



Minnesota Department of Human Services

Bulletin

NUMBER

#15-68-13

DATE

August 15, 2015

OF INTEREST TO

County Directors

Tribal Directors

Child Care Assistance
Program Administrative and
Client Access Contacts

Child Care Aware Agencies

Fraud Investigators

Employment Services
Agencies

ACTION/DUE DATE

Please read information
and prepare for
implementation

EXPIRATION DATE

August 15, 2017

Child Care Assistance Program 2015 Legislative Changes

TOPIC

Child Care Assistance Program changes resulting from
Legislative action.

PURPOSE

Provide information and instructions on policy changes.

CONTACT

Contact your Child Care Assistance Program technical
liaison or submit your question through PolicyQuest.

SIGNED

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TERMINOLOGY NOTICE

The terminology used to describe people we serve has
changed over time. The Minnesota Department of Human
Services (DHS) supports the use of "People First" language.

I. Background

During the 2015 legislative session, changes were enacted that impact the Child Care Assistance Program. This bulletin provides information about these changes and provides guidance to county and tribal agencies.

II. Basic Sliding Fee Funding

Beginning with the Calendar Year 2016 Basic Sliding Fee allocation, increased funding to reduce the waiting list will enable more than 300 families (more than 600 children) a year to access affordable child care. Increased funding is \$10.8 million for the 2016-17 biennium.

III. Changes in Child Care Assistance Program Policy

A. Legal Nonlicensed Provider Definition

The definition of legal nonlicensed (LNL) provider is revised to align with current practice. The revision clarifies that child care assistance can pay for unlicensed care in situations where DHS approves care in the child's home. The revision also clarifies current policy that a parent acting as a child care provider in a non-center setting cannot receive child care assistance for their own children for times when they are providing care. This language clarification is effective the day after enactment, May 23, 2015.

B. Redetermination Deadline Extended to Next Business Day

Current policy allows families to have 30 calendar days after their case closes to submit the redetermination form and all required eligibility verifications. This change directs that when the 30th day after the case closed falls on a weekend or holiday, documentation received on the next business day is considered timely. This change aligns with other child care assistance policies that extend the last day of a notice period to the next business day. This change is effective August 1, 2015.

C. Provider Authorizations

Language was added to allow DHS, in addition to county and tribal agencies, to authorize providers. "Authorization" refers to a provider's registration, which allows them to receive payment from a county or tribal agency. County and tribal agencies will continue to register providers, as is current practice. This change is effective August 1, 2015.

D. Attendance Record Keeping Requirements

Language was added that provides additional direction for enforcement of the Child Care Assistance Program requirements to maintain accurate attendance records.

The language allows DHS to periodically audit child care providers to determine compliance.

The new language allows DHS to deny or rescind an authorization for participation in the Child Care Assistance Program or establish an overpayment for child care providers who do not keep attendance records. It requires DHS and county or tribal agencies to recoup or recover overpayments that were paid to a current or former provider. Child care providers are required to keep their attendance records at the site where the service is provided. This change is effective July 1, 2015.

E. Provider Compliance Policies

Currently, Minnesota Statutes, section 119B.13, subdivision 6, paragraph (d) allows county and tribal agencies to refuse to issue a child care authorization, revoke an existing child care authorization, stop payments, or refuse to pay a bill during times when a child care provider is out of compliance with certain Child Care Assistance Program or licensing regulations.

Agencies must amend their County/Tribal Child Care Fund Plan prior to implementing any or all of the six separate clauses included in this section of statute.

The following changes, which affect provider compliance policies, are effective July 1, 2015:

- DHS may take the same actions against providers that county and tribal agencies are allowed under Minnesota Statutes, section 119B.13, subdivision 6, paragraph (d).
- The policy that allowed agencies to close a provider's registration when they find, by a preponderance of evidence, that a provider intentionally gave the county or tribal agency materially false information on the provider's billing forms is expanded to include attendance records.
- Agencies may close a provider's registration after the provider is issued a final order of conditional license, for as long as the conditional license is in effect.
- The policy that allowed county and tribal agencies the option to withhold the provider's registration for up to three months beyond the time when the provider corrected their actions and came back into compliance was revised to clarify that it only applies to clause (3), (5), and (6) under Minnesota Statutes, section 119B.13, subdivision 6, paragraph (d).

