**10 DEPARTMENT OF HEALTH AND HUMAN SERVICES**

**148 OFFICE OF CHILD AND FAMILY SERVICES**

**Chapter 6: CHILD CARE AFFORDABILITY PROGRAM RULES**

**(EMERGENCY RULE)**



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# INTRODUCTION

The Department’s Child Care Affordability Program (CCAP) administers the federal Child Care and Development Fund (CCDF), other federal funds, and state funds to increase the availability, affordability, and quality of Child Care Services for Maine families. In order to maximize parental choice for child care, Maine provides a system of financial support for eligible families and other designated client categories through the use of CCAP Payments.

# SECTION 1: DEFINITIONS

1. **Administrative Hearing** means a proceeding pursuant to the Administrative Hearings regulations, 10-144 C.M.R. ch. 1. Refer to: <https://www.maine.gov/sos/rulemaking/agency-rules/department-health-and-human-services-rules#144>.
2. **Agency Administrative Errors** means errors caused solely by the Department.
3. **Allowable Net Income** means the net monthly business income for a self- employed Parent.
4. **ASPIRE** means the job preparation program to prepare for, accept, and retain employment.
5. **Assets** means equity in real and personal property.
6. **At-Risk Children** means Children identified by the Department of Health and Human Services’ Office of Child and Family Services as a Child in Care and Custody, Children of a single Parent household where that Parent has a documented disability and supplies a doctor's note which states the Parent is unable to be Employed or attend a qualifying Job Training or Educational Program, or a two Parent household where both Parents have a documented disability and supply a doctor's note which states the Parents are unable to be Employed or attend a qualifying Job Training or Educational Program or, and/or Children that have an active Protection from Abuse Order from a Maine District Court.
7. **Award Letter** means the document notifying a Parent and selected Provider of the Child Care Affordability Program Award Period, time awarded, and the Parent Fee.
8. **Award Period** means no less than twelve (12) months as required by federal law (45 C.F.R. §98.21), the Department-Approved timeframe, for Child Care Affordability Program eligibility.
9. **Care and Custody** means Children in the Care and Custody of the Department or a Federally Recognized Tribe.
10. **Caseworker** means an employee of the Department or Federally Recognized Tribe, authorized to provide specialized case management services to At-Risk Children, Children in Open Child Protective Cases, and Children in the Care and Custody of the Department.
11. **Child** means an individual (a) between six (6) weeks and under thirteen (13) years of age, (b) who turns thirteen (13) years old during a twelve (12) month eligibility period, or (c) a Child with Special Needs who is under the age of nineteen (19).
12. **Child Care Affordability Program (CCAP)** means financial support for eligible families with low income(s) and other designated client categories; available dependent upon funding; and which may pay for Child Care Services provided by a qualified Child Care Provider.
13. **Child Care Affordability Program Payments** means the amount set by the Department, based on the Market Rate, minus the Parent Fee, that the Department reimburses the Child Care Provider on behalf of the Parent for Child Care Services provided to an eligible Child by an enrolled Child Care Provider.
14. **Child Care Center** means an entity licensed by the Department in which a Child Care Provider maintains or otherwise provides Child Care Services, for any part of a day, for thirteen (13) or more Children.
15. **Child Care Facility** means a Provider licensed as a Child Care Facility by the Department.
16. **Child Care Provider (Provider)** means an entity providing child care services who is qualified to participate in CCAP. A Provider is: (a) a Child Care Facility or Family Child Care Provider licensed by the Department, (b) a Child Care Provider licensed by New Hampshire, or (c) a License-Exempt Child Care Provider as defined in this rule.
17. **Child Care Services** means care provided to an eligible Child by an eligible Child Care Provider.
18. **Child Protective Services (CPS)** means a specialized casework service provided by the Department to neglected or abused Child(ren) and their families. For the purposes of these rules the following families and Children qualify as involved with Child Protective Services (CPS): At-Risk Children, Children involved in Open Child Protective Cases, and Children in Care and Custody.
19. **Child with Special Needs** means a Child who: has been determined and documented by a qualified professional to: (a) be a “Child with a disability” as defined in section 602 of the Individuals with Disabilities Education Act (20 U.S.C. § 1401); (b) is eligible for early intervention services under Part C of the Individuals with Disabilities Education Act (20 U.S.C. §§ 1431, *et seq.*); (c) be eligible for services under section 504 of the Rehabilitation Act of 1973 (29 U.S.C. § 701); (d) meet the definition of disability under the Americans with Disabilities Act of 1990 (ADA) (42 U.S.C. § 12102); (e) be considered at-risk for health and/or developmental problems as a result of established biological risk factors, and/or as a result of identified environmental Risk Factors including, but not limited to, experiencing homelessness, abuse or neglect, lead poisoning, and prenatal drug or alcohol exposure; or (f) be a Child who is between thirteen (13) years of age and eighteen (18) years of age, inclusive, who is physically or mentally incapable of caring for themself, or is under court supervision.
20. **Department** means the Maine Department of Health and Human Services.
21. **Department-Approved** means consent by the CCDF State Child Care Administrator or their designee.
22. **Educational Program** means a program which is required for completion of a secondary diploma, High School Equivalency Test (HISET), or other Department-Approved high school equivalency test; Department-Approved vocational program; or post-secondary undergraduate program in which the Parent is earning credits toward a degree; or other Department-Approved Educational Program. Parents may be enrolled either in person or online. Parents attending Graduate or Doctoral level Educational Programs are not eligible to receive Child Care Affordability payments.
23. **Eligibility Income** means Gross Income or Allowable Net Income (for Self-Employed Parents).
24. **Employed** means participation in gainful work that produces earned income from: wages, salaries, commissions, fees, tips, and/or piece-rate payments.
25. **Enrollment** means the specified amount of time authorized by the Department for a weekly subsidy payment.
26. **Family** means a Child and the related and/or non-related adult(s) who are living together and who are in a legally binding relationship to the Child either by blood, marriage, adoption, registered domestic partnership or Guardianship.
27. **Family Child Care Provider** means a Provider licensed as a Family Child Care Provider by the Department.
28. **Federally Recognized Tribe** means the Penobscot Tribe, Passamaquoddy Tribe, Aroostook Band of Micmacs, Houlton Band of Maliseets, and any 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 Native Americans because of their status as Native Americans.
29. **Fictive Kinship Care** means services provided to a Child in Care and Custody or services intended to prevent a Child from entering Care and Custody, under a plan with the Department and any person that is unrelated by birth, adoption, or marriage, and who has an emotionally significant relationship with the Child that would take on the characteristics of a familial relationship.
30. **Foster Care** means a temporary living arrangement in which resource families provide for the care of Children who are in Care and Custody. A resource family is a person(s) who provides care to Children in Care and Custody. Resource Families include foster parents, permanency guardians, adoptive Parents, and members of the Child’s extended birth Family. Refer to 22 MRSA § 4002.
31. **Good Cause** means when any of the following conditions is met: the Parent states the Child was conceived as the result of incest or rape; the Parent states cooperation in establishing paternity or securing support is reasonably anticipated to result in physical or emotional harm to the Parent, Child, or caretaker relative; or documentation indicating legal proceedings for adoption of the Child are pending in court.
32. **Good Standing** means when a Parent has provided the Child Care Provider with twelve (12) calendar days notice.
33. **Gross Income** means 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 Income is calculated before deductions (such as income taxes, social security taxes, deferred compensation plans, insurance premiums, union dues, etc.). Gross Income does not include fringe benefits. Gross Income includes any Allowable Net Income realized by any member of the Family.
34. **Group** means the specific Children assigned to a specific Teacher(s) within one room or identifiable activity space.
35. **Guardian** means a person who has qualified as a guardian of a minor or incapacitated person pursuant to appointment by a parent or spouse or by a court. “Guardian” includes a limited, an emergency, and a temporary substitute guardian, but not a guardian ad litem or a person holding only a power of attorney.
36. **Experiencing Homelessness** means an individual lacks a fixed, regular, and adequate nighttime residence, and includes:
37. children and youths who are sharing the housing of other persons due to loss of housing, economic hardship, or a similar reason; are living in motels, hotels, trailer parks, or camping grounds due to the lack of alternative adequate accommodations; are living in emergency or transitional shelters; or are abandoned in hospitals;
38. children and youths who have a primary nighttime residence that is a public or private place not designed for or ordinarily used as a regular sleeping accommodation for human beings;
39. children and youths who are living in cars, parks, public spaces, abandoned buildings, substandard housing, bus or train stations, or similar settings; and
40. migratory children who qualify as homeless for the purposes of this part because the children are living in circumstances described in clauses (a) through (c).

