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Chapter DCF 201

ADMINISTRATION OF CHILD CARE FUNDS

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Note: Sections HSS 55.70 to 55.77 as they existed on February 28, 1997 were repealed and a new chapter DWD 56 was created effective March 1, 1997. Chapter DWD 56 was renumbered to chapter DCF 201 under s. 13.92 (4) (b) 1., Stats., Register November 2008 No. 635.

DCF 201.01 Authority, purpose, and applicability. This chapter is promulgated under the authority of s. 49.155, Stats., excluding subs. (1d) and (1g), and s. 227.11 (2), Stats., to provide definitions, procedures, and standards for the administration of child care funds. This chapter applies to the department, county and tribal agencies, Wisconsin works agencies, private agencies under contract to administer child care funds, licensed and certified child care providers, and eligible parents.

History: Cr. Register, February, 1997, No. 494, eff. 3−1−97; am. Register, November, 1999, No. 527, eff. 12−1−99; CR 02−104: am. Register March 2003 No. 567, eff. 4−1−03.

DCF 201.02 Definitions. In this chapter:

(2) "Center slots" or "slots" means the number of places for children within the licensed capacity of a day care center.

(3) "Child care administrative agency" means any agency that has a contract with the department to administer child care funds or any agency that has a subcontract to administer child care funds with an agency that has a contract with the department.

(4) "Child care funds" means funding for child care purposes under s. 49.155, Stats., excluding subs. (1d) and (1g).

(5) "Child care price" means the amount regularly charged by a provider to a parent who pays for the child care services out of his or her personal funds.

(6) "Child care provider" or "provider" means a provider licensed under s. 48.65, Stats., certified under s. 48.651, Stats., or established or contracted for under s. 120.13 (14), Stats.

(7) "Child care worker" means a person employed by a child care administrative agency whose duties include determining or redetermining child care subsidy eligibility, authorizing child care funds, making child care payments to providers, or determining and processing the recoupment of child care parent and provider overpayments.

(8) "Department" means the Wisconsin department of children and families.

(10) "Family" has the same meaning as "Wisconsin works group" as given in s. 49.141 (1) (s), Stats.

Note: Section 49.141 (1) (s), Stats., provides: "'Wisconsin works group' means an individual who is a custodial parent, all dependent children with respect to whom the individual is a custodial parent and all dependent children with respect to whom the individual's dependent child is a custodial parent. 'Wisconsin works group' includes any nonmarital coparent or any spouse of the individual who resides in the same household as the individual and any dependent children with respect to whom the spouse or nonmarital coparent is a custodial parent. 'Wisconsin works group' does not include any person who is receiving benefits under s. 49.027 (3) (b)."

(11) "Food stamp employment and training program" means the program established under s. 49.79 (9) (b), Stats., for the purpose of assisting food stamp recipients to develop marketable work skills and obtain gainful employment.

(12) "Foster parent" means a person licensed under s. 48.62 (1) (a), Stats.

(13) "Income" means money, wages or salary, net income from self−employment, social security, dividends, interest on savings or bonds, income from estates or trusts, net rental income or royalties, public assistance, Supplemental Security Income (SSI), pensions and annuities, unemployment insurance, worker's compensation, alimony and other maintenance payments, and veteran pensions.

(14) "In−home provider" means a person caring for a child in the child's own home.

(15) "Kinship care relative" has the same meaning as "kinship care relative" under s. 48.57 (3m) (a) 2., Stats., and "long−term kinship care relative" under s. 48.57 (3n) (a) 2., Stats. A "kinship care relative" may or may not be receiving payments under s. 48.57 (3m) or (3n), Stats.

Note: Sections 48.57 (3m) (a) 2., and 48.57 (3n) (a) 2., Stats., provide that a "kinship care relative" and a "long−term kinship care relative" mean "a stepparent, brother, sister, stepbrother, stepsister, first cousin, nephew, niece, aunt, uncle or any person of a preceding generation as denoted by the prefix of grand, great or great−great, whether by consanguinity, direct affinity or legal adoption, or the spouse of any person named in this paragraph, even if the marriage is terminated by death or divorce."

(16) "Nonmarital coparent" has the meaning given in s. 49.141 (1) (i), Stats.

