

**Title of Proposed Rule:** Colorado Child Care Assistance Program Rules

**CDHS Tracking #:** 17-08-14-02

**CCR #:** 9 CCR 2503-9

Office, Division, & Program:  
OEC, ECL, CCCAP

Rule Author:  
Greg Smith

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## **STATEMENT OF BASIS AND PURPOSE**

### **Summary of the basis and purpose for new rule or rule change.**

*Explain why the rule or rule change is necessary and what the program hopes to accomplish through this rule.*

Several provisions of the current Child Care Assistance Program rules have been made in order to: meet the needs of the new electronic attendance tracking system; remove the child income requirement for Protective Services Child Care cases; edit language surrounding the Client Responsibilities Agreement (CRA) per Memo #PM-ECL-2017-0001; and, to clarify rules that went into effect in September 2016.

In the Fall of 2017, the Colorado Child Care Assistance Program (CCCAP) will be implementing a new attendance tracking system to replace the Point of Service (POS) system that is currently in use. The current attendance tracking system requires that families receiving CCCAP track their daily attendance by swiping their CCAP card on the POS device. The current system has proven to pose a considerable amount of burden on Child Care Providers as the POS device requires analog phone line connection which has become obsolete due to the modernized transition to digital phone lines. The use of the CCAP card has also created barriers for families due to the fact that only two cards are available to families and because of the considerably long time that it takes to replace a card if one is lost. In effort to reduce these burdens and barriers, the Office of Early Childhood (OEC) has chosen to move to a web based attendance tracking solution. The CCCAP rule has been revised in order to accommodate these changes.

In September of 2016, new rule was promulgated for Protective Services Child Care. This subset of child care services allows counties to utilize Child Care Development Funds to cover the cost of care for households whom have an active Child Welfare case where children have been placed by the county in foster home care, kinship foster home care, or non-certified kinship care. Protective Services households are not required to meet the standard CCCAP activity requirements nor is the adult caretaker's income considered; however, the September 2016 rule required that income that is received by the child be counted towards the household. The income requirement now may be waived on a case-by-case basis in this revised packet in order to reduce barriers for families as well as make it easier for counties to process Protective Services Child Care cases.

To further ease the process for families and counties, the Client Responsibilities Agreement (CRA) has been fully incorporated into the CCCAP application, per Memo #PM-ECL-2017-0001. The CRA outlines what the teen parent or adult caretaker is required to do in order to be in compliance with the program and is currently a separate form that is attached to the application. The signing of this form is currently a requirement of eligibility and a Low Income Child Care case would be denied if it has not been signed and returned. This process has led to confusion for families as well as added to the workload of counties. In order to improve upon this process, the decision has been made to incorporate the requirements outlined in the CRA into the CCCAP application. To reflect this new process, CCCAP rule has been revised.

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**State Board Authority for Rule:**

Code	Description
26-1-107, C.R.S. (2015)	State Board to promulgate rules
26-1-109, C.R.S. (2015)	State department rules to coordinate with federal programs
26-1-111, C.R.S. (2015)	State department to promulgate rules for public assistance and welfare activities.

**Program Authority for Rule:** *Give federal and/or state citations and a summary of the language authorizing the rule-making function AND authority.*

Code	Description

Does the rule incorporate material by reference?

Yes  
 No

No  
 No

Does this rule repeat language found in statute?

If yes, please explain.

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## **REGULATORY ANALYSIS**

### **1. List of groups impacted by this rule.**

*Which groups of persons will benefit, bear the burdens or be adversely impacted by this rule?*

Counties who administer Colorado Child Care Assistance Program (CCCAP) benefits will both benefit and bear the burdens of this rule. Changes to this rule will alter the way they administer benefits to families.

Households receiving CCCAP benefits will largely benefit from the revision of this rule.

Child care providers who serve the families receiving child care subsidy (CCCAP) will benefit from the changes in the method in which attendance is tracked.

### **2. Describe the qualitative and quantitative impact.**

*How will this rule-making impact those groups listed above? How many people will be impacted? What are the short-term and long-term consequences of this rule?*

Counties, child care providers, and families receiving CCCAP will largely benefit from this rule.

#### **Families and Child Care Providers**

The upcoming changes to the attendance tracking system will allow child care providers that accept Colorado Child Care Assistance Program (CCCAP) funds to utilize a single system to check children in and out. These changes will in turn reduce the administrative burden on child care providers. While we do believe that child care providers will greatly benefit from these changes, we also anticipate that there will still be some burden placed upon them if they do not have an internet connection or computer or mobile device to utilize the new system. We anticipate that the number of providers that would fall into this category would be small. We also are hopeful that once the burdensome Point of Service (POS) device is replaced, the state will see an increase in child care providers that contract with CCCAP. Because families will no longer have to utilize a different system in order to track their child's attendance, the stigma that exists with the current POS system will also be reduced.

Families will also be impacted by the changes made to the Protective Services Child Care rules and the incorporation of the Client Responsibilities Agreement (CRA) into the CCCAP application. The changes to Protective Services Child Care will allow more families to be eligible for this type of care. The current requirement to count any child income does reduce the number of families that would be eligible to receive this service. It is vital that families that have an active Child Welfare case have access to child care and removing this requirement will reduce the burden on these families.

The incorporation of the CRA will also reduce the burden on families by providing a more streamlined application process.

#### **Counties**

Counties will greatly benefit from the changes in this rule. The integration of the CRA into the application reduces some administrative burden as it reduces the additional information that they are to obtain from families. The changes to Protective Services Child Care will allow counties to more easily determine eligibility for these families. In addition, the other clarification and cleanup that has been made will allow counties to have a better understanding of the rule to ensure that the correct actions are being taken on cases.

Counties can also expect that the changes to the attendance tracking system and rules will ease their workload long term. Counties currently request replacement cards for families receiving CCCAP and are also responsible for initiating recoveries for POS devices that are not returned by child care providers

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that no longer do business with the county. The new system will remove this level of oversight as well as create a more easeful process when manual claims are required to issue payments to child care providers.

While counties can expect to benefit from this rule, they will also be impacted as changes to this rule will alter the way they administer benefits to families. Counties will be required to attend training in order to implement these changes; however, the state will provide training and in turn reduce some of the burden on counties.

### 3. Fiscal Impact

*For each of the categories listed below explain the distribution of dollars; please identify the costs, revenues, matches or any changes in the distribution of funds even if such change has a total zero effect for any entity that falls within the category. If this rule-making requires one of the categories listed below to devote resources without receiving additional funding, please explain why the rule-making is required and what consultation has occurred with those who will need to devote resources. **Answer should NEVER be just "no impact" answer should include "no impact because...."***

State Fiscal Impact *(Identify all state agencies with a fiscal impact, including any Colorado Benefits Management System (CBMS) change request costs required to implement this rule change)*

Attendance Tracking System will be completed with funds already available to the agency. Training costs will be absorbed within current state positions that presently conduct training. Furthermore, the impact to counties is not of a financial nature as the system will be implemented by the State agency.

#### County Fiscal Impact

Attendance Tracking System will be completed with funds already available to the agency. Training costs will be absorbed within current state positions that presently conduct training. Furthermore, the impact to counties is not of a financial nature as the system will be implemented by the State agency.

#### Federal Fiscal Impact

Attendance Tracking System will be completed with funds already available to the agency. Training costs will be absorbed within current state positions that presently conduct training. Furthermore, the impact to counties is not of a financial nature as the system will be implemented by the State agency.

#### Other Fiscal Impact *(such as providers, local governments, etc.)*

The new Attendance Tracking System may pose a fiscal impact on child care providers as the new system does require an internet connection and either a computer or mobile device. To better understand what impact these needs would create, we did survey CCCAP providers and, out of the nearly 700 providers that responded, we found that over 80% have access to the internet where care is provided. Furthermore, we did a statewide data analysis of available broadband in the state and found no significant gaps (see map located on page 7 of this document). These providers also had access a device that could be used to access the system. Based on this data, we feel that the fiscal impact on providers will be minimal.

### 4. Data Description

*List and explain any data, such as studies, federal announcements, or questionnaires, which were relied upon when developing this rule?*



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**OVERVIEW OF PROPOSED RULE**

Compare and/or contrast the content of the current regulation and the proposed change.

Page #	New Rule #	Current Rule #	Status (i.e., new, clarification, technical, repeal)	Changes/Description	Public Comment Y/N
2		3.903	Technical	Corrected the case on the word "placement" in the definition of additional care needs	
2		3.903	Clarification	Removed specific language surrounding the client responsibilities agreement form from the definition of "applicant" and "application process" as this is a part of the application and does not need to be called out separately.	
3		3.903	Clarification	Primary home and auto were added as exclusions to the assets definition to provide clarification.	
3	3.903		Clarification	Created definition for the new attendance tracking solution for CCCAP utilizing the language previously reserved for the CCAP Card definition to accommodate our new attendance tracking solution	
3		3.903	Clarification	Clarified what is included in the base reimbursement rate	
3	3.903		New	Added definition for basic education to better clarify training and education requirements	
4		3.903	Clarification	Clarified the rates that are indicated in a fiscal agreements	
4		3.903	Clarification	Included "program" to child care provider definition to broaden the definition	
5	3.903		New	Created definition for drop in day to capture in rule what is already in practice	
8	3.903		New	Created definition for hold slots to capture in rule what is already in practice	
8		3.903	Technical	Capitalized the Child Care Assistance Tracking System acronym (CHATS) in the definition of manual claim.	
8		3.903	Clarification	Expanded the definition of maternity/paternity leave by removing the limitation of only being able to receive the leave time immediately before and after the birth of a child.	
8		3.903	Clarification	Struck language in the definition of negative licensing action and moved it to 3.914.5 for clarification.	
8		3.903	Repeal	Removed definition for Point of Service (POS) device; captured in definition of Attendance Tracking System.	

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8		3.903	Clarification	Clarified when the post-eligibility period is to begin	
9		3.903	Clarification	Clarified that risk-based audits are utilized to ensure that cases are being processed accurately	
10		3.903	Clarification	Removed superfluous language Clarified tiered reimbursement and their relation to base reimbursement rates.	
10		3.903	Clarification	Clarified the training and education language to better define the different types of supported education activities Removed language that is duplicated in the body of rule	
10		3.903	Clarification	Referenced Colorado Works rule to further clarify what the types of activities are when a family is considered a transition family Removed specific language surrounding the client responsibilities agreement form as this is a part of the re-determination form and does not need to be called out separately.	
10		3.903	Technical	Changed "waiting list" to "wait list"	
13		3.905.1 (C)	Clarification	Removed specific language surrounding the client responsibilities agreement form as this is a part of the re-determination and application form and does not need to be called out separately.	
14		3.905.1 (D) (8)	Clarification	Clarified that maternity and paternity leave is to be verified	
16		3.905.1 (G) (4)	Clarification	Changed "training criteria and education" to "training criteria and post-secondary education" Removed language that is duplicated in the definition of Training and post-secondary education Changed "two years" to "one hundred four (104) weeks" Added language to capture the two hundred eight (208) week county limit for post-secondary education Added language to clarify that weeks for the activity do not have to be used consecutively	

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16		3.905.1 (G)(4)(a)	Technical	Changed "any two years" to "one hundred four (104) weeks"	
16		3.905.1 (G)(4)(b)	Technical	Changed "months" to "weeks" Changed "twelve (12) months" to "fifty-two (52) weeks" Changed "high school equivalency examination, high school diploma, English as a Second Language, or adult basic education" to "basic education"	
25-26		3.905.1 (L)	Clarification	Added language clarifying when a county may require Teen Parents to cooperate with Child Support Services. Reordered the section to accommodate the new language	
26	3.905.2 (A)	3.905.2	Clarification	Removed specific language surrounding the release form as this is a part of the re-determination and application form and does not need to be called out separately. Updated order of the rule for better organization	
27		3.905.2 (A)	Repeal	Removed specific language surrounding the client responsibilities agreement form as this is a part of the re-determination and application form and does not need to be called out separately.	
27		3.905.2 (C)	Technical	Corrected the case of the word "household's" Changed three (3) months to twelve (12) weeks	
27		3.905.2 (D)	Clarification	Specified that, when applicable, immunization records are to be provided to the County Department.	
27		3.905.2 (E)	Clarification	Clarified that cooperation with Child Support Enforcement is only required for children requesting care. Changed section reference to 3.905.1 (L) so that it is referencing the correct section.	
28		3.905.2 (J)	Clarification	Revised to accommodate our new attendance tracking solution	
28		3.905.2 (K)	Clarification	Revised to accommodate our new attendance tracking solution and to provide potential flexibility for families.	
28		3.905.2 (L)	Repeal	Repealed; CCAP cards will no longer be utilized so this rule is not needed.	



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28		3.905.2 (M)	Repeal	Repealed; CCAP cards will no longer be utilized so this rule is not needed.	
29		3.905.3 (A) (3)	Clarification	Clarified when caretakers are to provide immunization records and whom they are to provide them to.	
31		3.906 (B)	Technical	Capitalized the Child Care Assistance Tracking System acronym (CHATS).	
32		3.906.1 (H)	Clarification	Specified that, when applicable, immunization records are to be provided to the County Department.	
32		3.906.2 (A)	Clarification	Clarified that households are not eligible to transition from Colorado Works Child Care to Low Income Child Care if they have withdrawn from the Colorado Works program	
33		3.906.2 (B)	Technical	Changed "waiting list" to "wait list"	
33		3.907.1	Clarification	Revised income requirements for Protective Services Households to allow counties to pay for more families with Child Welfare cases with CCDF dollars Reordered to accommodate the new language	
34		3.909 (B) (5) (a)	Technical	Capitalized the Child Care Assistance Tracking System acronym (CHATS).	
35		3.909 (B) (7)	Clarification	Specified that, when applicable, immunization records are to be provided to the County Department.	
35		3.910 (B)	Clarification	Clarified as to how income is to be correctly calculated in order to determine the parent fee	
36		3.910 (J)	Clarification	Removed specific language surrounding the client responsibilities agreement form as this is a part of the re-determination and application form and does not need to be called out separately.	
36		3.910 (L)	Clarification	Changed the noticing period from eleven (11) days to fifteen (15) days to be consistent with other areas of rule.	

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37		3.910 (O)	Clarification	Removed the ability to assess a hardship parent fee in an amount higher than five dollars (\$5) to ensure state-wide consistency.	
38		3.911 (F) & (H)	Technical	Capitalized the Child Care Assistance Tracking System acronym (CHATS).	
39		3.911 (N) (5)	Technical	Capitalized the Child Care Assistance Tracking System acronym (CHATS).	
40		3.911 (Q)	Clarification	Changed "waiting list" to "wait list" Added language explaining the need for counties to submit county policies along with changes to their county plan	
40-41		3.911 (T) & (Z)	Technical	Replaced "the CHATS system" with the Child Care Assistance Tracking System acronym (CHATS).	
41		3.911 (BB)	Clarification	Removed specific language surrounding the client responsibilities agreement form as this is a part of the re-determination and application form and does not need to be called out separately.	
43		3.911 (OO)	Technical	Removed duplicate language.	
44		3.911 (QQ)	Clarification	Revised to accommodate our new attendance tracking solution	
44		3.911 (RR) - (TT)	Repeal	Repealed; CCAP cards will no longer be utilized so this rule is not needed.	
44-46		3.911 (RR) - (LLL)	Technical	Updated order to incorporate new language.	
44	3.911 (RR)		New	Added new rule to accommodate our new attendance tracking solution	
45	3.911 (ZZ)	3.911 (AAA)	Clarification	Clarified the process of determining the rate at which a county will pay a child care provider	
45	3.911 (AAA)		New	Added language to clarify the standards on when counties may pay higher than a provider's private pay rates	

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45	3.911 (FFF)		New	Added language regarding counties verifying that child care providers are not charging more than their private rates	
45	3.911 (GGG)	3.911 (FFF)	Clarification	Clarified the percentage of attendance data that counties should be reviewing every month	
46		3.912	Technical	Changed "waiting list" to "wait list"	
47	3.913.1 (A)		New	Added rule regarding Licensed Facilities. This rule was previously removed but it has a logical place within CCCAP Rule.	
48	3.913.1 (B) (3) (b)		New	Added rule to clarify that a qualified exempt child care provider shall not be the adult caretaker of the child that is receiving care through CCCAP	
48	3.913.1 (B) (3) (c)	3.913.1 (A) (3) (b)	Technical	Reordered to accommodate new rule	
50	3.913.1 (C)	3.913.1 (A) (6)	Clarification	Removed from under 3.913.1 (A) (6) and made into 3.913.1 (C) to improve rule organization	
50	3.913.1 (D)	3.913.1 (A) (7)	Technical	Removed from under 3.913.1 (A) (7) and made into 3.913.1 (D) to improve rule organization	
51	3.913.1 (E)	3.913.1 (A) (10)	Technical	Removed from under 3.913.1 (A) (10) and made into 3.913.1 (E) to improve rule organization	
51		3.913.2 (B)	Clarification	Removed the requirement for child care providers to report when their license has been placed on probation as providers are still eligible for payment during this time	
52		3.913.2 (M)	Clarification	Revised to accommodate our new attendance tracking solution	
53		3.913.2 (W)	Clarification	Revised to accommodate our new attendance tracking solution as Point of Service devices will no longer be utilized Removed language regarding the denial of manual payments	
53		3.913.2 (X)	Clarification	Revised to accommodate our new attendance tracking solution as CCAP Cards will no longer be utilized	
56	3.914.1 (E) (4)		New	Created a rule regarding hold slots which a process that is currently being practiced but is not captured in rule	

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56	3.914.1 (F)		New	Created a rule regarding drop in days which a process that is currently being practiced but is not captured in rule	
56	3.914.1 (G) & (H)	3.914.1 (F) & (G)	Technical	Reordered to accommodate new rule in 3.914.1 (F)	
57		3.914.2 (A) (1) (a)	Technical	Capitalized the Child Care Assistance Tracking System acronym (CHATS).	
59		3.914.3 (A)	Technical	Inserted missing word "county"	
60		3.914.4	Clarification	Retitled the section header to reflect our new attendance tracking solution	
60-61		3.914.4 (A) (1) - (6)	Clarification	Revised and removed rule to accommodate our new attendance tracking solution as Point of Service devices and CCAP Cards will no longer be utilized	
61	3.914.4 (A) (4)	3.914.4 (A) (7)	Clarification	Clarified the need for county policies to be approved by the State Department	
61		3.914.4 (B) (1) - (6)	Clarification	Revised and removed rule to accommodate our new attendance tracking solution as Point of Service devices and CCAP Cards will no longer be utilized	
62		3.914.4 (C)	Repeal	Repealed to accommodate our new attendance tracking solution as Point of Service devices and CCAP Cards will no longer be utilized. County oversight is captured in 3.911	
62		3.914.5	Technical	Added (C) (D) and (E) to the section	
62		3.914.5 (A)	Clarification	Clarified that counties have the authority to enter into a fiscal agreement with child care providers whose licenses are in a probationary status. Moved language regarding the termination of fiscal agreements into sections 3.914.5 (B) - (D) to improve rule organization	
62	3.914.5 (D)	3.914.5 (A)	Technical	Changed rule reference from 7.701.22, K to 7.701.2, J, 11	
62	3.914.5 (E)	3.914.5 (B)	Technical	Order changed to accommodate the restructure of 3.914.5 (A)	

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66		3.915.8	Clarification	Removed specific language surrounding the client responsibilities agreement form as this is a part of the re-determination and application form and does not need to be called out separately.	

