

CR 87-139

RECEIVED

NOV 14 1988

7:00 pm
Revisor of Statutes
Bureau

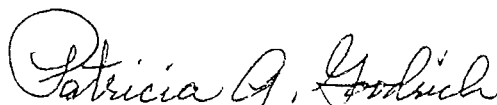
CERTIFICATE

STATE OF WISCONSIN)
) SS
DEPARTMENT OF HEALTH AND SOCIAL SERVICES)

I, Patricia A. Goodrich, Secretary of the Department of Health and Social Services and custodian of the official records of the Department, do hereby certify that the annexed rules relating to requiring teenagers who are included in an Aid to Families with Dependent Children (AFDC) grant to attend school were duly approved and adopted by this Department on November 14, 1988.

I further certify that this copy has been compared by me with the original on file in the Department and that this copy is a true copy of the original, and of the whole of the original.

IN TESTIMONY WHEREOF, I have hereunto set my hand and affixed the official seal of the Department at the State Office Building, 1 W. Wilson Street, in the city of Madison, this 14th day of November, 1988.



Patricia A. Goodrich, Secretary
Department of Health and Social Services

SEAL:

1-1-89

ORDER OF THE
DEPARTMENT OF HEALTH AND SOCIAL SERVICES
AMENDING AND CREATING RULES

To amend HSS 201.19(1)(intro.), (i) and (j) and to create HSS 201.19(1)(k) and 201.195, relating to requiring teenagers who are included in an Aid to Families with Dependent Children (AFDC) grant to attend school.

Analysis Prepared by the Department of Health and Social Services

Section 49.50(7), Stats., as amended by 1987 Wisconsin Acts 27 and 399, provides that every teenager, that is a person 13 to 19 years of age, who is included in an Aid to Families with Dependent Children (AFDC) grant under s. 49.19, Stats., and who is a teen parent or living with a natural or adoptive parent, must attend school to meet the participation requirements of the Wisconsin Employment Opportunities Program (WEOP) unless he or she has graduated from high school or has received a high school equivalency diploma. While Learnfare is established as a component of WEOP, it applies in all counties regardless of whether or not a particular county uses WEOP as its AFDC work and training program.

Recipients of AFDC are required as a condition of receiving financial assistance to register for and accept employment or training to prepare for employment. School attendance is the required work activity for teenagers. The school attendance requirement is imposed as part of the Department's Welfare Reform Initiative which has as its focus making welfare recipients self-sufficient. School attendance is seen as a means for teenagers, including teen parents, to acquire the skills necessary to achieve self-sufficiency. Wisconsin received approval from the Office of Family Assistance, U.S. Department of Health and Human Services, of the state's request for a waiver of portions of s.402(a) of the Social Security Act of 1935, as amended, so that Wisconsin can require these teenagers to attend school.

The rules state who is required to attend school, outline the attendance requirements, state how the income maintenance agency shall determine that the Learnfare participant has failed to attend school, list good cause reasons for teenagers not to attend school, and state what the sanction is for failure to attend school.

The Department's authority to amend and create these rules is found in s. 49.50(2), Stats., and in s. 49.50(7)(h)1, Stats., as created by 1987 Wisconsin Act 27 and renumbered by 1987 Wisconsin Act 399, and s. 3024(11j) of 1987 Wisconsin Act 27. The rules interpret s. 49.50(7)(a) and (e) to (i), Stats., as amended by 1987 Wisconsin Acts 27 and 399.

SECTION 1. HSS 201.19(1)(intro.), (i) and (j) are amended to read:

HSS 201.19(1) REGISTRATION. (intro.) 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:

(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; ~~or~~

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

SECTION 2. HSS 201.19(1)(k) is created to read:

HSS 201.19(1)(k) Participating in learnfare under s. HSS 201.195.

SECTION 3. HSS 201.195 is created to read:

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 requirement under the following circumstances:

1. A teenager who is required to attend school shall be considered to have met the attendance requirement by having fewer than 10 full days of unexcused absences from school during the most recently completed school semester.

2. A teenager who has 10 or more full days of unexcused absences from school during the most recently completed school semester or who was a dropout and returned to school during the semester under review or who is unable to verify previous attendance shall comply with the monthly attendance requirement.

3. If the school that the teenager is currently enrolled in does not keep daily attendance records, the teenager shall be considered to be meeting the school attendance requirement if the school verifies the continuing enrollment of the teenager in the semester under review.

