# **10 DEPARTMENT OF HEALTH AND HUMAN SERVICES**

**148 OFFICE OF CHILD AND FAMILY SERVICES**

**Chapter 5: PURCHASE OF SERVICE POLICY MANUAL**

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**SECTION I. INTRODUCTION**

 **A.** The Department of Health and Human Services is designated by the Governor of the State of Maine as the state agency with primary responsibilities for the planning and administration of the Title XX Social Services Block Grant. The Office of Child and Family Services within the Department is statutorily assigned responsibility for this program.

 Chapter 1473, Title 22 of the Maine Revised Statutes, Sections 5308 through 5310 designates responsibilities to the Office for federal and state funded social services, except those specified for the elderly. This statute includes a mandate that the Office..."prepare, adopt, and administer policies, priorities, procedures, rules, and regulations to govern its affairs and the development and operation of programs and activities and to define contractual terms, conditions of agreements, quality of performance standards and such other rules as are necessary".

 In the conduct of its mandate, the Office of Child and Family Services has developed a service delivery system through which a wide range of social serviced are provided by Department of Health and Human Services regional direct service staff and through a variety of community-based social service agencies. The social services delivered by Departmental regional office staff are regulated by state personnel and program-specific laws and policies. Services purchased from community agencies are governed by the policies contained in this manual, and any subsequent policies and directives issued by the Office of Child and Family Services.

 **B. PURPOSE OF MANUAL**

 Under Title XX of the Social Security Act enacted in 1975, State administration of the Title XX program was regulated through Chapter 45, Part 228 of the Code of Federal Regulations. Passage of the 1981 Omnibus Budget Reconciliation Act, which created the Title XX Social Services Block Grant, repealed these regulations and replaced them with Chapter 45, Parts 16 and 96 of the Code of Federal Regulations. The new federal regulations contain few specific standards of conduct to be used in the administration of Block Grant funds.

 The Maine Department of Health and Human Services chose to retain the standards from the original Title XX program until such time as a thorough analysis of the applicability of the standards was completed, and State policies established to replace them. The guiding principle in the analysis and subsequent policy development was to assure that sound, reasonable management practices are used in the execution of the Department's administrative responsibilities.

 The Office of Child and Family Services has developed the policies in this manual to ensure reasonable standards of conduct in the purchase and administration of services supported by federal and state funds under its jurisdiction.

 The policies contained herein will govern all contracts, administrative support and/or service-related grants for the purchase of service from community agencies pursuant to federal and state statutes including the Title XX Social Service Block Grant. All policies contained herein apply to all Office of Child and Family Services contracts, administrative support and/or service-related grants, unless otherwise specifically-noted. A companion Purchase of Service Procedures Manual, developed through work with provider organization representatives, will govern the processes and methods used to operational these policies.

 **C. STRUCTURE OF THE MANUAL**

 The format of this manual is designed to conform with the State of Maine Administrative Procedure Act, 5 MRSA, §8001-11008, as amended. Each distinct part of this manual will be found under a "Section", further broken into "Subsections" and "page” under the APA referencing procedure. All future substantive policy changes or revisions will be issued only after a formal policy notice, in accord with the requirements of the Administrative Procedure Act.

 MANUAL UPDATE STANDARDS:

 1. Formal revisions to this manual shall be transmitted from the Director of the Office of Child and Family Services to the Directors of provider organizations and other manual holders.

 2. A cover memorandum explaining the revisions and detailed instructions, and the effective date of the revision shall be attached to each transmittal, and shall be numbered, dated, and in chronological order for future reference.

 3. Revisions of the manual shall be published as often as necessary and clustered in groupings as applicable at periodic release times.

 4. The issue date in the upper right hand corner of the pages shall not reflect the effective date of the policy change in all instances.

**II. CONTRACT DEVELOPMENT**

 **A. REFERRAL FOR SERVICES**

 1. PURPOSE:

 The Department of Health and Human Services is aware that there are more individuals in need of social services than there are resources to serve them. To ensure that individuals determined to be in need have access to service within the limitation of available funds, the Department identifies priority target groups for federal and state funded services. Individuals served by Department regional social service units and other agencies designated by the Department as its representatives in the community are afforded the highest priority for social services purchased with Office of Child and Family Services funds.

 2. STANDARDS OF CONDUCT:

 a. The Office of Child and Family Services shall stipulate in purchase of service contract agreements the amounts of services to be delivered to each category of Department or Area Agency on Aging referred priority clients.

 b. The Office of Child and Family Services shall consider Department or Area Agency on Aging individuals as priority clients for purchased services when one or more of the following occurs:

 i. It is determined during the course of the case study that a purchased service is an integral part of a case plan to remove or prevent circumstances of abuse or neglect of children, or to remove or prevent danger to an incapacitated or dependent adult.

 ii. It is determined as a result of the case study and is part of the case plan that one or more particular service(s) is/are an integral part of a case plan:

 a. To remedy abuse and neglect to children, or danger to an incapacitated or dependent adult;

 b. For the parents to be rehabilitated and the children to be reunited with their families;

 c. To prevent neglect and abuse from recurring in a family previously open for protective intervention or to prevent danger recurring to an incapacitated or dependent adult;

 d. Necessary to accomplish the objective for the child and/or his family or adult;

 e. Necessary to accomplish the objective for an active Family Services participant.

 f. Necessary to prevent institutionalization of an elderly person; or

 g. Necessary to accomplish the objective for an active WEET participant.

 c. Provider organizations shall be required to give priority for those services which are:

 1. Integral to accomplishing the objective for the child and/or his/her family;

 2. Integral to meeting life, health and safety needs of the child and/or his family, or an adult, or an elderly person; or

 3. Integral to the attainment or maintenance of employment of a WEET participant.

 d. Priority for services for Department and Area Agency on Aging referred individuals shall be limited to those services consistent with those identified on the formal DHHS referral form, after assessment, consultation and agreement.

 e. Department regional social services staff and Area Agency on Aging Case Managers shall complete and transmit to provider organizations formal referral forms on all priority clients in the manner prescribed in the Purchase of Service Procedures Manual.

 f. Provider organizations shall consider Department or Area Agency on Aging referred individuals as priority clients only when a formal written referral is received.

 g. The assigned Human Services caseworker or Area Agency on Aging manager is responsible for the case management of child protective, substitute care, adult protective, adult guardianship/conservatorship, Family Services, WEET cases and elderly at risk clients.

 h. The Human Services caseworker or Area Agency on Aging manager and provider agency staff shall meet at agreed upon intervals to discuss future need for purchased services. Results shall be confirmed in writing by the Department of Health and Human Services worker, or Area Agency on Aging case manager, filed in the client's record, and a copy sent to provider(s) for that agency's client record.

 i. Provider organizations shall have the right to deny service to priority clients when:

 i. Circumstances in the case would constitute a danger to the provider organization's staff or other clients;

 ii. The services requested are not within the provider organization's service description.

 iii. The client or the client's guardian refuses the service.

 iv. The services for which the Department contracted are depleted.

 j. Provider organizations shall have the right to terminate service to priority clients when:

 i. The provider organization has not received a formal DHHS referral form within ten (10) working days of the initial referral after contacting the appropriate DHHS or Area Agency on Aging supervisor indicating non-receipt of an appropriate referral.

 ii. Circumstances arise in the case which constitute a danger to the provider organization's staff or other clients.

 iii. Referring staff informs the provider organization that either the client is no longer eligible for priority service or the client is no longer in need of the service.

 k. Referring staff shall review all cases at least every six months to determine eligibility in priority status and need for service, and shall notify the appropriate provider organizations in writing of the case status.

 l. Provider agencies shall be notified by Area Agency on Aging Case Managers when the following occur:

 i. Immediately, upon determination that a client is eligible for services through an alternative fee -for-service arrangement that precludes continued payment for services with Office funds.

 ii. When it has been determined that the client is no longer at serious risk of institutionalization, the Case Manager shall close the case in accordance with Department policy and notify the agency ten (10) calendar days in advance of closing.

 iii. When the client is being institutionalized, the Case Manager shall close the case in accordance with Department policy and notify the provider agency ten (10) calendar days in advance of closing.

 m. If, in the judgment of the Department of Health and Human Services worker, the WEET participant would not be subjected to loss of employment or training by discontinuation of service, the worker shall close the case in accordance with Department policy, and notify the agency 10 calendar days in advance of closing.

 n. Upon notification by the Department or Area Agency on Aging that a case is to be closed, the provider organization shall initiate the procedures for closing the case from referred status as outlined in the Purchase of Service Procedures Manual.

 o. When the Department caseworker determines that continuation of purchased services in a priority status is no longer necessary to stabilize the family or adult's situation, the caseworker shall notify the provider of the client's loss of priority status with 10 calendar days of the determination.

 p. When the Department caseworker determines that continuation of purchased services in a priority status is necessary to stabilize the family or adult's situation, the caseworker shall notify the provider(s) of closure as a protective case, with an accompanying referral form indicating the need for continued service(s) in post-protective status.

 q. Purchased services may be delivered under post-protective status without regard to income for up to three (3) months.

 **B. CLIENT FEES FOR SERVICES**

 1. PURPOSE:

 The Department of Health and Human Services is committed to utilizing its resources to make social services available to those in the greatest economic and social need. At the same time, the Department is aware of the increasing costs of delivering services, and the subsequent reduction in available services.

 2. STANDARDS OF CONDUCT:

 a. The assessment of fees to clients receiving Office of Child and Family Services funded services shall be approved and authorized by the Office prior to the start-up of the contract.

 b. All fees assessed to clients receiving Office funded services shall be in the amount authorized by the Office prior to the start-up of a contract.

 c. Fees for Office funded services shall not exceed the actual cost of delivering the service.

 d. The Office of Child and Family Services shall determine the criteria to be used in determining the assessment of fees.

 e. All fee schedules shall not be less than the Office of Child and Family Services' current approved client fee schedule.

 f. The provider organization shall retain copies of all fee computation forms in client files.

 g. The client or another party acting on behalf of the client shall pay the assessed fee for service directly to the provider organization on pre-determined due dates.

 h. The provider organization shall issue a receipt upon payment of an assessed fee and retain copies of all receipts in agency files.

 i. The provider organization shall keep fiscal records on all fee transactions and on the use of the funds collected.

 j. One hundred percent (100%) of all fees collected shall be retained by the provider organization and reported as available program income.

 k. Provider organizations shall use the Office of Child and Family Services fees collected to maintain or expand the same or related services to Office of Child and Family Services eligible clients.

 l. The unauthorized assessment of fees by a provider organization to Office of Child and Family Services clients shall constitute a breach of contract, enabling the Department to terminate the contract.

 m. The Office of Child and Family Services shall allow provider organizations to waive or reduce Office authorized fees in individual cases when the following conditions exist:

 i. The provider organization's Board of Directors has established a written fee waiver and reduction policy which is pre-approved by the Office;

 ii. The client has requested the waiver or reduction, and it is in compliance with the provider organization's written policy or it is in the best interest of the client to receive service even when they or another party acting on their behalf has refused to pay; and

 iii. A time limit for each waiver or reduction has been established, with a review at least every six months.

 n. The Office of Child and Family Services shall approve provider organizations fee waiver and reduction policies only if all of the following are included in the policy:

 i. Designation of the provider organization official(s) with authority to grant waivers or reductions;

 ii. The criteria to be used to determine eligibility for reductions or waivers, to include: (1) emergency or catastrophic circumstances; (2) best interest of the client; (3) absence from the program;(4) open Department of Health and Human Services protective cases; (5) open Department of Health and Human Services substitute care and adult guardianship cases;

 iii. An internal client appeals process; and

 iv. Procedures for implementing the Office of Child and Family Services' late payment and collection policy (see Standard #16 in this section).

 o. Provider organizations shall retain documentation of all waivers and reductions in clients' case records.

 p. Provider organizations shall terminate service to Office of Child and Family Services funded individuals for non-payment of authorized fees only when all the following occur:

 i. The assessed fee is not paid within five (5) service days of the due date and the client is given written notification that payment is past due and if payment is not received within an additional five (5) service days official termination procedures shall be initialed;

 ii. The assessed fee is not paid within ten (10) service days of the due date, and the client is given written notice that service will be terminated within ten (10) calendar days if payment is not received; and

 iii. The client does not request an informal or fair hearing within ten (10) calendar days of the Notification of Termination.

 q. Not withstanding the provisions of #16 above, the Provider organization may not terminate services to Department referred priority clients, Child Protective or Substitute Care, Adult Protective or Guardianship, for inability or unwillingness to pay the Office of Child and Family Services assessed fee.

 r. Office of Child and Family Services' authorization to institute or terminate fees during a contract period shall require an amendment to the contract(s).

 s. Office of Child and Family Services funds transferred to another state agency to administer shall be governed by the other state agency's fee for service policies, unless otherwise stipulated in the transfer of funds agreement between the Office and the other state agency.

**SECTION III: CONTRACT ADMINISTRATION**

**A. GENERAL ADMINISTRATIVE POLICIES**

 1. PURPOSE:

 The Department of Health and Human Services is responsible for implementing and administering numerous broad-based federal and state programs. In this capacity, the Department must determine the parameters within which these programs will be operated and managed.

**B. HEARINGS ON PURCHASED SERVICES**

 1. PURPOSE:

 It is the policy of the Department of Health and Human Services that any person who is denied service or has services reduced or terminated by a provider organization under contract with the Department has the right to a state agency hearing. The Commissioner has delegated to the Administrative Hearings Unit the responsibility to conduct state agency hearings regarding purchased services. The state agency hearing shall be conducted in accordance with the current Administrative Procedure Act promulgated rules for state agency hearings.

 2. STANDARDS OF CONDUCT

 a. Action on Requests for Service:

 i. Provider organizations shall give written notice within 30 calendar days of request for service to all persons who are denied services under a Office Child and Family Services contract or grant, using a Office prescribed form, or a form approved by the Office.

 ii. In all instances, notices of denial of service shall contain the client's state agency hearing rights.

 iii. The following actions shall not be subject to a provider agency conference or a state agency hearing on denial of service:

 a. The service(s) requested are not within the provider organization's contracted service or program description;

 b. Department contracted funds are depleted, or the total contracted amounts of service have been delivered;

 c. The provider organization is providing service at its maximum capacity;

 d. The request for service originates from a person who is not authorized or appointed to act on behalf of a client;

 e. The applicant does not meet the contracted eligibility criteria for the service(s) requested.

 iv. If a request for services is denied, the person denied may submit another request at any time that a change in circumstances occurs.

 v. Provider organizations shall retain copies of all notices of denial issued.

 b. Action to Terminate or Reduce Services:

 i. In cases of proposed action to discontinue, terminate, suspend, or reduce services, the provider organization shall give written notice to the client(s) at least 15 calendar days prior to the effective date of the action.

 ii. The written notice to discontinue, terminate, suspend or reduce services shall contain the following:

 a. The date of the intended action;

 b. The action the agency is proposing to take;

 c. The reason(s) for the proposed action;

 d. Reference to the specific rules or regulations supporting such action;

 e. Explanation of the individual's right to request a conference with the provider and/or a state agency hearing; and

 f. The time frame within which the conference and/or hearing request must be submitted in order for services to continue.

 iii. The following actions to discontinue, terminate, suspend or reduce services shall not be subject to a provider agency conference or state agency hearing:

 a. Reduction, change or termination of service(s) resulting from state program changes which have been implemented through a rulemaking procedure, in accordance with the Administrative Procedure Act;

 b. Reduction or termination of service resulting from a change in an annual or other services plan of the Social Services Block Grant program or other state program or policy when those decisions have provided for adequate public notice;

 c. A provider organization has given adequate notice to all clients that service(s) are to be terminated at the end of a specified period due to discontinuance of the program, lack of funding, etc.;

 d. Documented circumstances in the case which would constitute a danger to the provider organization's staff or other clients;

 e. A change in the method of service delivery when the identified need is one which can be met in one of several alternative methods.

 iv. Provider organizations shall retain all notices to discontinue terminate, suspend or reduce services in the clients' files.

 c. Provider Agency Conferences:

 i. A written request for a conference with the provider organization must be received by the provider within 10 calendar days of the individual's receipt of the agency decision. Unless otherwise established, it shall be presumed that receipt occurred on the third day after mailing by the provider.

 ii. When a request for a conference is received, the provider organization's director or delegated agency official shall notify the client in writing of the date, time, and place of the conference within 10 days of receipt.

 iii. If the written request for a conference is received by the provider within the time frame prescribed in #1 above, services shall be continued -throughout the agency conference process.

 iv. At the conference, the client may present any evidence or information which he/she believes may affect his/her eligibility for, or the amount or type of services requested.

 v. The client may ask any questions that he/she has regarding the provider's decision on services.

 vi. The provider organization shall issue written notification of its decision within ten (10) calendar days of the conference.

 vii. If the client is not satisfied with the provider decision, he/she may request a Departmental hearing.

 d. State Agency Hearing:

 i. Written client requests for state agency hearings shall be accepted by the Department for 30 calendar days from the initial notice of the action.

 ii. Services shall be continued throughout the entire hearing process when the written requests for a provider agency conference and a state agency hearing are received within ten (10) calendar days of the individual's receipt of notification.

 iii. When a state agency hearing request is received within the time frame stated in #2 above, the Office shall notify the provider immediately of their responsibility to continue service until the state agency hearing decision is rendered.

 iv. Within ten (10) calendar days of receipt of a valid request for a hearing, the client and provider organization shall be notified in writing of the date, time, and place of the hearing, and given information on the hearing process and procedures. In no instance will a hearing be scheduled earlier than ten (10) calendar days from notice.

 v. The Department shall dismiss requests for state agency hearings when:

 a. The request is not received within the specified time period;

 b.. The request is withdrawn by the client or his/her representatives;

 c. The client or his/her representative fail to appear at the scheduled hearing without good cause, as determined by the hearing officer.

 vi. If a client and/or provider organization desires legal or other representation at a hearing, they shall be responsible for any legal or other costs of representation incurred, unless otherwise approved by the Office

 vii. The state agency hearing shall be conducted in accordance with the current Administrative Procedure Act promulgated rules for state agency hearings.

 e. Judicial Review

 Further review of any action taken under this section shall be subject to the Maine Rules of Civil Procedure, 8OC.

