



# Certification Page Regular and Emergency Rules

Revised July 2019

Emergency Rules *(Complete Sections 1-3 and 5-6)*

Regular Rules

### 1. General Information

a. Agency/Board Name <b>Department of Family Services, Economic Security Division</b>			
b. Agency/Board Address <b>2300 Capitol Avenue, Third Floor</b>		c. City <b>Cheyenne</b>	d. Zip Code <b>82002</b>
e. Name of Agency Liaison <b>Eve Barela</b>		f. Agency Liaison Telephone Number <b>307-777-6350</b>	
g. Agency Liaison Email Address <b>eve.barela@wyo.gov</b>		h. Adoption Date <b>April 1, 2020</b>	
i. Program <b>Child Care Purchase of Service</b>			

### 2. Legislative Enactment

For purposes of this Section 2, "new" only applies to regular (non-emergency) rules promulgated in response to a Wyoming legislative enactment not previously addressed in whole or in part by prior rulemaking and does not include rules adopted in response to a federal mandate.

a. Are these non-emergency or regular rules new as per the above description and the definition of "new" in Chapter 1 of the Rules on Rules?

No.     Yes. If the rules are new, please provide the Chapter Numbers and Years Enacted (e.g. 2015 Session Laws Chapter 154):

### 3. Rule Type and Information

For purposes of this Section 3, "New" means an emergency or regular rule that has never been previously created.

a. Provide the Chapter Number, Title\* and Proposed Action for Each Chapter. *Please use the "Additional Rule Information" form to identify additional rule chapters.*

Chapter Number:	Chapter Name:	<input type="checkbox"/> New <input checked="" type="checkbox"/> Amended <input type="checkbox"/> Repealed
<b>1</b>	Child Care, Purchase of Service - General	
		<input type="checkbox"/> New <input type="checkbox"/> Amended <input type="checkbox"/> Repealed
		<input type="checkbox"/> New <input type="checkbox"/> Amended <input type="checkbox"/> Repealed
		<input type="checkbox"/> New <input type="checkbox"/> Amended <input type="checkbox"/> Repealed
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		<input type="checkbox"/> New <input type="checkbox"/> Amended <input type="checkbox"/> Repealed
		<input type="checkbox"/> New <input type="checkbox"/> Amended <input type="checkbox"/> Repealed
		<input type="checkbox"/> New <input type="checkbox"/> Amended <input type="checkbox"/> Repealed

\* If the name of a chapter of rules is changing, please only provide the NEW chapter name on this rules certification form.

**4. Public Notice of Intended Rulemaking**

a. Notice was mailed 45 days in advance to all persons who made a timely request for advance notice.  No.  Yes.  N/A

b. A public hearing was held on the proposed rules.  No.  Yes. Please complete the boxes below.

Date:	Time:	City:	Location:

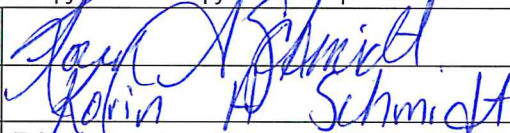
**5. Checklist**

a.  For regular rules, the Statement of Principal Reasons is attached to this Certification and, in compliance with Tri-State Generation and Transmission Association, Inc. v. Environmental Quality Council, 590 P.2d 1324 (Wyo. 1979), includes a brief statement of the substance or terms of the rule and the basis and purpose of the rule

b.  For emergency rules, the Memorandum to the Governor documenting the emergency, which requires promulgation of these rules without providing notice or an opportunity for a public hearing, is attached to this Certification.

**6. Agency/Board Certification**

The undersigned certifies that the foregoing information is correct. By electronically submitting the emergency or regular rules into the Wyoming Administrative Rules System, the undersigned acknowledges that the Registrar of Rules will review the rules as to form and, if approved, the electronic filing system will electronically notify the Governor's Office, Attorney General's Office, and Legislative Service Office of the approval and electronically provide them with a copy of the complete rule packet on the date approved by the Registrar of Rules. The complete rules packet includes this signed certification page; the Statement of Principal Reasons or, if emergency rules, the Memorandum to the Governor documenting the emergency; and a strike and underscore copy and clean copy of each chapter of rules.

Signature of Authorized Individual	
Printed Name of Signatory	Robin A. Schmidt
Signatory Title	Director, Department of Family Services
Date of Signature	<del>3/31/2020</del> 4.1.2020

**7. Governor's Certification**

I have reviewed these rules and determined that they:

- 1. Are within the scope of the statutory authority delegated to the adopting agency;
- 2. Appear to be within the scope of the legislative purpose of the statutory authority; and, if emergency rules,
- 3. Are necessary and that I concur in the finding that they are an emergency.

Therefore, I approve the same.

Governor's Signature	
Date of Signature	



WYOMING DEPARTMENT *of*  
**Family Services**

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To: Honorable Mark Gordon, Governor

From: Korin A. Schmidt, Director  
Wyoming Department of Family Services

Subject: Proposed Emergency Amendment of Certification of Child Care, Purchase of Service Rules, Chapter 1

Ref. No.: KAS-2020-065

Date: April 1, 2020

MEMORANDUM TO GOVERNOR  
REASON FOR EMERGENCY

Summary: The Wyoming Department of Family Services is proposing to amend Child Care, Purchase of Service Rules, Chapter 1, in order to allow for flexibility of payment during this time of COVID-19 crisis as directed by the federal Office of Child Care. This specific change will allow a payment to be made to two (2) different child care providers on behalf of one (1) child.

The Department is adopting Emergency Rules because the Department needs to immediately begin making flexible payments to child care providers. This effort is one way to address and mitigate the impact of COVID-19 to child care providers. The Child Care Development Block Grant (CCDBG) Act requires lead agencies to support the fixed cost of providing child care services by delinking provider payment rates from an eligible child's occasional absences due to holidays or unforeseen circumstances such as illness, to the extent practical. The federal Office of Child Care is advocating that lead agencies modify their absence policy to pay providers if programs closed or children are absent due to COVID-19.

Agency Contact Name: Eve Barela

Agency Contact Phone: 307-777-6350

Agency Contact Email: eve.barela@wyo.gov

## **Wyoming Department of Family Services**

### **Child Care, Purchase of Service General**

#### **STATEMENT OF REASONS**

The Wyoming Department of Family Services is amending Child Care, Purchase of Service Rules, Chapter 1, in order to allow for flexibility of payment during this time of COVID-19 crisis as directed by the federal Office of Child Care.

The Department is adopting Emergency Rules because the Department needs to immediately begin making flexible payments to child care providers.

#### **Chapter 1:**

##### **List reasons:**

- Section 9 on page 1-24: Eliminated language preventing payment to be made to two providers for the same child and same timeframe.
- Section 9 on page 1-26: Eliminated language requiring parent participating in an approved activity in order for provider to receive payment..

**CHAPTER 1**  
**CHILD CARE, PURCHASE OF SERVICE GENERAL**

**Emergency rules are in effect no longer than 120 days after filing with the Registrar of Rules**

**Section 1. Authority.** W.S. 42-2-103(b)(xiv) and W.S. 16-3-101-106 *et. seq.* authorizes the Department of Family Services (DFS) to promulgate rules and regulations to be used by DFS in the discharge of its functions.

**Section 2. Purpose.** These rules are adopted to standardize DFS's purchase of child care in Wyoming.

The Wyoming Child Care, Purchase of Service program is a public assistance program for low income families who need child care services in order to work or attend approved educational or training programs. Child Care, Purchase of Services is funded through a federal block grant and with state dollars.

**Section 3. Severability.** If any provision of these rules or the application thereof to any person, program, service or circumstance is held invalid, the invalidity shall not affect other provisions or applications of these rules. To the extent that these rules can be given effect without the invalid provision, the provisions of these rules are severable.

**Section 4. Definitions.**

(a) "Adult" is a person age 18 or over, or a person under age 18 who meets the Wyoming emancipation laws.

(b) "Adverse action" is a process to terminate or reduce the child care benefits.

(c) "Anticipated income" is income which is expected to be received in the benefit month.

(d) "Applicant" is a person who expresses in writing a desire to receive assistance.

(e) "Application date" is the date a completed and signed application is received and date stamped in the DFS-FO.

(f) "Assistance unit" is one (1) or more children living with their parent(s)/caretaker(s).

(g) "Authorization" is issued to a parent/caretaker to show the child(ren) is eligible for child care assistance. The Child Care Authorization is assistance to the client, not assistance to the provider. The authorization shows:

- (i) The maximum child care hours allowed by DFS;
- (ii) The maximum payment DFS shall make; and
- (iii) The parental obligation for a portion of the child care costs.

(h) “Best estimate” is a determination of what shall occur based on knowledge of the past and present circumstances and future expectations.

(i) “Benefit Specialist” is an employee of DFS who case manages economic assistance cases including the determination of eligibility for child care services.

(j) “Business expense” is the cost directly related to the production of the goods or services provided by the operation which are then subtracted from the gross income to determine net income. Including labor, fee, seed, machinery repairs, transportation required to perform the service or deliver the goods and taxes or any other expense connected solely with the function of the business.

(k) “Caretaker” is a child’s parent (as defined herein) or other adult who has a court order giving legal responsibilities and/or legal guardianship and who is exercising the care and control of the child(ren). This includes foster parents and the spouse of the caretaker.

(l) “Categorically eligible”:

(i) For Personal Opportunities With Employment Responsibilities (POWER), adult member of the assistance unit who is income and/or resource eligible for child care assistance because he/she is included in the assistance unit’s POWER payment.

(ii) For Supplemental Nutrition Assistance Program (SNAP), the adult SNAP recipient who is eligible for child care assistance because he/she is participating in the SNAP E & T program.

(m) “Central Registry” means an electronic record maintained by DFS of persons who have been the subject of a child abuse or neglect complaint. The record contains the findings of the child protection investigation. The Central Registry is not a list of court adjudications.

(n) “Certified provider” see Licensed provider.

(o) “Child care” is the direct care and services to infants and children in the child’s own home or another facility, not to exceed 16 hours in a 24 hour day unless overnight travel is necessary for the parent(s)/caretaker(s) to accept or retain employment.

(p) “Child Care Center (CCC)” is a facility in which care is provided for part of a day for 16 or more children.

(q) “Child care facility” is the business that keeps or cares for more than two (2) minors at the request of the parent(s), legal guardian(s) or an agency responsible for the daily care and control of those children when the responsible party is not present.

(r) “Child care review” is a review of all eligibility factors at least once every six (6) months.

(s) “Child support” is voluntary, including military allotments, or court ordered payments made by an absent parent for the purpose of meeting the needs of his/her child(ren).

(t) “Child Support Enforcement Services (CSES)” is a legal entity charged with maintaining a child support enforcement program at the judicial district level.

(u) “Commingled” is a financial account in which countable and exempt funds are mixed together.

(v) “Date of eligibility” is the day benefits are required to begin. This is the date of the child care application, the first day the child received care or the date the approved employment or educational component or work activity began, whichever is later.

(w) “Death benefit” is the benefit received as a result of another’s death. Death benefits include:

(i) Proceeds of life insurance policies received due to the death of the insured;

(ii) Lump sum death benefits from SSA, RR burial benefits, VA benefits;

(iii) Inheritance in cash or in-kind; or

(iv) Cash or in-kind gifts given by relatives, friends, or community to assist with death related expenses.

(x) “Department of Family Services (DFS)” is the Wyoming department responsible for the provision of child care purchase of services. DFS-FO is a department field office. DFS-CO is the department state office.

(y) “Developmentally Delayed (DD)” is a child who is experiencing developmental delays in one or more of the following areas:

(i) Cognitive development;

(ii) Physical development including hearing and vision, language and speech development;

(iii) Psychosocial development; or

(iv) Self-help skills.

(z) “Disaster beyond control of the assistance unit” means earthquake, fire, flood, tornado, robbery, or furnace breakdown and/or broken water pipes in the home when owned by a person in the assistance unit.

(aa) “Earned income disregard” is a \$200.00 deduction from gross earned income for each employed adult in the assistance unit.

(bb) “Educational program” is a postsecondary course of study, not exceeding the first associate or baccalaureate degree (unless the associate degree was received while the parent(s)/caretaker(s) was pursuing a baccalaureate degree as the original educational goal). The program is designed to assist the student in obtaining employment in a specific job when the course of study is complete.

(cc) “Eligible” qualifies for child care assistance after meeting all of the specified conditions or factors.

(dd) “Emancipated” is a person who has obtained the legal status of an adult.

(ee) “Employment” is an activity in which an individual works for income.

(ff) “Employment & Training (E & T)” is the employment and training program as described in the current SNAP E & T regulations and approved by the United States Department of Agriculture.

(gg) “Employment training” is a planned, supervised program which may be a combination of classroom and on-the-job training experiences that imparts knowledge or develops skills or abilities to prepare a person for employment.

(hh) “Equity value (EV)” is the amount of money the sale of property would bring on the open market in the community where the property is located less any legal debts (such as mortgages, loans, penalties, cost of sale) against the property or resource.

(ii) “Exempt” is a category of income or circumstances not subject to program policy or limits and shall not be counted for eligibility purposes.

(jj) “Family Child Care Center (FCCC)” is a child care facility in which care is provided for a maximum of 15 unrelated children for part of a day, which may be in a residential or commercial type structure.

(kk) “Family child care home (FCCH)” is a licensed child care facility in which care is provided for no more than 10 children in the primary residence of the provider.

(ll) “Financial responsibility” means answerable for providing the funds to meet the needs of a spouse and/or natural, adopted, step child(ren) or as provided by law.

(mm) “Foster care provider” is the person(s) caring for the child(ren) placed in a care facility by DFS.

(nn) “Foster child” is a child who been has placed in a foster care home or facility by DFS.

(oo) “Fraud” is documented deliberate misrepresentation, concealment or nondisclosure of information by an applicant, recipient, or provider pertaining to an eligibility or billing factor:

- (i) To obtain assistance or provider payment;
- (ii) To remain eligible for assistance or provider payments;
- (iii) To avoid a decrease in assistance or provider payment; or
- (iv) For obtaining payment for services that were not rendered.

(pp) “Full day” is five (5) or more hours of child care in a day.

(qq) “Garnishment” is a legal withholding of a specified sum from wages to satisfy a creditor.

(rr) “Guardian” is an individual appointed by the court to care for a person as reflected in a court order specifying the guardianship.

(ss) “Household (HH)” refers to one (1) or more rooms of a house, apartment or mobile home and may include one (1) or more assistance units and/or ineligible person(s).

