

Chapter HSS 55

DAY CARE FOR CHILDREN

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Note: Sections HSS 55.01 to 55.44 as they existed on October, 1984 were repealed and new sections HSS 55.01 to 55.44 were created effective November 1, 1984.

PREFACE

Section 48.65, Stats., requires that persons who provide, for compensation, care and supervision for 4 or more children under 7 years of age for less than 24 hours a day must be licensed by the department.

The same statute directs the department to establish rules which must be met for a person to qualify for a license and which protect and promote the health, safety and welfare of the children in a day care center. Chapter HSS 55 represents the *minimum* level of acceptable care that a license is to provide to children in a group day care center or day camp in Wisconsin. Chapter HSS 45 represents the *minimum* level of acceptable care that a licensee is to provide to children in a family day care center serving 4 to 8 children. The rules should not be confused with accreditation by professional organizations which is based upon conformity with ideal rather than minimal standards.

Chapter HSS 55 includes procedures for determining compliance of day care programs established by school boards with licensing standards.

Section 46.98, Stats., directs the department to promulgate rules for certification for public funding of day care providers not required to be licensed and rules for administration of statewide child care programs. These rules are also included in this chapter.

Clearly, the fact that a day care program is licensed or certified in no way diminishes the responsibility of parents for vigilance in seeing that their children are receiving care which protects their physical well-being and encourages healthy intellectual and emotional development.

Subchapter I — General Provisions

HSS 55.01 Scope. Sections HSS 55.01 to 55.10 apply to group day care centers for children and day camps for children.

History: Cr. Register, October, 1984, No. 346, eff. 11-1-84; am. Register, August, 1989, No. 404, eff. 9-1-89.

HSS 55.02 Authority and purpose. (1) **AUTHORITY.** Subchapters I, III and IV are promulgated under the authority of s. 48.67, Stats.

(2) **PURPOSE.** The purpose of this chapter is to protect and promote the health, safety and welfare of children in day care centers in Wisconsin.

(3) **CONSTRUCTION.** This chapter shall be liberally construed to effect the objectives in sub. (2).

(4) **EXCEPTION TO RULES.** The department may grant a variance to a requirement of this chapter when it is assured that the health, safety and welfare of the children served will not be jeopardized. A request for a variance shall be in writing, shall be sent to the department, and shall include justification for the requested action and an explanation of the alternative provisions planned to meet the intent of the rule.

History: Cr. Register, October, 1984, No. 346, eff. 11-1-84; correction in (1) made under s. 13.93 (2m) (b) 7, Stats., Register, August, 1989, No. 404.

HSS 55.03 Applicability. This chapter applies to all day care centers, whether the facility in which the child care and supervision is provided is known as a day care center, day camp, camp, day nursery, nursery school, preschool, head start or other designation, except that it does not apply to family day care centers which are regulated under ch. HSS 45 or to:

(1) Group lessons to develop a talent or skill, such as dance or music, social group meetings and activities, group athletic activities and religious education classes where a child attends for 2 hours or less a day or 5 hours or less a week;

(2) Care and supervision while the parents are on the premises and are engaged in shopping, recreation or other non-work activities;

(3) Seasonal programs of 10 days or less duration in any 3-month period, including day camps, vacation bible school and holiday child care programs;

(4) Care and supervision in emergency situations; and

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Subchapter VI — Day Care Certification

HSS 55.55 Authority, purpose and applicability. (1) **AUTHORITY AND PURPOSE.** This subchapter is promulgated pursuant to s. 46.03 (21), Stats., and implements s. 48.651, Stats. It establishes standards for the certification of persons who provide day care for 1 to 3 children or who are not otherwise required to be licensed as a day care center under s. HSS 55.05, and whose services are purchased by county social service departments with state community aid funds. The standards are intended to protect the health, safety and welfare of children in the care of these providers.

(2) **APPLICABILITY.** This subchapter applies to county agencies and to all providers of day care who receive reimbursement from county agencies and who are not required to be licensed under s. HSS 55.05, including providers of day care for 1 to 3 children, providers of day care for a child in the child's home and providers of day care for school-age children.

History: Cr. Register, August, 1985, No. 356, eff. 9-1-85.

HSS 55.56 Definitions. In this subchapter:

(1) "Certified day care" means day care not required to be licensed under s. 48.65, Stats., as a day care center and which meets the standards under s. HSS 55.61 for purchase of care by county agencies.

(2) "Certified day care operator" means an individual, corporation, partnership or non-incorporated association or cooperative which has legal and financial responsibility for the operation of a day care program and for meeting the certification requirements under this subchapter.

(3) "County agency" means a county department of social services established under s. 46.215 or 46.22, Stats., or a county department of human services established under s. 46.23, Stats.

(4) "Department" means the Wisconsin department of health and social services.

(5) "Family day care center" means a day care center licensed under ch. HSS 45.

(6) "Family day care provider" means a person providing care for pre-school or school-age children, or both, outside their homes for less than 24 hours a day and who is not required to be licensed under s. 48.65, Stats., because the provider is caring for fewer than 4 children under 7 years old who are not related to the provider.

(7) "Group day care center" means a day care center licensed under s. 48.65, Stats., and subchs. I and III.

(8) "HealthCheck provider" means a provider of health assessment and evaluation services eligible to be certified under s. HSS 105.37 (1) (a), including an outpatient hospital facility, health maintenance organization, visiting nurse association, clinic operated under a physician's supervision, local public health agency, home health agency, rural health clinic, Indian health agency and neighborhood health center.

