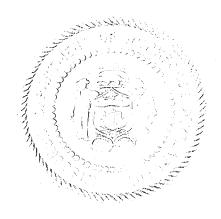
Rules Certificate

STATE OF WISCONSIN)	
)	SS
DEPARTMENT OF WORKFORCE DEVELOPMENT)	

I further certify that this copy has been compared by me with the original on file in this department and that it is a true copy of the original, and of the whole of the original.







Order Adopting Rules

Pursuant to authority vested in the Department of Workforce Development by sections 227.11(2)(a) and 49.155(1g), Stats., the Department of Workforce Development repeals, amends, repeals and recreates, and creates rules of Wisconsin Administrative Code DWD Chapter 56 relating to Administration of Day Care Funds.

The attached rules shall take effect on November 1, 1999, pursuant to section 227.22, Stats.

Adopted at Madison, Wisconsin, this

1444 of September 1999.

Department of Workforce Development



State of Wisconsin Department of Workforce Development



ADMINISTRATION OF DAY CARE FUNDS

The Wisconsin Department of Workforce Development proposes an order to repeal DWD 56.02(1), (8), (11), (15), and (16), 56.03(4), 56.04(1)(a) to (i), (2), (3)(b)3. and 4. and (3)(d), 56.05(2), 56.07, and 56.08(2); to amend DWD 56.01, 56.02(3), (4), (9), (10), and (17), 56.03(3)(title) and (3), 56.04(1)(intro.), (3)(a)(intro.), 1. and 2. and (3)(b)1., 56.04(4)(a) and (b)1.(intro.) and a., and (7)(title), 56.05(1) and (5)(a) and (d), 56.06(1)(a)1. and (2)(c), 56.08(1)(a) and (c), (2)(b) and (3)(a)5.; to repeal and recreate DWD 56.02 (13) and (14), 56.04(4)(e) and Table DWD 56.08(1)(c); and to create DWD 56.02(20m), (23) and (24), 56.04(7)(c), 56.08(1)(d), relating to the administration of day care funds.

Analysis

Authority for rule. sec. 227.11(2)(a), Stats.

Statute interpreted. sec. 49.155(1g), Stats.

This proposed rule amends and updates the administrative rules relating to the administration of funds distributed by the Department of Workforce Development to child care administrative agencies, which include county agencies, tribal agencies and any other agencies which have contracts for the administration of child care funds.

The rule sets policies for the W-2 child care subsidy fund including rate-setting, payment methods, parental choice, eligibility redetermination, and recoupment. Cross references to discontinued programs such as AFDC and JOBS are removed and correct references to the current statutes and programs such as W-2 are added. The rule changes will bring the rule in compliance with the sunsetting of the Low Income Child Care funding source and make minor adjustments in policies to come into compliance with new statutes.

The term "family" has been redefined to have the same meaning as "Wisconsin works group," as provided 49.141(1)(s), Stats. With this change, an individual who is a custodial parent, all dependent children with respect to whom the individual is a custodial parent, any nonmarital coparent or spouse of the individual who resides in the same household, and any dependent children with respect to whom the spouse or nonmarital coparent is a custodial parent will be in the same child care assistance group for purposes of income eligibility and copayment responsibility.

Under the current rule, child care administrative agencies are directed to recoup overpayments to child care providers, but the rule does not authorize any program sanctions to assist in the recovery of overpayments. The proposed rule specifically allows a child care administrative agency, after first giving notice, to stop new child care authorizations for or payments to a provider until the provider has corrected a violation of certification or licensing requirements. In the case of the recovery of overpayments, the child care agency is allowed, again after first

giving notice, to offset the amount of the overpayment to be recovered against any amount owed to the provider.

The table of child care copayments in the rule is updated to reflect the most recent revisions which were announced in the Administrative Register of May 1, 1999.

DWD 55 is amended to include sections mistakenly omitted during recent modifications.

