

Wisconsin Administrative Code Currentness \_Department of Children and Families \_Chapter DCF 201.  
Administration of Child Care Funds

Wis. Adm. Code Ch. DCF 201, Refs & Annos

Wis. Adm. Code s DCF 201.01

DCF 201.01 Authority, purpose, and applicability.

This chapter is promulgated under the authority of s. 49.155, Stats., excluding s. 49.155 (1d) and (1g), Stats., and s. 227.11 (2), Stats., to provide definitions, procedures, and standards for the administration of child care funds. This chapter applies to the department, county and tribal agencies, child care administrative agencies, Wisconsin works agencies, private agencies under contract to administer child care funds, licensed and certified child care providers, and eligible parents.

Wis. Adm. Code s DCF 201.02

DCF 201.02 Definitions.

In this chapter:

**(2)** “Center slots” or “slots” means the number of places for children within the licensed capacity of a day care center.

**(2m)** “Certification agency” means the department in a county having a population of 500,000 or more or any agency that has a contract with the department to certify child care providers under s. 48.651, Stats., and ch. DCF 202 in a particular county or tribal area.

**(3)** “Child care administrative agency” or “agency” means any agency that has a contract with the department to administer child care funds; any agency that has a subcontract to administer child care funds with an agency that has a contract with the department; or, in a county having a population of 500,000 or more, the department or the “unit” as defined in s. 49.825 (1) (e), 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 regularly charged by a provider to a parent who pays for the child care services out of his or her personal funds.

**(6)** “Child care provider” or “provider” means a provider licensed under s. 48.65, Stats., certified under s. 48.651, Stats., or established or contracted for under s. 120.13 (14), Stats.

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**(7)** “Child care worker” means a person employed by a child care administrative agency whose duties include determining or redetermining child care subsidy eligibility, authorizing child care funds, making child care payments to providers, or determining and processing the recoupment of child care parent and provider overpayments.

**(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 received an overpayment of reimbursements for care of children whose care is subsidized under s. 49.155, Stats., or a person who is liable under s. 49.155 (7m) (b), Stats.

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

**(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.”

**(11)** “Food stamp employment and training program” means the program established under s. 49.79 (9) (b), Stats., for the purpose of assisting food stamp recipients to develop marketable work skills and obtain gainful employment.

**(12)** “Foster parent” means a person licensed under s. 48.62 (1), Stats.

**(13)** “Income” means money, wages or salary, net income from self-employment, social security, dividends, interest on savings or bonds, income from estates or trusts, net rental income or royalties, public assistance, Supplemental Security Income (SSI), pensions and annuities, unemployment insurance, worker’s compensation, alimony and other maintenance payments, and veteran pensions.

**(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.

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**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.”

**(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.”

**(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.

**(19)** “Rate” means the maximum amount a child care administrative agency will pay for child care.

**(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.

**(23)** “Voucher” means an authorization for reimbursement.

**(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.”

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**(25)** “Wisconsin works agency” or “W-2 agency” has the meaning given in s. DCF 101.03 (38).

**Note:** Section DCF 101.03 (38), provides: “‘Wisconsin works agency’ or ‘W-2 agency’ means a person, county agency, tribal governing body, or a private agency contracted under s. 49.143, Stats., by the department to administer the Wisconsin works program under ss. 49.141 to 49.161, Stats., and this chapter. If no contract is awarded under s. 49.143, Stats., ‘Wisconsin works agency’ means the department.”

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

**Wis. Adm. Code s DCF 201.03**

**DCF 201.03 Department of children and families powers and responsibilities.**

**(1) GENERAL.** The department shall maintain oversight responsibility for administration by child care administrative agencies of the child care funding program.

**(2) RATE APPROVAL.** The department shall review and approve the methods employed by counties and tribes for determining child care rates as required under ss. DCF 201.05 (3) and 201.06.

**(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 funding program.

**(5) RATE REVIEW.** (a) The department shall annually review child care rates set by each child care administrative agency and shall approve or disapprove each agency’s rates based on the following criteria:

1. Whether the rate-setting method is in accordance with rate-setting requirements specified under ss. DCF 201.05 (3) and 201.06.

2. Whether the rate-setting method documents that the maximum allowable rates permit all eligible parents a reasonable choice of day care providers.

(b) The department may grant a variance to a nonstatutory requirement under ss. DCF 201.04 to 201.06 on written request of a child care administrative agency if the department is convinced that an alternative means meets the intent of the requirement.

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DCF 201.04 Policies for child care services through the voucher system.

(1) AUTHORIZED PROVIDERS. (a) A child care administrative agency may authorize payment for child care services provided by any of the following child care providers:

1. Providers licensed by the department under ch. DCF 250.
2. Providers certified by a certification agency under standards specified in s. DCF 202.08 or 202.09. The child care administrative agency may authorize payment to providers who become certified from the date the certification application was received by the certification agency.
3. Programs established or contracted for by a school board under s. 120.13 (14), Stats.

(b) A child care administrative agency may authorize payment for services from other than a child care provider under par. (a) only if at least one of the following conditions is met:

1. The care is an arrangement for parents in training, orientation or counseling programs and the child care is provided at the training, orientation or counseling site.
2. The care is a short-term arrangement when a child is ill and not able to receive care from a child care provider under s. DCF 201.02 (6) or the provider has an emergency due to illness or other circumstance.
3. The care permits a Wisconsin works applicant to participate in job search, training or orientation under s. 49.147 (2) (a), Stats., prior to the development of an employability plan.
4. The care is for a food stamp employment and training program enrollee to attend a program activity prior to the development of an employability plan.

(c) A child care administrative agency may not authorize payment to a person legally responsible for a child under s. 49.90, Stats., for child care services.

(e) A certified in-home care arrangement may be authorized by a child care administrative agency for reimbursement only in one of the following circumstances:

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1. The child has a special need.
2. Licensed or certified care is not available during the times care is needed, such as during evening hours.
3. Care is provided to 3 or more children from the same family.
4. Licensed or certified care is not available within a reasonable geographic distance.

(2) (a) 1. A child care administrative agency shall provide vouchers to eligible parents, as follows:

- a. A child care administrative agency shall offer a voucher to each eligible parent to the extent that funds are available.
- b. A voucher shall be in writing and shall authorize a parent to obtain child care services stipulated in that voucher from a provider under sub. (1).
- c. The voucher shall set a maximum amount of authorized payment that is the lesser of the provider price and the county or tribal maximum rate, minus any co-payment that the parent is required to make.

2. Parents using vouchers for the payment of child care services may receive child care services from a provider whose child care price is higher than the county or tribal maximum rate and pay the difference between the provider's child care price and the county or tribal maximum rate in addition to any required parents' co-payment.

(c) If a child care administrative agency authorizes payment for child care services by means of a voucher issued to the parents or by contract with a provider, billing and collection of any parent co-payment requirement is the responsibility of the provider.

- (i) The department may issue all payments by electronic funds transfer.

(2g) PAYMENT AUTHORIZATION. (a) A child care administrative agency shall authorize payment to child care providers as follows:

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1. For licensed group and family day care centers, the agency shall authorize payment based on authorized units of service, except in the following circumstances.

a. The agency may authorize payment to licensed providers based on units of service used by each child, up to the maximum number of authorized units, with the reimbursement rate increased by 10% to account for absent days, if the schedule of child care to be used is expected to vary widely.

b. The agency may authorize payment to licensed providers based on units of service used by each child, up to the maximum number of authorized units, if the agency has documented 3 separate occasions where the provider significantly overreported the attendance of a child.

2. For certified providers, the agency shall authorize payment for units of service used by each child, up to the maximum number of authorized units, except as provided in par. (h).

(b) 1. Except as provided in subd. 2., the child care administrative agency shall authorize no more than 12 hours of child care per day per child.

2. The child care administrative agency may authorize more than 12 hours, not exceeding 16 hours, of child care per day for a child whose parent provides written documentation of work or transportation requirements that exceed 12 hours in a day.

3. If the authorized hours of child care per day for a child will be reduced from more than 12 to 12 or fewer because the child's parent does not provide the written documentation required under subd. 2., the child care administrative agency shall provide to the child's parent who is receiving the subsidy under s. 49.155, Stats., and to the child's child care provider 4 weeks' notice of the reduction in authorized hours before actually reducing the child's authorized hours.

(c) 1. If reimbursement to a child care provider is based on weekly authorized hours of child care, the department shall do all of the following with respect to establishing and adjusting the number of authorized hours per child:

a. The department shall track a child's weekly usage of child care authorizations over a 6-week period.

b. If the child's weekly usage tracked under subd. 1. a. is less than 60 percent of the authorized hours of child care, the department shall reduce the authorized hours of child care for the child to 90 percent of the maximum number of hours of child care that the child attended during any week of that 6-week period.

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c. The department shall provide written notice of the adjustment under subd. 1. b. to the child's parent who is receiving the subsidy under this section, the child's child care provider, and the applicable child care administrative agency.

d. The department shall provide a grace period of 2 weeks after the number of authorized hours are reduced under subd. 1. b., during which time the child care subsidy amount paid to the child care provider for the child shall remain the same as before the reduction in authorized hours was made.

2. The department shall exclude from a child's hourly usage calculation under subd. 1. b., all of the following:

a. One week per year of vacation time for the child's provider.

b. One week per year of sick time for the child's provider.

c. Two weeks per year of vacation time for the child's parent who is receiving the subsidy under s. 49.155, Stats., with the child.

d. Weeks for which the child care administrative agency approved payment to a provider to hold a slot during a parent's temporary break in employment under par. (h).

(d) A child care administrative agency may authorize payment for child care services to a 2 parent family only if both parents are participating in an approved activity as defined in s. 49.155 (1m) (a), Stats., or if one parent is participating in an approved activity and the other parent is unable to care for the child due to a disability or health condition as verified by a doctor, psychiatrist, or psychologist.

(e) The child care administrative agency may refuse to authorize payment for child care services to a licensed provider if the provider refuses to submit documentation of the provider's child care prices in response to an agency request.

(f) The child care administrative agency may refuse to authorize payment on a provider's attendance report that is submitted more than 3 months after the attendance report was issued.

(g) The child care administrative agency may limit the number of children that may be authorized to a certified or licensed family day care provider, who is not an in-home provider, for a particular time period, unless the provider can show that he or she will not exceed the applicable group size limitation.



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(h) The child care administrative agency may authorize payment to a licensed or certified provider to hold a slot for a child 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.

**(2j) CHILDREN OF PROVIDERS.** (a) No funds distributed under s. 49.155 (3m) (a), Stats., may be used for any of the following:

1. Child care services provided for a child by a child care provider who is the parent of the child or who resides with the child.

2. If a child's parent is a child care provider, child care services provided for the child by another child care provider, unless the child's parent has applied for and been granted a waiver under pars. (b) and (c).

**Note:** Funds distributed under s. 49.155 (3m) (a), Stats., include funds used to reimburse child care providers; funds distributed to county departments and tribal governing bodies for child care services under s. 49.155, Stats.; funds distributed to private nonprofit agencies that provide child care for children of migrant workers; and funds used to reimburse W-2 agencies for child care that the agencies provide to the children of W-2 participants and applicants.

(b) 1. A parent who is a child care provider may apply to the agency for a waiver of the prohibition in par. (a) 2., requesting that funds distributed under s. 49.155 (3m) (a), Stats., be used for child care services provided for the provider's child by another child care provider. No waiver of the prohibition in par. (a) 1. is permitted.

2. If a parent who is a child care provider requests child care assistance to do an activity in s. 49.155 (1m) (a), Stats., other than an activity related to child care and the parent provides documentation of the need for child care services, the agency shall consider the documentation to be an application for a waiver of the prohibition in par. (a) 2.

(c) The department or agency may grant a waiver requested under par. (b) if any of the following apply:

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

**Note:** See s. DCF 201.02 (20).

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

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3. The parent is the child's guardian or interim caretaker and is receiving subsidized guardianship payments under s. 48.623, Stats., or s. 48.62 (5), 2009 Stats., for the care and maintenance of the child.