**SECTION IV: SERVICE AREA POLICIES**

**A. INTRODUCTION**

 1. PURPOSE:

 The Office of Child and Family Services is committed to maintaining professionalism and consistency in the conduct of purchasing services from community agencies. The Office also is committed to purchasing services from agencies which meet or exceed specific standards of quality in the delivery of services.

 2. STANDARDS OF CONDUCT:

 a. The Office of Child and Family Services shall enter into a contractual agreement with a provider organization on the condition that:

 i. All applicable service area policies and standards are met;

 ii. The provider organization agrees to deliver the service(s) to be purchased in accordance with the Office's definitions of service(s), as explained in the Purchase of Service Procedures Manual.

 iii. All applicable policies in Sections II, III, IV and V of this manual are met.

 b. The Office of Child and Family Services shall determine the standards of quality to be applied to each service it purchases.

 c. The Office of Child and Family Services shall determine the individual services to be included in a Service Area.

**B. DAY CARE SERVICES**

 1. PURPOSE:

 Day Care service is made available to families in order to provide parents away from home some period of the day due to involvement in training, employment or other work related activities, with an alternative child care arrangement. Day Care services also are provided to families in order to give children social and intellectual developmental experiences that are either compensatory in nature, making up for a lack of such experiences in a child's environment; or supplementary, providing increased activities and opportunities to build upon what the child has attained in his/her own home.

 2. STANDARDS OF CONDUCT:

 a. The Office of Child and Family Services shall purchase day care services only from provider organizations which hold a valid State license when such is required by State law for the provision of such services.

 b. Office of Child and Family Services' funded day care services shall be subject to the Fee for Service policy.

 c. Full-time day care services provided to children shall consist of 30 or more enrollment hours per week.

 d. Part-time day care services provided to children shall consist of 20 to 29 enrollment hours per week.

 e. After school/part time day care services provided to children shall consist of 19 or less enrollment hours per week.

 f. The Office of Child and Family Services shall purchase day care services on an enrollment basis, unless otherwise stipulated in the contract.

 g. Day Care provider organizations shall maintain actual attendance records on all Office of Child and Family Services' funded clients, as prescribed in the Purchase of Service Procedures Manual.

 i. The minimally acceptable level of attendance shall be 60 percent of the number of regularly scheduled hours for which a child is enrolled on a weekly basis.

 ii. The provider organization shall be allowed to claim payment of Office of Child and Family Services funds only for any child who is in attendance for the minimum of 60 percent of regularly scheduled/enrolled hours.

 h. Day Care provider organizations shall initiate termination of services to Office of Child and Family Services' funded clients after two (2) consecutive weeks of unexcused absence as follows: (Absence is defined as not being in attendance for at least 60 percent of the regularly scheduled time.)

 i. Notification of termination of services shall be sent to clients who fall to return within three (3) working days following two (2) consecutive weeks of unexcused absence.

 ii. The Day Care provider organization shall be allowed to bill for and report units of service only up to and including the day the notification of termination of services is sent to the client.

 iii. The Day Care provider organization shall notify appropriate Department worker when a Department referred client has had an unexcused absence of one (1) week. If a Department referred client falls to return within three (3) working days following two (2) consecutive weeks of unexcused absence, the Day Care provider organization shall send the notification of termination of services to the Department's worker as well as the parent(s) of the child.

 i. Day Care provider organizations shall allow Office of Child and Family Services' funded clients to be absent from the program for up to four (4) consecutive weeks in documented cases of emergency or unusual circumstance, before terminating services.

 j. Day Care provider organizations shall be required to obtain prior written approval from the Office of Child and Family Services to extend emergency absences beyond the four (4) week period.

 k. Notification of termination of services shall be sent immediately to clients who fail to appear within three (3) working days of their expected return from an approved absence.

 l. Notification of termination of services to Department referred clients shall be sent to the Department's worker as well as the parent(s) of the child.

 m. The Day Care provider organization shall be allowed to bill for and report units of service held available for Office of Child and Family Services' funded clients during approved absences.

 n. In the event the client appeals the proposed termination, the Day Care provider organization shall be allowed to bill for and report units of service necessary for compliance with the Department's Appeal procedures.

 o. Clients seeking employment shall be allowed to receive Office of Child and Family Services funded day care for up to two (2) months only. If at the end of two (2) months, the client is still unemployed, the Day Care provider organization shall terminate services to the client unless he/she fits into one of the other target groups defined in the Purchase of Service Procedures Manual.

 p. Day Care provider organizations shall give priority for Office of Child and Family Services' funded services to Department referred clients, as follows:

 i. When a Office of Child and Family Services' funded protective, family services, or WEET slot is not available at the time of referral, the Day Care provider organization shall place the Department referred client's name at the top of the waiting list unless this violates any federal or state civil rights provisions.

 ii. When a Office of Child and Family Services' funded protective, family services, or WEET slot becomes available and there are no Department referred clients on the wafting list, the Day Care provider organization shall notify the Department's appropriate regional office of the availability of the slot.

 iii. After notification to the Department's appropriate regional office of the availability of a Office of Child and Family Services' funded protective, family services, or WEET slot, the Day Care provider organization shall be required to hold the slot open for no more than two (2) weeks and then only when requested to do so by the regional office.

 iv. If the Day Care provider organization has held a slot open for up to two (2) weeks at the request of the Department's regional office, the provider organization shall be allowed to bill for and report the units of service held available in a manner prescribed in the Purchase of Service Procedures Manual.

 v. When the Day Care provider organization has accepted a Department referred client for service and the client falls to appear within one (1) week of the expected start date, the provider organization shall notify the Department's worker. If the client falls to appear within two (2) weeks of the expected start date, the provider organization shall send the notification of termination of services to the Department's worker as well as the parent(s) of the child.

 q.. When a Department referred client falls to appear within two (2) weeks-of the expected start date, the Day Care provider organization shall be allowed to bill for and report units of service held available in a manner prescribed in the Purchase of Service Procedures Manual.

**C. FAMILY CRISIS SERVICES**

 1. PURPOSE:

 The Family Crisis Program provides services to assure that women and their children who appear to be abused, neglected, or at risk, have shelter during times of household crisis. In addition, services are made available to these persons to allow them the opportunity to identify and maximize their options, potential and self-actualization.

 2. STANDARDS:

 a. Women and their children who experience violence, serious threat of violence, or other serious family crisis in the home shall be eligible for this service program without regard to income.

 b. Office of Child and Family Services personnel and the family crisis provider organizations shall keep confidential the physical locations of the emergency living quarters, as applicable.

 c. Family Crisis Services may be exempted from Office of Child and Family Services matching funds policy

 d. Family Crisis Service provider organizations may be exempted from Office of Child and Family Services Service Reporting Policy

 e. Family Crisis Service provider organizations shall submit to the Office written reports on services delivered, in a format and time frame prescribed by the Office.

**D. HOMEMAKER SERVICES**

 1. PURPOSE:

 The Homemaker Program addresses the problem of disruptions in family or individual life due to illness, disability, age, social circumstances and/or other problems that may lead to an inability to function within the family or home often necessitating removal from that environment. Services are designed to prevent family disruptions through helping to maintain or improve family functioning in the home.

 2. STANDARDS:

 a. The Office of Child and Family Services shall purchase Homemaker Services only from provider organizations which are, or are in the process of being, approved/accredited by the National Homecaring Council.

 b. The Office of Child and Family Services may issue provisional contracts for homemaker services to non-accredited provider organizations only when the following apply:

 i. The provider organization meets all applicable laws and requirements for accreditation, except those which can only be met once service is initiated; and

 ii. The provider organization demonstrates to the Office its ability and intention to comply with all requirements for accreditation by the end of the provisional contract period.

 c. Provider organizations granted provisional contracts shall be-required to submit quarterly progress reports to the Office on the accreditation process.

 d. The Office of Child and Family Services shall have the right to terminate provisional contracts with 30 calendar day notice when:

 i. The provider organization fails to follow through on an accreditation requirement; or

 ii. The provider organization fails to meet an accreditation/ requirement within prescribed time frames.

 e. Homemaker provider organizations shall give priority for assessment and, when appropriate, service to the target groups specified by the Office in the individual Purchase of Service contract agreements.

**E. RAPE CRISIS SERVICES**

 1. PURPOSE:

 The Rape Crisis Program provides services to assure that victims of rape or sexual assault have available the vital intervention, counseling, and support services that are unavailable from traditional institutions. In addition, the program provides community education programs to promote public awareness of the problems of sexual assault and rape, and their prevention.

 2. STANDARDS:

 a. Persons who experience sexual assault or rape, serious threat of rape, or other serious sexual assault shall be eligible for this service program without regard to income.

 b. Rape Crisis Service provider organizations may be exempted from Office of Child and Family Services Service Reporting Policy but shall submit to the Office written reports on services delivered, in a format and time frame prescribed by the Office.

 c. Rape Crisis service provider organizations shall maintain 24 hours per day, 7 day per week telephone hotline access to service.

 d. Rape Crisis service provider organization shall provide all of the following services:

 i. Direct crisis intervention counseling of rape and sexual assault victims;

 ii. Assistance to sexual assault victims in dealing with law enforcement, medical, psychological and legal professionals;

 iii. Advocacy and support for the sexual assault victim throughout the court process;

 iv. Education and training for the public on rape and sexual assault, and their prevention.

 e. Rape Crisis service provider organizations shall recruit, train and supervise sufficient volunteers to provide the services listed in #3 and #4 above.

**F. SUBSTANCE ABUSE SERVICES**

 1. PURPOSE:

 Substance Abuse Services are purchased to alleviate the individual and interpersonal effects of substance abuse, and to prevent further occurrence of substance abuse related problems.

 Substance Abuse-Services provide a number of services to a variety of individuals and groups of people. First, services are provided to meet the needs of the substance abusing population, whether they require short or longer term shelter, detoxification, outpatient counseling, residential rehabilitation, services offered by a halfway house, or extended care for the late or final stage substance abuser.

 Second, counseling and related services are provided to meet the needs of family and/or others who are affected by the substance abuse of another.

 Finally, services are provided to assist in the development of community resources that enhance the above purposes, as well as to increase public awareness of the substance abuse problem, and the willingness/capability of the public to participate in its solution.

 2. STANDARDS:

 a. The Office of Child and Family Services shall purchase Substance Abuse Services only from provider agencies which hold a valid State license or certificate of approval when such is required by State law or other regulation for providing such services.

 b. Providers of direct services to substance abusers and/or to affected persons shall comply with regulations governing the component of care they offer as defined in Regulations for Licensing/Certifying of Substance Abuse Treatment Facilities in the State of Maine currently in force.

 c. Fees shall be charged to individuals in accordance with a fee schedule or residential rate approved by the Provider's Board of Directors and made available to the client upon admission to the program. Fees for service shall not exceed the actual cost of delivering the service.

 d. Persons who experience problems with substance abuse shall be eligible for this service program without regard to income.

 e. Substance Abuse Services provider organizations may be exempted from Office of Child and Family Services Service Reporting Policy

 f. Substance Abuse Services provider organizations shall submit to the Office written reports on services delivered, in a format and time frame prescribed by the Office.

 g. The Provider shall have a Qualified Service Agreement (QSA) regarding reporting cases of suspected abuse and/or neglect of children and/or adults approved by the appropriate Regional Program Managers for Child and Family Services and Adult Services.

 h. The Provider shall have written working agreements with the appropriate Regional Program Managers for Child and Family Services and Adult Services.

 i. The Provider shall not bill the Office of Child and Family Services for services for clients referred by the Office and its regional offices. Other third party reimbursers may be billed. As part of the therapeutic process, the client may also be billed in accordance with the provider agency's approved private client fee scale. No client referred by the Office of Child and Family Services shall be denied service because of an inability or refusal to pay.

 The cost of residential services for clients who are in the custody of the Department of Health and Human Services is covered by other funding and the Department may be billed for these services.

 j. Provider organizations shall submit quarterly financial reports regarding payments by private insurance carriers for treatment services supplied by the Provider, unless otherwise exempted by the Office of Substance Abuse.

**G. SUPPORT SERVICES**

 1. PURPOSE:

 The Support Services program provides for services to children in the custody of the Department, adults in public guardianship, children and adults in need of protection and their families. In order to make these services as responsive as possible to the needs of these clients, the Regional Offices of the Department of Health and Human Services have been given primary responsibility for determining specific services to be purchased in each region, in conjunction with Office staff.

 Also, the program provides for limited, specialized services to visually and auditorily handicapped persons.

 In addition, the Department has two Special Needs accounts, one for children and one for adults, that allow for the purchase of additional services for individuals in the target group.

 2. STANDARDS:

 a. Eligibility for Office of Child and Family Services Support Services shall be determined without regard to income, but with regard to the need for specific services, for the following:

 i. Children in the custody of the Department of Health and Human Services and their families, and adults in public guardianship.

 ii. Children and their families and adults where abuse and/or neglect has been determined to exist.

 iii. Children and their families and adults who are Department of Health and Human Services clients who require services in order to reduce the potential for abuse/neglect.

 b. Support Services shall be delivered to individuals or families referred for services by the Department, or individuals specified in the contract or grant.

 c. The Support Services Special Needs accounts shall be used by Department regional staff only if the service needed is not available under contract or grant, or the service levels in existing contracts have been exhausted, or from other funding, and if the service is a necessary element in an individual's case plan.

 d. Services purchased through the Special Needs accounts shall be purchased at or below pre-established Department rates for services, when such exist.

 e. Since the broad range of services offered in the Support Services program are frequently services also included in other Office of Child and Family Services Service Areas, all requirements applicable in the generic service area shall be applicable for services funded in the Support Services program.

 f. Office of Child and Family Services funded emergency shelter shall not exceed 30 calendar days of service per placement, unless specifically authorized by the Office.

 g. Social Service Block Grant funded residential treatment services which include an integral but subordinate room and board component shall limit the room and board component to six (6) months per placement, unless specifically authorized by the Office.

 h. Mental Health Services shall be reimbursed at or below established Title XIX rates for identical services.

**H. TRANSPORTATION SERVICES**

 1. PURPOSE:

 In order for many citizens to obtain social, medical and other needed services, transportation must first be available.

