

NUMBER

#21-68-20

DATE

July 20, 2021

OF INTEREST TO

County Directors

Social Services Supervisors and
Staff

Child Care Assistance Program
Administrative and Client
Access Contacts

Child Care Aware Agencies

ACTION/DUE DATE

Please read information and
prepare for implementation

EXPIRATION DATE

July 20, 2023

Child Care Assistance Program 2021 Legislative Changes

TOPIC

Child Care Assistance Program changes resulting from legislative action.

PURPOSE

Provide information and instructions for legislative changes.

CONTACT

Contact your Child Care Assistance Program policy specialist or submit questions through PolicyQuest.

SIGNED



TIKKI BROWN

Assistant Commissioner

Children and Family Services Administration

TERMINOLOGY NOTICE

The terminology used to describe people we serve has changed over time. The Minnesota Department of Human Services (DHS) supports the use of "People First" language.

I. Background

The Child Care Assistance Program (CCAP) helps approximately 15,000 families and 30,000 children receive child care throughout Minnesota.

During the 2021 legislative session, changes were made to CCAP, including:

- Changes to maximum rates, including changes to the maximum rates for legal nonlicensed (LNL) providers
- Temporary changes to the Basic Sliding Fee (BSF) priorities
- Changes to the allocation formula for the BSF program
- Allocation of additional funds for the BSF waiting list
- Decreasing retroactive authorization and payments
- Updating provider policies for certified centers
- Changes to overpayment policies
- Program unification changes, including updates to the earned income definition, unearned income inclusions and self-employment income determination and asset determination
- Technical statutory changes that do not affect policy application.

This bulletin provides an introduction to these changes. The Department of Human Services (DHS) will provide guidance in the CCAP Policy Manual, future bulletins and memos, including policy details and information about MEC² changes.

II. Program Improvements

Program improvements include increased maximum rates and registration fees, changes to the Basic Sliding Fee (BSF) child care program, retroactive authorization policy changes, overpayment policy changes, and program unification changes. The maximum rate changes help Minnesota meet federal requirements under the Child Care and Development Block Grant reauthorization of 2014.

A. Maximum rates and registration fees

Previous policy

The maximum rates are set at the 25th percentile of the 2018 provider rate survey and have been in effect since September 21, 2020.

The maximum registration fees have been in effect since September 21, 2020. Registration fees are set separately for licensed family child care and for centers.

New policy

Beginning November 15, 2021:

- For infant and toddlers, maximum rates will be the 40th percentile of the 2021 child care provider rate survey or rates in effect at the time of the update, whichever is greater.
- For preschool and school-age children, maximum rates will be the 30th percentile of the 2021 child care provider rate survey or rates in effect at the time of the update, whichever is greater.
- Maximum registration fees will be the 40th percentile of the 2021 child care provider rate survey or the fees in effect at the time of the update, whichever is greater.

Beginning the first full service period on or after January 1, 2025, the maximum rates and registration fees will be updated using the 2024 provider rate survey or the rates in effect at the time of the update, whichever is greater.

Maximum rates and registration fees will not decrease as a result of these changes. There may be an increase in one rate but not another. For example, a particular county's maximum rate for infant care in a center may increase, while the maximum rate for preschool care in a center remains the same.

The department will notify agencies when the new maximum rates and registration fees are:

- Published in eDocs, and
- Updated in MEC², including new Service Authorization auto-approvals.

B. Maximum payment rates for legal nonlicensed providers

Current policy

Legal nonlicensed (LNL) providers maximum rates are the lesser of:

- 68 percent of the county maximum licensed family child care hourly rate
- The county maximum licensed family child care weekly rate divided by 50 multiplied by 68 percent, if less.

New policy

Beginning November 15, 2021, legal nonlicensed providers maximum rates are the lesser of:

- 90 percent of the county maximum licensed family child care provider hourly rate
- The county maximum licensed family child care provider weekly rate divided by 50 multiplied by 90 percent.

C. Temporary reprioritization of the Basic Sliding Fee waiting list

Previous policy

Families on the Basic Sliding Fee (BSF) waiting list were served in the following order:

- First priority: Non-MFIP families who do not have a high school diploma or high school equivalency including child care needs of minor parents and child care needs of parents under 21 years of age.
- Second priority: Eligible families who have completed their transition year.
- Third priority: Families eligible for Portability Pool.
- Fourth priority: Families in which at least one parent is a veteran.
- Fifth priority: All other eligible families.

New policy

Beginning July 1, 2021 and ending May 31, 2024, the priorities for the BSF waiting list are:

- First priority remains non-MFIP families who do not have a high school diploma or high school equivalency certification. This includes: child care needs of minor parents, child care needs of parents under 21 years of age, and child care needs of other parents within this priority group.
- Second priority are families in which at least one parent is a veteran.
- Third priority are other eligible families who do not meet the specifications of other priorities. **This is the group of families that used to be served last.**
- Fourth priority are families who are eligible for Portability Pool.
- Fifth priority are eligible families receiving Transition Year Extension (TYE).

