

CABINET FOR HEALTH AND FAMILY SERVICES
Department for Community Based Services
Division of Child Care
(Amendment)

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

RELATES TO: KRS 199.011(3), (4), 199.894(1), 199.896, 199.898, 620.020(8), 620.030, 45 C.F.R. Part 98

STATUTORY AUTHORITY: KRS 194A.050(1), 199.8994(6)

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 199.8994(6) requires the cabinet to promulgate administrative regulations to establish minimum health and safety standards, limitations on the maximum number of children in care, training requirements for a child care provider that receives a child care subsidy administered by the cabinet, and criteria for the denial of subsidies if criminal records indicate convictions that impact the safety and security of children in care. 45 C.F.R. Part 98 authorizes states to deliver high-quality, coordinated early childhood care and education services and improve the overall quality of child care services and programs. This administrative regulation establishes requirements for providers to participate in the Child Care Assistance Program and the application procedures.

Section 1. Definitions.

- (1) "Cabinet" is defined by KRS 199.011(3) and 199.894(1).
- (2) "Child" is defined by KRS 199.011(4).
- (3) "Closed" means the provider is no longer a registered relative program provider.
- (4) "Conditional approval" means time-limited approval while completing required training.
- (5) "Denied" means the application for program registration is not approved and the applicant will be penalized.
- (6) "Parent" is defined by 45 C.F.R. 98.2.
- (7) "Pediatric abusive head trauma" is defined by KRS 620.020(8).
- (8) "Related" means the child has one (1) of the following relationships with the registered relative provider:
 - (a) Grandchild;
 - (b) Great-grandchild;
 - (c) Niece;
 - (d) Nephew; or
 - (e) Sibling, if the registered relative provider lives in a separate residence.;
- (9) "Revoked" means the provider is no longer a registered provider and the provider will be penalized.
- (10) "Withdrawn" means the application for program registration is removed from consideration without a penalty.

Section 2. Application Rights and Requirements for Relative Child Care Provider Registration.

- (1) To apply for relative child care provider registration in CCAP, an individual shall:
 - (a) Be related to a child receiving CCAP in accordance with 922 KAR 2:160; and

(b) Submit:

1.
 - a. A completed DCC-95, Application for Registered Relative Child Care Provider in Provider's Home; or
 - b. A completed DCC-96, Application for Registered Relative Child Care Provider in Child's Home;
2. A completed DCC-94A, Registered Relative Child Care Provider Information Form;
3. A completed IRS W-9, Request for Taxpayer Identification Number and Certification;
4. Proof by photo identification or birth certificate that the individual is eighteen (18) years or older;
5. Verification of Social Security number;
6. Completed background checks in accordance with 922 KAR 2:280; and
7. Verification that the individual has completed the cabinet-approved training on billing and the DCC-94E required by 922 KAR 2:160.

(2)

- (a) An applicant may receive conditional approval in accordance with Section 4(2) of this administrative regulation;
- (b) Within ninety (90) calendar days of submitting an application to be a registered relative child care provider in CCAP pursuant to subsection (1) of this section, the applicant shall provide verification that the applicant has obtained training approved by the cabinet or its designee in the areas of:
 1. Recognition of child abuse and neglect, which shall include one and one-half (1.5) hours of cabinet-approved pediatric abusive head trauma training in accordance with KRS 199.896(16); and
 2. Age-appropriate cardiopulmonary resuscitation (CPR) and first aid certified by a cabinet-approved training agency; and
- (c) An applicant who fails to complete the training required by paragraph (b) of this subsection shall be subject to cabinet action in accordance with Section 4(4) of this administrative regulation.

Section 3. Additional Requirements for Registered Relative Providers in Provider's Home. If a registered relative child care provider provides child care services in the provider's home, the provider shall provide written verification that each member of the provider's household who is age eighteen (18) or older has completed background checks in accordance with 922 KAR 2:280.

Section 4. Actions on Applications.

- (1) The cabinet or its designee shall approve, deny, or withdraw an individual's application for registration within thirty (30) calendar days from receipt of the individual's application in accordance with Section 2(1) of this administrative regulation.
- (2) The cabinet or its designee may conditionally approve an individual who submitted a complete application pursuant to Section 2(1) of this administrative regulation, to provide child care services to a child for ninety (90) calendar days, if the applicant complies with Section 3 of this administrative regulation, if child care is given in the home of the provider.
- (3) The cabinet or its designee shall approve an individual who submitted an application pursuant to Section 2 of this administrative regulation as a registered relative child care provider for one (1) year, if the applicant complies with:
 - (a) Section 2(2) of this administrative regulation; and
 - (b) Section 3 of this administrative regulation if child care is given in the home of the provider.