 2. STANDARDS OF CONDUCT:

 a. Transportation provider organizations shall give priority for Office-funded service to the target groups as specified by the Office in the individual Purchase of Service contract agreements.

 b. Transportation Services shall be exempt from individual client reporting when authorized by the Office.

 c. Transportation Services shall be exempt from the six month requirement for redetermination of client eligibility when authorized by the Office.

 d. Passenger miles shall mean the actual number of miles the passenger rides in the vehicle; Vehicle miles driven by agency owned vehicles on the way to or back from picking up a passenger (Deadhead miles) shall not be reported as service being delivered to clients.

 e. Volunteer-drivers, using their personal vehicles, may be reimbursed for the total number of vehicle miles driven commencing from and ending at the volunteer driver's own home.

**I. CHILD CARE VOUCHER SERVICES**

 PURPOSE

 Child care vouchers assist low income families with their child care expenses to enable parents or guardians to be employed, to be involved with an educational/job training program, to seek employment, and to participate in a substance abuse treatment program. Voucher services are also provided for children under the protection, care or custody of the Department, the Penobscot Tribe, Passamaquoddy Tribe, Aroostook Band of Micmacs, Houlton Band of Maliseets, and other federally recognized Tribes. Services for Department and Tribal case managed clients are provided in order to achieve the case plan objectives which may include child development and socialization experiences, daily supervision and contact. Also, the unmet child care needs of special population groups are addressed through the prioritization of child care vouchers for children with special needs, very low income families and other groups as identified by the Department.

 Child care vouchers are available from Voucher Management Agencies (VMA's) under a contractual agreement with the Department; and may also be provided by other community or public agencies as designated by the Department, or provided as a direct service of the Department.

 Child care vouchers are available depending upon funding, and shall not be interpreted to entitle any individual or family to assistance under this program.

 STANDARDS

1.00 DEFINITION OF TERMS

2.00 SERVICE DEFINITIONS

3.00 CLIENT GROUPS SERVED

4.00 VOUCHER PROGRAM ADMINISTRATION

5.00 INCOME ELIGIBILITY STANDARDS

6.00 OTHER ELIGIBILITY STANDARDS

7.00 FEE ASSESSMENT TO PARENTS

8.00 PAYMENT TO CAREGIVERS

9.00 ENROLLMENT

10.00 WAITING LISTS

11.00 TERMINATION OF VOUCHER SERVICES

 1.00 DEFINITION OF TERMS

 1.01 *Approved by the Department* or *Authorized by the Department* means approval of the assigned agreement administrator or their supervisor.

 1.02 *OIAS* means the Office of Integrated Access and Support, the State agency that administers the Maine public assistance program called TANF.

 1.03 *Caregiver* means an individual who provides child care services directly to an eligible child on a person-to-person basis. The Standard 4.11 defines the types of caregivers authorized to receive voucher payments on behalf of voucher recipients.

 1.04 *Caseworker* means an employee of the Maine Department of Health and Human Services or federally recognized Tribe, authorized to provide specialized case management services to neglected, abused or exploited children and their families and to children in Department/Tribal care or custody.

 1.05 *CCDF* means Child Care and Development Fund (45 C.F.R. Parts 98 and 99, *et seq*.) and includes CCDF Discretionary, CCDF Matching and CCDF TANF Transfer.

 1.06 *Client* means the parent (see definition of *Parent*).

 1.07 *Contract* means the written agreement between the Department of Health and Human Services, , and the VMA/Provider for the provision of voucher management services.

 1.08 *Department* means the Maine Department of Health and Human Services.

 1.09 *Department Approved* or *Department Authorized* means approval of the Community Services Center agreement administrator or their supervisor.

 1.10 *Deposit* means a one-time enrollment, registration or application fee required by the caregiver to initially enroll each child in care.

 1.11 *Educational Program* means an elementary or secondary educational institution, a program that provides for completion of a secondary diploma or GED, a school for the handicapped, a vocational education program, or post-secondary undergraduate institution.

 1.12 *Employed* means gainful work that produces earned income from wages, salaries, commissions, fees, tips, piece rate payments, or self-employment in one's own business, professional enterprise, partnership or farm.

 1.13 *Fair Hearing* means the Department's review of the VMA/Provider's decision to deny, reduce or terminate services to the voucher applicant/client.

 1.14 *Family* - See definition contained in Section VI of the Manual.

 1.15 *Federally Recognized Tribe* means the Penobscot Tribe, Passamaquoddy Tribe, Aroostook Band of Micmacs, Houlton Band of Maliseets, and other Native American Tribe, band, nation or other organized group or community that is recognized as eligible for the special programs and services provided by the United States to Indians because of their status as Indians.

 1.16 *Fifteen-Day Termination Notice* means written notification from the VMA/Provider to the parent that services will terminate within fifteen calendar days of the date that the notice is sent.

 1.17 *Infant/Toddler* means a child between six (6) weeks and thirty-six (36) months old.

 1.18 *In-home Caregiver* means a child care provider who is 16 years of age or older and cares for children within the child's home. The provider may be a relative, but shall not be a member of the voucher client's *family*

 1.19 *Job Training Program* means vocational training, field training, on-the-job training and other recognized job readiness training programs focused upon the acquisition of knowledge and skills that prepare the participant for employment.

 1.20 *Legal, Unregulated Caregiver* means an individual who is not required by the Department to be licensed, certified or otherwise regulated to provide child care services. The caregiver is not a member of the voucher recipient's family as defined in the Manual.

 1.21 *Maine Resident* means an applicant who has established Maine as a permanent home, the place where s/he intends to return after any period of absence. Maine residency, once established, continues until a new, fixed and permanent home is acquired. No change of Maine residency results from moving to a new location if the intent is to remain only for a limited time, even if it is for a relatively long duration. Documentation of Maine residency includes a Maine home address where the applicant lives and one or more of the following items: current Maine individual income tax return indicating Maine resident status, valid Maine driver's license, current Maine motor vehicle registration, current Maine hunting/fishing license, proof of undergraduate student instate tuition payment, and other reasonable verification.

 Exception: Homeless individuals are exempt from documenting a home address.

 1.22 *Market Rate* means the maximum payment allowed for the voucher program. The Market Rate includes, and is limited to, the total of the VMA/Provider payment and the parent fee. The Department sets the Market Rate based on a survey of child care providers' fees.

 1.23 *Manual* means the Purchase of Service Policy Manual (10-148, Chapter 5, adopted by the Department of Health and Human Services).

 1.24 *Parent* means a parent by blood, marriage, adoption, a legal guardian or other person standing "in loco parentis". The child in care must reside with the parent.

 1.25 *Parenting Teen* means the parent is less than 20 years of age, residing with their children and attending an elementary school, a secondary school or a GED equivalency program. If not attending school, they must be child protective or child custody referrals by the Department or federally recognized Tribe.

 1.26 *Reimbursement Basis* means compensation for services rendered (after the fact).

 1.27 *Relative Caregiver* means a child care provider who is 18 years of age or older and provides child care services only to eligible children who are, by marriage, blood relationship, or court decree, the grandchild, great grandchild, sibling, niece, or nephew of such provider. Siblings providing care must live in a separate residence. Note: For in-home care, the provisions of Standard 1.18 apply.

 1.28 *Sectarian Child Care* means a licensed child care facility or regulated family day care home that provides religious activities, including but not limited to religious worship or instruction.

 1.29 *SFPSS* means State Funds for Purchased Social Services

 1.30 *Student* means a parent enrolled and attending an elementary or secondary educational institution, a program that provides for completion of a secondary diploma or GED, a school for the handicapped, a vocational education program, or post-secondary undergraduate institution. The student must be a Maine resident and attending an educational program in Maine. (See definition of *Maine Resident*)

 1.31 *Substance Abuse Treatment Program*means an appropriately licensed provider of assessment, diagnosis, care & treatment or rehabilitation services for individuals who are suffering physically, emotionally, or psychologically from the abuse of alcohol and/or other drugs.

 1.32 *TANF* means Temporary Assistance for Needy Families which is a public assistance program administered by the Department of Health and Human Services, Office of Integrated Access and Support.

 1.33 *Twelve-Step Program* means organized support group such as AA, NA, CA, AL ANON, CODA, ACOA, etc., for individuals suffering from, recovering from or otherwise affected by the abuse of alcohol and/or other drugs.

 1.34 *Very Low Income* means gross family income, adjusted to family size, does not exceed 100% of the Federal Poverty Guidelines.

 1.35 *VMA/Provider* means Voucher Management Agency or other community or public agency providing child care voucher management services under a contractual agreement with the Department of Health and Human Services.

 1.36 *Voucher Agreement* means a three-party, written agreement between the VMA/Provider, the parent and the caregiver which sets forth the terms of the child care arrangement. The agreement includes identifying information on the parent, the caregiver and the children in care, the approved caregiver's rate, the parent fee, the voucher payment amount, beginning and ending dates of the agreement, etc. The agreement is completed on forms approved by the Department.

 1.37 *Voucher Applicant* means the parent (see definition of *Parent*).

 1.38 *Voucher Client* means the parent (see definition of *Parent).*

 1.39 *Voucher Payment* means the weekly or biweekly amount that the VMA/Provider pays the caregiver or the caregiver and parent for child care services provided to an eligible voucher client as set forth in the voucher agreement.

 1.40 *Voucher Recipient* means the parent (see definition of *Parent*).

 2.00 SERVICE DEFINITIONS

 Vouchers are approved payments to caregivers on behalf of parents of children attending child care in Department regulated day care facilities and family day care homes. Vouchers may also be issued for child care in legal/unregulated family day care homes. In-home child care is allowable when the caregiver is not a member of the voucher client's family (see definition of *Family*, of the Manual). Voucher payments to unregulated caregivers are issued through a two-party check made out to the parent and the caregiver.

 Vouchers are approved for up to 50 hours of child care per week. Exceptions for extended hours are allowable with prior approval from the Department. (See Standard 9.03.)

 The parent selects the caregiver. The parent is assessed a fee based on a sliding fee scale set by the Department. The fee scale is adjusted for family size and family income. The assessed fee is paid directly to the caregiver by the parent.

 The VMA/Provider pays the balance of the caregiver's rate directly to the caregiver, or to the parent and caregiver for unregulated care. This is known as the voucher payment. The total of the parent fee and the voucher payment shall not exceed the Market Rate nor the caregiver's rate for their other clients for comparable care. The VMA/Provider executes a three-party agreement that sets forth payment terms and other responsibilities of the VMA/Provider, the caregiver and the parent.

 Eligibility and fee determination for clients transitioning from public assistance (TANF) is determined by the Office of Integrated Access and Support (OIAS) for the initial six months of benefits. Thereafter, eligibility and fee determination is determined by this policy. In month one, OIAS issues payment to the caregiver. In months two through six, the VMA/Provider issues payment to the child care provider in accordance with a written authorization from OIAS. The client who is transitioning from TANF must contact the VMA/Provider within the time frame set by OIAS and provide the necessary information to begin voucher payments.

 Child care vouchers are used in the following child care settings:

 a. Regulated children's day care facility;

 b. Regulated family day care home;

 c. Legal/unregulated day care home;

 d. Child care provided in the home of the voucher recipient;

 e. Child care for children 6 to 12 years of age, inclusive, in a non-residential recreational program operated by a community-based program that meets staff-to-child ratios and performs criminal history, motor vehicle and child abuse/neglect background checks as required of Department regulated children's day care facilities.

 3.00 CLIENT GROUPS SERVED Child care vouchers are available depending upon funding, and shall not be interpreted to entitle any individual or family to assistance under this program.

 3.01 The following client groups are eligible for services:

 a. Children from families whose gross income does not exceed the maximum allowed by CCDF rules and who are working, attending a job training or educational program.

 b. Open child protective cases referred by the Department of Health and Human Services or a federally recognized Tribe;

 c. Post-child protective clients authorized by the Department of Health and Human Services' child protective caseworker or federally recognized Tribal caseworker to continue services for a three month period;

 d Children in the care or custody of the Department or federally recognized Tribe and are referred by the Department or federally recognized Tribe;

 e. Children of parent(s) who are participating in a substance abuse treatment program or a twelve-step program;

 f. Children of parent(s) who are unable to care for them due to illness, incapacitation, catastrophic event or family emergency.

 3.02 The following client groups shall be given priority over all other applicants (not listed in order of priority):

 a. Children with special needs who are identified with one or more of the following conditions:

 (1) Children with a specific diagnosis/disability which, without intervention, may impede or impair the attainment of development milestones;

 (2) Children who evidence a developmental delay in one or more of the following skill areas: cognitive, fine motor, gross motor, receptive and/or expressive language, social/emotional, or self-care;

 (3) Children considered to be at-risk for health or developmental problems as a result of established biological risk factors, and/or as a result of identified environmental risk factors. Children must be referred by a third party such as public health agencies, physicians, schools, welfare offices, government agencies, federally recognized Tribes, community social service agencies, and early intervention specialists. Note: If the Department or Tribal referred child is served as a "special needs" child, the family must meet the eligibility requirements and fee assessment criteria for this target group.

 b. Children from very low income families whose gross family income, adjusted to family size, does not exceed 100% of the Federal Poverty Guidelines.

 3.03 The Department may restrict funds for services to specific target groups as specified in the contract, such as:

 a. TANF Transitional - Low income, working families who were TANF (Temporary Assistance to Needy Families) recipients in one of the three months immediately preceding the month they were determined to be ineligible. Increased hours of work, increased earnings, or loss of earned income disregards must have caused or contributed to the closure. Eligibility for TANF Transitional child care is authorized by the Office of Integrated Access and Support.

 b. Family Violence Transitional - Low income survivors of domestic violence who are left homeless due to a violent situation and are residing in family violence transitional housing. Transitional Housing clients must be referred by a Department-funded family violence agency.

 3.04 The Department may serve additional target groups as funding becomes available.

 4.00 VOUCHER PROGRAM ADMINISTRATION

 4.01 The administration of child care vouchers shall comply with all statutes, rules and regulations applicable to the State and Federal funding sources identified in the contract.

 4.02 The Department shall determine the allocation of voucher funds geographically by county; the allocation of funds to targeted client groups; and the amount of Federal and State funds allocated to the VMA/Provider.

 4.03 The Department shall determine the amount of funds available to the VMA/Provider for voucher payments and voucher administration.

 4.04 The Department shall pay the VMA/Provider the actual amount of contract funds expended on child care voucher payments to caregivers, not to exceed the amount available in the contract.

 4.05 The Department shall pay the VMA/Provider for voucher administration the lesser of: (1) The actual amount of contract funds expended on child care voucher administration, not to exceed the amount available in the contract, or (2) The voucher administration percentage as established by the Department multiplied by the actual amount of contract funds expended on child care voucher payments, not to exceed the amount available from the Department.

 4.06 The VMA/Provider's staff and volunteers shall be required to sign client confidentiality statements provided by the Department which contain the same standards as required of Department staff in accordance with 22 M.R.S.A. § 42, § 4008, § 3474, § 5328 and 5 M.R.S.A § 19203, *et seq*.

 4.07 The VMA/Provider shall not enter into a voucher agreement with a caregiver who owes money to the VMA/Provider. If a caregiver is convicted of fraud in connection with receipt of voucher funds, no VMA/Provider shall enter into an agreement with that caregiver. The VMA/Provider shall not enter into an agreement with a caregiver in violation of the debarment and suspension provisions contained in the contract between the VMA/Provider and the Department.

 4.08 Vouchers shall not be reissued for applicants who:

 a. Owe the VMA/Provider restitution or owe assessed fees to a caregiver with whom the applicant had a voucher agreement;

 b. Had their voucher services terminated for assaulting, using threatening language, threatening gestures or other abusive behavior which caused the VMA/Provider or their former caregiver to reasonably fear for their safety. This exclusion shall be in effect until the applicant can prove that no assault threat or other abusive behavior will occur in the future;

 c. Had their voucher services terminated for intentional misrepresentation of their family income, family size, or other eligibility criteria in order to be found eligible for services. The individual may reapply for voucher services after six (6) months from the date their voucher services were terminated, and only if the applicant has reimbursed the VMA/Provider for the amount due them.