D. Changes to the allocation formula for Basic Sliding Fee child care

Previous policy

Funds were allocated to the Basic Sliding Fee (BSF) as follows:

- One-fourth of funds allocated in proportion to each county's total expenditures for BSF as reported in the most recent fiscal year at the time of allocation
- Up to one-fourth of funds allocated in proportion to the number of families participating in Transition Year child care during and averaged over the most recent six months
- Up to one-fourth of funds allocated in proportion to the average of each county's most recent six months of reported first, second and third priority waiting list (non-MFIP families who do not have a high school diploma or equivalency, eligible families receiving services through Transition Year child care, and families eligible for assistance through Portability Pool)
- Up to one-fourth allocated in proportion to the average of each county's most recent six months of reported waiting list.

New policy

The allocation formula is now permanently changed to reflect the following:

- One-fourth of funds allocated in proportion to each county's total expenditures for BSF as reported in the most recent fiscal year at the time of allocation (no change from previous statute)
- Up to one-fourth of funds allocated in proportion to the number of families participating in Transition Year child care during and averaged over the most recent six months at the time of allocation (no change from previous statute)
- Up to one-half of funds allocated in proportion to the average of each county's most recent 12 months of reported waiting lists

E. Additional funds to Basic Sliding Fee

The legislation appropriates \$15 million to serve additional families from the Basic Sliding Fee (BSF) waiting list in Fiscal Year 2024 (calendar year 2024 allocations for BSF). *This is in addition to \$ 40 million in funds from the federal Coronavirus Response and Relief Supplemental Appropriations Act (CRRSAA) allocated to the BSF waiting list in Fiscal Years 2021, 2022, and 2023.*

NOTE:

- Calendar year 2021 allocations were published and included \$10 million in CRRSAA funds and have not changed.
- Calendar year 2022 preliminary allocations were published June 21, 2021. The preliminary amounts included CRRSAA funds totaling \$16 million, using the standard allocation formula. The Calendar year 2022 allocation **will** change and is expected to be published again by end of July 2021. It will reflect funds added due to rates changes and the modified allocation formula.
- Calendar year 2023 allocations will include funds for rates and \$14 million in the CRRSAA fund to be used for calendar year 2023 allocations.

F. Limiting retroactive authorization and payments

Previous policy

Regardless of sub-program, if a provider provides care for a time period without receiving a Service Authorization and billing form for an eligible family, payment was only able to be made retroactively for a maximum of six months from the date the provider is issued a Service Authorization and billing form.

New policy

Effective July 1, 2021:

- CCAP continues to allow authorization and payment for families at application to the date the family meets authorization and eligibility requirements, not more than six months from the date a provider is issued a Service Authorization and billing form. This allows families on MFIP Child Care to use their three months of retroactive eligibility.
- Retroactive authorization and payment for families with ongoing eligibility is decreased from six months to three months in instances where providers have not received a Service Authorization and billing forms.

G. Changes to overpayment policies

Previous policy

An overpayment existed even when it was solely caused by agency error or circumstances outside the responsibility and control of the family or provider.

There was no time limit or “look-back period” for child care assistance overpayments.

New policy

Effective August 1, 2021:

- Overpayments that result only from agency error, and not from a family or provider’s actions or errors cannot be assessed or collected.
- Overpayments that result from a combination of agency error and a family or provider’s error can still be assessed.
- Agencies cannot assess overpayments that occurred more than six years before the overpayment was determined, unless an overpayment resulted from fraud.

New policies apply to overpayments assessed August 1, 2021 or after. The overpayment itself may have occurred before August 1, 2021. For example, an overpayment determined on August 1, 2021 that did not result from fraud cannot go back farther than August 1, 2015.

H. Program unification

Program unification changes impacting programs subject to Minnesota Statutes, section 256P also impact CCAP. A legislative changes bulletin covering changes to cash assistance programs will be published in the coming weeks.

Previous policies

Unemployment Insurance income

- All unemployment insurance is counted as unearned income.

Earned income definition

- Cash or in-kind income earned through the receipt of wages, salary, commissions, bonuses, tips, gratuities, profit from employment activities, net profit from self-employment activities, payments made by an employer for regularly accrued vacation or sick leave, severance pay based on accrued leave time, payments from training programs at a rate at or greater than the state's minimum wage, royalties, honoraria, or other profit from activity that results from the client's work, service, effort, or labor. The income must be in return for, or as a result of, legal activity.
- Above items are considered and counted as earned income.

Non-recurring income (lump sums)

- Nonrecurring income over \$60 per quarter unless earmarked and used for the purpose for which it is intended.
- Considered and counted as unearned income.

Worker's compensation

- This type of income is not currently included in the list of unearned income sources; and is not currently counted or verified.

