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**State of Wisconsin
Governor Scott Walker**

Amended September 28, 2018

**TO: Income Maintenance Supervisors
Income Maintenance Lead Workers
Income Maintenance Staff
Training Staff
Child Care Coordinators
Child Care Certification Workers**

DECE/BECR OPERATIONS MEMO

No: 18-41

DATE: 09/17/2018

Child Care

**FROM: Mark Andrews, Director
Bureau of Early Care Regulation
Division of Early Care and Education
Department of Children and Families**

SUBJECT: New Background Check Requirements

CROSS REFERENCE: Wis. Stats. §48.686

EFFECTIVE DATE: OCTOBER 1, 2018

PURPOSE:

The purpose of this memo is to notify certification workers of new background check requirements that will impact certification workers, certified child care operators, household members, child care providers/caregivers and noncaregiver employees working in certified child care programs. This memo also outlines new background check policy and automation changes for certification workers.

BACKGROUND:

In 2014, Congress reauthorized the Child Care Development Block Grant (CCDBG) for the first time since 1996. Several provisions in Wisconsin's background check law were changed in order to conform with the CCDBG Act of 2014. Wisconsin's child care background check requirements were previously under Wis. Stats. §48.685, but have been revised and are now located in Wis. Stats. §48.686. Wis. Stats. §48.686 was enacted on September 21, 2017 and goes into effect October 1, 2018. The new background check requirements impact:

- Who conducts background checks and makes eligibility determinations
- Who is subject to background check requirements
- The types and frequency of background checks
- Who pays for the background checks and the payment process
- Eligibility determinations for prospective household members, caregivers and noncaregiver employees

- The appeals process for background check eligibility determinations
- Who conducts rehabilitation reviews, if required.

POLICY:

Agency Responsible for Conducting Background Checks

Currently, local certification agencies conduct background checks on applicants, certified operators, household members and other caregivers in certified child care settings. Certification agencies issue background check-related enforcements (denials, suspensions and revocations) and respond to appeals of background check-related enforcements.

Beginning October 1, 2018, the Department of Children and Families (DCF) Caregiver Background Check Unit (CBU) will:

1. Conduct background checks required for child care certification
2. Review the background check results to determine if an individual is eligible to be certified, reside in, or work in a certified child care program
3. Provide eligibility determination notices to individuals and applicants/operators
4. Respond to appeals pertaining to background check eligibility determinations

Individuals Subject to Background Check Requirements

Under Wis. Stats. §48.686 applicants, operators, adult household members, caregivers, noncaregiver employees and contractors are subject to the new background check requirements. The following definitions are intended to provide clarification and policy guidance to certification agencies in determining who is subject to background check requirements.

Household member means a person who is age 10 or older, who resides, or is expected to reside, at a child care program, and who is not a client of the child care program or caregiver. Minor household members age 10-17 are only subject to child abuse and neglect checks only but may, in some instances, be subject to a criminal background check.

Caregiver means any of the following:

1. A person who is an employee or contractor of a child care program and involved in the care or supervision of children in care.
2. A person who has direct contact and unsupervised access to children in care of a child care program.
3. A person who has, or is seeking, a license, certification, or contract to operate a child care program.

Volunteers who provide infrequent and irregular service that is supervised or parent volunteers who are supervised by a provider are not required to complete a background check. Volunteers who come into a child care facility to help with a special event or assist an operator on a field-trip are not “caring for or supervising children for a child care provider.” Rather, volunteers in the situations described above are providing additional assistance under the supervision of the primary caregiver. Volunteers having direct contact with and unsupervised access to children are considered caregivers and are subject to background check requirements.

Effective 10/1/18, all noncaregiver employees working in child care settings are also subject to background check requirements, regardless of whether or not the individual provides care or supervision of children. Noncaregiver employees are individuals who provide services to a child care program as an employee or as a contractor, are not caregivers, but whose work at the child care program provides the ability to move freely throughout the premises and opportunities for interactions with children in care.

DCF 202 requires child care operators to designate an adult who can provide assistance in the event of an unexpected emergency. Emergency back-up providers are not subject to the background check requirements. "Emergency" has the meaning found in [DCF 202.01\(5g\)](#). A substitute is a provider who replaces the certified family child care operator or staff in a certified school age program on a pre-arranged or planned basis and is subject to background check requirements.

