

PROPOSED RULEMAKING

DEPARTMENT OF PUBLIC WELFARE

[55 PA. CODE CHS. 165, 168, 183 AND 3040]

Subsidized Child Day Care Eligibility

Statutory Authority

The Department of Public Welfare (Department), under the authority of Articles II, IV and VII of the Public Welfare Code (62 P. S. §§ 201—211, 401—493 and 701—703), and Title VI of the Personal Responsibility and Work Opportunity and Reconciliation Act (PRWORA), known as the Child Care and Development Block Grant (CCDBG) (42 U.S.C.A. §§ 9858—9858g), proposes to amend Chapters 165, 168, 183 and 3040 to read as set forth in Annex A.

Purpose

The purpose of these proposed amendments is to codify regulatory changes in the administration of subsidized child day care for cash assistance and low-income families to implement Title VI of PRWORA, known as the CCDBG and section 408(b) of the Public Welfare Code (62 P. S. § 408(b)), added by section 8 of the act of May 16, 1996 (P. L. 175, No. 35) (Act 35). PRWORA was signed into law by President Clinton on August 22, 1996. Act 35 was signed into law on May 16, 1996, by Governor Tom Ridge.

These proposed amendments will enable the Department to determine a family's eligibility for a child care subsidy: for families receiving Temporary Assistance to Needy Families (TANF) benefits who are involved with job search, education or work activities under the Road to Economic Self-sufficiency through Employment and Training Program (RESET); for families leaving TANF that are making the transition from welfare to work; to provide assistance for families at risk of going on welfare; and to provide assistance for this Commonwealth's low-income working families. The Department must take steps to amend regulations because the child care entitlements for cash assistance families have been revoked. The CCDBG funds are capped and it is necessary to create a program for subsidized child day care that meets the needs of both populations.

In addition, the Department proposes to clarify and strengthen the existing eligibility regulations for the subsidized child day care program. Clarity is needed to help the general population to understand the requirements of being eligible for the subsidized child day care program and the benefit that is associated with being eligible for the program. The Department proposes to strengthen the regulatory requirements to ensure that the most needy individuals are receiving the benefits of subsidized child day care.

Background

The PRWORA has replaced the 61-year-old Aid to Families with Dependent Children (AFDC) Program with a time-limited cash assistance block grant program known as TANF. The TANF Program began in this Commonwealth on March 3, 1997. Along with the repeal of the AFDC child care portion of the Family Support Act, the Federal welfare law combined four separate Federal funding sources for child care into one block grant known as the Child Care and Development Fund (CCDF). This

repeal ended any child care entitlements to families on cash assistance who work, who are in training, or who were transitioning off welfare. When the CCDBG was signed into law on August 22, 1996, it repealed the child care portion of the Family Support Act. The three child care funding streams for AFDC families who were enrolled in the Job Opportunity and Basic Skills (JOBS) program, the Transitional Child Care (TCC) program, and those families at risk of going on welfare, were combined with funds from the former CCDBG. This new funding stream was called the CCDF. The law under which all of the funds is placed is called the CCDBG.

The new CCDBG program provides states with a unique opportunity to develop a child care system that will serve cash assistance families, families who leave the cash assistance program and low-income working families who need help with child care costs.

The CCDBG allows states to maximize flexibility in developing child care policies and programs that best meet the needs of parents and children and provide a source of child care to parents who are attempting to achieve independence from welfare. Although the CCDBG does not set a time limit for individuals receiving child care benefits, the Department faces the challenge of creating a subsidized child care system that meets the needs of all populations within the fiscal constraints of a block grant.

To meet the challenge of creating a child care system which address the needs of cash assistance and low-income working families, the Department is implementing a consolidated child care system called Child Care Works. Child Care Works will serve cash assistance families, those families transitioning off welfare and low-income working families, with similar rules and procedures. The proposed amendments set forth in Annex A are designed to align regulations between those for families receiving cash assistance and those for families who are not receiving cash assistance. Changes are proposed in these amendments which will help cash assistance families obtain child care benefits and assure that families transitioning from cash assistance have a continuum of benefits, and will assist low-income families in achieving self-sufficiency so that a return to welfare is not their only option.

Through the proposed amendments, Child Care Works will establish similar requirements for cash assistance families and those not on welfare. The need for similar requirements must also reflect that Federal child care entitlements have ended for cash assistance families and for families transitioning off welfare. By strengthening the regulations, the available funding will be directed to this Commonwealth's most needy populations.

The Governor's proposed budget for Fiscal Year 1997-98 together with Child Care Works represent a commitment to expanded child care within the fiscal realities of block grant funding and expanding need for subsidized child day care benefits. The Department's challenge will be to provide child care subsidies to welfare and low-income working families within the constraints of the funding. Proposed amendments not only address the need for similar requirements for both populations, but also include regulatory changes which are designed to contain costs and serve the greatest number of families possible within the available resources. If resources are not adequate to meet the demand, the Department will review

the proposed amendments and may propose other adjustments to the child care delivery system.

In meeting the challenge of serving families in a capped fund environment, and to allow eligible families to understand the child care benefits which they can receive, the Department proposes to amend and clarify the existing regulations for subsidized child day care.

Need for the Amendments

The Department proposes to amend these regulations to comply with PRWORA which establishes standards for the receipt of cash assistance under TANF and the receipt of child care benefits in a parent-choice system under the CCDBG. These proposals are needed to comply with Federal law to assure Federal financial participation; to establish consistency with the Federally-funded TANF; to fulfill the Department's program direction to achieve a seamless and coordinated child care system for families moving toward self-sufficiency; and to continue the network of subsidized child day care benefits which are accessible and easily understood by this Commonwealth's families who need subsidized care.

Requirements

The proposed amendments reflect the requirements of the new Federal and State child care welfare reform provisions as well as the Department's plan to develop an integrated child care system which makes sense to families. To achieve the balance of meeting the increase demand for child care benefits with capped funds and to assist families work toward self sufficiency, the regulations contain provisions for expansion of child care benefits and are tempered with provisions structured to effectively manage resources.

Major changes are proposed in Chapter 3040 (relating to subsidized child day care eligibility) which are designed to assist cash assistance and low-income families to receive the same child care benefits and to introduce requirements which assure that the limited resources are directed to the most needy individuals. The proposed changes in the regulations also enhance these families' access to child care.

The proposed regulatory changes include:

- Revising the copay sliding fee scale.
- Lowering the income limit for eligibility from 235% to 185% of Federal Poverty Level.
- Eliminating the waiting list priorities.
- Eliminating any entitlement to child care.
- Eliminating the child care disregard for cash assistance families who are working, and replacing it with a child care allowance.
- Establishing payment for child care for employed TANF clients from the date employment begins until the first pay is received.
- Establishing payment to employed TANF families based on a sliding fee scale.
- Eliminating the TCC program.

CHAPTER 168. CHILD CARE

Purpose

The Department proposes to remove current regulations pertaining to child care which appear in Chapter 165, and place them with Chapter 168, to be retitled "Child Care." All regulations, current and herein proposed, will be in Chapter 168. This provides consistency

and a central location for all child care regulations rather than having them disbursed throughout different chapters.

General Provisions

Policy on Child Care (168.1)

All references in Chapter 168 to the TCC Program are deleted. In § 168.1(a), language is amended to allow payment for child care to enable the caretaker/relative or custodial parent to participate in RESET.

In § 168.1(b), language is amended to read that the County Assistance Office (CAO) shall inform RESET participants about the types, locations of child care provider and upon requests refers the individual to the Local Management Agency (LMA) for help in locating child care arrangements; advance payment requirements; and notification of approval or denial of child care payments. These regulations are currently in Chapter 165.

Definitions (168.2)

The following changes are proposed to be made:

Budget group—Deleted references to the TCC Program and AFDC. Amended language to read, Child Care and TANF.

Child care allowance—Deleted handicap reference and amended to read disabled.

Relative/neighbor care—Defines care given by a provider that is exempt from certification and cares for three or fewer children.

Copayment sliding fee scale—Revised language to read that the copayment is based on family size, income and cost of care.

The following terms are proposed to be deleted: "local market rate"; "month of application"; "OJT"; "principal wage earner"; and "unregulated care."

The following amendments are proposed:

In 168.11(a), amended language to read child care allowances are available for all types of child care. This language currently is in Chapter 165.

In § 168.11(b), added parental access language currently in Chapter 165.

In § 168.11(c), added parent choice language currently in Chapter 165.

In § 168.11(d), added language to payments for children who meet one of the following criteria. Current language in Chapter 165.

In § 168.11(e), amends language and defines eligibility costs. Current language in Chapter 165.

In § 168.11(f), amends language to define who is not eligible for child care. Current language in Chapter 165.

In § 168.11(g), amends language to define breaks in payments for child care.

In § 168.11(h), amends language to read that payment be related to employment or RESET activities. Current language in Chapter 165.

In § 168.11(i), amends language to read that child care payments are made by direct payment to the client, vendor payment, and restricted endorsement. Additional language added to the restricted endorsement check to allow for only one issuance by this method to a provider who is not enrolled in the Child Care Vendor Payment System.

In § 168.11(j), amends language to read that the exception to when child care services are not needed is for participation in RESET activities. Language is also deleted referencing the child at risk due to suspected child abuse.

In § 168.17, amends language to reference the TANF dependent child. Language is deleted referencing the child 13 years of age or older who is under a court order which requires adult supervision.

In § 168.18(a), amends language to reference child care being needed to enable an individual to participate in RESET activities.

In § 168.18(b)(2), deleted language that child care is needed if involved in education and training activities as it duplicated RESET language in the first sentence.

In § 168.18(b)(3), deleted language regarding the child at risk because of suspected child abuse.

In § 168.18(e), added language that child care will not be considered as needed when the biological, adoptive parent, specified relative or legal guardian of the child is the owner/operator of a day care service.

In § 168.20, language amended for the child care copayment, and added "the employed" budget group shall pay the required copayment toward the cost of care.

In § 168.21, language amended to reference the employed budget group.

In § 168.41, for verification requirements, current language from Chapter 165 added. Deleted court order verification and the client's statement regarding suspected child abuse.

In § 168.43, amended language to "disabled" child.

In § 168.44, deleted this section pertaining to verification of a handicapped adult. Reserved this section.

In § 168.45, language deleted on verification of suspected child abuse. Reserved this section.

In § 168.46, language deleted on verification of court ordered supervision. Reserved this section.

In § 168.47, language deleted on verification of income. Reserved this section.

In § 168.49, language changed to reflect copayment language for the employed budget group.

In § 168.50, language deleted on verification of household income. Reserved this section.

Reporting Requirements

The following amendment is proposed:

In § 168.61, language revised to read that a budget group shall report child care arrangements and costs monthly. Deleted language on monthly reporting.

Payment Determination

The following amendments are proposed:

In § 168.71, language is revised to state that the child care payment is determined for each month.

In § 168.71(1), language is revised to state that the allowable child care cost is the lower of the eligible child care costs, the rate charged the general public or the maximum allowance established by the Department.

In § 168.71(2), language is revised to state that child care payments are made to eligible TANF budget groups in need of child care to:

(i) Participate in RESET. Payment is made up to the maximum allowance.

(ii) Accept and maintain employment. The employed budget group shall pay a required copayment towards the cost of care. The copayment is based on a sliding fee scale as determined by the Department.

Exception: The copayment shall be waived for the period covering the first day of employment until receipt of the first pay.

Language added with the steps taken to determine the copayment.

- (1) Determine family size.
- (2) Determine gross monthly income and FPIG level (reference Chapter 183 (relating to income)).
- (3) Determine the family's average monthly cost of care and fee bracket.
- (4) Determine the family copayment from the sliding fee scale.

Child Care Payment Methods

The following amendments are proposed:

In § 168.81, language is revised to state that child care payments are for expenses incurred in a month and issued as one of the following:

- (1) Direct check—language the same except wording on child care vendor file changed to Child Care Vendor Payment System.
- (2) Vendor payment—language the same except wording on vendor file changed to Child Care Vendor Payment System.
- (3) Restricted endorsement—language is added to state that a restricted endorsement check payment method may only be issued one time to a provider not enrolled in the Department's Child Care Vendor Payment System. For providers that want to have a guaranteed payment and have the check go to the provider, enrollment in the Child Care Vendor Payment System is necessary.

Restitution

In § 168.91, language is proposed to state that cash assistance Chapter 255 provisions will apply to a child care payment.

Appeal and Fair Hearing

In § 168.101, language is proposed to state that cash assistance provisions of Chapter 275 will apply to a child care payment.

Determination of Need and Amount of Assistance Chapter 183 Income

In § 183.94(3), language is proposed to be deleted concerning personal expenses. Earned income deductions for child care expenses are proposed to be deleted.

CHAPTER 3040. SUBSIDIZED CHILD CARE ELIGIBILITY

These proposed amendments are eligibility requirements for families who are not receiving cash assistance benefits.

Introduction

Purpose (§ 3040.1)

The Department proposes to amend the purpose statement to more clearly reflect that families must be eligible to receive a subsidy to assist in the cost of child day care. The Department proposes to amend references to family

income and eligibility because there are many other factors in addition to income to determine a family's eligibility for subsidized child day care. The Department states that the benefit offered through the subsidized child day care program is a nonentitlement benefit.

Definition of "Subsidy" (§ 3040.2)

The Department proposes to amend the definition of "service." In a parent-choice child day care model, the Department assists in the funding of child day care costs and does not endorse any one type of child day care provider arrangement.

The Department proposes to delete the term "service" throughout the chapter. In a parent-choice delivery system, it is more accurate to say that a family is eligible for a subsidy to assist in the cost of the child day care. The eligibility agent will determine the family eligible for the subsidized child day care program, but it is the parent's responsibility to select a child day care provider for his child.

The Department proposes to amend the regulation by removing the term "caretaker" throughout the regulation. The Department proposes to replace the term "caretaker" with the terms "parent," "family" or "child," whichever is appropriate to the regulation. In the subsidized child day care program, it is the parent who applies for the benefit, the family who is determined to be eligible and the child who actually receives the child day care. The three terms reflect the actual individual or group that is expected to be the actor or recipient of benefits in the regulation.

In § 3040.2(a), the Department proposes to amend and clarify that a subsidy is provided to assist an eligible family in the payment of child day care.

The Department proposes to remove the term "out-of-home" used to describe where subsidized child day care occurs. The Department proposes to expand a family's choices of child day care providers to include care which occurs in the child's home. The proposed expansion of service reflects the Federal funding requirements of the CCDBG. The Department previously proposed changes to Chapter 3040 to include provisions for in-home care, 26 Pa.B. 3433 (July 13, 1996). The requirements included in the previous proposal were described as complicated by reviewers. The Department therefore proposes a more simplified change that would expand the parent's choice in child day care providers. Requirements previously proposed and the comments generated by reviewers will be included in the Parent's In-home Care Handbook and the provider agreement between the LMA, the parent and the provider.

In § 3040.2(b), the Department proposes to amend the section to more accurately reflect that family eligibility for subsidized child day care funding is not based solely on financial criteria, but that the family must meet both financial and nonfinancial criteria to be eligible for the subsidized child day care program. The Department proposes to delete the reference to the Title IV-A supportive service. Title IV-A supportive service is replaced by reference to child care benefits under TANF.

Definitions (§ 3040.3)

In § 3040.3, the Department proposes to amend the section to reflect the following changes in terms:

AFDC—Aid to Families with Dependent Children—The Department proposes to delete this definition because the AFDC program is deleted.

AFDC benefit—The Department proposes to delete this definition because the AFDC program is deleted.

Adjusted monthly gross income—The Department proposes to amend the current multiplier from 4.33 to 4.3 to concur with the multiplier used for cash assistance families. This multiplier is used to determine the adjusted monthly income.

Advance weekly family fee—The Department proposes to amend the current definition to reflect that an advance weekly fee must be paid to a provider in the first week of child day care.

CAO—County Assistance Office—The Department proposes to delete references to the Title IV-A child care program and TCC benefits in the definition.

Child care special allowances—The Department proposes to delete this definition because all references to the definition have been deleted with the elimination of Title IV-A.

Caretaker—The Department proposes to delete this definition throughout the chapter.

Confirming notice—The Department proposes this definition to allow the eligibility agent to substantiate in writing an action taken regarding the family's eligibility for subsidized child day care benefits.

Cost of care—The Department proposes to amend the definition to concur with the proposed regulatory text that discusses a daily cost of care.

County ceiling rate—The Department proposes this definition to identify the maximum amount the Department will authorize a reimbursement to a provider.

Education—The Department proposes this definition as a proposed category of eligibility for minor parents enrolled in an elementary, middle or high school program which leads to a high school diploma. The definition includes minor parents enrolled in a General Education Diploma (GED) program.

Eligibility agent—The Department proposes to amend the term eligibility agent to reflect that the eligibility agent determines the family's eligibility for the subsidized child day care program and reimburses the selected child day care provider on behalf of the eligible family.

Employment—The Department proposes to amend the definition of employment to add a condition that any person who applies for subsidy must be earning at least the prevailing minimum wage to qualify for subsidy. The Department also recognizes that the Department of Labor and Industry grants certain exceptions for employed individuals to receive subminimum wage, such as laborers on a farm.

Family—The Department proposes to amend the definition of "family" to be more encompassing. It does not state which individuals are included in family. The proposed definition will read, "A group of individuals who reside in a common dwelling." The determination of individuals included in the family is in the body of the regulation in § 3040.28.

Fiscal year—The Department proposes this definition to define the period of time beginning July 1 of any calendar year and ending June 30 of the following calendar year.

Fraud—The Department proposes this definition to define conditions related to false information. The consequences of fraud are addressed in the regulations related to Overpayment, Repayment and Disqualification (§§ 3040.91—3040.94).

Full-day enrollment—The Department proposes this definition to include any time the child receives care by the provider for five or more continuous hours per day.

Income—The Department proposes to amend the current definition of “income” by removing reference to the caretaker.

Legal guardian—The Department proposes this definition to indicate that an individual other than the child’s biological step or adoptive parent or specified relatives must demonstrate that custody of a child has been granted by a court in order to be eligible for subsidy benefits.

Live-in companion—The Department proposes this definition to indicate an individual who is free to marry under Commonwealth law and who resides in the common dwelling with the child’s parent.

Minor—The Department proposes to include this definition to define an individual under 18 years of age.

Parent—The Department proposes to define parent to reflect the relationship between the child who is in need of child day care benefits and the person who is providing a dwelling for the child. The current regulation refers to the caretaker as the person who applies for subsidized child day care funding. Many individuals find the term caretaker to be confusing and it is often reversed with the term caregiver or the provider of child day care.

Partial redetermination—The Department proposes to define partial redetermination to acknowledge the eligibility agent’s option to complete less than a full determination. A partial redetermination is an eligibility review conducted in lieu of a full redetermination.

Part-day enrollment—The Department proposes to amend the definition of “part-time” to “part-day” and the term “service site” is amended to “provider.” Each of the amendments more accurately relates to benefits available to a child for whom eligibility has been established. The term “attendance” is amended to “enrollment,” to be consistent with payment practice.

Profit from self-employment—The Department proposes to define profit to add clarity because the current regulations do not include the term.

Provider—The Department proposes to amend the definition of “provider” to define that a provider is an organization or individual who delivers child day care. The second sentence in the definition is deleted to eliminate confusion.

Prospective employment or prospective education—The Department proposes to amend the term prospective training and add the term prospective education. Training is deleted as an eligibility criterion.

Reimbursable daily rate—The Department proposes to define “reimbursable daily rate” to describe that a rate will be the cost of care or the county ceiling rate, whichever is less, minus the assessed subsidized fee.

School-age child—The Department proposes to define who may be considered a school- age child.

Self-employment—The Department proposes to define “self-employment” to add a provision which requires self-employed individuals to demonstrate a profit which equals, or is greater than, the minimum wage to be eligible for subsidized child day care.

Service site—The Department proposes to delete the term “service site”. The term “service site” is replaced by the term “provider” in the regulation.

Service type—The Department proposes to amend the definition to more accurately reflect the types of care

which are actually being offered by providers who participate in the subsidized day care system.

Specified relative—The Department proposes a definition for “specified relative” to include any blood relative except second, third, and like cousins. The relationship may be one prefixed by grand, great-grand or great, great-grand. Blood relatives include those of half-blood; any blood relative of the adoptive parent, in the case of adoption the biological parent and their blood relatives are not included; a spouse of any person named in the above group.

Suspended subsidy—The Department proposes to define “suspended subsidy” to indicate when a temporary lapse of subsidy may occur and does not affect the family’s eligibility status.

TANF—Temporary Assistance for Needy Families—The Department proposes to define “TANF” to identify families eligible for cash assistance benefits. TANF replaces the term “Aid to Families with Dependent Children (AFDC).”

TCC—Transitional Child Care Program—The Department proposes to delete the definition of “TCC” because the TCC program is eliminated.

Training program—The Department proposes to delete the definition of “training program” because this criteria of eligibility no longer exists for families receiving subsidized day care under this chapter.

Unit of care—The Department proposes to define unit of care to describe what is included when a child receives a subsidy benefit.

Unemancipated minor—The Department proposes to delete the term “unemancipated minor” because the term is incorporated with the definition of “minor.”

Waiting list—The Department proposes to amend the term “waiting list” to state that a child included in a family determined eligible for subsidy may be placed on a waiting list.

Wrap-around day care program—The Department proposes to define “wrap-around day care program” to describe part-day service reimbursement conditions for eligibility agents.

Subsidy goal (§ 3040.4)

The Department proposes to amend the title of this section from “service goal” to “subsidy goal” to more accurately reflect the actual benefit which is provided to the family.

GENERAL REQUIREMENTS

Provision of subsidy (§ 3040.11)

In § 3040.11(d), the Department proposes to amend the first sentence of the section to more accurately state the Department’s responsibility to provide subsidy for children from eligible families. The Department proposes to delete the second sentence; this language is more appropriately placed in the contract which governs the relationship between the eligibility agent and the Department.

In § 3040.11(e), the Department proposes a regulation that prohibits families from receiving subsidized child day care benefits if there is an adult available in the child’s home to provide care during the hours for which subsidy is requested.

In § 3040.11(f), the Department proposes a regulation which enables the Department to direct funding from different sources through contract language with the

eligibility agent. This provision will allow the Department to direct funding to special groups of families. For example, a special group of families may be those who are transitioning off cash assistance or special needs children.

Notice of nondiscrimination; civil rights compliance (§ 3040.12)

In § 3040.12(a), the Department proposes to delete the term "provider." The regulation refers only to the eligibility agent. It is the eligibility agent who determines eligibility and manages the subsidized child day care program on behalf of the Department.

In § 3040.12(b), the Department proposes to delete references to discriminatory practices. The Department's contract with the eligibility agent addresses the requirements for all applicable civil rights laws and regulations.

Family file (§ 3040.14)

In § 3040.14(2), the Department proposes to delete the sectional reference to "caretaker files" and proposes that the regulation will discuss a "family file." The reason for this change is because the entire family is considered in the determination of eligibility.

