

Bureau for Children and Families Policy

Division of Early Care and Education

Policy & Procedures Manual

CHILD CARE

Policies and Procedures Manual

WV Department of Health and Human Resources
Bureau for Children and Families Policy
Division of Early Care & Education
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CHAPTER 1: CHILD CARE PROGRAM GOALS AND DEFINITION

1.0 Child Care Program Description and Goals

1.1.1. Program Description

Child care is a service which offers direct care and protections of infants, preschool, and school-age children during a portion of a twenty-four (24) hour day inside or outside of the child's own home. Child care is generally provided to children under the age of thirteen (13). In some situations, such as mental retardation, physical or behavioral disorders, or the need for supervision for children under court supervision, a child care plan up to age eighteen (18), may be considered.

1.1.2. State Goals

The primary goal of child care services is to provide experiences to children which will foster their healthy development while enabling their parents to participate in work or educational activities. Child care supplements the care and protection that a child receives from his parents.

1.1.3. Federal Goals

The federal Child Care & Development Fund, which provides the primary funding for the state's child care program, requires the state to develop a plan for operation of services. The state plan must address how federal funds will be utilized to address the federal goals for child care: to improve the affordability, availability, and quality of child care programs. Further information about how the state is addressing those goals is included in the West Virginia Child Care Plan which may be accessed through the Bureau for Children and Families web site at <http://www.wvdhhr.org/bcf/online-doc.asp>.

1.2. Definition of Program Terms

The following definitions of program terms shall be used in interpreting child care program policy:

- 1.2.1. **Accreditation:** Certification by a qualified entity, generally nationally recognized, that a program meets accepted standards of excellence established for such programs.
- 1.2.2. **Adult:** An individual who is 18 years of age or older.
- 1.2.3. **Applicant:** Anyone who applies for or requests child care services regardless of his/her race, color, creed, national origin, sex, age, or marital status; or, anyone who applies to be a child care provider.
- 1.2.4. **Approval:** Process by which DHHR approves a child care facility that is not required by law to be regulated which enables the service provider to participate in the child care subsidy certificate program.
- 1.2.5. **Certificate of Registration:** A statement issued by the Commissioner for a period of up to two years to a family child care home upon receipt of a self-certification statement of compliance with the applicable rules promulgated by the Commissioner.

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- 1.2.6. Child:** An individual who is: 1) under 13 years of age, 2) 13 to 18 years of age and is either under court supervision or a special needs child as defined in 1.2.43.
- 1.2.7. Child Care Resource and Referral Agency (CCR&R or R&R):** An agency under contract with the Department of Health and Human Resources to maintain provider resources, provide consumer education, manage the child care subsidy program, refer parents to available providers, and offer services to improve the quality of child care, such as provider training and technical assistance.
- 1.2.8. Child Care Center:** A facility operated for the care of 13 or more children on a nonresidential basis.
- 1.2.9. DHHR:** West Virginia Department of Health and Human Resources.
- 1.2.10. Emancipated Minor:** A child over the age of sixteen who has petitioned a court for emancipation and who has been declared by the court to be emancipated with all rights and duties of an adult; additionally all children who are now or were previously legally married.
- 1.2.11. Facility:** A place or residence, including personnel, structures, grounds and equipment used for the care of a child or children on a residential or other basis for any number of hours a day in any shelter or structure maintained for that purpose.
- 1.2.12. FACTS:** The Family and Children Tracking System (FACTS) is the management information system used to maintain child care information on families and providers, determine eligibility and process payments.
- 1.2.13. Fail to Renew:** Refers to action taken at time of review or re-application when a provider fails to comply with requirements and a decision is reached not to issue a certificate.
- 1.2.14. Family:** One or more adults and children, if any, related by blood or law, and residing in the same household. Where adults other than spouses reside together, each shall be considered a separate family. Emancipated minors and children living under the care of individuals not legally responsible for their care shall be considered as separate families.
- 1.2.15. Family Child Care Home:** A facility which is used to provide nonresidential child care for compensation in the provider's home. The provider may care for four to six children, including children who are living in the household, who are under six years of age. No more than two of the total number of children may be under twenty-four months of age.
- 1.2.16. Family Child Care Facility:** Any facility which is used to provide nonresidential child care for compensation for seven (7) to twelve (12) children for four (4) or more hours per day, including children who are living in the household who are under six years of age. No more than four (4) of the total number of children may be under 24 months of age.
- 1.2.17. Foster Home:** A private residence which has been certified by the Department of Health and Human Resources or by a licensed child placing agency to provide care on a residential basis for children.
- 1.2.18. Full Day:** Care for at least four (4) hours but less than eighteen (18) hours per day, (from 4 hours and 1 minute up to 17 hours and 59 minutes)

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- 1.2.19. Head of Household:** A natural parent, step parent, or an individual acting in loco parentis, such as a relative or non-relative who has been granted custody or guardianship by a court of law or who has assumed full physical custody and responsibility for a child, with or without legal custody.
- 1.2.20. Hobby:** an activity done for relaxation, and not for the purpose of meeting the basic daily living expenses of the individual. Activities generating income below the tax liability limit of \$5000.00 per year shall be considered a hobby.
- 1.2.21. Household:** A household consists of all individuals who live at the same address and share common kitchen facilities. See Chapter 2, Financial Eligibility for Child Care Services Section.
- 1.2.22. Kinship Relative Care:** Foster Home Services provided to a child in the state's custody by any person related to the child by blood or marriage, including cousins and in-laws. These individuals must meet the criteria to be certified as foster care providers.
- 1.2.23. Income Eligibility:** A method of determining eligibility that is based on establishing that the monthly gross income of the applicant/recipient's family is no more than the maximum income level allowable for the service requested or delivered.
- 1.2.24. Informal Family Child Care:** An informal family child care home provides care for three (3) or fewer children. At least one (1) child is not related to the provider. Informal child care providers are exempt from regulatory requirements, but may volunteer to register in order to receive federal child care or food program funding,.
- 1.2.25. In-Home Care:** In-home child care is provided by relatives or non-relatives for a child or children in the child's own home.
- 1.2.26. Initial License:** A six-month license issued to an applicant establishing a new service found to be in compliance on initial review with regard to policy, procedure, organization, risk management, human resources, service environment and record-keeping regulations.
- 1.2.27. Livelihood:** means of support or survival in which an individual engages to meet daily living expenses.
- 1.2.28. Minimum Wage:** The prevailing minimum wage mandated by state law in the state of West Virginia.
- 1.2.28.1. Exemptions to State Minimum Wage Law:** Employers that gross over \$500,000.00 annually and/or are engaged in interstate commerce (i.e. national retail chains or fast food restaurants, automobile dealers) are exempt from state law and are covered under Federal Minimum Wage laws.
- 1.2.28.2.** In home child care provider reimbursements must equal West Virginia's minimum wage requirement unless special exceptions are granted.
- 1.2.28.3.** Self employed individuals must meet state minimum wage requirements in order to be eligible for child care assistance.
- 1.2.29. Monitoring:** A method of evaluating a child care program that includes physical inspection of the facility and determination of compliance with applicable rules.

1.2.30. Monthly Gross Income: Monthly gross income is the total amount of money, prior to deductions, received or earned monthly by members of a family.

1.2.31. Non-Traditional Work Hours: Non-traditional work hours are defined as:

1.2.31.1. Approved care for at least four (4) hours provided either before 6:00 am or after 7:00 pm Monday through Friday;

1.2.31.2. Any 12 hour work/school shift or split shift which equals twelve or more care hours (including transportation) in a 24 hour period, and

1.2.31.3. Approved care for at least four (4) hours provided on a Saturday or Sunday.

1.2.32. Out of School Time: A child care service that offers activities to children before and after school, on school holidays, when school is closed due to emergencies and on school calendar days set aside for teacher activities.

1.2.33. Parent: A parent by blood, marriage or adoption; or a legal guardian or other person standing in loco parentis, such as foster parents, grandparents, other relatives, and persons receiving TANF benefits for children only.

1.2.34. Part Day 2-less than 4 hours: Care provided at least 2 hours but not exceeding 3 hours and 59 minutes per day.(from 2 hours and 0 minutes up to 3 hours and 59 minutes)

1.2.35. Part Days less than 2 hours: Care provided for more than 1 minute but not exceeding 1 hour and 59 minutes per day.

1.2.36. Provisional license or registration: A six-month license or certificate of registration awarded to family child care homes, family child care facilities or child care centers when the facility is not in compliance with the established rule but whose operation does not pose a significant risk to the rights, well-being, health and safety of a consumer.

1.2.37. Registration: Process by which a family child care home self-certifies compliance with the promulgated rules.

1.2.38. Relative Family Child Care: A relative family child care home provides care only to children related to the caregiver. The caregiver must be a grandparent, great grandparent, aunt, uncle, great-aunt, great-uncle or adult sibling. Relative family child care homes are exempt from regulatory requirements but may volunteer to register in order to receive federal child care or food program funding.

1.2.39. Resident: An individual who has established West Virginia as a permanent home, the place where s/he intends to return after any period of absence. Individuals are not eligible if they consider another state "home," maintain a principal residence or voter or car registration in another state with an intent to return, with the following exceptions:

1) Non-residents who attend a West Virginia college or university,

2) Migrant and itinerant workers who have entered the state to seek employment or fulfill a commitment.

These individuals are considered residents of West Virginia if they have proof of residency in West Virginia.

There are no requirements as to the duration of residency for applicants for child care subsidy. Documentation of West Virginia residency includes a West Virginia home address where the applicant lives and one or more of the following items: current West Virginia individual income tax return indicating West Virginia resident status, valid West Virginia driver's license, current West Virginia motor vehicle registration, proof of undergraduate student instate tuition payment, and other reasonable verification as listed in Chapter 3, Section 4.2.

- 1.2.40. Revoke/revocation:** Negative action taken by terminating licensure or registration when a provider fails to maintain established requirements of child care.
- 1.2.41. Self Employment – Home-based:** Self Employment in which the primary function of the business is performed in the home. Examples: (1) a beautician with a salon in her garage or (2) a family auto repair business operated in a building next to the family's residence.
- 1.2.42. Self Employment – Other:** Self Employment in which the primary function of the business is performed at a location other than the family's home. Example: plumber, lawn care business, construction worker, handy man, hairstylist who rents a booth. These individuals may use a portion of their home as a home office to conduct phone business or accounting, but cannot claim the home office as an allowable deduction since the primary function of their work occurs elsewhere.
- 1.2.43. Service Provider:** Individuals who provide child care or other types of service to individual recipients. Providers are not required to meet any service eligibility criteria.
- 1.2.44. Special Needs Child:** One who experiences significant developmental delays or who has a diagnosed physical or mental condition which has a high probability of resulting in a significant developmental delay. Significant delay is a 25% delay in one or more areas of development or a six (6) month delay in two (2) or more areas. Areas of development include: cognitive, speech/language, physical/motor, vision, hearing, psycho social, and self-help skills. Developmental delay is determined by early intervention programs, special education programs, or other multi-disciplinary teams.
- 1.2.45. Status Check:** A form which is sent to child care recipients to assess continuing eligibility to receive child care services.
- 1.2.46. Unlicensed School Age Child Care Programs:** Programs that provide out of school time services typically for fewer than four (4) hours daily, and not more than 30 full days annually for children age 5 and up. These programs are legally exempt from regulatory requirements but may be approved for payment if they meet minimal health and safety requirements established by the Department.
- 1.2.47. Variance:** A declaration that a rule may be accomplished in a manner different from the manner set forth in regulation.
- 1.2.48. Waiver:** A declaration that a certain rule is inapplicable in a particular circumstance.
- 1.2.49. Working:** Receiving a non-subsidized wage or salary for the work performed.

CHAPTER 2: OVERVIEW OF CHILD CARE SERVICES APPLICATION PROCESS

2.0. Application Overview

Any parent who wishes to request child care services may apply to contacting the local Child Care Resource and Referral (CCR&R) agency. The applicant, or parent/head of household, must have custody of the child(ren) or reside with the child(ren). The R&R agency is responsible for taking applications and determining eligibility for subsidized care. While an application may be completed by a parent prior to an office visit, workers should consult with their supervisors for guidance in processing these applications. The R&R agency staff shall conduct a face to face interview with the parent within 5 days of the parent's initial contact. Applications shall not be future dated.

The parent applies by completing the Application for Child Care Services (DAY-0614 or ECE-CC-1) or by supplying the application information to the R&R child care worker who then completes the Child Care Intake screens in FACTS. The parent must sign the application signature page which certifies an understanding of the process and verifies that the information is true and complete.

2.1. List of Items Covered During Application Interview

An interview must be held with the parent(s) upon completion of the application. During the interview, the R&R worker explains how child care services are provided, and the parent supplies information needed to make appropriate child care arrangements. The worker shall document any important information from the interview in FACTS.

In addition to collection of information requested for completion of an application, the interview shall include:

- 2.1.1. Evaluation of the need for child care services. (See Chapter 3, Need for Child Care Section).
- 2.1.2. The determination of financial eligibility. (See Chapter 4, Financial Eligibility for Child Care Services Section, and Appendix A).
- 2.1.3. Review of verifications supplied by parent and those still needed to confirm eligibility
- 2.1.4. Assessment of the family's needs and a review of children to be placed in child care. This assessment should determine the developmental level of the child, any health and/or emotional problems, and the existence of any special needs.
- 2.1.5. Explanation of the types of child care available and the regulation required for each, as well as the pros and cons for each type of care. (See Chapter 6.2.0, Parental Choice).
- 2.1.6. Explanation of the payment rates available through the program and an explanation of allowable charges by the provider.
- 2.1.7. An explanation of the parent's rights as a recipient of child care services.
- 2.1.8. A discussion of the parent's responsibilities as a recipient of child care services.

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- 2.1.9. A discussion of the Child Care Parent Services Agreement (DAY-0162).
 - 2.1.10. A discussion of the Child Care Certificate (DAY-0176).
 - 2.1.11. Provision of a list from FACTS of registered family child care providers, licensed family child care facilities, unlicensed school-age child care programs, and child care centers who meet the family needs. The list shall include the name, zip code and telephone number of potential providers.
 - 2.1.12. Information to assist the family in selecting a child care arrangement that best meets their child(ren)s' needs based on issues such as transportation, cost, nearby schools, and quality of care.
 - 2.1.13. A notification of other services offered by DHHR, such as Food Stamps, CHIP, TANF, children with special health care needs, and other community resources. Parents shall be informed of the availability of the Community Resource List maintained by the CCR&R agency and given copies upon request. An alternative would be a referral to the web site if the resource list is maintained there and parents have access.

2.2. The Application Process

2.2.1 Verifications Requested During Intake Interview.

During the intake interview, parents will be asked to submit a number of verifications. The verifications include the following proofs:

- 2.2.1.1 Identity.
- 2.2.1.2 West Virginia residency.
- 2.2.1.3 All income, including child support, if received.
- 2.2.1.4 Employment, school, training, WV Works participation for each parent in the home and/r other need for child care services.
- 2.2.1.5 Efforts to pursue child support, if not received.
- 2.2.1.6 Foster parent or kinship/relative caretaker status, if necessary.

2.2.2 CCR&R Supplied Forms

During the application process, a number of additional forms are completed or given to parents for completion and verifications are requested. Forms given to parents shall include the following:

- 2.2.2.1 Child's Medical Record (ECE-CC-3): The Worker shall give the parent an appropriate number of Child's Medical Record (ECE-CC-3) to be completed and given to the provider for any child under the age of 6 years. The Worker should explain that:
 - A. The medical examination and the immunization report/plan must be completed within thirty (30) days of placement and updated every two years until the child is six years of age. If immunizations are not current, the parent must give the provider a schedule for completion.
 - B. Parents shall be referred to the Health Check clinics (formerly known as EPSDT) and local Health Departments to obtain physical examinations and immunizations, but may choose to utilize private physicians. The Health Check form or child health assessment form from a Head Start or child care center, which contains immunization information, can be substituted for the ECE-CC-3C, if the form contains the same immunization requirements as those on the ECE-CC-

3C and shows the date of completion. However, a note from the physician without a standard medical form is not acceptable.

- C. Exemptions from immunization requirements are available for children whose parents provide written documentation of religious objections to immunization or when immunization is contraindicated based on a child's medical condition. However, a provider has the right to refuse to accept a child with an exemption.

2.2.2.2 Child Care Parent Services Agreement (DAY-0162): The worker should discuss the terms of the Child Care Parent Services Agreement (DAY-0162), which includes information about the parent's rights and responsibilities to maintain their eligibility and to the provider, as well as rules on using care appropriately to prevent improper payments. The parent and R&R worker shall sign the agreement, and a copy shall be given to the parent for her records.

2.2.2.3 Emergency Information Form (ECE-CC-10E). This form must be completed by the parent on all children to be placed in care, notarized and given to the provider at the time of enrollment.

2.2.2.4 A Child Care Certificate (DAY-0167) to be signed and given to the provider if the application is approved or the Notification of New Applicants (DAY-0177) if the application is pending or denied. For pending applications, parents shall also receive a Provider Notification Letter-Parent's Eligibility for Child Care (DAY-0613) to give to the provider to indicate the application is pending.

2.2.2.5 Other forms as needed. Applicants who have been employed for less than 45 days will be given a New Employment Verification form (ECE-CC-1B) to submit to their employer for completion.

2.2.3 Notifying Parent of Application Status:

2.2.3.1 If the applicant is not eligible for services, the CCR&R worker shall issue a Child Care Parent Notification Letter (DAY-0179) that states the application is denied.

2.2.3.2 If the application cannot be completed due to the need for additional information or documentation, the worker shall issue a Parent Notification Letter (DAY-0176) indicating that the application will be denied if the necessary information is not received within 13 days.

2.2.3.3 If the applicable information is received and the client is eligible:

- A. A Child Care Certificate (DAY-0176) is issued from FACTS and given to the parent who signs it and then gives it to the provider to be retained in the provider's record.

- 1.) The R&R worker may provide a Parent Notification Letter (DAY-0177) and a Provider Notification Letter (DAY-0613) on a temporary basis until the case is entered in FACTS and a permanent Child Care Certificate is issued to the parent.

- 2.) Clients choosing school-based care (i.e. after school programs located in schools), or clients choosing child care centers only open on weekdays, but who also need evening and/or weekend care shall be encouraged to choose a back-up provider for summer care/days when the school-based care or center is unavailable. Parents shall be issued a

certificate for the back-up provider. The worker shall note on the back-up provider certificate that the certificate is being provided as such, and care billed by the back-up provider shall only be approved for times when the primary provider is unavailable. Information on the use of a back-up provider shall be recorded in FACTS contacts, and include allowable times and reasons for use.

- B. The Certificate or Provider Notification Letter (DAY-0613) is an indication that DHHR will pay for a portion or all of the approved services. However, parents and providers must understand that new providers who have not completed the payment enrollment process or providers who have been closed for more than 12 months shall not receive reimbursement unless they attend payment enrollment training and complete a provider application within 30 days of client application.
- C. Worker Completion of the Child Care Certificate:
 - 1.) FACTS will automatically populate sections I. through V. and VII. on the certificate. The starting date on the initial Certificate shall be the date of client application. If care does not begin until a later date, the worker shall modify the Certificate to start at the later date.
 - 2.) Workers shall use section VI. to record the parent's need for care schedule, so that providers will have a general idea of when to expect the child in care.
- D. If the parent changes providers during the certificate period, he/she must notify the R&R worker in writing within five (5) working days, and request that a Certificate be issued for the new provider. R&R staff may ask the previous provider to return the child care certificate to the R&R office, but the return is not necessary for the termination of payment to the provider or the continuation of services to the family.

2.3. The Interview Process

CCR&R Workers should discuss the following with applicants:

2.3.1. Payment Rates Available.

See Chapter 6.3.2. Certificate System Payment Rates Section, and Appendix B – Child Care Payment Rates for rates available for children.

2.3.2. Allowable Charges by Providers

Allowable charges by the provider shall be limited to: reasonable registration fees, transportation fees, late fees and charges for time not approved by the agency. The Provider shall inform the parent of these fees prior to enrollment. If the parent is responsible for paying a portion of the daily fee, the daily fee shall only be charged for days that the child is actually in care.

2.3.3. Parent's Rights

As a recipient of child care services, the parent:

2.3.3.1. Retains all legal rights to the child while the child is in care.

2.3.3.2. Makes decisions about choice of child care providers. Through the child care certificate program, the parent shall be allowed to choose among a variety of child care options. (See

Chapter 6, Parental Choice Section). Parents must understand, however, that safety of children is a primary concern. Therefore, providers must offer a safe environment and comply with state regulatory statutes. Background checks are completed by DHHR to determine if staff, providers or any other adults in a caregiver's home have a history of child/adult abuse or neglect or a criminal record.

- 2.3.3.3. May request a list of substantiated parental complaints on any licensed or registered provider from the R&R worker or from the DHHR Child Care Worker. Lists of substantiated complaints are obtained from FACTS (DAY-0616) and shall be limited to standards violations.
- 2.3.3.4. May appeal any denial and/or termination of child care services.
- 2.3.3.5. Has the right to have all provider fees disclosed prior to beginning services with the provider.

2.3.4. Parent Responsibilities

As a recipient of child care services, the parent has the following responsibilities:

- 2.3.4.1. Visiting providers before selection and placement of children, as well as monitoring care throughout placement.
- 2.3.4.2. Maintaining continuity of care for children. Parents shall be informed of the detrimental effects of frequent changes in provider and the importance of a consistent relationship with adults for a child's growth and development.
- 2.3.4.3. Complying with the provider's rules and procedures, such as picking the child up on a timely basis, providing clothing changes, diapers, diaper wipes, etc. Parents should understand the importance of a cooperative relationship with their child's provider. A positive relationship between the adults enhances the child's experiences in care and often eliminates problems such as disruption in the current child care arrangement.
- 2.3.4.4. Discussing with the provider any custody or visitation issues and providing names of people allowed to pick up the child(ren).
- 2.3.4.5. Ensuring that the provider of choice receives a signed Child Care Certificate (DAY-0176) or Provider Notification Letter (DAY-0613) prior to accepting children in care. The certificate or notification letter is the provider's only assurance of payment.
- 2.3.4.6. Signing children in and out of care on a daily basis. Parents may allow a provider or child care program staff to sign a child in or out, as applicable, if the child is transported to or from care by the provider or school buses.
- 2.3.4.7. Paying the child fee directly to the provider on a schedule negotiated between them.
- 2.3.4.8. Making private arrangements with the provider for payment if care is used for reasons and times not needed or not listed on the Certificate. The Agency will not pay for child care provided while parents attend medical appointments, go shopping, or participate in other non-work or school related activities.

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- 2.3.4.9. Supplying the provider with a completed child health assessment form (ECE-CC-3C) on all children who have not reached their 6th birthday and updating forms every two years until the child is six (6) years of age. The provider retains the form in the child's record, except with in-home care where the parent is responsible for maintaining child health assessment and immunization records. When changing providers, the parent shall obtain a copy of the medical record for the new provider.
- 2.3.4.10. Supplying the provider with a completed, notarized Emergency Information Form (ECE-CC-10E) to be maintained in the provider's files.
- 2.3.4.11. Reporting changes in circumstances within five days. Failure to report changes to the agency may result in case closure, repayment of services used for time not approved, and/or 30 day penalty closure before services can be reopened. Income changes during the six (6) month period will not impact a parent's continuing eligibility for care unless the parent requests a redetermination due to decreases in income that might result in reduced fees. However, the parent(s) shall report the following changes in circumstances to the provider and to the agency, as appropriate:
- A. Changes in identifying information – household members, address, telephone numbers, etc.
 - B. Changes in family size affecting eligibility–
 - 1.) Additions to household size: child, spouse, biological parent of children in the home, If the case worker has reason to believe that the client is not accurately reporting family size, the case worker can request verification: i.e. birth certificate, adoption documents, statement of acting *in loco parentis* for the addition of a child, or a copy of marriage certificate for the addition of a spouse. OR
 - 2.) Subtractions to household size: child, spouse or biological parent of children. If the case worker has reason to believe that the client is not accurately reporting family size, the case worker may request verification by legal documentation (i.e. legal separation papers, divorce decree, notice of removal of child from home). If no legal documentation is available, two notarized statements by persons other than relatives stating that the person is no longer in the home may be substituted.
 - C. Changes in employment – place of employment or days and hours worked.
 - D. Changes in provider. Clients who use school-based care providers, and have a designated back up for summer care/days that the school-based program is unavailable are not considered to be “changing providers” as the client has already informed the worker that the back up provider becomes the primary care provider when the school-based program is unavailable.
 - E. Loss of employment or termination from educational or training programs.
 - F. Need for job search time. Job search time must be requested and approved by the agency.
 - G. When entering changes of circumstances to the FACTS record, a new assessment is done only when changes are made to number of people in the family or income amounts that result in a

reduction of fees. Recipients must verify income amounts. A new assessment changes the status check tickler to six (6) months from the date of the new assessment.

2.3.4.12. Renewing the certificate by completing a status check at least 2 weeks before the current certificate expires. The R&R agency will send a status check to the client, by mail, 30 days before the certificate expires. However, it remains the parent's responsibility to obtain and complete a status check to renew the certificate.

2.3.4.13. Submitting changes in circumstances during the status check completed every six (6) months after initial application. A new Certificate will be sent to parents every six (6) months based on successful completion of the status check. Status checks verify income and continuing need for services.

2.3.5. Consequences of Failure to Comply with Program Responsibilities.

2.3.5.1. If a parent fails to fulfill these responsibilities, the worker shall give a written warning regarding specific problems, noting that subsequent abuses may result in a 30-day penalty closure.

2.3.5.2. When a parent continues to use child care services when the need no longer exists (e.g., parent has lost job or quit school), the case will be closed and no further payment made. The Recipient shall repay to the agency any child care monies paid on their behalf during the period of ineligibility.

2.3.5.3. If intentional misrepresentation may have occurred and if the estimated amount exceeds \$1,000, the case will be referred to the Director of Investigation and Fraud Management. If the estimated amount is under \$1,000, arrangements shall be made for recoupment. (See Chapter 8, Improper Payments).

2.3.6. Other Services Offered by DHHR:

The R&R worker should inform the parent of other available DHHR services, including Food Stamps, CHIP, TANF, children with special health care needs, and other community resources.

CHAPTER 3: DETERMINATION OF FAMILY ELIGIBILITY

3.0. Family Eligibility

In order to be eligible for child care services, the family must verify the identity of the head of household, meet WV residency requirements, income requirements, child support requirements and activity requirements. A child must meet age and WV residency requirements, need child care for a portion of the day, and reside with the head of household applying for services.

3.1. Child Age Requirement

3.1.1. Be under 13 years of age, or

3.1.2. May be 13 to 18 years of age if:

3.1.2.1. **Under court supervision.** The family must provide documentation. Once documentation is received, the CCR&R worker shall enable the “Under court supervision” box on the child’s General Information Screen in FACTS. **Or**

3.1.2.2. **Meet the definition of special needs child.** (See Chapter 1, Section 2). Children presenting a significant delay of at least 25% in one or more areas of development, or a six (6) month delay in two or more areas as determined by an early intervention program, special education program or other multi-disciplinary team shall be eligible for the Special Needs status. The family must provide the CCR&R with a copy of the child’s assessment verifying the special needs status. Once documentation is received, the R&R worker shall enable the special needs box on the child screen in the Child Care Assessment.

3.2. Family Criteria

The child must reside or live at the same address, with a family meeting the following criteria: the family(’s):

3.2.1. Monthly gross income, by family size, falls within the eligibility guidelines in Appendix A;
OR

3.2.2. Receives TANF benefits (not including TANF benefits received for children only- see 3.2.3.) and is participating in:

3.2.2.1. WV Works approved training and education activities.

3.2.2.2. Self-initiated training and education activities.

3.2.2.3. Employment; **OR**

3.2.3. Is receiving TANF for children only. However, families receiving TANF for children only must meet monthly gross income by family size.

3.2.4. Two Parent Households

If both parents, or a parent and step-parent are in the home, child care services cannot be approved for work or training related needs unless both are working or attending school/training.

3.2.5. Joint Custody

In cases where parents have joint custody or share custody of their children and both parents are eligible to receive child care assistance, the parents shall have separate cases and shall be entered into FACTS as two (2) families. Each parent is responsible for paying the fee on the days the child is in his or her custody. The amount of fee paid is determined as follows:

- 3.2.5.1. When the parents use different providers, each parent must pay the fee amount based on his or her income.
- 3.2.5.2. When the parents use the same provider, each parent shall pay the amount of the lowest assessed fee.
 - A. To ensure that the provider is aware of the correct fee, both Child Care Certificates shall reflect the lowest assessed fee. The certificate reflecting the higher fee should be manually changed to the lower fee.
 - B. In order to ensure that the provider receives full payment, the billing specialist shall only select and pay on the child name linked to the case with the lowest assessed fee.
 - C. Case Managers shall not close cases in this situation for inactivity unless both parent's cases reflect no activity for 90 days.

3.2.6. Foster Care

For a foster home who needs child care because the foster parents are participating in education or employment, services are available for children in the state's custody. (See Chapter 1.2.18, for definition of foster home).

- 3.2.6.1. In FACTS, each foster child or sibling group is a separate family within the household and financial eligibility is based on the foster child's income. Child income, such as child support, shall be entered in FACTS with any fees for service waived. Boarding care payments are not considered income for a child.
- 3.2.6.2. The CCR&R worker shall designate one of the foster parents as head of household, but exclude foster family income in determining eligibility. Foster parents must verify employment or attendance in an education or job training program.
- 3.2.6.3. Foster care parents cannot receive child care subsidy payments or place the child in any child care center, family child care facility, or family child care home of any type in which they own all or part of the care facility.

3.2.7. Kinship Relative Care

For kinship/relative caretakers who need child care because the caretakers are participating in education or employment, services are available for children in the state's custody. (See Chapter 1.2.22, for definition of kinship/relative caretaker).

- 3.2.7.1. To verify official kinship/relative caretaker status, the person must supply the R&R worker with a copy of the KINSHIP/RELATIVE SAFETY SCREEN form signed by the caretaker(s) and the placement worker, and a signed copy of the Child Placement Agreement (SS-FC-6A/FSC-0031). Kinship/Relative Caretaker child care will not be approved without receipt of these forms.

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- 3.2.7.2. In FACTS, each kinship child or sibling group is a separate family within the household and financial eligibility is based on the child's income. Child income, such as child support, shall be entered in FACTS with any fees for service waived. Boarding care payments are not considered income for a child.
 - 3.2.7.3. Designate one of the caretakers as head of household, but exclude caretaker income in determining eligibility. Kinship/relative caretakers must verify employment or attendance in an education or job training program.
 - 3.2.7.4. Kinship Relative Caretakers cannot receive child care subsidy payments or place the child in any child care center, family child care facility, or family child care home of any type in which they own all or part of the care facility.

3.3. Child's Citizenship Requirement

The child must be a US citizen or a "qualified alien" as defined by the Immigration and Nationality Act. Only the citizenship and immigration status of the child, who is the primary beneficiary of the child care benefit, is relevant for eligibility purposes. The child must be a U.S. citizen or a qualified alien. Effective July 1, 2008, all new and renewal child care applicants, including foster care and kinship relative foster care parents, must verify that children receiving child care services are either a U.S. Citizen or a qualified alien. Applicants who cannot provide verification of citizenship are not eligible to receive child care services.

3.3.1. A U.S. Citizen is either :

3.3.1.1. A person born in the territory of the United States under the 14th Amendment of the United States Constitution; OR

3.3.1.2. A person who has undergone naturalization. Naturalization is the process by which a citizen of a foreign country becomes a United States citizen.

3.3.2. According to federal regulation a qualified alien is:

3.3.2.1. Lawfully admitted for permanent residence.

3.3.2.2. Granted asylum.

3.3.2.3. A refugee admitted to the United States.

3.3.2.4. An alien paroled into the United States for a period of at least one year.

3.3.2.5. An alien whose deportation or removal is being withheld.

3.3.2.6. An alien granted conditional entry.

3.3.2.7. An alien who is a Cuban Haitian entrant under the Refugee Education Assistance Act of 1980.

3.3.2.8. An alien who (or whose child or parent) has been battered or subjected to extreme cruelty in the US.

3.3.3. Acceptable Proofs of Citizenship: Citizenship can be verified by submission of any acceptable document that proves a U.S. place of birth or documents showing that the person is a U.S. citizen. (See Appendix E for a list of acceptable documents.) All documents must be either an original or a copy certified by the issuing agency. A copy of the verification must be filed in the legal block of the case file and its location noted in FACTS document tracking. Verification of citizenship is required only once, unless later evidence makes it questionable.

3.3.4. No Verification of Citizenship Available within 13 Days

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- 3.3.4.1. Child Born in West Virginia and Verification of Citizenship Lost or Destroyed -When applicants cannot provide proof of citizenship for a child born in West Virginia, the application should be processed as usual and the parent given a 30 day certificate. The parent must supply verification of citizenship within 30 days or the case will be closed. Case workers should set a FACTS tickler as a reminder to follow up on the requirement. If verification is supplied, the worker should issue a certificate for the remaining five months.
- 3.3.4.2. Child Born out of State and Verification of Citizenship Lost or Destroyed- When applicants cannot provide proof of citizenship for a child born out of State, the application should be processed as usual and the parent given a 90 day certificate. The parent must supply verification of citizenship within 90 days or the case will be closed. Case workers should set a FACTS tickler as a reminder to follow up on the requirement. If verification is supplied, the worker should issue a certificate for the remaining three months.

3.4. WV Residency Requirement and Proof of Identity

Child care applicants must be a resident of the state of West Virginia. Proof of identity and residency is required, and shall be established by showing a valid photo ID and proof of residency, selected from the following list. If clients do not have proof of identity, they shall be given 13 days to provide it.

3.4.1. Acceptable forms of proof of identity:

- 3.4.1.1. An original, valid, current, unexpired Certificate of U. S. Citizenship (INS Form N-560) with photograph.
- 3.4.1.2. An original, valid, current, unexpired Certificate of Naturalization (INS Form 550 or INS Form 570) with photograph.
- 3.4.1.3. An original, valid, current West Virginia driver's license, permit, or ID card, that is expired less than six (6) months with photograph.
- A. Residents of West Virginia, who wish to drive a motor vehicle on the public roads, must have a West Virginia driving license, unless the individual is exempt. New residents who are non-exempt from the driver's license requirement must obtain a driver's license within 30 days of establishing residency.
- B. Who is Exempt from obtaining a West Virginia Driver's license per WV Department of Transportation rules:
- 1) Any person operating a motor vehicle in the armed services of the United States in the performance of official duties.
 - 2) A nonresident who is at least 16 years old and has a valid driver's license from another state or country (limited to 90 days in a calendar year). These individuals are not eligible for child care as they do not meet the residency requirement.
 - 3) A nonresident who is attending a West Virginia college or university and has a valid license from another state. In this instance, the out of state driver's license will suffice as proof of identity. The student will still need to supply proof of residency.

3.4.1.4. An original, valid, current, unexpired U. S. Military ID Card.

3.4.1.5. U. S. Military Retiree Card or Uniform Service Identification Privilege Card (DD 1173) with current photograph.

3.4.1.6. An original, valid, current, unexpired or legally extended United States passport with current photograph.

3.4.2. Acceptable Proofs of Residence:

Proofs of residence must show the client's current physical address. Post Office Box addresses and 911 residence verifications are not accepted as proof of WV residency. WV driver's licenses are not acceptable as proof of residency unless issued after July 1, 2003. The following proofs are acceptable:

3.4.2.1. WV utility bills with service at a WV residence address.

3.4.2.2. WV property tax bill or receipt indicating a WV residence address.

3.4.2.3. WV individual income tax return for the most recent year.

3.4.2.4. WV mortgage documents or homeowner insurance documents for a WV residence or proof of WV home ownership with a WV residence address.

3.4.2.5. WV W-2 Form not more than 18 months old with the applicant's name and WV residence address.

3.4.2.6. WV weapons permit with a WV residence address.

3.4.2.7. WV Motor Vehicles registration card that contains a WV residence address.

3.4.2.8. WV Voter's registration card with a WV residence address.

3.4.2.9. WV school enrollment form if applicant is under age 18 with the applicant's WV residence address.

3.4.2.10. WV proof of undergraduate/graduate student of in-state, not metro or out-of-state, tuition payment verification.

3.4.2.11. WV Homestead tax exemption with a WV residence address.

3.4.2.12. Residential rental and/or lease agreement with a WV address.

3.5. Child Support Requirement.

All biological parents applying for child care for children of an absent parent must show proof of child support received (using the acceptable verification documents listed in Chapter 5, section 4) or pursued from each absent parent, with the following exceptions:

3.5.1. Shared/Joint Custody.

In cases of shared/joint custody in which no parent owes the other support due to shared parenting, a copy of the parenting plan showing no child support owed shall be placed in the paper file and noted in the FACTS contact screen.

3.5.2. Good Cause.

If the applicant has good cause not to establish child support, the supervisor shall approve the waiver of this requirement and note the action in the FACTS contact screen. Good cause is granted when:

- 3.5.2.1. The child was conceived as the result of incest or forcible rape. The client's statement to this fact will be accepted unless the CCR&R worker has reason to believe the statement is not truthful.
- 3.5.2.2. Cooperation in establishing paternity or securing support is reasonably anticipated to result in physical harm to the parent seeking support or the child. Clients seeking waivers for this reason may be requested to provide documentation (police reports, verification of residence at domestic violence shelter) if the CCR&R worker has reason to believe the statement is not truthful.
- 3.5.2.3. Paternity is unable to be established after a reasonable effort to do so. The client should detail steps taken to identify paternity.
- 3.5.2.4. A child support order is considered unenforceable due to absent parent's receipt of Social Security Disability (SSD) and Supplemental Security Income (SSI). (Note that in some SSD cases, children of the absent parent may receive SSD benefits in lieu of child support.)

3.5.3. In Loco Parentis or Foster Care Placements.

No documentation of child support is required when children reside with grandparents, aunts, uncles, older siblings, other relatives or foster parents.

3.5.4. No Child Support Order Established.

Applicants shall be given 6 months to seek child support or initiate procedures to establish an order if there has never been a child support order in place, a new child is born, or if child support has not been received in 12 months without good cause. Applicants must either work out arrangements individually, or with the Bureau of Child Support Enforcement. Applicants who fail to provide documentation of effort to secure child support without good cause by the following status check shall be ineligible for services. Applicants who were previously granted six months to seek support but closed for failure to cooperate with this requirement shall not be granted another six months to seek support for any subsequent application. Acceptable documentation shall consist of:

- 3.5.4.1. Documentation from the Bureau of Child Support Enforcement.
- 3.5.4.2. Documentation of filing with Family Court.
- 3.5.4.3. Documentation that child support is being pursued through a private attorney.
- 3.5.4.4. Letter from the payee and copies of 1 month's worth of checks received.

3.5.5. Incarcerated Absent Parent

If the absent parent is incarcerated and expected to remain so throughout the certificate period, the requirement may be waived. Upon the absent parent's discharge, clients shall have 6 months to seek support through the options outlined in 3.1.6.4, in order to maintain child care eligibility. Incarceration in West Virginia jails can be verified at: www.wvrja.com.

Inmates in federal prisons can be verified at: www.bop.gov/iloc2/LocateInmate.jsp

3.5.6. Deceased Absent Parent.

If the absent parent is deceased, the requirement shall be waived. The client's statement to this fact will be accepted unless the CCR&R worker has reason to believe the statement is not truthful.

3.6 Wage Requirements

Applicants receiving child care assistance in order to work must earn wages that comply with applicable federal and state laws. Child care funds cannot be used to support employment with employers who do not comply with the Fair Labor Standards Act and/or West Virginia Division of Labor Wage and Hour laws.

3.6.1. Definitions

3.6.1.1 Exempt Employee – Any employee in the private or public sector who is not covered by the Federal Fair Labor Standards Act regulations. The Fair Labor Standards Act provides an exemption from both minimum wage and overtime pay for certain types of employees. This type of employee is “exempt” from the regulations that govern minimum wage and overtime pay. However, exempt employees must receive a wage/salary of at least \$455.00 per week in order to be eligible for child care services.

