

## CHAPTER 119B

### CHILD CARE PROGRAMS

119B.011	DEFINITIONS.	119B.125	PROVIDER REQUIREMENTS.
119B.02	DUTIES OF COMMISSIONER.	119B.13	CHILD CARE RATES.
119B.025	DUTIES OF COUNTIES.	119B.14	EXTENSION OF EMPLOYMENT OPPORTUNITIES.
119B.03	BASIC SLIDING FEE PROGRAM.	119B.15	ADMINISTRATIVE EXPENSES.
119B.035	AT-HOME INFANT CHILD CARE PROGRAM.	119B.16	FAIR HEARING PROCESS.
119B.04	FEDERAL CHILD CARE AND DEVELOPMENT FUND.	119B.161	ADMINISTRATIVE REVIEW.
119B.05	MFIP CHILD CARE ASSISTANCE PROGRAM.	119B.189	CHILD CARE SERVICES GRANT DEFINITIONS.
119B.06	FEDERAL CHILD CARE AND DEVELOPMENT BLOCK GRANT.	119B.19	GRANTS FOR SCHOOL AGE CHILD CARE PROGRAMS AND CHILD CARE RESOURCE AND REFERRAL PROGRAMS.
119B.08	REPORTING AND PAYMENTS.	119B.195	RETAINING EARLY EDUCATORS THROUGH ATTAINING INCENTIVES NOW (REETAIN) GRANT PROGRAM.
119B.09	FINANCIAL ELIGIBILITY.	119B.21	CHILD CARE SERVICES GRANTS.
119B.095	CHILD CARE AUTHORIZATIONS.	119B.24	DUTIES OF COMMISSIONER.
119B.097	AUTHORIZATION WITH A SECONDARY PROVIDER.	119B.25	CHILD CARE IMPROVEMENT GRANTS.
119B.10	EMPLOYMENT, EDUCATION, OR TRAINING ELIGIBILITY.	119B.251	TEACHER EDUCATION AND COMPENSATION HELPS; EARLY CHILDHOOD TEACHER EDUCATION INCENTIVES.
119B.105	EXTENDED ELIGIBILITY AND AUTHORIZATION.	119B.26	AUTHORITY TO WAIVE REQUIREMENTS DURING DISASTER PERIODS.
119B.11	COUNTY CONTRIBUTION.		
119B.12	SLIDING FEE SCALE.		

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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 [Repealed, 1999 c 205 art 1 s 73]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 Supplemental Nutrition Assistance Program (SNAP) benefits.

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 commissioner of education-selected high school equivalency certification 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 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. 13b. **Homeless.** "Homeless" means a self-declared housing status as defined in the McKinney-Vento Homeless Assistance Act and United States Code, title 42, section 11302, paragraph (a).

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 licensed to provide child care under chapter 245A when operating within the terms of the license;

(2) a license-exempt center required to be certified under chapter 245H;

(3) an individual or child care center or facility that: (i) holds a valid child care license issued by another state or a tribe; (ii) provides child care services in the licensing state or in the area under the licensing tribe's jurisdiction; and (iii) is in compliance with federal health and safety requirements as certified by the licensing state or tribe, or as determined by receipt of child care development block grant funds in the licensing state;

(4) a legal nonlicensed child care provider as defined under section 119B.011, subdivision 16, providing legal child care services. A legal nonlicensed 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; or

(5) an individual or child care center or facility that is operated under the jurisdiction of the federal government.

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 diploma or commissioner of education-selected high school equivalency certification;

(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 one of the last six months before losing eligibility for MFIP or DWP. Notwithstanding Minnesota Rules, parts 3400.0040, subpart 10, and 3400.0090, subpart 2, transition year child care may be used to support employment, approved education or training programs, or job search that meets the requirements of section 119B.10. 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. Notwithstanding Minnesota Rules, parts 3400.0040, subpart 10, and 3400.0090, subpart 2, transition year extension child care may be used to support employment, approved education or training programs, 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; 1Sp2017 c 5 art 10 s 7; 1Sp2017 c 6 art 7 s 5,6; 1Sp2019 c 9 art 1 s 1-3,42; 1Sp2020 c 2 art 1 s 1*

## 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 Supplemental Nutrition Assistance Program (SNAP) benefits 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.** (a) 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.

(b) For purposes of this paragraph, "child care assistance program payment data" means data for a specified time period showing (1) that a child care assistance program payment under this chapter was made, and (2) the amount of child care assistance payments made to a child care center. Child care assistance program payment data may include the number of families and children on whose behalf payments were made for the specified time period. Any child care assistance program payment data that may identify a specific child care assistance recipient or benefit paid on behalf of a specific child care assistance recipient, as determined by the commissioner, is private data on individuals as defined in section 13.02, subdivision 12. Data related to a child care assistance payment is public if the data relates to a child care assistance payment made to a licensed child care center or a child care center exempt from licensure and:

(1) the child care center receives payment of more than \$100,000 from the child care assistance program under this chapter in a period of one year or less; or

(2) when the commissioner or county agency either:

(i) disqualified the center from receipt of a payment from the child care assistance program under this chapter for wrongfully obtaining child care assistance under section 256.98, subdivision 8, paragraph (c);

(ii) refused a child care authorization, revoked a child care authorization, stopped payment, or denied payment for a bill for the center under section 119B.13, subdivision 6, paragraph (d); or

(iii) made a finding of financial misconduct under section 245E.02.

**Subd. 7. Child care market rate survey.** The commissioner shall conduct the next survey of prices charged by child care providers in Minnesota in state fiscal year 2021 and every three years thereafter 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; 1Sp2019 c 9 art 1 s 4,42; art 2 s 7*

## 119B.025 DUTIES OF COUNTIES.

Subdivision 1. **Applications.** (a) Except as provided in paragraph (c), clause (4), 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) counted 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) The county must mail a notice of approval or denial of assistance to the applicant within 30 calendar days after receiving the application. The county may extend the response time by 15 calendar days if the applicant is informed of the extension.

