



State of Wisconsin
2011 - 2012 LEGISLATURE



LRB-2441/1
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2011 ASSEMBLY BILL 446

December 27, 2011 – Introduced by Representatives GRIGSBY, YOUNG, PASCH, C. TAYLOR, BERCEAU, POCAN and E. COGGS, cosponsored by Senators TAYLOR and RISSER. Referred to Committee on Children and Families.

1 **AN ACT** *to repeal* 49.147 (2) (am), 49.147 (3) (c), 49.147 (4) (b), 49.147 (5) (b) 2.,
2 49.155 (3m) (d) 2., 49.155 (3m) (d) 3., 49.155 (3m) (d) 4., 49.155 (4) (b), 49.155
3 (6) (e) 1., 49.155 (6) (e) 3., 49.155 (6) (e) 4., 49.155 (6) (e) 5. and 49.155 (6d); **to**
4 **renumber** 49.147 (5) (b) 1. (intro.), 49.147 (5) (b) 1. a., 49.147 (5) (b) 1. b., 49.147
5 (5) (b) 1. c., 49.147 (5) (b) 1. d., 49.155 (4) (title) and 49.155 (4) (a); **to renumber**
6 **and amend** 49.153 (1) (a), 49.155 (3m) (d) 1. and 49.155 (6) (e) 2.; **to amend**
7 49.147 (2) (a) 1., 49.147 (2) (a) 2., 49.147 (2) (b), 49.147 (4) (as), 49.147 (5) (bs),
8 49.148 (1) (b) 1., 49.148 (1) (b) 1m. d., 49.148 (1) (b) 3., 49.148 (1) (c), 49.148 (1m)
9 (a) 1., 49.148 (1m) (c) (intro.), 49.148 (4) (b), 49.151 (1) (b), 49.1515 (title), 49.152
10 (1), 49.152 (3) (a), 49.153 (1) (c), 49.153 (2) and 49.159 (3); and **to create** 49.1515
11 (2c), 49.1515 (3c) and 49.153 (1) (ac) of the statutes; **relating to:** time limits and
12 other participation requirements, case management services, and caretaker of
13 newborn grants under Wisconsin Works; child care provider rates and

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1 eligibility for subsidies under Wisconsin Shares; and granting rule-making
2 authority.

Analysis by the Legislative Reference Bureau

The Wisconsin Works (W-2) program under current law, administered by the Department of Children and Families (DCF), provides work experience and benefits for low-income custodial parents who are at least 18 years old, as well as job search assistance to noncustodial parents who are required to pay child support, to minor custodial parents, and to pregnant women who are not custodial parents. Under Wisconsin Shares, which is also part of W-2, an individual who is the parent of a child under the age of 13 or, if the child is disabled, under the age of 19, who needs child care services to participate in various educational or work activities, and who satisfies other eligibility criteria, may receive a child care subsidy for child care services. The biennial budget act (Act 32) made a number of changes to W-2 and Wisconsin Shares. This bill eliminates some of the changes and restores other provisions to what the law was before Act 32, including the following:

1. Eliminating the three-month limit on participation in a trial job; the six-month limit on participation in a community service job; and the 24-month limits on trial job, community service job, and transitional placements. Current law still limits the overall time during which an individual may participate in W-2 to 60 months.

2. Removing the ten-hour limit on the time during which a participant in a community service job, and the 12-hour limit on the time during which a participant in a transitional placement, may be required to participate in educational or training activities per week.

3. Restoring the maximum monthly grant received by a participant in a community service job to \$673 and by a participant in a transitional placement to \$628. Act 32 reduced the monthly grants to \$653 and \$608, respectively.

4. Restoring the requirement that DCF make certain determinations, such as whether good cause exists for a participant's failure to participate and that the services offered to a participant are appropriate for him or her, before determining that a participant is ineligible for three months to participate in W-2 due to a failure to participate in an assigned placement.

5. Restoring the requirement that, before a participant who has refused to participate in an assigned placement loses eligibility for three months, he or she must be given a conciliation period during which he or she must participate in all assigned activities.

