

Chapter HSS 208

WISCONSIN EMPLOYMENT OPPORTUNITIES
PROGRAM FOR AFDC RECIPIENTS

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HSS 208.01 Introduction. (1) **AUTHORITY AND PURPOSE.** This chapter is adopted by the department under the authority of s. 49.50 (7) (a), Stats., to implement the work incentive demonstration program under 42 USC 645 and s. 49.50 (7), Stats. The chapter prescribes procedures for the administration of the Wisconsin employment opportunities program (WEOP) the purpose of which is to assist AFDC recipients to obtain gainful employment, and requires income maintenance agencies to withhold aid payments to persons who fail to meet applicable requirements of the program.

(2) **APPLICABILITY.** This chapter applies to AFDC recipients, to all county and tribal agencies authorized to administer AFDC and to any agency or organization under contract to the department to deliver WEOP employment and training services to AFDC recipients.

(3) **DEFINITIONS.** In this chapter:

(a) "Adjudication" means the process used to give a registrant a chance to present his or her case regarding the registrant's failure to participate in WEOP and to provide WEOP agency staff with an opportunity to clarify program policy and expectations and to determine whether good cause exists for the registrant's failure to participate.

(b) "AFDC" means aid to families with dependent children, a public assistance program authorized under ss. 49.19 to 49.41, Stats., in accordance with Title IV-A of the Social Security Act of 1935, as amended.

(c) "AFDC group" means those persons who meet the nonfinancial criteria for AFDC eligibility and whose financial eligibility for AFDC is being determined together.

(d) "AFDC-U" means an AFDC group where the child or children are deprived of parental support because the principal wage earner in the group is unemployed.

(e) "Department" means the Wisconsin department of health and social services.

(f) "Enrollment" means the act whereby a registrant signs up for WEOP at a WEOP agency.

(g) "Income maintenance agency" means the county department of social services agency, a public welfare or human services agency, or a tribal agency which administers the income maintenance programs.

(h) "Primary person" means the person whose name is listed first on the application form as the person applying for AFDC.

(i) "Principal wage earner" means the person who is listed on line one or 2 of the application for AFDC in an AFDC unemployed parent group, who earned the most income during the 24 month period preceding the most recent application, and who meets the requirements for past and current employment under 45 CFR 233.100.

(j) "Recipient" means a recipient of AFDC.

(k) "Registrant" means a recipient registered for WEOP.

(l) "Supportive service" means a service such as child care that enables a registrant to participate in WEOP job search or training.

(m) "WEOP" means the Wisconsin employment opportunities program established under s. 445 of 42 USC 645 and s. 49.50 (7), Stats., as a WIN demonstration program for the purpose of assisting AFDC recipients to obtain gainful employment and develop marketable work skills.

(n) "WEOP agency" means a public or private organization having a contract with the department to provide WEOP employment and training services to AFDC recipients referred to the agency by income maintenance agencies.

History: Cr. Register, December, 1984, No. 348, eff. 1-1-85; r. and recr. (3) (i), Register, November, 1986, No. 371, eff. 12-1-86.

HSS 208.02 Registration. (1) A properly witnessed signature under s. HSS 201.05 (5) on the application for AFDC shall constitute WEOP registration for each person included in the AFDC group at the time of application or added to the AFDC group at a later date.

(2) The WEOP status of each recipient shall be determined by the income maintenance agency to be one of the following:

(a) Exempt status, which signifies that the recipient is not required to participate in WEOP for reasons specified under s. HSS 201.19 (1);

(b) Mandatory status, which signifies that the recipient does not meet an exemption under s. HSS 201.19 (1); or

(c) Voluntary status, which signifies that the recipient has chosen to participate even though he or she qualifies for an exemption under s. HSS 201.19 (1).

(3) Only those AFDC recipients who are not exempt under s. HSS 201.19 (1) or who volunteer to participate shall be referred to a WEOP agency for participation and shall be informed that reimbursement is available for child care expenses.

(4) At the time of application for AFDC and at the time of the eligibility review immediately prior to a WEOP referral, the income maintenance agency shall give the person who signs the application form written information about the rights and responsibilities of WEOP participants, and the income maintenance agency shall give each registrant assigned to mandatory status under sub. (2) who is referred to the WEOP agency written notice of appeal rights at the time of referral.

History: Cr. Register, December, 1984, No. 348, eff. 1-1-85; emerg. r. and recr. (1) to (4), r. (5), eff. 6-1-86; r. and recr. (1) to (4), r. (5), Register, November, 1986, No. 371, eff. 12-1-86. Register, November, 1990, No. 419

HSS 208.03 Referral to WEOP agency. Income maintenance agencies shall refer registrants to WEOP agencies as follows:

- (1) AFDC recipients who have a mandatory or voluntary WEOP status shall be referred for employment and training services;
- (2) The WEOP agency shall be provided with the registrant's name and other information pertinent to the registrant's participation taken from the income maintenance agency's application form; and
- (3) The registrant shall be notified in writing of his or her referral.