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### STAKEHOLDER COMMENT SUMMARY

#### **Development**

The following individuals and/or entities were included in the development of these proposed rules (such as other Program Areas, Legislative Liaison, and Sub-PAC):

Office of Early Childhood (OEC) PAC & Sub-PAC,  
Sub-PAC designated County Advisory Group

#### **This Rule-Making Package**

The following individuals and/or entities were contacted and informed that this rule-making was proposed for consideration by the State Board of Human Services:

Office of Early Childhood (OEC) PAC & Sub-PAC,  
Sub-PAC designated County Advisory Group

#### **Other State Agencies**

Are other State Agencies (such as HCPF or CDPHE) impacted by these rules? If so, have they been contacted and provided input on the proposed rules?

Yes  No

If yes, who was contacted and what was their input?

#### **Sub-PAC**

Have these rules been reviewed by the appropriate Sub-PAC Committee?

Yes  No

Name of Sub-PAC	CDHS Early Childhood Sub-PAC		
Date presented	August 3, 2017		
What issues were raised?	None		
Vote Count	<i>For</i>	<i>Against</i>	<i>Abstain</i>
	Unanimous		
If not presented, explain why.			

#### **PAC**

Have these rules been approved by PAC?

Yes  No

Date presented	August 3, 2017		
What issues were raised?	None		
Vote Count	<i>For</i>	<i>Against</i>	<i>Abstain</i>
	Unanimous		
If not presented, explain why.			

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### Other Comments

Comments were received from stakeholders on the proposed rules:

Yes  No

*If "yes" to any of the above questions, summarize and/or attach the feedback received, including requests made by the State Board of Human Services, by specifying the section and including the Department/Office/Division response. Provide proof of agreement or ongoing issues with a letter or public testimony by the stakeholder.*

Public Comment	Rationale/Response	Action taken
<b>Comments were received regarding the rule changes that were made in order to accommodate the new attendance system. There were concerns that the language would not allow an Application Programming Interface (API).</b>	The API will directly interface with the Child Care Assistance Program Attendance Tracking System. Through this interface, the appropriate attendance data will be captured and sent to the Child Care Automated Tracking System (CHATS), therefore still meeting the requirements outlined in the rule.	Because use of the API is in compliance with the use of the Attendance Tracking System outlined in rule, no changes have been made.



**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 CCCAP MISSION AND APPROPRIATIONS**

A. Mission

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

B. Appropriations

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

When a county can demonstrate, through a written justification in its county CCCAP plan, that it has insufficient CCCAP allocations, a county is not required to implement a provision or provisions of rule(s) enacted under statutory provisions that are explicitly "subject to available appropriations." The county is not required to implement that or those rules or statutory provision(s) for which it has demonstrated through its annual CCCAP plan that it has insufficient CCCAP allocations to implement, except for the entry income eligibility floor referenced in Section 3.905.1, J.

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

If the State Department determines the county CCCAP plan is not in compliance with these rules and/or provisions of statute, the State Department will first work with the county to address the concerns. If a resolution cannot be agreed upon, the State Department reserves the right to deny the county CCCAP plan. If the State Department denies the county CCCAP plan, the county and the state shall work together to complete a final approved county CCCAP plan that is in compliance with these rules and statute. A county may pursue an appeal of the State Department denial of the plan pursuant to Section 26-2-715(3), C.R.S.

**3.902 PROGRAM FUNDING**

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

- B. Each county shall be required to meet a level of county spending for the Colorado Child Care Assistance Program that is equal to the county's proportionate share of the total county funds set forth in the annual general Appropriation Act for the Colorado Child Care Assistance Program for that State fiscal year. The level of county spending shall be known as the county's maintenance of effort for the program for that State fiscal year.

### 3.903 DEFINITIONS

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

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

"Adverse action" means any action by the counties or their designee which adversely affects the Adult caretaker or Teen parent's eligibility for, or the Child Care Provider's 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 **AND/OR THE** re-determination form, ~~and/or the client responsibilities agreement form.~~

"Application" is a State-approved form that may include, but is not limited to:

- A. An original application (valid for sixty (60) days), which is the first application for the Colorado Child Care Assistance Program filed by prospective program participant; or,
- B. A re-determination application filed by an enrolled program participant; or,
- C. Any application for some additional program benefit by an enrolled program participant.

"Application date" means the date that the county receives the signed application. Required supporting documents may be submitted up to sixty (60) days after receipt of the signed completed application.

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

"Application process" all of the following:

- A. The State-approved, signed low-income child care application form completed by the Adult caretaker or Teen parent 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 Adult caretaker or Teen parent; and,~~

- ~~B C.~~ The required verification supporting the information declared on the application form; and,

**C.D.** As a county option, an orientation for new applicants may be required.

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

- A. Liquid resources such as cash on hand, money in checking or savings accounts, saving certificates, stocks or bonds, lump sum payments as specified in the section titled “nonrecurring lump sum payments”.
- B. Non-liquid resources such as any tangible property including, but not limited to, licensed and unlicensed automobiles and motorcycles, utility trailer, seasonal or recreational vehicles (such as any camper, motor home, boat, snowmobile, water skidoo, or airplane) and real property (such as buildings, land, and vacation homes). **PRIMARY HOME AND AUTOMOBILE OF THE PRIMARY CARETAKERS ARE EXCLUDED.**

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

**"ATTENDANCE TRACKING SYSTEM (ATS)" MEANS THE SYSTEM USED BY ADULT CARETAKERS, TEEN PARENTS, OR DESIGNEES TO ACCESS BENEFITS AND TO RECORD CHILD ATTENDANCE FOR THE PURPOSES OF PAYING FOR AUTHORIZED AND PROVIDED CHILD CARE.**

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

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

“Base reimbursement rate” means the regular daily reimbursement rate paid by the county to the child care provider. This does not include the increase of rates of reimbursement for high-quality early childhood programs. Base reimbursement rates **DO NOT INCLUDE** ~~cannot include when a county rolls in their~~ absences, holidays, registration fees, activity fees, and/or transportation fees in addition to their regular daily reimbursement rate.

**"BASIC EDUCATION" MEANS PARTICIPATION IN HIGH SCHOOL EDUCATION PROGRAMS WORKING TOWARDS A HIGH SCHOOL DIPLOMA OR HIGH SCHOOL EQUIVALENCY; ADULT BASIC EDUCATION (ABE); AND/OR, ENGLISH AS A SECOND LANGUAGE (ESL).**

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

~~“CCAP Card” is the tool used by adult caretakers, teen parents, or designees to access benefits and to record child attendance for the purposes of paying for authorized and provided child care.~~

“Child care authorization notice” means a state prescribed form given to the adult caretaker(s) Or teen parent(s) and the child care provider(s) of the adult caretaker or teen parent’s choosing which authorizes the purchase of child care and includes the listed on the child care authorization notice and will serve as notice to the adult caretaker(s) or teen parent(s), and child care provider(s) of approval or change of child

care services. Colorado's child care authorization notice(s) are vouchers for the purposes of the Colorado Child Care Assistance Program.

"CHATS" means the Child Care Automated Tracking System.

"Child Care Fiscal Agreement" means a State-approved agreement between counties or their designees and child care provider(s), which defines the ~~rate payable~~ **MAXIMUM RATE POSSIBLE BASED ON COUNTY CEILING RATES AND QUALITY RATING TIERS** ~~to the child care provider(s)~~, provider rights and responsibilities, and responsibilities of the counties or their designees ~~TO~~ **and** the child care provider(s).

"Child care provider **OR PROGRAM**" means licensed individuals or businesses that provide less than twenty-four (24) hour care and are licensed or qualified exempt child care providers including child care centers, preschools, and child care homes. Qualified exempt child care 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 counties 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 a person lawfully present in the United States pursuant to Title IV of the Personal Responsibility and Work Opportunity Reconciliation Act (PRWORA) of 1996, Public Law 104-193; 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 (CDHS), 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 CDHS which provides child care subsidies to households in the following programs: Low-Income, Colorado Works, Protective Services, and Child Welfare. CDHS is responsible for the oversight and coordination of all child care funds and services.

"Colorado Works" is Colorado's Temporary Assistance for Needy Families (TANF) program that provides public assistance to households in need. The Colorado Works program is designed to assist adult caretaker(s) or teen parent(s) in becoming self-sufficient by strengthening the economic and social stability of households.

"Colorado Works households" means members of the same Colorado Works Assistance unit/household who meet requirements of the Colorado Works program, through receipt of basic cash assistance or state diversion payments while working toward achieving self-sufficiency through eligible work activities and

eventual employment where the adult caretaker(s) or teen parent(s) is included in the assistance unit, as defined in The Colorado Works Program Rules (9 CCR 2503-6).

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

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

“Consumer Education” means information relayed to adult caretaker(s) or teen parent(s) about their child care options and other available services.

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

“County or Counties” means the county departments of social/human services or other agency designated by the Board of County Commissioners as the agency responsible for the administration of CCCAP.

“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.

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

**"DROP IN DAY" MEANS A COUNTY-DETERMINED NUMBER OF DAYS THAT WILL GENERATE AN APPROVAL AND PAYMENT FOR CARE UTILIZED OUTSIDE OF THE STANDARD AUTHORIZATION.**

“Early care and education provider” means a school district or child care provider 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.

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

“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) or teen parent(s); or a child with additional care needs under the age of nineteen (19) who is physically or mentally incapable of caring for himself or herself or is under court supervision and is physically residing with the eligible adult caretaker(s) or teen parent(s). Any child served through the Colorado Works program or the low-income child care program shall be a citizen of the United States or a qualified alien.

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

“Entry income eligibility level” means the level above which an adult caretaker(s) or teen parent(s) is not eligible at original application. The level is set by each county between the base, which is at or above one hundred sixty-five percent (165%) of the federal poverty level, and the maximum ceiling, which is eighty-five percent (85%) of the Colorado state median income.

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

“Exit income eligibility level” is the income level at the twelve (12) month re-determination of eligibility above which the county may deny continuing eligibility, and is based on the federal poverty levels. Each county sets their exit eligibility level, though it shall be higher than the entry income eligibility level and cannot exceed the maximum ceiling, which is eighty-five percent (85%) of the Colorado state median income. If the county-set entry income level is above one hundred eighty-five percent (185%) of the federal poverty level, the exit eligibility income level may be equal to the entry income eligibility level.

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

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

“Fingerprint-based criminal background check” means a complete set of fingerprints for anyone eighteen (18) years of age and older residing in the qualified exempt provider’s home, taken by a qualified law enforcement agency, and submitted to the Colorado Department of Human Services, Division of Early Care and Learning, for subsequent submission to the Colorado Bureau of Investigations (CBI). The individual(s) will also be required to submit a background check with the Federal Bureau of Investigation (FBI). Costs for all investigations are the responsibility of the person whose fingerprints are being submitted.

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

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

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

“Good cause exemption for child support” may include potential physical or emotional harm to the adult caretaker(s), teen parent(s) or child(ren); a pregnancy 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.

“Head Start” is a federally funded early learning program that provides comprehensive services to low-income pregnant women and households with children ages birth to five years of age through provision of education, health, nutrition, social and other services.

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

**"HOLD SLOTS" MEANS A COUNTY DETERMINED NUMBER OF DAYS WHEN PAYMENT IS ALLOWED FOR UNUSED CARE THAT IS IN ADDITION TO ABSENCES, HOLIDAYS, AND SCHOOL BREAKS. HOLDING SPACES ARE INTENDED TO HOLD A CHILD'S SLOT WITH A PROVIDER.**

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

“In loco parentis” means a person who is assuming the parent obligations for a 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. Parent obligations include, but are not limited to, attending parent teacher conferences, regularly picking up and dropping children at child care, and regularly taking the child to doctor appointments.

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

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

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

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

“Job search” means the low-income child care eligible activity for a minimum of thirteen (13) weeks of child care in a twelve (12) month period. The twelve (12) month period begins with the first actual week of job search.

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



“Manual Claim” means reimbursement to the child care provider for services not automatically paid through CHATS.

“Maternity and/or paternity leave” is a temporary period of absence from the adult caretaker or teen parent’s employment, education, and/or training activity granted to expectant or new mothers and/or fathers ~~immediately before and after child birth~~ 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 child care provider who has a denied, suspended or revoked child care license.~~

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

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

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

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

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

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

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

~~“Point of service device (POS)” means a device used by the adult caretaker(s), teen parent(s) or designee at the authorized child care provider location to record child’s attendance.~~

“Post eligibility period” means ninety (90) days from the first day of the month following ~~the date of~~ the re-determination MONTH at which time the household income exceeds the exit income eligibility level set by the county. Counties have the option of extending the post eligibility period to six (6) months.

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

“Protective services” means children that have been placed by the county in foster home care, kinship foster home care or non-certified kinship care and have an open child welfare case.

“Prudent person principle” means allowing the child care worker the ability to exercise reasonable judgment in executing his/her responsibilities in determining CCCAP eligibility.

“Qualified exempt child care facilities” means a facility that is approved, certified, or licensed by any other state department or agency or federal government department or agency, which has standards for operation of the facility and inspects or monitors the facility; and, has been declared exempt from the child care licensing act as defined in rule manual 7, section 7.701.11 (12 CCR 2509-8).



“Qualified exempt child care provider” means a family child care home provider who is not licensed but provides care for a child(ren) from the same family; or an individual who is not licensed but provides care for a child(ren) who is related to the individual if the child’s care is funded in whole or in part with money received on the child’s behalf from the publicly funded CCCAP under rule manual Volume 7, Section 7.701.11, 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.

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

“Re-determination (Redet)” is the process to update eligibility for CCCAP. This process is completed no earlier than every twelve (12) months which includes completion of the State-approved form, and providing the verification needed to determine continued eligibility.

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

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

“Risk-based audit” means audit selection based on a combination of the likelihood of an event occurring and the impact of its consequences. This may include, but not be limited to, the number, dollar amounts and complexity of transactions; the adequacy of management oversight and monitoring; previous regulatory and audit results; **REVIEW OF THE TECHNICIAN'S ACCURACY**; and/or reviews for separation of duty.

“Self-employment” means earned income for a person who is responsible for all taxes and/or other required deductions from income. A self-employed person shall show that his/her taxable income, divided by the number of hours worked, equals at least the federal minimum wage.

“Slot contracts (county option)” means the purchasing of slots at a licensed child care provider for children enrolled in CCCAP in communities where quality care may not otherwise be available to county-identified target populations and areas or to incentivize or maintain quality.

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

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

“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 include:

- A. Households whose income is at or below 130% of the current federal poverty guidelines;
- B. Teen parents;
- C. Children with additional care needs;
- D. Families experiencing homelessness; and,
- E. Segments of population defined by county, based on local needs.

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

“Tiered reimbursement” means a pay structure that reflects increasing rates of reimbursement for high-quality early childhood programs that receive CCCAP reimbursement monies. THESE INCREASES ARE MADE IN ADDITION TO THE BASE REIMBURSEMENT RATE.

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

“Training and POST-SECONDARY education” means educational programs including regionally accredited post-secondary training for a Bachelor's degree or less or a workforce training program (~~i.e. a vocational or technical job skills training~~) SUCH AS VOCATIONAL, TECHNICAL, OR JOB SKILLS TRAINING ~~when offered as secondary education for a period of up to two hundred and eight weeks (forty-eight (48) months) per eligible adult caretaker(s).~~ Workforce training programs include educational activities ~~such as high school diploma, high school equivalency examination, English as a Second Language, or adult basic education~~ after completing basic education.

