

## DEPARTMENT OF HUMAN SERVICES

### Income Maintenance (Volume 3)

## COLORADO CHILD CARE ASSISTANCE PROGRAM

### 9 CCR 2503-9

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

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#### 3.900 COLORADO CHILD CARE ASSISTANCE PROGRAM (CCCAP)

##### 3.901 MISSION

The purpose of CCCAP is to provide eligible families with financial assistance for child care of their choosing; to provide families with timely and efficient access to quality child care; and to assist families in meeting their self sufficiency goals by providing referrals to needed support services.

##### 3.902 CHILD CARE PROGRAM ELIGIBILITY [Rev. eff. 7/1/11]

Eligible Colorado Child Care Assistance Program populations must be an adult caretaker(s) or teen parent(s) of a child, meet program guidelines, and are one of the following:

- A. Participants in the Colorado Works Program who have a signed Individual Responsibility Contract that requires them to be in an eligible activity, as defined in Section 3.631.3, can receive Colorado Works child care for up to forty-five (45) calendar days while additional assessment is completed. Participants must be eligible for and receiving state diversion or basic cash assistance to continue receiving Colorado Works child care assistance past the forty-five (45) calendar days.
- B. Low income adult caretakers or teen parents who are in an eligible activity and need child care assistance for that same period.
- C. Families eligible for Child Welfare Child Care through Child Welfare (refer to rule manual Volume 7, Section 7.302 (12 CCR 2509-4)).
- D. Food assistance recipients who are participating in the Employment First Program (refer to the Food Stamp staff manual, Section B-4215 (10 CCR 2506-1)).

##### 3.903 DEFINITIONS [Rev. eff. 9/1/11]

"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 level.

"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".

"Adult caretaker education" means information relayed to adult caretaker(s) about their child care options and other available services.

"Adverse action" means any action by the counties or their designee, which adversely affects the person's eligibility for or right to services provided or authorized under the Colorado Child Care Assistance Program.

"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, re-determination form, and/or the client responsibilities agreement form.

"Application process" means an application process which includes all of the following:

- A. The state approved, signed low-income child care application form completed by the applicant and any other adult caretaker(s) or his/her authorized representative, which includes appeal rights. 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; and,
- B. The client responsibilities agreement form signed by the applicant and any other adult caretaker(s); and,
- C. The required verification supporting the information declared on the application form; and,
- D. As a county option, an orientation for new applicants may be required.

"Attestation of mental competence" means a signed statement from a qualified 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 provider cannot safely operate as a qualified provider.

"Authorized care" means licensed or qualified child care providers to whom social/human services will authorize payment.

"Cash assistance" means payments, vouchers, and other forms of benefits designed to meet a family'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 families 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 state prescribed form given to the household and the provider(s) of the household's choosing which authorizes the purchase of child care and includes the parental fee, payable by the adult caretaker(s) or teen parent(s) to the provider(s), for children listed on the child care authorization notice and will serve as notice to the adult caretaker(s) or teen parent(s), and provider(s) of approval or change of child care services. Colorado's child care authorization notice(s) are vouchers for the purposes of the Colorado Child Care Assistance Program.

"CHATS" means the Child Care Automated Tracking System.

"Child Care Fiscal Agreement" means a State prescribed agreement between counties or their designees and provider(s), which defines the rate payable to the provider(s) and responsibilities of the counties or their designees and the provider(s).

"Child care providers" means licensed individuals or businesses that provide less than twenty-four (24) hour care and are licensed or qualified providers including child care centers, preschools, and child care homes. Qualified providers include care provided in the child's own home, in the home of a relative, or in the home of a non-relative.

"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" means individuals who are designated by county departments of human/social services or their designees to administer all, or a portion of, the Colorado Child Care Assistance Program (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 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).

"Citizen/legal resident" means a citizen of the United States, current legal resident of the United States, or 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; Federal Register notices 62 FR 61344 and 63 FR 41657-41686. (No later amendments or editions are incorporated. Copies of this material may be inspected by contacting the Colorado Department of Human Services, Director of the Division of Child Care, 1575 Sherman Street, Denver, Colorado; or any state publications depository library.) . 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 which results in a reasonable certainty of the truth of the ultimate fact in controversy. It is stronger than a preponderance of the evidence and is unmistakable or free from serious or substantial doubt.

"Colorado Child Care Assistance Program (CCCAP)" means a program of the Division of Child Care which provides child care subsidies to families in the following programs: Low-Income, Colorado Works, and Child Welfare. The Division of Child Care is responsible for the oversight and coordination of all child care funds and services which are awarded to the Colorado Department of Human Services.

"Colorado Works" means a program of public assistance which assists participants in achieving self-sufficiency by promoting job preparation and employment.

"Colorado Works households" means members of the same TANF household who meet requirements of the Colorado Works program, through receipt of cash assistance or state diversion payments while working toward achieving self sufficiency through eligible work activities and eventual employment where the parent/caretaker is included in the assistance unit, as defined in Sections 3.600.12 through 3.600.19 and Section 3.631.3.

"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 counties, law enforcement agency, or entity authorized to investigate abuse or neglect to be supported by a preponderance of the evidence.

"Cooperation with child support enforcement (county option)" means applying for child support enforcement for all children with an obligor regardless of CCCAP eligibility within thirty (30) calendar days of the completion and approval of the Child Care Assistance Program application and maintaining compliance with child support enforcement case(s) unless a good cause exemption exists. The county IV-D administrator or designee determines cooperation with Child Support Enforcement. If child care benefits are terminated due to failure to cooperate, the household will remain ineligible in counties that utilize this option until cooperation is verified.

"Counties" means the county departments of social/human services or other agency designated by the Board of County Commissioners as the agency responsible for the administration of the Colorado Child Care Assistance Program.

"Current immunizations" means immunization records or a statement from a qualified medical professional showing that immunizations are current and up-to-date according to the recommended shot

schedule issued by the Colorado Department of Public Health and Environment for the child(ren) based on their current age unless there is a signed statement from the adult caretaker(s) or teen parent(s) indicating an exemption for religious or medical reasons.

"Deemed income" means countable income from excluded members of the Colorado Works assistance unit, as found in Sections 3.609.2 – 3.609.4.

"Disabled child" means a child who has a physical or mental disability and is incapable of caring for himself or herself or who is under court supervision and who has additional care needs identified by an Individual Health Care Plan (IHCP), Individual Education Plan (IEP), physician's/professional's statement, or child welfare treatment plan. The additional care needs identified will require additional care by a provider based on a fee for service and/or require care for a child who is age thirteen (13) up to the nineteenth (19th) birthday.

"Discovery" means that a pertinent fact related to child care eligibility was found to exist.

"Early care and education provider" means a school district or provider that is licensed pursuant to Part 1 of Article 6 of this Title or that participates in the Colorado preschool program pursuant to Article 28 of Title 22, C.R.S.

"Eligibility activity", for the purpose of child care, means the activity that the teen parent(s) or adult caretaker(s) are involved in for the time period that child care is needed. This may include job search; employment; and/or education/training, if the county supports education/training. For teen parents, education/training is an approved activity for all counties.

"Eligibility worker" means an employee of the counties or their designee, whose responsibility is to determine eligibility for the Colorado Child Care Assistance Program (CCCAP).

"Eligible child" means a child under 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) during the same period care is needed; or a child with additional care needs under the age of nineteen (19) who is physically or mentally incapable of caring for himself or herself or is under court supervision. Any child served through the Colorado Works Program or the Low-Income Child Care Program must be a citizen of the United States or a qualified alien as defined in Section 3.919, H, 1.

"Employment" means holding a part time or full time job for which wages, salary, in-kind income or commissions are received.

"Employment First" means a self sufficiency program funded by the Department of Agriculture for food benefit recipients not participating in Colorado Works.

"Employment verification" means the county form or a signed statement from the employer or employer's authorized designee stating employment begin date, hourly wage or gross salary amount, work schedule, payment frequency, date of first paycheck and verifiable employer contact information. This is for initial employment verification or to verify ongoing work schedule, not to verify ongoing employment.

"Entered employment" means upon starting a new job the employment verification letter shall be used to anticipate income for the first three months. At the beginning of the third month of new employment, the county shall require pay stubs from the previous three months to determine an average of actual income for future months.

"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 must be less than thirteen (13) in order to be considered part-time for parental fees.

"Fingerprint-based criminal background check" means a complete set of fingerprints for anyone eighteen (18) years of age and older residing in the provider's home, taken by a qualified law enforcement agency, and submitted to the Colorado Department of Human Services, Division of Child Care, for subsequent submission to the Colorado Bureau of Investigations (CBI). If the adult has been living in Colorado for less than two years, he/she 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.

"Fraud" means an individual who has secured or attempted to secure or aided or abetted another person in securing public assistance to which the individual 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"; or,
- B. An administrative disqualification hearing; or,
- C. Civil or criminal action in a state or federal court.

"Good cause exemption for child support" includes potential physical or emotional harm to the adult caretaker, teen parent or child; if a pregnancy was related to rape or incest; legal adoption or receiving pre-adoption services; or, when the county director or his/her designee has/have determined any other exemptions.

"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 parental obligations for a minor, including protecting his/her rights and/or a person who is standing in the role of the parent of a minor without having gone through the formal adoption process. Parental 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 person from providing care for his/her child(ren). Such condition must 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 income, as listed in Section 3.920, and determined by measuring the countable family income and size against eligibility guidelines. Income eligibility can be based on the three most recent prior consecutive month's income for initial application, a best estimate of anticipated income from the employment verification letter for new employment, or an average of the previous three (3) through twelve (12) month period for ongoing eligibility. Families shall not be required to provide income verification on a monthly basis.

"Intentional Program Violation (IPV)" means an intentional act committed by an individual for the purposes of establishing or maintaining a Colorado Child Care Assistance Program household's eligibility to receive benefits for which they were not eligible.

"Involuntarily out of the home" means circumstances where 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" means an eligibility activity for low-income child care adult caretaker(s) or teen parent(s) that is limited to thirty (30) actual days of child care in a twelve (12) month period, when approved and monitored to ensure that activities comply with county standards. The twelve (12) month period begins on the first actual day of job search.

"Low-Income Program" means a child care component within the Colorado Child Care Assistance Program that targets families with an adult caretaker(s) or teen parent(s) who is/are in an eligible activity and not participants in the Colorado Works assistance unit or Employment First program.

"Maternity leave" means that a new mother is not in her eligible activity for up to twelve (12) consecutive weeks for the birth and care of a newborn child.

