

Clearinghouse Rule 06-044

State of Wisconsin

Department of Workforce Development

Division of Workforce Solutions

Wisconsin Works, Emergency Assistance, and Child Care

The Wisconsin Department of Workforce Development proposes an order to repeal ss. DWD 16.04(note), 16.08(3), 17.04(2), 55.03(1), 55.03(2)(a), and 55.03(2)(b); to renumber ss. DWD 16.08(4), 16.08(6), 55.03(2)(c), 55.03(2)(d), 56.08(2)(c), 56.08(2)(d), and 56.08(2)(e); to renumber and amend ss. DWD 16.08(5) and 17.04(3); to amend ss. DWD 12.17(2)(a)1., 16.04, 16.08(1), 17.01, 17.02(5), 17.02(6), 17.02(7), 17.02(8), 17.03(2)(title), 17.03(2)(a)(intro.), 17.03(2)(a)1., 17.03(2)(a)4., 17.03(2)(a)6.a., 17.03(2)(a)6.b., 17.03(4)(intro.)17.03(4)(note), 17.04(1)(intro.), 17.04(1)(a), 17.04(1)(d)1., 17.04(1)(d)2., 17.06, 17.07(1), 17.07(2), 17.07(note), and 56.08(1); to repeal and recreate ss. DWD 17.03(1) and 17.03(3); and to create ss. DWD 16.08(4), 17.02(7m), 17.02(8m), 17.02(9m), 17.03(1m), 17.03(2)(a)5g., 17.03(2)(a)5r, 17.03(2)(a)6.d., 17.04(1)(cg), 17.04(1)(cr), 17.04(1)(d)4., and 56.08(2)(c), relating to Wisconsin Works, emergency assistance, and child care, and affecting small businesses.

Analysis Prepared by the Department of Workforce Development

Statutory authority: Sections 49.138, 49.143 (2) (c), 49.147 (6) (c), 49.155 (5), 103.005 (17), and 227.11 (2), Stats.

Statutes interpreted: Sections 49.138, 49.143 (2) (c), 49.147, and 49.155 (5), Stats.

Related statutes: Sections 48.62 (5) and 49.155 (1m) (c) 1g., Stats.

Explanation of agency authority. Section 49.147 (6) (c), Stats., provides that a W-2 agency shall administer job access loans in accordance with rules promulgated by the department. Section 49.143 (2) (c), Stats., provides that each W-2 agency must employ at least one financial and employment planner (FEP), and the FEP must meet certification and training requirements established by the department by rule. Section 103.005 (17), Stats., provides that the department shall administer those programs of public assistance that specified in subch. III of ch. 49, Stats., including Emergency Assistance, W-2, and child care. Sections 103.005 (1) and 227.11 (2), Stats., provide general authority to promulgate rules necessary to effectuate the purpose of the statutes administered by the department.

Summary of the proposed rules. W-2 job access loans. Section 49.147 (6), Stats., provides that an individual who meets other Wisconsin Works (W-2) eligibility requirements may receive a job access loan needed to obtain or continue employment and address an immediate and discrete financial crisis. Section DWD 12.17 (2) provides that

the amount of the loan to an individual may not be less than \$25 and not more than \$1600 in any 12-month period. The W-2 agency must also ensure that the average of all amounts loaned in any 12-month period does not exceed \$800. The proposed rules will eliminate the requirement that the average of all job access loans issued by a W-2 agency in a 12-month period not exceed \$800. The Legislative Audit Bureau report on the W-2 program issued in April 2005 stated that W-2 agencies report it is time-consuming to calculate ongoing job access loan amounts to comply with this requirement.

