

# Clearinghouse Rule 94-204

## CERTIFICATE

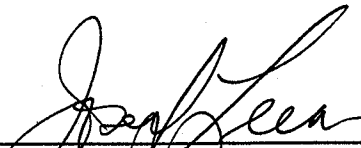
STATE OF WISCONSIN )  
 ) SS  
DEPARTMENT OF HEALTH AND FAMILY SERVICES )

I, Joseph Leean, Secretary of the Department of Health and Family Services and custodian of the official records of the Department, do hereby certify that the annexed rules relating to treatment foster care for children were duly approved and adopted by this Department on July 3, 1996.

I further certify that this copy has been compared by me with the original on file in the Department and that this copy is a true copy of the original, and of the whole of the original.

IN TESTIMONY WHEREOF, I have hereunto set my hand and affixed the official seal of the Department at the State Office Building, 1 W. Wilson Street, in the city of Madison, this 3rd day of July, 1996.

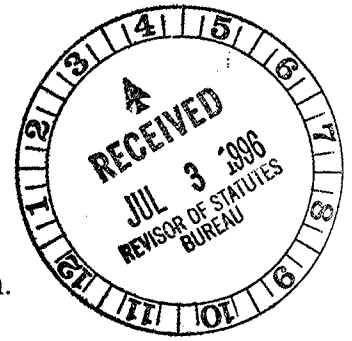
SEAL:

  
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Joseph Leean, Secretary  
Department of Health and Family Services



94-204  
9-1-96

PROPOSED ORDER OF THE  
DEPARTMENT OF HEALTH AND FAMILY SERVICES  
CREATING RULES



To create chapter HFS 38, relating to treatment foster care for children.

Analysis Prepared by the Department of Health and Family Services

This rulemaking order implements s.48.67(1), Stats., as amended by 1993 Wisconsin Act 446, which directs the Department to promulgate rules establishing minimum requirements for issuing licenses to treatment foster homes for children, including standards for operation of those homes.

Treatment foster care is a family-based and community-based approach to out-of-home care and treatment for children who are medically needy or emotionally disturbed and for some developmentally disabled children, and could be an alternative to institutionalization for some children. Treatment foster care is provided in a foster home by foster parents who meet education and training requirements which exceed the requirements for regular foster care, and by social service, mental health and other professional staff.

A number of public and private agencies have recently begun providing "treatment foster care," but until the Department published standards by emergency rule order on September 1, 1994, there were no standards for this type of care, and consequently those programs varied considerably in the type and quality of services they provided. These are replacement permanent rules for the emergency rules. They establish minimum standards that agencies, professional staff and foster parents have to meet in order to claim that they are providing treatment foster care.

The rules require treatment foster homes to comply with ch. HSS 56 for regular foster homes except when there is a conflict between a provision of these rules and ch. HSS 56, in which case these rules take precedence.

The rules cover making application to a licensing agency for a treatment foster home license, licensee qualifications, licensee responsibilities, respite care for foster parents, responsibilities of the providing agency, qualifications of providing agency social services case managers, the physical environment of a treatment foster home, care of the children and training for treatment foster parents.

The Department's authority to create these rules is found in ss.48.67(1) and 48.675(2), Stats. The rules interpret ss.48.48(9) and 48.62, Stats.

SECTION 1. Chapter HFS 38 is created to read:

## CHAPTER HFS 38

### TREATMENT FOSTER CARE FOR CHILDREN

HFS 38.01	Authority and purpose
HFS 38.02	Applicability
HFS 38.03	Definitions
HFS 38.04	Applying for a license
HFS 38.05	Licensee qualifications
HFS 38.06	Licensee responsibilities
HFS 38.07	Respite and emergency care for treatment foster parents
HFS 38.08	Respite care provider qualifications and responsibilities
HFS 38.09	Providing agency social services case manager qualifications
HFS 38.10	Agency and treatment team responsibilities
HFS 38.11	Physical environment
HFS 38.12	Care of treatment foster children
HFS 38.13	Appeal
HFS 38.14	Treatment foster care training
HFS 38.15	Evaluation

**HFS 38.01 AUTHORITY AND PURPOSE.** (1) This chapter is promulgated under the authority of s.48.67(1), Stats., to establish licensing requirements for treatment foster homes for children to protect the health, safety and welfare of children placed in those homes. The chapter establishes the definition of treatment foster care, the qualifications and responsibilities of treatment foster parents, social services case managers and other program professionals, and the essential components of care to be provided to each child in treatment foster care.

(2) A license to operate a treatment foster home does not entitle the holder to placements of children who need treatment foster care.

(3) Any home licensed under this chapter shall also meet the requirements of ch. HSS 56. In case of a conflict between a requirement of this chapter and a requirement of ch. HSS 56, the requirement of this chapter shall prevail.

**HFS 38.02 APPLICABILITY.** (1) **TO WHOM THE RULES APPLY.** This chapter applies to all persons proposing to provide or who are providing treatment foster care to children, to all agencies that license treatment foster homes for children and to all agencies providing services to children receiving treatment foster care.

(2) **EXCEPTION TO RULES.** (a) A licensing agency may grant an exception to any requirement in this chapter if the licensing agency determines that the exception will not

jeopardize the health, safety or welfare of the children in care, except that a licensing agency may not grant an exception to any requirement in s. HFS 38.10 or 38.12 or the exclusion of a shift-staffed facility from the definition of "treatment foster home" in s.HFS 38.03(28) or any requirement that is statutory.

