Removed by Register October 2015 No. 718. For current adm. code see: http://docs.legis.wisconsin.gov/code/admin_code.



# Chapter DCF 58

## ELIGIBILITY FOR THE KINSHIP CARE AND LONG–TERM KINSHIP CARE PROGRAM

**Subchapter I — General Provisions**
DCF 58.01 Authority and purpose.
DCF 58.02 Applicability.
DCF 58.03 Definitions.
DCF 58.04 Requirements for applicants and kinship care and long–term kinship care relatives.
DCF 58.05 Additional criteria prohibited.
DCF 58.06 Timeline for action on an application.
DCF 58.065 Special provisions for court–ordered kinship care and long–term kinship care approved after January 1, 2010.
DCF 58.066 Special provisions for court–ordered kinship care and long–term kinship care approved before January 1, 2010.
DCF 58.07 Payments prohibited.
DCF 58.08 Appeal and review rights.
DCF 58.09 Procedures for requesting an exemption for good cause to the requirement for cooperation in securing child support.

**Subchapter II — Provisions Applicable to the Kinship Care Program Only**
DCF 58.10 Eligibility criteria.
DCF 58.11 Verification of relationship and residence and notification.
DCF 58.12 Criteria for placement on waiting list.
DCF 58.13 Reassessment of eligibility.

**Subchapter III — Provisions Applicable to the Long–Term Kinship Care Program Only**
DCF 58.14 Relationship verification requirements.
DCF 58.15 Determination and agreement.
DCF 58.16 Review of eligibility.

**Note:** Ch. HSS 58 was renumbered to ch. HFS 58 under s. 13.93 (2m) (b) 1., Stats., and corrections made under s. 13.93 (2m) (b) 6. and 7., Stats., Register, November, 2000, No. 539. Chapter HFS 58 as it existed in January 31, 2002 was repealed and a new chapter HFS 58 was created effective February 1, 2002. Chapter HFS 58 was renumbered to chapter DCF 58 under s. 13.92 (4) (b) 1., Stats., Register November 2008 No. 635.

### Subchapter I — General Provisions

**DCF 58.01 Authority and purpose.** This chapter is promulgated under the authority of ss. 48.57 (3m) (ar) and 227.11 (2), Stats., to establish criteria and procedures for determining initial and continuing eligibility of a relative who provides care and maintenance for a child to receive a monthly payment to help with the expenses involved in providing that care and maintenance.

**History:** CR 99–071: cr. Register January 2002 No. 553, eff. 2–1–02.

**DCF 58.02 Applicability. (1)** TO WHOM THE RULES APPLY. This chapter applies to the following relatives of a child who is residing with them:

(a) Relatives who apply for or who are receiving kinship care or long–term kinship care benefits on behalf of a child residing with them without a court order.

(b) Relatives who apply for or who are receiving kinship care or long–term kinship care benefits under s. DCF 58.065 on behalf of a child residing with them under a court order and who apply for or who have applied for a license to operate a foster home under ch. DCF 56.

(c) Relatives who are receiving kinship care or long–term kinship care benefits on behalf of a child residing with them under a court order and who will be applying for a license to operate a foster home prior to or at the time of their next reassessment of eligibility under s. DCF 58.13 or review of eligibility under s. DCF 58.16 in calendar year 2010.

**(2)** APPLICABILITY OF SUBCHAPTERS. The provisions in subch. I apply to the entire chapter. The provisions in subch. II apply only to the kinship care program. The provisions in subch. III apply only to the long–term kinship care program.

**History:** CR 99–071: cr. Register January 2002 No. 553, eff. 2–1–02; correction in (4) made under s. 13.92 (4) (b) 7., Stats., Register November 2008 No. 635; EmR0937: emerg. r. and recr. eff. 1–1–10; CR 10–021: r. and recr. Register September 2010 No. 657, eff. 10–1–10.

**DCF 58.03 Definitions.** In this chapter:

**(1)** "Adult resident" means a person 18 years of age or over who lives at the home of a relative with the intent of making that home his or her home or who lives for more than 30 days cumulative in any 6–month period at the home of a relative.

**(2)** "Applicant" means a child's relative who has applied to an agency to receive benefits under the kinship care or long–term kinship care program for the child for whom that relative is providing or will provide care in the relative's home.

**(3)** "Child" means any of the following:

(a) A person under 18 years of age.

(b) A person 18 years of age or over, but under 19 years of age, who is a full–time student in good academic standing at a secondary school or its vocational or technical equivalent and who is reasonably expected to complete his or her program of study and be granted a high school or high school equivalency diploma.

(c) The person meets all of the following conditions:

1. The person is 18 years of age or over, but under 21 years of age.

2. The person is a full–time student at a secondary school or its vocational or technical equivalent.

3. There is an individualized education program under s. 115.787, Stats., in effect for the person.

**(4)** "Child support agency" has the meaning given in ch. DCF 102.

**(5)** "Completed application" means a document that includes all of the information, required by an agency under s. 48.57, Stats., and this chapter, that an agency requires to make a decision as to whether or not the criteria for eligibility are met and whether or not a payment may be made. A "completed application" does not include the information obtained in response to a criminal background check.

**(6)** "Criminal background check" means the background check under s. 48.57 (3p), Stats.

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

**(8)** "Employee" means an individual retained by a kinship care or long–term kinship care relative on a regular basis who has regular contact with a child for whom kinship care benefits are paid to the kinship care relative or long–term kinship care benefits are paid to the long–term kinship care relative.

**(9)** "Good academic standing" means that the child is achieving a level of success, as determined by the local school, that will allow the child to graduate.

**(10)** "Kinship care" means the program described under s. 48.57 (3m), Stats., which provides specific assistance to children and families through the provision of a monthly payment to a relative.

**(11)** "Kinship care agency" or "agency" means a county department of social services under s. 46.22, Stats., a county department of human services under s. 46.23, Stats., the department for a county having a population of 500,000 or more, a tribal agency appointed by the tribal governing body, or a public or private agency under contract with a county department, the depart-

Removed by Register October 2015 No. 718. For current adm. code see: http://docs.legis.wisconsin.gov/code/admin_code.



ment or a tribal agency for the purpose of administering all or part of the kinship care program or the long−term kinship care program.

**(12)** "Kinship care payment" or "kinship care benefit" means a monthly payment of $232 beginning January 1, 2015, to a relative who is providing care and maintenance for a child.

**(13)** "Kinship care relative" means a relative who is receiving a kinship care payment.

**(14)** "Long−term kinship care" means the program described under s. 48.57 (3n), Stats., which provides specific assistance to children and families through the provision of a monthly payment to a relative.

**(15)** "Long−term kinship care payment" or "long−term kinship care benefit" means a monthly payment of $232 beginning January 1, 2015, to a relative who is providing care and maintenance for a child.

**(16)** "Long−term kinship care relative" means a relative who has been appointed as the child's guardian under s. 48.977, Stats., and who has applied for and is receiving a long−term kinship care payment under s. 48.57 (3n), Stats.

**(17)** "Medical assistance" means the assistance program under 42 USC 1396 and ss. 49.43 to 49.499, Stats.

**(18)** "Relative" means an adult who is the child's stepparent, brother, sister, stepbrother, stepsister, half brother, half sister, brother−in− law, sister−in−law, first cousin, 2nd cousin, nephew, niece, aunt, uncle, stepuncle, stepaunt, or any person of a preceding generation as denoted by the prefix of grand, great or great−great, whether by blood, marriage or legal adoption, or the spouse of any person named in this subsection, even if the marriage is terminated by death or divorce.