1. **Infant** means a Child six (6) weeks of age through twelve (12) months of age.
2. **Job Training Program** means vocational, field, on-the-job, apprenticeship, and other Department-Approved job readiness training programs that focus upon the acquisition of knowledge and skills that prepare the participant for employment.
3. **Maine Resident** means a Parent who has established Maine as a permanent home or as the place where they intend to return after any period of absence. Maine residency, once established, continues until a new, fixed and permanent home is acquired. Documentation of Maine residency includes a Maine home address where the Parent lives and one (1) or more of the following: a Maine individual income tax return for the immediate past tax year that was timely filed with the Maine Revenue Service and that indicates Maine Resident status, valid Maine driver’s license, Maine State ID, current Maine motor vehicle registration, Maine hunting/fishing license, proof of undergraduate Student in-State tuition payment, or other Department-Approved verification.
4. **Maine Roads to Quality** means Maine’s Early Care and Education Professional Development Registry. Refer to: <https://www.mrtq.org/>.
5. **Market Rate** means the Child Care Affordability Program Payment rate paid to Child Care Providers for providing Child Care Services.
6. **Misrepresentation** means an action of an individual with the intention of receiving financial assistance the individual is not eligible to receive.
7. **Night-Time Employment** means employment in which hours worked are between 12 a.m. and 6 a.m.
8. **Non-Temporary Change** means a Parent (a) is no longer Employed, (b) is no longer attending a Job Training Program or Educational Program, (c) has experienced a change in income that puts them over 85% or 125% of State Median Income (including due to a change in Employment), (d) has had another parent move into their home, or (e) has a change in Child Care Provider.
9. **Notification of Termination** means the document sent to the Parent and Child Care Provider by the Department notifying them of termination of Child Care Affordability eligibility.
10. **Office of Child and Family Services (OCFS)** means the State agency within the Department that determines program eligibility for the Child Care Affordability Program.
11. **Overpayment** means when the amount paid exceeds the amount that would have been paid if the Child Care Affordability Program had been calculated correctly based on actual circumstances reported, verified, and acted on in a timely manner. Overpayments may occur as the result of Misrepresentation, Agency Administrative Error, or Parent or Child Care Provider error(s).
12. **Parent** means (a) a Child’s Parent by blood, marriage, or adoption whose parental rights have not been terminated, or (b) a Guardian.
13. **Parent Fee** means the Department-determined fee that a Parent must pay directly to the Child Care Provider as the Parent’s share of responsibility for the Child Care Provider’s fee that is the subject of the Child Care Affordability Program.
14. **Preschool** means a Child age three (3) years plus one day to age five (5), who has not yet entered kindergarten.
15. **Primary Applicant** means the first Parent’s name on the application.
16. **Provider Agreement** means the agreement between a Child Care Provider by type of provider, licensed or licensed-exempt, and the Department that outlines the conditions under which the Child Care Provider may receive a Child Care Affordability Program Payment from the Department.
17. **Reasonable Cause** means Department-Approved reasons for a Child’s absence from a Child Care Provider’s program which may include, without limitation: Federal/State holidays; Parental vacation days; inclement weather defined by a snow day when local schools are closed; illness of the Child or other immediate Family member; appointments; transportation issues that affect the Parent’s ability to transport the Child to care; Family visitations: Family emergencies, including, but not limited to, surgery, medical treatments, or accidents; or catastrophic events affecting the Family, including but not limited to fires, storms, or accidents.
18. **Repeated Failure** means when the majority of billings for Child Care Services from the Child Care Provider, within a six (6) month period, were not received on time, and/or were incomplete and/or inaccurate, in spite of the Department’s efforts to provide technical assistance to the Child Care Provider.
19. **Safe Sleep Practices** means an initiative which encourages Parents and other caregivers to have Infants sleep on their backs to reduce the risk of Sudden Infant Death Syndrome (SIDS) and other sleep-related causes of Infant death.
20. **School Age** means a Child in full day schooling who is: (a) between five (5) years plus one day and thirteen (13) years of age or (b) a Child With Special Needs five (5) years plus one day and eighteen (18) years of age.
21. **Self-Employment** means operating one’s own business, trade, or profession for wages equal to or greater than Maine’s average hourly minimum wage.
22. **Sibling** means each of two or more children (a) having one or both parents in common or (b) whose parents have married each other (step siblings)
23. **State Child Care Administrator** means the Department staff responsible for administering the CCDF grant.
24. **State Median Income (SMI)** means arranging all income values in a dataset in numerical order and then identifying the middle value. Specifically, it is the income that falls exactly halfway between what people earn on both sides of the wealth spectrum.
25. **Student** means a Parent enrolled in and attending an Educational Program or Job Training Program, and who is a Maine Resident.
26. **Sudden Infant Death Syndrome (SIDS)** means the unexplained death, usually during sleep, of an Infant.
27. **Supporting Documentation** means documentation that substantiates information reported to the Department related to determination of an award, redetermination of an award, a temporary or non-temporary change, or other reportable information as it relates to the Child Care Affordability Program rules.
28. **Teacher** means an individual who is Employed by a Child Care Provider for compensation on a regular basis and whose responsibilities are to organize, guide, and implement activities in a Group or individual basis, or to assist a Teacher or lead Teacher in activities to further the cognitive, social, emotional, and physical development of Children.
29. **Temporary Change** means any time-limited absence from work, a Job Training Program, or an Educational Program for an Employed Parent due to reasons found acceptable by the Department, including but not limited to:
30. Parent’s medical leave or parental leave, need to care for a family member, or illness;

1. Any interruption in work for a seasonal worker who is not working between regular industry work seasons;
2. Any student holiday or break for a Parent participating in a Job Training Program or Educational Program;
3. Any reduction in work, training, or education hours, as long as the Parent is still working or attending a Job Training Program or Educational Program;
4. Any change in Child age, including a Child turning 13 years old during the eligibility period;
5. Any change in residency within the State.
6. **Toddler** means a Child aged 12 months plus one day to 36 months.
7. **Transportation Time** means the time it takes a Parent (a) to leave a Child Care Provider and arrive at work, an Educational Program, or Job Training Program and (b) to leave work, an Educational Program, or Job Training Program and arrive back at the Provider. Transportation can take place by car, bus, bike, walking, boat, or others means as indicated on the application.
8. **Unacceptable Absence** means a lack of attendance by a Child at the Child Care Provider for more than two (2) calendar days per month without Reasonable Cause or previous approval from the Department.
9. **Underpayments** means when the Parent or the Child Care Provider does not receive all the benefits to which the Parent or the Child Care Provider is entitled due to an Agency Administrative Error or an error by the Parent or Child Care Provider.
10. **Waitlist** means a list which prioritizes eligible participants by specific criteria.

# SECTION 2: ELIGIBILITY

## Child Eligibility. To be eligible for a Child Care Affordability Program, a Child shall:

* 1. Reside with a Family whose Gross Income does not exceed one hundred twenty- five percent (125%) of the State Median Income (SMI) when adjusted for Family size. SMI is based on the most recent SMI data that is published by the Bureau of the Census, for a Family of the same size;
	2. Reside with a Family whose Family Assets do not exceed $1,000,000 (as certified by the Parent);
	3. Be a U.S. citizen, or a “qualified alien” as defined in 8 U.S.C. §1641 or defined in 8 U.S.C. § 1359. Only the citizenship and immigration status of the Child, who is the primary beneficiary of the Child Care Affordability Program, is relevant for eligibility purposes. Parents who cannot provide verification of citizenship of Children receiving Child Care Services are not eligible for the Child Care Affordability Program.
	4. Not Reside With a Parent who has a current status of Misrepresentation to obtain any State or Federal benefit;
	5. Reside with a Parent who is a Maine Resident;
	6. Reside with a Parent(s) who is Employed or attending an Educational Program or Job Training Program which prevents the Parent(s) from providing care and supervision of the Child(ren) during the time the Parent is participating in the activity.
	7. Meet one of the following age requirements:
		1. Be at least six (6) weeks of age and less than thirteen (13) years of age;
		2. Turn thirteen (13) years of age during a current eligibility period; or
		3. Be a Child with Special Needs or under court supervision.

## Family Experiencing Homelessness Eligibility

* 1. If a Parent or Child is Experiencing Homelessness at the time of initial application or at time of redetermination, and the family meets other eligibility requirements, the child will be approved for the Child Care Affordability Program. A ninety (90) calendar day grace period will be provided to the Parent to allow time for submission of required eligibility documentation. During such grace period, the Child shall be deemed to be eligible for a Child Care Affordability Program.
	2. If the Parent’s eligibility documentation has not been received within the ninety (90) calendar day grace period, or after review of the eligibility documentation it is found that the Parent is not eligible for Child Care Affordability Program, the Parent will be terminated from Child Care Affordability Program. Any Child Care Affordability Program Payments and Parent Fees paid to the Child Care Provider will not be considered improper payments under these rules.
	3. If after review of the eligibility documentation it is found that the Parent is eligible for Child Care Affordability Program, the Parent will continue to receive Child Care Affordability Program Payments for the remainder of the Award Period.

## Parent Financial/Income Eligibility

* 1. **Income eligibility standards**

Income eligibility standards will be based on the Eligibility Income of the Parent(s). Parent Fees will not exceed seven percent of the Family’s Eligibility Income for Families below 85% SMI and not exceed ten percent (10%) of the Family’s Eligibility Income for Families with Eligibility Income between 85% and 125% SMI.

* 1. **Family Size Chart**

The following chart provides examples of the most common forms of family composition, the resulting Family size, and whose income is countable in determining Eligibility Income.

|  |  |  |
| --- | --- | --- |
| **Family Composition** | **Family Size** | **Income Counted** |
| Single Parent with Child(ren) | Parent and Child(ren) | Include all countable income |
| Unmarried Parents who have at least one (1) mutual Child | Both Parents and all the Child(ren) in the household | Include all countable income |
| Unmarried Parents with no mutual Child(ren) or multiple Family households | Unmarried Parents and their respective Child(ren) living in the household are counted as separate Families | Include countable income for the unmarried Parent and his/her Child(ren) |
| Married Parents | Both Parents and all Child(ren) living in the household | Include all countable income |
| Grandparents with legal Guardianship of Child(ren) and Parents; and Parents of said Child(ren) in the household | Child is considered a Family of one (1) | Only Child’s income is counted |
| Family member out of the household on a temporary basis and expected to return | Parent in the home, the absent individual and the Child(ren) | Include all countable income for all Family members |
| Foster Care Parent and Child | Child considered a Family of one (1) | Include only Child’s income |
| Individuals providing Fictive Kinship Care to a Child with a Child Protective Services’ (CPS) plan | Child considered a Family of one (1) | Include only Child’s income |
| Legal guardians and Child | Child considered a Family of one (1) | Include only Child’s income |
| Parent and Child with Family member absent due to living in a long-term residential institution or prison | The absent individual is removed from the household. Count remaininghousehold members | Include all countable income except that of the absent individual |
| Child whose residence changes between custodial Parents | Child and custodial Parent’s Family. All other Family rules in this section apply | Include all countable income |

## Earned Income

Eligibility Income must include earned income from all sources:

* + 1. 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; and
			6. That portion of training allowances or training stipends which exceed expenses, and represents a gain or benefit to the Family.

## Unearned Income

Eligibility Income must include unearned income from all sources:

* + 1. Pension and retirement benefits such as government employee pensions, military retirement/pensions, railroad retirement, private pensions, annuities, IRA accounts, 401K plans, etc.;
		2. United States Social Security Administration (SSA) benefits including pensions, survivor’s benefits, and permanent disability insurance payments;
		3. Disability insurance payments from any source;
		4. Assistance program payments such as Supplemental Security Income (SSI), Temporary Assistance for Needy Families (TANF), Parents as Scholars (PAS), Refugee Cash Assistance, and other 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;
		5. 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 Government Issue (GI) insurance premiums;
		6. Military Family allotments such as Basic Allowance for Housing (BAH), Basic Allowance for Subsistence (BAS), Hazard Pay, or other regular support from an absent Family member or someone not living in the household;
		7. Unemployment insurance and worker’s compensation;
		8. Strike benefits from union funds;
		9. Regular cash income received from earned interest, dividends, royalties, estates, and trusts;
		10. The value of any property (real or intangible) in which there is an unrestricted right to immediate use, possession, or enjoyment of the property (or the income from it) even if the right is not exercised;
		11. 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;
		12. Child support and alimony payments, 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;
		13. A Child support lump payment is counted as part of income and averaged over the number of weeks that Child support is in arrears;
		14. Income from ownership of rental property, excluding IRS deductible business expenses;
		15. Income from capital gains Capital gains are the profit from the sale of real and personal property such as a residence, land, income producing property, investment property, capital equipment, stocks, and bonds. If property is sold prior to the date of the application in the same calendar year, the profit realized from the sale is pro-rated through the end of the calendar year. If property is sold after a family is determined eligible, the profit realized from the sale is pro-rated over the remaining eligibility period.
		16. Regular general assistance cash payments from municipalities that are not made directly to vendors such as a landlord;
		17. Regular money contributions from persons determined not to be Family members;
		18. 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 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;
		19. Regular income received from lottery and sweepstakes winnings. Lump sum lottery and sweepstakes winnings are counted within the eligibility period they are received;
		20. Net income from gambling;
		21. 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 Division of Support Enforcement and Recovery (DSER) commonly referred to as garnished wages. General Assistance vendor payments are excluded;
		22. Income that is legally due to a Family member but is received and used for that Family member by a non-Family member;
		23. 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;
		24. All other income from government programs not specifically excluded by law;
		25. The value of a non-cash benefit provided by a non-custodial Parent in lieu of child support to pay household expenses (such as a car payment); and
		26. The profit realized from a lump sum inheritance is pro-rated through the end of the calendar year.