4. The teenager is not required to comply with attendance requirements when the school the teenager is attending is not in regular session, including during the summer.

(c) Either the teenager or the primary person shall cooperate in providing information needed to verify enrollment information or good cause under sub. (7). If neither one cooperates, the teenager shall be ineligible for aid as provided under s. HSS 201.22.

(d) A teenager who is required to attend school but has good cause under sub. (7) for not attending may be referred by the agency to the WEOP program under ch. HSS 208.

(e) Either the teenager who is a dropout or the primary person shall notify the agency of the teenager's nonattendance at school in compliance with s. HSS 201.07.

(5) AGENCY RESPONSIBILITIES. (a) The agency shall review attendance information at all initial eligibility determinations and at all reviews under s. HSS 201.09(3).

(b) The agency shall inform the primary person that the signature of the parent, guardian, caretaker or pupil on the AFDC application for initial eligibility or eligibility redetermination constitutes permission for the release of school attendance information by the school district.

(c) 1. The agency shall request information from the school attendance officer in the teenager's school district about the teenager's attendance in the school district's most recently completed semester of attendance.

2. If information about the teenager's previous school attendance is not available or cannot be verified, the agency shall require the teenager to meet the monthly attendance requirement for one semester or until the information is obtained.

(d) The agency shall use the attendance information provided by a school to verify attendance for a teenager.

(e) The agency shall review a teenager's claim that he or she has a good cause reason under sub. (7) for not attending school and shall determine if a teenager excused under sub.(7) from attending should be referred to WEOP under ch. HSS 208.

(f) The agency shall administer day care and transportation funds available to teen parents under s. 49.50(7)(e)1, Stats. Payment for the cost of transportation to and from the child care provider shall be in the amount equal to the cost of transportation by the most appropriate means as determined by the department or the agency.

(6) SCHOOL DISTRICT RESPONSIBILITIES. (a) The school attendance officer shall provide information to the agency about the attendance of a teenager who is enrolled in a public school in the school district within 5 working days after the date of receipt of the written request from the agency.

(b) The requirement under 20 USC 1232g and s. 118.125(2), Stats., that written consent be given for a school district to make available the attendance records of a pupil shall be met in the case of a teenager in an AFDC group by the signature of the parent, guardian, caretaker or pupil on the AFDC application for initial eligibility or eligibility redetermination.

(c) The school district shall define how many hours of attendance count as a full day and shall provide that definition, upon request, to the agency.

(d) In reporting attendance, the school district may not add partial day absences together to constitute a full day of absence.

(7) GOOD CAUSE CRITERIA. (a) A teenager who is required to attend school to meet the learnfare participation requirements under s. 49.50(7)(g), Stats., shall comply except when there is good cause which shall be demonstrated by any of the following circumstances:

1. The teenager is the caretaker of a child less than 90 days old;
2. Child care services are necessary for the teenager to attend school but child care licensed under s. 48.65, Stats., certified under s. 48.651, Stats., or established under s. 120.13(14), Stats., is not available. Child care shall be considered unavailable if there is no space available for the child in day care licensed under s. 48.65, Stats., certified under s. 48.651, Stats., or established under s. 120.13(14), Stats., within reasonable travel time and distance, or if the cost of care where space is available exceeds the maximum rate established by the county under s. 46.98(4), Stats.;
3. Transportation to and from child care is necessary for the teenager's child and there is no public or private transportation available;
4. The teenager is temporarily excused from school attendance by the school district under s. 118.15(3), Stats.;
5. The teenager is prohibited by the school district from attending school and an expulsion under s. 120.13(1), Stats., is pending. This exemption no longer applies once the teenager has been formally expelled;
6. The teenager is unable to attend school because he or she was expelled under s. 120.13(1), Stats., and another school is not available because:
 - a. There is no public or private school within reasonable travel time or distance which will accept the teenager;
 - b. There is no public or private transportation available to another school; or
 - c. There is a public or private school which will accept the teenager but the tuition charge is prohibitive and the teenager's school district refuses to pay the tuition;

7. The teenager is age 16 to 19 and the school district determines that he or she will not graduate from high school by the age of 20; or

8. The teenager failed to attend school for one or more of the following reasons:

a. Illness, injury, or incapacity of the teenager or a member of the teenager's family. In this subparagraph, "member of the teenager's family" means a spouse, child, parent or other dependent relative who lives with the teenager;

b. Court-required appearance or temporary incarceration;

c. Medical or dental appointments for the teenager or his or her child;

d. Death of a relative or a friend;

e. Observance of a religious holiday;

f. Family emergency;

g. Breakdown in transportation;

h. Suspension; or

i. Any other circumstance beyond the control of the teenager.

