

TITLE 392
CHILD CARE SUBSIDY PROGRAM

CHAPTER 1-000 GENERAL BACKGROUND

1-001 Legal Basis

1-001.01 Federal Authority: The Child Care and Development Block Grant Act established the Child Care Subsidy Program as a block grant in 1992. In 1996 it was amended by the Personal Responsibility and Work Opportunity Reconciliation Act to give states more flexibility in addressing child care needs.

1-001.02 State Authority: In Neb. Rev. Stat. Section 43-2602, the Legislature stated its intent to develop a comprehensive child care system.

1-002 Purpose: The purpose of the Child Care Subsidy Program is to assist low income families with child care.

1-003 Definitions: For use within the Child Care Subsidy Program, the following definitions apply.

Application: The action by which the individual indicates the desire to receive assistance by submission of an application.

Application Signature: Applications may be signed in writing or by electronic signature.

Application Submission: Applications may be submitted in person, by mail, by fax, or by electronic transmission.

Child Care: The provision of care:

1. To children age 12 or younger unless there is a special need;
2. For on the average of less than 12 hours per day;
3. For compensation, either indirect or direct;
4. On a regular basis; and
5. By a person other than their parents or guardians.

Home schooling and education programs are not considered child care.

Child Care Center: A facility licensed to provide child care for 13 or more children. For licensing regulations, see Title 391.

Child Care Provider: An individual or agency that has:

1. Requested and agreed to be approved as a service provider;
2. Become licensed, if required;
3. Been evaluated by resource development staff in relation to applicable standards if no license is required; and
4. Signed a service provider agreement.

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 5 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 are stated in the agreement.

Special Needs: Requirement for extra care because of an acute or chronic physical or mental condition. Acute special needs include temporary conditions that require special medical attention and isolation from other children, e.g., recovery from surgery, etc. Chronic special needs include long-standing medical or behavioral problems that require medical, behavioral or other services at all times, e.g., medically fragile, attention deficit, etc. To be considered a child with a special need, the child must have one or more of the following conditions which are not related to chronological age:

1. Emotional impairment: including behavioral impairment, requiring special equipment or assistance;
2. Developmental age level lower than chronological age and requires assistance via special supervision;
3. Movement impairment: requires assistance or unable to move;
4. Sensory impairment: requires special environmental modifications or assistance;
5. Speech impairment: requires special equipment or assistance;
6. Hygiene: requires assistance or special equipment;
7. Feeding: requires special equipment or assistance;
8. Toileting: requires assistance or special equipment;
9. Medical conditions: requires respiratory aids or special procedures;
10. Therapy required: physical, occupational, speech, or respiratory;
11. Medications: requires assistance or special procedures.

Childhood diseases such as measles, chicken pox, flu, etc., are not considered special needs.

Toddler: A child age 18 months to 3 years.

1-004 Client Rights: The client has the right to:

1. Apply. Anyone who wishes to request and/or apply for assistance must be given the opportunity to do so. No one may be denied the right to apply;
2. Reasonably prompt action on his/her application for assistance;
3. Notice of approval or denial of his/her application;
4. Appeal to the DHHS Director for a hearing on any action or inaction with regard to an application, the amount of the assistance, or failure to act with reasonable promptness. The appeal must be filed in writing within 90 days of the action or inaction;
5. Have his/her information treated confidentially.
6. Have his/her civil rights upheld. No person may be subjected to discrimination on the grounds of his/her race, color, national origin, sex, age, disability, religion, or political belief;
7. Have the program requirements, rights and responsibilities and benefits fully explained;
8. Be assisted in the application process by the person of his/her choice; and
9. Referral to other agencies.

1-005 Client Responsibilities: The client is required to:

1. Provide complete and accurate information. State and federal law provide penalties of a fine, imprisonment, or both for persons found guilty of obtaining assistance or services for which they are not eligible by making false statements or failing to report promptly any changes in their circumstances;
2. Report a change in circumstances no later than ten days following the change. This includes information regarding:
 - a. Change or receipt of a resource including cash on hand, stocks, bonds, money in a checking or savings account, or a motor vehicle;
 - b. Changes in unit composition, such as the addition or loss of a unit member;
 - c. Changes in residence;
 - d. New employment;
 - e. Termination of employment;
 - f. Changes in the amount of monthly income, including:
 - (1) All changes in unearned income; and
 - (2) Changes in the source of employment, in the wage rate and in employment status, i.e., reduced or increased hours of employment; and
3. Contact the agency for an interview within 30 days of the date of application if notified that an interview is required.

{Effective 6/28/11}

CHAPTER 2-000 APPLICATION PROCESS

2-000 Requests: Any person may contact the local office by telephone, in writing, by fax, by electronic transmission, or in person to obtain information about child care, explore eligibility, or make arrangements to apply for services for himself/herself or as a representative of another person.

2-001 Response to Requests: Staff accept requests at the local office or at other places in the community. Each local office establishes a method of recording requests. A completed application is documentation of a request.

2-002 Request Time Limits: Staff must take action to secure an application as soon as possible. If the client does not keep appointments or cannot be contacted within 30 days of the request, the worker must document the circumstances and reject the application.

2-003 Application

2-003.01 Right to Apply: Any person residing in Nebraska has the right to apply for child care.

If the applicant or representative requests assistance, the worker must assist in completing the application for services.

2-003.02 Interview: An interview is required to apply for child care services only but a face-to-face interview is not required; a telephone contact may serve as the interview and the worker may mail the application form for the client to complete or inform the client of the electronic application.

The applicant must provide to the Department the information requested on the Application for Assistance found in the Public Assistance Forms Manual and incorporated into these regulations.

2-003.02A Prudent Person Principle: When the statements of the client are incomplete, unclear, or inconsistent, or when other circumstances in the particular case indicate to a prudent person that further inquiry must be made, the worker must obtain additional verification before eligibility is determined. The client has primary responsibility for providing verification of information relating to eligibility. Verification may be supplied in person, through the mail, or from another source (as an employer). If it would be extremely difficult or impossible for the client to furnish verification in a timely manner, the worker must offer assistance.

2-003.03 Time Limit for Action on Application: The Department must act with reasonable promptness on all applications for assistance. The Department must make a determination of eligibility on an application within 30 days from the date of application. If circumstances beyond the control of the Department prevent an eligibility determination within 30 days, the Department must record the reason for the delay in the case record and deny the application. The Department must send a Notice of Action informing the applicant of the reason for the denial and advise the client the application is valid for an additional 30 day period. If the client appears eligible at the time of application, the Department authorizes child care.

2-003.03A Additional 30 day period: A new application is not required in the additional 30 day period. The date all eligibility factors are met is the date services are authorized. If, at the end of the additional 30 day period, eligibility is unable to be determined due to fault of the client, a new application is required.

2-003.04 Eligibility Redetermination

2-003.04A Change in Status: The worker completes a redetermination of eligibility when information is obtained about a change in a client's circumstances that may affect his/her eligibility. The worker must complete this review as soon as possible within a 30-day time limit.

2-003.04B Periodic Redetermination: The Department must periodically review and document a client's need for child care and may coordinate this redetermination with its review of a client's eligibility for other benefit types. The Department must conduct a periodic redetermination at least once every 18 months, but not more than once every 12 months. When conducting a periodic redetermination, the Department must:

1. Conduct a redetermination of each client's eligibility;
2. Determine if the client continues to meet one of the criteria at 392 NAC 3-000;
3. Instruct each client to complete and sign a new Application for Assistance reflecting his/her current situation; and
4. Complete necessary redetermination forms and provider authorization.

2-003.04C Child Protective Services Investigation: No Application for Assistance is required for a child protective services investigation when a child abuse/neglect report has been filed or when there is a court order and the only service provided is foster care or child protective service.

2-004 Case Record Maintenance

2-004.01 File Contents: Service case records must include appropriate forms for and documentation of:

1. The request for services or the application;
2. Income verification; and
3. Service eligibility.

2-004.02 Record Retention: Each office must retain the required documentation for four years from the eligibility period ending date.