## Income Excluded from Eligibility Income

The following income is excluded from Eligibility Income:

* + 1. 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 (FHA) utility payments and reimbursements are considered federal energy assistance;
		2. Workforce Innovation and Opportunity Act (WIOA) payments and WIOA 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 WIOA's On-the-job Training Program (OJT) count as income unless they are received by dependents less than nineteen (19) years old;
		3. Payments under the Uniform Relocation Assistance and Real Property Acquisition Policies Act of l970;
		4. Women, Infants, and Children Program (WIC) vouchers;
		5. Special payments to Native Americans excluded by law, e.g., payments under the Maine Indian Land Claims Settlement Act;
		6. Federal Earned Income Tax Credit (EITC) is excluded whether received as advanced payment in weekly wages or received in one (1) sum after filing annual income tax return;
		7. 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); and
			20. National Early Intervention Scholarship and Partnership Program.
		8. 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;
		9. Tribal payments separate from earned income;
		10. Value of supplemental food assistance received under the Child Nutrition Act or the National School Lunch Act;
		11. Value of United State Department of Agriculture (USDA) Food Supplement and/or Donated Commodities;
		12. Earned income of a Student nineteen (19) years of age or younger who is attending an elementary school or secondary school and resides with the applicant. The exclusion of this income shall not be altered by semester breaks, summer vacations, etc., provided the Student resumes enrollment after the break;
		13. 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 working or attending an Educational or Job Training Program;
		14. Foster Care payments from the Department or Federally Recognized Tribe;
		15. Nonrecurring lump sum payments such as income tax refunds; and the portion of retroactive, lump-sum Social Security Administration, Supplemental Security Income, railroad retirement or insurance settlements intended to cover a period prior to the current eligibility period;
		16. State or federal one (1) time assistance for weatherization or emergency repair or replacement of an unsafe or inoperative heating or cooling device;
		17. 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;
		18. The value of non-cash benefits or gains from an employer, such as: shelter, food, and clothing provided by an employer. This exclusion shall not include money that is legally due the Family which is diverted to pay for household expenses;
		19. The value of non-cash benefits such as: public subsidized housing, general assistance voucher payments, medical and dental services, donated commodities, and food;
		20. 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 paying the rent or an employer paying the rent in addition to wages;
			2. Vendor assistance from State or local programs which provide no cash assistance. This includes General Assistance vendor payments made to a third party; and
			3. Monies withheld or returned from an assistance payment, earnings, or other source to repay a prior Overpayment. Gross amount counted as income when the Overpayment is the result of a violation as determined by TANF, SSI, or other means-tested program;
		21. Child support payments received by TANF recipients that are turned over to the Department;
		22. 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;
		23. Third-party payments received and used for the care of a third-party beneficiary who is not a Family member;
		24. Withdrawals from bank deposits and credit union deposits;
		25. The portion of loan or note repayments which is determined to be the loan principal (return of capital) in accordance with IRS regulations;
		26. Certain cash donations, based on need, received from one (1) or more private, nonprofit charitable organizations; and
		27. Housing allotment for military families who have one (1) or both Parents deployed to a foreign country.

## Verification, Documentation, and Treatment of Eligibility Income

* + 1. The Parent shall have the primary responsibility to provide verification of Eligibility Income.
		2. Eligibility income verification must be requested from all Child Care Affordability Program applicants.
		3. Eligibility income cannot be determined prior to income verification, and Child Care Affordability Program services shall not be provided prior to verification.
		4. Eligibility income verification must be documented in the Parent’s case file.
		5. If Eligibility income verification has not been provided within ten (10) calendar days of the application date, the application will be denied.
		6. Acceptable verification of earned income includes one (1) or more of the following:
			1. Tipped wages, piece work, commission, etc. (per diem work must provide paystubs);
			2. Four (4) weeks of current (within sixty (60) calendar days of application) and complete paystubs;
			3. W-2 Form (if representative of current and future earnings);
			4. State and/or Federal Income Tax Return ( self-employed);
			5. Self-employment bookkeeping records, including but not limited to, profit and loss statements (only accepted through the first federal tax filing);
			6. Sales and expenditure records;
			7. Employment information sheet provided by CCAP;
			8. Statement of employment and expected gross earnings, signed and dated by the employer on company letterhead;
			9. Employer’s wage record;
			10. Employment Security Office records;
			11. Verbal verification from Caseworker for Care and Custody Department/Tribal referrals; or
			12. A signed release of information from the applicant which authorizes the Department to pursue verification or further clarification; and
			13. Documentary evidence is the primary source of verification of unearned income. Whenever attempts to verify income have failed for reasons other than Parent’s 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 Parent’s record. Acceptable verification of unearned income includes, but is not limited to, the following:
				1. Benefit check (viewed and photocopied by the Department);
				2. Benefit programs award letters;
				3. Signed income tax records (interest income, dividends, royalties, estates, trusts, deferred compensation plans, capital gains, etc.)
				4. Support and alimony payments evidenced by court order, divorce or separation papers, or check copies;
				5. Social Security Query Card Response;
				6. Social Security District Office verification;
				7. Bank statement;
				8. Worker’s Compensation verification;
				9. Insurance company verification;
				10. Verbal verification from Caseworker for Care and Custody Department/Tribal referrals; or
				11. A signed release of information from the applicant which authorizes the Department to pursue verification or further clarification.
		7. A Parent is found to be eligible for the Child Care Affordability Program if his/her monthly Eligibility Income is at or below one hundred twenty-five percent (125%) of the current SMI; and
1. Income is figured by averaging weekly or bi-weekly pay and multiplying by 4.3 to get a monthly average.
	1. CCAP may disregard a low or high paystub.
	2. CCAP may use year to date to benefit the Parent.
	3. CCAP may divide overtime by year to date.

## Program Eligibility

The Office of Child and Family Services (OCFS) is responsible for approving Child Care Affordability Program eligibility through review of the completed program application.

* 1. Parents may apply to CCAP up to sixty (60) calendar days before the first day of child care.
	2. The Parents’ financial documentation for Child Care Affordability Program must be dated no more than sixty (60) calendar days prior to the date of the OCFS’ receipt of the program application or the program application will be denied.
	3. The Child Care Affordability Program has fifteen (15) days to review the Application. If the Application is not complete the Child Care Affordability Program has an additional fifteen (15) days to review additional documentation. For Applications determined to be eligible, awards will be issued retroactive to the Saturday before the Department received the completed Application unless the Child had not yet entered care with the Provider on that date, in which case awards will start on the Saturday before the date the Child enters care.
		1. For License Exempt Providers, if the Provider, or any household member, or staff who are required by this Rule to undergo a background check do not pass the background check, the State will not pay for the child care services provided and the parent will be responsible for any fees the provider charges for the care provided.
	4. Parents enrolled in a Job Training Program or Educational Program must verify enrollment upon initial application and re-determination and are required to attend classes either in-person or online.
	5. If a Parent is income eligible and provides documentation from the Social Security Administration or 100% disabled determined by the Department of Veteran’s Affairs indicating they have a disability and supplies a doctor’s note which renders them unable to be Employed or attend a qualifying Job Training or Educational Program and the other Parent is working, attending an Educational Program or Job Training Program, the Family may be eligible for the Child Care Affordability Program.
	6. If a Child is home-schooled, the Parent is not eligible for the Child Care Affordability Program during regular school hours, as defined by the parent’s school district.
	7. To the extent funding is available, the Department may waive the requirement that a Parent be engaged in Employment, a Job Training Program, or an Educational Program and authorize Child Care Affordability Program payments for the following:
1. A Child in Care and Custody; and
2. A Child placed under the legal Guardianship of an individual who has reached Retirement Age as defined by the Social Security Administration and who is at least sixty-five (65) years of age and no longer working.
	1. To maintain eligibility, any Non-Temporary Change must be reported with Supporting Documentation within ten (10) days.
3. A Parent who is no longer Employed or attending a Job Training Program or Educational Program has twelve (12) weeks to become Employed or begin participating in a Job Training Program or Educational Program.
4. If another parent who is not Employed or attending a Job Training Program or Educational Program moves into a home of a Parent, that adult has twelve (12) weeks to become Employed or begin attending a Job Training Program or Educational Program.
5. If a Parent in the Family’s household does not become Employed or begin attending a Job Training Program or Educational Program within twelve (12) weeks of the Non-Temporary Change, Child Care Affordability Program will end the award.
6. A Parent may have income recalculated to reduce their Parent Fee during a Non-Temporary Change. The Parent must provide required Supporting Documentation requested by the Child Care Affordability Program.
7. A Family receiving child care assistance from other federally funded programs (TANF, Foster Care, etc.) may not be eligible for the Child Care Affordability Program

## Adverse Action on Parent’s Eligibility

At least twelve (12) days before taking any Adverse Action based on wage and/or employment information, the Department shall provide the Parent with written notice of the Adverse Action that includes the reason(s) and regulatory basis for the intended action. The notice shall advise the Parent that the Department has received information regarding their financial eligibility. The Parent has ten (10) calendar days from the date that the written notice was mailed, to contest the Department’s decision. The notice shall state that unless the Department is notified otherwise by the Parent in writing within ten (10) calendar days from the date that the notice was mailed, the Department will assume that the data provided by the match or obtained through independent verification is correct and the change to the Parent’s financial eligibility determination may be made.

## Parent(s) Ineligible for Child Care Affordability Program

* 1. A Parent will be determined to be ineligible for Child Care Affordability Program if:
		1. A Child Care Provider reports to the Department that a Child had twenty-five (25) or more Unacceptable Absences within the previous twelve (12) months;
		2. The Parent is responsible for repayment of an Overpayment as provided for in these Rules or owes Parent Fees to a Child Care Provider with whom the Parent had an agreement (unless a reasonable payment plan has been set up and the Parent is making regular payments on the arrears);
		3. The Parent had his/her Child Care Affordability Program or other State benefits terminated for Misrepresentation of their Family income or Family size within the past twelve (12) months (counting from either (i) the date of an Administrative Hearing decision that finds a Misrepresentation on the part of the Parent or (ii) the date the Misrepresentation was determined by the relevant agency if no Administrative hearing occurs);
		4. Parents convicted of theft as a Class B or Class C crime by a court of competent jurisdiction, regarding funds administered by the Department through the Child Care Affordability Program, shall be permanently disqualified from participation in Child Care Affordability Program.

