

Statement of Scope

Department of Children and Families

Rule Number: Chapter DCF 201

Relating to: Child care subsidy program updates

Rule Type: Permanent

This statement of scope was approved by the governor on August 20, 2021.

1. Finding/nature of emergency (for emergency rules only)

NA

2. Detailed description of the objective of the rules

The proposed rule will clarify and make minor substantive changes to the child care subsidy rules on eligibility, authorizations, provider requirements, and parent reporting requirements, including the following:

- A parent is eligible for an approved activity search period or temporary break period under federal law, regardless of whether the parent reported the end of or break in the parent's approved activity under s. 49.155 (1m) (a) 1. to 5., Stats.
- A child care administrative agency cannot reduce hours of a parent's authorization for state legal holidays.
- A parent will be required to report various changes in the relationship of a parent in the assistance group with a child in the assistance group, such as adoption of the child.
- A provider cannot require a parent to disclose the parent's authorization notice or eligibility notice to the provider.

The proposed rule will also reorganize and clarify provisions on parent and provider overpayments and substantive changes that include the following or similar language:

- A parent will be responsible for an overpayment if the parent pays the provider with child care funds, the child attends less than 75% of the authorized hours in a month and the absences are not due to provider closure, parent or child illness, or a change in circumstances that was reported to the local agency in a timely manner.
- A provider must provide the information required under s. 49.155 (7m), Stats., within 15 days to avoid a penalty.
- A provider may be required to submit records within 24 hours after a request from the department or a child care administrative agency.
- A parent is not liable for overpayments caused by administrative error, unless the parent was incorrectly determined eligible for the child care subsidy program.
- A provider may be subject to penalties or an overpayment if the provider withholds information or fails to comply with the YoungStar contract that results in the provider receiving a higher maximum payment rate than the provider was eligible to receive.

- A provider may be subject to an overpayment if it is determined by audit and investigation that the provider agreed to provide child care for a child, received child care funds for the child's care, and failed to provide the care or return the child care funds to the department.
- Two or more individuals shall be jointly and severally liable for an overpayment if the individuals collude to violate a requirement under ch. DCF 201 or s. 49.155, Stats.
- A reduction in a YoungStar rating to one star will be added as a potential provider penalty.

In addition, the proposed rule will incorporate several existing policies into rule, including the following:

- A licensed child care provider is required to submit the provider's full-time and part-time rates to the child care administrative agency. Full-time rates are based on 35 to 50 hours of child care per week and part-time rates are based on 20 or fewer hours of child care per week.
- A parent may receive a subsidy for child care to allow the parent to participate in an educational activity to maintain employment only if the parent also works in an unsubsidized job for at least 20 hours per month. A local agency may not require a parent to work more than 20 hours per month.
- An individual who is incarcerated from will be excluded from an assistance group on the 30th day of incarceration.

3. Detailed explanation of statutory authority for the rule

The department administers the child care subsidy program under s. 49.155, Stats.

Section 49.155 (1m) (d), Stats., authorizes the department to establish other eligibility criteria by rule.

Section 49.155 (7m), Stats., directs the department to by rule establish policies and procedures permitting the department to do all of the following if a child care provider submits false, misleading, or irregular information to the department or if a child care provider fails to comply with the terms of the program under this section and fails to provide to the satisfaction of the department an explanation for the noncompliance:

1. Recoup payments made to the child care provider.
2. Withhold payments to be made to the child care provider.
3. Impose a forfeiture on the child care provider.

Section 227.11 (2) (a) (intro.), Stats., expressly confers rule-making authority on each agency to promulgate rules interpreting the provisions of any statute enforced or administered by the agency.

4. Estimate of amount of time that state employees will spend developing the rule and of other resources necessary to develop the rule

300 hours

5. List with description of all entities that may be affected by the rule

Child care administrative agencies and parents applying for or receiving a child care subsidy under s. 49.155, Stats.

6. Summary and preliminary comparison with any existing or proposed federal regulation that is intended to address the activities to be regulated by the rule

The child care subsidy program is funded in part by the Child Care Development Fund and must comply with the requirements of 45 CFR Part 98.

7. Anticipated economic impact of implementing the rule (note if the rule is likely to have a significant economic impact on small businesses)

None or minimal

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