

**Title 13A STATE BOARD OF EDUCATION
Subtitle 14 CHILD AND FAMILY DAY CARE**

Chapter 06 Purchase of Child Care

Authority: Article 88A, §§3(a) and 5, Annotated Code of Maryland

Agency Note: Federal Regulatory Reference—45 CFR 98, 99

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.01 Purpose.

The purpose of the Purchase of Child Care (POC) program is to provide financial assistance to eligible families to meet their child care needs. The Child Care Administration shall periodically monitor the purchase program of the local departments.

.02 Definitions.

A. In this chapter, the following terms have the meanings indicated.

B. Terms Defined.

(1) "Absence" means the failure of a child to attend or appear at the child care program.

(1-1) "Administrative disqualification hearing" means a hearing held by an administrative law judge of the Office of Administrative Hearings to determine if an international program violation (IPV) has occurred for which disqualification is a sanction.

(1-2) "Adult" means an individual who is 18 years old or older.

(1-3) "Adult with a regular presence when the child is in care" means an adult who is frequently present in the home of the informal child care provider during the hours that child care is provided.

(1-4) "Adult with physical custody of a child" means an adult, other than the child's parent, who has custody of a minor child residing in the same household, as evidenced by:

(a) A court order;

(b) Written authorization from a parent, if the parent is not residing in the same household; or

(c) Other documentation acceptable to the local department.

(2) "Applicant" means the child's parent, guardian, or caretaker who applies for purchase of child care services.

(3) "Approved activity" means an activity which is included in a customer's personal responsibility plan and meets the requirements for participation in the Family Investment Program by an individual who is:

(a) Enrolled in public school;

(b) Enrolled in training;

(c) In a work experience activity;

(d) In a job search activity;

(e) Working;

(f) In a work activity; or

(g) In a community service activity.

- (4) "Block grant" means the Child Care and Development Block Grant established under §5082 of the Omnibus Budget Reconciliation Act of 1990, as amended by the Personal Responsibility and Work Opportunity Reconciliation Act (PRWORA) of 1996, P. L. 104-193.
- (5) "Child" means an individual who is younger than 13 years old who is not disabled, or an individual younger than 19 years old who is disabled.
- (6) "Child care" means care in a State-recognized setting by an individual other than the parent, stepparent, guardian, or caretaker for less than a 24-hour day and for which compensation is paid.
- (7) "Child care center" means a facility providing child care which is:
- (a) Licensed under COMAR 07.04.02 by the Department of Human Resources;
 - (b) Operated under a letter of compliance issued under COMAR 07.04.05 by the Department of Human Resources;
 - (c) Licensed by any branch of the military under applicable military child care regulations;
 - (d) Operated by a public school; or
 - (e) Licensed by the Department of Health and Mental Hygiene as a youth camp as defined by Health-General Article, §14-401, Annotated Code of Maryland.
- (8) "Child with a disability" means a child who has been diagnosed as being physically or mentally incapable of self-care appropriate to the age of the child, as verified by the State, based on a determination by a physician, a licensed or certified psychologist, or a licensed social worker.
- (9) "Copayment" means that portion of the financial cost of child care services assigned by a local department to a family and paid on a unit basis by the family to the provider.
- (10) "Customer" means an individual who is eligible for and receiving services through the Purchase of Child Care program.
- (11) "Department" means the Department of Human Resources.
- (12) "Enrollment status" means the attendance schedule, either full-time or part-time, of the child receiving purchase of child care services.
- (13) Family.
- (a) "Family" means the family unit consisting of:
 - (i) One or more adults and children, related by blood, marriage, adoption, or legal guardianship, and residing in the same household; or
 - (ii) Adults with physical custody of a child, related or unrelated, who are residing in the same household.
 - (b) "Family" includes unrelated adults with children in common who reside together, whether either has other children residing in the household.
 - (c) "Family" does not include:
 - (i) Unrelated adults with no children in common residing together; or
 - (ii) Related adults, other than spouses, residing together.
- (14) "Family child care home" means a residence, other than the child's home for whom purchase of child care is requested, which is registered under COMAR 07.04.01 to provide child care by the Department of Human Resources, or by any branch of the military under applicable military child care regulations.
- (15) "Family income" means the combined income, as defined in §B(23) of this regulation, of all family members.
- (16) "Family Investment Program (FIP)" means an assistance program of the Department to families with children encompassing services, work experience, or temporary cash assistance (TCA).
- (17) "Family Investment Program (FIP) participant" means an individual who is enrolled in an approved activity.
- (18) "Family size" means the number of individuals residing as a family in the same household as defined in §B(13) of this regulation.
- (19) "Infant" means a child younger than 24 months old.
- (20) "Informal child care" means child care which:
- (a) Is self-arranged and nonregulated;
 - (b) Requires child care providers to submit a signed affirmation of compliance with child care health and safety standards, but does not require these providers to be licensed or regulated under State law; and
 - (c) Meets the requirements of Regulation .06C(10) and D(4) of this chapter.
- (21) "Intentional program violation" means an intentional false or misleading statement or misrepresentation, concealment, or withholding of facts for the purposes of establishing or maintaining the applicant, recipient, or provider's eligibility for purchase of care (POC) payments or for increasing or preventing a reduction of the amount of POC.
- (22) "Lead staff" means the director, a senior staff member, or a group leader in a child care center designated to be in charge of the facility or a classroom of children at a given time during the hours of operation.
- (23) "Local department" means a local department of social services in a county or Baltimore City, and the Montgomery County Department of Health and Human Services.

(24) Monthly Gross Income.

- (a) "Monthly gross income" means the sum of monthly income, including pretax benefits, received by an individual.
- (b) "Monthly gross income" includes, but is not limited to:
- (i) Wages, salary, and net income from self-employment;
 - (ii) Commissions, tips, and bonuses;
 - (iii) Dividends and interest;
 - (iv) Social Security benefits including Disability and Survivors benefits;
 - (v) Pensions and annuities;
 - (vi) Estate income;
 - (vii) Unemployment and Workers' Compensation; and
 - (viii) Alimony and child support.
- (c) "Monthly gross income" does not include:
- (i) Temporary Cash Assistance payments;
 - (ii) Supplemental Security Income payments;
 - (iii) \$5,000 of a family's annual gross income per child for adults with physical custody of a child as defined in §B(1)—(4) of this regulation;
 - (iv) \$5,000 of a family's annual gross income per child when the minor parent attends public school full-time;
 - (v) Money received from sales of property, such as stocks, bonds, a house, or a car, unless the individual was engaged in the business of selling the property in which case the net proceeds would be counted as income from self-employment;
 - (vi) Withdrawals of bank deposits;
 - (vii) Money borrowed;
 - (viii) Tax refunds;
 - (ix) Gifts;
 - (x) Lump sum inheritances or insurance payments;
 - (xi) Subsidized adoption, subsidized guardianship, and foster care payments;
 - (xii) Value of food stamps, or supplemental assistance under the Child Nutrition Act of 1966 and the special food service program for children under the National School Lunch Act as amended;
 - (xiii) Earnings of a child younger than 15 years old or a child younger than 18 years old who is attending a public school;
 - (xiv) Loans and grants, such as scholarships, obtained and used under conditions that preclude their use for current living costs;
 - (xv) A grant or loan to an undergraduate student for educational purposes made or insured under a program administered by the Commissioner of Education under the Higher Education Act;
 - (xvi) Home produce for household consumption;
 - (xvii) Any stipends, compensation, or expenses received for volunteer service from programs existing or pending under the Domestic Volunteer Service Act of 1973 sponsored by ACTION;
 - (xviii) Any payment received under the Community Service Trust Act of 1973;
 - (xix) Earnings received by a youth in a program under the Workforce Investment Act;
 - (xx) Energy grants and allowances received from P.L. 96-126 through the Maryland Energy Assistance Program;
 - (xxi) Any payment received under the Uniform Relocation Assistance and Real Property Acquisition Policies Act of 1970;
 - (xxii) Child support payments made by a noncustodial parent for a child not residing in the applicant's household;
 - (xxiii) \$2,500 of child support state and federal tax intercepts and arrearage payments;
 - (xxiv) Veterans Administration payments to children with birth defects born to female Vietnam veterans; and
 - (xxv) Educational assistance income that is used for an approved educational activity or is part of the FIP Independence Plan.
- (25) "Office of Administrative Hearings (OAH)" means the unit within the Executive Branch established by State Government Article, §9-1602, Annotated Code of Maryland.
- (26) "Overpayment" means the amount of payment received by a recipient or service provider to which the recipient or service provider was not entitled as determined by applicable POC regulations.
- (27) "Provider" means an individual who is 18 years old or older and who:
- (a) Is responsible for the operation of a family child care home or child care center; or
 - (b) Provides informal child care.

