

CR 91-150

CERTIFICATE

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

I, Gerald Whitburn, 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 eligibility of a family for Aid to Families with Dependent Children (AFDC) because the principal wage earner is unemployed were duly approved and adopted by this Department on April 6, 1992.


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.

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APR 6 1992  
10:40 am  
Revisor of Statutes  
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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 6th day of April, 1992.

SEAL:

  
\_\_\_\_\_  
Gerald Whitburn, Secretary  
Department of Health and Social Services

6-1-92

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ORDER OF THE  
DEPARTMENT OF HEALTH AND SOCIAL SERVICES  
AMENDING, REPEALING AND RECREATING AND CREATING RULES

To amend HSS 201.14(3)(d)(intro.) and 1, to repeal and recreate HSS 201.14(3)(c) and to create HSS 201.14(3)(f), relating to eligibility of a family for Aid to Families with Dependent Children (AFDC) because the principal wage earner is unemployed.

Analysis Prepared by the Department of Health and Social Services

To be eligible for Aid to Families with Dependent Children (AFDC) an applicant or recipient must meet certain nonfinancial eligibility criteria. One of these criteria is that the applicant or recipient must be the caretaker of a dependent child. A dependent child is one who is deprived of parental care and support. A child who has both natural or adoptive parents in the home may be considered deprived based on the unemployment of the principal wage earner (PWE), i.e., the PWE is out of work or employed less than 100 hours a month. The applicant or recipient must have been unemployed for at least 30 days. This is known as the AFDC-unemployed (AFDC-U) parent program.

Once found eligible for the AFDC-U program, the principal wage earner in the household is limited to working less than 100 hours a month if he or she wishes to remain nonfinancially eligible. This is called the 100 hour rule. Working 100 hours or more per month may make the family ineligible for the AFDC-U program.

The 100 hour rule creates difficulties for families who are working and trying to become independent of AFDC. Many times the jobs that these individuals qualify for are low wage and do not provide an adequate amount of income to enable these families to leave AFDC. Many times these families would continue to be financially eligible for AFDC even if the principal wage earner works 100 hours or more a month. Application of the 100 hour rule discourages families' attempts to become independent of public assistance through employment.

Section 503 of the Family Support Act of 1988 (P.L. 100-485) authorizes the federal Department of Health and Human Services (DHHS) to allow a limited number of states to test and evaluate a number greater than 100 for the number of hours per month that individuals who are eligible for AFDC on the basis of unemployment may work and still remain nonfinancially eligible for AFDC. Wisconsin received approval to conduct a demonstration project to test and evaluate the complete elimination of the 100 hour rule after initial eligibility for the AFDC-U program has been determined. Through the demonstration project the Department hopes to show that families allowed to work 100 hours or more a month and remain eligible for AFDC will increase their

earned income and number of hours worked per month and will evidence improved family stability.

Under the terms of the agreement with the federal DHHS, some principal wage earners who are receiving AFDC unemployed parent benefits or who received AFDC based on unemployment within the last 4 months will be allowed to work 100 hours or more a month and remain nonfinancially eligible for AFDC. The Department will assign cases to the experimental or control group based on the last digit of the female caretaker's Social Security number. If the female caretaker's Social Security number ends in an odd number (1, 3, 5, 7 or 9), the case will be assigned to the control group. If the female caretaker's Social Security number ends in an even number (0, 2, 4, 6, or 8), the case will be assigned to the experimental group. The principal wage earner in a case assigned to the control group must continue to work less than 100 hours per month to maintain nonfinancial eligibility. The Department plans to begin this demonstration project on October 1, 1991.

The proposed order repeals and recreates s.HSS 201.14(3)(c) and creates s.HSS 201.14(3)(f) to allow the assignment of AFDC-U cases to an experimental group as provided under s.49.19(15), Stats., and approved by the Legislature's Joint Committee on Finance on September 13, 1990, and to define unemployment for purposes of the demonstration project. The Department is also amending s.HSS 201.14(3)(d)(intro.) to make clear that the 30 day ineligibility period does not apply to ongoing AFDC-U cases. This change is being made as a result of public hearing comments and will bring this section of the rule into conformity with the federal regulations. The Department is also correcting a reference in s.HSS 201.14(3)(d)1 to the worker's compensation program under ch. 102, Stats.

The Department's authority to amend, repeal and recreate and create these rules is found in s.49.50(2), Stats. The rules interpret s.49.19(4)(dm) and (15), Stats.

SECTION 1. HSS 201.14(3)(c) is repealed and recreated to read:

HSS 201.14(3)(c) Except as provided in par. (f), the principal wage earner shall be either out of work or employed less than 100 hours a month. If the principal wage earner worked 100 hours or more in a particular month, this requirement may be met if the parent worked less than 100 hours for each of the 2 months preceding the month of 100 hours or more and is expected to work fewer than 100 hours during the next month. If the principal wage earner is out of work, eligibility may begin:

1. As of the date of application, if he or she has received AFDC based on unemployment within the last 4 months; or

2. No sooner than 30 days from the date unemployment began, if he or she has not received AFDC based on unemployment within the last 4 months except that, if he or she was employed less than 100 hours in the 30 days preceding the last day of employment, eligibility may begin as of the date of application.

SECTION 2. HSS 201.14(3)(d)(intro.) and 1 are amended to read:

HSS 201.14(3)(d)(intro.) The principal wage earner, who was not receiving AFDC based on unemployment the previous month, shall not have lost employment without good cause or refused a bonafide offer of employment without good cause within 30 days prior to application. ~~If the principal wage earner was receiving AFDC in the month previous to the current determination of eligibility and lost employment without good cause or refused a bonafide offer of employment without good cause, the principal wage earner shall not be eligible but any one else in the AFDC group shall be eligible if other requirements are met.~~ The following factors shall be considered in determining if employment was lost without good cause or if the principal wage earner has been offered employment or training for employment which was refused without good cause:

1. There was a definite offer of employment at wages meeting the minimum wage requirements and which are customary for such that type of work in the community; the parent is physically able to engage in ~~such~~ that employment; the parent has the means to get to and from the particular job and commuting time to and from the job is under 2 hours per day; risks to health and safety are not adverse; and ~~workmen's~~ worker's compensation protection is available on the particular job.

SECTION 3. HSS 201.14(3)(f) is created to read:

HSS 201.14(3)(f) For purposes of the demonstration project conducted by the department under the authority of s.49.19(15), Stats., a principal wage earner who is receiving AFDC unemployed parent benefits or who received AFDC based on unemployment within the last 4 months and whose case has been assigned to the experimental group of the demonstration project may work 100 hours or more a month and maintain nonfinancial eligibility. The department shall assign cases to the experimental group based on the last digit of the female caretaker's social security number. Eligibility of persons assigned to the experimental group shall continue during the period of the demonstration project as long as all other nonfinancial and financial eligibility criteria are met.

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: April 6, 1992

By: 

Gerald Whitburn  
Secretary

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