(tt) “Household circumstances” are situations that could have an effect on one (1) of the eligibility factors.

(uu) “Immediate family” are the minor brothers, sisters, stepbrothers, stepsisters, half brothers and half sisters who live together with their parent(s)/caretaker(s) in the same residence. Immediate family is used to determine assistance unit composition and whether the provider selected by the assistance unit needs to be licensed.

(vv) “Income” is money received from any source.

(i) Countable income - the total of gross earned income less allowable earned income disregards and gross unearned income expected or received by the assistance unit for a specified month and includes child support received by the applicant or recipient.

(ii) Earned income - a payment received in cash or in-kind for wages, salary, tips, commissions as an employee or net profit from activities in which the individual is engaged as self-employed. It is the total income before deductions for personal or employment expenses and excludes the meal allowance used to compute Federal Insurance Contribution Act (FICA).

(iii) Exempt income - money set aside or free from program policy or limits and is not counted.

(iv) Fluctuating income - income that varies in frequency of receipt or income that varies in amount each month due to:

(A) Working overtime;

(B) Hourly pay with varying hours;

(C) Receipt of tips or commissions;

(D) Changes of hours or pay rate; or

(E) Decrease or increase in hours of work due to vacations or sick leave or seasonal employment.

(v) Gross income - the total money the person is entitled to receive, prior to any deductions such as the earned income disregard, Social Security, withholding tax, and garnishments.

(vi) Infrequent income - income that is less than \$50 per individual when received and not received more often than once every calendar quarter.

(vii) In-kind income - the receipt of a good(s) or a service(s) instead of money or cash. In-kind earned income is considered when the applicant/recipient has a legal interest in a liquidated sum and has the legal ability to make such sum available for support and maintenance.

(viii) Net income - the gross receipts from self-employment less the current business expenses.

(ix) Periodic income - money that is not received on a regular basis.

(x) Stable income - income received in a set/fixed amount from the same source(s) on a regular basis and there is no additional income which fluctuates.

(xi) Unearned income - all money received not earned by providing goods and services or defined as a resource.

(ww) "Infant" is a child from birth to 12 months of age.

(xx) "In-home care" is child care provided in the child's own home. In-home care is for any number of children who are immediate family members residing in the child(ren)'s home.

(yy) "Initial eligibility determination" is the process of determining eligibility when the assistance unit applies for services for the first time or when there has been a break in aid of 30 days or more.

(zz) "Insurance settlements" are the money received by a person(s) from a company for damage of property or person.

(aaa) "Intentional program violation (IPV)" is the action by an applicant, recipient or provider of making a false or misleading statement or misrepresentation, concealment or withholding of facts for the purpose of:

(i) Establishing or maintaining eligibility for child care assistance, or

(ii) Increasing or preventing a reduction in the amount of child care assistance or payment.

(bbb) "Knowledgeable source" is a person who has considerable degree of familiarity of a subject gained through experience of or association with the individual or subject.

(ccc) "Licensed provider" is a provider who meets the licensing standards established by DFS.

(ddd) "Loan" is a debt the borrower has an obligation to repay. A bona fide loan is one where there is a written agreement to repay the loan. Bona fide loans the assistance unit has an obligation to repay are not counted as income.

(eee) "Lump sum" is a payment of earned or unearned money made not more than once per quarter.

(fff) "Minimum health and safety standards" are requirements established to assure the health and safety of a child(ren) receiving child care services.

(ggg) “Minor” is a person under 18 years old who does not meet Wyoming’s emancipation laws.

(hhh) “Month” is:

(i) Current month - the month in which eligibility is determined.

(ii) Payment month - the calendar month for which the assistance is issued.

(iii) “Month received” is the calendar month in which the payer or source made the money available or the individual receives the money in hand, whichever occurs first. Exception: SSA, SSI, VA and POWER received at the end of the month are considered for the following month.

(jjj) “Need” for child care is the time when the eligible parent(s)/caretaker(s) is actually participating in an approved activity or component and the eligible child requires care.

(kkk) “Net profit” is the gross receipts, less the current business expenses.

(lll) “Noncooperation or noncompliance” is the act of refusing or failing to comply with a child support, work program or POWER requirement or to work with another to accomplish a common end or specified goal.

(mmm) “Parent” is a natural, adoptive, or step mother or father of any age. (See Caretaker.)

(nnn) “Parental access” is allowing parents to visit the child care facility and see their children at any time.

(ooo) “Parental obligation” is the portion of the child care cost the parent(s)/caretaker(s) is responsible to pay based on the assistance unit size and income. The amount of the parental obligation is based on the calculation set forth in W.S. 42-2-103 (f)(2016).

(ppp) “Part day” is less than five (5) hours of child care in a day.

(qqq) “POWER work requirement” the POWER performance requirements include the mandatory job seeker contacting the work program case manager, keeping all appointments, complying with the steps and responsibilities in her/his IRP, registering for employment at DWS and following through with referrals to DVR for employment rehabilitation or an SSI application.

(rrr) “Presumptive eligibility” is the assurance of payment for 30 days of child care services by a licensed child care facility when the assistance unit appears eligible due to the parent(s)/caretaker(s)’s statements on the initial application. Presumptive eligibility payments cannot be made on behalf of an assistance unit more than once every 12 months.

(sss) “Provider” is any person who is approved to provide child care services under these rules and who has provided child care services for a child(ren).

(ttt) “Provisional license” is a temporary license issued by DFS which allows operation of a child care facility when issues arise surrounding compliance with licensing rules.

(uuu) “Reapplication” is the completion of an application in writing requesting assistance after being ineligible for child care assistance for more than one (1) calendar month.

(vvv) “Redetermination” is the re-verification of each factor of eligibility and a decision of eligibility and payment based on the verified information.

(www) “Registered provider” is any child care provider who has completed the Provider Registration Form and received a favorable Wyoming Central Registry check and a fingerprint based national criminal history record check. This includes child care providers who are licensed as well as those who are exempt from licensing according to Wyoming law.

(xxx) “Relative” refers to an individual who is through marriage, blood relationship, or court decree, the grandparent, great grandparent, sibling, aunt or uncle of a child receiving care.

(yyy) “Satisfactory progress” refers to:

(i) In a postsecondary educational work activity, a participant shall meet, each term or semester at least a 2.0 cumulative grade point average in her/his degree requirements.

(ii) In a training work activity, the participant shall meet quarterly a consistent standard of progress, which includes gains or proficiency levels and a reasonable time limit for completion of the training as determined by the instructor and POWER case manager or Benefit Specialist.

(zzz) “Special needs child” is a minor who is developmentally delayed or has a mental or physical incapacity which limits his/her ability to care for him/herself and would be at risk of physical harm if child care was not provided.

(aaaa) “Statewide maximum limit” is the maximum amount DFS shall pay for child care as published in the Child Care Development Fund (CCDF) State Plan.

(bbbb) “Student” is a person attending high school, high school equivalency program, employment training programs or postsecondary undergraduate program.

(cccc) “Substitute provider” is a person who meets the definition of "provider" and who fills in for the provider less than 24 hours in a month.

(dddd) “Termination” is to close a case and/or remove individual from the program.

(eeee) “Weapon” means, but is not limited to, a firearm, explosive or incendiary material, or other device, instrument, material or substance, which in the manner it is ordinarily used, or is ordinarily intended to be used, is reasonably capable of producing death or serious bodily injury.

**Section 5. Application Process.** The following process shall be followed by the DFS-FO when an applicant makes a request for Child Care assistance:

(a) A DFS application form shall be provided or mailed on request during regular business hours when a current application form is not on file in the DFS-FO.

(b) A signed application form shall be accepted by the DFS-FO and date stamped upon receipt during regular business hours.

(c) A face-to-face or telephone interview shall be required with the applicant who has not already had an application intake interview.

(d) A separate application shall be required for each assistance unit.

(e) Applicants shall be informed of their rights and responsibilities, program requirements and benefits.

(f) Applicants shall be provided with consumer information upon request concerning informed choices of quality child care.

(g) Applicants shall be provided with a list of licensed child care providers upon request.

(h) Applicants shall be informed concerning the provider licensing registration requirements and enrollment of providers for payment.

(i) Applicants shall be advised what verification or documents are needed to complete the processing of the application and provider enrollment and shall be given up to ten (10) days to furnish the information.

(j) A decision on the application shall be made within 30 calendar days of the application date.

(i) Payment for 30 days of licensed child care services shall be assured when the assistance unit appears to be presumptively eligible based on the parent(s)/caretaker(s)'s statement on the DFS application.

(ii) An application shall be approved when an applicant is found to be eligible and there is a child care need.

(iii) An application shall be denied when:

(A) An applicant is found to be ineligible or has failed to cooperate in establishing program eligibility, has withdrawn the application, died or cannot be located;

(B) The care was not provided by an approved provider; or

(C) There was not a child care need because the parent(s)/caretaker(s) was not working, attending an approved educational or training program or meeting POWER or E & T work requirements.

(k) Documentation of the action taken on the application and the reason for the action shall be made in the case file.

(l) Applicants shall be notified in writing of any action taken on their applications.

## **Section 6. Applicant Rights.**

(a) The applicant has a right to apply for child care assistance:

(i) Upon request and without delay during regular business hours at the DFS-FO in the county of residence on the prescribed form(s) obtained in person or by mail;

(ii) To be accompanied or represented by person(s) of his/her choice; and

(iii) To request and receive assistance in completing an application or obtaining required verification.

(b) The application and other personally identifiable information shall be kept confidential and not be disclosed except as necessary to determine eligibility, to pay the provider or as required by state or federal law.

(i) The use or disclosure of information concerning clients shall be limited to purposes directly connected with:

(A) The administration of DFS or Social Security Income (SSI) programs. Such purposes include establishing eligibility, determining the amount of the child care payment and approving the child care provider for payment.

(B) Any investigation, prosecution, criminal or civil proceeding conducted in connection with the administration of such programs.

(C) The administration of any other federal or federally assisted program which provides cash or in-kind assistance or services directly to individuals on the basis of need.

(D) Any audit or similar activity conducted in connection with the administration of any such program by any governmental entity which is authorized by law to conduct such audit or activity.

(E) The administration of the state unemployment compensation program.

(F) The administration of the state's worker's compensation program as related to providers.

(ii) DFS shall report to Immigration and Naturalization Services (INS) the name and address and other identifying information on any individual who is known to be unlawfully in the U.S.

(iii) The following types of information to be safeguarded include, but are not limited to:

(A) The names and addresses of applicants/recipients and amount of child care payments provided.

(B) Information related to the social and economic conditions, including homelessness, or circumstance of a particular individual including information obtained from the Internal Revenue Services and Social Security Administration (SSA) which shall be safeguarded in accordance with procedures set forth by those agencies.

(C) Agency evaluation of information about a particular individual.

(D) Medical data, including psychological evaluations. All medical information shall be directly released by the medical professional. Medical information shall not be released without written authorization from the medical professional.

(c) Applicants/recipients shall be informed in writing or verbally of:

(i) Eligibility factors, verifications and documents needed to process the application and allowed up to 10 days to submit the requested verification or document.

(ii) The purpose and length of time for which assistance is provided.

(iii) The rights and responsibilities of applicants/recipients.

(iv) The freedom of parental choice to select the child care provider within the following limitations:

(A) The client cannot change child care providers more than six (6) times within a 12 month period unless there is good cause per Section 12 of these rules; and

(B) The selected child care provider shall meet all the Child Care Provider Eligibility and Payment Requirements as stated in Section 14 of these rules.

(v) The right to request an administrative hearing within 30 days from the date of an adverse notice.

(A) The Child Care payment shall not be authorized pending the administrative hearing decision on a client request for a hearing.

(B) All child care administrative hearing processes shall be pursuant to Chapter 1, DFS Contested Case Hearing Procedures Rules and/or Administrative Hearing.

(vi) The right to receive consumer information concerning the selection of quality child care.

(vii) The right to receive a list of licensed child care providers upon request.

(viii) The right to unlimited access to providers and to their child(ren) during the normal hours of provider operation and whenever the child(ren) are in the care of the provider.

(ix) The right to register a complaint against a provider. Complaints shall be referred to the appropriate Child Protective Services, Child Care Licensing or Fraud and Recovery Unit for investigation.

(d) The client has the right to a written notice concerning a decision on an application or on any adverse action. See notification requirements in Section 10 of these rules.

(e) The applicant/recipient has the right to reapply following denial or termination of benefits.

(f) A minor parent has the right to apply on his/her own behalf.

**Section 7. Program Responsibilities.**

(a) Client responsibilities:

(i) Complete an application in the manner and form prescribed by DFS. The application shall:

(A) Be dated.

(B) Provide an answer to the questions asked on the application and provide verification to support the answers.

(C) Be signed in ink, under penalty of perjury, by the applicant or the applicant's representative.

(ii) Cooperate with the process of determining initial and ongoing eligibility by providing:

(A) Information essential to reach a decision on eligibility.

(B) Documents for required verification including estimated hours of child care need and the reason for the need.

(C) A written statement authorizing a person to represent the applicant or other assistance unit adults if desired.

(D) Verification of any changes within 10 days of the change which may affect eligibility or benefit amount. If the change is not reported within the 10 day reporting period, any increase in child care benefits resulting from the change shall be effective the date the change was reported.

(E) Verification as specified by DFS to establish the child care provider's eligibility for payment.

(F) Verification of compliance with other DFS Assistance Programs and Medicaid.

(b) DFS responsibilities:

(i) Assure child care requirements have been met and established procedures have been followed.

(ii) Inform the clients concerning their rights and responsibilities as outlined in Sections 6 and 7(a).

(iii) Provide an application in the manner and form prescribed by DFS upon request during regular business hours.

(iv) Make a decision on the application within 30 days of the application date and provide the client with written notice concerning the decision.

(v) Act on reported changes immediately to assure either child care services continue or assistance is terminated.

(vi) Assure the provider has completed the licensing or registration process and has been enrolled for payment.

(vii) Coordinate the authorization of services with the work program case managers or Child Protective Services (CPS) to assure the client's child care needs are met.

(viii) Review the child care case for possible continuation of child care payments when a POWER, Medicaid or SNAP case has been closed because of increased earnings.

(ix) Audit the billing form using DFS procedures.

(x) Assure payments within 30 days of the bill submission date.

(xi) Assure overpayments have been instituted promptly and within the established guidelines.

(xii) Establish a procedure for handling client and provider complaints.