(28) "Public assistance" means Supplemental Security Income (SSI) received pursuant to Title XVI of the Social Security Act or cash benefits received through any program administered by the Family Investment Administration or successor administration.

(29) "Public school" means an approved academic or vocational program carried out in an elementary school, junior high school, middle school, high school, program for special students, or General Educational Diploma tutoring program.

(30) "Purchase of child care (POC)" means the system of providing for an eligible family a child care subsidy for which the local department of social services pays to the provider all or part of the payment on behalf of the family.

(31) "Reasonable accommodation" means modifications made by a child care service provider, at no additional cost to the parent, in order to meet the physical, social, mental, and emotional needs of a child with a disability in accordance with Title III of the Americans with Disabilities Act.

(32) "Resident" means an individual who lives in Maryland and has no intention of leaving during the time in which purchase of child care service is to be provided.

(33) "Service period" means the two week period for which child care providers can provide service and receive payment.

(34) "Subsidy" means that portion of the financial cost of child care services paid in authorized unit rates by a local department to providers.

(35) "Temporary Cash Assistance (TCA)" means a form of cash assistance provided to families who are technically and financially eligible.

(36) "Tiered reimbursement" means weekly payments that:

(a) Exceed the payment rates specified in Regulation .11B and C of this chapter;

(b) Are paid to a child care center or a family child care provider that meets training and program quality requirements pursuant to Regulation .11G of this chapter; and

(c) Vary based on the payment rate for the age of the child and the type of child care.

(37) Training.

(a) "Training" means any type of instructional program, except for post-college graduate programs, which is approved by the local department.

(b) "Training" includes undergraduate college, vocational program, publicly funded training program, or volunteer activity designed to lead to employment of the participant.

(38) "Transitioning off of public assistance" means the immediate 12-month period following the loss of a customer's eligibility for FIP assistance.

(39) "Underpayment" means a payment received by a recipient or service provider which is less than the allowable amount owed the recipient or service provider as determined by this chapter.

(40) "Unit" means the length of time per day a child is in child care and includes the following:

(a) "One unit" means 3 hours or less per day;

(b) "Two units" means more than 3 hours per day, but less than 6 hours per day; or

(c) "Three units" means 6 hours or more per day.

(41) "Voluntary closure" means the period of time a child care facility is closed that:

(a) Includes not more than 2 consecutive weeks annually; and

(b) Excludes the holidays listed in Regulation .11H(9) of this chapter.

(42) "Voucher" means a coupon given to a customer by the local department for use in purchasing child care from a provider.

(43) "Waiver" means the document signed by an individual intentionally relinquishing the right to an administrative disqualification hearing.

.03 Eligibility for Child Care.

A. Except for services sought for a foster care child, a Maryland resident is eligible for purchase of child care services when the:

(1) Resident meets need and income requirements specified in §§C and D of this regulation; and

(2) Child for whom services are sought meets the requirements of §B of this regulation.

B. Citizenship Status. A child receiving POC services shall be a:

(1) United States (U.S.) citizen;

(2) Qualified alien:

(a) Who is lawfully admitted for permanent residence in the U.S.,

(b) Who is granted asylum,

(c) Who is granted conditional entry,

(d) Who is temporarily paroled into the U.S. for limited reasons,

(e) Whose deportation is being withheld, or

(f) Who is a refugee; or

(3) Qualified alien who has been battered or subjected to extreme cruelty by a parent or household member in the U.S. and who has:

(a) Been approved for or has petitioned for status as a child of a U.S. citizen,

- (b) Been classified as the child of a lawfully admitted alien, or
- (c) Had deportation suspended with an adjustment of status.

C. Need. The need requirement is met:

- (1) When the child's parent, caretaker, or legal guardian is not available or capable to care for the child, no other acceptable child care plan can be arranged, and one or more of the priority situations exist according to Regulation .07A of this chapter;
- (2) By an applicant or customer who meets the requirements specified in Regulation .07A(1) of this chapter:
 - (a) During approved activity periods,
 - (b) Before beginning an approved activity for a period not to exceed 2 weeks,
 - (c) During gaps in approved activities for a period not to exceed 2 weeks,
 - (d) For a period to be decided by the local department but not exceeding 1 month, if the subsequent approved activity will begin in that time and the child care would otherwise be lost, or
 - (e) As necessary to accept employment or to remain employed; or
- (3) By a customer who meets the requirements specified in Regulation .07A(2) and (3) of this chapter:
 - (a) While employed;
 - (b) During gaps in employment for a period not to exceed 2 weeks to:
 - (i) Seek employment,
 - (ii) Accept employment,
 - (iii) Remain employed; or

(c) For a period to be decided by the local department but not exceeding 1 month if the child care would otherwise be lost.

D. Income.

- (1) Except when TCA is received only for a child, the income requirement is met by:
 - (a) A family that:
 - (i) Has applied for, or receives, TCA,
 - (ii) Has an annual gross income not exceeding the maximum income for family size as specified in Regulation .12A of this chapter; or
 - (b) An individual who is a recipient of SSI.
- (2) An applicant shall meet the income eligibility requirements as defined in Regulations .02B(24) and .12 of this chapter, except for the following who are exempt:
 - (a) TCA applicants or customers; or
 - (b) Recipients of SSI.

E. An applicant or customer shall pursue child support services for each child receiving POC services pursuant to Regulation .04 of this chapter.

F. Immunization.

- (1) A child receiving POC services shall be immunized appropriate to the child's age.
- (2) This requirement does not apply if a child's:
 - (a) Documented medical condition contraindicates immunization; or
 - (b) Parent, guardian or caretaker objects to the immunization on religious grounds.
- (3) This requirement is met when a written declaration is submitted to the local department, at least annually, by the applicant affirming that the child attends a:
 - (a) Licensed child care center or a registered family child care home where immunization records are maintained pursuant to COMAR 07.04.02.44A(3) or COMAR 07.04.01.29A(3), respectively; or
 - (b) Full-day program at a public or nonpublic school where immunization records are maintained.
- (4) Except as provided in §F(2) and (3)(b) of this regulation, immunizations for children using informal child care shall be:
 - (a) Evidenced on a form supplied by or approved by the Child Care Administration; and
 - (b) Submitted to the local department of social services within 60 days of applying for child care services.
- (5) At least annually, the local department shall require for each child evidence of compliance with the immunization schedule included on the form supplied by the Child Care Administration.

G. For continued eligibility for purchase of child care services, a family or individual shall report to the local department within 10 days of its occurrence any change in:

- (1) Income;
- (2) Employment;
- (3) Family composition;
- (4) Marital status;
- (5) Address; and
- (6) Needed hours or days for child care services.

.04 Eligibility—Pursuit of Child Support Obligations.

A. An applicant who has the care of a child eligible for child support services under COMAR 07.07.02.02B(4) shall pursue the establishment and enforcement of support obligations on behalf of the child as required by the local purchase of child care (POC) case manager.

B. If the applicant is pursuing or receiving regular child support payments for the child, the applicant shall furnish documentation verifying this action to the local POC case manager at the time of application for child care services.

C. Local Child Support Enforcement (CSE) Agency.

(1) If the applicant is not pursuing or receiving regular child support payments for the child and cannot claim good cause for refusing to pursue child support pursuant to §E of this regulation, the local POC case manager shall refer the applicant to the local child support enforcement (CSE) agency.

(2) The local CSE agency shall provide documentation of the:

(a) Application for CSE services to the applicant; and

(b) Closing of the case by CSE to the POC unit.

(3) The applicant shall submit documentation of CSE services to the local POC case manager within 60 days of applying for child care services.

(4) An applicant who fails to comply with §C(3) of this regulation is not eligible for purchase of child care services.

D. Unless excused for good cause, the applicant shall cooperate with the local CSE agency in:

(1) Identifying and locating the child's absent parent;

(2) Establishing the child's paternity if the child is born out of wedlock; and

(3) Obtaining support payments.