**(19)** "Session" means a regular academic term of schooling that includes a semester and a quarter.

**(20)** "Voluntary transition−to−independent−living agreement" means a voluntary agreement under s. 48.366 (3) or 938.366 (3), Stats.

**History:** CR 99−071: cr. Register January 2002 No. 553, eff. 2−1−02; corrections in (4) and (7) made under s. 13.92 (4) (b) 6. and 7., Stats., Register November 2008 No. 635; EmR0937: emerg. am. (18) eff. 1−1−10; CR 10−021: am. (12), (15) and (18) Register September 2010 No. 657, eff. 10−1−10; **EmR1414: emerg. r. and recr. (3), am. (12), (15), cr. (20), eff. 8−1−14; CR 14−054: r. and recr. (3), am. (12), (15), cr. (20), Register April 2015 No. 712, eff. 5−1−15.**

**DCF 58.04 Requirements for applicants and kinship care and long−term kinship care relatives. (1)** APPLICATION. A relative who wants to apply for kinship care or long−term kinship care payments shall apply to the kinship care agency and shall complete any form or forms required by the agency. If the child is placed in the home of the kinship care relative or long−term kinship care relative under a court order, the relative shall apply for a license to operate a foster home under ch. DCF 56.

**(2)** CRIMINAL BACKGROUND CHECK. (a) 1. An applicant for kinship care or a kinship care relative or long−term kinship care relative shall provide information sufficient for the agency to conduct, under s. 48.57 (3p), Stats., a criminal background check on the applicant or kinship care or long−term kinship care relative, any other adult resident of the applicant's or kinship care or long−term kinship care relative's home and any employee or prospective employee of the applicant or kinship care or long−term kinship care relative.

2. The applicant or kinship care or long−term kinship care relative shall also attest, in writing, that neither he nor she, nor any adult resident or prospective adult resident of his or her home nor any employee or prospective employee has any history of contact with a child protective services agency or arrests or convictions that could adversely affect the child or the applicant's or kinship care or long−term kinship care relative's ability to care for the child.

(b) A kinship care or long−term kinship care relative shall notify the agency of the intent of a person to become an adult resident of the kinship care or long−term kinship care relative's home when that intent becomes known, if that information is available, or within 2 working days after that person's assumption of residence in the home if the intent is not known in advance.

(c) Agencies shall conduct criminal background checks pursuant to the requirements of s. 48.57 (3p), Stats., and shall consider whether any history, arrests or convictions might adversely affect the child or the applicant's or kinship care or long−term kinship care relative's ability to care for the child.

**(3)** COOPERATION WITH THE AGENCY. An applicant shall cooperate with the agency in the application process and a kinship care or long−term kinship care relative shall cooperate with the agency in the review process. Applicants and kinship care or long−term kinship care relatives shall do all of the following:

(a) Apply for other forms of assistance, including financial and medical, for which the child may be eligible. The agency shall assist the kinship care or long−term kinship care relative or prospective kinship care or long−term kinship care relative in applying for medical assistance for the child on whose behalf the kinship care or long−term kinship care application is made.

(b) Complete, to the extent the applicant or kinship care or long−term kinship care relative is able, any form required for referral of the child's parent or parents to the child support agency, except in the following circumstances:

1. The kinship care or long−term kinship care relative or prospective kinship care or long−term kinship care relative may claim good cause for not cooperating in accordance with the procedures specified under s. DCF 58.09. That claim, if approved by the agency, negates this responsibility.

2. The kinship care or long−term kinship care relative or prospective kinship care or long−term kinship care relative is not required to complete a form for referral to a child support agency if the child is 18 years of age or over.

(c) Notify the agency whenever a person becomes or ceases to be an adult resident of the kinship care or long−term kinship care relative's home or the kinship care or long−term kinship care relative hires or proposes to hire an employee.

**(4)** VERIFICATION OF SCHOOL STATUS FOR CHILDREN 18 YEARS OF AGE OR OVER. (a) 1. If the child is 18 years of age or over, but under 19 years of age, the agency shall verify that the child is enrolled full−time at a secondary school or its vocational or technical equivalent, is in good academic standing and is reasonably expected to complete his or her program of study and be granted a high school or high school equivalency diploma.

2. The applicant or kinship care or long−term kinship care relative shall provide the kinship care agency with a statement signed by the kinship care or long−term kinship care relative and an official from the child's school or alternative high school program stating that the child meets all of the following criteria:

a. The child is enrolled full−time in high school or a high school equivalency program or, if school is not currently in session, the child was enrolled during the previous session, and will be enrolled during the next session.

b. The child is currently in good academic standing, or if the determination is made when school is not in session, the child was in good academic standing at the close of the previous session.

c. The child is reasonably expected to complete his or her program of study and be granted a high school or high school equivalency diploma.

(b) 1. If the child turned 18 years of age on or after August 1, 2014, but is under 21 years of age, the agency shall verify that the child is enrolled full−time at a secondary school or its vocational or technical equivalent, is in good academic standing, and there is an individualized education program under s. 115.787, Stats., in effect for the person.

2. The applicant or kinship care or long−term kinship care relative shall provide the kinship care agency with a statement signed

Removed by Register October 2015 No. 718. For current adm. code see: http://docs.legis.wisconsin.gov/code/admin_code.



by the kinship care or long−term kinship care relative and an official from the child's school or alternative high school program stating that the child meets all of the following criteria:

a. The child is enrolled full−time in high school or a high school equivalency program or, if school is not currently in session, the child was enrolled during the previous session, and will be enrolled during the next session.

b. The child is currently in good academic standing, or if the determination is made when school is not in session, the child was in good academic standing at the close of the previous session.

c. There is an individualized education program under s. 115.787, Stats., in effect for the child.

(c) A kinship care or long−term kinship care relative shall notify the agency when any of the following occur:

1. The child graduates.

2. The child earns a high school or high school equivalency diploma.

3. The child discontinues school or his or her education program.

4. The child is no longer in good academic standing.

5. There is no longer an individualized education program under s. 115.787, Stats., in effect for the child.

**(5)** REAPPLICATION FOLLOWING DENIAL OR TERMINATION OF BENEFITS. If an applicant is denied a payment or a kinship care or long−term kinship care relative's payment is terminated and the applicant reapplies, the agency may suspend processing of the application if it determines that the situation related to the rationale for the denial or termination has not changed. Within 2 working days after the agency decides to suspend processing of the application, the agency shall send to the applicant a written notice of its decision. The notification of suspension shall include a statement of the applicant's right to appeal the decision.

**History:** CR 99−071: cr. Register January 2002 No. 553, eff. 2−1−02; correction in (3) (b) made under s. 13.92 (4) (b) 7., Stats., Register November 2008 No. 635; EmR0937: emerg. am. (1) eff. 1−1−10; CR 10−021: am. (1) Register September 2010 No. 657, eff. 10−1−10; **EmR1414: emerg. am. (4) (title), renum. (4) (a), (b) to (4) (a) 1., 2., cr. (4) (b), eff. 8−1−14; CR 14−054: renum. (3) (b) to (3) (b) (intro.), (b) 1. and am., cr. (3) (b) 2., am. (4) (title), renum. (4) (a), (b) to (4) (a) 1., 2, cr. (4) (b), (c) 5. Register April 2015 No. 712, eff. 5−1−15.**

**DCF 58.05 Additional criteria prohibited.** An agency may not create criteria for eligibility for the kinship care or long−term kinship care program that are in addition to the criteria set forth in ss. DCF 58.04, 58.10, 58.14 and 58.15 (2).

