

## Chapter DCF 50

### FACILITATING PUBLIC ADOPTIONS AND ADOPTION ASSISTANCE

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**Note:** Sections PW–CY 40.30 to 40.35 were repealed effective January 31, 1984 and a new chapter HSS 50 was created effective February 1, 1984. Chapter HSS 50 was renumbered chapter HFS 50 under s. 13.93 (2m) (b) 1., Stats., and corrections made under s. 13.93 (2m) (b) 6. and 7., Stats., Register, May, 1999, No. 521. Chapter HFS 50 was renumbered to chapter DCF 50 under s. 13.92 (4) (b) 1., Stats., Register November 2008 No. 635. Chapter DCF 50 was repealed and a new chapter DCF 50 was created effective September 1, 2018 by CR 18–001.

**DCF 50.01 Authority and purpose.** (1) FACILITATING PUBLIC ADOPTIONS. Sections DCF 50.02 to 50.08 are promulgated under the authority of ss. 48.48 (1), (2), and (8), 48.55 (2), 48.88 (2), and 227.11 (2), Stats., to facilitate public adoptions by doing all of the following:

(a) Establishing criteria and procedures for determining if prospective adoptive parents are qualified to adopt a child who is under the guardianship of a public adoption agency in this state.

(b) Connecting children who are legally free for public adoption and children who are at legal risk with qualified prospective adoptive parents through a state adoption information exchange.

(2) ADOPTION ASSISTANCE. Sections DCF 50.02 and 50.09 to 50.17 are promulgated under the authority of s. 48.975, Stats., to specify criteria and procedures necessary to implement the adoption assistance program, under which the department makes payments to adoptive or proposed adoptive parents of an eligible child with special needs when the department determines such assistance is necessary to assure the child’s adoption.

**History:** CR 18–001: cr. Register August 2018 No. 752, eff. 9–1–18; correction in (1) (intro.) under s. 35.17, Stats., Register August 2018 No. 752.

**DCF 50.02 Definitions.** In this chapter:

(1) “Adoption” means a process provided by law to establish the legal relationship of parent and child between persons who do not have that relationship by birth, with the same mutual rights, obligations, and legal consequences that exist between the child and the child’s biological parents.

(2) “Adoption agency” means a public or private adoption agency that is licensed to accept guardianship and to place children under its guardianship for adoption, to license and maintain foster homes for the purpose of placing children for adoption, or both.

(3) “Adoption assistance” means payments by the department to the adoptive or proposed adoptive parents of a child that are designed to assist in the cost of care of that child after an agreement under s. 48.975 (4), Stats., has been signed and the child has been placed for adoption with the adoptive or proposed adoptive parents. “Adoption assistance” may include monthly payments by the department under s. 48.975 (3) (a), Stats.; medical assistance under Title XIX of the Social Security Act of 1935, as amended, as provided under s. 48.975 (3) (b), Stats.; or reimbursement of nonrecurring adoption expenses as provided under s. 48.975 (3) (c), Stats.

(4) “Adoption information exchange” means a department program created to facilitate the adoption of children who are legally free for public adoption by promoting public adoptions

and connecting children who are legally free for public adoption and children who are at legal risk with qualified prospective adoptive parents.

(5) “Bureau director” means the director of the division’s bureau of permanence and out-of-home care.

(6) “Child” means a person under 18 years of age.

**Note:** An adoptee who is 18 years of age or over, but under 21 years of age, may be eligible for adoption assistance under s. DCF 50.15 (3).

(7) “County department” means a county department of social services under s. 46.22, Stats.; a county department of human services under s. 46.23, Stats.; or, in a county having a population of 750,000 or more, the department.

(8) “Department” means the department of children and families.

(9) “Division” means the department’s division of safety and permanence.

(10) “Division of hearings and appeals” means the division of hearings and appeals in the department of administration.

(11) “Final substantiated finding” means all of the following:

(a) A final determination made after January 1, 2015, that a person has abused or neglected a child under s. 48.981 (3) (c) 5m., Stats., and s. DCF 40.04 if the final determination has not been reversed or modified on appeal.

(b) A determination made before January 1, 2015, that a person has abused or neglected a child under s. 48.981 (3) (c) 4., 2011 Stats., if the determination has not been reversed or modified on appeal.

(12) “Foster home” means a facility operated by a person licensed under s. 48.62 (1), Stats.

(13) “Home study” means an investigation to determine whether the prospective adoptive parents’ home is suitable for placement of a child for the purpose of a public adoption.

(14) “Indian child” has the meaning given in s. 48.02 (8g), Stats.

(15) “Legal risk” means the status of a child who has a permanency plan that includes adoption when the parental rights of one or both of the child’s parents have not been terminated under the laws of a state or tribe or when a court order terminating parental rights is being appealed.

(16) “Legally free for public adoption” means the status of a child when the legal rights of the child’s parents have been severed through death or a termination of parental rights under ss. 48.40 to 48.437, Stats., the laws of another state, or the laws of a tribe in this state, and the court has transferred guardianship and custody of the child to a public adoption agency pending adoptive placement.

(17) “Nurse practitioner” has the same meaning as “advanced practice nurse” under s. N 8.02 (1).

(18) “Out-of-home care” means care in a foster home, a group home under s. 48.625, Stats., or a residential care center for children and youth under s. 48.60, Stats.

(19) “Permanency plan” means a plan required under s. 48.38 (2), Stats., that is designed to ensure that a child is safely reunified with the child’s family whenever appropriate, or that the child quickly attains a safe placement or home providing long-term stability.

(20) “Photolisting” means publication of photos and descriptions of children who are or may be available for public adoption to assist prospective adoptive parents identify a child to adopt.

(21) “Physician” has the same meaning as in s. 448.01 (5), Stats.

(22) “Physician assistant” has the same meaning as in s. 448.01 (6), Stats.

(23) “Private adoption agency” means a child welfare agency with the powers and duties of an adoption agency under ss. 48.60 and 48.61 (5) and (7), Stats., or a comparable agency authorized under the laws of another state.

(24) “Proposed adoptive parents” means an individual or married couple that an adoption agency has identified as the prospective adoptive parents for a specific child.

(25) “Prospective adoptive parents” means an individual or married couple that is going through the process to become adoptive parents.

(26) “Public adoption” means the adoption of a child under the guardianship of the department, a county department, or a tribal child welfare department in this state if the adoption is under the laws of this state.

(27) “Public adoption agency” means the department, a county department, or a tribal child welfare department in this state.

(28) “Relative” has the same meaning as in s. 48.02 (15), Stats.

(29) “Supplemental payment” means the portion of a monthly adoption assistance payment that is based on a child’s identified needs.

**History:** CR 18–001: cr. Register August 2018 No. 752, eff. 9–1–18; numbering correction in (24), (25) under s. 13.92 (4) (b) 1., Stats., Register August 2018 No. 752.

**DCF 50.03 Need for adoptive parents. (1) ASSESSMENT.** The department shall periodically determine the need to recruit prospective adoptive parents considering a public adoption by reviewing all of the following:

(a) *Children who need or may need adoptive parents.* 1. The number of children for whom any of the following conditions are met:

a. The children are legally free for public adoption and do not have proposed adoptive parents.

b. The children are at legal risk and do not have proposed adoptive parents.

2. The characteristics of the children who meet the conditions under subd. 1., including the children’s ages, race, ethnicity, sibling status, and level of special needs.

(b) *Prospective adoptive parents.* 1. The number of prospective adoptive parents whose home study has been approved for a public adoption that are searching for a child to adopt.

2. The characteristics of the prospective adoptive parents and the characteristics of the children these prospective adoptive parents are willing to adopt.

(2) **INFORMATION FOR RECRUITMENT.** After each assessment under sub. (1), the department shall provide updated information to the adoption information exchange, public adoption agencies, and persons making inquiries on the types of prospective adoptive parents considering a public adoption that are most needed for children who meet the conditions under sub. (1) (a) 1.