# SECTION 3: WAITLIST

1. The Department must maintain a Waitlist if funding is not available at the time the Department receives a Parent’s complete program application for the Child Care Affordability Program.
	1. When there is a change in guardianship for Child(ren) receiving CCAP, the new Parent can apply for CCAP without going on the Waitlist.
2. Parents on the Waitlist shall receive written notification when they come off the Waitlist and are selected to be considered for an award. If more than sixty (60) days have passed from the date of the original application, Parents must send in a new application and Supporting Documentation to redetermine eligibility.

## Priorities for Waitlist

* 1. Children from Families at or below 30% SMI at time of application or redetermination, Children who are Experiencing Homelessness, and Children with Special Needs will have priority over other Children otherwise eligible for the Child Care Affordability Program.
	2. Children from Families below 85% SMI will be prioritized after the above mentioned priority populations.
	3. As funding becomes available, all other Parents are selected from the Waitlist on a first-come, first-served basis, based on the date the Department received the completed application or redetermination.
	4. Exceptions to the above may be granted by the State Child Care Administrator for the following:
		1. In cases of catastrophic events including, but not limited to: fires; storms; accidents; or Family emergencies, including, but not limited to, surgery and other medical treatments or domestic violence; or
		2. For siblings of Children accepted from the Waitlist. When funding is not available to serve all siblings, the remaining siblings will continue in their position on the Waitlist for Child Care Services.

# SECTION 4: REIMBURSEMENT

1. The Department shall process and determine eligibility for the Child Care Affordability Program within fifteen (15) days of receiving a completed application.
2. The Department shall notify a Child Care Provider within two (2) business days of a Child’s eligibility change.
3. The Department will make a Child Care Affordability Program Payment to an eligible Child’s Child Care Provider in the amount of the Market Rate set forth by the Department, less the Parent Fee and adjusted as otherwise provided in this Rule.
4. The Department will establish Market Rates for Child Care Providers based on age of child, geographic location, hours in care, and provider type. The Department is the only entity authorized to establish the Child Care Affordability Program Market Rates.
5. If a Parent with whom an eligible Child resides has a court order indicating that another person shares responsibility for Child Care, the Department will decrease the amount of the Child Care Affordability Program Payment in accordance with such court order.
6. Child Care Services funded, in whole or in part, by the Child Care Affordability Program may be provided only by a Child Care Provider that has entered into and is in compliance with a Provider Agreement with the Department that describes the responsibilities of both parties, using the forms provided by the Department.

# SECTION 5: PARENT FEE & COSTS

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## Associated Parent Fees & Costs

* 1. All Parents will be assessed, and a Parent Fee will be determined based on the number of individuals in the Family, the Eligibility Income of the family, and Quality Rating and Improvement System (QRIS) level of the Provider. The Parent Fee does not vary with the number of Children receiving Child Care Services, the amount of Child Care Services they need, or the type of Child Care Services the Parent chooses to use.
	2. The Department will notify Parents of the amount of the Parent Fee and associated payment terms. All Parent Fees will be paid directly to the Child Care Provider by the Parent or another party acting on behalf of the Parent, for the full period their Child(ren) is/are enrolled and the Department is making Child Care Affordability Program Payments on their behalf.
	3. Parents choosing a Provider at the second highest QRIS level will receive a ten percent (10%) reduction in their Parent Fee determination. Parents choosing a Provider at the highest QRIS level will receive a twenty percent (20%) reduction in their Parent Fee determination.
	4. If the Parent Fee exceeds the state reimbursement rate, the Parent is not eligible to receive Child Care Affordability Program payments.
	5. Under no circumstances will the Department use state or federal funds to pay the Parent Fee.
	6. Parent Fees may be paid with scholarship funds or other sources.
	7. The total amount of the Parent Fee assessed cannot exceed seven percent (7%) of the Family’s Eligibility Income for families below 85% of State Median Income and cannot exceed ten percent (10%) of the Family’s Eligibility Income for Families with Eligibility Income between 85% and 125% of State Median Income.

## B. Maximum Parent Fees as a Percentage of Eligibility Income

1. The maximum Parent Fee as a percentage of Eligibility Income will be as follows:

|  |  |
| --- | --- |
| State Median Income | Maximum Parent Fee as Percentage of Eligibility Income |
| Under 29.99% | 0% |
|  30-34% | 1% |
| 35-39% | 2% |

|  |  |
| --- | --- |
| 40% - 44% | 3% |
| 45% -54% | 4% |
| 55% - 64% |  5% |
| 65% - 74% | 6% |
| 75% - 89% | 7% |
| 90%-99% | 8% |
| 100%-109% | 9% |
| 110% - Maximum Allowed | 10% |

C. A Parent Fee can be adjusted between re-determinations only:

* 1. If a Parent’s Eligibility Income decreases;
	2. To correct an error in the prior calculation; or
	3. To reinstate a Parent Fee that has been lowered (cannot be increased to more than the initial Parent Fee).
1. When the Parent Fee is adjusted, an updated Award Letter will be sent to the Parent and Child Care Provider.
2. The Child Care Provider does not have the authority to waive the Parent Fee.
3. The Child Care Provider will collect the Parent Fee portion of the payment from the Parent on a weekly basis, as agreed to in the Provider Agreement.
4. **Changing Providers.** A Parent who chooses a different Child Care Provider must:
	1. Inform the Department and submit Supporting Documentation for the new Child Care Provider ten (10) days prior to enrolling their Children with the new Provider.
	2. The Parent must be in Good Standing with their current Provider.
5. The Parent is solely responsible for transportation fees, late pickup fees, field trips, and other non-reimbursable fees incurred by the Child to access Child Care Services.

## SECTION 6: ENROLLMENT

## Enrollment Hours

* 1. Total enrollment hours will be awarded based on two levels of care, part time or full time and cannot exceed fifty (50) hours per Child, per week. Exceptions are approved by the Department on a case-by-case basis.
		1. A Provider may not receive Child Care Affordability Program Payments until the Provider has started providing Child Care Services to the Child.
	2. Weekly enrollment hours are determined in fifteen (15) minute increments by the Parents’ hours of Employment, Education, and Job Training and travel time, if applicable.
		1. Parent(s) with 1-29 hours of employment, education, or job training per week will qualify for part time child care. Parent(s) with 30 hours of more per week of employment, education, or job training will qualify for full time child care.
	3. For Parents who are Employed, enrollment hours per week will be determined based on work hours, related Transportation Time, and unpaid work breaks.
		1. Night-time Employment: Parents with Night-Time Employment may seek Department-approval for a maximum of eight (8) additional hours of sleep time after work. However, Children shall not remain in Child Care Services longer than eighteen (18) hours within a twenty-four (24) hour period.
		2. Self-Employment: For Parents who are Self-Employed, the weekly enrollment hours are the monthly Allowable Net Income divided by the Maine hourly minimum wage at the time of determination and re-determination. This total is then divided by four-point-three (4.3) (travel time is not figured into Self- Employment). Parents with Shared/Joint Custody and who are Self-Employed will have enrollment hours reduced based on custody agreement. Need of care must equal one or more hours at the time of determination or redetermination.
			1. For Self-Employed Parent(s) whose business is a corporation or LLC, only income paid directly to the self-employed Parent will be counted.
			2. Self-employment bookkeeping records, including but not limited to, profit and loss statements (only accepted through the first federal tax filing) are acceptable to verify earned income.
		3. Self-employed Parents that were on an unpaid time-limited leave, such as parental leave, can voluntarily report this leave to the Department. The non-paid leave will not adversely affect the award or eligibility of the Parent. Per Diem Employment: For Parents who are Employed on a per diem basis, enrollment hours will be determined at the time of initial application and re- determination and will be based upon the Parent’s work schedule.
	4. For Parents who are attending an Educational Program or Job Training Program, enrollment hours per week will be determined based upon:
		1. Actual class hours;
		2. Related Transportation Time; and
		3. Reasonable Study Time, as determined by the Department. Reasonable Study Time is determined based on the Parent’s enrollment in classes as a Student, the Parent Student’s special needs, the amount of time between such Student’s classes, and the ages of the Student’s Child(ren).
	5. Parents who have Shared/Joint custody must provide a copy of a court order. In cases where there are no court orders, Parents must provide a custody/visitation schedule signed by both Parents. Enrollment hours will be determined by the hours/days the Child(ren) are in care of the Parent participating in CCAP. Each Parent may receive a CCAP award on behalf of the same Child if otherwise eligible under this rule.

## Enrollment Period

* 1. The enrollment period begins on the initial date that Child Care Services are provided and ends on the last day the Child received Child Care Services and must be within the beginning and ending dates of the Award Letter.

## Child Protective Services (CPS) Case Managed Clients

* 1. Enrollment hours must correspond to the Caseworker’s case plan for a Child in the Care and Custody of the Department or Federally Recognized Tribe.

## Child Absences

* 1. When a Child Care Provider reports to the Department that a Child had more than twenty hours (20) of Unacceptable Absences in a month, the Parent will be sent a letter explaining the policy pertaining to Unacceptable Absences.
	2. When a Child will be absent from the program beyond two (2) consecutive weeks for Reasonable Cause, the Child Care Provider must obtain prior written approval from the Department to continue to receive Child Care Affordability Program Payments.
	3. A Child’s participation in the Child Care Affordability Program will be terminated if the Parent has not requested, and the Department has not approved, an extension beyond two (2) consecutive weeks of being absent for Reasonable Cause.
	4. When a Child Care Provider reports to the Department that a Child had two hundred and fifty (250) hours or twenty-five (25) days or more of Unacceptable Absences within the previous twelve (12) months, unless approved by the Department, the Child’s participation in the Child Care Affordability Program will be terminated.

# SECTION 7: MAINTAINING PARENT ELIGIBILITY

## Reporting Requirements

* 1. Within ten (10) calendar days of its occurrence, Parents participating in the Child Care Affordability Program must report any Non-Temporary Change and submit Supporting Documentation to the Child Care Affordability Program.
	2. Parents participating in the Child Care Affordability Program must report a Change of Child Care Provider to the Child Care Affordability Program four (4) weeks prior to enrolling their Children with the new Provider.
	3. If a Parent fails to report a change within the required days of the change, the Parent’s participation in the Child Care Affordability Program may be terminated.
	4. It is the responsibility of the Parent to ensure that the Department has their current address and current email address. All notices sent to the last documented address provided by the Parent(s) and not returned are deemed received.

## Continued Eligibility

* 1. A Parent’s participation in the Child Care Affordability Program will continue in accordance with the current Award Letter for a Child whose Parent is experiencing any Temporary Change.
	2. A Parent’s participation in the Child Care Affordability Program will continue for a period of up to twelve (12) weeks for a Child whose Parent is experiencing any Non-Temporary Change.

