CABINET FOR HEALTH AND FAMILY SERVICES
Department for Community Based Services
Division of Child Care
(Amended at ARRS Committee)

922 KAR 2:160. Child Care Assistance Program.

RELATES TO: KRS 194A.060, 199.894(1), (5), 199.896, 199.898(1), (2), 199.8982, 199.899, 214.036, 314.011(5), 337.275, 600.020, 605.120(5), 620.020(10), 7 C.F.R. Part 1463, 20 C.F.R. Parts 676-678, 34 C.F.R. Part 361, Part 463, 45 C.F.R. Part 98, 205.10(a)(6), 205.50(a)(1)(i), 400.66(d), 7 U.S.C. 2012, 25 U.S.C. 1261, 1401, 5501, 29 U.S.C. 723(a)(5), 34 U.S.C. 20102(c), 38 U.S.C. 1815, 42 U.S.C. 601-619, 1395w-141, 1771-1793, 2000d, 3001, 4950-5085, 8621, 9857-9858q, 9902(2)

STATUTORY AUTHORITY: KRS 194A.050(1), 199.892, 199.8994

NECESSITY, FUNCTION, AND CONFORMITY: KRS 194A.050(1) requires the secretary of the Cabinet for Health and Family Services to promulgate administrative regulations necessary to operate programs and fulfill the responsibilities vested in the cabinet, qualify for the receipt of federal funds, and cooperate with other state and federal agencies for the proper administration of the cabinet and its programs. KRS 199.892 enables the Cabinet for Health and Family Services to promulgate administrative regulations to qualify to receive federal funds under provisions of the federal Social Security Act, 42 U.S.C. 9857-9858q, and to provide for effective regulation of child care centers. KRS 199.8994 requires the cabinet to administer all child care funds to the extent allowable under federal law or regulation and in a manner that is in the best interest of the clients to be served. This administrative regulation establishes requirements that enable the Cabinet for Health and Family Services to qualify for federal funds under the Child Care and Development Fund, and establishes procedures for the implementation of the Child Care Assistance Program to the extent that funding is available.

Section 1. Definitions.

(1) "Applicant" means a child's natural or adoptive parent or an individual caring for a child in loco parentis who is applying for CCAP.

(2) "Cabinet" is defined by KRS 199.894(1).

(3) "Change in a circumstance" means a change that may affect eligibility or benefit amounts, such as:

(a) Beginning or ending employment;
(b) Change in an employer or obtaining additional employment;
(c) Increase or decrease in the number of work hours;
(d) Increase or decrease in the rate of pay;
(e) Increase or decrease in family members;
(f) Change in self-employment activity;
(g) Change in scheduled hours care is needed;
(h) Beginning or ending an educational activity;
(i) Change in child care provider;
(j) Change in address or residence;
(k) Change in marital status;
(l) Beginning or ending receipt of unearned income; or
(m) Enrollment in a certified trade school or an accredited college or university.

(4) "Child care" means the provision of care for a child for a portion of a day on a regular basis, designed to supplement, but not substitute for, the parent or guardian's responsibility for the child's protection, development, and supervision.

(5) "Child Care and Development Fund" or "CCDF" is defined by 45 C.F.R. 98.2.

(6) "Child Care Assistance Program" or "CCAP" means Kentucky's child care subsidy program providing families, who meet the eligibility requirements of this administrative regulation, with the financial resources to find and afford quality child care.
(7) "Child care certificate" is defined by 45 C.F.R. 98.2.
(8) "Child protective services" is defined by 922 KAR 1:330, Section 1(5).
(9) "Child with a special need" means a child who has multiple or severe functional needs requiring ongoing specialized care.
(10) "Employment" means public or private, permanent or temporary work for an average of twenty (20) hours per week for compensation or as an unpaid job requirement.
(11) "Family" means an applicant or parent, a child, and another responsible adult if present, residing in the same home.
(12) "Family child-care home" is defined by KRS 199.894(5).
(13) "Full day" means child care that is provided for five (5) or more hours per day.
(14) "Good academic standing" means a student is meeting the trade school, college, or university's requirements for attendance and satisfactory progress towards the completion of coursework.
(15) "Health professional" means a person actively licensed as a:
(a) Physician;
(b) Physician assistant;
(c) Advanced practice registered nurse;
(d) Qualified mental health professional as defined by KRS 600.020(52); or
(e) Registered nurse as defined by KRS 314.011(5) under the supervision of a physician.
(16) "Homeless" means an individual or a family lacking a fixed, regular, and adequate nighttime residence, including a child experiencing homelessness as defined by 45 C.F.R. 98.2.
(17) "In loco parentis" means a person acting in place of a parent, including:
(a) A legal guardian;
(b) An individual related by blood, marriage, or adoption to the child; or
(c) A nonrelative pursuing legal custody of the child within one (1) year of application.
(18) "Infant" means a child who is less than one (1) year old.
(19) "Kentucky Transitional Assistance Program" or "KTAP" means Kentucky's Temporary Assistance for Needy Families or "TANF" money payment program established in 921 KAR Chapter 2.
(20) "Parent" is defined by 45 C.F.R. 98.2.
(21) "Part day" means child care that is provided for less than five (5) hours per day.
(22) "Preschool child" means a child who has reached the third birthday up to, but not including, the sixth birthday.
(23) "Preventive services" is defined by KRS 620.020(12).
(24) "Provider" means the entity providing child care services, such as:
(a) A member of a limited liability corporation (LLC);
(b) The head of an organization;
(c) An owner of a corporation;
(d) A member of a partnership;
(e) An owner of a business;
(f) An individual provider; or
(g) A stockholder of a stock-holding company.
(25) "Qualified immigrant" means a child who meets the requirements of 921 KAR 2:006, Section 1(12) or 5(2).
(26) "Registered provider" means a child care provider who meets the requirements of 922 KAR 2:180.
(27) "Related" means having one (1) of the following relationships:

(a) Child;
(b) Stepchild;
(c) Grandchild;
(d) Great-grandchild;
(e) Niece;
(f) Nephew;
(g) Sibling;
(h) Child in legal custody; or
(i) Child living in loco parentis.

