

Minnesota Administrative Rules
Chapter 3400, Child Care Fund

Table of Contents

3400.0010 Purpose and Applicability2
3400.0020 Definitions2
3400.0030 Notice of Basic Sliding Fee Program Allocation6
3400.0035 Application Procedure7
3400.0040 Eligibility Requirements and Standards.....10
3400.0060 Basic Sliding Fee Program.....21
3400.0065 Basic Sliding Fee Waiting List – *NEW PART*25
3400.0080 MFIP Child Care Program27
3400.0090 Transition Year Child Care.....28
3400.0100 ~~Family~~ Copayments and Copayment Fee Schedules30
3400.0110 Child Care Assistance Payments31
3400.0120 Eligible Providers and Provider Requirements.....36
3400.0130 Child Care Assistance Program Maximum Provider Rates42
3400.0140 ~~County~~ Responsibilities of CCAP Agencies.....46
3400.0150 Child Care Fund Plan.....49
3400.0170 Income Eligibility for Child Care Assistance50
3400.0175 Extended Eligibility – *NEW PART*55
3400.0180 Redetermination of Eligibility57
3400.0183 Termination of Child Care Assistance.....60
3400.0185 ~~Termination and Adverse Actions; Notice Required~~ Requirements.....62
3400.0187 Recoupment and Recovery of Overpayments.....69
3400.0200 Payments to Counties of Administrative Funds.....72
3400.0220 Audit Exceptions.....72
3400.0230 Right to Fair Hearing73
3400.0235 At-Home Infant Child Care Program.....74

3400.0010 PURPOSE AND APPLICABILITY.

Subpart 1. **Purpose.** The purpose of this chapter is to 1) govern the administration of the child care fund, to reduce, according to a sliding fee schedule, the costs of child care services for eligible families to enable them to seek or retain employment or to participate in education or training programs to obtain employment, and 2) to provide eligible families with the financial resources to find and afford quality child care for their children to support their children's development, school readiness and wellbeing. This chapter sets eligibility and child care authorization standards for participants and registered providers ~~recipients~~, and administrative requirements for CCAP agencies administering child care funds.

Subp. 2. **Applicability.** This chapter applies to all CCAP agencies ~~county and human service boards~~ providing child care assistance services to eligible families and registered providers under Minnesota Statutes, sections 119B.011 to 119B.16.

Commented [BBK1]: Effective February 26, 2021 statute includes .161 and .162. Will work with the Revisor's Office to determine the best way to reflect the upcoming change.

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

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

Published Electronically: *October 29, 2008*

3400.0020 DEFINITIONS.

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

Subp. 1a. 12 month eligibility period. "12 month eligibility period" means the time period after an application or redetermination of eligibility has been approved until the family's next eligibility determination.

Subp. 1b. 12 month reporter. "12 month reporter" means a family that does not meet any of the criteria included in the definition of "schedule reporter."

Subp. 2. [Repealed, 26 SR 253]

Subp. 3. [Repealed, 26 SR 253]

Subp. 4. ~~**Administering agency.** "Administering agency" means a county social services agency or a public or nonprofit agency designated by the county board to administer the child care fund.~~

Commented [LA2]: Removed "administering agency" as a definition and added "CCAP agency" to be more inclusive of counties, tribes, and subcontracted agencies.

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

A. salaries, wages, and related payroll expenses incurred in the administration of the child care fund including direct personnel costs, expenses for general administration and supervision, and expenses for secretarial, clerical, accounting, and other support services;

B. travel and transportation and per diem or subsistence expenses;

C. expenses for materials and office supplies;

D. publication, telephone, postage, and photocopy expenses; and

E. other expenses directly attributable to the child care fund.

Subp. 6. [Repealed, 26 SR 253]

Subp. 7. [Repealed, 26 SR 253]

Subp. 8. **Allocation.** "Allocation" means the share of the total state appropriation of child care funds that a county or tribe may earn and ~~be reimbursed for use~~ in an allocation period. A county's or tribe's allocation may be raised or lowered during the allocation period when the commissioner redistributes unexpended or unencumbered allocations or when additional funds become available.

Subp. 9. [Repealed, 26 SR 253]

Subp. 9a. **At-risk.** "At-risk" means environmental or familial factors that create barriers to a child's optimal achievement. Factors include, but are not limited to, a federal or state disaster, limited English proficiency in a family, a history of abuse or neglect, a determination that the children are at risk of abuse or neglect, family violence, homelessness, age of the mother, level of maternal education, mental illness, developmental disability, or parental chemical dependency or history of other substance abuse.

Subp. 10. [Repealed, 26 SR 253]

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

Subp. 10b. **Center employee.** "Center employee" means all persons employed by a licensed or certified license exempt child care center; a person not employed by a licensed or certified license exempt child care center who has direct contact with children served by the center and requires a background study under Minnesota Statutes, section 245C, subdivision 1(a)(3); a person who is a contractor under Minnesota Statutes, section 245C.02, subdivision 9; or a person who is a child care staff member under 45 C.F.R. §98.43(a)(2)(ii).

Subp. 11. [Repealed, 26 SR 253]

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

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

Subp. 12b. **Copayment.** "Copayment" means the amount the family must contribute as its share of child care costs as determined under Minnesota Statutes, section 119B.12

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

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

Subp. 13. [Repealed, 26 SR 253]

Subp. 14. [Repealed, 26 SR 253]

Subp. 15. [Repealed, 26 SR 253]

Subp. 16. [Repealed, 26 SR 253]

Subp. 17. [Repealed, 26 SR 253]

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

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

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

Subp. 19. [Repealed, 26 SR 253]

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

Subp. 21. [Repealed, 26 SR 253]

Subp. 22. [Repealed, 26 SR 253]

Subp. 23. [Repealed, 26 SR 253]

Subp. 24. **Family copayment fee.** "Family copayment fee" means the parent fee the family must contribute as its share of child care costs as determined under Minnesota Statutes, section 119B.12.

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

Subp. 26. **Full-day basis.** "Full-day basis" means child care provided by scheduled and authorized with a provider for more than five hours per day.

Subp. 27. [Repealed, 30 SR 1318]

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

Subp. 29. [Repealed, 26 SR 253]

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

Subp. 30. [Repealed, 26 SR 253]

Commented [LA(3): Revised definition and changed term to "copayment" – may be instances where the family does not pay the copayment directly (done by a third party)

Subp. 31. [Repealed, 26 SR 253]

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

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

Subp. 32. [Repealed, 26 SR 253]

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

Subp. 32b. **Minimum wage.** "Minimum wage" means the minimum wage applicable under Minnesota Statutes, chapter 177, to the applicant or participant or the premises where the applicant or participant is employed.

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

Subp. 34. [Repealed, 26 SR 253]

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

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

Subp. 36. [Repealed, 26 SR 253]

Subp. 37. **Redetermination.** "Redetermination" means the process by which information is collected ~~periodically~~ by the ~~county~~ CCAP agency and used to determine whether a ~~recipient~~ participant is eligible for continued assistance under the child care fund.

Commented [LA(4): Removed "periodically" as 3400.0180 mentions redetermination time frames.

Subp. 37a. **Related.** "Related" means the legal nonlicensed provider is the child's sibling, grandparent, great-grandparent, aunt, or uncle, based on blood relationship, marriage or court decree.

~~Subp. 38. **Registration.** "Registration" means the process used by the county to obtain from a legal nonlicensed provider the information required under part 3400.0120, subpart 2~~

Commented [LA(5): Removed – definition is already in statute.

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

Subp. 38b. **Scheduled hours.** "Scheduled hours" means the specific days and hours during a service period that a child will attend child care as determined by the child care worker, the parent, and the provider based on the parents' verified eligible activities schedules, the child's school schedule, and any other factors relevant to the family's child care needs.

Subp. 38c. **Schedule reporter.** "Schedule reporter" means a family meeting at least one of the following criteria: a parent in the family is employed by any child care center licensed by the Minnesota Department of Human Services; at least one child in the family is authorized for child care assistance with a legal nonlicensed child care provider; or at least one child in the family is authorized for child care assistance with more than one provider.

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

Commented [LA(6): In some parts rule currently states "two week period" –felt this wasn't clear and could be interpreted as any two week period so using the term "service period" throughout rule.

Subp. 39. **State median income.** "State median income" means the state's annual median income for a family of three, adjusted for family size, developed by the United States Census Bureau of Census and published annually by the United States Department of Health and Human Services in the Federal Register.

Commented [LA(7): SMI is no longer published in the Federal Register

Subp. 40. **Student.** "Student" means an individual enrolled in an educational program as defined in Minnesota Statutes, section 119B.011, subdivision 11. A non-MFIP student is a full-time student if the student is defined by the student's educational institution as a full-time student. A non-MFIP student is a part-time student if the student is defined by the student's educational institution as a part-time student. A MFIP student is a student who is in compliance with the education or training requirements in the student's employment plan. A MFIP student is a student who is participating in an education or training program as identified in the student's employment plan.

Commented [LA(8): An MFIP participant attending school is still considered to be an MFIP student even if they aren't in compliance with their employment plan (if they are sanctioned but still attending, they are still a student)

Subp. 40a. **Temporarily absent.** "Temporarily absent" means a family member included in the child care assistance program household is living away from the family's residence but intends to return to the residence. An adult family member who is not in an authorized activity may be considered temporarily absent for up to 60 days. Temporary absent adults who are in an authorized activity are not subject to the 60-day limit. Temporary absences may include, but are not limited to: family members attending schools away from home, children in foster care, family members in residential treatment facilities, family members in military service, family members in rehabilitation programs, or incarcerated family members.

Subp. 40b. **Verification.** "Verification" means a written statement or record, including an electronic record, in any form that substantiates or validates an assertion made by a person.

Subp. 41. [Repealed, 26 SR 253]

§Subp. 42. [Repealed, 26 SR 253]

Subp. 43. [Repealed, 26 SR 253]

Subp. 44. **Weekly basis.** "Weekly basis" means child care provided by scheduled and authorized with a provider for more than 35 but not more than 50 hours per week.

Commented [LA(9): A week is counted as 50 hours for payment purposes but this definition as previously written seems to imply care can't be authorized for more than 50 hours

~~3400.0030 NOTICE OF BASIC SLIDING FEE PROGRAM ALLOCATION.~~

~~By July 1 of each year, the commissioner shall notify all county and human services boards of their allocation under the basic sliding fee program, including the amount available for payment of administrative expenses.~~

Commented [LA(10): Content was added to 3400.0060, subp. 2, Basic sliding fee allocation.

Repeal 3400.0030

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

History: *14 SR 519; 18 SR 1144; 26 SR 253*

Published Electronically: *October 29, 2008*

3400.0035 APPLICATION PROCEDURE.

Subpart 1. **Response to informational requests.** When a family asks for information about child care assistance paying for child care, the administering CCAP agency must give the family information supplied by the department regarding the following items:

- A. the availability of federal and state child and dependent care tax credits;
- B. federal earned income tax credits;
- C. Minnesota working family credits;
- D. early childhood family education, school readiness, and Head Start programs;
- E. early childhood screening;
- F. MinnesotaCare health care programs, including health care programs specifically for children in Minnesota;
- G. child care resource and referral services;
~~other programs with services for young children and families; and~~
- H. financial assistance available to families, including early learning scholarships established in Minnesota Statutes, section 124D.165, and the postsecondary child care grant program established in Minnesota Statutes, section 136A.125; and
- I. other programs and services for young children and families. The administering agency also must inform the family of the following items:

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

- A. the eligibility requirements under the child care fund;
- B. the documentation necessary to confirm eligibility;
- C. ~~whether if~~ a waiting list exists ~~and, if so,~~ the number of families on the waiting list or the estimated time that the applicant will spend on the waiting list before reaching the top of the list;
- D. the procedure for applying for child care assistance;
- E. ~~the family requirement to pay a copayment fee schedule and based on family size and income how the fee is computed;~~
- F. information about how to choose a provider;
- G. the family's rights and responsibilities when choosing a provider;

Commented [LA11]: Source of information:

A – tax credits – Do you need help? (page 9, “What tax credits are available)

B – federal earned income tax credits – Do you need help? (page 9, What tax credits are available)

C – MN working family credits – Do you need help (page 9, What tax credits are available)

D – early childhood education – Do you need help (page 7, What other early learning opportunities are available)

E – early childhood screening Do you need help (page 7, What other early learning opportunities are available)

F – health care programs Do you need help (page 7, How can I keep my child safe and healthy?)

G – resource and referral Do you need help (page 4, How can I get help finding child care?)

H – scholarships & post secondary Do you need help (page 3)

I – other programs – more open ended but our intent is to keep in the event there are county/tribal specific programs or other programs that are developed.

Commented [LA12]: Source of information:

A – eligibility requirements – Do you need help? (page 1, “What are the eligibility requirements?)

B – Documentation needed – CCAP application

C – Waiting list – CCAP agency holds this information

D – procedure for applying – application and Do you need help (page 2, “How do I apply?”)

E – copayment requirement – Do you need help? (page 1, “How much do I pay?”), Rights and Responsibilities

F – choosing a provider – Do you need help? (page 3, How do I choose a child care provider?)

G – Rights and responsibilities when choosing a provider – Do you need help (provider safety, quality)

H – special needs rates – CCAP application & Do you need help? (page 7, “Special needs rates”)

I – paying provider charges & copay – Do you need help? (page 1, “How much do I pay?”, application, rights & responsibilities

J – reporting requirements – CCAP application

H. information about the availability of special needs rates;

I. the family's responsibility for paying provider charges that exceed ~~county~~ maximum child care payments in addition to the ~~family~~ copayment fee; and

J. ~~the family's reporting responsibilities under part 3400.0040, subpart 4, the importance of prompt reporting of a move to another county to avoid overpayments and to increase the likelihood of continuing benefits, because child care assistance benefits may be affected by moving to another county.~~

Subp. 2. **Accepting and processing Applications procedure.** An administering CCAP agency must ~~follow the application procedures in items A and B.~~

~~A. If a family requests child care assistance and it appears that the family is eligible for child care assistance and funds are available, or if a family requests an application, the administering agency must mail or hand the family a universal child care assistance application.~~

~~B. If a family requests child care assistance and funds are not available, the administering agency must inform the family of a waiting list, screen the family for potential eligibility, and place the family on the waiting list if they appear eligible. The administering agency must place the family on the waiting list in the highest priority for which the family is eligible. As child care funds become available, the administering agency must inform the family at the head of the waiting list and ask the family to complete an application.~~

~~C. The administering agency must accept all signed and dated applications that are submitted by mail or delivered to the agency within 15 calendar days after the date of signature. A family must apply for child care assistance in the family's county of residence. A county CCAP agency may must accept an application from an applicant who does not reside in that county or tribe but and must immediately must forward the application to the county or tribe where the applicant resides lives to be processed. The administering CCAP agency must mail a notice of approval or denial of assistance to the applicant within 30 calendar days after receiving the application. With the consent of the applicant, the administering CCAP agency may extend the response time by 15 calendar days.~~

Commented [LA(13)]: Covered in 3400.0065, subpart 1

Subp. 3. **Informational release.**

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

~~B. Upon request from the family, the administering CCAP agency must also offer obtain an applicant an opportunity to sign an informational release to permit the county CCAP agency to give the family's child care provider the information listed not included in part 3400.0185, subparts 9, 11 and 13 subpart 6 and in part 3400.0185, subparts 2 and 4, and that is not required by Minnesota Statutes, section 119B.13, subdivision 5.~~

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

Commented [LA(14)]: New citations added due to reorganization of 3400.0185 for all notice requirements.

~~Subp. 4. **Notice of denial.** If the administering agency denies the application, the administering agency must document the reason or reasons for denying the application. The administering agency must provide written notice to the applicant of: the reason for denial; the provision in statute, rule, or child care fund plan that is the basis for the denial; and the applicant's right to a fair hearing under part 3400.0230 and Minnesota Statutes, section 119B.16.~~

Commented [LA(15)]: Moved to 3400.0185, subpart 7

~~Subp. 5. **Notice of approval.** If the administering agency approves the application, the administering agency must send the applicant a notice of approval of the application. The notice of approval must specify the information in items A to I:~~

Commented [LA(16)]: Moved to 3400.0185, subp. 6

~~A. the beginning date of eligibility;~~

~~B. the hours of care authorized, the maximum rate that may be paid, and how payments will be made;~~

~~C. the copayment amount including how and when the copayment must be made;~~

~~D. any change in income, residence, family size, family status, or employment, education, or training status must be reported within ten calendar days from the date the change occurs;~~

~~E. except in cases where the license of a provider licensed by the state of Minnesota has been temporarily immediately suspended or where there is an imminent risk of harm to the health, safety, or rights of a child in care with a legal nonlicensed provider, license exempt center, or a provider licensed by an entity other than the state of Minnesota, any change in provider must be reported to the county and the provider at least 15 calendar days before the change occurs;~~

~~F. the overpayment implications for the family if the changes described in items D and E are not reported as required;~~

~~G. when child care assistance is terminated, the participant will be informed of the reason for the termination and the participant's appeal rights and the provider will be informed that, unless the family asks to continue to receive assistance pending an appeal, child care payments will no longer be made;~~

~~H. the importance of prompt reporting of a move to another county to avoid overpayments and increase the likelihood of continuing benefits, because child care assistance benefits may be affected by moving to another county; and~~

~~I. the family's responsibility for paying provider charges that exceed maximum payments in addition to the family copayment fee.~~

~~Subp. 6. **Notice to provider.** If the administering agency approves an application, the administering agency must send the family's authorized provider a notice containing only the following information: the family's name; the fact that the family's request for child care assistance has been approved; the hours of care authorized; the maximum rate that may be paid by the child care assistance program; the number of absent days that have been paid for the~~

Commented [LA(17)]: Moved to 3400.0185, subp. 8

~~child for the year as of the date of the notice; and how payments will be made.~~

Subp. 7. **Selection of provider.** An applicant must select a provider and the provider must meet the criteria under part 3400.0120, subpart 1, before payments can be made from the child care fund.

Commented [LA(18): Because selection of a provider doesn't only happen at application, cross reference has been added to 3400.0040, subpart 4b.

Subp. 8. **Selection of legal nonlicensed provider.** An applicant who selects a legal nonlicensed provider must be informed about the following information and must sign an acknowledgment before care can be authorized with a legal nonlicensed provider that contains:

Commented [LA(19): Because selection of a LNL provider doesn't only happen at application, cross reference has been added to 3400.0040, subpart 4b.

- A. a description of the registration process for legal nonlicensed providers;
- B. a description of the parent's rights and responsibilities when choosing a provider;
- C. an acknowledgment that the parent and the legal nonlicensed provider have reviewed the health and safety information provided by the ~~county~~ CCAP agency; and

D. ~~if the parent has selected a legal nonlicensed family child care provider,~~ an assurance that the parent will provide an immunization record for each child to the legal nonlicensed ~~family child care~~ provider within ~~90~~ 30 days of the date that care is authorized to begin for the child ~~begins~~ and will give the legal nonlicensed ~~family child care~~ provider the information necessary to update the immunization record;

E. an acknowledgment that the legal nonlicensed provider and the parent cannot share a residence;

F. an acknowledgment that the legal nonlicensed provider must complete training as outlined under Minnesota Statutes, section 119B.125, subdivision 1b, and part 3400.0120, subpart 6, before care can be authorized; and

G. an acknowledgment that if the CCAP agency knows the provider is unsafe or that the child care is not safe, the CCAP agency may not authorize care or may deny CCAP payments for the provider.