“Transition families” means households ending their participation in the Colorado Works Program due to employment or job training, AS DEFINED IN COLORADO WORKS PROGRAM RULES 9 CCR 2503-6, who have ~~signed a client responsibilities agreement form and~~ verified eligibility for Low-Income Child Care Assistance.

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

“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.

“Waiting list” means a list maintained by a county reflecting individuals who have submitted an application for the CCCAP program for whom the county is not able to enroll due to funding concerns.

“Willful misrepresentation/withholding of information” means an understatement, overstatement, or omission, whether oral or written, made by a household voluntarily or in response to oral or written questions from the department, and/or a willful failure by a household to report changes in income, if the

household's income exceeds eighty-five percent (85%) of the State median income within ten (10) days, or changes to the qualifying eligible activity within four weeks of the change.

### **3.904 APPLICANT RIGHTS**

#### **3.904.1 ANTI-DISCRIMINATION**

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

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

#### **3.904.2 CONFIDENTIALITY**

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

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

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

A decision to take adverse action concerning an applicant or a child care provider for assistance payments will result in a written notice mailed to the applicant or child care provider within one (1) business day of the decision. The written notice is considered mailed when it is faxed, emailed, sent via other electronic systems, hand-delivered, or deposited with the postal service. Fifteen (15) calendar-days will follow the date of mailing the notice before adverse action is 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 written or verbal statement from the adult caretaker(s) or teen parent(s) who states that he/she no longer wishes to receive assistance or services.
- C. When the proposed adverse action is requested by another county or state department.
- D. When the counties or their designee(s) have confirmed the death of a recipient or of Adult Care Taker or Teen parent.
- E. The counties have the authority to terminate a fiscal agreement with any child care provider without advance notice if a child's health or safety is endangered or if the child care provider is under a negative licensing action.

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

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

Child care providers shall be informed of their right to a county dispute resolution conference included with their copy of the child care authorization notice pursuant to Section 3.840 of Income Maintenance Volume 3 (9 CCR 2503-1).

**3.905 LOW INCOME CHILD CARE**

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

**3.905.1 LOW INCOME CHILD CARE ELIGIBILITY**

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

- A. All adult caretakers and teen parents shall be verified residents of the county from which assistance is sought and received.
- B. The adult caretaker(s) or teen parent(s) shall meet the following criteria:
  - 1. Is actively participating in an eligible activity; and,
  - 2. Meets the income eligibility guidelines set by the county and state departments; and,
  - 3. Shall have physical custody of the child for the period they are requesting care.
- C. The application process shall be completed and the primary adult caretaker or teen parent shall sign the required application forms. This includes:
  - 1. The State Low Income Child Care Assistance Program application signed and completed by the applicant or their authorized representative, which includes appeal rights.
    - a. 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 are encouraged to work with local Head Start programs to coordinate this effort.

- b. Families enrolled in a Head Start or Early Head Start program at the time they apply for CCCAP, shall have a re-determination date that aligns with the Head Start or Early Head Start program year.

~~2. The client responsibilities agreement form;~~

23. The required verification supporting the information declared on the application form; including:

- a. Proof of current residence;
- b. Citizenship and identity of the child(ren);
- c. Age of the child(ren) for which they are requesting care;
- d. Immunizations if applicable;
- e. Eligible activity;
- f. Schedule (if non-traditional care hours are requested);
- g. Income;
- h. Incapacitation if applicable;
- i. Custody arrangement and/or parenting schedule if applicable;
- j. Child care provider; and,
- k. Other verifications as determined by approved county plan.

34. An orientation for new applicants as a county option.

D. Eligible Households

1. The following household compositions qualify as eligible households:

- a. Households with one adult caretaker or teen parent, where the adult caretaker or teen parent is engaged in an eligible activity, meets low-income eligibility guidelines, has physical custody of the child and needs child care.
- b. Households with two adult caretakers or teen parents, when one-adult caretaker or teen parent is involuntarily out of the home. Such a household shall be considered a household with one adult caretaker or teen parent.
- c. Households with two adult caretakers or teen parents that need child care, where:
  - 1) Both adult caretakers or teen parents are engaged in an eligible activity; or,
  - 2) One adult caretaker or teen parent is voluntarily absent from the home, but both adult caretakers or teen parents are in an eligible activity; or,

- 3) One adult caretaker or teen parent is engaged in an eligible activity and the other adult caretaker or teen parent is incapacitated such that, according to a physician or licensed psychologist, they are unable to care for the child(ren).
- d. Protective services households refer to households where the child(ren) have been placed, by the county, in foster home care, kinship foster home care, or non-certified kinship care and that have an open child welfare case (county option).
2. Households are considered households with two adult caretakers or teen parents when two adults or teen parents contribute financially to the welfare of the child and/or assume parent rights, duties and obligations similar to those of a biological parent, even without legal adoption.
  3. Two separate adult caretakers or teen parents who share custody but live in separate households may apply for the same child through separate applications, during periods that they have physical custody.
  4. All adult caretakers or teen parents who are engaged in an eligible activity, have physical custody of the child and meet low-income eligibility guidelines.
  5. Any unrelated individual who is acting as a primary adult caretaker for an eligible child, is required to obtain verification from the child's biological or adoptive parent, legal guardian, or a court order which identifies the unrelated individual as the child's adult caretaker.
  6. An adult caretaker or teen 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 or teen parent is not a member of the Colorado Works assistance unit; and, she/he meets all other Low-Income program criteria.
  7. Adoptive parents (including those receiving adoption assistance) are eligible if they meet the low-income program requirements.
  8. Adult caretaker(s) or teen parent(s) with an open and active CCCAP case who are participating in an eligible activity, and go on **VERIFIED** maternity/paternity leave. Not to exceed twelve (12) weeks in an eligibility/re-determination period.
  9. Adult caretaker(s) or teen parent(s) with an open and active CCCAP case who are participating in an eligible activity, and go on verified medical leave and are unable to care for his/her children. Not to exceed twelve (12) weeks in an eligibility/re-determination period.
  10. A separated primary adult caretaker or teen parent with a validly issued temporary order for parent responsibilities or child custody shall not be determined ineligible based on the other spouse's or parent's financial resources.
- E. Ineligible Household Compositions
- Incapacitated single adult caretakers or teen parents who are not in an eligible activity are not eligible for the low-income program.
- F. Eligible Child

An “eligible child” is 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) or teen parent(s); or a child with additional care needs under the age of nineteen (19) who is physically or mentally incapable of caring for himself or herself or is under court supervision and is physically residing with the eligible adult caretaker(s) or teen parent(s).

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

G. Eligible Activities

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

1. Employment Criteria
  - a. Adult caretakers or teen parents may be employed full or part time.
  - b. Adult caretaker(s) or teen parent(s) shall verify that his/her gross income divided by the number of hours worked equals at least the current federal minimum wage.
  - c. Owners of LLC's and S-Corporations, are considered employees of the corporation.
2. Self-Employed Criteria
  - a. The adult caretaker(s) shall submit documentation listing his/her income and work-related expenses. All expenses shall be verified or they will not be allowed.
  - b. The adult caretaker(s) shall submit an expected weekly employment schedule that includes approximate employment hours. This is required upon beginning self-employment, at application, and at re-determination.
  - c. The adult caretaker(s) shall show that he/she has maintained an average income that exceeds their business expenses from self-employment.
  - d. The adult caretaker(s) shall show that his/her taxable gross income divided by the number of hours worked equals at least the current federal minimum wage.
  - e. Adult caretakers whose self-employment endeavor is less than twelve (12) months old, may be granted child care for six (6) months or until their next re-determination, whichever is longer, to establish their business. At the end of the launch period, adult caretakers shall provide documentation of income, verification of expenses and proof that they are making at least federal minimum wage for the number of hours worked. Projected income for the launch period shall be determined based upon the federal minimum wage times the number of declared number of hours worked.

3. Job Search Criteria

- a. Job search child care is available to eligible adult caretakers or teen parents for no fewer than thirteen (13) weeks of child care in a twelve (12) month period beginning with the first authorized week of job search activity. Any day utilized in a week is considered one (1) week used toward the time limited activity.
- b. Regular consistent care must be provided during the job search period.
- c. The amount of care authorized each day shall, at a minimum, be commensurate with the amount needed to complete the job search tasks.
- d. Job search child care shall be approved when adult caretakers or teen parents lose their jobs while enrolled in the Low-Income program.
- e. Subject to available appropriations, an adult caretaker or teen parent who is not employed at the time of application is eligible for CCCAP for thirteen (13) weeks of job search within a twelve (12) month period.

4. Training Criteria and **POST-SECONDARY** Education

Subject to available appropriations, an adult caretaker(s) ~~or teen parent(s)~~ who is enrolled in a training or **POST-SECONDARY EDUCATION PROGRAM regionally accredited post-secondary education program or a workforce training (vocational/technical job skills training) program** is eligible for CCCAP for at least one hundred four (104) weeks **AND UP TO TWO-HUNDRED-EIGHT (208) WEEKS PER LIFETIME, two years (104 weeks) of the post-secondary education or workforce training program,** provided all other eligibility requirements are met during the adult caretaker's enrollment. ~~those one hundred four (104) weeks two years (104 weeks).~~ **THESE WEEKS DO NOT HAVE TO BE USED CONSECUTIVELY.** A county may give priority for services to a working adult caretaker(s) ~~or teen parent(s)~~ over an adult caretaker(s) ~~or teen parent(s)~~ enrolled in post-secondary education or workforce training. **WHEN A TEEN PARENT BECOMES ENROLLED IN POST-SECONDARY EDUCATION, THEY ARE CONSIDERED AN ADULT CARETAKER AND THE TIME LIMITED ACTIVITY TIMELINES APPLY.**

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

- a. Adult caretaker educational programs include post-secondary education for a first bachelor's degree or less, or workforce/vocational/technical job skills training when offered as secondary education, which result in a diploma or certificate, for at least **ONE-HUNDRED-FOUR (104) WEEKS any two years AND UP TO TWO-HUNDRED-EIGHT (208) WEEKS PER LIFETIME.** This is limited to coursework for the degree or certificate.
- b. In addition to the **WEEKS months** of assistance available for post-secondary and vocational or technical training, up to **FIFTY-TWO (52) WEEKS twelve (12) months** of assistance is allowable for **BASIC EDUCATION. high school equivalency examination, high school diploma, English as a Second Language or adult basic education.**



- c. Any week in which at least one (1) day is utilized for child care is considered one (1) week used toward the time limit.

#### H. Low-Income Eligibility Guidelines

1. Adult caretaker(s) or teen parent(s) gross income may not exceed the maximum defined by the county of residence of the applicant. Subject to available appropriations, each county shall determine its maximum gross monthly income guidelines not to exceed eighty-five percent (85%) of the state median income.
  - a. Entry income eligibility cannot be set below one hundred sixty-five percent (165%) of federal poverty level.
  - b. Exit income eligibility for a county whose entry income level is at or below one hundred eighty five percent (185%) of the federal poverty level shall be greater than their entry income level not to exceed eighty-five percent (85%) of the state median income.
2. Generally, the expected monthly income amount is based on the income received in the prior thirty (30) day period; except that, when the prior thirty (30) day period does not provide an accurate indication of anticipated income as referenced in the definition of "Income Eligibility" in Section 3.903 or under circumstances as specified below, a different period of time may be applicable:
  - a. For new or changed income, a period shorter than a month may be used to arrive at a projected monthly amount.
  - b. For contract employment in cases, such as in some school systems, where the employees derive their annual income in a period shorter than a year, the income shall be prorated over the term of the contract, provided that the income from the contract is not earned on an hourly or piecework basis.
  - c. For regularly received self-employment income, net earnings will usually be prorated and counted as received in a prior thirty (30) day period, except for farm income. For further information, see Section 3.905.1, K, 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 may be used to arrive at an average monthly amount.
  - e. For income from rental property to be considered as self-employment income, the adult caretaker(s) or teen parent(s) shall actively manage the property at least an average of twenty (20) hours per week. Income from rental property will be considered as unearned income if the adult caretaker(s) or teen parent(s) are not actively managing the property an average of at least twenty (20) hours per week. Rental income, as self-employment or as unearned income, may be averaged over a twelve (12) month period to determine monthly income. Income from jointly owned property shall be considered as a percentage at least equal to the percentage of ownership or, if receiving more than percentage of ownership, the actual amount received.
  - f. For cases where a change in the monthly income amount can be anticipated with reasonable certainty, such as with Social Security cost-of-living increases or

other similar benefit increases, the expected amount shall be considered in arriving at countable monthly income for the month received.

- g. Income inclusions and exclusions (Section 3.905) shall be used in income calculations.
- h. Irregular child support income, not including lump sum payments, may be averaged over a period of time up to twelve (12) months in order to calculate household income.
- i. Non-recurring lump sum payments, including lump sum child support payments, may be included as income in the month received or averaged over a twelve (12) month period, whichever is most beneficial for the client.

### 3. Income Verification at Application and Re-determination

#### a. Earned Income

- 1) For ongoing employment, income received during the prior thirty (30) day period shall be used in determining eligibility unless, on a case-by-case basis, the prior thirty (30) day period does not provide an accurate indication of anticipated income, in which case, a county can require verification of up to twelve (12) of the most recent months of income to determine a monthly average. The adult caretaker(s) or teen parent(s) may also provide verification of up to twelve (12) of the most recent months of income if he/she chooses to do so if such verification more accurately reflects a household's current income level.
- 2) For employment that has begun or changed within the last sixty (60) days, a new employment verification letter may be used.
- 3) For self-employment income the person shall submit documentation listing his/her income and work-related expenses for the prior thirty (30) day period. On a case-by-case basis, if the prior thirty (30) day period does not provide an accurate indication of anticipated income, a county can require verification of up to twelve (12) of the most recent months of income and expenses to determine a monthly average. The adult caretaker(s) may also provide verification of up to twelve (12) of the most recent months of income and expenses if he/she chooses to do so if such verification more accurately reflects a household's current income level. All expenses shall be verified or they will not be allowed.

#### b. Unearned Income

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

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

I. Income Inclusions

- 1. Gross earnings, salary, armed forces pay (including but not limited to basic pay, basic assistance for housing (BAH) and basic assistance for subsistence (BAS), hazard duty pay, and separation pay), commissions, tips, and cash bonuses are counted before deductions are made for taxes, bonds, pensions, union dues and similar deductions. If child care is provided for an employment activity, then gross wages divided by the number of hours worked shall equal at least the current federal minimum wage.
- 2. Taxable gross income (declared gross income minus verified business expenses from one's own business, professional enterprise, or partnership) from non-farm self-employment.
  - a. These verified business expenses include, but are not limited to:
    - 1) The rent of business premises; 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 a self-employment activity, then taxable gross wages divided by the number of hours worked shall equal at least the current federal minimum wage. To determine a valid monthly income taxable gross income may be averaged for a period of up to twelve (12) months.
3. Taxable gross income (gross receipts minus operating expenses from the operation of a farm by a person on his own account, as an owner, renter or 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 worked shall equal at least the current federal minimum wage. To determine a valid monthly income, taxable gross income may be averaged for a period of up to twelve 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 adult caretaker(s) or teen parent(s) as compensation for employment, which is not in the form of money such as

meals, clothing, public housing or produce from a garden. A dollar amount shall 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 an adult caretaker or teen parent, but are paid to a third party for a household expense and are countable when the person or organization making the payment on behalf of a household is using funds that otherwise would need to be paid to the adult caretaker(s) or teen parent(s) and are part of the compensation for employment.
6. Railroad retirement insurance
7. Veterans Payments
  - a. Retirement or pension payments paid by defense finance and accounting services (DFAS) to retired members of the Armed Forces;
  - b. Pension payments paid by the veterans administration to disabled members of the Armed Forces or to survivors of deceased veterans;
  - c. Subsistence allowances paid to veterans through the GI bill. For education and on-the-job training; and,
  - d. "Refunds" paid to veterans as GI insurance premiums.
8. Pensions and annuities (minus the amount deducted for penalties, if early payouts are received from these accounts)
  - a. Retirement benefit payments;
  - b. 401(k) payments;
  - c. IRA payments;
  - d. Pension payments; or,
  - e. Any other payment from an account meant to provide for a retired person or their survivors.
9. Dividends
10. Interest on savings or bonds
11. Income from estates or trusts
12. Net rental income
13. Royalties
14. Dividends from stockholders
15. Memberships in association
16. Periodic receipts from estates or trust funds

17. Net income from rental of a house, store, or other property to others
18. Receipts from boarders or lodgers
19. Net royalties
20. Inheritance, gifts, and prizes
21. Proceeds of a life insurance policy, minus the amount expended by the beneficiary for the purpose of the insured individual's last illness and burial, which are not covered by other benefits
22. Proceeds of a health insurance policy or personal injury lawsuit to the extent that they exceed the amount to be expended or shall be expended for medical care
23. Strike benefits
24. Lease bonuses and royalties (e.g., oil and mineral)
25. Social Security pensions, survivor's benefits and permanent disability insurance payments made prior to deductions for medical insurance
26. Unemployment insurance benefits
27. Worker's compensation received for injuries incurred at work
28. Maintenance payments made by an ex-spouse as a result of dissolution of a marriage
29. Child support payments
30. Military allotments
31. Workforce innovation opportunity act (WIOA) wages earned in work experience or on-the-job training
32. Earned AmeriCorps income includes government payments from agricultural stabilization and conservation service and wages of AmeriCorps volunteers in service to America (vista) workers. Vista payments are excluded if the client was receiving CCCAP when he or she joined vista. If the client was not receiving CCCAP when he or she joined vista, the vista payments shall count as earned income.
33. CARES payments – refugee payments from Refugee Services

