

January 25, 2021

Child Welfare Licensing Memo Series 2021-06-lic

To: Residential Care Center Providers
Group Home Providers
Shelter Care Facilities

From: Wendy Henderson
Administrator



RE: Emergency Rule EmR2009

Purpose:

This memo provides updated information on the rules that were suspended and statutory exceptions that allowed regarding congregate care staff hours, shelter care time limits, and the timeliness of routine health and dental exams due to the COVID-19 pandemic. The DCF Emergency Rule that was promulgated in spring 2020 that provided these flexibilities will expire effective February 12, 2021.

Emergency Rule EmR2009 also included flexibility to the fingerprint-based background requirements for employees in congregate care but this exception was previously ended effective October 1, 2020, as communicated in [Child Welfare Licensing Memo Series 2020-28-lic](#).

Background:

The President issued a Proclamation on Declaring a National Emergency Concerning the Novel Coronavirus Disease (COVID-19) Outbreak on March 13, 2020. The Secretary of Health and Human Services (HHS) declared a public health emergency on January 31, 2020, under §319 of the Public Health Service Act (42 U.S.C. §247d), in response to the COVID-19 pandemic. Additionally, the President issued major disaster declarations for many jurisdictions due to the COVID-19 pandemic.

In May 2020, DCF promulgated Emergency Rule 2009, which suspended some rules and provided exceptions to the following regulatory requirements relevant to congregate care:

- DCF 52.21(8)(a), Wis. Admin Code, which requires a facility to obtain information from health and dental exams or ensure the completion of health and dental exams within certain timeframes after a child is admitted to a residential care center;
- DCF 52.45(1)(a) and (b), Wis. Admin Code, which requires ongoing physical and dental exams for children and youth placed in residential care centers;
- DCF 57.19(7), Wis. Admin. Code, which requires a facility to obtain information from a health exam or ensure the completion of a health examination within a certain timeframe for children placed in group homes;
- DCF 57.26, Wis. Admin. Code, which requires a facility to obtain information from a dental exam or ensure the completion of a dental examination within a certain timeframe for children placed in group homes, as well as ensure ongoing dental care.

- DCF 52.12(1)(c)2. and 3., Wis. Admin. Code, which sets hour limits on staff scheduling in residential care centers;
- DCF 59.05(3)(b)1. and 2., Wis. Admin Code, which dictates how long a child may be placed in a shelter care facility.

Information Summary:

Any suspensions of the above rules and exceptions to rule requirements that were authorized by Emergency Rule 2009, will expire effective February 12, 2021. Requirements that were suspended under the emergency rules outlined above, and any exceptions to rules that were granted by the department under Emergency Rule 2009, are no longer in effect as of that date. All residential care centers for children and youth, group homes, and shelter care facilities are expected to follow all administrative rules that govern their license by this date unless they have otherwise been granted exceptions to a rule. Exceptions to any rules must be requested and approved by DCF. For further guidance, visit the DCF COVID-19 website.

If you have any questions, please contact your licensing specialist.

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MEMO WEBSITE: <https://dcf.wisconsin.gov/cwportal/policy>

LINKS: <https://dcf.wisconsin.gov/covid-19>
 https://docs.legis.wisconsin.gov/code/emergency_rules/all/emr2009