For more information about implementing Minnesota Statutes, section 119B.13, subdivision 6, paragraph (d), see [Bulletin #15-68-10](#).

F. Reporting Requirements for Decreases in Attendance

Providers must report on the billing form when a child's attendance in child care falls to less than half of the child's authorized hours or days for a four-week period. If the county or tribal agency requests additional information about the attendance of specific children, the provider must supply that information.

Providers will continue to complete Billing Forms using a child's *scheduled* attendance hours. However, if a child's *actual* attendance decreases to less than half of what was authorized for a four-week period, the provider must report this to the county or tribal agency. This change is effective August 1, 2015.

DHS will inform providers registered to receive Child Care Assistance Program payments in writing of legislative changes that affect them, including these new reporting requirements. DHS will inform county and tribal agencies once this occurs.

Consider this example:

- A child is authorized for 100 hours of care per biweekly period, which equals 200 hours of care for the four-week period.
- The child's *scheduled hours* are 10 hours per day, 10 days per biweekly period. "Scheduled hours" means the days and hours during a billing period that a child will attend child care as determined by the child care worker, the parent, and the provider based on the parent's verified schedules, the child's school schedule, and any other factors relevant to the family's child care needs.
- The provider must report in the "Provider Comments" section of the Billing Form if the child's *actual attendance* is less than 100 hours during the most recent *four week period*, and/or if the child attended fewer than 10 days during the most recent *four week period*.
- DHS or the county or tribal agency may follow up with the provider by requesting copies of attendance records, which the provider must supply.
- DHS or the county or tribal agency then reviews the records to determine what, if any, action to take.

Possible Action

The county or tribal agency may take one or more of the following actions to enforce this policy.

- If review of attendance records shows a chronic or consistent decrease in a child's attendance, then the county or tribal agency

may reduce the child's authorized hours and/or assess overpayments.

- If your county or tribal agency has amended its County/Tribal Child Care Fund Plan to implement clauses under Minnesota Statutes, section 119B.13, subdivision 6, paragraph (d), your county or tribal agency may revoke the provider's registration. Clauses that apply may include (1), (2), (3), and (5).

For more information, see [Bulletin #15-68-10](#)

- If your county or tribal agency suspects that a provider (or family) intentionally withheld, concealed, or misrepresented information for the purpose of receiving child care assistance, you must follow the procedures in the [Child Care Assistance Program Policy Manual section §14.12 \(Fraudulently Obtaining Child Care Assistance\)](#) to refer the provider (and family, when family and provider acted together) for fraud investigation.

G. Minimum Wage Increase

During the 2014 legislative session, changes were made to increase the state minimum wage levels effective August 1, 2015:

- For large employers, the hourly minimum wage will increase to \$9.00.
- For small employers, the hourly minimum wage will increase to \$7.25.

The federal hourly minimum wage is \$7.25.

Child Care Assistance Program workers must continue to follow guidance in [Child Care Assistance Program Policy Manual §6.16 \(Applicable Minimum Wage\)](#) to determine the applicable minimum wage standard.

1. Self-Employed Families

For families with self-employment income, the applicable minimum wage is used to determine:

- Whether the family meets authorized activity requirements; and
- How much care to authorize.

See [Child Care Assistance Program Policy Manual §9.15.1 \(Authorized Hours – Self-Employment\)](#).

Workers should wait until the family's first redetermination after August 1, 2015 to apply the new minimum wage standard moving forward. Workers do not need to go back to August 1, 2015 to determine the family's eligibility or to assess overpayments.

2. Families who are not Self-Employed

If a family who is salaried or paid an hourly or contract wage receives a pay increase as a result of this law change, they are subject to standard reporting requirements. Families must report income changes within 10 days of receiving the first payment reflecting the change in income. See [Child Care Assistance Program Policy Manual §8.3 \(Reporting Requirements\)](#).