 4.09 The VMA/Provider shall not enter into a voucher agreement with a caregiver who had a voucher agreement terminated under the following circumstances. Note: This standard does not apply to terminations that are overturned through a VMA/Provider appeal process as set forth in Standard 11.21:

 a. The caregiver assaulted, used threatening language, threatening gestures or other abusive behavior which caused the parent of a child in their care or the VMA/Provider to reasonably fear for their safety;

 b. For reasons stated in Standard 11.18.

 4.10 The VMA/Provider shall not enter into a voucher agreement with an operator of a family day care home network or system that requires an administrative fee in addition to the caregiver's rate. No administrative fee in addition to what is earned by the VMA/Provider shall be allowed.

 4.11 Caregivers who are eligible to receive payments on behalf of voucher clients shall be:

 a. A Maine Department of Health and Human Services' licensed children's day care facility;

 b. A Maine Department of Health and Human Services' regulated family day care home;

 c. A legally operating, unregulated child care provider;

 d. An in-home child care provider. See definition of *In-Home Caregiver*.

 e. A non-residential recreational program for children 6 to 12, inclusive, years of age that is operated by a community-based program that meets staff-to-child ratios and performs criminal history, motor vehicle, and child abuse/neglect background checks as required of Department regulated children's day care facilities.

 f. A New Hampshire child care provider as set forth in Standard 4.15;

 g. Child care provided by a relative. See definition of *Relative Caregiver*;

 h. Sectarian child care which is licensed as a children's day care facility or a regulated day care home. See definition of *Sectarian Child Care*.

 4.12 When the parent selects child care in a legal, unregulated home, the following conditions shall apply:

 a. The legal, unregulated caregiver shall be at least 18 years of age and shall not be a member of the caregiver's family. *Family* is defined in Section VI of the Manual.

 b. The legal, unregulated caregiver shall sign release forms permitting the Department to obtain a Child Protective Services (CPS) check, a State Bureau of Investigation (SBI) check and a motor vehicle (DMV) check as required of Department regulated home day care providers. No voucher agreement will be entered into with a caregiver when the results of a CPS, DMV and/or SBI background check or clearance are unsatisfactory. *Unsatisfactory* is defined by one or more of the following actions:

 (1) A conviction for any Class A crime (as defined by State statute) or its equivalent;

 (2) A conviction within the last ten years for any Class B or C crime or its equivalent that involved the use of force;

 (3) A conviction for any crime within the last ten years that resulted in time served in a correctional facility;

 (4) A conviction for any crime in the last ten years that jeopardized the health and safety of a minor;

 (5) More than one conviction within the last three years that call into serious question the ability to safely care for a child;

 (6) A conviction of drug trafficking;

 (7) A conviction for an OUI within the last three years;

 (8) More than one OUI conviction, with the latest conviction in the last five years;

 (9) Three or more convictions in the last five years for speeding in excess of 20 miles over the speed limit. The Department may approve child care if the caregiver agrees not to drive the children in their care;

 (10) A suspended driver's license at the time of application. The Department may approve child care if the caregiver agrees not to drive the children in their care;

 (11) A finding of child abuse or neglect as substantiated by the Department.

 c. No voucher agreement shall be entered into with a caregiver whose child care license or certification/registration has been revoked, suspended or denied by the Department; or who has surrendered their license or certification/registration to avoid revocation, suspension or denial.

 d. The caregiver shall sign a health and safety agreement provided by the Department to the VMA/Provider.

 4.13 When the parent selects an in-home or relative caregiver, the caregiver must meet the background check requirements of Standard 4.12b. See definition of *In-Home Caregiver* and *Relative Caregiver*.

 4.14 When the parent selects an in-home caregiver, the VMA/Provider shall inform the parent that the caregiver is classified as a domestic service worker under the Fair Labor Standards Act (FLSA) (29 U.S.C. Section 206(a)) and, as such, is covered under minimum wage and subject to withholding tax and other requirements of the FLSA. The parent, as the employer of the in-home caregiver, is responsible for compliance with the requirements of the FLSA.

 4.15 The following conditions shall apply for child care provided in a New Hampshire facility:

 a. The parent shall be a Maine resident and reside in a Maine county served by the VMA/Provider, and the child in care shall reside with said parent;

 b. The caregiver shall be a State of New Hampshire regulated child care provider subject to rules and regulations comparable to the Department's rules for regulation of children's day care facilities and family day care homes.

 4.16 The VMA/Provider shall distribute Department approved materials that inform unregulated caregivers, relative caregivers and in-home caregivers of health and safety issues, including the control of communicable disease, immunization requirements, physical premises safety, and training opportunities in health & safety, first aid, CPR, and early care and education.

 4.17 Funds targeted for TANF Transitional and Family Violence Transitional clients shall not be used to serve other client groups.(See *Client Groups Served* for definitions);

 4.18 Except for temporary continuance of benefits to clients that move from one county to another, funds allocated by county shall not be expended in other counties without written authorization from the Department. The Department may authorize the transfer if the VMA/Provider can demonstrate that there is a projected surplus in one county which is needed to fund services in another county.

 4.19 Students needing less than full-year child care shall not be required to reapply for their child care voucher following a scheduled break in attendance which does not exceed a normal summer vacation period per year or a normal semester (about 15 weeks) per year. Following a scheduled break in attendance, the availability of their child care voucher shall be resumed. It is the student's responsibility to recruit a child care provider who is willing to forego payment from the VMA/Provider for a summer vacation period or semester period when the student is neither employed nor looking for work; or to recruit a new caregiver upon their return to school. It is also the student's responsibility to contact the VMA/Provider thirty days prior to resuming enrollment to redetermine eligibility and rewrite or update the voucher agreement. Vouchers for students seeking work during summer vacation shall be limited to a two-week job search. See Standard 6.11 for additional job search criteria.

 4.20 Parents returning from a maternity/paternity leave shall not be required to reapply for their child care voucher. Parents are allowed up to twelve weeks for maternity/paternity leave. (Also, see Standards 8.12 and 9.12e.)

 4.21 When voucher funds become temporarily available due the circumstances such as student breaks in attendance and maternity/paternity leaves, short-term vouchers may be issued for child care that is intended to be less than a typical six-month certification period. In these situations, the new client accepted for short-term services shall be given the beginning and ending eligibility dates. When their temporary voucher expires, their name shall be returned to the waiting list using their initial date of application.

 4.22 For voucher clients who move outside of the VMA/Provider's geographical service area, the VMA/Provider shall forward a copy of the voucher client's initial application for service to the VMA/Provider that administers vouchers in the client's new county of residence. The VMA/Provider shall notify the client that they must reapply for services with the new VMA/Provider within 30 days of relocating. The new VMA/Provider shall place the client on a waiting list according to the client's initial application date, priority and/or target group status (if applicable). The former VMA/Provider shall redetermine eligibility and continue to administer the client's voucher until the client is accepted for service with the new VMA/Provider, provided that the client:

 a. Continues to meet all eligibility requirements;

 b. Reapplies for voucher services with the new VMA/Provider within 30 days of relocating.

 4.23 The VMA/Provider shall redetermine eligibility for all clients at least once every six months. Clients who report a change in family income, family size, a change in employment, educational/job training status, a change in service needs, or other eligibility criteria, shall have their eligibility redetermined. If the parent fee and/or voucher payment changes, the voucher agreement shall be rewritten.

 4.24 The VMA/Provider shall administer funds in a manner that insures continuity of voucher services from one contract year to the next as long as clients remain eligible and funding in subsequent contracts is not reduced.

 4.25 The VMA/Provider shall make child care voucher services accessible to the public by:

 a. Accepting new applications and eligibility redeterminations through the mail;

 b. Providing telephone and walk-in accessibility for a minimum of 20 hours per week;

 c. Informing the public of the availability of vouchers.

 d. Requesting, by mail, the necessary information to begin voucher payments for TANF Transitional clients authorized by the Office of Integrated Access and Support. The request shall be sent to the parent within five working days of receiving authorization from OIAS.

 e. Contacting the Office of Integrated Access and Support to verify program eligibility for TANF Transitional child care when applicants, without written authorization, claim to be eligible for TANF Transitional child care. Note: Parents who are eligible for TANF Transitional child care will not have an authorization letter from OIAS if they apply for TANF Transitional child care anytime between month two and month twelve of the twelve month application period.

 4.26 The Department shall establish area Market Rates which set forth the maximum payments (voucher payment amount plus parent fee) payable to caregivers in each county. The VMA/Provider shall not adjust the Market Rate.

 4.27 Except for court ordered restricted parental contact or custody, parents shall have unlimited access to their children and caregivers during normal hours of operation or whenever the children are in the care of the caregiver.

 4.28 Only those persons authorized by the parent shall be allowed to remove their child(ren) from the child care facility or home. All persons authorized to remove children from the facility or home shall be identified in the caregiver's records.

 4.29 When the voucher client is due for eligibility redetermination as addressed in Standard 4.23, the VMA/Provider shall send the client written notification that they must reapply for voucher services. Notice shall be sent within thirty to forty-five days prior to the end date of the client's eligibility period. Notice shall also include:

 a. An application form;

 b. The requirement that the application be completed and returned within two weeks to avoid an interruption in services;

 c. The requirement for verification of all family income and any other documentation needed to determine eligibility, such as, verification of enrollment in an educational or job training program, etc.;

 d. The date (month/day/year) that voucher services will be terminated if the client fails to complete and return the application form and required verification/documentation.

 4.30 The Department shall establish a sliding fee scale which the VMA/Provider shall use to determine the voucher client's contribution to the cost of their child care. The fee scale shall be developed as follows:

 a. The fee scale shall be based on family size and gross family income. Family income shall not exceed the limit established by Federal Child Care Development Fund rules, 45 C.F.R., Parts 98 and 99, *et seq*. Gross family income shall be determined as set forth in the Manual. Note: The current limit is eighty-five percent (85%) of the State's median income applicable to family size.

 b. The Department shall use the State of Maine median income calculations provided by the U.S. Department of Health and Human Services, Administration for Children and Families, Low Income Heat and Emergency Assistance Program (LIHEAP). The Department shall also use the Federal Poverty Guidelines provided by the U.S. Department of Health and Human Services, Office of the Secretary, to establish incremental ranges of income within the maximum allowed by CCDF rules. A graduated fee percentage of gross family income is then applied to each of the income ranges.

 c. The Department shall update the fee scale annually in accordance with changes in the State's median income and the Federal Poverty Guidelines.

 d. The fee scale shall contain the following poverty guideline ranges up to the maximum allowed by CCDF rules. The following fee percentages are applied to gross family income:

 Fee Percentage of

Poverty Guideline Range Gross Family Income

Up to 25% 2%

26% to 50% 4%

51% to 75% 5%

76% to 100% 6%

101% to 125% 8%

126% to 150% 9%

151% to 200% 10%

201% to Maximum Allowed 10%

 e. For a family with more than one child enrolled, the full fee is assessed for the first child enrolled; the assessed fee shall be reduced by fifty percent (50%) for the second child enrolled; the assessed fee shall be reduced by seventy-five percent (75%) for the third child enrolled; and no fee shall be assessed for subsequent children enrolled in child care.

 f. The total amount of fees assessed to a family shall not exceed ten percent (10%) of the family's gross income for all of their children enrolled in the Voucher Program. Note: Add up the fees assessed for the first child, second child, and so forth. If the total amount exceeds ten percent (10%) of the family's gross income, then the fee assessment is limited to the 10% amount.

 g. The parent fee shall not be reduced based on hours of care.

 5.00 INCOME ELIGIBILITY

 5.01 The following client groups are eligible without regard to income (family income may exceed the income guidelines):

 a. Department referred Child Protective Services' clients, child post-protective clients and children in the care or custody of the Department;

 b. Federally recognized Tribal referred Child Protective Services' clients, child post-protective clients, and children in Tribal care or custody;

 Exception: For services funded with CCDF and State matching funds, eligibility for Department and Tribal referred Child Protective, child post-protective and child custody clients shall be based on gross family income, adjusted to family size. Gross family income shall not exceed the maximum allowed by Federal CCDF rules . On a case-by-case basis, the Department or Tribal caseworker may waive this income eligibility requirement.

 5.02 Except for the client groups identified in Standard 5.01, all other client groups shall be eligible for services based on gross family income, adjusted to family size. Gross family income shall not exceed the maximum allowed by Federal CCDF rules. When determining income eligibility, the VMA/Provider shall use the income guidelines issued by the Department.

 5.03 Gross family income shall be determined in accordance with income eligibility determination, verification and documentation standards set forth in the Manual.

 5.04 Eligibility for clients transitioning from public assistance (TANF) and authorized, in writing, by the Office of Integrated Access and Support shall have their eligibility determined by OIAS for the initial six months of child care. Months two through six are reimbursed by the VMA/Provider. Anytime between months two and six, the TANF authorized client may elect to have their eligibility redetermined by the VMA/Provider. However, if redetermination results in a higher parent fee, the fee as originally determined by OIAS, shall remain in effect for the remainder of the initial six-month period. Thereafter, eligibility determination for all TANF authorized clients shall comply with the Manual.

 6.00 OTHER ELIGIBILITY CRITERIA

 6.01 The VMA/Provider shall comply with the referral for services standards as set forth in the Manual. Where policy conflicts, the policy contained in this section of the Manual shall prevail.

 6.02 The voucher applicant must be a resident of the State of Maine. (See definition of *Maine Resident.)*

 6.03 Each child in the family for whom assistance is being requested must be a U.S. citizen, an alien lawfully admitted for permanent residence or otherwise permanently residing in the U.S. under the color of law.

 Note: Aliens legally admitted on a temporary basis such as visitors, travelers, crewmen on shore leave, foreign students, and members of the foreign press, radio, etc. are not eligible for services, even if they have authorization to work.

 Note: The Jay Treaty of 1794 recognizes the aboriginal right of Native Americans to pass the border of the U.S. and Canada. When a Native American with Canadian citizenship moves to Maine, they are recognized as lawfully admitted for permanent residence.

 Note: U.S. born children of illegal immigrants shall not be denied services based upon the citizenship status of their parent(s). Their parent(s), however, are not eligible to receive services.

 Exception: This standard does not apply to blended or wrap-around child care for children enrolled in the Head Start Program, and child care provided in a public or private educational setting for out-of-school time (before and after school, school holidays, and summer vacation).

 6.04 Children in care must be living with the voucher applicant who is maintaining a home for the child and assuming parental responsibility.

 6.05 Children in care must be between the ages of 6 weeks old and under 13 years of age, or under the age of 19 if physically or mentally incapable of caring for themselves. Vouchers may be issued for children under 6 weeks of age with approval of the Department's child care licensing authority.

 6.06 All voucher applicants and voucher clients being redetermined for eligibility shall complete an application for service on forms authorized by the Department; sign a voucher agreement; and provide documentation and information necessary for the VMA/Provider to determine and/or redetermine eligibility, calculate and assess fees, enroll children with a caregiver, issue voucher payments, report services to the Department, and so forth.

 6.07 If the voucher applicant or client being redetermined for eligibility is employed, verification of employment shall be provided as set forth in the Manual.

 6.08 If the voucher applicant or client being redetermined for eligibility is enrolled and attending an educational or job training program, verification of enrollment status, class hours and/or training hours shall be provided. See definitions of *Student, Educational Program* and *Job Training Program*.

 6.09 If the voucher applicant is applying for a priority voucher for a child with special needs, documentation of the disability shall be provided by a child development specialist, social worker, licensed therapist, physician, psychiatrist, psychologist, or other recognized health care professional. The basis for the special needs assessment shall be a formal evaluation or diagnosis of the child's condition. Children considered to be at risk because of environmental factors must have a written referral from a third party such as public health agencies, physicians, schools, welfare offices, government agencies, federally recognized Tribes, community social service agencies, and early intervention specialists. The referral must include identification of the specific environmental risk factor(s).

 6.10 If child care is needed because a parent is unable to provide care due to illness, incapacitation, catastrophic event or family emergency as provided in Standards 6.14 and 6.15, the applicant shall provide reasonable evidence of illness or other circumstance before a voucher can be approved or reissued.

 6.11 Eligibility for job search purposes is limited to four weeks. An exception is made for students, who shall have up to two weeks for seeking employment. Voucher payments are limited to the actual number of job search hours not to exceed 20 hours per week. The parent must provide documentation of job search activity to the VMA/Provider.

 Exception: CCDF funds and State matching funds shall not be used for job search.

