

**DEPARTMENT OF EARLY CHILDHOOD**

**Colorado Child Care Assistance Program**

**COLORADO CHILD CARE ASSISTANCE PROGRAM RULES AND REGULATIONS**

**8 CCR 1403-1**

*[Editor's Notes follow the text of the rules at the end of this CCR Document.]*

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**3.100 COLORADO CHILD CARE ASSISTANCE PROGRAM (CCCAP)**

**3.101 CCCAP MISSION AND APPROPRIATIONS**

A. Mission

The purpose of CCCAP is to provide eligible households with access to high quality, affordable child care that supports healthy child development and school readiness while promoting household self-sufficiency and informed child care choices.

B. Appropriations

Nothing in these rules shall create a legal entitlement to child care assistance. Counties shall not be required to expend funds exceeding allocated state and federal dollars or exceeding any matching funds expended by the counties as a condition of drawing down federal and state funds.

When a county can demonstrate, through a written justification in its county CCCAP plan, that it has insufficient CCCAP allocations, a county is not required to implement a provision or provisions of rule(s) enacted under statutory provisions that are explicitly "subject to available appropriations." The county is not required to implement that or those rules or statutory provision(s) for which it has demonstrated through its annual CCCAP plan that it has insufficient CCCAP allocations to implement, except for the entry income eligibility floor referenced in Section 3.105.1.H.

As part of its demonstration, the county shall include a list of priorities reflecting community circumstance in its county CCCAP plan that prioritizes the implementation of the rules and/or provisions of statute that are "subject to available appropriations."

If the Colorado Department of Early Childhood (Department) determines the county CCCAP plan is not in compliance with these rules and/or provisions of statute, the Department will first work with the county to address the concerns. If a resolution cannot be agreed upon, the Department reserves the right to deny the county CCCAP plan. If the Department denies the county CCCAP plan, the county and the state shall work together to complete a final approved county CCCAP plan that is in compliance with these rules and statute.

**3.102 PROGRAM FUNDING**

- A. The Colorado Child Care Assistance Program will be funded through annual allocations made to the counties. Nothing in these rules shall create a legal entitlement to child care assistance. Counties may use annual allocation for child care services which includes direct services and administration.

- B. Each county shall be required to meet a level of county spending for the Colorado Child Care Assistance Program that is equal to the county's proportionate share of the total county funds set forth in the annual general Appropriation Act for the Colorado Child Care Assistance Program for that State fiscal year. The level of county spending shall be known as the county's maintenance of effort for the program for that State fiscal year.
- C. The CCCAP allocation formula shall be applied uniformly across all counties and must be based on the relative cost of the program. The allocation formula must take into consideration:
1. The eligible population for each county using the federal poverty level (FPL) as outlined in section 3.105.1.H; and,
  2. Reimbursement rates set by the state as informed by the market rates study.
  3. If not already taken into consideration in the initial allocation formula as stated in section 3.102.C.1 and 2, the following factors must also be included:
    - a. A measure of cost of living, which may include market rates; and,
    - b. The cost of high quality child care programs.
  4. If not already taken into consideration in the initial allocation formula, the formula may include the following factors:
    - a. A statewide adjustment to the allocation formula for geographic differences within counties or regional differences among counties in order to improve access.
    - b. A statewide adjustment to the allocation formula for drastic economic changes that may impact the ability of CCCAP to serve low-income families.
    - c. A statewide adjustment to mitigate significant decreases in county allocation amounts due to changes in the factors considered in the initial allocation formula.

### **3.103 DEFINITIONS**

“Additional care needs” means a child who has a physical and/or mental disability and needs a higher level of care on an individualized basis than that of his/her peers at the same age; or, who is under court supervision, including a voluntary out-of-home placement prior to or subsequent to a petition review of the need for placement (PRNP), and who has additional care needs identified by an individual health care plan (IHCP), individual education plan (IEP), physician’s/professional’s statement, child welfare, or individualized family service plan (IFSP).

“Adult caretaker” means a person in the home who is financially contributing to the welfare of the child and is the parent, adoptive parent, step-parent, legal guardian, or person who is acting in “loco parentis” and has physical custody of the child during the period of time child care is being requested.

“Adverse action” means any action by the counties or their designee which adversely affects the adult caretaker or teen parent’s eligibility for services, or the Child Care Provider’s right to payment for services provided and authorized under the CCCAP.

“Affidavit” means a voluntary written declaration reflecting the personal knowledge of the declarant.

“Applicant” means the adult caretaker(s) or teen parent(s) who sign(s) the application form and/or the redetermination form.

“Application” is a Department-approved form that may include, but is not limited to:

- A. An original Department-prescribed low-income child care application, which is the first application for the CCCAP filed by the adult caretaker(s) or teen parent; or
- B. At the option of the county, any application for another public assistance program.

“Application date” means the date that the county receives the signed application.

“Application date for pre-eligibility determinations” means the date that the application is received from the Child Care Provider or Applicant by the county. Required supporting documents may be submitted up to thirty (30) days after receipt of the signed application.

“Application process” means all of the following:

- A. The Department-prescribed, signed low-income child care application form completed by the adult caretaker or teen parent or their authorized representative, which includes appeal rights; or, any application from another public assistance program. Counties with Head Start programs may accept the Head Start application in lieu of the Low-Income Child Care application for those children enrolled in the Head Start program;
- B. The required verification supporting the information declared on the application form; and
- C. As a county option, an orientation or interview for new applicants may be required. Counties shall ensure that, if the county chooses to incorporate an orientation or interview into their application process, the orientation or interview process is not burdensome to families by allowing a family to complete the process via phone or electronic tools or by offering extended office hours to hold the orientation or interview.

“Assets” include but are not limited to the following:

- A. Liquid resources such as cash on hand, money in checking or savings accounts, saving certificates, stocks or bonds, lump sum payments as specified in the section titled “nonrecurring lump sum payments”.
- B. Non-liquid resources such as any tangible property including, but not limited to, licensed and unlicensed automobiles and motorcycles, utility trailer, seasonal or recreational vehicles (such as any camper, motor home, boat, snowmobile, water skidoo, or airplane) and real property (such as buildings, land, and vacation homes). Primary home and automobile of the primary caretakers are excluded.

“Attestation of mental competence” means a signed statement from a Qualified Exempt Child Care Provider declaring that no one in the home where the care is provided has been determined to be insane or mentally incompetent by a court of competent jurisdiction; or specifically that the mental incompetence or insanity is not of such a degree that the individual cannot safely operate as a Qualified Exempt Child Care Provider.

“Attendance tracking system (ATS)” means the system used by adult caretakers, teen parents, or another individual delegated by the adult caretaker or teen parent to access benefits and to record child attendance for the purposes of paying for authorized and provided child care.

“Authorized care” means the amount and length of time a child is eligible to receive care by licensed or qualified exempt child care providers to whom social/human services will authorize payment.

“Authorization start date” means the date from which payments for child care services are eligible to be paid by the county.

“Base reimbursement rate” means the regular daily reimbursement rate paid by the county to the child care provider. This does not include the increase of rates of reimbursement for high-quality early childhood programs. Base reimbursement rates do not include absences, holidays, registration fees, activity fees, and/or transportation fees.

“Basic education” is a Low-Income Child Care eligible activity where an adult caretaker or teen parent is in high school education programs working towards a high school diploma or high school equivalency; Adult Basic Education (ABE); and/or, English as a Second Language (ESL).

“Cash assistance” means payments, vouchers, and other forms of benefits designed to meet a household’s ongoing basic needs such as food, clothing, shelter, utilities, household goods, personal care items, and general incidental expenses. Cash assistance may include supportive services to households based on the assessment completed. All state diversion payments of less than four (4) consecutive months are not cash assistance. For the purpose of child care, county diversion payments are not cash assistance.

“Child care authorization notice” means a state prescribed form which authorizes the purchase of child care and includes the children authorized for care. The authorization notice will be given to the adult caretaker(s) or teen parent(s) and applicable child care provider(s) in order to serve as notice to the adult caretaker(s) or teen parent(s), and child care provider(s) of approval or change of child care services. Colorado’s child care authorization notice(s) are vouchers for the purposes of the CCCAP.

“CHATS” means the Child Care Automated Tracking System.

“Child care provider” means a child care provider licensed pursuant to Part 3 of Article 5 of Title 26.5 that has an agreement or enrollment contract to participate in CCCAP.

“Child Care Resource and Referral Agencies” (CCR&R) means agencies or organizations available to assist individuals in the process of choosing child care providers.

“Child care staff” or “child care technician” means individuals who are designated by counties or their designees to administer all, or a portion of, the CCCAP and includes, but is not limited to, workers whose responsibilities are to refer children for child care assistance, determine eligibility, authorize care, process billing forms, and issue payment for child care subsidies.

“Child Welfare Child Care” means a child care component within CCCAP where less than twenty-four (24) hour child care assistance to maintain children in their own homes or in the least restrictive out-of-home care when there are no other child care options available. See rule manual Volume 7, Section 7.302, Child Welfare Child Care (12 CCR 2509-4). (Mar. 3, 2023), herein incorporated by reference. No later editions or amendments are incorporated. These regulations are available at no cost from the Colorado Department of Human Services, 1575 Sherman St., Denver, Colorado 80203, or at <https://www.sos.state.co.us>. These regulations are also available for inspection and copying at the Colorado Department of Early Childhood, 710 S. Ash Street, Bldg. C, Denver, Colorado 80246 during regular business hours.

“Citizen/legal resident” means a citizen of the United States, current legal resident of the United States, or a person lawfully present in the United States pursuant to Title IV of the Personal Responsibility and Work Opportunity Reconciliation Act (PRWORA) of 1996, Public Law 104-193; and Federal Register notices 62 Fed. Reg. 61344 (Nov. 17, 1997) and 63 Fed. Reg. 41658 (Aug. 4, 1998). Herein incorporated by reference. No later amendments or editions are incorporated. These documents are available at no cost from the office of the Federal Register 7 G Street, NW, Ste. A-734, Washington, D.C. 20401, or at <https://www.federalregister.gov/>. These document are also available for inspection and copying at the Colorado Department of Early Childhood (CDEC), 710 S. Ash Street, Bldg. C, Denver, Colorado 80246. Since the child is the beneficiary of child care assistance, the citizen/legal resident requirement only applies to the child who is being considered for assistance.

“Clear and convincing” means proof that is stronger than a preponderance of the evidence and is unmistakable or free from serious or substantial doubt.

“Colorado Child Care Assistance Program” or “CCCAP” means the public assistance program for child care known as the Colorado Child Care Assistance Program established in Part 1 or Article 4 of Title 26.5. CCCAP is administered by the Department and provides child care subsidies to households in the following programs: Low-Income Child Care, Colorado Works Child Care, Protective Services Child Care, and Child Welfare Child Care. CDEC is responsible for the oversight and coordination of all child care funds and services.

“Colorado Works Program” is the program administered by the Colorado Department of Human Services in Part 7 of Article 2 of Title 26. Colorado Works is Colorado’s Temporary Assistance for Needy Families (TANF) program that provides public assistance to households in need. The Colorado Works program is designed to assist adult caretaker(s) or teen parent(s) in becoming self-sufficient by strengthening the economic and social stability of households.

“Colorado Works Child Care” means a child care component within CCCAP for Colorado Works households with an adult caretaker or teen parent who have been referred for child care by the county Colorado Works worker and are determined work eligible per Colorado Works Program rules located at 9 CCR 2503-6 (Aug. 30, 2022), herein incorporated by reference.. No later editions or amendments are incorporated. These regulations are available at no cost from the Colorado Department of Human Services, 1575 Sherman St., Denver, Colorado 80203, or at <https://www.sos.state.co.us/ccr>. These regulations are also available for inspection and copying at the Colorado Department of Early Childhood, 710 S. Ash Street, Bldg. C, Denver, Colorado 80246 during regular business hours.

“Colorado Works households” means members of the same Colorado Works household who meet requirements of the Colorado Works program, through receipt of basic cash assistance or state diversion payments while working toward achieving self-sufficiency through eligible work activities and eventual employment where the adult caretaker(s) or teen parent(s) is included in the assistance unit, as defined in The Colorado Works Program Rules (9 CCR 2503-6), incorporated by reference in this section 3.103.

“Collateral Contact” means a verbal or written confirmation of a household’s circumstances by a person outside the household who has first-hand knowledge of the information, made either in person, electronically submitted, or by telephone.

“Confirmed abuse or neglect” means any report of an act or omission that threatens the health or welfare of a child that is found by a court, law enforcement agency, or entity authorized to investigate abuse or neglect to be supported by a preponderance of the evidence.

“Consumer Education” means information provided to adult caretaker(s) or teen parent(s), child care providers, and the general public that will promote informed child care choices; information on access to other programs in which families may be eligible; and, information on developmental screenings.

“Cooperation with Child Support Services (county option)” means applying for Child Support Services for all children who are in need of care and have an absent parent, within thirty (30) calendar-days of the completion and approval of the CCCAP application and maintaining compliance with Child Support Services case unless a good cause exemption exists. The county IV-D administrator or designee determines cooperation with Child Support Services.

“County or Counties” means the county departments of social/human services.

“Department” means the Colorado Department of Early Childhood.

“Disaster” means the occurrence or imminent threat of widespread or severe damage, injury or loss of life or property resulting from any natural cause or cause of human origin, including but not limited to fire, flood, earthquake, wind, storm, wave action, hazardous substance incident, oil spill, or other water contamination requiring emergency action to avert danger or damage, volcanic activity, epidemic, air pollution, blight, drought, infestation, explosion, civil disturbance, hostile military or paramilitary action, or a condition of riot, insurrection, or invasion existing in the state or in any county, city, town, or district in the state.

“Discovery” means that a pertinent fact related to CCCAP eligibility was found by the county to exist.

“Drastic economic change” means an economic impact on the county or state that has a strong or far-reaching effect on the CCCAP.

“Drop in day” means a county-determined number of days that will generate an approval and payment for care utilized outside of the standard authorization.

“Early care and education provider” means a school district or child care provider pursuant to 26.5-4-103(4), C.R.S.

“Eligible activity”, for the purpose of Low-Income Child Care, means the activity in which the Teen parent(s) or adult caretaker(s) are involved. This may include job search; employment; self-employment; training; basic education; or, post-secondary education. For Teen parents, training and teen parent education are approved activities for all counties.

“Eligible child” means a child, from birth to the age of thirteen (13) years who needs child care services during a portion of the day, but less than twenty four (24) hours, and is physically residing with the eligible adult caretaker(s) or teen parent(s); or a child with additional care needs under the age of nineteen (19) who is physically or mentally incapable of caring for themselves or is under court supervision and is physically residing with the eligible adult caretaker(s) or teen parent(s). Any child served through the Colorado Works program or the Low-Income Child Care program shall be a citizen/legal resident.

“Emergency” means an unexpected event that places life or property in danger and requires an immediate response through the use of state and community resources and procedures.

“Employment” is a Low-Income Child Care eligible activity where the adult caretaker or teen parent is holding a part-time or full-time job for which wages, salary, in-kind income or commissions are received.

“Enrollment freeze” or “freeze” means when a county ceases enrollment of individuals due to being overspent or being projected to overspend.

“Entry income eligibility level” means the level set by the Department for each county above which an adult caretaker(s) or teen parent(s) is not eligible at original application.

“Equivalent full-time units” mean all part-time units times a factor of .55 to be converted to full-time units. The full-time equivalent units added to the other full-time units shall be less than thirteen (13) in order to be considered part-time for parent fees.

“Exit income eligibility level” is the income level at the twelve (12) month re-determination of eligibility above which the county may deny continuing eligibility and is eighty-five percent (85%) of the Colorado state median income as outlined in section 3.105.1(H).

“Families experiencing homelessness” means families who lack a fixed, regular, and adequate nighttime residence and at least one of the following:

- A. Children who are sharing the housing of other persons due to loss of housing, economic hardship, or a similar reason; are living in motels, hotels, or camping grounds due to the lack of alternative accommodations; are living in emergency or transitional shelters;
- B. Children who have a primary nighttime residence that is a public or private place not designed for or ordinarily used as a regular sleeping accommodation for human beings;
- C. Children who are living in cars, parks, public spaces, abandoned buildings, substandard housing, bus or train stations, or similar settings; or
- D. Migratory children who qualify as experiencing homelessness for the purposes of these rules because the children are living in circumstances described in this definition A through C.

“Federal poverty level” (FPL) or “federal poverty guidelines” (FPG) refers to figures set by the Department annually. These figures, based on gross monthly income levels for the corresponding household size, are included in the table in section 3.105.1.H.2.

“Fingerprint-based criminal background check” means a complete set of fingerprints for the qualified exempt provider and anyone eighteen (18) years of age and older residing in the qualified exempt provider’s home; or, for the qualified exempt provider if care is provided in the child’s home, taken by a qualified law enforcement agency, and submitted to the Colorado Department of Early Childhood, Division of Early Learning Access and Quality, for subsequent submission to the Colorado Bureau of Investigations (CBI). The individual(s) will also be required to submit a background check with the Federal Bureau of Investigation (FBI). Costs for all investigations are the responsibility of the person whose fingerprints are being submitted unless noted otherwise in the county’s plan, per section 3.115.1.

“Fiscal Agreement” means a Department-approved agreement between counties or their designees and child care provider(s), which defines the maximum rate possible based on county ceiling rates and quality rating tiers, defines provider rights and responsibilities, and defines responsibilities of the counties or their designees to the child care provider(s). The fully executed fiscal agreement includes noticing of county ceiling rates as well as a copy of the provider’s CCCAP reimbursement rates. Fiscal agreements must be:

- A. One (1) year in length for qualified exempt child care providers
- B. Three (3) years in length for licensed child care providers

“Fraud/Fraudulent criminal act” means an adult caretaker(s), teen parent(s), or child care provider who has secured, attempted to secure, or aided or abetted another person in securing public assistance to which the adult caretaker(s) or teen parent(s) was not eligible by means of willful misrepresentation/withholding of information or intentional concealment of any essential facts. Fraud is determined as a result of any of the following:

- A. Obtaining a “waiver of intentional program violation”;
- B. An administrative disqualification hearing; or
- C. Civil or criminal action in an appropriate state or federal court.

“Funding concerns” means a determination by the Department or a county that actual or projected expenditures indicate a risk of overspending of that county’s available CCCAP allocation in a current fiscal year.

“Head Start” means a program operated by a local public or private nonprofit agency designated by the Federal Department of Health and Human Services to operate a head start program pursuant to the provisions of Title V of the Federal “Economic Opportunity Act of 1964”, as amended..

“High-quality early childhood program” means a program operated by a child care provider with a fiscal agreement through CCCAP; and, that is in the top three levels of the Department's quality rating and improvement system, is accredited by a Department-approved accrediting body, or is an Early Head Start or Head Start program that meets federal standards.

“Hold slots” means a county determined number of days when payment is allowed for unused care that is in addition to absences, holidays, and school breaks. Hold slots are intended to hold a child's slot with a provider due to extended absence from care.

“Household” includes: all children in the home who are under eighteen (18) years of age; all children under nineteen (19) years of age who are still in high school and the responsibility of the adult caretaker(s); and the adult caretaker(s) or teen parent(s).

“In loco parentis” means a person who is assuming the parent obligations for a child, including protecting their rights and/or a person who is standing in the role of the parent of a child without having gone through the formal adoption process. Parent obligations include, but are not limited to, attending parent teacher conferences, regularly picking up and dropping children at child care, and regularly taking the child to doctor appointments.

“Incapacitated” means a physical or mental impairment which substantially reduces or precludes the adult caretaker or teen parent from providing care for his/her child(ren) and participating in a Low-Income Child Care eligible activity. Such a condition shall be documented by a physician's statement or other medical verification which establishes a causal relationship between the impairment and the ability to provide child care.

“Income eligibility” means that eligibility for child care subsidies is based on and determined by measuring the countable household income and size against eligibility guidelines

“Inconsistent” means the information provided is unclear or conflicting or the county has reason to believe the facts presented are contrary to the information provided by the adult caretaker(s) or teen parent(s).

“Intentional Program Violation (IPV)” means an act committed by an adult caretaker(s) or teen parent(s) who has intentionally made a false or misleading statement or misrepresented, concealed or withheld facts for the purpose of establishing or maintaining a Colorado Child Care Assistance Program household's eligibility to receive benefits for which they were not eligible; or has committed or intended to commit any act that constitutes a violation of the child care assistance program regulations or any state statute related to the use or receipt of CCCAP benefits for the purpose of establishing or maintaining the household's eligibility to receive benefits.

“Involuntarily out of the home” means when an adult caretaker or teen parent is out of the home due to circumstances beyond his/her immediate control to include, but not be limited to, incarceration, resolution of immigration issues, and/or restraining orders.