(xiii) Provide client with notice of any adverse action.

## **Section 8. Eligibility Factors.**

(a) Each factor of eligibility shall be verified.

(b) Approved cases shall include documentation in the case file as to how each eligibility factor was met and the amount of payment.

(c) The application shall be denied or assistance terminated when eligibility cannot be determined because the applicant/recipient refuses to provide the requested documentation or the written consent to obtain the documentation.

(d) Denied cases shall include documentation in the case file of the reason(s) for the denial.

(e) The following eligibility factors shall be met:

(i) Eligible persons.

(A) Child care assistance shall be available for a child who is under age 13 years, a child over 13 who has special needs, is developmentally delayed, is physically or mentally incapable of caring for himself or herself as verified by a physician or licensed or certified psychologist, or under court supervision.

(B) Child care assistance is available only to children who live with their parent(s)/caretaker(s) when the parent(s)/caretaker(s) is participating in an approved activity outside the home.

(C) Child care assistance shall be available only when the child(ren)'s parent(s)/caretaker(s) participates in at least one (1) of the following approved activities outside the home:

(I) Employment;

(II) Employment Training program;

(III) Educational program, including high school or high school equivalency;

(IV) POWER work requirement;

(V) SNAP E & T activity; or

(VI) Temporary Job Search.

(D) Child care assistance shall be available for a child(ren) in a two (2) parent/caretaker assistance unit when both parents/caretakers are participating in an approved activity during the same hours.

(E) Child care assistance shall be available for a child(ren) in a two (2) parent/caretaker assistance unit when one (1) parent/caretaker is disabled and unable to care for the child(ren) if:

(I) Child care is necessary to allow the other parent/caretaker to maintain employment;

(II) The disability and the parent/caretaker's inability to care for the child(ren) is verified by a medical professional;

(III) Verification has been submitted to document the parent with the disability is following prescribed medical treatment; and

(IV) The assistance unit is pursuing and accepting any other available resources to move the assistance unit toward self-sufficiency.

(F) Child care assistance shall not be available to an assistance unit if fraud against DFS has been established in a court of law or by a DFS hearing officer. The assistance unit is ineligible until all penalties have been served and full restitution has been made.

(G) Child care assistance is not available when the parent(s)/caretaker(s) fails to remain eligible for POWER, SNAP or Medicaid by noncooperation with program requirements. The client is ineligible for child care assistance until he/she:

(I) Cooperates with the POWER, SNAP or Medicaid program requirements; or

(II) Has not received a POWER payment within 30 days and becomes employed 20 or more hours per week.

(H) Child care assistance is available for a child(ren) whose parent(s)/caretaker(s) is attending an approved educational program, including college undergraduate study when:

(I) The parent(s)/caretaker(s) is making satisfactory progress;

(II) The educational program does not exceed the first associate or baccalaureate degree unless the associate degree was received while the parent(s)/caretaker(s) was pursuing a baccalaureate as the original employment goal; and

(III) The parent(s)/caretaker(s) has been receiving child care while working on an associate degree program for no more than three (3) years, or no more than six (6) years while working on a baccalaureate degree. When the parent(s)/caretaker(s) has been employed and has been working an average of more than 30 hours per week while attending school, the length of time to complete an associate's degree may be extended to five (5) years and a baccalaureate degree to eight (8) years.

(I) Child care assistance is available for a child(ren) whose parent(s)/ caretaker(s) is self-employed and working outside of his/her home.

(J) Child care assistance is available for a foster child(ren) whose foster parent(s) is participating in an approved activity.

(K) A minor parent(s) who lives with his/her parent(s) may receive child care assistance if the minor parent(s) and her/his parent(s) are all working or attending an educational program during the same hours.

(L) Child care assistance is not available to fugitive felons.

(M) Child care assistance is available when an overpayment has been established and the parent(s)/caretaker(s) is in compliance with the repayment agreement or made full restitution unless the parent(s)/caretaker(s) has been found guilty of fraud in a court of law or by the DFS hearing officer.

(N) Child care assistance is available for a child(ren) living in an assistance unit whose income is within the Sliding fee Scale in Appendix A:

(I) The assistance unit shall qualify for assistance in step one (1) through step four (4) at the initial eligibility determination; and

(II) The assistance unit shall may continue to receive assistance in steps five (5) and six (6) when the gross income has increased due to employment.

(ii) Residency and identification:

(A) Except for migrant working families, families shall be Wyoming residents.

(B) The assistance unit shall not be receiving assistance from another state.

(C) Proof of identity for each applicant/recipient and eligible child is required.

(D) The eligible child must be:

(I) A citizen of the United States; or

(II) A legally residing alien as defined by law.

(E) A Social Security Number is not required for an applicant or recipient of child care assistance.

(iii) The composition of the assistance unit shall be determined based on the following:

(A) Parents/caretakers and their spouses shall be included along with their child(ren), foster child(ren) or child(ren) whom they are caring for pursuant to a legal court order;

(B) When three (3) generations are included in a POWER payment, all of the recipients of the POWER payment shall be included in the assistance unit;

(C) A minor parent and his/her child shall be considered as a separate assistance unit from the minor's parents unless (B) above applies; and

(D) All minor siblings living in the same household shall be included in the same assistance unit regardless of the marital status of their parents unless one of the siblings meets the criteria in (C) above.

(iv) Income. The income criteria in Appendices B and C shall apply in addition to the following special considerations.

(A) The parent's income shall be considered in determining eligibility for child care services.

(B) The caretaker's income shall be considered according to the court order. The caretaker's voluntary contribution statement is used when there is no court order.

(C) A foster parent's income shall not be considered in determining eligibility for a foster child.

(D) Income eligibility shall be determined prospectively using the best estimate of income which shall be available during the payment month(s).

(I) The current month's ongoing gross income shall be used as the best indicator for the assistance unit's eligibility. Any other income which shall be received during the benefit period shall be calculated as anticipated. The sources of income shall be converted to a monthly average for the benefit period.

(II) Past months shall be considered as an indicator of the types of income that may be received during the benefit period for prospective budgeting when income is received periodically.

(III) To determine prospective monthly income add the total of the following:

(1.) Anticipated monthly income.

(2.) Multiply the amount by number of the times it is expected to be received within the benefit period unless the income can be excluded as infrequent or irregular. Divide that amount by the number of months in the benefit period.

(3.) Divide the total amount of income specified in an annual employment contract, regardless of the amount paid monthly, by 12 to arrive at a monthly average.

(4.) Gross income from weekly amounts shall be multiplied by 4.3; bi-weekly amounts by 2.15; semi-monthly amounts by 2 and monthly amounts by 1.

(5.) Deduct \$200.00 from the earned income of each working adult in the assistance unit.

(6.) The monthly amount is rounded up to the nearest dollar.

(E) The following income to the assistance unit shall be-considered and verified in determining eligibility:

(I) The income of all assistance unit members living together.

(II) The income of the minor child who needs child care and the minor parent.

(III) Income of a child(ren) who is ineligible for child care assistance is not counted.

(IV) The income of an adult who has a court order giving legal responsibilities and/or legal guardianship and who is exercising the care and control of the child(ren) is exempt unless there is a court order specifying the individual is financially responsible for the child(ren).

(F) The criteria in Appendix B shall be used to determine if the income is exempt or nonexempt using the following special considerations.

(I) Accumulated vacation and sick pay shall be countable when the money is paid to the individual.

(II) Burial fund is countable when the money withdrawn from a burial fund is used for a purpose other than burial expense.

(III) Contributions to the assistance unit shall be countable.

(1.) The amount of the contribution of a non-financially responsible person living with the assistance unit shall be used according to that person's written statement.

(2.) The amount of the contribution of anyone living elsewhere shall be used according to his/her written statement.

(IV) Death benefits shall be nonexempt when the amount received exceeds the deceased person's last illness and burial expenses.

(V) Infrequent or irregular income including gifts and interest, which cannot reasonably be anticipated, shall be in the form of cash or check and is received only once during a calendar quarter, shall be exempt when the total does not exceed \$50 per individual in the assistance unit.

(VI) Insurance Settlement - Money received by a person(s) from a company for damage of property or person for trauma is income. Any cash received from medical or liability insurers for medical services already received by the individual is not income. However, any amount received which exceeds the actual cost of the medical expenses shall be counted as unearned income.

(VII) Lump sum.

(1.) The total amount less legal fees required to make the money available and less the amount designated by the payer or source for medical expenses shall be considered.

(2.) A lump sum (one-time payment) may cause a recipient to become ineligible or eligible for reduced benefits if the amount cannot be excluded using the infrequent and irregular policy.

(3.) The period of ineligibility or reduction, when appropriate, begins the month following the month the lump sum is received.

(4.) The period of ineligibility shall be determined by dividing the lump sum amount by the maximum income limit on Appendix A plus one dollar (\$1.00) for the assistance unit size.

(5.) The result is the number of months the assistance unit shall be ineligible for child care assistance. Any fractions shall be rounded up.

(6.) A shortened period of ineligibility shall be allowed in the specified situations and under the specified conditions:

a. First, one (1) of these situations shall exist:

(i) The assistance unit incurs and pays medical expenses not covered by health insurance or a third party.

(ii) A disaster beyond the control of the assistance unit which causes the lump sum to become unavailable to the assistance unit.

(iii) The lump sum was received from an insurance policy payable because of a loss or reimbursement for the actual cost of replacement. It does not include payment received for "pain and suffering."

(iv) The lump sum payment was issued in error and written verification from the payer is received indicating the client is required to return the lump sum money.

b. Second, one (1) or more of these conditions shall be met:

(i) The lump sum was spent for food, clothing, and/or shelter prior to when the disaster occurred; and

(ii) The lump sum has been or shall be spent for expenses related to the situation; and

(iii) The assistance unit has no other income to meet the expenses of the disaster.

(VIII) Self-employment - The net income shall be determined by subtracting the business expenses from the gross income.

(1.) To determine farm self-employment net income, operating expenses from the operation of a farm by a person on his account, as an

owner, renter, or sharecropper shall be subtracted from the gross receipts. Gross receipts include the value of all products sold, government crop loans, money received from the rental of farm equipment to others, and incidental receipts from the sale of wood, sand, gravel, and similar items. Operating expenses include cost of feed, fertilizer, seed and other farming supplies, rent, interest on farm mortgages, farm building repairs, farm taxes (not state and federal income taxes) and similar expenses. The value of fuel, food or other farm products used for assistance unit living shall not be included as part of net income.

(IX) Veterans' Administration (VA);

(1.) Service connected disability payments are exempt when the compensation on an annual basis is not more 100% of the federal poverty level (FPL) as determined by Office of Management and Budget (OMB). Use the full amount when it exceeds 100% of the FPL.

(2.) The portion of the payment made under the Veterans' Educational Assistance Program (GI Bill) actually used for items such as tuition, books, fees and other costs necessary for school attendance is exempt if the same expense is not covered by another loan, grant, scholarship or program.

(3.) All other payments made through the VA shall be nonexempt.

(G) Income eligibility shall be determined as follows:

(I) Income levels shall be re-determined at least once every 12 months, or more often when a change of circumstance occurs.

(II) All countable income including gross earnings and cash benefit programs paid to the client shall be included.

(III) All income shall be budgeted prospectively.

(H) Any amount of money given to eligible clients by their employer or any other person, for the purchase of child care shall not be counted as income when determining eligibility.

(v) Resources shall not be considered in determining eligibility.

**Section 9. Benefit Computation.**

(a) The client or child care provider shall be required to use the method or form prescribed by DFS to report child care expenses and to submit it to DFS.

(b) All bills shall be reviewed for auditing purposes prior to authorizing payment for child care services.

(c) The following steps shall be used to determine the DFS payment level:

(i) Determine the type of child care provider.

(ii) Determine-the actual charge for child care.

(iii) Compare the actual charge to the DFS market rate for the type of care used and the state maximum limit.

(iv) Authorize the payment based on the Department's directive on maximum payment.

(v) If the actual charge exceeds the local market rate or State limit, the client is responsible for the balance.

(d) Participants in the SNAP E & T program shall be limited to child care assistance as outlined for the E & T program unless the subsidy payments are made through the CCDF.

(e) A part day or full day slot shall be purchased for days the parent(s)/caretaker(s) is participating in an approved activity when the licensed child care facility has payment policies which require private pay customers to purchase a child care slot.

(f) Payment shall be based on the actual time the recipient is actively participating in work, employment training, an educational program, a POWER work requirement activity, or a SNAP (E & T) component activity.

(i) Subject to the availability of funds, recipients in an approved education program shall be provided at least two (2) hours of dependent day care, if needed, for each hour the applicant is required to be in class, laboratory or other required instructional activity not to exceed the statewide maximum limit.

(ii) Child Care benefits for self-employment activities shall be calculated by dividing the monthly net income by the federal minimum wage prior to deducting the earned income disregard. The result is the number of child care hours which may be authorized per month.

(iii) One (1) hour per day for lunch, if it occurs during the activity schedule, is allowed except for those participating in a SNAP E & T component.

(iv) No more than 12 hours per month for a maximum of two (2) months in each 12 month period for SNAP E & T individual job search is allowed.

(v) Child care hours for the time the client participates in a POWER work requirement activity as verified by the POWER work requirement case manager are allowed.

(vi) Up to one (1) hour per day shall be allowed when needed for transportation time to the child care provider and the work activity.

(vii) Child care shall only be provided for classes that are required to complete the degree or program.

(viii) Time for special situations as indicated by the instructor as part of the class work can be allowed.

(ix) No time shall be allowed for study time.

(g) Payment for child care services cannot exceed 16 hours in a 24 hour day unless:

(i) Overnight travel is necessary for the parent(s)/caretaker(s) to accept or maintain employment, and

(ii) The absence of the parent(s)/caretaker(s) does not exceed 30 days.

(h) Duplicate payment by DFS when child care is paid by other programs, agencies or persons shall be prohibited.

(i) The amount given to the client or child care provider by another source for child care shall be deducted from the bill prior to DFS payment of the bill.

(j) Payment of child care for arrangements not authorized by DFS shall be the sole responsibility of the client.

(k) Payment shall be made directly to the child care provider and not to the client.

(l) Payment to the provider shall be made based on the provider's usual rate schedule for private pay customers shall not exceed the provider's daily, weekly, or monthly rate and shall not exceed the part day and/or full day rates established by the provider for DFS purposes, whichever is less.

(m) Payment rates based on the child's age shall be determined by the child's age on the first day of the month.