(9) "Infant" means a child under one year of age.

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

(11) "Licensed physician" means a physician licensed under ch. 448, Stats.

(12) "Parent" means a parent as defined in s. 48.02 (13), Stats., or a guardian as defined in s. 48.02 (8), Stats.

(13) "Parochial or other private school-operated day care program" means a program providing care and supervision for less than 24 hours a day for 4 or more children under the age of 7 and which is exempt under s. 48.65 (2) (b), Stats., from being licensed as a day care center.

(14) "Physician's assistant" means a health care professional certified under s. 448.04 (1) (f), Stats., and Med 8.

(15) "Provider" means a person who provides day care for children.

(16) "Publicly funded parent" means a parent whose day care expenses are subsidized directly with state or federal funds.

(17) "Registered nurse" means a nurse licensed as a registered nurse under ch. 441, Stats.

(18) "Related to the provider" means the provider's natural or adopted children, foster children, stepchildren, grandchildren, brothers, sisters, nephews, nieces, uncles and aunts.

(19) "School-age day care program" means a program providing care and supervision for less than 24 hours a day for 7 or more school-age children who are at least 7 years of age but less than 12 years of age and which is exempt from being licensed as a day care center under s. 48.65 (1), Stats.

History: Cr. Register, August, 1985, No. 356, eff. 9-1-85; r. and recr. Register, December, 1991, No. 432, eff. 1-1-92.

HSS 55.57 Conditions for purchase of services. A county agency may purchase day care only from a family day care center licensed by the department under subchs. I and II, a group day care center licensed by the department under subchs. I and III, a day camp licensed by the department under subchs. I and IV, a day care provider certified by a county agency under this subchapter or a day care program established and provided by a public school board.

History: Cr. Register, August, 1985, No. 356, eff. 9-1-85.

HSS 55.58 Certification. (1) **BASIS FOR CERTIFICATION.** In order to be certified, a day care provider shall be exempt from having to be licensed under subchs. I, and II, III or IV and shall comply with the appropriate standards for the type of certified provider that are specified in this subchapter.

(2) **TYPES OF CERTIFIED PROVIDERS.** The following types of day care providers shall be certified as a condition for receiving county day care funds:

(a) *Family day care providers and in-home providers.* Family day care and in-home providers are required to meet the standards under s. HSS 55.61 and may care for preschool children or up to 6 school-age children

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or a combination of preschool and school-age children consistent with Table 55.61 (5).

(b) *School-age day care programs.* School-age day care programs are required to meet the standards under s. HSS 55.62;

(c) *Private and parochial school-operated day care programs.* Private and parochial school-operated day care programs are required to meet the standards referred to under s. HSS 55.63; and

(d) *Other day care programs.* Other day care programs identified under s. HSS 55.03 (1), (2) and (3) for which a license is not required are required to meet the standards referred to under s. HSS 55.63.

(3) APPLICATION FOR CERTIFICATION. (a) *Form.* Application for certification shall be made on a form available from the county agency in the provider's county. The applicant shall submit the completed form to that county agency.

(b) *References.* The applicant shall submit with the application the names and addresses of persons who can attest to the applicant's good character and ability to care for children. The county agency shall require references of all applicants and shall contact references by phone or letter before certifying an applicant.

(c) *Compliance with standards and certification.* The county agency shall process all certification applications as follows:

1. If the application is for certification under sub. (2) (a), the county agency shall ensure that the applicant is in compliance with all standards under s. HSS 55.61 prior to issuing a certificate.

2. If the application is for certification under sub. (2) (b) or (c), the county agency shall refer the application to a licensing representative in the department's regional office. The licensing representative shall determine whether the applicant is in compliance with all standards under s. HSS 55.62 or meets current day care center standards set out in subchs. I and II or III, as applicable, and report back to the county agency. The county agency may issue a certificate based on the licensing representative's report.

(d) *Approval.* Within 60 days after receiving a completed application for certification or recertification, the county agency shall either approve the application and issue a certificate or deny the application. If an application is denied, the county agency shall give the applicant the reasons, in writing, for denial.

(4) CATEGORIES OF CERTIFICATION. Certification of a provider by a county agency shall be provisional, regular or limited as follows:

(a) *Provisional certification.* Provisional certification shall be issued for the purpose of determining whether a provider is able to come into compliance with designated standards prior to granting regular certification. Provisional certification shall be the initial stage of regular certification, shall be restricted to 6 months, and may not be renewed;

(b) *Regular certification.* Regular certification may be issued only after the provider has demonstrated compliance with all certification standards during the 6-month provisional certification. Regular certification

shall be for a period of 2 years and shall be renewed upon application if the provider continues to comply with the certification standards; or

(c) *Limited certification.* In order to meet emergency or short-term needs, limited certification may be issued to a provider for no more than 30 consecutive days and not more than 3 times in any 12-month period. The department may designate particular standards in this subchapter that may be waived by a county agency for this category of certification provided that the health, safety and welfare of children in the care of the provider will not be adversely affected.

(5) **COMPLIANCE.** (a) *Qualifications of providers.* County agencies shall maintain records demonstrating provider compliance with s. HSS 55.61 (1).

(b) *The home in family day care and in-home day care.* 1. General. County agencies shall help assure provider compliance with s. HSS 55.61 (2) to (11) in accordance with this paragraph.