6. Restoring the requirement that, after a W-2 agency has provided written notice to a W-2 participant whose benefits are about to be reduced by at least 20 percent or whose eligibility is about to be terminated, the W-2 agency also must orally explain the proposed action.

7. Eliminating the W-2 placement category under which a participant who is job-ready may receive case-management services but no job placement or grant.

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8. Providing that the custodial parent of an infant up to 12 weeks old may receive a grant and not be required to work in a W-2 placement. Act 32 reduced the maximum age of such an infant to eight weeks.

9. Eliminating the authority of DCF to modify child care provider reimbursement rates under Wisconsin Shares on the basis of a provider's quality rating and to disqualify a provider with a low-quality rating from receiving any payment.

10. Eliminating the authority of DCF to institute a number of cost-saving measures under Wisconsin Shares, such as implementing a waiting list and increasing child care subsidy copayments.

11. Eliminating the prohibition that a child care provider under Wisconsin Shares may not receive a subsidy for a child whose parent is also a child care provider unless the provider has been granted a waiver.

12. Eliminating the prohibition that a person receiving a child care subsidy under Wisconsin Shares may not personally benefit from any marketing or promotional offerings made by a child care provider to attract clients.

For further information see the *state* fiscal estimate, which will be printed as an appendix to this bill.

The people of the state of Wisconsin, represented in senate and assembly, do enact as follows:

1 **SECTION 1.** 49.147 (2) (a) 1. of the statutes, as affected by 2011 Wisconsin Act
2 32, is amended to read:

3 49.147 (2) (a) 1. An individual who applies for a Wisconsin Works employment
4 position may be required by the Wisconsin Works agency to search for unsubsidized
5 employment during the period that his or her application is being processed as a
6 condition of eligibility. A participant in a Wisconsin Works employment position ~~or~~
7 ~~who is receiving case management services under par. (am)~~ shall search for
8 unsubsidized employment throughout his or her participation. The department
9 shall define by rule satisfactory search efforts for unsubsidized employment.

10 **SECTION 2.** 49.147 (2) (a) 2. of the statutes, as affected by 2011 Wisconsin Act
11 32, is amended to read:

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1 49.147 (2) (a) 2. A Wisconsin Works agency may require an applicant for a
2 Wisconsin Works employment position to participate in job orientation during the
3 period that his or her application is being processed as a condition of eligibility. A
4 Wisconsin Works agency may require a participant in a Wisconsin Works
5 employment position ~~or who is receiving case management services under par. (am)~~
6 to engage in training activities in accordance with rules promulgated by the
7 department as part of the participant's participation requirements.

8 **SECTION 3.** 49.147 (2) (am) of the statutes, as created by 2011 Wisconsin Act 32,
9 is repealed.

10 **SECTION 4.** 49.147 (2) (b) of the statutes, as affected by 2011 Wisconsin Act 32,
11 is amended to read:

12 49.147 (2) (b) *Job search assistance.* A Wisconsin Works agency shall assist a
13 participant in his or her search for unsubsidized employment. In determining an
14 appropriate placement for a participant, a Wisconsin Works agency shall give
15 priority to placement in unsubsidized employment ~~and providing case management~~
16 ~~services under par. (am)~~ over placements under subs. (3) to (5).

17 **SECTION 5.** 49.147 (3) (c) of the statutes, as created by 2011 Wisconsin Act 32,
18 is repealed.

19 **SECTION 6.** 49.147 (4) (as) of the statutes, as affected by 2011 Wisconsin Act 32,
20 is amended to read:

21 49.147 (4) (as) *Required hours.* Except as provided in pars. (at) and (av) and
22 sub. (5m), a Wisconsin Works agency shall require a participant placed in a
23 community service job program to work in a community service job for the number
24 of hours determined by the Wisconsin Works agency to be appropriate for the
25 participant at the time of application or review ~~and may require a participant to~~

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1 ~~participate in education or training activities for not more than 10 hours per week,~~
2 except that the Wisconsin Works agency may not require a participant under this
3 subsection to spend more than 40 hours per week in combined activities under this
4 subsection.