(b) An applicant or licensee wanting to ask the licensing agency to grant an exception to a requirement in this chapter shall submit the request in writing to the licensing agency, stating the specific provision of this chapter for which an exception is requested, the justification for the requested exception and an explanation of any alternative provisions planned to meet the intent of the requirement.

(c) Any exception granted under par. (a) shall be specifically cited on the license and shall be in effect no longer than 2 years from the date on which the exception is granted by which time the licensing agency shall determine if there is a continued justification for the exception. In addition, the licensing agency may impose conditions to be met within a specified period of time by the licensee as an alternative to compliance with any requirement for which an exception has been granted.

(d) An applicant or licensee wanting an exception to a requirement in s.HFS 38.10 or HFS 38.12, or an exception to the exclusion of a shift-staffed facility from the definition of "treatment foster home" in s.HFS 38.03(28) shall submit a request to a department exceptions panel on a form provided by the department.

Note: For a copy of the form to request an exception under par. (d), write: Foster Home Exceptions Panel, DHFS/DCFS/BPP, P.O. Box 8916, Madison, WI 53708-8916.

HFS 38.03 DEFINITIONS. In this chapter:

(1) "Aftercare plan" means a plan for transition services, identified in the child's permanency and treatment plans, which will be provided after the child's discharge from a treatment foster home and which are designed to ensure continuity in the management of the child's treatment needs.

(2) "Aftercare services" means follow-up support services, arranged prior to discharge from the treatment foster care program, for the child and the child's parents or other care providers which may include but are not limited to phone contact, in-home consultation, participation in parent groups, and crisis intervention. For youth who will live independently, "aftercare services" may include but are not limited to housing, job location, and individual support.

(3) "Applicant" means the person or persons who apply for a license to operate a treatment foster home, for renewal of a license to operate a treatment foster home or for modification of a license to operate a treatment foster home.

(4) "Assessment" means the systematic gathering and analysis of information describing the characteristics and needs of the child and the inter-relationships of the child with his or her family and other significant individuals and resources in schools and the community.

(5) "Biopsychosocial assessment" means, for a child with a serious emotional disturbance, the assessment of the child's disability, measurement of the behavioral and cognitive correlates of the disability, assessment of how psychosocial and environmental factors influence how the child copes with the disability, a review of biological factors that affect the disability and an identification of possible treatments for the disability.

(6) "Case management" means the functions of the case manager which include:

(a) Supervision of a child's treatment and permanency plans.

(b) Coordination of provided or purchased services for the child and his or her family.

(c) Liaison activities with other agencies and the court.

(d) Development and coordination of the treatment team.

(e) Effective decision-making regarding all aspects of the case.

(f) Development, with the treatment team, of interventions and services when appropriate interventions and services are not available through existing resources.

(g) Provision of ongoing education to foster parents, schools and communities on the needs of children in treatment foster care.

(h) Consultation on a 24-hour per day basis.

(i) Involving previous and current providers of care and treatment in developing and implementing the treatment and permanency plans for purposes of service continuity.

(7) "Child" means a person under 18 years of age or a person who is over the age of 18 but who remains under the jurisdiction of the juvenile court.

(8) "Clinical consultant" means an individual with at least a master's degree in social work, psychology or child development with a minimum of 2 years of experience working with seriously disturbed adolescents and who is knowledgeable about the neurological, biological and psychiatric components of emotional disturbances.

(9) "County agency" means a county department of social services under s. 46.215 or 46.22, Stats., or a county department of human services under s. 46.23, Stats.

(10) "Department" means the Wisconsin department of health and social services.

(11) "Emergency care" means care provided for a foster child on the basis of 24-hour availability, including crisis intervention and emergency placements.

(12) "Etiology" means the cause of a disease or disorder as determined by an assessment or medical diagnosis.

(13) "Evaluation" means the process by which achievement or lack of achievement of established measurable and behavioral goals and objectives is determined.

(14) "Family" means the group comprising the permanent living situation of the child prior to placement in treatment foster care or other substitute care program and includes birth parents and adoptive parents and any relatives associated with these parents.

(15) "Foster child" means a child placed for care and maintenance in a treatment foster home by the department, a county agency, a child welfare agency or a court.

(16) "In-home consultation" means a visit to the parental or treatment foster home by a designated professional for the purpose of assisting parents or treatment foster parents in implementing the child's treatment or permanency plans, to directly observe the treatment process, to assess training needs of treatment foster parents, to provide skill training for specific problems and to provide support for treatment foster parents.

(17) "Licensee" means a person or persons licensed under s. 48.62, Stats., ch. HSS 56 and this chapter to operate a treatment foster home.

(18) "Licensing agency" means the department, a county or a child welfare agency which issues a treatment foster home license.

(19) "Normalization" means making available to children in treatment foster care conditions of everyday life which are as close as possible to the conditions of life in mainstream society.

(20) "Permanency plan" means the plan required under s.48.38, Stats., for reuniting a foster child with the child's family or arranging for another permanent placement.

(21) "Private child-placing agency" means an agency licensed by the department under s. 48.60, Stats., to license treatment foster homes and to place children in treatment foster homes.

(22) "Providing agency" means the agency responsible for providing day-to-day services for a child in treatment foster care which may be a county agency, a private child-placing agency or other human services agency.

(23) "Purchasing agency" means the agency which is purchasing treatment foster care services from a providing agency and which is usually a county agency but may be a private child-placing agency.

