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State of Wisconsin Department of Children and Families
EMERGENCY RULE

Transitional Jobs for Low-Income Adults
DCF 110

The Wisconsin Department of Children and Families orders the creation of chapter DCF 110, relating to transitional jobs for low-income adults.

Finding of Emergency

The Department of Children and Families finds that an emergency exists and that the attached rule is necessary for the immediate preservation of the public peace, health, safety, or welfare. A statement of facts constituting the emergency is:

Initial funding for the transitional jobs demonstration project will come from the Temporary Assistance to Needy Families (TANF) Emergency Contingency Fund under the American Recovery and Reinvestment Act of 2009. Spending for subsidized employment is one of the ways that the state can earn additional federal dollars under the TANF Emergency Contingency Fund. The deadline for earning the additional federal dollars is September 30, 2010.

Analysis Prepared by the Department of Children and Families

Statutory authority: Sections 49.162 (3) (c) and 227.11 (2) (a), Stats.
Statutes interpreted: Section 49.162, Stats., as created by 2009 Wisconsin Act 28 and affected by 2009 Wisconsin Act 333

Explanation of Agency Authority

Section 49.162, Stats., as created by 2009 Wisconsin Act 28, provides that the department shall conduct a demonstration project that offers transitional jobs to low-income adults. The department shall seek federal funds to pay for the cost of operating the demonstration project and may conduct the project only to the extent that the department obtains federal funds. Section 49.162, (3) (c), Stats., provides that the department shall promulgate rules for the operation of the demonstration project.

2009 Wisconsin Act 333 amends s. 49.162, Stats., if the department determines that expanding the transitional jobs program as provided in Act 333 is the preferred mechanism for obtaining some or all of the federal funding under the TANF Emergency Contingency Fund of the American Recovery and Reinvestment Act of 2009. The department must publish a notice in the *Wisconsin Administrative Register* that states the date on which the department made that determination. The changes to Act 333 are effective on the date that the department made the determination. The changes to Act 333 are effective July 1, 2010.

Act 333 provides that the department shall publish a second notice in the *Wisconsin Administrative Register* when federal funding under the TANF Emergency Contingency Fund is no longer available. The changes to s. 49.162, Stats., in Act 333 are repealed when the federal funding may no longer be obtained. The American Recovery and Reinvestment Act of 2009 currently provides that funding under the TANF Emergency Contingency Fund may no longer be obtained after September 30, 2010.

Summary of the Rule

The rules allow the department to conduct a demonstration project that provides subsidized, wage-paying transitional jobs and supportive services to low-income adults. The purpose of the transitional jobs demonstration project is to

provide low-income adults with immediate income and the opportunity for the development of basic skills, appropriate work habits, a positive work history, and longer-term career preparation with the goal that they will be more likely to obtain and maintain unsubsidized employment.

An individual may be eligible to participate in the transitional jobs demonstration project only if all of the following criteria are met:

- The individual is at least 21 but not more than 64 years of age.
- The individual is not eligible to receive a Wisconsin Works grant.
- The individual has been unemployed for at least the 4 prior calendar weeks.
- The individual is not eligible to receive unemployment insurance benefits.
- The individual's annual household income is below 150 percent of the federal poverty line.
- If the employment of an individual as a transitional worker is expected to be subsidized by the Temporary Assistance for Needy Families program, the individual shall be one or more of the following at the time of eligibility determination:
 - Less than 25 years of age.
 - The biological or adoptive parent of a child under the age of 18.
 - A primary relative caregiver for a child under the age of 18.

An individual may participate in the transitional jobs demonstration project for a maximum of 1,040 hours of orientation, subsidized work, and training.

A contractor shall conduct periodic orientations for individuals that the contractor has determined are eligible to participate in the transitional jobs demonstration project. During the orientation, the contractor shall encourage and assist eligible individuals to recognize their strengths, assets, aspirations, resilience, and potential to achieve economic stability; identify and address barriers to employment; and develop an individualized plan for obtaining unsubsidized employment.

A contractor is the employer of a transitional worker and shall pay the transitional worker's wages; the employer's share of federal Social Security and Medicare taxes; unemployment insurance contributions or taxes, if any; and worker's compensation insurance premiums, if any. A contractor may subcontract these responsibilities with prior approval by the department. Wages shall be paid at not less than the minimum wage for hours working at a work site and at the minimum wage for hours participating in orientation and training.

A transitional worker may be part of a work crew that goes to different work sites under the supervision of a contractor or may be individually placed with a host. If a transitional worker is placed with a host, the host shall assign a supervisor to oversee the transitional worker's daily responsibilities; assist the transitional worker with the proper completion of time sheets; and communicate with the contractor regarding issues arising in the workplace and the progress of the transitional worker in developing basic skills, appropriate work habits, a positive work history, and longer-term career preparation.

The contractor and host of a transitional worker shall ensure that the employment of a transitional worker does not have the effect of filling a vacancy created by an employer terminating a regular employee or otherwise reducing its work force for the purpose of hiring a transitional worker, filling a position when any other person is on layoff or strike from the same or a substantially equivalent job within the same organizational unit, or filling a position when any other person is engaged in a labor dispute regarding the same or a substantially equivalent job within the same organizational unit.

A contractor may provide education and training to a transitional worker directly or by subcontract with local training providers if the transitional worker is working at least 20 hours per week in a transitional job and the combined hours of the transitional job and participation in education and training do not exceed 40 hours per week. The education and training provided shall be consistent with the transitional worker's plan for obtaining unsubsidized employment and complementary to the transitional worker's transitional job.

A contractor may provide to a current or former transitional worker economic and non-economic incentives and supports, including training stipends, uniform allowances, assistance in obtaining a driver's license, parenting support groups, earnings supplements, and retention bonuses. An economic incentive or support shall assist a current or former transitional worker obtain or maintain unsubsidized employment.

A contractor shall provide a transitional worker with activities and resources that assist the transitional worker's search for unsubsidized employment. A contractor shall monitor a former transitional worker during his or her first 6 months of unsubsidized employment to assist with job retention and advancement, unless the contractor's contract to operate a transitional jobs program has ended.

The department shall reimburse a contractor for wages paid to transitional workers at the minimum wage rate for each hour actually worked; the employer's share of federal Social Security and Medicare taxes; unemployment contributions or taxes, if any; and worker's compensation insurance premiums, if any. The department may reimburse a contractor for expenditures incurred by the contractor related to operating a transitional jobs program, including the costs of orientation, supervision, training, and providing job supports to current and former transitional workers.

Summary of Related Federal Requirements

The American Recovery and Reinvestment Act of 2009 created the TANF Emergency Contingency Fund under which states can receive 80% federal funding for spending increases in federal fiscal years 2009 and 2010 over federal fiscal years 2007 or 2008 in certain categories of TANF-related expenditures. The three categories are basic assistance, non-recurrent short-term benefits, and subsidized employment.

TANF is a federal block grant that provides states with funds that can be used for a wide range of activities that are aimed at any of the four purposes of TANF:

- Assisting needy families so that children can be cared for in their own homes.
- Reducing the dependency of needy parents by promoting job preparation, work and marriage.
- Preventing out-of-wedlock pregnancies.
- Encouraging the formation and maintenance of two-parent families.

Guidance issued by the Administration for Children and Families (ACF) on the TANF Emergency Contingency Fund states that under limited circumstances an adult without a dependent child can receive a TANF service, as long as it is reasonably calculated to accomplish a purpose of the TANF program and does not constitute "assistance" as defined in the TANF regulations. ACF has indicated that services to noncustodial parents and older youth could satisfy one or more of the statutory purposes of the TANF program. Examples of services that could be provided include subsidized employment, job skills training, employment counseling, and employment placement services.
(<http://www.acf.hhs.gov/programs/ofa/recovery/tanf-faq.htm>)

Summary of Factual Data and Analytical Methodologies

The deadline for earning federal funds under the TANF Emergency Contingency Fund is September 30. Funds that have been earned may be spent after September 30.