5 **SECTION 7.** 49.147 (4) (b) of the statutes, as created by 2011 Wisconsin Act 32,
6 is repealed.

7 **SECTION 8.** 49.147 (5) (b) 1. (intro.) of the statutes, as affected by 2011 Wisconsin
8 Act 32, is renumbered 49.147 (5) (b) (intro.).

9 **SECTION 9.** 49.147 (5) (b) 1. a. of the statutes, as affected by 2011 Wisconsin Act
10 32, is renumbered 49.147 (5) (b) 1c.

11 **SECTION 10.** 49.147 (5) (b) 1. b. of the statutes, as affected by 2011 Wisconsin
12 Act 32, is renumbered 49.147 (5) (b) 2c.

13 **SECTION 11.** 49.147 (5) (b) 1. c. of the statutes, as affected by 2011 Wisconsin
14 Act 32, is renumbered 49.147 (5) (b) 3c.

15 **SECTION 12.** 49.147 (5) (b) 1. d. of the statutes, as affected by 2011 Wisconsin
16 Act 32, is renumbered 49.147 (5) (b) 4c.

17 **SECTION 13.** 49.147 (5) (b) 2. of the statutes, as created by 2011 Wisconsin Act
18 32, is repealed.

19 **SECTION 14.** 49.147 (5) (bs) of the statutes, as affected by 2011 Wisconsin Act
20 32, section 1357f, is amended to read:

21 49.147 (5) (bs) *Required hours.* Except as provided in par. (bt) and sub. (5m),
22 a Wisconsin Works agency may require a participant placed in a transitional
23 placement ~~to participate in education or training activities for not more than 12~~
24 ~~hours per week and to engage in activities under par. (b) 1., but~~ 1c. to 4c. ~~The~~

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1 Wisconsin Works agency may not require a participant under this subsection to
2 spend more than 40 hours per week in combined activities under this subsection.

3 **SECTION 15.** 49.148 (1) (b) 1. of the statutes, as affected by 2011 Wisconsin Act
4 32, is amended to read:

5 49.148 (1) (b) 1. Except as provided in subd. 1m., for a participant in a
6 community service job under s. 49.147 (4), a monthly grant of ~~\$653~~ \$673, paid by the
7 Wisconsin Works agency. For every hour that the participant misses work or
8 education or training activities without good cause, the grant amount shall be
9 reduced by ~~\$5~~ \$5.15. Good cause shall be determined by the financial and
10 employment planner in accordance with rules promulgated by the department. Good
11 cause shall include required court appearances for a victim of domestic abuse. If a
12 participant in a community service job under s. 49.147 (4) is required to work fewer
13 than 30 hours per week because the participant has unsubsidized employment, as
14 defined in s. 49.147 (1) (c), the grant amount under this paragraph shall equal the
15 amount specified under subd. 1m. minus ~~\$5~~ \$5.15 for each hour that the participant
16 misses work or education or training activities without good cause.

17 **SECTION 16.** 49.148 (1) (b) 1m. d. of the statutes, as affected by 2011 Wisconsin
18 Act 32, is amended to read:

19 49.148 (1) (b) 1m. d. For a participant placed in a community service job for
20 more than 20 hours per week, ~~\$653~~ \$673.

21 **SECTION 17.** 49.148 (1) (b) 3. of the statutes, as affected by 2011 Wisconsin Act
22 32, is amended to read:

23 49.148 (1) (b) 3. For a participant in a community service job who participates
24 in technical college education under s. 49.147 (5m), a monthly grant of ~~\$653~~ \$673,
25 paid by the Wisconsin Works agency. For every hour that the participant misses

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1 work or other required activities without good cause, the grant amount shall be
2 reduced by \$5 \$5.15. Good cause shall be determined by the financial and
3 employment planner in accordance with rules promulgated by the department. Good
4 cause shall include required court appearances for a victim of domestic abuse.

