

(a) The recipient is the primary caretaker relative in the home and is 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 60 years of age or older;

(d) The recipient is currently employed for at least 30 hours per week in a job expected to last a minimum of 30 days and his or her hourly earning are at least equal to the legally established minimum wage for the type of job held, except that when the job held does not have an established minimum wage a recipient currently working at least 30 hours per week in a job expected to last a minimum of 30 days shall be exempted from CWEP regardless of wage level;

(e) The recipient is less than 16 years of age;

(f) The recipient is 16 or 17 years of age, is enrolled full time in school, has not graduated and has not been legally excused from school attendance by the school board except when he or she has been excused for no more than 30 days due to a physical or mental condition;

(g) The recipient is an 18-year-old student who is enrolled in and regularly attending high school, vocational or technical school with the expectation of graduating, and can reasonably be expected to complete the program before reaching age 19;

(h) The recipient has incurred an illness or injury which temporarily prevents employment or entry into training;

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

(j) The recipient lives so far from the CWEP work site that he or she is unable to travel to the site within one hour, excluding time required to take children to and from child care, through use of available transportation;

(k) 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;

(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;

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

(n) 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.

(1m) PARTICIPATION IN SELF-INITIATED POST-SECONDARY EDUCATION AND TRAINING PROGRAMS. An agency shall determine if participation in post-secondary education or training activities by a mandatory participant constitutes satisfactory participation in CWEP. That determination shall be made in accordance with the following conditions:

(a) The participant:

1. Applied for admission in the post-secondary education or training program before being referred to CWEP and has been accepted;

2. Applied for admission in the post-secondary education or training program during a period of at least a month or more when he or she was not assigned to another CWEP activity and has been accepted; or

3. Was a student in good standing as defined by the post-secondary education or training institution at the time this subsection became effective;

(b) The participant has not quit a permanent full-time job without good cause within the 12 month period prior to enrolling in the CWEP program. A participant shall be considered to have good cause if any of the following apply:

1. The participant's gross monthly income on the job was less than the sum of the AFDC grant for that family size plus the income amounts that would have been disregarded in AFDC for child care, work-related expenses and earned income disregards;

2. The job paid less than 185% of the federal poverty line and did not offer health care benefits for one or more members of the AFDC group;

3. Personal circumstances including but not limited to divorce, death of a family member, physical disability or relocation, caused the participant to quit the job; or

4. Other good cause reasons under s. HSS 209.03 (3) apply;

(c) The participant has completed orientation, his or her education and training needs have been assessed, an employability plan has been developed as required under 42 USC 682b and the education program is included in the employability plan;

(d) The participant is enrolled in a vocational or technical school or is enrolled in an academic college or university in an undergraduate program. Enrollment in a graduate program at a college or university is not acceptable;

(e) The participant has not previously completed a degree or diploma course of study at a vocational or technical school or at an academic college or university. The CWEP agency may grant an exception for a participant who needs education to update skills or to secure certification related to a previously completed course of study. The CWEP agency may also grant an exception if the participant completed a 2 year degree program in a field where there are few prospects for employment as determined by the CWEP agency;

(f) The cost of the schooling is financed by a source other than CWEP, such as by a federal or state grant or loan or a combination of grant and loan;

(g) The educational activities have a clear employment goal in a recognized occupation where there are prospects for employment as determined by the CWEP agency;

(h) The participant is making satisfactory progress in the education or training program and is in good academic standing, as determined by the school. The CWEP agency shall review the participant's progress in the education and training activities. The CWEP agency may not require a participant to come in for a review during times when he or she is scheduled for educational activities;

(i) The participant is participating full-time, as defined by the institution, in post-secondary education or training activities. If the individual chooses to attend school less than full-time, the CWEP agency may require the participant to work or participate in other employment and training activities for a combined total of no more than 129 hours per month. Study time shall be included in calculating the 129 hours. The CWEP agency manager may grant an exception if individual or family circumstances prevent full-time participation and the individual is attending a vocational or technical school or, if attending an academic college or university, the individual has less than 2 years of a 4 year program to complete at the time he or she first enrolls in CWEP. In unusual situations, the CWEP agency may also grant an exception for an individual who is attending the first 2 years of a 4 year program, if temporary circumstances expected to last no more than one year prevent full time participation;