“Job search” is a Low-Income Child Care eligible activity where an adult caretaker or a teen parent is actively seeking employment.

“Low-Income Program” or “Low-Income Child Care” means a child care component within CCCAP for households with an adult caretaker(s) or teen parent(s) who is/are in a low-income eligible activity, income eligible, and not receiving Colorado Works, Child Welfare, or Protective Services child care.

“Manual Claim” means the child care provider's process of invoicing the county using the Department-prescribed manual claim form for reimbursements that were not processed automatically through CHATS including but not limited to:

A. Care that was authorized and provided;



- B. Reimbursable registration fees;
- C. Reimbursable activity fees;
- D. Reimbursable transportation fees;
- E. Reimbursable hold slots;
- F. Reimbursable drop in days; and
- G. Reimbursable absence payments

“Maternity and/or paternity leave” is a temporary period of absence from the adult caretaker or teen parent’s Low-Income Child Care eligible activity that is granted to expectant or new mothers and/or fathers for the birth and care of a newborn child.

“Medical leave” means a temporary period of absence from the adult caretaker or teen parent’s Low-Income Child Care eligible activity that is granted due to a personal illness or injury, or to care for a family member that is not related to maternity/paternity leave.

“Negative licensing action” means a Final Agency Action resulting in the denial of an application, the imposition of fines, or the suspension, or revocation of a license issued pursuant to the Child Care Licensing Act; or the demotion of such a license to a probationary license.

“New employment verification” means verification of employment that has begun within the last sixty (60) days. It is verified by a county form, employer letter or through collateral contact which includes a start date, hourly wage or gross salary amount, hours worked per week, pay frequency, work schedule (if nontraditional care hours are requested at application or re-determination), and verifiable employer contact information.

“Non-traditional care hours” means weekend, evening, or overnight care.

“Originating county” means the county where child care assistance eligibility was initiated in instances where a family receiving low-income child care moves from one county to another during their eligibility period.

“Overpayment” means child care assistance received by the adult caretaker(s) or teen parent(s), or monies paid to a child care provider, which they were not eligible to receive.

“Parent” means a biological, adoptive or stepparent of a child.

“Parent fee or co-payment” means the household’s contribution to the total cost of child care paid directly to the child care provider(s) prior to any state/county child care funds being expended.

“Pay stubs” means a form or statement from the employer indicating the name of the employee, the gross amount of income, mandatory and voluntary deductions from pay (i.e. FICA, insurance, etc.), net pay and pay date, along with year-to-date gross income.

“Physical custody” means that a child is living with, or in the legal custody of, the adult caretaker(s) or teen parent(s) on the days/nights they receive child care assistance.

“Post eligibility stabilization period” means the time frame in which an adult caretaker or teen parent must complete their job search activity if, at Low-Income Child Care re-determination, they have not utilized their entire minimum thirteen (13) week time limited activity.

“Preponderance of evidence” means credible evidence that a claim is more likely true than not.

“Primary adult caretaker” means the person listed first on the application and who accepts primary responsibility for completing forms and providing required verification.

“Protective Services Child Care” means a child care component within CCCAP for children that have been placed by the county in foster home care, kinship foster home care or non-certified kinship care; have an open child welfare case; and, the county has chosen to provide child care services utilizing the Child Care Development Fund (CCDF) rather than the Child Welfare Block Grant.

“Prudent person principle (PPP)” means allowing the child care technician to act in a manner consistent with what a reasonable person of ordinary prudence would or would not do under the same or similar circumstances when executing their responsibilities to determine CCCAP eligibility, enter into a fiscal agreement, and reimburse child care providers for care that was not automatically processed through chats.

“Qualified exempt child care facilities” means a facility that is approved, certified, or licensed by any other Department or agency or federal government department or agency, which has standards for operation of the facility and inspects or monitors the facility; and, has been declared exempt from the child care licensing act as defined in Colorado Department of Human Services regulations at 12 CCR 2509-8, section 7.701.11 (April 1, 2023). Herein incorporated by reference. No later editions or amendments are incorporated. These regulations are available at no cost from the Colorado Department of Human Services, 1575 Sherman St., Denver, Colorado 80203, or at <https://www.sos.state.co.us/ccr>. These regulations are also available for inspection and copying at the Colorado Department of Early Childhood, 720 S. Ash Street, Bldg. C, Denver, Colorado 80246 during regular business hours.

“Qualified exempt child care provider” means a family child care home provider who is not licensed but provides care for a child(ren) from the same family; or an individual who is not licensed but provides care for a child(ren) who is related to the individual if the child’s care is funded in whole or in part with money received on the child’s behalf from the publicly funded CCCAP under Colorado Department of Human Services regulations at Section 7.701.11, A, 1, b, incorporated by reference above.

“Rate notification” means a notification of provider reimbursement rates and applicable registration, activity, or transportation fees that reflect the child care provider’s CCCAP reimbursement rate based on the comparison of the county’s ceiling rates that are reflected in the current Fiscal Agreement and the provider’s private pay rates, quality level or rate types.

“Receiving county” means the county where child care assistance eligibility is re-determined after a family receiving low-income child care moves from one county to another during their eligibility period.

“Recipient” means the individual or family who is receiving or has received benefits from CCCAP pursuant to Part 1 of Article 4 of Title 26.5.

“Recovery” means the act of collecting monies when an adult caretaker(s), teen parent(s) or child care provider has received childcare assistance benefits for which they were not eligible, commonly known as an “over payment”.

“Re-determination (redet) form” is a Department-prescribed form, which includes appeal rights, that is used to determine a household’s continued eligibility for Low-Income Child Care at the end of their twelve (12) month minimum eligibility period.

“Re-determination (Redet) process” is the process to update eligibility for Low-Income Child Care. This process is completed no earlier than every twelve (12) months and includes:

- A. The Department-prescribed re-determination form, which must be completed and signed by the adult caretaker or teen parent or their authorized representative; and,
- B. The required verification that supports the information declared on the re-determination form that is needed to determine continued eligibility.

“Regionally accredited institution of higher education” means a community college, college, or university which is a candidate for accreditation or is accredited by one of the following regional accrediting bodies: Middle States, Association of Colleges and Schools, New England Association of Schools and Colleges, North Central Association of Colleges and Schools, Northwest Commission on Colleges and Universities, Southern Association of Colleges and Schools, Western Association of Schools and Colleges, Accrediting Commission for Community and Junior Colleges.

“Relative” means a blood or adoptive relative to include, but not limited to: a brother, sister, uncle, aunt, first cousin, nephew, niece, or persons of preceding generations denoted by grand, great, great-great, or great-great-great; a stepbrother, stepsister; or, a spouse of any person included in the preceding groups even after the marriage is terminated by death or divorce.

“Risk-based audit” means audit selection based on a combination of the likelihood of an event occurring and the impact of its consequences. This may include, but not be limited to, the number, dollar amounts and complexity of transactions; the adequacy of management oversight and monitoring; previous regulatory and audit results; review of the technician’s accuracy; and/or reviews for separation of duty.

“Self-employment” is a Low-Income Child Care eligible activity where an adult caretaker or teen parent is responsible for all taxes and/or other required deductions from earned income.

“Self-sufficiency standard” means the level of income adequate in each county for a given year to meet the cost of basic needs, exclusive of child care costs, based on a verifiable and statistically based third party source.

“Slot contracts (county option)” means the purchasing of slots at a licensed child care provider for children enrolled in CCCAP in communities where quality care may not otherwise be available to county-identified target populations and areas or to incentivize or maintain quality. A slot contract is tied to a licensed child care provider and may be filled by any child who is eligible for and receiving CCCAP.

“State established age bands” means the breakdown of child age ranges used when determining child care provider base reimbursement rates.

“State or local public benefit” means any grant, contract, loan, professional license, or commercial license provided by an agency of a state or local government, or by appropriated funds of a state or local government.

“State Median Income” (SMI) refers to figures set by the Department annually. These figures, based on gross monthly income levels for the corresponding household size, are included in the table in section 3.105.1.H.2.

“Substantiated” means that the investigating party has found a preponderance of evidence to support the complaint.

“Target population” means a population whose eligibility is determined by criteria different than other child care populations, and has a priority to be served regardless of wait lists or freezes based upon appropriations. Current target populations include:

- A. Households whose income is at or below 130% of the current federal poverty guidelines;

- B. Teen parents;
- C. Children with additional care needs;
- D. Families experiencing homelessness; and,
- E. Segments of population defined by county, based on local needs.

“Teen parent” means a parent under twenty-one (21) years of age who has physical custody of his/her child(ren) for the period that care is requested and is in an eligible activity such as attending junior high/middle school, high school, GED program, vocational/technical training activity, employment, self-employment, or job search.

“Temporary Absence or Temporary Break” means a period of time when an adult caretaker or teen parent is absent from their employment, self-employment, or education activity due to seasonal work, medical leave, maternity/paternity leave, and holidays or scheduled breaks but still remains employed, self-employed, or enrolled in training or education and will return to the activity after the duration of their leave or break.

“Tiered reimbursement” means a pay structure that reflects increasing rates for high-quality early childhood programs that receive CCCAP reimbursement. These increases are made in addition to the base reimbursement rate.

“Timely written notice” means that any adverse action shall be preceded by a prior notice period of fifteen (15) calendar-days. “Timely” means that written notice is provided to the household and child care provider at least by the business day following the date the action was entered into the eligibility system. The fifteen (15) calendar-day prior notice period constitutes the period during which assistance is continued and no adverse action is to be taken during this time.

“Training and post-secondary education” is a Low-Income Child Care eligible activity where an adult caretaker or teen parent attends educational programs including regionally accredited post-secondary education for a Bachelor's degree or less or a workforce training program such as vocational, technical, or job skills training. Workforce training programs include educational activities after completing basic education.

“Transition families” means households ending their participation in the Colorado Works Program and who are eligible to transition to Low-Income Child Care Assistance.

“Units” or “unit of care” means the period of time authorized care is billed by a child care provider and paid for a household. (These units would be full-time, part-time, full-time/part-time, or full-time/full-time.)

“Up-to-date immunizations” means documentation of immunization status or exemption as required by the Colorado Department of Public Health and Environment (CDPHE). Immunizations required for school entry are set by the board of health and based on recommendations of the Advisory Committee on Immunization Practices (ACIP).

“Voluntarily out of the home” means circumstances where an adult caretaker or teen parent is out of the home due to his/her choice to include, but not be limited to, job search, employment, military service, vacations, and/or family emergencies.

“Wait list” means a list maintained by a county that reflects individuals who have submitted a complete application for the CCCAP program for whom the county is not able to immediately enroll.

“Willful misrepresentation/withholding of information” means an understatement, overstatement, or omission, whether oral or written, made by a household voluntarily or in response to oral or written questions from the Department, and/or a willful failure by a household to report changes in income, if the household’s income exceeds eighty-five percent (85%) of the State median income within ten (10) days, or changes to the qualifying eligible activity within four weeks of the change.

### **3.104 APPLICANT RIGHTS**

#### **3.104.1 ANTI-DISCRIMINATION**

Child care programs shall be administered in compliance with Title VI of the Civil Rights Act of 1964 (42 USC 2000(d)) located at [http://www.fhwa.dot.gov/environment/title\\_vi.htm](http://www.fhwa.dot.gov/environment/title_vi.htm); Title II of the Americans with Disabilities Act (42 USC 12132(b)).

- A. Counties or their designee shall not deny a person aid, services, or other benefits or opportunity to participate therein, solely because of age, race, color, religion, gender, national origin, political beliefs, or persons with a physical or mental disability.
- B. No otherwise qualified individual with a physical or mental disability shall solely, by reason of his/her disability, be excluded from the participation in, be denied the benefits of, or be subjected to discrimination under any program or activity provided by the counties or their designee(s).
- C. The county shall make services available to all eligible adult caretaker(s) and teen parents, subject to appropriations, including those with mental and physical disabilities and non-English speaking individuals, through hiring qualified staff or through purchase of necessary services.

#### **3.104.2 CONFIDENTIALITY**

The use or disclosure of information by the counties or their designee(s) concerning current or prior applicants and recipients shall be prohibited except for purposes directly connected with the activities listed below:

- A. The administration of public assistance programs, Child Welfare, Head Start and Early Head Start programs, and related Department activities.
- B. Any investigation, recovery, prosecution, or criminal or civil proceeding in connection with the administration of the program.
- C. The adult caretaker(s) or teen parent(s) applying for CCCAP may authorize a licensed child care provider or Head Start provider to assist them with the completion of a Low-Income Child Care application, including collection and organization of supporting documentation and submission of the application and supporting documents to a county. Authorization for application assistance and release of information shall be obtained on a department-approved form and included with the Low-Income Child Care application.

#### **3.104.3 TIMELY WRITTEN NOTICE OF ADVERSE ACTION**

A decision to take adverse action concerning an applicant or a child care provider for assistance payments will result in a written notice mailed to the applicant or child care provider within one (1) business day of the decision. The written notice is considered mailed when it is faxed, emailed, sent via other electronic systems, hand-delivered, or deposited with the postal service. Fifteen (15) calendar-days will follow the date of mailing the notice before adverse action is taken with the following exceptions, which require no prior notice:

- A. Facts indicate an overpayment because of probable fraudulent behavior or an intentional program violation and such facts have been verified to the extent possible.
- B. The proposed adverse action is based on a written or verbal statement from the adult caretaker(s) or teen parent(s) who state(s) that he/she no longer wishes to receive assistance or services.
- C. The proposed adverse action is requested by another county or state department.
- D. The counties or their designee(s) have confirmed the death of a recipient or of Adult Care Taker or Teen parent.
- E. The county has exercised its right to terminate a fiscal agreement with any child care provider because a child's health or safety is endangered or the child care provider is under a negative licensing action.

#### **3.104.4 ADULT CARETAKER OR TEEN PARENT AND CHILD CARE PROVIDER APPEAL RIGHTS**

Counties' or designee(s)' staff shall advise adult caretakers or teen parents in writing of their right to a county dispute resolution conference or state level fair hearing pursuant to Sections 3.840 and 3.850 of Income Maintenance Volume 3 (9 CCR 2503-1).

Child care providers shall be given written notice of their right to an informal county conference when they are given their copy of the fiscal agreement.

#### **3.105 LOW-INCOME CHILD CARE**

Eligible Colorado Child Care Assistance Program participants shall be an adult caretaker(s) or teen parent(s) of a child, meet program guidelines, and are low-income adult caretakers or teen parents who are in a low-income eligible activity, and need child care assistance.

##### **3.105.1 LOW-INCOME CHILD CARE ELIGIBILITY**

To be eligible for Low-Income Child Care assistance the following criteria shall be met:

- A. All adult caretakers and teen parents shall be verified residents of the county from which assistance is sought and received at the time of application and re-determination. Adult caretaker(s) or teen parent(s) shall remain eligible for the duration of the eligibility period if they report that they are no longer residents of the county in which they are actively receiving assistance per section 3.112 (BB).
- B. The adult caretaker(s) or teen parent(s) shall meet the following criteria:
  - 1. Is actively participating in an eligible activity;
  - 2. Meets the income eligibility guidelines set by the Department; and
  - 3. Shall have physical custody of the child for the period they are requesting care.
- C. The application process shall be completed and the primary adult caretaker or teen parent shall sign the required application forms. This includes:
  - 1. The State Low-Income Child Care Assistance Program application signed and completed by the applicant or their authorized representative, which includes appeal rights.

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- a. Counties may accept applications from another public assistance program in lieu of the Low-Income Child Care application.
  - b. Counties with Head Start programs may accept the Head Start application in lieu of the Low-Income Child Care application for those children enrolled in the head start program counties and are encouraged to work with local Head Start programs to coordinate this effort.
  - c. Families enrolled in a Head Start or Early Head Start program at the time they apply for CCCAP, shall have a re-determination date that aligns with the Head Start or Early Head Start program year.
2. The required verification supporting the information declared on the application form; including:
- a. Proof of current residence;
  - b. Citizenship, age, and identity of the child(ren) for whom care is requested;
    - 1) A child's citizenship status, age, and identity are considered to be verified if the complete application includes the child's age and citizenship status and is signed attesting to the child's identity unless the county determines that the declaration of citizenship, age, and/or identity is inconsistent.
    - 2) The county must request additional verification if the adult caretaker or teen parent's declaration is determined to be inconsistent based on the following guidelines:
      - a) If the claim of citizenship, age, and/or identity is inconsistent with statements made by the adult caretaker or teen parent, or with other information on the application, or on previous applications;
      - b) If the claim of citizenship, age, and/or identity is inconsistent with the documentation provided by the adult caretaker or teen parent; and/or
      - c) If the claim of citizenship, age, and/or identity was previously received from another source such as another public assistance program including Colorado Works, the Supplemental Nutrition Assistance Program (SNAP), or Medicaid, and the claim is inconsistent with the information previously received from that source.
  - c. Up-to-date immunizations if applicable;
  - d. Low-Income eligible activity;
  - e. Schedule (if non-traditional care hours are requested at application or redetermination);
  - f. Income;
  - g. Incapacitation if applicable;
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- h. Custody arrangement and/or parenting schedule if applicable;
  - i. Child care provider if one has been chosen at the time of application; and,
  - j. Other verifications as determined by approved county plan.
3. An orientation or interview for new applicants as a county option. Counties shall ensure that the orientation or interview process is not burdensome to families by allowing a family to complete the process via phone or electronic tools or by offering extended office hours to hold the orientation or interview.

D. Eligible Households

1. The following household compositions qualify as eligible households:
  - a. Households with one adult caretaker or teen parent, where the adult caretaker or teen parent is engaged in a low-income eligible activity, meets low-income eligibility guidelines, has physical custody of the child and needs child care.
  - b. Households with two adult caretakers or teen parents, when one adult caretaker or teen parent is involuntarily out of the home. Such a household shall be considered a household with one adult caretaker or teen parent.
  - c. Households with two adult caretakers or teen parents that need child care, where:
    - 1) Both adult caretakers or teen parents are engaged in a low-income eligible activity; or,
    - 2) One adult caretaker or teen parent is voluntarily absent from the home, but both adult caretakers or teen parents are in a low-income eligible activity; or,
    - 3) One adult caretaker or teen parent is engaged in a low-income eligible activity and the other adult caretaker or teen parent is incapacitated such that, according to a physician or licensed psychologist, they are unable to care for the child(ren).
2. Households are considered households with two adult caretakers or teen parents when two adults or teen parents contribute financially to the welfare of the child and/or assume parent rights, duties and obligations similar to those of a biological parent, even without legal adoption.
3. Two separate adult caretakers or teen parents who share custody but live in separate households may apply for the same child through separate applications, during periods that they have physical custody.
4. All adult caretakers or teen parents, who are engaged in a low-income eligible activity, must have physical custody of the child and meet low-income eligibility guidelines.
5. Any unrelated individual, who is acting as a primary adult caretaker for an eligible child, is required to obtain verification from the child's biological or adoptive parent, legal guardian, or a court order which identifies the unrelated individual as the child's adult caretaker.



6. Adult caretakers or teen parents that are not determined work eligible per Colorado Works Program rule (9 CCR 2503-6), incorporated by reference is section 3.103 above, who are caring for children receiving Basic Cash Assistance through the Colorado Works Program are not eligible for Colorado Works Child Care but may be eligible for Low-Income Child Care if the adult caretaker or teen parent meets all other Low-Income program criteria.
7. Adoptive parents (including those receiving adoption assistance) are eligible if they meet the Low-Income program requirements.
8. Adult caretaker(s) or teen parent(s) who are participating in a low-income eligible activity and go on temporary verified maternity/paternity leave.
9. Adult caretaker(s) or teen parent(s) with an open and active Low-Income Child Care case who are participating in a low-income eligible activity and go on temporary verified medical leave and are unable to care for their children.
10. A separated primary adult caretaker or teen parent with a validly issued temporary order for parent responsibilities or child custody shall not be determined ineligible based on the other spouse's or parent's financial resources.

**E. Ineligible Household Compositions**

Incapacitated single adult caretakers or teen parents who are not in a low-income eligible activity are not eligible for the low-income program.

**F. Eligible Child**

An "eligible child" is a child from birth to the age thirteen (13) years who needs child care services during a portion of the day, but less than twenty four (24) hours, and is physically residing with the eligible adult caretaker(s) or teen parent(s); or a child with verified additional care needs under the age of nineteen (19) who is physically or mentally incapable of caring for themselves or is under court supervision and is physically residing with the eligible adult caretaker(s) or teen parent(s).

1. All children who have had an application made on their behalf or are receiving child care assistance shall verify that they are a citizen/legal resident and provide proof of identity if inconsistent, in accordance with rule section 3.105.1 (C)(2)(b).
2. Children receiving child care from a qualified exempt child care provider who is unrelated to the child and care is provided outside of the child's home and who are not attending school as defined by the Colorado Department of Education shall provide a copy of their immunization record to the county, indicating that the children are age-appropriately immunized, unless exempt due to religious or medical reasons (see Sections 25-4-902 and 25-4-908, C.R.S.).