Note: Section 49.141 (1) (i), Stats., provides "'Nonmarital coparent' means, with respect to an individual and a dependent child, a parent who is not married to the individual, resides with the dependent child and is either an adjudicated parent or a parent who has signed and filed with the state registrar under s. 69.15 (3) (b) 3. a statement acknowledging paternity."

(17) "Parent" has the meaning given in s. 49.155 (1) (c), Stats.,

Note: Section 49.155 (1) (c), Stats., provides: "Notwithstanding s. 49.141 (1) (j), 'parent' means a custodial parent, foster parent, treatment foster parent, legal custodian or person acting in place of a parent."

(18) "Poverty line" means the annually updated poverty income thresholds by family size published by the U.S. department of health and human services in the federal register.

(19) "Rate" means the maximum amount a county or tribal agency will pay for child care.

(20) "Special need" means an emotional, behavioral, physical, or personal need of a child requiring more than the usual amount of care and supervision for the child's age, as documented by a physician, psychologist, special educator, or other qualified professional. A "special need" includes a developmental disability.

(21) "Treatment foster parent" means a person licensed under s. 48.62 (1) (b), Stats.

Note: Section 48.62 (1) (b), Stats., provides: "Any person who receives, with or without transfer of legal custody, 4 or fewer children into a home to provide care and maintenance and structured, professional treatment for those children shall obtain a license to operate a treatment foster home from the department, a county department or a licensed child welfare agency as provided in s. 48.75."

(22) "Tribe" means a Wisconsin American Indian tribe recognized by the federal government.

(23) "Voucher" means an authorization for reimbursement.

(24) "Wisconsin works" or "W−2" has the meaning given in s. 49.141 (1) (p), Stats.

Note: Section 49.141 (1) (p), Stats., provides: "'Wisconsin works' means the assistance program for families with dependent children, administered under ss. 49.141 to 49.161."

(25) "Wisconsin works agency" or "W−2 agency" has the meaning given in s. DCF 101.03 (38).

Note: Section DCF 101.03 (38), provides: "'Wisconsin works agency' or 'W–2 agency' means a person, county agency, tribal governing body, or a private agency contracted under s. 49.143, Stats., by the department to administer the Wisconsin works program under ss. 49.141 to 49.161, Stats., and this chapter. If no contract is awarded under s. 49.143, Stats., 'Wisconsin works agency' means the department."

(26) "Wisconsin works employment position" has the meaning given in s. DCF 101.03 (39).

History: Cr. Register, February, 1997, No. 494, eff. 3−1−97; r. (1), (8), (11), (13), (14), (15) and (16), am. (3), (4), (9), (10), and (17), cr. (15m), (16m), (20m), (23), and (24), Register, November, 1999, No. 527, eff. 12−1−99; renum. (12), (15m), (16m) and (20m) to be (11), (15), (16), and (20), cr. (12) and (25), r. (14), Register, January, 2001, No. 541, eff. 2−1−01; CR 02−104: r. and recr. (3) and (15), am. (4), (11) to (13) and (21), renum. (7) and (20) to (25) to be (8) and (21) to (26), cr. (7), (14) and (20) Register March 2003 No. 567, eff. 4−1−03; correction in (10) made under s. 13.93 (2m) (b) 7., Stats., Register March 2003 No. 567; CR 04−123: r. (9) Register July 2005 No. 595, eff. 8−1−05; correction in (11) made under s. 13.92 (4) (b) 7. Stats., Register July 2008 No. 631; corrections in (8), (25) and (26) made under s. 13.92 (4) (b) 6. and 7., Stats., Register November 2008 No. 635.

DCF 201.03 Department of children and families powers and responsibilities. (1) GENERAL. The department shall maintain oversight responsibility for administration by child care administrative agencies of the child care funding program.

(2) RATE APPROVAL. The department shall review and approve the methods employed by counties and tribes for determining child care rates as required under ss. DCF 201.05 (3) and 201.06.

(3) ASSISTANCE TO COUNTIES, TRIBES AND W–2 AGENCIES. The department shall provide information and technical assistance to county, tribal and W−2 agencies regarding administration of the child care funding program.

