

**Department of Children and Families  
Hearing Summary**

**Proposed Rule Relating to Foster Care and Kinship Care  
DCF 56 and 58  
CR 10-021**

Public hearings were held in Madison, Milwaukee, and Stevens Point on March 17, March 31, and April 8.

**The following commented or registered on the proposed rule:**

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| 1. Children's Rights<br>New York   | 2. Wisconsin Council on Children and Families (WCCF)<br>Madison  |
| 3. Colleen Ellingson, CEO<br>Adoption Resources of Wisconsin<br>Milwaukee  | 4. Linda Hall, Executive Director<br>WI Assn. of Family & Children's Agencies<br>Madison   |
| 5. Jerilyn Robinson<br>Catholic Charities<br>Madison                       | 6. Maureen Radford-Eckstein, Director of Adoption Services<br>Lutheran Social Services of Wisconsin and Upper Michigan<br>Appleton |
| 7. Susan Hubbell<br>Bethany Christian Services<br>Waukesha                 | 8. Georgia Mixdorf<br>Bethany Christian Services<br>Waukesha   |
| 9. Beth Peters<br>Special Children<br>Elm Grove                            | 10. Sue Steinfeldt, Adoption Supervisor<br>Lutheran Social Services<br>Appleton  |
| 11. Kim Westfahl, Adoption Manager<br>Lutheran Social Services<br>Waukesha | 12. Jennifer Schmeichel, Adoption Supervisor<br>Bethany Christian Services<br>Waukesha   |
| 13. Donna Strayer, Director<br>Adoption Services, Inc.<br>Mequon           | 14. Melinda Randa, Director<br>Adoption Choice, Inc.<br>Milwaukee  |
| 15. Trish Grant<br>Catholic Charities<br>Madison                           | 16. Rachel Sheets<br>Catholic Charities<br>Madison   |
| 17. Sandy Destrampe<br>Children's Hope Network                             | 18. David Lundberg<br>Evangelical Child and Family Agency  |
| 19. Melissa Bowe<br>Catholic Charities of the Diocese of<br>LaCrosse       | 20. Laurie Resch<br>Community Adoption Center  |

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| 21. Colleen Schmit<br>Adoptions of Wisconsin, Inc.<br>Madison                      | 22. Coleen Gregor<br>HOPE Adoption & Family Services International, Inc.                     |
| 23. Anne Johnson<br>Children and Families First                                    | 24. Galen Tanner<br>LDS Family Services  |
| 25. Cathy Rhutasel, Foster Care Coordinator<br>Portage County HHS<br>Stevens Point | 26. Maxeen Olson, foster parent<br>Amherst   |
| 27. Peter Schuler, Director<br>Waukesha County HHS<br>Waukesha                     | 28. Jesús Mireles, Human Services Manager<br>Waukesha County HHS<br>Waukesha                 |
| 29. Ray Przybelski, Director<br>Portage County HHS<br>Stevens Point                | 30. George Skenandore<br>Director of Children and Family Services<br>Oneida Tribe of Indians |
| 31. Lois Buchholz<br>DCF BMCW<br>Milwaukee   |  |

**The following observed for information only:**

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| 32. Susan Conwell, Executive Director<br>Kids Matter, Inc.<br>Milwaukee         | 33. Pennie Felton, Administrator<br>Children's Services Society of Wisconsin<br>Milwaukee |
| 34. Teresa Kovach<br>Portage County HHS<br>Stevens Point                        | 35. Laura Drath<br>Portage County HHS<br>Stevens Point                                    |
| 36. Kenneth Prust, Executive Director<br>Lutheran Social Services<br>Beaver Dam | 37. Maureen Robbins, Manager<br>CSSW/Sauk County Human Services<br>Madison                |
| 38. Laura Nedeau-Owen<br>CSSW/Sauk County Human Services<br>Baraboo             | 39. Claire Schulz Bergman<br>Adoptions of Wisconsin<br>Madison                            |
| 40. Amy Steuer<br>Catholic Charities<br>Madison                                 | 41. Todd Witt<br>Walker's Point Youth and Family Center<br>Milwaukee                      |
| 42. Bruce Ratzmann<br>DCF BMCW<br>Milwaukee                                     | 43. Emily Risser<br>Lutheran Social Services<br>Milwaukee                                 |

