

Chapter DCF 201

CHILD CARE SUBSIDY PROGRAM

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Note: Sections HSS 55.70 to 55.77 as they existed on February 28, 1997 were repealed and a new chapter DWD 56 was created effective March 1, 1997. Chapter DWD 56 was renumbered to chapter DCF 201 under s. 13.92 (4) (b) 1., Stats., Register November 2008 No. 635.

DCF 201.01 Purpose and applicability. This chapter provides standards and procedures for the administration of the child care subsidy program under ss. 49.155 and 227.11 (2) (a), Stats. This chapter applies to the department, child care administrative agencies, child care providers, and eligible parents.

History: Cr. Register, February, 1997, No. 494, eff. 3–1–97; am. Register, November, 1999, No. 527, eff. 12–1–99; CR 02–104: am. Register March 2003 No. 567, eff. 4–1–03; EmR1015: emerg. am. eff. 5–17–10; CR 10–056: am. Register September 2010 No. 656, eff. 10–1–10; EmR1709: emerg. r. and recr. eff. 5–4–17; CR 17–033: r. and recr. Register January 2018 No. 745, eff. 2–1–18.

DCF 201.02 Definitions. In this chapter:

(1) “Account number” means a number that appears on a parent’s EBT card and is linked to the parent’s electronic child care subsidy.

(2m) “Certification agency” means the department in a county having a population of 750,000 or more; a county department of social services established under s. 46.22, Stats.; a county department of human services established under s. 46.23, Stats.; a tribal agency; or any agency that contracts with any of those entities to certify child care providers under s. 48.651, Stats.

(3) “Child care administrative agency” or “agency” means any of the following:

(a) An agency that has a contract with the department to administer the child care subsidy program.

(b) An agency that has a subcontract to administer the child care subsidy program with an agency that has a contract with the department.

(c) In a county with a population of 750,000 or more, the department or the Milwaukee County enrollment services unit as provided in ss. 49.155 (3g) (a) and 49.825 (2) (b), Stats.

(4) “Child care funds” means funding for child care purposes under s. 49.155, Stats., excluding s. 49.155 (1d) and (1g), Stats.

(5) “Child care price” means the amount a child care provider charges for child care services.

(6) “Child care provider” or “provider” means a provider licensed under s. 48.65, Stats.; certified under s. 48.651, Stats.; established or contracted for under s. 120.13 (14), Stats.; or licensed or regulated in Illinois, Minnesota, Iowa, or Michigan.

(6m) “Child care subsidy program” or “subsidy program” means the program under which the department issues payments to assist parents who are eligible under s. 49.155 (1m), Stats., with child care expenses.

(7g) “Complies with the payment schedule” as used in s. 49.195 (3m) (h), Stats., means the debtor submits each payment due on an overpayment so that it is received by the department by the due date every month over the life of the debt.

(7r) “Debtor” means a person who is responsible for an overpayment under s. DCF 201.04 (5) (b) or a person who is liable under s. 49.155 (7m) (b), Stats.

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

(9) “EBT card” means a card that allows a parent to electronically transfer the parent’s child care subsidy to the parent’s child care provider as payment for child care services.

(10) “Family” has the same meaning as “Wisconsin works group” as given in s. 49.141 (1) (s), Stats.

Note: Section 49.141 (1) (s), Stats., provides: “‘Wisconsin works group’ means an individual who is a custodial parent, all dependent children with respect to whom the individual is a custodial parent, and all dependent children with respect to whom the individual’s dependent child is a custodial parent. ‘Wisconsin Works group’ includes any nonmarital coparent or any spouse of the individual who resides in the same household as the individual and any dependent children with respect to whom the spouse or nonmarital coparent is a custodial parent.”

(12) “Foster parent” means a person licensed under s. 48.62 (1), Stats., or licensed by a tribal social services agency as a tribal placement home.

(13) “Gross income” means the income used in determining financial eligibility under s. 49.155 (1m) (c), Stats.

(14) “In-home provider” means a person caring for a child in the child’s own home.

(15) “Kinship care relative” has the same meaning as “kinship care relative” under s. 48.57 (3m) (a) 2., Stats., and “long-term kinship care relative” under s. 48.57 (3n) (a) 2., Stats. A “kinship care relative” may or may not be receiving payments under s. 48.57 (3m) or (3n), Stats.

Note: Section 48.57 (3m) (a) 2. and (3n) (a) 2., Stats., provide that a “kinship care relative” and a “long-term kinship care relative” mean “a stepparent, brother, sister, stepbrother, stepsister, first cousin, nephew, niece, aunt, uncle or any person of a preceding generation as denoted by the prefix of grand, great or great-great, whether by consanguinity, direct affinity or legal adoption, or the spouse of any person named in this paragraph, even if the marriage is terminated by death or divorce.”

(15m) “Maximum rate” means the maximum rate that the department will use in calculating the amount of a payment under the child care subsidy program.

(16) “Nonmarital coparent” has the meaning given in s. 49.141 (1) (i), Stats.

Note: Section 49.141 (1) (i), Stats., provides “‘Nonmarital coparent’ means, with respect to an individual and a dependent child, a parent who is not married to the individual, resides with the dependent child and is either an adjudicated parent or a parent who has signed and filed with the state registrar under s. 69.15 (3) (b) 3. a statement acknowledging paternity.”

(17) “Parent” has the meaning given in s. 49.155 (1) (c), Stats.

Note: Section 49.155 (1) (c), Stats., provides: “Notwithstanding s. 49.141 (1) (j), ‘parent’ means a custodial parent, foster parent, legal custodian or person acting in place of a parent.”

(17m) “Personal identification number” means a confidential number that a parent uses with the parent’s EBT card or account number to electronically access the parent’s child care subsidy in a secure manner.

(18) “Poverty line” means the annually updated poverty income thresholds by family size published by the U.S. department of health and human services in the federal register.

(18m) “Private pay parent” means a parent that does not pay a provider for child care with funds from the child care subsidy program.

(19) “Slots” means the number of children within the capacity of a child care provider under the applicable law for that type of provider.

(20) “Special need” means an emotional, behavioral, physical, or personal need of a child requiring more than the usual amount of care and supervision for the child’s age, as documented by a physician, psychologist, special educator, or other qualified professional. A “special need” includes a developmental disability.

(22) “Tribe” means a Wisconsin American Indian tribe recognized by the federal government.

(24) “Wisconsin works” or “W–2” has the meaning given in s. 49.141 (1) (p), Stats.

Note: Section 49.141 (1) (p), Stats., provides: “‘Wisconsin works’ means the assistance program for families with dependent children, administered under ss. 49.141 to 49.161.”

(26) “Wisconsin works employment position” has the meaning given in s. DCF 101.03 (39).

History: Cr. Register, February, 1997, No. 494, eff. 3–1–97; r. (1), (8), (11), (13), (14), (15) and (16), am. (3), (4), (9), (10), and (17), cr. (15m), (16m), (20m), (23), and (24), Register, November, 1999, No. 527, eff. 12–1–99; renum. (12), (15m), (16m) and (20m) to be (11), (15), (16), and (20), cr. (12) and (25), r. (14), Register, January, 2001, No. 541, eff. 2–1–01; CR 02–104: r. and recr. (3) and (15), am. (4), (11) to (13) and (21), renum. (7) and (20) to (25) to be (8) and (21) to (26), cr. (7), (14) and (20) Register March 2003 No. 567, eff. 4–1–03; correction in (10) made under s. 13.93 (2m) (b) 7., Stats., Register March 2003 No. 567; CR 04–123: r. (9) Register July 2005 No. 595, eff. 8–1–05; correction in (11) made under s. 13.92 (4) (b) 7. Stats., Register July 2008 No. 631; corrections in (8), (25) and (26) made under s. 13.92 (4) (b) 6. and 7., Stats., Register November 2008 No. 635; EmR1015: emerg. cr. (2m), am. (3) and (19), eff. 5–17–10; CR 10–056: cr. (2m), am. (3) and (19) Register September 2010 No. 657, eff. 10–1–10; EmR1027: emerg. cr. (7g), (7r), eff. 7–9–10; CR 10–086: cr. (7g), (7r) Register December 2010 No. 660, eff. 1–1–11; CR 10–148: am. (12), r. (21) Register August 2011 No. 668, eff. 9–1–11; CR 14–030: cr. (6m) Register August 2015 No. 716, eff. 9–1–15; 2015 Wis. Act 132: am. (2m) Register February 2016 No. 722, eff. 3–1–16; EmR1709: emerg. r. (2), am. (3), r. and recr. (5), am. (6), r. and recr. (6m), r. (7), r. and recr. (7r), r. (11), am. (12), r. and recr. (13), cr. (15m), r. and recr. (19), cr. (19m), r. (23), (25), eff. 5–4–17; CR 17–033: r. (2), r. and recr. (3), (5), am. (6), r. and recr. (6m), r. (7), r. and recr. (7r), r. (11), am. (12), r. and recr. (13), cr. (15m), r. and recr. (19), r. (23), (25) Register January 2018 No. 745, eff. 2–1–18; EmR1801: emerg. cr. (1), (9), (17m), (18m), eff. 3–11–18; CR 17–099: cr. (1), (9), (17m), (18m) Register July 2018 No. 751, eff. 8–1–18.