E. Refusal to Cooperate.

(1) "Good cause" means there are circumstances in which the applicant's cooperation may not be in the best interest of the child. Those circumstances are when:

(a) Cooperation may result in serious physical or emotional harm to the child for whom the support is sought;

(b) Cooperation may result in serious physical or emotional harm to the applicant with whom the child is living that will reduce the capacity of the applicant to care adequately for the child;

(c) The child for whom support is sought was conceived as a result of incest or forcible rape;

(d) Legal proceedings for the child's adoption are pending before a court of competent jurisdiction; or

(e) The applicant is being assisted by a public or licensed private social agency to resolve the issue of keeping or relinquishing the child for adoption, and the discussions have not extended beyond 3 months.

(2) When the local POC case manager refers the applicant to the local CSE agency, the local POC case manager shall inform the applicant in writing of the applicant's right to claim good cause for refusing to cooperate with the local CSE agency.

F. Determination of Good Cause.

(1) The local POC case manager is responsible for determining the existence of good cause.

(2) The applicant shall provide the local POC case manager with verified or verifiable evidence to specify and corroborate circumstances which the applicant believes is sufficient good cause for not cooperating and sufficient information to permit an investigation.

(3) The applicant shall supply corroborative evidence within 30 days of making the claim for good cause.

(4) The local POC case manager shall allow additional time, with supervisory approval, for the applicant to make the claim when the unit determines difficulty in obtaining the corroborative evidence.

(5) Allegations of fact by the applicant are not considered adequate information except in the case of anticipated physical harm.

(6) The local POC case manager shall determine good cause on:

(a) A review of the evidence submitted by the applicant; and

(b) The findings of any investigation of the claim that the local department chooses to make.

(7) The local POC case manager may determine good cause without further investigation with the following acceptable evidence that harm may result:

(a) Birth certificate or medical or law enforcement record indicating that the child was conceived as a result of incest or forcible rape;

(b) Court document or other record which indicates that legal proceedings for adoption are pending before a court of competent jurisdiction;

(c) Court, medical, criminal, child protective services, psychological, social services, or law enforcement record which indicates that the putative father or absent parent might inflict physical or emotional harm on the child or the applicant;

(d) Medical record which indicates the emotional health history and the present emotional health status of the child or the applicant;

(e) A written statement from a mental health professional that indicates a diagnosis or prognosis of the emotional health of the child or the applicant;

(f) A written statement from a public or licensed private social agency that the applicant is being assisted by the agency to resolve the issue of keeping or relinquishing the child for adoption and the discussions have not extended beyond 3 months; and

(g) Sworn statements from individuals other than the applicant with knowledge of the circumstances which provide the basis for a good cause claim.

(8) The local POC case manager shall inform the applicant in writing of the final determination.

(9) Upon making a final determination, and if the applicant is receiving services from the CSE agency, the local POC case manager shall promptly inform the local CSE agency whether there is good cause or not for refusal to cooperate.

(10) The local POC case manager shall deny purchase of child care services to the applicant if a claim of good cause cannot be substantiated as required in this section.

(11) The local POC case manager may not deny, delay, or terminate purchase of child care services pending determination of good cause if the applicant has met the requirements of §F(2) of this regulation.

G. Review of Determination of Good Cause.

(1) The local POC case manager shall review, at a minimum during redetermination of eligibility, all cases in which a finding of good cause was made based on a circumstance that is subject to change.

(2) If the local POC case manager determines that the circumstance providing the basis for determination of good cause no longer exists, the case manager shall require the applicant to pursue the establishment and enforcement of child support obligations.

H. An applicant transitioning off of public assistance, pursuant to Regulation .02B of this chapter, who does not have a child support order or who is not receiving child support shall cooperate with the local POC case manager and the local CSE agency to continue, establish, or reestablish child support services.

I. An applicant who has the care of a child eligible for child support services and refuses to cooperate with the local CSE agency and the local POC case manager on behalf of the child is ineligible for purchase of child care services unless good cause for the refusal is either claimed or determined to exist.

.05 Application Process.

A. An applicant shall apply to the local department of social services for purchase of child care services.

B. To apply for POC, an applicant shall submit to the local department:

(1) A signed application; and

(2) Within 30 calendar days after receipt of the signed application, all requested documentation.

C. The local department shall decide to accept or deny the application within:

(1) 30 calendar days from the date of receipt of the signed application, if all verifications are received by the 25th day following application; or

(2) 35 calendar days from the date of receipt of the signed application, if all verifications are:

(a) Received between the 25th and 30th days following application; or

(b) Not received by the local department.

D. The applicant is eligible from the date a signed application is received if:

(1) All verifications requested by the local department are received under §B(2) of this regulation; and

(2) The local department determines that the customer is eligible for services.

E. Waiting List.

(1) The local department shall inform an applicant that the applicant will be placed on a waiting list and that a child care placement cannot be made immediately when the:

(a) List of available providers has been exhausted and none can be located who are either acceptable to the parent or appropriate to the child; or

(b) Local department lacks funds to provide the service.

(2) In accordance with Regulation .09A of this chapter, an open case on the waiting list is not subject to redetermination if its presence on the waiting list is due to insufficient program funds.

(3) The local department shall maintain a list of all eligible applicants by date of application and in accordance with the service priorities established under Regulation .07A of this chapter.

F. Denial. The local department shall deny the application when:

(1) The applicant is ineligible pursuant to Regulation .03 of this chapter;

(2) The customer has been terminated from purchase of child care services by the local department within the last 12 months for failure to pay the copayment, stated on the voucher that was assigned by the local department, unless a plan for payment of fees still owed is arranged to the satisfaction of the provider to whom the fee is due;

(3) Within 30 days of initiating an application, the applicant fails to provide the required documentation; or

(4) The applicant has been disqualified for purchase of care payment pursuant to Regulation .13 of this chapter and the disqualification period has not ended.

G. When an application is denied, the local department of social services shall send a written notice to the applicant that includes:

(1) The decision;

(2) The basis for the decision;

- (3) The regulation supporting the decision; and
- (4) An explanation of the applicant's right to, and method of requesting, a fair hearing.

H. Provision of Child Care.

- (1) In the local departments using the voucher system, the worker shall give a voucher to the eligible applicant to present to the provider when child care is selected.
- (2) In all local departments, informal child care is available at parental option for individuals listed under Regulation .07A of this chapter.

.06 Delivery of Service.

A. The local department shall develop a plan of service with the applicant concerning the child care of a child or children in the family.

B. Purchase of Family Child Care and Center Child Care.

- (1) When possible, the local department of social services shall offer both purchase of family child care and center child care.
- (2) Both purchase of family child care and purchase of center child care may be used for children from infancy and older.

C. Informal Child Care.

- (1) Parents may choose informal child care as:
 - (a) Specified in §C(2)(a)—(c) of this regulation; and
 - (b) Defined in Regulation .02B of this chapter.
- (2) The local department shall provide payment for the following informal care which is approved pursuant to §D of this regulation:
 - (a) Relative care which:
 - (i) Is care provided in the relative's or customer's home by a relative as defined in COMAR 07.04.01,
 - and
 - (ii) Is exempt from licensing under Family Law Article, §§5-550—5-557, Annotated Code of Maryland,
 - and
 - (iii) Excludes as eligible for payment the parents, stepparents, legal guardians, or members of the FIP assistance unit;
 - (b) In-home care which is:
 - (i) Care provided to the customer's children in the customer's home by a nonrelative, and
 - and
 - (ii) Exempt from licensing if all children being cared for live in the residence in which care is provided;
 - and
 - (c) Babysitting, which is care provided in the babysitter's home for unrelated children for less than 20 hours a month, for which State law exempts the babysitter from being licensed.
- (3) Parents shall submit to the local department a signed affirmation with requested documentation specifying:
 - (a) Where the care is provided; and
 - (b) The relationship of the child to the provider.
- (4) The informal child care weekly service unit rates specified in this subsection are based on three units of service per day. For two-unit and one-unit regional weekly rates, multiply by 2/3 and 1/3, respectively, the following jurisdictional weekly rates:
 - (a) Rate for a child 24 months old or older:
 - (i) Allegany County—\$50.99;
 - (ii) Anne Arundel County—\$53.89;
 - (iii) Baltimore County—\$57.27;
 - (iv) Calvert County—\$53.89;
 - (v) Caroline County—\$39.39;
 - (vi) Carroll County—\$53.89;
 - (vii) Cecil County—\$50.99;
 - (viii) Charles County—\$53.89;
 - (ix) Dorchester County—\$39.39;
 - (x) Frederick County—\$57.27;
 - (xi) Garrett County—\$51.23;
 - (xii) Harford County—\$57.27;
 - (xiii) Howard County—\$72.01;
 - (xiv) Kent County—\$39.39;
 - (xv) Montgomery County—\$72.01;
 - (xvi) Prince George's County—\$53.89;
 - (xvii) Queen Anne's County—\$44.46;
 - (xviii) St. Mary's County—\$50.99;
 - (xix) Somerset County—\$39.39;
 - (xx) Talbot County—\$44.46;
 - (xxi) Washington County—\$51.23;

