

DEPARTMENT OF HUMAN SERVICES
OFFICE OF EARLY EDUCATION AND CARE
CHILD DEVELOPMENT AND CARE PROGRAM

(By authority conferred on the director of the Michigan department of human services by section 6 of 1939 PA 280, and Executive Reorganization Order 2004-4, MCL 400.6 and 400.226.)

R 400.5001 Definitions.

Rule 1. As used in these rules:

(a) “Client” means the person who signs the application requesting child development and care payments.

(b) “Department” means the department of human services.

(c) “Eligible child” means a child who is under age 13, or is a special-needs teen, and who is approved by the department for the child development and care program.

(d) “Program group” means the following persons who live together:

(i) Each child for whom child care is requested.

(ii) Each child’s parents by birth or legal adoption and stepparents.

(iii) Each child’s unmarried, under age 18, siblings, half siblings, and step-siblings.

(iv) The parents by birth or legal adoption and stepparents of any of the siblings in paragraphs (i) to (iii) of this subdivision.

(v) Any other unmarried children under age 18 whose legal guardian is a member of the program group.

(e) “Special-needs teen” means either of the following:

(i) A child who is at least age 13, but under age 18, and any of the following:

(A) Unable to dress, feed, or care for himself or herself due to a physical or mental handicap.

(B) Requires constant care to prevent injury to himself or herself or to another due to a physical or psychological condition.

(C) Has court-ordered supervision.

(ii) A child meeting all of the following:

(A) Is age 18.

(B) Requires constant care due to a physical or mental handicap or a court order.

(C) Is a full-time high school student, and is reasonably expected to complete high school before reaching age 19.

(f) “Unlicensed provider” means an individual providing child care who is not required to be licensed under 1973 PA 116, MCL 722.111 to 722.127a.

History: 1997 AACCS; 2011 MR 19, Eff. Apr. 10, 2012.

R 400.5002 Upper income limit for families receiving benefits; basis.

Rule 2. The upper income limit for families that receive child development and care payments and are not exempt from an income test shall be based on available actual appropriations and the number of eligible recipients.

History: 1997 AACCS; 2011 MR 19, Eff. Apr. 10, 2012.

R 400.5003 Rescinded.

History: 1997 AACCS; 2011 MR 19, Eff. Apr. 10, 2012.

R 400.5004 Unavailability of parents.

Rule 4. (1) For the purpose of this rule, “parent” means all of the following persons who live with the child who needs care:

- (a) Parents by birth or legal adoption of the child.
- (b) Stepparent of the child.
- (c) Foster parents of the child.
- (d) Legal guardian of the child.
- (e) The client if a parent does not live with the child.
- (f) The client if the only parent who lives with the child is excluded from providing the care.

(2) To be eligible for child development and care payments, parents must be unavailable to provide the child care due to 1 or more of the following reasons:

- (a) Employment approved by the department.
- (b) Attendance at an education or training program approved by the state, its designee, or its contractor.
- (c) A health or social reason approved by the department.
- (d) Full or part-time attendance at courses leading to a high school diploma or its equivalent.

History: 1997 AACCS; 2011 MR 19, Eff. Apr. 10, 2012.

R 400.5005 Child development and care program; effective date; eligibility review.

Rule 5. (1) The effective date of eligibility shall not be more than 21 calendar days before the date the local department office receives a signed application for the child development and care program with the minimum required information.

(2) The department shall review client eligibility factors at least once a year.

History: 1997 AACCS; 2011 MR 19, Eff. Apr. 10, 2012.

R 400.5006 Provision of services to special-needs teens.

Rule 6. The department shall provide child development and care benefits to special-needs teens based on available actual appropriations and the number of eligible recipients permit.

History: 1997 AACCS; 2011 MR 19, Eff. Apr. 10, 2012.

R 400.5007 Rescinded.

History: 1997 AACCS; 2011 MR 19, Eff. Apr. 10, 2012.

R 400.5008 Pursuit of support from absent parent as condition of eligibility.

