

Department for Children and Families  
Child Development Division  
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# Memorandum

**From:** Janet McLaughlin, Deputy Commissioner, DCF Child Development Division

**Date:** 6/28/2024

**Re:** Child Care Financial Assistance Program (CCFAP) Regulations

Vermont Act 76 of 2023 made significant investments and policy changes to Vermont's child care and early learning system, including updates and expansions to the Child Care Financial Assistance Program (CCFAP.) These changes take effect prior to the adoption of rules pursuant to 3 V.S.A. chapter 25.

This memo outlines the changes dictated by Act 76 of 2023 and Act 113 of 2024, as well as additional changes to correct outstanding policy inconsistencies and update outdated language with inclusive language. This memo remains effective statewide until it is specifically superseded either by a subsequent memo or by a contradictory regulation with a later effective date.

These changes are also incorporated into the CCFAP Provider Responsibilities, the updated CCFAP policies, and the CDDIS guidance for child care providers on the CCFAP Information for Providers [webpage](#).

**Effective date:** 06/30/2024

**Impacted Regulations:** 1B Definition, IIA Eligibility Criteria, IIB 2 Income Eligibility Requirements, IVA Responsibilities of Eligible Families, IVB Appeal Rights of Applicants and Eligible Families, V Payment, Adjustments and Recoupment, VI Child Care Provider's Responsibilities, VIII Limitation on Availability of Financial Assistance, X Rates

# Child Care Financial Assistance Program Regulation Changes

Summary of changes table:

Regulation	Change	Reason
1B Definitions	<ol style="list-style-type: none"> <li>1. Replace 1B 1 - age categories preschool and school age from '36 – 60 months' and '60 months – 13 years' to '36 – 72 months' and '72 months – 13 years' respectively.</li> <li>2. Replace 1B 12 – from '...or his or her designee' to '...or their designee.'</li> <li>3. Add 1B 16 – Enrollment definition; shift definition numbering.</li> <li>4. Replace 1B 18 – from 'A primary caretaker and his or her own child(ren)' to 'A primary caretaker and their own child(ren).'</li> </ol>	<ol style="list-style-type: none"> <li>1. Correction</li> <li>2. Inclusive language</li> <li>3. 33 V.S.A. § 3514(a)(2) as amended by Act 76, Sec. 9</li> <li>4. Inclusive language</li> </ol>
IIA Eligibility Criteria	<ol style="list-style-type: none"> <li>1. Remove - 'Be a U.S. citizen or have a legal alien status' from eligibility requirements.</li> <li>2. Add - 'Family assets must not exceed \$1,000,000'</li> </ol>	<ol style="list-style-type: none"> <li>1. 33 V.S.A. § 3512(a)(6) as amended by Act 76, Sec. 5(b)</li> <li>2. 45 C.F.R. § 98.20(a)(2)(ii)</li> </ol>
IIB 2 Income Eligibility Requirements	<ol style="list-style-type: none"> <li>1. Remove – '...as funds allow...'</li> <li>2. Replace - hyperlink and text to 'The most <a href="#">current income eligibility schedule</a> may be accessed through the Child Development Division website.'</li> <li>3. Remove – 'Section 179, per current IRS procedures;' -from bullet 14.</li> <li>4. Replace – from '...residing with only one of his/her primary</li> </ol>	<ol style="list-style-type: none"> <li>1. 33 V.S.A. § 3512(a)(1) as amended by Act 113, Sec.</li> <li>2. Correction</li> <li>3. Correction</li> <li>4. Inclusive language</li> </ol>

