

CHAPTER 3400
DEPARTMENT OF HUMAN SERVICES
CHILD CARE FUND

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3400.0010 PURPOSE AND APPLICABILITY.

Subpart 1. **Purpose.** The purpose of this chapter is to:

A. govern the administration of the child care fund, to reduce, according to a sliding fee schedule, the costs of child care services for eligible families to enable them to seek or retain employment or to participate in education or training programs to obtain employment; and

B. provide eligible families with financial resources to find and afford quality child care supporting their children's development, school readiness, and well-being. This chapter establishes child care assistance eligibility and child care assistance authorization standards for participants and registered child care providers and administrative requirements for child care assistance program (CCAP) agencies administering the child care fund.

Subp. 2. **Applicability.** This chapter applies to all CCAP agencies providing child care assistance services to eligible families, registered child care providers, and child care providers seeking to register for child care assistance under Minnesota Statutes, chapter 119B.

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

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

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3400.0020 DEFINITIONS.

Subpart 1. **Scope.** In parts 3400.0010 to 3400.0230, the terms defined in Minnesota Statutes, section 119B.011, have the meanings given them in that section, and the following terms have the meanings given them in this part.

Subp. 1a. **12-month eligibility period.** "12-month eligibility period" means the time period after a CCAP agency has approved a family's application or completed a redetermination of a family's eligibility until the family's next eligibility determination.

Subp. 1b. **12-month reporter.** "12-month reporter" means a family that is not a schedule reporter.

Subp. 1c. **15-day adverse action notice.** "15-day adverse action notice" means the written notification that a family or child care provider receives 15 days in advance of a negative action impacting the family's or child care provider's eligibility or authorization.

Subp. 1d. **A setting subject to public education standards.** "A setting subject to public education standards" means an education program that meets the state's expectations for student learning in K-12 public schools, such as Head Start programs and prekindergarten or school-age care programs.

Subp. 1e. **Activity schedule.** "Activity schedule" means the days and times when a parentally responsible individual works, attends school, or participates in an authorized activity allowed by Minnesota Statutes, section 119B.05, subdivision 1. When a parentally responsible individual has a job with a flexible schedule, activity schedule means the typical days and times that the parentally responsible individual works or the possible days and times when the parentally responsible individual may work.

Subp. 2. [Repealed, 26 SR 253]

Subp. 3. [Repealed, 26 SR 253]

Subp. 4. [Repealed, 47 SR 391]

Subp. 5. **Administrative expenses.** "Administrative expenses" means costs associated with the direct services administration of the child care fund. Administrative expenses include:

A. salaries, wages, and related payroll expenses that a CCAP agency incurs in the administration of the child care fund, including direct personnel costs, expenses for general

administration and supervision, and expenses for secretarial, clerical, accounting, and other support services;

- B. travel and transportation and per diem or subsistence expenses;
- C. expenses for materials and office supplies;
- D. publication, telephone, postage, and photocopy expenses; and
- E. other expenses directly attributable to the child care fund.

Subp. 6. [Repealed, 26 SR 253]

Subp. 7. [Repealed, 26 SR 253]

Subp. 8. **Allocation.** "Allocation" means the share of the total state appropriation of money from the child care fund that a county or Tribe may earn and use during an allocation period. The commissioner may raise or lower a county's or Tribe's allocation during the allocation period when the commissioner redistributes unexpended or unencumbered allocations or when additional money becomes available.

Subp. 9. [Repealed, 26 SR 253]

Subp. 9a. [Renumbered subp 11a]

Subp. 9a. **Authorized activity.** "Authorized activity" means a parentally responsible individual is seeking employment or participating in an employment, education, or training program as allowed by Minnesota Statutes, section 119B.10, or an MFIP family participating in an authorized activity as allowed by Minnesota Statutes, section 119B.05, subdivision 1.

Subp. 10. [Repealed, 26 SR 253]

Subp. 10a. **Authorized hours.** "Authorized hours" means the number of hours in a service period, not to exceed the maximum hour limit established in Minnesota Statutes, section 119B.09, subdivision 6, payable for a child from the child care fund.

Subp. 10b. **Back-up child care provider.** "Back-up child care provider" means a child care provider that meets the criteria of part 3400.0120, subpart 1, and cares for a child on a sporadic basis when the child's primary or secondary child care provider is unavailable.

Subp. 10c. **Certified license-exempt child care center.** "Certified license-exempt child care center" has the meaning given in Minnesota Statutes, section 245H.01.

Subp. 11. [Repealed, 26 SR 253]

Subp. 11a. **Child in an at-risk population.** "Child in an at-risk population" means a child with environmental or familial factors that may create barriers to the child's optimal achievement, such as a federal or state disaster, limited English proficiency in a family, a history of abuse or neglect, a determination that the child is at risk of abuse or neglect, family violence, homelessness, the age of the child's mother, the level of maternal education, mental illness, a developmental disability, parental chemical dependency, or a history of other substance abuse.

Subp. 12. **Child care assistance.** "Child care assistance" means financial assistance for child care that is funded under Minnesota Statutes, sections 119B.011 to 119B.16.

Subp. 12a. **Child care assistance household.** "Child care assistance household" means individuals living in the same home, including individuals who are temporarily absent from the home, who are a family as defined by Minnesota Statutes, section 119B.011, subdivision 13.

Subp. 12b. **Child care assistance program.** "Child care assistance program" means financial assistance for child care costs. The child care assistance program supports a parentally responsible individual with a low income who is employed, engaged in a job search, or engaged in education. The child care assistance program ensures that children of parentally responsible individuals have access to child care and thrive as successful learners.

Subp. 12c. **Child care center employee.** "Child care center employee" means:

- A. a person employed by a licensed or certified license-exempt child care center;
- B. a person who is not employed by a licensed or certified license-exempt child care center who has direct contact with children that the center serves and who has a background study required by Minnesota Statutes, section 245C.03, subdivision 1, paragraph (a), clause (3);
- C. a person who is a contractor under Minnesota Statutes, section 245C.02, subdivision 9;
or
- D. a person who is a child care staff member under Code of Federal Regulations, title 45, section 98.43(a)(2)(ii).

Subp. 12d. **Commissioner.** "Commissioner" means the commissioner of the state agency that supervises the child care assistance program.

Subp. 12e. **Copayment.** "Copayment" means the amount that a family must contribute to child care costs as determined under Minnesota Statutes, section 119B.12.

Subp. 12f. **Child care assistance program agency or CCAP agency.** "Child care assistance program agency" or "CCAP agency" means a county agency, Tribal agency, or subcontracted agency designated by the county board or Tribal council to administer the child care assistance program (CCAP).

Subp. 12g. **Department.** "Department" means the state agency that supervises the child care assistance program.

Subp. 13. [Repealed, 26 SR 253]

Subp. 14. [Repealed, 26 SR 253]

Subp. 15. [Repealed, 26 SR 253]

Subp. 16. [Repealed, 26 SR 253]

Subp. 17. [Repealed, 26 SR 253]

Subp. 17a. **Disability.** "Disability" means a functional limitation or health condition that interferes with a child's ability to walk, talk, see, hear, breathe, or learn.

Subp. 18. **Documentation.** "Documentation" means a written statement or record, including an electronic record, that substantiates or validates an assertion made by a person or an action taken by a CCAP agency.

Subp. 18a. **DWP.** "DWP" means the diversionary work program established in Minnesota Statutes, section 256J.95.

Subp. 19. [Repealed, 26 SR 253]

Subp. 20. **Eligible relative caregiver.** "Eligible relative caregiver" means a person identified under Minnesota Statutes, section 256J.08, subdivision 11, (1) who is a caregiver of a child receiving an MFIP child-only grant or (2) who is a caregiver receiving an MFIP grant and the MFIP caregiver of a child. A person has the status of an eligible relative caregiver for child care assistance if the person is a caregiver receiving assistance under Minnesota Statutes, chapter 256J. After an eligible relative caregiver begins receiving child care assistance, the eligible relative caregiver retains eligible caregiver status for all child care assistance programs until there is a break in the eligible relative caregiver's eligibility for child care assistance.

Subp. 20a. **Extended eligibility.** "Extended eligibility" means that a family continues to be eligible for child care assistance for up to three months or until the family's redetermination, whichever occurs first, after a parentally responsible individual experiences a permanent end to the individual's only authorized activity or when another parentally responsible individual moves into the household and is not participating in an authorized activity. During a family's extended eligibility period, a CCAP agency must not reduce the family's authorized amount of child care unless the family requests a reduction of the authorized amount of child care.

Subp. 21. [Repealed, 26 SR 253]

Subp. 22. [Repealed, 26 SR 253]

Subp. 23. [Repealed, 26 SR 253]

Subp. 24. [Repealed, 47 SR 391]

Subp. 25. **Full calendar month.** "Full calendar month" means from the first day of a month through the last day of that month.

Subp. 26. **Full-day basis.** "Full-day basis" means child care that a family has scheduled and a CCAP agency has authorized with a child care provider for more than five hours per day.

Subp. 27. [Repealed, 30 SR 1318]

Subp. 28. **Household status.** "Household status" means the number of individuals residing in the household and the relationship of the individuals to one another.

Subp. 28a. **Imminent risk.** "Imminent risk" means an immediate and impending threat to the health, safety, or rights of a child while in the care of a child care provider.

Subp. 29. [Repealed, 26 SR 253]

Subp. 29a. **Immunization record.** "Immunization record" means the statement described in Minnesota Statutes, section 121A.15, subdivision 1; 3, paragraph (c) or (d); or 4.

Subp. 30. [Repealed, 26 SR 253]

Subp. 31. [Repealed, 26 SR 253]

Subp. 31a. MR 2001 [Removed, L 2003 1Sp14 art 1 s 106]

Subp. 31b. **Legal guardian.** "Legal guardian" means a person who has been appointed or accepted as a guardian according to Minnesota Statutes, section 260C.325, 524.5-201, 524.5-202, or 524.5-204 under tribal law.

Subp. 31c. **Legal nonlicensed child care setting.** "Legal nonlicensed child care setting" means the indoor and outdoor space where a legal nonlicensed child care provider provides child care.

Subp. 31d. **Licensed child care center.** "Licensed child care center" means a child care program operating at a facility requiring a license under Minnesota Statutes, chapter 245A. A licensed child care center is not excluded from licensure under Minnesota Statutes, section 245A.03, subdivision 2, and is not required to be licensed under parts 9502.0315 to 9502.0445 as a family or group family day care home.

Subp. 31e. **Licensed family child care provider.** "Licensed family child care provider" means:

A. an individual who is licensed to provide child care under Minnesota Statutes, chapter 245A, when the individual operates as a child care provider within the terms of the license;

B. an individual who: (1) holds a valid child care license issued by another state or a Tribe; (2) provides child care services in the licensing state or in the area under the licensing Tribe's jurisdiction; and (3) is in compliance with federal health and safety requirements certified by the licensing state or Tribe or determined by the receipt of child care development block grant funds in the licensing state; or

C. an individual who provides child care while operating under the jurisdiction of the federal government.

Subp. 31f. **Lump sum.** "Lump sum" means money or payments that a family receives on a nonrecurring or irregular basis, such as child support arrears, an inheritance, an insurance payment, or gambling winnings.

Subp. 32. [Repealed, 26 SR 253]

Subp. 32a. [Repealed, 33 SR 695]

Subp. 32b. **Minimum wage.** "Minimum wage" means the minimum wage applicable under Minnesota Statutes, chapter 177, and under Code of Federal Regulations, title 29, part 531, to the applicant or participant or the premises where the applicant or participant is employed.

Subp. 33. **Overpayment.** "Overpayment" means the portion of a child care payment that is greater than the amount for which a recipient is eligible or greater than the amount that a child care provider should have received.

Subp. 34. [Repealed, 26 SR 253]

Subp. 34a. **Participant.** "Participant" means a family receiving child care assistance under the child care fund.

Subp. 34b. **Parentally responsible individual.** "Parentally responsible individual" means a parent, stepparent, legal guardian, eligible relative caregiver, or eligible relative caregiver's spouse who is a member of the child care assistance family as defined under Minnesota Statutes, section 119B.011, subdivision 13, and who resides in the household that applies for child care assistance.

Subp. 34c. **Permanent end of an authorized activity.** "Permanent end of an authorized activity" means a parentally responsible individual is no longer participating in an authorized activity as allowed under subpart 9a.

Subp. 34d. **Portability pool child care assistance.** "Portability pool child care assistance" means continuous child care assistance for eligible families who move between Minnesota counties under Minnesota Statutes, section 119B.03, subdivision 9.

Subp. 35. **Provider rate.** "Provider rate" means the amount that the child care provider charges for child care.

Subp. 36. [Repealed, 26 SR 253]

Subp. 37. **Redetermination.** "Redetermination" means the process by which information is collected by a CCAP agency and that the CCAP agency uses to determine whether a participant is eligible for continued assistance from the child care fund.

Subp. 37a. **Related to the child care provider.** "Related to the child care provider" means that the legal nonlicensed child care provider under Minnesota Statutes, section 119B.011, subdivision 16, is the child's sibling, aunt, uncle, grandparent, or great-grandparent, based on a blood relationship, marriage, or court decree.

Subp. 38. [Repealed, 47 SR 391]

Subp. 38a. **Residence.** "Residence" means the primary place where the family lives as identified by the applicant or participant.

Subp. 38b. **Scheduled hours.** "Scheduled hours" means the specific days and hours during a service period that a child will attend child care as determined by the CCAP agency, the parentally responsible individual, and the child care provider based on the parentally responsible individual's verified authorized activity schedule, the child's school schedule, and any other factors relevant to the family's child care needs.

Subp. 38c. **Schedule reporter.** "Schedule reporter" means a family that meets at least one of the following criteria:

A. a parentally responsible individual in the family is employed by a child care center licensed by the Minnesota Department of Human Services;

B. at least one child in the family is authorized for child care assistance with a legal nonlicensed child care provider; or

C. at least one child in the family is authorized for child care assistance with more than one child care provider.

Subp. 38d. **Service period.** "Service period" means the biweekly period that the child care assistance program uses for billing and payment purposes.

Subp. 39. **State median income.** "State median income" means the state's annual median income for a family of three, adjusted for family size, developed by the United States Bureau of the Census.

Subp. 39a. **Student parent.** "Student parent" means a person who meets the criteria in Minnesota Statutes, section 119B.011, subdivision 19b, who is not eligible for transition year child care.

Subp. 40. **Student.** "Student" means an individual enrolled in an education program as defined in Minnesota Statutes, section 119B.011, subdivision 11. A student's full-time or part-time status is defined by the student's educational institution.

Subp. 40a. **Temporarily absent.** "Temporarily absent" means that a family member included in the child care assistance program household is living away from the family's residence and intends to return to the residence after a temporary absence. A temporarily absent adult who is in an authorized activity is not subject to the 60-day limit under Minnesota Statutes, section 119B.011, subdivision 13. Temporary absences include circumstances under which a family member is away from the household such as:

- A. a family member who attends a school away from home;
- B. a family member in foster care;
- C. a family member in a residential treatment facility;
- D. a family member in military service;
- E. a family member in a rehabilitation program; and
- F. an incarcerated family member.

Subp. 40b. **Transition year child care.** "Transition year child care" means child care assistance that an eligible family under Minnesota Statutes, section 119B.011, subdivision 20, may use to support a parentally responsible individual's employment, education, or job search.

Subp. 40c. **Unable to care.** "Unable to care" means that a parentally responsible individual is not capable of adequately caring for or supervising a child.

Subp. 40d. **Unsafe care.** "Unsafe care" means that a CCAP agency knows or has reason to believe that a child care provider is unsafe or the circumstances of the chosen child care arrangement are unsafe under Minnesota Statutes, section 119B.125, subdivision 4.

Subp. 40e. **Verification.** "Verification" means a written statement or record, in any form, including an electronic record, that substantiates or validates an assertion that a person makes. Information that a person reports on an application, at redetermination, or on a reporting form does not qualify as a verification.

Subp. 40f. **Verified activity schedule.** "Verified activity schedule" means a written statement or record that substantiates or validates the days and times when a parentally responsible individual works, attends school, or participates in an authorized activity under Minnesota Statutes, section 119B.05, subdivision 1.

Subp. 41. [Repealed, 26 SR 253]

Subp. 42. [Repealed, 26 SR 253]

Subp. 43. [Repealed, 26 SR 253]

Subp. 44. **Weekly basis.** "Weekly basis" means child care that a CCAP agency authorizes with a child care provider for more than 35 hours per week.

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; L 1994 c 483 s 1; L 1995 1Sp3 art 16 s 13; L 1999 c 205 art 5 s 21; 26 SR 253; L 2003 1Sp14 art 1 s 106; L 2005 c 10 art 4 s 29; L 2005 c 56 s 2; 30 SR 1318; 33 SR 695; 47 SR 391*

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3400.0030 [Repealed, 47 SR 391]

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3400.0035 APPLICATION PROCEDURE.