2. Required procedures. A county agency shall:

a. Require receipt of a signed application from the provider agreeing to follow day care certification standards;

b. Provide a checklist of basic day care certification standards and procedures for filing a complaint to all parents who are using certified family day care or in-home care and who are publicly funded parents;

c. Require publicly funded parents to complete and return the checklist to county personnel upon initial enrollment of their child with a certified day care provider;

d. Provide orientation for applicants for certification to explain how the certification system works; and

e. Conduct a pre-certification inspection or conduct an inspection within 30 days following provisional certification of any provider funded by the county agency to provide day care.

3. Optional procedures. A county agency may:

a. Conduct on-site inspections prior to or after certification to monitor compliance with certification standards;

b. Conduct on-site inspections of a random sample of certified providers;

c. Make certification available to all family day care providers, whether or not public funding is involved; and

d. Request that all parents who are using a certified home complete and return the checklist provided under subd. 2b.

4. Exception. The department may grant an exception to the required procedure under subd. 2.e. if the department determines that alternative procedures meet the intent of the requirement.

(6) **EXCEPTIONS TO PARTICULAR CERTIFICATION REQUIREMENTS.** A county agency may grant an exception to any standard in s. HSS 55.61, Register, December, 1991, No. 432

55.62 or 55.63 if the county agency is convinced that an alternative means meets the intent of the requirement.

History: Cr. Register, August, 1985, No. 356, eff. 9-1-85; am. (4) (b), Register, November, 1987, No. 383, eff. 12-1-87; renum. (5) to be (6), cr. (5), Register, December, 1991, No. 432, eff. 1-1-92.

HSS 55.59 Sanctions. (1) The county agency shall deny, suspend, revoke or refuse to renew certification and discontinue payment for care if the certified day care operator, day care program employe, provider, assistant to the provider, substitute provider or person living in the family day care provider's home:

(a) Is the subject of a pending criminal charge if the charge substantially relates to the circumstances of caring for children or the activities of the home; or

(b) Has been convicted of a felony, misdemeanor or other offense the circumstances of which substantially relate to the care of children or activities of the home.

(2) The county agency may deny, suspend, revoke or refuse to renew certification and discontinue payment for care if the certified day care operator, day care program employe, provider, assistant to the provider, substitute provider or person living in the family day care provider's home:

(a) Has been determined to have abused or neglected a child pursuant to s. 48.981, Stats.; or

(b) Is the subject of a court finding that the person has abandoned his or her child, has inflicted emotional damage or sexual or physical abuse on a child or has neglected or refused, for reasons other than poverty, to provide necessary care, food, clothing, medical or dental care or shelter so as to seriously endanger the physical health of a child.

(3) The county agency may deny, suspend, revoke or refuse to renew certification and discontinue payment for care if:

(a) The provider is not in compliance with certification standards under s. HSS 55.61, 55.62 or 55.63, as appropriate; or

(b) The provider's references or other community information does not support the provider's declaration that he or she is able to provide an acceptable level of child care.

History: Cr. Register, August, 1985, No. 356, eff. 9-1-85.

HSS 55.60 Appeal. If a county agency denies, suspends, revokes or refuses to renew a certification, the county agency shall notify the provider in writing and give reasons for the action. The action is reviewable pursuant to ch. 68, Stats., which provides for administrative review of the decisions of local agencies.

History: Cr. Register, August, 1985, No. 356, eff. 9-1-85.

HSS 55.605 Complaints. Within 10 working days after a county agency receives a complaint by telephone, letter or personal contact about a certified day care provider, the county agency shall investigate that complaint.

History: Cr. Register, December, 1991, No. 432, eff. 1-1-92.

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HSS 55.61 Standards for family day care and in-home day care. (1) QUALIFICATIONS OF PROVIDERS. (a) *Ability, age and health.* 1. A provider shall be physically and emotionally able to provide responsible child care and shall be at least 18 years of age.

2. A provider, household member, volunteer, visitor or parent who has symptoms of illness or of a communicable disease reportable under ch. HSS 145 that may be transmitted through normal contact, or whose behavior or mental or physical condition gives reasonable concern for the safety of the children, may not be in contact with the children in care.

(b) *Training.* 1. A certified provider shall have completed at least 15 hours of county agency-approved child care training within 6 months after provisional certification, prior to regular certification.

2. A county agency may require up to 5 additional hours of county agency-approved child care training within 6 months after provisional certification, prior to regular certification.

3. A county agency may require up to 5 hours of annual continuing education by a certified provider each year following regular certification.

(2) THE HOME IN FAMILY DAY CARE. The provider's home and outside play areas shall meet the following requirements:

(a) Each floor level used for child care shall have at least one unblocked exit and at least one smoke detector.

(b) All areas used for child care shall have adequate and safe heat, light and ventilation;

(c) The home shall be free of hazards and the following items shall be kept inaccessible to the children:

1. Medications and drugs;
2. Cleaning supplies, poisons and insecticides;
3. Guns, knives, scissors and sharp objects;
4. Matches, cigarette lighters and flammable liquids;
5. Plastic bags; and
6. Litter and rubbish;

(d) Indoor and outdoor areas used for child care shall include sufficient space for play and for activities which meet the developmental needs of the children in care;

(e) Outdoor play areas shall be free of hazards and shall be fenced or the provider shall take special measures to ensure the safety of the children;

(f) Pets that are kept in the home shall be tolerant of children and vaccinated against rabies;

(g) The home shall have at least one telephone in working order with a list of emergency numbers posted by each telephone, including numbers for the rescue squad, police, fire station, emergency medical care and poison control center;

(h) The provider shall use an enrollment form which includes:

1. The parents' home and work phone numbers;
2. The parents' signed consent for emergency medical care; and
3. A name and number to call if the child requires emergency medical care;

(i) The provider shall maintain first-aid supplies and shall wash superficial wounds with soap and water before bandaging;

(j) The home shall be kept clean, uncluttered and free of insects and rodents;

(k) Bathrooms, including toilets, sinks and potty chairs, shall be kept clean and in good working condition;

(l) When a public water supply is not available, the well water shall be tested and found to be bacteriologically safe by a laboratory certified under ch. HSS 165 at least every 2 years.

(m) Areas, equipment and utensils for food preparation, serving and clean-up shall be kept clean and sanitary; and

(n) Children may not share cups, eating utensils, washcloths or towels.

(3) **THE HOME FOR IN-HOME CARE.** When a provider cares for children in the children's own home, the provider shall comply with requirements in sub. (2) (c), (e), (h), (i) and (m).

(4) **CHILD HEALTH CARE.** (a) Except as provided under pars. (c) and (d), the provider shall have a current report of a physical examination on file for each child, including each provider's child in care, as follows:

1. For a child under 2 years of age, a report of a physical examination conducted not more than 6 months prior to nor later than 3 months after the child is admitted, and a follow-up health examination at least once every 6 months after admission; and

2. For a child 2 years of age or older, a report of a physical examination conducted not more than 2 years prior to nor later than 3 months after the child is admitted.

(b) The physical examination report shall be signed and dated by a licensed physician, a physician's assistant or a HealthCheck provider.

(c) The requirement under par. (a) does not apply to a provider who requests from the county agency in writing an exemption for a child based upon adherence by the child's parent to religious belief in exclusive use of prayer or spiritual means for healing.

(d) The requirement under par. (a) does not apply to school-age children. In this paragraph, "school-age children" means children 5 years of age or older who are enrolled in kindergarten or a higher grade in a public or private school.

(e) The provider shall have on file a written record verifying that each child in care has been immunized in accordance with s. 140.05 (16), Stats., and ch. HSS 144.

(f) The provider may administer medication to a child only in accordance with written and signed permission from the child's parent.

(5) **MAXIMUM NUMBER OF CHILDREN.** (a) A certified provider may take care of no more than 3 children under the age of 7 who are not related to the provider.

(b) A certified provider may take care of no more than 6 children, including children related to the provider, except that:

1. If 3 of the children are under the age of 2, the total number of children may not exceed 5; or

2. If 4 of the children present are under the age of 2, the total number of children may not exceed 4.

(c) A provider's natural, adopted or foster children 7 years of age or older are not counted in determining the maximum number of children allowed under par. (b).

(d) The maximum number of children that one provider may care for is shown in Tables 55.61 (5) A and B.

Table 55.61 (5)
MAXIMUM NUMBER OF CHILDREN IN CERTIFIED DAY CARE
A. WHEN ALL CHILDREN ARE 2 YEARS OF AGE OR OLDER

Related Children Under 7 years of Age	Additional Children Under 7 years of age	Additional Children Ages 7 to 11	Maximum Number of Children*
0	3	Additional children	6
1	3	ages 7 to 11 may be	6
2	3	cared for as long as	6
3	3	the maximum total number	6
4	2	of children is not exceeded	6
5	1		6
6	0		6

* The maximum number does not include the provider's natural, adopted or foster children 7 years of age and older.

B. WHEN CHILDREN UNDER THE AGE OF 2 YEARS ARE PRESENT

Number of Children Under 2 Years of Age	Maximum Number of Children*
0	6
1	6
2	6
3	5
4	4

* The maximum number does not include the provider's natural, adopted or foster children 7 years of age and older.

Note: Under s. 48.65 (1), Stats., if a provider takes care of 4 or more children under the age of 7 who are not related to the provider, for compensation, the provider must obtain from the department a license to operate a day care center.

(6) PROVIDER INTERACTIONS WITH CHILDREN. The provider shall interact with the children in a caring and positive manner and:

(a) Shall protect children in care from danger and be aware of where each child is at all times;

(b) Shall make known to interested parents and the county agency whether he or she is prepared and equipped to care for handicapped, abused, neglected or other children with special care needs;

(c) May not hit, spank, pinch, shake or inflict any other form of corporal punishment on the child, or use any discipline which is frightening to the child; and

(d) May not verbally abuse or threaten a child or make derogatory remarks about the child or the child's family.

(7) ACTIVITIES AND EQUIPMENT. (a) The provider shall implement a program of learning and play activities. Activities shall include:

1. A balance of active and quiet play for each child daily;

2. Both indoor and, weather permitting, outdoor activities for each child daily;

3. Opportunities for each child to play with a variety of toys and equipment;

4. Opportunities for each child to be involved in a variety of activities during a week;

5. Activities specifically for children under 1 year of age, if these children are present; and

6. Activities specifically for children from 1 to 2 years of age and for children 2 years and older, if these children are present.

(b) Television may be used only to supplement the daily plan for children. No child may be required to watch television.

(8) TRANSPORTATION. When transporting children the provider shall ensure that:

(a) The driver of the vehicle holds a valid operator's license;

(b) The vehicle is registered in Wisconsin; and

(c) Each child is seated and properly restrained in a seat belt or, for a child under 2 years of age, a child safety restraint system, in compliance with s. 347.48 (2m) and (4), Stats.

(9) MEALS AND SNACKS. The provider shall ensure that each child receives proper nourishment while in day care as follows:

(a) Each child shall be served one meal or snack at least once every 3 hours;

(b) Each child in attendance for 4 or more hours shall be served a noon or evening meal which consists of a protein food, fruit and vegetable, a cereal or bread product and pasteurized grade A vitamin D milk; and

(c) Each infant who is unable to hold his or her own bottle shall be held for bottle feeding. Bottles may not be propped.

(10) **REST.** The provider shall ensure that each child has a clean, comfortable and safe place to rest as follows:

(a) Each child shall be allowed to have undisturbed rest or a nap, when needed, in a place that is clean, safe and comfortable; and

(b) Each child shall have a personal clean sheet or blanket or both and pillowcase if a pillow is used.

(11) **PROVIDER AND PARENT COMMUNICATION.** The provider shall ensure ongoing communication with a child's parent by:

(a) Allowing parents to visit and observe the program of child care during any hours that care is being provided;

(b) Talking to each child's parent at least once a week about his or her child's development, activities, likes and dislikes;

(c) Developing written information which specifies the charge for day care and the expected frequency of payment for the service; and

(d) Making a copy of the applicable certification standards available to each parent.

History: Cr. Register, August, 1985, No. 356, eff. 9-1-85; emerg. r. (1) (d), eff. 11-5-85; r. (1) (d), Register, April, 1986, No. 364, eff. 5-1-86; r. and recr. (1) (a), (b), (2) (1), (4), (5) and (8), r. (1) (c), Register, December, 1991, No. 432, eff. 1-1-92.

HSS 55.62 Standards for school-age programs. School-age day care programs shall meet the following standards in order to be certified:

(1) **PERSONNEL.** (a) *Director.* Each school-age day care program shall have a person designated as director. The director shall:

1. Be at least 21 years of age; and

2. Have had at least one year of child care or administrative experience with preschool or school-age children or have completed 40 classroom hours of training in at least one of the following areas: child development, early childhood education, elementary education, child guidance, physical education, recreation or other department approved training;

(b) *Program leader.* A program leader shall be designated by the program director to plan and implement the daily activities for a designated group of children. The program leader shall:

1. Be at least 18 years old;

2. Have completed high school or its equivalency;

3. Have had 80 working days experience working with school-age children; and

4. Have completed 20 classroom hours of training in at least one of the following areas: child development, early childhood education, elementary education, child guidance, physical education, recreation or other department-approved training;

(c) *Program assistant.* A program assistant shall:

1. Work under the supervision of a program leader;

2. Be at least 18 years old; and

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3. Have completed or be enrolled in 10 classroom hours of training in at least one of the following areas: child development, early childhood education, elementary education, child guidance, physical education, recreation or other department approved training;

(d) *Substitutes.* In the absence of a regular staff member, there shall be a similarly qualified substitute who is at least 18 years old, but when the regular staff member is not expected to be absent for more than 3 days a person not meeting the educational qualifications under par. (a), (b) or (c) may substitute for the regular staff member if a qualified person is not available.

(e) *Staff records.* The school-age day care program shall maintain a record for each employe which is available to the county agency and includes:

1. The name, address, date of birth, education, position, names and addresses of employers in previous work experience in child care, the name, address and telephone number of a person to be notified in an emergency, and a statement signed by the employe affirming that he or she has not been convicted or is not the subject of a pending criminal charge as specified under s. HSS 55.59 (1);

2. Evidence of a physical examination within 6 months before beginning work or within 30 days after beginning work, except as provided under s. 118.25 (2) (b), Stats. The report shall be dated and signed by a physician and shall certify that the person is free from illness detrimental to children and is physically able to work with young children; and

3. Documentation of educational qualifications for the position.

(2) **ORIENTATION.** Each program shall develop and implement an orientation program which shall be given to all new staff and volunteers in the first week that they are at the center. This orientation shall include:

(a) Review of health, nutrition and discipline policies;

(b) Review of plans for evacuation and other emergencies;

(c) Training in emergency procedures and use of first-aid;

(d) Review of all applicable parts of this chapter;

(e) Review of the program's activity schedules;

(f) Training in the recognition of signs of child abuse and neglect and explanation of responsibilities for reporting suspected cases of child abuse or neglect;

(g) Explanation of job responsibilities and job descriptions; and

(h) Training in the recognition of childhood illnesses.

(3) **FACILITY.** (a) *General rules.* 1. Local authorities shall be consulted to obtain any required zoning clearances or building permits.

2. There shall be a report of inspection which indicates approval of the building by the department of industry, labor and human relations or by

a certified agent of that department. The building shall comply with applicable state and local building codes.

(b) *Indoor space.* 1. The space used by children shall be no less than 35 square feet (3.3 sq. meters) of usable floor space per child.

2. The indoor area shall be free of hazards, and items that may be harmful to children such as medications, drugs, poisons, insecticides, weapons, matches, cigarette lighters and flammable liquids shall be kept out of reach of the children.

(c) *Outdoor space.* Where children are present for more than 3 hours a day, there shall be at least 75 sq. feet (7.0 square meters) of outdoor play space on the premises for each child using the space at a given time. The outdoor space shall be well-drained and free of hazards.