**History:** CR 99−071: cr. Register January 2002 No. 553, eff. 2−1−02; correction made under s. 13.92 (4) (b) 7., Stats., Register November 2008 No. 635.

**DCF 58.06 Timeline for action on an application. (1)** (a) An agency shall request a criminal background check from the department of justice and all applicable law enforcement agencies within 5 working days after receipt of the information necessary to conduct the criminal background check from the applicant or kinship care or long−term kinship care relative.

(b) An agency shall approve or deny an application for a kinship care or long−term kinship care payment within 45 days after the agency receives the completed application.

**(2)** Each agency shall establish a written policy indicating when the kinship care or long−term kinship care payment will begin, but the written policy shall provide for the payment to begin no later than:

(a) If the placement is court−ordered, the date on which the child was placed by the court order with the relative or 90 days prior to the date on which the agency received the completed application.

(b) If the placement is not court ordered, the date on which the completed application was received.

(c) A retroactive payment under pars. (a) and (b) shall be made once the application is approved.

(d) Paragraphs (b) and (c) do not apply if the applicant or kinship care relative is placed on a waiting list.

**History:** CR 99−071: cr. Register January 2002 No. 553, eff. 2−1−02.

**DCF 58.065 Special provisions for court−ordered kinship care and long−term kinship care approved after January 1, 2010. (1)** PAYMENTS PENDING DECISION ON FOSTER CARE APPLICATION. Subject to subs. (2) and (3), the agency may make kinship care payments to a kinship care relative or long−term kinship care payments to a long−term kinship care relative who is providing care and maintenance for a child who is placed in the home of the kinship care relative or long−term kinship care relative under a court order or a voluntary transition−to− independent−living agreement until the earlier of the following:

(a) Not more than 60 days after the date on which the county department or department received the completed application of the kinship care relative or long−term kinship care relative for a license to operate a foster home under s. DCF 58.04 (1).

(b) The date on which the application for a license to operate a foster home is approved or denied or the kinship care relative or long−term kinship care relative is otherwise determined to be ineligible for licensure if the application is approved or denied or the kinship care relative or long−term kinship care relative is otherwise determined to be ineligible for licensure within those 60 days.

**(2)** PAYMENT EXTENSION IF NO−FAULT DELAY. If the application for a license to operate a foster home is not approved or denied or the kinship care relative or long−term kinship care relative is not otherwise determined to be ineligible for licensure within 60 days after the date on which the county department or department received the completed application for any reason other than an act or omission of the kinship care relative or long−term kinship care relative, the county department or department may make payments until the earlier of the following:

(a) Four months after the date on which the county department or department received the completed application.

(b) The date on which the application is approved or denied or the kinship care relative or long−term kinship care relative is otherwise determined to be ineligible for licensure if the application is approved or denied or the kinship care relative or long−term kinship care relative is otherwise determined to be ineligible for licensure within those 4 months.

**(3)** COURT APPROVES CONTINUED KINSHIP CARE OR LONG−TERM KINSHIP CARE PLACEMENT. Notwithstanding that a kinship care relative's or long−term kinship care relative's application for a license to operate a foster home is denied or the kinship care relative is otherwise determined to be ineligible for licensure, the county department or, in a county having a population of 500,000 or more, the department may make payments to a kinship care relative for as long as all other requirements to receive kinship care or long−term kinship care, as applicable, are met if the court orders the child to remain in the kinship care relative's or long−term kinship care relative's home based on the following information submitted to the court by the county department or the department:

(a) The background investigation specified in s. 48.57 (3p), Stats., and s. DCF 58.04 (2).

(b) The county department's or department's assessment of the safety of the kinship care relative's or long−term kinship care relative's home and the ability of the kinship care relative or long−term kinship care relative to care for the child.

(c) A recommendation by the county department or the department that the child remain in the home of the kinship care relative or long−term kinship care relative.

**(4)** COURT DENIES CONTINUED KINSHIP CARE OR LONG−TERM KINSHIP CARE PLACEMENT. If a kinship care relative's or long−term kinship care relative's application for a license to operate a foster home is denied or the kinship care relative or long−term kinship care relative is otherwise determined to be ineligible for licensure

Removed by Register October 2015 No. 718. For current adm. code see: http://docs.legis.wisconsin.gov/code/admin_code.



and the court does not order the child to remain in the kinship care relative's or long−term kinship care relative's home under sub. (3), the county department or department shall request a change in placement under s. 48.357 (1) (am) or 938.357 (1) (am), Stats., or a termination of the guardianship order under s. 48.977 (7), Stats., for the long−term kinship care relative. Any person specified in s. 48.357 (2m) (a) or 938.357 (2m) (a), Stats., may also request a change in placement and any person who is authorized to file a petition for the appointment of a guardian for the child may also request a termination of the guardianship order.

**History:** EmR0937: emerg. cr. eff. 1−1−10; CR 10−021: cr. Register September 2010 No. 657, eff. 10−1−10, **CR 14−054: am. (1) Register April 2015 No. 712, eff. 5−1−15.**

**DCF 58.066 Special provisions for court−ordered kinship care and long−term kinship care approved before January 1, 2010. (1)** FOSTER HOME LICENSE REQUIRED. By no later than 6 months after the date of the first review under s. DCF 58.13 or 58.16, occurring after January 1, 2010, of the placement of a child who on December 31, 2009, was placed in the home of a kinship care relative or a long−term kinship care relative under an order of the court assigned to exercise jurisdiction under chs. 48 and 938, Stats., the kinship care relative or long−term kinship care relative shall obtain a license to operate a foster home under s. 48.62 (1), Stats.

**(2)** EXCEPTION. If the kinship care relative or long−term kinship care relative refuses to obtain a license to operate a foster home as required under sub. (1) or is unable to meet the minimum requirements for the issuance of such a license, at the first permanency plan review under s. 48.38 (5) or 938.38 (5), Stats., or permanency plan hearing under s. 48.38 (5m) or 938.38 (5m), Stats., occurring after the date by which the kinship care relative or long−term kinship care relative is required under sub. (1) to obtain the license, the agency, as defined in s. 48.38 (1) (a) or 938.38 (1) (a), Stats., that prepared the child's permanency plan shall make a recommendation, and the court or panel conducting the review or hearing shall make a determination under s. 48.38 (5) (c) 1. or 938.38 (5) (c) 1., Stats., regarding the continuing necessity for and safety and appropriateness of the placement. If the court or panel determines that the placement continues to be necessary, safe, and appropriate, the child may remain in the placement and the kinship care relative or long−term kinship care relative may continue to receive payments under s. 48.57 (3m) (am) or (3n) (am), Stats.

**History:** EmR0937: emerg. cr. eff. 1−1−10; CR 10−021: cr. Register September 2010 No. 657, eff. 10−1−10.

**DCF 58.07 Payments prohibited. (1)** WHEN RELATIVE IS RECEIVING FOSTER CARE PAYMENT OR ANOTHER TYPE OF KINSHIP CARE PAYMENT. No relative may simultaneously receive a kinship care payment or a long−term kinship care payment and a foster care payment under s. 48.62 (4), Stats., for the care and maintenance of the same child.

