

agency shall verify those data elements considered appropriate under the circumstances of the case history.

(2) The following items shall be verified, when applicable, within 60 days after the eligibility decision date:

- (a) Social security numbers.
- (b) Age, when it is a requirement for nonfinancial eligibility.
- (c) Citizenship or alien status.
- (d) Pregnancy.
- (e) Assets.

(3) Additional verifications may be obtained on a case-specific basis when statements of the applicant are unclear, incomplete or conflicting, or when circumstances make credibility doubtful.

(4) Social security number and birth date shall be verified only once. Other information contained in the application subject to change shall be re-verified.

(5) An agency may verify the original or a copy of the checking or savings account statement of a recipient who is receiving benefits by means of electronic funds transfer under s. HSS 201.10 (4). The verification shall be done at the time of eligibility review, or more often if the agency director or the director's designee decides more frequent verification is justified.

History: Cr. Register, April, 1983, No. 328, eff. 5-1-83; emerg. cr. (5), eff. 5-30-87; cr. (5), Register, December, 1987, No. 384, eff. 1-1-88.

**HSS 201.09 Eligibility determination.** (1) **DECISION DATE.** As soon as possible, but no later than 30 days after the date the agency receives a signed application, completed to the best of the applicant's ability, the agency shall conduct a personal interview with the applicant, determine the applicant's eligibility for AFDC and, on finding the applicant eligible, issue the first payment. If a delay in processing the application occurs because necessary information cannot be obtained within the time limits, the agency shall notify the applicant in writing that there is a delay in processing the application, specify the reason for the delay, and inform the applicant of the right to appeal the delay.

(2) **NOTICE OF DECISION.** (a) Timely and adequate notice shall be sent to applicants and recipients to indicate that AFDC has been authorized or that it has been reduced, denied, terminated or changed to a protective or vendor payment or payment by means of electronic funds transfer under s. HSS 201.10 (4). In this subsection, "timely" means in accordance with s. 49.19 (18), Stats. In this subsection, "adequate notice" means a written notice that contains a statement of the action taken, the reasons for and specific regulations supporting the action, and an explanation of the person's right to request a hearing and the circumstance under which aid will be continued if a hearing is requested. Aid shall be continued in all circumstances except where it is not required by federal regulation.

(b) When changes in either state or federal law require automatic grant adjustments for classes of recipients, timely notice of the grant adjustments shall be given. The notice shall be adequate if it includes a

Register, December, 1987, No. 384

statement of the intended action, the reasons for the intended action, a statement of the specific change in law requiring such action and statement of the circumstances under which a hearing may be obtained and assistance continued.

(3) **REVIEW OF ELIGIBILITY.** A recipient's eligibility shall be redetermined:

(a) When information previously obtained by the agency concerning anticipated changes in the recipient's situation indicates the need for redetermination;

(b) Promptly after a report is obtained which indicates changes in the recipient's circumstances that may affect eligibility;

(c) At any time the agency can justify the need; and

(d) Within 90 days from the date initial eligibility is determined and every 6 months thereafter.

History: Cr. Register, April, 1983, No. 328, eff. 5-1-83; am. (2) (a), Register, December, 1987, No. 384, eff. 1-1-88.

**HSS 201.10 Payment procedures.** (1) **DESIGNATION OF PAYEE.** Checks shall be made payable as appropriate to:

(a) The primary person;

(b) Spouse of the primary person. The spouse shall be living in the home unless designated as protective payee or appointed by a court to be legal representative;

(c) Guardian or conservator of the AFDC recipient; or

(d) An unrelated person acting temporarily for a caretaker relative in an emergency which deprives the child of the relative's care. This person may be the payee only for the time necessary to make and carry out plans for the child's continuing care.

(2) **PROTECTIVE AND VENDOR PAYMENTS.** (a) In this subsection, "protective payment" means a money payment to a payee designated by the agency as the receiver of a recipient's total or partial monthly financial assistance check. In this subsection, "vendor payment" means a money payment made in behalf of a recipient directly to a provider of goods or services.

(b) 1. A protective payment shall be made whenever there is a refusal to assign child support rights to the state or to cooperate in establishing paternity and obtaining support. When there is a refusal to register with or a failure to cooperate with WEOP, the payment to any remaining eligible persons shall be in the form of a protective payment or a vendor payment.

2. If, after making reasonable efforts, the agency is unable to locate an appropriate person to whom protective payments can be made, payments for the remaining eligible group members may continue to be made to a caretaker relative who has been sanctioned under s. HSS 201.19 (2) for failure to meet WEOP requirements or who has failed to meet child support requirements under s. HSS 201.18.

Register, December, 1987, No. 384

(c) If continued mismanagement of funds is a threat to the health and safety of the child, all or part of the grant may be a protective payment or part of the grant may be a direct payment and part a protective or vendor payment or both. The agency shall investigate reports of mismanagement before instituting protective or vendor payments.

