renumbered, is amended to read:

DWD 12.10 (2) (a) A custodial parent of a dependent child who fails to notify the Wisconsin ~~works~~ Works agency of the absence of the dependent child from the home for the period specified in sub. (1) (a), by the end of the 5-day period that begins with the date that it becomes clear to the custodial parent that the dependent child will be absent for such period so specified or provided for, is not eligible for W-2 under sub. (1).

SECTION 4. DWD 12.10 (2) (b) and (c) created to read:

DWD 12.10 (2) (b) A custodial parent of a dependent child who fails to notify the Wisconsin Works agency of the absence of the dependent child from the home due to child welfare issues by the end of the 5-day period that begins with the date that that the

parent knows that the child is absent from the home is not eligible for W-2 under sub. (1m).

DWD 12.10 (2) (c) Under par. (a) and (b), the W-2 agency shall accept a report of a child's temporary absence from the home by the child welfare agency as a report from the parent and shall inform the parent of the child welfare agency's report.

SECTION 5. DWD 12.17 (2) (a) 1. and 2. are amended to read:

DWD 12.17 (2) TERMS. (a) 1. W-2 agencies shall issue a job access loan to an eligible individual in an amount not less than \$25 and not more than \$1600 in any 12-month period, except as provided in subd. 3.

2. The maximum allowable amount for all loans and the maximum allowable outstanding balance for each individual receiving a job access loan shall be \$1600, except as provided in subd. 3.

SECTION 6. DWD 12.17 (2) (a) 3. is created to read:

DWD 12.17 (2) 3. W-2 agencies may issue a job access loan to an eligible individual in an amount not more than \$2,500 in any 12-month period if the loan will be used to purchase a vehicle for commuting to work. The maximum allowable for all loans and the maximum allowable outstanding balance for each individual receiving a job access loan shall be \$2,500 if a loan is issued under this subdivision.

SECTION 7. EFFECTIVE DATE. This rule shall take effect the first day of the month following publication in the Administrative Register as provided in s. 227.22 (2) (intro.), Stats.