DCF 201.03 Department of children and families powers and responsibilities. (1) **GENERAL.** The department shall maintain oversight responsibility of local administration of the child care subsidy program by child care administrative agencies.

(2) **RATE DETERMINATION.** Notwithstanding s. 49.155 (6), Stats., and s. DCF 201.06, the department may determine maximum rates under s. 49.155 (6d) (a) 3., Stats.

(3) **ASSISTANCE TO CHILD CARE ADMINISTRATIVE AGENCIES.** The department shall provide information and technical assistance to child care administrative agencies regarding administration of the child care subsidy program.

(6) **INCENTIVE PROGRAM FOR LOCAL FRAUD DETECTION.** The department shall provide an incentive payment as specified under s. DCF 201.044 to a local agency for identifying fraud in the child care subsidy program.

History: Cr. Register, February, 1997, No. 494, eff. 3–1–97; r. (4), am. (3), Register, November, 1999, No. 527, eff. 12–1–99; correction in (5) (b) made under s. 13.93 (2m) (b) 7., Stats., Register, November, 1999, No. 527; corrections in (title), (2), (5) (a) 1. and (b) made under s. 13.92 (4) (b) 6. and 7., Stats., Register November 2008 No. 635; EmR1015: emerg. am. (3), (5) (a) (intro.) and (b), eff. 5–17–10; CR 10–056: am. (3), (5) (a) (intro.) and (b) Register September 2010 No. 657, eff. 10–1–10; CR 14–030: cr. (6) Register August 2015 No. 716, eff. 9–1–15; correction in (6) made under s. 13.92 (4) (b) 7., Stats., Register August 2015 No. 716; EmR1709: emerg. r. and recr. (1), (2), am. (3), r. (5), am. (6), eff. 5–4–17; CR 17–033: r. and recr. (1), (2), am. (3), r. (5), am. (6) Register January 2018 No. 745, eff. 2–1–18.

DCF 201.034 Child care administrative agencies. (1) The department may contract with a child care administrative

agency to administer, or to share in the administration of, the child care subsidy program in a particular county or geographical area.

(2) The duties of a child care administrative agency shall include all of the following:

(a) Responding to requests for information on the child care subsidy program

(b) Ensuring that a parent’s eligibility for the subsidy program is accurately determined.

(c) Assessing a family’s need for child care.

(d) Providing information to a parent about resources for identifying potential child care providers.

(e) Determining a parent’s copayment amount.

(f) Establishing an authorization for subsidized child care for an eligible parent.

(g) Ensuring program integrity, including determining and processing overpayments.

(h) Representing the agency in appeals under ch. 227, Stats.

(3) A child care administrative agency shall ensure that each new employee who performs an agency responsibility under sub. (2) (b), (c), (e), (f), or (g) completes the department’s initial training within the first 6 months of employment.

(4) A child care administrative agency may subcontract responsibilities with the approval of the department.

History: EmR1709: emerg. cr., eff. 5–4–17; CR 17–033: cr. Register January 2018 No. 745, eff. 2–1–18.

DCF 201.036 Eligibility. (1) **REQUEST FOR ASSISTANCE.** Notwithstanding s. DCF 101.06 (2), a parent shall sign a request for assistance under the child care subsidy program.

Note: Section DCF 101.06 applies to applications for the Wisconsin Works program. Section 49.141 (1) (p), Stats., defines “Wisconsin Works” as “the assistance program for families with dependent children, administered under ss. 49.141 to 49.161, Stats.” This rule clarifies that s. DCF 101.06 applies only to the time-limited program that provides temporary cash assistance and case management services to low-income parents and pregnant women and not to the child care subsidy program.

(2) **AGENCY DETERMINATION.** A child care administrative agency shall determine a parent’s eligibility for the child care subsidy program under s. 49.155 (1m), Stats.

(3) **CHANGE IN CIRCUMSTANCES.** (a) *Parent.* A parent shall notify the child care administrative agency of any change in circumstances that affects the parent’s eligibility or need for child care within 10 days after the change.

(b) *Agency.* A child care administrative agency shall redetermine a parent’s eligibility for the child care subsidy program and need for child care in a timely manner following receipt of a parent’s report of a change in circumstances affecting the parent’s eligibility or need for child care.

(4) **ANNUAL RENEWAL.** A child care administrative agency shall review a parent’s eligibility no sooner than 12 months following the initial determination of the parent’s eligibility or the parent’s most recent annual renewal of eligibility, unless the parent requests a renewal sooner.

Note: For example, a parent may want to renew eligibility for the child care subsidy program early because the parent is at the agency for a renewal of a different program, such as FoodShare.

History: EmR1709: emerg. cr., eff. 5–4–17; CR 17–033: cr. Register January 2018 No. 745, eff. 2–1–18.

DCF 201.038 Child care providers. (1) **PROVIDER REQUIREMENTS.** A child care administrative agency may authorize payment for child care services provided by a child care provider who meets all of the following conditions:

(a) *Regulated child care.* The child care provider is any of the following:

1. ‘Licensed.’ A child care center licensed by the department under s. 48.65, Stats., and ch. DCF 250 or 251, or a day camp licensed by the department under s. 48.65, Stats., and ch. DCF 252.

2. ‘Certified.’ A child care provider certified by a certification agency under s. 48.651, Stats., and ch. DCF 202. For pur-

poses of this paragraph, a child care administrative agency may consider a provider to be certified beginning on the date the provider's application for certification was received by the certification agency.

3. 'School board.' A child care program established or contracted for by a school board under s. 120.13 (14), Stats.

4. 'Out-of-state provider.' A child care provider licensed or regulated in Illinois, Minnesota, Iowa, or Michigan.

(b) *Quality rating system.* The child care provider is any of the following:

1. A child care provider that is participating in the department's quality rating system under ss. 48.659 and 49.155 (6) (e), Stats., who has received a 2–star rating or above or whose quality rating is pending.

2. An in-home provider or an out-of-state provider that has a signed child care subsidy participation contract in effect.

Note: For information on the department's quality rating system or a Wisconsin Shares participation contract, contact the local Youngstar office. Contact information is available at <https://dcf.wisconsin.gov/youngstar/program/localoffice>.

(c) *Fingerprint background check.* The provider is in compliance with the requirements in s. 48.685 (2) (br), Stats.

(2) **ELECTRONIC FUND TRANSFER.** A provider shall complete the procedures necessary to receive payments by electronic fund transfer.

(3) **PARENTAL CHOICE.** A parent may choose any child care provider that meets the conditions in sub. (1).

(4) **PRICE AND RATE.** A parent may choose a child care provider with a child care price that is higher than the applicable maximum rate and pay the difference between the provider's child care price and the applicable maximum rate under s. DCF 201.06 in addition to any required copayment.

(5) **WRITTEN PAYMENT AGREEMENT.** (a) A provider shall enter into a written payment agreement with each parent that receives a child care subsidy for child care by the provider.

(b) The written payment agreement between a provider and parent shall include all of the following:

1. The provider's monthly or weekly child care price.
2. The provider's days and hours of operation.
3. Any discounts or scholarships that are available to parents, and any discounts or scholarships that the parent is receiving.
4. The parent's payment schedule.
5. The provider's anticipated closure dates.
6. Payment expectations for the child's anticipated and unanticipated absences and the provider's closure dates.
7. Parent procedures for termination of a child's enrollment.
8. Provider procedures for termination of a child's enrollment.

(c) A provider shall retain a copy of each current written payment agreement at the location where child care is provided.

(d) A provider shall retain a copy of an expired written payment agreement for at least 3 years after the child's last day of attendance. The agreement shall be kept at a location where it can be made available to the department within 24 hours.

Note: DCF-F-5224, *Provider/Parent Child Care Payment Agreement*, is a voluntary form that a provider may use to comply with this subsection.

(6) **NONDISCRIMINATION.** A provider may not charge a parent that receives a child care subsidy a higher child care price than a private pay parent is charged for a similar amount of child care, unless the difference is due to the children being in different age ranges under s. DCF 201.06 (1) (b) or a child's special needs under s. DCF 201.06 (7).

(7) **CONFIDENTIALITY.** A provider may not do any of the following:

(a) Require a parent to disclose the balance in the parent's child care subsidy account.

(b) Require a parent to provide the parents EBT card, account number, or personal identification number to the provider.

(c) Possess a photocopy, photo, or other image of a parent's EBT card.

(d) Possess a parent's subsidy account number or personal identification number.

(8) **INACTIVE FAMILY.** A child care provider shall notify the local child care administrative agency if the child of a parent who receives a child care subsidy has not attended within the previous 30 days.

History: EmR1709: emerg. cr., eff. 5–4–17; CR 17–033: cr. Register January 2018 No. 745, eff. 2–1–18; EmR1801: emerg. cr. (5) to (8), eff. 3–11–18; CR 17–099: cr. (5) to (8) Register July 2018 No. 751, eff. 8–1–18; correction in (5) (d) made under s. 35.17, Stats., and correction in (6) made under s. 13.92 (4) (b) 7., Stats., Register July 2018 No. 751.

DCF 201.039 Authorizations. (1) **ASSESSMENT OF NEED.** A child care administrative agency shall determine and authorize the amount of child care for which an eligible parent may receive a subsidy.

(2) **PARENT.** A parent shall inform the child care administrative agency of all of the following:

- (a) The child care provider that will care for the child.
- (b) The specific dates and times of the parent's schedule of approved activities under s. 49.155 (1m) (a), Stats.

