



**State of Wisconsin
Department of Children and Families**

**Child Care Subsidy Program
Chapters DCF 102 and 201
CR 18-088**

The Wisconsin Department of Children and Families proposes to **repeal** ss. DCF 102.02 (11) (Note) and (12) (Note), 102.10 (4), 201.02 (10) and (Note), (17) (Note), and (18), 201.036 (3), (4) (Note), and 201.04 (2g); to **renumber and amend** s. DCF 201.039 (4) and 201.08 (1); to **amend** ss. DCF 102.01, 201.03 (title), 201.034 (2) (c), 201.036 (2), 201.038 (8) (title), 201.039 (2) (c), (5) (a), (7) (title) and (a) 6. a., (10) (a), (11) (a) (title), 1. (intro.), 2. (intro.) and a., and (b), (13) (a) (intro.), 1. a., b., c., and 2. (intro.), 201.08 (3) (a) 2., 5., and 6.; to **repeal and recreate** ss. DCF 102.02 (11) and (12), 102.10 (title), 201.02 (15) and (17), 201.036 (4), 201.039 (1), (4) (title), and (7) (a) 5., and 201.08 (2); and to **create** ss. DCF 102.10 (5), 201.02 (1d), (1h), (1p), (1t), (7m) and (Note), (9g), (9r), (11), (13m) and (Note), (16m), (17e) and (Note), (17s), (21), and (21m), 201.036 (2e), (2m), (2s), and (5), 201.037, 201.039 (2g), (2r), (4) (b), (10m), 201.04 (2) (ag) and (ar), 201.08 (1) (b), (3) (a) 7., and (4), relating to the child care subsidy program and affecting small business.

Analysis Prepared by the Department of Children and Families

Statutory authority: Sections 49.155 (1) (bm), (1m) (d), (2m), and (5) (a), and 227.11 (2) (a), Stats.

Statutes interpreted: Sections 49.145 (2) (f) and 49.155, Stats., and 45 CFR Part 98

Related statutes and rules: DCF 202, 250, 251, and 252

Explanation of Agency Authority

The department administers the child care subsidy program under s. 49.155, Stats.

Section 49.155 (1) (bm), Stats., as created by 2017 Wisconsin Act 59, provides that “liquid assets” does not include any financial resources designated by the department by rule as excluded for the purpose of the limit on the total liquid assets of a family under s. 49.155 (1m) (cm), Stats.

Section 49.155 (1m) (d), Stats., provides that an individual may receive a subsidy if the individual satisfies other eligibility criteria established by the department by rule.

Section 49.155 (2m), Stats., as created by 2017 Wisconsin Act 269, provides that the department may promulgate a rule that establishes a hardship exemption to the limits on the value of a family's home and vehicles under s. 49.155 (1m) (cr), Stats..

Section 49.155 (5) (a), Stats., provides that an individual receiving a subsidy under this section is liable for the difference, if any, between the cost of the child care provided by the child care provider or providers selected by the individual and the subsidy amount. The department shall specify minimum or estimated copayment amounts based on family size, income level, and other factors, a schedule of which will be available in electronic form on the department's Internet site and in paper form.

Section 227.11 (2) (a), Stats., expressly confers rule-making authority on each agency to promulgate rules interpreting the provisions of any statute enforced or administered by the agency if the agency considers it necessary to effectuate the purpose of the statute.

Summary of the Rule

The rules make changes related to new federal regulations for the Child Care Development Fund (CCDF) under 45 CFR Part 98. CCDF is a major funding source for the child care subsidy program. The primary focus of the applicable CCDF regulations is supporting continuity of care for children and financial stability for families.

In general, a child care administrative agency determines the assistance group's child care needs following the parent's eligibility determination and 12 months later following the parent's eligibility redetermination. If a parent is expecting a change that may affect the assistance group's child care needs, the child care administrative agency will issue an authorization that ends on the date of the expected change.

The CCDF regulations and the proposed rules allow a parent to continue to receive subsidized child care for up to the same number of hours as the parent's previous authorization at the following times:

- The parent is continuing to participate in an approved activity, but the number of hours that the assistance group needs child care is decreasing.
- The parent is taking a temporary break from an approved activity for no more than 3 months.
- The parent is in an approved activity search period following the end of any participation in an approved activity for no more than 3 months.

The proposed rules create exceptions to the continuity of care provisions in certain situations. During a 12-month eligibility period, a child care administrative agency is required to conduct a new assessment of the assistance group's child care needs and issue a new authorization based on the assessment at all of the following times:

- When a second parent or a teen parent of the child moves into the household.
- When the parent requests an authorization for subsidized child care more than one calendar month after the parent's previous authorization ended.
- When the assistance group's child care needs no longer align with the child care provider's hours of operation.
- When the parent changes child care providers.

- When the school year begins for a school-aged child.
- When a parent has reached the 24th month of the education time limit under s. 49.155 (1m) (a) 4. or 5., Stats.

