

## Chapter HSS 56

## FAMILY FOSTER CARE FOR CHILDREN

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**HSS 56.01 Introduction.** (1) **PURPOSE.** The purpose of this chapter is to protect and promote the health, safety and welfare of children in family foster care.

(2) **STATUTORY AUTHORITY.** This chapter is promulgated under s. 48.67(1), Stats., to carry out licensing duties authorized under s. 48.66, Stats., to establish fair hearing procedures under s. 48.64(4), Stats., to implement a foster care education program under s. 48.675 Stats., and to establish criteria for supplemental payments to foster parents under s. 49.19(12), Stats.

(3) **EXCEPTIONS TO RULES.** The department may make, or may delegate to a county agency the authority to make exceptions to any of the rules for licensing family foster homes when the department is assured that granting exceptions or the authority to make exceptions is not detrimental to the health, safety or welfare of children.

History: Cr. Register, March, 1983, No. 327, eff. 4-1-83.

**HSS 56.02 Definitions.** As used in this chapter:

- (1) "Child" means a person under 18 years of age.
- (2) "Child welfare agency" means a facility licensed under s. 48.60, Stats.
- (3) "Claimant" means a person licensed to operate a family foster home under s. 48.62, Stats., and affected by a decision of the department of health and social services, a county welfare department or a child welfare agency.
- (4) "County agency" means a county welfare department or county department of social services or a child welfare agency with foster home licensing authority as specified in s. 48.75, Stats.
- (5) "Department" means the department of health and social services.
- (6) "Division" means the department's division of community services.
- (7) "Family foster home" means a facility operated by a person or persons required to be licensed under s. 48.62, Stats., to provide 24-hour care for 1 to 4 children.
- (8) "Foster child" means a child placed for care and maintenance in a family foster home for children.

(9) "Foster parent" means a person or persons who operate a facility required to be licensed under s. 48.62, Stats.

(10) "Guardian" means the person or agency appointed by a court to make major decisions affecting a child which may include consent to marriage, to enlistment in the armed forces, to major surgery and to adoption.

(11) "Legal custodian" means the person or agency to whom a court has transferred a child's legal custody, and who thereby has the right and duty to protect, train and discipline the child and to provide for the child's care needs. "Legal custody" has the meaning prescribed in s. 48.02(12), Stats.

(12) "Licensee" means a person licensed by the department or a county agency under s. 48.62, Stats.

(13) "Licensing agency" means the department or a county agency.

(14) "Supervising agency" means the licensing agency which is responsible for the supervision of the child in a family foster home and which also places the child in the family foster home.

History: Cr. Register, March, 1983, No. 327, eff. 4-1-83.

**HSS 56.03 Fair hearing. (1) APPEAL.** Any applicant for a license to operate a family foster home who is denied a license, or any operator of a family foster home who is aggrieved by a decision of a division of the department, a county department of social services or a child welfare agency affecting the claimant or the children involved, may appeal the decision or order to the department as authorized by s. 48.64(4), Stats., by asking for a hearing in accordance with procedures set out in this section and ss. 48.64(4) and 227.064 to 227.14, Stats.

(2) **REQUEST FOR A HEARING.** A request for a hearing shall be addressed to the department's office of administrative hearings. The date of the request for hearing shall be the date on which the request is received by that office. Any request for a hearing shall be made within 60 days following the decision, order or inaction to be reviewed.

Note: The mailing address of the office of administrative hearings is P.O. Box 7875, Madison WI 53707.

(3) **ARRANGEMENTS FOR A HEARING.** In response to a request for a hearing under this section, the director of the department's office of administrative hearings shall appoint a hearing examiner, set a date for the hearing, and notify the parties at least 10 days before the hearing of the date, time and place of the hearing and of the procedures to be followed.

**HSS 56.04 Family foster parents. (1) APPLICATION FOR LICENSE.** (a) The person or persons seeking a license for a family foster home shall make application to the department on forms prescribed by the department. Married partners shall both be parties to the application.