Type and Frequency of Background Checks

The frequency of the checks listed below depends on the individual's role at the child care center. Adults in certified child care settings are subject to the following:

- Fingerprint-based Federal Bureau of Investigation (FBI) search, including a search of the National Crime Information Center's (NCIC) sex offender registry (SOR), Wisconsin Department of Justice (DOJ) criminal history database, and Department of Health Services (DHS) Integrated Background Information System; initially and every 5 years
- Wisconsin Child Abuse and Neglect (CAN) registry; initially
- Name and address search of the Wisconsin SOR; initially
- A name-based search of the following in each state in which the individual has resided in the past five years: state criminal repository, state SOR, state CAN registry; initially
- Annual fingerprint-based FBI check if the individual continues to reside out of state (Example: caregiver employee who resides in Illinois but works for an operator located in Kenosha County)

Operators, adult household members, caregiver employees and caregiver volunteers are subject to an additional DOJ criminal history search, annually, after the initial fingerprint-based check. Noncaregiver employees are not subject to the annual background check although they will be included in the WISCCRS Monthly Match.

<i>The table below is not an exhaustive list of roles in certified child care but is meant to provide examples and additional clarification regarding who is subject to the initial and 5-year FBI check and the annual DOJ background check.</i>		
Role	FBI (Initial & 5 Year)	Annual DOJ Check
Applicant/Operator	Yes	Yes
Adult Household Member	Yes	Yes
Minor Household Member (unless concern warrants criminal check)	No	No
Substitute	Yes	Yes
Caregiver Employees (providers/assistants/directors/lead teachers)	Yes	Yes
Emergency Back-up Provider	No	No
Contracted transportation service/van driver who provides regular transportation to/from child care program (contracted by the operator) but who is not a caregiver	Yes	No
Periodic parent volunteer assisting operator during special events/field-trips	No	No
Housecleaner (contractor) who provides cleaning services at the home during hours of operation but who is not a caregiver	Yes	No
Housecleaner (contractor) providing cleaning services after hours of operation	No	No
Birth to Three or other therapists who provide services to a child in the child care program but who are not employees of or contracted by the operator	No	No

Background Check Fees

Currently, certification agencies may choose to collect background check fees from applicants and operators. Starting 10/1/18, at the time the Fieldprint fingerprint scan appointment is made online, the individual will pay \$37.75 via credit card or electronic check. This covers the cost of the Fieldprint fingerprint capture fee (\$7.75) and the cost of the FBI and DOJ fingerprint-based background check (\$30). Certification agencies will no longer be invoiced by the DOJ for child

care certification background checks and will no longer collect background check fees from operators/applicants. The individual scheduling the Fieldprint appointment online must be prepared to pay the background check fee. If the individual schedules a fingerprint appointment at a Fieldprint location that collects rolled inked prints, rather than capturing prints digitally using LiveScan, additional fees may be charged.

After the initial fingerprint-based background checks are completed the operator will be invoiced by DCF for any annual background checks conducted. The cost of a name-based DOJ check is currently \$10.

Background Check Request (BCR)

Effective 10/1/18, the Background Information Disclosure form will be replaced with a Background Check Request (BCR) form [DCF-F-5296-E] which is required for individuals age 10+. The BCR is required to be completed and submitted initially and every 5 years thereafter. The CBU will use the information gathered on the BCR to determine what kinds of background checks are needed. The BCR may be completed by the individual or by another person, when needed. For example, an applicant for certification may complete and sign the BCR for an elderly or minor resident.

New/Initial Applications: Certification workers shall distribute paper BCR forms with new/initial applications and the applicant submits the BCR form(s) to the certification agency with the initial application materials. The certification worker enters information collected on the BCR form into the Individuals Module in WISCCRS. The WISCCRS entry made by the certification worker will trigger a system-generated Fingerprint Instruction letter for any individual age 18+. The instruction letter is mailed to the applicant's address and provides detailed instructions and unique codes needed for scheduling a Fieldprint fingerprint-based background check.

Existing Operators: After initial certification is granted, certified operators are *strongly* encouraged to use the Child Care Provider Portal (CCPP) when submitting information required for initial background checks for new individuals, rather than submitting paper BCR forms to the certification agency. Using the portal to submit information needed to trigger a fingerprint-based check or update an existing individual's record streamlines the background check process for operators, subjects of the search, certification workers and DCF's CBU.