## Re-determining Eligibility

* 1. The Department will re-determine eligibility of all Parents participating in the Child Care Affordability Program no sooner than every twelve (12) months as required by federal law (45 CFR Part 98.16). When possible, re-determinations for Child Care Affordability Program will be aligned with there-determination(s) of other State assistance benefit program(s) the Parent is receiving.
	2. The Department will send the Parent written notification at least thirty (30) calendar days before the re-determination is due.
	3. The written notification of re-determination will include the exact date that participation in the Child Care Affordability Program will be terminated if the Parent fails to complete and return the program application and required documentation.
	4. The Child Care Affordability Program has fifteen (15) days to review the Application. Child Care Affordability Program has an additional fifteen (15) days to review additional documentation. For Applications determined to be eligible, awards will be issued retroactive to the Saturday before the Department received the completed Application unless the Child had not yet entered care with the Provider on that date, in which case awards will start on the Saturday before the date the Child enters care.

a. For License Exempt Providers, if the Provider, or any household member, or staff who are required by this Rule to undergo a background check do not pass the background check, the State will not pay for the child care services provided and the parent will be responsible for any fees the provider charges for the care provided.

* 1. When a Parent has completed the required eligibility re-determination forms, but failed to provide the requested documentation, or is no longer eligible for the Child Care Affordability Program, Child Care Affordability Program Payments will not be made beyond the end date provided for in the current Award Letter.

# SECTION 8: CHILD CARE PROVIDER QUALIFICATIONS AND REQUIREMENTS

## Child Care Provider Qualifications

* 1. To be qualified to receive reimbursement from the Child Care Affordability Program, Child Care Providers must either be: (a) a Child Care Provider licensed by the Department, (b) a Child Care Provider licensed by the New Hampshire DHHS Child Care Licensing Unit, or (c) a License-Exempt Child Care Provider qualified by the Department under this Rule.
		1. License-Exempt Providers include:
			1. **A License-Exempt Child Care Provider,** who provides Child Care Services for no more than two (2) children, is eighteen (18) years of age or older, and is a Maine Resident, or is a Recreational program through a municipality, and has enrolled in Rising Stars for ME.
			2. **A License-Exempt Relative Child Care Provider**, who is a Child(ren)’s grandparent, great grandparent, sibling (if living in a separate residence), aunt, or uncle, who provides Child Care Services for no more than two (2) children, is eighteen (18) years of age or older, and is a Maine Resident.
			3. **A Non-Relative In-home Child Care Provider**, who provides Child Care Services in the Child’s home and must be: eighteen (18) years of age or older, a Maine resident, and providing Child Care Services to a family unit receiving CCAP. In addition, the provider cannot care for more than two (2) of their own children while providing services.
			4. **A Relative In-home Child Care Provider**, who is a Child(ren)’s grandparent, great grandparent, sibling (if living in a separate residence), aunt, or uncle who provides Child Care Services in the Child’s home and must be: eighteen (18) years of age or older, a Maine resident, and providing Child Care Services to a family unit receiving CCAP. In addition, the provider cannot care for more than two (2) of their own children while providing services.
	2. All licensed and non-relative License-Exempt Child Care Providers, except for Child Care Providers licensed under New Hampshire DHHS Child Care Licensing Unit, must maintain at least a minimal level on Maine QRIS.
	3. All licensed Child Care Providers, except for Child Care Providers licensed under New Hampshire DHHS Child Care Licensing Unit, must comply with all applicable Department licensing rules.
	4. License-Exempt Providers and all adult household members must provide a copy of the background check approval letter to the Child Care Affordability Program before the Provider is qualified to receive Child Care Affordability Program Payments on behalf of eligible Children. Recreational Programs must provide a copy of the owner or Director’s background check approval letter and a statement that they will have all staff background checks on file for viewing during inspections.

## Provider Agreement

* 1. To be qualified to receive Child Care Affordability Program Payments on behalf of an eligible Child, the Child Care Provider must execute a Provider Agreement.
	2. The Provider Agreement will set forth the responsibilities of both parties and shall include:
		1. Operations;
		2. Referrals;
		3. Parent Fee Collection;
		4. Reimbursement;
		5. Reporting;
		6. Record Keeping;
		7. Site Visits;
		8. Health and Safety Requirements;
		9. Department’s Responsibilities;
		10. Child Care Market Rates; and
		11. Child Care Hours of Operations.
	3. The Provider Agreement will be executed on forms authorized by the Department.
	4. The agreed upon maximum payment to the Child Care Provider for the Child Care Affordability Program will:
1. Be the total of the Child Care Affordability Program payment and the Parent Fee;
2. Will not exceed the Department established Market Rate and
	1. The Department will pay the Child Care Provider the agreed upon weekly rate.
	2. The Child Care Provider will collect the Parent Fee portion of the payment from the Parent on a weekly basis as agreed to in the Provider Agreement.
	3. Enrollment standards must be followed.
	4. All Child Care Affordability Program payments to Child Care Providers will be for services provided between the beginning date and the ending date of the Award Letter.
	5. Payments outside of the Provider Agreement dates are not allowed.
	6. A Parent cannot receive Child Care Affordability Program Payments for providing Child Care Services to their own Child.
	7. Except for court-ordered restricted parental contact or custody, Parents must have unlimited access to their Children and to all Child Care Providers during normal hours of operation or whenever the Children are in the care of the Child Care Provider.

## License-Exempt Background Checks

* 1. License-Exempt Child Care Providers (excluding Relative Child Care Providers) are required to submit a request for a criminal background check for all current and prospective staff members, all adults residing in the location where Child Care Services are being provided, any individuals whose activities involve the care or supervision of Children or who have unsupervised access to Children, and the Child Care Provider themself as required by federal law (45 C.F.R. § 98.43).
	2. The following background checks are required:
		1. In the State where the individual resides includes all the following checks:
			1. Child Protective Services (CPS);
			2. State Bureau of Identification (SBI) with fingerprints;
			3. Department of Motor Vehicles (DMV);
			4. State Sex Offender Registry;
			5. National Crime Information Center (NCIC) National Sex Offender Registry; and
			6. FBI fingerprint check using Next Generation Identification.
		2. In each state where the individual has resided for the previous five (5) years includes all the following checks:
			1. Child Protective Services (CPS);
			2. State Bureau of Identification (SBI) with or without fingerprints;
			3. Department of Motor Vehicles (DMV);
			4. State Sex Offender Registry;
			5. NCIC National Sex Offender Registry; and
			6. FBI fingerprint check using Next Generation Identification as required by federal law (45 C.F.R. § 98.43).
	3. Background checks must be completed at least once every five (5) years.
	4. A Child Care Provider shall not be required to submit a request if the individual received a qualifying background check within the last five (5) years.
	5. The State may charge the Child Care Provider for the actual cost of the processing and administration of background checks.
	6. The State shall provide results of the background check to the Child Care Provider and the current or prospective staff member indicating eligibility or ineligibility within forty-five (45) calendar days of the Child Care Provider’s submitted request.
	7. If a current or prospective staff member is ineligible due to the results of the background check:
		1. The results must be provided to the Child Care Provider without revealing any disqualifying crime or other related information regarding the individual; and
		2. The results must be provided to the individual and include information related to each disqualifying crime or other information related to the ineligibility and the opportunity to appeal.
	8. The results of individual background checks shall not be publicly released or shared unless the data is unidentifiable and/or aggregated.
	9. A prospective staff member may begin work for a Child Care Provider after receiving qualifying results of either the Federal Bureau of Investigation fingerprint check using Next Generation Identification, or State Bureau of Identification (SBI) with fingerprints. This staff member must always be supervised, by an individual who received a qualifying result on a background check within the past five (5) years, until the results of all aspects of the background check have been received.
	10. Unsatisfactory results of any component of a background check for any individual will disqualify the Provider that employs, proposes to employ, houses, or otherwise provides such individual access to Children from receiving payment for Child Care Services provided under this rule. Unsatisfactory result is defined by one (1) or more of the following:
		1. A conviction for any Class A crime (as defined by State statute) or its equivalent;
		2. A conviction within the last ten (10) 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 (10) years that resulted in time served in a correctional facility;
		4. A conviction for any crime in the last ten (10) years that jeopardized the health and safety of a minor;
		5. More than one (1) conviction within the last three (3) years is deemed, by the Department, as detrimental to the welfare of a Child;
		6. A drug-related offense committed during the preceding five (5) years, unless the Department determines the individual is eligible pursuant to a review of the conviction or convictions;
		7. A conviction for an OUI or Driving to Endanger within the last three (3) years. The Department may qualify the Provider to receive Child Care Affordability Program Payments on behalf of eligible Children if another adult in the household (not the Child Care Provider) is found to have this conviction and they sign a written agreement not to transport Children receiving Child Care Services;
		8. More than one (1) operating under the influence (OUI) conviction, with the latest conviction in the last five (5) years;
		9. Three (3) or more convictions in the last five (5) years for speeding in excess of twenty (20) miles per hour over the speed limit by the Child Care Provider. The Department may qualify the provider to receive Child Care Affordability Program Payments on behalf of eligible Children if the Child Care Provider signs a written agreement not to transport Children while providing Child Care Services;
		10. A suspended driver’s license at the time of submitting a CCAP provider agreement by the Child Care Provider. The Department may qualify the provider to receive Child Care Affordability Program Payments on behalf of eligible Children if the Child Care Provider signs a written agreement not to drive the Children while providing Child Care Services;
		11. A substantiated finding of Child abuse or neglect by the Department;
		12. A refusal to consent to participation in a background check;
		13. Materially false statements made relating to a background check;
		14. A registration or requirement to register on a State or National Sex Offender Registry; and/or
		15. A conviction of murder.

## Appeals

* 1. The Department will provide every individual required to undergo a Background Check under this rule who is disqualified to receive Child Care Affordability Payments for providing Child Care Services to eligible Children notice of the opportunity to appeal. The notice will include clear instructions about how to complete the appeals process.
	2. All appeals related to Background Checks must be done in accordance with 10-148 C.M.R. ch. 34.

## Emergency Plan

* 1. All Child Care Providers (excluding Relative Child Care Providers) must have an Emergency Plan that is updated annually that includes:
		1. Procedures for evacuation, relocation, shelter-in-place and lock down, communication and reunification with families, continuity of operations, and accommodation of Infants and Toddlers, Children with disabilities, and Children with chronic medical conditions; and
		2. Procedures for staff and volunteer emergency preparedness training and practice drills, including training requirements for Child Care Providers of services for which assistance is provided under CCDF at § 98.41(a)(1)(vii).

