

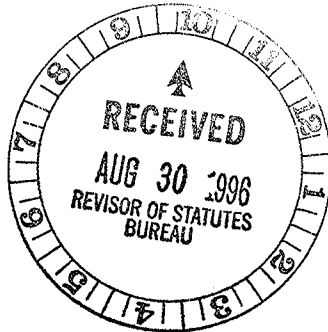
RULES CERTIFICATE

STATE OF WISCONSIN)
) SS
DEPARTMENT OF)
WORKFORCE DEVELOPMENT)

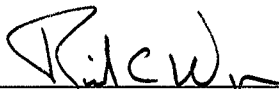
TO ALL TO WHOM THESE PRESENTS SHALL COME, GREETINGS

I, Richard C. Wegner, Acting Secretary of the Department of Workforce Development, and custodian of the official records of said department, do hereby certify that the annexed rule(s) relating to participation of aid to families with dependent children (AFDC) applicants and recipients in the pay for performance (PFP) demonstration project were duly approved and adopted by this department on August 30, 1996.

I further certify that said copy has been compared by me with the original on file in the department and that the same is a true copy thereof, and of the whole of such original.



IN TESTIMONY WHEREOF, I have hereunto set my hand and affixed the official seal of the department at 201 East Washington Avenue in the city of Madison, this 30th day of August A.D. 1996.



Acting Secretary

ORDER OF ADOPTION

Pursuant to authority vested in the Department of Workforce Development by section(s)

49.193(3m)(b) and (e), and (9m)(b)2. and 3. and (c)1.a., Stats. as created by 1995 Wisconsin Act 12, and

49.50(2), Stats., the Department of Workforce Development creates, amends;

repeals and recreates; repeals and adopts rules of Wisconsin Administrative Code chapter(s):

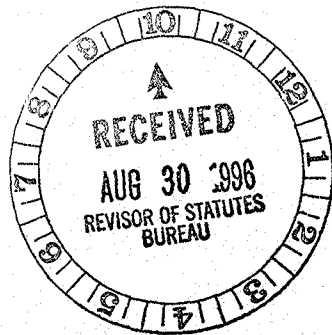
HSS 201 _____

AID TO FAMILIES WITH DEPENDENT CHILDREN (AFDC)

HSS 206 _____

JOB OPPORTUNITIES AND BASIC SKILLS TRAINING
PROGRAM FOR AFDC RECIPIENTS

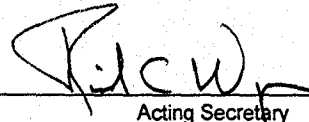
The attached rules shall take effect on the first day of the month following publication in the Wisconsin Administrative Register, pursuant to section 227.22, Stats.



Adopted at Madison, Wisconsin this

date: August 30, 1996

DEPARTMENT OF WORKFORCE DEVELOPMENT



Acting Secretary

ORDER OF THE
DEPARTMENT OF WORKFORCE DEVELOPMENT
AMENDING AND CREATING RULES

To amend HSS 201.03(11m), (12) and (15), 201.14(3)(f), 201.19(1)(a), (g), (h), and (1m), 206.06(2), 206.09(3)(intro.), 206.10(1) and 206.23(1)(a), and to create HSS 201.045, 201.19(2m), 206.03(6m) and (25m), 206.065 and 206.09(3m) and (4m), relating to participation of Aid to Families with Dependent Children (AFDC) applicants and recipients in the Pay for Performance (PFP) demonstration project.

Analysis Prepared by the Department of Workforce Development

Under s.49.19, Stats., families inquiring about the Aid to Families with Dependent Children (AFDC) program are immediately encouraged to apply for assistance without exploring possible alternatives to welfare. Once determined eligible, many families come to consider the AFDC program a program of long-term financial support, sometimes spanning generations. Yet AFDC was originally meant to be a temporary, emergency program.

Wisconsin obtained approval from the Food and Consumer Service of the U.S. Department of Agriculture and from the Administration for Children and Families of the U.S. Department of Health and Human Services to conduct a Pay for Performance (PFP) demonstration project which began March 1, 1996. The major objective of the Pay for Performance demonstration project is to focus on freedom from public assistance by encouraging immediate attachment to the work force and helping families explore alternatives to AFDC before becoming dependent on AFDC. The demonstration project is being conducted statewide. In Dane, Dodge, Jefferson, and Waukesha counties some individuals are assigned to a control group which will be exempt from the PFP requirements to permit evaluation of the demonstration project. Statutory authority for the Department to operate two related demonstration projects, Self-Sufficiency First and Pay for Performance, was included in 1995 Wisconsin Act 12. Under the federal government's terms and conditions of approval for the demonstration project, the Department is now calling the combined project Pay for Performance.

The first component of the Pay for Performance demonstration project encourages alternatives to AFDC through services of a Financial Planning Resource Specialist (FPRS) and up-front job search. This component is directed at helping applicants identify alternatives to AFDC, facilitating immediate orientation and referral to the Job Opportunities and Basic Skills (JOBS) program and requiring job search before receiving AFDC. Completion of these requirements is a condition of initial eligibility for AFDC. An individual who fails without good cause to cooperate with these requirements will be ineligible to receive AFDC benefits for himself or herself and his or her family.

