

(b) Meets the standard of need determined in the same manner as aid under s. 49.19 (11), Stats., except that there need not be a dependent child in the home. All income shall be considered in determining financial eligibility of the RNIP group.

(3) DEEMING THE ASSETS AND INCOME OF EXCLUDED PERSONS. (a) The agency shall exclude from an RNIP group a person who is otherwise eligible, if the person:

1. Voluntarily chooses to be excluded from the group;
2. Does not comply with the work experience participation requirements in s. HSS 211.06 (2);
3. Does not comply with the job service requirements in s. HSS 211.06 (5);
4. Does not comply with non-financial or any other eligibility criteria; or
5. Withholds eligibility information.

(b) All available assets of any excluded person shall be deemed to the RNIP group except:

1. Homestead property;
2. Household effects; and
3. The equity value of one vehicle, up to the limit set by s. 49.19 (4) (bm), Stats.

(c) All net income of the excluded person which exceeds the average of the differences between the area I standards set by s. 49.19 (11) (a), Stats., for family sizes 3 and 2, 4 and 3, 5 and 4, and 6 and 5 shall be deemed to the RNIP group. If 2 persons are excluded, the amount deemed to the RNIP group shall be net income in excess of 2 times the average. Net income shall be calculated as follows:

1. Gross monthly earned income less allowable work-related expenses and dependent care costs;
2. Plus gross monthly unearned income less any costs related to the unearned income; and
3. Less court-ordered child support paid for a child residing outside the home.

History: Cr. Register, May, 1986, No. 365, eff. 6-1-86.

HSS 211.055 Aid to eligible persons. (1) GEOGRAPHIC AREAS. (a) The area of the state designated by the department as area I under s. 49.19 (11) (a) 1 c, Stats., shall be area I for purposes of recognizing differences in shelter care costs when determining the amount of the RNIP payment under s. 49.046 (3) (a) 1, Stats.

(b) The area of the state designated by the department as area II under s. 49.19 (11) (a) 1 c, Stats., shall be area II for purposes of recognizing differences in shelter care costs when determining the amount of the RNIP payment under s. 49.046 (3) (a) 1, Stats.

Register, November, 1992, No. 443

Note: Designated areas I and II are shown in Appendix 17 to ch. 8, RNIP, in vol. 07, Other Programs, of the Department's Economic Assistance Manual which is available for public review in the principal office of any county or tribal income maintenance agency.

(2) AMOUNT OF AID. (a) The agency shall pay aid to eligible persons based on family size and RNIP geographic area as provided in s. 49.046 (3) (a) 1, Stats.

(b) The agency shall reduce the monthly benefit payment by the value of other benefits provided to the family by the tribe, except for the benefits described under s. HSS 211.08. Only those benefits that are provided by a tribe to each of its members may be used as the basis for a reduction of this aid.

(c) The agency shall pay the amount of reduced aid under par. (b) to the tribal governing body of the tribe granting the relief. Payment shall be made within 60 days after the date the agency reduces a recipient's benefits under par. (b).

(d) Any funds paid under par. (c) may be used for any legal purpose by the tribal governing body. The tribal governing body shall notify the department within 30 days of the receipt of the funds.

History: Cr. Register, September, 1992, No. 441, eff. 10-1-92.

HSS 211.06 Work experience requirement. (1) GENERAL. The agency shall operate a work experience component of the RNIP program, as required by s. 49.047, Stats., unless the requirement is waived under s. HSS 211.02 (2) (a). The work experience component may include grant diversion under sub. (10). Work experience shall consist of a minimum of 15 hours a week or 60 hours a month on the job or in training which may lead to gainful employment.

(2) PARTICIPATION REQUIREMENTS. (a) Recipients of RNIP shall participate in work experience as a condition of eligibility for RNIP.

(b) Recipients may only be assigned to work which is not prohibited by law and they may not supplant regular employees of the agency or of any unit of municipal, county or state government.

(c) Recipients may be assigned to participate in an agency-approved training program in fulfillment of the minimum work experience requirement. An approved training program shall include:

1. Full or part-time participation in adult education, vocational or technical school;
2. On-the-job training in public or private work settings; or
3. Training carried out in cooperation with other training programs.

(d) Recipients may not use hours of work experience completed in one month to satisfy a work experience requirement in any succeeding month.