Regulation	Change	Reason
	<p>caretakers and....’ to ‘...residing with only one of their primary caretakers and...’</p>	
<p>IVA Responsibilities of Eligible Families</p>	<p>1. Remove - ‘citizenship or legal alien status’ from bullet 3.</p>	<p>1. 33 V.S.A. § 3512(a)(6) as amended by Act 76, Sec. 5(b)</p>
<p>IVB Appeal Rights of Applicants and Eligible Families</p>	<p>1. Remove – ‘in writing’ and ‘written’.</p>	<p>1. Correction</p>
<p>V Payment</p>	<p>1. Replace - ‘day of eligibility and actual attendance’ to ‘week of submitted attendance’            2. Replace - ‘end with the last day a child attends’ to ‘end with the last week of submitted attendance’.            3. Replace – ‘two (2) pay periods’ to ‘three (3) months’.            4. Replace – ‘15 days’ to ‘30 days’.            5. Replace – ‘One’ week notice to ‘up to two’ weeks notice.</p>	<p>1. 33 V.S.A. § 3514 as amended by Act 76, Sec. 9, Program shift to an enrollment-based model.            2. 33 V.S.A. § 3514 as amended by Act 76, Sec. 9, Program shift to an enrollment-based model.            3. Correction            4. Correction            5. 33 V.S.A. § 3514 as amended by Act 76, Sec. 9, Program shift to an enrollment-based model.</p>

Regulation	Change	Reason
VI Child Care Provider's Responsibilities	<ol style="list-style-type: none"> <li>1. Add – bullet 15 ‘Refrain from charging application or waitlist fees for children who qualify for the Child Care Financial Assistance Program and reimburse the fees if the children are determined to be eligible for Child Care Financial Assistance at the time of the fee.’</li> <li>2. Remove – ‘No subsidy payment shall be approved to a child care provider who charges subsidy families more or at a higher rate than that which is charged to private pay families for the same service.’</li> </ol>	<ol style="list-style-type: none"> <li>1. 33 V.S.A. § 3516 as added by Act 76, Sec. 11</li> <li>2. 33 V.S.A. § 3512(a)(4) as amended by Act 76, Sec. 5</li> </ol>
VIII Limitation on Availability of Financial Assistance	<ol style="list-style-type: none"> <li>1. Remove section.</li> </ol>	<ol style="list-style-type: none"> <li>1. 33 V.S.A. § 3512(a)(1) as amended by Act 113, Sec. E.318</li> </ol>
X Rates	<ol style="list-style-type: none"> <li>1. Replace - hyperlink and text to ‘The most <a href="#">current provider rates</a> may be accessed through the Child Development Division website.’</li> </ol>	<ol style="list-style-type: none"> <li>1. Correction</li> </ol>

***CDD shall apply the following Section IB (changes highlighted in yellow):***

**IB Definitions**

The following terms apply to these regulations as defined:

**IB 1 Age Category                      Child Ages**

Infant	birth to < 24 months
Toddler	24 months to 36 months
Preschool	36 months to 72 months
School Age	72 months to 13 years (children with special needs may be eligible to age 19)

**IB 2 Appropriate Care and Supervision** – Protecting from, or not exposing, a child to any unusual risk while also contributing to the child’s growth and development.

**IB 3 Care Category**

Part Time Care	–	up to 25 hours per week
Full Time Care	–	between 25 to 50 hours per week during hours when parental service need activity occurs, unless otherwise approved by CDD
Extended Care	–	over 50 hours per week

**IB 4 Caretaker** – Individual other than a parent, age 18 or older, fulfilling a parental role in caring for a dependent child by providing physical care, guidance and decision-making related to the child’s health, school, medical care and discipline.

**IB 5 Case Plan** – Written document developed by a Family Services social worker as part of the Family Services case record which identifies the family needs and sets forth goals to preserve, rehabilitate or reunify the family and documents goal progress.

**IB 6 Child** – Individual under age 13, or under age 19 if physically or mentally incapable of self care or under court supervision, or an individual committed to the custody or guardianship of the Commissioner.

**IB 7 Child with Special Needs** – A child determined eligible for services by the Department of Education, Division of Special Education or the Department of Health,

Division of Children with Special Health Needs, or the Department for Children and Families, Child Development Division. A child's special needs may also be determined by the written report of a licensed physician or licensed psychologist.

