# 10-144 MAINE DEPARTMENT OF HUMAN SERVICES

BUREAU OF INCOME MAINTENANCE

CHAPTER 610: MAINE AT-RISK CHILD CARE PROGRAM RULES

SUMMARY: This chapter describes the authorization, objective, administration and operating procedures for the Maine At-Risk Child Care (MARCC) program for low-income working families who are at risk of becoming recipients of Aid to Families wit Dependent Children (AFDC) because of the inability to afford child care.

Section 1: DEFINITIONS

Families which are “at risk” of becoming recipients of AFDC are those families:

 which have countable income of less than 200% of the Federal Poverty Level, and

 which are not receiving AFDC but would be in danger of becoming AFDC recipients if they lost their child care, and

 which need child care in order to accept or maintain employment.

Section 2: AUTHORIZATION

The Department of Human Services, Bureau of Income Maintenance (BIM) in cooperation with the Department’s Division of Purchased and Support Services (DPSS), is authorized under the Omnibus Budget Reconciliation Act of 1988 (Public Law 101-508) and Section 402(1) of the Social Security Act to operate an At-Risk Child Care Program, and receive state and federal funds in accordance with these laws to operate the program.

Section 3: OBJECTIVE

The objective of the MARCC program is to enable families which are at risk of becoming recipients of Aid to Families with Dependent Children (AFDC) to obtain employment or continue working, by providing a subsidy for child care payment.

Section 4: ADMINISTRATION

As a Title IV-A Agency, the Bureau of Income Maintenance has elected to determine eligibility for MARCC. The Division of Purchased and Support Services, as the agency responsible for administration of Title XX child care and the child care voucher program, as well as being responsible for the funding and coordination of the community based Voucher Management Agencies (VMA’s) operates the program using Title XX slots, or vouchers issued and administered through the VMA’s. BIM and DPSS jointly develop all rules and procedures for MARCC. However, BIM has final approval of such rules and procedures. The provisions of coordination and mutual responsibilities of BIM and DPSS are set forth in a written working agreement which may be updates as necessary.

Section 5: ELIGIBILITY REQUIREMENTS

A. Eligible Child

Children receiving care through the program must be age twelve or younger or older children, under the age of eighteen, physically or mentally incapable of caring for themselves (as certified by a physician or licensed psychologist).

Children must be living with a “specified relative”. A “specified relative” is defined as the father, mother, brother, sister, including half-blood relationships, (anyone of whom may be the legal relative); adoptive father or mother, brother or sister; legal grandfather, grandmother, uncle or aunt or the same relatives of preceding generation as denoted by prefixes of great and great-great, or first cousin, nephew or niece; adoptive grandfather, grandmother, uncle or aunt, provided the child is the natural child of a parent who was adopted; the spouse of any person in the above groups, although the marriage is terminated by death or divorce.

The child must be living with the applicant who is maintaining a home for the child.

B. Residence and Citizenship

Residence: Each individual in the family for whom assistance is being requested must be a resident of the State of Maine. A “resident” of Maine is a person who is living in the state voluntarily with the intention of making a home in Maine and not for a temporary purpose. Children are residents of the State of Maine if they are living in Maine other than on a temporary basis. Residence may not depend on the reason why the individual entered the state, except in so far as it may bear upon whether the individual is in the state voluntarily or for a temporary purpose.

Residence is retained until abandoned. Temporary absence from the state with subsequent returns to the state, or intent to return when the purposes of the absence have been accomplished, does not interrupt continuity of residence.

Citizenship: In order to be eligible for MARCC, an individual must be either (1) a U.S. citizen, or (2) an alien lawfully admitted for permanent residence, or otherwise permanently residing in the U.S. under color of law (e.g. individuals with refugee status under provisions of Sections 203(a)7, 207(c), 208 and 212(d)(5) of the Immigration and Nationality Act).

Each person who is not a U.S. citizen, will need to provide either documents from the Immigration and Naturalization Service or other documents which prove the immigration status. Alien status is subject to verification by the Immigration and Naturalization Service.

Aliens legally admitted on a temporary basis are not eligible for assistance, even if they have authorization to work.

C. Social Security Numbers

As a condition of eligibility, each family member is required to:

 Furnish the agency with a Social Security Account Number

 If an Account Number cannot be furnished (either because a number has not been issued or is not known) to apply to the Social Security Administration for such number, and provide evidence of application. At the time of the six month review, all family members must have Social Security numbers.

