

## CHAPTER 119B

### CHILD CARE PROGRAMS

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**119B.01** Subdivision 1. [Renumbered 119B.011, subdivision 1]

Subd. 2. [Renumbered 119B.011, subd 2]

Subd. 2a. [Renumbered 119B.011, subd 3]

Subd. 3. [Renumbered 119B.011, subd 7]

Subd. 4. [Renumbered 119B.011, subd 4]

Subd. 5. [Renumbered 119B.011, subd 8]

Subd. 6. [Renumbered 119B.011, subd 5]

Subd. 7. [Renumbered 119B.011, subd 9]

Subd. 7a. [Renumbered 119B.011, subd 10]

Subd. 8. [Renumbered 119B.011, subd 11]

Subd. 9. [Renumbered 119B.011, subd 12]

Subd. 10. [Renumbered 119B.011, subd 13]

Subd. 11. [Renumbered 119B.011, subd 14]

Subd. 12. [Renumbered 119B.011, subd 15]

Subd. 12a. [Renumbered 119B.011, subd 17]

Subd. 13. [Renumbered 119B.011, subd 19]

Subd. 14. [Renumbered 119B.011, subd 18]

Subd. 15. [Repealed, 1999 c 205 art 1 s 73]

Subd. 16. [Renumbered 119B.011, subd 20]

Subd. 17. [Renumbered 119B.011, subd 6]

Subd. 18. [Renumbered 119B.011, subd 16]

### **119B.011 DEFINITIONS.**

Subdivision 1. **Scope.** For the purposes of this chapter, the following terms have the meanings given.

Subd. 2. **Applicant.** "Child care fund applicants" means all parents, stepparents, legal guardians, or eligible relative caregivers who are members of the family and reside in the household that applies for child care assistance under the child care fund.

Subd. 3. **Application.** "Application" means the submission to a county agency, by or on behalf of a family, of a completed, signed, and dated:

(1) child care assistance universal application form; or

(2) child care addendum form in combination with a combined application form for MFIP, DWP, or food support.

Subd. 4. **Child.** "Child" means a person 12 years old or younger, or a person age 13 or 14 who is disabled, as defined in section 125A.02.

Subd. 5. **Child care.** "Child care" means the care of a child by someone other than a parent, stepparent, legal guardian, eligible relative caregiver, or the spouses of any of the foregoing in or outside the child's own home for gain or otherwise, on a regular basis, for any part of a 24-hour day.

Subd. 6. **Child care fund.** "Child care fund" means a program under this chapter providing:

(1) financial assistance for child care to parents engaged in employment, job search, or education and training leading to employment, or an at-home infant child care subsidy; and

(2) grants to develop, expand, and improve the access and availability of child care services statewide.

Subd. 7. **Child care services.** "Child care services" means the provision of child care as defined in subdivision 5.

Subd. 8. **Commissioner.** "Commissioner" means the commissioner of human services.

Subd. 9. **County board.** "County board" means the board of county commissioners in each county.

Subd. 10. **Department.** "Department" means the Department of Human Services.

Subd. 10a. **Diversionsary work program.** "Diversionsary work program" means the program established under section 256J.95.

Subd. 11. **Education program.** "Education program" means remedial or basic education or English as a second language instruction, a program leading to a general equivalency or high school diploma, postsecondary programs excluding postbaccalaureate programs, and other education and training needs as documented in an employment plan, as defined in subdivision 12. The employment plan must outline education and training needs of a recipient, meet state requirements for employment plans, meet the

requirements of this chapter, and Minnesota Rules, parts 3400.0010 to 3400.0230, and meet the requirements of programs that provide federal reimbursement for child care services.

Subd. 12. **Employment plan.** "Employment plan" means employment of recipients financially eligible for child care assistance, or other work activities defined under section 256J.49, approved in an employability development, job search support plan, or employment plan that is developed by the county agency, if it is acting as an employment and training service provider, or by an employment and training service provider certified by the commissioner of employment and economic development or an individual designated by the county to provide employment and training services. The plans and designation of a service provider must meet the requirements of this chapter and chapter 256J or chapter 256K, Minnesota Rules, parts 3400.0010 to 3400.0230, and other programs that provide federal reimbursement for child care services.

Subd. 13. **Family.** "Family" means parents, stepparents, guardians and their spouses, or other eligible relative caregivers and their spouses, and their blood related dependent children and adoptive siblings under the age of 18 years living in the same home including children temporarily absent from the household in settings such as schools, foster care, and residential treatment facilities or parents, stepparents, guardians and their spouses, or other relative caregivers and their spouses temporarily absent from the household in settings such as schools, military service, or rehabilitation programs. An adult family member who is not in an authorized activity under this chapter may be temporarily absent for up to 60 days. When a minor parent or parents and his, her, or their child or children are living with other relatives, and the minor parent or parents apply for a child care subsidy, "family" means only the minor parent or parents and their child or children. An adult age 18 or older who meets this definition of family and is a full-time high school or postsecondary student may be considered a dependent member of the family unit if 50 percent or more of the adult's support is provided by the parents, stepparents, guardians, and their spouses or eligible relative caregivers and their spouses residing in the same household.

Subd. 13a. **Family stabilization services.** "Family stabilization services" means the services under section 256J.575.

Subd. 14. **Human services board.** "Human services board" means a board established under section 402.02, Laws 1974, chapter 293, or Laws 1976, chapter 340.

Subd. 15. **Income.** "Income" means earned income as defined under section 256P.01, subdivision 3, unearned income as defined under section 256P.01, subdivision 8, and public assistance cash benefits, including the Minnesota family investment program, diversionary work program, work benefit, Minnesota supplemental aid, general assistance, refugee cash assistance, at-home infant child care subsidy payments, and child support and maintenance distributed to the family under section 256.741, subdivision 2a. The following are deducted from income: funds used to pay for health insurance premiums for family members, and child or spousal support paid to or on behalf of a person or persons who live outside of the household. Income sources not included in this subdivision and section 256P.06, subdivision 3, are not counted.

Subd. 16. **Legal nonlicensed child care provider.** "Legal nonlicensed child care provider" means: (1) a child care provider who is excluded from licensing requirements under section 245A.03, subdivision 2; or (2) a child care provider authorized to provide care in a child's home under section 119B.09, subdivision 13, provided the provider only cares for related children, children from a single, unrelated family, or both related children and children from a single, unrelated family.

Subd. 17. **MFIP.** "MFIP" means the Minnesota family investment program, the state's TANF program under Public Law 104-193, Title I, and includes the MFIP program under chapter 256J and tribal contracts under section 119B.02, subdivision 2, or 256.01, subdivision 2.

Subd. 18. **Postsecondary educational systems.** "Postsecondary educational systems" means the University of Minnesota Board of Regents and the Board of Trustees of the Minnesota State Colleges and Universities.

Subd. 19. **Provider.** "Provider" means: (1) an individual or child care center or facility, either licensed or unlicensed, providing legal child care services as defined under section 245A.03; or (2) an individual or child care center or facility holding a valid child care license issued by another state or a tribe and providing child care services in the licensing state or in the area under the licensing tribe's jurisdiction. A legally unlicensed family child care provider must be at least 18 years of age, and not a member of the MFIP assistance unit or a member of the family receiving child care assistance to be authorized under this chapter.

Subd. 19a. **Registration.** "Registration" means the process used by a county to determine whether the provider selected by a family applying for or receiving child care assistance to care for that family's children meets the requirements necessary for payment of child care assistance for care provided by that provider.

Subd. 19b. **Student parent.** "Student parent" means a person who is:

- (1) under 21 years of age and has a child;
- (2) pursuing a high school or general equivalency diploma;
- (3) residing within a county that has a basic sliding fee waiting list under section 119B.03, subdivision 4; and
- (4) not an MFIP participant.

Subd. 20. **Transition year families.** "Transition year families" means families who have received MFIP assistance, or who were eligible to receive MFIP assistance after choosing to discontinue receipt of the cash portion of MFIP assistance under section 256J.31, subdivision 12, or families who have received DWP assistance under section 256J.95 for at least three of the last six months before losing eligibility for MFIP or DWP. Transition year child care may be used to support employment or job search. Transition year child care is not available to families who have been disqualified from MFIP or DWP due to fraud.

Subd. 20a. **Transition year extension families.** "Transition year extension families" means families who have completed their transition year of child care assistance under this subdivision and who are eligible for, but on a waiting list for, services under section 119B.03. For purposes of sections 119B.03, subdivision 3, and 119B.05, subdivision 1, clause (2), families participating in extended transition year shall not be considered transition year families. Transition year extension child care may be used to support employment or a job search that meets the requirements of section 119B.10 for the length of time necessary for families to be moved from the basic sliding fee waiting list into the basic sliding fee program.

Subd. 21. **Recoupment of overpayments.** "Recoupment of overpayments" means the reduction of child care assistance payments to an eligible family or a child care provider in order to correct an overpayment of child care assistance.

Subd. 22. **Service period.** "Service period" means the biweekly period used by the child care assistance program for billing and payment purposes.

**History:** *1Sp1985 c 14 art 9 s 72; 1987 c 403 art 3 s 59; 1988 c 689 art 2 s 223; 1989 c 282 art 2 s 135-140; 1990 c 375 s 3; 1990 c 568 art 4 s 34-38; 1992 c 513 art 8 s 26,27; 1994 c 483 s 1; 1995 c 207 art 4 s 22,23; 1Sp1995 c 3 art 16 s 13; 1996 c 395 s 18; 1997 c 162 art 4 s 1-8; 1998 c 397 art 11 s 3; 1998 c 407 art 6 s 1; 1999 c 159 s 7-12,154; 1999 c 205 art 1 s 3-10,69; art 5 s 1,2,21; 2000 c 260 s 19,89; 2000*

*c 488 art 10 s 1; 2000 c 489 art 1 s 2-4; 1Sp2001 c 3 art 1 s 1,2; 2002 c 279 s 1,2; 2003 c 130 s 5,6; 1Sp2003 c 9 art 12 s 1; 1Sp2003 c 14 art 1 s 106; art 9 s 1-7; 2004 c 206 s 52; 2004 c 288 art 4 s 1-6; 2005 c 56 s 1; 2007 c 147 art 2 s 3; 2008 c 361 art 3 s 1; 2009 c 175 art 1 s 1; 1Sp2011 c 9 art 1 s 1; 2013 c 108 art 3 s 1; 2015 c 71 art 5 s 1,35; 2015 c 78 art 1 s 1; 2016 c 158 art 1 s 37*

### **119B.02 DUTIES OF COMMISSIONER.**

Subdivision 1. **Child care services.** The commissioner shall develop standards for county and human services boards to provide child care services to enable eligible families to participate in employment, training, or education programs. Within the limits of available appropriations, the commissioner shall distribute money to counties to reduce the costs of child care for eligible families. The commissioner shall adopt rules to govern the program in accordance with this section. The rules must establish a sliding schedule of fees for parents receiving child care services. The rules shall provide that funds received as a lump-sum payment of child support arrearages shall not be counted as income to a family in the month received but shall be prorated over the 12 months following receipt and added to the family income during those months. The commissioner shall maximize the use of federal money under title I and title IV of Public Law 104-193, the Personal Responsibility and Work Opportunity Reconciliation Act of 1996, and other programs that provide federal or state reimbursement for child care services for low-income families who are in education, training, job search, or other activities allowed under those programs. Money appropriated under this section must be coordinated with the programs that provide federal reimbursement for child care services to accomplish this purpose. Federal reimbursement obtained must be allocated to the county that spent money for child care that is federally reimbursable under programs that provide federal reimbursement for child care services. The counties shall use the federal money to expand child care services. The commissioner may adopt rules under chapter 14 to implement and coordinate federal program requirements.