Subpart 1. **Information requests.** When a family asks for information about paying for child care, a CCAP agency must give the family information supplied by the commissioner about the following items:

- A. the child care assistance program and eligibility requirements;
- B. federal and state child and dependent care tax credits;
- C. federal earned income tax credits;
- D. Minnesota working family credits;
- E. early childhood family education, school readiness, and Head Start programs;
- F. early childhood screening;

G. health care programs, including health care programs for children in Minnesota;

H. child care resource and referral services;

I. financial assistance for families, including early learning scholarships established by Minnesota Statutes, section 124D.165, and the postsecondary child care grant program established by Minnesota Statutes, section 136A.125; and

J. other programs and services for young children and families.

Subp. 1a **Child care assistance requests.** When a family requests an application for child care assistance, a CCAP agency must give the family an application or provide information about how to submit an application electronically. When a family applies for child care assistance, a CCAP agency must give the family the information in subpart 1 and the following information:

A. the eligibility requirements for the child care fund;

B. the documentation necessary to confirm a family's eligibility;

C. if a waiting list exists, the number of families on the waiting list or the estimated time that the applicant will spend on the waiting list before reaching the top of the list;

D. the procedure for applying for child care assistance;

E. the requirement to pay a copayment based on a family's size and income;

F. how to choose a child care provider;

G. a family's rights and responsibilities when choosing a child care provider;

H. special needs rates;

I. a family's responsibility for paying child care provider charges that exceed the maximum child care payment in addition to the copayment; and

J. the family's reporting responsibilities under part 3400.0040, subpart 4.

Subp. 1b. **Application for child care assistance.** A family must apply for child care assistance in the family's county of residence.

Subp. 2. **Accepting and processing applications.** A CCAP agency must accept all signed and dated applications for child care assistance that the CCAP agency receives. A CCAP agency must accept an application from an applicant who does not reside in a county served by the CCAP agency or who does not meet the Tribal CCAP agency's criteria for families that the Tribal CCAP agency serves. If a CCAP agency receives an application from an applicant who does not reside in a county served by the CCAP agency or who does not meet the Tribal CCAP agency's criteria for families that the Tribal CCAP agency serves, the agency must immediately forward the application to a CCAP agency that may serve the applicant's family based on the family's place of residence or forward to a Tribal CCAP agency if the applicant meets the Tribal CCAP agency's criteria for families that the Tribal CCAP agency serves.

Subp. 2a. **Application processing for family experiencing homelessness.** An applicant is not eligible for expedited application processing under Minnesota Statutes, section 119B.025, subdivision 1, paragraph (c), if less than six months have passed from the date that a CCAP agency approved a previous application using expedited application processing.

Subp. 3. **Informational release.**

A. When the CCAP agency determines that an applicant may be eligible for child care assistance but is unable to document the applicant's eligibility for the program, the CCAP agency must offer an applicant the opportunity to sign an informational release to permit the CCAP agency to verify whether an applicant qualifies for child care assistance.

B. A CCAP agency must obtain a signed informational release from a family to permit the CCAP agency to give the family's child care provider additional information that is not required by part 3400.0185, subparts 9, 11, and 13, and Minnesota Statutes, section 119B.13, subdivision 5.

C. The CCAP agency must give the applicant the information required by Minnesota Statutes, section 13.04, subdivision 2.

Subp. 4. [Repealed, 47 SR 391]

Subp. 5. [Repealed, 47 SR 391]

Subp. 6. [Repealed, 47 SR 391]

Subp. 7. **Selection of child care provider.** An applicant must select a child care provider and the child care provider must meet the criteria in part 3400.0120, subpart 1, before a CCAP agency authorizes a child to receive child care from the child care provider and issues payments to the child care provider from the child care fund. The same criteria applies if a parentally responsible individual selects a child care provider at a time other than at the time of application.

Subp. 8. **Selection of legal nonlicensed child care provider.** Before a CCAP agency authorizes child care with a legal nonlicensed child care provider, an applicant or participant who selects a legal nonlicensed child care provider must sign a document that contains:

A. a description of the registration process for a legal nonlicensed child care provider;

B. a description of the parentally responsible individual's rights and responsibilities when choosing a child care provider;

C. an acknowledgment that the parentally responsible individual and the legal nonlicensed child care provider have reviewed the health and safety information provided during the registration process;

D. an assurance that the parentally responsible individual will provide an immunization record for each of the parentally responsible individual's children to the legal nonlicensed child care provider within 30 days of the date that the CCAP agency authorizes child care to begin for

each child and will give the legal nonlicensed child care provider the information necessary to update each child's immunization record;

E. an acknowledgment that the legal nonlicensed child care provider does not share a home or residence with a child whose family is applying for or receiving child care assistance;

F. an acknowledgment that the legal nonlicensed child care provider must complete training as outlined in part 3400.0120, subpart 6, and Minnesota Statutes, section 119B.125, subdivision 1b, before the CCAP agency authorizes the legal nonlicensed child care provider to provide child care for the child; and

G. an acknowledgment that if the CCAP agency knows that the child care provider is unsafe or that the circumstances of the child care arrangement are unsafe, the CCAP agency may deny CCAP payments to the child care provider.

Subp. 9. **Selection of in-home child care provider.** A CCAP agency must inform an applicant or a participant who selects a child care provider to provide child care in the applicant's or participant's home that selecting an in-home child care provider creates an employer/employee relationship between the parent and the child care provider. If an applicant or participant selects an in-home child care provider, a CCAP agency must refer the applicant or participant to resources that are available for more information about the applicable legal rights and responsibilities.

Statutory Authority: *MS s 119B.02; 119B.04; 119B.06; 256.01*

History: *26 SR 253; 33 SR 695; 47 SR 391*

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3400.0040 ELIGIBILITY REQUIREMENTS AND STANDARDS.

Subpart 1. **Applicant requirements and standards.** All applicants for child care assistance and all child care assistance program participants must meet the standards and requirements in this part in addition to the eligibility requirements in part 3400.0060, 3400.0080, or 3400.0090 for the child care program for which the person is applying or in which the person is participating.

Subp. 2. [Repealed, 26 SR 253]

Subp. 3. **Verification requirements at application.**

A. In addition to the requirements in Minnesota Statutes, section 119B.025, subdivision 1, an applicant for child care assistance must provide verification to a CCAP agency of:

(1) the citizenship or immigration status of children in the applicant's family according to item D;

(2) the dates of birth of all children in the family;

(3) the date of birth of the applicant if the applicant is under 21 years of age;

(4) the income, if counted under Minnesota Statutes, chapter 256P, of each member of the applicant's family, including each member who is temporarily absent from the applicant's household;

(5) the identity and place of residence of each member of the applicant's family, including each member who is temporarily absent from the household;

(6) the work, education, and training activity status of each parentally responsible individual; and

(7) the family's assets, if the family's total assets exceed \$1,000,000.

B. At the time of application for child care assistance, a family may verify:

(1) the income deductions allowed under part 3400.0170. A CCAP agency must process an application without income deductions if a family has not verified income deductions by the end of the application processing period in Minnesota Statutes, section 119B.025, subdivision 1;

(2) the school status of students six years of age and older with earned income. If a family has not verified a student's school status by the end of the application processing period in Minnesota Statutes, section 119B.025, subdivision 1, a CCAP agency must count the student's earned income under Minnesota Statutes, section 256P.06, subdivision 3, clause (1); and

(3) the Social Security number of all applicants as required by Minnesota Statutes, section 119B.025, subdivision 2.

C. For a CCAP agency to authorize care of children at the time of application, an eligible family must:

(1) verify the work, education, and training schedule of each parentally responsible individual; and

(2) provide the school schedule of each child who needs child care and attends school.

D. An applicant must have at least one child who meets the citizenship or immigration status requirement in the Federal Child Care and Development Fund, Code of Federal Regulations, title 45, section 98.20(c), or who is receiving child care in a setting subject to public education standards. For a CCAP agency to authorize care of a child, a family must verify the child's citizenship or immigration status unless a setting subject to public education standards is providing care for the child.

E. A CCAP agency must determine an applicant's eligibility for child care assistance within the time frames in Minnesota Statutes, section 119B.025, subdivision 1.

Subp. 4. Participant reporting responsibilities.

A. In addition to the reporting requirements in Minnesota Statutes, sections 119B.03, subdivision 9, and 256P.07, subdivisions 3 and 6, a family must report the following information to a CCAP agency within ten calendar days:

(1) the family's assets when the assets are listed under subpart 5b and are over \$1,000,000 in total;

(2) the parentally responsible individual begins providing child care to children; or

(3) the parentally responsible individual begins working in a child care setting.

B. In addition to the reporting requirements in item A, a schedule reporter must report the following changes to a CCAP agency within ten calendar days of the change:

(1) a change in employment, education, or training status, including starting an authorized activity, ending an authorized activity, or temporary breaks in an authorized activity;

(2) changes in an employment schedule or education schedule; and

(3) changes in the number of hours of job search participation.

C. A family must notify a CCAP agency and the family's child care provider of the family's intent to change child care providers at least 15 calendar days in advance of the date when the change takes effect. A family is not required to notify a CCAP agency and the child care provider 15 calendar days in advance of the date when the change takes effect under one of the following conditions:

(1) when a child care provider is licensed by the state of Minnesota and the child care provider's license is temporarily immediately suspended under Minnesota Statutes, section 245A.07;

(2) when there is an imminent risk of harm to the health, safety, or rights of a child in the care of the child care provider and the child care provider is a legal nonlicensed child care provider, certified license-exempt child care center, or child care provider licensed by an entity other than the state of Minnesota;

(3) when a CCAP agency or the commissioner has suspended the child care provider's payment under Minnesota Statutes, chapter 245E; or

(4) when a CCAP agency or the commissioner has denied or revoked the child care provider's registration under Minnesota Statutes, section 119B.13, subdivision 6, paragraph (d), clause (1) or (2).

D. A participant may report a change to the CCAP agency in person, by telephone, by facsimile, by mail, electronically, by e-mail, or on a change reporting form.

Subp. 4a. Verification requirements during 12-month eligibility period.

A. A CCAP agency must request verification of a change when a 12-month reporter or a schedule reporter reports any of the following changes during the 12-month eligibility period:

(1) a change in income that results in income exceeding 85 percent of the state median income;

(2) a new authorized activity at the end of a job search, unless the job search is an authorized activity in an employment plan; or

- (3) a move out of the state.

A CCAP agency must allow a 12-month reporter or schedule reporter 15 calendar days to return a verification to the CCAP agency. If a verification demonstrates that the 12-month reporter or schedule reporter is no longer eligible for child care assistance or if the 12-month reporter or schedule reporter does not return a verification to the CCAP agency after 15 days, the CCAP agency must terminate the 12-month reporter's or schedule reporter's eligibility with a 15-day adverse action notice.

B. The CCAP agency must request verification of a change when a 12-month reporter reports any of the following changes during the 12-month eligibility period:

- (1) the permanent end of an authorized activity;
- (2) new employment if the parentally responsible individual is employed by a child care center licensed by Minnesota; or
- (3) authorized activity changes if the family is requesting authorization for more hours of child care.

A CCAP agency must allow a 12-month reporter 15 calendar days to return a verification to the CCAP agency. If the CCAP agency does not receive verification of the permanent end of an authorized activity and the 12-month reporter has no other authorized activity, a CCAP agency must place the 12-month reporter in extended eligibility according to part 3400.0175 on the date that the CCAP agency becomes aware of the permanent end of the authorized activity. If the CCAP agency does not receive verification from a 12-month reporter of a parentally responsible individual's new employment at a licensed child care center within 15 days, the CCAP agency must terminate the 12-month reporter's child care authorization with a 15-day adverse action notice and suspend the 12-month reporter's eligibility until the CCAP agency receives verification that allows the CCAP agency to authorize child care. If a CCAP agency does not receive a verification of an authorized activity change, the CCAP agency must not increase a 12-month reporter's authorized child care hours until the CCAP agency receives verification.

C. A CCAP agency must request verification of a change when a schedule reporter reports any of the following changes during the 12-month eligibility period:

- (1) a schedule change;
- (2) new employment;
- (3) a temporary break from an authorized activity; or
- (4) a permanent end of an authorized activity.

A CCAP agency must allow a schedule reporter 15 calendar days to return a verification to the CCAP agency. If the CCAP agency does not receive a verification, the CCAP agency must terminate the schedule reporter's child care authorization with a 15-day adverse action notice and suspend the schedule reporter's eligibility until the CCAP agency receives verification that allows the CCAP agency to authorize child care. If the CCAP agency receives the verification and the change results

in a reduction in authorized child care hours, the CCAP agency must send the schedule reporter and the child care provider a 15-day adverse action notice before the reduction in authorized child care hours is effective.

D. When a family's reported and verified change results in an increase in authorized child care hours, a CCAP agency must increase the amount of the family's authorized child care.

Subp. 5. **Employment, education, and training requirements.** In a family with a single parentally responsible individual, or unmarried legal guardian or eligible relative caregiver, the applicant or participant must meet employment, education, or training requirements and other eligibility requirements in this part and in part 3400.0060, 3400.0080, or 3400.0090 for the child care assistance program for which the family is applying or in which the family is participating.

In a family with more than one parentally responsible individual or any combination of parents, stepparents, legal guardians and spouses, and eligible relative caregivers and spouses, at least one parent, legal guardian, eligible relative caregiver, or spouse must meet employment, education, or training requirements and other eligibility requirements in this part and in part 3400.0060, 3400.0080, or 3400.0090 for the child care assistance program for which the family is applying or participating in. The other parents, legal guardians, eligible relative caregivers, or spouses must:

A. meet the employment, education, or training requirements and other eligibility requirements in this part and part 3400.0060, 3400.0080, or 3400.0090 for the child care assistance program for which the family is applying or participating in; or

B. be unable to care for the applicant's or participant's child or dependent as determined by a licensed physician, licensed psychologist, licensed psychiatrist, or licensed social worker. The status of a parentally responsible individual who is unable to care for the child is permanent when the parentally responsible individual's condition is ongoing and unlikely to improve, or temporary when the individual's condition has an expected or defined end date.

Subp. 5a. **Child support cooperation.**

A. All applicants and participants of the child care assistance program must cooperate with child support obligations under Minnesota Statutes, section 119B.09, subdivision 1, paragraph (c).

B. A family cooperating with child support at application is retroactively eligible for child care assistance within the time frames in Minnesota Statutes, section 119B.09, subdivision 7, paragraph (c).

C. A CCAP agency must deny an application for child care assistance if the applicant is not cooperating with child support by the end of the application processing time frame in Minnesota Statutes, section 119B.025, subdivision 1, paragraph (b).

D. A CCAP agency must terminate a family's eligibility when the family is not cooperating with child support at the time of redetermination. If a family meets the requirements in Minnesota Statutes, section 119B.025, subdivision 3, paragraph (c), clause (1), and cooperates with child support within 30 days after the date that the redetermination was due, a CCAP agency must reinstate the family's eligibility retroactively from the date that the family's eligibility ended.

E. The child care portion of the child support order for children receiving child care assistance must be assigned to the public authority as provided in Minnesota Statutes, section 256.741.

Subp. 5b. **Assets.** To be eligible for child care assistance, a family's countable assets must not exceed \$1,000,000.

A. Countable assets include:

- (1) the value of all cash held by all members of the family;
- (2) the value of all bank accounts held by all members of the family;
- (3) the value of stocks, bonds, pensions, and retirement funds held by all members of the family that are readily accessible without a financial penalty;
- (4) the trade-in value of vehicles, excluding one vehicle per family member age 16 or older; and
- (5) the value of real property, excluding property where the family resides, real property that is homesteaded, and property that the family uses for self-employment or self-support.

B. When a family declares or reports that the family's assets exceed \$1,000,000, a CCAP agency must request verification of the family's assets. A CCAP agency must allow a family 15 calendar days to return the verification. If the verification confirms that the value of a family's countable assets is over \$1,000,000 or if a family does not return the verification, a CCAP agency must deny the family's application or terminate the family's eligibility with a 15-day adverse action notice.

Subp. 6. [Repealed, 26 SR 253]

Subp. 6a. **Ineligibility due to failure to pay fees under the child care fund.**

A. A family that fails to pay the required copayment under Minnesota Statutes, section 119B.09, subdivision 1, paragraph (d), is ineligible for child care assistance until the family pays the fees or until the family reaches an agreement for payment with the child care provider and the CCAP agency and continues to comply with the payment agreement.

B. When a child care provider provides child care in a child's home and the child's family fails to pay the child care provider the amount of the child care assistance payment, the family is ineligible for child care assistance until the family makes the child care assistance payment or until the family reaches an agreement for payment with the child care provider and the CCAP agency and continues to comply with the payment agreement.

Subp. 6b. **Ineligibility for failure to pay overpayments.** A family with an outstanding overpayment is ineligible for child care assistance until the overpayment is paid in full or until the family arranges to repay the overpayment according to part 3400.0187 and then continues to comply with the repayment agreement.

Subp. 6c. **Date of eligibility for child care assistance.** A CCAP agency must determine the date of a family's eligibility for child care assistance under parts 3400.0060 and 3400.0080 according to Minnesota Statutes, section 119B.09, subdivision 7. The date of eligibility for child care assistance under part 3400.0090 begins on the date that a family's MFIP or DWP case closed.

