

(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.

(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 assignment, 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 7875, Madison, Wisconsin 53707.

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