**G. Eligible Activities**

Adult caretakers or teen parents shall meet the criteria of at least one of the following low-income eligible activities:

1. Employment Criteria
  - a. Adult caretakers or teen parents may be employed full or part time.

- b. Adult caretaker(s) or teen parent(s) shall verify that his/her gross income divided by the number of hours worked equals at least the current federal minimum wage.
  - c. Owners of LLC's and S-Corporations are considered employees of the corporation.
2. Self-Employed Criteria
- a. The adult caretaker(s) or teen parent(s) shall submit documentation listing their income and work-related expenses. The county shall obtain verification of all expenses from the adult caretaker(s) or teen parent(s) or they will not be allowed.
  - b. The adult caretaker(s) or teen parent(s) shall submit an expected weekly employment schedule that includes approximate employment hours. This is required upon beginning self-employment, at application, and at redetermination.
  - c. The adult caretaker(s) or teen parent(s) shall show that they have maintained an average income that exceeds their business expenses from self-employment.
  - d. The adult caretaker(s) or teen parent(s) shall show that their taxable gross income divided by the number of hours worked equals at least the current federal minimum wage.
  - e. Adult caretakers or teen parent(s) whose self-employment endeavor is less than twelve (12) months old, may be granted child care for six (6) months or until their next re-determination, whichever is longer, to establish their business. At the end of the launch period, adult caretakers shall provide documentation of income, verification of expenses and proof that they are making at least federal minimum wage for the number of hours worked. Projected income for the launch period shall be determined based upon the federal minimum wage times the number of declared hours worked.
3. Job Search Criteria
- a. Job search child care is available to eligible adult caretakers or teen parents that met the eligibility criteria on the most recent eligibility determination for no fewer than thirteen (13) weeks of child care for each instance of non-temporary cessation of activity (per section 3.105.2,C).
  - b. If the job search activity is reported within the four (4) week reporting period, the activity shall begin the day that the change in activity was reported. If the job search activity is reported outside of the four (4) week reporting period, the activity shall begin the date that activity cessation occurred.
  - c. Job search shall continue until the adult caretaker or teen parent gains employment, enters into another low-income eligible activity, or when all of the allotted job search time has been utilized. Any day utilized in a week is considered one (1) week used toward the time limited activity.
  - d. Regular consistent child care must be provided during the job search period.
  - e. The amount of care authorized each day shall, at a minimum, be commensurate with the amount needed to complete the job search tasks.

- f. Job search child care shall be approved in each instance of non-temporary job loss or when adult caretakers or teen parents end their low-income eligible activity while enrolled in the Low-Income program.
- g. An adult caretaker or teen parent shall be determined ineligible once they have utilized their allotted job search time and have not reentered into a low-income eligible activity.
- h. If at the time of re-determination, the adult caretaker or teen parent remains in a job search activity, has not utilized the remainder of their allotted job search time, and has provided the required re-determination documentation, the county shall place the case into a post-eligibility stabilization period for the duration of the remaining job search time.
  - 1) If during the post-eligibility stabilization period the adult caretaker or teen parent reports that they have gained employment or reentered into another low-income eligible activity, the county shall process this change, continue care, and assess a parent fee.
  - 2) The adult caretaker or teen parent shall be determined ineligible if they have not reentered into a low-income eligible activity and the post eligibility stabilization period has expired.

#### 4. Training Criteria and Post-Secondary Education

Subject to available appropriations, an adult caretaker(s) who is enrolled in a training or post-secondary education program is eligible for CCCAP for at least one-hundred-four (104) weeks and up to two-hundred-eight (208) weeks per lifetime, provided all other eligibility requirements are met during the adult caretaker's enrollment. These weeks do not have to be used consecutively. A county may give priority for services to a working adult caretaker(s) over an adult caretaker(s) enrolled in post-secondary education or workforce training. When a teen parent becomes enrolled in post-secondary education, they are considered an adult caretaker and the time limited activity timelines apply.

Counties' child care staff may refer adult caretakers and teen parents to community employment and training resources for assistance in making a training and postsecondary education decision.

- a. Adult caretaker educational programs include post-secondary education for a first bachelor's degree or less, or workforce/vocational/technical job skills training when offered as secondary education, which result in a diploma or certificate, for at least one-hundred-four (104) weeks and up to two-hundred-eight (208) weeks per lifetime. This is limited to coursework for the degree or certificate.
- b. In addition to the weeks of assistance available for post-secondary and vocational or technical training, up to fifty-two (52) weeks of assistance is allowable for basic education.
- c. Any week in which at least one (1) day is utilized for child care is considered one (1) week used toward the time limit.

#### H. Low-Income Eligibility Guidelines

- 1. Adult caretaker(s) or teen parent(s) gross income must not exceed eighty-five percent (85%) of the state median income.

- a. Entry eligibility shall be set by the Department at a level based on the self sufficiency standard, not to be set below one hundred eighty-five percent (185%) of federal poverty level.
  - b. Exit income eligibility must be eighty-five percent (85%) of the state median income.
2. Effective October 1, 2022, monthly gross income levels, for one-hundred percent (100%) of the Federal Poverty Guideline (FPG), as well as eighty-five percent (85%) of State Median Income (SMI) for the corresponding household size are as follows:

<b>Family Size</b>	<b>100% Federal Poverty Guideline (FPG)</b>	<b>85% State Median Income (SMI) (State and Federal Maximum Income Limit)</b>
<b>1</b>	\$1,132.50	\$4,080.62
<b>2</b>	\$1,525.83	\$5,336.19
<b>3</b>	\$1,919.17	\$6,591.77
<b>4</b>	\$2,312.50	\$7,847.34
<b>5</b>	\$2,705.83	\$9,102.92
<b>6</b>	\$3,099.17	\$10,358.49
<b>7</b>	\$3,492.50	\$10,593.91
<b>8</b>	\$3,885.83	\$10,829.33
<b>Each Additional person</b>	\$393.33	\$235.42

3. Generally, the expected monthly income amount is based on the income received in the prior thirty (30) day period; except that, when the prior thirty (30) day period does not provide an accurate indication of anticipated income as referenced in the definition of "Income Eligibility" in Section 3.103 or under circumstances as specified below, a different period of time may be applicable:
- a. For new or changed income, a period shorter than a month may be used to arrive at a projected monthly amount.
  - b. For contract employment in cases, such as in some school systems, where the employees derive their annual income in a period shorter than a year, the income shall be prorated over the term of the contract, provided that the income from the contract is not earned on an hourly or piecework basis.
  - c. For regularly received self-employment income, net earnings will usually be prorated and counted as received in a prior thirty (30) day period, except for farm income. For further information, see Section 3.105.1 (I)(3) on self-employment under countable earned income.
  - d. For all other cases where receipt of income is reasonably certain, but the monthly amount is expected to fluctuate, a period of up to twelve (12) months may be used to arrive at an average monthly amount.

- e. For income from rental property to be considered as self-employment income, the adult caretaker(s) or teen parent(s) shall actively manage the property at least an average of twenty (20) hours per week. Income from rental property will be considered as unearned income if the adult caretaker(s) or teen parent(s) are not actively managing the property an average of at least twenty (20) hours per week. Rental income, as self-employment or as unearned income, may be averaged over a twelve (12) month period to determine monthly income. Income from jointly owned property shall be considered as a percentage at least equal to the percentage of ownership or, if receiving more than percentage of ownership, the actual amount received.
  - f. For cases where a change in the monthly income amount can be anticipated with reasonable certainty, such as with Social Security cost-of-living increases or other similar benefit increases, the expected amount shall be considered in arriving at countable monthly income for the month received.
  - g. Income inclusions and exclusions (Section 3.105.1, I & J) shall be used in income calculations.
  - h. Irregular child support income, not including lump sum payments, may be averaged over a period of time up to twelve (12) months in order to calculate household income.
  - i. Non-recurring lump sum payments, including lump sum child support payments, may be included as income in the month received or averaged over a twelve (12) month period, whichever is most beneficial for the client.
4. Income Verification at Application and Re-determination
- a. Earned Income
    - 1) For ongoing employment, income received during the prior thirty (30) day period shall be used in determining eligibility unless, on a case-by-case basis, the prior thirty (30) day period does not provide an accurate indication of anticipated income, in which case, a county can require verification of up to twelve (12) of the most recent months of income to determine a monthly average. The adult caretaker(s) or teen parent(s) may also provide verification of up to twelve (12) of the most recent months of income if they choose to do so if such verification more accurately reflects a household's current income level.
    - 2) For employment that has begun or changed within the last sixty (60) days, a new employment verification letter may be used.

- 3) For self-employment income the adult caretaker or teen parent shall submit documentation listing his/her income and work-related expenses for the prior thirty (30) day period. On a case-by-case basis, if the prior thirty (30) day period does not provide an accurate indication of anticipated income, a county can require verification of up to twelve (12) of the most recent months of income and expenses to determine a monthly average. The adult caretaker(s) or teen parent(s) may also provide verification of up to twelve (12) of the most recent months of income and expenses if they choose to do so if such verification more accurately reflects a household's current income level. The county shall obtain verification of all expenses from the adult caretaker(s) or teen parent(s) or they will not be allowed. The adult caretaker(s) or teen parent(s) shall submit documentation listing his/her income and work-related expenses to the county.

b. Unearned Income

Unearned income received during the prior thirty (30) day period shall be used in determining eligibility unless, on a case-by-case basis, the prior thirty (30) day period does not provide an accurate indication of anticipated income, in which case, a county can require verification of up to twelve (12) of the most recent months of income to determine a monthly average. The adult caretaker(s) or teen parent(s) may choose to also provide verification of up to twelve (12) of the most recent months of income if such verification more accurately reflects a household's current income level.

- c. Adult caretakers or teen parents shall self-declare that their liquid and non-liquid assets do not exceed one million dollars. If assets exceed one million dollars the household is ineligible for CCCAP.
- d. If written documentation is not available at time of eligibility determination, verbal verification from the employer or other person issuing the payment may be obtained. Counties shall document the verbal verification in the case file to include the date that the information was received, who provided the information, and a contact phone number.
- e. If income is not verified
  - 1) At application
    - a) If verifications are not returned within the fifteen (15) day noticing period the application will be denied.
    - b) If all verification has not been submitted within sixty (60) calendar-days of the application date then the county shall require a new application.
  - 2) At re-determination, if all verifications are not received within the fifteen (15) day noticing period, the CCCAP case will be closed.

I. Income Inclusions

The following are considered countable income and are taken into consideration for eligibility for child care.

1. Gross earnings, salary, armed forces pay (including but not limited to basic pay, basic assistance for housing (BAH) and basic assistance for subsistence (BAS), hazard duty pay, and separation pay), commissions, tips, and cash bonuses are counted before deductions are made for taxes, bonds, pensions, union dues and similar deductions. If child care is provided for an employment activity, then gross wages divided by the number of hours worked shall equal at least the current federal minimum wage.
2. Taxable gross income (declared gross income minus verified business expenses from one's own business, professional enterprise, or partnership) from non-farm self employment.
  - a. These verified business expenses include, but are not limited to:
    - 1) The rent of business premises;
    - 2) Wholesale cost of merchandise;
    - 3) Utilities;
    - 4) Taxes;
    - 5) Mileage expense for business purposes only;
    - 6) Labor; and
    - 7) Upkeep of necessary equipment.
  - b. The following are not allowed as business expenses from self-employment:
    - 1) Depreciation of equipment;
    - 2) The cost of and payment on the principal of loans for capital asset or durable goods; and
    - 3) Personal expenses such as personal income tax payments, lunches, and transportation to and from work.
  - c. If child care is provided for a self-employment activity, then taxable gross wages divided by the number of hours worked shall equal at least the current federal minimum wage. To determine a valid monthly income taxable gross income may be averaged for a period of up to twelve (12) months.
3. Taxable gross income (gross receipts minus operating expenses from the operation of a farm by a person on his own account, as an owner, renter or tenant farming) from farm self-employment.
  - a. Gross receipts include, but are not limited to:
    - 1) The value of all products sold;
    - 2) Government crop loans;
    - 3) Money received from the rental of farm equipment and/or farm land to others; and

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- 4) Incidental receipts from the sale of wood, sand, gravel, and similar items.
  - b. Operating expenses include, but are not limited to:
    - 1) Cost of feed, fertilizer, seed, and other farming supplies;
    - 2) Cash wages paid to farmhands;
    - 3) Cash rent;
    - 4) Interest on farm mortgages;
    - 5) Farm building repairs;
    - 6) Farm taxes (not state and federal income taxes); and
    - 7) Similar expenses.
  - c. The value of fuel, food, or other farm products used for family living is not included as part of net income. If child care is provided for an employment activity, then taxable gross wages divided by the number of hours worked shall equal at least the current federal minimum wage. To determine a valid monthly income, taxable gross income may be averaged for a period of up to twelve (12) months. For all other cases where receipt of income is reasonably certain but the monthly amount is expected to fluctuate, a period of up to twelve (12) months shall be used to arrive at an average monthly amount.
4. An in-kind benefit is any gain or benefit received by the adult caretaker(s) or teen parent(s) as compensation for employment, which is not in the form of money such as meals, clothing, public housing or produce from a garden. A dollar amount must be established for this benefit and it must be counted as other income. The dollar amount is based on the cost or fair market value.
  5. Vendor payments are money payments that are not payable directly to an adult caretaker or teen parent but are paid to a third party for a household expense and are countable when the person or organization making the payment on behalf of a household is using funds that otherwise would need to be paid to the adult caretaker(s) or teen parent(s) and are part of the compensation for employment.
  6. Railroad retirement insurance
  7. Veterans Payments
    - a. Retirement or pension payments paid by defense finance and accounting services (DFAS) to retired members of the Armed Forces;
    - b. Pension payments paid by the Veteran's Administration to disabled members of the Armed Forces or to survivors of deceased veterans;
    - c. Subsistence allowances paid to veterans through the GI bill. For education and on-the-job training; and
    - d. "Refunds" paid to veterans as GI insurance premiums.
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8. Pensions and annuities (minus the amount deducted for penalties, if early payouts are received from these accounts)
    - a. Retirement benefit payments;
    - b. 401(k) payments;
    - c. IRA payments;
    - d. Pension payments; or
    - e. Any other payment from an account meant to provide for a retired person or their survivors.
  9. Dividends
  10. Interest on savings or bonds
  11. Income from estates or trusts
  12. Net rental income
  13. Royalties
  14. Dividends from stockholders
  15. Memberships in association
  16. Periodic receipts from estates or trust funds
  17. Net income from rental of a house, store, or other property to others
  18. Receipts from boarders or lodgers
  19. Net royalties
  20. Inheritance, gifts, and prizes
  21. Proceeds of a life insurance policy, minus the amount expended by the beneficiary for the purpose of the insured individual's last illness and burial, which are not covered by other benefits
  22. Proceeds of a health insurance policy or personal injury lawsuit to the extent that they exceed the amount to be expended or shall be expended for medical care
  23. Strike benefits
  24. Lease bonuses and royalties (e.g., oil and mineral)
  25. Social Security pensions, survivor's benefits and permanent disability insurance payments made prior to deductions for medical insurance
  26. Unemployment insurance benefits
  27. Worker's compensation received for injuries incurred at work
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28. Maintenance payments made by an ex-spouse as a result of dissolution of a marriage
29. Child support payments
30. Military allotments
31. Workforce innovation opportunity act (WIOA) wages earned in work experience or on the-job training
32. Earned AmeriCorps income includes government payments from agricultural stabilization and conservation service and wages of AmeriCorps volunteers in service to America (vista) workers. Vista payments are excluded if the client was receiving CCCAP when they joined vista. If the client was not receiving CCCAP when they joined vista, the vista payments shall count as earned income.
33. CARES payments – refugee payments from Refugee Services

**J. Income Exclusions**

The following are not considered countable income and are not taken into consideration for eligibility for child care.

1. Earnings of a child in the household when not a teen parent
2. Supplemental Security Income (SSI) under Title XVI
3. Any payment made from the Agent Orange Settlement Fund, pursuant to P.L. No. 101201
4. Nutrition related public assistance
  - a. The value of Food Assistance benefits (SNAP)
  - b. Benefits received under title VII, Nutrition Program for the Elderly, of The Older Americans Act (42 U.S.C. 3030A)
  - c. The value of supplemental food assistance received under the Special Food Services Program for Children provided for in the National School Lunch Act and under the Child Nutrition Act
  - d. Benefits received from the Special Supplemental Food Program for Women, Infants and Children (WIC)
5. Payments received under Title II of the Uniform Relocation Assistance and Real Property Acquisition Policies Act
6. Experimental Housing Allowance Program (EHAP) payments made by HUD under Section 23 of the U.S. Housing Act
7. Payments made from Indian judgment funds and tribal funds held in trust by the Secretary of the Interior and/or distributed per capita
8. Distributions from a native corporation formed pursuant to the Alaska Native Claims Settlement Act (ANCSA)

9. Major disaster and emergency assistance provided to individuals and families, and comparable disaster assistance provided by states, local governments and disaster assistance organizations
10. Payments received from the county or state for providing foster care, kinship care, or for an adoption subsidy
11. Payments to volunteers serving as foster grandparents, senior health aides, or senior companions, and to persons serving in the Service Corps of Retired Executives (SCORE) and Active Corps of Executives (ACE) and any other program under Title I (VISTA) when the value of all such payments adjusted to reflect the number of hours such volunteers are serving is not equivalent to or greater than the minimum wage, and Title II and III of the Domestic Volunteer Services Act
12. Low-Income Energy Assistance Program (LEAP) benefits
13. Social security benefit payments and the accrued amount thereof to a recipient when an individual plan for self-care and/or self-support has been developed
14. Earned Income Tax Credit (EIC) payments
15. Monies received pursuant to the "Civil Liberties Act of 1988," P.L. No. 100-383 (by eligible persons of Japanese ancestry or certain specified survivors, and certain eligible Aleuts)
16. Any grant or loan to any undergraduate student for educational purposes made or insured under any programs administered by the Commissioner of Education (Basic Educational Opportunity Grants, Supplementary Educational Opportunity Grants, National Direct Student Loans, and Guaranteed Student Loans); Pell Grant Program, the PLUS Program, the Byrd Honor Scholarship programs, and the College Work Study Program
17. Training allowances granted by Workforce Investment Act (WIA) to enable any individual, whether dependent child or caretaker relative, to participate in a training program are exempt
18. Payments received from the youth incentive entitlement pilot projects, the youth community conservation and improvement projects, and the youth employment and training programs under the Youth Employment and Demonstration Project Act
19. Any portion of educational loans, scholarships, and grants obtained and used under conditions that preclude their use for current living costs and that are earmarked for education
20. Financial assistance received under the Carl D. Perkins Vocational and Applied Technology Education Act that is made available for attendance costs. Attendance costs include: tuition, fees, rental or purchase of equipment, materials, supplies, transportation, dependent care and miscellaneous personal expenses
21. Any money received from the Radiation Exposure Compensation Trust Fund, pursuant to Public Law No. 101-426 as amended by Public Law No. 101-510
22. Resettlement and Placement (R & P) vendor payments for refugees
23. Supportive service payments under the Colorado Works Program

24. Home Care Allowance under adult categories of assistance
  25. Loans from private individuals as well as commercial institutions
  26. Public cash assistance grants including Old Age Pension (OAP), Aid to the Needy Disabled (AND), and Temporary Assistance to Needy Families (TANF)/Colorado Works
  27. Reimbursements for expenses paid related to a settlement or lawsuit
  28. Irregular income in the certification period that totals less than ninety dollars (\$90) in any calendar quarter, such as slight fluctuations in regular monthly income and/or that which is received too infrequently or irregularly to be reasonably anticipated
  29. Income received for participation in grant funded research studies on early childhood development
- K. Income Adjustments
1. Verified court-ordered child support payments for children not living in the household shall be deducted prior to applying the monthly gross income to the maximum gross monthly income guidelines and when calculating parent fees. To qualify for the adjustment, the child support shall be:
    - a. Court ordered and paid; and
    - b. For a current monthly support order (not including arrears).
  2. In order to be considered verified:
    - a. There shall be verification that payments are court ordered and actually paid;
    - b. Court ordered payments deducted shall be for current child support payments; and
    - c. Such verification shall be made at the time of initial approval of eligibility for services and at the time of each re-determination of eligibility.