"Negative licensing action" means a Final Agency Action resulting in the denial, 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. The Colorado Child Care assistance Program cannot do business with any provider who has a denied, suspended or revoked child care license.

"One adult caretaker or teen parent eligible household composition" means:

- A. The adult caretaker or teen parent is engaged in an eligible activity and needs child care for that same period, or
- B. A two-adult caretaker or teen parent household is considered a one-adult caretaker household when one adult or teen parent caretaker is involuntarily out of the home.

"Overpayment" means child care assistance that an adult caretaker or teen parent, received or was paid to a provider received, for which they were not eligible.

"Parent" means a biological, adoptive or stepparent of a child.

"Parental fee" means a child care co-payment made by an adult caretaker or teen parent to the child care provider(s) and is paid 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 or teen parent on the days/nights they receive child care assistance.

"Primary adult caretaker" means the person listed first on the application and who accepts primary responsibility for completing forms and providing required verification. This does not preclude the other adult applicant or teen parent from being held equally responsible for any recovery. This also means that the second adult caretaker is equally responsible for reporting changes and participating in an eligible activity.

"Prudent person principle" means that the rules contained herein are intended to be sufficiently flexible to allow the eligibility worker to exercise reasonable judgment in executing his/her responsibilities.

"Qualified 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 Colorado Child Care Assistance Program (CCCAP) under rule manual Volume 7, Section 7.701.33, A, 1, b. (12 CCR 2509-8).

"Recipient" means the person receiving the benefit. For the purposes of the Colorado Child Care Assistance Program, the recipient is the child.

"Re-determination (Redet)" is the process to update eligibility for the Colorado Child Care Assistance Program (CCCAP). This process is completed every twelve (12) months, includes completion of the State approved form, and provides the verification needed to determine continued eligibility.

"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; and/or reviews for separation of duty.

"Self-employment" means earned income for a person who is responsible for all taxes and/or other required deductions from income.

"Slot contracts (county option)" means a type of rate paid to providers in communities where care may not be otherwise available to CCCAP children if the county did not reserve slots.

"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.

"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 waiting lists, based upon appropriations. (Current target populations are families whose income is at or below 130% of the current federal poverty guidelines and teen parents.)

"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 or job search.

"Timely written notice" means, for the purpose of CCCAP rules, that any adverse action shall be preceded by a prior notice period of eleven (11) calendar days. "Timely" means that written notice is provided to the household at least by the business day following the date the action was entered into the eligibility system. The eleven (11) 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 (county option)" means educational programs including post secondary training for a Bachelor's degree or less, or vocational or technical job skills training when offered as secondary education for a period of up to forty eight (48) months per eligible adult caretaker(s). Educational activities such as GED, high school diploma, English as a Second Language, or adult basic education are considered training for a period of up to twelve (12) months per eligible adult caretaker(s).

"Transition families" means families ending their participation in the Colorado Works Program due to employment or training who have signed a client responsibilities agreement form and verified eligibility for Low-Income Child Care Assistance.

"Two adult caretaker or teen parent eligible household compositions" include:

- A. A household where both adult caretakers or teen parents are engaged in an eligible activity during the same hours and neither can care for the child(ren); or,
- B. A household when one adult caretaker or teen parent is voluntarily absent from the home for a temporary period of time but both adult caretakers are in an eligible activity; or,
- C. One adult caretaker or teen parent is engaged in an eligible activity and the second adult caretaker or teen parent is incapacitated such that, according to a medical professional (i.e., a physician or licensed certified psychologist), they are unable to care for the child(ren); or,
- D. One adult caretaker or teen parent households are considered a two adult caretaker or teen parent household when another adult or teen parent contributes financially to the welfare of the child and assumes parental rights, duties and obligations similar to those of a biological parent without going through the formalities of a legal adoption.

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

"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.

"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 family'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.

### **3.904 TEEN PARENT ELIGIBILITY**

Teen parents are a target population for Colorado Works child care and low-income child care.

- A. Teen parent eligibility is determined by calculating the teen parent household's (one or two parents) gross monthly income. It does not include income from other individuals residing with the teen parent(s) including other family members.
- B. One or two teen parent households who are in middle/junior high, high school, GED, or a vocational/technical training activity when offered as secondary education and for whom payment of a parental fee produces a hardship may have their fee waived entirely. The parental fee waiver shall be documented in the case file and reviewed during each subsequent re-determination.
- C. Training is an eligible activity for teen parents who are attending junior high/middle school, high school, GED program, or vocational/technical training activity and are under twenty-one (21) years of age. Teen parents have no time limit for education or training activities for low-income child care.

#### **3.904.1 TEEN PARENT RESPONSIBILITIES [Ref. eff. 7/1/12]**

- A. The teen parent must be in a verified eligible activity and need child care assistance for that same period.
- B. The teen parent must meet the eligibility guidelines set by the state and the county of residence.



- C. All teen parents shall sign the state prescribed client responsibilities agreement form, which outlines child care program participation requirements.
- D. Teen parents have the responsibility to report and verify changes to income, if the family's income exceeds eighty-five percent (85%) of the State median income, in writing, within ten (10) calendar days of the change. If the teen parent is no longer in his/her qualifying eligible activity, this must be reported in writing within four (4) calendar weeks pursuant to Section 26-2-805(1)(e)(III), C.R.S.
- E. Teen parents must provide current immunization records for child(ren) who receive child care from qualified 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.
- F. Teen parents must cooperate with the child support enforcement unit or the delegate agency for all children with an absent parent, regardless of receipt of child care assistance for that child, as required by the county (see Section 3.919, K).
- G. Teen parents must report changes in child care providers prior to that change.
- H. When a teen parent is declaring the identity of his/her child due to the child not having identification as part of the application, a picture ID of the teen parent is needed to verify the teen parent's identity.
- I. When a child care case has closed and not more than thirty (30) calendar days have passed from date of closure; a teen parent may provide verification needed to correct the reason for closure. If the family is determined to be eligible, service may resume as of the date the verification was received by the county despite a gap in service. The teen parent would be responsible for payment for the gap in service.
- J. Teen parents shall not leave their "CCAP" card with the provider at any time or they shall be disqualified from the Colorado Child Care Assistance Program.

**3.905 ARRANGEMENT FOR CHILD CARE SERVICES [Rev. eff. 10/1/14]**

**A. Adult Caretaker or Teen Parent Resources**

Counties shall provide adult caretakers or teen parents with information on all available types of providers in the community: centers, family child care homes, qualified providers and in-home child care. This information can be provided through child care resource and referral agencies. In addition, counties shall provide adult caretakers with information as required by the state including, but not limited to, information regarding voter registration. In order to support families, counties may offer families referrals for health care coverage for their children, applications for food assistance benefits, housing information, and/or Low-Income Energy Assistance Program (LEAP) information.

**B. Parental Fees**

- 1. Parental 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. Parental fee revisions for child care may occur upon reported changes, verified current changes from other sources, and/or re-determination (refer to section 3.919). Income may be divided by a weekly amount and then multiplied by 4.33 to arrive at a monthly average for parental fee calculations.

Colorado Works households in a paid employment activity shall pay parental fees based on gross countable income. If the household has countable deemed income, that amount will be included in the gross pay calculations for parental fees.

2. All adult caretaker(s) and teen parents are required to pay the fee as determined by the formula listed below, except in the following cases:
  - a. 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 parental fee may be waived entirely and documented in the case file. The parental fee waiver must be reviewed during each re-determination.
  - b. Colorado Works participants enrolled in activities other than paid employment.
  - c. Child Welfare Child Care households as defined in the Social Services rule manual, Section 7.000.5 (12 CCR 2509-1).
  - d. Employment First households as defined in the Food Assistance staff manual, Section B-4215 (10 CCR 2506-1).
  - e. Families that have no income shall have no parental fee.
3. The initial or revised fee shall be effective the first full calendar month after the end of the timely written notice period. A parental fee shall not be assessed or changed retroactively.
4. The fee is due on the first calendar day of each month and shall be paid by the parent directly to the provider(s). Parental fees are used as the first dollars paid for care. The counties or their designee shall not be liable for the fee payment.
5. When more than one provider is being used by the same family, child care staff shall designate to whom the adult caretaker(s) or teen parent pays a fee or in what proportion the fee shall be split between providers. The full parental fee must be paid each month, but parental fees shall not exceed the cost of care.
6. Adult caretakers or teen parents will be informed of their responsibilities related to fee payment on their signed client responsibilities agreement form.
7. Loss of eligibility for child care subsidies will occur if the adult caretaker(s) or teen parents do not pay their parental fees; do not make acceptable payment arrangements with the providers; or, do not follow through with the arrangements. Notice of termination for such loss of eligibility shall be given in accordance with Section 3.915.3. Providers shall report non-payment of parental fees no later than the end of the month following the month the parental fees are due unless county policy requires it earlier. If a household's benefits are terminated for non-payment of parental fees, that household will remain ineligible until:
  - a. Delinquent parental fees are paid in full; or,
  - b. Adequate payment arrangements are made with the provider to whom the fees are owed and an agreement is signed by both parties; or,
  - c. County determination of verified good faith efforts to make payment to the provider(s), when the client was unable to locate the provider(s).

8. The adult caretaker(s) or teen parent and provider(s) must be given timely written notice of the parental fee amount, on the child care notice of authorization, at least eleven (11) calendar days prior to the first of the month the parental fee is effective.
9. Parental fees shall be assessed based on the following formula:
  - a. For families whose household income is below fifty percent (50%) of the Federal poverty guidelines, the fee is equal to seven percent (7%) of the household income.
  - b. For families whose household income is at least fifty percent (50%) and below seventy-five percent (75%) of the Federal poverty guidelines, the fee is equal to eight percent (8%) of the household income.
  - c. For families whose household income is at least seventy-five percent (75%) and below one hundred percent (100%) of the Federal poverty guidelines:
    - 1) The fee for the first child in care is equal to nine percent (9%) of the household income;
    - 2) The fee will be increased by five dollars (\$5) for each additional child in care.
  - d. For families whose household income is at least one hundred percent (100%) and below one hundred thirty percent (130%) of the Federal poverty guidelines:
    - 1) The fee for the first child in care is equal to ten percent (10%) of the household income;
    - 2) The fee will be increased by fifteen dollars (\$15) for each additional child in care.
  - e. For families whose household income is at least one hundred thirty percent (130%) and below one hundred sixty percent (160%) of the Federal poverty guidelines:
    - 1) The fee for the first child in care is equal to eleven percent (11%) of the household income;
    - 2) The fee will be increased by twenty five dollars (\$25) for each additional child in care.
  - f. For families whose household income is at least one hundred sixty percent (160%) and below one hundred eighty five percent (185%) of the Federal poverty guidelines:
    - 1) The fee for the first child in care is equal to twelve percent (12%) of the household income;
    - 2) The fee will be increased by thirty-five dollars (\$35) for each additional child in care.
  - g. For families whose household income is at least one hundred eighty five percent (185%) and below two hundred five percent (205%) of the federal poverty guidelines:

- 1) The fee for the first child in care is equal to thirteen percent (13%) of the household income;
  - 2) The fee will be increased by forty dollars (\$40) for each additional child in care.
- h. For families whose household income is at least two hundred five percent (205%) and at or below two hundred twenty five percent (225%) of the federal poverty guidelines:
- 1) The fee for the first child in care is equal to fourteen percent (14%) of the household income;
  - 2) The fee will be increased by forty dollars (\$40) for each additional child in care.
- i. For families who become ineligible because their income exceeds the gross monthly income as set by the county, who meet the guidelines as outlined in Section 3.919, H, and whose household income does not exceed eighty-five percent (85%) of the State's median income:
- 1) The fee for the first child in care is within the range of twelve percent (12%) to twenty-five percent (25%) of the household income;
  - 2) The fee will be increased by forty dollars (\$40) for each additional child in care;
  - 3) The parental fees shall be increased incrementally as outlined by the individual family transition plan up to the six month limit.
- j. Parental fees, as assessed by the parental 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 must 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.