(5) RATE REVIEW. (a) The department shall annually review child care rates set by each county and tribe and shall approve or disapprove each county agency's rates and tribal agency's rates based on the following criteria:

1. Whether the rate−setting method is in accordance with rate−setting requirements specified under ss. DCF 201.05 (3) and 201.06.

2. Whether the rate−setting method documents that the maximum allowable rates permit all eligible parents a reasonable choice of day care providers.

(b) The department may grant a variance to a nonstatutory requirement under ss. DCF 201.04 to 201.06 on written request of a county or tribal agency if the department is convinced that an alternative means meets the intent of the requirement.

History: Cr. Register, February, 1997, No. 494, eff. 3−1−97; r. (4), am. (3), Register, November, 1999, No. 527, eff. 12−1−99; correction in (5) (b) made under s. 13.93 (2m) (b) 7., Stats., Register, November, 1999, No. 527; corrections in (title), (2), (5) (a) 1. and (b) made under s. 13.92 (4) (b) 6. and 7., Stats., Register November 2008 No. 635.

DCF 201.04 Policies for child care services through the voucher system. (1) AUTHORIZED PROVIDERS. (a) A child care administrative agency may authorize payment for child care services provided by any of the following child care providers:

1. Providers licensed by the department under ch. DCF 250.

2. Providers certified by a county or tribal agency under standards specified in s. DCF 202.08 or 202.09. The agency may authorize payment to providers who become certified from the date the certification application was received by the child care administrative agency.

3. Programs established or contracted for by a school board under s. 120.13 (14), Stats.

(b) A child care administrative agency may authorize payment for services from other than a child care provider under par. (a) only if at least one of the following conditions is met:

1. The care is an arrangement for parents in training, orientation or counseling programs and the child care is provided at the training, orientation or counseling site.

2. The care is a short−term arrangement when a child is ill and not able to receive care from a child care provider under s. DCF 201.02 (6) or the provider has an emergency due to illness or other circumstance.

3. The care permits a Wisconsin works applicant to participate in job search, training or orientation under s. 49.147 (2) (a), Stats., prior to the development of an employability plan.

4. The care is for a food stamp employment and training program enrollee to attend a program activity prior to the development of an employability plan.

(c) A child care administrative agency may not authorize payment to a person legally responsible for a child under s. 49.90, Stats., for child care services.

(e) A certified in−home care arrangement may be authorized by a child care administrative agency for reimbursement only in one of the following circumstances:

1. The child has a special need.

2. Licensed or certified care is not available during the times care is needed, such as during evening hours.

3. Care is provided to 3 or more children from the same family.

4. Licensed or certified care is not available within a reasonable geographic distance.

(2) (a) 1. A child care administrative agency shall provide vouchers to eligible parents, as follows:

a. A child care administrative agency shall offer a voucher to each eligible parent to the extent that funds are available.

b. A voucher shall be in writing and shall authorize a parent to obtain child care services stipulated in that voucher from a provider under sub. (3).

c. The voucher shall set a maximum amount of authorized payment that is the lesser of the provider price and the county or tribal maximum rate, minus any co−payment that the parent is required to make.

2. Parents using vouchers for the payment of child care services may receive child care services from a provider whose child care price is higher than the county or tribal maximum rate and pay the difference between the provider's child care price and the county or tribal maximum rate in addition to any required parents' co−payment.

(b) A child care administrative agency may authorize payment for child care services to a 2 parent family only if both parents are participating in an approved activity as defined in s. 49.155 (1m) (a), Stats., or if one parent is participating in an approved activity and the other parent is unable to care for the child due to a disability or health condition as verified by a doctor, psychiatrist, or psychologist.

(c) If a county or tribal agency authorizes payment for child care services by means of a voucher issued to the parents or by contract with a provider, billing and collection of any parent co−payment requirement is the responsibility of the provider.

(d) A child care administrative agency shall authorize payment to child care providers as follows:

1. For licensed group and family day care centers, the agency shall authorize payment based on authorized units of service, except in the following circumstances.

a. The agency may authorize payment to licensed providers based on units of service used by each child, up to the maximum number of authorized units, with the reimbursement rate increased by 10% to account for absent days, if the schedule of child care to be used is expected to vary widely.

b. The agency may authorize payment to licensed providers based on units of service used by each child, up to the maximum number of authorized units, if the agency has documented 3 separate occasions where the provider significantly overreported the attendance of a child.