- (xxii) Wicomico County—\$39.39;
- (xxiii) Worcester County—\$41.80; and
- (xxiv) Baltimore City—\$51.95;
- (b) Rate for a child younger than 2 years old:
 - (i) Allegany County—\$59.68;
 - (ii) Anne Arundel County—\$68.14;
 - (iii) Baltimore County—\$68.14;
 - (iv) Calvert County—\$68.14;
 - (v) Caroline County—\$44.46;
 - (vi) Carroll County—\$69.35;
 - (vii) Cecil County—\$52.44;
 - (viii) Charles County—\$68.14;
 - (ix) Dorchester County—\$44.46;
 - (x) Frederick County—\$68.14;
 - (xi) Garrett County—\$59.68;
 - (xii) Harford County—\$68.14;
 - (xiii) Howard County—\$86.26;
 - (xiv) Kent County—\$44.46;
 - (xv) Montgomery County—\$86.26;
 - (xvi) Prince George's County—\$68.14;
 - (xvii) Queen Anne's County—\$52.44;
 - (xviii) St. Mary's County—\$59.68;
 - (xix) Somerset County—\$44.46;
 - (xx) Talbot County—\$52.44;
 - (xxi) Washington County—\$52.44;
 - (xxii) Wicomico County—\$44.46;
 - (xxiii) Worcester County—\$44.46; and
 - (xxiv) Baltimore City—\$65.48.

(5) For a child with a disability, the payment rates specified in §C(4) of this regulation apply, except that when the service provider provides documentation to the local department that the cost of caring for the child with a disability exceeds the reasonable accommodation provisions of the Americans with Disabilities Act referenced in Regulation .02B(31) of this chapter:

(a) The local department shall approve the additional cost up to 15 percent above the rates set out in §C(4) of this regulation, or

(b) If the requested cost exceeds 15 percent, the local department shall submit a recommendation to the Child Care Administration for approval of a higher payment.

(6) The local department shall approve additional costs that exceed the payment rates when child care is provided during non-traditional hours pursuant to Regulation .11F of this chapter.

(7) The payment rate schedule specified in Regulation .11H(3)—(4) of this chapter applies when children who attend elementary school or middle school full-day receive informal child care services.

(8) Informal child care is not subject to the provisions of Regulation .11A—C of this chapter.

(9) Each local department shall maintain a list of all informal child care providers. The list shall identify the provider as informal and shall include the following information:

- (a) Name;
- (b) Address;
- (c) Telephone number;
- (d) Social Security number; and
- (e) Relationship to children for whom the relative is providing care, if applicable.

(10) Unless permission is given by the local director for more than six children, local departments may approve payment for informal child care when the total number of children in the provider's care is six or less;

- (a) Including not more than two children under 2 years old; and
- (b) Counting the provider's own children younger than 6 years old among the six children.

D. Review of Child Abuse and Neglect Records.

(1) This section applies to all providers seeking payment for any type of informal child care identified in §C(2) of this regulation.

(2) Upon enactment of this regulation, this section immediately applies to all individuals who:

- (a) Are not currently being paid for informal child care services; and
- (b) Are identified by a POC customer as their chosen provider.

(3) Within 6 months of the effective date, this section applies to all individuals paid by the local department for informal child care services.

(4) Unless licensed or registered, a provider of informal child care services shall submit the following to the local department before the local department makes any payment:

(a) A signed affirmation of compliance with child care health and safety standards; and
(b) A signed release of information form, which is notarized or signed in the presence of local department staff or their designee, and which provides consent to a local department's review and evaluation of child abuse and neglect records of the:

(i) Informal child care provider, and
(ii) Any adult with a regular presence when a child is in care as defined in Regulation .02B of this chapter.

(5) Except when a child abuse or neglect finding has been appealed, and the appeal has not yet been decided, the local department shall review and evaluate child abuse and neglect record findings for an:

(a) Informal child care provider, and
(b) Adult with a regular presence when a child is in care, as identified in Regulation .02B of this chapter.

(6) Unless the local director gives an exception in writing, the local department may not approve payment for informal child care when a records evaluation cannot be made because an appeal of a finding has not been decided, or when the evaluation of child abuse and neglect records indicates behavior harmful to children by an:

(a) Informal child care provider; or
(b) Adult with a regular presence when a child is in care as identified in Regulation .02B of this chapter.

(7) When informal child care continues to be provided, the local department shall review and evaluate child abuse and neglect records for any subsequent finding at least every 2 years for any:

(a) Informal child care provider; and
(b) Adult with a regular presence when a child is in care, as identified in Regulation .02B of this chapter.

E. Child Care Voucher System.

(1) The local department shall:

(a) Issue a voucher to an applicant:

(i) That is related to the schedule and duration of the applicant's activity; and
(ii) Effective on the date a signed application is received if the requirements of Regulation .05D of this chapter are met; and
(b) Provide directly or provide access to information and referral services to assist the applicant in finding appropriate child care.

(2) Use of Voucher.

(a) The licensed or registered voucher may be used only in those programs that meet the definitions of child care center or family child care home in Regulation .02 of this chapter.

(b) The informal voucher may only be used for child care which meets the definition of informal child care in Regulation .02 of this chapter.

(3) Except for vouchers issued pursuant to Regulation .09A(3) of this chapter, the voucher is valid for a maximum of 12 months from the effective date if placement is made within 60 days of the date the voucher was issued.

(4) The voucher is void if:

(a) The voucher is not signed by the provider and the customer;
(b) Placement is not made; or
(c) The voucher is not returned to the local department within 60 days of its issue date.

(5) The local department shall issue to a customer a notification of the expiration of a voucher at least 15 days before the expiration date to allow for application and review of eligibility for a new voucher by the local department.

(6) The local department shall provide to a provider sufficient invoice forms to cover the period of a voucher after the voucher is returned to the local department.

F. A new voucher shall be issued if:

(1) A customer moves to another area served by a different local department; and
(2) The new local department finds the customer is still eligible for purchase of child care.

.07 Limitations.

A. Except that primary consideration within each priority shall be given to a family requiring purchase of child care services for a child with a disability, provision of purchase of child care services to a family is subject to the following priorities determined by the Child Care Administration:

(1) Individuals who:

(a) Have applied for TCA and are:
(i) Job searching; or
(ii) Participating in a job readiness activity; or
(b) Are receiving TCA and are participating in an approved activity;

(2) Individuals who are working and:

(a) Who have received TCA at any time within the prior 6 months;
(b) Who are no longer eligible for TCA; and
(c) Whose family income is less than or equal to the amounts listed for copayment levels A through J in Regulation .12A of this chapter, for the family's size; and

- (3) Individuals who are working, enrolled in public school, or enrolled in training and:
 - (a) Who are not TCA applicants or recipients; and
 - (b) Whose family income is less than or equal to the amounts listed for copayment levels A—J in Regulation .12A of this chapter, for the applicant's family size.
- B. When the program is reduced because of insufficient funds:
 - (1) The order of the priorities, as established jointly by the local department and the Child Care Administration, is applied in reverse for terminating services; and
 - (2) Service to individuals pursuant to §A(3) of this regulation shall be terminated beginning with copayment level J and, when necessary, terminating in reverse order from level I to level A.

.08 Copayments and Subsidies.