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2. Providers certified by the county agency under standards specified in s. HSS 55.61, 55.62 or 55.63; or

3. Programs established and provided by a school board under s. 120.13 (14), Stats.

(b) The county agency may not purchase services or issue vouchers for day care services provided by a person legally responsible for a child.

(c) The county agency may set policies prohibiting the purchase of services or issuance of vouchers for day care services provided by a relative living in the child's household.

(4) INFORMATION TO PROVIDERS. The county agency shall distribute brochures to day care providers regarding basic child care, certification and licensing requirements.

(5) EXPENDITURES OF DAY CARE FUNDS. The county agency shall expend state-allocated day care funds in accordance with s. 46.98 (3) and (4), Stats., and s. HSS 55.75.

(6) PROVISION AND PURCHASE OF SERVICE. The county agency shall provide day care services directly, provide day care services by contracting with day care providers, or provide vouchers to parents for the purchase of day care services. The county agency:

(a) Shall use a portion of its day care funds and may use all of its day care funds to provide vouchers to eligible parents, as follows:

1. The county agency shall offer a voucher to each eligible parent to the extent that allocated funds are available;

2. A voucher shall be in writing and shall authorize a parent to obtain stipulated day care services from a provider under sub. (3); and

3. The voucher shall set a maximum amount of authorized reimbursement which is the lesser of the county maximum rate or the provider's charge, minus the payment that the parent is required to make under s. HSS 55.77 (2).

(b) The county agency shall reimburse the day care provider for services authorized and provided, whether under contract with the county agency or through vouchers, and shall pay for absences up to 20% of the authorized monthly units of service. Counties may reimburse providers for absences exceeding 20% of the authorized monthly units of service only when the day care is for parents with crisis or respite needs, or the child in care is under the age of 2.

(c) The county agency may provide day care services for an individual who is waiting to enter or continue an approved education or training program or employment:

1. For a period not to exceed 2 weeks; or

2. For a period not to exceed one month where day care arrangements would otherwise be lost and the work or training activity is scheduled to begin within that period.

(7) WAITING LIST. (a) If funding is not sufficient to meet the needs of all eligible parents, a county agency shall establish a waiting list for services for parents who cannot be accommodated by available funding.

The waiting list shall include a parent's name, address and phone number, and the date of the parent's application.

(b) The county agency shall place a parent's name on the waiting list when an application is received by phone or in writing and the parent's eligibility appears likely. Documentation of eligibility is not required before placing a name on the waiting list.

(c) The county agency shall submit information to the department every 6 months on the number of parents on the waiting list, by category of eligibility under s. HSS 55.76.

History: Cr. Register, August, 1985, No. 356, eff. 9-1-85; am. (6) (b), cr. (6) (c) and (7), Register, December, 1991, No. 432, eff. 1-1-92.

HSS 55.74 Establishing county day care rates. (1) **DAY CARE PURCHASED BY CONTRACT.** If a county agency contracts directly with a day care provider, the maximum reimbursement rate for the provider shall be determined as established under sub. (2).

(2) **DAY CARE PURCHASED BY VOUCHERS.** (a) *General.* If a county agency provides day care by offering parents vouchers, the agency shall annually set reasonable and customary maximum day care rates in accordance with procedures and policies set forth in this subsection.

(b) *Survey.* The county agency shall annually contact all licensed group day care centers and family day care centers in the county to determine the day care prices they charge to the general community.

(c) *Groups.* The county agency shall set separate maximum rates for the following 3 groups of children:

1. Infants and toddlers under 2 years old;
2. Preschoolers age 2 up to school age; and
3. Children 6 through 11 years old receiving care before or after school.

(d) *Types of care.* The rates for each of the 3 groups under par. (c) shall be set separately for the following types of care:

1. Licensed group day care centers;
2. Licensed family day care centers; and
3. Certified family day care providers and in-home providers.

(e) *Maximum rates for licensed day care centers.* The maximum rates for licensed centers shall be set as follows:

1. Maximum rates for licensed group day care centers shall be set so that at least 75% of the full-time, 40 or more hours per week, group day care center slots in the county can 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. Maximum rates for licensed group day care centers shall be set so that at least 75% of the group day care center slots for before and after school day care in the county can be purchased at or below the maximum rate;

3. Maximum rates for licensed family day care centers shall ensure that at least 75% of the full-time, 40 or more hours per week, family day care center slots in the county can 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;

4. Maximum rates for licensed family day care centers shall be set so that at least 75% of the family day care center slots for before and after school day care in the county can be purchased at or below the maximum rate;

5. In determining whether 75% of the full-time day care slots can be purchased at or below the maximum rate, the county agency may exclude day care centers which operate less than 5 days a week or 5 hours a day, which receive funding from a county department established under s. 51.42 or 51.437, Stats., or which do not have a set day care price;

6. Reduced maximum rates may not be set for siblings served by group or family day care centers; and

7. Separate maximum rates shall be set for day care for part of the day at group and family day care centers using the same method required under this paragraph.

(f) *Maximum rates for certified family day care.* The maximum rates for certified family day care shall be set as follows:

1. The maximum rate for certified family day care shall be no less than 75% of the maximum rate for licensed family day care centers unless another rate is justified by the county agency through a survey of providers or users of certified or uncertified family day care. Rates for siblings in certified family day care shall be no less than 75% of the rate for the first child enrolled by the family;

2. A graduated system of rates may be established for certified family day care providers based on the training and experience of the providers;

3. In-home care may be purchased only in the following circumstances:

a. A child has a special need;

b. Licensed or certified care is not available within a reasonable geographic area; or

c. Three or more children are being cared for.

