

CR 89-124

CR 89-124

CERTIFICATE

RECEIVED

STATE OF WISCONSIN)
) SS
DEPARTMENT OF HEALTH AND SOCIAL SERVICES)

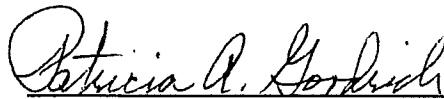
JAN 31 1990
1:20 pm
Revisor of Statutes
Bureau

I, Patricia A. Goodrich, 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 participation of recipients of Aid to Families with Dependent Children (AFDC) in the Job Opportunities and Basic Skills (JOBS) training program were duly approved and adopted by this Department on January 31, 1990.

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, 1 W. Wilson Street, in the city of Madison, this 31st day of January, 1990.

SEAL:



Patricia A. Goodrich, Secretary
Department of Health and Social Services

3-1-90

ORDER OF THE
DEPARTMENT OF HEALTH AND SOCIAL SERVICES
REPEALING, RENUMBERING, AMENDING AND CREATING RULES

To repeal HSS 207.06(2)(f)1 and 2, 209.03(1)(i)1 and 2 and (L) and 210.04(2)(i)1 and 2; to renumber and amend HSS 207.06(2)(f)(intro.), 209.03(1)(i)(intro.), (m) and (n) and 210.04(2)(i)(intro.); to amend HSS 201.10(2)(b)1 and 2, 201.14(3)(b) and (e)1, 201.19 (title), (1)(intro.), (a), (b), (g), (h), (j) and (k) and (2)(a)(intro.), 1 and 2 and (2)(c)1 and 2, 207.06(2)(h) and (i), 209.02(2)(d), 209.03(1)(a) and (b) and 210.04(2)(a) and (b) and (L); to repeal and recreate HSS 201.19(2)(b) and (d) and 209.03(3); and to create HSS 201.03(2m) and (11m), 201.19(1)(L), (2)(a)2d and (c)3, and (f) and (g), 207.06(2)(j), 209.03(1)(n) and 210.04(2)(m), relating to participation of Aid to Families with Dependent Children (AFDC) recipients in the Job Opportunities and Basic Skills Training (JOBS) Program.

Analysis Prepared by the Department of Health and Social Services

Recipients of Aid to Families with Dependent Children (AFDC) are required to participate in employment and training programs as a condition of eligibility for AFDC unless they are exempt from having to participate. The Family Support Act of 1988 (P.L. 100-485) makes a number of changes in the AFDC program, including creating a new employment and training program entitled Job Opportunities and Basic Skills Training (JOBS). All states are required to implement JOBS by October 1, 1990, and have the option of implementing it prior to that date. The Department received approval of the required JOBS state plan from the federal Department of Health and Human Services, and began implementing JOBS on July 1, 1989, by emergency rulemaking order because in several respects the changes would benefit AFDC recipients and therefore the sooner they went into effect the better. These are the permanent rules that replace the emergency rules.

Through this rulemaking order the following changes are made in the Department's AFDC-related employment and training rules to implement JOBS: references to the Wisconsin Employment Opportunities Program (WEOP) in ch. HSS 201 are changed to JOBS except that references to WEOP in s.HSS 201.195 on Learnfare remain because of statutory requirements; exemptions from having to participate in AFDC employment and training programs are added for a caretaker relative personally providing care to a child under the age of 2, a woman who is in her second trimester of pregnancy, a person age 60 or over (currently it is age 65 or over) and a person who is a full-time volunteer in the Volunteers In Service To America (VISTA) program; the sanction language is amended to state that in an AFDC-U case the caretaker relative who is required to participate in JOBS and in some cases his or her spouse may be removed from the grant while aid continues to each remaining eligible child and adult in the household; the length of time of a sanction is revised; and a method for removing or curing a sanction is added. In addition, a definition in the Community Work Experience Program (CWEP) rules that relates to assigning a participant to a work project within a reasonable distance of home is modified to conform to the JOBS regulations.

The Department's authority to repeal, renumber, amend, and create these rules is found in s.49.50(2), Stats., and in s.49.50(7b), Stats., as created by 1989 Wisconsin Act 31. The rules interpret s.49.50(7), (7c), (7g), (7j), (7m) and (7p), Stats., and s.49.50(7b), Stats., as created by 1989 Wisconsin Act 31.