Subd. 2. **Contractual agreements with tribes.** The commissioner may enter into contractual agreements with a federally recognized Indian tribe with a reservation in Minnesota to carry out the responsibilities of county human service agencies to the extent necessary for the tribe to operate child care assistance programs under sections 119B.03 and 119B.05. An agreement may allow the state to make payments for child care assistance services provided under section 119B.05. The commissioner shall consult with the affected county or counties in the contractual agreement negotiations, if the county or counties wish to be included, in order to avoid the duplication of county and tribal child care services. Funding to support services under section 119B.03 may be transferred to the federally recognized Indian tribe with a reservation in Minnesota from allocations available to counties in which reservation boundaries lie. When funding is transferred under section 119B.03, the amount shall be commensurate to estimates of the proportion of reservation residents with characteristics identified in section 119B.03, subdivision 6, to the total population of county residents with those same characteristics.

Subd. 3. **Supervision of counties.** The commissioner shall supervise child care programs administered by the counties through standard-setting, technical assistance to the counties, approval of county child care fund plans, and distribution of public money for services. The commissioner shall provide training and other support services to assist counties in planning for and implementing child care assistance programs. The commissioner shall adopt rules under chapter 14 that establish minimum administrative standards for the provision of child care services by county boards of commissioners.

Subd. 4. **Universal application form.** The commissioner must develop and make available to all counties a universal application form for child care assistance under this chapter. The commissioner may develop and make available to all counties a child care addendum form to be used to supplement the combined application form for MFIP, DWP, or Food Support or to supplement other statewide application forms for public assistance programs for families applying for one of these programs in addition to child care assistance.

The application must provide notice of eligibility requirements for assistance and penalties for wrongfully obtaining assistance.

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.

Subd. 6. **Data.** Data collected, maintained, used, or disseminated by the welfare system pertaining to persons selected as legal nonlicensed child care providers by families receiving child care assistance shall be treated as licensing data as provided in section 13.46, subdivision 4.

Subd. 7. **Child care market rate survey.** Biennially, the commissioner shall survey prices charged by child care providers in Minnesota to determine the 75th percentile for like-care arrangements in county price clusters.

**History:** *1Sp1985 c 14 art 9 s 72; 1987 c 403 art 2 s 146; art 3 s 60; 1989 c 282 art 2 s 141; 1990 c 432 s 1; 1991 c 292 art 5 s 52; 1995 c 207 art 4 s 24; 1995 c 257 art 1 s 17; 1997 c 162 art 4 s 9; 1998 c 407 art 6 s 2; 1999 c 159 s 13; 1999 c 205 art 1 s 11-14; 2001 c 178 art 2 s 5; 1Sp2003 c 14 art 9 s 8; 2004 c 288 art 4 s 7; 2004 c 290 s 24; 2005 c 98 art 1 s 3; 2013 c 108 art 3 s 2; 2014 c 291 art 11 s 2*

#### 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. A family is considered to have met the eligibility redetermination requirement if a complete redetermination form and all required verifications are received within 30 days after the date the form was due. When the 30th day after the date the form was due falls on

a Saturday, Sunday, or legal holiday, the 30-day time period is extended to include the next succeeding day that is not a Saturday, Sunday, or legal holiday. Assistance shall be payable retroactively from the redetermination due date. For a family where at least one parent is under the age of 21, does not have a high school or general equivalency diploma, and is a student in a school district or another similar program that provides or arranges for child care, as well as parenting, social services, career and employment supports, and academic support to achieve high school graduation, the redetermination of eligibility shall be deferred beyond six months, but not to exceed 12 months, to the end of the student's school year. 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. Changes must be reported as required by section 256P.07. A change in income occurs on the day the participant received the first payment reflecting the change in income.

(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.

Subd. 2. **Social Security numbers.** The county must request Social Security numbers from all applicants for child care assistance under this chapter. A county may not deny child care assistance solely on the basis of failure of an applicant to report a Social Security number.

**History:** *1Sp2003 c 14 art 9 s 9; 2005 c 159 art 3 s 1; 2010 c 346 art 2 s 1; 2013 c 108 art 3 s 3; 2015 c 71 art 5 s 2,35; 2015 c 78 art 1 s 2*

### 119B.03 BASIC SLIDING FEE PROGRAM.

Subdivision 1. **Notice of allocation.** By October 1 of each year, the commissioner shall notify all counties of their final child care fund program allocation.

Subd. 2. **Waiting list.** Each county that receives funds under this section must keep a written record and report to the commissioner the number of eligible families who have applied for a child care subsidy or have requested child care assistance. Counties shall perform a preliminary determination of eligibility when a family requests child care assistance. At a minimum, a county must make a preliminary determination of eligibility based on family size, income, and authorized activity. A family seeking child care assistance must provide the required information to the county. A family that appears to be eligible must be put on a waiting list if funds are not immediately available. The waiting list must identify students in need of child care. Counties must review and update their waiting list at least every six months.

Subd. 3. **Eligible participants.** Families that meet the eligibility requirements under sections 119B.07, 119B.09, and 119B.10, except MFIP participants, diversionary work program, and transition year families are eligible for child care assistance under the basic sliding fee program. Families enrolled in the basic sliding fee program shall be continued until they are no longer eligible. Child care assistance provided through the child care fund is considered assistance to the parent.

Subd. 4. **Funding priority.** (a) First priority for child care assistance under the basic sliding fee program must be given to eligible non-MFIP families who do not have a high school or general equivalency diploma or who need remedial and basic skill courses in order to pursue employment or to pursue education leading to employment and who need child care assistance to participate in the education program. This includes student parents as defined under section 119B.011, subdivision 19b. Within this priority, the following subpriorities must be used:

- (1) child care needs of minor parents;
- (2) child care needs of parents under 21 years of age; and

(3) child care needs of other parents within the priority group described in this paragraph.

(b) Second priority must be given to parents who have completed their MFIP or DWP transition year, or parents who are no longer receiving or eligible for diversionary work program supports.

(c) Third priority must be given to families who are eligible for portable basic sliding fee assistance through the portability pool under subdivision 9.

(d) Fourth priority must be given to families in which at least one parent is a veteran as defined under section 197.447.

(e) Families under paragraph (b) must be added to the basic sliding fee waiting list on the date they begin the transition year under section 119B.011, subdivision 20, and must be moved into the basic sliding fee program as soon as possible after they complete their transition year.

**Subd. 5. Review of use of funds; reallocation.** (a) After each quarter, the commissioner shall review the use of basic sliding fee program allocations by county. The commissioner may reallocate unexpended or unencumbered money among those counties who have expended their full allocation or may allow a county to expend up to ten percent of its allocation in the subsequent allocation period.

(b) Any unexpended state and federal appropriations from the first year of the biennium may be carried forward to the second year of the biennium.

**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) Up to one-fourth of the funds shall be allocated in proportion to the number of families participating in the transition year child care program as reported during and averaged over the most recent six months completed at the time of the notice of allocation. Funds in excess of the amount necessary to serve all families in this category shall be allocated according to paragraph (f).

(c) Up to one-fourth of the funds shall be allocated in proportion to the average of each county's most recent six months of 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. Funds in excess of the amount necessary to serve all families in this category shall be allocated according to paragraph (f).

(d) Up to one-fourth of the funds shall be allocated in proportion to the average of each county's most recent six months of 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. Funds in excess of the amount necessary to serve all families in this category shall be allocated according to paragraph (f).

(e) The amount necessary to serve all families in paragraphs (b), (c), and (d) shall be calculated based on the basic sliding fee average cost of care per family in the county with the highest cost in the most recently completed calendar year.



(f) Funds in excess of the amount necessary to serve all families in paragraphs (b), (c), and (d) 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.

Subd. 6a. **Allocation due to increased funding.** When funding increases are implemented within a calendar year, every county must receive an allocation at least equal to its original allocation for the same time period. The remainder of the allocation must be recalculated to reflect the funding increase, according to formulas identified in subdivision 6.

Subd. 6b. **Allocation due to decreased funding.** When funding decreases are implemented within a calendar year, county allocations must be reduced in an amount proportionate to the reduction in the total allocation for the same time period. This applies when a funding decrease necessitates the revision of an existing calendar year allocation.

Subd. 7. [Repealed, 1999 c 205 art 1 s 73]

Subd. 8. **Guaranteed floor.** (a) Beginning January 1, 1996, each county's guaranteed floor shall equal 90 percent of the allocation received in the preceding calendar year. For the period January 1, 1999, to December 31, 1999, each county's guaranteed floor must be equal to its original calendar year 1998 allocation or its actual earnings for calendar year 1998, whichever is less.

(b) When the amount of funds available for allocation is less than the amount available in the previous year, each county's previous year allocation shall be reduced in proportion to the reduction in the statewide funding, for the purpose of establishing the guaranteed floor.

Subd. 9. **Portability pool.** (a) The commissioner shall establish a pool of up to five percent of the annual appropriation for the basic sliding fee program to provide continuous child care assistance for eligible families who move between Minnesota counties. At the end of each allocation period, any unspent funds in the portability pool must be used for assistance under the basic sliding fee program. If expenditures from the portability pool exceed the amount of money available, the reallocation pool must be reduced to cover these shortages.

(b) To be eligible for portable basic sliding fee assistance, a family that has moved from a county in which it was receiving basic sliding fee assistance to a county with a waiting list for the basic sliding fee program must:

(1) meet the income and eligibility guidelines for the basic sliding fee program; and

(2) notify the new county of residence within 60 days of moving and submit information to the new county of residence to verify eligibility for the basic sliding fee program.

(c) The receiving county must:

(1) accept administrative responsibility for applicants for portable basic sliding fee assistance at the end of the two months of assistance under the Unitary Residency Act;

(2) continue basic sliding fee assistance for the lesser of six months or until the family is able to receive assistance under the county's regular basic sliding program; and

(3) notify the commissioner through the quarterly reporting process of any family that meets the criteria of the portable basic sliding fee assistance pool.

Subd. 10. **Application; entry points.** Two or more methods of applying for the basic sliding fee program must be available to applicants in each county. To meet the requirements of this subdivision, a county may provide alternative methods of applying for assistance, including, but not limited to, a mail application, or application sites that are located outside of government offices.

