

## Chapter PW-CY 40

## CHILDREN AND YOUTH

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## LICENSING DAY CARE CENTERS FOR CHILDREN

PW-CY 40.10 Introduction. (1) STATEMENT OF INTENT. The intent of these rules is to protect and promote the health, safety and welfare of children in day care centers in Wisconsin.

(2) **EFFECT OF RULES.** The following rules for licensing have the full effect and force of laws as provided in chapter 227, Wis. Stats. These rules do not repeat the laws related to day care licensing. Persons using these rules should also be aware of and familiar with the statutory sections related to these rules so that they are knowledgeable about the requirements of the law as well as the rules.

(3) **TO WHOM THE RULES APPLY.** The rules apply to all day care centers for children.

(4) **EXCEPTIONS TO RULES.** The department may make exceptions to any of the rules for licensing day care centers when it is assured that granting such exceptions is not detrimental to the health, safety and welfare of children.

(5) **DEFINITIONS.** The following words and phrases have the designated meanings: (a) *Department* unless qualified means the state of Wisconsin department of health and social services.

(b) *Division* unless qualified means the division of family services of the department.

(c) *Rule* means a regulation, standard, statement of policy or general order (including the amendment or repeal of any of the fore-going) of general application and having the effect of law.

(d) *Day care center* means a licensed facility where a person or persons provide, for compensation and/or consideration for service, group care for 4 or more children under 7 years of age, for less than 24 hours a day. A day care center may be licensed as:

1. A day nursery, which must meet all the rules for licensing day care centers, or as

2. A nursery school, which must meet the requirements for day nurseries and in addition, for each 25 children, must have at least one staff member certified as a nursery school teacher by the department of public instruction or a staff member who shows evidence of meeting the qualifications required for such certification.

(e) *Compensation* means payment for day care. This payment can be in the form of a cash fee or in the form of consideration for service performed.

**History:** 1-2-56; r. and recr. Register, October, 1961, No. 70, eff. 11-1-61; r. and recr. Register, August, 1970, No. 176, eff. 3-1-71.

**PW-CY 40.11 Organization and administration.** (1) **PURPOSE.** (a) Each day care center shall set forth a clearly defined statement of purpose which shall be filed with the department. If the center is incorporated, the constitution and by-laws may be filed with the department in place of the statement of purpose.

(2) **ADMINISTRATION.** (a) The board of directors or the owner shall be legally responsible for the operation of the center and for meeting the rules.

- (3) USE OF START-UP GRANTS. (a) Start-up grants may be used for:
1. A specific purchase or budget item related to opening costs including:
    - a. Structural changes to meet licensing and building codes.
    - b. Necessary equipment to begin operations.
    - c. Salary of a staff person or persons for a period not to exceed 12 months.
  2. A percentage of the total operating budget for a 12-month period or less.
  3. As a substitute for continuation of an in-kind contribution made for a limited period of time which would need to be met by the budget before the program is in full operation, including:
    - a. In-kind donation of free rent by a church, agency or building owner for a limited period of time.
    - b. Voluntary services of staff.
- (b) Start-up grants shall not be used for:
1. A service which could be funded from other community, state or federal sources. This does not, however, preclude the collaborative use of those funds with start-up grant funds to meet the beginning of a needed service.
  2. Administrative or training costs exclusively, but rather only for a percentage of these costs as they relate to total budget if a percentage of operating costs is the basis of the application for a start-up grant.
- (4) TIME LIMIT. No subsidy from a start-up grant shall extend beyond a 12-month period.
- (5) SATELLITE SYSTEMS OF FAMILY DAY CARE. (a) *Application.* 1. Applications with a proposal for the development of a satellite system of family day care, in-home care, or a combination of both shall be open only to:
- a. An existing center.
  - b. A licensed agency giving services to parents and children who may need child care.
  - c. A county department of social services.
  - d. An accredited college or university offering training in social work or early childhood education.
  - e. A corporate community coordinating group concerned primarily with child care.
- (b) The satellite system shall have centralized administration which shall include:
1. Recruitment, evaluation and training of the families which will be part of the system.

2. Ongoing training to upgrade the system itself and the quality of the care given.

3. A person who coordinates and supervises the care families in the system and gives or makes available consultation to them on a planned, ongoing basis.

4. An evaluation and approval of each child served and a central file of pertinent data on each child and family.

5. Centralized bookkeeping.

6. Certified homes only.

**History:** Cr. emerg. eff. 1-23-74; cr. Register, July, 1974, No. 223, eff. 8-1-74.

### SUBSIDIZED ADOPTIONS

**PW-CY 40.30 Introduction.** (1) **STATEMENT OF INTENT.** The intent of these rules is to enable all children in Wisconsin who are legally free for adoption to be placed in adoptive homes.

