

CHAPTER 119B

CHILD CARE PROGRAMS

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119B.02 DUTIES OF COMMISSIONER.

[For text of subds 1 to 4, see M.S.2004]

Subd. 5. **Program integrity.** For child care assistance programs under this chapter, the commissioner shall enforce the requirements for program integrity and fraud prevention investigations under sections 256.046, 256.98, and 256.983.

[For text of subd 6, see M.S.2004]

History: 2005 c 98 art 1 s 3

119B.025 DUTIES OF COUNTIES.

Subdivision 1. **Factors which must be verified.** (a) The county shall verify the following at all initial child care applications using the universal application:

- (1) identity of adults;
- (2) presence of the minor child in the home, if questionable;
- (3) relationship of minor child to the parent, stepparent, legal guardian, eligible relative caretaker, or the spouses of any of the foregoing;
- (4) age;
- (5) immigration status, if related to eligibility;
- (6) Social Security number, if given;
- (7) income;
- (8) spousal support and child support payments made to persons outside the household;
- (9) residence; and
- (10) inconsistent information, if related to eligibility.

(b) If a family did not use the universal application or child care addendum to apply for child care assistance, the family must complete the universal application or child care addendum at its next eligibility redetermination and the county must verify the factors listed in paragraph (a) as part of that redetermination. Once a family has completed a universal application or child care addendum, the county shall use the redetermination form described in paragraph (c) for that family's subsequent redeterminations. Eligibility must be redetermined at least every six months. If a family reports a change in an eligibility factor before the family's next regularly scheduled redetermination, the county must recalculate eligibility without requiring verification of any eligibility factor that did not change.

(c) The commissioner shall develop a redetermination form to redetermine eligibility and a change report form to report changes that minimize paperwork for the county and the participant.

[For text of subd 2, see M.S.2004]

History: 2005 c 159 art 3 s 1

119B.03 BASIC SLIDING FEE PROGRAM.

[For text of subs 1 to 5, see M.S.2004]

Subd. 6. **Allocation formula.** The basic sliding fee state and federal funds shall be allocated on a calendar year basis. Funds shall be allocated first in amounts equal to each county's guaranteed floor according to subdivision 8, with any remaining available funds allocated according to the following formula:

(a) One-fourth of the funds shall be allocated in proportion to each county's total expenditures for the basic sliding fee child care program reported during the most recent fiscal year completed at the time of the notice of allocation.

(b) One-fourth of the funds shall be allocated based on the number of families participating in the transition year child care program as reported during the most recent quarter completed at the time of the notice of allocation.

(c) One-fourth of the funds shall be allocated in proportion to each county's most recently reported first, second, and third priority waiting list as defined in subdivision 2 and the reinstatement list of those families whose assistance was terminated with the approval of the commissioner under Minnesota Rules, part 3400.0183, subpart 1.

(d) One-fourth of the funds must be allocated in proportion to each county's most recently reported waiting list as defined in subdivision 2 and the reinstatement list of those families whose assistance was terminated with the approval of the commissioner under Minnesota Rules, part 3400.0183, subpart 1.

[For text of subs 6a to 10, see M.S.2004]

History: 2005 c 159 art 3 s 2

119B.035 AT-HOME INFANT CHILD CARE PROGRAM.

Subdivision 1. **Establishment.** A family in which a parent provides care for the family's infant child may receive a subsidy in lieu of assistance if the family is eligible for or is receiving assistance under the basic sliding fee program. An eligible family must meet the eligibility factors under section 119B.09, except as provided in subdivision 4, and the requirements of this section. Subject to federal match and maintenance of effort requirements for the child care and development fund, the commissioner shall establish a pool of up to three percent of the annual state appropriation for the basic sliding fee program to provide assistance under the at-home infant child care program and for administrative costs associated with the program. At the end of a fiscal year, the commissioner may carry forward any unspent funds under this section to the next fiscal year within the same biennium for assistance under the basic sliding fee program.

