

### **3400.0120 ELIGIBLE CHILD CARE PROVIDERS AND CHILD CARE PROVIDER REQUIREMENTS.**

#### **Subpart 1. Eligible child care provider.**

A. A registered child care provider who meets the definition of a child care provider in Minnesota Statutes, section 119B.011, subdivision 19, is eligible for payments from the child care fund.

B. A parentally responsible individual may choose one or more eligible child care providers that best meet the needs of the individual's family with the following limitations:

(1) licensed family and legal nonlicensed child care providers and the child care provider's employees are not eligible to receive child care subsidies for their own children or children in their family during the hours that the child care providers and employees provide child care or are paid to provide child care;

(2) a licensed child care center or a certified license-exempt child care center must have no more than 25 authorized center employees' children or dependents at the child care center; and

(3) a CCAP agency must not authorize a child to receive care from any more than two of the following child care providers receiving payments from the child care fund:

(a) a licensed child care center;

(b) a licensed family child care provider; or

(c) a certified license-exempt child care center.

C. A CCAP agency or the commissioner may take action against a child care provider according to Minnesota Statutes, section 119B.13, subdivision 6, paragraph (d), clauses (1) to (7). A CCAP agency must indicate in the agency's child care fund plan which clauses in Minnesota Statutes, section 119B.13, subdivision 6, paragraph (d), the agency is implementing and must apply the policies consistently. For the purposes of implementing Minnesota Statutes, section 119B.13, subdivision 6, paragraph (e), a CCAP agency or the commissioner must (1) develop standards to define when a child care provider has corrected a condition, and (2) describe the conditions under which the CCAP agency or commissioner will withhold a child care provider's payment within the three-month time period. If a CCAP agency or the commissioner develops standards for escalating consequences to a child care provider within the three-month time period, any violation that the CCAP agency or the commissioner establishes under Minnesota Statutes, section 119B.13, subdivision 6, paragraph (d), is treated as a statewide occurrence. If the CCAP agency or commissioner terminates a child care provider's registration, the child care provider must complete the registration process in Minnesota Statutes, section 119B.011, subdivision 19a, and a CCAP agency or the commissioner must determine that the child care provider has re-established eligibility before the child care provider may receive any child care assistance payments.

**Subp. 1a. Child care provider registration and acknowledgment.** A child care provider must sign and submit a child care provider registration and acknowledgment form and register as

a child care provider before the child care provider or a parentally responsible individual is eligible to receive payments from the child care fund. The process for registering a child care provider eligible for payments from the child care fund must not exceed 30 calendar days from the date that the child care provider's registration and acknowledgment form is received or the date the child care provider's background study determination required by Minnesota Statutes, section 119B.125, subdivision 1a, is received, whichever is later. The child care provider registration and acknowledgment form must include the following information:

A. the child care provider's rate, charges for child absences and holidays, any notice days required before a child discontinues receiving child care, and any required registration fees;

B. documentation of the child care provider's license status and, if the child care provider is seeking a higher rate for quality based on accreditation or credential, documentation of the accreditation or credential held by the child care provider;

C. a statement acknowledging that charging child care assistance participants more than families who are not receiving child care assistance for like services or wrongfully obtaining child care assistance may be investigated and may be a crime;

D. a statement acknowledging that a parentally responsible individual must be given unlimited access to the individual's child and to the child care provider caring for the child during all hours that the child is in the child care provider's care;

E. a statement acknowledging that the child care provider is responsible for notifying the CCAP agency as provided in subpart 5 of child absence days, reduced attendance, and the end of child care;

F. a statement acknowledging that the child care provider is responsible for reporting any changes to the information supplied by the child care provider in the provider's registration and acknowledgment form;

G. a statement acknowledging that the child care provider is a mandated reporter of maltreatment of minors under Minnesota Statutes, chapter 260E;

H. a statement acknowledging that when the CCAP agency knows that a particular child care provider or child care arrangement is unsafe, the CCAP agency may deny child care assistance payments to the child care provider while following the termination notice requirements in part 3400.0185, subpart 13;

I. a statement acknowledging that the child care provider is responsible for maintaining daily attendance records according to Minnesota Statutes, section 119B.125, subdivision 6;

J. a statement acknowledging that the child care provider is responsible for maintaining documentation of payment of child care expenses by a source other than the child's family according to Minnesota Statutes, section 119B.09, subdivision 11;

K. a statement acknowledging that if the child care provider receives an overpayment from the child care fund, the CCAP agency or the commissioner must deduct the overpayment from payments under part 3400.0187; and

L. a statement acknowledging that the child care provider must not bill for a holiday unless the child care provider provides child care on the holiday, the child is scheduled and authorized to be in child care on the holiday, and the child care provider correctly indicates the day of the holiday when billing.