Subp. 9. **Selection of in-home provider.** An applicant who selects a provider who will provide child care in the applicant's home must be informed that this choice of care may create an employer/employee relationship between the parent and the provider and must be referred to resources available for more information about these legal rights and responsibilities.

Commented [LA(20): Because selection of an in-home provider doesn't only happen at application, cross reference has been added to 3400.0040, subpart 4b.

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

History: *26 SR 253; 33 SR 695*

Published Electronically: *October 29, 2008*

3400.0040 ELIGIBILITY REQUIREMENTS AND STANDARDS.

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

Subp. 2. [Repealed, 26 SR 253]

Subp. 3. **Documentation of eligibility information Verification requirements at application.**

A. In addition to the requirements outlined in Minnesota Statutes, section 119B.025, subdivision 1, An applicant for child care assistance must document verify the:

- (1) citizenship or immigration status or participation in a program that makes a child exempt from this documentation requirement for all children for whom child care assistance is being sought if child care is provided in a setting not subject to public education standards;
- (2) relationship of the children in the family to the applicant;
- (2) date of birth of the children in the family;
- (3) date of birth of the applicant if the applicant is under 21 years of age;
- (4) income, if counted under Minnesota Statutes, section 256P, for all members of the applicant's family, including members temporarily absent from the household as defined in part 3400.0020, subpart 40a;
- (5) identity, income eligibility, and residence for all members of the applicant's family, including members temporarily absent from the household as defined in part 3400.0020, subpart 40a; and
- (6) work, education, or training activity status for all applicants each parent as defined in Minnesota Statutes, section 119B.011, subdivision 2; and
- (7) Assets, if total assets exceed 1 million dollars.

B. At application, a family may verify:

- (1) Income deductions allowed under part 3400.0170. Expenses not verified at time of application are not allowed as a deduction;
- (2) School status of students age 6 and over with earned income. If a student's school status is not verified, the student's earned income must be counted under Minnesota Statutes, section 256P.09, subdivision 2; and
- (3) Social security number of all applicants as required under Minnesota Statutes, section 119B.025, subdivision 2.

C. For care to be authorized at application, a family must:

- (1) Verify the work, education or training schedule for each parent;
- (2) Provide the school schedule for each child who needs child care and attends school; and
- (3) Verify the citizenship or immigration status of all children for whom child care assistance is being sought if child care is provided in a setting not subject to public education standards.

D. The CCAP agency must verify any inconsistent information if related to the family's eligibility.

Commented [LA21]: Removed - relationship of children is already included in MN Stat 119B.025, subd. 1

~~B. The county CCAP agency must ask for the applicant's Social Security number, but the applicant is not required to disclose this information. Before asking for the applicant's social security number, the county CCAP agency must tell the applicant that:~~

- ~~(1) the disclosure is voluntary;~~
- ~~(2) the number is being solicited under the Code of Federal Regulations, title 45, section 98.71(a)(13); and~~
- ~~(3) the social security number will be used by county CCAP agency, state, and federal governments and their employees for the purposes of verification, reporting, research, and any other purpose authorized by law.~~

~~E. C. The county CCAP agency must determine an applicant's eligibility for child care assistance at the time of application based on Minnesota Statutes, section 119B.025. The county must redetermine eligibility according to part 3400.0180.~~

Commented [LA(22)]: Remove mention of redetermination from this section on applicants. Redetermination is found in 3400.0180.

~~Subp. 4. **Participant reporting responsibilities.** A participant must meet the reporting requirements in items A and B. A participant may report a change in person, by telephone, by facsimile, or by mail, including electronic mail.~~

~~A. In addition to the reporting requirements in Minnesota Statutes, section 256P.07, subdivisions 3 and 6, all families must report assets that put the family's assets over 1 million dollars to the CCAP agency within 10 calendar days of the change.~~

~~B. In addition to the reporting requirements in item A, schedule reporters must report the following changes to the CCAP agency within 10 calendar days of the change:~~

- ~~(1) Changes in employment, education or training status, including but not limited to: starting an activity, ending an activity or temporary breaks in activity;~~
- ~~(2) Changes in employment schedule or education schedule; and~~
- ~~(3) Changes in job search participation.~~

~~C. All families must notify the CCAP agency and the child care provider of the intent to change child care providers at least 15 calendar days in advance. Fifteen calendar day notice is not required when the license of a provider licensed by the state of Minnesota has been temporary immediately suspended or where there is imminent risk or harm to the health, safety, or rights of a child in care with a legal nonlicensed provider, license exempt center, or provider licensed by an entity other than the state of Minnesota.~~

~~D. A participant may report a change in person, by telephone, by facsimile, by mail, or electronically, including electronic mail.~~

~~E. Failure to meet reporting requirements may result in an overpayment, disqualification, or termination.~~

~~A. When there is a change in the information reported by the participant at application or at the most recent redetermination of eligibility, the participant must report the new information to the county within ten calendar days after the change occurs. This reporting requirement applies to changes in income, residence, employment status, or family size. A change in income occurs on the day the participant receives the first payment reflecting the change in income.~~

~~B. Except in cases where the license of a provider licensed by the state of Minnesota has been temporary immediately suspended or where there is an imminent risk or harm to the health, safety, or right of a child in care with a legal, nonlicensed provider, license exempt center, or provider licensed by an entity other than the state of Minnesota, a participant must notify the county and the provider of the intent to change providers at least 15 calendar days before changing providers.~~

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

- A. When a 12 month reporter or a schedule reporter reports the following changes during the 12 month eligibility period, the CCAP agency must request verification of:
- (1) All current income sources when a family reports a change in their income that exceeds 85 percent of the state median income.
 - (2) Activity verification at the end of job search for families without job search as an authorized activity in an employment plan.
 - (3) Address verification when a family reports moving out of state. The CCAP agency must allow the family 15 days to return the verification. If verification shows the family is no longer eligible or if verification is not returned, the CCAP agency must end the family's eligibility with a 15 day notice.
- B. When a 12 month reporter reports the following changes during the 12 month eligibility period, the CCAP agency must request verification of:
- (1) Permanent end to an authorized activity
 - (2) New employment if the parentally responsible individual is working in a licensed or certified license exempt child care center.
 - (3) Activity changes if the family is requesting more hours of care be authorized. The CCAP agency must allow the family 15 days to return the verification. If verification of permanent end of activity is not received and the family has no other authorized activity, the CCAP agency must put the family into extended eligibility on the date the CCAP agency became aware of the permanent activity end. If verification of new employment at a child care center is not received, care must be suspended. If verification of the activity change is not received, authorized hours must not increase until the verification is received.
- C. When a schedule reporter reports the following changes during the 12 month eligibility period, the CCAP agency must request verification of:
- (1) Schedule changes.
 - (2) New employment.
 - (3) Temporary break from authorized activities
 - (4) Permanent end to an authorized activity.
- The CCAP agency must allow the family 15 days to return the verification. If the verification is not received and the CCAP agency is unaware of the impact of the reported change, the CCAP agency must close the child care authorization and suspend care until verification is received. If the verification is received and the change results in a reduction in authorized hours, the family and the provider must receive a 15 day adverse action notice.

D. When a reported change results in an increase in authorized hours, the CCAP agency may increase the amount of child care authorized for all families under Minnesota Statutes, section 119B.095, subdivision 2, paragraph b.

Subp. 4b. Provider selection.

- A. When a family selects a child care provider, the criteria under part 3400.0035, subpart 7 applies
- B. When a family selects a legal nonlicensed child care provider, criteria under part 3400.0035, subparts 7 and 8 apply.
- C. When a family selects an in-home provider, criteria under part 3400.0035, subparts 7 and 9 apply. If the in-home provider is a legal nonlicensed child care provider, criteria under part 3400.0035, subpart 8 also applies.

Subp. 5. Employment, education, and training requirements.

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

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

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

B. be unable to care for the applicant's or participant's child or dependent as determined by a licensed physician, licensed psychologist, licensed psychiatrist or the local licensed social worker services agency. The status of the parent who is unable to care may be permanent or temporary.

Commented [LA23]: Aligns medical professionals across unable to care and medical leaves of absence policies.

Subp. 5a. Child support cooperation.

A. All applicants and participants of the child care assistance program must cooperate with establishment of paternity and enforcement of child support obligations for all minor children in the family with an absent parent under Minnesota Statutes, section 119B.09, subdivision 1, clause (c). For purposes of this part, a family has met the cooperation requirement when the family complies with Minnesota Statutes, section 256.741, or there is a finding under Minnesota Statutes, section 256.741, subdivision 10, of good cause for failing to cooperate.

Commented [LA(24)]: The language removed in A. is duplicative language from 119B.09, subdivision 1(c)

B. A family in cooperation with child support at application is eligible for child care assistance retroactively under the timelines established in Minnesota Statutes, section 119B.09, subdivision 7, clause c.

C. An application for child care assistance must be denied if the family is not cooperating with child support by the end of the application processing time frame established in Minnesota Statutes, section 119B.025, subdivision 1, clause b.

D. A family not in cooperation with child support at redetermination must have their eligibility terminated. If a family meets the requirements in Minnesota Statutes, section 119B.025, subdivision 3(c)(1), and cooperates with child support within 30 days after the date the redetermination was due, the family's eligibility must be reinstated back to the date eligibility closed.

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

Subp. 6. [Repealed, 26 SR 253]

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

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

B. When ~~care is provided in the child's home and the county pays the parent,~~ a family that fails to pay the provider the amount of the child care assistance payment, the family is ineligible for child care assistance until the payment is made or until the family reaches an agreement for payment with the provider and the ~~county-CCAP agency~~ and then continues to comply with the payment agreement.

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

Subp. 6c. **Date of eligibility for assistance.** The date of eligibility for child care assistance under parts 3400.0060 and 3400.0080 must be determined according to Minnesota Statutes, section 119B.09, subdivision 7. The date of eligibility for child care assistance under part 3400.0090 is ~~the date the family's MFIP or DWP case was closed~~ the first day of the month after the family family's MFIP or DWP case has closed.

~~Subp. 7. **Maximum biweekly child care assistance.** A family may not receive more than 120 hours of child care assistance per child every two weeks.~~

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

A. In addition to meeting other eligibility requirements, employed persons eligible for child care assistance under part 3400.0060, 3400.0080, or 3400.0090 must work at least an

Commented [LA(25): Repeal this part. 119B.09, subd. 6 states:

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

The statute language is clearer surrounding payment as there are instances where a child may be authorized for more than 120 hours. There is also language in 3400.0110, subp. 3(I) about situations when more than 120 hours of care are able to be authorized

average of 20 hours per week and receive at least the applicable minimum wage for all hours worked. Employed persons eligible for child care assistance under part 3400.0080 are exempt from this requirement if they have work as an authorized activity in an approved employment plan that allows fewer work hours or a lower wage.

B. The ~~county~~ CCAP agency and the participant may determine a length of time, not to exceed six months, over which the number of hours worked weekly can be averaged and counted toward the participant's meeting the average of 20 hours per week requirement. ~~If the number of hours worked during the designated time period actually averages less than 20 hours per week, any child care assistance funds paid by the county on the participant's behalf during the designated time period are subject to recoupment or recovery.~~

C. When a participant ~~does not work by the hour and is not paid an~~ receives compensation other than an hourly wage, the participant's earned income over a given period must be divided by the minimum wage to determine whether the participant has met the requirement to average at least 20 hours of work per week at minimum wage.

D. Child care assistance during employment ~~shall~~ must be authorized for the number of hours scheduled to be worked, including break and meal time during the employment, and up to two hours per day for travel time.

E. When an employed person meets minimum work requirements under clause A at application, redetermination or the completion of job search, minimum work requirements do not apply during the 12-month eligibility period. During the 12-month eligibility period, eligibility continues until redetermination if work hours decrease below 20 hours per week or if a parent's wage drops below the applicable minimum wage.

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

A. the employee cannot reasonably modify his or her nonwork schedule to provide child care; and

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

Subp. 10. **Child care assistance during education or training.** ~~Counties~~ CCAP agencies must ~~shall~~ provide child care assistance to students eligible under part 3400.0060, ~~or~~ 3400.0080 or 3400.0090 and enrolled in ~~county~~ CCAP agency-approved education or training programs or employment plans according to items A to ~~E~~.

~~A. Counties must authorize child care for full-time students for the days of class and on nonclass days, if needed for study, as determined by the county, not to exceed the maximum biweekly child care allowed.~~

A. Counties ~~CCAP agencies~~ must authorize child care for ~~part-time~~ students as needed for:

Commented [LA(26): There are no differences in authorizing care for full time and part time students consistently.

- (1) all hours of actual class time and credit hours for independent study and internships;
- (2) time periods between nonconsecutive classes;
- (3) up to two hours per day for travel time; and
- (4) two hours per week per credit hour for postsecondary students for study and academic appointments.

~~When a part-time student has more than one hour between classes on any one day, the study and academic appointment time authorized under subitem (4) shall be reduced by the number of hours between classes.~~

- B. CCAP agencies must authorize child care for students eligible under part 3400.0080 according to an approved employment plan.
- C. Child care assistance for basic or remedial classes is subject to county-CCAP agency approval under subpart 12. Upon county-CCAP agency approval of the basic or remedial educational program class or classes, the county-CCAP agency shall must authorize child care assistance necessary to enable the student to attend class and to complete class assignments.
- D. If a student eligible under part 3400.0060 had an approved education plan with a CCAP agency but the student moves to a new CCAP agency, the education plan remains in effect until the family's next redetermination or until the family requests a change. When the family's eligibility is redetermined, the new CCAP agency may reject, approve, or modify the family's education plan based on the new CCAP agency's criteria for approving education plans.
- E. Students on school breaks and expected to return to school following the break remain eligible for child care assistance during the break. For 12 month reporters, CCAP agencies must not reduce authorized hours or terminate authorizations during school breaks. For schedule reporters, CCAP agencies must:
 - (1) Not reduce authorized hours or terminate authorizations during the school break if the break is expected to last 15 calendar days or less.
 - (2) Suspend the family's authorization following the 15-day adverse action period if the family's only authorized activity is education and the school break is scheduled to last more than 15 days.
 - (3) Reduce the number of authorized hours following the 15-day adverse action period if education is not the family's only authorized activity and the school break is expected to last more than 15 days. The number of authorized hours must reflect the family's other authorized activities during the school break period.

Commented [LA(27)]: Language from 3400.0060, subpart 9 (D).

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

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

~~B. When full-time students requesting child care for employment at application and redetermination the employment hours must work an average of at least ten hours per week at applicable minimum wage. For purposes of determining whether the ten hours at minimum wage requirement in this subpart applies to a student, a full-time student retains full-time status during school breaks, including summers, if the student is expected to return to school full time after the break. Students eligible for child care assistance under part 3400.0080 are exempt from the ten hours per week at minimum wage requirement if they have an approved employment plan that allows fewer work hours or a lower wage. For purposes of determining whether the ten hours at minimum wage requirement in this subpart has been met, work study hours and income must be counted as employment.~~

Commented [LA(28)]: This is now in subp. 11 (E).

Commented [LA(29)]: This is now in subp.11 (D).

C. Part time students requesting child care for employment at application and redetermination must work an average of at least 20 hours per week at applicable minimum wage.

D. For purposes of determining whether the hourly requirement at minimum wage in this subpart has been met, work-study hours and income must be counted as employment.

E. Students eligible for child care assistance under part 3400.0080 are exempt from the ~~ten~~ minimum hours per week requirement ~~at and~~ the minimum wage requirement if they have an approved employment plan that allows fewer work hours or a lower wage.

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

Subp. 13. **Satisfactory progress in education or training program.** Subject to the limitation in subpart 14, a ~~county~~ CCAP agency ~~shall~~ must provide child care assistance to students with an approved education or training program for the length of the education or training program if the student is making satisfactory progress ~~in the education or training program~~. Satisfactory progress in the education or training program means a student remains in good academic standing ~~in the education or training program~~ as determined by the educational institution and meets the requirements of the student's education plan under parts 3400.0060 or 3400.0090, or employment plan under part 3400.0080. The CCAP agency cannot terminate an approved education plan during the 12-month eligibility period. At redetermination, if if the county ~~CCAP agency determines~~ receives documentation from the educational institution that a student is not making satisfactory progress towards completion of an education or training program, the county ~~CCAP agency shall~~ must notify the student and terminate approval of the education plan ~~discontinue child care assistance according to part 3400.0185.~~

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

A. A student eligible under part 3400.0060 is eligible for child care assistance according to Minnesota Statutes, section ~~119B.07~~ 119B.10.

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

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

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

- (1) the new education or training program is approved by the ~~county~~ CCAP agency; and
- (2) the ~~county~~ CCAP agency expects that completing the program will lead to full-time employment.

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

Subp. 15. **Changes in education or training programs.** A proposed change in an education or training program is subject to ~~county~~ CCAP agency approval before the change may be made. A CCAP agency must describe the approval policy for changes to an education plan in their child care fund plan. A ~~county~~ CCAP agency may not deny a request for a change in an education or training program when the student requesting the change can show that changing a course or focus of study is necessary for reasons related to the health and safety of the student.

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

A. A ~~county~~ CCAP agency ~~shall~~ must provide child care assistance up to the job search timeframe outlined in Minnesota Statutes, section 119B.10, subdivision 1 240 hours per calendar year and for no more than 40 hours in a service period ~~child care assistance for job search activities at application or redetermination to an applicant or participants a participant:~~

- (1) eligible under part 3400.0080 and seeking employment who does not have an approved ~~job search support plan~~ employment plan or whose approved employment plans does not include job search as an authorized activity;
- (2) eligible under part 3400.0090 ~~who are~~ and seeking employment; and
- (3) eligible under part 3400.0060 ~~who are~~ and seeking employment.

B. ~~The county~~ A CCAP agency must ~~shall grant~~ provide child care assistance for job search activities to an applicant or a participant eligible under part 3400.0080 whose employment plan includes job search as an authorized activity:

- (1) ~~according to the number of hours in the individual's approved job search plan~~ employment plan;
- (2) ~~by applying the criteria identified in its child care fund plan; or~~

(3) by verifying the actual number of hours spent on job search.

C. ~~At the option of the individual in job search and with prior county approval, child care may be used at a rate that is less than full time provided the total child care assistance does not exceed 240 hours of child care per calendar year.~~

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

Subp. 16. [Repealed, 26 SR 253]

Subp. 17. **Temporary ineligibility for participants.** ~~County~~ CCAP agencies 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. Employed participants may be temporarily ineligible for a maximum of 90 days. Child care assistance participants who are students may be temporarily ineligible for a maximum of one academic quarter or semester as determined by the educational institution. A family must be placed in temporary ineligibility when:

A. A family meets all eligibility requirements at redetermination as provided in Minnesota Statutes, sections 119B.10 and 119B.09, but is on an unverified temporary break from their activity. In order to move out of temporary ineligibility, the parent must meet the minimum activity requirements under Minnesota Statutes, section 119B.10.