10. Current Monthly Federal Poverty Guidelines and State Median Income for State Fiscal Year 2015 is as follows:

| <b>Family Size</b>            | <b>100% Federal Poverty Guideline (FPG) FFY 2014</b> | <b>130% Federal Poverty Guideline (FPG) FFY 2014 (State Minimum Income Limit)</b> | <b>85% State Median Income (SMI) FFY 2015 (State and Federal Maximum Income Limit)</b> |
|-------------------------------|--|---|--|
| <b>2</b>                      | \$1311   | \$1704  | \$4067   |
| <b>3</b>                      | \$1649   | \$2144  | \$5024   |
| <b>4</b>                      | \$1988   | \$2584  | \$5981   |
| <b>5</b>                      | \$2326   | \$3024  | \$6937   |
| <b>6</b>                      | \$2664   | \$3463  | \$7894   |
| <b>7</b>                      | \$3003   | \$3903  | \$8253   |
| <b>8</b>                      | \$3341   | \$4343  | \$8612   |
| <b>9</b>                      | \$3638   | \$4729  | \$8971   |
| <b>Each Additional person</b> | \$338  | \$440   | See Below*   |

\* To calculate the State Median Income for each additional family member above nine persons, add three (3) percentage points to the percentage for a six-person family (132%) and multiply the new percentage by the state's estimated median income for a four-person family.

11. When all children in a family are in part-time care, the parental 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.

**C. Authorization for Payment**

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 providers who have a license or who are qualified providers and have a current, signed fiscal agreement with the county (see 3.908 Eligible Facilities).

1. When payment will be made to the provider(s), the county must forward the child care authorization notice form to the 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.
2. Child care will be paid for children under the age of 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.
3. 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 provider's published private pay rates.
4. Counties may pay for activity fees if the provider charges such fees, and if the Child Care Fiscal Agreement contains the provider's policy on activity fee costs. Counties shall set their own limit on activity fees with prior notice to the State Department.
5. Counties may pay for transportation costs if the provider charges such costs, and if the Child Care Fiscal Agreement contains the provider's policy on transportation costs. Allowable costs include the provider's charges for transportation from the 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 provider's facility. Counties shall set their own limit on transportation fees with prior notice to the State Department.
6. Counties may pay for registration fees if the provider is licensed, and if the Child Care Fiscal Agreement contains the provider's policy on registration costs. Counties shall set their own limit on registration fees with prior notice to the State Department.
7. Any money paid or payable to providers shall be subject to execution, levy, attachment, garnishment or other legal process.
8. Expenditures Shall be Necessary and Reasonable

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:

a. Expenditures Shall be Compared to Market Prices for Reasonableness

Expenditures shall be compared to the market prices for comparable goods or services as a test for reasonableness.

b. Expenditures Shall be Ordinary and Necessary

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.

c. Expenditures Shall Meet Standards Such as Sound Business Practices and Arms-Length Bargaining

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.

d. Expenditures Shall Be the Same as Would Be Incurred by a Prudent Person

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.

**3.906 PURCHASE OF SERVICES [Rev. eff. 7/1/12]**

A. Qualified Provider Requirements

1. Child care provider(s) shall be at least eighteen (18) years of age (reference rule manual Volume 7, Section 7.707.41, A, 3 (12 CCR 2509-8)).
2. A qualified provider and any adult eighteen years of age or older who resides in the provider's home shall be subject to the fingerprint-based criminal history records check and a review of the state administered database for previous agency contacts where the care is provided, as part of the following procedures:
  - a. Upon submission of the completed background check packet, as determined by state procedures, a qualified provider shall submit certified funds (i.e., money order or cashiers 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).
    - 2) 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, to offset the costs associated with processing the criminal background check through the Colorado Bureau of Investigation and the Federal Bureau of Investigation if the individual lived in Colorado for less than two (2) years. Payment of the fee for the criminal record check is the responsibility of the individual being checked.

- b. A qualified provider who has submitted to a background check may be eligible to receive moneys from publicly funded State child care assistance programs.
- c. As a prerequisite to signing a fiscal agreement with a county department of social/human services or its designee, a qualified provider shall sign an attestation of mental competence. The attestation affirms that he or she, and any adult residing in the qualified 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 provider cannot safely care for children.
- d. The provider(s) may continue to receive publicly funded State Child Care Assistance Program moneys as long as the 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 26-6-108(2), 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.; or,
    - 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.; or,
    - c) Seven (7) misdemeanor convictions of any type.
  - 8) Has been determined to be responsible in a confirmed report of child abuse or neglect.

- e. A qualified 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.
  - 3. For renewals, the county shall mail via postal service, fax, hand-deliver or email fiscal agreements at least sixty (60) calendar days prior to the end date of the previous fiscal agreement. Fiscal agreements are effective on day that the fiscal agreement is completed, signed, and received by the county.
- B. Licensed facility requirements:
- 1. The provider(s) shall be licensed.
  - 2. For renewals, the county shall mail via postal service, fax, hand-deliver or email fiscal agreements sixty (60) calendar days prior to the end date of the previous fiscal agreement. Fiscal agreements are effective on the day that the fiscal agreement is completed, signed and received by the county.
- C. Payment Methods for All Providers
- Payment for purchased child care shall be made to the provider(s) through an automated system if it is a qualified provider(s) or licensed facility.
- The child care form for attendance record and billing shall be prepared and signed by the provider monthly and used by the county department of social/human services' business office to verify that the billing does not exceed the authorized number of units.
- D. 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 provider(s) with the opportunity to present information as to why the 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 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 provider(s) within fifteen (15) business days after the conference.

### **3.907 ADULT CARETAKER RESPONSIBILITIES [Rev. eff. 7/1/12]**

All adult caretakers must sign the application/re-determination form and releases along with providing verification of income to determine eligibility.

- A. All adult caretakers shall sign the state prescribed client responsibilities agreement form, which outlines child care program participation requirements.
- B. Adult caretakers have the responsibility to report and verify changes to income, if the family's income exceeds eighty-five percent (85%) of the State median income, in writing, within ten (10) calendar days of the change. If the adult caretaker is no longer in his/her qualifying eligible activity, this must be reported in writing within four (4) calendar weeks pursuant to Section 26-2-805(1)(e)(III), C.R.S.
- C. Adult caretakers must provide current immunization records for child(ren) who receive child care from qualified 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.



- D. Adult caretakers must cooperate with the child support enforcement unit or the delegate agency for all children with an absent parent, regardless of receipt of child care assistance for that child, as required by the county (see Section 3.919, K).
- E. Adult caretakers must report changes in child care providers prior to the change.
- F. All adult caretakers must provide written verification of their schedule related to their eligible activity at application, re-determination or when changes are reported.
- G. When the primary adult caretaker is declaring the identity of his/her child due to the child not having identification as part of the application, a picture ID of the primary adult caretaker or teen parent is needed to verify the adult caretaker's identity.
- H. When a child care case has closed and not more than thirty (30) days have passed from date of closure; the adult caretaker may provide the verification needed to correct the reason for closure. If the family 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 would be responsible for payment during the gap in service.
- I. An adult caretaker shall not leave his/her "CCAP" card in the provider's possession at any time or he/she shall be disqualified from the Colorado Child Care Assistance Program.

**3.908 ELIGIBLE FACILITIES [Rev. eff. 7/1/11]**

Child Care Services may be purchased from the following facilities:

**A. Qualified Providers**

- 1. Qualified provider: A non-licensed family child care home in which less than twenty-four (24) hour care is given at any one time for only one child, two or more children who are siblings from the same family household, or children who are a relative of the provider. This includes the following relationships for types of care:
  - a. "Relative in-home care" means care provided by a relative in the child's own home by a person who does not meet the definition of "adult caretaker" or "teen parent" in Section 3.903.
  - b. "Relative out-of-home care" means care provided by a relative in another location by a person who does not meet the definition of "adult caretaker" or "teen parent" in Section 3.903.
  - c. "Non-relative in-home care" means care provided by a person, who is not related to the child, in the child's own home by a person who does not meet the definition of "adult caretaker" or "teen parent" in Section 3.903.
  - d. "Non-relative out-of-home care" means care provided by a person, who is not related to the child, in another location by a person who does not meet the definition of "adult caretaker" or "teen parent" in Section 3.903.
- 2. Other qualified child care facilities: This includes a facility that is approved, certified, or licensed by any other state department or agency, or by a federal government department or agency, which has standards for operation of the facility and inspects or monitors the facility, and who has been declared exempt from the Child Care Licensing Act as defined in rule manual 7, Section 7.701.11, B (12 CCR 2509-8).

**B. 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):

1. Family Child Care Homes
2. Child Care Centers which are less than 24-hour programs of care by whatever name known, as defined in Section 26-6-102(1.5), C.R.S.

**3.908.1 PRE-ELIGIBILITY DETERMINATIONS [Rev. eff. 9/1/11]**

The Early Care and Education provider may provide services to the family prior to the final determination of eligibility and shall be reimbursed for such services only if the county determines the family is eligible for services and there is no need to place the family on the waiting list. The start date of eligibility is defined in Section 3.913, FF. If the family is found ineligible for services, the Early Care and Education provider shall not be reimbursed for any services provided during the period between his/her pre-eligibility determination and the county's final determination of eligibility.