For an individual who becomes an AFDC recipient after fulfilling the applicant job search requirements, there is a second component of the Pay for Performance demonstration project. This requires the JOBS case manager to design an employability plan for the recipient that focuses on employment at the earliest opportunity and requires the recipient to participate in a set number of hours of participation in JOBS program activities or work to maintain AFDC eligibility. Failure, without good cause, to maintain participation as assigned will result in sanctions in the next possible month based on the number of hours missed without good cause multiplied by the federal minimum wage. Failure to participate in at least 25 percent of the assigned hours will result in no AFDC benefits being paid for that month and a reduction to \$10 in food stamp benefits.

These are the permanent rules for operation of the Pay for Performance demonstration project. They will replace emergency rules that were effective on March 1, 1996.

The Department's authority to amend and create these rules is found in s.49.193(3m)(b) and (e), and (9m)(b)2. and 3. and (c)1.a., Stats., as created by 1995 Wisconsin Act 12, and s.49.50(2), Stats. The rules interpret s.49.19, Stats., and s.49.193(2)(a), (3m) and (9m), Stats., as created by 1995 Wisconsin Act 12.

SECTION 1. HSS 201.03(11m), (12) and (15) are amended to read:

HSS 201.03(11m) "JOBS" means the job opportunities and basic skills training program established under 42 USC 682 and ~~s.49.50(7b)~~ 49.193, Stats., for the purpose of assisting AFDC recipients to develop marketable work skills and obtain gainful employment.

(12) "Legally responsible relative" means a person liable for the support of another person as specified in ~~s.52.04~~ 49.90, Stats.

(15) "Registrant" means a person registered for ~~WEOP~~ JOBS.

SECTION 2. HSS 201.045 is created to read:

HSS 201.045 PAY FOR PERFORMANCE DEMONSTRATION PROJECT.

(1) **AUTHORITY AND PURPOSE.** This section is adopted pursuant to ss.49.193(3m)(e) and (9m)(b)3. and 49.50(2), Stats, to provide rules for administration of the pay for performance (PFP) demonstration project under 49.193(3m) and (9m), Stats., for applicants and recipients of AFDC.

(2) **APPLICABILITY.** This section applies to any private or public agency that administers the pay for performance demonstration project under s.49.193(3m) and (9m), Stats., to all county and tribal economic support agencies and to all AFDC applicants and recipients required to participate in the demonstration project.

(3) DEFINITIONS. In this section:

(a) "Applicant" means an individual who requests or seeks to apply for AFDC and who has not received AFDC benefits in the previous 2 months, or an individual who is added to an AFDC group after not being included in the group for at least one calendar month.

(b) "Application date" means the date that a signed application form for AFDC is submitted to the economic support agency.

(c) "Economic support agency" means a county department of social services or human services, or a tribal agency which administers economic support programs including AFDC.

(d) "Financial planning resource specialist" or "FPRS" means the representative from either the economic support agency or the JOBS administrative agency under ch.HSS 206 who conducts an initial interview with an AFDC applicant to discuss individual and family needs, provides information on general financial planning and assists the applicant in exploring financial options and alternatives to AFDC.

(e) "Food stamp employment and training" or "FSET" means the food stamp employment and training program under 7 CFR 273.7, which requires mandatory individuals to participate in employment and training activities as determined by the department.

(f) "JOBS case manager" means the individual required to perform case management duties as defined under s.HSS 206.03(8).

(g) "PFP" or "pay for performance" means the pay for performance demonstration project under s.49.193(3m) and (9m), Stats., designed to focus on freedom from public assistance by encouraging immediate attachment to the work force and helping families explore alternatives to AFDC before becoming dependent on AFDC.

(4) DEPARTMENT RESPONSIBILITIES. (a) Participation in the PFP demonstration project. The department shall implement the pay for performance demonstration project statewide except that 4 counties shall be designated as research counties for evaluation purposes.

(b) Assignment to PFP demonstration project. The department shall randomly assign AFDC applicants and recipients to one of the following groups:

1. A control group, members of which are subject to the regular AFDC program requirements as provided in ss.49.19 and 49.193, Stats., and this chapter and ch.HSS 206;

2. An experimental group, members of which are evaluated for research purposes and subject to pay for performance demonstration project provisions in s.49.193, Stats., and this section; and

3. A non-experimental group, members of which are not evaluated for research purposes but are subject to pay for performance demonstration project provisions in s.49.193, Stats., and this section.

(5) **ELIGIBILITY FOR EXPEDITED FOOD STAMP ISSUANCE.** As part of the client registration process, an economic support agency shall determine if an applicant meets the expedited service eligibility requirements for issuance of food stamp coupons under 7 CFR 273.2(l). In this subsection, "client registration" means the process in which the economic support agency gathers basic applicant information and identifies applications requiring priority service.

(6) **MEETING WITH THE FINANCIAL PLANNING RESOURCE SPECIALIST.**

(a) Required meeting with financial planning resource specialist. 1. Except as provided in subd. 2, an adult applicant who is not exempt under par. (b) shall meet with a financial planning resource specialist to discuss possible alternatives to AFDC prior to completing an application for AFDC. In an AFDC group with more than one adult who is not exempt under par. (b), the adult member who did not meet with the FPRS prior to completing an application shall meet with the FPRS prior to the eligibility determination for AFDC.

2. The FPRS shall schedule a meeting with at least one adult AFDC group member who is not exempt under par. (b) within 5 working days of the AFDC group's application date. If the agency is unable to conduct a meeting within that time period, the requirement to meet with the FPRS shall be waived.

