



Clearinghouse Rule 16-063

State of Wisconsin Department of Children and Families

Child Care Subsidy Eligibility Redeterminations

DCF 201

The Wisconsin Department of Children and Families proposes to repeal and recreate s. DCF 201.04 (3) (b), relating to child care subsidy eligibility redeterminations.

Analysis Prepared by the Department of Children and Families

Statutory authority: Sections 49.155 (1m) (d) and 227.11 (2) (a), Stats.

Statutes interpreted: Section 49.155, Stats.

Related statutes: NA

Explanation of Agency Authority

The department administers the child care subsidy program under s. 49.155, Stats. Section 49.155 (1m), Stats., specifies the eligibility criteria for the program, and s. 49.155 (1m) (d), Stats., allows the department to establish other eligibility criteria established by rule.

Section 49.155 (3) (e), Stats., provides that the department may require the county department or agency to review and redetermine the financial and nonfinancial eligibility of individuals receiving child care subsidies, at intervals or as otherwise required by the department.

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 if the agency considers it necessary to effectuate the purpose of the statute.

Summary of the Proposed Rule

Section DCF 201.04 (3) (b) provides that a child care administrative agency shall redetermine a parent's need for service and eligibility at least every 6 months. The proposed rule will change the minimum frequency of a redetermination of parent eligibility to no sooner than 12 months following the initial determination or most recent redetermination.

Summary of Factual Data and Analytical Methodologies

The change is required under federal law.

Summary of Related Federal Law

The Child Care Development Fund (CCDF) is the primary federal funding source for programs that assist low-income families pay for child care while parents work or participate in education and training. The CCDF is authorized by the Child Care and Development Block Grant Act and Section 418 of the Social Security Act. It was reauthorized by the Child Care and Development Block Grant Act of 2014 for the first time since 1996 and is now authorized through 2020.

A CCDF rule based on the Act was proposed on December 24, 2015, and adopted on September 30, 2016. The newly-created 45 CFR 98.21 provides that an agency shall re-determine a child's eligibility for child care assistance no sooner than 12 months following the initial determination or most recent redetermination. During the period of time between determinations or redeterminations, the child shall be considered eligible and will receive services at least at the same level, regardless of specified changes in the family's circumstances. A similar statutory provision is at 42 USC 9848c (c)(2)(N)(i).

Comparison to Adjacent States

All states are required to comply with federal Child Care Development Fund requirements.

Effect on Small Businesses

The rules do not affect small businesses under s. 227.114 (1), Stats.

Analysis Used to Determine Effect on Small Businesses

Most of the child care administrative agencies are counties or tribes. The only contracted nongovernmental agency affected is UMOS, and it is not a small business.

Agency Contacts

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Place Where Comments are to be Submitted and Deadline for Submission

Comments may be submitted to Elaine Pridgen, Office of the Secretary, Department of Children and Families, 201 E. Washington Avenue, P.O. Box 8916, Madison, WI, 53708-8916 or dcfpublichearing@wisconsin.gov. The comment deadline is November 21, 2016.

SECTION 1. DCF 201.04 (3) (b) is repealed and recreated to read:

DCF 201.04 (3) (b) No sooner than 12 months following the initial determination or most recent redetermination.

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