(28) "Responsible adult" means a person other than the applicant who is in the child's household and who is:
(a) The natural parent, adoptive parent, or stepparent; or
(b) The spouse of an individual caring for a child in loco parentis.

(29) "School-age child" means a child who has reached the sixth birthday.

(30) "State median income" or "SMI" means the estimated median income of households in the state.

(31) "Supplemental Nutrition Assistance Program" or "SNAP" means the program, formerly known as the Food Stamp Program:
(a) Defined by 7 U.S.C. 2012; and
(b) Governed by 921 KAR Chapter 3.

(32) "Teen parent" means a head of household under the age of twenty (20) and attending high school or obtaining a GED.

(33) "Toddler" means a child who has reached the first birthday up to, but not including, the third birthday.

Section 2. Application Rights and Requirements.

(1) An individual may apply or reapply for CCAP through the cabinet or its designee.

(2)
(a) Unless an applicant is approved according to the criteria in Section 5 or 6 of this administrative regulation, an application shall have been made on the date:
1. The following is received at the cabinet or its designee's office:
a. A signed DCC-90, Subsidized Child Care Assistance Application Summary; or
b. Submission in accordance with 921 KAR 2:040, Section 1(6); or
2. The agency is contacted, if the person:
a. Has a physical or mental disability; and
b. Needs special accommodation due to the impairment.

(b) An applicant may designate an authorized representative who presents identification to make application.

(c) An applicant may be:
1. Assisted by another individual of choice in the application process; and
2. Accompanied by the individual in a contact with the agency.

(d) In accordance with the procedures established in 920 KAR 1:070, interpreter services shall be provided for persons who are:
1. Deaf; or
2. Hard of hearing.

(e) Interpreter services shall be provided for a non-English speaking individual in accordance with Section 601 of Title VI of the Civil Rights Act of 1964, 42 U.S.C. 2000d.

(3) The cabinet or its designee shall not discriminate against an applicant based on age, race, color, sex, disability, religious creed, national origin, or political beliefs.

(4) For the month child care payment is intended to cover, a family shall meet the technical and financial eligibility criteria, according to its particular circumstances, as

described in Sections 3, 4, 5, 6, 7, and 8 of this administrative regulation.

(a) An applicant or recipient shall be the primary source of information and shall:

1. Furnish verification of:
   a. Income;
   b. Technical eligibility; and
   c. Employment; and
2. Give written consent to the cabinet or its designee necessary to verify information pertinent to the eligibility determination.

(b) Upon receiving written notice of a request for information or a scheduled appointment to present required documentation, failure of an applicant or recipient to respond shall be considered a failure to present adequate proof of eligibility.

(c) A homeless household shall have a minimum of three (3) months to verify information in accordance with 42 U.S.C. 9858c(c)(3)(B)(i).

(5) The cabinet or its designee shall:

(a) Render a decision on each application; and

(b) Within thirty (30) calendar days of receipt of the application submitted in accordance with subsection (2) of this section, send notice to the applicant in accordance with Section 12(4) of this administrative regulation.

(6) Each decision regarding eligibility for assistance shall be supported by documentation recorded in the applicant or recipient's case record.

(7) A family shall not receive:

(a) Assistance until approval of the application for benefits; or

(b) Benefits prior to application.

Section 3. Technical Eligibility.

(1) A child shall be eligible for child care assistance, if the child:

(a) Is a:

1. Resident of Kentucky; and
2. U.S. citizen or qualified immigrant;

(b) Is under age:

1. Thirteen (13) at the time of application or recertification; or
2. Nineteen (19) at the time of application or recertification and is:
   a. Physically or mentally incapable of caring for themselves, as demonstrated by a written document provided by a health professional;
   b. Under court supervision; or
   c. Identified as a priority by federal statute, regulation, or funding source; and

(c) Has a current immunization certificate showing that the child is immunized, unless:

1. There is an exception pursuant to KRS 214.036; or
2. The child is attending a:
   a. Licensed child-care center;
   b. Certified child-care home;
   c. Public school;
   d. Head Start; or
   e. Other entity that requires the immunization record.

(2) If a child served by the CCAP is not immunized, child care assistance benefits shall be available or continue for a period of thirty (30) calendar days following the notification of the needed immunization while the family takes necessary action to comply with the immunization requirement.

(3) A family shall not be eligible for a CCAP benefit if care is provided by:

(a) A parent or stepparent;

(b) A legal guardian;

(c) A member of the KTAP or SNAP case in which the child in need of child care assistance is included;

(d) A person living in the same residence as the child in need of care;

(e) A provider not:

1. Licensed according to 922 KAR 2:090, Child-care center licensure;

2. Certified according to 922 KAR 2:100, Certification of family child-care homes; or

3. Registered according to 922 KAR 2:180, Requirements for registered child care providers in the Child Care Assistance Program;

(f) A Head Start program unless the child care is provided before, after, or in between the Head Start program's operating hours as wrap-around child care; or

(g) Another child care provider if the family operates the child care business in the home.

(4) If the restrictions specified in subsection (3) of this section do not apply to the provider related to the child, the provider related to the child may be eligible for payment from CCAP if the requirements of 922 KAR 2:180 are met.

Section 4. Requirements for Low Income Working Family Eligibility Determination.