SECTION 1. HSS 201.03(2m) and (11m) are created to read:

HSS 201.03(2m) "AFDC-regular case" means an AFDC group in which the child or children are deprived of parental support or care because a parent has died or is continually absent from the home or, if both parents are in the home, a parent is incapacitated or is an offender working without pay.

(11m) "JOBS" means the job opportunities and basic skills training program established under 42 USC 682 and s.49.50(7b), Stats., for the purpose of assisting AFDC recipients to develop marketable work skills and obtain gainful employment.

SECTION 2. HSS 201.10(2)(b)1 and 2 is amended to read:

HSS 201.10(2)(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 JOBS, 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 JOBS requirements or who has failed to meet child support requirements under s.HSS 201.18.

SECTION 3. HSS 201.14(3)(b) and (e)1 is amended to read:

HSS 201.14(3)(b) The principal wage earner shall be referred to a WEOP JOBS agency unless exempt from WEOP JOBS participation under s.HSS 201.19. A principal wage earner who is exempt from WEOP JOBS participation under s.HSS 201.19(1)(h) shall register with the state employment service.

(e)1. In this paragraph, "quarter of work" means a period of 3 consecutive calendar months ending on March 31, June 30, September 30 or December 31, in which the parent received gross earned income of not less than \$50 in the quarter, or in which he or she participated in a community work experience program under s.409 of the Social Security Act of 1935, as amended, or was enrolled in a work incentive (WIN) program established under 42 USC 632 ~~or~~ , a WIN demonstration program established under 42 USC 645 or JOBS.

SECTION 4. HSS 201.19 (title) and (1)(intro.), (a), (b), (g), (h), (j) and (k) are amended to read:

HSS 201.19 (title) JOBS. (1) REGISTRATION. All persons in an AFDC group shall register for WEOP JOBS as a condition of eligibility for AFDC. A properly witnessed signature under s.HSS 201.05(5) on the application for AFDC shall constitute JOBS registration for each person included in the AFDC group at the time of application or added to the AFDC group at a later date. Participation in WEOP under ~~ch.HSS 208~~ JOBS shall not be required of an AFDC recipient who is:

(a) The primary caretaker relative who personally provides care for a child under 2 years of age 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 60 or older;

(g) Incapacitated, ill or injured with a medically-determined physical or mental impairment which prevents the person from temporarily or permanently participating in WEOP JOBS activities or holding a job. This shall include a period of recuperation after childbirth if prescribed by the woman's physician. 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 JOBS 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 JOBS office or living so far from the WEOP JOBS 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;

(j) Medically-verified pregnant and in the second or third trimester of pregnancy; ~~or~~

(k) Participating in learnfare under s.HSS 201.195- ; or

SECTION 5. HSS 201.19(1)(L) is created to read:

HSS 201.19(1)(L) A full-time volunteer serving under the Volunteers in Service to America (VISTA) program, pursuant to Title I of the Domestic Volunteer Service Act of 1973, as amended, 42 USC 4951 to 4958.

SECTION 6. HSS 201.19(2)(a)(intro.), 1 and 2 are amended to read:

HSS 201.19(2)(a) Upon receiving written notice from the WEOP JOBS agency that a registrant who ~~does not meet an exemption~~ is not exempt under sub. (1) has failed without good cause to participate in the program and determining following review that application of a sanction is appropriate, the agency shall:

1. Change the WEOP JOBS 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 JOBS 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]- ; and

SECTION 7. HSS 201.19(2)(a)2d is created to read:

HSS 201.19(2)(a)2d. If this is the first sanction, that the sanction ends as soon as the sanctioned individual contacts the agency and agrees to participate in JOBS or accept employment.

