

# Clearinghouse Rule 00-129

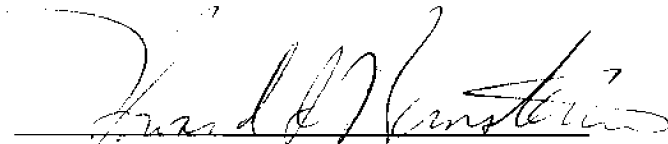
## Rules Certificate

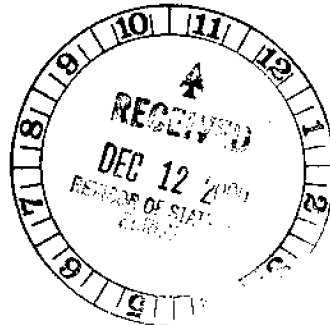
STATE OF WISCONSIN )  
 ) SS  
DEPARTMENT OF WORKFORCE DEVELOPMENT )

I, Jennifer Reinert, Secretary of the Department of Workforce Development, and custodian of the official records, certify that the annexed rules relating to W-2 eligibility and child care copayments were duly approved and adopted by this department on December 8th, 2000.

I further certify that this copy has been compared by me with the original on file in this department and that it 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 of the Department of Workforce Development at 201 E. Washington Avenue in the city of Madison, this 8th day of December 2000.

  
\_\_\_\_\_  
Secretary or designee



2-1-01

## Order Adopting Rules

Pursuant to authority vested in the Department of Workforce Development by ss. 49.145(2)(d), 49.145(2)(n)1.a., 49.145(3)(b)1., 49.145(4), 49.147(6)(a)2., 49.155(1m)(d), 49.155(5), and 227.11, Stats., the Department of Workforce Development repeals, renumbers, amends, repeals and recreates, and creates rules of Wisconsin Administrative Code chapters DWD 12 and 56, relating to W-2 eligibility and child care copayments.

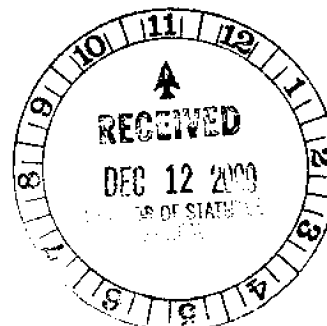
The attached rules shall take effect on February 1, 2000, pursuant to s. 227.22, Stats.

Adopted at Madison, Wisconsin this

Date: December 8, 2000

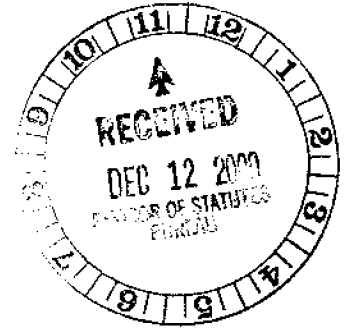
Department of Workforce Development

*Donald W. Hartman*  
Secretary or designee



**State of Wisconsin  
Department of Workforce Development**

**Chapters DWD 12 and 56  
W-2 Eligibility and Child Care Copayments**



The Wisconsin Department of Workforce Development proposes an order to repeal DWD 12.09(3)(b)2.b., 56.02(14), and 56.02(18)(note); to renumber DWD 56.02(12), 56.02(15m), 56.02(16m), and 56.02(20m); to amend DWD 12.05(10), 12.09(2)(n)(intro), 12.09(3)(b)2.a., 12.11(1), 12.13, 12.17(1)(b), 12.18(1)(b), 12.20(2), and 56.04(1); to repeal and recreate DWD 12.09(2)(d), 12.26, 56.08(1), Table 56.08 (note); and to create DWD 56.02(12), 56.02(25), 56.08(2), and 56.08(note), relating to W-2 eligibility and child care copayments.

