

## Chapter HSS 206

### JOB OPPORTUNITIES AND BASIC SKILLS TRAINING PROGRAM FOR AFDC RECIPIENTS

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**Note:** Chapter HSS 206 as it existed on February 28, 1995 was repealed and a new chapter HSS 206 was created effective March 1, 1995.

**HSS 206.01 Authority and purpose.** This chapter is adopted pursuant to s. 49.193 (7) and (11), Stats., to provide rules for the administration of the job opportunities and basic skills (JOBS) training program under s. 49.193, Stats., for recipients of aid to families with dependent children (AFDC).

**History:** Cr. Register, February, 1995, No. 470, eff. 3–1–95.

**HSS 206.02 Applicability.** This chapter applies to any private or public agency that administers a job opportunities and basic skills (JOBS) training program under s. 49.193, Stats., to all county and tribal economic support agencies, and to all AFDC recipients who are required to participate in JOBS or who volunteer to participate in JOBS.

**History:** Cr. Register, February, 1995, No. 470, eff. 3–1–95.

**HSS 206.03 Definitions.** In this chapter:

(1) “Administrative agency” means a public or private organization that has a contract with the department to provide JOBS services to AFDC recipients referred to the agency by economic support agencies.

(2) “AFDC” means aid to families with dependent children, a public assistance program under title IV–A of the Social Security Act of 1935, as amended, ss. 49.19 to 49.41, Stats., and ch. HSS 201.

(3) “AFDC group” means those persons who meet the non-financial criteria for AFDC eligibility and whose financial eligibility for AFDC is being determined together.

(4) “AFDC recipient” or “recipient” means a person who is found eligible for and receives AFDC.

(5) “AFDC regular case” means an AFDC group in which the child or children are deprived of parental support or care because a parent has died or is continually absent from the home or, if both parents are in the home, a parent is incapacitated or is an offender working without pay.

(6) “AFDC unemployed parent case” means an AFDC group in which the child or children are deprived of parental support because the principal wage earner in the group is unemployed.

(6m) “Applicant” means an individual who applies or seeks to apply for AFDC and who has not received AFDC benefits in the previous 2 months, or an individual who is added to an AFDC group after not being included in the group for at least one calendar month.

(7) “Caretaker relative” means a qualified relative as specified in s. HSS 201.17 (1) who has a child under his or her care as specified in s. HSS 201.17 (2).

(8) “Case management” means the client–centered and goal–oriented process for assessing the needs of an enrollee and his or her family for employment, training and supportive services and assisting the enrollee in obtaining those services needed to achieve self–sufficiency.

(9) “Community agency” means any public or non–profit organization under contract with an administrative agency to operate a community work experience component.

(10) “Community work experience” means a component of the JOBS program which has the purpose of making AFDC recipients more employable through work experience which involves placement of AFDC recipients in uncompensated community jobs that serve a useful public purpose.

(11) “Conciliation” means the process whereby an administrative agency determines if a registrant or participant has good cause for nonparticipation.

(12) “Counseling” means the process whereby the JOBS case manager and the enrollee or participant address barriers to participation in JOBS program activities and determine how to meet employment goals.

(13) “Department” means the Wisconsin department of health and social services.

(14) “Economic support agency” means a county department of social services or human services, or a tribal agency which administers economic support programs including AFDC.

(15) “Employment search” means activities designed to help participants find employment, including job search skills training, job placement services, job development and group and individual job search efforts.

(16) “Enrollee” means an AFDC recipient who has completed an enrollment appointment with the JOBS administrative agency.

(17) “Enrollment” means the process whereby a registrant enters the JOBS program.

(18) “FFP” or “federal financial participation” means federal government reimbursement for allowable administrative costs of JOBS.

(19) “Job readiness and motivation activities” means activities designed to help participants prepare for work by learning general workplace expectations, work behavior and attitudes necessary to successfully compete in the labor market, help the participant build self–esteem and increase a participant’s self–confidence.

(20) “JOBS” means the job opportunities and basic skills training program established under 42 USC 682 and s. 49.193, Stats., for the purpose of assisting AFDC recipients to develop marketable work skills and obtain gainful employment.

(21) "Limited English proficiency" means limited ability in speaking, reading, writing or understanding the English language by a person whose native language is a language other than English or by a person who lives in a family or community environment where a language other than English is the dominant language.

(22) "MA" or "medical assistance" means the assistance program operated by the department under ss. 49.43 to 49.497, Stats., and chs. HSS 101 to 108.

(23) "On-the-job training" or "OJT" means employe training to provide knowledge or skills essential to the full and adequate performance of a job.

(24) "Other work experience" means a component of the JOBS program which has the purpose of making AFDC recipients more employable through work experience which involves placement of AFDC recipients in uncompensated community or private for-profit sector jobs that serve a useful purpose.

(25) "Participant" means an AFDC recipient who has been referred by an economic support agency to a JOBS administrative agency, has been enrolled in JOBS and is assigned to a JOBS program activity.

(25m) "PFP participant" means an AFDC applicant or recipient who is assigned to either the experimental or non-experimental PFP group under s. HSS 201.045 (4) (b).

(26) "Principal wage earner" or "PWE" 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 233.101.

(27) "Registrant" means a person registered for JOBS.

(28) "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.

(29) "SSI" means supplemental security income, the assistance program in section 1613 of Title XVI of the Social Security Act of 1935, as amended, and s. 49.177, Stats.

(30) "Work component" means community work experience, other work experience, on-the-job training and work supplementation.

(31) "Work experience" means community work experience or other work experience activities.

(32) "Work supplementation" means a component of the JOBS program in which all or part of a recipient's base grant is paid to an employer for a period of not more than 9 months as a subsidy to induce the employer to employ the recipient for at least that period of time and through this experience prepare the recipient for the unsubsidized job market.

**History:** Cr. Register, February, 1995, No. 470, eff. 3-1-95; cr. (6m) and (25m), Register, October, 1996, No. 490, eff. 11-1-96.

**HSS 206.04 Registration.** A properly witnessed signature under s. HSS 201.05 (5) on the application for AFDC shall constitute JOBS registration for each person included in the AFDC group at the time of application or added to the AFDC group at a later date.

**History:** Cr. Register, February, 1995, No. 470, eff. 3-1-95.

**HSS 206.05 Designation of jobs administrative agency.** (1) The department shall designate an administrative agency for each county or consortium of counties, and for each federally recognized tribal governing body as defined under s.560.86 (9), Stats., contracting with the department under s. 49.193 (1) (b) 1., Stats., to administer the JOBS program. Designation shall be by means of a competitive process, except as provided under s. 49.193 (1) (b) 2., Stats., and on the basis of the following criteria:

(a) The agency shall be experienced in providing employment and training services;

(b) The agency shall be experienced in providing services to AFDC recipients or other economically disadvantaged persons;

(c) The agency shall have a demonstrated capability of exercising programmatic and financial control over an employment and training program;

(d) The agency shall give evidence of willingness to coordinate and cooperate with other employment and training programs and providers in provision of JOBS services to JOBS participants;

(e) The agency shall give evidence of willingness to coordinate and cooperate with the economic support agency; and

(f) The agency shall demonstrate an understanding of the purpose and functions of a JOBS program.

(2) The JOBS administrative agency shall comply with s. 49.193, Stats., this chapter and related program procedures.