Child Care Provider Portal
Welcome, Pzmkee

Logout

Home

Facility ID
FIS Provider ID
Address
Contact Name
Phone

More

Financial Facility Details Communications Manage Facility Individuals

Provider Search

If an operator submits a BCR for a new individual using the portal, the certification agency will receive a message in the WISCCRS dashboard.

Many certified operators and certification workers already have access to the CCPP and have used it to view MYWICChildCare EBT payment information, as well as Regulatory and YoungStar information.

Operators who do not yet have CCPP access may request access by following the instructions located here: <https://dcf.wisconsin.gov/childcare/provider-portal/ccpp-access>.

Starting in 2019, DCF will send notices to existing operators informing them when BCRs are due for individuals associated with their program. Operators will log into the portal to review and make any changes to the required information for each individual age 10+. Once a BCR is entered into the portal, a system-generated Fingerprint Instruction letter will be mailed to the operator. Fingerprint-based checks will be required even if an individual age 18+ has completed a fingerprint-based check in the past to meet Wisconsin Shares requirements. When a minor household member turns 18, the CBU will send a Fingerprint Instruction letter to the operator.

Operators may update information in the portal at any time. For example, if an existing operator knows her adult daughter is moving back into the home at the end of the month, the operator logs into the portal to complete a BCR. The operator's portal entry notifies DCF and the local certification agency that a new prospective household member requires a background check. Similarly, an operator can log into the portal to remove a former household member from his/her record by entering a residence "end date."

Eligibility Determinations and Notification

The [barred offenses table](#) identifies offenses that bar certification or bar an individual from residing/working in certified child care programs. The department's CBU will review the background check results and make background check eligibility determinations, including any determinations based on barred offenses and potentially substantially related determinations. Certification workers will be notified if/when Wis. Stats. §48.686 and the offenses table are modified to comply with additional CCDBG barred offenses.

Preliminary and Final Determinations

Preliminary and final determinations are made and issued in writing by DCF and are viewable in the portal. The preliminary eligibility determination is based on a review of the criminal history for convictions that would bar a person from working or residing in a certified program. The preliminary eligibility determination is not appealable. A person who receives preliminary eligibility approval may begin to reside or work under the supervision of a person who has had an approved DCF fingerprint-based background check within the last five years. An applicant for certification may not be granted certification until all of the background checks are completed and a final eligibility determination has been made.

The CBU is responsible for preliminary approval of the background check in order to begin working under supervision. Certification workers are responsible for approving all other requirements of caregivers before employment or volunteer work commences, in accordance with DCF 202.08(1)(d). The certification worker must verify the caregiver has met all standards under DCF 202.08(1)(a) and (b) before the individual begins working in a child care program. DCF will inform the operator and the individual once the final eligibility determination is made and whether the individual may continue residing or working in the child care program.

In accordance with Wis. Stats. §48.686, an individual who is the subject of the department's background check determination may appeal the department's *final* eligibility determination. Only the person who is the subject of the department's determination may appeal the department's decision. The appeal and reconsideration process contained in the statute is the exclusive method for disputing a background check determination issued by the department.

The department's decision may not be appealed in a ch. [68](#) review challenging the denial of a certification based on the department's background check determination. If an individual received preliminary approval to begin residing or working under supervision but is later denied in the final determination, the individual may **not** continue to reside or work under supervision pending the appeal.

The department is responsible for issuing background check eligibility notices and informing the individual of their appeal rights. The certification agency remains responsible for issuing enforcements related to the background check. All certification agency enforcement notices must include appeal rights; however, the agency could file a summary judgment motion to dismiss for appeals based solely on the department's background check eligibility determination. Certification agency attorneys and county corporation counsel may contact DCF's Office of Legal Counsel for technical assistance, if needed (608-422-7047). The department is in the process of updating background check policy guidance, but certification workers should consult with their corporation counsel as needed.

Certification agencies remain responsible for processing applications for certification and making "fit" determinations under DCF 202.04(3)(e). If the department issues an approval for the background check determination, the agency may choose to deny an application for certification or recertification if the agency determines the applicant is not "fit" or if any of the matters under DCF 202.06(1) apply. Certification agencies continue to have authority to issue non-background check-related enforcements under DCF 202. Those certification enforcements are appealable under ch. [68](#) for counties, tribes and subcontracted agencies.