Emergency assistance. Section 49.138, Stats., provides for a program of emergency assistance to families with needy children in cases of fire, flood, natural disaster, homelessness, impending homelessness, and energy crisis. Prior to 2005 Wisconsin Act 25, a family could receive emergency assistance once in a 12-month period in cases of need due to fire, flood, natural disaster, energy crisis, or, if a member of the family was a victim of domestic abuse, in cases of need due to homelessness or impending homelessness. A family could receive once in a 36-month period for need due to homelessness or impending homelessness in all other cases. 2005 Wisconsin Act 25 amended s. 49.138, Stats., to provide that a family may be eligible for emergency assistance once in a 12-month period in all cases. The proposed rules amend Chapter DWD 16, relating to emergency assistance, to reflect this statutory change. The proposed rules also provide that an agency shall consider an application complete if the application includes a legible name; address, if available; signature by the applicant or the applicant's representative and has been completed to the best of the applicant's or representative's ability.

W-2 worker training rules. The W-2 worker training rules in Chapter DWD 17 currently provide various training requirements for W-2 agency financial and employment planners (FEPs) and resource specialists. The proposed rules clarify that case managers who perform any FEP function are required to complete the FEP training, regardless of what job title they may hold in the local W-2 agency. This includes case managers who specialize in employment attachment and retention, assist W-2 participants with special needs, or assist W-2 participants with the Supplemental Security Income (SSI) and Social Security Disability Income (SSDI) application process.

The proposed rules also clarify that W-2 agencies that subcontract out a portion of their obligations under the W-2 agency contracts with the department are responsible for ensuring that the subcontractors comply with the department's training requirements. The W-2 agencies are also responsible for including subcontractors in the monthly report submitted to the department on training needs for new workers and the annual report submitted to the department on training completed by all workers.

The proposed rules create a new training requirement for workers who supervise W-2 FEPs or resource specialists. Supervisors who are employed on or after the effective date of the rules will be required to complete the department's new worker training for the job function of the workers that the supervisor is supervising during the first 6 months of employment, unless the supervisor worked in that job function within one year prior to the date of hire as a supervisor. Supervisors will also have ongoing training requirements.

In addition, a permanent employee of the W-2 agency who transfers into a FEP position or resource specialist position and who has not completed the initial training for that position within the previous year will be required to complete the new worker training.

The proposed rules also add civil rights compliance, cultural awareness, and diversity issues; compliance with the Americans with Disabilities Act (ADA); and collaboration and coordination with local child welfare agencies as topics that will be included in the worker training curriculum.

Child care copayment responsibility for subsidized guardians. Section 48.62 (5), Stats., as affected by 2005 Wisconsin Act 25, creates a new program of subsidized guardianship. This program allows guardians who were licensed as the child's foster parents to receive payments in the same amount that they received as foster parents if, among other things, the child has been placed outside of his or her home for a cumulative period of one year or longer, and, despite reasonable efforts to return the child to his or her home, reunification of the child with the child's parent or parents is unlikely or contrary to the best interests of the child. The program also allows for monthly subsidized guardianship payments to an interim caretaker on the death, incapacity, resignation, or removal of a guardian receiving payments.

Section 49.155 (1m) (c) 1g., as affected by 2005 Wisconsin Act 25, provides that when an agency determines financial eligibility for a child care subsidy for a subsidized guardian or interim caretaker of the child, the agency must use the same procedure as is used for determining financial eligibility for a foster parent of a child. The department proposes to also treat subsidized guardians and interim caretakers the same as foster parents in determining the child care copayment amount. Section DWD 56.08 (2) (b) provides that foster parents do not have a copayment responsibility for the foster children in their care. The proposed rules will also provide no copayment responsibility for subsidized guardians and interim caretakers.

Technical corrections in child care rules. The current Chapter DWD 55, relating to day care certification, contains a section on conditions for child care reimbursement that does not relate to certification and more properly belongs in Chapter DWD 56, relating to the administration of child care funds. Much of the information currently in this section, s. DWD 55.03, is a duplicate of information already in Chapter DWD 56 and is repealed in the proposed rules. Information that is not duplicated is renumbered so that it is properly in Chapter DWD 56.