D. Financial Eligibility

Income: Individuals eligible for service must meet the income guidelines in Appendix I. “Financial Eligibility” is determined by gross family income. “Family” is defined as a group of related or non-related individuals, who are not resident of an institution or boarding house, but who are living as one economic unit. An “economic unit” consists of all individuals who share a dwelling unit, pool income and share expenses in common. “Income” is defined as receipt of money and/or goods and services. “Gross family income” is the sum of all money received on a recurring basis by all “family” members before such deductions as income taxes, social security taxes, insurance premiums, bonds, union dues and similar expenses.

The following types of income are not included in determining gross family income:

a. Food produced in home farming for consumption by the family.

b. Relocation assistance or allowances received under the federal Aid Highway Act of 1968 or under the Housing Act of 1968. Also excluded are any payments received under Title 11 of the Uniform Relocation Assistance and Real Property Acquisition Policies Act of 1970.

c. Payments of Experimental Housing Allowance Program made under Annual Contribution Contracts entered into prior to January 1, 1975, under Section 23 of the U.S. Housing Act of 1937, as amended.

d. HUD community development block grant funds received to finance the rehabilitation of the relative’s privately owned residence. Individuals receiving a grant are precluded by HUD regulations from using grant monies for purposes other than major property repairs or capital improvements. Payment is made by check made payable either directly to the contractor or jointly to the contractor and property owner.

e. Allowance, balance of need payment, compensation in lieu of wages or wages paid to children who are students and who are under the age of eighteen. Students include those in this age category who are enrolled in Job Training Partnership Act (JTPA) programs and the Job Corps.

f. Certain income of Native Americans:

 Any payments distributed per capita to or held in trust for members of any Indian tribe under Public Laws 92-524, 93-134, 94-540, 97-458, or 98-64.

 Receipts distributed to members of certain Indian tribes which are referred to in Section 5 of Public Law 94-114 that became effective October 17, 1975.

 Receipts distributed to members of certain Indian tribes which are referred to in Public Law 98-123 and 98-124 that became effective October 13, 1983.

 Any income or resources accruing to members of the Passamaquoddy Tribe, the Penobscot Nation and the Houlton Band of Maliseet Indians pursuant to Public Law 96-420, the Maine Indian Claims Settlement Act of 1980.

 The tax-exempt portions of payments made pursuant to Public Law 93-203, the Alaska Native Claims Settlement Act.

g. Any payment for supportive services or reimbursement of out-of-pocket expenses made to individual volunteers, serving as foster grandparents, senior health aids, 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 Titles 11 and 111 pursuant to Section 418 of the Domestic Volunteer Services Act of 1973 (Public Law 93-113).

h. Any payment made to volunteers under Title 1 (such as VISTA) of Public Law 93-113 pursuant to Section 404(g) of that law. This exclusion will not be applied when the value of such payment, divided by the number of hours the volunteers are serving, is equal to or greater than the current minimum wage (Public Law 96-143).

I. The value of supplemental food assistance received under the Child Nutrition Act of 1966, as amended, and the special food services program for children under the National School Lunch Act, as amended (Public Law 92-422 and Public Law 93-150).

j. Any benefits received under Title VII, Nutrition Program for the Elderly of the Older Americans Act of 1965, as amended.

k. The value of USDA Food Stamps and/or Donated Commodities.

l. Supplemental assistance including general assistance, provided by public or private agencies to help recipients and applicants meet emergency situations.

m. All education scholarships, grants and other awards from any source to the extent that the money is needed for education and the money is not used for non-education expenses. Not exempt are portions of grants, scholarships, or awards which are specified for child care of children covered under the MARCC program.

n. Payments received from the Department of Human Services or other agencies on behalf of children who are not related to other members of the family, are not receiving services through the MARCC program and who are living in foster homes licensed or approved by the Department.

o. Benefits paid to eligible households under the Home Energy Assistance Act of 1980, Title III of Public Law 96-223, as well as any other payment made under Federal Law for the purpose of providing energy assistance.

p. Any personal loan from any source providing there is clear evidence of an agreement to repay the money. Evidence of a bona fide loan includes, but is not limited to, the following examples:

 a written agreement to repay the money with a specified time; or

 evidence that the loan was obtained from an individual or establishment engaged in the business of making loans.

q. Reimbursements for work related expenses such as travel, uniforms, and such to the extent they do not represent a gain or exceed actual expenses.

r. Payments made from the Agency Orange Settlement Fund or any other fund established pursuant to the settlement in the Agent Orange product liability litigation.

s. Earned income tax credits received as a result of Public Law 95-600.