**History:** CR 18–001: cr. Register August 2018 No. 752, eff. 9–1–18.

**DCF 50.04 Screening for public adoption. (1) INFORMATIONAL MEETINGS.** (a) The department shall offer informational

meetings for prospective adoptive parents considering a public adoption.

(b) The meetings shall include information on all of the following:

1. Adoption procedures and resources.

2. The general characteristics of children who need or may need adoptive parents under s. DCF 50.03 (1) (a).

3. The type of prospective adoptive parents that are most needed based on the most recent assessment under s. DCF 50.03.

(2) **SCREENING FORM.** (a) The department shall provide a screening form to the prospective adoptive parents at the informational meeting.

(b) Prospective adoptive parents may only obtain a screening form at an informational meeting.

(3) **SCREENING CRITERIA.** The department may limit the total number of prospective adoptive parents selected for an adoption home study and shall screen prospective adoptive parents based on the following criteria:

(a) The home study of the prospective adoptive parents is likely to be approved.

(b) The prospective adoptive parents would be a good match for the type of children who are legally free for public adoption or are at legal risk.

(c) Prospective adoptive parents willing to accept placement of a child who is at legal risk.

(d) Preference may be given to the following types of prospective adoptive parents:

1. Prospective adoptive parents with greater interest or experience in caring for children with special needs, including particular types of special needs, particular levels of special needs, or multiple types of special needs.

2. Prospective adoptive parents that will accept sibling groups for placement and encourage and support sibling contact when siblings must be separated.

(4) **ADDITIONAL INFORMATION.** The department may obtain additional information needed to make a screening decision by requesting additional written information or by conducting a screening interview.

(5) **SCREENING DETERMINATION.** (a) *Deadline for determination.* The department shall determine whether prospective adoptive parents meet the screening criteria in sub. (3) within 30 days after receiving all requested information under sub. (4).

(b) *Approval.* The department shall send an application for a home study to prospective adoptive parents that meet the screening criteria in sub. (3).

(c) *Denial.* The department shall send a written notice of denial to prospective adoptive parents that do not meet the screening criteria under sub. (3). The notice shall specify the reasons for the denial and include information on appeal rights under s. DCF 50.06.

**History:** CR 18–001: cr. Register August 2018 No. 752, eff. 9–1–18; correction in numbering in (3) made under s. 13.92 (4) (b) 1., Stats., Register August 2018 No. 752.

**DCF 50.05 Home study for public adoption. (1) DEFINITION.** In this section “applicant” means prospective adoptive parents who apply for a home study under this section and are any of the following:

(a) An adult married couple who live together, have been married for at least one year on the date of application, and are applying for a home study jointly.

(b) An unmarried adult individual.

(2) **ELIGIBLE TO APPLY.** Prospective adoptive parents may apply for a home study if any of the following conditions are met:

(a) *Approved.* The prospective adoptive parents completed the screening process in s. DCF 50.04, and the department determined that the prospective adoptive parents meet the screening criteria.

(b) *Exempt.* The prospective adoptive parents are not required to complete the screening process in s. DCF 50.04 because the prospective adoptive parents are any of the following:

1. Adult relatives of a child who is legally free for public adoption or a child who is at legal risk if the department determines that the child needs an adoptive placement.

2. Prospective adoptive parents that are seeking to adopt a child who is already placed in the prospective adoptive parents' home.

3. Upon the request of a tribal child welfare department and at the discretion of the department, prospective adoptive parents that are seeking to adopt an Indian child.

(c) *Expedited.* The bureau director or a designee waived the screening process in s. DCF 50.04 and authorized the prospective adoptive parents to apply for a home study based on documentation that the prospective adoptive parents are expected to be the most suitable placement resource for a child who is legally free for public adoption or a child who is at legal risk.

**(3) APPLICATION DEADLINE.** The public adoption agency may deny an application for a home study that is submitted more than 60 days after the prospective adoptive parents received the application.

**(4) INCOMPLETE APPLICATION.** The public adoption agency shall return an incomplete application to the applicant with a request for further information to complete the application. The public adoption agency may deny the application if the application is not complete within 60 days after the date on the notice from the public adoption agency requesting more information.

**(5) POTENTIAL CONFLICT OF INTEREST.** A public adoption agency may not conduct a home study on an employee or a relative of an employee of the public adoption agency if the employee works in the area of the public adoption agency that issues foster home licenses or approves home studies.

**(6) ELEMENTS OF A HOME STUDY.** A home study of an applicant for a public adoption shall include all of the following:

(a) The use of all components of a standardized assessment tool prescribed by the department to assist in determining approval of a placement for adoption and issuance of a license to operate a foster home. Completion shall include dates and signatures where specified by the tool. If the applicant is licensed as a foster parent using the standardized assessment tool, use of the tool as necessary to update and supplement the assessment for the purpose of adoption and for the particular child if the approval is child specific.

**Note:** The standardized assessment tool prescribed by the department is the *Structured Analysis Family Evaluation (SAFE)* tool. Contact the department's Division of Safety and Permanence for further information at P.O. Box 8916, Madison, WI 53708-8916.

(b) An assessment of current and potential parenting skills.

(c) An assessment of ability to provide adequate financial support for a child.

(d) An assessment of level of knowledge and awareness of adoption issues, including, if appropriate, matters relating to inter-racial, cross-cultural, and special needs adoptions.

(e) The evaluation of 3 written or verbal references.

(f) Verification of birth records for all individuals in the applicant's household and verification of marriage, divorce, and naturalization records for the applicant, if applicable.

(g) Verification of compliance with background check requirements in s. 48.685, Stats., and s. DCF 56.055.

(h) The evaluation of a written statement from a physician, physician assistant, or nurse practitioner that indicates any physical or mental conditions of the applicant or any household member that may affect the ability of the applicant to provide care for a child or threaten the health or safety of a child. The statement shall be based upon a medical examination performed within the

6 months prior to the submission of the application. The public adoption agency may require any of the following:

1. An additional physical, mental health, or alcohol or drug abuse evaluation of the applicant or any other household member.

2. Authorization for the release of records relating to any physical, mental health, or alcohol or drug abuse evaluation or treatment regarding the applicant or any other household member.

**(7) QUALIFICATIONS FOR A HOME STUDY APPROVAL.** In determining whether an applicant's home is suitable for placement of a child for the purpose of a public adoption, the public adoption agency shall consider s. 48.88, Stats., and all of the following:

(a) The applicant shall be motivated and able to meet the child's needs, emotionally mature with healthy interpersonal relationships, in good physical and mental health, and able to adequately support and parent the child in a healthy and emotionally secure environment.

(b) The applicant shall have the capacity to accept and incorporate into the applicant's family a child born to other parents and to assist the child in understanding the child's genetic background and adoption.

(c) The applicant shall meet the requirements for a license to operate a foster home with a certification of Level 2 or above under ch. DCF 56.

(d) The number of individuals receiving care in the applicant's home may not exceed 8 persons.

(e) The applicant shall demonstrate commitment and efforts to support any biological or adopted children, including any children who are in out-of-home care or in a state treatment facility under s. 51.01 (15), Stats.

(f) The applicant may not have had parental rights to a child terminated under the laws of a state or tribe.

(g) The applicant shall be a resident of this state.

**(8) EXCEPTIONS.** (a) A public adoption agency may approve a home study for a public adoption for an applicant that does not meet a qualification in sub. (7) that is a nonstatutory requirement. If the public adoption agency approves such a home study, the agency shall include in the home study an explanation of how the exception to the qualification will not jeopardize the health, safety, or welfare of the child or other children in the home. If the home study is for a specific child's adoption, the home study shall also include an explanation of why approving the home study is in the child's best interest.

(b) For a department home study, an applicant may request an exception to a nonstatutory requirement in sub. (7) that the applicant does not meet. The request shall be submitted to the department on a form prescribed by the department. The bureau director or a designee may grant an exception to a requirement in sub. (7) if the exception will not jeopardize the health, safety, or welfare of the child or other children in the home and, for a child-specific home study, if approving the home study is in the child's best interest.