(b) Persons licensed as foster parents shall submit a new application to the department if:

1. The time remaining under the current license is 60 days or less;

2. The foster parents intend to move from the address specified on the current license within the next 30 days;

3. The legal status of a foster parent has changed within the last 30 days; or

4. The foster parents wish to change the conditions which are specified on the current license.

(2) **AGE OF FOSTER PARENTS.** No applicant or applicants may receive a license for the first time when one or both are younger than 18 years of age.

(3) **PERSONAL QUALIFICATIONS REQUIRED OF FOSTER PARENTS.** Foster parents shall be responsible, mature individuals of reputable character who exercise sound judgment and display the capacity to provide good care for children. They shall give sufficient information to enable the licensing agency to verify whether or not they meet these requirements.

(4) **HEALTH OF FOSTER FAMILY.** (a) All members of the foster family household shall be in physical and mental health that will not adversely affect the health of children received for care, or the quality and manner of their care.

(b) At the time of the first application for a license foster parents shall authorize their physician to submit a statement to the licensing agency certifying that a physical examination, including a TB test, was completed within the past year and that the foster parents were essentially free from medical conditions which might endanger foster children.

(c) If the licensing agency or the department has reason to believe that the physical or mental health of any child or adult member of the foster family household might endanger children in care, the agency or the department may require that the foster parents, for themselves or on behalf of their own children or the adult family members in question, shall authorize a qualified physician and, if required, a psychiatrist, to certify in writing the condition of the person.

History: Cr. Register, March, 1983, No. 327, eff. 4-1-83.

**HSS 56.05 Foster homes.** (1) **GENERAL REQUIREMENTS.** (a) The home shall be so constructed, arranged and maintained as to provide adequately for the health and safety of all occupants. It shall be of sufficient size and space, and shall have furnishings and equipment to accommodate comfortably both the family and foster children in their care. The licensing agency may require inspection of the home by fire, health, sanitation or safety officials when in its judgment such expert opinion is needed to assist the agency in making a decision about the safety of the home for the care of foster children.

(b) Potentially dangerous items including, but not limited to, household poisons, medicines, plastic bags, matches, knives and firearms shall not be kept where they are easily accessible to children.

(2) **SLEEPING ARRANGEMENTS.** (a) Each foster child shall be provided with a separate bed except that 2 brothers or 2 sisters may share a double bed. Each bed shall be of a size to insure comfort of the child, shall have suitable springs in good condition and a clean and comfortable mattress with waterproof covering when necessary, and be provided with suitable bedding adequate for the season.

(b) No foster child one year of age or older may be permitted to share a bedroom with one or both foster parents.

(c) No child 6 years of age or older may be permitted to share a bedroom with a child of the opposite sex.

(d) There shall be at least 35 square feet of floor space for each child occupying a bedroom.

(e) Foster children may not be permitted to sleep in any building, apartment or other structure which is separate from the family home, nor shall any child be permitted to sleep in an unfinished attic, an unfinished basement, or a hall or any other room which is normally used for other than sleeping purposes. "Basement" has the meaning prescribed in s. Ind. 51.01(10), Wis. Adm. Code, namely, that level below the first or ground floor level with its entire floor below exit discharge grade.

(f) Foster children under the age of 7 years may not be permitted to sleep in finished basement bedrooms or in bedrooms above the second floor of a single family dwelling.

(g) Foster children 7 years or older may not be permitted to sleep in finished basement bedrooms or in bedrooms above the second floor of a single family dwelling unless suitable provision has been made for heating, ventilation and humidity control, and all exits from such bedrooms have been approved in writing by fire safety officials acceptable to the licensing agency.

(h) At night a responsible adult shall sleep within call of foster children.

(3) **STORAGE FACILITIES.** Foster parents shall provide sufficient drawer and closet space to accommodate each child's clothing, toys and other belongings.

(4) **RECREATION AND PLAY SPACE.** The home shall have space for indoor play and access to outdoor play space. Outdoor play space shall be fenced when, in the judgment of the licensing agency or the department, nearby street traffic, railroad tracks, lake, river or other potential hazards suggest the necessity for such protection.

