

# RULES CERTIFICATE

STATE OF WISCONSIN            )  
   ) SS  
 DEPARTMENT OF                 )  
 WORKFORCE DEVELOPMENT     )

TO ALL TO WHOM THESE PRESENTS SHALL COME, GREETINGS:

I, Linda Stewart, Secretary of the Department of Workforce Development, and custodian of the official records of said department, do hereby certify that the annexed rule(s) relating to the 60-month lifetime limit on participation in the Job Opportunities and Basic Skills (JOBS) program or a Wisconsin Works (W-2) employment position or a combination thereof were duly approved and adopted by this department on \_\_\_\_\_  
 (Date)

I further certify that said copy has been compared by me with the original on file in the department and that the same is a true copy thereof, and of the whole of such original.

IN TESTIMONY WHEREOF, I have hereunto set my hand and affixed the official seal of the department at 11:00 AM  
 in the city of Madison, this 2nd  
 day of April A.D. 1997.

*Linda Stewart*  
 \_\_\_\_\_  
 Secretary



6-1-97  
 96-156

# ORDER OF ADOPTION

Pursuant to authority vested in the Department of Workforce Development by section(s)

103.005(1), Stats., the Department of Workforce Development  creates;  amends;

repeals and recreates;  repeals and adopts rules of Wisconsin Administrative Code chapter(s):

DWD 11.135  
(Number)

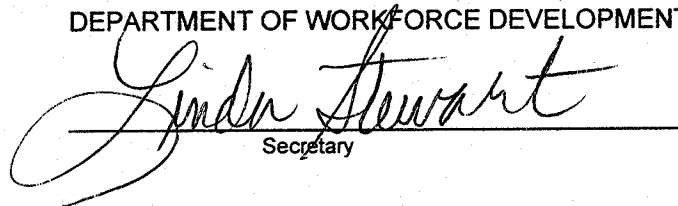
THE 60-MONTH LIFETIME LIMIT  
ON PARTICIPATION IN THE JOB  
OPPORTUNITIES AND BASIC  
SKILLS (JOBS) PROGRAM OR A  
WISCONSIN WORKS (W-2) EMPLOYMENT  
POSITION OR A COMBINATION THEREOF  
(Title)

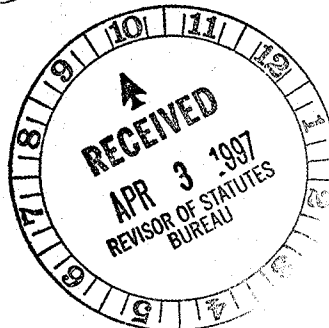
The attached rules shall take effect on June 1, 1997 pursuant to section 227.22, Stats.

Adopted at Madison, Wisconsin this

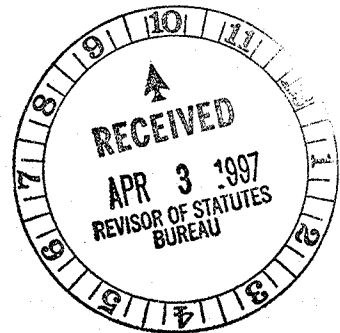
date: April 2, 1997

DEPARTMENT OF WORKFORCE DEVELOPMENT

  
Secretary



# RULES in FINAL DRAFT FORM



**Rule No.:** DWD 11.135

**Relating to:** THE 60-MONTH LIFETIME LIMIT ON PARTICIPATION  
IN THE JOB OPPORTUNITIES AND BASIC SKILLS (JOBS)  
PROGRAM OR A WISCONSIN WORKS (W-2) EMPLOYMENT  
POSITION OR A COMBINATION THEREOF

## CHAPTER DWD 11

### RULE RELATING TO THE 60-MONTH LIFETIME LIMIT ON PARTICIPATION IN THE JOB OPPORTUNITIES AND BASIC SKILLS (JOBS) PROGRAM OR A WISCONSIN WORKS (W-2) EMPLOYMENT POSITION OR A COMBINATION THEREOF

Pursuant to the authority vested in the Wisconsin Department of Workforce Development (DWD) by s. 49.145(2)(n), Stats., the Department proposes an order to renumber ch. HSS 201 to DWD 11 and to create DWD 11.135, relating to circumstances under which the 60-month lifetime limit on participation in the Job Opportunities and Basic Skills (JOBS) program or a Wisconsin Works employment position or a combination thereof may be extended.