(3) A public or private agency designated by the department to be a JOBS administrative agency shall enter into a contract with the department and shall make available all records necessary for the department's exercise of its supervisory functions under s. 46.206, Stats.

**History:** Cr. Register, February, 1995, No. 470, eff. 3-1-95.

**HSS 206.06 Economic support agency responsibilities.** An economic support agency shall refer registrants to the JOBS administrative agency as follows:

(1) The economic support agency shall determine the JOBS status of each registrant to be one of the following:

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

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

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

(2) The economic support agency shall refer only those AFDC registrants who are not exempt under s. HSS 201.19 (1) or who volunteer to participate to the JOBS administrative agency. Individuals who are not exempt include those individuals claiming to be incapacitated under s. HSS 201.19 (1) (g) unless the economic support agency has made a determination of presumptive incapacitation under s. HSS 201.14 (2). Failure to cooperate with an assessment shall result in ineligibility for AFDC for applicants or sanction under s. HSS 201.19 (2m) (c) or (d) for recipients.

(3) At the time of application for AFDC and at each eligibility review, the economic support agency shall give the person who signs the application form written information about JOBS program activities and supportive services and the rights and responsibilities of JOBS participants. The economic support agency shall give each registrant assigned to mandatory status under sub. (1) written notice of appeal rights at the time of referral.

(4) The economic support agency shall provide to the JOBS administrative agency director or designee the registrant's name and other information pertinent to the registrant's participation in JOBS taken from the application for AFDC completed by the registrant; and

(5) The economic support agency shall notify the registrant in writing of the referral to JOBS. The notice shall include information regarding the availability of program activities and supportive services and the sanctions for failure to participate and shall direct the recipient to send a copy of his or her school or work schedule to the JOBS administrative agency.

**History:** Cr. Register, February, 1995, No. 470, eff. 3-1-95; am. (2), Register, October, 1996, No. 490, eff. 11-1-96.

**HSS 206.065 JOBS participation requirement for applicant job search.**

**(1) APPLICANT PARTICIPATION IN JOBS.** Except as provided in sub. (2), the JOBS administrative agency shall offer enrollment, orientation and initial assessment under s. HSS 206.09 (2) (a) for applicants referred by the economic support agency for participation in job search activities under sub. (4) within 7 days of receipt of a referral from the economic support agency. Except as provided in sub. (3) (b), an applicant shall be required to participate in 60 hours of job search activities, including 30 hours of direct employer contacts, during the eligibility determination period under s. HSS 201.09. An individual participating in the learnfare program under s. HSS 201.195 may not be required to participate in any job search activity at a time that would conflict with school attendance;

**(2) EXEMPTION OR SUSPENSION OF REFERRED APPLICANT FROM APPLICANT JOB SEARCH.** A JOBS administrative agency may do the following:

(a) Exempt an applicant referred by the economic support agency from participation in job search activities under sub. (4) if the agency determines that the applicant would not benefit from complying with the job search requirements for reasons such as significant incapacitation or other substantial barriers to employment; or

(b) Suspend participation in job search activities under sub. (4) while verifying incapacitation.

**(3) APPLICANT'S FAILURE TO COMPLETE PARTICIPATION IN REQUIRED ACTIVITIES.** (a) The JOBS administrative agency shall report an applicant's failure to complete participation in the required activities to the economic support agency. Failure to complete the activities without good cause within 30 days of the application shall result in the economic support agency denying AFDC benefits for the AFDC group under s. HSS 201.09;

(b) An applicant has good cause for failure to meet the required 60 hours of job search activities if he or she has been offered and has accepted a bona fide full-time job as verified by the agency and the applicant will begin working within 60 days of the application date as defined under s. HSS 201.045 (3) (b).

**(4) ALLOWABLE PARTICIPATION COMPONENTS FOR APPLICANTS.** (a) The JOBS administrative agency shall assign applicants to the following activities to meet the job search activities participation requirement:

1. Enrollment under s. HSS 206.07;
2. Orientation under s. HSS 206.08; or
3. Job readiness or motivation training, which includes job seeking skills under s. HSS 206.13.

(b) The JOBS administrative agency shall count participation in the following employment search activities toward meeting the applicant's required 30 hours of direct contact with employers:

1. Instruction in job-seeking skills;
2. Employment search, which may include individual or group job search;
3. Job placement services; or
4. Job development as defined under s. HSS 206.16 (1) (c).

**History:** Emerg. cr. HSS 206.065, eff. 3-1-96; cr. Register, October, 1996, No. 490, eff. 11-1-96.

**HSS 206.07 Enrollment in jobs.**

**(1) ENROLLMENT APPOINTMENT.** Upon receipt of a referral from the economic support agency, the JOBS administrative agency shall schedule an enrollment appointment for the registrant. The JOBS agency shall schedule the appointment for a time when it will not interfere with the registrant's school or work schedule if the registrant has provided a copy of his or her school or work schedule to the JOBS agency. The JOBS agency shall send written notice of the enrollment appointment to the registrant at least 7 calendar days before the appointment date or, if written notice of the enrollment appointment is provided in person, the registrant may

request that the agency schedule an enrollment appointment at a later date but not to exceed 7 calendar days from the day that the written notice was provided in person. The notice shall:

(a) Ask the registrant to provide a copy of his or her school or work schedule to the JOBS agency if not already provided;

(b) Clearly state that if the registrant is unable to attend, he or she shall contact the JOBS administrative agency before the scheduled appointment date to reschedule the appointment; and

(c) Inform the registrant that a contact with the economic support agency is not sufficient to explain the reason for failure to keep the enrollment appointment.

**(2) RESCHEDULING THE ENROLLMENT APPOINTMENT.** (a) The JOBS administrative agency shall reschedule the enrollment appointment upon request of the registrant and shall send a written notice to the registrant confirming the new appointment.

(b) If the registrant fails to report for the enrollment appointment or fails to reschedule the first appointment, the agency shall send a second appointment notice which shall serve as notice to the registrant that conciliation under s. HSS 206.23 is available if requested.

**(3) FAILURE TO KEEP APPOINTMENT.** The JOBS administrative agency shall refer a JOBS registrant back to the economic support agency for sanction under s. HSS 201.19 (2) after the registrant fails to respond to 2 enrollment appointment notices, the second of which constitutes the offer of conciliation under s. HSS 206.23 (1) (a), without good cause as determined under s. HSS 206.23 (3).

**History:** Cr. Register, February, 1995, No. 470, eff. 3-1-95.

**HSS 206.08 Orientation.** The JOBS administrative agency director or designee shall ensure that each new enrollee participates in an orientation session, which may be done individually or in a group. Orientation to JOBS shall cover:

**(1)** The enrollee's rights, responsibilities and obligations under JOBS;

**(2)** The employment, education and training opportunities available under JOBS;

**(3)** Supportive services available through the JOBS program such as transportation, child care and other work-related expenses to assist enrollees to participate in JOBS;

**(4)** Types of child care, availability and location of child care providers and information on how to select a child care provider;

**(5)** Other available education and training programs to assist the enrollee such as job training partnership act-funded programs under 29 USC 1501 et. seq., federally funded basic education at vocational or technical schools, basic education classes taught by volunteers or vocational courses taught by community-based agencies;

**(6)** Other support services available in the community such as alcohol and other drug abuse (AODA) treatment programs, vocational rehabilitation and other community programs;

**(7)** The importance of cooperation with the child support agency; and

**(8)** Benefits that may be available through employment such as federal and state earned income tax credits and health insurance.