3.6.1.2 Fair Labor Standards Act (FLSA) – A federal law that establishes minimum wage, overtime pay, recordkeeping, and youth employment standards affecting full-time and part-time workers in the private sector and in Federal, State, and local governments. Per the FLSA, where Federal and state law have different minimum wage rates, the higher standard applies.

3.6.1.3 Businesses Engaged in Interstate Commerce: Businesses whose primary functions are producing and/or moving goods and services between any place in a State and any place outside of that State.

3.6.1.4 Nonexempt employee – Any employee in the private or public sector who is covered by the Federal Fair Labor Standards Act regulations. These employees must be paid minimum wage.

3.6.1.5 West Virginia Division of Labor, Wage and Hour: Wage & Hour programs ensure that West Virginia workers receive all wages and fringe benefits due them for the hours they work. The Division of Labor sets and enforces state minimum wage laws.

3.6.2 Wage Requirement for Eligibility

3.6.2.1 Nonexempt Employees:

Any recipient of child care assistance who is nonexempt employee in the private sector must at least be paid either Federal/State minimum wage for all hours of work performed. If the recipient is not making at least the applicable federal or state minimum wage for all work performed, the recipient will not be eligible for child care services.

3.6.2.2 Exempt Employees:

In order to be eligible for child care assistance, an exempt employee must make at least \$455.00 per week. Exempt employees earning less than FLSA requirements are not eligible to receive child care assistance.

A. The Fair Labor Standards Act requires that most employees in the United States be paid at least the federal minimum wage for all hours worked and overtime pay at time and one-half the regular rate of pay for all hours worked over 40 hours in a workweek. However, the FLSA provides an exemption from both minimum wage and overtime pay for certain types of employees. Job titles do not determine exempt status. In order for an exemption from the FLSA to apply, an employee's specific job duties and salary must meet all the requirements of the Division of Labor's regulations.

B. Who is an Exempt Employee?

- 1.) Executives – Executives are employees that manage the business, or a department or subdivision of the business, supervise at least two or more other full-time employees; and have the authority to hire or fire other employees, or the employee's suggestions and recommendations as to the hiring, firing, advancement, promotion or any other change of status of other employees must be given particular weight. Examples: Executive Director, Store Manager, District Manager, Program Director.
- 2.) Administrators – Perform office or non-manual work directly related to the management or general business operations of the employer or the employer's customers; and exercise discretion and independent judgment with respect to matters of significance. Examples: Administrative Assistants, Legal Secretaries, Office Managers.
- 3.) Professional Employees- Perform work requiring advanced knowledge, acquired by an extended course of specialized scholarly instruction in science or learning fields. Examples: Lawyer, Doctor, Archeologist, Geologist.
- 4.) Computer Employee - Work as a computer systems analyst, computer programmer, software engineer or other similarly skilled worker in the computer field.
- 5.) Outside Sales Worker- Primary duty must be making sales, or obtaining orders or contracts for services or for the use of facilities for which a consideration will be paid by the client or customer; and be customarily working away from the employer's place or places of business.

3.6.2.3 Self Employed Recipients:

Self employed child care recipients must make at least the current state minimum wage for each hour of work performed, to be eligible for child care services. Self employed individuals still in their Launch/Grace period for new self employment endeavors (See Chapter 4 Section 3.6) are exempt from this requirement.

3.6.2.4. Employees that Receive Gratuities

In West Virginia the minimum wage an employer can pay employees who receive gratuities is \$5.80 per hour, *if* the employee makes enough tips to achieve the minimum wage of \$7.25. This practice is called an "Employer Tip Credit" – tips are credited towards the minimum wage requirement. If the employee does not make enough in tips to achieve the minimum wage of \$7.25 – the employer must pay the employee minimum wage. (The "employer tip credit" is disallowed.) Employees who receive gratuities must make at least \$7.25 per hour after their wage and tips are combined in order to be eligible for child care services. Employees that receive gratuities, but whose combined hourly wages/tips do not equal \$7.25 or greater, are not eligible for services.

3.6.3. What is Minimum Wage?

3.6.3.1. The federal minimum wage is:

- A. \$7.25 per hour effective July 24, 2009.
- B. Exceptions to federal minimum wage requirements:
 - 1.) Those employees covered by state laws.
 - 2.) Those employees who customarily receive gratuities.
 - 3.) Exempt employees.

3.6.3.2. The state minimum wage is:

- A. \$7.25 per hour effective July 1, 2008. Employees who customarily receive gratuities must be paid at least \$5.80 per hour.
- B. Exceptions to state minimum wage:
 - 1.) Those employees covered by federal laws.
 - 2.) Employers may implement a 90-day training wage of \$5.15 per hour for persons under 20 years of age when specific conditions are met.
 - 3.) Exempt employees.

3.6.3.3. Notes on Federal and State Tax Withholding:

Child care funds cannot be used to support employment with employers who do not comply with West Virginia Tax Department or Federal tax withholding laws.

- A. West Virginia Income Tax Withholding: West Virginia income tax must be withheld from wages paid to resident employees for services performed either within or without the state and from wages paid to nonresident employees for services performed in the state. This amount must be listed on the pay stub received by the employee. It is possible, depending upon earnings, family size and withholding status for this amount to be "\$0."
- B. Federal Income Tax Withholding:
 - 1.) Non-self employed: Federal income tax and Federal Insurance Contributions Act (FICA) tax (social security, medicare, etc.) must be withheld from wages paid to resident employees for services performed and from wages paid. This amount must be listed on the pay stub received by the employee. It is possible, depending upon earnings, family size and withholding status for these amounts to be "\$0."
 - 2.) Self Employed: A tax similar to the FICA tax is imposed on the earnings of self-employed individuals, such as independent contractors and members of a partnership. This tax is imposed not by the Federal Insurance Contributions Act but instead by the Self-Employment Contributions Act of 1954. This tax payment should be reflected on Schedule C of IRS Form 1040 and calculate the self-employment tax on Schedule SE of IRS Form 1040. Estimated taxes must be paid quarterly using form 1040-ES if estimated tax liability exceeds \$1,000.

CHAPTER 4: DETERMINATION OF NEED FOR CHILD CARE

4.0. Need for Child Care

To be eligible for child care assistance, families must demonstrate a need for care. In general, that means that the head of household must be involved in a qualifying activity that prevents the parent from providing care and supervision of the children in the household during the time the parent is participating in the activity. If there are two parents in the home, both must be involved in a qualifying activity.

It is possible for a parent to meet all other eligibility requirements, but not demonstrate a need for care. For example, if the household consists of a single father and his two school age children, and he only participates in his qualifying activity during the times the children are in school, the family does not demonstrate a need for care.

Child care recipients who do not use child care assistance for an extended period of time no longer demonstrate an established need for child care assistance and therefore may not remain an active case. (See procedures in Chapter 5, Section 5.1.4).

4.1. Activity: Employment in the Private or Public Sector

Income-eligible parents who are working in the private or public sector (not self employment) and who have children who need care are considered to need child care.

4.1.1. Verifications Required.

Employment must be verified by the client submission of:

- 4.1.1.1. One month's worth of check stubs, no older than 45 days, or
- 4.1.1.2. The New Employment Verification Form (ECE-CC-1B) in the case of new employment situations in which the applicant has not yet received pay: Clients using the ECE-CC-1B to verify employment must submit one month's worth of check stubs to the agency as soon as they are received. Failure to supply follow up check stubs will result in case closure.

4.1.2. Night Time Employment.

Parents who are working at night may be approved for a maximum of eight additional hours of sleep time. However, children shall not remain in care longer than 18 hours within a 24-hour period.

4.1.3. Extended Work Shift.

An Extended Work Shift is defined as parents whose work shifts are between 18 and 72 continuous hours in a one week span. This care is intended for those who are employed by public service type agencies such as fire departments, law enforcement, emergency response, health care, human services and mental health services. It is not intended to be used as respite care or in place of foster care. These parents may receive child care services provided:

- 4.1.3.1. Verification is provided from the employer of the length of the work shift.
- 4.1.3.2. Child care is not used as a substitute for residential care if the work is performed as part of the parent's residential rehabilitation program or other similar treatment program.

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- 4.1.3.3. The provider, if regulated under state law, obtains a waiver for the care of the parent's child(ren) beyond the number of hours permitted by regulation.
 - 4.1.3.4. The Child Care Resource and Referral agency supervisor has reviewed and approves the application.
 - 4.1.3.5. This care is intended for those who are employed by public service type agencies such as fire departments, law enforcement, emergency response, health care, human services and mental health services. It is not intended to be used as respite care or in place of foster care.

4.2. Activity: Job Search for Active Recipients.

Interim child care may be provided for up to one month for current recipients who have lost employment or who have completed school and are looking for work. Recipients who contact the agency, complete a Job Search Request form (ECE-CC-1D) and request job search time shall be granted:

- 4.2.1. One job search per six month period.
- 4.2.2. Job search time for 5 hours per day, 4 days per week.
- 4.2.3. Time starting 30 days from the last date of previous employment.

4.3. Activity: Self-Employment.

The following definitions shall apply to child care policies regarding self-employment:

- 4.3.1. Livelihood: means of support or survival in which an individual engages to meet daily living expenses.
- 4.3.2. Hobby: an activity done for relaxation, and not for the purpose of meeting the basic daily living expenses of the individual. Activities generating income below the income tax liability limit of \$5000.00 per year shall be considered a hobby.
- 4.3.3. Self Employment – Home-based: Self Employment in which the primary function of the business is performed in the home. Examples: a beautician with a salon in her garage, a family auto repair business operated in a building next to the family's residence.
- 4.3.4. Self Employment – other: Self employment in which the primary function of the business is performed at a location other than the family's home. Example: plumber, lawn care business, construction worker, handy man, hairstylist who rents a booth. These individuals may use a portion of their home as a home office to conduct phone business or accounting, but cannot claim the home office as an allowable deduction since the primary function of their work occurs elsewhere.
- 4.3.5. Types of Self Employment:
 - 1. Sole Proprietorship: A sole proprietorship is a business run by an individual. The owner is the business; the owner has all of the profits and losses of the business. The owner also has all the control and all the liability from the business operations. Business taxes are paid by the owner through his or her personal income tax return.

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2. Partnership: A partnership is a business which operates like a sole proprietorship, but with several individuals running it. The partners share the profits/losses, have control and liability for business operations. Partnership taxes are paid by the partners on their personal tax returns, in proportion to their share of ownership.
 3. Corporation (or C-Corporation) A corporation is a business which is set up as a separate legal entity from its owners. The Board of Directors makes operational decisions. Owners are protected (shielded) from liabilities of the corporation, and the corporation pays corporate income taxes.
 4. S-Corporation (or Subchapter-S Corporation): A small business corporation may elect to be classified as an S-Corporation, to have the liability protection of corporate status, but taxed at individual rates.
 5. Limited Liability Company (LLC): A limited liability company is formed by "members" whose liability is limited to their investment. An LLC is often used in place of partnerships to limit liability, while having the option of being taxed through the personal tax returns of the members.

4.3.6. Criteria for Approval of Self-Employment Activity.

Child care may be approved for parents who are self employed if the following conditions are met:

- 4.3.6.1. The family depends upon the self employment activity for their livelihood, and the time and effort put into the activity indicate intent to make a profit. Passive or casual activities that can be more appropriately qualified as “hobbies” or volunteer work do not meet this criterion.
- 4.3.6.2. Parents must participate in self employment activity a minimum average of 20 hours per week and show an income of at least minimum wage per hour. If both parents are self employed, jointly or separately, the minimum work hour/minimum wage requirement applies to each. See exceptions in Section F – Launch Period for New Self Employment.
- 4.3.6.3. Self Employed individuals must provide a copy of their current State of West Virginia Business Registration, copy of consultant contract for independent sales, and a copy of any other required licenses or certifications. Check the State of West Virginia Secretary of State web site for information on what types of self employment require a license:

www.wvsos.com/business/licensing/checklicensing.htm.

Limited Liability Companies and Corporations must also file with the Secretary of State. See exceptions in Section F – Launch Period for New Self Employment.

- 4.3.6.4. Self Employed individuals must provide a complete copy of their current tax return by April 30 of each year, including the 1040 form, 1040 Schedule C, (Profit or Loss from Business), 1040 Schedule SE, (Self Employment tax,) and any other tax forms as required per type of self employment. (Refer to the chart, Section 4.3.4)
- 4.3.6.5. Special Notes on Home-based Self Employment: (see definitions for home-based self-employment business, 3.2.2.1.C.). Most people choose self employment for the opportunity to

have flexibility in their work schedules and incomes. As such, child care services for self-employed home based businesses will only be approved for the following situations:

- A. The type of work performed entails a clear and present danger to the child (for example, an auto repair business or metal working shop)and/or
- B. The primary type of work performed consists of face to face meetings/appointments with clients (for example, a beautician or masseuse) which prevent direct supervision of children.
- C. The applicants' children must be age 6 or under, or up to age 13 if the child is diagnosed with any Special Needs.

4.3.7. Launch and Grace Period for New Self Employment:

- 4.3.7.1. Launch Period: Parents who are just beginning self employment, or whose self employment endeavor is less than 12 months old, may be granted child care for 3 months to establish their business and obtain the necessary licenses and registrations. If the parent has an estimate of what her monthly income and expenses will be, the estimate can be entered into FACTS, otherwise, the case worker should enter \$1.00 for the income.
- 4.3.7.2. Before the end of the three month Launch Period, parents must provide copies of their State of West Virginia Business Registration, copies of any appropriate licenses, and proof that they are working at least 20 hours per week at the minimum hourly wage. (See Chapter 4 Section 2.2 for required verifications). The CCR&R worker shall create a user generated FACTS tickler to alert the caseworker to send appropriate closure notifications to the client and child care provider 13 days before the expiration of the certificate, should appropriate documentation not be received by the end of the Launch Period.
- 4.3.7.3. Failure to provide the required documentation will result in case closure.
- 4.3.7.4. Grace Period: Parents who provide all necessary documentation and meet the minimum work hours, but fail to meet the required minimum hourly wage will be granted a Grace Period of 3 months to establish clientele and income. If they do not meet the hourly wage requirement at the end of the three-month Grace Period, services will be terminated. The CCR&R worker shall create a user- generated FACTS tickler to alert the caseworker to send appropriate closure notifications to the client and provider 13 days before the expiration of the Grace Period certificate, should the client fail to meet the minimum wage requirement by the end of the Grace Period.
- 4.3.7.5. If parents wish to continue child care services, they must choose another qualifying activity. Parents who are granted child care for New Self Employment Launch and Grace Period are **not** eligible for job search time if they have exhausted their Grace Period.

4.3.4. TYPES OF SELF EMPLOYMENT

Type	Definition	Tax Forms Required	Calculating Income
Sole Proprietorship	Individual owns and operates trade or business alone. All profit and loss belong to the individual	Form 1040 Schedule C Schedule SE	Gross receipts minus allowable deductions
Partnership or Limited Liability Company	Two or more individuals agree to contribute money and skill/labor to share profits and losses as well as management	Form 1040 Form 1065 Form 1120	Gross Receipts minus allowable deductions, divided by the number of partners. Partners may own different percentages of the business
Corporation	Distinct legal entity formed by individuals but having separate legal status from the individuals. Corporations must file Articles of Incorporation with the Secretary of State	Form 1120S Form 1040 Form 1120	Gross receipts minus allowable deductions. Small incorporated businesses may provide in-kind compensation to owners in the form of payment of personal bills and expenses directly from business accounts. This is treated as countable income, as it is part of the client's compensation. Special note: If the client is paid a salary from the Corporation, then the client is not self employed. The salary must be treated as wages, and the distribution of profits from the Corporation should be counted as unearned income.

4.4. ACTIVITY: WV WORKS.

Children of work-eligible parent(s) who receive TANF benefits and who are participating in an approved work activity under WV WORKS are considered in need of child care. The status of WV Works parents must be verified by the WV Works worker. Verification of status must be no older than 45 days.

4.4.1. Approved Work Activities.

WV Works applicants must verify that they are participating in an approved work activity. CCR&R workers may also communicate directly with WV Works staff when agreements exist between both agencies to share information. Approved work activities include:

- 4.4.1.1. Unsubsidized employment (fully employed in the private sector with no DHHR subsidy to employer or employee);
- 4.4.1.2. Subsidized private or public sector employment (DHHR subsidizes or funds all or a portion of the employee's salary.)
- 4.4.1.3. Participation in the Joint Opportunities for Independence (JOIN) Program, a work experience and skill acquisition program primarily operated by private sector providers. Placements are limited to 32 hours per week with an additional requirement of 6 hours weekly in job search.

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- 4.4.1.4. Job Readiness/Job Search that provides classroom training and actual job search for up to 6 weeks (no more than 4 consecutive weeks), with minimum participation of 120 hours per month.
 - 4.4.1.5. Attendance at secondary school or course of study leading to GED in the case of a teen recipient who has not completed secondary school.
 - 4.4.1.6. Adult basic education for parents over the age of 20 who do not have a high school diploma or GED. Approved classes include English as a Second Language, literacy and remedial education classes.
 - 4.4.1.7. Post secondary education activities such as work study, clinicals, practicums and student teaching activities.
 - 4.4.1.8. Vocational education training, if courses provide employment skills (not to exceed 12 months for any one individual.)
 - 4.4.1.9. On-the-Job Training or the Employer Incentive Program (EIP), a subsidized training and employment program.
 - 4.4.1.10. A participant in the Community Work Experience Program (CWEP), a work experience activity operated in public and non-profit agencies; or
 - 4.4.1.11. A participant in Community and Personal Development Services including participation in parenting activities, structured mentoring activities, financial, nutritional, emotional, and other personal development counseling, volunteer work with local community based agencies and sheltered workshops.

4.4.2. Work-Eligible Requirement.

There are circumstances in which only one parent in a two parent home is participating in a WV Works activity, but the family may still need and qualify for child care assistance. In order to receive child care as a WV Works participant, at least one parent in the home must be determined “work-eligible” by a WV Works case worker and participating in an approved activity. The WV Works worker should supply information regarding each parent’s work-eligible status and activity information before child care can be approved. The other parent in the home may be exempt from the work requirement because they are receiving SSI. However, these individuals may elect to be “work eligible.” If they elect work eligibility, they must also participate in an approved activity.

4.4.3. WV Works: Two Parent Households

- 4.4.3.1. If both parents are “work eligible,” child care time can be approved for the parents to participate in their required WV Works Activities.
- 4.4.3.2. If one parent in a two parent home is not “work eligible” and verification of such status is supplied by WV Works, child care can be approved for the “work eligible” parent to participate in the required WV Works Activity, only if
 - A. The family provides a doctor’s statement that explains why the work-ineligible parent’s condition prevents care and supervision of children.

B. The children in need of care are under eight years of age.

4.4.4. Care may be continued for former WV Works participants as long as the condition exists or until children reach eight years of age.

4.4.5. WV Works: Minimum Hours of Participation

Work Eligible parents must participate in their approved activity a minimum of 5 hours per week, or 20 hours per month.

4.4.6. WV Works; Minimum Wage Requirement

Self employed work eligible parents must meet the minimum wage requirement (see Chapter 4, Section 3) in order to count self employment as their activity. WV Works parents claiming self employment must enroll in another activity if their income from their self employment activity does not meet minimum wage requirements. In addition, self employed WV Works parents must meet all other child care policy self employment requirements.

4.5. ACTIVITY: Job Training/Education.

Children of parents who verify attendance at job training and educational programs demonstrate a need for child care. Job training/education is defined as on-the-job training, vocational training, skill training, secondary school programs, post secondary schools, colleges and universities. Parents shall be considered eligible for care with the following clarifications:

4.5.1. Reasonable Study Time.

When parents are involved in educational activities or training requiring non-classroom study, reasonable study/research periods are allowed.

4.5.1.1. Generally, 1 hour of study time per hour of classroom activity is appropriate.

4.5.1.2. When possible, study periods shall be arranged between classes or immediately following the last class of the day in order to provide a consistent and uninterrupted routine for the child(ren) in care. Parents may participate in “Study Groups” if the group’s meetings fall within study time already granted by the caseworker.

4.5.1.3. When granting study time, the case worker should consider the:

- A. Complexity of the client’s classes.
- B. Amount of time in between classes.
- C. Ages of the client’s children.
- D. Type of Program/Degree being pursued by the client and whether class work is completed during class time (such as with trade schools) or if the student is expected to complete class work outside of class.

4.5.2. Scholarship Requirements.

Child care can also be granted for educational activities required to maintain scholarship eligibility, provided that participation in the required activity prevents direct supervision of children.

Example 1: A student attending college on a volleyball scholarship would be unable to supervise her children while attending mandatory practices and games. Child care time can be granted to participate in this activity.

Example 2: A student attending college on an educational scholarship is required to walk for 45 minutes, three times per week as a course requirement. Child care can not be approved for this activity, since the parent could take the children with her and complete the walk requirement.

4.5.3. Web Based and/or Correspondence Learning.

When parents are involved in educational web-based or correspondence learning from accredited universities or colleges, child care for the class period can only be approved if:

4.5.3.1. All of the following are met:

- A. The class is offered only at a regularly scheduled time. (i.e. 11:00 am every Monday and Wednesday). Web based classes that the parent may take at any time do not fit this criteria, as the parent may log on while children are sleeping or involved in other activities.
- B. The child(ren) in need of care are under the age of six.
- C. There is not another parent in the home available to take care of the child(ren).

OR

4.5.3.2. The parent must leave the home to have access to a computer, and the children in need of care are under the age of six.

4.5.3.3. The R&R worker may appeal to ECE staff for approval of child care services if there are special circumstances. ECE staff will review the case and approve or deny services based on case facts and consultation with the Child Care Program Manager.

4.5.4. Web Based and/or Correspondence Learning Study Time

Parents involved in educational web-based or correspondence learning from accredited universities or colleges may be granted reasonable study time for such classes in accordance with section 4.5.1.

4.5.6 Satisfactory Progress and Attendance.

4.5.6.1 Adult parents who attend educational activities or training must provide documentation of satisfactory progress and attendance. For college students, this is demonstrated by maintaining a 2.0 grade point average.

4.5.6.2 Students who fail to maintain 2.0 grade point average, or whose grade report reflects withdrawals and/or incompletes in more than half of the semester's classes shall be given an improvement period for one semester upon provision of a letter from the college confirming the student continues to attend classes.

4.5.6.3 A copy of the student's grades will document compliance. Other students will need to submit statements from the educational or training facility which document that attendance and progress are satisfactory.

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- 4.5.6.4 If the student fails to meet the 2.0 requirement within the improvement period, the case shall be closed.
 - 4.5.6.5 Applicants whose cases are closed for failure to submit documentation of satisfactory progress must submit the required documentation when reapplying for services if the qualifying activity is still Job Training/Education.
 - 4.5.6.6 Minor parents attending high school are exempt from the satisfactory progress requirement for continued approval; however, they must meet the satisfactory attendance requirement.

4.5.7 Home Schooled Minor Parents.

Parents who are being Home Schooled may be approved for care when the home schooling teacher provides the parent with a schedule of study verifying the need for care and the days and hours that care is needed.

4.6. Supportive Services for Child Protective Services Recipients.

Children residing with parents that are unable to provide adequate care or supervision and whose parents need support and assistance with child care responsibilities to prevent or alleviate child abuse or neglect. Children in need of care must continue to reside in the home of the parent for whom the safety or treatment plan is written. Children who have been removed from the home of the parent for whom the plan is written and placed in foster care, kinship relative care or other guardianship are not eligible for CPS related child care.

- 4.6.1. Child care services shall not be viewed as an entitlement for recipients of child protective services. Rather, it is a supportive service for recipients of child protective services to be used in conjunction with other needed services, such as parent education or counseling.
- 4.6.2. Child protective services recipients shall be allowed to exercise their choice of child care providers, unless the CPS or the child care worker determines it is not in the best interests of the child.
- 4.6.3. Since the provision of child care in this circumstance shall be coordinated with protective services staff to insure that care is necessary and appropriate, it must be component of the CPS Safety Plan (DDE CPS-0149), CPS Treatment Plan (DDE CPS-0154) or the WV Safety First Plan.
- 4.6.4. For documentation, the CPS worker must supply the R&R child care worker with the safety or treatment plan that contains the goal associated with the need for child care before the R&R worker issues a Certificate. The safety plan must document the days and hours that child care is needed.
- 4.6.5. The R&R worker must receive a copy of the safety plan prior to issuing a Child Care Certificate when completing six months status checks.
- 4.6.6. For families whose income falls within the income eligibility guidelines, the applicable fee shall be charged unless waived in the Safety or Treatment Plan. The plan shall state the reason for including the waiver.
- 4.6.7. For families whose income exceeds the eligibility guidelines, income and fees may be waived **only** if child care is a component of the Safety Plan designed to prevent a child's removal from the biological/adoptive parent's home. If the child has already been placed outside the biological/adoptive parent's home (i.e. caretaker relative's home), this waiver is not applicable.

4.7. Exceptions to Eligibility: Policy Exceptions

Policy exceptions shall be reviewed by the R&R supervisor for approval and then forwarded to the Division of Early Care and Education via FACTS. (See Chapter 6, Section 4, Exception to Eligibility Policy for further exception requirements).

4.7.1. Illness:

In certain extraordinary situations child care may be approved for children under the age of six years in the following circumstances: a family member's release from hospitalization; a recent determination of a temporary or permanent disability of a parent; physician ordered bed rest during pregnancy; medical treatment for a terminal illness. Exceptions are granted in order to give the family time to prepare and plan for coping with the illness and the effects of treatment and finding alternate child care arrangements/assistance.

4.7.1.1. Hospitalization, Surgery, and Post Hospitalization/Surgery Recovery

For currently active cases, child care may be provided when a family member is hospitalized, requires in or out-patient surgery, and/or released from the hospital. In cases of hospitalization/surgery recovery (for hospital admissions exceeding 48 continuous hours), documentation shall include, but not be limited to:

- A. A discharge plan and diagnosis and a treatment plan if one is developed to follow up the discharge plan.
- B. The anticipated length of time for recovery.
- C. The documentation shall be related to the parent's illness or the illness of a sibling for which hospitalization was required.
- D. The approval period is limited to six weeks. If a longer recovery period is indicated by the physician in which minimal care and supervision of a child cannot be provided, the approval may be for a period not to exceed six months.
- E. Post hospitalization/surgery recovery approvals will be considered only for an active child care case and will not be considered for a new application or intake.

4.7.1.2. Recent Determination of Temporary or Permanent Disability.

A disability exception approval will not exceed 6 months. This category of policy exception is for one time only per child care case or same family. The exception is granted in order to give the family time to prepare and plan for coping with the disability and finding alternate child care arrangements/assistance in cases of newly determined temporary or permanent disability of the parent, the documentation shall include, but not be limited to:

- A. An official disability determination by a state or federal agency with a determination date that is within three months of the child care application or redetermination.
- B. A treatment plan and the medical statement by a licensed physician which describes how this condition prevents the care of children.
- C. A disability exception approval will not exceed 6 months.

4.7.1.3. Bed Rest during Pregnancy.

If a physician orders bed rest during pregnancy, the approval period will not exceed the date of delivery, nor can the approval be for 24 hour care.

4.7.1.4. Medical Treatment for a Terminal Illness.

Exceptions may be approved for a terminally ill patient undergoing treatment without a previous hospitalization, provided there is a physician's statement describing the medical condition and that the condition and/or treatment prevents the care and supervision of children. The approval period will not exceed 6 months. This category of policy exception is for one time only per child care case or family. Child care may be approved if the illness or condition prevents the parent(s) from providing minimal care and supervision of the child(ren). A signed and dated medical statement from a licensed physician must describe how medical condition prevents child care.

4.7.2. Court Ordered Child Care.

Occasionally, a court will order that child care be provided for a family who does not meet eligibility requirements or whose income exceeds guidelines. The CCR&R worker shall enter court-ordered child care cases as a policy exception in FACTS, to be reviewed by the Division of Early Care and Education. Court Ordered Child Care Procedures:

- 4.7.2.1. The applicant must supply the CCR&R worker with a copy of the court order to confirm the terms under which the state has been ordered to pay child care for the child.
- 4.7.2.2. A copy of the court order shall be submitted to the Division of Early Care and Education and a copy maintained for CCR&R records.
- 4.7.2.3. The case should be entered as court-ordered only if the family is not otherwise eligible for child care services.
- 4.7.2.4. The CCR&R worker should advise the client that approval of court ordered child care is subject to the Department's internal review and decision to accept or object to the provision of child care services ordered by the court.

4.8. Interim Care.

For periods in which the client is unable to participate in their qualifying activity for any of the reasons listed in 4.8.1, interim child care may be approved and paid under the guidelines in this section.

4.8.1. Allowable interim care reasons:

- 4.8.1.1. Temporary employment shut downs. Example: A factory shuts down every July for two weeks to do maintenance. The client is unable to attend work because the factory is closed, and the period of temporary shut down is too short to warrant participation in a different qualifying activity.
- 4.8.1.2. Breaks of no more than 45 days between training courses or school sessions. Examples:
 - A. Spring Break.
 - B. Semester Breaks between terms, i.e. between winter and spring terms or between spring and summer terms.
 - C. Breaks between different sessions of trade instruction.
- 4.8.1.3. Jury Duty: Parents must submit documentation of jury summons.

4.8.2. Interim care cannot be approved for:

- 4.8.2.1. Illness.

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- 4.8.2.2. Extended absences that do not coincide with breaks in school or employment.
 - 4.8.2.3. Absences due to extreme weather conditions.
 - 4.8.2.4. Breaks of more than 45 days. For example, interim care cannot be approved for the summer break between spring and fall sessions. Clients wishing to use care between breaks of more than 45 days must participate in a qualifying activity. (See Chapter 4, Sections 1-5 for examples of a qualifying activity.)

4.8.3. Interim care is not to exceed the following:

- 4.8.3.1. The lesser of 15 days per request or the total number of days needed to cover the break.
- 4.8.3.2. The number of possible attendance days in the period for which it is granted. For instance, if the provider is only open Monday through Friday, the provider cannot bill and receive payment for weekend days in which the child could not have been in attendance.
- 4.8.3.3. Parents on jury duty may request more than 15 days of interim care if they provide documentation that they are still serving.

4.8.4. Attendance during the interim period will be at the parent's discretion. However, parents must advise providers of their intention to attend or not attend so that providers can make staffing arrangements as necessary.

4.9. Over Night Care.

The child may occasionally need overnight care, e.g. when parents are briefly hospitalized or need to attend short term training sessions out of town. Payment may be made in this type of situation for a family already receiving child care services. However, a parent may not be approved for child care services to specifically meet the need for 24-hour care. When a parent needs services for 24-hour residential care only, the R&R worker should explore other appropriate programs.

4.10. Need for Care and School Age Children.

It is a violation of Federal Regulations to pay for child care during the time that a child could attend public school. However, payments can be made for children who are unable to attend school for short periods of time due to illness or suspension, or children who have been deemed unready for kindergarten. Parents of children deemed unready for kindergarten should be encouraged to seek placement in Pre-K if room is available. The parent must provide documentation from the school board that their child has been deemed unready for kindergarten. The CCR&R worker shall file this in the Correspondence Section of the Client file and document in FACTS contacts.

CHAPTER 5: FINANCIAL ELIGIBILITY FOR CHILD CARE SERVICES

5.0. Overview

To determine the financial eligibility of applicants for or recipients of child care, it is necessary to determine:

- A. The size of the family.
- B. The amount and source of monthly gross income received by all members of the family and calculate the monthly gross income for the family.
- C. If the monthly gross income of the applicant's family falls below the maximum allowable income by comparing the family's monthly gross income to the amount listed in the chart contained in Appendix A as appropriate for the family size. Families whose income falls at or below the appropriate level are eligible.

The R&R worker shall use the following general procedures and guidelines to calculate family size, verify monthly gross income, and determine types of income to count or exclude to establish eligibility for child care. See Appendix A for income eligibility guidelines.

5.1. Family Size.

A family is defined as one or more adults and children, if any, related by blood or law and residing in the same household (See Chapter 1, Definitions Section), with the following exceptions and interpretations:

5.1.1. Adults Other than Spouses in the Household.

Adults other than spouses are considered separate families even if related in some manner other than as husband or wife. (In FACTS, these individuals are listed as Non-participating adults.)

5.1.2. Multi-Generational Households

Although three generations of a family may live in one household, they shall be considered as separate families, even if the person representing the middle generation is under 18 years of age, as long as the biological parent retains legal custody of the child. In cases where the parent retains legal custody, the grandparents will not be counted as members of the same family with the parent and child. (Grandparents are listed as Non-Participating Adults in FACTS). In cases where the legal custody of the child rests with the grandparents, and the biological parent is in the household, both biological and legal guardians shall be counted as participating members of the household.

5.1.3. Adult Children in the Household.

An adult child (age 18 or older) residing with his/her parents is not a member of his/her parents' family. (This person is listed as a Non-participating Adult in FACTS).

5.1.4. Head of Household

The head of household may be a natural parent, step parent, or an individual acting in loco parentis, such as a relative or non-relative who has been granted custody or guardianship by a court of law or who has assumed full physical custody and responsibility for a child, with or without legal custody.

5.1.5. Adoptive Children

Children legally adopted are treated the same as natural children.

5.1.6. Multiple Family Households

In situations where adults, who are not spouses, reside together, any children in the household will be considered part of the family of the parent(s).

Example: Mr. and Mrs. X and their two children live in a household with Mrs. X's sister (Y) and her one child. Mr. and Mrs. X and their two children constitute one family while Mrs. Y and her child constitute a second family.

5.1.7. Unmarried Parents

Although West Virginia does not recognize common law marriage, a man and woman living together as man and wife will be considered members of the same family if they are both biological parents of a child or children living in the household. However, if a man and a woman reside together and each have a child of their own and share no children in common, they are two separate families and entered into FACTS as such.

5.1.8. Family Members Expected to Return

A family member who is away from the family residence for reasons of employment, education, training, shared custody or military deployment and who returns regularly, or is expected to return, shall be considered as a member of the household.

Example 1: Mr. and Mrs. A reside in Sutton with their two children. Mr. A is employed in New York City and maintains an apartment there, but returns home on the average of once a month. Mr. A would be considered a member of the same household as his wife and children and the family would consist of Mr. A, Mrs. A and the two children.

Example 2: Sally and Jeff are the children of Mr. X and Mrs. X, who are divorced. Sally and Jeff live in New York with Mr. X during the week and with Mrs. X on the weekends and for two weeks in the summer. Mrs. X receives child care services for her youngest child Ann, but does not work weekends and does not need child care for Sally and Jeff. However, since they return regularly to the household, Sally and Jeff are considered members of the household for purposes of calculating family size. Mrs. X's family size is 4, consisting of Mrs.X, her child Ann, and Sally and Jeff.

5.1.9. Biological Parents Residing on the Same Premises.

Biological parents residing on the same premises shall be considered members of the same household. Premises are defined as a building, group of buildings and/or contiguous parcels of land under the control of a single owner, who may rent out portions of the premises. For example: if the biological mother resides with a grandparent, and the grandparent rents a garage apartment on the premises to the biological father of the child, both the mother and the father shall be considered a single household, since they reside on the same premises. Biological parents residing on the same premises per this definition can apply for Family Member Status Waiver if they can prove separate residences by supplying any of the documents listed in 3.4.2 for each parent. Statements signed by other family members will not suffice for this purpose.

5.2. Monthly Gross Income.

Monthly gross income is the total amount of money, prior to deductions, received or earned monthly by the members of the family. Income received on other than a monthly basis must be converted to a monthly income.

5.2.1. Employment Income Considered in Determining Eligibility.

5.2.1.1. Countable Employment Income.

The amount considered as income is earnings before deductions are made for taxes, bonds, pensions, union dues or any similar type of deductions. Total money earnings received for work performed as an employee including:

- A. Wages.
- B. Salary.
- C. Commissions.
- D. Tips.
- E. Piece rate payment, and
- F. Cash bonuses.
- G. Mileage/travel reimbursements IF it is counted as taxable income (a fringe benefit) by the IRS.
 - 1.) Countable income: Mileage and travel reimbursements that exceed the IRS's per diem rates are considered fringe benefits. Taxes are calculated and withheld from the reimbursement. This will be evident from the paystub.
 - 2.) Mileage and travel reimbursements that do not exceed the IRS's per diem rates are not counted when calculating MGI.

5.2.1.2. Methods of Verification:

Employment income must be verified by the client by submitting one of the following:

- A. One month's worth of check stubs, or
- B. The New Employment Verification Form (ECE-CC-1B) in the case of new employment situations in which the applicant has not yet received pay.
 - 1.) Clients using the ECE-CC-1B to verify employment must submit one month's worth of check stubs to the agency as soon as they are received.
 - 2.) Failure to supply follow up check stubs will result in case closure.

5.2.1.3. Reviewing Check Stubs.

R&R workers should review check stubs carefully to ensure that the client is accurately reporting their income. Workers should compare current payment amounts to year-to-date amounts and review carefully for discrepancies. The worker should also review the check for overtime payments, bonuses, incentive payments, tips, and commission that may only be earned intermittently. These items will show up in the year to date portion of the check stub even if the client shows no earnings in those categories for the current pay period. If the client shows earnings in those categories, the worker should follow the steps outlined in Section 5.3.2, as appropriate, to calculate an accurate average monthly income.

5.2.2. Countable Non-farm Self Employment Income.

Net income from non-farm self employment: gross receipts minus allowable expenses. Gross receipts include the value of all goods sold and services rendered.

5.2.2.1. Methods of Verification.

- A. Self Employed clients with prior established self employment and those who have successfully passed their Launch and Grace Periods must turn in tax records to the R&R by April 30 of each year to verify that the business is producing taxable income at the time of assistance.

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- B. Self Employed clients will be given the Self Employment Ledger form (ECE-CC-1C) to track Income and Expenses.
 - C. Clients who choose not to use the ECE-CC-1C Form may substitute:
 - 1.) Business records from an outside accountant or
 - 2.) Ledger Books or other bookkeeping records, such as Quicken Software reports.
 - D. The R&R reserves the right to request additional documentation, such as receipts or invoices as needed to verify income and expenses.
 - E. The gross income from self employment business activity shall be used to determine eligibility and amount of assistance if the information submitted by the parent is not sufficient to adequately determine net profit.

5.2.2.2. Allowable Expenses.

The following expenses are allowable deductions in calculating net income. (See Appendix D for Tax Information)

- A. Cost of goods purchased.
- B. Rent, heat, light, power on the income producing property.
- C. Cost of Supplies.
- D. Wages and salaries paid to employees other than the business owner/parent of child.
- E. Business taxes and/or licenses.
- F. Advertising goods or services.
- G. Interest (not payments) on the principal of the purchase price of income producing property.
- H. Real estate taxes paid on the income producing property.

5.2.1.2. Disallowed Expenses.

The following expenses are not allowable deductions in calculating net income for purposes of this policy.

- A. Money set aside for pensions and profit sharing plans.
- B. Federal, State, and local income taxes.
- C. Depreciation and Depletion.
- D. Net losses from previous years.
- E. Mileage Rate on vehicles and other travel costs.
- F. Premiums paid for health/medical insurance.
- G. Payments on the principal of the purchase price of income producing real estate and capital assets, equipment, machinery, and other durable goods.
- H. Entertainment and meals.
- I. Personal expenses paid out of business accounts (personal car payments, utility bills, personal primary residence mortgage/rental payments, clothing, vacation expenses, etc.) Small businesses may provide in-kind compensation to owners in the form of payment of personal bills and expenses directly from business accounts. This is treated as countable income, as it is part of the client's compensation.
- J. If the family uses its residence in a self employment enterprise, the utility costs, rent or interest on the mortgage of the residence will not be allowed unless they can be shown as separate from the household's normal usage.

5.2.3 Countable Income from Farm Self-Employment.

Countable income from farm self employment consists of gross receipts minus operating expenses from the operation of a farm by a person on his own account as an owner, renter or share cropper. Gross receipts include the value of all products sold, government crop loans, money received from rental of all farm equipment and incidental receipts from the sale of other goods. Operating expenses include expenses directly relating to the operation of the farm such as cost of feed, fertilizer, seed and other farming supplies, cash or wages paid to farm hands, rent, and interest on farm mortgages and farm taxes.