(c) For an applicant who declares that the applicant is homeless and who meets the definition of homeless in section 119B.011, subdivision 13b, the county must:

(1) if information is needed to determine eligibility, send a request for information to the applicant within five working days after receiving the application;

(2) if the applicant is eligible, send a notice of approval of assistance within five working days after receiving the application;

(3) if the applicant is ineligible, send a notice of denial of assistance within 30 days after receiving the application. The county may extend the response time by 15 calendar days if the applicant is informed of the extension;

(4) not require verifications required by paragraph (a) before issuing the notice of approval or denial; and

(5) follow limits set by the commissioner for how frequently expedited application processing may be used for an applicant under this paragraph.

(d) An applicant who declares that the applicant is homeless must submit proof of eligibility within three months of the date the application was received. If proof of eligibility is not submitted within three months, eligibility ends. A 15-day adverse action notice is required to end eligibility.

**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.

**Subd. 3. Redeterminations.** (a) Notwithstanding Minnesota Rules, part 3400.0180, item A, the county shall conduct a redetermination according to paragraphs (b) and (c).

(b) The county shall use the redetermination form developed by the commissioner. The county must verify the factors listed in subdivision 1, paragraph (a), as part of the redetermination.

(c) An applicant's eligibility must be redetermined no more frequently than every 12 months. The following criteria apply:

(1) a family meets the eligibility redetermination requirements if a complete redetermination form and all required verifications are received within 30 days after the date the form was due;

(2) if the 30th day after the date the form was due falls on a Saturday, Sunday, or holiday, the 30-day time period is extended to include the next day that is not a Saturday, Sunday, or holiday. Assistance shall be payable retroactively from the redetermination due date;

(3) for a family where at least one parent is younger than 21 years of age, does not have a high school degree or commissioner of education-selected high school equivalency certification, and is a student in a school district or another similar program that provides or arranges for child care, parenting, social services, career and employment supports, and academic support to achieve high school graduation, the redetermination of eligibility may be deferred beyond 12 months, to the end of the student's school year; and

(4) a family and the family's providers must be notified that the family's redetermination is due at least 45 days before the end of the family's 12-month eligibility period.

**Subd. 4. Changes in eligibility.** (a) The county shall process a change in eligibility factors according to paragraphs (b) to (g).

(b) A family is subject to the reporting requirements in section 256P.07.



(c) If a family reports a change or a change is known to the agency before the family's regularly scheduled redetermination, the county must act on the change. The commissioner shall establish standards for verifying a change.

(d) A change in income occurs on the day the participant received the first payment reflecting the change in income.

(e) During a family's 12-month eligibility period, if the family's income increases and remains at or below 85 percent of the state median income, adjusted for family size, there is no change to the family's eligibility. The county shall not request verification of the change. The co-payment fee shall not increase during the remaining portion of the family's 12-month eligibility period.

(f) During a family's 12-month eligibility period, if the family's income increases and exceeds 85 percent of the state median income, adjusted for family size, the family is not eligible for child care assistance. The family must be given 15 calendar days to provide verification of the change. If the required verification is not returned or confirms ineligibility, the family's eligibility ends following a subsequent 15-day adverse action notice.

(g) Notwithstanding Minnesota Rules, parts 3400.0040, subpart 3, and 3400.0170, subpart 1, if an applicant or participant reports that employment ended, the agency may accept a signed statement from the applicant or participant as verification that employment ended.

**Subd. 5. Information to applicants; child care fraud.** At the time of initial application and at redetermination, the county must provide written notice to the applicant or participant listing the activities that constitute child care fraud and the consequences of committing child care fraud. An applicant or participant shall acknowledge receipt of the child care fraud notice in writing.

**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; 1Sp2017 c 5 art 10 s 7; 1Sp2017 c 6 art 7 s 7-9; 1Sp2019 c 9 art 1 s 5,6*

### **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.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 diploma or commissioner of education-selected high school equivalency certification 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. 4a. **Temporary reprioritization.** (a) Notwithstanding subdivision 4, priority for child care assistance under the basic sliding fee assistance program shall be determined according to this subdivision beginning July 1, 2021, through May 31, 2024.

(b) First priority must be given to eligible non-MFIP families who do not have a high school diploma or commissioner of education-selected high school equivalency certification 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.

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

(d) Third priority must be given to eligible families who do not meet the specifications of paragraph (b), (c), (e), or (f).

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

(f) Fifth priority must be given to eligible families receiving services under section 119B.011, subdivision 20a, if the parents have completed their MFIP or DWP transition year, or if the parents are no longer receiving or eligible for DWP supports.

(g) Families under paragraph (f) must be added to the basic sliding fee waiting list on the date they complete their transition year under section 119B.011, subdivision 20.

**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 allocation component of 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 (e).

(c) Up to one-half of the funds shall be allocated in proportion to the average of each county's most recent 12 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 (e).

(d) The amount necessary to serve all families in paragraphs (b) and (c) 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.

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

*[See Note.]*

**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) 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 family's previous county of residence of the family's move to a new county of residence.

(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 portability pool basic sliding fee assistance 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; 1Sp2017 c 5 art 10 s 7; 1Sp2017 c 6 art 7 s 10; 1Sp2019 c 9 art 1 s 7; 1Sp2021 c 7 art 8 s 1,2*

**NOTE:** The amendment to subdivision 6 by Laws 2021, First Special Session chapter 7, article 8, section 2, is effective January 1, 2022. The 2022 calendar year shall be a phase-in year for the allocation formula in this section using phase-in provisions determined by the commissioner of human services. Laws 2021, First Special Session chapter 7, article 8, section 2, the effective date.

