

Statement of Scope

Department of Children and Families

Rule Number: Chapters DCF 13, 35, 52, 54, 56, and 57

Relating to: Technical changes to update DCF rules

Rule Type: Permanent

This statement of scope was approved by the governor on October 31, 2019.

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

NA

2. Detailed description of the objective of the rules

The proposed rules will make technical updates to various department rules based on changes in related state statutes and federal regulations, including the following:

DCF 13, Child Care Background Checks

The proposed rules will update the department's child care background check rule to incorporate changes to s. 48.686, Stats., as affected by 2019 Wisconsin Act 9. These changes add "noncaregiver employees" to the list of persons subject to the background check; replace the term "nonclient resident" with "household member"; and change the time period for a person to file an appeal of an ineligibility determination from 60 days to 10 days.

DCF 35, Home Visitation to Prevent Child Abuse and Neglect

The proposed rules will repeal ch. DCF 35, which provides a formula for the distribution of home visiting grants based on statutory language that has been repealed. Section 48.983, Stat., as affected by 2015 Wisconsin Act 172, no longer directs the department to promulgate a rule with a formula that determines the need for a home visiting grant based on the number of births funded by Medical Assistance and the rate of poor birth outcomes in a locality.

DCF 52, Residential Care Centers for Children and Youth

The proposed rules will amend s. DCF 52.59 (5) (a) to replace the term "physically handicapped" with "physically disabled" as directed by Executive Order 15.

DCF 52, 54, and 57, Residential Care Centers, Child-Placing Agencies, and Group Homes

The proposed rules will amend the department's rules on residential care centers, child-placing agencies, and group homes to update cross-references to federal regulations on allowable costs for federal reimbursement and rate regulation.

DCF 56, Foster Homes

The proposed rules will amend the department's foster home rule to incorporate changes to ss. 48.62 (3) and 48.64 (1r), Stats., as affected by 2017 Wisconsin Act 251, relating to notice to a school district of a foster home license or placement.

3. Detailed explanation of statutory authority for the rule

Section 48.686 (9), Stats., provides that the department may promulgate any rules necessary for the administration of child care background checks.

Section 48.67 (intro.), Stats., provides that the department shall promulgate rules establishing minimum requirements for the issuance of licenses to, and establishing standards for the operation of, child welfare agencies, child care centers, foster homes, group homes, shelter care facilities, and county departments. Those rules shall be designed to protect and promote the health, safety, and welfare of the children in the care of all licensees.

The department administers grants to a county, city, private agency, or Indian tribe for home visitation program services under s. 48.983, Stats.

Section 49.343 (4), Stats., provides that the department shall promulgate rules that include standards for determining whether a proposed rate is appropriate to the level of services to be provided, the qualifications of a provider to provide those services, and the reasonable and necessary costs of providing those services.

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

No entities will be affected because the rule is only incorporating changes in state statute and federal regulations.

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

The federal regulations affecting allowable costs and rate regulation of residential care centers, group homes, and child-placing agencies are the following:

- 2 CFR Part 200, Uniform administrative requirements, cost principles, and audit requirements for federal awards
- 45 CFR Part 75, Uniform administrative requirements, cost principles, and audit requirements for HHS awards
- 48 CFR Part 31, Contract cost principles and procedures.

Under 45 CFR 98.43, the department is required to conduct a background check of noncaregiver employees of a child care provider.

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

Contact Person:

Elaine Pridgen, DCF Rules Coordinator
elaine.pridgen@wisconsin.gov
(608) 422-7077