## Health and Safety Standards

* 1. All Child Care Providers, (excluding Relative Child Care Providers) must have attained a minimum of a Star One (1) quality rating from Maine’s Quality Rating and Improvement System (QRIS).
	2. All Teachers and Directors of a Child Care Provider (excluding Relative Child Care Providers) must successfully complete the Department-Approved orientation training that includes, at a minimum, the Health and Safety Standards below, within ninety (90) calendar days of beginning their work with Children as required by federal law (45 C.F.R. § 98.41):
1. Prevention and Control of Infectious Diseases is defined by following proper methods of handwashing cleaning and sanitizing, and disinfecting surface areas, bedding, and toys/objects, by not attending Child Care Services when ill, and to have Children stay current on vaccinations which are nationally recommended;
2. Prevention of Sudden Infant Death Syndrome (SIDS) and use of Safe Sleep Practices is defined as following practices to reduce the risk of SIDS:
	1. Placing a baby to sleep on his or her back on a firm mattress using a safety-approved crib;
	2. Removal of any loose bedding; and
	3. While sleeping making sure the baby’s head stays uncovered and the baby does not get overheated.
3. Administration of medication, consistent with parental consent is defined as Child Care Providers and staff must be aware of and follow state regulations, laws, and program policies and procedures. Directors, supervisors, and owner/operators are responsible to prepare and enforce policies for accurate medication administration procedures. They must also make sure that identified staff are well trained to administer medication to Children by following State-approved medication administration training guidelines. Medicines administered in Child Care Facilities, family group homes, and Family Child Care programs should be limited to prescription or nonprescription (over-the-counter or OTC) medications. All medication administration must include parental/guardian written, documented permission, and medication logs. Medications must be ordered by a prescribing health professional for a specific Child. Orders from the prescribing health professional should specify the medical need, medication, dosage, and length of time to give medication;
4. Prevention of and response to emergencies due to food and allergic reactions is defined by having classroom procedures for policies, food preparation and food label reading, food services, cleaning and sanitizing, field trips, and recognizing symptoms. By also having a food allergy action plan or emergency care plan in place for a Child with severe food allergies;
5. Building and physical premises safety, including identification of and protection from hazards that can cause bodily injury such as electrical hazards, bodies of water, and vehicular traffic, is defined as a safe space where age-appropriate planning and checks take place inside and outside for toys, furniture, materials, and equipment. Proper supervision takes place even during naptime. Prepare and prevent to ensure Children in care can move around the space and explore;
6. Prevention of shaken baby syndrome, abusive head trauma, and Child maltreatment is defined as all Caregivers/Teachers who are in direct contact with Children including substitute Caregivers/Teachers and volunteers:
	1. Actions that have a reasonable likelihood to be harmful to Children are strictly prohibited including but is not limited to: shaking babies, using corporal punishment, aggressive contact harmful to a Child’s body, cruel or severe punishment, humiliation, or verbal abuse and/or other methods of detrimental practice.
	2. Receiving training on how to prevent shaken baby syndrome/abusive head trauma;
	3. Recognizing the potential signs and symptoms of shaken baby syndrome/abusive head trauma;
	4. Learning strategies for coping with a crying, fussing or distraught Child; and
	5. Learning the development and vulnerabilities of the brain in infancy and early childhood.
7. Emergency preparedness and response planning for emergencies resulting from a natural disaster, or a man-caused event must also include procedures for evacuation; relocation; shelter‐in‐place and lockdown; staff and volunteer training and practice drills; communications and reunification with families; continuity of operations; and accommodations for Infants and Toddlers, Children with disabilities, and Children with chronic medical conditions: standard is defined as every Child Care Facility needs a written plan for emergencies. Every person who works in a Child Care Facility, Family Child Care, or License-Exempt Provider (other than a Relative Child Care Provider), every early care and education (ECE) professional, should know his or her role in emergency situations, and how to follow the plan to keep Children and adults safe if an emergency occurs. A written emergency preparedness plan should include step-by-step procedures for evacuation, relocation, shelter-in- place, lockdown, communication and reunification with families, and planning for vulnerable Children;
8. Handling and storage of hazardous materials and the appropriate disposal of bio-contaminants is defined as any material that either contains poison or is poisonous and possibly can cause serious problems or even death, or blood, body fluids or excretions that may spread infectious disease. Exposure can take place through inhalation, skin contact, or ingestion.
9. When not in use, all hazardous materials should be stored in the original container in a locked cabinet or room that has a Child-resistant lock and is not accessible to Children.
10. Chemicals should be stored separately from food and medications. All hazardous materials should be used per the manufacturer’s instructions on the label. Pesticides and other chemicals should not be used when Children are present.
11. Chemicals used to treat lawns should be restricted to chemicals that are approved for use in areas where Children will be present.
12. Prevention of exposure to blood and body fluids. The Provider must take measures to prevent exposure to blood and other potentially infectious fluids, which may include use of disposable gloves. When touching blood, body fluids, secretions, excretions, mucous membranes, or non-intact skin, providers must:
	1. Wash their hands after contact, even if gloves are worn;
	2. Ensure safe waste management by immediately discarding contaminated single use items; and
	3. Immediately Clean and disinfect surfaces and reusable equipment.
13. Appropriate precautions in transporting Children (if applicable) are defined as all providers and staff follow state laws and regulations, program polices, liability, and insurance. Written transportation policies should be in place and should address the safe transport of Children by vehicle to and from the facility, home pickups and deliveries, and special outings such as field trips. Policies should also address the safe care of Children around vehicles, such as during drop-off and pickup times, in parking lots, or anywhere that children may be exposed to moving vehicles;
14. Pediatric first-aid and cardiopulmonary resuscitation (CPR) is defined as Providers have learned the priorities, roles, and responsibilities of a rescuer providing first aid or CPR to a Child or an Infant. Included is how to help when a Child or Infant is choking. Proper certification is gained through training; and
15. Recognition and reporting of Child abuse or neglect is defined as a threat to a Child’s health or welfare by physical, mental or emotional injury or impairment, sexual abuse or exploitation, deprivation of essential needs or lack of protection from these, by a person responsible for the Child. Any provider suspecting abuse or neglect must report this information to Child Protective Intake Services, which is staffed twenty-four (24) hours a day, seven (7) days a week. The Provider must maintain documentation that a report has been made.
	1. All Child Care Providers, Teachers, and Directors associated with Child Care Providers (excluding Relative Child Care Providers) must successfully complete the Department-Approved annual training, that includes, at a minimum, inclusion of Children with Special Needs, Children Experiencing Homelessness, and the minimum Health and Safety Standards listed below as required by federal law (45 C.F.R. § 98.41):
		1. Prevention and Control of Infectious Diseases;
		2. Prevention of Sudden Infant Death Syndrome and use of Safe Sleep Practices;
		3. Administration of medication, consistent with standards for parental consent;
		4. Prevention of and response to emergencies due to food and allergic reactions;
		5. Building and physical premises safety, including identification of and protection from hazards that can cause bodily injury such as electrical hazards, bodies of water, and vehicular traffic;
		6. Prevention of Shaken Baby Syndrome, Abusive Head Trauma, and Child maltreatment;
		7. Emergency preparedness and response planning for emergencies resulting from a natural disaster, or a man-caused event;
		8. Handling and storage of hazardous materials and the appropriate disposal of bio contaminants;
		9. Appropriate precautions in transporting Children (if applicable);
		10. Pediatric first-aid and cardiopulmonary resuscitation (CPR); and
		11. Recognition and reporting of Child abuse or neglect.
	2. Only Parents or those persons authorized in writing by the Parents are allowed to remove the Child(ren) from the Child Care Provider’s care.
	3. All persons authorized to remove Children from the Child Care Providers care must be identified in the Child Care Provider’s records.
	4. Additional rules specific to License-Exempt Child Care Providers (excluding Relative Child Care Providers) as required by federal law (45 C.F.R. § 98.42).
	5. Allow the Department to perform at least annual health and safety monitoring visit. The Department may also inspect License-Exempt Child Care Providers’ facilities upon receipt of a report or complaint, and to conduct random health and safety inspections, all with or without notice at the Department’s sole discretion.
	6. Upon request, provide documentation that the Children receiving Child Care Affordability Program Payments meet the latest recommendation for Child Care Immunization Standards in Maine, as recommended by the Department’s Division of Disease Surveillance within the Center for Disease Control and Prevention (CDC). Please see: <https://www.maine.gov/dhhs/mecdc/infectious-disease/immunization/pediatric-immunization.shtml>. A ninety (90) calendar day grace period shall be granted while Parents are taking the necessary actions to comply with the immunization requirement.

## License-Exempt Child Care Providers: Recreational Programs

* 1. Recreational programs participating in CCAP as License-Exempt Child Care Providers must comply with all requirements of this rule.
	2. Recreational Programs must also comply with the following requirements:
1. Maintain a maximum group size of fifty (50) for School Age children.
2. Maintain a ratio of one staff for every 15 Children (1:15).
3. Maintain immunization records for all children receiving CCAP within the recreational program. Upon request, a recreational program must provide documentation that the Children receiving CCAP meet the latest recommendation for Child Care Immunization Standards in Maine, as recommended by the Department’s Division of Disease Surveillance within the Center for Disease Control and Prevention (CDC). Please see: <https://www.maine.gov/dhhs/mecdc/infectious-disease/immunization/pediatric-immunization.shtml>.

## License-Exempt Child Care Providers: In-Home Child Care Provider

* 1. In-Home Child Care Providers participating in CCAP as License-Exempt Child Care Providers must comply with all requirements of this rule.
	2. In-Home Child Care Providers (other than Relative Child Care Providers) must also comply with the following:
		1. During the initial application process with the In-Home Child Care Provider, the Department must inform the In-Home Child Care Provider that by federal law, they may be considered an employee of the Parent with the requirement that they be paid minimum wage, as well as being subject to withholding taxes. The In- Home Child Care Provider is classified as a domestic service worker under the Fair Labor Standards Act (FLSA) and, as such, may be subject to requirements of the FLSA. The In-Home Child Care Provider will sign a Provider Agreement Form indicating that they have received this information.
	3. During the initial program application process with the Parent, the Department must inform the Parent in writing that as the employer of the In-Home Child Care Provider:
		1. They are responsible for compliance with the requirements of the FLSA;
		2. The assessed Parent Fee may be insufficient to constitute compliance; and
		3. To comply with State and Federal Labor laws they may be responsible for the balance of any payment for an In-Home Child Care Provider that may exceed the Market Rate.
	4. The Department will require a signed receipt from the Parent indicating that the Parent has received and understands the information outlined above.

