

Chapter HSS 201

AID TO FAMILIES WITH DEPENDENT CHILDREN

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Note: Chapter HSS 201 was created as an emergency rule effective 12-31-82.

Subchapter I — General Provisions

HSS 201.01 Authority and purpose. This chapter is adopted pursuant to s. 49.50 (2), Stats., for the purpose of administering the aid to families with dependent children (AFDC) program.

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

HSS 201.02 Applicability. This chapter applies to all applicants for AFDC and recipients of AFDC, to all persons engaged in the administration and supervision of AFDC, and to all persons who are legally or financially responsible for any applicant or recipient of AFDC.

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

HSS 201.03 Definitions. In this chapter:

(1) "AFDC" means aid to families with dependent children, a public assistance program under Title IV-A of the Social Security Act of 1935, as amended, and ss. 49.19 to 49.41, Stats.

(2) "AFDC group" means those persons whose financial eligibility for AFDC is determined together.

(3) "AFDC unemployed parent group" means an AFDC group in which the child or children are deprived of parental support because the principal wage earner in the group is unemployed.

(4) "Agency" means the county department of social services, public welfare or human services, or a tribal agency which administers income maintenance programs.

(5) "Assistance standard" means the monthly dollar amounts under s. 49.19 (11) (a)1. and 2., Stats., used in determining need and the amount of the family allowance in the AFDC program.

(6) "Caretaker" means a qualified relative who has a child under his or her care as specified in s. HSS 201.17.

(7) "Child-in-common" means any child who is the legal responsibility of the primary person and the primary person's spouse, or the other parent when there is no marriage, when all of them are living together.

(8) "Deemed" means, in reference to income and assets, considered available to applicants or recipients for purposes of determining eligibility and grant amount.

(9) "Department" means the department of health and social services.

(10) "Exempt assets" means those assets which are not considered when determining financial eligibility for AFDC.

(11) "Family allowance" means the percentage of the assistance standard under s. 49.19 (11) (a)1. and 2., Stats., designated as the monthly payment level in the AFDC program.

(12) "Legally responsible relative" means a person liable for the support of another person as specified in s. 52.01, Stats.

(13) "Primary person" means the person whose name is listed first on the application form as the person applying for AFDC.

(14) "Principal wage earner" means the person who is listed on line one or 2 of the application for AFDC in an AFDC unemployed parent group, who earned the most income during the 24 month period preceding the most recent application, and who meets the requirements for past and current employment under 45 CFR 233.100.

(15) "Registrant" means a person registered for WEOP.

(16) "SSI" means supplemental security income, the assistance program in section 1613 of Title XVI of the Social Security Act of 1935, as amended, and s. 49.177, Stats.

(17) "WEOP" means the Wisconsin employment opportunities program established under 42 USC 645 and s. 49.50 (7), Stats., for the purpose of assisting AFDC recipients to develop marketable work skills and obtain gainful employment.

History: Cr. Register, April, 1983, No. 328, eff. 5-1-83; emerg. r. (14), renum. (13) to be (14), cr. (13) and (15), eff. 6-1-86; r. and recr. (14), renum. (3) to (13) to be (4) to (13) and (16), cr. (3), (15) and (17), Register, November, 1986, No. 371, eff. 12-1-86.

Subchapter II — AFDC Administration

HSS 201.04 Introduction. Agencies shall administer the AFDC program in accordance with ss. 49.19 to 49.41, Stats., and this chapter, and Register, January, 1987, No. 373

(2) UNDER THE CARE. (a) A child shall be considered under the care of a relative when the relative:

1. Exercises the primary responsibility for the care and control of the child, including making plans for the child; and
2. Maintains a home in which he or she and the child live.

(b) 1. A child may be absent from the caretaker relative's home but still be considered under the care of the caretaker relative, or the caretaker relative may be absent from the home but still be considered the caretaker relative, if the following conditions are met:

- a. The continuous absence is expected to be for a period of no more than 6 months;
- b. The absence is not the result of removal of the child under a dispositional order issued under s. 48.355, Stats., which places custody of a child outside the home for an indefinite period or a period of 3 months or more; and
- c. The caretaker relative continues to exercise responsibility for the care and control of the child.

2. The agency may approve an extension of a child's temporary absence from the home beyond 6 months when a written plan exists which demonstrates that the intent is to return the child to the home of the caretaker relative.