**I B 8 Child Care or Child Care Services** – Developmentally appropriate care and supervision by a child care provider for fewer than 24 hours a day for children under age 13 or age 19 for a child with special needs.

**I B 9 Child Care Provider** – A person, facility or entity which is licensed, registered or certified by the Child Development Division to provide child care services.

**I B 10 CDD** – Child Development Division of the Department for Children and Families.

**I B 11 Child Care Financial Assistance** – Financial assistance given to eligible parents for child care services provided by an eligible child care provider with a valid provider agreement.

**I B 12 Commissioner** – Commissioner of the Department for Children and Families or **their** designee.

**I B 13 Committed Child** – A child committed to the legal custody and/or guardianship of the Commissioner of the Department for Children and Families.

**I B 14 DCF** – Department for Children and Families

**I B 15 Designated Authority** – A person or organization authorized by the Child Development Division to determine eligibility for subsidized child care services.

**I B 16 Enrollment** - For the purposes of CCFAP payment, a child is “enrolled” when the child has an active CCFAP certificate connected to a specific child care program.

CDD will “pay on enrollment” when:

- A child has an active CCFAP certificate tied to a specific child care program.
- The program submits its bi-weekly CCFAP Attendance with hours of attendance or applicable coded days for the child.
- CCFAP attendance does not exceed allowable coded days.

**I B 17 Extended Care** – Child care for over 50 hours per week. Care is for authorized hours based upon the primary caretaker's service need.

**I B 18 Family** – Two or more persons residing in the same household, at least one of whom is the child's primary caretaker. Family members temporarily absent from the household, for whom the family claims financial responsibility for tax purposes, are considered members of the family for establishing income eligibility and family size; they

are not however, considered family members for the purpose of determining the need for service.

Family configurations include:

- a. Married and civil union primary caretakers and their resident child(ren);
- b. Unmarried primary caretakers and their child(ren) in common;
- c. A primary caretaker and their own child(ren);
- d. Unmarried primary caretakers, their child(ren) in common and any child for whom either adult in the household is legally responsible;
- e. A person who lives with, supervises and cares for a child or children whose parents do not live in the home.

**I B 19 Gross Income** – All income included in determining monthly gross income except that which is specifically excluded by these regulations.

**I B 20 Income Eligibility Schedule** – Sliding fee scale that provides for cost-sharing (parent co-pay) by families eligible for child care financial assistance. The fee scale is based on gross monthly income and family size.

**I B 21 Parental/Family Leave** – Reasonable time off to care for dependent children in instances such as death, illness, birth or adoption. Parental leave may not exceed 12 weeks in a 12 month period.

**I B 22 Postsecondary Education program** – The Postsecondary Education program managed by DCF's Economic Services Division that assists families to attain self-sufficiency and a postsecondary education degree.

**I B 23 Primary Caretaker** – Biological, adoptive or foster parent(s) of a child, a child's legal guardian or other person legally responsible for a child's welfare.

**I B 24 Reach First** – The Reach First program is Vermont's short-term diversion program managed by DCF's Economic Services Division that assists families to attain self-sufficiency.

**I B 25 Reach Up** – The Reach Up Program through DCF's Economic Services Division that assists families to attain self-sufficiency.

**I B 26 Reasonable Hours of Sleep** – Reasonable hours following or preceding 2<sup>nd</sup> or 3<sup>rd</sup> shift employment or training, enabling a person to rest from or for such employment or training. Such periods shall not exceed eight hours within a 24-hour period.

**I B 27 Revocation** – Formal act of removing a license, registration or certification to operate a Child Care Home, Early Childhood Program, Afterschool Program, or provide legally exempt care for subsidized children due to violation of the Licensing Regulations. A child care provider may continue to operate their program during a revocation action pending an appeal to the Human Services Board.

