

Statement of Scope

Department of Children and Families

Rule Number: Chapter DCF 101, Wis. Adm. Code.

Relating to: Wisconsin Works time limit, hardship definition for time limit extensions, and transition of individuals at or near the 48-month limit on the effective date

Rule Type: Permanent

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

1. Detailed description of the objective of the proposed rule.

The proposed rules will amend s. DCF 101.09(2)(n), Wis. Adm. Code, to reduce the total number of months an individual may participate in a TANF-funded program that provides TANF cash assistance from 60 months to 48 months to conform to s. 49.145(2)(n)1, Wis. Stats., as affected by 2015 Wisconsin Act 55.

The proposed rules will also amend s. DCF 101.09(2)(n), Wis. Adm. Code, to define the hardship criteria a Wisconsin works agency must use to determine if an individual is appropriate for an extension of the 48-month time limit to comply with s. 49.145(2)(n)3, Wis. Stat., as affected by 2015 Wisconsin Act 55. The proposed rules will define procedures for granting extensions, permissible reasons for an extension, the length of an extension period, and the maximum number extension periods that may be approved.

The proposed rules will establish a transition period that will permit an individual currently participating in Wisconsin works to remain in the program beyond the 48-month time limit to access services to assist the individual to transition out of Wisconsin works. The proposed rule will identify the extension eligibility criteria during the transition period, the length of the extension period, and any hardship reasons that may be available to individuals during the transition period.

2. Detailed explanation of statutory authority for the rule.

Section 49.145(2)(n)1, Wis. Stat., as affected by 2015 Wisconsin Act 55, reduces the time an individual can participate in a TANF-funded program paying TANF cash assistance from 60 months to 48 months, whether or not consecutive. This requirement affects any adult member of the Wisconsin works group who has participated in, or has received benefits under, any of the following or any combination of the following:

- a. The job opportunities and basic skills program under s. 49.193, 1997 stats. Active participation on or after October 1, 1996, in the job opportunities and basic skills program counts toward the 48-month limit.
- b. A Wisconsin works employment position.

- c. Any program in this state or in any other state funded by a federal block grant for temporary assistance for needy families under title I of P.L. 104-193, if the individual received benefits under that program that were attributable to funds provided by the federal government.

Section 49.145(2)(n)3, Wis. Stat., as affected by 2015 Wisconsin Act 55, provides that “A Wisconsin works agency may extend the time limit only if the Wisconsin works agency determines, in accordance with rules promulgated by the department, that the individual is experiencing hardship or that the individual’s family includes an individual who has been battered or subjected to extreme cruelty.”

Section 9106(1) of 2015 Wisconsin Act 55 contains the following nonstatutory provision, “When implementing the 48-month time limit under section 49.145 (2) (n) 1. (intro.) and a. and 3. of the statutes, as affected by this act, for an individual participating in Wisconsin works on the effective date of this subsection, the department of children and families may allow the individual to continue to participate in some or all components of Wisconsin works longer than the 48-month time limit for an appropriate amount of time necessary to allow the individual to transition out of Wisconsin works, as determined by the department of children and families.”

Section 49.145(1), Wis. Stat., provides that the “department may promulgate rules establishing additional eligibility criteria and specifying how eligibility criteria are to be administered.”

Section 227.11(2)(a), Wis. Stat., expressly confers rule-making authority on each agency to promulgate rules interpreting the provisions of any statute enforced or administered by the agency.

3. Estimate of amount of time that state employees will spend developing the rule and of other resources necessary to develop the rule.

200 hours.

4. List with description of all entities that may be affected by the proposed rule.

Wisconsin works agencies, Wisconsin works participants, Wisconsin works assistance group members, community-based organizations supporting low income families, Social Security Administration, and Department of Workforce Development Division of Vocational Rehabilitation.

5. 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.

Existing federal regulations establish a time limit for receiving TANF benefits but also grant states significant flexibility in creating time limit policies.

45 CFR §264.1(a) prohibits states from using federal TANF funds to provide assistance to most families beyond 60 cumulative months. This federal regulation also allows a state to set a time limit shorter than 60 months.

45 CFR §264.1(c) provides that states may extend assistance to a limited number of families beyond the 60-month time limit, but this number cannot exceed 20 percent of the State's caseload. States may also extend assistance if families have experienced hardship, as defined by the State, or if the family includes someone who has been battered or subjected to extreme cruelty which includes the following:

- i. Physical acts that resulted in, or threatened to result in, physical injury to the individual;
- ii. Sexual abuse;
- iii. Sexual activity involving a dependent child;
- iv. Being forced as the caretaker relative of a dependent child to engage in nonconsensual sexual acts or activities;
- v. Threats of, or attempts at, physical or sexual abuse;
- vi. Mental abuse; or
- vii. Neglect or deprivation of medical care.

If a state does not comply with the federal 60-month time limit requirements, 45 CFR §264.2 provides that the State Family Assistance Grant (SFAG) will be reduced by five percent in the succeeding fiscal year. A state may avoid the penalty by demonstrating reasonable cause or correcting the violation under a corrective compliance plan. 45 CFR §264.3(b) provides that a state may receive reasonable cause because it granted federally recognized good cause domestic violence waivers.

The proposed rules must assure the Wisconsin works program remains in compliance with federal requirements for TANF program time limits and extending assistance.

6. Anticipated economic impact of implementing the rule (note if the rule is likely to have a significant economic impact on small business):

Minimal economic impact; no impact on small business.

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