**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;
- (9) student parents as defined under section 119B.011, subdivision 19b; and
- (10) student parents who turn 21 years of age and who continue to meet the other requirements under section 119B.011, subdivision 19b. A student parent continues to be eligible until the student parent is approved for basic sliding fee child care assistance or until the student parent's redetermination, whichever comes first. At the student parent's redetermination, if the student parent was not approved for basic sliding fee child care assistance, a student parent's eligibility ends following a 15-day adverse action notice.

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; 1Sp2017 c 6 art 7 s 11

#### **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 the Child Care and Development Block Grant Act of 2014, Public Law 113-186.

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; 2017 c 40 art 1 s 13

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

**119B.07** MS 2016 [Repealed, 1Sp2017 c 6 art 7 s 36]

**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.** (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, at application and redetermination, 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 application and less than or equal to 67 percent of the state median income, adjusted for family size, at redetermination.

(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 at application and redetermination 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.

(d) All applicants for child care assistance and families currently receiving child care assistance must pay the co-payment fee under section 119B.12, subdivision 2, as a condition of eligibility. The co-payment fee may include additional recoupment fees due to a child care assistance program overpayment.

(e) If a family has one child with a child care authorization and the child reaches 13 years of age or the child has a disability and reaches 15 years of age, the family remains eligible until the redetermination.

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.** (a) 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.

(b) Self-employment income must be calculated based on section 256P.05, subdivision 2.

(c) Income changes are processed under section 119B.025, subdivision 4. 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.

*[See Note.]*

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 three 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) A child care center may receive authorizations for 25 or fewer children who are dependents of the center's employees. If a child care center is authorized for more than 25 children who are dependents of center employees, the county cannot authorize additional dependents of an employee until the number of children falls below 25.

(b) Funds paid to providers during the period of time when a center is authorized for more than 25 children who are dependents of center employees must not be treated as overpayments under section 119B.11, subdivision 2a, due to noncompliance with this subdivision.

(c) 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; 1Sp2017 c 6 art 7 s 12-14; 1Sp2019 c 9 art 1 s 8; art 2 s 8; 1Sp2021 c 7 art 7 s 1*

**NOTE:** The amendment to subdivision 4 by Laws 2021, First Special Session chapter 7, article 7, section 1, is effective May 1, 2022. Laws 2021, First Special Session chapter 7, article 7, section 1, the effective date.

### **119B.095 CHILD CARE AUTHORIZATIONS.**

Subdivision 1. **General authorization requirements.** (a) When authorizing the amount of child care, the county agency must consider the amount of time the parent reports on the application or redetermination form that the child attends preschool, a Head Start program, or school while the parent is participating in an authorized activity.

(b) Care must be authorized and scheduled with a provider based on the applicant's or participant's verified activity schedule when:

- (1) the family requests care from more than one provider per child;
- (2) the family requests care from a legal nonlicensed provider; or

(3) an applicant or participant is employed by any child care center that is licensed by the Department of Human Services or has been identified as a high-risk Medicaid-enrolled provider.

(c) If the family remains eligible at redetermination, a new authorization with fewer hours, the same hours, or increased hours may be determined.

Subd. 2. **Maintain steady child care authorizations.** (a) Notwithstanding Minnesota Rules, chapter 3400, the amount of child care authorized under section 119B.10 for employment, education, or an MFIP or DWP employment plan shall continue at the same number of hours or more hours until redetermination, including:

(1) when the other parent moves in and is employed or has an education plan under section 119B.10, subdivision 3, or has an MFIP or DWP employment plan; or

(2) when the participant's work hours are reduced or a participant temporarily stops working or attending an approved education program. Temporary changes include, but are not limited to, a medical leave, seasonal employment fluctuations, or a school break between semesters.

(b) The county may increase the amount of child care authorized at any time if the participant verifies the need for increased hours for authorized activities.

(c) The county may reduce the amount of child care authorized if a parent requests a reduction or because of a change in:

- (1) the child's school schedule;
- (2) the custody schedule; or
- (3) the provider's availability.

(d) The amount of child care authorized for a family subject to subdivision 1, paragraph (b), must change when the participant's activity schedule changes. Paragraph (a) does not apply to a family subject to subdivision 1, paragraph (b).

(e) When a child reaches 13 years of age or a child with a disability reaches 15 years of age, the amount of child care authorized shall continue at the same number of hours or more hours until redetermination.

Subd. 3. **Assistance for persons who are homeless.** An applicant who is homeless and eligible for child care assistance is exempt from the activity participation requirements under this chapter for three months. The applicant under this subdivision is eligible for 60 hours of child care assistance per service period for three months from the date the county receives the application. Additional hours may be authorized as needed based on the applicant's participation in employment, education, or MFIP or DWP employment plan. To continue receiving child care assistance after the initial three months, the applicant must verify that the applicant meets eligibility and activity requirements for child care assistance under this chapter.

**History:** *1Sp2017 c 6 art 7 s 15; 1Sp2019 c 9 art 1 s 9,10*

#### **119B.097 AUTHORIZATION WITH A SECONDARY PROVIDER.**

(a) If a child uses any combination of the following providers paid by child care assistance, a parent must choose one primary provider and one secondary provider per child that can be paid by child care assistance:

(1) an individual or child care center licensed under chapter 245A;

(2) an individual or child care center or facility holding a valid child care license issued by another state or tribe; or

(3) a child care center exempt from licensing under section 245A.03.

