

**Statement of Scope**  
**Department of Children and Families**

**Rule Number:** DCF 101.09 and 120.06

**Relating to:** Asset Restrictions on Eligibility for Wisconsin Works and Emergency Assistance

**Rule Type:** Permanent

This statement of scope was approved by the governor on November 12, 2020.

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

DCF 101, Wisconsin Works

The proposed rule will amend s. DCF 101.09 to incorporate a new asset restriction on eligibility for the Wisconsin Works program (W-2) under s. 49.145 (3), Stats., as affected by 2017 Wisconsin Act 269.

Under s. 49.145 (3) (a), Stats., a W-2 group's assets may not exceed \$2,500 in combined equity value, excluding the equity value of vehicles up to a total equity value of \$10,000 and one home that serves as the homestead for the W-2 group. 2017 Wisconsin Act 269 amended s. 49.145 (3) (a), Stats., to limit the homestead exclusion to a home valued at no more than 200 percent of the statewide median value for homes, excluding the value of agricultural land.

2017 Wisconsin Act 269 also created s. 49.145 (3) (c), Stats., which provides that the department may promulgate a rule to establish a hardship exemption to allow the exclusion of a homestead valued at any amount.

The proposed rule will create a hardship exemption to ensure that individuals are not denied eligibility for W-2 following an unexpected crisis or in situations where the home is not considered an available resource to the W-2 group. Criteria for a hardship exemption may include homes that are temporarily uninhabitable due to damage from a fire or natural disaster, are listed for sale, or are subject to probate or divorce litigation proceedings.

In addition, the proposed rule will define "statewide median value for homes," "value of the homestead," and "value of agricultural land" and may define "home" and "homestead."

DCF 120, Emergency Assistance

Financial eligibility for the Emergency Assistance program is specified by rule. The current Emergency Assistance rule includes a cross-reference to the W-2 asset limits in s. DCF 101.09 (3) (b).

The proposed rule will not extend the coverage of 2017 Wisconsin Act 269 to Emergency Assistance. The substantive provisions will remain the same. Instead of a cross-reference to the W-2 asset restrictions, the Emergency Assistance rule will specify the current asset restrictions that the group's assets may not exceed \$2,500 in combined equity value, excluding the equity value of vehicles up to a total equity value of \$10,000 and one home that serves as the homestead for the W-2 group.

**2. Detailed explanation of statutory authority for the rule.**

Section 49.138 (1m), Stats., provides that the department shall implement a program of emergency assistance to needy persons in cases of fire, flood, natural disaster, homelessness or impending

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

Section 49.145 (3) (c), Stats., provides that the department may promulgate a rule to establish a hardship exemption to allow the exclusion of one home valued at any amount that serves as a homestead for the W-2 group.

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.

**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, and community-based organizations supporting low-income families.

**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.**

Federal law requires states to restrict TANF-funded cash assistance to “needy” families. States define the criteria for determining whether a family is financially needy and eligible for TANF cash assistance, as specified in their TANF state plans. Federal law does not require states to administer an asset test to determine if a family is financially needy.

45 CFR 260.20 provides the four purposes for the TANF program. The first two statutory purposes of the TANF program are expressly for the needy:

- Provide assistance to needy families so that children may be cared for in their own homes or in the homes of relatives.
- End the dependence of needy parents on government benefits by promoting job preparation, work, and marriage.

45 CFR 263.2 (b) provides that State Maintenance of Effort (MOE) funds may only be used for or on behalf of eligible families who must be financially needy and consist of, at a minimum, a child living with a relative or a pregnant woman. 45 CFR 263.2 (b) (3) further specifies that the state determines if a family is financially eligible according to the appropriate income and resource (when applicable) standards established by the state and contained in its TANF plan.

42 USC 602 (a) provides that states must submit a plan to outline how the state intends to conduct a program that provides assistance to needy families with or expecting children and provides parents with job preparation, work and support services to enable them to leave the program and become self-sufficient. The State Plan must provide objective criteria for the delivery of benefits and the determination of eligibility.

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

Minimal or no economic impact on small business

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