[For text of subs 2 to 5, see M.S.2004]

History: 2005 c 98 art 1 s 4

119B.074 [Repealed, 1Sp2005 c 4 art 3 s 20; art 5 s 19]

NOTE: Section 119B.074 was also amended by Laws 2005, chapter 98, article 1, section 5, to read as follows:

"119B.074 **Special revenue account for child care.**

A child support collection account is established in the special revenue fund for the deposit of collections through the assignment of child support under section 256.741, subdivision 2. The commissioner must deposit all collections made under section 256.741, subdivision 2, in the child support collection account. Money in this account is appropriated to the commissioner for assistance under section 119B.03 and is in addition to other state and federal appropriations."

119B.08 REPORTING AND PAYMENTS.

Subdivision 1. **Reports.** The commissioner shall specify requirements for reports under the authority provided in section 256.01, subdivision 2, paragraph (17).

[For text of subs 2 to 4, see M.S.2004]

History: 2005 c 98 art 1 s 6

119B.09 FINANCIAL ELIGIBILITY.

Subdivision 1. **General eligibility requirements for all applicants for child care assistance.** (a) Child care services must be available to families who need child care to find or keep employment or to obtain the training or education necessary to find employment and who:

(1) have household income less than or equal to 250 percent of the federal poverty guidelines, adjusted for family size, and meet the requirements of section 119B.05; receive MFIP assistance; and are participating in employment and training services under chapter 256J or 256K; or

(2) have household income less than or equal to 175 percent of the federal poverty guidelines, adjusted for family size, at program entry and less than 250 percent of the federal poverty guidelines, adjusted for family size, at program exit.

(b) Child care services must be made available as in-kind services.

(c) All applicants for child care assistance and families currently receiving child care assistance must be assisted and required to cooperate in establishment of paternity and enforcement of child support obligations for all children in the family as a condition of program eligibility. For purposes of this section, a family is considered to meet the requirement for cooperation when the family complies with the requirements of section 256.741.

[For text of subs 2 and 3, see M.S.2004]

Subd. 4. **Eligibility; annual income; calculation.** Annual income of the applicant family is the current monthly income of the family multiplied by 12 or the income for the 12-month period immediately preceding the date of application, or income calculated by the method which provides the most accurate assessment of income available to the family. Self-employment income must be calculated based on gross receipts less operating expenses. Income must be recalculated when the family's income changes, but no less often than every six months. Income must be verified with documentary evidence. If the applicant does not have sufficient evidence of income, verification must be obtained from the source of the income.

[For text of subs 4a to 8, see M.S.2004]

Subd. 9. **Licensed and legal nonlicensed family child care providers; assistance.** Licensed and legal nonlicensed family child care providers are not eligible to receive child care assistance subsidies under this chapter for their own children or children in their family during the hours they are providing child care or being paid to provide child care. Child care providers are eligible to receive child care assistance subsidies for their children when they are engaged in other activities that meet the requirements of this chapter and for which child care assistance can be paid. The hours for which the provider receives a child care subsidy for their own children must not overlap with the hours the provider provides child care services.

[For text of subd 10, see M.S.2004]

History: 2005 c 98 art 1 s 7; 2005 c 159 art 3 s 3,4

119B.125 PROVIDER REQUIREMENTS.

[For text of subd 1, see M.S.2004]

Subd. 2. **Persons who cannot be authorized.** (a) A person who meets any of the conditions under paragraphs (b) to (n) must not be authorized as a legal nonlicensed family child care provider. To determine whether any of the listed conditions exist, the county must request information about the provider from the Bureau of Criminal Apprehension, the juvenile courts, and social service agencies. When one of the listed entities does not maintain information on a statewide basis, the county must contact the entity in the county where the provider resides and any other county in which the provider previously resided in the past year. For purposes of this subdivision, a finding

that a delinquency petition is proven in juvenile court must be considered a conviction in state district court. If a county has determined that a provider is able to be authorized in that county, and a family in another county later selects that provider, the provider is able to be authorized in the second county without undergoing a new background investigation unless one of the following conditions exists:

- (1) two years have passed since the first authorization;
- (2) another person age 13 or older has joined the provider's household since the last authorization;
- (3) a current household member has turned 13 since the last authorization; or
- (4) there is reason to believe that a household member has a factor that prevents authorization.