3. The economic support agency shall deny AFDC eligibility to an AFDC group in which the adult applicant or applicants fail or refuse to meet with the FPRS during the application processing period under s.HSS 201.09(1) without good cause under par. (c).

(b) Who is not required to meet with the FPRS. If an adult applicant is one of the following, the adult applicant is not required to meet with the FPRS as a condition of eligibility for AFDC:

1. A stepparent with no child in common with the other adult in the household;
2. A nonlegally responsible relative and his or her spouse if not requesting to be included in the AFDC group; or
3. An applicant assigned to a control group in a research county.

(c) Good cause for failing or refusing to meet with the FPRS. The economic support agency shall determine if an adult applicant had good cause for failing or refusing to meet with the FPRS. In making that determination, the economic support agency may require that the applicant provide written documentation in accordance with s.HSS 201.08 that good cause existed. Good cause for not meeting with the FPRS shall be any of the following circumstances:

1. Health or weather-related problems that are too severe for travel as determined by the agency;
2. Temporary absence from the AFDC household of an adult applicant for a reason such as employment or attendance at school and the temporary absence from the AFDC household is expected to continue for 25 days or more;
3. The agency is unable to schedule and conduct an interview with the FPRS within 5 working days of the application for AFDC; or
4. Other circumstances beyond the control of the applicant or applicants as determined by the agency.

(7) REFERRAL TO JOBS. (a) Applicants wanting to apply for AFDC. If, after meeting with the FPRS, an applicant wishes to apply for AFDC under s.HSS 201.05, the FPRS shall immediately refer an adult applicant who is not exempt under par. (b) to the JOBS administrative agency under ch.HSS 206.

(b) Who is not referred for JOBS orientation, enrollment and job search. The economic support agency may not refer an adult AFDC group member to the JOBS administrative agency under ch.HSS 206 for orientation, enrollment into JOBS and participation in job search activities if the individual is:

1. Exempt from JOBS participation under s.HSS 201.19(1);
2. A nonlegally responsible relative of a dependent child as defined under s.49.19(1)(a), Stats., who is not applying for AFDC for himself or herself;

3. An individual who may be eligible to participate in a federal tribal JOBS program under 45 CFR 250.90, as determined by the FPRS;

4. Participating in the parental and family responsibility demonstration project under s.49.25, Stats., and s.HSS 201.198 and residing in a pilot county; or

5. Participating in the work not welfare demonstration project under s.49.27, Stats., and ch.HSS 207 and residing in a pilot county.

SECTION 3. HSS 201.14(3)(f) is amended to read:

HSS 201.14(3)(f) For purposes of the pay for performance demonstration project conducted by the department under the authority of s.~~49.19(15)~~ 49.193(3m) and (9m), Stats., a principal wage earner who is receiving AFDC unemployed parent benefits or who received AFDC based on unemployment within the last 4 months and whose case has been assigned to the experimental or non-experimental group of the demonstration project may work 100 hours or more a month and maintain nonfinancial eligibility. The department shall randomly assign cases individuals to the experimental or non-experimental group ~~based on the last digit of the female caretaker's social security number.~~ Eligibility of persons The eligibility of a person assigned to the experimental or non-experimental group shall continue during the period of the demonstration project as long as all other nonfinancial and financial eligibility criteria are met.

SECTION 4. HSS 201.19(1)(a), (g) and (h) are amended to read:

HSS 201.19(1)(a) The primary caretaker relative who personally provides care for a child under ~~2 years~~ one year of age living in the home except that, if the primary caretaker relative is under the age of 20 and has not completed high school or received a high school equivalency diploma, he or she shall participate in educational activities described under 45 CFR 250.44(a)(1). Only one person in an AFDC group may be exempt for this reason;

(g) Incapacitated, ill or injured with a medically-determined physical or mental impairment which prevents the person from temporarily or permanently participating in JOBS activities or holding a job, as determined by the agency following an assessment by the JOBS administrative agency under s.HSS 206.09(2)(a). This shall include a period of recuperation after childbirth if prescribed by the woman's physician. Unless the medical condition is determined by a physician to be permanent, the person shall be reexamined by a physician annually or on or before the date a physician stated the incapacity is expected to cease, whichever comes first. Any person who is exempt from participation in JOBS on the basis of incapacitation that is expected to continue for more than 60 days shall be referred to the department's division of vocational rehabilitation;

(h) Living in a county without a JOBS office or living so far from the JOBS office that he or she cannot get to it within one hour with available transportation, except that, if a longer commuting time is generally accepted in the community, then the commuting time may not exceed the generally accepted community standard without the registrant's consent. The time required to take children to and from child care shall not be included in this computation. Available transportation means transportation which is available to the person on a regular basis and includes public transportation and private vehicles;

SECTION 5. HSS 201.19(1m) is amended to read:

HSS 201.19(1m) MANDATORY PARTICIPANT. A recipient who is determined to be a mandatory participant under sub. (1) remains a mandatory participant, even if, subsequent to that determination, he or she begins to attend school or work at a job and would otherwise be considered exempt because he or she is attending school or is employed. Dropping out of school, terminating employment or reducing earnings without good cause shall result in the recipient being subject to sanction under sub. (2) or (2m) unless another exemption reason applies.

SECTION 6. HSS 201.19(2m) is created to read:

HSS 201.19(2m) SANCTION FOR FAILING TO MEET PFP PARTICIPATION REQUIREMENTS WITHOUT GOOD CAUSE. (a) Definitions. In this subsection:

1. "JOBS case manager" means the individual required to perform case management duties as defined under s.HSS 206.03(8).