(24) "Respite care" means the treatment foster care services provided to a foster child during a planned absence of the treatment foster parents.

(25) "Severe emotional disturbance" means an emotional disability which has persisted for at least 6 months and is expected to persist for a year or longer. A severely emotionally disturbed child may experience psychotic symptoms, be a suicide risk, or cause personal injury or significant property damage or will have functional impairment in at least 2 areas, including self-care, community participation, social relationships, family relationships and school. A severely emotionally disturbed child will be receiving services from 2 or more social services agencies. The emotional disturbance must meet one of the AXIS I diagnostic classifications of the Diagnostic and Statistical Manual of Mental Disorders (DSM-IV) published by the American Psychiatric Association.

(26) "Treatment" means the combination of therapies, services and care designed to assist a child in achieving established measurable and behavioral goals and objectives based upon the information gathered through the assessment process.

(27) "Treatment foster care" means a foster family-based and community-based approach to treatment for a child with physical, mental, medical, alcohol or other drug abuse, cognitive, intellectual, behavioral, developmental or similar problems, which is designed to change the behavior or ameliorate the condition which, in whole or in part, resulted in the child's separation from his or her family. The approach utilizes specially selected and specifically trained treatment foster parents who, as members of a treatment team, have shared responsibility for implementing the child's treatment plan as the primary change agents in the treatment process.

(28) "Treatment foster home" means a family-oriented facility operated by a person or persons required to be licensed under s. 48.62, Stats., ch. HSS 56 and this chapter, in which treatment, care and maintenance are provided for no more than 4 foster children. "Treatment foster home" does not include a shift-staffed facility, except as permitted under s. HSS 56.01(4)(b).

(29) "Treatment plan" means the comprehensive services plan developed by the treatment team which details the treatment and services to be provided to the child and his or her family, and includes the identity of the person or persons responsible for providing these

services, the behavioral and measurable goals and objectives of the placement and the anticipated termination date or other appropriate disposition.

(30) "Treatment team" means the group appointed by the purchasing and providing agencies to:

(a) Assess a child and his or her family.

(b) Define the treatment.

(c) Develop and implement the treatment plan.

(d) Evaluate the child's and his or her family's progress toward achieving established measurable and behavioral goals and objectives.

HFS 38.04 APPLYING FOR A LICENSE. (1) WHO MUST APPLY. Anyone proposing to provide treatment foster care for a child shall apply to a licensing agency for a treatment foster home license. Application shall be made on a form provided by the licensing agency.

(2) LICENSE PROHIBITION. No licensing agency or any of its contracted or subcontracted agencies may issue a treatment foster home license to one of its own employees. In this section, "employee" means an individual employed by a licensing agency for purposes other than being a treatment foster parent.

(3) REAPPLICATION FOLLOWING DENIAL OR REVOCATION. No applicant or former licensee previously denied a license or whose license was revoked for substantive reasons may reapply for a license within a period of 2 years following the effective date of license denial or revocation.

(4) DOCUMENTS REQUIRED PRIOR TO LICENSING. An applicant for an initial license, a license renewal or a license modification shall meet the applicable requirements of s. HSS 56.03(4).

(5) ACTION BY THE LICENSING AGENCY. (a) Except as provided in par. (b) or (c), within 60 days after receiving a complete application for a treatment foster home license, for relicensure or for license modification, the licensing agency shall either approve the application and issue the license or deny the application. If the application for a license, relicensure or license modification is denied, the licensing agency shall give the applicant reasons in writing for the denial and shall provide information on how a hearing may be requested under s. HFS 38.13.



(b) A licensing agency may be allowed one 30-day extension of this requirement if the extension is needed to allow the agency to collect information necessary to make an informed decision, such as obtaining a report on a criminal records check or responses from references. The agency shall notify the applicant or licensee if an extension is required.

(c) If the treatment foster home application is for a pre-adoptive placement, the licensing agency shall either approve the application and issue the license or deny the application within 6 months after receipt of the completed application. If the application for a license is denied, the licensing agency shall give the applicant reasons in writing for the denial and shall provide information on how an appeal may be requested under s. HFS 38.13.

(d) The licensing agency shall conduct a criminal records check on an applicant for an initial license with appropriate law enforcement agencies and shall contact all other agencies by which the applicant was previously licensed as a foster parent or other service provider for children or to which the applicant applied for these licenses.

(e) The licensing agency shall contact the county agency in the county in which the applicant currently resides and the county agency in any other county in which the applicant was previously licensed as a foster parent or other service provider for children, to inform the county agency of the applicant's request for a treatment foster home license and to gather any information relevant to the issuance of a license.

(f) The licensing agency shall include written documentation of any information received under pars. (d) and (e) in the applicant's or foster parent's file.

(6) EFFECTIVE PERIOD OF A LICENSE. A treatment foster home license shall be effective for a period not to exceed 2 years and may be renewed upon successful completion of relicensing requirements.

(7) NOTIFICATION OF APPLICATION FOR OR ISSUANCE OF ADDITIONAL LICENSES. A treatment foster parent who applies to any licensing authority for or is issued any other license or certification to provide care to any other person, whether adult or child, shall notify the agency which issued the treatment foster home license. No treatment foster parent may hold more than one license to provide foster or treatment foster care for children.

(8) LIMITATION ON THE NUMBER OF CHILDREN TO BE SERVED. (a) A licensing agency may license a treatment foster home for fewer than 4 children.