**3.909 REGISTRATION OF QUALIFIED PROVIDERS [Rev. eff. 7/1/11]**

The counties or their designee shall register qualified providers and include the following provider information: name, address (not a P.O. Box #), phone number and social security number. Pursuant to Section 24-76.5-103, C.R.S., counties or their designee must verify the lawful presence in the United States of all applicants for state or local public benefits, or federal benefits provided by the Colorado Department of Human Services, or by the county departments of human/social services or their designee under the supervision of the State Department pursuant to Section 3.140.12, except as otherwise provided in subsection (3) of 24-76.5-103, C.R.S. Any contract provided by an agency of a state or local government is considered a public benefit.

**3.910 PROVIDER RATES [Rev. eff. 11/1/13]**

Counties may opt to adopt the state recommended provider(s) rates or may elect to set their own rate limits. If counties elect to set their own rates, they must notify the state on the State-prescribed form prior to implementation of those rates. State and county set rates must be paid in accordance with payment policies set forth below.

**A. 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, unless the county designates otherwise.
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 basic and alternative care as defined by the county and reported in the county plan.

- B. Counties shall pay for absences in accordance with the policy set by the county. Any absence policy set by the county shall address payments to hold a child's slot with a provider when the child is not in care to include, but not limited to, payments for scheduled school breaks, absences, and holidays.
- C. Upon notice to the state, counties may negotiate fiscal agreements that are modified to include rates and fees in a single rate of payment in a slot contract.
- D. Providers who contend that the county has not made payment for care provided under the Colorado Child Care Assistance Program 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 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.

**3.911 CHILD CARE PROVIDER RESPONSIBILITIES [Rev. eff. 7/1/12]**

- A. Providers shall maintain a valid child care license as required by Colorado statute unless exempt from the Child Care Licensing Act.
- B. Providers shall report to the county if their license has been revoked, suspended, or denied within three calendar days of receiving notification or a recovery will be established of all payments made as of the effective date of closure.
- C. Providers shall sign the child care fiscal agreement and all other county or state required forms and payment shall not begin prior to the first of the month the fiscal agreement has been signed and received by the county.
- D. Providers shall develop an individualized care plan for additional care needs children based upon the Individual Education Plan (IEP), Individual Health Care Plan (IHCP), or child welfare treatment plan and provide a copy to the county eligibility worker on an annual basis or other alternate period of time determined in the plan.
- E. Licensed providers shall maintain proof of current immunizations 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:
  - 1. Providers caring for children in the child's own home; or,
  - 2. Providers caring only for children related to the provider such as grandchildren, great-grandchildren, siblings, nieces, or nephews, etc.;
- F. Providers shall maintain sign in/out sheets that the person authorized to drop off/pick up the children has signed with the time the children arrive and leave each day they attend. These records must be available for county review upon request and maintained for the current year plus three years.
- G. Providers shall report non-payment of parental fees no later than the end of the month following the month the parental fees are due unless county policy requires it earlier. The unpaid parental fees can be reported by fax, e-mail, in writing or on the billing form.
- H. Providers shall notify the county of unexplained, frequent and/or consistent absences within ten (10) calendar days of establishing a pattern.

- I. Providers shall not charge counties more than their established private pay rates.
- J. Providers shall not charge adult caretakers or teen parents rates in excess of those agreed upon in the fiscal agreement (this includes the agreed upon registration, mandatory activity and transportation fees if the county pays these fees).
- K. Providers shall offer free, age appropriate alternatives to voluntary activities.
- L. Providers shall bill for care authorized and provided.
- M. Providers shall bill counties monthly for services authorized but not paid through the Point of Service (POS), based on county payroll policies, and forfeit payment for services if the original billing form is submitted more than sixty (60) calendar days following the month of service.
- N. Providers shall return the Point of Service (POS) terminal in working condition, barring normal wear and tear; to Affiliated Computer Services (ACS) within thirty (30) days of no longer doing business with the county or they shall be responsible for a recovery of the replacement cost. The provider shall call ACS to request a paid return label to return the POS device.
- O. Providers shall never hold onto any client's "CCAP" card under penalty of being permanently disqualified from the Colorado Child Care Assistance Program.

**3.912 COMPLAINTS ABOUT PROVIDERS [Rev. eff. 4/1/09]**

Counties and the public may access substantiated complaint files regarding complaints about procedures other than child abuse at the Colorado Department of Human Services, Division of Child Care, or on the Division of Child Care's website at <https://gateway.cdhs.state.co.us/cccls/PublicFileReview.aspx>.

**3.912.1 COMPLAINTS ABOUT LICENSED PROVIDERS [Rev. eff. 7/1/11]**

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

- A. If the complaint concerns child abuse or neglect, the county shall immediately refer the complaint to the appropriate county protective services unit.
- B. If the complaint concerns a difference of opinion between a provider and an adult caretaker or teen parent, the counties shall encourage the provider and adult caretaker or teen parent to resolve their differences.
- C. Complaints shall be referred to the Colorado Department of Human Services, Division of Child Care licensing 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 non-compliance licensing issues.

**3.912.2 COMPLAINTS ABOUT QUALIFIED PROVIDERS [Rev. eff. 7/1/11]**

Complaints shall be referred to the Colorado Department of Human Services, Division of Child Care Licensing staff or appropriate contracted agencies the same day as it is received by the county when:

- A. The complaint is about a relative or quality provider, who is alleged to be providing illegal care.
- B. The complaint is related to issues in a relative or qualified provider such as violation of non-discrimination laws or denial of parental access (does not include investigation of illegal care).

**3.912.3 COUNTIES OR THEIR DESIGNEE STAFF ACCESSIBILITY TO PROVIDER INFORMATION [Rev. eff. 7/1/11]**

The county shall make available the following provider information, including protective services information, to all staff whose responsibilities include child care subsidy services:

- A. Information known to licensing staff.
- B. Information from previous agency contacts.
- C. Information obtained from the Child Care Fiscal Agreement renewals.
- D. Information obtained from adult caretaker or teen parents, caseworker visits, and other sources.
- E. Information about corrective action intervention by the counties, their designee(s), or State Department.

**3.912.4 COUNTY REFUSAL TO AUTHORIZE CARE [Rev. eff. 7/1/11]**

- A. Counties have the authority to refuse to enter into a Fiscal Agreement with a provider. Counties have the authority to terminate a Fiscal Agreement after providing at least eleven (11) calendar days notice by postal service mail, fax, hand-delivery or email. 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 provider is under a negative licensing action as defined in Section 7.701.22, K (12 CCR 2509-8).
- B. The county may notify the provider of an immediate termination verbally, but written notice of that action shall be forwarded to the provider within at least eleven (11) calendar days. Any notice regarding denial or termination of a Fiscal Agreement shall include information regarding the provider's right to an informal conference as defined in section 3.906, D.

**3.913 COUNTY RESPONSIBILITIES [Rev. eff. 7/1/12]**

- A. Counties shall administer the Colorado Child Care Assistance Program in compliance with State Department fiscal and program regulations and in accordance with the terms associated with their allocation. Counties will be allocated child care funds annually.
- 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).
- C. Counties shall use forms as specified when required by the State Department.
- D. The county will make a decision on whether to approve or deny an application within fifteen (15) calendar days of the date the applicant or their authorized representative completes the application process. If all verification has not been submitted within fifteen (15) calendar days of the application date then the county may require a new application.
- E. Counties shall act on any reported change within ten (10) calendar days of receiving information and all required verification.
- F. Counties shall make reasonable efforts to advise county residents of services available to target groups through press releases, presentations, pamphlets, and other mass media.
- G. Acceptance of inter-county transfers shall be determined by the receiving county on a case by case basis in conformance with the following:

1. The adult caretaker(s) or teen parent notifies the sending county of the need to transfer services.
  2. The sending county contacts the receiving county to determine if the adult caretaker(s) or teen parent will receive services.
  3. The sending county informs the adult caretaker(s) or teen parent of the decision and, if applicable, sends appropriate paperwork to the receiving county.
  4. If the receiving county accepts the transfer, the counties shall negotiate the length of time that the sending county is responsible for making provider payments, not to exceed the end of the month after the date the adult caretaker(s) or teen parent moved into the receiving county. If the receiving county does not accept the transfer, the sending county terminates the case in conformance with termination procedures.
- H. Counties shall respond to requests for information or assistance from other agencies in a timely and attentive manner.
- I. The counties shall report to the State Department, in a timely and attentive manner, at such times and in such manner and form as the State Department requires.
- J. County business offices shall complete at least a random monthly review of Point of Service data sign in/out records using a risk-based approach. If the review indicates:
1. Unexplained, frequent absences and/or consistent absences, the county shall take action to correct the problem or terminate the placement.
  2. That the provider(s) may have submitted an inaccurate report of attendance for a manual claim, the county or its designee shall contact the provider(s) and adult caretaker or teen parent(s) to resolve the inaccuracy.
  3. That either the adult caretaker or teen parent or the provider has attempted to defraud the program or receive benefits to which they were not eligible. The county department or its designee shall report that information to the appropriate legal authority as set forth in Section 3.820, et seq.
- K. Any information that is available to any eligibility program office, in which the applicant and family resides, is considered available to all county offices and shall be acted on accordingly. If an applicant and family notify their new county of their move, it is the responsibility of that county to notify the previous county of this change.
- L. The county shall refer, within fifteen 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 provider of services pursuant to Section 3.912.
- M. Counties shall take whatever action is necessary to recover payments when households and/or providers owe money to the State because of overpayments, ineligibility and/or failure to comply with applicable state laws, rules or procedures. Recoveries shall be done in accordance with Section 3.916, et seq.
- N. County child care staff shall advise low-income adult caretaker(s) or teen parent(s) in writing of the adult caretaker's or teen parent's responsibility to report:
1. Changes to income, if the family's income exceeds eighty-five percent (85%) of the State median income within ten (10) calendar days of the changes.