(1) A child shall be eligible to receive CCAP if the child meets the requirements specified in Section 3 of this administrative regulation and resides with:

(a) An applicant who has employment an average twenty (20) hours per week;

(b) An applicant and a responsible adult who have employment an average of forty (40) hours per week combined, if the individual with the least employment has an average of at least five (5) hours of employment per week;

(c) An applicant and a responsible adult if either the applicant or the responsible adult has employment an average of twenty (20) hours per week, and the other is physically or mentally unable to provide adequate care or supervision as documented by a written statement from a health professional;

(d) A relative or fictive kin caregiver pursuant to 922 KAR 1:565 who meets:

1. All requirements in this section; and

2. Income eligibility standards established in Section 8 of this administrative regulation;

(e) A teen parent attending high school or pursuing a general equivalency degree (GED), including a period of recess or temporary break up to three (3) months; or

(f) An applicant who meets the eligibility requirements specified in Section 7 of this administrative regulation.

(2) A child shall be eligible to receive CCAP for a minimum of three (3) months or in accordance with Section 9 of this administrative regulation if the child meets the requirements specified in Section 3 of this administrative regulation and resides with:

(a) An applicant who is homeless;

(b) An applicant who is engaged in job search;

(c) A recipient after the loss of employment, a reduction in the required number of employment hours, or cessation of attendance at a job training or educational program in accordance with 42 U.S.C. 9858c(c)(2)(N)(iii), to allow for job search or resumption of work or attendance at job training or educational program; or

(d) A recipient on maternity leave or other medical leave from employment as verified by a health professional, unless a temporary disability as verified by a health professional necessitates longer than three (3) months of CCAP eligibility.

(3) Effective October 24, 2022, to the extent funds are available, a household shall have all earned and unearned income excluded from the eligibility determination if an applicant or responsible adult meets the requirements of subsection (1) of this section and has verified employment in a regulated:

(a) Licensed child-care center; or

(b) Certified family child-care home.

(4) Compliance with subsection (1) of this section for an applicant or a responsible adult who is self-employed shall be determined by dividing income calculated in accordance with Section 8(6)(d) of this administrative regulation by an hourly pay rate of no less than minimum wage established in accordance with KRS 337.275.

Section 5. Requirements for Protection and Permanency Eligibility Determination.

(1) A child shall be eligible to receive CCAP if the child:

(a) Resides with an applicant who:

1. Receives child protective or preventive services; or

2. Needs to receive child protective or preventive services based upon an assessment conducted by child protective services staff pursuant to 922 KAR 1:330; and

(b) Meets the requirements listed in Section 3 of this administrative regulation.

(2) A child shall be approved for child care assistance by the cabinet in accordance with subsection (1) of this section without a separate application, as an integral part of a protective or preventive services plan in accordance with 922 KAR 1:430.

(3)

(a) Based on the assessment in accordance with 922 KAR 1:330, the cabinet may waive the family copayment required by Section 11 of this administrative regulation for a child who participates in CCAP as a result of child protective services authorization.

(b) If the cabinet waives the family copayment in accordance with paragraph (a) of this subsection, the cabinet shall document the reason for the waiver in the child's protective services case plan.

Section 6. State-Funded Workforce Training Child Care Eligibility Determination. A child shall be eligible for CCAP if the child:

(1) Resides with an applicant who is participating in the:

(a) Kentucky Works Program established in 921 KAR 2:370; or

(b) Supplemental Nutrition Assistance Program Employment and Training Program (SNAP E&T) pursuant to 921 KAR 3:042; and

(2) Meets the requirements listed in Section 3 of this administrative regulation.

Section 7. Education and Job Training Child Care Eligibility Determination.

(1) To the extent funds are available, a child shall be eligible for CCAP if the child:

(a) Resides with an applicant who:

1. Is enrolled in:

a.

(i) A certified trade school or an accredited college or university; or

(ii) A program that leads to a degree or certification; and

b. Accordance with subsection (2) of this section;

2. Is in good academic standing with the trade school, college, or university in which the applicant is enrolled;

3. Provides verification of enrollment and good academic standing from the trade school, college, or university in which the applicant is enrolled;

4. Meets income eligibility criteria of Section 8 of this administrative regulation; and

5. Has not received CCAP for more than sixty (60) months due to enrollment in a certified trade school or an accredited college or university; and

(b) Meets the requirements established in Section 3 of this administrative regulation.

(2) While an applicant is enrolled in a certified trade school or an accredited college or university:

(a) The applicant's coursework shall be completed in-person or online; and

(b) The applicant shall be classified as a full-time student as defined by the trade school, college, or university.

(3) An applicant who does not complete a term at a trade school, college, or university shall be responsible for the cost of child care tuition for the term.

Section 8. Income Eligibility.

(1) A child shall be eligible for CCAP if the family's income is less than or equal to eighty-five (85) percent of the SMI as prepared by the U.S. Census Bureau through calendar year 2021 at initial application, recertification, or recalculation.

(2) Except for a child who is eligible as specified in Section 5 of this administrative regulation, gross income received or anticipated to be received by the applicant and responsible adult shall be considered when the cabinet or its designee determines the family's eligibility for the CCAP.

(3) A child who is eligible for CCAP as specified in Section 5 of this administrative regulation shall be eligible without regard to the family's income.

