

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 rule relating to the appeals process for family day care centers was duly approved and adopted by this Department on February 11, 1994.

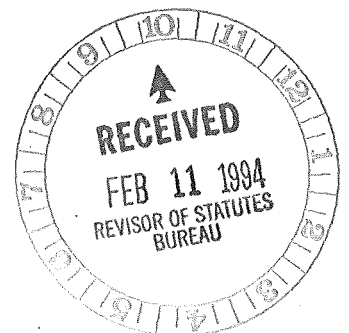
I further certify that this copy has been compared by me with the original on file in the Department and that this copy is a true copy of the original, and of the whole of the original.

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 11th day of February, 1994.

*Gerald Whitburn*

SEAL:

\_\_\_\_\_  
Gerald Whitburn, Secretary  
Department of Health and Social Services



4-1-94

ORDER OF THE  
DEPARTMENT OF HEALTH AND SOCIAL SERVICES  
AMENDING A RULE

To amend HSS 45.08(6), relating to licensing of family day care centers.

Analysis Prepared by the Department of Health and Social Services

This rulemaking order corrects a provision in the Department's rules for licensing family day care centers. A family day care center is a place, usually a home, where 4 to 8 children under 7 years of age are taken care of for less than 24 hours a day, for compensation, by someone who is not a parent, relative or guardian.

If an applicant for a family day care center license is denied a license or if a family day care center license is revoked, the person affected by that decision may ask for a hearing on it. The Department's rules now state that the aggrieved party must request a hearing within 30 days after the date of notice of the decision. However, 1991 Wisconsin Act 275 amended s. 48.72, Stats., effective May 14, 1992, to change that period to within 10 days after the date of notice of the decision. While the statute is controlling, the family day care center license applicants and operators rely on the Department's rules to tell them what program requirements are, and in this case how many days they have to file an appeal of an adverse decision. Consequently, too many appeals are being filed late with the Department's Office of Administrative Hearings and therefore cannot be considered there, and the aggrieved party's only recourse then is to begin an action in the circuit court.

The Department's authority to amend this rule is found in s. 48.67, Stats. The rule interprets ss. 48.65 and 48.72, Stats.

SECTION 1. HSS 45.08(6) is amended to read:

HSS 45.08(6) APPEAL OF DECISION TO DENY OR REVOKE A LICENSE. Any person aggrieved by the department's decision to deny issuance or renewal of a license or to revoke a license may request a hearing on that decision under s. 227.42, Stats., within ~~30~~ 10 days after the date of the notice under sub. (5).

Note: A request for a hearing should be submitted to the Department's Office of Administrative Hearings, P.O. Box 7875, Madison, Wisconsin 53707.

The rule 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

Dated: February 11, 1994

By: \_\_\_\_\_

*Gerald Whitburn*  
Gerald Whitburn  
Secretary

SEAL:

