

## Clearinghouse Rule 21-090

### State of Wisconsin Department of Children and Families

## Asset Restrictions for Wisconsin Works and Emergency Assistance

### Chapters DCF 101 and 120

The Wisconsin Department of Children and Families proposes **to repeal** s. DCF 101.09 (3) (intro.) and (a); **to renumber and amend** ss. DCF 101.09 (3) (b) and 120.06 (2); **to amend** ss. DCF 101.09 (1), 101.11 (1), 101.13, 101.16 (4), 101.17 (1) (intro.), 101.18 (2) (a) as affected by CR 18-016, and 120.06 (1) (intro.); and **to create** ss. DCF 101.09 (3m) and 120.06 (2) (a) and (b), relating to asset restrictions for Wisconsin Works and Emergency Assistance.

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#### Analysis Prepared by the Department of Children and Families

**Statutory authority:** Sections 49.138 (1d) (b), 49.145 (3) (c), and 227.11 (2) (a), Stats.

**Statutes interpreted:** Sections 49.138 (1d) (b) and 49.141 to 49.161, Stats.

**Related statutes and rules:** Section 49.155 (1m) (cr) and (2m) and s. DCF 201.036 (2m)

#### Explanation of Agency Authority

The department administers the Wisconsin Works program under ss. 49.141 to 49.161, Stats., and the Emergency Assistance program under s. 49.138, Stats.

Section 49.138 (1d) (b), Stats., provides that “needy person” has the meaning specified by the department by rule.

Section 49.145 (3) (a), Stats., provides that an individual is eligible for a Wisconsin Works employment position or job access loan only if the individual is a member of a Wisconsin Works group whose assets do not exceed \$2,500 in combined equity value. Except as provided under s. 49.145 (3) (c), Stats., in determining the combined equity value of assets, the Wisconsin Works agency shall exclude the equity value of vehicles up to a total equity value of \$10,000, and one home, valued at no more than 200 percent of the statewide median value for homes, that serves as the homestead for the Wisconsin Works group. In calculating the value of the homestead, the Wisconsin Works agency shall exclude the value of agricultural land owned by the Wisconsin Works group.

Section 49.145 (3) (c), Stats., provides that the department may promulgate a rule that establishes a hardship exemption to the asset restrictions under s. 49.145 (3) (a), Stats. If an individual qualifies for a hardship exemption under the department’s rule, the Wisconsin Works agency shall exclude the equity value of vehicles up to a total equity value of \$10,000, and of one home, valued at any amount, that serves as the homestead for the Wisconsin Works group in determining whether the Wisconsin Works group’s combined equity value of assets exceeds \$2,500.

Section 227.11 (2) (a), Stats., expressly confers rule-making authority on each agency to promulgate rules interpreting the provisions of any statute enforced or administered by the agency if the agency considers it necessary to effectuate the purpose of the statute.

### **Summary of the Rule**

The proposed rule creates hardship exemptions to the asset restrictions for Wisconsin Works financial eligibility that limit the exclusion of the value of the homestead of a Wisconsin Works group to a home that is valued at no more than 200 percent of the statewide median value for homes. The rule provides that a Wisconsin Works agency shall exclude one home, valued at any amount, that serves as the homestead for the Wisconsin Works group if the individual qualifies for a hardship exemption based on any of the following:

- No member of the Wisconsin Works group has the legal right to sell the home, including for reasons such as the home is subject to pending litigation and the home is jointly owned with a person who is not in the Wisconsin Works group and who refuses to consent to the individual in the Wisconsin Works group selling their share.
- The individual had a recent sudden loss of income due to death, divorce, separation, or non-payment of support.
- The Wisconsin Works group includes an incapacitated group member.
- The individual is or has been a victim of domestic abuse or is at risk of further domestic abuse, the home is jointly owned with the abuser, and the abuser is not a member of the Wisconsin Works group.

Section 49.145 (3) (a), Stats., excludes agricultural land from the calculation of the value of the home for the purpose of the limit on the homestead exemption. The proposed rule also defines “agricultural land” to include buildings and improvements that are devoted primarily to agricultural use and the land necessary for their location and convenience.

In addition, the financial eligibility section of ch. DCF 101, Wisconsin Works, is renumbered and rewritten for clarity. Cross-references to the renumbered provision are updated throughout the chapter.

The asset section of ch. DCF 120, Emergency Assistance, is rewritten without changing the substance. The current asset rule includes a cross-reference to the Wisconsin Works rule on asset restrictions. The proposed rule specifies a \$2,500 asset limit, excluding \$10,000 in equity in vehicles and the value of a home that serves as the homestead for the Emergency Assistance group.