The proposed rules include the current child care copayment schedule that was adjusted effective February 26, 2006, based on changes in the federal poverty level. Section DWD 56.08 (3) allows the department to adjust the amounts in the schedule for various listed factors and to publish adjustments to the schedule in the *Wisconsin Administrative Register*.

Summary of factual data and analytical methodologies. The change to the rule on W-2 job access loans is in response to a recommendation by the Legislative Audit

Bureau. The changes to the Emergency Assistance rules are primarily statutory updates to reflect changes in 2005 Wisconsin Act 25, and the zero child care copayment responsibility for subsidized guardians is a logical extension of 2005 Wisconsin Act 25. The W-2 training rules are amended to reflect demonstrated needs. Other changes are technical corrections.

Comparison with federal law. There are no federal requirements on the changes in the proposed rules.

Comparison with rules in adjacent states. Iowa. There may be maximum emergency assistance payments of a total of \$500 for a 30-day authorization period. These payments may be used for a single need or several needs. One authorization period is allowed per 12-month period. Illinois. Under the subsidized guardian program, payment may be made for day care for children under 3 years of age if the guardian is employed or in a training program that will lead to employment. Michigan. An application for state emergency relief is considered complete when the application form prescribed by the department has been filled out, the application has been signed by the applicant or by the applicant's authorized representative, the application has been received by the department, the applicant has provided information necessary for completion of eligibility forms and the completed form includes signatures of all adult members of the relief group. Minnesota. The department did not find rules on any of the changes in the department's proposed rules.

Effect on small businesses. The proposed rules will affect private W-2 agencies and contractors of W-2 agencies.

The change in the job access loan procedure may reduce administrative expenses for W-2 agencies.

Training requirements for W-2 workers provide tools for efficient, effective service delivery. Worker training may also increase a W-2 agency's customer satisfaction level, which would increase the agency's score on the W-2 performance standards and make it more likely that the agency will be able to renew the W-2 contract with the right of first selection.

The department does not charge agencies a fee for providing training. The only expense that the agencies incur is the worker's time away from normal duties and possible travel expenses. The department does on-site training for agencies that have at least a medium-sized group.

Agency contact person and place where comments are to be submitted. Written comments on the proposed rules received at the following address or email no later than June 1, 2006, will be given the same consideration as testimony presented at the hearing.

Elaine Pridgen
Office of Legal Counsel
Dept. of Workforce Development
P.O. Box 7946
Madison, WI 53707-7946

(608) 267-9403
elaine.pridgen@dwd.state.wi.us

SECTION 1. DWD 12.17 (2) (a) 1. is amended to read:

(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. ~~The W-2 agency shall ensure that the average of all amounts loaned in any 12-month period does not exceed \$800.~~

SECTION 2. DWD 16.04 is amended to read:

DWD 16.04 Application. Application for emergency assistance shall be made on a form prescribed by the department. Upon receipt of a completed application, the agency shall verify that the emergency was due to fire, flood, natural disaster, homelessness, impending homelessness, or an energy crisis. An agency shall consider the application complete if the application includes a legible name; address, if available; signature by the applicant or the applicant's representative and has been completed to the best of the applicant's or representative's ability. Verification of eligibility shall not delay the provision of assistance.

SECTION 3. DWD 16.04 (note) is repealed.

SECTION 4. DWD 16.08 (1) is amended to read:

(1) The agency shall determine eligibility for emergency assistance within 5 working days after receiving a completed application. If the group is found eligible, the agency shall issue a payment to the emergency assistance group within the same 5 working days, ~~except if the group's eligibility is due to homelessness under s. DWD 16.05 (2); the agency shall issue a payment, following the eligibility determination, within 5 working days of the date that the group notifies the agency that a permanent living accommodation has been obtained~~ as provided in subs. (4) and (5). The payment may be made in the form of cash, a voucher, or a vendor payment.

SECTION 5. DWD 16.08 (3) is repealed.

SECTION 6. DWD 16.08 (4) is renumbered DWD 16.08 (3).