(n) Payment for substitute providers shall be the responsibility of the provider who hired the substitute.

(o) DFS-FO worker shall authorize payment on the DFS computer payment system.

(p) DFS has no responsibility for unpaid bills for child care fees charged above the DFS rates or for the collection of the parent(s)/caretaker(s) obligation for the cost of care.

(q) Rates for all child care program categories except payments made with SNAP E & T funds shall be based on sliding fee scale in Appendix A.

(r) Payments subject to SNAP E & T regulations are limited to \$200 per month for infants and \$175 per month for children two (2) years or older.

(s) Up to an additional \$250 per month may be paid for providing special needs services for the care of a child with documented physical or psychological special needs.

(i) The special needs shall be verified and specified by a medical professional.

(ii) The provider shall submit proof of specialized education, experience and/or training to meet the special needs of the child from an appropriate professional.

(iii) The parent(s)/caretaker(s) shall apply for and accept any services which are available to meet the special needs before special needs child care can be approved.

(iv) A DFS or contract supervisor shall approve the payment.

(v) Special needs child care is not respite care.

(t) Payment starting date for new cases is the date of the child care application, the date the child first enters care, or the date the parent began the approved activity, whichever is later when the provider has met the provider eligibility requirements during the 30 day application processing time.

(u) Payment starting date for ongoing cases when a provider change is made shall be the date the change occurred when the Provider Registration process is completed within the 10 day period for reporting changes. If not completed within 10 days of the change, the date shall be the date Provider Registration is complete.

(v) When 10% of the CCDBG funds are remaining, only the following shall be eligible: assistance units where the parent(s)/caretaker(s) is working with income through step two (2) of the sliding fee scale in Appendix-A and children in all steps who have special needs.

## **Section 10. Benefit Period.**

(a) Authorization begins with the date of the child care application, the date the approved activity begins, or the date the child first entered child care, whichever is later. The provider shall meet the provider eligibility requirements during the 30 day client application processing time or during the client change of report period.

(b) When there is presumptive eligibility for child care assistance, payment shall be assured to a licensed child care facility for 30 days to allow for application processing.

(i) A notice of presumptive eligibility shall be issued to the provider within seven (7) working days from the date of application.

(ii) Child care assistance shall be authorized within 30 days from the date of application.

(A) If documentation of circumstances shows the assistance unit to be eligible, up to 12 months of child care shall be authorized from the date of application.

(B) If documentation of circumstances shows the assistance unit to be ineligible, only 30 days of child care assistance shall be authorized and the application shall be denied for continued assistance.

(iii) Authorization for assistance based on presumptive eligibility shall not be made more than once in a 12 month period.

(c) Child Care benefits shall not be authorized for more than 12 months at a time.

(d) Child Care benefits for students shall be authorized according to the length of time their studies are scheduled (i.e. college - length of time per semester; vocational class - length of time expected to complete) not to exceed 12 months at a time.

(e) Child Care benefits for seasonal workers shall be authorized according to the type of work and expected length of time the work shall continue.

(f) Child Care benefits for POWER work requirements and/or E & T activities shall be authorized according to the schedule established by the assistance unit's POWER work requirements and/or E & T worker but for no longer than (12) months at a time.

## **Section 11. Notification.**

(a) Applicants of child care assistance shall be notified in writing within 30 days of the date of application the application has been approved and the amount and duration of the programs or the reason for denial of the application.

(b) Recipients of child care assistance shall receive written notice of action when benefits are reduced or terminated. The notice shall give the effective date and reason for the action.

(c) Written notice of reduction or termination of benefits shall be mailed to be received no later than the effective date of action or the date payment is made. The notice shall include the applicable legal citations and the recipient's rights to an administrative hearing.

(d) It is the client's responsibility to complete the Child Care Review prior to the expiration of the eligibility period to ensure continuity of benefits. DFS is not required to send reminder notices when the authorization or eligibility period is ending.

**Section 12. Good Cause.**

(a) Good cause for changing child care providers more than six (6) times in a 12 month period shall be:

- (i) The provider no longer provides child care services.
- (ii) The child care provider is required to be licensed but is no longer licensed.
- (iii) The provider is ill and unable to care for the child(ren) temporarily.
- (iv) The child's special needs are not being met by the current provider.
- (v) Imminent danger to the child.
- (vi) Other factors as determined by DFS-District Manager.

(b) Good cause for untimely reporting/verifications shall be:

(i) The applicant/recipient was out of town due to illness or death of a parent, grandparent, child, grandchild or sibling during the timely reporting period.

(ii) The relative/caretaker or child in the household was in the hospital during the timely reporting period.

(iii) The postmark on the envelope proves the information, change report and/or verification(s) was late due to problems in the postal service.

(iv) Circumstances of weather or disaster prevented the delivery or return of the information, change report and/or verification(s).

(v) Other circumstances beyond the parent's/caretaker's control for which no alternative was available.

### **Section 13. Overpayment, Recovery or Fraud Referral.**

(a) An overpayment claim shall be filed against an assistance unit when it is discovered the assistance unit received benefits to which it was not eligible.

(b) The overpayment shall be established from the date the overpayment occurred.

(c) An overpayment claim shall be filed against a child care provider when:

(i) The provider overcharged the agency.

(ii) The provider misrepresented or gave false information on the Bill for Child Care Services.

(iii) The provider hired a person as a substitute who did not meet the substitute definition.

(iv) The provider misrepresented the information on the Provider Registration Form and would not have been eligible as a child care provider.

(d) An overpayment claim shall be filed against either the provider and/or assistance unit, whichever is appropriate, when it is discovered that the agency created the overpayment.

(i) The overpayment shall begin with the month the change would have been effective had the DFS-FO acted timely and correctly.

(ii) A claim shall be filed against the provider when the child still attends care with that provider.

(iii) A claim shall be filed against the assistance unit when the child no longer attends that child caring facility.

(iv) An overpayment to a provider currently receiving child care payments or benefits shall be recovered through a reduction in the amount payable to the provider.

(v) Up to the total amount of payment the provider is eligible to receive may be recovered from the provider before payment is issued.

(vi) Recoupment of child care overpayments may be made from POWER benefits upon a voluntary written request of the assistance unit.

(vii) Overpayments to individuals may be recovered from the assistance unit which was overpaid, from individuals who were members of the assistance unit when overpaid, or from an assistance unit which includes members of a previously overpaid assistance unit. In cases of former recipients or recipients who refuse to repay, recovery shall be made by appropriate action under State law against the income and resources of the overpaid individual or assistance unit.

(viii) Underpayments and overpayments may be offset against each other in correcting incorrect payments.

(e) An overpayment and recovery shall be established in all cases of client fraud and in all cases where the overpayment amount would equal or exceed the costs of recovery.

(i) Cases in which it appears the client purposely misreported or failed to report information for more than one (1) payment month, or the circumstances are the same as previous program offenses, shall be referred to the DFS Fraud and Recovery Unit for possible prosecution or intentional program violation.

(ii) Penalties and procedures shall follow those set forth in Fraud and Recovery Unit Rules.

#### **Section 14. Child Care Provider Eligibility and Payment Requirements.**

(a) The selected child care provider shall:

(i) Be someone other than a mother, father, stepparent, member of the assistance unit, or foster parent who keeps or cares for a minor at the request of the parent(s)/caretaker(s) or an agency that is legally responsible for the child and receives payment for that care.

(ii) Be at least 18 years old or be emancipated.

(iii) Be licensed by the State of Wyoming unless the provider is legally exempt from licensing.

(iv) Provide care within the State of Wyoming.

(v) Complete the provider registration process.

(vi) Complete a pre-service health and safety orientation training and eight (8) credits of health and safety training annually thereafter.

(vii) Annual physical inspection of non-relative providers.

(viii) Meet all state, local, and federal laws related to operating a child care business.

(ix) Meet the minimum health and safety standards which shall include the following:

(A) An operable smoke alarm or detector shall be installed on all floor levels;

(B) The use of tobacco, illegal drugs and or consumption of alcohol is prohibited during of hours of operation;

(C) An operable telephone shall be available where the child care takes place;

(D) Weapons, ammunition, poisons, chemicals, bleach and cleaning materials shall be locked up to make them inaccessible to children;

(E) Current certification in infant/child CPR and first aid training shall be maintained;

(I) Verification shall be submitted to the local DFS office within 90 days of initial registration as a legally exempt provider; and

(II) Verification shall be submitted to the local DFS office prior to approval as a legally exempt provider when the provider was previously terminated for failure to submit required verification.

(F) The provider shall keep attendance, immunization and health information including special dietary needs and/or food allergy records of the child. Special dietary needs and/or food allergies shall be posted in food preparation and eating area;

(G) The provider shall keep a medical consent form signed by the parent or a legal guardian of the child. All medications shall be safely stored and administered according to directions;

(H) The overall condition of the child care facility and grounds, including play areas, equipment, and toys shall be maintained in a clean, uncluttered, safe condition and free of hazards, including items that may cause heat injuries;

(I) Unused electrical outlets shall be covered with safety caps;

(J) Fire exits shall be clear and exit doors remain unlocked or have locks allowing all parties to safely exit;

(K) Serious injuries and deaths shall be reported to DFS and kept on file;

(L) Awake infant and toddlers shall be directly supervised by staff at all times. Child in kindergarten or under six (6) years shall be directly supervised outside;

(M) Infants shall be placed on a firm flat surface, on their back to sleep, without anything over their head or face. Lighting in the sleep area shall be sufficient;

(O) The provider shall have an expulsion and suspension policy to promote social-emotional and behavioral health of children and limit the use of expulsion, suspension, and other exclusionary practices;

(P) Vehicles used to transport children shall be maintained in safe condition, with appropriate child safety restraint systems and shall comply with applicable motor vehicle laws. Operators of vehicles used to transport children shall have the appropriate and valid motor vehicle license; and

(Q) Emergency preparedness guidelines and procedures shall be given to parents in writing and include:

(1.) How parents shall be notified in case of an emergency at the facility;

(2.) The relocation site with contact information for the site; and

(3.) Procedures for child reunification or release.

(x) The provider shall furnish the name, Social Security Number and a signed authorization of release from all adult household members, staff and any substitute provider(s) who have access to the child(ren) placed in care.

(A) The provider shall be held responsible for the actions of any employee, substitute or household member who has contact with the child(ren) while the child(ren) is in care.

(B) Refusal of the provider to furnish the name(s) and Social Security number(s); or the presence of any person(s) in the child care facility against whom there has been substantiated child abuse or neglect may make the provider ineligible to receive payment from DFS for child care services.

(xi) A fingerprint based national criminal history record check (initially and every five (5) years) and Wyoming Central Registry Check and National Sex Offender Registry check shall be completed initially and annually) for the applicant, all staff, and all adult household members, including any adult who intends to move into the home, which does not reveal any disqualifying information.

(xii) Allow parental access any time during business hours.

(xiii) Make the Provider Registration Form available for public viewing upon request.

(xiv) The substitute provider shall meet the minimum health and safety standards and complete the provider registration process if the care goes beyond 24 hours during a month because the provider is no longer considered a substitute.

(xv) Maintain attendance records for each child in care and other evidence services were provided for a period of three (3) years, in accordance with each authorization and make these records available to state and federal auditors upon request.

(b) Payment for provider services shall be allowed only to providers who meet the criteria listed in (a) above as verified by the parent(s)/caretaker(s).

(c) Payment for provider services shall not be allowed:

(i) For the period of time the provider is in violation of any federal, state, or local law, rules and/or regulation applicable to a child care business.

(ii) When abuse or neglect has been substantiated, against the provider, staff or other household member(s), unless a good cause determination has been made.

(iii) When one (1) of the natural, adoptive parents or stepparents is in the home and available to care for the child(ren) unless the child(ren) would be at risk of neglect or abuse as verified by Child Protective Services (CPS) if the stepparent or the grandparent in a minor parent situation provides the care.

(iv) An E & T participant is not entitled to the dependent care reimbursement if a member of the E & T participant's SNAP assistance unit provides the dependent care services.

(d) The child care provider is not considered a State of Wyoming or DFS employee.

(e) The child care provider shall complete the prescribed DFS form for child care expenses and return it to the DFS-FO as necessary.

(i) The DFS payment amount shall cover and not exceed the actual eligible authorized hours used at the lowest rate of the actual charge, local market rate, or statewide limit.

(ii) Payment is not allowed to more than six (6) providers per child within a 12 month period unless good cause has been established by DFS.

(f) The State of Wyoming and DFS have no responsibility for unpaid bills for child care fees charged above state rates or for the parent's/caretaker's obligation for the cost of care.

(g) The provider has the right to establish the child care rates for his/her facility.

(i) The rates charged to those receiving assistance from DFS shall be the same rates as those charged to non-DFS clients.

(ii) The provider shall only have part/full day rates.

(iii) Providers shall submit any change of their rates to DFS using a prescribed DFS form and a copy of the rate sheet they use for non-DFS clients.

(iv) DFS shall use the new rate when the provider submits the new rate more than five (5) working days prior to the effective date of the change. When the new rate is submitted less than five (5) working days prior to the change, the new rate shall be effective five (5) working days after it is received. The new rate applies only to authorizations written after the rate change.

(h) When a provider requests an administrative hearing on action taken by the Child Care Licensing Unit, payments may continue during the administrative process, unless there is a substantiated child abuse or neglect case.

Appendix A

**Child Care, Purchase of Services  
Chapter One**

**Sliding Fee Scale**

	<b>Step1</b>	<b>Step 2</b>	<b>Step 3</b>	<b>Step 4</b>	<b>Step 5</b>	<b>Step 6</b>
<b>Maximum Income Eligibility Level as a Percent of the Federal Poverty Level</b>	100%	125%	150%	175%	200%	225%

The Sliding Fee Scale is used to determine the income eligibility levels of the households and to establish the household's co-payment. The Sliding Fee Scale maximum income eligibility level is a percentage of the Federal Poverty Level for the size of household. Section 658P(4) of the Child Care and Development Block Grant Act of 1990, as amended, provides that the maximum income eligibility level cannot exceed eighty-five percent (85%) of the Wyoming Median Income based on family size. The scale shall be adjusted annually no later than April 1<sup>st</sup> when the Federal Poverty Level is made available for DFS.

The parental obligation (also known as co-pay) shall be determined based on the calculation set forth in W.S. § 42-2-103 (f) and published in the Wyoming Child Care and Development State Plan.