(g) *Maximum rates for certified in-home care.* The maximum rates for certified in-home care shall be as follows:

1. An in-home provider caring for a child for 15 or more hours a week shall be paid in accordance with the state's minimum wage law; or

2. An in-home provider caring for a child for less than 15 hours a week shall be paid in accordance with the maximum rates for certified family care under par. (f).

(h) *Maximum rates for other day care providers.* The maximum rates for licensed group day care centers under par. (e) shall also apply to the following other providers:

1. Day care programs established and provided by a school board;

2. Certified school-age day care programs; and

3. Certified parochial and other private school-operated day care programs.

(i) *Higher rates for crisis or respite needs.* Rates which are higher than the maximums allowed under this section may be set for day care provided to children of parents with crisis or respite needs to cover costs of counseling and other support services for parents provided directly, or purchased by, day care providers and for training of day care providers.

(j) *Higher rates for a child with a special need.* Rates which are higher than the maximums allowed under this section may be set for day care for a child with a special need.

(k) *Maximum rates for short-term and sporadic day care.* Maximum reimbursement rates for day care provided for less than a 2-week period or for sporadic periods may be set through negotiations with the child care provider.

History: Cr. Register, August, 1985, No. 356, eff. 9-1-85; am. (1), (2) (b), (e) 5. and 7., cr. (2) (j) and (k), Register, December, 1991, No. 432, eff. 1-1-92.

HSS 55.75 Use of day care funds. Day care funds distributed under s. 46.98, Stats., may be expended by a county only to fund services that directly or indirectly benefit parents eligible under s. HSS 55.76, as follows:

(1) **SERVICES THAT DIRECTLY BENEFIT PARENTS.** Counties shall expend day care funds to provide day care services for parents eligible under s. HSS 55.76 through the use of vouchers issued to parents or contracts with providers for purchase of services; and

(2) **SERVICES THAT INDIRECTLY BENEFIT PARENTS.** Department approval is required for counties to expend day care funds:

(a) To purchase day care or child development-related activities which indirectly serve children receiving day care services, including equipment loan services, library services, training services, program consultation and information and referral;

(b) To pay for the costs of higher rates under s. HSS 55.74 (2) (i) for counseling and other support services for parents with crisis or respite needs;

(c) To pay full or partial salaries for AFDC recipients employed by day care centers or systems;

(d) To pay for start-up, maintenance or expansion of day care services or facilities; or

(e) To pay for services to enhance or improve the quality of day care services, including education and training for day care providers.

History: Cr. Register, August, 1985, No. 356, eff. 9-1-85.

HSS 55.76 Parent eligibility. (1) **NEED.** To be eligible for day care funds, a parent shall have a need for day care services for a child under the age of 12 and shall meet eligibility criteria under sub. (2), (3), or (4).

(2) **ELIGIBILITY CRITERIA FOR WORKING PARENTS OR PARENTS SEEKING WORK.** A parent who is working or seeking work is eligible if:

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(a) The parent is working, is a recipient of aid to families with dependent children (AFDC) and has monthly day care expenses exceeding the child care disregard limit under AFDC. These parents are eligible for funding of day care costs which are above the disregard limit up to the county maximum day care rate;

(b) The parent is income-eligible and is in paid employment, including migrant or seasonal labor; or

(c) The parent is an AFDC recipient or income-eligible and is actively seeking work. This parent is eligible for the funding of a maximum of 20 hours of day care a week for 60 working days for time related to activities involved in seeking employment.

(3) ELIGIBILITY CRITERIA FOR PARENTS IN TRAINING OR EDUCATIONAL PROGRAMS. (a) A parent who is in training or an educational program is eligible if the parent is an AFDC recipient or income-eligible, maintains passing grades and is recognized as a student in good standing in an acceptable training or educational program designed to lead directly to paid employment.

(b) An acceptable training or educational program includes:

1. An accredited program leading to a high school diploma or a high school equivalency degree, including English as a second language or basic education;

2. An accredited program leading to vocational or technical certification or a diploma;

3. An accredited program that is part of a logical progression of training or education leading to paid employment;

4. A vocational rehabilitation program;

5. An accredited program leading to an undergraduate college degree; or

6. A publicly funded job experience or job training program.

(c) A parent possessing a bachelor of science or arts degree or equivalent is eligible for a maximum period of one year and only if the parent:

1. Needs further education or training necessary for entry into the job market;

2. Has been out of the work force for at least 2 years or has been laid off within the last 6 months;

3. Is available for work; and

4. Has been actively seeking work.

(d) A county agency may require that the training or educational program be related to the occupational goal stated in an employability plan developed in cooperation with Wisconsin job service.

(e) For the purpose of eligibility, a parent shall be limited to a total of 2 training or educational programs, whether or not completed, unless the programs are part of a logical progression of training or education leading to paid employment.

(f) Day care funding eligibility for training or educational purposes shall be limited to a combined total of 48 months in training or education which need not be consecutive months. Part-time training shall be prorated to be equivalent to 48 months of full-time training.

(g) A county may require, as a condition of eligibility for day care funds, that a parent enrolled in an institution of higher education document that all available student grants and loans from the school's financial aids office have been obtained.