Subp. 7. [Repealed, 47 SR 391]

Subp. 8. **Child care assistance during employment.**

A. In addition to meeting other eligibility requirements, an employed person who is eligible for child care assistance under part 3400.0060, 3400.0080, or 3400.0090 must work at least an average of 20 hours per week and receive at least minimum wage for all hours that the employed person works. An employed person who is eligible for child care assistance under part 3400.0080 is exempt from this requirement if the person's work is an authorized activity in an approved employment plan that allows fewer work hours or a lower wage.

B. A CCAP agency and an applicant or participant must determine a length of time, not to exceed the most recent six months, over which the number of hours that an employed person works weekly is averaged and counted toward the applicant or participant meeting the average of 20 hours per week requirement.

C. When a participant does not receive an hourly wage, the participant's earned income over a given period must be divided by the minimum wage to determine whether the participant has met the requirement to average at least 20 hours of work per week at minimum wage.

D. A CCAP agency must authorize child care assistance during a parentally responsible individual's employment for the number of hours that the individual is scheduled to work, including break and meal time during the individual's employment, and up to two hours per day for the individual's travel time.

E. An employed person must meet minimum work requirements under item A at application, redetermination, or upon completing a job search. If a parentally responsible individual's work hours decrease below 20 hours per week or if the parentally responsible individual's wage drops below minimum wage during the 12-month eligibility period, the parentally responsible individual's eligibility for child care assistance continues until redetermination.

Subp. 9. **Child care assistance in support of employment.** A CCAP agency must authorize child care assistance in support of employment for nonwork hours to an employed person who is eligible for child care assistance under parts 3400.0060 and 3400.0090, and an employed person who is eligible for child care assistance under part 3400.0080 without an approved employment plan, when the following conditions exist:

A. the employee cannot reasonably modify the employee's nonwork schedule to provide child care; and

B. the child care assistance does not exceed the amount of child care assistance that would be granted under subpart 8, item D, during employment.

Subp. 10. **Child care assistance during education or training.** A CCAP agency must provide child care assistance to a student who is eligible for child care assistance under part 3400.0060, 3400.0080, or 3400.0090 and enrolled in a CCAP agency-approved education or training program or employment plan according to items A to E.

A. A CCAP agency must authorize child care for a student who is eligible under parts 3400.0060 and 3400.0090 as necessary for:

(1) all hours of actual class time and credit hours for independent study, internships, and online courses;

(2) time periods between nonconsecutive classes;

(3) up to two hours per day for travel time; and

(4) two hours per week per credit hour for a postsecondary student to study and attend academic appointments.

B. A CCAP agency must authorize child care for a student who is eligible for child care assistance under part 3400.0080 according to an approved employment plan.

C. Child care assistance for basic or remedial classes is subject to CCAP agency approval under subpart 12. Upon CCAP agency approval of a basic or remedial education program, a CCAP agency must authorize the necessary child care assistance hours that enable the student to attend classes and to complete class assignments.

D. If a family who is eligible for child care assistance under part 3400.0060 or 3400.0090 had an approved education plan with a CCAP agency and the family begins receiving services from another CCAP agency, the education plan remains in effect until the family's next redetermination or until the family requests a change. When another CCAP agency redetermines the family's eligibility at redetermination, the student's education plan is subject to the CCAP agency's approval, rejection, or modification.

E. A student taking a school break who is expected to return to school following the break remains eligible for child care assistance during the school break. For 12-month reporters, a CCAP agency must not reduce authorized child care hours or terminate child care authorizations during school breaks. Notwithstanding item B, for schedule reporters, a CCAP agency must:

(1) not reduce authorized child care hours or terminate child care authorizations during a school break if the break is scheduled to last 15 calendar days or less;

(2) suspend a family's eligibility if the family's only authorized activity is education and the school break is scheduled to last more than 15 days; and

(3) reduce the number of authorized child care hours based on a family's other authorized activities if the school break is scheduled to last more than 15 days.

Subp. 11. Child care assistance during employment and during education or training.

A. Employed students, including students on work study programs, are eligible for child care assistance during employment and education or training. A CCAP agency must follow the standards in subparts 8 and 10 to determine the amount of child care assistance hours to authorize.

B. At the time of application and redetermination, a full-time student who requests child care during the student's employment must work an average of at least ten hours per week for which the student receives minimum wage. A full-time student retains full-time status during school breaks, including summers, if the student is expected to return to school full time after the break.

C. At the time of application and redetermination, a part-time student who requests child care during employment must work an average of at least 20 hours per week for which the student receives minimum wage.

D. To determine whether an employed student meets the hourly minimum wage requirement in this subpart, a CCAP agency must count the student's work-study hours and income as employment.

E. A student who is eligible for child care assistance under part 3400.0080 is exempt from the minimum hours per week requirement and the minimum wage requirement if the student has an approved employment plan that allows fewer work hours or a lower wage than the minimum otherwise required.

Subp. 12. Acceptable course of study. An acceptable course of study for a student who is eligible for child care assistance under part 3400.0060 or 3400.0090 is an education or training program approved by the CCAP agency according to the standards in the CCAP agency's child care fund plan that will reasonably lead to full-time employment. An acceptable course of study for a student who is eligible for child care assistance under part 3400.0080 is an approved education or training program described in the MFIP participant's employment plan.

Subp. 13. Satisfactory progress in education or training program. Subject to the limitation in subpart 14, a CCAP agency must provide child care assistance to a student with an approved education or training program during the time of the student's education or training program if the student is making satisfactory progress. Satisfactory progress in the education or training program means that a student remains in good academic standing as determined by the educational institution and meets the requirements of the student's education plan under part 3400.0060 or 3400.0090, or employment plan under part 3400.0080. A CCAP agency must not terminate a student's approved education plan during the 12-month eligibility period. At redetermination, if a CCAP agency receives documentation from an educational institution demonstrating that a student is not making satisfactory progress toward completion of an education or training program, the CCAP agency must notify the student and terminate approval of the student's education plan with a 15-day adverse action notice.

Subp. 14. Maximum education or training under child care fund. The maximum length of time that a student is eligible for child care assistance under the child care fund for education or training is described in items A to E.

A. A student eligible under part 3400.0060 is eligible for child care assistance according to Minnesota Statutes, section 119B.10.

B. A student eligible under part 3400.0080 is eligible for child care assistance for the length of time necessary to complete authorized activities in the student's employment plan according to the standards in Minnesota Statutes, chapter 256J.

C. A student who is eligible under part 3400.0090 is eligible for child care assistance according to Minnesota Statutes, section 119B.10.

D. A student who is eligible under part 3400.0060 or 3400.0090 who has completed or who has participated in but failed to complete an education or training program under the child care fund is eligible to receive child care assistance for a second education or training program if:

- (1) a CCAP agency approves of the new education or training program; and
- (2) a CCAP agency expects that completing the program will lead to the student's full-time employment.

E. A student who is eligible under part 3400.0060 or 3400.0090 with a baccalaureate degree is only eligible to receive child care assistance for education or training if the education or training is for continuing education units, certification, or coursework that is related to the baccalaureate degree or current employment and that is necessary to update credentials to obtain or retain employment.

Subp. 15. Changes in education or training programs. A proposed change in an education or training program for a participant who is eligible for child care assistance under parts 3400.0060 and 3400.0090 is subject to CCAP agency approval before the participant makes the change. A CCAP agency must describe the approval policy for a participant's change to an education or training program in the CCAP agency's child care fund plan. A CCAP agency must not deny a request for a change in an education or training program when the student requesting the change demonstrates that changing a course or focus of study is necessary for reasons related to the health and safety of the student.

Subp. 15a. Child care assistance during job search.

A. A CCAP agency must provide child care assistance to an applicant or participant at application and redetermination for job search activities as required by Minnesota Statutes, section 119B.10, subdivision 1, and for no more than 40 hours in a service period if the applicant or participant is:

- (1) eligible under part 3400.0080 and does not have an approved employment plan;
- (2) eligible under part 3400.0080 and has an approved employment plan that does not include a job search as an authorized activity;
- (3) eligible under part 3400.0090 and is seeking employment; or
- (4) eligible under part 3400.0060 and is seeking employment.

B. For an applicant or a participant who is eligible under part 3400.0080 with an employment plan that includes a job search as an authorized activity, a CCAP agency must provide child care assistance to the applicant or participant for job search activities for the number of hours in the applicant's or participant's approved employment plan for job search activities.

C. A CCAP agency must not authorize a job search in combination with any other activity for an applicant or a participant who is eligible under item A.

D. Job search includes locating and contacting potential employers, preparing for interviews, interviewing, and up to two hours of travel time per day.

Subp. 16. [Repealed, 26 SR 253]

Subp. 17. **Temporary ineligibility for participants.** A CCAP agency must reserve a family's position under the child care fund if a family has been receiving child care assistance but is temporarily ineligible for assistance. A child care assistance participant who is a student may be temporarily ineligible for a maximum of one academic quarter or semester as determined by the student's academic calendar at the educational institution. Any other participant, including an employed participant, may be temporarily ineligible for a maximum of 90 days. A CCAP agency must place a family in temporary ineligibility when:

A. a family meets all eligibility requirements at redetermination in Minnesota Statutes, sections 119B.09 and 119B.10, but is on an unverified temporary break from the family's authorized activity. To end a family's temporary ineligibility, a parentally responsible individual must meet and verify the minimum authorized activity requirements in Minnesota Statutes, section 119B.10;

B. a family is ineligible for child care assistance due to increased income from active military service as provided in Minnesota Statutes, section 119B.09, subdivision 4a; or

C. a family is eligible under Minnesota Statutes, section 119B.025, subdivision 1, paragraph (c), but has not submitted a verification of eligibility within the time frame required by Minnesota Statutes, section 119B.025, subdivision 1, paragraph (d).

Subp. 17a. **Authorization after temporary ineligibility.**

A. If a family in temporary ineligibility becomes eligible for child care assistance, the family's eligibility begins on the date that the family meets all eligibility requirements. For a family that is eligible for child care assistance under Minnesota Statutes, section 119B.025, subdivision 1, paragraph (c), the family's eligibility begins retroactively from the date that temporary ineligibility began, or on the date that the family began participating in an authorized activity, whichever is later.

B. If a schedule reporter in temporary ineligibility becomes eligible for child care assistance, a CCAP agency must authorize child care based on the parentally responsible individual's verified activity schedule.

C. If a 12-month reporter in temporary ineligibility becomes eligible for child care assistance during the 12-month eligibility period, a CCAP agency must authorize the same amount of child

care that the family received before the family became temporarily ineligible, unless the family requests less child care or the family verifies that the family needs more child care. If a 12-month reporter who is temporarily ineligible becomes eligible when a CCAP agency approves the 12-month reporter's redetermination, the CCAP agency must authorize child care based on the amount of child care that the family needs and the verification that the family provides at redetermination. If a CCAP agency determines that a 12-month reporter is temporarily ineligible at redetermination and on a different date the 12-month reporter becomes eligible, a CCAP agency must authorize child care based on the amount of child care that the 12-month reporter needed and verified at the time that the family was no longer temporarily ineligible.

Subp. 17b. **Temporary ineligibility of family on waiting list.** A CCAP agency must reserve a family's position under the child care fund for up to 90 days if a family reaches the top of the basic sliding fee waiting list but is temporarily ineligible for child care assistance. In a CCAP agency's child care fund plan, the CCAP agency must specify whether the agency reserves positions under the child care fund longer than 90 days for temporarily ineligible families who reach the top of the basic sliding fee waiting list and, if so, the amount of additional time that the CCAP agency will reserve a family's position and the conditions under which the CCAP agency will reserve a family's position longer than 90 days.

Subp. 18. **Suspension.**

A. A CCAP agency must suspend and not terminate a family's eligibility for child care assistance for up to one continuous year if:

- (1) there are temporary breaks when the family does not need child care assistance;
- (2) the CCAP agency is unable to authorize child care due to missing schedule verifications; or
- (3) the family does not have an eligible child care provider.

B. A CCAP agency must not decrease a 12-month reporter's authorized child care during the 12-month eligibility period if there is a temporary break or a change in the parentally responsible individual's employment, education and training, or employment plan activity, unless the 12-month reporter requests a reduction in authorized child care hours or requests that the CCAP agency suspend child care.

C. A CCAP agency must end a schedule reporter's authorization and suspend the schedule reporter's eligibility if there is a temporary break in the schedule reporter's employment, education or training, or employment plan activity and the parentally responsible individual has no other authorized activity, unless the parentally responsible individual meets the criteria in part 3400.0110, subpart 10.

Subp. 18a. **Authorization after suspension.**

A. If a schedule reporter is no longer suspended, a CCAP agency must authorize the schedule reporter's child care based on the parentally responsible individual's verified activity schedule.

B. If a 12-month reporter is no longer suspended during the 12-month eligibility period, a CCAP agency must authorize the same amount of child care that the 12-month reporter received before the 12-month reporter's suspension, unless the 12-month reporter requests less child care or the 12-month reporter verifies that the 12-month reporter needs more child care. If a 12-month reporter is no longer suspended when a CCAP agency approves the 12-month reporter's child care at redetermination, a CCAP agency must authorize the 12-month reporter's child care based on the amount of child care that the 12-month reporter needs and the verification that the 12-month reporter provides at redetermination. If a 12-month reporter is suspended at redetermination and on another date becomes eligible, a CCAP agency must authorize the 12-month reporter's child care based on the amount of child care that the 12-month reporter needs and that the 12-month reporter verifies at the time that the 12-month reporter becomes eligible.

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

History: *14 SR 519; 18 SR 1144; 26 SR 253; 33 SR 695; 47 SR 391*

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3400.0050 [Repealed, 26 SR 253]

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3400.0060 BASIC SLIDING FEE PROGRAM.

Subpart 1. [Repealed, 26 SR 253]

Subp. 2. **Basic sliding fee allocation.** The commissioner must allocate money from the child care fund for the basic sliding fee program as provided in Minnesota Statutes, section 119B.03, subdivisions 6 to 9. By July 1 of each year, the commissioner must notify all county, Tribal, and human services boards of their allocations under the basic sliding fee program, including the amount available for payment of administrative expenses.

Subp. 3. [Repealed, 26 SR 253]

Subp. 4. **Reallocation of unexpended or unencumbered funds.** The commissioner must reallocate unexpended or unencumbered funds according to items A to D.

A. The commissioner may reallocate unexpended or unencumbered funds following the first, second, and third quarters of the allocation period as provided in Minnesota Statutes, section 119B.03, subdivision 5. Following the fourth quarter of the allocation period, the commissioner must review county and Tribal expenditures under the basic sliding fee program and must reallocate unearned allocations to counties and Tribes that had direct service earnings in excess of their allocation.

B. The amount reallocated to any county or Tribe must be based on direct service earnings in excess of its allocation. The amount reallocated must not be greater than the direct service earnings in excess of allocation minus the county's or Tribe's fixed local match to be calculated as specified in Minnesota Statutes, section 119B.11, subdivision 1.

C. If the amount of funds available for reallocation is less than total county or Tribe direct service earnings in excess of allocations, the reallocated funds must be prorated to each county and Tribe based on the ratio of the county's or Tribe's direct service earnings in excess of its allocation to the total of all county and Tribal direct service earnings in excess of their allocation.

D. If the amount of funds available for reallocation is greater than total county or Tribe direct service earnings in excess of allocations under the basic sliding fee program, the funds remaining after the basic sliding fee reallocation must be carried forward and added to the funds available for allocation in the next allocation period.

Subp. 5. **Families eligible for assistance under the basic sliding fee program.** To the extent of available allocations, an applicant is eligible for child care assistance under the basic sliding fee program if:

A. the applicant meets eligibility requirements under part 3400.0040;

B. the applicant is not a MFIP or DWP participant; and

C. the family meets the income eligibility requirements specified in Minnesota Statutes, section 119B.09.

Subp. 6. [Repealed, 47 SR 391]

Subp. 6a. [Repealed, 47 SR 391]

Subp. 7. [Repealed, 47 SR 391]

Subp. 8. [Repealed, 47 SR 391]

Subp. 9. **Child care responsibility when family moves.**

A. When a family receiving child care assistance from the basic sliding fee program moves to a new county or moves to an area served by a Tribal CCAP agency in Minnesota, the original county or Tribal CCAP agency must continue to provide child care assistance to a family for two full calendar months after the family's move if the family needs child care and remains eligible for the basic sliding fee program. Before a family transfers to a Tribal CCAP agency, the family must meet the Tribal CCAP agency's criteria for families that the Tribal CCAP agency serves. The limitation in Minnesota Statutes, section 119B.09, subdivision 1, paragraph (a), clause (2), regarding the family's household income at program entry does not apply when a family receiving assistance moves to another county or moves to an area served by a Tribal CCAP agency and continues receiving assistance from the new county or Tribal CCAP agency.

B. If there is a waiting list for the basic sliding fee program in the receiving county or Tribal CCAP agency when the county or Tribal CCAP agency assumes responsibility for the family after two full calendar months following the family's move, the receiving county or Tribal CCAP agency must fund child care assistance for the family through the portability pool while the family remains eligible. An eligible family must continue to receive child care assistance through the portability pool until the family is able to receive child care assistance through the receiving county's or Tribe's basic sliding fee program.

C. If there is no waiting list for the basic sliding fee program and funds are available, the receiving county or Tribal CCAP agency must immediately move the family into the county's or agency's basic sliding fee program when the county or agency assumes responsibility for the family after two full calendar months following the family's move according to Minnesota Statutes, section 256G.07, subdivision 1.