(c) Any other information requested by the agency regarding the family's need for child care.

(3) **LICENSED PROVIDER PRICES.** A child care administrative agency may refuse to authorize payment for child care services by a child care provider licensed under s. 48.65, Stats., if the provider refuses to submit documentation of the provider's child care prices in response to an agency request.

(4) **TWO-PARENT FAMILY.** In two-parent families, both parents shall meet the eligibility criteria in s. 49.155 (1m), Stats., unless the child care administrative agency verifies that one parent has a disability or health condition that makes that parent unable to participate in an approved activity under s. 49.155 (1m) (a), Stats., and unable to provide the child care necessary for the second parent to participate in an approved activity under s. 49.155 (1m) (a), Stats. The agency shall require the parent to provide documentation of the disability or health condition from a doctor, psychiatrist, or psychologist.

(5) **CARE PROVIDED IN A CHILD'S HOME.** A child care administrative agency may authorize payment for child care services in a child's home only if the child care provider is certified under s. 48.651, Stats., and any of the following apply:

(a) Care is provided to 3 or more children from the same family.

(b) Other licensed or certified care is not available within a reasonable geographic area.

(c) Other licensed or certified care is not available during the hours when child care is needed, such as during second or third shift or weekend hours.

(d) The child has a special need and child care is best provided in the child's home.

(6) **NO PARENTS OR HOUSEHOLD MEMBERS.** A child care administrative agency may not authorize payment for child care services by a provider who is a parent of the child or who resides with the child.

(7) **AUTHORIZATION CRITERIA FOR A PROVIDER'S CHILD.** (a) The department or a child care administrative agency may authorize payment for the care of a child whose parent is a child care provider only if the care will be provided by another child care provider and any of the following apply:

1. The care will allow the parent to participate in an approved activity under s. 49.155 (1m) (a), Stats., other than an activity related to child care.

2. The department or agency determines that assistance is appropriate because the child has a special need.

3. The parent is the child's foster parent.

4. The parent is the child's guardian or interim caretaker and is receiving subsidized guardianship payments under s. 48.623, Stats., for the care and maintenance of the child.

5. The parent is the child's kinship care relative, the child has been placed with the relative under a court order under ch. 48 or 938, Stats., and the relative is receiving kinship care payments under s. 48.57 (3m) or (3n), Stats., for the care and maintenance of the child.

6. Both of the following apply:

a. The child's biological parent is a dependent minor child under the age of 18 who attends high school or participates in a course of study meeting the standards established by the state superintendent of public instruction for the granting of a declaration of equivalency of high school graduation.

b. The dependent minor parent and the child reside with a person who is considered the child's parent for the purposes of this chapter and who may be the dependent minor parent's custodial parent, kinship care relative, foster parent, or guardian or interim caretaker receiving a payment under s. 48.623, Stats., for the care and maintenance of the dependent minor parent.

(b) If a parent who is a child care provider submits documentation of circumstances that meet the conditions of this subsection, the child care administrative agency shall consider the documentation to be an application for a waiver under s. 49.155 (3m) (d) 3., Stats.

(8) EMPLOYEE OF CERTIFIED PROVIDER. A child care administrative agency may not authorize payment for child care services by a provider certified under s. 48.651, Stats., if the child's parent or a person who resides with the child is employed by the provider at the same location.

(9) MAXIMUM HOURS PER DAY. (a) A child care administrative agency shall authorize no more than 12 hours of child care per day per child, unless the child's parent provides written documentation of work or transportation requirements that exceed 12 hours in a day.

(b) A child care administrative agency may authorize more than 12 hours, but not more than 16 hours, of child care per day for a child whose parent has provided written documentation of work or transportation requirements that exceed 12 hours in a day.

(10) AUTHORIZATION NOTICE. (a) After a parent has provided all of the information required under sub. (2) and the child care administrative agency has completed the assessment of the family's need for child care, the agency shall issue a written authorization notice to the parent approving payment for child care through the subsidy program based on the specific provisions in the notice.

(b) An authorization notice shall specify the child who will receive the care, the child care provider, the location where the child care will be provided, the time period in which the child care will be provided, the number of hours of child care authorized per month, and the maximum subsidy payment amount per month.

(11) BACKDATED START DATE. (a) *Authorization within 30 days after request for assistance.* 1. If an agency determines that a parent is eligible for the subsidy program under s. 49.155 (1m), Stats., and the parent submits the information required under sub. (2) to the agency within 30 days after the date that the parent submitted a request for assistance, the agency may authorize payment beginning on the date that all of the following conditions are met:

a. The parent has submitted a request for assistance under the child care subsidy program.

b. The child is receiving child care services from a child care provider.

c. The provider is in compliance with the requirements of s. DCF 201.038 (1).

2. Notwithstanding subd. 1., if an agency determines that a parent is eligible for the subsidy program under s. 49.155 (1m), Stats., and the parent submits the information required under sub.

(2) to the agency within 30 days after the date that the parent submitted a request for assistance, the agency may authorize payment beginning on the later of the date of child placement or the first day of the month in which the parent submitted the request for assistance if all of the following conditions are met:

a. The parent is a kinship care relative receiving payments under s. 48.57 (3m), Stats., and is providing care and maintenance for the child who is placed in the kinship care relative's home pursuant to a court order under ch. 48 or 938, Stats.

b. The requirements in subd. 1. a. to c. are met on or before the last day of the month.

(b) *Authorization more than 30 days after request for assistance.* If an agency determines that a parent is eligible for the subsidy program under s. 49.155 (1m), Stats., and the parent submits the information required under sub. (2) to the agency more than 30 days after the date that the parent submitted a request for assistance, the agency may authorize payment for child care services beginning the first day of the month in which the parent submits the information required under sub. (2) if all of the conditions in par. (a) 1. a. to c. are met.

(12) NEW CHILD CARE PROVIDER EFFECTIVE FOLLOWING MONTH. If a parent receiving assistance under the child care subsidy program notifies the child care administrative agency of the parent's intent to obtain child care services from a different child care provider, the agency may authorize payment for child care by the new provider that is effective the first day of the following month if the parent notifies the agency prior to the end of business hours on the last business day of a month.

(13) NEW PROVIDER EFFECTIVE IN CURRENT MONTH DUE TO HARDSHIP. If a parent receiving assistance under the child care subsidy program notifies the child care administrative agency of the parent's intent to obtain child care services from a different child care provider, the agency may authorize payment for child care by the new provider that is effective in the current month if the conditions in pars. (a) and (b) are met, as follows:

(a) The family is experiencing circumstances that create an unforeseen hardship for the child to continue to attend the authorized provider for the remainder of the month due to any of the following:

1. Travel to the authorized provider has become unreasonable due to any of the following:

a. The family relocated to escape domestic abuse.

b. The family was evicted from their home.

c. The family was formerly homeless and has moved into stable housing.

d. The location of the parent's approved activity suddenly changed.

2. The authorized provider is unable to meet the family's need for child care after any of the following:

a. The schedule of the parent's approved activity suddenly changed.

b. The death or unexpected departure of a parent.

c. The child is expelled due to behavior issues.

d. The child has a special need that is no longer met by the provider.

e. The child has a medical need that cannot be met by the provider.

3. The authorized provider is no longer available to provide child care services due to any of the following:

a. The provider suddenly stops providing child care services.

b. The provider's regulatory approval has been suspended or revoked.

c. Damage to the provider's facility has created an unsafe environment for children.

d. Regulatory restrictions on the number of children, hours of operation, or provider-to-child ratios.

4. There is alleged abuse or neglect of the child by the provider, and a complaint has been made to the appropriate certification or licensing agency.

5. Continuing to receive child care from the authorized provider threatens the safety of the parent or child.

6. Other circumstances outside the parent's control as approved by the department.

(b) The parent notifies the agency of the applicable circumstances in par. (a) within 10 days after the circumstances begin.

(14) NEW PROVIDER EFFECTIVE IN CURRENT MONTH FOR SIBLING. A child care administrative agency may authorize payment for child care by a new provider effective in the current month for the sibling of a child whose circumstances qualify for a hardship authorization under sub. (13) if the sibling attends the same child care provider.

History: EmR1709: emerg. cr., eff. 5–4–17; CR 17–033: cr. Register January 2018 No. 745, eff. 2–1–18; correction in numbering (13) (intro.) made under s. 13.92 (4) (b) 7., Stats., correction in (13) (a) made under s. 35.17, Stats., Register January 2018 No. 745.

DCF 201.04 Payments and overpayments. (1) GENERAL. The child care subsidy in a parent's account may only be used to compensate a provider that is in compliance with s. DCF 201.038 (1) for child care authorized under s. DCF 201.039 for the child of a parent eligible under s. 49.155 (1m), Stats., and provided within the terms of the provider's regulation and the parent's authorization.

(2) PAYMENTS. (a) *Amount.* The amount of a monthly subsidy payment shall be based on the number of hours of child care that an agency authorizes and any of the following that are applicable:

1. For care by a provider licensed under s. 48.65, Stats., the lower of the provider's child care price or the applicable maximum rate under s. DCF 201.06 (4), minus any copayment required under s. DCF 201.08.

2. For care by a provider certified under s. 48.651, Stats., the applicable rate under s. DCF 201.06 (5), minus any copayment required under s. DCF 201.08.