2. For certified providers, the agency shall authorize payment for units of service used by each child, up to the maximum number of authorized units, except as provided in par. (h).

(e) The child care administrative agency may refuse to authorize payment for child care services to a licensed provider if the provider refuses to submit documentation of the provider's child care prices in response to an agency request.

(f) The child care administrative agency may refuse to authorize payment on a provider's attendance report that is submitted more than 3 months after the attendance report was issued.

(g) The child care administrative agency may limit the number of children that may be authorized to a certified or licensed family day care provider, who is not an in−home provider, for a particular time period, unless the provider can show that he or she will not exceed the applicable group size limitation.

(h) The child care administrative agency may authorize payment to a licensed or certified provider to hold a slot for a child if the parent has a temporary break in employment and intends to return to work and continue to use the child care provider upon return to work. The agency may authorize payment for no more than 6 weeks if the absence is due to a medical reason and is documented by a physician or for no more than 4 weeks if the absence is for other reasons. The department and child care administrative agency may not consider payment for a temporary absence to be an overpayment if the parent intended to return to work but does not actually return.

(i) The department may issue all payments by electronic funds transfer.

(2m) REPORTING CHANGE IN ELIGIBILITY. A parent shall report any change in circumstances that may affect his or her eligibility to the child care administrative agency within 10 days after the change.

(3) ELIGIBILITY REDETERMINATION. A child care administrative agency shall redetermine parent need for service and eligibility at all of the following times:

(a) In a timely manner following receipt of a parent's report of a change in circumstances affecting his or her eligibility.

(b) At least every 6 months.

(4) PARENTAL CHOICE. Parents may choose the particular child care provider for their child, except that parents may use in−home day care only if one of the criteria under sub. (1) (e) is met.

(5) OVERPAYMENT RECOVERY AND SANCTIONS. (a) 1. A child care administrative agency or the department shall take all reasonable steps necessary to recover from a parent funds paid to a child care provider or to that parent when the parent was not eligible for that level of child care benefit and the overpayment benefited the parent by causing the parent to pay less for child care expenses than the parent otherwise would have been required to pay under child care assistance program requirements, regardless of whether the overpayment was the result of administrative error, client error, or intentional program violation. Section DCF 101.23 shall apply to overpayment collection from a parent under this section.

2. An overpayment shall include excess child care funds paid when there was a change in family eligibility circumstances that was significant enough that it would have resulted in a smaller child care benefit or ineligibility for a child care benefit due to any reason, including the following:

a. The parent failed to report a change in circumstances that may affect his or her eligibility within 10 days after the change.

b. The parent was absent from an approved activity under s. 49.155 (1m) (a), Stats., without good cause, while the child was in the care of the provider.

3. The child care worker shall determine good cause under subd. 2. b. if the approved activity is unsubsidized employment. A parent's absence from unsubsidized employment shall be considered good cause if the parent is using employer−approved sick time, personal time, or vacation time and the child is in care for no more than the hours authorized.

(b) A child care administrative agency shall take all reasonable steps necessary to recoup or recover from a provider any overpayments made for child care services for which the provider was responsible or overpayments caused by administrative error that benefited the provider. A provider shall be responsible for an overpayment if both of the following criteria are satisfied:

1. The overpayment benefited the provider by causing the provider to receive more child care assistance than otherwise would have been paid on the family's behalf under child care assistance program requirements.

2. The overpayment did not benefit the parent by causing the parent to pay less for child care expenses than the family otherwise would have been required to pay under child care assistance program requirements.

(c) If a child care administrative agency has given notice to a provider that the provider is in violation of licensing or certification rules and the provider has not corrected the violation or if the provider submits false attendance reports, refuses to provide documentation of the child's actual attendance, or gives false or inaccurate child care price information, the child care administrative agency or department may take one or more of the following steps:

1. Refuse to issue new child care authorizations to a provider for a period of time not to exceed 6 months.

2. Revoke existing child care authorizations to the provider.

3. Refuse to issue payments to the provider until the provider has corrected the violation.

(d) When the department or a child care administrative agency refuses to issue new authorizations, revokes existing authorizations, or refuses to issue payments to a provider under par. (c), the child care administrative agency shall provide written notice to the parent as soon as possible before the effective date of the sanction.