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

Subp. 17a. Authorization at the end of temporary ineligibility. When a schedule reporter in temporary ineligibility becomes eligible, care must be authorized based on the parent's verified activity schedule. When a 12 month reporter in temporary ineligibility becomes eligible, care must be authorized based on items A to C.

A. When a 12 month reporter in temporary eligibility becomes eligible during the 12-month eligibility period, care must be authorized at the same amount prior to the time the family moved into temporarily ineligible status, unless the family requests less care or the family verifies more care is needed.

B. When a 12 month reporter in temporary ineligibility becomes eligible when their redetermination is approved, care must be authorized based on the amount of care needed and verifications provided at redetermination.

C. When a 12 month reporter is placed in temporary ineligibility at redetermination and later becomes eligible, care must be authorized based on the amount of care needed and verified at the time the family moves out of temporary ineligibility.

Subp. 17b. Temporary ineligibility for families on the waiting list. A ~~county~~ CCAP agency may reserve a family's position under the child care ~~assistance~~ fund for up to 90 days if a family is ~~approved to receive child care assistance and~~ reaches the top of the Basic Sliding Fee program waiting list but is temporarily ineligible for assistance. In its child care fund plan, a ~~county~~ CCAP agency must specify whether it reserves positions under the child care ~~assistance~~ fund beyond 90 days for temporarily ineligible families who reach the top of the Basic Sliding Fee

program waiting list and, if so, the amount of additional time allowed and the conditions required criteria used to make the decision whether to reserve a position. Employed participants may be temporarily ineligible for a maximum of 90 days. Child care assistance participants who are students may be temporarily ineligible for a maximum of one academic quarter or semester as determined by the educational institution.

Subp. 18. Suspension. Counties

A. CCAP agencies must suspend, and may not terminate, a family's eligibility for child care assistance for up to one continuous year if there are temporary breaks when child care assistance is not needed, when care is not able to be authorized due to missing schedule verifications or the family does not have an authorized an eligible provider but the family remains eligible for child care assistance.

B. The amount of child care authorized during the 12 month eligibility period for 12 month reporters must not decrease when there is a temporary break or a change in the parentally responsible individual's employment, education or employment plan activity, unless the family requests a reduction in authorization hours or requests their child care be suspended.

C. An authorization must end and eligibility must be suspended when there is a temporary break in a schedule reporter's employment, education, or employment plan activity and the parent has no other authorized activity, unless that parent meets the criteria under part 3400.0110, subpart 10.

Subp. 18a. Authorization at the end of suspension. When a schedule reporter moves out of suspension, care must be authorized based on the parent's verified activity schedule. When a 12 month reporter moves out of suspension, care must be authorized based on items A to C.

A. When a 12 month reporter moves out of suspension during the 12-month eligibility period, care must be authorized at the same amount prior to the time the family moved into suspension, unless the family requests less care or the family verifies more care is needed.

B. When a 12 month reporter moves out of suspension when their redetermination is approved, care must be authorized based on the amount of care needed and verifications provided at redetermination.

C. When a 12 month reporter is placed in suspension at redetermination and later moves out of suspension, care must be authorized based on the amount of care needed and verified at the time the family moves out of suspension.

3400.0060 BASIC SLIDING FEE PROGRAM.

Subpart 1. [Repealed, 26 SR 253]

Subp. 2. **Basic sliding fee allocation.** The commissioner shall allocate child care funds for the basic sliding fee program as provided in Minnesota Statutes, section 119B.03, subdivisions 6 to 9. By July 1 of each year, the commissioner shall notify all county, tribal and human services boards of their allocation under the basic sliding fee program, including the amount

available for payment of administrative expenses.

Commented [LA(31)]: Content from 3400.0030 – added here and repealed 3400.0030

Subp. 3. [Repealed, 26 SR 253]

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

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

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

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

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

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

A. the applicant meets eligibility requirements under part 3400.0040;

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

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

~~Subp. 6. **Basic sliding fee program waiting lists.** Counties must keep a written record of families who have requested child care assistance. When a family requests information about child care assistance, the county shall perform a preliminary determination of eligibility. If it appears that a family is or will be eligible for child care assistance and funds are not immediately available, the family shall be placed on a child care waiting list. The county must determine the highest priority group for which a family qualifies and must notify the family of this determination.~~

~~Families who inquire or apply while they are temporarily ineligible shall be placed on the~~

waiting list if it appears they will be eligible for child care assistance. When a family advances to the top of the county's waiting list and is temporarily ineligible for child care assistance, the county shall leave the family at the top of the list according to priority group and serve the applicant who is next on the waiting list unless a different procedure is provided in the county's child care fund plan.

Subp. 6a. Transfer of families from waiting list to basic sliding fee program. Families on the basic sliding fee waiting list shall be moved into the basic sliding fee program as funding permits according to the priorities listed in Minnesota Statutes, section 119B.03. After the county has complied with the priority requirements in section 119B.03, the county must comply with any priority requirements adopted under part 3400.0140, subpart 10, to move families on the waiting list into the basic sliding fee program.

Subp. 7. ~~Waiting list; transfer of transition year families to the basic sliding fee program.~~

~~A. The county shall place transition year families on the county's basic sliding fee program waiting list effective on the date the family became eligible for transition year child care assistance.~~

~~B. If a transition year family moves to a new county, the date the family was placed on the basic sliding fee waiting list in the original county shall transfer with the family.~~

~~C. Families who are eligible for, but do not use, transition year child care assistance retain their priority status for the basic sliding fee program. Families lose their priority status at the conclusion of their transition year.~~

~~D. The county shall manage its basic sliding fee allocation in a way that allows families to move from transition year to the basic sliding fee program without any interruption in services. The county shall not serve families who are a lower priority on the basic sliding fee waiting list than a transition year family unless the county can ensure basic sliding fee program funding for the transition year family at the end of the transition year.~~

~~E. When the transition year ends, the county shall move the transition year family into the basic sliding fee program. A transition year family that does not come to the top of the county's basic sliding fee program waiting list before completion of the transition year shall be moved into the basic sliding fee program as funding becomes available according to the priority under Minnesota Statutes, section 119B.03, subdivision 4. Transition year extension child care may be used to support employment or a job search that meets the requirements of Minnesota Statutes, section 119B.10, for the time necessary for the family to be moved from the basic sliding fee waiting list into the basic sliding fee program.~~

Subp. 8. ~~Application for child care assistance.~~ A family must apply for child care assistance in the family's county of residence.

Subp. 9. County eChild care responsibility when a family moves.

A. When a family receiving child care assistance from the basic sliding fee program moves to a new county or tribe within Minnesota, the original county or tribe must continue to provide child care assistance

Commented [LA(32)]: Content moved to 3400.0065, Basic Sliding Fee Waiting List

Commented [LA(33)]: Content removed because this does not only apply to BSF families but rather applies to all CCAP families. Language has been added to 3400.0035, subpart 2.

for two full calendar months after the move if the family needs child care and remains eligible for the basic sliding fee program. ~~The family is responsible for notifying the new county of residence within 60 days of moving and applying for basic sliding fee assistance in the new county. Before a family can be transferred to a tribal agency administering child care assistance, the family must meet the tribal agency's criteria of families served.~~ The limitation in Minnesota Statutes, section 119B.09, subdivision 1, paragraph (a), clause (2), regarding the family's household income at program entry does not apply when a family receiving assistance moves to another county or tribe and ~~timely applies under this item to continue~~ receiving assistance in the new county or tribe.

B. If there is a waiting list for the basic sliding fee program in the receiving county or tribe when it assumes responsibility for the family following the two full calendar months after the move, the receiving county or tribe must fund child care assistance for the family through the portability pool while the family remains eligible. ~~Portability pool funding must continue for the lesser of six months or until the family is able to receive assistance under the receiving county's basic sliding fee program. The family must also be added to the basic sliding fee program waiting list according to portability pool priority group in the receiving county effective the date of the move.~~ Portability pool funding must continue until the family is able to receive assistance under the receiving county's or tribe's basic sliding fee program. ~~If the family reaches the top of the waiting list and funds become available before the six months have ended, the receiving county must immediately add the family to its basic sliding fee program. If basic sliding fee funds are not available when the six months has ended, services to the family must be terminated. The family must stay on the waiting list effective the date of the move. If funds become available after the family's child care assistance has been terminated due to the end of the portability pool period, the family must be treated as a new applicant and must have a household income that meets the income requirements in Minnesota Statutes, section 119B.09, subdivision 1, for program entry.~~

Commented [LA(34): BSF waiting list dates moved to 3400.0065, subp 2(c)

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

Commented [LA(35): Language moved to 3400.0170, subp. 1a

D. ~~If the participant had an approved educational plan in the original county, the plan transfers with the participant. The plan remains in effect during the two months that the original county continues to pay for the family's child care assistance and during any time the family's child care assistance is paid through the portability pool. When the receiving county pays the family's basic sliding fee assistance from its own allocation, the receiving county may reject, approve, or modify the family's educational plan based on the receiving county's criteria for approving educational plans.~~

Commented [LA(36): Language moved to 3400.0040, subpart 10 (D)

Subp. 10. **Continued eligibility under basic sliding fee program.** A county CCAP agency may not refuse continued child care assistance to a family receiving assistance under the basic sliding fee program when there is a change in the family's financial or household status provided that the family continues to meet the eligibility requirements in this part and the general eligibility requirements in part 3400.0040. Except for the job search time limit under Minnesota

Statutes, section 119B.10, subdivision 1, paragraph (a), and the education time limit in Minnesota Statutes, section 119B.10, subdivision 3, paragraph (b) ~~section 119B.07; and the time limit for the at-home infant care program in Minnesota Statutes, section 119B.035, subdivision 4, counties~~ a CCAP agency may not set a time limit for eligibility under the basic sliding fee program.

Commented [LA(37): 119B.07 has been repealed – replaced with correct statute reference

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

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

Published Electronically: *October 3, 2013*

3400.0065 BASIC SLIDING FEE WAITING LIST. *NEW PART*

Subp. 1. Basic sliding fee program waiting lists. ~~Counties must keep a written record of families who have requested child care assistance. When a family inquires or applies for requests information about child care assistance and basic sliding fee funds are not immediately available, the county CCAP agency must shall perform a preliminary determination of eligibility. CCAP agencies must not request or require a family to submit verifications during the preliminary determination of eligibility. If it appears that a family is or will be eligible for child care assistance and funds are not immediately available, the family shall must be placed on a child care waiting list. The county CCAP agency must determine the highest priority group for which a family qualifies and must notify the family of this determination. The CCAP agency must keep a written record of families who have been placed on a child care waiting list.~~

Commented [LA(38): Subp.1 is content moved from 3400.0060, subp. 6

Commented [LA(39): MN Stat 119B.03, subd. 2 has language that each county must keep a written record and report on families who have applied or requested CCAP. Removing here to avoid duplication

Subp. 2. Waiting list dates. Based on the funding priorities outlined in Minnesota Statutes, section 119B.03, subdivision 4, families must be added to the basic sliding fee program waiting list according to the following dates:

- A. A family placed in priority groups one, four, or five must be added to the basic sliding fee program waiting list on the date the family made the assistance request.
- B. A family placed in priority group two must be added to the basic sliding fee program waiting list on the date the family began their transition year under part 3400.0090.
- C. A family placed in priority group three must be added to the basic sliding fee program waiting list on the date the family moved to the receiving county or tribe.

Subp. 3. Temporarily ineligible families on the basic sliding fee waiting list. ~~Families who inquire or apply for child care assistance while they are temporarily ineligible shall must be placed on the waiting list if it appears they will be eligible for child care assistance. When a family advances to reaches the top of the county's CCAP agency's waiting list and is temporarily ineligible for child care assistance, the county CCAP agency must follow the procedures in part 3400.0040, subpart 17b. shall leave the family at the top of the list according to priority group and serve the applicant who is next on the waiting list unless a different procedure is provided in the county's child care fund plan.~~

Commented [LA(40): Subp. 3 is content moved from 3400.0060, subp. 6

Subp. 4. Transfer of families from waiting list to basic sliding fee program. Families on

Commented [LA(41): Subp. 4 is content moved from 3400.0060, subp. 6a

the basic sliding fee waiting list ~~shall~~ must be moved into the basic sliding fee program as funding permits according to the priorities listed in Minnesota Statutes, section 119B.03, subdivision 4. After the ~~county~~ CCAP agency has complied with the priority requirements in section 119B.03, subdivision 4, the ~~county~~ CCAP agency must comply with any priority requirements adopted under part 3400.0140, subpart 10, to move families on the waiting list into the basic sliding fee program.

Subp. 5. ~~Waiting list;~~ Transfer of transition year families to the basic sliding fee program.

~~F. The county shall place transition year families on the county's basic sliding fee program waiting list effective on the date the family became eligible for transition year child care assistance.~~

G. A. If a transition year family moves to a new county or tribe, the date the family was placed on the basic sliding fee waiting list in the original county or tribe ~~shall~~ must transfer with the family.

H. B. Families who are eligible for, but do not use, transition year child care assistance retain their priority status for the basic sliding fee program. Families lose their priority status at the conclusion of their transition year.

I. C. The county or tribe ~~shall~~ must manage its basic sliding fee allocation in a way that allows families to move from transition year to the basic sliding fee program without any interruption in services. The CCAP agency ~~county~~ ~~shall~~ must not serve families under basic sliding fee funding who are a lower priority on the basic sliding fee waiting list than a transition year family unless the CCAP agency ~~county~~ can ensure basic sliding fee program funding for the transition year family at the end of the transition year.

J. D. When the transition year ends, the CCAP agency ~~county~~ ~~shall~~ must move the transition year family into the basic sliding fee program. A transition year family that does not come to the top of the ~~county's~~ CCAP agency's basic sliding fee program waiting list before completion of the transition year may continue to receive transition year extension child care assistance under part 3400.0090, subpart 10. ~~shall~~ A family receiving transition year extension child care assistance must be moved into the basic sliding fee program as funding becomes available according to the priority under Minnesota Statutes, section 119B.03, subdivision 4. Transition year extension child care may be used to support employment or a job search that meets the requirements of Minnesota Statutes, section 119B.10, for the time necessary for the family to be moved from the basic sliding fee waiting list into the basic sliding fee program.

Subp. 6. Removal of families from the waiting list. If a family is receiving transition year extension child care assistance, portability pool child care assistance, or is a student parent as defined under Minnesota Statutes, section 119B.011, subdivision 19b receiving MFIP child care, and the family's eligibility for child care assistance ends, the family must be removed from the basic sliding fee waiting list. If the family requests child care assistance in the future, the family must reapply and the family may be subject to the waiting list according to the priorities in Minnesota Statutes, section 119B.03, subdivision 4. A family that loses eligibility for child care assistance while receiving transition year extension is no longer eligible for second priority on the basic sliding fee waiting list.

Commented [LA(42)]: Subp. 5 is content moved from 3400.0060, subp. 7

Commented [LA(43)]: Content was moved to subp 2(B) above

Commented [LA(44)]: This language, with the addition of education, is in MN Stat 119B.011, subd. 20a. Removing duplicate language.

3400.0080 MFIP CHILD CARE PROGRAM.

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

Subp. 1a. **Eligibility of sanctioned MFIP participant.**

A. At application and redetermination, 12 month reporters and schedule reporters who have been sanctioned under the MFIP program may receive child care assistance as allowed under part 3400.0110, subpart 3, paragraph A.

B. A 12 month reporter receiving MFIP participant eligible for child care assistance who has been sanctioned under the MFIP program may receive child care assistance as allowed under parts 3400.0110, subpart 3, paragraph B, and 3400.0175.

C. A schedule reporter receiving child care assistance who has been sanctioned under the MFIP program may receive child care assistance as allowed under parts 3400.0110, subpart 3, paragraph C, and 3400.0175.

~~A. for that portion of the participant's job search support or employment plan which the participant is complying with according to Minnesota Statutes, chapter 256J; or~~

~~B. according to Minnesota Statutes, section 119B.05, subdivision 1, clause (1).~~

Subp. 1b. **Child care assistance for approved job search.** A MFIP participant who has an approved ~~job search support plan or whose~~ employment plan which includes job search as an authorized activity is not limited to the job search timeframe outlined in Minnesota Statutes, section 119B.10, subdivision 1 ~~240 hours of job search child care assistance in a calendar year.~~

Subp. 2. [Repealed, 26 SR 253]

Subp. 3. [Repealed, 26 SR 253]

Subp. 4. [Repealed, 26 SR 253]

Subp. 5. [Repealed, 26 SR 253]

Subp. 6. [Repealed, 26 SR 253]

Subp. 7. [Repealed, 26 SR 253]

Subp. 8. **County Child care responsibility when a family moves to another county.** When a MFIP or DWP participant moves to a new county or tribe within Minnesota and the new county or tribe accepts responsibility for the participant's approved ~~job search support or~~ employment plan under Minnesota Statutes, section 256J.55, subdivision 3, the new county or tribe is responsible for providing child care assistance to the MFIP or DWP participant effective on the date that the county or tribe accepted responsibility for the plan. In all other cases, child care assistance must be provided according to Minnesota Statutes, section 256G.07, subdivision 1, when a MFIP or DWP participant moves to a new county or tribe. Before a tribal agency can be responsible for providing child care assistance to a family, the family must meet the tribal agency's criteria of families served.

3400.0090 TRANSITION YEAR CHILD CARE.

Subpart 1. **Notice to family of eligibility.** ~~The family must receive a written notice administering agency must notify a family, in writing, at the time the family's MFIP or DWP case closes of the family's potential eligibility for transition year child care. The notification must include information on how to establish eligibility for transition year child care and on the family's rights and responsibilities under the transition year child care program.~~

Subp. 2. **Eligibility.**

~~A.~~ A. Transition year child care assistance may only be used to support employment, ~~and~~ job search, ~~and approved education or training programs meeting the requirements in Minnesota Statutes, section 119B.10 related expenses.~~ A family is eligible for transition year child care if the conditions in clauses 1 to 4 ~~items A to D~~ are met.

~~A.~~ (1) The family's MFIP or DWP case has closed.

~~B.~~ (2) ~~Through March 22, 2020, at~~ At least one caregiver in the family received MFIP or DWP in at least ~~three~~ three of the six months immediately preceding the month in which the family's MFIP or DWP case was closed. On or after March 23, 2020, one month replaces three months.

~~C.~~ (3) The family meets the income eligibility requirements specified in Minnesota Statutes, section 119B.09, subdivision 1.

~~D.~~ (4) Transition year child care may be paid for the care of a child ~~who would have been eligible to receive a MFIP grant, or for children who would have been eligible for MFIP, except for the child's receipt of SSI or Title IV-E foster care benefits. if:~~

a) the child meets the definition of family under Minnesota Statute 119B.011, subd. 13, or

b) the child received, or would have been eligible to receive, an MFIP or DWP grant.