**I B 28 Self Support** – Achievement and/or maintenance of economic self-sufficiency.

**I B 29 Service Need** – Caretaker’s employment, education, training or special health need resulting in the need for child care. A child may also have a service need due to a documented health or specialized developmental need that includes child care as part of the treatment plan, regardless of the caretaker(s)’ activities.

**I B 30 Temporary Absence** – Absence of a primary caretaker, who has indicated intention to return within 120 days of the application date, which deprives a child of adequate and necessary care and supervision.

***CDD shall apply the following Section II A Eligibility Criteria (changes highlighted in yellow):***

## **II A Eligibility Criteria**

In order to receive child care financial assistance, a family must meet the following requirements:

- Have a service need as outlined by the Regulations;
- Meet Income eligibility standards as set forth by the Child Development Division;
- Be a resident of Vermont, unless the assistance is for a child in a “pre-adoptive” home residing in another state as approved by DCF.
- ~~Be a U.S. citizen or have a legal alien status.~~
- Family assets must not exceed \$1,000,000

***CDD shall apply the following Section II B 2 Income Eligibility Requirement (changes highlighted in yellow):***

## **II B 2 Income Eligibility Requirements**



A family must have a monthly gross income at or below levels established in the Child Care Financial Assistance Schedule to be eligible for assistance. The income schedule, on a sliding fee scale, is based on a combination of actual monthly gross income and the number of family members. The schedule will be updated periodically **as funds allow** by the Child Development Division to reflect changing levels in federal poverty and state median income guidelines. **The most current income eligibility schedule may be accessed through the Child Development Division website.**

Gross income includes all payments from any source received by a primary caretaker(s) or their child(ren), with the exception of children's wages. Income received from the following sources is excluded in determining income eligibility:

1. Income received from the sale of real or personal property (house, car, boat, stocks, bonds) unless the primary caretaker(s) was engaged in the business of selling such property, in which case the net proceeds will be counted as income from self-employment;
2. Withdrawal from bank deposits;
3. Money borrowed;
4. Tax refunds including Renters Rebate and Earned Income Credit;
5. Public assistance income (such as income received in DCF Economic Services Division's financial assistance programs, including but not limited to Food Stamps, Medicaid, Fuel Assistance, Reach Up, Reach First, and Postsecondary education program payments, General Assistance and Emergency Assistance);
6. Value of USDA donated foods and home produce consumed by the family;
7. Wage, salary or other earned income of a person under age 18 living in the household who is not the primary caretaker;
8. Loans, grants, scholarships or work-study income received for training or education;
9. Incentive payment for training or education or other programs or activities authorized in a Reach Up plan or other case plan;
10. Supplemental Security Income (SSI);
11. Child Support paid out on a regular basis to another household;
12. Adoption assistance payments under Title IV-E of the Adoption Assistance and Child Welfare Act of 1980 or under the State's Adoptions Assistance Program;
13. Payments to foster parent(s) from DCF's Family Services Division to subsidize the care and maintenance of a foster child;
14. Self-employment business expenses other than depreciation charges, **Section 179, per current IRS procedures;**

15. Money received from federal and or sponsored programs as stipends; and
16. Military pay for household members deployed on active duty.

When a child resides with both primary caretakers in the same household, income eligibility is based on the gross income of the primary caretakers whether or not the individuals are married or parties to a civil union.

When a child in the household is the legal responsibility of one primary caretaker and other children are considered the legal responsibility of both primary caretakers, separate eligibility may be determined based on the income of each primary caretaker individually if the primary caretakers are not married.

In determining eligibility of a family in which a child is residing with only one of **their** primary caretakers and an “unrelated adult”, income eligibility is based on the gross income of the primary caretaker only and the unrelated adult is not considered to be a member of the household.

***CDD shall apply the following Section IV A Responsibilities of Eligible Families (changes highlighted in yellow):***

#### **IV A Responsibilities of Eligible Families**

Eligible families have the following responsibilities in order to continue enrollment in the Child Care Financial Assistance Program.