### **Summary of Factual Data and Analytical Methodologies**

The proposed rule creates hardship exemptions to the asset limit in s. 49.145 (3) (a), Stats.

### **Summary of Related Federal Law**

Not applicable

## **Comparison to Adjacent States**

### **Illinois**

The Illinois Temporary Assistance Program for Needy Families does not have an asset limit.

### **Minnesota**

The Minnesota Family Investment Program has a personal property asset limit of \$10,000, excluding one vehicle per individual in the assistance unit who is age 16 or older. All real property is excluded from the asset limit. Participants in the child care assistance program are exempt from the asset limit.

### **Iowa**

The Iowa Family Investment Program has a \$2,000 asset limit for applicants and a \$5,000 asset limit for participants. A homestead is excluded from the asset limit regardless of its value.

### **Michigan**

The Michigan Family Independence Program has an asset limit of \$15,000 for liquid assets and \$200,000 for real property. Property is excluded from the asset limit calculation if no member of the assistance group has the legal right to use or dispose of it. If accessing an asset would put an individual who experienced domestic violence in danger, the asset may be excluded for a maximum of 3 months.

## **Effect on Small Businesses**

The proposed rule does not affect small businesses as defined in s. 227.114 (1), Stats.

## **Analysis Used to Determine Effect on Small Businesses**

The impact of the proposed rule is limited to agencies administering the Wisconsin works program and families and individuals participating in the Wisconsin works program. No current Wisconsin works agency is a small business as defined s. 227.114 (1), Stats.

## **Agency Contact**

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## **Place Where Comments are to be Submitted and Deadline for Submission**

Comments may be submitted to Elaine Pridgen, Department of Children and Families, 201 W. Washington Ave, P.O. Box 8916, Madison, WI, 53708-8916 or [dcfpublichearing@wisconsin.gov](mailto:dcfpublichearing@wisconsin.gov). The comment deadline is January 6, 2022.

**SECTION 1. DCF 101.09 (1) is amended to read:**

**DCF 101.09 (1) GENERAL ELIGIBILITY.** In order to be eligible for Wisconsin works employment positions and job access loans for any month, an individual shall meet the eligibility requirements under subs. (2) ~~and (3)~~ to (4).

**SECTION 2. DCF 101.09 (3) (intro) and (a) are repealed.**

**SECTION 3. DCF 101.09 (3) (b) is renumbered as DCF 101.09 (4) and DCF 101.09 (4) (title), (a), and (b) (intro.), as renumbered, are amended to read:**

**DCF 101.09 (4) FINANCIAL ELIGIBILITY; INCOME LIMITATIONS.**

(a) ~~The~~ An individual is eligible for a Wisconsin works employment position and job access loan only if the individual is a member of a W-2 Wisconsin works group whose gross income is at or below 115% of the poverty line. In this ~~subdivision~~ subsection, “gross income” does not include any payments or benefits made under any federal law that specifically exempts such payments or benefits from being considered in determining eligibility for any federal means-tested program.

(b) (intro.) Except as provided in ~~subd. 1. par. (a)~~, in calculating gross income, the W-2 agency shall include all of the following:

**SECTION 4. DCF 101.09 (3m) is created to read:**

**DCF 101.09 (3m) FINANCIAL ELIGIBILITY; RESOURCE LIMITATIONS.** (a) *Asset limits.* An individual is eligible for a W-2 employment position and job access loan only if the individual is a member of a Wisconsin works group whose assets do not exceed \$2,500 in combined equity value. Except as provided in par. (c), in determining the combined equity value of assets under this subsection, the W-2 agency shall exclude all of the following:

1. The equity value of vehicles up to a total equity value of \$10,000. In this subdivision, “equity value of vehicles” means the trade-in value of the vehicles as given in a standard guide on motor vehicle values or as estimated by a sales representative at a local car dealership, minus any debts secured by the vehicles.

2. One home that serves as the homestead for the Wisconsin works group that is valued at no more than 200 percent of the statewide median value for homes. In calculating the value of the homestead, the W-2 agency shall exclude the value of agricultural land owned by the Wisconsin works group. In this subdivision, “agricultural land” includes buildings and improvements that are devoted primarily to agricultural use and the land necessary for their location and convenience.

(b) *Sponsored alien.* When an individual is a sponsored alien pursuant to 8 USC 1183a, the sponsor’s resources shall be attributed to the sponsored alien as provided under 8 USC 1631.