(c) When a never-married minor parent is residing with his or her parent, the parent of the minor parent is considered the caretaker.

History: Cr, Register, April, 1983, No. 328, eff. 5-1-83; r. and recr. (2) (b), Register, July, 1988, No. 391, eff. 8-1-88.

HSS 201.18 Assignment of support. (1) The parent or caretaker shall assign all rights to child support and maintenance payments in order to be eligible for AFDC. If there is a refusal to make the assignment, the person who refuses shall not be eligible for AFDC.

(2) The agency shall refer all cases involving paternity and support to the county child support agency. The parent shall cooperate with the local child support agency in identifying or locating the absent parent, in obtaining support payments or any other payments or property and in establishing paternity. If the parent refuses to cooperate, the parent is not eligible unless it is determined under s. HSS 215.03 that there is good cause for the parent to refuse cooperation.

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

HSS 201.19 WEOP. (1) **REGISTRATION.** All persons in an AFDC group shall register for WEOP as a condition of eligibility for AFDC. Participation in WEOP shall not be required of an AFDC recipient who is:

(a) The caretaker relative for a child under age 6 living in the home, when there are only brief and infrequent absences of the caretaker relative from the child. Only one person in an AFDC group may be exempt for this reason;

(b) Age 65 or older;

(c) The spouse of the principal wage earner if the principal wage earner is assigned mandatory status under s. HSS 208.02 (3);

(d) Working at least 30 hours per week in a job expected to last a minimum of 30 days;

(e) Under age 16, or age 16 or age 17 and enrolled as a full-time student in an elementary or secondary school or a vocational or technical school that is equivalent to a secondary school. A student shall be considered enrolled if the student has not graduated, has not been legally excused from school attendance by the school board, or has an excused absence for no more than 30 days due to a physical or mental condition;

(f) An 18-year old full-time student in a high school, or in the equivalent level of vocational or technical training, who is reasonably expected to complete the program before reaching age 19, or, an 18-year old enrolled in and regularly attending a high school program leading to a high school diploma;

(g) Incapacitated, ill or injured with a medically-determined physical or mental impairment which prevents the person from temporarily or permanently participating in WEOP activities or holding a job. Unless the medical condition is determined by a physician to be permanent, the person shall be reexamined by a physician annually or on or before the date a physician stated the incapacity is expected to cease, whichever comes first. Any person who is exempt from participation in WEOP on the basis of incapacitation for more than 60 days shall be referred to the department's division of vocational rehabilitation;

(h) Living in a county without a WEOP office or living so far from the WEOP office that he or she cannot get to it within one hour with available transportation. The time required to take children to and from child care shall not be included in this computation. Available transportation means transportation which is available to the person on a regular basis and includes public transportation and private vehicles;

(i) Needed, as determined by the agency, to remain at home to look after another member of the household because of that person's medical condition; or

(j) Medically-verified pregnant and in the third trimester of pregnancy.

(2) SANCTION. (a) Upon receiving written notice from the WEOP agency that a registrant who does not meet an exemption under sub. (1) has failed without good cause to participate in the program, the agency shall:

1. Change the WEOP status of the registrant from mandatory to sanction; and

2. Send written notice to the primary person which specifies:

a. That AFDC benefits are terminated or reduced because the registrant did not have good cause for failing to participate in WEOP and gives a specific reason for the action;

b. The beginning date, length of sanction and person or persons in the AFDC group to whom the sanction applies; and

c. The registrant's right to apply for a fair hearing in accordance with s. PW-PA 20.18 [ch. HSS 225].

(b) If the registrant does not request a fair hearing or if, after a fair hearing has been held, the hearing officer finds that the registrant has failed to participate in WEOP without good cause, the agency shall:

1. Deny aid to all persons in an AFDC unemployed parent group when the principal wage earner fails to participate in WEOP without good cause; or

2. Deny aid to any nonexempt caretaker relative or nonexempt dependent child who has failed to participate in WEOP without good cause, but continue to provide aid to each remaining eligible child and adult in the household.

(c) A sanction applied under par. (b) shall be effective:

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1. For 3 calendar months following the first occurrence of nonparticipation; or

2. For 6 calendar months following the second and each subsequent occurrence of nonparticipation.

(d) If the circumstances of an AFDC unemployed parent group change during the sanction period due to the absence or incapacitation of the principal wage earner, the group members may reapply for aid and not be subject to the same sanction. If the principal wage earner reenters the group or the incapacitation ends, the sanction shall be reinstated beginning in the next possible month following the change in case status and shall continue for the time remaining in the sanction period.