 6.12 If child care is needed to enable the parent to participate in a substance abuse treatment program or a twelve-step program, the applicant shall provide a signed statement from the substance abuse treatment agency or twelve-step program,or a signed release of information form allowing the VMA/Provider to verify the applicant's participation. The statement shall include the number of treatment hours or weekly attendance hours and the anticipated duration. Vouchers issued may include the parent's work hours or school hours in addition to the treatment hours approved for voucher services.

 6.13 The voucher client shall be responsible for notifying the VMA/Provider and providing documentation as requested by the VMA/Provider within ten calendar days of a change in mailing address, family size, family income, a change in employment, educational/job training status, or a change in service needs. See Section V of the Manual for documentation requirements.

 6.14 For services funded with CCDF and State matching funds: Parents must be employed or attending an educational or job training program. Exceptions may be made for two-parent families where one parent is working or attending an educational/job training program and the other parent is unable to care for the children due to illness, incapacitation, catastrophic event or family emergency. Child care for job search purposes is not allowed under this funding source. The following client groups are exempted from this requirement:

 a. Child Protective and post-protective clients referred by the Department or federally recognized Tribe;

 b. Children in care or custody of the Department or federally recognized Tribe. Children must be referred by a Department or Tribal caseworker.

 6.15 For All Non-CCDF funded services: Parent(s) must be employed, attending an educational/job training program or seeking employment. Exceptions may be made for two-parent families where one parent is working, attending an educational/job training program or seeking employment and the other parent is unable to care for the children due to illness, incapacitation, catastrophic event or family emergency. The following client groups are exempt from this requirement:

 a. Child Protective and post-protective clients referred by the Department or federally recognized Tribe;

 b. Children in care or custody of the Department or federally recognized Tribe. Children must be referred by a Department or Tribal caseworker;

 c. Children with special needs (see *Client Groups Served* for definition);

 d. Children of parent(s) who are participating in a substance abuse treatment program or a twelve-step program;

 e. Children of parent(s) who are unable to care for them due to illness, incapacitation, catastrophic event or family emergency. Note: This standard applies to families where there is no parent in the family who is able to work or attend an educational/job training program and the parent is unable to care for their child(ren) under these circumstances.

 7.00 FEE ASSESSMENT TO PARENTS

 7.01 The VMA/Provider shall comply with all client fee-for-service standards set forth in Department rules and procedures. Where policy conflicts, the policy contained in this section of the Manual shall prevail.

 7.02 All fee paying clients shall enter into an agreement with the VMA/Provider and caregiver which states the amount of the assessed fee and payment terms. For clients transitioning from public assistance (TANF), the Office of Integrated Access and Support determines the fee assessment for the initial six-month eligibility period. Thereafter, fee assessment for all TANF authorized clients shall comply with these standards.

 7.03 The VMA/Provider shall determine gross family income in accordance with income eligibility determination standards set forth in Section VI of the Manual.

 7.04 No fee shall be assessed for children in care or custody of the Department or federally recognized Tribe when child care services are part of the Department or Tribal case plan and written referral for service.

 Exception: For services funded with CCDF and State matching funds, a fee is assessed for child custody referrals. The child is considered a family of one, and the foster care payment is excluded as *family* income. (See Section V of the Manual.)

 7.05 All eligible voucher clients, except as provided in Standard 7.04, shall be assessed a fee for service as follows:

 a. Parents whose gross family income is between 0% and the maximum allowed by Federal CCDF rules as issued by the Department, shall be assessed a fee equal to the Fee Percentage of weekly gross family income as set forth on a fee schedule issued by the Department. The amount of voucher payment shall be the difference between the caregiver's fee for service, not to exceed the Market Rate established by the Department, and the parent's assessed fee;

 b. For parents whose gross family income is between 0% and the maximum allowed by Federal CCDF rules and who have more than one child in care, whether enrolled with the VMA/Provider, another Department-funded child care provider or a caregiver not funded by the Department; the assessed fee shall be reduced by 50% for the second child enrolled; the assessed fee shall be reduced by 75% for the third child enrolled and there shall be no fee assessed for subsequent children enrolled. For families with children enrolled in other child care programs, proof of payment shall be required;

 c. The total amount of fees assessed to a family shall not exceed ten percent (10%) of the family's gross income for all of their children enrolled in the Voucher Program. Note: Add up the fees assessed for the first child, second child, and so forth. If the total amount exceeds ten percent (10%) of the family's gross income, then the fee assessment is limited to the 10% amount.

 d For parents or guardians with more than one child in care, the VMA/Provider determines which child is the *first child enrolled*, *second child enrolled* and so forth; so that the parent fee is reasonably assessed;

 e. All assessed parent fees shall be paid directly to the caregiver by the parent.

 7.06 When Child Protective, post-protective and child custody referred clients refuse to pay the assessed fee, services shall not be denied without the written approval of the Department or Tribal caseworker. The VMA/Provider shall notify the appropriate caseworker for resolution. Fees shall not be waived or reduced unless authorized by the caseworker.

 7.07 Any client may request a fee waiver/reduction

 7.08 In the event of a family emergency or catastrophic event such as a fire, flood, or death of a family member, fee waivers/reductions may be approved for families who are at or below 100% of the Federal Poverty Guidelines. Also, on a case-by-case basis, the Department or Tribal caseworker may waive/reduce the fees assessed to Child Protective Services, child post-protective and child custody clients who are referred by the Department or federally recognized Tribe**.**

 7.09 If a caregiver has a policy of requiring a one-time deposit, registration fee or application fee for all clients, the parent is responsible for an amount up to the assessed parent fee, and the VMA/Provider shall pay the difference up to the Market Rate. The deposit or fee is paid in addition to the agreed upon weekly rate.

 7.10 Special activity fees are the responsibility of the parent. If the parent elects not to pay, then the caregiver shall be responsible for providing alternative child care for children who do not participate in the activity.

 7.11 Transportation fees, late pickup fees and other fees of this nature shall be the responsibility of the parent.

 7.12 All fee paying clients shall pay the caregiver the assessed fee for the full period that their child is enrolled as described in the Enrollment Standards 9.00.

 7.13 The parent shall pay their assessed fee in accordance with the caregiver's written policy on absenteeism.

 7.14 If the caregiver's written policy allows for a waiver of all or a portion of the assessed parent fee due to absenteeism, closure of the day care facility or home, or for any other reason, the VMA/Provider shall not be responsible for payment of the parent fee.

 7.15 When the VMA/Provider, the Department caseworker or Tribal caseworker waives or reduces the assessed parent fee as provided in Standard 7.08, then payment of the waived or reduced amount is the responsibility of the VMA/Provider.

 7.16 Pending the outcome of a fair hearing requested by a voucher client, the client shall continue to pay the full assessed parent fee for the period that their child remains in care.

 7.17 Clients who fail to give the caregiver a two week advance notification that child care services are being terminated, shall pay the caregiver a proration of the assessed parent fee for each service day short of the two week notification period that their child care slot remains vacant.

 7.18 Pending the outcome of a Department investigation, fee payments may be withheld by the parent when services are terminated by the parent due to an alleged day care license/certification violation. If the Department determines that a violation occurred, then no payment is due for each day short of the two-week advance notification period. If the investigation reveals that no violation occurred, then the client shall pay the fee as provided in Standard 7.17.

 8.00 PAYMENT TO CAREGIVERS

 8.01 No payments to caregivers shall be made when the caregiver is a member of the voucher client's family. *Family* is defined in Section V of the Manual.

 8.02 The total of the voucher payment and the parent fee shall not exceed the Department established Market Rate or the caregiver's rate, whichever is less. The total voucher payment and parent fee shall not exceed the rate charged to the caregiver's other clients for equivalent child care services.

 Exception: To comply with State and Federal laws pertaining to domestic service workers, payment for in-home care may exceed the Market Rate as provided in Standard 8.04.

 8.03 If a caregiver has a policy of requiring a one-time deposit, registration fee or application fee for all clients, the parent is responsible for an amount up to the assessed parent fee, and the VMA/Provider shall pay the difference up to the Market Rate. The deposit is paid in addition to the agreed upon weekly rate. If the caregiver waives the one-time deposit or fee, the VMA/Provider shall not pay any portion of the fee.

 8.04 For child care provided within the client's home (in-home care), the client, as the employer, shall be responsible for compliance with Federal and State minimum wage laws, tax laws and regulations pertaining to domestic service workers. Payment for in-home care will be at the same rate as the Market Rate for family day care. When child care voucher payments from the VMA/Provider and the assessed parent fee are insufficient to constitute compliance, the client shall be responsible for the difference which the client shall pay directly to the caregiver. (Also see Standards 4.13 and 4.14.)

 8.05 Before a voucher can be approved, the VMA/Provider and the caregiver shall execute a voucher agreement that sets forth the responsibilities of both parties, including but not limited to payment terms. The agreement shall be executed on forms authorized by the Department.

 8.06 Before a voucher can be approved, the caregiver shall submit to the VMA/Provider their written policies regarding payment of the assessed parent fees. Policies must address the collection of fees and, if applicable, the non-collection or the reduction of the fees when clients are absent from the program or when the caregiver is closed due to legal holidays, vacations, shutdown periods and other circumstances.

 8.07 The VMA/Provider shall pay the caregiver the agreed upon weekly rate for the period that children are enrolled as described in the Enrollment Standards (9.00) and subject to the payment standards contained herein (8.00).

 8.08 The VMA/Provider shall not pay the caregiver for absenteeism unless required by the caregiver's written payment policy.

 8.09 The caregiver shall not be paid for the weeks that the client is absent from the program without reasonable cause if the caregiver fails to notify the VMA/Provideras required in Standard 9.14.

 8.10 If the caregiver's written policy requires payment for parental vacation weeks, the VMA/Provider shall pay the caregiver for no more than two weeks within a twelve month period.

 8.11 If the caregiver's written policy requires payment for scheduled closings other than State and Federal holidays, the VMA/Provider shall pay for no more than one week in a twelve month period. The VMA/Provider shall not pay a second caregiver on behalf of the same voucher client for the same child and for the same period of time.

 8.12 If the caregiver's written policy requires payment for maternity/paternity leave, the VMA/Provider shall pay for no more than six weeks.

 8.13 If the caregiver's written policy requires payment for scheduled semester breaks (such as winter and spring breaks), the VMA/Provider shall pay for no more than four weeks.

 8.14 No payments to caregivers shall be made for summer vacation periods and school semesters (usually 15 weeks) when a student is not attending an educational/job training program and does not need child care for employment purposes.

 8.15 When the parent reports a change in circumstances affecting a change in the parent fee and/or voucher payment, the change shall become effective following redetermination of eligibility and the execution of a new voucher agreement.

 8.16 All voucher payments to caregivers shall be for services provided within the beginning date and ending date of a voucher agreement. Payments outside of the agreement dates are not allowed.

 Exceptions: Payment of a one-time deposit, registration fee or application fee is allowed prior to the beginning date of service.

 In the event that a voucher agreement is not renewed for a client who completed the required eligibility redetermination forms, but failed to provide the requested documentation as provided in Standard 11.08, or is no longer eligible as provided in Standard 11.09; the caregiver shall be paid for each day that child care is provided beyond the expiration date of the agreement and within the fifteen-day termination notice to the client. Payment shall be made under the terms of the expired voucher agreement.

 8.17 When services to the client are terminated, the VMA/Provider shall not pay the caregiver beyond the termination date unless the client has requested a State agency fair hearing in accordance with the standards set forth in the Manual. If the client requests a fair hearing, then the VMA/Provider shall pay the caregiver the amount due them in accordance with the voucher agreement and the payment and enrollment standards contained in the Manual. When the voucher agreement is terminated prior to the end of the client's current eligibility period, the VMA/Provider shall not pay the caregiver beyond the termination date or the two-week notification period as set forth in Standard 8.18.

 8.18 If the caregiver's written policy requires up to two weeks notice before termination of the voucher agreement and the client fails to give the required notice, the VMA/Provider shall pay the caregiver a prorated amount for each service day short of the notification period and only for the days that the client's child care slot is vacant. The VMA/Provider shall not pay the parent fee.

 8.19 If the VMA/Provider pays the caregiver as required in Standard 8.18, the VMA/Provider shall not pay a second caregiver on behalf of the same voucher client for the same child and for the same period of time unless authorized by the Department.

 8.20 If the client fails to give the required two week termination notice because of an alleged licensing violation, the VMA/Provider shall not pay the caregiver if: (1) the parent or another party files a complaint with the Department's child care licensing authority within twelve days of the alleged incident; and (2) the caregiver is found to be in violation of licensing rules. Example: The parent has evidence that the caregiver spanked her child; she makes a report to the Department; and the Department determines that the violation occurred.

 8.21 If the parent fails to make a report as required in Standard 8.20 or no violation is found, then the VMA/Provider shall pay the caregiver for the required notification period as stated in Standard 8.18.

 8.22 When the voucher agreement between the VMA/Provider and the caregiver is immediately terminated by the VMA/Provider as provided in Standard 11.17, no payment to the caregiver shall be made for any period beyond the termination date.

 Exception: When a decision to immediately terminate a voucher agreement pursuant to Standard 11.17(c) and 11.17(d) has been overturned by the VMA/Provider through an appeal process, the VMA/Provider shall pay the caregiver for up to two weeks of care if the caregiver's written policy requires up to two weeks notification prior to termination.

 8.23 When the caregiver terminates service to a client, the VMA/Provider shall not pay the caregiver beyond the termination date provided by the caregiver.

 8.24 For all Child Protective, child post-protective and child custody referrals by the Department/federally recognized Tribe who have been accepted for service but fail to appear on the scheduled enrollment date, the VMA/Provider shall pay the caregiver for up to two weeks of service availability only if the Department/Tribal caseworker requests that the child care slot remain open for their client.

 8.25 Except for a one-time deposit or fee (see Standard 7.09), payment shall be made on a reimbursement basis. No caregiver shall be paid in advance for services not yet provided.

 8.26 Caregivers shall bill the VMA/Provider on a weekly or biweekly basis as agreed upon by the VMA/Provider and the caregiver. The billing period shall be stipulated in the agreement between both parties.

 8.27 Payments to unregulated caregivers are issued through a two-party check made out to the parent and the caregiver.

 8.28 When the caregiver's bill is correctly completed and submitted to the VMA/Provider within the time frame stipulated in the agreement between both parties, the VMA/Provider shall pay the caregiver within ten working days of receiving the caregiver's request for payment.

 8.29 The billing form used by the caregiver and the VMA/Provider shall be authorized by the Department.

 8.30 The VMA/Provider may choose not to pay a caregiver who does not submit a bill within sixty days of the agreed upon submission date and only if the VMA/Provider has a written policy supporting this action and the policy is included in the agreement between both parties.

 8.31 When a caregiver has been incorrectly paid, the VMA/Provider shall pay the balance due the caregiver for an underpayment, pursue collection of an overpayment, or make adjustment(s) to the caregiver's future payment(s). The VMA/Provider shall make a report to the Department and the police for fraudulent billings.

 8.32 Under no circumstances shall the VMA/Provider pay the parent fee. The amount of an approved fee waiver or reduction is considered to be part of the voucher payment to the caregiver. The VMA/Provider shall not pay any portion of the parent fee which has been waived or reduced by the caregiver.

 8.33 Payments to legal, unregulated caregivers shall not be initiated until the background checks as set forth in Standard 4.12(b) are completed. If the background checks have not been completed within 30 days of the date the request was submitted to the Department, the VMA/Provider shall initiate payment until such time that the background checks are completed, and as long as all other requirements of Section V, Sub-Section I, are met.

 9.00 ENROLLMENT

 9.01 The enrollment policy contained in this section supersedes policy contained in Section V, Sub-Section B of the Manual which pertains to child day care slots only.

 9.02 The Department shall purchase child care services based upon enrollment. Enrollment hours may be adjusted without amending the voucher agreement for circumstances such as nonscheduled school closings and teacher in-service days.

 9.03 Total enrollment hours shall not exceed 50 hours per child, per week, for all client groups served and for all service needs addressed in Standards 9.05 through 9.08. Exceptions may be approved by the Department on a case by case basis. Exceptions may be made to accommodate a parent's work schedule, educational/job training schedule, a family emergency or catastrophic event. Note: Enrollment hours are less for individuals seeking employment (see Standard 9.04).