### **3.105.2 ADULT CARETAKER OR TEEN PARENT RESPONSIBILITIES**

- A. Primary adult caretaker(s) or teen parent(s) shall sign the application/re-determination form along with providing verification of income to determine eligibility.
- B. Adult caretaker(s) or teen parent(s) agrees to pay the parent fee listed on the child care authorization notice and understands that it is due to the child care provider in the month that care is received.
- C. Adult caretaker(s) or teen parent(s) have the responsibility to report and verify changes to income in writing within ten (10) calendar days of the change, only if the household's income exceeds eighty-five percent (85%) of the State median income. Also, if the adult caretaker(s) or teen parent(s) is no longer in their qualifying low-income eligible activity, this is considered temporary cessation of activity and must be reported in writing within four (4) calendar weeks. This does not include a temporary break in low-income eligible activity such as a temporary job loss from the qualifying eligible activity or temporary change in participation in a training or education activity where the individual remains employed, self-employed, or enrolled in training or education. A temporary break includes but is not limited to:

1. Any interruption in work for a seasonal worker who is not working between regular industry work seasons;
  2. Any temporary absence from low-income eligible activities including employment, self-employment, education, and/or training activity due to extended verified medical leave;
  3. Any temporary absence from low-income eligible activities including employment, self-employment, education, and/or training activity due to verified maternity/paternity leave; or
  4. Any temporary absence from an education or training activity due to holidays or scheduled breaks.
- D. Adult caretaker(s) or teen parent(s) shall provide the county department with shall provide the county department with a copy of their child's immunization record to the county, indicating that the children are age-appropriately immunized, unless exempt due to religious or medical reasons (see sections 25-4-902 and 25-4-908, C.R.S.). If there child receives child care from a qualified exempt child care provider not related to the child(ren), where care is provided outside of the child's home and the child(ren) are not school age.
- E. Adult caretaker(s) or teen parent(s) shall report changes in child care providers prior to the change.
- F. All adult caretaker(s) or teen parent(s) shall provide verification of their schedule related to their low-income eligible activity only at application and/or re-determination when non-traditional care hours are requested.
- G. The primary adult caretaker(s) or teen parent(s) must verify citizenship status, age, and identity of the child(ren) for whom care is requested, in accordance with 3.105.1(C)(2)(b). If the county determines that the adult caretaker or teen parent's declaration on the application or redetermination form is inconsistent, the adult caretaker or teen parent will be required to provide verification of what has been determined to be inconsistent.
- H. When a child care case has closed and not more than thirty (30) days have passed from date of closure; the adult caretaker(s) or teen parent(s) may provide the verification needed to correct the reason for closure. If the household is determined to be eligible, services may resume as of the date the verification was received by the county, despite a gap in services. The adult caretaker(s) or teen parent(s) would be responsible for payment during the gap in service.
- I. Adult caretaker(s) or teen parent(s) shall not share their individual attendance credentials with the child care provider at any time or they may be subject to disqualification per section 3.115.4 (B).
- J. Adult caretaker(s) or teen parent(s) are required to use the Attendance Tracking System (ATS) to check children in and out for the days of care authorized and attended unless the child care provider has been granted an exemption by the Department. Non-cooperation with the use of the ATS may result in case closure and/or non-payment of the child care subsidy as defined by county policy.

### 3.105.3 LOW-INCOME CHILD CARE RE-DETERMINATION

- A. The re-determination process shall be conducted no earlier than every twelve (12) months. The State-prescribed re-determination form shall be mailed to households at least forty-five (45) calendar-days prior to the re-determination due date. Adult caretaker(s) or teen parent(s) shall complete and return to Child Care staff by the re-determination due date. Adult caretaker(s) or teen parent(s) who do not return eligibility re-determination forms and all required verification may not be eligible for child care subsidies.
1. Employed and self-employed adult caretaker(s) or teen parent(s) shall submit documentation of the following:
    - a. Earned income
      - 1) For ongoing employment, income received during the prior thirty (30) day period shall be used in determining eligibility unless, on a case-by-case basis, the prior thirty (30) day period does not provide an accurate indication of anticipated income, in which case, a county can require verification of up to twelve (12) of the most recent months of income to determine a monthly average. The adult caretaker(s) or teen parent(s) may also provide verification of up to twelve (12) of the most recent months of income if he/she chooses to do so if such verification more accurately reflects a household's current income level.
      - 2) For employment that has begun or changed within the last sixty (60) days, a new employment verification letter may be used.
      - 3) For self-employment income the adult caretaker or teen parent shall submit documentation listing his/her income and verification of work-related expenses for the prior thirty (30) day period. On a case-by-case basis, if the prior thirty (30) day period does not provide an accurate indication of anticipated income, a county can require verification of up to twelve (12) of the most recent months of income and expenses to determine a monthly average. An adult caretaker or teen parent may also provide verification of up to twelve (12) of the most recent months of income and expenses if he/she chooses to do so if such verification more accurately reflects a household's current income level. All expenses shall be verified or they will not be allowed.
    - b. Unearned income received during the prior thirty (30) day period shall be used in determining eligibility unless, on a case-by-case basis, the prior thirty (30) day period does not provide an accurate indication of anticipated income, in which case, a county can require verification of up to twelve (12) of the most recent months of income to determine a monthly average. The adult caretaker(s) or teen parent(s) may also provide verification of up to twelve (12) of the most recent months of income if he/she chooses to do so if such verification more accurately reflects a household's current income level.
    - c. All adult caretaker(s) or teen parent(s) shall provide verification of their schedule related to their low-income eligible activity only at application and/or redetermination and only when non-traditional care hours are requested.
    - d. At application and re-determination, adult caretakers or teen parents shall self declare that their liquid and non-liquid assets do not exceed one million dollars. If assets exceed one million dollars the household is ineligible for CCCAP.

2. Adult caretaker(s) or teen parent(s) in training shall submit documentation from the training institution which verifies school schedule (only if reported at application or redetermination and non-traditional care hours are requested), and verifies current student status.
  3. Adult caretaker(s) or teen parent(s) shall provide the county department with up-to-date immunization records for child(ren) who receive child care from qualified exempt child care providers not related to the child(ren), where care is provided outside of the child's home and the child(ren) are not school age.
  4. If written documentation is not available at time of eligibility determination, verbal verification from the employer or other person issuing the payment may be obtained. Counties shall document the collateral contact verification in the case file to include the date that the information was received, who provided the information, and a contact phone number. Acceptable collateral contacts include but are not limited to:
    - a. Employers;
    - b. Landlords;
    - c. Social/migrant service agencies; and,
    - d. Medical providers who can be expected to provide accurate third party verification.
- B. Parent fees shall be reviewed at re-determination. An adjusted parent fee will be based on an average of at least the past thirty (30) days gross income or a best estimate of anticipated income in the event of new employment. Unless, on a case-by-case basis, the prior thirty (30) day period does not provide an accurate indication of anticipated income, in which case a county can require evidence of up to twelve (12) of the most recent months of income. The adult caretaker(s) or teen parent(s) may also provide evidence of up to twelve (12) of the most recent months of income if they choose to do so if such evidence more accurately reflects the adult caretaker or teen parent's current income level. The fee change shall be effective the first full calendar month after the change is reported and verified, and timely written notice is provided.
- C. For adult caretaker(s) or teen parent(s) whose children are enrolled in Head Start or Early Head Start, counties shall extend re-determination of eligibility to annually coincide with the Head Start or Early Head Start program schedule. These households are still responsible for notifying the county of any changes that may impact eligibility.

#### **3.105.4 TERMINATION OF LOW-INCOME CHILD CARE SERVICES**

- A. Child care authorizations and cases shall be terminated during the eligibility period for any of the following eligibility related reasons:
1. Household income exceeds eighty-five percent (85%) of state median income as outlined in section 3.105.1.H.2 during eligibility period;
  2. Adult caretaker(s) or teen parent(s) is no longer a resident of the state;
  3. Adult caretaker(s) or teen parent(s) is not involved in a low-income eligible activity and their job search period has expired;

4. Adult caretaker(s) or teen parent(s) who are employed or self-employed and do not meet federal minimum wage requirements outlined 3.105.1.G are not considered to be in a low-income eligible activity;
  5. If the child has had twenty-two (22) or more unexplained absences from authorized care within a thirty (30) day period and two (2) failed documented attempts to contact the adult caretaker or teen parent have been made. The thirty (30) day period must account for temporary breaks or reported breaks in care; or
  6. The adult caretaker(s) or teen parent(s) has been disqualified due to a founded Intentional Program Violation.
- B. Child care authorizations and/or cases must be terminated for the following eligibility related reasons at re-determination only:
1. Eligible child exceeds age limits;
  2. Adult caretaker(s) or teen parent(s) did not pay parent fees, an acceptable payment schedule has not been worked out between the child care provider(s) and adult caretaker(s) or teen parent(s), or the adult caretaker(s) or teen parent(s) has/have not followed through with the payment schedule;
  3. Adult caretaker(s) or teen parent(s) exceeds time limited low-income eligible activity time limits;
  4. Adult caretaker(s) or teen parent(s) fails to comply with re-determination requirements;
  5. Adult caretaker(s) or teen parent(s) is not participating in a low-income eligible activity;
  6. Adult caretaker(s) or teen parent(s) has become a participant in Colorado Works;
  7. Adult caretaker(s) or teen parent(s) did not submit required immunization records;
  8. Adult caretaker(s) or teen parent(s) is/are no longer a resident of the county or state;
  9. Adult caretaker(s) or teen parent(s) do not meet federal minimum wage requirement for employment or self-employment and are not considered to be in a low-income eligible activity;
  10. Household income exceeds eighty-five percent (85%) of State median income as outlined in section 3.105.1.H.1; or
  11. If the child has had twenty-two (22) or more unexplained absences from authorized care within thirty (30) days of the re-determination date and two (2) failed documented attempts to contact the adult caretaker or teen parent have been made. The thirty (30) day period must account for temporary breaks or reported breaks in care.
- C. Reason for termination must be documented on the state prescribed closure form and mailed via postal service, emailed or other electronic delivery systems; or, faxed or hand-delivered to the primary adult caretaker or teen parent and child care provider.



- D. Upon termination from the child care program, the adult caretaker(s) or teen parent(s) will have thirty (30) days from the effective date of closure to correct or provide the information without having to reapply for benefits. Upon correcting or providing the information, eligibility will continue as of the date the missing information was provided to the county. Parent fees will be based on the previous amount specified until prior notice is provided of changes to future parent fees.
- E. Nothing in this section shall preclude an adult caretaker(s) or teen parent(s) from voluntarily withdrawing from the Low-Income program.

**3.106 COLORADO WORKS CHILD CARE**

- A. Adult caretakers or teen parents who are approved for Colorado Works and are determined work eligible per Colorado Works rule (9 CCR 2503-6) are eligible to receive Colorado Works Child Care for at least twelve (12) months unless the adult caretaker or teen parent has been determined eligible for transition to Low-Income Child Care prior to the end of the twelve (12) month period.
- B. The state-prescribed Colorado Works Child Care Referral Form shall be completed by the county Colorado Works worker and provided to the county child care technician to process in CHATS within five (5) business days of receipt and maintained in the child care case file as follows:
  - 1. When a household is determined eligible for Colorado Works Child Care;
  - 2. When there are changes in household composition;
  - 3. To continue care beyond the end of each twelve (12) month period;
  - 4. When a household is no longer eligible for Colorado Works, at which time the household shall be transitioned to Low-Income Child Care per rule 3.106.2; and/or,
  - 5. When a household's Colorado Works case is transitioned to another county.
- C. Adult caretakers or teen parents that are not determined work eligible per Colorado Works rule (9 CCR 2503-6) who are caring for children who are receiving basic cash assistance through the Colorado Works Program may be eligible for Low-Income Child Care if the adult caretaker or teen parent is not a part of the Colorado Works assistance unit; and, she/he meets all other low-income program criteria.

**3.106.1 ELIGIBILITY FOR COLORADO WORKS CHILD CARE**

- A. Adult caretakers or teen parents that have been determined eligible for Colorado Works, have entered into a current individualized plan, are participating in allowable work activities as defined in Colorado Works rule (9 CCR 2503-6) and have been referred for child care by the county Colorado Works worker shall be considered to be participating in an eligible activity and shall receive Colorado Works Child Care for at least twelve (12) months unless the adult caretaker or teen parent transitions to Low-Income Child Care prior to the end of the twelve (12) month period.
- B. Colorado Works Child Care cases must be authorized for a minimum of twelve (12) months based on the child's need for care.
- C. Only earned income that is reported and verified by the county Colorado Works worker will be considered countable income for Colorado Works Child Care cases upon receipt of a referral at the following times:
  - 1. When a household is initially determined eligible for Colorado Works Child Care; and/or,

2. When care is continued beyond the end of each twelve (12) month period.
- D. Child care schedule shall be determined and shared by the county Colorado Works worker on the state-prescribed Colorado Works Child Care Referral Form.
- E. County residency shall be verified by the county Colorado Works Program.
- F. Citizenship, age, and identity of the child(ren) for whom care is requested are verified by the county Colorado Works Program. The Colorado Works Child Care Referral serves as verification of citizenship, age, and identity, and the referral must be maintained in the child care case file.
- G. Immunization verification for child(ren) who receive child care from qualified exempt child care providers not related to the child(ren), where care is provided outside of the child's home and the child(ren) are not school age must be provided to the child care technician and shall be maintained in the child care case file.
- H. Counties that provide Colorado Works Child Care for households approved for state diversions require the same eligibility as outlined above.
- I. The county Colorado Works worker shall notify the child care technician in writing of changes to the level of child care services. Decreases in child care services shall only be acted upon if it is at the request of the adult caretaker or teen parent. If the county Colorado Works worker processes the child care case, written verification is not required but changes must be clearly documented in CHATS.
- J. A change in child care provider shall be reported to the child care technician by the adult caretaker or teen parent or the county Colorado Works worker prior to the change.
- K. The county child care technician shall advise adult caretaker(s) or teen parent(s) who are receiving Colorado Works Child Care of their responsibilities in writing via the Client Responsibilities Agreement at the time of the initial referral.
- L. If the adult caretaker or teen parent moves out of the county in which they are actively receiving Colorado Works Child Care during the twelve (12) month period:
  1. The originating county child care staff shall notify the receiving county within ten (10) business days of being notified that the adult caretaker or teen parent has moved.
  2. Upon receipt of notification from the originating county, the receiving county shall initiate or maintain the Colorado Works Child Care case for the remainder of the twelve (12) month period at a minimum.

### **3.106.2 TRANSITION OFF COLORADO WORKS CHILD CARE**

Counties shall transition households that are no longer eligible for the Colorado Works Program and are participating in a low-income eligible activity as defined in 3.103 to Low-Income Child Care without requiring the household to complete the low-income child care application. The household's eligibility shall be re-determined no earlier than twelve (12) months after the transition as outlined in 3.105.3.

- A. A household that is no longer eligible for the Colorado Works Program shall not be automatically transitioned to Low-Income Child Care if any of the following conditions apply:
  1. The household is ineligible for the Colorado Works Program due to an Intentional Program Violation (IPV) as determined in Colorado Works rule (9 CCR 2503-6) or,

2. The household is ineligible for the Colorado Works Program and will be at an income level that exceeds eighty-five percent (85%) of the State Median Income (SMI) as outlined in section 3.105.1.H.1; or,
  3. If the child has had twenty-two (22) or more unexplained absences from authorized care within the last thirty (30) days prior to the household being determined ineligible for Colorado Works and two (2) failed documented attempts to contact the adult caretaker or teen parent have been made within the thirty (30) day period.
  4. If a household is not transitioned to Low-Income Child Care for the reasons outlined above, the county shall provide timely written notice.
- B. Households shall be determined eligible to transition to Low-Income Child Care based on the information and verification that is provided to the child care technician by the county Colorado Works worker upon receipt of the state-prescribed Colorado Works Child Care Referral Form. No additional verification shall be required until the household's twelve (12) month re-determination for Low-Income Child Care. Child citizenship status, age, and identity must not be re-verified at the time of the Low-Income Child Care re-determination if it was previously verified using the Colorado Works Child Care Referral Form.
- C. If a household becomes ineligible for Colorado Works while in a low-income eligible activity other than job search as defined in 3.103, the adult caretaker or teen parent shall be transitioned to Low-Income Child Care. The household's eligibility shall be re-determined no earlier than twelve (12) months after the transition as outlined in 3.105.3.
- D. If a household becomes ineligible for Colorado Works while participating in a job search activity or is not in a low-income eligible activity as defined in 3.103, the adult caretaker or teen parent shall be transitioned to Low-Income Child Care and provided a minimum of thirteen (13) weeks of job search.
- E. If an increase in household income is reported by the county Colorado Works worker at the time of transition to Low-Income Child Care, the county child care technician shall document the income increase in case comments but shall not act upon the change until the household's twelve (12) month re-determination for Low-Income Child Care.
- F. Parent fees for households that transition from Colorado Works to Low-Income Child Care must not be assessed higher than what was determined at the most recent Colorado Works Child Care referral. Parent fee revisions for child care during the twelve (12) month period may occur as outlined in 3.111(B).
- G. Households that transition from Colorado Works to Low-Income Child Care must be authorized for a minimum of twelve (12) months based on the child's need for care as long as the family remains eligible for the Low-Income Child Care program.
- H. Households that transition from Colorado Works to Low-Income Child Care are subject to the Low-Income Child Care rule outlined in 3.105.
- I. County child care staff shall advise adult caretaker(s) or teen parent(s) that are transitioned from Colorado Works to Low-Income Child Care of their responsibilities in writing via the Client Responsibilities Agreement at the time of transition.
- J. If a household is not transitioned from Colorado Works to Low-Income Child Care, the county shall provide a fifteen (15) day notice.

- K. If at any time after being transitioned onto Low-Income Child Care the household is determined eligible for Colorado Works, re-enters into a current individualized plan, and is participating in an allowable work activity as defined in Colorado Works rule (9 CCR 2503-6), the household shall be transitioned back onto Colorado Works Child Care upon receipt of the Colorado Works Child Care Referral Form.

**3.107 PROTECTIVE SERVICES CHILD CARE**

- A. Protective services households refers to households in which child(ren) have been placed by the county in foster home care, kinship foster home care, or non-certified kinship care and have an open child welfare case. At the option of the county, the county may provide protective services child care utilizing Child Care Development Funds (CCDF) rather than Child Welfare.
- B. Protective services cases must be authorized for a minimum of twelve (12) months by the county worker based on the child's need for care due to the funding source.
- C. Protective services child care is not twenty-four (24) hour care. Child care services for school-age children during regular school hours shall be different from, and cannot be substituted for, educational services that school districts are required to provide under the Colorado Exceptional Children's Educational Act.
- D. The state-approved Protective Services Child Care Referral Form shall be completed by the county Child Welfare worker and provided to the county child care technician to process in CHATS within five (5) business days of receipt and maintained in the child care case file when any of the following occur:
1. A household is determined eligible for Protective Services Child Care;
  2. There are changes in household composition that affect eligibility or the need for Protective Services Child Care;
  3. There are changes in the child care schedule;
  4. To continue care; or,
  5. A household is no longer eligible for or in need of Protective Services Child Care.

**3.107.1 ELIGIBILITY FOR PROTECTIVE SERVICES HOUSEHOLDS (COUNTY OPTION)**

- A. Protective services households are considered to be a household of one for purposes of determining income eligibility. The only countable income for a protective services household is the income that is received by the child(ren) that have been placed in kinship or foster care. Child support income shall not be included as income. Child support income is intercepted by the county child welfare department.
- B. Protective services households shall be allowed up to sixty (60) days to provide verification of the child(ren)'s income.
- C. As determined by the Child Welfare worker, the income requirement for protective services households may be waived on a case by case basis. If the income requirement is waived, it must be documented in the case file.
- D. Protective services households are not subject to low-income eligible activity requirements.

- E. Protective services households are not subject to residency verification requirements. The county with the open child welfare case shall be considered the county of residency.
- F. Citizenship, age, and identity shall be verified by the Child Welfare worker. The signed Protective Services Child Care Referral serves as verification of citizenship, age, and identity and must be maintained in the child care case file. If the Child Welfare worker is unable to attest to having verified the child's citizenship status, age, and/or identity at the time of referral:
  - 1. Protective services households must be allowed up to six (6) months to provide verification of the child(ren)'s U.S. citizenship status and age;
  - 2. Protective services households must be allowed up to six (6) months to provide verification of the child(ren)'s identity; and,
  - 3. If the Child Welfare worker cannot verify and attest to the child's citizenship status, age, or identity within six (6) months of the referral, the county must not provide child care services for the child(ren) through the use of Protective Services Child Care.
- G. Protective services households must be allowed up to sixty (60) days to provide verification of immunization if child care is provided by a qualified exempt child care provider not related to the child where care is provided outside of the home.
- H. If the child(ren) on the Protective Services Child Care case receives care from a licensed child care provider, the county may reimburse the child care provider for additional absences and/or holidays beyond what would be paid for a Low-Income, Colorado Works, or Child Welfare Child Care case. The number of additional absences shall be paid in accordance with the Protective Services Child Care policy set by the county and approved by the State Department.