Rule 8. (1) A client and program group member not exempt from an income test shall pursue and cooperate in establishing child support from an absent parent unless good cause exists.

(2) Good cause exists when 1 or more of the following conditions exist:

(a) Establishing paternity or securing support would harm the child, under the following circumstances:

(i) The child was conceived due to incest or forcible rape.

(ii) Legal proceedings for the adoption of the child are pending.

(iii) The client is currently receiving counseling from a public or licensed private social agency to decide if the child should be released for adoption, and the counseling has not been for more than 3 months.

(b) There is danger of physical or emotional harm to the child or client. Physical or emotional harm may result if the client or child has been subject to or is in danger of any of the following:

(i) Physical acts that resulted in, or threatened to result in, physical injury.

(ii) Sexual abuse.

(iii) Sexual activity involving a dependent child.

(iv) Being forced as the caretaker relative of a dependent child to engage in nonconsensual sexual acts or activities.

(v) Threats of, or attempts at, physical or sexual abuse.

(vi) Mental abuse.

(vii) Neglect or deprivation of medical care.

(3) Failure to cooperate in obtaining child support without good cause shall result in the program group being ineligible for the child development and care program.

History: 1997 AACCS; 2011 MR 19, Eff. Apr. 10, 2012.

R 400.5009 Provider reimbursement rates.

Rule 9. Provider reimbursement rates shall be established by the department or legislature based on available actual appropriations and the number of eligible recipients.

History: 1997 AACCS; 2011 MR 19, Eff. Apr. 10, 2012.

R 400.5010 Rescinded.

History: 1997 AACCS; 2011 MR 19, Eff. Apr. 10, 2012.

R 400.5011 Submittal of billing information.

Rule 11. (1) Child care providers shall submit billing information to the department within the following time limits:

(a) Ninety calendar days after the end of the payment period if authorized on or before the last day of the payment period.

(b) Ninety calendar days after the payment period is authorized if authorized after the last day of the payment period.

(2) If billing information is not submitted within the time limits specified in this rule, payment will not be made unless the child care provider establishes good cause for failure to comply with this rule.

History: 1997 AACCS; 2011 MR 19, Eff. Apr. 10, 2012.

R 400.5012 Rescinded.

History: 1997 AACCS; 2011 MR 19, Eff. Apr. 10, 2012.

R 400.5013 Limitation of maximum amount of child care.

Rule 13. The department may limit the maximum amount of child care that can be authorized by day or by pay period, or both, based on available actual appropriations and the number of eligible recipients.

History: 1997 AACCS; 2011 MR 19, Eff. Apr. 10, 2012.

R 400.5014 Reimbursement for benefits received when client or provider not eligible.

Rule 14. (1) A client or adult program group member shall reimburse the department for any benefits received or issued for which the program group was not eligible. Repayment shall be in cash or from current and future child development and care payments.

(2) Child care providers shall reimburse the department for any payments received for which they were not eligible. Repayment shall be in cash or from current and future provider payments.

History: 1997 AACCS; 2011 MR 19, Eff. Apr. 10, 2012.

R 400.5015 Rescinded.

History: 1997 AACCS; 2011 MR 19, Eff. Apr. 10, 2012.

R 400.5016 Child care providers; qualifications.

Rule 16. Only the following types of child care providers shall be eligible to participate in the child development and care program:

(a) A child care provider who is licensed as a child care center or group child care home or registered as a family child care home under 1973 PA 116, MCL 722.111 to 722.127a.

(b) A child care provider located on federal or tribal land, regulated by the appropriate federal or tribal jurisdiction, and that is any of the following:

- (i) Child care center.
- (ii) Group child care home.
- (iii) Family child care home.

(c) An unlicensed child care provider, for the purposes of this subdivision, enrolled by the department and who does either of the following:

- (i) Provides care for the child in the child's home.
- (ii) Provides care for the child in the caregiver's home and is related to the child by blood, marriage, or adoption as a grandparent, great-grandparent, aunt, great-aunt, uncle, great-uncle, or sibling, if the sibling resides in a separate residence than the child in care.