A. Parental Copayments.

- (1) An individual or family who uses purchase of child care services shall contribute financially to the cost of those services, except for the following who are exempt:
 - (a) TCA applicants or recipients pursuant to Regulation .07A(1) of this chapter;
 - (b) SSI recipients; or
 - (c) A POC customer for a voucher issued for a voluntary closure period as defined in Regulation .02B of this chapter.
- (2) Except for additional vouchers issued for voluntary closure days, parental copayments are paid to a provider based on the provider's payment schedule and shall include a minimum copayment, as listed on the child care voucher and in accordance with Regulation .111 of this chapter.
- (3) Except as exempted under §A(1) of this regulation, parental copayments are assessed for three or fewer children who are receiving purchase of child care services. Copayments are assessed for services provided to an eligible child pursuant to Regulation .12 of this chapter as follows:
 - (a) The youngest child in care is assessed the highest copayment;
 - (b) The second child in care, who is the next oldest, is assessed a lower copayment;
 - (c) The third child in care, who is the next oldest in age to the second child, is assessed the same copayment amount as the second child; and
 - (d) No copayment is assessed for the fourth child and subsequent children.
- (4) Parental copayments are determined on the basis of family size and income as set forth in Regulation .12A of this chapter.
- (5) Except that copayments are not assessed for additional vouchers pursuant to §A(1)(c) of this regulation, weekly copayments are determined according to Regulation .12B—D of this chapter.

B. Child Care Subsidies.

- (1) The subsidy to be paid to a provider by the local department is computed by subtracting the applicable weekly copayment for each child in the family receiving purchase of child care services, as set forth in Regulation .12B—D of this chapter, from the lowest of the:
 - (a) Weekly actual cost of care;
 - (b) Weekly local market rate; or
 - (c) Weekly applicable maximum provider payment rate set forth in Regulation .06C(4) or Regulation .11B—D of this chapter.
- (2) The subsidy is computed at the maximum level for applicable family size without regard to actual income for:
 - (a) A family who has applied for or is receiving TCA pursuant to Regulation .07A(1) of this chapter;
 - (b) An individual receiving SSI; or
 - (c) A family who is issued an additional voucher for a voluntary closure period as defined in Regulation .02B of this chapter.
- (3) The local department may not pay a subsidy to the provider unless the voucher is signed by the customer and the provider.
- C. For purposes of determining parental copayments and subsidies, a family's income shall be determined by the definition of monthly gross income in Regulation .02B of this chapter, and changed to an annual amount by multiplying the:
 - (1) Average:
 - (a) Weekly income by 52;
 - (b) Every other week income by 26;
 - (c) Monthly income by 12; or
 - (d) Twice monthly income by 24; and
 - (2) Monthly income by the number of months worked by an individual for less than 12 months.

.09 Redetermination and Termination.

A. Except that a family with an open case on the waiting list may not be redetermined while on the waiting list if its placement on that list is due to insufficient program funds, a local department shall make a determination of child care need for a family:

- (1) When there are significant changes in the family situation;
- (2) At least every 12 months; or
- (3) Within 10 days of the completion of the Head Start Program year if the child:
 - (a) Is enrolled in Head Start, and
 - (b) Receives POC services.

B. The local department shall terminate purchase of child care payments if one of the following occurs:

- (1) The family is no longer eligible on the basis of need;
- (2) The family is no longer eligible on the basis of income;
- (3) The local department determines that the parent regularly violates the requirements of the provider;
- (4) The family fails to pay the care copayment, recorded on the voucher, when it is due;
- (5) The established plan of service is not being met;
- (6) The program is reduced because of insufficient funds or is oversubscribed, and the child is terminated according to Regulation .07B of this chapter;
- (7) The family commits welfare fraud as defined in Criminal Law Article, §§8-501—8-504, Annotated Code of Maryland, and cited in the terms of agreement of the purchase of child care voucher;
- (8) The family fails to provide documentation required by the local department to redetermine eligibility;
- (9) The family who has the care of a child eligible for child support services refuses to cooperate with the State in pursuing child support obligations, unless good cause for the refusal is either claimed or determined to exist pursuant to Regulation .04 of this chapter;
- (10) The family fails to report any change, as specified in Regulation .03G of this chapter, that results in the receipt of benefits for which the applicant is not eligible;
- (11) The family fails to provide a signed affirmation, including required documentation, pursuant to Regulation .06C(3) of this chapter;
- (12) The family fails to verify immunizations appropriate to the child's age pursuant to Regulation .03F of this chapter for each child receiving services; or
- (13) The family or the provider has been disqualified pursuant to Regulation .13 of this chapter and the disqualification period has not ended.

C. Notification of Termination.

(1) The local department shall notify the parent and provider in writing at least 5 working days before termination of child care services or reduction of child care benefits or services pursuant to Regulation .11H(5) of this chapter. The notice shall include:

- (a) The action to be taken;
- (b) The reason for the action;
- (c) The regulation supporting the action; and
- (d) An explanation of the parent's right to request a fair hearing and the method of obtaining a fair hearing.

(2) When a voucher is written for less than 5 working days, the notification period does not apply and the local department shall provide notification as soon as practicable.

D. Purchase of child care services may not be reinstated or continued pending the decision following a fair hearing if the service is terminated because of nonpayment by the family of the copayment stated on the voucher that was assigned by the local department.

.10 Appeal.

A. An appeal for a fair hearing and the conduct of the hearing are pursuant to COMAR 07.01.04.

B. Timely notice requirements do not apply to changes in the manner of payment unless those changes:

- (1) Result in a discontinuation, suspension, reduction, or termination of benefits; or
- (2) Force a change in child care arrangements.

C. The local department shall give written notification of the right to, and methods of requesting and obtaining, a fair hearing:

- (1) To each applicant for, and each recipient of, purchase of child care services;
- (2) Whenever the local department notifies the applicant or recipient of any pending action that may deny, suspend, reduce, or terminate service;
- (3) To each individual selected by the applicant or customer as an informal provider who is denied payment pursuant to Regulation .11H(13) of this chapter; and
- (4) To a family child care provider, a child care center, or informal provider who is denied payment for committing an intentional program violation pursuant to Regulation .11H(15) of this chapter.

D. If an appeal decision is entered against a customer, the customer shall repay to the local department the total amount of all child care subsidy payments made to the provider from the time the appeal was filed until the decision was entered.

E. Denied Tiered Reimbursement.

(1) A family child care provider or child care center who is denied tiered reimbursement under Regulation .11G of this chapter based on a decision by the Child Care Administration, Office of Credentialing may request an appeal of the decision to the Office of Credentialing's Training Review Committee.

(2) The Appeal Process.

(a) An appellant shall submit the appeal to the Office of Credentialing within 30 days of payment denial:

(i) In writing; and

(ii) On the appropriate form available from the Office of Credentialing.

(b) The Training Review Committee shall:

(i) Reach a decision regarding the appeal within 30 days of receiving the appeal; and

(ii) Notify the appellant in writing within 30 days of the decision of the Training Review Committee.

(c) If the denial is overturned by the Training Review Committee, the appellant shall be approved for tiered reimbursement retroactive to the initial application date.

.11 Payments for Child Care Services.

A. Basis of Payment.

(1) A separate child care provider payment rate is established for each of the following seven purchase of child care service regions within the State:

(a) Region U, comprising Cecil, Queen Anne's, St. Mary's, Talbot, and Washington counties;

(b) Region V, comprising Caroline, Dorchester, Kent, Somerset, and Wicomico counties;

(c) Region W, comprising Anne Arundel, Calvert, Carroll, Charles, and Prince George's counties;

(d) Region X, comprising Howard and Montgomery counties;

(e) Region Y, comprising Baltimore, Frederick, and Harford counties;

(f) Region Z, comprising Allegany, Garrett, and Worcester counties; and

(g) Region BC, Baltimore City.

(2) A child care provider is paid:

(a) According to the weekly service unit rates as set out in §§B—D of this regulation for subsidies and Regulation .12B of this chapter for copayments;

(b) Based on 21.69 days in each month; and

(c) For authorized service units only.

B. Rate of Payment and Cost Guidelines—Family Child Care Home.

(1) The amount paid to a family child care provider who cares for a child in the provider's home is the lowest of the:

(a) Regional weekly service unit rates established by this regulation;

(b) Weekly rate charged to the general public by the provider if that rate is comparable and competitive with the going rate in the community; or

(c) Actual cost of care.