SECTION 1. DWD 56.01 is amended to read:

DWD 56.01 This chapter is promulgated under the authority of ss. 49.132 (2)(b), (2r) (d), (4) (d) and (e) 2. and (5) (e) and 227.11 (2), s. 49.155(1g), Stats., to provide definitions, procedures and standards for the administration of child care funds, including the distribution to county agencies of low income child care funds under s. 49.132 (4) (a), Stats., the use of those funds by county or tribal agencies or JOBS administrative agencies and the eligibility of parents for low income child care for their children. This chapter applies to the department, county and tribal agencies, JOBS administrative Wisconsin works agencies, private agencies under contract to administer child care funds, both licensed and certified providers of child care and eligible parents.

SECTION 2. DWD 56.02(1), (8), (11), (15) and (16) are repealed.

SECTION 3. DWD 56.02(3), (4), (9), and (10) are amended to read:

DWD 56.02(3) "Child care administrative agency" means a county agency, <u>a</u> tribal agency, <u>JOBS administrative agency</u>, <u>food stamp employment and training program administrative agency</u> or <u>any</u> other agency <u>having which has</u> a contract with the department to administer child care funds.

(4) "Child care funds" means funding allocated by the state to child care administrative agencies for child care purposes under s. 49.132 (3), 49.191, 49.193, 49.26 or 49.27 s. 49.155(1g), Stats.

- (9) "Employability plan" means a plan approved by a JOBS administrative Wisconsin works agency or a food stamp employment and training program with an identified employment goal, a description of activities to be completed by the participant and a description of supportive services to be provided to the participant.
- (10) "Family" means one or more adults and children, related by blood or law and residing in the same household. Where adults other than spouses reside together, each is considered a separate family, except for a nonmarital parent has the same meaning as "Wisconsin works group" as given in s. 48.141(1)(s), Stats.

NOTE: Sec. 48.141(1)(s), Stats., provides: "'Wisconsin works group' means an individual who is a custodial parent, all dependent children with respect to whom the individual is a custodial parent and all dependent children with respect to whom the individual's dependent child is a custodial parent. 'Wisconsin works group' includes any nonmarital coparent or any spouse of the individual who resides in the same household as the individual and any dependent children with respect to whom the spouse or nonmarital coparent is a custodial parent. 'Wisconsin works group' does not include any person who is receiving benefits under s. 49.027(3)(b)."

SECTION 4. DWD 56.02(13) and (14) are repealed and recreated to read:

(15m) "Kinship care relative" has the meaning given in s. 48.57 (3m) (a), Stats.

NOTE: Sec. 48.57 (3m) (a), Stats., provides: "Kinship care relative' means a stepparent, brother, sister, stepbrother, stepsister, first cousin, nephew, niece, aunt, uncle or any person of a preceding generation as denoted by the prefix of grand, great or great-great, whether by consanguinity, direct affinity or legal adoption, or the spouse of any person named in this paragraph, even if the marriage is terminated by death or divorce."

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

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

SECTION 5. DWD 56.02(17) is amended to read:

(17) "Parent" has the meaning prescribed given in s. 49.132 (1) (e) 49.155(1)(c), Stats., namely, a parent, guardian, foster parent, treatment foster parent, legal custodian or person acting

in place of a parent. In this subsection, "person acting in place of a parent" means a person to whom the child is related in one of the ways listed in s. HSS 201.17 (1) and who has the child under his or her care as provided in s. HSS 201.17 (2).

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

SECTION 6. DWD 56.02(20m) is created to read:

DWD 56.02(20m) "Treatment foster parent" means a person required to be licensed under s. 48.62(1)(b), Stats.

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

SECTION 7. DWD 56.02(23) and (24) are created to read:

DWD 56.02(23) "Wisconsin works" or "W-2" has the meaning given in s. 49.141(1)(p), Stats.

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

(24) "Wisconsin works agency" or "W-2 agency" has the meaning given in s. DWD 12.03(38).