44. Marcy Penfield  
Washington County Human Services  
West Bend
45. Annie Davidson  
Perez-Pena Limited  
Milwaukee
46. Mary Kennedy  
DCF BMCW  
Milwaukee
47. Terri Powless  
DCF BMCW  
Milwaukee
48. Kami Needham  
Bethany Christian Services  
Waukesha
49. Theodore Mech  
Maximus  
Milwaukee
50. Linda Ullrich  
Maximus  
Milwaukee
51. Deidra Cole  
Lutheran Counseling & Family Services  
Milwaukee
52. Nicole Tarcsay  
American Foundation of Treatment Foster  
Care  
Green Bay
53. Melia Everhart  
American Foundation of Treatment Foster Care  
Green Bay
54. Jenny Wagner  
Adoptions of Wisconsin  
Madison
55. Melissa Dombrowski-Boling  
Teipner Treatment Homes  
Waukesha
56. Jeffery Hull  
Milwaukee
57. Laurie Malcheski  
Milwaukee
58. Linda Hertel  
Auburndale
59. Dawn Heim  
Stevens Point
60. Linda Dobbe  
Roshalt
61. Dilly and Peter Britz  
Rudolph

## **Waiver of Non-Safety Requirements for Relatives, DCF 56.02 (2) (c)**

### **Comment by Oneida Tribe (30)**

The Department should consider a child's status as an Indian child and the cultural component of raising an Indian child when determining whether to grant a waiver of a non-safety standard for a relative foster home.

*Department response:* DCF 56.02 (2) (c) lists the licensing requirements that are considered non-safety requirements and specifies which requirements can be waived by the licensing agency and which can only be waived by the Department. The rule allows most waiver decisions to be made by the licensing agency. Tribes that operate a foster care program will generally be determining whether to grant a waiver for a relative of an Indian child. All licensing agencies and the Department are required to comply with placement preferences in the Wisconsin Indian Child Welfare Act.

## **Health Exam for Household Members of Relatives, DCF 56.04 (4) (a) 4.**

### **Comments by Children's Rights and WCCF (1 and 2)**

- a. Federal law does not allow the waiver of a safety-related licensing requirement such as a health exam for household members of relatives.
- b. The Child Welfare League of America states that agencies should "be flexible regarding requirements related to the age and health of the kinship caregiver, taking into account the age and special needs of the child." This standard implies a thorough assessment of the health of a kinship caregiver, which is not easily corroborated without a medical evaluation. The state should explore options for providing or reimbursing for these medical evaluations.
- c. The rule should require an affirmative statement by a medical provider as to the absence of any known physical or mental conditions that would affect a foster child's care or health and safety.

*Department response:* When applying for a license to operate a foster home, an applicant for a foster home license must provide a written statement from a physician, physician assistant, or nurse practitioner that indicates any physical or mental conditions of the applicant or any household members that would *affect* the ability of the family to provide care for a foster child or threaten the health or safety of a foster child. The statement must be based upon a medical examination performed within the previous 6 months.

An *exception* is allowed for a member of the household of an applicant who is a relative of a foster child who is not covered by health insurance or if a medical examination would be a significant financial burden to the household member. If the licensing agency grants this exception, the household member must submit a personally signed statement that indicates any physical or mental conditions he or she has that would affect the ability of the family to provide care for a foster child or threaten the health of a foster child.

The licensee qualification section of the rule provides that an applicant and licensee and all members of the household shall be free of physical or mental conditions that would *interfere* with the ability of the family to provide care for a foster child or threaten the health or safety of a foster child.

In response to comment a., the provision that allows a household member to submit a personally signed statement is an exception not a waiver. An exception requires an alternative that meets the intent of the requirement; a waiver does not. A licensing agency may only grant an exception if it determines that the exception will not jeopardize the health, safety, or welfare of the foster children.

In response to comment b., the quotation from the Child Welfare League applies to kinship caregivers, not other household members. All caregivers of a foster child must be licensed as foster parents. Relative caregivers and their dependents are eligible for BadgerCare Plus and will be required to obtain a health exam.

The exception allowing a personally signed statement only applies to other household members who have no insurance or for whom a exam would be significant financial burden. In balancing the financial burden to household members against the benefit of a health exam, the Department believes that a personally signed statement is generally an adequate alternative when combined with the ability of a licensing agency to require a health exam if they have concerns. Section DCF 56.05 (1) (e) 3. provides that “if, at any time, the licensing agency suspects or has reason to believe that the physical or mental health of an applicant, licensee or other household member may pose a threat to the health, safety or welfare of children in care, the licensing agency may require an alcohol or other drug abuse assessment or a physical health or mental health evaluation of the person as a condition for issuing or continuing the license.”