3. For care at a child care program established or contracted for by a school board under s. 120.13 (14), Stats., the applicable rate under s. DCF 201.06 (6), minus any copayment required under s. DCF 201.08.

(b) *Electronic.* The department may issue all payments by electronic funds transfer.

(c) *Expiration.* A parent's subsidy payment shall expire 90 days after the date that the department issues the payment to the parent.

(d) *Billing and collecting.* A parent's child care provider is responsible for billing and collecting payment for child care services from the parent.

(2g) TEMPORARY ABSENCE. A child care administrative agency may authorize payment to hold a slot for a child with a child care provider if the parent has a temporary break in employment and intends to return to work and continue to use the child care provider upon return to work. The agency may authorize payment for no more than 6 weeks if the absence is due to a medical reason and is documented by a physician or for no more than 4 weeks if the absence is for other reasons. The department and child care administrative agency may not consider payment for a temporary absence to be an overpayment if the parent intended to return to work but does not actually return.

(3) INACTIVE ACCOUNT. The department may terminate a parent's authorization and retract all child care subsidy funds in the parent's account if the parent has not paid any of the child care subsidy to the provider within the previous 90 days.

(4) INTENTIONAL PROGRAM VIOLATION. A child care administrative agency shall consider a parent's attempt to sell access to the

parent's child care subsidy account to an unauthorized person to be an intentional program violation under s. 49.151 (2), Stats.

(5) OVERPAYMENT RECOVERY AND PENALTIES. (a) *Parent overpayments.* 1. A child care administrative agency or the department shall take all reasonable steps necessary to recover from a parent funds paid to a child care provider or to that parent when the parent was not eligible for that level of payment under the child care subsidy program and the overpayment benefited the parent by causing the parent to pay less for child care expenses than the parent otherwise would have been required to pay under the requirements of the child care subsidy program. Section DCF 101.23 shall apply to overpayment collection from a parent under this section.

2. An overpayment shall include excess child care funds paid when there was a change in family eligibility circumstances that was significant enough that it would have resulted in a smaller child care subsidy payment or ineligibility for the child care subsidy program due to any reason, including the following:

a. The parent failed to report a change in circumstances that may affect his or her eligibility within 10 days after the change.

b. The parent was absent from an approved activity under s. 49.155 (1m) (a), Stats., without good cause, while the child was in the care of the provider.

3. The child care administrative agency shall determine good cause under subd. 2. b. if the approved activity is employment. A parent's absence from employment shall be considered good cause if the parent is using employer-approved sick time, personal time, or vacation time and the child is in care for no more than the hours authorized.

(b) *Provider overpayments.* A child care administrative agency or the department shall take all reasonable steps necessary to recoup or recover from a provider any overpayments made for child care services for which the provider was responsible or overpayments caused by administrative error that benefited the provider. A provider shall be responsible for an overpayment if any of the following conditions are met:

2. A provider was paid with child care funds for care provided at a location other than the location for which the authorization for care was issued, except for field trips.

3. A provider was paid with child care funds for care during time when the provider was in violation of the applicable provision regarding limits on the maximum number of children in care or the required provider-to-child ratios for children of various ages in s. DCF 202.08 (6), 250.05 (4), 251.05 (4), or 252.42 (3).

4. A provider was paid with child care funds for care during time when the provider was in violation of the terms of the provider's license under s. DCF 250.04 (1), 251.04 (1), or 252.05 (3), including age of the children served by the center and hours, days, and months of operation of the center.

5. A provider misrepresented information that resulted in the provider receiving a higher star rating and a higher maximum rate than the provider was eligible to receive under the child care quality rating system in ss. 48.659 and 49.155 (6) (e), Stats.

(bm) *Joint liability.* A provider and parent shall be jointly and severally liable for an overpayment if the provider and parent collude to violate a requirement under this chapter or s. 49.155, Stats.

(c) *Penalties for subsidy violations.* If a child care provider submits false, misleading, or irregular information to a child care administrative agency or the department or if a child care provider fails to comply with the terms of the program in s. 49.155, Stats., or this chapter and the provider fails to provide to the satisfaction of the department an explanation for the noncompliance, the child care administrative agency or department may take one or more of the following steps:

1. Refuse to issue new child care authorizations to a provider for a period of time not to exceed 6 months.

2. Revoke existing child care authorizations to the provider.

3. Refuse to issue payments to the provider, in addition to the authority granted to the department under s. 49.155 (7) (b) 4., Stats.

4. Recoup overpayments under par. (e) or (ed).

5. Impose a forfeiture on the provider under par. (cg).

(cg) *Forfeitures.* A child care administrative agency or the department may impose a forfeiture of \$100 to \$10,000 on a child care provider if the provider intentionally or egregiously violates a provision in this chapter or s. 49.155, Stats. In determining the amount of the forfeiture, the child care administrative agency or department shall identify specific dates relating to a specific child for any violations and shall consider the following factors:

1. Seriousness of the violations.
2. Extent of the violations.
3. History of prior violations.
4. Prior imposition of penalties.
5. Provider willingness to obey program rules.
6. The size and type of child care provider.

(cr) *Licensing or certification violations.* If the department or a certification agency has given notice to a provider that the provider is in violation of applicable licensing or certification rules under ch. DCF 202, 250, 251, or 252 and the provider has not corrected the violation, the department or child care administrative agency may refuse to issue new child care authorizations, revoke existing child care authorizations, or refuse to issue payments until the provider has corrected the violation and demonstrated sufficient controls to ensure that the violation or comparable violations are unlikely to occur again.

(d) *Notice.* If the department or a child care administrative agency refuses to issue new authorizations, revokes existing authorizations, or refuses to issue payments to a provider under par. (c) or (cr), the child care administrative agency or the agency shall provide written notice to the parent and provider as soon as possible before the effective date of the penalty.

(e) *Recoup from funds payable to continuing provider.* If a provider has not repaid an overpayment, the child care administrative agency or department may recover the overpayment by recouping from current or future funds under its control that are payable to the provider of no more than 50 percent of each payment if the provider is expected to continue to care for children whose care is subsidized under s. 49.155, Stats.

(ed) *Recoupment from funds payable to provider who is not continuing.* If a provider or former provider has not repaid an overpayment and the provider or former provider is not expected to continue to care for children whose care is subsidized under s. 49.155, Stats., the child care administrative agency or department may recover the overpayment by recouping 100 percent of funds under its control that are payable to the provider or former provider.

(eh) *Warrant and execution under section 49.195 (3m), Stats.*

1. 'Creation of lien.' a. If the department does not receive a debtor's payment on a debt for repayment of an overpayment by the due date 3 times over the life of a debt, the debt shall be considered delinquent. If a debt is delinquent and no review or appeal rights under s. DCF 201.07 are pending and the time for requesting a review has expired, the department may issue a warrant directed to the clerk of circuit court of any county.

b. The clerk of circuit court shall enter in the judgment and lien docket the name of the debtor named in the warrant, the amount for which the warrant is issued, and the date on which the clerk entered the information.

c. The department shall pay the fees required under s. 814.61 (5), Stats., for entering the warrant and shall collect the fees from the debtor named in the warrant when satisfaction or release is presented for entry.

d. A warrant issued under subd. 2. b. shall be considered in all respects a final judgment constituting a perfected lien upon the

debtor's right, title, and interest in all real and personal property located in the county in which the warrant is entered.

e. The department shall provide the debtor with notice and an opportunity for a hearing under ch. 227, Stats., when a warrant has been issued. The debtor may request a hearing under ch. 227, Stats., within 20 days from the date on the notice. The appeal shall be limited to questions of prior payment of the debt that the department is proceeding against and mistaken identity of the debtor. The department may not withdraw a warrant based on a request for hearing.

2. 'Execution of the warrant.' a. After the warrant is issued and no review or appeal rights under subd. 1. e. are pending and the time for requesting a review has expired, the department may file an execution with the clerk of circuit court for filing with the sheriff of the county, commanding the sheriff to execute the warrant and sell sufficient real and personal property of the debtor to pay the amount stated in the warrant in the same manner as upon an execution against property issued upon the judgment of a court of record, and to return the warrant to the department and pay to it the money collected by virtue of the warrant within 90 days after receipt of the warrant. The execution may not command the sheriff to levy upon or sell any property that is exempt from execution under ss. 815.18 (3) and 815.20, Stats.

b. The department shall provide the debtor with notice and an opportunity for a hearing under ch. 227, Stats., before property is seized. The debtor may request a hearing under ch. 227, Stats., within 20 days from the date on the notice. The appeal shall be limited to questions of prior payment of the debt that the department is proceeding against and mistaken identity of the debtor. The department may not cease enforcement or seizure based on a request for hearing.

c. The department shall provide the debtor with notice and an opportunity for a hearing under ch. 227, Stats., before seized property is sold. The debtor may request a hearing under ch. 227, Stats., within 20 days from the date on the notice. The appeal shall be limited to questions of prior payment of the debt that the department is proceeding against and mistaken identity of the debtor. If a hearing is requested, the department shall notify the sheriff that seized property may not be sold before the hearing decision is issued or the hearing request is withdrawn.

3. 'Satisfaction of the warrant.' When the amount set forth in the warrant and all costs due the department have been paid to it, the department shall issue a satisfaction of the warrant and file it with the clerk of circuit court. The clerk of circuit court shall immediately enter a satisfaction of the judgment on the judgment and lien docket. The department shall send a copy of the satisfaction to the person named in the warrant.