Copayment amounts

During a parent’s 12-month eligibility period, the copayment amount may only be increased for the following reasons:

- The increased copayment amount corresponds to an increase in the number of hours authorized for a child care subsidy to the parent.
- The income of the assistance group was at or above 190 percent of the federal poverty level but under 200 percent at the parent’s last eligibility redetermination; the increased copayment amount corresponds to an increase in the federal poverty level of the assistance group; and the copayment amount does not exceed the amount that is assessed for an assistance group at 200 percent of the federal poverty level.
- The income of the assistance group was at or above 200 percent of the federal poverty level at the parent’s last eligibility redetermination and the parent’s copayment is increasing by \$1 for every \$3 increase in income over 200 percent of the federal poverty level, as provided under s. 49.155 (1m) (c) 1d., Stats.

Under the current rules, a parent’s copayment amount is based on the size of the group, gross income, and the number of children in child care. If a child attends child care 20 hours or fewer per week, the copayment is 50 percent of the full-time amount.

The proposed rules add “the number of hours authorized for a child care subsidy” as a factor to be used in determining the copayment amount, along with group size, gross income, and the number of children in child care. The proposed rules repeal the 50 percent reduction for 20 or fewer hours per week. These changes will allow for a gradual increase in a parent’s copayment as the parent’s authorized hours increase rather than a disproportionate increase in the copayment amount when the parent’s hours increase from 20 or fewer to 21 hours per week.

If a parent no longer meets the conditions of eligibility for a copayment exception during the 12-month eligibility period, the parent may continue to qualify for the exception until the parent’s next eligibility redetermination.

Asset limits

Section 49.155 (1m) (cm), Stats., as created by 2017 Wisconsin Act 59, provides that an assistance group may not have liquid assets that exceed \$25,000 and directs the department to promulgate a rule to specify financial resources to be excluded. The rules provide that financial resources that are not cash on hand or funds in checking, savings, money market, or credit union share accounts that can be withdrawn without incurring penalties are excluded from the liquid asset limit.

Section 49.155 (1m) (cr), Stats., as created by 2017 Wisconsin Act 269, prohibits a family from owning vehicles with a combined equity of more than \$20,000 or a home valued at more than 200 percent of the state median value for homes. Section 49.155 (2m), Stats., allows the department to promulgate rules creating hardship exemptions. The department’s rules provide exemptions for a child’s foster parent, kinship care relative providing care under a court order, and subsidized

guardian or interim caretaker. The rules also create an exemption if ownership of an applicable asset is unclear to the child care administrative agency due to a recent death or change in the composition of the assistance group or if the assistance group is homeless.

Other changes

- Child care statutory authority, definitions, and hearing procedures are added in ch. DCF 102, Child Support Cooperation for Wisconsin Works.
- Exceptions to the address verification requirements are created for homeless families and for persons registered under the address confidentiality program under s. 165.68, Stats.,
- If the governor declares an emergency under s. 323.10, Stats., an authorization for child care for a provider that is within the the area covered by the declaration of emergency and is temporarily closed may be used at another provider.
- The provisions on backdating an authorization also apply at a parent's redetermination.

Summary of Factual Data and Analytical Methodologies

The rules include changes related to federal regulations implementing the Child Care Development Block Grant Act of 2014 and rules required under 2017 Wisconsin Acts 59 and 269.

Summary of Related Federal Law

45 CFR 98.20 Eligibility for Child Care Assistance

(a) For a family to be eligible for child care assistance, the following requirements must be met at the time of eligibility determination or redetermination:

- The child shall be under 13 years of age or, at a State's option, under age 19 and physically or mentally incapable of caring for himself or herself.
- The family's income may not exceed 85 percent of the State's median income (SMI) for a family of the same size.
- The family's assets may not exceed \$1,000,000 (as certified by a family member).
- The child's parents shall be working or attending a job training or educational program; or the child shall be receiving, or need to receive, protective services, which may include specific populations of vulnerable children as identified by the State.
 - A State may waive income and asset requirements for the family of a child who is receiving, or needs to receive, protective services, on a case-by-case basis or, if defined in the State plan, for all children in foster care.

(b) A State may establish additional eligibility conditions, but these conditions may not impact eligibility at any time other than eligibility determination or redetermination.

45 CFR 98.21 Eligibility Determination Processes

(a) A State shall redetermine a family's eligibility for child care assistance no sooner than 12 months following the initial determination or most recent redetermination, subject to the following:

- During the period of time between determinations or redeterminations of eligibility, the family shall be considered eligible and shall receive services at least at the same level, regardless of the following:

- A change in family income as long as the family's income does not exceed 85% of the SMI for a family of the same size.
- A temporary change or cessation of work or attendance at a training program that does not exceed 3 months.
- A State may discontinue assistance due to a parent's loss of work or cessation of attendance at a job training or educational program that is not a temporary change, but assistance must be continued at least at the same level after each such loss or cessation until the earlier of the following:
 - 3 months after the parent's loss of work or cessation of attendance at the job training or educational program.
 - The parent's next annual redetermination of eligibility.
- Notwithstanding the 12-month eligibility period, a State may discontinue assistance prior to a family's next redetermination in the following limited circumstances:
 - Excessive unexplained absences despite multiple attempts by the State to contact the family and provider, including prior notification of possible discontinuation of assistance. If the State chooses this option, it shall define the number of unexplained absences that shall be considered excessive.
 - A change in residency outside of the State.
 - Substantiated fraud or intentional program violations that invalidate prior determinations of eligibility.
- A State cannot increase family copayment amounts within the minimum 12-month eligibility period, except during the graduated phase-out under (b).