(4) Excluded income shall be:

(a) KTAP child only payments, including back payment;

(b) A payment received from the kinship care program, pursuant to 922 KAR 1:130, including back payment;

(c) Educational grant, loan, scholarship, and work study income;

(d) The value of a:

1. Kentucky Works Program supportive services payment pursuant to 921 KAR 2:017; or
2. SNAP E&T transportation payment pursuant to 921 KAR 3:042;

(e) The value of United States Department of Agriculture program benefits including:

1. Donated food;
2. Supplemental food assistance received pursuant to 42 U.S.C. 1771;
3. Special food service program for a child pursuant to 42 U.S.C. 1775;
4. Nutrition program for the elderly pursuant to 42 U.S.C. 3001; and
5. The monthly allotment under SNAP;

(f) Payment made directly to a third party on behalf of the applicant or recipient by a nonresponsible person;

(g) In-kind income;

(h) Reimbursement for transportation in performance of an employment duty, if identifiable;

(i) Nonemergency medical transportation payment;

(j) Highway relocation assistance;

(k) Urban renewal assistance;

(l) Federal disaster assistance and state disaster grant;

(m) Home produce utilized for household consumption;

(n) Housing subsidy received from federal, state, or local governments;

(o) Receipt distributed to a member of certain Native American tribes by the federal government pursuant to 25 U.S.C. 1261, 1401, and 5501;

(p) Funds distributed per capita to or held in trust for a member of a Native American tribe by the federal government pursuant to 25 U.S.C. 1261, 1401, and 5501;

(q) Payment for supporting services or reimbursement of out-of-pocket expense made to an individual volunteering as:

1. Senior health aide; or
2. Member of the:
   a. Service Corps of Retired Executives; or
   b. Active Corps of Executives;

(r) Payment made to an individual from a program pursuant to 42 U.S.C. 4950 to 5085 if less than the minimum wage under state or federal law, whichever is greater, including:

1. Volunteers in Service to America (VISTA);
2. Foster Grandparents;
3. Retired and Senior Volunteer Program; or
4. Senior Companion;

(s) Payment from the cabinet for:

1. Child foster care; or
2. Adult foster care;

(t) Energy assistance payment made under:

1. The Low Income Home Energy Assistance Program (LIHEAP) pursuant to 42 U.S.C. 8621; or
2. Other energy assistance payment made to an energy provider or provided in-kind;

(u) The principal of a verified loan;

(v) Up to $12,000 to Aleuts and $20,000 to an individual of Japanese ancestry for payment made by the United States Government to compensate for a hardship experienced during World War II;

(w) The advance payment or refund of earned income tax credit;

(x) Payment made from the Agent Orange Settlement Fund;

(y) Payment made from the Radiation Exposure Compensation Trust Fund;

(z) Up to $2,000 per year of income received by individual Native Americans denied from a lease or other use of individually-owned trust or restricted lands;

(aa) Payment made to an individual because of the individual's status as a victim of Nazi persecution;

(bb) Income received from temporary employment from the United States Department of Commerce, Bureau of the Census;

(cc) A payment received from the National Tobacco Growers Settlement Trust;

(dd) A Tobacco Loss Assistance Program payment pursuant to 7 C.F.R. 1463;

(ee) A payment received from a crime victim compensation program according to the Antiterrorism and Effective Death Penalty Act of 1996 pursuant to 34 U.S.C. 20102(c);

(ff) A payment made, pursuant to 38 U.S.C. 1815 by the Veteran's Administration, to children of female Vietnam veterans;

(gg) A discount or subsidy provided to Medicare beneficiaries pursuant to 42 U.S.C. 1395w-141;

(hh) Any cash grant received by the applicant under the Department of State or Department of Justice Reception and Placement Programs pursuant to 45 C.F.R. 400.66(d);

(ii) Reimbursement payment for a vocational rehabilitation individual participating in Preparing Adults for Competitive Employment pursuant to 29 U.S.C. 723(a)(5);

(jj) Income or earnings from a program funded under the Workforce Innovation and Opportunity Act pursuant to 20 C.F.R. Parts 676-678 or 34 C.F.R. Part 361 or 463;

(kk) Waiver reimbursement in accordance with 907 KAR 1:170, 907 KAR 1:835, or 907 KAR 7:015 to a parent for the care of a child in the home; or

(ll) Supplemental Security Income (SSI) for a child.

(5) Deductions from gross income shall be:

(a) Actual, legally obligated child support payment made by the applicant or responsible adult to a party not living in the family's residence; and

(b) Operating costs to determine adjusted gross income from self-employment.

(6) Best estimate.

(a) Gross income shall be computed by using a best estimate of income that may exist in the benefit month.

(b) The following method shall be used to calculate a best estimate of earned income other than earned self-employment:

1. Cents shall:
   a. Not be rounded to the nearest dollar before adding or multiplying hourly or daily earnings; and
   b. Be rounded to the nearest dollar before adding or multiplying weekly, biweekly, semi-monthly, monthly, quarterly, or annual earnings;
2. Unless it does not represent the ongoing situation, income from all pay periods in the preceding two (2) calendar months shall be used;
3. A monthly amount shall be determined by adding gross income from each pay period, dividing by the total number of pay periods considered, and converting the pay period figure to a monthly figure by multiplying a:
   a. Weekly amount by four and one-third (4 1/3);
   b. Biweekly amount by two and one-sixth (2 1/6); or
   c. Semimonthly amount by two (2); and
4. If income has recently begun and the applicant or recipient has not received a calendar month of earned income, the anticipated monthly income shall be computed by:
   a. Multiplying the:
      (i) Hourly rate by the estimated number of hours to be worked in a pay period; or
      (ii) Daily rate by the estimated number of days to be worked in the pay period;
   b. Converting the resulting pay period figure to a monthly amount pursuant to subparagraph 3.c. of this paragraph; and
   c. Rounding to the nearest dollar.

(c) For a case with unearned income, other than unearned self-employment income, a monthly amount shall be determined by:

1. Using the gross monthly amount of continuing, stable unearned income received on a monthly basis; and
2. Averaging the amount of unstable unearned income received in the three (3) prior calendar months, unless it does not represent the ongoing situation.

