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TO: Income Maintenance Supervisors
Income Maintenance Lead Workers
Income Maintenance Staff
W-2 Agencies
Workforce Development Boards
Job Center Leads and Managers
Training Staff
Child Care Coordinators

FROM: Laura Saterfield, Child Care Section
Bureau of Program Services and Statistics
Division of Family Supports (DFS)
Department of Workforce Development (DWD)

DFS OPERATIONS MEMO					
No: 08-28					
DATE: 05/22/2008					
FS	<input type="checkbox"/>	MA	<input type="checkbox"/>	BC+	<input type="checkbox"/>
SC	<input type="checkbox"/>	CTS	<input type="checkbox"/>	CC	<input checked="" type="checkbox"/>
W-2	<input type="checkbox"/>	FSET	<input type="checkbox"/>	EA	<input type="checkbox"/>
CF	<input type="checkbox"/>	JAL	<input type="checkbox"/>	JC	<input type="checkbox"/>
RAP	<input type="checkbox"/>	WIA	<input type="checkbox"/>	Other	<input type="checkbox"/>
					EP
PRIORITY: HIGH					

SUBJECT: Change in DWD 55 – Child Care Certification Administrative Rules

CROSS REFERENCE: Wisconsin Administrative Rule, Chapter DWD 55
Day Care Manual, Chapter 4, Certification
Operations Memo [01-58](#) (SIDS prevention)
Operations Memo [07-02](#) (SBS prevention)
Operations Memo [07-26](#) (SBS – Amendment)
Operations Memo [07-50](#) (SBS Policy Clarification)

EFFECTIVE DATE: June 1, 2008

PURPOSE

This memo provides information regarding the upcoming changes in DWD 55, Child Care Certification Rules.

BACKGROUND

Governor Doyle signed the Prevent Violence Against Children Act on March 21, 2006. This Act required certified child care providers to complete training on Shaken Baby Syndrome (SBS) prevention. The Act also mandated DWD to add the training requirement into DWD 55 - certification rules. While making changes to the rule, DWD revised the current rules and incorporated other changes identified since the last rule revision in 2002.

POLICY CHANGE

Both family (DWD 55.08) and school-age (DWD 55.09) child care certification rules have been revised. The new rules are posted at <http://dwd.wisconsin.gov/childcare/certification/default.htm>. The DWD Child Care Section (CCS) staff has created a Commentary Manual to explain and give guidance to rules that CCS has received frequent questions about and to improve statewide consistency when interpreting the rules. The commentary manual for family certification will be available at the Child Care Certification website (listed above) soon. The school-age certification commentary manual will be developed in summer 2008. An email will be sent to the certifying agencies when the materials are posted. DWD will be mailing a two-page letter to providers who were certified on or before 5/15/08. The letter will go out on 5/21/08 and will also be posted on the certification website.

APPLICANT/PROVIDER SCREENING

Operator vs. Provider:

The definition for a "provider" has been changed. The new rule uses "operator" when the rule pertains to the person who has been granted regulatory approval (the name on the Certificate of Approval). This person is responsible for the child care operations. The text refers to "provider" when rules pertain to any caregiver who provides care for the children. This could be the operator, substitutes, volunteers, helpers, etc. Also, the "One Provider per Location" policy (that has been in place since 2002) has now been added to the administrative rule.

Caregiver Background Checks:

The Caregiver Law has not changed since 1999; however, some clarifying language was added to the certification rules.

References:

The new rule leaves it up to the certifying agency's discretion whether or not to require references.

Tuberculosis (TB) Test:

The provider must submit TB test results at initial certification AND at re-certification. If the physician does not recommend a TB test due to pregnancy or another health condition, the applicant/operator must submit a statement from his/her doctor confirming that s/he is free from tuberculosis. If the TB skin test is positive, the person must be evaluated by a physician. This evaluation must conclude that the person does not have active TB.

Evaluation Statement from a Physician or a Mental Health Provider:

Sometimes a situation arises when a provider (or another person associated with child care) shows physical or mental health-related concerns/symptoms that might endanger the children in care. In these cases, the agency may require the person to be evaluated by a physician or by a mental health provider. Before making the request, the agency must thoroughly document the concerns and reasons for the request.