(b) A State may establish initial income eligibility for a family at a level less than the CCDF level of 85 percent of the SMI for a family of the same size but must provide a graduated phase-out by implementing two-tiered eligibility thresholds, with the second tier used at the time of eligibility redetermination.

- The second tier may be set at 85 percent of the SMI or an amount that is lower than 85 percent of the SMI and higher than the State's initial eligibility level.
- To help families transition off of child care assistance, a State may gradually adjust copay amounts for families under graduated phase-out conditions. During the graduated phase-out, the State may require additional reporting on changes in family income, provided the requirements do not constitute an undue burden.

(c) A State shall establish processes for initial determination and redetermination of eligibility that take into account irregular fluctuation in earnings and ensure that temporary increases do not affect family eligibility or copayments, including temporary increases that result in family income exceeding 85 percent of the SMI.

(e) A State shall require families to report a change at any point during the minimum 12-month period, limited to the following:

- If the family's income exceeds 85 percent of the SMI, taking into account irregular income fluctuations.
- At the option of the State, the family has experienced a non-temporary cessation of work, training, or education.

- A State may impose additional requirements on parents to report a change in circumstances as long as the requirements do not constitute an undue burden on families. Any additional reporting requirements shall be limited to items that impact a family's CCDF eligibility or those that enable the State to contact the family or pay providers.
 - During a period of graduated phase-out, a State may require additional reporting on changes in family income for the gradual adjustment of family copayments, if desired.
- A State must allow families the option to voluntarily report changes on an ongoing basis.
 - The State is required to act on information provided by the family that will reduce the family's copayment or increase the family's subsidy.
 - The State is prohibited from acting on information that would reduce the family's subsidy, unless the information provided indicates any of the following:
 - The family's income exceeds 85 percent of the SMI, taking into account irregular income fluctuations.
 - At the option of the State, the family has experienced a non-temporary change in the work, training, or educational status.

45 CFR 98.45 (k) Equal Access and Copayments

- A State shall establish, and periodically revise, by rule, a sliding fee scale for families that receive CCDF child care services that meets all of the following conditions:
 - Helps families afford child care and enables choice of a range of child care options.
 - Is based on income and the size of the family and may be based on other factors as appropriate, but may not be based on the cost of care or amount of subsidy payment.
 - Provides for affordable family copayments that are not a barrier to families receiving assistance under this part.
- A State may waive copayments for any of the following:
 - Families whose incomes are at or below the poverty level for a family of the same size.
 - Families that have children who receive or need to receive protective services.
 - Families that meet other criteria established by the State.

Comparison to Adjacent States

Minnesota

Minnesota enforces child support cooperation at a parent's eligibility determination and redetermination. Termination due to fraud or intentional program violation may only occur if an administrative hearing or court finds that the parent wrongfully obtained or attempted to obtain assistance or if the parent enters into a consent agreement.

Michigan

Michigan has a 12-month eligibility period regardless of a change in the family's need for child care. Copayments are lower if the child care provider has a higher quality of care rating. Michigan does not discontinue assistance for excessive unexplained absences. Termination for fraud or intentional program violation may only occur if an administrative hearing or court finds that the parent wrongfully obtained or attempted to obtain assistance or if the parent enters into a consent agreement.

Iowa

Iowa establishes eligibility periods of up to 18-months in the following situations:

- A family needs a child care subsidy to attend post-secondary education, and they will exhaust the 24-month limit on assistance for participation in post-secondary education within 6 months from the end of a 12-month certification period.
- A family includes a child who will turn 13 years old within 6 months from the end of a 12-month certification period.

Iowa does not terminate assistance for excessive unexplained absences and does not disqualify parents for intentional program violations.

Illinois

General statutory authority for a 12-month eligibility period was enacted on 8/17/18, and implementation details were not found on the agency website. Illinois does not disqualify parents for intentional program violations.

Effect on Small Businesses

The rule will affect small businesses, including child care providers that are small businesses as defined in s. 227.114 (1), Stats. The effect will be minimal.

Analysis Used to Determine Effect on Small Businesses

The rules will have a positive effect on child care providers. Providers will receive a more stable income from families who receive a child care subsidy. There will be less fluctuation from month to month in the amount of the subsidy, and parents will have longer authorizations approving payment for a specific number of hours.

