

WISCONSIN WORKS (W-2) SANCTIONS STUDY

**State of Wisconsin
Department of Workforce Development**

December 2004



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INTRODUCTION

This report describes the results of a research study on the application of sanctions within the Wisconsin Works (W-2) program which was prepared by the Division of Workforce Solutions (DWS) for the Secretary's Office, Department of Workforce Development. The report is a synopsis of research conducted by DWS, in conjunction with the W-2 Sanctions Study Steering Committee, which was charged by the DWS Administrator's Office to provide guidance to the study and to make recommendations on how to ensure that all W-2 participants are treated fairly and equitably.

Background: The Wisconsin Works (W-2) Program

The Wisconsin Works (W-2) program, which replaced the Aid to Families with Dependent Children program, was created to help participants achieve self-sufficiency through employment. W-2 was enacted by the Legislature and signed by the Governor in April 1996, as 1995 Wisconsin Act 289. The program was implemented on a pilot basis in March 1997, with statewide implementation occurring in September 1997.¹

The W-2 program is available to low-income custodial parents with minor children. Each W-2 eligible participant meets with a Financial and Employment Planner (FEP), who determines the participant's place on the W-2 employment ladder and completes an employability plan (EP) that describes the appropriate activities for the participant. The employment ladder consists of four levels of employment and training options: Unsubsidized Employment; Trial Jobs (TJB); Community Service Job (CSJ); W-2 Transitions (W-2 T). CSJs and W-2 Ts, which are both work-training placements, are intended to provide work training opportunities for individuals who are not job ready. As the only placement types that are subject to sanctions, they are the focus of the current study.

A CSJ placement is "...for individuals who lack the basic skills and work habits needed in a regular job environment. CSJ positions offer real work training opportunities, but with the added supervision and support needed to help the participant succeed. CSJ participants receive a monthly grant of \$673 for up to 30 hours per week in work training activities and up to 10 hours a week in education or training. Individuals who are employed part-time, but have limitations that prevent them from increasing their work hours, may be placed in a part-time CSJ position with prorated benefits."

A W-2 T placement is "...reserved for those individuals who, because of severe barriers, are unable to perform independent, self-sustaining work. W-2 T participants receive a monthly grant of \$628 for up to 28 hours per week of participation in work training or other employment-related activities; and up to 12 hours per week in education and training."²

The nature of a participant's assigned activities generally varies by the type of placement as well as by the individual needs of the participant.

An underlying principle of the W-2 program is that there is no entitlement to assistance. Benefits are available to participants in exchange for their participation in assigned activities. The program

¹ For a concise legislative history of W-2 see Wisconsin Legislative Fiscal Bureau, *Wisconsin Works (W-2) and Other Economic Support Programs (Informational Paper 45)*, January 2003, available at:

<http://www.legis.state.wi.us/lfb/Informationalpapers/45.pdf>

² *Wisconsin Works (W-2) Overview: A Place for Everyone, a System of Employment Supports*, Division of Workforce Solutions, Wisconsin Department of Workforce Development,

<http://www.dwd.state.wi.us/dws/w2/wisworks.htm>

seeks to imitate the reward and sanction system of a private sector job. Thus, when a participant does not participate in an assigned activity as expected and does not have “good cause” for missing the activity, they may lose benefits for the hours they are absent. In W-2, this is done through a sanction process whereby a participant’s grant is reduced by \$5.15 (Wisconsin’s minimum hourly wage) for each hour of an assigned activity that the participant misses without “good cause.”

The Division of Workforce Solutions (DWS), in the Department of Workforce Development, administers the W-2 program. The DWS Bureau of Wisconsin Works, which is comprised of Central Office staff and seven Regional Offices, is responsible for W-2 planning and policy development; monitoring agency performance and program compliance; and training program staff.

Providers, under contract to the state, administer the W-2 program at the local level. These geographic areas include 71 of the 72 counties in Wisconsin. Milwaukee County is divided into six regions for the purpose of administering the program. Providers may administer the program in one or more counties or regions. As of January 2004, 48 providers operated 52 W-2 agencies in Wisconsin.

In each W-2 agency, the FEP serves as case manager for program participants. FEPs are primarily responsible for assessing an applicant’s employability, identifying potential barriers to employment, developing the EP with activities appropriate to the placement, tracking participation in activities, assessing changing circumstances that might require changes in the EP and, when a participant fails to participate in activities, assessing the circumstances and determining whether to issue a sanction or grant a “good cause” exemption. If a participant experiences a great deal of unexcused non-participation, the FEP should review the reasons for non-participation, determine the need for additional assessments, assess the appropriateness of assigned activities and ascertain the need to change the EP to address non-participation issues. For participants who no longer receive cash assistance, the FEP must offer follow-up case management services.

The Department establishes W-2 policies and agencies have the discretion, in some circumstances, in how they interpret and apply them. While some policies are explicitly defined (e.g., income and asset limits), agency discretion was built into certain areas of policy to enable caseworkers to have flexibility in developing EPs that address the unique needs and capitalize on the skills and interests of each W-2 participant. If an agency has questions about how to interpret a policy, it is expected to contact the Department for clarification.

Purpose of the Study

The overall purpose of this study is to provide information to support the Department’s goal of moving W-2 participants into the world of work in a manner that is fair and equitable. Because sanctions are a penalty, the Department is committed to ensuring that they are appropriate and are not applied due to factors such as an individual’s race/ethnicity, geographic location or employment barriers, or to issues that have not been adequately identified or addressed by the participant’s case manager.

In February 2002, the American Civil Liberties Union (ACLU) and the Milwaukee branch of the NAACP filed a complaint with the federal Office of Civil Rights, alleging racial discrimination in the application of sanctions against W-2 participants.³ Under federal law, “Programs that receive federal funds cannot distinguish among individuals on the basis of race, color or national origin, either directly or indirectly” in the provision of program services or benefits. “...this prohibition

³ American Civil Liberties Union and NAACP Complaint to U.S. Department of Health and Human Services, Office for Civil Rights, Docket No. 05023078, filed February 22, 2002.

applies to intentional discrimination as well as to procedures, criteria, or methods of administration that appear neutral but have a discriminatory effect. Policies and practices that have such an effect must be eliminated unless a recipient [i.e., the program that receives federal funding] can show that they were necessary to achieve a legitimate nondiscriminatory objective. Even if there is such a reason the practice cannot continue if there are alternatives that would achieve the same objectives but that would exclude fewer minorities.”⁴

During this same time period, a study by the Institute for Wisconsin’s Future reported that 42 percent of black and 45 percent of Hispanic W-2 participants were sanctioned, in contrast to 24 percent of white participants.⁵ A report prepared by the Wisconsin Legislative Audit Bureau (LAB) found that the sanction rate for black W-2 participants was twice the rate for white participants (47 percent vs. 23 percent).⁶

In response, DWS conducted an initial analysis and released a report⁷ on sanction rates by participant race/ethnicity and placement type, for the state and for selected geographic areas. The report confirmed that there were differences in the incidence of sanctions by race/ethnicity in a number of agencies. In addition, the report noted that there were differences in sanction rates among agencies and different rates for persons placed in CSJ and W-2 T placements.

The DWS report concluded, “This is a very complex issue and will require additional research beyond the exploratory analysis presented here...[B]ased on this review, the Division of Workforce Solutions has determined that the issue warrants further study in order to identify potential problems with more precision.”⁸

Study Plan

The DWS established a Steering Committee to provide guidance to the study. It was made up of 14 members who reflected a broad range of knowledge, technical skills and perspectives on the W-2 program. It included W-2 agency administrators (balance of state and Milwaukee County), representatives of client advocacy groups, state administrators (DWS central and regional offices) and academics with experience in research methods and special knowledge of the W-2 program.

The charge to the Steering Committee was to develop the research questions for the study, to approve an overall methodology that would be used to address those questions, to review the research products developed, to draw conclusions about the research results and to make recommendations to the DWS Administrator.

In addition to the Steering Committee, the project established technical Work Groups that were responsible for overseeing the specific research analyses conducted to support the study and for informing the Steering Committee of the findings from the analyses. The Work Groups developed and analyzed administrative data, reviewed existing W-2 policy, conducted surveys and interviews and conducted a process evaluation of sanction policies.

⁴ *Civil Rights Requirements A. Title VI of the Civil Rights Act of 1964, 42 U.S.C. 2000d et seq. (“Title VI”), U.S. Department of Health & Human Services, Office for Civil Rights (August 30, 1999), <http://www.hhs.gov/ocr/requirea.htm>.*

⁵ Mulligan-Hansel, Kathleen and Pamela S. Fendt, *Unfair Sanctions: Does W-2 Punish People of Color?* Institute for Wisconsin’s Future, University of Wisconsin, Milwaukee, October 2002.

⁶ *Sanctioning of Wisconsin Works (W-2) Participants, (Report 01-07),* Wisconsin Legislative Audit Bureau, December 10, 2002, p. 5.

⁷ Division of Workforce Solutions, *Analysis of W-2 Sanctions by Race 2001 and 2002*, March 6, 2003

⁸ Mary C. Rowin, Deputy Administrator, DWS, March 6, 2003.

Scope of the Study

The original scope of the study was as follows:

- To develop more sophisticated measures of sanction rates and analytic techniques to better understand where racial/ethnic disparities exist and the magnitude of those disparities.
- To determine whether policy or variations in interpretation of policy may contribute to disparities in sanction rates by race/ethnicity.
- To determine if variations in placement type and assignment to activities may contribute to disparities in sanction rates by race/ethnicity.

As the Steering Committee began to examine the variation in sanction rates by race/ethnicity, it became apparent that many of the same factors that could lead to racial/ethnic disparities in sanction rates could also affect other categories of W-2 participants. For example, differences in case management practice or policy interpretation may result in variations in sanction rates for participants with severe barriers to employment or for participants with like circumstances who are served by different FEPs. At the DWS Administrator's request, the study's scope was broadened to examine these additional factors (i.e., case management, discretion and dispute resolution), as the study of each factor could contribute to a better understanding of both racial/ethnic and other types of disparities in sanctioning.

Structure of the Report

This report is organized into six sections. Sections 1 through 4 present findings from the analyses that were conducted, or reviewed, as part of this study. Each section addresses one topic area (racial/ethnic impact, case management, discretion, dispute resolution) and is organized as follows:

- Background on the topic, including the objectives of the analyses conducted
- Description of findings from the analyses
- Summary of key findings

Section 5 contains a description of the Steering Committee's recommendations, divided into three tiers. The first tier of recommendations represents the Committee's broad consensus. The second tier of recommendations received support from the majority of Committee members, but lacked full consensus. The last tier of recommendations are those on which the Steering Committee was most divided, and would require additional review and discussion among stakeholders.

Section 6 contains a listing of the Steering Committee members (Appendix A), a list of each of the study's Work Groups and their members (Appendix B), and a summary description of the research conducted as part of this study (Appendix C).

RACIAL/ETHNIC IMPACT

Background

The W-2 Sanctions Study was initiated by concerns that sanction rates varied by the race/ethnicity of the participant. Earlier studies showed differences in sanction rates for black, Hispanic and white W-2 participants. Those studies examined only two factors: sanctions and race/ethnicity. In those studies, a case was counted as sanctioned even if it had only one sanction in a calendar year. Therefore, there was no indication of the magnitude of the sanctions. Although a case has more opportunities to be sanctioned the longer it is open, the length of time a case was open was not taken into consideration by those studies. Additionally, the earlier studies used data from limited time periods or focused on cohorts who entered at the beginning of the program's implementation.

For this study, two quantitative analyses were conducted by DWS. These analyses differed from the earlier studies in that they used more refined measures of sanctions, such as the actual dollar amount of the sanction, the net grant amount after sanctions and the percent of the grant amount that was sanctioned each month. Thus, the magnitude of the grant amount sanctioned was taken into account. The analyses also accounted for the number of months a case was open when considering sanction outcomes (i.e., the benefit month was the unit of observation upon which the measure of sanctions was defined). Also, the DWS analyses included only those participants who were active for an entire month in either a CSJ or W-2 T placement.

The two analyses conducted as part of this study, however, differed in several respects. The first analysis included participants from 2001 through 2003, whereas the second one included participants from 2000 through 2003. The first analysis reported sanction rates by race/ethnicity and year without taking into account the influence of other factors on sanctions. In contrast, the second analysis used multiple regression analysis to control for the year and other case, family and participant characteristics (e.g., level of educational attainment). Thus, while the first analysis reported differences in sanction amounts by race, the regression analysis is a better analysis of differences in treatment, since variables besides race were held constant.

Findings: Sanction Rates by Placement Type, Agency and Race/Ethnicity

The initial analysis⁹ in this study compared sanction rates by placement type, agency and race/ethnicity for 2001-2003. A sanction rate was defined as the percentage of the W-2 participant's grant that was sanctioned each benefit month.

For all three years of the analysis, black W-2 participants were sanctioned at a higher rate than whites (Table 1). In 2001, black W-2 participants were sanctioned at 15 percent of their grants, while white participants were sanctioned 7 percent. In 2002 and 2003, black participants were sanctioned 11 percent of their grants, which also exceeded the sanction rates for whites during that time period (7 percent in 2002, 6 percent in 2003).

The sanction rate for Hispanic participants was 11 percent in 2001 and 10 percent in 2003. In comparison, the rates for whites were 7 percent in 2001 and 6 percent in 2003. In 2002, the difference in rates for Hispanics and whites was somewhat smaller (9 percent for Hispanics vs. 7 percent for whites).

⁹ *Sanction Rates by Placement, Agency & Race*, Bureau of Workforce Information, Division of Workforce Solutions, Wisconsin Department of Workforce Development.