History: Cr. Register, March, 1983, No. 327, eff. 4-1-83.

**HSS 56.06 Care of children. (1) SUPERVISION OF CHILDREN.** (a) The care of foster children is a demanding responsibility. It may not be combined with regular part-time care of other children, with the care of non-related aged individuals, or with any other service or business conducted in the home without the written approval of the licensing agency. This approval shall be dependent upon the presentation of satisfactory evidence that such undertaking will not be likely to interfere with the quality or manner of care provided foster children.

(b) Both foster parents may not be regularly employed outside the home without written approval of the licensing agency. When there is only one foster parent, that parent may not be employed outside the home without written approval of the licensing agency. In either case, the approval shall be dependent upon presentation of satisfactory evidence that suitable plans will be made for the care of children during the absence of the foster parent or parents from the home.

(c) Children under the age of 7 years may not be left in the home without supervision by a responsible person.

(d) Children 7 years and older shall receive responsible supervision appropriate to their age and maturity as might reasonably be provided by a prudent parent in the case of that parent's own children.

(2) **DISCIPLINE.** (a) Child training and discipline shall be handled with kindness and understanding.

(b) No child in care may be subjected to verbal abuse, derogatory remarks about himself or members of his family or to threats to expel the child from the foster home.

(c) No child in care may be subjected to unusual, severe or cruel punishment.

(d) No child may be permitted to discipline any other child in care.

(e) No child in care may be deprived of meals, mail or family visits as a method of discipline.

(3) **WORK PERFORMED BY CHILDREN.** Children in care shall have opportunities to assume responsibility for household duties or chores appropriate to their age, sex, health and ability. Such duties may not be assigned as punishment, or interfere with school, sleep, recreation or study.

(4) **EDUCATION.** Foster parents shall make every reasonable effort to see that children of school age in their care attend school regularly unless otherwise excused by school officials.

(5) **MORAL AND RELIGIOUS TRAINING.** Foster parents shall provide for the moral training of children in care and shall make opportunities available to each child in care for religious education and attendance at services compatible with the child's religious heritage.

(6) **NUTRITION.** Children shall be provided a sufficient quantity and variety of foods and foods that meet essential nutritional and dietary needs of children.

(7) **CLOTHING.** Foster parents shall see that funds provided for the purchase of clothing are used in such a way that children in their care are comfortably and appropriately clothed within the limits of funds provided, and that the children's clothing is kept in a state of suitable repair and cleanliness.

(8) **INFANTS.** Foster parents may not provide care for more than 2 foster children at one time who are under 2 years of age.

(9) **RESPONSIBILITY OF THE FOSTER PARENTS TO THE LICENSING AGENCY.** (a) Foster parents shall be responsible for seeing that they accept children for care only in conformity with the conditions relating to number, sex, age or other limitations specified on the license.

(b) Foster parents shall notify the licensing agency within 4 days after the acceptance of a child into their home from a source other than the licensing agency.

(10) **RESPONSIBILITY OF FOSTER PARENTS TO THE SUPERVISING AGENCY.** (a) Foster parents shall keep the supervising agency informed of the child's progress while in their care. They shall consult with the supervising agency regarding care, training and plans for the child whenever more than the day-to-day routine is involved.

(b) Foster parents shall consult with the supervising agency before taking or allowing the child to go on vacation trips or visits to the child's relatives.

(c) Foster parents shall notify the supervising agency as soon as possible of emergencies involving the foster child. This includes serious illness or injury requiring medical treatment, unauthorized absence from the home, or other situations where prudence suggests the supervising agency be notified. This requirement in no way relieves foster parents from first taking action such as obtaining emergency medical treatment for the child before notifying the supervising agency.

(d) Foster parents shall allow the supervising agency a minimum of 30 days in which to make suitable plans for the child when the foster parents have requested the child's removal from their home.