5 **SECTION 18.** 49.148 (1) (c) of the statutes, as affected by 2011 Wisconsin Act 32,
6 section 1361f, is amended to read:

7 49.148 (1) (c) *Transitional placements.* For a participant in a transitional
8 placement under s. 49.147 (5) or in a transitional placement and in technical college
9 education under s. 49.147 (5m), a grant of \$608 \$628, paid monthly by the Wisconsin
10 Works agency. For every hour that the participant fails to participate in any required
11 activity without good cause, including any activity under s. 49.147 (5) (b) ~~1. a. to d.~~
12 1c. to 4c., the grant amount shall be reduced by \$5. \$5.15 Good cause shall be
13 determined by the financial and employment planner in accordance with rules
14 promulgated by the department. Good cause shall include required court
15 appearances for a victim of domestic abuse.

16 **SECTION 19.** 49.148 (1m) (a) 1. of the statutes, as affected by 2011 Wisconsin
17 Act 32, is amended to read:

18 49.148 (1m) (a) 1. A custodial parent of a child 8 12 weeks old or less who meets
19 the eligibility requirements under s. 49.145 (2) and (3), unless another adult member
20 of the custodial parent's Wisconsin Works group is participating in, or is eligible to
21 participate in, a Wisconsin Works employment position or is employed in
22 unsubsidized employment, as defined in s. 49.147 (1) (c).

23 **SECTION 20.** 49.148 (1m) (c) (intro.) of the statutes, as affected by 2011
24 Wisconsin Act 32, is amended to read:

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1 49.148 **(1m)** (c) (intro.) For purposes of the time ~~limits~~ limit under ss. s. 49.145
2 (2) (n) and ~~49.147 (3) (e), (4) (b), and (5) (b) 2.~~, all of the following apply:

3 **SECTION 21.** 49.148 (4) (b) of the statutes, as affected by 2011 Wisconsin Act 32,
4 is amended to read:

5 49.148 **(4)** (b) The Wisconsin Works agency may require an individual who tests
6 positive for use of a controlled substance under par. (a) to participate in a drug abuse
7 evaluation, assessment, and treatment program as part of the participation
8 requirement under s. 49.147 (4) ~~(as)~~ (a) and (am) or (5) ~~(bs)~~ (b) and (bm).

9 **SECTION 22.** 49.151 (1) (b) of the statutes, as affected by 2011 Wisconsin Act 32,
10 is amended to read:

11 49.151 **(1)** (b) The participant, or an individual who is in the participant's
12 Wisconsin Works group and who is subject to the work requirement under s. 49.15
13 (2), fails, without good cause, as determined by the Wisconsin Works agency, to
14 appear for an interview with a prospective employer or, if the participant is in a
15 Wisconsin Works transitional placement, the participant fails to appear for an
16 assigned activity, including an activity under s. 49.147 (5) (b) ~~1. a. to d. 1c. to 4c.~~,
17 without good cause, as determined by the Wisconsin Works agency.

18 **SECTION 23.** 49.1515 (title) of the statutes, as affected by 2011 Wisconsin Act
19 32, is amended to read:

20 **49.1515** (title) **Determining nonparticipation without good cause.**

21 **SECTION 24.** 49.1515 (2c) of the statutes is created to read:

22 49.1515 **(2c)** ACTIONS BEFORE DETERMINATION. Before determining under s.
23 49.151 that a participant is ineligible to participate in the Wisconsin Works program,
24 the Wisconsin Works agency shall do all of the following:

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1 (a) Determine whether the failure of the participant or individual to participate
2 is because the participant or individual refuses to participate or is unable to
3 participate.

4 (b) Ensure that the services offered to the participant or individual are
5 appropriate for him or her.

6 (c) Determine whether good cause exists for the failure to participate.