**3.108 CHILD WELFARE CHILD CARE**

- A. Child Welfare Child Care is used as a temporary service to maintain children in their own homes or in the least restrictive out-of-home care setting when there are no other child care options available. This may include parents, non-certified kinship care, kinship foster care homes, and foster care homes.
- B. Child Welfare Child Care is not twenty-four (24) hour care. Child care services for school-age children during regular school hours shall be different from, and cannot be substituted for, educational services that school districts are required to provide under the Colorado Exceptional Children's Educational Act.
- C. Eligibility for Child Welfare Child Care is determined on a case-by-case basis by the Child Welfare division using the criteria outlined in 12 CCR 2509-4 §7.302.
- D. Child Welfare Child Care households are not subject to residency verification requirements. The county with the open child welfare case shall be considered the county of residency.
- E. The county shall not provide Child Welfare Child Care utilizing CCDF.

**3.109 ELIGIBILITY FOR FAMILIES EXPERIENCING HOMELESSNESS**

- A. Households shall meet the definition of families experiencing homelessness.

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- B. Households that meet the definition of “families experiencing homelessness” shall be provided a child care authorization during a stabilization period of at least sixty (60) consecutive calendar days, within a twelve (12) month period, to allow the household the opportunity to submit verification for ongoing child care subsidies.
1. If verifications necessary to determine ongoing eligibility are received within the stabilization period, the household will continue to receive subsidized child care. If verifications necessary to determine ongoing eligibility are not received within the stabilization period, the household will be determined ineligible and given proper adverse action notice.
  2. Subsidized care provided during the stabilization period is considered non-recoverable by the county unless fraud has been established.
  3. Eligible activity
    - a. The adult caretaker(s) or teen parent(s) is not required to participate in a low-income eligible activity during the stabilization period.
    - b. If the adult caretaker(s) or teen parent(s) is participating in a low-income eligible activity, they will have at least sixty (60) days to provide necessary verification.
  4. Residency
    - a. The adult caretaker(s) or teen parent(s) shall self-declare residency during the stabilization period by providing the location they are temporarily residing. Counties shall identify the zip code of this location in CHATS.
    - b. The adult caretaker(s) or teen parent(s) may provide a mailing address or the county shall use general delivery or the county office address for client correspondence.
  5. The adult caretaker(s) or teen parent(s) may self-declare citizenship, age, and identity of the child(ren) during the stabilization period.
    - a. A child’s citizenship status, age, and identity are considered to be verified at the end of the stabilization period if the complete application includes the child’s age and citizenship status and is signed attesting to the child’s identity unless the county determines that the declaration of citizenship, age, and/or identity is inconsistent.
    - b. The county must request additional verification at the end of the stabilization period if the adult caretaker or teen parent’s declaration is determined to be inconsistent based on the following guidelines:
      - 1) if the claim of citizenship, age, and/or identity is inconsistent with statements made by the adult caretaker or teen parent, or with other information on the application, or on previous applications;
      - 2) if the claim of citizenship, age, and/or identity is inconsistent with the documentation provided by the adult caretaker or teen parent; and/or,

- 3) if the claim of citizenship, age, and/or identity was previously received from another source such as another public assistance program including Colorado Works, the Supplemental Nutrition Assistance Program (SNAP), or Medicaid, and the claim is inconsistent with the information previously received from that source.
6. If child care is provided by a qualified exempt child care provider not related to the child where care is provided outside of the home, the requirement to provide the county with verification of immunization status shall not be required during the stabilization period.

### **3.110 CHILD CARE ASSISTANCE PROGRAM WAIT LISTS AND ENROLLMENT FREEZES**

#### **3.110.1 WAIT LISTS**

- A. A county may apply to the state to implement a wait list when:
  1. State-generated projections indicate that a county's allocation will be at least eighty-five percent (85%) expended by the end of the fiscal year; or,
  2. A county is able to demonstrate a fiscal need that includes factors that are not accounted for in the state-generated projections for county CCAP expenditures, such as, but not limited to, drastic economic changes.
- B. Once approved, counties shall maintain a current and accurate wait list in CHATS of adult caretakers and teen parents who have applied for the CCCAP program.
  1. Counties shall require families to complete a Low-Income Child Care application in its entirety and enroll eligible adult caretakers and teen parents from wait lists according to the following state defined target populations:
    - a. Households whose income is at or below 130% of the current federal poverty guidelines;
    - b. Children with additional care needs; and,
    - c. Families experiencing homelessness.
  2. Counties may prioritize enrollment for teen parents or other segments of populations that are defined by the county based on local needs.

#### **3.110.2 ENROLLMENT FREEZES**

- A. A county may apply to the state to implement a freeze when:
  1. State-generated projections indicate that a county's allocation will be at least ninety-five percent (95%) expended by the end of the fiscal year; or,
  2. A county is able to demonstrate a fiscal need that includes factors that are not accounted for in the state-generated projections for county CCAP expenditures, such as, but not limited to, drastic economic changes.

- B. Counties that have been approved to implement a freeze shall add adult caretakers and teen parents into CHATS if they are likely to be found eligible based on self-reported income and job, education, job search, or workforce training activity. Counties shall require an applicant to restate his or her intention to be kept on the freeze every six (6) months in order to maintain his or her place on the list.
1. Counties shall enroll eligible adult caretakers and teen parents once a freeze is lifted according to the following state defined target populations:
    - a. Households whose income is at or below 130% of the current federal poverty guidelines;
    - b. Children with additional care needs; and,
    - c. Families experiencing homelessness.
  2. Once a freeze is lifted, counties may prioritize enrollment for teen parents or other segments of populations that are defined by the county based on local needs.

**3.111 PARENT FEES**

- A. Parent fees are based on gross countable income for the child care household compared to the household size and in consideration of the number of children in care. Parent fees are to be calculated in whole dollars by dropping the cents. Counties must Notice families of their parent fee at the time of Colorado Works Child Care referral; low-income application or re-determination; or when a reduction/increase of household parent fee occurs.
- B. Parent fee revisions for Low-Income and Colorado Works Child Care during the twelve (12) month eligibility period may occur when:
1. The adult caretaker or teen parent, who was initially determined eligible with countable income, regains income after a temporary loss of income;
  2. A change has been reported that results in a decrease in household parent fee;
  3. There is an increase or decrease in the amount of care that is authorized and the increase in authorization is not due to the addition of a household member;
  4. The household begins or ceases utilization of care at a high-quality child care provider; or
  5. Increases in parent fees beyond what is outlined in numbers 1-4 of this section shall only go into effect at Low-Income Child Care re-determination or at the end of the twelve (12) month Colorado Works Child Care period.
- C. During the twelve (12) month eligibility period the household parent fee may not be assessed higher than what was determined at the most recent Colorado Works Child Care referral or low-income application or re-determination.



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- D. Parent fees for Low-Income Child Care cases shall be reviewed at re-determination. An adjusted parent fee will be based on an average of at least the past thirty (30) days gross income or a best estimate of anticipated income in the event of new employment or a change in the adult caretaker(s) or teen parent(s) regular monthly income. Unless, on a case-by-case basis, the prior thirty (30) day period does not provide an accurate indication of anticipated income, in which case a county can require evidence of up to twelve (12) of the most recent months of income. The adult caretaker(s) or teen parent(s) may also provide evidence of up to twelve (12) of the most recent months of income if they choose to do so if such evidence more accurately reflects the adult caretaker's current income level. Income may be divided by a weekly amount then multiplied by 4.33 to arrive at a monthly average for parent fee calculations.
- E. Colorado Works households in a paid employment activity shall pay parent fees based on gross countable income as verified and shared by the local Colorado Works program.
- F. Parent fees for Colorado Works Child Care cases shall be reviewed at the end of the household's twelve (12) month eligibility period. An adjusted parent fee shall be based on gross countable income as verified and shared by the local Colorado Works Program.
- G. As defined by county policy, a county may waive the parent fee for a Low-Income or Colorado Works Child Care household that has a child that is dually enrolled in a Head Start or Early Head Start Program.
- H. For a Low-Income or Colorado Works Child Care household utilizing a child care provider in the top three levels of the Department's quality rating system, the parent fee shall be reduced by twenty percent (20%) of the regularly calculated parent fee. For households utilizing multiple child care providers, only one child care provider is required to be in the top three quality levels for the reduced parent fee to apply.
- I. All adult caretaker(s) and teen parents are required to pay the fee as determined by the formula listed in 3.111 (P), except in the following cases:
1. One or two teen parent households who are in middle/junior high, high school, GED, or vocational/technical training activity and for whom payment of a fee produces a hardship, the parent fee may be waived entirely and documented in the case file. The parent fee waiver shall be reviewed during each re-determination.
  2. The Low-Income or Colorado Works Child Care household is eligible for a reduced parent fee based on the quality level of the child care provider
  3. Colorado Works households where the adult caretaker or teen parent has entered into a current individualized plan and is participating in an allowable work activity as defined in Colorado Works rule (9 CCR 2503-6), incorporated by reference in section 3.103, above, other than paid employment shall not have a parent fee.
  4. Child Welfare Child Care households as defined in the Social Services rule manual, Section 7.000.5 (12 CCR 2509-1), incorporated by reference in section 3.103, above, shall not have a parent fee.
  5. Families Experiencing Homelessness as defined in section 3.109 shall not have a parent fee during the stabilization period.
  6. Protective service households as defined in section 3.107 shall not have a parent fee unless the child(ren) has countable income.
  7. Families that have no income shall have no parent fee.

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8. Effective April 1, 2020, parent fees, as assessed by the parent fee formula, may be waived in the event of a declared state or local disaster or emergency for up to twelve (12) months for households impacted by such disaster or emergency. The county shall document the decision to waive the parent fee and the amount of time the parent fee will be waived in the case record in the Child Care Automated Tracking System (CHATS).
- J. The initial or revised parent fee shall be effective the first full calendar month after the end of the timely written notice period unless the revision results in a decrease to the parent fee. A parent fee shall not be assessed or changed retroactively unless in the event of an emergency or disaster as outlined in rule 3.111 (H)(8), and, under those circumstances a county may only retroactively waive the parent fee to the beginning of the current month.
- K. The fee must be paid in the month that care is received and shall be paid by the parent directly to the child care provider(s). Parent fees are used as the first dollars paid for care. The counties or their designee shall not be liable for the fee payment.
- L. When more than one child care provider is being used by the same household, child care staff shall designate to whom the adult caretaker(s) or teen parent(s) pays a fee or in what proportion the fee shall be split between child care providers. The full parent fee shall be paid each month, but parent fees shall not exceed the reimbursement rate by CCCAP. The adult caretaker(s) or teen parent(s) shall determine if it is most beneficial to close their CCCAP case if the parent fee exceeds the cost of care.
- M. Adult caretakers or teen parents will be informed of their responsibilities related to fee payment on their signed application form or via the Client Responsibilities Agreement that is provided to them at the initial Colorado Works referral or at the time of transition from Colorado Works to Low-Income Child Care.
- N. Loss of eligibility for child care subsidies may occur at re-determination or at the end of the twelve (12) month Colorado Works Child Care Period if the adult caretaker(s) or teen parents do not pay their parent fees; do not make acceptable payment arrangements with the child care providers; or, do not follow through with the arrangements during the twelve (12) month eligibility period. Notice of termination for such loss of eligibility shall be given in accordance with Section 3.105.4. Child care providers shall report nonpayment of parent fees no later than sixty (60) calendar-days after the end of the month following the month the parent fees are due unless county policy requires it earlier. If a household's benefits are terminated at re-determination for non-payment of parent fees, that household will remain ineligible until:
1. Delinquent parent fees are paid in full;
  2. Adequate payment arrangements are made with the child care provider to whom the fees are owed and an agreement is signed by both parties; or
  3. County determination of verified good faith efforts to make payment to the child care provider(s), when the client was unable to locate the child care provider(s).
- O. The adult caretaker(s) or teen parent(s) and child care provider(s) shall be given timely written notice of the parent fee amount, on the child care notice of authorization, at least fifteen (15) calendar-days prior to the first of the month the parent fee is effective.
- P. Beginning July 1, 2021 through September 30, 2024, the county must assess parent fees based upon a marginal rate increase of fourteen percent (14%) for every dollar of gross countable household income above one hundred percent (100%) of the federal poverty guidelines (FPG) outlined in section 3.105.1 (H)(2).

1. The county must assess a parent fee of one percent (1%) of gross income to eligible households with gross income that is at or below one hundred percent (100%) of the FPG.
  2. For eligible households with gross income that is above one hundred percent (100%) of the FPG, the county must assess a parent fee at one percent (1%) of their income plus a marginal rate increase of fourteen percent (14%) for every dollar of gross countable household income above one hundred percent (100%) of the FPG.
  3. An additional fifteen dollar (\$15) fee shall be added to the parent fee for each additional child when households are requesting care for more than one (1) child and have income above one hundred percent (100%) of the FPG. If care is only requested for one (1) child, the additional fifteen dollar (\$15) fee does not apply.
- Q. Counties shall use the FPG and state median income limit as defined in section 3.105.1.H.2. Counties shall update parent fees at the next scheduled re-determination according to the parent fee formula table outlined in section 3.111 (P), in effect on the date of redetermination.
- R. Parent fees, as assessed by the parent fee formula, may be reduced to five dollars (\$5) for hardship reasons for up to six (6) months per hardship award. The county director or his/her designee shall approve fee reductions and a written justification placed in the case file and noted in the case record in the Child Care Automated Tracking System (CHATS). Any hardship award may be extended so long as justification for extending the hardship award exists.
- S. The Department shall notify counties at the beginning of each federal fiscal year of the current FPG and State Median Income limit as outlined in section 3.105.1.H.2. Counties shall update parent fees at the next scheduled re-determination or at the end of the twelve (12) month Colorado Works Child Care Period.
- T. When all children in a household are in part-time care, the parent fee shall be assessed at fifty-five percent (55%) of the above-calculated fee. Part-time care is defined as an average of less than thirteen (13) full-time equivalent units of care per month.
- U. When parent fees fluctuate between part-time and full-time, due to the authorized care schedule, the parent fee should be assessed at the lower rate if the majority of the months in the twelve (12) month eligibility period calculate to part-time care.
- V. Children enrolled in grades one (1) through twelve (12) that are authorized for part-time care during the school year must have a part-time parent fee.
- W. One or two teen parent households for whom payment of a parent fee produces a hardship may have their fee waived entirely. The parent fee waiver shall be documented in the case file and reviewed during each subsequent re-determination.

### **3.112 COUNTY RESPONSIBILITIES**

- A. Counties shall administer CCCAP in compliance with Department fiscal and program regulations and in accordance with the terms associated with their allocation. Counties will be allocated child care funds annually.

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- B. Counties or their designee shall establish administrative controls to ensure appropriate internal controls and separation of duties (this means that the same employee shall not authorize and process payment for child care services). If these administrative controls create a hardship for the county, the county shall submit a waiver request and an internal county policy to the Department for approval. In no event will the Department approve a waiver of controls specified in federal or state statute or regulation/rule.
  - C. Counties must use the forms required by the Department. Counties may add additional language to state forms but shall not remove language. This does not include the Low-Income Child Care application or re-determination. All changes to forms shall be submitted to and approved by the Department prior to use.
  - D. Counties shall respond to requests from the Department within two (2) business days.
  - E. Counties shall make reasonable efforts to advise county residents of services available to target groups through press releases, presentations, pamphlets, and other mass media.
  - F. Counties must use CHATS to administer CCCAP. Counties who do not use CHATS as prescribed by the Department may not be reimbursed.
  - G. Counties shall establish controls over which county staff have the authority to override eligibility in CHATS. All overrides of eligibility shall be accompanied by documentation in CHATS.
  - H. Counties must document in CHATS actions and contacts made under the appropriate comment screen, within two (2) business days of case action or contact.
  - I. Counties must code child care expenditures to the appropriate program, as prescribed by the Department. Failure to do so may result in non-reimbursement or other actions as deemed appropriate by the Department.
  - J. Counties shall monitor expenditures of Child Care funds and may suspend enrollments, as necessary, to prevent over-expenditures in child care. "Reimbursable expenditures" are supported in whole or in part by State General Fund, Federal (pass through) money, or a combination of State and Federal money.
  - K. Counties shall be responsible for the provision of a safe place for storage of case records and other confidential material to prevent disclosure by accident or as a result of unauthorized persons other than those involved in the administration of the CCCAP program. Data of any form shall be retained for the current year, plus three previous years, unless:
    - 1. A statute, rule or regulation, or generally applicable policy issued by a county, state or federal agency that requires a longer retention period; or,
    - 2. There has been a recovery, audit, negotiation, litigation or other action started before the expiration of the three-year period.
    - 3. If a county shares building space with other county offices, it shall use locked files to store case material and instruct facility and other maintenance personnel concerning the confidential nature of information.
  - L. Counties shall post eligibility, authorization, and administration policies and procedures so they are easily accessible and readable to the layperson. The policies shall be sent to the Department for compilation.
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- M. Counties shall provide consumer education to adult caretakers, teen parents, child care providers and the general public as required by the Department including but not limited to:
1. Information on all available types of child care providers in the community: centers, family child care homes, qualified exempt child care providers and in-home child care.
  2. Information regarding voter registration
  3. Information on family support services including but not limited to:
    - a. Colorado Works;
    - b. Head Start and Early Head Start;
    - c. Low-Income Energy Assistance Program (LEAP);
    - d. Food Assistance program (SNAP);
    - e. Women, Infants and Children (WIC) program;
    - f. Child and Adult Care Food program (CACFP);
    - g. Medicaid And State Children’s Health Insurance Program;
    - h. Housing Information;
    - i. Individuals with Disabilities Education Act (IDEA) programs and services; and
    - j. Child Support Services.
  4. Counties shall also provide information and referrals to services under early and periodic screening, diagnosis, and treatment (EPSDT) under Medicaid and Part C of IDEA 34 CFR Part 300 (April 2023). Herein incorporated by reference. No later editions or amendments are incorporated. These regulations are available at no cost from the U.S. Department of Education, 400 Maryland Avenue, SW, Washington, D.C. 20202, or at <https://www.ecfr.gov>. These regulations are also available for inspection and copying at the Colorado Department of Early Childhood, 710 S. Ash Street, Bldg. C, Denver, Colorado 80246 during regular business hours.
  5. Counties shall collect information on adult caretaker(s) or teen parent(s) receiving programs services listed in rule section 3.112, M, 3-4 via the Low-Income Child Care application and shall enter the information into CHATS for reporting purposes.
- N. Once determined eligible for Low-Income Child Care, households should remain eligible for a minimum of twelve (12) months. Counties shall not discontinue child care services prior to a household’s next eligibility re-determination unless:
1. The household’s income exceeds eighty-five percent (85%) of the State Median Income;
  2. The adult caretaker(s) or teen parent(s) is no longer in a qualifying low-income eligible activity for the reasons that do not constitute a temporary break as defined in section 3.105.2.C;
  3. The adult caretaker(s) or teen parent(s) no longer reside(s) in the state;
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4. The adult caretaker(s) or teen parent(s) who are employed or self-employed and do not meet federal minimum wage requirements outlined in 3.105.1.G are not considered to be in a low-income eligible activity;
  5. If the child has had twenty-two (22) or more unexplained absences from authorized care within a thirty (30) day period and two (2) failed documented attempts to contact the adult caretaker or teen parent have been made. The thirty (30) day period must account for temporary breaks or reported breaks in care; or
  6. The adult caretaker(s) or teen parent(s) has been disqualified due to a founded Intentional Program Violation.
- O. Counties shall provide written wait list and freeze policies to the Department for review and approval at the time of county plan submission.
- P. Counties shall maintain a current and accurate wait list in CHATS of adult caretakers and teen parents who have applied for the CCCAP program.
- Q. Counties shall review current applications for completeness, approve or deny the application, and provide timely written notice to the adult caretaker(s) or teen parent(s) of approval, or of missing verifications, no more than fifteen (15) calendar-days from the date the application was received by the county. Applications are valid for a period of sixty (60) calendar-days from the application date.
1. If verifications are not received within the fifteen (15) day noticing period the application will be denied.
  2. If verification is received within sixty (60) calendar-days of the application date, counties will determine eligibility from the date the current verification was received if the eligibility criteria is met.
  3. If verification has not been completely submitted within sixty (60) calendar-days of the application date then the county shall require a new application.
- R. Upon review of an application that was directed to the wrong county of residence, the receiving county shall forward the application and any verification within one (1) business day to the correct county. The county shall provide notification to the adult caretaker(s) or teen parent(s) that their application has been forwarded to the correct county.
- S. Counties may access information already available on file or through system interfaces from other assistance programs within their county to use in child care eligibility determination at application and/or re-determination. Counties shall place a copy of this verification in the case file and/or make a notation in CHATS regarding the verification as appropriate.
- T. Counties shall obtain immunization records for children who receive child care from qualified exempt child care providers not related to the child(ren), where care is provided outside of the child's home and the child(ren) are not school age at application and re-determination.
- U. Counties are encouraged to use collateral contact whenever possible to verify information needed to determine eligibility, not including citizenship, age, and identity.
- V. Counties must use preponderance of evidence when verifying a child's citizenship status, age, and identity at application and/or re-determination, only requiring additional verification if the adult caretaker or teen parent's declaration is inconsistent according to the following guidelines:

1. If the claim of citizenship, age, and/or identity is inconsistent with statements made by the adult caretaker or teen parent, or with other information on the application/redetermination, or on previous applications/re-determinations;
  2. If the claim of citizenship, age, and/or identity is inconsistent with the documentation provided by the adult caretaker or teen parent; and/or
  3. If the claim of citizenship, age, and/or identity was previously received from another source such as another public assistance program including Colorado Works, the Supplemental Nutrition Assistance Program (SNAP), or Medicaid, and the claim is inconsistent with the information previously received from that source.
- W. Counties shall not require Social Security Numbers or cards for household members who apply for child care assistance.
- X. Counties must use the prudent person principle (PPP) to benefit families and child care providers when determining eligibility, authorizing care, entering into a fiscal agreement, and reimbursing child care providers for care that was not automatically processed through CHATS. An explanation of why and how the county used PPP must be documented in the appropriate notes section(s) of CHATS.
- Y. Counties or their designee shall verify the residence of any adult caretaker(s) or teen parent(s) receiving or applying for Low-Income Child Care assistance to ensure that they live in the county where they are applying for assistance at the time of application or re-determination. For families experiencing homelessness, refer to section 3.109.
1. Verification of address may include but is not limited to:
    - a. Rent receipt/lease;
    - b. Mortgage statement;
    - c. Utility or other bill mailed no more than two months previously;
    - d. Voter registration;
    - e. Automobile registration;
    - f. A statement from the person who leases/owns the property;
    - g. Documentation from schools such as verification of enrollment, report card, or official transcript mailed no more than two months previously;
    - h. Official correspondence from any other government agency (e.g., IRS) mailed within the past two months;
    - i. A statement from another department in your agency if they have verified the residence (e.g., Child Welfare, collateral contact); or
    - j. Paycheck stub received within the past two months.
  2. If the county of residence is questionable, a secondary means of verification may be requested such as but not limited to:
    - a. Records from the local county clerk and recorder's office; or

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- b. Records from the local county assessor's office.
- Z. County child care staff shall advise low-income adult caretaker(s) or teen parent(s) of their responsibilities in writing at application and re-determination. Information that adult caretaker(s) or teen parent(s) must report during the twelve (12) month eligibility period as follows:
- 1. Changes to income, if the household's income exceeds eighty-five percent (85%) of the State median income shall be reported within ten (10) calendar-days of the change.
  - 2. Changes to an adult caretaker(s) or teen parent's qualifying low-income eligible activity, which does not qualify as a temporary break as defined in section 3.105.2.C, must be reported within four (4) calendar weeks.
- AA. Counties shall process any reported change and/or required verification within ten (10) calendar days of receiving the information using the following guidelines:
- 1. Changes reported during the twelve (12) month low-income eligibility period requiring immediate action:
    - a. Changes to income, if the household's income exceeds eighty-five percent (85%) of the state median income;
    - b. Changes to an adult caretaker or teen parent's qualifying low-income eligibility activity, which does not qualify as a temporary break as defined in section 3.105.2. C;
    - c. Changes in parent fee per section 3.111
    - d. Changes in state residency; and
    - e. Changes that are beneficial to the household such as, but not limited to:
      - 1) An increase in authorized care;
      - 2) A change of child care provider;
      - 3) Change in household composition due to an additional child requesting care; and
      - 4) Change in mailing address.
  - 2. Changes outside of the above guidelines should be documented in CHATS but shall not be acted upon until the adult caretaker or teen parent's re-determination.
- BB. If the adult caretaker(s) or teen parent(s) moves out of the county in which they are actively receiving Low-Income Child Care assistance benefits during the twelve (12) month eligibility period; remains below eighty-five percent (85%) of the state median income; and, remains in a low-income eligible activity as defined in the originating county's county plan, the originating county shall maintain the case, authorization(s), and fiscal responsibility until the re-determination date that was previously determined;



1. The originating county shall be responsible for initiating and/or maintaining the fiscal agreement for the child care provider that the family utilizes for care in accordance with section 3.115.5 for the remainder of the twelve (12) month eligibility period. If the originating county does not have an active fiscal agreement with the chosen child care provider at the time of exit, the child care provider's fiscal agreement shall be entered using the county ceiling rates of the county in which the provider is located.
  2. At the time of re-determination, the receiving county shall re-determine the household's eligibility per section 3.105.3 without requiring the household to re-apply. At the time of redetermination the originating county shall issue the eligibility re-determination form to the household per section 3.105.3 and direct the family to return the completed form to the receiving county. To mitigate service interruptions, the originating county shall notify the receiving county of the re-determination and their responsibilities of redetermining eligibility.
  3. The child care case may be closed if at the time of re-determination the family does not meet the eligible activity requirements of the receiving county.
  4. If the receiving county has a wait list at the time of re-determination, a family may be placed onto that county's wait list provided they are not a part of the county defined target populations.
- CC. Counties shall respond to requests for information or assistance from other agencies within five (5) business days.
- DD. Counties must review and take action on current re-determinations for completeness, approve or deny the re-determination, and provide timely written notice to the adult caretaker(s) or teen parent(s) of approval, or of missing verifications, no more than fifteen (15) calendar days from the date the re-determination was received by the county. The county must notify the adult caretaker(s) or teen parent(s) in writing that they have fifteen (15) calendar days from the date the notice is mailed to provide the required missing verifications. If verifications are not received within the fifteen (15) day noticing period, the re-determination will be denied.
- EE. Whenever possible in processing re-determinations of eligibility for adult caretaker(s) or teen parent(s) currently receiving Low-Income Child Care, counties shall use information that is already available in other sources to document any verification including citizenship, age, and identity if the adult caretaker or teen parent's declaration is inconsistent in accordance with 3.112(V).
- FF. Counties shall reduce parent fees by twenty percent (20%) of the regularly calculated parent fee when a household utilizes a quality child care provider rated in the top three levels of the Department's quality rating system. For households utilizing multiple child care providers, only one child care provider is required to be in the top three quality levels for the reduced parent fee to apply.
- GG. Reports of unpaid parent fees shall be documented on the case and the county shall not take action on report of unpaid parent fees until re-determination. If the unpaid parent fee is reported outside of the required reporting period outlined in section 3.114.2 (Q), the county shall not take any action. If at the time of re-determination, the parent fee remains unpaid and acceptable payment arrangements have not been made with the child care provider, the household shall remain ineligible until:
1. Delinquent parent fees are paid in full;

2. Adequate payment arrangements are made with the child care provider to whom the fees are owed and an agreement is signed by both parties; or
  3. County determination of verified good faith efforts to make payment to the child care provider(s), when the client was unable to locate the child care provider(s).
- HH. Counties shall authorize care based on verified need, by establishing an authorization to cover the maximum amount of units needed to ensure care is available based on the adult caretaker or teen parent's participation in an eligible activity, and shall not be linked directly to the adult caretaker or teen parent's activity schedule and should be based on the child's need for care.
- II. Counties are encouraged to blend Head Start, Early Head Start and CCDF funding streams by authorizing care based on the child's need for care, regardless of the child's Head Start or early Head Start enrollment status, in order to provide seamless services to children dually enrolled in these programs.
- JJ. Counties shall align the Low-Income Child Care re-determination date with the Head Start or Early Head Start program year upon notification that a child is enrolled in a Head Start or Early Head Start program. The re-determination date shall not occur any earlier than twelve (12) months from the application date.
- KK. With regard to services to students enrolled in grades one (1) through twelve (12), no funds may be used for services provided during the regular school day, for any services for which the students received academic credit toward graduation, or for any instructional services, which supplant or duplicate the academic program of any public or private school. Exceptions to this may include but are not limited to:
1. When a child is temporarily prohibited from attending their regular classes due to a suspension or expulsion;
  2. When a child is temporarily out of school due to scheduled breaks; or
  3. When a child is temporarily out of school due to unexpected school closures.
- LL. The authorization start date shall be the date a Low-Income Child Care case is determined eligible, except in the case of a pre-eligibility application. If the child will receive care from a qualified exempt child care provider, the authorization start date shall not be prior to the date the criminal background check has been completed and cleared.
- MM. For pre-eligibility care reimbursable after eligibility has been determined and the county can provide subsidy for the potential program participant, authorization shall be dated to the date the pre-eligibility application was received by the county.
- NN. The county shall generate a Department-approved notice regarding changes to child care subsidies within one (1) business day and provide to the primary adult caretaker, teen parent and child care provider via postal service, e-mail or other electronic systems, fax, or hand-delivery.
- OO. If verification that is needed to correct the reason for closure of a child care case is received within thirty (30) calendar-days after the effective date of closure, eligibility shall be determined as of the date the verification was received regardless of any break in service period.
- PP. The county shall generate Attendance Tracking System registration for the household upon case approval or initial authorization.

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- QQ. The county shall generate Attendance Tracking System registration for child care providers when a fiscal agreement with a provider is opened.
- RR. The county shall make available the following child care provider information, including protective services information, to all staff whose responsibilities include child care subsidy services:
1. Information known to licensing staff.
  2. Information from previous agency contacts.
  3. Information obtained from the Fiscal Agreement renewals.
  4. Information obtained from adult caretaker(s) or teen parent(s), caseworker visits, and other sources.
  5. Information about corrective action intervention by the counties, their designee(s), or the Department.
- SS. The counties or their designee will complete an annual review of the state-administered system for child abuse and neglect on the qualified exempt child care provider(s) and any individual(s) in the qualified exempt child care provider's household who is eighteen (18) years and over not including the adult caretaker(s) or teen parent(s) if care is provided in the qualified exempt provider's home.
- TT. Counties shall maintain a copy of the non-relative qualified exempt provider's health and safety report of inspection in the provider file. The report of inspection shall be made available to the client upon request to the county or the Department.
- UU. Upon notification to counties by the Department that the relevant systems are capable of accommodating this review, the counties or their designee shall screen the qualified exempt child care provider(s) and any other adult eighteen (18) years of age and older, not including the adult caretaker(s) or teen parent(s), for current or previous adverse county contact, including but not limited to, allegations of fraud or IPV.
- VV. The county shall reimburse licensed child care providers based on the state established base payment and tiered reimbursement rates.
- WW. The state-established licensed child care provider reimbursement rates shall include a system of tiered reimbursement based on quality levels for licensed child care providers that enroll children participating in CCCAP.
- ZZ. For renewals, the county shall send fiscal agreements at least sixty (60) calendar-days prior to the end date of the previous fiscal agreement via postal service, fax, hand-delivery, e-mail or other electronic systems.
- YY. Counties shall make fiscal agreements effective the date that the county receives the completed and signed fiscal agreement from the provider. Fiscal agreements shall be:
1. One (1) year in length for qualified exempt child care providers
  2. Three (3) years in length for licensed child care providers
- ZZ. Counties shall reimburse providers at the rate set by the Department.

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- AAA. Prior to approving a fiscal agreement with any child care provider, the county shall compare the child care provider's private pay rates to the county's reimbursement rates set by the Department. The CCCAP reimbursement rate paid to the provider by the county must be the lesser of the two.
- BBB. Counties shall:
1. Have fiscal agreements signed by the child care provider and county staff prior to opening them in CHATS;
  2. Enter a completed fiscal agreement into CHATS within five (5) business days of receipt; and,
  3. Provide a copy of the fully executed fiscal agreement to the child care provider within seven (7) calendar days of the CHATS entry.
- CCC. Counties shall not make changes to their county ceiling rates more than every twelve (12) months unless instructed to do so by the Department.
- DDD. Counties shall update CHATS and notify a provider via rate notification within fifteen (15) business days after a child care technician has received a system generated quality rating change notification indicating that a provider has had a change in their quality rating.
- EEE. Counties shall verify that child care providers are not excluded from receiving payments prior to signing a fiscal agreement. The county shall make this verification check through the Excluded Parties List System (EPLS) established by the General Services Division on the website at: [www.sam.gov](http://www.sam.gov).
- FFF. Counties shall process complete manual claim forms in CHATS within twenty-one (21) calendar days of receipt for payments that were not automatically processed through CHATS. If processing of the complete manual claim form is delayed for any reason, the county shall notify the child care provider(s) in a timely manner and document the circumstances in CHATS.
- GGG. In any cases where payments to licensed child care providers or qualified exempt child care providers are delayed more than three (3) calendar months past the end of the month care was provided, county-only money that was not allocated by the Department shall be used to pay for this care.
- HHH. Counties shall ensure that child care providers are not charging the county more than the child care provider's established private pay rates.
- III. County offices shall complete a random monthly review of attendance data for at least one percent (1%) or one provider, whichever is greater. The county or its designee shall take necessary action as defined in the county fraud referral process if the review indicates:
1. That the child care provider(s) may have submitted an inaccurate report of attendance for a manual claim, the county or its designee shall contact the child care provider(s) and adult caretaker(s) or teen parent(s) to resolve the inaccuracy.
  2. That either the adult caretaker(s) or teen parent(s) or the child care provider has attempted to defraud the program or receive benefits to which they were not eligible. The county or its designee shall report that information to the appropriate legal authority.
- JJJ. Counties shall refer, within fifteen (15) calendar-days of establishing recovery, to the appropriate investigatory agency and/or the district attorney, any alleged discrepancy which may be a suspected fraudulent act by a household or child care provider of services.

- KKK. Counties shall establish recoveries within twelve (12) months of discovery of the facts resulting in recovery.
- LLL. Counties shall take whatever action is necessary to recover payments when households and/or child care providers owe money to the Department because of overpayments, ineligibility and/or failure to comply with applicable state laws, rules or procedures.
- MMM. Counties shall report established recoveries that are the result of legally designated or determined fraud or recoveries of five-thousand dollars (\$5000) or more to the Department.

### **3.113 PRE-ELIGIBILITY DETERMINATIONS**

An Early Care and Education provider may provide services to the household prior to the final determination of eligibility and shall be reimbursed for such services only if the county determines the household is eligible for Low-Income Child Care services and there is no need to place the household on the wait list. The start date of eligibility is defined in Section 3.112 (q). If the household is found ineligible for services, the Early Care and Education provider shall not be reimbursed for any services provided during the period between their pre-eligibility determination and the county's final determination of eligibility.

The Early Care and Education provider or county may conduct a pre-eligibility determination for child care assistance for a potential program participant to facilitate the determination process.

- A. The Early Care and Education provider may submit the prospective program participant's State-prescribed Low-Income Child Care application, release of information, and documentation to the county for final determination of eligibility for child care assistance. The Early Care and Education provider shall signify on the first page of the application in the space provided that a pre-eligibility determination has been made.
- B. The Early Care and Education provider or county may provide services to the household prior to final determination of eligibility, and the county shall reimburse an Early Care and Education Provider:
1. As of the date the county receives the application from the Early Care And Education provider for such services only if the county determines the prospective program participant is eligible for services; and,
  2. There is no need to place the prospective program participant on a wait list.
- C. All supporting documentation for a pre-eligibility application submitted by an Early Care and Education Provider shall be received in thirty (30) calendar-days of the date the application was received or the application may be determined ineligible by the county. If all verifications are received between the thirty-first (31st) and sixtieth (60th) day, counties shall determine eligibility from the date the verification was received.
- D. If the prospective program participant is found ineligible for services, the county shall not reimburse the Early Care and Education provider for any services provided during the period between its pre-eligibility determination and the county's final determination of eligibility.
- E. If an Early Care and Education provider or county has conducted a pre-eligibility determination, they shall include documentation of the information on which the pre-eligibility determination has been made in or with the application. The documentation shall include household income, household composition, and low-income eligible activity.

- F. When a county conducts a pre-eligibility determination, the county shall notify the prospective child care provider with the referral for pre-eligibility authorization that payment for care provided prior to full eligibility may not occur if the adult caretaker(s) or teen parent(s) is ultimately deemed ineligible for the CCCAP program.
- G. A child care provider may refuse to serve a county pre-eligibility authorized program participant.

### **3.114 CHILD CARE PROVIDERS**

#### **3.114.1 ELIGIBLE FACILITIES**

##### **A. Licensed Facilities**

The following facilities are required to be licensed and comply with licensing rules as defined in the Social Services rule manual, sections 7.701 through 7.712 (12 CCR 2509-8), incorporated by reference in section 3.103, above:

1. Family child care homes as defined in section 26.5-5-303(7), C.R.S.
2. Child care centers which are less than 24-hour programs of care, as defined in section 26.5-5-303(3), C.R.S.

##### **B. Qualified Exempt Child Care Providers**

1. Qualified exempt child care provider: A non-licensed family child care home in which less than twenty-four (24) hour care is given at any one time for:
  - a. Any number of children directly related to the provider;
  - b. Up to four (4) children, who are unrelated to the provider in accordance with section 26.5-5-304(1)(f)(I), C.R.S.
  - c. No more than two (2) children under the age of two (2) years may be cared for at any time; if the provider's own children are in the provider's care they are counted toward the maximum capacity of four (4).
  - d. The relationships for care outlined in a-b of this section include:
    - 1) "Relative in-home care" means care provided by a relative in the child's own home by a person who is eighteen (18) years of age or older and is related to the child through marriage, blood, court decree, or adoption and is a grandparent; great-grandparent; sibling (if living in a separate residence than the eligible child); aunt; and/or uncle, and does not meet the definition of "adult caretaker" or "teen parent".
    - 2) "Relative out-of-home care" means care provided by a relative in another location by a person who is eighteen (18) years of age or older and is related to the child through marriage, blood, court decree, or adoption and is a grandparent; great-grandparent; sibling (if living in a separate residence than the eligible child); aunt; and/or uncle, and does not meet the definition of "adult caretaker" or "teen parent".
    - 3) "Non-relative in-home care" means care provided by a person, who is not related to the child, in the child's own home.

- 4) "Non-relative out-of-home care" means care provided by a person, who is not related to the child, outside of the child's home.
2. The counties or their designee shall register qualified exempt child care providers and include the following information: name, address (not a P.O. Box #), phone number, date of birth, and social security number or individual taxpayer identification number (ITIN). Any contract provided by an agency of a state or local government is considered a public benefit.
  3. Qualified Exempt Child Care Provider Requirements
    - a. Qualified exempt child care provider(s) must be at least eighteen (18) years of age.
    - b. A qualified exempt child care provider shall not be the adult caretaker or teen parent of the child that is receiving care.
    - c. A qualified exempt child care provider shall not be a sibling of the child that is receiving care if living in the same residence.
    - d. As a prerequisite to signing a fiscal agreement with a county or its designee, a qualified exempt child care provider shall sign an attestation of mental competence. The attestation affirms that they, and any adult residing in the qualified exempt child care provider home where care is provided, has not been adjudged by a court of competent jurisdiction to be insane or mentally incompetent to such a degree that the individual cannot safely care for children.
    - e. A qualified exempt child care provider shall complete and sign the provider information form and the self-attestation form agreeing to participate in additional training as identified. As a part of this agreement, the provider shall not have had any of their own children removed from the home or placed in a residential treatment facility. The self-attestation form must include the signature of the adult caretaker(s) or teen parent(s) acknowledging monitoring responsibilities. A provider information form must be provided to the county and Department any time there is a new member of the provider's household.
  4. Background Checks
    - a. A qualified exempt child care provider and any adult eighteen years of age or older who resides in the exempt child care provider's home, not including the adult caretaker(s) or teen parent(s), must be subject to a county level background check. The information from the background check must serve only as the basis for further investigation.
    - b. A qualified exempt child care provider and any adult eighteen years of age or older who resides in the exempt child care provider's home, not including the adult caretaker(s) or teen parent(s), must also be subject to and pass a criminal background review as follows:
      - 1) A review of the Federal Bureau of Investigations (FBI) fingerprint-based criminal history records pursuant for section 26.5-5-326, C.R.S.;
      - 2) A review of the Colorado Bureau of Investigations (CBI) fingerprint-based criminal history records at application;

- 3) An annual review of the state administered database for child abuse and neglect;
  - 4) An annual review of the CBI sex offender registry; and
  - 5) The national sex offender registry public website (upon notification to counties by the Department that the relevant state and federal systems are capable of accommodating this review).
- c. Information submitted to the CBI sex offender registry and the national sex offender registry public website shall include:
- 1) Known names and addresses of each adult residing in the home, not including the adult caretaker(s) or teen parents; and,
  - 2) Addresses.
- d. At the time of submission of the completed background check packet, as determined by state procedures, a qualified exempt child care provider shall submit certified funds (i.e., money order or cashier's check) to cover all fees indicated below.
- 1) A fee for the administrative costs referred to in Section 7.701.4, F (12 CCR 2509-8), incorporated by reference in section 3.103, above.  
  