5.2.4 Countable Unearned Income

- 5.2.4.1 Social Security – any regular social security benefits after deductions for medical insurance.
- 5.2.4.2 Dividends, interest on saving or bonds, income from Estates or Trusts, rental income or royalties.
- 5.2.4.3 Public assistance payments including TANF, such as Relative Caretaker pay, and SSI.
- 5.2.4.4 Pensions and annuities.
- 5.2.4.5 Unemployment compensation.
- 5.2.4.6 Workers compensation.
- 5.2.4.7 Alimony. If less than ordered by the court, count only the amount received. Amounts received above the court-ordered amount are also considered income. Other court ordered forms of Spousal Support, i.e. cash received for house/rent payments, child care expenses, grocery bill, shall be counted as income.
- 5.2.4.8 Child Support. Other court ordered forms of Child Support, i.e. cash received for house/rent payments, child care expenses, grocery bill, shall be counted as income. CCR&R workers are not to require that parents submit proof of child support received in one particular form of verification. (See list of acceptable verifications in the chart below.) If a court order is submitted as proof of child support, the court order shall stand as proof of child support received for the children listed on the order for all successive reviews unless the order is changed.
- 5.2.4.9 Veteran’s benefits including G.I. Bill.
- 5.2.4.10 Income, living allowance or stipend received as a result of participation in AmeriCorps or Vista.
- 5.2.4.11 Payments received from participation in a vocational rehabilitation program.
- 5.2.4.12 Any other monies received on a regular basis from any source, except for those listed under 5.2.5., excluding money received to purchase required school books or supplies, or pay tuition.

5.2.5 Income Not Considered in Determining Eligibility.

The following sources of income should be excluded (not counted) in computing the amount of a family’s monthly gross income:

- 5.2.5.1. Money received from the sale of property such as stocks, bonds, real estate or automobiles, except money received from the sale of property is counted as income if the person is self-employed or otherwise engaged in the business of selling property. For example, an individual who sub-divides a plot of land and is selling lots for residential or business purposes is considered self-employed as a real estate developer. An individual who consistently offers one or more automobiles for sale is self-employed in the business of automobile sales.
- 5.2.5.2. Withdrawals of bank deposits.
- 5.2.5.3. Loans or other money borrowed.
- 5.2.5.4. Tax refunds.
- 5.2.5.5. Monetary Gifts received on an infrequent basis, such as those received on birthdays or holidays.

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- 5.2.5.6. Lump sum inheritances or insurance payments.
 - 5.2.5.7. Bonus value of food stamps.
 - 5.2.5.8. Capital gains.
 - 5.2.5.9. Value of USDA donated foods.
 - 5.2.5.10. Payment received under the Uniform Relocation Assistance and Real Properties Acquisition Policy Act of 1970.
 - 5.2.5.11. Earnings from employment or self-employment of a child under 18 years of age. However, if the child is a primary recipient of child care or the spouse of the recipient of child care, his/her earned income will not be excluded from the calculation of family monthly gross income.
 - 5.2.5.12. Grants, scholarships, or work study.
 - 5.2.5.13. Federal insurance undergraduate loans and grants.
 - 5.2.5.14. Home produce used for household consumption.
 - 5.2.5.15. Other assets such as real estate, bank accounts, stocks, and bonds.
 - 5.2.5.16. Earnings or boarding care payments received by approved foster families.
 - 5.2.5.17. Amounts received through adoption subsidy program.
 - 5.2.5.18. Lump sum severance pay.
 - 5.2.5.19. Monies received for participation in WIA activities.

5.3. Conversion of Income to Monthly Amounts.

Conversion of income amounts to monthly gross income is computed in the following manner:

5.3.1. Income Received on a Regular Basis.

FACTS automatically converts income received on a regular basis, but more frequently than once a month, to a monthly amount by:

- 5.3.1.1. Multiplying average weekly amounts by 4.3,
- 5.3.1.2. Multiplying average bi-weekly amounts by 2.15, or
- 5.3.1.3. Multiplying average amounts received or paid twice monthly by 2.

5.3.2. Irregular Income.

The CCR&R worker shall convert irregular income, or income amounts that vary from pay day to pay day, to monthly amounts by:

- 5.3.2.1. Prorating income received less often than once a month by dividing the amount by the number of months it is intended to cover. Individuals who, by contract or self-employment, derive their total annual income in a period of time shorter than one year shall have that income averaged over a 12-month period. These individuals may include school employees, farmers or other self-employed persons. This would apply to both unearned income, which is intended to meet future needs, as well as income from work performed in the past. **OR**
- 5.3.2.2. Averaging the amount of the irregular income received in the past to arrive at a monthly amount which can be anticipated in the future. The worker will generally average the monthly gross income received in the previous three months. However, if an applicant/recipient experiences or has experienced a recent substantial decrease or increase in his/her regular income, the worker will take this into consideration to estimate the income the applicant/recipient can reasonably expect to receive in the future. **OR**

5.3.2.3. Totaling income that varies seasonally throughout a year, and then dividing by 12 to obtain an expected average monthly income. The worker should take into consideration any change in the rate of payment that has taken place when calculating the average. **OR**

5.3.2.4. In situations where an applicant or member of the family has recently experienced a temporary disruption of income due to a strike, job loss, cut back in number of hours to be worked or other factors, the R&R worker shall consider as income that amount that the client can reasonably anticipate to receive during the next month. Monthly reporting by the client of income received should be requested until the temporary disruption ended.

5.3.3. Changes in Income during Certificate Period.

Clients whose income changes during a certificate period shall remain eligible for services until the next status review. If the client's income has decreased, the client may request a fee reduction. (See Chapter 6, Section 4.6) CCR&R workers shall not increase fees for clients whose income has increased due to increased work hours, pay raise or other income during the certificate period. For instructions on making changes to an assessment during the certificate period, see Chapter 6, section 3. For instructions on adding a spouse/parent/child to the household see Chapter 6, section 2.

5.4. Sources of Documentation/Verification

The methods acceptable for verifying most eligibility criteria can be found in the following chart. The working applicant/recipient must receive a non-subsidized wage or salary, either from an employer or through self-employment, to meet the definition of working (see Chapter 1, Definition of Program Terms). In situations where a non-working applicant/recipient (attends school or training) has no income from any source, the client's statement to this fact will be accepted unless the CCR&R worker has reason to believe the statement is not truthful. All documentation must be no older than 45 days except for the exceptions listed for child support, alimony and tax records. Tax records must reflect the most recent period.

Item To Be Verified	Method of Verification
INCOME a. wages b. salary c. incentive payments d. bonuses	1 months worth of Check stubs ECE-CC-1B until the first regular pay period; then must verify through check stub. Tax records
Profit from self-employment	Income tax records ECE-CC-1C Client business records
Social Security and SSI	Check or Award letter
Unemployment Compensation	Check or Award letter
Worker's Compensation	Check or Award letter
Alimony and Child Support	Check or Money Order Signed statement of payer (case workers shall not require recipients receiving cash payment to obtain money orders. Case workers do not need to request receipts unless they have reason to believe the statement is false.) Court Order (Court orders are valid for the life of the case for the children listed on the order or until the order is changed.) Statement from Child Support Office
Veteran's Pensions	Check or Award letter
Pensions	Check or Award letter
Dividends, Interest or Other Income	Statements or Notifications from Bank or Financial Institution
Net Income from rental property	Income tax records Applicant's records
Net Income from Boarders	Income tax records Applicant's records
Receipt of Income Maintenance –TANF	WV Works

CHAPTER 6: CLIENT CASE MANAGEMENT & CONTINUED CONTACT

6.0 Client Case Management Overview

It is the responsibility of the CCR&R agency to maintain an eligible case load by having continued contacts with families, reviewing the case record as needed, and comparing the case record to provider payment requests as needed. The importance of contact with parents cannot be over emphasized. Contacts with parents shall be used to:

1. Determine continued need for child care services;
2. Determine if child care arrangements are satisfactory;
3. Be updated on changes in the family's situation, and
4. Offer support through linkage with community resources.

6.1. Case Management FACTS Ticklers

The R&R worker should review their FACTS ticklers monthly.

6.1.1. Redetermining Eligibility: The Status Check

The financial eligibility of each family receiving child care services shall undergo a status check periodically. Although status checks must be done by mail, staff are encouraged to have a personal contact with parents at this time. This may best be accomplished with a telephone interview. After status checks or other contacts with the family, the worker should document the case notes in the FACTS Contact screen, enter the necessary recordings and changes in the FACTS record and send proper notices to the parent.

The CCR&R worker will be notified via FACTS Tickler when redeterminations are due. A status check must be completed on each case during the sixth month of the current service period, or more frequently as needed.

For example: If a status check or approval was completed January 20, 2007, the next status check is due July 1, 2007. FACTS considers the status check overdue as of the last day of the month – July 31, 2007. If an assessment is not entered in FACTS within 60 days of the due date (September 30, 2007) FACTS will no longer process payments to the provider. Every effort should be made to enter status checks in a timely manner. In rare instances where status checks are not entered within 60 days, and payment is due to the provider, payment should be sent to the Division of Early Care and Education for completion.

6.1.2. Procedures for Completion of Status Checks

The R&R worker shall review their FACTS Ticklers monthly for a listing of cases due for status checks.

6.1.2.1. Status Check Time Frames

When a status check is due, the DAY-0612, Notification of Redetermination, and the Status Review (ECE-CC-1E) form will be mailed to the parent. The family will be asked to complete and return the form. The status check form shall be mailed no later than the first day of the month, with the due date the 12th working day of the month and closure date 13 days later or the last day of the month.

For example: For a status check due in August, the Child Care Parent Notification and Status Check/Review form are mailed no later than August 1. The dates on the notification letter shall indicate

to return by August 16 to be closed on August 30th. The return date at the top of the Status Check/Review form should be August 16th.

6.1.2.2. Parent and Provider Notifications

The parent needs to return the Status Review (ECE-CC-1E) with all required documentation/verification for work, school and income. If it is not returned by the 12th working day, then the DAY-0613, Provider Certificate Notification Letter, shall be sent to the child care provider notifying her of the parent closure effective the last day of the month. If it is returned, the worker will evaluate the information in light of current eligibility requirements and determination of continuing need. If the case remains eligible, the worker is to complete an assessment in FACTS so services may continue. If an assessment is not completed within sixty days of due date, FACTS will not allow further payment to be made.

6.1.2.3. Status Check – Continued Eligibility

When a family is determined to remain eligible at status check, the CCR&R worker shall issue the DAY-0176 Child Care Certificate to notify the parent of on-going eligibility and/or change of fees. The parent shall then take the certificate to the provider. The certificate is to be signed by both the parent and provider. Upon completion of the status check, an entry will be made into the FACTS case of all information to update the record.

6.1.2.4. Status Check – Family Found Ineligible

If the family is determined to be ineligible at status check, the CCR&R worker shall issue the DAY-0179, Child Care Parent Notification of Denial or Closure, to notify the parent of termination of services and their right to appeal this action. The CCR&R worker shall issue the DAY-0613 to notify the provider that the family is no longer eligible for child care services. If the family returns the status check after the 12th working day, and is found ineligible, the worker shall issue a DAY-0179 informing the client that they are ineligible and that the previous closure notice for failure to return the review by the 12th day of the month remains in effect.

6.1.3. Ticklers for Changes in Child Age

FACTS ticklers will track children who are reaching their 2nd, 3rd, or 5th birthday, resulting in a change in the payment rate and when they become ineligible due to aging out of the program.

Payment Rate Changes Based on Child's Age

When children reach their 2nd, 3rd or 4th birthday, the worker shall send a new Child Care Certificate (DAY-0176) to the family to give to the provider caring for the child, noting when reimbursement rates change. If the child's birthday is the first day of the month – the rate will change that month, so notice should be sent 13 days prior to the child's birthday. If the child's birthday falls on the second day of the month or later, the payment rate will change the following month; notice should be sent at least 13 days prior to the change in rate.

6.1.3.1. Aging Out of Care

When a child turns age 13, the worker should send appropriate 13 day notices to both the parent and the provider noting the date child's becomes ineligible.

6.1.4. Need for Care 90 Day Tickler

Child care resource and referral staff will use the FACTS tickler system monthly to review payment history of all cases identified as having no payment for 90 days. Any parent who does not use child care assistance for an extended period of time no longer has an established need for child care assistance and therefore may not remain an active case.

6.1.4.1. Any case which has not utilized child care for a 3 month period or longer shall be sent notice that the case will be closed.

6.1.4.2. Procedures for notification to the parent and the provider of a negative action shall be followed. If notice is being sent at the time of redetermination, then the DAY-0612 (Parent Notification of Redetermination) will be used to notify the parent of the case closure and reason with the explanation that the status check is to be returned only if the parent disagrees with notice to close and completes a request for a conference (second page of the notice). The DAY-0613 will be sent to notify the provider of the case closure. It will be important in these cases for the R&R worker to establish contact with the parent in order to determine need.

6.2. Additions to Family Size.

If the case worker has reason to believe that the client is not accurately reporting family size, the case worker can request verification: i.e. birth certificate, adoption documents, statement of acting *in loco parentis* for the addition of a child.

6.2.1. Adding a Child

To add a child in the middle of an assessment period the worker shall:

6.2.1.1. Complete a new assessment in FACTS. The beginning date should be the first day of the month in which the child needs added. For example, if the worker is notified by an existing client on 4/13/06 that a child has been adopted and needs to start child care on that date, the assessment date should begin on 4/1/06.

6.2.1.2. Update the Service Log in FACTS. In the example given, the worker should change the service dates for the new child to 4/13/06, since that is the date the child joined the family and started care.

6.2.1.3. Issue a Child Care Certificate (DAY-0176) to the family which includes the new child, making sure to change the beginning date for eligibility for the new child to the date the child will actually start care.

6.2.2. Adding a Spouse or Biological Parent

To add a spouse or biological parent to household in the middle of an assessment period the worker shall:

6.2.1.4. Send a Child Care Parent Closure Notice (DAY-0179) to the client requesting new income, employment and/or school verifications to be returned within 13 days for the spouse/biological parent added to the home.

6.2.1.5. Include on the DAY-0179 that the child care case will close within 13 days if the spouse/biological parent is not participating in an approved activity, and/or if new income verification received shows that the family is ineligible for services.

6.2.1.6. Send a Provider Notification - Client Eligibility (DAY-0613) to all child care providers connected to the case, noting impending closure date.

6.2.1.7. Close the case on the date given in the DAY-0179, if verifications are not returned within 13 days, or verifications show that the family is now ineligible.

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- 6.2.1.8. Complete a new assessment in FACTS if returned verifications show that the family is eligible. The beginning date for the assessment is the first day of the month after the spouse/biological parent has joined the family. Example: The worker is notified on 4/16/06 that the client has married. The worker mails a Child Care Parent Closure Notice (DAY-0179) to the client requesting income and employment/school verification for the spouse by 4/29/06. The client returns requested verifications by 4/21/06, and the verifications show the family is eligible. The worker will complete a new assessment on the case with a start date of 5/1/06.
 - 6.2.1.9. After completing the assessment, the worker shall mail a new Child Care Certificate(DAY-0176)to client, noting the new daily fee, if applicable. The worker shall also mail a DAY-0613 to the provider noting the new fee.

6.3. Changes in Days and/or Hours of Care During the Certificate Period

Clients may need to make changes to their days and/or hours of care during the certificate period. These changes should not move the recertification date of the certificate, or increase the child care fee. To increase or decrease the hours on the child care certificate the worker will need to do a new assessment in FACTS.

- 6.3.1. The client should submit documentation of the need for schedule change.
- 6.3.2. The worker shall make no changes to any of the income screens unless the client is also requesting a reduction in fees (See Chapter 6, Section 4.6). If the client is not requesting a reduction in fees, do not change any of the income information at this time. Wait until the previously scheduled review date.
- 6.3.3. The worker should enter the new days and hours into the new assessment.
- 6.3.4. The worker will then connect the children on the service log to the child care provider, making sure to change the end date to the end date of the original certificate. For example: Martha calls in on June 15 because her hours will be increased at work on July 1, 2009. Her original certificate and assessment were valid from March 1, 2009 through August 31, 2009. The worker completes a new assessment with a start date of July 1, 2009 to increase the hours reflected on the certificate. The assessment will automatically populate the end date of December 31, 2009. However the client must complete a status check by August 31, 2009. Therefore, the worker should be sure to end date the service log for August 31, 2009, and issue the new certificate with that date.
- 6.3.5. The worker will issue a new certificate reflecting the correct days, hours and dates to the client.
- 6.3.6. The worker will set a tickler to mail out the client's status check in the original review month, not the month reflected by the assessment.

6.4. Parental Child Care Fees

Most child care recipients will be required to pay a portion of the cost of the service as a fee to the child care provider. Fees shall be paid for each child in care based on number of days of care. Fees vary according to family size and income. Applicable fee amounts must be indicated on the Child Care Certificate provided to each parent. The sliding fee scale is included as Appendix A.

6.4.1 Who Pays Fees?

Parents with earnings of less than 40% of Federal Poverty Level as shown on the Sliding Fee Scale (Appendix A) are exempt from fees. State foster children in approved foster homes are also exempt. All other parents shall pay the fee unless waived by the CPS worker as part of an approved safety or treatment plan.

6.4.2 Who Collects Fees?

Child care providers will be responsible for collecting fees from parents, but may charge only those fees indicated on the Child Care Certificate. If a parent uses more than one provider, both providers will collect the fee.

6.4.3 How Are Fees Determined?

The fee a parent is charged is based on the family size, income and number of children in care. The sliding fee scale in Appendix A lists income ranges and corresponding fees that parents must pay in order to receive child care benefits.

6.4.3.1 Once a parent's monthly gross income has been determined, the worker refers to the sliding fee chart to determine the column representing the family's size, and then the income level.

6.4.3.2 A daily fee will be assessed for each child in care.

6.4.3.3 The daily fee amount will be the same for each child.

6.4.3.4 If more than three children need child care, the fee will be assessed only for the three youngest children. Parents shall not be charged for more than 3 children.

6.4.3.5 With the exception of the initial certificate, which may show an effective date in the middle of a calendar month, the parent fee is to be initiated or the fee amount changed at the beginning of a calendar month. For example: If an assessment completed July 2000 shows an increase in the daily fee, the parent and provider shall be sent notification letters that the new fee will be effective 8/1/2000.

6.4.4 How Are Fees Collected?

6.4.4.1 The child care provider is responsible for billing and collecting fees from parents, using the daily fee amounts listed on Child Care Certificates (DAY-0176) or the Provider Notification Letter (DAY-0613).

6.4.4.2 Fees should be paid at least monthly. Providers and parents jointly decide when and how often fee payments will be due. Other options for collecting fees include daily, weekly or bi-monthly.

6.4.4.3 Fees may be collected up to 30 days in advance. However, if fees are collected in advance, the provider must credit to the following month or reimburse to the parent, the fee for any days paid, but not used. The billing procedure may be a formal or informal process.

6.4.4.4 Providers are asked to provide receipts upon request. A billing and receipt form (ECE-CC-10D) is available for providers who opt to use a formal billing procedure.

6.4.4.5 Providers shall bill the amount of fee according to instructions provided on Fee Collection Instructions Form (ECE-CC-10C).

6.4.4.6 The provider charges the family a daily fee per child, up to three children, based on the total number of full days care is provided to the family.

6.4.4.7 If part days of care are provided, the provider is to convert those to full days using charts provided in the instructions.

6.4.4.8 Providers shall not bill the daily fee for days that the child is not in care.

6.4.5 How Are Overdue Fees Collected?

CCR&R staff can only assist child care providers in collecting the parent's portion of the daily fee. CCR&R staff do not assist providers collecting late fees, registration fees, transportation fees, and fees for times not approved by the agency. If a parent does not pay the required daily fee and the provider decides to pursue collection, the following process must be followed:

- 6.4.5.1** Parent fees should be paid at least monthly. The provider must notify the R&R worker in writing no earlier than five no later than 30 days after the date payment was due.
- 6.4.5.2** The worker shall then send notices to the parent via the Child Care Parent Closure Notice (DAY-0179) and to the provider via the Provider Notification- Parent Eligibility (DAY-0613) that Child Care Services will be terminated 13 days from the date of the closure letter.
- 6.4.5.3** The parent has the right to make the fee payment within the 13-day period or to request a pre-hearing conference or hearing.
- 6.4.5.4** If the parent pays the fee, the provider must notify the CCR&R worker in writing and care will be continued. In addition to notification from the provider, the parent must supply the CCR&R with a receipt verifying payment of the overdue fee within the 13-day period or the case will be closed. The CCR&R worker must confirm the veracity of the receipt with the child care provider. Confirmation with the provider and continuation of services should be noted in case contacts. If the provider disputes the veracity of the receipt, the child care case will be closed.
- 6.4.5.5** If the parent requests a hearing within 13 days, services will be continued until the issue is resolved.
- 6.4.5.6** If the parent neither pays the fee nor requests a hearing, the case will be closed at the end of the 13-day period.

6.4.6 Clients Requesting a Reduction in Fees

Clients who lose employment or experience a reduction in household income during the assessment period may request that their fee be reduced. To determine the new fee, the worker shall:

- 6.4.6.1** Request new income verification and proof of income reduction. Proof of income reduction may include:
 - A. Lay off notifications,
 - B. Termination of benefits (SSI, TANF, Child Support) letters,
 - C. Termination letters (in the case of involuntary discharge from employment)
 - D. Receipt of unemployment benefits,
 - E. Check stubs showing a reduction in work hours.
 - F. Subtraction of spouse/ biological parent of children from household. If the case worker has reason to believe that the client is not accurately reporting family size, the case worker may request verification by legal documentation (i.e. legal separation papers, divorce decree). If no legal documentation is available, two notarized statements by persons other than relatives stating that the person is no longer in the home may be substituted.
- 6.4.6.2** Verify that a need for care still exists.
- 6.4.6.3** Complete a new assessment in FACTS to determine the amount of the new fee. The new assessment date shall begin on the first day of the month following the request for reduction.

6.4.6.4 Mail the new certificate reflecting the reduced fee to the client.

6.4.6.5 Mail a DAY-0613 to the provider noting the reduced fee and the effective date.

6.5 Procedures for Exception to Eligibility Policy.

6.5.1 Illness.

In unusual, extraordinary circumstances, exceptions to eligibility policy can be requested. Exceptions will be granted on an individual basis and only in situations where the circumstances of the client are so different from the norm that the policy is unfair or inappropriate when applied to the individual client. Consideration is given to factors such as the age of the child, the child's ability for self care, the amount of supervision or hands-on care required for the child, and if there are other household members present who can aid in the supervision of the child. When an exception request is made, R&R workers shall inform parents the approval is not guaranteed. The parent and provider must establish private payment arrangements to insure that the provider is paid during the time the exception request is reviewed. The following steps should be taken to process an exception request:

6.5.1.1. The R&R Case Worker will collect all relevant information needed for approval and enter the request into FACTS under the Policy Exception Screen. The request must, at a minimum, contain the following information:

- A. Parent(s) name, address and telephone.
- B. Name and birth dates of children.
- C. Number of people in the household.
- D. Family income.
- E. Reason for requesting an exception. This includes a description of the condition requiring the exception, the date the condition began, and an explanation of why care is needed.
- F. Resources explored for provision of child care prior to requesting child care services, i.e. community, family, volunteers.
- G. Amount family is able to financially contribute to the cost of the service.
- H. Probable consequences to the family if the exception is not granted.
- I. Anticipated length of time the exception is needed and, for illness or injury, the length of time anticipated for recovery.

6.5.1.2 The request for an exception will be reviewed by the CCR&R supervisor. After the supervisor's approval, it must be forwarded via FACTS to the Division of Early Care and Education.

6.5.1.3 The Division of Early Care and Education shall review the exception request and provide a decision within 30 days.

6.5.1.4 If approved, payment may be backdated to the date of application.

6.5.1.5 If denied, the worker shall notify the parent in writing that the exception was not approved and the parent is responsible for payment to the provider (See Chapter 4, Need for Child Care, for additional exception requirements based on a medical condition.)

6.5.2 Court Ordered Child Care.

When the CCR&R worker receives an applicant who is otherwise ineligible for child care services under ordinary guidelines, (i.e. does not meet the income guidelines, or is income eligible, but not participating in a

qualifying activity) but who has a court order stating that the child must receive state paid child care, the worker should take the following steps:

6.5.2.1 Enter the case, selecting “court order” as the reason for care.

6.5.2.2 Enter the policy exception as “court order.”

6.5.2.3 In the policy exception screens, address the four questions with the information in the court order.

A. Please list court order information. Include the name of the judge, the type and name of the court, and names of any lawyers involved.

B. Is the client able to financially contribute to the cost of the service?

C. Were any DHHR staff involved with this family? If so, list worker’s name.

D. Are there any service limits in the court order? If so, describe.

6.5.2.4 The request for an exception will be reviewed by the CCR&R supervisor. After the supervisor’s approval, it must be forwarded via FACTS to the Division of Early Care and Education. The CCR&R supervisor shall also mail a copy of the court order to the Division of Early Care and Education.

6.5.2.5 The Division of Early Care and Education shall review the exception request and provide a decision within 30 days. The Division shall also forward the court order to the regional attorney in the client’s area to determine whether or not the court order should be challenged. The Division of Early Care and Education staff shall maintain contact with the regional attorney and keep the CCR&R worker informed of any changes in the status of the court ordered child care.

6.5.2.6 Court Ordered clients will be assessed a daily fee, and should be treated as any other recipient of child care regarding fee payment. Should the provider notify the worker of the client’s failure to pay the required daily fee, the worker should send a 13 day notice requiring the client to pay the fee or face case closure. If the client still does not pay the fee, the CCR&R worker should contact the Division of Early Care and Education for further instruction.

6.6 Negative Actions: Appeals and Fair Hearings

Any notification of negative action must be in writing on the Parent Notification Letter (DAY-0177 or DAY-0179), including denial of an application and termination of services. The form letter shall include the specific negative action, with citation of specific policy and a description of any action, if applicable, on behalf of the client that resulted in the negative action. The original Notification Letter (DAY-0177 or DAY-0179) shall be sent to the parent, with a copy saved to FACTS and, if a paper file is maintained, a copy put in the correspondence block of the record. The negative action shall also be documented in the FACTS Contact screen. Most negative actions affecting the recipients of child care, other than denial of an application, can not be taken until 13 calendar days after the client has been notified.

6.6.1 If the client disagrees with a negative action, he or she may either:

6.6.1.1 Supply information needed to continue services;

6.6.2.2. Request a hearing, in writing, to the CCR&R worker before the end of the 13 day notice period to continue services; or

6.6.2.3. Request a hearing, in writing, within 30 days of the notification. Services will not be continued if the request is made after 13 days but within 30 days. Requests made after 30 days will not be considered.

6.6.2 Actions Not Considered Negative.

A fee increase is not considered a negative action. The client's status has changed based upon his or her increase in income, but the benefit of child care is not being eliminated. If clients return their status check after the due date but before the closure date, the case manager is to process the review. The worker will not be able to give 13 days notice regarding the increased fee. However, the CCR&R worker must inform the provider and client of the date the fee increase takes place.

6.6.3 Fair Hearing Procedures

All applicants and recipients of child care services are entitled to a fair hearing by a Department of Health & Human Resources Hearings Officer if they are dissatisfied with a decision made on their eligibility for services or with the quality of services provided to them. For more information on Fair Hearings, see Chapter 21.

6.6.3.1 Generally, if a client requests a hearing during the 13 day notice period, the action should not be taken until the hearing is held and the hearings officer has made a decision. However, if a hearing is requested in response to an increase in fees, a notice of closure for exceeding income guidelines, or a denial of application, fees cannot be reduced nor services continued due to FACTS processes.

6.6.3.2 The person requesting the hearing must be told that if services continue and the agency is upheld, then the client will have to enter into a repayment agreement.

6.6.3.3 The worker shall submit a (IG-BR-29) Hearing/Grievance Record Information Form, copy of the notification of negative action sent to the client, and copy of the client letter requesting a hearing regarding decision.

6.6.3.4 The IG-BR-29 must be submitted to the Hearings Officer within 48 hours of the hearing request.

6.7 Communication between CCR&R Agencies.

Child Care Resource and Referral Agencies shall coordinate the transfer of services to maintain case continuity for clients moving between CCR&R regions.

6.7.1 Clients Moving from One CCR&R Region to Another

6.7.1.1 When clients notify their current case worker of a move from one CCR&R Region to another, the worker shall take the following steps:

A. Within five (5) days of the client notification, the worker shall notify the new CCR&R agency that the client has moved to their area, either by phone or GroupWise, and ascertain to whom the new CCR&R wishes the case to be assigned to in FACTS.

B. Prepare and transfer the case to the new CCR&R by:

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- 1) Changing the old address to the new address in FACTS.
 - 2) Changing the old county to the new county.
 - 3) Transferring the case in FACTS to the designated worker in FACTS within five (5) days.
 - 4) Making a copy of the paper file to maintain in their records.
 - 5) Transferring the original paper record to the new CCR&R within 14 days.
 - 6) Making a detailed contact in FACTS regarding the move, including new and old address, date of move, and any pertinent information regarding the case to assist new workers in providing case management services to the client.

6.7.1.2 When clients do not notify their previous CCR&R that they have moved, and the new worker discovers an open, active case for the client in FACTS:

A. The worker shall:

- 1) Change the old address to the new address in FACTS.
- 2) Change the old county to the new county.
- 3) Transfer the case in FACTS to the appropriate worker in FACTS.
- 4) Notify the previous CCR&R by phone or GroupWise that the client has moved, and request that the paper file be mailed to the new CCR&R.

B. The previous CCR&R shall make a copy of the client record for their files, and transfer the original to the requesting CCR&R within fourteen (14) days.

6.7.2 Improper Payment Prevention.

CCR&R's shall cooperate with one another and share information, including payment forms, sign in and out sheets, documents, and records in order to reduce and/or prevent improper payments, when information is requested by other CCR&R's for this purpose. CCR&R's shall respond to these requests for information in a timely fashion, within five (5) days, unless extenuating circumstances exist.

CHAPTER 7: PURCHASE OF CHILD CARE THROUGH CERTIFICATES

7.0. Overview.

West Virginia's subsidized child care program is a certificate system. Certificates authorize payment for parents in lieu of cash. Providers are paid directly upon receipt of an invoice called a request for payment. This system provides maximum opportunity for parental choice.

7.2. Parental Choice

When a family is determined to be eligible for child care services, a Provider Notification Letter (DAY-0613) or a Child Care Certificate (DAY-0176) is issued from FACTS to the parent. This certificate serves as proof that the Department of Health and Human Resources will be responsible for payment and contains pertinent information about the family and the amount of the fee to be paid by the parent. The parent shall use the certificate to purchase care from a child care provider of choice. In all cases of parent-selected unregulated care, before issuing the Certificate or Notification of Eligibility, the CCR&R worker shall search FACTS to determine if the potential provider has been previously denied or terminated as a provider. If the denial or revocation notes that the provider is ineligible to participate in the subsidy system because they are unable to meet regulatory requirements, the parent shall be informed that the provider will not be approved. She/he may select a different provider.

In order to insure that parents are given a variety of child care options, Child Care Certificates may be used to purchase care at the following sites.

7.2.1. In Home Child Care.

Care may be provided in the child's home, by an in-home care giver, only in specific circumstances and only with the approval of the R&R worker.

7.2.1.1. Minimum Wage Requirement.

In-home care is limited to situations where **payment will equal or exceed minimum wage**. In general, a provider must care for multiple children in order to meet this requirement. To determine if payment will equal minimum wage, calculate the number of hours the provider will care for the children and multiply by the current minimum wage. Then compute the provider's customary payment using the current daily payment rates for in-home care, including any amounts for non-traditional work hours. (See Chapter 14, Provider Regulation: In-Home-Care)

7.2.1.2. Exception to Minimum Wage Requirement.

In instances where a child has medically documented needs that necessitate in-home care and the payment would not be equal to minimum wage, the R&R worker may submit an exception request to the State Division of Early Care and Education. Written documentation of the need from a qualified health care professional required, and must show absolute necessity. Exceptions will be rare and time limited.

7.2.1.3. The parent and provider must complete the following:

- A. The parent must complete an Application for Approval for In-Home Care (ECE-CC-12).
- B. The CCR&R worker shall inform parents who use this type of care that an in-home care provider is considered to be an employee of the parent according to laws related to wage and

hour requirements and the IRS tax code. The parent may be responsible for paying the employer's share of Social Security and Medicare taxes. The threshold amount before this is required may change in any given year.

- C. The parent and provider must complete the ECE-CC-10A-1, Request for Payment of In-Home Child Care Services, and submit the form on a monthly basis. The Department will provide a form 1099 to the provider on an annual basis, but the parent is responsible for keeping information and records required for paying federal employment taxes for the in-home provider. The parent and in-home provider need to remember that the parent fee (if any) is part of the rate for which the provider is reimbursed and remains the responsibility of the parent to pay.
- D. The R&R staff must inform parents and providers of these requirements. However, they are not tax experts or agents, and should not attempt to answer specific questions. The Resource and Referral agency shall direct the parent and provider to the proper agency for information they may need.

7.2.2. Family Child Care Homes

Care may be provided in the caregiver's own home in one of three different types of home-based care.

- 7.2.2.1. Family Child Care Providers caring for four (4) to six (6) children must be registered.
- 7.2.2.2. Informal Family Child Care Providers who voluntarily register with the DHHR to care for three (3) or fewer children, at least one of whom is not related.
- 7.2.2.3. Relative Family Child Care Providers who voluntarily register with the DHHR and provide care only to children related to the caregiver. The caregiver must be a grandparent, great grandparent, aunt, uncle, great-aunt, great-uncle or adult sibling.

7.2.3. Family Child Care Facilities

Parents may select a family child care facility which is licensed to care for 7-12 children.

7.2.4. Child Care Centers

Child Care Centers which are licensed for 13 or more children are another option.

7.2.5. Unlicensed School-Age Child Care Programs

Parents may also opt to use a program that provides out of school time services only. These programs typically operate fewer than four (4) hours daily and are thus legally exempt from licensing. Legally exempt programs may operate no more than 30 full days annually, and must meet basic health and safety requirements in order to accept certificates.

7.3. General Payment Provisions of the Certificate System

7.3.1. Payment Rates and Definitions.

Rates for payment of child care services include a base rate for each type of care as well as incentive rates (See Appendix B). Rates are based on a full day, which is defined as care for at least four (4) hours but less than eighteen (18) hours per day. Providers accepting certificates must agree to accept the applicable rate as full payment of care for up to an eighteen-hour period. However, a parent who leaves a child past the

provider's established closing time may be charged a late fee provided all parents are expected to pay this fee and the parent has left a child past the time indicated on the child care certificate.

7.3.2. Payment Limitations.

Payment to a provider for an individual child is limited to one full day in a twenty-four (24) hour period, and to no more than the total number of days in a calendar month. The total number of hours a child can remain in care shall not exceed 18 consecutive hours of care in a 24 hour period regardless if the child is with more than one provider for that particular day. (See exceptions in Chapter 4, Section 3).

7.3.3. Use of Multiple Providers.

A family may request payment for more than one provider if circumstances indicate a need, such as the parent works during the day and attends school at night or a child care center closes several hours before the parent's shift ends. The CCR&R worker should encourage the family to use a primary provider to the maximum extent and explore other options. However, if no other options are possible, the CCR&R worker shall request approval from the CCR&R supervisor to pay a second provider. The supervisor may approve the situation if she determines it is in the best interest of the child and family. No more than two providers may be approved for the same child. Additionally, both providers shall charge a fee when two providers are used.

7.3.4. Use of Substitutes.

When a provider uses a substitute, payment to the substitute provider and collection of the daily fee shall be the responsibility of the provider. The provider may claim days of care provided by the substitute on the payment form and pay the substitute upon receipt of payment, but the agency shall not provide direct payments to substitutes. Providers may not subcontract with another provider on a regular basis but may use substitutes on an infrequent basis for emergencies, planned vacation, training or sick leave. Substitutes in family child care homes shall be used for periods of not more than two consecutive weeks annually or more than an average of 8 hours weekly.

7.3.5. Operation of Multiple Child Care Sites.

If a provider operates more than one site and a child attends both sites for part of each day, the provider shall submit one payment request for the hours of care provided at both sites. The child should be included on the payment request for the site which provides the majority of care. Also, if a child is signed out and signed back in with the provider in the same day, the provider will only be paid for one day or the actual hours of care if less than a full day.

7.3.6. Eligibility for Provider's and/or Child Care Employee's Children

7.3.6.1. Payment may not be made to a provider to care for their own children. Child care center owners, family child care homes and family child care facility owners are therefore not eligible for subsidized child care assistance when their child attends their parent's facility.

7.3.6.2. Since the provider's own children are considered in the staff/child ratio in family child care homes and family child care facilities, family providers and facility operators are not eligible for subsidized child care for their own children while they care for other children. They also may not send their children to another caregiver in order to increase their own capacity.

7.3.6.3. Eligibility for Center Employees - Employees of child care centers who are financially eligible for subsidy may use their employer's child care center, as long as the employee does not supervise his or her own child. Although family child care facilities also have employees, due to

the limited space and staffing levels in a family child care facility and the difficulties in insuring supervision will not fall on the parent, children of a family child care facility employee are not eligible to use the employer's child care facility. They may however, place their children with another provider.

7.3.6.4. Eligibility for employees of the provider in other business endeavors or any of the provider's household members' business endeavors: Children of persons employed by the provider or any of the provider's household members, with the exception of child care center employees meeting the criteria in 7.3.6.3, may not select said provider as their child care provider.

7.3.7. Certificate System Payment Rates.

Payment for child care is based on the type of care, age of child, special needs of individual children, hours of care, nontraditional hours, and accreditation status of the provider.

7.3.7.1. Base rates are broken into four age categories:

- A. Infants – children aged birth to 24 months.
- B. Toddlers – children aged 25 – 36 months.
- C. Preschoolers – children aged 37 – 59 months.
- D. School Age – children aged 60 months and over.

7.3.7.2. In addition to the base rate, providers may be eligible to receive three types of rate supplements:

- A. The Special needs supplement for children with documented special needs and children receiving services based on a CPS safety or treatment plan of \$2 extra per day per child.
- B. The Tiered Reimbursement supplement, which is based the level of quality in a child care program. Registered family homes, child care facilities and child care centers may volunteer to document that they either meet higher quality standards or are nationally accredited. Programs that meet licensing standards are Tier 1 and receive base payment rates. Programs that meet Tier II standards receive \$2 extra daily and programs that are accredited receive \$4.00 per full day per child. Part days are converted to full days before the supplement is calculated. This amount is added for actual days of care only. Monthly rates do not apply to rate supplements.
- C. The shift differential rate supplement, which is based on the family's need for care during non-traditional work hours, is \$4.00 daily per child and is available for all types of providers for any days of care that meet the following definitions. Parents shall supply documentation of need for non-traditional child care hours at the time of application and each status check.
- D. Non-traditional child care hours are defined as:
 - 1.) Approved care for four (4) hours 0 minutes, either before 6:00 am or after 7:00 pm Monday through Friday;
 - 2.) Approved care for four (4) hours 0 minutes on a Saturday or Sunday; or
 - 3.) Any 12 hour work/school shift or split shift which equals twelve or more care hours (including transportation) in a 24 hour period.

7.3.7.3. The **Per Day Rate** is used if the child attends less than 13 days or more than 20 days.

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- 7.3.7.4. The **Monthly Rate** will be used for base rates only when a child is in care between 13 to 20 days. Monthly rates are equal to 20 times the daily rate.
 - 7.3.7.5. **Full Day:** A full day is considered care for at least four (4) hours zero (0) minutes but less than eighteen (18) hours per day from the time the child enters care to the time he leaves.
 - 7.3.7.6. **Part Day for 2 to 4 Hours:** A part of day of care if paid for when a child is in care at least 2 hours but not more than 3 hours 59 minutes per day. Part days submitted by the provider are converted by FACTS to full days using the Conversion Chart, Appendix C. Payment is made for 2/3rds of the total part days. After converting part days to full days, FACTS will calculate the monthly rate for 13-20 days or per diem rate for fewer than 13 or more than 20 days.
 - 7.3.7.7. **Part Days Less than 2 Hours:** Another part day payment is made for care provided less than 2 hours per day. For those situations in which care is provided for children less than 2 hours per day, payment will be one-third the amount paid for full child care. These days will be converted to full days using the conversion chart in Appendix C. After converting part days to full days, use monthly rate for 13-20 days or per diem rate for fewer than 13 or more than 20 days.

