

<i>OCFS</i>	Department of Health and Human Services ACTION TRANSMITTAL
Early	1. Log number: DCCS-PI- CC-2010-02
Childhood	2. Issuance Date: 7/26/2010
Division	3. Originating Program: Child Care and Head Start
	4. Key: CCDF Subsidy Rules

Program Instruction

To: Child Care Voucher Management Program, Child Care Providers, Contracted Child Care Slots Agencies, Parents Receiving Subsidy, Other Interested Parties

References: Child Care and Development Fund 45 CFR Parts 98 and 99, July 1998 and Social Services Block Grant Program, Final Rule, 58 Fed. Reg. 218, 60117-60133 (November 15, 1993), (codified at 45 C.F.R. pt. 96, et al.).

Purpose: Revisions in Child Care Subsidy Rules

Effective Date: August 9, 2010

Background: The Child Care Subsidy Rules were adopted in October, 2009. Since this policy has been in effect, the Department has discovered unintentional discrepancies which need to be formally addressed. Changes to the policy are non-substantive and add benefits to parents and children. Changes will be listed in order of appearance in the manual. This Action Transmittal defines the issue and then provides the clarification of the policy.

Please retain this document and implement the changes regarding these areas.

- 1 The definition of “Educational Programs” is extended to give the State Administrator the ability to approve educational programs which may not be traditional but which follow the intent of the policy.

Policy with changes effective August 9, 2010

1.15 Educational Program means a program at an elementary or secondary educational institution, a program that provides for completion of a secondary diploma or GED, a vocational education program, or post-secondary undergraduate institution, or other educational or training programs approved by the State Administrator.

- 2 The definition of “Hobby” was redefined in the November, 2009 transmittal. However, the \$5,000 guideline left a gap between the requirement of working at least 20 hours and making minimum wage the self-employment criteria in Section 4.04.1 and a “Hobby”. This revision addresses that gap.

Policy with changes effective August 9, 2010

1.21 *Hobby* means an activity done for relaxation, and not for the purpose of meeting the basic daily living expenses of the individual. Activities generating income below of \$7740 (figured on the current minimum wage rate) per year shall be considered a hobby, excluding Partnerships and Corporations.

- 3 In order to provide more accountability regarding the safety of children as well aligning with the definition of a Legal, Unregulated Child Care Provider in Section 1.28, the Rules are clarified to indicate an In-home Child Care Provider can not care for more than 2 children who are unrelated to the provider, at one time.

Policy with changes effective August 9, 2010

1.24 *In-home Child Care Provider* means a Child Care Provider who is 18 years of age or older and cares for children within the child's home. The provider may be a relative, but not be a member of the child's Family or live in the child's home. In-home care is provided in a child's home by a Child Care Provider hired by the Parent and can not provide care for more than two (2) children who are unrelated to the provider. This type of care is not regulated by the State; however, for the purposes of Voucher payment, the Child Care Provider must meet the background check requirements and other health and safety requirements as set forth in 7.03

- 4 The definition of "Maine Resident" included an exception for homeless individuals. In alignment with other agencies, homeless applicants must provide letters from two individuals which affirm these people reside in this State.

Policy with changes effective August 9, 2010

1.29 *Maine Resident* means an applicant who has established Maine as a permanent home, the place where s/he intends to return after any period of absence. Maine residency, once established, continues until a new, fixed and permanent home is acquired. Documentation of Maine residency includes a Maine home address where the applicant lives and one or more of the following items: current Maine individual income tax return indicating Maine Resident status, valid Maine driver's license, current Maine motor vehicle registration, current Maine hunting/fishing license, proof of undergraduate Student instate tuition payment, and other reasonable verification. Exception: Homeless individuals must provide a self-declaration of residence and have two affidavits signed by two different individuals.

- 5 The definition of "Parenting Teen" did not recognize the continuing eligibility if the parenting teen decides to work in the summer between school years.

Policy with changes effective August 9, 2010

1.35 *Parenting Teen* means the Parent is less than 20 years of age, residing with his or her children and attending a secondary school or a GED equivalency program. Subsidy eligibility for these parenting teens also continues through the summer between school years should they choose to work or attend classes.

- 6 In the Rules, the ages of eligibility could be interpreted to include 13 year olds and 19 year olds with special needs. This has been refined for clarity.

Policy with changes effective August 9, 2010

3.02.1 In order to be eligible for Child Care Subsidy, children must be at least six (6) weeks of age and not reached their 13th birthday.

3.02.2 Children with special needs who have not reached their 19th birthday may be served if they are physically or mentally incapable of caring for themselves as diagnosed by a qualified professional or court ordered.