**History:** *1Sp1985 c 14 art 9 s 72; 1987 c 403 art 3 s 61; 1988 c 689 art 2 s 224; 1989 c 282 art 2 s 142; 1990 c 568 art 4 s 39-41; 1991 c 292 art 5 s 53; 1992 c 464 art 1 s 31; 1992 c 513 art 8 s 28,29; 1995 c 207 art 4 s 25-29; 1997 c 162 art 1 s 19; art 4 s 10-17; 1998 c 254 art 1 s 29; 1999 c 159 s 14,15; 1999 c 205 art 1 s 15-20,69; 2000 c 489 art 1 s 5,6; 1Sp2003 c 14 art 1 s 1; art 9 s 10,11; 2004 c 288 art 4 s 8-11; 2005 c 159 art 3 s 2; 2006 c 264 s 2; 2008 c 361 art 2 s 1; art 3 s 2; 2013 c 108 art 3 s 4*

### **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, and up to available appropriations, the commissioner shall 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.

Subd. 2. **Eligible families.** A family with an infant under the age of one year is eligible for assistance if:

(1) the family is not receiving MFIP, other cash assistance, or other child care assistance;

(2) the family has not previously received a lifelong total of 12 months of assistance under this section; and

(3) the family is participating in the basic sliding fee program or provides verification of participating in an authorized activity at the time of application and meets the program requirements.

Subd. 3. **Eligible parent.** A family is eligible for assistance under this section if one parent cares for the family's infant child. The eligible parent must:

(1) be over the age of 18;

(2) care for the infant full time in the infant's home; and

(3) care for any other children in the family who are eligible for child care assistance under this chapter.

For purposes of this section, "parent" means birth parent, adoptive parent, or stepparent.

Subd. 4. **Assistance.** (a) A family is limited to a lifetime total of 12 months of assistance under subdivision 2. The maximum rate of assistance is equal to 68 percent of the rate established under section 119B.13 for care of infants in licensed family child care in the applicant's county of residence.

(b) A participating family must report income and other family changes as specified in sections 256P.06 and 256P.07, and the county's plan under section 119B.08, subdivision 3.

(c) Persons who are admitted to the at-home infant child care program retain their position in any basic sliding fee program. Persons leaving the at-home infant child care program reenter the basic sliding fee program at the position they would have occupied.

(d) Assistance under this section does not establish an employer-employee relationship between any member of the assisted family and the county or state.

Subd. 5. **Implementation.** The commissioner shall implement the at-home infant child care program under this section through counties that administer the basic sliding fee program under section 119B.03. The commissioner must develop and distribute consumer information on the at-home infant child care program to assist parents of infants or expectant parents in making informed child care decisions.

**History:** 2004 c 288 art 4 s 12; 2005 c 98 art 1 s 4; 2007 c 147 art 2 s 4; 1Sp2011 c 9 art 1 s 2; 2015 c 71 art 5 s 3,35

#### **119B.04 FEDERAL CHILD CARE AND DEVELOPMENT FUND.**

Subdivision 1. **Commissioner to administer program.** The commissioner is authorized and directed to receive, administer, and expend funds available under the child care and development fund under Public Law 104-193, Title VI.

Subd. 2. **Rulemaking authority.** The commissioner may adopt rules under chapter 14 to administer the child care and development fund.

**History:** 1991 c 292 art 5 s 54; 1Sp1995 c 3 art 16 s 13; 1997 c 162 art 4 s 18; 1999 c 205 art 1 s 21

#### **119B.05 MFIP CHILD CARE ASSISTANCE PROGRAM.**

Subdivision 1. **Eligible participants.** Families eligible for child care assistance under the MFIP child care program are:

- (1) MFIP participants who are employed or in job search and meet the requirements of section 119B.10;
- (2) persons who are members of transition year families under section 119B.011, subdivision 20, and meet the requirements of section 119B.10;
- (3) families who are participating in employment orientation or job search, or other employment or training activities that are included in an approved employability development plan under section 256J.95;
- (4) MFIP families who are participating in work job search, job support, employment, or training activities as required in their employment plan, or in appeals, hearings, assessments, or orientations according to chapter 256J;
- (5) MFIP families who are participating in social services activities under chapter 256J as required in their employment plan approved according to chapter 256J;
- (6) families who are participating in services or activities that are included in an approved family stabilization plan under section 256J.575;
- (7) families who are participating in programs as required in tribal contracts under section 119B.02, subdivision 2, or 256.01, subdivision 2;
- (8) families who are participating in the transition year extension under section 119B.011, subdivision 20a; and

(9) student parents as defined under section 119B.011, subdivision 19b.

Subd. 2. [Repealed, 1997 c 162 art 1 s 19]

Subd. 3. [Repealed, 1997 c 162 art 1 s 19]

Subd. 4. **Contracts; other uses allowed.** Counties may contract for administration of the program or may arrange for or contract for child care funds to be used by other appropriate programs, in accordance with this section and as permitted by federal law and regulations.

Subd. 5. **Federal reimbursement.** Counties shall maximize their federal reimbursement under federal reimbursement programs for money spent for persons eligible under this chapter. The commissioner shall allocate any federal earnings to the county to be used to expand child care services under this chapter.

Subd. 6. [Repealed, 1999 c 159 s 154; 1999 c 205 art 1 s 73]

Subd. 7. [Repealed, 1999 c 205 art 1 s 73]

**History:** 1987 c 403 art 3 s 63; 1Sp1987 c 4 art 2 s 5; 1988 c 689 art 2 s 225; 1989 c 282 art 2 s 143; 1990 c 568 art 4 s 42-45; 1991 c 292 art 5 s 55; 1992 c 513 art 8 s 30,31; 1995 c 207 art 4 s 30; 1Sp1995 c 3 art 16 s 13; 1997 c 162 art 4 s 19-21,23; 1Sp1997 c 5 s 49; 3Sp1997 c 3 s 22; 1998 c 397 art 11 s 3; 1999 c 86 art 1 s 32; 1999 c 159 s 16; 1999 c 205 art 1 s 21,22,69,70; 2000 c 489 art 1 s 7; 1Sp2003 c 14 art 9 s 12,38; 2004 c 288 art 4 s 13; 2007 c 147 art 2 s 5; 2013 c 108 art 3 s 5

#### **119B.06 FEDERAL CHILD CARE AND DEVELOPMENT BLOCK GRANT.**

Subdivision 1. **Commissioner to administer block grant.** The commissioner is authorized and directed to receive, administer, and expend child care funds available under the child care and development block grant authorized under Public Law 101-508.

Subd. 2. **Rulemaking authority.** The commissioner may adopt rules under chapter 14 to administer the child care development block grant program.

Subd. 3. **Child care development fund plan development; review.** In an effort to improve state legislative involvement in the development of the Minnesota child care and development fund plan, the commissioner must present a draft copy of the plan to the legislative finance committees that oversee child care assistance funding no less than 30 days prior to the required deadline for submission of the plan to the federal government. The legislature must submit any adjustments to the plan to the commissioner for consideration within ten business days of receiving the draft plan. The commissioner must present a copy of the final plan to the chairs of the legislative finance committees that oversee child care assistance funding no less than four days prior to the deadline for submission of the plan to the federal government.

**History:** 1991 c 292 art 5 s 56; 1Sp1995 c 3 art 16 s 13; 1999 c 205 art 1 s 23; 1Sp2001 c 3 art 1 s 3

**119B.061** [Repealed, 1Sp2003 c 14 art 9 s 38]

#### **119B.07 USE OF MONEY.**

(a) Money for persons listed in sections 119B.03, subdivision 3, and 119B.05, subdivision 1, shall be used to reduce the costs of child care for students, including the costs of child care for students while employed if enrolled in an eligible education program at the same time and making satisfactory progress towards completion of the program. Counties may not limit the duration of child care subsidies for a person in an employment or educational program, except when the person is found to be ineligible under the child care

fund eligibility standards. Any limitation must be based on a person's employment plan in the case of an MFIP participant, and county policies included in the child care fund plan. The maximum length of time a student is eligible for child care assistance under the child care fund for education and training is no more than the time necessary to complete the credit requirements for an associate or baccalaureate degree as determined by the educational institution, excluding basic or remedial education programs needed to prepare for postsecondary education or employment.

(b) To be eligible, the student must be in good standing and be making satisfactory progress toward the degree. Time limitations for child care assistance do not apply to basic or remedial educational programs needed to prepare for postsecondary education or employment. These programs include: high school, general equivalency diploma, and English as a second language. Programs exempt from this time limit must not run concurrently with a postsecondary program. If an MFIP participant who is receiving MFIP child care assistance under this chapter moves to another county, continues to participate in educational or training programs authorized in their employment plans, and continues to be eligible for MFIP child care assistance under this chapter, the MFIP participant must receive continued child care assistance from the county responsible for their current employment plan, under section 256G.07.

**History:** 1987 c 403 art 3 s 66; 1988 c 689 art 2 s 227; 1989 c 282 art 2 s 145; 1990 c 426 art 1 s 31; 1990 c 568 art 4 s 46; 1991 c 292 art 5 s 57; 1995 c 207 art 4 s 31; 1997 c 162 art 4 s 24; 1999 c 159 s 17; 1999 c 205 art 1 s 25,69

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

**119B.075** [Repealed, 1999 c 205 art 1 s 73]

### **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 (p).

Subd. 2. **Monthly payments.** The commissioner shall make monthly payments on a reimbursement basis for expenditures reported outside of the electronic system used to administer child care assistance. Payments may be withheld if monthly reports are incomplete or untimely.

Subd. 3. **Child care fund plan.** The county and designated administering agency shall submit a biennial child care fund plan to the commissioner. The commissioner shall establish the dates by which the county must submit the plans. The plan shall include:

(1) a description of strategies to coordinate and maximize public and private community resources, including school districts, health care facilities, government agencies, neighborhood organizations, and other resources knowledgeable in early childhood development, in particular to coordinate child care assistance with existing community-based programs and service providers including child care resource and referral programs, early childhood family education, school readiness, Head Start, local interagency early intervention committees, special education services, early childhood screening, and other early childhood care and education services and programs to the extent possible, to foster collaboration among agencies and other community-based programs that provide flexible, family-focused services to families with young children and to facilitate transition into kindergarten. The county must describe a method by which to share information, responsibility, and accountability among service and program providers;

(2) a description of procedures and methods to be used to make copies of the proposed state plan reasonably available to the public, including members of the public particularly interested in child care policies such as parents, child care providers, culturally specific service organizations, child care resource

and referral programs, interagency early intervention committees, potential collaborative partners and agencies involved in the provision of care and education to young children, and allowing sufficient time for public review and comment; and

(3) information as requested by the department to ensure compliance with the child care fund statutes and rules promulgated by the commissioner.

The commissioner shall notify counties within 90 days of the date the plan is submitted whether the plan is approved or the corrections or information needed to approve the plan. The commissioner shall withhold a county's allocation until it has an approved plan. Plans not approved by the end of the second quarter after the plan is due may result in a 25 percent reduction in allocation. Plans not approved by the end of the third quarter after the plan is due may result in a 100 percent reduction in the allocation to the county. Counties are to maintain services despite any reduction in their allocation due to plans not being approved.

Subd. 4. [Repealed, 2007 c 147 art 2 s 63]

**History:** 1987 c 403 art 3 s 67; 1989 c 89 s 22; 1989 c 282 art 2 s 146; 1990 c 568 art 4 s 47; 1997 c 162 art 4 s 26,27; 1999 c 159 s 19; 1999 c 205 art 1 s 27,69; 1Sp2003 c 14 art 9 s 13; 2005 c 98 art 1 s 6; 2009 c 175 art 1 s 2; 2015 c 78 art 4 s 61

#### **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 67 percent of the state median income, 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

(2) have household income less than or equal to 47 percent of the state median income, adjusted for family size, at program entry and less than or equal to 67 percent of the state median income, 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.