2-005 Summary of Forms: For a list of the forms used in Child Care Assistance, see 392-000-401. Instructions for the forms are contained in the Public Assistance Forms Manual.

CHAPTER 3-000 ELEMENTS OF ELIGIBILITY: In order to receive Child Care Subsidy, the family must:

1. Qualify as a family (see 392 NAC 3-001);
2. Meet citizenship or alien status requirements for the child(ren) (see 392 NAC 3-003);
3. Qualify as residents (see 392 NAC 3-004);
4. Meet income limits (see 392 NAC 3-005);
5. Have a child within the age limit (see 392 NAC 3-007);
6. Have at least one of the allowed needs for service (see 392 NAC 3-008);
7. Pay the fee (if required) (see 392 NAC 3-009);
8. Use a regulated provider (see 392 NAC 3-010);
9. Agree to obtain immunizations for the child(ren) (see 392 NAC 3-011); and
10. Cooperate with the Child Support Enforcement Unit, if required (see 392 NAC 3-014).

3-001 Qualification as a Family: To be eligible for Child Care Subsidy, the family must meet the program definition of a family. A family is defined as a unit consisting of one or more adults age 19 or older (or a minor parent(s)) and one or more children related by blood, marriage, legal guardianship, or adoption who reside in the same household.

Foster children may be included when determining the size of the foster family unit if Child Care Subsidy is required for a biological child and the foster child.

1. Parents with a child in out-of-home care and children residing in the home.
2. Parents with foster children.

An unborn child is included in the unit size if proof of pregnancy is obtained.

In a three-generation household, a minor parent and his/her child are considered a separate family.

3-001.01 Unmarried Parents: Unmarried parents with a child in common and at least one child with a different parent may receive Child Care Subsidy for all the children if the household meets all eligibility requirements. If one parent is receiving ADC or transitional medical for his/her child(ren), that parent may receive Child Care Subsidy and the other parent, that parent's child(ren), and the child in common are ineligible.

3-001.02 Parents with Shared Custody: If parents are separated, divorced, or unmarried but have shared custody of a child, both parents may be eligible for Child Care Subsidy. Eligibility is based on the income of the parent with whom the child is residing at the time and any child support or other financial assistance from the other parent.

3-001.03 No Child in the Home: If the family's only child is in out-of-home care, the child may be included in the family size when the plan is for the child's return to the home.

3-001.04 Parent's Temporary Absence: If a parent is temporarily absent (90 days or less) because of employment, training, or illness, a substitute caretaker may receive Child Care Subsidy using the parent's income eligibility. The substitute caretaker must meet the needs criteria, i.e., be employed, in training, or incapacitated. If the parent is absent for more than 90 days, the worker needs to determine eligibility based on the substitute caretaker's situation and income.

3-002 Social Security Number: A Social Security number is not required as a condition of eligibility for Child Care Subsidy but the worker will request one and the client may voluntarily provide it. Child Care Subsidy must not be denied because of an individual's refusal to disclose his or her SSN.

3-003 Citizenship and Alien Status: In order to receive Child Care Subsidy, a child must be a citizen of the United States or a qualified alien. The following are qualified aliens:

1. An alien lawfully admitted for permanent residence under the Immigration and Nationality Act (INA) (see 392-000-301);
2. An alien who has been granted asylum under Section 208 of INA;
3. A refugee who has been admitted to the United States under Section 207 of INA;
4. An alien who is paroled into the United States under Section 212(d)(5) of INA;
5. An alien whose deportation is being withheld under Section 243(h) of INA;
6. An alien who has been granted conditional entry pursuant to Section 203(a)(7) of INA;
7. An alien who is a Cuban or Haitian entrant (as defined in Section 501(e) of the Refugee Education Assistance Act of 1980); or
8. An alien child who has been battered or subjected to extreme cruelty in the U.S. by a parent or by a member of the parent's family who is residing in the same household as the immigrant. The child or children of a battered immigrant are also eligible.

Any individual who is born in the United States is considered a U.S. citizen. This includes children whose parents are not U.S. citizens, such as undocumented alien parents, parents with student visas, or parents with lawful temporary residence status.

Clients who declare to be U.S. citizens and meet all other eligibility requirements must be given a reasonable opportunity to present satisfactory documentation of citizenship or nationality. Benefits must not be denied, delayed, reduced, or terminated pending receipt of the requested citizenship verification. Reasonable opportunity is defined as ten days from the date documentation was requested. The Department may authorize one additional ten-day extension for verification if the necessary information has been requested by the client. If the Department has requested verification, such as an out-of-state birth certificate, benefits will not be denied or terminated while awaiting receipt. Once a client has declared s/he is a U.S. citizen or national and has provided all other information to determine eligibility, benefits must be provided.

If the client is not cooperating in providing information, the client must be closed.
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3-003.01 Verification of Alien Status: When a client states that one or more of the children are aliens, the worker must require the client to present verification for each alien. If the client has documentation containing an alien registration number, the worker must verify the alien status using the Systematic Alien Verification for Entitlements (SAVE) system. For further verification procedures, see 392-000-301.

3-004 Residence: To be eligible for Child Care Subsidy, a client must be a Nebraska resident. A resident is defined as an individual living in the state voluntarily with the intent of making Nebraska his/her home. Migrants and itinerant workers are considered residents of Nebraska if they are living in Nebraska and entered the state to seek employment or to fulfill a job commitment.

3-005 Income:

3-005.01 Categories of Eligibility: There are five categories of eligibility, depending on income:

1. Current Family (CF);
2. Low Income Family (LF);
3. Low Income Sliding Fee Schedule (LC);
4. Transitional (TCC); and
5. Without Regard to Income (WI).

3-005.01A Current Family (CF): Those individuals and family members who are current recipients of an Aid to Dependent Children grant and those individuals whose needs were taken into account in determining the needs of ADC recipients are eligible as current family, "CF." This includes families where one or more members are not included in the ADC unit because of receipt of SSI/AABD. Families who are eligible as CF are automatically eligible for Child Care Subsidy with no copay.

Recipients of medical assistance only are not eligible under this category.

If a member of the family receives SSI and the rest of the family does not receive ADC, the family must qualify as Low Income Family (LF) (see 392 NAC 3-005.01B) or Low Income Sliding Fee Schedule (LC) (see 392 NAC 3-005.01C).

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 Low Income Sliding Fee Schedule (LC): A family whose income exceeds the maximum for LF but is equal to or less than 130 percent of the Federal Poverty Level (FPL) is eligible as LC. To participate in LC, a family must pay the fee as shown in the fee schedule.

3-005.01D Transitional Child Care (TCC): A family whose income upon redetermination exceeds 130 percent of the FPL becomes eligible for TCC. A family whose income exceeds 130 percent of the FPL may receive TCC for up to 24 consecutive months or until the family's income exceeds 185 percent of the FPL, whichever occurs first. If the income of a family receiving TCC falls to or below 130 percent of the FPL, TCC ends and the Department will redetermine the family's eligibility for CF, LF, or LC.

3-005.01D1 Fee Requirement: A family that is receiving TCC may be required to pay a fee.

3-005.01E Without Regard to Income (WI): A family who requires emergency Child Protective Services or requires Child Protective Family Services may be eligible without regard to income.

3-005.01E1 Parents of Department Wards: The parents of a child who is a ward of the Department, are eligible for services without regard to income if the plan is to reunify the family or maintain the child in the home of the parent(s) and the following conditions are met:

1. One of the following applies:
 - a. The parent is not eligible as low income;
 - b. The parent is not willing to be determined eligible as low income; or
 - c. Due to the circumstances of the case, it is not possible for the worker to make an eligibility determination regarding income;
2. There is an agreement for the parent to pay part of the cost of services or the worker has determined that it is in the best interests of the family to authorize services at no cost to the family;
3. The worker verifies that the family meets the needs eligibility requirements; and
4. The service is directly supportive of the family case plan or any written service agreement.