**Note:** DCF-F-5227, *Exceptions Form for Home Study Qualifications*, is available in forms section of the department's website, <http://dcf.wisconsin.gov>, or by writing the Division of Safety and Permanence, at P.O. Box 8916, Madison, WI 53708-8916.

**(9) DECISION.** (a) *Deadline.* The public adoption agency shall issue a written decision on a home study for a public adoption within 6 months after receiving a completed application.

(b) *Deferral.* Notwithstanding par. (a), the public adoption agency may defer a decision if the applicant fails to meet the qualifications in sub. (7) for a reason that is expected to be temporary. The public adoption agency shall issue a written notice that states the reason for the deferral and the date by which the qualifications must be met. A deferral of a decision shall toll the deadline in par. (a).

(c) *Approval.* The public adoption agency shall approve the applicant's home study and determine that the applicant's home is suitable for placement of a child for the purpose of adoption if

the applicant meets all of the qualifications in sub. (7) or received an exception under sub. (8) to any qualification not met.

(d) *Denial*. 1. The public adoption agency shall deny the applicant's home study and determine that the applicant's home is not suitable for placement of a child for the purpose of adoption if the applicant does not meet the qualifications in sub. (7), unless an exception under sub. (8) is granted for any qualification not met.

2. The public adoption agency may deny the applicant's home study if any of the following applies:

a. The applicant provided false information to the public adoption agency.

b. The public adoption agency has reason to believe that the applicant intends to use the home study decision to meet the requirements for an adoption that would not be a public adoption.

3. A notice of denial shall include the reason for the denial. A notice of denial by the department shall include a summary of appeal rights under s. DCF 50.06.

(10) **POST-APPROVAL NOTIFICATION REQUIREMENTS.** (a) Prospective adoptive parents whose home study has been approved for public adoption shall notify the public adoption agency immediately if any of the following changes occur:

1. Change of household members, including death, a foster care placement, an adoptive placement, or a change in residence for a member of the household.

2. Change in residence.

3. Change in marital status.

4. Significant changes in health, income, or child care arrangements.

5. Any of the changes specified in the background check notification requirements in s. DCF 56.05 (1) (g) for any household member.

6. If the prospective adoptive parents have a foster child placed in the home, any of the serious incidents specified in the notification requirements in s. DCF 56.06.

(b) The public adoption agency shall consider any updated information and may revise the home study findings. Prospective adoptive parents shall be notified of any change in the findings and the reasons for the change.

(11) **UPDATING.** Every 6 months, the public adoption agency shall contact prospective adoptive parents who are waiting for placement of a child for the purpose of adoption to request updated information and revise the home study as appropriate.

**History:** CR 18-001: cr. Register August 2018 No. 752, eff. 9-1-18; correction in numbering in (2) (b) made under s. 13.92 (4) (b) 1., Stats., and correction in (7) (a), (9) (d) 2. made under s. 35.17, Stats., Register August 2018 No. 752.

**DCF 50.06 Appeal of screening and home study denials.** (1) An individual who received a screening denial under s. DCF 50.04 (5) (c) or a home study denial under s. DCF 50.05 (9) (d) may send a written request for review by the bureau director or a designee within 30 days after the date of the notice of denial. No new information may be submitted. The bureau director shall make a determination and send a notice of decision within 30 days after receiving the request.

**Note:** Send a written request for a review to Director, Bureau of Permanence and Out-of-Home Care, P.O. Box 8916, Madison, WI 53708-8916.

(2) If the bureau director or designee upholds the screening or home study denial, the individual may send a written request for review to the division administrator within 30 days after the date of the notice of decision by the bureau director. The division administrator or a designee shall make a determination and send a notice of decision within 30 days after receiving the request. A finding by the division administrator or designee is final.

**Note:** Send a written request for a review by the division administrator to Administrator, Division of Safety and Permanence, P.O. Box 8916, Madison, WI 53708-8916.

**History:** CR 18-001: cr. Register August 2018 No. 752, eff. 9-1-18.

### DCF 50.07 Adoption information exchange.

(1) **SERVICES.** The department shall establish or contract with an entity with expertise in adoption issues to establish an adoption information exchange that includes all of the following services:

(a) An Internet-based photolisting of children who are legally free for public adoption and children who are at legal risk.

(b) A register of prospective adoptive parents that meets all of the following conditions:

1. The register includes only prospective adoptive parents whose home study was approved by an adoption agency and was submitted to the adoption information exchange by the approving adoption agency.

2. The department has reviewed the home study of any prospective adoptive parents whose home study was approved by an adoption agency other than the department and determined that including the prospective adoptive parents on the register is appropriate.

3. The adoption information exchange removes a registration if any of the following conditions are met:

a. The individual's or couple's adoption agency notifies the adoption information exchange that the individual or couple is no longer interested in adopting a child.

b. The individual or couple listed on the register is not responding to inquiries from the adoption information exchange.

(c) A matching service that attempts to match children listed in the adoption photolisting under par. (a) and the prospective adoptive parents registered with the adoption information exchange under par. (b) by providing information about registered prospective adoptive parents to public adoption agencies with photolisted children.

(d) A public relations campaign that promotes public adoptions, provides information to the public, and increases public awareness of adoption and services available from the adoption information exchange by developing and distributing informational materials for the media, professional organizations, community support agencies, and the public.

(2) **PHOTOLISTING.** All of the following conditions apply to the Internet-based photolisting under sub. (1) (a):

(a) *Children who are legally free for public adoption.* The adoption information exchange shall photolist all children who are legally free for public adoption and do not have proposed adoptive parents, except those not submitted to the adoption information exchange under par. (d).

(b) *Children who are at legal risk.* The adoption information exchange may photolist children who are at legal risk if any of the following applies:

1. The court has authorized photolisting.

2. Written consent has been given by all of the following:

a. The child's placing agency or adoption agency.

b. The child's parent or guardian.

3. A child age 14 or over has given written consent.

(c) *Out-of-state.* 1. The adoption information exchange may photolist a child with an out-of-state exchange and may use the resources of the out-of-state exchange for the child with written permission from the child's guardian and the child's placing agency and, if the child is age 14 or over, the child.

2. The child photolisted under subd. 1. may be a child who is legally free for public adoption or a child who is at legal risk.

(d) *Deferral.* 1. If a child is legally free for public adoption, a public adoption agency may defer submitting the information required for a photolisting of the child to the adoption information exchange if any of the following circumstances applies:

a. The child is in an adoptive placement pursuant to a written placement agreement.

b. The child's foster parent or another individual is considering adoption of the child.

c. The child is 14 years of age or older and does not consent to photolisting.

d. The child is under the guardianship of a tribal child welfare department.

2. A deferral is valid until the reason for the deferral no longer exists.

(e) *Child information.* A photolisting shall include a photo and information about a child relevant to matching the child to prospective adoptive parents.

(f) *Updating.* The adoption information exchange shall keep the photolisting current by doing all of the following:

1. Reviewing and updating a child's photograph and information every 6 months.

2. Updating information about a child as it is received from the child's placing agency.

3. Removing a child from the photolisting when the child no longer meets the requirements to be photolisted.

(g) *Records.* The adoption information exchange shall destroy all records relating to a child in a confidential manner within one year after the child's photolisting is withdrawn or the child is adopted.

**Note:** Information for families interested in adoption, including the photolisting of Wisconsin children waiting for adoption, is at <http://wiadopt.org>.

**History:** CR 18-001: cr. Register August 2018 No. 752, eff. 9-1-18; correction in (2) (b) (intro.), (d) (1) (intro.) made under s. 35.17, Stats., Register August 2018 No. 752.

**DCF 50.08 Placement for the purpose of a public adoption.** (1) **BEST INTEREST OF THE CHILD.** (a) The public adoption agency that is responsible for placing a child for adoption or, if the child is at legal risk, the placing agency, shall determine if placement with specific prospective adoptive parents whose home study has been approved is in the best interest of the child.