Subp. 1b. [Repealed, 33 SR 695]

Subp. 1c. **Registration of licensed child care centers, licensed family child care providers, and certified license-exempt child care centers.** To register as a child care provider, a licensed child care center, a licensed family child care provider, and a certified license-exempt child care center must provide:

A. the child care provider registration and acknowledgment form required by subpart 1a;

B. a completed request for taxpayer identification number and certification when a child care provider is registering for the first time or registering after the child care provider's registration has been terminated; and

C. a statement acknowledging that the child care provider must not bill for absent days unless a child is absent for all scheduled hours on a day and the child care provider correctly indicates the absent day when billing.

Subp. 1d. **Certification of license-exempt child care centers.** For a license-exempt child care center to receive payments from the child care fund, the license-exempt child care center must be registered, eligible under subpart 1, and certified under Minnesota Statutes, chapter 245H. If the child care provider loses the child care provider's certification under Minnesota Statutes, chapter 245H, the child care provider's registration and all of the child care provider's child care authorizations must be terminated with a 15-day adverse action notice.

Subp. 2. **Registration of legal nonlicensed child care providers.**

A. To register, a legal nonlicensed child care provider must provide:

- (1) the child care provider's name, age, and address;
- (2) the child care provider registration and acknowledgment form required by subpart 1a;
- (3) an assurance that the child care provider is eligible to provide unlicensed child care under Minnesota Statutes, section 245A.03, subdivision 2, paragraph (a);
- (4) a release to permit disclosure of information to the public on substantiated parental complaints concerning the health and safety of children in the child care provider's care according to Minnesota Statutes, chapter 13;

(5) an assurance that the child care provider is in compliance with state and local health ordinances and building and fire codes applicable to the premises where the child care provider provides child care;

(6) a statement acknowledging that the parentally responsible individual and the legal nonlicensed child care provider have reviewed the health and safety information provided during the registration process;

(7) a statement acknowledging that the legal nonlicensed child care provider must notify the CCAP agency when any of the following events occur: a child dies in the child care provider's care, a child has been maltreated in the child care provider's care, or a child has had a serious injury requiring treatment by a physician in the child care provider's care;

(8) a statement acknowledging that the legal nonlicensed child care provider is not currently excluded or debarred from being a child care provider in any program administered by the commissioner; and

(9) verification of training required by subpart 6 and Minnesota Statutes, section 119B.125, subdivision 1b.

B. A legal nonlicensed child care provider who will receive payment from the child care fund must provide the child care provider's Social Security number or tax identification number. The legal nonlicensed child care provider must be informed under what statutory or other authority the number is solicited and how the number will be used.

C. Legal nonlicensed child care providers must provide an assurance that the child care provider will obtain an immunization record for each child in the child care provider's care within 30 days of the first day providing child care for the child.

D. At the time of registration, a legal nonlicensed child care provider must be provided with health and safety materials supplied by the commissioner.

E. A legal nonlicensed child care provider must be informed that a record of substantiated parental complaints concerning the health and safety of children in the care of legal nonlicensed child care providers will be kept and that, upon request, information governing substantiated complaints must be released to the public as authorized under Minnesota Statutes, chapter 13.

**Subp. 2a. Release for in-home child care providers.** An in-home child care provider must register as a child care provider and sign a release allowing the parentally responsible individual employing the child care provider to receive information on the remittance advice about the amount of any funds being withheld from payment of the child care provider and the reason for the withholdings. An in-home child care provider must be a legal nonlicensed child care provider or a child care provider licensed to provide child care in the child's home.

**Subp. 3. Parental access to children in child care.** A child care provider must give a parentally responsible individual unlimited access to the parentally responsible individual's child and to the child care provider caring for the child during all hours that the child is in the child care provider's care.