Appendix B

**Child Care, Purchase of Services  
Chapter One**

**Types of Income and Calculation Method**

INCOME SOURCE	EARNED	UNEARNED	EXEMPT	NONEXEMPT
Accumulated vacation/sick leave	X			X
AmeriCorps living allowance	X			X
AmeriCorps child care allowance		X	X	
College Work Study	X		X	
In-kind wages	X			X
JTPA (not HS student)	X			X
JTPA (FT HS student < 18)	X		X	
Jury duty	X			X
Sale of blood/plasma	X			X
Severance pay	X			X
U.S.D.A. food reimbursement	X			X
Vacation/sick pay	X			X
Wages, dependent child	X		X	
Wages, tips, bonuses	X			X
Child care	X			X
Property income (working to produce)	X			X
Room and board	X			X
Sale of produce/animal by-products	X			X
Self-employment	X			X
Adoption assistance		X	X	
Alimony		X		X
Assistance from other programs, purpose covered by POWER		X		X
Assistance from other programs, purpose not covered by POWER		X	X	
Burial fund income		X		X
Contribution to client		X		X

INCOME SOURCE	EARNED	UNEARNED	EXEMPT	NONEXEMPT
Death benefits (1 time only)		X	X	
Disability insurance		X		X
Dividends/interest		X		X
DVR (not covered by POWER)		X	X	
DVR (covered by POWER)		X		X
Emergency assistance		X		X
Foster care		X	X	
General assistance		X		X
Gifts up to \$50 per qtr.		X	X	
Gifts - amount > \$50 per quarter		X		X
HUD Escrow Acct (cash)		X		X
Indian judgment funds		X	X	
Indian per capita		X	X	
Inheritance (money)		X		X
Joint bank account		X		X
Loan - bona fide		X	X	
Loan - non-bona fide		X		X
Military allotment		X		X
Mineral lease income		X		X
Pensions/retirement		X		X
Personal injury ins.		X		X
Private energy assistance		X	X	
Prizes/winnings		X		X
Property income (not working to produce)		X		X
RR retirement or UI		X		X
Royalty income		X		X
RSDI		X		X
Spousal support		X		X
SSI		X	X	
UIB		X		X
Utility allowance by HUD		X	X	
Utility allowance not from HUD		X		X
Vendor payment		X	X	
VA benefits		X		X
VA (GI bill) - portion used for school		X	X	

INCOME SOURCE	EARNED	UNEARNED	EXEMPT	NONEXEMPT
VA service connected disability		X	X	
Victims compensation Reimbursement Lost wages		X X	X	X
Volunteer under federal program at time of application		X	X	
Volunteer under federal program after receipt of POWER		X		X
Windfalls		X		X
Workers' Compensation		X		X
Educational income/student financial assistance BIA grant Guaranteed Student Loan Natl Direct Student Loan Non -title IV Other non-federal Title IV PELL Scholarships SEOG State Incentive Grant VA grant for education		X X X X X X X X X X X X X	X X X X X X X X X X X X	

## CHAPTER 1

### CHILD CARE, PURCHASE OF SERVICE GENERAL

#### **Emergency rules are in effect no longer than 120 days after filing with the Registrar of Rules**

**Section 1. Authority.** W.S. 42-2-103(b)(xiv) and W.S. 16-3-101-106 *et. seq.* authorizes the Department of Family Services (DFS) to promulgate rules and regulations to be used by DFS in the discharge of its functions.

**Section 2. Purpose.** These rules are adopted to standardize DFS's purchase of child care in Wyoming.

The Wyoming Child Care, Purchase of Service program is a public assistance program for low income families who need child care services in order to work or attend approved educational or training programs. Child Care, Purchase of Services is funded through a federal block grant and with state dollars.

**Section 3. Severability.** If any provision of these rules or the application thereof to any person, program, service or circumstance is held invalid, the invalidity shall not affect other provisions or applications of these rules. To the extent that these rules can be given effect without the invalid provision, the provisions of these rules are severable.

#### **Section 4. Definitions.**

(a) "Adult" is a person age 18 or over, or a person under age 18 who meets the Wyoming emancipation laws.

(b) "Adverse action" is a process to terminate or reduce the child care benefits.

(c) "Anticipated income" is income which is expected to be received in the benefit month.

(d) "Applicant" is a person who expresses in writing a desire to receive assistance.

(e) "Application date" is the date a completed and signed application is received and date stamped in the DFS-FO.

(f) "Assistance unit" is one (1) or more children living with their parent(s)/caretaker(s).

(g) “Authorization” is issued to a parent/caretaker to show the child(ren) is eligible for child care assistance. The Child Care Authorization is assistance to the client, not assistance to the provider. The authorization shows:

- (i) The maximum child care hours allowed by DFS;
- (ii) The maximum payment DFS shall make; and
- (iii) The parental obligation for a portion of the child care costs.

(h) “Best estimate” is a determination of what shall occur based on knowledge of the past and present circumstances and future expectations.

(i) “Benefit Specialist” is an employee of DFS who case manages economic assistance cases including the determination of eligibility for child care services.

(j) “Business expense” is the cost directly related to the production of the goods or services provided by the operation which are then subtracted from the gross income to determine net income. Including labor, fee, seed, machinery repairs, transportation required to perform the service or deliver the goods and taxes or any other expense connected solely with the function of the business.

(k) “Caretaker” is a child’s parent (as defined herein) or other adult who has a court order giving legal responsibilities and/or legal guardianship and who is exercising the care and control of the child(ren). This includes foster parents and the spouse of the caretaker.

(l) “Categorically eligible”:

(i) For Personal Opportunities With Employment Responsibilities (POWER), adult member of the assistance unit who is income and/or resource eligible for child care assistance because he/she is included in the assistance unit’s POWER payment.

(ii) For Supplemental Nutrition Assistance Program (SNAP), the adult SNAP recipient who is eligible for child care assistance because he/she is participating in the SNAP E & T program.

(m) “Central Registry” means an electronic record maintained by DFS of persons who have been the subject of a child abuse or neglect complaint. The record contains the findings of the child protection investigation. The Central Registry is not a list of court adjudications.

(n) “Certified provider” see Licensed provider.

(o) “Child care” is the direct care and services to infants and children in the child’s own home or another facility, not to exceed 16 hours in a 24 hour day unless overnight travel is necessary for the parent(s)/caretaker(s) to accept or retain employment.

(p) “Child Care Center (CCC)” is a facility in which care is provided for part of a day for 16 or more children.

(q) “Child care facility” is the business that keeps or cares for more than two (2) minors at the request of the parent(s), legal guardian(s) or an agency responsible for the daily care and control of those children when the responsible party is not present.

(r) “Child care review” is a review of all eligibility factors at least once every six (6) months.

(s) “Child support” is voluntary, including military allotments, or court ordered payments made by an absent parent for the purpose of meeting the needs of his/her child(ren).

(t) “Child Support Enforcement Services (CSES)” is a legal entity charged with maintaining a child support enforcement program at the judicial district level.

(u) “Commingled” is a financial account in which countable and exempt funds are mixed together.

(v) “Date of eligibility” is the day benefits are required to begin. This is the date of the child care application, the first day the child received care or the date the approved employment or educational component or work activity began, whichever is later.

(w) “Death benefit” is the benefit received as a result of another’s death. Death benefits include:

(i) Proceeds of life insurance policies received due to the death of the insured;

(ii) Lump sum death benefits from SSA, RR burial benefits, VA benefits;

(iii) Inheritance in cash or in-kind; or

(iv) Cash or in-kind gifts given by relatives, friends, or community to assist with death related expenses.

(x) “Department of Family Services (DFS)” is the Wyoming department responsible for the provision of child care purchase of services. DFS-FO is a department field office. DFS-CO is the department state office.

(y) “Developmentally Delayed (DD)” is a child who is experiencing developmental delays in one or more of the following areas:

- (i) Cognitive development;
- (ii) Physical development including hearing and vision, language and speech development;
- (iii) Psychosocial development; or
- (iv) Self-help skills.

(z) “Disaster beyond control of the assistance unit” means earthquake, fire, flood, tornado, robbery, or furnace breakdown and/or broken water pipes in the home when owned by a person in the assistance unit.

(aa) “Earned income disregard” is a \$200.00 deduction from gross earned income for each employed adult in the assistance unit.

(bb) “Educational program” is a postsecondary course of study, not exceeding the first associate or baccalaureate degree (unless the associate degree was received while the parent(s)/caretaker(s) was pursuing a baccalaureate degree as the original educational goal). The program is designed to assist the student in obtaining employment in a specific job when the course of study is complete.

(cc) “Eligible” qualifies for child care assistance after meeting all of the specified conditions or factors.

(dd) “Emancipated” is a person who has obtained the legal status of an adult.

(ee) “Employment” is an activity in which an individual works for income.

(ff) “Employment & Training (E & T)” is the employment and training program as described in the current SNAP E & T regulations and approved by the United States Department of Agriculture.

(gg) “Employment training” is a planned, supervised program which may be a combination of classroom and on-the-job training experiences that imparts knowledge or develops skills or abilities to prepare a person for employment.

(hh) “Equity value (EV)” is the amount of money the sale of property would bring on the open market in the community where the property is located less any legal debts (such as mortgages, loans, penalties, cost of sale) against the property or resource.

(ii) “Exempt” is a category of income or circumstances not subject to program policy or limits and shall not be counted for eligibility purposes.

(jj) “Family Child Care Center (FCCC)” is a child care facility in which care is provided for a maximum of 15 unrelated children for part of a day, which may be in a residential or commercial type structure.

(kk) “Family child care home (FCCH)” is a licensed child care facility in which care is provided for no more than 10 children in the primary residence of the provider.

(ll) “Financial responsibility” means answerable for providing the funds to meet the needs of a spouse and/or natural, adopted, step child(ren) or as provided by law.

(mm) “Foster care provider” is the person(s) caring for the child(ren) placed in a care facility by DFS.

(nn) “Foster child” is a child who been has placed in a foster care home or facility by DFS.

(oo) “Fraud” is documented deliberate misrepresentation, concealment or nondisclosure of information by an applicant, recipient, or provider pertaining to an eligibility or billing factor:

- (i) To obtain assistance or provider payment;
- (ii) To remain eligible for assistance or provider payments;
- (iii) To avoid a decrease in assistance or provider payment; or
- (iv) For obtaining payment for services that were not rendered.

(pp) “Full day” is five (5) or more hours of child care in a day.

(qq) “Garnishment” is a legal withholding of a specified sum from wages to satisfy a creditor.

(rr) “Guardian” is an individual appointed by the court to care for a person as reflected in a court order specifying the guardianship.

(ss) “Household (HH)” refers to one (1) or more rooms of a house, apartment or mobile home and may include one (1) or more assistance units and/or ineligible person(s).

(tt) “Household circumstances” are situations that could have an effect on one (1) of the eligibility factors.

(uu) “Immediate family” are the minor brothers, sisters, stepbrothers, stepsisters, half brothers and half sisters who live together with their parent(s)/caretaker(s) in the same residence. Immediate family is used to determine assistance unit composition and whether the provider selected by the assistance unit needs to be licensed.

(vv) “Income” is money received from any source.

(i) Countable income - the total of gross earned income less allowable earned income disregards and gross unearned income expected or received by the assistance unit for a specified month and includes child support received by the applicant or recipient.

(ii) Earned income - a payment received in cash or in-kind for wages, salary, tips, commissions as an employee or net profit from activities in which the individual is engaged as self-employed. It is the total income before deductions for personal or employment expenses and excludes the meal allowance used to compute Federal Insurance Contribution Act (FICA).

(iii) Exempt income - money set aside or free from program policy or limits and is not counted.

(iv) Fluctuating income - income that varies in frequency of receipt or income that varies in amount each month due to:

(A) Working overtime;

(B) Hourly pay with varying hours;

(C) Receipt of tips or commissions;

(D) Changes of hours or pay rate; or

(E) Decrease or increase in hours of work due to vacations or sick leave or seasonal employment.

(v) Gross income - the total money the person is entitled to receive, prior to any deductions such as the earned income disregard, Social Security, withholding tax, and garnishments.

(vi) Infrequent income - income that is less than \$50 per individual when received and not received more often than once every calendar quarter.

(vii) In-kind income - the receipt of a good(s) or a service(s) instead of money or cash. In-kind earned income is considered when the applicant/recipient has a legal interest in a liquidated sum and has the legal ability to make such sum available for support and maintenance.

(viii) Net income - the gross receipts from self-employment less the current business expenses.

(ix) Periodic income - money that is not received on a regular basis.

(x) Stable income - income received in a set/fixed amount from the same source(s) on a regular basis and there is no additional income which fluctuates.

(xi) Unearned income - all money received not earned by providing goods and services or defined as a resource.

(ww) "Infant" is a child from birth to 12 months of age.

(xx) "In-home care" is child care provided in the child's own home. In-home care is for any number of children who are immediate family members residing in the child(ren)'s home.

(yy) "Initial eligibility determination" is the process of determining eligibility when the assistance unit applies for services for the first time or when there has been a break in aid of 30 days or more.

(zz) "Insurance settlements" are the money received by a person(s) from a company for damage of property or person.

(aaa) "Intentional program violation (IPV)" is the action by an applicant, recipient or provider of making a false or misleading statement or misrepresentation, concealment or withholding of facts for the purpose of:

(i) Establishing or maintaining eligibility for child care assistance, or

(ii) Increasing or preventing a reduction in the amount of child care assistance or payment.

(bbb) "Knowledgeable source" is a person who has considerable degree of familiarity of a subject gained through experience of or association with the individual or subject.

(ccc) "Licensed provider" is a provider who meets the licensing standards established by DFS.

(ddd) "Loan" is a debt the borrower has an obligation to repay. A bona fide loan is one where there is a written agreement to repay the loan. Bona fide loans the assistance unit has an obligation to repay are not counted as income.

(eee) “Lump sum” is a payment of earned or unearned money made not more than once per quarter.

(fff) “Minimum health and safety standards” are requirements established to assure the health and safety of a child(ren) receiving child care services.

(ggg) “Minor” is a person under 18 years old who does not meet Wyoming’s emancipation laws.

(hhh) “Month” is:

(i) Current month - the month in which eligibility is determined.

(ii) Payment month - the calendar month for which the assistance is issued.

(iii) “Month received” is the calendar month in which the payer or source made the money available or the individual receives the money in hand, whichever occurs first. Exception: SSA, SSI, VA and POWER received at the end of the month are considered for the following month.