Subp. 10. **Continued eligibility under basic sliding fee program.** A CCAP agency must not refuse to provide continued child care assistance to a family receiving assistance through the basic sliding fee program when there is a change in the family's financial or household status as long as the family continues to meet the eligibility requirements in this part and the general eligibility requirements in part 3400.0040. Except for the job search time limit under Minnesota Statutes, section 119B.10, subdivision 1, paragraph (a); the education time limit in Minnesota Statutes, section 119B.10, subdivision 3, paragraph (b); the extended eligibility period in Minnesota Statutes, section 119B.105; and the time limit to submit proof of eligibility under Minnesota Statutes, section 119B.025, subdivision 1, paragraph (d), a CCAP agency must not set a time limit for eligibility under the basic sliding fee program.

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

History: *14 SR 519; 18 SR 1144; 26 SR 253; 33 SR 695; 47 SR 391*

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3400.0065 BASIC SLIDING FEE WAITING LIST.

Subpart 1. **Basic sliding fee program waiting lists.** When a family inquires about or applies for child care assistance and basic sliding fee funding is not immediately available, a CCAP agency must perform a preliminary determination of the family's eligibility. A CCAP agency must not request or require a family to submit verifications during the preliminary determination of eligibility. If a CCAP agency determines that a family is or will likely be eligible for child care assistance and funding is not immediately available, the CCAP agency must place the family on a waiting list. A CCAP agency must determine the highest priority group for which a family qualifies and must notify the family of this determination. A CCAP agency must keep a written record identifying each family that the CCAP agency places on the child care waiting list.

Subp. 2. **Waiting list dates.** Based on the funding priorities in Minnesota Statutes, section 119B.03, subdivision 4, a CCAP agency must add a family to the basic sliding fee program waiting list on the dates in items A to D.

A. A CCAP agency must add a family in priority group one or four to the basic sliding fee program waiting list on the date that the family makes the child care assistance request.

B. A CCAP agency must add a family in priority group two to the basic sliding fee program waiting list on the date that the family begins a transition year under part 3400.0090.

C. A CCAP agency must add a family in priority group three to the basic sliding fee program waiting list on the date that the family moves to a receiving county or moves to an area served by a Tribal CCAP agency.

D. A CCAP agency must add any other family who will likely be eligible under Minnesota Statutes, section 119B.03, subdivision 3, to the basic sliding fee program waiting list on the date that the participant makes the child care assistance request.

Subp. 3. **Temporarily ineligible family on basic sliding fee waiting list.** When a family inquires about or applies for child care assistance while the family is temporarily ineligible, a CCAP agency must place the family on the waiting list if it is likely the family will be eligible for child care assistance. When a family reaches the top of the CCAP agency's waiting list and is temporarily ineligible for child care assistance, a CCAP agency must follow the procedures in part 3400.0040, subpart 17b.

Subp. 4. **Transfer of family from waiting list to basic sliding fee program.** A CCAP agency must move a family on the basic sliding fee waiting list to the basic sliding fee program as funding permits according to the priorities listed in Minnesota Statutes, section 119B.03, subdivision 4. After a CCAP agency has complied with the priority requirements in section 119B.03, subdivision 4, the CCAP agency must comply with any priority requirements that the CCAP agency adopts under part 3400.0140, subpart 10, to move a family on the waiting list to the basic sliding fee program.

Subp. 5. **Transfer of transition year family to basic sliding fee program.**

A. If a transition year family under part 3400.0090 moves to another county or moves to an area served by a Tribal CCAP agency, the date that the original county or Tribal CCAP agency placed the family on the basic sliding fee waiting list must transfer with the family to the receiving county or Tribal CCAP agency.

B. A family who is eligible for, but does not use, transition year child care assistance retains the family's priority status for the basic sliding fee program. A family loses priority status at the conclusion of the transition year.

C. A county or Tribal CCAP agency must manage the county's or Tribal CCAP agency's basic sliding fee allocation to allow a family to move from a transition year to the basic sliding fee program without any interruption in child care. A CCAP agency must not serve a family under the basic sliding fee program who is a lower priority on the basic sliding fee waiting list than a transition year family unless the CCAP agency ensures that there is basic sliding fee program funding for the transition year family at the end of the family's transition year.

D. When a transition year ends, a CCAP agency must move a transition year family into the basic sliding fee program. A transition year family that does not reach the top of the CCAP agency's basic sliding fee program waiting list before completing a transition year is eligible to continue receiving transition year extension child care assistance under part 3400.0090, subpart 10. A CCAP agency must move a family receiving transition year extension child care assistance into the basic sliding fee program as funding becomes available according to the priorities in Minnesota Statutes, section 119B.03, subdivision 4.

Subp. 6. **Removal of family from waiting list.** If a family receives transition year extension child care assistance or portability pool child care assistance, or is a student parent as defined in

part 3400.0020, subpart 39a, receiving MFIP child care, and the family is no longer eligible for child care assistance, a CCAP agency must remove the family from the basic sliding fee waiting list. If a family reapplies for child care assistance in a county or with a Tribal CCAP agency with a waiting list, the family is subject to the waiting list according to the priorities in Minnesota Statutes, section 119B.03. A family who loses eligibility for child care assistance while receiving a transition year extension is no longer eligible for second priority on the basic sliding fee waiting list.

Statutory Authority: *MS s 119B.02; 119B.04; 119B.06*

History: *47 SR 391*

Published Electronically: *December 13, 2022*

3400.0070 [Repealed, 26 SR 253]

Published Electronically: *October 29, 2008*

3400.0080 MFIP CHILD CARE PROGRAM.

Subpart 1. **Eligibility for MFIP child care program.** Persons listed in Minnesota Statutes, section 119B.05, subdivision 1, are eligible for the MFIP child care assistance program.

Subp. 1a. Eligibility and authorization of sanctioned MFIP participant.

A. At the time of application and redetermination, a 12-month reporter or schedule reporter who has been sanctioned under the MFIP program is eligible to receive child care assistance as allowed by part 3400.0110, subpart 3, item A.

B. A 12-month reporter receiving child care assistance who has been sanctioned under the MFIP program is eligible to receive child care assistance as allowed under parts 3400.0110, subpart 3, item C, and 3400.0175.

C. A schedule reporter who receives child care assistance and has been sanctioned under the MFIP program is eligible to receive child care assistance as allowed by parts 3400.0110, subpart 3, item D, and 3400.0175.

Subp. 1b. **Child care assistance for approved job search.** An MFIP participant who has an approved employment plan that includes a job search as an authorized activity is not limited to the job search time frame in Minnesota Statutes, section 119B.10, subdivision 1.

Subp. 2. [Repealed, 26 SR 253]

Subp. 3. [Repealed, 26 SR 253]

Subp. 4. [Repealed, 26 SR 253]

Subp. 5. [Repealed, 26 SR 253]

Subp. 6. [Repealed, 26 SR 253]

Subp. 7. [Repealed, 26 SR 253]

Subp. 8. **Child care responsibility when a family moves.** When an MFIP or DWP participant moves to another county or an area served by a Tribal CCAP agency and the receiving county or Tribal CCAP agency accepts responsibility for the participant's approved employment plan under Minnesota Statutes, section 256J.55, subdivision 3, the receiving county or Tribal CCAP agency is responsible for providing child care assistance to the MFIP or DWP participant effective on the date that the county or Tribal CCAP agency accepted responsibility for the employment plan. In all other cases, a county or Tribal CCAP agency must provide child care assistance according to Minnesota Statutes, section 256G.07, subdivisions 1, 3, and 4, when an MFIP or DWP participant moves to another county or an area served by a Tribal CCAP agency. A family must meet a Tribal CCAP agency's criteria for families that the Tribal CCAP agency serves for the Tribal CCAP agency to provide child care assistance to the family.

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

History: *14 SR 519; 18 SR 1144; 26 SR 253; 33 SR 695; 47 SR 391*

Published Electronically: *December 13, 2022*

3400.0090 TRANSITION YEAR CHILD CARE.

Subpart 1. **Notice to family of eligibility.** At the time that a family's MFIP or DWP case closes, the county or Tribal agency serving the family's MFIP or DWP case must send the family written notice of the family's potential eligibility for transition year child care.

Subp. 2. Eligibility.

A. A family must only use transition year child care assistance to support employment, a job search, and an approved education or training program that meets the requirements in Minnesota Statutes, section 119B.10. A family is eligible for transition year child care if the family meets the following conditions:

- (1) the family's MFIP or DWP case has closed;
- (2) at least one caregiver in the family received MFIP or DWP in at least one of the six months immediately preceding the month in which the family's MFIP or DWP case was closed;
- (3) the family meets the income eligibility requirements specified in Minnesota Statutes, section 119B.09, subdivision 1; and
- (4) the child meets the definition of a family under Minnesota Statutes, section 119B.011, subdivision 13; or the child received, or would have been eligible to receive, an MFIP or DWP grant.

B. A family becomes eligible for transition year child care on the date that the family's MFIP or DWP case closes and continues to be eligible for 12 consecutive months. A family's temporary ineligibility for, suspension of, or failure to use child care assistance during the transition year does not suspend the transition year period.

C. A former MFIP or DWP participant may apply for transition year child care at any time during the transition year and, notwithstanding the application date, must receive retroactive

transition year child care assistance according to Minnesota Statutes, section 119B.09, subdivision 7.

D. If a family was receiving child care assistance when the family's MFIP or DWP case closed, the family's child care assistance continues until the next redetermination as long as the family meets the transition year eligibility criteria in item A.

Subp. 3. Loss of transition year child care eligibility.

A. A family in which all caregivers have been disqualified from receiving MFIP or DWP due to fraud is not eligible for transition year child care assistance.

B. A county or Tribal CCAP agency must end a family's transition year child care assistance if the family meets one or more conditions for termination under part 3400.0183, subpart 2.

Subp. 4. Reestablishment of MFIP or DWP eligibility during transition year period. If a transition year family reopens the family's MFIP or DWP case during the transition year period and subsequently meets the conditions in subpart 2, the family qualifies for a new 12-month transition year period. A family who receives one month of MFIP or DWP assistance and who meets the other conditions in subpart 2 is eligible for another 12-month transition year period. To receive child care assistance while receiving MFIP or DWP, a family must meet the MFIP child care requirements under part 3400.0080.

Subp. 5. [Repealed, 26 SR 253]

Subp. 6. [Repealed, 26 SR 253]

Subp. 7. [Repealed, 33 SR 695]

Subp. 8. [Repealed, 26 SR 253]

Subp. 9. [Repealed, 26 SR 253]

Subp. 10. Transition year extension.

A. A family must only use transition year extension child care assistance to support employment, a job search, and an approved education and training program that meets the requirements in Minnesota Statutes, section 119B.10.

B. A family that meets the requirements of Minnesota Statutes, section 119B.011, subdivision 20a, and all other applicable child care assistance eligibility requirements is eligible for transition year extension child care assistance.

C. A family's transition year extension child care assistance begins after the conclusion of 12 consecutive months of the family's transition year. Child care assistance continues for a family as long as the family continues to meet child care assistance eligibility requirements.

D. A family's transition year extension child care assistance continues until:

- (1) basic sliding fee child care assistance funding becomes available;

- (2) the family starts receiving MFIP or DWP assistance; or
- (3) the family no longer meets child care assistance eligibility requirements.

E. A CCAP agency considers a family a new applicant when the family requests child care assistance after a transition year extension ends.

Statutory Authority: *MS s 119B.02; 119B.04; 119B.06; 256.01; 256H.02; 256H.035; 256H.055*

History: *18 SR 1144; L 1994 c 483 s 1; 26 SR 253; 33 SR 695; 47 SR 391*

Published Electronically: *December 13, 2022*

3400.0100 COPAYMENTS AND COPAYMENT SCHEDULES.

Subpart 1. [Repealed, 30 SR 1318]

Subp. 2. [Repealed, 26 SR 253]

Subp. 2a. **Copayments prorated during initial service period.** A CCAP agency must prorate a copayment during the service period when a family first receives service based on the number of calendar days remaining in the service period.

Subp. 2b. [Repealed, 47 SR 391]

Subp. 2c. [Repealed, 47 SR 391]

Subp. 3. [Repealed, 30 SR 1318]

Subp. 3a. [Repealed, 30 SR 1318]

Subp. 4. [Repealed, 30 SR 1318]

Subp. 5. **Update and publication of copayment schedule.** Under Minnesota Statutes, section 119B.12, the updated fee copayment schedule must take effect within three months of the date that the state median income and federal poverty guidelines become publicly available. The commissioner must publish and make the updated copayment schedule electronically available to each CCAP agency.

Statutory Authority: *MS s 14.3895; 119B.02; 119B.04; 119B.06; 119B.12; 256.01; 256H.01 to 256H.19; L 1999 c 205 art 1 s 63*

History: *14 SR 519; 18 SR 1144; 26 SR 253; 30 SR 1318; 33 SR 695; 47 SR 391*

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3400.0110 CHILD CARE ASSISTANCE AUTHORIZATIONS AND PAYMENTS.

Subpart 1. **Use of money from child care fund.** A CCAP agency must issue child care assistance payments for eligible families to eligible child care providers under part 3400.0120, subpart 1, from the child care fund.

Subp. 1a. **Date of payments.** After a CCAP agency approves of a family's application for child care assistance, the CCAP agency must authorize payment of child care assistance to an eligible child care provider under part 3400.0120 beginning on the family's date of eligibility as determined under part 3400.0040, subpart 6c.

Subp. 2. **Payment of legal nonlicensed child care provider.** After a legal nonlicensed child care provider is registered as a child care provider and eligible for child care assistance under part 3400.0120, a CCAP agency must pay the child care provider retroactively from the date in item A, B, C, or D, whichever is later:

A. the date that a CCAP agency authorizes child care to begin for a family that the legal nonlicensed child care provider serves;

B. the date that a family that the legal nonlicensed child care provider serves became eligible for child care under part 3400.0040, subpart 6c;

C. the date that a family began using the legal nonlicensed child care provider; or

D. the date that the legal nonlicensed child care provider completed training required by part 3400.0120, subpart 6, and Minnesota Statutes, section 119B.125, subdivision 1b.

Subp. 2a. [Repealed, 47 SR 391]

Subp. 2b. **Payment of certified license-exempt child care centers.** After a license-exempt child care center is certified under Minnesota Statutes, chapter 245H, registered, and eligible under part 3400.0120, subpart 1, a CCAP agency must pay the license-exempt child care center retroactively from the date in item A or B, whichever is later:

A. the date that a CCAP agency authorizes child care for a family to begin for a family that the certified license-exempt child care center serves; or

B. the date that a family that the certified license-exempt child care center serves became eligible for child care under part 3400.0040, subpart 6c.

Subp. 3. **Authorization of child care.** Within the limits set by this chapter and Minnesota Statutes, chapter 119B, the amount of child care that a CCAP agency authorizes must reflect the child care needs of the family and minimize out-of-pocket child care costs to the family according to items A to H.

A. At the time of application and redetermination, a CCAP agency must authorize child care based on the requirements in Minnesota Statutes, section 119B.095, and based on the parentally responsible individual's schedule of participation in authorized activities, the child's school schedule, the child care provider's availability, and any other factors that affect the amount of child care that the family needs.

B. A CCAP agency must not authorize more than 120 hours of child care assistance per child every two weeks, except as provided under subparts 3a and 3b.

C. A CCAP agency must not decrease the amount of a 12-month reporter's authorized child care during the 12-month eligibility period due to a temporary break or a change in the parentally responsible individual's employment, education and training, or employment plan activity, unless the 12-month reporter requests a reduction in authorized hours or requests that the CCAP agency suspend the 12-month reporter's child care under part 3400.0040, subpart 18. Temporary breaks or changes include circumstances such as:

- (1) medical leave;
- (2) seasonal employment fluctuations;
- (3) a school break between semesters; or

(4) a reduction in the parentally responsible individual's work, training, or education hours while the parentally responsible individual is still engaged in the activity.

D. A CCAP agency must authorize child care during the 12-month eligibility period for a schedule reporter based on the parentally responsible individual's activity schedule. A CCAP agency must decrease the number of a schedule reporter's authorized hours when there is a change in the parentally responsible individual's employment, education and training, or employment plan activity and as a result of the change, the schedule reporter needs fewer hours of child care. A CCAP agency must terminate a child care authorization when there is a temporary break in the parentally responsible individual's employment, education and training, or employment plan activity and the parentally responsible individual has no other authorized activity, unless the parentally responsible individual meets the criteria in subpart 10 or part 3400.0040, subpart 10, item E, subitem (1). Temporary breaks include circumstances such as:

- (1) a medical leave;
- (2) seasonal employment fluctuations; and
- (3) a school break between semesters.

E. If a parentally responsible individual experiences a permanent end of the parentally responsible individual's only authorized activity under part 3400.0175, a CCAP agency must authorize the same amount of child care for the family as the family received before the permanent end of the authorized activity for up to three months or until the family's next redetermination, whichever is sooner.