(b) The person has been convicted of one of the following offenses or has admitted to committing or a preponderance of the evidence indicates that the person has committed an act that meets the definition of one of the following offenses: sections 609.185 to 609.195, murder in the first, second, or third degree; 609.2661 to 609.2663, murder of an unborn child in the first, second, or third degree; 609.322, solicitation, inducement, promotion of prostitution, or receiving profit from prostitution; 609.342 to 609.345, criminal sexual conduct in the first, second, third, or fourth degree; 609.352, solicitation of children to engage in sexual conduct; 609.365, incest; 609.377, felony malicious punishment of a child; 617.246, use of minors in sexual performance; 617.247, possession of pictorial representation of a minor; 609.2242 to 609.2243, felony domestic assault; a felony offense of spousal abuse; a felony offense of child abuse or neglect; a felony offense of a crime against children; or an attempt or conspiracy to commit any of these offenses as defined in Minnesota Statutes; or an offense in any other state or country where the elements are substantially similar to any of the offenses listed in this paragraph.

(c) Less than 15 years have passed since the discharge of the sentence imposed for the offense and the person has received a felony conviction for one of the following offenses, or the person has admitted to committing or a preponderance of the evidence indicates that the person has committed an act that meets the definition of a felony conviction for one of the following offenses: sections 609.20 to 609.205, manslaughter in the first or second degree; 609.21, criminal vehicular homicide; 609.215, aiding suicide or aiding attempted suicide; 609.221 to 609.2231, assault in the first, second, third, or fourth degree; 609.224, repeat offenses of fifth degree assault; 609.228, great bodily harm caused by distribution of drugs; 609.2325, criminal abuse of a vulnerable adult; 609.2335, financial exploitation of a vulnerable adult; 609.235, use of drugs to injure or facilitate a crime; 609.24, simple robbery; 617.241, repeat offenses of obscene materials and performances; 609.245, aggravated robbery; 609.25, kidnapping; 609.255, false imprisonment; 609.2664 to 609.2665, manslaughter of an unborn child in the first or second degree; 609.267 to 609.2672, assault of an unborn child in the first, second, or third degree; 609.268, injury or death of an unborn child in the commission of a crime; 609.27, coercion; 609.275, attempt to coerce; 609.324, subdivision 1, other prohibited acts, minor engaged in prostitution; 609.3451, repeat offenses of criminal sexual conduct in the fifth degree; 609.378, neglect or endangerment of a child; 609.52, theft; 609.521, possession of shoplifting gear; 609.561 to 609.563, arson in the first, second, or third degree; 609.582, burglary in the first, second, third, or fourth degree; 609.625, aggravated forgery; 609.63, forgery; 609.631, check forgery, offering a forged check; 609.635, obtaining signature by false pretenses; 609.66, dangerous weapon; 609.665, setting a spring gun; 609.67, unlawfully owning, possessing, or operating a machine gun; 609.687, adulteration; 609.71, riot; 609.713, terrorist threats; 609.749, harassment, stalking; 260C.301, termination of parental rights; 152.021 to 152.022 and 152.0262, controlled substance crime in the first or second degree; 152.023, subdivision 1, clause (3) or (4), or 152.023, subdivision 2, clause (4), controlled substance crime in third degree; 152.024, subdivision 1, clause (2), (3), or (4), controlled substance crime in fourth degree; 617.23, repeat offenses of indecent exposure; an attempt or conspiracy to commit any of these offenses as defined in Minnesota Statutes; or an offense in any

other state or country where the elements are substantially similar to any of the offenses listed in this paragraph.