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

**Note:** Section DCF 58.04 (1) provides that if a relative applies for kinship care payments for a child who was placed in the relative's home under a court order, the relative shall apply for a license to operate a foster home under ch. DCF 56. Under s. DCF 58.065 (1) and (2), the relative may be eligible to receive kinship care payments pending the decision on the foster care application. If the relative's application to operate a foster home is denied or the relative is otherwise determined to be ineligible for licensure, the relative may be eligible to continue to receive kinship care payments if a court orders the child to remain in the kinship care relative's home under s. DCF 58.065 (3) or the court or panel approved continuation of the placement under s. DCF 58.066 (2). Many individuals who are ineligible for a foster care license would also be ineligible to be a child care provider, but the determination is made on a case-by-case basis.

5. 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., or s. 48.62 (5), 2009 Stats., for the care and maintenance of the dependent minor parent.

6. The parent is requesting child care assistance to do an activity in s. 49.155 (1m) (a), Stats., other than an activity related to child care.

**(2m) REPORTING CHANGE IN ELIGIBILITY.** A parent shall report any change in circumstances that may affect his or her eligibility to the child care administrative agency within 10 days after the change.

**(3) ELIGIBILITY REDETERMINATION.** A child care administrative agency shall redetermine parent need for service and eligibility at all of the following times:

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(a) In a timely manner following receipt of a parent's report of a change in circumstances affecting his or her eligibility.

(b) At least every 6 months.

(4) PARENTAL CHOICE. Parents may choose the particular child care provider for their child, except that parents may use in-home day care only if one of the criteria under sub. (1) (e) is met.

(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 child care benefit 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 child care assistance program requirements, regardless of whether the overpayment was the result of administrative error, client error, or intentional program violation. 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 benefit or ineligibility for a child care benefit 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 worker shall determine good cause under subd. 2. b. if the approved activity is unsubsidized employment. A parent's absence from unsubsidized 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:

1. A provider received reimbursement based on attendance records that indicate more hours than a child actually attended. If attended hours were misrepresented by the provider, the provider is responsible for an overpayment of

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the difference between the reimbursed hours and the actual hours of attendance regardless of the type of authorization under s. DCF 201.04 (2g) (a).

2. A provider received reimbursement 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 received reimbursement made 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 received reimbursement 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 benefited by receiving more child care reimbursement than otherwise would have been paid on the family's behalf under child care assistance program requirements, the parent is not responsible for the overpayment under par. (a), and the reimbursement did not benefit the parent by causing the parent to pay less for child care expenses than the family otherwise would have been required to pay under child care assistance program requirements.

(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.

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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

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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

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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.

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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.



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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 additional 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.

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

**Wis. Adm. Code s DCF 201.045**

**DCF 201.045 Payment of child care costs outside of the voucher system.**

The department may reimburse a county agency, tribal agency, W-2 agency, or private nonprofit agency that provides child care for children of migrant workers for direct child care services or child care costs incurred on-site or for contracted child care approved in advance by the department. Reimbursement rates for contracts and services may be negotiated by the county, tribe, or W-2 agency and approved by the department or may be set by the department.

**Wis. Adm. Code s DCF 201.05**

**DCF 201.05 Child care administrative agency responsibilities.**

**(1) GENERAL.** Each child care administrative agency shall administer child care funds in accordance with the requirements set forth in this section. A child care administrative agency may subcontract for administration of child care funds with the approval of the department.

**(2) TRAINING REQUIREMENT.** Child care administrative agencies shall ensure that each new child care worker completes the department's initial training during the first 6 months of employment.

**(3) RATE-SETTING METHOD.** Each child care administrative agency shall submit a written statement to the department which describes the method by which the child care administrative agency has determined reasonable and customary child care prices and the maximum rate that the child care administrative agency will allow for the purchase of child care services. The department may prescribe standard units of service by which rates are set in order to achieve statewide consistency.

**(4) INFORMATION TO PROVIDERS.** (a) Child care administrative agencies shall distribute information to child care providers regarding child care funding policies.

(b) Child care administrative agencies shall require child care providers to sign a memorandum of understanding prior to receiving authorization or payment that specifies that the provider agrees to adhere to child care subsidy attendance reporting policies and cooperate with the agency in all program monitoring efforts.

**Wis. Adm. Code s DCF 201.06**

**DCF 201.06 Establishing county and tribal child care rates.**

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(1) ESTABLISHMENT OF MAXIMUM RATES. (a) *Responsibility*. 1. Except as provided in subd. 1m., lr., or 2., a child care administrative agency shall annually set child care rates in accordance with the policies and procedures set out in this section unless the department sets maximum rates for a multicounty area which includes the particular county or tribal area.

1m. Notwithstanding subd. 1., the department shall set child care rates for the year beginning January 1, 2007, to be the same as the rates in effect on December 31, 2006.

lr. Notwithstanding subd. 1., the department shall set child care rates for the years 2008 and 2009 to be the same as the rates in effect on December 31, 2006.

2. A tribal agency may use the maximum rates established by a neighboring county rather than establish its own rates.

(b) *Survey*. The child care administrative agency, except a tribal agency acting under par. (a) 2., shall annually contact all licensed group day care centers and licensed family day care centers in the county or tribal area to determine the child care prices they charge to the general community, except if the department arranges for a survey independent of the child care administrative agency. The child care prices shall be submitted in writing to be included in the survey.

(c) *Group*. The child care administrative agency shall set separate maximum rates for the following groups of children:

1. Infants and toddlers under 2 years of age.

2. Children age 2 to 3 years.

3. Children age 4 to 5 years.

4. Children age 6 to 13 years.

(d) *Types of care*. To the extent permitted by federal statutes and regulations, the rates for each group under par. (c) shall be set separately for each of the following types of care:

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1. Licensed group day care centers.
2. Licensed family day care centers.
3. Level I (regular) certified family day care providers who are not in-home providers.
4. Level II (provisional) certified family day care providers who are not in-home providers.
5. Certified in-home providers.

**(2) MAXIMUM RATES.** (a) *Licensed group day care centers.* In setting maximum rates for licensed group day care centers, the child care administrative agency shall comply with the following:

1. Maximum rates shall be set so that at least 75% of the group day care center slots in the county or tribal area may be purchased at or below the maximum rate. The number of slots attributed to a center shall be equal to the center's licensed capacity.
2. In determining whether 75% of the day care slots can be purchased at or below the maximum rate, the child care administrative agency may exclude day care centers that operate less than 5 days a week or 5 hours a day, receive funding from a county department established under s. 51.42 or 51.437, Stats., do not have a set full-time, weekly child care price, or at which more than 75% of the children's care is subsidized under s. 49.155, Stats., excluding s. 49.155 (1d) and (1g), Stats.
3. Reduced maximum rates may not be set for siblings.

(b) *Licensed family day care centers.* In setting maximum rates for licensed family day care centers, the child care administrative agency shall comply with the following:

1. Maximum rates shall be set so that at least 75% of the family day care center slots in the county or tribal area may be purchased at or below the maximum rates. The number of slots attributed to a center shall be equal to the center's licensed capacity. In determining whether 75% of the day care slots can be purchased at or below the maximum rate, the child care administrative agency may exclude day care centers that operate less than 5 days a week or 5 hours a day, receive funding from a county department established under s. 51.42 or 51.437, Stats., do not have a set full-time, weekly child care price, or at which more than 75% of the children's care is subsidized under s. 49.155, Stats., excluding s. 49.155 (1d) and (1g), Stats.

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2. Reduced maximum rates may not be set for siblings.

(c) *Certified family day care.* To the extent permitted by federal statutes and regulations, maximum rates for certified family day care shall comply with s. 49.155 (6) (b) and (c), Stats.

(d) *In-home day care.* For in-home care, the child care administrative agency shall establish the maximum rate at the level of no less than the state minimum wage established under ch. 104, Stats., and ch. DWD 272. The child care administrative agency may authorize payment to the child care provider at the local reimbursement rate for the type of care provided multiplied by the number of children in care if this rate exceeds the minimum wage.

(e) *Other day care providers.* For a day care program established or contracted for by a school board or for a certified school-age day care program, the child care administrative agency shall establish maximum rates in accordance with par. (a).

**(3) HIGHER RATES.** (a) *Special need child.* A rate higher than the maximum allowed under subs. (1) and (2) may be set on a case-by-case basis for child care for a child with a special need.

(b) *Higher quality.* Rates higher than the maximum rates allowed under subs. (1) and (2) shall be paid to child care providers who meet higher quality of care standards under ss. DCF 203.03 and 203.04, up to maximums determined by the department.

**(4) SPECIAL RATES.** A child care administrative agency may set maximum reimbursement rates that are different from the rates allowed under subs. (1) and (2) for child care provided for less than a 2-week period, provided sporadically or provided for care of an ill child through negotiations with the child care provider.

**Wis. Adm. Code s DCF 201.07**

**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.

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(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.

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

**Wis. Adm. Code s DCF 201.08**

**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.

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**Note:** This copayment schedule is current as of March 31, 2013. 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), Stats., provides: “An individual who is under the age of 20 and is 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.

7 USC 2015 prohibits copayment responsibility for participants in the Food Stamp Employment and Training

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program.

(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.

**TABLE DCF 201.08**

**Child Care Co-Payment Schedule for Licensed and Certified Care**

Use the family's monthly income and family size to determine the FPL percentage. If the family's income is between the two lines use the higher amount. Look to the right to find the co-payment by number of children in subsidized care.

**Child Care Co-Payment Schedule for Licensed and Certified Care**



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Use the family's monthly income and family size to determine the FPL percentage.

If the family's income is between two lines use the higher amount. Look to the right to find the co-payment by number of children in subsidized care.

[Gross Monthly Family Income]

	FAMILY SIZE									WEEKLY CO-PAY AMOUNT				
	2	3	4	5	6	7	8	9	10 or more	1	2	3	4	5 or more
70% FPL	\$918	\$1,154	\$1,391	\$1,628	\$1,865	\$2,102	\$2,339	\$2,575	\$2,812	6	10	17	21	27
75% FPL	\$983	\$1,237	\$1,491	\$1,744	\$1,998	\$2,252	\$2,506	\$2,759	\$3,013	6	14	20	25	32
80% FPL	\$1,049	\$1,319	\$1,590	\$1,861	\$2,131	\$2,402	\$2,673	\$2,943	\$3,214	9	15	21	29	35
85% FPL	\$1,114	\$1,402	\$1,689	\$1,977	\$2,265	\$2,552	\$2,840	\$3,127	\$3,415	13	19	25	32	41
90% FPL	\$1,180	\$1,484	\$1,789	\$2,093	\$2,398	\$2,702	\$3,007	\$3,311	\$3,616	15	24	31	39	47
95% FPL	\$1,245	\$1,567	\$1,888	\$2,210	\$2,531	\$2,852	\$3,174	\$3,495	\$3,817	19	29	38	47	54
100% FPL	\$1,311	\$1,649	\$1,988	\$2,326	\$2,664	\$3,003	\$3,341	\$3,679	\$4,018	22	32	41	52	60
105% FPL	\$1,376	\$1,732	\$2,087	\$2,442	\$2,797	\$3,153	\$3,508	\$3,863	\$4,218	25	34	45	54	63
110% FPL	\$1,442	\$1,814	\$2,186	\$2,558	\$2,931	\$3,303	\$3,675	\$4,047	\$4,419	28	39	47	57	66
115% FPL	\$1,507	\$1,897	\$2,286	\$2,675	\$3,064	\$3,453	\$3,842	\$4,231	\$4,620	31	41	51	61	69
120% FPL	\$1,573	\$1,979	\$2,385	\$2,791	\$3,197	\$3,603	\$4,009	\$4,415	\$4,821	34	45	54	63	74
125% FPL	\$1,639	\$2,061	\$2,484	\$2,907	\$3,330	\$3,753	\$4,176	\$4,599	\$5,022	39	49	57	68	79
130% FPL	\$1,704	\$2,144	\$2,584	\$3,024	\$3,463	\$3,903	\$4,343	\$4,783	\$5,223	40	53	63	75	86
135% FPL	\$1,770	\$2,226	\$2,683	\$3,140	\$3,597	\$4,053	\$4,510	\$4,967	\$5,424	45	57	69	82	94
140% FPL	\$1,835	\$2,309	\$2,783	\$3,256	\$3,730	\$4,204	\$4,677	\$5,151	\$5,625	47	60	74	86	100
145% FPL	\$1,901	\$2,391	\$2,882	\$3,372	\$3,863	\$4,354	\$4,844	\$5,335	\$5,825	51	63	75	89	102
150% FPL	\$1,966	\$2,474	\$2,981	\$3,489	\$3,996	\$4,504	\$5,011	\$5,519	\$6,026	54	66	80	92	106
155% FPL	\$2,032	\$2,556	\$3,081	\$3,605	\$4,129	\$4,654	\$5,178	\$5,703	\$6,227	57	69	82	95	109