F. A CCAP agency must terminate a child's child care authorization on the child's birthday when the child reaches 13 years of age or the child has a disability and reaches 15 years of age. A family remains eligible until redetermination under Minnesota Statutes, section 119B.09, subdivision 1, paragraph (e). If continued child care is necessary, the parentally responsible individual must request a CCAP agency to authorize child care. For 12-month reporters, a CCAP agency must authorize the same amount of child care under this item as the family received before the child's birthday, unless the parentally responsible individual verifies that the family needs additional child care hours or requests fewer child care hours. For schedule reporters, a CCAP agency must authorize child care under this item based on the parentally responsible individual's verified activity schedule.

If the child is attending a licensed child care center, the child care provider must have a variance under chapter 9503 for a CCAP agency to authorize child care for the child.

G. A CCAP agency must authorize 100 hours of child care biweekly for a child when the child, the parentally responsible individual's authorized activity, and the child's child care provider meet the criteria in Minnesota Statutes, section 119B.13, subdivision 3c, unless the family chooses to have fewer hours authorized.

H. A CCAP agency must limit the amount of child care that the CCAP agency authorizes with a secondary child care provider as provided in Minnesota Statutes, section 119B.097.

Subp. 3a. Authorization during change in child care provider. A CCAP agency must not authorize more than 120 hours of child care per child during each service period, except during a change in child care provider. Before authorizing a child's care with a new child care provider, a CCAP agency must give the previous child care provider proper notice under part 3400.0185, subpart 13. A CCAP agency is allowed to authorize child care with a new child care provider before the CCAP agency terminates the child care authorization of the previous child care provider if:

- A. child care is no longer available with the previous child care provider;
- B. the previous child care provider notifies the CCAP agency that the child care provider will not bill for child care during the 15-day adverse action period; or
- C. the child is no longer receiving child care from the previous child care provider and the child has reached the absent day limit under Minnesota Statutes, section 119B.13, subdivision 7.

Subp. 3b. Authorization of child care with back-up child care provider. When the child's usual child care provider is unavailable, the family may request that a CCAP agency authorize child care with a back-up child care provider for a maximum of the entire time period that the child's usual child care provider is unavailable.

Subp. 3c. Authorization of children of child care center employee.

A. When a CCAP agency authorizes child care in excess of the limit of children of child care center employees in Minnesota Statutes, section 119B.09, subdivision 9a, the CCAP agency must issue a 15-day adverse action notice and terminate the authorization of any child in excess of the limit. The CCAP agency must terminate the authorization of the child or children whose child care was most recently authorized until there are no authorizations in excess of the limit.

B. If a parentally responsible individual becomes a child care center employee at the same child care center where the individual's child is authorized to receive child care and the child care center exceeds the limit of children of child care center employees in Minnesota Statutes, section 119B.09, subdivision 9a, the CCAP agency must issue a 15-day adverse action notice and terminate authorization of the individual's child.

Subp. 3d. Child care payment.

A. A CCAP agency must pay a child care provider's full charge up to the applicable maximum rate, less the copayment, for all authorized hours of child care for a child.

B. A CCAP agency must not pay for more than 120 hours of child care assistance per child per service period. The 120-hour payment limit applies during a change in child care provider under subparts 3a and 3b.

C. Except as provided under subpart 8, a CCAP agency must not pay for the care of a child by more than one child care provider during the same period of time. If a child uses two child care providers under Minnesota Statutes, section 119B.097, the payment limits in Minnesota Statutes, section 119B.13, subdivision 1, apply. A CCAP agency must not pay more than one primary child care provider for care of a child on the same day and must not pay more than one secondary child care provider on the same day.

D. All hourly rates that a CCAP agency pays to a legal nonlicensed child care provider count toward the 120-hour limit.

E. A CCAP agency must follow the standards in subitems (1) and (2) to convert child care that a CCAP agency pays on a full-day or weekly basis into hours to determine if a payment exceeds 120 hours of child care assistance per service period for licensed and certified license-exempt child care providers. The agency must ensure that:

- (1) payment at the daily maximum rate is equal to ten hours of child care; and
- (2) payment at the weekly maximum rate is equal to 50 hours of child care.

Subp. 4. [Repealed, 33 SR 695]

Subp. 4a. **Reimbursement from other sources for child care costs.** A CCAP agency must reduce the amount of a family's child care assistance payment by the amount of reimbursement earmarked for the same child care expenses that the family receives from sources other than the child care fund. A CCAP agency must not reduce the amount of a family's child care assistance payments when another source pays for different child care expenses, such as copayments, differences between the applicable maximum rate and the child care provider's charge, or time periods that are not authorized under the child care fund.

Subp. 5. [Repealed, 26 SR 253]

Subp. 6. [Repealed, 26 SR 253]

Subp. 7. **Payment policies and schedule.** A CCAP agency must not require a parentally responsible individual to pay a child care provider in advance of receiving payments from the child care fund. A CCAP agency must make child care assistance payments within 21 days of receiving a complete bill from a child care provider. A complete bill must include a child care provider's signature, unless the bill meets the good cause criteria defined in the CCAP agency's child care fund plan. A CCAP agency must send a child care provider the forms necessary to bill for payment on or before the beginning of the billing cycle if the CCAP agency has authorized child care before this date.

Subp. 8. Sick child care.

A. Sick child care means that a child is unable to receive child care from the family's regular child care provider due to the child's illness. In addition to making payments for regular child care, a CCAP agency may make payments to a second child care provider that provides sick child care. A CCAP agency must include the CCAP agency's policy to make payments to two child care providers when a child is sick in the CCAP agency's child care fund plan.

B. If a CCAP agency chooses to pay a special needs rate for the care of a sick child, payment for sick child care must be at a rate comparable to like care arrangements in the county. A CCAP agency must include the CCAP agency's special needs rate for child care of sick children in the CCAP agency's child care fund plan.

Subp. 9. Payment during child absences and holidays.

A. If a child care provider does not charge all families for days on which a child is absent from child care, the child care assistance program must not pay the child care provider for days on which a child is absent from care.

B. If a child care provider charges all families for days on which a child is absent from child care, the child care assistance program must pay the child care provider for child absent days according to Minnesota Statutes, section 119B.13, subdivision 7.

C. Child care provider charges for absent days in excess of the amount established by Minnesota Statutes, section 119B.13, subdivision 7, are the responsibility of the family receiving child care assistance.

D. A CCAP agency must pay a child care provider for a holiday only if:

(1) the child care provider meets the requirements in Minnesota Statutes, section 119B.13, subdivision 7, paragraph (d);

(2) the day is a state or federal holiday as determined according to Minnesota Statutes, section 645.44, subdivision 5, or another cultural or religious holiday designated by the child care provider;

(3) the child care provider does not provide child care on that day;

(4) the child care provider gives notice of the holiday or other designated day to the CCAP agency before the holiday or designated day occurs or within ten calendar days after the day occurs; and

(5) the child care provider bills the day as a holiday.

If child care is available on a holiday and a child is scheduled and authorized to be in the child care provider's care on that day and the child is absent on that day, the child care provider must bill the day as an absent day.

E. The absent day provisions in this subpart and in Minnesota Statutes, section 119B.13, subdivision 7, including the limits on paid absent days and holidays, apply to child care assistance payments for child care provided during notice periods.

F. A parentally responsible individual may substitute other cultural or religious holidays for the ten state and federal holidays identified in Minnesota Statutes, section 645.44, subdivision 5, if:

(1) the parentally responsible individual gives notice of the substitution to a CCAP agency before the holiday occurs or within ten calendar days after the holiday; and

(2) the substitution is for a day when the child care provider is closed and does not provide child care, and the child care provider agrees to bill the day as a holiday and notify the CCAP agency according to item D, subitem (4).

G. If a holiday falls on a Saturday, the preceding day is used as a holiday. If a holiday falls on a Sunday, the following day is used as a holiday.

H. A child with a documented medical condition may exceed the 25-absent-day limit, or ten consecutive full-day absent limit, as provided by Minnesota Statutes, section 119B.13, subdivision 7, paragraph (b). The following criteria apply.

(1) A medical practitioner, public health nurse, or school nurse must complete documentation of the child's medical condition. For purposes of this item, a medical practitioner includes a physician, physician's assistant, nurse practitioner, psychiatrist, psychologist, or chiropractor.

(2) If a child care provider sends a child home early from child care for a medical reason, documentation of the medical condition may be verified by a licensed or certified child care center director or child care center lead teacher. When the medical reason is verified by the child care center director or lead teacher, the exemption is limited to up to two weeks from the first day of the child's illness. To extend the exemption longer than two weeks, a person listed in subitem (1) must complete documentation of the child's medical condition.

(3) The exemption may begin on the first day of the child's illness, but not more than 90 days prior to the date that the CCAP agency receives documentation of the child's illness. When documentation is submitted by a medical practitioner, public health nurse, or school nurse, the exemption is limited to the time period of the child's medical condition or up to 12 months if the exemption is due to a chronic medical condition.

Subp. 10. Payment during medical leaves of absence. A CCAP agency must authorize child care assistance for a schedule reporter during the schedule reporter's medical leave of absence from education, employment, or authorized activity in an employment plan if:

A. the parentally responsible individual is unable to provide child care due to the individual's medical condition;

B. the parentally responsible individual is expected to return to authorized employment, an approved education or training program, or employment plan activity within 90 calendar days after leaving the job, education or training program, or activity; and

C. the necessity of the medical leave and the inability to provide child care are documented by a licensed physician, licensed psychiatrist, licensed psychologist, or licensed social worker.

The amount of child care authorized during the medical leave of absence must not exceed 215 hours of child care per child.

Subp. 11. **Payment during notice periods.** Child care assistance payments for child care provided during notice periods are subject to all payment rules and limits identified under this part.

Subp. 12. **Payment for child care provided at short-term alternate locations.** When child care is not available at a certified license-exempt child care center where a CCAP agency has authorized a child to receive child care assistance and the child receives child care at an alternate location, a CCAP agency must make child care assistance payments under the child's current authorization if the following criteria are met:

A. the alternate location is a certified license-exempt child care center;

B. the alternate location is registered to receive child care assistance;

C. the alternate location is controlled by the same entity as the authorized certified license-exempt child care center and has the same tax identification number;

D. the alternate location is identified by the authorized certified license-exempt child care center as an alternate location before a CCAP agency issues payment for child care that the child receives at the alternate location;

E. child care is unavailable at the certified license-exempt child care center where the child is authorized to receive child care;

F. the child receives child care for no more than 21 consecutive calendar days at the alternate location; and

G. the alternate location fulfills all child care assistance program requirements in this chapter and Minnesota Statutes, chapter 119B, and all certification requirements in Minnesota Statutes, chapter 245H.

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

History: *14 SR 519; 18 SR 1144; 26 SR 253; 33 SR 695; 47 SR 391*

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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 e-mail, 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*

NOTE: This temporary exempt rule is effective for two years and expires September 27, 2023.

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3400.0130 CHILD CARE ASSISTANCE PROGRAM MAXIMUM RATES.

Subpart 1. **Rate determination.** The commissioner must determine the applicable child care assistance program maximum rate as described in Minnesota Statutes, section 119B.13. Any rate survey conducted by the commissioner as described in Minnesota Statutes, section 119B.02, must include a survey of registration fees when it is usual and customary for a category of child care provider to charge registration fees.

Subp. 1a. **Child care assistance program maximum rate.** Except as provided in this part, the maximum rate payable by a CCAP agency for child care assistance is the child care provider's rate or the applicable maximum rate determined by the commissioner under Minnesota Statutes, section 119B.13, whichever is less. In Minnesota, the child care assistance program maximum rate

must be based on the county, or city when applicable, where a child care provider provides child care. Outside Minnesota, the child care assistance program maximum rate must be based on the participant's county of residence.

Subp. 1b. **Child care provider charges and registration fees in excess of maximum child care payment.** A CCAP agency must not pay a child care provider more than the child care assistance program maximum rate and registration fee. In addition to any copayment, a family is responsible for:

A. the difference between the child care assistance program maximum rate and the child care provider rate;

B. any charges that exceed the allowable CCAP payment under part 3400.0110, subpart 3d;

C. the difference between the applicable maximum registration fee and the child care provider registration fee when the child care provider charge does not include the registration fee;

D. the child care provider registration fee when a CCAP agency has paid two registration fees per child in a 12-month period; and

E. any other fees that the child care provider charge does not include.

A third party may pay part or all of a family's child care expenses under Minnesota Statutes, section 119B.09, subdivision 11.

Subp. 2. **Rate determination for certified license-exempt child care centers.** A CCAP agency must pay a certified license-exempt child care center as defined in Minnesota Statutes, section 245H.01, subdivision 5, the applicable maximum rate for licensed child care centers or the child care provider rate, whichever is less.

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

Subp. 3. **Rate determination for special needs due to disability or inclusion in at-risk population.** A CCAP agency must submit a request to pay a special needs rate for a child with a disability or for a child care provider caring for a child in an at-risk population to the commissioner. The commissioner must evaluate a request for a special needs rate using the commissioner's methodology. Based on the commissioner's methodology, approved special needs rates may be lower than the requested rates.

Subp. 3a. **Rate determination; children with special needs due to disability.**

A. When a parentally responsible individual or a child care provider asks a CCAP agency for a special needs rate for a child with a disability that exceeds the applicable maximum rate, the CCAP agency 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 CCAP agency must:

(1) obtain documentary evidence of the child's disability;

(2) obtain the following documentation from the child care provider:

(a) a description of the specialized training, services, or environmental adaptations that the child care provider will furnish to meet the individual needs of the child;

(b) the child care provider's assurance of compliance with applicable provisions of the Americans with Disabilities Act;

(c) the child care provider's assurance that the rate that the child care provider is requesting 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

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

(3) seek the commissioner's approval and determination of the special needs rate. The commissioner must evaluate the request and, upon approval, allow a CCAP agency to pay a special needs rate at 75 percent, 150 percent, or 200 percent of the applicable maximum rate by assessing the child's needs in the following areas:

(a) special medical needs and health;

(b) behavioral issues;

(c) mobility;

(d) communication skills;

(e) self-sufficiency; and

(f) extra supervision for safety; and

(4) notify the child care provider and parentally responsible individual of the commissioner's decision in writing, including the reasons for approval or denial.

B. Upon written approval by the commissioner, a CCAP agency must pay the approved special needs rate retroactively from the date of the child care provider's or parentally responsible individual's request for the special needs rate under Minnesota Statutes, sections 119B.09, subdivision 7, and 119B.13, subdivision 6. A special needs rate approval must not exceed a time period of 12 months. If a parentally responsible individual or child care provider requests a special needs rate for longer than 12 months, the parentally responsible individual or child care provider must seek a renewal of the special needs rate by the end of the 12-month period.

Subp. 3b. Rate determination; child care provider who serves children in at-risk population. To determine a special needs rate for a child care provider caring for children in an at-risk population as defined in the CCAP agency's child care fund plan, a CCAP agency must:

A. obtain documentary evidence that the children that the child care provider serves are predominantly in the at-risk population defined in the CCAP agency'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 child care provider will receive or provide to meet the needs of the children in the at-risk population;

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

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

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

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

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

F. seek the commissioner's approval of the special rate as determined under item D or E. A CCAP agency must submit the special needs rate request for the commissioner's approval with or as an amendment to the CCAP agency's child care fund plan.

Upon written approval by the commissioner, a CCAP agency must pay the approved special needs rate retroactively from the date of the child care provider's request for the special needs rate under Minnesota Statutes, sections 119B.09, subdivision 7, and 119B.13, subdivision 6.

Subp. 4. [Repealed, 26 SR 253]

Subp. 5. **Age categories.** A CCAP agency must determine a child's maximum child care assistance rate according to the age of the child and the type of child care provider caring for the child as follows.

A. The age categories in Minnesota Statutes, section 245A.02, subdivision 19, apply to a licensed family child care provider and to a legal nonlicensed child care provider.

B. The age categories in part 9503.0005, subpart 2, apply to a licensed child care center.

C. The age categories in Minnesota Statutes, section 245H.08, subdivisions 4 and 5, apply to a certified license-exempt child care center.

D. If a licensed family child care provider or a licensed child care center cares for the child, a CCAP agency must base the maximum rate that the agency pays for the child's care on a different age category when a parentally responsible individual or child care provider notifies the CCAP agency that the child's setting or age category differs from the applicable age category under item A or B; and:

(1) the child meets the age criteria to qualify for the licensing provision for age flexibility for licensed centers under part 9503.0040, subpart 4, item A; or

(2) the commissioner has granted a licensing variance to the child's licensed child care center under part 9503.0005, subpart 26, or licensed family child care provider under part 9502.0315, subpart 31.

E. A CCAP agency must consider a child to be in the school-age rate category on September 1 following the child's fifth birthday unless the parentally responsible individual informs the CCAP agency that the child will not be starting school.

Subp. 5a. **Rates for in-home care.** When a child care provider cares for a child in the child's home under Minnesota Statutes, section 119B.09, subdivision 13, a CCAP agency must base the applicable maximum rate on the allowable rate for a legal nonlicensed child care provider. If a child care provider is licensed to care for a child in the child's home, a CCAP agency must base the applicable maximum rate on the allowable rate for a licensed child care provider.