(d) For a case with self-employment income, a monthly amount shall be determined as follows:

1. If the self-employment enterprise has been in operation for at least a year, the income shall be prorated by dividing the income from the last calendar year by twelve (12);
2. If the self-employment enterprise has been in operation for less than a year, the income shall be prorated by dividing by the number of months the business has been in existence; and
3. Profit shall be determined by:
   a. Rounding the total gross income to the nearest dollar;
   b. Rounding the total amount of allowable expenses to the nearest dollar;
   c. Dividing total gross income and total amount of allowable expenses separately by twelve (12) or the appropriate number of months, and rounding the quotients to the nearest dollar; and
   d. Subtracting the rounded monthly allowable expense quotient from the rounded monthly gross income quotient.

(e) If the cabinet or its designee becomes aware of a change in circumstance, the best estimate shall be recalculated.

Section 9. Continuing Eligibility.

(1) Continued eligibility under the CCAP shall be recertified at least every twelve (12) months.

(2) Eligibility shall be reviewed at each twelve (12) month recertification for a child who is placed with a relative or fictive kin caregiver. A child who is placed with a relative or fictive kin caregiver shall remain eligible pursuant to Section 5 of this administrative regulation for as long as the cabinet determines that child care is necessary in order to prevent child maltreatment or entry into the foster care system.

(3) Eligibility shall be reviewed and recalculated if necessary due to a known or reported change in circumstance.

(4) Unless a nonrelative is approved as fictive kin pursuant to 922 KAR 1:140 or 922 KAR 1:565 and Section 5 of this administrative regulation, a nonrelative who is acting in loco parentis for a child shall be required to show proof of efforts to seek permanent custody of the child or adopt the child within one (1) year of initial application as a condition of continued eligibility for CCAP.

(5) In accordance with 42 U.S.C. 9858c(c)(2)(N), if a family's income does not exceed eighty-five (85) percent of Kentucky's SMI, the family shall remain eligible for CCAP until recertification in accordance with this section.

(6)

(a)

1. Effective March 4, 2022, through August 31, 2022, the cabinet shall implement a transitional period in the Child Care Assistance Program. A child enrolled shall continue to receive assistance for three (3) months after becoming ineligible due to exceeding the income limitations established in Section 8 of this administrative regulation.

2. Effective September 1, 2022, to the extent funds are available, the cabinet shall implement a transitional period in the Child Care Assistance Program. A child enrolled shall continue to receive assistance for six (6) months after becoming ineligible due to exceeding the income limitations established in Section 8 of this administrative regulation.

(b) During the transitional period established in paragraph (a) of this subsection, the provider shall continue to receive fifty percent (50%) of the lesser amount of the provider subsidized rate or maximum payment rate established in the DCC-300, rounded up to the nearest whole dollar.

Section 10. Payment Rates and Policy.

(1)

(a) To the extent funds are available, the cabinet shall make payments as listed in the DCC-300, Kentucky Child Care Maximum Payment Rate Chart.

(b) The rates in the DCC-300 shall represent the maximum payment rates on a per day, per child, per child care provider basis.

(c) The maximum payment rates shall include the following categories:

1. Full day;
2. Part day;
3. Licensed Type I;
4. Licensed Type II;
5. Certified;
6. Registered;
7. Infant/Toddler;
8. Preschool child; and
9. School-age child.

(2) To the extent funds are available, a licensed or certified provider shall receive:

(a) Five (5) dollars per day beyond the maximum rate if the provider is accredited by the:

1. National Association for the Education for Young Children;
2. National Early Childhood Program Accreditation;
3. National Association for Family Child Care;
4. Council on Accreditation; or
5. Other accrediting body approved by the Early Childhood Advisory Council or the cabinet; or

(b)]Ten (10) dollars per day beyond the maximum rate for nontraditional care for providing child care assistance based on the parent's schedule between:

1. 7 p.m. to 5 a.m. daily; or
2. Friday, 7 p.m. through Monday, 5 a.m.

(3) To the extent funds are available, a licensed, certified, or registered provider shall receive a special care rate of five (5) additional dollars per day beyond the maximum rate for care of a child:

(a) With a special need; or

(b) Who is age thirteen (13), but under age nineteen (19) at application or recertification, and is:

1. Physically or mentally incapable of caring for himself as determined by a health professional; or
2. Under court supervision.

(4) The cabinet or its designee shall determine the maximum daily reimbursement rate not to exceed the amount charged to the general public.

(5) A child care provider registered according to 922 KAR 2:180 shall not be paid for more than:

(a) Three (3) children receiving CCAP per day; or

(b) Six (6) children receiving CCAP per day, if those children are:

1. A part of a sibling group; and
2. Related to the provider.

(6) A family meeting the requirements of Section 4 or 6 of this administrative regulation shall be eligible for payment to cover child care needs due to full-time or part-time enrollment in an educational program.

(7) To the extent funds are available, required enrollment fees shall be paid no more than three (3) times in a twelve (12) month period for a family meeting the requirements in Section 5 or 6 of this administrative regulation.

Section 11. Family Copayment.

(1) Unless a family copayment has been waived in accordance with Section 5(3) of this administrative regulation, a family of a child served by the CCAP shall be responsible for a copayment in accordance with the family copayment table in subsection (3) of this section.

(2) If a court orders a parent of a CCAP-eligible child to pay a portion of the child's child care expenses, the court-ordered payment shall be in lieu of the family copayment required by subsection (3) of this section.