SECTION 7. DWD 16.08 (4) is created to read:

DWD 16.08 (4) If the emergency assistance group’s eligibility is due to homelessness under s. DWD 16.05 (2), the agency shall issue a payment, following the eligibility determination, within 5 working days of the date that the group notifies the agency that a permanent living accommodation has been obtained.

SECTION 8. DWD 16.08 (5) is renumbered DWD 16.08 (6) and, as renumbered, is amended to read:

DWD 16.08 (6) Emergency assistance ~~provided in cases of fire, flood, natural disaster, energy crisis, or homelessness when a member of the emergency assistance group is a victim of domestic abuse, as defined in s. 968.075 (1)(a), Stats.,~~ may be provided to an emergency assistance group once in a 12-month period.

SECTION 9. DWD 16.08 (6) is renumbered DWD 16.08 (5).

SECTION 10. DWD 17.01 is amended to read:

DWD 17.01 Introduction. (1) AUTHORITY AND PURPOSE. This chapter is promulgated under authority set forth in ss. 49.143 (2) (c) and 103.005 (17), Stats., to ensure that each financial and employment planner, ~~and~~ resource specialist, and supervisor employed by a W-2 agency directly or by subcontract has successfully completed a training program to achieve acceptable W-2 worker job performance. Successful completion of prescribed training is required for all new W-2 workers. The department shall make ongoing training available for experienced W-2 workers.

(2) APPLICABILITY. This chapter applies to W-2 agencies and the financial and employment planners, ~~and~~ resource specialists, and supervisors who are employed by those agencies directly or by subcontract.

SECTION 11. DWD 17.02 (5), (6), and (7) are amended to read:

(5) “Experienced financial and employment planner” or “experienced FEP” means a FEP employed by a W-2 agency directly or by subcontract who has completed initial FEP training.

(6) “Experienced resource specialist” means a resource specialist employed by a W-2 agency ~~before February 1, 2003~~ or a resource specialist who has completed initial resource specialist training.

(7) “Financial and employment planner” or “FEP” means a case manager employed by a Wisconsin works agency directly or by subcontract who determines eligibility, assists in the process of determining eligibility, or performs case management functions. “FEP” includes a case manager who specializes in employment attachment and retention, assists W-2 participants with special needs, or assists W-2 participants with the Supplemental Security Income (SSI) and Social Security Disability Income (SSDI) application process.

SECTION 12. DWD 17.02 (7m) is created to read:

(7m) “New financial and employment planner” or “new FEP” means an individual who is employed as a financial and employment planner by a W-2 agency, directly or by subcontract, and who has not completed the initial FEP training. “New FEP” includes a permanent employee of the W-2 agency who transfers into a FEP position and who has not completed initial FEP training within the previous year.

SECTION 13. DWD 17.02 (8) is amended to read:

(8) “New resource specialist” means a person who is employed by a W-2 agency directly or by subcontract as a resource specialist ~~on or after February 1, 2003~~ who has not completed the initial resource specialist training, including a permanent employee who transfers into a resource specialist position and who has not completed initial resource specialist training within the previous year.

SECTION 14. DWD 17.02 (8m) and (9m) are created to read:

(8m) “Participant” means an individual who participates in any component of the Wisconsin works program.

(9m) “Supervisor” means a worker employed by a Wisconsin Works agency directly or by subcontract who supervises W-2 financial and employment planners or resource specialists.

SECTION 15. DWD 17.03 (1) is repealed and recreated to read:

DWD 17.03 Initial W-2 worker training. (1) FEPS AND RESOURCE SPECIALISTS. (a) The department shall make initial W-2 worker training available to new FEPS and resource specialists directly or through contractors. The W-2 agency shall ensure that each FEP and resource specialist completes the department's initial training during the first 6 months of employment.

(b) No FEP may make independent decisions related to eligibility or perform case management functions until the initial W-2 training for new FEPS is successfully completed.

(c) No resource specialist may make independent decisions related to providing an initial assessment of a potential W-2 applicant's needs, making referrals to service providers, or evaluating an individual's need for W-2 until the initial W-2 training for new resource specialists is successfully completed.