B. Eligibility for transition year child care begins the first month after the family's MFIP or DWP case has closed and continues for 12 consecutive months. A family's temporary ineligibility for, suspension of, or failure to use child care assistance during the transition year does not suspend the transition year period.

C. A former MFIP or DWP participant may apply for transition year child care any time during the transition year and, notwithstanding the application date, shall receive retroactive transition year child care assistance according to Minnesota Statutes, section 119B.09, subdivision 7.

D. If a family was receiving child care assistance when the family's MFIP or DWP case closed, their child care assistance continues until the next redetermination as long as they meet transition year eligibility criteria in paragraph A ~~determination of eligibility for transition year child care assistance must be treated as a redetermination rather than a new application.~~

Commented [BBK45]: Enacted by the 2019 Legislature however this policy change is not effective until March 23, 2020.

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

- A. A family in which all caregivers have been disqualified from receiving MFIP or DWP due to fraud is not eligible for transition year child care assistance.
- B. Transition year child care assistance ends if the family does not meet child care assistance eligibility requirements.

Subp. 4. **Reestablishment of MFIP or DWP eligibility during transition year period.** If a transition year family reopens its MFIP or DWP case during the transition year period and subsequently meets the conditions in subpart 2, the family qualifies for a new 12-month transition year period. Until March 23, 2020, if ~~If~~ the family received MFIP or DWP for only one or two of the previous six months, but meets the requirements in subpart 2, ~~paragraph items A, items clauses (1), (3) and (4), C, and D,~~ the family is eligible for the remaining months of the transition year, ~~treating the month or months on MFIP or DWP as a suspension of the child care benefit but not the transition year period.~~ On or after March 23, 2020, a family who receives one month of MFIP or DWP assistance and who meets the other conditions in subpart 2, is eligible for a new 12-month transition year period. To receive child care assistance while receiving MFIP or DWP, the family must meet the MFIP child care requirements under part 3400.0080.

Subp. 5. [Repealed, 26 SR 253]

Subp. 6. [Repealed, 26 SR 253]

Subp. 7. [Repealed, 33 SR 695]

Subp. 8. [Repealed, 26 SR 253]

Subp. 9. [Repealed, 26 SR 253]

Subp. 10. Transition year extension.

- A. Transition year extension child care assistance may be used to support employment, job search, and approved education and training programs meeting the requirements in Minnesota Statutes, section 119B.10.
- B. A family meeting the requirements of Minnesota Statutes, section 119B.011, subdivision 20a and all other applicable child care assistance eligibility requirements is eligible for transition year extension child care assistance.
- C. Transition year extension child care assistance begins the first day of the month after the transition year ends. Child care assistance continues as long as the family meets child care assistance eligibility requirements. There is no time limit on transition year extension.
- D. Transition year extension child care assistance ends if:
 - (1) Basic sliding fee child care assistance funding becomes available.
 - (2) A family starts receiving MFIP or DWP assistance.

(3) A family does not meet child care assistance eligibility requirements. A family that requests child care assistance after transition year extension ends is considered a new applicant.

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

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

Published Electronically: *October 29, 2008*

3400.0100 FAMILY-COPAYMENTS AND COPAYMENT FEE SCHEDULES.

Subpart 1. [Repealed, 30 SR 1318]

Subp. 2. [Repealed, 26 SR 253]

Subp. 2a. **Copayments fees to be prorated during start-up initial service period.** Counties CCAP agencies must prorate all the copayment fees during the service period when the family first receives service based on the number of calendar days remaining in the service period.

~~Subp. 2b. **Payment of provider charges that exceed the maximum provider rate.** If the provider's charge for child care is greater than the maximum provider rate allowed under part 3400.0130, the family shall pay, in addition to any family copayment fee, the difference between the applicable maximum provider rate and the provider charge.~~

~~Subp. 2c. **Payment of registration and activity fees that exceed the maximum rates.** In addition to the family copayment fee, a family is responsible to must pay any registration fees that exceed the standards established in part 3400.0130, subpart 7, any optional activity fees, and any activity fees that exceed the standards established in part 3400.0130, subpart 8.~~

Subp. 3. [Repealed, 30 SR 1318]

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

Subp. 4. [Repealed, 30 SR 1318]

Subp. 5. **PublicationUpdate and publication of copayment fee schedule in State Register.** The department shall publish annually in the State Register the state median income for a family of three, adjusted for family size, and a fee schedule. This information must be published after the date the state median income is published in the Federal Register by the United States Department of Health and Human Services. The department shall also distribute a copy of the fee schedule and the updated estimate of state median income to each county. The updated copayment fee schedule, as determined under Minnesota Statutes, section 119B.12, shall must take effect on July 1 within three months of the state median income and federal poverty guidelines being available or on the first day of the first full quarter following publication of the state median income in the State Register if publication occurs after July 1. The department must publish and make the updated copayment schedule available to each CCAP agency.

Statutory Authority: *MS s 14.3895; 119B.02; 119B.04; 119B.06; 119B.12; 256.01;*

Commented [LA(46): Repealed subpart 2b and 2c – this information was added to 3400.0130, subp. 1b

Commented [LA(47): SMI is no longer published in the Federal Register

256H.01 to 256H.19; L 1999 c 205 art 1 s 63

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

Published Electronically: October 29, 2008

3400.0110 CHILD CARE ASSISTANCE PAYMENTS.

Subpart 1. ~~Payment options~~**Use of funds.** ~~Counties~~ CCAP agencies must ~~monitor child care~~ issue payments for eligible families to registered providers under the ~~to ensure that the funds are used for child care fund.~~

Subp. 1a. **Date payments must begin.** After approval of an application for child care assistance, payment of child care assistance must be authorized to begin as of the family's date of eligibility as determined under part 3400.0040, subpart 6c.

Subp. 2. ~~Authorization before payment~~**Payment of legal nonlicensed providers.** Notwithstanding part 3400.0120, subpart 1, A ~~after a legal nonlicensed provider is authorized registered by the county, the provider county must be paid pay the provider or parent~~ retroactive to the date in item A, B, ~~or C or D~~ that occurred most recently:

- A. the date on which child care for the family was authorized to begin;
- B. the date the family ~~signed the application~~ became eligible for child care under part 3400.0040, subpart 6c; ~~or~~
- C. the date the family began using the legal nonlicensed provider; or
- D. the date the provider completed required training under Minnesota Statutes, section 119B.125, subdivision 1b and Minnesota Rules, part 3400.0120, subpart 6.

Subp. 2a. ~~[Repealed]~~ **Provisional payment for legal**

nonlicensed providers.

~~A. When a legal nonlicensed provider who has been provisionally authorized under Minnesota Statutes, section 119B.125, subdivision 5, does not receive final authorization by the county, the provisional authorization and payment must be terminated following notice to the provider as required under part 3400.0185 and Minnesota Statutes, section 119B.13, subdivision~~

~~5. The county must notify the family using the ineligible provider that the family must choose a new provider to continue receiving child care assistance. A provider's failure to receive final authorization does not cause payments made during the provisional authorization period to be overpayments.~~

~~B. If a family appeals the adverse determination of provider eligibility and, while the appeal is pending, continues to use the provider who failed to receive final authorization, payments made after the notice period are subject to recovery as overpayments.~~

Subp. 3. ~~County a~~**Authorization of child care.** Within the limits set by this chapter and Minnesota Statutes, chapter 119B, the amount of child care authorized must reflect the child care needs of the family and minimize out-of-pocket child care costs to the family according to

Commented [LA(48): Repeal – federal law changes require more stringent background study and health and safety requirements, meaning LNL providers are not able to receive provisional payments.

items A to I.

A. The amount of child care authorized at application and redetermination must be based on the requirements in Minnesota Statutes, section 119B.095 and consider the parents' parentally responsible individuals' schedule of participation in authorized activities, the child's school schedule, the provider's availability, and any other factors that would affect the amount of care that the child needs. The county must pay the provider's full charge up to the applicable maximum rate for all hours of child care authorized and scheduled for the family. When more than 50 hours of child care assistance for one child are authorized with one provider in a week, the county may reimburse the provider in an amount that exceeds the applicable maximum weekly rate, if the provider charges the same amount for more than 50 hours of care for a family not receiving child care assistance.

B. The amount of child care authorized during the 12 month eligibility period for 12 month reporters must not decrease due to a temporary break or a change in the parentally responsible individual's employment, education or employment plan activity, unless the family requests a reduction in authorization hours or requests their child care be suspended under part 3400.0040, subpart 18. Temporary breaks or changes include, but are not limited to: medical leave; seasonal employment fluctuations; school break between semesters; or a reduction in work, training or education hours, while still engaged in the activity.

C. The amount of child care authorized during the 12 month eligibility period for schedule reporters must be based on the parentally responsible individual's activity schedule. An authorization must decrease when there is a change in the parentally responsible individual's employment, education or employment plan activity and fewer hours of care are needed. An authorization must end when there is a temporary break in the parentally responsible individual's employment, education, or employment plan activity and the parentally responsible individual has no other authorized activity, unless that parentally responsible individual meets the criteria under subpart 10. Temporary breaks include, but are not limited to: medical leave; seasonal employment fluctuations; or school break between semesters.

D. A family continues to have care authorized at the same level for up to three months or until their next redetermination, whichever occurs first, when a parentally responsible individual experiences a permanent end to their only authorized activity under part 3400.0175.

E. A CCAP agency may increase the amount of child care authorized during the 12 month eligibility period for all families under Minnesota Statutes, section 119B.095, subdivision 2, paragraph b.

F. A CCAP agency may reduce the amount of child care authorized during the 12 month eligibility period for all families under Minnesota Statutes, section 119B.095, subdivision 2, paragraph c.

G. A CCAP agency may authorize 100 hours biweekly for a child when the child, the parentally responsible individual's activity, and the child's provider meet the criteria outlined in Minnesota Statutes, section 119B.13, subdivision 3c.

H. A CCAP agency must limit the amount of care authorized with a secondary provider as

outlined in Minnesota Statutes, section 119B.097.

I. A ~~county~~ CCAP agency must not authorize ~~or pay for~~ more than 120 hours of child care assistance per child ~~each service period every two weeks~~. More than 120 hours of child care assistance per child each service period may be authorized during provider changes if:

(1) The end of the 15 day adverse action period falls in the middle of a service period and care is authorized with a new provider; or

(2) The provider notifies the CCAP agency they will not bill during the 15 day adverse action period and care is authorized with a new provider.

~~To convert child care paid on a full day or weekly basis into hours to determine if payment exceeds 120 hours of child care assistance, counties must follow the standards in items A and B.~~

~~A. A full day is equal to ten hours of child care.~~

~~B. A week is equal to 50 hours of child~~

~~care.~~

Subp 3a. Payment of child care.

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

B. A CCAP agency must not pay for more than 120 hours of child care assistance per child each service period. The 120 hour payment limit applies during provider changes outlined in subpart 3(i).

C. Notwithstanding subpart 8, a CCAP agency must not pay more than one provider for the same period of time. If a child uses two providers under Minnesota Statutes section 119B.097, payment limits in Minnesota Statutes, section 119B.13, subdivision 1 apply.

D. All hourly rates paid to a legal nonlicensed provider count towards the 120 hours.

E. CCAP agencies must follow the standards in subitems 1 and 2 to convert child care paid on a full-day or weekly basis into hours to determine if payment exceeds 120 hours of child care assistance per service period for licensed and certified license exempt providers.

~~A. (1) Payment at the daily maximum rate is equal to 10 hours of care.~~

~~B. (2) Payment at the weekly maximum~~

~~rate is equal to 50 hours of care.~~

Subp. 4. [Repealed, 33 SR 695]

Subp. 4a. **Reimbursement from other sources for child care costs.** A ~~county~~ CCAP agency must reduce the amount of a family's child care assistance payment by the amount of reimbursement earmarked for the same child care expenses that the family receives from sources other than the child care assistance fund. A CCAP agency must not reduce the amount of a family's child care assistance payments by the amount of reimbursement for different child

care expenses that the family receives from other sources, including but not limited to: copayments; differences between the applicable maximum rate and the provider's charge; and time periods not authorized under the child care fund.

Subp. 5. [Repealed, 26 SR 253]

Subp. 6. [Repealed, 26 SR 253]

Subp. 7. **County Payment policies and schedule.** ~~A county may~~ **CCAP agency must** not require parentally responsible individuals to pay providers in advance of receiving payments from the child care fund ~~as a condition for receiving payments from the child care fund.~~ **The county CCAP agency shall** must make payments ~~at least monthly~~ **within 21 days of receiving a complete bill from the provider. A complete bill must include the provider's signature, unless it meets the good cause criteria defined in the CCAP agency's child care fund plan.** Providers must be sent the forms necessary to bill for payment on or before the beginning of the billing cycle if the ~~county CCAP agency has received the information necessary for child care to be~~ **authorized child care** before this date.

Subp. 8. **Sick child care.**

- A. Sick child care means child care services provided to children who as a result of illness cannot attend the family's regular provider. In addition to making payments for regular child care, the ~~county CCAP agency~~ **may** make payments to a second provider that is providing for sick child care. ~~The CCAP agency's policy to make payments to two providers when a child is sick must be included in the CCAP agency's child care fund plan.~~
- B. If the ~~county CCAP agency~~ **chooses** to pay a special needs rate for care of sick children care, payment for sick child care must be at a rate comparable to like care arrangements in the county. ~~The county's CCAP agency's sick child care policy and special needs rate for care of sick children shall~~ **must** be included in the ~~county's CCAP agency's~~ **child care fund plan** ~~required under part 3400.0150.~~

Subp. 9. **Payment during child absences and holidays.**

- A. If a provider does not charge all families for days on which a child is absent from care, the child care assistance program must not pay that provider for days on which a child is absent from care.
- B. If a provider charges all families for days on which a child is absent from care, the child care assistance program must pay that provider for child absent days according to Minnesota Statutes, section 119B.13, subdivision 7.
- C. Provider charges for absent days in excess of the amount established by Minnesota Statutes, section 119B.13, subdivision 7, are the responsibility of the family receiving child care assistance.
- D. A provider ~~must~~ **can** be paid for a holiday days only if:
 - (1) the provider meets the requirements in ~~according to~~ Minnesota Statutes, section

119B.13, subdivision 7, paragraph (bd);

(2) The day is a ~~S~~state or federal holidays ~~are~~ as determined according to Minnesota Statutes, section 645.44, subdivision 5; ~~and~~

(3) ~~A provider can be paid for a holiday day only if the provider meets the requirements in Minnesota Statutes, section 119B.13, subdivision 7, paragraph (b), (The provider does not provide care on the holiday, and it is in the provider's policies to charge all families for the holiday. If care is available on the holiday, but the child is absent on that day, the day is an absent day.~~

~~If a provider is closed on a cultural or religious holiday not identified in Minnesota Statutes, section 645.44, subdivision 5, a~~ A parent parentally responsible individual or provider may substitute ~~that~~ other cultural or religious holidays for ~~one of~~ the ten state and federal holidays identified in Minnesota Statutes, section 645.44, subdivision 5, if the parent ~~or~~ provider gives notice of the substitution to the ~~county~~ CCAP agency before the holiday occurs or within ten days after the holiday. If a holiday falls on a Saturday, the preceding day shall be a holiday. If a holiday falls on a Sunday, the following day shall be a holiday. If care is available on the holiday and the child is scheduled and authorized to be in care, but the child is absent on that day, the day must be billed as an absent day.

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

F. Children with documented medical conditions may exceed the 25 absent days limit, or ten consecutive full-day absent limit, as outlined under Minnesota Statutes, section 119B.13, subdivision 7, paragraph b. The following criteria apply:

(1) Documentation of the medical condition must be completed by a medical practitioner, a public health nurse or a school nurse. For purposes of this item, medical practitioner includes physician, physician's assistant, nurse practitioner, psychiatrist, psychologist, or chiropractor.

(2) If a child care provider sends a child home early from care due to a medical reason, documentation of the medical condition may be verified by a child care center director, child care center assistance director, certified license-exempt child care center administrator, or child care center lead teacher. When the medical reason is verified by the child care provider, the exemption is limited to up to two weeks from the start date of the illness. In order for the exemption to be extended beyond two weeks, documentation must be completed by a professional outlined in clause (1).

3) The exemption may begin on the start date of the illness, but not more than 30 days prior to the date documentation is received by the CCAP agency. When documentation is submitted by a medical practitioner, public health nurse, or school nurse, the exemption may be approved for the time-period of the condition or for up to 12 months if the exemption is due to a chronic medical condition.

Subp. 10. **Payment during medical leaves of absence.** ~~Counties~~ CCAP agencies must grant child care assistance during a ~~parent's~~ schedule reporter's medical leave of absence from education, ~~or~~ employment or activities in an employment plan if:

A. the ~~parent~~ parentally responsible individual is ~~incapable~~ unable to provide or providing child care ~~during~~ due to the medical condition leave or absence;

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

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

The amount of child care authorized during the medical leave of absence must not exceed ~~the equivalent of one month of full time~~ 215 hours of child care per child.

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

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

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

Published Electronically: *October 29, 2008*

3400.0120 ELIGIBLE PROVIDERS AND PROVIDER REQUIREMENTS.

Subpart 1. **Eligible providers.**

A. Registered providers who meet the definition of provider in Minnesota Statutes, section 119B.011, subdivision 19, are eligible for payment from the child care fund. ~~Within the limitations specified in Minnesota Statutes, sections 119B.09, subdivision 5, and 119B.25,~~

B. Parents may choose eligible child care providers that best meet the needs of their family within the following limitations: ~~Parents may choose more than one provider. A county may not deny a parent eligible for child care assistance the use of a provider holding a valid child care license.~~

1. Licensed family and legal nonlicensed child care providers and their employees are not eligible to receive child care subsidies for their own children or children in their family during the hours they are providing care or being paid to provide child care under Minnesota Statutes, section 119B.09, subdivision 9;
2. A licensed center or a certified license-exempt center can have no more than 25 center employees' children or dependents, as defined in part 3400.0020, subpart 10b, authorized per child care center under Minnesota Statutes, section 119B.09, subdivision 9a;
3. A licensed center, a licensed family provider, or a certified license exempt center cannot be authorized to care for a child who is currently using two

Commented [LA49]: This change aligns medical professionals across the two policies of unable to care and medical leaves of absence.

providers paid under the child care fund, as described in Minnesota Statutes, section 119B.097.

C. CCAP agencies and the commissioner may take action against a child care provider under Minnesota Statutes, section 119B.13, subdivision 6, paragraph d, clauses 1-7. CCAP agencies must indicate in their child care fund plan which clause(s) they implement and must apply the policies consistently. For the purposes of implementing Minnesota Statutes, section 119B.13, subdivision 6, paragraph e, CCAP agencies and the commissioner must (1) develop standards to define when a condition has been corrected and (2) define consequences to the provider within the three month time period when a provider's payment may be withheld. If the CCAP agency or the commissioner develops standards for escalating consequences within the three month time period, any violation established by a CCAP agency or the commissioner is treated as a statewide occurrence. If the provider's registration is terminated, the provider must complete the registration process under Minnesota Statutes, section 119B.011, subdivision 19a, and be determined eligible in order to receive child care assistance payments again.