(3) EXEMPTIONS. A recipient is not required to participate in work experience if the recipient:

- (a) Is otherwise employed 100 hours or more a month;
- (b) Is under age 16;

(c) Is absent from his or her place of residence on tax-free land for a temporary period of not more than 30 consecutive days;

(d) Provides medical evidence that illness or injury prevents his or her participation in work experience for more than 30 but less than 90 days;

(e) Provides medical evidence that his or her incapacitation prevents entry into work experience for at least 90 days;

(f) Is required to be in the home because of the illness, injury, or incapacitation of a spouse or other relative specified in s. 49.19 (1) 2.a., Stats., or any other member of the RNIP group;

(g) Is an adult in an RNIP group in which another adult is employed 100 hours or more a month or has been accepted in the work experience component;

(h) Is a legal caretaker of a child under age 6 and is in an RNIP group in which another legal caretaker is required to participate in the work experience program and the other caretaker has been excluded from the RNIP group because of failure to comply with the participation requirements under sub. (2);

(i) Is granted emergency assistance under s. HSS 211.04 and a temporary exemption from work experience, not to exceed 60 days, while awaiting receipt of requested medical or psychological reports or other specialized information; or

(j) Is at least 6 months pregnant.

(4) **VOLUNTEER.** Any recipient who is exempt under sub. (3) shall be allowed to voluntarily register with and participate in the work experience component. The penalty in sub. (6) may not be applied if he or she withdraws from the work experience.

(5) **JOB SERVICE.** Any recipient required to participate in the work experience component, except a person who is assigned to a training program, shall register with the job service division of the department of industry, labor, and human relations. All recipients shall register with job service at the time of application and, to continue eligibility, at the time of each review scheduled under s. HSS 211.03 (6). As a condition of RNIP eligibility, the recipient shall accept any suitable offer of employment and may not quit the job without good cause. The agency shall consider:

(a) Refusal of an offer of employment to be without good cause if:

1. The recipient received a definite offer of employment at wages meeting the federal minimum wage and that are customary in the community for that type of work;

2. The recipient is physically able to do the work;

3. The recipient has the means to get to and from the particular job, and commuting time to and from the job is under 2 hours a day; and

4. The conditions of employment do not impose an unreasonable risk to the health or safety of the recipient;

(b) Quitting a job or refusing to seek or accept employment to be without good cause if the reason was participation in a strike; and

(c) Quitting a job or refusing an offer of employment to be with good cause if the agency finds and states in writing in the case record that it is essential for the well-being of the recipient's family that the recipient remain in the home.

(6) **PARTICIPATION REQUIREMENTS AND PENALTIES.** Any person who does not comply with subs. (2) and (5) and is not exempt under sub. (3) shall be ineligible for relief for 60 days from the effective date of denial, discontinuance, or reduction except when there is good cause which shall be demonstrated by any of the following circumstances:

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

(b) Court-required appearance or temporary incarceration;

(c) Family emergency or unavailable child care;

(d) Breakdown in the transportation arrangement; or

(e) Appointment for a job interview.

(7) **PAYEE.** If the person who refuses to comply with the requirements in subs. (2) and (5), is the payee for benefits provided to an RNIP group, the agency shall appoint another adult in the RNIP group to be the payee. If there is no other adult in the RNIP group, the agency shall appoint a protective payee as provided in s. HSS 201.10 (2).

(8) **DEEMING.** The assets and income of any person who fails to comply with the requirements in sub. (2) or (5), and who is thereby excluded from the RNIP group, shall be deemed in accordance with s. HSS 211.05 (3).

(9) **REIMBURSABLE EXPENSES.** (a) Expenses incurred by a recipient as a result of participating in work experience may be reimbursed only upon approval of the agency administrator.

(b) Reimbursable expenses shall be limited to:

1. Transportation costs from a person's residence to a work or training site and return to the residence;

2. Special clothing required but not provided by an employer or trainer, such as gloves or special shoes; and

3. Books and other materials required as part of training.

(c) Expenses for tools or materials required to perform work are not reimbursable.

(d) Reimbursement shall be made and accounted for as follows:

1. The agency administrator or designee shall approve the work or training activity and the expenses for which reimbursement is requested before payment may be made;

2. Payment for transportation costs shall be based on the mileage rate for employes of the agency and the actual number of miles driven to and from the work or training site. When more than one recipient travels in the same vehicle, one payment shall be made. If the vehicle owner is a

recipient of relief, payment shall be made to that person. If the vehicle owner is not a recipient of relief, payment shall be made to the person who is a recipient and that person shall pay the vehicle owner;

3. Payment shall be by a check separate from the relief payment check;
4. A separate payroll shall be maintained for payment of reimbursable expenses; and
5. The procedures for reimbursement of agency employee expenses shall be used, except that the agency shall reimburse recipients at least once a month.