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#### Analysis

(1) **Background.** Under the Aid to Families with Dependent Children (AFDC) program, an individual may apply and be determined eligible for AFDC benefits with no regard to whether the individual has received benefits in the past or the number of months an individual may have already received benefits. Wisconsin Works (W-2), the replacement program for AFDC, as created by 1995 Wisconsin Act 289, includes a provision limiting the amount of time an individual may receive AFDC benefits, W-2 employment position benefits or a combination thereof. Under s. 49.145(2)(n), Stats., as created by 1995 Wisconsin Act 289, the total number of months in which an adult has actively participated in the Job Opportunities and Basic Skills (JOBS) program under s. 49.193, Stats., or has participated in a W-2 employment position or both may not exceed 60 months. The months need not be consecutive. Extensions to the 60-month lifetime limit may be granted only in unusual circumstances in accordance with rules promulgated by the Department. Section 49.141(2)(b), Stats., as created by 1995 Wisconsin Act 289, provides that if a federal waiver is granted or federal legislation is enacted, the Department may begin to implement the W-2 program no sooner than July 1, 1996. Participation in JOBS under s. 49.193, Stats., begins to

count toward the 60-month lifetime limit beginning on October 1, 1996.

The federal Personal Responsibility and Work Opportunity Reconciliation Act of 1996 (P.L. 104-193) was signed into law by President Clinton on August 22, 1996. It creates the Temporary Assistance for Needy Families (TANF) program which provides that a state may not use any part of the TANF grant to provide assistance to a family that includes an adult who has received assistance for 60 months, whether consecutive or not, under a state program funded by the TANF block grant. Wisconsin submitted its TANF Block Grant State Plan to the federal Administration for Children and Families on August 22, 1996. The Department implemented time limits on October 1, 1996, for AFDC recipients who are actively participating in the Job Opportunities and Basic Skills (JOBS) program. Implementation of the time limits is part of the continuing transition from AFDC to the W-2 program. W-2 will be implemented statewide in September 1997.

Time limits reinforce the idea that AFDC is a temporary support for families, rather than a long-term source of income. Wisconsin's Work Not Welfare (WNW) demonstration project which operated in Fond du Lac and Pierce Counties, has shown that time limits create a sense of urgency for families to actively seek alternatives to AFDC. Time limits stress mutual responsibility: government provides support and services designed to promote employment and participants who are able must prepare for and enter employment.

The rule defines the term "actively participating" in the JOBS program and includes criteria a county or tribal economic support agency would use to determine whether an extension of the 60-month lifetime limit should be granted. The Department retains the right to review an economic support agency's decisions related to extensions.

**(2) Authority for rule.** S. 49.145(2)(n), Stats., establishes a lifetime limit of 60 months, beginning on an individual's 18th birthday, on the time that an individual may participate in the Job Opportunities and Basic Skills (JOBS) program under s. 49.193, Stats., or the Wisconsin Works (W-2) program under ss. 49.141 to 49.161, Stats. or a combination thereof. In addition, s. 49.145(2)(n) provides

that a W-2 agency may extend the time limit only if the agency determines, "in accordance with rules promulgated by the department, that unusual circumstances exist that warrant an extension of the participation period."

**(3) Unusual circumstances.** This rule establishes the following as unusual circumstances which may serve as the basis for the determination by a W-2 agency that the 60-month lifetime limit should be extended for a W-2 participant:

(a) A participant is unable to work because of personal disability or incapacity, or because he or she is needed to provide home care for a severely incapacitated member of his or her household.

(b) A participant has significant limitations to employment, such as low achievement ability, learning disability, severe emotional or family problems, or inability to find employment because of local labor market conditions.

**(4) Department review.** The rule provides that DWD may review and reverse the decision of a W-2 agency to extend a participant's eligibility beyond the 60-month lifetime limit.

**(5) Counting sanction months.** The rule provides that a month during which a JOBS or W-2 participant receives no payment, or a reduced payment due to a sanction, does count as a month of participation in JOBS or W-2 for the purposes of the 60-month lifetime limit.

**(6) Exceptions.** The rule provides that the 60-month lifetime limit does not apply to a dependent 18-year-old, an 18- or 19-year-old Learnfare participant, or a JOBS participant who is enrolled in a "control group" under the Pay for Performance program.

This is the permanent rule for time limited benefits. This rule replaces the emergency rule which was effective on October 1, 1996.

#### PROPOSED ORDER

Pursuant to the authority vested in the Department of Workforce Development by s. 49.145(2)(n), Stats., as created by 1995 Wisconsin Act 289, s. 49.33(4), Stats., and s.275(3) of 1995 Wisconsin Act 289, the Department of Workforce Development hereby creates a rule interpreting

s. 49.145(2)(n), as created by 1995 Wisconsin Act 289, as follows:

SECTION 1. Ch. HSS 201 is renumbered ch. DWD 11.