7.4. FACTS Payment Process

In order to receive payment, a provider must submit the “Request for Payment Form” (ECE-CC-10A) with copies of sign in and out sheets to the R&R agency no earlier than the last day of the calendar month and no later than the third working day of the next month.

The request for payment form shall be completed by the provider according to the instructions in the Payment Form Instructions (ECE-CC-10B). The R&R worker shall process payments within 3-5 days of receipt of a properly completed payment request. If the form contains errors, the worker shall return the form with instructions for correction. Payment forms are official invoices and staff shall not alter forms once they have been signed by the provider, even upon provider request. The R&R worker shall process payment in FACTS according to the following procedures:

- 7.4.1. Select the Financial Administration Icon, then the DC Demand Icon. FACTS brings up the FIND provider screen allowing the worker to choose the categories needed to locate the provider.
- 7.4.2. Type the name of the provider, as indicated at the top of the ECE-CC-10A Request for Payment, select the provider name from the list, and hit OK.
- 7.4.3. Select the correct payment name, verify the address, and hit OK.
- 7.4.4. Enter the service month indicated on the payment form. The system will default to the previous month of care and the worker must change the service month if payment is being requested for other than the previous month.
- 7.4.5. Tab to the client screen and select from the picklist the name of the child for whom payment is being processed.
 - 7.4.5.1. If the child’s name is available in the picklist, the approved days and hours will be displayed. Check the approved days and hours against those claimed by the provider. Payment shall not

be made for days claimed in excess of the approval unless a statement is entered in the comment box. Note: The child's daily fee will populate from the child care assessment and the daily fee amount will be deducted from the provider's payment. If the family is using two providers, the fee will be deducted from both providers' payments. Fees will be deducted only for the three youngest children.

7.4.5.2. If the child's name is not available in the picklist, the R&R worker shall:

- A. **Investigate:** The CCR&R worker shall investigate why the child is not available in the picklist – i.e. case closure, application denial, worker error in processing case, client failed to notify of provider change, etc.
- B. **Correct the problem:** If the child is unavailable due to worker error, the CCR&R shall make every effort to correct the error and process the payment in a timely fashion.
- C. **Notify the provider:** If payment cannot be made because of case closure, denial of application or client's failure to notify the agency of provider change, the provider must be notified in writing that payment cannot be made. If payment cannot be completed by the CCR&R due to worker error and must be submitted to the Division of Early Care and Education for manual payment, the provider shall be notified in writing that manual payment will be processed.

7.4.6. Enter the actual number of days on the demand payment screen by following the columns listed on the payment form, sorting by part, full and non-traditional days. FACTS will calculate the total number of days. When the Calculated Payment Amount Tab is selected, the total payment for the child will be displayed. To process the child's payment, click on ADD and then CLEAR. This process is continued for each child.

7.4.7. When all children are entered, click on verify. This sends the payment request to the CCR&R supervisor who approves the payment.

7.5. Payment Processing

Generally, on Tuesdays and Fridays, a computer tape with information on all entered payments is sent to the State Auditor's Office. The Auditor's office writes the checks and returns them to the DHHR Finance office for mailing. Checks are generally mailed within 3 to 5 days after the tape is submitted to the Auditor's office. State holidays may delay checks. Providers may also apply to the State Auditor's office for Direct Deposit of payments. Providers whose payments are made through Direct Deposit will not receive a check stub with details of payment but may access detail on payments at the FACTS PLUS website at: <https://facts.wvdhhr.org/factsplus>.

7.6. Direct Deposit

CCR&R staff shall inform all new providers about the process for Direct Deposit of their child care payments into a checking or savings account. Providers shall be given a copy of the ECE-CC-27, which contains information about Direct Deposit and FACTS Plus and a Direct Deposit Authorization form. Providers apply using their eight-digit FACTS provider identification number. Providers with multiple identification numbers must submit an application for each ID number. Completed authorization forms are to be sent to the:

WV State Auditors Office
Electronic Payments Division

Building 1, Room W-125
Charleston, WV 25305

OR

Faxed to: 304-558-4376

If providers have questions with regard to Direct Deposit, they may contact the State Auditor's Office at 1-800-500-4079 or 1-304-558-2251.

7.7. Responding to Payment Inquiries and FACTS PLUS

7.7.1. Check Inquiries.

CCR&R staff shall respond promptly to providers who inquire about checks. Staff shall review FACTS data and provider files and discuss with the provider any reasons for the delay and action needed/planned to correct the problem. If the delay is not the result of provider or worker error, the CCR&R shall contact Division of Early Care and Education clerical or field consultant staff. The Division of Early Care and Education will investigate, and notify CCR&R and DHHR staff about any problems. The CCR&R staff shall relay this information to any providers who inquire about check delays.

7.7.2. FACTS Plus.

CCR&R staff will inform all providers about the availability of FACTS PLUS. FACTS PLUS is a free internet service that allows providers to view information about child care payments made through FACTS, including child information and processing dates. Authorized persons have access 24 hours a day. Providers can access their information using any computer that has Internet Explorer Browser 6.0 or higher. A provider may request a FACTS PLUS account by going to <https://facts.wvdhhr.org/factsplus>. Individual providers (informal, relative and family child care providers) complete the Individual Provider Application Form. Staff persons in child care centers or family child care facilities complete the Agency/Facility Application, which must be signed by the Director or Owner/Operator. An additional authorization on agency letterhead is necessary for someone other than the Director to access the FACTS PLUS Account. Providers who have questions may contact the FACTS Help Desk.

7.8. Child Care Attendance Sheets (ECE-CC-10-G).

All Child Care Providers are required to maintain sign in and out form for all children in care to confirm child attendance and justify the days and hours of care for enhanced rates for non-traditional work hours. Child Care Providers shall be given a supply of Child Care Attendance Sheets (ECE-CC-10-G). All types of child care providers, with the exception of child care centers, are required to use the prescribed form. While centers are not required to use the same format, they may be asked to do so. If the CCR&R Staff has concerns about consistent errors on the center's chosen format, the CCR&R and the center shall work together to decide upon a format that reduces errors in submission, including use of the Child Care Attendance Sheets. Centers with electronic sign in and out system may substitute reports generated by their systems if parents sign off at the end of each month. Copies of the forms shall be retained in the provider's files for five years and shall be available for review by DHHR staff.

7.8.1. Completion of Attendance Sheets.

The provider shall enter the names of all children in care on the form. Parents or others designated as responsible for the child shall mark each child's time in and out, designated AM or PM, daily in the box provided. The parent's signature on the signature line of the form verifies that the times shown accurately reflect their children's attendance. Times must be shown as AM or PM. Children who attend in the morning, leave and return in the afternoon must be signed in and out both times. Caregivers shall not sign as the parent, as this is considered misrepresentation and can result in negative action.

7.8.2. Sign In and Out

Children shall not be allowed to sign themselves in and out. In cases where a child is transported to and from child care by bus or van, a teacher, aide, driver, director or caregiver may sign the child in and out if the parent signs off on the attendance sheet at the end of the month verifying that their child was in care before and after school on those dates. However, if the parents are available, they must be responsible for signing their children in and out; a parent may not request that the caregiver sign a child in or out as a matter of convenience.

7.8.3. Accuracy of Records.

The provider's signature on the sign in and out forms is certification that this is an accurate record of the attendance of all children in care. Failure to keep accurate records may result in negative action, to include corrective and/or legal action, referral for misrepresentation, and/or requests for repayment of any funds received by the provider as payment for subsidized children. If there is substantiated misrepresentation by the provider, the provider shall be prohibited from future participation in the Certificate Program. However, if the provider makes full restitution, a one time waiver may be considered. The provider must request the waiver in writing, and the R&R shall forward the request to the Division of Early Care and Education for approval/denial.

7.8.4. Frequency of Submission.

All providers, except child care centers, must submit copies of their sign in and out forms with monthly Requests for Payment. Child care centers shall only submit copies upon request from the CCR&R worker, two times annually. The worker shall request forms from each center at least once between the months of January to June and once again between July and December. If an audit of the forms indicates errors, the R&R may require a center to submit forms monthly until the errors are corrected and/or any overpayment is resolved. The R&R staff shall audit all other sign in and out forms monthly, comparing them to the provider's payment request, and checking the parent signatures with those on the Service Agreement (DAY-0162).

7.9. Lost and Returned Checks.

Child care provider checks are occasionally mailed to the wrong address, lost in the mail or stolen. Many are returned to the Check Control office within the Division of Finance. However, some checks are never located or are cashed by someone other than the provider. Procedures for Lost and Returned Checks:

7.9.1. Returned Checks:

When checks are returned to the Check Control office, the office notifies the CCR&R agency that the check has been returned. The CCR&R agency takes the following steps:

- 7.9.1.1. The R&R worker shall mail or FAX a memo to the Check Control Division asking that the check be released to the provider at the correct address. The memo shall contain the provider's name, new/correct address, check number, provider number, and amount of check.
- 7.9.1.2. The R&R agency shall notify the DHHR Child Care Worker or licensing specialist by e-mail that the address is incorrect in FACTS.
- 7.9.1.3. DHHR staff shall change the address in FACTS. If the provider has moved, a new W-9 form must be completed before future payments can be made.

7.9.2. Lost, Stolen and Misplaced Checks:

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- 7.9.2.1. If the provider's check does not arrive within 10 days of the date mailed, a designated staff person shall contact the State Check Control Division to see if the check has been returned.
 - 7.9.2.2. If it has not been returned to the State Division of Finance or if it is lost, misplaced or stolen, the CCR&R agency shall schedule an appointment with the provider to sign a Lost Check Affidavit (DF-38). The provider shall sign three original copies of the affidavit.
 - 7.9.2.3. These forms must be notarized and forwarded to the State Division of Finance.
 - 7.9.2.4. A stop payment request is then sent to the State Treasurer's Office.
 - A. If the check has not been cashed, a check will be reissued.
 - B. If the check is cashed, a photocopy of the signed check is sent to the R&R worker. The provider shall view the copy of the check to verify if it is his/her signature. If the provider indicates that this is not his/her signature, a memo with the signed statement to that effect is sent to the Division of Finance.
 - C. After the State Treasury collects reimbursement for DHHR from the person/business that cashed the check, another check is issued to the provider.

CHAPTER 8: Improper Payments: Prevention, Identification, Measurement and Recoupment

8.0 Improper Payments Overview

The Federal Improper Payments Act of 2002 has created special concern about overpayments and their recovery in all federally funded programs. An improper payment occurs when the funds go to the wrong recipient, the recipient receives the incorrect amount of funds, or the recipient obtains or uses the funds in an improper manner. By strengthening financial management controls so that Federal agencies can better detect and prevent improper payments, the Federal Government can better ensure that taxpayer dollars are spent wisely and efficiently.

Everyone involved in the administration of the child care subsidy program should understand what can be done to maintain program integrity; what constitutes misrepresentation; what action should be taken in cases where misrepresentation is suspected; and the methods and procedures for performing these functions.

8.1 Maintaining Program Integrity

It is the responsibility of every Child Care Resource and Referral employee and every DHHR employee to minimize the opportunity for improper payments by performing his duties as outlined in this Child Care Policy Manual. It is essential that the worker fully understands these policies and procedures. The primary burden for the prevention of misrepresentation rests on the CCR&R case manager. The case manager must make sure that the application, status check forms, and supporting verifications have been fully completed, properly signed, dated, and any conflicting or missing information brought to the attention of the client for clarification or completion. Reviewing the case record and verifications thoroughly prior to issuing a certificate to the client will aid the case manager in reducing errors and preventing misrepresentation.

Clients can be expected to give information only in relation to their understanding of program requirements. Case managers should ensure that clients and providers fully understand their rights and responsibilities as subsidy program participants, and that this be documented in the FACTS record. Great care should be taken to ensure that:

1. Clients and providers understand their respective application and status check forms.
2. They are aware of their responsibility to report any changes in circumstances.
3. Clients and providers are aware that attempts to obtain assistance through misrepresentation will be subject to legal penalties.

Although the client is the primary source of information and is fully responsible for it, the case manager should not hesitate to verify questionable or inconsistent information any time there is doubt about a client's situation. The signature page of the child care application and status check gives the worker the authority to investigate discrepancies and suspicions.

8.2 Improper Payment Prevention Strategies

West Virginia uses a variety of means to prevent errors that result in improper payments. The FACTS system is designed to take the information entered in the system by the CCR&R worker and use it to determine eligibility. This eliminates many of the errors, with the exception of errors in the data entry itself. As part of the required Quality Assurance plan, each CCR&R agency shall have a process to internally monitor eligibility determinations, payment processing, and FACTS data entry. In addition, state level staff work with CCR&R agencies to identify problem policies, procedures and forms that may lead to errors. Solutions are developed by

committee, and supported in the field through training and technical assistance supplied by the child care consultants.

Strategies developed to prevent and reduce errors and improper payments include the following:

- 8.2.1. CCR&R agencies must use the State's management information system, the Family and Children's Tracking System (FACTS), to determine financial eligibility and calculate payment amounts due. The system also has controls to limit payments to eligible days and children only.
- 8.2.2. CCR&R agencies must use State developed child care policy and procedures.
- 8.2.3. CCR&R agencies must develop and implement Quality Assurance Plans to review and oversee eligibility determinations, case maintenance, and payment processing.
- 8.2.4. Family child care providers must submit sign in and out sheets to verify attendance along with their billing forms, and centers are asked on a random basis to submit their sign in and out sheets along with their billing forms.
- 8.2.5. CCR&R agencies must audit billing forms and compare work and school schedules to times shown on the sign in and out form to verify child care usage complies with time approved.
- 8.2.6. Child care providers who submit incorrect or improper billing forms must attend a retraining session on proper billing procedures. After attending two retraining sessions, if the provider fails to comply with appropriate billing procedures, the provider can be denied participation in the certificate system. (See Chapter 20, Section 3.)
- 8.2.7. Subsidy clients must submit verifications for activities and income. For example, students receiving services must provide school schedules and grades. Employed clients must submit pay stubs for one month's period and work schedules. Workers review pay stubs carefully, reviewing for unreported overtime, bonuses, and incentives in the year to date columns.
- 8.2.8. CCR&R workers can implement a thirty day penalty closure for clients who violate subsidy policy rules and responsibilities. If a parent fails to fulfill these responsibilities, the worker shall give a written warning regarding specific problems, noting that subsequent abuses may result in a 30-day penalty closure.
- 8.2.9. In addition to the above requirements, two state level Child Care Consultants provide oversight and technical assistance to the CCR&R agencies. They perform the following activities:
 - 8.2.9.1. Quarterly sampling of CCR&R cases to ensure compliance with appropriate procedures and policies.
 - 8.2.9.2. Training and technical assistance to CCR&R agencies on Child Care Policy, procedures, and the use of FACTS.

8.3 Types of Improper Payments

Improper payments include misrepresentation on the part of the parent or provider; worker error in determining eligibility, authorizing or paying for care; and programmatic infractions by parents or providers

8.3.1. Worker Error

Improper payments due to worker error are defined as payments that should not have been made, or that were made in an incorrect amount due to worker error in determining and verifying eligibility, and/or calculation and input of information into the Family and Children's Tracking System (FACTS). Incorrect amounts include overpayments, underpayments and inappropriate denials of payment.

8.3.1.1.Examples of worker error:

- A. The child care regulatory specialist enables the "accreditation" box, allowing the provider to receive an extra \$4 per day, when the provider has not achieved accreditation, and is not entitled to the enhanced rate.
- B. The worker enters an incorrect number of days when entering information from the payment form into FACTS.
- C. The worker enters more time on the child care assessment than the client's work or school schedule supports.
- D. The worker fails to verify income, school enrollment, or special needs status.

8.3.1.2.It is the CCR&R's responsibility to collect improper payments in this instance, regardless of the amount.

8.3.2. Misrepresentation

Misrepresentation occurs when a specific child care policy section is violated as a result of the information not having been reported by the client or reported falsely. If the CCR&R Agency becomes aware that the client/provider is attempting to or has received services/payments to which they are not entitled, the CCR&R worker must take corrective action to prevent further payments from occurring. Improper payments made as a result of misrepresentation shall be referred to Investigations and Fraud Management (IFM) when the amount exceeds \$1,000.00. If the amount does not exceed \$1000.00, the CCR&R shall initiate repayment procedures. A willfully false statement is one that is deliberately given, with the intent that it be accepted as true, with the knowledge that it is false. It is an essential element in a misrepresentation charge that the client/provider knew his statement was false.

8.3.2.1.Examples of a willfully false statement include the following:

- A. The client states that he does not receive child support when he really does.
- B. The child care provider bills for days when the child was not in her care.
- C. The client states that she is employed when she is not.

8.3.2.2.Misrepresentation can also consist of the suppression of what is true. For example, the client omits child's biological father when listing household members on her status check, or the client fails to report bonuses received on the application.

8.3.2.3.When a parent continues to use child care services when the need no longer exists (e.g., parent has lost job or quit school, non-working/non-school attending biological parent has moved into the home), the case will be closed and no further payment made. As soon as the R&R worker is aware that the client is using services when the need no longer exists, the worker should:

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- A. Immediately call the child care provider and tell them that effective the next business day, the agency will no longer be responsible for payment.
 - B. Send an immediate closure notice to the parent, advising them of the status of their case and the need for repayment.
 - C. The Recipient shall repay to the agency any child care monies paid on their behalf during the period of ineligibility. If the amount is under \$1000.00, the CCR&R should collect the funds. If the amount is over \$1,000.00, the case should be referred to IFM.

8.3.3. Programmatic Infractions

There are times when it is difficult to discern whether an improper payment occurred due to willful misrepresentation or is simply the result of a client/provider's genuine confusion over subsidy program rules and responsibilities. When the case worker believes that overpayment is result of the client's failure to understand, it is a programmatic infraction. It is the CCR&R's responsibility to collect improper payments in this instance, regardless of the amount.

8.3.3.1.Examples of Programmatic Infractions:

- A. The child's parent gives the provider permission to sign the children in and out on the sign in sheets. This is a violation of sign in and out procedures, but it is not forgery.
- B. The client gets married during his certificate period and does not report the household addition until the next status check. The client could reasonably argue that he failed to understand program rules requiring the reporting of changes within five days.

8.3.3.2.If the case manager is ever in doubt of whether the improper payment is a programmatic infraction or misrepresentation, the case manager should discuss the case with her supervisor. The supervisor can call upon the regional Fraud Investigator for additional advice on how to proceed.

8.4. Referrals to Investigations and Fraud Management

8.4.1. Procedure for Referrals.

If the overpayment is \$1000 or greater and is due to misrepresentation by the client or provider, the case manager should prepare a memo explaining the circumstances, the time period, and an estimate of the amount involved.

8.3.1.1.Indicate person (s) who can verify the information and attach copies of all documentation including ECE-CC-10-A (Payment Form) and attendance sheets ECE-CC-10-G, that help support the complaint. The memo should also state what corrective action the case manager has taken on the case. The memo and supporting documents should be sent to:

Department of Health & Human Resources,
Office of Inspector General,
Investigations and Fraud Management,
Capitol Complex, Building 6,
Charleston, West Virginia 25305,

Attention: Chief Investigator

8.4.1.1. The client/provider is NOT to be advised that a referral has been made. If questioned, advise the client/provider that the matter has been referred to another unit for evaluation. DO NOT indicate that fraud is suspected.

8.4.2. When Not to Refer to IFM.

There are times when cases should not be referred to Investigations and Fraud Management regardless of the amount of the improper payment. It is the CCR&R's responsibility to recover payments in this instance. Referrals should not be made when:

8.4.2.1. More than two years have passed since the misrepresentation period ended.

8.4.2.2. The case manager did not collect appropriate case verifications or process the case correctly.

8.4.2.3. Information affecting eligibility was previously reported and the agency did not take corrective action.

8.4.2.4. If the case manager believes the client/provider is not mentally competent or did not understand his responsibilities to report changes in his circumstances.

8.5. Recovery of Overpayments

8.5.1. When an overpayment or misrepresentation of \$1000 or less is discovered, either to/by a client or provider, the CCR&R worker should immediately notify the supervisor.

8.5.2. Supervisors are responsible for negotiating repayment schedules with providers and/or clients and completing a Repayment Agreement (ECE-CC-19) to include the amount to be recovered, the period of recovery, the monthly recovery amount, and the procedure for repayment. When a Child Care Benefit Repayment Agreement (ECE-CC-19) is entered into, the CCR&R shall send a copy of the completed and signed agreement to:

WV DHHR BCF OF&A
Attn: Jean Sheppard
350 Capitol Street, Rm. 730
Charleston, WV 25301

8.5.3. If intentional misrepresentation may have occurred and the provider/client remains active, it is recommended that the CCR&R worker try to collect the payment in full. If this is not feasible, it is suggested that the R&R worker request that the client or provider be asked to repay the amount in monthly installment payments of approximately 10% of the amount due.

8.5.4. Payment schedules should be sufficient to recover the amount due within a reasonable time period but should not pose an undue hardship on a client. The amount of payment should not exceed living costs. Payments must be made by money order.

8.5.5. When a check needs to be cancelled or an overpayment/repayment submitted, the CCR&R agency shall submit the payment/check and form (ECE-CC-68) to the closest DHHR District Office.

8.5.6. If a payment is more than forty-five (45) days late, the entire unpaid balance becomes due and must be paid in full. Failure to repay the requested amount shall result in case closure for clients or denial of participation in the certificate system for child care providers. Client services will not be reinstated until full payment is received.

8.6. Subsidy Participation and Improper Payments

8.6.1. Clients.

8.6.1.1. Clients who owe repayment are not eligible to participate in the subsidy system as providers until the balance is paid in full.

8.6.1.2. Clients who have been notified of the need to enter into repayment, but fail to respond within 13 days, are not eligible to participate in the subsidy system until the full amount due is paid.

8.6.2. Unresolved Fraud Referrals and New Applications.

If a client whose case has been referred to fraud reappplies, the worker should accept the application and process it as usual. A client's circumstances may have changed since the alleged misrepresentation occurred. Pending criminal action has no bearing on current eligibility, unless more recent verification indicates misrepresentation still exists.

8.6.3. Providers.

Providers owing repayment, who apply as clients must enter into a repayment agreement before receiving a certificate.

8.6.4. Substantiated Misrepresentation in Child Care or other DHHR Programs.

If there is substantiated misrepresentation by a person in any DHHR administered program (TANF, Child Care, Food Stamps, etc.), that person shall be prohibited from participation in the subsidy program as any type of child care provider, including Registered Family Child Care, Registered Informal or Relative Family Child Care, Family Child Care Facility, Approved In-Home Child Care, Unlicensed School-Age Programs and Licensed Child Care Centers. This means that the person cannot:

8.6.4.1. Have contact with child care children.

8.6.4.2. Be involved in the child care business or day to day operations.

8.6.4.3. Be employed or used as a substitute in the child care program.

8.6.4.4. However, if the person makes full restitution of the total amount of the misrepresentation, a one-time waiver may be considered. The person must request the waiver in writing, and the R&R shall forward the request to the Division of Early Care and Education for approval/denial.

8.6.4.5. Child care providers of any type, with substantiated misrepresentation in any DHHR program, may continue to operate as unsubsidized child care providers, and serve only private pay children. Certificates of Registration and/or Licenses shall not be revoked for substantiated misrepresentation. Neither WV Code nor promulgated child care regulations

prevent the issuance of Certificate of Registration or Licensure based solely on substantiated misrepresentation.

8.6.5. Exceptions for WV Works Participants.

WV Works participants are subject to the same Recovery of Overpayment efforts as non-TANF Child Care recipients. However, when making repayment arrangements, the supervisor or case worker should consider the impact of payment schedules and amounts on very low income WV Works clients. When possible, graduated repayment arrangements can be considered, such as increasing the amount due per month as the client's income increases. If a WV Works client fails to make repayment arrangements, or becomes delinquent, case managers should consult with WV Works supervisors and case managers to see if a joint counseling session with the client can be scheduled to reinforce program requirements. If no agreement can be reached, and the client fails to repay amounts due the agency, services will be closed.

8.7 Billing Form Discrepancies

8.7.1 Using Critical Thinking

As the CCR&R worker compares billing forms and sign in and out sheets to the parent's need for care in FACTS, discrepancies may appear. The R&R worker should use critical thinking techniques to determine whether or not the payment should be authorized. Critical thinking is a disciplined process of arriving at logical conclusions from available information. This means that the worker should analyze information, evaluate alternatives, and select the best conclusion based on information that is known. Conclusions should be based upon facts, be free of personal biases and preconceived thoughts and reflect a rational position. Workers should also remember that child care providers rely on child care reimbursements to keep their businesses viable.

For example:

Sally works at Bob's Grocery Store. Since she has been with her employer for a long time, she receives the perk of a regular schedule, and has reported that she works 7 AM to 4 PM, Tuesday through Saturday.

However, in January, you receive a billing form and sign in and out sheets that show that Sally has used care on Saturday nights from 8 PM to 12 PM, and on Mondays from 3 PM to 9PM, in addition to her usual 6:30 – 4:30, Tuesday through Saturday.

Sally has been a client for two years, and this is the first time you have ever seen any discrepancy occur.

Should the worker:

- A. Send the billing form back to the provider.
- B. Authorize the entire payment.
- C. Authorize partial payment and send a letter to Sally requesting verification of need for care on additional days.
- D. Hold the entire bill until clarification is received.

The correct answer is C - authorize payment for the days that match Sally's regular work schedule, and request additional information regarding the other days. There are many potential explanations for the odd days: Sally could be filling in for a sick co-worker, or her employer could have required her to attend training. The worker should remind Sally of her responsibility to inform her worker of any changes in work schedule or need for care.

However, the answer could be different if the worker has previously had issues with Sally's provider. If the worker has reason to suspect the provider of attempting to over bill, the correct answer would be to call Sally and ask her if she did indeed use care on those days. The correct answer could be different still if both Sally and her provider have a history of failure to follow program guidelines. Workers should base payment authorization decisions on known client history, known provider history, and available case data and verifications, in conjunction with supervisory input.

8.7.2. How to Address Use and Billing for Unauthorized Days and Times

8.7.2.1. If the majority of the time billed matches the client's reported activity schedule, and authorizing the payment at this time will not interfere with the 13-20 day monthly payment calculation, the worker should:

- A. Authorize and process payment for all days that match the reported activity schedule.
- B. Send a letter to the provider, reminding the provider to refer to the time and schedule limits on the child care certificate when preparing billing forms. Remind the provider that days of care provided outside of times allowed on the certificate are considered private pay days unless the client has received approval from the case manager to use additional days of care. Advise the provider that the client will have 13 days to provide verification of the need for care during the days/times that do not match the reported schedule. If such verification is not received, the client will be responsible for payment for the remaining days.
- C. Send a 13 day notice to the client requesting verifications that support the need for care on the additional days and advising the client that if such verifications are not received, that the client will be responsible for payment to the provider. The client should also be reminded at this time of the responsibility to report changes in activity schedules as soon as possible to avoid payment delays for their provider and to avoid possible thirty day penalty closures for failure to comply with program requirements.
- D. If the client provides documentation of eligible activity participation for the excess days within the allotted time frame, the worker should authorize and process the additional payment. The case manager should also document the additional payment in the client's FACTS contact screen.

8.7.2.2. If the majority of the time billed matches the client's reported activity schedule, but authorizing the payment at this point would interfere with the 13-20 day monthly payment calculation, OR if the time billed does not match the client's reported activity schedule at all, the worker should:

- A. Send a letter to the provider, reminding the provider to refer to the time and schedule limits on the child care certificate when preparing billing forms. Remind the provider that days of care provided outside of times allowed on the certificate are considered private pay days unless the client has received approval from the case manager to use additional days or an altered schedule of care. Advise the provider that the client will have 13 days to provide verification of the need for care during the days/times that do not match the reported schedule. If such verification is not received, the provider will be paid for the total number of days that match the client's reported schedule, and that the client will be responsible for payment for the remaining days. The provider should be advised that she may call and request payment for the authorized days,

exchanging quicker payment for the full monthly rate. The worker should authorize and process payment for schedule matching days at the provider's request, making sure to remind the provider of any potential lost funds due to the loss of the 13 – 20 day monthly rate.

- B. Send a 13 day notice to the client requesting verifications that support the need for care on the additional days and advising the client that if such verifications are not received, that the client will be responsible for payment to the provider. The client should also be reminded at this time of the responsibility to report changes in activity schedules as soon as possible to avoid payment delays for their provider and to avoid possible thirty day penalty closures for failure to comply with program requirements.
- C. If the client provides documentation of eligible activity participation for the unauthorized days/times, the worker should authorize and process the entire payment. The case manager should also document the payment delay and reasons for any additional authorizations in the client's FACTS contact screen.
- D. If the client does not provide documentation of eligible activity participation for the unauthorized days/times with the required time frame, the worker should authorize and process the payment only for days that match the reported activity schedule, if any.

8.7.2.3. Clients who fail to notify staff of changes in activity schedules after previously being notified of their responsibility to do so shall be given a thirty day penalty closure for each offense after the second warning.

8.7.2.4. Providers who repeatedly bill for days in excess of the certificate allowance shall be called in for retraining on the child care certificate provisions after the second warning.

CHAPTER 9: CHILD CARE RESOURCE AND REFERRAL PROVIDER ORIENTATION AND PAYMENT ENROLLMENT

9.0. General Provisions

Since Child Care Centers and Family Child Care Facilities are required by law to be licensed prior to accepting either private-pay or subsidized children for care, they generally come into the child care system because of regulation. Some home-based providers also enter the child care system for regulation because they care for children privately or want to be placed in the R&R's referral system or wish to participate in the Child and Adult Care Food Program. These regulated programs/providers do not participate in enrollment unless and until they accept certificates. If they initially come to the CCR&R office for information, the worker shall provide a registration packet and refer them to the child care regulatory specialist. If they telephone or e-mail the R&R for information, they shall be referred to the child care regulatory specialist and must apply directly to the DHHR District Office for registration as a family child care provider.

Unregulated providers such as in-home providers and after school programs, come into the system when they agree to accept certificates. These providers who are selected by parents must attend enrollment within 30 days of the family's application for child care.

9.1. Overview: Enrolling Providers in the Subsidy System

Any family child care provider who seeks to be reimbursed through the child care certificate system must attend enrollment through their local CCR&R. Enrollment consists of two distinct parts: orientation and payment training. Providers need attend enrollment in only one county even if they care for children from more than one county. The provider shall be informed that no payment will be made to any person or facility operating an unlicensed center, an unlicensed family child care facility or an unregistered family child care home using the following guidelines:

9.1.1. When the parent selects a new family child care provider or one who has been closed:

9.1.1.1.The provider shall enroll within thirty (30) days of the parent's application for child care services or notification of a change in provider.

9.1.1.2.Payment shall be backdated to the date of application or notification, and continued until the decision on the provider's application for registration to operate a family child care home.

9.1.1.3.If the provider fails to enroll within thirty (30) days, she will not be eligible for payment.

9.1.2. Should the application for registration or approval be denied:

9.1.2.1.The child care regulatory specialist informs the CCR&R worker, who then sends appropriate notices to the parent and provider applicant.

9.1.2.2.Generally, a 13 day termination notice will be given to enable the parent to locate a new provider.

9.1.2.3.The provider will be paid during this period unless the child care regulatory specialist determines that immediate removal from the provider's home is necessary to ensure safety of children.

9.1.3. During the regulatory assessment process, if the child care regulatory specialist determines that the provider applicant has misrepresented facts or is not truthful on the background check section of the application for registration or approval, the application is denied and subsequent applications will not be accepted.

9.1.3.1.The child care regulatory specialist shall note reasons for denial in the comments section of the closure screen.

9.1.3.2.Additionally, the child care regulatory specialist and the CCR&R worker may jointly decide to deny payment for the period of child care already provided. However, this action should be taken with caution and only after considering the impact on the parent who may then be responsible for the payment.

9.1.3.3. If the provider has been either denied approval or has had a certificate of registration revoked, no payment will be made until an approval is given or a certificate of registration is received. An on-site inspection is necessary prior to registration.

9.1.4. Notifications to Parents and Providers

9.1.4.1.The DAY-0179 is used by CCR&R staff to notify parents of issues regarding the provider's status, i.e. when they must find a new provider because of enrollment or regulatory problems with a current provider. The R&R worker shall also offer assistance with locating other providers who are available and accessible to the parent.

9.1.4.2.The CCR&R worker uses the Provider Notification – Parent Eligibility (DAY-0613) to inform providers of any action regarding client eligibility/fees.

9.1.4.3.The CCR&R worker uses the Cancellation of Provider Services Contract Notice (DAY-0504) to cancel the provider contract.

9.2. Use of Providers in Other Counties and States

9.2.1. When a parent selects a family child care provider in another county, the R&R in the provider's county of residence should complete enrollment for funding and forward the necessary payment information to the parent's worker. Registration and monitoring shall be done by a child care regulatory specialist covering the provider's home county. Client intake and payment will be completed by the R&R agency operating in the client's home county.

9.2.2. When a parent selects a provider in another state, the R&R worker shall notify the applicant that payment may be made only if the provider is regulated in her home state, i.e., registered or licensed. The R&R worker shall require the provider to submit written verification of regulation which shall be forwarded to the child care regulatory specialist. While an out of state provider must be entered in FACTS, the child care regulatory specialist is not responsible for regulation but must keep track of renewal dates in order to insure the provider remains in compliance. After the provider verifies regulation, she may enroll for funding and receive payment.

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- 9.2.3.** For centers, Licensing Specialists shall enter the center in FACTS upon receipt of verification from the facility that they have a valid license in another state. Unlicensed school age child care programs from other states may not enroll for funding in WV.

9.3. Child Care Provider Orientation

Orientation components are intended to collect information necessary to facilitate registration of child care providers, and to provide technical assistance and information on topics such as available training, regulatory requirements, and referral procedures.

The orientation process should be completed during individual office interviews or during group provider orientation. For new providers, including providers who have been closed over twelve months, the R&R worker shall schedule a meeting within thirty (30) days of client application.

9.3.1. Orientation Components

During the orientation/enrollment session, the R&R worker and provider shall:

9.3.1.1. Complete Required Enrollment Forms

9.3.1.2. Discuss the type of care to be provided and related regulatory requirements.

9.3.1.3. Discuss various resources for providers, such as Child and Adult Food Program, grants, earned income tax credit, online resources, etc.

9.3.2. Best Practices for Orientation

9.3.2.1. Whenever possible, a child care regulatory specialist should attend orientation. The regulatory specialist can provide technical assistance, explain regulatory requirements, and give potential providers an overview of a monitoring visit. Regulatory Specialists may also use this opportunity to fingerprint potential providers.

9.3.2.2. Registered only providers may choose to attend orientation if the CCR&R has an open slot. The R&R may give priority to those registered only providers wishing to receive child care referrals. Child care regulatory specialists shall not require R&R orientation attendance as a requirement for registration, as registration is a self certification process.

9.3.2.3. CCR&R's may choose to hold a separate "introduction to providing child care" class that any potential provider may attend to receive information on regulations, running a business, and other topics of interest.

9.3.2.4. When possible, separate orientation sessions should be held for informal/relative providers and registered family child care providers, as forms and regulatory requirements for each type differs.

9.3.2.5. R&R's should add additional information, including websites, resource sheets, zoning requirements, etc. to cover specific local community requirements as needed.

9.4. Orientation Procedures

9.4.1. Completion of Required forms:

9.4.1.1. See each provider type chapter for a list of forms required for enrollment.

- A. Informal and Relative Family Child Care: Chapter 15, Section 1.2.
- B. Registered Family Child Care: Chapter 16, Section 2.

9.4.1.2. The CCR&R worker shall copy the last page of the ECE-CC-8 for the provider, if applicable to the type of care provided.

9.4.1.3. The worker shall review the information on the forms to ensure compliance with policy. The CCR&R worker shall inform the providers that:

- A. Providers must be at least eighteen (18) years of age.
- B. Providers shall not be paid for child care if they are the child's parent, step-parent, legal guardian or another member of the family's as defined by child care policy.
- C. Informal, Relative and Registered family child care providers may not operate more than eighteen consecutive hours in a twenty-four hour period.
- D. Caregivers who also provide other services such as foster care or adult care (See Chapter 10, Section 3) must contact their regulatory specialist to discuss whether or not they are eligible to become a child care provider.

9.4.1.4. Special Notes on completing the Authorization and Release for APS/CPS Record Check (ECE-CC-8A) and the Statement of Criminal Record (ECE-CC-8B). Providers should be informed of the following:

- A. A criminal history background check and a CPS/APS background check is required of them and all adult household members.
- B. If the provider discloses that she or any household member has had convictions of crimes, the CCR&R worker shall inform her that she should contact her Child Care Regulatory Specialist immediately.
- C. The provider shall also be informed that any misrepresentation, untruthful information, or failure to include relevant information on the background check attachments of the application for registration/approval will result in denial of the certificate of registration/notification of approval. In addition, any subsequent application will be denied.
- D. If background checks reveal undisclosed incidents of serious maltreatment of children or adults, or convictions of crimes involving violence, payment for child care services may be terminated immediately and no additional payment made.

9.4.1.5. Provider Tax Identification Reporting Forms (W-9's) shall be completed during provider orientation

9.4.2. Regulatory Requirements

9.4.2.1. Distribution of Forms

The worker should distribute the:

- A. Regulation for Family Child Care Homes (ECE-CC-9), or Regulations for Informal and Relative Providers (ECE-CC-6IR), as appropriate. The self-certification checklists must be returned to the appropriate child care regulatory specialist within 30 days of enrollment.
- B. Providers shall also be given a set of the full regulations for the appropriate type of care in addition to the checklists.

9.4.2.2. Discussion of Regulations:

- A. The worker should discuss regulatory requirements and show the Family Child Care Regulations Power Point Presentation. The discussion should include examples, i.e. the provider's hours of operation shall not exceed more than eighteen (18) consecutive hours in a 24 hour period.
- B. Training Requirements: Family child care providers must attend training based on provider type:
 - 1.) Registered family child care providers are required to attend eight (8) hours training annually.
 - 2.) Registered informal and relative family child care providers, and approved in-home family child care providers must attend two (2) hours of health and safety training, and perform one (1) hour of self study annually.
 - 3.) All providers must:
 - a. Either complete the SIDS self study guide (ECE-CC-28) or attend approved SIDS training.
 - b. Either complete the Shaken Baby Syndrome Self Study Guide (ECE-CC-29) or attend approved Shaken Baby Syndrome training.
 - 4.) A variety of training opportunities will be offered to all providers on a statewide basis through the R&R agencies and through a statewide early childhood training calendar and resource initiative. The West Virginia Early Childhood Training Connections and Resources offers a calendar of training opportunities; providers may call 1-888-983-2827 for more information.
- C. The discussion should also cover special regulatory concerns such as the provision of foster care or adult care (See Chapter 10, Section 3, Dual Provider) and background check requirements.
- D. The worker should also discuss the implications of becoming a child care provider as it relates to the mandated reporting of child abuse and neglect.
- E. The worker should discuss the importance of Responsible Pet Ownership using the Child Care and Responsible Pet Ownership Booklet (ECE-CC-10K), and hand out the Pet Acknowledgement Form (ECE-CC-10J) to those providers who own pets.