 9.04 For parents seeking employment, enrollment hours shall not exceed 20 hours per week for no more than four weeks of job search activity within six consecutive months. Students are allowed no more than two weeks of job search activity within six consecutive months. The parent must provide documentation of job search activity to the VMA/Provider.

 9.05 For parents who are employed, enrollment hours per week shall be determined based on work hours and related transportation time.

 9.06 For parents who are attending an educational or job training program, enrollment hours shall include actual class hours, mealtime (if between classes), related travel time and a reasonable amount of study time needed to successfully meet course requirements.

 9.07 For case managed clients referred by the Department or federally recognized Tribe, enrollment hours shall correspond to the referral source's case plan for the child.

 9.08 For clients participating in a non-residential substance abuse treatment program or twelve-step program, enrollment hours shall include treatment hours, support group hours and related transportation time.

 Exception:

 Enrollment hours for children of parents participating in a residential substance abuse treatment program may exceed 50 hours per week as needed.

 9.09 Services to clients shall not be terminated in order to accommodate service needs of new applicants except as directed by the Department for circumstances such as a reduction in funding or changes in Federal or State statutes/rules.

 9.10 The enrollment period begins on the initial date that services are provided and ends on the child's last day of service. The enrollment period must be within the beginning and ending dates of the voucher agreement. The enrollment period also includes:

 a. A two-week termination notification period as provided in Standard 8.18.

 b. Up to a two-week period that a slot is held open at the request of the Department/Tribal caseworker as provided in Standard 9.17;

 9.11 In the event that the client appeals a notice of termination, enrollment in the Voucher Program shall be continued pending a decision on the appeal

 9.12 Children shall be considered enrolled under the following circumstances:

 a. When children are in attendance for their regularly scheduled weekly enrollment hours.

 b. When children are absent from the program part of the week for **reasonable causes** such as: Federal/State holidays, parental vacation days, inclement weather, illness of the child or other family member, transportation problems, family emergencies and catastrophic events affecting the family;

 c. When children are absent from the program for no more than two consecutive weeks for **reasonable causes** such as: parental vacations from work, parental visitations, illness of the child or family member, transportation problems, catastrophic events affecting the family;

 d. When children are absent from the program beyond two consecutive weeks for **reasonable causes** (as stated above) and the VMA/Provider has obtained prior written approval from the Department to extend enrollment beyond the two weeks for a specified period of time;

 e. Children are enrolled while their parent(s) are on maternity/paternity leave for up to twelve weeks. However, payment for child care is limited to a six-week period;

 f. Children of students shall be enrolled while a parent is on a scheduled semester break for no more than four weeks. Note: This standard does not apply to summer vacation periods and school semesters (usually 15 weeks) when a student is not in attendance;

 g. School-age children needing child care during school vacation periods only, such as summer vacation, Christmas vacation, February vacation and April vacation, shall be enrolled for the weeks as specified in the voucher agreement.

 9.13 Under the following circumstances, the caregiver and the VMA/Provider shall consider absenteeism from the child day care program to be unacceptable and shall take action to terminate services:

 a. Absence from the program formore than two days per month without reasonable cause. *Reasonable Cause* is defined in Standard 9.12. Enrollment of the child shall continue if the parent agrees to comply with enrollment policies as set forth in Standard 9.12.

 b. A second incident of noncompliance with enrollment polices in Standard 9.12 shall result in a second action to terminate services and end enrollment without recourse, provided the second incident occurs within twelve months of the initial incident;

 c. If the parent has not requested and/or the Department has not approved an extension beyond the two consecutive weeks of being absent for reasonable causes.

 9.14 When unacceptable absenteeism occurs as set forth in Standard 9.13, the caregiver shall immediately notify the VMA/Provider. Notification shall be made either in writing, in person, or by direct telephone contact with the appropriate representative of the VMA/Provider.

 9.15 The voucher agreement between the VMA/Provider and the caregiver shall set forth the enrollment Standards 9.12, 9.13, and 9.14.

 9.16 Following notification by the caregiver that the client has failed to comply with enrollment standards, the VMA/Provider shall take action to terminate services (see Termination Standards 12.00).

 9.17 Case managed clients referred by the Department or federally recognized Tribe, who fail to appear for service on the scheduled enrollment date, shall have their child care slot held open for up to two weeks and be considered enrolled if requested by the Department or Tribal caseworker.

 9.18 The VMA/Provider shall notify the Department caseworker or Tribal caseworker when children they have referred for services are absent from the program for more than two days per month without reasonable cause (see Standards 9.12 and 9.13).

 9.19 The VMA/Provider shall maintain documentation of enrollment for all children receiving services under the contract. The caregiver shall maintain daily attendance records. Records shall support payments to the caregiver, as well as, the monthly service reports submitted to the Department.

 9.20 The voucher applicant shall be required to visit the caregiver's site and meet with the caregiver prior to the issuance of the child care voucher.

 9.21 Department funded units of service shall be reported to the Department based upon enrollment.

 10.00 WAITING LISTS

 10.01 The following standards shall take precedence over the priority-for-service standards contained in Section II, Subsection A of the Manual.

 10.02 The VMA/Provider shall maintain waiting lists if service is not available at the time of application or referral for service.

 10.03 Waiting lists shall be updated no less frequently than every six months. When voucher applicants are contacted by the VMA/Provider for the purpose of updating waiting lists and the applicant fails to respond within 30 days, the applicant's name may be removed from the waiting list. The notification to the applicant shall contain a statement that failure to respond will result in the removal of the applicant's name from the waiting list. No further notification from the VMA/Provider is required.

 10.04 TANF Transitional clients shall be served as referred and shall not be placed on a waiting list for TANF Transitional child care as long as funding is available for this target group.

 10.05 The VMA/Provider's waiting lists shall include the identification of all applicants by their name,Social Security Number, date of application, county of residence, client target group(s), and qualifying funding source(s). The waiting list shall also include the same identifying information on all TANF Transitional clients currently receiving services with TANF funds, so that these clients will be transitioned to mainstream funding when their names come up on the waiting list for service.

 10.06 Waiting lists shall be maintained as follows:

 a. Funding restricted in the contract for specific target groups such as Family Violence Transitional Clients shall be used only for those clients. Clients are selected for service on a first-come, first-serve basis by funding source;

 b. Special needs and very low income clients shall be given equal priority over all other clients. Among these two priority groups, clients are selected for services on a first-come, first-serve basis by county;

 c. When there are no special needs or very low income clients on the waiting list, all other client groups shall be accepted for service on a first-come, first-serve basis by county;

 d. Exceptions to providing services on a first-come, first-serve basis may be made in cases of catastrophic events or family emergencies as directed by the Department.

 10.07 When an applicant is put on the waiting list, the VMA/Provider must inform the applicant of other subsidized child care services provided within the client's geographical area.

 10.08 The Department or Tribal caseworker shall have the option of selecting, among their own Child Protective, child post-protective and child custody referrals, which family will be served next when services become available to one of their clients on the waiting list.

 10.09 As clients are accepted for service from the waiting list, vouchers shall be provided for all siblings residing with the parent and needing child care. When funding is not available to serve all siblings, then the remaining siblings shall continue in their position on the waiting list for services.

 10.10 For all unborn children, the VMA/Provider shall not accept an application for service prior to the parent's sixth month of pregnancy. The date of application shall determine the child's position on the waiting list by priority or non-priority group status and by county of residence. No preference is given to unborn children of current voucher recipients.

 11.00 TERMINATION OF SERVICES

 11.01 The VMA/Provider shall comply with the termination of contracts policy and hearings on purchased services policy contained in Section III, Sub-Section A of the Manual.

 11.02 When the VMA/Provider terminates service to a voucher client or the voucher client terminates services by their withdrawal from the program, the voucher agreement between the VMA/Provider, the client and the caregiver is also terminated.

 11.03 The voucher agreement shall be terminated when either the caregiver or the voucher client wish to terminate the child care arrangement. When the agreement is terminated by the caregiver, a two week advance notification to the parent and to the VMA/Provider is required. When the agreement is terminated by the parent, a two-week advance notification must be given to the caregiver and to the VMA/Provider. Notification shall be made either in writing, in person or by direct telephone contact with the appropriate person. An exception to the two-week notification period is made for situations addressed in Standards 11.05, 11.06, and 11.20.

 11.04 Services shall be terminated when the contract between the Department and the VMA/Provider is terminated or funding is reduced. The following notices are required:

 a. When the VMA/Provider receives a thirty-day contract termination notice from the Department, the VMA/Provider shall give the client and caregiver a minimum fifteen-day written notification that services will be terminated;

 b. When the contract between the VMA/Provider and the Department is immediately terminated by the Department, the VMA/Provider shall give the client and the caregiver written and/or verbal notification that services are terminated immediately.

 11.05 The parent may immediately terminate the voucher agreement when they have cause to believe there exists an immediate threat to the health and safety of their child. The parent shall immediately notify the caregiver, the VMA/Provider and report the alleged health and/or safety threat to the Department's child care licensing authority for investigation. Notification shall be made in person or by direct telephone contact with the caregiver and the appropriate representative of the VMA/Provider. No two-week advance, written notification is required. The report to the Department shall be made either in person, in writing or by direct telephone contact with the appropriate representative of the Department.

 11.06 The parent may immediately terminate the voucher agreement if they are denied access to their child during the hours that their child is in the care of the caregiver, unless access has been limited by a court order. The parent shall immediately notify the caregiver, the VMA/Provider and report the denial of parental access to the Department's child care licensing authority for investigation. Notification shall be made in person or by direct telephone contact with the caregiver and the appropriate representative of the VMA/Provider. No two-week advance, written notification is required. The report to the Department shall be made either in person, in writing or by direct telephone contact with the appropriate representative of the Department.

 11.07 Clients who fail to respond to an advance notification of eligibility redetermination by the end of their current eligibility period shall be given written notice by the VMA/Provider that services will be terminated within fifteen days from the date that notification is sent to the client. (Also see Standard 11.19.)

 11.08 Clients who respond to a thirty-day advance notification of eligibility redetermination by completing the required forms, but fail to provide the requested documentation prior to the end of their current certification period, shall be given written notification by the VMA/Provider that services will be terminated if the documentation is not provided within fifteen days from the date that the notice is sent.

 11.09 If upon redetermination of eligibility, the client is no longer eligible for services, the VMA/Provider shall give the client written notification that services will be terminated in fifteen days from the date that the notice is sent.

 11.10 The VMA/Provider shall terminate voucher services if the client becomes ineligible prior to the end of their current eligibility period due to a change in income, family size, change in employment status, failure to resume employment or participation in an educational/job training program following a 12-week maternity/paternity leave, or other eligibility requirement. A fifteen-day termination notice is required.

 11.11 When services are terminated for unacceptable absenteeism as provided in Standard 9.13, the VMA/Provider shall give the client written notification that services will be terminated in fifteen days from the date that the notice is sent. Service shall continue if, within the fifteen-day notification period, the client agrees to comply with enrollment standards. For a second incidence of unacceptable absenteeism occurring within twelve months of the first incidence, the VMA/Provider shall give the client written notification that services will be terminated in fifteen days from the date that the notice is sent.

 11.12 Upon notification by the caregiver that the parent failed to pay the assessed fee, the VMA/Provider shall take the following action to terminate services:

 a. If the assessed fee has not been paid within seven calendar days of the due date, the VMA/Provider shall give the client written notification that services will be terminated in fifteen days from the date that the notice is sent if payment is not received. Payment shall include both past due fees and all fees that have accumulated during the notification period.

 Exception: Services shall not be terminated if, within the fifteen-day notification period, the caregiver and the client agree to a payment schedule for the fees in arrears in addition to the regular weekly assessed fee. If the client fails to comply with the schedule, services shall be terminated five days from the date that the VMA/Provider sends written notification to the client.

 b. If the client is a Child Protective, child post-protective or child custody client referred by the Department or federally recognized Tribe, the VMA/Provider shall provide a copy of the fifteen-day notification letter to the client's caseworker. Services shall not be terminated for nonpayment of fees unless written approval to terminate services is given by the Department or Tribal caseworker. The caseworker may waive or reduce the fee.

 11.13 For clients who fail to provide the requested documentation/information to support a reported change in family income, family size or other eligibility criteria, the VMA/Provider shall give the client written notification that services will be terminated if the information/documentation is not received within fifteen days from the date that the notice is sent.

 11.14 When the VMA/Provider has sufficient documentary evidence that the client has failed to report a change in family income, family size or other eligibility criteria within ten calendar days of the change, the client shall be given written notification that services will be terminated if information/documentation of the change is not provided within fifteen days of the date that the notice is sent. Restitution of any amount due the VMA/Provider must be made within the fifteen-day notification period.

 Exception: If, within the fifteen-day notification period, the VMA/Provider and the client agree on a payment schedule for the amount due the VMA/Provider, services shall not be terminated. If the client fails to comply with the schedule, services shall be terminated five days from the date that the VMA/Provider sends written notification to the client.

 11.15 When the VMA/Provider has sufficient documentary evidence that the client has intentionally misrepresented their family income, family size or other eligibility criteria in order to be found eligible for services, the client shall be given written notification that services will be terminated in fifteen days from the date that the notice is sent. The VMA/Provider shall require restitution by billing the former client on the date of termination and again on the thirtieth and sixtieth day if the former client fails to pay. Thereafter, the VMA/Provider may pursue collection in small claims court.

 11.16 The VMA/Provider may terminate voucher services to clients who assault, use threatening language, threatening gestures or other abusive behavior which cause the caregiver or VMA/Provider to reasonably fear for their safety. Following receipt of a signed, written statement of the circumstances, the client shall be given written notification that their eligibility will be terminated within fifteen days of the date that the notice is sent. The written notice shall also contain the client's fair hearing rights. Where appropriate, the VMA/Provider or caregiver may make a report to the police and/or seek a restraining order or cease harassment order from the court.

 11.17 The voucher agreement shall be immediately terminated by the VMA/Provider for the following reasons. Verbal and/or written notification must be given the caregiver and the parent. No two-week advance, written notification is required. If the parent requests a fair hearing, services shall not be continued with the same caregiver. The parent may select a new caregiver.

 a. Upon notification of a finding by the Department that child abuse or neglect occurred while children were in the care of the caregiver;

 b. Loss of the caregiver's license, certification, or registration as required by law;

 c. An immediate threat to the health and safety of the child(ren) in care of the caregiver. A report shall be made to the Department's child care licensing authority for investigation;

 d. Caregivers who assault, use threatening language, threatening gestures or other abusive behavior which causethe parent to reasonably fear for their safety. Where appropriate, the parent may make a report to the police and/or seek a restraining order or cease harassment order from the court.

 11.18 The voucher agreement shall be terminated by the VMA/Provider for the following reasons. The VMA/Provider shall give a two-week advance, written notification to the caregiver and the voucher client. The client may select a new caregiver:

 a. Intentional misrepresentation or fraudulent reporting of services provided in the caregiver's request for payment;

 b. Discrimination against a voucher client in the provision of service and/or fee assessment;

 c. Fee collections in excess of the assessed client fees as stipulated in the voucher agreement. An exception is made for one-time deposit/registration/application fees and special activity fees as provided in Standards 7.09, 7.10, and 7.11;

 d. Repeated failure of the caregiver to submit timely, complete and accurate billings, in spite of the VMA/Provider's efforts to provide technical assistance to the caregiver. Repeated failure means the majority of billings within a six-month period were not received on time, and/or were incomplete and/or inaccurate;

 e. Failure of the caregiver to allow parents unlimited access to their children and caregivers during normal hours of operation or whenever the children are in the care of the caregiver, unless access has been limited by a court order. The parent may immediately terminate the voucher agreement as provided in Standard 11.06.

 f. Failure of the caregiver to notify the VMA/Provider when the client has been absent from the program for more than two days per month without reasonable cause (see Standard 9.13). Prior to entering into a voucher agreement, the caregiver shall be provided with a copy of the enrollment standards.

 g. Any other violation of the voucher agreement which constitutes a breach of contract.

 h. Caregivers who assault, use threatening language, threatening gestures or other abusive behavior which cause the VMA/Provider to reasonably fear for their safety. Where appropriate, the VMA/Provider may make a report to the police and/or seek a restraining order or cease harassment order from the court.

 i. Caregivers who have been debarred or suspended by the Federal government in accordance with the provision in the contract between the VMA/Provider and the Department.