**(2)** WHEN CHILD IS RECEIVING SUPPLEMENTAL SECURITY INCOME. No kinship care payment under s. 48.57 (3m), Stats., or long−term kinship care payment under s. 48.57 (3n), Stats., may be made to a relative on behalf of a child who is receiving supplemental security income under 42 USC 1381 to 1383c or state supplemental payments under s. 49.77, Stats.

**(3)** INABILITY TO RECEIVE KINSHIP CARE AND LONG−TERM KINSHIP CARE PAYMENTS SIMULTANEOUSLY. No relative may simultaneously receive a kinship care payment and a long−term kinship care payment for the same child.

**History:** CR 99−071: cr. Register January 2002 No. 553, eff. 2−1−02.

**DCF 58.08 Appeal and review rights. (1)** NOTICE. (a) If an agency denies approval to an applicant for a kinship care or long−term kinship care payment, discontinues a kinship care or long−term kinship care payment or denies a good cause claim under s. DCF 58.09, the agency shall notify the applicant or kinship care or long−term kinship care relative in writing of its decision and the reasons for the decision, and shall include in the notice information about the applicant's or kinship care or long−term kinship care relative's right to appeal or request a review of that decision under sub. (2).

(b) If the notice states a payment will be discontinued, the notice shall also include a statement that the payment shall not be terminated until after the hearing decision is issued following the hearing if the kinship care or long−term kinship care relative requests a hearing within 10 days after the date of the notice. The notice shall also state that if the decision to terminate the payment is upheld at or after the appeal hearing, any payments made while the appeal was pending may be recovered by the agency.

**(2)** APPEAL OR REVIEW AGENCY. (a) 1. If an application is denied or a payment is terminated as the result of a negative criminal background of the applicant or kinship care or long−term kinship care relative, another adult resident of the applicant's or kinship care or long−term kinship care relative's home or an employee of the applicant or kinship care or long−term kinship care relative, the applicant or kinship care or long−term kinship care relative may request a review of that decision to one of the following, whichever is applicable:

a. The director of the county department.

b. In Milwaukee County, the director of the department's bureau of Milwaukee child welfare.

c. Where a tribe is administering the kinship care program, a person designated by the governing body of the American Indian tribe or band.

**Note:** An applicant for a long−term kinship care payment or a long−term kinship care relative is not entitled to a review if the denial is based on a criminal record check. However, the director of the county agency, the designated tribal representative or the director of the Bureau of Milwaukee Child Welfare may approve the long−term kinship care agreement if that person determines that the arrest or conviction would not adversely affect the child or adversely affect the long−term kinship care relative's ability to care for the child.

2. A review under subd. 1. for an applicant for kinship care or a kinship care or long−term kinship care relative shall include consideration of the following factors on a case−by−case basis:

a. The length of time between the date of the arrest, conviction or of the imposition of the penalty and the date of the review.

b. The nature of the violation or penalty and how that violation or penalty affects the ability of the kinship care relative to care for the child.

c. Whether making an exception to the denial or prohibition would be in the best interests of the child.

3. A review under subd. 1. shall be held within 30 days after the request for a review is made and the results of the review shall be provided to the applicant or kinship care or long−term kinship care relative within 10 working days after the review.

(b) If an application is denied or a payment is terminated for a reason other than a criminal background, including any decision related to a good cause claim under s. DCF 58.09, the applicant, kinship care relative or long−term kinship care relative may appeal that decision to the division of hearings and appeals in the Wisconsin department of administration.

**Note:** The mailing address of the Division of Hearings and Appeals is P.O. Box 7875, Madison, WI 53707.

(c) If the agency fails to act on an application within the 45 days allowed under s. DCF 58.06 (1) (b), the applicant may appeal that failure to the department of administration's division of hearings and appeals.

**(3)** TIMING OF APPEALS. An appeal or review requested under sub. (2) shall be filed not more than 45 days after the date of the decision to deny or terminate a payment or, if the agency takes no action on an application, not more than 45 days after the end of the 45−day period under s. DCF 58.06 (1) (b). An appeal or review shall be considered filed if received by the division of hearings and appeals or review agency, whichever is appropriate, not more than 45 days after the date of notification of the decision to deny or terminate a kinship care or long−term kinship care payment or, if the appeal relates to inaction on an application by the agency, within 90 days after the applicant's submission of a completed

Removed by Register October 2015 No. 718. For current adm. code see: http://docs.legis.wisconsin.gov/code/admin_code.



application. An appeal or review requested more than 45 days after that date shall be denied.

**History:** CR 99–071: cr. Register January 2002 No. 553, eff. 2–1–02; corrections in (1) (a), (2) (b), (c) and (3) made under s. 13.92 (4) (b) 7., Stats., Register November 2008 No. 635.

**DCF 58.09 Procedures for requesting an exemption for good cause to the requirement for cooperation in securing child support. (1)** DEFINITIONS. In this section:

(a) "Emotional harm" means that the child or relative is so emotionally impaired that his or her functioning is substantially affected.

(b) "Serious nature" means:

1. In reference to a relative, that the physical or emotional impairment is or will be substantial enough to affect the relative's capacity to care for the child.

2. In reference to a child, that the physical or emotional impairment is or will be substantial enough to affect the child's emotional, mental or physical functioning.

**(2)** RIGHT TO REQUEST GOOD CAUSE EXEMPTION. An applicant or kinship care or long–term kinship care relative may request a good cause exemption from the requirement under s. DCF 58.04 (3) (b) to cooperate with the kinship care agency in referring the child's parent or parents to the child support agency.

**(3)** CLAIMING GOOD CAUSE. (a) *Good cause notice.* 1. A kinship care agency shall provide a printed good cause notice developed by the department to each applicant for kinship care or long–term kinship care benefits.

2. The notice shall describe the right to refuse to cooperate for good cause in securing child support and shall include advising the applicant or kinship care or long–term kinship care relative of all of the following:

a. The potential benefits the child may derive from securing child support.

b. That, by law, cooperation in securing child support is a condition of eligibility for kinship care and long–term kinship care benefits.

c. That good cause for refusing to cooperate may be claimed and that if the kinship care agency finds that there is good cause, the applicant or kinship care or long–term kinship care relative will be excused from the cooperation requirement.

d. That upon request or on receipt of a claim of good cause, the kinship care agency will provide a printed good cause claim under par. (c).

3. The notice shall be signed and dated by the applicant or kinship care or long–term kinship care relative and the kinship care agency worker. The original shall be placed in the applicant's or kinship care or long–term kinship care relative's case record and the applicant or kinship care or long–term kinship care relative shall be given a copy.

4. The child support agency shall ask each applicant for kinship care or long–term kinship care benefits or the kinship care or long–term kinship care relative, upon initial contact, if the good cause notice under subd. 1. has been received. If notice has not been received, the person shall be given the notice and shall be given the opportunity to claim good cause for not cooperating. The child support agency shall refer any kinship care or long–term kinship care applicant or relative who wishes to claim good cause back to the kinship care agency for good cause determination.

(b) *Good cause claim.* 1. A kinship care agency shall provide a printed good cause claim form developed by the department to any applicant or kinship care or long–term kinship care relative on request.

