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Unfair Sanctions: Does W-2 Punish People of Color?

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Executive Summary

Since the introduction of W-2, the racial and ethnic composition of Wisconsin's welfare caseload has shifted substantially. White families were the largest single category of recipients in 1995, but by 2001 African-American families constituted over half of all families receiving public assistance. This shift raises the possibility that the state welfare replacement program has disparate impact on families from different racial and ethnic groups.

To assess this possibility, Institute for Wisconsin's Future and UW-Milwaukee's Center for Economic Development analyzed newly-obtained administrative data on use of sanctions within the W-2 program. Sanctions are one indicator of service-provision. If participants are not properly assessed, or are assigned inappropriate work activities, they may be unable to fulfill their responsibilities and thus incur sanctions.

The data show a clear pattern of racial and ethnic disparities in agencies' use of sanctions against program participants. The data covers all participants sanctioned across the state from October 2001 through March 2002. While the actual sanction rates at each agency varied, across the state African-American participants were 75% more likely to be sanctioned than white participants, and Hispanic participants were almost twice as likely as their white counterparts to be sanctioned.

Subjective program rules and lack of sufficient state and federal oversight may be the cause. The federal welfare reform law passed in 1996 granted states broad discretion in how to structure their programs for low-income families. Individual W-2 agencies, and even specific case-

managers, now have enormous power to decide how to serve families and what to require from them in return.

W-2 participants are sanctioned when they do not attend every hour of every activity assigned by their “employability plan.” Case-managers have significant power to determine when and whether participants should be sanctioned. Case-managers select the activities assigned by the plan, have the option of working with participants who have missed hours instead of sanctioning, and are charged with giving “excused absences” to participants when unforeseen circumstances occur.

The data shows dramatic racial and ethnic disparities in the distribution of sanctions to W-2 participants. Disparities existed in sanctions across the state, within each W-2 agency in Milwaukee, and among the Balance of State agencies (taken together).

Specifically, the report shows:

- Statewide, 42% of all African-American participants were sanctioned and 45% of all Hispanic participants, while only 24% of white participants were sanctioned.
- Within Milwaukee County, there were racial and ethnic disparities in sanctioning in each of the six regions, though there were differences in degree of disparity. None of the agencies in Milwaukee County sanctioned white participants at a rate equal to or higher than participants of color.

Percentage of Milwaukee County Participants Receiving Sanctions, by Race/Ethnicity

	Black	Hispanic	White
YW-Works Region 1*	53%	60%	35%
<i>UMOS Region 2</i>	50%	47%	39%
OIC-GM Region 3*	56%	64%	47%
YW-Works Region 4*	39%	31%	27%
UMOS Region 5*	25%	23%	10%
Maximus Region 6	53%	48%	43%

*These regions have small numbers of Hispanic and White participants.

- Among “Balance of State” agencies (outside Milwaukee County), racial and ethnic disparities were even greater. Aggregating the data from all agencies outside of Milwaukee County, 40% of all African American participants were sanctioned and 32% of all Hispanic participants were sanctioned, while only 18% of all white participants were sanctioned.

The variable rate of sanctioning among participants of different racial and ethnic groups may or may not be racial discrimination per se. On the one hand, increased discretion may enable individual racist behaviors and assumptions about poor families to affect participants' access to the services and supports they need. On the other hand, the root causes may be more subtle. Some families may come into the program with a more complex set of conditions that make it difficult for them to succeed.

In either case, these findings point to fundamental problems with the program. Participants need employment plans that help them succeed in moving toward economic self-sufficiency through work. When families' benefits are sanctioned, the loss of income is potentially devastating to their progress and to the well-being of their children. This data reveal a potential lack of fairness within W-2 because of racial or ethnic bias. Further research is required to determine why these patterns exist. The State should take immediate steps to ensure that people of color enjoy full protection of their civil rights, while also initiating a full inquiry into the causes of racial and ethnic disparities in W-2. These families need better assessments, more intensive services, and protection against discrimination – not sanctions – if they are to succeed in making the transition to self-sufficiency.

Policy Recommendations to address these issues:

- **Restore the Fair Hearing process** so that W-2 participants have access to neutral decision-makers from outside the W-2 agencies when they feel their cases have been mishandled.
- **Require employability plans to be reviewed** for appropriateness when participants are chronically sanctioned.
- **Establish objective criteria** that determine when participants need further assessments, to ensure that barriers to full participation are addressed.
- **Require documentation** of all case-manager and agency efforts to remedy problems before imposing sanctions.
- **Mandate that all case-managers and W-2 supervisory staff** be trained in diversity issues and civil rights requirements
- **Require the Department of Workforce Development** to issue public biannual reports that document placements, services, and sanctions by race.
- **Eliminate all sanction-rate targets** for W-2 agencies, pending a full investigation of the racial and ethnic dimensions of sanction practices.