

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

922 KAR 2:165. Employee Child Care Assistance Partnership.

RELATES TO: KRS 199.881-888, 199.8943, 42 U.S.C. 2000d

STATUTORY AUTHORITY: KRS 194A.050(1), 199.884, 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 199.884 requires the cabinet to promulgate administrative regulations to effectuate the provisions of KRS 199.881 to 199.888. KRS 199.8994 requires the cabinet to administer all child care funds in a manner that is in the best interest of the clients to be served. This administrative regulation establishes eligibility requirements and procedures for the implementation of the Employee Child Care Assistance Partnership to the extent that funding is available.

Section 1. Definitions.

(1) "Applicant" means an employer applying for the Employee Child Care Assistance Partnership (ECCAP) program with the intention of entering into a contract with an employee and a child care provider to support an employee by contributing to his or her child care costs.

(2) "Cabinet" is defined by KRS 199.882(1).

(3) "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.

(4) "Child care desert" means a census tract with more than fifty (50) children under the age of five (5) that contains either no child care providers or so few that there are more than three (3) times as many children as licensed child care slots.

(5) "Contribution" is defined by KRS 199.882(3).

(6) "Eligible child care costs" is defined by KRS 199.882(4).

(7) "Employee" is defined by KRS 199.882(5).

(8) "Employer" is defined by KRS 199.882(6).

(9) "Family" means a parent, child, or other responsible adult residing in the same home as a child.

(10) "Fund" is defined by KRS 199.882(7).

(11) "Program" means the Employee Child Care Assistance Partnership and is defined by KRS 199.882(8).

(12) "Responsible adult" means an individual who is:

- (a) The natural parent, adoptive parent, or stepparent;
- (b) The legal guardian of a child; or
- (c) The spouse of an individual caring for a child in loco parentis.

(13) "Small business" is defined by KRS 199.882(9).

(14) "State match" is defined by KRS 199.882(10).

(15) "State median household income" is defined by KRS 199.882(11).

Section 2. Application and Contract Requirements and Timeframes.

(1) An employer may apply for the Employee Child Care Assistance Partnership (ECCAP).

- (2) An application shall have been made on the date a signed and completed form "DCC-600, Employee Child Care Assistance Partnership Application and Contract", is received by the cabinet.
- (3) An application shall not be received by the cabinet prior to April 2, 2023, in accordance with KRS 199.883(9)(b).
- (4) The cabinet shall review and consider an application received on or after April 2, 2023, pursuant to KRS 199.883(3) through (5).
- (5) The cabinet shall not disburse a state match pursuant to this program prior to July 1, 2023, in accordance with KRS 199.883(9)(c).
- (6) If necessary, the cabinet shall maintain a waitlist pursuant to KRS 199.883(6).
- (7) Pursuant to KRS 199.883(10), if funding is available, beginning in 2024, the cabinet shall accept an application for the next fiscal year on:
- (a) April 2 of each year for an employer already participating in the program.
 - (b) May 17 of each year for an employer not already participating in the program.
- (8)
- (a) In accordance with the procedures established in 920 KAR 1:070, interpreter or speech impaired services shall be provided for persons who are:
 1. Deaf; or
 2. Hard of hearing.
 - (b) 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.
- (9) The cabinet or its designee shall not discriminate against an applicant based on age, race, color, sex or gender, sexual orientation, disability, religion, national origin or ancestry, political beliefs, or reprisal or retaliation for prior civil rights activity.
- (10)
- (a) The employer shall be the primary source of information and shall:
 1. Provide verification of:
 - a. Employment;
 - b. The employee's income; and
 - c. Technical eligibility required pursuant to Section 3 of this administrative regulation; 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, failure of an employer to respond within ten (10) business days shall be considered a failure to present adequate proof of eligibility.
- (11) The cabinet shall verify that the employer, employee, and child care provider are eligible to participate in the program pursuant to the requirements established in this administrative regulation.
- (12) The cabinet shall:
- (a) Render a decision on each application; and
 - (b) Within thirty (30) calendar days of receipt of the application submitted in accordance with KRS 199.884(4), send notice of approval or denial to all parties on the "DCC-605, Employee Child Care Assistance Partnership Notice of Action".

Section 3. Technical Eligibility.

- (1) An employee shall not be eligible to participate in the program if child care is provided by:
- (a) A parent or stepparent;
 - (b) A legal guardian;
 - (c) A person living in the same residence as the child in need of care; or

(d) A provider not:

1.

- a. Licensed pursuant to 922 KAR 2:090; or
- b. Certified pursuant to 922 KAR 2:100; and

2. Rated pursuant to the quality-based graduated early care and education program established in KRS 199.8943 and 922 KAR 2:270.