Agency Contact

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SECTION 1. DCF 102.01 is amended to read:

DCF 102.01 Authority and purpose. This chapter is adopted pursuant to ~~s.~~ ss. 49.145 (2) (f) and 49.155 (1m) (b) 1., Stats., for the purpose of administering the requirement that each parent in a Wisconsin works group cooperate with efforts directed at establishing paternity and obtaining support payments or any other payments or property to which that parent and any minor child of that parent may have rights or for which that parent may be responsible, unless the parent has good cause for failing to cooperate.

SECTION 2. DCF 102.02 (11) is repealed and recreated to read:

DCF 102.02 (11) “Wisconsin works agency” or “W-2 agency” means the following:

(a) For the purpose of the Wisconsin works program under ss. 49.141 to 49.161, Stats., excluding s. 49.155, Stats., a person, county agency, tribal governing body, or a private agency contracted under s. 49.143, Stats., by the department to administer the W-2 program.

(b) For the purpose of the child care subsidy program under s. 49.155, Stats., a child care administrative agency under ch. DCF 201.

SECTION 3. DCF 102.02 (11) (Note) is repealed.

SECTION 4. DCF 102.02 (12) is repealed and recreated to read:

DCF 102.02 (12) “Wisconsin works group” or “W-2 group” has the same meaning as the following:

(a) For the purpose of the Wisconsin works program under ss. 49.141 to 49.161, Stats., excluding s. 49.155, Stats., the meaning specified under s. 49.141 (1) (s), Stats.

(b) For the purpose of the child care subsidy program under s. 49.155, Stats., the same meaning as “assistance group” under s. DCF 201.02.

SECTION 5. DCF 102.02 (12) (Note) is repealed.

SECTION 6. DCF 102.10 (title) is repealed and recreated to read:

DCF 102.10 (title) Reviews and hearings.

SECTION 7. DCF 102.10 (4) is repealed.

SECTION 8. DCF 102.10 (5) is created to read:

DCF 102.10 (5) HEARING FOR CHILD CARE. Notwithstanding subs. (1) and (2), an applicant or a participant in the child care subsidy program under s. 49.155, Stats., that receives a notice of eligibility denial or termination for failure to cooperate with the child support agency without good cause may request a fair hearing under s. DCF 201.065 and ch. HA 3.

SECTION 9. DCF 201.02 (1d), (1h), (1p), (1t), (7m) and (Note), (9g), and (9r) are created to read:

DCF 201.02 (1d) “Approved activity” means an activity specified under s. 49.155 (1m) (a), Stats.

(1h) “Approved activity search period” means the 3-month eligibility period after the parent permanently ceases participation in any approved activity under s. 49.155 (1m) (a) (intro.), Stats.

(1p) “Assistance group” means the individuals in a household that are included in determining eligibility for the child care subsidy program under s. DCF 201.036 (2).

(1t) “Authorization” means written approval by a child care administrative agency for payment under the child care subsidy program for child care for a specific child, by a specific child care provider, for up to a specific number of hours, during a specific time period.

(7m) “Copayment” means an amount that is calculated by the department’s automation system based on s. DCF 201.08 (1) (a) and (2) (bm) that reduces the amount of a parent’s subsidy payment.

Note: See the definition of “parent’s share” in s. DCF 201.02 (17e).

(9g) “Employability plan” means a written agreement used in the Wisconsin works program that includes the activities that a Wisconsin works program participant will engage in during a specified time period.

(9r) “Employment plan” means a written agreement used in the food stamp employment and training program under s. 49.79 (9), Stats., that includes the activities that a program participant will engage in during a specified time period.

SECTION 10. DCF 201.02 (10) and (Note) are repealed.

SECTION 11. DCF 201.02 (11) and (13m) and (Note) are created to read:

DCF 201.02 (11) “Federal poverty level” means the poverty guidelines that are established based on the number of individuals in a household and updated annually by the U.S. department of health and human services.

(13m) “Homeless” has the same meaning as “homeless children and youth” under 42 USC 11435 (2).

Note: This definition is included in Section 725 (2) of the McKinney-Vento Homeless Assistance Act.

SECTION 12. DCF 201.02 (15) is repealed and recreated to read:

DCF 201.02 (15) “Kinship care relative” means a stepparent, brother, sister, stepbrother, stepsister, half brother, half sister, brother-in-law, sister-in-law, first cousin, 2nd cousin, nephew, niece, uncle, aunt, stepuncle, stepaunt, or any person of a preceding generation as denoted by the prefix of grand, great, or great-great, whether by blood, marriage, or legal adoption, or the spouse of any person listed in this subsection, even if the marriage is terminated by death or divorce.

SECTION 13. DCF 201.02 (16m) is created to read:

DCF 201.02 (16m) “Nurse practitioner” has the same meaning as “advanced practice nurse” under s. N 8.02 (1).

SECTION 14. DCF 201.02 (17) is repealed and recreated to read:

DCF 201.02 (17) “Parent” means a custodial parent, foster parent, kinship care relative, guardian, legal custodian, subsidized guardian or interim caretaker under s. 48.623, Stats., or a person acting in place of a parent. “Parent” also includes the spouse or nonmarital coparent of a parent who resides in the same household as the parent.