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160% FPL	\$2,097	\$2,639	\$3,180	\$3,721	\$4,263	\$4,804	\$5,345	\$5,887	\$6,428	60	74	86	100	112
165% FPL	\$2,163	\$2,721	\$3,279	\$3,838	\$4,396	\$4,954	\$5,512	\$6,071	\$6,629	61	75	89	101	115
170% FPL	\$2,228	\$2,804	\$3,379	\$3,954	\$4,529	\$5,104	\$5,679	\$6,255	\$6,830	63	80	92	106	118
175% FPL	\$2,294	\$2,886	\$3,478	\$4,070	\$4,662	\$5,254	\$5,846	\$6,439	\$7,031	64	81	95	109	120
180% FPL	\$2,360	\$2,969	\$3,578	\$4,187	\$4,796	\$5,405	\$6,014	\$6,623	\$7,232	67	84	99	112	124
185% FPL	\$2,425	\$3,051	\$3,677	\$4,303	\$4,929	\$5,555	\$6,181	\$6,806	\$7,432	69	87	102	114	127
190% FPL	\$2,491	\$3,133	\$3,776	\$4,419	\$5,062	\$5,705	\$6,348	\$6,990	\$7,633	70	88	106	117	130
195% FPL	\$2,556	\$3,216	\$3,876	\$4,535	\$5,195	\$5,855	\$6,515	\$7,174	\$7,834	73	91	108	120	134
200% FPL	\$2,622	\$3,298	\$3,975	\$4,652	\$5,328	\$6,005	\$6,682	\$7,358	\$8,035	75	93	111	124	136
+200% of the Federal Poverty Level														

**Co-payment types:** **REG** = based on family size, FPL, and number of children in care, this code is used for working parents, W -2 participants, and FSET participants. **KIN** = \$0 co-pay, is used for families with court ordered kinship or guardianship care. **NCK** = based on 70% FPL, is used for families that have no court order but are caring for a relative child. **FOS** = \$0 co-pay, Foster families. **WWE** = based on 70% FPL and is used for W -2 participant in their first month of unsubsidized employment. **THS** = based on 70% FPL and family size and is used for teen parents that are attending high school. When the authorization for child care is for less than 35 hours per week, the copayment is pro -rated based upon the authorized hours of child care. Effective: 3/30/14

**Effective: 3/30/2014**

**Wis. Adm. Code Ch. DCF 202, Refs & Annos**

**Wis. Adm. Code s DCF 202.01**

**DCF 202.01 Authority, purpose and applicability.**

State & Federally Funded Certified Child Care Regulations: Page 26-62

**(1) Authority and purpose.** This chapter is promulgated pursuant to s. 49.155 (1d), Stats., and implements s. 48.651, Stats. This chapter establishes standards for the certification of persons who provide child care for 1 to 3 children or who are not otherwise required to be licensed as a child care center under s. 48.65, Stats., and whose services are purchased with state or federal child care funds. The standards are intended to protect and promote the health, safety and welfare of children in the care of these providers.

**(2) Applicability.** This chapter applies to county and tribal agencies and to all providers of child care who receive reimbursement with state or federal child care funds and who are not required to be licensed under s. 48.65, Stats.,

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including providers of child care for 1 to 3 children, providers of child care for a child in the child's home, and providers of child care for school-age children.

Wis. Adm. Code s DCF 202.02

Orange  
& Yellow

DCF 202.02 Definitions.

In this chapter:

(1) "Agency" has the same meaning as "county or tribal agency."

(1m) "Caregiver background check" means the retrieval of information about an individual's past criminal conduct pursuant to s. 48.685, Stats., and ch. DHS 12 that may bear on the suitability of that individual to provide child care or have regular contact with children in care.

(2) "Certified child care home" or "home" means the residence in which the certified child care operator provides care of children and which meets the standards under s. DCF 202.08 for reimbursement of care by county or tribal agencies.

(3) "Certified child care operator" or "operator" means an individual, corporation, partnership, limited liability corporation, non-incorporated association, or cooperative that has legal and financial responsibility for the operation of a child care program and for meeting the requirements under this chapter.

(3b) "Certified family child care operator" means a certified child care operator who provides care in a private residential property.

(3e) "Certified in-home child care operator" means a certified child care operator who provides care in the child's home.

(3f) "Certified school-age child care program" means a program providing care and supervision in other than an operator's home for fewer than 24 hours a day for 7 or more school-age children and which is exempt from being licensed as a child care center under s. 48.65 (1), Stats.

(3h) "Child care certification worker" means a person employed by a county, a governing body of a federally-recognized American Indian tribe, or an agency under contract with a county or tribe whose duties include determination of eligibility for child care certification.

(3k) "Child care provider" or "provider" means a certified child care operator or an employee or volunteer of the child care operator who provides care and supervision for infant, preschool, or school-age children on behalf of the operator.

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**(3m)** “Complaint” means an alleged violation of s. DCF 202.08 or 202.09.

**(4)** “County or tribal agency” means a county department of social services established under s. 46.215 or 46.22, Stats., a county department of human services established under s. 46.23, Stats., or a tribal agency.

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

**(5g)** “Emergency” means unforeseen circumstances that call for immediate action, such as fire; tornado; flood; extreme outdoor heat or cold; loss of building service, including no heat, water, electricity or telephone; threats to the building or its occupants; lost or missing children; or a provider family situation, such as a medical emergency or illness.

**(5r)** “Employee” means any individual who works for a certified child care operator to provide care and supervision of children in care, including a substitute, helper, or assistant.

**(6)** “Family child care center” means a child care center licensed under s. 48.65, Stats., and ch. DCF 250.

**(8)** “Group child care center” means a child care center licensed under s. 48.65, Stats., and ch. DCF 251.

**(8m)** “Hazard” means a source of danger that could jeopardize the health, safety or well-being of children in care.

**(9)** “Health check provider” means a provider of health assessment and evaluation services eligible to be certified under s. DHS 105.37 (1) (a), including an outpatient hospital facility, health maintenance organization, visiting nurse association, clinic operated under a physician’s supervision, local public health agency, home health agency, rural health clinic, Indian health agency and neighborhood health center.

**(9c)** “Impacted baby” means an infant or young child who suffers death or great bodily harm as a result of being thrown against a surface, hard or soft.

**(9g)** “In care” means a child care provider is responsible for supervision of a child or children.

**(9r)** “Inclement weather” means stormy or severe weather, including any of the following:

(a) Heavy rain.

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(b) Temperatures above 90 degrees Fahrenheit.

(c) Wind chills of 0 degrees Fahrenheit or below for children age 2 and above.

(d) Wind chills of 20 degrees Fahrenheit or below for children under age 2.

**(10)** “Infant” means a child under one year of age.

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

**(12)** “Licensed physician” means a physician licensed under ch. 448, Stats.

**(12m)** “Operator’s own children” means a certified family child care operator’s natural, adopted, step, and foster children, and any children who reside in the operator’s home.

**(13)** “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, treatment foster parent, legal custodian or person acting in place of a parent.*”

**(14)** “Physician’s assistant” means a health care professional certified under s. 448.04 (1) (f), Stats., and ch. Med 8.

**(15)** “Premises” means the tract of land on which the home used for child care is located, including all buildings and structures on that land.

**(16)** “Publicly funded parent” means a parent whose child care expenses are subsidized directly with state or federal funds.

**(18)** “Related to the provider” means the provider’s natural or adopted children, foster children, stepchildren, grandchildren, brothers, sisters, first cousins, nephews, nieces, uncles and aunts.

**(19)** “School-age child” means a child 7 years of age or older who is enrolled in a public school or a parochial or other private school.

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(20c) “Shaken baby syndrome” means a severe form of brain injury that occurs when an infant or young child is shaken forcibly enough to cause the brain to rebound against his or her skull.

(20g) “Substitute” means a provider who replaces the certified child care operator or staff in a school age program on a pre-arranged or planned basis.

(20n) “Sudden infant death syndrome” means the sudden death of an infant under one year of age that remains unexplained after a thorough case investigation, including performance of a complete autopsy, examination of the death scene, and a review of the clinical history.

(20r) “Supervision” means guidance of the behavior and activities of children for their health, safety, and well-being by a provider who is within sight or sound of the children, except as specified in s. DCF 202.08 (5) (j).

(20w) “Suspension” means a temporary interruption in the regulatory approval during which the certified child care operator may not be paid by the child care subsidy program.

(21) “Tribe” means an American Indian tribe recognized by the federal government.

(22) “Volunteer” means a person who agrees to give time, with or without compensation, to transport or to work with children in care.

Wis. Adm. Code s DCF 202.04

**DCF 202.04 Certification.**

(1) Basis for certification. In order to be certified, a child care operator shall be exempt from the licensure requirement in s. 48.65, Stats., and shall comply with the appropriate standards for the type of certified operator that are specified in this chapter.

(2) Types of certified operators. The following types of child care operators shall be certified as a condition for receiving state or federal child care funds:

(a) *Certified family child care operators and in-home operators.* Certified family child care and in-home operators are required to meet the standards under s. DCF 202.08 and may care for infant, preschool, or school-age children consistent with Table 202.08 (6).

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(b) *Certified school-age child care programs.* Certified school-age child care programs are required to meet the standards under s. DCF 202.09.

(3) Application for certification. (a) Form. Application for certification shall be made on a form available from the county or tribal agency in the county or tribal territory where the child care is provided. The applicant shall submit the completed form to that county or tribal agency.

(c) *Criminal background.* The applicant shall comply with the background information requirements of s. 48.685, Stats.

(d) *Compliance with standards and certification.* The county or tribal agency shall process all certification applications as follows:

1. If the application is for certification under sub. (2) (a), the county or tribal agency shall review the application for compliance with standards under s. DCF 202.08 prior to issuing a certificate.

2. If the application is for certification under sub. (2) (b), the county or tribal agency shall refer the application to a licensing representative in the department regional office. The licensing representative shall determine whether the applicant is in compliance with all standards under s. DCF 202.09 and report back to the county or tribal agency. The county or tribal agency may issue a certificate based on the licensing representative's report.

(e) *Approval.* Within 60 days after receiving a completed application for certification or recertification and satisfactory investigation and determination that the applicant is fit, the county or tribal agency shall either approve the application and issue a certificate or deny the application. Fit means the applicant displays the capacity to successfully nurture and care for children and includes consideration of any of the following:

1. Abuse of alcohol or drugs.

2. A history of a civil or criminal conviction or administrative rule violation that substantially relates to caring for children as described in ch. DHS 12.

3. Exercise of unsound judgment.

4. A history of civil or criminal offenses or any other actions that demonstrate an inability to manage the activities of a child care program.

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(f) The county or tribal agency may backdate a certificate of approval to the date that the county or tribal agency received the applicant's completed application for certification.

(4) Certification fee. (a) A county or tribal agency may charge a fee for family child care certification not to exceed 150 percent of the licensing fee for a family child care center that provides care and supervision for 4 to 8 children, under s. 48.65 (3) (a), Stats., plus the costs of criminal record checks required under s. 48.685, Stats.

(b) The county or tribal agency may charge a fee for school-age child care certification not to exceed the licensing fee for a group child care center that provides care and supervision for 9 or more children under s. 48.65 (3) (a), Stats., plus the costs of criminal record checks required under s. 48.685, Stats.

(5) Categories of family certification. Certification of a provider by a county or tribal agency shall be Level I (regular) or Level II (provisional) as follows:

(a) *Level I (regular) certification.* Level I (regular) certification may be issued only after the child care operator has demonstrated compliance with all certification standards including training. Level I (regular) certification shall be for a period of 2 years and shall be renewed upon application if the operator continues to comply with the certification standards under s. DCF 202.08.