(jjj) “Need” for child care is the time when the eligible parent(s)/caretaker(s) is actually participating in an approved activity or component and the eligible child requires care.

(kkk) “Net profit” is the gross receipts, less the current business expenses.

(lll) “Noncooperation or noncompliance” is the act of refusing or failing to comply with a child support, work program or POWER requirement or to work with another to accomplish a common end or specified goal.

(mmm) “Parent” is a natural, adoptive, or step mother or father of any age. (See Caretaker.)

(nnn) “Parental access” is allowing parents to visit the child care facility and see their children at any time.

(ooo) “Parental obligation” is the portion of the child care cost the parent(s)/caretaker(s) is responsible to pay based on the assistance unit size and income. The amount of the parental obligation is based on the calculation set forth in W.S. 42-2-103 (f)(2016).

(ppp) “Part day” is less than five (5) hours of child care in a day.

(qqq) “POWER work requirement” the POWER performance requirements-include the mandatory job seeker contacting the work program case manager, keeping all appointments, complying with the steps and responsibilities in her/his IRP, registering for employment at DWS and following through with referrals to DVR for employment rehabilitation or an SSI application.

(rrr) “Presumptive eligibility” is the assurance of payment for 30 days of child care services by a licensed child care facility when the assistance unit appears eligible due to the parent(s)/caretaker(s)’s statements on the initial application. Presumptive eligibility payments cannot be made on behalf of an assistance unit more than once every 12 months.

(sss) “Provider” is any person who is approved to provide child care services under these rules and who has provided child care services for a child(ren).

(ttt) “Provisional license” is a temporary license issued by DFS which allows operation of a child care facility when issues arise surrounding compliance with licensing rules.

(uuu) “Reapplication” is the completion of an application in writing requesting assistance after being ineligible for child care assistance for more than one (1) calendar month.

(vvv) “Redetermination” is the re-verification of each factor of eligibility and a decision of eligibility and payment based on the verified information.

(www) “Registered provider” is any child care provider who has completed the Provider Registration Form and received a favorable Wyoming Central Registry check and a fingerprint based national criminal history record check. This includes child care providers who are licensed as well as those who are exempt from licensing according to Wyoming law.

(xxx) “Relative” refers to an individual who is through marriage, blood relationship, or court decree, the grandparent, great grandparent, sibling, aunt or uncle of a child receiving care.

(yyy) “Satisfactory progress” refers to:

(i) In a postsecondary educational work activity, a participant shall meet, each term or semester at least a 2.0 cumulative grade point average in her/his degree requirements.

(ii) In a training work activity, the participant shall meet quarterly a consistent standard of progress, which includes gains or proficiency levels and a reasonable time limit for completion of the training as determined by the instructor and POWER case manager or Benefit Specialist.

(zzz) “Special needs child” is a minor who is developmentally delayed or has a mental or physical incapacity which limits his/her ability to care for him/herself and would be at risk of physical harm if child care was not provided.

(aaaa) “Statewide maximum limit” is the maximum amount DFS shall pay for child care as published in the Child Care Development Fund (CCDF) State Plan.

(bbbb) “Student” is a person attending high school, high school equivalency program, employment training programs or postsecondary undergraduate program.

(cccc) “Substitute provider” is a person who meets the definition of "provider" and who fills in for the provider less than 24 hours in a month.

(dddd) “Termination” is to close a case and/or remove individual from the program.

(eeee) “Weapon” means, but is not limited to, a firearm, explosive or incendiary material, or other device, instrument, material or substance, which in the manner it is ordinarily used, or is ordinarily intended to be used, is reasonably capable of producing death or serious bodily injury.

**Section 5. Application Process.** The following process shall be followed by the DFS-FO when an applicant makes a request for Child Care assistance:

(a) A DFS application form shall be provided or mailed on request during regular business hours when a current application form is not on file in the DFS-FO.

(b) A signed application form shall be accepted by the DFS-FO and date stamped upon receipt during regular business hours.

(c) A face-to-face or telephone interview shall be required with the applicant who has not already had an application intake interview.

(d) A separate application shall be required for each assistance unit.

(e) Applicants shall be informed of their rights and responsibilities, program requirements and benefits.

(f) Applicants shall be provided with consumer information upon request concerning informed choices of quality child care.

(g) Applicants shall be provided with a list of licensed child care providers upon request.

(h) Applicants shall be informed concerning the provider licensing registration requirements and enrollment of providers for payment.

(i) Applicants shall be advised what verification or documents are needed to complete the processing of the application and provider enrollment and shall be given up to ten (10) days to furnish the information.

(j) A decision on the application shall be made within 30 calendar days of the application date.

(i) Payment for 30 days of licensed child care services shall be assured when the assistance unit appears to be presumptively eligible based on the parent(s)/caretaker(s)'s statement on the DFS application.

(ii) An application shall be approved when an applicant is found to be eligible and there is a child care need.

(iii) An application shall be denied when:

(A) An applicant is found to be ineligible or has failed to cooperate in establishing program eligibility, has withdrawn the application, died or cannot be located;

(B) The care was not provided by an approved provider; or

(C) There was not a child care need because the parent(s)/caretaker(s) was not working, attending an approved educational or training program or meeting POWER or E & T work requirements.

(k) Documentation of the action taken on the application and the reason for the action shall be made in the case file.

(l) Applicants shall be notified in writing of any action taken on their applications.

## **Section 6. Applicant Rights.**

(a) The applicant has a right to apply for child care assistance:

(i) Upon request and without delay during regular business hours at the DFS-FO in the county of residence on the prescribed form(s) obtained in person or by mail;

(ii) To be accompanied or represented by person(s) of his/her choice;  
and

(iii) To request and receive assistance in completing an application or obtaining required verification.

(b) The application and other personally identifiable information shall be kept confidential and not be disclosed except as necessary to determine eligibility, to pay the provider or as required by state or federal law.

(i) The use or disclosure of information concerning clients shall be limited to purposes directly connected with:

(A) The administration of DFS or Social Security Income (SSI) programs. Such purposes include establishing eligibility, determining the amount of the child care payment and approving the child care provider for payment.

(B) Any investigation, prosecution, criminal or civil proceeding conducted in connection with the administration of such programs.

(C) The administration of any other federal or federally assisted program which provides cash or in-kind assistance or services directly to individuals on the basis of need.

(D) Any audit or similar activity conducted in connection with the administration of any such program by any governmental entity which is authorized by law to conduct such audit or activity.

(E) The administration of the state unemployment compensation program.

(F) The administration of the state's worker's compensation program as related to providers.

(ii) DFS shall report to Immigration and Naturalization Services (INS) the name and address and other identifying information on any individual who is known to be unlawfully in the U.S.

(iii) The following types of information to be safeguarded include, but are not limited to:

(A) The names and addresses of applicants/recipients and amount of child care payments provided.

(B) Information related to the social and economic conditions, including homelessness, or circumstance of a particular individual including information obtained from the Internal Revenue Services and Social Security Administration (SSA) which shall be safeguarded in accordance with procedures set forth by those agencies.

(C) Agency evaluation of information about a particular individual.

(D) Medical data, including psychological evaluations. All medical information shall be directly released by the medical professional. Medical information shall not be released without written authorization from the medical professional.

(c) Applicants/recipients shall be informed in writing or verbally of:

(i) Eligibility factors, verifications and documents needed to process the application and allowed up to 10 days to submit the requested verification or document.

(ii) The purpose and length of time for which assistance is provided.

(iii) The rights and responsibilities of applicants/recipients.

(iv) The freedom of parental choice to select the child care provider within the following limitations:

(A) The client cannot change child care providers more than six (6) times within a 12 month period unless there is good cause per Section 12 of these rules; and

(B) The selected child care provider shall meet all the Child Care Provider Eligibility and Payment Requirements as stated in Section 14 of these rules.

(v) The right to request an administrative hearing within 30 days from the date of an adverse notice.

(A) The Child Care payment shall not be authorized pending the administrative hearing decision on a client request for a hearing.

(B) All child care administrative hearing processes shall be pursuant to Chapter 1, DFS Contested Case Hearing Procedures Rules and/or Administrative Hearing.

(vi) The right to receive consumer information concerning the selection of quality child care.

(vii) The right to receive a list of licensed child care providers upon request.

(viii) The right to unlimited access to providers and to their child(ren) during the normal hours of provider operation and whenever the child(ren) are in the care of the provider.

(ix) The right to register a complaint against a provider. Complaints shall be referred to the appropriate Child Protective Services, Child Care Licensing or Fraud and Recovery Unit for investigation.

(d) The client has the right to a written notice concerning a decision on an application or on any adverse action. See notification requirements in Section 10 of these rules.

(e) The applicant/recipient has the right to reapply following denial or termination of benefits.

(f) A minor parent has the right to apply on his/her own behalf.

#### **Section 7. Program Responsibilities.**

(a) Client responsibilities:

(i) Complete an application in the manner and form prescribed by DFS. The application shall:

(A) Be dated.

(B) Provide an answer to the questions asked on the application and provide verification to support the answers.

(C) Be signed in ink, under penalty of perjury, by the applicant or the applicant's representative.

(ii) Cooperate with the process of determining initial and ongoing eligibility by providing:

(A) Information essential to reach a decision on eligibility.

(B) Documents for required verification including estimated hours of child care need and the reason for the need.

(C) A written statement authorizing a person to represent the applicant or other assistance unit adults if desired.

(D) Verification of any changes within 10 days of the change which may affect eligibility or benefit amount. If the change is not reported within the 10

day reporting period, any increase in child care benefits resulting from the change shall be effective the date the change was reported.

(E) Verification as specified by DFS to establish the child care provider's eligibility for payment.

(F) Verification of compliance with other DFS Assistance Programs and Medicaid.

(b) DFS responsibilities:

(i) Assure child care requirements have been met and established procedures have been followed.

(ii) Inform the clients concerning their rights and responsibilities as outlined in Sections 6 and 7(a).

(iii) Provide an application in the manner and form prescribed by DFS upon request during regular business hours.

(iv) Make a decision on the application within 30 days of the application date and provide the client with written notice concerning the decision.

(v) Act on reported changes immediately to assure either child care services continue or assistance is terminated.

(vi) Assure the provider has completed the licensing or registration process and has been enrolled for payment.

(vii) Coordinate the authorization of services with the work program case managers or Child Protective Services (CPS) to assure the client's child care needs are met.

(viii) Review the child care case for possible continuation of child care payments when a POWER, Medicaid or SNAP case has been closed because of increased earnings.

(ix) Audit the billing form using DFS procedures.

(x) Assure payments within 30 days of the bill submission date.

(xi) Assure overpayments have been instituted promptly and within the established guidelines.

(xii) Establish a procedure for handling client and provider complaints.

(xiii) Provide client with notice of any adverse action.

**Section 8. Eligibility Factors.**

(a) Each factor of eligibility shall be verified.

(b) Approved cases shall include documentation in the case file as to how each eligibility factor was met and the amount of payment.

(c) The application shall be denied or assistance terminated when eligibility cannot be determined because the applicant/recipient refuses to provide the requested documentation or the written consent to obtain the documentation.

(d) Denied cases shall include documentation in the case file of the reason(s) for the denial.

(e) The following eligibility factors shall be met:

(i) Eligible persons.

(A) Child care assistance shall be available for a child who is under age 13 years, a child over 13 who has special needs, is developmentally delayed, is physically or mentally incapable of caring for himself or herself as verified by a physician or licensed or certified psychologist, or under court supervision.

(B) Child care assistance is available only to children who live with their parent(s)/caretaker(s) when the parent(s)/caretaker(s) is participating in an approved activity outside the home.

(C) Child care assistance shall be available only when the child(ren)'s parent(s)/caretaker(s) participates in at least one (1) of the following approved activities outside the home:

(I) Employment;

(II) Employment Training program;

(III) Educational program, including high school or high school equivalency;

(IV) POWER work requirement;

(V) SNAP E & T activity; or

(VI) Temporary Job Search.

(D) Child care assistance shall be available for a child(ren) in a two (2) parent/caretaker assistance unit when both parents/caretakers are participating in an approved activity during the same hours.

(E) Child care assistance shall be available for a child(ren) in a two (2) parent/caretaker assistance unit when one (1) parent/caretaker is disabled and unable to care for the child(ren) if:

(I) Child care is necessary to allow the other parent/caretaker to maintain employment;

(II) The disability and the parent/caretaker's inability to care for the child(ren) is verified by a medical professional;

(III) Verification has been submitted to document the parent with the disability is following prescribed medical treatment; and

(IV) The assistance unit is pursuing and accepting any other available resources to move the assistance unit toward self-sufficiency.

(F) Child care assistance shall not be available to an assistance unit if fraud against DFS has been established in a court of law or by a DFS hearing officer. The assistance unit is ineligible until all penalties have been served and full restitution has been made.

(G) Child care assistance is not available when the parent(s)/caretaker(s) fails to remain eligible for POWER, SNAP or Medicaid by noncooperation with program requirements. The client is ineligible for child care assistance until he/she:

(I) Cooperates with the POWER, SNAP or Medicaid program requirements; or

(II) Has not received a POWER payment within 30 days and becomes employed 20 or more hours per week.

(H) Child care assistance is available for a child(ren) whose parent(s)/caretaker(s) is attending an approved educational program, including college undergraduate study when:

(I) The parent(s)/caretaker(s) is making satisfactory progress;

(II) The educational program does not exceed the first associate or baccalaureate degree unless the associate degree was received while the parent(s)/caretaker(s) was pursuing a baccalaureate as the original employment goal; and

(III) The parent(s)/caretaker(s) has been receiving child care while working on an associate degree program for no more than three (3) years, or no more than six (6) years while working on a baccalaureate degree. When the parent(s)/caretaker(s) has been employed and has been working an average of more than 30 hours per week while attending school, the length of time to complete an associate's degree may be extended to five (5) years and a baccalaureate degree to eight (8) years.

(I) Child care assistance is available for a child(ren) whose parent(s)/ caretaker(s) is self-employed and working outside of his/her home.

(J) Child care assistance is available for a foster child(ren) whose foster parent(s) is participating in an approved activity.

(K) A minor parent(s) who lives with his/her parent(s) may receive child care assistance if the minor parent(s) and her/his parent(s) are all working or attending an educational program during the same hours.

(L) Child care assistance is not available to fugitive felons.

(M) Child care assistance is available when an overpayment has been established and the parent(s)/caretaker(s) is in compliance with the repayment agreement or made full restitution unless the parent(s)/caretaker(s) has been found guilty of fraud in a court of law or by the DFS hearing officer.