(10) GRANT DIVERSION. (a) The agency may include grant diversion as part of the work experience component under sub. (1). The agency may administer grant diversion directly or by contract.

(b) A recipient participating in grant diversion shall be paid by the hour, using as the hourly rate the higher of the following:

1. The hourly wage paid to other entry level employees of the employer who perform the same work; or
2. The federal minimum hourly wage prescribed in 29 USC 206 (a) 1.

Note: The department of industry, labor and human relations has consistently taken the legal position that ch. 104, Stats., Minimum Wage Law, and the implementing rules, ch. Ind 72, do not apply to any Indian-owned business operating on an Indian reservation established by treaty with the United States government. Indian-owned businesses on a reservation are governed by the tribal government for the reservation and the laws enacted by that governmental body.

(c) A recipient participating in grant diversion shall remain income-eligible for RNIP for the duration of the recipient's participation.

(d) A recipient participating in grant diversion shall comply with the work experience requirements in subs. (1) to (9) and the requirements of the operator as set forth in the written contract between the operator and the employer. Failure to comply may result in a suspension of RNIP as follows:

1. For the first violation, for a period not to exceed 30 days; and
2. For a second or subsequent violation, for a period not to exceed 60 days.

(e) The grant diversion contract between an operator and an employer shall require the employer to repay the total amount of wage subsidy received for employing a recipient if the employer fails to retain the recipient for 3 months following termination of the wage subsidy, unless cause exists for the employer to dismiss the recipient.

(f) A grant diversion contract between an operator and an employer may not contravene a collective bargaining agreement entered into by the employer.

(g) A grant diversion program may not be operated so that it supplants an unsubsidized employee.

History: Cr. Register, May, 1986, No. 365, eff. 6-1-86; cr. (2) (d) and (10), Register, September, 1992, No. 441, eff. 10-1-92; am. (1), Register, November, 1992, No. 443, eff. 12-1-92.

Register, November, 1992, No. 443

HSS 211.07 Income. (1) **GENERAL.** In determining the amount of the payment for each RNIP group, the agency shall consider all earned and unearned income of the RNIP group except income exempt under s. HSS 211.08.

(2) **LOANS OR GRANTS.** Any education or training loans and grants available for living costs after payment of tuition, fees, books, transportation essential to the education or training and for dependent care shall be treated as unearned income.

(3) **RENTAL INCOME.** Rental income shall be treated as follows:

(a) If a person in the RNIP group reports rental income to the internal revenue service as self-employment income, the procedures specified in sub. (8) shall be followed.

(b) If a person in the RNIP group does not report rental income to the internal revenue service as self-employment income, the net rent shall be counted as unearned income. In this paragraph, "net rent" means the total rent payments minus the total expense. Net rent shall be determined as follows:

1. When the owner is not an occupant, net rent shall be the rent payment actually received minus the mortgage payment and verified operational costs; and

2. In situations where the person receives money from a duplex or triplex operation and lives in one of the units, net rent shall be the rent payment actually received minus the total expense computed as follows:

a. Add the total mortgage payment and total operational costs common to the entire operation; and

b. Divide that result by total number of units to get the proportionate share of each and add the proportionate share to any operational costs paid by the owner that are unique to the rental unit.

(4) **LUMP SUM PAYMENTS.** In this subsection, "lump sum payment" means a nonrecurring payment or accumulation of individual payments of earned or unearned income paid in one sum to an RNIP group member, such as social security benefits, personal injury and worker compensation awards, or lottery winnings. A lump sum payment shall be treated as follows:

(a) Any amount earmarked and used for the purpose for which it was paid, such as to pay for back medical bills resulting from an accident or injury, funeral and burial costs or the cost of replacing or repairing a resource, shall be disregarded;

(b) When the RNIP group's income, after applying applicable disregards, exceeds the assistance standard under s. 49.19 (11) (a), Stats., for the appropriate family size because of the receipt of a lump sum payment, the RNIP group shall be ineligible for RNIP for the full number of months derived by dividing the sum of the lump sum income and other available income by the monthly need standard under s. 49.19 (11) (a) 1 a, Stats., for a family of that size. Any income remaining from this calculation is income in the first month following the period of ineligibility. The period of ineligibility begins in the next possible payment month immediately after the month in which the lump sum was received; and