Confidentiality (§ 3040.16)

In § 3040.16(b), the Department proposes to permit the eligibility agent to share information on a subsidized family with the local CAO. This exchange of information is proposed to better enable the Department to authorize subsidized child day care benefits to families moving from welfare dependency.

Additional conditions or additional charges (§ 3040.17)

In § 3040.17(b), the Department proposes to delete all current allowable additional charges that a provider will be permitted to assess a subsidy-eligible family. A general statement is proposed to permit the provider to charge additional fees as long as the same fee is charged to nonsubsidy children. The proposed change will allow parents a greater choice of child day care providers.

In § 3040.17(c), the Department proposes an amendment which permits providers participating in the subsidized day care system to assess the family a fee for child care costs in excess of the assessed subsidized weekly fee when a family chooses a child day care provider whose daily rate exceeds the Department's county ceiling rate. This requirement will no longer restrict parents from selecting a provider who charges a rate which exceeds the county ceiling. This proposed provision will extend the same benefits to low-income families that cash assistance families currently have and will continue to have.

In § 3040.17(d), the Department proposes to limit the number of days to a total of 30 for which it will continue subsidized payment when a child is absent from a provider in 1 fiscal year. Suspended days referenced in § 3040.52(d) may not be considered days of absence.

Citizenship (§ 3040.18)

The Department proposes to amend the citizenship requirement to include the phrase "under the color of law" which is a more precise definition.

Subsidy Disruption (§ 3040.19)

In § 3040.19(a) and (b), the Department proposes an amendment to clarify that disruption can occur either with the provider or with the funding.

In § 3040.19(c) and (d), the Department proposes an amendment which addresses the possibility of shortfalls in subsidized funding from State or Federal sources. If a

shortfall occurs, the eligibility agent would suspend subsidized payment for children enrolled in subsidy. The proposed amendment identifies that children of families with higher incomes will be suspended first, because families with higher incomes are the closest to being self-sufficient. The Department also proposes that children suspended will be placed on a waiting list for subsidized benefits according to the date of the child's enrollment into subsidized child day care.

Limitations and benefits (§ 3040.21)

The Department proposes to add a new section to specifically define benefits and limitations on subsidized day care which have not been previously outlined in regulations. Benefits and limitations are currently included in the contract language between the Department and the eligibility agent.

In § 3040.21(a) and (b), family benefit limits are proposed that are linked to family income. The Department proposes to limit annual subsidized benefits to no more than 100% of the family's gross annual income depending upon the number of children receiving subsidy. In addition, the number of units of care are proposed to which a child will be entitled over the course of a fiscal year. A parent's right of provider choice is formally established.

In § 3040.21(c), the Department proposes to prohibit payment to any individual who operates a child day care facility.

Grandfathering provisions (§ 3040.22)

A section is proposed to allow for continuum of subsidy for a period not to exceed 1 year subsequent to the implementation date of this chapter. Two groups of families will become ineligible after 1 year. They are: families with incomes between 186% and 235% of the Federal Poverty Level (FPL); and families enrolled in an approved training program.

Composition of a family (§ 3040.28)

The Department proposes a section that identifies individuals who will be included in the family for purposes of determining eligibility. The proposed change defines the family, starting with the child who is in need of child day care. This proposed change is similar to the requirement used for families who receive cash assistance benefits.

The Department proposes to exempt former TANF families from meeting the provisions of this section for 6 months to ensure a seamless transition from receiving TANF child care benefits to meeting the provisions in this section.

The Department proposes additional amendments to revise the family definition. Persons in the family of a minor parent, including the minor parent's parents shall be included in the family when determining eligibility for subsidized child care. The proposal states that the income of a minor parent's parents is also included in calculating the minor parent's eligibility for subsidized day care. Because the Department recognizes the importance of child care subsidies for minor parents, it proposes to exclude a portion of the family income. This exclusion is defined at Appendix A, Part II.

ELIGIBILITY REQUIREMENTS

General requirements regarding family eligibility (§ 3040.31)

In § 3040.31(1), the Department proposes that a parent must apply for subsidy in his county of residence. The

proposed change reflects the requirement of a § 3040.31a(1), which was published previously as a statement of policy.

In § 3040.31(4), the Department proposes an exemption from the financial eligibility condition imposed by this section for a parent who formerly received TANF and has obtained employment that results in exceeding the TANF income limits. The eligibility agent has 90 days to meet with a parent that formerly received TANF to assess continuing need for child care subsidy and to inform the parent of the requirements for continuing eligibility in the subsidized child day care program.

In § 3040.31(5)—(8), the Department proposes amendments that require release statements to obtain information, Social Security numbers of each family member, documentation that child support has been sought prior to determination of eligibility and documentation of legal guardianship.

Financial eligibility (§ 3040.32)

In § 3040.32(a)(2), the Department proposes to amend the length of time that gross anticipated earned income may be used by the eligibility agent in establishing eligibility for a newly employed family members. The time is extended from 6 to 8 weeks to allow families more time to gather the required information and documentation.

In § 3040.32(b), the Department proposes to delete the subsection. The regulation is proposed in § 3040.34 (relating to nonfinancial eligibility).

In § 3040.32(c), the Department proposes to add provisions which will require a family to pursue all potential sources of income to which it is entitled, excluding TANF benefits.

In § 3040.32(d), the Department proposes a requirement that the parent must document all income deductions listed in Appendix A, Part II. Also, the Department proposes to delete the description of an unemancipated minor.

In § 3040.32(f), the Department proposes a maximum family income eligibility ceiling of 185% of the FPL. The Department proposes to reduce the income limit to reflect the Department's intent to limit subsidized day care to those families who are most in need of child care subsidy. The proposed 185% limit is consistent with other programs within the Department.

Documentation of self-employed income (§ 3040.33)

The Department proposes to amend and to clarify this section to include a statement that only documented profit from self-employment may be used as an income inclusion. The Department proposes a requirement that the family must produce Schedule C, or any other Internal Revenue Service (IRS) income tax return forms, which enables an eligibility agent to determine income. The Department proposes to include standards which require self-employed individuals to file quarterly tax statements with the IRS if the individual has been self-employed for less than one year.

Nonfinancial eligibility (§ 3040.34)

In § 3040.34(a), the Department proposes a statement that the family must meet the nonfinancial requirements for subsidized child day care based on employment, education status and need for child care in order to be eligible for subsidy.

In § 3040.34(b)(1), the Department proposes to delete the minimum number of hours and days for which child

care is needed. Instead, the Department proposes that the family's need for child care must coincide with the family's hours of employment or education. The Department proposes to provide the authorization of subsidized child care for actual days the parent is not available to care for the child because he is employed or enrolled in an educational program.

In § 3040.34(b)(2), the Department proposes to delete the provision that if child care is needed for 3 or 4 days per week, that the child may have 5 days of care.

In § 3040.34(b)(4), the Department proposes to increase the number of hours a parent must be employed to be eligible for subsidized day care. Future increases in the number of hours a parent must work will correspond with increases in TANF legislation.

In § 3040.34(b)(5)—(8), the Department proposes to expand nonfinancial eligibility requirements to include documentation of citizenship and Social Security numbers of all family members. This information for identification purposes is required by other State agencies. The Department proposes that the parent must provide proof of his identity to the eligibility agent. The Department proposes to expand this section of the regulation also to allow parents whose employment ends between the hours of 2 a.m. and 9 a.m. the option of enrolling the child during hours that permit the parent uninterrupted sleeping time in order to continue work. The parent may choose child care during work hours or sleeping time. This provision supports shift work.

In § 3040.34(b)(9), the Department proposes a requirement that foster parents who apply for subsidized child day care for a foster child must submit approval from the foster care placement agency for the child to attend a child day care program because the foster parent is not available to care for the child. This provision is proposed to ensure that the foster care agency is aware of who is caring for the child and agrees that child care is appropriate for the child.

In § 3040.34(c) and (d), the Department proposes regulations requiring that family members and self-employed parents document pertinent information about employment status.

Inability to be employed or continue participation in an education program (§ 3040.36)

In § 3040.36(a) and (b), the Department proposes to amend the current requirements regarding verification of disability and eligibility based on disability of the parent to:

—Reduce the continuation of eligibility from 1 year to 6 months for a parent who becomes disabled. Experience over the past 2 years has shown that most parents who are disabled are able to return to work or training within 6 months. The number of times a parent may claim disability is unlimited.

—Expand this section to recognize the eligibility of a two-parent household if one parent is disabled, unable to work or to participate in training and is unable to care for the children. The disabled parent must receive or seek income because of the disability.

Attendance requirements (§ 3040.37)

In § 3040.37(b), the Department proposes to amend the section and reduce the number of consecutive days for which a child may be absent from the provider and remain eligible for the subsidized child day care program. The proposed reduction is from 20 to 10 consecutive

enrollment days, except under any of the conditions found in § 3040.52(d) (relating to eligibility agent responsibilities).

In § 3040.37(c), the Department proposes to subsidize absences up to 30 units of care in a fiscal year. This is proposed to limit the Department's payment on days when the child does not attend child day care.

Prospective employment or prospective education program for new parent applicants (§ 3040.38)

The Department proposes to no longer consider the parents' participation in training as a basis of need for child day care for parents applying for subsidy under this chapter. The Department considers the Office of Income Maintenance to be the primary source for the authorization of training and supportive services such as child care for the individual participating in training that leads to employment for cash assistance families. Currently, a small number of families participating in the subsidized child day care program are enrolled in training.

In § 3040.38(c), the Department proposes to increase the maximum time a parent is allowed to verify income from employment. The proposed increase is from 6 weeks to 8 weeks. In addition, the Department proposes to delete the requirement that a new application and fee agreement must be completed at the time income is verified.

In § 3040.38(d), the Department proposes an amendment for a parent who starts a new job and will not receive a paycheck within 30 days. The Department proposes to not include earnings from the new job until the paycheck is received.

In § 3040.38(e), the Department proposes to allow up to 30 calendar days during which subsidized child day care may be used by a parent seeking employment once the parent has exhausted all available TANF benefits.

Title IV-A child care benefits (§ 3040.39)

The Department proposes to delete this section because the Title IV-A child care benefits have been repealed under the CCDBG. Child care benefits for families on cash assistance or TANF are covered in Chapter 168.

ELIGIBILITY DETERMINATION PROCESS

General requirements in the eligibility determination process (§ 3040.51)

In § 3040.51(b), the Department proposes to amend the maximum period of subsidized child day care eligibility from 12 months to 6 months to provide greater assurances that only eligible families receive the benefits.

In § 3040.51(c), the Department proposes that the eligibility agent will conduct at least a partial redetermination for each reported change in eligibility status. The redetermination must occur within 20 calendar days of the date the eligibility agent is notified of the change.

Eligibility agent responsibilities (§ 3040.52)

In § 3040.52(a)(2), the Department proposes a requirement which establishes the need for some form of personal identification of the person who signs the application when a face-to-face interview is conducted. At the face-to-face meeting, the eligibility agent will have an opportunity to provide consumer education on the selection of child care.

In § 3040.52(b)(2)(iii)—(v), the Department proposes requirements to shorten normal frequency of redetermination from 12 months to 6 months. The Department proposes to shorten further the frequencies of determina-

tions to 3 months for self-employed individuals who have been self-employed for less than 1 year, individuals whose disability will end prior to 6 months, a family member whose employment is seasonal or temporary, or a parent whose education program ends prior to 6 months.

In § 3040.52(c)(7), the Department proposes to include a continuing eligibility requirement for minor parents on break from an education program. This will permit a child of a minor parent to continue to receive subsidy during breaks which do not exceed 30-calendar days.

In § 3040.52(d)(1), the Department proposes that the eligibility agent may suspend the child's receipt of subsidy under special circumstances. The suspension of subsidy allows families to continue to be eligible for subsidized child care up to the 91st day of suspension.

Parent rights and responsibilities (§ 3040.53)

In § 3040.53(a), the Department proposes to require one face-to-face meeting between the parent and the eligibility agent prior to the child's enrollment in subsidized child day care.

In § 3040.53(h), the Department proposes to include language regarding accurate and complete eligibility information.

Waiting list (§ 3040.54)

In § 3040.54, the Department proposes to delete the current priorities for subsidy. The Department proposes to delete four waiting list categories and proposes a single eligibility category with a waiting list established on a first-come, first-served basis determined by the date and time the child was determined eligible. The Department proposes to assure that all low-income families eligible for subsidy have some indication of when they will receive subsidized day care benefits and receive equal access to subsidy. The reason the Department proposes to delete all priorities is because the AFDC and TCC programs are eliminated. The Department proposes to lower income limits from 235% of FPL to 185% of FPL and the Department proposes to no longer recognize training, with the exception of minor parents attending high school or GED program, as a nonfinancial eligibility criteria.

Maintaining a waiting list (§ 3040.55)

In § 3040.55(a), the Department proposes to amend the normal eligibility period from 12 months to 6 months for families who remain on a waiting list. This proposal is made to assure accountability.

In § 3040.55(b), the Department proposes to delete the current requirement because it refers to a waiting list criterion effective for the year 1992. The Department proposes to include a statement that a redetermination completed during the enrollment process will not affect a child's placement on the waiting list.

In § 3040.55(b), the Department proposes to amend the subsection regarding subsidy for an additional child in a family currently receiving subsidy. The additional child will be placed on the waiting list according to the date and time care is requested. This proposal is made to ensure, because of capped funds, that subsidized child day care benefits are available to a greater number of families. Children new to a family will not automatically begin to receive subsidized child day care.

In § 3040.55(c), the Department proposes that a child may not remain on the waiting list for more than 30 calendar days from the date funding becomes available. This proposal is included to prevent the delay of access to subsidized funding by children who are placed lower on the waiting list.

*FEES**General requirements regarding fee payment (§ 3040.61)*

In § 3040.61(a), the Department proposes to add a general statement that the eligibility agent determines the weekly family fee during the eligibility process and that the parent is responsible for paying the fee to the provider when his child is enrolled in subsidy.

In § 3040.61(c), the Department proposes to delete the biweekly fee payment provision. A family with only one child who is enrolled in part-day school-age care during the school year will pay a weekly fee. This proposal is made to assure fee equity for all families on the basis of the frequency and amount of payment. The weekly family fee is based on the family's annual income.

In § 3040.61(h), the Department proposes to amend language that specifies how payment of a delinquent family fee is to be applied. In addition, the Department proposes to amend the language regarding the third notice for delinquent fee payment and allow the parent to continue to receive subsidy if an appeal is filed timely.

In § 3040.61(i)(2), the Department proposes a requirement for the eligibility agent to send the provider a copy of each advance notice of adverse action issued to a family whose child is enrolled at the provider. This proposal is made to keep the provider informed of actions that may affect the child's enrollment at the provider.

In § 3040.61(j), the Department proposes to amend the regulation to state that a family ineligible because of nonpayment of fees cannot apply for subsidized day care for a period of 90 days from the date the delinquent fee is paid.

Weekly family fee (§ 3040.63)

In § 3040.63(a), the Department proposes to amend the use of the conversion chart in Appendix B and proposes use of the conversion chart issued by the Department annually based on the FPIG.

In § 3040.63(a)(1), the Department proposes the term "consecutive" when referring to income obtained within the most recent 6-week period.

In § 3040.63(c), the Department proposes to amend the method of computing the weekly family fee. The Department proposes a fee that is based on the cost of care, income and family size. The Department is proposing a change to a structured family copay sliding fee scale because it is committed to supporting families in the transition from receiving a subsidy to maintaining child care payments without a subsidy. The proposed family fee scale will prepare families to buy child care within the private market without a State subsidy by linking responsibility for payment with level of income and child care choices. The proposed family fee also recognizes the wide range of child care available and the variable costs associated with it.

The Department's proposed fee structure is based on a "standard" provider cost range of \$275 to \$375 per month. The standard provider cost range of \$325 per month is based on the average Statewide monthly cost of care for all types of care. The ranges are set at levels below and above the \$325 average cost. The Department will adjust these costs annually. The proposed fee scale ties the amount of family income spent on child care to the FPL for a family of a given size.

The Department has had the same parent copay formula schedule since 1992. Since that time, we recognize that costs of child care are increasing and the cost of care

has increased for many nonsubsidy-eligible parents. The Department proposes to increase the amount of the parent's weekly copay to reflect a more realistic contribution towards the rising cost of child care and to prepare parents to pay for child care after they are no longer eligible for subsidy.

The current fee scale copayment is low compared to other states. The current copayment ranges from 3% to 11% of family gross income. The Department proposes to extend the range from 3% to 14.5% of gross income. Those families at 100% of FPL and below will not pay more than 10% of their income while families above 100% of FPL will pay an increased percentage of their income graduating up to 14.5% when their income is 185% of FPL.

In determining the cap of 14.5%, the Department considered several alternatives. The Department considered a fee scale that moved to 100% of cost of care as the parent's income increased to the 185% FPL. The Department rejected this consideration because the requirement would be overly burdensome for low-income families. Likewise, the Department considered and rejected percentages of family income higher than 14.5%.

In § 3040.63(7), the Department proposes a provision for parents who wish to utilize child care providers whose costs are outside the standard child care cost range. Parents who wish to use a provider with lower costs will be entitled to a copayment less than the standard fee, while those who choose a provider with higher costs will be required to copay more than the standard fee. Deviations from the standard fee are in like dollar amounts which are based on the family's FPIG level by family size.

*NOTIFICATION REQUIREMENTS**General requirements regarding notification (§ 3040.71)*

In § 3040.71(a), the Department proposes to include reference to a completed application. An application is not legally effective until it is signed and dated; the current wording is not specific to the Department's intent.

In § 3040.71(b), the Department proposes to delete the eligibility agent's oral notification regarding an eligibility determination. Written notices of determinations resulting in eligibility and ineligibility are proposed to make the eligibility determination process more consistent.

In § 3040.71(f), the Department proposes a requirement that the eligibility agent shall confirm in writing with each parent, when a parent withdraws a child from the subsidized program. This is proposed to provide consistency in the notification process and to provide the eligibility agent with a documented record of the parent's decision in the event of a later appeal.

Content of a written notice of adverse action (§ 3040.72)

In § 3040.72(a)(5), the Department proposes a requirement that a parent who requests continuation of subsidized funding pending the result of an appeal hearing will be required to repay all subsidy paid on his behalf if the eligibility agent's action is upheld by the Bureau of Hearings and Appeals. Currently, parents may request continued funding during the time their appeal is pending and suffer no financial penalty if the decision denies the appeal.

Appeal: continuation of subsidy denied (§ 3040.74)

This section identifies the circumstances under which a parent who appeals may not have subsidy continued for a child.

In § 3040.74(b), the Department proposes an appeal provision that permits appeal of a termination that is the result of an eligibility agent's inadequate funding (relating to subsidy disruption § 3040.19), but subsidy will not continue pending a hearing.

In § 3040.74(c), the Department proposes a requirement that a former TANF family, who has been receiving subsidized benefits while continuing to seek employment, has the right to appeal subsidy termination but cannot receive continued subsidized benefits pending an appeal hearing.

Filing an appeal: eligibility agent responsibilities (§ 3040.76)

In § 3040.76(e), the Department proposes to add that an adverse action regarding continued eligibility can be taken before the normal 10-day notice when funding is insufficient to maintain subsidized care.

Departmental actions (§ 3040.77)

In § 3040.77(a), the Department proposes to amend this subsection with a provision that an appeal hearing will be rescheduled if neither the parent who has requested the hearing nor the eligibility agent appears. Current regulation specifies that another action is taken by the Bureau of Hearings and Appeals if one or the other of the two parties do not appear at the scheduled time.

In § 3040.77(b), the amendment proposes a second option regarding implementing final administrative action. The Department proposes that the eligibility agent may implement the ordered administrative action on the first day of the service week following receipt of the ordered action. In addition, the regulation proposes a parent will not be permitted to receive any further subsidized child day care benefits until repayment of the full amount of the continued subsidy has been made.

Continuing subsidy and fee payment during an appeal (§ 3040.78)

In § 3040.78(b), the Department proposes an amendment that requires subsidy repayment by the parent upon loss of an appeal and identifies the period for which repayment applies. At this section and § 3040.91(f), the parent is advised of repayment responsibilities.

In § 3040.78(c), the Department proposes which prohibits a parent from having an increased fee held in abeyance until an appeal decision is rendered, if the eligibility agent established the family income which led to the fee increase in conformance with the income determination formula described in § 3040.63 (relating to determining a weekly family fee). The parent will be required to pay the increased fee during the appeal process.

OVERPAYMENT, REPAYMENT AND DISQUALIFICATION

In §§ 3040.91—3040.94, the Department proposes to include new requirements which address the overpayments of subsidized child care benefits, repayment of those benefits, and sanctions for families who have received subsidized child care in error by referencing Chapter 258. These sections are added to allow the Department improved accountability for public funds by having the opportunity to repay subsidized child care benefits which were distributed to a family who was not entitled to receive them. Also, these requirements are based on Chapter 255 (relating to restitution).

Appendix A

PART I. INCOME INCLUSIONS

In Section L, the Department proposes to amend the term "workmen's" compensation and replace that term with "workers" compensation.

In Section R, the Department proposes to amend the regulation regarding lump sum cash inclusion. The proposed amendment qualifies lump sum cash as more than \$100 monthly. The provision regarding lump sum cash is expanded to include divorce settlements and gifts.

In Section S, the Department proposes to amend the requirement to indicate that a lump sum cash lottery winning is modified to include receipt of amounts more than \$100.

In Section T, the Department proposes an amendment regarding identification of profit from self-employment. This requirement is reflective of Chapter 183 which governs eligibility requirements for cash assistance recipients.

In Section U, the Department proposes an amendment regarding room and board. This is reflective of Chapter 183.

PART II. INCOME DEDUCTIONS

In Section C, the Department proposes an amendment to include medical expenses based on the monthly expenses and/or monthly payment plan.

In Section D, the Department proposes that an amount of \$300 per month per family member will be deducted from the total monthly income of the family of a minor parent.

PART III. INCOME EXCLUSIONS

At Section C, the Department proposes an amendment to include withdrawals from a credit union or brokerage deposits as exclusions from income. These withdrawals are to be treated as bank deposit withdrawals.

Affected Groups and Organizations

Groups and individuals affected by these proposed amendments include families who are receiving TANF benefits and parents who are applying for or receiving subsidized child day care. These individuals include cash assistance recipients and persons transitioning from cash assistance. The other groups affected by these proposed amendments include eligibility agents, child care providers and other organizations and groups.

Accomplishments/Benefits

These proposed amendments will satisfy the mandates of PRWORA which eliminates the TCC program and Title IV-A child care entitlements and requires the creation of a child care delivery system which will meet the needs of both the welfare families and nonwelfare families. The proposed amendments will assist working families to move from the TANF into the subsidized day care system, to have continued assistance with the cost of child care, to create purchasing power for all low-income families and to make the transition to economic independence. Children, families, and the child care provider community will all benefit from the proposed child care delivery system that provides consumer education and resource and referral services to help families make good choices, promotes continuity of care, and provides support for families to become self-sufficient.