9.4.3. Resource Information for Providers

CCR&R workers should present child care providers with information on the following topics:

9.4.3.1. Setting up Child Care Records:

The worker should inform the provider that it is their responsibility to maintain their own business records. Records should be kept on both the provider and the child care children and contain:

A. Provider's Record:

- 1.) A copy of the providers medical form (ECE-CC-3B or 3C.)
- 2.) A copy of the Provider Services Agreement (DAY – 0546.)
- 3.) ECE-CC-10J: Pet Acknowledgement Form.
- 4.) ECE-CC-22: Family Child Care Provider Training Record, plus proof of training attendance.
- 5.) ECE-CC-23: Fire Escape Plan.
- 6.) ECE-CC-24: Emergency Phone List.
- 7.) ECE-CC-28: Sudden Infant Death Syndrome Study Guide and Quiz.
- 8.) ECE-CC-29: Shaken Baby Syndrome Study Guide and Quiz.
- 9.) The Child Care Provider Services Agreement (DAY-0546)

B. Children's Records:

- 1.) Emergency Information Forms (ECE-CC-10-E). The provider shall require a completed and notarized form before a child is placed in her care.
- 2.) Child Health Assessment Forms (ECE-CC-3):
 - a. The provider is required to keep current medical information on each child placed for care who has not yet reached a sixth (6th) birthday (See Chapter 2, Section 2.2.2.1.)
 - b. The provider shall inform the parent that care will be terminated if the medical form is not returned.
 - c. Providers must notify the R&R agency when the parent does not return the form(s) within thirty (30) days of placement.
 - d. The R&R worker will then send 13-day closure notices.
- 3.) ECE-CC-10E: Emergency Information/Permission Form.
- 4.) ECE-CC-25: Medication Permission Slips if needed.
- 5.) Child Care Certificate (DAY-0176), if applicable.

C. Other forms to have on hand:

- 1.) ECE-CC-30: Periodicity Schedule, to give to parents.
- 2.) ECE-CC-26: Incident Report Form, to complete and return in the event of an accident.

D. Business and billing records.

E. File for correspondence from or to agencies, parents, etc.

9.4.3.2. Information on Working with Parents

The CCR&R worker should emphasize the importance of communication and cooperation between the provider and parents.

- A. If problems occur, the R&R worker will not routinely become an arbitrator to enforce the provider's rules.

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- B. A provider must accept responsibility for operation of her business, including dealing with a parent's failure to meet her expectations and rules.
 - C. The provider retains the option of terminating services if parents fail to cooperate.
 - D. Providers are encouraged to establish written rules or develop a handbook so that parents are fully aware of the provider's expectations.

9.4.3.3. Taxes

The provider is responsible for paying Social Security and Federal and State taxes.

- A. The worker shall inform providers that they are not employed by the state of West Virginia. Child care providers are self employed.
- B. The worker shall inform providers that DHHR is required to submit payment information to the Internal Revenue Service and provide them a 1099 form as specified on the payment instruction form (ECE-CC-10B). The state does not withhold taxes from the child care provider's reimbursement.
- C. The worker shall refer all tax-related questions or problems to the appropriate federal or state agency.
- D. Providers are exempt from payment of consumer sales tax on funds paid by DHHR, but may be responsible for these taxes on parent fees.
- E. Workers should inform providers of the Earned Income and Child Tax Credits.

9.4.3.4. Accreditation

Providers should be informed of the benefits of accreditation. The R&R worker or provider may also access the Division of Early Care and Education web site at <http://www.wvdhhr.org/> to find links to the following accrediting agencies:

A. For child care center providers, the accrediting agency is the:
National Association for the Education of Young Children
1313 L Street, N.W. Suite 500
Washington, D.C. 10005
Phone: 202-232-8777 or 1-800-424-2460
<http://www.naeyc.org>

B. For family child care providers:
National Association for Family Child Care
Attention: Accreditation
5202 Piedmont Drive
Salt Lake City, Utah 84123
Phone: 1-800-359-3817
Fax: (801) 268-9507
Website: <http://www.nafcc.org>

C. For school-age child care accreditation:
National Afterschool Association
529 Main Street, Suite 214
Charlestown, Massachusetts 02129
Telephone: (617) 778-6025
Fax: (617) 778-6025
Website: www.naaweb.org

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- D. For multi-service/site organizations that have COA accreditation with a child care site meeting COA's ECCE standards:

Council on Accreditation
120 Wall Street, 11th Floor
New York, NY 10005
Telephone: (212) 797-3000
Web site: www.coanet.org

9.4.3.5. Child and Adult Care Food Program

The R&R should provide information on the local sponsor of the federally funded program providing training and reimbursement for meals served by home based child care providers.

9.4.3.6. Birth to Three

The worker should provide information on WV Birth to Three. Birth to Three is a statewide system of services and supports for children under age three who have a delay in their development, or may be at risk of having a delay, and their family. The Department of Health and Human Resources, through the Bureau for Public Health and the Office of Maternal, Child and Family Health, WV Birth to Three, as the lead agency for Part C of the Individuals with Disabilities Education Act (IDEA), assures that family centered, community based services are available to all eligible children and families.

9.4.3.7. Child Care Resource and Referral Resources

The worker should provide information on R&R resources:

- A. Training.
- B. Behavior Support Consultant.
- C. TRAILS.
- D. Infant Toddler Specialist.
- E. Newsletter.
- F. Website.
- G. Grants.

9.4.3.8. WIC

The worker should provide information on WIC. WIC is the Special Supplemental Nutrition Program for Women, Infants and Children. WIC was established in 1972, as a pilot project following a national survey that found anemia and inadequate growth to be common among American children in low-income families. In 1974, WIC was established as a discretionary program, available throughout the United States. WIC is primarily funded through the United States Department of Agriculture. It is administered by the West Virginia Bureau for Public Health, Office of Nutrition Services.

9.4.3.9. Zoning

The CCR&R should add zoning information and contacts to the orientation session as applicable by area.

9.4.3.10. List of Child Care Regulatory Specialists

The R&R should include a list of local child care regulatory specialists and contact numbers.

9.5. Provider Payment Training

All child care providers, including in-home child care providers, family child care homes, informal and relative family child care homes, family child care facilities, licensed centers and unlicensed school age child care programs, who have subsidized children must complete the payment enrollment process before reimbursement is made. The R&R worker shall explain the payment process, including:

9.5.1. Discussion of Billing Procedures and Forms

The worker should provide a detailed discussion of billing procedures and required forms.

9.5.1.1. Request for Payment (ECE-CC-10-A). The provider should be given a supply of payment form requests.

9.5.1.2. The provider shall be given a copy of the ECE-CC-10B (Payment Instructions.)

9.5.1.3. Fee Collection Procedures (ECE-CC-10C)

Information on Collecting Fees: The R&R worker should explain the fee collection process as outlined in Chapter 6, Parental Child Care Fees Section, and give the provider a copy of Instructions for Collecting Fees (ECE-CC-10-C). The provider shall collect any applicable fees from the parent. The provider should also be informed that:

- A. Fee amounts will be deducted from the provider's payment.
- B. The provider shall be responsible for billing the parent for this fee, and for providing receipts upon request.
- C. Upon request, the R&R shall provide copies of Parent Fee Notices (ECE-CC-10D) a billing and receipt form.

9.5.1.4. Child Care Attendance Sheets (ECE-CC-10G.) The CCR&R worker shall also give the provider a supply of Child Care Attendance Sheets. These forms shall be used by providers to verify attendance of all children in care, including private children. A copy shall be mailed with the provider's payment form and a copy shall remain in the provider's file for use by child care regulatory staff to verify compliance with staff/child ratios and for review by any auditors or DHHR investigators. Child care centers may choose to use this form or another of their own design.

9.5.1.5. The Child Care Provider Services Agreement (DAY-0546) – The DAY-0546 is a FACTS generated form that shall be signed by the worker and provider once the form has been thoroughly discussed.

- A. The provider must be willing to comply with each requirement as agreements will not be altered.
- B. The provider is given a copy of this form for record keeping and a signed copy is filed in the provider record.
- C. The provider may be asked to renew this agreement every two years, or more often if changes are made to the program.

9.5.1.6. Child Care Certificate (DAY-0176) – The R&R worker shall explain the Certificate in full to the child care provider, stating:

- A. Certificates are valid for no longer than a six (6) month period.

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- B. The expiration date is noted on the Certificate.
 - C. A new Certificate must be received before the expiration date in order for payment to continue.
 - D. The provider should not accept a child for care without a Child Care Certificate or Provider Notification Letter – Parent Eligibility (DAY-0613).
 - E. If a provider does not have a Certificate, she will not be paid for care.
 - F. A Certificate must stay with the provider as long as he or she provides care.
 - G. Certificates shall be kept on file for the period of eligibility.
 - H. A provider will not be paid for care beyond the expiration date of the certificate.

9.5.2. Discussion of Payment Rates and Tiered Reimbursement The provider’s payment rate shall be determined using charts in Appendix B, Provider Payment Rates. Providers should be informed of the ability to receive higher reimbursements for achieving higher standards of quality through the Child Care Tiered Reimbursement System. Three different rates are available based on the level of quality. Programs that are licensed as a center or facility and registered family child care homes are currently receiving Tier I rates through the child care subsidy program. Programs that meet additional standards called Tier II Quality Standards receive \$2 extra per actual day of service. Programs that are accredited by an approved accrediting agency currently receive Tier III rates of \$4 extra daily. Applications for tiered reimbursement are processed through the State Division of Early Care and Education at:

WEST VIRGINIA DEPARTMENT OF HEALTH AND HUMAN RESOURCES
DIVISION OF EARLY CARE AND EDUCATION
ATTN: JESSICA CROUCH
350 CAPITOL STREET, ROOM B-18
CHARLESTON, WV 25301

9.5.3. Provider Records A reminder that the provider is responsible for maintaining business and financial records.

9.5.4. Payment Training Quiz (ECE-CC-10H)

Once the provider has been trained on correctly completing payment request forms, the CCR&R worker should administer the Payment Training Quiz. Providers should complete the quiz, then self score the quiz as the CCR&R worker discusses the correct answers (Payment Training Quiz Answer Sheet, ECE-CC-10I) with the group.

9.6. FACTS Process for CCR&R Staff

- 9.6.1.** CCR&R staff shall complete FACTS Intake screens (not the Outcome Screen), using the information collected during enrollment.
- 9.6.2.** The worker shall fill out the Child Care Provider File Cover Sheet (ECE-CC-4) noting any areas of concern to the regulatory specialist and shall transfer the case record to the appropriate DHHR Supervisor, who assigns a child care regulatory specialist to the provider for regulation or approval.
- 9.6.3.** All further information on the provider, except payments, is entered in FACTS by the child care regulatory specialist.
- 9.6.4.** The CCR&R shall make and retain a copy of the completed enrollment forms, including the ECE-CC-4, ECE-CC-7, ECE-CC-8, and the W-9.
- 9.6.5.** The CCR&R shall send the originals to the Regional Supervisors.

9.7. Provider Tax Identification Reporting Forms (W-9's)

W-9s are completed during the provider enrollment process and for address changes. Due to the importance of the tax identification form, copies of the W-9 shall be maintained in both R&R and DHHR files. A provider will not be paid unless there is a correct W-9 on file, and providers cannot be closed in FACTS unless complete W-9 information is entered in the system.

9.7.1.1.The R&R staff shall forward the original copy of the W-9 to the child care regulatory specialist.

9.7.1.2.The regulatory specialists shall enter the FACTS identification number on the W-9 and submit the original form to:

Office of Finance and Administration
Diamond Building
350 Capitol Street, Room 730
Charleston, West Virginia 25301-3711
Attn: W-9 Enclosed

CHAPTER 10: PROVIDER REGULATION: GENERAL PROVISIONS

10.0. Legal Authority

Provider regulation is governed by both state and federal law.

10.1. Federal Regulations

Federal regulations require the state to establish basic health and safety requirements for all providers receiving child care funds. Those programs receiving child care funds which are not required to be regulated by state law, shall agree to regulation through Child Care Provider Services Agreements in order to meet federal requirements and participate in the certificate program.

10.2. West Virginia Human Services Law

§49-2B, charges DHHR with the responsibility to assure proper and appropriate child care is given and maintained. It further grants the power to promulgate rules governing four types of child care, establishes penalties for failure to comply with rules, sets conditions for regulation, and establishes requirements for supervision, monitoring, and investigations.

10.2.1. Regulatory supervision is required by WV Code, Chapter §49-2B-9.

10.2.2. Supervision is to ascertain compliance with the rules and is conducted through regular monitoring, visits, documentation, evaluation, and reporting.

10.2.3. Child care centers are monitored by licensing staff in the Division of Early Care and Education.

10.2.4. Child care regulatory specialists are responsible for regulating all other types of child care, including subsidized in-home care providers, registered informal and relative family child care, registered family child care providers, licensed family child care facilities, and subsidized unlicensed school age child care programs.

10.2.5. Child care regulatory specialists and licensing staff are to act in a professional manner, abide by the NASW Code of Ethics, and are expected to treat providers as professionals.

10.3. Dual Providers.

Occasionally, an applicant to provide child care may also be providing other home-based care services. The demand placed on a provider who serves dual client populations often become excessive, reducing the level of service to all clients and disrupting the provider's household.

10.3.1. A person shall not be approved as a family child care provider when the person is already providing another home based service for the Department, another agency or privately, unless a special approval is granted.

10.3.2. If the provider is providing another service for the Department, then written approval is obtained from both program supervisors and staff. If the provider is engaged in other home based services, either privately or through another agency, then the child care regulatory specialists do not need to consult with anyone outside of DHHR. All other child care policies and regulations apply.

10.3.3. Before agreeing to these arrangements, the worker(s) and supervisor(s) of both programs should evaluate all aspects of the situation to determine that this is indeed the best possible arrangement in view of the ages, needs and problems of the children and adults.

10.4. Inspection and Investigation

10.4.1. Self Certification

With a self-certification regulatory process, periodic on-site inspection is not generally required. However, state law requires that a random sample of not less than five (5) percent of the total number of registered informal, relative and family child care homes receive an on-site evaluation. In addition, when public funds are involved, concern about the safety and quality of child care is paramount. Therefore, an on-site evaluation is completed on all registered family child care home providers who enter into a Provider Services Agreement to participate in the Child Care Certificate System.

10.4.2. Onsite Inspections.

On site inspections are required prior to issuing a license for child care centers and family child care facilities. During on-site inspections, child care regulatory specialists shall have access to all aspects of the home or facility in order to complete a reasonable inspection. This means that DHHR staff may observe anything within sight during the visit, have access to all household members and children in care and may ask the provider to demonstrate compliance with specific items not within sight of the Child care regulatory specialist. If the child care provider has achieved Tier II or Tier III status on the Quality Rating and Improvement System Scale, the regulatory specialist should request to see the required supporting documentation notebook.

10.5. Overview of On-Site Visits:

10.5.1. Initial visits for the purpose of evaluation and assessment should be scheduled. The child care regulatory specialist or designee should contact the provider by telephone when a scheduled visit needs to be postponed or canceled.

10.5.2. Subsequent monitoring visits may be announced or unannounced.

10.5.3. All contacts with providers are to be recorded in FACTS.

10.5.4. During an on-site visit, the child care regulatory specialist shall first review the application and note any changes, then complete the evaluation tool specified for the particular type of provider being inspected.

10.5.5. The checklist must also be entered in FACTS with the "Creation Date" corresponding with the date of the monitoring visit or the date the checklist is received from the provider.

10.5.6. The Child Care Regulatory Specialist may also use the monitoring visit to complete any fingerprints as necessary for a criminal record background check.

10.6. Initial Evaluation.

On-site evaluation shall be conducted when a provider participating in the child care certificate system submits an application.

10.6.1. Initial on-site visits shall be completed within sixty (60) days of receipt of a complete application by the child care regulatory specialists.

10.6.2. A complete family child care application should include:

- 10.6.2.1.** ECE-CC-9: Health and Safety Requirements for Family Child Care Homes;
- 10.6.2.2.** ECE-CC-8 : Application to Operate a Family Child Care Home;
- 10.6.2.3.** ECE-CC-8A: Authorization/Release for APS/CPS Background check;
- 10.6.2.4.** ECE-CC-8B: Statement of Criminal Record;
- 10.6.2.5.** ECE-CC-7: Child Care Provider Information Form;
- 10.6.2.6.** W-9 – Tax Information
- 10.6.2.7.** A copy of the ECE-CC-3C: Child Care Provider Medical Form;
- 10.6.2.8.** A copy of the completed ECE-CC-28: Sudden Infant Death Syndrome Quiz;
- 10.6.2.9.** A copy of the ECE-CC-29: Shaken Baby Syndrome Quiz.

10.6.3. A complete Informal and Relative Family Child Care Application should contain:

- 10.6.3.1.** ECE-CC-6IR: Health and Safety Requirements for Informal and Relative Family Child Care Homes;
- 10.6.3.2.** ECE-CC-8 : Application to Operate a Family Child Care Home;
- 10.6.3.3.** ECE-CC-8A: Authorization/Release for APS/CPS Background check;
- 10.6.3.4.** ECE-CC-8B: Statement of Criminal Record;
- 10.6.3.5.** W-9 – Tax Information;
- 10.6.3.6.** A copy of the ECE-CC-3B: Statement of Good Health.
- 10.6.3.7.** A copy of the completed ECE-CC-28: Sudden Infant Death Syndrome Quiz;
- 10.6.3.8.** A copy of the ECE-CC-29: Shaken Baby Syndrome Quiz.

10.6.4. A complete Unlicensed School Age Application a complete application should contain:

- 10.6.4.1.** ECE-CC-11 Health and Safety Checklist for Unlicensed School Age Care;
- 10.6.4.2.** ECE-CC-8A: Authorization/Release for APS/CPS Background check for each employee;
- 10.6.4.3.** ECE-CC-8B: Statement of Criminal Record for each employee;
- 10.6.4.4.** ECE-CC-7 – Information on Child Care Provider;
- 10.6.4.5.** W-9 – Tax Information;
- 10.6.4.6.** Copy of permits from the state fire marshal’s office and the local Department of Environmental Health;
- 10.6.4.7.** Proof that at least one person on duty is certified in first aid that includes rescue breathing and choke saving.

10.6.5. A complete Family Child Care Facility Application should contain:

- 10.6.5.1.** ECE-CC-15 – Application to Operate a Family Child Care Facility;
- 10.6.5.2.** ECE-CC-8A: Authorization/Release for APS/CPS Background check for the owner and each employee;
- 10.6.5.3.** ECE-CC-8B: Statement of Criminal Record for the owner and each employee;
- 10.6.5.4.** ECE-CC-7 – Information on Child Care Provider;
- 10.6.5.5.** W-9 – Tax Information;
- 10.6.5.6.** A copy of the ECE-CC-3C – Child Care Provider Medical Report for the owner and each employee.

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- 10.6.6. The initial visit should be an announced visit and should be scheduled in advance.
 - 10.6.7. The on-site evaluation shall include a discussion of the requirements to assure the provider understands her responsibilities.
 - 10.6.8. The child care regulatory specialists can also fingerprint adult household members if prints have not been completed.
 - 10.6.9. The checklist for the particular type of provider being monitored is completed during the visit. The provider and the child care staff both sign the checklist.
 - 10.6.10. Any non-compliance issues, areas for concern, or issues that require limitations to be placed on the certificate or license need to be addressed with the provider at the time of the visit and followed up with a written non-compliance report.
 - 10.6.11. Child care regulatory specialists may also provide technical assistance to providers to enable providers to improve the quality, health and safety of care for children in the provider's home.

10.7. Annual Evaluation of Compliance with Registration Requirements.

Annual monitoring visits shall be made to all registered family child care providers participating in the subsidy system and to all family child care facilities. Visits may be announced or unannounced.

10.7.1. Inspection Requirements.

Workers completing these visits will exceed the state legal requirements for monitoring of no less than five (5) percent of the total number of registered informal, relative and family child care homes, so on-site inspections of "registered only" providers is not mandated. If time and case load permit, child care regulatory specialists may conduct on-site evaluations of registered family child care home providers who do not receive subsidy reimbursement.

10.7.2. Abbreviated Checklist for Registered Family Child Care (ECE-CC-9C)

Child care regulatory specialists use the "Abbreviated Checklist for Monitoring Registered Family Child Care Homes" (ECE-CC-9C) for annual mid-certification monitoring visits based on the following guidelines:

- 10.7.2.1. The reviewer shall use the full checklist if there are material changes in the provider's child care environment, e.g., addition of a pool, shift of child care to the basement, serious remodeling of home, addition of outdoor play equipment, etc.
- 10.7.2.2. This abbreviated checklist shall not be used for initial approvals or biennial renewals.
- 10.7.2.3. Registered providers must use the full registration checklist to re-apply for renewal of their registration, and regulatory staff must utilize the full registration checklist to monitor compliance with renewal applications. Registered providers shall comply with all issues contained on the full checklist, although monitored using the shortened format.
- 10.7.2.4. The abbreviated checklist (ECE-CC-9C) is to be completed by the child care regulatory specialist and signed by the provider and the child care regulatory specialist.

10.8. Negative Action

If the home or facility is not in compliance with registration or licensing requirements or §49-2B, the child care regulatory specialist shall take one of the following actions:

10.8.1. Issue an Initial License (Family child care facilities only).

- 10.8.1.1.** An initial license may be issued for a period of up to six months and may not be renewed.
- 10.8.1.2.** An initial license may be issued to a new child care facility that is establishing a new service found to be in compliance on initial review with regard to policy, procedure, organization, risk management, human resources, service environment and record keeping regulations.

10.8.2. Issue a Corrective Action Plan (DAY-0153):

- 10.8.2.1.** Corrective action plans are issued for non-compliance issues that may be corrected typically within 30 days. Longer periods may be given for non-critical items in which stronger action is not considered necessary.
- 10.8.2.2.** The corrective action plan and a Provider Notification (DAY-0503) shall be completed in FACTS and copies sent to the provider;

OR

10.8.3. Issue a Provisional Certificate of Registration or License

- 10.8.3.1.** If the provider needs more than 30 days to correct a deficiency that does not place children at risk of harm or if there are a number of issues that the regulatory specialist deems warrant stronger action, a provisional license or certificate is issued.
- 10.8.3.2.** Provisional certificates/licenses expire six (6) months from the date of issuance, and shall not be consecutively reissued.
- 10.8.3.3.** At the end of the six-month provisional period, the provider must either be eligible for a regular license or certificate of registration or be closed.
- 10.8.3.4.** A Corrective Action Plan (DAY-0153) and a Notification of Provider Regulatory Status (DAY-0503) must accompany the issuance of a Provisional Certificate of Registration;

AND/OR

10.8.4. Place limitations on the License or Certificate of Registration

- 10.8.4.1.** Limits may be placed on a license or certificate based on findings of insufficient space, inadequate sleeping areas, provision of other services in the home, or other reasons as indicated on a corrective action plan.
- 10.8.4.2.** A notification must accompany the certificate or license and the certificate or license must list the limitations placed upon it;

OR

10.8.5. Revoke the License or Certificate of Registration

- 10.8.5.1.** If the provider has a number of areas of non-compliance that are not easily correctable, or has deficiencies that place children at risk of immediate harm, or if the provider demonstrates, by a history of non-compliance, an inability to operate in compliance with standards.
- 10.8.5.2.** The provider must receive a Provider Notification (DAY-0503) citing specific reasons for the revocation, and if necessary, including a statement that future applications shall be denied.
- 10.8.5.3.** Child care regulatory specialists notify the R&R agency when the Certificate of Registration or license is issued with limitation or conditions, or if the registration or license is revoked
- 10.8.5.4.** The provider may reapply if the areas of non-compliance are corrected, but the home must be inspected and compliance confirmed before the child care certificate is issued (See Chapter 16, Section 4.3. Special Circumstances).

10.9. Waiver and Variance Requests and Hearings

Chapter §49-2B-7 allows the WVDHHR to grant a waiver or variance if the health, safety or well-being of a child would not be endangered by granting it, provided that such requirements are not contradictory to state code. For example, child care regulatory specialists can not waive the limits on numbers of children that are in state code.

- 10.9.1.** The provider must submit the request for a waiver or variance in writing, must cite the specific requirement for the waiver or variance, and address all of the requirements outlined in the registration requirements.
- 10.9.2.** The major area of family child care home regulation or approval that is routinely considered for a waiver is criminal history. See Chapter 2000 of the Social Services Policy Manual.

10.9.3. Considerations in Granting Waivers or Variances.

Child care regulatory specialists must consult with the child care supervisor in considering a waiver or variance. The following questions need to be considered:

- 10.9.3.1.** Is there a rule that prohibits the waiver?
- 10.9.3.2.** Would the health and safety of a child be negatively impacted?
- 10.9.3.3.** Does the rule not apply in this case or is it not fair in this case?
- 10.9.3.4.** Is there a precedent for this? If so, is this request being treated in the same manner? If not, what are the implications for setting a precedent?
- 10.9.3.5.** Is the request within the authority of the child care regulatory specialist? Specialists cannot waive requirements within WV Code or federal law or requirements of other

agencies or entities, such as the Fire Marshall, Division of Environmental Health or the Department of Agriculture.

10.9.3.6. Is consultation with program or legal staff needed?

10.9.4. Notification of Decision on Waivers and Variances.

The child care regulatory specialist shall notify the provider in writing of the decision with regard to the waiver or variance. The written decision shall include the following:

10.9.4.1. Conditions applied to the approval of the request;

10.9.4.2. A time frame for the existence of the waiver or variance;

10.9.4.3. The date at which the waiver or variance will be reviewed; or

10.9.4.4. Reason for denying the request.

10.9.5. Hearings.

If the child care provider disagrees with any negative action, she may request an administrative hearing, in writing, within 30 days from receipt of the notification. Requests for hearings should be submitted to the DHHR Hearings Officer. Please follow policy in Common Chapter 700 for procedures to follow during the hearings process.

CHAPTER 11: PROVIDER REGULATION: COMPLAINT INVESTIGATIONS AND PROCEDURES

11.0. Complaint Investigations and Procedures.

Complaints about a variety of issues and situations may be received on child care providers from parents and the general public.

11.1. Who Handles Complaints?

11.1.1. Child Care Center Complaints.

Regulatory complaints about child care centers shall be referred to the Child Care Center Licensing Director or Licensing Specialist. CCR&R workers who receive a complaint of standards violations with regard to a child care center shall refer the complainant to the appropriate licensing specialist and inform the complainant that they may also enter their complaint at <http://www.wvdhhr.org/bcf/ece/>. The CCR&R worker shall also request the provider name and the complainant's name and phone number and e-mail the information to the appropriate licensing specialist indicating that this person would like to file a complaint. Child or adult abuse and neglect shall be referred to the Institutional Investigations Unit using the Adult/Child Abuse Hotline at 1-800-352-6513. The complainant should be encouraged to also contact CPS or APS.

11.1.2. Complaints on Other Child Care Types.

All other complaints are handled by the child care regulatory specialist unless the complaint alleges child abuse or neglect. CCR&R workers who take a regulatory complaint on types of care other than child care centers shall complete the Information and Referral screens in FACTS. The intake shall be assigned to the regional child care supervisor in FACTS. Regional CPS workers investigate complaints of child abuse or neglect.

11.2. How Complaints are Handled.

Child care regulatory specialists shall investigate complaints of non-compliance with requirements in registered family child care homes, licensed family child care facilities, unlicensed school-age programs, informal family child care homes, and relative family child care homes. The worker taking the complaint must first determine if the allegation relates to a regulation or a policy requirement.

11.2.1. Complaints Not Related to Regulations.

If the allegation is not in violation of a standard or requirement, the worker shall explain this to the complainant and advise him/her to discuss the issue with the provider. The worker shall discuss complaints that are not related to regulations or policy with the provider and give any relevant technical assistance for addressing the issues. An example of this type of complaint would be concerns about private pay rates,

11.2.2. Noncompliance with Regulations Complaints.

Complaints regarding violation of or noncompliance with standards shall be investigated in the following manner:

- 11.2.2.1. Although the identity of the complainant may be kept confidential, the worker must tell the complainant that there is no guarantee of anonymity if the investigation results in a hearing or court action.

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- 11.2.2.2. The investigation is to begin within five (5) working days and a conclusion date targeted for thirty days after onset of the investigation. The nature of the complaint will determine the response time to the complaint and what methods of investigation are used.
 - 11.2.2.3. The investigation may include, but is not limited to, record review, review of related documents, observation, interview of witnesses and interview of collateral contacts. The investigation generally includes an on-site visit and is unannounced.
 - 11.2.2.4. The nature of the complaint will help the child care regulatory specialist determine how much information should be shared with the provider at the beginning of the investigation. In most cases, the provider may be informed of the general nature of the complaint.
 - 11.2.2.5. If the child care regulatory specialist believes it will change the outcome of the investigation or put another person at risk, the provider may be told an investigation is being conducted, but the content of the complaint will be shared at a later time or at the outcome of the investigation.
 - 11.2.2.6. A formal interview with a child is to be used as part of the investigation only if the child can provide information which cannot be obtained through other means or is necessary to support a fact which is used to determine the validity of the allegation. Child care regulatory specialists should not interview the child alone, and must inform the parent/guardian of the child that an interview is planned or took place. Informal discussions with a child that occur as a normal part of the specialist's on-site visit are not precluded.
 - 11.2.2.7. At the end of the investigation, the child care regulatory specialist must determine, in an objective manner, if the complaint is substantiated, if other non-compliance areas are found, and if there are areas in which the provider needs technical assistance. The child care regulatory specialist shall discuss his/her findings with the provider at the completion of the investigation.
 - 11.2.2.8. The investigation is to be entered into FACTS and a corrective action plan completed if necessary. The provider shall also be informed that substantiated complaints become a part of the public record and are made available to parents upon request. There shall be written notification to the provider at the conclusion of each investigation.

11.3. Complaint Intake Process.

When a complaint is received, the child care regulatory specialist shall complete the following steps:

- 11.3.1. Obtain information from the complainant, including the complainant's name, relationship to the provider and contact information.
- 11.3.2. Inform the complainant that, although the Department will attempt to ensure anonymity if the reporter wished to remain anonymous, in a non abuse or neglect complaint, there is no guarantee that his identity will remain concealed, should there be a resulting administrative or judicial action.
- 11.3.3. Obtain as much specific information about the complaint as is possible from the complainant, including names and addresses of any other individuals involved, names and addresses of potential witnesses, time frames, and location.

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- 11.3.4. Determine if the complaint has been made to any other person or agency and if any action was taken;
 - 11.3.5. Determine if the complaint is within the authority of the child care regulatory specialist. If not, determine if the complainant can be directed to any other person or agency;
 - 11.3.6. Determine if the information indicates a non-compliance, illegal operation, violation of Chapter §49-2B, an area for concern warranting further investigation, and/or there is a need to refer the information to Child or Adult Protective Services. If a complaint needs to be referred to CPS/APS staff for possible investigation, it is done immediately;
 - 11.3.7. Enter information on the Information and Referral screens in FACTS and, for providers with a FACTS record, make a note in the contact screen.

11.4. Complaint Investigation Procedures.

Child care regulatory specialists shall investigate complaints using the following guidelines. The worker shall:

- 11.4.1. Begin complaint investigations within five (5) days of receipt of the complaint. If a complaint is received that indicates children's health or safety is at risk, but it is not a CPS/APS referral, then the complaint investigation should begin within 24 hours. Example: A caller states that when he picked his son up from child care, the provider indicated that the water company had shut off the water this date for non-payment. This is a health risk, but unlikely to be a CPS issue. Therefore, the investigation should begin when the complaint is received. If it is not possible for the child care regulatory specialist to make an unannounced visit, then a telephone call to the provider can be made. This does not eliminate the need for a field visit to the provider. A follow-up visit should occur within 24 hours.
- 11.4.2. Conduct a search in FACTS for the provider. The complainant may not know if the provider is registered, informal or operating illegally;
- 11.4.3. If the provider is an illegal operation, the child care regulatory specialist completes the following steps:
 - 11.4.3.1. Contacts the unregistered provider by telephone to discuss the law, the number of children served and the registration process.
 - 11.4.3.2. Mails a registration packet to the provider.
 - 11.4.3.3. When a telephone number is not available, the child care regulatory specialist visits the home to discuss registration. The child care regulatory specialist may enter the home uninvited only after two unsuccessful attempts to bring the facility into compliance. Uninvited entry to the home may only be made with a law enforcement officer present.
 - 11.4.3.4. If the illegal operation is confirmed or suspected and the provider does not register, a notification is sent informing the provider in writing that she is in violation of §49-2B and must cease operation or reduce the number of children served to less than four.

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- 11.4.3.5. As there is no legal mandate for informal or relative providers to register, no action shall be taken if the operation is found to be a relative caring only for related children or if the caregiver has no more than three children in care including the caregiver's own children under the age of six.
- 11.4.4. The child care regulatory specialist shall determine how the investigation should proceed. Most complaint investigations begin with an unannounced on-site visit, but there are times when this may not be necessary or critical situations where it is necessary to contact the provider immediately in order to prevent harm to children.
- 11.4.5. The specialist shall inform the provider that a complaint has been made and an investigation is being conducted. Typically, a provider can be informed face-to-face at the beginning of the investigation that a complaint has been received and it is the child care regulatory specialist's responsibility to investigate. It is not necessary to disclose the nature of the complaint at the beginning of the investigation, if to do so would interfere with fact finding or compromise safety. Assure the provider that she will have input into the investigation and will be given a summary of the findings. There may be certain situations where child care regulatory specialists may need to gather information before informing the provider, either due to the worker's inability to reach the provider, or to determine if the complaint is valid and warrants further investigation;
- 11.4.6. The specialist gathers information which confirms or refutes that a violation or non-compliance has occurred. Information gathering tools usually include the following items:
- 11.4.6.1. Interviews with the provider, parents, neighbors, or children;
 - 11.4.6.2. Records review – both the WVDHHR records and the provider's records. Records review may also include R&R and CACFP records;
 - 11.4.6.3. Statement verification; and
 - 11.4.6.4. Documentation of observations. Written observations should contain detailed, factual, non-judgmental descriptions. The documentation should not include opinions.
- 11.4.7. Once information is gathered, the specialist shall discuss the complaint and findings, if necessary, with the child care supervisor or DHHR staff of other programs involved with the home.
- 11.4.8. The next step is to determine if negative action is indicated or technical assistance should be offered to the provider. (See Negative Action, Chapter 10, Section 8 and Technical Assistance in Chapter 13, Section 3.2.).
- 11.4.9. The specialist should then discuss the findings with the provider.
- 11.4.10. Provide a written summary of the findings of the investigation and any negative action to the provider in a Notification of Regulatory Status (DAY-0503).
- 11.4.11. If the license or registration is denied or revoked, the specialist shall immediately send a copy of the Provider Notification (DAY-0503) to the CCR&R Agency, who then cancels the Provider Services Agreement and notifies families using the provider. **(For guidance on complaint management, the child care regulatory specialist may wish to consult The 2000 Edition of the NARA Licensing Curriculum, or its update. The curriculum was distributed to all county offices housing child care regulatory specialists in October 2000).**

11.5. Special Circumstances – Child Abuse and Neglect Allegations.

Child Protective Services staff is responsible for investigating allegations of child abuse and neglect in Informal, Relative Family Child Care Homes and In-home providers. The Institutional Investigations Unit is responsible for investigating allegations of child abuse and neglect in registered family child care homes, licensed family child care facilities and child care centers. If requested, child care regulatory specialists may assist CPS and/or IIU with interviewing children. However, to maintain impartiality or the ability to conduct regulatory activity prior to the end of the CPS and/or IIU investigation, child care regulatory specialists who work with the provider should have a very limited role in the investigation. DHHR and CCR&R Child Care staff may be involved in following up with families and providers in the following circumstances:

11.5.1. Informal, Relative Family Child Care Homes and In-Home Providers:

- 11.5.1.1. If CPS finds serious problems prior to completion of the investigation in a family child care home, the child care regulatory specialist and CCR&R staff, where applicable, shall notify parents that an investigation is underway which could result in negative action. The children must be removed from care until the investigation is complete. If the provider cares for subsidized children, the CCR&R worker shall provide assistance to parents with alternate child care arrangements. The child care regulatory specialist shall make the provider unavailable in FACTS so that no new children may be linked until the conclusion of the investigation.
- 11.5.1.2. If an abuse or neglect allegation is substantiated in a registered family child care home, the child care regulatory specialist shall revoke registration via the Provider Notification (DAY-0503) and the CCR&R worker cancels the Provider Services Agreement if applicable.
- 11.5.1.3. If the allegation is substantiated in an in-home care setting, then a Notification of Provider Approval Status (DAY-0618) is sent rescinding approval and the CCR&R cancels the Provider Services Agreement.

11.5.2. Registered Family Child Care Homes and Licensed Child Care Facilities – Regulatory Specialists shall take the following steps during an IIU investigation.

- 11.5.2.1. No staff, household member, or owner/operator under investigation in a family child care home or facility shall have contact with children until the investigation is complete. Upon completion of the investigation, any staff person determined to have abused or neglected children, including the operator or owner, shall no longer care for children or have any contact with children in care. Failure to take appropriate action to safeguard children in the facility shall result in revocation of the license or registration.
- 11.5.2.2. If IIU finds serious problems prior to substantiation or completion of the investigation in a facility or home located in the provider's home where the owner/operator or household member is involved, the IIU worker and child care regulatory specialists as well as both supervisors (Child Care Regional Supervisor and IIU Supervisor) shall discuss the situation to determine whether or not to remove children pending the outcome of the investigation. DHHR and CCR&R staff, where applicable, shall notify parents that an investigation is underway that could result in negative action. The children must be removed from care until the investigation is complete. The CCR&R worker shall provide assistance to parents with alternate child care arrangements. If an abuse or neglect allegation is substantiated

against a household member or the owner/operator in a facility located in the provider's home, the child care regulatory specialist shall revoke the Certificate of Licensure.

11.6. Parental Requests for Complaint Record

If a parent requests a list of substantiated complaints on a child care provider, the local DHHR or R&R child care staff shall supply the requested information. Information shall be available in FACTS which lists standards violations as well as corrective action taken and completed. When a request for the information is made, the R&R or DHHR Child Care Worker shall print a history of non-compliance report (DAY-0616) from the FACTS record and provide information to the parent based on the results of that report. The History of Non-compliance Report may be sorted by dates or by concerns identified during licensing review, monitoring visits or as a result of an investigation or a complaint investigation. However, due to the confidential nature of Child Protective Service records, information on CPS complaints may not be made available.

CHAPTER 12: PROVIDER REGULATION: BACKGROUND CHECKS

12.0. Background Checks.

According to West Virginia Code, §49-2B, the background of regulated providers shall be assessed. This assessment includes a check of criminal records and a check of protective services records related to any history of child or adult abuse or neglect.

12.1. Protective Services Background Checks

12.1.1. Overview

- 12.1.1.1. No home, facility, or program shall be considered for registration, licensure, or approval if the provider, a member of the provider's household, owner/operator, or an employee is an active recipient of child or adult protective services or, in most cases, has a history of substantiated abuse or neglect. Substantiated abuse shall include situations in which "maltreatment" is determined as the result of an investigation conducted by DHHR protective services staff.
- 12.1.1.2. During the renewal application process and if a complaint or any other information is received that gives reasonable cause to do so, a check of the child/adult abuse history and the criminal history of an applicant and any adult household member is to be completed. A background check on substitutes is not required, but is not prohibited if the substitute completes a Statement of Criminal Record.
- 12.1.1.3. In all types of home-based care, if an investigation determines that maltreatment occurred by the provider or a household member, the home/facility shall not be registered/licensed/approved.
- 12.1.1.4. However, if the protective service case is closed and the household member/offending child is no longer in the home and has no access to children in care, the home/facility may be registered/licensed/approved upon joint approval of the Child Care Supervisor and the Supervisor of the related program, i.e. CPS, APS, Youth Services. If one Supervisor is responsible for both programs involved, the workers shall be consulted. The manner in which information is shared between the Child Care Specialist and CPS is to be agreed upon by the supervisor for each program.
- 12.1.1.5. In situations where a family child care facility employee or an unlicensed school-age employee signs a statement indicating there is no history of abuse or neglect and a history is found, the child care regulatory specialist shall inform the facility or program director that the employee's signed statement does not match the results of the background check. The details of the background check cannot be disclosed due to confidentiality. Action for revocation, denial of an application or approval, and cancellation of the Provider Services Agreement shall be taken if a program continues to employ the individual.

12.1.2. Protective Services Background Checks Procedures.

The protective services background check shall be conducted on all child care providers and on their adult household members and staff.