7 **SECTION 25.** 49.1515 (3c) of the statutes is created to read:

8 49.1515 (3c) CONCILIATION PERIOD FOR COMPLIANCE. (a) If a Wisconsin Works
9 agency, in accordance with rules promulgated under sub. (1) and after taking the
10 steps required under sub. (2c), determines that a participant or individual has
11 refused to participate without good cause, the Wisconsin Works agency shall allow
12 the participant or individual a conciliation period during which he or she must
13 participate in all assigned activities unless good cause exists that prevents
14 compliance during the conciliation period.

15 (b) The department shall by rule establish the length of time for a conciliation
16 period.

17 **SECTION 26.** 49.152 (1) of the statutes, as affected by 2011 Wisconsin Act 32,
18 is amended to read:

19 49.152 (1) PETITION FOR REVIEW. Any individual whose application for any
20 component of Wisconsin Works is not acted upon by the Wisconsin Works agency with
21 reasonable promptness after the filing of the application, as defined by the
22 department by rule, or is denied in whole or in part, whose benefit is modified or
23 canceled, or who believes that the benefit was calculated incorrectly, or that the
24 employment position in which the individual was placed is inappropriate, ~~or that~~
25 ~~providing case management services under s. 49.147 (2) (am) in lieu of placement in~~

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1 a ~~Wisconsin Works employment position is inappropriate,~~ may petition the
2 Wisconsin Works agency for a review of such action. Review is unavailable if the
3 action by the Wisconsin Works agency occurred more than 45 days prior to
4 submission of the petition for review.

5 **SECTION 27.** 49.152 (3) (a) of the statutes, as affected by 2011 Wisconsin Act 32,
6 is amended to read:

7 49.152 (3) (a) If, following review under sub. (2), the Wisconsin Works agency
8 or the department determines that an individual whose application for a Wisconsin
9 Works employment position was denied based on eligibility was in fact eligible, or
10 that the individual was placed in an inappropriate Wisconsin Works employment
11 position ~~or inappropriately provided case management services under s. 49.147 (2)~~
12 ~~(am) in lieu of placement in a Wisconsin Works employment position,~~ the Wisconsin
13 Works agency shall place the individual in the first available Wisconsin Works
14 employment position that is appropriate for that individual, as determined by the
15 Wisconsin Works agency or the department. An individual who is placed in a
16 Wisconsin Works employment position under this paragraph is eligible for the
17 benefit for that position under s. 49.148 beginning on the date on which the
18 individual begins participation under s. 49.147.

19 **SECTION 28.** 49.153 (1) (a) of the statutes, as affected by 2011 Wisconsin Act 32,
20 is renumbered 49.153 (1) (bc) and amended to read:

21 49.153 (1) (bc) ~~Provide~~ After providing the explanation under par. (ac), provide
22 to the participant written notice of the proposed action and of the reasons for the
23 proposed action.

24 **SECTION 29.** 49.153 (1) (ac) of the statutes is created to read:

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1 49.153 (1) (ac) Explain to the participant orally in person or by phone, or make
2 reasonable attempts to explain to the participant orally in person or by phone, the
3 proposed action and the reasons for the proposed action.

4 **SECTION 30.** 49.153 (1) (c) of the statutes, as affected by 2011 Wisconsin Act 32,
5 is amended to read:

6 49.153 (1) (c) After providing the explanation or the attempts to provide an
7 explanation under par. (ac) and the notice under par. (a), (bc), if the participant has
8 not already been afforded a conciliation period under s. 49.1515 (3c) allow the
9 participant a reasonable time to rectify the deficiency, failure, or other behavior to
10 avoid the proposed action.

11 **SECTION 31.** 49.153 (2) of the statutes, as affected by 2011 Wisconsin Act 32,
12 is amended to read:

13 49.153 (2) RULES. The department shall promulgate rules that establish
14 procedures for the notice and explanation under sub. (1) (a) and that define
15 “reasonable attempts” for the purpose of sub. (1) (ac) and “reasonable time” for the
16 purpose of sub. (1) (c).