**History:** Cr. Register, February, 1995, No. 470, eff. 3-1-95.

**HSS 206.09 Case management activities.**

**(1) REQUIREMENT.** Following an enrollee's orientation and before assigning the enrollee to an appropriate activity or activities, the JOBS administrative agency shall assess the enrollee and develop an employability plan for the enrollee in accordance with this section.

**(2) ASSESSMENT.** (a) *Job readiness screening.* The JOBS administrative agency shall screen a new enrollee to determine whether that person is or is not job ready. If the new enrollee is found not job ready, a comprehensive assessment shall be pro-

vided under par. (b) for that person. This initial assessment shall take into consideration:

1. The enrollee's educational background, including the highest grade completed, the enrollee's reading and math skills and any limited English proficiency;
2. The enrollee's interests, skills and prior training and work experience;
3. Barriers to employment, including length of time receiving AFDC;
4. Family circumstances, including the needs of a spouse, essential person as defined under 45 CFR 233.20(a) (2) (vii) and any child of the individual who is under age 18 or who is a dependent 18 year old under s. HSS 201.24; and
5. Child care and other supportive services needs.

(b) *Comprehensive assessment.* The JOBS administrative agency shall ensure that an enrollee who is determined not to be job ready under par. (a) is provided with a comprehensive assessment before assignment to any JOBS program activity. The assessment shall take into consideration:

1. Historical testing data related to skills and abilities;
2. Results of standardized tests administered by the administrative agency; and
3. Other methods to appraise a participant's experience, skill, aptitudes, interests, attitudes and personal circumstances.

(3) **EMPLOYABILITY PLAN.** Except as provided in sub. (3m), the JOBS administrative agency shall develop a written employability plan for the enrollee before the enrollee begins a JOBS program activity. The employability plan shall be developed in consultation with the enrollee based on the assessment or the assessments completed under sub. (2), shall take into consideration the preferences of the enrollee and shall include the following:

- (a) An identified employment goal;
- (b) A description of the JOBS program activities that the enrollee shall participate in to achieve the employment goal;
- (c) A description of the supportive services needed by the enrollee or other family members including child care, transportation and payment for other work-related expenses that are reasonable, necessary and directly related to participation in JOBS as provided under s. HSS 206.10. The description shall include information as to how these supportive services will be paid for and by whom;
- (d) A description of any other supportive services to which the enrollee and his or her family are to be referred that are needed by the enrollee and his or her family to enable the enrollee to participate in JOBS; and
- (e) The projected date for completion for each item included in pars. (b) to (d) and the name of the case manager responsible for ensuring that an enrollee is provided with these activities or services.

(3m) **EMPLOYABILITY PLAN AND HOURS OF PARTICIPATION FOR A PARTICIPANT IN THE PFP DEMONSTRATION PROJECT.** (a) *Employability plan.* The JOBS case manager shall develop an employability plan under s. HSS 206.09 (3) for an individual required to participate in the pay for performance (PFP) demonstration project under s. HSS 201.045 that focuses on employment and shall assign a participant to JOBS program activities which address the participant's barriers to self-sufficiency. The employability plan shall be in place within 3 weeks following the PFP participant's enrollment in JOBS.

(b) *Hours of participation.* The JOBS case manager shall assign a PFP participant to at least 20 hours of participation in JOBS program activities per week. No participant may be assigned to more than 40 hours per week. A participant may be assigned to more than one JOBS component or activity.

(4) **MONITORING OF EMPLOYABILITY PLAN.** The JOBS administrative agency shall review the employability plan when needed but at least every 6 months. The review shall be done in consultation with the participant and shall address:

- (a) Supportive service needs of the participant or his or her family;
- (b) Progress made by the participant in education or training or other program components; and
- (c) Necessary changes, if any, to the employability plan which will enable the participant to obtain and retain employment.

(4m) **VERIFICATION OF PARTICIPATION.** (a) *Reporting participation hours.* 1. A pay for performance demonstration project participant shall report and provide verification in accordance with s. HSS 201.08 to his or her JOBS case manager that the participation requirement has been met for each month by the 5th calendar day of the following month. Acceptable verification includes:

- a. Copies of pay stubs or a statement signed by the employer;
- b. A statement signed by the community work experience, other work experience, on-the-job training or work supplementation work site employer or coordinator; or
- c. A statement signed by the instructor for an individual participating in approved training or education activities.

2. The participant shall submit written documentation of good cause with the attendance verification.

(b) *Failure to submit verification of participation.* 1. A PFP participant who fails to submit verification of participation to the JOBS administrative agency shall have his or her AFDC case terminated by the economic support agency as provided under s. HSS 205.04 (5) (e) 4.

2. Verification of participation not received timely may result in a delay or partial payment of benefits in the next possible payment month. In this section, "timely" means the verification is received by the 5th calendar day of the month following the month in which the activity occurred, except that, if the 5th calendar day of the month falls on a Saturday, Sunday or holiday, the receipt date shall be the first working day after the 5th to be timely.

(c) *PFP participants working full-time.* The JOBS case manager may not assign a PFP participant who is working full-time to additional JOBS program activities as long as the PFP participant remains employed full-time in an unsubsidized job. In this section, "full-time" means at least 129 hours per month. Failure without good cause under s. HSS 206.23 (3) by the PFP participant who is a mandatory JOBS program participant to maintain full-time employment shall result in a sanction under s. HSS 201.19 (2m).

**History:** Cr. Register, February, 1995, No. 470, eff. 3-1-95; emerg. am. (3) (intro.) and cr. (3m) and (4m), eff. 3-1-96; am. (3) (intro.), cr. (3m) and (4m), Register, October, 1996, No. 490, eff. 11-1-96.

**HSS 206.10 Supportive services.** (1) **NECESSARY SERVICES.** A JOBS administrative agency shall provide or make provision for supportive services described in this section if needed by an enrollee or participant to participate in orientation, enrollment and job search activities under s. HSS 201.045 or as identified in the enrollee's or participant's employability plan as necessary to ensure participation in JOBS program activities. Supportive services include counseling, child care, transportation to employment interviews or other approved program activities and work-related expenses.

(2) **CHILD CARE.** (a) Payment for child care shall be limited to those children in the AFDC group and to those children who would be dependent as defined under s. 49.19 (1) (a), Stats., except for the receipt of SSI or benefits under Title IV-E of the Social Security Act of 1935, as amended, and who are:

1. Under age 13; or
2. Age 13 or older and meet one of more of the following conditions as documented by the agency in the case record:

- a. The child is physically or mentally incapable of caring for himself or herself, as verified by a physician or a psychologist; or

- b. The child is under court supervision as verified by a social worker or the court worker.