2. "PFP participant" means an AFDC applicant or recipient who is assigned to either the experimental or non-experimental PFP group under s.HSS 201.045(4)(b).

(b) Conditions for applying a sanction. If all of the following conditions apply, the economic support agency as defined under s.HSS 201.045(3)(c) shall determine the AFDC benefit amount to be paid to the PFP participant in the next possible payment month as provided in par. (c):

1. The PFP participant is required to participate in a JOBS program activity under s.HSS 206.12 or in unsubsidized employment for a regularly scheduled number of hours in the month;

2. The PFP participant participates in the JOBS program activity or unsubsidized employment in the month for less than the required number of hours without good cause, under s.HSS 206.23(3); and

3. The JOBS agency has determined that the JOBS program activity the PFP participant is engaged in during the month has continued, or is expected to continue, for more than one month.

(c) Determining the hourly sanction amount. Except as provided in par. (d), upon a determination that a PFP participant has failed without good cause to participate in JOBS program activities or unsubsidized employment and determining that the conditions under par. (b) are met, the agency shall determine the AFDC benefit amount to be paid to the AFDC group in the next possible payment month by:

1. Adding the PFP participant's total number of hours of actual participation in the month to the total number of hours in a month for which the PFP participant had good cause under s.HSS 206.23(3) for not participating in required activities;

2. Subtracting the total number of hours determined under subd. 1. from the PFP participant's total number of hours of required participation in that month;

3. Multiplying the number of hours determined under subd. 2. by the federal minimum hourly wage under 29 USC 206 (a)(1); and

4. Subtracting the dollar amount determined under subd. 3. from the AFDC benefit amount that the PFP participant's family would have received if she or he had participated for the total number of assigned hours. When the AFDC benefit amount is reduced to \$0, any remaining sanction shall be applied to the food stamp benefits, except that the food stamp benefit amount may not be reduced below \$10. If the PFP participant is exempt from participation in the food stamp employment and training program under 7 CFR 273.7(b)(1) for a reason other than participating in JOBS, no sanction may be applied to the food stamp benefit amount.

(d) Sanction for PFP participation below 25 percent of requirement. 1. If there is only one individual included in an AFDC grant who is required to participate in a JOBS program activity under this section for a regularly scheduled number of hours in a month and the total number of hours determined under par. (b)1. for that individual is less than 25% of the total number of hours of required participation in that month for that individual, the AFDC group's AFDC benefit shall be reduced to \$0 and food stamp benefits shall be reduced to \$10 in the next possible payment month. If the PFP participant is exempt from participation in the food stamp employment and training program under 7 CFR 273.7(b)(1) for a reason other than participating in JOBS, no sanction may be applied to the food stamp benefit amount.

2. If there is more than one individual included in an AFDC grant who is required to participate in a JOBS program activity under this section for a regularly scheduled number of hours in a month and the total number of hours determined under par. (c)1. for all of those individuals is less than 25% of the total number of hours of required participation in that month for all of those individuals, the AFDC group's AFDC benefit amount shall be reduced to \$0 and food stamp benefits shall be reduced to \$10 in the next possible payment month. If the PFP participant is exempt from participation in the food stamp employment and training program under 7 CFR 273.7(b)(1) for a reason other than participating in JOBS, no sanction may be applied to the food stamp benefit amount.

(e) Sanction for failure to enroll in JOBS. When a recipient becomes mandatory for JOBS under s.HSS 201.19(1), is referred by the agency to JOBS and misses one appointment, without good cause under s.HSS 206.23(3), for either enrollment or enrollment with orientation for JOBS, the JOBS case manager shall refer the PFP participant to the agency for sanction in the next possible payment month. The AFDC case shall close in the next possible payment month due to this sanction and food stamps will be reduced to \$10. If the PFP participant is exempt from participation in the food stamp employment and training program under 7 CFR 273.7(b)(1) for a reason other than participating in JOBS, no sanction may be applied to the food stamp benefit amount. The AFDC case shall remain closed until either the JOBS case manager determines that the PFP participant has enrolled in JOBS under s.HSS 206.07 or the individual submits a new application for AFDC and meets the orientation and job search requirements under s.HSS 201.045.

(f) Sanction for failure to maintain full-time employment. When the agency determines that a PFP participant has failed to maintain full-time employment, calculated under s.HSS 206.09(4m)(c), without good cause under s.HSS 206.23(3), the agency shall use the number of employment hours missed without good cause to determine the proper sanction amount under par. (c). To remedy the sanction in the next possible payment month, the PFP participant shall resume unsubsidized employment of at least 129 hours per month, except that, if the participant's employer reduces hours of work below 129 hours per month for reasons beyond the participant's control, no sanction may be applied for the reduced hours.

(g) Sanction for quitting a job. A PFP participant who quits a job without good cause under s.HSS 206.23(3) shall have a sanction determined by the agency based on the date he or she quit the job. The agency shall use the number of employment hours not completed during the month the job quit occurred to determine the proper sanction amount under par. (c). To remedy or reduce the sanction amount, the PFP participant shall either resume unsubsidized employment at comparable hours or wages, or contact the JOBS case manager to develop a new employability plan and establish participation in PFP.

SECTION 7. HSS 206.03(6m) and (25m) are created to read:

HSS 206.03(6m) "Applicant" means an individual who applies or seeks to apply for AFDC and who has not received AFDC benefits in the previous 2 months, or an individual who is added to an AFDC group after not being included in the group for at least one calendar month.