In response to comment c., the rule language requesting information on health conditions that *affect* the care of a child was carefully designed. Under the previous rule, agencies often got a general statement from medical professionals that “X is in good health,” which was not very useful. A foster parent can have a health condition as long as precautions are taken or supports are in place so the condition does not interfere with care of the child.

### **Requirements for Level 1 Certification, DCF 56.13**

#### **Comment by county foster care coordinator (25)**

The rule does not require a reference for Level 1 certification but the licensee qualifications require that the prospective foster parent be of good character. If we do not get references, we don't have much to base our decision on.

*Department response:* Counties can be more restrictive than the state licensing code. They are required to conduct background checks and extensive interviews of the prospective foster families to gather information regarding their character. Applicants for Level 1 certification are either related to the child or have a previous existing relationship with the child. The parents of the child have often provided information about these applicants and suggested

them as a placement resource for the child. Even without reference letters, the agencies gather a significant amount of information about an applicant's character.

### **Foster Parent Training, DCF 56.14**

#### Comment by Children's Rights and WCCF (1 and 2) on Pre-Placement Training

We agree with the provision waiving the pre-placement training for those foster parents who are renewing their licenses and have already received pre-placement training. However, for newly licensed foster parents who have never received pre-placement training, this training should be required and not left to the discretion of the licensing agency. We recommend amending the rule to require pre-placement training within 120 days of the child's court ordered placement in a Level 1 home or within 120 days of licensing court-ordered kinship caregivers who were not previously licensed.

*Department response:* The majority of counties are already offering the pre-placement training to their foster parents. Much of the information from the Department's curriculum is already covered in licensing agency group training, a licensing agency representative meeting individually with a foster parent, or the foster parent handbook that licensing agencies must provide to all foster parents. Over 50 counties and the BMCW require all of their licensed foster parents to attend some type of pre-placement training.

#### Comment by Children's Rights and WCCF (1 and 2) on Initial Licensing Training

We understand that it will certainly take some time for the state to implement the processes and procedures to move from no state-wide foster parent training requirements to requiring that Level 2 foster parents receive 30 hours of initial licensing training. However, the rule provides that foster parents who are licensed before January 1, 2011, do not have to complete the initial licensing training until before January 1, 2015. Four years is an unacceptably long time.

#### Comment by county foster care coordinator (25)

We have fiscal and time concerns about getting foster parents trained for the number of hours of that the rule requires. The Department is making it more challenging by limiting the number of people per session and not allowing webcasts.

#### Comment by foster parent (26)

30 hours is a lot for a husband to get off work to attend training.

#### Comment by Oneida Tribe (30)

Levels of care appears to call for increased licensing standards for foster parents without a commensurate increase in payments to foster parents. The Tribe feels that some relatives will be discouraged by the new extensive training, especially as it relates to Level 2 certification.

*Department response:* The plan for implementation of a statewide mandatory training requirement was developed by the Foster Parent Training Advisory Committee. This committee

is comprised of foster parents and representatives from county agencies, tribal agencies, private child-placing agencies, vocational-technical education, and the university system.

The implementation plan is a compromise based on competing concerns. The committee knew there would be resistance from some foster parents, particularly to the requirement that all foster parents on the license attend the training. There are also logistical issues. The state training partnerships are newly administering this training due to the mandate. The Department is estimating that over 2,000 current foster parents will need to be trained in addition to foster homes licensed in the future. Many foster families are already balancing busy work and family responsibilities, and parents generally like to attend training together. Training will need to be at different times in different locations across the five different regions of the state. Also, the majority of the families who have not completed the training are in the northern part of the state where travel and child care can be more difficult.

In addition, feedback from foster families and licensors regarding the initial licensing training is that families who have some experience fostering get more out of the training.

Agencies can be more restrictive in the time they allow families to complete the training requirements.

Comment by Children's Rights and WCCF (1 and 2) on Ongoing Training

We recommend that the final rule include a requirement for in-service training every two years.

*Department response:* The rule exceeds the commenters' request. DCF 56.13 (4) (a) 3. provides that each foster parent who operates a foster home with a Level 2 certification shall complete 10 hours of ongoing training in each 12-month period of licensure subsequent to the initial licensing period.