Table 1: Percent of Grant Sanctioned by Race/Ethnicity, Wisconsin, 2001-2003

	2001		2002		2003	
	Benefit ¹⁰ Months	% of Grant Sanctioned	Benefit Months	% of Grant Sanctioned	Benefit Months	% of Grant Sanctioned
American Indian	639	12%	790	12%	657	13%
Black	35,518	15	49,744	11	58,808	11
Hispanic	5,980	11	7,286	9	8,502	10
White	11,429	7	14,239	7	16,758	6
Total	58,924	13%	78,356	10%	88,494	10%

There were differences between white and American Indian participants in the percentage of the grant sanctioned in all three years of the study. The sanction rates for American Indians, however, (12 percent in 2001 and 2002, 13 percent in 2003), were based on a small number of benefit months (800 benefit months or less per year).

In conjunction with this analysis, the relative frequency of racial/ethnic groups in the W-2 caseload and in various placement types was also examined. For every racial/ethnic group in every year, participants in CSJ placements were consistently more likely to be sanctioned than those in W-2 T placements. For example, in 2003, black participants in CSJ placements were sanctioned at a rate 3.7 times greater than were those in W-2 T placements (15% vs. 4%) (Table 2).

Table 2: Percent of Grant Sanctioned by Placement Type, Wisconsin, 2001-2003

	CSJ		W-2 T	
	Benefit Months	% of Grant Sanctioned	Benefit Months	% of Grant Sanctioned
2001				
American Indian ¹¹	281	19%	358	7%
Black	22,141	20	13,377	6
Hispanic	3,659	15	2,321	6
White	4,287	14	7,142	3
Total	30,368	18%	23,198	5%
2002				
American Indian	368	17%	422	7%
Black	32,512	15	17,232	4
Hispanic	4,312	13	2,974	3
White	5,832	14	8,407	3
Total	43,024	15%	29,035	4%
2003				
American Indian	309	21%	348	6%
Black	36,431	15	22,377	4
Hispanic	4,751	15	3,751	4
White	6,652	13	10,106	2
Total	48,143	15%	36,582	3%

¹⁰ Each month where a case is open for the entire month in the same placement counts as one "benefit month." The sanction rate is the percent of the grant that is sanctioned in each benefit month.

¹¹ The percent of grants sanctioned for American Indians in Tables 2 and 3 should be interpreted with caution because of the relatively small number of American Indian cases.

In 2003, black and Hispanic participants were more likely to be placed in CSJs than were whites. As measured by benefit months, 63 percent of blacks and 58 percent of Hispanics in Milwaukee County were placed in CSJs, compared to 52 percent of whites. In the balance of state, 53 percent of blacks and 42 percent of Hispanics were in CSJs, compared to 29 percent of whites. A similar pattern of placement by race/ethnicity and geographic area was present in 2001 and 2002 (Table 3).

Table 3: Percent of Placements in Community Service Jobs (CSJs), Milwaukee and Balance of State, 2003

	Benefit Months	Percent of Cases in CSJ Placements	
		Milwaukee County	Balance of State
American Indian	496	50%	37%
Black	55,189	63	53
Hispanic	7,575	58	42
White	7,731	52	29

One might expect participants in CSJ placements to be sanctioned at a higher rate than those in W-2 T placements because participants in CSJ placements are generally assigned to work sites where they are required to participate in a set number of hours of work training each week. Participants in W-2 T placements, on the other hand, are more likely to be assigned to activities that involve overcoming severe barriers to employment, including participating in medical treatment, therapy or caring for a disabled family member, and those types of activities afford fewer opportunities to be sanctioned.

The complex relationship between race/ethnicity, CSJ placement and sanction rates raises the issue of causal order. Thus, members of specific racial/ethnic groups might be sanctioned at a higher rate because they are disproportionately placed in CSJs, or, CSJ participants might be sanctioned at a higher rate because they tend to be members of specific racial/ethnic groups.

Findings: Effects of Demographic and Case Characteristics on Sanction Amounts

The first analysis conducted as part of this study found that blacks and Native Americans and, in two of three years, Hispanics, had higher percentages of their grants sanctioned than whites. The first analysis, however, did not isolate the impact of race/ethnicity from factors other than placement type that might affect the net dollar amount of a grant after sanctioning.

In order to examine the independent effect of race/ethnicity on the net dollar amount of a grant after sanctioning, a second analysis¹² was conducted that improved upon the first analysis by using a regression approach to control for variations in the characteristics of the participant, family and case. This analysis was conducted using data on individuals who were W-2 participants at some point during the period from January 2000 through December 2003.

The dependent variable in this analysis was the net dollar amount of the grant after a sanction was applied. Since the unit of analysis was the benefit month, each case was counted as a separate observation in each month that it was open. This approach improves on earlier analyses in that it effectively accounts for the magnitude of the sanction and controls for a variety of other factors that may affect sanctions.

¹² *The Impact of Race on W-2 Sanctions: A Multivariate Analysis*, Bureau of Workforce Information, Division of Workforce Solutions, Wisconsin Department of Workforce Development.

Coefficients from the resulting regression equation were used to calculate the difference in the average net grant between black and white participants (and between Hispanic and white participants) once other factors were held constant.¹³ (The independent variables are listed in Appendix C.)

The differences in the average net monthly grant, reported in Tables 4 and 5, are estimates of differences between black or Hispanic participants compared to whites. A negative difference in the monthly grant between, for example, blacks and whites indicates that the black participants were sanctioned more. A positive difference in the estimate indicates that black participants were sanctioned less.

In 2000, black CSJ participants were sanctioned \$37.61 more on average than white CSJ participants (Table 4). This disparity declined in 2001 to \$23.88. In 2002, black CSJ participants were sanctioned \$4.84 less than their white counterparts and, in 2003, they were sanctioned \$5.88 more than whites. When black and white W-2 T participants were compared, the racial disparity was greatest in 2000 and diminished through 2003. Black-white differences in sanctions were smaller for participants in W-2 T placements than for participants in CSJ placements. Another difference between placement types in the pattern of sanctioning of blacks was that the decline in the racial disparity in sanctions continued through 2003 for W-2 T participants, but not for CSJ participants.

From 2000 through 2003, Hispanic CSJ participants were sanctioned less than white CSJ participants. Hispanic W-2 T participants were sanctioned slightly more than whites in 2000 and 2001 (-\$4.27 and -\$3.27, respectively) and slightly less during 2002 and 2003 (\$6.81 and \$2.26).

Table 4: Differences in Average Net Monthly Grants for Black and Hispanic Participants, Compared to Whites, Wisconsin, 2000-2003

	Black	Hispanic
CSJ		
2000	-\$37.61	\$19.95
2001	- 23.88	6.77
2002	4.84	15.02
2003	- 5.88	0.11
W-2 T		
2000	-\$26.49	-\$4.27
2001	- 6.39	- 3.27
2002	2.17	6.81
2003	5.66	2.26

The pattern of racial/ethnic disparities in Milwaukee County was very similar to that for Wisconsin as a whole for the 2000-2003 time period. In Milwaukee County, black CSJ participants had lower average grants (i.e., higher sanctions) than white participants in 2000 and 2001. Hispanic CSJ participants in Milwaukee County had higher average grants (i.e., lower sanctions) than white CSJ participants in all four years (Table 5).

The largest and most persistent racial/ethnic disparity in sanction amounts occurred in the balance of state, where black CSJ participants were sanctioned between \$32.03 and \$65.52 more than white CSJ participants during 2000-2003. Hispanic CSJ participants in the balance of state also

¹³ The regression analysis could not be used to estimate racial differences between American Indians and whites because there was an insufficient number of American Indians to provide statistically meaningful estimates.

tended to be sanctioned more than whites, although the magnitude of the disparity was not as great as the disparity between black and white CSJ participants. (The racial/ethnic disparities in the balance of state for Hispanics should be interpreted with caution because of the relatively small number of cases.) The large disparities in the balance of state (Table 5) had little impact on the disparities for Wisconsin as a whole (Table 4) because over 90 percent of the black and Hispanic W-2 population reside in Milwaukee County.

Table 5: Differences in Average Net Monthly Grants for Black and Hispanic Participants, Compared to Whites, Milwaukee County and Balance of State, 2000-2003

	Milwaukee County		Balance of State	
	Black	Hispanic	Black	Hispanic
CSJ				
2000	- \$36.92	\$24.01	- \$65.52	- \$58.66
2001	- 26.99	1.94	- 53.78	2.81
2002	6.36	15.79	- 32.03	- 8.30
2003	- 0.84	3.67	- 41.28	- 11.09
W-2 T				
2000	- \$20.29	\$0.95	-\$34.91	-\$2.87
2001	- 1.34	2.38	- 0.20	- 2.56
2002	0.29	6.16	0.43	0.08
2003	0.90	0.14	3.67	- 9.73

Findings: Institute for Research on Poverty (IRP) Study

The Steering Committee reviewed a recent study of sanctions by race/ethnicity that was conducted by the Institute for Research on Poverty (IRP).¹⁴ In contrast to the populations in the analyses reported above, the IRP study followed a single cohort of participants who entered the W-2 program between September 1997 through August 1998. Also, the IRP analysis did not incorporate the dollar amount of the sanction but, instead, used categories such as “sanction” compared to “no sanction,” or “full sanction” and “partial sanction” compared to “no sanction.” In spite of these methodological differences (and several other differences in the choice of control variables), the IRP findings (i.e., that blacks were sanctioned at higher rates than whites) were consistent with those of the current study. The IRP’s results regarding differences in the probability of sanctioning for Hispanics versus whites were somewhat mixed.¹⁵

Summary of Key Findings

Previous studies of racial/ethnic disparity in sanction rates in Wisconsin used measures that did not account for the magnitude of the sanction or the length of time the participant was on W-2. This study used better measures of sanctions, such as the actual dollar amount of the sanction, the net grant amount after sanctions and the percent of the grant amount that was sanctioned each month.

The first analysis conducted as part of this study examined all W-2 participants who received a cash grant between 2001-2003. It examined racial/ethnic differences in the percentage of the

¹⁴ Wu, Chi-Fang, Maria Cancian and Daniel R. Meyer, *How Do Welfare Sanctions Work?*, Institute for Research on Poverty, University of Wisconsin-Madison, October 2003.

¹⁵ The authors state that when the duration of time receiving W-2 cash benefits was taken into account, Hispanic participants were sanctioned at a higher rate than white participants were. However, they did not provide an estimate of the magnitude of the difference in rates.

monthly grant sanctioned for CSJ and W-2 T participants. Key findings from this analysis were as follows:

- For all three years of the analysis, black W-2 participants were sanctioned at a higher rate than whites. In 2001, black W-2 participants were sanctioned at 15 percent of their grants, while white participants were sanctioned 7 percent. In 2002 and 2003, black participants were sanctioned 11 percent of their grants, which also exceeded the sanction rates for whites during that time period (7 percent in 2002, 6 percent in 2003).
- The percentage of grant sanctioned for Hispanic participants was 11 percent in 2001 and 10 percent in 2003. In comparison, the percentages for whites were 7 percent in 2001 and 6 percent in 2003. In 2002, the difference between Hispanics and whites was somewhat narrower (9 percent for Hispanics versus 7 percent for whites).
- Participants in CSJ placements were consistently sanctioned at a higher rate than those in W-2 T placements. In 2001, CSJ participants' grants were sanctioned an average of 18 percent, while grants for W-2 T participants were sanctioned 5 percent. In 2002, the average amount sanctioned was 15 percent for participants in CSJ placements and 4 percent for W-2 T participants and, in 2003, it was 15 percent for CSJ participants and 3 percent for W-2 T participants. This pattern was apparent for every racial/ethnic group examined (American Indians, blacks, Hispanics, and whites).
- Black and Hispanic participants were more likely to be assigned to CSJ placements than were whites. As measured by benefit months during 2003, 63 percent of blacks and 58 percent of Hispanics in Milwaukee County were placed in CSJs, compared to 52 percent of whites. In the balance of state, 53 percent of blacks and 42 percent of Hispanics were in CSJs, compared to 29 percent of whites.

A second analysis was conducted to examine the effect of a participant's race/ethnicity on the net dollar amount of their grant after sanctioning between 2000-2003. In contrast to the first analysis, the second analysis used a regression approach to control for a variety of participant, family, and case characteristics that can affect sanctions. This approach accounted for the magnitude of the sanction and the length of time that the participant was on W-2, and provided estimates of the difference in the dollar amounts sanctioned that were due to the race/ethnicity of the W-2 participant. The regression analysis is an improvement on the first analysis because it isolates the independent affect of race/ethnicity upon the net dollar amount of a grant after sanctioning. Key findings from the regression analysis were as follows:

- Statewide, in comparison to white CSJ participants, black CSJ participants received an average monthly grant of \$37.61 less in 2000 and \$23.88 less in 2001. In 2002, black CSJ participants received grants of \$4.84 more on the average than their white counterparts did and in 2003, they received \$5.88 less.
- The racial disparity between black and white W-2 T participants in Wisconsin was greatest in 2000, but diminished over time. Black W-2 T participants were sanctioned an average of \$26.49 more than whites in 2000 and \$6.39 more in 2001. In 2002, they were sanctioned \$2.17 less and in 2003, \$5.66 less.
- Between 2000-2003, Hispanic CSJ participants in the state received larger grants than their white counterparts. In 2000, Hispanic CSJ participants were sanctioned an average of \$19.95 less per month than whites. They were sanctioned \$6.77 less in 2001, \$15.02 less in 2002 and \$.11 less in 2003.

- Hispanic W-2 T participants in Wisconsin received slightly lower net grants than whites in 2000 and 2001 (-\$4.27 and -\$3.27, respectively) and slightly higher grants during 2002 and 2003 (\$6.81 and \$2.26).
- In 2000, black CSJ participants in Milwaukee County were sanctioned on average, \$36.92 more than whites in CSJ placements. This disparity declined in 2001 to \$26.99. In 2002, black CSJ participants were sanctioned \$6.36 less than their white counterparts, and in 2003, they were sanctioned \$0.84 more.
- Hispanic CSJ participants in Milwaukee County were sanctioned less than white CSJ participants in all four years.
- The largest and most persistent racial disparity in sanction amounts occurred in the balance of state, where black CSJ participants were sanctioned between \$32.03 and \$65.52 more than white CSJ participants during 2000-2003.