(e) Foster parents shall secure the approval of the supervising agency before making plans for the care of the child by other persons for any period in excess of 48 hours.

(f) No child in care may be permitted to use or be known by the foster parents' surname unless the child's parents or guardian give their consent in writing, or the child's name is changed under s. 786.37 [786.36], Stats.

(g) Foster parents shall cooperate with the supervising agency in seeing that an appropriate relationship is maintained between the child and the child's relatives and legal custodian.

(h) Foster parents shall maintain in confidence all information detrimental to children in their care.

(11) RECORDS TO BE MAINTAINED BY FOSTER PARENTS. (a) Foster parents shall maintain a record on every child in their care on forms provided by the department. This record shall contain the following information:

1. Child's name or the alias by which the child is known.
2. Child's birthdate.
3. Name of the person or agency to be notified in an emergency.
4. Date the child was received for care.
5. Name of the person or agency placing the child.
6. Name of the physician to be called in an emergency.
7. Medical information about the child, including but not limited to, the occurrences and dates of medical examinations, immunizations, illnesses and accidents.
8. Name of the dentist and dates the child was seen by the dentist.
9. Name of the school and grades attended.

(b) At the request of the licensing agency, foster parents shall make records of the children in their care available for inspection.

**HSS 56.10 Supplemental payments for special needs, in exceptional circumstances or for initial clothing.** (1) **COVERAGE.** All family foster home payments made directly to a foster home by a county department of social services or the department for the care and maintenance of a foster child shall be subject to the basic maintenance rates established by s. 49.19(12), Stats., and supplemental payment schedules, including initial clothing allowances, established by the department.

(2) **SPECIAL NEEDS.** (a) Supplemental payments in recognition of special needs may be made in addition to the age-related rates specified in s. 49.19(12), Stats., in an amount to be determined by the department for a foster child who requires more than the usual amount of care and supervision for the child's age because of special emotional, behavioral, or physical and personal needs.

(b) An assessment of each foster child shall be made within 30 days of placement in a foster home and not less often than at 6 month intervals thereafter while the child remains in foster care to determine if the child has special needs which require a supplemental payment. The assessment of the foster child's special emotional, behavioral or physical and personal needs shall be made by comparing the child's characteristics to the schedule of difficulty-of-care levels described in sub. (3).

(c) If the foster child does not exhibit characteristics commensurate with levels B, C, and D of emotional, behavioral or physical and personal special needs categories described in sub. (3), no supplemental payment may be made. If the foster child exhibits characteristics commensurate with level B, C, or D in one or more of the emotional, behavioral or physical and personal special need categories, a supplemental payment in an amount to be determined by the department shall be paid.

(d) Documentation of the characteristics of any selected level of care shall be contained in the child's case record.

(3) **SCHEDULE OF DIFFICULTY-OF-CARE LEVELS.** (a) *Emotional.* 1. Level A, Not Applicable. These children do not exhibit unusual emotional characteristics for foster children in their age group.

2. Level B, Minimal. The child exhibits at least 2 characteristics which include or correspond in extent or degree with the following: These children demand excessive attention from others. They are nervous, high-strung, impulsive and they display temper tantrums. They often are restless and hyperactive, have short attention spans and occasionally wet during the night. They exhibit low self-esteem and confidence in their ability to deal with the world. They are periodically withdrawn and unresponsive.

3. Level C, Moderate. The child exhibits at least 2 characteristics which include or correspond in extent or degree with the following: Children at this level are habitually resistive and have difficulty communicating with others, often failing to do what is expected of them. They typically respond to situations with apathy, showing a lack of any interest. They have difficulty in establishing relationships and set up others for rejection. These children display cultural and social conflicts. They are frequent night bed wetters or occasionally soil or both. They display over-activity and over-excitedness, necessitating close supervision.