(25m) "PFP participant" means an AFDC applicant or recipient who is assigned to either the experimental or non-experimental PFP group under s.HSS 201.045(4)(b).

SECTION 8. HSS 206.06(2) is amended to read:

HSS 206.06(2) The economic support agency shall refer only those AFDC registrants who are not exempt under s.HSS 201.19(1) or who volunteer to participate to the JOBS administrative agency. Individuals who are not exempt include those individuals claiming to be incapacitated under s.HSS 201.19(1)(g) unless the economic support agency has made a determination of presumptive incapacitation under s.HSS 201.14(2). Failure to cooperate with an assessment shall result in ineligibility for AFDC for applicants or sanction under s.HSS 201.19(2m)(c) or (d) for recipients.

SECTION 9. HSS 206.065 is created to read:

HSS 206.065 JOBS PARTICIPATION REQUIREMENT FOR APPLICANT JOB SEARCH. (1) APPLICANT PARTICIPATION IN JOBS. Except as provided in sub. (2), the JOBS administrative agency shall offer enrollment, orientation and initial assessment under s.HSS 206.09(2)(a) for applicants referred by the economic support agency for participation in job search activities under sub. (4) within 7 days of receipt of a referral from the economic support agency. Except as provided in sub.(3)(b), an applicant shall be required to participate in 60 hours of job search activities, including 30 hours of direct employer contacts, during the eligibility determination period under s.HSS 201.09. An individual participating in the learnfare program under s.HSS 201.195 may not be required to participate in any job search activity at a time that would conflict with school attendance;

(2) EXEMPTION OR SUSPENSION OF REFERRED APPLICANT FROM APPLICANT JOB SEARCH. A JOBS administrative agency may do the following:

(a) Exempt an applicant referred by the economic support agency from participation in job search activities under sub. (4) if the agency determines that the applicant would not benefit from complying with the job search requirements for reasons such as significant incapacitation or other substantial barriers to employment; or

(b) Suspend participation in job search activities under sub. (4) while verifying incapacitation.

(3) APPLICANT'S FAILURE TO COMPLETE PARTICIPATION IN REQUIRED ACTIVITIES. (a) The JOBS administrative agency shall report an applicant's failure to complete participation in the required activities to the economic support agency. Failure to complete the activities without good cause within 30 days of application shall result in the economic support agency denying AFDC benefits for the AFDC group under s.HSS 201.09;

(b) An applicant has good cause for failure to meet the required 60 hours of job search activities if he or she has been offered and has accepted a bona fide full-time job as verified by the agency and the applicant will begin working within 60 days of the application date as defined under s.HSS 201.045(3)(b).

(4) ALLOWABLE PARTICIPATION COMPONENTS FOR APPLICANTS. (a) The JOBS administrative agency shall assign applicants to the following activities to meet the job search activities participation requirement:

1. Enrollment under s.HSS 206.07;
2. Orientation under s.HSS 206.08; or
3. Job readiness or motivation training, which includes job seeking skills under s.HSS 206.13.

(b) The JOBS administrative agency shall count participation in the following employment search activities toward meeting the applicant's required 30 hours of direct contact with employers:

1. Instruction in job-seeking skills;
2. Employment search, which may include individual or group job search;
3. Job placement services; or
4. Job development as defined under s.HSS 206.16(1)(c).

SECTION 10. HSS 206.09(3)(intro.) is amended to read:

HSS 206.09(3) EMPLOYABILITY PLAN. (intro.) ~~The~~ Except as provided in sub. (3m), the JOBS administrative agency shall develop a written employability plan for the enrollee before the enrollee begins a JOBS program activity. The employability plan

shall be developed in consultation with the enrollee based on the assessment or the assessments completed under sub. (2), shall take into consideration the preferences of the enrollee and shall include the following:

SECTION 11. HSS 206.09(3m) and (4m) are created to read:

HSS 206.09(3m) EMPLOYABILITY PLAN AND HOURS OF PARTICIPATION FOR A PARTICIPANT IN THE PFP DEMONSTRATION PROJECT. (a) Employability plan. The JOBS case manager shall develop an employability plan under s.HSS 206.09(3) for an individual required to participate in the pay for performance (PFP) demonstration project under s.HSS 201.045 that focuses on employment and shall assign a participant to JOBS program activities which address the participant's barriers to self-sufficiency. The employability plan shall be in place within 3 weeks following the PFP participant's enrollment in JOBS.

(b) Hours of participation. The JOBS case manager shall assign a PFP participant to at least 20 hours of participation in JOBS program activities per week. No participant may be assigned to more than 40 hours per week. A participant may be assigned to more than one JOBS component or activity.

(4m) VERIFICATION OF PARTICIPATION. (a) Reporting participation hours.
1. A pay for performance demonstration project participant shall report and provide verification in accordance with s.HSS 201.08 to his or her JOBS case manager that the participation requirement has been met for each month by the 5th calendar day of the following month. Acceptable verification includes:

- a. Copies of pay stubs or a statement signed by the employer;
- b. A statement signed by the community work experience, other work experience, on-the-job training or work supplementation work site employer or coordinator; or
- c. A statement signed by the instructor for an individual participating in approved training or education activities.