History: Cr. Register, December, 1984, No. 348, eff. 1-1-85.

HSS 208.04 Enrollment. (1) The WEOP enrollment procedure shall be as follows:

- (a) The WEOP agency shall send a written notice of appointment for enrollment to the registrant at least 5 working days before the date of the appointment;
- (b) The notification shall clearly state that it is the registrant's responsibility to contact the WEOP agency before the scheduled appointment date if the registrant is unable to attend and to give the reason for missing the appointment;
- (c) If the registrant fails to report for the first appointment, a second appointment shall be made in accordance with par. (a); and
- (d) If the registrant fails to respond to the appointment notices or if the reason for not keeping the appointment is not deemed to be good cause under s. HSS 208.08 (3), the registrant shall be referred back to the income maintenance agency and sanction shall be applied under s. HSS 201.19 (2).

(2) Enrollment of all WEOP registrants shall include an explanation of:

- (a) The purpose of WEOP and expectations concerning registrant participation;
- (b) The possible job opportunities and training;
- (c) The rights and responsibilities of registrants;
- (d) The criteria for determining appropriate work and training; and
- (e) Initiation of job search activities.

History: Cr. Register, December, 1984, No. 348, eff. 1-1-85; emerg. am. (1) (d), eff. 6-1-86; am. (1) (d), Register, November, 1986, No. 371, eff. 12-1-86.

HSS 208.05 Conditions for not accepting work or training. A WEOP registrant shall accept temporary, permanent, full-time, part-time or seasonal employment or participate in WEOP training activities unless one or more of the following conditions exist in relation to a specific employment or training assignment:

- (1) The registrant is not physically or mentally able to participate in WEOP activities or employment. The WEOP agency may require the registrant to submit written medical verification of the condition;

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(2) Participation in WEOP employment, training or activities would require more than one hour travel time one way between the registrant's home and the work, training or activity site using available transportation. Taking children to and from child care is not included in the travel time;

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

(4) There is a probable cause finding by 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 WEOP registrant because of age, handicap, sex, race, creed, color or national or ethnic origin at the work, training or activity site;

(5) 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. 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;

(6) 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;

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

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

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

(10) 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.

History: Cr. Register, December, 1984, No. 348, eff. 1-1-85; am. (8), Register, November, 1986, No. 371, eff. 12-1-86; emerg. am. (5), eff. 11-1-88; am. (5), Register, December, 1988, No. 396, eff. 1-1-89.

HSS 208.06 Employment and training activities. The WEOP agency shall assign each registrant to activities which will help the registrant obtain employment. Activities shall be selected from the following list:

(1) Job search activities for groups or individuals;

(2) Training activities in which the registrant who has participated in WEOP job search activities but was unable to find a job acquires knowledge, Register, November, 1990, No. 419

edge or skills needed to enhance his or her potential to secure appropriate employment. Training activities include:

(a) Non-classroom training situations in which the primary teaching activity takes place on-the-job through work experience or by means of other types of non-classroom training opportunities; and

(b) Classroom training situations where the needed skills or knowledge are obtained in a classroom setting which includes skill training in a specific occupational area and basic or remedial education needed to obtain and hold employment and which:

1. Is approved by the WEOP agency manager in accordance with the WEOP training policy;

2. In most cases, lasts no longer than 52 calendar weeks, except training may be approved by the WEOP agency manager for up to 104 calendar weeks in special circumstances; and

3. Provides a transportation allowance, child care expenses and money for tuition, books and supplies when the payments do not duplicate payments received from any other source for the same purpose and when the policies of the WEOP agency regarding attendance and progress have been followed by the registrant;

(3) Vocational counseling for WEOP registrants when needed; and

(4) Subsidized employment in which an employer is reimbursed for part of the wages paid to a newly employed WEOP registrant as specified in a written contract between the WEOP agency and the employer.

History: Cr. Register, December, 1984, No. 348, eff. 1-1-85.

HSS 208.065 Participation in post-secondary education and training programs. (1) **APPROVAL.** The WEOP agency shall determine if post-secondary education or training activities for a WEOP participant constitutes satisfactory participation in WEOP. That determination shall be made in accordance with the conditions set forth in this section.

(2) **DEFINITIONS.** In this section:

(a) "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.

(b) "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.