CASE MANAGEMENT

Background

W-2 case management includes assessing an applicant's employability, identifying potential barriers to employment, developing an employability plan (EP) with activities appropriate to a placement, tracking participation in activities, assessing changing circumstances that might require changes in the EP and, when a participant fails to participate in activities, assessing the circumstances and determining whether to issue a sanction or to grant the participant "good cause." For participants who are no longer receiving cash assistance, follow-up case management services are to be provided. If a participant experiences a great deal of unexcused non-participation, case management efforts should include reviewing the reasons for non-participation, determining the need for additional assessments, reviewing the appropriateness of assigned activities, and determining if the EP should be adjusted to address non-participation issues.

Variations in case management, such as assessing barriers to employment, can affect sanction rates. Because the racial/ethnic composition of the W-2 caseload varies by placement type and agency, differences in case management practices can also affect sanction rates by race/ethnicity and for other categories of W-2 participants (e.g., those with severe barriers to employment). Consequently, examining case management practices can provide a better understanding of both racial/ethnic and other types of disparities resulting from inappropriate sanctioning.

As part of its oversight of the W-2 program, DWS conducts on-going reviews of selected cases to identify possible case management problems and to require agencies to take corrective action where appropriate. State employees in the DWS Bureau of Wisconsin Works (BW-2), who are stationed in seven Regional Offices, currently carry out these oversight and review activities.¹⁶

Regional Office staff¹⁷ began conducting Intensive Case Reviews (ICRs) in 1999. Cases were selected by DWS for an ICR based on the number of months used on the 24-month "clock" in either a Community Service Job (CSJ) or W-2 Transition (W-2 T) placement. In non-Milwaukee agencies, cases were selected when they reached 12 months on one of the placement "clocks." Due to the higher volume of cases approaching time limits in Milwaukee, the selection criterion was set to include those cases that reached 18 months on either "clock."

ICRs required a desk review of the case, including a review of CARES¹⁸ screens, by Regional Office staff, plus a site visit to review paper files, to interview the FEP and, possibly, other agency staff. Write-ups of the ICRs documented the staff person's findings and included recommendations or required actions.

From 1999 through 2002, Regional Office staff conducted 6,000 ICRs. In spite of the somewhat dated information in the ICRs, they provide a useful window into several aspects of W-2 implementation that are relevant to this study. First, the ICRs provide information on W-2 cases that is not uniformly or systematically recorded in the CARES system, such as the presence of non-participant W-2 group members with disabilities and information on barriers. Second, they provide a unique view into the process with which agencies address the needs of participants with multiple barriers and participation problems. The narrative review provided by the Regional Office

¹⁶ The regions were located in a different bureau in 1999. Several bureau reorganizations have occurred since 1999. Currently, the W-2 monitoring function resides within the Bureau of Wisconsin Works (BW-2).

¹⁷ In January 2000, 73 employees were available to monitor the W-2 contracts, including conducting ICRs. As of January 2004, 48 employees performed this work.

¹⁸ CARES is the Client Assistance for Reemployment and Economic Support, Wisconsin's automated case management and information system.

staff, their critique of case management practices, recommendations and required actions made to local agency staff offer insights into how policy was interpreted and applied.

This section of the report relies heavily on the Regional Offices' case monitoring products, including the ICRs, mini-ICRs¹⁹ and a more recent effort to review cases that experienced a "significant sanction" for two consecutive months.²⁰ Using these products, a qualitative analysis was conducted to illustrate the occurrence and patterns of case management problems, which could lead to inappropriate sanctioning. In addition, a quantitative analysis was undertaken to describe the W-2 participants who were approaching their time limits or experiencing significant sanctions in consecutive months.

Findings: Intensive Case Reviews

As part of this study, a review was conducted for a sample of 199 of the ICRs that were conducted between January 2001 through April 2002.²¹ The purpose of the review was to describe participants who approached their time limits and to assess the quality of the case management services they received, including issues that may have contributed to participants' sanctions.

The sampled cases consisted almost exclusively of female-headed single parent households. The families had an average of 2.6 children and 62 percent had no high school diploma. Thirty-four percent were in W-2 T placements at time of review and 37 percent were in CSJ placements. The remaining cases were either closed at the time of the review or in some other type of placement. Eighty-seven percent were from Milwaukee agencies.²²

The cases reviewed in the ICR process were examined to identify barriers to employment that were noted by Regional Office staff. For this analysis, barriers were coded in the case if they appeared in either the CARES screen or if they were included in the Regional Office staff's narrative review. In some instances, although an item was not explicitly labeled a barrier in the write-up, if it was implicitly described as one, it was also counted.

Fifty-five percent of the participants in CSJ placements had three or more barriers and 31 percent of those in W-2 T placements had three or more barriers. Table 6 indicates the percentage of those in each placement type that had specific barriers identified in the ICR.²³ Insufficient work history was the most frequently cited barrier for CSJ placements, followed by educational deficits, mental health and physical health barriers. For W-2 T placements, the most commonly cited barriers were physical and mental health problems, followed by insufficient work history and AODA problems.

¹⁹ The mini- ICR process started in August 2002. Monitoring staff review selected CARES screens, and follow-up on the case with the W-2 agency if the desk review indicates problems with the case.

²⁰ "Significant sanction" is defined as having been sanctioned down to a net grant of less than \$100 in both months.

²¹ The Process Evaluation Work Group (see Appendix B) conducted this analysis. Two hundred ICR write-ups were sampled from those on hand in Central Office files. All of the ICRs were conducted between January 2001 and April 2002. The non-proportional random sample was designed to draw a sufficient number of cases from each of the Milwaukee County regions and the balance of the state. Approximately 20 cases were drawn from each of the six Milwaukee regions and the remainder was sampled from the balance of the state. One case could not be used, leaving the study with 199 cases. Kathleen Mulligan-Hansel, study Steering Committee member from the Institute for Wisconsin's Future, worked with BWI staff to develop coding definitions and a checklist form to systematically collect information from the ICR write-ups. Mulligan-Hansel read the write-ups and recorded the information on the checklist.

²² Because the sampling plan was stratified in such a way to include a sufficient number of cases from the balance of the state, cases were disproportionately sampled from the balance of the state. To produce estimates that were representative of the statewide population of cases, cases were weighed to reflect their actual relative representation in the state. For more information on the weighting procedure, see *Intensive Case Review Content Analysis*, Appendix C.

²³ Barriers were clearly identified in many write-ups. In other cases this analysis identified barriers from the reviewer's narrative. Since each case can have more than one barrier, the total sums to more than 100 percent.

Table 6: Frequency of Employment Barriers Identified in Sample of Intensive Case Reviews, Wisconsin, January 2001- April 2002

Barrier	CSJ (n = 63)	W-2 T (n = 62)
Work History	68%	42%
IQ/Cognitive Barriers	1	4
Education	43	32
Physical Health	25	45
Mental Health	33	45
Language	7	4
AODA	17	21
Domestic Violence (current or recent past)	4	5
Housing	12	6
No Driver's License	3	3
Transportation	5	6
Childcare access	5	2
Involvement with CPS²⁴	13	0
Conviction in past	9	5

In 23 percent of the 199 cases, the review indicated that the participant was pursuing an application for Supplemental Security Income (SSI).²⁵ Thus, a segment of long-term W-2 participants may have had disabilities that might have hindered their participation in assigned activities and subjected them to sanctioning. In some cases the SSI application had been completed while in others the write-up indicated that pursuit of SSI was being considered as an option. W-2 T participants were more likely to pursue SSI than those in CSJ placements. For participants in W-2 T placements, 40 percent were seeking SSI. Among those in CSJ placements, 13 percent were seeking SSI. Of those seeking SSI, 44 percent had participation problems reported in the ICR.

In general, participants in CSJ placements tended to have more months accumulated on their W-2 T "clocks", while those in a W-2 T placement tended to have fewer months accumulated on their CSJ "clock".²⁶ For example, while 36 percent of those in a CSJ placement had 19 months or more on their W-2 T "clock," only 21 percent of those in W-2 T placements had 19 months or more on their CSJ "clock."

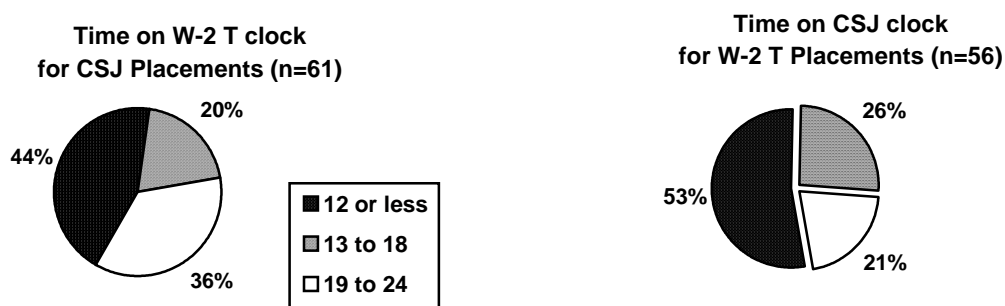
The W-2 program was designed to promote a participant's progression up the "employment ladder" from work experience to unsubsidized employment. Since CSJ participants are higher on the "employment ladder" than W-2 T participants, the progression from a W-2 T placement to a CSJ placement could explain why persons in CSJs have more time on their W-2 T "clock" than persons in W-2 Ts have on their CSJ "clock." It is possible, however, that in certain instances, some participants are moved to CSJs simply because they are approaching their 24-month time limit in their W-2 T placement, a situation that could lead to inappropriate sanctions (Figure 1).

²⁴ Child Protective Services

²⁵ Supplemental Security Income (SSI) is a monthly cash benefit to people in financial need (i.e., low income) who are 65 or older or people of any age who are blind or have a disability. A disability means a physical or mental condition that keeps the individual from working and is expected to last at least a year or to result in death.

²⁶ The term clock refers to the months of lifetime eligibility used by a W-2 participant. In this context, it refers to Wisconsin's 24-month time limit for CSJ and W-2 T placements.

Figure 1: Months on CSJ and W-2 T “Clocks” for Participants in CSJ and W-2 T Placements From Intensive Case Reviews, Wisconsin, January 2001-April 2002



Participants who were pursuing SSI (36 persons) tended to have used fewer months on their CSJ “clock” than on their W-2 T “clock.” About one-third of those in CSJ placements who were pursuing SSI had used 19 or more months of their W-2 T eligibility.

Evidence of assessments for barriers and math and reading scores frequently were not in the case record.²⁷ Eighty-five percent of the cases had no record of an assessment on the CARES screens. Fifty-seven percent had no record of a TABE or other standard math or reading test score.²⁸

Participants with participation problems were only slightly more likely than other participants to have evidence of an assessment in their case record and less likely to have evidence of a math or reading test noted. Nineteen percent of the 64 participants with current participation problems had evidence of an assessment in their file and 36 percent had evidence of a reading or math test.

While the ICRs indicated that most cases did not have a record of an assessment or test during the time period of this study, these items were not routinely recorded by W-2 case managers into the automated case record on the CARES system. Thus, levels of assessment and testing reported in the ICRs may under-represent the true extent of assessment and testing.

Both federal TANF and state W-2 time limits for program participation necessitate identifying and addressing barriers early on in an individual’s participation.²⁹ In the initial years of W-2 implementation, local agencies were given the discretion to determine how best to identify employment barriers. As the program matured, the state took a number of measures to place greater emphasis on consistent up-front screening and assessment of participants’ barriers. In 2001, DWS began to implement a work plan to generate a more uniform screening and assessment process across local agencies. Contract language and performance standards were initiated that required agencies to refer participants with identified serious employment barriers to a professional for a formal assessment.³⁰ In 2003, DWS implemented the Barrier Screening Tool

²⁷ Assessments here include formal assessments, vocational evaluations, basic skills assessments and referrals to the Division of Vocational Rehabilitation. Tests include evidence of completion of the Tests of Adult Basic Education (TABE) or similar test of math and reading level.

²⁸ Agencies use various standardized tests to assess participants’ math and reading proficiency and assign a grade level equivalency scores. The Tests of Adult Basic Education (TABE) is used most frequently, by 60 percent of agencies. Other agencies use WRAT or ABLE tests to establish participants’ math and reading levels.

²⁹ In addition, the U.S. DHHS Office of Civil Rights guidance states that, in order to identify potential disabilities, TANF screenings and assessments should include an analysis of each individual’s ability to meet the program’s participation requirements and the appropriate services should be provided based on needs identified by the screening and assessment process.

³⁰ Wisconsin Department of Workforce Development, Division of Workforce Solutions, Request for Proposals (RFP) to Administer W-2 and Related Programs, 2002-2003, Section 7.2.5.5.

(BST) to assist FEPs in identifying employment barriers that might otherwise remain hidden. The BST screens W-2 participants for physical or mental health conditions, domestic violence, substance abuse, trauma, learning disabilities, traumatic brain injury, special needs of other family members and other barriers. In May 2004, DWS issued a policy that prohibited agencies from sanctioning participants until after the BST is offered and completed or declined. If the BST indicates a barrier may be present, no sanction may be imposed until after a formal assessment is conducted and the participant's EP plan has been updated.³¹

The Regional Office reviewers made recommendations about potential undetected barriers in 32 percent of the 199 cases analyzed. Their recommendations included variations of one or more of the following points:

- There was a need to conduct further assessment in the case
- There was a need for more in-depth case management
- The participant should be referred for more counseling or treatment

In 11 percent of the 71 cases that were open as CSJ placements, the Regional Office reviewer recommended that the participant be moved to a W-2 T placement.