A fee for each set of submitted fingerprints for any adult who resides in the home where the care is provided, eighteen (18) years of age or older, not including the adult caretaker(s) or teen parent(s), will be required. Payment of the fee for the criminal record check is the responsibility of the individual being checked unless the county chooses to cover the cost associated with the criminal record check. Counties that choose to exercise this option shall document the policy within their county plan.
  - 2) Counties will be notified of the date the background check has cleared and shall use that date as the effective date of reimbursement for the fiscal agreement. Child care authorizations must not begin until the background check has cleared.
- e. The qualified exempt child care provider(s) may continue to receive payment as long as the qualified exempt child care provider(s) or other adult is not ineligible due to the following circumstances:
- 1) Conviction of child abuse, as described in Section 18-6-401, C.R.S.;
  - 2) Conviction of a crime of violence, as defined in Section 18-1.3-406, C.R.S.;
  - 3) Conviction of any felony offense involving unlawful sexual behavior, as defined in Section 16-22-102 (9), C.R.S.;
  - 4) Conviction of any felony that on the record includes an act of domestic violence, as defined in Section 18-6-800.3, C.R.S.;



- 5) Conviction of any felony involving physical assault, battery or a drug related/alcohol offense within the five years preceding the date of the fingerprint-based criminal background check;
  - 6) Conviction of any offense in another state substantially similar to the elements described in Items 1 through 5, above;
  - 7) Has shown a pattern of misdemeanor convictions within the ten (10) years immediately preceding submission of the application. "Pattern of misdemeanor" shall include consideration of Section 26.5-5-317, C.R.S., regarding suspension, revocation and denial of a license, and shall be defined as:
    - a) Three (3) or more convictions of 3rd degree assault as described in Section 18-3-204, C.R.S., and/or any misdemeanor, the underlying factual basis of which has been found by any court on the record to include an act of domestic violence as defined in Section 18-6-800.3, C.R.S.;
    - b) Five (5) misdemeanor convictions of any type, with at least two (2) convictions of 3rd degree assault as described in Section 18-3-204, C.R.S., and/or any misdemeanor, the underlying factual basis of which has been found by any court on the record to include an act of domestic violence as defined in Section 18-6-800.3, C.R.S.;
    - c) Seven (7) misdemeanor convictions of any type; or
    - d) Has been determined to be responsible in a confirmed report of child abuse or neglect.
  - 8) Conviction has the same meaning as that in section 26.5-5-309(4)(A)(II), C.R.S.
5. A qualified exempt child care provider shall notify the county with whom he or she has contracted pursuant to a publicly funded state Child Care Assistance Program, within ten (10) calendar-days of any circumstances that result in the presence of any new adult in the residence.
  6. If required documents are not returned within thirty (30) days, the qualified exempt child care provider shall be denied a fiscal agreement.
  7. Additional requirements for non-relative qualified exempt child care providers:
    - a. Completion of all pre-service health and safety trainings approved by the Department, within three months of providing services as a qualified exempt child care provider under the Colorado Child Care Assistance Program.
    - b. An annual on-site health and safety inspection conducted by the Department or its designee. Non-relative qualified exempt providers shall correct any health and safety inspection standards within thirty (30) days after the inspection unless the results identify standards that must be corrected immediately.
    - c. Qualified exempt non-relative child care providers shall meet the mandatory child abuse and neglect reporting requirements annually.

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- d. If the non-relative qualified exempt child care provider fails to comply with any of the requirements in (a)-(d) above, the county shall deny or terminate a fiscal agreement.
8. Qualified exempt child care providers who are denied a Fiscal Agreement or whose Fiscal Agreement is terminated may request an informal conference with staff responsible for the action, the supervisor for that staff and the county director or director's designee to discuss the basis for this decision and to afford the qualified exempt child care provider(s) with the opportunity to present information as to why the qualified exempt child care provider(s) feels the county should approve or continue the Fiscal Agreement. Any request for a conference shall be submitted in writing within fifteen (15) calendar-days of the date the qualified exempt child care provider is notified of the action. The county shall hold that conference within two (2) weeks of the date of the request. The county shall provide written notice of its final decision to the qualified exempt child care provider(s) within fifteen (15) business days after the conference.
  9. Non-relative qualified exempt child care providers who are denied a fiscal agreement or whose fiscal agreement is terminated due to the department's decision regarding adherence to health and safety standards may appeal the decision to the executive director of the Department or the executive director's designee in writing within fifteen (15) days of the county's decision. The executive director's decision is a final agency decision subject to judicial review by the state district court under § 24-4-106, C.R.S.
  10. If a qualified exempt child care provider has not had an open authorization for ninety (90) calendar days, the provider's fiscal agreement shall be closed in CHATS.
- C. For renewals, the county shall send fiscal agreements at least sixty (60) calendar-days prior to the end date of the previous fiscal agreement via postal service, fax, hand-delivery, e-mail or other electronic systems.
- D. Payment Methods
1. Payment for purchased child care shall be made to the child care provider(s) through an automated system if it is a qualified exempt child care provider(s) or licensed facility.
  2. When a manual claim is needed to reimburse providers for payments that were not automatically processed through CHATS, the state-prescribed child care manual claim form must be prepared and signed by the child care provider for increments of one month or less. The county shall utilize the state prescribed manual claim form to verify that the billing is for:
    - a. Care that was authorized and provided;
    - b. Reimbursable registration fees;
    - c. Reimbursable activity fees;
    - d. Reimbursable transportation fees;
    - e. Reimbursable hold slots;
    - f. Reimbursable drop in days; and/or,
    - g. Reimbursable absence payments.
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- E. Child care providers shall be provided with a written notice of the process of termination of the fiscal agreement on the fiscal agreement form.

**3.114.2 CHILD CARE PROVIDER RESPONSIBILITIES**

- A. Child care Providers shall maintain a valid child care license as required by Colorado statute unless exempt from the Child Care Licensing Act.
- B. Child care Providers shall report to the county if their license has been revoked, suspended, or denied within three (3) calendar-days of receiving notification or a recovery will be established of all payments made as of the effective date of closure.
- C. Child care providers shall report to the county and state licensing any changes in address no less than thirty (30) calendar-days prior to the change.
- D. Child care providers shall report to the county and state licensing any changes in phone number within ten (10) calendar-days of the change.
- E. Child care providers shall allow parents, adult caretakers, or teen parents immediate access to the child(ren) in care at all times.
- F. Child care providers shall accept referrals for child care without discrimination with regard to race, color, national origin, age, sex, religion, marital status, sexual orientation, or physical or mental handicap.
- G. Child care providers shall provide children with adequate food, shelter, and rest as defined in licensing rule (12 CCR 2509-8).
- H. Child care providers shall maintain as strictly confidential all information concerning children and their families.
- I. Child care providers shall protect children from abuse/neglect and report any suspected child abuse and neglect to the county or the Colorado Child Abuse and Neglect Hotline immediately.
- J. Child care providers shall provide child care at the facility address listed on the fiscal agreement and ensure care is provided by the person or business listed on the fiscal agreement. Exceptions are defined in licensing rules (12 CCR 2509-8).
- K. Child care providers will not be reimbursed for any care provided before the fiscal agreement start date and after the fiscal agreement end date.
- L. Child care providers shall sign the fiscal agreement and all other county or state required forms. Payment shall not begin prior to the first of the month the fiscal agreement has been signed and received by the county.
- M. Child care providers shall comply with Attendance Tracking System (ATS) requirements as defined in section 3.115.4.
- N. Child care providers shall develop an individualized care plan (ICP) for children with additional care needs based upon the Individual Education Plan (IEP), or Individual Health Care Plan (IHCP), and provide a copy to the county eligibility worker on an annual basis or other alternate period of time determined in the plan.
- O. Licensed child care providers shall maintain proof of up-to-date for the children in their care in accordance with Section 7.702 et seq. (12 CCR 2509-8). This rule does not apply to the following:

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1. Qualified exempt child care Providers caring for children in the child's own home; or,
  2. Qualified exempt child care Providers caring only for children related to the child care provider such as grandchildren, great-grandchildren, siblings, nieces, or nephews, etc.;
- P. Child care Providers shall maintain paper or electronic sign in/out sheets that the person authorized to drop off/pick up the children has signed with the date, names of the children and, the time the children arrive and leave each day they attend. These records shall be available for county review upon request and maintained for the current year plus three years.
- Q. Child care providers shall report non-payment of parent fees no later than sixty (60) calendar days after the end of the month the parent fees are due unless county policy requires it earlier. The unpaid parent fees can be reported by fax, e-mail or other electronic systems, in writing or on the billing form.
- R. Child care providers shall notify the county of unexplained, frequent and/or consistent absences within ten (10) calendar-days of establishing a pattern.
- S. Child care providers shall not charge counties more than their established private pay rates.
- T. Child care providers shall not charge adult caretakers or teen parents rates in excess of daily reimbursement rates agreed upon in the Fiscal Agreement (this includes the agreed upon registration, mandatory activity and transportation fees if the county pays these fees).
- U. If a licensed child care provider chooses to charge families for absences for which the county does not provide reimbursement, they shall use the CCCAP daily reimbursement rate agreed upon in the Fiscal Agreement.
- V. Child care providers shall offer free, age appropriate alternatives to voluntary activities. Child care providers shall only bill for:
1. Care that was authorized and provided;
  2. Reimbursable registration fees;
  3. Reimbursable activity fees;
  4. Reimbursable transportation fees;
  5. Reimbursable hold slots;
  6. Reimbursable drop in days; and/or,
  7. Reimbursable absence payments.
- W. Child care providers shall bill counties monthly for payments that were not automatically processed through CHATS including but not limited to:
1. Care that was authorized and provided;
  2. Reimbursable registration fees;
  3. Reimbursable activity fees;
  4. Reimbursable transportation fees;
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5. Reimbursable hold slots;
  6. Reimbursable drop in days; and/or,
  7. Reimbursable absence payments
- X. Payment for services shall be forfeited if the original state-prescribed manual claim form is not submitted within sixty (60) calendar-days following the month of service.
- Y. Reimbursable activity, and/or transportation fees shall be billed for in accordance to the timeframe in which is outlined in the current fiscal agreement.
- Z. Child care providers shall not hold, transfer, or use an adult caretaker or teen parent's individual attendance credentials. If intentional misuse is founded by any county or state agency, the child care provider will be subject to fiscal agreement termination as outlined in section 3.115.

### **3.114.3 COMPLAINTS ABOUT CHILD CARE PROVIDERS**

Counties and the public may access substantiated complaint files regarding complaints about procedures other than child abuse at the Department, Division of Early Learning Licensing & Administration, or on the Department's website at <https://cdec.colorado.gov/find-child-care>.

#### **A. Complaints about qualified exempt child care providers**

Complaints shall be referred to the Department, Division of Early Learning Licensing & Administration staff or appropriate contracted agencies the same day as it is received by the county when:

1. The complaint is about a qualified exempt child care provider, who is alleged to be providing illegal care.
2. The complaint is related to issues with a qualified exempt child care provider such as violation of non-discrimination laws or denial of parent access (does not include investigation of illegal care).

#### **B. Complaints about licensed child care providers**

The following guidelines shall apply to complaints received by counties about licensed child care providers:

1. If the complaint concerns child abuse or neglect, the county shall immediately refer the complaint to the appropriate county protective services unit.
2. If the complaint concerns a difference of opinion between a child care provider and an adult caretaker(s) or teen parent(s), the counties shall encourage the child care provider and adult caretaker or teen parent to resolve their differences.
3. Complaints shall be referred to the Department, Division of Early Learning Licensing & Administration staff the same day the county receives it when the complaint is about a family child care home or child care center and is related to noncompliance licensing issues.

### 3.115 PURCHASE OF SERVICES

#### 3.115.1 CHILD CARE PROVIDER REIMBURSEMENT RATES

The counties shall implement the state-established licensed child care provider base payment rates for each county on July first every year. In addition to establishing licensed child care provider base payment rates, the state department will establish tiered reimbursement rates based on quality levels for licensed child care providers that enroll children participating in CCCAP.

- A. Payment rates shall be defined utilizing the state established, system supported age bands.
- B. Rate types are selected by child care provider type (licensed home, licensed center, and qualified exempt child care providers). The Department has established rate type definitions to be used by all counties and deviation from the rate definitions shall not be permitted.
- C. Payments shall be made in part time/full time daily rates.
  - 1. Part-time is defined as zero (0) hours, zero (0) minutes, and one (1) second through five (5) hours, zero (0) minutes, and zero (0) seconds per day. Part time is paid at fifty-five percent (55%) of the full time rate.
  - 2. Full time is defined as five (5) hours, zero (0) minutes, and one (1) second through twelve (12) hours, zero (0) minutes, and zero (0) seconds.
  - 3. Full-time/part time is defined as twelve (12) hours, zero (0) minutes, one (1) second through seventeen (17) hours, zero (0) minutes, zero (0) seconds of care.
  - 4. Full time/full time is defined as seventeen (17) hours, zero (0) minutes, one (1) second through twenty-four (24) hours, zero (0) minutes, zero (0) seconds of care.
  - 5. Counties may set rates for alternative care as defined by the county and reported in the county plan.
- D. Counties must not set qualified exempt child care provider rates such that they inhibit or deter providers from becoming licensed.
- E. Absences and Holidays.
  - 1. Effective August 1, 2021 until June 30, 2022, counties shall reimburse licensed child care providers for absences based on the following schedule:
    - a. No fewer than Six (6) absences per month if they are in levels one (1) or two (2) of the department's quality rating and improvement system.
    - b. No fewer than Seven (7) absences per month if they are in levels three (3), four (4), or five (5) of the department's quality rating and improvement system.
    - c. No fewer than Six (6) absences per month if they are a school age child care program that does not have a quality rating through the department's quality rating and improvement system.
  - 2. Effective July 1, 2022, counties shall reimburse licensed child care providers for absences based on the following schedule:

- a. No fewer than three (3) absences per month if they are in levels one (1) or two (2) of the department's quality rating and improvement system.
  - b. No fewer than four (4) absences per month if they are in levels three (3), four (4), or five (5) of the department's quality rating and improvement system.
  - c. No fewer than three (3) absences per month if they are a school age child care program that does not have a quality rating through the department's quality rating and improvement system.
3. Counties may pay licensed child care providers for holidays in accordance with the policy set by the county and approved by the Department.
  4. Counties may adopt a policy allowing the use of hold slots in order to address payments for unattended authorized care that is in addition to absences, holidays, and school breaks to hold a child's space with a provider when the child is not in care.
- F. Counties may adopt a policy to pay for drop in days in addition to regularly authorized care.
- G. Bonus Payments
- Counties shall not at any time use federal Child Care Development Block Grant Funds (CCDBG), or state General Funds, for the payment of bonuses to child care providers serving children in the CCCAP program. A county shall not use CCDBG or state General Funds to retroactively increase the daily rate paid to child care providers and issue a payment to child care providers based on that retroactive calculation.
- H. Child care providers who contend that the county has not made payment for care provided under CCCAP in compliance with these rules may request an informal conference with staff, the appropriate supervisor, the county director or the director's designee, and, if requested by the child care provider(s), state program staff. Any request for a conference shall be submitted in writing within fifteen (15) calendar-days of the date of the action. The county shall hold that conference within two (2) weeks of the date of the request. The county shall provide written notice of its final decision within fifteen (15) business days of the conference. The purpose of the conference shall be limited to discussion of the payments in dispute and the relevant rules regarding payment.

### **3.115.2 SLOT CONTRACTS (COUNTY OPTION)**

Slot contracts are used as a method to increase the supply and improve the quality of child care for county identified target populations and areas through collaborative partnerships that meet family and community needs. Slot contracts should also support continuity of care for households, funding stability for licensed child care providers, and expenditure predictability for counties.

- A. Counties may choose to enter into a slot contract not to exceed twelve (12) months or the length of the fiscal agreement in place (if it expires in less than twelve (12) months) per contract with a licensed child care provider to purchase a specified number of slots for children enrolled in CCCAP.
- B. When a county chooses the option to use slot contracts with a licensed child care provider, the following steps must be completed a minimum of sixty (60) days prior to the commencement of the slot contract:
  1. The county must submit a new county plan in CHATS and include selection of the slot contract option.

2. At the time the county plan is submitted, a slot contract policy based on the state developed policy template must be submitted to the state department for approval. The policy must include but not limited to the following:
  - a. The county identified target populations and areas
  - b. How the county will determine the length of the slot contract
  - c. How the county will identify the need for the slot contract at a specific licensed child care provider
  - d. How the county will ensure a fair and equitable review and selection process when selecting a licensed child care provider in the case of multiple child care programs expressing interest in entering into slot contracts. This must include an overview of the evaluation process used to identify licensed child care providers that are aligned with the county-determined criteria
  - e. How the county will determine the number of slots they contract for with a licensed child care provider
  - f. How the county will collaborate with the licensed child care provider to identify children to fill the vacant slots
  - g. How the county will continuously monitor the success of a slot contract during the contract period to include but not limited to:
    - 1) What the measure of success is for the slot contract and how it is determined.
    - 2) Frequency of monitoring the success of the slot contract, which must be at least twice per year but no more often than quarterly.
    - 3) Cumulative attendance expectations and the time period over which attendance expectations must be defined. Cumulative attendance expectations must not be set higher than the following:
      - a) Seventy five percent (75%) for infants;
      - b) Eighty percent (80%) for toddlers; and,
      - c) Eighty five percent (85%) for preschoolers.
      - d) The period of time over which cumulative attendance must be met must be no less than quarterly and no more than six (6) months.
      - e) A plan for how the county will coordinate with the licensed child care provider to take intermediate steps or interventions if progress monitoring shows that attendance or other expectations are not being met.
      - f) Contract renegotiation for not reaching the set measure of success for the slot contract including under-utilization of paid slots during the designated monitoring period.



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- h. How the county will determine the need for a slot contract renewal.
- C. Licensed child care providers that are fiscally managed by a county may not enter into a slot contract with the county that fiscally manages them.
- D. Counties must submit the state developed monitoring tool in accordance with the county's monitoring schedule as specified in the county policy, within thirty-one (31) days of the end of the monitoring period.
- E. Target population and areas may include but are not limited to:
1. Infants and toddlers;
  2. Children with additional care needs;
  3. Children needing care during nontraditional hours (i.e., evening, overnight and weekend care);
  4. Children in underserved areas due to inadequate child care services and/or resources;
  5. Areas where quality rated programs are in short supply for children enrolled in CCCAP; or,
  6. Any other county identified target population or areas.
- F. Criteria for assessing the need for slot contracts may include but is not limited to:
1. Counties must demonstrate the rationale for identifying specific CCCAP populations or underserved areas in their county;
  2. The demographic data source(s) must be identified which supports the need to expand quality programs for specific CCCAP target populations and/or justifies needs based on underserved areas for all CCCAP households (demographic data may be based on zip codes or other geographic areas as determined by the county);
  3. Counties are strongly encouraged to work with Early Childhood Councils, resource and referral agencies, and other community-based organizations to identify the need for contracts with specific populations or in specific areas of the county.
- G. Licensed child care programs who enter into slot contract agreements with counties must agree to be engaged in quality building at a minimum of a level two (2) quality rating through the Colorado Shines QRIS program.
- H. The state department will maintain a slot contract template that meets the requirements of this rule and all state and federal contracting requirements.
1. Counties must utilize the state-developed slot contract template in CHATS which must include any county-specific target populations and areas.
  2. The state department will assess and approve within thirty (30) days of receipt:
    - a. The updated county plan; and,
    - b. The county submitted slot contract policy.