- 12.1.2.1. The persons listed above must submit the Authorization and Release for Protective Services Background Check (ECE-CC-8A) as part of the family child care home application.
- 12.1.2.2. Child care regulatory specialists shall review local DHHR office records and search FACTS for a CPS/APS history for each adult household member over 18 years of age and any staff. The search shall include the maiden name and all married names.
- 12.1.2.3. The manner in which information is shared between the child care regulatory specialist and CPS is to be agreed upon by the supervisor of each program.
- 12.1.2.4. During the 76th Session of the WV Legislature, Legislators removed language from proposed family child care rules that would have allowed waivers of abuse and neglect histories. Based on legislative intent, no home or facility shall be considered for licensure, registration or approval if the provider or a current member of the provider's household is an active recipient of child or adult protective services or has a history of substantiated abuse or neglect.
- 12.1.2.5. In addition, if the search reveals that a provider's child under 18 years of age has a record of violence or sex offenses, the home shall not be registered or approved.

12.2. Criminal Record Checks.

Chapter 2000, Criminal History Record Background Checks, shall be followed for criminal background investigations on child care providers, adult family members and staff unless otherwise indicated by this policy or promulgated rule.

- 12.2.1. Where child care policy and Chapter 2000 may not agree, child care policy applies.
- 12.2.2. CIB information must be entered in the appropriate provider section in FACTS. This is completed by state office staff.
- 12.2.3. Child care regulatory specialists may attend provider orientation sessions and complete fingerprinting on applicants, or may fingerprint them, along with all other household members over eighteen (18) years of age, during the initial visit.
- 12.2.4. Applicants and other household members who do not attend provider orientation or do not receive an on-site evaluation are required to schedule a time with the child care regulatory specialist to be fingerprinted at the DHHR office.
- 12.2.5. A criminal history background check shall also be completed at time of review for new family members over the age of 18 years, at the request of a family child care provider, or when a complaint is received by DHHR regarding a family child care home, in which it would be reasonable for the Department to request a criminal history background check as part of the investigation of the complaint.

12.3. Sexual Offender Checks.

Although the criminal history record check should reveal all criminal history, the DHHR Child Care Worker may log on to www.wvstatepolice.com to ensure that a provider, household member, or employee is not registered as a sexual offender.

CHAPTER 13: PROVIDER REGULATION: COMMUNICATION WITH PROVIDERS, DEPARTMENT STAFF AND CCR&Rs

13.0. Overview.

Communication with clients, providers, and agency staff is one of the basic functions of both CCR&R and DHHR staff. Program goals cannot be met without clear, effective, cordial communication.

13.1. Communication between the CCR&R and the Department

13.1.1. Overview.

Throughout the Child Care Policy there are specific circumstances noted which require communication between the CCR&R and the child care regulatory specialist. When any information received or action taken by the CCR&R requires a change in the provider type or provider record, the child care regulatory specialist must be notified. Likewise, the CCR&R staff must be notified when the child care regulatory specialist takes action that affects or should affect the Provider Services Agreement. E-mail communications, if used, should be saved to the Provider Record in FACTS.

13.1.2. Notice to Child Care Resource and Referral Agencies.

Child care regulatory specialists shall send a copy of any notice of negative action via-e-mail to the R&R agency, if the provider is enrolled and has a Provider Services Agreement (DAY-0546). The following guidelines shall be used by the child care regulatory specialist and the CCR&R worker to coordinate terminating payment and closing a provider record when negative regulatory action is taken:

13.1.2.1. Generally, payment to the provider shall cease 13 days after the date the application is denied or the certificate revoked. This allows the CCR&R the ability to send out notices and help parents locate a new provider;

13.1.2.2. If the provider has serious areas of non-compliance and there is notification of immediate revocation, the child care regulatory specialist may inform the CCR&R worker to cease payment immediately and not require a 13-day notice to parents. In making this decision, the child care regulatory specialist shall confer with the Regional Child Care Supervisor. Consideration needs to be given to the immediate risk of harm to children in care. The CCR&R shall include the last date of payment for the provider in the Provider Notice (DAY-0613).

13.2. Communication between Child Care Regulatory Specialists and Licensing Staff.

As child care providers move between types of care and apply for the appropriate registrations or licenses, it is important that child care regulatory specialists and licensing specialists keep each other informed. To encourage information sharing, the following procedures are in place:

13.2.1. Documentation in FACTS.

Patterns of non-compliance shall be documented in FACTS. While the agency cannot refuse to accept an application, the application can be denied based on documented evidence of a history of non-compliance as any type of child care provider.

13.2.1.1. When child care licensing specialists revoke a license due to serious non-compliance, APS/CPS, or fraud issues, the Licensing Specialist shall send an e-mail to inform regional

child care supervisors, the Licensing Director and child care regulatory specialist for that area.

13.2.1.2. The worker shall also document the serious issues in FACTS and put a statement on the closure screen that starts with the word “ALERT”.

13.2.1.3. For every license that is revoked, the licensing specialist shall do an intake in FACTS under the director’s name, so that any future searches will locate the director.

13.2.2. FACTS Searches.

All regulatory staff shall conduct a search in FACTS on all active and closed provider cases prior to opening a new provider/facility/center to check for a documented history of non-compliance.

13.2.3. Transitioning between Types of Care.

13.2.3.1. If a provider/facility/center applies to change the type of care status, and the change in type of care would result in switching from child care regulatory specialists to licensing staff, or vice versa, a joint visit to the facility/center shall be conducted.

13.2.3.2. When changing provider types –

A. Open a New Case:

Informal to Registered, Child Care Facility to Child Care Center, Center to Facility, Registered Family Child Care to Facility, etc. The regulatory specialist **must** open a new case in FACTS and associate the old case to the new. Under no circumstances should a regulatory specialist change the provider type from one type to another. Doing so does not preserve the provider’s history, and impacts Federal reporting requirements.

B. Open Date for Change in Provider Type:

Providers who are switching types, and who receive subsidy reimbursements should always have an open date of the first day of the following month. For example, if an informal family child care provider completes a packet to change status to a Registered/Subsidized Family Child Care on August 16th, the Child Care Regulatory Specialist should open the new record with a date of September 1. Changing provider types in the middle of the month interferes with payment processing and the monthly payment rate, as the monthly billing cannot be split between the two different types.

13.3. Communications with Providers

13.3.1. Written Notification.

Child care regulatory specialists are required to provide written notification of any decisions reached with regard to the regulatory status of a provider using forms provided in FACTS or individualized letters with copies saved to FACTS. The Notice of Provider Regulatory Status (DAY-0503) is to be used with all registered and licensed providers and the Notice of Provider Approval Status (DAY-0618) with in-home care and school-age child care programs. Any non-compliance should be communicated using the Child Care Corrective Action Notice (DAY-0615). Notices should be sent whenever the child care regulatory specialist:

13.3.1.1. Approves an application for any type of care or issues/renews a certificate of registration or a license;

13.3.1.2. Denies a provider application;

13.3.1.3. Refuses to renew a certificate of registration, license or approval;

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- 13.3.1.4. Revokes registration, licensure or approval is revoked;
 - 13.3.1.5. Makes a decision on a waiver or variance;
 - 13.3.1.6. Places a limit on a certificate of registration or license;
 - 13.3.1.7. Reduces a certificate of registration or license to provisional status;
 - 13.3.1.8. Places a provider on corrective action;
 - 13.3.1.9. Provides follow-up on the results of an investigation;
 - 13.3.1.10. Determines the provider has/has not met the terms of the corrective action plan; or
 - 13.3.1.11. Takes any other action or makes a determination that impacts the regulatory status of the provider.

13.3.2. Technical Assistance.

The West Virginia Department of Health and Human Resources has a responsibility, within fiscal limitations, to provide training and education for the improvement of child care programs. This responsibility is largely met through contracted services which the provider can access. The child care regulatory specialist contributes by offering guidance to providers in meeting requirements and improving the quality of their care. Child care regulatory specialists may offer technical assistance by:

- 13.3.2.1. Explaining to the provider what is required for a successful application;
- 13.3.2.2. Helping the provider understand the rationale for a specific requirement;
- 13.3.2.3. Identifying a training need. The child care regulatory specialist can direct the provider to the CCR&R agency to obtain the training or to find where other training can be obtained. Child care regulatory specialists can also help the CCR&R agencies know training is needed on a particular subject for more than one provider;
- 13.3.2.4. Helping the provider determine the best way to meet a requirement that has been identified for corrective action;
- 13.3.2.5. Informing the provider if funding is available to help meet health and safety requirements or improve quality;
- 13.3.2.6. Providing information on current issues in child care; and
- 13.3.2.7. Providing information on agencies and community programs that may help the provider in the operation of a child care business.

13.3.3. Provider Identification Number.

When the child care regulatory specialist sends written notice of approval to a child care provider who is participating in the subsidy system, the specialist shall write the 8-digit FACTS identification number on the

notice (300.....), indicating that this is the number that should be used to apply for Direct Deposit of the provider's check in a savings or checking account.

CHAPTER 14: PROVIDER REGULATION: IN-HOME CARE

14.0. Definition of In-Home Care

In-home child care is home-based care provided by relatives or non-relatives for a child or children in the child's own home for that portion of the day when care is needed. The provider may live either inside or outside of the home. The provider of in-home child care cannot care for children that do not live in the home. If provider and children reside in the same home and the provider wishes to care for other children, then the situation is not considered in-home care and the provider must meet registration requirements based on the number of children in care.

14.1. Regulation of In-Home Child Care

Although in-home child care providers are exempt from state regulatory requirements, they are required to meet health and safety standards and training requirements in order to participate in the certificate system and receive federal funds. The home must meet certain health and safety requirements and the provider must meet certain health and safety requirements including a background check.

14.2. Limitations of In Home Care

14.2.1. Minimum Wage Requirement.

Payment will equal or exceed minimum wage. In general, a provider must care for multiple children in order to meet this requirement. To determine if payment will equal minimum wage, calculate the number of hours the provider will care for the children and multiply by the current minimum wage. Then compute the provider's customary payment using the current daily payment rates for in-home care, including any amounts for non-traditional work hours.

For Example: A provider cares for children for 10 hours a day. At a minimum wage of \$6.55* per hour that would be \$65.50 daily. There are 4 children in the family – 2 infants at \$18.00 per day = \$36, and three older children at \$16 = \$48. Since the total payment would be \$84.00, this situation would exceed minimum wage. Staff shall also consider amounts received for non-traditional work hours as part of the daily rate.

* Minimum wage increases to \$7.25 effective 7/1/2008, making the requirement \$72.50 per day for a 10 hour day.

14.2.2. Exception to Minimum Wage Requirement.

In instances where a child has medically documented needs that necessitate in-home care and the payment would not be equal to minimum wage, the R&R worker may submit an exception request to the State Division of Early Care and Education. Written documentation of the need from a qualified health care professional required, and must show absolute necessity. Exceptions will be rare and time limited.

14.3. Procedures for In-Home Child Care

14.3.1. CCR&R Responsibilities.

14.3.1.1. The parent who requested in-home child care, must complete the application for in-home child care services (ECE-CC-12) and shall complete an ECE-CC-6E to certify that the home and the in-home provider meet the health and safety requirements.

14.3.1.2. The application forms are returned to the CCR&R agency.

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- 14.3.1.3. The CCR&R worker shall inform parents who use this type of care that an in-home care provider is considered to be an employee of the parent according to laws related to wage and hour requirements and the IRS tax code. The parent may be responsible for paying the employer's share of Social Security and Medicare taxes. The threshold amount before this is required may change in any given year.
 - 14.3.1.4. The provider must attend payment enrollment and complete a W-9 within 30 days of the parent's request for care.
 - 14.3.1.5. The parent and provider must complete the ECE-CC-10A-1, Request for Payment of In-Home Child Care Services, and submit the form on a monthly basis. The Department will provide a form 1099 to the provider on an annual basis, but the parent is responsible for keeping information and records required for paying federal employment taxes for the in-home provider. The parent and in-home provider need to remember that the parent fee (if any) is part of the rate for which the provider is reimbursed and remains the responsibility of the parent to pay.
 - 14.3.1.6. The R&R staff must inform parents and providers of these requirements. However, they are not tax experts or agents, and should not attempt to answer specific questions. The Resource and Referral agency shall direct the parent and provider to the proper agency for information they may need.
 - 14.3.1.7. After the parent and provider have completed the application and the provider has attended provider enrollment, the CCR&R worker does the intake in FACTS under the provider's name.
 - 14.3.1.8. The CCR&R agency will then forward the necessary information to the child care regulatory specialist for approval.

14.3.2. Child Care Regulatory Specialist's Responsibilities

- 14.3.2.1. The child care regulatory specialist will complete the necessary screens in FACTS, do the background checks on the provider and send a Notification of Provider Approval Status to the provider with a copy to the parent/guardian and the R&R.
- 14.3.2.2. In-home care situations in which the home fails to meet health and safety standards or in which the provider cannot comply with health and safety standards shall be denied approval.
- 14.3.2.3. If failure to comply is subsequent to the issuance of approval, then the child care regulatory specialist shall send a denial notice using the Notification of Provider Approval Status (DAY-0618), and CCR&R staff shall send a 13 day notice terminating the Provider Services Agreement.

14.4. Renewal Procedures

Approved In Home Family Child Care Providers must renew their approvals at least every two years. The CCR&R worker in charge of the parent's case is responsible for sending the renewal packet to the parent. CCR&R workers should follow the process outlined in 14.3.1. The child care regulatory specialist should follow the procedure outlined in 14.3.2.

CHAPTER 15: PROVIDER REGULATION AND REGISTRATION: INFORMAL AND RELATIVE FAMILY CHILD CARE

15.0. Informal and Relative Family Child Care

This Chapter addresses two of the three types of family child care homes (See Chapter 1, Definitions):

1. Informal family child care homes which provide care for three (3) or fewer children;
- and
2. Relative family child care homes which provide care only to related children;

All types of family child care are home-based care provided for a portion of the day in a private family home for compensation. The home must be inhabited by the person providing care, and the provider's hours of operation may not exceed eighteen (18) hours in a 24 hour period. WV Code, Chapter §49-2B-9 allows relative and informal family child care to be voluntarily registered.

15.1. Informal and Relative Family Child Care Registration Process Overview.

Informal and relative providers must meet the Department's Informal and Relative Family Child Care Registration Requirements in order to participate in the child care certificate system and may voluntarily register in order to participate in the Child and Adult Food Program.

15.1.1. Applicants Not Participating in the Child Care Certificate System:

- 15.1.1.1.** Applicants not participating in the child care subsidy/certificate program **do not** go through the payment enrollment process at the CCR&R office, but apply directly to DHHR. These providers are referred to in FACTS as "Relative Family Child Care – Unsubsidized" and "Informal Family Child Care-Unsubsidized".
- 15.1.1.2.** Persons not attending provider payment enrollment because they do not participate in the child care subsidy/certificate system must return all of the forms listed in section 15.1.2.2. to the child care regulatory specialist.
- 15.1.1.3.** The Application to Operate a Family Child Care Home (ECE-CC-8) shall be stamped with the date received by the child care regulatory specialist. A Provider Services Agreement (DAY-0546) is not necessary for providers who do not receive subsidy payments.
- 15.1.1.4.** DHHR child care regulatory specialists have 60 days from receipt of the application to complete action on the application for anyone not participating in the subsidy/certificate system.

15.1.2. Payment Enrollment/Orientation for Informal/Relative Providers.

Informal and relative providers wishing to participate in the child care subsidy/certificate system must attend payment enrollment orientation offered through the CCR&R agency and must register with DHHR within 30 days if they wish to participate in the child care certificate program. During enrollment, the informal/relative provider receives orientation regarding participation in the child care certificate system,

requirements for an informal or relative family child care home and basic health and safety training, which will fulfill the requirement for two hours of health and safety training.

15.1.2.1. Forms.

Informal and relative providers receive the following child care forms:

- A. Health and Safety Requirements for Informal and Relative Family Child Care Checklist (ECE-CC-6IR).
- B. Informal and Relative Family Child Care Home Registration Requirements (ECE-CC-6).
- C. Application to Operate a Family Child Care Home (ECE-CC-8).
- D. Two (2) or more Authorizations for Protective Services Background Check (ECE-CC-8A).
- E. Two (2) or more Statement of Criminal Record forms (ECE-CC-8-B).
- F. Emergency Information forms (ECE-CC-10-E).
- G. Child Care and Responsible Pet Ownership (ECE-CC-10K).
- H. Pet Acknowledgement Form (ECE-CC-10J), if there are pets in the home.
- I. Tax Identification Form (W-9).
- J. Statement of Good Health (ECE-CC-3B).
- K. ECE-CC-22: Family Child Care Provider Training Record.
- L. ECE-CC-23: Fire Escape Plan.
- M. ECE-CC-24: Emergency Phone List.
- N. Two or more ECE-CC-25: Medication Permission Slip.
- O. Two or more ECE-CC-30: Periodicity Schedule.
- P. Incident Report Form (ECE-CC-26).
- Q. Direct Deposit Information/Application Form (ECE-CC-27).
- R. Sudden Infant Death Syndrome Self-Study Packet (ECE-CC-28).
- S. Shaken Baby Syndrome Self-Study Packet (ECE-CC-29).

15.1.2.2. Completion of Forms:

- A. Applicants complete the Application to Operate a Registered Home (ECE-CC-8), the Tax Identification Form (W-9), and the Provider Services Agreement (DAY-0546), during orientation.
- B. The CCR&R staff must make a copy of the last page of the Application to Operate a Registered Home (ECE-CC-8) for the provider as reference for attachments which need to be submitted.
- C. The applicant submits the Informal/Relative Provider Checklist (ECE-CC-6IR) and all other attachments to the application directly to the child care regulatory specialist within 30 days of the date of orientation. Other attachments include:
 - 1.) A copy of the Statement of Good Health (ECE-CC-3B).
 - 2.) Signed Statements of Criminal Record (ECE-CC-8B) for all adults in the home and signed Authorizations for CPS/APS Background Checks (ECE-CC-8A) for all adults in the household.

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- 3.) Child Medical forms (ECE-CC-3) and the original copy of the Statement of Good Health (ECE-CC-3B) and the completed SIDS and Shaken Baby Self-Study Guides should remain with the provider.

15.1.2.3. CCR&R Procedures;

The CCR&R staff shall complete the FACTS Provider Intake Screens based on information obtained during orientation as soon as possible after orientation.

15.1.2.4. Child Care Regulatory Staff Procedures.

Once the required forms are received by the child care regulatory specialist, the specialist has 30 days from the date of the complete application to review the information submitted for completeness and compliance. Pages 2 and 3 of the Application (ECE-CC-8) and the Provider Checklist (ECE-CC-6IR) must be completed and signed by the provider for an application to be considered complete.

15.2. Inspection and Investigation

15.2.1. On-Site Inspection.

With a self-certification regulatory process, an initial on-site inspection is not required. However, state law requires that a random sample of not less than five (5) percent of the total number of informal and relative family child care and family child care homes receive an on-site evaluation on an annual basis. Since child care regulatory specialists complete on-site inspections of all family child care homes that participate in the subsidy system, this probably more than meets the 5% requirement. Time permitting, staff may complete on-site inspections of informal and relative providers that participate in the child care subsidy system. Such monitoring is not required prior to issuing a certificate of registration.

Child care regulatory specialists may complete on-site inspections of informal and relative family child care homes at time of the initial application and renewal application, should the application reveal issues of concern to the specialist. In addition, on-site inspection is required at any point a complaint is received regarding the provider or information becomes available that warrants an on-site investigation.

15.2.2. Background Checks.

Fingerprints shall be completed on any providers/household members selected for on-site evaluation. For homes not selected for inspection, signed Statements of Criminal Record shall meet the CIB requirements.

15.3. Department Action on Initial Application for Registration

15.3.1. Initial Requests for Registration.

Child care regulatory specialists shall review the Application for Registration (ECE-CC-8) and the Checklist (ECE-CC-6IR), complete a check of APS and CPS records, conduct a search in FACTS on all active and closed cases prior to opening a new case in FACTS, and shall take one of the following actions:

- 15.3.1.1.** Approve the application and issue a Regular Certificate of Registration (DAY-0577). A Regular Certificate of Registration is issued if the applicant returns a completed application and has self-certified that all requirements are met. The effective date for the certificate will be the date the application was received. A certificate is issued for a period of up to two (2) years;
- 15.3.1.2.** Approve the application with a corrective action plan. There is no provision in state law for informal and relative providers to receive a provisional certificate of registration.

15.3.1.3. Deny the application and provide written notification via the Provider Notification of Provider Regulatory Status (DAY-0503). The notification shall indicate the reason(s) for the denial and shall cite specific requirements that are not met or specific items on the application that are not accurate or complete. In some situations, the denial notice shall indicate that further applications will be denied a certificate of registration. Such situations include the following:

- A. An applicant has intentionally provided false information which would hide a potential risk of harm to children in care.
- B. The application or a background check reveals convictions of violent crimes against the person, or history of adult/child abuse, or incidents of serious maltreatment of children or adults.
- C. The FACTS search reveals a history of non-compliance issues that cannot be corrected and for which a waiver cannot be considered.
- D. A FACTS documented history of chronic multiple non-compliance issues as any type of child care provider may be used as the basis for the denial of any future application for any other type of care. Child care regulatory specialists shall consult with their supervisors before taking this action.

15.3.1.4. Once action is taken on the application, the child care regulatory specialist completes all the necessary screens in FACTS. For a provider who receives certificate funds, the Child Care Regulatory Staff shall notify the CCR&R of the action taken on the application and a copy of the Tax Identification Form (W-9) is made with the original sent to the Bureau for Children and Families, Office of Finance.

15.3.1.5. Special Circumstances with Initial Application.

If an initial application is received from an applicant who has had a certificate of registration revoked or any other type of regulatory license revoked, the application cannot be approved without a prior on-site inspection. The applicant will not receive a Provider Services Agreement without first receiving a Certificate of Registration. Previous providers who have had a Certificate of Registration revoked shall not be eligible for licensure or other Certificates of Registration without a prior on-site inspection. If the type of care transition results in a change from child care regulatory specialist to licensing staff or vice versa – a joint visit to the home/facility/center shall be conducted.

15.4. Renewal Applications.

Registered Informal and Relative Family Child Care Providers must renew their registrations at least every two years or sooner, based on the time period approved on the current certificate of registration.

15.4.1. Renewal Application Procedure

The following procedures are in place for Registration Renewal Applications:

15.4.1.1. Notice to Providers to Renew Registration.

A certificate of registration is valid for a period of up to two years. Sixty (60) days prior to the expiration of a Regular Certificate of Registration, the child care regulatory specialist shall send a renewal application packet to the provider. The packet shall include the following:

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- A. Notification of Provider Regulatory Status (DAY-0503) indicating due date of the renewal package;
 - B. Statement of Good Health (ECE-CC-3B);
 - C. Application to Operate a Family Child Care Home (ECE-CC-8);
 - D. Family Child Care Registration Checklist (ECE-CC-6IR), and
 - E. Statement of Criminal Record forms (ECE-CC-8B).
 - F. Authorization and Release for Protective Services Background Check (ECE-CC-8A).

15.4.1.2. Time Frames for Renewals.

The Notification Letter (DAY-0503) shall indicate that the provider needs to return the completed renewal application within 30 days. An application must be returned prior to the expiration date of the current certificate to allow for a continuous period of registration without gaps in dates.

15.4.1.3. Inactive Enrolled Providers.

If the renewal application is being sent to a provider participating in the subsidy system, the DHHR child care regulatory specialist should review the FACTS record for payment activity. If there has been no payment activity for three (3) months or longer, then contact can be made with the provider to determine if the provider wishes a renewal application.

Reminder: Many providers offer care for private pay children, as well as those receiving child care subsidy certificates. Those children must be considered when determining whether or not the provider is required to be registered.

15.4.1.4. Tracking and Data Entry

When the renewal packet is returned, Child Care Regulatory Staff shall:

- A. Stamp the date of receipt on the Application (ECE-CC-8).
- B. Review the FACTS and paper record for any information which would aid in making a decision on the application. This shall include checks of CPS and APS records and training records.
- C. Update information in FACTS, including changes in household and compliance with regulations.
- D. Enter documents in document tracking, and update the status screen to reflect renewal of the registration certificate.

15.4.2. Departmental Action on Renewal Applications for Registration.

15.4.2.1. Possible Actions:

Child Care Regulatory Staff has 60 days from receipt of the renewal application to take one of the following actions:

- A. Approve the application and issue a Regular Certificate of Registration to either operate an Informal or Relative Family Child Care Home, whichever is appropriate. A Regular Certificate of Registration is issued if the applicant returns a completed application and has self-certified that all requirements are met. The certificate may be reissued for a period of two years or set at less than two years. The effective date for the certificate will be the date immediately following the expiration of the previous regular Certificate of Registration; or
- B. Approve the application and issue a Corrective Action Plan; or

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- C. Refuse to renew and provide written notification via the Notification of Provider Regulatory Status (DAY-0503). The letter must indicate the reason for the denial and cite specific requirements that are not met, specific conditions previously placed upon the applicant not met, or specific items of the application that are not accurate or complete.

15.4.2.2. Notifications to CCR&R Agencies.

Once a decision is reached on a provider's application, the child care regulatory specialist shall:

- A. Send notification of the action taken to the R&R by e-mail, with a copy saved to the FACTS record, when the applicant is an enrolled provider, OR
- B. Notify the CCR&R that a renewal application was not returned and coordinate closing the provider record. Payment may continue for 13 days beyond the expiration of the certificate of registration to allow time for the CCR&R to send notices and help parents locate other child care arrangements before the certificate of registration expires.

15.5. Negative Action.

If the informal or relative family child care home is not in compliance with health and safety requirements as found on the ECE-CC-6IR checklist, then the child care regulatory specialist issues one of the following:

- 15.5.1.** A Corrective Action Plan (DAY 0615) accompanied by a Notification of Provider Registration Status; or
- 15.5.2.** A Notification of Provider Registration Status (DAY 0618) denying approval, and sends a copy to the CCR&R agency

CHAPTER 16: PROVIDER REGULATION: REGISTERED FAMILY CHILD CARE

16.0. Family Child Care Home Registration Process.

Persons caring for four (4) to six (6) children (including their own children under the age of six), are required by state law to register with DHHR to be considered a legally operating family child care home. In addition, any person may voluntarily register to be a family child care home, if no more than six (6) children will be cared for at any one time.

16.1. Application for Registration.

Persons wishing to register shall request a registration packet, which shall be provided by either DHHR or CCR&R staff upon request of the potential applicant. The registration packet shall include the following forms:

- 16.1.1. Family Child Care Home Registration Requirements Checklist (ECE-CC-9);
- 16.1.2. Family Child Care Home Registration Requirements Rule (ECE-CC-9R);
- 16.1.3. Child Care Provider Medical Report (ECE-CC-3C);
- 16.1.4. Child Care Provider Information Form (ECE-CC-7);
- 16.1.5. Application to Operate a Family Child Care Home (ECE-CC-8);
- 16.1.6. Authorization for Protective Services Background Check (ECE-CC-8A);
- 16.1.7. Two (2) or more Statement of Criminal Record forms (ECE-CC-8B);
- 16.1.8. Child Medical Forms (ECE-CC-3);
- 16.1.9. Emergency Information forms (ECE-CC-10E);
- 16.1.10. Tax Identification Form (W-9);
- 16.1.11. Emergency Phone List Form (ECE-CC-24);
- 16.1.12. Medication Permission Slips (ECE-CC-25);
- 16.1.13. Incident Report Form (ECE-CC-26);
- 16.1.14. Direct Deposit Information/Application (ECE-CC-27), if applicable;
- 16.1.15. SIDS Study Guide (ECE-CC-28);
- 16.1.16. Shaken Baby Syndrome Study Guide (ECE-CC-29);
- 16.1.17. Periodicity Schedule (ECE-CC-30);
- 16.1.18. Pet Acknowledgement Form (ECE-CC-10J);
- 16.1.19. Child Care and Responsible Pet Ownership (ECE-CC-10K);
- 16.1.20. Other information on topics including health and safety, tax responsibilities, available resources, provider enrollment for receipt of child care reimbursement, etc., may be included in the packet.

16.2. Procedure for Applicants Participating in the Child Care Certificate System.

Applicants for registration who also wish to accept child care certificate reimbursement may complete portions of the application when they enroll for payment with the CCR&R agency. These applicants have been identified by a parent eligible for a child care certificate as the parent's provider of choice. The CCR&R agency schedules new applicants for an orientation session where applicants receive the forms listed in 16.1.

16.2.1. Completion of Forms:

- 16.2.1.1. Applicants complete the ECE-CC-7, ECE-CC-8, W-9, and the provider services agreement (DAY-0546) during orientation.
- 16.2.1.2. The applicant submits the ECE-CC-9 and all other attachments to the application directly to child care regulatory specialist within 30 days of the date of orientation.
- 16.2.1.3. A copy of the ECE-CC-3C, the completed SIDS Study Guide and the completed Shaken Baby Study Guide are submitted within 30 days of submitting the application.
- 16.2.1.4. Child medical forms and the original copy of the provider medical form should remain with the provider.
- 16.2.1.5. The Pet Acknowledgement Form (ECE-CC-10J) shall be completed by providers who have pets allowed under regulation and then signed by parents at time of placement.

16.2.2. CCR&R Actions.

- 16.2.2.1. The CCR&R makes copies of the completed forms and forwards the originals of the W-9 and the ECE-CC-8 and a copy of the DAY-0546 to the DHHR child care regulatory specialist as soon as possible, and retains the copies and original DAY-0546 in the CCR&R records.
- 16.2.2.2. The CCR&R staff shall complete the FACTS Provider Intake Screens based on information obtained during orientation as soon as possible after orientation.
- 16.2.2.3. The CCR&R retains a copy and forwards the originals as soon as possible to the child care regulatory specialist, keeping a copy of the W-9 and the original of the DAY-0546.

16.2.3. DHHR Actions.

Once the application is received, DHHR staff has 30 days from the date on the complete application to take action on the application. All sections, including market rate survey information, must be complete.

16.3. Procedure for Applicants Not Participating in the Certificate System:

- 16.3.1. Applicants not participating in the child care subsidy certificate program **do not** go through the enrollment process at the CCR&R office, but apply directly to DHHR.
- 16.3.2. Persons not attending provider payment enrollment must return all of the forms listed in section 16.1 to the child care regulatory specialist.
- 16.3.3. The Application to Operate a Family Child Care Home (ECE-CC-8) is then stamped with the date received.
- 16.3.4. The child care regulatory specialist has 60 days from receipt of application for persons not attending provider payment enrollment to complete action on the application.

16.4. Departmental Actions on Initial Application for Registration

16.4.1. Child care regulatory specialists shall review the application for registration, complete a check of APS and CPS records, conduct a search in FACTS on all active and closed cases prior to opening a new case in FACTS, and shall take one of the following actions:

16.4.1.1. Approve the application and issue a Regular Certificate of Registration (DAY-0577). A Regular Certificate of Registration is issued if the applicant returns a completed application and has self-certified that all requirements are met. For Registered Only providers, the effective date for the certificate will be the date the application was received. For subsidized child care providers applying within thirty days of starting care, the effective date of the certificate will be the date care began. A certificate is issued for a period of up to two (2) years;

16.4.1.2. Approve the application and issue a Provisional Certificate of Registration. A provisional certificate is issued for six (6) months. While a Provisional Certificate may be issued for several reasons, two (2) specific situations have been identified that could result in issuance of a Provisional Certificate of Registration with the initial application. Those situations include the following:

- A. The Registration Requirements allow a provider six (6) months from the date of registration to obtain approved training in first aid. If the applicant indicates non-compliance with this requirement, then a Provisional Certificate of Registration is to be issued along with a corrective action plan (DAY-0615).
- B. The applicant or household member indicates on the Application or Statement of Criminal Record that he/she has a record of two or more misdemeanor convictions or at least one conviction of a felony crime, the convictions were not crimes against a person, and the local waiver committee could approve a waiver request for the convictions. If this occurs, a Provisional Certificate of Registration (DAY-0577) is to be issued along with a Corrective Action Plan (DAY-0577). The corrective action plan shall indicate that fingerprinting, a completed CIB check and an approved waiver request must be completed before the regular Certificate of Registration can be issued. The corrective action plan shall state that the applicant has 14 days from the receipt of the plan to submit a waiver request (see Chapter 2000). If the request is not received within the specified time frame, the registration is revoked.

16.4.1.3. Deny the application and provide written notification via the Provider Notification of Provider Regulatory Status (DAY-0503). The notification shall indicate the reason(s) for the denial and shall cite specific requirements that are not met or specific items on the application that are not accurate or complete. In some situations, the denial notice shall indicate that further applications will be denied a certificate of registration. Such situations include the following:

- A. An applicant has intentionally provided false information which would hide a potential risk of harm to children in care;
- B. The application or a background check reveals convictions of violent crimes against the person, or history of adult/child abuse, or incidents of serious maltreatment of children or adults;
- C. The FACTS search reveals a history of non-compliance issues that cannot be corrected and for which a waiver cannot be considered.

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- D. A FACTS documented history of chronic multiple non-compliance issues as any type of child care provider may be used as the basis for the denial of any future application for any other type of care. Child Care Monitors should consult with their supervisors before taking this action.

16.4.2. Once action is taken on the application, the child care regulatory specialist completes all the necessary screens in FACTS. For a provider who receives certificate funds, the child care regulatory specialist shall notify the CCR&R of the action taken on the application and a copy of the Tax Identification Form (W-9) is made with the original sent to the Bureau for Children and Families, Office of Finance.

16.4.3. Special Circumstances with Initial Application.

If an initial application is received from an applicant who has had a certificate of registration revoked or any other type of regulatory license revoked, the application cannot be approved without a prior on-site inspection. The applicant will not receive a Provider Services Agreement without first receiving a Certificate of Registration. Previous providers who have had a Certificate of Registration revoked shall not be eligible for licensure or other Certificates of Registration without a prior on-site inspection. If the type of care transition results in a change from child care regulatory specialists to licensing staff or vice versa – a joint visit to the home/facility/center shall be conducted.

16.5. Renewal Applications.

Registered Family Child Care Providers must renew their registrations at least every two years, or sooner, based on the time period indicated on the current certificate of registration.

16.5.1. Renewal Application Procedure.

The following procedures are in place for Registration Renewal Applications:

16.5.1.1. Notice to Providers to Renew Registration.

A certificate of registration is valid for a period of up to two years. Sixty (60) days prior to the expiration of a Regular Certificate of Registration, the child care regulatory specialist shall send a renewal application packet to the provider. The packet shall include the following:

- A. Notification of Provider Regulatory Status (DAY-0503) indicating due date of the renewal package;
- B. Child Care Provider Medical Report (ECE-CC-3C);
- C. Information on Child Care Provider (ECE-CC-7);
- D. Application to Operate a Family Child Care Home (ECE-CC-8);
- E. Family Child Care Registration Checklist (ECE-CC-9);
- F. Statement of Criminal Record forms (ECE-CC-8B);
- G. Authorization and Release for Protective Services Background Check (ECE-CC-8A).

16.5.1.2. Time Frames for Renewals.

The Notification Letter shall indicate that the provider needs to return the completed renewal application within 30 days. An application must be returned prior to the expiration date of the current certificate to allow for a continuous period of registration without any gaps in dates.

16.5.2. Inactive Enrolled Providers.

If the renewal application is being sent to a provider participating in the subsidy system, the child care regulatory specialist should review the FACTS record for payment activity. If there has been no payment

activity for three (3) months or longer, then contact can be made with the provider to determine if the provider wishes a renewal application.

Reminder: Many providers offer care for private pay children, as well as those receiving child care subsidy certificates. Legally, those children must be considered when determining whether or not the provider is required to be registered. Remember that the provider's own children under the age of six are included in the count.

16.5.3. Tracking and Data Entry.

When the renewal packet is returned, the child care regulatory specialist shall:

- 16.5.3.1.** Stamp the date of receipt on the Application (ECE-CC-8) and,
- 16.5.3.2.** Review the FACTS and paper record for any information which would aid in making a decision on the application. This shall include checks of CPS and APS records and training records.
- 16.5.3.3.** Information shall be updated in FACTS, including changes in household, market rates, and compliance with regulations.
- 16.5.3.4.** Documents shall be entered in document tracking, and the status screen updated to reflect renewal of the registration certificate.

16.5.4. Departmental Action on Renewal Applications for Registration.

The child care regulatory specialist has 60 days from receipt of the renewal application to take one of the following actions:

- 16.5.4.1.** Approve the application and issue a Regular Certificate of Registration. A Regular Certificate of Registration is issued if the applicant returns a completed application and has self-certified that all requirements are met. The certificate may be issued for a period of two years or another period less than two years. The effective date for the certificate will be the date immediately following the expiration of the previous regular Certificate of Registration; or
- 16.5.4.2.** Approve the application and issue a Provisional Certificate of Registration. A Provisional Certificate must be accompanied by a Corrective Action Plan and should only be issued for minor non-compliance which does not affect the health and safety of children in care; or
- 16.5.4.3.** Refuse to renew and provide written notification via the Notification of Provider Regulatory Status (DAY-0503). The regulatory specialist must indicate the reason for the denial and cite specific requirements that are not met, specific conditions previously placed upon the applicant not met, or specific items of the application that are not accurate or complete.

16.6. Notifications to CCR&R Agencies.

Once a decision is reached on a provider's application, the DHHR child care regulatory specialist shall:

- 16.6.1.** Send notification of the action taken to the R&R by e-mail, with a copy saved to the FACTS record, when the applicant is an enrolled provider, OR

16.6.2. Notify the CCR&R that a renewal application was not returned and co-ordinate closing the provider record. Payment may continue for 13 days beyond the expiration of the certificate of registration to allow time for the CCR&R to send notices and help parents locate other child care arrangements.

16.7. FACTS NOTES

16.7.1. Provider Intake – FACTS Procedures

16.7.1.1. The “Provide Services” screen is a tabbed screen. It is recommended that all tabs be completed before adding the screen. Please keep in mind the date of the intake becomes “read only” after the screen is added.

16.7.1.2. On the “General Information” tab, the date and time is populated by the system based on when the worker is entering the intake. The worker should change this if the system information is not correct. “Staff Name” and “County” are populated by the system based on who is logged on to FACTS at the time of the intake entry.

16.7.1.3. On the “Demographics-Client” tab, the last name of the client will populate from the “Household Name” field on the “Information” screen. Click on the check boxes to reflect that the client is in the household. This is important because it will allow the household member’s information to populate the provider record when it is created. Using a select box, the worker will reflect the client’s role in the intake. “Potential Provider” must be one of the selections made in the Select box.

16.7.1.4. If the CCR&R is doing the intake, the “Provide Services” screen and the “Demographics” screen are completed and the CCR&R Supervisor assigns the intake to the potential provider’s home county in-box. The DHHR Child Care Supervisor in the potential provider’s home county will complete the “Outcome” screen and assign the intake to a DHHR Child care regulatory specialist. Prior to completing the “Outcome” screen, a search must be conducted on the household members.

16.7.2. Cases Assigned to Child Care Regulatory Specialists.

Once the Regional Child Care Supervisor approves and assigns the intake, the child care regulatory specialist shall follow this procedure:

16.7.2.1. Open the “Intake” and go to the “Outcome” screen. On the “Outcome” screen, click on the “Find” button. This will take you to the “Find Provider” dialog box. Complete a provider search on all open and all closed providers.

16.7.2.2. All screens asking for information found in the application and provider information form must be completed.

16.7.2.3. The “W-9” screen will not be approved until the State Office receives the W-9.

16.7.2.4. Please make sure that “Provider Type” and information on whether or not the provider accepts referrals is accurate.

16.7.2.5. The date to be entered for the checklist that accompanies the application is the date the checklist is signed by the provider.

16.7.2.6. Please record in “Document Tracking” all the forms that were returned with the application and the date returned. See the FACTS desk guide on “Opening Child Care Providers” for complete details.