- (4) If a conditionally approved provider has not completed the training requirement pursuant to Section 2(2) of this administrative regulation, the cabinet or its designee shall:
- (a) Not approve an applicant for payment pursuant to 922 KAR 2:160 past the ninety (90) days of conditional approval; and
 - (b) Deny another:
 - 1. Period of conditional approval for the same applicant; or
 - 2. Application from the same applicant unless training has been completed in accordance with Section 2(2) of this administrative regulation.
- (5) The cabinet may confirm training verification provided by an applicant, conditionally approved applicant, or registered relative child care provider through the cabinet-approved training database maintained in accordance with 922 KAR 2:240.

Section 5. General Requirements for Registered Relative Child Care Providers.

- (1) A registered relative child care provider shall not:
- (a) Live in the same residence as the child in care;
 - (b) Hold a license to provide child care in accordance with 922 KAR 2:090; or
 - (c) Hold certification to provide child care in accordance with 922 KAR 2:100.
- (2) A registered relative child care provider shall not provide other home based services, including services, such as:
- (a) A personal care home in accordance with 902 KAR 20:036;
 - (b) A family care home in accordance with 902 KAR 20:041;
 - (c) An adult day care in accordance with 910 KAR 1:160; or
 - (d) Supports for community living in accordance with 907 KAR 1:145 or 907 KAR 12:010.
- (3) A registered relative child care provider shall:
- (a) Comply with the:
 - 1. Provisions of KRS 199.898; and
 - 2. Provider requirements in accordance with 922 KAR 2:160, Section 14; and
 - (b) Report within ten (10) calendar days any change to the provider's:
 - 1. Address;
 - 2. Name;
 - 3. Telephone number;
 - 4. Household members; or
 - 5. Location where the child care is provided.
- (4)
- (a) A registered relative child care provider who provides care in the provider's home shall comply with the requirements of Section 3 of this administrative regulation within thirty (30) calendar days for a:
 - 1. New household member who is eighteen (18) years or older; or
 - 2. Household member who turns age eighteen (18).
 - (b) If a background check in accordance with Section 3 and 922 KAR 2:280 is pending on a member of the registered provider's household who is eighteen (18) years or older, the registered relative child care provider who provides care in the provider's home shall prohibit unsupervised contact between the household member and a child in care.
- (5)
- (a) A registered relative child care provider shall maintain an attendance sheet in which the daily arrival and departure times of each child are recorded in accordance with 922 KAR 2:160, Section 14.
 - (b) A registered child care provider shall retain attendance sheets completed in accordance with paragraph (a) of this subsection for five (5) years.
- (6)

- (a) Care for a child with a special need shall be consistent with the nature of the need as documented by the child's health professional.
 - (b) A child may include a person eighteen (18) years of age if the person has a special need for which child care is required.
- (7) A registered relative child care provider shall report to the cabinet or designee within twenty-four (24) hours:
- (a) A report of child abuse or neglect that:
 - 1. Has been accepted by the cabinet in accordance with 922 KAR 1:330; and
 - 2. Names:
 - a. The registered relative child care provider as the alleged perpetrator; or
 - b. A member of the registered relative child care provider's household as the alleged perpetrator if child care services are provided in the provider's home; or
 - (b) The provider's temporary or permanent closure as soon as practicable, which shall also be given to the parent of a child in care.

Section 6. Child Ratios. During hours of operation, a registered relative child care provider shall not care for more than:

- (1) Six (6) children receiving CCAP per dayor
- (2) A total of eight (8) children inclusive of the provider's own children.

Section 7. Renewal of Registration.

- (1) The cabinet or its designee shall send a reminder notice to a registered relative child care provider at least forty-five (45) calendar days prior to the expiration date of the provider's registration issued in accordance with Section 4(3) of this administrative regulation.
- (2) To renew child care provider registration prior to the expiration of the registration, a registered child care provider shall:
 - (a) Meet the requirements specified in:
 - 1. Sections 2, 5, and 6 of this administrative regulation; and
 - 2. 922 KAR 2:280;
 - (b) Complete, and provide verification of, one and one-half (1 1/2) hours of pediatric abusive head trauma training once and each subsequent five (5) years of employment or operation as a child care provider;
 - (c) Obtain certification in cabinet-approved age-appropriate cardiopulmonary resuscitation (CPR) and first aid; and
 - (d) Complete cabinet-approved training on billing and utilizing the DCC-94E in accordance with 922 KAR 2:160.

Section 8. Negative Action for an Applicant or a Registered Relative Child Care Provider.

- (1) If a registered relative child care provider or a member of the provider's household is named as the alleged perpetrator in a child abuse or neglect report accepted by the cabinet in accordance with 922 KAR 1:330, the individual shall be removed from direct contact with a child in care:
 - (a) For the duration of the investigation; and
 - (b) Pending completion of an administrative appeal process for a cabinet substantiation of child abuse or neglect in accordance with 922 KAR 1:320 or 922 KAR 1:480.
- (2) The cabinet or its designee shall send written notice of negative action to:
 - (a) An applicant for registration, if the application is:
 - 1. Withdrawn; or
 - 2. Denied; or
 - (b) A registered relative child care provider, if the provider's registration is:
 - 1. Closed; or
 - 2. Revoked.