(b) The amount of child care authorized with the secondary provider cannot exceed 20 hours per two-week service period, per child, and the amount of care paid to a child's secondary provider is limited under section 119B.13, subdivision 1. The total amount of child care authorized with both the primary and secondary provider cannot exceed the amount of child care allowed based on the parents' eligible activity schedule, the child's school schedule, and any other factors relevant to the family's child care needs.

**History:** *1Sp2017 c 6 art 7 s 16*

#### **119B.10 EMPLOYMENT, EDUCATION, 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) At application and redetermination, 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 child care assistance for employment. For purposes of this section, work-study programs must be counted as employment. An employed person with an MFIP or DWP employment plan shall receive child care assistance as specified in the person's employment plan. 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 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.

**Subd. 3. Assistance for persons attending an approved education or training program.** (a) Money for an eligible person according to sections 119B.03, subdivision 3, and 119B.05, subdivision 1, shall be used to reduce child care costs for a student. The county shall not limit the duration of child care subsidies for a person in an employment or educational program unless the person is ineligible for child care funds. Any other limitation must be based on county policies included in the approved child care fund plan.

(b) To be eligible, the student must be in good standing and be making satisfactory progress toward the degree. 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's or baccalaureate degree as determined by the educational institution. Time limitations for child care assistance do not apply to basic or remedial educational programs needed for postsecondary education or employment. Basic or remedial educational programs include high school, commissioner of education-selected high school equivalency, and English as a second language programs. A program exempt from this time limit must not run concurrently with a postsecondary program.

(c) If a student meets the conditions of paragraphs (a) and (b), child care assistance must be authorized for all hours of class time and credit hours, including independent study and internships, and up to two hours of travel time per day. A postsecondary student shall receive four hours of child care assistance per credit hour for study time and academic appointments per service period.

(d) For an MFIP or DWP participant, child care assistance must be authorized according to the person's approved employment plan. If an MFIP or DWP participant receiving MFIP or DWP child care assistance under this chapter moves to another county, continues to participate in an authorized educational or training program, and remains eligible for MFIP or DWP child care assistance, the participant must receive continued child care assistance from the county responsible for the person's current employment plan under section 256G.07.

(e) If a person with an approved education program under section 119B.03, subdivision 3, or 119B.05, subdivision 1, begins receiving MFIP or DWP assistance, the person continues to receive child care assistance for the approved education program until the person's education is included in an approved MFIP or DWP employment plan or until redetermination, whichever occurs first.

(f) If a person's MFIP or DWP assistance ends and the approved MFIP or DWP employment plan included education, the person continues to be eligible for child care assistance for education under transition year child care assistance until the person's education is included in an approved education plan or until redetermination.

**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; 1Sp2017 c 5 art 10 s 7; 1Sp2017 c 6 art 7 s 17,18*

**119B.105 EXTENDED ELIGIBILITY AND AUTHORIZATION.**

Subdivision 1. **Three-month extended eligibility period.** (a) A family in a situation under paragraph (b) continues to be eligible for up to three months or until the family's redetermination, whichever occurs first, rather than losing eligibility or having the family's eligibility suspended. During extended eligibility, the amount of child care authorized shall continue at the same number or more hours. The family must continue to meet all other eligibility requirements under this chapter.

(b) The family's three-month extended eligibility period applies when:

(1) a participant's employment or education program ends permanently;

(2) the other parent moves in and does not participate in an authorized activity;

(3) a participant's MFIP assistance ends and the participant is not participating in an authorized activity or the participant's participation in an authorized activity is unknown;

(4) a student parent under section 119B.011, subdivision 19b, stops attending school; or

(5) a participant receiving basic sliding fee child care assistance or transition year child care assistance applied for MFIP assistance and is not participating in an authorized activity or the participant's participation in an authorized activity is unknown.

Subd. 2. **Extended eligibility and redetermination.** (a) If the family received three months of extended eligibility and redetermination is not due, to continue receiving child care assistance the participant must be employed or have an education plan that meets the requirements of section 119B.10, subdivision 3, or have an MFIP or DWP employment plan. If child care assistance continues, the amount of child care authorized shall continue at the same number or more hours until redetermination, unless a condition in section 119B.095, subdivision 2, paragraph (c), applies. A family subject to section 119B.095, subdivision 1, paragraph (b), shall have child care authorized based on a verified activity schedule.

(b) If the family's redetermination occurs before the end of the three-month extended eligibility period to continue receiving child care assistance, the participant must verify that the participant meets eligibility and activity requirements for child care assistance under this chapter. If child care assistance continues, the amount of child care authorized is based on section 119B.10. A family subject to section 119B.095, subdivision 1, paragraph (b), shall have child care authorized based on a verified activity schedule.

**History:** *1Sp2017 c 6 art 7 s 19*

**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 or provider in excess of the payment due is recoverable by the county agency or commissioner under paragraphs (b) and (e), even when the overpayment was caused by circumstances outside the responsibility and control of the family or provider. Overpayments designated solely as agency error, and not the result of acts or omissions on the part of a provider or recipient, must not be established or collected.

(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. The recoupment or recovery shall proceed as follows:

(1) 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;

(2) if the family no longer remains eligible for child care assistance and the overpayments were the result of fraud under section 256.98 or 256.046, theft under section 609.52, false claims under the state or federal False Claims Act, or a federal crime relating to theft of government funds or fraudulent receipt of benefits for a program administered by the county or commissioner, the county or commissioner shall seek voluntary repayment from the family and shall initiate civil court proceedings to recover the overpayment if the county or commissioner is unable to recoup the overpayment through voluntary repayment;

(3) if the family no longer remains eligible for child care assistance, the overpayments were not the result of fraud, theft, or a federal crime as described in clause (2), and the overpayment is less than \$50, the county or commissioner may choose to initiate efforts to recover overpayments from the family; or

(4) if the family no longer remains eligible for child care assistance, the overpayments were not the result of fraud, theft, or a federal crime as described in clause (2), and the overpayment is greater than or equal to \$50, the county or commissioner shall seek voluntary repayment of the overpayment from the family. If the county or commissioner is unable to recoup the overpayment through voluntary repayment, the county or commissioner shall initiate civil court proceedings to recover the overpayment unless the county's or commissioner's costs to recover the overpayment will exceed the amount of the overpayment.

