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CERTIFICATE

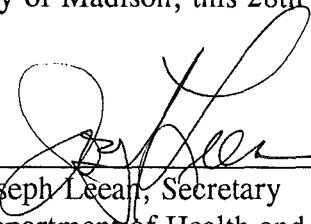
STATE OF WISCONSIN)
) SS
DEPARTMENT OF HEALTH AND SOCIAL SERVICES)

I, Joseph Lekan, 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 emergency assistance for low-income families under the Aid to Families with Dependent Children (AFDC) program were duly approved and adopted by this Department on September 28, 1995.

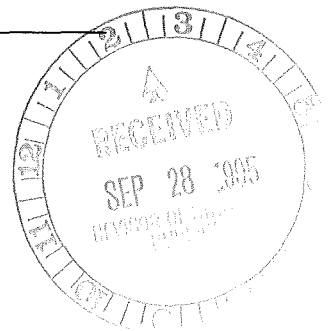
I further certify that this copy has been compared by me with the original on file in the Department and that this copy is a true copy of the original, and of the whole of the original.

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 28th day of September, 1995.

SEAL:



Joseph Lekan, Secretary
Department of Health and Social Services



12-1-95

ORDER OF THE
DEPARTMENT OF HEALTH AND SOCIAL SERVICES
CREATING RULES

To create HSS 201.055 and 201.28(4m), relating to emergency assistance for low-income families and eligibility for the Aid to Families with Dependent Children (AFDC) program.

Analysis Prepared by the Department of Health and Social Services

Under Section 406(e) of the Social Security Act of 1935, as amended, and the implementing federal regulations at 45 CFR 233.120, a state may provide a program of emergency assistance under the Aid to Families with Dependent Children (AFDC) program to a child under age 21 and his or her family when the child is without available resources and the payments, care or services involved are necessary to avoid destitution of the child or are needed to provide living arrangements in a home for the child. The destitution or need for living arrangements may not be the result of the child or his or her caretaker relative refusing without good cause to accept employment or training for employment. AFDC emergency assistance grants are limited to one 30 day period only within any 12 consecutive months. Section 49.19(11)(b), Stats., as amended by 1995 Wisconsin Act 27, directs the Department of Health and Social Services to implement this program for families that have emergency needs due to fire, flood, a natural disaster, homelessness or an energy crisis.

These are the administrative rules to implement the program. The rules establish nonfinancial and financial conditions for program eligibility, state how the payment amount is determined and include payment procedures. A needy family may apply for AFDC emergency assistance through the local county or tribal economic support agency. The agency must determine if the family's need is the result of fire, flood, natural disaster, homelessness or energy crisis. Assistance is available to either a family currently receiving AFDC or to a family that is not receiving AFDC if the family meets the emergency assistance program eligibility requirements. If the family is eligible, the agency must provide assistance to the family, now called an AFDC emergency assistance group, taking into consideration the group's available income and assets, within 5 working days after the date of application for the assistance.

As originally proposed, the rules included a maximum payment amount per eligible family member. That has been removed because 1995 Wisconsin Act 27 amended 49.19(11)(b), Stats., to direct the Department to establish the maximum payment amount on the basis of funding available under s.20.435(4)(dc) and (p), Stats., except when the need is the result of an energy crisis, and to publish the maximum amount and annual changes to it in the Wisconsin Administrative Register. Beginning September 1, 1995, the maximum payment amount is established at \$150 per eligible family member based on available funding. The new maximum payment amount per eligible family member is included in Chapter 3, "Emergency Assistance," of the Division of Economic Support's Other Programs Eligibility Handbook.

The Department's authority to create these rules is found in ss.49.19(11)(b), Stats., as amended by 1995 Wisconsin Act 27, and s.49.50(2), Stats. The rules interpret s.49.19(11)(b), Stats., as amended by 1995 Wisconsin Act 27.

SECTION 1. HSS 201.055 is created to read:

HSS 201.055 AFDC EMERGENCY ASSISTANCE PROGRAM. (1) PURPOSE. This section implements s.49.19(11)(b), Stats., which directs the department to administer a program of emergency assistance under the AFDC program for persons who are in need due to fire, flood, natural disaster, homelessness or energy crisis and who meet the eligibility criteria under this section and the eligibility criteria for federal financial participation under 45 CFR 233.120.