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**Analysis Prepared by the Department of Workforce Development**

**Statutory authority:** Secs. 49.145(2)(d), 49.145(2)(n)1.a., 49.145(3)(b)1., 49.145(4), 49.147(6)(a)2., 49.155(1m)(d), 49.155(5), and 227.11, Stats., as affected by 1999 Wisconsin Act 9

**Statutes interpreted:** Secs. 49.145(2)(d), 49.145(2)(n)1.a., 49.145(3)(b)1., 49.145(4), 49.147(6)(a)2., 49.155(1m)(d), and 49.155(5), Stats., as affected by 1999 Wisconsin Act 9

**Substantive changes**

1. Copayment responsibility is eliminated for foster parents and for kinship care relatives who are caring for a kinship care child under court order. Foster parents and kinship care relatives currently pay the minimum copayment based on number of children in child care and type of care received, unless they are receiving a child care subsidy for another child who is not a foster or kinship care child. Kinship care relatives caring for a child without a court order will continue to pay the minimum copayment unless they are receiving a child care subsidy for another child who is subject to a copayment greater than the minimum copay.

2. Foster care payments received pursuant to s. 46.261, Stats., and kinship care payments received pursuant to s. 48.57 (3m) or (3n), Stats will not be considered family income in determining financial eligibility for child care for other children in the household. Currently, these payments are counted as household income and some families become ineligible for child care subsidies for their own children if they care for foster children or kinship care children.

## **Clarifications**

Two changes made to the child care copayment table in March 2000 are incorporated into rule language. Families with children who are authorized for child care assistance for 20 hours or less are subject to 50% of the copayment amounts for those children. Also, parents who have left a W-2 employment position for unsubsidized employment pay the minimum copayment amount based on number of children in the family in child care and the type of child care selected for the first month of the unsubsidized employment.

## **Statutory updates**

Several updates are made to bring the rules in compliance with changes made in 1999 Wisconsin Act 9. The 60-day residency requirement for W-2 is repealed. Earned income of dependent children and child support income is excluded in determining W-2 eligibility. A job access loan may be used to purchase a car. Language changes are made regarding JOBS participation and eligibility reviews. Language on child care eligibility that duplicated obsolete statutory provisions is repealed.

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### **SECTION 1. DWD 12.05 (10) is amended to read:**

**DWD 12.05(10).** Refer individuals who have been determined eligible under s. 49.155 (1m), Stats., and s. DWD 12.26 for a child care subsidy to the county child care agency under s. 46.215, 46.22 or 46.23, Stats., for child care assistance.

### **SECTION 2. DWD 12.09(2)(d) is repealed and recreated to read:**

**DWD 12.09(2)(d).** The individual has residence in this state.

### **SECTION 3. DWD 12.09(2)(n)(intro) is amended to read:**

**DWD 12.09(2)(n)(intro)** Beginning on the date on which the individual has attained the age of 18, the total number of months in which the individual has actively participated in the job opportunities and basic skills program under s. 49.193, Stats., or has participated in a Wisconsin works employment position or both does not exceed 60 months. The months need not be consecutive. For purposes of determining the number of monthly benefit payments permitted under s. 49.145 (2) (n), Stats., and this section, a JOBS program participant or W-2 participant shall be considered to have received a monthly benefit in a month in which, as a result of a sanction under s. DWD 11.19 (2) or (2m) or 12.18 (1) (b) or (c) or 12.21, a reduced monthly AFDC or W-2 benefit or no monthly AFDC or W-2 benefit is paid. Participation in the job opportunities and basic skills program under s. 49.193, Stats., ~~begins to count~~ on or after October 1, 1996, counts

toward the 60-month limit ~~beginning on October 1, 1996~~. A Wisconsin works agency may extend the time limit only if the Wisconsin works agency determines that unusual circumstances exist that warrant an extension of the participation period. The department may review, approve or overturn a W-2 agency's decision related to an extension of the 60-month limit. In this paragraph, "unusual circumstances" means any of the following:

**SECTION 4. DWD 12.09 (3)(b)2.a. is amended to read:**

**DWD 12.09 (3)(b) 2.a.** All earned and unearned income of the individual except any federal earned income credit received under section 32 of the internal revenue code as defined in s. 71.01 (6), Stats., any state earned income credit received under s. 71.07 (9e), Stats., any federal earned income credit payment made by an employer under section 3507 of the internal revenue code, and any W-2 employment position wages or benefits under s. 49.148, Stats. In determining the earned and unearned income of the individual, the Wisconsin works agency may not include income earned by a dependent child of the individual.