(b) A public adoption agency shall consider the availability of a placement for adoption with a relative of the child who is identified in the child's permanency plan or is otherwise known to the public adoption agency, as required under s. 48.834 (1), Stats.

(c) If a child has one or more siblings who have been adopted or have been placed for adoption, the public adoption agency shall make reasonable efforts to place the child with an adoptive parent or proposed adoptive parent of such a sibling who is identified in the child's permanency plan or otherwise known to the public adoption agency, unless the public adoption agency determines that a joint placement would be contrary to the safety or well-being of the child or the sibling, as required under s. 48.834 (2), Stats.

(d) If the child is an Indian child, the public adoption agency shall comply with the order of placement preference under s. 48.028 (7), Stats., unless there is good cause as described in s. 48.028 (7) (e), Stats., for departing from that order.

(2) **REMOVAL FROM FOSTER HOME.** Before the adoption is final, an agency appointed as guardian of the child under s. 48.427 (3m) (a) 1. to 4., (am), or (b), Stats., may remove the child from the child's placement under s. 48.437, Stats.

(3) **PLACEMENT NOT GUARANTEED.** Prospective adoptive parents whose home study has been approved are not guaranteed placement or continued placement of a child.

**History:** CR 18-001: cr. Register August 2018 No. 752, eff. 9-1-18.

**DCF 50.09 Eligibility for adoption assistance.** The department shall determine if all of the following conditions are met before entering into an agreement to provide adoption assistance for a child:

(1) **ELIGIBILITY CRITERIA FOR THE CHILD.** (a) *Age.* The child is under 18 years of age at the time of adoption.

(b) *Special needs.* The child has any of the following special needs at the time of the adoptive placement:

1. The child is 7 years of age or older if age is the only factor in determining eligibility.

2. The child is a member of a sibling group of 2 or more children that must be placed together.

3. a. For an adoption assistance agreement entered into before July 1, 2011, the child exhibits special need characteristics judged to be moderate or intensive under the schedule of difficulty-of-care levels specified in s. DCF 50.12 (3).

b. For an adoption assistance agreement entered into on or after July 1, 2011, the child has a total of 5 or more needs that have been identified as moderate or intensive in the areas listed in s. DCF 56.23 (2) (a) 1. a. to e. in the rate schedule under s. DCF 56.23 (2) (a).

4. The child belongs to a minority race and children of that minority race cannot be readily placed due to a lack of appropriate placement resources.

5. The child is an Indian child.

6. The child does not have a documented special need under subsds. 1. to 5. but is a child at high risk of developing a moderate or intensive level of special needs described in subd. 3. based on any of the following:

a. Either or both of the child's birth parents have a documented medical diagnosis or medical history that could result in a condition for the child described in subd. 3. at a later time.

b. The child's birth mother received inappropriate prenatal care that could later result in the child developing special needs described in subd. 3., and the inappropriate care is documented in medical or hospital records.

c. The child's birth mother used harmful drugs or alcohol during pregnancy that could later result in the child developing special needs described in subd. 3., and the birth mother's use of the harmful drugs or alcohol during pregnancy is documented in medical, hospital, law enforcement, or court records; the records of a county department or the department; or the records of an agency under contract with a county department or the department to provide child welfare services.

d. The child has experienced 4 or more placements with extended family or in foster homes that could affect the normal attachment process.

e. The child experienced neglect in the first 3 years of life or sustained physical injury or physical disease that could have a long-term effect on physical, emotional, or intellectual development.

(c) *Availability for adoption.* At the time of placement for adoption, all of the following conditions are met:

1. The child is under the guardianship of an adoption agency or in a subsidized guardianship under s. 48.623, Stats, if guardianship is transferred to a public or private adoption agency before the child is placed under s. 48.833, Stats.

2. The court, department, county department, tribal child welfare department, or the child's adoption agency has determined that the child cannot or should not return to the child's parents.

(d) *Wisconsin responsibility.* 1. 'Interstate adoptions.' Adoption assistance may be provided for a child brought to Wisconsin for adoption from another state under ss. 48.98 and 48.99, Stats., if the public child welfare agency in the child's previous state of residence does not have responsibility for placement and care of the child under applicable federal law regarding Title IV-E of the Social Security Act, as amended.

2. 'Intercountry adoptions.' a. No adoption assistance may be provided for a child that was adopted outside of the United States or was brought to the United States for the purpose of being adopted.

b. Notwithstanding subd. 2. a., adoption assistance may be provided for an otherwise eligible child that is placed in out-of-

home care subsequent to the failure, as determined by the department, of the initial adoption.

**(2) REASONABLE EFFORTS TO ASSURE ADOPTION.** (a) *Documented search for suitable adoptive placement.* 1. The adoption agency shall make reasonable efforts to place the child with the best available prospective adoptive parents without providing adoption assistance. The agency shall document the search efforts in the child's record.

2. The adoption agency's search efforts shall include consideration of a number of prospective adoptive parents, including all of the following:

- a. Relatives of the child.
- b. The adoptive parents of a sibling or the proposed adoptive parents of a sibling placed with the proposed adoptive parents as required under s. 48.834 (2), Stats.
- c. A review of approved prospective adoptive parents associated with the adoption agency.
- d. If the child is an Indian child, the order of placement preference under s. 48.028 (7) (a), Stats., unless there is good cause as described in s. 48.028 (7) (e), Stats., for departing from that order.

3. If 2 or more appropriate prospective adoptive parents are not available, the adoption agency shall make a timely effort to locate additional prospective adoptive parents by doing any of the following:

- a. Contacting other adoption agencies.
- b. Photolisting the child with the adoption information exchange.
- c. Working through the adoption information exchange to photolist the child with a national adoption exchange.

(b) *Disclosure.* Once the adoption agency determines that placement with specific prospective adoptive parents would be the most suitable for the child, the agency shall give the identified prospective adoptive parents all relevant information about the child known to the agency, including information on any existing or potential special need described under sub. (1) (b) and a copy of the completed forms for the child that are required under ch. DCF 37.

(c) *Adoption assistance necessary to assure adoption.* If the child has a special need described under sub. (1) (b) and the requirements of this subsection are met, the adoption agency shall inform the identified prospective adoptive parents of the adoption assistance program and ask if they are willing to adopt the child without receiving adoption assistance. If the identified prospective adoptive parents are unwilling to adopt the child without receiving adoption assistance, the requirement of reasonable, but unsuccessful, efforts to place the child with appropriate adoptive parents without providing adoption assistance is met. A request for adoption assistance may not be a basis for removing a child from a current adoptive placement.

(d) *Exceptions.* The requirements of this subsection do not apply if any of the following conditions is met:

- 1. The child has developed significant emotional ties with the child's foster family and all of the following conditions are met:
  - a. The child identifies as a member of the family.
  - b. The child's foster parents, foster siblings, community, and school consider the child to be a member of that family.
  - c. If denied permanence with the foster family, the child has a diminished probability of forming new attachments due to the child's attachment to the foster family and other factors, such as age and number of previous placements.

2. Proposed adoptive parents request adoption assistance for a child placed in the proposed adoptive parents' home for adoption without adoption assistance if the child demonstrates a spe-

cial need that meets the standard in sub. (1) (b) 3. before the adoption is finalized.

**History:** CR 18-001: cr. Register August 2018 No. 752, eff. 9-1-18; correction in (1) (b) 6. c., (2) (d) (intro.) made under s. 35.17, Stats., Register August 2018 No. 752; 2019 Wis. Act 92: am. (1) (b) 1., 2. Register February 2020 No. 770, eff. 3-1-20.

**DCF 50.10 Application for adoption assistance.**

**(1) TIMING.** An application for adoption assistance shall be completed on forms prescribed by the department and a written, signed agreement to provide adoption assistance shall be made prior to the adoption.