(d) Less than ten years have passed since the discharge of the sentence imposed for the offense and the person has received a gross misdemeanor conviction for one of the following offenses or the person has admitted to committing or a preponderance of the evidence indicates that the person has committed an act that meets the definition of a gross misdemeanor conviction for one of the following offenses: sections 609.224, fifth degree assault; 609.2242 to 609.2243, domestic assault; 518B.01, subdivision 14, violation of an order for protection; 609.3451, fifth degree criminal sexual conduct; 609.746, repeat offenses of interference with privacy; 617.23, repeat offenses of indecent exposure; 617.241, obscene materials and performances; 617.243, indecent literature, distribution; 617.293, disseminating or displaying harmful material to minors; 609.71, riot; 609.66, dangerous weapons; 609.749, harassment, stalking; 609.224, subdivision 2, paragraph (c), fifth degree assault against a vulnerable adult by a caregiver; 609.23, mistreatment of persons confined; 609.231, mistreatment of residents or patients; 609.2325, criminal abuse of a vulnerable adult; 609.2335, financial exploitation of a vulnerable adult; 609.233, criminal neglect of a vulnerable adult; 609.234, failure to report maltreatment of a vulnerable adult; 609.72, subdivision 3, disorderly conduct against a vulnerable adult; 609.265, abduction; 609.378, neglect or endangerment of a child; 609.377, malicious punishment of a child; 609.324, subdivision 1a, other prohibited acts, minor engaged in prostitution; 609.33, disorderly house; 609.52, theft; 609.582, burglary in the first, second, third, or fourth degree; 609.631, check forgery, offering a forged check; 609.275, attempt to coerce; an attempt or conspiracy to commit any of these offenses as defined in Minnesota Statutes; or an offense in any other state or country where the elements are substantially similar to any of the offenses listed in this paragraph.

(e) Less than seven years have passed since the discharge of the sentence imposed for the offense and the person has received a misdemeanor conviction for one of the following offenses or the person has admitted to committing or a preponderance of the evidence indicates that the person has committed an act that meets the definition of a misdemeanor conviction for one of the following offenses: sections 609.224, fifth degree assault; 609.2242, domestic assault; 518B.01, violation of an order for protection; 609.3232, violation of an order for protection; 609.746, interference with privacy; 609.79, obscene or harassing telephone calls; 609.795, letter, telegram, or package opening, harassment; 617.23, indecent exposure; 609.2672, assault of an unborn child, third degree; 617.293, dissemination and display of harmful materials to minors; 609.66, dangerous weapons; 609.665, spring guns; an attempt or conspiracy to commit any of these offenses as defined in Minnesota Statutes; or an offense in any other state or country where the elements are substantially similar to any of the offenses listed in this paragraph.

(f) The person has been identified by the child protection agency in the county where the provider resides or a county where the provider has resided or by the statewide child protection database as the person allegedly responsible for physical or sexual abuse of a child within the last seven years.

(g) The person has been identified by the adult protection agency in the county where the provider resides or a county where the provider has resided or by the statewide adult protection database as the person responsible for abuse or neglect of a vulnerable adult within the last seven years.

(h) The person has refused to give written consent for disclosure of criminal history records.

(i) The person has been denied a family child care license or has received a fine or a sanction as a licensed child care provider that has not been reversed on appeal.

(j) The person has a family child care licensing disqualification that has not been set aside.

(k) The person has admitted or a county has found that there is a preponderance of evidence that fraudulent information was given to the county for child care

assistance application purposes or was used in submitting child care assistance bills for payment.

(l) The person has been convicted of the crime of theft by wrongfully obtaining public assistance.

(m) The person has a household member age 13 or older who has access to children during the hours that care is provided and who meets one of the conditions listed in paragraphs (b) to (l).

(n) The person has a household member ages ten to 12 who has access to children during the hours that care is provided; information or circumstances exist which provide the county with articulable suspicion that further pertinent information may exist showing the household member meets one of the conditions listed in paragraphs (b) to (l); and the household member actually meets one of the conditions listed in paragraphs (b) to (l).

[For text of subsds 3 to 6, see M.S.2004]

History: 2005 c 136 art 7 s 21

119B.13 CHILD CARE RATES.

Subdivision 1. **Subsidy restrictions.** (a)(i) Effective July 1, 2005, the commissioner of human services shall modify the rate tables for child care centers published in Department of Human Services Bulletin No. 03-68-07 so that in counties with regional or statewide cells, the higher of the 100th percentile of the 2002 market rate survey data or the rate currently identified in the bulletin will be the maximum rate. The rates established in this clause will be considered as the previous year's rates for purposes of the increase in item (iii), and shall be compared to the 100th percentile of current market rates.