(b) The administrative agency shall assist the enrollee or participant in arranging payment for child care expenses as follows:

1. When the child care is needed for an enrollee to attend a JOBS program activity prior to the development of an employability plan under s. HSS 206.09 (3), the child care provider chosen by the enrollee may be one who is not required to be licensed by the department or certified by the county;

2. When the child care is needed for a participant to participate in approved JOBS program activities included in an employability plan under s. HSS 206.09 (3), the child care provider shall be one who is licensed under s. 48.65 (1), Stats., and ch. HSS 45, certified under s. 48.651, Stats., and ch. HSS 55 or established under s. 120.13 (14), Stats.; and

3. When the child care is needed for a participant to participate in approved JOBS program activities, actual child care expenses in the amount determined by the department to be reasonable, necessary and cost-effective but not in excess of the maximum reimbursement rates under s. 46.98 (4), Stats., and s. HSS 55.74 shall be paid to the provider after a bill has been submitted to the JOBS agency when the enrollee is participating in an approved JOBS activity or, if the enrollee has already paid the child care provider, to the enrollee as reimbursement upon presentation of a receipt from the provider.

(3) **TRANSPORTATION.** Payment for transportation costs, including the cost of the transportation to and from the enrollee's or participant's child care provider, shall be in the amount equal to the cost of transportation by the most appropriate means as determined by the JOBS administrative agency.

(4) **WORK-RELATED EXPENSES.** Payment shall be made for work-related expenses that are reasonable, necessary and directly related to participation in a work component or unsubsidized employment, and approved by the department.

(5) **REFERRAL FOR SERVICES.** The JOBS administrative agency shall make referrals to appropriate agencies for other supportive services needed by an enrollee or participant.

(6) **NO REQUIRED PAYMENT BY ENROLLEE OR PARTICIPANT.** No enrollee or participant may be required to pay from his or her own funds for any child care under sub. (2), transportation under sub. (3) or work-related expenses under sub. (4) related to participation in JOBS program activities and included in the employability plan under s. HSS 206.09 (3).

**History:** Cr. Register, February, 1995, No. 470, eff. 3-1-95; emerg. am. (1), eff. 3-1-96; am. Register, October, 1996, No. 490, eff. 11-1-96.

**HSS 206.11 Optional payment of other work-related expenses.** A JOBS administrative agency director or designee may choose to pay other expenses related to a JOBS program participant's acceptance or maintenance of employment if approved by the department.

**History:** Cr. Register, February, 1995, No. 470, eff. 3-1-95.

**HSS 206.12 Assignment to jobs program activities.** (1) **TYPES OF ACTIVITIES.** Following development of an employability plan under s. HSS 206.09 (3), the JOBS administrative agency shall assign an enrollee or participant to an appropriate JOBS program activity. The administrative agency may assign an enrollee or a participant to one or more of the following:

- (a) Motivation activities;

- (b) Job readiness activities;

- (c) Job search;

- (d) Subsidized employment, which may include:

1. On-the-job training; or

2. 'Work supplementation under s'. HSS 206.18;

- (e) Work experience programs which may include community work experience under s. HSS 206.19;

- (f) Educational activities which may include payment for or referral to any of the following:

1. 'Remedial education under s'. HSS 206.14;

2. Post-secondary education or training under s. HSS 206.15;

3. Job skills training; or

4. Parenting skills training as provided under s. 49.193 (4) (j) 6., Stats.

(2) **CONDITIONS FOR ASSIGNMENT.** In assigning an enrollee or participant to a JOBS program activity, the JOBS administrative agency shall ensure that:

- (a) The participant is assigned to an activity that will enable him or her to obtain and sustain economic self-sufficiency as soon as possible;

- (b) The program activity tasks are within the capability of the participant to perform on a regular basis, taking into account the participant's physical capacity, skills and experience, the participant's family responsibilities and the participant's place of residence in relation to the program activity;

- (c) The total daily commuting time to and from the home to the program activity site to which the participant is assigned does not normally exceed 2 hours, not including the transporting of a child to and from child care. If a longer commuting distance and time is generally accepted in the community, then the round trip commuting time may not exceed the generally accepted community standard without the participant's consent;

- (d) No participant is required, without his or her consent, to remain away from home overnight;

- (e) The conditions of participation are reasonable, taking into account in each case the job proficiency of the participant and the child care and other supportive service needs of the participant;

- (f) Training is appropriate. For training to be appropriate, the training shall, to the extent practicable, meet local employers' requirements including their occupational needs so that the participant will be in a competitive position within the local labor market. The training shall also be likely to lead to employment which meets the criteria in pars. (a) to (d);

- (g) The work, training or activity site is in compliance with federal, state or local health and safety standards;

- (h) The work, training or activity site complies with state and federal civil rights prohibitions against discrimination as provided under 45 CFR 251.1 (c). The JOBS administrative agency shall provide information to participants regarding their rights under any applicable federal, state or local law prohibiting discrimination;

- (i) The job is not vacant because of a strike, lockout or other bonafide labor dispute;

- (j) Taking the job would not be against the rules of a union to which the enrollee or participant belongs;

- (k) The enrollee or participant is not required to join, resign from or refrain from joining any legitimate labor organization as a condition of employment; and

- (L) The JOBS program activity would not interfere with the enrollee's or participant's return to his or her regular job which is expected to occur within a short period of time. The enrollee or participant may, however, be required to take a temporary job until his or her regular job resumes.

(3) **AGENCY-PROVIDED OR CONTRACTED ACTIVITIES.** The JOBS administrative agency may provide JOBS program activities or may contract for JOBS program activities.

**History:** Cr. Register, February, 1995, No. 470, eff. 3-1-95.

**HSS 206.13 Job readiness and motivation.** (1) The JOBS administrative agency may assign a participant to participate in a job readiness and motivation component of the JOBS program following enrollment and orientation.

(2) The JOBS administrative agency may use a job readiness and motivation component to assist a participant who:

- (a) Has had little or no work experience in the preceding year;
- (b) Is a dropout as defined under s. HSS 201.195 (3) (b);
- (c) Is experiencing family conflict such as domestic or child abuse or illness of a family member;
- (d) Is a custodial parent who is 20 to 24 years of age; or
- (e) Is a participant whom the agency determines would benefit from participation in this component.

**History:** Cr. Register, February, 1995, No. 470, eff. 3-1-95.

**HSS 206.14 Remedial education.** The JOBS administrative agency may assign a participant to remedial education activities. These activities may include:

- (1) English as a second language classes at a vocational or technical school or through a community-based agency;
- (2) Adult basic education classes;
- (3) General educational development (GED) classes as provided under s. PI 5.035;
- (4) High school equivalency diploma classes as provided under s. PI 5.09;
- (5) Literacy skills classes;
- (6) Attendance at a school as defined under s. 49.50(7) (a), Stats.;
- (7) Driver's education training course approved by the Wisconsin department of public instruction, the Wisconsin technical college system board, or the Wisconsin department of transportation; or
- (8) Other program activities needed by the participant to obtain employment or before participation in other JOBS activities as approved by the department.