SECTION 15. DCF 201.02 (17) (Note) is repealed.

SECTION 16. DCF 201.02 (17e) and (Note) and (17s) are created to read:

DCF 201.02 (17e) “Parent’s share” means the out-of-pocket cost of child care that a parent is responsible for paying to the child care provider, including any amount charged by the provider that exceeds the amount of the parent’s subsidy payment.

Note: See the definition of “copayment” in s. DCF 201.02 (7m).

(17s) “Physician assistant” has the same meaning as in s. 448.01 (6), Stats.

SECTION 17. DCF 201.02 (18) is repealed.

SECTION 18. DCF 201.02 (21) and (21m) are created to read:

DCF 201.02 (21) “Temporary break” means a parent’s time—limited absence from an approved activity due to illness, leave to care for family member, a student or holiday break, an interruption in work for a seasonal worker who is not working between regular industry work seasons, or any other cessation of an approved activity as long as the parent continues to be employed or enrolled in the approved activity and the absence does not exceed 3 months.

(21m) “Twelve-month eligibility period” means the period between the initial determination of a parent’s eligibility and the following redetermination or between annual redeterminations of a parent’s eligibility.

SECTION 19. DCF 201.03 (title) is amended to read:

DCF 201.03 (title) Department of ~~children and families~~ powers and responsibilities.

SECTION 20. DCF 201.034 (2) (c) is amended to read:

DCF 201.034 (2) (c) Assessing ~~a family’s need for~~ an assistance group’s child care needs.

SECTION 21. DCF 201.036 (2) is amended to read:

DCF 201.036 (2) AGENCY DETERMINATION. A child care administrative agency shall determine a parent’s eligibility for the child care subsidy program under s. 49.155 (1m), Stats., and this section.

SECTION 22. DCF 201.036 (2e), (2m), and (2s) are created to read:

DCF 201.036 (2e) EXCLUSIONS FROM LIMIT ON LIQUID ASSETS. Financial resources that are not cash on hand or funds in checking, savings, money market, or credit union share accounts that can be withdrawn without incurring penalties are excluded from the definition of liquid assets for the purpose of the liquid asset limit under s. 49.155 (1m) (cm), Stats.

(2m) LIMITS ON THE VALUE OF AN ASSISTANCE GROUP’S HOME AND VEHICLES. (a) *Hardship exemptions.* A parent who first applies for the child care subsidy program on or after January 1, 2019, is subject to the asset limits under s. 49.155 (1m) (cr), Stats., unless any of the following conditions are met:

1. The parent is the child’s foster parent.

2. The parent is a kinship care relative receiving payments under s. 48.57 (3m) or (3n), Stats., and the child was placed in the kinship care relative's home under a court order.

3. The parent is the child's guardian or interim caretaker under s. 48.623, Stats.

4. Ownership of an applicable asset is unclear to the child care administrative agency due to a recent death or change in the composition of the assistance group.

5. The assistance group is homeless.

(b) *Agricultural land and buildings excluded from value of home.* 1. In this paragraph, "agricultural land" includes buildings and improvements that are devoted primarily to agricultural use and the land necessary for their location and convenience.

2. In calculating the value of a home owned by the assistance group under s. 49.155 (1m) (cr) 1., Stats., the child care administrative agency shall exclude the value of any agricultural land owned by a member of the assistance group.

(2s) ADDRESS VERIFICATION. Except when the parent is homeless or is registered with the address confidentiality program under s. 165.68, Stats., a parent shall submit verification of the parent's place of residence to the child care administrative agency at the parent's eligibility determination and redetermination.

SECTION 23. DCF 201.036 (3) is repealed.

SECTION 24. DCF 201.036 (4) is repealed and recreated to read:

DCF 201.036 (4) ANNUAL REDETERMINATION OF ELIGIBILITY. A child care administrative agency shall redetermine a parent's eligibility in the 11th or 12th month following the initial determination of the parent's eligibility or the most recent annual redetermination of the parent's eligibility.

SECTION 25. DCF 201.036 (4) (Note) is repealed.

SECTION 26. DCF 201.036 (5) is created to read:

DCF 201.036 (5) ELIGIBILITY TERMINATION. During a parent's 12-month eligibility period, the child care administrative agency shall terminate a parent's eligibility if any of the following conditions are met:

(a) The gross income of the assistance group exceeds 85 percent of the state median income for a household of the same size.

(b) All of the following conditions are met:

1. The parent is not participating in an approved activity.
2. The parent is not taking a temporary break from an approved activity.
3. The parent is not in an approved activity search period.

(c) The child care administrative agency or the department determines that the parent committed an intentional program violation that invalidates a prior determination of the parent's eligibility.

(d) The parent is required to cooperate with efforts directed at establishing paternity and obtaining support payments or any other payments or property to which that parent and any minor child of that parent may have rights or for which that parent may be responsible under s. 49.145 (2)

(f), Stats., and has failed to cooperate with these requirements without good cause under ch. DCF 102.