17 **SECTION 32.** 49.155 (3m) (d) 1. of the statutes, as affected by 2011 Wisconsin
18 Act 32, is renumbered 49.155 (3m) (dc) and amended to read:

19 49.155 (3m) (dc) No funds distributed under par. (a) may be used for child care
20 services that are provided for a child by a child care provider who is the parent of the
21 child or who resides with the child, unless the county determines that the care is
22 necessary because of a special health condition of the child.

23 **SECTION 33.** 49.155 (3m) (d) 2. of the statutes, as created by 2011 Wisconsin Act
24 32, is repealed.

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1 **SECTION 34.** 49.155 (3m) (d) 3. of the statutes, as created by 2011 Wisconsin Act
2 32, is repealed.

3 **SECTION 35.** 49.155 (3m) (d) 4. of the statutes, as created by 2011 Wisconsin Act
4 32, is repealed.

5 **SECTION 36.** 49.155 (4) (title) of the statutes is renumbered 49.155 (4c) (title).

6 **SECTION 37.** 49.155 (4) (a) of the statutes, as affected by 2011 Wisconsin Act 32,
7 is renumbered 49.155 (4c).

8 **SECTION 38.** 49.155 (4) (b) of the statutes, as created by 2011 Wisconsin Act 32,
9 is repealed.

10 **SECTION 39.** 49.155 (6) (e) 1. of the statutes, as created by 2011 Wisconsin Act
11 32, is repealed.

12 **SECTION 40.** 49.155 (6) (e) 2. of the statutes, as affected by 2011 Wisconsin Act
13 32, is renumbered 49.155 (6) (dm) and amended to read:

14 49.155 (6) (dm) ~~Except as provided in subd. 3., the~~ The department may not
15 increase the maximum reimbursement rates for child care providers before June 30,
16 2013.

17 **SECTION 41.** 49.155 (6) (e) 3. of the statutes, as created by 2011 Wisconsin Act
18 32, is repealed.

19 **SECTION 42.** 49.155 (6) (e) 4. of the statutes, as created by 2011 Wisconsin Act
20 32, is repealed.

21 **SECTION 43.** 49.155 (6) (e) 5. of the statutes, as created by 2011 Wisconsin Act
22 32, is repealed.

23 **SECTION 44.** 49.155 (6d) of the statutes, as created by 2011 Wisconsin Act 32,
24 is repealed.

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1 **SECTION 45.** 49.159 (3) of the statutes, as affected by 2011 Wisconsin Act 32,
2 is amended to read:

3 49.159 (3) OTHER CUSTODIAL PARENTS. A custodial parent in a Wisconsin Works
4 group in which the other custodial parent is a participant in a Wisconsin Works
5 employment position ~~or is receiving case management services under s. 49.147 (2)~~
6 ~~(am)~~ is eligible for employment training and job search assistance services provided
7 by the Wisconsin Works agency.

8 **SECTION 46. Initial applicability.**

9 (1) MISCELLANEOUS WISCONSIN WORKS PARTICIPATION CHANGES. The treatment of
10 sections 49.147 (2) (a) 1. and 2., (am), and (b), (3) (c), (4) (as) and (b), and (5) (b) 1.
11 (intro.), a., b., c., and d. and 2. and (bs), 49.148 (1) (b) 1., 1m. d., and 3. and (c), (1m)
12 (a) 1. and (c) (intro.), and (4) (b), 49.151 (1) (b), 49.1515 (title), (2c), and (3c), 49.152
13 (1) and (3) (a), 49.153 (1) (a), (ac), and (c) and (2), and 49.159 (3) of the statutes first
14 applies to individuals participating in Wisconsin Works on the effective date of this
15 subsection.

16 (2) CHILD CARE SUBSIDY FOR PARENT WHO IS CHILD CARE PROVIDER. The treatment
17 of section 49.155 (3m) (d) 1., 2., 3., and 4. of the statutes first applies to child care
18 services provided to a child under Wisconsin Shares on the effective date of this
19 subsection.

20 **SECTION 47. Effective date.**

21 (1) This act takes effect on January 1, 2012, or on the day after publication,
22 whichever is later.

23

(END)