NOTE: Sec. DWD 12.03(38), Wis. Adm. Code, provides: "Wisconsin works agency' or 'W-2 agency' means a person, county agency, tribal governing body, or a private agency contracted under s. 49.143, Stats., by the department to administer the Wisconsin works program under ss. 49.141 to 49.161, Stats., and this chapter. If no contract is awarded under s. 49.143, Stats., 'Wisconsin works agency' means the department."

SECTION 8. DWD 56.03(3)(title) is amended to read:

DWD 56.03(3) ASSISTANCE TO COUNTIES, TRIBES AND JOBS ADMINISTRATIVE W-2 AGENCIES.

SECTION 9. DWD 56.03(3) is amended to read:

DWD 56.03(3) The department shall provide information and technical assistance to county-and, tribal agencies and JOBS administrative W-2 agencies regarding administration of the child care funding program.

SECTION 10. DWD 56.03(4) is repealed.

SECTION 11. DWD 56.04(1)(intro.) is amended to read:

DWD 56.04(1)(intro.) This section applies to all of the following child care funding sources <u>under s. 49.175(1)(o)</u>, <u>Stats.</u>, and the child care administrative agencies responsible for administration of those funds:

SECTION 12. DWD 56.04(1)(a) to (i) and (2) are repealed.

SECTION 13. DWD 56.04(3)(a)(intro.), 1. and 2. and (b)1. are amended to read:

DWD 56.04(3)(a)(intro.) A child care administrative agency may pay for child care services from provided by any of the following child care providers:

- 1. Providers licensed by the department of health and family services under ch. HSS 45 or 55.
- 2. Providers certified by a county or tribal agency under standards specified in s. HFS 55.61 or 55.62 DWD 55.08 or 55.09.
- (b)1. The care is an arrangement for parents in training, orientation or counseling programs and the child care is provided at the training, orientation or counseling site.

SECTION 14. DWD 56.04(3)(b)3. and 4. and (3) (d) are repealed.

SECTION 15. DWD 56.04(4)(a) and (b)1.(intro.) and a. are amended to read:

DWD 56.04(4)(a) A child care administrative agency shall provide child care services directly, provide child care services by contracting with child care providers, or provide vouchers

to parents for the purchase of child care services-or, in accordance with par. (e), reimburse parents upon presentation of a receipt from the provider or make payments to parents. The child care administrative agency shall offer vouchers to each parent approved for child care funding.

- (b) 1. A child care administrative agency shall use a portion of its child care funds and may use all of its child care funds to provide vouchers to eligible parents, as follows:
- a. A child care administrative agency shall offer a voucher to each eligible parent to the extent that allocated funds are available.

SECTION 16. DWD 56.04(4)(e) is repealed and recreated to read:

DWD 56.04(4)(e) The department may reimburse a county, tribal or W-2 agency for direct child care services or child care costs incurred on-site or for contracted child care approved in advance by the department. Reimbursement rates for contracts shall be negotiated by the county, tribe or W-2 agency and approved by the department.

SECTION 17. DWD 56.04(7)(title) is amended to read:

DWD 56.04(7)(title) RECOUPMENT AND SANCTIONS.

SECTION 18. DWD 56.04(7)(c) and (d) are created to read:

DWD 56.04(7)(c) If a child care administrative agency has given notice to a provider that the provider is in violation of licensing or certification rules and the provider has not corrected the violation or if the provider submits false attendance reports, the child care administrative agency may take one or more of the following steps:

- 1. The child care administrative agency may stop issuing new authorizations for child care to the provider.
- 2. The child care administrative agency may stop making payments to the provider until the provider has corrected the violation.

- 3. If the provider has not repaid an overpayment, the child care administrative agency may recover the overpayment by making an offset from current or future funds under its control that are payable to the provider.
- (d) When a child care administrative agency stops authorizations or payments to a provider under par. (c), the child care administrative agency shall provide written notice to the parent as soon as possible before the effective date of the sanction.

