



**State of Wisconsin
Department of Children and Families**

NOTICE OF PUBLIC HEARING

DCF 201

**Incentive Program for Local Agencies That Identify Child Care
Subsidy Fraud Committed by Child Care Providers**

NOTICE IS HEREBY GIVEN that pursuant to s. 49.197 (2), Stats., the Department of Children and Families proposes to hold a public hearing to consider proposed permanent rules relating to the incentive program for local agencies that identify child care subsidy fraud committed by child care providers.

Hearing Information

**May 7, 2014
Wednesday
2:00 p.m.**

**MADISON
GEF 1 Building, Room H206
201 E. Washington Avenue**

Interested persons are invited to appear at the hearing and will be afforded the opportunity to make an oral presentation of their positions. Persons making oral presentations are requested to submit their facts, views, and suggested rewording in writing.

If you have special needs or circumstances regarding communication or accessibility at a hearing, please call (608) 267-9403 at least 10 days prior to the hearing date. Accommodations such as ASL interpreters, English translators, or materials in audio format will be made available on request to the fullest extent possible.

Analysis Prepared by the Department of Children and Families

Statutory authority: Section 49.197 (2) (b), Stats., as repealed and recreated by 2011 Wisconsin Act 32.

Statutes interpreted: Section 49.197 (2), Stats., as repealed and recreated by 2011 Wisconsin Act 32.

Related statute or rule: Section 49.155 (7m), Stats.

Explanation of Agency Authority

Section 49.197 (2), Stats., as repealed and recreated by 2011 Wisconsin Act 32, provides that the department shall by rule establish an incentive program that, using moneys from the allocation under s. 49.175 (1) (p), Stats., rewards county departments, Wisconsin Works (W-2) agencies, and tribal governing bodies that administer the subsidy program for identifying fraud in the subsidy program.

The rule shall specify that a county department, W-2 agency, or tribal governing body shall receive, for identifying fraudulent activity under the subsidy program on the part of a child care provider, an amount equal to the average monthly subsidy payment per child during the prior fiscal year, multiplied by the number of children participating in the subsidy program for whom the provider provides care, multiplied by 1.5 months. A county department, W-2 agency, or tribal governing body may use payments received for any purpose for which moneys under the Temporary Assistance for Needy Families block grant program may be used under federal law.

No later than January 1, 2012, the department shall submit its plan for the incentive program to the Joint Committee on Finance for review by the committee. The department shall promulgate the rule for the incentive program in accordance with the plan as approved by the committee.

Summary of the Proposed Rule

The proposed rule for the incentive program will implement the department's plan as approved by the Joint Committee on Finance on January 23, 2012. The department's plan is available at http://legis.wisconsin.gov/lfb/jfc/passive_review/Pages/JFC-Passive-Review.aspx.

The proposed rule provides that the department shall provide an incentive payment to a local agency for identifying fraud in the child care subsidy program on the part of a child care provider if all of the following apply:

- The local agency investigates the child care provider by conducting site visits, collecting and reviewing the provider's attendance and billing records, interviewing persons of interest, or gathering supporting case information.
- The local agency's investigation finds that the child care provider intentionally submitted false, misleading, or irregular information to the department or failed to comply with the terms of the child care subsidy program and failed to provide to the satisfaction of the agency or the department an explanation for the noncompliance.
- The local agency calculates and establishes the amount of the overpayment made to the provider as a result of the provider's actions.
- The local agency's actions result in the department, in conjunction with the local agency, withholding payments to be made to the child care provider.
- The withholding of payments is upheld in the final review under s. DCF 201.07 or the provider does not request a review or appeal.
- If directed by the department, the local agency requests the district attorney to consider criminal prosecution of the child care provider.

The department shall determine the amount of an incentive payment earned by a local agency by multiplying the statewide average monthly subsidy payment per child in the preceding fiscal year by the average monthly number of children for whom payment was authorized to the provider in the 12 months before the local agency or the department refused to issue payments by 1.5 months. If payment was not authorized to the provider for all of the preceding 12 months, multiply by the average monthly number of children for whom payment was authorized to the provider for the number of months that payment was authorized will be used.

An incentive payment earned by a local agency for identifying fraud in the child care subsidy program by a single child care provider may not exceed \$25,000. A local agency may earn more than one incentive payment per year if the local agency identifies fraud in the child care subsidy program by more than one child care provider.

A local agency that has earned an incentive payment may request that the department distribute the funds for any of the following:

- The local agency's child care fraud contract with the department for the following year.
- The local agency's current child care fraud contract with the department if the request is made in the first half of the contract term.
- Any purpose that is consistent with the currently approved state plan for use of federal funds under the Temporary Assistance to Needy Families program.

The initial applicability of incentives under the proposed rule is investigations that were initiated on or after January 1, 2012.

Summary of Factual Data and Analytical Methodologies

The proposed rule provides detail necessary to implement s. 49.197 (2), Stats. No data was used.

Summary of Related Federal Requirements

None

Comparison to Rules in Adjacent States

The department is not aware of rules regarding incentive programs for local agencies that identify fraud committed by child care providers in any of the adjacent states.

Agency Contact Person

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Place Where Comments are to be Submitted and Deadline for Submission

A copy of the proposed permanent rule is available at <http://adminrules.wisconsin.gov>. This site allows you to view documents associated with this rule's promulgation, register to receive email notification whenever the Department posts new information about this rulemaking order, and submit comments and view comments by others during the public comment period. You may receive a paper copy of the rules or fiscal estimate by contacting:

Elaine Pridgen
Department of Children and Families
201 E. Washington Avenue
Madison, WI 53703
(608) 267-9403
dcfpublichearing@wisconsin.gov

Written comments on the rules received at the above address, email, or through the <http://adminrules.wisconsin.gov> website no later than May 8, 2014, will be given the same consideration as testimony presented at the hearing.

Eloise Anderson March 20, 2014
Secretary or designee