(b) If the licensing agency wishes to allow more than 2 children to be placed in a home, that agency shall notify any providing or purchasing agency with children already placed in the home of that intent. When possible, this notification shall be in writing and shall occur prior to the placement of the third or fourth child. If that is not possible, the licensing agency shall

provide at least verbal notification in advance of the placement and that verbal notification shall be followed-up with written notification.

(9) NUMBER OF INDIVIDUALS RECEIVING CARE. The combined total of treatment foster children, minor children of the foster parent and other children and adults receiving care in the treatment foster home shall not exceed 6.

Note: Children in a treatment foster home are all regarded as needing care. Adults to be included in sub. (9) are those adults who need care in excess of the needs of a typically functioning adult.

HFS 38.05 LICENSEE QUALIFICATIONS. (1) The requirements of this section shall be met in addition to the requirements of s. HSS 56.04.

(2) A person or persons licensed to operate a treatment foster home shall possess at least 2 of the following:

(a) A minimum of one year of experience as a licensed foster parent, understood as having been a licensed foster parent who had a child placed in his or her home for at least one year.

(b) A minimum of 5 years of experience working with or parenting children.

(c) A minimum of 500 hours of experience as a respite care provider for children under the supervision of a human services agency.

(d) A high school diploma or the equivalent.

(e) A substantial relationship with the child to be placed through previous experience as a staff person or volunteer involved in the child's case or as a family member or friend of the family of the treatment foster child.

(3) A person licensed to operate a treatment foster home shall possess the following knowledge, skills and qualifications prior to the placement of a child in the treatment foster home:

(a) Knowledge of the specific behavioral, emotional or physical conditions, symptomology and treatment and care needs of and approaches to the child to be placed.

(b) Knowledge of the operation of any specialized equipment and emergency back-up systems for a child to be placed.

- (c) Recognition of escalating symptoms or side-effects of the child's condition or conditions and appropriate responses to them.
- (d) Knowledge of the medications, services and treatments for a child to be placed.
- (e) Knowledge of the care requirements and techniques required for a child to be placed.
- (f) Demonstrate a commitment to providing care for children with serious treatment needs.
- (g) Be able to devote the time necessary in order to receive the required initial and ongoing specialized training.
- (h) Possess the ability to appropriately bond with the child.
- (i) Demonstrate the capacity to deal effectively with the dependency needs of the child.
- (j) Be available at all times except when respite care or other arrangements have been made with the providing agency.

HFS 38.06 LICENSEE RESPONSIBILITIES. A treatment foster parent shall be responsible for all of the following except as otherwise decided by the treatment team:

- (1) Participating as an active team member in the development, implementation and evaluation of the treatment plan goals and objectives.
- (2) Assuming primary responsibility for implementing in-home care and treatment strategies specified in the treatment plan.
- (3) Attending training sessions, permanency plan reviews and other meetings as required by the licensing, providing or purchasing agency or the treatment team.
- (4) Developing and maintaining accurate and current written records and documentation required for licensure, payment and treatment purposes.
- (5) Assisting a foster child in having appropriate and positive contact with his or her family.
- (6) Providing a respite care provider with written and verbal information regarding the specifics of the care needs of each foster child prior to each respite episode.
- (7) Participating in:

- (a) Selecting children for placement in his or her home.
- (b) Developing individualized treatment plans.
- (c) Assessing a foster child's progress.
- (8) Providing or arranging transportation for the child as deemed necessary and appropriate by the treatment team.
- (9) Acting as an advocate for the child with the school system and assuming primary responsibility for communication with the school as deemed appropriate and necessary by the treatment team.
- (10) Cooperatively and consistently carrying out the treatment plan.
- (11) Notifying the appropriate team member of any problems or concerns relating to any aspect of providing treatment foster care.
- (12) Participating in the evaluation of his or her performance on a regularly scheduled basis.

**HFS 38.07 RESPITE AND EMERGENCY CARE FOR TREATMENT FOSTER PARENTS.** (1) A licensing agency shall arrange for a minimum of one unit of respite care per month of treatment foster care provided by treatment foster parents. One unit shall consist of no less than 8 nor more than 24 consecutive hours. Respite care shall be provided in a combination of days to be determined by the treatment foster parents and the licensing agency. The licensing agency may require that any respite care include an overnight stay.

(2) The licensing agency shall develop, in consultation with treatment foster parents, a pool of respite care providers which shall be utilized when respite care is provided. If the respite care is to be provided in the home of the treatment foster parent, the treatment foster parent may approve the use of a particular respite care provider.

(3) The licensing or providing agency, in conjunction with the treatment foster parent, shall arrange for care of a foster child in the event that the treatment foster parent is unavailable to provide care on a temporary basis. Any individual who will provide respite or back-up care shall meet the qualifications established under s. HFS 38.08(1).

(4) Prior to the first placement of a child in a treatment foster home, the licensing agency shall inform the treatment foster parent of the process to be used to fund respite care.

**HFS 38.08 RESPITE CARE PROVIDER QUALIFICATIONS AND RESPONSIBILITIES.** (1) **QUALIFICATIONS.** A respite care provider shall:

(a) Be at least 18 years of age and at least 5 years older than any child being cared for by the foster parent.

(b) Have direct care experience or training in working with children with conditions similar to the child for whom he or she will be caring.

(c) Be physically able to provide the care needed and in the setting required.

(d) Have a willingness to be flexible and work varied, atypical hours.

(e) Be able to independently and reliably get to and from respite care assignments.