(e) If the provider has not repaid an overpayment, the child care administrative agency or department may recover the overpayment by making an offset from current or future funds under its control that are payable to the provider of no more than 50% of each payment.

(f) If the department refuses to issue payment based on a provider's violation of a requirement in this chapter, the provider may not hold the parent liable for payment other than the copayment and any amount that the parent agreed to above the department's maximum reimbursement rate if the parent relied on an approved authorization for care for his or her child to receive care from the provider.

(6) MONITORING OF CHILD CARE PROGRAMS. The department or the child care administrative agency may take one or more of the following steps to monitor a provider's compliance with program requirements:

(a) Require the provider to submit documentation signed by the parent of the actual times that the child was dropped off to and picked up from the child care provider.

(b) Contact the parents to determine the child's actual attendance hours.

(c) Require the provider to submit attendance and payment records for families that pay for child care costs out of their own personal funds.

(d) Require the provider to have attendance records available at the child care site whenever the department or child care administrative agency requests to review them.

(e) Make on−site inspections to monitor provision of authorized services.

History: Cr. Register, February, 1997, No. 494, eff. 3−1−97; cr. (1) (i), Register, October, 1997, No. 502, eff. 11−1−97; am. (1) (intro.), (3) (a), 1., 2. and (b) 1., (4) (a), (b) 1. and a., r. (1) (a) to (i), (2), (3) (b) 3., 4. and (3) (d), r. and recr., (4) (e), cr. (7) (c) and (d), Register, November, 1999, No. 527, eff. 12−1−99; am. (1), Register, January, 2001, No. 541, eff. 2−1−01; CR 02−104: r. (1) and (4) (a), renum. (3), (4) (b) to (d), and (5) to (7) to be (1), (2) (a), (c) and (d), (3), (4) and (5) and am. (1) (a) (intro.) and 2., (b) (intro.) and (c), (2) (a) 1. c., (c) and (d), (4) and (5) (c) (intro.), also renum. (4) (e) to be DWD 56.045 and am., cr. (2) (b), (d) 1. b., (e) to (i), (5) (e), (f) and (6), r. and recr. (5) (c) 1. to 3., am. (5) (d) Register March 2003 No. 567, eff. 4−1−03; CR 04−123: cr. (2m), (5) (a) 2. and 3., am. (3), (5) (b), (e) and (f), renum. (5) (a) to be (5)

(a) 1. and am., Register July 2005 No. 595, eff. 8−1−05; CR 06−044: (1) (b) 3. and 4. renum. from DWD 55.03 (2) (c) and (d), Register November 2006 No. 611, eff. 12−1−06; emerg. am. (1) (a) 1., (2) (a) 1. b. and (5) (c), r. and recr. (2) (d), eff. 4−1−07; corrections in (1) (a) 1., 2., (b) 2. and (5) (a) 1. made under s. 13.92 (4) (b) 6. and 7., Stats., Register November 2008 No. 635.

DCF 201.045 Payment of child care costs outside of the voucher system. The department may reimburse a county agency, tribal agency, W−2 agency, or private nonprofit agency that provides child care for children of migrant workers for direct child care services or child care costs incurred on−site or for contracted child care approved in advance by the department. Reimbursement rates for contracts and services may be negotiated by the county, tribe, or W−2 agency and approved by the department or may be set by the department.

History: CR 02−104: renum. from DWD 56.04 (4) (e) and am. Register March 2003 No. 567, eff. 4−1−03.

DCF 201.05 County and tribal agency responsibilities. (1) GENERAL. Each child care administrative agency shall administer child care funds in accordance with the requirements set forth in this section. A child care administrative agency may subcontract for administration of child care funds with the approval of the department.

(2) TRAINING REQUIREMENT. County and tribal agencies shall ensure that each new child care worker completes the department's initial training during the first 6 months of employment.

