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TO: Members of the Assembly Committee on Public Benefit Reform

FROM: Jenifer Cole, Deputy Legislative Liaison, Department of Children and Families
Connie Chesnik, Administrator, Division of Family and Economic Security
Leah Watson, Program and Policy Analyst, Bureau of Working Families

DATE: March 3, 2020

RE: Clearinghouse Rule 18-016 (Wisconsin Works Time Limits and Extensions)

Representative Krug, Representative Petersen, and Members of the Assembly Committee on Public Benefit Reform:

My name is Jenifer Cole, and I am the Deputy Legislative Liaison for the Department of Children and Families (DCF). I am joined by Connie Chesnik, Administrator of the Division of Family and Economic Security (DFES) and Leah Watson, Program and Policy Analyst in the Bureau of Working Families as subject matter expert.

DCF DFES is responsible for promulgating DCF 101, Wisconsin Works. We are here today to speak to CR 18-016, DCF's proposed rule changes to amend DCF 101.18(2)(a); to repeal and recreate DCF 101.09(2)(n) and 101.18(2)(b); and to create DCF 101.095, relating to W-2 time limits and extensions.

Wisconsin Works Time Limits and Extensions Rules Summary

The proposed changes to Chapter DCF 101 implement statutory changes to the W-2 time limits and extensions, while aiming to allow the W-2 program to provide continued stability to vulnerable families experiencing a crisis and ensuring that program participants with long-term barriers to employment successfully transition to alternative programming or work toward remediating barriers so they may gain family-sustaining employment.

Changes to the W-2 Lifetime Limit

Existing federal regulations establish a time limit for receiving TANF benefits of no more than 60 months but also grant states significant flexibility in creating time limit policies. The 2015-17 Biennial Budget (2015 Wisconsin Act 55) amended s. 49.145(2)(n), Stats., to reduce the total number of months an individual may participate in a program that provides TANF cash assistance from 60 months to 48 months. With 2015

Wisconsin Act 55, Wisconsin opted to set a limit lower than the federal maximum 60 months, and the proposed changes to DCF 101 effectuate this limit in administrative rule.

Time Limit Extension Criteria

2015 Wisconsin Act 55 also affected the criteria for granting an extension to the W-2 lifetime limit. Currently under rule, a W-2 agency may grant a time limit extension only if the agency determines that “unusual circumstances exist that warrant an extension of the participation period.” With the 2015 Wisconsin Act 55 changes, s. 49.145(2)(n)3., Stats., provides that a W-2 agency may extend the 48-month lifetime limit if the W-2 agency determines that “the individual is experiencing hardship or the individual’s family includes an individual who has been battered or subjected to extreme cruelty.” This aligns with federal law.

The definition of “hardship” in the proposed rule is similar to the definition of “unusual circumstances” currently provided in Ch. DCF 101. W-2 participants completing more than 48 months in the program face significant barriers and challenges to employment rendering the extension of benefits necessary to ensure safety and stability for their children and families. The most common barriers to employment reported include mental limitations, physical limitations, and the need to remain at home to care for an incapacitated child or family member. The proposed rule also continues to allow extensions for individuals that have made all appropriate efforts to find work and are unable to gain employment because local labor market conditions preclude a reasonable job opportunity. In addition, the proposed definition of hardship includes a new provision to include individuals who are unable to work to due to current participation in a substance abuse treatment program. This provision ensures that individuals working toward substance abuse recovery are able to complete their treatment program prior to exiting W-2.

Other families that may be in need of an extension to the 48-month lifetime limit are those that have experienced or are experiencing domestic violence. With the 2015 Wisconsin Act 55 changes, the department is also statutorily required to define “battered or subjected to extreme cruelty” in rule. The proposed rule provides a definition of “battered or subjected to extreme cruelty” that aligns with the corresponding federal regulations for extending TANF assistance and mirrors the federal definition.

Six-Month Extension Length

The proposed rule establishes a six-month extension length to codify W-2 policy for reviewing program eligibility and granting extensions. Under s. 49.145(4), Stats., W-2 agencies are required to periodically review an individual’s eligibility and current policy requires that W-2 agencies conduct these ongoing eligibility reviews no less than every six months. The six-month extension length is intended to standardize extension decision-making across W-2 agencies and ensures strong case management of supportive services and discussion of participant progress toward self-sufficiency at regular intervals.

Maximum Number of Extensions

The proposed rule provides that the W-2 agency may determine the appropriate number of extensions. Current rule is silent on a maximum number of extensions and does not specify a duration of allowable extensions. By codifying current W-2 policy that allows the W-2 agency to determine the appropriate number of extensions on a case-by-case basis, DCF maintains flexibility necessary to fit the needs of the W-2 caseload and for the W-2 agencies to best serve Wisconsin's most vulnerable, low-income families.

Changes to Custodial Parent of an Infant Time Limit

The proposed rule also incorporates a statutory update to s. 49.148(1m)(a)1., Stats., as affected by 2011 Wisconsin Act 32, that reduced the eligibility period for benefits for the custodial parent of an infant from the first 12 weeks to the first 8 weeks after the infant is born. This change to length of the custodial parent of an infant time limit has been implemented in W-2 policy and processes, so the proposed change is necessary to align DCF 101 with statute.

Effective Date

The proposed rule provides a three-month delay of the rule effective date. This delay is necessary to provide Wisconsin Works participants notice in advance of the time limit change to ensure sufficient time to plan for program exit and engage in program activities. In addition, W-2 eligibility and case-management automated systems track number of program months used for all W-2 cases, and DCF needs time to make the appropriate systems changes to implement the final rule change.

In conclusion, DCF has been working diligently to implement the 2015 Wisconsin Act 55 changes to W-2 time limits using a phased approach to implementation to guarantee the availability of resources and complete related efforts necessary to support the time limits changes. Those efforts included the development of a new web-based application to modernize tracking of time limit information. The department also updated W-2 policy and communications to convey a sense of urgency and emphasize the importance of planning for time limits and successful program exit. As a final step in the process, the Department is now proposing rule changes needed to implement the statutory changes to the W-2 time limits and extensions, and to improve organization and clarity and achieve consistency with relevant statutes. DCF believes that the proposed rule addresses the required changes to the W-2 lifetime limits as intended under 2015 Wisconsin Act 55 and meets the needs of the children and families we serve. The proposed rule aims to provide continued stability to high-risk families. We would be glad to answer any questions from the committee. Thank you.