(f) Possess the ability to accept responsibility, work independently, exercise good judgment, maintain confidentiality and manage the varied medical, behavioral and care needs of children in treatment foster care.

(g) Reside in a home which meets the physical and environmental needs of the treatment foster child for whom care is to be provided, if the respite care is to be provided in the respite care provider's residence.

(h) Authorize the licensing or providing agency to conduct a criminal records check as described in s. HSS 56.04(4m).

(2) RESPONSIBILITIES. A respite care provider shall be responsible for at least the following:

(a) Providing quality, reliable and temporary care for a child in treatment foster care that is consistent with the child's treatment plan.

(b) Gathering appropriate information about the specific care procedures and interaction strategies relative to the child's care.

(c) Performing household and emergency tasks directly related to the general health and well-being of the treatment foster child.

**HFS 38.09 PROVIDING AGENCY SOCIAL SERVICES CASE MANAGER**  
**QUALIFICATIONS.** The social services case manager for a child in treatment foster care shall meet the following qualifications:

(1) The social services case manager shall possess one of the following:

(a) A master's degree in a social work-related field.

(b) A bachelor's degree and a minimum of 2 years of post-degree experience in a social work-related field.

(2) The social services case manager shall be certified under ch. 457, Stats., and ch. SFC 3.

HFS 38.10 AGENCY AND TREATMENT TEAM RESPONSIBILITIES. (1)  
PROVIDING AGENCY. A providing agency providing care to a child in treatment foster care shall be responsible for:

(a) Ensuring, in coordination with any purchasing agency, that every child in treatment foster care is assigned a case manager.

(b) Providing the treatment foster parent with the telephone number of a social worker, social services case manager, counselor or clinical staff member who shall provide crisis intervention, emergency counseling and related services to the treatment foster parent on a 24-hour per day, 7-day per week basis.

(c) Providing necessary support for treatment foster parents in order to assist them in effectively and successfully fulfilling their responsibilities under this chapter and ch. HSS 56 and to the treatment team.

(d) Providing or arranging for additional child care personnel during stressful or critical periods, such as the time from the end of the school day until bed time, as determined by the treatment team.

(e) Pursuant to s.48.64(1r), Stats., notifying the superintendent of schools in the school district when a child who is 2 years of age or older is placed in a treatment foster home located in that school district. The notification shall include:

1. The name, address and phone number of the foster parents.
2. The name of the foster child.
3. Subject to any applicable confidentiality laws, information about the child required by the school.

(f) Evaluating the child's progress and providing services identified in the aftercare services plan and consultation following termination of the placement for a period of time to be determined by the treatment team.

(g) Assisting and supporting the treatment foster parents in obtaining any medical supplies and services required for the child, whether or not those supplies and services were specifically identified by the treatment team and included in the treatment plan.

(h) Advocating for the child with the staff of the child's school, medical facility or any other program in which the child is involved. This advocacy shall be designed to ensure that any services provided to the child outside of the treatment plan are in accord with the treatment plan developed for the child.

(i) Developing policies and procedures to govern the respite care program.

(j) Providing training and support to respite care providers.

(k) Consulting with the treatment foster parents and the child's social worker or social services case manager to develop a respite care schedule for specific cases and providing the respite care providers.

(l) Assisting the treatment foster parents with any necessary arrangements in an emergency situation.

(m) Assisting and intervening when issues arise between the treatment foster parents and the respite care provider and the parties are not able to resolve those issues.

(n) Ensuring, in the case of a child with a severe emotional disturbance, that, in addition to any social workers, social services case manager or other professionals involved, a clinical consultant is also assigned to the case.

Note: The social worker, social services case manager or other professional involved with the case may also serve as the clinical consultant if the individual meets the requirements at s.HFS 38.03(8).

**(2) PROVIDING AGENCY SOCIAL SERVICES CASE MANAGER.** A social services case manager employed by or under contract to the providing agency shall have, at a minimum, the following responsibilities:

(a) Coordinating assessments of the child.

(b) Constructing the treatment team for the child and serving as the team coordinator.

(c) Performing any required or necessary court responsibilities, as appropriate.

(d) Securing and arranging for the assistance of appropriate specialists.

(e) Educating treatment team members on the state of the art services and procedures for children with specific needs.

(f) Advocating for the best interests and rights of the child.

(g) Assisting in the training of treatment foster parents.

(h) Coordinating educational and community services.

(i) Providing treatment foster parents with information about the child pursuant to ch. HSS 37, information to be provided to foster parents.

(j) Selecting the appropriate treatment foster home based upon the criteria described at s.HFS 38.12(2)(a).

(k)1. Personally seeing and interacting with the child no less frequently than every other week and in a variety of settings. Those settings may include the treatment foster home, school, day care, medical facilities, the parental home and recreational settings. The treatment team may determine that a modification of the required frequency and location of contacts is appropriate.

2. Contacting the foster parent no less frequently than twice monthly. At least one of these contacts shall be face-to-face in the treatment foster home. One required contact per month under subd. 1 and a contact under this subdivision may be combined.

(l) Case management for the foster child, unless assigned by the providing agency to another professional.

(3) LICENSING AGENCY. The licensing agency staff responsible for licensing treatment foster homes for children shall have, at a minimum, the following responsibilities:

(a) Recruiting a pool of treatment foster parents interested in and capable of working within the treatment foster care model.

(b) Developing homes to meet the needs of a specifically identified child in need of placement.

(c) Assessing and screening families interested in becoming treatment foster parents.

(d) Providing or arranging for required initial and ongoing training for treatment foster parents.



