

DEPARTMENT OF CHILDREN
AND FAMILIES
Secretary Eloise Anderson
201 East Washington Avenue, Room G200
P.O. Box 8916
Madison, WI 53708-8916
Telephone: 608-266-8684
Fax: 608-261-6972
www.dcf.wisconsin.gov



State of Wisconsin
Governor Scott Walker

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: Erik Hayko, Section Chief
Bureau of Child Care Administration
Division of Early Care and Education
Department of Children and Families

DECE/BCCA OPERATIONS MEMO

No: 12-60 **Amended**

DATE: 11/15/2012

FS	<input type="checkbox"/>	MA	<input type="checkbox"/>	BC+	<input type="checkbox"/>
SC	<input type="checkbox"/>	CTS	<input type="checkbox"/>	FSET	<input type="checkbox"/>
BC+ Basic	<input type="checkbox"/>	BC+ CORE	<input type="checkbox"/>		
CC	<input checked="" type="checkbox"/>	W-2	<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"/>
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SUBJECT: **CHILD CARE PROVIDER WAIVERS AND CHILD CARE AUTHORIZATIONS**

**CROSS REFERENCE: 2011 Wisconsin Act 32; s. 49.155(3m)(d); Wisconsin Shares
Child Care Assistance Manual: 1.2.0; 1.5; 2.1.5.3; and 3.6**

EFFECTIVE DATE: 11/15/2012 emergency rule; 8/1/2013 permanent rule

PURPOSE

This memo provides guidance to local agencies on implementing a new law that restricts Wisconsin Shares Child Care Subsidy Program (Shares) payments for parents who are child care providers and provides a waiver process for certain children.

BACKGROUND

2011 Wisconsin Act 32 amended Wisconsin Statute 49.155(3m)(d) to create a provision that denies Shares funding to families when the parents are licensed or certified child care providers. The statute also required the Department of Children and Families (DCF) to amend existing administrative rule to create a provision specifying the circumstances under which it or a local agency may grant a waiver to this restriction. A new emergency rule which takes effect on November 15, 2012 changes Administrative Rule DCF 201 to implement the waiver process. DCF is also developing permanent changes to the rule. **The permanent rule will take effect August 1, 2013.**

Wis. Stat. 49.155(3m)(d) states: :

*A parent who is also a child care provider shall not have [Wisconsin Shares] funds paid to nor will a child care authorization be issued to another child care provider to care for their child(ren). [This **restriction**] does not apply if the child's parent has applied for, and been granted, a waiver of the prohibition by the county department or agency or by the department.*

Under Wis. Stat. 49.155 (1) (c), for the purposes of child care, a *parent* is defined to include a person who is the biological parent, a custodial parent, a kinship care relative or foster parent who is residing with the child or is acting in the place of a parent.

Under DCF 202.02 (3), DCF 250.03 (18) and DCF 251.03 (17), for the purposes of administering this restriction, a *provider* includes a licensee or certified child care operator including an individual, corporation, partner, limited liability corporation, non-incorporated association or cooperative which has legal and financial responsibility for the operation of a child care center or program.

This restriction does not apply to parents who are employees of a child care facility or are non-owners/non-financial stakeholders of a child care provider.

POLICY CHANGES

Current Policy: Under existing policy, parents who are child care providers cannot receive Shares payments to care for their own children or for children who reside with them. However they may be eligible for Shares if the child care is received from other providers.

New Policy: Effective November 15, 2012, parents who are child care providers may not have Shares authorized *for another provider* unless the parent applies for and receives a waiver. Under the emergency rule, parents who are providers (parent/providers) may be granted a waiver for individual children under the following circumstances:

- The parent/provider is a foster parent, or
- The parent/provider is a kinship care relative with a court order for placement and is receiving a kinship care benefit for the child, or
- The parent/provider is a legal guardian receiving subsidized guardianship payments for the child, or
- The child has a special need and the child's parent/provider is unable to care for the child at the provider's own home or group center, as verified by a physician or other qualified medical professional, or
- The child is a child of a dependent minor parent who is enrolled in high school or a course that is approved by the state superintendent of public instruction for granting a high school graduation equivalency and resides with a person who is considered a parent and also a child care provider.

Child Care Eligibility for New Cases

Effective November 15, 2012, when processing new applications for Shares payments, local agencies are required to determine whether the parent's approved activity is as a child care provider or if they meet the definition of being a child care provider as previously defined. In these cases, child care authorizations shall not be issued for the parent/provider's child(ren) unless the parent has applied for and been granted a waiver for each child.

Child Care Eligibility/Authorizations for Existing Cases

At the time of the next eligibility review, the local agency must determine whether the parent is a certified or a licensed child care provider as previously defined. If so determined, child care authorizations must be terminated for the parent/provider's child(ren) unless the parent has applied for and been granted a waiver for their child(ren). Authorizations shall be ended on the next Saturday of the full week after the eligibility review.

Example: Eligibility review on 12/4/2012, waiver not received prior to 12/14/2012, end authorization effective 12/15/2012 (week of 12/2 is a partial week and week of 12/11 is a full week).

Waiver Process

A parent who is a child care provider may apply to the local agency for a waiver to authorize care for the provider's child(ren) from another provider. The waiver request shall be in writing on the form prescribed by DCF ([DCF-F-432-E](#)).

