

Revised Statement of Scope

Department of Children and Families ***Family and Economic Security, Chs. DCF 101-153***

This statement of scope was approved by the governor on December 27, 2016.

This revised statement of scope modifies, SS 042-12, which was approved by the governor on June 8, 2012, published in Register No. 678, on June 30, 2012.

Rule No.

Chapter DCF 101

Relating to

Sanctions in the Wisconsin works Program.

Rule Type

Permanent.

1. Finding/nature of emergency (for emergency rules only)

Not applicable.

2. Detailed Description of the Objective of the Proposed Rule

The proposed rules will specify guidelines for determining when a participant, or individual in the participant's Wisconsin works group, who engages in a behavior specified in s. 49.151 (1m) (a)-(f), Stats., is demonstrating a refusal to participate.

The proposed rules will also establish procedures for providing written notice before taking any action against a participant that would result in a 20 percent or more reduction in the participant's benefits or in termination of the participant's eligibility to participate in the Wisconsin works program. In addition, the proposed rules will include a definition of the "reasonable time" that a Wisconsin works agency is required to allow a participant to rectify a deficiency, failure, or other behavior to avoid the proposed action as provided under s. 49.153 (1) (a), Stats.

3. Detailed Explanation of Statutory Authority for the Rule

Section 49.1515 (1), Stats., as created by 2009 Wisconsin Act 28 and affected by 2015 Wisconsin Act 55, provides that the department shall by rule specify guidelines for determining when a Wisconsin works participant, or an individual in the participant's Wisconsin works group who is subject to a work requirement, is demonstrating a refusal to participate in the Wisconsin works program.

Section 49.151 (1c)-(1m), Stats., as affected by 2015 Wisconsin Act 55, provides that a participant who refuses to participate as determined under guidelines promulgated by the department under s. 49.1515 (1), Stats., in any Wisconsin works employment position is ineligible to participate in the Wisconsin works program for

three months. A participant is also ineligible if a nonparticipant parent who is required to work under the 2-parent family requirement in s. 49.15 (2), Stats., refuses to participate as required. A participant or a nonparticipant parent who is required to work refuses to participate if the participant or nonparticipant parent, without good cause:

- Fails to appear for an interview with a prospective employer,
- Fails to appear for an assigned work activity,
- Voluntarily leaves appropriate employment or training, or
- Voluntarily leaves a work experience site.

The participant or nonparticipant parent who is required to work also refuses to participate if the participant or nonparticipant parent:

- Is discharged from appropriate employment or training for cause,
- Is discharged from a work experience site for cause, or
- Demonstrates through other behavior or action, as specified by the department by rule, that the participant or nonparticipant parent refuses to participate in a Wisconsin works employment position.

Section 49.153 (1), Stats., as affected by 2015 Wisconsin Act 55, provides that before taking any action against a participant that would result in a 20 percent or more reduction in the participant's benefits or in termination of the participant's eligibility to participate in the Wisconsin works program, a Wisconsin works agency shall do all of the following:

- (a) Provide to the participant written notice of the proposed action and of the reasons for the proposed action.
- (b) After providing the notice under par. (a), allow the participant a reasonable time to rectify the deficiency, failure, or other behavior to avoid the proposed action.

Section 49.153 (1m), Stats., as created by 2015 Wisconsin Act 55, provides that a Wisconsin works agency is not required to comply with the notice requirements under sub. (1) if the action taken is the result of the participant no longer meeting eligibility criteria as specified under s. 49.145 (2) (a), (b), (c), (d), (g), (i), (j), (m), (q), (r), or (rm) or (3), Stats.

Section 49.153 (2), Stats., as created by 2005 Wisconsin Act 25 and affected by 2011 Wisconsin Act 32, provides that the department shall promulgate rules that establish procedures for the notice under sub. (1) (a) and that define "reasonable time" for the purpose of sub. (1) (c).

4. Estimate of Amount of Time that State Employees will Spend Developing the Rule and of Other Resources Necessary to Develop the Rule

175 hours.

5. List with Description of all Entities that may be Affected by the Proposed Rule

Wisconsin works agencies, Wisconsin works participants, and nonparticipant parents required to work under the 2-parent family requirement in s. 49.15 (2), Stats.

6. Summary and Preliminary Comparison with any Existing or Proposed Federal Regulation that is Intended to Address the Activities to be Regulated by the Proposed Rule

45 CFR § 261.14 provides that if an individual refuses to engage in mandatory work requirements, the state must reduce or terminate the amount payable to the family, subject to any good cause exceptions the state may establish. The state must, at a minimum, reduce the amount of assistance otherwise payable to the family pro rata with respect to any period during the month in which the individual refuses to work. The state may impose a greater reduction, including terminating assistance. A state that fails to impose penalties on individuals may be subject to a penalty.

7. Anticipated Economic Impact of Implementing the Rule (Note if the Rule is Likely to have a Significant Economic Impact on Small Businesses)

Minimal impact; no impact on small business.

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