

sion of the director or his or her designee under this paragraph has a right to appeal the decision under ch. 68.

(5d) (a) Any Indian tribe that chooses to conduct rehabilitation reviews under sub. (5) shall submit to the department a rehabilitation review plan that includes all of the following:

1. The criteria to be used to determine if a person has been rehabilitated.

2. The title of the person or body designated by the Indian tribe to whom a request for review must be made.

3. The title of the person or body designated by the Indian tribe to determine whether a person has been rehabilitated.

3m. The title of the person or body, designated by the Indian tribe, to whom a person may appeal an adverse decision made by the person specified under subd. 3. and whether the Indian tribe provides any further rights to appeal.

4. The manner in which the Indian 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 required under sub. (5g).

5. 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.

(b) If, within 90 days after receiving the plan, the department does not disapprove the plan, the plan shall be considered approved. If, within 90 days after receiving the plan, the department disapproves the plan, the department shall provide notice of that disapproval to the Indian tribe in writing, together with the reasons for the disapproval. The department may not disapprove a plan unless the department finds that the plan is not rationally related to the protection of clients. If the department disapproves the plan, the Indian tribe may, within 30 days after receiving notice of the disapproval, request that the secretary review the department's decision. A final decision under this paragraph is not subject to further review under ch. 227.

(5g) Beginning on January 1 1999, and annually thereafter, the department shall submit a report to the legislature under s. 13.172 (2) that specifies the number of persons in the previous year who have requested to demonstrate that they have been rehabilitated under sub. (5) (a), the number of persons who successfully demonstrated that they have been rehabilitated under sub. (5) (a) and the reasons for the success or failure of a person who has attempted to demonstrate that he or she has been rehabilitated.

(5m) Notwithstanding s. 111.335, the department may refuse to license a person to operate an entity, a county department or a child welfare agency may refuse to license a foster home under s. 48.62, the department in a county having a population of 750,000 or more or a county department may refuse to provide subsidized guardianship payments to a person under s. 48.623 (6), and an entity may refuse to employ or contract with a caregiver or congregate care worker or permit a nonclient resident to reside at the entity or with a caregiver specified in sub. (1) (ag) 1. am. of the entity if the person has been convicted of an offense that is not a serious crime, but that is, in the estimation of the department, county department, child welfare agency, or entity, substantially related to the care of a client.

(6) (a) Except as provided in this paragraph, the department shall require any person who applies for issuance, continuation, or renewal of a license to operate an entity, a county department or a child welfare agency shall require any person who applies for issuance or renewal of a license to operate a foster home under s. 48.62, and the department in a county having a population of 750,000 or more or a county department shall require any person who applies for subsidized guardianship payments under s. 48.623 (6) to complete a background information form that is provided by the department.

NOTE: Par. (a) is shown as affected by 2017 Wis. Acts 59 and 365 and as merged by the legislative reference bureau under s. 13.92 (2) (i).

(am) Every 4 years an entity shall require all of its caregivers, nonclient residents, congregate care workers, and nonclient resi-

dents of a caregiver specified in sub. (1) (ag) 1. am. to complete a background information form that is provided to the entity by the department.

(b) 1. For caregivers who are licensed by the department, for persons who are nonclient residents of an entity that is licensed by the department, and for other persons specified by the department by rule, the entity shall send the background information form to the department.

2. For caregivers who are licensed by a county department, for persons who are nonclient residents of an entity that is licensed by a county department, and for other persons specified by the department by rule, the entity shall send the background information form to the county department.

3. For caregivers who are licensed by a child welfare agency, for persons who are nonclient residents of an entity that is licensed by a child welfare agency and for other persons specified by the department by rule, the entity shall send the background information form to the child welfare agency.

(c) A person who provides false information on a background information form required under this subsection may be required to forfeit not more than \$1,000 and may be subject to other sanctions specified by the department by rule.

(7) The department shall do all of the following:

(c) Conduct throughout the state periodic training sessions that cover criminal background investigations; reporting and investigating misappropriation of property or abuse or neglect of a client; and any other material that will better enable entities to comply with the requirements of this section.

(d) Provide a background information form that requires the person completing the form to include his or her date of birth on the form.

(8) The department, the department of health services, a county department, or a child welfare agency may charge a fee for obtaining the information required under sub. (2) (am) or (3) (a), for providing information to an entity to enable the entity to comply with sub. (2) (b) or (3) (b), or for obtaining and submitting fingerprints under sub. (2) (ba) or (bm) or (3) (c). The fee may not exceed the reasonable cost of obtaining the information or of obtaining and submitting fingerprints. No fee may be charged to a nurse aide, as defined in s. 146.40 (1) (d), for obtaining or maintaining information or for obtaining and submitting fingerprints if to do so would be inconsistent with federal law.

(9) The department may promulgate any rules necessary for the administration of this section.

History: 1997 a. 27, 237, 281; 1999 a. 9, 32, 56, 185, 186; 2001 a. 109; 2003 a. 321; 2005 a. 149, 184, 277; 2007 a. 20 ss. 1346 to 1358, 9121 (6) (a); 2007 a. 97, 111, 116, 130, 153; 2009 a. 28, 76, 94, 185; 2011 a. 32, 35, 87, 258; 2013 a. 20, 165, 170, 334; 2015 a. 55, 129, 172, 366, 371; 2017 a. 12, 59, 128, 283; 2017 a. 364 s. 49; 2017 a. 365; 2019 a. 9; 2021 a. 72, 76; s. 13.92 (2) (i).

Cross-reference: See also ch. DHS 12, Wis. adm. code.

48.686 Criminal history and child abuse record search; child care. (1) In this section:

(ac) "Approval" means a child care center license under s. 48.65, a child care provider certification under s. 48.651, or a contract with a child care provider under s. 120.13 (14).

(ag) "Caregiver" means any of the following:

1. An employee or contractor of a child care program who is involved in the care or supervision of clients.

1m. A person who has direct contact and unsupervised access to clients of a child care program.

2. A person who has, or is seeking, a license, certification, or contract to operate a child care program.

(aj) "Child care program" means a child care center that is licensed under s. 48.65 or established or contracted for under s. 120.13 (14), a child care provider that is certified under s. 48.651, or a temporary employment agency that provides caregivers to another child care program.

(am) "Client" means a person who receives direct care from a child care program, from an entity under s. 48.685 (1) (b) or from