(e) The child or the parent identified in the automation system used in determining eligibility for the child care subsidy program moves out of the state.

SECTION 27. DCF 201.037 is created to read:

DCF 201.037 Reporting requirements. (1) REPORT WITHIN 10 DAYS. A parent shall notify the child care administrative agency within 10 calendar days after the date of any of the following:

(a) The assistance group receives the first payment that includes an increase in the gross income of the assistance group if any of the following conditions are met:

1. The gross income of the assistance group is at or below 185 percent of the federal poverty level, and the assistance group's gross income increases by \$250 or more per month.

2. The gross income of the assistance group exceeded 185 percent of the federal poverty level at the parent's last eligibility redetermination and exceeds a dollar amount that will increase the assistance group's gross income above the next 5 percent increment of the federal poverty level.

(b) The parent is no longer employed or enrolled in an approved activity.

(c) The parent is taking a temporary break that is expected to be longer than a calendar month but not more than 3 months.

(d) The child has not been in attendance at child care by the authorized provider within the previous 20 calendar days.

(e) The number of days or hours that the assistance group needs child care has changed from what was previously provided to the child care administrative agency.

(f) The parent is participating in a different approved activity.

(g) The child care provider charges the parent a reduced price.

(h) A member of the assistance group gets married or divorced.

(i) The composition of the assistance group changes.

(j) The address or place of residence of the assistance group changes, including a change that is only temporary.

(k) The child or the parent identified in the automation system for determining eligibility for the child care subsidy program moves out of the state.

(2) NEW PROVIDER. A parent shall notify the child care administrative agency of the parent's intent to change child care providers as specified under s. DCF 201.039 (12).

SECTION 28. DCF 201.038 (8) (title) is amended to read:

DCF 201.038 (8) (title) ~~INACTIVE FAMILY~~ ASSISTANCE GROUP.

SECTION 29. DCF 201.039 (1) is repealed and recreated to read:

DCF 201.039 Authorizations. (1) ASSESSMENT OF CHILD CARE NEEDS. (a) *Eligibility determination and redeterminations.* Following a parent's initial eligibility determination and annual redeterminations, the child care administrative agency shall do all of the following:

1. Assess the assistance group's child care needs and determine the number of hours of child care for which the parent may receive a subsidy.

2. Issue a new authorization based on the assessment.

(b) *Duration of authorizations.* When a child care administrative agency issues a new authorization or the agency extends an existing authorization, the end date of the authorization shall be the earlier of the following:

1. The date of an expected change that may affect the assistance group's child care needs during the parent's 12-month eligibility period.

2. The parent's next annual eligibility redetermination under s. 201.036 (4).

(c) *Required new assessment and authorization during a parent's 12-month eligibility period.*

During a parent's 12-month eligibility period, the child care administrative agency shall assess an assistance group's child care needs and issue a new authorization based on the assessment at all of the following times:

1. When a second parent or a minor who is the biological parent of the child becomes a member of the assistance group.

2. When the parent requests an authorization and one calendar month or more has passed since the parent's previous authorization ended.

3. When the assistance group's child care needs no longer align with the child care provider's hours of operation.

4. When the parent changes child care providers.

5. When the school year begins for a school-aged child.

6. When a parent has reached the 24th month of the education time limit under s. 49.155 (1m) (a) 4. or 5., Stats.

SECTION 30. DCF 201.039 (2) (c) is amended to read:

DCF 201.039 (2) (c) Any other information requested by the agency regarding the ~~family's~~ need for assistance group's child care needs.

SECTION 31. DCF 201.039 (2g) and (2r) are created to read:

DCF 201.039 (2g) CONTINUITY OF CARE. (a) A child care administrative agency shall take into consideration child learning and development and shall promote continuity of care when authorizing hours of child care. The child care administrative agency is not required to limit authorized hours based on a parent's schedule of approved activities or the number of hours the parent spends in those activities.

(b) During a parent's 12-month eligibility period, the child care administrative agency shall allow a parent to continue under the parent's most recent authorization, extend the parent's most recent authorization, or offer the parent an authorization for up to the same number of hours as the parent's previous authorization when any of the following changes begin:

1. The parent is continuing to participate in an approved activity, but the number of hours that the assistance group needs child care is decreasing.

2. The parent is beginning a temporary break.

3. The parent is beginning an approved activity search period.

(c) A parent may not consecutively take a temporary break of 3 months and continue eligibility for an approved activity search period of 3 months.

(d) A parent that ceases participation in any approved activity during a temporary break may continue eligibility for the remainder of the 3-month temporary break period.

(2r) EXCESSIVE UNEXPLAINED ABSENCES. (a) If a child care provider notifies the child care administrative agency that a child has not attended child care within the previous 30 calendar days and the child's parent has not provided an explanation to the child care provider, the child care administrative agency shall make multiple attempts to contact the parent to determine if the assistance group's need for child care has changed.