2. The participant shall submit written documentation of good cause with the attendance verification.

(b) Failure to submit verification of participation. 1. A PFP participant who fails to submit verification of participation to the JOBS administrative agency shall have his or her AFDC case terminated by the economic support agency as provided under s.HSS 205.04(5)(e)4.

2. Verification of participation not received timely may result in a delay or partial payment of benefits in the next possible payment month. In this section, "timely" means

the verification is received by the 5th calendar day of the month following the month in which the activity occurred, except that, if the 5th calendar day of the month falls on a Saturday, Sunday or holiday, the receipt date shall be the first working day after the 5th to be timely.

(c) PFP participants working full-time. The JOBS case manager may not assign a PFP participant who is working full-time to additional JOBS program activities as long as the PFP participant remains employed full-time in an unsubsidized job. In this section, "full-time" means at least 129 hours per month. Failure without good cause under s.HSS 206.23(3) by the PFP participant who is a mandatory JOBS program participant to maintain full-time employment shall result in a sanction under s.HSS 201.19(2m).

SECTION 12. HSS 206.10(1) is amended to read:

HSS 206.10(1) NECESSARY SERVICES. A JOBS administrative agency shall provide or make provision for ~~the following~~ supportive services described in this section if needed by an enrollee or participant to participate in orientation, enrollment and job search activities under s.HSS 201.045 and or as identified in the enrollee's or participants's employability plan as necessary to ensure participation in JOBS program activities. Supportive services include counseling, child care, transportation to employment interviews or other approved program activities and work-related expenses.

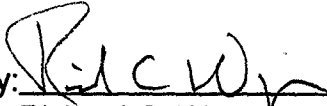
SECTION 13. HSS 206.23(1)(a) is amended to read:

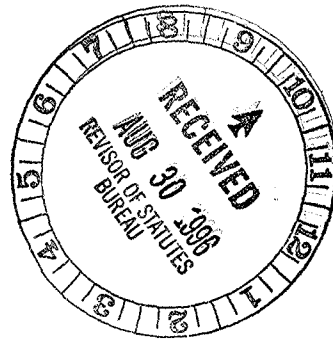
HSS 206.23(1)(a) Initiation of conciliation. ~~The~~ Except for individuals assigned to the PFP demonstration project under s.HSS 201.045(4)(b)2. and 3, the JOBS administrative agency shall initiate conciliation when an AFDC recipient who has been determined to be mandatory under s.HSS 201.19(1) refuses to enroll in JOBS, refuses to participate in a JOBS program activity or refuses to accept employment, terminates employment or reduces earnings.

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
Workforce Development

Dated: 8/30/96

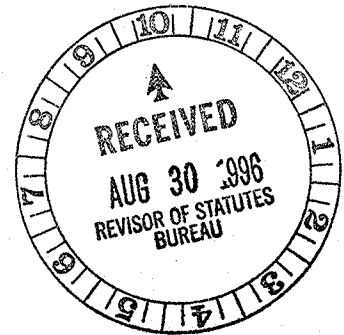
By: 
Richard C. Wegner
Acting Secretary





State of Wisconsin \ Department of Workforce Development

RULES in FINAL DRAFT FORM



Rule No.: HSS 201 AND 206

Relating to: PARTICIPATION OF AID TO FAMILIES WITH DEPENDENT CHILDREN (AFDC) APPLICANTS AND RECIPIENTS IN THE PAY FOR PERFORMANCE (PFP) DEMONSTRATION PROJECT

Tommy O. Thompson
Governor

Richard C. Wegner
Acting Secretary



State of

Department of Workforce Development

Post-It™ brand fax transmittal memo 7671		# of pages # 5
To Donna D'Amico	From Katie	
Co BWD	Co	
Dept	Phone # 7.3200	
Fax # 1.6560.	Fax #	

August 1, 1996

The Honorable Rod Moen
Suite 403, 100 N. Hamilton St.
Madison, WI 53702

Dear Senator Moen:

On July 17, 1996, the Senate Health, Human Services, Aging and Corrections Committee held a hearing on CR 96-036, administrative rules governing the Department's Pay for Performance Demonstration Project. After that hearing, a number of issues were raised in a Legislative Council staff memo dated July 24, 1996.

Last week, representatives of the Department of Workforce Development met with staff from your office and Legislative Council to discuss the issues raised in the memo. The Department's response to each point raised in the memo is listed below, as well as descriptions of proposed modifications to the rule.

• **Orientation and job search requirements** - Under Section 49.193(3m)(e), Stats., the JOBS agency may exempt applicants from the orientation and job search requirements if the agency determines that an applicant would not benefit from complying with these requirements. The Department is required to promulgate rules establishing standards to be used by the JOBS agencies to make this determination. No standards are established by the rules to allow the JOBS agency to exempt referred applicants whom the JOBS agency determines would not benefit from complying with these requirements.

In response to that concern, the Department has created s.HSS 206.065(2) to clarify that a JOBS agency may exempt a referred applicant from job search if the individual would not benefit from the job search activities for reasons such as significant incapacitation or other substantial barriers to employment.

• **Statutory cite related to authority and purpose** - The Legislative Council memo questioned the Department's use of a statutory cite related to the authority, purpose and applicability provisions under which the Department is operating the PFP program. To address this concern, the Department agreed to delete the citation to s.49.193(2)(a), Stats., and to only cite s.49.193(3m) and (9m), Stats.

• **Required meeting with the Financial Planning Resource Specialist** - Concerns were raised regarding the rule language related to the required meeting with the Financial Planning Resource Specialist (FPRS), how many meetings would be held and when the meeting must occur.