(e) Consulting with case managers and social workers regarding the matching of children with specific needs and available foster parents.

(f) Providing general support to the treatment foster parents.

(g) Identifying emergency and alternative treatment foster home options for the treatment team.

(h) Developing formal or informal mechanisms to encourage and facilitate peer support among treatment foster parents, especially among foster parents caring for children with similar conditions, and informing treatment foster parents of the existence of those supports.

(i) Pursuant to s.48.62(3), Stats., notifying the superintendent of schools in the school district in which a foster home is licensed of the fact that the license has been issued. The notification shall include:

1. The name of the treatment foster parents.
2. The address and phone number of the treatment foster parents.
3. The type of children expected to be placed in the treatment foster home.
4. The name, address and phone number of a contact person from the licensing agency with whom school staff can communicate when necessary.

(4) TREATMENT TEAM. (a) Membership. 1. The treatment team shall consist of the parent or parents, guardian or legal custodian, the child, the treatment foster parents, and at least one representative each from the providing and purchasing agencies. At least one member of the team shall have clinical training in fields related to the primary needs of the child. In addition, the treatment team may include any other social workers, social services case managers, physicians, nurses, psychologists, therapists, school personnel, home health agency staff, or other individuals significant in the child's life.

2. The parent or parents or child may be excluded by the child's case manager from the treatment team only when their inclusion would be inappropriate due to age, condition or unwillingness to cooperate. Any justification for exclusion shall be documented in the child's case record and anyone so excluded shall, as appropriate, be informed of this decision and the reason for the decision.

(b) Responsibilities. The treatment team for a foster child shall be responsible for:

1. Arranging for a biopsychosocial or other appropriate assessment of the child, utilizing specialists when necessary.

2. Implementing the treatment plan which includes assuring that all available resources are known and explored and new resources are developed and engendering treatment team knowledge of and support for the plan.

3. Monitoring the progress of the treatment.

4. Establishing an appropriate level of nursing, other medical or any other type of care for the child based upon the child's needs and the abilities of the treatment foster parents.

5. Determining the need for and arranging for appropriate and qualified psychiatric and psychological services for a treatment foster child.

6. If the treatment foster child is required to be placed temporarily in a hospital or other setting away from the treatment foster home, establishing a visitation schedule which shall include visits by, at a minimum, the child's providing agency social services case manager and the treatment foster parents.

7. Ensuring that family counseling, as needed, is provided to the child's family and the treatment foster family.

8. Ensuring that 24-hour per day, 7-day per week crisis intervention is provided for the foster child and the treatment foster family.

9. Informing the treatment foster family of the existence and availability of any support networks or programs.

10. Providing opportunities for the open exchange of ideas and opinions regarding any and all aspects of the treatment foster care case.

11. Reviewing events in the treatment foster home about which the treatment foster parent or agency staff person wants consultation.

12. Designing and implementing new treatment strategies as needed.

13. Arranging for interaction between the child and the child's family as called for by the permanency plan or the treatment plan.

14. Resolving any disagreements between the treatment foster parents and the providing agency, except that efforts by the treatment team to resolve those disagreements do not replace any internal grievance procedures established by the providing agency or the treatment foster parent's fair hearing rights under s.48.64(4)(a), Stats.

15. Ongoing evaluation of the continued appropriateness and effectiveness of the services and supports provided.

16. Evaluating the placement to determine success or lack of success of the placement and the reasons for it.

17. Developing the child's aftercare plan.

HFS 38.11 PHYSICAL ENVIRONMENT. (1) REQUIREMENTS. All treatment foster homes shall comply with the physical environment requirements in ss. HSS 56.05 and 56.06 and, in addition, the requirements in this section.

(2) INTERIOR LIVING AREA. (a) An applicant applying for an initial license to operate a treatment foster home who was not licensed under ch. HSS 56 on the effective date of this chapter [revisor to insert effective date] or a treatment foster parent who moves on or after that date shall provide a minimum of 200 square feet of living area for each household member, including each foster child, unless a higher minimum is deemed necessary by the licensing agency to accommodate wheelchairs or other special equipment utilized by a foster child.

(b) If the foster child uses a wheelchair or has significant mobility limitations and is too big to be easily carried, doorways and passageways to the common rooms of the home, a complete bathroom and the child's bedroom shall meet state and federal standards relating to accessibility.

(3) EXTERIOR ACCESS. If necessary for the child's access to the home, at least one entrance to the home shall be level or ramped in accordance with s. ILHR 52.04(3)(d) and in a manner which provides safe access for the child.

(4) BATH AND TOILET FACILITIES. (a) An applicant for an initial license to operate a treatment foster home who was not licensed under ch. HSS 56 on the effective date of this chapter [revisor to insert effective date] or any licensee who changes the location of the treatment foster home on or after that date shall provide at least one complete bathroom for every 8 household members, including foster children.

(b) At least one bathroom shall be constructed in conformity with s.ILHR 52.04(8) if any of the foster children are physically handicapped in a manner requiring special equipment or clear floor space.

(5) BEDROOMS. (a) Each bedroom occupied by a treatment foster child shall have a minimum floor space of 40 square feet per child, unless a higher minimum is deemed necessary by the licensing agency to accommodate wheelchairs or other special equipment utilized by a foster child.

