

Chapter HSS 56

FAMILY FOSTER CARE FOR CHILDREN

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Note: Sections PW-CY 40.60 to 40.65 as they existed on March 31, 1983 were repealed and a new chapter HSS 56 was created effective April 1, 1983.

**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 227.42 to 227.51, 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 7876, 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.

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

**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:

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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.

(5) **LIABILITY INSURANCE.** (a) Before a family foster home license is issued or renewed, the applicant for a license or foster parent applying for renewal of a license shall furnish proof of homeowner's or renter's liability insurance that provides coverage for the negligent acts or omissions of foster children resulting in bodily injury or property damage to third parties.

(b) Each licensing agency shall have on file documentation that each foster home licensed by that agency has insurance coverage required under par. (a) and s. 48.627 (1) (a), Stats., has been granted a waiver from that requirement in accordance with sub. (6), or has been issued a license for a period not to exceed 90 days to allow foster parents to obtain necessary documentation to request a waiver in accordance with sub. (6).

(6) **WAIVER OF LIABILITY INSURANCE REQUIREMENT.** (a) In this subsection, "Wisconsin insurance plan" means the mandatory risk-sharing insurance plan established under ch. 619, Stats., in accordance with s. Ins. 4.10;

(b) A foster parent or an applicant for a family foster home license may request a waiver of the requirement under sub. (5) (a) if he or she is unable to obtain the required insurance, the insurance policy that he or she had was canceled or payment of the premium for the required insurance would cause undue financial hardship.

(c) A request for a waiver shall be sent directly to the licensing agency and shall include one of the following:

1. A written denial of homeowner's liability insurance by an insurance company for a reason other than the poor condition of the property and also a written denial of the same insurance coverage from the Wisconsin insurance plan;

2. A written cancellation of homeowner's liability insurance by an insurance company for reasons other than nonpayment of premiums and a written denial of the same coverage from the Wisconsin insurance plan;

3. Written denial of renter's liability insurance from 2 insurance companies;

4. A written cancellation of renter's liability insurance by an insurance company and, in addition, a written denial of the same insurance coverage from one other insurance company; or

5. Documentation that payment of the insurance premium would cause undue financial hardship for the foster parent as evidenced by the family;

a. Receiving aid to families with dependent children (AFDC);

b. Receiving supplemental security income (SSI); or

c. Having a family income at or below 70% of state median income as determined by the department for purposes of administering the uniform fee system under ch. HSS 1.

(d) Within 30 days after receipt of a request that is accompanied by the documentation required under par. (c), the licensing agency shall either waive the requirement or deny the request for a waiver, and shall notify the applicant or foster parent of its decision and the reasons for it.

Note #1: The Wisconsin Insurance Plan is property insurance of the last resort. Foster parents and applicants for a foster home license should consider the Wisconsin Insurance Plan only if they cannot obtain conventional insurance from an insurance company. For information on the Wisconsin Insurance Plan, see any insurance agency or contact: Wisconsin Insurance Plan, 744 North Fourth Street, Milwaukee, WI 53203, or phone (414) 276-1616.

Note #2: The department's 70% of state median income standard is found in s. HSS 1.03 (12) (Table) where it is called minimum family budget. The same standard, annualized and updated for 1987 in accordance with s. HSS 1.03 (12) (c) 1b, is as follows:

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Family Size (excluding foster children)	Gross Annual Income (at or below)
1	\$ 9,456
2	\$12,370
3	\$15,259
4	\$18,169
5	\$21,081
6	\$23,984
7	\$24,530
8	\$25,077
9	\$25,624
10	\$26,161

For each additional person add \$537

History: Cr. Register, March, 1983, No. 327, eff. 4-1-83; emerg. cr. (5) and (6), eff. 11-28-86; cr. (6) and (6), Register, July, 1987, No. 379, eff. 8-1-87.

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. ILHR 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

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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.

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