Subd. 2. [Repealed, 2014 c 262 art 1 s 12]

Subd. 3. **Priorities; allocations.** If a county projects that its child care allocation is insufficient to meet the needs of all eligible families, it may prioritize among the families that remain to be served after the county has complied with the priority requirements of section 119B.03. Counties that have established a priority for families who are not MFIP participants beyond those established under section 119B.03 must submit the policy in the annual child care fund plan.

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. For a family where at least one parent is under the age of 21, does not have a high school or general equivalency diploma, and is a student in a school district or another similar program that provides or arranges for child care, as well as parenting, social services, career and employment supports, and academic support to achieve high school graduation, income must be recalculated when the family's income changes, but otherwise shall be deferred beyond six months, but not to exceed 12 months, to the end of the student's school year. Included lump sums counted as income under section 256P.06, subdivision 3, must be annualized over 12 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.

**Subd. 4a. Temporary ineligibility of military personnel.** Counties must reserve a family's position under the child care assistance fund if a family has been receiving child care assistance but is temporarily ineligible for assistance due to increased income from active military service. Activated military personnel may be temporarily ineligible until deactivation. A county must reserve a military family's position on the basic sliding fee waiting list under the child care assistance fund if a family is approved to receive child care assistance and reaches the top of the waiting list but is temporarily ineligible for assistance.

**Subd. 5. Provider choice.** Parents may choose child care providers as defined under section 119B.011, subdivision 19, that best meet the needs of their family. Counties shall make resources available to parents in choosing quality child care services. Counties may require a parent to sign a release stating their knowledge and responsibilities in choosing a legal provider described under section 119B.011, subdivision 19. When a county knows that a particular provider is unsafe, or that the circumstances of the child care arrangement chosen by the parent are unsafe, the county may deny a child care subsidy. A county may not restrict access to a general category of provider allowed under section 119B.011, subdivision 19.

**Subd. 6. Maximum child care assistance.** The maximum amount of child care assistance a local agency may pay for in a two-week period is 120 hours per child.

**Subd. 7. Date of eligibility for assistance.** (a) The date of eligibility for child care assistance under this chapter is the later of the date the application was received by the county; the beginning date of employment, education, or training; the date the infant is born for applicants to the at-home infant care program; or the date a determination has been made that the applicant is a participant in employment and training services under Minnesota Rules, part 3400.0080, or chapter 256J.

(b) Payment ceases for a family under the at-home infant child care program when a family has used a total of 12 months of assistance as specified under section 119B.035. Payment of child care assistance for employed persons on MFIP is effective the date of employment or the date of MFIP eligibility, whichever is later. Payment of child care assistance for MFIP or DWP participants in employment and training services is effective the date of commencement of the services or the date of MFIP or DWP eligibility, whichever is later. Payment of child care assistance for transition year child care must be made retroactive to the date of eligibility for transition year child care.

(c) Notwithstanding paragraph (b), payment of child care assistance for participants eligible under section 119B.05 may only be made retroactive for a maximum of six months from the date of application for child care assistance.

Subd. 8. **No employee-employer relationships.** Receipt of federal, state, or local funds by a child care provider either directly or through a parent who is a child care assistance recipient does not establish an employee-employer relationship between the child care provider and the county or state.

Subd. 9. **Licensed and legal nonlicensed family child care providers; assistance.** This subdivision applies to any provider providing care in a setting other than a child care center. Licensed and legal nonlicensed family child care providers and their employees 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 and their employees 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 or their employee receives a child care subsidy for their own children must not overlap with the hours the provider provides child care services.

Subd. 9a. **Child care centers; assistance.** (a) For the purposes of this subdivision, "qualifying child" means a child who is not a child or dependent of an employee of the child care provider.

(b) Funds distributed under this chapter must not be paid for child care services that are provided for a child or dependent of an employee under paragraph (a) unless at all times at least 50 percent of the children for whom the child care provider is providing care are qualifying children under paragraph (a).

(c) If a child care provider satisfies the requirements for payment under paragraph (b), but the percentage of qualifying children under paragraph (a) for whom the provider is providing care falls below 50 percent, the provider shall have four weeks to raise the percentage of qualifying children for whom the provider is providing care to at least 50 percent before payments to the provider are discontinued for child care services provided for a child who is not a qualifying child.

(d) This subdivision shall be implemented as follows:

(1) no later than August 1, 2014, the commissioner shall issue a notice to providers who have been identified as ineligible for funds distributed under this chapter as described in paragraph (b); and

(2) no later than January 5, 2015, payments to providers who do not comply with paragraph (c) will be discontinued for child care services provided for children who are not qualifying children.

(e) If a child's authorization for child care assistance is terminated under this subdivision, the county shall send a notice of adverse action to the provider and to the child's parent or guardian, including information on the right to appeal, under Minnesota Rules, part 3400.0185.

(f) Funds paid to providers during the period of time between the issuance of a notice under paragraph (d), clause (1), and discontinuation of payments under paragraph (d), clause (2), must not be treated as overpayments under section 119B.11, subdivision 2a, due to noncompliance with this subdivision.

(g) Nothing in this subdivision precludes the commissioner from conducting fraud investigations relating to child care assistance, imposing sanctions, and obtaining monetary recovery as otherwise provided by law.

Subd. 10. **Payment of funds.** All federal, state, and local child care funds must be paid directly to the parent when a provider cares for children in the children's own home. In all other cases, all federal, state, and local child care funds must be paid directly to the child care provider, either licensed or legal nonlicensed, on behalf of the eligible family. Funds distributed under this chapter must not be used for child care services that are provided for a child by a child care provider who resides in the same household or occupies the same residence as the child.



Subd. 11. **Payment of other child care expenses.** Payment by a source other than the family, of part or all of a family's child care expenses not payable under this chapter, does not affect the family's eligibility for child care assistance, and the amount paid is excluded from the family's income, if the funds are paid directly to the family's child care provider on behalf of the family. Child care providers who accept third-party payments must maintain family-specific documentation of payment source, amount, type of expenses, and time period covered by the payment.

Subd. 12. **Sliding fee.** Child care services to families must be made available on a sliding fee basis. The commissioner shall convert eligibility requirements in this section and parent fee schedules in section 119B.12 to state median income, based on a family size of three, adjusted for family size, by July 1, 2008. The commissioner shall report to the 2008 legislature with the necessary statutory changes to codify this conversion to state median income.

Subd. 13. **Child care in the child's home.** (a) Child care assistance must only be authorized in the child's home if:

(1) the child's parents have authorized activities outside of the home; or

(2) one parent in a two-parent family is in an authorized activity outside of the home and one parent is unable to care for the child and meets the requirements in Minnesota Rules, part 3400.0040, subpart 5.

(b) In order for child care assistance to be authorized under paragraph (a), clause (1) or (2), one or more of the following circumstances must be met:

(1) the authorized activity occurs during times when out-of-home care is not available or when out-of-home care would result in disruption of the child's nighttime sleep schedule. If child care is needed during any period when out-of-home care is not available, in-home care can be approved for the entire time care is needed;

(2) the family lives in an area where out-of-home care is not available; or

(3) a child has a verified illness or disability that would place the child or other children in an out-of-home facility at risk or creates a hardship for the child and the family to take the child out of the home to a child care home or center.

**History:** *1Sp1985 c 14 art 9 s 72; 1987 c 403 art 3 s 68; 1988 c 689 art 2 s 228; 1989 c 282 art 2 s 147,148; 1990 c 568 art 4 s 48-50; 1992 c 513 art 8 s 32; 1997 c 162 art 4 s 28-32; 1999 c 159 s 20-22; 1999 c 205 art 1 s 28-30,69; art 5 s 21; 1Sp2003 c 14 art 9 s 14-18; 2004 c 256 art 1 s 1; 2004 c 288 art 4 s 14; 2005 c 98 art 1 s 7; 2005 c 159 art 3 s 3,4; 2007 c 147 art 2 s 6-8; 2008 c 361 art 2 s 2; art 3 s 3; 2009 c 79 art 2 s 1; 2009 c 175 art 1 s 3; 2010 c 346 art 2 s 2; 1Sp2011 c 9 art 1 s 3-5; 2012 c 216 art 7 s 1; 2013 c 108 art 3 s 43; 2014 c 291 art 11 s 3,4; 2014 c 312 art 25 s 1; 2015 c 71 art 5 s 4,35; 2015 c 78 art 1 s 3*

## **119B.10 EMPLOYMENT OR TRAINING ELIGIBILITY.**

Subdivision 1. **Assistance for persons seeking and retaining employment.** (a) Persons who are seeking employment and who are eligible for assistance under this section are eligible to receive up to 240 hours of child care assistance per calendar year.

(b) Employed persons who work at least an average of 20 hours and full-time students who work at least an average of ten hours a week and receive at least a minimum wage for all hours worked are eligible for continued child care assistance for employment. For purposes of this section, work-study programs must be

counted as employment. Child care assistance during employment must be authorized as provided in paragraphs (c) and (d).

(c) When the person works for an hourly wage and the hourly wage is equal to or greater than the applicable minimum wage, child care assistance shall be provided for the actual hours of employment, break, and mealtime during the employment and travel time up to two hours per day.

(d) When the person does not work for an hourly wage, child care assistance must be provided for the lesser of:

(1) the amount of child care determined by dividing gross earned income by the applicable minimum wage, up to one hour every eight hours for meals and break time, plus up to two hours per day for travel time; or

(2) the amount of child care equal to the actual amount of child care used during employment, including break and mealtime during employment, and travel time up to two hours per day.

Subd. 2. **Financial eligibility required.** Persons participating in employment programs, training programs, or education programs are eligible for continued assistance from the child care fund, if they are financially eligible under the sliding fee scale set by the commissioner in section 119B.12.

**History:** *1Sp1985 c 14 art 9 s 72; 1987 c 403 art 3 s 69; 1989 c 282 art 2 s 149; 1990 c 568 art 4 s 51; 1995 c 207 art 4 s 32; 1997 c 162 art 4 s 33; 1999 c 205 art 1 s 31*

#### **119B.11 COUNTY CONTRIBUTION.**

Subdivision 1. **County contributions required.** (a) In addition to payments from basic sliding fee child care program participants, each county shall contribute from county tax or other sources a fixed local match equal to its calendar year 1996 required county contribution reduced by the administrative funding loss that would have occurred in state fiscal year 1996 under section 119B.15. The commissioner shall recover funds from the county as necessary to bring county expenditures into compliance with this subdivision. The commissioner may accept county contributions, including contributions above the fixed local match, in order to make state payments.

(b) The commissioner may accept payments from counties to:

(1) fulfill the county contribution as required under subdivision 1;

(2) pay for services authorized under this chapter beyond those paid for with federal or state funds or with the required county contributions; or

(3) pay for child care services in addition to those authorized under this chapter, as authorized under other federal, state, or local statutes or regulations.