**(2) EXTENUATING CIRCUMSTANCES.** Notwithstanding sub. (1), an application for adoption assistance may be accepted after an adoption order is entered under the conditions specified in s. DCF 50.17 (3).

**Note:** The application for adoption assistance for a public adoption is in the department's automated child welfare system *eWISACWIS*. For a private domestic adoption or a tribal or customary adoption, the forms required to apply for adoption assistance are listed in a forms checklist. The forms checklist and all of the forms specified on the checklist are part of the application.

DCF-F-5259, *Adoption Assistance Forms Checklist/Routing Instructions Private Domestic Adoptions.*

DCF-F-5159, *Adoption Assistance Forms Checklist/Routing Instructions Tribal or Customary Adoptions.*

The forms are available in the forms section of the department website, <http://dcf.wisconsin.gov>, or by writing the Division of Safety and Permanence, at P.O. Box 8916, Madison, WI 53708-8916.

**History:** CR 18-001: cr. Register August 2018 No. 752, eff. 9-1-18; correction in numbering in (1) made under s. 13.92 (4) (b) 1., Stats., Register August 2018 No. 752.

**DCF 50.11 Amount of adoption assistance.**

**(1) MONTHLY ADOPTION ASSISTANCE PAYMENT.** (a) The amount of a monthly adoption assistance payment is as indicated in the initial adoption assistance agreement or in an amendment to the agreement signed by the adoptive parent and the department.

(b) In determining the amount of a monthly adoption assistance payment, each situation shall be considered individually based on the needs of the child and the circumstances of the family. A monthly payment may include any of the following:

- 1. A basic maintenance payment specified in s. 48.62 (4), Stats.
- 2. A supplemental payment based on the child's difficulty-of-care levels or identified special needs specified in one of the following:

- a. For an adoption assistance agreement entered into before July 1, 2011, the rate schedule under s. DCF 50.12.

- b. For an adoption assistance agreement entered into on or after July 1, 2011, the rate schedule under s. DCF 56.23 (2) (a) if the child has a total of 5 or more needs that have been identified as moderate or intensive in the areas listed in s. DCF 56.23 (2) (a) 1. a. to e.

- 3. a. An exceptional payment determined under s. DCF 50.12 for an adoption assistance agreement entered into before July 1, 2011, except that an exceptional payment cannot be established or increased in an amendment to the adoption assistance agreement.

- b. An exceptional payment determined under s. DCF 56.23 (3) for an adoption assistance agreement entered into on or after July 1, 2011, except that an exceptional payment cannot be established or increased or increased in an amendment to the adoption assistance agreement.

(c) The rate in the initial adoption assistance agreement for a child at high risk of developing a moderate or intensive level of special needs under s. DCF 50.09 (1) (b) 6. is \$0. The rate may be adjusted in an amendment to the agreement under s. DCF 50.14.

(d) The effective date for a rate increase in an amendment is the first day of the month that the department received the request to amend the adoption assistance agreement, except that no

increase shall be made prior to 12 months after a previous rate increase.

(e) The effective date for a rate decrease in an amendment is the first day of the month following the month that the amended agreement expires.

(f) The effective date for the termination of adoption assistance for any reason shall be the last day of the month that eligibility for benefits ends.

**(2) MEDICAL ASSISTANCE.** (a) Medical assistance under title XIX of the Social Security Act of 1935, as amended, will be provided for the adoptee in accordance with the procedures of the state in which the adoptee resides, except if an adoptee receiving Wisconsin adoption assistance moves out of the state and is not eligible in the new state of residence, the adoptee is eligible for Wisconsin's medical assistance under ss. 49.43 to 49.498, Stats.

(b) Adoptive parents shall complete a form prescribed by the department of health services to provide information on any private health insurance.

**Note:** Form HCF-10115, *BadgerCare Plus/Medicaid Health Insurance Information*, is available in the forms section of the Department of Health Services website, <http://www.dhs.wisconsin.gov>, or from the Division of Medicaid Services, P.O. Box 309 Madison, WI 53701-0309.

**(3) NONRECURRING ADOPTION EXPENSES.** (a) In this subsection, "nonrecurring adoption expenses" means reasonable and necessary adoption fees, court costs, attorney fees, and other expenses that are directly related to the legal adoption of a child with special needs under s. DCF 50.09 (1) (b) if the expenses are not incurred in violation of state or federal laws.

(b) If a child is adopted with an approved adoption assistance agreement, the department shall reimburse the adoptive parents for nonrecurring adoption expenses up to \$2,000. An adoptive parent shall use a form prescribed by the department to request reimbursement. A request for reimbursement may only be submitted after the adoption order is entered and shall be submitted no more than 2 years after the entry of the adoption order.

**Note:** DCF-F-S0459-E, *Adoption of Children with Special Needs One Time Expense Reimbursement*, is available in the forms section of the department website, <http://dcf.wisconsin.gov/> or by writing the Division of Safety and Permanence, at P.O. Box 8916, Madison, WI 53708-8916.

**History:** CR 18-001: cr. Register August 2018 No. 752, eff. 9-1-18; correction in (3) (a) made under s. 35.17, Stats., Register August 2018 No. 752.

## DCF 50.12 Supplemental payments under adoption assistance agreements entered into before July 1, 2011.

**(1) COVERAGE.** This section applies to supplemental payments provided under adoption assistance agreements entered into before July 1, 2011.

**(2) SUPPLEMENTAL PAYMENTS.** (a) The department may make supplemental payments to the prospective or adoptive parents of a child in an amount to be determined by the department if the child requires more than the usual amount of care and supervision for the child's age because of special emotional, behavioral, or physical and personal needs.

(b) If a child does not exhibit characteristics commensurate with a moderate or intensive level of emotional, behavioral, or physical and personal special needs categories described in sub. (3), no supplemental payment may be made. If the child exhibits characteristics commensurate within a moderate or intensive level of one or more of the emotional, behavioral, or physical and personal special need categories under sub. (3), a supplemental payment in an amount to be determined by the department shall be paid.

(c) The placing department shall document in the child's case record the characteristics of any selected level of care.

**(3) SCHEDULE OF DIFFICULTY-OF-CARE LEVELS.** (a) *Emotional.* 1. "Level A, not applicable" children do not exhibit unusual emotional characteristics for foster children in their age group.

2. "Level B, minimal" children exhibit behavior that includes or corresponds in extent or degree with at least 2 of the following characteristics:

a. Demanding excessive attention from others.  
b. Nervous, high-strung, impulsive and displaying temper tantrums.

c. Restless and hyperactive, having a short attention span and occasionally wetting during the night.

d. Exhibiting low self-esteem and lacking confidence in their ability to deal with the world.

e. Periodically withdrawn and unresponsive.

3. "Level C, moderate" children exhibit behavior that includes or corresponds in extent or degree with at least 2 of the following characteristics:

a. Habitually resistive and having difficulty communicating with others, often failing to do what is expected of them.

b. Typically respond to situations with apathy, showing a lack of any interest.

c. Have difficulty in establishing relationships and set up others for rejection.

d. Display cultural and social conflicts.

e. Frequent night bed-wetters or occasionally defecate in bed clothes or both.

f. Display over-activity and over-excitedness, necessitating close supervision.

4. "Level D, intensive" children exhibit behavior that includes or corresponds in extent or degree with one or more of the following characteristics, and the characteristics are severe:

a. Infantile personalities.

b. Wet or defecate in clothing during daytime hours several times a week.

c. Severe hyperactivity to the point of frequent destructiveness or sleeplessness.

d. Chronically withdrawn, depressed or anxious.

e. Self-injurious, require constant and intensive supervision and may be involved in behavioral management programs or show bizarre or severely disturbed behavior.

f. Display anorexia nervosa.

(b) *Behavioral.* 1. "Level A, not applicable" children do not exhibit unusual behavioral characteristics for foster children in their age group.