Subp. 6. [Repealed, 26 SR 253]

Subp. 7. **Payment of registration fees.** If a child care provider charges a family a registration fee to enroll a child in the child care provider's program and the child care provider rate does not include the registration fee, a CCAP agency must pay the child care provider registration fee or up to the applicable maximum registration fee that the commissioner determines under Minnesota Statutes, section 119B.13. A CCAP agency must 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; 47 SR 391*

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3400.0140 RESPONSIBILITIES OF A CCAP AGENCY.

Subpart 1. **CCAP agency child care assistance policies and procedures.** A CCAP agency must adopt policies and procedures for providing child care assistance to enable eligible applicants to seek or retain employment or to participate in education or training programs. All adopted CCAP agency policies that apply to child care assistance must be in writing and must be included in the CCAP agency's child care fund plan and must be approved by the commissioner as required under part 3400.0150.

Subp. 2. **Child care assistance information.** A CCAP agency must provide information on child care assistance to families, child care providers, social service agencies, and the local news media to ensure the full use of the CCAP agency's child care fund allocation.

Subp. 3. [Repealed, 26 SR 253]

Subp. 4. [Repealed, 47 SR 391]

Subp. 5. [Repealed, 47 SR 391]

Subp. 5a. [Repealed, 33 SR 695]

Subp. 6. **Duties upon receipt of complaint against legal nonlicensed child care provider.** Within 24 hours of receiving a complaint concerning the health or safety of children in the care of a legal nonlicensed child care provider, a CCAP agency must relay the complaint to:

A. the county's or Tribe's child protection agency if the complaint alleges child maltreatment as defined in Minnesota Statutes, section 260E.03, subdivision 12;

B. the county's or Tribe's public health agency if the complaint alleges a danger to public health due to communicable disease, unsafe water supply, sewage or waste disposal, or building structures;

C. local law enforcement if the complaint alleges criminal activity that endangers the health or safety of children under care; or

D. other agencies with jurisdiction to investigate complaints relating to the health and safety of a child.

If a complaint is substantiated under item A, the CCAP agency must keep a record of the substantiated complaint as provided in Minnesota Statutes, section 260E.35, subdivision 6. If a complaint is substantiated under items B to D, the CCAP agency must keep a record of the substantiated complaint for three years. Upon request, a CCAP agency must release information governing substantiated complaints to the public as authorized under Minnesota Statutes, chapter 13. Upon receiving notice of a substantiated complaint under items A to D, a CCAP agency must determine if the complaint meets the criteria for imminent risk or unsafe care in the CCAP agency's child care fund plan. A CCAP agency must not make payments to a child care provider from the child care fund for child care services that the child care provider provides after the date of the termination notice under part 3400.0185, subpart 13, unless the child care provider has corrected the conditions underlying the substantiated complaint. If a CCAP agency terminates a child care

provider's registration, the child care provider must complete the registration process in Minnesota Statutes, section 119B.011, subdivision 19a, after the child care provider has corrected the conditions underlying the substantiated complaint and becomes eligible under part 3400.0120 to receive child care assistance payments. When substantiated maltreatment occurs in a legal nonlicensed child care setting and a child dies or a child has a serious injury in the legal nonlicensed child care setting that requires treatment by a physician, the commissioner and any CCAP agency must always consider the legal nonlicensed child care setting unsafe and the child care provider is no longer eligible to receive child care assistance.

Subp. 7. **County and Tribal contracts for administration of child care fund.** A county or Tribe may contract for the administration of all or part of the child care fund. A county or Tribe must designate the agency that the county or Tribe authorizes to administer the child care fund in the county's or Tribe's child care fund plan. The county or Tribe must submit a copy of the current contract with the subcontracted agency that describes the subcontracted agency's responsibilities.

Subp. 8. **Agreement with employment and training services providers.** Cooperative agreements with employment and training services providers must specify that MFIP families participating in employment services and meeting the requirements of part 3400.0080 are eligible for child care assistance from the CCAP agency responsible for the MFIP participant's approved employment plan or according to Minnesota Statutes, section 256G.07.

Subp. 9. **Local match.** The county or Tribe must provide a local match according to Minnesota Statutes, section 119B.11, subdivision 1.

Subp. 9a. **Child care assistance funding.** In the manner prescribed by the commissioner, a CCAP agency must use funding for child care expenditures for all eligible recipients who are in employment, education, training, or other preemployment activities allowed under the federal and state reimbursement programs. The commissioner must allocate any federal or state earnings to the CCAP agency that used the funding and the CCAP agency must use the earnings to expand funding for child care services.

Subp. 10. **Eligibility priorities for beginning assistance.** If a CCAP agency's basic sliding fee program allocation for child care is insufficient to fund all of the applications that the CCAP agency receives for child care assistance, the CCAP agency may prioritize eligibility among the groups that remain to be served after the CCAP agency has complied with the priority requirements in Minnesota Statutes, section 119B.03, subdivision 4. A CCAP agency must include the agency's rationale for the prioritization of eligibility in the CCAP agency's child care fund plan. To the extent of available allocations, a CCAP agency must not exclude any eligible family who has submitted a complete application from receiving child care assistance.

Subp. 11. [Repealed, 26 SR 253]

Subp. 12. [Repealed, 26 SR 253]

Subp. 13. [Repealed, 26 SR 253]

Subp. 14. **Reporting requirements.** A CCAP agency must submit financial, program activity, and child care provider reports according to instructions and schedules that the commissioner

establishes after considering such factors as the commissioner's need to receive data in a manner and according to a schedule that meets reporting deadlines and the CCAP agency's need for lead time when changes in reporting requirements occur.

Subp. 15. [Repealed, 26 SR 253]

Subp. 16. [Repealed, 26 SR 253]

Subp. 17. [Repealed, 26 SR 253]

Subp. 18. [Repealed, 26 SR 253]

Subp. 19. [Repealed, 33 SR 695]

Subp. 20. [Repealed, 26 SR 253]

Subp. 21. **Acting on changes.** A CCAP agency must act within ten calendar days from the date that a family reports a change or the change becomes known to the CCAP agency. A CCAP agency must consider a family's reporting responsibilities under part 3400.0040, subpart 4, to determine if a change requires CCAP agency action.

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

History: *14 SR 519; 18 SR 1144; 26 SR 253; 33 SR 695; 47 SR 391*

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3400.0150 CHILD CARE FUND PLAN.

Subpart 1. **Submission of plan.** By the date established by the commissioner, a county or Tribe must submit to the commissioner a child care fund plan within the time frame in Minnesota Statutes, section 119B.08, subdivision 3. The commissioner may require updates of information in the child care fund plan to comply with this chapter, applicable Minnesota statutes, and federal laws and regulations.

Subp. 2. **Plan content.** A child care fund plan must contain a complete description of the county's or Tribe's child care assistance program for applicants and participants eligible for assistance under Minnesota Statutes, chapter 119B. The child care fund plan must include the information required by Minnesota Statutes, sections 119B.08, subdivision 3, and 119B.125, subdivision 4; the information required by this chapter, including the conditions that the county or Tribe recognizes as presenting an imminent risk of harm; and all county and Tribal forms, policies, and procedures used to administer the child care funds. The child care fund plan must describe how the county or Tribe serves persons with limited English proficiency as required by title VI of the Civil Rights Act of 1964, United States Code, title 42, sections 2000, et seq. The information in the plan must be in the form that the commissioner prescribes.

Subp. 2a. **Plan approval.** A county or Tribe must submit a complete child care fund plan to the commissioner for approval. The child care fund plan must comply with this chapter; Minnesota Statutes, chapter 119B; and federal law. Once the commissioner approves of the child care fund plan, the county or Tribe must receive written approval from the commissioner within the time

frame in Minnesota Statutes, section 119B.08, subdivision 3. The child care fund plan must include information on how the county or Tribe will make the approved plan available to the public.

Subp. 3. **Plan amendments.** A county or Tribe may submit a written request to amend the county's or Tribe's child care fund plan at any time and the commissioner must approve of the amendment before the amended plan becomes effective. If the commissioner approves of the amendment, the amendment is effective on the date requested by the county or Tribe unless a different effective date is set by the commissioner. The commissioner must approve or deny plan amendments within 60 days after receipt of the amendment request. A county or Tribe must include the approved amendment when making the approved plan available to the public.

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

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

Published Electronically: *December 13, 2022*

3400.0160 [Repealed, 26 SR 253]

Published Electronically: *October 29, 2008*

3400.0170 INCOME ELIGIBILITY FOR CHILD CARE ASSISTANCE.

Subpart 1. **Proof of income eligibility.** An applicant requesting child care assistance must provide proof of income eligibility. For the purpose of determining income eligibility, gross annual income is the gross income of the family for the current month multiplied by 12, the gross income for the 12-month period immediately preceding the date of application, or the gross income calculated by the method that provides the most accurate assessment of gross annual income available to the family. A CCAP agency must use the method that provides the most accurate assessment of gross annual income currently available to the family. An applicant must verify counted income as described in subpart 4 with documentary evidence. If an applicant does not submit sufficient evidence of counted income to a CCAP agency, the CCAP agency must offer the applicant the opportunity to sign an informational release to permit the CCAP agency to verify whether the applicant qualifies for child care assistance.

Subp. 1a. **Income limits.** Income limits vary for applicants and participants under Minnesota Statutes, section 119B.09, subdivision 1.

A. To be income eligible at application, a family's gross annual income after allowable deductions under subpart 6a must be at or below:

(1) 47 percent of the state median income, adjusted for family size, for basic sliding fee child care assistance or student parents;

(2) 67 percent of the state median income, adjusted for family size, for MFIP or DWP child care assistance; or

(3) 47 percent of the state median income, adjusted for family size, for transition year child care assistance if a family does not receive MFIP and DWP child care assistance. If a family's MFIP or DWP grant is closing and the family receives MFIP or DWP child care assistance, a CCAP

agency must consider the family a participant and the family is subject to the income limits in items B and C.

B. To be income eligible at redetermination, a family's gross annual income after allowable deductions must be at or below 67 percent of the state median income, adjusted for family size. This limit applies to all participants.

C. To maintain income eligibility during the 12-month eligibility period, a family's gross annual income after allowable deductions must be at or below 85 percent of the state median income, adjusted for family size. This limit applies to all participants.

D. A CCAP agency must consider a family a participant when the family receives child care assistance and becomes temporarily ineligible under part 3400.0040, subpart 17, subject to the income limits in items B and C. A CCAP agency must consider a family a basic sliding fee applicant when the family on the basic sliding fee waiting list reaches the top of the waiting list and is temporarily ineligible under part 3400.0040, subpart 17, subject to the income limit in item A, subitem (1).

E. A family that is suspended under part 3400.0040, subpart 18, is considered a participant and is subject to the income limits in items B and C during the suspension and after the suspension ends.

F. If a family becomes ineligible while receiving child care assistance, a CCAP agency must terminate the family's child care assistance. If a formerly ineligible family applies for child care assistance, a CCAP agency must consider the family an applicant and the family is subject to the income limits in item A.

Subp. 2. [Repealed, 26 SR 253]

Subp. 3. **Evaluation of income.** A CCAP agency must determine the income that a family receives or that is available to a family according to subparts 4 to 11.

Subp. 4. **Determination of gross annual income.** The income standard for determining eligibility for child care assistance is a family's gross annual income. A family's gross annual income is the sum of each family member's income sources under Minnesota Statutes, sections 119B.011, subdivision 15, and 256P.01, subdivisions 3 and 8, including earned income, self-employment income, unearned income, and lump sum payments. A CCAP agency must offset negative self-employment income from one business against self-employment income from a different business, resulting in a reduction in annual income from self-employment. Lump sum payments that a family receives prior to participating in the child care assistance program are not included in the family's total gross annual income. If a participant's eligibility ends after receiving a lump sum and the participant reapplies for child care assistance, a CCAP agency must count the lump sum for 12 months from the date of the lump sum receipt. A CCAP agency must calculate earned income, self-employment income, unearned income, and lump sum payments separately.

Subp. 4a. **Individuals with exempt income.** Certain individuals in a family participating in the child care assistance program are exempt from having a CCAP agency count some or all of their income.

A. Individuals under Minnesota Statutes, section 256P.06, subdivision 2, paragraph (a), are exempt from having a CCAP agency count their earned income.

B. A designated new spouse under Minnesota Statutes, section 256P.06, subdivision 2, paragraph (c), is exempt from having the designated new spouse's earned and unearned income counted when the designated new spouse's family income before exemption does not exceed 67 percent of the state median income and the family verifies the marriage date. If a family meets these requirements, the designated new spouse's earned and unearned income no longer counts for two service periods after a CCAP agency receives verification of the marriage date and continues not to count for up to 26 service periods.

Subp. 5. [Repealed, L 2015 c 71 art 5 s 34]

Subp. 6. [Repealed, L 2015 c 71 art 5 s 34]

Subp. 6a. **Deductions from gross annual income.** When a family verifies items at the time of application or redetermination, or during the 12-month eligibility period, a CCAP agency must deduct the following items from a family's gross annual income:

A. child or spousal support paid to or on behalf of a person or persons who live outside of the household;

B. money used to pay for health, dental, and vision insurance premiums for family members that are not reimbursed by medical assistance; and

C. expenditures necessary to secure payment of unearned income.

Subp. 7. **Earned income from self-employment.** In determining a family's gross annual income for purposes of eligibility under this part, a CCAP agency must determine earned income from self-employment according to Minnesota Statutes, section 256P.05, subdivision 2. If a family provides verification for and meets income and authorized activity eligibility requirements under both income determination methods but does not choose a method, the CCAP agency must use the method that results in the lowest copayment to the family.

A. A family must provide verification of self-employment income for either income determination method and provide expenses for the taxable income method.

B. At the time of application, or redetermination, or during the 12-month eligibility period, a CCAP agency must allow a family to submit a self-attestation verifying income if financial documentation is unavailable or insufficient to accurately predict self-employment income.

C. A family may change the method of self-employment income determination when the current income calculation does not provide the most accurate assessment of annual ongoing income available to the family. The family must meet verification requirements of the chosen method.

D. Self-employment business records must be kept separate from the family's personal records.

E. If the person's business is a partnership or a corporation and that person is drawing a salary, the salary must be treated as earned income.

Subp. 8. [Repealed by amendment, 47 SR 391]

Subp. 9. [Repealed by amendment, 47 SR 391]

Subp. 10. **Determination of farm income.** Farm income must be determined for a one-year period. Farm income is determined according to Minnesota Statutes, section 256P.05, subdivision 2. Gross income includes items such as sales, rents, subsidies, farm-related insurance payments, soil conservation payments, production derived from livestock, and income from the sale of home-produced foods.

Subp. 11. **Determination of rental income.**

A. Income from rental property is considered self-employment earnings when the owner spends an average of 20 or more hours per week on maintenance or management of the property.

B. When an owner does not spend an average of 20 or more hours per week on maintenance or management of the property, income from rental property is considered unearned income.

C. Rental income is determined according to Minnesota Statutes, section 256P.05, subdivision 2.

Subp. 12. [Repealed, L 2015 c 71 art 5 s 34]

Subp. 13. [Repealed, L 2015 c 71 art 5 s 34]

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

History: *14 SR 519; 18 SR 1144; 26 SR 253; 33 SR 695; L 2003 1Sp14 art 1 s 106; L 2015 c 71 art 5 s 34; L 2017 1Sp5 art 10 s 7; 47 SR 391*

Published Electronically: *December 13, 2022*

3400.0175 EXTENDED ELIGIBILITY.

Subpart 1. **Three-month extended eligibility period.** Extended eligibility is a period of continued eligibility for a family during the 12-month eligibility period as allowed by Minnesota Statutes, section 119B.105. A family may enter extended eligibility under the circumstances described in Minnesota Statutes, section 119B.105, subdivision 1, paragraph (b), and under the following circumstances.

A. An MFIP or DWP participant has a permanent end to all employment plan activities and is not participating in another authorized activity.

B. An MFIP or DWP participant has been sanctioned for not participating in all employment plan activities and is not participating in authorized activities outside of an employment plan.

C. A parentally responsible individual's unable to care status has expired in a two-parent household.

Subp. 2. Permanent and temporary ends of authorized activity.

A. If a parentally responsible individual reports an end to the parentally responsible individual's authorized activity, a CCAP agency must consider the end of the authorized activity permanent unless the family reports that the end is temporary. The extended eligibility period begins on the day that the authorized activity permanently ends and continues for up to three months or until a family's redetermination, whichever occurs first.

B. If a parentally responsible individual has a temporary end to an authorized activity that becomes a permanent end, the family must report the change to a CCAP agency under Minnesota Statutes, section 256P.07, subdivision 6, paragraph (a), clause (2). The extended eligibility period begins on the date that the change becomes permanent.

C. If a parentally responsible individual has more than one authorized activity, extended eligibility is available to the family when the family reports that all authorized activities ended permanently.

Subp. 3. Requirements at end of extended eligibility.

A. At the end of the extended eligibility period, the parentally responsible individual must participate in an authorized activity for eligibility to continue until the next redetermination according to the following criteria:

(1) if employment is the authorized activity of a parentally responsible individual who is eligible under part 3400.0060 or 3400.0090, or of a parentally responsible individual who is eligible under part 3400.0080 without an employment plan, the parentally responsible individual does not have to meet minimum work requirements under Minnesota Statutes, section 119B.10, until redetermination;

(2) if education is the authorized activity of a parentally responsible individual who is eligible under part 3400.0060 or 3400.0090, the education activity must meet the criteria in the CCAP agency's child care fund plan; or

(3) if the parentally responsible individual is eligible under part 3400.0080 and has an employment plan, the individual must be participating in an authorized activity in the individual's employment plan.