2. Changes to his/her qualifying eligibility activity must be reported within four (4) calendar weeks. The county shall provide families with a State prescribed change of circumstance form.
- O. Counties shall advise adult caretakers of their responsibility to cooperate and participate with the counties or their designee in planning for child care services.
  - P. Counties shall notify qualified providers in writing of the requirement to submit to the fingerprint background check at least sixty (60) calendar days prior to their current fiscal agreement ending.
  - Q. Counties are responsible for verifying proof of lawful physical residence in the United States for any qualified provider(s) (refer to section 3.909).
  - R. Counties must code child care expenditures to the appropriate program, as prescribed by the state. Failure to do so will result in non-reimbursement or other actions as deemed appropriate by the state.
  - S. Counties shall use the Child Care Automated Tracking System (CHATS) as prescribed by the State for the Low-Income, Colorado Works, Employment First, and Child Welfare Child Care programs. Counties which do not use CHATS as prescribed by the state will not be reimbursed.
  - T. 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) or a combination of State and Federal money.
  - U. Counties shall obtain immunization records for children who receive child care from qualified 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.
  - V. The county shall document changes in child care eligibility on the state prescribed system (provider/case note screens).
- Data of any form shall be retained for the current year, plus three previous years, unless:
1. There is a written statutory requirements, rule or regulation available from a county, state or federal agency requiring a longer retention period; or,
  2. There has been a claim, audit, negotiation, litigation or other action started before the expiration of the three-year period.
- W. The adult caretaker or teen parent shall be mailed via postal service, emailed, faxed or hand-delivered notice of all actions made to the subsidy pursuant to Section 3.915.3.
  - X. The provider(s) shall be mailed via postal service, emailed, faxed or hand-delivered notice of child care changes to existing subsidy pursuant to Section 3.915.3.
  - Y. Counties shall pay providers monthly for services provided the previous month that could not be paid through the Point of Service (POS) records, based on county payroll policies. If payment is delayed for any reason, the county shall notify the provider(s) in a timely manner and document the circumstances on the State prescribed system (provider note screen).
  - Z. In any cases where payments to licensed centers or homes are delayed more than three (3) calendar months past the end of the month care was provided, county-only money shall be used to pay for this care.

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- AA. If the county opts to require Child Support Enforcement as outlined in Section 3.919, L, the county shall coordinate with the county Child Care Assistance Program or delegate agency and the delegate county Child Support Enforcement Unit. This includes, but is not limited to, the county:
1. Must develop a referral process and notify the delegate Child Support Enforcement Unit within its county within fifteen calendar days of referring a family.
  2. Shall determine good cause procedures pursuant to Section 3.919, L, 1, b. Counties shall notify the delegate Child Support Enforcement Unit within its county within fifteen calendar days of making the good cause determination.
  3. Shall develop cooperation and non-cooperation procedures which shall include timelines and processes for inter-department communication.
  4. Shall notify Child Support Enforcement within eleven (11) calendar days of low-income case closure.
- BB. If a county reduces its income eligibility requirements, a child receiving child care assistance services when the change is implemented shall continue to receive said services until the family's next eligibility re-determination or for six months, whichever is longer, so long as the family's household income remains at or below eighty-five percent (85%) of the State median income.
- CC. The counties or their designee will complete a review of the state administered database for child abuse and neglect on the qualified provider(s) and any one in the provider's household who is eighteen (18) years and over.
- DD. The counties or their designee shall screen the qualified provider(s) and any other adult eighteen (18) years of age and older for current or previous agency contacts.
- EE. The counties or their designee shall verify the residence of any applicant for child care assistance to ensure that they live in the county where they are applying for assistance.
- FF. When a case is approved for child care, the start date shall be the date the application was completed, signed and received by the county or when the client became eligible, whichever is later.
- GG. If a family is not transitioned from Colorado Works to Low-Income Child Care, the county shall provide notice as set forth in sections 3.915.3 and 3.915.4.
- HH. Whenever possible in processing re-determinations of eligibility for current clients, counties shall use information that is already available in other sources to document citizenship and identity.
- II. Counties shall allow applicants who declare their children are citizens of the U.S. no more than six months to obtain the documents needed to meet the citizenship documentation requirement for the children.
- JJ. The county will act within five (5) business days on any referrals from Colorado Works that requests child care or makes changes to child care.
- KK. The county shall not close any Colorado Works child care cases until the end of the month the Colorado Works case is closed. Since clients are eligible for Colorado Works for the entire month, they are also eligible for Colorado Works child care.



- LL. The county shall not require Social Security Numbers or cards for any man, woman or child who applies for child care assistance. Social Security Numbers or cards may be used as supporting documentation for proof of citizenship for the children in care or for identity information.
- MM. Prior to approving a fiscal agreement with any provider, the county shall compare the provider's private pay rates to the county's rates to ensure that county payments do not exceed private pay rates.
- NN. Counties shall review fiscal agreements on a random basis using a risk-based approach to ensure that the provider's current private pay rates are not less than the agreed-upon county rates. If private pay rates are found to be less than the agreed upon county rates, a new fiscal agreement shall be negotiated and a recovery established against the provider.
- OO. Counties shall have fiscal agreements signed by the provider and county staff prior to updating them in the State prescribed system.
- PP. Counties shall establish controls over which county staff have the authority to override eligibility in the Child Care Automated Tracking System (CHATS). Any overrides of eligibility must be accompanied by documentation in CHATS.
- QQ. 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 client's activity schedule.
- RR. Counties shall:
1. Audit authorizations and payments for receiving child care assistance on a random basis using a risk based approach. In any given year the county is expected to audit at least one percent (1%) of the county's authorizations for that year to ensure that from eligibility through payment, the child care was paid correctly.
  2. Counties shall establish recoveries within twelve (12) months of discovery of the facts resulting in recovery.
- SS. Upon receiving an application for child care services, counties shall review for completeness and mail via postal service, fax, email or hand-deliver a notice to the client of any missing verification within ten (10) business days of receipt of the application.
- TT. Upon receipt of an application that was directed to the wrong county of residence, the receiving county shall forward the application and any verification within ten (10) business days to the correct county. The county shall provide notification to the client that his/her application has been forwarded to the correct county.
- UU. Counties shall verify the date of birth for all children receiving child care services and for teen parents who are applying for child care services for their children.
- V V. 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.
- WW. Counties shall verify that 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.epls.gov](http://www.epls.gov).

- XX. Counties shall review department of labor records through the automated Colorado Unemployment Benefits System (CUBS) for any adult caretakers at application and redetermination to verify previous employment history.
- ZZ. Counties shall use the prudent person principle when determining eligibility or authorizing care and shall document reasoning in the appropriate notes section of the child care automated tracking system.

### **3.914 PROGRAM FUNDING [Rev. eff. 7/1/11]**

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 include direct services and administration.

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.

### **3.915 APPLICANT RIGHTS**

#### **3.915.1 ANTI-DISCRIMINATION [Rev. eff. 7/1/11]**

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)) located at <http://www.ada.gov/pubs/ada.htm>; and the requirements of Section 504 of the Rehabilitation Act of 1973 (29 USC 794) located at <http://www.hhs.gov/ocr/civilrights/resources/factsheets/504.pdf>; no later amendments or editions are incorporated. Copies of this material may be inspected by contacting the Division of Child Care, 1575 Sherman Street, Denver, Colorado; or any state publications depository library.

- 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.

#### **3.915.2 CONFIDENTIALITY [Rev. eff. 4/1/09]**

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 administration of public assistance and welfare and related State Department activities which include:

- A. Administration of county child care programs:
  - 1. Establishing of eligibility.
  - 2. Determining amount and type of child care assistance to be provided.

3. Providing child care assistance.
- B. Any investigation, recovery, prosecution, or criminal or civil proceeding in connection with the administration of the program.

### **3.915.3 TIMELY WRITTEN NOTICE OF ADVERSE ACTION [Rev. eff. 7/1/11]**

A decision to take adverse action concerning an applicant or a provider for assistance payments will result in a written notice mailed to the applicant or provider within one (1) business day of the decision. The written notice is considered mailed when it is faxed, emailed, hand-delivered, or deposited with the postal service. Eleven (11) calendar days will follow the date of mailing the notice before adverse action is actually taken with the following exceptions, which require no prior notice:

- A. When facts indicate an overpayment because of probable fraud or an intentional program violation and such facts have been verified to the extent possible.
- B. When the proposed adverse action is based on a clear, written statement signed by the individual which states that s/he no longer wishes to receive assistance or services.
- C. When the counties or their designee(s) have confirmed the death of a recipient or of the applicant when there is no other eligible applicant(s) available or willing to act as the new payee.
- D. The counties have the authority to terminate a fiscal agreement with any provider without advance notice if a child's health or safety is endangered or if the provider is under a negative licensing action.

### **3.915.4 APPLICANT/RECIPIENT AND PROVIDER APPEAL RIGHTS [Rev. eff. 7/1/11]**

Counties' or designee(s)' staff shall advise adult caretakers or teen parents in writing at the time of application and in the notice of adverse action of their right to a county dispute resolution conference or state level fair hearing pursuant to Sections 3.840 and 3.850, "Applicant/Recipient Rights Regarding Proposed Actions".

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".

## **3.916 CHILD CARE AND RECOVERY**

### **3.916.1 WHEN OVERPAYMENT IS RECOVERED [Rev. eff. 9/1/11]**

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 income, if the family'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 department, 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 recipient's eligibility within the timely reporting requirements for the program.

- B. The department or its designee determines whether there was willful misrepresentation/withholding of information and considers or rules out possible fraud;
- C. The department or its designee determines the amount of overpayment;
- D. The department or its designee notifies the household or provider(s) of the amount due and the reason for the recovery using the prior notice rules;
- E. The department 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.

**3.916.2 TIMELINESS AND AMOUNT [Rev. eff. 7/1/11]**

- A. A claim for repayment of excess public assistance is established when the overpayment occurred during the twelve (12) months preceding discovery and all facts to establish recovery have been received, except:
  - 1. When the criteria for not recovering an overpayment are met (refer to Section 3.916.1, A);
  - 2. 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 claim 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 provider(s) or access to other verification sources, the county shall recover the entire benefit for the affected months.

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

**3.916.3 RECOVERY PROCESS [Rev. eff. 7/1/11]**

- 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, whenever possible, and recover benefits for which the household was found to be ineligible, except in the case of willful misrepresentation or withholding of information (refer to Section 3.916.2, B). If the family meets the criteria for waiving a recovery, this does not apply.
  - 3. Determine the payments for which the provider was not eligible and recover those payments.
  - 4. Initiate timely written notice. Such notice shall include a complete explanation, including applicable rules, concerning the overpayment, recovery sought and appeal rights.
  - 5. Take action to ensure prompt recovery after allowing for the eleven (11) calendar day prior notice period; the opportunity for a county dispute resolution conference and/or an appeal for a state appeal hearing (per Section 3.850).

6. Pursue all legal remedies available to the county in order to recover the overpayment. Legal remedies include, but are not limited to, judgments, garnishments, claims on estates and the State Income Tax Refund intercept 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 Colorado Department of Human Services 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 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.