- (3) The notice of negative action shall include the:
- (a) Reason for the negative action; and
 - (b) Effective date.
- (4) An application for registration shall be denied or a registered provider's registration shall be revoked if:
- (a) A disqualifying criterion or background check result in accordance with 922 KAR 2:280 is met;
 - (b) A history of behavior exists that may impact the safety or security of a child in care including:
 1. A conviction, an Alford plea, or a guilty plea related to the abuse or neglect of an adult; or
 2. Other behavior or condition indicating inability to provide reliable care to a child;
 - (c) The applicant or provider has been discontinued or disqualified from participation in:
 1. CCAP, including an intentional program violation in accordance with 922 KAR 2:020; or
 2. Another governmental assistance program due to fraud, abuse, or criminal conviction related to that program; or
 - (d) The applicant or provider knowingly misrepresents or submits false information on a form required by the cabinet.
- (5) If an applicant has had a previous ownership interest in a child care provider that had a prior certification, license, registration, or permit to operate denied, suspended, revoked, or voluntarily relinquished as a result of an investigation or a pending adverse action in accordance with 922 KAR 2:090, 2:100, 2:120, or this administrative regulation, the cabinet shall grant the applicant registration if:
- (a) A seven (7) year period has expired from the:
 1. Date of the prior denial, suspension, or revocation;
 2. Date the certification, license, registration, or permit was voluntarily relinquished as a result of an investigation or a pending adverse action;
 3. Last day of legal remedies being exhausted; or
 4. Date of the final order from an administrative hearing;
 - (b) The applicant complies with:
 1. Sections 2, 5, and 6 of this administrative regulation;
 2. If care is given in the home of the provider, Section 3 of this administrative regulation; and
 3. 922 KAR 2:280;
 - (c) The applicant completes, and provides verification of training approved by the cabinet or its designee;
 - (d) The applicant has not had an application, certificate, license, registration, or permit to operate as a child care provider denied, revoked, or voluntarily relinquished for:
 1. A disqualifying criterion or background check result in accordance with 922 KAR 2:280; or
 2. Discontinuance or disqualification from participation in:
 - a. CCAP, including an intentional program violation, in accordance with 922 KAR 2:020; or
 - b. Another governmental assistance program due to fraud, abuse, or criminal conviction related to that program.
- (6) An application may be withdrawn:
- (a) If all required documentation for the application process is not received within thirty (30) calendar days in accordance with Section 2 of this administrative regulation; or
 - (b) At the request of the applicant.

- (7) A registered relative child care provider's status may be closed:
- (a) At the request of the provider; or
 - (b) If the provider fails to comply with requirements in Section 3, 5, 6, or 7(2) of this administrative regulation.
- (8) The voluntary withdrawal, closure, or relinquishment of a provider's registration shall not preclude the cabinet's pursuit of adverse action.

Section 9. Appeal of Negative Action. If the cabinet or its designee denies or withdraws an application for registration, revokes a provider's registration, or closes a provider, the applicant or provider may request an appeal in accordance with 922 KAR 2:260.

Section 10. Incorporation by Reference.

- (1) The following material is incorporated by reference:
- (a) "DCC-94A, Registered Relative Child Care Provider Information Form", 2023;
 - (b) "DCC-95, Application for Registered Relative Child Care Provider in Provider's Home", 2023;
 - (c) "DCC-96, Application for Registered Relative Child Care Provider in Child's Home", 2023; and
 - (d) "IRS W-9, Request for Taxpayer Identification Number and Certification", December 2014.
- (2) This material may be inspected, copied, or obtained, subject to applicable copyright law, at the 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>.

LESA DENNIS, Acting Commissioner
CARRIE BANAHAN, Deputy Secretary

APPROVED BY AGENCY: April 18, 2023

FILED WITH LRC: April 20, 2023 at 2:45 p.m.

PUBLIC HEARING AND COMMENT PERIOD: A public hearing on this administrative regulation shall, if requested, be held on July 24, 2023, at 9:00 a.m. using the CHFS Office of Legislative and Regulatory Affairs Zoom meeting room. The Zoom invitation will be emailed to each requestor the week prior to the scheduled hearing. Individuals interested in attending this virtual hearing shall notify this agency in writing by July 17, 2023, five (5) workdays prior to the hearing, of their intent to attend. If no notification of intent to attend the hearing is received by that date, the hearing may be canceled. This hearing is open to the public. Any person who attends virtually will be given an opportunity to comment on the proposed administrative regulation. A transcript of the public hearing will not be made unless a written request for a transcript is made. If you do not wish to be heard at the public hearing, you may submit written comments on this proposed administrative regulation until July 31, 2023. Send written notification of intent to attend the public hearing or written comments on the proposed administrative regulation to the contact person. Pursuant to KRS 13A.280(8), copies of the statement of consideration and, if applicable, the amended after comments version of the administrative regulation shall be made available upon request.

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