(j) During periods when school is not in session, the CWEP agency may require the participant to participate in other employment and training activities. If the CWEP agency requires the participant to participate during periods when school is not in session, the CWEP agency shall assign the participant to appropriate temporary activities. Participation in these activities may not prevent the participant from returning to school. In this paragraph, "when school is not in session" means in the summer, if the participant is not attending summer school, and between-quarter or between-semester breaks of 3 or more weeks;

(k) Participation in post-secondary education or training counts as satisfactory participation for only one parent in a 2-parent household; and

(l) Participation in training or education activities approved by the department's division of vocational rehabilitation is considered as meeting the requirements of this subsection.

(2) VOLUNTARY PARTICIPATION. (a) An AFDC recipient who is exempt from CWEP registration may volunteer to be a participant in CWEP.

(b) The agency shall inform every recipient who volunteers to participate in CWEP at the time she or he volunteers, of the conditions of participation, including any sanction that may result from failure to comply with a CWEP assignment. The agency shall also inform the recipient at that time that the voluntary participant may withdraw from participation in CWEP without any penalty if the recipient does so in writing before the beginning date of a CWEP assignment or if, during an assign-

ment, the participant gives the agency 20 days advance written notice of that decision in which case the recipient may not participate in CWEP as a voluntary participant for 12 months after the date of withdrawal.

(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 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.

(4) MAXIMUM REQUIRED HOURS OF PARTICIPATION IN ANY MONTH. (a) An agency may not require a recipient to participate in the program for more hours in a month than the number of hours equal to the recipient group's monthly AFDC payment 2 months earlier minus child support payments made 2 months earlier, which offset the AFDC benefit, divided by the greater of the applicable state or federal minimum wage. Child support payments to the county clerk of courts and subsequently disregarded from AFDC benefits are not considered to have offset the AFDC grant.

(b) Agency arranged or approved training in which the recipient participates shall be counted toward CWEP participation requirements on a hour-for-hour basis.

(5) NOTICE AND RIGHT TO FAIR HEARING. (a) The agency shall send written notice to any participant who fails to comply with a CWEP work assignment without good cause. The notice shall include:

1. The agency's proposed action affecting the participants's AFDC eligibility and payments; and

2. An explanation of the participant's right to explain any disagreement with the proposed action by contacting the agency within 10 working days of the date on the written notification.

(b) Any participant adversely affected by an agency decision under this section may request a fair hearing in accordance with s. 49.50 (8), Stats., and s. PW-PA 20.18 [ch. HSS 225]. The request for a fair hearing shall be addressed to the department's office of administrative hearings.

Note: The mailing address of the office of administrative hearings is P.O. Box 7876, Madison, Wisconsin 53707.

History: Cr. Register, July, 1986, No. 367, eff. 8-1-86; emerg. am. (1) (intro.), r. and recr. (1) (a), r. (1) (c), eff. 9-1-88; emerg. r. and recr. (1) (a), eff. 11-1-88; am. (1) (intro.), r. and recr. (1) (a), r. (1) (c), Register, December, 1988, No. 396, eff. 1-1-89; emerg. am. (1) (a) and (b), r. and recr. (1) (n) and (3) (b), eff. 7-1-89; emerg. am. (1) (d), eff. 10-2-89; am. (1) (a) and (b), r. (1) (i) 1. and 2., and (l), renum. (1) (i) (intro.), (m) and (n) to be (1) (i), (l) and (m) and

Register, November, 1990, No. 419

am., r. and recr. (3), Register, February, 1990, No. 410, eff. 3-1-90; cr. (1m), Register, November, 1990, No. 419, eff. 12-1-90.

[The body of the document contains extremely faint and illegible text, likely representing the administrative code provisions.]