## Child Care Provider Disqualified to Receive Child Care Affordability Program Payments

* 1. Child Care Providers who previously had Provider Agreements with the Department and who meet any of the following conditions are not eligible to receive Child Care Affordability Program payments on behalf of Children eligible for the Child Care Affordability Program and the Parent must select a new Child Care Provider in order to continue to receive Child Care Affordability Program payments. Twelve (12) calendar day advance notification of the change in Child Care Provider is not required if the Provider is disqualified for one of the following reasons:
		1. The Child Care Provider owes money to the Department; including Overpayments in other programs;
		2. The Child Care Provider was found to be engaged in Misrepresentation in connection with Child Care Affordability Program or other State benefit assistance program;
		3. The Child Care Provider’s license has been suspended, revoked, voided, or not renewed following expiration by the Department or the Maine District Court; or
		4. The Child Care Provider had a previous Provider Agreement terminated by the Department for any of the following:
		5. Notification by the Department that the Child Care Provider’s license has been revoked, voided, or suspended;
		6. Misrepresentation of Child Care Services provided in the Child Care Provider’s billing;
		7. Discrimination against a Parent receiving Child Care Affordability Program payments, in the provision of service and/or fee assessment;
		8. Repeated Failure of the Child Care Provider to submit timely, complete and accurate billings, despite the Department’s efforts to provide technical assistance to the Child Care Provider;
		9. Any violation of the Provider Agreement which constitutes a breach of contract;
		10. Non-compliance of any policy set forth in the Provider Agreement;
		11. If the provider does not return a completed and signed Provider Agreement within thirty (30) calendar days of the Department’s request for this information;
		12. An individual providing Child Care Services as a License-Exempt Child Care Provider but whose child care license has been revoked, suspended, voided, or denied by the Department or if to avoid revocation, suspension, or denial has surrendered his or her license; or
		13. An individual providing care as a License-Exempt Child Care Provider but whose child care conditional license has been voided by the Department or who has surrendered his or her conditional license to avoid the Department voiding said license; and
		14. An individual providing care as a License-Exempt Child Care Provider (other than a Relative Child Care Provider) that does not comply with attempts being made to schedule health and safety monitoring. Non- compliance means two (2) phone calls or two (2) scheduled visits that the Child Care Provider does not respond to.
1. Child Care Providers who are found to have committed a Misrepresentation may be referred to the DHHS Fraud Investigation Unit pursuant to 22 M.R.S. § 13.

# SECTION 9: TERMINATION OF SERVICES

## Termination of Child Care Services by a Parent

* 1. The Parent may immediately terminate the Child Care Services with his/her Child Care Provider for failure of the Child Care Provider to allow Parents unlimited access to his/her Child(ren) unless access has been limited by a court order.

Child Care Services may be terminated by the Parent due to an allegation of child care license/certification violation or Child abuse or neglect investigated by the Department.

Publicly available licensing information regarding Child Care Providers will be provided upon request by the Department. All inspection and monitoring reports are available at the Child Care Choices website: [https://childcarechoices.me/.](https://childcarechoices.me/)

## Termination of Child Care Affordability Program to the Parent by the Department

* 1. The Department will terminate a Parent’s participation in the Child Care Affordability Program when:
		1. The Parent has Misrepresented his/her eligibility information;
		2. The Parent participating in Child Care Affordability Program is no longer a Maine Resident;
		3. The available Child Care Affordability Program funding is reduced;
		4. The State program changes through rulemaking;
		5. There are changes in the CCDF State Plan or other policies, when those decisions have had adequate public notice; and
		6. A Child Care Provider has given adequate notice to all Parents that Child Care Service(s) are to be terminated at the end of a specified period due to discontinuance of the Child Care Provider’s Child Care Service.
	2. The Department must:
		1. Give written notice to the Parent(s) at least twelve (12) calendar days prior to the effective date of the termination;
		2. Retain copies of all notices to terminate Child Care Services in the Parent’s file;
		3. The written notice to terminate shall contain the following:
			1. The date of the termination;
			2. The reason(s) for the termination;
			3. Reference to the specific rules or regulations supporting the termination;
			4. Explanation of the Parent’s right to request (in writing) a conference with the Department and/or an Administrative Hearing; and
			5. The time frame within which the conference and/or Administrative Hearing request must be submitted, for Child Care Services to continue.
		4. Furnish the Child Care Provider a copy of the Notification of Termination issued to the Parent;
		5. Use an alternative form of notification when sensitive information should not be shared with the Child Care Provider; and
		6. Furnish the Caseworker with a copy of the Notification of Termination if the Child was referred by a Caseworker.
	3. Notification of Termination by the Department by phone, mail or email, will constitute the beginning of the twelve (12) calendar day Notification of Termination.

## Notification of Termination

* 1. A Parent, Child Care Provider, or a Caseworker on behalf of a Child that is in the Care and Custody of the Department, who chooses to terminate Child Care Services, will be required to submit to the Child Care Affordability Program, a written Notification of Termination twelve (12) days prior to the effective date of the termination. Notice may additionally be made in person, or by direct telephone contact.
	2. Parents must give the Child Care Provider a written notice twelve (12) calendar days prior to terminating Child Care Services. The Department must receive a copy of this notice.
	3. Parents who fail to give the Child Care Provider a written twelve (12) calendar day notification that Child Care Services are being terminated will pay the Child Care Provider the assessed Parent Fee for each day of Child Care Services during the twelve (12) calendar day notification period that their child care spot remains vacant.
	4. If the Parent fails to give the required notice, the Department will pay the Child Care Provider Child Care Affordability Program Payments for each service day short of the notification period and only for the days that the Parent’s child care spot is vacant. The Department will not pay the Parent Fee.
	5. If the Department pays the Child Care Provider when the Parent fails to give the required notice, the Department will not pay a second Child Care Provider on behalf of the Parent for the same Child and for the same period of time.
	6. Other than as provided in Section 9(A), “Termination of Child Care Services by a Parent,” the Parent must leave the Child Care Provider in Good Standing to maintain eligibility for CCAP for their Child with a new Child Care Provider.
	7. A twelve (12) calendar day Notification of Termination may be waived when mutually-agreed upon between Parent and Child Care Provider.
	8. Notification of Termination to the Child Care Affordability Program by phone, mail, or email, will constitute the beginning of the twelve (12) calendar day Notification of Termination.

# SECTION 10: BILLING AND PAYMENTS

## Payments

1. The Department pays providers prospectively based on enrollment.
2. The Market Rate is set by the Department based on a survey of Child Care Providers or a statistically valid and reliable alternative methodology approved by the Administration for Children and Families (ACF) and is evaluated every three (3) years to ensure adequacy of rates for the purpose of demonstrating equal access to Child Care Services for families with low-income.
3. Starting on the closest Saturday to September 1, the Department will apply the School Age rate to CCAP Payments on behalf of Children who will turn five (5) years of age on or prior to October 15th, unless the Parent notifies the Department by August 1st that the School Age Child will not be starting full day schooling that year;
4. To maintain continuity of Child Care Services, in a twelve (12) month period (January to January), the Department will make CCAP Payments to a Child Care Provider for the following:
	1. State holidays,
	2. up to forty (40) training hours, and
	3. up to two (2) weeks (Saturday through Friday) of Child Care Provider vacation time. The Child Care Provider may not charge CCAP families for additional vacation time beyond two (2) weeks nor may a Child Care Provider collect the Parent Fee for vacation time beyond two (2) weeks.
5. School Age Children: the Department will pay an increased market rate amount for the Part Time Care of School Age Children during 38 weeks per year based on the Children’s enrollment, as determined pursuant to Section 6 of this Rule. This is to take into account the cost of both part-time care and an additional 2 weeks of full time care for school vacation weeks.
	1. The Department will pay Child Care Providers based on a School Aged Child’s enrollment, as determined pursuant to Section 6 of this Rule, for fourteen (14) consecutive weeks during school summer vacation (starting on the first Saturday of June and ending on the fourteenth Friday thereafter).
6. All Child Care Affordability Program Payments to Child Care Providers will be for only those Child Care Services provided between the beginning date and the ending date for Child Care Services authorized in the Award Letter;
7. If a Child Care Provider has a policy of requiring a one (1) -time deposit, meal, registration fee, or application fee, the Parent will be responsible for these fees;
8. If a Provider is offering field trips and a Parent is not able to pay the extra fee the Provider must be able to provide care for the Children;
9. Child Care Providers having attained the highest three (3) levels of QRIS may qualify for an additional monetary stipend, to be paid starting the following biweekly billing cycle, and continuing for as long as that QRIS level is maintained
10. Child Care Providers providing Child Care Services Monday through Friday between the hours of 6 p.m. and 6 a.m. and anytime during the weekends, may receive an additional monetary stipend from the Department.

## Billing Process

* 1. The Child Care Provider must enroll in the Department’s online billing system and utilize the Department’s online billing form.
	2. As stated in the Provider Agreement, the Department will not pay a Child Care Provider who does not submit a bill within sixty (60) calendar days of the Department established submission deadline. Providers may not charge a Parent their Parent Fee if the Provider fails to bill CCAP within sixty (60) days. Providers may only make corrections to billing sixty (60) days from previous distributed bi-weekly billing cycle as established by the Department.
	3. The Child Care Provider will maintain, retain, and provide to the Department upon request, daily attendance records.

a. Records must be retained for a minimum of three (3) years.

* 1. The Child Care Provider must issue a receipt upon payment of the Parent Fee and retain copies of all receipts in agency files and keep fiscal records on all fee transactions for a minimum of three (3) years.

## Payment for Open Child Protective Cases, Child Protective Cases involving At-Risk Children, and Care and Custody Referrals

* 1. If the Department or Federal Tribal Caseworker requests that the Child Care Provider hold a spot for his/her client who has been accepted for the Child Care Affordability Program, but the Parent fails to appear on the scheduled enrollment date, the Department will pay the Child Care Provider for up to two (2) weeks of Child Care Services per the Award Letter.

## Payment Timing

* 1. When the Child Care Provider’s billing form is free of errors and submitted to the Department within the time frame stipulated in the Provider Agreement, the Department will pay the Child Care Provider for Children verified as enrolled within fifteen (15) calendar days of the close of the billing cycle. .
	2. Payment is issued on a Department approved biweekly billing cycle for the two weeks of service following the payment date.

## Payment Discontinued

* 1. When the Parent’s participation in the Child Care Affordability Program is terminated, the Department will not pay the Child Care Provider beyond the termination date unless the Parent has requested an Administrative Hearing within ten (10) days of notice of termination.
	2. When the Child Care Provider terminates Child Care Services to a Child, the Department will not pay the Child Care Provider for Child Care Services provided to the Child after the termination date by the Child Care Provider.
	3. When the Provider Agreement between the Department and the Child Care Provider is terminated, no payment to the Child Care Provider will be made for any service provided or charge incurred after the termination date.
	4. When a Licensed Child Care Provider’s license or Maine’s Quality Certificate expires, no Child Care Affordability Program payment shall be made to such Provider for Child Care Services provided to a Child after the Provider’s license expires and before the effective date of the Provider’s new or renewed license or certificate if one is obtained.

# SECTION 11: IMPROPER PAYMENTS

## Underpayments and Overpayments

* 1. An improper payment occurs when a Parent or Child Care Provider receives more or less money than they should have received from CCAP. This includes improper payment occurring from Agency Administrative Error, Parent Error and/or Child Care Provider Error.
	2. If the improper payment results in less benefits than should have been granted, the result is an Underpayment.
	3. If the improper payment results in more benefits than should have been granted, the result is an Overpayment.
	4. The Department shall take prompt action in accordance with the requirements of this section whenever an improper payment occurs.

## Underpayments

* 1. Agency Administrative Error will be addressed by the Department on a case-by- case basis. The Department must receive written notification of any administrative errors by the Parent or Child Care Provider within sixty (60) calendar days of the date payment is issued to the Child Care Provider.