(b) No foster child may regularly sleep in a finished basement bedroom or in a bedroom above the second floor of a single family dwelling except a foster child 7 years of age or older if all of the following are met:

1. There are 2 exits to grade from that floor level.
2. Provisions have been made for heating, cooling, ventilation and humidity control.
3. Access to and exit from these locations are appropriate given the child's ambulatory level and use of mechanical devices, such as wheelchairs and walkers.

(6) FIRE SAFETY EVACUATION PLAN. Prior to the placement of a child in the treatment foster home, the licensee shall develop a written plan for the immediate and safe evacuation of the treatment foster home in the event of a fire. The plan shall describe the following:

- (a) The means to be used for emergency exiting from all levels of the foster home.
- (b) The means by which foster children who are not ambulatory will be assisted in evacuating the home.

(7) MODIFICATIONS. A treatment foster home in which a child will be placed shall have a physical environment and accommodations which have been modified as necessary to meet the specific requirements, as identified and defined by the treatment team, of the child. These modifications may include:

- (a) Supplemental electrical service to the home.
- (b) Electrical back-up systems which will provide a reliable level of power in the event of an electrical system failure.
- (c) Adequate mechanisms for the safe and legal storage and disposal of medical supplies.
- (d) Minimum and maximum standards for heating and cooling temperatures within the home.
- (e) Structural or cosmetic changes to allow the child access into and throughout the home.
- (f) Mechanisms for ensuring that hot water temperatures do not exceed a maximum safe temperature of 110 degrees F. at bathtub, sink, shower and other bathroom fixtures.

(g) Mechanisms for measuring and achieving established air purity standards in the home.

HFS 38.12 CARE OF TREATMENT FOSTER CHILDREN. (1) CARE AND SUPPORT PHILOSOPHY. Treatment foster care shall be provided for each child by a team and in accordance with the child's individual needs as specified in the child's treatment plan under sub. (3). Methods, materials and services shall be designed to:

(a) Increase the child's independence in performing tasks and activities by teaching skills that reduce dependence on caretakers.

(b) Provide training in the environment where the skill being taught is typically used.

(c) Increase the child's opportunities to interact with diverse community populations.

(d) Teach social and community living skills.

(e) Increase the child's opportunities to use and participate in a variety of community resources and activities including:

1. Public transportation, when available and appropriate.

2. Recreational, cultural and educational resources.

3. Stores, restaurants and other retail establishments.

4. Religious services.

(f) Increase the child's opportunities to develop decision-making skills and to make informed choices.

(g) To the extent feasible, provide daily schedules, routines, environments and interactions similar to those of other children of the same chronological age.

(h) Socialize the child into family living, including accepting tasks and responsibilities.

(i) Achieve educational or vocational goals.

(j) Obtain appropriate mental and other health and educational services.

(k) Educate the child, as appropriate, regarding human sexual development.

(l) Respond appropriately to disruptive behavior.

(m) Promote cultural understanding and sensitivity in the child and the child's family.

(2) MATCHING AND PREPLACEMENT VISITS. (a) Matching the child and foster family. A child shall be physically placed in a treatment foster home only after careful consideration is made regarding how well the prospective treatment foster family will meet the child's specific needs and the concerns of the birth or adoptive parents and will accomplish the permanency planning goals.

(b) Preplacement interactions. The providing agency, in conjunction with the licensing agency, if different, shall arrange for preplacement face-to-face interactions among the child, the treatment foster family and, as appropriate, the child's family.

(3) TREATMENT PLAN. (a) Within 30 days after a child's placement in a treatment foster home, a written treatment plan based upon an assessment of the child and his or her family shall be developed and provided to the child, if 12 years of age or older, the child's parent or parents, the child's treatment foster parent and other treatment team members.

(b) The treatment plan shall establish precise goals for all aspects of the child's life including:

1. Health and emotional and behavioral stability.
2. Daily living and community integration.
3. Education.
4. Supervision and safety.
5. Communication skills.
6. Legal status, including permanency planning issues.

(c) The treatment team shall formally review the treatment plan at least every 3 months from the date of distribution. In this paragraph, "formally review" means that the providing agency social services case manager invites all treatment team members to a review meeting at which they are afforded the opportunity to share information and discuss issues. Progress notes or plan revisions shall be made in writing. Additional team meetings shall be convened at the discretion of the providing agency social services case manager, and any team member may request a team meeting.

(d) The objectives of the plan and the services that are required under the plan shall be reviewed when the plan is reviewed and plan revisions shall be based, at least in part, on the observations and interactions resulting from the social worker's or case manager's direct

contact with the child and the discussions with parents, the guardian ad litem, service providers, collateral contacts and other relevant data.

HFS 38.13 APPEAL. (1) RIGHT TO A HEARING. An applicant for a license to operate a treatment foster home who is denied a license or a licensee whose license is revoked or whose application for renewal of a license is denied may appeal the decision by asking the department for a hearing in accordance with ss.227.42 to 227.51, Stats.

Note #1: Any decision made by a circuit court regarding a placement or a foster child is not subject to review under this section.

Note #2: The appeal rights described in this section relate only to licensure issues. Foster parents have additional appeal rights as described at s.48.64(4), Stats.

(2) REQUEST FOR A HEARING. A request for a hearing shall be in writing and shall be addressed to the department's office of administrative hearings. The date of the request for a hearing shall be the date on which the request is received by that office. Any request for a hearing received more than 10 days after the date of the notice under s. HFS 38.04(5) shall be denied.

Note: A request for a hearing should be sent to the Office of Administrative Hearings, P.O. Box 7875, Madison, Wisconsin 53707.