(c) The commissioner's authority to recoup and recover overpayments from families in paragraph (b) is limited to investigations conducted under chapter 245E.

(d) A family with an outstanding debt under this subdivision is not eligible for child care assistance until:

(1) the debt is paid in full;



(2) satisfactory arrangements are made with the county or commissioner 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; or

(3) the commissioner determines that it is in the best interests of the state to compromise debts owed to the state pursuant to section 16D.15.

(e) The county or commissioner 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. The recovery shall proceed as follows:

(1) if the provider continues to care for children receiving child care assistance, the overpayment must be recovered through recoupment as identified in Minnesota Rules, part 3400.0187, and the provider may not charge families using that provider more to cover the cost of recouping the overpayment;

(2) if the provider no longer cares for children receiving child care assistance and the overpayment was the result of fraud under section 256.98 or 256.046, theft under section 609.52, false claims under the state or federal False Claims Act, or a federal crime relating to theft of government funds or fraudulent billing for a program administered by the county or commissioner, the county or commissioner shall seek voluntary repayment from the provider and shall initiate civil court proceedings to recover the overpayment if the county or commissioner is unable to recoup the overpayment through voluntary repayment;

(3) if the provider no longer cares for children receiving child care assistance, the overpayment was not the result of fraud, theft, or a federal crime as described under clause (2), and the overpayment is less than \$50, the county or commissioner may choose to initiate efforts to recover the overpayment; or

(4) if the provider no longer cares for children receiving child care assistance, the overpayment was not the result of fraud, theft, or a federal crime as described under clause (2), and the overpayment is greater than or equal to \$50, the county or commissioner shall seek voluntary repayment of the overpayment from the provider. If the county or commissioner is unable to recoup the overpayment through voluntary repayment, the county or commissioner shall initiate civil court proceedings to recover the overpayment unless the county's or commissioner's costs to recover the overpayment will exceed the amount of the overpayment.

(f) 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;

(2) satisfactory arrangements are made with the county or commissioner 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; or

(3) the commissioner determines that it is in the best interests of the state to compromise debts owed to the state pursuant to section 16D.15.

(g) 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 or commissioner must recover the overpayment as provided in paragraphs (b) and (e). 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.

(h) Neither a county agency nor the commissioner shall recover an overpayment from a family or a provider that occurred more than six years before the county or the commissioner determined the amount of the overpayment. This paragraph does not apply to overpayments that are the result of fraud under section 256.046 or 256.98, theft under section 609.52, false claims under the state or federal False Claims Act, or a federal crime relating to theft of government funds or fraudulent receipt of benefits.

**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; 1Sp2021 c 7 art 8 s 3*

## 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 percentage 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. At initial application, the parent fee is established for the family's 12-month eligibility period. At redetermination, if the family remains eligible, the parent fee is recalculated and is established for the next 12-month eligibility period. A parent fee shall not increase during the 12-month eligibility period. 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; 1Sp2017 c 6 art 7 s 20*

### **119B.125 PROVIDER REQUIREMENTS.**

Subdivision 1. **Authorization.** 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. MS 2020 [Repealed, 1Sp2021 c 7 art 8 s 12]

**Subd. 6. Record-keeping requirement.** (a) As a condition of payment, all providers receiving child care assistance payments must:

(1) keep accurate and legible daily attendance records at the site where services are delivered for children receiving child care assistance; and

(2) make those records available immediately to the county or the commissioner upon request. Any records not provided to a county or the commissioner at the date and time of the request are deemed inadmissible if offered as evidence by the provider in any proceeding to contest an overpayment or disqualification of the provider.

(b) As a condition of payment, 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.

(c) A county or the commissioner may deny or revoke a provider's authorization to receive child care assistance payments under section 119B.13, subdivision 6, paragraph (d), pursue a fraud disqualification under section 256.98, take an action against the provider under chapter 245E, or establish an attendance record overpayment under paragraph (d) 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.

(d) To calculate an attendance record overpayment under this subdivision, the commissioner or county agency shall subtract the maximum daily rate from the total amount paid to a provider for each day that a child's attendance record is missing, unavailable, incomplete, inaccurate, or otherwise inadequate.

(e) The commissioner shall develop criteria for a county to determine an attendance record overpayment under this subdivision.

**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. MS 2018 [Repealed, 1Sp2019 c 9 art 2 s 134]

**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; 1Sp2019 c 9 art 2 s 9; 1Sp2021 c 7 art 8 s 4*

### **119B.13 CHILD CARE RATES.**

Subdivision 1. **Subsidy restrictions.** (a) Beginning November 15, 2021, the maximum rate paid for child care assistance in any county or county price cluster under the child care fund shall be:

(1) for all infants and toddlers, the greater of the 40th percentile of the 2021 child care provider rate survey or the rates in effect at the time of the update; and

(2) for all preschool and school-age children, the greater of the 30th percentile of the 2021 child care provider rate survey or the rates in effect at the time of the update.

(b) Beginning the first full service period on or after January 1, 2025, the maximum rate paid for child care assistance in a county or county price cluster under the child care fund shall be:

(1) for all infants and toddlers, the greater of the 40th percentile of the 2024 child care provider rate survey or the rates in effect at the time of the update; and

(2) for all preschool and school-age children, the greater of the 30th percentile of the 2024 child care provider rate survey or the rates in effect at the time of the update.