The proposed amendments also strengthen and clarify the eligibility requirements which will ensure that the

limited resources will be directed to the most needy families. For the first time, the Department is also proposing to define the benefit which an eligible child may receive. In addition, the proposed amendments establish consequences for families who provide false information or incomplete information for establishing eligibility for the subsidized child day care program.

Fiscal Impact

Public Sector

Commonwealth—The implementation for the subsidized day care program is cost neutral for State Government, however, the increased amount of revenue available to the subsidized child day care program will serve approximately 3,421 additional children on an annual basis because the increase in fees will result in more funds for program expansion. The buying power of the funding allocated for the subsidized child day care program will be increased to assist a greater number of families with their child care costs.

Political Subdivisions—Local governments will not have increased costs due to these proposed amendments.

Private Sector

The proposed amendments are not expected to increase costs in the private sector.

General Public

Some family fees will increase because of changes in the method of fee determination and because the family will assume a greater percentage of the cost of care. Because the family contribution toward the cost of care will increase, funds that would have been used for the family will be available to other families seeking care.

Subsidized Child Day Care

<i>Proposed Family Size</i>	<i>Annual Income</i>	<i>Annual Actual Cost of Care</i>	<i>Current Fee</i>	<i>Proposed Fee</i>
3	\$15,576	\$666/month	\$15/week	\$25/week

Paperwork Requirements

If the Department's proposals are adopted, current eligibility forms and informational pamphlets for families will need to be revised. Additional reporting requirements were implemented under PRWORA. Paperwork will be increased for the low-income family and the eligibility agent. The proposed amendments change the time frame for a redetermination of eligibility from once every 12 months to once every 6 months.

If the Department's proposals are adopted, there may be a slight decrease in the amount of paperwork that is currently completed to maintain a waiting list for individuals who are employed and have incomes greater than 185% of the FPIG. The proposed amendments reduce the maximum income limit from 235% of the FPIG to 185% of the FPIG. Currently, this group of individuals is determined to be eligible for the program and maintained on a waiting list although funding is not available for their enrollment into the subsidized child day care program.

If the Department's proposals are adopted, the eligibility agent will need to complete paperwork and follow-up activities related to child support actions and identification and verification of suspected fraud.

Effective Date

These proposed amendments will take effect upon publication in the *Pennsylvania Bulletin* as final rule-making.

Sunset Date

No sunset date applies to these proposed amendments. However, the Department will review FPIG factors and average Statewide cost of care in relationship to the calculation of the family fee contribution on an annual basis.

Public Hearings

A public hearing will be held on September 24, 1997, from 12 noon to 4 p.m. in the auditorium of the State Museum of Pennsylvania, 3rd and North Streets, Harrisburg, PA. Individuals who wish to testify must notify Cynthia Patnode at (717) 787-1551 to schedule a time to testify.

Public Comment Period

Interested persons are invited to submit written comments, suggestions or objections regarding the proposed amendments to the Department of Public Welfare as follows: comments on Chapter 3040 are to be directed to Jolene Gregor, Policy Specialist, P. O. Box 2675, Harrisburg, PA 17105, (717) 787-8691; comments on Chapter 165, 168 and 183, are to be directed to David C. Florey, Director, Bureau of Employment and Training Programs, Room 428, Health and Welfare Building, Harrisburg, PA 17120, (717) 787-8613. All comments must be submitted within 30-calendar days of the date of publication of this notice in the *Pennsylvania Bulletin*. Comments received within 30-calendar days will be reviewed and considered in the preparation of the final-form regulations. Comments received after the 30-day comment period will be considered for any subsequent revisions to the regulations.

Regulatory Review

Under section 5(a) of the Regulatory Review Act (71 P. S. § 745.5(a)), on August 25, 1997, the Department submitted a copy of the proposed amendment to the Independent Regulatory Review Commission (IRRC) and to the Chairpersons of the House Aging and Youth Committee and the Senate Committee on Public Health and Welfare. In addition to submitting the proposed amendments, the Department has provided IRRC and the Committees with a copy of a detailed Regulatory Analysis Form prepared by the agency in compliance with Executive Order 1996-1. A copy of this material is available to the public upon request.

If IRRC has objections to any portion of the proposed amendments, it will notify the Department within 10 days of the close of the Committee's comment period. The notification shall specify the regulatory review criteria which have not been met by that portion. The Regulatory Review Act specifies detailed procedures for review, prior to final publication of the regulations, of objections raised by the Department, the General Assembly and the Governor.

FEATHER O. HOUSTOUN,
Secretary

Fiscal Note: 14-438. No fiscal impact; (8) recommends adoption.

Annex A
TITLE 55. PUBLIC WELFARE
PART II. PUBLIC ASSISTANCE MANUAL
Subpart C. ELIGIBILITY REQUIREMENTS
CHAPTER 165. EMPLOYMENT AND TRAINING PROGRAM
GENERAL PROVISIONS

§ 165.2. Definitions.

The following words and terms, when used in this chapter, have the following meanings, unless the context clearly indicates otherwise:

* * * * *

[*Full-time child care*—Child care of at least 5 hours per day.

[*Guaranteed child care*—An arrangement made by the Department to reimburse or to pay for child care during the period the individual is participating in the ETP.]

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[*Part-time child care*—Child care of less than 5 hours per day.]

* * * * *

SPECIAL ALLOWANCES FOR SUPPORTIVE SERVICES

§ 165.42. Advance payment of special allowances for supportive services.

(a) [**Special allowances for supportive services, including child**] Child care[,] shall be paid in advance of the date that payment is required by the provider, consistent with the requirements and time frames in § 165.45 (relating to time frames for authorization of payment of special allowances for supportive services).

* * * * *

§ 165.44. Verification for special allowances for supportive services.

* * * * *

[(c) *Special requirements related to child care.*

(1) Child care costs shall be verified through a collateral contact by the CAO with the child care provider, by a written statement signed by the provider or on a form specified by the Department.

(2) When a special allowance for child care is authorized based on a collateral contact or a written statement from the provider, verification of the charge for child care on a form specified by the Department shall be submitted to the CAO within 30 days of the first day child care costs were incurred. The CAO shall assist the client, as needed, to obtain a completed verification form from the provider.

(3) Verification of factors other than cost relating to the need for child care shall consist of collateral contacts with, or written statement from employers, prospective employers, physicians, licensed psychologists, school officials, or training providers or copies of court orders or pay stubs. The client's statement regarding suspected child abuse is ac-

ceptable evidence. Information previously verified need not be repeated unless it is subject to change.]

§ 165.46. Types of special allowances for supportive services.

[(a) *Child care.*

(1) Payment for child care is made to enable the caretaker/relative or custodial parent to participate in an approved education or training activity or to apply for employment.

(2) The CAO shall promptly inform an ETP participant who is in need of child care about the following:

(i) The types and locations of child care providers reasonably accessible to the participant.

(ii) The assistance available to help the participant select an appropriate child care provider.

(iii) The assistance available on request to help the participant obtain a child care provider.

(iv) That child care payments shall be paid in advance of the date that payment is required by the provider, consistent with the requirements and time frames in § 165.45 (relating to time frames for authorization of payment of special allowances for supportive services), to ensure that the participant will have access to the child care provider of the participant's choice.

(3) Special allowances for child care are available for the following types of providers, including the following:

(i) Center-based care.

(ii) Group family day care.

(iii) Family day care.

(iv) Department of Education administered day care.

(v) Unregulated care.

(4) Child care payments may be made only to a person or business entity who allows parental access to the child while a child is in care without the need for prior notification and who provides care in accordance with applicable Federal, State and local law.

(5) The caretaker/relative shall have the right to choose from any type of child care that is available under this chapter and the right to choose any child care provider who meets the requirements of this chapter.

(6) Payments are made for care of a child who is one of the following:

(i) Twelve years of age or younger, living in the home of the parent or caretaker/relative and receiving Cash Assistance, or who would be eligible to receive Cash Assistance except for the receipt of SSI or foster care under Title IV-E of the Social Security Act (42 U.S.C.A. §§ 670—677).

(ii) Thirteen years of age or older if it has been verified by a physician or licensed psychologist that the child is not physically or mentally capable of caring for himself or it is verified that the child is under a court order requiring adult supervision, the child is living in the home of the parent or caretaker/relative and is receiving Cash Assistance,

or who would be eligible to receive Cash Assistance except for the receipt of SSI or foster care under Title IV-E of the Social Security Act.

(7) Payment is made for the eligible cost of child care up to the maximum allowance established by the Department in § 168.1 (relating to policy on TCC Program) or the rate charged the general public, whichever is less, per child. Recipients receiving special allowances for child care before implementation of the maximum allowances continue to receive payment for actual reasonable costs incurred for child care. Eligible costs include charges for days on which the child does not attend due to illness, vacation, or the like. Charges for transporting the child to or from care are included if not levied as a separate charge by the provider.

(8) Payment for providing care of children will not be made to the following persons or business entities owned by:

- (i) A biological or adoptive parent of the child.
- (ii) A legal guardian of the child.
- (iii) A stepparent of the child living in the home.
- (iv) Persons receiving AFDC as essential persons.
- (v) Other members of the budget group of which the child is a member.

(9) Payment for child care shall be made for persons awaiting entry into, or during breaks in, approved education training or employment for one of the following:

- (i) Up to 2 weeks.
- (ii) Up to 30 days when it is verified that the arrangements would otherwise be lost in the interim period.

(10) Payment of child care shall be reasonably related to the hours of employment or ETP participation, including travel time.

(11) Payment for child care may be made by one of the following:

- (i) Direct payment to the recipient when the provider is unregulated or is regulated but is not enrolled in the Department's child care vendor payment system.
- (ii) Vendor payment to a regulated provider who has signed the Department's vendor payment agreement and who is enrolled in the Department's child care vendor payment system.
- (iii) Restricted endorsement check to the recipient and provider.

(iv) The earned income deductions in §§ 183.94(3) and 183.95(2) (relating to AFDC earned income deductions; and GA earned income deductions) for employed clients, except that clients earning wages in a work experience training activity may receive payment for the difference between the child care deduction and the maximum child care allowance established by the Department in § 168.1 when the cost of child care exceeds the deductions in §§ 183.94(3) and 183.95(2).

(12) Child care services are not considered as needed when an unemployed biological or adoptive parent, specified relative or legal guardian is in the home unless that person is physically or mentally incapable of providing care or is involved in educa-

tion, training, job search or employment related activities, or the child is at risk due to suspected child abuse or the custodial parent is participating in a Single Point of Contact or Department of Education Pregnant and Parenting Youth Program.

(13) Preexpenditure approval is required unless the child care is for a job interview and the client is unable to contact the worker prior to the scheduled interview.]

[(b)] (a) ***
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[(c)] (b) ***
 * * * * *

[(d)] (c) ***
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CHAPTER 168. [TRANSITIONAL] CHILD CARE
GENERAL PROVISIONS

§ 168.1. Policy on [TCC Program] child care.

(a) [The TCC Program provides payments which subsidize the cost of child care for eligible budget groups, for 12 consecutive months, which is 24 semi-monthly periods, beginning with the day following the effective date of discontinuance of the AFDC cash payment.] Payment for child care may be made to enable the caretaker/relative or custodial parent to participate in RESET. To qualify for a child care payment, the individual shall be found eligible to receive cash assistance, including persons who do not receive a cash payment due to the minimum monthly check requirement.

(b) [A budget group shall be notified in writing of its potential eligibility for TCC at the time AFDC cash payments are discontinued. This notice shall describe the Program, the steps to be taken to request benefits, the rights and responsibilities under the Program and the reasons for which benefits could be denied or discontinued.] The CAO shall promptly inform a RESET participant who is in need of child care about the following:

(1) Upon request, the types and locations of child care providers reasonably accessible to the participant and, in addition, refer the client to the local management agency for help in locating day care arrangements.

(2) The assistance available to help the participant select an appropriate child care provider.

(3) The assistance available on request to help the participant obtain a child care provider.

(4) The child care payments shall be paid in advance of the date that payment is required by the provider, consistent with the requirements and time frames in § 165.42 (relating to advance payment of special allowances for supportive services), to ensure that the participant will have access to the child care provider of the participant's choice. The advance payment requirement does not apply to vendor payments for child care.

(c) [A request for TCC benefits will be acted upon within 15 calendar days from the date the request is received.

(d) A TCC payment may be authorized during the 12-month period of eligibility retroactive to the date of initial eligibility upon receipt of the required information and verification.

(e) Rights and responsibilities of a TCC applicant or recipient, including the provisions under Chapters 105 and 107 (relating to safeguarding information; and nondiscrimination), are the same as established for Cash Assistance with the exceptions listed in this chapter.

(f) Current child care fee, maximum child care allowance and income eligibility tables for TCC are available upon request at CAOs.] The CAO shall inform applicants and recipients, in writing and orally, of the availability of child care allowances at application, reapplication and whenever the EDP is developed or revised.

(d) The notification of approval or denial of child care payments will be done in accordance with § 165.43 (relating to special allowances for supportive services and time frames for eligibility determinations).

(e) Authorization of payment for child care will be done based on time frames consistent with § 165.45 (relating to time frames for authorization of special allowances for supportive services).

(f) The child care copayment sliding fee scale, as set forth in Chapter 3040, Appendix B (relating to family copayment scale), and the maximum child care allowances are available upon request at the CAO.

§ 168.2. Definitions.

The following words and terms, when used in this chapter, have the following meanings, unless the context clearly indicates otherwise:

Average child care costs—The average monthly cost of care is the sum of the actual child care costs, per child, divided by the number of children in care.

Budget group—A group of persons receiving [TCC] child care payments who live together and meet the definition of [an AFDC] a TANF filing unit as defined in § 171.21 (relating to policy). A child receiving SSI benefits and for whom [TCC] child care payments are requested is included in the budget group.

* * * * *

Child with a disability—A child prevented from caring for himself because of a physical or mental incapacity.

Copayment sliding fee scale—A scale based on family sizes, income and cost of care from which a determination of the child care copayment is made.

EDP—Employment Development Plan—A noncontractual agreement completed by the client and the employment and training worker which establishes an employment goal with specific time frames and activities to achieve the goal and describes services to be provided by the Department and the activities to be undertaken by the recipient.

* * * * *

Full-time employment—Employment which averages at least 30 hours per week in a calendar month.

[**Handicapped child**—A child who is prevented from caring for himself because of a physical or mental incapacity.

Local market rate—The cost charged for providing regulated child care services within a specified geographic area.]

Maximum [TCC] child care allowance—The ceiling set by the Department for payment of child care services to budget groups eligible for [the TCC Program] child care payment.

[**Month of application**—The calendar month in which the request for TCC benefits is received.]

* * * * *

[**OJT—On-The-Job Training**—Training in the private or public sector while the participant is engaged in productive work, which provides knowledge or skills essential to the full and adequate performance of the job.]

* * * * *

Preexpenditure approval—Approval by a person specified by the Department prior to the recipient's incurring an expense for child care.

[**Principal wage earner**—The term as defined in Chapter 153 (relating to deprivation of support or care).]

RESET—The Road to Economic Self-sufficiency through Employment and Training Program.

* * * * *

Relative/neighbor care—Care given by a person who is exempt from certification and cares for three or fewer children.

* * * * *

[**Sliding fee scale**—A listing of family sizes and income, in graduated steps, from which a determination of the child care fee is made.]

* * * * *

[**TCC**—Transitional child care.

TCC service month—A calendar month in which child care expenses were paid or incurred and for which a TCC payment is requested or authorized.

Unregulated care—Child care given by a person or entity which is not licensed by or registered with the Department or approved by the Department of Education.]

TANF—Temporary Assistance for Needy Families Program—A Federal nonentitlement program under 42 U.S.C.A. §§ 601—609 which provides cash assistance to unemployed individuals who are working toward self-sufficiency. Eligibility for TANF is determined by the local CAO.

Vendor payment—A child care payment made by the Department directly to a [regulated] child care provider who has signed the Child Care Vendor Program Enrollment Request Agreement and is enrolled in the child care vendor [file] payment system.

ELIGIBILITY REQUIREMENTS**§ 168.11. General requirements.**

[To receive a TCC payment, the budget group shall meet the eligibility conditions of the following chapters:

(1) Chapter 142 (relating to monthly reporting) with the exceptions specified in § 168.61 (relating to reporting requirements).

(2) Chapter 147 (relating to residence).

(3) Chapter 149 (relating to citizenship and alienage).

(4) Chapter 155 (relating to enumeration).

(5) Chapter 255 (relating to restitution) with the exceptions specified in § 168.91 (relating to restitution).

(6) Chapter 275 (relating to appeal and fair hearing and administrative disqualification hearings) with the exceptions specified in § 168.101 (relating to appeal and fair hearing).]

(a) Special allowances for child care are available for the following types of child care:

(1) Center-based care.

(2) Group family day care.

(3) Family day care.

(4) Relative/neighbor care.

(b) Child care payments may be made only to a person or business entity who allows parental access to the child while a child is in care without the need for prior notification and who provides care in accordance with applicable Federal, State and local law.

(c) The caretaker/relative shall have the right to choose from any type of child care that is available under this chapter and the right to choose any child care provider who meets the requirements of this chapter.

(d) Payments are made for care of a child who is one of the following:

(1) Under 13 years of age, living in the home of the caretaker/relative and receiving cash assistance, or who would be eligible to receive cash assistance except for the receipt of SSI or foster care under Title IV-E of the Social Security Act (42 U.S.C.A. §§ 670—677).

(2) Thirteen years of age or older if it has been verified by a physician or licensed psychologist that the child is not physically or mentally capable of caring for himself, the child is living in the home of the parent or caretaker/relative and is receiving cash assistance, or who would be eligible to receive cash assistance except for the receipt of SSI or foster care under Title IV-E of the Social Security Act.

(e) Payment is made for the actual cost of child care up to the maximum allowance established by the Department or the rate charged the general public, whichever is less. Eligible costs include charges for days on which the child does not attend due to illness, vacation or other circumstances as deemed appropriate by the Department. Charges

for transporting the child to or from care are included if not levied as a separate charge by the provider.

(f) Payment for providing care of children will not be made to the following persons or business entities owned by:

(1) A biological or adoptive parent of the child.

(2) A legal guardian of the child.

(3) A stepparent of the child living in the home.

(4) Persons receiving TANF as essential persons.

(5) Other members of the budget group of which the child is a member.

(g) Payment for child care shall be made for persons awaiting entry into, or during breaks in, approved work-related activities or employment for one of the following:

(1) Up to 2 weeks.

(2) Up to 30 days when it is verified that the arrangements would otherwise be lost in the interim.

(h) Payment of child care shall be reasonably related to the hours of employment or RESET participation, including travel time.

(i) Payment for child care may be made by one of the following methods:

(1) Direct payment to the client when the child care provider is not enrolled in the Department's child care vendor payment system.

(2) Vendor payment to the child care provider when the provider is enrolled in the Department's child care vendor payment system.

(3) Restricted endorsement check made payable to the client and child care provider when it has been demonstrated that the client failed to use a prior child care payment for its intended purpose.

(j) Child care services are not considered as needed when an unemployed biological or adoptive parent, specified relative or legal guardian is in the home unless that person is physically or mentally incapable of providing care, or is participating in RESET, or the custodial parent is participating in a Department of Education pregnant and parenting youth program.

(k) Preexpenditure approval is required unless the child care is for a job interview and the client is unable to contact the worker prior to the scheduled interview.

§ 168.12. [Income eligibility limitations] (Reserved).

[When the gross income of the budget group equals or exceeds 185% of the Federal Poverty Income Guideline as published annually by the Federal government for the appropriate family size, payment will not be made for child care. The budget group is and remains eligible for the TCC Program, but the required fee is set at the full cost of child care.]

§ 168.13. [Resources] (Reserved).

[Resources are not considered in determining eligibility or payments under the TCC Program.]

§ 168.14. [Request for benefits] (Reserved).

[The budget group shall request TCC benefits by submitting the TCC Program Request for Benefits form within the 12-month period of eligibility.]

§ 168.15. [Discontinuance of AFDC] (Reserved).

[(a) An AFDC payment to the budget group shall have been discontinued due to new employment, increased income from employment, increased hours of employment—over 100 hours per month—by the principal wage earner in an unemployed parent case or the expiration of the earned income incentives specified in § 183.94(2) (relating to AFDC earned income incentive deduction).

(b) A budget group that is not eligible for AFDC payments as a result of OJT income is authorized to receive TCC payments if other conditions of eligibility are met.

(c) A budget group is not eligible for TCC if one of the following applies:

(1) A discontinuance of AFDC payments is requested, even though the budget group remains eligible for an AFDC payment.

(2) An AFDC payment is not received due to the \$10 monthly minimum check requirement.

(3) The AFDC payment is suspended as a result of excess income in the budget month which results in temporary ineligibility for 1 month as specified in § 183.105(2) (relating to increases in income).]

§ 168.16. [Prior receipt of AFDC] (Reserved).

[A budget group shall have received an AFDC payment in at least 3 of the 6 months immediately preceding the month payments were discontinued. A month in which the AFDC payment was received fraudulently is not counted in this determination. Prior receipt of AFDC is determined as follows:

(1) A month in which the budget group received a full or partial AFDC payment is counted.

(2) A month in which the budget group did not receive an AFDC payment due to the \$10 minimum monthly check requirement is counted.

(3) A month in which the budget group did not receive an AFDC payment because the case was suspended for 1 month as a result of excess income in the budget month which resulted in temporary ineligibility is counted.]

§ 168.17. Eligible children.

The budget group includes a child who meets one of the following [conditions] criteria. The child is one of the following:

(1) [Would qualify as an AFDC] A TANF dependent child under Chapter 153 (relating to deprivation of support or care) and § 145.43(a)(1) (relating to requirements) [, if financially eligible.

(2) Would qualify] or qualifies as [an AFDC] a TANF dependent child under Chapter 153 and § 145.43(a)(1) except for receipt of SSI or foster care benefits [, and following conditions:].

(2) Meets one of the following conditions:

* * * * *

[(iii) Is 13 years of age or older and is under a court order which requires adult supervision.]

§ 168.18. Need for child care.

(a) Child care must be needed to enable a member of the budget group to [retain employment] participate in RESET activities.

(b) Child care services will not be considered as needed when an unemployed biological or adoptive parent, specified relative or legal guardian of the child is in the home, unless one of the following applies:

* * * * *

[(3) The child is at risk because of suspected child abuse.]

* * * * *

(e) Child care will not be considered as needed when the biological or adoptive parent, specified relative or legal guardian of the child is the owner/operator of a day care service, which includes day care center, group home, family day care home or relative/neighbor care.

§ 168.19. Child care arrangements.