In response to those concerns, the Department reviewed the language in s.HSS 201.045(6) and modified it to clarify that only one meeting with the FPRS is required prior to completing an application for Aid to Families with Dependent Children (AFDC).

- **Living too remote** - The proposed rule includes language to conform the "living too remote" JOBS program exemption to federal regulations at 45 CFR 250.30(b)(5) and s.HSS 206.12(2)(c). The Legislative Council memo raised the concern that the interrelationship between the first sentence of s.HSS 201.19(1)(h) and the second sentence is not clear.

To address this concern, the Department has revised the language to read:

(h)1. Living in a county without a JOBS office or living so far from the JOBS office that he or she cannot get to it with available transportation, except that, if a longer commuting time is generally accepted in the community, then the commuting time may not exceed the generally accepted community standard without the registrant's consent. The time required to take children to and from child care shall not be included in this computation. Available transportation means transportation which is available to the person on a regular basis and includes public transportation and private vehicles;

- **Sanction for failure to enroll in JOBS** - In response to concerns raised about clarity, the Department has amended s.HSS 201.19(2m)(e) to make clear that the AFDC case, not the group, will close in the next possible payment month.

- **Sanction for failure to maintain full-time employment** - In response to a concern raised about clarity, the Department agreed to amend s.HSS 201.19(2m)(f) to make clear that the number of employment hours missed without good cause are the hours used to compute an hourly sanction.

The Department also modified language in s.HSS 201.19(2m)(f) regarding remedying sanctions, to accommodate situations in which participants are unable to resume unsubsidized employment of at least 129 hours per month because the employer does not offer the required hours.

- **Sanction for failure to cooperate with a JOBS program assessment** - Concern was raised that the language in s.HSS 206.06(2) was unclear. In response, the Department has amended the reference to clarify that the sanction for failure to cooperate with an assessment without good cause will result in either an hourly sanction under s.HSS 201.19(2m)(c) or a full sanction under s.HSS 201.19(2m)(d). The type of sanction applied, full or hourly, is contingent upon the number of hours of participation assigned to that participant.

- **Participation in employment search activities** - It was pointed out that s. HSS 206.065(3)(b)3 of the rule is unclear as to the activities the Department is referring to when including job placement as an activity that counts towards meeting the required 30 hours of direct contact with employers. The Department has modified and renumbered the rule to clarify that the activity refers to job placement services.

Additional discussion raised the scenario of individuals who, prior to completing the required hours of job search, receive and accept bona fide job offers. The Department

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has directed the economic support agencies and the JOBS administrative agencies that an individual subject to the job search requirements has good cause for not completing the required hours if he or she has received and accepted a bona fide full-time job offer that is scheduled to begin within 60 days of the application date. Language has been added to s.HSS 206.065(3)(b) to address this situation.

• **Sanction for failure to maintain full-time employment** - It was pointed out that Section HSS 206.09(4m)(c) indicates that failure to maintain full-time employment without good cause *may* result in a sanction under s.HSS 201.19(2m), while s.HSS 201.19(2m)(f) indicates that if an agency determines that a participant has failed to maintain full-time employment without good cause, the agency *shall* impose a sanction. The Department reconciled this issue by amending s.HSS 206.09(4m)(c) to provide that failure to maintain full-time employment *shall* result in a sanction.

• **Verification of participation** - It has been asserted that there is a contradiction between language in s.HSS 206.09(4m)(a)1, which provides that a PFP participant must report and provide verification of meeting participation requirements for each month by the 5th day of the following month, and language in s.HSS 206.09(4m)(b)2 which provides that such report is considered timely if it is received by the agency by the 5th day of the month in which the verification is due. After reviewing that language, we have modified the definition of "timely" in s.HSS 206.09(4m)(b)2 to make clear that the verification is timely if it is received by the 5th calendar day of the month following the month in which the activity occurred.

In addition, the Department modified the language to clarify that these are calendar days and amended s.HSS 206.09(4m)(b)2 to address instances in which the 5th calendar day of the month falls on a weekend or holiday. The new language is identical to that found in s.HSS 205, Monthly Reporting and Income Budgeting.

• **Reduction of food stamp benefits to \$10 for PFP sanctioned individuals** - The Legislative Council memo questions whether the Department had statutory authority to reduce food stamp benefits when a PFP participant is sanctioned, since 1995 Act 12 does not contain express language authorizing the reduction.

As representatives of the Department of Health and Social Services explained in testimony on AB 21, the Department's intent was to reduce food stamps to \$10 for individuals with a full PFP sanction. Under federal regulations, an interrelationship exists between the Job Opportunities and Basic Skills (JOBS) program and the Food Stamp Employment and Training (FSET) program [federal regulations found at 7 CFR 273.7(g)(2)] which provides that *if the JOBS and FSET program requirements in a state are comparable, food stamp recipients who fail to cooperate with the JOBS program shall also be sanctioned for failing to cooperate with FSET requirements, unless otherwise exempt under food stamp program regulations.*

Since federal fiscal year 1994 the Department has been operating the FSET program under an approved state plan which states that the JOBS and FSET programs are comparable, and that failure to cooperate with the JOBS program will result in both an AFDC and food stamp sanction for those food stamp recipients not otherwise exempt from participation in FSET. While a PFP sanction may result in a reduction of food stamp benefits to \$10, this is actually *more generous* than what would occur under federal FSET sanctions for a head of household who fails to participate, which

results in no food stamp benefits being paid to the family at all, because the PFP sanction is *directly tied to the rate of non-participation*. Under federal regulations, nonparticipation by the head of household results in denial or closure of the entire food stamp group for two calendar months; thus, the sanction impact is the same regardless whether an individual fails to participate for one hour or 50 hours.