(b) The child care administrative agency shall terminate the parent's authorization if the agency's efforts at contacting the parent are unsuccessful.

SECTION 32. DCF 201.039 (4) (title) is repealed and recreated to read:

DCF 201.039 (4) (title) ASSISTANCE GROUP WITH MORE THAN ONE PARENT.

SECTION 33. DCF 201.039 (4) is renumbered (4) (a) and amended to read:

DCF 201.039 (4) (a) In ~~two-parent families~~ an assistance group with more than one parent, ~~both parents~~ each parent shall meet the eligibility criteria in s. 49.155 (1m), Stats., and s. DCF 201.036, unless the child care administrative agency verifies that ~~one~~ a parent has a disability or health condition that makes that parent unable to participate in an approved activity ~~under s. 49.155 (1m) (a), Stats.~~, and unable to provide the child care necessary for ~~the second~~ another parent to participate in an approved activity ~~under s. 49.155 (1m) (a), Stats.~~ The agency shall require the parent to

provide documentation of the disability or health condition from a doctor, physician assistant, nurse practitioner, psychiatrist, or psychologist.

SECTION 34. DCF 201.039 (4) (b) is created to read:

DCF 201.039 (4) (b) When assessing an assistance group's child care needs, the child care administrative agency shall also consider the availability of a minor in the assistance group who is the biological parent of the child, unless the child care administrative agency verifies that the minor is unable to provide the necessary child care under par. (a).

SECTION 35. DCF 201.039 (5) (a) and (7) (title) are amended to read:

DCF 201.039 (5) (a) Care is provided to 3 or more children from the same ~~family~~ assistance group.

(7) (title) AUTHORIZATION CRITERIA FOR A CHILD CARE PROVIDER'S CHILD.

SECTION 36. DCF 201.039 (7) (a) 5. is repealed and recreated to read:

DCF 201.039 (7) (a) 5. The parent is a kinship care relative receiving payments under s. 48.57 (3m) or (3n), Stats., and the child has been placed with the kinship care relative under a court order.

SECTION 37. DCF 201.039 (7) (a) 6. a. is amended to read:

DCF 201.039 (7) (a) 6. a. The child's biological parent is a dependent minor child under the age of ~~18~~ 19 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.

SECTION 38. DCF 201.039 (10) (a) is amended to read:

DCF 201.039 (10) (a) After a parent has provided all of the information required under sub. (2) and the child care administrative agency has completed the assessment of the ~~family's~~ assistance

group's child care ~~need~~ needs, the agency shall issue an authorization notice to the parent approving payment for child care through the subsidy program based on the specific provisions in the notice.

SECTION 39. DCF 201.039 (10m) is created to read:

DCF 201.039 (10m) DECLARATION OF DISASTER. An authorization issued for child care for a specific provider at a specific location may remain effective at another provider that meets the conditions under s. DCF 201.038 (1) if the location identified in the authorization is within an area covered by a declaration of a state of emergency by the governor under s. 323.10, Stats., and is temporarily closed due to the state of emergency.

SECTION 40. DCF 201.039 (11) (a) (title), 1. (intro.), a., 2. (intro.) and a., and (b) and (13) (a) (intro.), 1. a., b., c., and 2. (intro.) are amended to read:

DCF 201.039 (11) (a) (title) *Authorization within 30 days after request for assistance or redetermination.*

1. (intro.) If an agency determines that a parent is eligible for the child care subsidy program and the parent submits the information required under sub. (2) to the agency within 30 days after the date that the parent submitted a request for assistance or the date of the parent's eligibility redetermination, the agency may authorize payment beginning on the date that all of the following conditions are met:

a. The parent has submitted a request for assistance ~~under~~ or has completed the annual redetermination of eligibility for the child care subsidy program.

2. (intro.) Notwithstanding subd. 1., if an agency determines that a parent is eligible for the subsidy program under s. 49.155 (1m), Stats., and the parent submits the information required under sub. (2) to the agency within 30 days after the date that the parent submitted a request for assistance or the date the parent completed the eligibility redetermination, the agency may authorize payment

beginning on the later of the date of child placement or the first day of the month in which the parent submitted the request for assistance or the first day of the month of the parent's eligibility redetermination if all of the following conditions are met:

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

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

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

1. a. The ~~family~~ assistance group relocated to escape domestic abuse.

b. The ~~family~~ assistance group was evicted from their home.

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

2. (intro.) The authorized provider is unable to meet the ~~family's~~ assistance group's need for child care after any of the following:

SECTION 41. DCF 201.04 (2) (ag) and (ar) are created to read:

DCF 201.04 (2) (ag) *Decreases in the subsidy amount during the 12-month eligibility period.*

During a parent's 12-month eligibility period, the amount of a child care subsidy payment may not be decreased, unless any of the following conditions are met:

1. The parent voluntarily requests fewer hours of subsidized child care.
2. An assessment of the assistance group's child care needs is required under s. DCF 201.039 (1) (c) and the child care administrative agency issues an authorization for fewer hours.
3. The parent agrees to fewer hours of subsidized child care under s. DCF 201.039 (2g) (b).
4. The parent's copayment increases due to an increase in the income of the assistance group under s. DCF 201.08 (4) (b) or (c).