Payment for child care will be made when the child care arrangements are as follows:

* * * * *

(2) The person or entity providing child care may not be one of the following:

* * * * *

(ii) A member of the TANF budget group [that is requesting or receiving TCC benefits for the child].

* * * * *

§ 168.20. Child care [fee] co-payment.

The Employed budget group shall pay the required [fee] copayment toward the cost of child care.

§ 168.21. Reasons for ineligibility.

Ineligibility will result when:

(1) The budget group is employed and fails to pay the required [fee] copayment toward the cost of child care. The budget group is ineligible until overdue [fees] copayments are paid or satisfactory arrangements to pay overdue [fees] copayments are made with the provider.

(2) [The specified relative willfully and without good cause voluntarily terminates employment. Good cause determinations are made in accordance with Chapter 165 (relating to Employment and Training Program). The budget group is ineligible for the remainder of the 12-month period. If the specified relative loses a job with good cause and subsequently finds another job, a TCC payment may be authorized for the remainder of the 12-month period.] The budget group is employed full-time and selects child care which costs more than the budget group's total gross monthly income as follows:

(i) Total costs exceed 100% of gross monthly income when care is for one or two children.

(ii) Total costs exceed 150% of gross monthly income when care is for three children; thereafter, add 50% to the gross monthly income limit for each additional child.

[(3) The specified relative fails, without good cause, to cooperate with the Department in establishing payments and enforcing child support obligations. Good cause determinations are made in accordance with Chapter 187 (relating to support from relatives). The budget group is ineligible for the remainder of the 12-month period.]

VERIFICATION

§ 168.41. Verification requirements.

The applicant or recipient is required, as a condition of eligibility, to cooperate in providing necessary information and verification. [Verification consists of documentation specified by the Department. Verification already available in the case record is not required to be repeated unless the information is subject to change or the verification is outdated. The Department will assist in securing necessary verification when needed.]

(1) Before authorizing the initial child care payment, the CAO shall determine the following:

(i) Whether the child care is necessary to participate in RESET.

(ii) The expected charge.

(iii) The date the service is needed by the participant.

(iv) The date that payment for the service is required under the provider's usual payment policy or practice.

(2) When verification provided to the CAO indicates a change in eligibility, payment shall be reduced, terminated or increased, as appropriate, upon issuance of a confirming notice to the participant, in accordance with § 133.4(c) (relating to procedures).

(3) Child care costs shall be verified monthly through a contact by the CAO with the child care provider, by a written statement signed by the provider or on a form specified by the Department.

(4) When a child care allowance is authorized based on a contact with or by a written statement from the provider, verification of the charge for child care on a form specified by the Department shall be submitted to the CAO within 30 days of the first day child care costs were incurred. The CAO shall assist the client, as needed, to obtain a completed verification form from the provider. Failure to provide verification within the specified time period could result in nonauthorization of the child care payment.

(5) Verification of factors other than cost relating to the need for child care shall consist of collateral contacts with, or written statements from, employers, prospective employers, physicians, licensed psychologists, school officials, or training providers or pay stubs. Information previously verified need not be repeated unless it is subject to change.

§ 168.42. [Verification of eligibility months] (Reserved).

[Case record data will be used to verify receipt of an AFDC payment in 3 of the preceding 6 months. A client's statement of receipt in another state will be verified with the appropriate state agency. If verification cannot be obtained, the client's statement is accepted.]

§ 168.43. Verification of a [handicapped] child with a disability.

* * * * *

§ 168.44. Verification of [a handicapped] an adult with a disability.

* * * * *

§ 168.45. [Verification of suspected child abuse] (Reserved).

[The statement of the client, caseworker or other professional is acceptable evidence. Suspected child abuse will be reported in accordance with 23 Pa. C.S. Chapter 63 (relating to the Child Protective Services Law) as defined in Chapter 3490 (relating to child protective services—child abuse).]

§ 168.46. [Verification of court ordered supervision] (Reserved).

[A copy of the court order which confirms that the child is under court ordered supervision is required.]

§ 168.47. [Verification of income] (Reserved).

[Verification of income requirements are found in § 183.5 (relating to income verification).]

§ 168.49. Verification of payment of [fees] copayment for the employed budget group.

* * * * *

§ 168.50. [Verification of household composition] (Reserved).

[A signed statement from the client on the Request for Benefits Form, the Monthly Report Form or another signed, written statement from the client which identifies the persons living in the household is required.]

REPORTING REQUIREMENTS

§ 168.61. Reporting requirements.

The budget group shall, [at a minimum, report income, household composition] report child care arrangements and child care costs monthly.

[(1) The budget group will be enrolled in the Monthly Reporting System as set forth in Chapter 142 (relating to monthly reporting) with the exceptions noted in this chapter. The child care costs which the recipient submits with the monthly reporting form are used to determine the amount of the payment for the TCC service month. The income information which the recipient submits with the monthly reporting form is used to determine the child care fee for the following TCC service month.

(2) Submission of a Late/Incomplete Notice (L/IN) or Monthly Reporting Form (MRF) by the extended due date will not result in the imposition of penalties. Failure to submit a complete L/IN or MRF by the extended due date will not result in termination of TCC eligibility.

(i) If the TCC method of payment as defined in § 168.81 (relating to payment methods) is not a vendor payment, the TCC payment is not issued. A retroactive TCC payment will be authorized at any time within the 12-month period of eligibility for any service month in which the MRF or L/IN is received after the extended due date if the client submits a completed MRF with required verification. When the 12-month period of eligibility has expired, a retroactive TCC benefit may be authorized if the completed MRF with required verification is received on or before the deadline designated for the last month of eligibility for reactivating terminated cases.

(ii) If the TCC method of payment as defined in § 168.81 is a vendor payment, a TCC payment will be issued to reimburse the vendor for services provided up to the L/IN extended due date.]

* * * * *

[TCC] PAYMENT DETERMINATION

§ 168.71. Monthly payment determination.

The amount of the [TCC] child care payment is [calculated] determined for each [TCC service] month.

(1) [The payment amount is calculated by subtracting the child care fee from the allowable child care cost as follows:] The allowable child care payment is the lowest of the actual child care costs, the rate charged the general public or the maximum allowance established by the Department.

[(i) The child care fee is determined in accordance with § 168.74 (relating to determining monthly child care fee).

(ii) The allowable child care cost is the lower of the actual child care costs determined under § 168.72 (relating to determining monthly child care costs), the rate charged the general public or the maximum TCC allowance, per child, whichever is less.]

(2) [When the first or last month of eligibility is not a full calendar month, the TCC payment is prorated for the number of calendar days for which the budget group is eligible.] Child care payments may be made for TANF eligible budget groups in need of child care to participate in RESET as follows:

(i) *Unpaid work.* For participants in unpaid work activities, payment is made for actual child care costs up to the maximum allowance established by the Department.

(ii) *Paid work.* For participants in paid work activities, payment is made for actual child care costs up to the maximum allowance established by the Department less the family copayment as determined in § 168.74 (relating to determining monthly child care copayment).

(iii) *Exception.* The copayment shall be waived for the period covering the first day of employment until the date income is adjusted to the grant.

(3) Corrective or delayed payments are issued consistent with the requirements in Chapters 175 and 227 (relating to allowances and benefits; and central office disbursement).

§ 168.72. Determining monthly child care costs.

The actual child care expenses reported and verified as paid or incurred in the [TCC service] month are considered. [Child care expenses paid or incurred while a person is a recipient of Cash Assistance are not considered.] Actual child care costs include the following:

(1) A charge for child care provided during the hours of [employed budget group member's work or work-related] RESET activities, and related travel time.

* * * * *

§ 168.73. [Determining countable income] (Reserved).

[The gross earned and unearned income of the budget group is considered when determining eligibility and the amount of monthly TCC payments. Countable income is determined as follows:

(1) *Earned income.* Gross earned income specified under §§ 183.21 and 183.22 (relating to gross earned income; and profit from self-employment) is counted except in the following situations:

(i) Earned income received while a recipient of Cash Assistance.

(ii) The gross earnings of a child, if the conditions set forth in § 183.81 (relating to income exemptions) are met.

(2) *Unearned income.* Unearned income specified under §§ 183.31—183.35 and 183.39 is counted except in the following situations:

(i) Unearned income received while the person is a recipient of Cash Assistance.

(ii) Unearned income received as a dividend or interest as specified under § 183.31.

(3) *Restricted income.* Income specified under §§ 183.52 and 183.54 (relating to nonservice connected veterans benefits; and income of a child).

(4) *Contractual or intermittent income.* The income received under a contract of employment or intermittent income, such as certain interest, dividend and royalty payments, is determined in accordance with § 183.64 (relating to income averaging).

(5) *Profit from self-employment.* Profit from self-employment is determined in accordance with § 183.65 (relating to profit).]

§ 168.74. Determining monthly child care [fee] copayment.

The [fee] copayment is determined for a [TCC service] month based upon gross monthly income [and], budget group size and cost of care. Gross monthly income is determined based on anticipated or actual amounts as [set forth] determined in [this section] accordance with Chapter 183 (relating to

income). [(1)] The [fee] copayment is prospectively determined [using anticipated income] for the initial 2 [service] months[, the month of application and the following month. Anticipated income is the amount of income reasonably expected to be received in a calendar month]. Thereafter, the monthly reporting process applies.

[(2)] The fee is determined using actual income after the initial 2 service months. Actual income is the amount of income received in a TCC service month. Income received while a person is a recipient of Cash Assistance is not considered. The actual income reported on the MRF for the prior service month is used to set the fee for the following service month.

(3) If retroactive benefits are requested for 1 or more service months, the fee for each retroactive service month will be determined using the actual income received in each service month.]

§ 168.75. [Additions to the budget group] (Reserved).

[A person who enters the household is added to the TCC budget group if required under § 168.2 (relating to definitions). A person who enters the household will affect the TCC payment and fee calculation as follows:

(1) *Eligible child.* The child shall meet the eligibility conditions in this chapter to receive TCC payments.

(i) A payment is authorized for the child effective with the date the request for benefits is received.

(ii) The change in the child care fee is effective with the following TCC service month consistent with § 168.74(2) (relating to determining monthly child care fee).

(iii) A payment will be authorized retroactively to the date the child entered the home upon receipt of the required information and verification.

(2) *Others.* A change in the budget group is considered to have occurred if the person has resided in the home for at least 15 calendar days in a TCC service month. A person residing in the home for less than 15 calendar days in a TCC service month is not considered a member of the budget group for that service month.

(i) The increase in budget group size or countable income is effective with the TCC service month in which the change occurred.

(ii) The change in the child care fee is effective with the following TCC service month consistent with § 168.74(2).]

§ 168.76. [Deletions to the budget group] (Reserved).

[A person who leaves the budget group will affect the TCC payment and fee calculation as follows:

(1) *Eligible child.* A TCC payment for the child care is discontinued effective with the date the child left the home. The change in the child care fee is effective with the following TCC service month consistent with § 168.74(2) (relating to determining monthly child care fee).

(2) *Others.* A change in the budget group is considered to have occurred if the person has been out of the home for at least 15 calendar days in a TCC service month. A person out of the home for less than 15 calendar days in a TCC service month is considered a member of the budget group for that service month.

(i) The decrease in budget group size or countable income is effective with the TCC service month in which the change occurred.

(ii) The change in the child care fee is effective with the following TCC service month consistent with § 168.74(2).]

CHILD CARE PAYMENT METHODS

§ 168.81. Payment methods.

The Department [will] may make a [TCC payment as a partial reimbursement of] child care payment for child care expenses [paid or] incurred in a [TCC service] month.

[(1)] A [TCC] child care payment [will] may be issued as one of the following:

[(i)] (1) A direct check to the client when the child care provider is [either unregulated or regulated but] not enrolled in the Department's child care vendor [file] payment system.

[(ii)] (2) A vendor payment to the child care provider when the provider is [regulated and] enrolled in the Department's child care vendor [file] payment system.

[(iii)] (3) A restricted endorsement check made payable to the client and the child care provider when it has been demonstrated that the client failed to use a [prior TCC] child care payment for its intended purpose.

[(2)] A retroactive TCC payment will be issued as a direct check to the client as reimbursement for out-of-pocket expenses if verification confirms that the client paid the provider directly for the full cost of care.]

RESTITUTION

§ 168.91. Restitution.

The Cash Assistance provisions of Chapter 255 (relating to restitution) apply to a recipient of [TCC with the following exceptions:

(1) Failure to use a TCC payment for its intended purpose does not constitute an overpayment.

(2) The provision for recoupment of overpayments does not apply to a TCC payment.] a child care payment.

APPEAL AND FAIR HEARING

§ 168.101. Appeal and fair hearing.

The Cash Assistance provisions of Chapter 275 (relating to appeal and fair hearing) apply to an applicant or recipient of [TCC] a child care payment with one exception: The requirement for an advance notice of adverse action will not apply to a change in the method of payment, unless the change would result in a discontinuance, suspension, reduction or termination of benefits or would force a change in child care arrangements.

**Subpart D. DETERMINATION OF NEED AND
AMOUNT OF ASSISTANCE**

CHAPTER 183. INCOME

INCOME DEDUCTIONS

§ 183.94. AFDC earned income deductions.

For expenses related to employment of each individual in the AFDC budget group, subject to limitations in § 183.97 (relating to ineligibility for disregards from earned income for AFDC and GA), disregard in the following order:

* * * * *

[(3) *Personal expenses.* The actual cost of care of dependent children or incapacitated individuals living in the same home and receiving AFDC, if no other sound plan can be made for their care, up to a maximum of:

(i) One hundred seventy-five dollars per month per child 2 years of age or older or incapacitated individual when the client is employed full-time.

(ii) One hundred fifty dollars per month per child 2 years of age or older or incapacitated individual when the client is employed part-time.

(iii) Two hundred dollars per month per child under age 2, regardless of whether the client is employed full-time or part-time.]

**PART V. CHILDREN, YOUTH AND FAMILIES
MANUAL**

**Subpart B. ELIGIBILITY FOR [SERVICES]
SUBSIDY**

**CHAPTER 3040. SUBSIDIZED CHILD DAY CARE
ELIGIBILITY**

INTRODUCTION

§ 3040.1. Purpose.

This chapter establishes the requirements which shall be met by **[income-]** an eligible **[families]** family to receive **subsidy to meet the cost of child day care [service subsidized with]**. The subsidy is a **nonentitlement benefit made available through limited** Federal and State funds.

§ 3040.2. Definition of [service] subsidy.

(a) **Subsidy is provided to assist an eligible family in the payment of child day care.** Child day care **[service]** is **[out-of-home]** care provided for part of the 24-hour day. Subsidized child day care **[service]** is available to a child from birth to the date of the child's 13th birthday.

(b) A **[caretaker]** family shall **[be employed, self-employed or receiving training]** meet both **financial and nonfinancial criteria** to be eligible for subsidized child day care **[service]**. A family **[that]** in which a parent is **[eligible for Title IV-A supportive services which include child day care]** receiving TANF is not eligible for Federal or State funds related to subsidized child day care **[service]**. Subsidized child day care **[service]** may not be **[provided]** used for a **child care arrangement** as a substitute for a publicly-funded educational **[programs]** program, such as kindergarten, or other specialized treatment **[programs]** program. **[This service is]** Subsidized child day

care may be provided in certified day care centers and group day care homes, registered family day care homes and those exempt under Chapters 3270, 3280 and 3290 (relating to the operation of child day care centers; group day care homes; and family day care homes).

(c) Special conditions pertain to a developmentally disabled child who has reached his 13th birthday. **[That child]** A family continues to be eligible for **[care]** subsidy if **[the child's]** a child in the family has a developmental age **[is]** of less than 13 years **[old and if the caretaker continues to be eligible for service]**. The child may remain **[in service]** eligible for subsidy until the child's developmental age reaches 13 years or until the child's chronological age reaches 18 years, whichever occurs first, if the developmental disability is documented by a licensed or certified psychologist, a licensed physician or by another specialist licensed or certified in the area of the disability. "Developmental disability" and "individual assessment" are defined in Chapter 3300 (relating to specialized day care services for children with disabilities).

§ 3040.3. Definitions.

The following words and terms, when used in this chapter, have the following meanings, unless the context clearly indicates otherwise:

[AFDC—Aid to Families with Dependent Children—A Federal program matched with State funds which provides Cash Assistance to families which include dependent children who are deprived of the care and support of one or both parents due to absence, incapacity or unemployment.

AFDC benefit—The semi-monthly Cash Assistance check received by a family.]

Adjusted monthly gross income—Family income for a 4-week period adjusted to reflect months which are longer than 4 weeks. The Department uses **[4.33] 4.3** as the adjusted number of weeks in a calendar month.

Advance weekly family fee—A **[one-time]** fee assessed to the **[caretaker]** parent which is equivalent to **[the weekly family fee] 1 weekly family fee shall be paid in advance of the first week of child day care.**

Adverse action—A Departmental action which forms the basis for an appeal by the **[caretaker]** parent.

Annual income—The **[family]** family's adjusted monthly gross income multiplied by 12 months.

Appeal—A written request by a **[caretaker]** parent or a person acting on behalf of the **[caretaker]** parent indicating disagreement with a Departmental decision affecting the family's eligibility for subsidized child day care **[services]** and requesting an opportunity to present the case for hearing under Chapter 275 (relating to appeal and fair hearing) **and this chapter.**

Application—A **[caretaker's]** parent's signed, dated request for subsidized child day care completed on a form approved by the Department.

CAO—County Assistance Office—The local office of the Department responsible for the determination of eligibility and service delivery in the Cash, Food Stamp and Medical Assistance Programs. **[CAO services include the determination of eligibility and delivery of service for Title IV-A child care special allowances and TCC benefits.**

Child care special allowances—Title IV-A child care special allowances, determined and administered by the local CAO. The term includes supportive service benefits for the actual cost of child care within established limits, when the care is needed to enable an eligible family member to participate in an approved education or training activity or to apply for employment.

Caretaker—The applicant for day care service with whom the child lives who is the individual responsible for documenting family eligibility for subsidized child day care service.]

Confirming notice—Written correspondence issued by the eligibility agent to substantiate an action regarding subsidized child care benefits. The notice includes appeal procedures.

Cost of care—The [weekly] daily amount that the child day care provider charges for each service type of child care [, or the Department's ceiling rate, whichever is less].

County ceiling rate—The maximum amount set for each county by the Department for subsidized child day care payment to a provider.

* * * * *

Education—Enrollment in an elementary school, middle school or high school program which will lead to a high school diploma. The term includes enrollment in a GED program.

Eligibility agent—The entity, prime contractor or contractually designated subcontractor, with authority delegated by the Department to [provide or] purchase subsidized child day care [service, to] and determine a [caretaker's] family's eligibility [and to enforce the collection of fees].

Eligibility determination—A decision regarding a family's ability to [receive] meet the requirements of the subsidized child day care [service] program.

Eligibility redetermination—Periodic decisions regarding a family's continuing ability to [receive] meet the requirements of the subsidized child day care [service] program.

Employment—The condition of working for another person for income equal to or greater than the Federal or State minimum hourly wage standards, whichever is higher, established for the job. The income of employes receiving tips as part of their income, tips and hourly wages combined, shall equal or exceed the minimum wage. [The term also includes a caretaker who is enrolled in the On-The-Job Training component of the Joint Training and Partnership Act Program.] Laborers on a farm and individuals granted a subminimum wage exception by the Department of Labor and Industry are not subject to the minimum wage clause.

* * * * *

Family—[The caretaker, the caretaker's spouse or live-in companion and unemancipated minor children who occupy a common residence. Unborn children are not included in the family. An unemancipated minor who is the caretaker of his unemancipated minor child is a separate family. A foster child is a separate family. A child who re-

ceives AFDC benefits is a separate family when the child lives with a grandparent who does not receive assistance and who is caring for the child because the child's parent is alcohol- or drug-dependent.] A group of individuals who reside in a common dwelling.

Fiscal year—A period of time beginning July 1 of any calendar year and ending June 30 of the following calendar year.

Fraud—Intentional provision of false information to the eligibility agent. Knowingly given by a parent, for the purpose of receiving funding for child day care; or willful withholding of information which leads to an overpayment for child day care.

Full-day enrollment—Care provided at a provider for 5 or more continuous hours per day.

Income—Periodic revenues, receipts or returns from labor, property or business. Income from employment or income profit from self-employment is considered in determining [the caretaker's and] the family's eligibility for subsidized child day care [service]. The term also includes cash or contributions which are not the result of employment or self-employment and which are received in exchange for work listed in Appendix A, Part I (relating to sources of earned or unearned income to be included, deducted and excluded in determining monthly gross income).

Legal guardian—An adult who is not the child's biological, adoptive, step or foster mother or father, or specified relative and who has been granted legal custody of a child by a court.

Live-in companion—An individual who is free to marry under Pennsylvania law and who resides in the common dwelling with the child's parent.

Minor—An individual under 18 years of age who is not emancipated by marriage or by the court and who is dependent on the income of the parent, the parent's spouse or the live-in companion of the parent.

Parent—A biological, adoptive, step or foster mother or father; a specified relative; or a legal guardian. Any of the individuals known as parent must live in the family's common dwelling and be responsible for the child for whom the subsidy is requested.

Partial redetermination—A face-to-face or telephone review of eligibility that does not include a review of all eligibility factors.

Part-[time attendance] day enrollment— [Attendance] Child care at a [service site] provider for fewer than 5 hours per day, or part of a child day care wrap-around program.

Profit from self-employment—The income that remains after the allowable costs of doing business are subtracted from the total gross receipts.

Prospective employment or prospective [training] education—Employment or [training] education verified by the employer or [trainer] school official to begin within 30 calendar days of the day that the [caretaker] parent signs and dates the application for subsidized child day care. The term does not include job-seeking.

Provider—An organization or individual who directly delivers the child day care [service]. [The term may include the prime contractor, the contractually designated subcontractor or another licensed or registered child day care service site.]

Reimbursable daily rate—The cost of care or the county ceiling rate, whichever is less, less the assessed weekly family fee.

School-age child—A child enrolled in a public or private school system from first grade to the expiration of subsidy-eligible age. The term does not include a child enrolled in kindergarten, K-3, K-4 or any other prekindergarten program.

Self-employment—Operating one's own business, trade or profession for [income] profit equal to or greater than the hourly Federal or State minimum wage, whichever is higher.

[*Service site*—The child day care center, group child day care home or family child day care home where care is delivered to the child. To receive subsidized child day care funds, a service site will be certified by the Department or shall be exempt from the requirement for Departmental certification under Chapters 3270, 3280 and 3290 (relating to child day care centers; group day care homes; and family day care homes).]

Service type—One or more of the following types of child care which may be offered [at] by a [service site] provider: infant [/] care, young toddler care, older toddler care, preschool care, young school-age [care (all year or summer only)], older school-age or special needs care. The care may be offered on a full-[time] day or part-day basis; or in the case of school-age care during the school year or enrollment in a wrap-around program, on a part-day basis.