 11.19 The VMA/Provider shall furnish the caregiver with either a copy of the termination notice issued to the client or use an alternative form notifying the caregiver that services are about to terminate. An alternative form is recommended when sensitive information need not be shared with the caregiver. If the client was referred by a Department or Tribal caseworker, the caseworker shall be provided with a copy of the termination notice.

 11.20 The caregiver may immediately terminate the voucher agreement with a client who assaulted, used threatening language, threatening gestures or other abusive behavior which caused the caregiver to reasonably fear for their safety. The caregiver shall notify the parent either in writing, in person or by direct telephone contact. A two-week advance notification to the parent shall not be required.

 11.21 When the voucher agreement is terminated by the VMA/Provider as set forth in Standard 11.17(c), Standard 11.17(d) and Standard 11.18, the caregiver may appeal the decision to the VMA/Provider as set forth in the agreement between the caregiver and the VMA/Provider. The caregiver has no appeal rights with the Department.

**SECTION V: INCOME ELIGIBILITY DETERMINATION, VERIFICATION AND DOCUMENTATION**

**A. INTRODUCTION**

 PURPOSE:

 The Department of Health and Human Services is committed to utilizing its resources to make social services available to those in the greatest economic need. To assure that services are provided to address economic need for the general population and for specific target populations, income eligibility guidelines have been established by the Department. For selected service areas, individuals must meet income guidelines to be eligible for services. This policy is applicable to all agreements, contracts, and grants containing client income eligibility guidelines. To implement the guidelines, the Department has established definitions of *family* and *gross family income* and standards for verification, documentation and treatment of gross family income.

STANDARDS

1.00 DEFINITION OF TERMS

2.00 INCOME GUIDELINE STANDARDS

3.00 DEFINITION OF FAMILY

4.00 INCOME INCLUDED IN FAMILY GROSS INCOME

5.00 ADJUSTMENTS TO FAMILY GROSS INCOME

6.00 INCOME EXCLUDED FROM FAMILY GROSS INCOME

7.00 VERIFICATION, DOCUMENTATION AND TREATMENT OF GROSS FAMILY INCOME

**B. DEFINITION OF TERMS**

 1.00 DEFINITION OF TERMS

 1.01 *Adult* means an individual 18 years of age or older, or court emancipated minor.

 1.02 *Applicant* means the individual applying for services.

 1.03 *Department* means the Department of Health and Human Services.

 1.04 *Department Approved* means approval of the assigned agreement administrator or their supervisor.

 1.05 *Family* - See definition contained in Section V, Sub-Section D.

 1.06 *Federally Recognized Tribe* means the Penobscot Tribe, Passamaquoddy Tribe, Aroostook Band of Micmacs, Houlton Band of Maliseets and other Native American Tribe, band, nation or other organized group or community that is recognized as eligible for the special programs and services provided by the United States to Indians because of their status as Indians.

 1.07 *Maine Resident* means an applicant who has established Maine as a permanent home, the place where s/he intends to return after any period of absence. Maine residency, once established, continues until a new, fixed and permanent home is acquired. No change of Maine residency results from moving to a new location if the intent is to remain only for a limited time, even if it is for a relatively long duration. Documentation of Maine residency includes a Maine home address where the applicant lives and one or more of the following items: current Maine individual income tax return indicating Maine resident status, valid Maine driver's license, current Maine motor vehicle registration, current Maine hunting/fishing license, proof of undergraduate student instate tuition payment, and other reasonable verification.

 Exception: Homeless individuals are exempt from documenting a home address.

 1.08 *Provider* means the community agency or individual who has entered into a contractual agreement with the Department of Health and Human Services, , to provide services.

 1.09 *Service Area* means a type of service purchased by the Department, e.g., child care, homemaker, transportation services.

 1.10 *Student* means an individual enrolled and attending an elementary or secondary educational institution, a program that provides for completion of a secondary diploma or GED, a school for the handicapped, a vocational education program, or post-secondary undergraduate institution.If the student is the applicant, they must be a Maine resident and attending an educational program in Maine. (See definition of *Maine Resident*)

 1.11 *Significant Income Change* means a change in the source or amount of income which is greater than $25.00 per month and expected to continue into the future for more than one month.

 1.12 *Special Needs Child* means a child who is identified with one or more of the following conditions: (1) Children with a specific diagnosis/disability which, without intervention, may impede or impair the attainment of development milestones; (2) Children who evidence a developmental delay in one or more of the following skill areas: cognitive, fine motor, gross motor, receptive and/or expressive language, social/emotional, or self-care; (3) Children considered to be at-risk for health or developmental problems as a result of established biological risk factors, and/or as a result of identified environmental risk factors. At-risk children must be referred by a third party such as public health agencies, physicians, schools, welfare offices, government agencies, federally recognized Tribes, community social service agencies, and early intervention specialists. Note: If the Department or Tribal referred child is served as a "special needs" child, the family must meet the applicable income eligibility requirements for this target group.

**C. INCOME GUIDELINE STANDARDS**

 2.00 INCOME GUIDELINE STANDARDS

 Financial eligibility for clients served with Department funds shall be determined in accordance with the following standards:

 2.01 Income eligibility guidelines shall be based upon gross family income, adjusted to family size.

 2.02 Income eligibility guidelines shall be annually updated by the Department.

 2.03 The basis for establishing gross family income shall be selected by the Department.

 2.04 The Department shall identify the service areas (types of services) that have income eligibility guidelines as a condition of eligibility.

 2.05 The Department shall identify the target group populations within service areas that are eligible for services based upon income eligibility.

 2.06 The Department shall identify the target group populations within service areas that are eligible without regard to income.

 2.07 The Department shall adhere to all statutes, rules and regulations for establishing income eligibility applicable to Federal and State funding sources.

 2.08 The Provider shall comply with all income eligibility standards contained in this Section and within the applicable service area policies, Section V of this Manual.

**D. DEFINITION OF "FAMILY"**

 3.00 DEFINITION OF 'FAMILY'

 In order to determine gross family income, the Provider shall comply with the following standards for defining the *family* unit:

 3.01 A *family* is a group of related and/or non-related individuals, who are living together as one economic unit. An economic unit shares housing, and significant income and expenses of its members. Generally, individuals residing in the same dwelling are one economic unit. However, if more than one economic unit reside together in the same dwelling, there is typically a written or verbal agreement made between the two parties concerning the sharing of housing expenses such as rent, heat and utilities. The two parties to the agreement are otherwise economically independent from one another.

 3.02 An individual living alone shall be a family of one.

 3.03 Married couples residing together shall be considered to be family members.

 3.04 Couples residing together who are not married to each other, but hold themselves out to the community as husband and wife or life partners by representing themselves as such to relatives, friends, neighbors or trades people; shall be considered to be family members.

 3.05 When there are children who reside together with both of their biological or adoptive parents and the parents are not married to each other, both parents of the child(ren) shall be included as family members.

 3.06 Family membership includes individuals who reside with the applicant and are claimed as dependents on the applicant’s income tax returns. An exception is made for parenting teens (see Standard 3.09), foster children (see Standard 3.12), students (see Standard 3.15), and children living with a court-appointed, legal guardian (see Standard 3.13).

 3.07 Family membership may include adults, age 18 and over, who reside with the applicant but are neither married to the applicant nor hold themselves out to be a husband, wife or life partner of the applicant, may or may not be otherwise related to the applicant, but are dependent upon the applicant for all or most their economic needs. Once an individual is claimed as a family member, any income received by that individual while residing with the applicant shall be counted as family income.

 3.08 Adults, age 18 and over, who share a dwelling with the applicant but are neither married to the applicant nor hold themselves out to be a husband, wife or life partner of the applicant, may or may not be otherwise related to the applicant, but contribute their agreed upon share of housing expenses such as rent, heat and utilities; shall not be counted as family members. These individuals are likely to have their own checking accounts and file their own income tax returns. Generally, they share a residence out of economic necessity, but are economically independent of the applicant.

 3.09 Parenting teens (under 20 years of age), who attend elementary school, high school or a GED program and live with their children and their parents, step-parents, relatives or non-relatives, are considered a separate family unit consisting of the teen parent(s) and their child(ren).

 Exception: The school attendance requirement does not apply to child protective referrals from the Department or federally recognized Tribe.

 3.10 Biological children, step-children, adopted children and all other children under 18 years of age residing with the applicant, who is maintaining a home for them and assuming parental responsibility, shall be considered to be family members.

 Exception: Foster children, parenting teens, and children living with their legal guardian may be considered as separate family units as provided in Standards 3.09, 3.12 and 3.13.

 3.11 In cases where joint custody has been awarded and the child physically changes residence between custodial parents, the child is a member of each custodial parent's family for the period of time that the child resides with each parent. Example: The custodial mother applies for child care for a child who resides with her every other week. The child will be included as a member of the mother's family every other week. If the mother is eligible, the child will receive child care every other week. If the custodial father also needs child care, then he may apply for the weeks that the child resides with him.

 3.12 For Department and Tribal child custody (foster children) referrals, the foster child shall be considered a family of one. The foster care payment shall not be included as family income. If there is no referral for service from the Department or Tribal caseworker, then the foster child(ren) shall be included as a member of the foster family, but the foster care payment is not included as income.

 3.13 Children living with a court-appointed, legal guardian may be considered a family of one. Only the income received in behalf of the child shall be included as family income (e.g., TANF, SSI, Social Security).

 3.14 When the biological or adoptive parent of a foster child applies for services, their children in foster care shall not be included as family members.

 3.15 Children of the applicant or other family member, who are temporarily away at school (e.g., attending a boarding school, technical school or college) are considered to be family members.

 3.16 Service applicants may be residents of a shelter for battered women and their children; a homeless shelter; a semi-independent group living arrangement; an assisted housing program for people with a mental health diagnosis, mental retardation, or people with AIDS. Family membership shall not include other residents of the facility who were not admitted as members of the applicant's family.

 3.17 Family members living apart on a temporary basis are considered family members.*Temporary* means the absent family member's permanent home is with the applicant's family, where they intend to return after any period of absence.

 3.18 Residents of a substance abuse treatment program which is time-limited (usually 28 days or less), where the participant is expected to be returning home to live with their family, shall be included as family members.

 3.19 Family members living apart for an extended period of time due to employment or educational purposes shall be considered members of the family.

 3.20 Individuals who are long-term residents of institutions such as hospitals, skilled nursing facilities, intermediate care facilities and prisons, shall not be counted as family members. *Long Term* means that the individual is not expected to return home within two months.

 3.21 Roomers, boarders and live-in attendants shall not be included as family members.

 3.22 The applicant must be a resident of the State of Maine. See definition of *Maine Resident*.

 3.23 Each individual in the family for whom assistance is being requested must be a U.S. citizen, an alien lawfully admitted for permanent residence or otherwise permanently residing in the U.S. under the color of law.

 Note: Aliens legally admitted on a temporary basis such as visitors, travelers, crewmen on shore leave, foreign students, and members of the foreign press, radio, etc. are not eligible for services, even if they have authorization to work.

 Note: The Jay Treaty of 1794 recognizes the aboriginal right of Native Americans to pass the border of the U.S. and Canada. When a Native American with Canadian citizenship moves to Maine, they are recognized as lawfully admitted for permanent residence.

 Note: U.S. born children of illegal immigrants shall not be denied services based upon the citizenship status of their parent(s). Their parent(s), however, are not eligible to receive services.

 Exception: This standard does not apply to blended or wrap-around child care for children enrolled in the Head Start Program, and child care provided in a public or private educational setting for out-of-school time (before and after school, school holidays, and summer vacation).

 3.24 A family member cannot belong to more than one family at the same time.

**E. INCOME INCLUDED IN FAMILY GROSS INCOME**

 4.00 INCOME INCLUDED IN FAMILY GROSS INCOME

 In order to determine gross family income, the Provider shall comply with the following standards for defining what sources of income shall be **included** in gross family income:

 4.01 “Gross family income” is the sum of all money, earned and unearned, already received or reasonably anticipated to be received by all *family* members during the service eligibility period. Gross family income is calculated before such deductions as income taxes, employee's social security taxes, employee pension contributions, employee deferred compensation plans (IRA accounts, 401K plans, etc.), insurance premiums (including Medicare), bonds, union dues and other employee payroll deductions and benefit deductions. Gross income does not include the employer’s fringe benefit contribution/obligation. Gross family income is received or available or earned on a recurring basis. Negative income from business losses or investment/gambling losses shall not be deducted from other sources of earned/unearned income in calculating gross family income. Except for a farm enterprise, a net business, investment, or gambling loss shall have zero value in computing gross family income.

 4.02 Gross family income shall include **Earned Income** from all sources, except for excluded income as set forth in Standard 6.01 Earned income includes:

 a. Wages, salaries, commissions or fees, tips, piece-rate payment and cash bonuses before any payroll deductions;

 b. Gross income from self-employment, excluding mostIRS deductible business expenses (see Standard 7.10(d)(3). Types of self-employment include but are not limited to:

 (1) Independent contractors, franchise holders, owners/operators, farmers, people who produce and sell a product, and service-type businesses;

 (2) Seasonal self-employment such as fishing, clamming, worm digging, logging, harvesting, etc.;

 (3) Income from boarders (not included as family members)

 (4) Income from roomers (not included as family members);

 (5) Income from ownership of rental property.

 c. That portion of training allowances or training stipends which exceeds expenses, and represents a gain or benefit to the family;

 d. On-the-job training JTPA (Job Training Partnership Act) earnings of family members.

 Exception: Earnings of dependents less than 19 years of age, and all earnings under the JTPA-Summer Youth Employment and Training Program and comparable summer youth employment programs under Americorps are exempt (See Standard 6.01b.)

 4.03 Gross family income shall include **Unearned Income** from all sources, except for excluded income as set forth in Standard 6.01. Unearned income includes:

 a. Pension and retirement benefits such as government employee pensions, military retirement/pensions, railroad retirement, private pensions, annuities, IRA accounts, 401K plans and so forth;

 b. Social Security benefits including pensions, survivor’s benefits, and permanent disability insurance payments;

 c. Assistance program payments such as SSI (Supplemental Security Income), TANF (Temporary Assistance for Needy Families), PaS (Parents as Scholars), Refugee Cash Assistance, and other means tested assistance. TANF payments which are diverted to a third party shall be counted as income. Assistance payments from programs which require the performance of work without compensation other than the assistance payment shall be considered unearned income;

 d. Veteran’s benefits including money paid periodically by the Veterans Administration to disabled members of the Armed Forces or survivors of deceased veterans; Aid and Attendance portion of veteran's benefits, subsistence allowances paid to veterans for education and on-the-job training, as well as so-called refunds of GI insurance premiums;

 e. Military family allotments or other regular support from an absent family member or someone not living in the household;

 f. Unemployment insurance and worker’s compensation;

 g. Strike benefits from union funds;

 h. Regular cash income received from earned interest, dividends, royalties, estates and trusts;

 i. Interest income received from all loans and notes such as personal loans, secured loans (includes real estate mortgages), installment contracts and interest-only loans. Loans of this nature usually require periodic payments of constant amounts over the life of the loan. The amount of the loan principal (return of capital) is considered an asset and shall not be included in gross income. The recognized gain on sale amount of the loan repayment shall be included in gross income. This determination shall be made in accordance with IRS regulations;

 j. Child support and alimony payments made directly to the family, including the pass through and gap supplements received by TANF clients. Money deducted or diverted from court-ordered support or alimony to pay household expenses is also counted as income;

 k. Income from ownership of rental property, excluding most IRS deductible business expenses. The business expenses disallowed are the same costs that are not allowed for self-employed individuals as set forth in Standard 7.10(d)(3).

 l. Income from capital gains as defined and calculated in accordance with IRS regulations. Capital gains is the profit from the sale of real and personal property such as the sale of a residence, land, income producing property, investment property, capital equipment, stocks and bonds. Generally, profits resulting from disposal of business inventory of real and personal property are included as income from self-employment as opposed to being separately classified as capital gains;

 m. Regular general assistance cash payments from municipalities that are not made directly to vendors such as a landlord;

 n. Regular money contributions from persons determined not to be family members;

 o. The portion of all educational grants, scholarships and other awards available to pay for living expenses . All fees assessed by the educational institution are not counted as income. If a student is not enrolled in a recognized institution of post-secondary education, a school for the handicapped, a vocational educational program or a program that provides for completion of a secondary school diploma or equivalent, the full amount of educational assistance is counted as income. Income from student loans shall be counted only if there are no repayment terms as a condition of the loan. This standard does not apply to educational assistance which is totally excluded under Federal statute as set forth in Standards 6.01(k) and 6.01(l);

 p. Regular income received from lottery and sweepstakes winnings. Lump sum lottery and sweepstakes winnings are counted within the eligibility period they are received.

 q. Net income from gambling;

 r. Money that is legally due the family which is diverted to a third party to pay household expenses, such as: diversion of all or part of a TANF grant to a landlord; and that portion of an unemployment insurance benefit check intercepted by the State (SELU) commonly referred to as garnished wages. See Standard 5.01 applicable to adjustments for court ordered child support payments. General Assistance vendor payments are excluded;

 s. Income that is legally due a family member but is received and used for that family member by a non-family member;

 t. Income from sponsors of aliens lawfully admitted for permanent residence in the U.S. A sponsor is a person or organization signing an affidavit or document on behalf of the alien as a condition of entry;

 u. All other income from government programs not specifically excluded by law.