(d) To successfully complete the initial W-2 training, a new FEP or resource specialist shall attend all class hours and shall participate in all instructional activities. The W-2 agency shall develop evaluation strategies to ensure that the new FEP or resource specialist achieves a minimum standard of competence.

SECTION 16. DWD 17.03 (1m) is created to read:

DWD 17.03 (1m) SUPERVISORS. A supervisor who is employed on or after "the effective date of this section...[revisor inserts date]" to supervise FEPS or resource specialists shall complete the department's new worker training for the job function of the workers that the supervisor is supervising during the first 6 months of employment, unless the supervisor worked in that job function within one year prior to the date of hire as a supervisor. If a supervisor supervises both FEPS and resource specialists, the supervisor shall be required to complete the FEP training only.

SECTION 17. DWD 17.03 (2) (title), (a) (intro.), (a) 1., and (a) 4. are amended to read:

(2) ~~FINANCIAL AND EMPLOYMENT PLANNERS STANDARD~~ CURRICULUM. (a) The department shall develop a standardized curriculum for training new FEPS and resource specialists. The ~~approved~~ standardized curriculum shall include

courses, independent study, and closely supervised practical experience and shall ensure that learning objectives support an acceptable standard of competency at completion. The curriculum may vary depending on job function and may include the following:

1. Program philosophy emphasizing W-2 as a work program.
4. Automated systems used in the W-2 program.

SECTION 18. DWD 17.03 (2) (a) 5g. and 5r. are created to read:

- 5g. Civil rights compliance, cultural awareness, and diversity issues.
- 5r. Compliance with the Americans with Disabilities Act (ADA).

SECTION 19. DWD 17.03 (2) (a) 6. a. and b. are amended to read:

a. Employment and training information for W-2 participants, including job readiness assessment, skills training opportunities, job search activities, labor market information, career planning, and job retention skills.

b. Special needs of the W-2 participant or a family member ~~that~~ as those issues affect the W-2 participant's employability, including substance abuse, domestic abuse, and physical or mental disabilities.

SECTION 20. DWD 17.03 (2) (a) 6. d. is created to read:

- d. Collaboration and coordination with local child welfare agencies.

SECTION 21. DWD 17.03 (2) (b) and (c) are repealed.

SECTION 22. DWD 17.03 (3) is repealed and recreated to read:

(3) DOMESTIC ABUSE TRAINING. (a) A FEP shall complete 12 hours of training in domestic abuse awareness within the first year of employment, including case management strategies and the department's comprehensive screening tool.

(b) A resource specialist shall complete 6 hours of training in domestic abuse awareness within the first year of employment.

(c) A supervisor who is required to take the initial W-2 training under sub. (1m) shall complete domestic abuse awareness training for the job function of the workers who the supervisor is supervising.

SECTION 23. DWD 17.03 (4) (intro.) and (note) are amended to read:

DWD 17.03 (4) (intro.) COMPARABLE TRAINING. A W-2 agency may develop its own training to implement the standardized curriculum under sub. (2) ~~or (3)~~, with approval by the department. A W-2 agency that chooses not to participate in the initial training for new W-2 workers offered by the department or its contractors shall submit a training implementation plan to the department for approval at least 45 days before the planned start date of the training. Training plans shall be submitted to the department on an annual basis. The plan shall do all of the following:

Note: Send the proposed W-2 training implementation plan to: BW-2 Partner Training Section, DWD Division of Workforce Solutions, P.O. Box 7972, Madison, WI 53707-7972. A copy of the department's training schedule for new and experienced workers may be obtained by writing the above address or by accessing the Bureau of Wisconsin Works Partner Training website at <http://www.dwd.state.wi.us/dwspts>.

