

TITLE 392 CHILD CARE SUBSIDY PROGRAM

CHAPTER 4 PROVIDER ENROLLMENT

001. GENERAL STANDARDS. In order for a child care provider to participate in the subsidy program:

- (A) All child care providers must have a Social Security Number or Federal Identification Number, whichever is appropriate, before being approved;
- (B) A child care provider and a provider's spouse are not entitled to receive a subsidy to provide care for a provider's child, stepchild, or foster child. The legal guardian of a child or spouse of the legal guardian is not eligible to participate as a provider for the child;
- (C) The provider must not engage in or have an ongoing history of criminal activity that may be harmful or may endanger individuals for whom they provide services;
- (D) The potential provider must not have a history of incorrect or inaccurate billings whether intentional or unintentional, for services that have been provided or have a criminal history of financial mismanagement;
- (E) The provider must not have been disqualified from any Department program for an intentional program violation within the last five years;
- (F) Service provider enrollments are in effect for up to 12 months, are not back-dated, and must be completed and signed by all parties on or before the effective date. The enrollment may begin with the client's request for a specific provider but no earlier than the date of receipt of the application;
- (G) The provider must provide an environment that promotes the safety and well-being of the children in care. The Department may deny provider enrollment or disenroll a provider if the Department determines the provider's child care setting endangers a child or vulnerable adult; and
- (H) Changes in service provider enrollments require renegotiation of the enrollment form. Address changes which do not affect the service location do not require a new enrollment form.
- (I) Demonstrate the physical, mental, and emotional capacity to provide care for children.

002. PROVIDER ENROLLMENT STANDARDS. Before furnishing any service, each provider must sign an enrollment form agreeing:

- (A) No payments will be made for child care provided to a child before the service authorization date;
- (B) To provide service only as authorized, in accordance with the Department's standards;
- (C) To submit a claim for payment after service is provided and within 90 days;
- (D) To accept Child Care Subsidy reimbursement as payment in full for the contracted service(s) unless service is authorized on a sliding fee basis;

- (E) To accept a rate which is reasonable, necessary, and does not exceed the amount charged to private-paying persons;
- (F) To apply to Child Care Subsidy clients the same standards applied to private-paying persons;
- (G) To retain authorizations, billing documents, and attendance records for four years to support and document all claims;
- (H) To allow federal, state, or local officials responsible for program administration or audit to review service records;
- (I) To permit federal, state, or local officials to monitor and evaluate the program by means such as inspecting the facility, observing service delivery, and interviewing staff members;
- (J) To keep current any state or local license required for service provision and maintain all licensing standards;
- (K) To respect every client's right to confidentiality and safeguard confidential information;
- (L) To not discriminate against any employee, applicant for employment, or social services program participant or applicant because of race, color, religion, sex, disability, or national origin;
- (M) To not assign or transfer the enrollment to anyone else;
- (N) To understand and accept responsibility for the child's safety and property;
- (O) To continue to meet all standards pertaining to the service provided;
- (P) To operate a drug-free workplace;
- (Q) To notify the Department if a child(ren) does not attend the child care for more than three consecutive days when the child's absence is not reported to the provider;
- (R) To prohibit smoking within any part of an indoor child care facility. If care is provided in the provider's or the child's home, smoking is prohibited when a recipient's child is present in any part of the home; and
- (S) To allow background checks on themselves, staff, or a household member, if appropriate, or if an agency, agree to allow the Department to review agency policies regarding hiring and reporting to ensure that appropriate procedures regarding abuse, neglect, and law violations are in place.

002.01 PROVIDER AGE QUALIFICATIONS. A provider must be at least 19 years old.

002.02 SOCIAL SECURITY TAX WITHHOLDING. In some situations, the Department withholds Social Security taxes from in-home provider payments. Individual in-home service providers are considered employees of the client for whom they provide service. The Department, upon receiving a document that appoints the client as agent for the provider, acts on behalf of these clients to withhold mandatory taxes from the provider and pay the client's matching tax share to the Internal Revenue Services. The Department does not withhold federal or state income tax or federal unemployment insurance tax from any provider payment.

002.03 PROVIDER RELEASE OF INFORMATION AND STATEMENT OF CRIMINAL HISTORY. Individual providers must sign a release of information and statement, identifying any felony or misdemeanor convictions and pending criminal charges. This statement must include complete details, dates, and disposition. If the provider will be providing services in the provider's home, the provider must also provide this information for all household

members. Providing incomplete or inaccurate information may result in the provider being denied participation or terminated from the program.

002.03(A) GENERAL CRIMINAL HISTORY. All potential and current child care providers must undergo criminal history checks.

002.03(A)(i) BACKGROUND CHECKS. To participate in the child care subsidy program all individuals, facility owners, directors and staff, and household members age 13 and older, if care is provided in the provider's home must submit to a background check including the following:

- (1) A search of the following registries, repositories, or databases in the State of Nebraska plus each State where the individual has resided during the preceding five years;
  - (a) State criminal registry or repository;
  - (b) State sex offender registry; and
  - (c) Child and Adult Abuse and Neglect Central Registry.