Workers should follow standard policies and procedures for acting on reported changes. See [Child Care Assistance Program Policy Manual §8 \(Changes in Circumstances\)](#).

IV. Program Integrity Changes Affecting Child Care Assistance

A. Prohibiting Provider Hiring Practices

The new language prohibits a child care provider, center owner, director, manager, license holder, or other controlling individual or agent from recruiting employees on the condition that the employee has children that are either in the Child Care Assistance Program or eligible for the program. Those found to be engaging in this practice may be sanctioned with a disqualification, license revocation, suspension of payment, or charged with a criminal offense. This change is effective August 1, 2015 and applies to crimes committed on or after that date.

B. Fraud Disqualification across Programs

This legislation prohibits a provider or person who has been **excluded** or debarred in one DHS program from becoming a provider in a different DHS program. The prohibition will be for the length of time of the original exclusion. This change is effective August 1, 2015.

For example, if a provider's child care license is revoked, they could not enroll as a Medicaid provider of home care services during the length of time of the original exclusion.

C. Subpoena Provisions

The new language prohibits entities that are served an administrative subpoena from the Office of Inspector General (OIG) from notifying the subject of the subpoena (with the intent of letting the subject know about the subpoena).

V. Program Uniformity Changes

Currently, Minnesota Statutes, chapter 119B and Minnesota Rules, chapter 3400 establish the policies and guidance on evaluating income sources and on reporting requirements for the Child Care Assistance Program. As of August 1, 2016, Minnesota Statutes, chapter 256P will establish the policies and guidance for these aspects of the Child Care Assistance Program. This change will align these policies, when possible, across multiple public assistance programs. DHS will issue further instructions, bulletins and communications to county and tribal agencies for implementing these changes.

VI. Other Changes

A. School Age Care Licensing Exemptions

The legislature adopted a new exclusion from child care licensure for certain out-of-school time programs that provide supervised youth development to youth in kindergarten through grade 12 when school is not in session. This language replaces the moratorium on licensure for school-age child care programs that had been set to sunset on June 30, 2015. The new exclusion applies to a program operated by a nonprofit organization incorporated in Minnesota or another state that serves youth in kindergarten through grade 12; provides structured, supervised youth development activities; and has learning opportunities that take place before or after school, on weekends, or during the summer or other seasonal breaks in the school calendar. These criteria will assist DHS Licensing Division when determining whether a program serving children is providing child care services and should be licensed by DHS.

In addition, a program exempt under this clause must:

- (i) have a director or supervisor on site who is responsible for overseeing written policies relating to the management and control of the daily activities of the program, ensuring the health and safety of program participants, and supervising staff and volunteers;
- (ii) have obtained written consent from a parent or legal guardian for each youth participating in activities at the site; and
- (iii) have provided written notice to a parent or legal guardian for each youth at the site that the program is not licensed or supervised by the

state of Minnesota and is not eligible to receive child care assistance payments.

A program exempt under this clause and not licensed as a child care center is not eligible for child care assistance under chapter 119B. Nothing prevents a program that meets this exemption from applying for licensure, either to be eligible to receive child care assistance payments or to be voluntarily subject to additional oversight and adherence to licensing standards in place for programs providing child care to children up to 13 years of age.

Programs previously registered with the Child Care Assistance Program who were exempt under the moratorium provisions that ended June 30th must either meet another exemption or be licensed in order to continue receiving child care assistance payments. If your county or tribal agency has questions about a particular provider, please contact your policy liaison.

VII. Legal References

Minnesota Statutes, chapter 119B

Minnesota Statutes, chapter 245

Minnesota Statutes, chapter 245A

Minnesota Statutes, chapter 245E

Minnesota Statutes, chapter 256

Minnesota Statutes, chapter 256P

Federal Child Care and Development Fund, 45 C.F.R. Parts 98 and 99

Laws of Minnesota 2015, chapter 71

Laws of Minnesota 2015, chapter 78

Americans with Disabilities Act (ADA) Advisory

This information is available in accessible formats for people with disabilities by calling (651) 431-3809 (voice) or by using your preferred relay service. For other information on disability rights and protections, contact the agency's ADA coordinator.