Self-employment

- Self-employment income must be calculated based on gross receipts less operating expenses.
- Self-employment income is used to determine income eligibility, if the activity meets the requirement to be considered an authorized activity, and the amount of child care that can be authorized.
- Self-employment income is counted as earned income.

Cost of Living Adjustment Changes

- There is no adjustment for the cost of living for MFIP cash assistance benefits.

New policies

Unemployment Insurance income

- Effective June 30, 2021, only Unemployment Insurance received by some adult members is counted.
- Unemployment Insurance from adult dependents 18 years of age and enrolled in secondary school and adult caregivers 18 or 19 years of age and enrolled in school at least half-time are not counted
- Unemployment Insurance does not need to be verified when it is not counted.

Earned income definition

- Effective August 1, 2021, the following sources of earned income are not counted and do not need to be verified:
 - “in-kind” income
 - student financial assistance such as work study
 - payment from student training programs
- Rehabilitation and service program income are counted as unearned income if the payments meet or exceed the state’s minimum wage rate.

Non-recurring income (lump sums)

- Effective August 1, 2021, nonrecurring income over \$60 per quarter is counted unless the nonrecurring income is:
 - (A) from tax refunds, tax rebates, or tax credits;
 - (B) a reimbursement, rebate, award, grant, or refund of personal or real property or costs or losses incurred when these payments are made by: a public agency; a court; solicitations through public appeal; a federal, state, or local unit of government; or a disaster assistance organization;
 - (C) provided as an in-kind benefit; or
 - (D) earmarked and used for the purpose for which it was intended.
- The specified non-recurring income sources in (A) – (D) are no longer counted and do not need to be verified.

Worker’s compensation

- Effective August 1, 2021, worker’s compensation is counted unearned income and must be verified.

Self-Employment

- Effective May 1, 2022, applicants and participants must choose one of the following methods described for determining self-employment earned income:
 - (1) one-half of gross earnings from self-employment; or
 - (2) taxable income as determined from an Internal Revenue Service tax form that has been filed with the Internal Revenue Service for the most recent year and according to guidance provided for the Supplemental Nutrition Assistance Program.
- The full value of business accounts used to pay expenses not related to the business are counted towards the CCAP asset limit and must be verified if the family certifies their assets are more than \$1 million.

Cost of Living Adjustment changes for families receiving MFIP or DWP

- MFIP and DWP cash assistance benefits shall be updated on October 1 of each year to account for the cost of inflation.

III. Technical changes and clarifications

A. Provider policies for license exempt certified centers

Previous policy

County and tribal agencies and the department may close or deny a licensed or legal nonlicensed child care provider's registration, stop payment or refuse to pay a bill when a provider is out of compliance with certain CCAP policies, such as violating attendance record requirements or providing false price information, or when a licensed provider operating after receipt of an order of suspension or revocation, even when the provider continues operating pending their licensing appeal.

New policy

Effective August 1, 2021, certified centers are subject to the same law as licensed and legal nonlicensed, child care providers. County and tribal agencies and the department may close or deny a certified license exempt center's registration, stop payment, or refuse to pay a bill when the certified license exempt center is out of compliance with certain CCAP policies, such as violating attendance record requirements, or is operating after receipt of an order of decertification, even when the provider continues operating pending their decertification appeal.

B. General policy clarifications

The 2021 Legislature passed technical statutory updates to align with existing laws and practices. These updates are effective August 1, 2021 and will not impact how CCAP policies are applied. Updates include:

- Specifying there is no minimum threshold to collect overpayments that result from fraud and clarifying the Department of Human Services (DHS) has the same authority as CCAP agencies (counties and tribes) to assess and collect overpayments. *See amendments to Minn. Stat. §119B.11, subd. 2a.*
- Eliminating provisional payments to child care providers with pending registrations. *See amendment to Minn. Stat. §119B.125, subd. 1 and repeal of Minn. Stat. §119B.125, subd. 5.*
- Specifying CCAP agencies and/or DHS cannot close or deny a child care provider's registration because the provider has a conditional license. *See amendments to Minn. Stat. §119B.13, subd. 6(d)(4)(iii).*

- Specifying the Child Care Assistance Program retains any payments suspended or held during a fraud investigation if fraud is established. *See addition of Minn. Stat. §119B.13, subd. 6(g).*
- Reinforcing the authority to assess overpayments if a provider fails to properly bill absent days or holidays. *See amendments to Minn. Stat. §119B.13, subd. 7.*

IV. Legal References

[Minnesota Statutes, Chapter 119B](#)

[Minnesota Statutes, section 245E.07](#)

[Laws of Minnesota 2021, 1st Spec. Sess. chapter 7](#)

[The Child Care Development Block Grant Act of 2014, Public Law Number 113-186.](#)

[Federal Child Care and Development Fund, 45 C.F.R.](#)

Americans with Disabilities Act (ADA) Advisory

This information is available in accessible formats for people with disabilities by calling (651) 431-3809 (voice) or by using your preferred relay service. For other information on disability rights and protections, contact the agency's ADA coordinator.