For the 70 CSJ and 59 W-2 T cases with EPs, 28 percent of CSJ participants and 67 percent of W-2 T participants had excessive hours assigned to non-education and non-training activities.³² However, some of these were assignments for personal care, rehabilitation or care of a family member, which is appropriate in instances where the participant has serious medical conditions or where there is a disabled family member.

Findings: Consecutive Months Sanctions

In January 2002, the DWS began to identify and review participant cases with a "significant sanction" in two consecutive months. Significant sanction is defined as having been sanctioned down to a net grant of less than \$100 in two consecutive months. These cases are reviewed by DWS BW-2 Regional Office staff using a process similar to the one for ICRs.

As part of their monitoring responsibilities, BW-2 staff analyzed 453 cases that met the consecutive months sanction selection criterion during the December 2002 - September 2003 time period.³³ These 453 cases represented two percent of all the W-2 cases that were open in this period. Most (84 percent) of the 453 cases came from four regions in Milwaukee County (Table 7).

³¹ The Department is currently conducting an evaluation of the screening and assessment processes to learn more about how these practices impact participant outcomes.

³² W-2 policy states that CSJ participants may be assigned up to 30 hours of work activity and up to 10 additional hours of education and training activities. W-2 T participants may be assigned to up to 28 hours of work activities and up to 12 additional hours of education and training activities. For those ICRs with itemized EPs, the analysis coded total hours on the EP and hours in each of the following categories: work experience, barrier reduction, job skills training, education and training, work-related activity and disability assessment.

³³ *Consecutive Months Sanctions Reviews*, Bureau of Workforce Information, Division of Workforce Solutions, Wisconsin Department of Workforce Development, December 10, 2003.

Table 7: Cases Meeting Consecutive Months Sanction Selection Criterion by County and Milwaukee Region, December 2002-September 2003

County	Cases Meeting Criterion	
	Number	Percent
Milwaukee :		
Region 1	12	3%
Region 2	19	4
Region 3	126	28
Region 4	94	21
Region 5	76	17
Region 6	82	18
Dane	8	2
Kenosha	0	0
Racine	10	2
Rock	6	1
Other counties	17	4
Total	450	100%

Most participants (94 percent) were in CSJ placements; only 6 percent were in W-2 T placements. Fifty-seven percent of the 453 cases were sanctioned down to a \$0 grant in both months.

Eighty-eight cases³⁴ sanctioned down to a net grant of less than \$100 for two consecutive months were examined in a content analysis. For these cases, reviewers indicated the following:

- In 76 percent of the cases there was no evidence of either a formal or informal assessment.
- Fifty-three percent had no indication of barriers. Among those 47 cases, 87 percent had no evidence of either a formal or informal assessment.³⁵
- For the 35 cases with barriers listed, the most frequently listed barriers were lack of education (22 percent) and job skills (8 percent).
- There was no assessment to determine the reason for non-participation in 83 percent of the cases.
- There was no regular contact between the FEP and the participant in 67 percent of the cases.³⁶
- In 99 percent of the cases the reviewers said that, in their opinion, sanctions were not improving behavior.

In three percent of the 88 cases, the reviewers indicated that barriers were not being addressed. In those cases, the reviewers noted:

- No barriers listed but AODA and MH issues not addressed
- No barriers listed but no GED and felon
- Physical disability identified but not addressed

³⁴ The 88 case reviews were selected from those on file in the BW-2 Central Office, which consisted of Milwaukee County cases only. Among all available cases, individual cases were randomly selected to include roughly equal proportions from each of the six Milwaukee regions. While the following analysis cannot be safely generalized to all W-2 cases that meet the selection criteria for consecutive months sanction review, it does represent the vast majority of the W-2 caseload, which is in Milwaukee County.

³⁵ Performance Standards for the 2002-2003 W-2 contract required that agencies complete an informal assessment in CARES with at least 80% of their W-2 cases. Data shows that overall, the informal assessment requirement was met in 92% of cases during the 2002-2003 contract year.

³⁶ The reporting form asked the reviewer: "Has there been regular contact between the agency and participant?" The definition of "regular" was left to the reviewer. In some cases the reviewer would identify the most recent contact in the record. In most cases the response was simply "yes" or "no."

In nine percent of the cases, participants were experiencing significant sanctions in two consecutive months and were employed.

Findings: Employment and Sanctions

One of the questions raised by the Steering Committee was whether W-2 participants began to accumulate sanctions when they were working and transitioning into employment. An exploratory examination of earnings in unsubsidized jobs and sanctions was conducted. Quarterly Unemployment Insurance wage data were compared to the sanction amounts of W-2 participants for CY 2002. Cases with relatively high quarterly earnings (\$2,000 or more) were more likely to have high quarterly sanctions (\$500 or more). The cases with high quarterly earnings, however, comprised only a very small proportion (less than 1 percent) of all cases examined.

Summary of Findings

Good case management is necessary to ensure that sanctions are applied appropriately. Inappropriate sanctions may occur when participants fail to participate in activities due to undetected barriers to employment, barriers not addressed by the case plan or when a case manager fails to monitor a participant and modify their case plan when needed.

In 1999-2002, DWS Regional Office staff conducted detailed reviews of selected W-2 cases that were approaching exhaustion of their placement eligibility. A sample of 199 of these Intensive Case Reviews (ICRs) was analyzed for this study.

- Among the 199 W-2 participants sampled, 55 percent of those in CSJ placements and 31 percent of those in W-2 T placements had three or more barriers to employment.
- Results from assessments and tests were often not found in the ICRs. Eighty-five percent of the cases had no record of an assessment. Fifty-seven percent had no record of a TABE or other standard math or reading test score. It is not known if the information was not recorded because assessments and tests were not administered or, if they were administered but not entered in CARES.
- In 32 percent of the cases, the Regional Office staff recommended further assessment, more in-depth case management or referral to treatment or counseling.
- In 23 percent of the cases, the participant was pursuing an application for SSI. Of those seeking SSI, 44 percent had participation problems reported in the ICRs. Thus, a segment of long-term W-2 participants may have had disabilities that might have hindered their participation in assigned activities and subjected them to sanctioning.
- The ICRs indicated that 36 percent of the participants who were in CSJ placements had 19 to 24 months recorded on their W-2 T "clock". When persons were assigned to a CSJ after being in a W-2 T placement for an extended period of time, it may reflect a natural progression within the W-2 program. It is also possible that, in some instances, some participants were placed in CSJ placements because they were approaching the time limits in their W-2 T placement.

As part of their monitoring responsibilities, BW-2 staff analyzed 453 cases that were sanctioned down to a monthly grant of less than \$100 for two consecutive months between December 2002 - September 2003.³⁷

- These 453 cases represented 2 percent of all the W-2 cases that were open during this period. Most (84 percent) of the cases came from four regions in Milwaukee County.
- Fifty-seven percent of the 453 cases were sanctioned down to a \$0 grant in both months.
- In 88 of the of the 453 cases for which a content analysis was done, the Regional Office staff indicated the following:
 - In 76 percent of the cases there was no evidence of either a formal or informal assessment
 - There was no regular contact between the FEP and the participant in 67 percent of the cases
- As part of its management oversight of the W-2 program, DWS conducts on-going reviews of selected cases to identify possible case management problems and to require agencies to take corrective action where appropriate. Since 2000, the number of DWS Regional Office staff that monitors local agencies has been reduced 34 percent.

³⁷ *Consecutive Months Sanctions Reviews*, Bureau of Workforce Information, Division of Workforce Solutions, Wisconsin Department of Workforce Development, December 10, 2003.

DISCRETION

Background

The W-2 Manual provides program requirements, case examples and a philosophical overview for operation of the W-2 program. While some policies are explicitly defined (e.g., income and asset limits), agency discretion was built into certain areas of policy to enable caseworkers to have flexibility in developing EPs that address the unique needs, and capitalize on the skills and interests, of each W-2 participant.

The goal of the W-2 program is to provide the necessary and appropriate services to prepare individuals to obtain and maintain viable, self-sustaining employment. Although the program is not an entitlement program with every participant receiving exactly the same benefits and services, it is expected that W-2 agencies will provide some level of service to eligible individuals. There are wide variations in participant circumstances, local job markets, local work environments, W-2 agency program approaches, and FEP case management approaches. W-2 policies and contracts provide agencies with discretion in using their resources to provide benefits and services that will assist participants in moving towards independence and self-sufficiency. The W-2 program mirrors the federal Temporary Assistance for Needy Families (TANF) legislation, which provides states the flexibility to establish program specifications within certain basic parameters. As a result, W-2 participant benefits and services can vary.

How local agencies and individual FEPs interpret policy and exercise discretion may affect variations in sanction rates, including variations by race/ethnicity or other participant characteristics. Decisions about when to impose sanctions and when to grant “good cause” will affect sanction rates. Decisions about finding participants “job ready” affect whether participants receive monthly grants and, therefore, be subject to sanction. Since the likelihood of getting sanctioned varies by placement type, decisions about whether to put a participant in a CSJ or W-2 T can affect sanction rates. Differences in interpretation and the exercise of discretion can result in persons in like circumstances being treated differently. If different interpretations tend to occur more frequently in some agencies or among some participant groups than others, they can have a racial/ethnic impact or result in some other type of disparity in sanctioning. Thus, investigating the exercise of discretion and its impact on sanctions can provide a better understanding of disparities in sanctions by race/ethnicity and other characteristics.

DWD staff reviewed four studies based on surveys or qualitative interviews of recipients about their experiences in welfare programs. There was some evidence of perceived differences in the treatment of participants by race/ethnicity.³⁸ While these studies were based on small sample sizes that cannot be generalized to Wisconsin, they draw attention to the potential for disparate treatment among W-2 participants.

This section presents the results from an analysis of the current W-2 Manual to identify areas that allow discretion in interpreting and applying policies related to placement, sanction and “good cause.” Using information from the analysis of the W-2 Manual, a scenario survey of FEPs was conducted to determine how they interpret key policies that might affect sanctions. This chapter also includes an analysis of sanction rates by agency and FEP to provide a measure of the variability in sanctioning within and among agencies.

³⁸ Gooden, Susan, “All Things Not Being Equal: Differences in Caseworker Support Toward Black and White Welfare Clients,” *Harvard Journal of African American Public Policy*, Vol. IV 1998. Bonds, Michael, “Racial Disparities in Welfare Reform: the Wisconsin Works (W-2) Experience in America’s Heartland (Milwaukee, Wisconsin),” University of Wisconsin-Milwaukee School of Education, Department of Educational Policy and Community Studies, March 2002. Armato, et. al., “Living with Welfare Reform: A Survey of Low Income Families in Illinois,” Work, Welfare and Families and the Chicago Urban League with The Center for Urban Development, University of Illinois at Chicago, January 2000; Gordon, Rebecca, “Cruel and Usual: How Welfare ‘Reform’ Punishes Poor People,” Applied Research Center, 2001.

Findings: W-2 Manual Analysis

DWS policy experts, representatives from W-2 agencies and advocacy groups reviewed those sections of the W-2 Manual related to finding a participant “job ready,”³⁹ “assigning a participant to a CSJ or W-2 T placement, and imposing a sanction or granting “good cause.” The purpose of the review was to identify areas where W-2 policy allows interpretation or discretion.⁴⁰ The findings from this review include:

- The W-2 Manual⁴¹ provides criteria to be taken into consideration when conducting an “informal assessment” to make placement decisions. The manual requires, at a minimum, an informal assessment of each individual’s work history, recent job search efforts, education, job skills, interests and abilities and other factors that will affect employment. The informal assessment must also include a review of supportive services needs. The manual specifies 10 supportive service areas that must be reviewed with each participant. Examples include housing, legal assistance, transportation, and childcare needs. While the types of information to be assessed are laid out in policy, the W-2 Manual does not say how much weight each factor should be given, what it means for the FEP to “consider” something or what the FEP must do with information gathered through an informal assessment process. The FEP must use his or her training and case management experience to determine how to apply this information when placing a participant and developing the individual’s EP.
- The W-2 Manual states that “The FEP must offer assistance to the participant when requesting the necessary elements (of a formal assessment.)”⁴² This leaves room for interpretation as to what the agency’s responsibility is to assist in getting an assessment. In addition, FEPs must currently refer to a separate document for this policy information.
- The policy that guides FEPs in determining the type of W-2 placement leaves room for discretion. Factors such as “insufficient work history,” “incapacity of a family member,” “reliable work habits,” “insufficient work experience or skills” may be interpreted so that participants with similar backgrounds may end up in different placements. In addition, the FEP must determine whether the participant’s “education or training background” is sufficient to “compete for available jobs in the unsubsidized labor market.”⁴³ The FEP must use his or her training and case management experience to determine how to apply this information when placing a participant and developing the individual’s EP.
- The policies that cover CSJ placement and work sites are broad and may result in variation in the quality of work sites and the training activities that are provided to participants in the same placement type.⁴⁴
- By design, W-2 policy allows for variation across agencies in determining how and when to apply “good cause” for missed hours of participation. For example, the decision whether to require documentation for missed hours, the time limits on providing documentation and the nature of documentation are at the discretion of the W-2 agency. Policy provides a short list of “good cause” reasons but also give the FEP discretion to apply “good cause” for “other circumstances beyond the control of the participant, but only as determined by the FEP.”⁴⁵

³⁹ “Job ready” is defined as a placement in case management for individuals capable of obtaining employment.

⁴⁰ *Sanctions & W-2 Policy*, Bureau of Workforce Programs, Division of Workforce Solutions, Department of Workforce Development.

⁴¹ *W-2 Manual* Section 5.1.1.1.

⁴² *Ibid.* Section 5.2.1.1.

⁴³ *Ibid.*, Section 7.4.1.1.