Eligible families shall report, within 10 working days to the Designated Authority the following:

1. Changes in circumstances that may affect their need for child care financial assistance;
2. All changes in income, living situations, family and household make up, changed hours of care and changes in child care provider;
3. With each re-determination, the following is required: current documentation of income, service need, residence, **citizenship or legal alien status** and documentation of any change in family relationships. Such documentation must be provided prior to each authorization end date.

#### Co-Payments

Eligible families are responsible for paying their co-payments directly to the child care provider for all fees for child care services provided that are above and beyond the

amount of the financial assistance paid by the Child Development Division and/or for child care services not authorized by CDD.

***CDD shall apply the following Section IV B (changes highlighted in yellow):***

#### **IV B Appeal Rights of Applicants and Eligible Families**

If an application for the Financial Assistance Program is denied or the applicant is dissatisfied with the level of eligibility determination, the eligibility decision may be appealed. Eligible families have the right to appeal the amount of financial assistance authorized, a change in the amount of assistance authorized or the determination of service need.

Appeals requesting a variance of the regulations should be submitted **in writing** to the Child Development Division (CDD) within 30 days of a decision. The appeal will be reviewed by CDD's Subsidy Unit and a determination made. If the appellant is dissatisfied with the Subsidy Unit's determination, a **written** request for a Fair Hearing may be filed with the Human Services Board within 30 days of the Subsidy Unit's determination as provided for in 3 V.S.A. § 3091. The Commissioner or designee shall then review the denial or subsidy re-determination and render a written recommendation to the Human Services Board. The Human Services Board shall conduct a Fair Hearing according to its Rules and shall issue the final decision.

Unless eligibility is denied, subsidy to a family shall continue during period(s) of appeal.

***CDD shall apply the following Section V Payments, Adjustments and Recoupment (changes highlighted in yellow):***

#### **V Payment, Adjustments and Recoupment**

Payment of financial assistance by the Child Development Division will be made from the first **day of eligibility and actual week of submitted** attendance, and end with the last **day week a child attends of submitted attendance** according to the authorized part time, full time or extended care schedule at the established rates.

Payment by the Child Development Division for child care services shall be made at rates not to exceed those established by CDD and based on a child's authorized weekly schedule, unless an adjustment is warranted.

If child care is provided under a written reserved spaces agreement with CDD, the rate established in the written agreement shall apply.

CDD will pay for subsidized child care services provided only by licensed, registered and certified providers in the State of Vermont. Licensed, registered and certified providers in other states who serve children found eligible in Vermont may also receive child care financial assistance payments upon receipt of appropriate documentation and subsequent review and approval by the Child Development Division.

Payment will be made for up to ~~two (2) pay periods~~ **three (3) months** when a parent has a temporary lapse of eligibility such as job loss or a break in school schedule, provided required documentation as established by CDD has been provided by the parent.

CDD or its designee shall deduct payment for days that a licensed or registered child care facility is closed other than the state-established ~~15 days~~ **30 days** per fiscal year (July 1 – June 30). Providers may use these days in whatever manner they choose. This clause does not apply to Legally Exempt Child Care providers.

CDD or its designee shall adjust payments as necessary when the primary caretaker's work or training schedule changes and the child's authorized schedule changes accordingly.

When a child stops attending the child care facility, payments will be made for ~~one up to~~ **two weeks** from the child's last date of attendance based on the child's authorized schedule, except as follows:

1. When the child care provider received a ~~one two week~~ notice of the child's withdrawal, payment will end on the child's last date of attendance.
2. When the child care provider asked a parent to remove the child, payment will end on the child's last date of attendance.
3. If a facility closes, payment will end on the last date the child was in attendance prior to the closure date of the facility.
4. When a provider is suspended by CDD for violation of these or any other regulations, payment will end on the closure date.

Payment may be withheld or suspended if a child care provider fails to comply with payment procedures established by CDD, until compliance is established.

