

required EFT participation have changed. In no case may mandatory EFT participation under par. (c) 2 be required for more than 2 consecutive 12 month periods.

History: Cr. Register, April, 1983, No. 328, eff. 5-1-83; emerg. renum. (2) (b) and am. eff. 6-1-86; renum. (2) (b) to be (2) (b) 1. and am., cr. (2) (b) 2., Register, November, 1986, No. 371, eff. 12-1-86; emerg. cr. (2m) and (4), am. (3), eff. 6-31-87; cr. (2m) and (4), am. (3), Register, December, 1987, No. 384, eff. 1-1-88; emerg. am. (2) (b) 1. and 2., eff. 7-1-89; am. (2) (b) 1. and 2., Register, February, 1990, No. 410, eff. 3-1-90.

HSS 201.11 Appeals. Any applicant or recipient may ask for and shall receive a fair hearing in accordance with established procedures and consistent with applicable state law and federal regulations when grieved by action or inaction of the agency or the department of health and social services.

History: Cr. Register, April, 1983, No. 328, eff. 5-1-83.

HSS 201.12 Fraud. When the agency director or designee decides that possible fraud exists, the case shall be referred to the district attorney.

History: Cr. Register, April, 1983, No. 328, eff. 5-1-83.

HSS 201.13 Agency bond. (1) SURETY BOND. The person in charge of the administration of AFDC in each county shall furnish a bond having as surety a company authorized to do surety business in this state. The bond shall be in an amount fixed by the board of supervisors of the county in which the bonded person is to perform his or her functions and shall be substantially in the form provided in s. 19.01 (2), Stats.

(2) **APPROVAL AND FILING.** The form of the bond shall be approved by the district attorney, and the bond shall be filed in the office of the clerk of the court in which the bonded person performs his or her functions.

(3) **NOTICE OF BOND.** The clerk shall give notice in writing to the county board or its chairperson and to the department, stating the amount of the bond filed, the name of the surety, the date of filing and the date of approval by the district attorney. The notice shall be given within 5 days after the person required to be bonded has entered upon his or her office or employment. The notice shall be published with the proceedings of the county board.

(4) **AMOUNT FIXED BY COUNTY BOARD.** The provisions of ss. 19.01 (2), (3), (5), (6) and (8), 19.015, and 19.02 to 19.06, Stats., and all other provisions of law relating to official bonds, unless clearly inapplicable or inconsistent with this chapter, shall apply to all matters in connection with the official bonds required by this chapter. As soon as possible after the convening of the November annual meeting of the county board of supervisors in each county, each board shall by resolution fix, and at any subsequent meeting may change, the required amount of the bond.

(5) **JUDGES EXEMPT.** This section shall not apply to judges.

History: Cr. Register, April, 1983, No. 328, eff. 5-1-83.

Subchapter III — Conditions of Eligibility and Determination of the Grant

HSS 201.14 Deprivation. To be eligible for AFDC, children shall be deprived of parental support or shall be pregnant. To be eligible for AFDC, adults shall be either caretakers of deprived children or pregnant. A child

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is deprived of parental support or care by reason of the following: death of parent, continued absence of a parent from the home, or, if both parents are in the home, incapacitation of a parent, unemployment of a parent, or a parent is an offender working without pay.

(1) **PARENTAL ABSENCE.** The deprivation may be based on continued absence regardless of the length of time a parent is absent.

(2) **INCAPACITATION OF A PARENT.** For deprivation to be based on incapacitation of a parent, eligibility shall depend on a finding of a legal parent's physical or mental incapacity to provide proper parental support or care. The incapacitation shall be expected to last for a period of at least 30 days. The incapacitation decision shall be made by the agency director or a designer based on competent medical testimony. The incapacitation shall be of such a debilitating nature as to reduce substantially or eliminate the parent's ability to support or care for the child. The agency director or a designee may presume incapacitation and initiate payments on the basis of reliable information. If the medical findings later received indicate that the presumed incapacitation does not exist, the agency shall terminate the case with proper notice.

(3) **UNEMPLOYMENT OF A PARENT.** For deprivation to be based on the unemployment of a parent, the principal wage earner shall meet the requirements detailed in this subsection. If AFDC was received the previous month and the deprivation of the child was based on the unemployment of a parent, then the parent who was the principal wage earner remains the principal wage earner. Otherwise, the principal wage earner is the parent who earned the greater amount of income in the 24-month period that ended at the end of the preceding month.

(a) The principal wage earner shall apply for and accept any unemployment compensation to which she or he is entitled.

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

(c) Except as provided in par. (f), the principal wage earner shall be either out of work or employed less than 100 hours a month. If the principal wage earner worked 100 hours or more in a particular month, this requirement may be met if the parent worked less than 100 hours for each of the 2 months preceding the month of 100 hours or more and is expected to work fewer than 100 hours during the next month. If the principal wage earner is out of work, eligibility may begin:

1. As of the date of application, if he or she has received AFDC based on unemployment within the last 4 months; or

2. No sooner than 30 days from the date unemployment began, if he or she has not received AFDC based on unemployment within the last 4 months except that, if he or she was employed less than 100 hours in the 30 days preceding the last day of employment, eligibility may begin as of the date of application.

(d) The principal wage earner, who was not receiving AFDC based on unemployment the previous month, shall not have lost employment without good cause within 30 days prior to application. The following factors shall be considered in determining if employment was lost with-

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out good cause or if the principal wage earner has been offered employment or training for employment which was refused without good cause:

1. There was a definite offer of employment at wages meeting the minimum wage requirements and which are customary for that type of work in the community; the parent is physically able to engage in that employment; the parent has the means to get to and from the particular job and commuting time to and from the job is under 2 hours per day; risks to health and safety are not adverse; and workers' compensation protection is available on the particular job.