The rates under paragraph (a) continue until the rates under this paragraph go into effect.

(c) For a child care provider located within the boundaries of a city located in two or more of the counties of Benton, Sherburne, and Stearns, the maximum rate paid for child care assistance shall be equal to the maximum rate paid in the county with the highest maximum reimbursement rates or the provider's charge, whichever is less. 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.

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

(e) 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.

(f) If a child uses one provider, the maximum payment for one day of care must not exceed the daily rate. The maximum payment for one week of care must not exceed the weekly rate.

(g) If a child uses two providers under section 119B.097, the maximum payment must not exceed:

(1) the daily rate for one day of care;

(2) the weekly rate for one week of care by the child's primary provider; and

(3) two daily rates during two weeks of care by a child's secondary provider.

(h) 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.

(i) If 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.

(j) The maximum registration fee paid for child care assistance in any county or county price cluster under the child care fund shall be set as follows: (1) beginning November 15, 2021, the greater of the 40th percentile of the 2021 child care provider rate survey or the registration fee in effect at the time of the update; and (2) beginning the first full service period on or after January 1, 2025, the maximum registration fee shall be the greater of the 40th percentile of the 2024 child care provider rate survey or the registration fee in effect at the time of the update. The registration fees under clause (1) continue until the registration fees under clause (2) go into effect.

(k) Maximum registration fees must be set for licensed family child care and for child care centers. For a child care provider located in the boundaries of a city located in two or more of the counties of Benton, Sherburne, and Stearns, the maximum registration fee paid for child care assistance shall be equal to the maximum registration fee paid in the county with the highest maximum registration fee or the provider's charge, whichever is less.

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 90 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 0.90. 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) A provider shall bill only for services documented according to section 119B.125, subdivision 6. The provider shall bill for services provided within ten days of the end of the service period. Payments under the child care fund shall be made within 21 days of receiving a complete 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 three months from the date the provider is issued an authorization of care and a billing form. For a family at application, if a provider provided child care during a time period without receiving an authorization of care and a billing form, a county may only make child care assistance payments to the provider retroactively from the date that child care began, or from the date that the family's eligibility began under section 119B.09, subdivision 7, or from the date that the family meets authorization requirements, not to exceed six months from the date that the provider is issued an authorization of care and a billing form, whichever is later.

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

(iii) an order of decertification issued to the provider;

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

(6) the provider gives false child care price information; or

(7) the provider fails to report decreases in a child's attendance as required under section 119B.125, subdivision 9.

(e) For purposes of paragraph (d), clauses (3), (5), (6), and (7), 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.

(g) If the commissioner or responsible county agency suspends or refuses payment to a provider under paragraph (d), clause (1) or (2), or chapter 245E and the provider has:

(1) a disqualification for wrongfully obtaining assistance under section 256.98, subdivision 8, paragraph (c);

(2) an administrative disqualification under section 256.046, subdivision 3; or

(3) a termination under section 245E.02, subdivision 4, paragraph (c), clause (4), or 245E.06;

then the provider forfeits the payment to the commissioner or the responsible county agency, regardless of the amount assessed in an overpayment, charged in a criminal complaint, or ordered as criminal restitution.

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 calendar year, or for more than ten consecutive full-day absent days. "Absent day" means any day that the child is authorized and scheduled to be in care with a licensed provider or license-exempt center, and the child is absent from the care for the entire day. 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 calendar 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 diploma or commissioner of education-selected high school equivalency certification; 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 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, or (2) all of the allowed full-day absent payments for the child have been paid.

(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 calendar year; and ten consecutive full-day absent days.

(h) For purposes of this subdivision, "holidays limit" means ten full-day holidays per child, excluding absent days, in a calendar year.

(i) If a day meets the criteria of an absent day or a holiday under this subdivision, the provider must bill that day as an absent day or holiday. A provider's failure to properly bill an absent day or a holiday results in an overpayment, regardless of whether the child reached, or is exempt from, the absent days limit or holidays limit for the calendar year.

**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; 1Sp2017 c 5 art 10 s 7; 1Sp2017 c 6 art 7 s 21,22; 1Sp2019 c 9 art 2 s 10,11; 1Sp2020 c 9 s 1; 1Sp2021 c 7 art 8 s 5-8*

#### **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 for applicants and recipients.** (a) An applicant or recipient adversely affected by an action of a county agency or the commissioner, for an action taken directly against the applicant or recipient, may request and receive a fair hearing in accordance with this subdivision and section 256.045. An applicant or recipient does not have a right to a fair hearing if a county agency or the commissioner takes action against a provider.

(b) A county agency must offer an informal conference to an applicant or recipient who is entitled to a fair hearing under this section. A county agency must advise an applicant or recipient that a request for a conference is optional and does not delay or replace the right to a fair hearing.

(c) If a provider's authorization is suspended, denied, or revoked, a county agency or the commissioner must mail notice to each child care assistance program recipient receiving care from the provider.

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

(b) A provider may request a fair hearing according to sections 256.045 and 256.046 only if a county agency or the commissioner:

(1) denies or revokes a provider's authorization, unless the action entitles the provider to an administrative review under section 119B.161;

(2) assigns responsibility for an overpayment to a provider under section 119B.11, subdivision 2a;

(3) establishes an overpayment for failure to comply with section 119B.125, subdivision 6;

(4) seeks monetary recovery or recoupment under section 245E.02, subdivision 4, paragraph (c), clause (2);

(5) initiates an administrative fraud disqualification hearing; or

(6) issues a payment and the provider disagrees with the amount of the payment.

(c) A provider may request a fair hearing by submitting a written request to the Department of Human Services, Appeals Division. A provider's request must be received by the Appeals Division no later than 30 days after the date a county or the commissioner mails the notice.