(b) Additional good cause criteria may be defined by the department through the fair hearing process.

(8) SANCTIONS FOR NOT PARTICIPATING. (a) Notice. Upon determining that a teenager has failed without a good cause reason under sub.(7) to attend school, the agency shall send written notice to the primary person which specifies:

1. That the teenager will be removed from the AFDC grant in the next possible payment month because the teenager required to attend school has failed to meet attendance requirements. If the teenager is the only child in the grant and benefit continuation under par.(c) or (e) will no longer apply, the notice shall also state that the entire grant will be discontinued;

2. The beginning date of the sanction, and the teenager to whom the sanction applies;

3. How the primary person can contact the school district for information regarding the children at risk program under s. 118.153, Stats.; and

4. The teenager's or primary person's right to request a fair hearing under par.(b).

(b) Fair hearing. The teenager or primary person may request a fair hearing in accordance with s. 49.50(8), Stats., and s.PW-PA 20.18 on the agency's determination that the teenager has not been attending school.

(c) Failure to meet monthly attendance requirement. If the teenager or primary person does not request a fair hearing under par. (b) or if, after a fair hearing has been held, the hearing officer finds that the teenager has failed without good cause to meet the monthly attendance requirement, the agency shall discontinue or deny aid to the teenager in the next possible payment month in which a sanction is not already being applied for the teenager. If application of a sanction would close the case, benefit payments to meet the needs of the caretaker shall continue for one time up to 3 months the first time the teenager is sanctioned.

(d) Effective period of sanction for failure to meet monthly attendance requirement. A sanction applied under par. (c) shall be effective for one month for each month the teenager fails to meet the monthly attendance requirement.

(e) Dropping out of school. 1. If the teenager or primary person does not request a fair hearing under par. (b) or if, after a fair hearing has been held, the hearing officer finds that the teenager is a dropout, the agency shall discontinue or deny aid in the next possible payment month after the teenager dropped out to the teenager who has ceased to attend school. If application of a sanction would close the case, benefit payments to meet the needs of the caretaker shall continue for one time up to 3 months the first time the teenager is sanctioned.

2. If the fair hearing decision finds against the teenager or if the teenager failed to comply with the reporting requirements under s. HSS 201.07, the month or months the teenager was included in the grant but did not meet the school attendance requirements shall be considered an overpayment under s. HSS 201.30(3)(c).

(f) Effective period of sanction for dropping out of school. A sanction applied under par. (e) shall be effective until the teenager who is a dropout provides written verification from the school district that he or she has re-enrolled and has met the monthly attendance requirement under sub.(4) for one calendar month. Any month in which school is in session at least 10 days during that month may be used to meet the attendance requirement under sub.(4). This includes attendance at summer school. The sanction shall be removed in the next possible payment month.

The rules contained in this order shall take effect on the first day of the month following publication in the Wisconsin Administrative Register as provided in s. 227.22(2), Stats.

Wisconsin Department of Health
and Social Services

Dated: November 14, 1988

By: Patricia A. Goodrich
Patricia A. Goodrich
Secretary

SEAL:



State of Wisconsin \

DEPARTMENT OF HEALTH AND SOCIAL SERVICES
1 West Wilson Street, Madison, Wisconsin 53702

Tommy G. Thompson
Governor

Patricia A. Goodrich
Secretary

November 14, 1988

RECEIVED

NOV 14 1988

Mailing Address:
Post Office Box 7850
Madison, WI 53707

Revisor of Statutes
Bureau

Mr. Orlan Prestegard
Revisor of Statutes
7th Floor - 30 on the Square
Madison, Wisconsin 53702

Dear Mr. Prestegard:

As provided in s. 227.20, Stats., there is hereby submitted a certified copy of HSS 201.19 and 201.195, administrative rules relating to requiring teenagers who are included in an Aid to Families with Dependent Children (AFDC) grant to attend school.

These rules are also being submitted to the Secretary of State as required by s. 227.20, Stats.

These rules concern county administration of a federal-state public assistance program. They do not directly affect small businesses as defined in s. 227.114(1)(a), Stats.

Sincerely,

Patricia A. Goodrich
SECRETARY

Enclosure