

Clearinghouse Rule 95-229

CERTIFICATE

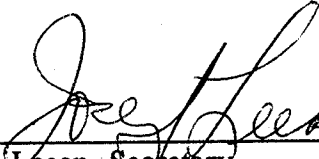
STATE OF WISCONSIN)
) SS
DEPARTMENT OF HEALTH AND SOCIAL SERVICES)

I, Joseph Lean, Secretary of the Department of Health and Social Services and custodian of the official records of the Department, do hereby certify that the annexed rules relating to participation of Aid to Families with Dependent Children (AFDC) recipients in the AFDC Benefit Cap Demonstration Project were duly approved and adopted by this Department on May 23, 1996.

I further certify that this copy has been compared by me with the original on file in the Department and that this copy is a true copy of the original, and of the whole of the original.

IN TESTIMONY WHEREOF, I have hereunto set my hand and affixed the official seal of the Department at the State Office Building, 1 W. Wilson Street, in the city of Madison, this 23rd day of May, 1996.

SEAL:



Joseph Lean, Secretary
Department of Health and Social Services



8-1-96
95-229

ORDER OF THE
DEPARTMENT OF HEALTH AND SOCIAL SERVICES
AMENDING AND CREATING RULES



To amend HSS 201.30(1) and to create HSS 201.303, relating to participation of Aid to Families with Dependent Children (AFDC) recipients in the AFDC Benefit Cap Demonstration Project.

Analysis Prepared by the Department of Health and Social Services

Under s.49.19, Stats., a family can apply and be determined eligible for the Aid to Families with Dependent Children (AFDC) program. If a family is determined eligible, the AFDC benefit amount is based, in part, on family size. The maximum amount of AFDC benefits a family can receive currently increases when an additional child is born.

On January 1, 1996, Wisconsin implemented the AFDC Benefit Cap Demonstration Project, authorized under s.49.19(11s), Stats., as created by 1995 Wisconsin Act 12, on the basis of emergency rules effective on that date. The purpose of this demonstration is to test whether eliminating increases in the AFDC grant when an additional child is born will encourage families on welfare to delay having more children until they are financially able to support them.

Under the demonstration project, a family will not receive an automatic increase in the AFDC grant when an additional child is born. The project began on January 1, 1996. The benefit cap will first apply to children born on or after November 1, 1996, provided that their parents have been recipients for more than 10 months. A child born to a recipient more than 10 months after first receipt of benefits will be counted in the family size for AFDC assistance standard purposes but not for purposes of benefit determination. An exception will be made for a child born as a result of rape or incest. A child born on or after November 1, 1996, although not counted in the family size for the purpose of determining the amount of the grant, will be counted for Medical Assistance and Food Stamp program purposes, and the family will be entitled to receive other social service assistance for the child.

These are the permanent rules for implementation of the AFDC Benefit Cap Demonstration Project. The rules describe how the Department will select AFDC recipients who must participate in the demonstration, and outline the Department's responsibilities in administering the demonstration project.

The Department's authority to create these rules is found in s.49.19(11s)(b)5., Stats., as created by 1995 Wisconsin Act 12, and s.49.50(2), Stats. The rules interpret s.49.19(11s), Stats., as created by 1995 Wisconsin Act 12.

SECTION 1. HSS 201.30(1) is amended to read:

HSS 201.30(1) ONGOING PAYMENTS. ~~The~~ Except as provided in s.HSS 201.303, the AFDC grant shall be determined by subtracting the AFDC group's income from the family allowance appropriate for the size of the AFDC group. As provided under s.49.19(11)(a)7., Stats., no payment shall be made for a month if the amount of the payment would be less than \$10 except when the benefit amount is reduced below \$10 because of recoupment under s.HSS 201.30(5). Members of an AFDC group which receives no money payment because of the application of s.49.19(11)(a)7., Stats., shall be deemed recipients for all other AFDC purposes except for participation in community work experience under s.49.193(4)(h), Stats.

SECTION 2. HSS 201.303 is created to read:

HSS 201.303 AFDC BENEFIT CAP DEMONSTRATION PROJECT.