3-005.01E2 Foster Parents: The foster parent(s) of a child who is a ward of the Department or a tribal ward who is unable to receive child care services from the tribe are eligible for services without regard to income if the Department verifies that the foster parent(s) meets the needs eligibility requirements.

3-005.02 Determination of Income Eligibility: When determining eligibility, the worker considers the following sources of income:

1. Supplemental Security Income (SSI);
2. Assistance to the Aged, Blind, or Disabled payment (AABD);
3. Gross wages/salary – total monthly earnings received for work as an employee, including wages, salary, armed forces pay, work study, commissions, tips, piece rate payments, and cash bonuses earned before deductions are made for taxes, bonds, pensions, union dues, and similar purposes;
4. Work study for a graduate student or a student working for a second degree;
5. In-kind income received in lieu of wages;
6. Income received under a Title I Workforce Investment Act (WIA) program for On the Job Training (OJT);
7. Retirement, Survivors, or Disabled Insurance (RSDI) benefits and Railroad Retirement payments before deductions for medical insurance;
8. Dividends (includes dividends from stockholdings or membership in associations);
9. Interest (averaged over the period earned for savings or bonds);
10. Estates;
11. Trust funds;
12. Rentals (net income from rental of a house, store, or other property);
13. Land lease income;
14. Gross payments from boarders or lodgers (if self-employed, see number 28);
15. Net royalties;
16. Retirement pensions (retirement or pension benefits paid to a retired person or his/her survivors by a former employer or by a union, either directly or through an insurance company);
17. Veteran's pensions (money paid by the Veteran's Administration to disabled members of the armed forces or to survivors of deceased veterans, subsistence allowances paid to veterans for education and on-the-job training, and "refunds" paid to ex-servicemen as G.I. insurance premiums);
18. Military allotments;
19. Picket or strike pay;
20. Contributions;
21. Lump sum payments, e.g., child support or RSDI;
22. Annuities or insurance;
23. Unemployment compensation (compensation received from government insurance agencies or private companies during periods of unemployment) and any strike benefits received from union funds;
24. Worker's compensation (compensation received from private or public insurance companies for injuries incurred at work);
25. Court-ordered child, spousal, and cash medical support;
26. Payment by an absent parent to the client for child care, rent, or house payment;
27. Net income from farm self-employment (see 392 NAC 3-005.02B2);
28. Net income from non-farm self-employment (see 392 NAC 3-005.02B).

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3-005.02A Income Considered for Relatives Who Are Not Legally Responsible:

If a non-legally responsible relative is receiving ADC as a relative payee for the child needing child care, the ADC grant is not counted as income in determining financial eligibility. All other income of the relative is considered.

Non-legally responsible relatives who may receive Child Care Subsidy include grandparents, adult brothers and sisters, stepparents, stepbrothers and stepsisters, uncles, aunts, first and second cousins, adult nephews and nieces. These relatives may be half blood, related by adoption, or from a previous generation as denoted by prefixes of grand, great, great-great, or great-great-great.

3-005.02B Averaged Self-Employment Income: The worker determines the gross income, including capital gains, from self-employment for each source of self-employment of the family. The worker then applies a standard deduction of 49% to the gross income for each source of self-employment for which the household reports at least one allowable expense. If the household reports no allowable expense(s) from a source of self-employment income, the worker uses total gross income from that source to calculate CCS eligibility.

3-005.02B1 Allowable self-employment expenses include, but are not limited to, the identifiable costs of labor, stock, raw material, seed and fertilizer, payments on the principal of the purchase price of income-producing real estate and capital assets, equipment, machinery, and other durable goods; interest paid to purchase income-producing property; insurance premiums; taxes paid on income-producing property; and reimbursement from the USDA Child and Adult Care Food Program.

3-005.02B2 Expenses Not Allowed: The following expenses are not allowed as self-employment expenses:

1. Net losses from previous tax years;
2. Federal, state, and local income taxes, money set aside for retirement purposes, and other work-related personal expenses, such as transportation to and from work.
3. Depreciation; and
4. Depletion.

3-005.02B3 Special Procedures for Farming Self-Employment Income: If the costs of producing self-employment farm income exceed the gross farm income, the losses are offset against other countable income. To qualify for this offset, the person must receive or anticipate receiving annual gross proceeds of \$1,000 or more from the farming enterprise.

3-005.03 Income Exclusions: When determining eligibility, the worker does not consider the following sources of income:

1. ADC grant;
2. Money received from participation in the Foster Grandparent Program authorized by the ACTION Program;
3. Money awarded by the Indian Claims Commission or the Court of Claims;
4. Alaska Native Claims Settlement Act payments (to the extent that these payments are exempt from taxation under section 21(a) of the Act);
5. Money received from the sale of property such as stocks, bonds, a house, or a car (unless the person was engaged in the business of selling the property in which case the net proceeds would be counted as income from self-employment);
6. Work study for an undergraduate student;
7. Withdrawals of bank deposits;
8. Tax refunds;
9. Earned Income Credits and Advanced Earned Income Credits;
10. Gifts;
11. Lump sum inheritances or insurance payments;

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 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.

3-005.03C Types of Income

3-005.03C1 Irregular Income: Irregular income is income, earned or unearned, which varies in amount from month to month or which is received at irregular intervals. This may be due to irregular employment, but even when an individual works regularly, the income may be irregular because of factors such as seasonal increases or decreases in employment and earnings (e.g., day labor or sales work on commission basis).

Small, irregular earnings which are not computable or predictable are not considered.

3-005.03C2 In-Kind Income: In-kind income is any non-monetary consideration received by a client in place of income for services provided or as payment of an obligation.

3-005.03C3 Lump Sum Income: Lump sum income is money received on a one-time basis. The worker divides the amount of the lump sum by six months and add that figure to the gross monthly income to determine eligibility. If that amount exceeds the income maximum, the client will be considered ineligible for that six month period.

3-005.03C4 Earned Income: Earned income is money received from wages, tips, salary, commissions, self-employment, or items of need received in lieu of wages.

3-005.03C5 Unearned Income: Unearned income includes but is not limited to:

1. Social Security benefits;
2. Railroad retirement benefits;
3. Child support;
4. Unemployment compensation; and
5. Returns from savings or investments.

3-005.03C5a Treatment of Payment by Non-Custodial Parent: When a non-custodial parent makes a payment for child care or shelter (rent or mortgage payment), whether court-ordered or through an informal arrangement, the payment is:

1. Treated as income if paid to the client; or
2. Excluded if paid to the provider.

When the non-custodial parent pays the child care provider, the provider must split the bill.

3-005.03C5a(1) Percentage Obligation: When the court order states that the non-custodial parent must pay a percentage of the child care expenses, the worker determines the non-custodial parent's portion based on the total charges.

If the non-custodial parent fails to pay his/her portion of the child care, see 392 NAC 3-005.03C5a(2).

3-005.03C5a(2) Non-Custodial Parent's Failure to Pay: If the non-custodial parent fails to pay his/her portion of the child care obligation to the provider, the client should bring in the bill for the non-custodial parent's portion. The Department will reimburse the provider. The worker must notify the client in writing that s/he must pursue enforcement of the court order within 90 days. The Department will no longer pay the non-custodial parent's portion of the child care if the client fails or refuses to pursue enforcement of the court order within 90 days, unless the client has good cause for failing to do so. The following circumstances are considered good cause:

1. The client does not have the funds to pay the attorney's fee; or
2. The client has had a serious illness or injury which prevented him/her from contacting his/her attorney.

If the worker determines that the client had good cause for failing to pursue enforcement of the order, if the client attempts enforcement of the order but it is pending in court, or if the client attempts enforcement but the non-custodial parent still does not pay, the Department will continue payment of the non-custodial parent's portion. The worker will review the status of the case at the time of review.

3-005.03C6 Conversion of Income: If a client has weekly or bi-weekly income, the worker uses the income conversion charts to project monthly income. See 392-000-401 for income conversion charts.

3-005.04 Income Verification: The client must provide verification of earned income, with a copy of check stubs, a statement from his/her employer, or some other documentation. A self-employed client must submit a copy of his/her latest income tax return or his/her bookkeeping records.

