

CR 89-37

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 treatment of lump sum payments in determining eligibility for Aid to Families with Dependent Children (AFDC) were duly approved and adopted by this Department on February 7, 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.

IN TESTIMONY WHEREOF, I have hereunto set my hand and affixed the official seal of the Department at the State Office Building, 1W. Wilson Street, in the city of Madison, this 7th day of February, 1992.



SEAL:

Gerald Whitburn, Secretary
Department of Health and Social Services

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4:00 pm
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4-1-92

ORDER OF THE
DEPARTMENT OF HEALTH AND SOCIAL SERVICES
REPEALING AND RECREATING RULES

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To repeal and recreate HSS 201.28(8), relating to treatment of lump sum payments in determining eligibility for Aid to Families with Dependent Children (AFDC).

Analysis Prepared by the Department of Health and Social Services

One requirement for eligibility for Aid to Families with Dependent Children (AFDC) is that all available income and resources are to be considered in determining eligibility. In the AFDC program receipt of a lump sum payment such as a workers' compensation award is treated as income.

The AFDC rule on lump sum payments is being revised by this order to bring it into conformity with the federal regulations found at 45 CFR 233.20(a)(3)(ii)(F). The receipt of a lump sum payment by an AFDC applicant or recipient is treated as income. Receipt of this income may make the AFDC group ineligible, at least temporarily. The proposed rule states how the period of ineligibility is calculated and how that period may be shortened. The income maintenance agency must shorten the period of ineligibility under the following circumstances: 1) when the former AFDC group's grant would have increased due to a statutory increase in the assistance standard and family allowance under s.49.19(11)(a), Stats.; 2) when the lump sum payment or a portion of it becomes unavailable to the family for a reason beyond the AFDC group's control, for example, the lump sum was used because an immediate threat to the health, safety or welfare of the former AFDC group existed, there has been a loss or theft of income or the AFDC group member who received the lump sum leaves the group; or 3) when an AFDC group member incurs and pays medical expenses during the period of ineligibility caused by receipt of a lump sum payment.

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

SECTION 1. HSS 201.28(8) is repealed and recreated to read:

HSS 201.28(8) 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 AFDC group member such as social security benefits, unemployment compensation, personal injury and workers' compensation awards, and lottery and bingo 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 AFDC 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 AFDC group shall be ineligible for AFDC 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 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 or grant reduction begins in the next possible payment month immediately after the month in which the lump sum was received;

(c) The agency shall recompute the AFDC group's period of ineligibility due to receipt of a lump sum payment as of the date of the change using the method outlined in par. (b) when:

1. The former AFDC group's grant would have increased due to a statutory increase in the assistance standard and the family allowance under s.49.19(11)(a), Stats.;

2. The lump sum income or a portion of it becomes unavailable to the former AFDC group for a reason beyond the group's control, for example:

a. The lump sum amount was used because an immediate threat to the health, safety or welfare of the former AFDC group existed;

b. There has been a loss or theft of income; or

c. The group member who received the lump sum leaves the group; or


3. Medical expenses were incurred and paid during the period of ineligibility. Only medical expenses which equal or exceed any balance remaining after calculating the period of ineligibility may be counted; and

(d) If the size of the AFDC group increases during the period of ineligibility, the eligibility of the person added to the AFDC group shall be determined separately.

The repeal and 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

Date: February 7, 1992

By: 

Gerald Whitburn
Secretary

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