B. If the parentally responsible individual is not participating in an authorized activity at the end of the extended eligibility period, a CCAP agency must end the family's eligibility.

C. If a parentally responsible individual in a two-parent household entered extended eligibility because the individual's unable to care status under part 3400.0040, subpart 5, expired and the parentally responsible individual has not re-verified the individual's unable to care status or started participating in an authorized activity by the end of the individual's extended eligibility period, a CCAP agency must end the family's eligibility.

Subp. 4. Extended eligibility at application or redetermination. A parentally responsible individual is not eligible for extended eligibility when the parentally responsible individual does

not have an authorized activity under Minnesota Statutes, section 119B.10, on the application date or redetermination due date. A parentally responsible individual who meets the eligibility requirements at application under part 3400.0040 or at redetermination under part 3400.0180 and experiences a permanent end to the parentally responsible individual's authorized activity after the application date or redetermination due date is eligible for extended eligibility. A family that is eligible under part 3400.0080 or 3400.0090 is not eligible for extended eligibility during the retroactive periods in Minnesota Statutes, sections 119B.09, subdivision 7, and 119B.13, subdivision 6, paragraph (c).

Subp. 5. New authorizations during extended eligibility period. If a child without an authorization for child care assistance requires child care during an extended eligibility period, a CCAP agency must authorize child care for the child based on the number of child care hours that the CCAP agency authorized for other children in the child's household. If a CCAP agency has not authorized child care of any other children in the household, the CCAP agency must authorize child care for the child based on the number of child care hours for which the family was eligible prior to the beginning of the extended eligibility period.

Subp. 6. New authorized activity during extended eligibility period.

A. If a parentally responsible individual reports that the parentally responsible individual began a new authorized activity prior to the end of the parentally responsible individual's extended eligibility period, the family moves out of extended eligibility and continues to be eligible until the next redetermination according to the following criteria:

(1) if employment is the authorized activity of a parentally responsible individual who is eligible under part 3400.0060 or 3400.0090, or of a parentally responsible individual who is eligible under part 3400.0080 without an employment plan, the parentally responsible individual does not have to meet minimum work requirements under Minnesota Statutes, section 119B.10, until redetermination;

(2) if education is the authorized activity of a parentally responsible individual who is eligible under part 3400.0060 or 3400.0090, the individual's authorized activity must meet the criteria in the CCAP agency's child care fund plan; or

(3) if the parentally responsible individual is eligible under part 3400.0080 and has an employment plan, the individual must be participating in an authorized activity in the individual's employment plan.

B. If a parentally responsible individual began a new authorized activity prior to the end of the extended eligibility period and does not report the new authorized activity, authorizations are approvable retroactively from the date that the extended eligibility period ended, as long as the parentally responsible individual reports the new authorized activity within 90 days after eligibility ended and the parentally responsible individual met all eligibility requirements during the time period after the case closed. A CCAP agency must authorize child care through the end of the 12-month eligibility period as provided by part 3400.0110, subpart 3, and Minnesota Statutes, chapter 119B.

Statutory Authority: *MS s 119B.02; 119B.04; 119B.06*

History: *47 SR 391*

Published Electronically: *December 13, 2022*

3400.0180 REDETERMINATION OF ELIGIBILITY.

Subpart 1. **Redetermination time frame.** A CCAP agency must redetermine each participating family's eligibility during the time frame in Minnesota Statutes, section 119B.025, subdivision 3. A CCAP agency may establish criteria in the CCAP agency's child care fund plan to extend redetermination due dates longer than the time frame in Minnesota Statutes, section 119B.025, subdivision 3. A CCAP agency may defer a redetermination until the end of the academic school year for a family in which at least one parentally responsible individual meets the criteria in Minnesota Statutes, section 119B.025, subdivision 3, paragraph (c), clause (3). For purposes of this subpart, the end of the academic school year is August 31 of that year.

Subp. 2. Redetermination processing.

A. A CCAP agency must begin processing a participant's redetermination within ten calendar days from the date that the CCAP agency receives a redetermination form.

B. A participant must submit a signed and completed redetermination form and must provide verification of the participant's continued eligibility under subpart 3.

C. A CCAP agency must not treat a redetermination as a new application for child care assistance.

Subp. 3. Verification requirements.

A. At redetermination, a family must verify:

(1) income, if counted under Minnesota Statutes, chapter 256P, of all members of the family, including members temporarily absent from the household;

(2) the work, education, or training activity status of each parentally responsible individual;

(3) the family's residence, if a CCAP agency does not have verification of the family's current address;

(4) changes in family size that the family has not verified since the most recent eligibility determination;

(5) changes in the family's status that the family has not verified since the most recent eligibility determination;

(6) the family's cooperation with child support enforcement under Minnesota Statutes, section 119B.09, subdivision 1, paragraph (c);

(7) the family's assets that exceed \$1,000,000; and

(8) changes in a child's citizenship or immigration status under item D.

B. At redetermination, a family may provide verification of:

(1) income deductions as allowed by part 3400.0170. A CCAP agency must process a redetermination without income deductions if the family has not verified income deductions within the time frame identified in Minnesota Statutes, section 119B.025, subdivision 3; and

(2) the school status of students 6 years of age and older with earned income. If a family has not verified a student's school status within the time frame identified in Minnesota Statutes, section 119B.025, subdivision 3, the student's earned income must be counted under Minnesota Statutes, section 256P.06.

C. For a CCAP agency to authorize child care at redetermination, an eligible family must:

(1) provide verification of the work, education, or training schedule of each parentally responsible individual;

(2) provide the school schedule of each child who needs child care and attends school if the schedule or school attended has changed since the most recent eligibility determination; and

(3) provide verification of changes in a child's citizenship and immigration status under item D.

D. A family must have at least one child who meets the citizenship or immigration status requirement in the Federal Child Care and Development Fund, Code of Federal Regulations, title 45, section 98.20(c), or who is receiving child care in a setting subject to public education standards. For a CCAP agency to authorize child care, a family must verify the child's citizenship or immigration status unless a setting subject to public education standards is providing care for the child.

Subp. 4. Eligibility determination. At redetermination, a family must meet all applicable requirements under this chapter and Minnesota Statutes, chapter 119B, to continue receiving child care assistance. A CCAP agency must approve a family's eligibility when the CCAP agency receives the family's signed and completed redetermination form and verifications within the time frame identified in Minnesota Statutes, section 119B.025, subdivision 3, and the redetermination form and verifications indicate that the family is eligible. If a CCAP agency determines at redetermination that a family is ineligible for further child care assistance, the CCAP agency must terminate the family's child care assistance as provided in part 3400.0185.

Subp. 5. Unreported changes during 12-month eligibility period.

A. A CCAP agency must determine if information that the CCAP agency receives at redetermination indicates that a family met the reporting requirements in part 3400.0040, subpart 4, during the 12-month eligibility period. If a family did not meet the reporting requirements, a CCAP agency must determine if any unreported changes impacted the family's eligibility or child care authorization during the previous 12-month eligibility period.

B. If a family received more benefits than the family was eligible for during the 12-month eligibility period, a CCAP agency or the commissioner must recoup or recover an overpayment under part 3400.0187 and Minnesota Statutes, section 119B.11, subdivision 2a.

Subp. 6. Reported changes during 12-month eligibility period.

A. If a family reported an income change during the 12-month eligibility period that did not require verification under part 3400.0040, subpart 4a, and the income ends prior to redetermination, a CCAP agency must not require a family to provide verification of that income at redetermination.

B. When a family timely reports information required by part 3400.0040, subpart 4; a CCAP agency timely acts on the information under part 3400.0140, subpart 21; and redetermination results in a decrease in the amount of the family's child care assistance, the amount of child care assistance that the CCAP agency paid on behalf of the family between the date of the change and the date that the new child care assistance payment would be effective is not an overpayment.

Subp. 7. Changes in authorized hours. If redetermination results in an increase in the number of hours that a CCAP agency authorizes for a child, the increase in hours is effective on the first day of the service period after the CCAP agency approves the redetermination. An increase in child care hours is effective for service periods prior to the date that the CCAP agency approves the redetermination when the family requests and verifies a need for additional child care hours. If redetermination results in a decrease in the number of child care hours that a CCAP agency authorizes for a child, the decrease in hours is effective on the first day of the service period following the 15-day adverse action notice period.

Subp. 8. Copayment changes. At redetermination, the copayment must be calculated according to Minnesota Statutes, section 119B.12. When a change in income increases the amount of a participant's copayment, the new copayment is effective on the first day of the service period following the 15-day adverse action notice period. When a change in income decreases the amount of the copayment, the new copayment is effective on the first day of the service period after a CCAP agency approves the redetermination.

Subp. 9. Temporary breaks in authorized activity at redetermination. At redetermination, each family must meet the minimum authorized activity requirements in Minnesota Statutes, section 119B.10. If a parentally responsible individual meets all eligibility requirements and reports a temporary break from the parentally responsible individual's authorized activity and verifies that the parentally responsible individual expects to return to the authorized activity, the CCAP agency must suspend the parentally responsible individual's case following the 15-day adverse action notice period. If a parentally responsible individual meets all eligibility requirements and reports a temporary break from the parentally responsible individual's authorized activity and does not verify that the parentally responsible individual expects to return to the authorized activity, a CCAP agency must place the parentally responsible individual's case in temporary ineligible status following the 15-day adverse action notice period.

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

History: 14 SR 519; 18 SR 1144; 26 SR 253; 33 SR 695; 47 SR 391

Published Electronically: December 13, 2022

3400.0183 TERMINATION OF CHILD CARE ASSISTANCE.

Subpart 1. Conditions for termination of child care assistance.

A. A county or Tribe may terminate child care assistance of a family receiving child care assistance when the county or Tribe receives: (1) a revised allocation from the child care fund that is smaller than the allocation stated in the notice sent to the county or Tribe under part 3400.0060, subpart 2; and (2) such short notice of a change in the county's or Tribe's allocation that the county or Tribe is unable to absorb the difference in the allocation. The county or Tribe must consult with and obtain approval from the commissioner before terminating child care assistance for a family under this subpart.

B. If the conditions described in item A occur and a county or Tribe terminates child care assistance for a family, the county or Tribe must give the family notice as required by part 3400.0185, subpart 12, and terminate assistance to each family in the order of the most recent approval date of eligibility at application, including first-time participants and participants who previously received child care assistance and experienced a break in service and reapplied. When funds become available, a county or Tribe must first determine the eligibility of families whose child care assistance was terminated due to insufficient funds before the county or Tribe approves the eligibility of new applicants.

Subp. 2. Conditions under which termination of child care assistance is required.

A. A CCAP agency must terminate a family's eligibility for child care assistance under the following conditions:

(1) when the family asks the CCAP agency to terminate the family's eligibility for child care assistance;

(2) when the family is no longer eligible to receive child care assistance under this chapter and Minnesota Statutes, chapter 119B; or

(3) when a member of the family has been disqualified from the child care assistance program under Minnesota Statutes, section 256.98, subdivision 8, paragraph (b).

B. During the 12-month eligibility period, a CCAP agency must terminate a family's eligibility for child care assistance under any of the following conditions:

(1) the family's income exceeds 85 percent of the state median income;

(2) the family's assets exceed \$1,000,000;

(3) the extended eligibility period ends and the parentally responsible individual has no authorized activity;

(4) the parentally responsible individual uses all available job search hours outside of an employment plan under Minnesota Statutes, section 119B.10, subdivision 1, and the parentally responsible individual has no authorized activity;

(5) the family does not pay a copayment;

(6) the family moves out of the state;

(7) there are no eligible children in the family's household;

(8) the only parentally responsible individual in the household has been temporarily absent for more than 60 days and the parentally responsible individual has no authorized activity or the extended eligibility period ends;

(9) the family's temporary ineligibility period expires; or

(10) the family's one-year suspension period expires.

C. At redetermination, a CCAP agency must terminate a family's eligibility for child care assistance under any of the following conditions:

(1) the family's income exceeds 67 percent of the state median income;

(2) the family's assets exceed \$1,000,000;

(3) the family is not in an authorized activity that meets any applicable minimum participation requirements;

(4) the family is not cooperating with child support;

(5) the CCAP agency has not received the family's redetermination form and all required eligibility verifications by the last day of the redetermination period;

(6) the family's temporary ineligibility period has expired;

(7) the family's one-year suspension period has expired; or

(8) the family's only child who is eligible for child care assistance is 13 years of age or older or 15 years of age or older when the child has a documented disability.

Subp. 3. [Repealed, 33 SR 695]

Subp. 4. [Repealed, 33 SR 695]

Subp. 5. **Effective date of disqualification period for families.** The effective date of a disqualification period for a family is the later of:

A. the date that the family member was found guilty of wrongfully obtaining or attempting to obtain child care assistance by a federal court or a state court, or an administrative disqualification hearing determination or waiver; through a disqualification consent agreement; as part of an approved diversion plan under Minnesota Statutes, section 401.065; or as part of a court-ordered stay with probationary or other conditions; or

B. the effective date of the child care assistance program termination notice.

Subp. 6. **Effective date of disqualification period for child care provider.** The effective date of a disqualification period for a child care provider is the later of:

A. the date that the child care provider was found guilty of an intentional program violation or wrongfully obtaining child care assistance by a federal court, a state court, or an administrative disqualification hearing determination or waiver; through a disqualification consent agreement; as part of an approved diversion plan under Minnesota Statutes, section 401.065; or as part of a court-ordered stay with probationary or other conditions; or

B. the effective date of the child care assistance program termination notice.

Statutory Authority: *MS s 119B.02; 119B.04; 119B.06; 256.01*

History: *26 SR 253; 33 SR 695; 47 SR 391*

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3400.0185 NOTICE REQUIREMENTS.

Subpart 1. [Repealed, 47 SR 391]

Subp. 2. [Repealed, 47 SR 391]

Subp. 3. [Repealed, 47 SR 391]

Subp. 4. [Repealed, 47 SR 391]

Subp. 5. [Repealed, L 2019 1Sp9 art 1 s 43; 47 SR 391]

Subp. 6. **Notice of eligibility approval to family.** A CCAP agency must notify a family in writing of the CCAP agency's approval of the family's eligibility.

A. The approval notice must include:

- (1) the date that the family's eligibility began;
- (2) the family's gross annual income as determined under part 3400.0170;
- (3) the family's copayment amount, including how and when the family must pay the copayment;
- (4) the family's responsibility for paying child care provider charges that exceed the maximum amount of child care payments in addition to the copayment;
- (5) the reporting requirements under part 3400.0040, subpart 4; and
- (6) the provisions for recoupment or recovery of an overpayment if the family does not meet the reporting requirements in subitem (5).

B. The approval notice must state that once a family selects a child care provider who is eligible to receive payment from the child care fund, the child care provider and the family will

receive notice from the CCAP agency stating the number of hours of child care that the CCAP agency authorizes and the maximum rate payable under the child care fund.

C. The approval notice must state that, except in cases in which the license of a child care provider licensed by Minnesota has been temporarily immediately suspended under Minnesota Statutes, section 245A.07, or in which there is an imminent risk of harm to the health, safety, or rights of a child in the care of a legal nonlicensed child care provider, certified license-exempt child care center, or child care provider licensed by an entity other than the state of Minnesota, the family must report any change in child care provider to the CCAP agency and the child care provider at least 15 calendar days before the change occurs and include the overpayment implications for not reporting the change.

D. The approval notices must state that when a CCAP agency terminates a participant's child care assistance eligibility, the CCAP agency must inform the participant of the reason for the termination and the participant's appeal rights.

Subp. 7. **Notice of eligibility denial to family.** A CCAP agency must notify a family in writing of a denial of a family's eligibility. The denial notice must include:

- A. the reason for the denial;
- B. the provision in statute, rule, or the CCAP agency's child care fund plan that forms the basis of the denial; and
- C. the parentally responsible individual's right to a fair hearing under part 3400.0230 and Minnesota Statutes, section 119B.16.

Subp. 8. **Notice of authorization to family.** A CCAP agency must notify a family in writing when the CCAP agency authorizes a family's child care with a child care provider that meets the criteria in part 3400.0120, subpart 1. The authorization notice must include:

- A. the family's name;
- B. a statement that the CCAP agency approves of the family's request for child care assistance;
- C. the number of hours of child care that the CCAP agency authorizes per service period;
- D. the maximum rate payable under the child care fund;
- E. the number of absent days that the CCAP agency has paid for the child during the calendar year as of the date of the notice; and
- F. the amount of the family's copayment.

Subp. 9. **Notice of authorization to child care provider.** A CCAP agency must notify a child care provider in writing when the CCAP agency approves of a family's eligibility and authorizes child care with a child care provider that meets the criteria in part 3400.0120, subpart 1. The authorization notice must include:

- A. the family's name;
- B. a statement that the CCAP agency approves of the family's request for child care assistance;
- C. the number of hours of child care that the CCAP agency authorizes per service period;
- D. the maximum rate payable under the child care fund;
- E. the number of absent days that the CCAP agency has paid for the child during the calendar year as of the date of the notice;
- F. how the CCAP agency will issue child care assistance payments to the child care provider;
and
- G. the amount of the family's copayment.