Comment by agencies that place children for private adoption (3 to 24)

The rule requires a foster parent who is a proposed adoptive parent for a private adoption under s. 48.837, Stats., or a foreign adoption under s. 48.839 or 48.97, Stats., to complete the foster parent training requirements in this rule. A child-placing agency may modify the curriculum.

Pre-adoptive foster parents should be completely excluded from the foster parent training requirements because training standards for pre-adoptive parents are in s. 48.84, Stats., and s. DCF 51.10. DCF 51.10 requires 2 hours of orientation and 16 hours of training in 10 competencies for first-time adoptive parents. This training is adequate and exceeds the federal requirement of 10 hours of training for an inter-country adoption.

*Department response:* The Department agrees that pre-adoptive training for foster parents in private adoptions of domestic infants is generally adequate. We are less certain that the training for pre-adoptive parents in adoptions of foreign children is adequate. There have been several disruptions of adoptions of foreign children. Many of these children have issues that are similar to children in the public child welfare system.

The Department agrees to change the proposed rule so that foster parents who are licensed solely for the purpose of adoption of a domestic infant or a foreign child will not be required to complete the foster parent training requirements and will be subject only to the pre-adoption training requirements in s. DCF 51.10.

Further discussion is needed on a possible amendment to s. DCF 51.10 to improve the preparation of pre-adoptive parents in foreign adoptions.

Comment by Catholic Charities (5)

We license foster homes that temporarily care for infants awaiting placement with their pre-adoptive family. These homes are used for the period between the baby's discharge from the hospital and the termination of parental rights (TPR) hearing. Typically, this period is 30 days. Once the TPR occurs, the baby is placed with a pre-adoptive couple for the purpose of adoption. These foster parents should only be required to complete the pre-adoptive training and not the foster parent training.

*Department response:* Foster homes that care for a child prior to placement with a pre-adoptive family are providing care that meets the definition of fostering. All foster parents must comply with the foster parent training requirements. Foster care is 24-hour care provided by licensed foster parents for children who cannot live with their parents because the children are unsafe or have special care or treatment needs, or other circumstances exist that result in the parents or family being unable to care for them.

Foster parents who care for a child prior to placement with a pre-adoptive family are providing services for an agency and must understand the expectations and rights regarding the child, the birth parents, the potential pre-adoptive family, and themselves. A child-placing agency may submit a request to the DCF Exceptions Panel to modify the curriculum to focus on this type of fostering.

**Agency Contact Requirement, DCF 56.15**

Comment by Children's Rights and WCCF (1 and 2)

The rule states that a "licensing agency or placing agency shall have at least one contact per month with a foster parent who operates a foster home with a level 1 or 2 certification" who has a child placed in the foster home. The method of contact can be any of the following: a) in person; b) by phone; or (c) through an interactive electronic format.

This section of the rule should be amended to specify that contact with foster parents who have a Level 1 or Level 2 certification must occur in person, in the foster home at least annually in order to provide the licensing or placing agency with the ability to assess the safety of the foster home environment and to ensure that the foster families are complying with agency policies.

*Department response:* Federal law requires caseworkers to meet with children in out-of-home care on a monthly basis, and at least 51% of these contacts must occur in the child's out-



of-home care placement. When children are placed in a foster home, these contacts provide the caseworker an opportunity to meet with the foster parents. During these visits, caseworkers assess the safety of the environment and ensure compliance with licensing requirements to the best of their knowledge. Caseworkers contact the licensing agency with any licensing concerns they may have. In addition, children placed in treatment foster care are seen by a caseworker on a bimonthly basis.

### **County Funding**

#### Comment by Waukesha County and Portage County Human Services Directors (27 to 29)

We are not opposed to licensing or training, but these changes are an additional workload for counties without financial support. The additional Title IV-E funds should be passed through to the counties.

*Department response:* The requirements to license court-ordered kinship care relatives and to implement statewide mandatory foster parent training are in statute. Without the changes to the foster care and kinship care programs, there would have been additional cuts to Title IV-E revenue, which is a main source of state funding to counties for child welfare services.

The Department is committed to supporting counties and has provided a significant amount of technical assistance, including listening sessions with agency staff and relative caregivers, training on legal changes, webcasts on commonly asked questions, and regional support for licensing of relative caregivers. The Department will continue to provide support as necessary and able.