(2) APPLICABILITY. This section applies to all applicants for AFDC emergency assistance, all recipients of AFDC emergency assistance and all county and tribal economic support agencies administering the AFDC emergency assistance program under s.49.19(11)(b), Stats.

(3) DEFINITIONS. In this section:

(a) "AFDC emergency assistance" means the program of financial assistance under s. 406(e) of the Social Security Act of 1935, as amended, which is intended to avoid destitution of a child or provide living arrangements for the child in a home.

(b) "AFDC emergency assistance group" or "group" means a child or children under the age of 21 and a qualified caretaker relative or relatives specified in s.HSS 201.17(1) with whom the child is living or was living at the time the emergency occurred.

(c) "Destitution" means extreme want of resources or of the means of subsistence.

(d) "Emergency shelter facility" means any facility, the primary purpose of which is to provide temporary or transitional shelter for the homeless in general or specific populations of the homeless under 24 CFR 576.3.

(e) "Other programs eligibility handbook" means the other programs handbook issued by the department's division of economic support for use by agencies in determining eligibility for public assistance programs including AFDC emergency assistance.

(4) APPLICATION. Application for AFDC 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 or an energy crisis. Verification of eligibility shall not delay the provision of assistance.

Note: An application form for AFDC emergency assistance may be obtained from a county or tribal economic support agency.

(5) NONFINANCIAL ELIGIBILITY. (a) Criteria. The AFDC emergency assistance group shall meet the following nonfinancial eligibility criteria:

1. The group members meet the residence criteria in s.HSS 201.15;

2. The group members are citizens or qualifying aliens as defined in s.HSS 201.16;

3. The child for whom assistance is requested is or, within 6 months prior to the month of application for AFDC emergency assistance, was living with a qualified caretaker relative as specified in s.HSS 201.17 in a place of residence maintained as the caretaker relative's own home;

4. Assistance is needed to avoid destitution of the child or to provide a living arrangement for the child in a home;

5. The child's destitution or need for living arrangements did not result from the child or a qualified caretaker relative specified in s.HSS 201.17 refusing without good cause to accept employment or training for employment; and

6. As determined by the agency, the group's need has resulted from an emergency due to:

a. Fire;

b. Flood;

c. A natural disaster such as a tornado, earthquake, electrical storm or windstorm, hail, sleet, a mud or rock slide, or a natural explosion such as lightning striking an object that then explodes;

d. Homelessness as determined under par.(b). The cause of the homelessness need not be the result of a natural disaster; or

e. An energy crisis, including lack of essential home heating or imminent loss of essential home heating, with an immediate threat to the health or safety of the group either existing or likely to exist.

(b) Eligibility due to homelessness. An AFDC emergency assistance group shall be considered homeless for purposes of determining nonfinancial eligibility under par.(a) if the group needs AFDC emergency assistance to obtain a permanent living accommodation and if any of the following conditions apply:

1. The group lacks a fixed, regular and adequate nighttime residence;

2. The group has a current residence that is a shelter designed for temporary accommodation such as a motel, hotel or emergency shelter facility;

3. The group has to leave or has already left its current housing because it is uninhabitable as determined by the local

building inspector, the local health department or other appropriate local authority;

4. The group is living in a place that is not designed for, or ordinarily used as, a regular sleeping accommodation; or

5. A member of the group was subject to domestic abuse as defined under s.968.075(1), Stats.

(6) FINANCIAL ELIGIBILITY. (a) Total financial need. The agency shall compute the AFDC emergency assistance group's total financial need by adding together the AFDC area 1 assistance standard under s.49.19(11)(a)1, Stats., for the family size equal to the AFDC emergency assistance group size determined under sub. (5) and an amount to meet the AFDC emergency assistance group's physical needs under par.(b). The agency shall estimate the amount needed to meet the group's physical needs under par.(b).

(b) Physical needs. Physical needs may include:

1. Food;
2. Clothing;
3. Temporary housing when the group is in need of assistance because of fire, flood or natural disaster;
4. First month's rent plus the security deposit;
5. Home energy. This may include heating fuel, electricity, and repair or replacement services necessary to attain or maintain the basic heat and electricity requirements of an average household;
6. Household items;
7. Home repairs and appliances;
8. Transportation; and
9. Medical care.

