



## WISCONSIN LEGISLATIVE COUNCIL ACT MEMO

**2009 Wisconsin Act 71**  
[2009 Senate Bill 361]

**Foster Care and Kinship Care**

Under current law, any person who provides care and maintenance for four or fewer children or, under certain circumstances, more than four children must obtain a license to operate a foster home and is reimbursed for that care and maintenance according to rates set forth in the statutes. A relative other than a parent (“kinship care relative”) who provides care and maintenance for a child is not required to obtain a foster care license but may, if he or she meets certain conditions, receive monthly payments from the county department of human or social services (“county department”) or, in Milwaukee County, the Department of Children and Families (DCF).

2009 Wisconsin Act 28, the Biennial Budget Act, requires DCF to promulgate rules providing levels of care that a foster home is certified to provide. The levels of care must be based on the level of knowledge, skill, training, experience, and other qualifications that are required of the licensee; the level of responsibilities that are expected of the licensee; the needs of the children who are placed with the licensee; and any other requirements relating to the ability of the licensee to provide for those needs. DCF must also promulgate rules that provide monthly rates of reimbursement for foster care that are commensurate with the level of care that the foster home is certified to provide and the needs of the child who is placed in the foster home.

### ***Monthly Rates for Foster Care and Kinship Care***

Under current law, the monthly foster care reimbursement rate for care and maintenance provided by a relative of the child of any age is \$215 beginning on January 1, 2010, and \$220 beginning on January 1, 2011. A foster parent who is not a relative of the child is reimbursed according to age-related rates set forth in the statutes. Under current law, in addition to the monthly reimbursement rate, DCF must make supplemental payments for foster care to a foster home that is receiving an age-related reimbursement rate that are commensurate with the level of care that the foster home is certified to provide and the needs of the child who is placed in the foster home. The monthly reimbursement rate for kinship care relatives is \$215 per month.

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This memo provides a brief description of the Act. For more detailed information, consult the text of the law and related legislative documents at the Legislature’s Web site at: <http://www.legis.state.wi.us/>.

Act 71 provides that a foster parent who is certified to provide level one foster care (basic foster care) is reimbursed at the rate of \$215 per month and, beginning on January 1, 2011, at the rate of \$220 per month, regardless of whether the foster parent is a relative or nonrelative of the child. The Act also provides that a foster parent who is certified to provide care at a level that is higher than level one is reimbursed according to statutory age-related rates and may receive supplemental payments, regardless of whether the foster parent is a relative or nonrelative of the child. Finally, beginning on January 1, 2011, the monthly reimbursement rate for kinship care relatives is \$220.

### **Levels of Care That a Foster Home May Provide**

Under current law, a foster home that is certified to provide care at a given level may provide foster care for any child whose needs are assessed to be at or below the level of care for which the foster home is certified to provide.

Under the Act, a foster home that is certified to provide a given level of care may not provide foster care for any child whose needs are assessed to be above that level of care unless DCF, the county department, or the child welfare agency issuing the license determines that support or services sufficient to meet the child's needs are in place and grants an exception to that prohibition.

### **Licensing Kinship Care Relatives to Operate Foster Homes**

The Act requires a kinship care relative who is applying for kinship care payments to also apply for a license to operate a foster home if the child is placed in the relative's home under a court order. The county department or, in Milwaukee County, DCF may make payments to a kinship care relative for no more than 60 days after the date on which the county department or DCF receives the completed foster care application or, if the application is approved or denied or the kinship care relative is otherwise determined to be ineligible for licensure within those 60 days, until the date on which the application is approved or denied or the kinship care relative is otherwise determined to be ineligible for licensure.

If the application is not approved or denied or the kinship care relative is not otherwise determined to be ineligible for licensure within 60 days for any reason other than an act or omission of the kinship care relative, the county department or DCF may make payments for four months after receiving the completed application or until the date on which the application is approved or denied or the kinship care relative is otherwise determined to be ineligible for licensure, whichever is sooner.

If an application to operate a foster home is denied or the kinship care relative is otherwise determined to be ineligible for licensure, the county department or DCF may make kinship care payments to the relative if the juvenile court so orders after the county department or DCF submits to the court an assessment of the safety of the kinship care relative's home and the ability of the kinship care relative to care for the child, and a recommendation that the child remain in the home of the kinship care relative. If the court does not order the child to remain in the kinship care relative's home, the court must order the county department or DCF to request a change in placement.

### **Licensing Foster Homes Across County Lines**

Current law provides certain circumstances under which a county may license a foster home in another county if the two counties' licensing agencies enter into a written agreement to permit the license to be issued.

The Act provides that the agencies are not required to enter into a written agreement if the licensing agency is licensing the home of a relative or guardian of the child in another county. The Act specifies that, for these foster homes, the public agency issuing the license has placement and care responsibility for the child and primary responsibility for providing services to the child, is responsible for the costs of the placement, and must have procedures to provide emergency services to the child.

***Effective date:*** Act 71 takes effect on January 1, 2010.

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