**SECTION 5. DWD 12.09 (3)(b)2.b. is repealed.**

**SECTION 6. DWD 12.11 (1) is amended to read:**

**DWD 12.11 (1)** The W-2 agency shall verify that an individual meets nonfinancial and financial eligibility criteria under s. DWD 12.09 (2) and (3) prior to placing an individual in a W-2 employment position, nonfinancial and financial eligibility criteria under ~~s. DWD 12.26 (2)~~ s. 49.155 (1m), Stats., and s. DWD 12.26 prior to providing a child care subsidy or other appropriate eligibility criteria prior to providing any other W-2 benefit or service.

**SECTION 7. DWD 12.13 is amended to read:**

**DWD 12.13 Review of eligibility.** A W-2 agency shall periodically review an individual's eligibility. A W-2 employment position participant remains eligible under s. DWD 12.09 (3) until the W-2 group's assets ~~exceed the asset limits for at least 2 months~~

~~or until the~~ or income of the ~~W-2~~ group is expected to exceed the asset or income limits under s. DWD 12.09 (3) for at least 2 consecutive months.

**SECTION 8. DWD 12.17(1)(b) is amended to read:**

**DWD 12.17(1)(b)** The individual needs the loan to obtain or continue employment. Fulfillment of this requirement includes a loan that is needed to repair or purchase a vehicle that is needed to obtain or continue employment.

**SECTION 9. DWD 12.20 (2) is amended to read:**

**DWD 12.20 (2)** Child care under s. 49.155, Stats., and s. DWD 12.26 was necessary for the W-2 participant to participate in W-2 required activities under s. DWD 12.16 or accept employment, child care was unavailable, and the W-2 agency was unable to provide or refer for alternate child care arrangements.

**SECTION 10. DWD 12.26 is repealed and recreated to read:**

**DWD 12.26 Child care.** (1) In two-parent families, both parents shall meet the eligibility criteria of s. 49.155 (1m), Stats., unless the agency that determines child care eligibility verifies that one parent has a disability or health condition that makes that parent unable to participate in activities under s. 49.155(1m)(a), Stats., and is unable to provide the child care necessary for the other parent to participate in activities under s. 49.155(1m)(a), Stats.

(2) Foster care payments received pursuant to s. 46.261, Stats., and kinship care payments received pursuant to s. 48.57 (3m) or (3n), Stats., shall not be considered as family income in determining financial eligibility for child care subsidies under s. 49.155 (1m)(c), Stats.

**SECTION 11. DWD 56.02 (12) is renumbered 56.08(11).**

**SECTION 12. DWD 56.02(12) is created to read:**

**DWD 56.02(12)** “Foster parent” means a person required to be licensed under s. 48.62(1)(a), Stats.

**SECTION 13. DWD 56.02(14) is repealed.**

**SECTION 14. DWD 56.02(15m) and 56.02(16m) are renumbered DWD 56.02(15) and DWD 56.02(16), respectively.**

**SECTION 15. DWD 56.02(18)(note) is repealed.**

**SECTION 16. DWD 56.02(20m) is renumbered DWD 56.02(20).**

**SECTION 17. DWD 56.02 (25) is created to read:**

**DWD 56.02(25).** “Wisconsin works employment position” has the meaning given in s. DWD 12.03 (39).

**SECTION 18. DWD 56.04 (1) is amended to read:**

**DWD 56.04(1) APPLICABILITY.** This section applies to child care funding sources under ~~s. 49.175 (1) (e), Stats.,~~ s. 49.155, Stats., ~~excluding s. 49.155 (1g), Stats.,~~ and the child care administrative agencies responsible for administration of those funds.

