

Original: 2429

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57

April 2005

2005 MAY -5 AM 9:36

INDEPENDENT REGULATORY REVIEW COMMISSION

**Mary S. Wyatte,  
Acting Executive Director  
Independent Regulatory Review Commission  
333 Market Street, 14<sup>th</sup> Floor  
Harrisburg, PA 17101**

Dear IRRC:

I am a low-income, working parent and I urge the Independent Regulatory Review Commission to approve the Pennsylvania Department of Public Welfare's (DPW's) April 7, 2005 final form Child Care Subsidy regulations at 55 Pa. Code Chapter 3041.

Help with child care costs is critical in order for low-income parents like me to keep our jobs. It's also important to us to know that our children are in a safe, protective, learning environment while we are working.

The new chapter of regulations will bring great improvement to the subsidized child care program. The following are just a few of the many reasons why I support this regulatory package:


First, restoring of the 20-hour per week work requirement will help parents transition from welfare to work and will help part-time workers stay employed.

Second, changing to a program that informs parents about the benefits of pursuing court ordered child support and helps them file support actions – rather than continuing the current mandate that all parents file for court ordered support – will better serve the needs – both economic and emotional – of children and their families.

Third, streamlining and simplifying the verification process by permitting alternative forms and methods of verification for each factor of eligibility through a sequential verification scheme will make the system work better, both for families and child care providers.

These and other changes are designed to meet the needs of working parents like me and our children. We parents are doing the best we can and ask the Commonwealth to do the best it can. Please approve the new regulations.

Sincerely,

  
Shannon L. Trivett

Original: 2429

**Comments About Proposed Subsidized Day Care Eligibility Regulations**  
**Printed in Pa Bulletin September 11, 2004**

The Department of Public Welfare is proposing to replace 55 PA. Code Chapter 3040 with 3041. The following items are proposed changes that will be costly to taxpayers while providing special benefits to exclusive groups to the detriment of the majority of child care consumers. These proposed changes also appear to favor educational programs that do not fall under the realm of DPW while seemingly ignoring the educational benefits that are provided to children who are enrolled in regulated day care facilities that do fall under the auspices of DPW.

1. **Proposed Change - Reduce the minimum number of hours of employment from 25 to 20 per week, and allow parents to include 10 hours of training toward the 20hour work requirement. (3041.43 Work, education and training).**

Concern – Clients currently do not have any difficulty finding employment of at least 25 hours per week. Those who do work the minimum number of hours struggle to make ends meet. Reducing the required number of hours does not encourage working parents to try to do better and does not lead to self-sufficiency. By allowing parents to combine work and training to meet the minimum number of hours needed to obtain a subsidy, the Department can resolve the problems many parents who participate in training have in obtaining assistance with day care costs. **Keep the minimum at 25 hours per week, but allow parents to include 10 hours of training in that minimum.**

2. **Proposed Change - Parent/caretaker will not be required to seek child support. Chapter 3040 requires that applicants for subsidized day care seek court ordered child support or claim good cause for not seeking support. (3041.64(3)(d)).**

Concern – If subsidized day care clients are not required to seek child support, their income is lower than it would be with support, resulting in lower co-payments and more money paid by DPW. If regulations do not mandate that a parent must seek support to be eligible for benefits, non-custodial parents will then be released of any financial responsibility for their children. **Continue requiring applicants to seek child support, but allow them to choose a private support agreement rather than court ordered support.**

3. **Proposed Change - A live-in companion is not counted in the family composition nor is his income counted unless the live-in is the biological parent of a child receiving care. Chapter 3040 requires a live-in companion to be included in the family composition. (Definition of family).**

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Concern – By definition, a live-in companion and the parent consider themselves to be an unmarried couple. This is not a casual relationship. Not including the live-in companion or his/her income encourages people to continue to live together and not get married. Not counting the live-in companion or his/her income again reduces the total family income and decreases the amount that the family will pay for day care. **A live-in companion is a member of the household and should still be included in the family composition.**

**2. Proposed Change - A portion of the stepparent's income is counted in determining eligibility but not all of it. Currently, 100% of a stepparent's income is counted. (3040 Appendix A, Part II. Income deductions, D).**

Concern – Counting only a portion of the stepparent's income again reduces the amount that a family pays for day care and increases the amount paid by DPW. The stepparent may bring additional children into the household thus increasing family size. Why include people at 100% and not include their income? **Continue to count the step-parent's income in its entirety minus only those deductions allowed to any applicant.**

**4. Proposed Change - Chapter 3040 requires working parents to make minimum wage or better to obtain subsidized day care. No mention is made of this in Chapter 3041.**

