

Statement of Scope

Department of Children and Families

Rule Number: Chapter DCF 58

Relating to: Kinship care and long-term kinship care

Rule Type: Permanent

This statement of scope was approved by the governor on August 30, 2017.

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

NA

2. Detailed description of the objective of the rules

The proposed rules will make minor policy changes, statutory updates, and technical corrections to ch. DCF 58, relating to eligibility for the kinship care and long-term kinship care program. The proposed rules may do the following:

- Incorporate provisions related to the fair hearing rights under 2015 Wisconsin Act 166. Incorporate changes under 2015 Wisconsin Act 55 that limit the extension of assistance under ss. 48.366 and 938.366, Stats., to children who have been placed with a kinship care relative or long-term kinship care relative pursuant to a court order under ch. 48 or 938, Stats.; a voluntary transition-to-independent living agreement under s. 48.366 or 938.366, Stats.; or under the placement and care responsibility of another state under 42 USC 675 (8) (B) (iv).
- Change the definition of “completed application” to provide that an application is not complete until the agency has received all information related to the background check requirements in s. 48.57 (3p), Stats.
- Update obsolete terminology throughout the chapter, including changing the Bureau of Milwaukee Child Welfare to the Division of Milwaukee Child Protective Services.
- Replace obsolete definitions with cross-references to statutory definitions for certain terms, including kinship care payment, long-term kinship care payment, and relative.
- Update transitional language related to implementation of Level 1 foster homes and the extension of assistance to a child who is over age 18, but under age 21.
- Add a requirement that a kinship care relative or long-term kinship care relative report to the agency if the child’s parent is living with the caregiver and child, the child is no longer placed in out-of-home care, the child is no longer under the placement and care responsibility of another state under 42 USC 675 (8) (B) (iv), or the child’s voluntary transition-to-independent living agreement expires or is no longer in effect.
- Add a requirement that agencies return funds collected from overpayment recovery to the department through the department’s grant payment system.
- Simplify the rule by no longer considering kinship care and long-term kinship care to be separate programs with different terminology.

3. Detailed explanation of statutory authority for the rule

Section 48.57 (3m), Stats., specifies the conditions for a kinship care relative to receive assistance for the care and maintenance of a child who meets or is at risk of meeting the criteria in s. 48.13 or 938.13, Stats., regarding a child who is in need of protection and services. Section 48.57 (3m) (i), Stats., provides that the department shall promulgate rules to implement sub. (3m). Those rules shall include all of the following:

- Rules to provide assessment criteria for determining whether a kinship care relative who is providing care and maintenance for a child is eligible to receive payments under par. (am). The rules shall also provide that any criteria established under the rules shall first apply to applications for payments under par. (am) received, and to reviews under par. (d) conducted, on the effective date of those rules.
- Rules governing the provision of kinship care payments for the care and maintenance of a child after the child attains 18 years of age.

Section 48.57 (3n), Stats., specifies the conditions for a long-term kinship care relative to receive similar assistance. Section 48.57 (3n) (i), Stats., provides that the department shall promulgate rules to implement sub. (3n). Those rules shall include rules governing the provision of long-term kinship care payments for the care and maintenance of a child after the child attains 18 years of age.

Section 48.57 (3p), Stats., specifies the requirements and procedures of the background check that is a condition of eligibility for assistance under subs. (3m) and (3n), Stats.

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

150 hours

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

County departments of social services and human services, tribal child welfare agencies, kinship care relatives, and long-term kinship care relatives.

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

NA

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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