CHAPTER 17: PROVIDER REGULATION: FAMILY CHILD CARE FACILITY

17.0. Definition of Family Child Care Facility

A family child care facility serves groups of seven (7) to twelve (12) children for four (4) or more hours per day. The provider may care for no more than four (4) children under the age of 24 months nor more than twelve (12) children in total, including children residing in the home under the age six (6) years. Care may be in the operator's home or in a separate building that is not inhabited by the provider.

17.1. Regulation of Family Child Care Facilities

Family child care facilities in West Virginia shall be licensed prior to accepting more than six (6) children. A Certificate of Licensure (ECE-CC-16B) may be issued to a family child care facility only when it meets the requirements of DHHR, the State Fire Marshal's Office, and the Bureau of Public Health. The purpose of licensure is to ensure the protection and care of children in family child care facilities, as defined in Chapter 49 of the West Virginia Human Services Law. Regular licensure extends for a period of up to twenty-four (24) months and initial and provisional licensure extends for six (6) months. Family child care facilities shall be licensed prior to acceptance of children and enrollment for funding and shall be monitored annually. Assessment for licensure is the responsibility of the child care regulatory specialists.

17.2. Family Child Care Facility Certificate of Licensure Process

17.2.1. Family Child Care Facility Information Packet.

When an individual inquires about licensure as a family child care facility, the child care regulatory specialist or the CCR&R shall provide a Family Child Care Facility Information Packet. The packet may be mailed or given to providers who go into local DHHR or CCR&R offices. The information packet consists of:

- 17.2.1.1. Family Child Care Facility Licensing Requirements (ECE-CC-16). Rules are also available at www.wvdhhr.org/bcf/ece/earlycare/regs.asp;
- 17.2.1.2. Family Child Care Facility Information Form (ECE-CC-14A);
- 17.2.1.3. Letter of Intent (ECE-CC-14B);
- 17.2.1.4. Other information on topics of interest to a provider.

17.2.2. Return of Letter of Intent.

The potential child care provider reviews the facility information packet. After the provider completes and returns the Letter of Intent to the appropriate DHHR child care supervisor, the supervisor shall assign a regulatory specialist who will review the Letter of Intent. This worker shall also enter information from the completed Facility packets into FACTS.

17.2.3. Application Packet.

If the applicant has provided complete information, the child care regulatory specialist shall send the potential provider an Application Packet which contains:

- 17.2.3.1. Forms that need to be completed and returned:
 - A. ECE-CC-15 – Application to Operate a Family Child Care Facility.
 - B. ECE-CC-8A: Authorization/Release for APS/CPS Background check.

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- C. ECE-CC-8B: Statement of Criminal Record.
 - D. ECE-CC-7 – Information on Child Care Provider.
 - E. W-9 – Tax Information

17.2.3.2. Forms the provider needs to read, complete, and keep on file:

- A. ECE-CC-28 - Sudden Infant Death Syndrome Self Study Guide.
- B. ECE-CC-29 - Shaken Baby Syndrome Self Study Guide.
- C. ECE-CC-3C – Child Care Provider Medical Report.
- D. ECE-CC-10J- Pet Acknowledgement Form (must also be signed by parents)
- E. ECE-CC-10K – Child Care and Responsible Pet Ownership.

17.2.3.3. Forms that are filled out as needed and returned to the Child Care Regulatory Specialist:
ECE-CC-26 – Incident Report Form.

17.2.3.4. Forms the provider needs to distribute to parents:

- A. ECE-CC-3: Child Medical Form;
- B. ECE-CC-10E: Emergency Information/Permission Form;
- C. ECE-CC-25: Medication Permission Slip;
- D. ECE-CC-30: Periodicity Schedule.

17.2.3.5. CCR&R Only: Family child care facility providers enrolling at the CCR&R for payment should also receive an ECE-CC-27: Application for Direct Deposit.

17.3. Background Checks

Initial background checks must be completed prior to taking action on the application to operate a family child care facility. The DHHR child care regulatory specialist shall complete fingerprints on the owner/operator of a family child care facility, all residents over eighteen (18) years of age and staff at the time of initial inspection. All employees must also complete a statement of criminal record and an authorization for CPS/APS background check. Fingerprints, statements of criminal record, and authorization for CPS/APS background checks on all future employees or household residents and volunteers must be completed and submitted to the child care regulatory specialist within five (5) days of employment. Copies of the employee's signed statements/authorizations shall be kept on file at the local office.

17.4. Inspection.

The Family Child Care Facility must obtain permits to operate from the Fire Marshal, Bureau of Public Health, and Office of Pest Management before submitting their application. An on-site visit shall be made by DHHR child care regulatory specialist within 30 days of the receipt of a completed application to determine compliance with the requirements of Legislative Rule 78CSR18.

17.5. Action on Applications.

All actions regarding regulation of a Family Child Care Facility shall be in writing. Within 60 days of receipt of application, the DHHR child care regulatory specialist shall provide a written decision to the family child care facility and issue one of the following.

17.5.1. Initial License.

An initial six-month license shall be issued to an applicant establishing a new service found to be in compliance on initial review with regard to administrative policies and procedures, organization, risk

management in terms of liability coverage, personnel, physical environment, health and fire safety inspections and record keeping regulations. Since the initial inspection is generally completed prior to acceptance of children, a full evaluation is not possible. For example, child medical forms and emergency forms would not be on file and workers could not determine if the facility were actually operating according to the facility's plan or legislative rules.

17.5.2. Regular License.

If the facility meets all applicable standards after the initial certificate period, the child care regulatory specialist shall notify the owner/operator and provide a regular Certificate of License to Operate a Family Child Care Facility (ECE-CC-16B) for a period of up to two years. Typically, the regular certificate of license is issued:

17.5.2.1. After the initial six month license if the facility is determined to comply with the rules;

17.5.2.2. Upon an application for renewal if the facility if determined to comply with the rule.

17.5.3. Regular License (Less than two-year period)

A regular certificate of license may be issued for periods of less than two years at the discretion of the child care specialist. Reasons to issue a shorter license include but are not limited to situations such as the following:

17.5.3.1. Seasonal issues – Seasonal issues would include a lack of approved heating source during summer months or lack of approved water safety requirements during winter months. A worker could issue a short term regular license based on a plan to be in compliance when the season changes.

17.5.3.2. Movement from an initial to a regular license. If the full inspection is not completed at the end of an initial license, staff should not issue a full two-year license, as that makes it more than two years for another full inspection. An 18 month license makes full inspections two years apart.

17.5.3.3. Movement from a provisional to a regular license. There are several reasons to issue a short-term regular license when a provisional license ends. If the provider has made substantial progress during the provisional period but minor concerns remain, a shorter regular license of up to six months or less may be preferred. In order to assure that the facility continues to maintain compliance, a shorter licensing period may be used. Also, if a full inspection is not completed, then it would result in a period of 2 ½ years between inspections. An 18 month license would make the full inspection two years apart.

17.5.4. Provisional License.

A provisional license may be issued when a licensee is not in compliance with the rule and compliance will take longer than 30 days, but only if continuing operation does not pose a significant risk to the rights, well-being, health and safety of children. A provisional certificate of license expires within six months of date of issuance, and shall not be consecutively reissued unless the only violation(s) are from the State Fire Marshall, who recommends a provisional license be issued. Otherwise, at the end of the six-month provisional period, the facility must either be eligible for a regular license or have its license revoked. In issuing a provisional license, the child care worker shall:

17.5.4.1. Notify the operator to complete a Corrective Action Plan within thirty (30) days from the date

the notification is mailed, or the license may be revoked or application denied. The child care regulatory specialist shall assist the operator in completion of the CAP by discussing possible solutions that appropriately address the issues. Upon receipt of the corrective action plan, the child care regulatory specialist shall notify the operator and provide a provisional six-month (6) Certificate of License to Operate a Family Child Care Facility.

17.5.4.2. If the operator does not complete the corrective action plan within the specified time, the child care regulatory specialist shall revoke the license/deny the application/refuse to renew the license to operate a Family Child Care Facility, whichever applies.

17.5.5. Denial of License.

If there are serious areas of noncompliance with regulations that place a child at risk, the child care regulatory specialist shall notify the operator that the Facility application is denied. The operator may submit a new application when the violations are corrected. In some cases, the operator will be unable to correct the areas of noncompliance, i.e. convictions of violent crimes against the person, history of child abuse, and should be notified that no application to operate a family child care facility will be approved.

17.6. Hearings.

If the family child care facility provider disagrees with any negative action, the provider may request a hearing in writing within 30 days from receipt of the letter per Chapter 49, Article 2B-13. Requests for hearing should be submitted to the DHHR Hearings Officer.

17.7. Penalty.

Any family child care facility that operates without licensure is guilty of a misdemeanor, and upon conviction thereof, shall be punished by a fine of not more than five hundred dollars (\$500). Staff may refer the illegal operation to the local Prosecuting Attorney and/or the DHHR Regional Attorney.

17.8. Referrals.

When a family child care facility is licensed, the child care regulatory specialist shall notify the CCR&R agency that the Facility is licensed and is eligible for referrals. When a license is not renewed or revoked, the R&R agency should be notified, so they can discontinue payment.

17.9. Child Care Facility Complaint Process

17.9.1. Standards Violations:

(See Chapter 11, Section 2, for guidelines on conducting an investigation). The child care regulatory specialist shall investigate complaints of standards violations against child care facility providers.

17.9.1.1. If the family child care facility is in violation of standards, a time-limited corrective action plan shall be implemented and a provisional license issued if necessary. A provisional license should only be issued if corrective action will take more than 30 days or there are multiple issues that merit stronger regulatory action.

17.9.1.2. If a child care facility is determined to be serving more than twelve children at one time, then the facility must immediately reduce the number. If the owner/operator is interested, information shall be provided regarding becoming a child care center and a referral made to the Child Care Licensing Unit in the Division of Early Care and Education.

17.9.2. Illegal Operations.

The child care regulatory specialist shall investigate all complaints regarding unlicensed family child care facilities caring for seven (7) to twelve (12) children.

- 17.9.2.1.** The child care regulatory specialist shall make an unannounced visit to determine the number of children in care.
- 17.9.2.2.** The child care regulatory specialist shall discuss the law and the licensure process and shall work with the provider toward licensure or a reduction of the number of children in care. The child care regulatory specialist shall give the provider the Family Child Care Facility Information packet, the Application to Operate a Family Child Care Facility and a copy of the regulations. The provider must reduce the number of children present at one time to no more than six if the provider can be registered as a family child care home. The provider must reduce to less than four children if she cannot or will not meet registration requirements.
- 17.9.2.3.** A follow-up visit shall be made within two (2) to four (4) weeks to determine compliance with regulations. If a provider continues to operate illegally, the DHHR child care regulatory specialist shall inform the owner/operator in writing that they may be found guilty of a misdemeanor and be subject to a fine of not more than \$500.00. Staff shall notify the Office of the Prosecuting Attorney or the Regional DHHR Attorney in writing when an operator fails to comply with licensing requirements.

17.9.3. Child Abuse and Neglect Allegations.

Institutional Investigations Unit is responsible for investigating allegations of child abuse and neglect in facilities. If requested, child care regulatory staff may assist IIU with interviewing children. However, to maintain impartiality, child care regulatory staff who work with the provider should have a very limited role in the investigation. Regulatory Specialists shall take the following steps during an IIU investigation.

- 17.9.3.1.** No staff, household member, or owner/operator under investigation in a family child care facility shall have contact with children until the investigation is complete. Upon completion of the investigation, any staff person determined to have abused or neglected children, including the operator or owner, shall no longer care for children or have any contact with children in care. Failure to take appropriate action to safeguard children in the facility shall result in revocation of the license.
- 17.9.3.2.** If IIU finds serious problems prior to substantiation or completion of the investigation in a facility located in the provider's home where the owner/operator or household member is involved, the IIU worker and child care regulatory specialists as well as both supervisors (Child Care Regional Supervisor and IIU Supervisor) shall discuss the situation to determine whether or not to remove children pending the outcome of the investigation. DHHR and CCR&R staff, where applicable, shall notify parents that an investigation is underway that could result in negative action. The children must be removed from care until the investigation is complete. The CCR&R worker shall provide assistance to parents with alternate child care arrangements. If an abuse or neglect allegation is substantiated against a household member or the owner/operator in a facility located in the provider's home, the child care regulatory specialist shall revoke the Certificate of Licensure.

CHAPTER 18: PROVIDER REGULATION: CHILD CARE CENTER

18.0. Definition of Child Care Center.

A child care center serves groups of thirteen (13) or more children for four (4) or more hours per day.

18.1. Regulation of Child Care Centers.

Child care centers in West Virginia must be licensed. A license can be issued to a child care center only when it meets the requirements of DHHR, State Fire Marshal's Office, and Bureau of Public Health. The purpose of licensing is to insure the protection and care of children in child care centers, as defined in Chapter 49 of the West Virginia Human Services Law.

The Child Care Center Licensing unit in the Division of Early Care and Education has the responsibility for evaluating child care centers. A list of licensed child care centers and copies of Licensing Requirements for Child Care Centers, which includes procedures to establish a child care center, can be obtained from the licensing unit. DHHR and R&R staff shall refer questions or complaints regarding a licensed or illegally operated child care center to the licensing staff.

18.2. Child Care Center Complaint Process

18.2.1. Allegations of Violation of Standards or Illegal Operations.

The Child Care Center Licensing Specialist shall investigate complaints of licensing violations and illegal operations against child care centers caring for 13 or more children.

CCR&R workers shall forward these complaints to the Child Care Center Licensing Specialist. CCR&R staff shall give the complainant the phone number of the licensing specialists and the web site where complaints can be entered. They should also request the name of the center, the name and phone number of the complainant and e-mail the complainant's number to the licensing specialist and Child Care Center Licensing Director.

18.2.2. Allegations of Child Abuse or Neglect.

The DHHR Institutional Investigation Unit shall investigate complaints of alleged child abuse or neglect. CCR&R workers shall forward any complaints of this nature to the IIU through the Child Abuse and Neglect hotline at 1-800-352-6513.

CHAPTER 19: PROVIDER REGULATION: UNLICENSED SCHOOL-AGE CHILD CARE

19. Definition and Regulation of Unlicensed School Age Child Care

Unlicensed School Age Child Care Programs provide out of school time services typically for fewer than four (4) hours daily, and not more than 30 full days annually for children age 5 and up. These programs are legally exempt from regulatory requirements but may be approved for payment if they meet minimal health and safety requirements established by the Department. Summer day camps may only be used if children attend less than 30 days. Camps operating over thirty (30) days must be licensed child care centers.

19.1. Application Forms for Approval of Unlicensed School Age Programs

The director of a school-age child care program who wishes to participate in the child care subsidy system should be given the following forms:

- 19.1.1. Health and Safety Requirements for Unlicensed School-Age Child Care Programs (ECE-CC-11)
- 19.1.2. Multiple copies of the Authorization for CPS/APS Background Checks (ECE-CC-8A)
- 19.1.3. Multiple copies of the Statement of Criminal Record Forms (ECE-CC-8B)
- 19.1.4. Emergency Information Forms (ECE-CC-10E)
- 19.1.5. Tax Identification Form (W-9)
- 19.1.6. Direct Deposit Information/Application Form (ECE-CC-27)

19.2. Completion of Forms

The director of a school-age child care program shall:

- 19.2.1. Complete the application and health and safety checklist.
- 19.2.2. Obtain appropriate inspections and permits to operate from the State Fire Marshal's Office and Bureau of Public Health at time of application and annually thereafter
- 19.2.3. Have all staff members who have contact with children sign Criminal Record Statement forms and Authorization for CPS/APS Background Check Forms.
- 19.2.4. Submit the above forms to the appropriate DHHR child care regulatory specialist.
- 19.2.5. Complete the W-9 Tax ID Form and return it to the CCR&R.
- 19.2.6. Attend payment training through the CCR&R and sign a Provider Services Agreement (DAY-0546)

19.3. Inspection and Monitoring

The child care regulatory specialist shall conduct an inspection of the programs within 60 days of the date the program began to accept subsidy payments and annually thereafter. During the annual visit, the specialist shall obtain copies of the reports from the State Fire Marshall and the Department of Health and shall inspect the program for compliance with the Health and Safety Checklist for Unlicensed School Age Child Care (ECE-CC-11) annually. Programs must maintain staff/child ratios. Background checks must be obtained for all staff over the age of 18 years.

19.4. Background Checks for School Age Programs

During the initial inspection, the child care regulatory specialist shall complete fingerprints on the director and any staff currently employed. The child care regulatory specialist shall then supply the program director with

fingerprint cards (DPS-39) and instructions for completion of fingerprints on new staff. Fingerprints on all new staff and volunteers must be completed and submitted to the child care regulatory specialist within 5 days of employment. All employees must complete a Statement of Criminal Record (ECE-CC-8B) and an Authorization for a CPS/APS Background Check (ECE-CC-8A) at the time they are employed. Fingerprints and background check statements shall be submitted to the local child care regulatory specialist for submission to the State Office, with a copy of the employee's signed statements kept on file at the local office

19.5. Action on Requests for Approval

The child care regulatory specialist shall put all actions regarding approval of an unlicensed school-age program in writing, using the DAY-0168, Notification of Provider Approval Status.

- 19.5.1. If permits are provided and the program is in compliance with the checklist, it is approved for funding.
- 19.5.2. At the initial application, if the program does not obtain the mandated permits or fails to comply with the checklist, approval is denied.
- 19.5.3. During monitoring or complaint investigation, if an approved program is found out of compliance with the DHHR checklist, a corrective action plan must be implemented, requiring correction of all non-compliance within thirty (30) days. A follow-up visit shall determine compliance.
- 19.5.4. Failure to comply with the corrective action plan or loss of any permit to operate shall result in immediate withdrawal of approval status and termination of payments to the program.
- 19.5.5. If the program is no longer approved, the child care regulatory specialist shall notify the CCR&R that the program can no longer be approved. The R&R worker shall cancel the Provide Services Agreement and send notifications to the provider and parents.

19.6. Unlicensed School Age Program Complaint Process

19.6.1. Violations of Health and Safety Standards

The DHHR child care regulatory specialist shall investigate complaints related to any standards on the checklist, and refer other complaints of health and safety violations to the State Fire Marshal's Office or the local Health Department, whichever is appropriate.

19.6.2. Illegal Operations

If a funded program is regularly operating more than four (4) hours daily or over 30 days in the summer, the child care regulatory specialist and CCR&R worker shall terminate approval and funding. The program shall be referred to the Child Care Licensing Unit in the Division of Early Care and Education.

19.6.3. Child Abuse and Neglect Allegations.

- 19.6.3.1. Child Protective Services staff is responsible for investigating allegations of child abuse and neglect.
- 19.6.3.2. If requested, child care regulatory specialists may assist CPS with interviewing children. However, to maintain impartiality, child care regulatory specialists who work with the provider should have a very limited role in the investigation.
- 19.6.3.3. No staff under investigation in an approved unlicensed school age program shall have contact with children until the investigation is complete. Upon completion of the investigation, any staff person determined to have abused or neglected children, including the operator or owner, shall no longer care for children or have any contact with children in care. Failure to take appropriate action to safeguard children in the program shall result in withdrawal of approval status.

CHAPTER 20: CORRECTIVE ACTION PLANS FOR CHILD CARE PROVIDERS

20.0 Overview: Reasons for Issuing a Corrective Action Plan

A Corrective Action Plan is used for the following reasons:

1. A minor non-compliance exists, which usually can be corrected within 30 days, does not present risk of harm and does not require placement on a provisional certificate.
2. A provisional certificate of registration is issued. A corrective action plan shall be issued that cites specific requirements and describes action necessary to restore or issue the regular certificate of registration. If more than one requirement is cited, deadlines for corrections to be made may vary.
3. A complaint investigation or CPS investigation identifies non-compliances or areas of concern. This type of corrective action plan usually falls within 1 or 2 above.
4. A subsidy program non-compliance exists. This type of corrective action plan is issued by the CCR&R agency. Child Care Providers will from time to time make errors in completing Requests for Payment or accidentally breach the service agreement. Occasional minor mistakes are not grounds for closure. However, consistent unwillingness or inability to comply with appropriate Request for Payment and Sign In and Out procedures, or the terms of the service contract should be addressed with a corrective action plan.

20.1. Elements of a Corrective Action Plan.

A corrective action plan states how the provider will correct the violation(s), how the provider will assure it will not recur, and who is responsible for implementing and monitoring the plan.

A corrective action plan must contain the following information:

- 20.1.1. A statement indicating what correction(s) needs to be made. This could be either in a physical area of the home, or, in the case of subsidy system violations, in the areas of billing or breaches of the provider contract.
- 20.1.2. A statement as to how the corrective action will be accomplished, to remedy the violation(s).
- 20.1.3. A statement as to what measures will be put into place or systematic changes made to ensure that the violation(s) will not recur; or
- 20.1.4. A statement as to what interim measures will be put in place until systematic changes are made to ensure that the violations will not recur.
- 20.1.5. A statement indicating when the specific corrections and systematic changes will be made (within a reasonable period of time, relative to the seriousness of the violation);
- 20.1.6. A statement as to who (name, title of position) is responsible for monitoring the corrective actions.
- 20.1.7. A statement as to who (name, title of position) is responsible for completion of the corrective action plan and what systems will be put in place to ensure that the violation(s) are corrected and will not recur.

20.2. Procedures for Corrective Action for Child Care Regulatory Specialists

20.2.1. Procedures During Evaluation.

During on-site evaluations, the child care regulatory specialist should complete the appropriate checklist and:

- 20.2.1.1.** The child care regulatory specialist and the provider sign and date the checklist.
- 20.2.1.2.** Corrective action is indicated on the front of the checklist and the specific requirement in the checklist is checked as “Non-Compliance”. In some situations, the child care regulatory specialist may want to note the corrective action to be taken on the comments section of the checklist.
- 20.2.1.3.** When a situation(s) is identified that requires corrective action, verbal notification is to be given to the provider during the visit. Verbal notification should include identification of the specific problem area(s) noted and a discussion of methods for correction. If a number of methods for correction exist, the provider and regulatory specialist shall discuss and jointly agree on the alternative that best meets the needs of the children and the provider.
- 20.2.1.4.** Written notification of the identified problem area(s) is to be done using the Corrective Action Plan. The CAP is to be sent to the provider within five (5) working days of the verbal notification. The problem area(s) to be corrected are to be listed and a time frame for the completion of the corrections specified, generally not to exceed thirty (30) days from receipt of the verbal notification although longer time frames may be given with supervisory approval.
- 20.2.1.5.** If the required changes have not been made within the time frame set by the child care regulatory specialist in conjunction with the provider, the provider shall be notified in writing, advising the provider of the Department=s intention to close the home within thirteen days.
- 20.2.1.6.** Child care regulatory specialists should notify their local CCR&R of the impending closure.
- 20.2.1.7.** If the provider makes the required corrections with in the thirteen days prior to closure, the regulatory specialist should cancel the closure notice in writing and notify the CCR&R of such cancellation.

20.2.2. Procedures without an On-Site Evaluation.

When the corrective action is being issued based on the checklist without an on-site evaluation, the child care regulatory specialist should sign and date the checklist indicating the date reviewed and the corrective action.

20.2.3. FACTS Data Entry.

The checklist and the corrective action are placed in FACTS and the child care regulatory specialist sends a copy of the Corrective Action Plan along with a notification to the provider within five working days.

20.2.4. Areas of Concern.

The Corrective Action Plan also contains language to indicate that the worker has identified an area of concern with regard to a condition/activity not covered in the rules. An area of concern is not a non-

compliance issue and cannot be enforced as such. Areas of concern are handled by provision of technical assistance.

20.2.5. Agreement on Action.

Usually, corrective action can be discussed with the provider and an acceptable solution for both parties reached. The child care regulatory specialist has the authority to make final decisions on the appropriate corrective action to be taken to comply with the requirement being cited. If a provider refuses to agree to corrective action, the worker shall inform the provider that the certificate of registration or the license will be denied or revoked and that the provider has the right to appeal.

20.2.6. Alternate Actions.

There are times when the Corrective Action Plan needs to state an alternate action during the time the correction is being made in order to assure no harm.

Example: A registered family home is renovating a bedroom, which is adjacent to activity space for care. The child care staff observes no door on the room, and materials inside the room which pose a risk to young children. The caregiver states that the new door should arrive within the next five days. After discussion with the caregiver about possible barriers, the corrective action plan is written to include that a gate barrier will be installed immediately, no renovation using electrical equipment or material emitting fumes will be used, or activity causing wood or dust particles will be conducted while children are present in the home, and the caregiver will notify DHHR when the door is installed. The ECE-CC-9 will indicate non-compliance for 7.3.a.1. In the column for Worker Use Only indicate, "See comments". On the Comments section of the checklist, describe the action agreed upon and the date the door is to be installed. The front of the checklist is signed and dated by both parties, with the Child Care Regulatory Specialist indicating Corrective Action.

20.2.7. Follow-Up on Corrective Action.

Child care regulatory specialists must follow up on Corrective Action Plans to determine whether or not corrective action is achieved by the date on the plan. Failure to comply with the plan will result in a denial or revocation of the license or certificate of registration.

20.2.8. FACTS Notes on Corrective Action Plans.

The Corrective Action Plan in FACTS consists of two screens – "Summary Screen" and "Detail Screen". The screens are not completed all at one time. Information is entered initially, and as the plan is implemented, the user returns to the screens to document status and dates of completion or non-completion.

- 20.2.8.1.** On the "Summary Screen", "pending" should be chosen in the "Summary Outcome" of the "Corrective Action Plan Picklist", the start date entered, and the screen completed before adding the "Summary Screen." Once the "Summary Screen" has been added the "Detail Screen" will be available.
- 20.2.8.2.** It is recommended that you complete all the tabs of the "Detail Screen" before adding the screen, or before using the "Change" command button. The "Change" command button will be used when documenting already existing non-compliance issues rather than the "Add" command button.
- 20.2.8.3.** You will be building an inset grid containing all the non-compliance issues. Document each non-compliance issue separately. Any non-compliance issues that were substantiated during a non-compliance investigation or any non-compliance issues identified on the "Child Care Checklist Screen" will populate the "Details Screen". For each instance of non-compliance, enter the date for completion or monitoring.

20.2.8.4. On the “Outcome Picklist” – enter “pending” when beginning the corrective action plan. Enter “achieved” or “not achieved” after the date for completion has ended.

20.2.8.5. See the FACTS Help Desk Guide for full instructions on completing the Corrective Action Plan.

20.3. Procedures for Corrective Action for Child Care Resource and Referral Staff.

When child care providers participating in the subsidy program violate the terms and conditions of the provider service contract and/or billing requirements, it may be necessary to place the provider on a Corrective Action Plan.

20.3.1. First Offenses – Strike One

20.3.1.1. Billing Errors.

The first time a provider submits an incorrect Request for Payment Form (ECE-CC-10-A) and attendance sheet (ECE-CC-10-G), the CCR&R worker shall send a letter to the provider indicating the payment request is incorrect. A Corrective Action Plan is not done for the first occurrence. The CCR&R worker shall have the provider submit another request for payment with the appropriate corrections made. Corrections on Request for Payment forms or Child Care Attendance records shall not be made with “white out.” Parents and/or Providers, as appropriate, shall strike through incorrect information, make corrections and initial them. If corrections need to be made to original Child Care Attendance sheets (ECE-CC-10G) – parents should also initial to verify the corrections. If Child Care Attendance sheets are incorrect, clients should also be notified of their responsibility for appropriately completing sign in and out procedures.

20.3.1.2. Service Contract.

The first time a provider violates the service agreement, the worker should notify the provider of the breach and remind the provider of the terms of the service agreement. A Corrective Action Plan is not done for the first occurrence.

20.3.2. Successive Occurrences – Strike Two

For successive occurrences, the R&R worker shall take the following steps:

20.3.2.1. Create a Corrective Action Plan addressing each of the items in Section II of this chapter.

20.3.2.2. The worker/supervisor will schedule a conference with the provider to discuss the Corrective Action Plan.

- A. Billing Issues: If the provider submits a second incorrect Request for Payment form (ECE-CC-10-A), the CCR&R worker shall contact the provider by telephone or letter to schedule an individual training session on the payment process. At this time, the worker will develop a Corrective Action Plan. The additional training must be documented and the provider notified in writing that any future incorrect billing forms will result in termination from the Certificate system.
- B. Service Agreement Issues: The second time the provider violates the service agreement, the CCR&R worker shall contact the provider by telephone or letter to schedule an individual training session on the service agreement. At this time, the worker will develop a Corrective Action Plan.

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- C. If the provider refuses to sign the corrective Action Plan, the provider's service contract shall be canceled within thirteen (13) days, and the provider shall no longer be permitted to participate in the subsidy program.
 - D. If, during the thirteen days, the provider agrees to sign and complete the corrective action plan, the closure notice shall be rescinded.
 - E. Providers refusing to sign and/or agree to corrective action plans shall be denied future participation in the subsidy program until the corrective action plan is signed and completed.

20.3.2.3. Follow-Up on Corrective Action – Strike Three:

- A. CCR&R workers must follow up on Corrective Action Plans to determine whether or not corrective action is achieved by the date on the plan.
- B. Providers who fail to achieve the corrections required by the corrective action plan, submit a third incorrect payment form, or violate the service agreement for a third time shall be subject to the “Three Strikes Rule – strike three – you’re out.” The CCR&R worker shall send the provider a 13 day cancellation notice using Cancellation Notice for Child Care Provider Services Agreement. Families using the provider shall also receive notification to select a new provider.
- C. Providers prohibited from participation in the subsidy system due to “striking out” may reapply after 12 months.
- D. The CCR&R supervisor should confer with their child care program specialist in the Division of Early Care and Education prior to approving the provider to participate in the subsidy system.
- E. Providers with a history of multiple non-compliance issues with the subsidy system policy and procedures or provider services agreement will not be approved to participate in the subsidy system.

20.3.2.4. FACTS Documentation.

The R&R worker shall import the Corrective Action Plan into the FACTS provider case file and document the action taken in the FACTS Contact screen.

CHAPTER 21: ADMINISTRATIVE HEARINGS

21.0. Overview

The West Virginia Public Welfare Law and subsequent administrative actions have guaranteed an applicant for or a recipient of Social Services the right to a hearing concerning an action taken by the Department.

Child care providers have the right to file a grievance, which is different from the guarantee to a hearing. A grievance is any complaint by a client or recipient of services of the agency who is receiving special services with regard to:

1. His/her treatment by agency personnel, (a worker or supervisor), or
2. Any other concern about his/her situation as related to the service programs of the agency which the client or recipient of services would like to have resolved.

Grievances by providers of service are different from grievances by clients of the agency in that they relate to the agency's decision not to use the service a person is willing to offer. By way of example:

1. The grievance would usually relate to the agency's decision not to use a home because it does not meet basic standards, or the closure of a home formerly used;
2. Another group it would pertain to would be those who provide service to clients of the Department of Human Services in their own homes; e.g., in home day or chore service.

Individuals or families who apply to become providers of service should be afforded the opportunity to initiate a grievance hearing at any point in their contact with the agency should they feel their situation is not being understood and assessed fairly by the worker.

Grievances should not be confused with the client's or recipient of services right to appeal his/her exclusion from or inclusion in a service program against his/her will or the agency's failure to take into account the recipient's choice of service. Procedures regarding the client's or recipients of services right to this type of Fair Hearing is explained in Chapter 700 of the Common Chapters Manual.

Every child care client and provider has the right to request a hearing concerning actions taken by the Department or CCR&R workers. The State Board of Review is designated by State Law as the body through which a client or provider may present his/her case to a higher authority. The State Hearing Officer is an impartial official who has not been directly involved in any determination of the action in question.

21.1. Reasons for Hearings.

Reasons for hearings fall generally into four categories: denial, reduction, closure, and delay.

21.1.1. Denial –Any time a provider or client claims he or she was excluded from providing or receiving services, including:

- 21.1.1.1. Denial of the right to apply.
- 21.1.1.2. Denial of services.
- 21.1.1.3. Denial of adequate services (i.e. not enough time on the child care certificate, etc.)

21.1.1.4. Denial of benefits due to race, color or national origin, age, sex, religious creed, political beliefs, or disability.

21.1.2. Reduction – Any time the level of service is reduced or limited.

21.1.3. Closure – Any time services are discontinued.

21.1.4. Delay – Any inaction or failure to abide by established timeframes to approve/deny a provider’s or client’s application or redetermination.

21.2. Adequate and Timely Notice of Decisions.

Adequate notice of a decision affecting benefits shall be mailed or provided in writing in a face to face contact, to the applicant. Notice shall be mailed at least thirteen (13) days before the effective date of any action or decision which may be adverse to the applicant.

21.2.1. Required Notice Information.

The notice must include the following information:

21.2.1.1. The action or proposed action to be taken.

21.2.1.2. The reasons for the action provided in terms readily understandable by the applicant.

21.2.1.3. Citation of relevant policy sections supporting the action taken or proposed.

21.2.2. Exceptions to Thirteen (13) Day Notice.

There are certain exceptions to the 13-day notice.

21.2.2.1. When a mass change is initiated, i.e. changes in provider reimbursement levels or income eligibility levels, a 13-day notice is not necessary.

21.2.2.2. When the fee is increased as a result of redetermination. A fee increase is not considered a negative action. The client’s status has changed based upon his or her increase in income, but the benefit of child care is not being eliminated. If clients return their status check after the due date but before the closure date, the case manager is to process the review. (See section 5.1.2.3.) The worker will not be able to give 13 days notice regarding the increased fee. However, the CCR&R worker must inform the provider and client of the date the fee increase takes place.

21.2.2.3. When there is a safety concern. In certain situations, such as allegations of serious child abuse or massive structural damage to the child care home, immediate closure may be necessary to protect the health and safety of the children.

21.3. Pre-Hearing Conferences.

Any person requesting a hearing shall have the right to a pre-hearing conference with the employee(s) of the Agency involved in the decision making process on the person’s case. Pre-hearing conferences are encouraged, as many issues can be resolved in this manner, without resorting to a hearing. At no time shall the applicant be discouraged from pursuing his or her right to a fair hearing.

21.3.1. Release of Information.

For the purpose of the fair hearing process, the applicant shall have access to his or her entire case record, including, but not limited to, all documents that pertain to the change in the applicant’s case that is the

subject of the fair hearing. With written authorization from the applicant, the applicant's attorney or representative may review the record. The review of the record shall take place during normal business hours at the location where the record is housed. Additionally, the applicant or his attorney/representative may request and receive, free of charge, a copy of the entire case record and a copy of any policy section that may be used in the hearing. If the worker has a question about whether certain confidential documents should be released, the worker should consult with the DHHR's regional attorney.

21.3.2. Time Limits for Requesting and Scheduling a Hearing or Pre-Hearing Conference

21.3.2.1. Applicants shall be allowed 13 days from the date of the notification letter to request a hearing or pre-conference hearing.

21.3.2.2. If after 13 days no response has been received from the applicant, the action as proposed shall be taken.

21.3.2.3. However, child care recipients may still submit a request for a hearing or pre-hearing conference up to 90 days after the action was taken. Child care providers may request a hearing or pre-hearing conference up to 30 days after the action is taken.

21.3.2.4. Recipients of Services.

A. If a client requests a hearing during the 13 day notice period, the action should not be taken until the hearing is held and the hearings officer has made a decision.

B. If a hearing is requested in response to an increase in fees, a notice of closure for exceeding income guidelines, or a denial of application, fees cannot be reduced nor services continued due to FACTS processes.

21.3.2.5. **Providers of Services:** If a hearing is requested in response to negative action taken due to health and safety concerns regarding child care children, services will not be continued.

21.4. Procedures for Handling Request for a Hearing.

21.4.1. Requests must be made in writing, using the hearing request form included with the notification letter.

21.4.2. A pre-hearing conference shall be offered, and scheduled, if accepted.

21.4.3. The person requesting the hearing must be told that if services continue and the agency is upheld, then the client will have to reimburse the agency for any amounts paid after the effective date of the closure.

21.4.4. The worker shall submit a (IG-BR-29) Hearing/Grievance Record Information Form, copy of the notification of negative action sent to the client, and copy of the client letter requesting a hearing regarding decision.

21.4.5. The IG-BR-29 must be submitted to the Board of Review within 48 hours of the hearing request.

21.5. Hearing Preparation

- 21.5.1.** The hearings officer will mail notice of the hearing to both parties.
- 21.5.2.** Before attending the hearing, the worker should put evidence in chronological order. Evidence should be clear and concise, and show what actions were taken in the case, and when, step by step.
- 21.5.3.** The worker should make at least 3 copies of all documents supporting the decision, one for the hearings officer, one for the client/provider, and one for the worker.
- 21.5.4.** The worker should be familiar with child care policy sections relevant to the decision and be able to cite policy and law, if applicable.

21.6. During the Hearing

- 21.6.1.** Be punctual, professional, and prepared. Never make the hearings officer wait.
- 21.6.2.** Before the hearing begins, the worker should request that exhibits/supporting documents be numbered.
- 21.6.3.** The worker has the right to request that witnesses be removed from the room so that their testimony will not be tainted.
- 21.6.4.** The worker will present to the hearings officer first, as the agency bears the burden of proof for the action taken. Always address the hearings officer and speak clearly and loudly enough for the tape recorder.
- 21.6.5.** The worker is her own lawyer. She should introduce herself: “My name is _____. I work for _____. I represent the Department/Child Care Resource Referral Agency. I have worked for the Department/CCR&R for _____ years/months/days.” The worker should also introduce any witnesses on her side.
- 21.6.6.** If the agency or worker made an error, admit it.
- 21.6.7.** Once the worker is finished, the client or provider who filed the hearing request will have the opportunity to present his or her side.
- 21.6.8.** The client or provider may also choose to cross examine the worker. The worker should answer questions directly, but do not answer questions on which she has no personal knowledge or on actions which she did not take.
- 21.6.9.** The worker should object to any misrepresentations by the client or provider – if the client makes a statement that the worker knows is false or a misstatement, make sure that it is addressed when the worker cross examines the client. The worker will also have the opportunity to present rebuttal testimony.

21.6.10. Closing statements – the worker may make a closing statement summarizing the agency’s position and requesting that the agency’s decision be upheld. In contentious hearings, the worker may choose to skip this step.

21.6.11. The hearings officer may then end the hearing. In rare cases, and only for good cause, a continuance may be granted.

21.6.12. The hearings office will render a decision within 90 days.

21.6.13. Both the agency and the applicant have the right to appeal the hearings officer’s decision.

21.7. Denial or Dismissal.

Hearings may be denied or dismissed if either of the following occurs:

21.7.1. Withdrawal – The Hearing Officer may dismiss a request for hearing if the client or provider withdraws the request in writing.

21.7.2. Abandonment – The Hearing Officer may dismiss a request for a hearing if the client or provider fails to appear at a scheduled hearing without good cause.

21.7.3. The request for a hearing is based solely upon policy or regulation. (i.e. A client may request a hearing because he feels the income guidelines are unfair. However, the Hearings Officer may dismiss the request because the disputed issue is a matter of policy which is not subject to interpretation.)

CHAPTER 22: PROVIDER RESOURCES

22. Overview

CCR&R and DHHR staff both share a responsibility for resource development to increase and improve the availability of child care services. It is important to develop and maintain an adequate number of providers in order to offer choices to parents. While an R&R agency may conduct recruitment campaigns, the child care regulatory specialist is responsible for regulation of providers and shall inform providers of their ability or potential to accept referrals of additional children. Leads to potential child care providers may also be secured through existing approved homes or parents. As requirements for WV WORKS participation increase, the need for providers may increase. All child care regulatory specialists shall provide support and technical assistance to parties interested in providing child care and refer providers to other resources, as needed.

On a state level, the State Division of Early Care and Education has implemented initiatives designed to increase the availability of child care. Both CCR&R and DHHR staff are encouraged to work with other early childhood programs to coordinate resources.

The development of a strong foundation for child care requires the development of resources. A strong foundation will enable local communities and the state to better accommodate growing child care demands and fluctuations in demand. Therefore, it is important to coordinate DHHR child care services with existing programs operated by both the public and private sector.