The worker accepts the client's declaration of unearned income unless there is inconsistent information or the client has a previous history of overpayments or abuse of the program. In these instances, the worker requires verification of income before authorizing services. If the client fails to provide required proof within 30 days of request, the worker rejects the application or closes the case, as appropriate.

3-005.05 Verification of Education or Training: The client must provide verification of enrollment in school or training at the time of application and at the beginning of each school term.

3-005.06 Burden of Proof: The worker may require the client to provide any necessary verification. The worker may require proof of age, family size, or unearned income if the worker has reason to suspect that incorrect information has been provided. If the applicant fails to provide required proof within 30 days of application, the worker rejects the application or closes the case, as appropriate.

3-006 Assets: A family's net worth may not exceed \$1,000,000.

3-007 Age Limit: Child care is available for children age 12 or younger, or children age 18 or younger with special needs, under supervision of a court, or involved in protective services identified through special reporting, participation in care or shelter in respect to child abuse, child neglect, spouse abuse, or court supervision. The child's age must be verified in order to qualify for assistance.

3-008 Qualification of Need for Service

3-008.01 Need for Service: The case manager authorizes child care services for eligible clients only if each parent or usual caretaker:

1. Is employed;
2. Is actively seeking employment. The case manager may authorize child care for Employment First clients as defined in the EF Self-Sufficiency Contract. For non-EF clients, the case manager may authorize child care for two consecutive calendar months per program year July 1 through June 30 to enable the client to seek employment. Following the loss of employment, the client may receive two consecutive calendar months. Each time the client loses employment, s/he is entitled to two months of child care to allow him/her to seek employment;
3. Is participating in an EF activity that is included in the EF Self-Sufficiency Contract;
4. Requires child care to obtain medical services including physicians' services, mental health services, alcoholism treatment, HEALTH CHECK (EPSDT) and its follow-up, or to obtain family planning services;
5. Is enrolled in and regularly attending vocational or educational training to attain a high school or equivalent diploma or an undergraduate degree or certificate (including English as second language classes). Child care is not allowed for any activity if an individual is pursuing a second undergraduate degree or any post-graduate schooling. Neither parent in a two-parent family is eligible for child care if one is pursuing a second undergraduate or post-graduate degree. See 392 NAC 3-008.01B for the limit on education;
6. Is participating in on the job training;
7. Is incapacitated as documented by Form CC-3E;
8. Would benefit from child care services in situations of abuse, neglect, or exploitation where a report will be made to the State Central Register;
9. Has a child in foster care and requires child care to receive Social Services Block Grant or community services directed toward the return of the child to the home;
or
10. Needs to escort a child to receive medical care or visit a child in the hospital.

If more than one parent or usual caretaker is included in the family size, a reason listed must apply to each adult.

3-008.01A Limit on Hours of Assistance:

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.

3-009.01 Failure to Pay Fee: A client who has not paid the fee obligation under any eligibility for child care may be ineligible for other fee-paying child care until the client has made a satisfactory arrangement with the provider for payment of the earlier fee. The client is required only to make arrangements with the previous provider; s/he is not required to pay the fee in total before receiving other fee-paying child care. If the client fails to comply with the arrangements to pay the back fee, his/her child care may be closed if s/he is still otherwise eligible for fee-paying care.

3-009.02 Changing the Fee: In most cases, the fee should be changed effective the first of the following month.

3-010 Client's Right to Choose Provider: The client has the right to choose a provider, regardless of the availability of other providers. However, the provider must be licensed or approved as license-exempt. The client may choose from:

1. Licensed Child Care Center;
2. Licensed Family Child Care Home I;
3. Licensed Family Child Care Home II;
4. License-Exempt Family Child Care Home; or
5. In-home provider.

The Department does not pay a caretaker to provide child care for his/her own child(ren). The Department also does not pay an individual to provide child care for his/her foster child, adopted child, or child for whom s/he is receiving adoption or guardianship subsidy.

3-010.01 Limitations on Authorization of In-Home Child Care: All in-home providers must be paid at least federal minimum wage.

The worker may authorize in-home child care only if:

1. The child has a special need (see 392 NAC 1-003) or a childhood illness;
2. The client needs child care during evening, overnight, weekend, or holiday hours. Evening is defined as after 6 p.m. This is for any of the reasons for child care listed in 392 NAC 3-007.
3. There are three or more children in care.

Note: The in-home provider may be an individual who lives with the child only if the child has a special need or a childhood illness.

3-010.02 Client Relatives as Providers: A relative provider is defined as any relative of the child except an adult who is legally responsible for the child or a person who is a member of the child's assistance/service unit. For the definition of a relative, see 392 NAC 3-005.02A.

3-010.03 Employee of a Child Care Facility: When a client works at the child care facility where his/her child(ren) attends, the Department will pay for the care of the child(ren) only if it is a child care center.

{Effective 4/2/05}

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.). 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.

3-013.02D IPV Disqualification: If an individual is found to have committed an IPV, a period of disqualification must be imposed. The period may be determined by the Director after an administrative disqualification hearing, or without a hearing if the individual waives his or her right to a hearing. The period of disqualification is:

1. For a first violation, up to one year;
2. For a second violation, up to two years; and
3. For a third violation, permanent disqualification.

The disqualification applies to the individual found to have committed the IPV and his/her family.

These penalties will also be imposed if the individual is found by a court to have committed IPV.

Note: Before a referral is made for IPV for a family being served through HHS protection and safety services or Employment First, there must be consultation and agreement by the protection and safety or Employment First staff involved with the case.

3-014 Cooperation with the Child Support Enforcement Unit (CSEU)

3-014.01 Purpose of the Program: The Child Support Enforcement Program is also commonly known as the IV-D Program since the federal provisions for the program are contained in Title IV, Part D of the U.S. Social Security Act. The purpose of the program is to identify and locate absent parents, establish paternity, and obtain financial and medical support payments.

3-014.01A Child Support Enforcement Services: Child Care Subsidy cases are classified as non-public assistance (NPA). NPA cases are those in which the recipient of IV-D services does not receive ADC, foster care, or Medicaid. Services available from Child Support Enforcement for NPA cases include the following:

1. Locating parents;
2. Establishing paternity;
3. Establishing court orders for child support;
4. Establishing court orders for medical support;
5. Enforcing IV-D orders;
6. Reviewing and modifying support order(s); and
7. Collecting and distributing support.

3-014.02 Definitions of Child Support, Spousal Support, and Medical Support: For Child Care Subsidy purposes, child support payments are defined as:

1. Payments ordered by a court of competent jurisdiction for the support of a child(ren); or
2. Payments made by a noncustodial parent without a court order.

Spousal support is alimony or maintenance support of a spouse or former spouse who is living with the child for whom the individual also owes support.

Medical support is the obligation of the noncustodial parent to provide health insurance or pay medical costs for anyone in the unit.

Additional definitions for the Child Support Enforcement Program are contained in Title 466.

3-014.03 Duties of the Case Manager: The case manager has the following duties in child support cases, as defined in subsequent regulations:

1. Identifying all noncustodial parents (see 392 NAC 3-014.05A for exceptions);
2. Obtaining the application for child support services;
3. Referring of Child Care Subsidy cases to IV-D workers;
4. Redetermining eligibility due to child/spousal support collections.

3-014.04 Duties of Client: The parent/non-legally responsible relative, or guardian of the child for whom Child Care Subsidy is received is required to cooperate with Child Support Enforcement (unless there is the determination of Family Violence, see 392 NAC 3-014.06B3).

Child Care Subsidy recipients are required to cooperate with Child Support Enforcement in achieving the following objectives:

1. Identification and location of the parent(s)/alleged father of a child who receives Child Care Subsidy;
2. Establishment of paternity;
3. Establishment of a support order;
4. Enforcement of a support order; and
5. Modification of a support order.

3-014.05 Referral to the IV-D Unit: When one or both parents of a child receiving Child Care Subsidy are absent, the case manager makes a referral to the IV-D unit no later than two days after the date of approval of eligibility.