Specified relative—Any blood relative except second, third, and the like, cousins. The relationship may be one prefixed by grand, great-grand, or great, great-grand. Blood relatives include those of half-blood. Any blood relative listed in the preceding sentences of the adoptive parent. In the case of adoption, the term excludes the biological parent and the biological parents' relatives. The term includes a spouse of any person named in the group listed in this definition.

Subsidized child day care—[A day] Day care [service to children] paid for in part [or in full] with State or Federal funds.

Suspended subsidy—A temporary lapse of subsidized funding for a child which does not affect the family's eligibility status.

[*TCC—Transitional Child Care Program*—A Department Title IV-A benefit which provides, within established limits, a subsidy to eligible families for the actual cost of child care. Eligibility for TCC benefits is determined by the local CAO.]

TANF—Temporary Assistance for Needy Families Program—42 U.S.C.A. §§ 601—619—A Federal nonentitlement program which provides cash assistance to unemployed individuals who are working toward self-sufficiency. Eligibility for TANF is determined by the local CAO.

[*Training program*—An instructional program which enables the caretaker to establish a basic level of education, to establish basic skills in the English language or to attain skills which qualify the individual for a specific job. The term may include programs which lead to an associate degree but does not include programs which lead to a Baccalaureate or graduate degree]

Unit of care—An enrolled day of care with a single provider for any part of the 24-hour day.

[*Unemancipated minor*—An individual under 18 years of age who occupies the common family residence and who is dependent on the income of the caretaker and the spouse or companion of the caretaker.]

Waiting list—A list maintained by the eligibility agent which contains the names of [caretakers who are] families and their children determined to be eligible to receive subsidized child day care [service], but [who are not yet receiving the service] for whom subsidy is not currently available.

Weekly family fee—The family's copayment for 1 week of subsidized child day care [service].

Wrap-around day care program—A service which complements part-day publicly funded programs, such as Head Start, by providing care during hours of the day that the part-day program does not cover.

§ 3040.4. [Service] Subsidy goal.

The goal of subsidized child day care [service] is to enable [the income-eligible caretaker to be employed or to receive training] a parent of a family eligible for subsidy under this chapter to maintain employment or to be enrolled in an education program.

GENERAL REQUIREMENTS

§ 3040.11. Provision of [service] subsidy.

(a) A [caretaker] parent has the right to apply for subsidized child day care [service for the child in the caretaker's care].

(b) Subsidized child day care [service] may be provided only [to persons] for a child whose family is determined eligible by the eligibility agent and only up to the limits of available subsidized day care funds.

* * * * *

(d) The Department has the responsibility to assure that subsidized child day care is [provided only] authorized to fund only a child of an eligible [families] family. [The Department will exercise its responsibility to monitor eligibility determinations completed by its eligibility agents.]

(e) Subsidized child day care is available only to provide care for children from a family where no other adult is available in the child's home during the hours of the day for which a parent requests subsidized child day care.

(f) The Department will identify, through its contracts with eligibility agents, criteria to be used to access available funding.

§ 3040.12. Notice of nondiscrimination; civil rights compliance.

(a) [A provider or] An eligibility agent may not discriminate against applicants for or recipients of Federal or State subsidized funds on the basis of age, race, sex, color, religious creed, national or ethnic origin, ancestry, **sexual preference** or handicap.

[(b) **Discriminatory practices are specifically prohibited with respect to intake and application procedure, case assignments if applicable, methods of determining eligibility and the amount of the assessed family fee.**]

(b) [(c) A provider or] An eligibility agent is required to offer [service] **child care subsidy** within the provisions of applicable civil rights laws [,] and regulations and amendments or revisions made thereto, as follows:

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§ 3040.14. [Caretaker files] Family file.

An eligibility agent shall establish and maintain a separate **family** file for each [caretaker who requests service] **parent who applies for subsidized child day care.**

(1) The **family** file shall contain documents pertaining to eligibility determination, redetermination, **subsidy authorization**, fee agreements, [service agreements and] written notices required by this chapter and **copies of all material submitted by the parent to verify eligibility and to document a child's disability.**

(2) A [caretaker may] **parent has a right to examine the caretaker's own family file.**

§ 3040.15. Record retention and disposition.

An eligibility agent shall retain [caretaker] **family** files, completed application forms and [corresponding] written notices, and books, records and other fiscal and administrative documents pertaining to subsidized child day care. Records will be retained as follows:

(1) For 4 years from the end of the fiscal year in which **child day care [service activities have] subsidy has been provided.**

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§ 3040.16. Confidentiality.

(a) The Department safeguards the use and disclosure of information on applicants for and recipients of subsidized **child** day care [service]. Agents of the United States, the Commonwealth and the Department who are responsible for review, evaluation or audit functions will have access to, and the right to the use and disclosure of, information on applicants or recipients of **subsidized child** day care [service]. This use and disclosure is confined to the agent's responsibility to carry out review, evaluation or audit functions. Disclosure of information beyond the scope of review, evaluation or audit functions performed by the agents requires the [caretaker's] **parent's** informed and written consent.

(b) **Subsidized child day care information in the family file may be disclosed to the local CAO to ensure that funds are authorized appropriately.**

§ 3040.17. Additional conditions or additional charges.

(a) Additional conditions [or charges] are prohibited as stated in this section. The eligibility agent [or the provider] may not:

(1) Impose eligibility conditions other than conditions listed in this chapter, which may include priorities for, [service] **subsidy**, categories of need or required fees.

(2) Require the [caretaker] **parent to [accept] select a particular [service site] provider or combination of [service sites] providers as a condition of eligibility.**

[(3) **Impose additional charges for services which are not required as a condition of licensure or registration, with the exception of additional charges permitted in subsection (b).**]

(4) **Impose additional charges for services not addressed under the stated terms of a subsidized contract with the Department.]**

(b) Additional charges are permitted [as follows:] by the provider if the same additional charges are also assessed to nonsubsidy eligible families, and the subsidy-eligible family is informed of the additional charges prior to implementation.

[(1) **The provider may impose additional charges for additional program service if:**

(i) **The service is optional for the child.**

(ii) **The provider offers alternative care at the service site at no additional charge at the time the optional service is rendered away from the service site.**

(2) **The provider may impose additional charges for meals or snacks, or both, if:**

(i) **A caretaker is given the written option of providing his own meals or snacks.**

(ii) **The cost of meals or snacks is not included in the daily rate.**

(3) **The provider may impose additional charges when the caretaker's use of the service exceeds the hours of care stated in writing at the time of enrollment.]**

(c) **If a subsidy-eligible parent chooses a provider whose published daily rate exceeds the Department's daily ceiling rate, the provider may assess a fee for an amount that represents the difference between the Department's daily ceiling rate and the provider's published daily rate for the type of care being requested.**

(d) **If a child's absences exceed 30 total enrollment days in a fiscal year, the parent is responsible to pay the provider's published daily rate for each day of absence starting with the 31st absent day. Suspended days of service as referenced in § 3040.52(d) (relating to eligibility agent responsibilities) are not considered days of absence.**

§ 3040.18. Citizenship.

[A caretaker] **An applicant for subsidized child day care service shall be a citizen of the United States [or**

shall be], an alien lawfully admitted for permanent residence or otherwise permanently residing under color of law.

§ 3040.19. [Service] Subsidy disruption.

(a) If a [caretaker's service] child's care at a [subsidized child day care service site] provider is disrupted due to the provider's loss of the Department's certification or [due to the provider's financial difficulty] any other reason which prevents the child's continued care, the [caretaker] child is eligible for [service] subsidy at another [available subsidized child day care service site] provider.

(b) If a [caretaker] child loses [service] care as a result of circumstances referenced in subsection (a), and if funding for subsidized child day care [service] is not immediately available [at] for another [service site] provider, the [caretaker] child's subsidy shall be [placed on] suspended and the child shall be returned to the waiting list [of the service site of the caretaker's choice] according to the date of initial eligibility for subsidized child day care until another provider has been selected and subsidy is available to support care at the selected provider.

(c) If the eligibility agent cannot continue to subsidize the number of children enrolled in subsidized child day care due to a shortfall in State or Federal funding or management of funding by the eligibility agent, subsidy to a child will be suspended. Families with the highest income will be suspended first.

(d) A child whose subsidy has been suspended under this section will be placed on the waiting list according to the date of the child's enrollment in the subsidized child day care program.

§ 3040.20. Limitations and benefits.

(a) A parent's selection of child care providers is limited as follows:

(1) Total child care costs may not exceed 100% of gross annual income when care is needed for one or two children.

(2) Total child care costs may not exceed 150% of gross annual income when care is needed for three children. For each additional child, 50% is added to the gross annual income limit.

(b) A subsidy-eligible child may receive the following benefits:

(1) One unit of care in a 24-hour period.

(2) A maximum of 262 units of care in a fiscal year to include:

(i) A maximum of 15 units of care for provider closures.

(ii) A maximum of 30 units of care for absence from the provider.

(3) Care from a provider eligible to participate in the subsidized child day care program, and who agrees to comply with the Department's standards for provider participation.

(c) A child may not receive subsidy if the child's parent is the operator of a registered family day care home, a certified group day care home or day

care center (see Chapter 3270, 3280 or 3290 (relating to child day care centers; group child day care homes; and family child day care homes)) or is the operator of a legally unregulated day care home.

§ 3040.20a. Grandfathering provisions.

A child who is enrolled in the subsidized child day care program prior to January 1, 1998, may continue to receive subsidized child day care until December 30, 1999, without regard to the eligibility conditions established in this chapter, if:

(1) The family income is between 186 and 235% of the FPIG. If the family income during this period exceeds 235% of the FPIG, the child is ineligible for subsidy. The parent of a child grandfathered under this section shall be required to pay the family fee established for a family of its size at 185% of FPIG effective January 1, 1998.

(2) The family eligibility was established based on the parent's participation in an approved training program and gross family income does not exceed 235% of the FPIG. If the training program which established eligibility is completed prior to December 30, 1999, and, if at that time the parent does not meet the employment requirements, the family is ineligible for subsidy.

§ 3040.28. Composition of a family.

(a) A family may include:

(1) The child for whom subsidized child day care is requested; the child's parent; the parent's spouse or live-in companion; biological, step or adoptive minor siblings of the child; and biological, step or adoptive minor children of the parent or live-in companion, or both.

(2) The child, the child's parent who is a minor, the child's grandparent, the grandparent's spouse or live-in companion and other minor children of the grandparent or live-in companion.

(b) A foster child may be counted as either a separate family or as part of the foster family for purposes of determining family size.

(c) A parent who formerly received TANF shall be exempt from subsection (a)(1) for 6 months from the date TANF benefits were exhausted. The 6-month period will begin the day after TANF eligibility ends.

(d) An individual may not be included in more than one family.

ELIGIBILITY REQUIREMENTS

§ 3040.31. General requirements regarding family eligibility.

[To be eligible] For a child to receive subsidized child day care [service], the family or parent shall [meet the following requirements]:

(1) [The family shall reside] Reside in this Commonwealth. The parent shall apply in his county of residence. In counties where there is more than one eligibility agent for the county, the parent shall apply to the eligibility agent who is assigned the responsibility for the zip code of the family's residence.

(2) **[A family shall be]** Be financially eligible as required by § 3040.32 or § 3040.33 (relating to **[documentation of]** financial eligibility; and documentation of self-employed income).

(3) **[A family shall be]** Be nonfinancially eligible as required by § 3040.34 (relating to **[documentation of]** nonfinancial eligibility).

(4) **Meet employment or education requirements.** A parent entering the subsidized child day care program from the TANF Program shall be employed. A former TANF parent will be assigned a redetermination date 6 months from the day following the date TANF ends. The eligibility agent shall contact the parent within 90 days of the date TANF ends to discuss eligibility criteria for the subsidized child day care program.

(5) **Provide a signed release of information statement for each family member 18 years of age or older permitting the eligibility agent to obtain verification of information provided regarding eligibility requirements.**

(6) **Provide a Social Security number, or evidence of application for a Social Security number, for each family member.**

(7) **Provide documentation that child support has been sought prior to the determination of eligibility for subsidized child day care including:**

(i) **Establishing paternity for a child when a court order regarding support is not available.**

(ii) **Initiating a support action against biological parents by a legal guardian.**

(8) **Provide documentation of legal guardianship.**

§ 3040.31a. **[General requirements regarding family eligibility—statement of policy]** (Reserved).

[A family shall apply in its county of residence to be determined eligible for the subsidized child day care program. In counties where there is more than one eligibility agent for the county, the family shall apply to the eligibility agent who is assigned the responsibility for the zip code of the family's residency.]

§ 3040.32. **[Documentation of financial]** Financial eligibility.

(a) The **[caretaker]** parent shall provide documentation of earned income for employed **[or training]** family members as follows:

(1) **[Paystubs]** Income documentation for any 4 consecutive weeks within the most recent 6 week period. **[Paystubs]** Documentation shall indicate the gross earned income for the 4-week period.

(2) If **[paystubs are]** income documentation is not available at the time of application because the employed family member has not been employed for 4 weeks, written documentation of anticipated gross earned income from the employer is sufficient evidence of earnings. The documentation is satisfactory until, but not after, the **[caretaker]** family member has been employed for **[6]** 8 consecutive weeks.

(3) If **[the]** income is received in cash, written employer documentation of gross earned income for 4 consecutive weeks within the most recent 6-week period is sufficient evidence.

[(b) The caretaker shall provide documentation of employment for employed family members. Documentation of employment shall be dated and signed with the name and title of an approved representative of the employer and includes the following:

(1) **The name of the employer—the legal entity or the business.**

(2) **The days of the week the family member is employed.**

(3) **The starting and ending hours of each day the family member is employed.**

(4) **Information which details the frequency of pay.]**

[(c)] (b) The eligibility agent shall require, and the **[caretaker]** parent shall provide, documentation of all **[other]** unearned family income. See Appendix A, Part I (relating to sources of earned or unearned income to be included **[, deducted and excluded in determining monthly gross income]**) which lists the sources of unearned income which are **[assessed]** to be included when computing the adjusted monthly gross income.

[(d) The earned income of unemancipated minors is not included for purposes of documenting financial eligibility. An individual 18 years of age or older but under 22 years of age who is enrolled in an educational program leading to a degree or diploma may be considered an unemancipated minor if the individual is wholly or partly dependent upon the income of the caretaker and the spouse or companion of the caretaker. That individual may or may not live in the common family residence on a full-time basis.]

(c) The parent shall seek all available income listed in Appendix A, Part I (relating to income inclusions). Exception: Financial assistance available to the family through the CAO will not be counted as available income.

(d) The parent shall document all income deductions listed in Appendix A, Part II (relating to income deductions).

(e) The parent shall document all claimed income exclusions listed in Appendix A, Part III (relating to income exclusions).

(f) **Family income may not exceed the Department's maximum gross income ceiling of 185% FPL.**

§ 3040.33. **Documentation of self-employed income.**

(a) *Determining a self-employed status.* **[For a family member to]** to be considered self-employed, the family member alone shall assume the responsibility for deductions related to withholding taxes, income taxes and Social Security payments. **Social Security payments shall be made in the proper percentage for self-employed persons.** If another person or entity has that responsibility, the **[caretaker cannot]** family member cannot claim a self-employed status.

(b) *Acceptable documentation of income.*

(1) [**Acceptable documentation of income from self-employment is a**] A copy of the [**individual's**] family member's Federal income tax return, including Schedule C (pertaining to self-employment), which was filed [**at the end of**] for the preceding Federal [**fiscal**] tax year and which documents [**the individual's gross earnings**] profit for that year. The family member's profit from Schedule C, or other forms or schedules related to income, will be used as income for purposes of determining eligibility for subsidized child day care.

(2) If the [**individual**] family member cannot [**present**] provide a Federal income tax return which documents [**gross earnings**] profit from self-employment, a notarized statement of gross earnings, minus allowable cost of doing business, for the preceding Federal tax period is acceptable and is valid until the next quarterly Federal tax return is filed. At that time, a redetermination of eligibility shall be completed.

(3) An annual Federal income tax return may only be used as income documentation when the family member has been self-employed for more than 1 year in the same business, and is valid only until the next quarterly statement is filed.

§ 3040.34. [**Documentation of nonfinancial**] Nonfinancial eligibility.

(a) The family shall be nonfinancially eligible based on employment, education and need for child day care.

(b) A [**caretaker**] parent shall provide the following documentation [**of nonfinancial eligibility**] for family members [**as follows**]:

(1) [**The service shall be needed at least 3 days which include at least 20 hours per week. To receive service, the hours of need**] That child day care shall coincide with the hours of [**available service**] the parent's employment or education.

[(2) If service is needed 3 or 4 days per week, a child may be enrolled for 5 days.]

[(3) At] (2) That the parent must indicate that he has worked the number of hours required in paragraph (4) and has at least 4 [**20-hour work**] weeks of employment within the most recent 6-week period [**shall be documented. Documentation shall reference the**]. The number of hours and days employed in each week shall be referenced in the documentation provided to the eligibility agent. [**The eligibility agent may average the hours of employment or training in the 4-week period.**]

(3) [(4) Documentation of enrollment in an accredited training program shall be provided.] That a minor parent is enrolled in an education program and is attending on a full-time basis. Documentation shall be [**dated and signed with the name and title of an approved representative of the training program and include**] provided to the eligibility agent on a form which contains the following:

(i) The name and address of the [**accredited training program or accredited training institution**] school or GED program in which the minor parent is enrolled.

[(ii) The content or course of study of the training and the degree, if any, to be conferred upon completion of the training.]

[(iii)] (ii) The days of the week the [**trainee receives training at the program**] minor parent attends school or a GED program.

[(iv)] (iii) The [**training**] daily hours, to include daily starting and ending times [**of the training**], the minor parent attends school or a GED program.

[(v) The employment for which the trainee is prepared upon completion of the program.]

[(vi)] (iv) The expected [**ending date of training**] high school graduation date, GED program completion date or date the school year ends.

(v) The name, title and signature of the school official who has completed the form and the date of completion.

(4) That a parent shall meet the following employment criteria:

(i) Until June 30, 1998, the parent shall be employed at least 3 days, which includes at least 20 hours of work per week.

(ii) Beginning on July 1, 1998, and continuing through June 30, 1999, the parent shall be employed at least 3 days, which includes at least 25 hours of work per week.

(iii) Beginning on July 1, 1999, the parent shall be employed at least 3 days, which includes at least 30 hours of work per week.

(5) That all family members are citizens or lawfully admitted aliens.

(6) That the parent shall provide identification to the eligibility agent of one or more of the following:

(i) A Social Security card.

(ii) A driver's license.

(iii) A selective service card.

(iv) A passport.

(v) Military discharge papers.

(vi) A voter's registration card.

(viii) Verifiable photo identification.

(7) That the parent shall provide a Social Security number for each family member.

(8) That the parent shall demonstrate the need for subsidized child day care to permit uninterrupted sleeping time necessary to continue employment. The work shift shall end between the hours of 2 a.m. and 9 a.m.

(9) That the county children and youth agency responsible for foster placement has approved, in writing, the enrollment of a foster child in subsidized child day care.

(c) The parent shall provide documentation of employment for all employed family members on a form which includes the following:

(1) The name and address of the employer, and the legal entity or the business.

(2) The telephone number of the employer.

(3) The employe's job title.

(4) The days of the week the family member is employed.

(5) The starting and ending hours of each day the family member is employed.

(6) Information which details the frequency of pay and gross income.

(7) The name, title and signature of the representative of the employer completing the form and the date of completion.

(8) Other information required by the eligibility agent, if approved by the Department.

(d) A self-employed parent shall provide documentation of employment with a notarized statement which contains the information specified in subsection (c), or sign a document in the presence of the eligibility agent.

§ 3040.34a. [Documentation of nonfinancial eligibility—statement of policy] (Reserved).

[A caretaker is not entitled to receive subsidized child day care on days which the caretaker is not employed or enrolled in a training program.]

§ 3040.35. Factors affecting eligibility status.

The [caretaker] parent shall report financial or nonfinancial changes in the family to the eligibility agent within 10 calendar days following the date of the change. The following changes shall be reported:

(1) Employment status, including changes in the rate of pay or days and hours worked.

(2) [Training status] Education program status.

* * * * *

(4) The continuation or completion of [a training program] an education program.

* * * * *

(8) [The documented inability to continue employment or training] Disability status.

* * * * *

(10) [Residency, within this Commonwealth or out of this Commonwealth] Change of address.

(11) [Migrant status] Legal custody or placement under a court order.

§ 3040.36. Inability to be employed or [in training] continue participation in an education program.

(a) If, during a period of subsidized child day care [service], a single [caretaker] parent, or in a two-parent family, one [caretaker] parent or spouse or live-in companion of the [caretaker] parent, or the [caretaker] parent and the spouse or live-in companion of the [caretaker] parent become unable to continue employment, self-employment or [training] their education and the disability renders the parent unable to care for the child, and [if] the [caretaker] parent requests continuing subsidized child day

care service, the condition causing the inability to be employed, self-employed or in [training] an education program and the inability to care for the child shall be documented with the eligibility agent [.] as follows:

(1) [The documentation shall be written] A medical assessment form shall be completed by a licensed or certified psychologist, a licensed physician or [by a] another specialist licensed or certified [specialist] in the area of the disability.

(2) The [documentation] assessment shall describe the condition causing the inability to be employed, self-employed or in [training] an education program.

(3) The assessment shall describe how the condition causing the inability to be employed, self-employed or in an education program prohibits the parent from providing care for the children for whom subsidy is requested.

(4) The assessment shall describe how long the disability is expected to continue.

(b) Subsidized child day care [service] to a [family] child may continue up to [1 year] 6 months if the conditions stated in subsection (a) are met.

(c) A two-parent family may be eligible for subsidized child day care if one parent is disabled and the disability renders that parent unable to be employed, self-employed or educated, and renders the parent unable to provide child care while the nondisabled parent is working. The condition causing the inability to be employed, self-employed or educated, and the inability to provide child care shall be documented with the eligibility agent as stated in subsection (a).

(d) The disability of a parent in a two-parent household shall be further documented by provision of one of the following income information related to disability payment sources:

(1) Social Security Disability.

(2) Supplemental Security Income (SSI).

(3) Worker's Compensation.

(4) One hundred percent Veterans Disability.

(5) One hundred percent of any other type of work-related disability.

(e) If the disabled parent is not receiving income related to the disability, the disabled parent shall apply for disability benefits. The family shall be determined eligible for subsidized child day care until a final decision is made regarding the disabled parent's eligibility for disability benefits, or for no more than 2 years from the date of the onset of the disability, or subsidized child day care, whichever occurs first.

§ 3040.37. Attendance requirements.

(a) The child is expected to attend day care [at the service site] on all days for which the [caretaker] parent agrees that the child needs care. Those days are specified in writing at the time the [family] child is enrolled in [service] subsidized child day care.