4. Level D, Intensive. The child exhibits one or more characteristics which include or correspond in extent or degree with the following, but

the characteristics are severe: These children may have infantile personalities, wet or soil during daytime hours several times a week, have severe hyperactivity to the point of frequent destructiveness or sleeplessness, are chronically withdrawn, depressed or anxious, are self-injurious, require constant and intensive supervision and may be involved in behavioral management programs or show bizarre or severely disturbed behavior. They may display anorexia nervosa.

(b) *Behavioral*. 1. Level A, Not Applicable. These children do not exhibit unusual behavioral characteristics for foster children in their age group.

2. Level B, Minimal. The child exhibits at least 2 characteristics which include or correspond in extent or degree with the following: These children run away infrequently for short periods of time (1 or 2 days) with the intention of returning. They occasionally skip classes or an entire day, affecting class achievement and requiring make-up and parent contact with the school. They use sexual acting-out or language as an attention-getting mechanism and occasionally experiment with alcohol or drugs or both. They may have infrequent conflicts with parents or community authorities including displays of hostility and occasional petty theft or vandalism or both. They may exhibit occasional aggressive behavior such as biting, scratching or throwing objects at another person.

3. Level C, Moderate. The child exhibits at least 2 characteristics which include or correspond in extent or degree with the following: Children at this level frequently run away for longer periods of time (4 to 7 times a year and 3 or 4 days at a time) and require encouragement to return. They are frequently truant (1 to 2 times a month for more than 1 day), resulting in delayed academic progress including performance below ability which may lead to class failure, possible suspension and frequent parent contact with the school. They may exhibit sexual activity harmful to themselves and disruptive to family and community. They frequently use alcohol or drugs or both. They exhibit hostile and aggressive behavior, often interfering with family and community relationships. They may occasionally have been involved in non-violent crimes such as burglary, which caused conflict with authority. They may exhibit frequent aggressive behavior such as biting, scratching or throwing objects at another person. They may exhibit occasional self-abusive behavior such as banging their heads, poking their eyes, kicking themselves or biting themselves.

4. Level D, Intensive. The child exhibits one or more characteristics which include or correspond in extent or degree with the following, but the characteristic is severe: These children frequently run away for long periods of time (8 or more times a year and 5 or more days at a time), returning only on the initiative of others. They may habitually create a disturbance in the classroom or be habitually truant resulting in class failure, frequent suspension or expulsion, and require frequent parent contact with the school. They exhibit sexual deviancy including that of a violent nature or an unconsenting involvement of others. They habitually use alcohol or drugs or both. They may exhibit uncontrollable behavior, be involved in property offenses repeatedly with adjudication on more than one property offense which is as serious as burglary, and have committed acts such as arson, physical assault or armed robbery. They may on a daily basis exhibit aggressive behavior such as biting, scratching or throwing objects at another person. They may exhibit frequent



self-abusive behavior such as banging their heads, poking their eyes, kicking themselves or biting themselves. These children may eat inappropriate items such as rubber or metal.

(c) *Physical and personal care.* 1. Level A, Not Applicable. These children do not exhibit unusual physical or personal characteristics for foster children in their age group.

2. Level B, Minimal. The child exhibits one or more characteristics which include or correspond in extent or degree with the following: These children need some help with putting on braces or prosthetic devices and help with buttons or laces but basically care for themselves and are able to maintain their own physical assisting devices. They have seizures or motor dysfunctions which are controlled by medication. Therapy for gross or fine motor skills can be done with supervision for children to achieve normal conditions. These children may require special diet preparation.

3. Level C, Moderate. The child exhibits one or more characteristics which include or correspond in extent or degree with the following: Children at this level need help with dressing, bathing, and general toilet needs including maintenance procedures such as diapering and applying catheters and require the help of a person or a device to walk or get around. They need assistance to care and maintain physical assisting devices. The children have feeding problems such as excessive intake, extreme messiness or extremely slow eating requiring help or supervision or both. There may be a need for tube or gavage feeding. These children require special care to prevent or remedy skin conditions such as decubiti (bedsores) and severe eczema. The administration of medications and preparation of special diets are demanding, and prescribed physical therapies such as those for vision, hearing, speech or gross or fine motor skills require one to 2 hours a day.