E. Income Averaging

The steps below are followed to determine the best estimate of income:

 Verify non-fluctuating income received within a minimum time frame of four weeks (usually four consecutive weeks) immediately preceding the application. All earned and unearned income received within this four week period MUST be verified even if all four weeks’ income is not ultimately used to calculate the best estimate.

 Determine, through a careful examination of the income verification and discussion with the individual, if there have been any significant income changes during that period. If there have been, and the change is of a continuous nature, the changes must be taken into consideration when determining the best estimate. For example, if an individual has received an increase in hourly rate, the new hourly rate must be by the appropriate number of hours (either stable or averaged) to determine the anticipated income.

 Determine if any significant income changes are expected in the future. If income changes are expected, and the exact nature of the significant income change is known, use that information in determining the best estimate of income, or schedule a review of eligibility to coincide with the expected change, in order to calculate a new estimate at that time. If the exact nature of the anticipated change is not known, a recall or full review can be scheduled to coincide with the expected date or the individual advised to report the change within ten days.

 Determine, through careful review of the verification and discussion with the individual if any of the income received is not expected to be representative of the future. Non-representative income (or lack of income) is not used in calculating the best estimate. The case record must be clearly documented to explain why any income was not used, and to show how the best estimate was figured.

 If income fluctuates (i.e., is not exactly the same each time received or is not received on a regular schedule) to the extend that a four week period is not expected to provide the best estimate of income for the future period, request and use information covering a longer period of time. If the income is from self-employment, use the most recent tax year’s gross profit (see averaging of self-employment income techniques used below). Similarly, if income fluctuates seasonally, it may be more appropriate to use the most recent season comparable to the upcoming eligibility period as a basis for determining the best estimate, taking into account any significant income changes since then, such as a change in the rate of pay.

 As a final step, average the income that has been determined to be representative. If there were significant income changes, averaging is used only for the period of time not affected by the significant change - e.g., if the rate of pay increased, only hours worked are averaged. The average hours multiplied by the increased rate of pay is then used to determine eligibility and fee for the eligibility period.

**NOTE:** If income is extremely stable, (i.e., does not vary either in amount or frequency of receipt), it is not necessary to average the income, but simply enter it as received.

 Weekly income is converted to a monthly figure using 4.3. If income is received bi-weekly, it is converted to monthly using 2.15. Income received monthly or twice monthly does not need to be converted by using a fraction.

**NOTE:** Whenever less than a full month’s income is anticipated the actual monthly income will be used.

EXAMPLES:

The month of application, the individual has two weeks of pay and no more expected. Benefits for the month of application will be figured separately using the total of the two week’s income to compute the monthly benefit. Benefits for future months will be determined as appropriate.

In an ongoing case, anticipated average weekly income of $200 a week ($200 x 4.3 = $680) has been established for the eligibility period. The individual reports that next month only he/she will be losing one week’s pay. Next month’s benefits should be determined anticipating actual pay to expected be received. If this is not possible to predict, subtract one average weekly amount from the number of pay days.

F. Averaging of self-employment Income

In arriving at an average for self-employed individuals, first determine the most recent gross yearly income from the business enterprise and then subtract any costs of producing that income. This figure is known as “profit” and after dividing this figure by 12, it is used as a monthly average throughout the scheduled eligibility period unless a significant change is anticipated. In this case the best estimate should take this change into consideration. If the individual has only recently become self-employed, determine the best estimate using available business records, recalling the case monthly to test the estimate using succeeding month’s business records until the situation become appropriately stable.

Examples of costs of production of income are the cost of labor, stock, raw material, rent, items such as interest. The following will not be considered costs of the production of income.

a. Payments on the principal of real estate mortgages.

b. Amounts claims as new loss sustained in any prior period.

c. Income and self-employment tax payments.

d. The cost of producing income by providing “room and board” will be $190 per month per roomer/boarder; “room” only will be $85 per month per roomer; “board” only will be set at $105 per month per boarder. If tax records support a higher amount, that amount is to be used.

e. If any family member is engaged in self-employment, the gross income is the gross income from the self-employment enterprise minus IRS deductible operating expenses from the business.

f. All other income is used in determining the gross income of the family.

g. In-kind contributions or vendor payments made on behalf of the household directly to a third party, such as a bank.

h. Income received under the Radiation Exposure Compensation Act for injuries or death resulting from radiation.