2. If the social services unit of the agency states in writing in the case record that it is essential to the well-being of the family that this parent should remain in the home, a refusal of employment or loss of employment is considered to have occurred with good cause.

3. Participation in a strike is not good cause to leave employment or to refuse to seek or accept employment.

(e) The principal wage earner shall have either worked 6 out of the last 13 calendar quarters ending within one year prior to the month of application, or have received or have been deemed qualified for unemployment compensation during the last year prior to application.

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, a WIN demonstration program established under 42 USC 645 or JOBS.

a. If the principal wage earner was in a refugee camp, having fled hostilities or conditions in his or her own country, or unable to work due to incapacitation, verified by a physician, during any of the quarters which would have been considered in establishing the quarter count, those quarters shall not be included in the 13 quarters to be considered. The principal wage earner shall have been in a refugee camp or incapacitated for the entire quarter for the quarter to be excluded.

b. Work performed by prisoners in prison industries shall be considered employment for the purpose of determining quarters of work. Prisoners employed under the s. 56.065, Stats., work release plan for prison inmates, are considered gainfully employed, and wages earned and quarters worked under that section shall be used to determine quarters of work.

2. A person shall be considered qualified for unemployment compensation if he or she:

a. Would have been eligible to receive benefits upon filing an application;

b. Performed work not covered by unemployment compensation which, if the work had been covered, would have satisfied the eligibility requirements for unemployment compensation;

c. Is self-employed but would have been eligible for unemployment compensation had the work been performed for a covered employer; or

d. Was laid off the job and worked 18 or more weeks within the past 52 weeks for one or more employers.

(f) For purposes of the demonstration project conducted by the department under the authority of s. 49.19 (15), Stats., a principal wage earner who is receiving AFDC unemployed parent benefits or who received AFDC based on unemployment within the last 4 months and whose case has been assigned to the experimental group of the demonstration project may work 100 hours or more a month and maintain non-financial eligibility. The department shall assign cases to the experimental group based on the last digit of the female caretaker's social security number. Eligibility of persons assigned to the experimental group shall continue during the period of the demonstration project as long as all other nonfinancial and financial eligibility criteria are met.

(4) **OFFENDER WORKING WITHOUT PAY.** For deprivation to be based on the parent being an offender working without pay, the parent shall be a convicted offender permitted to live at home but prevented from earning a wage because he or she is required by a court-imposed sentence to perform unpaid public work or unpaid community service.

History: Cr. Register, April, 1983, No. 328, eff. 5-1-83; emerg. r. and recr. (3) (b), am. (3) (e) 1., eff. 6-1-86; r. and recr. (3) (b), am. (3) (e) 1., Register, November, 1986, No. 371, eff. 12-1-86; emerg. am. (3) (b) and (e) 1., eff. 7-1-89; am. (3) (b) and (e) 1., intro., Register, February, 1990, No. 410, eff. 3-1-90; emerg. r. and recr. (3) (c), am. (3) (d) 1., cr. (3) (f), eff. 10-1-91; r. and recr. (3) (c), am. (3) (d) (intro.) and 1., cr. (3) (f), Register, May, 1992, No. 437, eff. 6-1-92.

HSS 201.15 Residence. (1) To be eligible for AFDC, a person shall live in a dwelling located in Wisconsin and intend to reside in Wisconsin, except as provided in subs. (2) and (3).

(2) The residence requirement shall also be met if the person or a member of the family is a migrant farm worker who entered Wisconsin with a job commitment or seeking employment. "Migrant farm worker" means any person whose primary employment in Wisconsin is in the agricultural field or cannery work; who is authorized to work in the United States; who is not immediate family by blood or marriage to the employer as distinguished from a crewleader; and who routinely leaves an established place of residence to travel to another locality to accept seasonal or temporary employment.

(3) A never-married child under age 18 is a Wisconsin resident when he or she is under the legal custody of the department or an agency, regardless of the state in which he or she is living.

(4) Once established, residence shall be retained until abandoned. Wisconsin residence shall not be lost when a dependent child or caretaker relative is temporarily absent from Wisconsin for the purpose of visiting, hospitalization or education.

History: Cr. Register, April, 1983, No. 328, eff. 5-1-83; emerg. am. (1), eff. 3-7-92.

HSS 201.16 Citizenship. To be eligible for AFDC, a person shall be either a U.S. citizen or a qualifying alien. In this section, "qualifying alien" means an alien lawfully admitted to the United States for permanent residence; an alien lawfully present in the United States as a result of s. 203(a)7, 207(c), 208, or 212(d) (5) of the Immigration and Nationality Act of 1952, as amended, 8 USC 1153, 1157, 1158 and 1182; or an Register, May, 1992, No. 437

alien otherwise permanently residing in the United States under color of law.

History: Cr. Register, April, 1983, No. 328, eff. 5-1-83.

HSS 201.17 Required relationships and responsibility. To be eligible for AFDC a child shall be under the care of a qualified relative.

(1) **QUALIFIED RELATIVE.** The child's relationship to the caretaker or the caretaker's spouse shall be one of the following: son, daughter, grandson, granddaughter, stepson, stepdaughter, brother, sister, stepbrother, stepsister, half brother or half sister, nephew, niece, uncle, aunt, first cousin or grand, great-grand or great-great grand son, daughter, nephew or niece. The caretakers are qualified relatives even when the relationship is terminated by death or divorce.

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