(ep) *Levy under section 49.195 (3n), Stats.* 1. 'Definition.' In this paragraph, "personal property" means all tangible and intangible property and rights to such property that is not real estate, including compensation paid or payable for personal services, whether denominated as wages, salary, commission, bonus or otherwise; periodic payments received pursuant to a pension or retirement program; rents; proceeds of insurance; contract payments; stock and bonds; and accounts in financial institutions.

2. 'Notice prior to levy.' a. If the department does not receive a debtor's payment on a debt for repayment of an overpayment by the due date 3 times over the life of a debt, the debt shall be considered delinquent. If a debt is delinquent and no review or appeal rights under s. DCF 201.07 are pending and the time for requesting a review has expired, the department shall give notice to the debtor that the department may pursue legal action for collection of the debt.

b. The department shall make the demand for payment and give notice to the debtor at least 10 days prior to the levy, personally or by any type of mail service that requires a signature of acceptance, at the address of the debtor as it appears on the records of the department. The demand for payment and notice shall

include a statement of the amount of the debt, including interest and penalties, and the name of the debtor who is liable for the debt.

c. The debtor's refusal or failure to accept or receive the notice does not prevent the department from making the levy.

d. Notice prior to levy is not required for a subsequent levy on any debt of the same debtor within one year of the date of service of the original levy.

3. 'Service of levy and review when property levied.' a. The department may collect the debt and the expenses of the levy by levy upon any personal property belonging to the debtor.

b. The department shall serve the levy upon the debtor and any 3rd party in possession of or obligated with respect to property or rights to property that is subject to levy by personal service or by any type of mail service that requires a signature of acceptance as provided in s. 49.195 (3n) (m), Stats. The debtor or 3rd party's failure to accept or receive service of the levy does not invalidate the levy.

c. Any debtor who is subject to a levy proceeding made by the department has the right to appeal the levy proceeding under ch. 227, Stats., within 20 days from the date on the service of levy. The appeal shall be limited to questions of prior payment of the debt that the department is proceeding against and mistaken identity of the debtor. The levy is not stayed pending an appeal where property is secured through the levy.

4. 'Third-party response.' a. Within 20 days from the service of the levy upon a 3rd party, the 3rd party shall file an answer with the department stating whether the 3rd party is in possession of or obligated with respect to property or rights to property of the debtor, including a description of the property or the rights to property and the nature and dollar amount of any such obligation.

b. Any person in possession of or obligated with respect to personal property or rights to personal property that is subject to levy and upon which a levy has been made shall, upon demand of the department, surrender the personal property or rights or discharge the obligation to the department, except that part of the personal property or rights which is, at the time of the demand, subject to any prior attachment or execution under any judicial process.

5. 'Appeal rights before surrendered property is sold.' If levied personal property that has been surrendered to the department is not a liquid asset in the form of cash, check, or an equivalent that can be applied to the debt without a sale of the asset, the department shall provide the debtor with notice and an opportunity for a hearing under ch. 227, Stats., before surrendered property is sold. The debtor may request a hearing under ch. 227, Stats., within 20 days from the date on the notice. The appeal shall be limited to questions of prior payment of the debt that the department is proceeding against and mistaken identity of the debtor. If a hearing is requested, surrendered property may not be sold before the hearing decision is issued or the hearing request is withdrawn.

6. 'Exemption rights.' a. The debtor is entitled to an exemption from levy of the greater of a subsistence allowance of 75 percent of the debtor's disposable earnings then due and owing, an amount equal to 30 times the federal minimum hourly wage for each full week of the debtor's pay period, an amount equal to 60 times the federal minimum hourly wage for a two-week pay period, or an amount equal to 130 times the federal minimum hourly wage for a monthly pay period.

b. The first \$1,000 of an account in a depository institution is exempt from any levy to recover an overpayment.

7. 'Proceeds.' a. The department shall apply all money obtained under this paragraph first against the expenses of the proceedings and then against the liability for which the levy was made and any other liability owed to the department by the debtor.

b. Whenever the value of any personal property that has been levied upon under this paragraph is not sufficient to satisfy the claim of the department, the department may levy upon any addi-

tional personal property of the debtor until the debt and expenses of the levy are fully paid.

c. The department may refund or credit any amount left after the applications under subd. 7. a., upon submission of a claim for that amount and satisfactory proof of the claim, to the person entitled to that amount.

(et) *Threshold for warrant and execution and levy.* The minimum amount that must be due before collection proceedings under par. (eh) or (ep) may be commenced is \$300.

(f) *Parent not liable.* If the department refuses to issue payment based on a provider's violation of a requirement in this chapter, the provider may not hold the parent liable for payment other than the copayment and any amount that the parent agreed to above the department's maximum reimbursement rate if the parent relied on an approved authorization for care for his or her child to receive care from the provider.

(g) *Waiver.* The department may waive recovery of an overpayment under this subsection if the department has made reasonable efforts to recover the overpayment and determines it is no longer cost effective to continue overpayment recovery efforts.

(6) MONITORING OF CHILD CARE PROGRAMS. The department or the child care administrative agency may take one or more of the following steps to monitor a provider's compliance with program requirements:

(a) Require the provider to submit documentation signed by the parent of the actual times that the child was dropped off to and picked up from the child care provider.

(b) Contact the parents to determine the child's actual attendance hours.

(c) Require the provider to submit attendance and payment records for families that pay for child care costs out of their own personal funds.

(d) Require the provider to have attendance records available at the child care site whenever the department or child care administrative agency requests to review them.

(e) Make on-site inspections to monitor provision of authorized services.

History: Cr. Register, February, 1997, No. 494, eff. 3-1-97; cr. (1) (i), Register, October, 1997, No. 502, eff. 11-1-97; am. (1) (intro.), (3) (a), 1., 2. and (b) 1., (4) (a), (b) 1. and a., r. (1) (a) to (i), (2), (3) (b) 3., 4. and (3) (d), r. and recr., (4) (e), cr. (7) (c) and (d), Register, November, 1999, No. 527, eff. 12-1-99; am. (1), Register, January, 2001, No. 541, eff. 2-1-01; CR 02-104: r. (1) and (4) (a), renum. (3), (4) (b) to (d), and (5) to (7) to be (1), (2) (a), (c) and (d), (3), (4) and (5) and am. (1) (a) (intro.) and 2., (b) (intro.) and (c), (2) (a) 1. c., (c) and (d), (4) and (5) (c) (intro.), also renum. (4) (e) to be DWD 56.045 and am., cr. (2) (b), (d) 1. b., (e) to (i), (5) (e), (f) and (6), r. and recr. (5) (c) 1. to 3., am. (5) (d) Register March 2003 No. 567, eff. 4-1-03; CR 04-123: cr. (2m), (5) (a) 2. and 3., am. (3), (5) (b), (e) and (f), renum. (5) (a) to be (5) (a) 1. and am., Register July 2005 No. 595, eff. 8-1-05; CR 06-044: (1) (b) 3. and 4. renum. from DWD 55.03 (2) (c) and (d), Register November 2006 No. 611, eff. 12-1-06; emerg. am. (1) (a) 1., (2) (a) 1. b. and (5) (c), r. and recr. (2) (d), eff. 4-1-07; corrections in (1) (a) 1., 2., (b) 2. and (5) (a) 1. made under s. 13.92 (4) (b) 6. and 7., Stats., Register November 2008 No. 635; EmR1015: emerg. revisions as in CR 10-056, eff. 5-17-10; CR 10-056: am. (1) (a) 2., (2) (a) 1. b. and (c), renum. (2) (b), (d), (e) to (h) to be (2g) (d), (a), (e) to (h), cr. (2g) (title), (b) and (c), Register September 2010 No. 657, eff. 10-1-10; EmR1027: emerg. am. (5) (title), (b), (c) 3., (d), (e), (f), cr. (5) (a) (title), (b) 3., 4., 5., (bm), (c) 4., 5., (cg), (cr), (ed), (eh), (ep), (et), (g), r. and recr. (5) (b) 1., 2., (c) (intro.), eff. 7-9-10; CR 10-086: am. (5) (title), (b), (c) 3., (d), (e), (f), cr. (5) (a) (title), (b) 3., 4., 5., (bm), (c) 4., 5., (cg), (cr), (ed), (eh), (ep), (et), (g), r. and recr. (5) (b) 1., 2., (c) (intro.) Register December 2010 No. 660, eff. 1-1-11; EmR1216: emerg. cr. (2j), eff. 11-15-12; CR 12-048: cr. (2j) Register July 2013 No. 691, eff. 8-1-13; EmR1629: emerg. am. (3) (b), eff. 9-30-16; CR 16-063: r. and recr. (3) (b) Register June 2017 No. 738, eff. 7-1-17; EmR1709: emerg. r. and recr. (title), r. (1), r. and recr. (2), r. (2g) (title), (a), (d), (e), (g), am. (2g) (c) 1. (intro.), am. (h), r. (2j), (2m), (3), (4), (5) (title), (a) 1., 2. (intro.), (b) 1. to 4., r. (5) (b) 5., (6) (title), eff. 5-4-17; CR 17-033: r. and recr. (title), r. (1), r. and recr. (2), (2g) (title), r. (2g) (a) to (g), renum. (2g) (h) to (2g) and am., r. (2j), (2m), (3), (4), am. (5) (a) 1., 2. (intro.), 3., r. (5) (b) 1., am. (5) (b) 2. to 4., r. (5) (b) 5. Register January 2018 No. 745, eff. 2-1-18; EmR1801: emerg. cr. (1), (3), (4), (5) (b) 5., eff. 3-11-18; CR 17-099: cr. (1), (3), (4), (5) (b) 5. Register July 2018 No. 751, eff. 8-1-18.

