

CR 91-87

CERTIFICATE

STATE OF WISCONSIN)
) SS
DEPARTMENT OF HEALTH AND SOCIAL SERVICES)

I, Gerald Whitburn, Secretary of the Department of Health and Social Services and custodian of the official records of the Department, do hereby certify that the annexed rules relating to criteria for distributing federal funds to pay for day care for at-risk families were duly approved and adopted by this Department on October 10, 1991.

I further certify that this copy has been compared by me with the original on file in the Department and that this copy is a true copy of the original, and of the whole of the original.

IN TESTIMONY WHEREOF, I have hereunto set my hand and affixed the official seal of the Department at the State Office Building, 1 W. Wilson Street, in the city of Madison, this 10th day of October, 1991.



SEAL:

Gerald Whitburn, Secretary
Department of Health and Social Services

RECEIVED

OCT 10 1991
11:30 am
Revisor of Statutes
Bureau

12-1-91

OCT 10 1991

Revisor of Statutes
BureauORDER OF THE
DEPARTMENT OF HEALTH AND SOCIAL SERVICES
AMENDING AND CREATING RULES

To amend HSS 55.72(6)(intro.) and to create HSS 55.72(6m), relating to distribution of federal funds to pay for day care for at-risk families and establishment of maximum rates for day care purchased with those funds.

Analysis Prepared by the Department of Health and Social Services

A recent session law, 1991 Wisconsin Act 6, directed the Department to distribute to counties federal day care funds available to the state under s. 5081 of P.L. 101-508, the Omnibus Budget Reconciliation Act (OBRA) of 1990, to help pay for child day care for families at risk of becoming recipients of Aid to Families with Dependent Children (AFDC). Act 6 requires the Department to promulgate such rules as are necessary to administer this new child care support program, including rules establishing a formula for distributing to counties the federal funds as well as rules establishing criteria and procedures for approving the maximum rates that county social service and human service departments may pay for child day care services. The distribution formula is applied to the federal dollars remaining after a portion of these funds, 3.9% for SFY 91, is set-aside for contracts with tribes and organizations serving migrant workers. "At risk of becoming eligible for AFDC" is defined as a family that has an income that is no more than 75% of the state median income as determined annually by the Department.

These are the rules for distributing the "at risk" funds to counties and for approving the maximum rates that county departments may pay for child day care for at risk families. The criteria for distributing the funds are (1) the number of AFDC recipients in each county and (2) the number of women in each county who are working and have children under six years of age. The rules permit the Department to consider adding or substituting a poverty level criterion for distributing funds after the first year, and adding or substituting a history of county spending criterion after 3 years of experience with county spending of these funds. Criteria and procedures for approving maximum rates for day care are found elsewhere in ch. HSS 55, and these by reference are made to apply also to purchase of day care for at-risk families.

These rules will replace identical emergency rules published on May 1, 1991.

The Department's authority to amend and create these rules is found in s. 46.98(2g)(b) and (2r)(d), Stats., as created by 1991 Wisconsin Act 6. The rules interpret ss. 46.40(4)(b) and 46.98(1)(ag), (2g), (2m) and (2r), Stats., as created by 1991 Wisconsin Act 6.

SECTION 1. HSS 55.72(6)(intro.) is amended to read:

HSS 55.72(6)(intro.) ~~The~~ Except for funds distributed under sub. (6m), ~~the~~ department shall distribute day care funds to county agencies through a formula which shall be developed each year in accordance with the following procedures:

SECTION 2. HSS 55.72(6m) is created to read:

HSS 55.72(6m) DISTRIBUTION OF FUNDS FOR DAY CARE FOR AT-RISK FAMILIES.

(a) Definition. In this subsection, "at-risk family" means a family at risk of becoming eligible for AFDC by having a family income that is equal to or less than 75% of the state median income as determined by the department annually.

(b) Formula. 1. The department shall distribute to counties the federal child day care funds made available under 42 USC 603(n) and ss. 20.435(7)(o) and 46.40(4)(b), Stats., for at-risk families on the basis of the following equally weighed criteria:

- a. The number of recipients of AFDC in each county; and
- b. The number of women in each county who work and have children under the age of 6.

2. In determining each county's allocation, the department shall ascertain the county's percentage of the total number of AFDC recipients in the state and the county's percentage of the total number of women in the state who work and have children under the age of 6, add the two percentages and divide by 2. The resulting percentage is the percentage of the available funds that will be made available for the county to purchase child day care for at-risk families.

3. After the first year's distribution, the department, following consultation with representatives of county agencies and day care providers, may substitute for one or both of the criteria in subd. 1, a criterion of U.S. bureau of the census data on the number of children in each county who live in families with incomes at or beneath the poverty income thresholds.

4. After accumulating 3 years of county spending history for funds received under this section, the department may, following consultation with representatives of county agencies and day care providers, add a county spending history criterion to the criteria found in subds. 1 and 3.

(c) Maximum rates. Maximum rates for the purchase of day care for at-risk families shall be determined in accordance with the criteria and procedures under sub. (7) and ss. HSS 55.73 and 55.74.

The rules contained in this order shall take effect on the first day of the month following publication in the Wisconsin Administrative Register as provided in s. 227.22(2), Stats.

Wisconsin Department of Health and
Social Services



By: _____

Gerald Whitburn
Secretary

Date: October 10, 1991

SEAL: