

1983 Assembly Bill 434

Date of enactment: April 5, 1984

Date of publication: April 9, 1984

1983 Wisconsin Act 193

AN ACT to amend subchapter XV (title) of chapter 48, 48.65 (2) (b) and 119.04 (1); and to create 46.03 (21), 46.22 (4) (o), 46.98, 48.651, 48.653, 49.51 (2) (a) 16, 66.304 and 120.13 (14) of the statutes, relating to day care services and funds and granting rule-making authority.

The people of the state of Wisconsin, represented in senate and assembly, do enact as follows:

SECTION 1. 46.03 (21) of the statutes is created to read:

46.03 (21) DAY CARE STANDARDS. Promulgate rules establishing standards for the certification of day care providers under s. 48.651.

SECTION 3. 46.22 (4) (o) of the statutes is created to read:

46.22 (4) (o) To establish and administer the child care program under s. 46.98.

SECTION 4. 46.98 of the statutes is created to read:

46.98 Child care program. (1) DEFINITIONS. In this section:

(a) "Child care provider" means a provider licensed under s. 48.65, certified under s. 48.651 or established or contracted for under s. 120.13 (14).

(b) "Gainfully employed" means working, seeking employment or participating in a training or educational program designed to lead directly to paid employment.

(c) "Parent" means a parent, guardian, foster parent, legal custodian or a person acting in the place of a parent.

(2) DISTRIBUTION OF DAY CARE FUNDS. The department shall, for the purposes specified in sub. (3), distribute the funds allocated for day care services under s. 49.52 (1) (d) to county departments of public welfare and social services created under s. 46.22 or 49.51 or boards created under s. 46.23 in accordance with a formula. The department shall promulgate by rule a procedure to be used annually to develop a formula for the distribution of the funds. The department may not make payments under this section before January 1, 1985.

(3) USE OF DAY CARE FUNDS. (a) Funds distributed under sub. (2) may only be used for the purposes specified in this section. The funds shall be used to provide care for children under age 12 for all or part of a day during which a child's parent is gainfully employed and to provide care for children under age 12 as a service to prevent or remedy child abuse or neglect, to assist families in stress or to preserve a family unit.

(b) Counties may spend moneys distributed under sub. (2) for child care purposes other than those in par. (a) only with the approval of the department. Child care purposes include start-up, maintenance and expansion of child care services and facilities, education and training for persons providing child care and the payment of wages for recipients of aid under s. 49.19 who work for a child care provider.

(c) From the funds distributed under sub. (2), a county may provide day care services itself or it may purchase day care services from a child care provider. In addition, from the funds distributed under sub. (2), each county shall, subject to the availability of funds, provide day care by offering to each eligible parent a voucher for the payment of day care services provided by a child care provider. Each county shall allocate all or a portion of its day care funding for payment of vouchers. Except for parents who are eligible under sub. (4) (a) 4, an eligible parent has the right to choose whether the care

will be provided in a day care center, in the home of another person or, subject to the county's approval, in the parent's home. Notwithstanding s. 46.03 (18) (a), a parent who uses vouchers for the payment of day care services may supplement the uniform fee for day care services set under s. 46.03 (18) (a).

(4) ELIGIBILITY FOR DAY CARE FUNDS. (a) The following persons are eligible to receive aid from the funds distributed under sub. (2):

1. A parent who is gainfully employed and who receives aid under s. 49.19, if the dependent child care income disregard under 42 USC 602 is less than the actual amount the parent spends for child care.

2. A parent who is gainfully employed, who is in need of child care services and whose family income is equal to or less than 70% of the state median income. The department shall annually determine the state median income.

3. A parent who is gainfully employed, who is in need of child care services and whose family income is greater than 70% of the state median income to the extent determined annually by the department. The department shall annually determine the state median income.

4. A parent in need of child care services to prevent or remedy child abuse or neglect, to alleviate stress in the family or to preserve the family unit.

(b) Parents receiving aid under this section whose family income is equal to or greater than 50% of the state median income are liable for the cost of child care received in accordance with a fee schedule developed by the department based on ability to pay. Fees may be waived for persons receiving aid under par. (a) 4.

(c) If funds distributed under this section are insufficient to meet the needs of all eligible parents, a county may give priority to parents who are eligible to receive aid under par. (a) 4.

(d) Each county shall annually set a maximum rate that it will pay for day care services provided to eligible parents. The department shall annually review each county's rate and shall approve it if the department finds that the rate is set at a reasonable and customary level which does not preclude an eligible parent from having a reasonable selection of child care providers. The department shall promulgate by rule a procedure and criteria for approving county rates.