Subp. 1a. **Provider registration and acknowledgment.** All providers must sign and submit a provider registration and acknowledgment ~~and the county must have a signed provider acknowledgment~~ before the provider or parent may receive payment under the child care fund. The provider ~~registration and~~ acknowledgment must include the following information:

A. the provider's rate, charges for child absences and holidays, any notice days required before a child discontinues care, and any required registration ~~or activity~~ fees;

B. documentation of the provider's license status and, if the provider is seeking a higher rate for quality based on accreditation or credential, ~~the provider accreditation rate bonus, any documentation of the accreditation or credential held by the provider;~~

C. a statement acknowledging that charging child care assistance participants more than families not receiving child care assistance for like services or wrongfully obtaining child care assistance will be investigated and may be a crime;

D. a statement acknowledging that parents must be given unlimited access to their children and to the provider caring for the children during all hours that the children are in the provider's care;

E. a statement acknowledging that the provider is responsible for notifying the ~~county~~ CCAP agency as provided in subpart 5 of child absence days, reduction in attendance, and the end of care;

F. a statement acknowledging that the provider is responsible for immediately notifying the ~~county~~ CCAP agency of any changes to the information supplied by the provider in the provider's acknowledgment;

G. a statement acknowledging that the provider is a mandated reporter of maltreatment of minors under Minnesota Statutes, section 626.556; ~~and~~

H. a statement acknowledging that when the ~~county~~ CCAP agency knows that a

Commented [LA(50): Added to include the provider reporting requirement of when a child attendance falls to less than half of the authorized hours or days for a four week period.

particular provider or child care arrangement is unsafe, the ~~county~~ CCAP agency may deny child care assistance payments to that provider regardless of termination notice requirements under Minnesota Rules, part 3400.0185, subpart 5-;

I. a statement acknowledging that the provider is responsible for maintaining daily attendance record keeping requirements according to the standards under Minnesota Statutes, section 119B.125, subdivision 6;

J. a statement acknowledging that the provider is responsible for maintaining documentation of payment of child care expenses by a source other than the family according to the standards under Minnesota Statutes, section 119B.09, subdivision 11;

K. a statement acknowledging that if the provider is paid more from the child care fund than they should have received, the money overpaid will be deducted from payments according to the standards under Minnesota Rules, part 3400.0187; and

L. a statement acknowledging that it is against the law to bill for a holiday unless the provider is closed for the holiday, the child is scheduled to be in care, and the provider correctly indicates the holiday when billing.

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

Subp. 1c. Registration of licensed centers, licensed family providers, and certified license exempt centers. To be registered, a licensed center, a licensed family provider, and a certified license exempt center must provide the following information:

- A. the provider registration and acknowledgement required by subpart 1a;
- B. completed request for taxpayer identification number and certification when a provider is being registered for the first time or registered after the provider's registration has closed; and
- C. an acknowledgement that it is against the law to bill for absent days unless the child is absent for all scheduled hours that day and the provider correctly indicates the absent day when billing.

Subp. 1d. Licensed family volunteers and aids training requirements. In order for a licensed family provider to receive payments from the child care fund, all volunteers and aids as defined under Minnesota Rules, part 9503.0034, must meet training requirements under

Subp. 2. **Authorization Registration of legal nonlicensed providers.**

A. A legal nonlicensed provider must be authorized by the county before the provider or parent may receive a payment under the child care fund. To be authorized registered by the county, a legal nonlicensed provider must provide the county with the following information:

- (1) the provider's name, age, and address;
- (2) the provider registration and acknowledgment required by subpart 1a;

Commented [LA(51): Placeholder:

This language is needed if laws do not pass for federal health and safety requirements compliance.

By placing this language in rule, it would have a more narrow scope by only applying to providers receiving CCAP. It is preferred this language be in statute because then it would cover all licensed providers, not just those receiving CCAP.

Commented [LA(52): Duplicate language of what is included in subpart 1a

(3) an assurance that the provider is eligible to provide unlicensed care under Minnesota Statutes, section 245A.03, subdivision 2, paragraph (a);

(4) a release to permit information on substantiated parental complaints concerning the health and safety of children in the provider's care to be disclosed to the public according to Minnesota Statutes, chapter 13;

(5) an assurance that the provider is in compliance with state and local health ordinances and building and fire codes applicable to the premises where child care is provided; ~~and~~

(6) an acknowledgment that the parent and the legal nonlicensed provider have reviewed the health and safety information provided during the registration process by the county;

(7) an acknowledgment that the legal nonlicensed provider must notify the CCAP agency when a child has died in the provider's care, when a child has been maltreated in the provider's care, and when a child has had a serious injury in the provider's care;

(8) an acknowledgment that the legal nonlicensed provider is not currently excluded or debarred from being a provider in any department program; and

(9) verification of training as required under subpart 6 and under Minnesota Statutes, section 119B.125, subdivision 1b.

B. Legal nonlicensed providers who will receive payment from the ~~county child care fund~~ must provide their ~~county with the provider's~~ Social Security or tax identification number. ~~The county may ask legal nonlicensed providers who will not receive payment from the county for their Social Security numbers; but legal nonlicensed providers who will not receive payment from the county are not required to disclose this information. Before asking for a legal nonlicensed provider's Social Security number, the county must tell the~~ The legal nonlicensed provider must be informed whether that disclosure is mandatory or voluntary, by what statutory or other authority the number is solicited, and how the number will be used.

C. Legal nonlicensed ~~family~~ child care providers ~~also~~ must ~~provide the county with an assurance~~ assure that the provider will obtain an immunization record for each child in the provider's care within ~~90~~ 30 days of starting to care for the child.

Subp. 2a. **Release for in-home providers.** ~~To be authorized, a~~ An in-home provider must be registered and sign a release allowing the parent employing that provider to see information on the remittance advice about the amount of any funds being withheld from the payment for the provider and the reason for those withholdings. An in-home provider may be a legal nonlicensed child care provider or a provider licensed to provide care in the child's home.

Subp. 3. **Parental access to children in care.** Providers must ~~permit~~ give parents unlimited access to their children and to the provider caring for their children during all hours the children are in the provider's care ~~of the provider.~~

Subp. 4. [Repealed, 26 SR 253]

Subp. 5. ~~Notice to county required when care has terminated~~ **Provider reporting requirements.** In addition to reporting requirements outlined in Minnesota Statutes, section 119B.125, subdivision 9, when a provider knows that a family has ended care with the provider, the provider must immediately notify the county CCAP agency that care has been terminated. When a provider believes that a family will be ending care with the provider, the provider must immediately notify the county CCAP agency of the date on which the provider believes the family will end care. A provider must also immediately notify the county CCAP agency if a child or children have been absent for more than seven consecutive scheduled days. Notwithstanding the reporting requirements in Minnesota Statutes, section 119B.125, subdivision 9, a provider may notify the CCAP agency by reporting the change including, but not limited to, in person, by telephone, by facsimile, by mail, electronically, or by reporting the change when billing.

Subp. 6. Legal nonlicensed provider training requirements.

A. In addition to training requirements in Minnesota Statutes, section 119B.125, subdivision 1b, a legal nonlicensed child care provider must complete training in the following areas:

- (1) Preventing sudden unexpected infant death syndrome before receiving an authorization to care for a child under one year of age.
- (2) Preventing abusive head trauma before receiving an authorization for care for a child under five years of age.
- (3) Federal health and safety requirements training approved by the commissioner within 90 days of being issued an authorization for a child not meeting the definition of related to the provider under part 3400.0020, subpart 37a. If a provider does not complete the training within 90 days of being issued an authorization for an unrelated child, authorizations for unrelated children must end with a 15-day adverse action notice. If the provider later completes the training, authorizations for unrelated children can be approved effective the training completion date as allowed under Minnesota Statutes, section 119B.13, subdivision 6c and section 119B.09, subdivision 7.

B. At each registration renewal, a legal nonlicensed provider caring for an unrelated child must have training in the following:

- (1) Current pediatric first aid.
- (2) Current pediatric cardiopulmonary resuscitation.
- (3) Federal health and safety requirements training authorized by the commissioner completed within the last 12 months.

C. A legal nonlicensed provider must attest all required training has been completed and verification must be provided.

Subp. 7. **Legal nonlicensed provider capacity limits.** A legal nonlicensed provider is eligible for payment through the child care fund for up to six children. The six children must

Commented [LA(53)]: It is a federal requirement that there are ratios for LNL providers. DHS would like stakeholder input on the number of children.

meet one of the following criteria:

- A. related to the provider as defined under part 3400.0020, subpart 38a,
- B. unrelated to the provider from a single family, or
- C. related to the provider as defined under part 3400.0020, subpart 38a and unrelated to the provider from a single family.

Subp. 8. Legal nonlicensed provider health and safety requirements.

- A. Legal nonlicensed providers must comply with federally required health and safety requirements, including preventing and controlling infectious disease, administering medication, preventing and responding to allergic reactions, ensuring building and physical premise safety, handling and disposal of bodily fluids, transporting children, preventing and reporting child abuse and neglect, emergency preparedness and response, child development, and training requirements outlined in subpart 6.
- B. Legal nonlicensed providers must develop an emergency preparedness plan and make available to the CCAP agency upon request. The provider must be given 15 calendar days to submit an emergency preparedness plan, if requested. If a provider fails to make their emergency preparedness plan available to the CCAP agency, the provider's registration must be closed with a 15-day adverse action notice.

Subp. 9. Legal nonlicensed provider annual monitoring.

- A. Any legal nonlicensed provider who is authorized to care for an unrelated child must have an initial annual monitoring visit completed within 12 months of care being authorized. The annual monitoring visit includes evaluating the care environment and determining if the provider meets the health and safety requirements under subpart 8.
- B. After the initial monitoring visit, subsequent annual monitoring visits must occur within 12 months of the initial visit for care of an unrelated child to continue. If authorization of care for an unrelated child ends and a new authorization is later issued for an unrelated child, the annual monitoring visit must be completed within 12 months of the previous visit or within 90 days from the date the authorization of care was issued, whichever is later.
- C. Monitoring visit result summaries must be publically posted.
- D. If the legal nonlicensed provider does not demonstrate full compliance with the health and safety requirements under subpart 8 but compliance can be demonstrated by submitting additional written information, the CCAP agency must allow 15 calendar days for the provider to submit the additional information. If written information establishing compliance is not received, the CCAP agency must close the provider's registration and all service authorizations with a 15-day adverse action notice.
- E. If the legal nonlicensed provider is out of compliance with at least one factor that cannot be demonstrated by submitting additional written information, the CCAP agency must close the provider's registration and all service authorizations with a 15-day adverse action notice.

- F. If a legal nonlicensed provider's registration is closed for not demonstrating compliance with the annual monitoring visit, the conditions under which the provider is able to receive child care assistance payments in the future must be identified in the CCAP agency's child care fund plan.
- G. If the legal nonlicensed provider is not available for the scheduled annual monitoring visit, the CCAP agency must allow 15 calendar days for the provider to reschedule. If the provider is not available for the rescheduled visit, authorizations for unrelated children must be closed with a 15-day adverse action notice. Once an annual monitoring visit is complete, care is able to be authorized for unrelated children effective the date the visit is complete.
- H. If the annual monitoring visit reveals unsafe care as defined in the CCAP agency's child care fund plan, the provider's registration and all service authorizations must be closed with a 15-day adverse action notice.
- I. If the annual monitoring visit reveals imminent risk as defined in the CCAP agency's child care fund plan, the provider's registration and all service authorizations must be closed immediately regardless of termination notice requirements under part 3400.0185, subpart 5.

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

History: *14 SR 519; 18 SR 1144; L 1999 c 205 art 5 s 21; 26 SR 253; 33 SR 695*

Published Electronically: *October 29, 2008*

3400.0130 CHILD CARE ASSISTANCE PROGRAM MAXIMUM PROVIDER RATES.

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

Subp. 1a. **Maximum ~~county~~ child care assistance rate.** Except as provided in this part, the maximum rate that a CCAP agency ~~county~~ may pay for child care assistance is the provider's rate or the applicable maximum rate determined by the commissioner under Minnesota Statutes, section 119B.13, whichever is less. When child care is provided in Minnesota, the maximum rate must be based on the county, or city when applicable, where care is provided. When child care is provided outside the state of Minnesota, the maximum rate must be based on the participant's county of residence. ~~Except as provided in this part, if the provider's rate is more than the applicable maximum rate, the county may not pay more than the difference between the applicable maximum rate and the family's copayment fee.~~

Commented [BBK(54): Clarified the title to mean maximum rates paid by CCAP. Current title could be misinterpreted to mean rates charged by child care providers.

Commented [BBK(55): Removed use of "county" maximum rates as there are now city maximum rates used in limited circumstances.

Subp. 1b. Provider charges and registration fees that exceed the maximum child care payment. The CCAP agency must not pay more than the applicable maximum rate and registration fee. In addition to any copayment, the family is responsible for:

Commented [LA(56)]: Language from subpart 1a and 3400.0100, 2b and 2c added here.

A. the difference between the applicable maximum rate and the provider rate;

B. any charges that exceed the allowable CCAP payment under 3400.0110, subp. 3a;

C. the difference between the applicable maximum registration fee and the provider registration fee when the registration fee is not included in the provider charge;

D. the provider registration fee when two registration fees have been paid per child by child care assistance in a 12-month period; and

E. any other fees not included in the provider charge.

A third party is allowed under Minnesota Statutes 119B.09, subd. 11 to pay part or all of a family's child care expenses.

Subp. 2. **Rate determination for certified license-exempt centers.** Rates paid to certified license-exempt centers as defined in Minnesota Statutes, section ~~245A.03, subdivision 2~~ 245H.01, subdivision 5, must be the applicable maximum rate for licensed child care centers or the provider rate, whichever is less.

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

~~Subp. 3. **Rate determination for special needs due to disability or inclusion in an at-risk population; children with special needs.** A CCAP agency county must submit a request to pay a special needs rate for a child with a disability or for a provider caring for children included in an at-risk population to the commissioner. Requests are evaluated using the commissioner's methodology. Approved special needs rates may be lower than the requested rates. The request must be submitted with or as an amendment to the county child care fund plan. Upon written approval by the commissioner, the approved special needs rate must be paid retroactive to the date of the provider or parent request for the special needs rate, as allowed under Minnesota Statutes, section 119B.13, subdivision 6 and Minnesota Statutes, section 119B.09, subdivision 7.~~

Commented [BBK(57)]: The purpose of this subpart is to allow higher rates to be paid for children with disabilities and children in at-risk populations. Moved all other info pertaining only to children with a disability to Subp 3a.

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

A. obtain documentary evidence of the child's disability;

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

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

(2) the provider's assurance of compliance with applicable provisions of the

Americans with Disabilities Act;

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

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

- C. seek the commissioner's approval of the special needs rate as provided in subpart 3. Upon written approval by the commissioner, the approved special needs rate must be paid retroactive to the date of the provider or parent request for the special needs rate, as allowed under Minnesota Statutes, section 119B.13, subdivision 6 and Minnesota Statutes, section 119B.09, subdivision 7 Special needs rate approvals must not exceed 12 months. If a special needs rate is requested for longer than 12 months, then a renewal of the special needs rate is required by the end of the 12 months; and-
- D. notify the provider and parent of the commissioner's decision in writing including the reasons for approval or denial.

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

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

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

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

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

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

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

~~D. identify the 75th percentile rate if the CCAP agency county finds that four or more providers offer child care for children in the at-risk population and pay the 75th percentile rate;~~

~~the rate negotiated with the provider by the CCAP agency county, or the provider's rate, whichever is less;~~

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

- C. seek the commissioner's approval of the special rate as provided in subpart 3. The request for the commissioner's approval must be submitted with or as an amendment to the CCAP agency's child care fund plan. Upon written approval by the commissioner, the approved special needs rate may be paid retroactive to the date of the provider or parent request for the special needs rate, as allowed under Minnesota Statutes, section 119B.13, subdivision 6 and Minnesota Statutes, section 119B.09, subdivision 7.

Subp. 4. [Repealed, 26 SR 253]

Subp. 5. Age categories. Child care rate. ~~Child care payments shall be based on the applicable maximum rates in the county where care is provided when the care is provided in Minnesota. When child care is provided outside the state of Minnesota, the maximum rate must be based on the applicable maximum rate in the participant's county of residence. If a child remains in an age-based child care setting beyond the age at which the licensing laws would allow that child to move to a different age-based child care setting and 1) the child's age is within the range allowed by the licensing laws for that age-based child care setting, or 2) the child is in that age-based child care setting due to a licensing variance, the maximum rate paid for that child's care must be the rate for the age-based child care setting in which the child is located. All changes to provider rates shall be implemented on the Monday following the effective date of the rate change. Maximum rates vary by the age of the child and the type of provider caring for the child based on the following criteria.~~

- A. The age category of a child cared for by a licensed family child care provider is based on Minnesota Statutes, section 245A.02, subd. 19. The age categories for legal nonlicensed child care follow licensed family child care age categories.
- B. The age category of a child cared for by a licensed child care center is based on Minnesota Rules, part 9503.0005, subpart 2.
- C. The age category of a child cared for by a certified license exempt child care center is based on Minnesota Statutes, section 245H.08, subdivisions 4 and 5.
- D. A CCAP agency may be notified by a parent or a provider that a child's setting or age category differs from the applicable age category under paragraphs A and B. This paragraph does not apply to legal nonlicensed providers or certified license exempt centers. If the child attends a licensed provider, the maximum rate paid for that child's care must be based on the different age category when:
- (1) the child meets the age criteria to qualify for the licensing provision for age flexibility for licensed centers, or
 - (2) a licensing variance is granted to the child's licensed center or licensed family child care provider.
- E. A child is considered to be in the school-age rate category on the September 1 following the child's fifth birthday unless the parent informs the county CCAP

Commented [BBK(58): Eliminate c, d, e as these practices are no longer used.

Commented [BBK(59): Language moved to subpart 1a.

Commented [BBK(60): This statement is also in statute at 119B.13, subd 1, paragraph (h). There is additional guidance in statute at 119B, subd. 1 paragraph (a) regarding effective dates of changes to maximum rates. This language is duplicative and is no longer needed in rule.

agency that the child will not be starting school.

Subp. 5a. **Rates for in-home care.** When care is provided in the child's home as allowed under Minnesota Statutes, section 119B.09, subd. 13, the applicable maximum rate must be based on the allowable rate for a legal nonlicensed provider-family child care. If a provider is licensed to provide care in the child's home, the applicable maximum rate must be based on the allowable rate for a licensed provider.

Subp. 6. [Repealed, 26 SR 253]

Subp. 7. **Payment of registration fees.** If a provider charges families a registration fee to enroll children in the program and the registration fee is not included in the provider rate, the CCAP agency county shall must pay the provider registration fee up to the applicable maximum registration fee determined by the commissioner under Minnesota Statutes, section 119B.13 75th percentile of the registration fees surveyed in subpart 1, whichever is less. The CCAP agency county may must not pay for more than two registrations per child in a 12-month period.