(N) Child care assistance is available for a child(ren) living in an assistance unit whose income is within the Sliding fee Scale in Appendix A:

(I) The assistance unit shall qualify for assistance in step one (1) through step four (4) at the initial eligibility determination; and

(II) The assistance unit shall may continue to receive assistance in steps five (5) and six (6) when the gross income has increased due to employment.

(ii) Residency and identification:

(A) Except for migrant working families, families shall be Wyoming residents.

(B) The assistance unit shall not be receiving assistance from another state.

child is required. (C) Proof of identity for each applicant/recipient and eligible

(D) The eligible child must be:

(I) A citizen of the United States; or

(II) A legally residing alien as defined by law.

(E) A Social Security Number is not required for an applicant or recipient of child care assistance.

(iii) The composition of the assistance unit shall be determined based on the following:

(A) Parents/caretakers and their spouses shall be included along with their child(ren), foster child(ren) or child(ren) whom they are caring for pursuant to a legal court order;

(B) When three (3) generations are included in a POWER payment, all of the recipients of the POWER payment shall be included in the assistance unit;

(C) A minor parent and his/her child shall be considered as a separate assistance unit from the minor's parents unless (B) above applies; and

(D) All minor siblings living in the same household shall be included in the same assistance unit regardless of the marital status of their parents unless one of the siblings meets the criteria in (C) above.

(iv) Income. The income criteria in Appendices B and C shall apply in addition to the following special considerations.

(A) The parent's income shall be considered in determining eligibility for child care services.

(B) The caretaker's income shall be considered according to the court order. The caretaker's voluntary contribution statement is used when there is no court order.

(C) A foster parent's income shall not be considered in determining eligibility for a foster child.

(D) Income eligibility shall be determined prospectively using the best estimate of income which shall be available during the payment month(s).

(I) The current month's ongoing gross income shall be used as the best indicator for the assistance unit's eligibility. Any other income which shall be received during the benefit period shall be calculated as anticipated. The sources of income shall be converted to a monthly average for the benefit period.

(II) Past months shall be considered as an indicator of the types of income that may be received during the benefit period for prospective budgeting when income is received periodically.

(III) To determine prospective monthly income add the total of the following:

(1.) Anticipated monthly income.

(2.) Multiply the amount by number of the times it is expected to be received within the benefit period unless the income can be excluded as infrequent or irregular. Divide that amount by the number of months in the benefit period.

(3.) Divide the total amount of income specified in an annual employment contract, regardless of the amount paid monthly, by 12 to arrive at a monthly average.

(4.) Gross income from weekly amounts shall be multiplied by 4.3; bi-weekly amounts by 2.15; semi-monthly amounts by 2 and monthly amounts by 1.

(5.) Deduct \$200.00 from the earned income of each working adult in the assistance unit.

(6.) The monthly amount is rounded up to the nearest dollar.

(E) The following income to the assistance unit shall be-considered and verified in determining eligibility:

(I) The income of all assistance unit members living together.

(II) The income of the minor child who needs child care and the minor parent.

(III) Income of a child(ren) who is ineligible for child care assistance is not counted.

(IV) The income of an adult who has a court order giving legal responsibilities and/or legal guardianship and who is exercising the care and control of the child(ren) is exempt unless there is a court order specifying the individual is financially responsible for the child(ren).

(F) The criteria in Appendix B shall be used to determine if the income is exempt or nonexempt using the following special considerations.

(I) Accumulated vacation and sick pay shall be countable when the money is paid to the individual.

(II) Burial fund is countable when the money withdrawn from a burial fund is used for a purpose other than burial expense.

(III) Contributions to the assistance unit shall be countable.

(1.) The amount of the contribution of a non-financially responsible person living with the assistance unit shall be used according to that person's written statement.

(2.) The amount of the contribution of anyone living elsewhere shall be used according to his/her written statement.

(IV) Death benefits shall be nonexempt when the amount received exceeds the deceased person's last illness and burial expenses.

(V) Infrequent or irregular income including gifts and interest, which cannot reasonably be anticipated, shall be in the form of cash or check and is received only once during a calendar quarter, shall be exempt when the total does not exceed \$50 per individual in the assistance unit.

(VI) Insurance Settlement - Money received by a person(s) from a company for damage of property or person for trauma is income. Any cash received from medical or liability insurers for medical services already received by the individual is not income. However, any amount received which exceeds the actual cost of the medical expenses shall be counted as unearned income.

(VII) Lump sum.

(1.) The total amount less legal fees required to make the money available and less the amount designated by the payer or source for medical expenses shall be considered.

(2.) A lump sum (one-time payment) may cause a recipient to become ineligible or eligible for reduced benefits if the amount cannot be excluded using the infrequent and irregular policy.

(3.) The period of ineligibility or reduction, when appropriate, begins the month following the month the lump sum is received.

(4.) The period of ineligibility shall be determined by dividing the lump sum amount by the maximum income limit on Appendix A plus one dollar (\$1.00) for the assistance unit size.

(5.) The result is the number of months the assistance unit shall be ineligible for child care assistance. Any fractions shall be rounded up.

(6.) A shortened period of ineligibility shall be allowed in the specified situations and under the specified conditions:

a. First, one (1) of these situations shall exist:

(i) The assistance unit incurs and pays medical expenses not covered by health insurance or a third party.

(ii) A disaster beyond the control of the assistance unit which causes the lump sum to become unavailable to the assistance unit.

(iii) The lump sum was received from an insurance policy payable because of a loss or reimbursement for the actual cost of replacement. It does not include payment received for "pain and suffering."

(iv) The lump sum payment was issued in error and written verification from the payer is received indicating the client is required to return the lump sum money.

b. Second, one (1) or more of these conditions shall be met:

(i) The lump sum was spent for food, clothing, and/or shelter prior to when the disaster occurred; and

(ii) The lump sum has been or shall be spent for expenses related to the situation; and

(iii) The assistance unit has no other income to meet the expenses of the disaster.

(VIII) Self-employment - The net income shall be determined by subtracting the business expenses from the gross income.

(1.) To determine farm self-employment net income, operating expenses from the operation of a farm by a person on his account, as an owner, renter, or sharecropper shall be subtracted from the gross receipts. Gross receipts include the value of all products sold, government crop loans, money received from the rental of farm equipment to others, and incidental receipts from the sale of wood, sand, gravel, and similar items. Operating expenses include cost of feed, fertilizer, seed and other farming supplies, rent, interest on farm mortgages, farm building repairs, farm taxes (not state and federal income taxes) and similar expenses. The value of fuel, food or other farm products used for assistance unit living shall not be included as part of net income.

(IX) Veterans' Administration (VA);

(1.) Service connected disability payments are exempt when the compensation on an annual basis is not more 100% of the federal poverty level (FPL) as determined by Office of Management and Budget (OMB). Use the full amount when it exceeds 100% of the FPL.

(2.) The portion of the payment made under the Veterans' Educational Assistance Program (GI Bill) actually used for items such as tuition, books, fees and other costs necessary for school attendance is exempt if the same expense is not covered by another loan, grant, scholarship or program.

(3.) All other payments made through the VA shall be nonexempt.

(G) Income eligibility shall be determined as follows:

(I) Income levels shall be re-determined at least once every 12 months, or more often when a change of circumstance occurs.

(II) All countable income including gross earnings and cash benefit programs paid to the client shall be included.

(III) All income shall be budgeted prospectively.

(H) Any amount of money given to eligible clients by their employer or any other person, for the purchase of child care shall not be counted as income when determining eligibility.

(v) Resources shall not be considered in determining eligibility.

**Section 9. Benefit Computation.**

(a) The client or child care provider shall be required to use the method or form prescribed by DFS to report child care expenses and to submit it to DFS.

(b) All bills shall be reviewed for auditing purposes prior to authorizing payment for child care services.

(c) The following steps shall be used to determine the DFS payment level:

(i) Determine the type of child care provider.

(ii) Determine-the actual charge for child care.

(iii) Compare the actual charge to the DFS market rate for the type of care used and the state maximum limit.

(iv) Authorize the payment based on the Department's directive on maximum payment.

(v) If the actual charge exceeds the local market rate or State limit, the client is responsible for the balance.

(d) Participants in the SNAP E & T program shall be limited to child care assistance as outlined for the E & T program unless the subsidy payments are made through the CCDF.

(e) A part day or full day slot shall be purchased for days the parent(s)/caretaker(s) is participating in an approved activity when the licensed child care facility has payment policies which require private pay customers to purchase a child care slot.

~~(f) When a full day has been authorized at a facility with full day rates, child care shall not be authorized at a second facility during the period of time that the full day began and ended at the first facility.~~

(f)~~(g)~~ Payment shall be based on the actual time the recipient is actively participating in work, employment training, an educational program, a POWER work requirement activity, or a SNAP (E & T) component activity.

(i) Subject to the availability of funds, recipients in an approved education program shall be provided at least two (2) hours of dependent day care, if needed, for each hour the applicant is required to be in class, laboratory or other required instructional activity not to exceed the statewide maximum limit.

(ii) Child Care benefits for self-employment activities shall be calculated by dividing the monthly net income by the federal minimum wage prior to deducting the earned income disregard. The result is the number of child care hours which may be authorized per month.

(iii) One (1) hour per day for lunch, if it occurs during the activity schedule, is allowed except for those participating in a SNAP E & T component.

(iv) No more than 12 hours per month for a maximum of two (2) months in each 12 month period for SNAP E & T individual job search is allowed.

(v) Child care hours for the time the client participates in a POWER work requirement activity as verified by the POWER work requirement case manager are allowed.

(vi) Up to one (1) hour per day shall be allowed when needed for transportation time to the child care provider and the work activity.

(vii) Child care shall only be provided for classes that are required to complete the degree or program.

(viii) Time for special situations as indicated by the instructor as part of the class work can be allowed.

(ix) No time shall be allowed for study time.

(g)~~(h)~~ Payment for child care services cannot exceed 16 hours in a 24 hour day unless:

(i) Overnight travel is necessary for the parent(s)/caretaker(s) to accept or maintain employment, and

(ii) The absence of the parent(s)/caretaker(s) does not exceed 30 days.

~~(i)~~ Payment to hold a child care slot, for days and/or hours the parent is not participating, in an approved activity shall not be allowed unless contracted by DFS as part of an expansion/collaboration project.

~~(h)~~~~(j)~~ Duplicate payment by DFS when child care is paid by other programs, agencies or persons shall be prohibited.

~~(i)~~~~(k)~~ The amount given to the client or child care provider by another source for child care shall be deducted from the bill prior to DFS payment of the bill.

~~(j)~~~~(l)~~ Payment of child care for arrangements not authorized by DFS shall be the sole responsibility of the client.

~~(k)~~~~(m)~~ Payment shall be made directly to the child care provider and not to the client.

~~(l)~~~~(n)~~ Payment to the provider shall be made based on the provider's usual rate schedule for private pay customers shall not exceed the provider's daily, weekly, or monthly rate and shall not exceed the part day and/or full day rates established by the provider for DFS purposes, whichever is less.

~~(m)~~~~(o)~~ Payment rates based on the child's age shall be determined by the child's age on the first day of the month.

~~(n)~~~~(p)~~ Payment for substitute providers shall be the responsibility of the provider who hired the substitute.

~~(o)~~~~(q)~~ DFS-FO worker shall authorize payment on the DFS computer payment system.

~~(p)~~~~(r)~~ DFS has no responsibility for unpaid bills for child care fees charged above the DFS rates or for the collection of the parent(s)/caretaker(s) obligation for the cost of care.

~~(q)~~~~(s)~~ Rates for all child care program categories except payments made with SNAP E & T funds shall be based on sliding fee scale in Appendix A.

~~(r)~~~~(t)~~ Payments subject to SNAP E & T regulations are limited to \$200 per month for infants and \$175 per month for children two (2) years or older.

~~(s)~~~~(u)~~ Up to an additional \$250 per month may be paid for providing special needs services for the care of a child with documented physical or psychological special needs.

(i) The special needs shall be verified and specified by a medical professional.

(ii) The provider shall submit proof of specialized education, experience and/or training to meet the special needs of the child from an appropriate professional.

(iii) The parent(s)/caretaker(s) shall apply for and accept any services which are available to meet the special needs before special needs child care can be approved.

(iv) A DFS or contract supervisor shall approve the payment.

(v) Special needs child care is not respite care.

(t)(~~v~~) Payment starting date for new cases is the date of the child care application, the date the child first enters care, or the date the parent began the approved activity, whichever is later when the provider has met the provider eligibility requirements during the 30 day application processing time.

(u)(~~w~~) Payment starting date for ongoing cases when a provider change is made shall be the date the change occurred when the Provider Registration process is completed within the 10 day period for reporting changes. If not completed within 10 days of the change, the date shall be the date Provider Registration is complete.

(v)(~~x~~) When 10% of the CCDBG funds are remaining, only the following shall be eligible: assistance units where the parent(s)/caretaker(s) is working with income through step two (2) of the sliding fee scale in Appendix-A and children in all steps who have special needs.

#### **Section 10. Benefit Period.**

(a) Authorization begins with the date of the child care application, the date the approved activity begins, or the date the child first entered child care, whichever is later. The provider shall meet the provider eligibility requirements during the 30 day client application processing time or during the client change of report period.

(b) When there is presumptive eligibility for child care assistance, payment shall be assured to a licensed child care facility for 30 days to allow for application processing.

(i) A notice of presumptive eligibility shall be issued to the provider within seven (7) working days from the date of application.

(ii) Child care assistance shall be authorized within 30 days from the date of application.

(A) If documentation of circumstances shows the assistance unit to be eligible, up to 12 months of child care shall be authorized from the date of application.

(B) If documentation of circumstances shows the assistance unit to be ineligible, only 30 days of child care assistance shall be authorized and the application shall be denied for continued assistance.

(iii) Authorization for assistance based on presumptive eligibility shall not be made more than once in a 12 month period.

(c) Child Care benefits shall not be authorized for more than 12 months at a time.

(d) Child Care benefits for students shall be authorized according to the length of time their studies are scheduled (i.e. college - length of time per semester; vocational class - length of time expected to complete) not to exceed 12 months at a time.

(e) Child Care benefits for seasonal workers shall be authorized according to the type of work and expected length of time the work shall continue.

(f) Child Care benefits for POWER work requirements and/or E & T activities shall be authorized according to the schedule established by the assistance unit's POWER work requirements and/or E & T worker but for no longer than (12) months at a time.

