This memo outlines requirements under Levels of Care that do not apply to tribally-administered Kinship Care programs.
The new requirements under Act 71 still apply to all Ch. 48 or 938 state court ordered Kinship Care placements.

Questions and answers regarding this decision are attached to this numbered memo, and will be updated as more questions and answers are developed for future clarification.

REGIONAL OFFICE CONTACT: DCF Area Administrator

CENTRAL OFFICE CONTACT: Out of Home Care Section Chief
Division of Safety and Permanence
Bureau of Permanence and Out of Home Care
608-422-6930

Kinship Care Coordinator
Division of Safety and Permanence
Bureau of Permanence and Out of Home Care
608-422-6921

MEMO WEB SITE: https://dcf.wisconsin.gov/cwportal/policy

Attachment: Questions and Answers
Levels of Care Initiative – Applicability to Tribes
Questions and Answers

1. If tribes are not required to comply with the new rules under Levels of Care, how will funding for tribally-administered Kinship Care programs work?
   a. Any tribal court-ordered placement with a Kinship Care relative will work the same way that it does now. Tribes will continue to receive the same TANF funding to pay for those Kinship Care payments, and those Kinship Care providers are under no obligation to apply for foster care licensure.

2. What if a tribe does want to participate in the Levels of Care program?
   a. Tribes can use their discretion in applying the eligibility standards where discretion is allowed (e.g., whether a crime should be a bar to Kinship Care), but they must apply the applicable eligibility requirements.

3. What about the other aspects of the Levels of Care program (such as the requirement that a foster parent be certified at a certain level to receive various levels of payments, and the requirement that children be assessed at a certain level of need)? Has the Department determined whether those provisions apply to the tribes?
   a. This issue will need to be addressed in the coming year, because levels 3 through 5 will not be implemented until 2011. During the next year, the Department will meet with tribes, work with the Tribal/State Policy and Law Workgroup, and consult other tribal stakeholders to determine the best strategy for implementing levels of care for children placed in foster care under a tribal court order.

4. What if a Ch. 48 or 938 state court orders a Kinship Care placement in the home of a tribal member living on a reservation? Under the Levels of Care initiative, can the Kinship Care provider continue to receive payments?
   a. In that scenario, the provider would have to apply for licensure from a licensing authority in order to continue to receive payments, unless the case is transferred to tribal court.

5. Under the Levels of Care initiative, if a tribe transitions court-ordered Kinship Care providers to foster parents, how will they be funded since most tribes do not have out-of-home care budgets?
   a. This process does not change under Levels of Care. The process for funding will depend upon whether the tribe has a 161 Agreement with the county of the child’s residence and on the content of the Agreement, or whether the funding can be negotiated on a case-by-case basis. It may be necessary for the tribe and county to enter into or revise a 161 Agreement, or the tribe will have to somehow fund the placement, or the case could be transferred to state court.