(d) The provider's appeal request must contain the following:

(1) each disputed item, the reason for the dispute, and, if applicable, an estimate of the dollar amount involved for each disputed item;

(2) the computation the provider believes to be correct, if applicable;

(3) the statute or rule relied on for each disputed item; and

(4) the name, address, and telephone number of the person at the provider's place of business with whom contact may be made regarding the appeal.

Subd. 1b. **Joint fair hearings.** 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 issues raised in the appeal.

Subd. 1c. **Notice to providers.** (a) Before taking an action appealable under subdivision 1a, paragraph (b), a county agency or the commissioner must mail written notice to the provider against whom the action is being taken. Unless otherwise specified under this chapter, chapter 245E, or Minnesota Rules, chapter 3400, a county agency or the commissioner must mail the written notice at least 15 calendar days before the adverse action's effective date.

(b) The notice shall state (1) the factual basis for the department's determination, (2) the action the department intends to take, (3) the dollar amount of the monetary recovery or recoupment, if known, and (4) the provider's right to appeal the department's proposed action.

Subd. 2. MS 2020 [Repealed, 1Sp2019 c 9 art 1 s 43]

Subd. 3. **Fair hearing stayed.** (a) If a county agency or the commissioner denies or revokes a provider's authorization based on a licensing action under section 245A.07, and the provider appeals, the provider's fair hearing must be stayed until the commissioner issues an order as required under section 245A.08, subdivision 5.

(b) If the commissioner denies or revokes a provider's authorization based on decertification under section 245H.07, and the provider appeals, the provider's fair hearing must be stayed until the commissioner issues a final order as required under section 245H.07.

Subd. 4. **Final department action.** Unless the commissioner receives a timely and proper request for an appeal, a county agency's or the commissioner's action shall be considered a final department action.

**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; 1Sp2019 c 9 art 1 s 11-16, 43

## 119B.161 ADMINISTRATIVE REVIEW.

Subdivision 1. **Applicability.** A provider has the right to an administrative review under this section if (1) a payment was suspended under chapter 245E, or (2) the provider's authorization was denied or revoked under section 119B.13, subdivision 6, paragraph (d), clause (1) or (2).

Subd. 2. **Notice.** (a) A county agency or the commissioner must mail written notice to a provider within five days of suspending payment or denying or revoking the provider's authorization under subdivision 1.

(b) The notice must:

(1) state the provision under which a county agency or the commissioner is denying, revoking, or suspending the provider's authorization or suspending payment to the provider;

(2) set forth the general allegations leading to the denial, revocation, or suspension of the provider's authorization. The notice need not disclose any specific information concerning an ongoing investigation;

(3) state that the denial, revocation, or suspension of the provider's authorization is for a temporary period and explain the circumstances under which the action expires; and

(4) inform the provider of the right to submit written evidence and argument for consideration by the commissioner.

(c) Notwithstanding Minnesota Rules, part 3400.0185, if a county agency or the commissioner suspends payment to a provider under chapter 245E or denies or revokes a provider's authorization under section 119B.13, subdivision 6, paragraph (d), clause (1) or (2), a county agency or the commissioner must send

notice of service authorization closure to each affected family. The notice sent to an affected family is effective on the date the notice is created.

Subd. 3. **Duration.** If a provider's payment is suspended under chapter 245E or a provider's authorization is denied or revoked under section 119B.13, subdivision 6, paragraph (d), clause (1) or (2), the provider's denial, revocation, temporary suspension, or payment suspension remains in effect until:

(1) the commissioner or a law enforcement authority determines that there is insufficient evidence warranting the action and a county agency or the commissioner does not pursue an additional administrative remedy under chapter 245E or section 256.98; or

(2) all criminal, civil, and administrative proceedings related to the provider's alleged misconduct conclude and any appeal rights are exhausted.

Subd. 4. **Good cause exception.** The commissioner may find that good cause exists not to deny, revoke, or suspend a provider's authorization, or not to continue a denial, revocation, or suspension of a provider's authorization if any of the following are applicable:

(1) a law enforcement authority specifically requested that a provider's authorization not be denied, revoked, or suspended because that action may compromise an ongoing investigation;

(2) the commissioner determines that the denial, revocation, or suspension should be removed based on the provider's written submission; or

(3) the commissioner determines that the denial, revocation, or suspension is not in the best interests of the program.

**History:** *1Sp2019 c 9 art 1 s 17*

**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.195 RETAINING EARLY EDUCATORS THROUGH ATTAINING INCENTIVES NOW (REETAIN) GRANT PROGRAM.**

Subdivision 1. **Establishment; purpose.** The retaining early educators through attaining incentives now (REETAIN) grant program is established to provide competitive grants to incentivize well-trained child care professionals to remain in the workforce. The overall goal of the REETAIN grant program is to create more consistent care for children over time.

Subd. 2. **Administration.** The commissioner shall administer the REETAIN grant program through a grant to a nonprofit with the demonstrated ability to manage benefit programs for child care professionals. Up to ten percent of grant money may be used for administration of the grant program.

Subd. 3. **Application.** Applicants must apply for the REETAIN grant program using the forms and according to timelines established by the commissioner.

Subd. 4. **Eligibility.** (a) To be eligible for a grant, an applicant must:

(1) be licensed to provide child care or work for a licensed child care program;

(2) work directly with children at least 30 hours per week;

(3) have worked in the applicant's current position for at least 12 months;

(4) agree to work in the early childhood care and education field for at least 12 months upon receiving a grant under this section;

(5) have a career lattice step of five or higher;

(6) have a current membership with the Minnesota quality improvement and registry tool;

(7) not be a current teacher education and compensation helps scholarship recipient; and

(8) meet any other requirements determined by the commissioner.