(d) The agency director or designee shall authorize all protective and vendor payments. The reason for the authorization shall be documented in the case record and shall show the name of the eligible recipient, the name of the protective or vendor payee, and the amount and form of payment authorized. Authorization shall only be made with the recipient's knowledge, providing he or she is able to understand it.

(2m) METHOD OF PAYMENT. Payment shall be made by check or by means of electronic funds transfer under sub. (4).

(3) RESTRICTION ON USE OF ASSISTANCE NOT PERMITTED. Payment shall consist of an unconditional transfer and delivery of the benefits to the payee with no restrictions imposed by the agency on the use of the funds.

(4) ELECTRONIC FUNDS TRANSFER. (a) In this subsection:

1. "EFT" or "electronic funds transfer" means a computerized mechanism for the direct deposit of payments into a checking or savings account in a bank, credit union, or savings and loan association located in Wisconsin, Illinois, Iowa, Minnesota, or Michigan. EFT functions as a "warrant" as that term is used in 45 CFR 234.11 (a).

2. "State account" means a savings account owned by the department for which a record of transactions is provided by the bank, credit union or savings and loan association to the account's owner on a regular basis.

3. "State co-owned account" means a savings account owned jointly by the department and an AFDC recipient and for which a record of transactions is provided by the bank, credit union or savings and loan association to the account's owners on a regular basis.

(b) Payment of monthly AFDC benefits by means of EFT shall be made no later than the 5th working day of the month.

(c) Except as provided under par. (e), payment shall be made by means of EFT if:

1. A recipient who has an individual checking or savings account in a bank, credit union or savings and loan association that accepts electronic funds transfers requests that payments be transferred into that account by means of EFT; or

2. A recipient is required by the agency director or the director's designee to receive assistance payments by means of EFT. An agency may require EFT participation for a recipient who has:

a. Made 2 or more requests for duplicate checks in the past 6 months;

b. Been found guilty of fraud under s. 49.12 or 49.49, Stats., in the past 6 months;

c. Requested EFT participation but been refused ownership of an individual checking or savings account and, in the judgment of the agency

director or the director's designee, would benefit from receiving payments by means of EFT; or

d. Failed to provide verification of a home address and there is reason to believe that the recipient is not a resident of the county in which the AFDC payments are made.

(d) A recipient shall apply to receive assistance payments by means of EFT on a form prescribed by the department.

Note: Application forms are available from county or tribal income maintenance agencies.

(e) The agency director or the director's designee may deny payments by means of EFT to a recipient who cannot produce verification of a home address and there is reason to believe that the recipient is not a resident of the county in which the AFDC payments are made or to a recipient who does not have a checking or savings account in a bank, credit union or savings and loan association in the community in which he or she lives and there is a bank, credit union or savings and loan association located in that community.

(f) If EFT participation is required under par. (c) 2, payments shall be deposited in a state co-owned account. Financial transactions made with an account required under this paragraph shall be limited to AFDC benefit deposits by means of EFT and in-person withdrawals.

(g) If a recipient is required under par. (c) 2 to receive assistance payments by means of EFT and refuses to cooperate in establishing a state co-owned account, payments shall be deposited in a state account. Financial transactions made with an account required under this paragraph shall be limited to AFDC benefit deposits by means of EFT and in-person withdrawals by the recipient.

(h) If it is necessary to identify the AFDC grant in an account, a first-in, first-out accounting procedure shall be used to distinguish the AFDC grant from non-AFDC funds. In this paragraph, "first-in, first-out accounting procedure" means an accounting method under which it is assumed that funds are withdrawn from an account in the order in which they are deposited.

Note: For example, an AFDC grant of \$250.00 is deposited in an account on April 1. The balance in the account is \$250.00. On April 3, a deposit of \$25.00 is made, bringing the new balance to \$275.00. With first-in, first-out accounting, the AFDC funds are identified as the first \$250.00 to be withdrawn from the account after the deposit is made. If a portion of the \$250.00 has been withdrawn from the account and a portion remains in the account, the AFDC funds are the amount of withdrawals plus the amount remaining in the account equal to \$250.00. The non-AFDC funds are the monies remaining after the \$250.00 AFDC grant deposit has been accounted for.

(i) 1. The agency director or the director's designee shall authorize mandatory EFT participation under par. (c) 2 for a period not to exceed 12 months. This authorization shall be reviewed when redetermining the recipient's eligibility as provided in s. HSS 201.09 (3) or whenever the circumstances that required EFT participation change.

2. The agency director or the director's designee may terminate mandatory EFT participation under par. (c) 2 if the circumstances which required EFT participation have changed. In no case may mandatory

EFT participation under par. (c) 2 be required for more than 2 consecutive 12 month periods.