The waiver shall be granted or denied by the local agency within ten (10) business days of receipt of the completed waiver application. The waiver must be granted in the following circumstances:

- The parent is the child's foster parent as confirmed by eWiSACWIS or other supporting verification.
- The parent is the child's guardian or interim caretaker and is receiving subsidized guardianship payments for the care and maintenance of the child as confirmed by eWiSACWIS or other supporting verification.
- The parent is the child's kinship care relative, the child has been placed with the relative under a court order and the relative is receiving kinship care payments for the care and maintenance of the child. A copy of the court order for placement is required.
- The child has a special need and the child's parent is unable to care for the child at the provider's home or group center. The parent/provider must obtain a statement from a physician or other qualified medical professional that the child has special needs **and** that the parent is unable to care for the child at the parent/provider's child care location.
- The child is a child of a dependent minor parent who is enrolled in high school or a course that is approved by the state superintendent of public instruction for granting a high school graduation equivalency and the minor parent resides with a parent/provider. A school schedule is required.

If the parent/provider is requesting child care for multiple children, a separate waiver application must be submitted for each child and each child's circumstances must be reviewed individually.

Example: Child care is requested for three (3) children.

- One child has special needs and cannot be cared for at the parent/provider's child care location as verified by a physician or other medical professional. The local agency must grant the waiver.
- One child is a foster child as verified by the worker in eWiSACWIS. The local agency must grant the waiver.
- One child does not meet waiver criteria. The local agency must deny the waiver.

Waiver Approvals and Denials

If the waiver is denied, the local agency must deny eligibility for lack of an approved activity. If the waiver is approved, the local agency must follow the policies and procedures for completing eligibility and issuing the child care authorization for the child(ren). An approved waiver is valid for 12 months from the date that the child care authorization begins under the waiver.

Whether the waiver request is approved or denied, the completed waiver application must be scanned into ECF and stored with the case.

Secondary Non-Child Care Employment

A provider waiver does **not** need to be completed for a parent/provider that has an additional approved activity other than an activity related to child care. The parent/provider may receive a Wisconsin Shares child care authorization for their child(ren) to attend another child care provider, but only for the hours needed to participate in the additional approved activity unrelated to child care.

Monitoring Reports for Local Agencies

Two reports are generated on a monthly basis to assist local agencies in identifying a parent who may need to complete a provider waiver. The first report identifies a parent whose employment income in Cares Worker Web (CWW) is listed as a self-employed regulated child care provider. The second report identifies cases in which the primary parent's social security number in CWW matches that of an active regulated child care provider in Child Care Statewide Administration on the Web (CSAW).

These reports are distributed by the Bureau of Regional Operations (BRO) Child Care Coordinators to the local agencies that appear on the reports. Local agencies should follow up with the parent at the next Six-Month Review Form (SMRF)/review to determine if a provider waiver needs to be completed.

ACTIONS IN CARES WORKER WEB (CWW)

No CWW programming changes have been made to implement these requirements. Workers will use the Approved Activity Status page and Assistance Group Composition Details page to implement these requirements in CWW.

If the parent/provider does not qualify for a waiver or if the waiver is denied, enter a "No" for that person on the Approved Activity Status page. Eligibility will fail for child care. The Notice of Decision that is generated by CWW will advise that Shares is denied because the parent/provider is not participating in approved activity. The worker is expected to prepare the parent/provider for the notice with this language during the interview. If a waiver request is made, but the waiver is denied by the local agency, a copy of the denied waiver application must be sent to the parent/provider.

If the parent/provider is seeking a waiver, the worker should enter a "? Unknown" for that person on the Approved Activity Status page and offer a waiver application form. The system-generated "Notice of Proof Needed" will show that the parent/provider needs to submit proof of their participation in an approved activity. The worker should add the following note to the "Proof" section of the notice:

"Families of child care providers are not eligible for child care assistance unless a waiver is granted by the local agency under limited circumstances. If you need a Waiver Request Form, contact the child care worker on the first page of this letter. Complete the form and send it to the agency as instructed in this letter."

If the waiver form is not returned timely or if verification requirements are not met timely, change the Approved Activity to "No" and CWW will generate the Notice of Decision that Shares is denied because the parent/provider is not participating in an approved activity

If the parent/provider applies for and is granted a waiver, the worker should enter a “Yes” for that person on the Approved Activity Status page, enter an appropriate activity type, and run eligibility. Assuming all other eligibility criteria are met, the case will be opened for Shares participation. If there are children in the household who do not qualify for a waiver, and they otherwise meet eligibility criteria, the worker will need to mark them as “included children” on the Assistance Group Composition Details page. Use Reason Codes 116, “This person does not meet individual program requirements”. Run and confirm eligibility. The Notice of Decision that is generated will correctly indicate that only the waived child is eligible for Wisconsin Shares.

Appeal process

If Shares is denied for a parent/provider’s child(ren) or if a waiver is requested and denied, a Notice of Ineligibility will be mailed to the parent/provider instructing them of their appeal rights. A parent/provider who is denied Shares benefits may contest the determination and request a hearing within 45 days after the date of the notice. Pursuant to Division of Hearings and Appeals (DHA) Rule Chapter HA 3, a request for a hearing may be made in writing or orally to the local agency or to DHA. If an oral request is made to the local agency, the request must be reduced to writing by the agency and signed by the petitioner. A local agency receiving a hearing request shall immediately date-stamp the request and forward it to DHA. Under the terms of the child care contract, county and tribes are required to provide legal representation at Chapter 227 hearings. The local agency shall submit evidence to DHA to support the denial including documentation that the parent/provider is a licensee, certified provider, partner, or co-owner of a child care and a copy of the notice denying the waiver should be included, if appropriate.

The notice directs the parent/provider to submit all appeals to:

Division of Hearings and Appeals
5005 University Avenue, Suite 201
P.O Box 7875
Madison, WI 53707-7875

CONTACTS

For questions regarding this Operations Memo, please contact Marcie Stebbeds at marcie.stebbeds@wisconsin.gov or (608) 261-5850.

*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, BC+ Core – BadgerCare Plus Core, 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.

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