**SECTION 19. DWD 56.08 (1) is repealed and recreated to read:**

**DWD 56.08 Parent copayments. (1) SCHEDULE.** The department shall set a schedule for parent copayment responsibilities for all parents who receive child care financial assistance under s. 49.155, Stats., excluding s. 49.155 (1g), Stats. Copayment amounts will be based on family size, family gross income, the number of children in a given family in child care, and the type of child care selected. The copayment schedule is provided in Table DWD 56.08.

**Note:** This copayment schedule is current as of [insert effective date]. DWD may make future adjustments to the schedule as described in sub. (3).

**SECTION 20. DWD 56.08 (2) is created to read:**

**DWD 56.08(2) Exceptions.** (a) Families with children who are authorized for child care assistance for 20 hours or less are responsible for 50% of the amount listed in the copayment schedule for those children, based on family size, family gross income, the number of children in a given family in child care, and the type of care selected.

(b) Foster parents do not have a copayment responsibility for the foster children in their care.

(c) Kinship care relatives who are providing care for a child under court order do not have a copayment responsibility for the kinship care child in their care.

**Note:** Kinship care relatives do not have to be receiving payments under s. 48.57(3m) or (3n), Stats., for this paragraph to apply.

(d) Kinship care relatives who are providing care for a child without a court order are responsible for the minimum copayment based on the number of children in the family in child care and the type of child care selected for the kinship care child in their care, unless they are receiving a child care subsidy for another child is subject to a copayment greater than the minimum copay.

**Note:** Kinship care relatives do not have to be receiving payments under s. 48.57(3m) or (3n), Stats., for this paragraph to apply.

(e) Parents who have left a Wisconsin works employment position for unsubsidized employment may pay the minimum copayment amount based on the number of children in the family in child care and the type of child care selected for the first month of the unsubsidized employment.

**Note:** Sec. 49.155(5), Stats., provides: "An individual who is under the age of 20 and is attending high school or participating in a course of study meeting the standards established under s.115.29 (4) for the granting of a declaration of equivalency to high school graduation may not be determined liable for more than the minimum copayment amount for the type of child care received and the number of children receiving child care."

Sec. 49.26(1)(e), Stats., prohibits copayment responsibility for minor teen parents who are Learnfare participants.

7 USC 2015 prohibits copayment responsibility for participants in the Food Stamp Employment and Training program.

**SECTION 21. Table DWD 56.08 (note) is repealed and recreated to read:**

**Table DWD 56.08 (note)** The copayment rate for teen parents who are not Learnfare participants is found by selecting the lowest income line (70%) FPL and then finding the copayment listed, under either licensed care or certified care, for the appropriate number of children. Parents who have left a W-2 employment position for unsubsidized work also qualify for the minimum copay for one month. Families with children who are authorized for 20 hours or less are subject to one half of their share of the family copay listed above for those children. No copay is required for parents who participate in Learnfare or Food Stamp Employment and Training. Foster parents do not have a copayment responsibility for the foster children in their care. Kinship care relatives caring for a child under court order do not have a copayment responsibility. Kinship care relatives caring for a child



without a court order pay the minimum copay, unless they are receiving a child care subsidy for another child who is subject to a copayment greater than the minimum copay.

EFFECTIVE DATE. This rule shall take effect on the first day of the month following publication in the Wisconsin administrative register as provided s. 227.22(2)(intro.), Stats.,

### Child Care Co-Payment Schedule for Licensed and Certified Care

Look down the column of the appropriate family size until you find the gross family monthly income level at or just less than the family income. Look to the right to find the appropriate co-payment by family and type of care.