J. Income Exclusions

1. Earnings of a child in the household when not a teen parent
2. Supplemental Security Income (SSI) under Title XVI
3. Any payment made from the Agent Orange Settlement Fund, pursuant to P.L. No. 101-201
4. Nutrition related public assistance
  - a. The value of Food Assistance benefits (SNAP)

- b. Benefits received under title VII, Nutrition Program for the Elderly, of The Older Americans Act (42 U.S.C. 3030A)
  - c. The value of supplemental food assistance received under the Special Food Services Program for Children provided for in the National School Lunch Act and under the Child Nutrition Act
  - d. Benefits received from the Special Supplemental Food Program for Women, Infants and Children (WIC)
5. Payments received under Title II of the Uniform Relocation Assistance and Real Property Acquisition Policies Act
  6. Experimental Housing Allowance Program (EHAP) payments made by HUD under Section 23 of the U.S. Housing Act
  7. Payments made from Indian judgment funds and tribal funds held in trust by the Secretary of the Interior and/or distributed per capita
  8. Distributions from a native corporation formed pursuant to the Alaska Native Claims Settlement Act (ANCSA)
  9. Major disaster and emergency assistance provided to individuals and families, and comparable disaster assistance provided by states, local governments and disaster assistance organizations
  10. Payments received from the county or state for providing foster care, kinship care, or for an adoption subsidy
  11. Payments to volunteers serving as foster grandparents, senior health aides, or senior companions, and to persons serving in the Service Corps of Retired Executives (SCORE) and Active Corps of Executives (ACE) and any other program under Title I (VISTA) when the value of all such payments adjusted to reflect the number of hours such volunteers are serving is not equivalent to or greater than the minimum wage, and Title II and III of the Domestic Volunteer Services Act
  12. Low-Income Energy Assistance Program (LEAP) benefits
  13. Social security benefit payments and the accrued amount thereof to a recipient when an individual plan for self-care and/or self-support has been developed
  14. Earned Income Tax Credit (EIC) payments
  15. Monies received pursuant to the "Civil Liberties Act of 1988," P.L. No. 100-383 (by eligible persons of Japanese ancestry or certain specified survivors, and certain eligible Aleuts)
  16. Any grant or loan to any undergraduate student for educational purposes made or insured under any programs administered by the Commissioner of Education (Basic Educational Opportunity Grants, Supplementary Educational Opportunity Grants, National Direct Student Loans, and Guaranteed Student Loans); Pell Grant Program, the PLUS Program, the Byrd Honor Scholarship programs, and the College Work Study Program

17. Training allowances granted by WIA to enable any individual, whether dependent child or caretaker relative, to participate in a training program are exempt
18. Payments received from the youth incentive entitlement pilot projects, the youth community conservation and improvement projects, and the youth employment and training programs under the Youth Employment and Demonstration Project Act
19. Any portion of educational loans, scholarships, and grants obtained and used under conditions that preclude their use for current living costs and that are earmarked for education
20. Financial assistance received under the Carl D. Perkins Vocational and Applied Technology Education Act that is made available for attendance costs. Attendance costs include: tuition, fees, rental or purchase of equipment, materials, supplies, transportation, dependent care and miscellaneous personal expenses
21. Any money received from the Radiation Exposure Compensation Trust Fund, pursuant to Public Law No. 101-426 as amended by Public Law No. 101-510
22. Resettlement and Placement (R & P) vendor payments for refugees
23. Supportive service payments under the Colorado Works Program
24. Home Care Allowance under adult categories of assistance
25. Loans from private individuals as well as commercial institutions
26. Public cash assistance grants including Old Age Pension (OAP), Aid to the Needy Disabled (AND), and Temporary Assistance to Needy Families (TANF)/Colorado Works
27. Reimbursements for expenses paid related to a settlement or lawsuit
28. Irregular income in the certification period that totals less than ninety dollars (\$90) in any calendar quarter, such as slight fluctuations in regular monthly income and/or that which is received too infrequently or irregularly to be reasonably anticipated
29. Income received for participation in grant funded research studies on early childhood development

K. Income Adjustments

1. Verified court-ordered child support payments for children not living in the household shall be deducted prior to applying the monthly gross income to the maximum gross monthly income guidelines and when calculating parent fees. To qualify for the adjustment, the child support shall be:
  - a. Court ordered and paid; and,
  - b. For a current monthly support order (not including arrears).
2. In order to be considered verified:
  - a. There shall be verification that payments are court ordered and actually paid;



- b. Court ordered payments deducted shall be for current child support payments; and,
- c. Such verification shall be made at the time of initial approval of eligibility for services and at the time of each re-determination of eligibility.

L. Child Support Services (County Option)

- 1. At the option of the county, the county may require **ADULT CARETAKERS IN** households receiving Low-Income Child Care Assistance to apply for and cooperate with Child Support Services pursuant to Section 26-2-805, C.R.S.
- 2. **AT THE OPTION OF THE COUNTY, TEEN PARENTS MAY BE REQUIRED TO COOPERATE WITH THE CHILD SUPPORT SERVICES UNIT UPON HIGH SCHOOL GRADUATION OR COMPLETION OF THE HIGH SCHOOL EQUIVALENCY EXAM.**
- 32. Participating counties shall refer all dependent children with a non-custodial parent that are in need of care to the Child Support Services 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 (PER SECTION 3.905.1, L, 2)** 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 a good cause determination is complete.
  - b. "Good cause" shall include, but not be limited to, the following:
    - 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; or,
    - 5) Other exemption reasons as determined by the county director or designee.
  - 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 an adult caretaker has been approved for good cause in another public assistance program that requires child support Services, a good cause exemption shall be extended to CCCAP.
- 43. The adult caretaker(s) **OR TEEN PARENT(S) (PER SECTION 3.905.1, L, 2)** shall apply for and cooperate with the Child Support Services 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) to cooperate with Child Support Services within thirty (30) calendar-days of the date the county provides written notification of the requirement.

54. For Low-Income Child Care Assistance ~~adult caretaker(s)~~ “CHILD SUPPORT SERVICES cooperation” is defined as:
- a. Applying for Child Support Services within thirty (30) calendar-days of being notified of the requirement; and,
  - b. Maintaining an active Child Support Services case while receiving ongoing Low-Income Child Care Assistance benefits; and,
  - c. Cooperating with Child Support Services is required for all children that are requesting care in the ongoing child care household with an absent parent.
65. If CCCAP receives written notice within required timeframes from the Child Support Services Unit that the child care household has not cooperated, the following steps shall be taken:
- a. The county or its designee child care staff shall notify the household within fifteen (15) 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 (PER SECTION 3.905.1, L, 2) fails to cooperate within the required time frames and/or with the Child Support Services Unit, the CCCAP case shall be closed. Upon notification of a request for good cause, the county shall extend benefits until a 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.
76. If a household's benefits are terminated due to failure to cooperate, that household may remain ineligible in all counties that have this option until cooperation is verified by the Child Support Services Unit or delegate agency.
87. 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 fifteen (15) calendar-days of the referral of his/her continued requirement to cooperate with the Child Support Services Unit.
98. The Child Care Assistance Program shall notify Child Support Services within at least fifteen (15) 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.
109. Households shall not be required to cooperate with Child Support Services 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.

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

- A. Primary adult caretaker(s) or teen parent(s) shall sign the application/re-determination form ~~and releases~~ along with providing verification of income to determine eligibility.
- ~~A. Primary adult caretaker(s) or teen parent(s) shall sign the state prescribed client responsibilities agreement form, which outlines child care program participation requirements.~~
- B. Adult caretaker(s) or teen parent(s) agrees to pay the parent fee listed on the child care authorization notice and understands that it is due to the child care provider in the month that care is received.
- C. Adult caretaker(s) or teen parent(s) have the responsibility to report and verify changes to income, only if the ~~household's~~ **HOUSEHOLD'S** income exceeds eighty-five percent (85%) of the State median income, in writing, within ten (10) calendar-days of the change. Also, if the adult caretaker(s) or teen parent(s) is no longer in his/her qualifying eligible activity, this shall be reported in writing within four (4) calendar weeks pursuant to Section 26-2-805(1)(e)(III), C.R.S. this does not include a temporary break in eligible activity such as a temporary job loss from the qualifying eligible activity or temporary change in participation in a training or education activity. A temporary break includes but is not limited to:
1. Absence from seasonal employment not to exceed **TWELVE (12) WEEKS** ~~three (3) months~~ when returning to same employer;
  2. Absence from employment due to extended **VERIFIED** medical leave, not to exceed **TWELVE (12) WEEKS** ~~three (3) months~~ when returning to same employer;
  3. Absence from employment due to **VERIFIED** maternity/paternity leave, not to exceed twelve (12) consecutive weeks as defined in section 3.903 when returning to same employer; or,
  4. Temporarily not attending class between semesters not to exceed **TWELVE (12) WEEKS** ~~three (3) months~~.
- D. Adult caretaker(s) or teen parent(s) shall provide **THE COUNTY DEPARTMENT WITH** current immunization records for child(ren) who receive child care from qualified exempt child care providers not related to the child(ren), where care is provided outside of the child's home and the child(ren) are not school age.
- E. Adult caretaker(s) or teen parent(s) shall cooperate with the child support services unit or the delegate agency for all children **WHO ARE IN NEED OF CARE AND HAVE** ~~with~~ an absent parent, **WITHIN THIRTY (30) DAYS OF REQUESTING CHILD CARE, regardless of receipt of child care assistance for that child,** as required by the county **AND PER SECTION 3.905.1 L. (see section 3.905 m).**
- F. Adult caretaker(s) or teen parent(s) shall report changes in child care providers prior to the change.
- G. All adult caretaker(s) or teen parent(s) shall provide verification of their schedule related to their eligible activity at application, and re-determination only if non-traditional care hours are requested.
- H. When the primary adult caretaker(s) or teen parent(s) is declaring the identity of his/her child due to the child not having identification as part of the application, an un-expired picture id that has been taken in the past ten (10) years issued by a school or U.S. federal or state governmental

agency of the primary adult caretaker or teen parent is needed to verify the adult caretaker's identity.

- I. When a child care case has closed and not more than thirty (30) days have passed from date of closure; the adult caretaker(s) or teen parent(s) may provide the verification needed to correct the reason for closure. If the household is determined to be eligible, services may resume as of the date the verification was received by the county, despite a gap in services. The adult caretaker(s) or teen parent(s) would be responsible for payment during the gap in service.
- J. Adult caretaker(s) or teen parent(s) shall not ~~SHARE~~ ~~leave~~ his/her **INDIVIDUAL ATTENDANCE CREDENTIALS CCAP card** in WITH the child care ~~PROVIDER~~ ~~provider's possession~~ at any time or he/she may be subject to disqualification per section 3.915.4, b.
- K. Adult caretaker(s) or teen parent(s) are required to use the **ATTENDANCE TRACKING SYSTEM CCAP card(s)** to check children in and out for the days of care authorized and attended **UNLESS THE CHILD CARE PROVIDER HAS BEEN GRANTED AN EXEMPTION BY THE STATE**. Non-cooperation with the use of the **ATTENDANCE TRACKING SYSTEM CCAP card(s)** may result in case closure and/or non-payment of the child care subsidy as defined by county policy.
- ~~L. Adult caretaker(s) or teen parent(s) are required to inform their county CCCAP of the inability to log in to the Attendance Tracking System of non-receipt of CCAP card(s) within two five business days of no access approval or replacement of CCAP card(s).~~
- ~~M. Adult caretaker(s) or teen parent(s) are required to inform their county CCCAP worker within two business days of lost, stolen or damaged CCAP card(s).~~

### 3.905.3 LOW INCOME CHILD CARE RE-DETERMINATION

- A. A re-determination of eligibility shall be conducted no earlier than every twelve (12) months. The State-approved 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 may not be eligible for child care subsidies.
  - 1. Employed and self-employed adult caretaker(s) or teen parent(s) shall submit documentation of the following:
    - a. Earned income
      - 1) For ongoing employment, income received during the prior thirty (30) day period shall be used in determining eligibility unless, on a case-by-case basis, the prior thirty (30) day period does not provide an accurate indication of anticipated income, in which case, a county can require verification of up to twelve (12) of the most recent months of income to determine a monthly average. The adult caretaker(s) or teen parent(s) may also provide verification of up to twelve (12) of the most recent months of income if he/she chooses to do so if such verification more accurately reflects a household's current income level.
      - 2) For employment that has begun or changed within the last sixty (60) days, a new employment verification letter may be used.

- 3) For self-employment income the person shall submit documentation listing his/her income and verification of work-related expenses for the prior thirty (30) day period. On a case-by-case basis, if the prior thirty (30) day period does not provide an accurate indication of anticipated income, a county can require verification of up to twelve (12) of the most recent months of income and expenses to determine a monthly average. An adult caretaker may also provide verification of up to twelve (12) of the most recent months of income and expenses if he/she chooses to do so if such verification more accurately reflects a household's current income level. All expenses shall be verified or they will not be allowed.
  - b. Unearned income received during the prior thirty (30) day period shall be used in determining eligibility unless, on a case-by-case basis, the prior thirty (30) day period does not provide an accurate indication of anticipated income, in which case, a county can require verification of up to twelve (12) of the most recent months of income to determine a monthly average. The adult caretaker(s) or teen parent(s) may also provide verification of up to twelve (12) of the most recent months of income if he/she chooses to do so if such verification more accurately reflects a household's current income level.
  - c. All adult caretaker(s) or teen parent(s) shall provide verification of their schedule related to their eligible activity at re-determination only if non-traditional care hours are requested.
  - d. Adult caretakers or teen parents shall self-declare that their liquid and non-liquid assets do not exceed one million dollars. If assets exceed one million dollars the household is ineligible for CCCAP.
2. Adult caretaker(s) or teen parent(s) in training shall submit documentation from the training institution which verifies school schedule (only if non-traditional care hours are requested), 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.~~ ADULT CARETAKER(S) OR TEEN PARENT(S) SHALL PROVIDE THE COUNTY DEPARTMENT WITH CURRENT IMMUNIZATION RECORDS FOR CHILD(REN) WHO RECEIVE CHILD CARE FROM QUALIFIED EXEMPT CHILD CARE PROVIDERS NOT RELATED TO THE CHILD(REN), WHERE CARE IS PROVIDED OUTSIDE OF THE CHILD'S HOME AND THE CHILD(REN) ARE NOT SCHOOL AGE.
4. If written documentation is not available at time of eligibility determination, verbal verification from the employer or other person issuing the payment may be obtained. Counties shall document the collateral contact verification in the case file to include the date that the information was received, who provided the information, and a contact phone number. Acceptable collateral contacts include but are not limited to:
  - a. Employers;
  - b. Landlords;
  - c. Social/migrant service agencies; and,
  - d. Medical providers who can be expected to provide accurate third party verification.

- B. Parent fees shall be reviewed at re-determination. An adjusted parent fee will be based on an average of at least the past thirty (30) days gross income or a best estimate of anticipated income in the event of new employment. Unless, on a case-by-case basis, the prior thirty (30) day period does not provide an accurate indication of anticipated income, in which case a county can require evidence of up to twelve (12) of the most recent months of income. The adult caretaker(s) or teen parent(s) may also provide evidence of up to twelve (12) of the most recent months of income if they choose to do so if such evidence more accurately reflects the adult caretaker or teen parent's current income level. The fee change shall be effective the first full calendar month after the change is reported and verified, and timely written notice is provided.
- C. For adult caretaker(s) or teen parent(s) whose children are enrolled in Head Start or Early Head Start, counties shall extend re-determination of eligibility to annually coincide with the Head Start or Early Head Start program schedule. These households are still responsible for notifying the county of any changes that may impact eligibility.

**3.905.4 TRANSITION OFF LOW-INCOME ASSISTANCE**

- A. At the time of re-determination only, an adult caretaker(s) or teen parent(s) enrolled in CCCAP, whose household income exceeds the exit income eligibility levels set by the county but are still engaged in eligible activities, shall continue to receive the CCCAP subsidy for no less than ninety (90) calendar-days; except that in no event shall child care assistance be provided if the household income exceeds eighty-five percent (85%) of the Colorado state median income.
- B. At the option of the county, households receiving Low-Income Child Care Assistance, who become ineligible at re-determination 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 household'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 household size.
  - 2. The household and the county work together to prepare the HOUSEHOLD for the transition off assistance.
  - 3. Counties selecting this option shall notify the state department in advance of their selection of this option, including an outline of the county's transition plan strategies for households.