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

Subp. 9. [Repealed, 26 SR 253]

Subp. 10. [Repealed, 26 SR 253]

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

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

Published Electronically: *February 18, 2013*

3400.0140 COUNTY RESPONSIBILITIES OF CCAP AGENCIES.

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

Subp. 2. **Child care assistance information.** The ~~county~~ CCAP agency shall must provide information on child care assistance to families, child care service providers, social service agencies, and the local news media as it deems necessary to ensure the full use of its child care fund allocation.

Subp. 3. [Repealed, 26 SR 253]

Subp. 4. **Determination Registration of eligible providers eligible for payments.** The county's process for approving registering providers eligible for payments under the child care fund may not exceed 30 calendar days, or 45 calendar days with the approval of the applicant, from the date the registration materials were provided child care application is approved, the date the child care provider is selected by the applicant, or, the date the county received the results of the background investigation required by Minnesota Statutes, section 119B.125, subdivision 2, whichever is later. Reimbursement for child care expenses must be made according to the date of eligibility established in part 3400.0040, subpart 6c. Through February 25, 2021, if the county CCAP agency or commissioner determines that a provider chosen by an applicant or recipient is not eligible to receive child care payments under the child care fund, the applicant or recipient may appeal the county's CCAP agency's or commissioner's determination under part 3400.0230. On or after February 26, 2021, an applicant or recipient does not have a right to a fair hearing if a CCAP agency or the commissioner takes action against a provider.

Subp. 5. Additional information for legal nonlicensed providers.

- A. At registration, the county shall CCAP agency must provide each authorized legal nonlicensed family child care provider health and safety material supplied by the department and shall must refer the provider to the child care resources and referral agency.
- B. The county CCAP agency must tell the provider the county CCAP agency is required to keep a record of substantiated parental complaints concerning the health and safety of children in the care of legal nonlicensed providers and that, upon request, information governing substantiated complaints shall be released to the public as authorized under Minnesota Statutes, chapter 13.

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

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

- A. the county's or tribe's child protection agency if the complaint alleges child maltreatment as defined in Minnesota Statutes, section 626.556, subdivision 10e;
- B. the county's or tribe's public health agency if the complaint alleges a danger to public health due to communicable disease, unsafe water supply, sewage or waste disposal, or building structures;
- C. local law enforcement if the complaint alleges criminal activity that may endanger the health or safety of children under care; or
- D. other agencies with jurisdiction to investigate complaints relating to the health and safety of a child.

If a complaint is substantiated under item A, the county CCAP agency must keep a record of the substantiated complaint as provided in Minnesota Statutes, section 626.556. If a complaint is substantiated under items B to D, the county CCAP agency must keep a record of the substantiated complaint for three years. Upon request, information governing substantiated complaints shall be released to the public as authorized under Minnesota Statutes, chapter 13. Upon receiving notice of a substantiated complaint under items A to D, the county CCAP agency

shall must determine if the complaint meets their imminent risk or unsafe care criteria as outlined in their CCAP agency's child care fund plan. The CCAP agency must not make subsequent payments to that provider from the child care fund for child care services provided beyond the termination notice date under part 3400.0185, subpart 13, by that provider unless the conditions underlying the substantiated complaint have been corrected. The provider must complete the registration process under Minnesota Statutes, 119B.011, subdivision 19a, and be determined eligible if their registration is terminated in order to receive child care assistance again.

Subp. 7. **County and tribal contracts and designation of administering agency.** Counties and tribes may contract for the administration of all or part of the child care fund. The county or tribe ~~shall~~ must designate the agency authorized to administer the child care fund in the county's or tribe's child care fund plan. ~~The county or tribe must describe in its child care fund plan how it will oversee the contractor's performance~~ submit a copy of the current contract with the administering agency, outlining the administering agency's responsibilities.

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

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

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

Subp. 10. **Eligibility priorities for beginning assistance.** If a ~~county's~~ CCAP agency's basic sliding fee program allocation for child care is insufficient to fund all applications for child care assistance, the ~~county~~ CCAP agency may prioritize eligibility among the groups that remain to be served after the ~~county~~ CCAP agency has complied with the priority requirements ~~set forth~~ in Minnesota Statutes, section 119B.03, subdivision 4. The ~~county~~ CCAP agency ~~shall~~ must include its rationale for the prioritization of eligibility ~~for beginning assistance~~ in its ~~biennial~~ child care fund plan. To the extent of available allocations, no eligible family may be excluded from receiving child care assistance.

Subp. 11. [Repealed, 26 SR 253]

Subp. 12. [Repealed, 26 SR 253]

Subp. 13. [Repealed, 26 SR 253]

Subp. 14. **Child care fund reports Reporting requirements.** ~~Counties~~ CCAP agencies must submit financial, ~~and~~ program activity and provider reports according to instructions and schedules that the commissioner establishes after considering such factors as the department's need to receive ~~county~~ data in a manner and on a schedule that meets ~~federal~~ reporting deadlines and the ~~counties'~~ CCAP agencies' need for lead time when changes in reporting requirements occur.

Subp. 15. [Repealed, 26 SR 253]

Subp. 16. [Repealed, 26 SR 253]

Subp. 17. [Repealed, 26 SR 253]

Subp. 18. [Repealed, 26 SR 253]

Subp. 19. [Repealed, 33 SR 695]

Subp. 20. [Repealed, 26 SR 253]

3400.0150 CHILD CARE FUND PLAN.

Subpart 1. **Submittal of plan.** By the date established by the commissioner, the county or tribe ~~shall~~ must submit to the commissioner a ~~biennial~~ child care fund plan according to the time frame outlined in Minnesota Statutes, chapter 119B.08, subdivision 3. The commissioner may require updates of information in the plan as necessary to comply with this chapter, applicable Minnesota Statutes, sections 119B.011 to 119B.16, and federal laws and regulations.

Commented [LA61]: "County or tribe" is being used throughout this part instead of "CCAP agency" because subcontracted agencies don't submit plans.

Subp. 2. **Plan content.** The plan must contain a complete description of the county's or tribe's child care assistance program for applicants and participants eligible for assistance under Minnesota Statutes, chapter 119B. The plan must include the information required by Minnesota Statutes, section 119B.08, subdivision 3; the information required by this chapter; and all county and tribal developed ~~written~~ forms, policies, and procedures used to administer the child care funds. The plan must describe how it serves persons with limited English proficiency, as required by title VI of the Civil Rights Act of 1964, United States Code, title 42, sections 2000, et seq. The information in the plan must be in the form prescribed by the commissioner ~~and must include a description of the process used to assure that the information, forms, and notices about child care assistance are accurate, clearly written, and understandable to the intended recipient.~~

Subp. 3 **Plan approval.** The county or tribe must submit to the commissioner a complete plan for approval. The plan must comply with Minnesota Statutes, chapter 119B, Minnesota Rules, part 3400, and federal law. The county or tribe must receive written approval from the commissioner once the plan is approved in accordance with the time frames established in Minnesota Statutes, section 119B.08, subdivision 3. The plan must include information on how the county or tribe makes the approved plan available to the public.

Subp. ~~3~~ 4. **Plan amendments.**

A ~~A~~ county or tribe may submit a written request to amend its child care fund plan at any time but the amendment must be approved by the commissioner before it becomes effective. If approved by the commissioner, the amendment is effective on the date requested by the county

or tribe unless a different effective date is set by the commissioner. Plan amendments must be approved or disapproved by the commissioner within 60 days after receipt of the amendment request. The county or tribe must include the approved amendment when making the approved plan available to the public.

B. The department may direct a county or tribe to amend its child care fund plan if the plan is no longer in compliance in with Minnesota Statutes, Minnesota Rules, or federal law. The amendment is effective on the date determined by the commissioner. The county or tribe must include the approved amendment when making the approved plan available to the public.

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

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

Published Electronically: *October 29, 2008*

3400.0170 INCOME ELIGIBILITY FOR CHILD CARE ASSISTANCE.

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

Subp. 1a. **Income limits.** Income limits vary for applicants, participants and child care assistance subprograms under Minnesota Statute 119B.09, subd. 1.

- A. To be income eligible at application, a family's gross annual income after allowable deductions under subp. 6a must be at or below:
- 1) 47 percent of State Median Income, adjusted for family size, for Basic Sliding Fee child care assistance or Student Parents under 119B.011, subd. 19b;
 - 2) 67 percent of State Median Income, adjusted for family size, for MFIP or DWP child care assistance;
 - 3) 47 percent of State Median Income, adjusted for family size, for Transition Year child care assistance if the family is not receiving MFIP or DWP child care assistance. If the family's MFIP or DWP grant is closing and they are receiving MFIP or DWP child care assistance, the family is considered a participant and is subject to the income limits in paragraphs B and C.
- B. To be income eligible at redetermination, a family's gross annual income after

allowable deductions must be at or below 67 percent of State Median Income, adjusted for family size. This limit applies to all participants regardless of subprogram.

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

D. A family receiving CCAP who becomes temporarily ineligible under 3400.0040, subp. 17 is considered a participant and is subject to the income limits in paragraphs B and C when temporary ineligibility ends. A family on the Basic Sliding Fee waiting list who reaches the top of the waiting list but is temporarily ineligible under 3400.0040, subp. 17 is considered a Basic Sliding Fee applicant and is subject to the income limit in paragraph A, clause (1).

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

F. If a family becomes ineligible while receiving child care assistance, the family's assistance ends. If child care assistance is needed in the future, they are considered an applicant and are subject to the income limits in paragraph A.

Subp. 2. [Repealed, 26 SR 253]

Subp. 3. **Evaluation of income.** The ~~administering~~ CCAP agency ~~must shall~~ determine income received or available to a family according to subparts 4 to 11. ~~All income, unless specifically excluded in subpart 6, must be counted as income.~~

Commented [BBK(62): The approach to counting income used in 119B.011 and 256P make this statement obsolete.

Subp. 4. **Determination of gross annual income.** The income standard for determining eligibility for child care assistance is a family's gross annual income. A family's gross Annual income is the sum of each family member's counted income sources under Minnesota Statutes, section 119B.011, subd. 15 and section 256P.01, subdivisions 3 and 8, including earned income, self-employment income, unearned income, and lump sum payments; which must be treated according to subpart 13. Negative self-employment income must be included in the determination of a family's gross annual income, resulting in a reduction in total gross annual income. Lump sum payments received prior to CCAP participation are not included in total gross annual income. A CCAP participant who received a lump sum payment prior to their eligibility ending who reapplies during the original lump sum annualization period will have the lump sum payment counted through the end of the original annualization period. Earned income, self-employment income, unearned income, and lump sum payments must be calculated separately.

Subp. 4a. **Individuals with exempt income.** Certain individuals in a CCAP family are exempt from having some or all of their income counted.

A. Individuals under Minnesota Statutes 256P.06, subd. 2, paragraph (a) are exempt

from having their earned income counted.

- B.** Designated new spouses under Minnesota Statutes 256P.06, subd. 2, paragraph (c) are exempt from having their earned and unearned income counted when their family's income prior to the exemption does not exceed 67% of State Median Income and their marriage date is verified. If the family meets these requirements, the designated spouse's earned and unearned income stops counting two service periods after the marriage date verification is received and continues to not count for up to 26 service periods.

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

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

Subp. 6a. **Deductions from gross annual income.** The following items must be deducted from a family's gross annual income:

- A. child or spousal support paid to or on behalf of a person or persons who live outside of the household; ~~and~~
- B. funds used to pay for health, ~~and~~ dental and vision insurance premiums for family members- which are not reimbursed by Medical Assistance, and,
- C. expenditures necessary to secure payment of unearned income.

Subp. 7. Earned income from self-employment. In determining a family's gross annual income for purposes of eligibility under this part, the ~~administering~~ CCAP agency shall determine earned income from self-employment.

- A.** Earned income from self-employment is the difference between gross receipts and ~~authorized~~ self-employment expenses which must ~~may~~ not include expenses under subpart 8.

- 1) Gross receipts and self-employment expenses must be documented with business records including but not limited to chart of accounts, books, ledgers or tax schedules.
- 2) The CCAP agency must allow a family in the start-up phase of self-employment to submit a self-attestation verifying income if financial documentation is unavailable or insufficient to accurately predict self-employment income. This method is allowed at application, redetermination or during the 12 month eligibility period. The CCAP agency may assess an overpayment under Minnesota Statutes, section 119B.011, subdivision 2a and part 3400.0187 if it is later determined that the estimated income did not reflect the family's actual income

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

- C.** If the person's business is a partnership or a corporation and that person is drawing a salary, the salary shall be treated as earned income under subpart 5.

Commented [LA(63)]: Self-employment language in rule is based on current policy. Currently, there are larger discussions regarding legislative changes which would supersede anything in rule.

Subp. 8. **Self-employment deductions which are not allowed.** In determining eligibility under this part, self-employment expenses must be subtracted from gross receipts. ~~For purposes of this subpart, the document in items I to K is incorporated by reference. It is available through the Minitex interlibrary loan system. It is subject to frequent change. If the document in items I to K is amended, and if the amendments are incorporated by reference or otherwise made a part of state or federal law applicable to self-employment deductions, then the amendments to the document are also incorporated by reference into this subpart.~~ However, the expenses listed in items A to P shall not be subtracted from gross receipts:

- A. purchases of capital assets;
- B. payments on the principal of loans for capital assets;
- C. depreciation;
- D. amortization;
- E. the costs of building an inventory, until the time of sale;
- F. transportation costs that exceed the amount allowed for use of a personal car in the United States Internal Revenue Code;
- G. the cost of transportation between the individual's home and his or her place of employment;
- H. wages and salaries paid to and other employment deductions made for members of a family for whom an employer is legally responsible, provided family income is only counted once;
- ~~I. monthly expenses for each roomer greater than the flat rate deduction listed in the current Combined Program Manual issued by the Department of Human Services;~~
- ~~J. monthly expenses for each boarder greater than the flat rate deduction listed in the current Combined Program Manual issued by the Department of Human Services;~~
- ~~K. monthly expenses for each roomer boarder greater than the flat rate deduction listed in the current Combined Program Manual issued by the Department of Human Services;~~
- ~~L. annual expenses greater than two percent of the estimated market value on a county tax assessment form as a deduction for upkeep and repair against rental income;~~
- M. expenses not allowed by the United States Internal Revenue Code for self-employment income, unless specifically authorized in this chapter;
- N. federal, state, and local income taxes;
- O. employer's own share of FICA; and
- P. money set aside for the self-employed person's own retirement.

Subp. 9. **Self-employment budget period.** Gross receipts from self-employment must be budgeted in the month in which they are received. Expenses must be budgeted against gross

Commented [BBK(64): SNAP policies around expenses for roomers and boarders has changed. The flat rate deduction no longer exists and there is no longer a limit on the amount of expenses allowed. Because all expenses are allowed by SNAP now (as long as they are considered reasonable), the items which establish a limit are being deleted and would keep CCAP aligned with the SNAP policy.

Commented [BBK(65): Cash and SNAP no longer limit the amount of expenses allowed for upkeep and repairs. Removing to align with these programs. The IRS has limits on what is allowed as repairs.

receipts in the month the expenses are paid except for items A to C.

A. The purchase cost of inventory items, including materials that are processed or manufactured, must be deducted as an expense at the time payment is received for the sale of those inventory items, processed materials, or manufactured items, regardless of when those costs are incurred or paid.

B. Expenses to cover employee FICA, employee tax withholding, sales tax withholding, employee worker's compensation, employee unemployment compensation, business insurance, property rental, property taxes, and other costs that are commonly paid at least annually, but less often than monthly, must be prorated forward as deductions from gross receipts over the period they are intended to cover, beginning with the month in which the payment for these items is made.

C. Gross receipts from self-employment may be prorated forward to equal the period of time over which the expenses were incurred. However, gross receipts must not be prorated over a period that exceeds 12 months. This provision applies only when gross receipts are not received monthly but expenses are incurred on an ongoing monthly basis.

Subp. 10. **Determination of farm income.** Farm income must be determined for a one-year period. Farm income is gross receipts minus operating expenses, except for expenses listed in subpart 8. Gross receipts include, but are not limited to, sales, rents, subsidies, farm related insurance payments, soil conservation payments, production derived from livestock, and income from the sale of home-produced foods.

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

A. Income from rental property is considered self-employment earnings when the owner spends an average of 20 or more hours per week on maintenance or management of the property. ~~The administering CCAP agency shall deduct an amount for upkeep and repairs according to subpart 8, item L, for real estate taxes, insurance, utilities, and interest on principal payments.~~

B. When a family lives on the rental property, the ~~administering CCAP~~ agency shall divide the allowable expenses described in this subpart ~~for upkeep, taxes, insurance, utilities, and interest~~ by the number of units to determine the expense per unit. The ~~administering CCAP~~ agency shall deduct expenses from rental income only for the number of units rented, not for units occupied by family members.

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

D. The ~~expenses deductions~~ described in this subpart are subtracted from gross rental receipts regardless of whether the rental income is considered earned or unearned income. The allowable expenses include:

1. Real estate tax.

Commented [BBK(66)]: Moved the allowed expenses to paragraph D.

2. Insurance,
3. Utilities,
4. Interest,
5. Upkeep and repairs,
6. Tax return preparation fees,
7. License fees, franchise fees, professional fees and professional dues,
8. Advertising,
9. Postage,
10. Attorney fees allowed by the Internal Revenue Code, and
11. Payments on the principal of the purchase price of income-producing real estate.

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

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

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

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

Published Electronically: *October 9, 2017*

3400.0175 EXTENDED ELIGIBILITY NEW PART

Subpart 1. Three month extended eligibility period. Extended eligibility allows a period of continued eligibility for families as allowed under Minnesota Statutes, section 119B.105. Extended eligibility is used for situations outlined in section 119B.105, subdivision 1, paragraph b and for the following situation:

(1) an MFIP or DWP participant has a permanent end to employment, education or other activity in an Employment Plan, and, after consulting with the job counselor it is determined the parent is not participating in another activity,

(2) an MFIP or DWP participant is sanctioned for not participating in all Employment Plan activities and is not participating in authorized activities outside of an Employment Plan,

(3) a parent's MFIP or DWP ends and the parent is not in an employment, education or training activity outside of an employment plan,

(4) a parent's MFIP or DWP ends and the parent's participation in an activity is unknown.

(5) a parent's unable to care status has expired in a two parent household.

Subp. 2. Permanent and temporary ends in activity.

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

B) If a parentally responsible individual has a temporary end in activity that later becomes a permanent end, the change must be reported. The extended eligibility period begins the date the change became permanent.

C) If a parentally individual has more than one activity, extended eligibility is available when it is reported that all activities ended permanently.

Subp. 3. Requirements at the end of extended eligibility.

A) At the end of the extended eligibility period, the parent must be participating in an authorized activity for eligibility to continue to the next redetermination according to the following criteria:

(1) if the activity is employment, the parent does not have to meet minimum work requirements until redetermination, or

(2) if the activity is education, the education activity must meet the criteria in the CCAP agency's child care fund plan.

B) If the parent is not participating in an authorized activity at the end of the extended eligibility period, the CCAP agency must end eligibility.