(d) A child care facility that is exempt from licensure under 1973 PA 116, MCL 722.111 to 722.127a because the parents of all children in care are on site and available during the complete time period their children are in care.

History: 2011 MR 19, Eff. Apr. 10, 2012.

R 400.5017 Disqualifying offenses.

Rule 17. (1) The department shall deny eligibility for payment when an applicant provides misleading, false, or incomplete information regarding pending charges or criminal history on any application or report provided to the department.

(2) The department shall deny eligibility for payment when an unlicensed child care provider or other adult living in the child care provider's home is arrested for a crime listed in Table 1. This disqualification will continue until the arrest is resolved.

(3) The department shall deny eligibility for payment when an unlicensed child care provider or other adult living in the child care provider's home is convicted of a crime listed in Table 2. Disqualification because of conviction or juvenile adjudication for a Table 2 crime may be challenged only by submitting clear and convincing evidence that the unlicensed child care provider, or other adult living in the provider's home, poses no risk of harm to the children in care.

Table 1.

Homicide. Kidnapping. Sexual assault. Assault excluding sexual. Dangerous drugs. Sex offense excluding assault and commercializing. Weapons offense.
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Table 2.

1. Homicide.
2. Murder.
Manslaughter.
Mayhem.
Negligent homicide.
Attempts to commit homicide and murder.
Poisoning.
Any crime involving assault or battery.
Criminal sexual conduct of any degree or attempted criminal sexual conduct of any degree.
Child abuse, neglect, or exploitation.
Kidnapping or attempted kidnapping.
Cruelty toward, or torture of, any person.
Robbery or attempted robbery.
Armed robbery or attempted armed robbery.
Burglary or attempted burglary.
Receiving stolen property.
Concealing stolen property.
Extortion.
Money laundering.
Arson.
Offenses involving narcotics, alcohol, or controlled substances.
Adulterating drugs, controlled substances, or preparations.
Unlawful manufacture or delivery of drugs or possession with intent to manufacture or deliver drugs.
Bribery.
Allowing an establishment to be used for illegal purposes.
Adoption schemes.
Prostitution or related crimes.
Computer crimes.
Crimes related to children, vulnerable adults, and animals.
Fraud.
Filing of false claims.
Aiding or abetting the filing of false claims.
Obtaining property by false pretenses.
Larceny.
Larceny by trick.
Larceny by conversion.
Embezzlement.

History: 2011 MR 19, Eff. Apr. 10, 2012.

R 400.5018 Unlicensed child care providers; requirements.

Rule 18. (1) To be eligible to have child development and care payments issued for care that they provide, unlicensed child care providers must meet the following:

- (a) Have completed a basic training requirement established by the department.
 - (b) Be able to comprehend all requirements and instructions regarding the child development and care program.
 - (c) Not have a physical or emotional impairment or other problem that interferes with giving adequate care and supervision to children.
 - (d) Not have family responsibilities or other obligations that interfere with providing child care.
 - (e) Not be a person who was either of the following:
 - (i) Found responsible for the neglect or abuse of a child in a substantiated children's protective services case.
 - (ii) Convicted or has pending charges for a crime described in R 400.5017.
 - (f) Not have a person living in the provider's home who was either of the following:
 - (i) Found responsible for the neglect or abuse of a child in a substantiated children's protective services case.
 - (ii) Convicted or has pending charges for a crime described in R 400.5017.
 - (g) Report any change in adult household members to the department.
 - (h) Know how and when to seek help from others, including knowing how to use the telephone and how to respond to emergency situations which might arise during the provision of child care.
 - (i) Not care for more than 4 children under the age of 13, including the child care provider's own children, at the same time, unless all children are siblings or migrant children. The maximum number of siblings or migrant children in care may not exceed 6 at any 1 time, including the child care provider's own children.
 - (j) Not care for more than 2 children under the age of 12 months, including the child care provider's own children under the age of 12 months, at the same time.
- (2) An unlicensed child care provider not meeting the provisions of this rule is ineligible to have child development and care payments issued for care that they provide unless an administrative review by the department determines that they are suitable to provide care.
- (3) Unlicensed child care providers found to be in noncompliance with 1 or more provisions of this rule shall have their eligibility to have child development and care payments issued for care that they provide revoked for the following time periods:
- (a) For the first occurrence, 6 months.
 - (b) For the second occurrence, 12 months.
 - (c) For the third occurrence, lifetime.