Concern – The minimum wage requirement gives legitimacy to all types of employment including self-employment. Without this requirement, it will be easier for clients to state that they are self-employed even though their income may be very minimal. Families cannot maintain self-sufficiency when their earnings do not meet minimum wage standards. **Continue to require that all working adults in the household earn minimum wage or better.**

**5. Proposed Change - Children with documented emotional/behavioral problems may continue to receive subsidy beyond 13 chronological years of age. Currently care ends for these children on their thirteenth birthday. (3041.12 (c))**

Concerns – Although these children need adult supervision outside of school hours, very few licensed day care facilities are adequately staffed to work with these children. Most of these children will probably be placed in relative/neighbor care. This type of care is not likely to meet the child's emotional/behavioral needs. The supervision of these children should not be a day care issue. After-school programs should be set up in schools to provide social/recreational programs for any teenager who needs or wants to attend such a program. **Continue to remove children with emotional behavior problems from subsidized day care on their 13<sup>th</sup> birthday.**

7. **Proposed Change – Chapter 3041 proposes that subsidized day care should be available to a family when one parent works and the other is not working but cannot care for the child because of suspected abuse by the parent who is available to do care. (3041.14 (b) (2)).**

Concerns - This is a Children and Youth issue. CYS should receive money to pay for these situations. Subsidized day care dollars should not be used. **Delete 3041.14 (b) (2) from the proposed regulations.**

8. **Proposed Change – Subsidized day care will continue for 60 days after an involuntary loss of work, the date a strike begins, etc. (3041.20 (1) )**

Concerns – Chapter 3040 allows parents to use subsidized day care for 30 calendar days after the occurrences listed above. This time period provides enough time for those parents who want to work to find other employment. **Allow 60 days for strikes only, but continue to limit parents to 30 days to find work after an involuntary loss of work.**

9. **Proposed Change – The Head Start Expansion program allows Head Start eligible families to receive certain subsidized day care benefits that other families do not receive. This is a new program located in Section 3040.29. These regulations became effective on March 20, 2004. Chapter 3041 proposes that the special benefits now offered to Head Start eligible children should be offered to siblings of those children. (3041.51 (d)).**

Concerns – The Head Start Expansion program makes subsidized day care available to Head Start eligible children even if their parents lose their jobs and do not need day care and even if the family's income exceeds the normal limits of subsidized day care eligibility. This program allows families to receive both Head Start and day care services at a cost of only \$5.00 per week while tax dollars are paying for the benefits of both programs. Currently siblings of Head Start eligible children do not receive these benefits, however Section 3041.51(d) proposes that they begin receiving these benefits. This would add to the burden on taxpayers by allowing more children to receive day care at only \$5.00 per week and to receive care even during times when parents are not working. **Do not allow siblings of Head Start eligible children to receive the benefits of the Head Start Expansion program.**

10. **Proposed Change – Chapter 3041 proposes that children who are enrolled in a pre-kindergarten program operated by a school district or under contract with a school entity should receive benefits similar to those provided as part of the Head Start Expansion Program. (3041.52)**

Concerns – This regulation is discriminatory in that it singles out a specific population of children to receive benefits that are not available to other children.

This regulation promotes continuous care that helps maintain stable relationships while promoting cognitive, social and emotional development by allowing children to attend day care during times when their parents are not employed and do not need day care services. Both the Head Start Expansion Program and the proposal for special benefits for children in pre-kindergarten programs appear to indicate that those programs offer better services than state regulated day care programs. While state regulated day care programs provide cognitive, social and emotional education to children, those children receive no special allowances when parents lose jobs. It is discriminatory to provide special benefits to certain groups of children and not to others. **Remove all benefits for special interest groups.**

- 11. Verification of Income – Chapter 3041 requires pay stubs reflecting earnings for three (3) weeks within the most recent six (6) week period. Previous regulations required four (4) weeks pay stubs, not three weeks. (3041.64 (1)).**

Concerns – Many applicants for subsidized day care are paid bi-weekly rather than weekly. If CCIS agencies request two pay stubs from those applicants, they will have four weeks of pay stubs to review. Some applicants are paid monthly, hence four weeks worth of pay on one stub. It is unfair and unnecessary to require three weeks of pay stubs from those applicants who are paid weekly when others will never be able to provide pay stubs for only three weeks. **Continue to require that four weeks worth of pay stubs be used to verify income for all applicants.**

- 12. Record Retention - Currently CCIS agencies are required to retain all records for four (4) years after the end of each fiscal year. Chapter 3041 proposes that record be kept four seven (7) years. (3041.85 (b) ).**

Concerns – This places an extra burden on CCIS agencies to obtain storage space for additional records. Many CCIS's will have to pay for storage off-site. This is an added expense to every CCIS budget. **Keep the regulation as is and require that records be kept for four years.**

**Comments by staff of the CCIS of Indiana County**  
1055 Oak Street  
Indiana, PA 15701  
PH 724-349-8830  
e-mail – pw-lberrym@dpw.state.pa.us

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Original: 2429

April 27, 2005

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INDEPENDENT REGULATORY REVIEW COMMISSION

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Mary S. Wyatte,  
Acting Executive Director  
Independent Regulatory Review Commission  
333 Market Street, 14<sup>th</sup> Floor  
Harrisburg, PA 17101

Dear IRRC:

We urge the Independent Regulatory Review Commission to approve the Pennsylvania Department of Public Welfare's (DPW's) April 7, 2005 final form Child Care Subsidy regulations at 55 Pa. Code Chapter 3041.