(3) **POST-SECONDARY EDUCATION OR TRAINING INITIATED BY WEOP.** The WEOP agency may initiate post-secondary education or training activities for a WEOP participant. Conditions for WEOP agency initiation and continued acceptance of those activities are as follows:

(a) 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;

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

(c) 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;

(d) 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 WEOP 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 WEOP 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 WEOP agency;

(e) The education or training activities have a clear employment goal in a recognized occupation where there are prospects for employment as determined by the WEOP agency;

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

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

(h) During periods when school is not in session, the WEOP agency may require the participant to participate in other employment and training activities. If the WEOP agency requires the participant to participate during periods when school is not in session, the WEOP 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 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;

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

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

(4) 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 sub. (1) shall be as follows:

(a) The participant:

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

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 WEOP 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 208.05 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 WEOP 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 WEOP 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 WEOP agency;

(f) The cost of the schooling is financed by a source other than WEOP, 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 WEOP 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 WEOP agency shall review the participant's progress in the education and training activities. The WEOP 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 WEOP 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 WEOP 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 WEOP. In unusual situations, the WEOP 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 WEOP agency may require the participant to participate in other employment and training activities. If the WEOP agency requires the participant to participate during periods when school is not in session, the WEOP 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.

History: Cr. Register, November, 1990, No. 419, eff. 12-1-90

HSS 208.07 Supportive services. Each WEOP agency shall provide or make provision for the following supportive services:

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(1) Counseling to identify and resolve personal or family problems which may interfere with the person's ability to participate in WEOP activities or obtain and retain employment;

(2) Child care, if needed, so that the registrant is able to participate in WEOP activities. The WEOP agency shall assist the registrant in arranging payment for child care expenses as follows:

(a) The child care provider chosen by the WEOP registrant may be one who is not required to be licensed by the department or certified by the county;

(b) Actual child care expenses up to the maximum reimbursement rates under s. HSS 55.74 shall be paid to the provider after a bill has been submitted to the WEOP agency when the registrant is participating in an approved WEOP activity; and

(c) WEOP payment of child care expenses may not duplicate payment received from any other source for the same purpose or after child care expenses are budgeted to calculate AFDC benefits; and

(3) Transportation to assigned employment interviews or other approved WEOP activities. WEOP registrants shall be reimbursed for actual expenses incurred while participating in these activities or a lump sum payment shall be made to them for these expenses.

History: Cr. Register, December, 1984, No. 348, eff. 1-1-85; emerg. am. (2) (b), eff. 11-1-88; am. (2) (b), Register, December, 1988, No. 396, eff. 1-1-88; emerg. am. (2) (b), eff. 10-2-89; am. (2) (b), Register, March, 1990, No. 411, eff. 4-1-90.

HSS 208.08 Adjudication. (1) Adjudication action shall be initiated by the WEOP agency when a WEOP registrant refuses to participate in the program. Refusal to participate occurs when:

(a) The registrant expresses verbally or in writing to WEOP agency staff that he or she refuses to participate; or

(b) The registrant implies refusal to participate when he or she:

1. Fails to appear for employer, WEOP agency or other assigned interviews or activities;

2. Voluntarily leaves appropriate employment or training without good cause as determined under sub.(3);

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

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

(2) The WEOP agency shall schedule an interview with the WEOP registrant who has refused to participate to determine:

(a) If he or she had good cause as determined under sub. (3) for past incidents of failure to participate; and

(b) If he or she is now willing and able to resume participation in WEOP activities.

(3) Good cause for not participating in an assigned WEOP activity shall be one or more of the conditions in s. HSS 208.05 or any of the following circumstances:

- (a) A court-required appearance or temporary incarceration;
- (b) Family crisis;
- (c) Breakdown in transportation;
- (d) Failure to be properly notified of a WEOP activity; or
- (e) Any other circumstance beyond the control of the client.

(4) The interview under sub. (2) shall result in one of the following determinations:

(a) The registrant had good cause as determined under sub. (3) and the conditions causing non-participation have been resolved. The resolution of the temporary problems or misunderstandings clear the way for the registrant to resume active WEOP participation;

(b) The registrant had good cause as determined under sub.(3) and the conditions causing non-participation cannot be resolved. The WEOP agency shall refer the registrant back to the income maintenance agency for possible WEOP status re-examination or shall arrange for appropriate supportive services;

(c) The registrant did not have good cause as determined under sub.(3) for past failure to participate but the problems have been resolved or eliminated and there is agreement that the registrant will begin or resume active WEOP participation; or

(d) The registrant did not have good cause under sub. (3) and the problem or problems preventing participation cannot be resolved. This includes those occasions when the registrant did not keep appointments with the WEOP agency to discuss non-participation issues.

(5) The WEOP agency shall send a written report to the income maintenance agency when a registrant fails to report for enrollment or refuses to participate after enrollment without good cause. The report shall include the specific circumstances of the refusal or failure to participate and the dates of the occurrence. The income maintenance agency shall take appropriate action in accordance with s. HSS 201.19 (2) for failure to participate.

History: Cr. Register, December, 1984, No. 348, eff. 1-1-85; correction in (5) made under s. 13.93 (2m) (b) 7, Stats., Register, April, 1987, No. 376.