**History:** Cr. Register, February, 1995, No. 470, eff. 3-1-95.

**HSS 206.15 Participation in post-secondary education and training programs.** (1) **POST-SECONDARY EDUCATION OR TRAINING INITIATED BY JOBS.** The JOBS administrative agency may initiate post-secondary education or training activities for a JOBS participant. Conditions for initiation and continued acceptance of those activities are as follows:

- (a) The participant has completed orientation, following assessment he or she is considered not job ready by the agency, his or her educational needs have been assessed, and an employability plan has been developed under s. HSS 206.09 (3);
- (b) The participant is able to obtain funds other than JOBS to pay for the cost of the education or training. The administrative agency may grant an exception if the participant and the agency are unable to find alternative funding, or if the agency determines that funding the activity is in the best interests of the JOBS program;

(c) 1. The participant enrolls in and attends a program at a technical college, 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 24 calendar months if the individual were attending full-time. Enrollment in a graduate program at a college or university is not acceptable;

2. The participant shall be required to complete the initial or remaining degree work within 24 calendar months. Time spent in remedial education prior to or outside of enrollment in the degree work is not counted against the 2 years. If the participant has attended full-time, has made satisfactory progress in the program and works or participates in a work component, unsubsidized part-time employment or a practicum if full-time participation requires less than 20 hours per week of scheduled class time, the agency may grant one extension for up to 6 months if that would ensure that the participant will complete the program and if any of the following circumstances apply:

- a. Remedial education is incorporated into the 2 year program and is necessary for the participant to successfully complete the program;
- b. Full-time participation as defined by the institution will not enable the participant to obtain the necessary credits to graduate within 24 calendar months; or
- c. The availability or scheduling of prerequisite coursework makes it impossible for the participant to complete the necessary credits for graduation within 24 calendar months;
- (d) The participant has not previously completed a degree or diploma course of study at a technical college or at an academic college or university. The JOBS administrative 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;

(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 JOBS administrative agency;

(f) The participant is participating full-time, as defined by the institution, in the education or training activities. If full-time participation requires less than 20 hours per week of scheduled class time, the JOBS administrative 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;

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

(h) 1. During periods when school is not in session, the JOBS administrative agency may require the participant to participate in employment which may include participation in a work component. If the administrative agency requires the participant to participate during periods when school is not in session, the administrative agency shall assign the participant to appropriate temporary activities. In this paragraph, "when school is not in session" means in the summer, when the participant is not attending summer school, and between-quarter or between-semester breaks of 3 or more weeks;

2. Participation in appropriate temporary employment activities may not prevent the participant from returning to school unless the employability plan under s. HSS 206.09 (3) has been revised. If the agency informed the participant at the time it first approved the activity that it could perform such a review and reassignment, the agency may revise the employability plan to require the participant to participate in a different education or training activity, to accept employment or to take advantage of an anticipated opportunity to secure employment at a date expected to be earlier than the completion date of the educational program;

(i) Participation in post-secondary education or training activities counts as satisfactory participation for only one parent in a 2-parent household. If both parents in a 2-parent household are mandatory participants in JOBS and one of the parents participates in post-secondary education, he or she shall also partic-

ipate in work component activities whether or not he or she is attending school full-time. The agency shall schedule the work component activities so that they do not conflict with the scheduled education or training activities; 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.

**(2) SELF-INITIATED POST-SECONDARY EDUCATION OR TRAINING.** A JOBS participant who is participating in self-initiated post-secondary education or training activities shall be considered to be satisfactorily participating in JOBS if:

(a) The participant:

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

2. Applied for admission in the post-secondary education or training program during a period of at least 30 days or more when he or she was not assigned to another JOBS activity, and has been accepted.

(b) The participant has not quit a permanent full-time job without good cause within the 12 month period prior to enrolling in the JOBS program. A participant shall be considered to have good cause only if death of an immediate family member, incapacitation, disability that required retraining or involuntary lay-off caused the participant to quit the job;

(c) The participant has completed orientation, he or she is considered not job ready by the agency, his or her education and training needs have been assessed, an employability plan under s. HSS 206.09 (3) has been developed and the education program is included in the employability plan;

(d) 1. The participant enrolls in and attends a program at a technical college, 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 24 calendar months if the individual were attending full-time. Enrollment in a graduate program at a college or university is not acceptable;

2. The participant shall be required to complete the initial or remaining degree work within 24 calendar months. Time spent in remedial education prior to or outside of enrollment in the degree work is not counted against the 2 years. If the participant has attended full-time, has made satisfactory progress in the program and works or participates in a work component, unsubsidized part-time employment or a practicum if full-time participation requires less than 20 hours per week of scheduled class time, the agency may grant one extension for up to 6 months if that would ensure that the participant will complete the program and if any of the following circumstances apply:

a. Remedial education is incorporated into the 2 year program and is necessary for the participant to successfully complete the program;

b. Full-time participation as defined by the institution will not enable the participant to obtain the necessary credits to graduate within 24 calendar months; or

c. The availability or scheduling of prerequisite coursework makes it impossible for the participant to complete the necessary credits for graduation within 24 calendar months;

(e) The participant has not previously completed a degree or diploma course of study at a technical college or at an academic college or university. The JOBS administrative 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;

(f) The cost of the schooling is financed by a source other than JOBS, 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 JOBS administrative 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 JOBS administrative agency shall review the participant's progress in the education and training activities at the end of each semester. The administrative 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 full-time participation requires less than 20 hours per week of scheduled class time, the JOBS administrative 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;

(j) 1. During periods when school is not in session, the JOBS administrative agency may require the participant to participate in employment which may include participation in a work component. If the administrative agency requires the participant to participate during periods when school is not in session, the administrative agency shall assign the participant to appropriate temporary activities. In this paragraph, "when school is not in session" means in the summer, when the participant is not attending summer school, and between-quarter or between-semester breaks of 3 or more weeks;

2. Participation in appropriate temporary employment activities may not prevent the participant from returning to school unless the employability plan under s. HSS 206.09 (3) has been revised. If the agency informed the participant at the time it first approved the activity that it could perform such a review and reassignment, the agency may revise the employability plan to require the participant to participate in a different education or training activity, accept employment or to take advantage of an anticipated opportunity to secure employment at a date expected to be earlier than the completion date of the educational program;

(k) Participation in post-secondary education or training counts as satisfactory participation for only one parent in a 2-parent household. If both parents in a 2-parent household are mandatory participants in JOBS and one of the parents participates in post-secondary education, he or she shall also participate in work component activities whether or not he or she is attending school full-time. The agency shall schedule the work component activities so that they do not conflict with the scheduled education or training activities; 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, February, 1995, No. 470, eff. 3-1-95.

**HSS 206.16 Employment search.** (1) A JOBS administrative agency may require a participant to participate in employment search activities. These activities may be conducted in a group or individually. Employment search activities may include:

(a) Instruction in job-seeking skills;

(b) Job placement services;

(c) Job development. In this paragraph, "job development" means an agency activity to solicit public or private sector unsubsidized job openings, market participants to employers or secure job interviews for participants; and

(d) Group and individual job search efforts by participants.

(2) The JOBS administrative agency may require a participant to participate a minimum of 20 hours a week in employment search activities for up to 8 consecutive weeks following assessment under s. HSS 206.09 (2) (a). Following the initial period of participation, the JOBS administrative agency may require additional participation in employment search activities not to exceed 8 weeks full-time or its equivalent in any period of 12 consecutive months.

(3) The JOBS administrative agency may require additional participation in employment search activities beyond what is required in sub. (2) only as part of another educational, training or employment component designed to improve the participant's employment prospects.

(4) Employment search by a participant may not be treated as an activity under JOBS if the participant has participated in employment search activities for 4 months or its equivalent during the preceding 12 months.

**History:** Cr. Register, February, 1995, No. 470, eff. 3-1-95.

**HSS 206.17 Work components. (1) ASSIGNMENT.** A JOBS administrative agency may assign a participant to participate in work component activities except that the administrative agency may only assign a participant to work supplementation activities under s. HSS 206.18 if the participant volunteers to participate in those activities.