As a partner collaborating with the Pennsylvania Child Care Campaign, we have worked with parents, child care providers, and elected officials advocating for the removal of barriers in the current subsidized child care program. We know that child care is often the key component that keeps a parent working. Knowing that your child is in a safe, protective, learning environment is a great comfort to parents who are working toward self-sufficiency and independence.

We fully support the policy changes in the final form regulations and believe that this new, revamped chapter of regulations will bring substantial improvement to every aspect of the subsidized child care program. The following are just a few of the many reasons we support this regulatory package:

First, restoring of the 20-hour per week work requirement will help parents transition from welfare to work and will help part-time workers, whose employers will not increase their hours, remain employed.

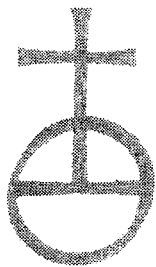
Second, changing to a program that informs parents about the benefits of pursuing court ordered child support and helps them file support actions – rather than continuing the current mandate that all parents file for court ordered support – will better serve the needs – both economic and emotional – of children and their families.

Third, streamlining and simplifying the verification process by permitting alternative forms and methods of verification for each factor of eligibility through a sequential verification scheme will make the system work better, both for families and child care providers.

These and other changes are designed to meet the needs of working parents and their children. These parents are doing the best they can and we ask the Commonwealth to do the best it can. If these changes are approved, we stand ready to work with the Commonwealth, parents, child care providers, and children to help implement the changes.

Sincerely,

*Robert Danekov*  
Director, ABC Academy



Original: 2429

# PENNSYLVANIA CATHOLIC CONFERENCE

223 North Street • Box 2835 • Harrisburg, PA 17105 • (717) 238-9613 • FAX (717) 238-1473

October 6, 2004

**Via First Class Mail and Hand Delivery**

Mr. Robert Nyce  
Executive Director  
Independent Regulatory Review Commission  
333 Market Street, 14<sup>th</sup> Floor  
Harrisburg, PA 17101

Re: Proposed Rulemaking in *Pennsylvania Bulletin*  
Regulation No. 14-489 - Subsidized Child Care

Dear Mr. Nyce:

The Catholic Church in Pennsylvania provides a significant amount of religious child care within the Commonwealth. The Department of Public Welfare's proposed regulations would exclude from eligibility for subsidized child care, children whose parents wish to send them to our religious facilities, solely because those facilities refuse to become licensed/certified pursuant to the Department's regulations. (§3041.3) This is also true of religious pre-kindergarten programs which are not licensed as private academic schools. (§3041.52)

The Department clearly has authority, pursuant to Article X of the Public Welfare Code, to require such licensing/certification of child care facilities that are operated for-profit. However, it has no such licensing authority over not-for-profit entities which are subject only to the Department's supervisory authority under Article IX of the Public Welfare Code. Likewise, the Private Academic Schools Act specifically exempts bona fide religious schools from its licensing requirements. (24 P.S. §6705).

Our child care facilities are operated not-for-profit. As such, they are subject to the Department of Public Welfare's *supervisory* authority under Article IX; not to its *licensing* authority under Article X. Article IX authorizes the Department to visit and inspect our religious child care facilities. (62 P.S. § 911(a)) If, upon inspection the Department finds conditions that are unlawful, unhygienic, or detrimental to the safety and welfare of the children in care, it is to direct the facility to correct any such objectionable condition. (62 P.S. §911 ©)) If the facility fails to comply with that direction, the Department may: 1) request the Attorney General to initiate appropriate legal proceedings to enforce compliance with the direction; or 2) withhold State money from the institution until it complies. *Id.*

In short, the Department lacks statutory authority to require Article IX facilities to become licensed/certified as a condition precedent to lawful operation. The attached list of the section headings under Articles IX and X of the Public Welfare Code amply demonstrates this distinction. As you will note, there is no corresponding provision within Article IX that authorizes the licensing of religious not-for-profit entities such as those we represent. Nor is there any provision that prohibits them from operating without a license.