(b) *Level II (provisional) certification.* Level II (provisional) certification may be issued only after the child care operator has demonstrated compliance with all certification standards under s. DCF 202.08, except standards for training under s. DCF 202.08 (1) (b). Level II (provisional) certification shall be for a period of 2 years and shall be renewed upon application if the operator continues to comply with the certification standards, except standards for training under s. DCF 202.08 (1) (b).

(6) Certification agency. (a) The county or tribal agency responsible for certification of a provider shall be determined by the geographic area in which the child care is provided.

(b) Certification issued to a provider by a county or tribal agency shall be accepted as valid by all other agencies authorized to certify providers.

(c) The county or tribal agency shall ensure that each new day care certification worker completes the department-approved certification training during the first 6 months of employment.

**(7) Compliance.** (a) *Qualifications of certified child care operators.* County and tribal agencies shall maintain



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records demonstrating child care operator compliance with s. DCF 202.08 (1).

**(b) Compliance with other standards.** 1. 'General.' County and tribal agencies shall help assure operator compliance with s. DCF 202.08 (2) to (12) in accordance with this section.

**2. 'Required procedures.'** A county or tribal agency shall:

- a. Require receipt of a signed application from the operator agreeing to follow child care certification standards.
- b. Provide a checklist of basic child care certification standards and procedures for filing a complaint to all parents who are using certified family child care or in-home care and who are publicly funded parents.
- bm. Require the applicant and any employees, volunteers, and non-client residents 10 years of age or older to submit a background information disclosure form prior to initial certification and every following 2 years.
- c. Provide information on child care and the certification system to applicants prior to initial certification. The information shall include materials on sudden infant death syndrome, shaken baby syndrome and impacted babies, child development, positive discipline, health and safety, and nutrition.

**Note:** Contact Wisconsin Child Care Information Center at 1-800-362-7353 for information on available materials.

**d. Conduct an on-site inspection of the premises where child care will be provided, including areas that will not be used for child care, before initial certification, recertification, or within 30 days following a child care operator's move to a new location.**

e. Check the criminal record history of applicants for certification, employees and prospective employees, volunteers, and non-client residents as specified in s. 48.685 (2) (am), Stats.

f. Check files on child abuse and neglect findings or pending investigations related to applicants, employees and prospective employees, volunteers, and individuals living in the applicant's home.

g. Limit certification to one child care operator for each family residence.

h. Request a statement from the appropriate regulating agency indicating that the regulating agency approves a

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child care business in the applicant's home if the applicant has a separate license or certification to care for children or adults, including foster care or adult care. The request shall include a request for permission for the licensed or certified caregiver to release information necessary for a criminal history record search for residents and clients in the applicant's home.

**3. 'Optional procedures.' A county or tribal agency may:**

**a. Conduct on-site inspections at any time prior to or after certification is approved to monitor compliance with certification standards, in addition to the required inspection under subd. 2. d.**

b. Make certification available to all family child care providers, whether or not public funding is involved.

c. Request that all parents whose children are cared for by a certified family child care operator complete the answers to questions on the checklist and return the checklist provided under subd. 2. b.

d. Require the child care operator to submit references at initial certification and at certification renewal.

e. Require an evaluation and written statement by a physician or licensed mental health professional of any person associated with the care of children or any household resident if the county or tribal agency has reason to believe that the person's physical or mental health may endanger children in care. The county or tribal agency shall document what reason it has to believe that the person's physical or mental health may endanger children in care.

**(8) Exceptions to particular certification requirements.** A county or tribal agency may grant an exception to any standard in s. DCF 202.08 or 202.09 if the county or tribal agency determines that an alternative means meets the intent of the requirement, except for rules related to criminal background investigation required under s. 48.685, Stats.

**(9) Certification decision after background review.** The county or tribal agency shall conduct background reviews in accordance with s. 48.685, Stats. For guidance in resolving issues that arise in particular cases, the county or tribal agency shall follow ch. DHS 12, and the crimes table incorporated into ch. DHS 12, and shall apply the standards that apply to licensed child care facilities.

**Wis. Adm. Code s DCF 202.05**

**DCF 202.05 Criminal history and child abuse record search.**

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(1) The county or tribal agency shall follow the requirements for criminal history and child abuse record search that are contained in s. 48.685, Stats., and ch. DHS 12, and the crimes table incorporated into ch. DHS 12, and shall apply the standards that apply to licensed child care facilities, except the county or tribal agency shall require any prospective or current employee, contractor under the control of the certified child care operator, volunteer, or non-client resident to submit the completed background information form to the county or tribal agency prior to initial certification and recertification. In applying the provisions relating to rehabilitation decisions, all decisions and review procedures shall be made and conducted by the county or tribal agency.

**Note:** Detailed information on ch. DHS 12, Wis. Adm. Code, may be obtained by calling the DCF Bureau of Early Childhood Education at (608) 261-6317 (option 2) or by sending a written request to the DCF Bureau of Early Childhood Education at P.O. Box 8916, Madison WI 53708-8916. In addition, the DHS requirements are posted by the Department of Health Services at the following web site address: <http://dhs.wisconsin.gov/caregiver/index.htm>

(2) Each county or tribal agency shall maintain its records concerning each person whose certificate is denied, revoked, or not renewed for a reason specified in s. 48.685 (4m) (a) 1. to 5., Stats. The county or tribal agency shall report this information to the department's bureau of early childhood education. The county or tribal agency shall immediately report the receipt of an application for rehabilitation review and the results of each rehabilitation review to the office of legal counsel of the department of health services.

**Wis. Adm. Code s DCF 202.06**

**DCF 202.06 Certification denial.**

(1) The county or tribal agency may deny, suspend, revoke or refuse to renew certification if any of the following apply:

(a) The child care operator is not in compliance with certification standards under s. DCF 202.08 or 202.09, as appropriate.

(b) The child care operator's references or other community information does not support the operator's declaration that he or she is able to provide an acceptable level of child care.

(c) The county or tribal agency determines there is danger to the health, safety or welfare of the children in care.

(d) The child care operator submits false attendance records to the child care subsidy administrative agency.

(e) The child care operator fails to cooperate with the certifying agency.

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- (f) The applicant's license or certificate to care for children or adults has been denied or revoked.
  
- (g) The child care operator misrepresents or withholds information.
  
- (h) The child care operator or an employee or volunteer denies the day care certification worker access to the premises to monitor compliance with the certification standards.
  
- (i) The child care operator, an employee, a volunteer, or any other person having regular contact with the children in care is or has been any of the following:
  - 1. The subject of a pending criminal charge for an action that substantially relates to the care of children or activities of the program.
  
  - 2. Convicted of a felony, misdemeanor, or other offense that substantially relates to the care of children or activities of the program.
  
- (j) The evaluation under s. DCF 202.04 (7) (b) 3. e. gives the county or tribal agency reasonable concern that the person's physical or mental health may endanger children in care.
  
- (2)** The county or tribal agency shall require a child care operator to submit a new application for certification if the operator's previous certification was denied, revoked, or not renewed for a reason in s. DCF 202.05 or 202.06 (1). The county or tribal agency may refuse to accept a new application for 2 years after the date of the denial, revocation, or refusal to renew the certification.
  
- (3)** A child care operator whose certification has been revoked twice for noncompliance with the certification standards in s.DCF 202.08 or 202.09 shall be permanently barred from certification.
  
- (4)** If a county or tribal agency denies, suspends, revokes or refuses to renew a certification, the county or tribal agency shall notify the child care operator in writing and give reasons for the action. The action is reviewable pursuant to ch. 68, Stats., which provides for administrative review of the decisions of local agencies. Tribal agencies shall use an appeal process equivalent to the process in ch. 68, Stats.

**Wis. Adm. Code s DCF 202.065**

**DCF 202.065 Sanctions.**

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If a certified child care operator violates the provisions of this chapter, s. 48.685, Stats., or ch. DHS 12, the county or tribal agency shall require the operator to submit a plan of correction for violation in writing and may impose any or all of the following sanctions:

- (1) Forbid the operator to enroll any new children until all violations have been corrected.
- (2) Issue a warning of revocation in writing.
- (3) Suspend the operator's certification for not more than 60 days. The agency shall either reinstate or revoke the certification by the date that the suspension expires.

Wis. Adm. Code s DCF 202.07

DCF 202.07 Complaints.

Within 10 working days after a county or tribal agency receives a complaint about a certified child care operator, the county or tribal agency shall investigate that complaint.

Wis. Adm. Code s DCF 202.08

Blue,  
Pale Yellow,  
Green,  
Burgundy,  
& Gray

DCF 202.08 STANDARDS FOR FAMILY CHILD CARE AND IN-HOME CHILD CARE.

- (1) Qualifications of providers. (a) *Ability, age and health.* 1. A provider shall be physically and emotionally able to provide responsible child care and shall be at least 18 years of age.  
  
2. A provider, household member, volunteer, visitor or parent who has symptoms of illness or of a communicable disease reportable under ch. DHS 145 that may be transmitted through normal contact, or whose behavior or mental or physical condition gives reasonable concern for the safety of the children, may not be in contact with the children in care.  
  
3. Each family and in-home child care operator shall demonstrate that he or she is free from tuberculosis prior to certification and recertification. The agency may accept results of a test administered up to 12 months before the application date.

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(b) *Training.* 1. 'Level I (regular) and Level II (provisional).' Each certified family and in-home child care operator and all employees and volunteers of a certified family or in-home child care operator who provide care and supervision for children under one year of age shall receive training in the most current medically accepted methods of preventing sudden infant death syndrome before the date on which the child care operator is certified or the employment or volunteer work commences. Except for a volunteer who does no sole supervision of a child, each certified family child care operator, certified in-home child care operator, employee, and volunteer who provides care and supervision for children under 5 years of age shall receive department-approved training on shaken baby syndrome and impacted babies and appropriate ways to manage crying or fussing children. The training shall be completed by one of the following methods:

a. Complete the department-approved, in-person training on shaken baby syndrome prevention and impacted babies before the date on which the child care operator is certified or the employment or volunteer work commences.

b. View a department-approved video on shaken baby syndrome prevention and impacted babies before the date on which the child care operator is certified or the employment or volunteer work commences and complete a department-approved, in-person training within 6 months of certification approval or start of employment or volunteer work.

**Note:** Contact Child Care Resource and Referral at 1/888-713-5437 for further information on these classes.

2. 'Level I (regular).' The following apply to Level I (regular) certified family and in-home child care operators:

a. A Level I (regular) certified family and in-home child care operator under s. DCF 202.04 (5) (a) shall have completed at least 2 credits of early childhood training or non-credit department-approved training prior to Level I (regular) certification.

**Note:** Contact Child Care Resource and Referral at 1-888-713-5437 for further information on classes.

The T.E.A.C.H. Early Childhood® WISCONSIN Scholarship Program offers scholarship opportunities to teachers, family child care providers, center directors and administrators for credit-based training. For further information, contact Wisconsin Early Childhood Association, 744 Williamson Street, Suite 200, Madison, WI 53703. Phone: 608-240-9880 or 1-800-783-9322. Fax: 608-240-9890. Website: <http://www.wecanaeyc.org>.

b. A county or tribal agency may require up to 5 hours of annual continuing education by a Level I (regular) certified provider each year following Level I (regular) certification.

c. Prior to issuing a Level I (regular) certification, the county or tribal agency may require that an applicant graduated from high school, obtained a high school equivalency diploma under s. 115.29 (4), Stats., or obtained a certificate of general education development under s. PI 5.04.

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d. A substitute who has worked more than 240 hours for a certified family or in-home child care operator with a Level I (regular) certification shall comply with the training requirements in subd. 2. a. and b.

(c) *Reporting changes.* A certified family child care operator shall report as soon as possible, but no later than the county or tribal agency's next working day, to the agency any changes that affect the certified family child care operator's eligibility for certification under this chapter, including the following:

1. Death of a child in care or accident that results in an injury to a child in care that requires professional medical treatment.
2. Any damage to the premises that may affect compliance with this chapter.
3. Any construction or remodeling of the premises that might have an effect on health and safety of children in care.
4. Convictions, pending charges, or other offenses of the child care operator, household member, or other persons subject to a caregiver background check that could potentially relate to the care of children.
5. Any incident involving law enforcement, including outstanding warrant or child protective services contact.
6. Any inappropriate discipline of a child by a provider, volunteer, or household member, including any incident that results in a child being forcefully shaken or thrown against a hard or soft surface during the child's hours of attendance.
7. Individuals moving in or out of the household.
8. Changes in hours of operation, phone number, or physical address.
9. Upon the hiring of a new employee or volunteer and before the employment or volunteer work commences.