DCF 201.044 Incentive program for local fraud detection. (1) **DEFINITION.** In this section, "local agency" means a child care administrative agency, excluding an agency in a county having a population of 500,000 or more.

(2) **IDENTIFYING FRAUD.** The department shall provide an incentive payment to a local agency for identifying fraud in the

child care subsidy program on the part of a child care provider if all of the following apply:

(a) The local agency investigates the child care provider by doing any of the following:

1. Conducting site visits.
2. Collecting and reviewing the provider's attendance and billing records.
3. Interviewing persons of interest.
4. Gathering supporting case information.

(b) The local agency's investigation finds that the child care provider intentionally submitted false, misleading, or irregular information to the department or failed to comply with the terms of the child care subsidy program and failed to provide to the satisfaction of the agency or the department an explanation for the non-compliance.

(c) The local agency calculates and establishes the amount of the overpayment made to the provider as a result of the provider's actions under par. (b).

(d) The local agency's actions in pars. (a) to (c) result in the department, in conjunction with the local agency, withholding payments to be made to the child care provider under s. 49.155 (7m) (a) 2., Stats.

(e) The withholding of payments under par. (d) is upheld in the final review under s. DCF 201.07 or the provider does not request a review or appeal.

(f) If directed by the department, the local agency requests the district attorney to consider criminal prosecution of the child care provider.

(3) PAYMENT AMOUNT. (a) The department shall determine the amount of an incentive payment earned by a local agency under sub. (2) by multiplying all of the following amounts:

1. The statewide average monthly subsidy payment per child in the preceding fiscal year.
2. The average monthly number of children for whom payment was authorized to the provider under s. DCF 201.04 (2g) in the 12 months before the local agency or the department withheld payments under sub. (2) (d). If payment was not authorized to the provider for all of the preceding 12 months, the average monthly number of children for the number of months that payment was authorized.
3. 1.5 months.

(b) An incentive payment earned by a local agency for identifying fraud in the child care subsidy program under sub. (2) by a single child care provider may not exceed \$25,000.

(c) A local agency may earn more than one incentive payment per year if the local agency identifies fraud in the child care subsidy program under sub. (2) by more than one child care provider in that year.

(4) USE OF INCENTIVE FUNDS. A local agency that has earned an incentive payment may request that the department distribute the funds for any of the following purposes:

(a) The local agency's child care fraud contract with the department for the following year.

(b) The local agency's current child care fraud contract with the department if the request is made in the first half of the contract term.

Note: Contracts with counties are based on a calendar year and contracts with tribes are based on a federal fiscal year.

(c) Any purpose that is consistent with the state plan under 42 USC 602 for the use of federal funds under the Temporary Assistance to Need Families program under 42 USC 601 *et seq* for the time period when the funding is distributed if the state plan has been approved by the federal administration for children and families.

Note: The currently-approved state plan is available on the department's website, <http://dcf.wisconsin.gov>, by clicking on About Us/Department Programs/Temporary Assistance to Needy Families.

(d) If pars. (a) to (c) do not apply, any purpose for which funds under the Temporary Assistance for Needy Families program may be used under 42 USC 601 *et seq* if the federal administration for children and families approves an amendment to the state plan under 42 USC 602 that allows that purpose.

History: CR 14-030: cr. Register August 2015 No. 716, eff. 9-1-15; renum. from DCF 201.41 under s. 13.92 (4) (b) 1., Stats., Register August 2015 No. 716; EmR1709: emerg. renum. DCF 201.035 to DCF 201.044 eff. 5-4-17; CR 17-033: renum. DCF 201.035 to DCF 201.044 Register January 2018 No. 745, eff. 2-1-18.

DCF 201.06 Establishing maximum rates. (1) RATE

GROUPING. (a) *County.* The department shall set maximum rates for child care services in each county within the state. A tribal area shall be included in the county in which it is geographically located.

(b) *Age groups.* Within each county, the department shall set maximum rates for the following age groups:

1. Infants and toddlers under 2 years of age.
2. Children 2 years of age and over, but under age 4.
3. Children 4 years of age and over, but under age 6.
4. Children ages 6 to 13 years.

(c) *Types of providers.* Within each county and within each age group, the department shall set maximum rates for child care services by each of the following types of providers:

1. Group child care centers licensed under s. 48.65, Stats., and ch. DCF 251 and day camps licensed under s. 48.65, Stats., and ch. DCF 252.
2. Family child care centers licensed under s. 48.65, Stats., and ch. DCF 250.
3. Level I regular certified child care providers under s. 48.651 (1) (a), Stats., and ch. DCF 202.
4. Level II provisional certified child care providers under s. 48.651 (1) (b), Stats., and ch. DCF 202.

(2) SURVEY OF LICENSED CENTERS AND DAY CAMPS. (a) The department shall annually contact all licensed group child care centers, family child care centers, and day camps to obtain their child care prices.

(b) The department shall include only child care prices submitted in writing in the survey results.

(3) MAXIMUM RATES FOR LICENSED CENTERS AND DAY CAMPS. (a) *Licensed group child care centers and day camps.* The department shall set maximum rates so that at least 75 percent of the slots in a county at group child care centers licensed under ch. DCF 251 and day camps licensed under ch. DCF 252 may be purchased at or below the maximum rate. The number of slots attributed to a group child care center or day camp shall be equal to the licensed capacity.

(b) *Licensed family child care centers.* The department shall set maximum rates so that at least 75 percent of the slots in a county at family child care centers licensed under ch. DCF 250 may be purchased at or below the maximum rate. The number of slots attributed to a family child care center shall be equal to the center's licensed capacity.

(c) *Exclusions.* In determining maximum rates for licensed group child care centers, licensed family child care centers, and licensed day camps under pars. (a) and (b), the department may exclude the child care prices of a group child care center, family child care center, or day camp at which any of the following apply:

1. The center or day camp operates less than 5 days a week or 5 hours a day.
2. The center or day camp has not established full-time weekly or full-time monthly child care prices.
3. The department issues child care subsidy payments for the care of more than 75 percent of the children attending the center or day camp.

(d) *Sibling rates.* The department may not establish reduced maximum rates for siblings.

(4) RATES FOR CERTIFIED CHILD CARE PROVIDERS. (a) *Percentage of licensed rates.* The department shall set rates for certified child care providers under s. 49.155 (6) (b) and (c), Stats., as follows:

1. Rates for Level I regular certified providers under s. 48.651 (1) (a), Stats., may not exceed 75 percent of the rates established under sub. (3) (b).

2. Rates for Level II provisional certified providers under s. 48.651 (1) (b), Stats., may not exceed 50 percent of the rates established under sub. (3) (b).

(b) *In-home provider.* Notwithstanding par. (a), the rate for a certified in-home provider who is providing child care services for 15 or more hours per week is the applicable minimum wage, regardless of the number of children receiving care.

(5) RATES FOR SCHOOL BOARD PROGRAMS. The rates for care at a child care program established or contracted for by a school board under s. 120.13 (14), Stats., shall be the same as the applicable rate for a licensed group child care center under sub. (3) (a).

(6) RATES FOR OUT-OF-STATE PROVIDERS. The maximum rate for an out-of-state provider shall be the applicable maximum rate in the county in which the parent resides or the out-of-state provider's actual rate, whichever is lower.

(7) SPECIAL NEED. On a case-by-case basis, a child care administrative agency may set a rate higher than the rate established under this section for the care of a child with a special need.

History: Cr. Register, February, 1997, No. 494, eff. 3-1-97; am. (1) (a) 1. and (2) (c), Register, November, 1999, No. 527, eff. 12-1-99; corrections in (3) (b) made under s. 13.93 (2m) (b) 7., Stats., Register, January, 2001, No. 541; CR 02-104: am. (1) (b), (c) 2., (2) (a) 2., (b) 1. and (d), cr. (1) (c) 3. and 4., Register March 2003 No. 567, eff. 4-1-03; emerg. am. (1) (a) 1., cr. (1) (a) 1m. eff. 1-22-07; CR 07-030: am. (1) (a) 1., cr. (1) (a) 1m. Register October 2007 No. 622, eff. 11-1-07; emerg. am. (1) (a) 1., cr. (1) (a) 1r., eff. 1-1-08; CR 08-009: am. (1) (a) 1., cr. (1) (a) 1r. Register July 2008 No. 631, eff. 8-1-08; correction in (3) (b) made under s. 13.92 (4) (b) 7., Stats., Register November 2008 No. 635; EmR1015: emerg. revisions as in CR 10-056, eff. 5-17-10; CR 10-056: am. (title), (1) (b), (c) (intro.), (2) (a) (intro.), 2., (b) (intro.), 1., (d), (e) and (4) Register September 2010 No. 657, eff. 10-1-10; 2015 Wis. Act 132: r. (3) (b) Register February 2016 No. 722, eff. 3-1-16; EmR1709: emerg. r. and recr., eff. 5-4-17; CR 17-033: r. and recr. Register January 2018 No. 745, eff. 2-1-18; EmR1801: emerg. am. (3) (c) 2., eff. 3-11-18; CR 17-099: am. (3) (c) 2. Register July 2018 No. 751, eff. 8-1-18.