History: 2011 MR 19, Eff. Apr. 10, 2012.

R 400.5019 Child care providers: requirements; disqualification periods.

Rule 19. (1) Child care providers described in R 400.5016 shall comply with all of the following to be eligible to have child development and care payments issued for care that they provide:

- (a) Immediately report suspected child abuse or neglect to children's protective services.
- (b) Give parents unlimited access to the parents' children while they are in care.
- (c) Release a child only to persons authorized by the parent.
- (d) Not charge DHS clients more to care for department subsidized children than they charge the general public.

(e) Report to the local department office if an unlicensed child care provider, or to their licensing consultant if a licensed or registered provider, within 10 days of either of the following:

(i) A change in mailing and/or residential address.

(ii) A change in the location where care is being provided.

(f) Maintain daily records initialed by the client or authorized representative showing the beginning and ending times of the care provided for each eligible child. All of the following are required:

(i) Obtain from the parent of each eligible child certification of the accuracy of the records identified in this subdivision.

(ii) Keep the records identified in this subdivision for 4 years.

(iii) Make records identified in this subdivision available to a department employee or the auditor general upon request.

(g) Cooperate with the department in conducting investigations.

(h) Not have other employment that conflicts or interferes with the hours child care is being provided.

(i) Only bill for child care when an eligible child is physically in care or for holidays or absences due to the eligible child's illness within a 208 hour limit per fiscal year.

(j) Not misrepresent their circumstances to the department.

(2) Child care providers found to be in noncompliance with subrule (1) of this rule shall have their eligibility to have child development and care payments issued for care that they provide revoked for the following intervals:

(a) For the first occurrence, 6 months.

(b) For the second occurrence, 12 months.

(c) For the third occurrence, lifetime.

(3) Child care providers convicted of fraud involving the department shall not be eligible to have child development and care payments issued for care that they provide.

History: 2011 MR 19, Eff. Apr. 10, 2012.

R 400.5020 Client responsibility to cooperate with the department; effect of failure to cooperate.

Rule 20. (1) Clients shall cooperate with the department in determining initial and ongoing eligibility and child development and care payment levels. Cooperation includes all of the following:

(a) Answering completely and truthfully all questions on department forms and during interviews.

(b) Taking all actions within the group's ability to verify factors concerning the group's eligibility.

(c) Cooperating with the department during investigations.

(d) Accurately reporting to the department all changes that affect the amount of child development and care payment, eligibility, need for care, approved need reason, changes in child care providers, changes in group composition, and changes in the program group's income within 10 calendar days after the information is known to the client.

(2) A client's failure to cooperate as required in subrule (1) of this rule shall result in denial of the child development and care program application, case closure, or payment level reduction.

(3) A program group containing a client or an adult member who intentionally fails to cooperate as required in subrule (1) of this rule, for obtaining benefits for which the program group is ineligible, shall be ineligible for the child development and care program for the following intervals:

(a) For the first occurrence, 6 months.

(b) For the second occurrence, 12 months.

(c) For the third occurrence, lifetime.

(4) Failure to cooperate shall be considered intentional when intent to obtain benefits for which the program group is ineligible is established by any of the following:

(a) A court.

(b) An administrative law judge.

(c) The client or adult program group member signing a repay agreement or disqualification form.

History: 2011 MR 19, Eff. Apr. 10, 2012.