22.1. Kindergarten.

It is important to evaluate the placement of kindergarten age children carefully. Kindergarten attendance is mandatory and public kindergarten classes, funded by the State Department of Education and County Boards of Education, are available to all children. DHHR, therefore, will not pay for children to attend private kindergarten programs in child care centers. Parents and centers should be made aware that payment will be approved only for the time the child(ren) attends the child care program. Since centers can require parents to pay the additional cost of kindergarten, it may be necessary to assist parents with making alternate arrangements which are more affordable.

22.2. Head Start and Early Head Start.

Head Start, Title 1 and Pre-School Special Needs programs are operated through county school system and/or non-profit agencies. They offer excellent services for pre-school and children with special needs. These programs receive federal and/or state funds for services provided. They generally operate part time and do not meet the child care needs of working parents. They have therefore not typically been eligible to participate in the child care certificate system. Many Head Start programs have chosen to become licensed as child care centers. Some offer services for working parents either before or after normal Head Start hours. In these instances, licensed Head Start facilities can receive child care subsidies for care during extended hours that are not eligible for federal Head Start reimbursement. Child care subsidies may be used for any child whose care is not eligible for the Head Start program. Subsidies may be used for that portion of the day, week, or year when the Head Start part of the program is not in operation. Head Start programs shall not be reimbursed for care provided during the hours of operation that federal Head Start funds are available to cover the cost of the program for a particular child. However, Head Start centers can receive payment for full days for any child who is in care for more than four hours, either before and/or after normal Head Start hours.

In recent years, the Federal Administration for Children and Families has encouraged Head Start to collaborate with child care programs in order to offer full-day, full-year services, blending and braiding funds in programs that offer the quality of Head Start with child care's longer hours of services. In order to encourage such

blending of resources, child care and Head Start resources may be used jointly in some situations. If a Head Start program enters into an agreement with a licensed child care center to pay for enhancements to a child care program to provide additional services (family support, health and safety, teacher certification, curricula or equipment) needed to meet higher standards under Head Start Performance Standards or WV Pre-K requirements, then the center may continue to receive child care reimbursement for eligible children. Parent co-payment will continue to be deducted from the center's payment regardless of Head Start policy on collection of fees.

Each CCR&R shall maintain a list of Head Start, Title I and Pre-school Special Needs programs. The R&R worker shall contact these agencies to determine the location of programs, hours/days of operation and availability of transportation. Child care applicants shall be referred to the program, when appropriate. The CCR&R worker shall assist the parent in locating child care for the portion of the day or week when part-time programs are not in operation. The child care arrangement may be in a center or family child care home near the program or along the transportation route. In some instances, the child care provider may be willing to provide transportation. If existing child care providers are not available or convenient, the R&R worker shall attempt to recruit family child care homes. The Head Start or Public School programs may provide assistance with recruitment efforts by identifying potential providers among parents of children attending the programs./

In order to facilitate child care's participation in the Early Head Start program and assist families and children, licensed child care centers that are participating in the Early Head Start program or contracting with Head Start may continue receiving child care payments during the hours considered as Early Head Start, if certain conditions are met. Those conditions are as follows:

- 22.2.1.** The child care center must be licensed and offer full-day care of at least 10 hours per day.
- 22.2.2.** Payment may only be made for children eligible for child care subsidies.
- 22.2.3.** Payments from Early Head Start are designed to cover additional services. Additional services include, but are not limited to: certified teachers, curricula materials, payment for absent days or hours not covered by child care, and additional equipment to meet Early Head Start requirements. These are considered enhancements to the program, not payment for the basic cost of care for that child.
- 22.2.4.** The center may not charge the parent a fee for the hours considered to be Early Head Start hours. However, fees will continue to be deducted from the center's check. This may result in a difference in payment if the child is not in the program before and after school for at least four hours, but will not outweigh the financial benefits to the center.
- 22.2.5.** The family must use the center to maximum extent possible. Second providers shall not be approved if the child care center is available to provide care. To facilitate child care participation in Early Head Start, families may use child care for all regular Early Head Start hours. For example, Early Head Start hours may be 9-3 Monday through Wednesday, but the parents may not need to use child care on Tuesday. The center may still bill for Early Head Start hours used on Tuesday on the monthly payment form.

22.3. West Virginia Pre-k Program

In order to facilitate child care's participation in the WV Pre-k program and assist families and children, licensed child care centers that are participating in the WV Pre-k program or contracting with Head Start may

continue receiving child care payments during the hours considered as WV Pre-k, if certain conditions are met. Those conditions are as follows:

- 22.3.1.** The child care center must be licensed and offer full-day care of at least 10 hours per day.
- 22.3.2.** Payment may only be made for children eligible for child care subsidies.
- 22.3.3.** Payments from the public school system are designed to cover additional services. Additional services include, but are not limited to: certified teachers, curricula materials, payment for absent days or hours not covered by child care, and additional equipment to meet WV Pre-k requirements. These are considered enhancements to the program, not payment for the basic cost of care for that child.
- 22.3.4.** The center may not charge the parent a fee for the hours considered to be WV Pre-k hours. However, fees will continue to be deducted from the center's check. This may result in a difference in payment if the child is not in the program before and after school for at least four hours, but will not outweigh the financial benefits to the center.
- 22.3.5.** The family must use the center to maximum extent possible. Second providers shall not be approved if the child care center is available to provide care. To facilitate child care participation in the WV Pre-k, families may use child care for all regular Pre-k hours. For example, Pre-k hours may be 9-3 Monday through Wednesday, but the parents may not need to use child care on Tuesday. The center may still bill for the Pre-k hours used on Tuesday on the monthly payment form.

22.4. Grants.

Grants may be available, depending on the availability of federal and state funds, to assist family child care providers with start-up costs, meeting regulatory requirements, and/or improving the quality of care. Priority for grants should first go to providers participating in the subsidy system.

Family Child Care providers who cannot afford the cost of complying with health and safety standards shall be referred to the grant programs sponsored by the CCR&R agency. Grants shall be available for providers for a variety of needs, including start up assistance to meet health and safety requirements, pay operating permits, attend training or become accredited. While federal rules will not allow grant funds to be used for major improvements, grants may be approved for minor remodeling to meet health and safety requirements. Each R&R has individual grant application policy and procedures. In addition, the R&R agency sets limits for grant amounts and covered items and may establish policies that require repayment of grant funds if the home closes within two years of receiving funds for a capitol improvement. A provider shall complete an application form and shall be notified in writing of the disposition within 30 days. All applications are confidential and are retained in the R&R agency for three years.

22.5. Child and Adult Care Food Program.

The Child and Adult Care Food Program (CACFP) is an important resource for child care providers. The program not only reimburses providers for meals served to children but completes on site inspections and supplies nutrition training. Child care staff in the R&R agency will be responsible for informing new providers about the Child & Adult Care Food Program.

22.5.1. Cooperative Agreements.

Each DHHR child care unit and CCR&R agency shall enter into a cooperative agreement with the sponsor(s) of the CACFP in their area operation. The cooperative agreement should include exchange of

information, and resolution of problems which may arise. The cooperative agreement will help assure a good working relationship between agencies for the benefit of child care providers, parents, and children. The agreement should be discussed periodically and at any time problems arise. Information shall be shared among agencies, as legally permitted, particularly when there is an investigation for suspected fraud.

22.5.2. Exchange of Information.

In order to maintain confidentiality, payment forms (ECE-CC-10A) should not be shared unless the sponsoring agency wishes to obtain them directly from the providers. By signing the child care application, the parent agrees that information may be released to the Child & Adult Care Food Program. Therefore, child care staff can provide the agency with names and number of children open or closed in the home of each provider who participates in the program. It then becomes the Child & Adult Care Food Program sponsoring agency's responsibility to obtain other necessary information directly from the provider and parent. The DHHR Child Care Worker shall insure that the Child Care Food Program is notified of changes that occur with providers on a monthly basis.

22.5.3. Regulation of CACFP Providers.

Family home child care providers interested in receiving CACFP reimbursements must volunteer to register.

CHAPTER 23: CHILD CARE STAFF RESPONSIBILITIES

23.0. Overview

Child care services designed to make child care more affordable, more available and of higher quality are provided through multiple agencies. Staff from the State Division of Early Care and Education, DHHR Child Care Regulatory Staff, and six Child Care Resource and Referral Agencies all contribute to the overall effectiveness of the program. Each of these entities has specific responsibilities and assignments. In addition, the agencies coordinate their efforts through the regional Child Care Quality Teams located in each of the six service delivery areas established for resource and referral territories.

23.1. Division of Early Care & Education – Child Care & Quality Initiatives Staff.

The State Division of Early Care & Education staff is responsible for overall administration of the child care program including:

- 23.1.1. Management of federal and state funds;
- 23.1.2. Development and interpretation of policy;
- 23.1.3. Policy training and technical assistance;
- 23.1.4. Coordination with other state and local early childhood programs;
- 23.1.5. Development/implementation of quality initiatives;
- 23.1.6. Development of standards for child care programs;
- 23.1.7. Establishing provider payment rates and income guidelines;
- 23.1.8. Development of forms and computer support systems;
- 23.1.9. Communication/collaboration with federal, state and local level agencies involved in child care or related early childhood programs;
- 23.1.10. Legislative responsibility for program;
- 23.1.11. Development of contracted services and monitoring;
- 23.1.12. Case consultation upon request;
- 23.1.13. Coordination of WV Pre-k program with Department of Education;
- 23.1.14. Approval of county WV Pre-k plans; and
- 23.1.15. Staffing the PIECES Advisory Council.

23.2. Division of Early Care and Education – Child Care Center Licensing Staff

State child care center licensing staff is responsible under state law for the licensing and regulation of child care centers. This includes the investigation of complaints of standards violations, and illegal operations for programs caring for 13 or more children. The following list indicates responsibilities of state child care center licensing staff that relates to child care:

- 23.2.1. License, investigate and inspect child care centers;
- 23.2.2. Serve on the Training Advisory Council;
- 23.2.3. Educate Training Advisory Council members with regard to regulations and licensing procedures;
- 23.2.4. Collaborate with early childhood professionals and programs;
- 23.2.5. Promote quality, developmentally appropriate care in child care centers and related programs including promotion of and assistance in accreditation;
- 23.2.6. Enter all pertinent information regarding licensed child care centers into FACTS;
- 23.2.7. Provide technical assistance to the child care community;
- 23.2.8. Coordinate the licensing process with other regulatory agencies including the State Fire Marshal, Environmental Health, and Pest Management;
- 23.2.9. Identify need for changes in regulations.

23.3. DHHR Child Care Regulatory Specialists.

Child care regulatory specialists in county offices regulate informal and relative family child care homes, family child care homes, and family child care facilities, and ensure that programs that are legally exempt from regulation by state law meet health and safety standards required for receipt of federal funding. The following is a partial listing of those responsibilities.

- 23.3.1. Investigate reports of illegal operations, when 12 or fewer children are in care;
- 23.3.2. Report complaints of over 12 children to the child care center licensing specialist;
- 23.3.3. Monitor legally exempt school-age child care programs using checklists and annual visits to insure compliance with health and safety standards;
- 23.3.4. Register relative and informal family child care and family child care homes through review of applications, on-site inspections, annual visits as appropriate per policy for each the type of care;
- 23.3.5. Approve in-home child care home providers through a review of the Child Care Provider Services Requirements Checklist (ECE-CC-6A);
- 23.3.6. Answer policy questions of providers regarding regulatory issues;
- 23.3.7. Identify need for changes in regulations;
- 23.3.8. Case staffings with supervisory and/or CPS staff;
- 23.3.9. Linkage to CSM's, WV Works staff and Economic Service Staff; if needed.
- 23.3.10. Investigate complaints of standards violations on family child care homes and facilities, implement corrective action and monitor compliance;
- 23.3.11. Refer CPS complaints to CPS supervisor;
- 23.3.12. Participate as a member of the Training Advisory Council;
- 23.3.13. Registration of family child care homes and provision of technical assistance;
- 23.3.14. Licensure of family child care facilities and provision of technical assistance;
- 23.3.15. Background checks on providers, including CIB and CPS record checks;
- 23.3.16. Work with Fire Marshal and Environmental Health in regulation of family child care facilities;
- 23.3.17. Identify training needs of providers and report them to training staff at the R&R;
- 23.3.18. Entry of all provider information in FACTS;
- 23.3.19. Communications with R&R agencies, Child & Adult Food Program and providers;
- 23.3.20. Requests to DHHR supervisor for waivers, variances, and policy exceptions for family child care and exempt programs;
- 23.3.21. Assist family child care facilities to apply for grant funds and monitor to insure funds are used for approved activities and according to the plan submitted as part of the grant application;
- 23.3.22. Refer providers to other resources such as the food program, grants, training, associations, etc. in an effort to improve quality of care; and
- 23.3.23. Encourage providers to offer high quality child care programs.

23.4. Child Care Resource and Referral Agencies (CCR&R).

The Department of Health & Human Resources has contracted with community agencies to provide child care resource and referral services and to determine eligibility for subsidized child care services in all areas of the state. Parents not in need of financial assistance or services may contact the R&R agency for information about standards, how to select quality care, or referral to registered, licensed and approved facilities. Resource and Referral agencies are responsible for the following core services:

23.4.1. Promoting consumer education and parental choice:

- 23.4.1.1. Assisting parents to select child care arrangements and become quality-conscious consumers of child care.

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- 23.4.1.2. Encouraging parents to review all consumer information materials prior to selecting care for their children and to constantly monitor and evaluate the child care situation once children are placed.
 - 23.4.1.3. Informing parents to be sensitive to changes in their children's behavior or attitude toward child care, which could be a sign of problems with the situation.
 - 23.4.1.4. Reminding parents that they should report any concerns about licensed or approved care and any suspicion of child abuse or neglect to the DHHR or R&R agency office.
 - 23.4.1.5. Reminding parents of the importance of consistency and continuity of providers and how changing providers too often can be detrimental to children.
 - 23.4.1.6. Helping parents to avoid potentially dangerous or inadequate child care situations.
- 23.4.2.** Recruitment of child care providers.
- 23.4.3.** Assisting child care providers through support activities, training, provision of information regarding age appropriate care, and encouragement of practicing professional standards.
- 23.4.4.** Operation of the Traveling Resource and Information Library Service.
- 23.4.5.** Eligibility Determination: Managing the subsidy certificate program using policies and forms required by the DHHR:
- 23.4.5.1. Determine family eligibility and complete a status check at least every six months, or more often if family circumstances change. Provide assistance to families in selecting care as well as consumer education.
 - 23.4.5.2. Accept referrals of WV WORKS participants from the DHHR. CCR&R staff shall utilize WV WORKS Referral Forms to determine and process eligibility status checks for TANF recipients.
 - 23.4.5.3. Issue certificates to all eligible families, based on parental choice.
 - 23.4.5.4. Enroll providers for payment and refer providers to DHHR for registration and/or health and safety checks.
 - 23.4.5.5. Process provider payment forms on an ongoing basis.
- 23.4.6.** Provide training and technical assistance to providers and the early care and education community.
- 23.4.7.** Consumer education.
- 23.4.8.** Work with community resources to improve the availability and quality of child care.
- 23.4.9.** Facilitate the regional Training Advisory Council.
- 23.4.10.** Operation of a grant program for family child care providers.

23.5. West Virginia Early Childhood Training Connections and Resources – Quality Rating and Improvement System Specialist.

This staff person is responsible for assisting providers in achieving higher quality standards. The QRIS Specialist:

- 23.5.1. Establishes forms, policies and procedures for the WV Quality Rating and Improvement System.
- 23.5.2. Develops application and renewal forms, agreements, certificates, notification letters, grievance forms, data entry and tracking forms and any other necessary forms to support the QRIS and related financial incentives.
- 23.5.3. Accepts applications from providers and determines approval or denial of quality related funding.
- 23.5.4. Reviews applications and supporting documentation from providers to verify program quality rating level.
- 23.5.5. Completes and maintains data entry and tracking on numbers of applications received, approved, and denied.
- 23.5.6. Works with providers on grievances related to the QRIS and quality funding.
- 23.5.7. Facilitates advisory groups and committees relevant to program projects.
- 23.5.8. Promotes the QRIS through presentations, newspaper and magazine articles, and provider conferences.
- 23.5.9. Develops constructive and cooperative working relationships with stakeholder organizations, agencies, and providers and maintain them over time.
- 23.5.10. Develops consumer education materials for parents and providers to promote the QRIS.

23.6. Cooperative Agreements between the DHHR and the CCR&R.

DHHR and CCR&R agencies shall enter into a written cooperative agreement regarding the exchange of information and on-going communication. The agreement should be developed between local staff and supervisors, and signed by the Regional Director and the Executive Director of the Resource and Referral agency.

23.7. Regional Training Advisory Council

Each Resource and Referral Service Delivery Area shall have a Training Advisory Council that will develop the training plan for the region. The Council shall consist of CCR&R director or supervisor and all training team members, providers, a member of the Division of Early Care & Education, the regional licensing specialist(s), the regional child care supervisor and the child care regulatory specialist, and should also include additional members such as Head Start, WV Birth to Three RAU, extension agents and other providers of early childhood professional development in the region as appropriate in order to share resources for all early care and education providers.

The entire advisory council shall meet no less than quarterly to prepare/update the training plan, but may meet more frequently as desired. The advisory council shall provide input on training needs - identifying locations that best meet the needs of providers, determining if the amount and frequency of training meets needs and providing input on training topics that may be needed based on areas of provider needs and/or areas of non-compliance.

The CCR&R agency shall determine their capacity to deliver training, taking into consideration amounts of time needed to develop, plan for and deliver training and time spent in additional quality activities, such as technical assistance and consultation with individuals or work on brochures, web sites or newsletters, etc.

CHAPTER 24: RECORDING PROCEDURES

24.0. Introduction

Information on clients and providers shall be recorded in FACTS and on forms prescribed by the State Division of Early Care and Education. For information that cannot be stored in FACTS or for information that requires a signature or third party letters or verifications, the R&R agency shall maintain case records for both client and provider. DHHR shall maintain records related to provider regulation in DHHR files. All significant contacts made with providers and clients are to be entered into the FACTS record.

24.1. Filing Procedures

Client and provider files shall be saved to FACTS. If a form is created or completed by the DHHR staff or R&R staff then it shall be imported into the FACTS file cabinet. All paper documents shall be noted in Document Tracking, maintained and forms filed into the following sections of the case records:

24.1.1. Client Case Record

24.1.1.1. Narrative Block

- A. DAY-0614 (ECE-CC-1) Application for Services/Signature Page, and supporting documentation
- B. DAY-0617 Status Check Report, and supporting documentation

24.1.1.2. Correspondence Block

- A. DAY-0177 Notification to New Applicants
- B. DAY-0179 Child Care Parent Notice of Denial or Closure
- C. DAY-0612 Child Care Parent Notification of Redetermination
- D. ECE-CC-1B Employment Verification Form
- E. ECE-CC-1C Self Employment Ledger Form
- F. ECE-CC-1D Thirty Day Job Search Request Form
- G. Other correspondence with client
- H. Information/Documentation on special needs children
- I. Documentation on parent disability

24.1.1.3. Legal Block

- A. DAY-0162 Child Care Services Parent Services Agreement
- B. ECE-CC-0612B Change of Information Notification
- C. DAY-0176 Child Care Certificate
- D. ECE-CC-19 Child Care Repayment Agreement
- E. IG-BR-29 Hearing/Grievance Request Form
- F. Verification of Citizenship

24.1.2. Child Care Provider File

24.1.2.1. Narrative Block

- A. ECE-CC-4 Child Care Provider File Cover Sheet
- B. ECE-CC-7 Information on Child Care Provider

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- C. ECE-CC-8 Application to Operate a Child Care Home
 - D. ECE-CC-9 Family Child Care Registration Checklist
 - E. DAY-0577 Certificate of Registration (Must be saved in FACTS)
 - F. ECE-CC-11 Checklist for Unlicensed School Age Child Care Programs
 - G. ECE-CC-15 Application to Operate a Family Child Care Facility
 - H. ECE-CC-16A Family Child Care Facility Checklist
 - I. DAY-0576 Statement of License (Must be stored in FACTS)

24.1.2.2. Legal Block

- A. DAY-0546 Child Care Provider Services Agreement (original)
- B. ECE-CC-19 Repayment Agreement
- C. W-9 Provider Tax Identification Reporting Form

24.1.2.3. Payment Block

- A. ECE-CC-10A Request for Payment-Child Care Services
- B. ECE-CC-10G Child Care Attendance Sheets
- C. The payment block may be filed separately, with files cross referenced.

24.1.2.4. Correspondence Block

- A. DAY-0613 Provider Notification Letter – Parent Eligibility
- B. DAY-0503 Notification of Provider Regulatory Status
- C. DAY-0618 Notification of Provider Approval Status
- D. ECE-CC-10F Provider Notices to Agency
- E. All correspondence with or about provider

24.2. Record Retention and Disposal

The current Retention and Disposal Schedule indicates that child care records (client and provider) shall be retained for seven years after closure. However, if any litigation, claim, negotiation, audit, disallowance action, or any other action involving the record has been started before the end of the seven year retention period, the record shall be retained until completion of the action and resolution of all issues that arise from it, or until the end of the seven year period, whichever is later.

Case records pertaining to ongoing or completed fraud investigations shall be retained until seven years after the conclusion of the investigation and the resolution of any action that arises from it.

Case records which have met the required retention period shall be destroyed. Destruction of case records will be accomplished by shredding. Document destruction will be suspended immediately, upon any indication of an official investigation or when a lawsuit is filed or appears imminent.

24.3. Child Care Forms and FACTS Reports for Subsidy Clients

24.3.1. DAY-0614 (ECE-CC-1) Application for Child Care Services

The DAY-0614 shall be completed at time of application. The application shall be completed by the parent during an intake interview scheduled within 10 days of original contact. The parent shall contact the R&R agency for an office appointment where the application and other forms will be completed. Workers may either: (1) complete the application form for parent signature; or (2) complete the necessary intake screens in

FACTS and print the signature page for parent signature. A FACTS generated and populated form may also be printed as needed. (See application process). A copy of the original application shall be stored in FACTS.

24.3.2. ECE-CC-1B Employment Verification Form

The ECE-CC-1B should be given to applicants who, due to new employment status, do not have 1 months worth of pay stubs to provide as proof of employment.

24.3.3. ECE-CC-1C Self Employment Ledger Form

The ECE-CC-1C is used to assist self employed applicants track income and expenses for self employment.

24.3.4. ECE-CC-1D Thirty Day Job Search Request Form

The ECE-CC-1D is completed by clients requesting a thirty day job search. It outlines the responsibilities of the client during the job search.

24.3.5. ECE-CC-1E Status Review Form

The Status review form shall be completed at least every six months by clients up for review.

24.3.6. DAY-0617 Status Review Letter

The Day – 0617 will be used to notify parents of the semi-annual status checks.

24.3.7. DAY-0613 Provider Notification Letter - Parent Eligibility

This FACTS generated letter is sent to the child care provider to notify the provider of information regarding client's eligibility, changes in fees and/or payment enrollment procedures.

24.3.8. ECE-CC-3 Child Health Assessment Form

This form must be completed upon initial placement of children age 6 years and under receiving child care services and every two years thereafter. Completed forms are to be maintained by the child care provider.

24.3.9. DAY-0162 Child Care Parent Services Agreement

Once it has been determined that the children need child care and the family is eligible, the Parent Services agreement should be completed as a FACTS generated form and the client shall sign an original and one (1) copy. The original is filed in the legal block of the client case record, a copy is given to the parent and a copy is saved to FACTS. The worker should carefully explain to the parent their responsibility to keep the agency informed of changes in income or circumstances.

24.3.10. ECE-CC-0162B Change of Information Notification

Clients can use this form to report any changes as outlined in Section IV.A of the Day-0612.

24.3.11. ECE-CC-5 (DAY-0176) Child Care Certificate

Upon approval of the family for child care services, the Child Care Certificate shall be printed via FACTS for the parent in an original with a copy saved to the FACTS record. The original is given or mailed to the parent who may use it to purchase care according to the terms of the Certificate. The parent is to give the Certificate to the selected provider as proof of payment. The provider is to retain the Certificate as long as she provides care or until the Certificate expires. Certificates are issued initially at the time of application and are valid for no more than six (6) months. A new certificate shall also be issued after completion of the client's status check if client remains eligible. The provider must receive a new certificate from the parent by the expiration date in order to continue child care payment.

Certificates will be populated by FACTS to indicate name and address of parent and provider, information on children needing care, child's daily fee and payment rates. The certificate shall be effective as of the date of application and shall expire no more than six (6) months after date of application. The R&R worker shall sign the Certificate and shall remind the parent that they must sign the certificate prior to giving it to the provider. Renewal certificates shall be sent directly to the parent who shall sign and give the certificate to the provider who shall sign and keep the form in their records.

24.3.12. ECE-CC-10E Emergency Information

Enrolled providers shall be given a supply of emergency forms during the payment enrollment process. Providers shall request that parents complete, notarize, and return emergency forms on all children prior to placement.

24.3.13. Parent Notification Letter

This letter is sent to child care parents to notify them of information regarding their eligibility for child care services. The original is sent to the parent, with a copy saved to FACTS. FACTS generates and populates three versions of this notification letter including:

DAY-0177 – Used for new applicants and child care certificate approvals;

DAY-0179 – Used for case closure or child care certificate denials; and

DAY-0612 – Used for case reviews and status checks.

24.4. Child Care Forms and FACTS Reports for Providers

24.4.1. DAY- 0503 Notification of Provider Regulatory Status

This FACTS generated letter is sent to registered and licensed child care providers to notify them of information regarding the regulatory and/or monitoring process.

24.4.2. ECE-CC-3B Statement of Good Health

This form shall be completed by an approved health care provider for informal and relative child care providers at the time of registration and every two years thereafter. In-home child care providers are also required to obtain a Statement of Good Health at the time of their approval.

24.4.3. ECE-CC-3C Medical Report for Child Care Provider

This form shall be completed by registered family child care providers at the time of registration and every two years thereafter.

24.4.4. ECE-CC-4 Child Care Provider File Cover Sheet

CCR&R workers use this form to notify regulatory specialists of any concerns with child care provider applications taken during orientation.

24.4.5. DAY-0546 Child Care Services Agreement with Provider

The R&R worker must be certain that the provider clearly understands all aspects of the FACTS generated Provider Services agreement. The R&R worker should have the provider sign an original and two (2) copies. The original copy shall be retained in the legal block of the provider file, a copy shall be given to the provider and a copy shall be sent to the DHHR Child Care Worker. The contract may be cancelled by either party, with or without cause, upon notice. The contract should be updated every 2 years, and the monitor will send a copy to the R&R.

24.4.6. ECE-CC-6A Payment Processing Training Certification

This form shall be signed by all child care providers who go through training on the payment process to confirm that they not only received the training, but understand it and agree to keep accurate records.

24.4.7. ECE-CC-6E Health and Safety Requirements for In-Home Child Care Providers

This form is a checklist and shall be completed by in-home family child care providers in order to receive child care certificate program funds. These standards are part of the Provider Services Agreement (DAY-0546).

24.4.8. ECE-CC-6IR Health and Safety Checklist for Informal and Relative Family Child Care Providers

This checklist shall be given to applicants for registration as an informal or relative family child care provider. The form shall be completed and returned within 30 days to the child care regulatory specialist. Checklists shall also be completed by the worker during monitoring visits and filed in the provider record.

24.4.9. ECE-CC-6 Registration Requirements for Informal and Relative Family Child Care – Legislative Rule.

These rules apply to the registration of informal and family child care providers and all providers must meet them. A copy of the full set of rules shall be given to all informal and relative family child care providers for their own records.

24.4.10. ECE-CC-7 Provider Information.

This form shall be completed by Registered Family Child Care Providers, Child Care Centers, Family Child Care Facilities and Unlicensed School-Age Child Care providers.

24.4.11. ECE-CC-8 Application to Operate a Family Child Care Home.

This form shall be completed by individuals applying to operate a registered family child care home, informal family child care home or a relative family child care home.

24.4.12. ECE-CC-8A Authorization for CPS/APS Background Check.

This form is to be completed by all child care providers, adult household members and staff and returned to the child care regulatory specialist within 13 days of enrollment/application for approval, registration, or licensure.

24.4.13. ECE-CC-8B Statement of Criminal Record.

This form should be completed by all child care providers, adult household members and staff and returned to the child care regulatory specialist within 13 days of enrollment/application for approval, registration or licensure. The Statement shall accompany all fingerprint cards when they are submitted to the State Office.

24.4.14. ECE-CC-9 Family Child Care Home Regulations Checklist.

Regulations shall apply to all registered family child care providers. Checklists shall be given to applicants for completion and returned within 30 days to the child care regulatory specialist. Checklists shall also be completed by the worker during monitoring visits and filed in the provider record.

24.4.15. ECE-CC-9B Field Visit Signature Page for use with PDA.

The ECE-CC-9B may be used during field visits for those child care regulatory specialists who have PDA's. It enables the specialists to provide a temporary hard copy assessment of any noncompliance issues. The

provider shall sign the signature page indicating they agree to enter into a corrective action plan so that the home meets all the requirements by the date indicated on the corrective action plan.

24.4.16. ECE-CC-9C Abbreviated Checklist for Registered FDC Homes.

This abbreviated form of the ECE-CC-9 is to be used at mid-certification monitoring visits, except for situations where material changes in the provider's child care environment have occurred.

24.4.17. ECE-CC-9R Family Child Care Home Registration Requirements.

The ECE-CC-9R is the set of legislative rules that have been promulgated for family child care homes caring for 4 (four) to six (6) children, including the provider's own children under the age of six (6). A copy of the legislative rules shall be given to all registered family child care providers, along with the Checklist (ECE-CC-9).

24.4.18. DAY-0577 Certificate of Registration.

A FACTS generated Certificate of Registration shall be given to all registered family child care providers and informal and relative family child care providers upon completion of the necessary requirements and again at time of renewal of the certificate. The Certificate shall indicate the type of care, address, type of registration (regular or provisional), approved capacity, issuance date and end date.

24.4.19. ECE-CC-10A and 10A-1 Request for Payment – Child Care Services.

The ECE-CC-10A is initiated by the child care provider. The form must be completed and submitted on a monthly basis in order for the provider to be reimbursed for child care services following items of information should be completed before the provider submits the form.

24.4.20. ECE-CC-10B Payment Instructions.

This form shall be given to all enrolled providers and provides directions on completion of form ECE-CC-10A and ECE-CC-10A-1.

24.4.21. ECE-CC-10C Fee Collection Instructions.

This form shall also be given to enrolled providers and provides instructions on how to collect fees from parents.

24.4.22. ECE-CC-10D Fee Notices.

Providers shall be given this form at time of payment enrollment. The form is optional but may be used by providers who opt to use a formal billing and receipt procedure.

24.4.23. ECE-CC-10E Emergency Information.

Enrolled providers shall be given a supply of emergency forms during the payment enrollment process. Providers shall request that parents complete, notarize, and return emergency forms on all children prior to placement.

24.4.24. ECE-CC-10F Provider Notice to Agency.

Providers shall be given a supply of these forms. The form is used to supply the R&R worker with information on parental fees and to request supplies of needed forms.

24.4.25. ECE-CC-10G Child Care Attendance Sheets.

Providers shall be given a supply of these forms. The provider shall enter the names of all children in care. All parents (or the persons responsible for the child) shall sign each child's time in and out on a daily basis. Their signature on the form each day shall verify that the times accurately reflect their child's attendance.

These forms are required monthly for all types of child care providers participating in the child care certificate program, with the exception of child care centers and unlicensed school-age care, which must submit them every six months.

24.4.26. ECE-CC-10H Payment Training Quiz

Providers shall be given this short quiz at the end of payment training to assist child care providers in understanding payment submission concepts and rules.

24.4.27. ECE-CC-10I Payment Training Quiz Answer Sheet

Answer sheet for the payment training quiz. CCR&R workers should cover the correct answers with providers who have completed the Payment Training Quiz.

24.4.28. ECE-CC-10J Pet Acknowledgement Form

Child care providers with pets in the home shall have all parents of child care children read and sign the acknowledgement form.

24.4.29. ECE-CC-10K Child Care and Responsible Pet Ownership

A booklet covering the types of animals allowed in the child care setting, as well as safety tips for safe child/pet interactions.

24.4.30. ECE-CC-11 Health and Safety Checklist for Unlicensed School Age Child Care Programs.

This one-page checklist shall be given to unlicensed school age child care programs that provide before and after school care at the time of enrollment for payment. The child care regulatory specialist shall monitor the facility within 60 days to insure compliance with the health and safety requirements and shall place the completed checklist in the facility's file.

24.4.31. ECE-CC-12 Application for the Approval of In-Home Care.

This application is to be completed by the parent receiving the care and by the caregiver. The parent is responsible for returning the application packet to the CCR&R agency.

24.4.32. ECE-CC-14 Family Child Care Facility Information Packet.

This packet is sent to applicants who are interested in opening a family child care facility. It provides sufficient information to screen out applicants who are not able or willing to comply with requirements and includes a letter of intent, which applicants are requested to complete and return.

24.4.33. ECE-CC-15 Application to Operate a Family Child Care Facility.

This application is to be completed by the owner/operator of a facility at the time of original application and at the time of renewal. The renewal application should be completed and sent to the local DHHR office at least sixty (60) days prior to expiration of a license.

24.4.34. ECE-CC-16 Family Child Care Facility Regulations.

These rules are to be sent to all applicants who wish to operate a family child care facility once a completed letter of intent is received. Applicants shall notify the DHHR Child Care Worker when they are ready for on-site evaluation of the facility. Rules are also available on line at <http://www.wvdhhr.org/bcf/ece/earlycare/regs.asp>.

24.4.35. ECE-CC-16A Family Child Care Facility Checklist.

This checklist shall be completed during an on-site visit by the child care regulatory specialist during the initial visit to approve the facility and upon renewal of the license. All facilities shall be monitored annually.

24.4.36. DAY-0576 License to Operate a Family Child Care Facility.

This FACTS generated certificate shall be provided to owner/operators of family child care facilities as verification of licensure. Certificates shall be initial, regular or provisional. Regular certificates are valid for up to two (2) years unless revoked. Provisional licenses are good for up to six months and may not be consecutively reissued unless the State Fire Marshal recommends it. An initial certificate is issued only to new facilities and can be issued for six months. Certificates shall indicate the approved number of children fewer than 24 months and over 24 months, issuing date and expiration date and are signed by the child care regulatory specialist.

24.4.37. ECE-CC-22 Family Child Care Provider Training Record.

Providers may use this form to record their training attendance and keep track of hours and core competencies covered,

24.4.38. ECE-CC-23 Fire Escape Plan.

Providers may use this form to assist in preparing fire escape routes and record fire drills.

24.4.39. ECE-CC-24 Emergency Phone List.

Providers may use this form to compile an emergency phone list.

24.4.40. ECE-CC-25 Medication Permission Slip.

Providers may use these permission forms with parents to record medication dosages and times.

24.4.41. DAY-0615 Corrective Action Plan.

This report may be generated by FACTS whenever completion of a regulatory checklist reveals areas of non-compliance. The corrective action plan shall be sent to the provider as a formal notice that the provider is out of compliance and listing the steps that must be taken for the provider to correct areas of non-compliance.

24.4.42. WVSP 39 and FD-258 Fingerprint Authorization and Print Card.

This fingerprint card shall be completed and submitted to the State Office of Social Services for submission to the CIB division of the State Police. (See Chapter 2000 and State Police Memorandum dated 3/19/2003)

24.4.43. W-9 Tax Identification Form.

This form will be completed at provider application/enrollment and signed by the provider. The R&R worker will send the original to the DHHR Child Care Worker, who shall enter the appropriate information on the FACTS tax information screen. The FACTS provider case number shall be added to the top of the form and the form forwarded to Bureau for Children and Families. A revised form will need to be completed by the provider whenever there is a name or address change, even if the provider moves out of state.

24.4.44. DAY-0618 Notification of Provider Approval Status.

This is a FACTS-generated notice for in-home and unlicensed school-age child care providers who are exempt from regulation under WV Code, Chapter 49-2B, but must meet requirements in order to participate in the child care certificate program.

24.4.45. ECE-CC-26 Incident Report Form.

Providers may use this form to record and report incidents the result in injury to a child. Incidents must be verbally reported within 24 hours. Providers are requested to follow up in writing within 72 hours.

24.4.46. ECE-CC-27 Direct Deposit Information/Application.

CCR&R staff shall provide this form to all new providers enrolled for payment after November 15, 2006. The form explains the process for direct deposit and includes the application form that is to be returned to the Auditor's Office.

24.4.47. ECE-CC-28 SIDS Self Study Packet.

Providers may use this self study packet to satisfy their SIDS training requirement. This form is available electronically to CCR&R staff and child care regulatory specialists for distribution and shall be checked by the child care regulatory specialist during monitoring/renewal visits.

24.4.48. ECE-CC-28A SIDS Self Study Quiz Answer Sheet.

Answer sheet for the SIDS Self Study Quiz. This form is available electronically to child care regulatory specialists so that they may check the SIDS quiz during monitoring/renewal visits.

24.4.49. ECE-CC-29 Shaken Baby Syndrome Self Study Guide.

Providers may use this self study packet to satisfy their Shaken Baby Syndrome training requirement. This form is available electronically to CCR&R staff and child care regulatory specialists for distribution and shall be checked by the child care regulatory specialist during monitoring/renewal visits.

24.4.50. ECE-CC-29A Shaken Baby Syndrome Self Study Guide Answer Sheet.

Answer sheet for the Shaken Baby Syndrome Self Study Quiz. This form is available electronically to child care regulatory specialists so that they may check the Shaken Baby Syndrome quiz during monitoring/renewal visits.

24.4.51. ECE-CC-30 Periodicity Schedule.

Child care providers are required to give a copy of this form, which contains a recommended schedule of health check ups and immunizations, to each child care parent.

24.4.52 ECE-CC-31 Guide to Family Child Care

Child care regulatory specialists and CCR&R workers may send this booklet to potential providers interested in becoming family child care providers.

24.5. Miscellaneous Forms and FACTS Reports

24.5.1. DAY-0616 History of Non-Compliance Report

This report shall be generated by FACTS upon request of a parent who requests information on substantiated complaints against the provider that are a matter of public record. The History of Non-compliance Report may be sorted by dates or by concerns identified during licensing review, monitoring visits or as a result of an investigation or a complaint investigation. Information on child abuse and neglect complaints shall not be included for distribution.

24.5.2. ECE-CC-20 IIU Referral Interview Guide

CCR&R and DHHR staff can use this form as a guide for recording child abuse and neglect complaints on child care centers.

24.5.3. ECE-CC-21 CPS Referral Interview Guide

CCR&R and DHHR staff can use this form as a guide for recording child abuse and neglect complaints on any type of child care provider other than child care centers.

24.5.4. IG-BR-29 Hearing/Grievance Record Information Form

This form is to be completed by the worker when a client requests a hearing regarding a negative action decision on a case. The request is to be sent within 48 hours to the State Hearings Officer with the appropriate documentation.

24.5.5. ECE-CC-19 Child Care Repayment Agreement.

This form shall be completed whenever a provider or client is determined to have received services or payments to which they were not entitled and the R&R worker is negotiating for repayment. The form shall be signed in duplicate, with one copy given to the client or provider and the other retained in the appropriate record. A copy shall also be sent to:

WV DHHR BCF OF&A
Attn: Jean Sheppard
350 Capitol Street, Rm. 730
Charleston, WV 25301

24.5.6. ECE-68 Remittances to Local DHHR Offices.

CCR&R staff shall complete this form on any returned checks or any re-payments that come into the CCR&R office. All items shall be completed. To enter the fund code, please look at the client payment history in FACTS which shows one of two fund types indicated below. The fund code for that type is located in the right hand column in the chart below.

Fund Type	Fund Code
Child Care & Development	5096-2007-2572-099-084
Title XX	5096-2007-2570-099-084

Please note that the only change in codes is in the third number sequence (2572 or 2570). Also, the second sequence of numbers refers to the state fiscal year- 2007. As of July 1st of each year, the fiscal year changes, so the fund code changes to reflect the fiscal year. As of July 1, 2007, please change to 2008 and change it each following year while we continue to do this by hand. Once completed, the form and the appropriate returned check or payments shall be submitted to the closest DHHR office.