-----Gross Monthly Family Income-----

	FAMILY SIZE									WEEKLY LICENSED CARE CO-PAY AMOUNT					WEEKLY CERTIFIED CARE CO-PAY AMOUNT				
	2	3	4	5	6	7	8	9	10 or more	CHILDREN IN SUBSIDIZED CARE:					CHILDREN IN SUBSIDIZED CARE:				
										1	2	3	4	5 or more	1	2	3	4	5 or more
70% FPL	\$656	\$825	\$995	\$1,164	\$1,333	\$1,502	\$1,671	\$1,840	\$2,010	\$4	\$7	\$11	\$14	\$18	\$2	\$5	\$8	\$10	\$13
75% FPL	\$703	\$884	\$1,066	\$1,247	\$1,428	\$1,609	\$1,791	\$1,972	\$2,153	\$4	\$9	\$13	\$17	\$21	\$3	\$6	\$9	\$12	\$14
80% FPL	\$750	\$943	\$1,137	\$1,330	\$1,523	\$1,717	\$1,910	\$2,103	\$2,297	\$6	\$10	\$14	\$19	\$23	\$5	\$7	\$10	\$14	\$16
85% FPL	\$797	\$1,002	\$1,208	\$1,413	\$1,619	\$1,824	\$2,029	\$2,235	\$2,440	\$9	\$13	\$17	\$21	\$26	\$6	\$9	\$12	\$14	\$18
90% FPL	\$844	\$1,061	\$1,279	\$1,496	\$1,714	\$1,931	\$2,149	\$2,366	\$2,584	\$10	\$16	\$21	\$26	\$31	\$7	\$11	\$14	\$18	\$22
95% FPL	\$891	\$1,120	\$1,350	\$1,579	\$1,809	\$2,039	\$2,268	\$2,498	\$2,727	\$13	\$19	\$26	\$31	\$38	\$9	\$14	\$18	\$22	\$26
100% FPL	\$938	\$1,179	\$1,421	\$1,663	\$1,904	\$2,146	\$2,388	\$2,629	\$2,871	\$14	\$21	\$27	\$34	\$40	\$10	\$14	\$19	\$24	\$28
105% FPL	\$984	\$1,238	\$1,492	\$1,746	\$1,999	\$2,253	\$2,507	\$2,761	\$3,014	\$17	\$23	\$30	\$36	\$42	\$12	\$16	\$21	\$25	\$30
110% FPL	\$1,031	\$1,297	\$1,563	\$1,829	\$2,095	\$2,360	\$2,626	\$2,892	\$3,158	\$19	\$26	\$31	\$38	\$44	\$14	\$18	\$22	\$26	\$31
115% FPL	\$1,078	\$1,356	\$1,634	\$1,912	\$2,190	\$2,468	\$2,746	\$3,024	\$3,301	\$21	\$27	\$34	\$40	\$46	\$14	\$19	\$24	\$28	\$33
120% FPL	\$1,125	\$1,415	\$1,705	\$1,995	\$2,285	\$2,575	\$2,865	\$3,155	\$3,445	\$23	\$30	\$36	\$42	\$49	\$16	\$21	\$25	\$30	\$34
125% FPL	\$1,172	\$1,474	\$1,776	\$2,078	\$2,380	\$2,682	\$2,984	\$3,286	\$3,589	\$26	\$31	\$38	\$44	\$50	\$18	\$22	\$26	\$31	\$35
130% FPL	\$1,219	\$1,533	\$1,847	\$2,161	\$2,475	\$2,790	\$3,104	\$3,418	\$3,732	\$27	\$35	\$42	\$50	\$57	\$19	\$24	\$30	\$34	\$40
135% FPL	\$1,266	\$1,592	\$1,918	\$2,244	\$2,571	\$2,897	\$3,223	\$3,549	\$3,876	\$30	\$38	\$46	\$55	\$63	\$21	\$26	\$33	\$38	\$44
140% FPL	\$1,313	\$1,651	\$1,989	\$2,328	\$2,666	\$3,004	\$3,343	\$3,681	\$4,019	\$31	\$40	\$49	\$57	\$66	\$22	\$28	\$34	\$40	\$46
145% FPL	\$1,360	\$1,710	\$2,060	\$2,411	\$2,761	\$3,111	\$3,462	\$3,812	\$4,163	\$34	\$42	\$50	\$59	\$67	\$24	\$30	\$35	\$42	\$47
150% FPL	\$1,406	\$1,769	\$2,131	\$2,494	\$2,856	\$3,219	\$3,581	\$3,944	\$4,306	\$36	\$44	\$53	\$61	\$70	\$25	\$31	\$37	\$43	\$49