(b) [The Department will not subsidize a] A child whose absence exceeds [20] 10 consecutive enrollment days will be determined ineligible for subsidized

child day care funding. Exception: a child whose absence exceeds 10 consecutive enrollment days for reasons listed in § 3040.52(d) (relating to eligibility agent responsibilities).

(c) The Department will not subsidize absences of more than 30 units of care in a fiscal year for an eligible child.

§ 3040.38. Prospective employment or a prospective [training] education program for new parent applicants.

(a) A [caretaker] parent or a family member with prospective employment or prospective enrollment in [a training] an education program as defined in § 3040.3 (relating to definitions) is eligible to apply for subsidized child day care [service] if the following requirements are met:

(1) The employment or [training] education program begins within 30 calendar days following determination of [eligible status] eligibility.

(2) Written verification is provided [, signed and dated by a representative of the prospective employer or training program, documenting] on a form which contains the information indicated in § 3040.34(c) (relating to nonfinancial eligibility), and also documents:

(i) The approximate hours and days of employment or [training] education per week for a 4-week period.

(ii) The approximate gross earnings [, if applicable,] and first expected pay date in the prospective employment [or training program] .

(iii) The anticipated start date of employment or the education program.

[(b) A training program or a vocational training program shall be accredited by a State or National board of examiners.

(c) A training program is one of the following:

(1) Completion of junior high school.

(2) Completion of high school.

(3) Remedial courses at a secondary or postsecondary level required for entrance into an accredited training program.

(4) A training program at a postsecondary level which leads to a specific job.

(5) General Educational Development (GED) training for 20 or more hours per week.

(6) English as a Second Language training for 20 hours or more per week.

(7) A 2-year associate degree program which qualifies an individual for a specific job.]

[(d)] (b) A [child may not be enrolled in subsidized child day care service] child's subsidy may not begin until the [caretaker or family member] parent and his spouse or live-in companion begins employment or [a training] an education program.

[(e) Six] (c) Eight weeks following enrollment of a child based on prospective employment or enrollment in [a training] an education program, the [caretaker] parent shall provide verification of employment or

[training] enrollment in the education program for that [6] 8-week period. Verification shall be in the form described in §§ 3040.32 and 3040.33 (relating to [documentation of] financial eligibility; and documentation of self-employed income), if applicable, and § 3040.34 (relating to [documentation of] nonfinancial eligibility). [Redetermination of the family in this eligibility status requires a new application for service and a new fee agreement.]

(d) If the parent will not receive payment for employment for more than 30 days from the starting date of employment, eligibility will be established based on the anticipated income as estimated by the employer. Until payment for employment is received, the family will be assessed the minimum weekly fee for a family of its size. When payment for employment is received, the parent shall notify the eligibility agent. Upon receipt of the payment notice from the parent the eligibility agent shall do the following:

(1) Within 10 days complete a partial redetermination of eligibility.

(2) Within 20 days adjust the family fee, if applicable.

(e) A parent who has exhausted all available TANF benefits and who has not yet obtained employment may have 30 calendar days of subsidized child day care while seeking work.

§ 3040.39. [Title IV-A child care benefits] (Reserved).

[(a) A family determined eligible by the local CAO for Title IV- A child care benefits is not eligible to receive subsidized child day care service provided with funds made available under this chapter. Individuals not eligible for service include:

(1) A recipient of AFDC benefits who is participating in an approved education or training activity and who is eligible for Title IV-A child care benefits. Exception: Individuals may receive subsidized child day care services under this chapter until the local CAO implements the vendor payment process for recipients in this category.

(2) A prior recipient of AFDC benefits who is eligible for the Title IV-A TCC Program.

(b) When an individual's 12-month period of TCC eligibility has expired, the individual may be eligible for subsidized child day care service and may be placed in service or as first priority on the waiting list, if the following steps are completed:

(1) The application for placement on the subsidized child day care waiting list is completed before the individual's 12-month period of TCC eligibility ended.

(2) An eligibility determination made according to the requirements of this chapter did not include benefits available under TCC. See Appendix A, Part III (relating to sources of earned or unearned income to be included, deducted and excluded in determining monthly gross income.

(3) The date of enrollment in subsidized child day care service is the day following the date TCC benefits end.

(c) An individual whose 12-month period of TCC eligibility has expired and who has not met the requirements of subsection (b)(1) and (2) shall apply as a private caretaker according to the requirements of this chapter.

(d) A recipient of AFDC benefits who is employed and who is eligible for the Title IV-A earned income child care deduction, as determined by the local CAO is eligible for subsidized child day care service.

(1) The eligibility agent shall perform an eligibility determination to assess the family's eligibility for subsidized child day care service.

(2) On a form approved by the Department, the eligibility agent will notify the CAO of the AFDC-employed recipient's eligibility for subsidized child day care service, the amount of the family fee and the date service will begin. The CAO will complete portions of the form regarding adjustments to be made by the CAO to the individual's AFDC monthly grant as a result of Title XX eligibility.

(3) Upon receipt of the form completed by the CAO, the eligibility agent shall take the following actions:

(i) If the CAO information reflects that the AFDC grant is being reduced, the eligibility agent shall redetermine eligibility based on the new income information reported by the CAO.

(ii) If the CAO information reflects that the AFDC grant is being discontinued and that the family is now eligible for the TCC program, the eligibility agent shall advise the caretaker that the family is ineligible in accordance with paragraph (2). Discontinuation of subsidized day care eligibility shall be in accordance with § 3040.71 (relating to general requirements regarding notification).

(iii) On a form approved by the Department, the eligibility agent will notify the CAO of changes in subparagraph (i) or (ii), to include a change in family eligibility or in the amount of the family fee.]

ELIGIBILITY DETERMINATION PROCESS

§ 3040.51. General requirements in the eligibility determination process.

(a) An initial determination of eligibility [shall] will be completed before [service shall] subsidy will be [provided] authorized.

(b) A full redetermination of eligibility shall be completed at least once every [12] 6 months and prior to the expiration of the current period of eligibility.

(c) A redetermination may be required at any time in a period of eligibility if the eligibility agent receives information that the family's eligible status [is] may be altered. See § 3040.35 (relating to factors affecting eligibility status). The eligibility agent shall conduct a partial redetermination for each reported change within 20 calendar days of notification of the change. The eligibility agent may conduct a full redetermination if the information obtained during the partial redetermination gives indication of a change in the family's eligibility status.

§ 3040.52. Eligibility agent responsibilities.

(a) *Initial determination of eligibility.*

(1) The eligibility agent shall provide the [caretaker applicant] parent with written instructions regarding documents which the [applicant] parent shall provide to establish eligibility for subsidized child day care [service].

(2) The eligibility agent [shall arrange] may require a face-to-face interview with the [caretaker applicant] parent or shall arrange to have necessary documents and information mailed by the [applicant] parent to the eligibility agent. When a face-to-face interview is conducted, the eligibility agent shall verify the identity of the parent who has signed the application and will note in the family file how the identity was verified.

(3) If the eligibility interview is face-to-face, the eligibility agent shall require the [applicant] parent to sign and date an application provided by the Department, at the time of the interview.

(4) If the [caretaker] parent mails or delivers the application without a face-to-face interview, the eligibility agent shall stamp the date of receipt on the signed, dated application.

* * * * *

(6) The eligibility agent shall [submit requests for] obtain verification of [caretaker eligibility status related to Title IV-A eligibility] the parent's TANF eligibility status from the local CAO [on a form approved by the Department].

(7) The eligibility agent shall determine eligibility within 30 calendar days [which begin on] of the date the [signed, dated] application, signed and dated by the parent, is received by the eligibility agent.

(8) The eligibility agent shall sign and date the completed application when eligibility has been determined. That date represents the first day of the [caretaker's] family's eligibility for the subsidized child day care [service] program.

(9) The eligibility agent shall notify the [caretaker applicant] parent of the [caretaker's] family's eligibility status according to the Department's notification requirements in § 3040.71 (relating to general requirements regarding notification).

(10) The eligibility agent shall conduct a face-to-face interview before authorization of subsidized day care for a child. [The] At the time of the interview the, eligibility agent shall inform the [caretaker applicant] parent of his rights and responsibilities, as detailed in § 3040.53 (relating to [caretaker] parent rights and responsibilities). The parent shall acknowledge, in writing, receipt of the rights and responsibilities information.

(11) This chapter [shall] will be made available to the [caretaker] parent upon request.

(b) *Subsequent redeterminations of eligibility.*

(1) The eligibility agent shall set a redetermination due date which does not exceed [12] 6 months following the most recent date that the [caretaker] family was determined eligible.

(2) The eligibility agent shall schedule a redetermination, or partial redetermination, to occur in less than [12] 6 months [following the current redetermination] if one or more of the following conditions exist or come to the attention of the eligibility agent:

* * * * *

(iii) [A family member is newly employed or newly self-employed and unable to provide the required documentation.] A family member is self-employed. Eligibility shall be redetermined on a quarterly basis for self-employed individuals.

(iv) A family member is disabled and the disability is anticipated to end prior to 6 months.

(v) A family member's employment is seasonal or temporary.

(vi) A parent's education program ends prior to 6 months.

[(3) The eligibility agent shall establish administrative controls to assure that the caretaker is notified of the responsibility to submit the necessary documentation for a timely redetermination.]

[(4)] (3) The eligibility agent shall notify the [caretaker] parent in writing of the documents and information required to complete a redetermination of the [caretaker's] family's eligibility for subsidized child day care [service]. A copy of that notification shall remain in the [caretaker's] family file.

[(5)] (4) The eligibility agent shall notify the [caretaker] parent of the [caretaker's eligible] family's eligibility status according to the Department's notification requirements in § 3040.71 (relating to general requirements regarding notification).

(5) The eligibility agent shall verify the Social Security number for any family member who did not have a Social Security number at the time of application.

(c) *Continuing eligibility.*

(1) The eligibility agent shall supply the [caretaker] parent with a written statement regarding [caretaker] the parent's responsibility to report financial or nonfinancial changes to the eligibility agent as detailed [at] in § 3040.35 (relating to factors affecting eligibility status). The eligibility agent shall discuss with the parent the specific changes which shall be reported and are listed in § 3040.35 (relating to factors affecting eligibility status).

(2) The eligibility agent shall evaluate a financial or nonfinancial change reported by the [caretaker] parent and make a redetermination as necessary within [10] 20 calendar days from the date the [caretaker] parent reports and documents a change.

(3) If, during a period of eligibility, a [caretaker] parent reports a change in financial or nonfinancial criteria [which does not cause a fee or status

change], the eligibility agent [is not] shall be required to complete a full family redetermination or a partial family redetermination. The eligibility agent retains, in the family file, the information used in the evaluation, but the eligibility agent and [caretaker] parent are not required to complete an eligibility determination form. The original period of eligibility will not be changed as a result of a partial redetermination.

(4) If a reported change results in the family, or a child in the family, becoming ineligible for [service] subsidy, the eligibility agent shall take the necessary steps to terminate the [service] subsidy according to § 3040.71 and § 3040.72 (relating to content of a written notice of adverse action).

(5) Eligibility continues for 30 calendar days from [the date a training program is completed,] the date of involuntary termination from employment [or training or] the date a strike begins or the date of graduation from an education program.

* * * * *

(7) Eligibility for subsidy will continue in the case of regularly scheduled breaks in an education program, if the regularly scheduled break is less than 31 days.

(d) *Suspended subsidy.*

(1) Child day care subsidy may be suspended if a child is unable to attend day care for more than 10 consecutive enrollment days and will be absent for no more than 90 consecutive calendar days. On the 91st day of consecutive absence, the child is no longer eligible for subsidy. Subsidy may be suspended for one or more of the following situations:

(i) The child is visiting the noncustodial parent.

(ii) The child is ill or hospitalized for 5 or more service days.

(iii) The child must accompany the parent on a trip because of family illness or emergency, and the illness or emergency is documented.

(iv) The child remains at home with his mother during maternity leave.

(v) The child day care provider is closed because of licensing requirements.

(vi) The child's needs cannot continue to be met by the child day care provider.

(vii) The child's needs cannot continue to be met by the child day care provider, and subsidized child day care funds are not available to utilize the newly chosen provider.

(viii) The child's parent is a minor parent on break from attendance at elementary school, middle school or high school.

§ 3040.53. [Caretaker] parent rights and responsibilities.

(a) A [caretaker applicant] parent shall provide all documentation required by the eligibility agent prior to [being determined eligible or ineligible] an eligibility determination for subsidized child day care [service].

(b) **[The caretaker applicant]** A parent shall sign and date **[an]** the application for subsidized child day care **[service]**.

(c) A **[caretaker]** parent has the right to have the eligibility determination completed within 30 calendar days after the eligibility agent receives the signed and dated **[caretaker]** subsidized child day care application.

(d) A **[caretaker]** parent has the right to receive written notification regarding **[a determination of the caretaker's ineligibility for care]** the family eligibility status.

(e) A **[caretaker]** parent has the right to appeal the eligibility agent's determination as provided in § 3040.73 (relating to grounds for appeal).

(f) A **[caretaker]** parent shall report financial or nonfinancial changes in **[a]** the family which affect eligibility for **[service]** subsidy, as required **[at]** in § 3040.35 (relating to factors affecting eligibility status) and provide documentation as required by the eligibility agent to verify change.

(g) A parent shall meet at least once face-to-face with the eligibility agent prior to enrollment of a child for subsidized child day care.

(h) A parent shall supply accurate and complete financial and nonfinancial information to determine eligibility for subsidized child day care.

§ 3040.54. **[Establishing waiting]** Waiting list **[service priorities]**.

[(a)] After completion of an application and determination of the family's eligibility for **[service]** subsidy, **[a]** an eligible child shall be placed on a waiting list, if funds for service are not available, based on **[the following priorities:]** a first come, first served basis. Placement on the waiting list shall be determined by the date and time eligibility for the child was determined.

[(1) A caretaker who is employed, who is moving from welfare dependency, whose income is between 0 and 235% of the FPL and who is not eligible for Title IV-A child care entitlement benefits. Exception: a caretaker who is participating in an approved education or training activity, until the local CAO implements the vendor payment system.

(2) A caretaker who is employed and whose income is between 0 and 185% of the FPL.

(3) A caretaker who is employed and whose income is between 186 and 235% of the FPL.

(4) A caretaker who is in a training status and who is not receiving AFDC benefits.

(b) If two or more caretaker applicants achieve the same priority ranking based on the priorities in subsection (a), the date eligibility is determined shall determine the applicant's placement on the waiting list.]

§ 3040.54a. **[Establishing waiting list service priorities—statement of policy]** (Reserved).

[The first priority includes the following individuals:

(1) A caretaker who is employed and who currently receives AFDC benefits.

(2) A caretaker who is no longer eligible for TCC benefits under the Family Support Act of 1988, due to the expiration of the caretaker's 12-month period of eligibility.

(3) A caretaker who receives AFDC benefits and who is participating in an approved educational or training activity through the local CAO, until the CAO implements the vendor payment system.]

§ 3040.55. **Maintaining a waiting list.**

(a) A **[caretaker]** family with a child remaining on a waiting list prior to **[service]** receiving subsidy will be redetermined eligible for **[service]** subsidy at least once in a **[12]** 6-month period. **[A redetermination shall be completed prior to the use of subsidized child day care service.**

(b) A caretaker who is on a waiting list prior to July 1, 1992, will retain placement on the waiting list, based on the sole criterion of the initial date eligibility for service was determined. Service priorities may not be applied to a caretaker in this category.

(c) The waiting list priority placement of a caretaker initially determined eligible for subsidized child day care service following July 1, 1992, may change based on information, obtained in a redetermination.] (b) A child may not remain on the waiting list for more than 30 calendar days from the date subsidy is made available by the eligibility agent.

[(d) A child new to a family following the date the caretaker was initially determined eligible for subsidized child day care services is placed on a waiting list according to the caretaker's original date of eligibility if funding for service is not immediately available.] (c) If a parent requests subsidized child day care for an additional child following the date the family was initially determined eligible for subsidized child care, the child will be placed on the waiting list according to the date and time that the parent requests care for the child.

FEES

§ 3040.61. **General requirements regarding fee payment.**

(a) The eligibility agent determines the weekly family fee during the eligibility process. The parent is responsible for paying the assessed weekly family fee to the provider when a child is enrolled in subsidy. A weekly family fee for service shall be established at an initial determination of eligibility for subsidized child day care **[service]** and reestablished at each successive redetermination of eligibility. The weekly family fee covers children in the family who are eligible to receive subsidized child day care. The fee includes all days of the week for which the family has **[agreed to use the service]** established a need for child care as described in § 3040.34 (relating to nonfinancial eligibility).

(b) A **[caretaker admitted for service]** parent whose child is authorized for subsidy is required to pay a weekly family fee and an equivalent advance

weekly family fee prior to enrollment in [**service**] **subsidy**. Only the weekly **family** fee is due thereafter. [**A caretaker whose only day care child is enrolled in part-time school-age service is required to pay the assessed weekly family fee on a biweekly basis during the school year. This subsection does not apply to a caretaker with two or more children enrolled in child day care and does not apply during summer vacation when the school year has concluded.**]

(c) If the weekly family fee is increased as a result of a redetermination, the [**caretaker**] **parent** shall owe the increased weekly family fee and an advance increased weekly family fee on the first day of the service week following expiration of the notice of **weekly family** fee increase. The increased advance **weekly** family fee is the amount of the difference between the current weekly family fee and the increased weekly family fee.

(d) If the weekly family fee is decreased as [**a**] the result of a redetermination, the reduced fee will be effective on the first day of the service week following the date of the redetermination. The decrease between the current advance weekly family fee and the decreased weekly family fee shall be refunded to the [**caretaker**] **parent** on the first day of the service week following the redetermination.

(e) The advance weekly family fee and an increased advance weekly family [**fees are**] **fee** is refundable at the termination of [**service**] **subsidy** if the [**care-taker**] **parent** has met applicable requirements in this chapter.

(f) The [**regular**] **weekly** family fee [**for service**] is due on the first day of the [**service**] week.

(g) A **weekly family** fee is delinquent if it is not paid by the [**end of the 5th**] **last** day of the [**service**] week. On the day that the fee becomes delinquent, the eligibility agent shall notify the [**caretaker**] **parent** in writing that action will be taken to terminate [**service**] **subsidy** for the child. **When a weekly family fee is delinquent, the first fee paid during any week is applied to the current week's assessed weekly family fee. Subsequent fee payments during that week are applied to the delinquent fee. To remain current regarding the assessed weekly family fee payment, a parent shall pay the current week's fee and the delinquent weekly family fee.**

(h) The following are the responsibilities of the eligibility agent [**and provider**]:

(1) The eligibility agent shall assure that required termination notices based on delinquent **weekly family** fees are generated in a timely manner. The eligibility agent shall retain a copy of the termination notice.

(2) The **eligibility agent shall send the provider [shall receive and retain]** a copy of [**termination notices**] **each advance notice of adverse action issued to a parent whose child is enrolled with the provider.**

(3) If a **weekly family** fee is delinquent, the eligibility agent shall mail to the [**caretaker**] **parent**, on a form approved by the Department, a written notice of termination at the end of the [**5th**] **last** service day of the service week in which **the weekly family** fee delin-

quency occurred. The written notice shall state that service will terminate in 10 calendar days unless the delinquent **weekly family** fee is paid.

(4) If, during 1 year's eligibility, the [**caretaker**] **parent** has been sent two written notices of termination [**due**] **relating** to overdue **weekly family** fees and has paid the overdue **weekly** fees prior to [**service**] **subsidy** termination, at the time of the third [**lapsed payment**] **overdue weekly family fee**, the eligibility agent shall initiate action to terminate [**the service**] **child care subsidy** on the basis of habitual delinquency in **weekly family** fee payment. [**The caretaker may appeal the action but does not have the right to continuing service pending hearing. See § 3040.74 (relating to appeal: continuation of service denied).**]

(i) If [**service**] **subsidy** to a [**caretaker**] **child** terminates and **weekly family** fees are owed to the provider, [**past due fees shall be paid before service to that caretaker may be resumed**] **the parent is ineligible to reapply for subsidized child day care for 90 calendar days after the delinquent weekly family fees have been paid.**

§ 3040.62. Availability and use of the FPIG.

(a) The FPIG are published annually in the *Federal Register* and may be obtained from the [**Department**] **Department's Office of Children, Youth and Families.**

(b) The eligibility agent shall use the FPIG and a conversion method described [**at**] **in** § 3040.63 (relating to [**computing**] **determining** a weekly family fee) to [**arrive at**] **calculate** a weekly family fee.

(c) Following annual publication of the FPIG, the Department will notify the eligibility agent of changes in the [**conversion chart**] **family fee scale chart** contained in Appendix B [**relating to 1995-1996 Federal Poverty Income Guidelines and DPW Conversion Chart**]. The [**Department**] **Department's Office of Children, Youth and Families** will publish updated fee conversion charts in the *Pennsylvania Bulletin* to be recommended for codification [**at**] **in** Appendix B.

* * * * *

§ 3040.63. [**Computing**] **Determining** a weekly family fee.

(a) The eligibility agent shall use the [**conversion chart in Appendix B (relating to 1995-1996 Federal Poverty Income Guidelines and DPW Conversion Chart) and fee formula**] **family fee scale chart in Appendix B issued prior to July 1 of each year by the Department**, when completing an eligibility determination, as follows:

(1) To determine the adjusted monthly gross income, use [**evidence**] **documentation** of 4 **consecutive** weeks of income from employment which was obtained within the most recent 6-week period. Include other sources of income referenced in Appendix A (relating to sources of earned or unearned income to be included, deducted and excluded in determining monthly gross income). Following is the conversion method to determine adjusted monthly gross income:

<i>Frequency of income</i>	<i>Conversion method</i>	%FPL	N	+/-
Daily	Multiply the daily income by the number of workdays in a week, then multiply by [4.33] 4.3 for monthly gross income .	60%	8%	\$5
		70%	8.5%	5
		80%	9%	5
		90%	9.5%	5
		100%	10%	5
Weekly	Multiply by [4.33] 4.3 for monthly gross income .	110%	10.5%	5
		120%	11%	5
		130%	11.5%	10
		140%	12%	10
Biweekly (every [two] 2 weeks)	Divide by 2, then multiply by [4.33] 4.3 for monthly gross income .	150%	12.5%	10
		160%	13%	10
		170%	13.5%	10
		180%	14%	15
		185%	14.5%	15
Semimonthly (twice a month [, all public assistance])	Multiply by 2 for monthly gross income.			
Lump sum income	Divide by 12 for monthly gross income.			

(2) To convert the adjusted monthly gross income to an annual income, multiply the adjusted monthly gross income by 12. Following is the conversion method to determine annual income:

<i>Frequency of income</i>	<i>Conversion method</i>
Monthly (once a month)	Multiply by 12 for annual income .
Quarterly (as seen in dividends or income tax statements of self-employed persons)	Multiply by 4 for annual income .
Annually (when using previous year's income tax return as documentation)	Use annual figure given in tax return.
Lump sum income	Use the figure given.