002.03(A)(ii) SPECIAL CRIMINAL HISTORY. Child care provider enrollment will be revoked or application denied when the child care provider, staff member, or household member has a conviction in any of the following areas:

- (1) Child pornography;
- (2) Child or adult abuse or endangerment;
- (3) Driving under the influence: two or more driving under the influence charges are pending, or convictions have occurred within the last five years, or two of any combinations of driving under the influence charges pending or convictions occurred within the last five years;
- (4) Domestic abuse or assault, including spousal abuse;
- (5) Shoplifting after age 19 and within the last three years;
- (6) Felony fraud within the last 10 years;
- (7) Misdemeanor fraud within the last five years;
- (8) Termination of provider status for cause from any Department program or Child and Adult Care Food Program within the last 10 years;
- (9) Possession of any controlled substance within the last five years;
- (10) Possession of a controlled substance with intent to deliver within the last 10 years;
- (11) Manufacture of any controlled substance within the last 10 years;
- (12) Assault or battery with or without a weapon;
- (13) Prostitution or solicitation of prostitution within the last five years;
- (14) Felony or misdemeanor robbery or burglary within the last 10 years;
- (15) Rape or sexual assault;
- (16) Murder, including manslaughter;
- (17) Is a registered, or is required to be registered on a State or National Sex Offender Registry or repository;
- (18) Any crime against a child;
- (19) Kidnapping;
- (20) Animal cruelty, abuse, or neglect;
- (21) Arson; or

(22) Any other crimes jeopardizing the safety of a child or vulnerable adult.

002.03(A)(iii) ADDITIONAL CRIMES. Child care provider enrollment will be revoked or application denied when the child care provider, staff member, or household member has a conviction or pending charges for crimes including, crimes against a child or vulnerable adult, crimes involving intentional bodily harm, crimes involving the illegal use of a controlled substance, or crimes involving moral turpitude.

002.04 LIMIT ON HOURS OF ASSISTANCE. There are weekly and daily limits on the hours of child care subsidy that will be approved.

002.04(A) WEEKLY LIMIT. A provider is limited to bill a maximum of 60 hours of Child Care Subsidy per week. A week is defined as the seven day period from Sunday through Saturday.

002.04(B) DAILY LIMIT. A provider may bill a maximum of 18 hours of subsidized care in a 24 hour period. This must comply with the 60-hour a week limit.

002.05 AGENCY DECISION TO APPROVE A PROVIDER. In determining whether to approve or disenroll a provider, the Department, in its sole discretion, determines whether a provider meets the necessary standards. No provider has a right to approval with the Department. The Department may deny or disenroll a provider for any reason.

002.06 PROVIDER APPEAL LIMIT. Child care providers do not have the right to appeal Department decisions, except when an overpayment has been assessed or denial of enrollment due to background check findings.

002.06(A) APPEAL. If the provider disagrees with the Department's determination, the provider has 30 days from the date of mailing to appeal.

003. ADDITIONAL REQUIREMENTS FOR IN-HOME CHILD CARE. Each provider of in-home child care must:

- (A) Sign necessary forms and an enrollment form for service approval;
- (B) Have no obligation to perform housekeeping activities; and
- (C) Enrollment will only allow the in-home provider to care for one designated family.

004. PROVIDER STANDARDS. All Child Care Development Fund providers and staff must agree to all the terms found in the provider enrollment and must complete and maintain the following health and safety standards:

- (A) Prevention and control of infectious diseases, including immunizations:
  - (i) Infection control practices; and
  - (ii) Each child's immunization record must include:
    - (1) Documentation of age-appropriate immunization;
    - (2) Certification by a physician, advanced practice registered nurse, or physician assistant that immunization is not appropriate for a stated medical reason; or

- (3) A written statement that the parent or guardian does not wish to have the child immunized and the reasons for that decision.
- (B) Prevention of sudden infant death syndrome and use of safe sleeping practices:
  - (i) Providers must practice and ensure safety for nap or sleep times:
    - (1) Infants must sleep on their back unless there is a medical reason and written note from a physician; and
    - (2) Providers must have appropriate sleeping surfaces for all children.
  - (ii) The following must not be used as sleeping surfaces:
    - (1) The top level of a bunk bed for children age five and under;
    - (2) Stackable cribs;
    - (3) Waterbeds for children age three and under; and
    - (4) Cots, cushions, futons, mats, or pillows for infants 12 months or under.
- (C) Administration of medication:
  - (i) Providers who give or apply medication must follow the Five Rights:
    - (1) The right drug;
    - (2) The right recipient;
    - (3) In the right dose;
    - (4) By the right route; and
    - (5) At the right time.
- (D) Prevention and response to emergencies due to food or allergic reaction.
  - (i) Providers must keep records that include but are not limited to, the following: list of child's allergies and intolerance to food, or other factors that result in a medical reaction, and clear instructions in the event of an exposure to the factor.
- (E) Building and physical premises safety.
  - (i) Physical environment standards must be designed, constructed, and maintained in a manner that is safe, clean, and functional for child care.
- (F) Prevention of abusive head trauma.
  - (i) Providers must be trained in recognizing and immediately reporting any signs of abusive head trauma.
    - (1) Reports must be made to the Nebraska Child Abuse and Neglect Hotline.
- (G) Emergency preparedness:
  - (i) Providers are required to create an emergency preparedness plan in each of the following areas:
    - (1) Evacuation;
    - (2) Relocating;
    - (3) Shelter-in-place;
    - (4) Lockdown;
    - (5) Reunification with families;
    - (6) Continuity of operations;
    - (7) Accommodations of infants and toddlers;
    - (8) Accommodations of children with disabilities;
    - (9) Completing fire drills; and
    - (10) Completing tornados drills.
- (H) Handling and storage of hazardous materials.
  - (i) Poisonous materials and medications must be stored in a safe and locked area to prevent access to children. Waterproof storage must be used for soiled or wet