**3.905.5 TERMINATION OF LOW INCOME CHILD CARE SERVICES**

- A. Child care authorizations and/or cases shall be terminated for the following eligibility related reasons:
  - 1. Eligible child exceeds age limits
  - 2. Household's income exceeds county eligibility guidelines at re-determination and the ninety (90) day post eligibility period has expired
  - 3. Adult caretaker(s) or teen parent(s) did not pay parent fees, an acceptable payment schedule has not been worked out between the child care provider(s) and adult caretaker(s) or teen parent(s), or the adult caretaker(s) or teen parent(s) has/have not followed through with the payment schedule.
  - 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. Adult caretaker(s) or teen parent(s) did not submit required immunization records
  9. Household's optional six (6) month post-eligibility period has expired
  10. Adult caretaker(s) or teen parent(s) is/are no longer a resident of the county
  11. Adult caretaker(s) or teen parent(s) (**PER SECTION 3.905.1, L, 2**) 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
  12. 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
  13. Household income exceeds eighty-five percent (85%) of State median income during eligibility period
  14. Adult caretaker(s) or teen parent(s) did not select a child care provider willing to contract with the county to provide CCCAP services
- B. Reason for termination shall be documented on the state prescribed closure form and mailed via postal service, emailed or other electronic systems, faxed or hand-delivered to the primary adult caretaker or teen parent and child care provider.
- 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. Parent fees will be based on the previous amount specified until prior notice is provided of changes to future parent fees.
- D. Nothing in this section shall preclude an adult caretaker(s) or teen parent(s) from voluntarily withdrawing from the Low-Income program.

### **3.906 COLORADO WORKS CHILD CARE**

- A. Adult caretakers or teen parents who have been approved for Colorado Works are eligible to receive Colorado Works child care during the Colorado Works assessment process.
- B. To continue receiving Colorado Works child care after the assessment process has been completed, a referral form or individualized plan shall be completed and/or received indicating that the participant remains eligible for basic cash assistance. A referral form shall be received by the child care technician unless the Colorado Works technician processes the child care and clearly documents the need for child care in **CHATS**.
- C. An adult caretaker, 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 part of the Colorado Works assistance unit; and, she/he meets all other low-income program criteria.

- D. Counties may provide Colorado Works child care for households approved for state diversions not to exceed the state diversion period.

### **3.906.1 ELIGIBILITY FOR COLORADO WORKS CHILD CARE**

- A. Households are eligible for Colorado Works child care based on their Colorado Works certification period (not to exceed six (6) months). All Colorado Works child care cases shall be authorized until the end of the Colorado Works certification period unless the eligibility status for Colorado Works changes during the certification period.
- B. It is the responsibility of the local Colorado Works program to notify the child care technician if the household becomes ineligible during the certification period at which time the Colorado Works child care case and authorization shall be set to close at the end of the month in which the household became ineligible, allowing for timely noticing.
- C. Income is verified and shared by the local Colorado Works program.
  - 1. Supportive service payments under the Colorado Works program are not countable income.
  - 2. Temporary assistance to needy families (TANF)/Colorado Works payments are not countable income.
- D. Eligible activity is determined and shared by the local Colorado Works program.
- E. Child care schedule is determined and shared by the local Colorado Works program.
- F. Residency is verified by the local Colorado Works program.
- G. Citizenship and identity is verified by the local Colorado Works program.
- H. Colorado Works participants shall provide **THE COUNTY WITH** current immunization records for child(ren) who receive child care from qualified exempt child care providers not related to the child(ren), where care is provided outside of the child's home and the child(ren) are not school age.
- I. Counties that provide Colorado Works child care for households approved for state diversions require the same eligibility as outlined above. The eligibility period will match the state diversion period.

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

Counties shall provide low income child care assistance for a household transitioning off the Colorado Works program due to employment or job training without requiring the household to apply for low income child care but shall initially re-determine the household's eligibility within six (6) months after the transition.

- A. A household that transitions off the Colorado Works program shall not be automatically transitioned to low income CCCAP if any of the following conditions apply:
  - 1. The household 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 household needs child care for activities other than employment or job training; or,



3. The household is leaving the Colorado Works program due to employment and will be at an income level that exceeds the county adopted income eligibility limit for the county's low income CCCAP; or,
  4. **THE HOUSEHOLD HAS WITHDRAWN FROM THE COLORADO WORKS PROGRAM; OR,**
  54. If a household is not transitioned for the reasons outlined above, the county shall provide notice.
- B. At the county's discretion, a household transitioning off the Colorado Works program that is eligible for low income CCCAP and resides in a county that has households on its **waiting** list may be added to the **waiting** list or be provided child care assistance without first being added to the **waiting** list.
  - C. If a household is not transitioned from Colorado Works to low-income child care, the county shall provide a fifteen (15) day notice.

### **3.907 PROTECTIVE SERVICES CHILD CARE**

- A. Protective services households refers to households when child(ren) have been placed by the county in foster home care, kinship foster home care, or non-certified kinship care and that have an open child welfare case. At the option of the county, the county may provide protective services child care utilizing child care development funds (CCDF).
- B. Protective services child care is not twenty-four (24) hour care. Child care services for school-age children during regular school hours shall be different from, and cannot be substituted for, educational services that school districts are required to provide under the Colorado exceptional children's act.

#### **3.907.1 ELIGIBILITY FOR PROTECTIVE SERVICES HOUSEHOLDS (COUNTY OPTION)**

- A. Protective services households are considered to be a household of one for purposes of determining income eligibility. The only countable income for a protective services household is the income that is received by the child(ren) that have been placed in kinship or foster care. Child support income shall not be included as income. Child support income is intercepted by the county child welfare department.
- B. Protective services households shall be allowed up to sixty (60) days to provide verification of the child(ren)'s income.
- C. **AS DETERMINED BY THE CHILD WELFARE WORKER, THE INCOME REQUIREMENT FOR PROTECTIVE SERVICES HOUSEHOLDS MAY BE WAIVED ON A CASE BY CASE BASIS. IF THE INCOME REQUIREMENT IS WAIVED, IT SHALL BE DOCUMENTED IN THE CASE FILE.**
- ~~D~~ G. Protective services households are not subject to eligible activity requirements.
- ~~E~~ D. Protective services households are not subject to residency verification requirements. The county with the open child welfare case shall be considered the county of residency.
- ~~F~~ E. Citizenship and identity

1. Protective services households shall be allowed up to six (6) months to provide verification of the child(ren)'s U.S. citizenship.
2. Protective services households shall be allowed up to sixty (60) days to provide the adult caretaker or teen parent's identification.

**G.F.** Protective services households shall be allowed up to sixty (60) days to provide verification of immunization if child care is provided by a qualified exempt child care provider not related to the child where care is provided outside of the home.

### **3.908 CHILD WELFARE CHILD CARE**

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

### **3.909 ELIGIBILITY FOR FAMILIES EXPERIENCING HOMELESSNESS**

- A. Households shall meet the definition of families experiencing homelessness.
- B. Households that meet the definition of "families experiencing homelessness" shall be provided a child care authorization during a stabilization period of at least sixty (60) consecutive calendar-days, within a twelve (12) month period, to allow the household the opportunity to submit verification for ongoing child care subsidies.
  1. If verifications necessary to determine ongoing eligibility are received within the stabilization period, the household will continue to receive subsidized child care.
  2. If verifications necessary to determine ongoing eligibility are not received within the stabilization period, the household will be determined ineligible and given proper adverse action notice.
  3. Subsidized care provided during the stabilization period is considered non-recoverable by the county unless fraud has been established.
  4. Eligible activity
    - a. The adult caretaker(s) or teen parent(s) is not required to participate in an eligible activity during the stabilization period.

- b. If the adult caretaker(s) or teen parent(s) is participating in an eligible activity, they will have at least sixty (60) days to provide necessary verification.
- 5. Residency
  - a. The adult caretaker(s) or teen parent(s) shall self-declare residency during the stabilization period by providing the location they are temporarily residing. Counties shall identify the zip code of this location in **CHATS**.
  - b. The adult caretaker(s) or teen parent(s) may provide a mailing address or the county shall use general delivery or the county office address for client correspondence.
- 6. The adult caretaker(s) or teen parent(s) may self-declare citizenship and identity of the child(ren) during the stabilization period.
- 7. If child care is provided by a qualified exempt child care provider not related to the child where care is provided outside of the home, the requirement to provide **THE COUNTY WITH** verification of immunization status shall not be required during the stabilization period.

### **3.910 PARENT FEES**

- A. Parent fee revisions for child care during the twelve (12) month eligibility period may occur upon reported changes only if the change would result in a decrease of the parent fee
- B. Parent fees shall be reviewed at re-determination. An adjusted parent fee will be based on an average of at least the past thirty (30) days gross income or a best estimate of anticipated income in the event of new employment or a change in the adult caretaker(s)' or teen parent(s)' regular monthly income. Unless, on a case-by-case basis, the prior thirty (30) day period does not provide an accurate indication of anticipated income, in which case a county can require evidence of up to twelve (12) of the most recent months of income. The adult caretaker(s) or teen parent(s) may also provide evidence of up to twelve (12) of the most recent months of income if they choose to do so if such evidence more accurately reflects the adult caretaker's current income level. **INCOME MAY BE DIVIDED BY A WEEKLY AMOUNT THEN MULTIPLIED BY 4.33 TO ARRIVE AT A MONTHLY AVERAGE FOR PARENT FEE CALCULATIONS.**
- C. Parent fees are based on gross countable income for the child care household compared to the household size and in consideration of the number of children in care. Parent fees are to be rounded to the nearest whole dollar.
- D. Colorado Works households in a paid employment activity shall pay parent fees based on gross countable income as verified and shared by the local Colorado Works program.
- E. For a household utilizing a child care provider in the top three levels of the state department's quality rating system, the parent fee shall be reduced by twenty percent (20%) of the regularly calculated parent fee. For households utilizing multiple child care providers, only one child care provider is required to be in the top three quality levels for the reduced parent fee to apply.
- F. 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:
  - 1. One or two teen parent households who are in middle/junior high, high school, GED, or vocational/technical training activity and for whom payment of a fee produces a hardship,

the parent fee may be waived entirely and documented in the case file. The parent fee waiver shall be reviewed during each re-determination.

2. The household is eligible for a reduced parent fee based on the quality level of the child care provider
  3. Colorado Works participants enrolled in activities other than paid employment
  4. Child Welfare Child Care households as defined in the Social Services rule manual, Section 7.000.5 (12 CCR 2509-1)
  5. Families Experiencing Homelessness as defined in section 3.909
  6. Protective Service Households as defined in section 3.907
  7. Families that have no income shall have no parent fee.
- G. The initial or revised fee shall be effective the first full calendar month after the end of the timely written notice period. A parent fee shall not be assessed or changed retroactively.
- H. The fee shall be paid in the month that care is received and shall be paid by the parent directly to the child care provider(s). Parent fees are used as the first dollars paid for care. The counties or their designee shall not be liable for the fee payment.
- I. When more than one child care provider is being used by the same household, child care staff shall designate to whom the adult caretaker(s) or teen parent(s) pays a fee or in what proportion the fee shall be split between child care providers. The full parent fee shall be paid each month, but parent fees shall not exceed the reimbursement rate by CCCAP. The adult caretaker(s) or teen parent(s) shall determine if it is most beneficial to close their CCCAP case if the parent fee exceeds the cost of care.
- J. Adult caretakers or teen parents will be informed of their responsibilities related to fee payment on their signed **APPLICATION** ~~client responsibilities agreement~~ form.
- K. Loss of eligibility for child care subsidies may occur if the adult caretaker(s) or teen parents do not pay their parent fees; do not make acceptable payment arrangements with the child care providers; or, do not follow through with the arrangements. Notice of termination for such loss of eligibility shall be given in accordance with Section 3.905.5. Child care providers shall report non-payment of parent fees no later than sixty (60) calendar-days after the end of the month following the month the parent fees are due unless county policy requires it earlier. If a household's benefits are terminated for non-payment of parent fees, that household will remain ineligible until:
1. Delinquent parent fees are paid in full; or,
  2. Adequate payment arrangements are made with the child care provider to whom the fees are owed and an agreement is signed by both parties; or,
  3. County determination of verified good faith efforts to make payment to the child care provider(s), when the client was unable to locate the child care provider(s).
- L. The adult caretaker(s) or teen parent(s) and child care provider(s) shall be given timely written notice of the parent fee amount, on the child care notice of authorization, at least ~~eleven (11)~~ **FIFTEEN (15)** calendar-days prior to the first of the month the parent fee is effective.
- M. Parent fees shall be assessed based on the following formula:

PERCENT FPG	FOR FIRST CHILD-PERCENT OF HOUSEHOLD INCOME	EACH ADDITIONAL CHILD
At or below 100%	1%	NONE
Above 100% and at or below 103%	2%	\$15
Above 103% and at or below 106%	3%	\$15
Above 106% and at or below 109%	4%	\$15
Above 109% and at or below 112%	5%	\$15
Above 112% and at or below 115%	6%	\$15
Above 115% and at or below 118%	7%	\$15
Above 118% and at or below 121%	8%	\$15
Above 121% and at or below 124%	9%	\$15
Above 124% and at or below 130%	10%	\$15
Above 130% and at or below 160%	11%	\$25
Above 160% and at or below 185%	12%	\$35
Above 185% and at or below 205%	13%	\$40
Above 205% and at or below 225%	14%	\$40
When income is above county set level but less than 85% state median	12%-25%	\$40

- N. When income is above county set level but less than eighty five percent (85%) state median, the parent fees shall be increased incrementally as outlined by the individual household transition plan up to the six month limit.
- O. Parent fees, as assessed by the parent fee formula, may be reduced to ~~no lower than~~ five dollars (\$5) for hardship reasons for up to six (6) months per hardship award. The county director or his/her designee shall approve fee reductions and a written justification placed in the case file and noted in the case record in the Child Care Automated Tracking System (CHATS). Any hardship award may be extended so long as justification for extending the hardship award exists.
- P. The state department shall notify counties annually of the current federal poverty guidelines and state median income limit. Counties shall update parent fees at the next scheduled re-determination.
- Q. When all children in a household are in part-time care, the parent fee shall be assessed at fifty-five percent (55%) of the above-calculated fee. Part-time care is defined as an average of less than thirteen (13) full-time equivalent units of care per month.
- R. When parent fees fluctuate between part-time and full-time, due to the authorized care schedule, the parent fee should be assessed at the lower rate if the majority of the months in the twelve (12) month eligibility period calculate to part-time care.
- S. One or two teen parent households for whom payment of a parent fee produces a hardship may have their fee waived entirely. The parent fee waiver shall be documented in the case file and reviewed during each subsequent re-determination.

### 3.911 COUNTY RESPONSIBILITIES

- 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). If these administrative controls create a hardship for the county, the county shall submit a waiver request and an internal county policy to the state department for approval. In no event will the state department approve a waiver of controls specified in federal or state statute or regulation/rule.
- C. Counties shall use forms as specified when required by the State Department. Counties may add additional language to state forms but shall not remove language. This does not include the CCCAP application or re-determination. All changes to forms shall be submitted to and approved by the state department prior to use.
- D. The counties shall respond to requests from the State Department, in a timely and attentive manner.
- E. Counties shall make reasonable efforts to advise county residents of services available to target groups through press releases, presentations, pamphlets, and other mass media.
- F. Counties shall use CHATS ~~ehats~~ as designated by the state to administer CCCAP. Counties who do not use CHATS ~~ehats~~ as prescribed by the state may not be reimbursed.
- G. Counties shall establish controls over which county staff have the authority to override eligibility in CHATS. All overrides of eligibility shall be accompanied by documentation in CHATS.
- H. The county shall document in CHATS ~~ehats~~ case actions and contacts made under the appropriate comment screen, within two (2) business days of case action or contact.
- I. Counties shall code child care expenditures to the appropriate program, as prescribed by the state. Failure to do so may result in non-reimbursement or other actions as deemed appropriate by the state.
- J. Counties shall monitor expenditures of Child Care funds and may suspend enrollments, as necessary, to prevent over-expenditures in child care. "Reimbursable expenditures" are supported in whole or in part by State General Fund, Federal (pass through) or a combination of State and Federal money.
- K. The county shall be responsible for the provision of a safe place for storage of case records and other confidential material to prevent disclosure by accident or as a result of unauthorized persons other than those involved in the administration of the CCCAP program. Data of any form shall be retained for the current year, plus three previous years, unless:
  - 1. A statute, rule or regulation, or generally applicable policy issued by a county, state or federal agency that requires a longer retention period; or,
  - 2. There has been a recovery, audit, negotiation, litigation or other action started before the expiration of the three-year period.

3. If a county shares building space with other county offices, it shall use locked files to store case material and instruct facility and other maintenance personnel concerning the confidential nature of information.
- L. If the county opts to require Child Support Services the county shall coordinate with the county Child Care Assistance Program or delegate agency and the delegate county Child Support Services Unit. This includes, but is not limited to:
1. Developing a referral process to notify the delegate Child Support Services unit within its county within fifteen (15) calendar-days of determining that a household is eligible for CCCAP.
  2. Determining good cause procedures. Counties shall notify the delegate Child Support Services unit within its county within fifteen (15) calendar-days of making the good cause determination.
  3. Developing cooperation and non-cooperation procedures which shall include timelines and processes for inter-department communication.
  4. Notifying Child Support Services no later than the end of the thirty (30) day reinstatement period of a low income case closure.
- M. Counties shall post eligibility, authorization, and administration policies and procedures so they are easily accessible and readable to the layperson. The policies shall be sent to the State Department for compilation.
- N. Counties shall provide adult caretakers, teen parents, child care providers and the general public with information as required by the state department including but not limited to:
1. Information on all available types of child care providers in the community: centers, family child care homes, qualified exempt child care providers and in-home child care. This information can be provided through child care resource and referral agencies.
  2. Information regarding voter registration
  3. Information on family support services including but not limited to:
    - a. Colorado Works;
    - b. Head Start and Early Head Start;
    - c. Low-Income Energy Assistance Program (LEAP);
    - d. Food Assistance program;
    - e. Women, Infants And Children (WIC) program;
    - f. Child And Adult Care Food program (CACFP);
    - g. Medicaid And State Children's Health Insurance Program;
    - h. Housing Information; and,
    - i. Individuals with Disabilities Education Act (IDEA) programs and services.