Subp. 10. Notice to family of adverse action.

A. A CCAP agency must give a participant written notice of any action that adversely affects the participant's child care assistance eligibility or authorization.

B. The notice must include:

- (1) a description of the adverse action;
- (2) the effective date of the adverse action;
- (3) the reason for the adverse action;
- (4) the provision in statutes, rules, or the CCAP agency's child care fund plan that supports the adverse action;
- (5) a statement that the participant has the right to appeal the adverse action and the procedure for an appeal; and
- (6) a statement that if the participant appeals the adverse action before the effective date of the action, the participant may:
 - (a) continue receiving the same level of benefits while the appeal is pending, subject to recoupment or recovery if the adverse action is upheld; or
 - (b) receive the level of benefits indicated by the adverse action while the appeal is pending and have an eligible child care provider under part 3400.0120, subpart 1, receive reimbursement for documented eligible child care expenditures pending appeal if the adverse action is reversed when the child care provider bills according to Minnesota Statutes, section 119B.13, subdivision 6, paragraphs (a) to (c).

C. A CCAP agency must mail the notice to the participant's last known address at least 15 calendar days before the effective date of the adverse action.

D. If the participant corrects the conditions underlying the adverse action before the effective date of the adverse action, the adverse action must not take effect.

Subp. 11. **Notice to child care provider of action adverse to family.** A CCAP agency must give a child care provider written notice of a reduction in the hours of authorized child care or an increase in the family's copayment. A CCAP agency must mail the notice to the child care provider at least 15 calendar days before the effective date of the adverse action and include:

- A. the family's name;
- B. a description of the adverse action that omits information about the reasons for the adverse action;
- C. the effective date of the adverse action; and
- D. a statement that unless the family appeals the adverse action before the effective date, the adverse action will occur on the effective date.

Subp. 12. **Notice of termination of child care assistance to family.**

A. A CCAP agency must notify a participant in writing of the termination of the participant's child care assistance. The notice must include:

- (1) the date that the termination is effective;
- (2) the reason that the CCAP agency is terminating the participant's child care assistance;
- (3) the provision in statutes, rules, or the CCAP agency's child care fund plan that supports terminating the participant's assistance;
- (4) a statement that the participant has a right to appeal the termination and the procedure for an appeal; and
- (5) a statement that if the participant appeals the proposed action before the effective date of the termination, the participant may:
 - (a) continue receiving the same level of benefits while the appeal is pending, subject to recoupment or recovery if the termination is upheld; or
 - (b) not receive benefits while the appeal is pending and have an eligible child care provider under part 3400.0120, subpart 1, receive reimbursement for documented eligible child care expenditures made or incurred pending appeal if the termination is reversed when the child care provider bills according to Minnesota Statutes, section 119B.13, subdivision 6, paragraphs (a) to (c).

B. A CCAP agency must mail the notice to the participant's last known address at least 15 calendar days before terminating the participant's child care assistance.

C. If the CCAP agency terminates the participant's child care assistance under part 3400.0183, subpart 2, item A, subitem (1), and, before the effective date of termination, the participant requests to continue receiving child care assistance, the termination must not take effect.

If a CCAP agency terminates the participant's child care assistance under part 3400.0183, subpart 2, item A, subitem (2), and, before the effective date of termination, the participant reestablishes eligibility for child care assistance, the termination must not take effect.

Subp. 13. Notice of termination of child care assistance to child care provider.

A. A CCAP agency must notify a family's child care provider in writing when a CCAP agency terminates a family's child care assistance. The CCAP agency must mail the termination notice to the child care provider at least 15 calendar days before the effective date of the termination and include:

- (1) the family's name;
- (2) a statement that the CCAP agency has terminated the family's child care assistance;
- (3) the effective date of the termination; and
- (4) a statement that the CCAP agency will no longer issue child care payments for the family's child care that a child care provider provides after the date of termination, unless the family requests to continue receiving child care assistance pending an appeal.

B. A CCAP agency must notify a family's child care provider in writing when the family decides to no longer use the child care provider. A CCAP agency must mail a termination notice to a child care provider at least 15 calendar days before the effective date of the termination and must include:

- (1) the family's name;
- (2) a statement that the family has decided to no longer use the child care provider;
- (3) the effective date when the child care assistance authorization will end; and
- (4) a statement that the CCAP agency will no longer issue child care payments for the family's child care that a child care provider provides after the date of the termination.

C. This item applies to child care providers licensed in Minnesota. Except in cases in which the provider's license has been temporarily immediately suspended under Minnesota Statutes, section 245A.07, a CCAP agency must mail a notice of termination to a child care provider at least 15 calendar days before terminating payment to the child care provider. When a child care provider's license has been temporarily immediately suspended under Minnesota Statutes, section 245A.07, a CCAP agency must send a notice of termination to the child care provider that is effective on the date of the temporary immediate suspension.

D. This item applies to legal nonlicensed child care providers, certified license-exempt child care centers, and child care providers licensed by an entity other than the state of Minnesota. Except in cases in which there is an imminent risk of harm to the health, safety, or rights of a child in child care, a CCAP agency must mail a notice of termination to a child care provider at least 15 calendar days before terminating payment to the child care provider. In cases in which there is an

imminent risk of harm to the health, safety, or rights of a child in child care, a CCAP agency must send a notice of termination to the child care provider that is effective on the date of the notice.

E. When a child care provider's payment is suspended under Minnesota Statutes, chapter 245E, or a child care provider's registration is denied or revoked under Minnesota Statutes, section 119B.13, subdivision 6, paragraph (d), clause (1) or (2), a CCAP agency or the commissioner must send a notice of termination to the child care provider effective on the date that the CCAP agency or the commissioner creates the notice.

Statutory Authority: *MS s 119B.02; 119B.04; 119B.06; 256.01*

History: *26 SR 253; 33 SR 695; 47 SR 391*

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3400.0187 RECOUPMENT AND RECOVERY OF OVERPAYMENTS.

Subpart 1. [Repealed, 47 SR 391]

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

Subp. 1b. **Calculation of overpayment.** When determining an overpayment, a CCAP agency or the commissioner must assess the dates during which a family or child care provider received more child care assistance than the family or child care provider was eligible to receive. With the exception of overpayments designated solely as agency error under Minnesota Statutes, section 119B.11, subdivision 2a, paragraph (a), the overpayment must include all amounts that the CCAP agency or commissioner determines were overpaid according to time frames specified in Minnesota Statutes, section 119B.11, subdivision 2a, paragraph (h).

Subp. 2. **Notice of overpayment.** A CCAP agency or the commissioner must notify the person, persons, or entity who is assigned responsibility for the overpayment of the overpayment in writing. A notice of overpayment must specify the reason for the overpayment, the time period during which the overpayment occurred, the amount of the overpayment, and the right to appeal the CCAP agency's or commissioner's overpayment determination.

Subp. 3. [Repealed, 47 SR 391]

Subp. 4. **Recoupment of overpayments from participants.** A CCAP agency or the commissioner must recoup an overpayment by reducing the amount of assistance paid to or on behalf of the family for every service period at the rates in item A, B, C, or D until the overpayment debt is retired.

A. When a family has an overpayment due to a child care provider error or a combination of child care provider and agency error, the recoupment amount is one-fourth of the family's copayment or \$10, whichever is greater.

B. When a family has an overpayment due to the family's first failure to report changes as required by part 3400.0040, subpart 4, or a combination of a family's first failure to report and agency error, the recoupment amount is one-half of the family's copayment or \$10, whichever is greater.

C. When a family has an overpayment due to the family's failure to provide accurate information at the time of application or redetermination or the family's second or subsequent failure to report changes as required by part 3400.0040, subpart 4, or a combination of these violations with agency error, the recoupment amount is one-half of the family's copayment or \$50, whichever is greater.

D. When a family has an overpayment due to a violation of Minnesota Statutes, section 256.98, as established by a court conviction, a court-ordered stay of a conviction with probationary or other terms, a disqualification agreement, a pretrial diversion, or an administrative disqualification hearing or waiver, the recoupment amount equals the greater of:

- (1) the family's copayment;
- (2) ten percent of the overpayment; or
- (3) \$100.

E. This item applies to families who have been disqualified or found to be ineligible for the child care assistance program and who have outstanding overpayments. If a disqualified or previously ineligible family returns to the child care assistance program, a CCAP agency or the commissioner must begin recouping the family's outstanding overpayment using the recoupment schedule in items A to D unless another repayment schedule has been specified in a court order.

F. If a family has more than one overpayment, the overpayments must not be consolidated into one overpayment. Instead, each overpayment must be recouped according to the schedule specified in this subpart from the child care benefit paid for the service period. If the amount to be recouped in a service period exceeds the child care benefit paid for that service period, the amount recouped must be applied to overpayments in the following order:

- (1) payment must first be applied to the oldest overpayment being recouped under item D and then to any other overpayments to be recouped under this item according to the age of the claim;
- (2) payment then must be applied to the oldest overpayment being recouped under item C and then to any other overpayments to be recouped under this item according to the age of the claim;
- (3) payment then must be applied to the oldest overpayment being recouped under item B and then to any other overpayments to be recouped under this item according to the age of the claim; and
- (4) payment then must be applied to the oldest overpayment being recouped under item A and then to any other overpayments to be recouped under this item according to the age of the claim.

Subp. 5. [Repealed, 33 SR 695]

Subp. 6. **Recoupment of overpayment from child care provider.** If a child care provider continues to receive child care assistance payments, a CCAP agency or the commissioner must

recoup an overpayment by reducing the amount of assistance paid to the child care provider for every payment at the rates in item A, B, or C until the overpayment debt is retired.

A. When a child care provider has an overpayment due to a family error or a combination of family and agency error, the recoupment amount is one-tenth of the provider's payment or \$20, whichever is greater.

B. When a child care provider has an overpayment due to the child care provider's failure to provide accurate information or a combination of a child care provider's failure to report accurate information and agency error, the recoupment amount is one-fourth of the child care provider's payment or \$50, whichever is greater.

C. When a child care provider has an overpayment due to a violation of Minnesota Statutes, section 256.98, as established by a court conviction, a court-ordered stay of conviction with probationary or other terms, a disqualification agreement, a pretrial diversion, or an administrative disqualification hearing or waiver, the recoupment amount equals the greater of:

- (1) one-half of the child care provider's payment;
- (2) ten percent of the overpayment; or
- (3) \$100.

D. This item applies to child care providers who have been disqualified from or are no longer able to be authorized by the child care assistance program and who have outstanding overpayments. If a child care provider returns to the child care assistance program as a child care provider or a participant, a CCAP agency or the commissioner must begin recouping the child care provider's outstanding overpayment using the recoupment schedule in items A to C unless another repayment schedule has been specified in a court order.

E. If a child care provider has more than one overpayment assessed for different incidents, a CCAP agency or the commissioner must not consolidate the overpayments into one overpayment. Instead, each overpayment must be recouped according to the schedule in this subpart from the payment made to the child care provider for the service period. If the amount to be recouped in a service period exceeds the payment to the child care provider for that service period, the amount recouped must be applied to overpayments in the following order:

(1) payment must first be applied to the oldest overpayment being recouped under item C and then to any other overpayments to be recouped under this item according to the age of the claim;

(2) payment then must be applied to the oldest overpayment being recouped under item B and then to any other overpayments to be recouped under this item according to the age of the claim; and

(3) payment then must be applied to the oldest overpayment being recouped under item A and then to any other overpayments to be recouped under this item according to the age of the claim.

F. If the commissioner or more than one CCAP agency assesses multiple overpayments to a child care provider for the same incident, the commissioner or each CCAP agency must assess each overpayment separately. A CCAP agency or the commissioner must recoup only one overpayment per incident at a time according to the schedule in this subpart until the overpayment debt is retired. A CCAP agency or the commissioner must recoup any overpayment that the commissioner or CCAP agency assesses for a different incident simultaneously under item E.

Statutory Authority: *MS s 119B.02; 119B.04; 119B.06; 256.01*

History: *26 SR 253; 33 SR 695; 47 SR 391*

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3400.0190 [Repealed, 26 SR 253]

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3400.0200 [Repealed, 47 SR 391]

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3400.0210 [Repealed, 33 SR 695]

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3400.0220 [Repealed, 47 SR 391]

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3400.0230 RIGHT TO FAIR HEARING.

Subpart 1. [Repealed, 33 SR 695]

Subp. 2. [Repealed, 33 SR 695]

Subp. 3. **Child care payments pending fair hearing.**

A. If the applicant or participant requests a fair hearing before the effective date of termination or adverse action or within ten days after the date of mailing the notice, whichever is later, the commissioner or CCAP agency must not terminate the applicant's or participant's child care assistance or take the adverse action until the conclusion of the fair hearing. Child care assistance paid pending a fair hearing is subject to recovery under part 3400.0187 to the extent that the commissioner finds on appeal that the participant was not eligible for the amount of child care assistance paid.

B. If the commissioner finds on appeal that child care assistance should have been terminated or the amount of benefits reduced, a CCAP agency must send a notice of termination or reduction in benefits to the family and the child care provider as required by part 3400.0185 and determine if an overpayment needs to be recouped or recovered according to Minnesota Statutes, section 119B.11, subdivision 2a.

C. A participant may appeal the termination of child care assistance and choose not to receive child care assistance pending the appeal. If the commissioner finds on appeal that child care assistance should not have been terminated, a CCAP agency must reinstate the participant's

eligibility retroactively from the date of the termination and issue payments to an eligible child care provider under part 3400.0120, subpart 1, when the child care provider bills according to Minnesota Statutes, section 119B.13, subdivision 6, paragraphs (a) to (c), for child care expenditures incurred pending the appeal.

Subp. 4. Child care payments pending fair hearing or administrative disqualification hearing.

A. If a child care provider requests a fair hearing before the effective date of a termination or an adverse action, the termination or adverse action must not take effect until the conclusion of the hearing, unless:

(1) the child care provider appeals the assignment of responsibility, amount, or recovery of an overpayment, in which case the recoupment or recovery of the overpayment will occur while the appeal is pending;

(2) the fair hearing is stayed under Minnesota Statutes, section 119B.16, subdivision 3; or

(3) the adverse action entitles the child care provider to an administrative review under Minnesota Statutes, section 119B.161.

B. Child care assistance that a CCAP agency pays to a child care provider pending a hearing is subject to recovery under part 3400.0187 when the commissioner finds on appeal that the child care provider was not eligible for the paid amount of child care assistance.

C. A child care provider may request a fair hearing under Minnesota Statutes, section 119B.16, subdivision 1a, and choose not to receive child care assistance pending appeal. If, on appeal, the commissioner finds that child care assistance should not have been terminated or an adverse action should not have been taken:

(1) the child care provider must complete the registration process in Minnesota Statutes, section 119B.011, subdivision 19a; and

(2) a CCAP agency or the commissioner must reimburse the child care provider for documented eligible child care expenditures made or incurred pending the appeal for dates of service when the child care provider was eligible under part 3400.0120, subpart 1, and the child care provider bills according to Minnesota Statutes, section 119B.13, subdivision 6, paragraphs (a) to (c).

Subp. 5. Child care payments pending administrative review.

A. If a child care provider requests an administrative review under Minnesota Statutes, section 119B.161, a CCAP agency or the commissioner must stop payments during the administrative review.

B. If a child care provider's payments are suspended under Minnesota Statutes, chapter 245E, or the child care provider's registration is denied or revoked under Minnesota Statutes, section 119B.13, subdivision 6, paragraph (d), clause (1) or (2), and:

(1) the commissioner or a law enforcement authority subsequently determines there is insufficient evidence warranting the action and a CCAP agency or the commissioner does not pursue an administrative remedy under Minnesota Statutes, chapter 119B or 245E, or Minnesota Statutes, section 256.98; or

(2) all criminal, civil, and administrative proceedings related to the child care provider's alleged misconduct conclude in the child care provider's favor and all appeal rights are exhausted; or

(3) the commissioner finds good cause exists under Minnesota Statutes, section 119B.161, subdivision 4, not to deny, revoke, or suspend a child care provider's registration, or not to continue a denial, revocation, or suspension of a child care provider's registration, and the child care provider chooses to resume receiving child care assistance payments, then:

(a) the child care provider must complete the registration process in Minnesota Statutes, section 119B.011, subdivision 19a; and

(b) a CCAP agency or the commissioner must reimburse the child care provider for documented eligible child care expenditures made or incurred pending the administrative review for dates of service when the child care provider was eligible under part 3400.0120, subpart 1, and the child care provider bills according to Minnesota Statutes, section 119B.13, subdivision 6, paragraphs (a) to (c).

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

History: *14 SR 519; 18 SR 1144; 26 SR 253; 33 SR 695; 47 SR 391*

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3400.0235 Subpart 1. [Repealed, 47 SR 391]

Subp. 2. [Repealed, 47 SR 391]

Subp. 3. [Repealed, 47 SR 391]

Subp. 4. [Repealed, 47 SR 391]

Subp. 5. [Repealed, 47 SR 391]

Subp. 6. [Repealed, 47 SR 391]

Subp. 7. [Repealed, 33 SR 695]

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