Subp. 4. [Repealed, 26 SR 253]

Subp. 5. **Child care provider reporting requirements.**

A. In addition to the reporting requirements in Minnesota Statutes, section 119B.125, subdivision 9, when a child care provider knows that a family has terminated child care with the child care provider, the child care provider must notify the CCAP agency that a family has terminated child care. When a child care provider believes that a family will be ending child care with the child care provider, the child care provider must notify a CCAP agency of the date on which the child care provider believes that the family will end child care. A child care provider must also notify a CCAP agency if a child or children have been absent for more than seven consecutive scheduled days. With the exception of the reporting requirements in Minnesota Statutes, section 119B.125, subdivision 9, a child care provider may notify a CCAP agency of a change by reporting the change in person, by telephone, by facsimile, by mail, electronically, by email, or by reporting the change when billing or on a change reporting form.

B. A legal nonlicensed child care provider must report to the CCAP agency when any of the following events occur: a child dies in the child care provider's care, a child is maltreated in the child care provider's care, or a child has a serious injury requiring treatment by a physician in the child care provider's care.

Subp. 6. [Renumbered subp 7]

Subp. 6. **Legal nonlicensed child care provider training requirements.**

A. In addition to the training requirements in Minnesota Statutes, section 119B.125, subdivision 1b, a legal nonlicensed child care provider must complete:

(1) pediatric first aid training provided by an individual approved to provide pediatric first aid instruction. A child care provider's pediatric first aid training must be valid at the time of the child care provider's registration approval;

(2) preventing sudden unexpected infant death syndrome training approved by the commissioner that the child care provider completed within two years prior to receiving an initial authorization to care for a child under one year of age;

(3) preventing abusive head trauma training approved by the commissioner that the child care provider completed within two years prior to receiving an initial authorization to care for a child under five years of age; and

(4) federal health and safety requirements approved by the commissioner within 90 days of receiving authorization to care for a child who is not related to the child care provider. If a child care provider does not complete training under this subitem within 90 days of receiving an authorization to care for an unrelated child, the child care provider's authorization for all unrelated children must be terminated with a 15-day adverse action notice. If a child care provider completes training under this subitem, the child care provider is eligible for an authorization for an unrelated child effective on the date that the child care provider completes training under Minnesota Statutes, sections 119B.09, subdivision 7, and 119B.13, subdivision 6, paragraph (c).

B. At each registration renewal, a legal nonlicensed child care provider caring for an unrelated child must have:

(1) pediatric first aid training provided by an individual approved to provide pediatric first aid instruction. A child care provider's pediatric first aid training must be valid at the time of the child care provider's registration renewal approval;

(2) pediatric cardiopulmonary resuscitation training provided by an individual approved to provide pediatric cardiopulmonary resuscitation training. A child care provider's pediatric cardiopulmonary resuscitation training must be valid at the time of the child care provider's registration renewal approval; and

(3) federal health and safety requirements training approved by the commissioner that the child care provider completed within the last 12 months.

C. A legal nonlicensed child care provider must attest and verify that the legal nonlicensed child care provider has completed all required training.

**Subp. 7. Legal nonlicensed child care provider capacity and age distributions.**

A. A legal nonlicensed child care provider, as defined by Minnesota Statutes, section 119B.011, subdivision 16, is eligible for payment from the child care fund for up to eight children who are 12 years of age and younger and 13 or 14 years of age with special needs due to a disability. The children must be:

(1) related to the child care provider;

(2) unrelated to the child care provider from a single family; or

(3) related to the child care provider and unrelated to the child care provider from a single family.

B. When a legal nonlicensed child care provider cares for children, the children must be within the following age distributions to be eligible for payment from the child care fund:

(1) there must be no more than two children who are at least six weeks old but less than 12 months old;

(2) there must be no more than three children who are less than 24 months old within the age limits of subitem (1); and

(3) there must be no more than six children who are five years of age or younger within the age limits of subitems (1) and (2).

C. A CCAP agency must consider the following factors when authorizing child care with a legal nonlicensed child care provider.

(1) Children who are 12 years of age and younger count toward the eight-child limit. Children who are 13 or 14 years of age with special needs due to a disability and authorized for payment under the child care fund count toward the eight-child limit.