Comparison to Adjacent States

As of June 3, thirty states had been awarded a share of the TANF Emergency Contingency Fund for increased expenses on subsidized employment, including Michigan, Minnesota, Iowa, and Illinois.

Agency Contact Person

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SECTION 1. Chapter DCF 110 is created to read:

Chapter DCF 110 TRANSITIONAL JOBS FOR LOW-INCOME ADULTS

DCF 110.01 Authority and purpose. This chapter is promulgated under the authority of s. 49.162, Stats., to allow the department to conduct a demonstration project that provides subsidized, wage-paying transitional jobs and supportive services to low-income adults. The purpose of the transitional jobs demonstration project is to provide low-income adults with immediate income and the opportunity for the development of basic skills, appropriate work habits, a positive work history, and longer-term career preparation with the goal that they will be more likely to obtain and maintain unsubsidized employment.

DCF 110.02 Definitions. In this chapter:

- (1) “Contractor” means an entity that has been awarded a contract for the operation of a transitional jobs program.
- (2) “Department” means the Wisconsin department of children and families.
- (3) “Host” means an entity providing a transitional job work site and day-to-day supervision of a transitional worker.
- (4) “Minimum wage” means the higher of the federal minimum hourly wage under 29 USC 206 (a) (1) or the state minimum wage under s. DWD 272.03.
- (5) “Poverty line” means the poverty guidelines updated periodically in the Federal Register by the federal department of health and human services under the authority of 42 USC 9902(2).
- (6) “Relative” means a parent, stepparent, brother, sister, stepbrother, stepsister, half brother, half sister, brother-in-law, sister-in-law, first cousin, 2nd cousin, nephew, niece, uncle, aunt, stepuncle, stepaunt, or any person of a preceding generation as denoted by the prefix of grand, great, or great-great, whether by blood, marriage, or legal adoption, or the spouse of any person named in this subsection, even if the marriage is terminated by death or divorce.
- (7) “Transitional job” means a subsidized wage-paying employment position under s. 49.162, Stats., that is focused on the development of appropriate work habits, basic skills, and a performance record to increase the likelihood of obtaining and maintaining unsubsidized employment.
- (8) “Transitional worker” means an individual who is employed in a transitional job.

DCF 110.03 Eligibility. (1) An individual may be eligible to participate in the transitional jobs demonstration project only if all of the following criteria are met:

- (a) The individual is at least 21 but not more than 64 years of age.
 - (b) The individual is not eligible to receive a Wisconsin Works grant under s. 49.148, Stats.
 - (c) The individual has been unemployed for at least the 4 prior calendar weeks.
 - (d) The individual is not eligible to receive unemployment insurance benefits under ch. 108, Stats.
 - (e) The individual’s annual household income is below 150 percent of the federal poverty line.
 - (f) If the employment of an individual as a transitional worker is expected to be subsidized by the Temporary Assistance for Needy Families program under 42 USC 601 to 619, the individual shall be one or more of the following at the time of eligibility determination:
 1. Less than 25 years of age.
 2. The biological or adoptive parent of a child under the age of 18.
 3. A primary relative caregiver for a child under the age of 18.
- (2) An individual may participate in the transitional jobs demonstration project for a maximum of 1,040 hours of orientation under s. DCF 110.04, subsidized work under s. DCF 110.05, and training under s. DCF 110.06.

DCF 110.04 Orientation. (1) A contractor shall conduct periodic orientations for individuals that the contractor has determined are eligible to participate in the transitional jobs demonstration project. During the orientation, the contractor shall encourage and assist eligible individuals to do all of the following:

- (a) Recognize their strengths, assets, aspirations, resilience, and potential to achieve economic stability.
 - (b) Identify and address barriers to employment.
 - (c) Develop an individualized plan for obtaining unsubsidized employment.
- (2) A contractor shall pay an individual that participates in the orientation at the minimum wage rate for time spent participating.
- (3) The orientation shall be at least 20 hours per week for no more than 4 weeks.