(2) **PURPOSE OF RULES.** The purpose of these rules is to determine when a medical subsidy or maintenance subsidy, or both, as authorized in s. 48.975, Stats., is provided to families adopting children in Wisconsin under s. 48.81, through s. 48.97, Stats. These rules also specify any limitation on the use of a subsidy in the adoption program.

(3) **TO WHOM THE RULES APPLY.** These rules apply to all Wisconsin children who could not be placed for adoption without the benefit of a medical subsidy or maintenance subsidy and who are under the care of a public or licensed voluntary child placing agency. These rules also apply to families adopting those children.

(4) **DEFINITIONS.** The following words or phrases have the designated meanings:

(a) "Adoptive family" means a husband and wife jointly or an unmarried adult.

(b) "Child" means a person under 18 years of age.

(c) "Department", unless qualified, means the department of health and social services.

(d) "Division", unless qualified, means the division of community services.

(e) "Guardian" means guardian as defined in s. 48.02 (9), Stats.

(f) "Legal Adoption" means the process by which a child becomes a member of a family other than that of the child's natural parents.

(g) "Maintenance subsidy" means payments equivalent to the amount of the child's foster care payment if the child was in foster care immediately prior to adoption or if the child was not in foster care the equivalent of the uniform foster care rate as designated in s. 48.975, Stats.

(h) "Medical subsidy" means payments which meet Title XIX criteria, sufficient to pay expense due to a physical, mental or emotional condition of the child which is not covered by a health insurance policy insuring the child or the parent.

(i) "Regions" means the 6 geographical areas of Wisconsin as designated by the department of health and social services.

(j) "Rule" means a standard statement of policy or general order, including any amendment or repeal of general application and having the effect of law.

(k) "Subsidized adoption" means payments made by the department to the parents of an adopted child under s. 48.975, Stats.

**History:** Cr. Register, September, 1979, No. 285, eff. 10-1-79.

**PW-CY 40.31 Eligibility for adoption with subsidy.** In order to be eligible for adoption with a subsidy the following circumstances must exist:

(1) The child may be from birth to 18 years of age. Eligibility may continue past 18 if the child is a full-time high school student.

(2) The child must also have at least one of the following special needs at the time of the adoptive placement:

(a) Older children (If age is the only qualifying factor, the child must be at least 5 years of age).

(b) Sibling groups needing to remain together.

(c) Children with medical problems.

(d) Children with mental or physical handicaps.

(e) Children with emotional problems.

(f) Children of minority or mixed races.

(g) Children who have established significant emotional ties with their current foster parents.

(3) The child shall be in the guardianship of an agency legally authorized to place children for adoption in Wisconsin.

(4) All efforts must be made to place the child without subsidy.

(5) The family adopting must be qualified to be parents of the child, and adoption is in the best interest of the child and the family.

**PW-CY 40.32 Method of payment.** To determine subsidy payments, the following procedures shall apply:

(1) **MEDICAL SUBSIDIES.** (a) The prospective parents shall obtain a written statement relative to the extent of their medical insurance coverage of the child.

(b) The written statement from the insurance company shall be submitted to the agency for review and retention in the child's case record.

(c) At the time of adoption, a general medical assistance card shall be issued by the department to the family.

(d) The medical assistance card shall be used only for care not covered by the family's insurance.

(2) **MAINTENANCE SUBSIDIES.** (a) Each child's situation shall be considered individually in computing the subsidy using the uniform foster care rates as established in s. 49.19 (12), Stats. and section PW-CY 40.64, Wis. Adm. Code.

(b) Consideration shall be given to other unearned income received by the child.

(c) The amount of the subsidy shall be the total computed maintenance subsidy minus the amount of unearned income from other sources.

(3) **APPROVING AUTHORITY.** The division of community services regional director or designee is the approving authority for all applications.

(4) **APPEAL PROCESS.** Applicants not satisfied with the action taken on their application have the right to request a review or to appeal the decision. The review shall be conducted by the division administrator.

**History:** Cr. Register, September, 1979, No. 285, eff. 10-1-79.

**PW-CY 40.33 Post adoption responsibilities of adoptive parents.** After the adoption has been finalized, the adoptive parents have the following responsibilities:

(1) To notify the division of the following circumstances:

- (a) Change in family's address
- (b) Change in the child's legal guardian
- (c) Date child enters military service
- (d) Date of marriage of child
- (e) If the child is no longer in the home and the parents are no longer supporting the child
- (f) Date of death of the child
- (g) Date of completion of high school after the child reaches 18.

(2) At any time the adoptive parents may request that the amount of subsidy be reduced or that the subsidy be terminated.

(3) If problems develop within the family, the adoptive parents may request counseling services from the division or other community resources.