(ar) *Reduction in provider quality rating.* The reduction of a parent's child care subsidy payment following a reduction in the quality rating of the parent's provider from a 3-star rating under s. 49.155 (6) (e) 3. c., Stats., to a 2-star rating under s. 49.155 (6) (e) 3. b., Stats., may not become effective until the parent's next eligibility redetermination.

SECTION 42. DCF 201.04 (2g) is repealed.

SECTION 43. DCF 201.08 (1) is renumbered DCF 201.08 (1) (a) and amended to read:

DCF 201.08 (1) SCHEDULE. (a) 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.~~ a child care subsidy, except as provided under sub. (2). Copayment amounts will be based on ~~family~~ the size of the assistance group, family the assistance group's gross income, and the number of children in a given family the assistance group in child care, and the number of hours authorized for a child care subsidy. The copayment schedule is provided in Table DCF 201.08.

SECTION 44. DCF 201.08 (1) (b) is created to read:

DCF 201.08 (1) (b) A parent's share of payment may be more than the copayment amount determined using the copayment schedule in Table DCF 201.08. If a provider's price is higher than the department's maximum rate, the parent's share of payment will be the difference between the provider's price and the subsidy payment, plus any additional fees the provider charges.

SECTION 45. DCF 201.08 (2) is repealed and recreated to read:

DCF 201.08 (2) EXCEPTIONS. (am) Notwithstanding sub. (1), no parent may be assessed any copayment responsibility if any of the following conditions are met:

1. The parent is the child's foster parent.
2. The parent is the child's subsidized guardian or interim caretaker under s. 48.623, Stats.
3. The parent is a kinship care relative receiving payments under s. 48.57 (3m) or (3n), Stats., and the child was placed in the kinship care relative's home under a court order.
4. The biological parent of the child is a minor attending school subject to the requirements of s. 49.26, Stats.

Note: Section 49.26 (1) (e), Stats., prohibits copayment responsibility for a minor teen parent who is attending school subject to the Learnfare school attendance requirement.

(bm) A parent shall be assessed the minimum copayment amount for the number of children in the assistance group under Table DCF 201.08 if any of the following conditions are met:

1. The parent is the kinship care relative of a child that was not placed in the relative's home under a court order.
2. The parent 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), Stats., for the granting of a declaration of equivalency to high school graduation.

(cm) A parent that leaves a Wisconsin works position for unsubsidized employment shall be assessed the minimum copayment based on the number of children in the assistance group for whom the parent is receiving a child care subsidy until the parent's next eligibility redetermination.

(dm) A parent that no longer meets the conditions of this subsection due to a change in circumstances, such as adoption of the child, may not be assessed the full copayment responsibility until the parent's next eligibility redetermination.

Note: If a provider's price is higher than the department's maximum rate, a parent with no copayment responsibility under this section will still be responsible for the difference between the provider's price and the subsidy amount, plus additional fees the provider charges.

SECTION 46. DCF 201.08 (3) (a) 2., 5., and 6. are amended to read:

DCF 201.08 (3) (a) 2. A change in the ~~amount of funds~~ funding available for the child care ~~assistance~~ subsidy program.

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

6. ~~Funding is not sufficient~~ Insufficient funding to meet the needs of all eligible families applying for or receiving a child care ~~assistance~~ subsidy.

SECTION 47. DCF 201.08 (3) (a) 7. and (4) are created to read:

DCF 201.08 (3) (a) 7. The purposes of the child care subsidy program.

(4) COPAYMENT INCREASES DURING 12-MONTH ELIGIBILITY PERIOD. During a parent's 12-month eligibility period, the parent's copayment amount may not be increased unless any of the following conditions is met:

(a) *Increased hours.* The increased copayment amount corresponds to an increase in the number of hours authorized for a child care subsidy to the parent.

(b) *Income at or above 190 percent at redetermination.* All of the following conditions are met:

1. At the parent's last eligibility redetermination, the gross income of the assistance group was at or above 190 percent of the federal poverty level but under 200 percent of the federal poverty level.

2. The increased copayment amount corresponds to an increase in the federal poverty level of the assistance group under Table DCF 201.08.

3. The copayment amount does not exceed the amount that is assessed for an assistance group at 200 percent of the federal poverty level under Table DCF 201.08.

(c) *Income at or above 200 percent at redetermination.* All of the following conditions are met:

1. The gross income of the assistance group was at or above 200 percent of the federal poverty level at the parent's last eligibility redetermination.

2. The parent's copayment increases by \$1 for every \$3 by which the gross income of the assistance group exceeds 200 percent of the federal poverty level.

SECTION 48. EFFECTIVE DATE. This rule shall take effect the first day of the month following publication in the Administrative Register, as provided in s. 227.22 (2) (intro.), Stats.