## Overpayments

* 1. No Overpayment shall be established if the difference between the benefits paid on behalf of the Parent and the correct benefit amount is less than ten dollars ($10).
	2. Agency Administrative Error will be addressed by the Department on a case-by- case basis. The Department must receive written notification of any administrative errors by the Parent or Child Care Provider within sixty (60) calendar days of the date payment is issued to the Child Care Provider.

## Errors Caused by Parents and Providers

* 1. Overpayments that are not caused by Agency Administrative Errors shall be classified as caused by the Parent or Child Care Provider.
	2. Overpayments caused by the Parent include, but are not limited to:
		1. Errors caused by reporting false information; and/or
		2. Errors caused by reporting inaccurate information.
	3. Overpayments caused by the Child Care Provider include, but are not limited to errors caused by:
		1. Inaccurate reporting of licensing status, age of the Child, or other Child Care Provider qualifications;
		2. Inaccurate reporting of the Child Care Provider’s relationship to the Child or the location at which Child Care Services are provided;
		3. Inaccurate reporting of household circumstances;
		4. Accepting duplicate payments or any payments issued in error;
		5. Inaccurate reporting of actual charges or a Child’s attendance; and/or
		6. Any other false claim for Child Care Services provided.
	4. The Overpayment shall be considered as both Parent and Child Care Provider caused if the Parent and the Child Care Provider both participated in the action that caused the Overpayment to occur.
	5. The Department shall make a preliminary determination of whether the Overpayment was caused by a Misrepresentation based on the information and evidence and pursuant to these rules. Overpayments shall be considered and pursued if the Parent or Child Care Provider withheld or provided false information on matters affecting eligibility, benefits, or a claim for services.
	6. Where the Department makes a preliminary determination that a Parent or Child Care Provider may have committed a Misrepresentation, the case may be referred to the DHHS Fraud Investigation Unit pursuant to 22 M.R.S. § 13 and the Department may pursue establishment of a Misrepresentation against the Parent and/or Child Care Provider administratively.
	7. A final determination that a Misrepresentation occurred shall be made only as the result of a decision by an Administrative Hearing, a court, or waiver of the Administrative Hearing by the Parent and/or Child Care Provider. Failure to request an Administrative Hearing constitutes a waiver.

## Calculating the Improper Payment

* 1. Improper Child Care Affordability Program payments shall be calculated by comparing the Child Care Affordability Program payment during the applicable benefit weekly to the Child Care Affordability Program payment that would have been payable if eligibility and Child Care Affordability Program payment had been calculated correctly. The difference between the correct Child Care Affordability Program payment and the amount of the Child Care Affordability Program payment paid shall be the amount of the weekly improper Child Care Affordability Program payment.
	2. The calculation is applied on a month-to-month basis for the improper payment period. The aggregate sum of the monthly improper Child Care Affordability Program payments within the improper Child Care Affordability Program payment period is the net amount of the improper Child Care Affordability Program payment or the Overpayment/Underpayment amount.
	3. If Child Care Affordability Program benefits are underpaid, the amount owed shall be paid within sixty (60) calendar days of the date the error was discovered, unless information needed to calculate the improper Child Care Affordability Program payment is inadequate or has not been received.
	4. Improper Child Care Affordability Program payments shall be corrected regardless of whether the Parent’s case is active or closed. The Parent and Child Care Provider shall be notified of the determination.
	5. If the Department fails to take timely action following discovery of the issue to correct the issue causing the Overpayment to accrue any subsequent Child Care Affordability Program benefits overpaid as the result of the delay, this shall be considered an Agency Administrative Error.

## Responsibility for Repayment

* 1. If the Parent is responsible for the error, the Parent who is the Primary Applicant shall repay the Overpayment. If the Parent is responsible for the Overpayment, the Department shall require restitution by billing when the Overpayment is due and again on the 30th and 60th day if the Parent fails to pay. Thereafter, the Department may pursue collection in the appropriate venue and will terminate the Parent’s participation in CCAP, as applicable, pending repayment. If the Parent is not currently participating in CCAP, and applies again for CCAP, the Parent’s application will be denied until the Overpayment is repaid to the Department in full.
	2. If the Child Care Provider is responsible for the error, the Child Care Provider shall repay the Overpayment. If the Child Care Provider is responsible for the Overpayment recovery may be initiated by reducing the monthly Child Care Affordability Program payments if the Child is still attending. The Child Care Provider shall not require the Parent to pay the difference by increasing charges to compensate for the loss of income due to the recovery of an Overpayment.

## Notice of Overpayment

1. The individuals responsible for the repayment of the Overpayment shall be provided with written notice of Overpayment.
2. The written notice of Overpayment shall be sent to the last known address of the Parent and/or Child Care Provider, by U.S. Postal Service first class mail and email, as applicable.
3. The written notice of Overpayment shall contain:
	* 1. Name(s) of the individual(s) responsible for repayment;
		2. Last known address of the individual;
		3. Amount of the Overpayment;
		4. Period of the Overpayment;
		5. A statement that the Overpayment will be considered payable in full thirty (30) calendar days from the date of the notice;
		6. Explanation of why the Overpayment occurred;
		7. Responsibility for repayment by recovery through reduction in Child Care Affordability Program Payments (if applicable);
		8. Responsibility for repayment when billed (if applicable);
		9. Responsibility for repayment through Maine Revenue Services Tax Setoff (if applicable);
		10. Administrative Hearing Rights and Appeal Rights; and
		11. Selection of repayment method.
4. If the Child Care Provider is solely responsible for repaying the Overpayment, the Parent shall be notified in advance of the proposed change in Child Care Affordability Program Payment amount to the Child Care Provider and that the Child Care Provider cannot require the Parent to pay the difference.

## Methods of Repayment

1. The Department shall recover Overpayments by a lump sum repayment or the quickest means possible.
2. The Department will not accept cash, debit card or credit card payments for Overpayments. Checks and/or money orders are acceptable form of payment for CCAP Overpayments. In addition, vendor withholding can be used at the Department’s discretion as a method of repayment.
3. If the Child Care Provider does not agree to a lump sum repayment and continues to receive Child Care Affordability Program payments, the Department may then reduce the Child Care Provider’s monthly payment until the Overpayment has been fully recovered if the Child is still in attendance.
4. Child Care Affordability Program may withhold income from federal or state grant payments to offset Child Care Affordability Program repayments until Overpayment has been fully recovered.
5. Recovery by benefit reduction shall be initiated if the Child Care Provider does not respond to the advanced notice or request an Administrative Hearing.
6. Written request for an Administrative Hearing on establishment of the Overpayment must be received by the Department within ten (10) calendar days of the notice date. Such written requests shall stay recovery actions until issuance of a decision as a result of the Administrative Hearing. Full repayment of the Overpayment is due within thirty (30) days of any final decision that the Department was correct when it determined a Parent or Child Care Provider was subject to recoupment of an Overpayment.
7. If the Child Care Provider does not actively receive Child Care Affordability Program payments, the Department shall recover the Overpayment through the quickest means possible and through those mechanisms available by law as with other program Overpayments.
8. If the Parent or Child Care Provider does not comply with any repayment plan, the Department may, to the extent allowed by law, take appropriate action to recover such Overpayment, up to and including termination from the Child Care Affordability Program.
9. If the Parent is unable to make a lump sum repayment but is otherwise eligible for the Child Care Affordability Program, the Department may approve a repayment plan with the Parent or Provider of up to twenty percent (20%) of the amount owed paid weekly until the Parent or Provider has repaid the Overpayment.
10. The repayment plan is subject to income eligibility review at any time.

# SECTION 12: ADMINISTRATIVE HEARINGS

1. Any person who is denied service, has services reduced or terminated or is denied participation in CCAP by the Department has the right to a State agency hearing. The Commissioner has delegated to the Division of Administrative Hearings the responsibility to conduct State agency hearings. The State agency hearing shall be conducted in accordance with the current Administrative Procedure Act promulgated rules for State agency hearings.
2. The Department shall give written notice within thirty (30) calendar days of request for service to all persons who are denied services, using a form approved by the Department.
3. In all instances, notices of denial of service shall contain the Parent’s or Provider’s hearing rights.
4. The following actions shall not be subject to a State agency hearing on denial of service:
	1. The service(s) requested are not within the Department’s service or program description;
	2. Department funds are depleted; and/or
	3. The request for service originates from a person who is not authorized or appointed to act on behalf of a Parent.
5. If a request for services is denied, the person denied may submit another request at any time a change in circumstances occurs.
6. The Department shall retain copies of all notices of denial issued.
7. In cases of proposed action to discontinue, terminate, suspend, or reduce services, the Department shall give written notice to the Parent(s) at least twelve (12) calendar days prior to the effective date of the action.
8. The written notice to discontinue, terminate, suspend, or reduce services shall contain the following:
	1. The date of the intended action;
	2. The action the Department or the agency is proposing to take;
	3. The reason(s) for the proposed action;
	4. Reference to the specific rules or regulations supporting such action; and
	5. Explanation of the individual's right to request in writing a conference with the provider and/or a state agency hearing.
9. The time frame within which the conference and/or hearing request must be submitted for services to continue.
10. The following actions to discontinue, terminate, suspend, or reduce services shall not be subject to a State agency hearing:
	1. 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;
	2. Reduction or termination of service resulting from a change in an annual or other services plan of the Child Care and Development Fund program or other state program or policy when those decisions have provided for adequate public notice; and
	3. 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.
11. The Department shall retain copies of all notices to discontinue, terminate, suspend, or reduce services in the Parent’s files.
12. Parents must request a State Administrative Hearing in writing within ten (10) calendar days of the date of Parent’s notification.
13. Service shall be continued throughout the entire hearing process when the written request for a State Administrative Hearing is received within ten (10) calendar days of the Parent’s receipt of notification and requested by the Parent.
14. In cases where the State Administrative Hearing decision rules in favor of the Department, the Department may seek recoupment for the payment provided from the time of initial termination until final termination notice (provided after the Administrative Hearing decision). Overpayments must be paid in full.
15. When a State Administrative Hearing request is received within the time frame stated above, the Department shall notify the Child Care Provider immediately of their responsibility to continue service until the State Administrative Hearing decision is rendered.

STATUTORY AUTHORITY: 22 M.R.S.A. § 42(1); 22 M.R.S.A. ch. 1052-A; 22 M.R.S.§ 3731-A

EFFECTIVE DATE:

 October 4, 2009 – filing 2009-517

AMENDED:

 April 21, 2015 – filing 2015-074

CORRECTION:

 June 8, 2015 – 5.04(c) removed

REPEALED AND REPLACED:

 November 26, 2019 – filing 2019-206

AMENDED:

 August 10, 2023 – filing 2023-121

 July 1, 2024 – filing 2024-156

September 25, 2024 – filing 2024-216

May 19, 2025 – filing 2025-115 (Emergency)