(3)

(a) The cabinet or its designee shall determine a copayment that a family shall pay to the provider for the cost of child care, based on the following table:

Family Co-Payment Per Day

Income Range Monthly		Family Size 2 Family Co-Pay With 1 Child	Family Size 3 Family Co-Pay		Family Size 4 Family Co-Pay		Family Size 5 or More Family Co-Pay	
			With 1 Child	With 2 or more	With 1 Child	With 2 or more	With 1 Child	With 2 or more
0	899	$0	$0	$0	$0	$0	$0	$0
900	999	$0	$0	$0	$0	$0	$0	$0
1,000	1,099	$0	$0	$0	$0	$0	$0	$0
1,100	1,199	$0	$0	$0	$0	$0	$0	$0
1,200	1,299	$0	$0	$0	$0	$0	$0	$0
1,300	1,399	$0	$0	$0	$0	$0	$0	$0
1,400	1,499	$6	$5	$6	$5	$6	$4	$4
1,500	1,599	$7	$6	$6	$6	$6	$5	$5
1,600	1,699	$8	$6	$7	$6	$7	$6	$6
1,700	1,799	$9	$7	$8	$7	$8	$6	$7
1,800	1,899	$10	$8	$9	$7	$8	$7	$8
1,900	1,999	$10	$9	$10	$8	$9	$8	$9
2,000	2,099	$11	$10	$11	$8	$9	$8	$9
2,100	2,199.99	$12	$10	$11	$9	$10	$9	$10
2,200	2,299.99	$12	$11	$12	$10	$11	$9	$10
2,300	2,399.99	$12	$12	$13	$11	$12	$9	$10
2,400	2,499.99	$12	$12	$13	$12	$13	$10	$11
2,500	2,599.99	$12	$13	$14	$12	$13	$10	$11
2,600	2,699.99	$12	$13	$14	$13	$14	$12	$13
2,700	2,799.99	$12	$13	$14	$13	$14	$13	$14
2,800	2,899.99	$12	$13	$14	$14	$15	$14	$15
2,900	2,999.99	$12	$13	$14	$14	$15	$16	$17
3,000	3,099.99	$12	$13	$14	$15	$16	$18	$19
3,100	3,199.99	$12	$13	$14	$15	$16	$20	$21
3,200	3,299.99	$12	$13	$14	$15	$16	$20	$21
3,300	3,399.99	$12	$13	$14	$15	$16	$22	$23
3,400	3,499.99	$12	$13	$14	$15	$16	$22	$23
3,500	3,599.99	$12	$13	$14	$15	$16	$24	$25
3,600	3,699.99	$12	$13	$14	$15	$16	$25	$25

(b) The maximum copayment for an eligible family with more than five (5) members shall be twenty-five (25) dollars.

(c) In accordance with 45 C.F.R. 98.21, a copayment for an eligible family shall:

1. Be determined at initial application or recertification; and
2. Not increase during the twelve (12) month eligibility period.

Section 12. Family Rights and Responsibilities.

(1) The family of a child served by the CCAP shall have rights pursuant to KRS 199.898(1) and (2).

(2) Unless an alternative program such as Head Start, state preschool, or state kindergarten is available and accessible during the time child care is needed, an applicant for a child who receives or has been approved to receive CCAP benefits shall:

(a) Be offered choice of child care assistance subject to the availability of state and federal funds; and

(b) Receive a DCC-94, Child Care Service Agreement and Certificate.

(3) Upon enrollment or reenrollment with a provider, an applicant approved in accordance with Section 4 of this administrative regulation shall sign and return the:

(a) DCC-94; or

(b) DCC-90.

(4) Notification of action.

(a) A DCC-94C, Provider Notification Letter, shall provide notice to a provider of a child's discontinuation from CCAP or disenrollment with a provider.

(b) A DCC-94.1, CHILD CARE Approval/Change Notice, shall provide notice of:

1. A change in the certification period of child;
2. Approval of an application; or
3. Continued eligibility.

(c) A DCC-105, Child Care Denial/Discontinuance Notice, shall provide notice of:

1. Denial of an application;
2. Discontinuance of a CCAP benefit;
3. Reason for adverse action;
4. Citation from an applicable state administrative regulation; and
5. Information regarding the opportunity to request an administrative hearing in accordance with Section 18 of this administrative regulation.

(d) The language on the form shall differ according to the purpose of the notice described in paragraphs (a) through (c) of this subsection.

(5) An applicant for a child served by CCAP shall advise the cabinet or its designee of a change in a circumstance within ten (10) calendar days of the day the change is known.

(6) Failure to report a change in a circumstance may result in a:

(a) Decrease or discontinuance of CCAP benefits based on the type of change; or

(b) Claim in accordance with 922 KAR 2:020.

(7) An applicant for a child served by CCAP who fails to cooperate with a cabinet quality control or case review shall be:

(a) Discontinued from CCAP benefits; and

(b) Unable to participate in CCAP until the applicant meets the requirements of the quality control or case review.

(8) An applicant for a child served by CCAP shall report to the cabinet or its designee a provider whom the applicant suspects is not fulfilling requirements in accordance with Section 14(1)(c) of this administrative regulation.

Section 13. Cabinet Requirements.

(1) The DCC-94 shall:

(a) Be used for child care assistance provided by a licensed, certified, or registered provider; and

(b) Not be considered a contract, employment, or grant to the child care provider, but shall be considered assistance to the applicant pursuant to 45 C.F.R. 98.30(c)(6).

(2) The cabinet or its designee shall provide consumer information regarding conditions for termination of the DCC-94 pursuant to KRS 199.8994(6)(b).