(3) RATE−SETTING METHOD. Each county and tribal agency shall submit a written statement to the department which describes the method by which the county or tribal agency has determined reasonable and customary child care prices and the maximum rate that the county or tribal agency will allow for the purchase of child care services. The department may prescribe standard units of service by which rates are set in order to achieve statewide consistency.

(4) INFORMATION TO PROVIDERS. (a) County and tribal agencies shall distribute information to child care providers regarding child care funding policies.

(b) County and tribal agencies shall require child care providers to sign a memorandum of understanding prior to receiving authorization or payment that specifies that the provider agrees to adhere to child care subsidy attendance reporting policies and cooperate with the agency in all program monitoring efforts.

History: Cr. Register, February, 1997, No. 494, eff. 3−1−97; am. (1), (5) (a) and (d), r. (2), Register, November, 1999, No. 527, eff. 12−1−99; CR 02−104: am. (1), cr. (2) and (4) (b), renum. (4) to be (4) (a), r. (5), Register March 2003 No. 567, eff. 4−1−03.

DCF 201.06 Establishing county and tribal agency child care rates. (1) ESTABLISHMENT OF MAXIMUM RATES. (a) *Responsibility.* 1. Except as provided in subd. 1m., 1r., or 2., a child care administrative agency shall annually set child care rates in accordance with the policies and procedures set out in this section unless the department sets maximum rates for a multicounty area which includes the particular county or tribal area.

1m. Notwithstanding subd. 1., the department shall set child care rates for the year beginning January 1, 2007, to be the same as the rates in effect on December 31, 2006.

1r. Notwithstanding subd. 1., the department shall set child care rates for the years 2008 and 2009 to be the same as the rates in effect on December 31, 2006.

2. A tribal agency may use the maximum rates established by a neighboring county rather than establish its own rates.

(b) *Survey.* The county or tribal agency, except a tribal agency acting under par. (a) 2., shall annually contact all licensed group day care centers and licensed family day care centers in the county or tribal area to determine the child care prices they charge to the general community, except if the department arranges for a survey independent of the county or tribal agency. The child care prices shall be submitted in writing to be included in the survey.

(c) *Group.* The county or tribal agency shall set separate maximum rates for the following groups of children:

1. Infants and toddlers under 2 years of age.
2. Children age 2 to 3 years.
3. Children age 4 to 5 years.
4. Children age 6 to 13 years.

(d) *Types of care.* To the extent permitted by federal statutes and regulations, the rates for each group under par. (c) shall be set separately for each of the following types of care:

1. Licensed group day care centers.
2. Licensed family day care centers.
3. Level I (regular) certified family day care providers who are not in−home providers.
4. Level II (provisional) certified family day care providers who are not in−home providers.
5. Certified in−home providers.

(2) MAXIMUM RATES. (a) *Licensed group day care centers.* In setting maximum rates for licensed group day care centers, the county or tribal agency shall comply with the following:

1. Maximum rates shall be set so that at least 75% of the group day care center slots in the county or tribal area may be purchased at or below the maximum rate. The number of slots attributed to a center shall be equal to the center's licensed capacity.

2. In determining whether 75% of the day care slots can be purchased at or below the maximum rate, the county or tribal agency may exclude day care centers that operate less than 5 days a week or 5 hours a day, receive funding from a county department established under s. 51.42 or 51.437, Stats., do not have a set full−time, weekly child care price, or at which more than 75% of the children's care is subsidized under s. 49.155, Stats., excluding subs. (1d) and (1g).

3. Reduced maximum rates may not be set for siblings.

(b) *Licensed family day care centers.* In setting maximum rates for licensed family day care centers, the county or tribal agency shall comply with the following:

1. Maximum rates shall be set so that at least 75% of the family day care center slots in the county or tribal area may be purchased at or below the maximum rates. The number of slots attributed to a center shall be equal to the center's licensed capacity. In determining whether 75% of the day care slots can be purchased at or below the maximum rate, the county or tribal agency may exclude day care centers that operate less than 5 days a week or 5 hours a day, receive funding from a county department established under s. 51.42 or 51.437, Stats., do not have a set full−time, weekly child care price, or at which more than 75% of the children's care is subsidized under s. 49.155, Stats., excluding subs. (1d) and (1g).