- 7 The Leave section of the Rules is revised and extended to include other leaves. The Maternity/Paternity Leave allowance in the current Rules was difficult for families to manage and may have been a disincentive to keeping their older children home during this leave time. The policy was amended to both support families and provide consistency in care.

The Policy now includes a period of time in which parents will not lose their eligibility or subsidy during times of medical distress.

The Job Search, which was originally found in Section 4.3, has been moved to this Section and clarified from 2 months to 8 weeks.

Policy with changes effective August 9, 2010

3.06 Parents on Maternity/Paternity Leave, Short-Term Medical Leave or Job Search for Active Recipients

3.06.1 Parents on Maternity/Paternity Leave

For one leave within a six (6) month period, the Department will pay for up to eight (8) weeks of child care in accordance with the current award letter for a child whose parent is on maternity or paternity leave, regardless of whether or not the child attends child care. This leave starts from the time of the birth of the new sibling. This leave time is separate time and is not counted against excused absences (Section 9.05.4).

Two weeks prior to the end of the leave, the parent must provide verification of returning to work to the Department by the end of the 8th week. Subsidy will not be paid beyond the eighth (8th) week if the verification is not submitted or if the parent does not return to work at that point.

3.06.2 Parents on Short-Term Medical Leave

For one leave within a six (6) month period, the Department will pay for up to eight (8) weeks of child care in accordance with the current award letter for a child whose parent is on short-term medical leave, regardless of whether or not the child attends child care. This leave coincides with the date of leave from employment. Medical documentation indicating the necessity of this leave must be received by the Department or the Contracted Slot Agency within 7 days of the leave being approved. This leave time is separate time and is not counted against excused absences (Section 9.05.4).

Two (2) weeks prior to the end of the leave, the parent must provide verification of returning to work to the Department by the end of the eighth (8th) week. Subsidy will not be paid beyond the 8th week if the verification is not submitted or if the parent does not return to work at that point.

3.06.3 Parents on Job-Search

For one job search within a six (6) month period, the Department will pay for up to eight (8) weeks of child care for current recipients who have lost work or who have completed school and are looking for work. This coverage starts at the time of the first day of unemployment. Parents must contact the

Department or the Contracted Slots Agency and complete a Job Search Request Form and request job search time. The Parent shall be granted up to 20 hours a week of subsidized child care. This leave time is separate time and is not counted against excused absences (Section 9.05.4).

- 8 Due to the Rules change in Section 1.21 regarding the definition of a hobby (mentioned in number 2 above), 4.04(b) is amended to coincide with this change.

Policy with changes effective August 9, 2010

4.04 Activity: Self-Employment

b. Hobby: an activity done for relaxation, and not for the purpose of meeting the basic daily living expenses of the individual. Activities generating income below \$7740 (based on current minimum wage, see 1.21) per year shall be considered a Hobby.

- 9 The Rules allow for a “launch” period for a new self-employment business. The intention of the policy is to allow families to receive subsidy while this business grows. The clarification added to this section allows each family no more than one launch period totaling 12 months.

Policy with changes effective August 9, 2010

4.05.4 Each applicant/family is eligible for no more than one (1) launch period, for a total of twelve months of subsidy.

- 10 The definition of “Web Based and/or Correspondence Learning” did not address when a parent takes some web based classes and traditional classes. The Rules are amended to include a combination of web based courses and onsite courses can be recognized together if they equal 12 or more credits.

Policy with changes effective August 9, 2010

4.06.1 Web Based and/or Correspondence Learning

When Parents are involved in educational web-based or correspondence learning from accredited universities or colleges or an Educational Program, Child Care Subsidy can only be approved if the class is offered only at a regularly scheduled time (i.e., 11:00 every Monday and Wednesday), and the child(ren) in need of care are under the age of six, and there is not another Parent in the home available to take care of the child(ren), and the Parent is enrolled in at least 6 credits per semester. Subsidy may be approved if the Parent must leave the home to have access to a computer or the Parent is enrolled in 12 credits per semester of web-based courses that do not meet at a regularly scheduled time, or a combination of web-based courses and onsite courses in which the combined credit total is 12 credits or more per semester.

- 11 Originally added in the November, 2009 Action Transmittal, the determination of eligibility in a two-parent home allowed for one parent who is not working or attending an educational program to be declared medically unable to care for the children. In accordance with federal practices, this provision is now amended to require the parent with a disability to be receiving or be applying for Social Security – Disability or through MaineCare’s Medical Review Team. If the applicant is not currently receiving these benefits, they will have a 6 month grace period to obtain this documentation. If the verification of a disability is not in place at the end of the grace period, subsidy will be terminated. The Rules are amended to add this change.

