

eligibility. Registration for WEJT shall be as provided in s. HSS 210.02 (2).

(2) EXEMPTION FROM PARTICIPATION. An AFDC recipient is not required to participate in WEJT if:

(a) The recipient is the primary caretaker relative in the home and is personally providing care for a child under 2 years of age who is living in the home;

(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 earnings 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 WEJT 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 where 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 graduation, 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 a training or 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. In this paragraph "available transportation" means transportation which is available to the person on a regular basis and includes public transportation and a private vehicle;

(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 medically verified to be pregnant and in the second or third trimester of pregnancy; or

(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.

(2m) PARTICIPATION IN POST-SECONDARY EDUCATIONAL PROGRAMS. (a) *Approval.* The WEJT agency shall determine if post-secondary educa-

tion or training activities for a WEJT participant constitute satisfactory participation in the WEJT program. That determination shall be made in accordance with conditions set forth in this subsection.

(b) *Definitions.* In this subsection:

1. "Calendar year" means a continuous period of 12 months beginning with the month participation in educational activities begins and including months when a mandatory participant is not attending school.

2. "Remedial education" means educational activities to enable an individual to complete high school or the equivalent or achieve a basic literacy level, or education for an individual with limited English proficiency.

(c) *Post-secondary education or training initiated by WEJT.* The WEJT agency may initiate post-secondary education or training activities for a WEJT participant. Conditions for WEJT initiation and continued acceptance of those activities are as follows:

1. The participant has completed orientation, his or her educational 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;

2. The participant is able to obtain funds other than WEJT to pay for the cost of the education or training. The WEJT agency manager may grant an exception if the participant and the WEJT agency are unable to find alternative funding, or if the WEJT agency manager determines that funding the activity is in the best interests of the WEJT program;

3. The participant enrolls in and attends a program at a vocational or technical school, or enrolls in and attends another education or training program that would, by definition of the education or training institution, be classified as a 2 year program. This may include a program at an academic college or university if the individual has previously earned sufficient credits to complete the course of study within 2 calendar years if the individual was attending full-time. This does not mean that the individual is required to complete the remaining degree work within 2 years. Time spent in remedial education is not counted against the 2 years. Enrollment in a graduate program at a college or university is not acceptable;

4. 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 WEJT agency may grant an exception for a participant who needs education to update skills or secure certification related to a previously completed course of study. The WEJT agency may also grant an exception if the participant has completed a 2 year degree program in a field where there are few prospects for employment as determined by the WEJT agency;

5. The education or training activities have a clear employment goal in a recognized occupation where there are prospects for employment as determined by the WEJT agency;

6. The participant is participating full-time, as defined by the institution, in the education or training activities. If the participant chooses to attend school less than full-time, the WEJT agency may also 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 WEJT agency may grant an exception if individual or family circumstances prevent full-time participation;

7. The participant is making satisfactory progress in the educational program and is in good academic standing as defined by the school. The WEJT agency shall review the individual's progress in education or training activities;

8. During periods when school is not in session, the WEJT agency may require the participant to participate in other employment and training activities. If the WEJT agency requires the participant to participate during periods when school is not in session, the WEJT agency shall assign the participant to appropriate temporary activities which may include employment. Participation in these activities may not prevent the individual from returning to school. In this subdivision, "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;

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

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

(d) *Self-initiated post-secondary education or training.* When an AFDC recipient is participating in self-initiated post-secondary education or training activities, the conditions for approval under par. (a) shall be as follows:

1. The participant:

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

b. 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 WEJT activity and has been accepted; or

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

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

a. 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;

b. 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;

c. 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

d. Other good cause reasons under s. HSS 210.04 (5) apply;

3. 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;

4. 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;

5. 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 WEJT 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 WEJT 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 WEJT agency;

6. The cost of the schooling is financed by a source other than WEJT, such as by a federal or state grant or loan or a combination of grant and loan;

7. The educational activities have a clear employment goal in a recognized occupation where there are prospects for employment as determined by the WEJT agency;

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

9. 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 WEJT agency manager may also 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 WEJT 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 WEJT. In unusual situations, the WEJT agency manager 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;

10. During periods when school is not in session, the WEJT agency may require the participant to participate in other employment and training activities. If the WEJT agency requires the participant to par-

ticipate during periods when school is not in session, the WEJT agency shall assign the participant to appropriate temporary activities. Participation in these activities may not prevent the participant from returning to school. In this subdivision, "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;

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

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

(3) **VOLUNTARY PARTICIPATION.** An AFDC recipient who is exempt under sub. (2) from having to participate in WEJT may volunteer for WEJT. Except as provided in sub. (4), an AFDC recipient who volunteers for WEJT is required to participate in community work experience if day care licensed or certified under ch. 48, Stats., and ch. HSS 55 is available. A voluntary participant is subject to the same conditions under subs. (5) and (6) as a mandatory participant except that a voluntary participant who has refused to participate or leaves a component without good cause may only be deregistered from WEJT.