C) A parent in a two-parent household on extended eligibility because their unable to care status under part 3400.0040, subpart 5 expired, must re-verify their unable to care status or start an authorized activity by the end of their extended eligibility period.

Subp. 4. Extended eligibility at application or redetermination. Extended eligibility is not available at application or redetermination. A parent that met eligibility requirements at application or redetermination and had a permanent activity end after the application date or redetermination due date is eligible for extended eligibility. A family eligible for MFIP, DWP or transition year child care who requests retroactive care is not eligible for extended eligibility during the retroactive period.

Subp. 5. New authorizations during extended eligibility. If a child without an authorization requires care, the number of hours authorized is based on the number of hours authorized for other children in the household. If no children are currently authorized, new

authorizations are based on the number of hours the family would have been eligible for prior to the start of the extended eligibility period.

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

A) If a parent reports starting a new activity prior to the end of their extended eligibility period, the family moves out of extended eligibility and continues to be eligible. The following applies:

(1) Employment activities are not subject to the minimum work requirements under section 119B.10.

(2) Education activities outside of an employment plan must meet the education criteria in the CCAP agency's child care fund plan and be approved before moving the family out of extended eligibility. If the education plan is approved after the end of the extended eligibility period but before the end of the 12 month eligibility period, care can be authorized and paid back to the date the extended eligibility period ended.

B) If a parent does not report their new activity until after the end of their extended eligibility period but verifies their new activity started by the end of their extended eligibility period, care can be authorized and paid back to the date the extended eligibility period ended.

3400.0180 REDETERMINATION OF ELIGIBILITY.

A. Subpart 1. Redetermination timeframe. ~~The county CCAP agency must redetermine each participating family's eligibility at least every six months under the timeline in Minnesota Statutes, section 119B.025, subdivision 3. With prior department approval, the CCAP agency may establish criteria to extend redetermination due dates beyond the timeframe in Minnesota Statutes, section 119B.025, subdivision 3. Redeterminations may be deferred to the end of the academic school year for families where at least one parent meets the criteria under Minnesota Statutes, section 119B.025, subdivision 3, paragraph (c), clause (3). For purposes of this subpart, the end of the academic school year is defined as August 31. The county must redetermine the eligibility of families in the start up phase of self employment without an approved employment plan more frequently than once every six months if existing documentation is insufficient to accurately predict self employment income. If a family reports a change in an eligibility factor before the family's next regularly scheduled redetermination, the county must recalculate eligibility without requiring verification of any eligibility factor that did not change.~~

B. Subp. 2. Redetermination process. ~~The county CCAP agency must not treat a redetermination of eligibility as a new application for child care assistance. The participant must submit a signed and complete redetermination form and is responsible for must providing documentary evidence verification of continued eligibility under subpart 3.~~

Subp. 3. Verification requirements.

A. At redetermination, a family must verify:

- (1) Income, if counted under Minnesota Statutes, section 256P, for all members of the family, including members temporarily absent from the household as defined in part 3400.0020, subpart 40a;
- (2) Work, education or training activity status for each parent as defined in Minnesota Statutes, section 119B.011, subdivision 2;
- (3) Residence, if the CCAP agency does not have verification of the family's current address;
- (4) Changes in family size not verified since the last eligibility determination;
- (5) Changes in family status not verified since the last eligibility determination;
- (6) Cooperation with child support enforcement under Minnesota Statutes, section 119B.09, subdivision 1, clause (c);
- (7) Assets that exceed 1 million dollars; and
- (8) Changes in child's citizenship or immigration status not verified since the last eligibility determination for all children for whom child care assistance is being sought if child care is provided in a setting not subject to public education standards.

B. At redetermination, a family may verify:

- (1) Income deductions as allowed under part 3400.0170. Expenses not verified at time of redetermination are not allowed as a deduction; and
- (2) School status of students age 6 and over with earned income. If a student's school status is not verified, the student's earned income must be counted under Minnesota Statutes, section 256P.09, subdivision 2.

C. For care to be authorized at redetermination, a family must:

- (1) Verify the work, education or training schedule for each parent;
- (2) Provide the school schedule for each child who needs child care and attends school if there is a change in the schedule or school attended since the last eligibility determination; and
- (3) Verify changes in the citizenship and immigration status not verified since the last eligibility determination of all children for whom child care assistance is being sought if child care is provided in a setting not subject to public education standards.

D. The CCAP agency must verify any inconsistent information if related to the family's eligibility.

C. Subp. 4. **Eligibility determination.** At redetermination, the family must meet all applicable requirements under Minnesota Statutes, section 119B and Minnesota Rules, part 3400 to continue receiving child care assistance. The CCAP agency must approve the family's eligibility when a signed and complete redetermination and verifications indicate the family is currently eligible. If redetermination establishes determines that a family is

ineligible for further child care assistance, the ~~county~~ CCAP agency shall ~~must~~ terminate the child care assistance as provided in part 3400.0185.

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

A. The CCAP agency must determine if information received at redetermination indicates the family met reporting requirements in part 3400.0040, subpart 4 during the 12 month eligibility period. If the family did not meet reporting requirements, the CCAP agency must determine if any unreported changes impacted eligibility or authorization in the previous 12-month eligibility period as a separate process from approving the redetermination.

B. If the family received more benefits than they were eligible for during the 12 month eligibility period, an overpayment must be assessed under Minnesota Statutes, section 119B.11, subdivision 2a and part 3400.0187.

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

A. If a family reported an income change during the 12 month eligibility period that did not require verification and the income ends prior to the redetermination, the CCAP agency must not require verification of that income.

~~D. B. If~~ When a family timely reports the information required by part 3400.0040, subpart 4, and the CCAP agency acts timely on that information, and redetermination results in a decrease establishes a need for a change in the amount of the family's child care assistance, the amount of child care assistance paid to the family between the date the change was reported and the first date that the new child care assistance payment would be effective if the county properly implemented the change does not constitute is not an overpayment.

Subp 7. Changes in authorized hours. If redetermination results in an increase in the number of hours authorized for a child, the increase in hours is effective on the first day of the service period after the redetermination is approved. Authorized hours may also increase for service periods prior to the date the redetermination was approved when the family verifies a need for additional hours. If redetermination results in a decrease in the number of hours authorized for a child, the decrease in hours is effective on the first day of the service period following the 15-day notice period.

Subp. 8. Copayment changes. If redetermination results in a change in the family's At redetermination, the copayment, revisions shall must be calculated according to Minnesota Statutes, section 119B.12, part 3400.0100. When a change in income affects increases the amount of a participant's the copayment, the new copayment amount is effective on the first day of the service period following the 15-day notice period. When a change in income decreases the amount of the copayment, the new copayment is effective on the first day of the service period after the redetermination is approved.

Subp. 9. **Temporary breaks in activity at redetermination.** At redetermination, all families must meet minimum activity requirements under Minnesota Statutes, section 119B.10. If a parent meets all eligibility requirements and reports a temporary break from their activity and provides verification of expectation to return to that activity, the CCAP agency must suspend the case following the 15-day notice period. If a parent meets all eligibility requirements and reports a temporary break from their activity but does not provide verification of expectation to return to that activity, the CCAP agency must place the case in temporary ineligible status following the 15-day notice period.

3400.0183 TERMINATION OF CHILD CARE ASSISTANCE.

Subpart 1. Conditions for termination of child care assistance.

A. A ~~CCAP agency county~~ may terminate child care assistance for families already receiving assistance when the ~~CCAP agency county~~ receives: (1) a revised allocation from the child care fund that is smaller than the allocation stated in the notice sent to the county ~~or tribe~~ under part ~~3400.0030~~ 3400.0060, subpart 2; and (2) such short notice of a change in its allocation that the county ~~or tribe~~ could not have absorbed the difference in the allocation. The ~~CCAP agency county~~ must consult with and obtain approval from the commissioner before terminating assistance under this subpart.

Commented [LA(67)]: 3400.0030 was repealed and content put into 3400.0060, subpart 2

B. If the conditions described in paragraph (a) of this subpart occur, the ~~CCAP agency county~~ must ~~county may~~ terminate assistance to families in the order of last on, first off. When funds become available, ~~CCAP agencies counties~~ must reinstate families that remain eligible for child care assistance and whose child care assistance was terminated due to insufficient funds before the ~~CCAP agency county~~ accepts new applications. Those families whose child care assistance was most recently terminated due to insufficient funds ~~must shall~~ be reinstated first.

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

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

~~A:~~ (1) when the family asks the ~~county~~ CCAP agency to do so;

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

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

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

(1) Income exceeds 85 percent of state median income.

(2) Assets exceed 1 million dollars.

(3) Extended eligibility period ends and the parent has no authorized activity.

(4) All available job search hours outside of an employment plan have been used and the parent has no authorized activity.

(5) The family copayment has not been paid.

(6) The family moves out of state.

(7) There are no eligible children in the household.

(8) The only parent in the household has been temporarily absent for more than 60 days and the parent is not in an authorized activity or the extended eligibility period has ended.

(9) The family's temporary ineligibility period has expired.

(10) The family's one year suspension period has expired.

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

(1) Income exceeds 67 percent of state median income.

(2) Assets exceed 1 million dollars.

(3) The family is not in an eligible activity that meets any applicable minimum participation requirements.

(4) The family is not cooperating with child support.

(5) The redetermination form and all required eligibility verifications are not received by the last day of the redetermination period.

(6) The family's temporary ineligibility period has expired.

(7) The family's one year suspension period has expired.

Subp. 3. [Repealed, 33 SR 695]

Subp. 4. [Repealed, 33 SR 695]

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

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

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

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

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

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

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

History: *26 SR 253; 33 SR 695* **Published Electronically:** *October 29, 2008*

3400.0185 ~~TERMINATION AND ADVERSE ACTIONS~~; NOTICE REQUIREMENTS REQUIRED.

Subpart 1. ~~Notice of termination of child care assistance to participants.~~

~~A. The county must notify a participant in writing of the termination of child care assistance. The notice must include the following information:~~

~~(1) the date the termination is effective;~~

~~(2) the reason or reasons why assistance is being terminated;~~

~~(3) the statute, rule, or county child care fund plan provision that supports termination of assistance;~~

~~(4) the participant's right to appeal the termination and the procedure for doing so; and~~

~~(5) when the participant appeals the proposed action before the effective date of termination, the participant may choose:~~

~~(a) to receive benefits while the appeal is pending, subject to recovery if the termination is upheld; or~~

~~(b) to not receive benefits while the appeal is pending and to receive reimbursement for documented eligible child care expenditures made or incurred pending appeal if the termination is reversed.~~

~~B. If child care assistance under part 3400.0060 is being terminated because a participant has moved to another county, the notice also must state that to continue receiving child care assistance under part 3400.0060 from the new county, the participant must apply for child care assistance in the new county within 60 days of the move.~~

~~C. The notice must be mailed to the participant's last known address at least 15 calendar days before terminating assistance.~~

~~D. If the participant's child care assistance is terminated under part 3400.0183, subpart 2, item A, and, before the effective date of termination, the participant asks the county to continue child care assistance, the termination must not take effect. If the participant's child~~

care assistance is terminated under part 3400.0183, subpart 2, item B, and, before the effective date of termination, the participant reestablishes eligibility for child care assistance, the termination must not take effect.

Subp. 2. Notice of termination of child care assistance to providers.

~~A. When a family's child care assistance is terminated, the county must send the family's child care provider a notice containing only the following information:~~

- ~~(1) the family's name;~~
- ~~(2) that child care assistance for the family has been terminated;~~
- ~~(3) the effective date of the termination; and~~

~~(4) that child care payments will no longer be made effective on the date of termination, unless the family asks to continue receiving assistance pending an appeal. The notice to a provider must not contain information on why payments will no longer be made.~~

~~B. When a family stops using a provider but continues to receive assistance, the county must send the provider a notice containing the following information:~~

- ~~(1) the family's name;~~
- ~~(2) that the family has decided to stop using that provider;~~
- ~~(3) the effective date that child care assistance payments will end; and~~
- ~~(4) that child care payments will no longer be made effective on the date of termination.~~

~~C. This item applies to participants using a provider licensed by the state of Minnesota. Except in cases where the provider's license has been temporarily immediately suspended under Minnesota Statutes, section 245A.07, the county must mail the notice to the participant at least 15 calendar days before terminating payment to the provider. When the provider's license has been temporarily immediately suspended under Minnesota Statutes, section 245A.07, the county must send a notice of termination to the provider that is effective on the date of the temporary immediate suspension.~~

~~D. This item applies to participants using a legal nonlicensed provider, license exempt center, or provider licensed by an entity other than the state of Minnesota. Except in cases where there is an imminent risk of harm to the health, safety, or rights of a child in care, the county must mail the notice to the provider at least 15 calendar days before terminating payment to the provider. In cases where there is an imminent risk of harm to the health, safety, or rights of a child in care, the county must send a notice of termination that is effective on the date of the notice. Whether there is an imminent risk of harm is determined by the county that authorized the provider for the family.~~

Subp. 3. Notice to participants of adverse actions.

~~A. The county must give a participant written notice of any action adversely affecting the participant.~~

~~B. The notice must include the following information:~~

~~C. a description of the adverse action~~

- ~~(1) the effective date of the adverse action;~~
- ~~(2) the reason or reasons why the adverse action is being taken~~
- ~~(3) the statute, rule or county child care fund plan provision that supports the adverse action~~
- ~~(4) that the participant has the right to appeal the adverse action and the procedure for doing so;~~
and

~~(5) that if the participant appeals the adverse action before the effective date of the action, the participant may choose:~~

~~(a) to continue receiving the same level of benefits while the appeal is pending, subject to recoupment or recovery if the adverse action is upheld; or~~

~~(b) to receive the level of benefits indicated by the adverse action while the appeal is pending and to receive reimbursement for documented eligible child care expenditures made or incurred pending appeal if the adverse action is reversed.~~

~~D. The notice must be mailed to the participant's last known address at least 15 calendar days before the effective date of the adverse action.~~

~~E. If the participant corrects the condition requiring an adverse action before the effective date of the adverse action, the adverse action must not take effect.~~

~~Subp. 4. **Notice to providers of actions adverse to families.** The county must give a provider written notice of the following actions adverse to families: a reduction in the hours of authorized care and an increase in the family's copayment. The notice must include only the following information:~~

~~A. the family's name;~~

~~B. a description of the adverse action that does not contain any information about why the action was taken;~~

~~C. the effective date of the adverse action; and~~

~~D. a statement that unless the family appeals the adverse action before the effective date, the adverse action will occur on the effective date. The notice must be mailed to the provider at least 15 calendar days before the effective date of the adverse action.~~

Subp. 5. Notice to providers of actions adverse to the provider. The county must give a provider written notice of the following actions adverse to the provider: a denial of authorization, a termination of authorization, a reduction in the number of hours of care with that provider, and a determination that the provider has an overpayment. The notice must include the following information:

A. a description of the adverse action;

B. the effective date of the adverse action; and

C. a statement that unless a family appeals the adverse action before the effective date or the provider appeals the overpayment determination, the adverse action will occur on the

Commented [LA(68)]: Subpart 5 is being repealed effective 2/26/21 due to MN Stat 119B.16, subd. 1c. No changes, no reorganization.

effective date. The notice must be mailed to the provider at least 15 calendar days before the effective date of the adverse action.

Subp 6. Notice of eligibility approval to the family. The CCAP agency must notify a family in writing of the approval of eligibility. The approval notice must include the following:

- A. the beginning date of eligibility;
- B. the family's gross annual income as determined under part 3400.0170;
- C. once a child care provider is selected by the family and eligible to receive payment from the child care assistance fund, the provider and the family will receive a notice with the hours of care authorized and the maximum rate that may be paid;
- D. the copayment amount including how and when the copayment must be made;
- E. the family's responsibility for paying provider charges that exceed maximum child care payments in addition to the copayment;
- F. reporting requirements under part 3400.0040, subpart 4;
- G. except in cases where the license of a provider licensed by the state of Minnesota has been temporarily immediately suspended or where there is an imminent risk of harm to the health, safety, or rights of a child in care with a legal nonlicensed provider, certified license exempt center, or a provider licensed by an entity other than the state of Minnesota, any change in provider must be reported to the CCAP agency and the provider at least 15 calendar days before the change occurs;
- H. the overpayment implications for the family if the changes described in items F and G are not reported as required; and
- I. when child care assistance eligibility is terminated, the participant will be informed of the reason for the termination and the participant's appeal rights and the provider will be informed that, unless the family asks to continue to receive assistance pending an appeal, child care payments will no longer be made.

Subp. 7. Notice of eligibility denial to the family. The CCAP agency must notify a family in writing of the denial of eligibility. The denial notice must include the following:

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

Subp. 8. Notice of authorization to families. The CCAP agency must notify a family in writing when a family's care is authorized with a provider meeting the criteria under part 3400.0120, subpart 1. The authorization notice must include the following:

Commented [LA(69)]: From 3400.0035, subpart 5

Commented [LA(70)]: All notice text has been placed into 3400.0185 and organized with the intent of being more chronological:

- Eligibility
- Authorization
- Adverse actions
- Termination

Commented [LA(71)]: From 3400.0035, subpart 4

- A. the family's name;
- B. the fact that the family's request for child care assistance has been approved;
- C. the number of hours of care authorized per service period;
- D. the maximum rate that may be paid under the child care assistance fund;
- E. the number of absent days that have been paid for the child for the year as of the date of the notice; and
- F. the amount of the family's copayment.

Subp. 9. **Notice of authorization to provider.** The CCAP agency must notify a provider in writing when a family's eligibility has been approved and care is authorized with a provider meeting the criteria under part 3400.0120, subpart 1. The authorization notice must include the following:

- G. the family's name;
- H. the fact that the family's request for child care assistance has been approved;
- I. the number of hours of care authorized per service period;
- J. the maximum rate that may be paid under the child care assistance fund;
- K. the number of absent days that have been paid for the child for the year as of the date of the notice;
- L. how payments will be made; and
- M. the amount of the family's copayment.

Subp. 310 **Notice to ~~participants~~ families of adverse actions.**

- A. The ~~county~~ CCAP agency must give a participant written notice of any action adversely affecting the participant.
- B. The notice must include the following information:
 - (1) a description of the adverse action;
 - (2) the effective date of the adverse action;
 - (3) the reason or reasons why the adverse action is being taken;
 - (4) the provision in statute, rule, or ~~county~~ CCAP agency's child care fund plan provision that supports the adverse action;
 - (5) that the participant has the right to appeal the adverse action and the procedure for doing so; and
 - (6) that if the participant appeals the adverse action before the effective date of the action, the participant may choose:

- (a) to continue receiving the same level of benefits while the appeal is pending, subject to recoupment or recovery if the adverse action is upheld; or
- (b) to receive the level of benefits indicated by the adverse action while the appeal is pending ~~and to receive reimbursement for documented eligible child care expenditures made or incurred pending appeal if the adverse action is reversed.~~

- C. The notice must be mailed to the participant's last known address at least 15 calendar days before the effective date of the adverse action.
- D. If the participant corrects the condition requiring an adverse action before the effective date of the adverse action, the adverse action must not take effect.