(c) Income. The agency shall determine the amount of income available to the AFDC emergency assistance group in accordance with s.HSS 201.28 except that:

1. The earned income disregards under s.49.19(5)(a)4 and 4m and (am), Stats., are not allowed;

2. Supplemental security income received by an AFDC emergency assistance group member in the month of the emergency is not counted;

3. An AFDC grant received in the month of the emergency is not counted; and

4. Income received in the month of the emergency but before the date of the emergency and already used for the group's needs is not counted.

(d) Assets. The agency shall determine the amount of assets available to the AFDC emergency assistance group in accordance with s.HSS 201.27, except that an asset with a fair market value of less than \$3,000 that would require liquidation at a loss or an asset maintained in an education and employability account under s.HSS 201.27(1m) is exempt from consideration. No asset may be considered available unless the AFDC emergency assistance group can make it available within 30 days. Assets shall be considered available as provided in 45 CFR 233.20(a)(3)(ii)(D), that is, both when actually available and when the group has a legal interest in a liquidated sum and has the legal ability to make the sum available for support and maintenance. No available real property may be included in determining the AFDC emergency assistance group's assets.

(7) PAYMENT AMOUNT. (a) In determining the AFDC emergency assistance payment amount, the agency shall subtract the AFDC emergency assistance group's total income, as determined under HSS 201.28 and sub.(6)(c), and assets, as determined under HSS 201.27 and sub.(6)(d), from the group's total financial need determined under sub.(6)(a).

(b) The AFDC emergency assistance payment amount shall be the amount requested by the AFDC emergency assistance group or the amount computed under par. (a), whichever is less, but may not exceed the maximum amount of aid per family member as

established by the department, based upon available funding. The department shall establish the maximum amount and annual changes to it by publishing a public notice in the Wisconsin administrative register and by issuing a revised emergency assistance chapter for its other programs eligibility handbook.

(8) ELIGIBILITY DETERMINATION AND PAYMENT PROCEDURES.

(a) The agency shall determine eligibility for AFDC emergency assistance within 5 working days after receiving a completed application and, if the group is found eligible, shall issue a payment to the AFDC emergency assistance group within the same 5 working days except that, if the group is eligible under sub.

(5)(b), 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. The payment may be made in the form of cash, a voucher or a vendor payment.

(b) The agency shall notify the applicant in writing of the eligibility determination. If the application is denied, the notice shall include reasons for the denial and information about the opportunity to appeal that decision under sub. (10).

(c) 1. AFDC emergency assistance may be issued to an AFDC emergency assistance group for one period of 30 days within any 12 consecutive months.

2. The date of the first authorized payment begins the 30 day period, and the period ends 30 days after the initial payment, whether or not additional requests or payments for the same emergency are made.

(d) AFDC emergency assistance payments shall not be used for activities related to or the costs of providing temporary or transitional shelter or housing except if a group is in need of assistance due to a fire, flood or natural disaster.

(9) SOCIAL SERVICE NEEDS. (a) In determining the AFDC emergency assistance group's total need, the agency shall consider the social service needs of the group and shall make appropriate referrals to assist the group in meeting those needs.

(b) Social service needs include but are not limited to the need for:

1. Information and referral to the appropriate service agency;
2. Counseling;
3. Family shelter; and
4. Child care funding through the county or tribal human services or social services agency.

(10) FAIR HEARING. Any person whose application for AFDC emergency assistance is not acted upon promptly after filing of the application, or is denied in whole or in part, whose award is modified or canceled, or who believes the award to be insufficient, may request a fair hearing in accordance with s.49.50(8), Stats. A request shall be in writing and shall be submitted to the department's office of administrative hearings so that it is received there within 45 days after the decision or failure to act which is being appealed.

Note: The mailing address of the Department's Office of Administrative Hearings is P.O. Box 7875, Madison, WI 53707-7875.

SECTION 2. HSS 201.28(4m) is created to read:

HSS 201.28(4m) EMERGENCY ASSISTANCE. Payments made under the emergency assistance program, s.HSS 201.055, shall be exempt.

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: September 28, 1995

By: 

Joseph Lekan
Secretary

SEAL: