

Emancipated Minor: An individual age 18 or younger who is considered an adult because s/he has:

1. Married; or
2. Moved away from the parent(s)' home and is not receiving support from the parent(s).

Family Child Care Home I: A licensed child care operation in the provider's place of residence which serves at least four but no more than eight children at any one time. A Family Child Care Home I provider may be approved to serve no more than two additional school-age children during non-school hours. For licensing regulations, see Title 391.

Family Child Care Home II: A licensed child care operation either in the provider's place of residence or a site other than the residence, serving 12 or fewer children at any one time. For licensing regulations, see Title 391.

Full Day of Care: At least ~~65~~ hours and 46 minutes through 9 hours. A full day may be longer than 9 hours if the child care program defines its day of care that way.

Infant: A child age six weeks to 18 months.

In-Home Child Care: Care provided to children in their own home.

Intentional Program Violation (IPV): Any action by an individual to intentionally:

1. Make a false statement, either verbally or in writing, to obtain benefits to which the individual is not entitled;
2. Conceal information to obtain benefits to which the individual is not entitled; or
3. Alter one or more documents to obtain benefits to which the individual is not entitled.

License-Exempt Family Child Care Home: An individual who is providing care in his/her own home, serving a maximum of three children from different families or six children from one family. See 392 NAC 5-003 for application of the limit on the number of children.

Preschooler: A child age 36 months to school-age.

Provider Identification Number: A nine-digit Federal Identification (FID) number or a nine-digit Social Security number (SSN).

Schoolage Child: A child who attends kindergarten or above.

Secondary Agreement: An agreement between a service provider and someone other than an employee to provide the agreed upon service for pay.

Service Provider Agreement: A legally binding document describing the service(s) to be provided, the agreed-upon unit(s), and the unit rate(s) for each provider. The responsibilities of the provider and of the Nebraska Department of Health and Human Services ~~system~~ are stated in the agreement.

3-005.01B Low Income Family (LF): A family unit whose income is within the maximum allowable income guidelines is eligible as LF. These individuals are eligible without payment of a fee.

If a family receives an ADC grant but not all members are included in the ADC grant unit (due to sanctions or ineligibility), the family must be determined eligible as LF or LC. (The ADC grant must be counted as income).

3-005.01B1 Services for Employment First Applicant: An ADC applicant who is participating in Employment First and needs Child Care Subsidy is coded LF and is eligible for supportive services.

3-005.01C Transitional Child Care (TCC): Transitional child care must be provided for 24 consecutive months if all of the following conditions are met:

1. The family loses eligibility for a grant as a result of increased earnings or increased hours of employment;
2. The family received a grant (or did not receive a grant but met income and resource eligibility to receive a grant) for which they were eligible in three of the last six months preceding ineligibility. (A month in which the unit was eligible but did not receive a grant because of the \$10 minimum qualifies as a month of grant.);
3. The family provides the financial information necessary to determine eligibility and the amount of the fee;
4. The child care is necessary to allow the parent to accept or retain employment; ~~and~~
5. The family's gross earned and unearned income is equal to or less than 185 percent of the Federal Poverty Level; and
6. The family continues to meet the resource limit.

The 24 months begin with the first month for which the family is ineligible for a grant. The family may begin to receive child care in any month during the 24-month eligibility period.

The first month of an ADC transitional grant is the first month of TCC. The transitional grants are disregarded as income.

3-005.01C1 Delayed Request for TCC: A family may request TCC at anytime during the 24-month period. Retroactive benefits are available, if needed, beginning with the first month of ineligibility for ADC.

3-005.01C2 Fee Requirement: A family that is eligible for transitional child care is required to pay a fee unless the family's income is below the minimum income for the fee schedule. If the family's income is below the minimum, the family does not owe a fee.

12. Capital gains;
13. The value of the coupon allotment under the Food Stamp Act of 1964, as amended;
14. The value of USDA donated foods;
15. The value of supplemental food assistance under the Child Nutrition Act of 1966 and the special food service program for children under the National School Lunch Act, as amended;
16. Any payment received under the Uniform Relocation Assistance and Real Property Acquisition Policies Act of 1970;
17. Earnings of a child age 18 or younger and in school;
Note: Summer earnings of a child age 18 or younger are excluded if the worker verifies that the child plans to return to school in the fall.
18. Loans;
19. Any grant to a student for educational purposes;
20. Adoption or guardianship subsidy payments;
21. Home produce used for household consumption;
22. Income received for work experience paid by a Title I Workforce Investment Act (WIA) program;
23. Title I WIA allowance paid for supportive services such as transportation, meals, special tools and clothing. This includes temporary Welfare-to-Work payments made through Workforce Development;
24. Payments to AmeriCorps volunteers;
25. Reimbursement from the Senior Companion Program;
26. Low Income Energy Assistance funds;
27. Housing assistance provided by Housing and Urban Development or by a local housing program;
28. Assistance received under the Disaster Relief Act of 1974 or under a federal law because of a presidentially declared major disaster;
29. Payments to a client participating in training or school attendance subsidized by the Division of Vocational Rehabilitation;
30. Payments made by Veterans Administration under the Veterans Education and Employment Assistance Act for education expenses of a veteran;
31. Payment made by an absent parent to a child care provider, landlord, or mortgage holder on behalf of the client;
32. Benefits under Public Law 104-204 for children of Vietnam veterans who were born with spina bifida;
33. Monetary allowance paid by the Veterans Administration under Public Law 106-419 to the child of a woman Vietnam veteran because of a birth defect associated with the veteran's service in Vietnam;
34. Reimbursement for employment-related expenses such as mileage, lodging, or meals; and
35. Military combat pay.

3-005.03A Transitional Grants: ADC transitional grants are disregarded in determining ~~the first month of~~ child care eligibility.

3-005.03B Deduction of Nursing Home Obligation: If the client has been directed by the Department to pay a portion of his/her income to a nursing home on behalf of an AABD client, the worker deducts the amount of the obligation from the client's gross monthly income to determine eligibility.

3-008.01A Limit on Hours of Assistance: ~~A client is limited to 60 hours of Child Care Subsidy per week.~~

3-008.01A1 Weekly Limit: A client is limited to 60 hours of Child Care Subsidy per week.

3-008.01A2 Daily Limit: The Department will pay for a maximum of 18 hours a day of care. This must comply with the 60-hour a week limit.

3-008.01B Education or Training: If the client is requesting child care in order to attend training or an educational activity beyond secondary school or GED classes, the training or education must:

1. Be consistent with the client's employment goals; and
2. Be in a program that will help the client achieve or maintain economic self-support.

In order to ensure that participation in training or an educational activity is meaningful and productive, the client must be in good standing or making satisfactory progress in his/her educational activity. The educational institution's standard is to be used to determine good standing and satisfactory progress. A client may still be considered as making satisfactory progress if below the institution's standard if there are mitigating circumstances which affect the individual's performance during the specified period of time.

3-008.01C Time Between Classes: A client who is attending school or training is not allowed Child Care Subsidy for study time but may receive it for a reasonable period of time between classes.

3-008.01D Employment: If the client is requesting child care for employment, the employment must have the potential to allow the client to achieve or maintain economic self-sufficiency.

3-008.01D1 Employment as Child Care Provider: The Department will not pay for child care for a child care provider's children. Some providers will send their own children to another provider for care; the Department will not pay for this care.

Exception: This prohibition does not apply for a foster parent, subsidized guardian, or subsidized adoptive parent who is also a child care provider. To avoid jeopardizing a placement, the Department will pay if a foster parent (or subsidized guardian or subsidized adoptive parent) who is otherwise eligible for child care subsidy sends his/her child to another child care provider.

{Effective 4/2/05}

3-008.01E Travel Time: A client is allowed Child Care Subsidy to cover a reasonable amount of time for travel between the child care site and the work or training site.

3-008.01F Sleep Time: A client who works through the night is allowed a maximum of eight non-work hours per day for sleep time.

3-009 Fee Obligation: Clients determined eligible as LC, low income sliding fee scale, or TCC (if within income guidelines) must pay a portion of the costs. The client's monthly fee covers the first dollars of payment, regardless of when service begins or ends. The Department pays the balance up to the agreed upon amount.

3-011 Immunization: At the time of application, the client must agree to obtain immunizations according to state immunization guidelines for his/her child(ren) who is receiving child care subsidy. The following are exempt from the immunization requirement:

1. Children whose parents object to immunization on religious grounds; and
2. Children whose health would be harmed by immunization. This requires certification by a physician, certified nurse practitioner, or physician assistant.

3-012 Client Overpayments: The Department will attempt to recoup overpayments caused by the client's error (failure to provide information, using child care for unauthorized purpose, etc.), or agency error (worker errors caused by inaccurate computation or the worker's failure to take action). When the overpayment appears to be the result of fraud, the case will be referred to the Special Investigation Unit, Central Office, or the Omaha Special Investigation Unit for Omaha cases.

3-013 Intentional Program Violation (IPV): Effective January 1, 2004, an individual who is found to have committed IPV is disqualified according to the following regulations.

3-013.01 Disqualification Hearing: A disqualification hearing will be initiated by the Central Office whenever sufficient documentary evidence has been established to substantiate that a household member has committed one or more acts of intentional program violation. An intentional program violation consists of any action by an individual to purposely:

1. Make a false statement to the local office, either verbally or in writing, to obtain benefits to which the household is not entitled;
2. Conceal information to obtain benefits to which the household is not entitled; or
3. Alter one or more documents to obtain benefits to which the household is not entitled.

The worker must inform the household in writing of the disqualification penalties for committing IPV each time the household applies for benefits. The penalties are listed in clear and prominent lettering on the application form or attachment.

3-013.02 Initiating the Disqualification Hearing

3-013.02A Reporting Requirements: The worker must report cases of suspected IPV to the Special Investigations Unit (SIU), Central Office, or in Omaha, to the Omaha Special Investigations Unit.

3-013.02B Central Office Guidelines: The Central Office uses the following guidelines in determining the need for a disqualification hearing:

1. A disqualification hearing must be initiated regardless of the current eligibility status of the individual;
2. The burden of proving IPV is on the Department; and
3. The Central Office will not initiate a disqualification hearing against an accused individual whose case is currently being referred for prosecution or after any action taken against the accused individual by a court, if the factual issues of the case arise out of the same, or related, circumstances.

3-013.02C Disqualification Hearing Procedures: See 465 NAC 2-007.06 ff.

3-014.05A Exception to Referral: A referral is not made to the IV-D unit for:

1. A family where both financially responsible parents are in the home and receiving Child Care Subsidy;
2. A family receiving Child Care Subsidy as Current Family;
3. A family receiving Child Care Subsidy for a foster child or a child receiving subsidized guardianship or subsidized adoption;
4. An unborn child; or
5. A deceased parent when the parent was a member of the child's household at the time of death. A IV-D referral is appropriate when the deceased parent was a noncustodial parent at the time of death.

3-014.06 Cooperation in Obtaining Support: Cooperation includes, but is not limited to, action relevant to achieve the objectives in 392 NAC 3-014.01A:

1. Appearing or responding when requested to provide written or verbal information that is reasonably available to the party;
2. Appearing as a witness at judicial or other hearings or proceedings;
3. Providing information or attesting to lack of information;
4. Signing any necessary legal documents or Child Support Enforcement forms;
5. Submitting oneself and/or the child(ren) to genetic testing and otherwise assisting in the establishment of paternity for a child for whom assistance is claimed;
6. Identifying and providing relevant information about any third parties who may be liable for medical costs; and
7. Providing dependent Social Security numbers when requested.

3-014.06A Refusal to Cooperate: The IV-D worker is responsible for determining noncooperation by the client. The case manager must aid in forwarding documentation to the IV-D worker. See 392-000-300 for examples of noncooperation.

If a client fails to cooperate in naming a noncustodial parent or in providing information to locate a noncustodial parent and subsequently cooperates, eligibility is reinstated effective the first day of the month during which cooperation is restored.

3-014.06B Opportunity to Claim Family Violence Provision: A client may claim Family Violence Provision by checking the box on the application indicating that cooperation with Child Support Enforcement could cause serious risk of harm from the noncustodial parent.

When the Family Violence Provision is claimed, the Child Support Enforcement system automatically sends a Statement of Safety Concerns cover letter and a child support form to the client. When the form is completed by the custodial parent, the Child Support worker will interview the client to determine the specific family violence issues of the case and assess the level of risk. During the interview, the CSE worker will explain the possible actions that will be taken in child and medical support cases. The client determines what action is taken. There may be some enforcement actions that can be taken without jeopardizing the family's safety; if not, the child support case will be closed.

Family Violence Provision may be claimed at any time during the life of the case.

3-014.07 Sanction for Refusal to Cooperate: Upon receiving notification from the IV-D unit that the individual refused to cooperate, the case manager must close the Child Care Subsidy case.

3-014.07A Employment First (EF) Participant: No child support sanction will be imposed on an EF participant so that the client may continue to participate in EF.

CHAPTER 4-000 AUTHORIZATION AND NOTICE

4-001 Authorization: The worker notifies the provider and the client of the client's eligibility and the amount of the client's fee on an authorization notice.

If an individual in-home service provider is authorized, the client must sign Form IRS-2678, "Employer Appointment of Agent."

4-001.01 Authorization Standards: To authorize any service, whether staff-provided or purchased, the worker:

1. Determines that the client has been found eligible on the application (in no case will the beginning service authorization date be before the beginning eligibility date shown on the application);
2. Determines the reason that the client needs child care (see 392 NAC 3-008);
3. Determines that the provider from whom service is purchased has a valid agreement; and
4. Explains that any authorization is subject to review to ensure that the service is delivered as authorized.

4-001.02 Authorization Date: Authorization of service must not begin before the service plan is completed and the date the client's completed application is received in the office. For a client who is receiving other assistance and then requests Child Care Subsidy, authorization of service begins no earlier than the date of request for Child Care Subsidy.

If the client appears eligible and chooses an approved provider, the case manager authorizes payment. If the client is determined ineligible, the case manager must send a Notice of Action notifying the client.

The local office dates ~~stamps~~ the application on the date of receipt.

4-001.02A Provider Not Approved: If the client chooses a child care provider who is not approved, the case manager refers the provider to the staff responsible for resource development for approval. If the provider is approved, payment may be made effective with the client's request but no earlier than the date of receipt of the application.

If the provider cannot be approved, the worker issues a voucher to reimburse the client for the time period between the request and denial of the approval. Once the provider is denied, the worker may allow payment for up to ten days after notification of the client if the client needs time to find a new provider. Within the ten days the client must choose among approved providers or find another provider to be approved.

The Department considers that the following are included in the child care rate: Cost of the facility (including utilities), indoor and outdoor space where care occurs; staff salaries, benefits, training and indirect costs; equipment; toys; materials needed to operate; food children are served unless the facility is unable to prepare food and parents have the option to bring food for their children. (If food is not included, the rate should reflect the lower cost.)

Parents cannot be asked to pay additional fees for these expenses.

4-003.08 Child Care Rate Exceptions

4-003.08A Special Needs Rate: The local office administrator or his/her designee may approve an exception for an increased rate for a child with special needs or a child with a childhood illness. For the definition of special needs, see 392 NAC 1-003. A special need must be documented by a physician, ~~or~~ licensed or certified psychologist, or licensed mental health practitioner.

Note: Special needs rate is not allowed for childhood diseases such as measles, chicken pox, flu, etc.

4-003.08A1 Factors To Be Considered: For a special needs child, the rate for service is not based on the diagnosis but rather on care and equipment needed beyond that for normal child care. Considerations in establishing the rate include:

1. Additional staffing required;
2. Skills of staff;
3. Special supplies;
4. Special equipment; and
5. Environmental modifications.

4-003.08B In-Home Sick Child Care Rate: The local office administrator or his/her designee may approve in-home care for a child with a temporary illness. This arrangement is for children who have illnesses such as measles, chicken pox, or the flu. The in-home provider must be paid minimum wage for one through three children and may reside with the child. If the provider is not approved, the worker would reimburse the client by voucher.

4-003.08C Sole Provider: The worker may request exception approval from the Central Office for increased rates if the only provider in a community exceeds the rate schedule.

4-003.08D Accredited Providers: Providers who have current accreditation with Department-approved accrediting organizations are eligible to receive the lower of:

1. Their private rate; or
2. The Department's maximum for accredited providers.

See 392-000-203 for accredited rates.

1. Prohibit smoking within any part of an indoor child care facility; and
Note: This does not apply to child care provided in a provider's home or the child's home. If care is provided in the provider's or the child's home, smoking is prohibited when a client's child is present in any part of the home.
2. To allow Central Registry checks on himself/herself, or a family member, if appropriate, or if an agency, agree to allow Department staff to review agency policies regarding hiring and reporting to ensure that appropriate procedures regarding abuse, neglect, and law violations are in place.

5-001.02 Provider Age Qualifications: A service provider must be at least 19 years old except as described in the following regulations. Minors younger than 16 are not eligible to be providers.

5-001.02A Sixteen, Seventeen, or Eighteen-Year-Olds: Minors who are 16, 17, or 18 years of age may be approved as providers of Child Care Services if:

1. They would not be absent from school or a training program in order to provide service required;
2. They would not be absent from regular employment without employer permission in order to provide service required;
3. They are acceptable to the client; and
4. They are supervised by a parent or guardian.

5-001.02B Parental Permission: A provider age 18 or younger (unless s/he is an emancipated minor) must obtain the signature of his/her parent or legal guardian on Form CC-9B. For the definition of an emancipated minor, see 392 NAC 1-003.

5-001.03 Social Security Tax Withholding

5-001.04A General Criminal History: Department staff must not have a Child Care Provider Agreement with a potential individual provider if a history of convictions for misdemeanor or felony actions that endanger the health and safety of any client is indicated. This includes crimes against a child or vulnerable adult, crimes involving intentional bodily harm, crimes involving the illegal use of a controlled substance, or crimes involving moral turpitude on the part of the potential provider.

5-001.04A1 Special Criminal History: Department staff must deny or terminate service provider approval when conviction has occurred in the following areas:

1. Child pornography;
2. Child or adult abuse;
3. Driving under the influence: —a DUI conviction within the past eight years, two or more DUI charges are pending, or convictions have occurred within the last five years, or two of any combinations of DUI charges pending or convictions occurred within the last five years;
4. Domestic assault;
5. Shoplifting after age 19 and within the last three years;
6. Felony fraud within the last ten years;
7. Misdemeanor fraud within the last five years;
8. Termination of provider status for cause from any DHHS program within the last ten years;
9. Possession of any controlled substance within the last five years;
10. Possession of a controlled substance with intent to deliver within the last ten years;
11. Felony or misdemeanor assault without a weapon in the last ten years;
12. Felony or misdemeanor assault with a weapon in the last 15 years;
13. Prostitution or solicitation of prostitution within the last five years;
14. Felony or misdemeanor robbery or burglary within the last ten years;
15. Rape or sexual assault; or
16. Homicide.

Pending charges must be reviewed by Department Resource Development to determine whether the client's safety is in jeopardy. Other convictions must be considered using the guidance in 392 NAC 5-001.04A and weighted to similar offenses included in this list.

5-001.05 Driving Record: The driving record must be verified for any provider who transports child care children. ~~In addition to having~~ A provider who will be transporting children is not allowed any DUI convictions in the last eight years, and must not have ~~no~~ more than three points assigned against his/her driver's license, Each provider's past eight year driving history must be considered. If there is a pattern of having points assigned against the provider's license each year, a license has been suspended or revoked, or the provider has any major traffic violations, the provider must not be approved to transport children. ~~A provider who will be transporting children is not allowed any DUI convictions in the last eight years.~~

5-001.06 Agency Decision to Enter into a Provider Agreement: In determining whether to enter into a Provider Agreement, the Department will evaluate whether a provider meets all the standards contained in Title 392. No individual or agency has a right to a Provider Agreement with the Department.

- a. Six children from one family. The provider must not have other children, grandchildren, or foster children age 12 or younger.
Note: If a grandparent is providing care for grandchildren of different parents, they are considered one family. For example, a grandmother cares for her daughter's son and her son's daughter.
 - b. Included in the limits in 2a and b are a maximum of 2 infants (children 17 months or younger), including any infant children of the provider.
3. Not engage in or have an ongoing history of, nor have other household members who engage in or have an ongoing history of, behaviors which are harmful to or which may endanger the health or morals of children. It is understood that the Department, in reviewing an application where there is a conviction for, an admission of, or substantial evidence of crimes against child(ren), crimes involving intentional bodily harm, crimes involving the illegal use of controlled substances, or crimes involving moral turpitude by the caregiver or any other household member, will not approve or allow an approval to remain in effect if these circumstances have current and direct bearing on the provider's ability to provide care and/or show that children would be placed at risk.

The Department will conduct background checks on the provider and household members with the Child Abuse and Neglect Central Register and the Adult Protective Services Central Registry. The Department may request background information on the provider or household members from law enforcement or criminal justice agencies. The provider will, if requested, provide written permission for the Department to request criminal history information and the name(s) by which s/he and members of the household have been known;

4. Demonstrate the physical, mental, and emotional capacity to provide care for children. A statement from a medical professional may be requested if there is reasonable cause to question the provider's capacity to provide care;
5. Not have employment which interferes with providing care for children;
6. Ensure children will always be supervised;
7. Arrange with another person, age 16 or older, to substitute for the caregiver in an emergency;
8. Notify parents/guardians of child(ren) in care when care will/has been provided by a substitute caregiver;
9. Discuss with the parent/guardian hours of care, care for ill children (if provided), disciplinary practices, meals, snacks, napping schedules, and toilet training practices (if applicable) before care is provided;
10. During the hours of operation, the home must be open to announced and unannounced visits by parents of all children for whom care is being provided. Parents must always have access to their children at all times their children are in care;
11. Have an operable telephone available for use within the home;