(2) The regional weekly service unit rates specified in this subsection are based on three units of service per day. For two-unit and one-unit regional weekly rates, multiply by 2/3 and 1/3, respectively, the following regional weekly rates:

(a) Rate for a child 24 months old or older:

(i) Region U—\$90.27;

(ii) Region V—\$80.00;

(iii) Region W—\$111.06;

(iv) Region X—\$141.78;

(v) Region Y—\$111.02;

(vi) Region Z—\$82.29; and

(vii) Region BC—\$102.68;

(b) Rate for a child up to 24 months old:

(i) Region U—\$115.00;

(ii) Region V—\$95.00;

(iii) Region W—\$150.00;

(iv) Region X—\$175.00;

(v) Region Y—\$140.00;

(vi) Region Z—\$90.00; and

(vii) Region BC—\$134.75.

C. Rate of Payment and Cost Guidelines—Child Care Center.

(1) The amount paid to a child care center is the lowest of the:

- (a) Regional weekly service unit rates established by this regulation; or
- (b) Weekly rate charged to the general public by the child care center if that rate is comparable and competitive with the going rate in the community; or
- (c) Actual cost of care.

(2) The regional weekly service unit rates specified in this subsection are based on three units of service per day. For two-unit and one-unit regional weekly rates, multiply by 2/3 and 1/3, respectively, the following regional weekly rates:

- (a) Rate for a child 24 months old or older:
 - (i) Region U—\$103.31;
 - (ii) Region V—\$86.74;
 - (iii) Region W—\$117.92;
 - (iv) Region X—\$159.72;
 - (v) Region Y—\$122.77;
 - (vi) Region Z—\$82.83; and
 - (vii) Region BC—\$106.85;
- (b) Rate for a child up to 24 months old:
 - (i) Region U—\$165.00;
 - (ii) Region V—\$140.00;
 - (iii) Region W—\$190.00;
 - (iv) Region X—\$250.00;
 - (v) Region Y—\$200.00;
 - (vi) Region Z—\$100.00; and
 - (vii) Region BC—\$180.00.

D. The payment rate for in-home care is in accordance with Regulation .06C(4) of this chapter.

E. The payment rate for a child, including a child with a disability, in a family child care home or a child care center is specified in §§B and C of this regulation, except that when the service provider provides documentation to the local department that the cost of caring for the child with a disability exceeds the reasonable accommodation provisions of the Americans with Disabilities Act referenced in Regulation .02B(31) of this chapter:

- (1) The local department shall approve the additional cost up to 15 percent above the rates set out in §§B and C of this regulation; or
- (2) If the requested cost exceeds 15 percent, the local department shall submit a recommendation to the Child Care Administration for approval of a higher payment.

F. Additional Costs.

(1) Pursuant to Regulation .06C(6) of this chapter, the local department shall approve additional costs that exceed the payment rates specified in §§B and C of this regulation when child care is provided during non-traditional hours. Non-traditional hours are:

- (a) 1 hour or more between 7 p.m. and 6 a.m. on Monday through Friday; and
- (b) Any period of 1 hour or more on Saturday or Sunday.

(2) Additional costs above the rates shall be authorized for care provided weekly during non-traditional hours up to:

- (a) 5 percent for one unit of care;
- (b) 10 percent for two units of care; or
- (c) 15 percent for three units of care.

G. Tiered Reimbursement.

(1) The local department shall approve a payment amount, in addition to the child's subsidy, to a family child care provider or child care center that:

- (a) Submits an application to the Child Care Administration, Office of Credentialing; and
- (b) Is certified by that Office as meeting the requirements for receiving tiered reimbursement.

(2) Requirements For Applicants For Tiered Reimbursement. Applicants shall:

- (a) Be registered or licensed by the Child Care Administration;
- (b) Have no outstanding regulatory violations;
- (c) Possess the appropriate level of the Maryland Child Care Credential for:
 - (i) A family child care provider; or
 - (ii) A minimum of 60 percent of the lead staff;
- (d) Certify that at least 15 minutes is spent daily on reading time with the children in care; and
- (e) Certify that a policy is in place, if applicable, that bases salaries on training, experience, and staff evaluation.

(3) Requirements For Applicants For Tiered Reimbursement, Level 2. Applicants shall:

- (a) Comply with the requirements in §G(2) of this regulation;
- (b) Initiate a program of accreditation self-study through the Maryland State Department of Education or a nationally recognized child care accreditation organization approved by the Child Care Administration;
- (c) Be approved at Level 2 for the Maryland Child Credential;

- (d) Certify that parents are involved in the program in at least two ways; and
- (e) Certify that a nationally recognized rating scale approved by the Child Care Administration that is appropriate to the setting and age of the children in care has been self-administered.
- (4) Requirements Of Applicants For Tiered Reimbursement, Level 3. Applicants shall:
 - (a) Comply with requirements in §G(2) of this regulation;
 - (b) Complete a program of accreditation self-study through the Maryland State Department of Education or a nationally recognized child care accreditation organization approved by the Child Care Administration;
 - (c) Be approved at Level 3 for the Maryland Child Credential;
 - (d) Certify that parents are involved in the program in at least four ways; and
 - (e) As administered by a Child Care Administration approved evaluator, achieve a rating of four on a nationally recognized rating scale that is appropriate to the setting and age of the children in care.
- (5) Requirements For Applicants For Tiered Reimbursement, Level 4. Applicants shall:
 - (a) Comply with requirements in §G(2) of this regulation;
 - (b) Achieve program accreditation through the Maryland State Department of Education or a nationally recognized child care accreditation organization approved by the Child Care Administration;
 - (c) Be approved at Level 4 of the Maryland Child Credential;
 - (d) Certify that a policy is in place, if applicable, that offers benefits based on training experience and staff evaluation;
 - (e) Certify that parents are involved in the program in at least six ways; and
 - (f) Except if the program received accreditation during the previous twelve month period, and as administered by a Child Care Administration approved evaluator, achieve a rating of five on a nationally recognized rating scale that is appropriate to the setting and age of the children in care.
- (6) A family child care provider or child care center may reapply annually under §G(1) of this regulation.
- (7) A family child care provider or a child care center meeting the requirements in §G(1) of this regulation shall be paid a weekly differential payment amount for each POC child in care that is:
 - (a) Effective the first service period following approval;
 - (b) In addition to a child's subsidy payment; and
 - (c) In accordance with the following percentages which are multiplied by the child's subsidy amount at each level:

	Level 2	Level 3	Level 4
Family Child Care			
Child Under 2	11 %	22 %	29 %
Child 2 Years Old or Older	10 %	21 %	28 %
Center Child Care			
Child Under 2	22 %	37 %	44 %
Child 2 Years Old or Older	10 %	19 %	26 %

H. Payment Policy.

- (1) The local department shall arrange with the provider for the purchase of child care services by voucher or other means approved by the Child Care Administration.
- (2) In each local department, the rate paid to the provider is based on the region in which the:
 - (a) Child care is given if the provider is a:
 - (i) Family child care provider, or
 - (ii) Center child care provider; or
 - (b) Child resides, if the provider is an informal child care provider.
- (3) A payment rate schedule is established for children attending public or nonpublic elementary or middle schools for the full school day who receive child care services. The payment rate schedule is:
 - (a) Paid pursuant to the maximum payment rates listed in Regulation .06C(4) of this chapter and §§B and C of this regulation;
 - (b) Valid when authorized child care services are provided:
 - (i) On a regular basis beyond school hours, and
 - (ii) When schools are closed during the school year; and
 - (c) Based on a 42-week payment schedule that is calculated by averaging the child's rate for:
 - (i) 36 weeks of authorized one or two service units when school is scheduled to be in session, and
 - (ii) 6 weeks of authorized three service units when school is scheduled to be closed; and
 - (d) Applied to an uninterrupted 10-week school vacation when:
 - (i) The vacation period is not included in §H(3)(b)(ii) of this regulation, and
 - (ii) The care is authorized by the local department for three units of service a day.
- (4) A payment rate schedule is established for children attending public or nonpublic elementary or middle schools for the full school day that are open year-round. The 52-week payment schedule is calculated by averaging the child's rate for:

- (a) 36 weeks of authorized one or two service units when school is scheduled to be in session;
 - (b) 6 weeks of authorized three service units when school is scheduled to be closed; and
 - (c) 10 designated school vacation weeks of authorized three service units.
- (5) Except for vouchers written for less than 5 working days in accordance with Regulation .09C of this chapter, and subject to §H(14)(f) of this regulation, a local department shall pay for a 5 working day termination notification period to a provider of:
- (a) Family child care; or
 - (b) Center child care.
- (6) A provider is paid only for the time authorized by the voucher, which reflects the plan of service, and may not be paid in excess of that time.
- (7) In each local department, payment is rounded to the nearest dollar.
- (8) A provider may not be paid for more than:
- (a) The maximum full-time equivalent slots authorized for care by the Child Care Administrator's Office of Licensing for care that is licensed or registered; or
 - (b) In accordance with Regulation .06C(10) of this chapter for informal child care.
- (9) Except that holidays are included in the payment schedule pursuant to §H(3) and (4) of this regulation and not paid separately, family child care providers and center child care providers are paid for six holidays including Christmas, New Year's Day, Memorial Day, Independence Day, Labor Day, and Thanksgiving Day, according to the:
- (a) Number of children enrolled in care the day before the holiday; and
 - (b) Enrollment status of the child during the period in which the holiday falls.
- (10) Family child care and center child care providers shall be paid for those days when the services are closed for:
- (a) An official weather emergency that is declared by the State or local government; and
 - (b) Voluntary closure days under Regulation .02B when:
 - (i) Child care services are not provided;
 - (ii) The period of voluntary closure does not include more than 2 consecutive weeks annually; and
 - (iii) Except in cases of provider or family illness or death, the provider gives 2 weeks written notice of closure to the parent.
- (11) Family child care and center child care providers are paid for the time a child is absent up to 60 days per calendar year, except that in the case of illness or injury of the child, documented by a health practitioner, the local department director or the director's designee may authorize additional absences.
- (12) Payment may not be made to an informal child care provider for any holiday or for any child absence, except that for eligible customers, payments shall be made for:
- (a) Absences during the periods set forth in Regulation .03C(2)(b)—(d) and .03C(3)(a)—(b) of this chapter; and
 - (b) Voluntary closure days under Regulation .02B of this chapter and §H(10) of this regulation.
- (13) The local department shall deny payment to an informal provider when:
- (a) The local department has documented information indicating a risk to the health and safety of the child in that placement;
 - (b) An evaluation of child abuse and neglect records indicates behavior harmful to children by an:
 - (i) Informal child care provider, or
 - (ii) Adult with a regular presence when the child is in care as defined in Regulation .02B of this chapter;
- or
- (c) The local department has not received a signed release of information form consenting to a review of child abuse and neglect records, pursuant to Regulation .06D(4) of this chapter; or
 - (d) The informal provider has been disqualified pursuant to Regulation .13 of this chapter and the disqualification period has not ended.
- (14) In all local departments, provision of child care services is subject to the cooperation of the child care provider in allowing parental access. Payment, including that for the termination notification period, may not be made to a provider who:
- (a) Denies parental access to the child;
 - (b) If required to be licensed or registered, or to submit an affirmation of compliance with health and safety standards, is not licensed or registered, or has not submitted the affirmation;
 - (c) Has had a child care license or registration suspended or revoked;
 - (d) Has been convicted of child abuse or assault;
 - (e) Is the child's parent, stepparent, or legal guardian, or is a member of the child's FIP or TCA assistance unit;
 - (f) Fails to give 5 days written notice of service termination to the parent;
 - (g) Fails to comply with Public Law 103-227, Part C, that prohibits smoking in a child care center; or
 - (h) Has been disqualified pursuant to Regulation .13 of this chapter and the disqualification period has not ended.

(15) Payment may not be made to a family child care provider or to a child care center that has committed an intentional program violation based on:

(a) One of the following:

(i) An adjudication by a reviewing tribunal that the provider has committed an intentional program violation for which disqualification is a sanction; or

(ii) The signing of a waiver relinquishing the provider's right to an administrative disqualification hearing; and

(b) Initiation of recoupment procedures by the local department.

(16) If POC payments to a provider are terminated under §H(15) of this regulation, the provider may not receive POC payments for the periods identified in Regulation .13A of this chapter.

(17) Stoppage of payment to a provider whose child care license or registration has been suspended or revoked is based on the date of that suspension or revocation.

(18) Payment to a provider for informal child care may not exceed the schedule of rates specified under Regulation .06C(4) of this chapter.

I. Method of Payment.

(1) Payment to a provider is made jointly by the local department and the family of the child.

(2) Local Department Payment.

(a) The local department shall pay a provider upon approval of an invoice submitted within 60 days of the end date of the last service period.

(b) The amount of the invoice shall match the authorized service units listed on the voucher. Payment may not be made for any units in excess of those authorized by the voucher.

(3) Parental Payment.

(a) Parental payment for child care services shall be made directly to the provider at times set by the provider, and shall follow the payment policy of the provider.

(b) The parent shall pay the provider the copayment listed on the voucher.

(c) The provider shall give the parent a receipt for the full amount of the parent's payment.

(4) An invoice adjustment may be made within 60 days after the end of the month in which services were provided.

J. Payment Irregularities.

(1) The local department of social services shall attempt to recover any overpayment to recipients or service providers.

(2) Recovery shall be made by repayment or by reduction of continuing child care benefits.

(3) If an overpayment is recovered incrementally, it shall be recovered monthly at the rate of:

(a) In a case not involving fraud, 10% of the overpayment; or

(b) In the case of fraud, 20% of the overpayment.

(4) The local department of social services shall promptly correct any underpayment to recipients and service providers. Payments made to correct underpayments to recipients are excluded from monthly gross income.

.12 Schedules.

A. Income Eligibility Scale.

Family Size	Income	Copayment Level	Family Size	Income	Copayment Level
1	\$ 0—6,797	A	6	\$ 0—17,255	A
	6,797—8,496	B		17,255—21,568	B
	8,496—9,346	C		21,568—23,725	C
	9,346—10,195	D		23,725—25,881	D
	10,195—11,045	E		25,881—28,038	E
	11,045—11,895	F		28,038—30,195	F
	11,895—12,745	G		30,195—32,352	G
	12,745—14,656	H		32,352—37,205	H
	14,656—16,568	I		37,205—42,057	I
	16,568—18,565	J		42,057—47,127	J
2	\$ 0—8,889	A	7	\$ 0—17,647	A
	8,889—11,111	B		17,647—22,058	B
	11,111—12,222	C		22,058—24,264	C
	12,222—13,332	D		24,264—26,469	D
	13,332—14,444	E		26,469—28,675	E
	14,444—15,555	F		28,675—30,881	F
	15,555—16,666	G		30,881—33,088	G
	16,666—19,166	H		33,088—38,050	H

	19,166—21,666	I		38,050—43,013	I
	21,666—24,277	J		43,013—48,198	J
3	\$ 0—10,980	A	8	\$ 0—18,039	A
	10,980—13,725	B		18,039—22,548	B
	13,725—15,098	C		22,548—24,803	C
	15,098—16,470	D		24,803—27,057	D
	16,470—17,842	E		27,057—29,312	E
	17,842—19,215	F		29,312—31,568	F
	19,215—20,588	G		31,568—33,823	G
	20,588—23,676	H		33,823—38,896	H
	23,676—26,764	I		38,896—43,969	I
	26,764—29,990	J		43,969—49,269	J
4	\$ 0—13,072	A	9	\$ 0—18,431	A
	13,072—16,339	B		18,431—23,038	B
	16,339—17,974	C		23,038—25,343	C
	17,974—19,607	D		25,343—27,645	D
	19,607—21,241	E		27,645—29,950	E
	21,241—22,875	F		29,950—32,254	F
	22,875—24,509	G		32,254—34,558	G
	24,509—28,185	H		34,558—39,741	H
	28,185—31,861	I		39,741—44,924	I
	31,861—35,702	J		44,924—50,340	J
5	\$ 0—15,163	A	10	\$ 0—18,823	A
	15,163—18,954	B		18,823—23,528	B
	18,954—20,849	C		23,528—25,882	C
	20,849—22,744	D		25,882—28,234	D
	22,744—24,639	E		28,234—30,587	E
	24,639—26,535	F		30,587—32,940	F
	26,535—28,431	G		32,940—35,294	G
	28,431—32,695	H		35,294—40,587	H
	32,695—36,959	I		40,587—45,880	I
	36,959—41,414	J		45,880—51,411	J

B. Regional Weekly Copayment Tables.

(1) These regional weekly copayment tables are based on three units of service per day. For the two-unit and one-unit regional weekly copayments, multiply the figures in §B(2)—(4) of this regulation by 2/3 and 1/3 respectively.