(c) The county payments must be deposited in an account in the special revenue fund. Money in this account is appropriated to the commissioner for child care assistance under this chapter and other applicable statutes and regulations and is in addition to other state and federal appropriations.

Subd. 2. [Repealed, 1997 c 162 art 1 s 19]

Subd. 2a. **Recovery of overpayments.** (a) An amount of child care assistance paid to a recipient in excess of the payment due is recoverable by the county agency under paragraphs (b) and (c), even when the

overpayment was caused by agency error or circumstances outside the responsibility and control of the family or provider.

(b) An overpayment must be recouped or recovered from the family if the overpayment benefited the family by causing the family to pay less for child care expenses than the family otherwise would have been required to pay under child care assistance program requirements. If the family remains eligible for child care assistance, the overpayment must be recovered through recoupment as identified in Minnesota Rules, part 3400.0187, except that the overpayments must be calculated and collected on a service period basis. If the family no longer remains eligible for child care assistance, the county may choose to initiate efforts to recover overpayments from the family for overpayment less than \$50. If the overpayment is greater than or equal to \$50, the county shall seek voluntary repayment of the overpayment from the family. If the county is unable to recoup the overpayment through voluntary repayment, the county shall initiate civil court proceedings to recover the overpayment unless the county's costs to recover the overpayment will exceed the amount of the overpayment. A family with an outstanding debt under this subdivision is not eligible for child care assistance until: (1) the debt is paid in full; or (2) satisfactory arrangements are made with the county to retire the debt consistent with the requirements of this chapter and Minnesota Rules, chapter 3400, and the family is in compliance with the arrangements.

(c) The county must recover an overpayment from a provider if the overpayment did not benefit the family by causing it to receive more child care assistance or to pay less for child care expenses than the family otherwise would have been eligible to receive or required to pay under child care assistance program requirements, and benefited the provider by causing the provider to receive more child care assistance than otherwise would have been paid on the family's behalf under child care assistance program requirements. If the provider continues to care for children receiving child care assistance, the overpayment must be recovered through reductions in child care assistance payments for services as described in an agreement with the county. The provider may not charge families using that provider more to cover the cost of recouping the overpayment. If the provider no longer cares for children receiving child care assistance, the county may choose to initiate efforts to recover overpayments of less than \$50 from the provider. If the overpayment is greater than or equal to \$50, the county shall seek voluntary repayment of the overpayment from the provider. If the county is unable to recoup the overpayment through voluntary repayment, the county shall initiate civil court proceedings to recover the overpayment unless the county's costs to recover the overpayment will exceed the amount of the overpayment. A provider with an outstanding debt under this subdivision is not eligible to care for children receiving child care assistance until:

(1) the debt is paid in full; or

(2) satisfactory arrangements are made with the county to retire the debt consistent with the requirements of this chapter and Minnesota Rules, chapter 3400, and the provider is in compliance with the arrangements.

(d) When both the family and the provider acted together to intentionally cause the overpayment, both the family and the provider are jointly liable for the overpayment regardless of who benefited from the overpayment. The county must recover the overpayment as provided in paragraphs (b) and (c). When the family or the provider is in compliance with a repayment agreement, the party in compliance is eligible to receive child care assistance or to care for children receiving child care assistance despite the other party's noncompliance with repayment arrangements.

Subd. 3. **Federal money; state recovery.** The commissioner shall recover from counties any state or federal money that was spent for persons found to be ineligible, except if the recovery is made by a county agency using any method other than recoupment, the county may keep 25 percent of the recovery. If a federal

audit exception is taken based on a percentage of federal earnings, all counties shall pay a share proportional to their respective federal earnings during the period in question.

Subd. 4. **Maintenance of funding effort.** To receive money through this program, each county shall certify, in its annual plan to the commissioner, that the county has not reduced allocations from other federal and state sources, which, in the absence of the child care fund, would have been available for child care assistance. However, the county must continue contributions, as necessary, to maintain on the basic sliding fee program, families who are receiving assistance on July 1, 1995, until the family loses eligibility for the program or until a family voluntarily withdraws from the program. This subdivision does not affect the local match required for this program under other sections of the law.

**History:** *1Sp1985 c 14 art 9 s 72; 1987 c 403 art 3 s 70; 1989 c 282 art 2 s 150; 1995 c 139 s 1; 1995 c 207 art 4 s 33-35; 1997 c 162 art 4 s 34-36; 1999 c 205 art 1 s 32; 1Sp2001 c 3 art 1 s 5; 1Sp2003 c 14 art 9 s 19*

### 119B.12 SLIDING FEE SCALE.

Subdivision 1. **Fee schedule.** All changes to parent fees must be implemented on the first Monday of the service period following the effective date of the change.

PARENT FEE SCHEDULE. The parent fee schedule is as follows, except as noted in subdivision 2:

Income Range (as a percent of the state median income, except at the start of the first tier)	Co-payment (as a percentage of adjusted gross income)
0-74.99% of federal poverty guidelines	\$0/biweekly
75.00-99.99% of federal poverty guidelines	\$2/biweekly
100.00% of federal poverty guidelines-27.72%	2.61%
27.73-29.04%	2.61%
29.05-30.36%	2.61%
30.37-31.68%	2.61%
31.69-33.00%	2.91%
33.01-34.32%	2.91%
34.33-35.65%	2.91%
35.66-36.96%	2.91%
36.97-38.29%	3.21%
38.30-39.61%	3.21%
39.62-40.93%	3.21%
40.94-42.25%	3.84%
42.26-43.57%	3.84%
43.58-44.89%	4.46%
44.90-46.21%	4.76%
46.22-47.53%	5.05%
47.54-48.85%	5.65%

48.86-50.17%	5.95%
50.18-51.49%	6.24%
51.50-52.81%	6.84%
52.82-54.13%	7.58%
54.14-55.45%	8.33%
55.46-56.77%	9.20%
56.78-58.09%	10.07%
58.10-59.41%	10.94%
59.42-60.73%	11.55%
60.74-62.06%	12.16%
62.07-63.38%	12.77%
63.39-64.70%	13.38%
64.71-67.00%	14.00%
Greater than 67.00%	ineligible

A family's biweekly co-payment fee is the fixed percentage established for the income range multiplied by the highest possible income within that income range.

Subd. 2. **Parent fee.** A family must be assessed a parent fee for each service period. A family's parent fee must be a fixed percentage of its annual gross income. Parent fees must apply to families eligible for child care assistance under sections 119B.03 and 119B.05. Income must be as defined in section 119B.011, subdivision 15. The fixed percent is based on the relationship of the family's annual gross income to 100 percent of the annual state median income. Parent fees must begin at 75 percent of the poverty level. The minimum parent fees for families between 75 percent and 100 percent of poverty level must be \$2 per biweekly period. Parent fees must provide for graduated movement to full payment. Payment of part or all of a family's parent fee directly to the family's child care provider on behalf of the family by a source other than the family shall not affect the family's eligibility for child care assistance, and the amount paid shall be excluded from the family's income. Child care providers who accept third-party payments must maintain family specific documentation of payment source, amount, and time period covered by the payment.

**History:** *1Sp1985 c 14 art 9 s 72; 1988 c 689 art 2 s 229; 1997 c 162 art 4 s 37; 1999 c 205 art 1 s 33; art 5 s 21; 1Sp2003 c 14 art 9 s 20; 2004 c 288 art 4 s 15; 2006 c 191 s 1; 2007 c 147 art 2 s 9; 2008 c 361 art 3 s 4; 2009 c 175 art 1 s 4; 2012 c 216 art 7 s 2,3*

### 119B.125 PROVIDER REQUIREMENTS.

Subdivision 1. **Authorization.** Except as provided in subdivision 5, a county or the commissioner must authorize the provider chosen by an applicant or a participant before the county can authorize payment for care provided by that provider. The commissioner must establish the requirements necessary for authorization of providers. A provider must be reauthorized every two years. A legal, nonlicensed family child care provider also must be reauthorized when another person over the age of 13 joins the household, a current household member turns 13, or there is reason to believe that a household member has a factor that prevents authorization. The provider is required to report all family changes that would require reauthorization. When a provider has been authorized for payment for providing care for families in more than one county, the

county responsible for reauthorization of that provider is the county of the family with a current authorization for that provider and who has used the provider for the longest length of time.

Subd. 1a. **Background study required.** This subdivision only applies to legal, nonlicensed family child care providers. Prior to authorization, and as part of each reauthorization required in subdivision 1, the county shall perform a background study on every member of the provider's household who is age 13 and older. The county shall also perform a background study on an individual who has reached age ten but is not yet age 13 and is living in the household where the nonlicensed child care will be provided when the county has reasonable cause as defined under section 245C.02, subdivision 15.

Subd. 1b. **Training required.** (a) Effective November 1, 2011, prior to initial authorization as required in subdivision 1, a legal nonlicensed family child care provider must complete first aid and CPR training and provide the verification of first aid and CPR training to the county. The training documentation must have valid effective dates as of the date the registration request is submitted to the county. The training must have been provided by an individual approved to provide first aid and CPR instruction and have included CPR techniques for infants and children.

(b) Legal nonlicensed family child care providers with an authorization effective before November 1, 2011, must be notified of the requirements before October 1, 2011, or at authorization, and must meet the requirements upon renewal of an authorization that occurs on or after January 1, 2012.

(c) Upon each reauthorization after the authorization period when the initial first aid and CPR training requirements are met, a legal nonlicensed family child care provider must provide verification of at least eight hours of additional training listed in the Minnesota Center for Professional Development Registry.

(d) This subdivision only applies to legal nonlicensed family child care providers.

Subd. 2. **Persons who cannot be authorized.** (a) The provider seeking authorization under this section shall collect the information required under section 245C.05, subdivision 1, and forward the information to the county agency. The background study must include a review of the information required under section 245C.08, subdivisions 2, 3, and 4, paragraph (b). A nonlicensed family child care provider is not authorized under this section if any household member who is the subject of a background study is determined to have a disqualifying characteristic under paragraphs (b) to (e) or under section 245C.14 or 245C.15. 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 refused to give written consent for disclosure of criminal history records.

(c) 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.

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

(e) 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.

Subd. 3. **Authorization exception.** When a county denies a person authorization as a legal nonlicensed family child care provider under subdivision 2, the county later may authorize that person as a provider if the following conditions are met:

(1) after receiving notice of the denial of the authorization, the person applies for and obtains a valid child care license issued under chapter 245A, issued by a tribe, or issued by another state;

(2) the person maintains the valid child care license; and

(3) the person is providing child care in the state of licensure or in the area under the jurisdiction of the licensing tribe.

Subd. 4. **Unsafe care.** A county may deny authorization as a child care provider to any applicant or rescind authorization of any provider when the county knows or has reason to believe that the provider is unsafe or that the circumstances of the chosen child care arrangement are unsafe. The county must include the conditions under which a provider or care arrangement will be determined to be unsafe in the county's child care fund plan under section 119B.08, subdivision 3.

Subd. 5. **Provisional payment.** After a county receives a completed application from a provider, the county may issue provisional authorization and payment to the provider during the time needed to determine whether to give final authorization to the provider.