SECTION 19. DWD 56.05(1) is amended to read:

DWD 56.05(1) Each county and tribal child care administrative agency shall administer child care funds specified in s. DWD 56.04 (1) in accordance with the requirements set forth in this section. A county or tribal child care administrative agency may subcontract for administration of child care funds with the approval of the department.

SECTION 20. DWD 56.05(2) is repealed.

SECTION 21. DWD 56.05(5)(a) and (d) are amended to read:

DWD 56.05(5) WAITING LIST. (a) If funding is not sufficient to meet the needs of all parents eligible for child care assistance under s. 49.132(4), 49.155, Stats., a county shall establish a waiting list for parents who cannot be accommodated by available funding. The waiting list shall include a parent's name, address and phone number, priority status, the date of the parent's application, and the number and ages of children needing child care.

(d) The county shall submit information to the department upon request on the number of parents on the waiting list and the number and ages of the children on the waiting list, by eategory of eligibility under s. DWD 56.07.

SECTION 22. DWD 56.06(1)(a)1. and (2)(c) are amended to read:

DWD 56.06(1)(a)1. Except as provided in subd. 2., a county or tribal child care administrative agency shall annually set child care rates in accordance with the policies and procedures set out in this section unless the department sets maximum rates for a multicounty area which includes the particular county or tribal area.

(2)(c) To the extent permitted by federal statutes and regulations, maximum rates for certified family day care shall comply with s. 49.132 (4) (dg) and (dm) 49.155(6)(b) and (c), Stats.

SECTION 23. DWD 56.07 is repealed.

SECTION 24. DWD 56.08(1) (intro), (a) and (c) are amended to read:

DWD 56.08 (1) SCHEDULE. The department shall set a schedule for parent copayment responsibilities which meet the following criteria: for all parents who receive child care financial assistance under s. 49.175 (1) (o), Stats. The schedule will meet the following criteria:

DWD 56.08(1)(a) All families will have a copayment responsibility, unless prohibited by state or federal law.

NOTE: Sec. 49.26(1)(e), Stats., prohibits copayment responsibility for minor teen parents who are Learnfare participants. 7 U.S.C. 2015 prohibits copayment responsibility for participants in the Food Stamp Employment and Training program.

DWD 56.08(1)(c) The <u>initial copayment</u> schedule is <u>provided by Table DWD</u> 56.08(1)(c).

NOTE: This copayment schedule is current as of (effective date of rule). DWD may make future adjustments to the schedule as described in sub. (3).

SECTION 25. Table DWD 56.08(1)(c) is repealed and created to read:

[insert Table DWD 56.08(1)(c) here]

SECTION 26. DWD 56.08(1)(d) is created to read:

DWD 56.08(1)(d) For a family that is authorized for child care for a foster care child only, a kinship care child only, or for minor teen parents who are not Learnfare participants, the department shall set the copayment amount at the lowest copayment tier in Table DWD 56.08(1)(c).

SECTION 27. DWD 56.08(2) is repealed.

SECTION 28. DWD 56.08(3)(a)5. is amended to read:

DWD 56.08(3)(a)5. A change in economic factors affecting the cost of child care to the state, such as an increase in the demand for child care financial assistance under s. 49.141 (2) (b) 49.175(1)(o), Stats.

SECTION 29. DWD 55.05(4) and (5) are created to read as follows:

DWD 55.05(4) The county or tribal 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 meets any of the following criteria:

- (a) Has been determined to have abused or neglected a child pursuant to s. 48.981, Stats.
- (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.
- (5) The county or tribal agency may deny, suspend, revoke or refuse to renew certification and discontinue payment for care if any of the following apply:

- (a) The provider is not in compliance with certification standards under s. DWD 55.08 or 55.09, as appropriate.
- (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.
- (c) The county or tribal agency determines there is danger to the health, safety or welfare of the children in care.

EFFECTIVE DATE. This rule shall take effect on the first day of the month following publication in the Wisconsin administrative register as provided in s. 227.22(2)(intro.), Stats.