(2) Copayments for a Child 24 Months Old and Older in Family Child Care or Center Care:

(a) First (Youngest) Child in Care:

Copayment Level	Region U	Region V	Region W	Region X	Region Y	Region Z	Region BC
A	\$4.56	\$4.03	\$5.60	\$7.22	\$5.54	\$4.12	\$5.15
B	7.29	6.45	8.95	11.55	8.77	6.59	8.24
C	11.85	10.49	14.55	18.77	14.31	10.71	13.40
D	17.32	15.33	21.26	27.44	21.00	15.65	19.58
E	22.79	20.17	27.98	36.10	27.69	20.59	25.76
F	29.18	25.82	35.81	46.21	35.31	26.36	32.98
G	35.56	31.47	43.64	56.32	43.15	32.12	40.19
H	41.03	36.31	50.36	64.99	49.85	37.06	46.37
I	43.77	38.73	53.54	69.32	53.08	39.54	49.46
J	45.59	40.34	55.61	72.21	55.38	41.18	51.52

(b) Second and Third Children in Care:

Copayment Level	Region U	Region V	Region W	Region X	Region Y	Region Z	Region BC
A	\$2.74	\$2.42	\$3.36	\$4.33	\$3.23	\$2.47	\$3.09
B	5.47	4.84	6.71	8.66	6.69	4.94	6.18
C	9.12	8.07	11.19	14.44	11.08	8.24	10.30
D	12.76	11.30	15.67	20.22	15.46	11.53	14.43
E	18.24	16.14	22.38	28.88	22.15	16.47	20.61
F	22.79	20.17	27.98	36.10	27.69	20.59	25.79
G	28.27	25.01	34.69	44.77	34.15	25.53	31.94
H	31.91	28.24	39.17	50.54	38.77	28.83	36.07
I	34.65	30.66	42.52	54.88	42.00	31.30	39.16
J	36.47	32.27	44.76	57.76	44.31	32.95	41.22

- (c) A copayment is not assessed for subsequent children in a family who are:
- (i) The oldest children in the family pursuant to Regulation .08A(3) of this chapter; and
 - (ii) Receiving POC services.

(3) Copayments for a Child Up to 24 Months Old in Family Child Care or Center Care:

(a) First (Youngest) Child in Care:

Copayment Level	Region U	Region V	Region W	Region X	Region Y	Region Z	Region BC
A	\$5.82	\$4.88	\$7.62	\$9.05	\$7.17	\$4.53	\$6.84
B	9.31	7.81	12.20	14.48	11.47	7.25	10.95
C	15.13	12.70	19.82	23.53	18.63	11.79	17.80
D	22.12	18.56	28.97	34.39	27.23	17.23	26.01
E	29.10	24.42	38.12	45.25	35.83	22.67	33.69
F	37.25	31.25	48.79	57.92	45.86	29.01	42.46
G	45.40	38.09	59.46	70.59	55.89	35.36	51.46
H	52.38	43.95	68.61	81.45	64.49	40.80	59.08
I	55.87	46.88	73.18	86.88	68.79	43.52	62.77
J	58.20	48.83	76.23	90.46	71.66	45.34	65.31

(b) Second and Third Children in Care:

Copayment Level	Region U	Region V	Region W	Region X	Region Y	Region Z	Region BC
A	\$3.49	\$2.93	\$4.57	\$5.43	\$4.30	\$2.72	\$4.11
B	6.98	5.86	9.15	10.86	8.60	5.44	8.21
C	11.64	9.77	15.25	18.10	14.33	9.07	13.69
D	16.30	13.67	21.35	25.34	20.06	12.69	19.17
E	23.28	19.53	30.49	36.20	28.66	18.13	27.38
F	29.10	24.42	38.12	45.25	35.83	22.67	33.69
G	36.09	30.28	47.26	56.11	44.43	28.11	41.31
H	40.74	34.18	53.36	63.35	50.16	31.73	46.38
I	44.23	37.11	57.94	68.78	54.46	34.46	50.08
J	46.56	39.07	60.99	72.40	57.33	36.27	52.62

- (c) A copayment is not assessed for subsequent children in a family who are:
- (i) The oldest children in the family pursuant to Regulation .08A(3); and
 - (ii) Receiving POC services.

C. A family using informal care shall pay a copayment amount which is equal to the amount produced by multiplying the appropriate percentage from the following table by the informal care weekly rate in the jurisdiction where the child resides:

(1) First (Youngest) Child in Care:

Copayment Level	Copayment Percentage
A	5%
B	8%
C	13%
D	19%
E	25%
F	32%
G	39%
H	45%
I	48%
J	50%

(2) Second and Third Children in Care:

Copayment Level	Copayment Percentage
A	3%
B	6%
C	10%
D	14%
E	20%
F	25%
G	31%
H	35%
I	38%
J	40%

(3) A copayment is not assessed for subsequent children in a family who are:

- (a) The oldest children in the family pursuant to Regulation .08A(3) of this chapter; and
- (b) Receiving POC services.

D. Determination of Weekly Copayments.

(1) In §A of this regulation, the local department shall find the family size and income to identify the corresponding copayment level letter, and:

(a) Refer to the weekly copayment tables for regulated care listed under §B of this regulation to locate the appropriate regional weekly copayment for the:

- (i) Youngest child in the family in care, and
- (ii) Second and third children in the family in care;

(b) Determine the weekly copayment for informal child care by multiplying the appropriate regional weekly copayment percentage presented in §C of this regulation by the appropriate weekly informal rate which may not exceed the rates listed in Regulation .06C(4) of this chapter.

(2) An individual or family meeting the requirements of Regulation .08B(2) of this chapter is exempt from the requirements of §A of this regulation.

(3) For any family size greater than 10, the weekly copayment is the same as for a family of 10.

.13 Disqualification Penalties.

A. An applicant, recipient, or provider who has waived the right to an administrative disqualification hearing, or was found by a reviewing tribunal to have committed an intentional program violation concerning POC is ineligible to participate in the POC Program as follows:

(1) For the first violation, the applicant, recipient, or provider may not receive any POC payments for 6 months from the date payment was denied or until the individual makes full restitution to the local department, whichever is earlier;

(2) For the second violation, the applicant, recipient, or provider may not receive any POC payments for 12 months from the date the payment was denied or until the individual makes full restitution to the local department, whichever is earlier;

(3) For the third violation, the applicant, recipient, or provider shall be permanently barred from receiving POC payments and shall pay restitution; and

(4) For a determination of an intentional program violation based on an individual's conviction in a federal or state court on charges that the person misrepresented the location of his or her residence in order to obtain benefits from two or more states, the applicant, recipient, or provider is not eligible to receive POC payments for 10 years.

B. Unless a request for administrative disqualification hearing is filed, the disqualification period begins with the first month following the month in which the household receives written notification of the disqualification.

C. Once a disqualification penalty has been imposed under §A(1) and (2) of this regulation, the period of disqualification continues uninterrupted until the earlier of:

- (1) Full repayment of the benefit; or
- (2) Completion of the time period.

D. Before imposing the sanction, the local department shall provide written notice to the applicant, recipient, or provider of the:

- (1) Effective disqualification date;
- (2) Reason for imposing the sanction;
- (3) Payment that the individual was receiving;
- (4) Date on which the individual may reapply because the disqualification period has expired; and
- (5) Individual's right to appeal the disqualification.

E. If a provider or recipient has been disqualified pursuant to this regulation, the local department shall send the individual a demand letter for restitution, which shall include:

- (1) The amount owed;
- (2) The reason for the claim;
- (3) The period of time covered by the claim;
- (4) The procedure for paying the claim;
- (5) The right to request renegotiation of any repayment schedule if the individual's economic circumstances change; and
- (6) The requirement to:
 - (a) Sign the repayment notice to indicate agreement to make restitution;
 - (b) Select the method of payment; and
 - (c) Return the repayment notice within 30 days of the date of the notice.