2. The good cause claim form shall describe the circumstances that support a good cause claim and how a claim should be documented. The claim form shall state that the kinship care agency directs the child support agency to proceed to attempt to secure child support without the participation of the kinship care or long–term kinship care applicant or relative.

3. The claim form shall be signed by the applicant or kinship care or long–term kinship care relative in the presence of a kinship care agency worker or a notary public. The signature of the applicant or kinship care or long–term kinship care relative initiates the claim.

4. The original signed claim form shall be placed in the applicant's or kinship care or long–term kinship care relative's case record and the applicant or kinship care or long–term kinship care relative shall be given a copy. A copy shall be sent to the child support agency with instructions to either not initiate or to suspend activities to secure child support until the claim is determined. The copy shall be attached to the referral to the child support agency when good cause is claimed at the time of application for kinship care or long–term kinship care, and at other times the copy shall be forwarded to the child support agency within 2 days after the claim is signed.

(c) *Burden on applicant or kinship care or long–term kinship care relative to establish good cause circumstances.* An applicant or kinship care or long–term kinship care relative who refuses to cooperate in securing child support and who claims good cause for refusing to cooperate has the burden of establishing existence of a good cause circumstance, except as provided in subs. (5) (c) and (11) (a).

**(4)** GOOD CAUSE CIRCUMSTANCES. The kinship care agency, upon reviewing a claim for exemption from the requirement to cooperate in securing child support, shall determine if requiring cooperation is contrary to the best interests of the child or of the applicant or kinship care or long–term kinship care relative. An exemption may be granted only for one of the following reasons:

(a) The kinship care or long–term kinship care relative's cooperation can be reasonably anticipated to result in any of the following:

1. Physical harm of a serious nature to the child for whom the benefit is sought or to the kinship care or long–term kinship care relative with whom the child is living.

2. Emotional harm of a serious nature to the child for whom the benefit is sought or to the kinship care or long–term kinship care relative with whom the child is living.

(b) One of the following circumstances exists and it can be reasonably anticipated that proceeding to secure child support would be detrimental to the child:

1. The child for whom support is sought was conceived as the result of incest or sexual assault.

2. A petition for adoption of the child has been filed with a court.

3. The parent or parents are being assisted by a social services agency in deciding whether to terminate parental rights and the discussions have not gone on for more than 3 months.

**(5)** DETERMINATION OF GOOD CAUSE. (a) Within 45 days from the date a claim is signed, the kinship care agency shall determine if there is good cause for an applicant or kinship care or long–term kinship care relative to refuse to cooperate in securing child support. The 45–day period may be extended by the kinship care agency upon written notice to the applicant or kinship care or long–term kinship care relative if the applicant's or kinship care or long–term kinship care relative's case record documents that additional time is needed for either of the following reasons:

1. Information needed to verify the claim cannot be obtained by the kinship care agency within 45 days.

2. Supporting evidence was not submitted by the applicant or kinship care or long–term kinship care relative within 20 days as required under sub. (10) (a).

(b) The determination of whether there is good cause or not shall be reviewed by the kinship care or long–term kinship care worker's supervisor and signed by that person.

Removed by Register October 2015 No. 718. For current adm. code see: http://docs.legis.wisconsin.gov/code/admin_code.



(c) The final determination of whether there is good cause or not shall be in writing and shall be placed in the applicant's or kinship care or long−term kinship care relative's case record. This shall include all evidence submitted in support of the claim and a written statement as to how the kinship care agency reached its determination. If there is no evidence or verifiable information available which suggests otherwise, the kinship care agency shall conclude that a refusal to cooperate was, in fact, a case of cooperation to the fullest extent possible.

(d) Written notice of the final determination shall be given to the applicant or kinship care or long−term kinship care relative, including the right to an appeal under s. DCF 58.08 (2) (b), and to the child support agency.

(e) If the kinship care agency determines that good cause does not exist, the applicant or kinship care or long−term kinship care relative shall be notified and have 45 days from the date of the notification to do one of the following:

1. Withdraw the claim and cooperate.
2. Exclude any affected child from the application or case.
3. Withdraw the application or request that the case be closed.
4. Request a hearing under s. DCF 58.08 (2) (b).

(f) When the 45 days provided for in par. (e) have expired and no action as specified in par. (e) has occurred, the kinship care agency shall deny the kinship care or long−term kinship care application or payment for the affected child. The denial shall remain in effect until there is cooperation or until cooperation is no longer an issue.

**(6)** APPROVING OR CONTINUING KINSHIP CARE OR LONG−TERM KINSHIP CARE PAYMENT. (a) If the applicant or kinship care or long−term kinship care relative is cooperating with the kinship care agency in furnishing evidence and information for a determination on good cause, the kinship care agency may not deny, delay, reduce or discontinue the kinship care or long−term kinship care benefit, pending the determination, provided that all other eligibility criteria are met.

(b) The kinship care agency shall not use the 45−day period in sub. (5) (a) to extend an eligibility determination beyond the maximum period allowed in s. DCF 58.06 for processing applications.

**(7)** PARTICIPATION OF THE CHILD SUPPORT AGENCY. (a) The child support agency shall be given the opportunity to review and comment on the findings of the kinship care agency prior to the final determination on good cause by the kinship care agency. Consideration shall be given to any recommendation from the child support agency.

(b) The child support agency may participate in any hearing resulting from a good cause determination.

(c) The final decision on good cause is made by the kinship care agency.

**(8)** EVIDENCE. An initial good cause claim shall be based on evidence in existence at the time of the claim. There is no limitation on the age of the evidence. Once a final decision, including any hearing, is made on the claim, any subsequent claim shall have new evidence as its basis. Any of the following types of evidence may be used in determining good cause:

(a) Birth certificates or medical or law enforcement records that indicate that the child may have been conceived as a result of incest or sexual assault.

(b) Court documents or other records which indicate that a petition for the adoption of the child has been filed with a court.

(c) Court, medical, criminal, child protective services, social services, psychological, school or law enforcement records which indicate that a parent might inflict physical or emotional harm on the child or on the applicant or kinship care or long−term kinship care relative.

(d) Medical records indicating the emotional health history and present emotional health status of the applicant or kinship care or long−term kinship care relative or the child, or a written statement from a mental health professional indicating a diagnosis or prognosis concerning the emotional health of the applicant or kinship care or long−term kinship care relative or the child.

(e) A written statement from a public or private social services agency that the parent is being assisted by that agency to determine whether or not to terminate parental rights.

(f) Sworn statements from persons other than the parent or applicant or kinship care or long−term kinship care relative with knowledge of the circumstance on which the good cause claim is based.

(g) Any other supporting or corroborative evidence.

**(9)** SPECIAL REQUIREMENTS FOR PROOF OF GOOD CAUSE. (a) *Emotional harm.* If a good cause claim is based on emotional harm to the applicant or kinship care or long−term kinship care relative or to the child, the kinship care agency shall consider all of the following:

1. Present emotional state of the person subject to emotional harm.
2. Emotional health history of the person subject to emotional harm.
3. Intensity and probable duration of the emotional harm.
4. Degree of cooperation to be required.
5. Extent of involvement of the child, the applicant or kinship relative in the establishment of the support enforcement activity to be undertaken.