G. Seasonal Income

Seasonal income, which is intended to cover living expenses for the entire year, should be averaged over the one-year period.

SECTION 6: THE APPLICATION PROCESS AND ELIGIBILITY DETERMINATION

Funds from this program are limited. Every effort will be made to provide payments for all eligible persons who apply. Anticipate costs will be monitored, however, and, once funds are encumbered, future eligible applicants will be place on waiting lists. As funds become available, individuals will be served from the waiting list based on date of application. Persons already being served in the program will continue to receive services until they become ineligible as long as funds for the program are available. In situations in which funding is limited, individuals will be offered time limited vouchers or slots.

Applications for the MARCC Program are available at Voucher Management Agencies. Al applications will be processed for eligibility by a MARCC worker located in Augusta. This will be done electronically. It will not be necessary for MARCC program applicants or participants to appear at a DHS office for application or review.

Eligibility will be determined for up to a six-month period. At the end of the six-month period, continued eligibility will be reviewed. Eligibility will be determined from the date that all eligibility factors are met, and there is a provider agreement in force.

Factors that would shorten the six month eligibility period include anticipated changes in income, the age of the child covered under the MARCC Program, working hours, or an inability to project income with any confidence (due to the length of time employed or other factors), or changes in family composition.

If a formerly employed family member becomes employed, the family may continue to participate in the MARCC Program for a maximum of eight weeks at twenty hours per week as long as the family member is actively looking for work. A family member not already on the MARCC program, who is hired and accepts employment, may receive MARCC benefits for two weeks prior to the date of hire. Only part time vouchers or slots will be issued to persons either between jobs or accepting jobs.

All family income as well as questionable information must be verified. (An example of “questionable information” would be an instance where two parties (or families) are applying for the same child.) It is the responsibility of the applicant or individual to verify all requested information. It is the responsibility of the MARCC to assist the family to obtain any necessary information.

Any change of income by $10.00 (ten dollars) per week or more must be reported to the MARCC within ten days of its occurrence. For reporting purposes, the date of occurrence is the date the changed income is received. The MARCC must redetermine eligibility.

In cases where the intended action is to discontinue or reduce assistance, timely and adequate notice shall be given to the family.

“Timely” means that the notice shall be mailed 12 days before the intended change would be effective.

“Adequate” means a written notice which includes a statement of:

 the action the Department intends to take,

 the reason for the intended action,

 the regulations supporting such action,

 an explanation of the rights to request a Fair Hearing, and

 a statement explaining that if a hearing is requested within the 10 day notice period, the intended action will not become effective until after a hearing decision is rendered but that if the agency decision is upheld, the individual is liable for repayment of overpayment.

The only instances when the timely notice guarantee is dispensed with are as follows:

 Factual information is received confirming the death of the applicant, child or child care provider.

 A written statement signed by the individual that assistance is no longer needed is received and filed in the case record.

 The child is not longer in the home.

 The individual’s whereabouts are unknown and mail from the Department or Resource Development Centers mail directed to the individual has been returned indicating “no known forwarding address”.

SECTION 7: FAIR HEARINGS

Federal and State law assures that any individual, or anyone acting responsibly in the individual’s behalf, who believes that proper consideration has not been given to all circumstances surrounding the request for assistance under the MARCC Program may request a fair hearing.

Written notification of the right of the individual to a fair hearing is printed on applications, fee assessments and all routing forms of notification of action to the family. The MARCC worker who rendered the contested decision will participate in the fair hearing as a representative of the agency. All participant’s witnesses will testify under oath.

In every written notification, at the time of application and at any time of agency action on eligibility the notice will inform the individual:

 of the right to a fair hearing,

 of the method by which a hearing may be obtained, and

 that the individual may be represented by legal counsel or a relative, friend or other spokesman or may represent himself. (Although entitled to legal counsel, the agency cannot pay for such services.)

Any party may subpoena witnesses and evidence through a request through the hearing officer who will have the subpoena issued through the Assistant Attorney General. The Department will bar any expense of issuance and costs of reimbursement to witnesses.