(End)

Child Care Co-Payment Schedule for Licensed and Certified Care

Look down the column of the appropriate family size until you find the gross family monthly income level at or just less than

the family income. Look to the right to find the appropriate co-payment by family and type of care.

[-	[Gross Monthly Family Income									WEEKLY LICENSED CARE CO-PAY AMOUNT					WEEKLY CERTIFIED CARE CO-PAY AMOUNT					
	FAMILY SIZE							CHILDREN IN SUBSIDIZED CARE.					CHILDREN IN SUBSIDIZED CARE:							
	2	3	4	5	- 6	7	8	9	10 or more	1 1	2	3	4	5 or more	1	2	3	4	5 or more	
70% FPL	\$645	\$810	\$974	\$1,139	\$1,303	\$1,468	\$1,632	\$1,797	\$1,961	\$5	\$9	\$14	\$18	\$23	\$3	\$6	\$10	\$13	\$16	
75% FPL	\$691	\$868	\$1,044	\$1,220	\$1,396	\$1,573	\$1,749	\$1,925	\$2,101	\$5	\$11	\$16	\$21	\$26	\$4	\$7	\$11	\$15	\$18	
80% FPL	\$737	\$925	\$1,113	\$1,301	\$1,489	\$1,677	\$1,865	\$2,053	\$2,241	\$8	\$13	\$18	\$24	\$29	\$6	\$9	\$13	\$17	\$20	
85% FPL	\$783	\$983	\$1,183	\$1,383	\$1,582	\$1,782	\$1,982	\$2,182	\$2,381	\$11	\$16	\$21	\$26	\$32	\$7	\$11	\$15	\$18	. \$22	
90% FPL	\$830	\$1,041	\$1,253	\$1,464	\$1,676	\$1,887	\$2,099	\$2,310	\$2,522	\$13	\$20	\$26	\$33	\$39	\$9	\$14	\$18	\$23	\$28	
95% FPL	\$876	\$1,099	\$1,322	\$1,545	\$1,769	\$1,992	\$2,215	\$2,438	\$2,662	\$16	\$24	\$32	\$39	\$48	\$11	\$17	\$22	\$28	\$33	
100% FPL	\$922	\$1,157	\$1,392	\$1,627	\$1,862	\$2,097	\$2,332	\$2,567	\$2,802	\$18	\$26	\$34	\$42	\$50	\$13	\$18	\$24	\$30	\$35	
105% FPL	\$968	\$1,215	\$1,461	\$1,708	\$1,955	\$2,202	\$2,448	\$2,695	\$2,942	\$21	\$29	\$37	\$45	\$53	\$15	\$20	\$26	\$31	\$37	
110% FPL	\$1,014	\$1,272	\$1,531	\$1,789	\$2,048	\$2,306	\$2,565	\$2,823	\$3,082	\$24	\$32	\$39	\$48	\$55	\$17	\$22	\$28	\$33	\$39	
115% FPL	\$1,060	\$1,330	\$1,600	\$1,871	\$2,141	\$2,411	\$2,681	\$2,952	\$3,222	\$26	\$34	\$42	\$50	\$58	\$18	\$24	\$30	\$35	\$41	
120% FPL	\$1,106	\$1,388	\$1,670	\$1,952	\$2,234	\$2,516	\$2,798	\$3,080	\$3,362	\$29	\$37	\$45	\$53	\$61	\$20		\$31	\$37	\$42	
125% FPL	\$1,152	\$1,446	\$1,740	\$2,033	\$2,327	\$2,621	\$2,915	\$3,208	\$3,502	\$32	\$39	\$48	\$55	\$63	\$22		\$33	\$39	\$44	
130% FPL	\$1,198	\$1,504	\$1,809	\$2,115	\$2,420	\$2,726	\$3,031	\$3,337	\$3,642	\$34	\$44	\$53	\$62	\$71	\$24	\$30	\$37	\$43	\$50	