SECTION 24. DWD 17.04 (1) (intro.) and (a) are amended to read:

DWD 17.04 Ongoing training for experienced W-2 workers. (1) STANDARD CURRICULUM. The department shall develop an ongoing course or courses for supervisors, experienced resource specialists, and experienced FEPs and shall make the course or courses available each year directly or through contractors. The department shall annually define required training courses and develop a standardized curriculum for each job function as needed. The curriculum shall include the following:

(a) ~~Policy Refresher material on W-2 policy and procedure in W-2 handbooks, manuals, and instructional materials.~~

SECTION 25. DWD 17.04 (1) (cg) and (cr) are created to read:

(cg) Civil rights compliance, cultural awareness, and diversity issues.

(cr) Compliance with the Americans with Disabilities Act (ADA).

SECTION 26. DWD 17.04 (1) (d) 1. and 2. are amended to read:

1. Employment and training information for W-2 participants, including job readiness assessment, skills training opportunities, job search activities, career planning, labor market information, and job retention skills.

2. Special needs of the W-2 participant or a family member ~~that~~ as those issues affect the W-2 participant's employability, including substance abuse, domestic abuse, and physical or mental disabilities.

SECTION 27. DWD 17.04 (1) (d) 4. is created to read:

4. Collaboration and coordination with local child welfare agencies.

SECTION 28. DWD 17.04 (2) is repealed.

SECTION 29. DWD 17.04 (3) is renumbered DWD 17.04 (2) and, as renumbered, DWD 17.04 (2) (note) is amended to read:

DWD 17.04 (2) Note: Send the proposed W-2 training implementation plan to: BW-2 Partner Training Section, DWD Division of Workforce Solutions, P.O. Box 7972, Madison, WI 53707-7972. A copy of the department's training schedule for new and experienced workers may be obtained by writing the above address or by accessing the Bureau of Wisconsin Works Partner Training website at <http://www.dwd.state.wi.us/dwspts>.

SECTION 30. DWD 17.06 is amended to read:

DWD 17.06 Local responsibility for implementing updates. ~~[Each]~~ Each W-2 agency shall ensure that all W-2 workers are trained in a timely manner on all W-2 policy and procedure and automated system updates that are issued by the department.

SECTION 31. DWD 17.07 (1), (2), and (note) are amended to read:

DWD 17.07 Reports and records. (1) ANNUAL REPORT ~~OF ALL W-2~~ WORKER TRAINING. Each W-2 agency shall submit to the department by the second Friday in January of each calendar year a report that documents training completed by all supervisors, new and experienced FEPs, and new and experienced resource specialists during the previous calendar year. The report shall include information on training received by individuals employed directly by the W-2 agency and individuals employed by the W-2 agency's subcontractors.

(2) REPORT OF INITIAL W-2 WORKER TRAINING. Each W-2 agency shall submit to the department by the first day of each month a list of supervisors, FEPs, and resource specialists who are required to complete initial W-2 worker training, including

individuals employed directly by the W-2 agency and individuals employed by the W-2 agency's subcontractors.

Note: Send the monthly list of W-2 workers who are required to complete initial W-2 worker training and the annual report on training to: ~~Training Section, Division of Workforce Solutions, P.O. Box 7972, Madison, WI 53707-7972~~ the appropriate Regional Contract Administrator.

SECTION 32. DWD 55.03 (1) and (2) (a) and (b) are repealed.

SECTION 33. DWD 55.03 (2) (c) and (d) are respectively renumbered DWD 56.04 (1) (b) 3. and 4.

SECTION 34. DWD 56.08 (1) (note) is amended to read:

DWD 56.08 (1) (note): This copayment schedule is current as of ~~March 31, 2003~~ February 26, 2006. DWD may make future adjustments to the schedule as described in sub. (3).

SECTION 35. DWD 56.08 (2) (c), (d), and (e) are respectively renumbered DWD 56.08 (2) (d), (e), and (f).

SECTION 36. DWD 56.08 (2) (c) is created to read:

DWD 56.08 (2) (c) Subsidized guardians or interim caretakers of a child under s. 48.62 (5), Stats., do not have a copayment responsibility for that child in their care.

SECTION 37. 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.