The Department may respond to a series of individual requests for fair hearings by conducting a single group hearing. It will only consolidate cases in which the sole issue involved is one of federal or state law or Department policy. If individuals request a group hearing on such an issue, the agency will grant it. In all group hearings, whether initiated by the agency or by the claimants, the policies governing fair hearings will be followed. Thus, each individual claimant will be permitted to present the individual’s own case and be represented by a lawyer. If, at any time, an individual scheduled for a group hearing desires to withdraw and have an individual hearing, such will be arranged.

Any request for a fair hearing must be received by the agency within thirty days of the date of notice unless the Department wishes to grant an extension of time when:

 the individual has registered a previous complaint about the same action, or

 the claimant requests a delay in order to prepare the case or for other essential reasons.

If the request for the hearing is made within ten days of the date of notice, benefits will continue pending the hearing decision.

A request for a hearing will be acknowledged in writing by the Department within five days of its receipt by the naming of a date, time and place for the hearing which will take into consideration the convenience of the individual. The individual will be notified with adequate preliminary information about the hearing procedure necessary for effective preparation of the case at least ten days notice prior to the hearing. The individual will be assisted with travel arrangements to the hearing insofar as possible. The Department will not pay costs of travel.

At the same time notice is sent to the claimant, a copy of the hearing request and acknowledgment letter will be forwarded to the MARCC Program worker. The MARCC worker will make a report of the circumstances prior to the hearing and submit a report to the hearing officer if so instructed.

The individual or representative will have the opportunity:

 to examine the individual’s case file and all documents and records to be used at the hearing at a reasonable time prior to the hearing, or at the hearing itself, and, upon request, to receive copies free of charge or relevant documents and records.

 at the individual’s option, to present the case alone or with the aid of others including legal counsel;

 to bring witnesses;

 to establish all pertinent facts and circumstances;

 to advance any arguments without undue interference;

 to question or refute any testimony or evidence including opportunity to confront and cross examine adverse witnesses.

Non-record or confidential information which the claimant does not have an opportunity to hear or see is not made a part of the hearing record or used in a decision on the appeal. The hearing officer does not review the case record or other material prior to the hearing unless such material is made available to the claimant or the representative.

Prompt, definitive and final administration will be taken no later than 60 days from the date of the initial request for the fair hearing except where the individual requests a delay in the hearing.

SECTION 8: NOTICE TO CLIENT AND RIGHT TO JUDICIAL REVIEW

Decisions by the hearing officer, rendered in the name of the Department, shall specify the reason for the decision and identify the supporting evidence. They shall be binding on the Department. No person who participated in the decision being appealed will participate in the final administrative decision on such case. The Department assures that the decision is carried out promptly. The original copy of the decision will be filed in the state office fair hearing officer folder and copy in the MARCC Program case folder.

Within five days of the decision by the hearing officer the copy of the decision, its basis and the individual’s rights to judicial review under Maine Rules of civil Procedures, Rule 80B, if dissatisfied, will be mailed to the individual. THE notice will also advise the individual that if the individual wishes to take advantage of this right, a petition for review must be filed with the Superior Court within thirty days of the receipt of the fair hearing decision.

SECTION 9: PAYMENT FOR SERVICES

All payment for child care services will be made by vouchers or payment for slots to the child care provider. In order to qualify for payment, the provider must be licensed or registered by the Department of Human Services. Providers caring for relatives only, need not meet this requirement. Payment will not be made to providers living in the same home as the child receiving care.

Payments will be sent to the child care provider within ten working days of receipt of the voucher or by the Voucher Management Agency.

Payments for services are limited to the market rate or actual cost (whichever is less) for the age of the child, geographic area of the provider, and type of facility. The payment schedule is shown in Appendix III. Each family must contribute to the cost of the child care. The amount of the contribution is dependent on gross family income. The family fee and a description of the determination of the fee amount is shown on Appendix II.

All intentional overpayments will be referred to the Special Investigation and Recovery Unit for recovery and possible prosecution.

EFFECTIVE DATE: July 25, 1992

EFFECTIVE DATE (ELECTRONIC CONVERSION): May 5, 1996

APAO WORD VERSION CONVERSION (IF NEEDED) AND ACCESSIBILITY CHECK: July 16, 2025

Note: The following appendices are not yet available in machine readable form; please contact the Bureau for a paper copy.

APPENDIX I: MAXIMUM GROSS INCOME CHART @ 200% OF POVERTY GUIDELINES

APPENDIX II: FEE ASSESSMENT CRITERIA

APPENDIX III: LOCAL MARKET RATE