(4) **COMMUNITY WORK EXPERIENCE COMPONENT.** (a) A recipient shall participate in the community work experience component of WEJT if the recipient has completed the rest of the WEJT program and remains unemployed.

(b) A WEJT participant shall comply with a community work experience assignment except that a voluntary participant who is caring for a child under 3 years of age may withdraw from community work experience after giving 20 days advance notice of intent to withdraw.

(5) **CONDITIONS FOR NOT ACCEPTING WORK OR TRAINING.** A WEJT registrant shall accept temporary, permanent, full-time, part-time or seasonal employment and participate in WEJT training activities unless one or more of the following conditions exist in relation to a specific assignment:

(a) The registrant is not physically or mentally able to participate. The WEJT agency may require the registrant to submit written medical verification of the condition;

(b) Participation would require more than one hour travel time one way between the registrant's home and the work, training or other activity site using available transportation. Time spent taking children to and from child care is not included in the travel time;

(c) The work site is in violation of federal, state or local health and safety standards;

(d) There is a probable cause finding by either the equal rights and labor standards division in Wisconsin's department of industry, labor and human relations or the federal office of civil rights of discrimination against the WEJT registrant because of age, handicap, sex, race, creed, color or national or ethnic origin at the work, training or activity site;

(f) The registrant is the primary caretaker relative for a child at least 2 years of age but less than 6 years of age who is living in the relative's home and child care services are necessary for the registrant to participate but child care licensed under s. 48.65, Stats., certified under s. 48.651, Stats., or established under s. 120.13 (14), Stats., is not available. 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. 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;

(g) The job wage does not meet applicable federal or state minimum wage requirements, or the wage rates, hours of work or conditions of employment do not conform to requirements of the federal fair labor standards act;

(h) The job is vacant because of a strike, lockout or other bona fide labor dispute;

(i) The job wages of the principal wage earner working 100 or more hours per month, minus the work-related expenses allowed by AFDC and the health insurance premiums not paid by the employer, would equal less than the AFDC-U grant;

(j) Taking the job would be against the rules of a union to which the registrant belongs; or

(k) The job would interfere with the registrant's expected return to his or her regular job within a short period of time. The registrant may, however, be required to take a temporary job until the regular job resumes.

(6) REFUSAL TO PARTICIPATE AND DETERMINATION OF GOOD CAUSE. (a) Adjudication action shall be initiated by the WEJT administrative agency when a WEJT registrant who is not exempt under sub. (2) or who volunteers for WEJT refuses to participate in the program, except for the work supplementation component. Refusal to participate occurs when:

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

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

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

b. Voluntarily leaves assigned employment or training without good cause as determined under pars. (c) and (d);

c. Is discharged from appropriate employment or training for misconduct; or

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

(b) The WEJT administrative agency shall schedule an interview with the WEJT registrant 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 WEJT activities.

(c) Good cause for not participating in an assigned WEJT activity shall be one or more of the conditions in sub. (5) or any of the following circumstances:

1. A court-required appearance or temporary incarceration;
2. A family crisis;
3. Breakdown in transportation arrangements;
4. Failure to be properly notified of a WEJT activity; or
5. Any other circumstance beyond the control of the registrant.

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

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

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

3. The registrant 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 registrant will begin or resume active participation; or

4. The registrant 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 registrant did not keep appointments with the WEJT administrative agency to discuss nonparticipation issues.

History: Cr. Register, September, 1987, No. 381, eff. 10-1-87; emerg. am. (2) (a), r. (2) (c), eff. 9-1-88; (2) (a) and (5) (f) r. (2) (c), Register, December, 1988, No. 396, eff. 1-1-89; emerg. am. (2) (a) and (l), eff. 7-1-89; am. (2) (a), (b) and (l), renum. (2) (i) (intro.) to be (2) (i) and am., r. (2) (i) 1. and 2., cr. (2) (m), Register, February, 1990, No. 410, eff. 3-1-90; cr. (2m), Register, November, 1990, No. 419, eff. 12-1-90.

HSS 210.05 Sanctions for not participating without good cause. The WEJT administrative agency shall send a written report to the income maintenance agency when a registrant fails to report to the WEJT administrative agency or otherwise refuses to participate in WEJT without good cause. The report shall include the specific circumstances of refusal to participate and the date of the occurrence. The income maintenance agency shall take appropriate action in accordance with s. HSS 201.19 (2) for refusal to participate except that the income maintenance agency may only deregister a voluntary participant.

History: Cr. Register, September, 1987, No. 381, eff. 10-1-87.