Subd. 6. **Record-keeping requirement.** All providers receiving child care assistance payments must keep daily attendance records at the site where services are delivered for children receiving child care assistance and must make those records available immediately to the county or the commissioner upon request. The attendance records must be completed daily and include the date, the first and last name of each child in attendance, and the times when each child is dropped off and picked up. To the extent possible, the times that the child was dropped off to and picked up from the child care provider must be entered by the person dropping off or picking up the child. The daily attendance records must be retained at the site where services are delivered for six years after the date of service. A county or the commissioner may deny authorization as a child care provider to any applicant, rescind authorization of any provider, or establish an overpayment claim in the system against a current or former provider, when the county or the commissioner knows or has reason to believe that the provider has not complied with the record-keeping requirement in this subdivision. A provider's failure to produce attendance records as requested on more than one occasion constitutes grounds for disqualification as a provider.

Subd. 7. **Failure to comply with attendance record requirements.** (a) In establishing an overpayment claim for failure to provide attendance records in compliance with subdivision 6, the county or commissioner is limited to the six years prior to the date the county or the commissioner requested the attendance records.

(b) The commissioner may periodically audit child care providers to determine compliance with subdivision 6.

(c) When the commissioner or county establishes an overpayment claim against a current or former provider, the commissioner or county must provide notice of the claim to the provider. A notice of overpayment claim must specify the reason for the overpayment, the authority for making the overpayment claim, the time period in which the overpayment occurred, the amount of the overpayment, and the provider's right to appeal.

(d) The commissioner or county shall seek to recoup or recover overpayments paid to a current or former provider.

(e) When a provider has been disqualified or convicted of fraud under section 256.98, theft under section 609.52, or a federal crime relating to theft of state funds or fraudulent billing for a program administered by the commissioner or a county, recoupment or recovery must be sought regardless of the amount of overpayment.

Subd. 8. **Overpayment claim for failure to comply with access to records requirement.** (a) In establishing an overpayment claim under subdivision 6 for failure to provide access to attendance records, the county or commissioner is limited to the six years prior to the date the county or the commissioner requested the attendance records.

(b) When the commissioner or county establishes an overpayment claim against a current or former provider, the commissioner or county must provide notice of the claim to the provider. A notice of overpayment claim must specify the reason for the overpayment, the authority for making the overpayment claim, the time period in which the overpayment occurred, the amount of the overpayment, and the provider's right to appeal.

(c) The commissioner or county may seek to recover overpayments paid to a current or former provider. When a provider has been convicted of fraud under section 256.98, theft under section 609.52, or a federal crime relating to theft of state funds or fraudulent billing for a program administered by the commissioner or a county, recovery may be sought regardless of the amount of overpayment.

Subd. 9. **Reporting required for child's part-time attendance.** A provider must report to the county and report on the billing form as required when a child's attendance in child care falls to less than half of the child's authorized hours or days for a four-week period. If requested by the county or the commissioner, the provider must provide additional information to the county or commissioner on the attendance of specific children.

**History:** *1Sp2003 c 14 art 9 s 21; 2004 c 228 art 1 s 29; 2004 c 288 art 4 s 16,17; 2005 c 136 art 7 s 21; 2006 c 264 s 3; 2007 c 147 art 2 s 10; 2008 c 361 art 3 s 5,6; 2010 c 299 s 14; 1Sp2011 c 9 art 1 s 6; 2012 c 216 art 7 s 4-6; 2014 c 228 art 2 s 1; 2015 c 71 art 1 s 1; 2015 c 78 art 4 s 1-4*

### 119B.13 CHILD CARE RATES.

Subdivision 1. **Subsidy restrictions.** (a) Beginning February 3, 2014, the maximum rate paid for child care assistance in any county or county price cluster under the child care fund shall be the greater of the 25th percentile of the 2011 child care provider rate survey or the maximum rate effective November 28, 2011. The commissioner may: (1) assign a county with no reported provider prices to a similar price cluster; and (2) consider county level access when determining final price clusters.

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

(c) 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 disability care. The maximum payment to a provider for one day of care must not exceed the daily rate. The maximum payment to a provider for one week of care must not exceed the weekly rate.



(d) Child care providers receiving reimbursement under this chapter must not be paid activity fees or an additional amount above the maximum rates for care provided during nonstandard hours for families receiving assistance.

(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.

(f) All maximum provider rates changes shall be implemented on the Monday following the effective date of the maximum provider rate.

(g) Notwithstanding Minnesota Rules, part 3400.0130, subpart 7, maximum registration fees in effect on January 1, 2013, shall remain in effect.

**Subd. 1a. Legal nonlicensed family child care provider rates.** (a) Legal nonlicensed family child care providers receiving reimbursement under this chapter must be paid on an hourly basis for care provided to families receiving assistance.

(b) The maximum rate paid to legal nonlicensed family child care providers must be 68 percent of the county maximum hourly rate for licensed family child care providers. In counties or county price clusters where the maximum hourly rate for licensed family child care providers is higher than the maximum weekly rate for those providers divided by 50, the maximum hourly rate that may be paid to legal nonlicensed family child care providers is the rate equal to the maximum weekly rate for licensed family child care providers divided by 50 and then multiplied by 0.68. The maximum payment to a provider for one day of care must not exceed the maximum hourly rate times ten. The maximum payment to a provider for one week of care must not exceed the maximum hourly rate times 50.

(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) Legal nonlicensed family child care providers receiving reimbursement under this chapter may not be paid registration fees for families receiving assistance.

Subd. 2. [Repealed, 1Sp2003 c 14 art 9 s 38]

**Subd. 3. Provider rate for care of children with disabilities or special needs.** Counties shall reimburse providers for the care of children with disabilities or special needs, at a special rate to be approved by the county for care of these children, subject to the approval of the commissioner.

**Subd. 3a. Provider rate differential for accreditation.** A family child care provider or child care center shall be paid a 15 percent differential above the maximum rate established in subdivision 1, up to the actual provider rate, if the provider or center holds a current early childhood development credential or is accredited. For a family child care provider, early childhood development credential and accreditation includes an individual who has earned a child development associate degree, a child development associate credential, a diploma in child development from a Minnesota state technical college, or a bachelor's or post baccalaureate degree in early childhood education from an accredited college or university, or who is accredited by the National Association for Family Child Care or the Competency Based Training and Assessment Program. For a child care center, accreditation includes accreditation that meets the following criteria: the accrediting organization must demonstrate the use of standards that promote the physical, social, emotional, and cognitive development of children. The accreditation standards shall include, but are not limited to, positive interactions between adults and children, age-appropriate learning activities, a system of tracking children's learning, use of assessment to meet children's needs, specific qualifications for staff, a learning environment that supports developmentally appropriate experiences for children, health and safety requirements, and family

engagement strategies. Based on an application process developed by the commissioner in conjunction with the commissioners of education and health, the Department of Human Services must accept applications from accrediting organizations beginning on July 1, 2013, and on an annual basis thereafter. The provider rate differential shall be paid to centers holding an accreditation from an approved accrediting organization beginning on a billing cycle to be determined by the commissioner, no later than the last Monday in February of a calendar year. The commissioner shall annually publish a list of approved accrediting organizations. An approved accreditation must be reassessed by the commissioner every two years. If an approved accrediting organization is determined to no longer meet the approval criteria, the organization and centers being paid the differential under that accreditation must be given a 90-day notice by the commissioner and the differential payment must end after a 15-day notice to affected families and centers as directed in Minnesota Rules, part 3400.0185, subparts 3 and 4. The following accreditations shall be recognized for the provider rate differential until an approval process is implemented: the National Association for the Education of Young Children, the Council on Accreditation, the National Early Childhood Program Accreditation, the National School-Age Care Association, or the National Head Start Association Program of Excellence. For Montessori programs, accreditation includes the American Montessori Society, Association of Montessori International-USA, or the National Center for Montessori Education.

**Subd. 3b. Provider rate differential for Parent Aware.** A family child care provider or child care center shall be paid a 15 percent differential if they hold a three-star Parent Aware rating or a 20 percent differential if they hold a four-star Parent Aware rating. A 15 percent or 20 percent rate differential must be paid above the maximum rate established in subdivision 1, up to the actual provider rate.

**Subd. 3c. Weekly rate paid for children attending high-quality care.** A licensed child care provider or license-exempt center may be paid up to the applicable weekly maximum rate, not to exceed the provider's actual charge, when the following conditions are met:

- (1) the child is age birth to five years, but not yet in kindergarten;
- (2) the child attends a child care provider that qualifies for the rate differential identified in subdivision 3a or 3b; and
- (3) the applicant's activities qualify for at least 30 hours of care per week under sections 119B.03, 119B.05, and 119B.10, and Minnesota Rules, chapter 3400.

**Subd. 4. Rates charged to publicly subsidized families.** Child care providers receiving reimbursement under this chapter may not charge a rate to clients receiving assistance under this chapter that is higher than the private, full-paying client rate.

**Subd. 5. Provider notice.** The county shall inform both the family receiving assistance under this chapter and the child care provider of the payment amount and how and when payment will be received. If the county sends a family a notice that child care assistance will be terminated, the county shall inform the provider that unless the family requests to continue to receive assistance pending an appeal, child care payments will no longer be made. The notice to the provider must not contain any private data on the family or information on why payment will no longer be made.

**Subd. 6. Provider payments.** (a) The provider shall bill for services provided within ten days of the end of the service period. If bills are submitted within ten days of the end of the service period, payments under the child care fund shall be made within 30 days of receiving a bill from the provider. Counties or the state may establish policies that make payments on a more frequent basis.

(b) If a provider has received an authorization of care and been issued a billing form for an eligible family, the bill must be submitted within 60 days of the last date of service on the bill. A bill submitted more than 60 days after the last date of service must be paid if the county determines that the provider has shown good cause why the bill was not submitted within 60 days. Good cause must be defined in the county's child care fund plan under section 119B.08, subdivision 3, and the definition of good cause must include county error. Any bill submitted more than a year after the last date of service on the bill must not be paid.

(c) If a provider provided care for a time period without receiving an authorization of care and a billing form for an eligible family, payment of child care assistance may only be made retroactively for a maximum of six months from the date the provider is issued an authorization of care and billing form.

(d) A county or the commissioner may refuse to issue a child care authorization to a licensed or legal nonlicensed provider, revoke an existing child care authorization to a licensed or legal nonlicensed provider, stop payment issued to a licensed or legal nonlicensed provider, or refuse to pay a bill submitted by a licensed or legal nonlicensed provider if:

(1) the provider admits to intentionally giving the county materially false information on the provider's billing forms;

(2) a county or the commissioner finds by a preponderance of the evidence that the provider intentionally gave the county materially false information on the provider's billing forms, or provided false attendance records to a county or the commissioner;

(3) the provider is in violation of child care assistance program rules, until the agency determines those violations have been corrected;

(4) the provider is operating after:

(i) an order of suspension of the provider's license issued by the commissioner;

(ii) an order of revocation of the provider's license; or

(iii) a final order of conditional license issued by the commissioner for as long as the conditional license is in effect;

(5) the provider submits false attendance reports or refuses to provide documentation of the child's attendance upon request; or

(6) the provider gives false child care price information.