SECTION 8. HSS 201.19(2)(b) is repealed and recreated to read:

HSS 201.19(2)(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 JOBS without good cause, the agency shall:

1. Deny aid in an AFDC unemployed parent case as follows:
 - a. In a case in which both caretaker relatives are required to participate in JOBS, remove the mandatory participant who refuses to participate or accept employment without good cause from the grant, but continue to provide aid to each remaining eligible child and adult in the household if the other caretaker relative is participating in JOBS; and
 - b. In a case in which only one caretaker relative is required to participate in JOBS, remove the mandatory participant who refuses to participate or accept employment without good cause and the other caretaker relative who is not participating from the grant, but continue to provide aid to each eligible child in the household. If the other caretaker relative who meets an exemption reason under s.HSS 201.19(1) volunteers to participate in JOBS, he or she shall be included in the grant;

2. In an AFDC-regular case, deny aid to any nonexempt caretaker relative or nonexempt dependent child who has failed to participate in JOBS without good cause, but continue to provide aid to each remaining eligible child and adult in the household; and

3. If application of a sanction would otherwise close the case because the sanctioned individual is a dependent child and there are no other eligible children in the household, continue benefit payments to meet the needs of the caretaker relative or relatives as long as the case continues to meet all other eligibility criteria.

SECTION 9. HSS 201.19(2)(c)1 and 2 are amended to read:

HSS 201.19(2)(c)1. ~~For 3 calendar months following~~ Following the first occurrence of nonparticipation, until the failure to comply ceases;
~~or~~

2. ~~For 6 calendar months following~~ Following the second and each subsequent occurrence of nonparticipation, until the failure to comply ceases or for 3 calendar months, whichever is longer; or

SECTION 10. HSS 201.19(2)(c)3 is created to read:

HSS 201.19(2)(c)3. Following the third and each subsequent occurrence of nonparticipation, until the failure to comply ceases or for 6 calendar months, whichever is longer.

SECTION 11. HSS 201.19(2)(d) is repealed and recreated to read:

HSS 201.19(2)(d) If the sanctioned individual leaves the household, the sanction continues for that individual. The agency shall review eligibility for the remaining household members and shall make any necessary adjustments to the grant immediately. The sanction period shall run concurrently with other reasons of ineligibility of the individual or the other household members. If, during the sanction period, other circumstances of the household change, the agency shall review eligibility for the household.

SECTION 12. HSS 201.19(2)(f) and (g) are created to read:

HSS 201.19(2)(f) The agency shall send written notice to a sanctioned individual as follows:

1. After 2 months to an individual being sanctioned for the first refusal or failure to cooperate, stating that the sanctioned individual may immediately end the sanction by contacting the agency and agreeing to participate in JOBS or to accept employment;

2. After 2 months to an individual being sanctioned for the second refusal or failure to cooperate, stating that the sanctioned individual may end the sanction after a period of 3 months from the beginning of the sanction has

elapsed by contacting the agency and agreeing to participate in JOBS or to accept employment; and

3. After 5 months to an individual being sanctioned for the third or any subsequent refusal or failure to cooperate, stating that the sanctioned individual may end the sanction after a period of 6 months from the beginning of the sanction has elapsed by contacting the agency and agreeing to participate in JOBS or to accept employment.

(g) The agency shall end the sanction pursuant to par. (c) when the sanctioned individual contacts the agency and indicates that he or she will cooperate with the JOBS agency. The agency shall add the individual who had been sanctioned to the grant from the date he or she agrees to participate if all other eligibility factors are met. The agency shall notify the JOBS agency that the individual will cooperate and shall change the status of the individual from sanction to mandatory.

SECTION 13. HSS 207.06(2)(f)(intro.) is renumbered 207.06(2)(f), and HSS 207.06(2)(f), as renumbered, is amended to read:

HSS 207.06(2)(f) The recipient is incapacitated with a medically confirmed physical or mental impairment which prevents the individual from engaging in employment or training, ~~and~~. This shall include a period of recuperation after childbirth if prescribed by the woman's physician;

SECTION 14. HSS 207.06(2)(f)1 and 2 are repealed.

SECTION 15. HSS 207.06(2)(h) and (i) are amended to read:

HSS 207.06(2)(h) The recipient is needed at home on a substantially continuous basis to care for another family member whose medical condition as determined by a physician or psychologist does not permit self-care and for whose care no other appropriate member of the household is available; ~~or~~

(i) The recipient is medically verified pregnant and in the second or third trimester of pregnancy; or

SECTION 16. HSS 207.06(2)(j) is created to read:

HSS 207.06(2)(j) The recipient is a full-time volunteer serving under the Volunteers in Service to America (VISTA) program, pursuant to Title I of the Domestic Volunteer Service Act of 1973, as amended, 42 USC 4951 to 4958.