Thus, neither religious child care providers or religious pre-kindergarten programs are statutorily required to become licensed/certified in order to lawfully operate within this Commonwealth. We view the Department's exclusion of Article IX religious child care facilities and pre-kindergarten programs from participation in subsidized child care as an attempt to achieve indirectly what it cannot do directly—require licensure of religious child care and pre-kindergarten programs.

The commentary to the proposed regulations indicates that the added costs of this proposal will be funded through Federal Child Care and Development Block Grant ("CCDBG") appropriations. It is quite clear that this federal law is designed to promote parental choice of child care, including religious child care. There is nothing in that law that requires child care providers to be licensed in order to provide care to eligible children. Indeed, the law specifically states that it is not to be construed "to require that licensing requirements be applied to specific types of providers of child care services." 42 U.S.C.A. §9858c(c)(2)(E)(I).

We note that this federal law previously allowed states to impose "more stringent standards and licensing or regulatory requirements on child care providers within the State that provide services for which assistance is provided under this subchapter." (See, prior §9858c(c)(2)(E)(I)). However, that language was deleted altogether in the 1996 amendments to the law. Thus, the law no longer allows States to impose more stringent licensing or regulatory requirements on child care providers that provide care to children receiving federal governmental assistance thereunder.

As noted above, there is no state statutory licensing/certification requirement for non-profit religious entities—either as child care providers or as pre-schools—as a condition of lawful operation. Given the subsequent changes in the federal law, the State no longer may require more stringent licensing/certification of such entities as a precondition for the provision of services subsidized by these federal funds. Accordingly, under the CCDBG, it is impermissible for the Department to prohibit families that are eligible for subsidized child care from choosing these lawfully operating providers.

The explanatory commentary also claims that the proposed rulemaking supports families and children "by providing parents with a broad range of child care options and empowering them to make their own decision on the child care that best meets the needs of the child and the family." However, under the framework established by these proposed regulations, families and children are actually denied a broad range of choice.



They may not choose child care from a lawfully operating, convenient, and trusted church-run day care or pre-kindergarten located in their own neighborhood. Thus, the proposed regulations are contrary to both the spirit and letter of the law.

In addition, the exclusion of religious providers serves no legitimate or rational purpose. It should be noted that the proposed regulations appear to allow parents to choose family day care providers that are "specifically exempt" from all DPW regulation and oversight. §3041.13 (a) (4). This means that the Department will provide subsidies if parents choose to send their children to a family day care provider who may have several of his or her own children in care, has three unrelated children in care, and has not even had a criminal or child abuse background check. Yet, it will not allow parents to receive subsidies if they choose to send their child to a religious child care provider where children are cared for by persons with background checks, under the oversight of church administrators, and subject to DPW's supervisory authority and numerous other regulations promulgated by other government agencies.

In short, the proposed regulations are punitive toward religious providers that seek to protect their religious child care ministries from unwarranted interference by the Department into sensitive areas such as program, curriculum, teaching and instruction. They are also punitive toward poor families that wish to have their children cared for in religious facilities where they will be taught values consistent with their own religious beliefs.

If you have any questions, please contact me for further information.

Very truly yours,

A handwritten signature in black ink, appearing to read "Fredrick Cabell, Jr.", written in a cursive style.

Fredrick Cabell, Jr., Esq.  
Director of Education  
Pennsylvania Catholic Conference

## ARTICLE IX

- §901. Definitions
- §902. Supervisory powers
- §§903 to 910. Reserved for future legislation
- §911. Visitation and inspection
- §§912 to 915. Reserved for future legislation
- §916. Recommendations
- §§917 to 920. Reserved for future legislation
- §921. Additional provisions respecting certain institutions; purpose; definitions; standards; inspection
- §922. Reorganization Plan No. 5 of 1955

## ARTICLE X

- §1001. Definitions
- §1002. Operation and maintenance without license prohibited
- §1003. Application for license
- §1004, 1005. Reserved for future legislation
- §1006. Fees
- §1007. Issuance of license
- §1008. Provisional license
- §1009. Term and content of license
- §§1010 to 1015. Reserved for future legislation
- §1016. Right to enter and inspect
- §1017. Reserved for future legislation
- §1018. Records

§§1019, 1020. Reserved for  
future legislation

§1021. Regulations

§§1022 to 1025. Reserved for  
future legislation

§1026. Refusal to issue license;  
revocation; notice

§§1027 to 1030. Reserved for  
future legislation

§1031. Violation; penalty

§1051. Definition

§1052. Actions against  
unlicensed institutions

§1053. Actions against violations  
of law and rules and  
regulations

§1054. Venue

§1055. Injunction or restraining  
order when appeal is  
pending.