(e) For purposes of paragraph (d), clauses (3), (5), and (6), the county or the commissioner may withhold the provider's authorization or payment for a period of time not to exceed three months beyond the time the condition has been corrected.

(f) A county's payment policies must be included in the county's child care plan under section 119B.08, subdivision 3. If payments are made by the state, in addition to being in compliance with this subdivision, the payments must be made in compliance with section 16A.124.

Subd. 7. **Absent days.** (a) Licensed child care providers and license-exempt centers must not be reimbursed for more than 25 full-day absent days per child, excluding holidays, in a fiscal year, or for more than ten consecutive full-day absent days. Legal nonlicensed family child care providers must not be reimbursed for absent days. If a child attends for part of the time authorized to be in care in a day, but is absent for part of the time authorized to be in care in that same day, the absent time must be reimbursed but

the time must not count toward the absent days limit. Child care providers must only be reimbursed for absent days if the provider has a written policy for child absences and charges all other families in care for similar absences.

(b) Notwithstanding paragraph (a), children with documented medical conditions that cause more frequent absences may exceed the 25 absent days limit, or ten consecutive full-day absent days limit. Absences due to a documented medical condition of a parent or sibling who lives in the same residence as the child receiving child care assistance do not count against the absent days limit in a fiscal year. Documentation of medical conditions must be on the forms and submitted according to the timelines established by the commissioner. A public health nurse or school nurse may verify the illness in lieu of a medical practitioner. If a provider sends a child home early due to a medical reason, including, but not limited to, fever or contagious illness, the child care center director or lead teacher may verify the illness in lieu of a medical practitioner.

(c) Notwithstanding paragraph (a), children in families may exceed the absent days limit if at least one parent: (1) is under the age of 21; (2) does not have a high school or general equivalency diploma; and (3) is a student in a school district or another similar program that provides or arranges for child care, parenting support, social services, career and employment supports, and academic support to achieve high school graduation, upon request of the program and approval of the county. If a child attends part of an authorized day, payment to the provider must be for the full amount of care authorized for that day.

(d) Child care providers must be reimbursed for up to ten federal or state holidays or designated holidays per year when the provider charges all families for these days and the holiday or designated holiday falls on a day when the child is authorized to be in attendance. Parents may substitute other cultural or religious holidays for the ten recognized state and federal holidays. Holidays do not count toward the absent days limit.

(e) A family or child care provider must not be assessed an overpayment for an absent day payment unless (1) there was an error in the amount of care authorized for the family, (2) all of the allowed full-day absent payments for the child have been paid, or (3) the family or provider did not timely report a change as required under law.

(f) The provider and family shall receive notification of the number of absent days used upon initial provider authorization for a family and ongoing notification of the number of absent days used as of the date of the notification.

(g) For purposes of this subdivision, "absent days limit" means 25 full-day absent days per child, excluding holidays, in a fiscal year; and ten consecutive full-day absent days.

**History:** *1Sp1985 c 14 art 9 s 72; 1987 c 290 s 1; 1989 c 282 art 2 s 151; 1990 c 568 art 4 s 52,53; 1991 c 292 art 5 s 58-60; 1995 c 207 art 4 s 36; 1Sp1995 c 3 art 16 s 13; 1997 c 162 art 4 s 38-40; 1Sp1997 c 5 s 48; 1999 c 205 art 1 s 34; 1Sp2001 c 3 art 1 s 6; 1Sp2003 c 14 art 9 s 22-24; 2004 c 288 art 4 s 18,19; 2005 c 56 s 1; 1Sp2005 c 4 art 3 s 1,2; 2006 c 282 art 2 s 2-4; 2007 c 147 art 2 s 11-13,64; 2008 c 361 art 3 s 7,8; 2009 c 79 art 2 s 2; 2009 c 175 art 1 s 5; 1Sp2011 c 9 art 1 s 7-9; 2012 c 177 s 1; 2012 c 216 art 7 s 7,8; 2012 c 247 art 3 s 1; 2013 c 108 art 3 s 6-12; 2014 c 262 art 5 s 6; 2015 c 71 art 1 s 2*

#### **119B.14 EXTENSION OF EMPLOYMENT OPPORTUNITIES.**

The county board shall ensure that child care services available to eligible residents are well advertised and that everyone who receives or applies for MFIP assistance is informed of training and employment opportunities and programs, including child care assistance and child care resource and referral services.

**History:** *1Sp1985 c 14 art 9 s 72; 1990 c 568 art 4 s 54; 1999 c 159 s 23; 1999 c 205 art 1 s 35,69*

**119B.15 ADMINISTRATIVE EXPENSES.**

The commissioner shall use up to 1/21 of the state and federal funds available for the basic sliding fee program and 1/21 of the state and federal funds available for the MFIP child care program for payments to counties for administrative expenses. The commissioner shall make monthly payments to each county based on direct service expenditures. Payments may be withheld if monthly reports are incomplete or untimely.

**History:** *1Sp1985 c 14 art 9 s 72; 1987 c 403 art 3 s 72; 1989 c 282 art 2 s 152; 1991 c 292 art 5 s 61; 1995 c 207 art 4 s 37; 1997 c 162 art 4 s 41; 1999 c 159 s 24; 1999 c 205 art 1 s 36,69; 2009 c 175 art 1 s 6*

**119B.16 FAIR HEARING PROCESS.**

Subdivision 1. **Fair hearing allowed.** An applicant or recipient adversely affected by a county agency action may request a fair hearing in accordance with section 256.045.

Subd. 1a. **Fair hearing allowed for providers.** (a) This subdivision applies to providers caring for children receiving child care assistance.

(b) A provider to whom a county agency has assigned responsibility for an overpayment may request a fair hearing in accordance with section 256.045 for the limited purpose of challenging the assignment of responsibility for the overpayment and the amount of the overpayment. The scope of the fair hearing does not include the issues of whether the provider wrongfully obtained public assistance in violation of section 256.98 or was properly disqualified under section 256.98, subdivision 8, paragraph (c), unless the fair hearing has been combined with an administrative disqualification hearing brought against the provider under section 256.046.

Subd. 1b. **Joint fair hearings.** When a provider requests a fair hearing under subdivision 1a, the family in whose case the overpayment was created must be made a party to the fair hearing. All other issues raised by the family must be resolved in the same proceeding. When a family requests a fair hearing and claims that the county should have assigned responsibility for an overpayment to a provider, the provider must be made a party to the fair hearing. The human services judge assigned to a fair hearing may join a family or a provider as a party to the fair hearing whenever joinder of that party is necessary to fully and fairly resolve overpayment issues raised in the appeal.

Subd. 2. **Informal conference.** The county agency shall offer an informal conference to applicants and recipients adversely affected by an agency action to attempt to resolve the dispute. The county agency shall offer an informal conference to providers to whom the county agency has assigned responsibility for an overpayment in an attempt to resolve the dispute. The county agency or the provider may ask the family in whose case the overpayment arose to participate in the informal conference, but the family may refuse to do so. The county agency shall advise adversely affected applicants, recipients, and providers that a request for a conference with the agency is optional and does not delay or replace the right to a fair hearing.

**History:** *1987 c 403 art 3 s 73; 1988 c 689 art 2 s 230; 1997 c 162 art 4 s 42; 1Sp2003 c 14 art 9 s 25-27; 2013 c 107 art 1 s 9*

**119B.17** [Repealed, 1999 c 205 art 1 s 73]

**119B.18** Subdivision 1. [Repealed, 1999 c 205 art 5 s 22]

Subd. 2. [Repealed, 1999 c 205 art 5 s 22]

Subd. 3. [Renumbered 119B.211]

**119B.189 CHILD CARE SERVICES GRANT DEFINITIONS.**

Subdivision 1. **Facility improvement expenses.** "Facility improvement expenses" means the cost of improvements, equipment, appropriate technology and software, toys, and supplies needed to establish, expand, or improve a licensed child care facility or a child care program under the jurisdiction of a district school board.

Subd. 2. **Interim financing.** "Interim financing" means funding for up to 18 months:

- (1) for activities that are necessary to receive and maintain state child care licensing;
- (2) to expand an existing child care program or to improve program quality; and
- (3) to operate for a period of six consecutive months after a child care facility becomes licensed or satisfies standards of the commissioner of human services.

Subd. 3. **Region.** "Region" means a region designated by the governor under section 462.385.

Subd. 4. **Training program.** "Training program" means child development courses offered by an accredited postsecondary institution or similar training approved by a county board or the commissioner. A training program must be a course of study that teaches specific skills to meet licensing requirements or requirements of the commissioner of human services.

Subd. 5. **Child care services grants.** "Child care services grants" means grants awarded to child care centers and family child care providers, both licensed and legal nonlicensed, under section 119B.21, subdivision 5.

Subd. 6. **District.** "District" means the selected geographical area comprising one or more regions defined in subdivision 3. Six district programs and one statewide tribal program provide designated child care resource and referral services for the district area. As determined by the commissioner, the district program shall work in partnership with the regional child care resource and referral programs, local communities, tribal programs, and other early childhood education programs located within the district.

**History:** 1989 c 282 art 2 s 154; 1990 c 568 art 4 s 55; 1991 c 292 art 5 s 65; 1Sp1995 c 3 art 16 s 13; 1997 c 162 art 4 s 44-46; 1998 c 397 art 11 s 3; 1998 c 398 art 5 s 55; 1999 c 205 art 5 s 8-11,21; 2003 c 130 s 12; 2004 c 288 art 4 s 20,21; 2010 c 301 art 2 s 1,2

**119B.19 GRANTS FOR SCHOOL AGE CHILD CARE PROGRAMS AND CHILD CARE RESOURCE AND REFERRAL PROGRAMS.**

Subdivision 1. **Distribution of funds for operation of child care resource and referral programs.** The commissioner of human services shall distribute funds to public or private nonprofit organizations for the planning, establishment, expansion, improvement, or operation of child care resource and referral programs under this section. The commissioner must adopt rules for programs under this section and sections 119B.189 and 119B.21. The commissioner must develop a process to fund organizations to operate child care resource and referral programs that includes application forms, timelines, and standards for renewal.

Subd. 1a. **Designation of organizations.** The commissioner shall designate an organization to administer a child care resource and referral program to serve a region.

Subd. 2. [Repealed, 1997 c 162 art 1 s 19]

Subd. 3. [Repealed, 1999 c 205 art 5 s 22]

Subd. 4. [Repealed, 1999 c 205 art 5 s 22]

Subd. 5. [Repealed, 1999 c 205 art 5 s 22]

Subd. 6. **Basis for distributing funds.** (a) The commissioner shall distribute funds for the administration of child care resource and referral programs based on the following factors for each region:

- (1) the region served by the program;
- (2) the number of children under the age of 13 years needing child care;
- (3) the ratio of children under the age of 13 years needing child care to the number of licensed spaces;
- (4) the number of licensed child care providers and school-age care programs; and
- (5) other related factors determined by the commissioner.

(b) The commissioner may provide ongoing funding to a designated organization for a child care resource and referral program that continues to meet state standards.

Subd. 6a. **Local match requirement.** A local match of 25 percent is required.