#### **Section 11. Notification.**

(a) Applicants of child care assistance shall be notified in writing within 30 days of the date of application the application has been approved and the amount and duration of the programs or the reason for denial of the application.

(b) Recipients of child care assistance shall receive written notice of action when benefits are reduced or terminated. The notice shall give the effective date and reason for the action.

(c) Written notice of reduction or termination of benefits shall be mailed to be received no later than the effective date of action or the date payment is made. The notice shall include the applicable legal citations and the recipient's rights to an administrative hearing.

(d) It is the client's responsibility to complete the Child Care Review prior to the expiration of the eligibility period to ensure continuity of benefits. DFS is not required to send reminder notices when the authorization or eligibility period is ending.

#### **Section 12. Good Cause.**

(a) Good cause for changing child care providers more than six (6) times in a 12 month period shall be:

- (i) The provider no longer provides child care services.
- (ii) The child care provider is required to be licensed but is no longer licensed.
- (iii) The provider is ill and unable to care for the child(ren) temporarily.
- (iv) The child's special needs are not being met by the current provider.
- (v) Imminent danger to the child.
- (vi) Other factors as determined by DFS-District Manager.

(b) Good cause for untimely reporting/verifications shall be:

(i) The applicant/recipient was out of town due to illness or death of a parent, grandparent, child, grandchild or sibling during the timely reporting period.

(ii) The relative/caretaker or child in the household was in the hospital during the timely reporting period.

(iii) The postmark on the envelope proves the information, change report and/or verification(s) was late due to problems in the postal service.

(iv) Circumstances of weather or disaster prevented the delivery or return of the information, change report and/or verification(s).

(v) Other circumstances beyond the parent's/caretaker's control for which no alternative was available.

**Section 13. Overpayment, Recovery or Fraud Referral.**

(a) An overpayment claim shall be filed against an assistance unit when it is discovered the assistance unit received benefits to which it was not eligible.

(b) The overpayment shall be established from the date the overpayment occurred.

(c) An overpayment claim shall be filed against a child care provider when:

(i) The provider overcharged the agency.

(ii) The provider misrepresented or gave false information on the Bill for Child Care Services.

(iii) The provider hired a person as a substitute who did not meet the substitute definition.

(iv) The provider misrepresented the information on the Provider Registration Form and would not have been eligible as a child care provider.

(d) An overpayment claim shall be filed against either the provider and/or assistance unit, whichever is appropriate, when it is discovered that the agency created the overpayment.

(i) The overpayment shall begin with the month the change would have been effective had the DFS-FO acted timely and correctly.

(ii) A claim shall be filed against the provider when the child still attends care with that provider.

(iii) A claim shall be filed against the assistance unit when the child no longer attends that child caring facility.

(iv) An overpayment to a provider currently receiving child care payments or benefits shall be recovered through a reduction in the amount payable to the provider.

(v) Up to the total amount of payment the provider is eligible to receive may be recovered from the provider before payment is issued.

(vi) Recoupment of child care overpayments may be made from POWER benefits upon a voluntary written request of the assistance unit.

(vii) Overpayments to individuals may be recovered from the assistance unit which was overpaid, from individuals who were members of the assistance unit when overpaid, or from an assistance unit which includes members of a previously overpaid assistance unit. In cases of former recipients or recipients who refuse to repay, recovery shall be made by appropriate action under State law against the income and resources of the overpaid individual or assistance unit.

(viii) Underpayments and overpayments may be offset against each other in correcting incorrect payments.

(e) An overpayment and recovery shall be established in all cases of client fraud and in all cases where the overpayment amount would equal or exceed the costs of recovery.

(i) Cases in which it appears the client purposely misreported or failed to report information for more than one (1) payment month, or the circumstances are the

same as previous program offenses, shall be referred to the DFS Fraud and Recovery Unit for possible prosecution or intentional program violation.

(ii) Penalties and procedures shall follow those set forth in Fraud and Recovery Unit Rules.

**Section 14. Child Care Provider Eligibility and Payment Requirements.**

- (a) The selected child care provider shall:
- (i) Be someone other than a mother, father, stepparent, member of the assistance unit, or foster parent who keeps or cares for a minor at the request of the parent(s)/caretaker(s) or an agency that is legally responsible for the child and receives payment for that care.
  - (ii) Be at least 18 years old or be emancipated.
  - (iii) Be licensed by the State of Wyoming unless the provider is legally exempt from licensing.
  - (iv) Provide care within the State of Wyoming.
  - (v) Complete the provider registration process.
  - (vi) Complete a pre-service health and safety orientation training and eight (8) credits of health and safety training annually thereafter.
  - (vii) Annual physical inspection of non-relative providers.
  - (viii) Meet all state, local, and federal laws related to operating a child care business.
  - (ix) Meet the minimum health and safety standards which shall include the following:
    - (A) An operable smoke alarm or detector shall be installed on all floor levels;
    - (B) The use of tobacco, illegal drugs and or consumption of alcohol is prohibited during of hours of operation;
    - (C) An operable telephone shall be available where the child care takes place;

(D) Weapons, ammunition, poisons, chemicals, bleach and cleaning materials shall be locked up to make them inaccessible to children;

(E) Current certification in infant/child CPR and first aid training shall be maintained;

(I) Verification shall be submitted to the local DFS office within 90 days of initial registration as a legally exempt provider; and

(II) Verification shall be submitted to the local DFS office prior to approval as a legally exempt provider when the provider was previously terminated for failure to submit required verification.

(F) The provider shall keep attendance, immunization and health information including special dietary needs and/or food allergy records of the child. Special dietary needs and/or food allergies shall be posted in food preparation and eating area;

(G) The provider shall keep a medical consent form signed by the parent or a legal guardian of the child. All medications shall be safely stored and administered according to directions;

(H) The overall condition of the child care facility and grounds, including play areas, equipment, and toys shall be maintained in a clean, uncluttered, safe condition and free of hazards, including items that may cause heat injuries;

(I) Unused electrical outlets shall be covered with safety caps;

(J) Fire exits shall be clear and exit doors remain unlocked or have locks allowing all parties to safely exit;

(K) Serious injuries and deaths shall be reported to DFS and kept on file;

(L) Awake infant and toddlers shall be directly supervised by staff at all times. Child in kindergarten or under six (6) years shall be directly supervised outside;

(M) Infants shall be placed on a firm flat surface, on their back to sleep, without anything over their head or face. Lighting in the sleep area shall be sufficient;

(O) The provider shall have an expulsion and suspension policy to promote social-emotional and behavioral health of children and limit the use of expulsion, suspension, and other exclusionary practices;

(P) Vehicles used to transport children shall be maintained in safe condition, with appropriate child safety restraint systems and shall comply with

applicable motor vehicle laws. Operators of vehicles used to transport children shall have the appropriate and valid motor vehicle license; and

(Q) Emergency preparedness guidelines and procedures shall be given to parents in writing and include:

(1.) How parents shall be notified in case of an emergency at the facility;

(2.) The relocation site with contact information for the site; and

(3.) Procedures for child reunification or release.

(x) The provider shall furnish the name, Social Security Number and a signed authorization of release from all adult household members, staff and any substitute provider(s) who have access to the child(ren) placed in care.

(A) The provider shall be held responsible for the actions of any employee, substitute or household member who has contact with the child(ren) while the child(ren) is in care.

(B) Refusal of the provider to furnish the name(s) and Social Security number(s); or the presence of any person(s) in the child care facility against whom there has been substantiated child abuse or neglect may make the provider ineligible to receive payment from DFS for child care services.

(xi) A fingerprint based national criminal history record check (initially and every five (5) years) and Wyoming Central Registry Check and National Sex Offender Registry check shall be completed initially and annually) for the applicant, all staff, and all adult household members, including any adult who intends to move into the home, which does not reveal any disqualifying information.

(xii) Allow parental access any time during business hours.

(xiii) Make the Provider Registration Form available for public viewing upon request.

(xiv) The substitute provider shall meet the minimum health and safety standards and complete the provider registration process if the care goes beyond 24 hours during a month because the provider is no longer considered a substitute.

(xv) Maintain attendance records for each child in care and other evidence services were provided for a period of three (3) years, in accordance with each authorization and make these records available to state and federal auditors upon request.

(b) Payment for provider services shall be allowed only to providers who meet the criteria listed in (a) above as verified by the parent(s)/caretaker(s).

(c) Payment for provider services shall not be allowed:

(i) For the period of time the provider is in violation of any federal, state, or local law, rules and/or regulation applicable to a child care business.

(ii) When abuse or neglect has been substantiated, against the provider, staff or other household member(s), unless a good cause determination has been made.

(iii) When one (1) of the natural, adoptive parents or stepparents is in the home and available to care for the child(ren) unless the child(ren) would be at risk of neglect or abuse as verified by Child Protective Services (CPS) if the stepparent or the grandparent in a minor parent situation provides the care.

(iv) An E & T participant is not entitled to the dependent care reimbursement if a member of the E & T participant's SNAP assistance unit provides the dependent care services.

(d) The child care provider is not considered a State of Wyoming or DFS employee.

(e) The child care provider shall complete the prescribed DFS form for child care expenses and return it to the DFS-FO as necessary.

(i) The DFS payment amount shall cover and not exceed the actual eligible authorized hours used at the lowest rate of the actual charge, local market rate, or statewide limit.

(ii) Payment is not allowed to more than six (6) providers per child within a 12 month period unless good cause has been established by DFS.

(f) The State of Wyoming and DFS have no responsibility for unpaid bills for child care fees charged above state rates or for the parent's/caretaker's obligation for the cost of care.

(g) The provider has the right to establish the child care rates for his/her facility.

(i) The rates charged to those receiving assistance from DFS shall be the same rates as those charged to non-DFS clients.

(ii) The provider shall only have part/full day rates.

(iii) Providers shall submit any change of their rates to DFS using a prescribed DFS form and a copy of the rate sheet they use for non-DFS clients.

(iv) DFS shall use the new rate when the provider submits the new rate more than five (5) working days prior to the effective date of the change. When the new rate is submitted less than five (5) working days prior to the change, the new rate shall be effective five (5) working days after it is received. The new rate applies only to authorizations written after the rate change.

(h) When a provider requests an administrative hearing on action taken by the Child Care Licensing Unit, payments may continue during the administrative process, unless there is a substantiated child abuse or neglect case.

Appendix A

**Child Care, Purchase of Services  
Chapter One**

**Sliding Fee Scale**

	<b>Step1</b>	<b>Step 2</b>	<b>Step 3</b>	<b>Step 4</b>	<b>Step 5</b>	<b>Step 6</b>
<b>Maximum Income Eligibility Level as a Percent of the Federal Poverty Level</b>	100%	125%	150%	175%	200%	225%

The Sliding Fee Scale is used to determine the income eligibility levels of the households and to establish the household's co-payment. The Sliding Fee Scale maximum income eligibility level is a percentage of the Federal Poverty Level for the size of household. Section 658P(4) of the Child Care and Development Block Grant Act of 1990, as amended, provides that the maximum income eligibility level cannot exceed eighty-five percent (85%) of the Wyoming Median Income based on family size. The scale shall be adjusted annually no later than April 1<sup>st</sup> when the Federal Poverty Level is made available for DFS.

The parental obligation (also known as co-pay) shall be determined based on the calculation set forth in W.S. § 42-2-103 (f) and published in the Wyoming Child Care and Development State Plan.

Appendix B

**Child Care, Purchase of Services  
Chapter One**

**Types of Income and Calculation Method**

INCOME SOURCE	EARNED	UNEARNED	EXEMPT	NONEXEMPT
Accumulated vacation/sick leave	X			X
AmeriCorps living allowance	X			X
AmeriCorps child care allowance		X	X	
College Work Study	X		X	
In-kind wages	X			X
JTPA (not HS student)	X			X
JTPA (FT HS student < 18)	X		X	
Jury duty	X			X
Sale of blood/plasma	X			X
Severance pay	X			X
U.S.D.A. food reimbursement	X			X
Vacation/sick pay	X			X
Wages, dependent child	X		X	
Wages, tips, bonuses	X			X
Child care	X			X
Property income (working to produce)	X			X
Room and board	X			X
Sale of produce/animal by-products	X			X
Self-employment	X			X
Adoption assistance		X	X	
Alimony		X		X
Assistance from other programs, purpose covered by POWER		X		X
Assistance from other programs, purpose not covered by POWER		X	X	
Burial fund income		X		X
Contribution to client		X		X

INCOME SOURCE	EARNED	UNEARNED	EXEMPT	NONEXEMPT
Death benefits (1 time only)		X	X	
Disability insurance		X		X
Dividends/interest		X		X
DVR (not covered by POWER)		X	X	
DVR (covered by POWER)		X		X
Emergency assistance		X		X
Foster care		X	X	
General assistance		X		X
Gifts up to \$50 per qtr.		X	X	
Gifts - amount > \$50 per quarter		X		X
HUD Escrow Acct (cash)		X		X
Indian judgment funds		X	X	
Indian per capita		X	X	
Inheritance (money)		X		X
Joint bank account		X		X
Loan - bona fide		X	X	
Loan - non-bona fide		X		X
Military allotment		X		X
Mineral lease income		X		X
Pensions/retirement		X		X
Personal injury ins.		X		X
Private energy assistance		X	X	
Prizes/winnings		X		X
Property income (not working to produce)		X		X
RR retirement or UI		X		X
Royalty income		X		X
RSDI		X		X
Spousal support		X		X
SSI		X	X	
UIB		X		X
Utility allowance by HUD		X	X	
Utility allowance not from HUD		X		X
Vendor payment		X	X	
VA benefits		X		X
VA (GI bill) - portion used for school		X	X	
VA service connected		X	X	

INCOME SOURCE	EARNED	UNEARNED	EXEMPT	NONEXEMPT
disability				
Victims compensation				
Reimbursement		X	X	
Lost wages		X		X
Volunteer under federal program at time of application		X	X	
Volunteer under federal program after receipt of POWER		X		X
Windfalls		X		X
Workers' Compensation		X		X
Educational income/student financial assistance				
BIA grant		X	X	
Guaranteed Student Loan		X	X	
Natl Direct Student Loan		X	X	
Non -title IV		X	X	
Other non-federal		X	X	
Title IV		X	X	
PELL		X	X	
Scholarships		X	X	
SEOG		X	X	
State Incentive Grant		X	X	
VA grant for education		X	X	