(2) ADMINISTRATIVE AGENCY RESPONSIBILITIES. The JOBS administrative agency shall:

(a) Require that work component jobs meet state and local standards for health and safety;

(b) Ensure that work component jobs are not used for political, electoral or partisan activities;

(c) Ensure that work component jobs do not result in full or partial displacement of currently employed workers. Partial displacement includes reductions made by the employer in hours, wages or employment benefits;

(d) Ensure that no participant in work experience, on-the-job training or work supplementation activities is hired into or remains working in a job that is an established, unfilled position vacancy in accordance with 42 USC 684 (c);

(e) Ensure that no participant is hired into or remains working in a job when any other worker of the employer is on layoff from the same or from a substantially equivalent job;

(f) Ensure that no participant is placed in a work component job that has been created due to a continuing strike, lockout or other bona fide labor dispute;

(g) Ensure that the department does not make payments to employers for the training and employment of participants during periods of work stoppage;

(h) Ensure that no participant is placed in a job for which the wages, if wages are paid, or working conditions are substantially less favorable than those prevailing for similar work in the locality;

(i) Ensure that each participant receives the same wages and benefits, if wages and benefits are provided, and is subject to the same working conditions as employees with the same seniority who perform substantially equivalent jobs in the same organization unit;

(j) Ensure that the employer attends to any job injuries to participants in the same manner as job injuries to regular employees;

(k) Ensure that the employer provides written rules for the participant's job which shall be the same as the work rules applicable to other employees at the work site. The work rules shall include job duties, work days and hours, and activities prohibited on the work site;

(L) Ensure that in regard to each participant the employer enters into a formal contract with the administrative agency

which incorporates a detailed agreement about training of the participant and expectations concerning the participant's period of employment, including job performance expectations; and

(m) Ensure that the employer makes available information regarding the grievance procedure in place for resolution of complaints by regular employees.

**History:** Cr. Register, February, 1995, No. 470, eff. 3-1-95.

**HSS 206.18 Work supplementation. (1) DEFINITIONS.** In this section:

(a) "Base grant" means the total AFDC monthly family allowance for which the family is eligible as determined under s. 49.19 (11) (a), Stats., minus earnings and other countable income.

(b) "Earned income disregard" means that part of a participant's monthly gross earnings on the work supplementation job that is not counted as income when determining need for AFDC, and that consists of the deductions allowed under s. 49.19 (5) (a), Stats.

(c) "Residual grant" means the portion of a participant's base grant that is provided directly to the participant when he or she is participating in work supplementation.

(d) "Wage pool" means a fund administered by the department which is made up of diverted amounts of base grants and from which wage subsidies are paid to private for-profit, private non-profit and public sector employers under work supplementation.

(e) "Work supplementation job" means a job covered by a work supplementation contract.

(f) "Work supplementation placement" means entrance into a work supplementation job.

(g) "Work supplementation services" means case management, counseling and training available to a participant while in a work supplementation job.

(2) ECONOMIC SUPPORT AGENCY RESPONSIBILITIES. The economic support agency shall:

(a) Determine the portion of a participant's base grant to be diverted to the wage pool and the portion to be paid to the participant, as follows:

1. From the monthly gross earnings of the work supplementation job, the economic support agency shall calculate the net earned income by subtracting in the order shown:

a. A work-related deduction of \$90 as provided in s. 49.19 (5) (a) 2., Stats.; and

b. The \$30 and 1/3 disregard, as provided in s. 49.19 (5) (a) 4., Stats., or the \$30 and 1/6 disregard, as provided in s. 49.19 (5) (am) 1., Stats.;

2. From the monthly family allowance under s. 49.19 (11) (a) 1. and 2., Stats., or combined family and pregnancy allowance under s. 49.19 (11) (a) 1., 2. and 4., Stats., the economic support agency shall determine the base grant by subtracting any earnings and other countable income available to the family; and

3. a. From the base grant under subd. 2. the economic support agency shall subtract the net earned income determined under subd. 1. The remainder is the residual grant which shall be paid to the participant. The amount of the residual grant to which a recipient is entitled shall be fixed for the duration of the work supplementation job except that the agency shall recompute the residual grant if the number of eligible individuals in the AFDC group changes or the AFDC payment standard under s. 49.19 (11), Stats., changes;

b. If the AFDC group becomes otherwise ineligible for AFDC benefits, the group is no longer eligible to receive a residual grant. The participant may continue in the work supplementation job but the agency shall divert the residual 1/6 grant, if any, to the wage pool;



(b) Consider that the participant's receipt of the base grant plus full work supplementation wages for a month constitutes an overpayment, and that the excess over the residual grant is subject to recoupment under s. HSS 201.30(3) (c);

(c) Apply the \$30 and 1/3 or the \$30 and earned income disregard for the length of the work supplementation job or 9 months, whichever is shorter;

(d) Require the recipient to complete and sign an authorization form to divert the recipient's grant to the wage pool after the recipient begins employment. The completion and signing of the authorization form by the recipient constitutes adequate notice of a change in the manner or form of payment of the grant pursuant to s. HSS 201.09 (2) (a);

(e) Unless the participant is otherwise ineligible for AFDC, provide for generating a supplemental AFDC payment if an employer:

1. Fails to pay a recipient; or
2. Reduces the number of contracted hours and this reduction in employment hours results in the participant's net earnings from the work supplementation job determined under par. (a) 1. plus the residual grant determined under par. (a) 3., if any, being less than the base grant determined under par. (a) 2;

(f) Terminate the residual grant if the work supplementation participant loses AFDC eligibility for any reason other than excess income from the work supplementation job; and

(g) Complete a review of AFDC eligibility when the JOBS administrative agency or a participant terminates a work supplementation contract or a participant completes the terms of a work supplementation contract. If the participant remains eligible, budget the case prospectively for 2 months after the work supplementation contract is completed or terminated and retrospectively thereafter.

**(3) ADMINISTRATIVE AGENCY RESPONSIBILITIES.** (a) The JOBS administrative agency shall:

1. Coordinate the work supplementation component operation and job development with appropriate local employment and training service providers;
2. Develop work supplementation jobs and provide participating employers with a wage subsidy for providing a work supplementation job at a level determined by the department under 45 CFR 250.62 (I), with the administrative agency paying the participating employer. Work supplementation jobs may be full-time or part-time and may not be temporary;
3. Refer participants for placement in work supplementation jobs for up to the maximum number of hours allowed under 45 CFR 250.62;
4. Monitor the performance and progress of participants in work supplementation jobs;
5. Counsel participants on job-keeping and searching for an unsubsidized job;
6. Ensure that an individual in a work supplementation job is paid for the hours of labor performed at the higher hourly rate of the following 2 standards, except that if the labor performed is for a municipality defined under s. 66.293 (3) (b), Stats., the hourly rate shall be as provided under s. 66.293, Stats.:
  - a. The hourly rate paid to entry-level employees of that employer who perform similar duties; or
  - b. The federal minimum hourly wage prescribed in 29 USC 206 (a) 1; and
7. Encourage the work supplementation employer to offer the participant unsubsidized employment with at least equivalent wages, hours and working conditions for 9 months after the end of the wage subsidy.

(b) The administrative agency is not required to provide employe status to a participant nor is it required that a work supplementation employer provide employe status to a participant

during the first 13 weeks in which the participant fills the position.