(5) DEPARTMENTAL DUTIES. (a) The department shall monitor the administration of the programs in this section.

(b) The department shall provide technical assistance to counties relating to the administration of the programs under this section.

(c) The department shall assess the extent and location of unmet child care needs in the state.

(d) The department shall provide information to the public, counties and child care providers relating to child care services.

(e) The department may promulgate rules for the administration of this section.

SECTION 5. Subchapter XV (title) of chapter 48 of the statutes is amended to read:

CHAPTER 48
SUBCHAPTER XV
DAY CARE PROVIDERS

SECTION 6. 48.65 (2) (b) of the statutes is amended to read:

48.65 (2) (b) A public or parochial school, ~~or the Young Men's Christian Association;~~
or

SECTION 7. 48.651 of the statutes is created to read:

48.651 Certification of day care providers. Each county agency providing child welfare services under subch. XII shall certify, according to the standards adopted by the department under s. 46.03 (21), each day care provider from whom it purchases services under s. 46.036 on or after January 1, 1985, and each day care provider that provides day care services to parents pursuant to a voucher provided under s. 46.98 (3) (c) on or after January 1, 1985, unless the provider is a day care center licensed under s. 48.65 or is established or contracted for under s. 120.13 (14).

SECTION 8. 48.653 of the statutes is created to read:

48.653 Information for day care providers. The department shall provide each day care center licensed under s. 48.65 and each county agency providing child welfare services with a brochure containing information on basic child care and the licensing and certification requirements for day care providers. Each county agency shall provide each day care provider that it certifies with a copy of the brochure.

SECTION 9. 49.51 (2) (a) 16 of the statutes is created to read:

49.51 (2) (a) 16. To establish and administer the child care program under s. 46.98.

SECTION 10. 66.304 of the statutes is created to read:

66.304 Family day care homes. (1) In this section:

(a) "Family day care home" means a dwelling licensed as a day care center by the department of health and social services under s. 48.65 where care is provided for not more than 8 children.

(b) "Municipality" means a county, city, village or town.

(2) No municipality may prevent a family day care home from being located in a zoned district in which a single-family residence is a permitted use. No municipality may establish standards or requirements for family day care homes different from the licensing standards established under s. 48.65. This subsection does not prevent a municipality from applying to a family day care home the zoning regulations applicable to other dwellings in the zoning district in which it is located.

SECTION 11. 119.04 (1) of the statutes is amended to read:

119.04 (1) Subchapters IV and VII of ch. 115, ch. 121 and ss. 66.03 (3) (c), 115.01 (1) and (2), 115.28 (15), 115.34, 115.345, 115.76, 115.77, 115.79 to 115.89, 118.015, 118.025, 118.03, 118.04, 118.06, 118.07, 118.10, 118.12 (1), 118.125, 118.126, 118.135, 118.14, 118.15, 118.16, 118.18, 118.19 (3) (b) and (7), 118.20, 118.24 (2) (c) to (f), 118.255, 118.30, 120.12 (15), 120.13 (1), (14), (19) and (26), 120.49 (6) and (14) and 120.61 are applicable to the board of school directors and to schools in 1st class cities.

SECTION 12. 120.13 (14) of the statutes is created to read:

120.13 (14) **DAY CARE PROGRAMS.** Establish and provide or contract for the provision of day care programs for children. The school board may receive federal or state funds for this purpose. The school board may charge a fee for all or part of the cost of the service for participation in a day care program established under this subsection. Costs associated with a day care program under this subsection may not be included in shared costs under s. 121.07 (6). Day care programs established under this subsection shall meet the standards for licensed day care centers established by the department of health and social services.

SECTION 13. **Nonstatutory provisions; health and social services.** (1) **REPORT ON DAY CARE RATES SET BY COUNTIES.** On or before January 1, 1986, the department of health and social services shall report to the appropriate standing committees of each house of the legislature on whether day care rates set by counties are reasonable and provide clients with an adequate range of day care services within the maximum rates set by the counties.

(2) CERTIFICATION OF DAY CARE PROVIDERS. On or before January 1, 1985, the department of health and social services shall submit rules establishing standards for day care providers required under section 46.03 (21) of the statutes to the presiding officer of each house of the legislature in final draft form under section 227.018 (2) of the statutes.

(3) CHILD CARE FUNDING. On or before January 1, 1985, the department of health and social services shall submit rules needed to administer the child care program under section 46.98 of the statutes, as created by this act, to the presiding officer of each house of the legislature in final draft form under section 227.018 (2) of the statutes.