(b) *Physical harm.* If a good cause claim is based on anticipated physical harm and no evidence is submitted, the kinship care agency shall conduct an investigation according to the provisions of sub. (11).

(c) *Incest or sexual assault.* If a good cause claim is based on the applicant's or kinship care or long−term kinship care relative's statement that the child was conceived as a result of incest or sexual assault, but this is not documented, the claim may be reviewed as one based on emotional harm.

**(10)** GENERAL REQUIREMENTS FOR PROOF OF GOOD CAUSE. (a) The applicant or kinship care or long−term kinship care relative who claims good cause shall provide supporting evidence within 20 days from the day the claim is signed. The kinship care agency worker may, with supervisory approval, determine that more time is necessary because of difficulty in obtaining certain evidence.

(b) There shall be at least one document of evidence, in addition to any sworn statements from the applicant or kinship care or long−term kinship care relative. The applicant or kinship care or long−term kinship care relative shall be encouraged to provide as many types of evidence as possible. The kinship care agency shall offer assistance in obtaining necessary evidence.

(c) When sufficient evidence to substantiate a good cause claim has not been submitted, the kinship care agency shall do all of the following:

1. Notify the applicant or kinship care or long−term kinship care relative that additional evidence is required and specify that evidence.
2. Advise the applicant or kinship care or long−term kinship care relative on how to obtain the evidence.
3. Make a reasonable effort to obtain specific documents that are not reasonably attainable by the applicant or kinship care or long−term kinship care relative without assistance.

(d) If after having been notified that additional evidence is required, the applicant or kinship care or long−term kinship care relative continues to refuse to cooperate or the evidence obtained does not establish good cause, the kinship care agency shall then notify the applicant or kinship care or long−term kinship care relative that if no further action is taken within 45 days from the date of the notification, good cause will not be found and that the applicant or kinship care or long−term kinship care relative may do any of the following:

1. Withdraw the claim and cooperate.

Removed by Register October 2015 No. 718. For current adm. code see: http://docs.legis.wisconsin.gov/code/admin_code.



2. Exclude affected children from the application or case.

3. Withdraw the application or request that the case be closed.

4. Request a hearing under s. DCF 58.08 (2) (b).

(e) When the 45 days provided for in par. (d) have expired and no action as specified in par. (d) has occurred, the kinship care agency shall deny the application for, or close the case of, any affected child.

**(11)** INVESTIGATION OF GOOD CAUSE CLAIM. (a) The kinship care agency shall conduct an investigation of any good cause claim based on anticipated physical harm, both when the claim is credible without supporting evidence and when supporting evidence is not available. Good cause shall be found when both the applicant's or kinship care or long−term kinship care relative's statement and the investigation satisfy the kinship care agency that the applicant or kinship care or long−term kinship care relative has good cause.

(b) The kinship care agency may also investigate any good cause claim when the applicant's or kinship care or long−term kinship care relative's statement, together with the corroborative evidence, does not provide a sufficient basis for a determination.

(c) Neither the kinship care agency nor the child support agency shall, in the course of any investigation, contact the parent from whom support would be sought without first notifying the applicant or kinship care or long−term kinship care relative in writing of the intention to do so. The applicant or kinship care or long−term kinship care relative shall have a 45−day period from the date of the notification to:

1. Present additional supporting or corroborative evidence or information so that contact with the parent is unnecessary.

2. Exclude an affected child from the application or case.

3. Withdraw the application or request that the case be closed.

4. Request a hearing.

(d) When the 45 days provided for in par. (c) have expired and no action as specified in par. (c) has occurred, the kinship care agency shall deny the application for or close the case of any affected child.

**(12)** NOTICE OF GOOD CAUSE FINDING. (a) *Notice to the child support agency.* The kinship care agency shall notify the child support agency in writing whether good cause is found or is not found and, if found, whether or not the child support agency should proceed to secure child support without participation of the applicant or kinship care or long−term kinship care relative.

(b) *When good cause is found.* When good cause is found, the kinship care agency shall do one of the following, as appropriate:

1. Direct the child support agency to suspend all further case activities if it is determined that the child support agency's action, even without participation of the applicant or kinship care or long−term kinship care relative, can be reasonably anticipated to result in physical or emotional harm to the child or the kinship care or long−term kinship care relative.

2. a. Advise the child support agency to proceed without the participation of the applicant or kinship care or long−term kinship care relative if the child support agency's action can reasonably be anticipated to not result in physical or emotional harm to the child or the kinship care or long−term kinship care relative.

b. The kinship care agency shall notify the applicant or kinship care or long−term kinship care relative immediately of its intended recommendation to the child support agency under subd. 2. a., but shall wait for 45 days from the date of the notification to notify the child support agency in order to give the applicant or kinship care or long−term kinship care relative time to exclude any affected child from the application or case, to withdraw the application or request that the case be closed or to request a hearing.

c. The kinship care agency's recommendation under subd. 2. a. to the child support agency shall be in writing and shall contain the kinship care agency's findings and the basis for its determination. A copy of the written recommendation shall be included in the applicant's or kinship care or long−term kinship care relative's case record.

(c) *When good cause is not found.* When good cause is not found, the kinship care agency shall do all of the following:

1. Provide written notice to the applicant or kinship care or long−term kinship care relative.

2. Wait 45 days before taking further action. If after the 45 days, the applicant or kinship care or long−term kinship care relative still refuses to cooperate and did not exclude the affected child or withdraw the application or request that the case be closed, the kinship care agency shall deny the application for any affected child or close the case. If the application is denied or the case is closed for not cooperating in securing child support, the kinship care agency shall inform the applicant or kinship care or long−term kinship care relative, in writing, of the right to a hearing under s. DCF 58.08 (2) (b). If a hearing is requested, the kinship care agency shall direct the child support agency not to proceed with any support enforcement action during the hearing process.

**(13)** REVIEW OF GOOD CAUSE DETERMINATIONS. (a) Good cause determinations based on permanent circumstances need not be reviewed.

(b) The kinship care agency shall review good cause determinations involving circumstances that are subject to change at each reassessment of eligibility under s. DCF 58.13 or 58.16, as appropriate, or upon the receipt of new evidence.

(c) When good cause is determined to no longer exist, the kinship care agency shall rescind its determination and immediately notify the applicant or kinship care or long−term kinship care relative, in writing, of this and of the right to a hearing under s. DCF 58.08 (2) (b), but shall not notify the child support agency for 45 days from the date of the notification to allow the applicant or kinship care or long−term kinship care relative to do one of the following:

1. Cooperate.

2. Exclude any affected child from the case.

3. Request that the case be closed.

4. Request a hearing under s. DCF 58.08 (2) (b).

(d) When the 45 days provided for in par. (c) have expired and no action as specified in par. (c) 1. to 3. has occurred, the kinship care agency shall do both of the following:

1. Deny the application for or close the case of any affected child.

2. Inform the applicant or kinship care or long−term kinship care relative of the right to a hearing under s. DCF 58.08 (2) (b).

**History:** CR 99−071: cr. Register January 2002 No. 553, eff. 2−1−02; corrections in (2), (5) (d), (e) 4., (6) (b), (10) (d) 4., (12) (c) 2., (13) (b), (c) and (d) 2. made under s. 13.92 (4) (b) 7., Stats., Register November 2008 No. 635.