[(3) Locate the corresponding annual income by family size in Appendix B.

(4) Determine whether the annual income for the family size exceeds 235% of the FPL for a family of that size.]

(b) If the annual income for the family size exceeds **[235%] 185%** of the FPL, the family is not eligible for subsidized child day care **[service]**.

(c) If the annual income for the family size does not exceed **[235%] 185%** of the FPL, the eligibility agent may proceed with the remaining steps of the **weekly family fee** determination process:

(1) Locate, in Appendix B, the **family's** annual gross income **in the most recently distributed FPIG charts** for the **[appropriate]** family size, and **identify the FPL level for that income**. The FPIG amounts are published annually in the *Federal Register* with an effective date of July 1 of the year in which they are published. When a family's annual gross income falls between two FPL levels, the highest FPL level will be used as the family's FPL percentage.

(2) **[The annual gross income for the family size determines the multiplier known as N. That figure is found in column "N" of Appendix B.]** Using the chart below, determine the multiplier, known as "N," for the family's FPL percentage.

(3) **[Subtract from the annual gross income 50% of the FPL for the family size.]** Using the annual gross family income from paragraph (1), determine the lower FPL% for that income in the chart in paragraph (2). Locate the annual income amount for that FPL%. Add \$1 to that income amount. Multiply by "N." This amount is the standard annual family fee.

(4) **[Multiply the figure calculated in paragraph (3) by the "N" multiplier calculated in paragraph (2) and divide that number by 52. That figure represents the weekly family fee.]** Divide the annual family fee by 52 to determine the standard weekly family fee.

(5) Round **down** the weekly family fee found in paragraph (4) to the nearest \$5. **[A fee which exceeds more than one-half of the difference between increments of \$5 should be rounded up to the nearest \$5 amount. A fee which is less than one-half of the difference between increments of \$5 should be rounded down to the nearest \$5 amount.]**

(6) **[The fee formula can be represented as follows:**

$$\text{Weekly Family Fee} = \frac{N \times (\text{Annual Gross Family Income} - \frac{1}{2} \text{ FPL})}{52}$$

(7) The fee determination formula represents the Department's weekly family fee. A parent may choose a child day care provider whose rates are higher or lower than the rates included in the range for the standard weekly family fee.

(8) The weekly family fee is based on an "average child care rate." The "average child care rate" is determined by adding the total amount of provider rates for all children for whom the parent is requesting subsidized child day care, and dividing that total by the number of children for whom subsidy is requested.

(9) If the "average child care rate" is less than the Department's standard family fee, the family fee will be reduced by the corresponding amount in the "+/-" column of the chart in paragraph (2) according to the family's FPL.

(10) If the "average child care rate" is greater than the Department's standard family fee, the family fee will be increased by the corresponding amount in "+/-" column of the chart in paragraph (2) according to the family's FPL.

(d) If the weekly family fee exceeds the weekly [**cost of care**] **provider rate for care**, the family is not eligible for subsidized child day care [**service**].

(e) If [**computation of**] the weekly family fee [**yields a**] is 0 or a negative number, [**a**] the minimum fee [**of \$5**] for the family size shall be assessed.

§ 3040.64. [**Departmental**] **The Department's** payment.

If the weekly family fee does not exceed the weekly [**cost of care and,**] **provider rate for care**, and if the family annual gross income does not exceed [**235**] **185%** of the FPIG, the difference between the weekly cost of care and the weekly family fee represents the Department's copayment for subsidized child day care [**service**].

NOTIFICATION REQUIREMENTS

§ 3040.71. **General requirements regarding notification.**

(a) The eligibility agent shall notify the [**caretaker**] **parent in writing** of the results of the eligibility determination. Notification shall occur within 30 calendar days following the date the eligibility agent receives a [**completed**] **signed and dated** application from the [**caretaker**] **parent**.

(b) The eligibility agent shall notify the [**caretaker orally or**] **parent** in writing of an eligibility determination which renders the [**caretaker**] **family** eligible for [**service**] **subsidy**. The notification shall include the following:

(1) The amount of the **assessed** weekly family fee.

(2) The [**caretaker's**] **parent's** responsibility to report changes in circumstances cited in §§ 3040.32—3040.34 (relating to [**documentation of**] financial eligibility; documentation of self-employed income; and [**documentation of**] nonfinancial eligibility).

(c) Eligibility agents shall [**, by means of**] **on** a written notice form approved by the Department, notify each [**caretaker**] **parent** of a determination or redetermination resulting in ineligibility for subsidized child day care [**service**].

(d) At least 10 calendar days before the adverse action is effective, the eligibility agent shall hand deliver or mail the adverse action notice to the [**caretaker**] **parent**. The 10-day period begins on the day following the day the written notice is hand delivered or mailed to the [**caretaker**] **parent**.

(e) If the 10-day period ends on a holiday or a day when the [**service site**] **eligibility agent** is not open for business, the next business day is considered the 10th day.

(f) **The eligibility agent shall, by written notice of the parent, confirm the parent's voluntary withdrawal of a child from subsidized child day care.**

§ 3040.72. **Content of a written notice of adverse action.**

(a) Written notices to [**applicants**] **a parent regarding the family's eligibility** for [**service and to care-**

takers receiving service which are issued under this section] **subsidy** shall be prepared on a form approved by the Department and include the following:

* * * * *

(4) A statement explaining the right of the [**caretaker**] **parent** to appeal the adverse action and to receive a Departmental hearing. The following information will be included in the statement:

(i) An appeal shall be submitted to the eligibility agent. The appeal shall be in writing and be mailed within 30 calendar days of the date the written notice was mailed or hand delivered to the [**caretaker**] **parent**.

(ii) If service is to be continued pending a Departmental hearing decision, a written request for a Departmental hearing shall be postmarked no later than 10 calendar days following the date the written notice was mailed or hand delivered to the [**caretaker**] **parent by the eligibility agent**. Exceptions to service continuation are contained [**at**] **in** § 3040.74 (relating to appeal: continuation of [**service**] **subsidy** denied).

(iii) The [**exact**] **specific** date by which the appeal and request for a hearing shall be postmarked or hand delivered to the eligibility agent.

(iv) A request for a Departmental hearing postmarked from the 11th calendar day [**and to**] **through** the 30th calendar day from the date the written notice was mailed or hand delivered to the [**caretaker**] **parent** will be accepted by the Department's [**Office**] **Bureau** of Hearings and Appeals, but [**service will**] **subsidy may not** be continued pending the hearing decision. **The parent may reapply for subsidized child day care while awaiting the hearing decision.**

(v) A request for a Departmental hearing postmarked or hand delivered after the date required in subparagraph (iii) may be dismissed by the [**Office**] **Bureau** of Hearings and Appeals, under Chapter 275 (relating to appeal and fair hearing and administrative disqualification hearings), without a hearing.

(vi) The conditions specified in § 3040.78 (relating to continuing [**service**] **subsidy** and fee payment during an appeal) which become effective if a [**caretaker**] **parent** appeals an adverse action.

(5) **A statement of agreement by the parent to repay all subsidy received by the family if subsidized child day care continues while awaiting an appeal decision if the decision is in favor of the eligibility agent/department.**

(b) Following the preparation of a written notice of adverse action, the eligibility agent shall:

(1) Mail or hand deliver, within 1 working day of preparation, the original and one copy of the notice to the [**caretaker**] **parent**.

(2) Retain a copy of the notice in the [**caretaker's**] **family file**.

§ 3040.73. **Grounds for appeal.**

A [**caretaker**] **parent** has the right to request a Departmental hearing to appeal the following:

(1) The denial of [**service**] **subsidy**.

(2) The termination of [**service**] **subsidy**.

(3) The computation of **[a] the weekly family fee amount.**

(4) The eligibility agent's failure to act upon a request for **[service] subsidy** within the time limits specified **[by] in § 3040.52** (relating to eligibility agent responsibilities).

(5) **[Service] Subsidy** disruption, as detailed in § 3040.19 (relating to **[service] subsidy** disruption).

§ 3040.74. Appeal: continuation of **[service] subsidy** denied.

(a) The **[caretaker] parent** has the right to appeal a decision which is based solely on changes in Federal or State law or regulations, but **[service] subsidy** will not **[be continued] continue** pending a hearing.

(b) The **[caretaker] parent** has the right to appeal the termination **[based on unpaid fees as described in § 3040.61(h)(4) (relating to general requirements regarding fee payment), but service will not be continued]** of subsidy when the eligibility agent lacks funding to continue subsidy to a child as indicated in § 3040.19(c) (relating to subsidy disruption). However, subsidy will not continue pending a hearing.

(c) **A parent eligible for subsidy under § 3040.38(e) (relating to prospective employment or a prospective education program for new parent applicants) has the right to appeal the termination of subsidized child day care, but is not entitled to receive continued subsidy pending the final decision of the Bureau of Hearings and Appeals.**

§ 3040.75. Filing an appeal: **[caretaker responsibility] parent responsibilities.**

(a) A **[caretaker requesting to appeal] parent appealing** an adverse action shall submit a written request to the eligibility agent in accordance with Chapter 275 (relating to appeal and fair hearing and administrative disqualification hearings). The **[caretaker] parent** shall specify the reason for the appeal, the current address and a telephone number where the **[caretaker] parent** can be reached during the day.

(b) A **[caretaker] parent** may have anyone represent him at the hearing, whether or not the representative is an attorney.

(c) If the **[caretaker] parent** desires that **[service] subsidy** continue pending a **[Departmental hearing and] final decision**, the **[caretaker] parent** shall submit **[an] a written** appeal within the time limits specified in § 3040.72 (relating to content of a written notice of adverse action). The **[caretaker] parent** is responsible for timely payment of the weekly family fee which was in effect prior to issuance of the adverse action until a decision is rendered in the appeal hearing.

§ 3040.76. Filing an appeal: eligibility agent **[responsibility] responsibilities.**

(a) If the **[caretaker] parent** is unable to prepare a written appeal, the eligibility agent shall assist the **[caretaker] parent** in preparing a written appeal.

* * * * *

(c) The eligibility agent shall forward a copy of the request for appeal to the Department's **[Office] Bureau** of Hearings and Appeals within 3 working days from the date the appeal was received.

(d) The eligibility agent may not take the proposed adverse action until 10 calendar days from the date of the delivery or mailing of the adverse action **[has] have** elapsed, and then only if the **[caretaker] parent** has not filed an appeal. **[Service] Subsidy** may be continued only if the **[caretaker] parent** meets the requirements in § 3040.78 (relating to continuing **[service] subsidy** and fee payment during an appeal).

(e) The eligibility agent may take the proposed adverse action before 10 calendar days have elapsed when a **[service site] provider** closes for financial difficulties or loss of certification, **or funding is not available to continue subsidized day care to the child.**

§ 3040.77. Departmental actions.

(a) **[Unless the appeal is] If a parent** officially **[withdrawn] withdraws an appeal**, the eligibility agent or the Department, if appropriate, shall take part in the scheduled hearing to justify the action to which the **[caretaker] parent** objects. If the **[caretaker] parent** fails to appear at the hearing, the decision of the eligibility agent or the Department will be sustained by the Department's **[Office] Bureau** of Hearings and Appeals. If the eligibility agent or the Department fails to appear at the hearing, the **[caretaker's] parent** appeal will be sustained by the Department's **[Office] Bureau** of Hearings and Appeals. See Chapter 275 (relating to appeal and fair hearing and administrative disqualification hearings). **If neither the eligibility agent or the parent appears for the hearing, the hearing officer will reschedule the hearing.**

(b) The Department's **[Office] Bureau** of Hearings and Appeals will notify the eligibility agent and the **[caretaker] parent**, in writing, when disposition of the appeal is made. The eligibility agent shall, and the Department will, implement the final administrative action within the time limit ordered by the Department's **[Office] Bureau** of Hearings and Appeals, **or on the first day child care is needed in the week following receipt of the ordered administrative action. If the Bureau of Hearings and Appeals finds in favor of the eligibility agent/Department, and subsidy has been continued pending the hearing, the family may not be subsequently determined eligible for subsidized care in this Commonwealth until the amount of the subsidy received during the period of ineligibility has been repaid.**

(c) The Department's **[Office] Bureau** of Hearings and Appeals may conduct a hearing by way of a telephone conference call with the parties to the appeal, including the **[caretaker] parent**, the **[caretaker's] parent's** authorized representative, the eligibility agent, the Department and the Hearing Officer. The **[caretaker] parent** has the right to request a face-to-face hearing instead of a telephone hearing. Face-to-face hearings will be held in locations specified by the Department's **[Office] Bureau** of Hearings and Appeals.

* * * * *

§ 3040.78. Continuing **[service] subsidy** and fee payment during an appeal.

(a) If the [caretaker] parent files a timely appeal prior to the date the adverse action is scheduled to take place, [service] subsidy continues until the appeal is heard and a final decision is rendered by the Bureau of Hearings and Appeals. The [caretaker] parent shall continue to make timely payment of the weekly family fee in effect prior to the adverse action, as referenced [at] in §§ 3040.61 and 3040.75(c) (relating to general requirements regarding fee payment; and filing an appeal: [caretaker responsibility] parent responsibilities).

(b) If subsidy continues during the appeal process and the Bureau of Hearings and Appeals finds in favor of the Department, the parent will be required to reimburse the Department for the subsidy paid for the child in care from the initial effective date of the adverse action until the date subsidy is discontinued based on the final decision of the Bureau of Hearings and Appeals.

(c) The parent has the right to appeal an increased weekly family fee which occurs as a result of a redetermination of eligibility. The parent shall pay the provider the increased fee pending the final decision of the Bureau of Hearings and Appeals. Payment of the increased fee is required if the eligibility agent has calculated family income using the methods described in § 3040.63 (relating to determining a weekly family fee).

OVERPAYMENT, REPAYMENT AND DISQUALIFICATION

§ 3040.91. Overpayment.

(a) An overpayment exists when a child receives subsidized child day care for which the family is not eligible.

(b) The cause of an overpayment may be classified as:

- (1) Fraudulent misrepresentation by the parent.
- (2) Error by an eligibility agent or parent. Error may result from one of the following:
 - (i) A parent misunderstanding of eligibility requirements or failure to provide information.
 - (ii) An innocent concealment of facts by the parent.
 - (iii) The omission or error of an eligibility agent in obtaining or acting upon information.

(c) The Department is responsible for identification of overpayments and for the recovery of overpayment from a parent. The Office of the Inspector General (OIG) conducts fraud investigations and recovers overpayments for the Department. The OIG has the authority to:

- (1) Refer an overpayment case for criminal prosecution.
- (2) Refer a parent receiving subsidized child day care benefits for an Administrative Disqualification Hearing (ADH) if evidence exists of an intentional program violation.
- (d) A parent who applies for or whose child receives a subsidy for child day care has an obligation to report any changes in family circumstances as required in this chapter. See § 3040.35 (relating to factors affecting eligibility status). The parent is responsible for reporting any changes which apply to the parent and to all other family members.

(e) The eligibility agent has the obligation to explain eligibility requirements to the parent. The eligibility agent shall be alert to change in family circumstances and shall advise the parent on specific reporting requirements appropriate to the situation. The plan for reporting changes will be entered into the family file.

(f) The eligibility agent shall inform the parent that subsidy the child receives during the period of the parent's appeal shall be reimbursed to the Department if the Bureau of Hearings and Appeals denies the parent's appeal.

§ 3040.92. Repayment requirements.

(a) The eligibility agent shall verify all cases of suspected overpayment. If the parent does not provide information related to the eligibility agent's requests for verification, the parent faces termination of subsidized child day care. If the parent fails to provide verification requested, the eligibility agent shall obtain the information needed without the consent of the parent.

(b) The eligibility agent initially determines suspected fraud. Suspected fraud is determined based on the intent of the parent to receive benefits the child is not entitled to.

(c) The parent shall make repayment when subsidized child day care is provided for which the family was not eligible.

(d) The eligibility agent will have the responsibility for determining ineligibility and eligibility for subsidized child day care. When a voluntary termination of subsidized child day care is requested by the parent, information will be obtained concerning the reasons for termination. The eligibility agent will determine whether the voluntary request for termination is timely or whether overpayment has occurred.

(1) When the voluntary termination is due to additional income, the eligibility agent will follow up to establish the amount and the date of the income increase.

(2) When the voluntary termination is due to termination of employment by the parent, the eligibility agent will establish the date and reason for termination of employment.

(e) If overpayment has occurred in either subsection (d)(1) or (2), repayment will be sought by the eligibility agent. When specific reasons for a voluntary termination due to income or employment termination are not provided by the parent, and all reasonable efforts to obtain the information fail, the eligibility agent will make a notation as a last entry in the family file. The eligibility agent will make this notation so that at any subsequent application, the eligibility agent will be alerted that the situation be addressed through the following action:

- (1) The exploration of possible overpayment.
- (2) A review of the parent's past reporting reliability.

§ 3040.93. Procedures for the parent to repay an overpayment.

(a) The Department is responsible for determining overpayments.

(1) Eligibility agents have the ongoing responsibility to determine and redetermine eligibility for subsidized child day care. Eligibility agent duties are:

(i) To explore possible overpayment in active and terminated cases.

(ii) To identify possible overpayment.

(iii) To identify the cause of overpayment.

(iv) To recommend to the Department that action to be taken on a referred overpayment.

(v) To furnish the Department with current information which may affect Departmental action on referred overpayment.

(2) The eligibility agent is responsible to investigate any complaint relating to a child receiving subsidized child day care for which the family may not be eligible. The eligibility agent will focus on the facts of the complaint in the investigation.

(b) The eligibility agent will determine if an overpayment has occurred.

(c) The eligibility agent will act to assure the confidentiality of the informant in a complaint investigation.

(d) The eligibility agent will make referrals for overpayment collection. The referrals will be made to the Office of the Inspector General (OIG) under the following guidelines:

(1) Overpayments of \$3,500 or more will be referred by the eligibility agent to the Department for follow-up for collection.

(2) Overpayments of less than \$3,500 will be the responsibility of the eligibility agent for collection.

(e) The eligibility agent will compute the subsidized child day care overpayment claim amount. The Department will verify the computation of subsidized child day care overpayment claims in subsection (c).

(f) The eligibility agent will cooperate in activities involving prosecution of suspected cases of fraud.

(g) The Department is responsible for collecting and settling overpayments identified in subsection (c)(1). The eligibility agent is responsible for collecting and settling overpayments identified in subsection (c)(2). The courts will determine the method of collection if a parent is found guilty of fraud.

(h) The collection of overpayment will be accomplished in the following manner:

(1) Collection from a parent whose child continues to receive subsidized day care is as follows:

(i) The parent will be notified by a letter which indicates that a repayment is required, the amount of the repayment and the options for repayment as follows:

(A) A one-time payment in full of the amount owed.

(B) A partial one-time payment on the full amount of the overpayment and an increase in the weekly family fee to be paid until the repayment is complete.

(C) An increase in the weekly family fee until the repayment is complete.

(ii) If the parent does not select an option identified in paragraph (1)(i), the eligibility agent will automatically implement an increase to the weekly family fee until the repayment is complete. The parent will be notified by a second letter of failure to choose a repayment option, the amount of the increased weekly family fee and the number of weeks the increase payment will be continued. Family fee increases assessed under this subsection will be subject to the following conditions:

(A) Weekly family fee increases implemented to collect overpayments may not exceed an amount greater than 5% of the family's monthly income.

(B) A parent may choose to increase the weekly family fee to repay an overpayment in a shorter period of time.

(C) The eligibility agent will issue an advance notice under § 3040.71 (relating to general requirements regarding notification) before implementation of an increase in the weekly family fee.

(D) The eligibility agent will establish controls to reduce the assessed increased fee upon full repayment of the overpayment claim.

(iii) When an overpayment claim cannot be fully repaid because subsidy is terminated, the eligibility agent will:

(A) Notify the Department of the discontinuance date and the amount recouped.

(B) Document the family record.

(C) Establish controls to identify the outstanding overpayment so repayment may be resumed if the family is determined eligible for subsidized child day care at a later date.

(2) Collection from a family whose child is no longer receiving subsidized child day care services is as follows:

(i) The Department will notify the parent by letter of the overpayment, the amount of the overpayment and require full repayment. This notice will require a response within 10 calendar days.

(ii) If the parent fails to respond, a second letter will be sent which reiterates the information contained in the letter required in subparagraph (i) and requests a response within 10 calendar days.

(iii) If the parent fails to respond to the second letter, the Department may institute civil proceedings. If legal action is initiated the Department will notify the eligibility agent.

§ 3040.94. Disqualification.

(a) The Office of the Inspector General (OIG) may refer a parent applying for subsidized child day care for an Administrative Disqualification Hearing (ADH) if there is evidence of fraud.

(b) A parent and all eligible children in the family will be disqualified from participation in the subsidized child day care program if one of the following applies:

(1) A Federal or State court finds that the parent committed fraud in its application for or receipt of subsidized child day care.

(2) The parent is found, through an ADH to have committed an Intentional Program Violation (IPV).

(3) The parent signs a disqualification consent agreement as part of a court's deferred adjudication process.

(4) The parent agrees to be disqualified by signing an ADH waiver.

(c) Upon disqualification under subsection (b), a parent and all eligible children will be prohibited from participation in the subsidized child day care program:

(1) For 1 year for the first offense.

(2) Permanently for a second offense.

(d) Disqualification will be imposed within 45 calendar days from one of the following:

(1) The date a court imposed sentence after a finding of guilt or acceptance of plea of nolo contendere or approved a deferred adjudication.

(2) The date the Bureau of Hearings and Appeals rendered an ADH decision against the parent.

(3) The date a parent signed an ADH waiver.

(e) A parent will not have the right to request a Departmental hearing on the conditions underlying any court conviction or ADH decision which led to disqualification from the subsidized child day care program. Facts unrelated to those which led to the court or ADH decision (such as a child's disqualification or whether the disqualification penalty imposed is for a first or second offense) may be appealed.

(g) Upon disqualification, the parent and all eligible children will be prohibited from receiving subsidized child day care for the full period of disqualification regardless of any changes in the family eligibility status.

APPENDIX A

SOURCES OF EARNED OR UNEARNED INCOME TO BE INCLUDED, DEDUCTED AND EXCLUDED IN DETERMINING MONTHLY GROSS INCOME

PART I. INCOME INCLUSIONS.

The following sources of income shall be included in determining total monthly gross income:

* * * * *

H. Public assistance or welfare [payments, such as AFDC] benefits or retirement benefits [paid to a retired person or his survivors by a former employer or a union, either directly or through an insurance company].

* * * * *

L. [Workmen's] Workers' Compensation received from private or public insurance companies for injuries incurred at work.

* * * * *

R. Lump sum cash of more than \$100: inheritances[,]; life insurance benefits; personal injury and other damage awards and settlements; retroactive benefits such as Retirement, Survivor's or Disability insurance; and delayed Unemployment, divorce settlements, gifts or [Workmen's] Workers' Compensation.