SECTION 2. DWD 11.135 is created to read:

**DWD 11.135 Time Limits.** (1) **ELIGIBILITY.** Except as provided in sub. (2) or (5), an individual is not eligible for participation in the job opportunities and basic skills (JOBS) program or in a Wisconsin works (W-2) employment position under s. 49.147(3) to (5), Stats., if, beginning on the date the individual attained the age of 18, he or she has actively participated in the job opportunities and basic skills program or has participated in a Wisconsin works employment position, or both, for 60 months. The months need not be consecutive. Participation in the JOBS program begins to count toward the 60-month lifetime limit beginning on October 1, 1996. In this subsection, "actively participated" means that the individual was enrolled in the JOBS program under s. HSS 206.07.

(2) **ADDITIONAL MONTHS OF ELIGIBILITY.** An agency may extend the 60-month lifetime limit only under unusual circumstances. In this subsection, "unusual circumstances" means any of the following:

(a) A JOBS program participant is unable to work because of personal disability or incapacity, as defined under s. HSS 207.11(1)(a), or is needed as determined under s. DWD 11.19(1)(i) to remain at home to care for another member of the household whose incapacity is so severe that without in-home care provided by the JOBS program participant, the incapacitated AFDC group member's health and well-being would be significantly affected.

(b) A JOBS program participant has significant limitations to employment such as:

1. A JOBS program participant's low achievement ability, learning disability or emotional problems of such severity that they prevent the individual from obtaining or retaining unsubsidized employment, but are not sufficient to meet the criteria for eligibility for SSI under 42 USC 1381

to 1381d or social security disability insurance under 42 USC 401 to 433.

2. Family problems of such severity that they prevent the JOBS participant from obtaining or retaining unsubsidized employment.

(c) The adult JOBS participant has made all appropriate efforts to find work and is unable to find employment because local labor market conditions preclude a reasonable job opportunity. In this paragraph, "reasonable job opportunity" means a job that pays the federal minimum wage prescribed in 29 USC 206(a)1, and meets the conditions under 45 CFR Part 251.

(3) DEPARTMENT RESPONSIBILITY. The department may review an agency's decision to extend eligibility beyond the 60-month lifetime limit and may overturn an agency's decision.

(4) DETERMINATION OF PARTICIPATION. For the purpose of determining the number of months of participation under s. 49.145(2)(n), Stats., and this section, a participant in the JOBS program or a participant in a W-2 employment position under s. 49.147(3) to (5), Stats., shall be considered to have actively participated in a month in which, as a result of a sanction, a reduced payment or no payment is made to the participant.

(5) WHO IS NOT SUBJECT TO TIME LIMITS. An individual who is one of the following is not subject to sub.(1):

(a) A dependent 18-year-old as defined under s. DWD 11.24.

(b) A participant enrolled in JOBS pay for performance control group under s. DWD 11.045(4)(b)1.

(c) An 18- or 19-year-old learnfare participant under s. DWD 11.195.



Tommy G. Thompson  
Governor  
Linda Stewart  
Secretary



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## State of Wisconsin Department of Workforce Development

April 2, 1997

Gary Poulson  
Assistant Revisor of Statutes  
Suite 800  
131 W. Wilson St.  
Madison, Wisconsin 53703-3233

Douglas LaFollette  
Secretary of State  
10th Floor  
30 West Mifflin Street  
Madison, Wisconsin 53703

Dear Messrs. Poulson and LaFollette:

### TRANSMITTAL OF RULE ADOPTION

CLEARINGHOUSE RULE NO.: 96-156

RULE NO.: DWD 11.135

RELATING TO: THE 60-MONTH LIFETIME LIMIT ON PARTICIPATION IN THE JOB OPPORTUNITIES AND BASIC SKILLS (JOBS) PROGRAM OR A A WISCONSIN WORKS (W-2) EMPLOYMENT POSITION OR A COMBINATION THEREOF

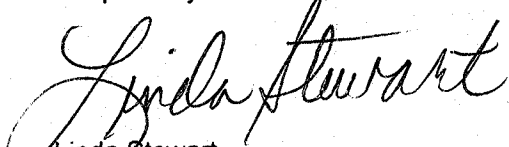
Pursuant to section 227.20, Stats., agencies are required to file a certified copy of every rule adopted by the agency with the offices of the Secretary of State and the Revisor of Statutes.

At this time, the following material is being submitted to you:

1. Order of Adoption.
2. Rules Certificate Form.
3. Rules in Final Draft Form.

Pursuant to section 227.114, Stats., a summary of the final regulatory flexibility analysis is included for permanent rules. A fiscal estimate and fiscal estimate worksheet is included with an emergency rule.

Respectfully submitted,

  
Linda Stewart  
Secretary