DCF 201.065 Parent appeal rights. (1) RIGHT TO APPEAL. (a) *General.* A parent applying for or receiving payments under the child care subsidy program may appeal any of the following actions by the department or a child care administrative agency:

1. Denial of an application in whole or in part.
2. Failure to act on an application within 30 days.
3. Reduction, suspension, or termination of child care subsidy payments.
4. The determination of the amount and initial eligibility date of receipt of child care subsidy payments.
5. Denial of a request for a hardship authorization under s. DCF 201.039 (13) or (14).

(b) *Overpayments.* A parent receiving child care subsidy payments or an individual who formerly received child care subsidy payments may appeal the determination or collection of an overpayment, including the amount of the overpayment, the determination of the amount of the overpayment still owed, warrant and execution under s. DCF 101.23 (9), levy under s. DCF 101.23 (10), or a decision under s. 49.85, Stats., to recover the overpayment by means of certification to the Wisconsin department of revenue. The parent may make only one request for appeal of the basis for the overpayment claim. Any subsequent appeals shall be limited to questions of prior payment of the debt that the department or agency is proceeding against or mistaken identity of the debtor.

(c) *Intentional program violations.* A parent receiving child care subsidy payments or an individual who formerly received child care subsidy payments may appeal a determination by the

department or an agency that the parent or individual has committed an intentional program violation under s. 49.151 (2), Stats.

(d) *No appeal of payment expiration.* A parent may not appeal the expiration of a subsidy payment under s. DCF 201.04 (2) (c).

(2) PROCEDURE. (a) A request for a hearing may be made by an individual who has a right to appeal under sub. (1) or someone with legal authority to act on their behalf.

(b) 1. A request for a hearing of an action under sub. (1) (a) or (b) shall be in writing and received at the address specified on the notice within 45 days after the date printed on the notice.

2. A request for a hearing of a determination under sub. (1) (c) shall be in writing and received at the address specified on the notice within 30 days after the date printed on the notice.

(c) Upon receipt of a timely request for hearing, the department or the division of hearings and appeals under s. 227.43, Stats., shall give the individual a hearing as follows:

1. A fair hearing under ch. 227, Stats., and ch. HA 3 for an action under sub. (1) (a) or (b).

2. A contested case hearing under ch. 227, Stats., and ch. HA 1 for an action under sub. (1) (c).

History: CR 17-033: cr. Register January 2018 No. 745, eff. 2-1-18; correction in (2) (c) 1. and 2. made under s. 35.17, Stats., Register January 2018 No. 745.

DCF 201.07 Provider appeal rights. (1) A child care provider who contests any of the following actions may request a departmental review:

- (a) Refusal to issue new child care authorizations.
- (b) Revocation of existing child care authorizations.
- (c) Refusal to issue payment to the provider.
- (d) Determination of the provider's payment amount.

(e) Collection of an overpayment, including the determination of the amount of the overpayment, the determination of the amount of the overpayment still owed, warrant and execution under s. DCF 201.04 (5) (eh), levy under s. DCF 201.04 (5) (ep), or a decision under s. 49.85, Stats., to recover the overpayment by means of certification to the Wisconsin department of revenue. The provider may make only one request for appeal of the basis for the overpayment claim. Any subsequent appeals shall be limited to questions of prior payment of the debt that the department or agency is proceeding against or mistaken identity of the debtor.

(f) Issuance of a forfeiture.

(2) A request for a departmental review may be made by a child care provider or someone with legal authority to act on their behalf.

(3) A request for a departmental review shall be in writing and received at the address provided on the notice within 30 days from the date printed on the notice of action under sub. (1).

(4) Upon receipt of a timely request for departmental review, the department shall give the child care provider a contested case hearing under ch. 227, Stats., and ch. HA 1.

(5) The department may contract with the division of hearings and appeals to conduct the review.

History: CR 02-104: cr. Register March 2003 No. 567, eff. 4-1-03; EmR1027: emerg. am. (1) (e), cr. (1) (f), eff. 7-9-10; CR 10-086: am. (1) (e), cr. (1) (f) Register December 2010 No. 660, eff. 1-1-11; correction in (1) (e) made under s. 13.92 (4) (b) 7., Stats., Register December 2010 No. 660; CR 17-033: am. (4) Register January 2018 No. 745, eff. 2-1-18; correction in (4) made under s. 35.17, Stats., Register January 2018 No. 745.

DCF 201.08 Parent copayments. (1) SCHEDULE. The department shall set a schedule for parent copayment responsibilities for all parents who receive child care financial assistance under s. 49.155, Stats., excluding s. 49.155 (1g), Stats. Copayment amounts will be based on family size, family gross income, and the number of children in a given family in child care. The copayment schedule is provided in Table DCF 201.08.

Note: This copayment schedule is current as of March 1, 2018. DCF may make future adjustments to the schedule as described in sub. (3).

(2) EXCEPTIONS. (a) Families with children who are authorized for child care assistance for 20 hours or less are responsible for 50% of the amount listed in the copayment schedule for those children, based on family size, family gross income, and the number of children in a given family in child care.

(b) Foster parents do not have a copayment responsibility for the foster children in their care.

(c) Subsidized guardians or interim caretakers of a child under s. 48.623, Stats., do not have a copayment responsibility for that child in their care.

(d) Kinship care relatives who are providing care for a child under court order do not have a copayment responsibility for the kinship care child in their care.

Note: Kinship care relatives do not have to be receiving payments under s. 48.57 (3m) or (3n), Stats., for this paragraph to apply.

(e) Kinship care relatives who are providing care for a child without a court order are responsible for the minimum copayment based on the number of children in the family in child care, unless they are receiving a child care subsidy for another child who is subject to a copayment greater than the minimum copay.

Note: Kinship care relatives do not have to be receiving payments under s. 48.57 (3m) or (3n), Stats., for this paragraph to apply.

(f) Parents who have left a Wisconsin works employment position for unsubsidized employment may pay the minimum copayment amount based on the number of children in the family in child care for the first month of the unsubsidized employment.

Note: Section 49.155 (5) (b), Stats., provides: "An individual who is under the age of 20 and attending high school or participating in a course of study meeting the standards established under s. 115.29 (4) for the granting of a declaration of equivalency to high school graduation may not be determined liable for more than the minimum copayment amount for the type of child care received and the number of children receiving child care."

Section 49.26 (1) (e), Stats., prohibits copayment responsibility for minor teen parents who are Learnfare participants.

(3) ADJUSTMENTS. (a) The department may adjust the amounts in the schedule to reflect the following factors:

1. A change in child care prices or rates.
2. A change in the amount of funds available for child care assistance.

3. A change in costs due to a change in the consumer price index.

4. A change in the federal poverty level.

5. A change in economic factors affecting the cost of child care to the state, such as an increase in the demand for child care financial assistance under s. 49.155, Stats., excluding s. 49.155 (1d) and (1g), Stats.

6. Funding is not sufficient to meet the needs of all eligible families applying for child care assistance.

(b) The department shall publish adjustments to the copayment schedule in the Wisconsin administrative register.

(c) If the department proposes to make adjustments to the copayment schedule that would increase parental copayments by 10% or more, the department shall promulgate an administrative rule to make such adjustments, and the department shall not issue an emergency rule to implement such adjustments before providing advance public notice of at least one month.

History: Cr. Register, September, 1997, No. 501, eff. 10-1-97; am. (3) (c), Register, December, 1997, No. 504, eff. 1-1-98; am. (1) (a) and (c), (3) (a) 5., cr. (1) (d), r. (2), Register, November, 1999, No. 527, eff. 12-1-99; r. and recr. (1), cr. (2), Register, January, 2001, No. 541, eff. 2-1-01; CR 02-104; am. (3) (a) 5., cr. (3) (a) 6. Register March 2003 No. 567, eff. 4-1-03; CR 06-044; renum. (2) (c), (d) and (e) to be (2) (d), (e) and (f), cr. (2) (c), Register November 2006 No. 611, eff. 12-1-06; EmR0806; emerg. am. (1), (2) (a), (e), (f) and Table 56.08, eff. 3-30-08; CR 08-020; am. (1), (2) (a), (e), (f) and Table 56.08 Register August 2008 No. 632, eff. 9-1-08; correction in (1) made under s. 13.92 (4) (b) 7., Stats., Register November 2008 No. 635; adjustment to Table DCF 201.08 made under s. DCF 201.08 (3) Register March 2009 No. 639; EmR1015; emerg. am. (3) (a) 1., eff. 5-17-10; CR 10-056; am. (3) (a) 1. Register September 2010 No. 657, eff. 10-1-10; adjustment to Table DCF 201.08 made under s. DCF 201.08 (3) Register April 2012 No. 676; correction in (2) (c) made under s. 13.92 (4) (b) 7. Stats., Register April 2012 No. 676; adjustment to Table DCF 201.08 made under s. DCF 201.08 (3) Register April 2013 No. 688; adjustment to Table DCF 201.08 made under s. DCF 201.08 (3) Register April 2014 No. 700; adjustment to Table DCF 201.08 made under s. DCF 201.08 (3) Register February 2015 No. 710; adjustment to Table DCF 201.08 made under s. DCF 201.08 (3) Register February 2016 No. 722; corrected adjustment to Table DCF 201.08 made under s. DCF 201.08 (3) Register March 2016 No. 723; adjustment to Table DCF 201.08 made under s. DCF 201.08 (3) Register March 2017 No. 735; adjustment to Table DCF 201.08 made under s. DCF 201.08 (3) Register March 2018 No. 747; **adjustment to Table DCF 201.08 made under s. DCF 201.08 (3) Register October 2018 No. 754.**