(2) The total number of children who are 12 years of age and younger must include the legal nonlicensed child care provider's own children when the child care provider's own children are present at the child care site.

(3) The limit of eight children as described in subitems (1) and (2) applies at all times to the child care site.

**Subp. 8. Legal nonlicensed child care provider health and safety requirements.**

A. A legal nonlicensed child care provider must comply with all applicable federal health and safety requirements, including preventing and controlling infectious diseases, administering medications, preventing and responding to allergic reactions, ensuring building and physical premises safety, handling and disposing of bodily fluids, transporting children, preventing and reporting child abuse and neglect, emergency preparedness and response, child development, and the federal health and safety training requirements in subpart 6.

B. A legal nonlicensed child care provider must develop an emergency preparedness plan and make the plan available to a CCAP agency upon request. A CCAP agency must give a child care provider 15 calendar days to submit an emergency preparedness plan, if requested by the CCAP agency. If a child care provider fails to make the child care provider's emergency preparedness plan available to a CCAP agency, the child care provider's registration and all of the child care provider's child care authorizations must be terminated with a 15-day adverse action notice.

**Subp. 9. Legal nonlicensed child care provider annual monitoring.**

A. Any legal nonlicensed child care provider who is authorized to care for an unrelated child must complete an initial annual monitoring visit within 12 months of child care authorization. The initial annual monitoring visit includes evaluating the child care environment and determining whether the child care provider meets the health and safety requirements in subpart 8.

B. After the initial annual monitoring visit, a legal nonlicensed child care provider must complete a subsequent annual monitoring visit within 12 months of the initial visit for child care authorization of an unrelated child to continue. If a CCAP agency terminates a child care provider's child care authorization of an unrelated child and the CCAP agency later issues a new authorization to the child care provider for an unrelated child, the child care provider must complete an annual monitoring visit within 12 months of the previous visit or within 90 days from the date that a CCAP agency issued the child care authorization, whichever is later.

C. The commissioner must publicly post monitoring visit result summaries online.

D. If a legal nonlicensed child care provider does not demonstrate full compliance with the health and safety requirements in subpart 8 and the child care provider may demonstrate compliance by submitting additional written information, a CCAP agency must allow the child care provider 15 calendar days to submit the additional information. If a CCAP agency does not receive written information establishing the child care provider's compliance with health and safety requirements, the child care provider's registration and all of the child care provider's child care authorizations must be terminated with a 15-day adverse action notice.

E. If a legal nonlicensed child care provider does not comply with at least one health and safety requirement under subpart 8 and the child care provider is unable to demonstrate compliance by submitting additional written information, the child care provider's registration and all of the child care provider's child care authorizations must be terminated with a 15-day adverse action notice.

F. If a legal nonlicensed child care provider's registration is terminated for the child care provider's failure to demonstrate compliance with the annual monitoring visit, the CCAP agency must identify the conditions under which the child care provider may become eligible to receive child care assistance payments in the CCAP agency's child care fund plan.

G. If a legal nonlicensed child care provider is not available for a scheduled annual monitoring visit, a CCAP agency must allow 15 calendar days for the child care provider to reschedule the annual monitoring visit. If a child care provider is not available for a rescheduled visit, a CCAP agency must terminate the child care provider's authorizations for unrelated children with a 15-day adverse action notice. Once an annual monitoring visit is complete, a child care provider is eligible for child care authorizations for unrelated children effective on the date that the visit is completed under Minnesota Statutes, sections 119B.09, subdivision 7, and 119B.13, subdivision 6, paragraph (c).

H. If the annual monitoring visit reveals unsafe care as defined in the CCAP agency's child care fund plan, the child care provider's registration and all of the child care provider's child care authorizations must be terminated with a 15-day adverse action notice.

I. If the annual monitoring visit reveals imminent risk as defined in the CCAP agency's child care fund plan, the child care provider's registration and all of the child care provider's child care authorizations must be terminated as required by part 3400.0185, subpart 13.

**Statutory Authority:** *MS s 14.388; 119B.02; 119B.04; 119B.06; 256.01; 256H.01 to 256H.19*

**History:** *14 SR 519; 18 SR 1144; L 1999 c 205 art 5 s 21; 26 SR 253; 33 SR 695; 46 SR 323; 47 SR 391*

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