Subp. ~~411~~ **Notice to providers of actions adverse to families.** The ~~county~~ CCAP agency must give a provider written notice of the following actions adverse to families: a reduction in the hours of authorized care and an increase in the family's copayment. The notice must be mailed to the provider at least 15 calendar days before the effective date of the adverse action and include only the following information:

Commented [LA(72)]: Previous 3400.0185, subpart 4

- A. the family's name;
- B. a description of the adverse action that does not contain any information about why the action was taken;
- C. the effective date of the adverse action; and
- D. a statement that unless the family appeals the adverse action before the effective date, the adverse action will occur on the effective date. ~~The notice must be mailed to the provider at least 15 calendar days before the effective date of the adverse action.~~

Subp. ~~412~~ **Notice of termination of child care assistance to participants**

Commented [LA(73)]: Previous 3400.0185, subpart 1

- A. The ~~county~~ CCAP agency must notify a participant in writing of the termination of child care assistance. The notice must include the following ~~information~~:
 - (1) the date the termination is effective;
 - (2) the reason or reasons why assistance is being terminated;
 - (3) the provision in statute, rule, or ~~county~~ the CCAP agency's child care fund plan ~~provision~~ that supports termination of assistance;
 - (4) the participant's right to appeal the termination and the procedure for doing so; and
 - (5) when the participant appeals the proposed action before the effective date of termination, the participant may choose:
 - ~~(a) to receive benefits while the appeal is pending, subject to recovery if the termination is upheld; or~~
 - ~~(b) to not receive benefits while the appeal is pending and to receive reimbursement for documented eligible child care expenditures made or~~

incurred pending appeal if the termination is reversed.

- B. ~~If child care assistance under part 3400.0060 is being terminated because a participant has moved to another county, the notice also must state that to continue receiving child care assistance under part 3400.0060 from the new county, the participant must apply for child care assistance in the new county within 60 days of the move.~~
- C. B. The notice must be mailed to the participant's last known address at least 15 calendar days before terminating assistance.
- D. C. If the participant's child care assistance is terminated under part 3400.0183, subpart 2, item A, and, before the effective date of termination, the participant asks the county CCAP agency to continue child care assistance, the termination must not take effect. If the participant's child care assistance is terminated under part 3400.0183, subpart 2, item B, and, before the effective date of termination, the participant reestablishes eligibility for child care assistance, the termination must not take effect.

Commented [LA(74): Language removed due to legislative portability pool changes.

Subp. 213. Notice of termination of child care assistance to providers.

Commented [LA(75): Previous 3400.0185, subpart 2

- A. ~~When a family's child care assistance is terminated, the county CCAP agency must send notify the family's child care provider in writing when the family's child care assistance has been terminated. ~~#The termination notice must be mailed to the provider at least 15 calendar days before the effective date and only include containing only the following information:~~
 - (1) the family's name;
 - (2) that child care assistance for the family has been terminated;
 - (3) the effective date of the termination; and
 - (4) that child care payments will no longer be made for care provided after effective on the date of termination, unless the family asks to continue receiving assistance pending an appeal. ~~The notice to a provider must not contain information on why payments will no longer be made.~~~~
- B. ~~When a family stops using a provider but continues to receive assistance, the county CCAP agency must notify ~~send the~~ the family's child care provider in writing when a family stops using the provider. ~~#The termination notice must be mailed to the provider at least 15 calendar days before the effective date and must containing include the following information:~~
 - (1) the family's name;
 - (2) that the family has decided to stop using that provider;
 - (3) the effective date that the child care assistance authorization payments will end; and
 - (4) that child care payments will no longer be made for care provided after effective on~~

Commented [LA(76): In the intro statement of A, it states that the notice can "only include the following information." Removing statement of what the notices cannot contain.

the date of termination.

- C. This item applies to participants using a provider licensed by the state of Minnesota. Except in cases where the provider's license has been temporarily immediately suspended under Minnesota Statutes, section 245A.07, the county CCAP agency must mail the notice to the participant at least 15 calendar days before terminating payment to the provider. When the provider's license has been temporarily immediately suspended under Minnesota Statutes, section 245A.07, the county CCAP agency must send a notice of termination to the provider that is effective on the date of the temporary immediate suspension.
- D. This item applies to participants using a legal nonlicensed provider, certified license exempt center, or provider licensed by an entity other than the state of Minnesota. Except in cases where there is an imminent risk of harm to the health, safety, or rights of a child in care, the county CCAP agency must mail the notice to the provider at least 15 calendar days before terminating payment to the provider. In cases where there is an imminent risk of harm to the health, safety, or rights of a child in care, the county CCAP agency must send a notice of termination to the provider that is effective on the date of the notice. ~~Whether there is an~~ The CCAP agency outlines conditions recognized as presenting imminent risk of harm is determined by the county in the CCAP agency's child care fund plan that authorized the provider for the family.

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

History: *26 SR 253; 33 SR 695*

Published Electronically: *October 29, 2008*

3400.0187 RECOUPMENT AND RECOVERY OF OVERPAYMENTS.

~~Subpart 1. **State recovery of overpayments.** The commissioner must recover from counties any state or federal money that was spent for persons found to be ineligible for child care assistance, except as provided in Minnesota Statutes, section 119B.11, subdivision 3.~~

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

Subp. 2. **Notice of overpayment.** The county CCAP agency or commissioner must notify the person or persons assigned responsibility for the overpayment of the overpayment in writing. A notice of overpayment must specify the reason for the overpayment, the time period in which the overpayment occurred, the amount of the overpayment, and the right to appeal the county's CCAP agency's or commissioner's overpayment determination. No limit applies to the period in which the CCAP agency is required to recoup or recover an overpayment.

~~Subp. 3. **Redetermination of eligibility.** When a county discovers that a family has received an overpayment, the county must immediately redetermine the family's eligibility for child care assistance.~~

Commented [LA(77): Adds no additional content from what is currently in [MN Stat 119B.11, subd. 3](#) - repeal

Subp. 4. **Recoupment of overpayments from participants.** ~~If the redetermination of eligibility indicates the family remains eligible for child care assistance, the county CCAP agency or commissioner~~ must recoup the overpayment from participants by reducing the amount of assistance paid to or on behalf of the family for every service period at the rates in item A, B, C, or D until the overpayment debt is retired.

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

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

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

D. When a family has an overpayment due to a violation of Minnesota Statutes, section 256.98, subdivision 1, as established by a court conviction, a court-ordered stay of conviction with probationary or other terms, a disqualification agreement, a pretrial diversion, or an administrative disqualification hearing or waiver, the recoupment amount equals the greater of:

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

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

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

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

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

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

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

Subp. 5. [Repealed, 33 SR 695]

Subp. 6. **Recoupment of overpayments from providers.** If the provider continues to receive child care assistance payments, the ~~county~~ CCAP agency or commissioner must recoup the overpayment by reducing the amount of assistance paid to the provider for every payment at the rates in item A, B, or C until the overpayment debt is retired.

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

B. When a provider has an overpayment due to the provider's failure to provide accurate information, the recoupment amount is one-fourth the provider's payment or \$50, whichever is greater.

C. When a provider has an overpayment due to a violation of Minnesota Statutes, section 256.98, subdivision 1, as established by a court conviction, a court-ordered stay of conviction with probationary or other terms, a disqualification agreement, a pretrial diversion, ~~or an administrative disqualification hearing or waiver~~, the recoupment amount equals the greater of:

(1) one-half the provider's payment;

(2) ten percent of the overpayment; or

(3) \$100.

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

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

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

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

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

F. If a provider has more than one overpayment assessed for the same incident across multiple CCAP agencies, each overpayment must be assessed separately by each CCAP agency. Only one overpayment for the same incident must be recouped at a time according to the schedule specified in this subpart from the payment made to the provider for the service period, until the overpayment debt is retired. Any overpayment assessed for a different incident must be recouped simultaneously under item E.

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

History: *26 SR 253; 33 SR 695*

Published Electronically: *October 29, 2008*

3400.0200 PAYMENTS TO COUNTIES OF ADMINISTRATIVE FUNDS.

~~The commissioner shall make administrative funds payments to the counties on a monthly basis. The commissioner may certify an advance to the counties for the first quarter of the fiscal year or the first quarter of the allocation period. Subsequent payments made to the counties for administrative expenses shall be based on actual expenditures as reported by the counties in the financial and program activity report required under part 3400.0140, subpart 14.~~

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

History: *14 SR 519; 26 SR 253; 33 SR 695*

Published Electronically: *October 29, 2008*

3400.0220 AUDIT EXCEPTIONS.

~~The commissioner shall recover from counties state or federal money spent for child care that is ineligible under this chapter. 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.~~

Statutory Authority: *MS s [119B.02](#); [256H.01](#) to [256H.19](#)*

Commented [LA(78): This prevents overpayments from being recouped at a higher rate than what is specified in this subpart.

Commented [LA(79): Repeal this whole part. The following references in Statute cover the information.

[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.

[119B.08, 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.

Commented [LA(80): Actual expenditures is not correct – based on direct service expenditures.

Commented [LA(81): Repeal the entire part. Language is found in statute. Duplicative in rule and not needed.

[119B.11, 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.

History: 14 SR 519; 26 SR 253

Published Electronically: October 29, 2008

3400.0230 RIGHT TO FAIR HEARING.

Subpart 1. [Repealed, 33 SR 695]

Subp. 2. [Repealed, 33 SR 695]

Subp. 3. **Child care payments when a family requests a fair hearing is requested.**

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

B. If the commissioner finds on appeal that child care assistance should have been terminated or the amount of benefits reduced, the ~~county~~ CCAP agency must immediately send a notice of termination or reduction in benefits ~~effective the date of the notice~~ to the family and the child care provider and determine if an overpayment needs to be assessed according to Minnesota Statutes, section 119B.11, subdivision 2a.

C. A participant may appeal the termination of child care assistance and choose not to receive child care assistance pending the appeal. If the commissioner finds on appeal that child care assistance should not have been terminated, the ~~county~~ CCAP agency must reinstate ~~reimburse~~ the participant's eligibility back to the date of termination and issue payments allowed under Minnesota Statutes, chapter 119B, to an eligible provider under part 3400.0120, subpart 1, for documented eligible child care expenditures made or incurred pending the appeal.

Subp. 4. Child care payments when a provider requests a fair hearing or an administrative disqualification hearing.

A. Through February 25, 2021, if a child care provider timely appeals the assignment of responsibility for and the amount of an overpayment assessed under Minnesota Statutes, Chapter 119B, or a sanction under Minnesota Statutes, section 245E.06, or an administrative disqualification under Minnesota Statutes, section 256.046, subdivision 3, the adverse action must not take effect until the conclusion of the fair hearing. A provider assessed an overpayment who agrees to recoupment standards under part 3400.0187, cannot request recovery of the overpayment to stop pending the appeal.

B. On or after February 26, 2021, if a provider requests a fair hearing or an administrative disqualification hearing before the effective date of termination or adverse action, the termination or adverse action must not be taken until the conclusion of the hearing, unless:

1) The provider is appealing the assignment of responsibility, amount, or recovery of an overpayment; or

Commented [LA82]: 15 day notice will still be provided. Edits made to reflect that a notice must be sent immediately.

Commented [LA83]: Subparts 4 and 5 address statute changes effective 2/26/21 regarding provider appeal rights.

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

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

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

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

1) The provider must complete the registration process under Minnesota Statutes, section 119B.011, subdivision 19a; and.

2) The CCAP agency or commissioner must reimburse the provider for documented eligible child care expenditures made or incurred pending the appeal for dates of service when the provider was authorized and the provider billed in accordance with Minnesota Statutes, section 119B.13, subdivision 6, paragraphs (a) through (c).

Subp. 5. Child care payments when a provider requests an administrative review.

A. On or after February 26, 2021, if a provider requests an administrative review under Minnesota Statutes, section 119B.161, payments will be stopped during the administrative review.

B. On or after February 26, 2021, if the commissioner finds good cause exists under Minnesota Statutes, section 119B.161, subdivision 4 not to deny, revoke, or suspend a provider's authorization, or not to continue a denial, revocation, or suspension of a provider's authorization:

1) The provider must complete the registration process under Minnesota Statutes, section 119B.011, subdivision 19a; and

2) The CCAP agency or commissioner must reimburse the provider for documented eligible child care expenditures made or incurred pending the appeal for dates of service when the provider was authorized and the provider billed in accordance with Minnesota Statutes, section 119B.13, subdivision 6, paragraphs (a) through (c).

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

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

Published Electronically: *October 29, 200*

3400.0235 AT HOME INFANT CHILD CARE PROGRAM.

Subpart 1. **Purpose and applicability.** This part governs the administration of the at-home infant child care program. All provisions in parts 3400.0010 to 3400.0230 apply to the at-

Commented [LA84]: Repeal entire subpart. AHIC is not currently funded.

home infant child care program unless otherwise specified in this part or in Minnesota Statutes, section 119B.035.

~~Subp. 2. **Administration of at home infant child care program.** Within the limits of available funding the commissioner shall make payments for expenditures under the at home infant child care program. Participation in the statewide pool shall be determined based on the order in which requests are received from counties. Following the birth or arrival of an infant, counties shall submit family requests for participation in the at home infant child care program on forms provided by the commissioner. The commissioner shall respond within seven days to county inquiries about the availability of funds. The commissioner shall monitor the use of the pool and if the available funding is obligated, the commissioner shall create a waiting list of at home infant child care referrals from the counties. As funds become available to the pool, the commissioner shall notify counties in which eligible families on the waiting list reside.~~

~~Subp. 3. **General eligibility requirements.** Items A to E govern eligibility for the at home infant child care program.~~

~~A. A family is eligible to receive assistance under the at home infant child care program if one parent provides full time care for the infant. The eligible parent must meet the requirements of Minnesota Statutes, section 119B.035, subdivision 3. The requirements of caring for the infant full time may be met by one or both parents. For purposes of this part, eligible parents include birth parents, adoptive parents, and stepparents. Nonfamily members may provide regular care for the child but are limited to a maximum of ten hours of care per week.~~

~~B. A family may apply for the at home infant child care program before the child is born or anytime during the infant's first year. The family must apply before the end of the infant's first year to receive an at home infant child care subsidy. Following the birth of a child, a family is eligible to receive a subsidy under the at home infant child care program according to the date of eligibility in Minnesota Statutes, section 119B.09, subdivision 7, and when funding is available. A family shall only receive subsidy payments through the infant's twelfth month. "Infant" means a child from birth through 12 months of age and includes adopted infants.~~

~~C. A family is limited to a lifetime total of 12 months of at home infant child care assistance. At the time of application to the program, the parent or parents must declare whether they have previously participated in the at home infant child care program. If the parent or parents declare that they have participated in the at home infant child care program, the commissioner shall, at the request of the county, inform the county of the remaining months of eligibility for the at home infant child care program.~~

~~D. At the time of application to the at home infant child care program, the family must meet the eligibility requirements in Minnesota Statutes, section 119B.035, subdivision 2, and be income eligible based on these activities. At the time of application to the at home infant child care program, a family who is not currently participating in the basic sliding fee program must provide verification of participation in an authorized activity within the nine months before the birth or expected arrival of the child.~~

~~E. During the period a family receives a subsidy under the at home infant child care program, the family is not eligible to receive basic sliding fee child care assistance for the infant or any other child in the family.~~

~~Subp. 4. **Continued eligibility under basic sliding fee program.** If families exiting the at home infant child care program request continued child care assistance and meet all eligibility~~

factors for the basic sliding fee program, the provisions in Minnesota Statutes, section 119B.035, subdivision 4, paragraph (c), apply.

Subp. 5. Assistance payments. Items A to C govern assistance payments under the at-home infant child care program.

A. The number of months of at-home infant child care participation used shall be credited to the eligible parents. If an eligible parent later forms a new family, the number of months of at-home infant child care subsidy received shall be subtracted from the maximum assistance available under this part.

B. There is no additional subsidy for infants with special needs or for multiple births. The county CCAP agency must subtract the family's copayment required by Minnesota Statutes, section 119B.12, to determine the final at-home infant child care subsidy for the family.

C. Family income shall be determined or redetermined at the time a family applies for the at-home infant child care program. Family income shall be annualized from the beginning of the month in which the family would first participate in the at-home infant child care program. Family income includes:

- (1) subsidy payments received as part of the at-home infant child care program;
- (2) income from vacation leave;
- (3) sick or temporary disability benefit payments; and
- (4) other income the family may receive as determined under part 3400.0170 and Minnesota Statutes, section 119B.011, subdivision 15.

Excluded income is defined in part 3400.0170, subpart 6, and Minnesota Statutes, section 119B.011, subdivision 15. The calculation of the family copayment fee is described in part 3400.0100.

D. For purposes of counting the number of months that a family has participated in the at-home infant child care program, any portion of a month in which a family receives a subsidy under the at-home infant child care program is considered a full month of participation in the at-home infant child care program.

For purposes of calculating the at-home infant child care program copayment and subsidy in the first service period, the county shall use the method described in part 3400.0100. In addition, the county shall prorate the subsidy received in the first and last service period of participation according to subitems (1) to (4).

- (1) If the family participates in the at-home infant child care program during the service period in which the infant is born or arrives in the home, the subsidy must be prorated to cover the number of calendar days from the date of birth or arrival until the end of the service period.
- (2) If the family participates in the at-home infant child care program during the service period of the infant's first birthday, the subsidy must be prorated to cover the number of calendar days from the beginning of the service period to the date of the infant's first birthday.
- (3) If the eligible parent leaves employment or another authorized activity in order to participate in the at-home infant child care program, the subsidy must be prorated to cover the number of calendar days from the date the eligible parent leaves the authorized activity to the end of the service period.
- (4) If the eligible parent returns to an authorized activity and will no longer be participating in the at-home infant child care program, the subsidy must be prorated to cover the number of calendar days from the beginning of the service

period to the date the parent returns to the authorized activity. If all other eligibility conditions are met, the family shall be eligible to receive basic sliding fee child care assistance beginning on the day the eligible parent returns to the authorized activity.

Subp. 6. County responsibilities. Items A to C govern county responsibilities for the program.

A. In addition to duties required under part ~~3400.0140~~, counties shall perform the following functions to administer the at-home infant child care program:

- (1) establish the subsidy amount;
- (2) determine an estimated length of time the family will participate;
- (3) determine availability of and encumber ongoing basic sliding fee funding if the family was participating in the basic sliding fee program before participating in the at-home infant child care program or has reached the top of the county's waiting list for the basic sliding fee program;
- (4) consult with the commissioner on the availability of funds;
- (5) forward applicant information as designated to the commissioner;
- (6) notify the commissioner when a family's participation in the at-home infant child care program ends.

B. During program participation, the county shall apply billing procedures established under Minnesota Statutes, chapter 119B, to issue the at-home infant child care subsidy to families.

C. When a family's participation in the at-home infant child care program ends, the county shall send the family and the commissioner a notice indicating the number of months the family participated in the at-home infant child care program in that county.

Subp. 7. [Repealed, 33 SR 695]