§1056. Injunction or restraining  
order when no appeal is  
pending

§1057. Repealed. 1971, June 3.  
P.L. 146, No. 6, §1  
 (§509(a)(176))

§1057.1 Appeals

§1057.2. Relocation

§1057.3. Rules and regulations  
for personal care home

§1058. Bonds and costs

§1059. Law supplementary

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INDEPENDENT REGULATORY  
REVIEW COMMISSION

**COMMONWEALTH OF PENNSYLVANIA  
DEPARTMENT OF PUBLIC WELFARE  
OFFICE OF GENERAL COUNSEL**

**DATE:**

OCT 25 2004

**SUBJECT: Public Comments  
Subsidized Child Day Care - # 14-489  
Proposed Regulation**

**TO:**

Robert E. Nyce  
Executive Director  
Independent Regulatory Review Commission

**FROM:**

Ruth D. O'Brien  
Senior Assistant Counsel

*RCA/s*

Attached are public comments received regarding the above proposed regulation.

**Attachments**

cc: Scott Johnson  
Michael Walker  
Jamie Buchenauer  
Tom Hiller

OCT 14 2004

Original: 2429



October 8, 2004

We build strong kids,  
strong families, strong communities.

Susan Miller  
Bureau of Child Day Care  
PA Department of Public Welfare  
P.O. Box 2675  
Harrisburg, PA 17105

Dear Susan,

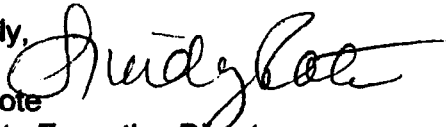
I am writing in response to the Proposed Rulemaking for Subsidized Child Care Eligibility as published in the Pennsylvania Bulletin on September 11, 2004 and would like to request that the Department of Public Welfare raise the eligibility age for children so that all older school-agers could be eligible for subsidized child care.

- The number of middle school-age child care programs is growing and more parents are requesting care for middle school-age children.
- Lower income families have difficulty affording programs for older school-age children.
- Providers have had to subsidize the cost of care for those children.
- Parents have been forced to have their middle school-age children stay home alone, unsupervised.
- Children who are 13, 14 and 15 need safe, well-supervised programs before and after school. (Cite crime, drug, alcohol, sex statistics.)
- Make the subsidized child care eligibility regulations consistent with the child care facility regulations. If child care facilities can serve children through 15 years of age, then their care should be able to be subsidized.

As stated in the Pennsylvania Bulletin, one of the Department's goals is for "healthy child development by **increasing access to high quality child care** for infants, toddlers, preschool and **school-aged children.**" What better way to increase access than to allow eligible parents of all older school-aged children, including those through 15 years of age as defined by the Public Welfare Code, to receive subsidized child care.

On behalf of all families with older school-age children who are eligible for subsidized child care, thank you for considering this request.

Sincerely,

  
Lindy Rote  
Associate Executive Director  
Ambler Area YMCA

Ambler Area YMCA  
400 N. Bethlehem Pike • PO Box 428 • Ambler, PA 19002  
215-628-9950 • Fax: 215-646-8863 • [www.libertynet.org/ymca](http://www.libertynet.org/ymca)

Contributions are deductible for income tax purposes in the manner and to the extent provided by law. A copy of the official registration and financial information may be obtained from the PA Department of State by calling Toll Free 1-800-732-0999. Registration does not imply endorsement. For specific questions, call the YMCA at (215) 963-3700.



A United Way Agency

Our Mission: To translate the principles of the YMCA's Christian heritage into programs that nurture children, strengthen families, build strong communities and develop healthy spirits, minds and bodies for all.

Original: 2429

**COMMONWEALTH OF PENNSYLVANIA  
DEPARTMENT OF PUBLIC WELFARE  
OFFICE OF GENERAL COUNSEL**

**DATE:** OCT 14 2004

**SUBJECT: Public Comments  
Subsidized Child Day Care - # 14-489  
Proposed Regulation**

**TO:** Robert E. Nyce  
Executive Director  
Independent Regulatory Review Commission

**FROM:** Ruth D. O'Brien *ROB/*  
Senior Assistant Counsel

Attached are public comments received regarding the above proposed regulation.

**Attachments**

cc: Scott Johnson  
Michael Walker  
Jamie Buchenauer  
Tom Hiller

OCT 12 2004

38

Original: 2429

-----Original Message-----

**From:** Guytonwallace, Lillie

**Sent:** Wednesday, October 13, 2004 10:04 AM

**To:** Miller, Susan (PW/BCDC)

**Subject:** FW: DELAWARE COUNTY

I hope you received this response timely.