(3) The cabinet or its designee shall assure that a provider of child care assistance funded under the CCDF and other local, state, or federal funds shall comply with the applicable

regulatory requirements pursuant to:

(a) 922 KAR 2:020, Child Care Assistance Program (CCAP) improper payments, claims, and penalties;

(b) 922 KAR 2:090, Child-care center licensure;

(c) 922 KAR 2:100, Certification of family child-care homes;

(d) 922 KAR 2:120, Child-care center health and safety standards;

(e) 922 KAR 2:180, Requirements for registered child care providers in the Child Care Assistance Program;

(f) 922 KAR 2:190, Civil penalties;

(g) 922 KAR 2:270, Kentucky All STARS quality-based graduated early childhood rating system for licensed child-care centers and certified family child-care homes; and

(h) 922 KAR 2:280, Background checks for child care staff members, reporting requirements, and appeals.

(4) The cabinet or its designee shall complete a home inspection of a registered child care provider in CCAP in accordance with 42 U.S.C. 9858c(c)(2)(K)(i)(IV) and 922 KAR 2:180.

(5) If CCAP benefits are reduced or discontinued due to the shortage of funding, the cabinet shall provide a minimum thirty (30) calendar day notice to each family receiving child care assistance.

(6) If the daily maximum payment rate is reduced due to the shortage of funding, the cabinet shall provide a minimum thirty (30) calendar day notice to licensed, certified, or registered providers.

(7) The cabinet shall send a notice of adverse action at least ten (10) calendar days in advance of taking adverse action.

(8) In accordance with 45 C.F.R. 98.46, the cabinet shall prioritize child care assistance benefits as determined by the available funds as follows:

(a) Child protective or preventive services authorization;

(b) A child with a special need;

(c) A child experiencing homelessness as defined by 45 C.F.R. 98.2;

(d) A child in the custody of the cabinet;

(e) KTAP recipients participating in the Kentucky Works Program established in 921 KAR 2:370;

(f) Teen parents attending high school or pursuing a general equivalency degree (GED);

(g) A KTAP recipient attempting to transition off assistance through employment;

(h) A parent whose KTAP case has been discontinued during the previous twelve (12) months and who needs child care assistance in order to accept or retain employment;

(i) A low income working parent; or

(j) A parent in education or training programs leading to self-sufficiency.

Section 14. Provider Requirements.

(1) A licensed child-care center, certified family child-care home, or registered child care provider that serves a child who participates in the CCAP shall:

(a) Sign and give to the parent for submission to the cabinet or its designee, upon a child's enrollment or reenrollment with the provider and prior to receiving payment from the CCAP, the DCC-94;

(b) Report all absences on the DCC-97, Provider Billing Form, submitted to the cabinet or its designee;

(c)

1. Maintain the DCC-94E, Child Care Daily Attendance Record, or a cabinet approved electronic billing system in which the attendance is:

a. Recorded legibly each time the child arrives and each time the child departs the provider's care; and

b. Signed or electronically recorded legibly with first and last name by the parent or applicant for the child served by CCAP; and

2. Submit the DCC-94E or electronic daily attendance record upon request of the cabinet or its designee;

(d) Comply with the applicable regulatory requirements pursuant to:

1. 922 KAR 2:020, Child Care Assistance Program (CCAP) improper payments, claims, and penalties;

2. 922 KAR 2:090, Child-care center licensure;

3. 922 KAR 2:100, Certification of family child-care homes;

4. 922 KAR 2:120, Child-care center health and safety standards;

5. 922 KAR 2:180, Requirements for registered child care providers in the Child Care Assistance Program;

6. 922 KAR 2:190, Civil penalties;

7. 922 KAR 2:270, Kentucky All STARS quality-based graduated early childhood rating system for licensed child-care centers and certified family child-care homes; and

8. 922 KAR 2:280, Background checks for child care staff members, reporting requirements, and appeals;

(e) Complete the cabinet approved training on billing and the DCC-94E prior to receiving an initial payment from CCAP; and

(f) Complete, retain on file, and provide to the CCAP billing section a certificate of completion for cabinet approved training on billing once during each year of operation or upon change of the staff member submitting billing information.

(2) A licensed or certified child care provider shall complete and submit the DCC-94B, Licensed or Certified Provider Agreement Form, prior to receiving payment from CCAP.

(3) A licensed child care provider shall maintain written documents with attendance records stating the reason for any absence of a child receiving CCAP in excess of five (5) absences per month per child.

(4)

(a) If CCAP records indicate that a certified family child-care home or a licensed child-care center is operating over capacity, as specified in 922 KAR 2:100 or 922 KAR 2:120 respectively, by having two (2) or more shifts, the cabinet shall request an operating plan from the provider.

(b) An operating plan in accordance with paragraph (a) of this subsection shall specify:

1. Each employee of each shift;

2. The work hours for each employee of each shift;

3. The management for each shift;

4. The work hours for each management employee of each shift; and

5. The children enrolled for each shift.

(c) The cabinet shall approve a provider for overcapacity if:

1. The operating plan meets all requirements of:

a. For a licensed child-care center, 922 KAR 2:090 and 922 KAR 2:120; or

b. For a certified family child-care home, 922 KAR 2:100; and

2. The provider has had less than two (2) health, safety, or welfare deficiencies or violations within the previous twenty-four (24) month period, even if deficiencies were corrected.

(5) A registered child care provider in CCAP shall comply with an inspection in accordance with 42 U.S.C. 9858c(c)(2)(K)(i)(IV) and 922 KAR 2:180 conducted by the cabinet or its designee.

(6) A provider shall be ineligible for CCAP if the provider:

(a) Was discontinued or disqualified from participation in a governmental assistance program due to fraud or abuse of the program;
(b) Has had a previous ownership interest in a child-care provider, which had a prior certification, license, registration, or permit to operate denied, suspended, revoked, or voluntarily relinquished as a result of an investigation or pending adverse action; or
(c) Is a parent, spouse, sibling, or child of a previous provider described in paragraphs (a) and (b) of this subsection, and the previous provider will be involved in the new provider's operations in any capacity.