(e) The sanction period under par. (c) shall include any other period during which the sanctioned AFDC unemployed parent group, nonexempt primary person or nonexempt dependent child is ineligible for AFDC.

History: Cr. Register, April, 1983, No. 328, eff. 5-1-83; emerg. r. and recr. eff. 6-1-86; r. and recr. Register, November, 1986, No. 371, eff. 12-1-86.

HSS 201.20 Supplemental security income recipients. No person receiving SSI shall be eligible for AFDC. The income and assets of SSI recipients shall not be used when determining eligibility of others for AFDC or the amount of assistance to be granted.

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

HSS 201.21 Strikers. Any person who is a striker on the last day of the month shall not be eligible. If the primary person or the primary person's spouse is a striker, the primary person, the primary person's spouse and all children for whom the striker is legally responsible, shall not be eligible. In this section, "striker" means a person involved in a strike or concerted stoppage of work by employes or any concerted slowdown or other interruption of operations by employes.

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

HSS 201.22 Refusal to provide information. If an applicant or recipient refuses to provide information necessary to determine AFDC eligibility, the people whose eligibility depends upon this information shall not be eligible. A person shall not be found ineligible for failure to provide verification if it is not within the person's power to provide verification.

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

HSS 201.23 Social security number. A social security number shall be furnished for each person in the AFDC group or, if a person does not have one, application for a number shall be made. If there is a refusal to furnish a number or apply for a number, the person for whom there is a refusal shall not be eligible for AFDC.

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

HSS 201.24 Age. To be eligible for AFDC as a deprived child, the individual shall be under age 18 or qualify as a dependent 18-year old. In this section, "dependent 18-year old" means a person who meets either of the following sets of criteria:

(1) **FIRST SET OF CRITERIA.** Is age 18 and a full-time student in a high school or in an equivalent level of vocational or technical training and can

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reasonably be expected to complete the program before reaching age 19. In this subsection, "full-time student" means a student who is classified as full-time or who is carrying sufficient credits to be reasonably expected to graduate or receive a general education diploma before reaching age 19.

(2) **SECOND SET OF CRITERIA.** Is age 18 and regularly attending a high school program leading to a high school diploma and shall be determined to be an essential person. In this subsection, "regularly attending" means attendance which conforms to school rules. A student shall not be required to participate in summer school to be considered regularly attending. In this subsection, "essential person" means a person whom the primary person recognizes to be essential to the well-being of another recipient in the home who is a child under age 18 receiving either AFDC or SSI or a pregnant relative.

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

HSS 201.25 Maternity care. Even though there is no deprived child in the home, maternity care may be granted to a pregnant woman. To be eligible for maternity care the woman shall be at least 7 months pregnant. This requirement shall be met on the first of the month in which she becomes 7 months pregnant. The seventh month of pregnancy shall be established by counting back 3 calendar months from the medically verified expected date of delivery. Only the pregnant woman is eligible for maternity care. If the pregnant woman is married and living with her husband, either she or her husband shall meet the requirements under s. HSS 201.14(2), (3) or (4) for the pregnant woman to be eligible.

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

HSS 201.26 Requests for exclusion. Anyone may be excluded from the AFDC grant subject to the following limitation: Persons and their income and assets may not be excluded from the eligibility determination when federal regulations prohibit the exclusion.

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

HSS 201.27 Assets. (1) The total nonexempt assets of the AFDC group may not exceed \$1,000. If the nonexempt assets exceed \$1,000, the primary person, the primary person's spouse and any children for whom they are both legally responsible shall not be eligible. If there is a child in the AFDC group who is not the legal responsibility of the primary person or primary person's spouse, the child's financial eligibility shall be determined under s. HSS 201.31.

(2) Assets owned by members of the AFDC group shall be treated as follows:

(a) Up to \$1,500 of the equity value of one motor vehicle used to provide transportation of persons or goods shall be exempt. If more than one vehicle is owned, up to \$1,500 of equity value from the vehicle with the greatest equity shall be exempt. The equity value of any other vehicle shall be counted as an asset. In this paragraph, "equity value" means the wholesale value as given in a standard guide on motor vehicle values or the value as estimated by a sales representative at a local car dealership minus any encumbrances which are legally debts.

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