2. Reduced maximum rates may not be set for siblings.

(c) *Certified family day care.* To the extent permitted by federal statutes and regulations, maximum rates for certified family day care shall comply with s. 49.155 (6) (b) and (c), Stats.

(d) *In−home day care.* For in−home care, the county or tribal agency shall establish the maximum rate at the level of no less than the state minimum wage established under ch. 104, Stats., and ch. DWD 272. The child care administrative agency may authorize payment to the child care provider at the local reimbursement rate for the type of care provided multiplied by the number of children in care if this rate exceeds the minimum wage.

(e) *Other day care providers.* For a day care program established or contracted for by a school board or for a certified school−age day care program, the county or tribal agency shall establish maximum rates in accordance with par. (a).

(3) HIGHER RATES. (a) *Special need child.* A rate higher than the maximum allowed under subs. (1) and (2) may be set on a case−by−case basis for child care for a child with a special need.

(b) *Higher quality.* Rates higher than the maximum rates allowed under subs. (1) and (2) shall be paid to child care providers who meet higher quality of care standards under ss. DCF 203.03 and 203.04, up to maximums determined by the department.

(4) SPECIAL RATES. A county or tribal agency may set maximum reimbursement rates that are different from the rates allowed under subs. (1) and (2) for child care provided for less than a 2−week period, provided sporadically or provided for care of an ill child through negotiations with the child care provider.

History: Cr. Register, February, 1997, No. 494, eff. 3−1−97; am. (1) (a) 1. and (2) (c), Register, November, 1999, No. 527, eff. 12−1−99; corrections in (3) (b) made under s. 13.93 (2m) (b) 7., Stats., Register, January, 2001, No. 541; CR 02−104: am. (1) (b), (c) 2., (2) (a) 2., (b) 1. and (d), cr. (1) (c) 3. and 4., Register March 2003 No. 567, eff. 4−1−03; emerg. am. (1) (a) 1., cr. (1) (a) 1m. eff. 1−22−07; CR 07−030: am. (1) (a) 1., cr. (1) (a) 1m. Register October 2007 No. 622, eff. 11−1−07; emerg. am. (1) (a) 1., cr. (1) (a) 1r., eff. 1−1−08; CR 08−009: am. (1) (a) 1., cr. (1) (a) 1r. Register July 2008 No. 631, eff. 8−1−08; correction in (3) (b) made under s. 13.92 (4) (b) 7., Stats., Register November 2008 No. 635.

DCF 201.07 Provider appeal rights. (1) A child care provider who contests any of the following actions may request a departmental review:

(a) Refusal to issue new child care authorizations.

(b) Revocation of existing child care authorizations.

(c) Refusal to issue payment to the provider.

(d) Determination of the provider's payment amount.

(e) Collection of an overpayment, including the determination of the amount of the overpayment, the determination of the amount of the overpayment still owed, or a decision under s. 49.85, Stats., to recover the overpayment by means of certification to the Wisconsin department of revenue. The provider may make only one request for appeal of the basis for the overpayment claim. Any subsequent appeals shall be limited to questions of prior payment of the debt that the department or agency is proceeding against or mistaken identity of the debtor.

(2) A request for a departmental review may be made by a child care provider or someone with legal authority to act on their behalf.

(3) A request for a departmental review shall be in writing and received at the address provided on the notice within 30 days from the date printed on the notice of action under sub. (1).

(4) Upon receipt of a timely request for departmental review, the department shall give the child care provider a contested case hearing under ch. 227, Stats.

(5) The department may contract with the division of hearings and appeals to conduct the review.

History: CR 02−104: cr. Register March 2003 No. 567, eff. 4−1−03.

DCF 201.08 Parent copayments. (1) SCHEDULE. The department shall set a schedule for parent copayment responsibilities for all parents who receive child care financial assistance under s. 49.155, Stats., excluding s. 49.155 (1g), Stats. Copayment amounts will be based on family size, family gross income, and the number of children in a given family in child care. The copayment schedule is provided in Table DCF 201.08.

Note: This copayment schedule is current as of February 15, 2009. DCF may make future adjustments to the schedule as described in sub. (3).