(c) *Hardship exemption.* In determining the combined equity value of an individual’s assets under par. (a), a W-2 agency shall exclude one home, valued at any amount, that serves as the homestead for the Wisconsin works group if the individual qualifies for a hardship exemption based on any of the following:

1. No member of the Wisconsin works group has the legal right to sell the home. Limitations include any of the following:

a. The home is subject to pending litigation.

b. The home is jointly owned with a person who is not in the W-2 group and who refuses to consent to the individual in the W-2 group selling their share.

2. The individual had a recent sudden loss of income due to death, divorce, separation, or nonpayment of support.

3. The Wisconsin works group includes an incapacitated group member.

4. The individual is or has been a victim of domestic abuse or is at risk of further domestic abuse, the home is jointly owned with the abuser, and the abuser is not a member of the W-2 group.

**SECTION 5. DCF 101.11 (1) is amended to read:**

**DCF 101.11 (1)** The W-2 agency shall verify that an individual meets nonfinancial and financial eligibility criteria under s. DCF 101.09 (2) ~~and (3)~~ to (4) prior to placing an individual in a W-2 employment position, nonfinancial and financial eligibility criteria under s. 49.155 (1m), Stats., and s. DCF 101.26 prior to providing a child care subsidy or other appropriate eligibility criteria prior to providing any other W-2 benefit or service.

**SECTION 6. DCF 101.13 is amended to read:**

**DCF 101.13 Review of eligibility.** A W-2 agency shall periodically review an individual's eligibility. A W-2 employment position participant remains eligible under s. DCF 101.09 ~~(3)~~ (3m) and (4) until the W-2 group's assets or income is expected to exceed the asset or income limits under s. DCF 101.09 ~~(3)~~ (3m) or (4) for at least 2 consecutive months.

**SECTION 7. DCF 101.16 (4) (a) (intro.) is amended to read:**

**DCF 101.16 (4) (a) Additional eligibility criteria.** (intro.) An individual is eligible to participate in a transitional placement under this subsection if, in addition to meeting the eligibility requirements under s. DCF 101.09 (2) ~~and (3)~~ to (4), the W-2 agency determines that any of the following conditions are met with respect to the individual:

**SECTION 8. DCF 101.17 (1) (intro.) is amended to read:**

**DCF 101.17 (1) ELIGIBILITY CRITERIA.** (intro.) An individual is eligible to receive a job access loan if, in addition to meeting the eligibility requirements under s. DCF 101.09 (2) ~~and (3)~~ to (4), all of the following conditions are met with respect to the individual:

**SECTION 9. DCF 101.18 (2) (a) is amended to read:**

**DCF 101.18 (2) (a)** A custodial parent of a child who is 8 weeks old or less and who meets the eligibility requirements under s. DCF 101.09 (2) ~~and (3)~~ to (4) may receive a monthly grant in the amount provided under s. 49.148 (1m), Stats. A Wisconsin works agency may not require a participant under this subsection to participate in a trial job, CSJ, or transitional placement.

**SECTION 10. DCF 120.06 (1) (intro.) is amended to read:**

**DCF 120.06 (1) INCOME.** (intro.) The gross income of the emergency assistance group may not exceed 115% of the poverty line. The agency shall determine the amount of income available to the group in accordance with s. DCF 101.09 ~~(3)-(b)~~ (4) except any of the following grants received in the month of the emergency is not counted:

**SECTION 11. DCF 120.06 (2) is renumbered DCF 120.06 (2) (intro.) and amended to read:**

**DCF 120.06 (2) ASSETS.** (intro.) The assets of the emergency assistance group may not exceed \$2,500 in combined equity value. ~~The agency shall determine the amount of assets available to the group in accordance with s. DCF 101.09 (3) (a).~~ In determining the combined equity value of assets under this subsection, the agency shall exclude all of the following:

**SECTION 12. DCF 120.06 (2) (a) and (b) are created to read:**

**DCF 120.06 (2)** (a) The equity value of vehicles up to a total equity value of \$10,000. In this paragraph, “equity value of vehicles” means the trade-in value of the vehicles as given in a standard guide on motor vehicle values or as estimated by a sales representative at a local car dealership, minus any debts secured by the vehicles.

(b) One home that serves as the homestead for the emergency assistance group.

**SECTION 13. EFFECTIVE DATE.** This rule shall take effect on the first day of the month following publication in the Administrative Register, as provided in s. 227.22 (2) (intro.), Stats.