

## Chapter HSS 51

## ADOPTIONS

HSS 51.50 Adoption procedures

**HSS 51.50 Adoption procedures. (1) INTRODUCTION. (a) Statement of intent.** The intent of these rules is to establish procedures to be followed by all child placing units within the department to ensure the most suitable adoptive placement with the well being of the child of paramount concern.

(b) *Purpose.* The purpose of these rules is to establish procedures and criteria pursuant to ss. 48.01 (1) (f), 48.48 (8), 48.975, and ch. 227, Stats., to ensure that the needs of the child as the primary client are met, and to provide for the fair and equal treatment of all persons seeking to adopt.

(c) *Applicability.* The rules apply to all persons making adoption inquiry or application to the department, to all children placed in custody of the department, to all foreign born or out of state children referred to the department for home study, and to all child placing units within the department, with the following exceptions:

1. Adoption procedures involving American Indians shall be in accordance with Public Law 95-608, Indian Child Welfare Act of 1978.

2. The department may allow exceptions to any screening criteria in sub. (2) (b) or any eligibility criteria in (5) when making determinations regarding adoption placements of children with special needs.

(d) *Definitions.* 1. "Adoption" means a method provided by law to establish the legal relationship of parent and child between persons who are not related by birth, with the same mutual rights and obligations that exist between children and their natural parents.

2. "Approval for placement" is the agency decision that the family meets eligibility criteria and is approved and available for placement of a child. Such approval does not guarantee placement of a child since an actual placement is also dependent on the availability of a child appropriate for that family.

3. "Case closed" means an adoption case is closed when:

a. The family withdraws its application.

b. The agency decides it cannot approve the family for placement of a child based on the eligibility criteria and study of the family.

4. "Child with special needs" means a child for whom it is difficult to find an adoptive home. This difficulty may be due to medical, psychological, developmental, behavioral conditions or may be due to other circumstances such as age, sibling group, sex, race or national and cultural origin. All foreign born children, referred to the department

for placement in Wisconsin, shall also be considered to have special needs.

5. "Department" means the department of health and social services.

6. "Director" means director of a regional office.

7. "Division" means the division of community services of the department.

8. "Extreme family crisis" means an event such as severe illness, death, separation, divorce, or bankruptcy which significantly disrupts the normal functioning of a family and which may affect a family's ability to adopt a child.

9. "Finalization" means court action which makes a child a full legal member of the adoptive family.

10. "Formal application" means a departmental form completed by applicants who wish to proceed to the home study phase of adoption. It contains specific information regarding the applicant's family which is used in the home study. It includes, but is not limited to, financial and family information and a listing of references.

11. "Healthy infant" means a child under one year old who is considered to be a child without special needs.

12. "Inquiry application" means a brief departmental form completed by a family to begin the process of adoption. It contains basic information which the agencies initially require from the applicant such as names, addresses, birthdates, other identifying information and the kind of child that the applicants would prefer to adopt. This form is used for a preliminary screening of applicants.

13. "Inquiry application date" means the date on which applicants contact the agency by letter, phone or in person to request information on adoptions and begin the adoption process.

Note: An inquiry application is made on form DCS SS 135AD and a formal application is made on form DCS SS 136AD. These forms are available on request from the adoption and permanent planning sections in each Division of Community Services regional office or from the Division at 1 West Wilson Street, Madison, Wisconsin 53702.

14. "Legally free" means the severance of the legal rights of the natural parents of a child through a termination of parental rights proceedings or consent proceedings according to the laws of the state or the federal government or both.

15. "Placement" means the social service process of assisting a child to move physically, socially and emotionally from one family to another.

16. "Region" means one of the geographical areas of the state as designated by the department.

17. "Suspension" means to stop all action regarding the adoptive home study process until the problems or circumstances causing the suspension are resolved. When a home study is suspended the applicants do not lose their place in the process or have to start over as when the applicant's case is closed.

(2) **INQUIRY APPLICATION.** (a) Adoption inquiry shall be made in the region in which applicants reside, on a form supplied by the department.

(b) All inquiry applications shall be screened pursuant to the following criteria:

1. Age. Applicants shall not be screened solely on the basis of age. The age of applicants and their age relationship to the age of an adoptive child shall be considered along with other factors such as maturity, general health, vitality and potential capacity to meet a child's needs until emancipation.

2. Number of children in the family. Application for adoption of a healthy infant shall not be accepted from families with 2 or more children to ensure fair and equitable treatment of childless applicants. Any child in legal custody of the applicants, either natural child of one or both applicants or adopted child, shall be included in this determination. This does not apply to adoption of a child with special needs.

3. Marital status. Preference shall be given to married couples living together. Single person applicants may be considered for a child with special needs or other children who would benefit from a single parent placement.

(c) If applicants, for other than a child with special needs, fail to meet the criteria listed in par. (b), the applicants shall be notified in writing and the basis for such determinations shall be specified.

(d) Inquiry applicants shall attend an orientation meeting in the region of residence prior to making formal application. In the event that a region is unable to schedule an orientation meeting within 2 months following inquiry, the department shall provide chosen applicants with written information equivalent to that presented at an orientation meeting.

(e) If applicants move from one region to another after inquiry application has been made but prior to formal application, the applicants shall be treated as having made inquiry in the region to which the applicants have moved.

*Note:* When applicants move to Milwaukee county, special arrangements must be made on a case by case basis. Since there are not state adoption staff within that region, adoption case transfers must be arranged with a neighboring region or with either Milwaukee county department of social services or a voluntary adoption agency in the area.

(3) **FORMAL APPLICATION.** (a) If, following an orientation meeting, applicants wish to pursue adoption, formal application shall be made on a form supplied by the department.

(b) In a region where the number of formal applications for children without special needs exceed the number of

children available for adoption and home study of additional applicants is not feasible, that region shall:

1. Set a cut off date beyond which no additional formal applications shall be accepted for children without special needs for that particular year.

2. Give at least 30 days advance written notice of the cut off date to persons having made inquiry application.

3. Select applicants to be studied by a random statistical method set up by the department.

4. Place those applicants not selected on a waiting list pending any case closures or withdrawals by applicants undergoing home study.

(c) If applicants move from one region to another once formal application has been made but prior to home study, selection for home study pursuant to this section shall be made by the region to which the applicants move.

*Note:* When applicants move to Milwaukee county, special arrangements must be made on a case by case basis. Since there are no state adoption staff within that region, adoption case transfers must be arranged with a neighboring region or with either Milwaukee county department of social services or a voluntary adoption agency in the area.

(4) **HOME STUDY.** (a) The purpose of the home study shall be to determine the applicant's readiness for parenting an adoptive child and shall include but not be limited to:

1. Personal interviews with the applicants;

2. Contact with at least 3 references in addition to the applicants' physician;

3. Verification of the financial information supplied by the applicants; and,

4. Verification of birth, marriage, divorce, military service and naturalization.

(b) Study of applicants for approval for placement of an adoptive child may cease and the case may be suspended or closed at anytime during the home study process. The decision to approve for placement or to suspend or close the case shall be made by a team which includes, but is not limited to, the social worker and the social worker's supervisor.

1. A home study may be suspended or closed based on eligibility criteria specified in sub. (5).

2. A suspension may be for up to one year.

3. If the problem resulting in the suspension is not resolved within one year, the case shall be closed.

4. Any decision to suspend or close a case shall be in writing and discussed with the applicants in person.

(c) If department staff members making application to adopt are selected for home study, the study shall be conducted by a social worker in any region except the region in which the applicants reside.

(d) If applicants move from one region to another once the home study has begun, the study shall be completed by the region to which the applicants move. Exception to this requirement may be made only through mutual agreement by both regional offices and the applicants. If applicants are approved for placement, but no child has

been placed, those applicants shall be added to a list of approved homes in the region to which the applicants have moved, and the original inquiry application date observed.

**Note:** When applicants move to Milwaukee county, special arrangements must be made on a case by case basis. Since there are not state adoption staff within that region, adoption case transfers must be arranged with a neighboring region or with either Milwaukee county department of social services or a voluntary adoption agency in the area.

(e) If applicants move out of state, the study shall be closed. Copies of the study materials and case narrative may be forwarded to an adoption agency in another state with the applicants' written approval.

(f) If an applicant becomes pregnant during the home study process, the study shall be suspended. If a child is born to the applicants, the study shall either be closed based on criteria specified in sub. (2) (b) 2. or it shall be reactivated.

(g) If an extreme family crisis occurs after the applicants have been approved but prior to placement of a child, the study shall be updated and the applicants reassessed for placement.

(h) The appropriate regional office shall have personal contact, at least semi-annually, with applicants who are approved and waiting for a child to provide information on the availability of children.

(i) The regional office shall annually update the home study of approved applicants who wait more than 1 year for placement of a child after completion of the study.

(j) Approved applicants shall inform the regional office of major changes in the family which occur before a child is placed for adoption. Such major changes include:

- a. Change in family composition,
- b. Change of address,
- c. Occurrence of pregnancy.

(5) **ELIGIBILITY CRITERIA.** The department shall use the following criteria as a basis for the home study and for approving those applicants who are studied for placement.

(a) **Financial status.** Applicants shall have the material and economic resources sufficient to meet the basic physical, educational and social needs of the child, and to make reasonable provision for the child's future needs.

**Note:** Any interested applicant, whether or not financially limited, may be considered for placement of a child who qualifies for an adoption subsidy under s. 48.975, Stats.

(b) **Foster home licensing rules.** Pursuant to s. 48.62, Stats., applicants must meet the requirements of ch. HSS 56 prior to placement of a child.

(c) **Foster parents.** To ensure fairness to all persons seeking to adopt, foster parents of an adoption prospect shall not be considered for home study for that child unless:

1. The child has been identified as having special needs;
2. The child has been in their foster home continuously for at least one year; or
3. A strong parent-child relationship has developed.

(d) **Health.** Adoptive applicants' health shall be judged to be such that there can be reasonable assurance of their potential to raise a child to the age of majority without impairment and that they are able to undertake and discharge the full responsibilities of parenthood.

1. Applicants are required to undergo a medical examination, at their expense, so any review and decision regarding a potential health problem will be based on the prognosis and recommendation of a physician.

2. The regional office may also require a second medical opinion, a psychological test or a personality test at the department's expense.

3. No applicants shall be deemed ineligible solely on the basis of being deaf, or blind or otherwise physically handicapped.

(e) **Outside employment.** Applicants are expected to make stable arrangements for adequate substitute parental care. In the case of a pre-school child, one parent or other adult relative shall be in the home for at least 90 days following placement. Similar requirements may be imposed as a condition of adoption for a child with special parenting needs at the department's discretion.

(f) **Religion.** Applicants of any or no religious affiliation shall be considered. Pursuant to s. 48.82, Stats., efforts shall be made to place a child with applicants of the same religious faith as the child's natural parents.

(g) **Racial, ethnic or cultural origin.** Applicants of any racial, ethnic or cultural origin shall be considered. Efforts shall be made to place a child with applicants of the child's racial, ethnic or cultural origin.

(h) **Exceptions.** Exceptions to the eligibility criteria shall be determined according to the individual needs of the child. This shall be of particular importance with regard to applicants who have indicated a willingness to be studied for placement of a child with special needs.

(6) **PLACEMENT.** (a) The decision to place a child with applicants shall be made by a team which includes, but is not limited to, the child's social worker, the applicant's social worker and a unit supervisor. If 2 or more applicants equally meet the child's needs, the couple with the earliest inquiry application date shall be selected.

(b) All efforts shall be made to place siblings together, particularly if the children to be adopted are not infants, and it is determined to be in the children's best interest.

(c) If an applicant becomes pregnant after a child has been placed but before the adoption has been finalized, the placement shall not be affected.

(d) If an extreme family crisis occurs after a child has been placed but prior to finalization of the adoption, the case shall be reviewed by those persons who made the placement and the child shall be removed only if it is in the child's best interest. A decision to remove a child shall be in writing and discussed in person with the applicants. If a child has been in the home for at least 6 months, such removal shall be made pursuant to s. 48.64, Stats.

(e) Applicants who have had a child placed with them may not make inquiry application for adoption of another child until the pending adoption is finalized.

(f) To protect the identity of all parties involved, a child shall not be placed with applicants in a county where the termination of parental rights occurred or in the county where the natural parents reside except when such placement is in the child's best interest.

(g) Once a child is available for adoptive placement, if no home is available within that region, the child shall be referred to the following adoption resources:

1. To other regions of the department;
2. To other adoption agencies in Wisconsin through a Wisconsin adoption resource exchange;
3. To other regional or national adoption exchanges.

(7) APPEALS. If applicants are not selected for home study or approved for placement of a child on the basis of the criteria specified in subs. (2) (b) and (5) and the applicants believe an exception should be made, the matter shall be discussed with their social worker's supervisor. Written justification for the exception shall be prepared by the applicants along with the supervisor and referred to the director for a final decision. Unusual cases, in the judgment of the director, shall be referred to the administrator of the division of community services.

History: Cr. Register, September, 1980, No. 297, eff. 10-1-80; correction in (5) (b) made under s. 13.93 (2m) (b) 7, Stats., Register, June, 1986, No. 366.