Payment may be withheld and a provider's eligibility to receive payment may be immediately suspended if a child care provider provides services to more children than allowed by statute or fails to comply with all licensing and child care financial assistance regulations.

CCD may seek re-payment or recoupment of funds from a provider if payment was made in error due to misrepresentation or fraud by the provider or eligible family, or if

other violations of these regulations resulted in payment for which a provider was not entitled.

CDD may withhold future payments, in whole or in part, until an overpayment or payment received by a family or provider in violation of regulations or law has been satisfied.

CDD may pursue legal remedies, including criminal prosecution, to recover overpayments or payments received by an eligible family or by a provider in violation of these regulations.

CDD may permanently deny access to the subsidy program to any family or provider substantiated for engaging in fraudulent practices within the program.

***CDD shall apply the following Section VI Child Care Providers Responsibilities (changes highlighted in yellow):***

## **VI Child Care Providers Responsibilities**

Reimbursement rates to providers are based on the setting in which child care is provided, the age of the child and the number of hours the child is in care weekly.

Reimbursement for child care services provided to eligible families shall be limited to child care providers who are in compliance, as determined by CDD, with applicable statutes and promulgated regulations or requirements, including these regulations.

Reimbursement shall be limited to child care providers who have signed and filed a current "Provider Agreement", Part I – Financial, with the Child Development Division, and a "Specialized Services Agreement", Part III if applicable, and who are in compliance with those agreement(s).

No new eligible families will be authorized to use a child care provider who is undergoing the Revocation process.

~~No subsidy payment shall be approved to a child care provider who charges subsidy families more or at a higher rate than that which is charged to private pay families for the same service.~~

Child care providers seeking payment for child care services to eligible families shall:

1. Develop a record keeping system for each child's attendance and accurately record dates and actual hours of service provided each day to each eligible child.
2. Maintain attendance records on-site for a minimum period of three years and make those records immediately available to CDD upon request.

3. Report to CDD or its designee when a child from an eligible family is absent for more than three unexplained or unexcused authorized days of care.
4. Obtain prior written approval from CDD before entering into sub-contracts or assigning any part of the child care service performed for eligible families.
5. Provide eligible families with the child care provider's tax ID or social security number for federal or state child care tax credit purposes.
6. Submit claims for reimbursement in the manner prescribed by CDD.
7. Accept compensation for child care services provided to subsidy eligible families at rates established by CDD.
8. Collect co-payments directly from eligible families. Co-payment is the difference between the CDD rate and the provider's rate, if any.
9. Refrain from disclosing child or family eligibility in the subsidy program to anyone not authorized to receive such information.
10. Prohibit all smoking in the presence of children and in areas where child care routinely occurs.
11. Provide specific child care services as set forth in a Family Services' case plan for children receiving protective services child care.
12. Provide specific child care services as set forth in an individualized child or family plan for children receiving family support or special needs child care.
13. Report incidents of suspected child abuse and neglect as required by law.
14. Meet all state and federal tax obligations that may be generated by accepting payments for child care services to eligible families.
15. Refrain from charging application or waitlist fees for children who qualify for the Child Care Financial Assistance Program and reimburse the fees if the children are determined to be eligible for Child Care Financial Assistance at the time of the fee.

***CDD shall no longer apply Section VIII Limitation on Availability of Financial Assistance.***

#### **~~VIII — Limitation on Availability of Financial Assistance~~**

~~In the event that federal and/or state funds are not sufficient to meet the rates and amounts of financial assistance for families who have applied and are otherwise eligible, the Commissioner reserves the right to exercise discretion and limit the availability of~~

financial assistance services.

***CDD shall apply the following Section X Rates (changes highlighted in yellow):***

## **X Rates**

Market rates are used to guide the establishment of the state subsidy rates utilizing rate information submitted by the providers. A market rate survey is completed by the Child Development Division in accordance with the federal Child Care and Development Block Grant.

The most [current provider rates](#) may be accessed through the Child Development Division website.