-----Original Message-----

**From:** Hiers, Angelique [mailto:HiersA@co.delaware.pa.us]

**Sent:** Tuesday, October 12, 2004 12:47 PM

**To:** 'lguytonwal@state.pa.us'

**Subject:** DELAWARE COUNTY

<<Response to Proposed Regulations.doc>> \_\_\_\_\_

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**DELAWARE COUNTY**  
**DEPARTMENT OF HUMAN SERVICES**  
**Child Care Information Services (CCIS)**  
**20 SOUTH 69TH STREET**  
**UPPER DARBY, PENNSYLVANIA 19082**  
**1-800-831-3117**

October 1, 2004

TO: Susan Miller

FROM: Ellen Brenner  
Administrator  
CCIS of Delaware County

RE: Proposed Regulations

The following letter shall serve as my response to the proposed regulations for Subsidized Child Care as printed in the Pennsylvania Bulletin, September 11, 2004. This response is based on discussions with my staff after careful reading of these proposed regulations. I hope you will consider our comments and concerns.

In the *Purpose*, the goals of the proposed rulemaking are to support families and children by promoting healthy child development with access to high quality childcare, family self-sufficiency, and parent choice. Although I will address each of these goals as they relate to their sections of the proposed regulations, the proposed regulations seem to meet the goal of "breaking down the barriers" to parents. However, they do seem to create barriers for the children of those parents and for the regulated and licensed high quality child care providers who care for those children.

**3041.43 Work, education and training.** Decreasing the hourly requirement to 20 hours per week of employment and/or training creates an increasingly difficult situation for the parents who choose to use regulated/licensed care since many of these providers are unable to afford to provide partial-week care and still maintain a quality program and minimum DPW staffing requirements. The growth in the number of unregulated providers has been astounding in the past two years. Families who are working these minimal number of hours are often unable to find regulated care because they are only authorized for subsidy for those minimum number of hours. Thus, they use Relative/Neighbor care which is often transitional. Families using unregulated providers often must find new providers on a frequent basis. If a family wants to use regulated care, the additional cost of child care is prohibitive for families working these minimum number of hours. Children need consistent, quality child care. The development of Keystone Stars certainly encourages providers to develop and maintain quality programs, but children who need only partial week care will not have access to these programs unless the parent pays additional costs which could be higher than the parent can afford. CCIS subsidy programs have supported many families in the last decade as they moved upward in their employment experience. By decreasing the minimum hourly requirement to 20 hours per week with no incentive to increase that minimum, families may find that their options are limited. Many families served by CCIS need assistance from a variety of agencies. In the past, child care was the "step up" from dependence on the welfare system. These proposed regulations do not serve to encourage families to move toward independence from the welfare system. Parents and caretakers may be able to access the subsidy more easily, but the goals of quality care for the children and support for those providers who are licensed and regulated by the Department of Welfare seem to be sacrificed. **3041.13 Parent Choice** includes the options the Department wants to make available to parents, but, in reality, many parents will be limited in the options actually available to them.

The following sections are of major concern:

**3041.3 Definitions - Eligibility redetermination** has been retained as a semiannual review. An annual review would create fewer barriers for parents. It would allow Eligibility Specialists to spend more time providing information and service to families. Staff carry large semiannual caseloads at the present time. It is anticipated that the number of families involved in subsidized child care will continue to grow. It would be appreciated if this provision could be revisited.

**3041.14 Subsidy Benefits (a)** The sentence reads "A subsidy-eligible family may receive payment for child care...Should it read "benefits for child care" or are we moving toward payments made directly to parents for all child care services?

**3041.14 Subsidy Benefits (b)(1)(2)** When children are in situations where both parents are physically or mentally disable or where there is suspected abuse, they are living in those precarious situations all the time. Do these regulations afford these families child care or respite care? Subsidy for these children is necessary, but these regulations do not indicate what subsidy would be available to these families. Will these children be eligible for different care than those of employed families? In the case of children at risk, how are these decisions made, by whom, and what defines suspected abuse?

**3041.20 Subsidy continuation during breaks in work (1) (2) (3)** allow families generous breaks from work with no disruption in subsidy. However, maternity leave has been excluded from these extensions. Families with new infants should have the same consideration as families on FamilyLeave. Why are they excluded?

**3041.33 Income Adjustment (5)** Step-parents are not included in 3041.3. What qualifies someone as a step-parent? Why is income adjusted for the step-parent in a different manner than for biological parents? If the couple share a biological child, does that change the manner in which income is adjusted? Is this adjustment, in effect, a penalty against families who have one marriage and the children are only from that marriage?

**3041.51 Head Start Expansion program and 3041.52 Prekindergarten program** The regulations allowing families using Head Start and school based pre-kindergarten programs seem discriminatory toward poor working families who are unable to access these programs. Families already enrolled in either of programs are already receiving free care and education for their children. Under the proposed regulations, these families only need to verify employment and need for subsidy until the child or children are enrolled in subsidy. These families do not need to verify employment or training at any future time. For some children in Head Start of Delaware County, this could be a period of up to three (3) years. However, parents whose children are not in Head Start or school based pre-kindergarten programs must continue to meet all regulatory guidelines and reporting deadlines. Regulations should treat all clients equally. Head Start and pre-kindergarten families should be required to verify continued need for subsidy based on the same regulations and schedule the low income working families who only use child care.