135% FPL	\$1,244	\$1,562	\$1,879	\$2,196	\$2,513	\$2,831	\$3,148	\$3,465	\$3,782	\$37	\$48	\$58	\$69	\$79	\$26		\$41	\$48	\$55	
140% FPL	\$1,290	\$1,619	\$1,948	\$2,277	\$2,606	\$2,935	\$3,264	\$3,593	\$3,922	\$39	\$50	\$61	\$71	\$82	\$28	1	\$42	\$50	\$57	
145% FPL	\$1,336	\$1,677	\$2,018	\$2,359	\$2,699	\$3,040	\$3,381	\$3,722	\$4,062	\$42	\$53	\$63	\$74	\$84	\$30	\$37	\$44	\$52	\$59	
150% FPL	\$1,383	\$1,735	\$2,088	\$2,440	\$2,793	\$3,145	\$3,498	\$3,850	\$4,203	\$45	\$55	\$66	\$76	\$87	\$3		\$46	\$54	\$61	
155% FPL	\$1,429	\$1,793	\$2,157	\$2,521	\$2,886	\$3,250	\$3,614	\$3,978	\$4,343	\$48	\$58	\$69	\$79	\$90	\$33	•	\$48	\$55	\$63	
160% FPL	\$1,475	\$1,851	\$2,227	\$2,603	\$2,979	\$3,355	\$3,731	\$4,107	\$4,483	\$50	\$61	\$71	\$82	\$92	\$35	\$42	\$50	\$57	\$65	
165% FPL	\$1,521	\$1,909	\$2,296	\$2,684	\$3,072	\$3,460	\$3,847	\$4,235	\$4,623	\$51	\$63	\$74	\$84	\$95	\$36		\$52	\$59	\$66	
	٠٨٨			165% of	the Federal	Poverty Le	vel		^^^		* 1	•	***	'''	1 ***		402	ΨΟΟ	1	
170% FPL	\$1,567	\$1,966	\$2,366	\$2,765	\$3,165	\$3,564	\$3,964	\$4,363	\$4,763	\$53	\$66	\$76	\$87	\$98	\$37	\$46	\$54	\$61	\$68	
175% FPL	\$1,613	\$2,024	\$2,435	\$2,847	\$3,258	\$3,669	\$4,080	\$4,492	\$4,903	\$54	\$68	\$79	\$90	\$100	\$38	1	\$55	\$63	\$70	
180% FPL	\$1,659	\$2,082	\$2,505	\$2,928	\$3,351	\$3,774	\$4,197	\$4,620	\$5,043	\$56	\$70	\$82	\$92	\$103	\$39	\$50	\$57	\$65	\$72	
185% FPL	\$1,705	\$2,140	\$2,575	\$3,009	\$3,444	\$3,879	\$4,314	\$4,748	\$5,183	\$58	\$72	\$84	\$95	\$105	\$40	1	\$59	\$66	\$74	
190% FPL	\$1,751	\$2,198	\$2,644	\$3,091	\$3,537	\$3,984	\$4,430	\$4,877	\$5,323	\$59	\$74	\$87	\$98	\$108	\$42	\$54	\$61	\$68	\$76	
195% FPL	\$1,843	\$2,256	\$2,714	\$3,172	\$3,630	\$4,089	\$4,547	\$5,005	\$5,463	\$61	\$76	\$90	\$100	\$111	\$43		\$63	\$70	\$78	
200% FPL	\$1,843 <<<	\$2,313	\$2,783	\$3,253	\$3,723	\$4,193	\$4,663	\$5,133	\$5,603	\$63	\$78	\$92	\$103	\$113	\$44		\$65	\$70 \$72	\$78 \$79	
				+200% of t					>>> ome line (70%)											

NOTE: The copayment rate for the following categories of parents is found by selecting the lowest income line (70%) FPL and then finding the copayment listed, under either licensed care or certified care, for the appropriate number of children: foster parents, kinship care parents, and minor teen parents who are not Learnfare participants.