4. Counties shall also provide information and referrals to services under early and periodic screening, diagnosis, and treatment (EPSDT) under Medicaid and Part C of IDEA (34 CFR 300)
  5. Counties shall collect information on adult caretaker(s) or teen parent(s) receiving programs services listed in 3.911, N, 3-4 via the CCCAP application and shall enter the information into **CHATS chats** for reporting purposes.
- O. If a county reduces its exit income eligibility levels, a household receiving child care assistance services when the change is implemented, if the household's income exceeds the new exit income eligibility level, shall continue to receive said services until the household's next eligibility re-determination or for six months, whichever is longer, so long as the household income does not exceed eighty-five percent (85%) of the state median income.
- P. Once determined eligible, households should remain eligible for a minimum of twelve (12) months. The county shall not discontinue child care services prior to a household's next eligibility re-determination unless:
1. The household's income exceeds eighty-five percent (85%) of the state median income;
  2. The adult caretaker(s) or teen parent(s) is no longer in a qualifying eligible activity for the reasons that do not constitute a temporary break as defined in section 3.905.2,C; or,
  3. The adult caretaker(s) or teen parent(s) no longer resides in the county of which they are currently receiving CCCAP.
- Q. Counties shall maintain a current and accurate **waiting** list in the state identified human services case management system of adult caretakers and teen parents who have applied for the CCCAP program and are likely to be found eligible based on self-reported income and job, education, job search, or workforce training activity if potential program participants are not able to be served at the time of application due to county funding concerns. Counties may enroll adult caretakers and teen parents from **waiting** lists according to local priorities and may require an applicant to restate his or her intention to be kept on the **waiting** list every six months in order to maintain his or her place on the **waiting** list. **COUNTIES SHALL HAVE A WRITTEN POLICY THAT IS PROVIDED TO THE STATE FOR REVIEW AND APPROVAL AT THE TIME OF COUNTY PLAN SUBMISSION.**
- R. Counties shall review current applications for completeness, approve or deny the application, and provide timely written notice to the adult caretaker(s) or teen parent(s) of approval, or of missing verifications, no more than fifteen (15) calendar-days from the date the application was received by the county. Applications are valid for a period of sixty (60) calendar-days from the application date.
1. If verifications are not received within the fifteen (15) day noticing period the application will be denied.
  2. If verification is received within sixty (60) calendar-days of the application date, counties will determine eligibility from the date the current verification was received if the eligibility criteria is met.
  3. If verification has not been completely submitted within sixty (60) calendar-days of the application date then the county shall require a new application.
- S. Upon review of an application that was directed to the wrong county of residence, the receiving county shall forward the application and any verification within one (1) business day to the correct



county. The county shall provide notification to the adult caretaker(s) or teen parent(s) that his/her application has been forwarded to the correct county.

- T. Counties may access information already available on file or through system interfaces from other assistance programs within their county to use in child care eligibility determination at application and/or re-determination. Counties shall place a copy of this verification in the case file and/or make a notation in ~~CHATS the chats system~~ **REGARDING** the verification as appropriate.
- U. Counties shall obtain immunization records for children who receive child care from qualified exempt child care providers not related to the child(ren), where care is provided outside of the child's home and the child(ren) are not school age at application and re-determination.
- V. Counties are encouraged to use collateral contact whenever possible to verify information needed to determine eligibility, not including citizenship and identity.
- W. Counties shall allow adult caretaker(s) or teen parent(s) who declare their children are citizens of the U.S. no more than six (6) months to obtain the documents needed to meet the citizenship documentation requirement for the children.
- X. The county shall not require Social Security Numbers or cards for household members who apply for child care assistance.
- Y. Counties shall verify the date of birth for all children receiving child care services.
- Z. Counties shall use the prudent person principle when determining eligibility or authorizing care and shall document reasoning in the appropriate notes section of ~~CHATS the child care automated tracking system~~.
- AA. The counties or their designee shall verify the residence of any adult caretaker(s) or teen parent(s) receiving or applying for child care assistance to ensure that they live in the county where they are applying for assistance at the time of application or when a change in address is reported. For families experiencing homelessness, refer to section 3.909.
  - 1. Verification of address may include but is not limited to:
    - a. Rent receipt/lease; or,
    - b. Mortgage statement; or,
    - c. Utility or other bill mailed no more than two months previously; or,
    - d. Voter registration; or,
    - e. Automobile registration; or,
    - f. A statement from the person who leases/owns the property; or,
    - g. Documentation from schools such as verification of enrollment, report card, or official transcript mailed no more than two months previously; or,
    - h. Official correspondence from any other government agency (e.g. IRS) mailed within the past two months; or
    - i. A statement from another department in your agency if they have verified the residence (e.g. Child Welfare, collateral contact); or

- j. Paycheck stub received within the past two months
  - 2. If the county of residence is questionable, a secondary means of verification may be requested such as but not limited to:
    - a. Records from the local county clerk and recorder's office; or,
    - b. Records from the local county assessor's office.
- BB. County child care staff shall advise low-income adult caretaker(s) or teen parent(s) of their responsibilities in writing ~~via the client responsibilities agreement~~ at application and re-determination. Information that shall be reported during the twelve (12) month eligibility period is as follows:
  - 1. Changes to income, if the household's income exceeds eighty-five percent (85%) of the State median income shall be reported within ten (10) calendar-days of the change.
  - 2. Changes to an adult caretaker(s) or teen parent's qualifying eligible activity, which does not qualify as a temporary break as defined in section 3.905.2, C, must be reported within four (4) calendar weeks.
- CC. Counties shall process any reported change and/or required verification within ten (10) calendar-days of receiving the information using the following guidelines:
  - 1. Changes reported during the twelve (12) month eligibility period requiring immediate action:
    - a. Changes to income, if the household's income exceeds eighty-five percent (85%) of the state median income;
    - b. Changes to an adult caretaker or teen parent's qualifying eligibility activity, which does not qualify as a temporary break as defined in section 3.905.2, C;
    - c. Changes in county residency; and,
    - d. Changes that are beneficial to the household such as, but not limited to:
      - 1) An increase in authorized care;
      - 2) Changes that would result in a decrease of the parent fee;
      - 3) A change of child care provider;
      - 4) Change in household composition due to an additional child requesting care; and,
      - 5) Change in mailing address.
  - 2. Changes outside of the above guidelines should be documented in CHATS but shall not be acted upon until the adult caretaker or teen parent's re-determination.
- DD. If the adult caretaker(s) or teen parent(s) moves out of county, the exiting county shall:

1. Keep the CCCAP case open for up to 30 days from the date of the move or from the date the move was reported, whichever ever occurred first, to allow the adult caretaker(s) or teen parent(s) to apply for CCCAP in the receiving county; and,
  2. The exiting county and the receiving county shall communicate during this thirty (30) day period to mitigate service interruptions if the adult caretaker(s) or teen parent(s) is eligible in the receiving county.
- EE. Counties shall respond to requests for information or assistance from other agencies within five (5) business days.
- FF. Whenever possible in processing re-determinations of eligibility for adult caretaker(s) or teen parent(s) currently receiving CCCAP, counties shall use information that is already available in other sources to document any verification including citizenship and identity.
- GG. Counties shall reduce parent fees by twenty percent (20%) of the regularly calculated parent fee when a household utilizes a quality child care provider rated in the top three levels of the state department's quality rating system. For households utilizing multiple child care providers, only one child care provider is required to be in the top three quality levels for the reduced parent fee to apply.
- HH. The county shall not take action on report of unpaid parent fees if it is outside of the required reporting time frame.
- II. Counties shall authorize care based on verified need, by establishing an authorization to cover the maximum amount of units needed to ensure care is available based on the adult caretaker or teen parent's participation in an eligible activity, and shall not be linked directly to the adult caretaker or teen parent's activity schedule and should be based on the child's need for care.
- JJ. Counties are encouraged to blend Head Start, Early Head Start and CCDF funding streams by authorizing care based on the child's need for care, regardless of the child's head start or early head start enrollment status, in order to provide seamless services to children dually enrolled in these programs.
- KK. Counties shall align the CCCAP re-determination date with the Head Start or Early Head Start program year upon notification that a child is enrolled in a Head Start or Early Head Start program. The re-determination date shall not occur any earlier than twelve (12) months from the CCCAP application date.
- LL. With regard to services to students enrolled in grades one (1) through twelve (12), no funds may be used for services provided during the regular school day, for any services for which the students received academic credit toward graduation, or for any instructional services, which supplant or duplicate the academic program of any public or private school, this applies to grades 1 through 12. Exceptions to this may include but are not limited to:
1. When a child is temporarily prohibited from attending his/her regular classes due to a suspension or expulsion; or,
  2. When a child is temporarily out of school due to scheduled breaks; or,
  3. When a child is temporarily out of school due to unexpected school closures.
- MM. The authorization start date shall be the date a low income CCCAP case is determined eligible, except in the case of a pre-eligibility application.

- NN. For pre-eligibility care reimbursable after eligibility has been determined and the county can provide subsidy for the potential program participant, authorization shall be dated to the date the pre-eligibility application was received by the county.
- OO. The county shall generate a state-approved notice regarding changes to child care subsidies within one (1) business day and provide to the primary adult caretaker, teen parent and child care provider via postal service, e-mail or other electronic systems, fax, or hand-delivery. ~~e-mail or other electronic systems e-mail or other electronic systems.~~
- PP. 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.
- QQ. ~~THE COUNTY SHALL GENERATE ATTENDANCE TRACKING SYSTEM REGISTRATION FOR THE HOUSEHOLD UPON CASE APPROVAL OR INITIAL AUTHORIZATION. The county shall issue CCAP cards immediately upon case approval or initial authorization of child care services.~~
- ~~RR. The county shall issue replacement CCAP cards within two (2) business days of being notified of the loss or damage of a CCAP card by the adult caretaker(s) or teen parent(s).~~
- ~~SS. The county is responsible for notifying the state department when a fiscal agreement is terminated. The state department shall notify the county if the POS device has not been returned to the POS vendor within thirty (30) days.~~
- ~~TT. If the POS device is not returned to the POS device vendor, the county shall establish a recovery for the replacement cost of the POS device.~~
- RR. THE COUNTY SHALL GENERATE ATTENDANCE TRACKING SYSTEM REGISTRATION FOR CHILD CARE PROVIDERS UPON ENTERING INTO A FISCAL AGREEMENT WITH A PROVIDER.
- SS UU. The county shall make available the following child care provider information, including protective services information, to all staff whose responsibilities include child care subsidy services:
1. Information known to licensing staff.
  2. Information from previous agency contacts.
  3. Information obtained from the Child Care Fiscal Agreement renewals.
  4. Information obtained from adult caretaker(s) or teen parent(s), caseworker visits, and other sources.
  5. Information about corrective action intervention by the counties, their designee(s), or State Department.
- TT ~~VV~~. Counties are responsible for verifying proof of lawful physical residence in the United States for any qualified exempt child care provider(s).
- UU ~~WW~~. The counties or their designee will complete a review of the state administered system for child abuse and neglect on the qualified exempt child care provider(s) and any one in the qualified exempt child care provider's household who is eighteen (18) years and over not including the adult caretaker(s) or teen parent(s).

~~VV.XX~~ The counties or their designee shall screen the qualified exempt child care provider(s) and any other adult eighteen (18) years of age and older, not including the adult caretaker(s) or teen parent(s), for current or previous adverse county contact, including but not limited to, allegations of fraud or IPV.

~~WW.YY~~ The county shall reimburse licensed child care providers based on the state established base payment and tiered reimbursement rates unless they have followed the county opt out process outlined in section 3.914.1 and it has been approved by the state department.

~~XX.ZZ~~ The county-established licensed child care provider reimbursement rates shall include a system of tiered reimbursement based on quality levels for licensed child care providers that enroll children participating in CCCAP.

~~YY.~~ FOR RENEWALS, THE COUNTY SHALL SEND FISCAL AGREEMENTS AT LEAST SIXTY (60) CALENDAR-DAYS PRIOR TO THE END DATE OF THE PREVIOUS FISCAL AGREEMENT VIA POSTAL SERVICE, FAX, HAND-DELIVERY, E-MAIL OR OTHER ELECTRONIC SYSTEMS.

~~AAZZ~~ Prior to approving a fiscal agreement with any child care provider, the county shall compare the child care provider's private pay rates ~~TO THE COUNTY'S BASE CEILING REIMBURSEMENT RATES AND SET THE PROVIDER'S BASE REIMBURSEMENT RATE AT THE AMOUNT THAT IS THE LESSER OF THE TWO.~~ ~~to ensure that the county base reimbursement rate does not exceed the child care provider's private reimbursement rates.~~

~~AAA.~~ COUNTIES MAY OPT TO PAY HIGHER THAN A PROVIDER'S PRIVATE PAY RATES FOR HIGH QUALITY RATING 3-5. MAXIMUM PAYMENT FOR EACH HIGH QUALITY TIER SHALL NOT BE HIGHER THAN THE COUNTY CEILING RATE.

~~BBB.~~ Counties shall have fiscal agreements signed by the child care provider and county staff prior to opening or amending them in CHATS. Counties shall provide a copy of the fully executed fiscal agreement to the child care provider within seven (7) days of CHATS entry.

~~CCC.~~ Counties shall verify that child care providers are not excluded from receiving payments prior to signing a fiscal agreement. The county shall make this verification check through the Excluded Parties List System (EPLS) established by the General Services Division on the website at: [www.sam.gov](http://www.sam.gov).

~~DDD.~~ Counties shall pay child care providers for services provided that could not be paid through the automated system, based on county payroll policies. If payment is delayed for any reason, the county shall notify the child care provider(s) in a timely manner and document the circumstances in CHATS.

~~EEE.~~ 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.

~~FFF.~~ COUNTIES SHALL ENSURE THAT CHILD CARE PROVIDERS ARE NOT CHARGING THE COUNTY MORE THAN THEIR ESTABLISHED PRIVATE PAY RATES.

~~FFFFGGG.~~ County offices shall complete a random monthly review of ATTENDANCE DATA FOR AT LEAST ONE PERCENT (1%) OR ONE PROVIDER, WHICHEVER IS GREATER. The county or

its designee shall take necessary action as defined in the county fraud referral process if the review indicates:

1. That the child care provider(s) may have submitted an inaccurate report of attendance for a manual claim, the county or its designee shall contact the child care provider(s) and adult caretaker(s) or teen parent(s) to resolve the inaccuracy.
2. That either the adult caretaker(s) or teen parent(s) or the child care provider has attempted to defraud the program or receive benefits to which they were not eligible. The county or its designee shall report that information to the appropriate legal authority.

~~GGGHHH~~. The county shall refer, within fifteen (15) calendar-days of establishing recovery, to the appropriate investigatory agency and/or the district attorney, any alleged discrepancy which may be a suspected fraudulent act by a household or child care provider of services.

~~HHHIII~~. Counties shall establish recoveries within twelve (12) months of discovery of the facts resulting in recovery.

~~JJJJ~~. Counties shall take whatever action is necessary to recover payments when households and/or child care providers owe money to the State Department because of overpayments, ineligibility and/or failure to comply with applicable state laws, rules or procedures.

~~JJKKK~~. Counties shall report established recoveries that are the result of fraud to the state department.

### **3.911.1 ADDITIONAL COUNTY RESPONSIBILITIES FOR COLORADO WORKS CHILD CARE**

- A. The county will act within five (5) business days of receipt of a referral from Colorado Works for new or ongoing child care.
- B. The county shall not terminate care on any Colorado Works (basic cash assistance) 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. This does not include Colorado Works diversion cases.

### **3.912 PRE-ELIGIBILITY DETERMINATIONS**

An Early Care and Education provider may provide services to the household prior to the final determination of eligibility and shall be reimbursed for such services only if the county determines the household is eligible for services and there is no need to place the household on the **waiting** list. The start date of eligibility is defined in Section 3.911, R. If the household is found ineligible for services, the Early Care and Education provider shall not be reimbursed for any services provided during the period between his/her pre-eligibility determination and the county's final determination of eligibility.

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

- A. The Early Care and Education provider may submit the prospective program participant's State-approved application, release of information, and documentation to the county for final determination of eligibility for child care assistance. The Early Care and Education provider shall signify on the first page of the application in the space provided that a pre-eligibility determination has been made.