**(4) EFFECTS OF PARTICIPATION ON ELIGIBILITY FOR AFDC AND MEDICAL ASSISTANCE.** (a) Members of a work supplementation participant's AFDC group are considered AFDC recipients as long as they continue to meet AFDC eligibility requirements under ch. HSS 201.

(b) A recipient participating in work supplementation shall remain eligible for medical assistance as long as he or she is considered an AFDC recipient under par. (a).

(c) A recipient participating in work supplementation is exempt from monthly reporting under ch. HSS 205, except for purposes of food stamps eligibility, for the duration of the recipient's participation in work supplementation.

**(5) RETURN TO FULL AFDC GRANT STATUS.** When a recipient completes a work supplementation placement, leaves the work supplementation job before completing the placement or is dismissed from the work supplementation job, and does not have an unsubsidized job, the recipient shall be returned to full AFDC grant status if the recipient continues to meet the eligibility requirements for AFDC.

**History:** Cr. Register, February, 1995, No. 470, eff. 3-1-95.

**HSS 206.19 Work experience.** **(1) ASSIGNMENT.** A JOBS administrative agency may assign an enrollee to work experience activities.

**(2) ADMINISTRATIVE AGENCY RESPONSIBILITIES.** Each administrative agency operating a work experience component of the JOBS program shall:

(a) Design the program to improve the employability of participants through actual work experience or work experience and training to enable participants to move into regular employment;

(b) Ensure that placement in a regular job will have priority over participation in work experience;

(c) Ensure that no person is required to participate:
 

1. In community work experience for more than 32 hours per week to allow 8 hours a week for the participant to seek regular employment and for more than 16 weeks in a 12-month period except that an AFDC-unemployed participant is subject to the requirement under 45 CFR 250.33 (c);
2. In other work experience for more than 13 weeks in a 12-month period for a private for-profit employer;

(d) A participant in work experience is considered an employe of the JOBS administrative agency for purposes of worker's compensation benefits, except to the extent that the person for whom the participant is performing work agrees to provide worker's compensation coverage or the administrative agency delegates, by contract, the responsibility to provide that coverage to the person administering the work experience component.

**(3) PARTICIPANT WORK SCHEDULE.** An administrative agency or a community agency may schedule a work experience or community work experience participant for work only under the following conditions:

(a) The employe's travel time to and from training, work or a child care provider, and mealtimes for which regular employes are not paid, are not included as hours of work experience participation; and

(b) The employe is not required to work on legal holidays on which the majority of regular employes at the work site do not work.

**(4) MAXIMUM REQUIRED HOURS OF PARTICIPATION IN ANY MONTH.** (a) *Community work experience.* The number of hours a month a JOBS administrative agency may require a recipient to participate in community work experience may not exceed the number of hours equal to:

1. The recipient group's monthly AFDC payment 2 months earlier;

2. Minus total child support payments, less the child support disregard passed on to the recipient as provided in s. 49.19 (5) (a) Im., Stats., made 2 months earlier which offset the AFDC benefit. Child support payments to the county clerk of courts and subsequently disregarded from AFDC benefits are not considered to have offset the AFDC grant;

3. Divided by the greater of the applicable state or federal minimum wage. The result is the maximum number of hours the recipient may be required to participate in a month.

(b) Training for a recipient arranged or approved by the administrative agency shall be counted toward community work experience participation requirements on an hour-for-hour basis.

(c) *Other work experience.* 1. A JOBS administrative agency shall require a recipient to participate in other work experience for at least 20 hours a week or to participate in other work experience in combination with other JOBS program activities for at least 20 hours a week;

2. The JOBS administrative agency shall negotiate a weekly or monthly schedule of hours of participation at a work experience site with an other work experience employer. Hours of participation may not exceed 40 hours per week.

**History:** Cr. Register, February, 1995, No. 470, eff. 3-1-95.

**HSS 206.20 On-the-job training. (1) ADMINISTRATIVE AGENCY RESPONSIBILITIES.** The JOBS administrative agency shall:

(a) Coordinate OJT operations and job development with appropriate local employment and training service providers;

(b) Enter into an agreement which incorporates a detailed agreement about training of the participant and expectations concerning the participant's period of employment, including job performance expectations, with an OJT employer before a participant begins an OJT job. The OJT employer shall agree to retain the participant in permanent employment status following the completion of the training period;

(c) Develop OJT jobs and provide participating employers with a wage subsidy for providing an OJT job. The wage subsidy may not exceed an average of 50 percent of the non-overtime wages paid by the employer to the participant during the OJT subsidy period;

(d) Refer participants for placement in OJT jobs for up to 6 months;

(e) Ensure that OJT participants are compensated at the same hourly wage rates, including benefits and periodic increases, as similarly situated employees or trainees and in accordance with applicable law, but in no event less than the higher of the federal minimum hourly wage rate established under 29 USC 206 (a) or the state minimum hourly wage rate established under s. 104.04, Stats.;

(f) Ensure that OJT jobs are full-time, at least 32 hours per week and not temporary;

(g) Monitor the performance of OJT participants in learning the duties and responsibilities of the OJT jobs and resolve any performance problems with a participant's employer;

(h) Counsel the participant in job retention and job search skills; and

(i) Ensure that the OJT participant is making satisfactory progress in the training program. In this paragraph, "making satisfactory progress" means that the participant is experiencing competency gains in his or her skill proficiency level and is expected to reach the full skill proficiency level within the time limits of the OJT contract under par. (b).

**(2) EFFECTS OF PARTICIPATION ON ELIGIBILITY FOR AFDC AND JOBS.** An OJT participant who becomes ineligible for AFDC

because of excess income or the application of the 100 hour rule under s. HSS 201.14 (3) shall continue to be a JOBS participant for the duration of the OJT and shall remain eligible for supportive services under s. HSS 206.10.

**(3) ECONOMIC SUPPORT AGENCY RESPONSIBILITIES.** The economic support agency shall:

(a) Consider wages paid to OJT participants as earned income for purposes of AFDC eligibility;

(b) Determine eligibility for transitional child care under s. HSS 201.36 for an AFDC recipient who becomes ineligible for AFDC because of an increase in earned income, an increase in hours of employment for AFDC-unemployed parent cases or loss of the earned income disregards under s. 49.19 (5) (a), Stats.; and

(c) Complete a review of AFDC eligibility when a participant terminates or completes the terms of an OJT contract.

**History:** Cr. Register, February, 1995, No. 470, eff. 3-1-95.

**HSS 206.21 Grievance procedures.** A JOBS administrative agency shall ensure that the following grievance procedures are in place:

**(1) GRIEVANCE PROCEDURES RELATED TO ON-THE-JOB CONDITIONS.** The JOBS administrative agency shall provide written notice to work component participants regarding filing a grievance related to on-the-job working conditions, worker's compensation and wage rates used to calculate the number of hours of participation required of participants in community work experience activities. If the grievance cannot be resolved with the employer through an informal resolution procedure, the JOBS administrative agency shall notify the employee in writing of the right to request a fair hearing with the department's office of administrative hearings and shall provide written information regarding appealing a fair hearing decision on any of these issues to the U.S. department of labor.