Example 1:

- An applicant for certification receives a final "*ineligible*" background check determination notice from the department on 1/24/19. The subject of the search currently has 60 days to appeal the background check determination with DCF.
- The certification agency issues the certification denial notice on 1/25/19 and enters the application Status/Decision in WISCCRS accordingly.
- The operator appeals the denial of certification on 1/30/19 but because the denial was based solely on the background check determination, the agency files a summary judgment motion to dismiss with the person, officer, agent committee, board or body responsible for reviewing such decisions.
- The applicant does not appeal the background check determination within the required timeframe and the certification denial is closed out using the Enforcement module in WISCCRS.

Example 2:

- An applicant for certification receives final "*ineligible*" background check determination notice from the department on 2/5/19.
- The certification agency issues the certification denial notice on 2/5/19 and modifies the application Status/Decision in WISCCRS accordingly.
- The applicant appeals DCF's background check determination on 2/11/19.
- The "*ineligible*" determination is overturned and the department issues an "*eligible*" background check determination notice on 2/26/19.
- The certification worker modifies the application Status/Decision to Application Pending and the certification agency continues processing the application for certification.
- The certification agency conducts multiple site visits and determines the home does not meet certification standards.
- The certification agency denies the application with DCF 202 as the basis for the denial. The agency's denial notice provides information about the applicant's right to appeal the agency's decision under [ch. 68](#).

Rehabilitation Reviews

Any person who has committed an [offense](#) requiring an action of “bar unless rehabilitation review approval,” or “bar for 5 years,” is barred from regulatory approval or working or residing in a certified program until that person has received approval through the rehabilitation review process. Effective 10/1/18, DCF is responsible for conducting rehabilitation reviews for child care certification. Tribes, however, may choose to conduct rehabilitation reviews or refer the subject to DCF for the review. Tribes choosing to conduct rehabilitation reviews shall submit to the department a plan that includes all of the following:

- The criteria to be used to determine if a person has been rehabilitated
- The title of the person or body designated by the tribe to whom a request for review must be made
- The title of the person or body designated by the tribe to determine whether a person has been rehabilitated
- The title of the person or body, designated by the tribe, to whom a person may appeal an adverse decision made by the person and whether the tribe provides any further rights to appeal
- The manner in which the tribe will submit information relating to a rehabilitation review to the department so that the department may include that information in its report to the legislature
- A copy of the form to be used to request a review and a copy of the form on which a written decision is to be made regarding whether a person has demonstrated rehabilitation.

Monthly Match Findings and Complaints

On a monthly basis, the department conducts automated matches between WISCCRS individual data and the following databases:

- Wisconsin Circuit Court (CCAP) system
- eWiSACWIS – database used by Child Protective Services (CPS) agencies
- Wisconsin Department of Corrections Sex Offender Registry (by location address)

Operators, household members, caregivers and noncaregiver employees will be included in the monthly match. Certification agencies are required to investigate monthly matches, take appropriate action and document their findings/action. Effective 10/1/18, the department will take the lead in monthly match investigations. The certification agency may be required to assist in DCF’s investigation to determine if violations have occurred and issue and document subsequent enforcement action if/when appropriate.

Certification agencies remain responsible for investigating complaints alleging violations of DCF 202. If an investigation warrants a background check, the certification agency shall contact the department’s CBU for assistance.

AUTOMATION CHANGES:

New Applications/New Individuals – Effective 10/1/18

Certification workers must enter individuals in WISCCRS promptly upon receiving application materials and BCR forms to ensure background checks are completed timely. Although the Individuals Module will have a new look, the method for entering applicants and other individuals into the system is the same. Once the individual is added, certification workers shall upload the BCR form using the Documents link in the Individuals Module.

Adding a New Individual:

Location Details ✓Location ✓Subsidy Details ✓Pets ✓Other Licenses ✓Transportations ✓Insurances ✓Comments ✓Alternate Addresses ✓Transactions ✓Collections ✓Individuals Registry Details Registry Staff Monitoring Plans ✓Site Visits ✓Monitoring Results Health & Safety Results ✓Complaints/Incidents	Applicants/Licensees				
	Add Applicant/Licensee				
	Name	Date of Birth	Employment Period	Effective Period	Role(s)
	John Bowman	11/20/1956	12/02/2011	12/02/2011	Applicant/Licensee
Other Individuals					
Add New Individual Select Individuals from other Locations					
Name	Date of Birth	Employment Period	Effective Period	Role(s)	
Mickey Mouse	06/04/1951	03/19/2018	03/19/2018	Employee	