Section 15. Other Services. To the extent funds are available, a child whose family's income is over the income limits for the CCAP described in Section 8 of this administrative regulation may be eligible for:
(1) Child care payments;
(2) Enrollment fees;
(3) Activity or day trip fees;
(4) Material fees;
(5) Transportation fees; or
(6) Other items relating to child care services with prior approval of the cabinet.

Section 16. An improper payment, claim, or penalty in CCAP shall be handled in accordance with 922 KAR 2:020.

Section 17. Criteria for Nonpayment.
(1) Payment under the CCAP shall:
(a) Not be made to a licensed provider for more than five (5) absences per child during a month if the provider fails to verify in writing, and maintain attendance records verifying, that the additional absences were related to:
1. A death in the family;
2. An illness of the:
a. Child; or
b. Applicant; or
3. A disaster verified by utility provider, local, state, or federal government;
(b) Not be made to a certified provider for more than five (5) absences per child during a month;
(c) Not be made to a registered provider for any absences;
(d) Be denied in accordance with KRS 199.8994(6);
(e) Cease if a family or provider defaults on a payment in accordance with Section 11 of this administrative regulation or 922 KAR 2:020;
(f) Not be made if a family no longer meets the technical or financial eligibility requirements under the CCAP;
(g) Not be made to a provider for payment requests ninety (90) days after the date of service;
(h) Not be made to a licensed or certified provider for more than ten (10) holidays per calendar year;
(i) Cease if a provider denies:
1. A parent of a child in care, the cabinet, the cabinet's designee, or a representative of an agency with regulatory authority:
a. Entry into the provider's premises during operating hours; or
b. Access to a child in care; or
2. The cabinet, the cabinet's designee, or a representative of an agency with regulatory authority access to the provider's records relevant to a:
a. Cabinet review, including CCAP quality control or case review; or
b. Review by another agency with regulatory authority;

(j) Not be made to a provider if the provider's DCC-94E in accordance with Section 14(1)(c) of this administrative regulation does not support billing for a child reported as served for the same period of time on the DCC-97;

(k) Not be made if a licensed or certified provider cares for a child served by CCAP at a location not specified on the DCC-94; or

(l) Not be made to a provider for a child in care over the capacity of the provider, as governed by 922 KAR 2:100 or 922 KAR 2:120, unless an operating plan is approved in accordance with Section 14(4) of this administrative regulation.

(2) Subject to the availability of state or federal funds, the cabinet may suspend approval of initial application for benefits under the CCAP following the priorities established in Section 13(8) of this administrative regulation.

Section 18. Administrative Hearings.

(1) A CCAP applicant or recipient may request an administrative hearing regarding eligibility determination, recalculation, or recertification in accordance with 921 KAR 2:055.

(2) An administrative hearing pertaining to a matter not specified in subsection (1) of this section may be requested in accordance with:

(a) 922 KAR 2:260; or

(b) 922 KAR 2:020.

Section 19. Records. Records of CCAP shall be maintained and disclosed in accordance with:

(1) KRS 194A.060;

(2) 45 C.F.R. 98.90(e); and

(3) 45 C.F.R. 205.50(a)(1)(i).

Section 20. Incorporation by Reference.

(1) The following material is incorporated by reference:

(a) "DCC-90, Subsidized Child Care Assistance Application Summary", 7/2019;

(b) "DCC-94, Child Care Service Agreement and Certificate", 07/21;

(c) "DCC-94.1, CHILD CARE Approval/Change Notice", 10/17;

(d) "DCC-94B, Licensed or Certified Provider Agreement Form", 04/17;

(e) "DCC-94C, Provider Notification Letter", 10/17;

(f) "DCC-94E, Child Care Daily Attendance Record", 07/22;

(g) "DCC-97, Provider Billing Form", 04/13;

(h) "DCC-105, Child Care Denial/Discontinuance Notice", 10/17; and

(i) "DCC-300, Kentucky Child Care Maximum Payment Rate Chart", 10/22.

(2) This material may be inspected, copied, or obtained, subject to applicable copyright law, at the Cabinet for Health and Family Services, Department for Community Based Services, 275 East Main Street, Frankfort, Kentucky 40621, Monday through Friday, 8 a.m. to 4:30 p.m. This material may also be viewed on the department's Web site at https://chfs.ky.gov/agencies/dcbs/Pages/default.aspx.

(25 Ky.R. 725; 1075; 1375; eff. 11-18-1998; Recodified from 905 KAR 2:160, 2-1-1999; 26 Ky.R. 249; 634; 783; eff. 10-20-1999; 28 Ky.R. 492; 900; eff. 9-25-2001; 29 Ky.R. 2810; 30 Ky.R. 68; 301; 2578; eff. 8-13-2003; 31 Ky.R. 360; eff. 8-24-2004; TAm eff. 10-29-2004; TAm eff. 8-1-2005; 32 Ky.R. 2191; 33 Ky.R. 500; 802; eff. 9-20-2006; 34 Ky.R. 487; 804; eff. 5-2-2008; 36 Ky.R. 1380; eff. 3-5-2010; 39 Ky.R. 2269; 40 Ky.R. 324; eff. 9-18-2013; 41 Ky.R. 655; 1229; 2003; eff. 4-3-2015; 42 Ky.R. 2673; 43 Ky.R. 55; 255; eff. 8-17-2016; 45 Ky.R. 2284, 2945; eff. 5-31-2019; 48 Ky.R. 693, 1614; eff. 12-15-2021; 49 Ky.R. 469, 1098; eff. 11-15-2022.)

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