The regulated child care community continues to struggle with inadequate subsidy rates and competition from unregulated and illegal child care providers. Regulated child care providers are already struggling with the loss of "averaged subsidy hours of care" based on the parameters of CCMIS. As mentioned above, many regulated and licensed providers are unable to provide care for children on a part-time schedule without the parent paying additional costs which could make these quality programs unaffordable for many parents. The proposed regulations including the provisions for continued child care during extended breaks from work or school, eligibility deadline disregards for families in Head Start and pre-kindergarten programs, and decreased requirements for employment will increase the number of families who can apply for subsidized child care, but also increase waiting lists and the time that clients will wait for subsidy.

Parents and caretakers need to have as much definition as possible of the regulations. Although I am wary of strict definition of any regulations, it is important to help families use subsidy effectively and realistically. Our experience has been that the families who succeed and use CCIS constructively are those who accept structure and treat CCIS as importantly as they treat their employment, training, and most importantly, their children and child care providers. Respect for subsidy generates participation. Parents and caretakers need feel partnership in subsidy management for their children. The issues raised above indicate where we feel the regulations may not promote families and/or providers.

Thank you for your consideration of our concerns.

Sincerely,

Ellen Brenner  
CCIS Administrator, CCIS of Delaware County



OCT 13 2004

Original: 2429

(34)

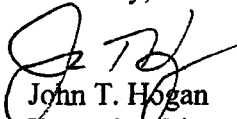
**Luzerne County Child Care Information Services**

Susan Miller  
Bureau of Child Day Care Services  
P.O. Box 2675  
Harrisburg, PA 17105-2675

Dear Ms. Miller:

Enclosed please find our agency's comment with regard to the proposed Subsidized Child Care Eligibility Regulations.

Sincerely,

  
John T. Hogan  
Executive Director

**Comments on proposed changes in rulemaking for Subsidized Child Care Eligibility**  
**Regulations as published 9/11/04.**

**3041.11–3041.22 (relating to general requirements and benefits)**

3041.14 (a) (2) the proposed rulemaking expands the hours of uninterrupted sleep time during which a parent or caretaker (parent) is eligible for subsidized child care. Currently, if parents need uninterrupted sleep time because their work shift ends between 12 a.m. and 9 a.m., they could not receive subsidy; the proposed rulemaking would permit payment of subsidized child care for sleep time.

***Comment: Change will reasonably support parents in their efforts to maintain employment and should not have the affect of significantly increasing enrollment in or demand for services.***

3041.14 (b) (1) The proposed rulemaking permits a family of two parents with one working parent to be eligible for subsidized child care if the other parent has a permanent physical or mental disability that results not only in the inability to work or participate in education or training but also results in the inability to care for the child.

***Comment: Change will reasonably support parents in their efforts to maintain employment and should not have the affect of significantly increasing enrollment in or demand for services.***

3041.14 (b) (2) The proposed rulemaking permits a family to be eligible for subsidized child care when one of the parents or caretakers who is available to provide care while the other is working when the child is at risk because the available parent is suspected of abuse.

***Comment: Children in this situation current are served under purchase of service agreements between providers and county Children and Youth Agencies under protective services. The result will be cost shifting from current funders to the Subsidy Program. Also the proposed rule lacks any requirement that the suspected abuser be involved in a treatment program. This proposal will result in increased demand for Subsidy service without corresponding increases in funding.***

3041.20 (1) The proposed rulemaking would allow the family to remain eligible for subsidized child care for sixty (60) calendar day following the involuntary loss of work, job strike, or after completion of education or training to allow for job search.

***Comment: Change will reasonably support parents in their efforts to maintain employment in a difficult job market and should not have the affect of significantly increasing enrollment in or demand for services.***

3041.20 (2) The proposed rulemaking would allow the family to remain eligible for subsidized child care for 84 calendar days from the first day of family leave, other than maternity leave, as defined under the Family and Medical Leave Act of 1993.

***Comment: Generally the proposed change has a positive affect that is consistent with Family and Medical Leave Act of 1993, however there appears to be need to address a policy for maternity leave and it would appear to be appropriate to address that provision within this section for the purpose of consistency.***

**Comments on proposed changes in rulemaking for Subsidized Child Care Eligibility**  
**Regulations as published 9/11/04.**

3041.21 (b) The proposed rulemaking includes a provision to permit child care to resume following a parent's summer break from education or training. The change is proposed so that a child can be at home with the parent over the summer, but continue in the child care subsidy program in the fall of the year.