Upload BCR form under Documents:

Other Individuals					
Name	Date of Birth	Employment Period	Effective Period	Role(s)	
Mickey Mouse	06/04/1951	03/19/2018	03/19/2018	Employee	
Request Form Aliases Background Check Fingerprint Request Training Documents Confidential Documents					

A new Employment/Residency screen captures the following information for each individual:

- Primary Role
- Secondary Role
- Employment/Residency Status
- Employment/Residency Begin Date and End Date
- Relationship
- Any Contact with Children?
- Apply Background Check Fee to this location? This field can only be updated by the CBU staff. Certified operators will be invoiced for annual background checks for all individuals who are required to have an annual check. If a person is associated with multiple child care programs/locations, the system will invoice the location where the individual has been associated longest. If an employee in a licensed program applies for certification, the location where the person is the applicant/operator will be invoiced.

Employment/Residency Details	
Effective Begin Date	3/19/2018
Primary Role *	Household Member Over 18 ▼
Secondary Role	▼
Employment/Residency Status *	Current ▼
Employment/Residency Begin Date *	3/19/2018 <input type="text"/>
Employment/Residency End Date	<input type="text"/>
Relationship	Boyfriend ▼
Any Contact With Children? *	<input checked="" type="radio"/> Yes <input type="radio"/> No
Apply ongoing background check fee to this location *	<input checked="" type="radio"/> Yes <input type="radio"/> No

The Individual Details screen now captures the individual's home address. Eligibility notices will be mailed to this address.

Secondary Phone Type Home Cell Work

Email

Home Address

Address Line1 *

Address Line2

City *

State *

Zip Code *

Certifiers will transfer information from the BCR form into WISCCRS using the Request Form link:

Name	Date of Birth	Employment Period	Effective Period	Role(s)
Patty Pond	03/03/1963	04/01/2018	08/08/2018	Teacher - Lead
Request Form Aliases Background Check Fingerprint Request Training Documents Confidential Documents				

The certification worker enters the answers as indicated on the BCR form. If Yes is chosen, additional details display below the question. Any supporting documents collected by the certification agency or CBU shall be uploaded into the Documents section under the individual.

Add Background Check Request Form

Effective Period 8/27/2018

1. Have you been discharged from a branch of the U.S. Armed Forces, including any reserves duty? Yes No

Add Background Check Request Form

Effective Period 8/27/2018

1. Have you been discharged from a branch of the U.S. Armed Forces, including any reserves duty? Yes No

If yes, indicate the year of discharge:

If you were discharged within the last three years, attach a copy of your DD 214 - Certificate of Release or Discharge from Active Duty or other discharge papers.

Comments

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After the Individual Details page and the BCR page have been completed, the system-generated Fingerprint Instruction letter is mailed to the applicant as part of a nightly batch process. If the certification worker fails to complete both of these pages, the system-generated Fingerprint Instruction letter will not be mailed. If the certification worker does not enter individuals in WISCCRS promptly after receiving BCR forms, this will delay the background check process. Certification workers can view the status of the fingerprint request by clicking on the Fingerprint Request link.

Other Individuals

[Add New Individual](#) [Select Individuals from other Locations](#)

Name	Date of Birth	Employment Period	Effective Period	Role(s)
Patty Pond	03/03/1963	04/01/2018	08/08/2018	Teacher - Lead
Request Form Aliases Background Check Fingerprint Request Training Documents Confidential Documents				

Show individuals no longer at this location

Individual									
Name Patty Pond					Date of Birth 3/3/1963				
Address 123 Pond Pass Lakeland, WI 12121					Primary Phone# (121) 212-1212(Home)				
Individual Fingerprint									
Request Status	Materials Sent Date	Sent Date	Received Type	Received Date	Requested Date	Transaction Control Number	Reference Number	Updated Date	
Fingerprint Materials Sent	08/16/18						PO2000694	08/15/18	 

The Fingerprint Instruction letter is mailed to the operator and includes a Fieldprint Code (FPWIDCFLicensee) and a unique reference code needed to schedule a fingerprint appointment online at Fieldprintwisconsin.com. The reference code may only be used by the individual identified in the letter and cannot be shared or used by other individuals. The reference code ties the background check result to the individual's record in WISCCRS. If an individual enters an incorrect reference code when scheduling the [Fieldprint](#) appointment this may impede the automated background check and further delay the background check review and eligibility determination.