(d) *Substitutes, employees, and volunteers.* A substitute, employee, or volunteer for a Level I or II child care operator shall be approved by the county or tribal agency before employment or volunteer work commences. The county or tribal agency shall approve the substitute, employee, or volunteer if the agency has verification that the substitute, employee, or volunteer has met the standards under s. DCF 202.05, regarding the criminal

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history and child abuse record search, and completed the training on sudden infant death syndrome and shaken baby syndrome and impacted babies required under par. (b) 1.

(e) *Administration.* A certified family child care operator shall do all of the following:

1. Comply with all local and state laws governing the certified child care program and its operation and ensure that all employees and volunteers comply with these laws.
2. Comply with all requirements in this section.
3. Ensure that all information provided to the county or tribal agency is current and accurate.
4. Permit a child care certification worker to conduct home inspections to monitor compliance with certification standards in this chapter.

(2) The home for providing family child care. A certified child care home and outside play areas shall meet the following requirements:

(a) Exits to the home shall comply with the following:

1. All exits shall be clear of obstruction.
2. Each floor or level used for child care shall have at least 2 exits.
- 2m. Notwithstanding subd. 2., child care operators who hold a certification under s. 48.651, Stats., on June 1, 2008, are not required to comply with subd. 5. until June 1, 2010.
3. The primary exit shall be a door or a stairway providing unobstructed travel to the outside of the building at street or ground level.
4. If the care is not provided in a basement, the secondary exit shall be one of the following:



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a. A door or stairway that provides unobstructed travel to the outside of the building at street or ground level.

b. A door or stairway leading to a platform or roof with railings which has an area of at least 25 square feet, is at least 4 feet long, and is not more than 15 feet above the ground level.

c. A window not more than 46 inches above the floor that is capable of being opened from the inside without the use of tool or removal of a sash and which has a window opening size of at least 20 inches in width and 24 inches in height.

5. If the care is provided in a basement, the secondary exit shall be one of the following:

a. A door or stairway that provides unobstructed travel to the outside of the building at street or ground level.

b. A window not more than 46 inches above the floor that is capable of being opened from the inside without the use of tool or removal of a sash and which has a window opening size of at least 20 inches in width and 24 inches in height. The window shall open directly to the ground or to a window well with an area of at least 6 square feet that is not more than 46 inches below the ground.

(am) The home shall have a working carbon monoxide detector and each floor level shall have a working smoke detector.

(b) All areas used for child care shall have adequate and safe heat, light and ventilation, including all of the following:

1. The inside temperature of the home may not be less than 67 degrees Fahrenheit.

2. If the inside temperature exceeds 80 degrees Fahrenheit, a child care provider shall provide for air circulation with safe fans or other means.

(c) The home shall be free of hazards, including any recalled products. Items that shall be kept inaccessible to the children include, but are not limited to, the following:

1. Medications and drugs.

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2. Cleaning supplies, poisons, and insecticides.
3. Guns, ammunition, knives, scissors, and sharp objects.
4. Matches, cigarette lighters and flammable liquids.
5. Plastic bags.
6. Litter and rubbish.

**Note:** Lists of recalled products are available on the Department of Agriculture, Trade and Consumer Protection website at <http://datcp.state.wi.us/core/consumerprotection/consumerprotection.jsp> or by contacting the United States Consumer Safety Commission at 1-800-638-2772.

(cm) Fire arms and ammunition materials shall be stored in separate, locked areas that are inaccessible to children.

(d) Indoor and outdoor areas used for child care shall include sufficient space for play and for activities that meet the developmental needs of the children in care.

(e) Outdoor play areas shall be free of hazards and shall be fenced or the certified child care operator shall take special measures to ensure the safety of the children, including the following:

1. Concrete and asphalt shall be prohibited under climbing equipment, swings, and slides.

2. In-ground pools, on-ground pools, hot tubs, and large outdoor trampolines may not be used during hours of care and shall be inaccessible to children by use of a permanent barrier or other preventive measure.

3. Wading pools may be used if the water is changed daily and the pool is disinfected daily. In this subdivision, "wading pool" means a shallow pool, capable of being dumped to change water, and used primarily for small children.

(f) Pets that are kept in the home shall be tolerant of children and vaccinated against rabies. The rabies vaccination shall be documented with a current certificate from a veterinarian. Pets that may pose any risk to the children shall be restricted from indoor and outdoor areas used for child care.

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(g) The home shall have at least one telephone in working order with a list of emergency numbers posted by each telephone, including numbers for the rescue squad, police, fire station, emergency medical care, and poison control center. The certifying agency may prohibit the use of a cellular phone as a primary phone. If a cellular phone is used as a primary phone, it shall be operational during the hours of child care.

(i) The home shall be clean, uncluttered and free of insects and rodents.

(j) Bathrooms, including toilets, sinks and potty chairs, shall be clean and in good working condition. Items listed in par. (c) may not be stored in a bathroom that is used by children in care.

(k) When a public water supply is not available, the water shall be tested and found to be bacteriologically safe and to have safe nitrate levels by a laboratory certified under 42 CFR 493 (CLIA) prior to initial certification and at least every following 2 years.

(L) Areas, equipment, utensils, and appliances for food preparation, serving and clean-up shall be kept clean, sanitary, and in good working condition.

(m) Children may not share cups, eating utensils, washcloths or towels.

(n) Smoking shall be prohibited in any indoor or outdoor area in which children are present.

(o) If the child care is provided in a rental property, the provider shall obtain permission from his or her landlord to operate a child care business.

(p) The premises may not have any chipping, peeling, or deteriorating paint on exterior or interior surfaces in areas accessible to children.

(3) The home for providing in-home care. When a certified child care operator cares for children in the children's own home, the operator shall comply with requirements in sub. (2) (c), (e), (L) and (n), but the operator is not required to comply with requirements in sub. (2) (a), (am), (b), (d), (f), (g), (i), (j), (k), (m), (o), and (p).

(4) Child health care. (a) Except as provided under pars. (c) and (d), a certified child care operator shall have a current report of a physical examination on file for each child, including the operator's own children in care, as follows:

1. For a child under 2 years of age, a report of a physical examination conducted not more than 6 months prior to nor later than 3 months after the child is admitted, and a follow-up health examination at least once every 6 months after admission.

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2. For a child 2 years of age or older, a report of a physical examination conducted not more than 2 years prior to nor later than 3 months after the child is admitted, and a follow-up health examination at least once every 2 years after admission.

(b) The physical examination report shall be signed and dated by a licensed physician, a physician's assistant or a health check provider.

(c) The requirement under par. (a) does not apply to a child care operator who requests from the county or tribal agency in writing an exemption for a child based upon adherence by the child's parent to religious belief in exclusive use of prayer or spiritual means for healing.

(d) The requirement under par. (a) does not apply to school-age children. Notwithstanding s. DCF 202.02 (19), in this paragraph, "school-age children" means children 5 years of age or older who are enrolled in kindergarten or a higher grade in a public or private school.

(e) The certified child care operator shall have on file a written record verifying that each child in care has been immunized in accordance with s. 252.04, Stats., and ch. DHS 144.

(f) A child care provider may administer medication to a child only in accordance with written and signed permission from the child's parent.

(g) A child care provider shall wash his or her hands with soap and warm running water after toileting, prior to food preparation, and after diapering children.

(h) A child care provider shall require all children in the provider's care to wash their hands with soap and warm running water before eating and after toileting.

(i) A child care provider shall change a child's diaper on an easily cleanable surface that is cleaned with soap and water and a disinfectant solution after each use.

(j) A child care provider shall clean a child's superficial wound with soap and water only and protect it with a band-aid or bandage.

(k) If a child care operator or a child care provider is aware that a child attending certified child care or a child

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care operator's own child has a reportable communicable disease under ch. DHS 145 that is transmitted through normal contact, such as chicken pox, German measles, infectious hepatitis, measles, mumps, scarlet fever, or meningitis, the operator or provider shall comply with all of the following requirements:

1. The child care operator or child care provider shall notify the local public health officer and parents of all the enrolled children.

2. A child who has or had a reportable communicable disease under ch. DHS 145 may not be admitted to certified child care unless the child's parents provide a statement from a physician that the child's condition is no longer contagious or the child has been absent for a period of time equal to the longest usual incubation period for the disease as specified by the department of health services.

**Note:** The Division of Public Health within the Department of Health Services has developed materials that identify those communicable diseases that are required to be reported to a local public health officer. These materials also provide information on the symptoms of each disease and guidance on how long an infected child must be excluded from child care. The materials include a communicable disease chart and exclusion guidelines for child care programs. Copies of the communicable disease chart or the exclusion guidelines for child care are available from the Child Care Information Center at 1-800-362-7353.

**(5) Supervision.** (a) A child care provider may not be engaged in any other activity or occupation during the hours of operation which interferes with the adequate care and supervision of children.

(b) A child care provider shall be awake whenever the children in care are awake.

(c) No individual provider may take care of children for more than 16 hours in any 24-hour period. The 16-hour period includes any combination of care by a provider who is both licensed as a family day care provider and certified as a family day care provider.

(d) The certified child care operator shall ensure that each child has adult supervision at all times.

(e) The certified child care operation shall ensure that no person under 18 years of age is left in sole charge of the children.

(em) The certified child care operator has a designated adult who can provide assistance in the event an unexpected emergency. The emergency back-up child care provider is at least 18 years of age and can provide an acceptable level of child care.

(f) The certified child care operator and any other adult working with children may not consume or be

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under the influence of alcoholic beverages or any non-prescribed controlled substance specified in ch. 961, Stats., during the hours of operation.

(g) No person in the certified home may consume or be under the influence of alcoholic beverages or any non-prescribed controlled substance specified in ch. 961, Stats., during the hours of operation in the presence of children.

(h) A certified child care operator may not allow any person whom the operator determines to be a threat to the health or safety of the children to have contact with the children in the operator's care.

(i) The certified child care operator shall keep a current written record of the daily hours of attendance of each child in care, including the actual arrival and departure times for each child. Attendance records shall be kept for at least 3 years.

(j) When the children are playing outside, a child care provider shall be outside with the children and shall provide both sight and sound supervision at all times.

**(6) Maximum number of children.** (a) No certified family child care operator may have more than 3 children under 7 years of age who are not related to the child care operator in care at any given time.

(b) No certified family operator may have more than 6 children in care, including children related to the operator, except that:

1. If 3 of the children are under the age of 2, the total number of children may not exceed 5.

2. If 4 of the children are under the age of 2, the total number of children may not exceed 4.

(c) A child care operator's natural, adopted, step, or foster children 7 years of age or older or any child 7 years and older residing in the operator's home are not counted in determining the maximum number of children allowed under par. (b).

(d) The maximum number of children that may be in care is shown in Table 202.08 (6).

(e) When a certified in-home child care operator cares for children in the children's own home, the following apply:

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1. The operator is not required to comply with pars. (a) and (b).
  
2. The operator may not care for any children who do not reside in the home.

**Table 202.08 (6) MAXIMUM NUMBER OF CHILDREN IN CERTIFIED CHILD CARE**

<b>Related Operator's Own Children Under 7 years of Age</b>	<b>Non-related Children Under 7 years of age</b>	<b>Additional Children Ages 7 and older</b>	<b>Maximum Number of Children [FN*]</b>
0	3		6
1	3	Additional children ages 7 through 12 (if special needs up to 19) may be cared for as long as the maximum total number of children is not exceeded	6
2	3		6
3	3		6
4	2		6
5	1		6
6	0		6

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**WHEN CHILDREN UNDER THE AGE OF 2 YEARS ARE PRESENT**

<b>Number of Children Under 2 Years of Age</b>	<b>Maximum Number of Children*</b>
0	6

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1	6
2	6
3	5
4	4

\*The maximum number does not include the certified child care operator's natural, adopted, step or foster children 7 years of age and older or any children 7 and older who live in the residence.

**Note:** Under s. 48.65 (1), Stats., if a provider takes care of 4 or more children under the age of 7 who are not related to the provider, for compensation, the provider must obtain from the department a license to operate a child care center.