155% FPL	\$1,453	\$1,828	\$2,202	\$2,577	\$2,951	\$3,326	\$3,701	\$4,075	\$4,450	\$38	\$46	\$55	\$63	\$72	\$26	\$33	\$38	\$44	\$50
160% FPL	\$1,500	\$1,887	\$2,273	\$2,660	\$3,047	\$3,433	\$3,820	\$4,207	\$4,593	\$40	\$49	\$57	\$66	\$74	\$28	\$34	\$40	\$46	\$52
165% FPL	\$1,547	\$1,946	\$2,344	\$2,743	\$3,142	\$3,541	\$3,939	\$4,338	\$4,737	\$41	\$50	\$59	\$67	\$76	\$29	\$35	\$42	\$47	\$53
170% FPL	\$1,594	\$2,005	\$2,415	\$2,826	\$3,237	\$3,648	\$4,059	\$4,470	\$4,880	\$42	\$53	\$61	\$70	\$78	\$30	\$37	\$43	\$49	\$54
175% FPL	\$1,641	\$2,064	\$2,486	\$2,909	\$3,332	\$3,755	\$4,178	\$4,601	\$5,024	\$43	\$54	\$63	\$72	\$80	\$30	\$38	\$44	\$50	\$56
180% FPL	\$1,688	\$2,123	\$2,558	\$2,993	\$3,428	\$3,863	\$4,298	\$4,733	\$5,168	\$45	\$56	\$66	\$74	\$82	\$31	\$40	\$46	\$52	\$58
185% FPL	\$1,734	\$2,181	\$2,629	\$3,076	\$3,523	\$3,970	\$4,417	\$4,864	\$5,311	\$46	\$58	\$67	\$76	\$84	\$32	\$42	\$47	\$53	\$59
-----185% of the Federal Poverty Level-----																			
190% FPL	\$1,781	\$2,240	\$2,700	\$3,159	\$3,618	\$4,077	\$4,536	\$4,995	\$5,455	\$47	\$59	\$70	\$78	\$86	\$34	\$43	\$49	\$54	\$61
195% FPL	\$1,828	\$2,299	\$2,771	\$3,242	\$3,713	\$4,184	\$4,656	\$5,127	\$5,598	\$49	\$61	\$72	\$80	\$89	\$34	\$44	\$50	\$56	\$62
200% FPL	\$1,875	\$2,358	\$2,842	\$3,325	\$3,808	\$4,292	\$4,775	\$5,258	\$5,742	\$50	\$62	\$74	\$82	\$90	\$35	\$46	\$52	\$58	\$63
-----+200% of the Federal Poverty Level-----																			

NOTE: The copayment rate for teen parents who are not Learnfare participants is found by selecting the lowest income line (70%) FPL and then finding the copayment listed, under either licensed care or certified care, for the appropriate number of children. Parents who have left a W-2 employment position for unsubsidized work also qualify for the minimum copay for one month. Families with children who are authorized for 20 hours or less are subject to one half of their share of the family copay listed above for those children. No copay is required for parents who participate in Learnfare or Food Stamp Employment and Training. Foster parents do not have a copayment responsibility for the foster children in their care. Kinship care relatives caring for a child under court order do not have a copayment responsibility. Kinship care relatives caring for a child without a court order pay the minimum copay, unless they are receiving a child care subsidy for another child who is subject to a copayment greater than the minimum copay.