(4) **ELIGIBILITY CRITERIA FOR PARENTS WITH CRISIS OR RESPITE NEEDS.** A parent meeting eligibility criteria under this subsection is eligible to receive funds for day care costs without regard to income. Eligibility for a parent with crisis or respite needs shall be determined by the county agency based on the family situation, with particular attention to the following:

(a) A member of the family is receiving protective services;

(b) There is a risk of child abuse or neglect in the family, or a risk of a health or social condition which may adversely affect the child's development;

Note: Examples of family situations which might constitute risk include drug or alcohol abuse, mental health problems, family violence, acute financial stress and recent divorce or separation.

(c) The child is at-risk of out-of-home placement;

(d) The parent is hospitalized or otherwise unable to provide adequate care to the child;

(e) The parent or foster parent needs respite services because of stress involved in caring for a child with developmental disabilities or serious problematic behavior;

(f) The parent is under the age of 18;

(g) The parent lacks adequate parenting skills;

(h) The parent is receiving treatment for alcohol or other drug abuse;
or

(i) The parent is a foster parent and day care services are needed to maintain the child in the foster care placement.

(5) **FUNDING PRIORITIES.** (a) If funding is insufficient to meet the needs of all eligible parents, a county agency shall place eligible parents who cannot be accommodated by available funding on a waiting list in accordance with s. HSS 55.73 (7) and shall distribute funds in accordance with priorities established in s. 46.98 (4) (a) and (c), Stats.

(b) A county agency may not establish priorities other than those set forth in s. 46.98 (4) (a) and (c), Stats.

(c) A county agency may not terminate funding provided to any parent eligible under subs. (1) to (4) and s. 46.98 (4), Stats., in order to give priority to clients identified in s. 46.98 (4) (a) and (c), Stats.

(6) **INCOME ELIGIBILITY.** A parent is income-eligible if standard family income is within the income standard set annually by the department.

The income standard shall be based on the state median income and may not be lower than 70% of the state median income.

History: Cr. Register, August, 1985, No. 356, eff. 9-1-85; cr. (3) (g) and (4) (i), am. (4) (intro.) and (g), r. and recr. (4) (h) and (5), Register, December, 1991, No. 432, eff. 1-1-92.

HSS 55.77 Parental choice and parents' payment. (1) **PARENTS' CHOICE OF PROVIDER.** Parents may choose the particular licensed or certified day care provider for their child, except that a county agency may select the provider when the care is for crisis or respite purposes and parents may use in-home day care only with the approval of the county agency.

(2) **COSTS CHARGED TO PARENTS.** (a) Parents shall be required to make payments for day care services provided directly or by voucher or purchased by the county agency, in accordance with a payment schedule and procedures developed by the department under s. HSS 1.03. Payments shall be required of parents whose income is equal to or greater than 50% of the state median income except that payments for crisis or respite day care and payments for working parents receiving aid to families with dependent children (AFDC) and eligible under s. HSS 55.76 (2) (a) may be waived by the county agency.

(b) Parents using vouchers for the payment of day care services may receive day care services from a provider whose rate is higher than the county maximum rate and pay the difference between the provider's rate and the county maximum rate in addition to payments required under par. (a).

(c) If a county agency purchases day care services by contract with a provider, billing and collection procedures shall be subject to ch. HSS 1. If a county agency purchases day care services by means of a voucher issued to the parents, billing and collection of the parents' payment under par. (b) is the responsibility of the provider.

History: Cr. Register, August, 1985, No. 356, eff. 9-1-85; am. (2) (a), Register, December, 1991, No. 432, eff. 1-1-92.

Subchapter VIII — Start-up Grants

HSS 55.80 Start-up grants to assure availability of child care. (1) **GENERAL INFORMATION.** (a) *Statement of intent.* This section regulates the expenditure of funds appropriated to provide start-up grants for newly operating centers, including grants for expansion of existing centers in Wisconsin.

(b) *To whom the rules apply.* The rules in this section apply to all persons, groups and day care centers making application for start-up grants.

(c) *Exceptions to rules.* The department may make an exception to any of the rules for approving start-up grants when it is assured that granting the exception is beneficial to the health, safety and welfare of children.

(d) *Definitions.* The definitions in s. HSS 55.05 (4) apply. In addition:

1. "Child care" means day care for children and includes group care, family care and in-home care.

2. "Division" means the division of community services of the department.

3. "Family care" means the care of a child in a family home other than the child's own home by a responsible person other than the child's parents for a period of time less than 24 hours.

4. "In-home care" means care in the child's own home by someone other than the child's parents on a routine planned basis for a period less than 24 hours.

5. "Newly operating center" means a day care center which has been in operation for a period of less than one year or an existing center making grant application for expansion purposes.

6. "Satellite system" means family day care homes, in-home care providers or a combination of both which are centrally organized, coordinated, and administered as a unit in themselves or as an extension of another center or as part of the educational or training program of an accredited school of social work or school of early childhood education.

7. "Start-up grants" means money payments or a planned series of money payments to an approved applicant to be used for development or expansion of needed child care services. The grants are not loans.

(2) APPLICATION FOR START-UP GRANTS. (a) Application shall be made on a form provided by the department.

(b) Application shall be open to:

1. Individuals or groups planning to establish voluntary non-profit or proprietary child care services;

2. Individuals or groups submitting proposals for:

a. A new center;

b. Expansion of an existing center or group of centers;

c. An innovative program for special needs of the children; or

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