**(7) Provider interactions with children. A child care provider shall interact with the children in a caring and positive manner and:**

- (a) Shall protect children in care from danger and be aware of where each child is at all times.
- (b) May not hit, spank, pinch, shake, slap, throw, or inflict any other form of corporal punishment on the child, or use any discipline that is frightening to the child, including binding or trying to restrict the child's movement or enclosing the child in a confined space such as a closet, basement, locked room, box, or similar cubicle.
- (c) May not verbally abuse or threaten a child or make derogatory remarks about the child or the child's family.
- (d) Shall provide positive guidance and redirection for the children and set clear limits for the children.
- (e) Shall help each child develop self-control, self-esteem, and respect for the rights of others.
- (f) May not use time-out periods that exceed 5 minutes. For purposes of this paragraph, a "time-out" is an interruption of unacceptable behavior by the removal of the child from the situation.



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(g) May not punish a child for lapses in toilet training.

(h) Shall respond promptly to a crying infant or toddler's needs.

(i) Shall provide physical contact and attention to each infant and toddler throughout the day, including holding, rocking, talking to, singing to, and taking on walks inside and outside the home.

(j) Shall periodically change the position and location in the room of a non-walking child who is awake.

Blue &  
Gray

(8) Activities and equipment. (a) A child care provider shall plan activities so that each child may be or do all the following:

1. Be successful and feel good about himself or herself.

2. Use and develop language.

3. Use large and small muscles.

4. Learn new ideas and skills.

5. Participate in imaginative play.

(b) A child care provider shall offer daily activities according to the age and developmental level of the children in care and shall include a flexible balance of all the following:

1. Daily indoor and outdoor activities, except that outdoor activities are not required during inclement weather or when not advisable for health reasons.

2. Active and quiet play.

3. Protection from excess fatigue and overstimulation.

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4. Individual and group activities.

5. At least 15 minutes reading to the children daily.

6. Opportunities for a non-walking child who can creep or crawl to move freely in a safe, clean, open, warm, and uncluttered area each day.

(c) A child care provider may use television only to supplement daily activities for children. No child may be required to watch television.

**Note:** For further information, see the Wisconsin Model Early Learning Standards. These voluntary standards are designed to help child care providers develop programs and curriculum to help ensure that children are exposed to activities and opportunities that will prepare them for success in school and into the future. The standards are primarily intended as guidance on developmentally appropriate expectations and are not intended to be used as a checklist to gauge a child's progress. The standards are based on scientific research. Copies of the Wisconsin Model Early Learning Standards are available on the Wisconsin Early Childhood Collaborating Partners website at <http://www.collaboratingpartners.com/> or through the Child Care Information Center at 1-800-362-7353.

Blue &  
Pale Yellow

**(8m) Equipment.** (a) Safe indoor and outdoor play equipment shall be provided as follows:

1. Equipment shall be scaled to the size and developmental level of the children in care.

2. Equipment shall be constructed in a sturdy manner and be in good operating condition with no sharp, rough, loose, or pointed edges.

3. Large, inflatable jumping toys may not be used during hours of child care.

(b) Various types of play equipment shall be provided to allow for large and small muscle activity, dramatic play, and intellectual stimulation.

(c) Indoor play equipment shall be provided to allow each child a choice of at least 3 activities involving equipment when all children are using equipment.

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(d) Outdoor play equipment shall be provided to allow each child at least one activity when all children are using equipment at the same time.

(9) Transportation. When transporting children the certified child care operator shall ensure that:

(a) The driver of the vehicle holds a valid driver's license. The certified child care operator shall have a copy of the driver's license on file.

**Note:** Information on an individual's driving record is available by calling the Division of Motor Vehicles at (608) 261-2566 or through the website <http://www.dot.wisconsin.gov/drivers/drivers/points/abstract.htm>.

(b) The vehicle is registered in Wisconsin.

(c) Each child is seated and properly restrained in an individual seat belt or, for a child under 8 years of age, a child safety restraint system, in compliance with s. 347.48 (2m) and (4), Stats., as follows:

1. If the child is less than one year old or weighs less than 20 pounds, the child shall be properly restrained in a rear-facing individual child care safety seat.

2. Subject to subd. 1., if the child is at least 1 year old and weighs at least 20 pounds but less than 4 years old or weighs less than 40 pounds, the child shall be properly restrained in a forward-facing individual child car safety seat.

3. If the child is at least 4 years old but less than 8 years old, weighs at least 40 pounds but not more than 80 pounds, and is not more than 57 inches in height, the child shall be properly restrained in a shoulder-positioning child booster seat.

4. Children under age 13 years may not ride in the front seat of a vehicle.

(d) A written transportation permission slip signed by a parent or guardian is on file.

(e) Children are not left unattended in a vehicle.

(10) Meals and snacks. The certified child care operator shall ensure that each child receives proper nourishment while in child care as follows:

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(a) Each child shall be served one meal or snack at least once every 3 hours.

(b) Each child in attendance for 4 or more hours shall be served a noon or evening meal which consists of a protein food, fruit and vegetable, a cereal or bread product and pasteurized grade A vitamin D milk.

(c) Each infant who is unable to hold his or her own bottle shall be held for bottle feeding. Bottles may not be propped.

(11) Rest. The certified child care operator shall ensure that each child has a clean, comfortable and safe place to rest as follows:

(a) Each child shall be allowed to have undisturbed rest or a nap, when needed, in a place that is clean, safe and comfortable.

(b) Each child shall have a personal clean sheet or blanket or both and pillowcase if a pillow is used.

(c) To reduce the risk of sudden infant death syndrome, each infant shall be placed to sleep on his or her back, unless otherwise directed by the child's physician. All sleeping arrangements for children under one year of age shall use firm mattresses and may not use soft bedding materials, such as comforters, pillows, fluffy blankets, or stuffed toys.

(d) A safe crib or playpen shall be available for each child under one year of age to use for napping.

(12) Provider and parent communication. The certified child care operator shall be in ongoing communication with a child's parent or ensure that a substitute child care provider is in ongoing communication with a child's parent by doing all of the following:

(a) Allowing parents to visit and observe the program of child care during any hours that care is being provided.

(b) Talking to each child's parent at least once a week about his or her child's development, activities, likes and dislikes.

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(c) Developing a written contract that specifies the charge for child care and the expected frequency of payment for the service. A contract for each enrolled child shall be signed by the certified child care operator and a parent or guardian.

(d) Making a copy of the applicable certification standards available to each parent.

(e) Displaying a copy of the certificate in an area easily seen by parents and visitors.

(f) Using an enrollment form that includes:

1. The parents' home and work phone numbers.
2. The parents' signed consent for emergency medical care.
3. A name and number to call if the child requires emergency medical care.

(g) Using information obtained on the department-provided "child care intake for child under 2 years" form, which collects essential information for infants and toddlers, to individualize the program of care for each child under 2 years of age.

(h) Informing a child's parent of any disciplinary action taken or any injury to the child that occurred during child care hours.

(i) Informing the parent in writing whether the premises are covered by a child care liability insurance policy.

(j) Notifying a parent if his or her child has been exposed to a diagnosed or suspected communicable disease reportable under ch. DHS 145 and transmitted through normal contact if the child care operator or child care provider is aware of the exposure.

**(13) Discrimination prohibited.** The certified child care operator shall not discriminate on the basis of race, color, sex, sexual orientation, creed, handicap, or national origin or ancestry in accepting children or in the employment of employees.

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(14) Mandatory child abuse reporting. A provider who has reasonable cause to suspect that a child in his or her day care has been abused or neglected or that the child has been threatened with abuse or neglect and that abuse or neglect will occur shall immediately inform the county social or human services department, local law enforcement, or other organization designated in s. 48.981, Stats.

Wis. Adm. Code s DCF 202.09

Green,  
Blue, Gray, DCF 202.09 Standards for school-age programs.  
Orange,  
Burgundy, &  
Pale Yellow

(1) Conditions for certification. School-age child care programs shall meet the standards set out in this section in order to be certified.

(1m) Administration. The certified child care operator of a school-age program shall do all of the following:

- (a) Comply with all laws governing the facility and its operation.
- (b) Comply with all requirements in this section.
- (c) Ensure that all information provided to the county or tribal agency is current and accurate.
- (d) Permit a child care certification worker to conduct inspections to monitor compliance with the certification standards.

(2) Personnel. (a) *Director*. Each school-age child care program shall have a person designated as director. The director shall:

- 1. Be at least 21 years of age.
- 2. Have had at least one year of child care or administrative experience with preschool or school-age children or have completed at least 36 classroom hours of department-approved training or 3 credits of training in at least one of the following areas: child development, early childhood education, elementary education, child guidance, physical education, recreation or other department-approved area applicable for school-age child care.

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3. Have graduated from high school, obtained a high school equivalency diploma under s. 115.29 (4), Stats., or obtained a certificate of general education development under s. PI 5.04.

(b) *Program leader.* A program leader shall be designated by the program director to plan and implement the daily activities for a designated group of children. The program leader shall:

1. Be at least 18 years old.

2. Have completed high school or its equivalency.

3. Have had 80 working days experience working with school-age children.

4. Have completed 10 classroom hours of training in at least one of the following areas: child development, early childhood education, elementary education, child guidance, physical education, recreation or other department-approved area.

(c) *Program assistant.* A program assistant shall:

1. Work under the supervision of a program leader.

2. Be at least 18 years old.

3. Have completed or be enrolled in 10 classroom hours of training in at least one of the following areas: child development, early childhood education, elementary education, child guidance, physical education, recreation or other department-approved area.

(d) *Substitutes.* 1. In the absence of a regular staff member, there shall be a similarly qualified substitute who is at least 18 years old.

2. When the regular staff member is not expected to be absent for more than 3 days, a person not meeting the educational qualifications under par. (a), (b) or (c) may substitute for the regular staff member if a qualified person is not available.

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(e) *Staff records.* The school-age child care program shall maintain a record for each employee which shall be available to the county or tribal agency and includes:

1. The name, address, date of birth, education, position, names and addresses of employers in previous work experience in child care, the name, address and telephone number of a person to be notified in an emergency.
2. Evidence that the employee is free from tuberculosis.
3. Documentation of educational qualifications for the position.

(f) *Health and safety.* No staff member, volunteer, visitor or parent with symptoms of communicable disease or physical illness, or whose behavior gives a reason to be concerned for the safety of the children, may be allowed on the premises of the program.

(g) *Ability.* The staff members shall be physically and emotionally able to provide responsible child care.

**(3) Orientation.** Each school-age program shall develop and implement an orientation session which shall be given to all new staff and volunteers in the first week that they are working in the program. The orientation session shall include all of the following:

(a) Review of health, nutrition and discipline policies.

(b) Review of plans for evacuation and other emergencies.

(c) Training in emergency procedures and first-aid procedures.

(d) Review of all applicable parts of this subchapter.

(e) Review of the school-age program's activity schedules.

(f) Training in the recognition of signs of child abuse and neglect and explanation of responsibilities for reporting suspected cases of child abuse or neglect.



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(g) Explanation of job responsibilities and job descriptions.

(h) Training in the recognition of childhood illnesses.

Orange,  
Blue, &  
Pale Yellow

**(4) Facility.** (a) *General rules.* 1. A school-age program shall consult local authorities to obtain any required zoning clearances or building permits.

2. There shall be a report of inspection filed in the county or tribal agency that indicates approval of the building by the state department of safety and professional services or by a certified agent of that department. The building shall comply with applicable state and local building codes.

3. The premises shall have no flaking or deteriorating paint on exterior or interior surfaces in areas accessible for children.

(b) *Indoor space.* 1. The space used by children shall be no less than 35 square feet (3.3 sq. meters) of usable floor space per child.

2. The indoor area shall be free of hazards, and items that may be harmful to children such as medications, drugs, poisons, insecticides, weapons, matches, cigarette lighters and flammable liquids shall be kept out of reach of the children.

4. The inside temperature may not be less than 67 degrees Fahrenheit.

5. If the inside temperature exceeds 80 degrees Fahrenheit, fans must be provided to improve air circulation.

(c) *Swimming pool.* A school-age program that has a swimming pool on its premises shall do all of the following:

1. Comply with the requirements of chs. SPS 390 and DHS 172, relating to swimming pool safety.

2. Maintain a ratio of one person qualified by Red Cross, Boy Scouts, Young Men's Christian Association or other generally accepted lifesaving certificate for every 25 children in the water.