4. Level D, Intensive. The child exhibits one or more characteristics which include or correspond in extent or degree with the following: These children are non-ambulatory, may have uncontrollable seizures and need appliances for drainage, colostomy, aspiration or suctioning. Even with proper medical attention, vision, speech or hearing functions are impaired and may require foster parent training. These children are in need of daily prescribed exercise routines to improve or maintain gross or fine motor skills which require home administration. Prevention procedures such as daily irrigation may be required on behalf of the children. Extra cleaning and laundry to maintain body hygiene and control of the child's body waste may also be required. Orthotics care at this level demands a great deal of time, care and responsibility. Prescribed physical therapies take 2 to 3 hours a day.

(4) **EXCEPTIONAL PAYMENT.** An exceptional payment in an amount to be determined by the department may be made in addition to the age-related rates and special needs payment when the additional payment will:

(a) Enable the child to be placed in a foster home instead of being placed in an institution, nursing home or hospital;

(b) Enable the child to be placed from an institution, nursing home, or hospital into a foster home; or

(c) Replace a child's basic wardrobe which has been lost or destroyed through other than normal wear and tear.

(5) **INITIAL CLOTHING ALLOWANCE.** A clothing allowance may be paid upon a child's initial placement in foster care. The amount of the allowance shall be the actual cost of the clothing not to exceed a maximum as determined by the department. The placement of a child in foster care 120 days or more after the child has been removed from foster care shall be considered an initial placement.

History: Cr. Register, March, 1983, No. 327, eff. 4-1-83.

**HSS 56.15 Foster parent education.** (1) **PURPOSE.** This section implements s. 48.675, Stats., which provides for the continuing education of persons who operate family foster homes and care for children with special treatment needs.

(2) **TO WHOM THE RULES APPLY.** This section applies to all family foster parents who voluntarily participate in this educational program and to all persons, agencies and educational institutions providing educational services for this program.

(3) **INVENTORY OF TRAINING RESOURCES.** The department, working with appropriate foster parent groups and county agencies, shall conduct and maintain an inventory of resources for foster parent training and periodically assess the training needs of foster parents.

(4) **ADVISORY COMMITTEE.** A statewide advisory committee representing the foster parent associations, Wisconsin social services association, the division of corrections, vocational-technical education, university system, disability and special interest groups, and the division of community services shall study needs and resources and advise the department on specific training needs.

(5) **SPONSORSHIP.** (a) The department shall approve training materials, courses and workshops for foster parents developed under s. 48.675, Stats., and shall coordinate statewide, regional and local training programs to prevent duplication of effort.

(b) Training materials, courses and workshops may be developed by, or purchased from, public or private educational institutions, the department, county agencies, other public and voluntary social welfare agencies, and from qualified individuals.

(6) **QUALIFICATIONS OF TRAINERS.** Persons preparing or presenting materials for foster parent training must present educational and experiential credentials which guarantee, their expertise in the subject matter as well as an ability to communicate their knowledge.

(7) **FUNDING OF TRAINING.** (a) Transportation and child care expenses of foster parents in connection with training shall be reimbursed by the department.

1. Transportation expenses, to include travel, parking and meals, shall be reimbursed at the rate for state employees.

2. Care of residents of family foster homes while foster parents are attending approved training shall be reimbursed at the county-approved rate.

(b) Fees for course materials shall be paid by the department.

(c) Fees for trainers and preparation of materials shall be paid by the department.

(8) CRITERIA FOR EVALUATING TRAINING MATERIALS AND COURSES. (a) Training shall be responsive to demonstrated needs of foster parents.

(b) Training shall be planned and executed in keeping with adult education principles which include, but are not limited to, participatory learning, learning material geared to participants specific needs and sequenced educational programming.

(c) The content of training shall depend on the educational background and sophistication of foster parents. General courses shall include content areas suggested by the department.

History: Cr. Register, March, 1983, No. 327, eff. 4-1-83.