(3) ARRANGEMENTS FOR A HEARING. In response to a request for a hearing under this section, the director of the office of administrative hearings shall appoint a hearing examiner, set a date for the hearing and notify the parties in writing at least 10 days before the hearing of the date, time and place of the hearing and of the procedures to be followed.

HFS 38.14 TREATMENT FOSTER CARE TRAINING. (1) PROVISION OF TRAINING. The licensing agency shall provide or arrange for initial and ongoing training for treatment foster parents assigned to children receiving treatment foster care. This training shall be provided at no cost to the treatment foster parents.

(2) INITIAL TRAINING. (a) Before or after licensure but prior to the placement of the first child in a treatment foster home, the treatment foster parents shall receive a minimum of 18 hours of orientation and training approved by the licensing agency. No more than 4 hours may be orientation. Orientation shall be provided by the licensing agency.

(b) Training shall be related to the general care and support needs of the children to be placed in the home and to the specific care needs of each child to be placed in the home.

(c) Training received more than one year prior to application for an initial treatment foster home license shall not be considered in applying this requirement.

(d) The licensing agency shall maintain written documentation of orientation and training received by the treatment foster parent in the licensing agency's file on that treatment foster parent.

(e) The initial training shall include the etiology and general manifestations of conditions children in the home are likely to possess and crisis response to those manifestations. The following topics shall be considered for inclusion in the initial training:

1. The principles of normalization, community integration and permanency planning.
2. Specialized and generic community resources.
3. Basic health maintenance, first aid and child safety-proofing strategies.
4. Understanding behavior and non-punitive disciplining techniques, interventions and anger management.
5. Separation and loss.
6. Building a positive relationship with a child.
7. Suicide prevention.
8. Victimization issues.
9. Normal and abnormal sexuality and sexually transmitted diseases.
10. Procedures to be followed in case of emergencies related to the foster child, the foster home or the foster parent.

(3) ONGOING TRAINING. (a) Treatment foster parents shall participate in a minimum of 24 hours of training in the second 12 month period following licensure and 18 hours of training in every subsequent 12 month period. The providing agency shall develop a written training plan with each treatment foster parent for that foster parent. The training plan shall be designed to meet the specific needs of the treatment foster parent and shall be related to the children placed in the treatment foster home.

(b) The ongoing training shall include the etiology and general manifestations of conditions children in the home are likely to possess and crisis response to those manifestations. The following topics shall be considered for inclusion in the training plan:

1. The emotional factors involved in caring for and supporting a child.



2. Team building and the individual roles of other team members and developing cooperative relationships with a wide range of collaborators.

3. Effective advocacy with educational programs and systems and the medical community.

4. Assisting children to be part of the family, community and treatment planning.

5. Permanency planning and working with the families of children placed in the home.

(c) The providing agency may require a treatment foster parent to receive up to 8 hours of additional training annually if the providing agency deems it appropriate and necessary to ensure that a child's treatment plan is implemented effectively.

(4) TRAINING METHODOLOGIES AND FORMATS. Training methodologies and formats which may be utilized to meet the requirements of subs. (2) and (3) include the following:

(a) Face-to-face consultation with other involved professionals.

(b) Video and audio tape presentations.

(c) Support groups.

(d) Adult education courses.

(e) Books and periodicals.

(f) Television and radio presentations.

(g) Mentor family consultations.

(h) Conferences, workshops and seminars.

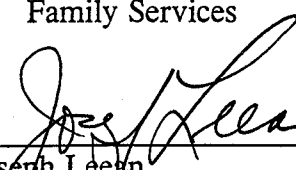
HFS 38.15 EVALUATION. Treatment foster parents and licensing, purchasing and providing agency staff, at least annually, shall have the opportunity to develop written evaluations of the treatment foster care provided to particular children which shall pertain to specific case situations and the overall performance of all individuals involved in the child's care. The evaluations shall be used in discussions designed to improve the quality of the treatment foster care program. Copies of any evaluations shall be maintained at each agency and at the treatment foster home.

The rules contained in this order shall take effect on the first day of the month following publication in the Wisconsin Administrative Register as provided in s. 227.22(2), Stats.

Wisconsin Department of Health and  
Family Services

Dated: July 3, 1996

By: \_\_\_\_\_

  
Joseph Leean  
Secretary

SEAL:



State of Wisconsin  
**Department of Health and Family Services**

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Tommy G. Thompson, Governor  
Joe Lean, Secretary

July 3, 1996

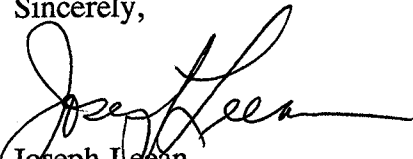
Mr. Bruce E. Munson  
Revisor of Statutes  
131 W. Wilson St., Suite 800  
Madison, WI 53703

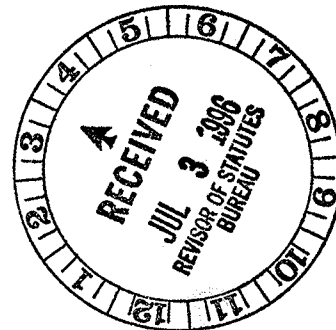
Dear Mr. Munson:

As provided in s. 227.20, Stats., there is hereby submitted a certified copy of ch. HFS 38, administrative rules relating to treatment foster care for children.

These rules are also being submitted to the Secretary of State as required by s. 227.20, Stats.

Sincerely,

  
Joseph Lean  
Secretary



Enclosure