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 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.

4-001.02A1 Disclosure of Information: If the Department disapproves a provider, the worker may inform the client of the reason for disapproval. If the provider cannot be approved because s/he is under investigation for abuse, the worker must contact the Protective Service worker who is responsible for the investigation. The Protective Service worker will consult with his/her supervisor to determine if the client may be informed without jeopardizing the investigation. If the supervisor approves, the worker must send Form Letter HHS-112 to the client and inform the provider via Form Letter HHS-113.

If the provider is not approved because his/her name is on the Protective Service registry, the worker must send Form Letter HHS-114 to the client and HHS-115 to the provider.

In all cases the worker must not identify the reporting party or information from other confidential investigative sources, e.g., the State Patrol.

4-001.03 Authorization Termination: When a service authorization must be terminated before the end of the authorization period, the worker must notify the affected provider in a timely manner.

4-002 Client Contact and Notice

4-002.01 Client Responsibility to Contact: The client or representative must contact the worker within ten days when:

1. The client's situation has changed (e.g., address, income, family composition, need for child care, child care schedule);
2. The client is dissatisfied or experiencing problems with the service delivery plan; or
3. Instructed to do so by the worker.

4-002.02 Worker Responsibility to Contact: The worker must contact the client when:

1. There is reason to suspect that the client's eligibility has changed;
2. It is necessary to discuss the process or problems of service delivery;
3. Follow up is necessary; or
4. The service or delivery plan must be changed or terminated.

4-002.03 Notice of Agency Action: The worker must send a Notice of Action to provide written notification of agency action to an applicant or recipient (or his/her representative) when:

1. An applicant is determined ineligible for Child Care Subsidy or a client is found ineligible at the time of verification or redetermination; or
2. A requested service is denied or provided services are to be reduced or terminated.

These notices must include a statement of what action(s) the worker intends to take, the reason(s) for the intended action, and the corresponding manual reference(s).

A Notice of Action must also be sent when an applicant is determined eligible or a client redetermined eligible for Child Care Subsidy.

4-002.03A Advance Notice: When a provided service is to be reduced or terminated, the worker must provide formal written notice. This notice must be dated and mailed or given to the client at least ten calendar days before the adverse action is effective.

4-002.03B Adequate Notice: If the worker has verified possible client fraud, the worker must send a notice of termination or reduction to the client no later than the action's effective date.

4-002.03C Notice Not Required: No notice need be sent to the client in the following situations:

1. The client reports that service is no longer required and requests that his/her case be closed;
2. The worker learns of a client's death;
3. The client is committed to an institution or admitted to a nursing home on a long-term basis;
4. The client's whereabouts are unknown;
5. The worker has verified that service is being received through another local office; or
6. An authorization period is ending and the client has not acted upon a request for redetermination information.

4-002.03D Service Continuation During Appeal: In cases where advance notice has been given, the client may appeal. If an appeal is requested in writing within ten days following the date the Notice of Action was mailed, the worker must not carry out the adverse action until a fair hearing decision is made.

In situations where only an adequate notice was required, service is not continued pending a hearing decision.

4-003 Maximum Rate and Unit Authorization:

4-003.01 Provider Rates: A provider must establish a private pay rate before contracting with the Department. The rate charged to the Department must not exceed the rate charged to private pay clients. The rate for each established unit of care must be limited to the rate established as the Department's maximum for the type of care, unit of care, and the age of the child involved. If the provider has a discounted rate for the care of second and succeeding children, the Department will pay the discounted rate.

Except for foster children and children receiving guardianship or adoption subsidy, the provider is not allowed to charge the parent or caretaker the difference between the Department's reimbursement and the provider's private pay rate. A foster parent or subsidized adoptive parent or guardian may make arrangements with a provider to supplement the Department reimbursement.

If the rate the provider charges the public is higher than the Department's, the Department will pay the established maximum.

If the provider's rate for the public is lower than the Department's maximums, the agreement rate must not be higher than the provider charges the public.

{Effective 4/2/05}

4-003.01A Payment By Attendance: The Department pays by attendance, not enrollment. Payment is not made for time when the child is not receiving care; this includes when the provider is on vacation, is ill, or is not providing care for some other reason.

4-003.01A1 Exception When the Child Quits Without Notice: The Department will pay for up to three days of care if:

1. The provider charges private pay families on the basis of enrollment only; and
2. The child is not in attendance for three consecutive days and the client has not notified the provider that services are terminated.

This is only for cases where the child is no longer attending, not for absences during ongoing care.

4-003.01A2 Exception for Foster Children/Adoption or Guardianship Subsidy: For foster children or children receiving adoption or guardianship subsidy, payment may be made based on enrollment within the following guidelines:

1. The provider must be licensed;
2. The provider must have written policies specifying that they charge private-paying families by enrollment;
3. The child must attend the child care facility for a minimum of 30 hours a week; and
4. The provider may charge a maximum of one daily unit for a day when the child is not in care or is in care for less than six hours.

4-003.01B Rate Increases: The Department has the option of not increasing a provider's rate even though the provider's charge is below Department maximums.

4-003.01C Accredited Rates: The Department pays a higher rate for programs that are accredited by an accrediting body approved by the Department, up to the rate the provider charges to families who pay privately. See 392-000-203 for rates.

4-003.02 Hourly and Daily Units: Care for 6 or more hours must be billed by the day. Care for 10 or more hours in one day may be billed through hourly units for the 10th, 11th, and 12th hours unless the facility defines its day of care from opening to closing hours.

4-003.03 Enrollment Fees: Fees charged by a child care program for enrolling a child may be included in the agreement. The enrollment fee must not exceed enrollment fees charged to private pay families or the Department's maximum. Enrollment fees are paid for licensed programs only.

In order to receive an enrollment fee, the child care program must have a written policy that describes how the enrollment fee is required for private pay families and the specific amount of the fee. These enrollment fees are paid one time only per child per provider.

The Department does not pay deposits to hold a space or guarantee notice of termination of services.

4-003.04 Activity Fees: An activity fee is billed as a separate service. Activity fees are paid to licensed programs only. The activity fee must not exceed what is charged to private pay families or the Department's maximum.

Activity fees are intended primarily for school age children during summer months, but may be approved for other age children. In order to receive an activity fee, the child care provider must have a written policy that describes how the activity fee is required for private pay families and the specific amount of the fee.

Activity fees should be billed on a monthly basis for the time children were in attendance for the previous month.

4-003.05 Transportation

4-003.05A Transportation To and From Home: The worker may authorize transportation or escort to and from home:

1. When the child care is necessary for any of the reasons listed at 392 NAC 3-008.01;
2. When transportation costs are not included in the total child care rate;
3. When the child care is licensed, if required by law; and
4. When the case is CF, LF or WI. (The WI case must have an open protective service case.)

Transportation is paid per one way trip per child to and from home.

4-003.05B Transportation To and From School: If a provider normally provides transportation from child care to school and return, it may be included as a part of child care. The Department will not pay for transportation to and from school as a separate service. The fee for it must be prorated over the time period affected and included as a part of the normal child care rate if this does not cause the provider's rate to exceed the rate maximums.

4-003.06 Unit Codes and Maximums

Service Unit	Maximum Units Per Month
Enrollment Fee	NA
Hour	5 hours 59 min/day 31 days/month
Day	31
Child Care Related Transportation	50 trips

4-003.07 Client Charges: The family is responsible for payment of fees assessed for failure to pick up the child by the end of the program's day.

When the provider charges private pay families by enrollment only, the provider may charge the client if the child is absent on a scheduled day. The provider cannot charge for time the child was not scheduled to be in attendance.

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, 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.

4-004 Provisions for Out-of-State Providers for Foster Children/Children with Adoption or Guardianship Subsidy:

4-004.01 License Requirements: Whenever possible, the child care provider must be in compliance with the license or registration requirements of the state where the provider is providing care. At a minimum, there must be a Central Registry and local law enforcement check on the provider before the foster parent uses the provider. The case manager has the responsibility for having reasonable assurance that safety is maintained for the child.