⁴⁴ *Ibid.* Section 7.4.1.3.

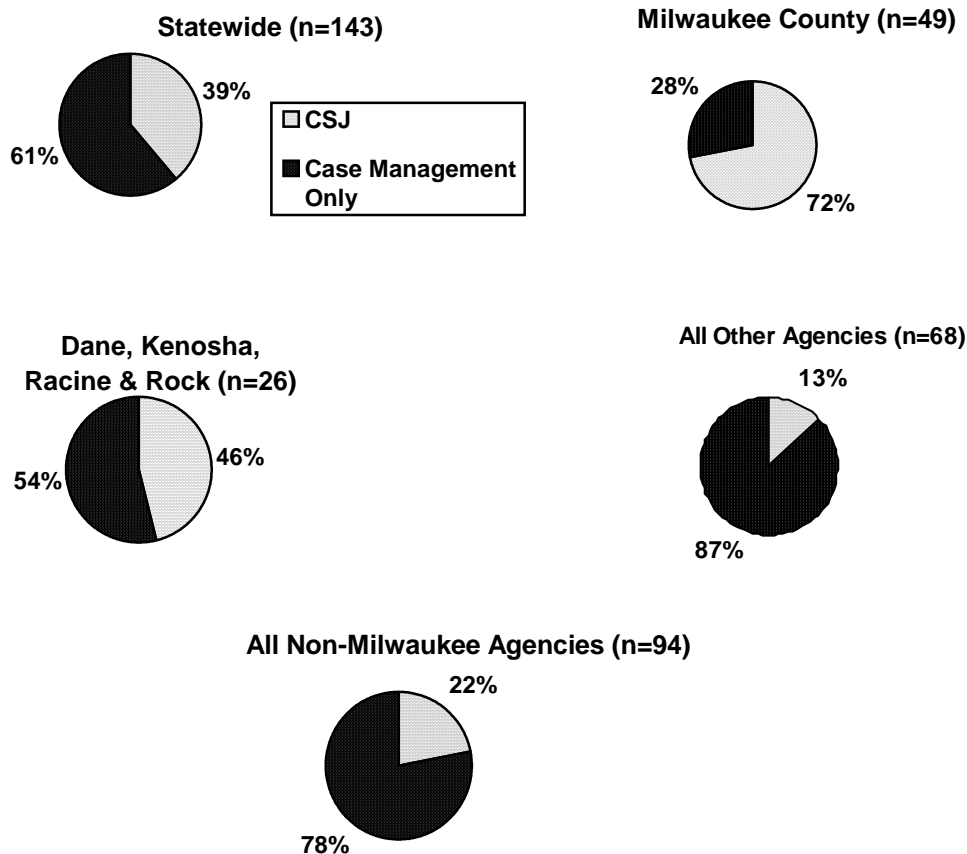
⁴⁵ *Ibid.* Section 11.3.0.

Findings: FEP Scenario Survey

FEPs were surveyed to determine how they actually interpreted the discretionary aspects of W-2 policies. In the survey FEPs were presented with a series of brief case scenarios and asked to make a determination about placement, sanction or “good cause”.⁴⁶ The five case scenarios that were presented to the FEPs were designed to address specific points identified by the analysis of policy as potential sources of variation in policy interpretation.

Figure 2 represents typical survey results. In this case, FEPs were presented with a participant’s work history and education and asked whether they would find the participant “job ready” (i.e., place him or her in case management for individuals capable of obtaining employment) and therefore not eligible for a cash grant or whether the participant should receive a cash grant. Since only participants receiving a cash grant can be sanctioned, the decision affects sanctions.

Figure 2: FEP Decisions on Placement of W-2 Participants, 2004. (n=143)



As indicated in Figure 2, FEPs had very different opinions about the appropriate placement based on the participant’s work history. Statewide, about 61 percent of the FEPs would have found the participant “job ready” and would not have provided a grant. However, 72 percent of the FEPs

⁴⁶ *Case Scenario Survey of FEPs*, Bureau of Workforce Information, Division of Workforce Solutions, Wisconsin Department of Workforce Development. One hundred and forty-three FEPs completed the survey. Thirty-four percent were from Milwaukee County, 18 percent from Dane, Kenosha, Racine and Rock Counties and 48 percent from other balance of state agencies. The response rate was 30.0 percent.

from Milwaukee and only 22 percent of the FEPs from the balance of state agencies would have given the participant a grant and placed him or her in a CSJ.

There were also considerable differences *within* agency groupings. For example, FEPs in large balance of state agencies (Dane, Kenosha, Racine and Rock Counties) split nearly 50-50 on whether to find the participant “job ready” or provide a grant. In contrast, only 13 percent of the FEPs from the remaining balance of state agencies would have placed the participant in a CSJ.

Some of the other findings from the FEP Scenario Survey include the following:

- When the issue was whether to sanction a participant who missed hours and failed to provide a doctor’s excuse for a sick child, 50 percent of the FEPs in the balance of state would have issued a sanction, while only 35 percent of the Milwaukee FEPs would have sanctioned.
- Ninety-two percent of Milwaukee County FEPs and 83 percent of balance of state FEPs would have sanctioned a W-2 T participant who failed to provide documentation of attendance for group counseling sessions for two weeks of time in a four-week participation period.
- When the participant had a poor work history and a disabled child at home who required specialized care, 96 percent of FEPs in Milwaukee County assigned the person to a W-2 T placement, while 65 percent of the FEPs in the balance of state would have done so.

The FEP Scenario Survey showed considerable variation in interpretation of policy among FEPs within agencies and between agencies. However, because the survey was based on constructed case scenarios, it is unclear whether there would be more, or less, uniformity when FEPs make decisions in real cases.

Findings: FEP Sanction Rates

An analysis was conducted of actual sanction rates to determine if there were variations in the sanction decisions made by individual FEPs and agencies.⁴⁷ In the FEP Scenario Survey reported above, FEPs were asked to make decisions based on constructed cases. The *FEP Sanction Rates* analysis is based on actual decisions made by FEPs in the field. The dependent variable was the percent of the grant sanctioned in a month. The analysis was based on information gathered about FEPs who had more than 20 cases in CSJ or W-2 T placements during December 2002 and were located in a Milwaukee County agency.

The analysis found:

- For the 54 FEPs with large CSJ caseloads, actual sanction rates varied from 2 percent to 36 percent of the grants.
- For the 21 FEPs with large W-2 T caseloads, actual sanction rates varied from zero to 9 percent of the grants.
- The variation in sanction rates was primarily among FEPs *within* agencies rather than differences between agencies, so that there were high- and low-sanctioning FEPs within each agency.

⁴⁷ *Sanction Rates by FEP*, Bureau of Workforce Information, Division of Workforce Solutions, Wisconsin Department of Workforce Development.

Potential Future Research Related to FEP and Agency Discretion

The W-2 Sanction Study initially included three other projects relating to FEP and agency discretion. The first one involved conducting a series of focus groups of FEPs, to determine how they interpret various aspects of W-2 policy and to identify those factors that influence their decisions. This portion of the study was not conducted due to competing demands on DWS and local agency staff. The second project would have included information about the race/ethnicity of the hypothetical participants in the FEP Case Scenario Survey. This was not conducted due to the difficulty of developing scenarios involving race/ethnicity that would elicit valid responses. The third project involved an extensive examination of pairs of cases matched on demographic and case history factors to determine why certain types of cases are sanctioned at higher rates. This portion of the study was not performed due to resource limitations.

Summary of Key Findings

- There are many decision points where policy affects sanctions. These include policies that determine whether a participant is “job ready,” whether to place the participant in a CSJ or W-2 T placement, and whether to issue the participant a sanction or to grant “good cause.”
- W-2 program policy related to determining whether a participant is “job ready,” whether to place the participant in a CSJ or W-2 T placement, and whether to issue a sanction or grant “good cause” requires interpretation and discretion on the part of local agencies and individual FEPs. The fact that local agencies and individual FEPs are allowed to interpret policy and exercise discretion is an intentional feature of the W-2 program.
- Variations in the W-2 policy interpretation and the exercise of discretion by agencies and FEPs may result in participants with like circumstances receiving different benefit levels and services and different decisions about sanctioning versus granting “good cause.”
- To the extent that variations in interpretation of policy and exercise of discretion occur among agencies that have caseloads with different racial/ethnic characteristics, the result may be racial/ethnic disparity.
- Case scenarios were presented to a statewide sample of FEPs. FEPs were asked for determinations of placement assignment, sanctions, and “good cause.” There were variations in interpretation of policy related to sanctions, tier assignments, and other W-2 policy among FEPs in Milwaukee County, large outstate and other balance of state counties.
- In Milwaukee, for the 54 FEPs with large CSJ caseloads, sanction rates varied from a low of 2 percent to a high of 36 percent of grant amounts. For the 21 FEPs with large W-2 T caseloads, actual sanction rates varied from zero to 9 percent of grant amounts. The variation among FEPs occurred primarily within, rather than among, agencies so that there were high- and low-sanctioning FEPs within each agency.

DISPUTE RESOLUTION

Background

Disagreements may occur between W-2 participants and local agencies over matters relating to placement, sanctions and “good cause.” The lodging of disputes by participants may be an indication of how well participants understand and accept W-2 policies. The final resolution of those disputes may be an indicator of how well agencies interpret and implement policies, including policies related to sanctions and “good cause.” Effective and timely resolution of disputes over interpretation of policy and exercise of discretion between agencies and participants is an important check on the application of discretion.

W-2 participants who believe that an agency’s decision is incorrect may request a Fact Finding review by the W-2 agency. The Fact Finding review is an informal meeting to help participants resolve issues regarding an agency’s decision.⁴⁸ A participant may choose a representative to attend the Fact Finding review with them. A reviewer, called the fact finder, will:

- Meet with both the applicant/participant and an agency representative
- Listen to each side
- Review the information
- Give a written decision based on state law, administrative rules and W-2 policies

If the participant disagrees with the W-2 agency’s Fact Finding decision, they may request a second level review (Departmental Review) through the Department of Administration, Division of Hearings and Appeals (DHA).

Between September 1997 and August 2003, 5,057 cases were filed for Fact Finding and 357 cases were filed for Departmental Review.⁴⁹ Much of this analysis, however, is based on agency decisions that were made early in the program. About 80 percent of the Fact Findings were filed between September 1997 and December 2001. Although changes in W-2 program philosophy and policy have occurred since 2001, an analysis of dispute resolutions from that time period provides some insight into potential issues that can affect sanctioning as well as other components of the W-2 program.

Findings

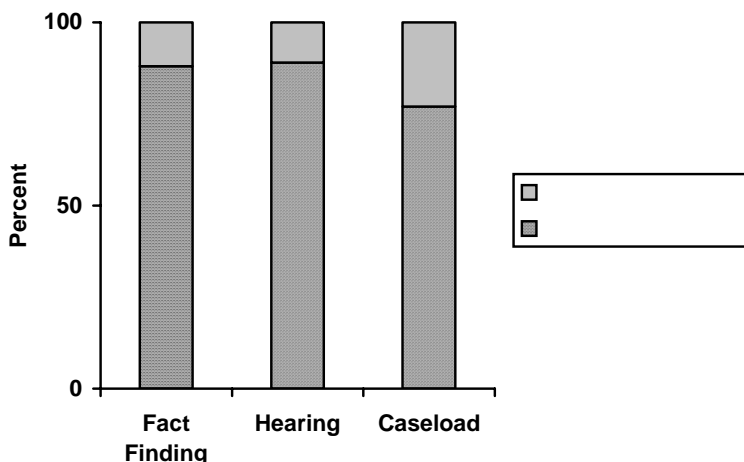
Over 88 percent of both the Fact Finding and Departmental Review cases were filed against Milwaukee County W-2 agencies (Figure 3). As of August 2003, about 77 percent of all W-2 cases receiving a payment were in Milwaukee County, indicating that the number of Fact Finding and Departmental Review cases filed from Milwaukee County agencies was disproportionately high.⁵⁰

⁴⁸ Each W-2 agency must have at least one individual assigned to complete Fact Finding reviews. The fact finder cannot be the same person who took action on the case. The fact finder must be neutral and provide an objective review and decision on the Fact Finding request.

⁴⁹ Any analysis of dispute resolution is hampered by incomplete and badly coded Fact Finding and Departmental Review data. For example, many Fact Finding cases are coded as having been filed over the issue “Employment Position” although there is no clear indication of what the category includes. There are also problems with Fact Finding outcomes coded as “withdrawn.” In discussions with agency administrators and advocates it was indicated that the “withdrawn” category included both cases where the participant dropped a case that was seen as without merit and cases where the issue was resolved in the participant’s favor before the appeal meeting.

⁵⁰ *Fact Finding & Departmental Reviews*, Bureau of Workforce Information, Division of Workforce Solutions, Wisconsin Department of Workforce Development.

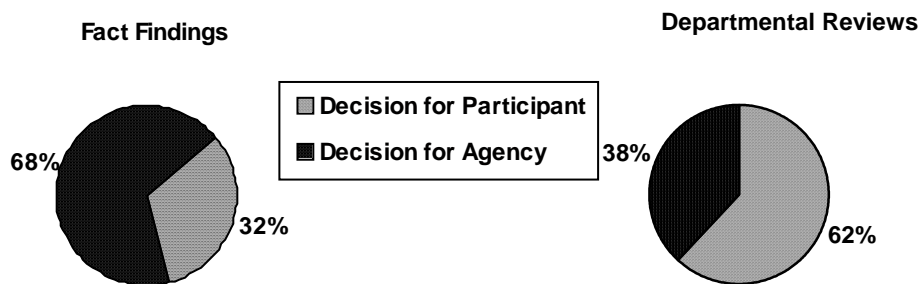
Figure 3: Fact Finding and Departmental Review Appeals Filed, Milwaukee County and Balance of State, September 1997-August 2003



Requests for Fact Finding or Departmental Reviews are based on a wide range of issues, including extensions, child care eligibility, child care payments, placement, emergency assistance, payment eligibility, job access loans and sanctions. Approximately 20 percent of the Fact Findings and 27 percent of the Departmental Reviews were filed over disputes about sanctions and “good cause.”