Certification Approval:

The language has been changed in regards to application approval. The current rule gives the agency 60 days from the date the completed application form was received. The new rule starts the 60-day period from the date the agency has made the determination that the applicant is "fit" to provide child care. "Fit" means the applicant displays the capacity to successfully nurture and care for children. When making the determination, the agency may consider the following:

1. Abuse of alcohol or drugs.

2. A history of a civil or criminal conviction or administrative rule violation that substantially relates to caring for children as described in ch. HFS 12.
3. Exercise of unsound judgment.
4. A history of civil or criminal offenses or any other actions that demonstrate an inability to manage the activities of a child care program.

In determining whether or not an applicant is fit, the agency shall consider any history of civil or criminal violations or other offenses substantially related to the care of children by the applicant, owner, manager, representative, employee, resident or other individual directly or indirectly participating in the operation. Examples of #4 above may be, but are not limited to, fraud, forgery, and a history of evictions. Examples of #1 above may be, but are not limited to, a history of alcohol/drug-related traffic offenses (DWI or DUI).

DENIALS, REVOCATIONS, SUSPENSIONS

The new rule creates additional reasons for which a county or tribal agency may deny, suspend, revoke, or refuse to renew certification and discontinue payment. The agency may deny/revoke/refuse to renew if:

- The provider (or any person associated with care) has a **pending charge** that substantially relates to care of children or activities of the program. The agency must review documents (police reports, criminal complaint, etc.) to establish the substantial relationship. Child care licensing has developed a form that is very helpful when making this determination. The form can be found at: <http://dhfs.wisconsin.gov/forms/DCFS/CFS2261.pdf>.

***NOTE:** offenses relating to “activities of the program” might include, but are not limited to, fraud, forgery and other offenses that relate to the business activities of the program.*

- The provider (or any person associated with care) has a **conviction** or another offense that substantially relates to care of children or activities of the program. Same criteria can be used here as listed under the first bullet point.
- An evaluation conducted by a physician or a mental health professional indicates that the person’s physical or mental health may endanger children in care.

Sanctions:

When the certifying agency documents violations in certified setting, the [Non-Compliance Statement and Correction Plan](#) must be used. On that statement, the agency gives the provider a timeline as to when the violation must be corrected. The provider must also write-up a plan explaining how s/he will correct the violation and how s/he will assure the certifying agency that the violation will not occur again. Below are additional sanctions that can be used in situations when a provider is not complying with the standards:

- Forbid the provider to enroll any new children until all violations have been corrected.
- Issue a warning of revocation in writing.

- Suspend the provider's certification for no more than 60 days. The agency shall either reinstate or revoke the certification by the date that the suspension expires.

NOTE: *While suspended, the provider will not be paid by the subsidy program.*

PROVIDER TRAINING

Sudden Infant Death Syndrome (SIDS):

The provider, substitutes, volunteers, assistants, employees, etc. must complete SIDS training prior to certification approval or prior to working with children if s/he cares for children under 12 months old. There is no statewide curriculum for this training. The agency may train the provider (and substitutes, etc.) at home visits, or have the provider watch a video on SIDS prevention, however, the agency has the authority to require the provider (substitutes, etc.) attend an in-person training. Contact the local Child Care Resource and Referral (CCRR) for trainings.

NOTE: *Child care entry-level courses offered by any of the DHFS-approved agencies as of September 2001 include the SIDS prevention training. The agencies are listed at: http://dhfs.wisconsin.gov/rl_dcms/CommManuals/FCC/HFS45-apdxY.pdf. Also, child care courses offered by any of the technical colleges in Wisconsin as of fall 2001 also include this information.*

Shaken Baby Syndrome (SBS) Prevention:

The Wisconsin Prevent Violence Against Children Act mandates the provider, substitutes, employees, volunteers (if left in sole charge of children), assistants, employees, etc. to complete training on SBS prior to regulatory approval or before the work commences if they care for children under five years of age. Below are the training options:

1. Video Training:

The certifying agency may allow the provider (substitute, etc) to watch a video on SBS prevention and then complete in-person training within six months. The qualified videos are:

1. Portrait of Promise

<http://child-abuse.com/sbs.shtml>

Available from Midwest Children's Resource Center at 651-220-6703. Ask for Jane Swenson. It can also be ordered from St. Paul Children's Hospital, 651-220-6750. Available in English, Spanish, Hmong, or Somali.

2. Never Shake a Baby – What Parents and Caregivers Need to Know

<http://www.ottawakiwanis.org/video/nevershakeababy.mov>.

This file is very large. It will take several minutes to download, even with the fastest connection.

3. New York Loves Safe Babies

<http://www.ocfs.state.ny.us/main/prevention/tips.asp>.

This video also includes information on SIDS. The video can be ordered from New York State or watched as a web cast (high-speed internet connection needed). Available in English and Spanish.

If the provider fails to take the in-person SBS training within six months, the certifying agency must enter an age-restriction on the Certificate of Approval, preventing the provider from taking care of children under five years of age.

2. In-Person Training:

DWD has developed a statewide training curriculum for SBS prevention. The provider (substitute, etc) must complete in-person training prior to regulatory approval (unless the agency approved the video training). The training must be conducted by a trainer who is listed on http://www.dpi.state.wi.us/ccic/sbs_trainers.html.

NOTE: *Everyone who attends SBS training receives a certificate as verification of completion.*

Individuals, who have completed the “Introduction to Child Care, Module A” and/or “Fundamentals of Infant/Toddler Care” after 7/1/05 already meet this requirement.

NOTE: *New applicant: The certificate of approval cannot be backdated any further than to the date the SBS training (or pre-training) was completed, even if the applicant submitted a completed application prior to that date. This means if a provider cared for children under age five (5) who are on the Wisconsin Shares child care subsidy, the subsidy program will not pay for the care provided prior to completion of the SBS training.*

Initial Training for Regular Certified Providers:

A provider who applies for regular certified status must document that s/he has completed DWD-approved training. In the past, the certifying agencies were able to approve training, as long as it met criteria listed in DWD 55. In order to ensure consistent training for all certified providers in Wisconsin, the rule language was changed to department-approved. Below are the trainings that the DWD Child Care Section has approved to meet eligibility for regular certified status:

- Introduction to Child Care Profession, Module A **and** Fundamentals of Family Child Care.
- A child care certification course offered by any of the technical colleges or Child Care Resource and Referral agencies that follow the competency-based curriculum that was implemented in 2003. This can also be offered on-line or in correspondence format. Agencies that have been approved to offer the non-credit entry-level trainings are listed at: http://dhfs.wisconsin.gov/rl_dcfs/CommManuals/FCC/HFS45-apdxY.pdf.
- A broad-based university or technical college credit course (2 or more credits) in an area that applies to early childhood/child development. Examples of courses that meet this requirement include, but are not limited to, Child Development, Child Psychology, etc.
- A college degree in early childhood. If the applicant has a degree in another area, the applicant should submit a transcript to the agency if s/he has completed any credit-based training listed above.

NOTE: *If the applicant has completed the 15 or 40-hour course prior to 2003 (Early Childhood 1, the certification or licensing course), the provider is grandfathered to have met the certification training requirement.*

Substitutes:

The new rule defines a substitute to be a person who replaces the provider on a planned basis. It also requires that the substitute be approved by the certifying agency. Below is the process:

1. Before a substitute starts working with children in child care, the substitute must complete a Background Information Disclosure (BID) form and submit it to the certifying agency. Also, verification of SIDS and SBS training must be submitted. The agency will conduct background checks and will verify the training completion. If the substitute meets the requirements, the agency will approve the substitute.
2. If the substitute works in a regular certified home, the substitute must meet the training requirement for regular certified providers before s/he has worked 240 hours (about 24-30 days) total, not per year. The provider must keep track of the days and hours the substitute is in charge, and before the 240 hours is met, the provider must submit verification of the training.

Emergency Back-up Provider:

Prior to applying for certification, the provider must have a designated adult who can provide care in the event of an unexpected emergency. It is recommended that the provider has more than one person available, if possible. When the person agrees to serve as an emergency back-up, the provider should orient the emergency back up provider(s) of the following:

- Names of all children in care
- Arrival and departure information for each child in care, including the names of people authorized to pick up the child (this should be included on the enrollment sheet)
- Location of children's files
- Encourage the emergency provider to take training on SBS and SIDS.

New York State has an on-line training that can be used for this purpose. This training covers both SBS and SIDS: <http://www.ocfs.state.ny.us/main/prevention/tips.asp>.

NOTE: the new rule also has a definition for "emergency" to prevent confusion between a substitute and an emergency back-up provider.

HOME SAFETY**Site Visits:**

There is new language about the site visits which states that the agency must conduct a visit to the premises where the care will be provided, including areas that will not be used for child care. The rule gives the certifier the authority to inspect the entire premises, even the areas not used for child care. It is advisable that the certifier checks the basement and other areas that the provider does not use for regular child care. If concerns are found in any areas, a condition or stipulation should be issued to give the provider clear guidelines of the areas that cannot be used during hours of child care or if some areas can be used during severe weather, such as a tornado.

The Standards and Checklist has been revised and posted on <http://dwd.wisconsin.gov/childcare/certification/forms.htm>. The checklist is now 10 pages, making the initial visit quite lengthy. Prior to issuing a certificate to a new applicant, the entire

checklist must be reviewed with the applicant. Agencies that conduct visits more often than what is required by the rule (every two years), have the option to complete sections of the checklist at annual/semi-annual visits, making the visit shorter. All rules must be reviewed once every two years. If the provider moves to a new address, only standards pertaining to the new home must be reviewed.

Exits:

The new rules require the home to have two exits on every level where child care is being provided. The primary exit must be a door leading outside. The secondary exit may be either a door or a window (20" x 24") that is not more than 46" from the floor. See the commentary manual for more details. If the basement is used for care, the basement must have a second exit. New providers must comply with this requirement before the certificate can be approved. Providers who were certified prior to 6/1/08 must meet this requirement by 6/1/10.

IN-HOME CARE (care in the child's home)

The subsidy agency may approve in-home care when certain criteria are met.: see DWD 56.04(1)(e). When a certifying agency receives an application from an in-home provider, the certifier is encouraged to contact the subsidy worker to confirm that the in-home care has been approved (these situations are relatively rare and sometimes there is confusion between in-home vs. family care). If the subsidy worker has approved the care, the certifier proceeds with the application processing, similarly to that of a family application, except the following:

1. No background checks are needed for residents in the home, only for the provider.
2. If the care is being provided in a rental property, no landlord form is needed when the care is being provided in the child's home.
3. When conducting the home visit, the certifier cannot enforce the home safety rules marked with an asterisk (*) on the check list.
4. The group rules have been changed because in-home care is exempt from licensing laws. There can be more than three (3) children under seven (7) years old being cared for who are unrelated to the provider. Also, the group size can exceed six (6). However, the provider may not enroll children who do not reside in the home.

When entering in-home providers into the certification database (CCPC), the location address must be the physical address where the care is being provided (child's home). This address is automatically inserted into the Certificate of Approval. The agency should enter the provider's home address in the Alternate Address screen so the provider will receive mail and notices to his/her own address.

Communicable Diseases:

The rule now has language around communicable diseases. If a provider is aware that a child attending care (or the provider's own child) has a reportable communicable disease (such as chicken pox, German measles, infectious hepatitis, measles, mumps, scarlet fever, or meningitis) that is transmitted through normal contact, the provider shall do the following:

1. The provider must notify the local public health department and parents of all enrolled children; and
2. A child who has, or has had, a reportable communicable disease may not be admitted to care unless the child's parents provide a statement from a physician that the child's condition is no longer contagious or that the child has been absent for a period of time equal to the longest typical incubation period for the disease.

Information on communicable diseases can be found at:

<http://dhfs.wisconsin.gov/communicable/resources/pdffiles/DayCareExclCrit.pdf>

ACTIVITIES AND EQUIPMENT

The activities and equipment sections have been completely re-worded, making the new rules more clear as to what is expected. The agencies may order free materials on programming from the Wisconsin Child Care Information Center at <http://www.dpi.state.wi.us/ccic/ccicres.html#prog>.

The Wisconsin Model Early Learning Standards (WMELS) include information about age-appropriate learning activities. The WMELS books are \$3.00 each, with a minimum order of three (3) copies, for a total of \$9.00. The check should be made out to the Department of Public Instruction. Log onto <http://dpi.wi.gov/ccic/ccichand.html> for more information.

SCHOOL AGE CERTIFICATION

DWD 55.09 was revised. There are approximately 30 programs currently certified in Wisconsin. Below are the highlights of the changes pertaining to these programs:

- Certification fee: The current rule allows agencies to charge a fee for family certification applicants. The new rule also allows agencies to charge a fee for school age certification. The maximum fee can be the same as DHFS charges for licensed group centers.
- The director of a school-age program must have graduated from high school, obtained a high school equivalency diploma, or obtained a certificate of general education development.
- No staff member, volunteer, visitor or parent with symptoms of communicable disease or physical illness, or whose behavior gives a reason to be concerned for the safety of the children, may be allowed on the premises of the program.
- The staff members shall be physically and emotionally able to provide responsible child care.
- The facility inspection report by the Department of Commerce must be on file in the county or tribal agency, instead of at the DHFS regional licensing office.
- The certified child care operator shall keep a current, written record of the daily hours of attendance for each child in care, including the actual arrival and departure times for each child. Attendance records shall be kept for at least three (3) years.
- A working cellular phone shall be taken on field trips.

- Child Guidance: A caregiver may not hit, spank, pinch, shake or inflict any other form of corporal punishment on a child, or use any discipline which is frightening to the child, including binding, trying to restrict the child's movement or enclosing the child in a confined space, such as a closet, basement, locked room, box, or similar cubicle.
- Transportation: The Booster Seat law was added and the program must have a written transportation permission slip signed by a parent or guardian on file. No child may be left unattended in a vehicle.

IMPLEMENTATION TIME-LINE

Current Certified Providers:

On May 20, 2008, DWD sent a letter to the certified family providers to notify them about the upcoming changes. The mailing included all providers who held certification on or before 5/15/08. The letter highlights the changes and also included a website where the new rules can be found. The agencies must verify compliance at the next site visit. This could be a regular monitoring, re-certification or re-location visit. To help providers comply with the new rule, the certifying agency should mail the new Standards and Checklist to the provider prior to the visit so that the provider can be prepared to meet the new requirements.

Providers applying for certification after June 1, 2008: All new rules apply.

RESOURCES

The Wisconsin Child Care Information Center (WCCIC):

Certifiers may order a packet of materials on child development, positive guidance, health and safety, and activities that enhance various important skills: 1-800-362-7353 or ccic@dpi.state.wi.us.

National Association for Education of Young Children (NAEYC):

The new certification rules include many rules about quality, such as activities that enhance certain important skills. Many new rules were added regarding discipline. Go to: <http://www.naeyc.org/>, select "NEAYC online store" and then "Brochures". Some of the following brochures are also available in Spanish, and are very useful for educating providers:

- [A Caring Place for your Infant](#)
- [A Caring Place for your Toddler](#)
- [A Good Preschool for Your Child](#)
- [Helping Children Learn Self-Control](#)
- [Love and Learn](#) (positive guidance for young children)
- [So Many Goodbyes](#) (separation anxiety)
- [Toys: Tools for Learning](#)

Child and Adult Care Food Program (CACFP):

Contact a food program sponsor in your area for more information on nutrition.

FORMS

The certification forms can be found at <http://dwd.wisconsin.gov/childcare/certification/forms.htm>.

POLICY MANUALS

The certification policy manual will be updated in the near future. An email will be sent to the certifying agencies once the updated policy manual has been posted at:
<http://dwd.wisconsin.gov/childcare/wishares/manual.htm>

The caregiver manual is posted at:
<http://dwd.wisconsin.gov/childcare/certification/pdf/caregivermanual.pdf>.

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*Program Categories – FS – FoodShare, MA – Medicaid, BC+ – BadgerCare Plus, SC – Senior Care, CTS – Caretaker Supplement, CC – Child Care, W-2 – Wisconsin Works, FSET – FoodShare Employment and Training, CF – Children First, EA – Emergency Assistance, JAL – Job Access Loan, JC - Job Center Programs, RAP – Refugee Assistance Program, WIA – Workforce Investment Act, *Other EP – Other Employment Programs.