(b) Grant recipients must sign a contract agreeing to remain in the early childhood care and education field for 12 months.

Subd. 5. **Grant awards.** Grant awards must be made annually and may be made up to an amount per recipient determined by the commissioner. Grant recipients may use grant money for program supplies, training, or personal expenses.

Subd. 6. **Report.** By January 1 each year, the commissioner must report to the legislative committees with jurisdiction over child care about the number of grants awarded to recipients and outcomes of the grant program since the last report.

**History:** *1Sp2021 c 7 art 14 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 SERVICES GRANTS.**

Subdivision 1. **Distribution of grant funds.** (a) The commissioner shall distribute funds to the child care resource and referral programs designated under sections 119B.189 and 119B.19, subdivision 1a, for

child care services grants to improve child care quality, support start-up of new programs, and expand existing programs.

(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 sections 119B.189 and 119B.19, subdivision 1a, 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 services 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. 1a. **Eligible programs.** A child care resource and referral program designated under sections 119B.189 and 119B.19, subdivision 1a, may award child care services grants to:

- (1) a child care center licensed under Minnesota Rules, chapter 9503, or in the process of becoming licensed;
- (2) a family or group family child care home licensed under Minnesota Rules, chapter 9502, or in the process of becoming licensed;
- (3) corporations or public agencies that develop or provide child care services;
- (4) a school-age care program;
- (5) a tribally licensed child care program; or
- (6) legal nonlicensed or family, friend, and neighbor child care providers.

Subd. 2. [Renumbered subd 1, paras (c), (d), and (e)]

Subd. 3. **Child care district proposal review committees.** (a) Child care district proposal review committees review applications for child care services grants under this section and make funding recommendations to the child care resource and referral program designated under sections 119B.189 and 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 offer a stipend to proposal review committee members for participating in the grant review process.

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 sections 119B.189 and 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, toys, equipment, facility renovation, and remodeling;

(2) child care facility improvements, including but not limited to, improvements to meet licensing requirements;

(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;

(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; and

(8) other uses as approved by the commissioner.

(b) A child care resource and referral organization designated under sections 119B.189 and 119B.19, subdivision 1a, may award child care services grants for eligible programs in amounts up to a maximum determined by the commissioner for each type of eligible program.

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; 1Sp2020 c 2 art 1 s 2

**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.** (a) The commissioner shall distribute money provided by this section through grants to one or more nonprofit corporations to plan, develop, and finance early childhood education and child care sites. A 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 a nonprofit corporation must include members who are knowledgeable about early childhood education, child care, development and improvement, and financing.

(b) The commissioners of the Departments of Human Services, Employment and Economic Development, and the Housing Finance Agency shall advise the boards of any nonprofit corporations that use the grant

money provided under this section for loan programs as described in subdivision 3, paragraph (a), clauses (1) to (4). All loans made by a nonprofit corporation under this section must comply with section 363A.16.

**Subd. 3. Financing program.** (a) A nonprofit corporation that receives a grant under this section shall use the money for one or more of the following activities:

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

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

(4) to establish a fund as a reserve against bad debt;

(5) to provide business planning assistance for child care providers;

(6) to provide training and consultation for child care providers to build and strengthen their businesses and acquire key business skills; and

(7) to provide grants to child care providers for facility improvements, minor renovations, and related equipment and services, including assistance to meet licensing requirements, needed to establish, maintain, or expand licensed and legal unlicensed child care and early childhood education sites.

(b) A nonprofit corporation establishing loans under this section 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. A nonprofit corporation shall establish a minimum interest rate for loans to ensure that necessary loan administration costs are covered. A 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 grant money was used in the past fiscal year, including a description of projects supported by the financing, an account of loans and grants made, 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; 1Sp2021 c 7 art 8 s 9

## **119B.251 TEACHER EDUCATION AND COMPENSATION HELPS; EARLY CHILDHOOD TEACHER EDUCATION INCENTIVES.**

Subdivision 1. **TEACH.** The teacher education and compensation helps program (TEACH) is established to provide tuition scholarships and education incentives to early care and education providers. The commissioner shall make a grant with appropriations for this purpose to a nonprofit organization licensed to administer the TEACH early childhood program.

**Subd. 2. Program components.** (a) The nonprofit organization must use the grant for:

(1) tuition scholarships up to \$10,000 per year for courses leading to the nationally recognized child development associate credential or college-level courses leading to an associate's degree or bachelor's degree in early childhood development and school-age care; and

(2) education incentives of a minimum of \$250 to participants in the tuition scholarship program if they complete a year of working in the early care and education field.

(b) Applicants for the scholarship must be employed by a licensed early childhood or child care program and working directly with children, a licensed family child care provider, employed by a public prekindergarten program, or an employee in a school-age program exempt from licensing under section 245A.03, subdivision 2, paragraph (a), clause (12). Lower wage earners must be given priority in awarding the tuition scholarships. Scholarship recipients must contribute at least ten percent of the total scholarship and must be sponsored by their employers, who must also contribute at least five percent of the total scholarship. Scholarship recipients who are self-employed must contribute 20 percent of the total scholarship.

Subd. 3. **Advisory committee.** The TEACH early childhood and Minnesota early childhood teacher education incentive programs may have an advisory board as prescribed by the national TEACH organization.

Subd. 4. **Administration.** A nonprofit organization that receives a grant under this section may use ten percent of the grant amount to administer the program.

**History:** 2007 c 144 art 2 s 23; 2008 c 298 s 7; 2013 c 99 art 2 s 29; 2016 c 158 art 1 s 51; 1Sp2021 c 7 art 14 s 5,6,24

#### **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 may waive requirements retroactively from the date of the disaster. 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 within five business days after the commissioner grants a waiver 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; 1Sp2020 c 2 art 1 s 3