The outcomes of Fact Findings and Departmental Reviews may be in favor of the participant, in favor of the agency, or the decision may be split. Figure 4 indicates that decisions in the Fact Finding process were in favor of the participant in 32 percent of the cases, but in the Departmental Review process, rulings were in favor of the participant for 62 percent of the cases.⁵¹ About one third (32 percent) of the sanction cases appealed to Fact Finding were resolved in favor of the participant, while 75 percent of the sanctions cases appealed to Departmental Review were resolved in favor of the participant.

Figure 4: Decisions in Cases Requesting Fact Finding and Departmental Review, Wisconsin, September 1997-August 2003



Fact Finding decisions were more likely to be in favor of participants in Milwaukee County than in balance of state counties. Decisions were in favor of participants in 34 percent of the cases in Milwaukee County and 21 percent of the time in the balance of the state.

⁵¹ Cases were included only if they had a decision either in favor of the participant or the agency. Split decisions, withdrawn cases and cases pending a decision were not included. In discussions with agency administrators and advocates, it was indicated that the “withdrawn” category included both cases where the participant dropped a case that was seen as without merit and cases where the issue was resolved in the participant’s favor before the appeal meeting.

W-2 participants may bring a representative to a Fact Finding meeting. In CY 2002, 29 percent of the Fact Finding cases for which there was a decision (415 cases) had a representative. Those in Milwaukee County were more likely to have a representative than those in the balance of the state. About one-third of the participants in Milwaukee had a representative, while only 13 percent in large balance of state counties and 18 percent in other balance of state counties had a representative identified.

Statewide, 55 percent of represented participants had a favorable decision, compared to 37 percent for participants who were not represented. In Milwaukee County, about 72 percent of participants who had a representative had a decision in their favor, while 54 percent of those with no representative had a decision in their favor.

Summary of Key Findings

Effective and timely resolution of disputes over interpretation of policy and exercise of discretion between agencies and participants is an important check on the application of discretion.

- Between September 1997 and August 2003, 5,057 cases were filed for Fact Finding and 357 cases were filed for Departmental Review.⁵² Much of the data in this analysis is based on agency decisions that were made between September 1997 and December 2001.
- Most Fact Finding and Departmental Reviews occurred in Milwaukee County because the great majority of W-2 cases were in that county and because requests for Fact Finding and Departmental Reviews occurred disproportionately in Milwaukee County. While 77 percent of the W-2 cases were in Milwaukee County, 88 percent of the Fact Finding and Departmental Review cases were filed against agencies in that county.
- Sixty-two percent of the decisions in Departmental Reviews favored the participant. This is roughly the reverse of the proportion of decisions in Fact Finding, where 68 percent of the decisions favored the agency.
- Fact Finding decisions were in favor of participants in 34 percent of the cases in Milwaukee County and 21 percent of the cases in the balance of the state.
- Approximately 20 percent of the Fact Finding cases and 27 percent of the Departmental Review cases were filed over disputes about sanctions and “good cause.” About 32 percent of the sanction cases that went to Fact Finding and three-fourths of those appealed to Departmental Review were decided in favor of the participant.
- Participants who had representation at Fact Finding were more likely to have a decision in their favor. In a CY 2002 analysis of 415 Fact Finding cases, 55 percent of represented participants had a favorable decision, compared to 37 percent for participants who were not represented.
- Participants were more likely to have a representative in Fact Finding in Milwaukee County. About one-third of the participants in Milwaukee had a representative while only 13 percent in large balance of state counties and 18 percent in other balance of state counties had a representative identified.

⁵² Any analysis of dispute resolution is hampered by incomplete and badly coded Fact Finding and Departmental Review data. For example, many Fact Finding cases are coded as having been filed over the issue “Employment Position” although there is no clear indication of what the category includes. There are also problems with Fact Finding outcomes coded as “withdrawn.” In discussions with agency administrators and advocates it was indicated that the “withdrawn” category included both cases where the participant dropped a case that was seen as without merit and cases where the issue was resolved in the participant’s favor before the appeal meeting.

RECOMMENDATIONS

This report is a synopsis of a research study on the application of sanctions within the Wisconsin Works (W-2) program.⁵³ It was conducted by the Division of Workforce Solutions (DWS) in conjunction with a Steering Committee, which was charged by DWS to provide overall guidance to the study.

The original scope of the study was to better understand where racial/ethnic disparities in sanctioning existed; the magnitude of the disparities; and how W-2 policies, placements and assignments to activities may contribute to these disparities. As the Steering Committee began examining variations in sanction rates by race/ethnicity, it became apparent that understanding the role of factors such as case management, the exercise of discretion and dispute resolution could contribute to a better understanding of both racial/ethnic and other types of disparities in sanctions. Thus, at the DWS Administrator's request, the study's scope was broadened to examine these additional factors.

The major findings from the study were as follows.

- A regression analysis of 2000-2003 administrative data found that, statewide:
 - ♦ Black CSJ participants were sanctioned more than their white counterparts in 2000, 2001 and 2003.
 - ♦ When black and white W-2 T participants were compared, blacks were sanctioned more in 2000 and 2001 and somewhat less in 2002 and 2003.
 - ♦ For the 2000-2003 time period, Hispanic CSJ participants were sanctioned less than white CSJ participants.
 - ♦ In 2000 and 2001, Hispanic W-2 T participants were sanctioned slightly more than white W-2 T participants; in 2002 and 2003 they were sanctioned slightly less.
- The regression analysis also found that the largest and most persistent disparity in sanction amounts occurred between black and white CSJ participants in the balance of state, where blacks were sanctioned more than whites throughout the four-year time period of the study.⁵⁴
- An analysis of cases that were approaching exhaustion of their placement eligibility identified variations in case management that could be associated with disparities in sanctions.
- An analysis of administrative data, a review of W-2 policies and a case scenario survey of FEPs indicated that there are variations by agency and caseworker in the interpretation and application of W-2 policy. This could result in participants in like circumstances being subject to different sanction decisions and receiving different benefit levels and services.
- A review of the dispute resolution process showed that more than one-fifth of the cases that went to Fact Finding or to Departmental Review between 1997 and 2003 were related to sanctions and "good cause."

⁵³ As with most social science research, the findings throughout this study could be influenced by factors not directly examined in this study. This report represents the Committee's attempt to provide a comprehensive examination, recognizing time, resource and cost constraints.

⁵⁴ While disparities were evident in the balance of state for Hispanics, these findings should be interpreted with caution because of the relatively small number of cases that were examined.

The Committee was also charged with making recommendations on how to ensure that all W-2 participants are treated fairly and equitably. Its membership reflected a broad range of knowledge, technical skills and perspectives on the W-2 program, including W-2 agency administrators, representatives of client advocacy groups, state administrators and academics. The Committee members were committed to conducting an impartial study of the application of sanctions and to developing recommendations that would lead to the equitable treatment of participants in a manner that was consistent with the philosophy and goals of the W-2 program.

Based on conclusions drawn from research findings and their knowledge of the program, the Committee developed 30 recommendations for action in the five following topical categories: training, policy/statute, practice/implementation, monitoring and analysis. There was consensus among Committee members on 19 of the recommendations and varying degrees of agreement on the remaining 11 recommendations.

To aid decision-makers, the Committee prioritized its recommendations into three tiers. The first tier of recommendations (priority recommendations) reflected the Committee's broad consensus. The next tier of recommendations (second priority recommendations) received support from the majority of Committee members, but lacked full consensus. The last tier of recommendations (recommendations requiring additional discussion) were those on which the Committee was most divided, and would require additional review and discussion. While the majority of members felt these recommendations were not a priority, they agreed that these recommendations should be forwarded as part of the report.

Priority Recommendations

The Steering Committee believes that these recommendations should be initiated first, since they reflect a group consensus. The Committee felt that the support for these recommendations from all sectors of the group indicates that the recommendations could be successfully implemented. The Committee emphasized the value of beginning the implementation process for these recommendations as soon as possible, because of the impact they would have on the lives of Wisconsin families.

Training:

- Provide training to case managers and supervisory staff to increase awareness of diversity issues. Identify, analyze and share the results of research from other states that examine the impact of case managers' decision making on sanctioning, with the goal of reducing differential impacts.

Controlling for other factors that may affect sanctions, this study showed that black participants were often sanctioned for a higher percentage of their W-2 grants than whites within the same placement type. Specialized training for agency staff would help increase awareness of these issues and be one step toward reducing racial/ethnic disparities in the treatment of participants.

- Develop policy and staff training to emphasize the need for accommodations for participants with health conditions (or children with disabilities) that preclude full-time participation. Those accommodations can include but are not limited to reducing required participation hours.

U.S. DHHS Office of Civil Rights guidance states that, in order to identify potential disabilities, TANF screenings and assessments should include an analysis of each individual's ability to meet the program's participation requirements and the appropriate services should be provided based on needs identified by the screening and assessment process. There is some evidence from the current study that accommodations are not always offered to participants. This recommendation is to ensure that FEPs utilize accommodations, such as counseling and treatment, for participants whose physical or mental health conditions preclude full-time participation and that W-2 policy is clarified regarding the circumstances under which reduced participation hours are allowed.

- Evaluate W-2 training curriculum to determine how discretionary aspects of W-2 policy are trained. Determine if training outcomes are consistent with stated law, administrative rule and policy. Focus training to ensure that FEPs and supervisory staff understand policy and appropriately use guidelines when exercising discretion.

This study found variation from agency to agency, and among FEPs within agencies, regarding the interpretation of policies related to placement, sanction and “good cause.” Other studies, which surveyed welfare recipients, showed some evidence that recipients perceived differences in the treatment they received by race/ethnicity. While these latter studies were based on small samples that cannot be generalized to Wisconsin, they draw attention to the potential for disparate treatment.

Policy/Statute:

- Provide more guidance through policy in the area of granting “good cause.” Guidelines should include reasons similar to those specified in Learnfare. The “good cause” process should be made accessible to people with a variety of barriers, and specify documentation for “good cause” and timeframe. Agency practice must comply with state policy guidelines.

Results from the current study showed that there was variation among agencies and individual FEPs in the application of policy regarding granting “good cause” exemptions from sanctions. Currently, policy guidelines leave a great deal to the discretion of the agency and FEP. The recommendation seeks to modify the policy guidelines to include more specific reasons for granting “good cause” and more guidance for doing so.

- Emphasize through policy that assessment, including formal assessment, is an ongoing process and not a one-time event. Establish a trigger that requires that additional assessments and intensive case management would be offered to participants who receive severe or repeated sanctions, or to establish if they are employed full-time.

In a sample of W-2 participants who were sanctioned to a net grant of less than \$100 during two consecutive months, the majority of the sample had no assessment to determine their reason for non-participation and lacked regular contact with a FEP. This recommendation is intended to emphasize that on-going assessment and case management are necessary to identify barriers, properly assign participants to activities and provide necessary supports in order to ensure that sanctions are appropriate and to improve program participation.

- Restore the fair hearing process. (This would require a statutory change.)

Approximately 20 percent of Fact Finding cases and 27 percent of Departmental Review cases filed between September 1997 and August 2003 were filed over disputes about sanctions and “good cause.” This recommendation is to allow a participant who was sanctioned or otherwise denied benefits to file a request for a fair hearing, with their benefits continuing until a decision was made at the hearing.

- Establish a definition of what activities can be sanctioned. Only work activities should be sanctionable. Activities related to health needs would not be sanctionable. Train staff to assist customers on compliance.

W-2 policy allows agencies to sanction participants for not participating in a wide variety of activities, including those that relate to health and care for a family member. The recommendation is to restrict those activities that are sanctionable to include only those related to work. In addition, this recommendation is to provide FEPs additional training to assist participants in complying with program requirements.

Practice/Implementation:

- Identify best practices that reduce inappropriate sanctioning to be implemented with agencies statewide. Determine if there are case management strategies or practices that lead to inappropriate sanctions.

The findings about variations in racial/ethnic differences in sanctioning during the study period could be used to develop a series of “best practices” to address racial/ethnic disparities in Wisconsin and in other states.

- Develop an action plan of ways to improve case management, including targeted training, policy clarification and system and reporting tools that can help FEPS.

This recommendation is for the DWS to develop an action plan to implement case management improvements, using a multi-faceted approach that reflects the findings from the current study.

- Hold periodic roundtables for FEPs and supervisory staff to review case scenarios and discuss as a group where the individual should be placed in W-2, with the goal of increasing uniformity in decision-making statewide.

Results from the current study showed that there was variation among agencies and FEPs within agencies in interpretation of policy related to placement, sanction and “good cause.” This recommendation represents an approach to achieving more consistency.

Monitoring:

- Monitor adverse actions by race and require agencies with a high level of disparities to provide explanations.

The recommendation is to continue to monitor sanction rates and other adverse actions by race/ethnicity and to require agencies with high levels of disparities to investigate the disparities and report to the DWS.

- Continue to monitor "significant sanction" cases through the DWS BW-2 Regional Offices to assure appropriate outcomes for all participants.

“Significant sanction” cases are defined as a case that has been sanctioned down to a net grant of \$100 or less in two consecutive months. The recommendation is to continue the current policy that requires a Regional Office review of such cases.

- Increase BW-2 regional staff to ensure adequate case management monitoring can be continued.

The state DWS is responsible for oversight and management of the W-2 program. However, the number of regional staff who do case reviews and monitoring has been reduced. This recommendation is to increase staffing levels to ensure that case reviews and monitoring continue at an adequate level.

Analysis:

- Analyze why people of color are much more likely to be placed in CSJs than white participants.