3. The state department will review the monitoring conducted by the county based on the county monitoring schedule.

### **3.115.3 ARRANGEMENT FOR CHILD CARE SERVICES**

- A. Counties shall use the state prescribed child care authorization notice form to purchase care on a child-by-child basis and identify the amount of care and length of authorized care. Payment for care will be authorized for child care providers who have a license or who are qualified exempt child care providers and have a current, signed state prescribed fiscal agreement form(s) with the county.
- B. Care is typically authorized for twelve (12) consecutive months except:
  1. When an eligible child is or will be enrolled in a program that does not intend to operate for the entire eligibility period;
  2. When an eligible child's adult caretaker(s) or teen parent(s) does not intend to keep the child enrolled with their initial child care provider(s) during the entire eligibility period; or,
  3. When the adult caretaker(s) or teen parent(s) are participating in time limited activities such as job search or education/training.
- C. When payment will be made to the child care provider(s), the county shall forward the child care authorization notice form to the child care provider(s) within seven (7) working days of determined eligibility. This time limit applies to original, changed and terminated actions. The state may not reimburse counties if the seven working day requirement is not met.
- D. Child care will be paid for children birth to thirteen (13) for a portion of a day, but less than twenty-four (24) hours. Child care for eligible activities will include reasonable transportation time from the child care location to eligible activity and from eligible activity to child care location.
- E. Children over the age of thirteen (13) but up to age nineteen (19), who are physically or mentally incapable of caring for himself or herself or under court supervision, may be eligible for child care due to having additional care needs for a portion of a day but less than twenty-four (24) hours. Counties may pay more for children who have additional care needs based upon verified individual needs and documented in county policy, but rates cannot exceed the child care provider's published private pay rates.
- F. Counties may pay for activity fees if the child care provider charges such fees, and if the fiscal agreement contains the child care provider's policy on activity fee costs. Counties shall set their own limit on activity fees in accordance with the County Rate Plan in CHATS and policy that is set by the county and approved by the State Department.
- G. Counties may pay for transportation costs if the child care provider charges such costs, and if the fiscal agreement contains the child care provider's policy on transportation costs. Allowable costs include the child care provider's charges for transportation from the child care provider's facility to another child care or school facility. Transportation costs do not include travel between an adult caretaker's or teen parent's home and the child care provider's facility. Counties shall set their own limit on transportation fees in accordance with the County Rate Plan in CHATS and policy that is set by the county and approved by the State Department.
- H. Counties may pay for registration fees if the child care provider is licensed, and if the fiscal agreement contains the child care provider's policy on registration costs. Counties shall set their own limit on registration fees in accordance with the County Rate Plan in CHATS and policy that is set by the county and approved by the State Department.

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- I. Any money paid or payable to child care providers shall be subject to execution, levy, attachment, garnishment or other legal process.
  - J. Expenditures shall be necessary and reasonable for proper and efficient performance and administration. A cost is reasonable if, in its nature and amount, it meets all the following criteria:
    - 1. Expenditures shall be compared to market prices for reasonableness.
    - 2. Expenditures shall be compared to the market prices for comparable goods or services as a test for reasonableness.
    - 3. Expenditures shall be ordinary and necessary.
    - 4. Expenditures shall be of a type generally recognized as ordinary and necessary for the operation of the governmental unit or the performance of the federal award.
    - 5. Expenditures shall meet standards such as sound business practices and arms-length bargaining.
    - 6. Expenditures shall have restraints or requirements imposed by such factors as: sound business practices; arms-length bargaining; Federal, State and other laws and regulations; and, terms and conditions of the State and/or Federal award. "Arms-length bargaining" means both parties to a contract have relatively equal powers of negotiation upon entering the contract. Neither party has a disproportionate amount of power to strong-arm the other party. Less-than-arms-length transactions are prohibited and these include, but are not limited to, those where; one party is able to control or substantially influence the actions of the other.
    - 7. Expenditures shall be the same as would be incurred by a prudent person.
    - 8. Expenditures shall not exceed that which would be incurred by a prudent person under the circumstances prevailing at the time the decision was made to incur the cost. A prudent person is one who considers their responsibilities to the governmental unit, its employees, the public at large, and the federal government.

#### **3.115.4 ATTENDANCE TRACKING SYSTEM (ATS)**

- A. The adult caretaker(s) or teen parent(s) shall utilize the Attendance Tracking System as follows:
  - 1. To record child's authorized and utilized daily attendance at the designated child care provider's location.
  - 2. In the event that the child care provider has recorded a missed check-in or check-out the adult caretaker or teen parent shall confirm the record in the Attendance Tracking System for the prior nine (9) day period.
  - 3. Adult caretakers or teen parents shall not leave his/her individual attendance credentials in the child care provider's possession at any time or he/she may be subject to disqualification.
  - 4. Non-cooperation with the use of the Attendance Tracking System may result in case closure and/or non-payment of the child care subsidy as defined by a state approved county policy.

- B. The child care provider will receive registration information for the Attendance Tracking System upon entering into a fiscal agreement with the county and shall utilize the Attendance Tracking System as follows:
1. To ensure that CCCAP adult caretakers or teen parents record child's authorized and utilized daily attendance at the designated child care provider's location.
  2. To ensure that in the event that the adult caretaker(s) or teen parent(s) misses one or more check-ins/outs to record daily attendance, the child care provider may record the missed check-in/out in the Attendance Tracking System and the adult caretaker or teen parent shall confirm the record in the attendance tracking system for the prior nine (9) day period for automatic payment.
  3. The child care provider shall not hold, transfer, or use any adult caretaker or teen parents' Individual attendance credentials at any time or the child care provider may be subject to disqualification.
  4. Non-cooperation with the use of the Attendance Tracking System may result in nonpayment of the child care subsidy as defined by a state approved county policy, unless non-use of the Attendance Tracking System is approved by the state department.

### **3.115.5 COUNTY FISCAL AGREEMENT AUTHORITY**

- A. Counties have the authority to enter into a fiscal agreement with Qualified Exempt Child Care Providers and licensed child care providers including those in a probationary status.
- B. Counties have the authority to refuse to enter into a fiscal agreement with a child care provider.
- C. Counties have the authority to terminate a fiscal agreement after providing at least fifteen (15) calendar-days' notice by postal service mail, fax, hand-delivery, email or other electronic systems.
- D. The counties have the authority to terminate a fiscal agreement without advance notice if a child's health or safety is endangered or if the child care provider is under a negative licensing action as defined in section 7.701.2, J 11 and section 7.701.22, K (12 CCR 2509-8). Counties may not enter into or continue a fiscal agreement with any child care provider who has a denied, suspended or revoked child care license.
- E. Counties may notify a child care provider of an immediate termination verbally, but written notice of that action must also be forwarded to the child care provider within one business day. Any notice regarding denial or termination of a Fiscal Agreement shall include information regarding the child care provider's right to an informal conference.

### **3.116 PROGRAM INTEGRITY**

#### **3.116.1 INTENTIONAL PROGRAM VIOLATION (IPV)**

All adult caretakers or teen parents that apply for CCCAP shall be provided with a written notice of the penalties for an Intentional Program Violation (IPV) on the child care application and statement of responsibility.

- A. An IPV is an intentional act committed by an adult caretaker(s) or teen parent(s), for the purpose of establishing or maintaining the CCCAP household's eligibility to receive benefits for which they were not eligible. An adult caretaker or teen parent commits an IPV when he or she makes a false or misleading statement or omission in any application or communication, with knowledge of its false or misleading nature, for the purpose of establishing or maintaining the household's eligibility to receive benefits.
- B. A county shall be required to conduct an investigation of any adult caretaker(s) or teen parent(s) who has applied for or received CCCAP whenever there is an allegation or reason to believe that an individual has committed an IPV as described below.
  - 1. Following investigation, action shall be taken on cases where documented evidence exists to show an individual has committed one or more acts of IPV. Action shall be taken through:
    - a. Obtaining a "Waiver of Intentional Program Violation Hearing"; or,
    - b. Conducting an administrative disqualification hearing; or,
    - c. Referring case for civil or criminal action in an appropriate court of jurisdiction.
  - 2. Overpayment collection activities shall be initiated immediately in all cases even if administrative disqualification procedures or referral for prosecution is not initiated.

### **3.116.2 CRITERIA FOR DETERMINING INTENTIONAL PROGRAM VIOLATION**

- A. The determination of IPV shall be based on clear and convincing evidence that demonstrates intent to commit IPV. "Intent" is defined as a false representation of a material fact with knowledge of that falsity or omission of a material fact with knowledge of that omission.
- B. "Clear and convincing" evidence is stronger than "a preponderance of evidence" and is unmistakable and free from serious or substantial doubt.

### **3.116.3 INTENTIONAL PROGRAM VIOLATION/ADMINISTRATIVE DISQUALIFICATION HEARINGS (IPV/ADH)**

An IPV/ADH shall be requested whenever facts of the case do not warrant civil or criminal prosecution, where documentary evidence exists to show an individual has committed one or more acts of IPV, and the individual has failed to sign and return the Waiver of IPV form.

- A. A county may conduct an IPV/ADH or may use the Colorado Department of Personnel and Administration to conduct the IPV/ADH. A state prescribed form to request the administrative disqualification hearing for intentional program violation shall be used for this purpose.

The adult caretaker(s) or teen parent(s) may request that the Department of Personnel and Administration conduct the ADH/IPV in lieu of a county level hearing. Such a hearing shall be requested ten (10) calendar-days before the scheduled date of the county hearing.

- B. Notice of the date of the administrative disqualification hearing on a form prescribed by the Department shall be mailed to the last known address on record to the individual alleged to have committed an IPV at least thirty (30) calendar-days prior to the hearing date. The notice form shall include a statement that the individual may waive the right to appear at the administrative disqualification hearing, along with the hearing procedure form and client rights.

- C. The Administrative Law Judge or hearing officer shall not enter a default against the participant or applicant for failure to file a written answer to the notice of IPV hearing form, but shall base the initial decision upon the evidence introduced at the hearing.
- D. Upon good cause shown, the administrative hearing shall be rescheduled not more than once at the accused individual's request. The request for continuance shall be received by the appropriate hearing officer prior to the administrative disqualification hearing. The hearing shall not be continued for more than a total of thirty (30) calendar-days from the original hearing date. One additional continuance is permitted at the hearing officer or ALJ's discretion.
- E. An IPV/ADH shall not be requested against an accused adult caretaker(s) or teen parent(s) whose case is currently being referred for prosecution on a civil or criminal action in an appropriate state or federal court.

#### **3.116.4 WAIVER OF ADMINISTRATIVE DISQUALIFICATION HEARING**

- A. Supporting evidence warranting the scheduling of an administrative disqualification hearing for an alleged IPV shall be documented with a county supervisory review. If the county determines there is evidence to substantiate that person has committed an IPV, the county shall allow that person the opportunity to waive the right to an administrative disqualification hearing.
- B. A State-approved Notice of Alleged Intentional Program Violation form including the client's rights, the state-approved Waiver of Intentional Program Violation Hearing form, and the state approved request for a state level Administrative Disqualification Hearing for Intentional Program Violation form shall be mailed to the individual suspected of an IPV. An investigator in the process of completing an investigation shall offer the waiver to the individual if the investigator is not intending to pursue criminal or civil action. The individual shall have fifteen (15) calendar-days from the date these forms are mailed by the county to return the completed Waiver of IPV hearing form.
- C. When an adult caretaker(s) or teen parent(s) waives his/her right to an administrative disqualification hearing, a written notice of the disqualification penalty shall be mailed to the individual. This notice shall be on the State prescribed notice form.
- D. The completion of the waiver is voluntary and the county may not require its completion nor by its action appear to require the completion of the request of waiver.

#### **3.116.5 DISQUALIFICATION FOR INTENTIONAL PROGRAM VIOLATION (IPV)**

- A. If the adult caretaker(s) or teen parent(s) signs and returns the request for waiver of IPV hearing form within the fifteen (15) day deadline or an individual is found to have committed an intentional program violation through the hearing process, the primary adult caretaker or teen parent shall be provided with a notice of the period of disqualification. The disqualification shall begin the first day of the month following the disqualification determination, allowing for authorization noticing, unless the household in which a disqualified person is living is ineligible for other reasons.
- B. Once the disqualification has been imposed, the period shall run without interruption even if the participant becomes ineligible for CCCAP.
- C. The penalty shall be in effect for:
  - 1. Twelve (12) months upon the first occasion of any such offense;
  - 2. Twenty-four (24) months upon the second occasion of any such offense and,

3. Permanently upon the third such offense.
- D. The disqualification penalties affect any household to which the adult caretaker(s) or teen parent(s) is a member.
- E. The penalty period shall remain in effect unless and until the finding is reversed by the State Department or a court of appropriate jurisdiction.
- F. A penalty imposed by one county shall be used when determining the appropriate level of disqualification and penalty for that individual in another county.
- G. The disqualification penalties may be in addition to any other penalties which may be imposed by a court of law for the same offenses.

### **3.116.6 NOTIFICATION OF HEARING DECISION**

- A. If the local level hearing officer finds the adult caretaker(s) or teen parent(s) has committed an IPV as a result of a county hearing, a written notice shall be provided to notify the primary adult caretaker or teen parent of the decision. The local level hearing decision notice shall be a state prescribed form, which includes a statement that a state level hearing may be requested with the request form attached.
- B. In a hearing before an Administrative Law Judge (ALJ), the determination of IPV shall be an initial decision, which shall not be implemented while pending State Department review and Final Agency Action. The initial decision shall advise the adult caretaker(s) or teen parent(s) that failure to file exceptions to provisions of the initial decision will waive the right to seek judicial review of a final agency decision affirming those provisions.
- C. When a final decision is made, a written notice of the disqualification penalty shall be mailed to the adult caretaker(s) or teen parent(s). This notice shall be on a state prescribed notice form.

### **3.116.7 REFERRAL TO DISTRICT ATTORNEY**

When the counties or their designee(s) determine that they have paid or are about to pay for child care as a result of a suspected criminal act, the facts used in the determination shall be reviewed with the counties' legal advisor, investigatory unit and/or a representative from the District Attorney's office. If the available evidence supports suspected criminal acts, the case shall be referred to the District Attorney. All referrals to the District Attorney shall be made in writing and shall include the amount of assistance fraudulently received by the adult caretaker, teen parent, or child care provider.

The following actions may be taken:

- A. If the District Attorney prosecutes, the amount of overpayment due will be taken into consideration and may be included in the court decision and order.
- B. Interest may be charged from the month in which the amount of overpayment due was received by the collection entity until the date it is recovered. Interest shall be calculated at the legal rate.
- C. If the District Attorney decides not to prosecute, the amount of overpayment due will continue to be recovered by all legal means. The county retains the option to pursue IPV//ADH or other administrative measures.
- D. A referral is not a violation of the safeguards and restrictions provided by confidentiality rules and regulations.

### **3.116.8 CRIMINAL VERDICT DISQUALIFICATION**

Upon determination of fraudulent acts, adult caretaker(s) or teen parent(s) who have signed the application or re-determination will be disqualified from participation in CCCAP for the following periods, pursuant to Section 26.5-4-116, C.R.S. Such disqualification is mandatory and in addition to any other penalty imposed by law. Disqualification levels are:

- A. Twelve months (12) for the first offense; or,
- B. Twenty-four months (24) for a second offense; or,
- C. Permanently for a third offense.

### **3.116.9 DISQUALIFICATION PERIOD**

- A. Upon determination of fraudulent criminal acts, the adult caretaker(s) or teen parent(s) shall be notified of the period of disqualification. The disqualification shall begin the first day of the month that follows the disqualification determination, allowing for authorization noticing and shall run uninterrupted from that date.
- B. In collecting evidence of fraudulent activities the counties or their designee shall not violate the legal rights of the individual. When the county questions whether an action it contemplates might violate the legal rights of the individual, it shall seek the advice of its legal advisor.

### **3.116.91 DISQUALIFICATION PENALTIES**

In addition to any criminal penalty imposed, the disqualification penalties affect the adult caretaker(s) or teen parent(s) the penalty period shall remain in effect unless the finding is reversed by the state department or a court of appropriate jurisdiction. The disqualification period shall follow the adult caretaker(s) and teen parent(s) regardless of the county of residence in Colorado. Penalties imposed are progressive regardless of the county of residence for each subsequent penalty level.

Child care providers shall be subject to the fiscal agreement termination process outlined in section 3.115.3.

### **3.116.92 HEARING AND DISPUTE RESOLUTION RIGHTS**

Adult caretaker(s) or teen parent(s) have the right to a county dispute resolution conference or state level fair hearing pursuant to Sections 3.840 and 3.850.

Child care providers shall be informed of their right to a county dispute resolution conference on the reverse side of their copy of the child care authorization notice pursuant to section 3.840, "county dispute resolution process".

### **3.116.93 CHILD CARE RECOVERY**

When the counties or their designee have determined that an adult caretaker(s) or teen parent(s) has received public assistance for which he or she was not eligible due to an increase in household income, that causes the household's income exceeds eighty-five percent (85%) of the State median income, or a change in the qualifying eligible activity that was not reported within four weeks of its occurrence; or a child care provider has received child care payments they were not eligible for:

- A. The county, or its designee(s), determines if the overpayment is to be recovered. Exception from recovery includes:



1. The household who is without fault in the creation of the overpayment; and,
  2. The household who has reported any increase in income or change in resources or other circumstances affecting the household's eligibility within the timely reporting requirements for the program.
- B. The county or its designee determines whether there was willful misrepresentation and/or withholding of information and considers or rules out possible fraud;
- C. The county or its designee determines the amount of overpayment;
- D. The county or its designee notifies the household or child care provider(s) of the amount due and the reason for the recovery using the prior notice rules;
- E. The county or its designee enters the amount of the overpayment and other specific factors of the situation in the case record, including the calculation used to determine the recovery amount.

**3.116.94 TIMELINESS AND AMOUNT**

- A. A recovery for overpayment of public assistance is established when the overpayment occurred during the twelve (12) months preceding discovery and the facts to establish recovery have been received. However, when a single overpayment or several overpayments have been made within the prior twelve (12) months and the overpayments total less than fifty dollars (\$50), a recovery for repayment is not made.
- B. If an overpayment occurs due to willful misrepresentation or withholding of information and the county is unable to determine income and activity eligibility criteria for child care previously provided, either through verification from the client or child care provider(s) or access to other verification sources, the county shall recover the entire benefit for the affected months.

For willful misrepresentation and/or withholding of information, all overpayments will be pursued regardless of how long ago they occurred.

**3.116.95 RECOVERY PROCESS**

- A. When it is determined that an overpayment has occurred, the counties or their designee shall:
1. Document the facts and situation that produced the overpayment and retain this documentation until the overpayment is paid in full or for three years plus the current year, whichever is longer.
  2. Determine what benefits the household was eligible for and recover benefits for which the household was found to be ineligible, except in the case of willful misrepresentation or withholding of information.
  3. Determine the payments for which the child care provider was not eligible and recover those payments.
  4. Initiate timely written notice allowing for the fifteen (15) calendar day noticing period. Such notice shall include a complete explanation, including applicable rules, concerning the overpayment, recovery sought and appeal rights.
  5. Take action to recover following the right of appeal and fair hearing process.

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6. Pursue all legal remedies available to the county in order to recover the overpayment. Legal remedies include, but are not limited to:
    - a. Judgments;
    - b. Garnishments;
    - c. Claims on estates; and,
    - d. The state income tax refund intercepts process.
  7. In accordance with Sections 26-2-133 and 39-21-108, C.R.S., the state and counties or their designees may recover overpayments of public assistance benefits through the offset (intercept) of a taxpayer's State Income Tax Refund.
    - a. This method may be used to recover overpayments that have been:
      - 1) Determined by final agency action; or,
      - 2) Ordered by a court as restitution; or,
      - 3) Reduced to judgment.
    - b. This offset (intercept) may include the current legal rate of interest on the total when fraud or intentional program violation has been determined. Offsets (intercepts) are applied to recoveries through use of a hierarchy. The hierarchy is:
      - 1) Fraud recoveries, oldest to newest;
      - 2) Court ordered recoveries, oldest to newest; and,
      - 3) Client error recoveries, oldest to newest.
- B. Prior to certifying the taxpayer's name and other information to the Department of Revenue, the Department shall notify the taxpayer, in writing at his/her last-known address, that the state intends to use the tax refund offset (intercept) to recover the overpayment. In addition to the requirements of Section 26-2-133(2), C.R.S., the pre-offset (intercept) notice shall include the name of the counties claiming the overpayment, a reference to child care as the source of the overpayment, and the current balance owed. The taxpayer is entitled to object to the offset (intercept) by filing a request for a county dispute resolution conference or state hearing within thirty (30) calendar-days from the date that the pre-offset notice is mailed, faxed, emailed, sent via other electronic systems, or hand-delivered to the taxpayer. In all other respects, the procedures applicable to such hearings shall be those stated elsewhere in Section 3.840 and Section 3.850. At the hearing on the offset (intercept), the counties or their designee, or an Administrative Law Judge (ALJ), shall not consider whether an overpayment has occurred, but may consider the following issues if raised by the taxpayer in his/her request for a hearing whether:
1. The taxpayer was properly notified of the overpayment,
  2. The taxpayer is the person who owes the overpayment,
  3. The amount of the overpayment has been paid or is incorrect, or

4. The debt created by the overpayment has been discharged through bankruptcy.
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**Editor's Notes**

**History**

New rule emer. rule eff. 10/01/2022.

Entire rule eff. 01/14/2023.

Rules 3.103, 3.105.1, 3.105.2 A.-J, 3.105.4 A.-E, 3.111, 3.112, 3.113, 3.114.1 A.-B.4.e.8 emer. rules eff. 07/01/2023.