SECTION 17. 209.02(2)(d) is amended to read:

HSS 209.02(2)(d) Ensure that participants are not assigned to projects which require traveling an unreasonable distance from their home or remaining away from their homes overnight without their consent. In this paragraph "unreasonable distance" means more than one hour travel time one way between the participant's home and the work or activity site, ~~including~~ excluding time to take children to child care, using available transportation;

SECTION 18. HSS 209.03(1)(a) and (b) are amended to read:

HSS 209.03(1)(a) The recipient is the primary caretaker relative in the home and is earing personally providing care for a child under 2 years of age. If the child is at least 2 years of age but less than 6 years of age, and living in the relative's home, the recipient shall participate if day care licensed under s.48.65(1), Stats., certified under s.48.651, Stats., or established under s.120.13(14), Stats., is available for the child. Child care shall be considered unavailable if there is no space available for the child in day care licensed under s.48.65, Stats., certified under s.48.651, Stats., or established under s.120.13(14), Stats., within reasonable travel time and distance, or if the cost of the care where space is available exceeds the maximum rate established by the county under s.46.98(4), Stats., and s.HSS 55.74;

(b) The recipient is ~~65~~ 60 years of age or older;

SECTION 19. HSS 209.03(1)(i)(intro.) is renumbered 209.03(1)(i), and HSS 209.03(1)(i), as renumbered, is amended to read:

HSS 209.03(1)(i) The recipient is incapacitated with a medically confirmed physical or mental impairment which ~~by itself or in conjunction with age~~ prevents the individual from engaging in employment or training, ~~and~~ This shall include a period of recuperation after childbirth if prescribed by the woman's physician;

SECTION 20. HSS 209.03(1)(i)1 and 2 and (L) are repealed.

SECTION 21. HSS 209.03(1)(m) and (n) are renumbered 209.03(1)(L) and (m), and HSS 209.03(1)(L) and (m), as renumbered, are amended to read:

HSS 209.03(1)(L) The recipient is enrolled in an educational or training program which, when it is completed, is expected to lead to employment. In this paragraph, "enrolled" means being accepted in writing into an educational or training program and regularly attending that program; ~~or~~

(m) The recipient is at least 6 months pregnant medically-verified to be pregnant and in the second or third trimester of pregnancy; ~~or~~

SECTION 22. HSS 209.03(1)(n) is created to read:

HSS 209.03(1)(o) The recipient is a full-time volunteer serving under the Volunteers in Service to America (VISTA) program, pursuant to Title I of the Domestic Volunteer Service Act of 1973, as amended, 42 USC 4951 to 4958.

SECTION 23. HSS 209.03(3) is repealed and recreated to read:

HSS 209.03(3) REFUSAL TO PARTICIPATE AND DETERMINATION OF GOOD CAUSE.
(a) Reconciliation action shall be initiated by the CWEP agency when a mandatory or voluntary CWEP participant refuses to participate in the program. Refusal to participate occurs when:

1. The participant expresses verbally or in writing to CWEP administrative agency staff that he or she refuses to participate; or

2. The participant implies refusal to participate when he or she:

a. Fails to appear for employer, CWEP administrative agency or other assigned interviews or activities;

b. Voluntarily leaves assigned employment without good cause as determined under par. (c);

c. Is discharged from appropriate employment for misconduct; or

d. Through some other behavior or action shows that he or she refuses to participate in CWEP activities.