(ii) For the period between July 1, 2005, and through the full implementation of the new rates under item (iii), the rates published in Department of Human Services Bulletin No. 03-68-07 as adjusted by item (i) shall remain in effect.

(iii) Beginning January 1, 2006, the maximum rate paid for child care assistance in any county or multicounty region under the child care fund shall be the lesser of the 75th percentile rate for like-care arrangements in the county or multicounty region as surveyed by the commissioner or the previous year's rate for like-care arrangements in the county increased by 1.75 percent.

(iv) Rate changes shall be implemented for services provided in March 2006 unless a participant eligibility redetermination or a new provider agreement is completed between January 1, 2006, and February 28, 2006.

As necessary, appropriate notice of adverse action must be made according to Minnesota Rules, part 3400.0185, subparts 3 and 4.

New cases approved on or after January 1, 2006, shall have the maximum rates under item (iii) implemented immediately.

(b) Not less than once every two years, the commissioner shall survey rates charged by child care providers in Minnesota to determine the 75th percentile for like-care arrangements in counties. When the commissioner determines that, using the commissioner's established protocol, the number of providers responding to the survey is too small to determine the 75th percentile rate for like-care arrangements in a county or multicounty region, the commissioner may establish the 75th percentile maximum rate based on like-care arrangements in a county, region, or category that the commissioner deems to be similar.

(c) A rate which includes a special needs rate paid under subdivision 3 may be in excess of the maximum rate allowed under this subdivision.

(d) The department shall monitor the effect of this paragraph on provider rates. The county shall pay the provider's full charges for every child in care up to the maximum established. The commissioner shall determine the maximum rate for each

type of care on an hourly, full-day, and weekly basis, including special needs and handicapped care.

(e) When the provider charge is greater than the maximum provider rate allowed, the parent is responsible for payment of the difference in the rates in addition to any family co-payment fee.

[For text of subds 1a to 6, see M.S.2004]

Subd. 7. **Absent days.** Child care providers may not be reimbursed for more than 25 absent days per child, excluding holidays, in a fiscal year, or for more than ten consecutive absent days, unless the child has a documented medical condition that causes more frequent absences. Documentation of medical conditions must be on the forms and submitted according to the timelines established by the commissioner.

History: *1Sp2005 c 4 art 3 s 1,2*

119B.21 CHILD CARE SERVICES GRANTS.

[For text of subds 1 to 10, see M.S.2004]

Subd. 11. [Repealed, 2005 c 98 art 2 s 18]

119B.25 CHILD CARE IMPROVEMENT GRANTS.

[For text of subd 1, see M.S.2004]

Subd. 2. **Grants.** The commissioner shall distribute money provided by this section through a grant to a nonprofit corporation organized to plan, develop, and finance early childhood education and child care sites. The nonprofit corporation must have demonstrated the ability to analyze financing projects, have knowledge of other sources of public and private financing for child care and early childhood education sites, and have a relationship with regional resource and referral programs. The board of directors of the nonprofit corporation must include members who are knowledgeable about early childhood education, child care, development and improvement, and financing. The commissioners of the Departments of Human Services and Employment and Economic Development, and the commissioner of the Housing Finance Agency shall advise the board on the loan program. The grant must be used to make loans to improve child care or early childhood education sites, or loans to plan, design, and construct or expand licensed and legal unlicensed sites to increase the availability of child care or early childhood education. All loans made by the nonprofit corporation must comply with section 363A.16.

[For text of subds 3 and 4, see M.S.2004]

History: *2005 c 10 art 1 s 24*

119B.26 AUTHORITY TO WAIVE REQUIREMENTS DURING DISASTER PERIODS.

The commissioner may waive requirements under this chapter for up to nine months after the disaster in areas where a federal disaster has been declared under United States Code, title 42, section 5121, et seq., or the governor has exercised authority under chapter 12. The commissioner shall notify the chairs of the house and senate committees with jurisdiction over this chapter and the house Ways and Means Committee ten days before the effective date of any waiver granted under this section.

History: *2005 c 98 art 1 s 8*