- clothing. Providers must follow sewer requirements to maintain sanitation and must properly dispose of garbage and rubbish.
- (I) Appropriate precautions in transporting children.
    - (i) No child(ren) left alone in a vehicle;
    - (ii) Proper vehicle insurance and registration;
    - (iii) Appropriate car seat;
    - (iv) Written permission from parents; and
    - (v) First aid kit in vehicle.
  - (J) Pediatric first aid and cardiopulmonary resuscitation.
    - (i) Training completion required prior to approval and maintain current certification during approval period.
  - (K) Recognition and reporting child abuse and neglect.
    - (i) Providers must practice and have an understanding of recognizing and immediately reporting any signs of child abuse or neglect.
    - (ii) Reports must be made to the Nebraska Child Abuse and Neglect Hotline.
  - (L) Child development.
    - (i) Providers must have an understanding of child development which includes physical, intellectual, social, and emotional changes in children.

**005. STAFF TRAINING REQUIREMENTS.** All staff who work with children in either a Licensed Home I, Licensed Home II, or Child Care Center setting are required to complete the pre-service orientation training and pediatric first aid and cardiopulmonary resuscitation training in first three months of employment. Supervision is required of staff until the training is completed.

**005.01 LICENSED EXEMPT AND FAMILY IN-HOME PROVIDERS TRAINING REQUIREMENTS.** Licensed Exempt and Family In-Home providers are required to complete four clock hours of approved annual training. At least two clock hours of training must be a topic from the health and safety standards identified above.

**005.02 DIRECTOR OR OWNER TRAINING.** The director or owner of a Licensed Home I must complete the training prior to working with children.

**006. APPLICATION.** Each potential provider will undergo a face-to-face interview and an inspection of the provider's place(s) where provider will provide child care. If the provider does not meet standards at the time of the initial inspection or interview, but is willing to correct the deficiency within a 30 day period of time, the application process will continue when proof of compliance is received.

**006.01 CONFLICT OF INTEREST.** No employee of the Department or its subdivisions may be approved as a service provider.

**006.02 MULTIPLE FACILITIES.** For Child Care Centers with multiple sites that are under the same ownership, each individual site must have their own provider enrollment.

**007. PROVIDER EVALUATION.** The child care subsidy program evaluates each provider to determine eligibility for participation.

007.01 PROVIDER COOPERATION WITH EVALUATION FOR ENROLLMENTS. The provider must:

- (A) Participate in renewal evaluation with the Department at least annually;
- (B) Allow visits at each facility where services are provided; and
- (C) Participate in an assessment of the health and safety of service provision at least once during the enrollment period by allowing observation of service delivery, training verification, visits to the service facility, and allow interviews of the provider or interviews of clients served by the provider.

007.02 SECONDARY ENROLLMENTS. Individuals may only hold one type of Child Care Subsidy Enrollment per facility. An In-Home Child Care Provider cannot hold an enrollment if they are a provider of other in-home services through another Department program, including personal assistance services and chore services.

008. PROVIDER OVERPAYMENTS. The Department will take measures to promptly correct overpayments.

008.01 WRITTEN NOTICE. Providers will receive a written notice when an overpayment occurs.

008.02 APPEAL. If the provider disagrees with the Department's determination, the provider has 30 days from the date of mailing to appeal the overpayment. Depending on the nature of the overpayment, the provider enrollment may also be terminated.

008.03 RECOUPMENT. If the provider does not appeal or appeals unsuccessfully, the overpayment will be recouped from future billings for the same or different children, or from another service at a rate of no less than 50 percent per billing.

008.03(A) HOLDING OF PAYMENTS. The Department has the right to hold any payments if an overpayment is suspected. Other actions as permitted by law may be taken to collect provider overpayments.

008.04 WILLFUL OVER-BILLING. When the evidence establishes that a provider willfully over-billed the Department, the matter will be referred for a fraud investigation or will be referred to the appropriate agency or agencies for a fraud investigation. Any information, documentation, investigative reports, et cetera, that are developed or obtained will be shared with other programs within the Department and with appropriate state agencies.