Once the fingerprint-based background check results have been received from DOJ through the WISCCRS interface, a task is generated in the CBU's Dashboard alerting CBU staff to review the results. After reviewing the DOJ/FBI results for barred offenses, the CBU staff modifies the Preliminary Status to Ineligible or Eligible. In either scenario, the system generates a preliminary eligibility letter to the individual and the applicant/operator (also viewable in the portal). Once all of the remaining background checks are completed, the Final Decision Date and Decision Status are entered in WISCCRS by CBU staff. If the person is approved, the system sends an approval letter to the individual and the operator the following day. If the decision is to deny, a detailed manual letter is drafted by the CBU and sent to the individual and a system-generated letter is sent to the operator.

Note: The Fieldprint Code, *FPWICertification*, previously used for certification will be invalid after 9/30/18 and cannot be used to schedule a Fieldprint appointment. The new Fieldprint code to be used for certification is *FPWIDCFLicensee*.

For Existing Operators

The department will mail Fingerprint Instruction letters to existing operators in the summer of 2019. Starting 10/1/18, existing operators may access the BCR in the portal on the Individuals page to request a background check on a new prospective caregiver, employee or household member, rather than submitting paper BCR forms to the certification agency. Updates made in the portal will automatically flow into the WISCCRS Individual Module, create system-generated Fingerprint Instruction letters described above and generate tasks in the CBU's Dashboard.

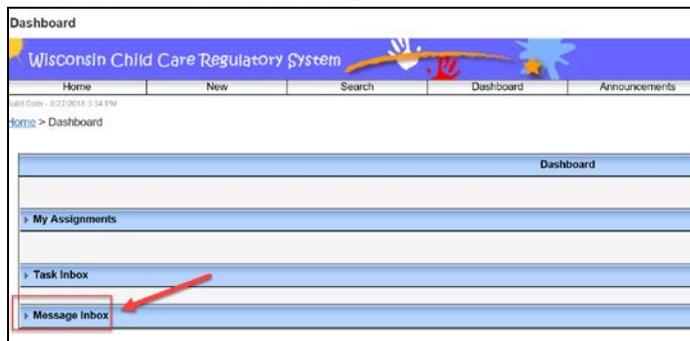
Operators who do not have access to the portal may report new prospective caregivers, employees, or household members by contacting the certification agency and submitting paper BCR forms. The certification worker must enter the individual and the BCR in WISCCRS promptly to ensure background checks are completed expeditiously.

Wis. Stats. §48.686(2) requires operators to submit to the department information required for a background check in the manner and on forms prescribed by the department. If an operator fails to request a background check for a new caregiver, noncaregiver employee or household member the certification agency has authority to cite a violation of DCF 202.08(1)(e)1:

Administration. A certified family child care operator shall do all of the following: Comply with all local and state laws governing the certified child care program and its operation and ensure that all employees and volunteers comply with these laws.

WISCCRS Dashboard

The CBU will communicate to certification agencies any determinations made at each point in the background check approval process via the agency’s WISCCRS Dashboard Message Inbox. Certification workers will also receive messages in the dashboard when an operator submits a new BCR in the portal. Example message: “*New Individual Added to Certified Location.*” Certification workers will need to log into the Dashboard regularly to receive timely communication from the CBU.



Viewing Background Check Results

Certification workers may view the DOJ/DHS results in WISCCRS but will not have access to FBI results. Certification workers may view a Guide to Relevancy document (located in the Individuals Module) which summarizes the CBU’s thorough background check review. Certification workers may contact the CBU if they have questions regarding the status of a background or eligibility determination.



Note: Effective 10/1/18, certification workers are no longer able to enter background checks in WISCCRS.

Certification workers should refer to WISCCRS User Guides for additional automation instruction and updates.

CONTACTS:

DCF Caregiver Background Check Unit: 608-422-7400 or dcfplicbecrcbu@wisconsin.gov

For child care certification policy questions, contact your Bureau of Regional Operations (BRO), Child Care Coordinator BROCCPolicyHelpDesk@wisconsin.gov or the BECR Certification Specialist DCFCertificationSpecialist@wisconsin.gov

DCF/DECE/BECE/JI