S. Lump sum cash lottery winnings or cash prizes of more than \$100.

T. [Capital assets: tangible or intangible long-term assets.] Profit from self-employment; total gross receipts minus allowable costs of doing business. The allowable costs of doing business are as follows:

(1) Costs of maintaining a place of business such as rent, utilities, insurance on the business and its property and property taxes.

Note: If a business is operated in a home, the costs of maintaining a place of business are only those costs identified for the part of the home used exclusively for the business.

(2) Interest on the purchase of income-producing equipment and property.

(3) Employe labor costs, such as wage, salaries, taxes, unemployment compensation or Worker's Compensation.

(4) Cost of goods sold, supplies and materials.

(5) Advertising costs.

(6) Accounting and legal fees.

(7) Professional licensing fees and union dues, if necessary to practice a profession or trade.

(8) Transportation costs necessary to produce income.

U. Net income from room rent or room and board defined as gross income received minus \$10 for each room rented and one-half the remainder.

PART II. INCOME DEDUCTIONS.

The following sources of income shall be deducted in determining total monthly gross income:

A. Voluntary or court-ordered support paid out by the [caretaker] parent or a family member [of his family] to a present or former spouse not residing in the same household.

B. Voluntary or court-ordered child support paid out by the [caretaker] parent or family member [of his family] to a person not residing in the same household.

C. A medical expense not reimbursed through medical insurance which exceeds 10% of the family monthly gross income. The medical expense must have been incurred within the 90-day period prior to the date the caretaker notifies the eligibility agent of that expense and there must be an expectation that the expense will continue to be incurred for a period of 6 months following the outset of the expense. Medical expenses will be based on the monthly expenses or monthly payment plan, or both. Medical expenses include bills for doctors, hospital costs, dental services, health care premiums, institutional care [or], medications, prosthetic devices, durable medical equipment or mental health services.

D. An amount of \$300 per month for each person for which the grandparent is responsible in those households where a minor parent resides. This deduction shall exclude the minor parent and the child in need of subsidized child day care.

PART III. INCOME EXCLUSIONS.

The following sources of income shall be excluded in determining total monthly gross income:

* * * * *

B. [Title IV-A child care benefits, including TCC benefits and Title IV-A earned income child care deductions.

C.] Tax refunds to include earned income tax credits.

[D.] C. Withdrawals of bank, credit union or brokerage deposits.

[E.] D. ***

[F.] E. ***

[G.] F. The value of [the coupon allotment] benefits under the Food Stamp Act of 1977 (7 U.S.C.A. §§ 2011—2029).

[H.] G. ***

[I.] H. ***

[J.] I. ***

[K.] J. ***

[L.] K. ***

[M.] L. ***

[N. Any nonmonetary benefits, including the value of rent-free quarters.]

[O.] M. ***

[P.] N. ***

[Q.] O. ***

[R.] P. ***

[S.] Q. ***

[T.] R. ***

(Editor's Note: As part of this regulatory package, the Department is proposing to delete the existing text of Appendix B which currently appears at 55 Pa. Code pages 3040-37 and 3040-38, serial pages (217989) and (217990) and replace it with the following new text.)

APPENDIX B

FAMILY CO-PAYMENT SCALE

(BASED ON THE 1997 FEDERAL POVERTY INCOME GUIDELINES)

FAMILY SIZE = 1		OPTION 1	OPTION 2	OPTION 3
FPIG AND INCOME STANDARDS		Child Care Costs Ranging From \$275 Through \$375 Per Month	Child Care Cost Ranging Below \$275 Per Month	Child Care Cost Ranging Above \$375 Per Month
PERCENT OF FPIG	ANNUAL INCOME	WEEKLY FEE	WEEKLY FEE	WEEKLY FEE
60% FPIG =	\$ 4,734	\$ 5.00	\$ 5.00	\$10.00
70% FPIG =	\$ 5,523	\$ 5.00	\$ 5.00	\$10.00
80% FPIG =	\$ 6,312	\$ 5.00	\$ 5.00	\$10.00
90% FPIG =	\$ 7,101	\$10.00	\$ 5.00	\$15.00
100% FPIG =	\$ 7,890	\$10.00	\$ 5.00	\$15.00
110% FPIG =	\$ 8,679	\$15.00	\$10.00	\$20.00
120% FPIG =	\$ 9,468	\$15.00	\$10.00	\$20.00
130% FPIG =	\$10,257	\$20.00	\$10.00	\$25.00
140% FPIG =	\$11,046	\$20.00	\$10.00	\$25.00
150% FPIG =	\$11,835	\$25.00	\$15.00	\$30.00
160% FPIG =	\$12,624	\$25.00	\$15.00	\$30.00
170% FPIG =	\$13,413	\$30.00	\$20.00	\$35.00
180% FPIG =	\$14,202	\$35.00	\$20.00	\$35.00
185% FPIG =	\$14,597	\$35.00	\$20.00	\$35.00

PROPOSED RULEMAKING

FAMILY SIZE = 2 FPIG AND INCOME STANDARDS		OPTION 1	OPTION 2	OPTION 3
		Child Care Costs Ranging From \$275 Through \$375 Per Month	Child Care Cost Ranging Below \$275 Per Month	Child Care Cost Ranging Above \$375 Per Month
PERCENT OF FPIG	ANNUAL INCOME	WEEKLY FEE	WEEKLY FEE	WEEKLY FEE
60% FPIG =	\$ 6,366	\$ 5.00	\$ 5.00	\$10.00
70% FPIG =	\$ 7,427	\$10.00	\$ 5.00	\$15.00
80% FPIG =	\$ 8,488	\$10.00	\$ 5.00	\$15.00
90% FPIG =	\$ 9,549	\$15.00	\$10.00	\$20.00
100% FPIG =	\$10,610	\$15.00	\$10.00	\$20.00
110% FPIG =	\$11,671	\$20.00	\$15.00	\$25.00
120% FPIG =	\$12,732	\$20.00	\$15.00	\$25.00
130% FPIG =	\$13,793	\$25.00	\$15.00	\$35.00
140% FPIG =	\$14,854	\$30.00	\$20.00	\$35.00
150% FPIG =	\$15,915	\$35.00	\$25.00	\$40.00
160% FPIG =	\$16,976	\$35.00	\$25.00	\$40.00
170% FPIG =	\$18,037	\$40.00	\$30.00	\$45.00
180% FPIG =	\$19,098	\$45.00	\$30.00	\$50.00
185% FPIG =	\$19,629	\$50.00	\$35.00	\$50.00

FAMILY SIZE = 3 FPIG AND INCOME STANDARDS		OPTION 1	OPTION 2	OPTION 3
		Child Care Costs Ranging From \$275 Through \$375 Per Month	Child Care Cost Ranging Below \$275 Per Month	Child Care Cost Ranging Above \$375 Per Month
PERCENT OF FPIG	ANNUAL INCOME	WEEKLY FEE	WEEKLY FEE	WEEKLY FEE
60% FPIG =	\$ 7,998	\$10.00	\$ 5.00	\$15.00
70% FPIG =	\$ 9,331	\$10.00	\$ 5.00	\$15.00
80% FPIG =	\$10,664	\$15.00	\$10.00	\$20.00
90% FPIG =	\$11,997	\$15.00	\$10.00	\$20.00
100% FPIG =	\$13,330	\$20.00	\$15.00	\$25.00
110% FPIG =	\$14,663	\$25.00	\$20.00	\$30.00
120% FPIG =	\$15,996	\$30.00	\$25.00	\$35.00
130% FPIG =	\$17,329	\$35.00	\$25.00	\$40.00
140% FPIG =	\$18,662	\$35.00	\$25.00	\$45.00
150% FPIG =	\$19,995	\$40.00	\$30.00	\$50.00
160% FPIG =	\$21,328	\$45.00	\$35.00	\$55.00
170% FPIG =	\$22,661	\$55.00	\$45.00	\$55.00
180% FPIG =	\$23,994	\$60.00	\$45.00	\$60.00
185% FPIG =	\$24,661	\$65.00	\$50.00	\$65.00

FAMILY SIZE = 4 FPIG AND INCOME STANDARDS		OPTION 1	OPTION 2	OPTION 3
		Child Care Costs Ranging From \$275 Through \$375 Per Month	Child Care Cost Ranging Below \$275 Per Month	Child Care Cost Ranging Above \$375 Per Month
PERCENT OF FPIG	ANNUAL INCOME	WEEKLY FEE	WEEKLY FEE	WEEKLY FEE
60% FPIG =	\$ 9,630	\$10.00	\$ 5.00	\$15.00
70% FPIG =	\$11,235	\$15.00	\$10.00	\$20.00
80% FPIG =	\$12,840	\$15.00	\$10.00	\$20.00
90% FPIG =	\$14,445	\$20.00	\$15.00	\$25.00
100% FPIG =	\$16,050	\$25.00	\$20.00	\$30.00
110% FPIG =	\$17,655	\$30.00	\$25.00	\$35.00
120% FPIG =	\$19,260	\$35.00	\$30.00	\$40.00
130% FPIG =	\$20,865	\$40.00	\$30.00	\$50.00
140% FPIG =	\$22,470	\$45.00	\$35.00	\$55.00
150% FPIG =	\$24,075	\$50.00	\$40.00	\$60.00
160% FPIG =	\$25,680	\$60.00	\$50.00	\$65.00
170% FPIG =	\$27,285	\$65.00	\$55.00	\$70.00
180% FPIG =	\$28,890	\$70.00	\$55.00	\$75.00
185% FPIG =	\$29,693	\$80.00	\$65.00	\$80.00

FAMILY SIZE = 5 FPIG AND INCOME STANDARDS		OPTION 1	OPTION 2	OPTION 3
		Child Care Costs Ranging From \$275 Through \$375 Per Month	Child Care Cost Ranging Below \$275 Per Month	Child Care Cost Ranging Above \$375 Per Month
PERCENT OF FPIG	ANNUAL INCOME	WEEKLY FEE	WEEKLY FEE	WEEKLY FEE
60% FPIG =	\$11,262	\$15.00	\$10.00	\$20.00
70% FPIG =	\$13,139	\$15.00	\$10.00	\$20.00
80% FPIG =	\$15,016	\$20.00	\$15.00	\$25.00
90% FPIG =	\$16,893	\$25.00	\$20.00	\$30.00
100% FPIG =	\$18,770	\$30.00	\$25.00	\$35.00
110% FPIG =	\$20,647	\$35.00	\$30.00	\$40.00
120% FPIG =	\$22,524	\$40.00	\$35.00	\$45.00
130% FPIG =	\$24,401	\$45.00	\$35.00	\$55.00
140% FPIG =	\$26,278	\$55.00	\$45.00	\$65.00
150% FPIG =	\$28,155	\$60.00	\$50.00	\$70.00
160% FPIG =	\$30,032	\$70.00	\$60.00	\$75.00
170% FPIG =	\$31,909	\$75.00	\$65.00	\$80.00
180% FPIG =	\$33,786	\$85.00	\$70.00	\$85.00
185% FPIG =	\$34,725	\$90.00	\$75.00	\$90.00

PROPOSED RULEMAKING

FAMILY SIZE = 6		OPTION 1			OPTION 2		OPTION 3	
		FPIG AND INCOME STANDARDS		Child Care Costs Ranging From \$275 Through \$375 Per Month		Child Care Cost Ranging Below \$275 Per Month		Child Care Cost Ranging Above \$375 Per Month
PERCENT OF FPIG	ANNUAL INCOME	WEEKLY FEE		WEEKLY FEE		WEEKLY FEE		
60% FPIG =	\$12,894	\$ 15.00		\$10.00		\$ 20.00		
70% FPIG =	\$15,043	\$ 20.00		\$15.00		\$ 25.00		
80% FPIG =	\$17,192	\$ 25.00		\$20.00		\$ 30.00		
90% FPIG =	\$19,341	\$ 30.00		\$25.00		\$ 35.00		
100% FPIG =	\$21,490	\$ 35.00		\$30.00		\$ 40.00		
110% FPIG =	\$23,639	\$ 40.00		\$35.00		\$ 45.00		
120% FPIG =	\$25,788	\$ 50.00		\$45.00		\$ 55.00		
130% FPIG =	\$27,937	\$ 55.00		\$45.00		\$ 65.00		
140% FPIG =	\$30,086	\$ 60.00		\$50.00		\$ 70.00		
150% FPIG =	\$32,235	\$ 70.00		\$60.00		\$ 80.00		
160% FPIG =	\$34,384	\$ 80.00		\$70.00		\$ 85.00		
170% FPIG =	\$36,533	\$ 85.00		\$75.00		\$ 95.00		
180% FPIG =	\$38,682	\$ 95.00		\$80.00		\$100.00		
185% FPIG =	\$39,757	\$105.00		\$90.00		\$105.00		

FAMILY SIZE = 7		OPTION 1			OPTION 2		OPTION 3	
		FPIG AND INCOME STANDARDS		Child Care Costs Ranging From \$275 Through \$375 Per Month		Child Care Cost Ranging Below \$275 Per Month		Child Care Cost Ranging Above \$375 Per Month
PERCENT OF FPIG	ANNUAL INCOME	WEEKLY FEE		WEEKLY FEE		WEEKLY FEE		
60% FPIG =	\$14,526	\$ 20.00		\$ 15.00		\$ 25.00		
70% FPIG =	\$16,947	\$ 20.00		\$ 15.00		\$ 25.00		
80% FPIG =	\$19,368	\$ 25.00		\$ 20.00		\$ 30.00		
90% FPIG =	\$21,789	\$ 35.00		\$ 30.00		\$ 40.00		
100% FPIG =	\$24,210	\$ 40.00		\$ 35.00		\$ 45.00		
110% FPIG =	\$26,631	\$ 45.00		\$ 40.00		\$ 50.00		
120% FPIG =	\$29,052	\$ 55.00		\$ 50.00		\$ 60.00		
130% FPIG =	\$31,473	\$ 60.00		\$ 50.00		\$ 70.00		
140% FPIG =	\$33,894	\$ 70.00		\$ 60.00		\$ 80.00		
150% FPIG =	\$36,315	\$ 80.00		\$ 70.00		\$ 90.00		
160% FPIG =	\$38,736	\$ 90.00		\$ 80.00		\$100.00		
170% FPIG =	\$41,157	\$100.00		\$ 90.00		\$105.00		
180% FPIG =	\$43,578	\$110.00		\$ 95.00		\$110.00		
185% FPIG =	\$44,789	\$120.00		\$105.00		\$120.00		

FAMILY SIZE = 8		OPTION 1	OPTION 2	OPTION 3
		Child Care Costs Ranging From \$275 Through \$375 Per Month	Child Care Cost Ranging Below \$275 Per Month	Child Care Cost Ranging Above \$375 Per Month
FPIG AND INCOME STANDARDS				
PERCENT OF FPIG	ANNUAL INCOME	WEEKLY FEE	WEEKLY FEE	WEEKLY FEE
60% FPIG =	\$16,158	\$ 20.00	\$ 15.00	\$ 25.00
70% FPIG =	\$18,851	\$ 25.00	\$ 20.00	\$ 30.00
80% FPIG =	\$21,544	\$ 30.00	\$ 25.00	\$ 35.00
90% FPIG =	\$24,237	\$ 35.00	\$ 30.00	\$ 40.00
100% FPIG =	\$26,930	\$ 45.00	\$ 40.00	\$ 50.00
110% FPIG =	\$29,623	\$ 50.00	\$ 45.00	\$ 55.00
120% FPIG =	\$32,316	\$ 60.00	\$ 55.00	\$ 65.00
130% FPIG =	\$35,009	\$ 70.00	\$ 60.00	\$ 80.00
140% FPIG =	\$37,702	\$ 80.00	\$ 70.00	\$ 90.00
150% FPIG =	\$40,395	\$ 90.00	\$ 80.00	\$100.00
160% FPIG =	\$43,088	\$100.00	\$ 90.00	\$110.00
170% FPIG =	\$45,781	\$110.00	\$100.00	\$120.00
180% FPIG =	\$48,474	\$120.00	\$105.00	\$125.00
185% FPIG =	\$49,821	\$135.00	\$120.00	\$135.00

FAMILY SIZE = 9		OPTION 1	OPTION 2	OPTION 3
		Child Care Costs Ranging From \$275 Through \$375 Per Month	Child Care Cost Ranging Below \$275 Per Month	Child Care Cost Ranging Above \$375 Per Month
FPIG AND INCOME STANDARDS				
PERCENT OF FPIG	ANNUAL INCOME	WEEKLY FEE	WEEKLY FEE	WEEKLY FEE
60% FPIG =	\$17,790	\$ 25.00	\$ 20.00	\$ 30.00
70% FPIG =	\$20,755	\$ 25.00	\$ 20.00	\$ 30.00
80% FPIG =	\$23,720	\$ 35.00	\$ 30.00	\$ 40.00
90% FPIG =	\$26,685	\$ 40.00	\$ 35.00	\$ 45.00
100% FPIG =	\$29,650	\$ 50.00	\$ 45.00	\$ 55.00
110% FPIG =	\$32,615	\$ 55.00	\$ 50.00	\$ 60.00
120% FPIG =	\$35,580	\$ 65.00	\$ 60.00	\$ 70.00
130% FPIG =	\$38,545	\$ 75.00	\$ 65.00	\$ 85.00
140% FPIG =	\$41,510	\$ 85.00	\$ 75.00	\$ 95.00
150% FPIG =	\$44,475	\$ 95.00	\$ 85.00	\$105.00
160% FPIG =	\$47,440	\$110.00	\$100.00	\$120.00
170% FPIG =	\$50,405	\$120.00	\$110.00	\$130.00
180% FPIG =	\$53,370	\$135.00	\$120.00	\$140.00
185% FPIG =	\$54,853	\$145.00	\$130.00	\$145.00

PROPOSED RULEMAKING

FAMILY SIZE = 10		OPTION 1	OPTION 2	OPTION 3
FPIG AND INCOME STANDARDS		Child Care Costs Ranging From \$275 Through \$375 Per Month	Child Care Cost Ranging Below \$275 Per Month	Child Care Cost Ranging Above \$375 Per Month
PERCENT OF FPIG	ANNUAL INCOME	WEEKLY FEE	WEEKLY FEE	WEEKLY FEE
60% FPIG =	\$19,422	\$ 25.00	\$ 20.00	\$ 30.00
70% FPIG =	\$22,659	\$ 30.00	\$ 25.00	\$ 35.00
80% FPIG =	\$25,896	\$ 35.00	\$ 30.00	\$ 40.00
90% FPIG =	\$29,133	\$ 45.00	\$ 40.00	\$ 50.00
100% FPIG =	\$32,370	\$ 55.00	\$ 50.00	\$ 60.00
110% FPIG =	\$35,607	\$ 65.00	\$ 60.00	\$ 70.00
120% FPIG =	\$38,844	\$ 75.00	\$ 70.00	\$ 80.00
130% FPIG =	\$42,081	\$ 85.00	\$ 75.00	\$ 95.00
140% FPIG =	\$45,318	\$ 95.00	\$ 85.00	\$105.00
150% FPIG =	\$48,555	\$105.00	\$ 95.00	\$115.00
160% FPIG =	\$51,792	\$120.00	\$110.00	\$130.00
170% FPIG =	\$55,029	\$130.00	\$120.00	\$140.00
180% FPIG =	\$58,266	\$145.00	\$130.00	\$150.00
185% FPIG =	\$59,885	\$160.00	\$145.00	\$160.00

FAMILY SIZE = 11		OPTION 1	OPTION 2	OPTION 3
FPIG AND INCOME STANDARDS		Child Care Costs Ranging From \$275 Through \$375 Per Month	Child Care Cost Ranging Below \$275 Per Month	Child Care Cost Ranging Above \$375 Per Month
PERCENT OF FPIG	ANNUAL INCOME	WEEKLY FEE	WEEKLY FEE	WEEKLY FEE
60% FPIG =	\$21,054	\$ 30.00	\$ 25.00	\$ 35.00
70% FPIG =	\$24,563	\$ 30.00	\$ 25.00	\$ 35.00
80% FPIG =	\$28,072	\$ 40.00	\$ 35.00	\$ 45.00
90% FPIG =	\$31,581	\$ 50.00	\$ 45.00	\$ 55.00
100% FPIG =	\$35,090	\$ 60.00	\$ 55.00	\$ 65.00
110% FPIG =	\$38,599	\$ 70.00	\$ 65.00	\$ 75.00
120% FPIG =	\$42,108	\$ 80.00	\$ 75.00	\$ 85.00
130% FPIG =	\$45,617	\$ 90.00	\$ 80.00	\$100.00
140% FPIG =	\$49,126	\$105.00	\$ 95.00	\$115.00
150% FPIG =	\$52,635	\$115.00	\$105.00	\$125.00
160% FPIG =	\$56,144	\$130.00	\$120.00	\$140.00
170% FPIG =	\$59,653	\$145.00	\$135.00	\$155.00
180% FPIG =	\$63,162	\$160.00	\$145.00	\$165.00
185% FPIG =	\$64,917	\$175.00	\$160.00	\$175.00

FAMILY SIZE = 12 FPIG AND INCOME STANDARDS		OPTION 1	OPTION 2	OPTION 3
		Child Care Costs Ranging From \$275 Through \$375 Per Month	Child Care Cost Ranging Below \$275 Per Month	Child Care Cost Ranging Above \$375 Per Month
PERCENT OF FPIG	ANNUAL INCOME	WEEKLY FEE	WEEKLY FEE	WEEKLY FEE
60% FPIG =	\$22,686	\$ 30.00	\$ 25.00	\$ 35.00
70% FPIG =	\$26,467	\$ 35.00	\$ 30.00	\$ 40.00
80% FPIG =	\$30,248	\$ 45.00	\$ 40.00	\$ 50.00
90% FPIG =	\$34,029	\$ 55.00	\$ 50.00	\$ 60.00
100% FPIG =	\$37,810	\$ 65.00	\$ 60.00	\$ 70.00
110% FPIG =	\$41,591	\$ 75.00	\$ 70.00	\$ 80.00
120% FPIG =	\$45,372	\$ 85.00	\$ 80.00	\$ 90.00
130% FPIG =	\$49,153	\$100.00	\$ 90.00	\$110.00
140% FPIG =	\$52,934	\$110.00	\$100.00	\$120.00
150% FPIG =	\$56,715	\$125.00	\$115.00	\$135.00
160% FPIG =	\$60,496	\$140.00	\$130.00	\$150.00
170% FPIG =	\$64,277	\$155.00	\$145.00	\$165.00
180% FPIG =	\$68,058	\$170.00	\$155.00	\$175.00
185% FPIG =	\$69,949	\$185.00	\$170.00	\$185.00

(Editor's Note: As part of this regulatory package, the Department is proposing to delete the text of Appendix C which currently appears at 55 Pa. Code pages 3040-39 and 3040-40, serial pages (217991) and 217992.)

APPENDIX C. (Reserved)

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