## Subchapter II — Provisions Applicable to the Kinship Care Program Only

**DCF 58.10 Eligibility criteria.** Before approving an application for a kinship care payment, an agency shall determine that all of the following criteria are met:

**(1)** NEED OF THE CHILD. (a) The child needs the kinship living arrangement. The agency shall determine that the child needs the kinship living arrangement by determining at least one of the following:

1. The child's need for adequate food, shelter and clothing can be better met with the relative than with the child's parent or parents.

2. The child's need to be free from physical, sexual or emotional injury, neglect or exploitation can be better met with the relative than with the child's parent or parents.

3. The child's need to develop physically, mentally and emotionally to his or her potential can be better met with the relative than with the child's parent or parents.

Removed by Register October 2015 No. 718. For current adm. code see: http://docs.legis.wisconsin.gov/code/admin_code.



4. The child's need for a safe or permanent family can be better met with the relative than with the child's parent or parents.

(b) In making a determination that one or more of the criteria in par. (a) are met, the agency shall personally interview the prospective kinship care relative.

(c) Each agency administering the kinship care program shall establish a written policy describing its requirements for documentation for determining need for the living arrangement.

(d) The agency shall maintain in the kinship care relative's case record a description of the determination of need that was used to approve the application and shall maintain a narrative statement of information obtained through any interviews.

**(2)** BEST INTERESTS OF THE CHILD. (a) The proposed kinship living arrangement is in the best interests of the child. The agency shall determine that the kinship living arrangement is in the best interests of the child by proceeding as follows:

1. If the child is placed with the relative by the order of a court pursuant to jurisdiction under s. 48.13 or 938.13, Stats., by a tribal court in a matter related to a child in need of protection or services, by the action of the child welfare agency pursuant to a court order or by a child welfare agency which is the guardian of the child, the agency shall assume that the living arrangement is in the best interests of the child and shall maintain a copy of the court order or other documentation in the kinship care relative's case record.

2. If the child is not placed by order of a court, the agency shall determine if the kinship living arrangement is in the best interests of the child by making a reasonable effort to contact all the child's custodial parents to determine that he or she or they are aware of and have consented to the living arrangement. The effort to contact the child's custodial parents shall be made by mail and the agency may supplement this effort by phone or in person. If consent is received, the kinship living arrangement is determined to be in the best interests of the child. If the agency, after making reasonable efforts to contact all custodial parents, is unable to contact the custodial parents or custodial parent, the agency may determine that the inability to make such contact indicates that the placement with the relative is in the best interests of the child. If both parents are custodial parents, the approval of one of the parents may suffice for the agency to determine that the living arrangement is in the best interests of the child. If only one parent is a custodial parent, the approval of that parent suffices for the agency to determine that the living arrangement is in the best interests of the child. In addition to determining that parental consent exists, the agency shall determine that both of the following conditions exist:

a. The applicant's or kinship care relative's parenting history and parenting ability do not include behaviors or actions that are contrary to the health, safety or welfare of the child.

b. A minor child residing in the applicant's or kinship care relative's home has not committed any delinquent acts or other acts that endangered the safety of another child or that could adversely affect the child for whom the kinship care payment would be made or the applicant's or kinship care relative's ability to care for the child.

(b) The agency shall maintain in the kinship care relative's case record either a copy of the court order placing the child with the kinship care relative under par. (a) 1. or a narrative summary of the determination under par. (a) 2.

**(3)** JURISDICTION OF THE COURT. (a) The child is or could potentially be subject to the jurisdiction of the court or, if the child is age 18, the child could potentially be subject to the jurisdiction of the court if the child were under 18 years of age. The agency shall make at least one of the following findings:

1. That the child's placement has been ordered by the court under s. 48.13 or 938.13, Stats., or by a tribal court in a child welfare matter.

2. That court jurisdiction, if sought, would exist under s. 48.13 or 938.13, Stats., or with the tribal court in a child welfare matter.

3. That court jurisdiction, if sought, would exist for a child 18 years of age or over, but under 21 years of age, under s. 48.13 or 938.13, Stats., or with the tribal court in a child welfare matter but for the fact that the child is too old for such jurisdiction.

4. That if the child remained in his or her home the child would be at risk of meeting one or more of the criteria under s. 48.13 or 938.13, Stats.

5. That if the child is 18 years of age or over, but under 21 years of age, and the child remained in his or her home, the child would be at risk of meeting one or more of the criteria under s. 48.13 or 938.13, Stats., but for the fact that the child is 18 years of age or over.

(b) A finding under par. (a) that the child would be at risk of meeting one or more of the criteria under s. 48.13 or 938.13, Stats., shall be based on reasonable probability and shall be justified by one or more of the following:

1. That a similar determination has been made regarding the child or a sibling of the child within the past 12 months.

2. That the child or a parent of the child has evidenced behavior which, if increased in degree, could result in court jurisdiction under s. 48.13 or 938.13, Stats., or in tribal court jurisdiction for a reason described in s. 48.13 or 938.13, Stats.

3. That the parent or parents of the child have made threatening and credible statements which, if carried out, could result in court jurisdiction under s. 48.13, Stats., or in tribal court jurisdiction for a reason described in s. 48.13, Stats.

4. That information provided by the relative or other credible person and, if available, the parent or parents of the child indicates that it is reasonable to believe that the situation in the child's home could result in the child being at risk of meeting one or more of the criteria under s. 48.13 or 938.13, Stats., if the child were to remain in the home.

(c) The agency shall maintain in the kinship care relative's case record a copy of the court order placing the child with the kinship care relative or shall include in the case record a narrative summary of the justification for the finding under par. (b) 2. to 4.

**History:** CR 99–071: cr. Register January 2002 No. 553, eff. 2–1–02; **EmR1414: emerg. am. (3) (a) 3., eff. 8–1–14; CR 14–054: am. (3) (a) 3., 5. Register April 2015 No. 712, eff. 5–1–15.**

**DCF 58.11 Verification of relationship and residence and notification. (1)** VERIFICATION OF RELATIONSHIP. (a) Each agency administering the kinship care program shall establish a written policy describing its standards for establishing verification of the relative relationship and shall indicate whether any specific documents, such as a birth certificate, a marriage license, guardianship papers or paternity papers, will be required. Each agency's written policy shall include both of the following:

1. A statement that if the agency's normal standard for verification has been met but the agency has come to suspect that the relationship is in doubt, the agency may request additional information.

2. A statement that the agency shall accept alternative forms of verification of the relationship, as specified in the agency's written policy, if documents specified in the agency's written policy under par. (a) are not available to the applicant.

(b) An applicant shall provide to the agency verification required by the agency by written policy that the applicant is related to the child.

(c) The agency shall maintain in a kinship care relative's case record a copy of any written verification provided by the kinship care relative, at the time of application or later, that is used by the agency to verify the relationship. If the verification is not in writ-

Removed by Register October 2015 No. 718. For current adm. code see: http://docs.legis.wisconsin.gov/code/admin_code.



ing, the agency shall maintain in the case record a narrative statement of the verification.

**(2)** VERIFICATION OF RESIDENCE. (a) Each agency administering the kinship care program shall establish a written policy describing its standards for establishing verification of residence, including a description of any specific documentation, such as the child's medical assistance card or a written statement from a school representative, that may be required.

(b) Each written policy under this subsection shall include a statement that the agency shall accept alternative forms of verification of the residence, as specified in the agency's written policy, if documents specified in the agency's written policy under par. (a) are not available to the applicant.