The current study found that black, Hispanic and American Indian participants were more likely than whites to be placed in a CSJ and that participants in CSJs were more likely to be sanctioned than were participants in W-2 T placements. Because W-2 tier placements are subject to a discretionary decision by agencies, the extent to which a participant’s race/ethnicity may affect their placement needs to be more fully evaluated.

- Conduct a comprehensive study of sanctions, strikes and other adverse actions by race in the 2006-2008 biennium.

Controlling for other factors that might affect sanctions, this study found that racial disparities in sanction rates varied over time. A follow-up study of sanctions and other adverse actions could determine whether racial/ethnic disparities exist and evaluate the effectiveness of actions designed to address them.

- Analyze the significant changes in racial disparities between 2001, 2002, and 2003 and seek to identify patterns or factors that may have contributed to the reduction or increase. This could be used to develop best practices that could be implemented in Wisconsin, as well as other states.

While changes in racial/ethnic disparities were evident over the period of the study, and those disparities varied by racial/ethnic group and agency, the causes of those variations are not well understood. This recommendation seeks to enhance an understanding of those factors that can affect racial/ethnic disparities and to use this information to address them.

- Examine the findings related to Native American participants, whose sanction rates are also much higher than white participants.

The initial analysis in this study indicated that American Indian participants were sanctioned at a higher rate than white participants. There were, however, too few American Indians in any individual agency to allow valid statistical estimates of a disparity. Additional qualitative research is necessary to understand the impact of sanctions on American Indian W-2 participants and the causes of any disparities.

- Approve the proposal to evaluate the W-2 screening and assessment process.

In 2003, DWS implemented a new barrier screening and assessment process to assist FEPS in identifying employment barriers that might otherwise remain hidden. Since DWS is currently conducting an evaluation of the barrier screening tool process, work on this recommendation is in progress.

- Create and release a standardized, annual report of sanctions by race.

There is currently no routine report that describes sanction rates by race/ethnicity. This recommendation would create a standard report, which would take into account other variables, in addition to race/ethnicity that affect sanctions.

Second Priority Recommendations

Although these recommendations lacked full Steering Committee support, a majority of the Committee members ranked these recommendations of sufficient importance that they should be included in the final report. For each of these recommendations, at least some of the Committee members gave them a low rating.

The Committee acknowledges that some of the recommendations in this section will require additional consideration and development. Implementation may take longer than the priority recommendations. In addition, some of these recommendations may require additional resources that are not immediately available.

Policy/Statute:

- Establish an ombudsman program that provides independent advocacy for participants who want to challenge adverse actions including sanctions.

The current study showed that participants who had an advocate present fared better at Fact Finding than those who lacked an advocate. The availability of independent advocates varies by location in the state. This recommendation is to provide W-2 participants throughout the state with access to an independent advocate.

- Institute a pre-sanction review process when a participant has been sanctioned \$100 or more in any given month.

The granting of “good cause” is often left up to the individual FEP and sanctions are sometimes issued automatically without FEP knowledge. Among a sample of cases where participants had been sanctioned to a net grant of less than \$100 in two consecutive months, there was no assessment to determine the reason for non-participation in most cases. Also, DWD reviewers indicated that sanctions did not lead to improving behavior for this sample of participants. This recommendation is to require a supervisory level review on substantial sanctions, including decisions to deny “good cause” in order to allow additional assessment and evaluation of a participant’s circumstances.

- Authorize continuing benefits for participants challenging adverse actions including sanctions through the fair hearing process. (This would require a statutory change.)

Under current policy, payments are reduced by the amount of the sanction, even where the decision to sanction or deny “good cause” has been appealed to the dispute resolution process. The recommendation here is to continue benefits when a decision is being challenged until the dispute resolution process is concluded.

- Explore agency incentive bonuses for exceptional performance in terms of racial equity excellence or be subject to possible penalties from the state for significant racial disparities.

Past policy allowed for bonus payments to agencies that exceeded performance expectations and penalties for those that dropped below performance expectations in various program outcomes. The proposal here is to explore implementing a system of bonuses and penalties for agencies based on their performance in reducing racial/ethnic disparities in sanction rates.

Analysis:

- Analyze all cases in which a 24-month extension is not requested. Of that total, analyze those cases that were moved because of time limits and those that were moved from one W-2 tier to another because of reasons other than full-time employment or receipt of SSI.

If a participant is reaching the W-2 T time limit, W-2 agencies can request an extension. Steering Committee comments indicated that it is possible, in certain circumstances, that some participants are moved from W-2 T placements to CSJs simply because they are approaching their 24-month time limit, a situation that could lead to inappropriate sanctioning. Consequently, additional research is necessary to determine the extent to which shifts in placements result from time limits, the use of extension requests in these instances, and the effect of placement shifts on the application of sanctions.

- Replicate some of the studies that investigate case managers' treatment of participants of different races.

Research elsewhere has investigated whether members of different racial/ethnic groups perceived differential treatment by case managers and employers. Additional research is needed to investigate how W-2 case managers and potential employers treat W-2 participants in different racial/ethnic groups and how this may relate to racial/ethnic disparities in sanctions and other adverse actions.

- Require that DWS review and report to the Administrator on national research about sanctioning policies and procedures to determine what sanctioning practices produce the most effective results.

Research has been conducted in other states on sanctioning policies and procedures. This recommendation is to review that research and to report relevant findings to the DWS Administrator.

Recommendations Requiring Additional Discussion

These recommendations are those on which the Steering Committee was most divided. The majority of Committee members felt that these recommendations were definitely not a priority because they were of little value or would require an unwarranted commitment of resources. Some Committee members, however, felt strongly that these issues were important and essential. While there was no group agreement about the value of these recommendations, there was agreement that they should be forwarded as part of this report for consideration.

Policy:

- Establish a requirement that DWD and W-2 agencies do more outreach including fliers to families that have received a \$100 or more sanction.

Current practice is to provide participants with information on such things as their right to appeal agency decisions and the availability of other community resources at the time that they become eligible for benefits. This recommendation is to provide additional information to participants at the point they begin experiencing substantial sanctions.

- Create a new W-2 tier with separate requirements for participants who are either awaiting SSI or who are unlikely to get SSI despite having severe barriers to self-sufficiency through work. This tier could take advantage of the 20% exemption currently available to states in PRWORA. (This would require a statutory change.)

Some W-2 participants may better be served by SSI. Others might not be eligible for SSI but have disabilities that would prevent them from participating in a work program. This recommendation is to create a new tier placement in W-2 that would have requirements more appropriate to participants with disabilities or severe barriers to employment.

Analysis:

- Evaluate the Fact Finding process in its entirety to determine why the outcomes are so different from the outcomes of cases reviewed by Departmental Review.

Cases that come before Departmental Review are found in favor of the participant much more frequently than those considered in Fact Finding. This recommendation is to analyze why the outcomes from each of these processes differ.

- Gain a better understanding of what is being disputed and whether it has implications on policy, training or procedure.

Current research on dispute resolution (Fact Finding and Departmental Review) was hampered by limited data. Additional research is necessary to determine the issues in dispute and whether there are changes in policy, training or procedure that might reduce disputes.

W-2 SANCTION STUDY STEERING COMMITTEE

Chair:

Sandra Breitborde

Department of Workforce Development
Bureau of Workforce Information
201 East Washington Avenue, Rm. G200
Madison, WI 53702
Phone: (608) 266-8212
Email: Sandra.Breitborde@dwd.state.wi.us

Members:

Brenda Bell-White

Department of Workforce Development
Milwaukee Regional Office
819 N. 6th Street
Milwaukee, WI 53203-1606
Phone: (414) 227-4245
Email: Brenda.Bell-White@dwd.state.wi.us

Phyllis Bermingham

721 Fulton Street
Wausau, WI 54403
Phone: (715) 845-7497
E-mail: phyllis6@charter.net

Nancy Buckwalter

Department of Workforce Development
Bureau of Wisconsin Works (BW-2)
201 East Washington Avenue, Rm. A200
Madison, WI 53702
Phone: (608) 266-7160
Email: Nancy.Buckwalter@dwd.state.wi.us

Marcia Christiansen

Forward Service Corporation
3116 International Lane
Madison, WI 53704
Phone: (608) 268-2251
Email: mchri@fsc-corp.org

Susan Gooden

Virginia Commonwealth University
Wilder School of Government and Public Affairs
P.O. Box 842029
Richmond, VA 23284-2028
Office Phone: 804-828-7078
E-mail: stgooden@vcu.edu

Liz Green

Dane County Human Services
1819 Aberg Avenue, Suite D
Madison, WI 53704
Phone: (608) 242-7463
Email: green.liz@co.dane.wi.us

Heidi Hammes

Department of Workforce Development
Bureau of Wisconsin Works (BW-2)
201 East Washington Avenue, RM. A200
Madison, WI 53702
Phone: (608) 267-0939
Email: Heidi.Hammes@dwd.state.wi.us

Christina Martin

Department of Workforce Development
Madison Regional Office
3319 W. Beltline Highway
Madison, WI 53713-2834
Phone: (608) 267-1484
Email: Christina.Martin@dwd.state.wi.us

Kathleen Mulligan-Hansel

Institute for Wisconsin's Future
1717 South 12th Street
Suite 203
Milwaukee, WI 53204
Phone: (414) 384-9094
Email: kmh@wisconsinsfuture.org

Karyn Rotker

American Civil Liberties Union of Wisconsin
207 E. Buffalo Street
Suite 325
Milwaukee, WI 53202-5774
Phone: (414) 272-4032
Email: Krotker@aclu-wi.org

Paul Saeman (co-chair through March '04; subsequent member)

1109 Chapel Hill Road
Madison, WI 53711
Phone: (608) 215-4843
Email: melodygab@aol.com

Jerry Stepaniak

MAXIMUS
6550 North 76th Street
Milwaukee, WI 53223
Phone: (414) 760-7755
Email: jerrystepaniak@maximus.com

Committee Staff:

Ron Blascoe

Department of Workforce Development
Bureau of Workforce Information
201 East Washington Avenue, Room G200
Madison, WI 53702
Phone: (608) 266-7250
Email: Ron.Blascoe@dwd.state.wi.us

Facilitator:

Linda Preysz

Department of Workforce Development
Division of Workforce Solutions
Administrator's Office
201 E. Washington Avenue, Room A200
Phone: (608) 266-8437
Email: Linda.Preysz@dwd.state.wi.us

Research Consultant:

Timothy Rupinski, Ph.D

Department of Workforce Development
Bureau of Workforce Information
201 E. Washington Avenue, Room G200
Madison, WI 53702
Phone: (608) 266-9387
Email: Timothy.Rupinski@dwd.state.wi.us

Research Manager:

Michael Soref, Ph.D

Department of Workforce Development
Bureau of Workforce Information
210 E. Washington Avenue, Room G200
Madison, WI 53702
Phone: (608) 267-9705
Email: Michael.Soref@dwd.state.wi.us

W-2 SANCTION STUDY WORK GROUPS

Data Work Group Members:

Nancy Beale	BWI	NA	
Ron Blascoe	BWI	(608) 266-7250	Ron.Blascoe@dwd.state.wi.us
Chuck Brassington	BWI	NA	
Pam Fendt	CED	(414) 229-6155	Psfendt@uwm.edu
Zulema Hauer	WRO	(262) 521-5329	Zulema.Hauer@dwd.state.wi.us
Tim Rupinski	BWI	(608) 266-9387	Timothy.Rupinski@dwd.state.wi.us
Paul Saeman (Chair)	BWI	(608) 215-4843	melodygab@aol.com

Process Evaluation Work Group Members:

Ron Blascoe	BWI	(608) 266-7250	Ron.Blascoe@dwd.state.wi.us
Lena Brooks	OIC	(414) 908-3353	Lbrooks@OIC-GM.org
Nancy Buckwalter (Chair)	BW-2	(608) 266-7160	Nancy.Buckwalter@dwd.state.wi.us
Jo Kutzner	ECRO	(715) 836-2264	Jo.Kutzner@dwd.state.wi.us
Kathleen Mulligan-Hansel	IWF	(414) 384-9094	kmh@wisconsinsfuture.org
Vivian Norwood	OIC	(414) 908-3180	Vnorwood@oic-gm.org
Joyce Simms	MRO	(414) 227-4576	Joyce.Simms@dwd.state.wi.us

Policy Analysis Work Group Members:

Ron Blascoe	BWI	(608) 266-7250	Ron.Blascoe@dwd.state.wi.us
Nancy Buckwalter	BW-2	(608) 266-7160	Nancy.Buckwalter@dwd.state.wi.us
Heidi Hammes (Chair)	BW-2	(608) 267-0939	Heidi.Hammes@dwd.state.wi.us
Jane Kahl	BW-2	(608) 266-7003	Jane.Kahl@dwd.state.wi.us
Margaret McMahon	BW-2	(608) 266-5899	Margaret.Mcmahon@dwd.state.wi.us
Tom Miller	LCC	(608) 785-6013	
Kathleen Mulligan-Hansel	IWF	(414) 384-9094	Kmh@wisconsinsfuture.org
Dianne Reynolds	BWP	(608) 266-0988	Dianne.Reynolds@dwd.state.wi.us
Karyn Rotker	ACLU	(414) 272-4032	Krotker@aclu-wi.org

Survey Work Group Members:

Ron Blascoe	BWI	(608) 266-7250	Ron.Blascoe@dwd.state.wi.us
Nancy Buckwalter (Chair)	BW-2	(608) 266-7160	Nancy.Buckwalter@dwd.state.wi.us
Linda Diedrich	RRO	(715) 365-2573	Linda.Diedrich@dwd.state.wi.us
Pam Fendt	CED	(414) 229-6155	Psfendt@uwm.edu
Jane Kahl	BW-2	(608) 266-7003	Jane.Kahl@dwd.state.wi.us
Sharon Oldenburg	RC	(608) 741-3458	Sharono@co.rock.wi.us
Edie Sprehn	BW-2	(608) 267-9886	Edie.Sprehn@dwd.state.wi.us

Data Analysis Work Group Members:

Tina Anderson	PRO	(715) 365-2567	Tina.Anderson@dwd.state.wi.us
Nancy Beale	BWI	NA	
Ron Blascoe	BWI	(608) 266-7250	Ron.Blascoe@dwd.state.wi.us
Chuck Brassington	BWI	NA	
Pam Fendt	UWM	(414) 229-6155	Psfendt@uwm.edu
Susan Gooden	VT	(540) 231-7305	Stgooden@vcu.edu
Kathleen Mulligan-Hansel	WFI	(414) 384-9094	kmh@wisconsinsfuture.org
Bonnie Nagel	BWI	(608) 267-8949	Bonnie.Nagel@dwd.state.wi.us
Tom Prete	FSC		
Tim Rupinski	BWI	(608) 266-9387	Timothy.Rupinski@dwd.state.wi.us
Paul Saeman (Chair)	BWI	(608) 215-4843	melodygab@aol.com
Joe Soss	UW	(608) 263-2036	Soss@polisci.wisc.edu
John Wilberding	MAX	(414) 607-7447	Johnwilberding@MAXIMUS.com

SUMMARY OF RESEARCH

A variety of different types of research analyses were conducted to address the objectives of the W-2 Sanctions Study. A list of these analyses is below.