**(2) GRIEVANCE PROCEDURES FOR REGULAR EMPLOYEES OF A WORK COMPONENT WORKSITE.** The JOBS administrative agency shall ensure that regular employees of a work component worksite receive written notice regarding their rights to a grievance procedure regarding the work assignment of any JOBS participant located at the worksite. An employer shall have a process in place to receive complaints from regular employees of the community work experience worksite. Within 10 days of receiving a written complaint from a regular employee, the employer shall review the complaint and make a determination of its validity. If the grievance cannot be resolved through an informal resolution procedure, the employer shall notify the employee in writing of the right to request a fair hearing with the department's office of administrative hearings. A request for a fair hearing shall be filed within 10 days after the date of the employer's notice to the employee. A request is considered filed upon its actual receipt by the department's office of administrative hearings.

**(3) GRIEVANCE PROCEDURES RELATED TO DISCRIMINATION COMPLAINTS.** A JOBS program participant may request a fair hearing in accordance with the procedures under ch. HSS 225 to resolve complaints of discrimination against the participant on the basis of race, sex, national origin, religion, age or handicapping condition or may choose to have the complaint processed as a violation of 45 CFR parts 80, 84 and 91.

**History:** Cr. Register, February, 1995, No. 470, eff. 3-1-95.

**HSS 206.22 Fair hearings related to provision of supportive services. (1)** The administrative agency shall send a written notice to an enrollee or participant which meets the requirements under s. HSS 201.09 (2) (a) regarding the enrollee's or participant's right to a fair hearing on issues concerning the appropriateness of, denial of, prompt issuance of, or

intended actions to discontinue, terminate, suspend or reduce supportive services under s. HSS 206.10.

(2) The enrollee or participant shall file a request for a fair hearing in accordance with the procedures under ch. HSS 225 except that petition for a fair hearing shall be received in the department's office of administrative hearings within 45 days after the effective date of the action being appealed.

(3) Changes in the manner of payment of supportive services are not subject to timely notice requirements under s. HSS 201.09 (2) (a) unless the change results in a discontinuation, suspension, reduction or termination of these benefits, or the change forces a change in the enrollee's or participant's supportive service arrangements.

(4) The provisions of s. HSS 201.09 (2) (a) regarding continuation of aid pending results of a hearing do not apply to hearings under this section.

**History:** Cr. Register, February, 1995, No. 470, eff. 3-1-95.

**HSS 206.23 Conciliation.** (1) REASONS FOR INITIATING CONCILIATION. (a) *Initiation of conciliation.* Except for individuals assigned to the PFP demonstration project under s. HSS 201.045 (4) (b) 2. and 3., the JOBS administrative agency shall initiate conciliation when an AFDC recipient who has been determined to be mandatory under s. HSS 201.19 (1) refuses to enroll in JOBS, refuses to participate in a JOBS program activity or refuses to accept employment, terminates employment or reduces earnings.

(b) *Failure to enroll.* If an AFDC recipient fails to respond to a final enrollment notice under s. HSS 206.07 (2) (b), the administrative agency shall notify the economic support agency in accordance with s. HSS 206.24 of the recipient's failure to enroll in JOBS.

(c) *Failure to participate.* An enrollee's or participant's refusal to participate occurs when:

1. The enrollee or participant expresses verbally or in writing to JOBS agency program staff that he or she refuses to participate; or
2. The enrollee or participant implies refusal to participate when he or she:
  - a. Fails to appear for an interview with a prospective employer or for one other assigned interview or activity;
  - b. Voluntarily leaves appropriate employment or training or reduces earnings without good cause under sub. (3);
  - c. Fails to participate in a scheduled activity on one or more occasions;
  - d. Is discharged from appropriate employment or training for misconduct; or
  - e. Through some other behavior or action shows that he or she refuses to participate in JOBS program activities.

(2) RESOLUTION. (a) The JOBS administrative agency shall schedule an interview with an enrollee or a participant who has refused to participate under sub. (1) (c) and a JOBS agency or subcontracting agency employe other than the individual's case manager to determine:

1. If he or she had good cause under sub. (3) for failure to participate and if the enrollee or participant will agree to return to program activities or will be referred to the case manager for appropriate program activity;
2. If he or she did not have good cause under sub. (3) for failure to participate and if the enrollee or participant will agree to return to JOBS program activities or will be referred to the case manager for appropriate program activity; or
3. If he or she did not have good cause under sub. (3) for failure to participate and refuses to return to JOBS program activities or accept employment.

(b) The resolution interview shall attempt to identify the conflicts or misunderstandings which caused non-participation.

The goal of the interview is resolution of issues to enable the enrollee or participant to resume JOBS program participation.

(3) GOOD CAUSE FOR NOT PARTICIPATING. The JOBS administrative agency shall determine if an enrollee or a participant had good cause for not participating. In making such a determination, the agency may require that the enrollee or participant provide written documentation in accordance with s. HSS 201.08 that good cause existed. Good cause for not participating in an assigned JOBS program activity or reducing earnings shall be any of the following circumstances:

(a) Family emergency which means the illness, injury, incapacity or death of the enrollee or participant or a member of the enrollee's or participant's family. In this paragraph, "member of the enrollee's or participant's family" means a spouse, child, parent or dependent relative who lives with the participant;

(b) A required court appearance;

(c) Temporary incarceration;

(d) Child care was necessary for the participant to participate or accept employment, child care was unavailable and the JOBS agency was unable to provide or refer for alternate child care arrangements;

(e) Taking or continuing employment would result in a net loss of cash income for the enrollee or participant and his or her family. In this paragraph, "net loss of cash income" means that the amount of available cash income from the employment after taking into consideration advance payments of federal earned income tax credits available under section 3507 of the internal revenue code of 1986, cash assistance and unearned income is less than the amount that would be available to the enrollee or participant if he or she were not employed. In determining available cash income from employment, the agency shall subtract from the job wages mandatory payroll deductions and withholdings, such as taxes and union dues, health insurance premiums not normally paid by the employer and actual, reasonable expenses that are related to employment that are not reimbursed by the JOBS agency or other sources;

(f) The participant's reduced earnings were the result of:

1. Being temporarily laid off through no fault of his or her own;
2. The employer reducing hours of work for reasons beyond the control of the participant;
3. Involuntary demotion; or
4. The enrollee or participant participating in post-secondary education activities approved under s. HSS 206.15, was working while school was not in session and quit to return to school;

(g) Failure to be properly notified of a JOBS program activity; or

(h) Other circumstances beyond the control of the enrollee or participant but only as determined by the agency.

(4) AGREEMENT. The agency director or designee shall prepare a resolution agreement when the enrollee or participant agrees to satisfactorily participate in JOBS. The enrollee or participant and the agency director or designee shall sign and date the resolution agreement. The agreement shall include a statement that if the enrollee or participant fails to adhere to the agreement within 90 days after signing it, the agency director or designee may refer him or her to the economic support agency for sanction without another resolution interview.

**History:** Cr. Register, February, 1995, No. 470, eff. 3-1-95; am. (1) (a), Register, October, 1996, No. 490, eff. 11-1-96.

**HSS 206.24 Sanctions for not participating without good cause.** If the problem causing non-participation cannot be resolved under s. HSS 206.23 or if the enrollee or participant does not keep an appointment with the JOBS administrative agency to discuss the reason for non-participation, the JOBS administrative agency shall notify the economic support

agency. The economic support agency shall take appropriate action in accordance with s. HSS 201.19 (2) for failure to participate.

**History:** Cr. Register, February, 1995, No. 470, eff. 3-1-95.