History: Cr. Register, April, 1983, No. 328, eff. 5-1-83; emerg. renum. (2) (b) and am. eff. 6-1-86; renum. (2) (b) to be (2) (b) 1. and am., cr. (2) (b) 2., Register, November, 1986, No. 371, eff. 12-1-86; emerg. cr. (2m) and (4), am. (3), eff. 5-31-87; cr. (2m) and (4), am. (3), Register, December, 1987, No. 384, eff. 1-1-88.

**HSS 201.11 Appeals.** Any applicant or recipient may ask for and shall receive a fair hearing in accordance with established procedures and consistent with applicable state law and federal regulations when grieved by action or inaction of the agency or the department of health and social services.

History: Cr. Register, April, 1983, No. 328, eff. 5-1-83.

**HSS 201.12 Fraud.** When the agency director or designee decides that possible fraud exists, the case shall be referred to the district attorney.

History: Cr. Register, April, 1983, No. 328, eff. 5-1-83.

**HSS 201.13 Agency bond. (1) SURETY BOND.** The person in charge of the administration of AFDC in each county shall furnish a bond having as surety a company authorized to do surety business in this state. The bond shall be in an amount fixed by the board of supervisors of the county in which the bonded person is to perform his or her functions and shall be substantially in the form provided in s. 19.01 (2), Stats.

(2) **APPROVAL AND FILING.** The form of the bond shall be approved by the district attorney, and the bond shall be filed in the office of the clerk of the court in which the bonded person performs his or her functions.

(3) **NOTICE OF BOND.** The clerk shall give notice in writing to the county board or its chairperson and to the department, stating the amount of the bond filed, the name of the surety, the date of filing and the date of approval by the district attorney. The notice shall be given within 5 days after the person required to be bonded has entered upon his or her office or employment. The notice shall be published with the proceedings of the county board.

(4) **AMOUNT FIXED BY COUNTY BOARD.** The provisions of ss. 19.01 (2), (3), (5), (6) and (8), 19.015, and 19.02 to 19.06, Stats., and all other provisions of law relating to official bonds, unless clearly inapplicable or inconsistent with this chapter, shall apply to all matters in connection with the official bonds required by this chapter. As soon as possible after the convening of the November annual meeting of the county board of supervisors in each county, each board shall by resolution fix, and at any subsequent meeting may change, the required amount of the bond.

(5) **JUDGES EXEMPT.** This section shall not apply to judges.

History: Cr. Register, April, 1983, No. 328, eff. 5-1-83.

### Subchapter III — Conditions of Eligibility and Determination of the Grant

**HSS 201.14 Deprivation.** To be eligible for AFDC, children shall be deprived of parental support or shall be pregnant. To be eligible for AFDC, adults shall be either caretakers of deprived children or pregnant. A child is deprived of parental support or care by reason of the following: death of parent, continued absence of a parent from the home, or, if both par-

Register, December, 1987, No. 384

ents are in the home, incapacitation of a parent, unemployment of a parent, or a parent is an offender working without pay.

(1) **PARENTAL ABSENCE.** The deprivation may be based on continued absence regardless of the length of time a parent is absent.

(2) **INCAPACITATION OF A PARENT.** For deprivation to be based on incapacitation of a parent, eligibility shall depend on a finding of a legal parent's physical or mental incapacity to provide proper parental support or care. The incapacitation shall be expected to last for a period of at least 30 days. The incapacitation decision shall be made by the agency director or a designer based on competent medical testimony. The incapacitation shall be of such a debilitating nature as to reduce substantially or eliminate the parent's ability to support or care for the child. The agency director or a designee may presume incapacitation and initiate payments on the basis of reliable information. If the medical findings later received indicate that the presumed incapacitation does not exist, the agency shall terminate the case with proper notice.

(3) **UNEMPLOYMENT OF A PARENT.** For deprivation to be based on the unemployment of a parent, the principal wage earner shall meet the requirements detailed in this subsection. If AFDC was received the previous month and the deprivation of the child was based on the unemployment of a parent, then the parent who was the principal wage earner remains the principal wage earner. Otherwise, the principal wage earner is the parent who earned the greater amount of income in the 24-month period that ended at the end of the preceding month.

(a) The principal wage earner shall apply for and accept any unemployment compensation to which she or he is entitled.

(b) The principal wage earner shall be referred to a WEOP agency unless exempt from WEOP participation under s. HSS 201.19. A principal wage earner who is exempt from WEOP participation under s. HSS 201.19 (1) (h) shall register with the state employment service.

(c) The principal wage earner shall be either currently out of work or employed less than 100 hours a month. If the principal wage earner is out of work and has not received AFDC based on unemployment within the last 4 months, eligibility shall not begin sooner than 30 days from the date the unemployment began. If the principal wage earner worked more than 100 hours in a particular month, this requirement may be met if the parent worked less than 100 hours for each of the 2 preceding months and is expected to work fewer than 100 hours during the next month.

(d) The principal wage earner, who was not receiving AFDC 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