Policy with changes effective August 9, 2010

4.08 One Parent with a Disability

In a two-parent home, if one parent has a documented (medical documentation) disability which renders him/her unable to care for the child(ren) and unable to work, and the other parent is working or attending an educational program, the child(ren) will be eligible for subsidy, provided the family meets the financial eligibility requirements. If the documentation does not include information from the Social Security Administration (SSA) or MaineCare's Medical Review Team (MRT) indicating a disability, the parent will have six (6) months to obtain verification of the disability through SSA or MRT. Parents who fail to provide this documentation upon the completion of six (6) months shall be ineligible for subsidy. Parents who were previously granted six (6) months to seek verification shall not be granted another six (6) months to seek verification for any subsequent application.

- 12** The intent of the Rules was for all children within a household to have a child support order, regardless if all the children were in need of care. Because this is a financial and program piece of determining eligibility, the clarification that is the obligation was required.

Policy with changes effective August 9, 2010

5.06 Child Support Requirement

All biological Parents applying for Child Care Subsidy for children of an absent Parent must submit a copy of child support order and show proof of child support received or pursued from each absent Parent of all children within the household (clarified in Action Transmittal 2010-02, effective 8/9/10), with the following exceptions:

- 13** Though it was originally added in the November, 2009 Action Transmittal, the reflection in policy via a section number was not provided to the notarized statement accepted as proof of child support. The notation of 5.06.5 addresses this omission.

Policy with changes effective August 9, 2010

5.06.5 No Child Support Court Order Established

e. If the payee can not provide copies of the payer's child support checks which indicate an address and a signature, the parties must sign a notarized document, which must include the following information:

- Name and physical address of both parties
- Amount of payment
- Date or how the payment is made
- Signatures of both parties

- 14** The previous Rules did not address when the non-custodial parent is under the age of 18. The Division of Support Enforcement and Recovery (DSER) does not pursue child support of non-custodial parents who are under the age of 18; therefore, the Rules are amended to reflect this. However, once the non-custodial parent turns 18, an order will then be required for subsidy to continue. The Rules follow this guidance.

Policy with changes effective August 9, 2010

5.06.6 Non-Custodial Parent is Under the Age of 18

No documentation of child support is required when the non-custodial parents are under the age of 18. An order will be required when the non-custodial parent turns 18.

- 15 The parent fee does not increase between redeterminations unless there was an error in the original calculation. Section 6.02.10 contradicted this by stating a parent fee shall also be determined at the time of the Six-Month Report. The Rules have been clarified by deleting the reference to the Six-Month Report and the parent fee determination.

Policy with changes effective August 9, 2010

6.02.10 The Parent Fee shall be determined at the time of application (deleted in Action Transmittal 2010-02, effective 8/9/10) when the annual redetermination is conducted. The fee shall remain the same until the next (deleted in Action Transmittal 2010-02, effective 8/9/10) annual redetermination, unless an ongoing decrease in income occurs that is expected to last for at least two (2) or more months. The fee shall not be increased between redeterminations if the Family's income increases, except to correct an error in the prior calculation. Families shall be subject to the gross income limit for eligibility and shall report increases in income exceeding one hundred (\$100) dollars per month even if the change does not immediately affect the Parent fee.

- 16 The Rules indicated in Section 6.03 "Parent Fee Waivers" the Department, child care providers, and the contracted slots agencies *did not* have the authority to categorically waive the Parent Fee. Because Section 6.03.2 contradicted this by allowing caseworkers who work for the Department to waive the parent fee in protective cases, this subsection is removed. Section 6.03.3 is no longer necessary, as it demanded the Department pay the waived fee. To that end, both sections 6.03.2 and 6.03.3 are deleted.
- 17 The Rules did not have guidelines around the residency of a Legal Unregulated Provider. Because the Department can not run a thorough background check on out-of-state providers, the Rules now state all Legal Unregulated Providers must be Maine residents for at least 6 months and if they have been residents of Maine for less than five years, they must submit to a background check from their previous place of residency.

Policy with changes effective August 9, 2010

7.03.9 The Legal, Unregulated Child Care Provider must have lived in State of Maine for at least six (6) months prior to applying to be a provider.

7.03.10 If the Legal, Unregulated Child Care Applicant has lived in another State within last 5 years, the applicant is required to indicate what States they have lived in so that a background check can be done in those States as required by policy (7.03.4).

- 18 The Rules indicated in Section 8.01.1(b) a significant change of income must be reported within in ten (10) days of its occurrence. Clarity around the definition of "significant" has now been defined.