1. The Impact of Race on W-2 Sanctions: A Multivariate Analysis
2. Sanction Rates by Placement, Agency and Race
3. Placement by Agency and Race
4. Intensive Case Review Content Analysis
5. Consecutive Months Sanctions Reviews
6. Fact Finding and Administrative Hearings
7. Sanctions and W-2 Policy
8. Case Scenario Survey of FEPs
9. FEP Sanction Rates
10. Earnings and Sanction Rates

Description of Analyses Conducted

1. The Impact of Race on W-2 Sanctions: A Multivariate Analysis, Bureau of Workforce Information, Division of Workforce Solutions, Department of Workforce Development, Madison, Wisconsin.

A number of factors might affect sanctions. These include family configuration, placement, barriers to employment, participant education and the race/ethnicity of the participant. In addition, sanctions might vary over time. Since most cases on W-2 include only one female adult, the analysis was restricted to that group. This analysis used two adaptations of the multiple regression technique to determine the effect of various factors on the amount of the grant that was sanctioned.

The unit of analysis was the benefit month. That is, each case was considered as an independent observation in each month that it was open. This approach, in effect, solved the problem of measuring sanction amounts when cases are open for different lengths of time since each observation is for only one month. Since all CSJ cases receive a gross grant of \$673 per month and all W-2 T cases receive a gross grant of \$628 per month, the variation in the after-sanction net grant depends entirely on the amount of the sanction within a given placement.

The analytic method used in this analysis was multiple regression, with the net dollar amount of the grant (after the sanction was removed) as the dependent variable.⁵⁵ Independent variables in the model included:

- Age of participant
- Months on lifetime “clock”
- Age of youngest child
- Number of children under age 13
- Whether any child receives subsidized child care
- Whether the participant is pregnant

⁵⁵ A small number of cases had recoupments or other deductions from the gross grant. Those amounts were removed from the gross grant before subtracting the sanction amount to create the net grant.

- Highest educational attainment level
- Whether the participant had a valid drivers license
- Whether a vehicle was available to the participant
- Whether there was a disabled participant in the case
- Whether there was a disabled child in the case
- Race/ethnicity of the participant⁵⁶
- Calendar year
- Interaction of race/ethnicity and year

Separate regressions were estimated for participants in CSJ and W-2 T placements. The analysis first combined all agencies in Wisconsin. Then separate analyses were done for major administrative units.⁵⁷

This approach used coefficients from the regression equation to calculate the difference between black and white participants and the difference between Hispanic and white participants for each year.

A second approach, sometimes called a "decomposition" model, used multiple regression similar to the method described above, but estimated separate equations for each race/ethnicity with the independent variables.⁵⁸ This method resulted in findings that were very similar to the approach described above.

The analysis in *The Impact of Race on W-2 Sanctions: A Multivariate Analysis* holds other factors constant and allows us to determine the effect of the race/ethnicity of the participant on sanction amounts. In addition to estimating racial/ethnic disparities for Wisconsin, Milwaukee County, and balance of state, the paper includes separate analyses for four of the six regions in Milwaukee County and four counties from the balance of state.

2. **Sanction Rates by Placement, Agency and Race**, Bureau of Workforce Information, Division of Workforce Solutions, Department of Workforce Development, Madison, Wisconsin.

As noted elsewhere, there were three reports produced between October 2002 and March 2003 that indicated that sanction rates varied by race/ethnicity. These earlier reports used a variable to measure sanction rates that was somewhat limited. That is, a case was counted as having been sanctioned if it had even one hour of sanction in a calendar year. Those reports also did not take into account the amount of time the participant was on W-2 so that those with longer exposure to sanctions were treated the same as those with only one month of exposure.

Sanction Rates by Placement, Agency and Race used a new variable, the percent of the monthly grant that is sanctioned, to provide a more accurate measure of sanctions rates. This analysis calculated a sanction rate as the percent of the grant that has been sanctioned. It computed average sanction rates by racial/ethnic group (i.e., American Indian, black, Hispanic, white, "other")

⁵⁶ Only three categories of race/ethnicity were used in this analysis: white, black and Hispanic. Other groups, including American Indian and Southeast Asian, occur too infrequently to be used as independent variables in this analysis. In addition, the distribution of white, black and Hispanic participants is very uneven among agencies. So, for example, there were almost no Hispanic participants in most W-2 agencies, many agencies outside of Milwaukee County had very few non-whites and there were very few whites in some Milwaukee County agencies. As a result, analyses by race/ethnicity could not safely be done in some agencies.

⁵⁷ Administrative units include: all of Wisconsin; Milwaukee County and the balance of the state; four of the six regions within Milwaukee County, four large agencies (Dane, Kenosha, Racine and Rock Counties).

⁵⁸ This approach is often used in research to detect racial impact. For examples, see Myers, Samuel L, Jr., Tsze Chan, "Who Benefits from Minority Business Set-asides? The Case of New Jersey," *Journal of Policy Analysis and Management*, 15:2, 1996.

5. Consecutive Months Sanctions Reviews, Bureau of Workforce Information, Division of Workforce Solutions, Department of Workforce Development, Madison, Wisconsin.

As part of its management oversight of the W-2 program, the DWS BW-2 conducts reviews of cases that have experienced significant sanctions in two consecutive months. “Significant sanctions” is defined as a case having been sanctioned down to a net grant of less than \$100 per month. The BW-2 reviews looked at agency case management and the characteristics of each case and developed an extensive write-up on each case.

Consecutive Months Sanctions Reviews analyzes all 453 case reviews that were completed between December 2002 and September 2003 and includes a content analysis of a sample of those cases. The content analysis includes information on the characteristics and barriers to employment of those who get significant sanctions in two consecutive months and an analysis of case management problems discovered by reviewers.

The 88 cases reviewed were selected from those on file in the BW-2 Central Office, which consisted of Milwaukee County cases only. Among all available cases, individual cases were randomly selected to include roughly equal proportions from each of the six Milwaukee regions. Since the cases selected for analysis are not randomly selected from all reviews completed, the content analysis cannot be safely generalized to the W-2 cases that meet the selection criteria for a consecutive months sanction review. While the analysis cannot be safely generalized to all W-2 cases that meet the selection criteria for consecutive months sanction review, it does represent the vast majority of the W-2 caseload, which is in Milwaukee County.

6. Fact Finding and Administrative Hearings, Bureau of Workforce Information, Division of Workforce Solutions, Department of Workforce Development, Madison, Wisconsin.

W-2 participants who believe that an agency decision is incorrect may appeal that decision to a Fact Finding review and, if they are not satisfied with the Fact Finding decision, they can appeal for an Administrative Hearing on the matter. There were over 5,000 Fact Finding reviews held and 357 Administrative Hearings conducted since the start of the program. Most of the Fact Finding reviews and Administrative Hearings in this analysis were initiated by disputes between participants and W-2 agencies in the period between September 1997 and December 2001.

Fact Finding and Departmental Reviews analyzes the reasons cases requested Fact Finding and Departmental Reviews as well as the outcome of those requests. It included breakdowns by reason for the request, whether the agency was from Milwaukee or the balance of the state and the outcome of the review. It also included an analysis of the correlation between having a representative present at the Fact Finding meeting and the likelihood of the decision being made in favor of the participant or the agency.

7. Sanctions and W-2 Policy, Bureau of Workforce Programs, Division of Workforce Solutions, Department of Workforce Development, Madison, Wisconsin.

W-2 policy allows for flexibility on the part of agencies and FEPs to best tailor programs, placements and activities to meet the needs of individual participants. As a result, there are areas in the *W-2 Manual* that leave room for interpretation and require discretion by agencies and FEPs.

Sanctions and W-2 Policy analyzed policy in the *W-2 Manual* to identify those that could contribute to variations in placements and sanction rates. Several policy statements were identified that could be open to different interpretations or that allowed FEPs to use their discretion in decisions that relate to the participant's placement, whether to issue a sanction or whether to grant a “good

and “unknown”), and by the range of participant months in a year for each group. This analysis provided additional insight into the relative frequency of racial/ethnic groups on the caseload and in the various placement types.

Sanction Rates by Placement, Agency and Race compared sanction rates by placement, agency and racial/ethnic group for CY 2001 and 2002. In addition, this report included the frequency of benefit months for each racial/ethnic group in each agency and placement.

3. Placement by Agency and Race, Bureau of Workforce Information, Division of Workforce Solutions, Department of Workforce Development, Madison, Wisconsin.

It was evident in other analyses that persons in CSJ placements were sanctioned at a higher rate than were those in W-2 T placements. It was also noted that Milwaukee County agencies tended to use CSJ placements at a higher rate than other agencies, and that Milwaukee County participants in all placements tended to be non-white when compared to the remainder of the state. Thus there was the question of the degree to which Milwaukee’s more frequent use of the higher-sanctioned placement type explained differences in sanction rates by race/ethnicity and whether non-white participants are disproportionately placed in CSJs.

Placement by Agency and Race looked at that relationship to determine whether non-whites are more likely to receive CSJ payments. It used contingency tables to compare placement type by race/ethnicity and agency for CY 2001.

4. Intensive Case Review Content Analysis, Bureau of Workforce Information, Division of Workforce Solutions, Department of Workforce Development.

As part of its management oversight of the W-2 program, the DWS Regional Office staff conducted reviews of cases that were reaching W-2 program time limits. For non-Milwaukee agencies, cases were selected when they reached 12 months on their 24-month limit in a CSJ or W-2 T placement. Milwaukee cases were selected for review when they reached 18 months on either “clock.” The BW-2 reviews looked at agency case management and the characteristics of each case and developed an extensive write-up on each case.

Intensive Case Review Content Analysis includes both a quantitative and qualitative analysis of the case review write-ups. It describes the W-2 participants who were approaching “clock” limits, including their case characteristics, demographics and barriers to employment as well as an analysis of case management problems discovered by reviewers.

This analysis was of 200 case reviews that were conducted in late 2001. The sampling goal was to get a roughly equal number of cases from each of the six Milwaukee County agencies and the same number from the balance of the state. Because the sample was stratified, these cases were not representative of the larger population of W-2 participants or even those that approached time limits. Sixty percent of the cases in the sample were from Milwaukee County while 86 percent of the cases that met the ICR selection criteria was from Milwaukee County. Several tables were produced using a weighting mechanism to correct for this disproportionate sample and provide a representative estimate of the population of ICR cases in the state.

cause” exemption from a sanction. For example, FEPs must decide when choosing a placement whether a participant “lacks sufficient work experience or skills to meet employer requirements.” When deciding whether to grant “good cause” the FEP must determine whether the participant missed assigned activities because of “(o)ther circumstances beyond the control of the participant, but only as determined by the FEP.” Among other things, results from this report were used to develop the case scenario survey, reported elsewhere.

8. Case Scenario Survey of FEPs, Bureau of Workforce Information, Division of Workforce Solutions, Department of Workforce Development, Madison, Wisconsin.

The analysis of W-2 policy identified a number of places in the *W-2 Manual* that requires discretion in interpreting and applying policies related to placement, sanctions and “good cause.” The purpose of the Case Scenario Survey was to determine the extent to which those policies may contribute to variations in outcome. The project developed five case scenarios based on areas in the policy requiring interpretation or discretion. The FEPs were asked to use the information in the scenarios to make a determination on placement, sanction and “good cause.”

9. FEP Sanction Rates, Bureau of Workforce Information, Division of Workforce Solutions, Department of Workforce Development, Madison, Wisconsin.

This analysis addresses the degree to which sanction rates vary by FEP and, in particular, the degree they vary from FEP to FEP within an agency.

Only FEPs with 20 or more CSJ or W-2 T cases were selected for this analysis. A sanction rate was calculated for each FEP by dividing the amount sanctioned by the amount of the grant for all CSJ or W-2 T cases on their caseload. The analysis included open cases in December 2002. Only FEPs in Milwaukee had caseloads of 20 cases or more, so the analysis is limited to the agencies in that county.

10. Earnings and Sanction Rates, Bureau of Workforce Information, Division of Workforce Solutions, Department of Workforce Development, Madison, Wisconsin.

Some Steering Committee members were concerned that W-2 participants may tend to accumulate sanctions at a point where they become employed and because the demands of their job may not allow them to fully participate in the required activities of W-2. This preliminary review of the issue uses two sources of earnings, as a proxy for work effort, and correlated earnings with sanction rates.