4-004.02 Subsidy Agreement and Rate of Payment: If possible, the out-of-state child care provider must have a child care agreement with the Department and accept Department rates. If it becomes too difficult to accomplish this because of distance, different state requirements, etc., the child care payment may be included in the foster care payment and paid to the foster parent.

The case manager may approve a provider rate that is higher than Nebraska's maximum if necessary. The case manager should request the foster parent to provide information about rates in the area and determine what is reasonable to pay. The case manager will need to monitor changes in circumstances that will require a change in payment, for example, the child moving to a different age category, like infant to toddler; the child requiring less care because s/he enters school; or a change in the foster parent's schedule.

4-004.03 Purpose of Child Care: For foster care children and children receiving adoption or guardianship subsidy only, child care may be authorized for socialization of the child or because another child needs to be taken to an appointment.

{Effective 4/2/05}

4-004.04 Agency-Based Foster Care: Payments must be made directly to the child care provider. All child care providers must be licensed or approved before child care is provided.

5-000 PROVIDER REQUIREMENTS

5-001 General Standards: The following standards apply to all service agreements:

1. The proposed service(s) must meet the Manual's service definitions and must be purchasable;
2. All child care providers must have a Social Security number or FID number, whichever is appropriate, before completing an agreement;
3. The potential provider must not be the parent, stepparent, caretaker relative or foster parent, or subsidized adoptive parent of the minor child receiving child care nor the legal guardian, subsidized guardian, spouse, or minor child of the child care client;
4. The potential provider must not engage in or have an ongoing history of criminal activity that may be harmful or may endanger individuals for whom they provide services;
5. The potential provider must not have a history of incorrect and/or inaccurate billings whether intentional or unintentional for services that have been provided or have a criminal history of financial mismanagement; and
6. The provider must not have been disqualified from any HHS program for Intentional Program Violation within the last five years;
7. The provider must provide an environment that promotes the safety and well being of the children in care.

If the provider is an agency, Department staff must review agency policies regarding hiring and reporting to ensure that appropriate procedures regarding abuse or neglect are in place.

If the provider is an individual, Department staff must check the Abuse and Neglect Central Registries to determine if any substantiated reports of abuse or neglect by the provider exist. If the provider provides services in his/her own home, Department staff must also check the Abuse and Neglect Central Registries to determine if any substantiated reports of abuse or neglect by household members exist. If a report of abuse or neglect has been substantiated, Department staff must not contract with the individual provider. If a report of abuse or neglect concerning a current provider (or household member) as perpetrator is substantiated, staff must immediately terminate the provider agreement and notify case management.

5-001.01 Provider Agreement Standards: Before furnishing any service, each provider must sign Form CC-9B agreeing:

1. That service will not be paid through the Child Care Subsidy program before it is authorized by the worker;
2. To provide service only as authorized, in accordance with the Department's standards;
3. To submit Form HHS-5N, "Social Services Billing Document," after service is provided and within 90 days;

4. To accept social services reimbursement as payment in full for the contracted service(s) unless service is authorized on a sliding fee basis;
5. To accept a rate which is reasonable, necessary, and does not exceed the amount charged to private-paying persons;
6. To apply to social services clients the same standards applied to private-paying persons;
7. To retain authorizations, billing documents, and attendance records for four years to support and document all claims;
8. To allow federal, state, or local officials responsible for program administration or audit to review service records;
9. To permit federal, state, and local officials to monitor and evaluate the program by means such as inspecting the facility, observing service delivery, and interviewing staff members;
10. To keep current any state or local license required for service provision and maintain all licensing standards;
11. To respect every client's right to confidentiality and safeguard confidential information;
12. To not discriminate against any employee, applicant for employment, or social services program participant or applicant because of race, color, religion, sex, disability, or national origin;
13. To not assign or transfer the agreement to anyone else;
14. To understand and accept responsibility for the child's safety and property;
15. To continue to meet all standards pertaining to the service provided;
16. To operate a drug-free workplace;
17. To notify the appropriate Department case manager if a child(ren) does not attend the child care for more than three consecutive days;

18. Prohibit smoking within any part of an indoor child care facility; and
Note: 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.
19. 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

5-001.03A Introduction: In some situations, the Department withholds Social Security taxes (Federal Insurance Contribution Act, FICA) from provider payments. Individual in-home service providers (e.g., in-home child care and homemaker) who are not self-employed are considered employees of the client for whom they provide service. The Department, upon receiving a signed Form IRS-2678, "Employer Appointment of Agent," acts on behalf of these clients to withhold mandatory FICA taxes and pay the client's matching tax share to the IRS.

Note: The Department does not withhold federal or state income tax or federal unemployment insurance tax from any provider payment.

5-001.03B Definitions:

Affected Clients/In-Home Services: The employee's share of Social Security tax is withheld from provider payments only when in-home child care is provided.

Affected Providers: In-home providers authorized to provide in-home service who are not affiliated with an agency and are not self-employed are subject to FICA withholding.

Earnings Taxed for Social Security: Affected providers are subject to Social Security tax payment for each calendar year in which they are paid a specified amount for services provided to one client. The earnings limit is adjusted annually. The Department withholds this tax from all payments to affected providers.

Self-Employed Providers: Individuals who file Social Security taxes on their own behalf are considered self-employed. They are identified by an FID number rather than a Social Security number.

Social Security Tax Rates: The Department remits to the IRS an amount equal to the current Social Security tax rate for specified "in-home" services. Half of this amount is withheld from the provider as the employee's share; the other half is provided by the Department on behalf of the client employer.

5-001.04 Provider Release of Information and Statement of Criminal History: Individual providers must sign a release of information and statement, identifying any felony or misdemeanor convictions and/or pending criminal charges. This statement must include details, dates, and disposition (e.g., parole, probation, incarceration, fine, community service, etc). The provider must include minor traffic violations only if the provider will provide transportation services. If the provider will be providing services in his/her home, the provider must also provide this information for all household members age 19 or older.

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: 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. A provider who will be transporting children is not allowed any DUI convictions in the last eight years, and must not have 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.

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.

5-001.07 Provider Hearing Right: Child care providers do not have the right to appeal Department decisions, except when an overpayment has been assessed (see 392 NAC 5-005).

5-002 Provider Standards for In-Home Child Care: Each provider of in-home child care must:

1. Be at least age 19 or meet the special conditions described in 392 NAC 5-001.02 ff;
2. Sign a Form CC-9B, "Child Care Provider Agreement";
3. Have no obligation to perform housekeeping activities;
4. Sign Form CC-0350, "In-Home Day Care Self-Certification Checklist";

5. Not engage in or have an ongoing history of behaviors which are harmful to or which may endanger the health or morals of children including 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;
Note: 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 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 and/or show that children would be placed at risk.
6. On request, provide written permission for the Department to request criminal history information from law enforcement or criminal justice agencies and the name(s) by which s/he has been known;
7. 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;
8. Provide continual supervision of children;
9. Discuss with the parent/guardian the hours of care, care for ill children, disciplinary practices, meals, snacks, napping schedules, and toilet training practices (if applicable) before care is provided;
10. Dispense prescription or non-prescription medication only with prior written permission and written instructions from the child's parent/guardian;
11. Make arrangements with the parent/guardian on how to handle medical and other emergency situations; and
12. Develop a plan for the evacuation of children from the home in emergencies such as fire or tornado.

5-003 Provider Standards for License-Exempt Family Child Care Homes: If a provider is to become a license-exempt vendor to care for three or fewer children and chooses not to become registered as a Family Child Care Home, the provider must complete Form CC-0351, "Approved Family Day Care Self-Certification Checklist." This form (and Form CC-9B) may be completed by mail or during a home or office visit.

The local office may make a home visit, announced or unannounced, to determine compliance with these requirements.