(2) An employee whose family meets the eligibility requirements for the Child Care Assistance Program pursuant to 922 KAR 2:160 shall be referred to that program by the cabinet.

(3) An employee shall not be eligible to participate in the Employee Child Care Assistance Partnership program if a member of his or her family is eligible for the Child Care Assistance Program pursuant to 922 KAR 2:160.

(4) An employee shall be a member of the family of the child for whom child care is being provided and paid for. ~~ff~~

(5) A licensed or certified child care provider shall be eligible to apply for this program as an employer.

(6) The owner of a child care facility shall not be eligible to participate as an employee.

(7) An individual shall not be eligible to apply as more than one (1) party to a contract.

Section 4. Priority Determinations.

(1) The cabinet shall review and consider applications in the order in which they are received.

(2) In each fiscal year, twenty-five (25) percent of the total fund shall be set aside to fund applications in which the employer is a small business.

(3) The cabinet shall prioritize approving applications in which:

(a) The employer is located in a child care desert; or

(b) The employer shall contribute at least thirty-three (33) percent of the eligible child care costs.

Section 5. Continuing Participation.

(1) Each approved contract shall remain in place for the approved fiscal year unless the contract is terminated pursuant to Section 7 of this administrative regulation.

(2) An employer with an approved contract in place shall reapply to continue participation each year pursuant to KRS 199.883(10)(a).

Section 6. Payments Rates.

(1) To the extent funds are available, the cabinet shall make payments to the child care provider based on the enrollment of each child identified in the DCC-600.

(2) Except as provided in subsection (3) of this section, the state match to the contribution provided by the employer shall be in accordance with the following tiered table of an employee's household income pursuant to KRS 199.885(7):

Employee Household Income Compared to State Median Household Income	State Match Percentage
Equal to or less than 100%	100%
Above 100% through 120%	90%
Above 120% through 140%	80%
Above 140% through 160%	70%
Above 160% through 180%	60%
Above 180%	50%

(3) The state match provided shall not exceed the balance necessary to pay for child care in full.

(4) The state match provided shall remain unchanged for the approved fiscal year unless the contract is terminated pursuant to Section 7 of this administrative regulation.

(5) A child care provider shall not charge a rate for a program participant that is different from that charged to the general public.

Section 7. Termination of Contract.

(1) The contract shall be terminated if:

(a) Employment is terminated pursuant KRS 199.887(1)(a);

(b) An employer fails to make the agreed upon contribution towards child care pursuant KRS 199.887(1)(b);

(c) An employee fails to pay remaining child care costs and the child care provider requests the cabinet terminate the contract;

(d) A child care provider ceases participating in the program;

(e) A child care provider no longer participates in the quality rating system established in KRS 199.8943 and 922 KAR 2:270; or

(f) An employer or employee requests the contract be terminated by the cabinet at any time for any reason pursuant KRS 199.887(2)(c).

(2) If employment is terminated, the employer shall notify the child care provider and cabinet within three (3) business days.

(3) If an employer fails to make the agreed upon contribution, the child care provider shall notify the cabinet within five (5) business days.

(4) If a child care provider ceases participation in the program or no longer participates in the quality rating system, the provider shall notify all parties to the agreement immediately.

(5) If an employer or employee requests a contract be terminated by the cabinet, he or she shall notify all parties to the contract and specify the desired termination date that shall occur no less than two (2) weeks from the date of notice.

(6) If a party to the contract fails to meet the notice requirements of this section, reimbursement shall be made in accordance with KRS 199.887.

(7) All parties to a contract shall be financially obligated up to the date of termination of the contract.

(8) The cabinet shall notify all parties of a termination of contract on the DCC-605.

Section 8. Appeals. An employer, employee, or child care provider may request an administrative hearing regarding an eligibility or payment determination **within thirty (30) days of adverse action from the Office of the Ombudsman and Administrative Review, Quality Advancement Branch, 275 East Main Street, 2 E-O, Frankfort, KY 40621**~~in accordance with 921 KAR 2:055 or 922 KAR 2:260~~.

Section 9. Incorporation by Reference.

(1) The following material is incorporated by reference:

(a) "DCC-600, Employee Child Care Assistance Partnership Application and Contract", 09/22; and

(b) "DCC-605, Employee Child Care Assistance Partnership Notice of Action", ~~01/23~~**09/22**.

(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>.

(49 Ky.R. 1221, 1631; eff. 2-16-2023.)

FILED WITH LRC: January 10, 2023

CONTACT PERSON: Krista Quarles, Policy Analyst, Office of Legislative and Regulatory Affairs, 275 East Main Street 5 W-A, Frankfort, Kentucky 40621; phone 502-564-6746; fax 502-564-7091; email CHFSregs@ky.gov.