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Green &  
Burgundy

**(5) Child health care.** (a) Within 30 days after a child is enrolled, the program shall have on file a health history for that child.

(b) The program shall isolate any ill child and contact the parent or designated responsible person as soon as possible to arrange for removal of the child from the program.

(c) The provider may administer medication to a child only in accordance with written and signed permission from the child's parent.

(d) Pets that are kept on the premises shall be tolerant of children and vaccinated against rabies. Rabies vaccinations shall be documented with a current certificate from a veterinarian.

(e) Each staff member shall wash his or her hands with soap and warm running water after toileting and prior to food service and preparation.

(f) All children in care shall wash their hands with soap and warm running water before eating and after toileting.

(g) Smoking shall be prohibited in any indoor or outdoor area in which children are present.

**(6) Staffing and grouping.** (a) At least one person meeting the qualifications of a school-age program leader shall supervise each group of children.

(b) No group may contain more than 32 children.

(c) There shall be at least one staff member for every 16 children.

(d) Children who are relatives of staff shall be counted in the group size and ratio calculations.

(e) In a program with 10 or more children present, there shall be at least 2 adults available at all times on the premises.

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(f) The certified child care operator shall keep a current, written record of the daily hours of attendance of each child in care, including the actual arrival and departure times for each child. Attendance records shall be kept for at least 3 years.

(7) Emergencies. (a) A program shall have a phone in working order to which the staff has access and a list of emergency phone numbers posted on or near the phone. The list shall include numbers for the rescue squad, police, fire station, emergency medical care and poison control center.

(am) A working cellular phone shall be taken on field trips.

(b) A school age child care program shall have on file an enrollment form that includes:

1. The parents' home and work phone numbers.

2. The parents' signed consent for emergency care.

3. A name and number to call if a child requires emergency medical care.

(c) Staff shall wash superficial wounds with soap and water only and protect the wound with a band-aid or bandage.

**(8) Sanitation.** (a) The premises shall be clean, uncluttered and free of insects and rodents.

(b) Bathrooms, including toilets and sinks, shall be clean and in good working condition.

(c) When a public water supply is not available, the water shall be tested and found to be bacteriologically safe by the state laboratory of hygiene or a laboratory certified under 42 CFR 493 (CLIA) prior to initial certification and at least every following 2 years.

(d) Areas, equipment and utensils for food preparation, serving and clean-up shall be kept clean and sanitary.

(e) Children may not share cups, eating utensils, washcloths or towels.

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(9) Staff interactions with children. Staff shall interact with the children in a caring and positive manner and:

(a) Shall protect children in their care from danger and be aware of where each child is at all times.

(b) May not hit, spank, pinch, shake or inflict any other form of corporal punishment on a child, or use any discipline which is frightening to the child, including binding or trying to restrict the child's movement or enclosing the child in a confined space such as a closet, basement, locked room, box, or similar cubicle.

(c) May not verbally abuse or threaten a child or make derogatory remarks about the child or the child's family.

Blue &  
Gray

(10) Activities and equipment. (a) The program shall implement a schedule of activities which include:

1. A variety of activities which ensure that each child is involved in both active and quiet play.

2. Opportunities for each child to use a variety of materials and equipment.

3. Opportunities for each child to be involved in a variety of activities during a week and to select and plan his or her own activities.

(b) Television viewing, if part of the activities, may not exceed one hour a day per child and shall be appropriate for the children in care.

(11) Meals and snacks. (a) A program operating for less than 4 hours shall ensure that each child is served a snack.

(b) A program operating 4 or more hours shall ensure that each child is served one meal or one snack at least once every 3 hours.

(c) For each child served a noon or evening meal, that meal shall consist of a protein food, fruit and vegetable, a cereal or bread product and pasteurized grade A vitamin D milk.

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(d) Snacks shall consist of at least one of the following: milk or a milk product, fruit, fruit juice, vegetable, peanut butter or other protein, whole grain or enriched bread or cereal. When only fruit juice is served, it shall be pure fruit juice.

(12) Transportation. (a) The program shall have a written agreement with each child's parent or guardian, and signed by the parent or guardian, which specifies how the child will be transported to and from the program.

(b) A driver for the program shall hold a valid Wisconsin driver's license required under s. 343.05, Stats. The program shall have a copy of the driving license for all persons transporting children on file.

**Note:** Information on an individual's driving record is available by calling the Division of Motor Vehicles at (608) 261-2566 or through the website <http://www.dot.wisconsin.gov/drivers/drivers/points/abstract.htm>.

(c) Any vehicle used by the program to transport children shall be registered in Wisconsin.

(d) Any vehicle used by the program to transport children shall be in safe operating condition and at 12-month intervals the school-age child care program shall provide evidence of the vehicle's safe operating condition to the county or tribal agency.

(e) Each child and adult being transported in a vehicle with a seating capacity of 15 or fewer shall be seated and properly restrained in an individual seat belt or, for a child under 8 years of age, a child safety restraint system in compliance with s. 347.48 (2m) and (4), Stats., as follows:

1. If a child is at least 4 years old but less than 8 years old, weighs at least 40 pounds but not more than 80 pounds, and is not more than 57 inches in height, the child shall be properly restrained in a shoulder-positioning child booster seat.

2. A child under 13 years of age may not ride in the front seat of a vehicle.

(f) A written transportation permission slip signed by a parent or guardian is on file.

(g) No child may be left unattended in a vehicle.

(13) Parents. The program shall allow parents to visit and observe the program at any time during the

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hours of operation.

**(14) Insurance.** The program shall provide documentation of insurance coverage by submitting to the county or tribal agency a certificate of insurance reflecting current dates of coverage for:

(a) General liability insurance which provides coverage with limits of not less than \$25,000 for each person and total limits of \$75,000 for each occurrence.

(b) Vehicle liability insurance when transportation is provided, with minimums no less than those specified in s. 121.53, Stats.

(c) Non-owned vehicle liability insurance when transportation is provided by other than center-owned vehicles.

**Wis. Adm. Code Ch. DCF 203, Refs & Annos**

**Wis. Adm. Code s DCF 203.01**

**DCF 203.01 Child care quality improvement.**

**(1) AUTHORITY AND PURPOSE.** This section is promulgated under the authority of ss. 49.155 (1d) (b) and 227.11 (2) (a), Stats., to establish quality of care standards for group day care centers and family day care centers that are higher than the standards set out in chs. DCF 202 and 250, and to establish criteria and procedures for the administration of the grant program under s. 49.137 (2), Stats., for child care providers who meet the higher quality of care standards, and for administration of the grant program under s. 49.137 (3), Stats., for child care providers who need assistance in meeting those standards.

**(2) APPLICABILITY.** This section applies to the department, to any agency the department may designate or contract with to administer the grant program under this section and to all applicants and recipients of grants under this section.

**(3) EXCEPTION.** The department upon written request of an applicant or recipient of a grant under this section may grant an exception to any nonstatutory requirement in this section if the department determines that granting the exception will not jeopardize the health, safety or welfare of any child and that the exception will improve the quality of child care.

**Wis. Adm. Code s DCF 203.02**

**DCF 203.02 Definitions.**

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In this section:

**(1)** “Accreditation” means:

(a) For a group day care center, accreditation by the national academy of early childhood programs, a division of the national association for the education of young children; and

(b) For a family day care center, accreditation by the national association for family child care or the Wisconsin early childhood association or receipt of a child development associate credential for family day care from the council for early childhood professional recognition.

**(2)** “Chapter 1 concentration area” means a school district eligible to receive grants under 20 USC 2701 et. seq.

**(3)** “Child development associate” means a competency-based credential issued by the national council for early childhood professional recognition.

**(4)** “Day care center” means a facility operated by a child care provider licensed under s. 48.65, Stats., or established or contracted for under s. 120.13 (14), Stats., that provides care and supervision for 4 or more children under 7 years of age for less than 24 hours a day.

**(5)** “Eligible for publicly funded child care” means family income at or below 75% of the state median income or any other standard established in s. 49.155 (1d) (b), Stats.

**(6)** “Enforcement action” means action taken by the department causing surrender of license due to threat of revocation, license denial or non-renewal, issuance of an order under s. 48.715 (2), Stats., license revocation, forfeiture, referral to law enforcement, emergency closing or any other sanction authorized under s. 48.715, Stats.

**(7)** “Family day care center” means a day care center that provides care and supervision for 4 to 8 children.

**(8)** “Group day care center” means a day care center that provides care and supervision for 9 or more children.

**(9)** “High population county” means a county with a population of over 300 people per square mile.

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(10) “High poverty area” means a county with 25 or more AFDC cases per thousand population.

(11) “Licensing standards” means the standards under s. 48.65, Stats., which must be met in order for a license to be granted to a group day care center or family day care center.

(12) “Low population county” means a county with a population of fewer than 30 people per square mile.

(13) “Quality improvement grant” means a grant made under s. 49.137 (3), Stats., and s. DCF 203.05 to a day care center.

(14) “Staff retention grant” means a grant made under s. 49.137 (2), Stats., and s. DCF 203.05 to a day care center.

**Note:** References to “department” refer to the department of children and families.

**Wis. Adm. Code s DCF 203.03**

**DCF 203.03 Higher quality standards for group day care centers.**

To be eligible for a grant under s. DCF 203.05, a group day care center shall:

(1) Have been licensed under ch. DCF 202 for at least one year;

(2) Have had no enforcement action taken against it for at least 3 years; and

(3) Shall submit a plan for meeting the following standards if it is applying for a quality improvement grant, or shall meet the following standards if it is applying for a staff retention grant:

(a) The center is accredited by the national association for the education of young children, as documented by a certificate of accreditation;

**Note:** For a copy of the National Association for the Education of Young Children’s Accreditation Criteria & Procedures of the National Academy of Early Childhood Programs (Washington, DC: rev. ed., 1991), write National Association for the Education of Young Children, 1509 16th Street, NW, Washington, DC 20036. That publication



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may be consulted at the Department's Bureau of Early Childhood Education and at the Legislative Reference Bureau.

(b) The center has written job descriptions and written personnel policies that include provisions for compensation with increments based on staff performance and additional child care professional development, and that cover staff resignations and terminations, benefits and grievance procedures. A collective bargaining agreement may satisfy this requirement;

(c) The center has benefit packages for teachers, program directors and administrators which include annual paid leave and sick leave or personal needs leave, and medical insurance. One or more other benefit options such as retirement, subsidized child care or education benefits may be substituted for or combined with medical insurance. A collective bargaining agreement may satisfy this requirement;

(d) All child care teachers at the center shall be qualified under s. DCF 251.05 (1) (d) shall have a minimum of a child development associate credential or a one-year degree in early childhood education or child development or equivalent or is completing a training plan to meet these standards within one year of the date of initial accreditation;

(e) The program director at the center shall be qualified under s. DCF 251.05 (1) (c) and shall have a minimum of a bachelor of arts degree in early childhood education or child development and at least 3 years of full-time teaching experience with young children or equivalent or is completing a training plan to meet this standard within one year after the date of initial accreditation;

(f) The center conducts an annual program evaluation that examines the adequacy of staff compensation and benefits and rates of staff turnover, and subsequently develops and updates a plan to increase salaries and benefits to assure the recruitment and retention of qualified staff; and

(g) Staff turnover at the center in the last 12 months is 20 percent or less or the center has a plan to meet this standard.

**Wis. Adm. Code s DCF 203.04**

**DCF 203.04 Higher quality standards for family day care centers.**

To be eligible for a grant under s. DCF 203.05, a family day care center shall:

(1) Have been licensed under ch. DCF 250 for at least one year;

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(2) Have had no enforcement action taken against it for at least 3 years; and

(3) Shall submit a plan for meeting the following standards if it is applying for a quality improvement grant, or shall meet the following standards if it is applying for a staff retention grant:

(a) The center is accredited by the national association of family day care or the Wisconsin early childhood association, or the operator has a child development associate credential for family day care.