Each provider of license-exempt family child care must:

1. Be at least 19 years old or meet the requirements at 392 NAC 5-001.02B;
2. Provide care for a maximum of 6 children. The provider's children, grandchildren, or foster children count in the maximum if they are age 12 or younger. A child(ren) age 13 or older is included in the maximum if the provider is being paid to provide child care for the child, either from a private payer or the Department. The Department will pay for a maximum of:
 - a. Three children from different families; or
In addition, the provider may have a maximum of 3 of his/her own children, grandchildren, or foster children age 12 or younger in the home. Care for these children will not be paid.

- b. Six children from one family. The provider must not have other children, grandchildren, or foster children age 12 or younger.
 - c. 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 conduct other employment during the hours s/he is 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;

12. Maintain a record of the parent/guardian's work and home phone numbers and the phone number of the child(ren)'s physician;
13. Keep emergency numbers within easy access near the telephone;
14. In the case of a medical emergency, call 911 or the local medical emergency phone number;
15. Keep areas and equipment where care is provided clean and in good repair;
16. Have operable utilities, i.e., electricity, heat, water;
17. Serve nutritious meals and snacks to children in care;
18. Keep cooking and eating areas and equipment clean and in good repair;
19. Store perishable foods served to child care children in covered containers;
20. Have a sufficient number of safe, age-appropriate play materials available for the child care child(ren)'s use;
21. Have first aid supplies available, but inaccessible to children. Supplies are to include fever thermometer, soap, bandaids, gauze, tape, and scissors;
22. Dispense prescription and non-prescription medications only with prior written permission and written instructions from the child's parent/guardian;
23. Keep firearms, medications and poisons, furnace and water heater inaccessible to children;
24. Develop and practice an evacuation plan with the children for use in emergencies such as fire or tornado. A plan must also be developed to handle medical emergencies;
25. Have available at least 35 square feet of indoor child care space for each child in care;
26. Provide and use clean and comfortable napping and sleeping arrangements for the children in care;
27. Maintain the home, including toilet facilities, clean and in good repair;
28. Maintain the home to be free from fire hazards such as exposed wiring, storage of combustibles near a fire source (furnace, water heater, stove), and blocked exits;
29. Develop an emergency procedure to reach children should they become locked into an area of the home which can be locked;
30. Maintain proper vaccinations for household pets susceptible to rabies;
31. Maintain an outdoor play area free of safety hazards;
32. When transporting children, use age appropriate restraints which comply with state law; and
33. During evening care, have children age 7 or younger sleep only on a floor level where an adult is present.

5-003.01 Child Abuse/Neglect Report: If the potential provider indicates on Form CC-0351 that a child abuse/neglect report has been filed, the worker must review the child protective service investigation report. The worker must not approve the provider if the report indicates behaviors which might endanger the health, safety, or morals of children under care.

5-003.02 Provider Receiving Treatment: If the potential provider indicates on Form CC-0351 that s/he is receiving treatment for mental illness, drug addiction, or alcoholism, the worker must obtain a statement from a physician or licensed or certified mental health practitioner, to verify that the problem will not interfere with the provider's ability to care for children.

5-004 Application: A worker assigned resource development responsibilities must conduct a face-to-face interview with each potential provider.

If the provider does not meet standards at the time of the initial visit or interview but is willing to correct the deficiency within a reasonable period of time, the worker continues the application process when proof of compliance is received.

5-004.01 Conflict of Interest: No employee of the Department or its subdivisions may be approved as a service provider if s/he is in a position to influence his/her own approval or utilization.

5-004.02 Worker Relatives as Providers: Service staff members must not approve, reapprove, evaluate, negotiate provider agreements with, or authorize service provision from, providers to whom they are related. In situations where a relative-provider is the only resource, staff must request prior Central Office approval.

5-004.03 Service Provider Agreements: The following guidelines govern service provider agreements:

1. The provider must obtain any necessary registration or child care license before signing an agreement.
2. Each provider must have a service provider agreement in effect before service can be authorized for purchase.
3. Staff must evaluate and approve or disapprove all service providers located within the unit's jurisdiction.
4. Service provider agreements are effective up to 12 months, are not back-dated, and must be completed and signed by all parties on or before the effective date. The agreement may be made effective with the client's request for a specific provider but no earlier than the date of receipt of the application.
5. Changes in service provider agreements require renegotiation of the agreement. Address changes which do not affect the service location do not require a new agreement.
6. Notice of any change in services, units, or unit rates proposed by either the provider or the service agency must be given as soon as possible.

5-004.04 Agreement Completion: When a potential provider has met all necessary requirements, the worker:

1. Establishes rates and terms of service with the provider and completes the agreement, stating any provider limitations; and
2. Enters the provider on N-FOCUS.

5-004.05 Multiple Facilities: There are two methods by which a provider with more than one service facility can be evaluated and approved or disapproved. The unit(s) involved and the provider decide which option to use.

5-004.05A Option 1: A separate agreement may be negotiated with each facility. This option must be used if the facilities:

1. Will bill separately; or
2. Charge different rates for the same service.

5-004.05B Option 2: One agreement may be negotiated, listing all the facilities.

5-004.06 Provider Evaluation

5-004.06A Resource Development Responsibilities: The worker must:

1. Hold a face-to-face evaluation interview with each potential provider at least annually;
2. Annually visit each facility in which services are provided outside of the client's home; and
3. Assess the health and safety of service provision at least once during the agreement period by observing service delivery, visiting the service facility, interviewing the provider, or interviewing a client served by the provider.

For the exception for license-exempt providers, see 392 NAC 5-004.06A2.

5-004.06A1 Licensed Child Care Providers: After the initial agreement process, subsequent renewals may be conducted by phone, mail, or office visit.

5-004.06A2 License-Exempt Child Care Providers: The worker must visit the provider's home when the provider initially signs up with the Department. This visit must be conducted within 90 days of the completion of the provider agreement. Then the worker must make at least one home visit within the next 36 months if the provider:

1. Has no negative reports;
2. Has no billing problems; and
3. The supervisor is in agreement.

If there are negative reports, billing problems, or the supervisor feels it is necessary, the worker must make an annual home visit.

5-004.06B Secondary Agreements: Site visits are not required for facilities with secondary agreements. The service provider must ensure that providers with secondary agreements meet all standards and requirements.

5-005 Provider Overpayments: The Department must take all reasonable steps necessary to promptly correct overpayments.

The Department will send a letter to the provider informing the provider that there is an overpayment, giving the provider the opportunity to discuss the overpayment with a Department representative, and informing the provider of his/her right to appeal the existence or amount of the overpayment. The provider has 45 days to appeal the overpayment.

If the provider does not appeal or contact the Department to work out a repayment agreement, the overpayment will be recouped from future billings for the same or different children, or from another service.

When the evidence clearly establishes that a provider willfully over-billed the Department, the worker will refer the provider to the Special Investigations Unit, Central Office; or in the Omaha Office, to the Omaha Special Investigation Unit. Any information, documentation, investigative reports, etc., that are developed or obtained will be shared with other programs within the HHS System and with appropriate state agencies such as the Department of Education.

CHAPTER 6-000 CHILD CARE GRANTS: The Department has established a grant fund from Child Care Development Funds; awards are made from the grant fund to child care facilities in order to increase the number of licensed child care slots that are available to families who are receiving Child Care Subsidy. There are two categories of grants:

1. Start Up/Expansion child care grants; and
2. Child care mini grants.

6-001 General Provisions:

6-001.01 Definitions: For definitions used within the administration of Child Care Grants, see 392 NAC 1-003.

6-001.02 General Eligibility:

6-001.02A Nondiscrimination: To be eligible, a program must not discriminate against children with disabilities or children whose care is funded by any state or federal funds.

6-001.02B Multiple Child Care Sites: Entities operating multiple child care sites are eligible to submit one application per site.

6-001.02C Ineligible Programs: Preschool-only and drop-in-care-only programs are ineligible.

6-001.02D Application Process: Applications are accepted monthly, and must be postmarked by the first of the month in order to be included in that month's review cycle. Applications postmarked after the first of the month are reviewed during the next month's review cycle.

Based on the recommendations of the review committee and availability of funds, money is awarded to applicants each month. The Department reserves the right not to award any grants during a review cycle.