### **3.917 INTENTIONAL PROGRAM VIOLATION (IPV) [Eff. 7/1/11]**

All applicants for the Colorado Child Care Assistance Program (CCCAP) must 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 individual, for the purpose of establishing or maintaining the Colorado Child Care Assistance Program (CCCAP) household's eligibility to:
  - 1. Receive benefits for which he/she is not eligible; or,
  - 2. Increase benefits for which he/she is not eligible; or,
  - 3. Prevent a reduction of benefits.
- B. An IPV is committed when an individual makes a false or misleading statement or fails to disclose by misrepresentation or concealment of facts or any action intending to mislead or conceal any eligibility factor on any application or other written communication.
- C. Providers shall be provided with a written notice of the penalties for IPV on the fiscal agreement.
- D. A county department shall be required to conduct an investigation of any individual member of a family 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 must be taken on cases where documented evidence exists to show an individual has committed one or more acts of IPV. Action must 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 a state or federal court.
  - 2. Overpayment collection activities shall be initiated immediately in all cases even if administrative disqualification procedures or referral for prosecution is not initiated.

### **3.917.1 CRITERIA FOR DETERMINING INTENTIONAL PROGRAM VIOLATION [Eff. 7/1/11]**

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.

"Clear and convincing" evidence is stronger than "a preponderance of evidence" and is unmistakable and free from serious or substantial doubt.

### **3.917.2 INTENTIONAL PROGRAM VIOLATION/ADMINISTRATIVE DISQUALIFICATION HEARINGS (IPV/ADH) [Eff. 7/1/11]**

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 department 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 must be used for this purpose.

The participant may request that the Department of Personnel and Administration conduct the ADH/IPV in lieu of a county level hearing. Such a hearing must 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 Colorado Department of Human Services must be mailed by certified mail, return receipt requested, to the individual alleged to have committed an IPV at least thirty (30) calendar days prior to the hearing date, at his/her last known address. 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 must be rescheduled not more than once at the accused individual's request. The request for continuance must be received by the affected hearing officer at least ten (10) calendar days 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 individual whose case is currently being referred for prosecution on a civil or criminal action in a state or federal court.

### **3.917.3 WAIVER OF ADMINISTRATIVE DISQUALIFICATION HEARING [Eff. 7/1/11]**

Supporting evidence warranting the scheduling of an administrative disqualification hearing for an alleged IPV must be documented with a county department supervisory review. If the county department 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.

A state approved Notice of Alleged Intentional Program Violation form including the client's rights, the Waiver of Intentional Program Violation Hearing form, and the 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.

When an individual 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.

The completion of the waiver is voluntary and the county department may not require its completion nor by its action appear to require the completion of the request of waiver.

### **3.917.4 DISQUALIFICATION FOR IPV [Eff. 7/1/11]**

- A. If the individual 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 adult caretaker or teen parent shall be provided with a notice of the period of disqualification. The disqualification shall begin no later than the first day of the month which follows the date of notice of disqualification unless the household in which a disqualified person is living is ineligible for other reasons.

When the individual is no longer receiving child care assistance and an individual's disqualification is a result of a prior receipt of child care assistance, the disqualification shall be postponed until child care assistance is resumed.

Once the disqualification has been imposed, the period shall run without interruption even if the participant becomes ineligible for the Colorado Child Care Assistance Program.

- B. 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.
- C. The disqualification penalties affect any household to which the individual(s) is(are) a member.
- D. The penalty period shall remain in effect unless and until the finding is reversed by the State Department or a court of appropriate jurisdiction.
- E. A penalty imposed by one county department shall be used when determining the appropriate level of disqualification and penalty for that individual in another county department.
- F. The disqualification penalties may be in addition to any other penalties which may be imposed by a court of law for the same offenses.

**3.917.5 NOTIFICATION OF HEARING DECISION [Eff. 7/1/11]**

- A. If the local level hearing officer finds the individual has committed an IPV as a result of a county hearing, a written notice shall be provided to notify the adult caretaker and/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 applicant or participant 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 individual. This notice shall be on a state prescribed notice form.

**3.918 FRAUD [Rev. eff. 7/1/11]**

Fraud is subject to criminal action and must be proven beyond a reasonable doubt by a court of appropriate jurisdiction. The three basic elements, which have to be proven, are:

- A. The misrepresentation or concealment must have been deliberate and done intentionally. Fraud does not exist if the misrepresentation or concealment is the result of an unintentional act, a misunderstanding, or mental incompetence; and,
- B. The suspected fraudulent act must have been for the express purpose of receiving or attempting to receive or obtain assistance to which the individual was not eligible; and,



- C. It must be shown that, if the counties or their designee had been aware of the facts, assistance should not have been granted or should have been granted in a lesser amount.

**3.918.1 ESTABLISHING FRAUD [Rev. eff. 7/1/11]**

Colorado statutes provide for fraud charges to be filed against an individual and any person who aided another person in securing public assistance for which he or she was ineligible by misrepresenting or concealing essential facts.

- A. The misrepresentation or concealment must concern a fact that would affect eligibility or payment. This includes household composition, income, eligible activity, and any other eligibility factor.
- B. The misrepresentation may be oral or written. It can be in the form of an application for assistance, a written or verbal communication to the Department, a re-determination form, or failure to notify the Department of a change in circumstances that would affect eligibility or payment.
- C. Criminal intent must be proven beyond a reasonable doubt; therefore, the misrepresentation or concealment must be verified by written documentation and must relate to facts that existed at the time of the misrepresentation or concealment.
- D. In collecting evidence of fraud, the counties or their designee shall not violate the legal rights of the individual. When the Department questions whether an action it contemplates might violate the legal rights of the individual, it shall seek the advice of its legal advisor.
- E. Determination of whether fraud exists and referral to the District Attorney are within the administration of the public assistance programs involved and are not considered a violation of safeguards and restrictions provided by confidentiality rules and regulations.

**3.918.2 REFERRAL TO DISTRICT ATTORNEY [Rev. eff. 7/1/11]**

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 fraudulent 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 fraud, 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 recipient.

The following actions may be taken:

- A. When 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. When the District Attorney decides not to prosecute, the amount of overpayment due will continue to be recovered by all legal means.

**3.918.3 FRAUD DISQUALIFICATION [Eff. 7/1/11]**

Upon determination of fraud, adult caretakers or teen parent(s) who have signed the application, client responsibilities agreement, or re-determination, and/or any child care providers who have signed the fiscal agreement will be disqualified from participation in the Colorado Child Care Assistance Program for

the following periods, pursuant to Section 26-1-127, 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.

**3.918.31 Disqualification Period [Eff. 7/1/11]**

Upon determination of fraud, the adult caretaker(s) or teen parent(s) and/or providers shall be notified of the period of disqualification. The disqualification shall begin no later than the first day of the month that follows the date of notice of disqualification and shall run uninterrupted from that date.

When the individual is no longer receiving child care assistance and an individual's disqualification is a result of a prior receipt of child care assistance, the disqualification shall be postponed until child care assistance is resumed.

**3.918.32 Disqualification Penalties [Eff. 7/1/11]**

The disqualification penalties affect the adult caretaker(s), teen parent(s) and/or providers found to have committed fraud. 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), teen parent(s) and/or providers regardless of the county of residence in Colorado. Penalties imposed are progressive regardless of the county of residence for each subsequent penalty level.

**3.918.33 Hearing and Dispute Resolution Rights [Eff. 7/1/11]**

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.

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".

**3.919 ELIGIBILITY FOR LOW-INCOME PROGRAM FAMILIES [Rev. eff. 11/1/13]**

In order to be eligible for child care assistance the following criteria must be met:

- A. All applicants and recipients must be verified residents of the county from which assistance is sought and received.
- B. The applicant(s) must be an adult caretaker or teen parent who meet(s) the following criteria:
  - 1. Is actively participating in an eligible activity and needs child care assistance for that same period.
  - 2. Meets the low-income eligibility guidelines set by the county and state.
  - 3. Must have physical custody of the child for the period they are requesting care.

- C. The application process must be completed and adult caretaker(s) or teen parents must sign the required application forms. This includes:
1. The State approved, signed form completed by the applicant or their authorized representative, which includes appeal rights. 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; and,
  2. The client responsibilities agreement form; and,
  3. The required verification supporting the information declared on the application form; and,
  4. An orientation for new applicants as a county option.

- D. For families ending their participation in the Colorado Works Program due to employment or training, a Low-Income Child Care application shall not be required for transition families, except as outlined in items below. Adult caretakers or teen parents shall be required to complete and sign a client responsibilities agreement form and provide verification of income and eligible activity as set forth in Section 3.919, E and I. Counties shall obtain needed verification, if available, through other public assistance programs. Counties shall re-determine the transition family's circumstances as defined in Section 3.921.

Counties shall not be required to transition families if any of the following apply:

1. The family leaves the Colorado Works Program due to an Intentional Program Violation (IPV) as determined in Section 3.500 or as outlined in county policy; or,
2. The family needs child care for training and the residing county does not include training as an eligible activity or the applicant has exceeded the maximum allowable training period for that county; or,
3. The residing county's maximum income level is below that of the transitioning family; or,
4. The residing county has a waiting list and the county waiting list policy does not exempt transition families; or,
5. If a family is not transitioned for the reasons outlined above, the county shall provide notice as set forth in Sections 3.915.3 and 3.915.4.

- E. Low-Income Eligibility Guidelines

1. Family gross income may not exceed the maximum defined by the county of residence of the applicant. Each county shall determine its maximum gross monthly income guidelines not to exceed 85% of the state median income. Income eligibility cannot be set below 130% of federal poverty guidelines.
2. Generally, the expected monthly income amount is based on an average of the income received in the previous three months; except that, when the three previous months do not provide an accurate indication of anticipated income 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 three (3) month period, except for farm income. For further information, see Section 3.920, A, 1-2, 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 months shall 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) must 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 20 hours per week. Rental income, as self-employment or as unearned income, shall be averaged over a twelve (12) month period to determine monthly income. Income from jointly owned property must 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 3.920) shall be used in income calculations.
  - h. Irregular child support income shall be averaged over a period of time up to 12 months in order to calculate household income.
3. Income Verification at Application
- a. Written documentation of earned and unearned income is required within fifteen (15) calendar days of the date of application. Three full months of pay stubs are needed for ongoing employment or an employment verification letter for entered employment.
  - b. 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. Written documentation supporting the verbal verification must still be provided within fifteen (15) calendar days. 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.
  - c. If income is not verified in writing within fifteen (15) calendar days, the applicant's case will be closed and they will need to reapply for child care subsidies.
4. Income Eligibility at Re-Determination

Beginning with the first twelve (12) month re-determination, counties may adopt the following eligibility criteria for employed and self-employed families whose incomes exceed one hundred thirty percent (130%) of federal poverty guidelines. Gross monthly earned household income for employed and self-employed adults or teen parents must exceed county child care payments by the following percentages:

- a. Twenty percent (20%) if one or two children are in child care.
- b. Ten percent (10%) if three or more children are in child care.
- c. County may exempt a household from meeting a percentage requirement, on a case by case basis, if five or more children are in care.