Policy with changes effective August 9, 2010

8.01.1 Within ten (10) days of its occurrence, Parents receiving a Child Care Subsidy must report to the Department or Contracted Slots Agency any of the following:

- b. Change in income that results in an increase of \$100 per month or greater

- 19 Due to the Rules change in Section 3.06.1 regarding maternity leave (mentioned in number 7 above), 9.03.1(c) is amended to coincide with this change.

Policy with changes effective August 9, 2010

9.03.1 Enrollment Period

c. Up to eight (8) weeks for children who are enrolled while their Parent(s) are on maternity/paternity leave.

- 20 The amount of excused absences allowed has not been clearly defined within the Rules. In order to be accountable for the amount of time subsidy is paid for when children are not in care, the Rules have been clarified around excused absences with the addition of Section 9.05.4.

Policy with changes effective August 9, 2010

9.05.4 The amount of hours allowed for excused absences is based on the amount of time in the award. Children with full-time awards are allowed 200 hours of excused absences within an award year, children with part-time awards are allowed 150 hours of excused absences within an award year, children with half-time awards are allowed 100 hours of excused absence within an award year, and children with quarter-time awards are allowed 50 hours of excused absences within an award year. For children who have split awards between two or three categories, the average between the categories will be allowed for excused absences within an award year. Leaves indicated in Section 3.06 are not counted against excused absences.

- 21 The Rules have been clarified the allowance of up to twenty-five (25) unexcused absences within “one award year”, as opposed to “one year”. This clarification defines which “year” is being referenced.

Policy with changes effective August 9, 2010

11.01.7 If the Parent fails to comply with the following enrollment standards for acceptable absenteeism, Child Care Subsidy will be terminated:

b. When a Child Care Provider reports a child had twenty-five (25) unexcused absences within one (1) award year, a Notification of Termination of the Parent will be sent to the Parent and the Child Care Provider.

- 22 Though it has been procedure, a parent who leaves a provider and does not pay a provider past due parent fees is not allowed to continue with subsidy until all parent fees are paid in full or an agreement between the parent and the former provider is reached. The Rules will now reflect this procedure in Section 11.01.8 (d).

Policy with changes effective August 9, 2010

11.01.8 Non-Payment of Assessment Fees to Child Care Providers

Upon notification by the Child Care Provider that the Parent failed to pay the assessed Parent fee, the Department or the Contracted Slots Agency will take the following action to terminate services:

d. If the Parent leaves a Child Care Provider and owes the Provider past parent fees, the Department may rescind the award until all the fees are paid in full or until a payment schedule is agreed upon by the Provider and the Parent. If the Parent defaults on said payment arrangement, the Department shall terminate the Parent’s subsidy award.

- 23 The Rules has several places where it implies dismissal for certain items; however, intentional misrepresentation of information and the consequences of this were not cleared defined. This section is added to clearly state this.

Policy with changes effective August 9, 2010

11.01.12 Misrepresentation

When the Department makes a preliminary determination that a Parent has not been forthcoming with all information required to accurately determine eligibility, the case may be terminated. This case may also be referred to the DHHS Fraud Investigation Unit pursuant to Title 22 M.R.S.A. §13 and the Department or Contracted Slots Agency may pursue establishment of a program violation against the Parent and/or Child Care Provider administratively.

- 24 As the Department is moving away from the three-party contract between the parent, provider and Department, the need for each provider to sign a provider agreement annually is now required. Because this agreement is a legal document and must be in place in order to continue working with each provider, the Department must hold each provider accountable for returning the signed copy of the agreement to the Department within a timely manner. The Rules now indicate the provider has 30 days to do this.

Policy with changes effective August 9, 2010

11.02.2 If the provider does not return a new or renewal agreement completed and signed within 30 days of the Department's request for this information, the Department may withdraw its approval of this provider due to not having an active agreement with said provider.

- 25 The addition of Section 11.01.8(d) as mentioned above in number 22 is reiterated again in Section 11.05.4, indicating parents must leave the former provider in good standing and give two (2) weeks written notice of termination. The Rules needed to be clear to have this in both sections regarding *Termination of Child Care Subsidy Services to the Parent by the Department or a Contracted Slots Agency*, as well as the *Failure to Give Two Weeks Notification of Termination* sections.

Policy with changes effective August 9, 2010

11.05.4 Unless otherwise noted in policy, the parent must leave the Child Care Provider in good standing in order for the subsidy award to continue to a new provider. Good standing includes a two-week written notice and payment of all parent fees to the former Child Care Provider. If the parent does not leave in good standing, the Department may rescind the award until payments are made to the former Child Care Provider.

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