Proposals requesting funds in excess of the specified award amount are not considered.

The Director of HHS Services reviews the list of the applications that are recommended for funding before the grant awards are made.

6-001.02D1 Review Committee: The Review Committee consists of one or more representatives of HHS, Services; HHS, Regulation and Licensure; and Department of Education.

6-001.02E Grant Awards: A proposal may be fully or partially funded. Funding decisions are not subject to appeal.

Grant funds must not be used to reimburse for any item purchased before the grant has been awarded.

6-001.02E1 Selected Proposals: Applicants who are selected for funding have 60 days from the award date to accept the grant and sign and submit all necessary paperwork. Grants not accepted within 60 days of the award date are considered abandoned.

Once funded, a child care program is not eligible for a grant for a period of three years.

6-001.02E2 Proposals Not Selected: The Grant Manager will send a written notice to an applicant whose proposal is not selected for funding including an explanation for the denial. If not selected, an applicant may reapply during a future funding cycle.

6-001.02E3 Time Limit for Expenditure of Funds: All grant funds must be spent within one year of the date of award, unless a written request for an extension of time has been submitted and approved by the Department.

6-001.02F Audit of Expenditures: Within six months of awarding a grant, the Grant Manager will send an Expenditure Report to the child care facility. The child care facility must submit the Expenditure Report along with receipts for purchases made with the entire grant. If the Expenditure Report indicates there are funds remaining, the Grant Manager will send an additional Expenditure Report to the child care facility until all funds have been spent.

6-001.02G Contract Breach and Collection: If a child care facility does not comply with the terms of the grant contract, all or a prorated amount of the original grant award must be refunded to the Department. If a child care facility has its license revoked or subsidy agreement cancelled, the full amount of the grant award must be refunded to the Department.

If a child care facility fails to respond to a request for repayment of the grant, the Department pursues collection.

6-002 Start Up/Expansion Child Care Grant:

6-002.01 Purpose: The purpose of the Child Care Grant Fund is to expand the amount of licensed child care that is available to families who are receiving Child Care Subsidy. The following programs are eligible for Start Up/Expansion Child Care Grants:

1. New (not yet licensed) programs;
2. Programs that are expanding (increasing the license capacity); or
3. Programs that are expanding from a Family Child Care Home I to a Family Child Care Home II, or a Family Child Care Home II to a Child Care Center.

6-002.02 Definitions: For use within the administration of Start Up/Expansion Child Care Grants, the following definitions apply.

Children with Disabilities: Children who are eligible for special education services according to the Nebraska Department of Education Rule 51 or the definition of "special needs" at 392 NAC 1-003.

Community Agency/Representative: Any agency, organization, government office, or individual that offers a service, or has knowledge of services and/or needs related to young children and families.

Developmentally Appropriate Program: A program that will meet the individual and age-appropriate needs of each child.

Expansion: Increasing the license capacity of an existing child care program.

Full Service Resource and Referral: An agency that provides a wide range of services to families including, but not limited to, health, social services, mental health, parent education, and child care resource and referral.

Ill Children: Children who are excluded from a regular child care program due to illness or disease, symptoms of illness, or who are recuperating from a serious illness, accident, or surgery requiring exclusion.

Market Plan: A well defined approach to informing families that the child care program exists. This may include using local advertising, the Child Care Food Program, resource and referral systems, and local support groups.

Minor Building Modifications: Improvements required for licensing by the Nebraska Health and Human Services System and/or other state, county, or city regulatory agency that do not involve the construction or removal of a weight-bearing wall. Minor building modifications also mean any improvements necessary to serve additional infants, children with disabilities, children who may be ill, and/or school-aged children.

6-002.03 Eligibility Requirements

6-002.03A Compliance with Federal Statutes and Rules: Applicants must comply with all federal statutes and rules related to nondiscrimination, prohibitions against lobbying, suspension, and disbarment; the provision of a drug-free workplace; the provision of a smoke-free environment in nonresidential settings; and access for all persons with disabilities.

6-002.03B Child Care License and Subsidy Agreement: If a program has a child care license and/or child care agreement, the program must be in good standing with the Department to be eligible for funding. The Review Committee reviews the child care license and subsidy agreement, if applicable.

6-002.03C Priority in Awards: Awards are made on the basis of need in the community for additional child care. Priority is given to the following:

1. Child care programs serving families who receive Child Care Subsidy;
2. Areas of need for additional child care providers serving families who receive Child Care Subsidy;
3. Areas of high poverty and/or very high or low population densities; and
4. Child care programs that would increase the number served who are infants, children with disabilities, school-aged children, and/or children who are ill.

6-002.03D Abuse Registries: The names of all applicants are cleared against the Nebraska Child Abuse and Neglect registry and the Nebraska Adult Protective Services registry. Applicants whose names appear as perpetrators on either registry or whose file contains serious noncompliance will not be funded.

6-002.04 Selection Criteria and Process

6-002.04A Application: Each application must contain the following seven sections:

1. Application form;
2. Statement of Assurances, including an Agreement:
 - a. To not discriminate against children with disabilities or children whose care is funded by any state or federal funds;
 - b. To participate in an external evaluation or site visit as determined by the Departments of Health and Human Services and Education;
 - c. To obtain and maintain licensure with the Health and Human Services system;
 - d. To keep records for fiscal audit and program evaluation, and to provide the information to the Department;
 - e. To ongoing participation in training;
 - f. To continue to provide child care services for three consecutive years after the grant has been awarded;
 - g. To serve families who receive Child Care Subsidy;
 - h. That funded proposals will become public domain;
 - j. To accept the grant award within 60 days of notification.
3. Community Impact Statement;
4. Program;
5. Business Plan;
6. Budget; and
7. Letters of Support.

6-002.04B License and Child Care Subsidy Agreement Review: The licensing file, Child Care Subsidy agreement, and history of each applicant are reviewed, if applicable. Applicants holding a license and/or a Child Care Subsidy agreement must be in good standing with the Department to be considered eligible for funding.

6-002.04C Review Process: The review committee reviews and scores proposals on a total point system of 100. Proposals must score at least 75 points to be considered eligible for funding.

6-002.05 Grant Awards: Maximum grant awards are \$5,000 for home-based child care programs and \$10,000 for center-based child care programs.

6-002.05A Proposals Not Selected: Applicants whose proposals are not selected for funding are sent a written notice including the reviewers' comments. If not selected, an applicant may reapply during future funding cycles.

6-002.05B Verification of Expenditures: HHS staff may conduct a site visit to the child care facility to verify purchases made with the grant funds.

6-002.05C Change in Director or Licensee: If there is a change in Director/Licensee of the program, the responsibilities and contractual obligations of the grant must be reassigned to the new Director/Licensee.

6-003 Child Care Mini Grants

6-003.01 Purpose: The purpose of the Mini Grant fund is to assist licensed home-based and center-based child care facilities with items that are required to maintain licensure.

6-003.02 Child Care License and Subsidy Agreement: To be eligible for grant funds, a child care facility must have both a child care license and a child care subsidy agreement. Applicants without both a child care license and a child care subsidy agreement must obtain and maintain them and be in good standing with the Department. The Review Committee reviews the licensing and subsidy files and history of each applicant.

6-003.03 Application Contents: Each application must include:

1. Application form;
2. Statement of Assurances;
3. Documentation of need for the item(s) requested from either the Health and Human Services System, local health department, and/or fire marshal;
4. Budget form with two written estimates for any individual item costing more than \$100;
5. A letter of support which documents the applicant's ability to provide quality child care.

6-003.04 Mini-Grant Awards: Maximum grant awards are \$1,000 for a child care program with a provisional license, and \$2,000 for a program with an operating license.

6-003.04A Proposals Not Selected: Applicants who are not selected for funding will receive written notice including an explanation for the denial.

6-003.04B Verification of Expenditures: A Health and Human Services System staff person, local health department staff person, and/or the fire marshal may conduct a site visit to the child care facility to verify purchases made with the grant funds.