TABLE DCF 201.08
Wisconsin Shares Copayment Schedule
Update to Table DCF 201.08 Based on the 2018 Federal Poverty Guidelines
Effective November 1, 2018

Wisconsin Shares Copayment Schedule

The Assistance Group's (AG's) Percentage of the Federal Poverty Level (FPL) The copayment (copay) calculation uses the assistance group's monthly income and assistance group size to determine the FPL percentage. If the assistance group's income is between two lines, it uses the lower amount.										The Copay per Hour The copay calculation uses the number of children with Wisconsin Shares authorizations to find the Copay per Hour for the AG's FPL.					Total Assistance Group (AG) Copay Hours This step only considers authorized children with Regular copay types*. For each month, the copay calculation adds together the number of authorized hours for all children. Each child contributes up to 152 hours per child care provider location. If a child is authorized for more than one location, the total number of hours for that child for all locations is capped at 152. If an assistance group has five children or more, the maximum hours will be 5 times 152 (760).				
Gross Monthly Assistance Group Income										NUMBER OF CHILDREN WITH AUTHORIZATIONS									
ASSISTANCE GROUP SIZE										1	2	3	4	5 or more					
2	3	4	5	6	7	8	9	10 or more											
65% FPL	\$892	\$1,126	\$1,360	\$1,594	\$1,828	\$2,062	\$2,296	\$2,530	\$2,764	\$0.15	\$0.15	\$0.15	\$0.15	\$0.15					
70% FPL	\$960	\$1,212	\$1,464	\$1,716	\$1,968	\$2,220	\$2,472	\$2,724	\$2,976	\$0.19	\$0.18	\$0.17	\$0.17	\$0.17					
75% FPL	\$1,029	\$1,299	\$1,569	\$1,839	\$2,109	\$2,379	\$2,649	\$2,919	\$3,189	\$0.24	\$0.21	\$0.20	\$0.20	\$0.19					
80% FPL	\$1,097	\$1,385	\$1,673	\$1,961	\$2,249	\$2,537	\$2,825	\$3,113	\$3,401	\$0.36	\$0.27	\$0.24	\$0.23	\$0.22					
85% FPL	\$1,166	\$1,472	\$1,778	\$2,084	\$2,390	\$2,696	\$3,002	\$3,308	\$3,614	\$0.48	\$0.34	\$0.29	\$0.27	\$0.26					
90% FPL	\$1,235	\$1,559	\$1,883	\$2,207	\$2,531	\$2,855	\$3,179	\$3,503	\$3,827	\$0.61	\$0.41	\$0.34	\$0.31	\$0.29					
95% FPL	\$1,303	\$1,645	\$1,987	\$2,329	\$2,671	\$3,013	\$3,355	\$3,697	\$4,039	\$0.68	\$0.45	\$0.38	\$0.34	\$0.32					
100% FPL	\$1,372	\$1,732	\$2,092	\$2,452	\$2,812	\$3,172	\$3,532	\$3,892	\$4,252	\$0.79	\$0.51	\$0.42	\$0.38	\$0.35					
105% FPL	\$1,440	\$1,818	\$2,196	\$2,574	\$2,952	\$3,330	\$3,708	\$4,086	\$4,464	\$0.87	\$0.56	\$0.46	\$0.41	\$0.38					
110% FPL	\$1,509	\$1,905	\$2,301	\$2,697	\$3,093	\$3,489	\$3,885	\$4,281	\$4,677	\$0.93	\$0.60	\$0.49	\$0.43	\$0.40					
115% FPL	\$1,577	\$1,991	\$2,405	\$2,819	\$3,233	\$3,647	\$4,061	\$4,475	\$4,889	\$1.00	\$0.64	\$0.52	\$0.46	\$0.42					
120% FPL	\$1,646	\$2,078	\$2,510	\$2,942	\$3,374	\$3,806	\$4,238	\$4,670	\$5,102	\$1.09	\$0.69	\$0.55	\$0.49	\$0.45					
125% FPL	\$1,715	\$2,165	\$2,615	\$3,065	\$3,515	\$3,965	\$4,415	\$4,865	\$5,315	\$1.22	\$0.76	\$0.61	\$0.53	\$0.48					
130% FPL	\$1,783	\$2,251	\$2,719	\$3,187	\$3,655	\$4,123	\$4,591	\$5,059	\$5,527	\$1.39	\$0.85	\$0.67	\$0.58	\$0.53					
135% FPL	\$1,852	\$2,338	\$2,824	\$3,310	\$3,796	\$4,282	\$4,768	\$5,254	\$5,740	\$1.47	\$0.90	\$0.71	\$0.61	\$0.55					
140% FPL	\$1,920	\$2,424	\$2,928	\$3,432	\$3,936	\$4,440	\$4,944	\$5,448	\$5,952	\$1.52	\$0.93	\$0.73	\$0.63	\$0.57					
145% FPL	\$1,989	\$2,511	\$3,033	\$3,555	\$4,077	\$4,599	\$5,121	\$5,643	\$6,165	\$1.60	\$0.98	\$0.77	\$0.66	\$0.60					
150% FPL	\$2,058	\$2,598	\$3,138	\$3,678	\$4,218	\$4,758	\$5,298	\$5,838	\$6,378	\$1.65	\$1.00	\$0.79	\$0.68	\$0.62					
155% FPL	\$2,126	\$2,684	\$3,242	\$3,800	\$4,358	\$4,916	\$5,474	\$6,032	\$6,590	\$1.73	\$1.05	\$0.82	\$0.71	\$0.64					
160% FPL	\$2,195	\$2,771	\$3,347	\$3,923	\$4,499	\$5,075	\$5,651	\$6,227	\$6,803	\$1.79	\$1.09	\$0.85	\$0.74	\$0.66					
165% FPL	\$2,263	\$2,857	\$3,451	\$4,045	\$4,639	\$5,233	\$5,827	\$6,421	\$7,015	\$1.85	\$1.12	\$0.88	\$0.76	\$0.69					
170% FPL	\$2,332	\$2,944	\$3,556	\$4,168	\$4,780	\$5,392	\$6,004	\$6,616	\$7,228	\$1.90	\$1.15	\$0.91	\$0.78	\$0.71					
175% FPL	\$2,400	\$3,030	\$3,660	\$4,290	\$4,920	\$5,550	\$6,180	\$6,810	\$7,440	\$1.97	\$1.20	\$0.94	\$0.81	\$0.73					
180% FPL	\$2,469	\$3,117	\$3,765	\$4,413	\$5,061	\$5,709	\$6,357	\$7,005	\$7,653	\$2.03	\$1.23	\$0.97	\$0.83	\$0.75					
185% FPL	\$2,538	\$3,204	\$3,870	\$4,536	\$5,202	\$5,868	\$6,534	\$7,200	\$7,866	\$2.08	\$1.26	\$0.99	\$0.85	\$0.77					
190% FPL	\$2,606	\$3,290	\$3,974	\$4,658	\$5,342	\$6,026	\$6,710	\$7,394	\$8,078	\$2.14	\$1.30	\$1.02	\$0.88	\$0.79					
195% FPL	\$2,675	\$3,377	\$4,079	\$4,781	\$5,483	\$6,185	\$6,887	\$7,589	\$8,291	\$2.19	\$1.33	\$1.04	\$0.90	\$0.81					
200% FPL	\$2,743	\$3,463	\$4,183	\$4,903	\$5,623	\$6,343	\$7,063	\$7,783	\$8,503	\$2.19	\$1.33	\$1.04	\$0.90	\$0.81					
+200% of the Federal Poverty Level																			

If an assistance group's income is above 200% FPL, the AG Copay is increased by \$1 for every \$3 that the income exceeds 200% FPL

* Copayment types: Regular = Based on FPL, number of children in care, and number of authorized hours; used for all children who do not qualify for one of the following reduced copayment types. Kinship = \$0, used for children in court-ordered placement with a relative who receives Kinship Care. Non Court Ordered Kinship = Based on 65% FPL, used for children being cared for by a relative who does not have both a court order and Kinship Care. Foster = \$0, used for children placed with a foster family, subsidized guardian, or interim caretaker. Learnfare = \$0, used for children of teen parents participating in the Learnfare program. W-2 Employed = Based on 65% FPL, used for children of W-2 participants in their first two months of unsubsidized employment. Teen High School = based on 65% FPL, used for children of teen parents who are attending high school. The monthly copayment is based upon the monthly subsidized hours of child care for the assistance group. Monthly hours are rounded up to the nearest whole hour when determining the copayment.
Effective: November 1, 2018

Note: This copayment schedule is current as of November 1, 2018. DCF may make future adjustments to the schedule as described in sub. (3).