2. "Level B, minimal" children exhibit behavior that includes or corresponds in extent or degree with at least 2 of the following characteristics:

a. Run away infrequently for up to 2 days with the intention of returning.

b. Occasionally skip classes or an entire day of school, affecting class achievement and requiring make-up school work and parent contact with the school.

c. Use sexual acting-out or language as an attention-getting mechanism and occasionally experiment with alcohol, drugs or both.

d. Infrequent conflicts with parents or community authorities, including displays of hostility and occasional petty theft, vandalism or both.

e. Exhibit occasional aggressive behavior such as biting, scratching or throwing objects at another person.

3. "Level C, moderate" children exhibit behavior that includes or corresponds in extent or degree with at least 2 of the following characteristics:

a. Run away 4 to 7 times a year for 3 or 4 days at a time and requires encouragement to return.

b. Truant from school one to 2 times a month for more than one day, resulting in delayed academic progress including performance below their ability that may lead to class failure, possible suspension and frequent parent contact with the school.

c. Exhibit sexual activity harmful to themselves and disruptive to their family and community relationships.

d. Occasionally have been involved in non-violent crimes such as burglary, which caused conflict with authority.

e. Exhibit frequent aggressive behavior such as biting, scratching or throwing objects at another person.

f. Exhibit occasional self-abusive behavior such as banging their heads, poking their eyes, kicking themselves or biting themselves.

4. "Level D, intensive" children exhibit behavior that includes or corresponds in extent or degree with one or more of the following characteristics, and the characteristics are severe:

a. Runs away 8 or more times a year for 5 or more days at a time, returning only on the initiative of others.

b. Habitually create a disturbance in the classroom or be habitually truant from school resulting in class failure, frequent suspension or expulsion, and requiring frequent parent contact with the school.

c. Exhibit sexual deviancy, including that of a violent nature or nonconsenting involvement of others.

d. Habitually use alcohol, drugs or both.

e. Exhibit uncontrollable behavior, be involved in property offenses repeatedly with adjudication on more than one property offense that is as serious as burglary, and have committed acts such as arson, physical assault or armed robbery.

f. Exhibit aggressive behavior on a daily basis, such as biting, scratching or throwing objects at another person.

g. Exhibit frequent self-abusive behavior such as banging their heads, poking their eyes, kicking themselves or biting themselves. These children may eat inappropriate items such as rubber or metal.

(c) *Physical and personal care.* 1. "Level A, not applicable" children do not exhibit unusual physical or personal characteristics for foster children in their age group.

2. "Level B, minimal" children exhibit physical or personal characteristics that include or correspond in extent or degree with one or more of the following:

a. Needs some help with putting on braces or prosthetic devices and help with buttons or laces but basically care for themselves and are able to maintain their own physical assisting devices.

b. Seizures or motor dysfunctions that are controlled by medication. Therapy for gross or fine motor skills can be done with supervision for children to achieve normal conditions. These children may require special diet preparation.

3. "Level C, moderate" children exhibit physical or personal characteristics that include or correspond in extent or degree with one or more of the following:

a. Needs help with dressing, bathing and general toilet needs, including maintenance procedures such as diapering and applying catheters, and requires the help of a person or a device to walk or get around.

b. Needs assistance to care for and maintain physical assisting devices.

c. Has feeding problems such as excessive intake, extreme messiness or extremely slow eating requiring help, supervision or both.

d. Needs tube or gavage feeding.

e. Requires special care to prevent or remedy skin conditions such as decubiti and severe eczema.

**Note:** The administration of medications and preparation of special diets are demanding, and prescribed physical therapies such as those for vision, hearing, speech or gross or fine motor skills require one to 2 hours a day.

4. "Level D, intensive" children exhibit physical or personal characteristics that include or correspond in extent or degree with one or more of the following:

a. Non-ambulatory, may have uncontrollable seizures and need appliances for drainage, colostomy, aspiration or suctioning.

b. Even with proper medical attention, vision, speech or hearing functions are impaired and may require foster parent training.

c. Need daily prescribed exercise routines to improve or maintain gross or fine motor skills that require home administration.

d. Require prevention procedures such as daily irrigation.

e. Require extra cleaning and laundry to maintain body hygiene and control of the child's body waste.

f. Orthotics care.

g. Prescribed physical therapies taking 2 to 3 hours a day.

**(4) EXCEPTIONAL PAYMENT.** An exceptional payment in an amount to be determined by the department pursuant to the department's uniform foster care rate policy may be made in addition to the age-related rates and special needs payment when the additional payment will accomplish any of the following:

(a) Enable the child to be placed in a foster home instead of being placed or remaining in a more restrictive setting.

(b) Replace a child's basic wardrobe that has been lost or destroyed through other than normal wear and tear.

**History:** CR 18-001: cr. Register August 2018 No. 752, eff. 9-1-18; correction in (2) (b) under s. 35.17, Stats., Register August 2018 No. 752.

**DCF 50.13 Adoption assistance agreement.** (1) The department shall enter into a written adoption assistance agreement with the proposed adoptive parents of a child eligible for assistance under s. DCF 50.09 prior to the adoption. The agreement shall be signed by the proposed adoptive parents, the adoption agency, and the department. The agreement shall specify all of the following:

(a) The amount of the adoption assistance under s. DCF 50.11.

(b) The responsibilities of the adoptive parent, including the requirements in s. DCF 50.15 (1).

(c) The responsibilities of the department, including the requirements in s. DCF 50.15 (2).

(d) Circumstances under which the adoption assistance may be increased, decreased, terminated, or suspended, including the circumstances in ss. DCF 50.14 and 50.15.

(e) That the agreement will remain in effect regardless of the state of residence of the adoptive parents and the child.

(2) If at any time prior to the adoption, the proposed adoptive parents believe there has been a substantial change in circumstances under s. DCF 50.14 (1), the proposed adoptive parents may request a review of the amount of adoption assistance under s. DCF 50.14. The department shall determine whether a new amount is justified. The new agreement shall be agreed to and signed by the proposed adoptive parent, the adoption agency, and the department prior to the adoption.

**History:** CR 18-001: cr. Register August 2018 No. 752, eff. 9-1-18.

**DCF 50.14 Amendment to adjust payment amount.** (1) **DEFINITION.** In this section, "substantial change in circumstances" means a change that has occurred to the child in one or more areas of special needs, including physical, behavioral, or emotional special needs, that would result in a change in the amount of a supplemental payment determined under one of the following:

(a) For an adoption assistance agreement entered into before July 1, 2011, the rate schedule under s. DCF 50.12.

(b) For an adoption assistance agreement entered into on or after July 1, 2011, the rate schedule under s. DCF 56.23 (2) (a) if the child has a total of 5 or more needs that have been identified as moderate or intensive in the areas listed in s. DCF 56.23 (2) (a) 1. a. to e.

(2) **TIMING OF REQUEST.** Adoptive parents that have entered into an initial or amended adoption assistance agreement may request that the agreement be amended to begin monthly payments or to increase the amount of monthly payments if the adop-



tive parent believes that there has been a substantial change in circumstances and the timing of the request is any of the following:

- (a) Not less than 12 months after any of the following occurred:
  1. The adoption order was entered.
  2. A previous request for an amendment to the adoption assistance agreement was denied.
- (b) Within 120 days before the expiration date of an amendment to the adoption assistance agreement.

**(3) REQUEST BY THE ADOPTIVE PARENTS.** To request an amendment to the adoption assistance agreement, the adoptive parents shall do all of the following:

- (a) Complete and return the request for adoption assistance amendment forms prescribed by the department to document the adoptive parents' observations of the child's physical, behavioral, and emotional needs.

**Note:** When the adoptive parents contact the department about a possible amendment, the department sends the parents a form for the adoptive parents to complete and the forms for the parents to take to the appropriate professionals under par. (b).

For adoption assistance agreements entered into before July 1, 2011, the adoptive parents complete DCF-F-CFS2092, *Adoption Assistance Amendment Request*.