(b) The CWEP administrative agency shall schedule an interview with the CWEP participant who has refused to participate to determine:

1. If he or she had good cause as determined under par. (c) for past incidents of refusal to participate; and

2. If he or she is now willing and able to resume participation in CWEP activities.

(c) Good cause for not participating in an assigned CWEP activity shall be one or more of the conditions in sub. (1) or any of the following circumstances:

1. Illness, injury or incapacity of the participant or a member of the participant's family. In this paragraph, "member of the participant's family" means a spouse, child, parent or other dependent relative who lives with the participant;

2. Court-required appearance or temporary incarceration;

3. Family emergency or unavailable child care;

4. Breakdown in the transportation arrangement;

5. Appointment for a job interview; or

6. Any other circumstance beyond the control of the participant.

(d) The interview under par. (b) shall result in one of the following determinations:

1. The participant had good cause under par. (c) and the conditions causing nonparticipation have been resolved. The resolution of the temporary problems or misunderstandings enables the participant to begin or resume active CWEP participation;

2. The participant had good cause under par. (c) and the conditions causing nonparticipation cannot be resolved. The CWEP agency shall refer the participant back to the income maintenance agency for status reexamination or shall arrange for appropriate supportive services to enable the registrant to participate;

3. The participant did not have good cause under par. (c) for past refusal to participate but the problems have been resolved or eliminated and there is agreement that the participant will begin or resume active participation; or

4. The participant did not have good cause under par. (c) for past refusal to participate and the problem or problems preventing participation cannot be resolved. This includes those occasions when the participant did not keep appointments with the CWEP administrative agency to discuss nonparticipation issues.

(e) The CWEP administrative agency shall send a written report to the agency when a participant fails to report to the CWEP administrative agency or otherwise refuses to participate in CWEP without good cause. The report shall include the specific circumstances of refusal to participate and the date of the occurrence. The agency shall take appropriate action in accordance with s. HSS 201.19(2) for refusal to participate.

SECTION 24. HSS 210.04(2)(a) and (b) are amended to read:

HSS 210.04(2)(a) The recipient is the primary caretaker relative in the home and is earing personally providing care for a child under 2 years of age who is living in the home and ~~there are only brief and infrequent absences of the caretaker relative from the child;~~

(b) The recipient is ~~65~~ 60 years of age or older;

SECTION 25. HSS 210.04(2)(i)(intro.) is renumbered 210.04(2)(i), and HSS 210.04(2)(i), as renumbered, is amended to read:

HSS 210.04(2)(i) The recipient is incapacitated with a medically confirmed physical or mental impairment which ~~by itself or in conjunction with age~~ prevents the individual from engaging in employment or training, ~~and~~ . This shall include a period of recuperation after childbirth if prescribed by the woman's physician;

SECTION 26. HSS 210.04(2)(i)1 and 2 are repealed.

SECTION 27. HSS 210.04(2)(L) is amended to read:

HSS 210.04(2)(L) The recipient is medically verified to be pregnant and in the second or third trimester of pregnancy; ~~or~~

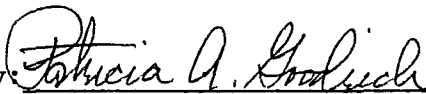
SECTION 28. HSS 210.04(2)(m) is created to read:

HSS 210.04(2)(m) The recipient is a full-time volunteer serving under the Volunteers in Service to America (VISTA) program, pursuant to Title I of the Domestic Volunteer Service Act of 1973, as amended, 42 USC 4951 to 4958.

The 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

Dated: January 31, 1990

By 
Patricia A. Goodrich
Secretary

SEAL:



State of Wisconsin \

DEPARTMENT OF HEALTH AND SOCIAL SERVICES
1 West Wilson Street, Madison, Wisconsin 53702

Tommy G. Thompson
Governor

Patricia A. Goodrich
Secretary

Mailing Address:
Post Office Box 7850
Madison, WI 53707

January 31, 1990

Mr. Bruce E. Munson
Revisor of Statutes
7th Floor - 30 on the Square
Madison, WI 53702

RECEIVED

JAN 31 1990

Revisor of Statutes
Bureau

Dear Mr. Munson:

As provided in s. 227.20, Stats., there is hereby submitted a certified copy of HSS 201, 207, 209 and 210, administrative rules relating to participation of recipients of Aid to Families with Dependent Children (AFDC) in the Job Opportunities and Basic Skills (JOBS) training program.

These rules are also being submitted to the Secretary of State as required by s. 227.20, Stats.

These rules concern county administration of a federal-state public assistance program. They do not directly affect small businesses as defined in s. 227.114(1)(a), Stats.

Sincerely,

Patricia A. Goodrich
Secretary

Enclosure