(2) EXCEPTIONS. (a) Families with children who are authorized for child care assistance for 20 hours or less are responsible for 50% of the amount listed in the copayment schedule for those children, based on family size, family gross income, and the number of children in a given family in child care.

(b) Foster parents do not have a copayment responsibility for the foster children in their care.

(c) Subsidized guardians or interim caretakers of a child under s. 48.62 (5), Stats., do not have a copayment responsibility for that child in their care.

(d) Kinship care relatives who are providing care for a child under court order do not have a copayment responsibility for the kinship care child in their care.

Note: Kinship care relatives do not have to be receiving payments under s. 48.57 (3m) or (3n), Stats., for this paragraph to apply.

(e) Kinship care relatives who are providing care for a child without a court order are responsible for the minimum copayment based on the number of children in the family in child care, unless they are receiving a child care subsidy for another child who is subject to a copayment greater than the minimum copay.

Note: Kinship care relatives do not have to be receiving payments under s. 48.57 (3m) or (3n), Stats., for this paragraph to apply.

(f) Parents who have left a Wisconsin works employment position for unsubsidized employment may pay the minimum copayment amount based on the number of children in the family in child care for the first month of the unsubsidized employment.

Note: Section 49.155 (5), Stats., provides: "An individual who is under the age of 20 and is attending high school or participating in a course of study meeting the standards established under s.115.29 (4) for the granting of a declaration of equivalency to high school graduation may not be determined liable for more than the minimum copayment amount for the type of child care received and the number of children receiving child care."

Section 49.26(1) (e), Stats., prohibits copayment responsibility for minor teen parents who are Learnfare participants.

7 USC 2015 prohibits copayment responsibility for participants in the Food Stamp Employment and Training program.

(3) ADJUSTMENTS. (a) The department may adjust the amounts in the schedule to reflect the following factors:

1. A change in child care prices or in the rates paid by county or tribal agencies.

2. A change in the amount of funds available for child care assistance.

3. A change in costs due to a change in the consumer price index.

4. A change in the federal poverty level.

5. A change in economic factors affecting the cost of child care to the state, such as an increase in the demand for child care financial assistance under s. 49.155, Stats., excluding subs. (1d) and (1g).

6. Funding is not sufficient to meet the needs of all eligible families applying for child care assistance.

(b) The department shall publish adjustments to the copayment schedule in the Wisconsin administrative register.

(c) If the department proposes to make adjustments to the copayment schedule that would increase parental copayments by 10% or more, the department shall promulgate an administrative rule to make such adjustments, and the department shall not issue an emergency rule to implement such adjustments before providing advance public notice of at least one month.

History: Cr. Register, September, 1997, No. 501, eff. 10−1−97; am. (3) (c), Register, December, 1997, No. 504, eff. 1−1−98; am. (1) (a) and (c), (3) (a) 5., cr. (1) (d), r. (2), Register, November, 1999, No. 527, eff. 12−1−99; r. and recr. (1), cr. (2), Register, January, 2001, No. 541, eff. 2−1−01; CR 02−104: am. (3) (a) 5., cr. (3) (a) 6. Register March 2003 No. 567, eff. 4−1−03; CR 06−044: renum. (2) (c), (d) and (e) to be (2) (d), (e) and (f), cr. (2) (c), Register November 2006 No. 611, eff. 12−1−06; EmR0806: emerg. am. (1), (2) (a), (e), (f) and Table 56.08, eff. 3−30−08; CR 08−020: am. (1), (2) (a), (e), (f) and Table 56.08 Register August 2008 No. 632, eff. 9−1−08; correction in (1) made under s. 13.92 (4) (b) 7., Stats., Register November 2008 No. 635; **adjustment to Table DCF 201.08 made under s. DCF 201.08 (3) Register March 2009 No. 639.**

File inserted into Admin. Code 4−1−2009. May not be current beginning 1 month after insert date. For current adm. code see:
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TABLE DCF 201.08

Child Care Co−Payment Schedule for Licensed and Certified Care

Look down the column of the appropriate family size until you find the gross family monthly income level at or just below the family income. Look to the right to find the appropriate co−payment by family size.

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