For adoption assistance agreements entered into on or after July 1, 2011, the form is DCF-F-5230-E, *Adoption Assistance Amendment Request - Age Birth to 5 Child and Adolescent Needs and Strengths (CANS) Version* or DCF-F-5231-E, *Adoption Assistance Amendment Request - Age 5 - 21 Child and Adolescent Needs and Strengths (CANS) Version*, as applicable.

- (b) Submit documentation by appropriate professionals regarding the child's current needs to the department with the amendment request. The documentation shall be on a form prescribed by the department and dated not more than 6 months before the request.

**Note:** For an adoption assistance agreement entered into before July 1, 2011, the appropriate professionals complete all of the following regarding the child's needs:

DCF-F-CFS2411, *Adoption Assistance Amendment Request - Confirmation of Needs Behavioral Characteristics*.

DCF-F-CFS2412, *Adoption Assistance Amendment Request - Confirmation of Needs Emotional Characteristics*.

DCF-F-CFS2413, *Adoption Assistance Amendment Request - Confirmation of Needs Physical/Personal Care Characteristics*.

For an adoption assistance agreement entered into on or after July 1, 2011, the department sends the following forms that apply to the child's age, and the professionals complete the forms that apply to the child's needs:

DCF-F-2677, *Adoption Assistance Amendment Confirmation of Needs Behavioral Characteristics (Age 5-21)*.

DCF-F-2678, *Adoption Assistance Amendment Confirmation of Needs Emotional Characteristics (Age 5-21)*.

DCF-F-2679, *Adoption Assistance Amendment Confirmation of Needs Physical/Personal Care Characteristics (Age 5-21)*.

DCF-F-2680, *Adoption Assistance Amendment Confirmation of Needs Behavioral Characteristics (Birth to 5)*.

DCF-F-2681, *Adoption Assistance Amendment Confirmation of Needs Emotional Characteristics (Birth to 5)*.

DCF-F-2682, *Adoption Assistance Amendment Confirmation of Needs Physical/Personal Care Characteristics (Birth to 5)*.

- (c) If requested by the department, provide additional information about the child's current functioning.

- (d) If requested by the department, have the child evaluated by a specialist to provide information necessary in making a determination.

- (e) If the adoptive parents accept the adjusted payment amount offered by the department, sign and return the amendment to the department within 30 days.

**(4) DEPARTMENT RESPONSE.** If the department receives a request to amend an adoption assistance agreement under sub. (3), the department shall do all of the following:

- (a) *Substantial change in circumstances.* Determine whether there has been a substantial change in circumstances regarding the child's special needs. The department shall review the documentation submitted under sub. (3) and may do any of the following if the department decides that additional information is needed before the determination can be made:
  1. Obtain technical assistance from a specialist.
  2. Request that the adoptive parents have the child evaluated by a specialist.

3. Request more information about the child's current functioning from the adoptive parents.

4. Notify the adoptive parents that failure to provide the requested information within 90 days may result in a denial of the amendment request.

5. Make a decision on the adoptive parents' request following receipt of the additional information.

(b) *Abuse or neglect.* 1. Determine whether any of the following applies to the adoptive parents:

- a. A final substantiated finding has been made that an adoptive parent abused or neglected the child.

- b. A finding that is comparable to a final substantiated finding of the child has been made in any other jurisdiction where an adoptive parent has resided.

2. If a finding under subd. 1. is overturned, the department shall reconsider an amendment request that was denied based on the finding.

(c) *Adoptive parents that have not been receiving payments.*

1. 'Department offer.' If the department determines that there has been a substantial change in circumstances that establishes that a child previously determined to be at high risk under s. DCF 50.09 (1) (b) 6. now meets the conditions of s. DCF 50.09 (1) (b) 3., and there is not a final substantiated finding of abuse or neglect of the child by an adoptive parent as provided in par. (b), offer to begin monthly adoption assistance payments for up to one year.

2. 'Monthly amount for adoptive parents that are beginning to receive payments.' Determine the monthly amount of the monthly adoption assistance payments for a child that was previously determined to be at high risk under s. DCF 50.09 (1) (b) 6. and now meets the conditions of s. DCF 50.09 (1) (b) 3., based on all of the following:
  - a. The basic maintenance payment specified in s. 48.62 (4), Stats., in effect at the time the request for adoption assistance amendment form was received by the department.

- b. For an adoption assistance agreement entered into before July 1, 2011, a supplemental payment determined under the rate schedule under s. DCF 50.12 (2) and (3). For an adoption assistance agreement entered into on or after July 1, 2011, a supplemental payment determined under the rate schedule under s. DCF 56.23 (2) (a) if the child has a total of 5 or more needs that have been identified as moderate or intensive in the areas listed in s. DCF 56.23 (2) (a) 1. a. to e.

3. 'No exceptional payments.' No exceptional payment under s. DCF 50.12 (4) or 56.23 (3) may be established.

(d) *Adoptive parents that have been receiving monthly payments.* 1. 'Department offer.' If the department determines that there has been a substantial change in circumstances that establishes that a child that has identified special needs has had an increase in special needs in one or more categories of the supplemental payment schedule and there has not been a final substantiated finding of abuse or neglect of the child by an adoptive parent as provided in par. (b), offer to adjust the amount of the monthly adoption assistance payments for up to one year. The department may not increase the amount in the agreement above the amount allowed under 42 USC 673 or any other federal law.

2. 'Monthly amount for adoptive parents who have been receiving payments.' Determine the monthly amount of the monthly adoption assistance payments for a child who had identified special needs and has had an increase in the special needs in one or more categories of the supplemental payment schedule, based on all of the following:
  - a. The basic maintenance payment specified in s. 48.62 (4), Stats., in the existing adoption assistance agreement.

- b. For an adoption assistance agreement entered into before July 1, 2011, an adjusted supplemental payment determined under the rate schedule under s. DCF 50.12 (2) and (3). For an adoption assistance agreement entered into on or after July 1, 2011, the rate

schedule under s. DCF 56.23 (2) (a) if the child has a total of 5 or more needs that have been identified as moderate or intensive in the areas listed in s. DCF 56.23 (2) (a) 1. a. to e.

c. Notwithstanding subd. 2. b., if the level of points in an established supplemental payment category is at the highest number of points in an intensive level of need category, no increase in payment may be offered in that category.

d. Any exceptional payment in the existing adoption assistance agreement. No adjustment may be made to an existing exceptional payment and no new exceptional payment may be established under s. DCF 50.12 (4) or 56.23 (3).

(e) *Amended agreement.* Offer to amend the agreement in writing for up to one year to specify the new amount of the monthly payments if the adoptive parents agree with the proposed amount of the payments and return the signed amendment within 30 days after the date of the notice of the decision.

(f) *Review amendment.* Review an amended adoption assistance agreement, as follows:

1. Prior to the expiration of the amended agreement and annually thereafter for the duration of the adoption assistance agreement, the department shall contact the adoptive parents to request information concerning the circumstances of the child. The department shall notify the adoptive parents, in writing, at least 120 days before the expiration of the amended adoption assistance agreement and provide the adoptive parents with the expiration date, a request for an adoption assistance amendment form, and instructions for completing the form.

2. The department may require that the adoptive parents provide documentation of the current circumstances of the child. The department shall review the information to determine whether the reasons for the change in circumstances continue to exist or not and shall notify the adoptive parents if the amount of adoption assistance will be continued, reduced, or returned to the amount in the original agreement or previous amended agreement. The amount of the decrease offered by the department may not result in an amount of adoption assistance for maintenance that is less than the initial amount of adoption assistance for maintenance provided for the child under s. 48.975 (3) (a) 1., 2., or 3., Stats.

**History:** CR 18-001: cr. Register August 2018 No. 752, eff. 9-1-18; (3) (c) 3. (title) created under s. 13.92 (4) (b) 2., correction in (4) (b) (intro.), (c) 3., (f) 1. made under s. 35.17, Stats., Register August 2018 No. 752.