**History:** Cr. Register, September, 1979, No. 285, eff. 10-1-79.

**PW-CY 40.34 Post adoptive responsibilities of the department.** After the adoption has been finalized, the department has the following responsibilities:

(1) To permanently discontinue the subsidy upon the following conditions:

- (a) Upon request from the adoptive parents;

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(b) The child reaches age 18 and is no longer a full-time high school student;

(c) The child is emancipated because of marriage prior to 18;

(d) The child is emancipated and the parents are no longer supporting the child; or

(e) Death of the child.

(2) To offer short-term services to the adoptive family or adult adoptee upon request of either party. The division may also refer the family to other community resources for services if appropriate.

(3) To honor the conditions of the application and agreement for subsidy which is signed by the adoptive parents and the division.

**History:** Cr. Register, September, 1979, No. 285, eff. 10-1-79.

**PW-CY 40.35 Non-discrimination.** In accordance with title VI and Title IX of the Civil Rights Act and the Rehabilitation Act of 1973, services shall be available and accessible and no persons shall be denied service or discriminated against on the basis of sex, race, color, creed, handicap, age, location or ability to pay.

**History:** Cr. Register, September, 1979, No. 285, eff. 10-1-79.

### LICENSING CHILD PLACING AGENCIES

**PW-CY 40.40 Introduction.** (1) (a) *Statement of intent.* The intent of these rules is to protect and promote the health, safety, and welfare of children in the care of child placing agencies in Wisconsin.

(b) *Effect of rules.* The following rules for licensing have the full effect and force of law as provided in s. 227.01, Stats. These rules do not repeat the laws on child care licensing. Persons using these rules should also be aware of and familiar with the statutory sections which relate to these rules so that they are knowledgeable about the requirements of the law as well as the rules.

(c) *To whom the rules apply.* These rules apply to all child placing agencies making application for a license under s. 48.60, Stats.

(d) *Exceptions to rules.* The department may make exceptions to any of the rules for licensing child placing agencies when it is assured that granting such exceptions is not detrimental to the health, safety and welfare of children.

(e) *Definitions.* 1. Department. Unless qualified, the state of Wisconsin department of health and social services.

2. Rule. A regulation, standard, statement of policy or general order (including the amendment or repeal of any of the foregoing) of general application and having the effect of law.

3. Division. Unless qualified, the division of family services.

4. Division of health. The division of health of the department of health and social services.

5. Child welfare agency. Any agency required to be licensed under s. 48.60, Stats.

6. Child placing agency. A child welfare agency licensed to place children in foster family homes.

7. Board of directors. The policy making body which governs a child welfare agency and is responsible for compliance with these rules.

8. Legal custodian. The person or agency having the right to the care, custody and control of a child and the duty to provide food, clothing, shelter, ordinary medical care, education and discipline for a child. Legal custody is taken from a parent only by court action.

9. Guardian. The person or agency having the right to make major decisions affecting a child including the right to consent to marriage, to enlistment in the armed forces, to major surgery and to adoption or to making recommendations regarding adoption.

10. Child. Is legally defined as a person under 18 years of age. In addition, these rules use the word to include those persons under continuing juvenile court jurisdiction who have not yet attained age 21.

**History:** Cr. Register, August, 1957, No. 20, eff. 9-1-57; r. and recr. Register, September, 1970, No. 177, eff. 4-1-71.

**PW-CY 40.41. Organization and administration.** (1) INCORPORATION. Every child welfare agency shall be incorporated. Any agency incorporated outside of Wisconsin shall secure authorization from the secretary of state to do business in Wisconsin.

(2) BOARD OF DIRECTORS. (a) Every agency shall be governed by a board of directors which is responsible for the operation of the agency according to its defined purposes.

(b) If the agency is incorporated in another state, the board of directors shall:

1. Meet in Wisconsin at least once during the period for which the license is issued, or

2. Have a subcommittee of at least 3 Wisconsin residents one of whom shall be a member of the board. This subcommittee shall be responsible to the board of directors to see that board policies are carried out and that there is adherence to licensing rules.

(c) When requested, the board, or its subcommittee if it is in the category covered by sub. (2) (b) 2. above, shall meet with its licensing representative.

(d) The board shall:

1. Define its responsibilities. These responsibilities shall include:

a. The establishment of policies to be followed by the agency and regular planned review of policies and purposes of the agency to determine that the interests of children are being served.

b. Surveillance that the agency does not discriminate in its personnel practices, intake and services on the basis of race, color and national origin.

c. The exercise of trusteeship for property, investment and protection from liability.

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d. Approval of the budget and responsibility for obtaining and disbursing of funds.

e. Employment of a qualified executive and delegation to that executive the responsibility for the administration of the agency and the employment of other staff members.

2. Meet at least semiannually and keep minutes of each meeting which shall be made a part of the permanent records of the agency.

3. Keep informed to insure that the agency fulfills its functions.

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