- B. The Early Care and Education provider or county may provide services to the household prior to final determination of eligibility, and the county shall reimburse an Early Care and Education Provider:
  - 1. As of the date the county receives the application from the Early Care And Education provider for such services only if the county determines the prospective program participant is eligible for services; and,
  - 2. There is no need to place the prospective program participant on a **waiting** list.
- C. All supporting documentation for a pre-eligibility application submitted by an Early Care and Education Provider shall be received in thirty (30) calendar-days of the date the application was received or the application may be determined ineligible by the county. If all verifications are received between the thirty-first (31st) and sixtieth (60th) day, counties shall determine eligibility from the date the verification was received.
- D. If the prospective program participant is found ineligible for services, the county shall not reimburse the Early Care and Education provider for any services provided during the period between its pre-eligibility determination and the county's final determination of eligibility.
- E. If an Early Care and Education provider or county has conducted a pre-eligibility determination, they shall include documentation of the information on which the pre-eligibility determination has been made in or with the application. The documentation shall include household income, household composition, and eligible activity.
- F. When a county conducts a pre-eligibility determination, the county shall notify the prospective child care provider with the referral for pre-eligibility authorization that payment for care provided prior to full eligibility may not occur if the adult caretaker(s) or teen parent(s) is ultimately deemed ineligible for the CCCAP program.
- G. A child care provider may refuse to serve a county pre-eligibility authorized program participant.

**3.913 CHILD CARE PROVIDERS**

**3.913.1 ELIGIBLE FACILITIES**

**A. LICENSED FACILITIES**

**THE FOLLOWING FACILITIES ARE REQUIRED TO BE LICENSED AND COMPLY WITH LICENSING RULES AS DEFINED IN THE SOCIAL SERVICES RULE MANUAL, SECTIONS 7.701 THROUGH 7.712 (12 CCR 2509-8):**

- 1. FAMILY CHILD CARE HOMES**
- 2. CHILD CARE CENTERS WHICH ARE LESS THAN 24-HOUR PROGRAMS OF CARE, AS DEFINED IN SECTION 26-6-102(1.5), C.R.S.**

**B.-A Qualified Exempt Child Care Providers**

- 1. Qualified exempt child care provider: A non-licensed family child care home in which less than twenty-four (24) hour care is given at any one time for only one child, two or more children who are siblings from the same household, or children who are a relative of the child care 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".
  - 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".
  - 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".
  - 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".
2. The counties or their designee shall register qualified exempt child care providers and include the following information: name, address (not a P.O. Box #), phone number and social security number. Pursuant to Section 24-76.5-103, C.R.S., counties or their designee shall verify the lawful presence in the United States of all applicants for state or local public benefits, or federal benefits provided by CDHS, or by the county 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. Qualified Exempt Child Care Provider Requirements
- a. Qualified exempt child care provider(s) shall be at least eighteen (18) years of age.
  - b. **A QUALIFIED EXEMPT CHILD CARE PROVIDER SHALL NOT BE THE PARENT OR ADULT CARETAKER OF THE CHILD THAT IS RECEIVING CARE.**
  - cb. As a prerequisite to signing a fiscal agreement with a county or its designee, a qualified exempt child care provider shall sign an attestation of mental competence. The attestation affirms that he or she, and any adult residing in the qualified exempt child care provider home where care is provided, has not been adjudged by a court of competent jurisdiction to be insane or mentally incompetent to such a degree that the individual cannot safely care for children.
4. Background Checks
- a. A qualified exempt child care provider and any adult eighteen years of age or older who resides in the exempt child care provider's home, not including the adult caretaker(s) or teen parent(s), shall be subject to a criminal background review once every five years including the following checks:
    - 1) The Federal Bureau of Investigations (FBI) and the Colorado Bureau of Investigations (CBI) fingerprint-based criminal history records;
    - 2) The state administered database for child abuse and neglect;
    - 3) The CBI sex offender registry; and,



- 4) The national sex offender registry public website (effective September 30, 2017).
- b. Information submitted to the CBI sex offender registry and the national sex offender registry public website shall include:
- 1) Known names and addresses of each adult residing in the home, not including the adult caretaker(s) or teen parents; and,
  - 2) Addresses.
- c. Upon submission of the completed background check packet, as determined by state procedures, a qualified exempt child care provider shall submit certified funds (i.e., money order or cashier's check) to cover all fees indicated below.
- 1) A fee for the administrative costs referred to in Section 7.701.4, F (12 CCR 2509-8).
  - 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, not including the adult caretaker(s) or teen parent(s), will be required. Payment of the fee for the criminal record check is the responsibility of the individual being checked.
  - 3) Counties have the option to begin authorization and payment for child care services as of the date the state department receives the completed background check.
- d. The qualified exempt child care provider(s) may continue to receive payment as long as the qualified exempt child care provider(s) or other adult is not ineligible due to the following circumstances:
- 1) Conviction of child abuse, as described in Section 18-6-401, C.R.S.;
  - 2) Conviction of a crime of violence, as defined in Section 18-1.3-406, C.R.S.;
  - 3) Conviction of any felony offense involving unlawful sexual behavior, as defined in Section 16-22-102 (9), C.R.S.;
  - 4) Conviction of any felony that on the record includes an act of domestic violence, as defined in Section 18-6-800.3, C.R.S.;
  - 5) Conviction of any felony involving physical assault, battery or a drug-related/alcohol offense within the five years preceding the date of the fingerprint-based criminal background check;
  - 6) Conviction of any offense in another state substantially similar to the elements described in Items 1 through 5, above;
  - 7) Has shown a pattern of misdemeanor convictions within the ten (10) years immediately preceding submission of the application. "Pattern of misdemeanor" shall include consideration of Section 26-6-108(2), C.R.S., regarding suspension, revocation and denial of a license, and shall be defined as:

- 8) 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,
  - 9) 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,
  - 10) Seven (7) misdemeanor convictions of any type.
  - 11) Has been determined to be responsible in a confirmed report of child abuse or neglect.
- e. A qualified exempt child care provider shall notify the county with whom he or she has contracted pursuant to a publicly funded state Child Care Assistance Program, within ten (10) calendar-days of any circumstances that result in the presence of any new adult in the residence.
5. Additional requirements for non-relative qualified exempt child care providers and other qualified child care facilities:
- a. Completion of all pre-service health and safety trainings approved by the state department of human services, within three months of providing services as a qualified exempt child care provider under the Colorado Child Care Assistance Program.
  - b. An annual on-site health and safety inspection conducted by the state department of human services or its designee. The health and safety check list is incorporated by reference to provide further guidance; no further editions or amendments are included. Non-relative qualified exempt providers shall correct any health and safety inspection standards immediately after the inspection.
  - c. A qualified exempt child care provider who is a non-relative and provides services in the child's home or in the qualified exempt child care provider's home shall sign an attestation of mental competence.
  - d. Qualified exempt non-relative child care providers shall meet the mandatory child abuse and neglect reporting requirements.
  - e. If the non-relative qualified exempt child care provider fails to comply with any of the requirements in (a)-(d) above, the county shall deny or terminate a fiscal agreement.

~~6. For renewals, the county shall send fiscal agreements at least sixty (60) calendar days prior to the end date of the previous fiscal agreement via postal service, fax, hand-delivery, e-mail or other electronic systems. Fiscal agreements are effective on day that the fiscal agreement is completed and signed by the child care provider, and received by the county.~~

~~7. Payment Methods~~

~~a. Payment for purchased child care shall be made to the child care provider(s) through an automated system if it is a qualified exempt child care provider(s) or licensed facility.~~

~~b. When a manual claim is needed, the child care form for attendance record and billing shall be prepared and signed by the child care provider monthly and used by the county to verify that the billing does not exceed the authorized number of units.~~

6 8. Qualified exempt child care providers who are denied a Fiscal Agreement or whose Fiscal Agreement is terminated may request an informal conference with staff responsible for the action, the supervisor for that staff and the county director or director's designee to discuss the basis for this decision and to afford the qualified exempt child care provider(s) with the opportunity to present information as to why the qualified exempt child care provider(s) feels the county should approve or continue the Fiscal Agreement. Any request for a conference shall be submitted in writing within fifteen (15) calendar-days of the date the qualified exempt child care provider is notified of the action. The county shall hold that conference within two (2) weeks of the date of the request. The county shall provide written notice of its final decision to the qualified exempt child care provider(s) within fifteen (15) business days after the conference.

7 9. Non-relative qualified exempt child care providers who are denied a fiscal agreement or whose fiscal agreement is terminated due to the department's decision regarding adherence to health and safety standards may appeal the decision to the executive director of the state department of human services or his/her designee in writing within fifteen (15) days of the county's decision. The executive director's decision is a final agency decision subject to judicial review by the state district court under § 24-4-106, C.R.S.

~~10. Child care providers shall be provided with a written notice of the process of termination of the fiscal agreement on the fiscal agreement.~~

C. FOR RENEWALS, THE COUNTY SHALL SEND FISCAL AGREEMENTS AT LEAST SIXTY (60) CALENDAR-DAYS PRIOR TO THE END DATE OF THE PREVIOUS FISCAL AGREEMENT VIA POSTAL SERVICE, FAX, HAND-DELIVERY, E-MAIL OR OTHER ELECTRONIC SYSTEMS.

D. PAYMENT METHODS

a. PAYMENT FOR PURCHASED CHILD CARE SHALL BE MADE TO THE CHILD CARE PROVIDER(S) THROUGH AN AUTOMATED SYSTEM IF IT IS A QUALIFIED EXEMPT CHILD CARE PROVIDER(S) OR LICENSED FACILITY.

b. WHEN A MANUAL CLAIM IS NEEDED, THE CHILD CARE FORM FOR ATTENDANCE RECORD AND BILLING SHALL BE PREPARED AND SIGNED BY THE CHILD CARE PROVIDER MONTHLY AND USED BY THE COUNTY TO VERIFY THAT THE BILLING DOES NOT EXCEED THE AUTHORIZED NUMBER OF UNITS.

E. CHILD CARE PROVIDERS SHALL BE PROVIDED WITH A WRITTEN NOTICE OF THE PROCESS OF TERMINATION OF THE FISCAL AGREEMENT ON THE FISCAL AGREEMENT FORM.

### 3.913.2 CHILD CARE PROVIDER RESPONSIBILITIES

- A. Child care Providers shall maintain a valid child care license as required by Colorado statute unless exempt from the Child Care Licensing Act.
- B. Child care Providers shall report to the county if their license has been revoked, suspended, denied, ~~or placed on probation within~~ three (3) calendar-days of receiving notification or a recovery will be established of all payments made as of the effective date of closure.
- C. Child care providers shall report to the county and state licensing any changes in address no less than thirty (30) calendar-days prior to the change.
- D. Child care providers shall report to the county and state licensing any changes in phone number within ten (10) calendar-days of the change.
- E. Child care providers shall allow parents, adult caretakers, or teen parents immediate access to the child(ren) in care at all times.
- F. Child care providers shall accept referrals for child care without discrimination with regard to race, color, national origin, age, sex, religion, marital status, sexual orientation, or physical or mental handicap.
- G. Child care providers shall provide children with adequate food, shelter, and rest as defined in licensing rule (12 CCR 2509-8).
- H. Child care providers shall maintain as strictly confidential all information concerning children and their families.
- I. Child care providers shall protect children from abuse/neglect and report any suspected child abuse and neglect to the county or the Colorado Child Abuse and Neglect Hotline immediately.
- J. Child care providers shall provide child care at the facility address listed on the fiscal agreement and ensure care is provided by the person or business listed on the fiscal agreement. Exceptions are defined in licensing rules (12 CCR 2509-8).
- K. Child care providers will not be reimbursed for any care provided before the fiscal agreement start date and after the fiscal agreement end date.
- L. Child care providers shall sign the child care fiscal agreement and all other county or state required forms. Payment shall not begin prior to the first of the month the fiscal agreement has been signed and received by the county.
- M. Child care providers shall comply with **ATTENDANCE TRACKING SYSTEM (ATS) PQS** requirements as defined in section 3.914.4.
- N. Child care providers shall develop an individualized care plan (ICP) for children with additional care needs based upon the Individual Education Plan (IEP), or Individual Health Care Plan (IHCP), and provide a copy to the county eligibility worker on an annual basis or other alternate period of time determined in the plan.
- O. Licensed child care providers shall maintain proof of 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. Qualified exempt child care Providers caring for children in the child's own home; or,

2. Qualified exempt child care Providers caring only for children related to the child care provider such as grandchildren, great-grandchildren, siblings, nieces, or nephews, etc.;
- P. Child care Providers shall maintain paper or electronic sign in/out sheets that the person authorized to drop off/pick up the children has signed with the time the children arrive and leave each day they attend. These records shall be available for county review upon request and maintained for the current year plus three years.
  - Q. Child care providers shall report non-payment of parent fees no later than sixty (60) calendar-days after the end of the month the parent fees are due unless county policy requires it earlier. The unpaid parent fees can be reported by fax, e-mail or other electronic systems, in writing or on the billing form.
  - R. Child care providers shall notify the county of unexplained, frequent and/or consistent absences within ten (10) calendar-days of establishing a pattern.
  - S. Child care providers shall not charge counties more than their established private pay rates.
  - T. Child care providers shall not charge adult caretakers or teen parents rates in excess of those agreed upon in the fiscal agreement (this includes the agreed upon registration, mandatory activity and transportation fees if the county pays these fees).
  - U. Child care Providers shall offer free, age appropriate alternatives to voluntary activities.
  - V. Child care Providers shall only bill for care authorized and provided.
  - W. Child care Providers shall bill counties monthly for services authorized and attended but not paid through the **ATTENDANCE TRACKING SYSTEM (ATS) Point of Service (POS) device. ~~Manual payments may be denied based on county policies.~~** Payment for services shall be forfeited if the original billing form is not submitted within sixty (60) calendar-days following the month of service.
  - X. Child care providers shall not hold, transfer, or use **AN ADULT CARETAKER OR TEEN PARENT'S INDIVIDUAL ATTENDANCE CREDENTIALS CCAP-card(s).** If intentional misuse is founded by any county or state agency, the child care provider will be subject to disqualification(s) as outlined in section 3.915.

### **3.913.3 COMPLAINTS ABOUT CHILD CARE PROVIDERS**

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

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

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

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

B. Complaints about licensed child care providers

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

1. If the complaint concerns child abuse or neglect, the county shall immediately refer the complaint to the appropriate county protective services unit.
2. If the complaint concerns a difference of opinion between a child care provider and an adult caretaker(s) or teen parent(s), the counties shall encourage the child care provider and adult caretaker or teen parent to resolve their differences.
3. Complaints shall be referred to the Colorado Department of Human Services, Division of Early Care and Learning 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.

**3.914 PURCHASE OF SERVICES**

**3.914.1 CHILD CARE PROVIDER REIMBURSEMENT RATES**

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

A. Counties may choose to opt out of the state established child care provider rates and shall complete the following to ensure payment rates are sufficient to ensure equal access:

1. Identify and explain what facts the county used to determine equal access using one or more of the following methods:
  - a. Payment rates are set at the seventy-fifth (75<sup>th</sup>) percentile or higher of the most recent market rate survey
  - b. Using tiered rates/differential rates to increase access for targeted needs
  - c. Rates based on data on the cost to the child care provider of providing care meeting certain standards
  - d. Data on the size of the difference (in terms of dollars) between the payment rates and the 75th percentile in the most recent market rate survey, if rates are below the 75th percentile
  - e. Data on the proportion of children receiving subsidy being served by high quality child care providers
  - f. Data on where children are being served showing access to the full range of child care providers
  - g. Feedback from parents, including parent survey or parent complaints
  - h. Other method of ensuring equal access (subject to state approval)
2. Consult with the following entities:

- a. Local early childhood council
    - b. Local resource and referral agency
    - c. Child care child care providers in the county who serve or want to serve children receiving CCCAP
  - 3. Notify the state department of the decision to opt out of state established licensed child care provider base rate and/or tiered reimbursement rate through the use of the county plan approval process
  - 4. The county may set payment rates for qualified exempt child care providers based on local need.
- B. Payment rates shall be defined utilizing the state established, system supported age bands.
- C. Rate types are selected by child care provider type (licensed home, licensed center, and qualified exempt child care providers). The state department has established rate type definitions to be used by all counties and deviation from the rate definitions shall not be permitted.
- D. 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.
- E. Absences and Holidays
- 1. Counties shall pay for absences in accordance with the policy set by the county. Any absence policy set by the county shall address when the child is not in care to include, but not limited to, payments for scheduled school breaks, absences, and holidays.
  - 2. Counties have the discretion to roll payments for absences and holidays into their regular daily child care provider reimbursement rates, or may pay for absences and holidays with a daily rate as they occur and pursuant to the county policies.
  - 3. Tiered Absences and Holidays
    - a. Whether a county rolls their absences and holidays in addition to their child care provider base reimbursement rate, or they pay them separately, and if a child utilizes care at multiple child care providers, counties shall reimburse child care providers proportionate to the quantity of care provided overall or in accordance with the child's actual use of care.

- b. Counties shall reimburse child care providers for absences and holidays per twelve (12) months of continuous eligibility based on the following schedule:
  - 1) For child care providers in the first level of the department's quality rating and improvement system, no fewer than six (6) absences or holidays;
  - 2) For child care providers in the second level of the department's quality rating and improvement system, no fewer than ten (10) absences or holidays;
  - 3) For child care providers in the top three levels of the department's quality rating and improvement system, no fewer than fifteen (15) absences or holidays.

**4. COUNTIES MAY ADOPT A POLICY ALLOWING THE USE OF HOLDING SPACES IN ORDER TO ADDRESS PAYMENTS TO HOLD A CHILD'S SPACE WITH A PROVIDER WHEN THE CHILD IS NOT IN CARE TO INCLUDE, BUT NOT LIMITED TO:**

- a. PAYMENTS FOR SCHEDULED SCHOOL BREAKS;
- b. ABSENCES, AND;
- c. HOLIDAYS.