**F. ADJUSTMENTS TO FAMILY GROSS INCOME**

 5.00 ADJUSTMENTS TO FAMILY GROSS INCOME

 Gross family income from earned and unearned sources shall be **adjusted** downward by the subtraction of certain expenses incurred in behalf of family members and paid from family income. The following expenses are subtracted from gross family income:

 5.01 The actual amount of court-ordered child support payments made to another family shall be subtracted from gross family income. The deduction shall not include payments in arrears or other court-ordered payments. Payments shall be verified and documented as set forth in Standards 7.00.

 5.02 Recurring expenses for medical care or prescribed adaptive equipment for special needs children shall be subtracted from gross family income. The expenses must be attributable to the child’s diagnosis or disability. The expenses must be paid by the family and are not reimbursed by insurance, Medicaid or other sources. Payments shall be verified and documented in the client’s case file. This deduction applies only to families who would, without this deduction, be ineligible for services based upon the income guidelines as established by the Department. For this deduction, prior approval shall be obtained from the Department.

**G. INCOME EXCLUDED FROM FAMILY GROSS INCOME**

 6.00 INCOME EXCLUDED FROM FAMILY GROSS INCOME

 In order to determine gross family income, the Provider shall comply with the following standards for defining what sources of income shall be **excluded** from gross family income:

 6.01 Certain income shall be **excluded** from gross family income as follows:

 a. Energy Assistance Program payments or allowances made under any federal energy assistance law. Note: Department of Housing and Urban Development (HUD) and Farmer's Home Administration (FmHA) utility payments and reimbursements are considered federal energy assistance;

 b. Job Training Partnership Act (JTPA) payments and JTPA on-the-job training income received by participants (regardless of age) in the Summer Youth Employment and Training Program and comparable summer youth employment and training programs under Americorps. All other payments from JTPA's on-the-job training program (OJT) count as income unless they are received by dependents less than 19 years old;

 c. VISTA payments only if excluded as income for Public Assistance or Food Stamp eligibility;

 d. National Older Americans Volunteer Programs payments, including (but not limited to): Retired Senior Volunteer Program (RSVP), Foster Grandparent Program, Older American Community Service Programs, Senior Health Aides and Senior Companions, Service Corps of Retired Executive (SCORE) and Service Corps of Executives (ACE);

 e. Payments under the Uniform Relocation Assistance and Real Property Acquisition Policies Act of l970;

 f. Women, Infants and Children Program (WIC) vouchers;

 g. Special payments to Native Americans excluded by law, e.g., payments under the Maine Indian Land Claims Settlement Act;

 h. Wages under the Community Service Employment Program of the Older Americans Act;

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

 j. Federal Earned Income Tax Credit (EITC) is excluded whether received as advanced payment in weekly wages or received in one sum after filing annual income tax return. State and local EITC is not excluded as income.

 k. Excluded educational assistance authorized under Title IV of the Higher Education Act, including:

 (1) Basic Educational Opportunity Grants (GEOG or PELL Grants);

 (2) Presidential Access Scholarships (Super PELL Grants);

 (3) Federal Supplemental Educational Opportunity Grants (SEOG);

 (4) State Student Incentives Grants (SSIG; Maine State Incentive Grant);

 (5) Federal Direct Student Loan Program (FDSLP), formerly GSL and FFELP;

 (6) Federal Direct Supplemental Loan Program (provides loans to students);

 (7) Federal Direct PLUS Program (provides loans to parents);

 (8) Federal Direct Stafford Loan Program;

 (9) Federal Direct Unsubsidized Stafford Loan Program;

 (10) Federal Consolidated Loan Program;

 (11) Federal Perkins Loan Program (direct loans to students in institutions of higher education) (Perkins Loans, formerly NDSL);

 (12) Federal Work Study Funds (Note: Not all Federal work study funds come under Title IV of the Higher Education Act.);

 (13) TRIO Grants (go to organization or institutions for students from disadvantaged backgrounds);

 (14) Upward Bound (some stipends go to students);

 (15) Student Support Services;

 (16) Robert E. McNair Post-Baccalaureate Achievement;

 (17) Robert C. Byrd Honors Scholarship Program;

 (18) College Assistance Migrant Program (CAMP) for students whose families are engaged in migrant and seasonal farm work;

 (19) High School Equivalency Program (HEP);

 (20) National Early Intervention Scholarship and Partnership Program.

 l. Bureau of Indian Affairs (BIA) student assistance, education or training assistance, and employment assistance programs. Each Tribe has a BIA agency that may be contacted for more information about education and training assistance. BIA student assistance is provided by the Tribes, is not denoted by any particular name, and is not usually listed on institutions’ financial aid statements.

 m. Value of supplemental food assistance received under the Child Nutrition Act or the National School Lunch Act;

 n. Value of USDA Food Stamps and/or Donated Commodities;

 o. Earned income of a student 19 years of age or younger who is attending an elementary school or secondary school and resides with the applicant. An elementary or secondary school student is someone who attends elementary or secondary school enough time for that person’s state or local school district to consider the person a “student”. This includes a student who attends GED or home-school classes recognized, operated, or supervised by the student’s state or local school district. The exclusion of this income shall not be altered by semester breaks, summer vacations, etc., provided the student resumes enrollment after the break.

 p. When a parenting teen is the applicant, the income of the teen's parents, step-parents, other relatives or non-relatives who provide a home for the parenting teen(s) shall be excluded. The teen parent must be attending elementary school, high school, or a GED program or they must be Department/Tribal referrals. (See Standard3.09.)

 q. Foster care payments from the Department of Health and Human Services or federally recognized Tribe;

 r. Income of a court-appointed, legal guardian when services are provided to a child in their guardianship. The child is the service recipient or client. The child may be considered a family of one. Count only the income received on behalf of the child (e.g., TANF, SSI, Social Security).

 s. Nonrecurring lump sum payments such as income tax refunds; and the portion of retroactive, lump-sum Social Security, SSI, railroad retirement or insurance settlements intended to cover a period prior to the current eligibility period;

 t. State or federal one-time assistance for weatherization or emergency repair or replacement of an unsafe or inoperative heating or cooling device;

 u. All loans, including student educational loans, bank loans, loans from private individuals, and other types of loans where there exists a written agreement with repayment terms as a condition of the loan;

 v. The value of noncash benefits or gains from an employer; such as shelter, food and clothing provided by an employer. Military base housing is an example of employer-provided benefits. This exclusion shall not include money that is legally due the family which is diverted to pay for household expenses (see Standard 4.03r.)

 w. The value of noncash benefits such as subsidized housing, general assistance voucher payments, medical and dental services, donated commodities, and food;

 x. Certain vendor payments made on behalf of the applicant, including:

 (1) Money payments by a non-family member which are not legally due the household and are paid directly to a third party for a household’s expense, such as a relative pays the rent or an employer pays the rent in addition to wages;

 (2) Vendored assistance from state or local programs which provide no cash assistance. This includes General Assistance vendor payments made to a third party.

 y. Monies withheld or returned from an assistance payment, earnings or other source to repay a prior overpayment. Count the gross amount when the overpayment is the result of an intentional violation as determined by TANF, SSI or other means-tested program;

 z. Child support payments received by TANF recipients that are turned over to the Department of Health and Human Services;

 aa. Reimbursements and allowances which do not exceed the actual costs for job-related or training-related expenses, medical expenses, or dependent care expenses. This includes allowances from ASPIRE/JET and JTPA.

 bb. Third-party payments received and used for the care of a third-party beneficiary who is not a family member;

 cc. Withdrawals from bank deposits and credit union deposits;

 dd. Lump sum cash inheritances or gifts;

 ee. The portion of loan or note repayments which is determined to be the loan principal (return of capital) in accordance with IRS regulations (See Standard 4.03(i.));

 ff. Losses from a farming enterprise shall be deducted from any other countable household income. This special consideration applies only to farms with annual gross sales of $1,000 or more.

 gg. Wages from Youth Employment and Training programs under Title IV of CETA.

 hh. Certain cash donations, based on need, received from one or more private, nonprofit charitable organizations.

**H. VERIFICATION, DOCUMENTATION AND TREATMENT OF GROSS FAMILY INCOME**

 7.00 VERIFICATION, DOCUMENTATION AND TREATMENT OF GROSS FAMILY INCOME

 The Provider shall comply with the following standards for verification and documentation of gross family income:

 7.01 The applicant or other family member shall have the primary responsibility to provide verification of family income.

 7.02 Except for clients who are eligible without regard to income, the Provider shall request income verification from all program applicants. Eligibility cannot be determined prior to income verification; and services shall not be provided prior to verification. If there is a fee assessment to individuals who are eligible without regard to income and the basis for the assessment is family income, then the Provider shall request income verification.

 7.03 Income verification shall be documented and retained in the client's record.

 7.04 If income verification has not been provided within 30 days of the application date, the Provider shall deny the application.

 7.05 The Provider shall request income verification from program recipients prior to redetermination of eligibility. Program recipients are redetermined for service eligibility at least once every six months. Redetermination may be for less than a six-month period when significant changes are expected to occur affecting program eligibility or when funding is not available for a full six-month period. A thirty to forty-five day advance notification of eligibility redetermination is required. Services shall not be continued into a new eligibility period without income verification.

 7.06 The Provider shall request income verification from program recipients who report a change in family income. For clients who fail to provide the requested verification, the Provider shall give the client written notification that services will be terminated if verification is not received within fifteen days from the date that notice is sent.

 7.07 Acceptable verification of **earned income** includes one or more of the following as requested by the Provider:

 a. Four or more current, consecutive and complete pay stubs;

 b. Four or more current, consecutive and complete pay envelopes;

 c. W-2 Form (if representative of current and future earnings);

 d. State and/or Federal Income Tax Return;

 e. Self-employment bookkeeping records;

 f. Sales and expenditure records;

 g. Statement of gross earnings for the past four or more weeks, signed and dated by the employer on company letterhead;

 h. Employer’s wage record;

 i. Employment Security Office records;

 j. Verbal verification from caseworker for Department/Tribal referrals.

 k. A signed release of information from the applicant which authorizes the Provider to pursue verification or further clarification.

 7.08 Documentary evidence is the primary source of verification of **unearned** income. Whenever attempts to verify income have failed for reasons other than client non-cooperation, an amount to be used shall be determined based on the best available information. If verification (other than documentary evidence) is used, the reason why shall be explained in the client's record. Acceptable verification of **unearned** **income** includes, but is not limited to the following:

 a. Benefit check (viewed and photocopied by the Provider);

 b. All types of award letters;

 c. Income tax records (interest income, dividends, royalties, estates, trusts, deferred compensation plans, capital gains, etc.);

 d. Support and alimony payments evidenced by court order, divorce or separation papers, or check copies;

 e. Social Security Query Card Response;

 f. Social Security District Office verification;

 g. Bank Statement;

 h. Maine Employment Security Commission verification;

 i. Worker’s Compensation verification;

 j. Insurance company verification;

 k. Verbal verification from caseworker for Department/Tribal referrals;

 l. A signed release of information from the applicant which authorizes the Provider to pursue verification or further clarification.

 7.09 The calculation of family gross family income is based on the **best estimate** of the family’s income and other circumstances expected to exist until the next eligibility period. The best estimate is based on the client's and the Provider’s reasonable expectations and knowledge of current, past and future circumstances.

 7.10 A **best estimate** is determined by the following steps:

 a. Income received within four or more weeks immediately preceding application or redetermination must be verified.

 b. Determine, through a careful review of the income documentation and discussion with the client, if there have been any significant income changes during this 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. See definition of *Significant Income Change.*

 c. Self-employment income shall be averaged over a twelve-month period when it represents the family’s major source of support. This applies even when it is received in a shorter period of time. If the twelve-month average is not an accurate reflection of circumstance or a business has been in operation only a part of a year, income will be averaged for the months in operation or the Provider may calculate the self-employment income based on anticipated earnings. Seasonal self-employment income which supplements other income shall be averaged over the season.

 d. Income from self-employment shall be calculated as follows:

 (1) Add all gross self-employment income together including the full amount of capital gains. This means that a family with more than one self-employment enterprise shall have all self-employment gross income added together;

 (2) Add all costs of producing income together. This means that a family with more than one self-employment enterprise shall have all self-employment costs added together;

 (3) Costs not allowed (do not deduct from gross self-employment income) are: (a) Payments on the principal of the purchase price of income producing real estate, capital assets, equipment, machinery or other durable goods; (b) Net losses from previous periods; (c) Federal, state and local income taxes, retirement plans applicable to family members only, and work-related personal expenses; and (d) Depreciation expense. Note: The employer's share of FICA tax is an allowable deduction.

 (4) Subtract the total costs of producing the income from the total gross income of the self-employment enterprise(s);

 (5) Divide net earnings by number of months over which income has been averaged, when appropriate. (See Standard 7.10(c.))

 (6) Add self-employment income to any other income received by the household. Losses from a farm enterprise shall be deducted from any other countable family income. This special consideration applies only to farms with annual gross sales of $1,000 or more. Otherwise, losses from self-employment shall not be subtracted from any other countable family income.

 e. Determine if any significant income changes are expected in the future. If yes, and the exact nature of the significant income change is known, the Provider shall use that information in determining the best estimate of income. If the exact nature of the anticipated change is not known, a redetermination shall be scheduled to coincide with the expected date.

 f. Determine if any of the income received is not expected to be representative of the future. Sporadic fluctuations in income are not used in calculating the best estimate (Example: Christmas bonus or a one-week plant shutdown). The client file must explain how the best estimate was figured and, if applicable, why any income was not used.

 g. If income fluctuates to the extent that a four week period does not provide the best estimate of income for the future eligibility period, the Provider can use information covering a longer period of time. 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 to determine the best estimate taking into account any anticipated changes.

 h. The final step is to calculate the average monthly income as follows:

 (a) Weekly income is converted to monthly income by multiplying the weekly amount by 4.3.

 (b) Biweekly income is converted to monthly income by multiplying the biweekly amount by 2.15.

 (c) Average monthly income from self-employment is added to all other earned and unearned income as provided in Standard 7.10c. and 7.10d.

 i. To arrive at weekly income for fee determination purposes, monthly income is converted to weekly income by dividing the monthly amount by 4.3. Biweekly income is converted to weekly income by dividing the biweekly amount by 2.15.

EFFECTIVE DATE:

 October 16, 1983

AMENDED:

 August 24, 1986

EFFECTIVE DATE (ELECTRONIC CONVERSION):

 May 5, 1996

AMENDED:

 January 1, 2000 - Section V Sub-Section I and Section VI added

NON-SUBSTANTIVE CORRECTIONS:

 March 7, 2000 - minor formatting and spelling

 April 5, 2000 - dollar amounts in Section III(E)(4)(1)(u) were not changed via APA amendment and so reverted to an earlier filing

AMENDED:

 March 5, 2006 - repealed Section II(A),(B),(E),(F), Section III, and Section IV(A),(B),(C),(D),(E),(G); subject matter absorbed by new 10-144 Ch. 24, filing 2006-96

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