(c) The applicant or kinship care relative shall provide to the agency verification required by the agency by written policy that the child is or will be residing with the applicant or kinship care relative.

(d) The agency shall maintain in a kinship care relative's case record a copy of any written verification provided by the kinship care relative, at the time of application or later, or otherwise obtained by the agency that is used by the agency to verify that the child resides with the kinship care relative. If the verification is not in writing, the agency shall maintain in the case record a narrative statement of the verification.

**(3)** NOTIFICATION. At the time that a relative first applies for kinship care and at every review thereafter, if the child is placed by a court order, the agency shall notify the relative caretaker that he or she may be eligible for long−term kinship care pursuant to this section and shall notify the relative as to the eligibility requirements for long−term kinship care.

**History:** CR 99−071: cr. Register January 2002 No. 553, eff. 2−1−02.

**DCF 58.12 Criteria for placement on waiting list.** **(1)** An agency may place an applicant on a waiting list if the agency has expended its kinship care benefit allocation for the agency's fiscal year or has established a caseload which will result in the agency expending its kinship care benefit allocation by the end of the agency's fiscal year and has notified the department of the need for a waiting list.

**Note:** Notice required in sub. (1) should be submitted to Kinship Care Program Coordinator, DCF/DSP, P.O. Box 8916, Madison, WI 53708−8916.

**(2)** An agency may prioritize applicants on the waiting list according to any of the following criteria that shall be described in the agency's written policy:

(a) The lack of stability in the living arrangement if a payment is not made.

(b) The order in which the applications are received.

(c) The level or urgency of the child's need under s. DCF 58.10 (1) (a).

(d) If the child is under the guardianship of the kinship care applicant by a statutory provision other than s. 48.977, Stats.

**(3)** (a) When financial resources allow an applicant placed on a waiting list to receive a payment, the agency shall notify the applicant in writing that the funding is available. The written notice shall require the applicant to notify the agency of his or her continuing interest in and eligibility for the payment.

(b) An applicant who is moved off a waiting list and approved shall receive payment for the period beginning not later than the first day of the following month. An agency may provide a retroactive payment for all or part of the period during which the applicant was on the waiting list in accordance with the agency's written policies.

**(4)** An applicant may not be placed on a waiting list if the child for whom a payment is requested has been placed with the kinship care relative by a court under s. 48.355, 48.357 or 48.977, Stats., or pursuant to a petition under s. 938.13, Stats., or by a court under s. 938.355 or 938.357, Stats., or by a tribal court in a matter related to the child's need for protection or services, or under a voluntary transition−to−independent−living agreement.

**History:** CR 99−071: cr. Register January 2002 No. 553, eff. 2−1−02; correction in (2) (c) made under s. 13.92 (4) (b) 7., Stats., Register November 2008 No. 635, **CR 14−054: am. (4) Register April 2015 No. 712, eff. 5−1−15.**

**DCF 58.13 Reassessment of eligibility.** **(1)** FREQUENCY OF REASSESSMENT. An agency shall reassess eligibility of a kinship care relative for the kinship care program at least every 12 months after the date the agency initially began making payments to the kinship care relative, to determine if the requirements under ss. DCF 58.04 and 58.10 continue to be met.

**(2)** EFFECT OF REASSESSMENT. If an agency determines through the reassessment process under sub. (1) that the requirements under ss. DCF 58.04 and 58.10 are not met, the agency shall discontinue making kinship care payments to the relative.

**(3)** FOSTER HOME LICENSE. Prior to or at the time of the reassessment of eligibility in calendar year 2010, a kinship care relative who is providing care and maintenance for a child who is placed in the home of the kinship care relative under a court order shall apply for a license to operate a foster home under s. DCF 58.04 (1).

**History:** CR 99−071: cr. Register January 2002 No. 553, eff. 2−1−02; corrections made under s. 13.92 (4) (b) 7., Stats., Register November 2008 No. 635; EmR0937: emerg. cr. (3) eff. 1−1−10; CR 10−021: cr. (3) Register September 2010 No. 657, eff. 10−1−10.

## Subchapter III — Provisions Applicable to the Long−Term Kinship Care Program Only

**DCF 58.14 Relationship verification requirements.** If the applicant is applying for a long−term kinship care payment, the applicant shall provide to the agency proof that he or she has been appointed the child's guardian under s. 48.977 (2), Stats.

**History:** CR 99−071: cr. Register January 2002 No. 553, eff. 2−1−02.

**DCF 58.15 Determination and agreement.** **(1)** DETERMINATION. Before approving an application for a long−term kinship care payment, an agency shall do all of the following:

(a) Determine, through proof provided by the applicant, that the applicant has been named guardian for the child under s. 48.977, Stats.

(b) Inspect the applicant's home.

(c) Interview the applicant.

(d) Determine, through pars. (a) to (c), that the child's long−term placement with the applicant is in the best interests of the child.

**(2)** LONG−TERM KINSHIP CARE AGREEMENT. If an agency approves the long−term kinship care payment, the agency and the relative shall enter into a written agreement under which the long−term kinship care relative agrees to provide care and maintenance for the child and the agency agrees, subject to s. 48.57 (3p) (hm), Stats., and s. DCF 58.04 (2), to make a monthly long−term kinship care payment to the relative until the earliest of the following:

(a) The date on which the child attains the age of 19 years under s. DCF 58.04 (4).

(b) The date on which the child, if over 18 years of age, is no longer a full−time student in good academic standing or is no longer reasonably expected to graduate.

(c) The date on which the child dies.

(d) The date on which the child is placed outside the long−term kinship care relative's home under a court order or under a voluntary placement agreement under s. 48.63, Stats.

(e) The date on which the child ceases to reside with the long−term kinship care relative.

(f) The date on which the long−term kinship care relative's guardianship under s. 48.977, Stats., terminates.

Removed by Register October 2015 No. 718. For current adm. code see: http://docs.legis.wisconsin.gov/code/admin_code.



(g) The date on which the child moves out of the state.

**History:** CR 99–071: cr. Register January 2002 No. 553, eff. 2–1–02; corrections in (2) (intro.) and (a) made under s. 13.92 (4) (b) 7., Stats., Register November 2008 No. 635.

**DCF 58.16 Review of eligibility. (1)** FREQUENCY OF REVIEW. An agency shall conduct a review of each long–term kinship care placement at least every 12 months after the date the agency initially began making payments to the long–term kinship care relative, to determine if any of the circumstances under s. DCF 58.15 (2) has occurred.

**(2)** EFFECT OF REVIEW. If an agency determines through the review process under sub. (1) that one or more of the circumstances under s. DCF 58.15 (2) have occurred, the agency shall discontinue making kinship care payments to the relative.

**(3)** FOSTER HOME LICENSE. Prior to or at the time of the review of eligibility in calendar year 2010, a long–term kinship care relative who is providing care and maintenance for a child who is placed in the home of the long–term kinship care relative under a court order shall apply for a license to operate a foster home under s. DCF 58.04 (1).

**History:** CR 99–071: cr. Register January 2002 No. 553, eff. 2–1–02; corrections made under s. 13.92 (4) (b) 7., Stats., Register November 2008 No. 635; EmR0937: emerg. cr. (3) eff. 1–1–10; CR 10–021: cr. (3) Register September 2010 No. 657, eff. 10–1–10.