**F. COUNTIES MAY ADOPT A POLICY TO PAY FOR DROP IN DAYS IN ADDITION TO REGULARLY AUTHORIZED CARE.**

**G.F. Bonus Payments**

Counties shall not at any time use federal Child Care Development Block Grant Funds (CCDBG), or state General Funds, for the payment of bonuses to child care providers serving children in the CCCAP program. A county shall not use CCDBG or state General Funds to retroactively increase the daily rate paid to child care providers and issue a payment to child care providers based on that retroactive calculation.

- H.G.** Child care providers who contend that the county has not made payment for care provided under CCCAP in compliance with these rules may request an informal conference with staff, the appropriate supervisor, the county director or the director's designee, and, if requested by the child care provider(s), state program staff. Any request for a conference shall be submitted in writing within fifteen (15) calendar-days of the date of the action. The county shall hold that conference within two (2) weeks of the date of the request. The county shall provide written notice of its final decision within fifteen (15) business days of the conference. The purpose of the conference shall be limited to discussion of the payments in dispute and the relevant rules regarding payment.

**3.914.2 SLOT CONTRACTS (COUNTY OPTION)**

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



- A. Counties may choose to enter into a slot contract not to exceed twelve (12) months per contract with a licensed child care provider to purchase a specified number of slots for children enrolled in CCCAP.
1. When a county chooses the option to use slot contracts with a licensed child care provider, the following steps shall be completed a minimum of sixty (60) days prior to the commencement of the slot contract:
    - a. County plan shall be updated in **CHATS chats** to include selection of the slot contract option.
    - b. At the time the county plan is updated a slot contract policy shall be submitted to the state department for approval. The policy shall include but is not limited to:
      - 1) The county identified target populations and areas
      - 2) How the county will determine the length of the slot contract
      - 3) How the county will identify the need for the slot contract at a specific licensed child care provider
      - 4) How the county will ensure a fair and equitable review and selection process when selecting a licensed child care provider in the case of multiple child care programs expressing interest in entering into slot contracts.
      - 5) How the county will determine the number of slots they contract for with a licensed child care provider
      - 6) Evidence that less-than-arm's length transactions are prohibited including, but not limited to, those in which; one party is able to control or substantially influence the actions of the other.
      - 7) How the county will continuously monitor the success of a slot contract during the contract period to include but not limited to:
        - a) What the measure of success is for the slot contract and how it is determined.
        - b) Frequency of monitoring the success of the slot contract to be no less than quarterly.
        - c) Contract renegotiation for not reaching the set measure of success for the slot contract including under-utilization of paid slots during the designated monitoring period.
      - 8) How the county will determine the need for a slot contract renewal
        - a) A proposed slot contract (state template or county developed), including the state-approved slot contract fiscal agreement, between the county and the child care provider shall be submitted to the state department for approval a minimum of thirty (30) days prior to the contract start date. The slot contract shall include the obligations that need to be met by each party

and the steps that will be taken if either party fails to meet the identified obligations.

- b) If the county determines a need for slot contract renewal or renegotiation, they shall provide documentation to the state department of the success of the initial slot contract and the need for an additional slot contract a minimum of sixty (60) days prior to the end of the initial slot contract.
- B. Counties shall submit the state developed monitoring tool based on the county determined review schedule.
- C. Target population and areas may include but are not limited to:
  - 1. Infants and toddlers;
  - 2. Children with additional care needs;
  - 3. Children needing care during nontraditional hours ( i.e., evening, overnight and weekend care);
  - 4. Children in underserved areas;
  - 5. Areas where quality programs are in short supply for children enrolled in CCCAP; or,
  - 6. Any other county identified target population or areas.
- D. Criteria for assessing the need for slot contracts may include but is not limited to:
  - 1. Counties shall demonstrate the rationale for identifying specific CCCAP populations or underserved areas in their county;
  - 2. The demographic data source(s) shall be identified which supports the need to expand quality programs for specific CCCAP target populations and/or justifies needs based on underserved areas for all CCCAP households (demographic data may be based on zip codes or other geographic areas as determined by the county);
  - 3. Counties are strongly encouraged to work with early childhood councils, resource and referral agencies, and other community based organizations to identify the need for contracts with specific populations or in specific areas of the county.
- E. Licensed child care programs who enter into slot contract agreements with counties shall agree to be engaged in quality building at a minimum of a level two (2) quality rating through the Colorado Shines QRIS program.
- F. The state department will develop a contract template that meets the requirements of this rule and all state and federal contracting requirements.
  - 1. Counties may adapt the contract template to include any county-specific requirements or may draft their own contract which shall be pre-approved by the state department prior to use.
  - 2. The state department will assess and approve within thirty (30) days of receipt:
    - a. The updated county plan;

- b. The county submitted slot contract policy; and,
  - c. The county submitted slot contract.
- 3. The state department will assess requests for slot contract renewals within thirty (30) days of receipt based on the supporting documentation provided by the county.
  - 4. The state department will review the monitoring conducted by the county based on the county determined review schedule.

### **3.914.3 ARRANGEMENT FOR CHILD CARE SERVICES**

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

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

#### **3.914.4 ATTENDANCE TRACKING SYSTEM (ATS) POINT-OF-SERVICE (POS) SYSTEM**

- A. The adult caretaker(s) or teen parent(s) shall utilize the **ATTENDANCE TRACKING SYSTEM POS device in conjunction with the CCAP card** as follows:
  - 1. To record child's authorized and utilized daily attendance at the designated child care provider's location.
  - 2. In the event that the **CHILD CARE PROVIDER HAS RECORDED A MISSED CHECK-IN OR CHECK-OUT adult caretaker(s) or teen parent(s) misses, THE ADULT CARETAKER OR TEEN PARENT SHALL CONFIRM THE RECORD IN THE ATTENDANCE TRACKING SYSTEM FOR THE PRIOR NINE (9) DAY PERIOD. one or more swipes to record daily attendance, they may record attendance on the POS device utilizing the previous check-in/out function.**

- ~~3. The previous check-in/out function can be used to record missed swipes for the prior nine (9) day period. This function should not be used as a regular means of tracking attendance.~~
34. Adult caretakers or teen parents shall not leave his/her **INDIVIDUAL ATTENDANCE CREDENTIALS CCAP card** in the child care provider's possession at any time or he/she may be subject to disqualification.
- ~~5. Adult caretakers or teen parents are required to inform their county CCCAP worker of non-receipt of CCAP card(s) within five (5) business days of approval or replacement of CCAP card(s).~~
- ~~6. Adult caretakers or teen parents are required to inform their county CCCAP worker within two (2) business days of lost, stolen or damaged CCAP card(s).~~
47. Non-cooperation with the use of the **ATTENDANCE TRACKING SYSTEM CCAP card(s)** may result in case closure and/or non-payment of the child care subsidy as defined by a **STATE APPROVED** county policy.

B. The child care provider will receive ~~a POS device~~ **REGISTRATION INFORMATION FOR THE ATTENDANCE TRACKING SYSTEM** upon ~~completion of the mandatory POS training and entering into a fiscal agreement with the county and shall utilize the ATTENDANCE TRACKING SYSTEM POS device~~ as follows:

1. To ensure that CCCAP adult caretakers or teen parents record child's authorized and utilized daily attendance at the designated child care provider's location.
2. To ensure that in the event that the adult caretaker(s) or teen parent(s) misses one or more **CHECK-INS/OUTS swipes** to record daily attendance, **THE CHILD CARE PROVIDER MAY RECORD THE MISSED CHECK-IN/OUT IN THE ATTENDANCE TRACKING SYSTEM AND THE ADULT CARETAKER OR TEEN PARENT SHALL CONFIRM THE RECORD IN THE ATTENDANCE TRACKING SYSTEM FOR THE PRIOR NINE (9) DAY PERIOD FOR AUTOMATIC PAYMENT.** ~~that they record attendance on the POS device utilizing the previous check-in/out function.~~
- ~~3. The previous check-in/out function can be used to record missed swipes for the prior nine (9) day period. This function should not be used as a regular means of tracking attendance.~~
- 3 4. The child care provider shall not **HOLD, TRANSFER, OR USE** ~~have~~ any adult caretaker or teen parents' **INDIVIDUAL ATTENDANCE CREDENTIALS CCCAP card** ~~in their possession~~ at any time or the child care provider may be subject to disqualification.
- ~~5. In the event that a fiscal agreement is terminated for any reason, the child care providers shall return the point of service (POS) terminal in working condition, barring normal wear and tear, to the designated POS vendor 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 child care provider shall call the designated POS vendor to request a paid return label to return the POS device.~~

46. Non-cooperation with the use of the ATTENDANCE TRACKING SYSTEM POS device may result in non-payment of the child care subsidy as defined by A STATE APPROVED county policy, UNLESS NON-USE OF THE ATTENDANCE TRACKING SYSTEM IS APPROVED BY THE STATE DEPARTMENT.

~~C. County POS device oversight:~~

- ~~1. The county shall issue CCAP cards immediately upon initial authorization of child care services.~~
- ~~2. The county shall issue replacement CCAP cards within two (2) business days of being notified by the adult caretaker(s) or teen parent(s) of loss, theft, or damage.~~
- ~~3. The county is responsible for notifying the state department when a fiscal agreement is terminated. The state department shall notify the county if the POS device has not been returned to the POS vendor.~~
- ~~4. If the POS device is not returned to the POS device vendor, the county shall establish a recovery for the replacement cost of the POS device.~~

**3.914.5 COUNTY FISCAL AGREEMENT AUTHORITY**

- A. Counties have the authority to enter into a fiscal agreement with Qualified Exempt Child Care Providers and licensed child care providers INCLUDING THOSE IN A PROBATIONARY STATUS.

~~Counties have the authority to refuse to enter into a Fiscal Agreement with a child care provider. Counties have the authority to terminate a Fiscal Agreement after providing at least fifteen (15) calendar days' notice by postal service mail, fax, hand-delivery, email or other electronic systems. The counties have the authority to terminate a Fiscal Agreement without advance notice if a child's health or safety is endangered or if the child care provider is under a negative licensing action as defined in Section 7.701.22, K (12 CCR 2509-8).~~

- ~~B. COUNTIES HAVE THE AUTHORITY TO REFUSE TO ENTER INTO A FISCAL AGREEMENT WITH A CHILD CARE PROVIDER.~~

- ~~C. COUNTIES HAVE THE AUTHORITY TO TERMINATE A FISCAL AGREEMENT AFTER PROVIDING AT LEAST FIFTEEN (15) CALENDAR-DAYS' NOTICE BY POSTAL SERVICE MAIL, FAX, HAND-DELIVERY, EMAIL OR OTHER ELECTRONIC SYSTEMS.~~

- ~~D. THE COUNTIES HAVE THE AUTHORITY TO TERMINATE A FISCAL AGREEMENT WITHOUT ADVANCE NOTICE IF A CHILD'S HEALTH OR SAFETY IS ENDANGERED OR IF THE CHILD CARE PROVIDER IS UNDER A NEGATIVE LICENSING ACTION AS DEFINED IN SECTION 7.701.2, J, 11 Section 7.701.22, K (12 CCR 2509-8). COUNTIES MAY NOT ENTER INTO OR CONTINUE A FISCAL AGREEMENT WITH ANY CHILD CARE PROVIDER WHO HAS A DENIED, SUSPENDED OR REVOKED CHILD CARE LICENSE.~~

- ~~E B.~~ The county may notify the child care provider of an immediate termination verbally, but written notice of that action shall be forwarded to the child care provider within at least fifteen (15) calendar-days. Any notice regarding denial or termination of a Fiscal Agreement shall include information regarding the child care provider's right to an informal conference.

### **3.915 PROGRAM INTEGRITY**

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

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

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

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

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

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

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

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

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

- B. Notice of the date of the administrative disqualification hearing on a form prescribed by the Colorado Department of Human Services shall be mailed to the last known address on record to the individual alleged to have committed an IPV at least thirty (30) calendar-days prior to the hearing date. The notice form shall include a statement that the individual may waive the right to appear at the administrative disqualification hearing, along with the hearing procedure form and client rights.
- C. The Administrative Law Judge or hearing officer shall not enter a default against the participant or applicant for failure to file a written answer to the notice of IPV hearing form, but shall base the initial decision upon the evidence introduced at the hearing.
- D. Upon good cause shown, the administrative hearing shall be rescheduled not more than once at the accused individual's request. The request for continuance shall be received by the appropriate hearing officer prior to the administrative disqualification hearing. The hearing shall not be continued for more than a total of thirty (30) calendar-days from the original hearing date. One additional continuance is permitted at the hearing officer or ALJ's discretion.
- E. An IPV/ADH shall not be requested against an accused adult caretaker(s) or teen parent(s) whose case is currently being referred for prosecution on a civil or criminal action in an appropriate state or federal court.

#### **3.915.4 WAIVER OF ADMINISTRATIVE DISQUALIFICATION HEARING**

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

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

- A. If the adult caretaker(s) or teen parent(s) signs and returns the request for waiver of IPV hearing form within the fifteen (15) day deadline or an individual is found to have committed an intentional program violation through the hearing process, the primary adult caretaker or teen parent shall be provided with a notice of the period of disqualification. The disqualification shall begin the first day of the month following the disqualification determination, allowing for authorization noticing, unless the household in which a disqualified person is living is ineligible for other reasons.
- B. Once the disqualification has been imposed, the period shall run without interruption even if the participant becomes ineligible for the Colorado Child Care Assistance Program.



- C. The penalty shall be in effect for:
  - 1. Twelve (12) months upon the first occasion of any such offense;
  - 2. Twenty-four (24) months upon the second occasion of any such offense and,
  - 3. Permanently upon the third such offense.
- D. The disqualification penalties affect any household to which the adult caretaker(s) or teen parent(s) is a member.
- E. The penalty period shall remain in effect unless and until the finding is reversed by the State Department or a court of appropriate jurisdiction.
- F. A penalty imposed by one county shall be used when determining the appropriate level of disqualification and penalty for that individual in another county.
- G. The disqualification penalties may be in addition to any other penalties which may be imposed by a court of law for the same offenses.

### **3.915.6 NOTIFICATION OF HEARING DECISION**

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

### **3.915.7 REFERRAL TO DISTRICT ATTORNEY**

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

The following actions may be taken:

- A. If the District Attorney prosecutes, the amount of overpayment due will be taken into consideration and may be included in the court decision and order.
- B. Interest may be charged from the month in which the amount of overpayment due was received by the collection entity until the date it is recovered. Interest shall be calculated at the legal rate.

- C. If the District Attorney decides not to prosecute, the amount of overpayment due will continue to be recovered by all legal means. The county retains the option to pursue IPV/ADH or other administrative measures.
- D. A referral is not a violation of the safeguards and restrictions provided by confidentiality rules and regulations.

### **3.915.8 CRIMINAL VERDICT DISQUALIFICATION**

Upon determination of fraudulent acts, adult caretaker(s) or teen parent(s) who have signed the application, ~~client responsibilities agreement~~, or re-determination 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.

### **3.915.9 DISQUALIFICATION PERIOD**

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

### **3.915.91 DISQUALIFICATION PENALTIES**

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

### **3.915.92 HEARING AND DISPUTE RESOLUTION RIGHTS**

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

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

### **3.915.93 CHILD CARE RECOVERY**

When the counties or their designee have determined that an adult caretaker(s) or teen parent(s) has received public assistance for which he or she was not eligible due to an increase in household income, that causes the household's income exceeds eighty-five percent (85%) of the State median income, or a

change in the qualifying eligible activity that was not reported within four weeks of its occurrence; or a child care provider has received child care payments they were not eligible for:

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

**3.915.94 TIMELINESS AND AMOUNT**

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

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

**3.915.95 RECOVERY PROCESS**

- A. When it is determined that an overpayment has occurred, the counties or their designee shall:
  - 1. Document the facts and situation that produced the overpayment and retain this documentation until the overpayment is paid in full or for three years plus the current year, whichever is longer.
  - 2. Determine what benefits the household was eligible for and recover benefits for which the household was found to be ineligible, except in the case of willful misrepresentation or withholding of information.
  - 3. Determine the payments for which the child care provider was not eligible and recover those payments.

4. Initiate timely written notice allowing for the fifteen (15) calendar day noticing period. Such notice shall include a complete explanation, including applicable rules, concerning the overpayment, recovery sought and appeal rights.
5. Take action to recover following the right of appeal and fair hearing process.
6. Pursue all legal remedies available to the county in order to recover the overpayment. Legal remedies include, but are not limited to:
  - a. Judgments;
  - b. Garnishments;
  - c. Claims on estates; and,
  - d. The state income tax refund 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, sent via other electronic systems, or hand-delivered to the taxpayer. In all other respects, the procedures applicable to such hearings shall be those stated elsewhere in Section 3.840 and Section 3.850. At the hearing on the offset (intercept), the counties or their designee, or an Administrative Law Judge (ALJ), shall not consider whether an overpayment has occurred, but may consider the following issues if raised by the taxpayer in his/her request for a hearing whether:
  1. The taxpayer was properly notified of the overpayment,

2. The taxpayer is the person who owes the overpayment,
3. The amount of the overpayment has been paid or is incorrect, or
4. The debt created by the overpayment has been discharged through bankruptcy.