

5224.0090 BABYSITTERS.

Subpart 1. **Definition.** Babysitters are individuals who provide child-care services to parents and are not licensed to operate day care centers under Minnesota Statutes, chapter 245. Subparts 2 and 3 are applicable only if the threshold requirements of Minnesota Statutes, section 176.041, subdivision 1, have been met.

Subp. 2. **Independent contractor.** A babysitter is an independent contractor if all of the following criteria are substantially met.

A. The babysitter takes care of another's child in the babysitter's own home or other premises under the babysitter's control.

B. The instructions given to the babysitter by the parents are general in nature, relating to matters of diet, health, rest, special foods to be given to the child, and who to contact in an emergency.

C. The babysitter is allowed to exercise judgment on matters as to the amount of time and attention the child requires, the types of meals to serve, and the manner of coping with situations which may arise.

D. The babysitter is free to perform household chores when the child does not require personal attention.

Subp. 3. **Employee.** A babysitter is an employee if all of the following criteria are substantially met.

A. The babysitter performs child-care services in the home of the child's parents.

B. The babysitter has been engaged to devote services exclusively to the performance of the employer's work.

C. The babysitter is given instructions regarding such matters as the amount of time and attention the child requires, the types of meals to serve, and the manner of coping with situations that may arise.

Subp. 4. **Babysitter services contracted through agencies.** A babysitter is an employee of an agency in the business of supplying names of babysitters if all of the following criteria are substantially met.

A. The agency maintains a register of names and addresses of individuals whom the agency determines are qualified to perform babysitter services. The agency advertises and otherwise holds itself out to the public as being engaged in the business of furnishing a babysitter service.

B. The agency fixes the fee to be charged for the services and notifies the babysitter where to report and the hours to be worked.

C. The babysitter pays the agency a specified amount or a percentage of the wages. Appearance and the performance of services must be guided by standards and rules issued by the agency.

D. The babysitter must notify the agency when not available for an assignment and usually agrees to restrict work to that furnished by the agency.

E. Any complaints as to the quality of the services are made by the parents to the agency, and the agency may remove the babysitter's name from its register.

Statutory Authority: *MS s 176.041; 176.83*

History: *10 SR 1852*

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