(1) AUTHORITY AND PURPOSE. This section is adopted under the authority of ss.49.19(11s), and 49.50(2), Stats., to permit implementation of an AFDC benefit cap demonstration project statewide. Under the project, an AFDC grant shall not increase for an AFDC group under sub. (3)(a) 2. or 3., when an additional child is born if the child is born more than 10 months after the date the family was first determined to be eligible for assistance, but not earlier than November 1, 1996.

(2) APPLICABILITY. This section applies to the department, to county and tribal agencies and to AFDC recipients.

(3) DEPARTMENT RESPONSIBILITIES. (a) Assignment to benefit cap demonstration project. The department shall randomly assign each AFDC group to one of the following demonstration groups:

1. A control group, for whom the AFDC grant is determined according to s.49.19(11)(a), Stats.;

2. An experimental group, which will be evaluated for research purposes and for whom the AFDC grant is determined according to the provisions in s.49.19(11s), Stats., and this section; and

3. A non-experimental group, which will not be evaluated for research purposes and for whom the AFDC grant is determined according to the provisions in s.49.19(11s), Stats., and this section.

(b) Provision of family planning information services and instruction in parenting skills. The department shall contract with a county agency in each county and each tribal agency to provide family planning information services and instruction in parenting skills to AFDC groups at the time of each application and redetermination of eligibility.

(4) AGENCY RESPONSIBILITIES (a) Notification. County and tribal agencies shall inform all applicants for and recipients of AFDC of the provisions under sub. (5) at the time of application and review.

(b) Family planning information services. Agencies providing services under sub. (3)(b) shall develop and submit to the department an annual plan for the provision of family planning information services to recipients subject to sub. (3)(a).

(5) GRANT DETERMINATION FOR ADDITIONAL FAMILY MEMBERS. (a) In determining the grant amount under s.HSS 201.30, a child born into an experimental AFDC group under sub.(3)(a)2. or non-experimental AFDC group under sub.(3)(a)3. more than 10 months after the date that the family was first determined to be eligible for assistance under this section shall not be considered in determining family size for purposes of s.49.19(11)(a), Stats., unless at least one of the following conditions is met:

1. The AFDC group did not receive benefits under s.HSS 201.30 for a period of at least 6 months, other than as a result of sanctions, and the child was born during that period or not more than 10 months after the AFDC group resumed receiving benefits under s.HSS 201.30 after that period;

2. The child was conceived as a result of a sexual assault in violation of s.940.225(1), (2) or (3), Stats., in which the mother did not indicate a freely given agreement to have sexual intercourse, or the child was conceived as a result of incest in violation of s.944.06 or 948.06, Stats. The agency shall grant an exemption if:

a. The incident has been reported to a law enforcement agency which determines that there is probable cause to believe the crime occurred; and

b. A physician verifies that there is reason to believe the pregnancy or birth resulted from the reported incident;

3. The child's mother is a dependent child as provided in s.49.19(1)(a), Stats., at the time of the child's birth and the child is, or multiple children are, born as a result of the mother's first pregnancy that resulted in a live birth or live births;

4. The child does not reside with his or her biological mother or father; or

5. The recipient is subject to the parental and family responsibility demonstration project under s.49.25, Stats., and s.HSS 201.198.

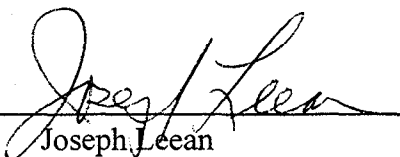
(b) The county or tribal agency shall add a pregnancy allowance to the assistance standard under s.49.19(11)(a), Stats., for an AFDC benefit cap demonstration group in accordance with s.HSS 201.30(3).

(c) Children born to current or new recipients participating in the experimental and non-experimental AFDC groups under sub.(3)(a)2. and 3. more than 10 months after the date the family was first determined to be eligible for assistance shall be counted in the family size for AFDC assistance standard purposes under s.49.19(4)(es) and (k) and (11)(a), Stats., but not for AFDC benefit determination purposes. These children shall be deemed recipients for AFDC purposes and shall be categorically eligible for medical assistance as provided under s. 49.46, Stats., food stamps as provided under 7 CFR Part 273.2(j)(2) and child care.

The rules contained in this order shall take effect on the first day of the month following publication in the Wisconsin Administrative Register as provided in s.227.22(2), Stats.

Wisconsin Department of
Health and Social Services

Dated: May 23, 1996

By: 
Joseph J. Lee
Secretary

SEAL: