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To: Certified Child Care Providers

From: Laura Saterfield, Director
Bureau of Early Care and Education

RE: 2009 Wisconsin Act 76
Caregiver Background Check Modifications

On November 13, 2009, Governor Jim Doyle signed into law changes to caregiver background checks that will affect all certified child care providers. The changes will affect the frequency that background checks must be done. The changes will also affect the list of convictions and offenses that will either permanently bar or require a rehabilitation review for a person holding certification, residing in a child care facility or working as a caregiver. These modifications will take effect on **February 1, 2010**.

Frequency of a background check

- **Certified providers** – Under the provisions of the new law, the county/tribal certifiers will conduct a caregiver background check on all certified providers **every 3 months (4 times a year)**. The agencies may charge a fee for these checks to cover the cost. Providers will be notified by their certifying agency with more details.
- **Household members, employees, substitutes and volunteers** – The county certifiers will conduct the caregiver background check on all adult household members, employees, substitutes and volunteers at least **one time each year**. The certifying agency will contact you with more details.

Changes in the list of convictions

In the past, certified child care providers, household members and caregivers were subject to rehabilitation review if they had a conviction for one of the crimes or offenses listed in Section II of Appendix A of administrative code DHS 12. Under the new law, some convictions will carry a permanent bar that will not permit a person to be certified to operate, reside in, or work as a caregiver for a child care setting. Other convictions will impose a bar for 5 years after a person has completed probation, parole or extended supervision. Finally there are some convictions that will require a rehabilitation review approval before a person may become certified, reside in, or work as a caregiver in a child care setting. The updated crimes list is found at http://dcf.wisconsin.gov/childcare/licensed/pdf/2009_06_crimes_list.pdf.

Current providers, household residents and caregivers

The law applies to all current certified providers, household residents and caregivers in a child care setting as well as applicants for certification and new employees. This means that even if the county/tribe has approved certification or allowed a person to reside at a certified child care program with a criminal conviction in the past, the county/tribe is now required to revoke the certification if the provider, a household resident or an employee has an offense that will permanently bar that person. The county/tribe is also required to revoke the certification in those situations where a person has a conviction that will require a rehabilitation review.

Suspension of certification

Under the new law, the county/tribe is required to suspend certification if the provider, a household resident or caregiver has any **pending** charges for a crime included on the revised crimes list.

Wisconsin Shares subsidy payments affected by the new law

If a child care provider, caregiver or household resident is convicted of committing a serious crime, the county/tribe may not pay the child care provider under Wisconsin Shares beginning on the date of the conviction.

If a child care provider, caregiver or household resident is the subject of a pending criminal charge alleging that the person has committed a serious crime, the county/tribe must immediately suspend payment to the provider under Wisconsin Shares until information regarding the final disposition of the charge is received. If the person is convicted of committing the serious crime, the county/tribe may not pay for Wisconsin Shares. If the person is not convicted of committing a serious crime, the county/tribe may reinstate payments for Wisconsin Shares if the conviction does not substantially relate to the care of children or the operation of a business.

The county/tribe may refuse to pay a child care provider under Wisconsin Shares, if a child care provider, caregiver or household resident is convicted of a crime that is not included on the crimes list but the county/tribe determines that the crime for which the person was convicted substantially relates to the care of children or the operation of a business. The county/tribe may also refuse to pay a child care provider under Wisconsin Shares if the child care provider, a caregiver or a household resident is the subject of the pending criminal charge that substantially relates to the care of children or has violated any provision or rule promulgated under Wisconsin Shares.

Implementation of the provisions of the new law

The certifying agency will begin conducting caregiver background checks on providers every 3 months (4 times a year) after February 1, 2010. Each provider will be notified by the certifying agency when a caregiver background check must be completed. Providers will be asked to submit a completed Background Information Disclosure form and the appropriate fees when notified.

If you have any questions about the changes to the caregiver background check law, please contact your child care certifier.