The Department has statutory authority under s.49.124, Stats., to administer the food stamp program under 7 USC 2011 to 2029. However, food stamp benefit dollars are 100% federally funded and the state must administer the program under the federal regulations. Federal regulations clearly provide that if the JOBS/FSET programs are comparable, sanctions under JOBS impact food stamp program benefits.

• **Conciliation** - The Legislative Council memo asserts that, while it is clear the federally-approved terms and conditions for administration of the PFP demonstration project include a waiver of the JOBS program conciliation requirements, the statutes still appear to require conciliation. The Department believes that the legislative intent was clear that s.49.193(4)(L) and (9) do not require the same conciliation for the Pay for Performance program as has been necessary for JOBS under federal rule.

While the Department is no longer required to meet the federal standards related to conciliation prior to imposition of a sanction, the Department does provide an opportunity for the participant to dispute impending sanctions via the notice of sanction, which is sent to participants prior to sanction imposition and directs the participant to contact the economic support worker and provides a phone number to call if the participant has questions regarding the notice. The notice also includes the participant's rights and responsibilities, including appeal rights. The Department believes that the current practice of providing notice and opportunity to dispute the sanction at least 10 days prior to imposition provides an adequate opportunity for the participant to contact the economic support or JOBS program worker to resolve propriety issues surrounding the sanction. The Department does not believe that s.49.193(9) means that conciliation, notice and sanction occur as separate steps or that they follow a prescribed order in the PFP program. In the PFP pilot, the Legislature clearly expected the Department to address efficiencies in process.

Finally, it should be noted that the original federally mandated conciliation process under the JOBS program does not conform with the intent of the PFP program, which is intended to promote personal responsibility and pay benefits based on participation, just like work. When a sanction is imposed under the PFP program, the sanctioned participant has the opportunity to prevent further sanction by modifying their behavior; immediate participation will result in commensurate restoration of benefits in the next payable month. Under the JOBS program, sanctions apply for a longer, set period of time. It can be argued that the formalized conciliation process is an appropriate and necessary due process requirement for sanctions that last for a fixed term, but this formalized process is not appropriate for sanctions that are based on cause and can be remedied by immediate action. For those reasons, the federal mandate was waived.

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Finally, the following additional modifications have been made based on additional comments:

- **Incapacitation** - Current policy provides that a JOBS agency may suspend participation requirements while verifying incapacitation (SSF requirements). We have added language in s.HSS 206.065(2) to clarify this procedure.
- **Good cause reasons for failing to meet with the FPRS** - Concern has been expressed that the 'good cause' reasons for failing to meet with the FPRS are too limited. The Department has added language in s.HSS 201.045(6)(a)3 to clarify that failure or refusal to meet with the FPRS during the 30 day application processing period without good cause results in ineligibility.

In addition, we have also added an additional 'good cause' reason that is similar to one found in s.HSS 206.23(3)(b): Other circumstances beyond the control of the adult applicant or applicants but only as determined by the agency.

I hope that these modifications address your concerns. Please contact Donna Cochems (266-7889) if you have any questions about the issues raised above, or the rule itself.

Sincerely,



J. Jean Rogers, Administrator
Division of Economic Support

cc: Senator Carol Buettner

Tommy G. Thompson
Governor
Richard C. Wegner
Acting Secretary



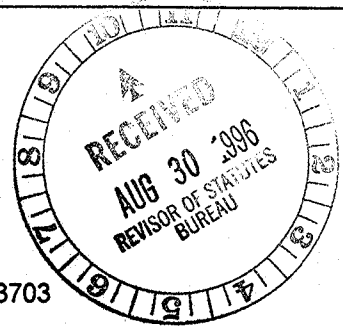
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State of Wisconsin Department of Industry, Labor and Human Relations

August 30, 1996

Gary Poulson
Assistant Revisor of Statutes
Suite 800
131 W. Wilson St.
Madison, Wisconsin 53703-3233

Douglas LaFollette
Secretary of State
10th Floor
30 West Mifflin Street
Madison, Wisconsin 53703



Dear Messrs. Poulson and LaFollette:

TRANSMITTAL OF RULE ADOPTION

CLEARINGHOUSE RULE NO.: 96-036

RULE NO.: HSS 201 and 206

RELATING TO: PARTICIPATION OF AID TO FAMILIES WITH DEPENDENT CHILDREN (AFDC)
APPLICANTS AND RECIPIENTS IN THE PAY FOR PERFORMANCE (PFP)
DEMONSTRATION PROJECT

Pursuant to section 227.20, Stats., agencies are required to file a certified copy of every rule adopted by the agency with the offices of the Secretary of State and the Revisor of Statutes.

At this time, the following material is being submitted to you:

1. Order of Adoption.
2. Rules Certificate Form.
3. Rules in Final Draft Form.

Pursuant to section 227.114, Stats., a summary of the final regulatory flexibility analysis is included for permanent rules. A fiscal estimate and fiscal estimate worksheet is included with an emergency rule.

Respectfully submitted,

A handwritten signature in black ink, appearing to read "Richard C. Wegner".

Richard C. Wegner
Acting Secretary