

3400.0130 CHILD CARE PROVIDER RATES.

Subpart 1. **Rate determination.** The commissioner shall determine the applicable maximum rate as described in Minnesota Statutes, section 119B.13. Any rate survey conducted by the commissioner shall include a survey of registration fees when it is usual and customary for a category of provider to charge registration fees.

Subp. 1a. **Maximum county child care assistance rate.** Except as provided in this part, the maximum rate that a county may pay for child care assistance is the provider's rate or the applicable maximum rate determined by the commissioner under Minnesota Statutes, section 119B.13, whichever is less. Except as provided in this part, if the provider's rate is more than the applicable maximum rate, the county may not pay more than the difference between the applicable maximum rate and the family's copayment fee.

Subp. 2. **Rate determination for license-exempt centers.** Rates paid to license-exempt centers as defined in Minnesota Statutes, section 245A.03, subdivision 2, must be the applicable maximum rate for licensed child care centers or the provider rate, whichever is less.

Subp. 2a. [Repealed, 30 SR 1318]

Subp. 3. **Rate determination; children with special needs.** A county must submit a request to pay a special needs rate to the commissioner. The request must be submitted with or as an amendment to the county child care fund plan. Upon written approval by the commissioner, the approved special needs rate must be paid retroactive to the date of the provider or parent request for the special needs rate.

Subp. 3a. **Rate determination; children with special needs due to disability.** When a parent or a provider asks the county for a special needs rate for an individual child with disabilities that exceeds the applicable maximum rate, the county must use the following process to determine whether a special needs rate is necessary and, if so, to establish the requested special needs rate. The county must:

- A. obtain documentary evidence of the child's disability;
- B. obtain the following documentation from the child care provider:
 - (1) a description of the specialized training, services, or environmental adaptations that the provider will furnish to meet the individual needs of the child;
 - (2) the provider's assurance of compliance with applicable provisions of the Americans with Disabilities Act;
 - (3) the provider's assurance that the rate being sought is the same as the rate that would be charged for similar services provided to a child with a disability in a family not receiving child care assistance; and

(4) if applicable, a statement from the provider explaining that the rate the provider charges for all children in care should be adopted as the special needs rate for the child with disabilities because the provider has chosen to spread the cost of caring for children with special needs across all families in care; and

C. seek the commissioner's approval of the special needs rate as provided in subpart 3.

Subp. 3b. **Rate determination; children with special needs due to inclusion in at-risk population.** To determine a special needs rate for a child who is included in an at-risk population defined in the county's child care fund plan, the county must use the following procedures. The county must:

A. obtain documentary evidence showing that the child is included in the at-risk population defined in the county's child care fund plan;

B. obtain the following documentation from the child care provider:

(1) a description of the specialized training, services, or environmental adaptations that the provider will furnish to meet the individual needs of the child or the at-risk population;

(2) the provider's assurance that the rate being sought is the same as the rate that would be charged for similar services provided to a child in the at-risk population in a family not receiving child care assistance; and

(3) if applicable, a statement from the provider explaining that the rate the provider charges for all children in care should be adopted as the special needs rate for the child in the at-risk population because the provider has chosen to spread the cost of caring for children with special needs across all families in care;

C. determine how many providers in the county offer child care for children in the at-risk population;

D. identify the 75th percentile rate if the county finds that four or more providers offer child care for children in the at-risk population and pay the 75th percentile rate, the rate negotiated with the provider by the county, or the provider's rate, whichever is less;

E. pay the lesser of the rate negotiated with the provider by the county or the provider's rate if the county finds that fewer than four providers offer child care for children in the at-risk population; and

F. seek the commissioner's approval of the special rate as provided in subpart 3.

Subp. 4. [Repealed, 26 SR 253]

Subp. 5. **Child care rate.** Child care payments shall be based on the applicable maximum rates in the county where care is provided when the care is provided in Minnesota.

When child care is provided outside the state of Minnesota, the maximum rate must be based on the applicable maximum rate in the participant's county of residence. If a child remains in an age-based child care setting beyond the age at which the licensing laws would allow that child to move to a different age-based child care setting and (1) the child's age is within the range allowed by the licensing laws for that age-based child care setting, or (2) the child is in that age-based child care setting due to a licensing variance, the maximum rate paid for that child's care must be the rate for the age-based child care setting in which the child is located. A child is considered to be in the school-age rate category on the September 1 following the child's fifth birthday unless the parent informs the county that the child will not be starting school. All changes to provider rates shall be implemented on the Monday following the effective date of the rate change.

Subp. 5a. **Rates for in-home care.** When care is provided in the child's home, the applicable maximum rate must be based on the allowable rate for legal nonlicensed family child care.

Subp. 6. [Repealed, 26 SR 253]

Subp. 7. **Payment of registration fees.** If a provider charges families a registration fee to enroll children in the program and the registration fee is not included in the provider rate, the county shall pay the provider registration fee or the 75th percentile of the registration fees surveyed in subpart 1, whichever is less. The county may not pay for more than two registrations per child in a 12-month period.

Subp. 8. [Repealed, L 2011 1Sp9 art 3 s 35]

Subp. 9. [Repealed, 26 SR 253]

Subp. 10. [Repealed, 26 SR 253]

Statutory Authority: *MS s 14.3895; 119B.02; 119B.04; 119B.06; 256.01; 256H.01 to 256H.19*

History: *14 SR 519; 18 SR 1144; 26 SR 253; 30 SR 1318; 33 SR 695; L 2011 1Sp9 art 3 s 35*

Published Electronically: *February 18, 2013*