An adult caretaker or teen parent may volunteer to pay a child care fee that is higher than the required fee in order to meet the eligibility criteria of this rule.

If criteria 4, a or b are not met, the family shall not be eligible for assistance.

Families who become ineligible for child care due to the provisions of this rule and re-apply for Low-Income Assistance shall meet the conditions of this rule at time of application.

This eligibility criterion may be adopted by counties within the regulatory confines contained herein upon notice to the State Department.

**F. Eligible Households**

1. Eligible household compositions include the following situations:
  - a. Adult caretaker or teen parent households (see Section 3.903);
  - b. 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.
2. All adult caretakers or teen parents who are engaged in an eligible activity, need child care while in their activity, have physical custody of the child and meet low-income eligibility guidelines.
3. An unrelated individual who is/are acting as an adult caretaker(s) for an eligible child, is required to obtain an affidavit 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(s).
4. An adult caretaker, other than the biological or adoptive parent, 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 is not a participant; and, she/he meets all other Low-Income program criteria.
5. Colorado Works applicants who meet low-income program criteria and have not yet been approved for benefits or have not received their first benefits are eligible if they meet the low-income program criteria. If it is within the first forty-five days of their Colorado Works application, they shall receive Colorado Works child care assistance during the Colorado Works assessment process.

6. Adoptive parents (including those receiving adoption assistance) are eligible if they meet the low-income program requirements.
7. Adult caretaker(s) or teen parent(s) on maternity leave.
8. Being a separated spouse or parent under a validly issued temporary order for parental responsibilities or child custody where the other spouse or parent has disqualifying financial resources.

**G. Ineligible Household Compositions**

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

**H. Eligible Child**

An "eligible child" is the child of an eligible applicant. See definition of eligible child in Section 3.903.

1. All children who have had an application made on their behalf for or are receiving child care assistance must verify that they are a U.S. citizen or qualified alien and provide proof of identity. Documents evidencing citizenship status must be original and unexpired (see Definitions Section 3.903, "Citizen/Legal Resident").
2. Children who are not attending school as defined by the Colorado Department of Education and are receiving care must provide a copy of their immunization record 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.).
  - a. Counties may require a copy of the current immunization record as a part of the application process and annually thereafter in conjunction with the family's re-determination of eligibility. Families would have fifteen (15) calendar days from the date of application to provide the information.
  - b. Counties that choose not to require immunization records as a part of the application and re-determination process must require providers to maintain immunization records indicating that the children are age-appropriately immunized and monitor those providers to ensure their compliance as set forth in Sections 3.911, E and 3.913, U.

**I. Eligible Activities**

Applicants must meet the criteria of at least one of the following activities:

**1. Employment Criteria**

Applicants may be employed full or part time. Applicants must submit written verification of employment and wages within fifteen (15) calendar days of the date the application is received by the county or designated agency. Owners of LLC's and S-Corporations, because they have limited personal liability for the debts and actions of the business, are considered employees of the corporation. This verification must be three months of pay stubs if ongoing employment or an employment verification letter if it is new employment. The employed person must show that his/her taxable gross income divided by the number of hours of care used for the employment activity equals at least the current federal minimum wage.

2. Self-Employed Criteria

- a. At time of application, self-employed applicants must submit written verification of self-employment status within fifteen (15) calendar days of application. This verification would be a self-employment form from the Internal Revenue Service (IRS) or other government agency with the authority to validate self-employment status.
- b. The person must submit a ledger listing his/her income and work-related expenses. All expenses must be verified or they will not be allowed.
- c. The person must submit an expected weekly employment schedule that includes approximate employment hours. This is required upon beginning self-employment, at application, and at re-determination.
- d. The person must show that he/she has maintained an average income that exceeds their business expenses from self-employment.
- e. The person must show that his/her taxable gross income divided by the number of hours of care used for the employment activity equals at least the current federal minimum wage.

3. Job Search Criteria

Job search child care is limited to thirty (30) actual days of child care in a twelve (12) month period beginning with the first actual day of job search activity.

The amount of care authorized each day shall be commensurate with the amount needed to complete the job search tasks. Job search child care shall be approved in the following situations:

- a. When individuals lose their jobs while enrolled in the Low-Income program and job search child care is approved by the county or designee and monitored to ensure that job search activities comply with county or state standards.
- b. For new applicants, when approved by the county or designee and monitored to ensure that job search activities comply with county or state standards.

4. Training Criteria (County Option)

For adult caretaker(s), counties may opt to offer training as an eligible activity within the regulatory confines set forth herein. If a county intends to include training for adult caretakers as an eligible activity, the county must notify the Colorado Department of Human Services in writing of its intention and the effective date of implementation. Child care staff may refer adult caretakers to community employment and training resources for assistance in making a training decision.

- a. At the option of the county, adult caretaker educational programs include post secondary education for a first bachelor's degree or less, or vocational/technical job skills training when offered as secondary education which result in a diploma or certificate, for a maximum of forty-eight (48) months. This is limited to coursework for the degree or certificate.
- b. In addition to the months of assistance available for post secondary and vocational or technical training, up to twelve (12) months of assistance is

allowable for GED, high school diploma, English as a Second Language or adult basic education.

- c. A maximum number of months allowed by the county for post-secondary, vocational and technical education, plus the allowable months for GED, high school diploma, English as a Second Language or adult basic education is available for each adult caretaker.

**J. Transition Off Low-Income Assistance (County Option)**

At the option of the county, families receiving Low-Income Child Care Assistance, who become ineligible because their income exceeds the gross monthly income guidelines set by the county, may continue to receive assistance for up to six months following the date they became ineligible when the following criteria are met:

- 1. The family's gross monthly income does not exceed 85% of the state's median income, published annually by the U.S. Department of Health and Human Services, Administration for Children and Families, based on family size.
- 2. The family and the county work together to prepare the family for the transition off assistance.
- 3. Counties selecting this option shall notify the state in advance of their selection of this option, including an outline of the county's transition plan strategies for families.

**K. Child Support Enforcement (County Option)**

At the option of the county, families receiving Low-Income Child Care Assistance must apply for and cooperate with Child Support Enforcement pursuant to Section 26-13-106(2), C.R.S., for child support establishment, modification and enforcement services related to any support owed by absent parents to their children.

- 1. Counties shall refer all dependent children with a non-custodial parent regardless of child care eligibility to the Child Support Enforcement Unit or their delegates unless an active child support case exists or if a good cause exemption has been granted.
  - a. Counties shall inform all adult caretakers or teen parents of their right to apply for a good cause exemption in writing at the time of application as well as any time while receiving child care. Counties shall extend benefits until good cause determination is complete.
  - b. "Good cause" shall include, but not be limited to, the following valid claims:
    - 1) Potential physical or emotional harm to a child or children; or,
    - 2) Potential physical or emotional harm to an adult caretaker relative or teen parents; or,
    - 3) Pregnancy or birth of a child related to incest or forcible rape; or,
    - 4) Legal adoption in a court of law or a parent receiving pre-adoption services.



- c. The county director or designee shall make determination of good cause exemption and shall determine if good cause needs to be reviewed at some future date.
  - d. If a recipient has been approved for good cause in another public assistance program that requires child support enforcement, a good cause exemption shall be extended to the Colorado Child Care Assistance Program.
- 2. The adult caretaker(s) or teen parent(s) must apply for and cooperate with the Child Support Enforcement Unit or delegate agency within thirty (30) calendar days of initial date of approval for child care. For ongoing child care cases, the county shall require the adult caretaker(s) or teen parent(s) to cooperate with Child Support Enforcement within thirty (30) calendar days of the date the county provides written notification of the requirement.
- 3. For Low-Income Child Care Assistance adult caretaker(s) or teen parent(s), "cooperation" is defined as:
  - a. Applying for Child Support Enforcement within thirty (30) calendar days of being notified of the requirement; and,
  - b. Maintaining an active Child Support Enforcement case while receiving ongoing Low-Income Child Care Assistance benefits; and,
  - c. Cooperating with Child Support Enforcement is required for all children in the ongoing child care household with an absent parent regardless of child care eligibility.
- 4. If the Child Care Assistance Program receives written notice within required timeframes from the Child Support Enforcement Unit that the child care household has not cooperated, the following steps shall be taken:
  - a. The county or designee child care staff shall notify the household within eleven (11) calendar days, in writing, that he/she has fifteen (15) calendar days from the date the notice is mailed to cooperate, or request a good cause exemption, before the child care case and all authorizations shall be closed.
  - b. If the adult caretaker(s) or teen parent(s) fail(s) to cooperate within the required time frames and the IV-D Administrator of delegate agency, the child care assistance case shall be closed. Upon notification of a request for good cause, the county shall extend benefits until good cause determination is complete, as long as the household meets all other eligibility criteria. The county shall make a good cause determination within fifteen (15) calendar days of the request.
- 5. If a household's benefits are terminated due to failure to cooperate, that household shall remain ineligible in all counties that have this option until cooperation is verified by the Child Support Enforcement Unit or delegate agency.
- 6. At the time of referral from the Colorado Works Program to the Low-Income Child Care Assistance Program, the Low-Income Child Care Assistance Program shall notify households in writing within at least eleven (11) calendar days of the referral of his/her continued requirement to cooperate with the Child Support Enforcement Unit.
- 7. The Child Care Assistance Program shall notify Child Support Enforcement within at least eleven (11) calendar days when a household is transitioned from Colorado Works child

care to Low-Income Child Care Assistance and the household's continued requirement to cooperate.

8. Households shall not be required to cooperate with Child Support Enforcement if:
  - a. Good cause has been established; or,
  - b. The child support case is closed pursuant to Section 6.260.51 (9 CCR 2504-1); or,
  - c. The Low-Income Child Care case is a two-parent household if there are no absent parents for any children in the home.