Subd. 7. **Child care resource and referral programs.** Within each region, a child care resource and referral program must:

- (1) maintain one database of all existing child care resources and services and one database of family referrals;
- (2) provide a child care referral service for families;
- (3) develop resources to meet the child care service needs of families;
- (4) increase the capacity to provide culturally responsive child care services;
- (5) coordinate professional development opportunities for child care and school-age care providers;
- (6) administer and award child care services grants;
- (7) cooperate with the Minnesota Child Care Resource and Referral Network and its member programs to develop effective child care services and child care resources; and
- (8) assist in fostering coordination, collaboration, and planning among child care programs and community programs such as school readiness, Head Start, early childhood family education, local interagency early intervention committees, early childhood screening, special education services, and other early childhood care and education services and programs that provide flexible, family-focused services to families with young children to the extent possible.

**History:** 1986 c 404 s 3; 1987 c 403 art 3 s 74; 1988 c 689 art 2 s 231; 1989 c 282 art 2 s 153; 1991 c 199 art 2 s 1; 1991 c 292 art 5 s 64; 1995 c 207 art 4 s 38; 1Sp1995 c 3 art 16 s 13; 1999 c 205 art 5 s 3-7,21; 2003 c 130 s 12; 1Sp2003 c 14 art 9 s 28; 2004 c 288 art 4 s 22; 2010 c 301 art 2 s 3

**119B.20** Subdivision 1. [Repealed, 1999 c 205 art 5 s 22]

Subd. 2. [Repealed, 1999 c 205 art 5 s 22]

Subd. 3. [Repealed, 1999 c 205 art 5 s 22]

Subd. 4. [Repealed, 1999 c 205 art 5 s 22]

Subd. 5. [Repealed, 1999 c 205 art 5 s 22]

Subd. 6. [Repealed, 1999 c 205 art 5 s 22]

Subd. 7. [Renumbered 119B.189, subdivision 1]

Subd. 8. [Renumbered 119B.189, subd 2]

Subd. 9. [Repealed, 1999 c 205 art 5 s 22]

Subd. 10. [Repealed, 1999 c 205 art 5 s 22]

Subd. 11. [Repealed, 1999 c 205 art 5 s 22]

Subd. 12. [Renumbered 119B.189, subd 4]

Subd. 13. [Renumbered 119B.189, subd 3]

### 119B.21 CHILD CARE GRANTS.

Subdivision 1. **Distribution of grant funds.** (a) The commissioner shall distribute funds to the child care resource and referral programs designated under section 119B.19, subdivision 1a, for child care grants to centers under subdivision 5 and family child care programs based upon the following factors.

(b) Up to ten percent of funds appropriated for grants under this section may be used by the commissioner for statewide child care development initiatives, training initiatives, collaboration programs, and research and data collection. The commissioner shall develop eligibility guidelines and a process to distribute funds under this paragraph.

(c) At least 90 percent of funds appropriated for grants under this section may be distributed by the commissioner to child care resource and referral programs under section 119B.19, subdivision 1a, for child care center grants and family child care grants based on the following factors:

(1) the number of children under 13 years of age needing child care in the region;

(2) the region served by the program;

(3) the ratio of children under 13 years of age needing child care to the number of licensed spaces in the region;

(4) the number of licensed child care providers and school-age care programs in the region; and

(5) other related factors determined by the commissioner.

(d) Child care resource and referral programs must award child care center grants and family child care grants based on the recommendation of the child care district proposal review committees under subdivision 3.

(e) The commissioner may distribute funds under this section for a two-year period.

Subd. 2. [Renumbered subdivision 1, paragraphs (c), (d), and (e)]

Subd. 3. **Child care district proposal review committees.** (a) Child care district proposal review committees review applications for family child care grants and child care center grants under this section



and make funding recommendations to the child care resource and referral program designated under section 119B.19, subdivision 1a. Each region within a district must be represented on the review committee. The child care district proposal review committees must complete their reviews and forward their recommendations to the child care resource and referral district programs by the date specified by the commissioner.

(b) A child care resource and referral district program shall establish a process to select members of the child care district proposal review committee. Members must reflect a broad cross-section of the community, and may include the following constituent groups: family child care providers, child care center providers, school-age care providers, parents who use child care services, health services, social services, public schools, Head Start, employers, representatives of cultural and ethnic communities, and other citizens with demonstrated interest in child care issues. Members of the proposal review committee with a direct financial interest in a pending grant proposal may not provide a recommendation or participate in the ranking of that grant proposal.

(c) The child care resource and referral district program may reimburse committee members for their actual travel, child care, and child care provider substitute expenses for up to two committee meetings per year. The program may also pay a stipend to parent representatives for participating in two meetings per year.

Subd. 4. [Repealed, 1999 c 205 art 5 s 22]

Subd. 5. **Child care services grants.** (a) A child care resource and referral program designated under section 119B.19, subdivision 1a, may award child care services grants for:

(1) creating new licensed child care facilities and expanding existing facilities, including, but not limited to, supplies, equipment, facility renovation, and remodeling;

(2) improving licensed child care facility programs;

(3) staff training and development services including, but not limited to, in-service training, curriculum development, accreditation, certification, consulting, resource centers, program and resource materials, supporting effective teacher-child interactions, child-focused teaching, and content-driven classroom instruction;

(4) capacity building through the purchase of appropriate technology to create, enhance, and maintain business management systems;

(5) emergency assistance for child care programs;

(6) new programs or projects for the creation, expansion, or improvement of programs that serve ethnic immigrant and refugee communities; and

(7) targeted recruitment initiatives to expand and build the capacity of the child care system and to improve the quality of care provided by legal nonlicensed child care providers.

(b) A child care resource and referral organization designated under section 119B.19, subdivision 1a, may award child care services grants of up to \$1,000 to family child care providers. These grants may be used for:

(1) facility improvements, including, but not limited to, improvements to meet licensing requirements;

(2) improvements to expand a child care facility or program;

- (3) toys and equipment;
- (4) technology and software to create, enhance, and maintain business management systems;
- (5) start-up costs;
- (6) staff training and development; and
- (7) other uses approved by the commissioner.

(c) A child care resource and referral program designated under section 119B.19, subdivision 1a, may award child care services grants to:

- (1) licensed providers;
- (2) providers in the process of being licensed;
- (3) corporations or public agencies that develop or provide child care services;
- (4) school-age care programs;
- (5) legal nonlicensed or family, friend, and neighbor care providers; or
- (6) any combination of clauses (1) to (5).

(d) A child care center that is a recipient of a child care services grant for facility improvements or staff training and development must provide a 25 percent local match. A local match is not required for grants to family child care providers.

(e) Beginning July 1, 2009, grants to child care centers under this subdivision shall be increasingly awarded for activities that improve provider quality, including activities under paragraph (a), clauses (1) to (3) and (6). Grants to family child care providers shall be increasingly awarded for activities that improve provider quality, including activities under paragraph (b), clauses (1), (3), and (6).

Subd. 6. [Repealed, 1999 c 205 art 5 s 22]

Subd. 7. [Repealed, 1997 c 162 art 1 s 19]

Subd. 8. [Renumbered subd 5, para (b)]

Subd. 9. [Renumbered subd 5, para (c)]

Subd. 10. [Repealed by amendment, 2010 c 301 art 2 s 4]

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

Subd. 12. [Repealed, 1999 c 205 art 5 s 22]

**History:** 1989 c 282 art 2 s 155; 1990 c 426 art 1 s 32,33; 1990 c 568 art 4 s 56-58; 1991 c 292 art 5 s 66,67; 1994 c 465 art 3 s 38; 1997 c 162 art 4 s 47-56; 1999 c 205 art 5 s 12-19,21; 1Sp2003 c 14 art 9 s 29; 2007 c 147 art 2 s 14; 2008 c 361 art 3 s 9,10; 2009 c 79 art 2 s 3,4; 2010 c 301 art 2 s 4

**119B.211** [Repealed, 2004 c 288 art 4 s 62]

**119B.22** [Repealed, 1999 c 205 art 5 s 22]

**119B.23** [Repealed, 2014 c 262 art 1 s 12]

**119B.231** [Repealed, 2014 c 262 art 1 s 12]

**119B.232** [Repealed, 2014 c 262 art 1 s 12]

**119B.24 DUTIES OF COMMISSIONER.**

In addition to the powers and duties already conferred by law, the commissioner of human services shall:

(1) administer the child care fund, including the basic sliding fee program authorized under sections 119B.011 to 119B.16;

(2) monitor the child care resource and referral programs established under section 119B.19; and

(3) encourage child care providers to participate in a nationally recognized accreditation system for early childhood and school-age care programs. Subject to approval by the commissioner, family child care providers and early childhood and school-age care programs shall be reimbursed for one-half of the direct cost of accreditation fees, upon successful completion of accreditation.

**History:** 1989 c 282 art 2 s 157; 1994 c 529 s 15; 1Sp1995 c 3 art 16 s 13; 1999 c 205 art 1 s 38; art 5 s 21; 1Sp2001 c 3 art 1 s 7; 2003 c 130 s 12; 2004 c 288 art 4 s 23

**119B.25 CHILD CARE IMPROVEMENT GRANTS.**

Subdivision 1. **Purpose.** The purpose of this section is to enhance and expand child care sites, to encourage private investment in child care and early childhood education sites, to promote availability of quality, affordable child care throughout Minnesota, and to provide for cooperation between private nonprofit child care organizations, family child care and center providers and the department.

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.

Subd. 3. **Financing program.** A nonprofit corporation that receives a grant under this section shall use the money to:

(1) establish a revolving loan fund to make loans to existing, expanding, and new licensed and legal unlicensed child care and early childhood education sites;

(2) establish a fund to guarantee private loans to improve or construct a child care or early childhood education site;

(3) establish a fund to provide forgivable loans or grants to match all or part of a loan made under this section;

- (4) establish a fund as a reserve against bad debt; and
- (5) establish a fund to provide business planning assistance for child care providers.

The nonprofit corporation shall establish the terms and conditions for loans and loan guarantees including, but not limited to, interest rates, repayment agreements, private match requirements, and conditions for loan forgiveness. The nonprofit corporation shall establish a minimum interest rate for loans to ensure that necessary loan administration costs are covered. The nonprofit corporation may use interest earnings for administrative expenses.

**Subd. 4. Reporting.** A nonprofit corporation that receives a grant under this section shall:

(1) annually report by September 30 to the commissioner the purposes for which the money was used in the past fiscal year, including a description of projects supported by the financing, an account of loans made during the calendar year, the financing program's assets and liabilities, and an explanation of administrative expenses; and

(2) annually submit to the commissioner a copy of the report of an independent audit performed in accordance with generally accepted accounting practices and auditing standards.

**History:** 1997 c 162 art 4 s 57; 1999 c 205 art 1 s 39; art 5 s 21; 2003 c 130 s 12; 1Sp2003 c 4 s 1; 2004 c 288 art 4 s 24; 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 of representatives and senate committees with jurisdiction over this chapter and the house of representatives Ways and Means Committee ten days before the effective date of any waiver granted under this section.

**History:** 1997 c 203 art 1 s 15; 1Sp1997 c 5 s 46; 1998 c 383 s 36; 2005 c 98 art 1 s 8