**Note:** For a copy of the National Association for Family Child Care accreditation standards, write National Association for Family Child Care Accreditation Program, 3717 E. Ridge Drive, Nashville, TN 37211. For a copy of the Wisconsin Early Childhood Association's Family Child Care Accreditation Criteria and Procedures (Madison, WI: 1992), write Wisconsin Early Childhood Association, 1245 East Washington Ave., Suite 260, Madison, WI 53703. For a copy of standards for a child development associate credential, write Council for Early Childhood Professional Recognition, CDA National Credentialing Program, 1341 G Street, NW, Suite 400, Washington, DC 20005-3105. Those publications may be consulted at the Department's Bureau of Early Childhood Education and at the Legislative Reference Bureau.

(b) The center has a written policy that when an assistant or substitute is employed, there shall be a written agreement with that person on personnel matters, which includes a job description and covers compensation, benefits, resignation and termination procedures and grievance procedures.

(c) The center has a written policy that when assistants and substitutes are employed, hiring practices are not discriminatory.

(d) The center has a written policy that there will be a written contract with parents which provides for paid leave annually for the provider as well as leave for sickness or personal needs.

(e) The center provides medical insurance for employees. Other options, such as retirement, subsidized child care or educational benefits may be substituted for or combined with medical insurance.

(f) If the family day care provider is qualified under s. DCF 250.04 (1), the provider has a minimum of a child development associate credential for family day care or one-year degree in early childhood education or child development or equivalent or is completing a training plan to meet this standard within one year after the date of accreditation.

(g) The center conducts an annual program evaluation with participation of parents, which includes discussion of the provider's income and benefits.

**Wis. Adm. Code s DCF 203.05**

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**DCF 203.05 Staff retention and quality improvement grants.**

**(1) AVAILABILITY OF GRANTS.** Grants are available for child care providers who meet the higher quality of care standards under s. DCF 203.03 or 203.04 to improve the retention of skilled and experienced child care staff and to assist in meeting the higher quality of care standards.

**(2) APPLICATION.** Application for a staff retention or quality improvement grant shall be made in response to a request for proposals issued by the department's office of child care and in accordance with the application forms and application instructions included in the request for proposals.

**(3) USE OF FUNDS.** Funds awarded to eligible group day care centers or family day care homes under this subsection may only be used to defray costs that are directly related to attaining or maintaining the higher quality standards specified in ss. DCF 203.03 and 203.04.

**(4) EVALUATION CRITERIA.** A quality improvement or staff retention grant application either from or on behalf of a licensed group day care center or a licensed family day care home shall be evaluated using all of the following criteria to determine if the applicant meets or will meet the higher quality standards and intends to use grant funds to retain trained staff or to meet the higher quality standards:

(a) The project objectives are consistent with the purpose of the grant program and address the achievements of high quality standards and retention of trained staff;

(b) Staff assigned to the project are qualified to accomplish the objectives;

(c) The work plan is clear and tied to realistic and achievable objectives;

(d) The applicant's budget request is clear and accurate and the proposed uses and amounts of requested funds are reasonable for the scope of the project and the number of children served at sites involved in the project; and

(e) Other criteria as set out in the department's request for proposals.

**(5) GEOGRAPHIC PRIORITY AREAS.** All applications meeting eligibility and submission requirements shall be reviewed and priority points may be awarded for services located in one or more of the following areas but not for

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both pars. (c) and (d) areas:

(a) A chapter 1 concentration area;

(b) A high poverty county;

(c) A high population county; or

(d) A low population county.

**Wis. Adm. Code Ch. DCF 204, Refs & Annos**

**Wis. Adm. Code s DCF 204.01**

**DCF 204.01 Authority and purpose.**

This chapter is promulgated under the authority of s. 49.137 (4m), Stats., to administer a program that awards grants to local governments and tribes to improve the supply, accessibility, and quality of child care.

**Wis. Adm. Code s DCF 204.02**

**DCF 204.02 Definitions.**

In this chapter:

(1) “Application” means a request for funding under this chapter made in response to an RFP.

(2) “Child care” means licensed care under s. 48.65, Stats., certified care under s. 48.651, Stats., care provided under s. 49.155 (3m) (c), Stats., or care provided under s. 120.13 (14), Stats.

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

(4) “Federal fiscal year” means October 1 of one year to September 30 of the following year.

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(5) “Federal medical assistance percentage” has the meaning given in 42 USC 1396d(b).

**Note:** The federal medical assistance percentage for each state in a given federal fiscal year is determined by the federal Department of Health and Human Services and published in the *Federal Register*.

(6) “Local government” means a public sub-state jurisdiction that is located in Wisconsin and has governing and taxing authority, including counties, municipalities, public school districts, and technical college districts.

(7) “Locally-generated revenues” includes local taxes and does not include state or federal aids or shared revenue.

(8) “Low-income” means a household income at or below the maximum level established in the Wisconsin state plan for temporary assistance to needy families under 42 USC 602.

(9) “RFP” or “request for proposals” means a paper or electronically published and distributed document announcing the availability of funds, the requirements for obtaining and using the funds, and necessary procedures to be considered for funding under this chapter.

(10) “Tribe” means any federally-recognized American Indian nation that is located in Wisconsin.

**Wis. Adm. Code s DCF 204.03**

**DCF 204.03 Department powers and duties.**

(1) The department may grant federal funds available under 42 USC 618 to local governments and tribes that comply with 42 USC 618, 42 USC 9858-9858q, 45 CFR Parts 98 and 99; this chapter; and the RFP.

(2) The department shall publish a request for proposals for community child care initiatives.

(3) The department shall reject, or modify to bring into compliance, applications in which all or part of the local government or tribe’s match expenditure or commitment fails to meet the requirements of 42 USC 618, 42 USC 9858-9858q, 45 CFR Parts 98 and 99; this chapter; and the RFP.

(4) The department shall reject, or modify to bring into compliance, applications in which all or part of the local

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government or tribe's plan on use of the grant funds fails to meet the requirements of 42 USC 618, 42 USC 9858-9858q, 45 CFR Parts 98 and 99; this chapter; and the RFP.

**(5)** The department shall establish and periodically update a formula that allocates a percentage of available funds for residents of each county of the state based equally on the county's:

(a) Percentage of the state's low-income children as estimated by the United States census bureau.

(b) Percentage of the state's births for the most recent 3-year period for which resident birth data by county is published by the department of health services.

**(6)** The department shall award and manage grants to maintain compliance with 42 USC 618, 42 USC 9858-9858q, 45 CFR Parts 98 and 99; this chapter; and the RFP, including the following:

(a) Awarding grants pursuant to s. DCF 204.07.

(b) Monitoring compliance with match and spending requirements.

(c) Adjusting grant amounts as needed.

**(7)** The department may reallocate underspent or unawarded funds as permitted by 42 USC 618, 42 USC 9858-9858q, 45 CFR Parts 98 and 99, and in a manner consistent with this chapter and the RFP.

**(8)** The department may require other measures to ensure compliance with 42 USC 618, 42 USC 9858-9858q, and 45 CFR Parts 98 and 99, as interpreted by the federal department of health and human services; state child care policy; and to maximize federal dollars received by the state.

**Wis. Adm. Code s DCF 204.04**

**DCF 204.04 Applicants.**

**(1) INITIAL GRANTS.** Any local government or tribe that is located in Wisconsin may submit an application for an initial grant under s. DCF 204.07.

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**(2) CONTINUING GRANTS.** Any recipient of an initial grant may apply for a continuing grant under s. DCF 204.07 if a continuing grant RFP is offered.

**Wis. Adm. Code s DCF 204.05**

**DCF 204.05 Match requirement.**

A local government or tribe that applies for funds under this chapter shall certify that matching expenditures represent expenditures eligible for federal match as required under 42 USC 9858-9858q, 45 CFR Parts 98 and 99, this chapter, and the RFP. The department shall determine the minimum match expenditure to be either the federal medical assistance percentage for Wisconsin for the federal fiscal year in which the match expenditure occurs or a higher percentage rate needed to meet the state's match requirements under 45 CFR 98.53 and 45 CFR 98.63 as affected by ss. 20.437 (2) (cm) and (md) and 49.175 (1) (qm), Stats. The department may round this percentage of required match to the nearest higher percentage that will allow the match amount to be expressed in whole dollars. A match expenditure shall comply with the following criteria:

**(1)** A match expenditure shall be from locally-generated revenues or federal revenues specifically authorized by federal law to be used as match to federal funds.

**Note:** 42 USC 5305(a)(9) provides that funds from the federal Community Development Block Grant under 42 USC 5301 to 5321 may be used as match.

**(2)** A match expenditure under this chapter may not be used as match to any other state or federal funds, except that the local share of public school costs specified under the state's school aid formula shall not be considered as match to other state funds.

**(3)** A match expenditure shall be made during the required matching period provided in 45 CFR 98.60(d)(3) and identified in the RFP.

**(4)** A match expenditure shall be made for qualifying child care services and programs, including programs with the following purposes:

(a) Providing low-income working families with financial resources to find and access quality child care for their children.

(b) Enhancing the quality and increasing the supply of child care for all families, including those who receive no direct assistance under s. 49.155, Stats.

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- (c) Providing parents with a broad range of options in addressing their child care needs.
- (d) Improving the quality of and coordination among child care programs and early childhood development programs.
- (e) Increasing the availability of early childhood development care services and before- and after-school care services.
- (f) Educating consumers about child care.
- (g) Improving the health and safety aspects of child care, including regulation of child care.
- (h) Providing crisis respite child care to children in protective services cases or in need of protective services.
- (i) Other items permitted under 42 USC 9858-9858q.

**(5)** Expenditures for public pre-kindergarten programs or pre-school programs operated by public school districts may not exceed 20% of the total match expenditure for each application.

**Wis. Adm. Code s DCF 204.06**

**DCF 204.06 Use of grant funds.**

**(1) ALLOWABLE USES.** A local government or tribe may use grant funds received under this chapter in any of the following ways:

- (a) Enhancing the quality and increasing the supply of child care for all families, including those who receive no direct assistance under s. 49.155, Stats.
- (b) Providing parents with a broad range of options in addressing their child care needs.



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(c) Improving the quality of and coordination among child care programs and early childhood development programs.

(d) Increasing the availability of early childhood development care services and before- and after-school care services.

(e) Educating consumers about child care.

(f) Improving the health and safety aspects of child care, including regulation of child care.

(g) Providing crisis respite child care to children in protective services cases or in need of protective services.

**(2) NONALLOWABLE USES.** A local government or tribe may not use grant funds received under this chapter in any of the following ways:

(a) Purchase of real estate.

(b) Construction or major remodeling.

(c) Kindergarten to 12th grade public education or care services provided to students during the regular school day.

(d) Direct purchase or payment of child care services, unless the child is receiving or is in need of protective services, as determined by the county or tribal authority for child protective services.

(e) Public pre-kindergarten.

(f) Sectarian purposes or activities.

**(3) LIMIT ON ADMINISTRATIVE COSTS.** The department may limit the amount of grant funding that may be spent on administrative costs to a percentage no higher than 15%.

**Wis. Adm. Code s DCF 204.07**

DCF 204.07 Amount of grants.

(1) INITIAL GRANT. If initial grants are awarded, the amount of an initial grant shall be based on the following:

- (a) The amount requested by the applicant.
- (b) The amount of match identified by the applicant.
- (c) The amount of funding allocated to the county or counties proposed for service by the applicant.
- (d) The amount of funding requested by all applicants proposing to serve residents of the county or counties involved.
- (e) The amount of funding available due to reallocation from other counties.
- (f) No initial grant may be awarded if the amount of the grant would be less than \$500.

(2) CONTINUING GRANTS. (a) A continuing grant may be offered to a local government or tribe for up to 3 funding cycles after the initial grant was awarded.

(c) A local government or tribe may be eligible for a continuing grant if both of the following apply:

- 1. The local government or tribe is proposing to continue the same program that was funded by the initial grant.
- 2. The local government or tribe complied with all requirements associated with the initial grant.

(d) If the local government or tribe is eligible for a continuing grant and funding is available, the department may fund a request for a continuing grant:

- 1. Before initial grants are funded.

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2. At a level up to 200% of the initial grant if match requirements are met.

(e) The amount of a continuing grant may be adjusted to reflect the following:

2. The applicant's record of completing previous match or spending agreements under this program.

3. Other aspects of the applicant's record of doing business with the department.