**3.920 ELIGIBILITY INCLUSIONS/EXCLUSIONS/ADJUSTMENTS [Rev. eff. 7/1/11]**

**A. Income Inclusions**

1. Wages, salary, armed forces 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 taxable gross wages divided by the number of hours care is provided for the employment activity must equal at least the current Federal minimum wage.
2. Taxable gross income (gross receipts 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; and,
    - 2) Wholesale cost of merchandise; and,
    - 3) Utilities; and,
    - 4) Taxes; and,
    - 5) Mileage expense for business purposes only; and,
    - 6) Labor; and,
    - 7) Upkeep of necessary equipment.
  - b. The following are not allowed as business expenses from self employment:
    - 1) Depreciation of equipment; and,
    - 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 an employment activity, then taxable gross wages divided by the number of hours care is provided for the employment activity must 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 sharecropper) from farm self-employment.
  - a. Gross receipts include, but are not limited to:
    - 1) The value of all products sold; and,
    - 2) Government crop loans; and,
    - 3) Money received from the rental of farm equipment and/or farm land to others; and,
    - 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; and,
    - 2) Cash wages paid to farmhands; and
    - 3) Cash rent; and,
    - 4) Interest on farm mortgages; and,
    - 5) Farm building repairs; and,
    - 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 care is provided for the employment activity must 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 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 months shall be used to arrive at an average monthly amount.
4. An in-kind benefit is any gain or benefit received by the household 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 shall 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 a household, 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 household and are part of the compensation for employment.

6. Railroad retirement insurance.
7. Veteran's pensions paid by the Veteran's Administration to disabled members of the armed forces or to survivors of deceased veterans, subsistence allowances paid to veterans for education and on-the-job training, and "refunds" paid to veterans as GI insurance premiums.
8. Pensions and annuities include retirement benefit payments, 401(k) payments, IRA payments, pension payments or any other payment from an account meant to provide for a retired person or their survivors. Early payout from these accounts is countable income minus the amount deducted for penalties.
9. Dividends, interest (on savings or bonds), income from estates or trusts, net rental income or royalties include dividends from stockholders or memberships in association, interest on savings or bonds, periodic receipts from estates or trust funds, net income from rental of a house, store, or other property to others, receipts from boarders or lodgers, and net royalties.
10. Inheritance, gifts, and prizes.
11. 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.
12. Proceeds of a health insurance policy or personal injury lawsuit to the extent that they exceed the amount to be expended or must be expended for medical care.
13. Strike benefits.
14. Lease bonuses and royalties (e.g., oil and mineral).
15. Social Security pensions, survivor's benefits and permanent disability insurance payments made prior to deductions for medical insurance.
16. Unemployment insurance benefits.
17. Worker's compensation received for injuries incurred at work.
18. Maintenance payments made by an ex-spouse for support of the spouse as a result of dissolution of a marriage.
19. Child support payments.
20. In-kind benefits paid by a noncustodial parent for the child; a dollar value shall be placed on these benefits to be countable as income to the household. The dollar value is based on the cost or fair market value of the item.
21. Military allotments.
22. Non-recurring lump sum payments are included as income only in the month received. If the payment was not reported in the month received, it will be included as income the month following receipt.
23. WIA wages earned in work experience or on-the-job training.

24. AmeriCorps income.
  25. CARES payments – refugee payments from Refugee Services.
- B. Income Exclusions
1. Earnings of a child in the household when not a teen parent.
  2. Supplemental Security Income under Title XVI.
  3. Any payment made from the Agent Orange Settlement Fund, pursuant to P.L. No. 101-201.
  4. The value of Food Assistance benefits.
  5. Benefits received under Title VII, Nutrition Program for the Elderly, of the Older Americans Act.
  6. 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, including benefits received from the special supplemental food program for women, infants and children (WIC).
  7. Payments received under Title II of the Uniform Relocation Assistance and Real Property Acquisition Policies Act.
  8. Experimental Housing Allowance Program (EHAP) payments made by HUD under Section 23 of the U.S. Housing Act.
  9. Payments made from Indian judgment funds and tribal funds held in trust by the Secretary of the Interior and/or distributed per capita.
  10. Distributions from a native corporation formed pursuant to the Alaska Native Claims Settlement Act (ANCSA).
  11. Major disaster and emergency assistance provided to individuals and families, and comparable disaster assistance provided by states, local governments and disaster assistance organizations.
  12. Payments received from the county or state for providing foster care, or for an adoption subsidy.
  13. 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.
  14. Low-Income Energy Assistance Program (LEAP) benefits.
  15. 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.
  16. Earned Income Tax Credit (EIC) payments.

17. 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).
18. 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.
19. Training allowances granted by WIA to enable any individual, whether dependent child or caretaker relative, to participate in a training program are exempt.
20. 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.
21. Any portion of educational loans and grants obtained and used under conditions that preclude their use for current living costs and that are earmarked for education.
22. 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.
23. 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.
24. Resettlement and Placement (R & P) vendor payments for refugees.
25. Supportive service payments under the Colorado Works Program.
26. Home Care Allowance under adult categories of assistance.
27. Loans from private individuals as well as commercial institutions.
28. Public cash assistance grants including Old Age Pension (OAP), Aid to the Needy Disabled (AND), and Temporary Assistance to Needy Families (TANF)/Colorado Works.
29. Reimbursements for expenses paid related to a settlement or lawsuit.
30. 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.

**C. Income Adjustments**

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 parental fees. There must be a verification that payments are court ordered and actually made. Court ordered payments deducted must be for current child support payments. Such verification must be made at the time of initial approval of eligibility for services and at the time of each re-determination of eligibility, or more frequently if there has been a change in support payments.

**3.921 RE-DETERMINATION [Rev. eff. 9/1/11]**

- A. A re-determination of eligibility shall be conducted every twelve (12) months. The State prescribed eligibility 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 shall not be eligible for child care subsidies.
1. Employed adult caretaker(s) or teen parent(s) shall submit documentation of employment status, scheduled hours, and income.
  2. Adult caretaker(s) or teen parent(s) in training shall submit documentation from the training institution which indicates that the adult caretaker(s) is/are making satisfactory progress in school, verifies school schedule, and verifies current student status.
  3. Adult caretaker(s) or teen parent(s) shall submit current copies of immunization records as required by the county but no more than annually.
- B. Families who are transitioned from the Colorado Works Program to Low-Income Child Care shall be re-determined as defined in county policy within twelve (12) months of the date the Low-Income case is opened.
- C. In addition to the twelve (12) month re-determinations, adult caretaker(s) or teen parent(s) shall report and verify changes to income, if the family's income exceeds eighty-five percent (85%) of the State median income, in writing, within ten (10) calendar days of the change. If the adult caretaker is no longer in his/her qualifying eligible activity, this must be reported in writing within four (4) calendar weeks.
- D. Parental fees shall be reviewed upon a reported change or at re-determination. An adjusted parental fee will be based on an average of at least the past three months 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. The fee change shall be effective the first full calendar month after the change is reported and verified, and timely written notice is provided.
- E. 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 families are still responsible for notifying the county of any changes that may impact eligibility (see paragraph C. of this section).

**3.922 TERMINATION OF CHILD CARE SERVICES [Rev. eff. 9/1/11]**

- A. Child care subsidies will cease for the following eligibility related reasons:
1. Eligible child exceeds age limits.
  2. Household's income exceeds county eligibility guidelines at re-determination.
  3. Adult caretaker(s) or teen parent(s) did not pay parental fees, an acceptable payment schedule has not been worked out between the 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 as found in Section 3.905, B.
  4. Adult caretaker(s) or teen parent(s) exceeds activity time limits.

5. Adult caretaker(s) or teen parent(s) fails to comply with re-determination requirements
  6. Adult caretaker(s) or teen parent(s) is not involved in an eligible activity
  7. Adult caretaker(s) or teen parent(s) has become a participant in Colorado Works.
  8. Household's income does not exceed child care costs by the required percentage at re-determination of eligibility.
  9. Adult caretaker(s) or teen parent(s) did not submit required immunization records.
  10. Household's six (6) month post-eligibility period has expired.
  11. Adult caretaker(s) or teen parent(s) is/are no longer a resident of the county.
  12. Adult caretaker(s) or teen parent(s) is/are not cooperating with child support establishment, modification or enforcement services, at county option, and, if the adult caretaker(s) or teen parent(s) has/have applied for a good cause exemption, the county director or designee has determined that the adult caretaker(s) or teen parent(s) is/are not eligible for a good cause exemption.
  13. Adult caretaker(s) or teen parent(s) do not meet minimum wage requirement for employment or self-employment are not considered to be in an eligible activity.
  14. Household income exceeds eighty-five percent (85%) of State median income during eligibility period.
- B. Reason for termination shall be documented on the State prescribed document and mailed via postal service, emailed, faxed or hand-delivered to the adult caretaker or teen parent and provider pursuant to Section 3.915.3.
- C. 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. Parental fees will be based on the previous amount specified until prior notice is provided of changes to future parental fees.
- D. Nothing in this section shall preclude an adult caretaker(s) or teen parent(s) from voluntarily withdrawing from the Low-Income program.

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### **Editor's Notes**

Primary sections of 9 CCR 2503-1 have been recodified effective 09/15/2012. See list below. Versions and rule history prior to 09/15/2012 can be found in 9 CCR 2503-1. Prior versions can be accessed from the History link located above the rule text.

Rule section 3.000 – 3.100, et seq. has been recodified as 9 CCR 2503-1, GENERAL RULES.

Rule section 3.200, et seq. has been recodified as 9 CCR 2503-2, GENERAL FINANCIAL ELIGIBILITY CRITERIA.

Rule section 3.300, et seq. has been recodified as 9 CCR 2503-3, OLD AGE PENSION.



Rule section 3.400, et seq. has been recodified as 9 CCR 2503-4, AID TO THE NEEDY DISABLED AND AID TO THE BLIND.

Rule section 3.500, et seq. has been recodified as 9 CCR 2503-5, (Reserved for Future Use).

Rule section 3.600, et seq. has been recodified as 9 CCR 2503-6, COLORADO WORKS PROGRAM.

Rule section 3.700, et seq. has been recodified as 9 CCR 2503-7, OTHER ASSISTANCE PROGRAMS.

Rule section 3.800, et seq. has been recodified as 9 CCR 2503-8, ADMINISTRATIVE PROCEDURES.

Rule section 3.900, et seq. has been recodified as 9 CCR 2503-9, COLORADO CHILD CARE ASSISTANCE PROGRAM.

### **History**

Sections 3.905 – 3.905.A, 3.905.B.10 – 11, 3.910, 3.919, 3.919.F – 3.919.H.1 eff. 11/01/2013.

Section 3.905 – 3.905.B.10 eff. 10/01/2014.