#### DCF 50.15 Notification and review requirements.

(1) **POST-AGREEMENT AND PLACEMENT.** (a) *Family notification requirements.* After the department has signed and approved the adoption assistance agreement and the child has been placed in the home, the adoptive or proposed adoptive parents shall notify the department no later than 30 days after any of the following occur:

1. The adoptive or proposed adoptive parents' address changes.

2. The child is no longer living with the adoptive or proposed adoptive parents.

3. The child is no longer receiving any support from the adoptive or proposed adoptive parents.

4. The parental rights of the adoptive parents have been terminated and they are no longer legally responsible for support of the child.

5. The child is married.

6. The child enlists in the military.

7. The death of the child.

8. The child attains 18 years of age.

9. The child completes high school after attaining 18 years of age.

10. The child is determined eligible for adoption assistance under sub. (3) (a) 3. and no longer has an individualized education program under s. 115.787, Stats., in effect.

**Note:** Notice may be delivered in person or by mail to the Division of Safety and Permanence, Bureau of Permanence and Out-of-Home Care, 201 E. Washington Avenue, P.O. Box 8916, Madison, WI 53708-8916.

(b) *Medical assistance notification requirements.* Adoptive or proposed adoptive parents shall comply with notification requirements of the department of health services regarding medical assistance for the child, including a change in health insurance benefits or coverage.

(c) *Verification of individualized education program.* The adoptive parents shall provide a copy of the child's individualized education program under s. 115.787, Stats., before the department may determine that the child is eligible for adoption assistance to continue under sub. (3) (a) 3.

(2) **DEPARTMENT ACTIONS.** (a) *Advance notice of termination and potential eligibility after adoptee attains 18 years of age.* 1. Six months before the adoptee attains 18 years of age, the department shall notify the adoptive parents that adoption assistance will terminate when the adoptee turns 18 years old, unless the adoptive parents provide information regarding potential eligibility for the payments to continue under sub. (3).

2. The department shall determine an adoptee's eligibility under sub. (3) if the adoptive parents provide all required information.

(b) *Termination.* The department shall terminate adoption assistance for a reason specified in sub. (1) (a) 3. to 10. or if the adoptive parents submit a written request for termination of the adoption assistance agreement, unless the department suspends monthly adoption assistance payments under par. (c) or the adoptee is 18 years of age or over and is eligible under sub. (3).

(c) *Suspension.* The department may suspend monthly adoption assistance payments if the adoptee is temporarily not being supported by the adoptive parents.

(3) **ADOPTION ASSISTANCE ELIGIBILITY AFTER ADOPTEE ATTAINS 18 YEARS OF AGE.** (a) Parents of an adoptee who is 18 years of age or older may continue to receive monthly adoption assistance payments if no change specified in sub. (1) (a) 3. to 10. affecting eligibility has occurred and any of the following conditions is met:

1. The adoptee is under 19 years of age, is a full-time student at a secondary school or its vocational or technical equivalent, and is reasonably expected to complete the program before reaching 19 years of age.

2. The adoptee is under 21 years of age and all of the following conditions are met:

a. The adoptee is a full-time student at a secondary school or its vocational or technical equivalent.

b. The department determines that the adoptee has a mental or physical disability that warrants the continuation of adoption assistance.

c. The adoptee is not eligible for social security disability insurance under 42 USC 401 to 433 or supplemental security income under 42 USC 1381 to 1385 based on disability.

d. The adoptee otherwise lacks adequate resources to continue in secondary school or its vocational or technical equivalent.

3. The adoptee is 18 years of age or over, but is under 21 years of age and all of the following conditions are met:

a. The adoptee is a full-time student at a secondary school or its vocational or technical equivalent.

b. There is an individualized education program under s. 115.787, Stats., in effect for the adoptee.

c. The adoption assistance agreement for the adoptee became effective on or after the adoptee attained 16 years of age.

(b) Adoption assistance may be reinstated following termination of assistance by adoptive parents when the adoptee was 18

years of age or over if the adoptee will be eligible under par. (a) 3.

**History:** CR 18-001: cr. Register August 2018 No. 752, eff. 9-1-18; correction in (3) (a) (intro.) made under s. 35.17, Stats., Register August 2018 No. 752.

**DCF 50.16 Adoption assistance overpayments.** The department may recover an overpayment of adoption assistance from adoptive parents by any of the following means:

(1) Reducing the amount of the monthly adoption assistance payments by an amount agreed to by the adoptive parents and the department.

(2) Requesting payment within a specified time period or negotiating a payment plan.

(3) Certifying the debt for collection by the department of revenue under s. 71.93, Stats.

**History:** CR 18-001: cr. Register August 2018 No. 752, eff. 9-1-18; correction in numbering in (1) to (3) made under s. 13.92 (4) (b) 1., Stats., Register August 2018 No. 752.

**DCF 50.17 Adoption assistance reviews and appeals.** (1) BEFORE ADOPTION IS FINAL. (a) Prior to the entry of the adoption order, proposed adoptive parents may contest a department action by requesting any of the following:

1. A review by the division administrator or designee.
2. A hearing before the division of hearings and appeals under ch. 227, Stats., and ch. HA 3.

(b) Any of the following department actions may be contested under par. (a):

1. Denial of eligibility for adoption assistance.
2. The amount of the monthly adoption assistance payment that the department offered.

(c) A request for review may be filed no later than 10 days after the date of the department's notice of the action.

(2) AFTER ADOPTION IS FINAL. (a) After the adoption is final, adoptive parents may request a hearing with the division of hearings and appeals under ch. 227, Stats., and ch. HA 3 to appeal any of the following actions:

1. Denial of an amendment request under s. DCF 50.14 or approval of an amount that is less than the adoptive parents consider appropriate.
2. Amendment or termination of the adoption assistance agreement without the concurrence of the adoptive parents.
3. Suspension of monthly adoption assistance payments without the concurrence of the adoptive parents.

4. Failure of the department to comply with a condition of the adoption assistance agreement.

5. A determination that the adoptive parents received an overpayment or the amount of the overpayment.

(b) Adoptive parents may request a hearing no later than 30 days after the date of the department's notice of the action or the date of the inaction.

(3) AFTER ADOPTION IS FINAL WITH EXTENUATING CIRCUMSTANCES. After the adoption is final, adoptive parents may request a hearing with the division of hearings and appeals under ch. 227, Stats., and ch. HA 3 if all of the following conditions are met:

(a) The adoptive parents are appealing any of the following:

1. A department decision after the adoption became final that the conditions of eligibility in s. DCF 50.09 are not met.

2. A department decision before the adoption became final relating to the amount of adoption assistance under s. DCF 50.11.

(b) The conditions for eligibility for adoption assistance in s. DCF 50.09 existed at the time the adoption became final.

(c) One of the following extenuating circumstances occurred:

1. Facts regarding the child, the child's biological family, or the child's background that were relevant to the proposed adoption were known to the adoption worker who served as the child's guardian and who represented the adoption agency that placed the child for adoption, but were not presented to the adoptive parents by the adoption agency or by another source, such as the child's physician or the agency that originally placed the child for foster care, before the adoption became final.

2. Adoption assistance was denied based upon a means test of the adoptive family.

3. The department's determination that the child was ineligible for adoption assistance was erroneous.

4. The adoptive parents were not advised by the adoption agency or by another source, such as a social worker or another adoptive parent, about the availability of adoption assistance and had not previously adopted with adoption assistance.

(d) It has been less than 90 days since the adoptive parents knew or reasonably should have known of the extenuating circumstance under par. (c) that is the basis for the hearing request.

**Note:** A request for review of a decision may be addressed to the Administrator, Division of Safety and Permanence, P.O. Box 8916, Madison, WI 53708-8916.

A request for a hearing may be addressed to the Division of Hearings and Appeals, P.O. Box 7875, Madison, WI 53707.

**History:** CR 18-001: cr. Register August 2018 No. 752, eff. 9-1-18.