DCF 110.05 Subsidized work. (1) **CONTRACTOR IS EMPLOYER.** (a) Except as provided in par. (b), a contractor is the employer of a transitional worker and shall pay the transitional worker’s wages; the employer’s share of

federal social security and medicare taxes; unemployment insurance contributions or taxes, if any; and worker's compensation insurance premiums, if any.

(b) A contractor may subcontract responsibilities under par. (a) with prior approval by the department.

(2) **HOURS PER WEEK.** A contractor shall employ a transitional worker for a minimum of 20 hours per week and a maximum of 40 hours per week.

(3) **WAGES.** A contractor that employs a transitional worker shall pay the transitional worker for hours working at a work site under sub. (4) at not less than the minimum wage.

(4) **WORK SITES.** A transitional worker's work site may be any of the following:

(a) A transitional worker may be individually placed with a host.

(b) A transitional worker may be part of a work crew that goes to different work sites under the supervision of a contractor.

(5) **HOSTS.** (a) A host shall develop and maintain an accurate description of any transitional job position at the host's work site.

(b) If a transitional worker is placed with a host, the host shall assign a supervisor to perform all of the following duties:

1. Oversee the transitional worker's daily responsibilities.

2. Assist the transitional worker with the proper completion of time sheets.

3. Communicate with the contractor regarding issues arising in the workplace and the progress of the transitional worker in developing basic skills, appropriate work habits, a positive work history, and longer-term career preparation.

(c) A host may hire a transitional worker as a regular employee at any time during or after the term of the transitional job.

(6) **NONDISPLACEMENT.** The contractor and host of a transitional worker shall ensure that the employment of a transitional worker does not do any of the following:

a. Have the effect of filling a vacancy created by an employer terminating a regular employee or otherwise reducing its work force for the purpose of hiring a transitional worker.

b. Fill a position when any other person is on layoff or strike from the same or a substantially equivalent job within the same organizational unit.

c. Fill a position when any other person is engaged in a labor dispute regarding the same or a substantially equivalent job within the same organizational unit.

DCF 110.06 Training. (1) A contractor may provide education and training to a transitional worker directly or by subcontract with local training providers.

(2) The education and training provided shall be consistent with the transitional worker's plan for obtaining unsubsidized employment under s. DCF 110.04 (1) (c) and complementary to the transitional worker's transitional job.

(3) A contractor may pay a transitional worker at the minimum wage for hours of participation in education and training if the transitional worker is working at least 20 hours per week in a transitional job and the combined hours of the transitional job and participation in education and training do not exceed 40 hours per week.

DCF 110.07 Job supports. A contractor may provide to a current or former transitional worker economic and non-economic incentives and supports, including training stipends, uniform allowances, assistance in obtaining a driver's license, parenting support groups, earnings supplements, and retention bonuses. An economic incentive or support shall assist a current or former transitional worker obtain or maintain unsubsidized employment.

DCF 110.08 Unsubsidized employment. (1) A contractor shall provide a transitional worker with activities and resources that assist the transitional worker's search for unsubsidized employment.

(2) A contractor shall monitor a former transitional worker during his or her first 6 months of unsubsidized employment to assist with job retention and advancement, unless the contractor's contract to operate a transitional jobs program has ended.

DCF 110.09 Department reimbursement. (1) The department shall reimburse a contractor for all of the following costs incurred by the contractor that are attributable to employment of transitional workers:

(a) Wages paid to transitional workers at the minimum wage rate for each hour actually worked.

(b) Employer's share of federal social security and medicare taxes; state and federal unemployment contributions or taxes, if any; and worker's compensation insurance premiums, if any.

(2) The department may reimburse a contractor for expenditures incurred by the contractor related to operating a transitional jobs program, including the costs of orientation under s. DCF 110.04, supervision under s. DCF 110.05 (4)

(b), training under s. DCF 110.06, and providing job supports to current and former transitional workers under s. DCF 110.07.

SECTION 2. EFFECTIVE DATE. This rule shall take effect on July 1, 2010, as provided in s. 227.24 (1) (c), Stats.