*Comment: Change will reasonably support parents in their efforts to maintain employment and should not have the affect of significantly increasing enrollment in or demand for services. However policy will be need to address the issue of availability of funding and the length of time that will be considered for this break.*

**3041.41--3041.47 (relating to eligibility requirements)**

3041.43 (a) The proposed rulemaking reduces the number of hours a parent must work to be eligible to receive subsidized child care from 25 to 20 hours a week.

*Comment: Change will reasonably support parents in their efforts to locate and maintain employment but may increase enrollment in or demand for services. The proposed rulemaking recognizes that we are currently in a more difficult job market and responds to demand for entry level employees.*

3041.43 (c) The proposed rulemaking also would make child care subsidy available to parents who work a minimum of 10 hours a week if the parent attends education or training for at least 10 hours a week.

*Comment: Change will reasonably support parents in their efforts to improve economic self-sufficiency by increasing marketable skills but may increase enrollment in or demand for services. The proposed rulemaking recognizes that parents may need to improve their skills in order to qualify for better paying jobs.*

**3041.51 and 3041.52 (relating to special eligibility programs)**

3041.51 Head Start expansion program. The proposed rulemaking includes a new provision that supports families whose children are enrolled in Head Start expansion programs operated in collaboration with licensed child care programs. A parent or caretaker whose child receives subsidized child care and is enrolled in a Head Start program is not required to report changes in circumstances during the period of the child's Head Start enrollment. Specifically, once the family is found eligible at application they remain eligible for subsidy for the duration of the child's enrollment in a Head Start program, regardless of a change in family income or circumstances. In addition the family would pay the minimum co-payment of \$ 5.00 regardless of family income and the benefits of continuing eligibility extend to all other children in the family who might be enrolled in subsidized child care.

*Comment: There is a concerning equity with regard to this provision. While the benefits of participation in Head Start are widely recognized we question the extension of special provisions of eligibility to this population, especially extending the provision to all children in the family. The benefit of uncontested eligibility for subsidy without regard to maintaining employment and calculation of co-payment without regard to family income does not seem fair to other families competing for services. Additionally, the increase in the number of days of continued eligibility when a parent loses employment as proposed from the current thirty to sixty will help to address the primary concern we have heard regarding maintaining eligibility from the Head Start advocates. This*

**Comments on proposed changes in rulemaking for Subsidized Child Care Eligibility**  
**Regulations as published 9/11/04.**

*provision is made without providing additional funds, as a result families who might otherwise receive services may not have access to funding while families enrolled in Head Start can continue to receive funding while not meeting the basic standards for eligibility. While this is currently a relatively small population, growth in the option could affect demand and supply.*

3041.52 The proposed rulemaking includes a new provision that supports children from families of low income attending pre-kindergarten programs provided by a school entity or a certified or licensed facility operating under contract with a school entity. Otherwise eligible children who need extended hours or days of care provided through the pre-kindergarten program while their parents work will remain eligible for subsidized child care to pay for extended days or hours as long as they are participating in the pre-kindergarten program. This change would allow families enrolled in designated pre-kindergarten programs that are found eligible at application to remain eligible without being subject to an eligibility review so long as the child remains enrolled in the pre-kindergarten program. (These special provisions do not extend to other children in the family as proposed in the Head Start expansion program.)

*Comment: The concerns mirror those with regard to the Head Start provision.*

**3041.61--3041.71 (relating to verification)**

The proposed rulemaking simplifies the verification requirements to make it easier for families to apply for and qualify for subsidized child care. The proposed rulemaking establishes more verification options, allows self-declarations by the parent in some instances, requires the eligibility agency to help the parent obtain verification documents and eliminates some of the re-verification requirements. The proposed rulemaking makes it easier for parents to document eligibility and will mean families can receive child care subsidy more rapidly.

*Comment: The proposed verification requirements provide a balance of accountability and responsiveness. We are supportive of the change with the note that the record keeping and tracking responsibilities of the CCIS agencies will increase and question if additional financial support will be provided to complete these additional tasks.*

**3041.91--3041.94 (relating to domestic violence waivers)**

The proposed rulemaking allows parents who are the victims of domestic violence to request a waiver of certain eligibility and verification requirements if compliance would increase the difficulty of a family or household member to escape domestic violence or place a family or household member at risk of domestic violence.

*Comment: The proposed changes will make the eligibility requirements more consistent with current practice and law regarding the victims of domestic violence.*

**3041.141--3041.150 (relating to TANF and former TANF families)**

The proposed rulemaking provides for a window of opportunity and priority status for individuals who formerly received TANF. Under the proposed rulemaking, a parent who is not making use of subsidized

**Comments on proposed changes in rulemaking for Subsidized Child Care Eligibility**  
**Regulations as published 9/11/04.**

child care when TANF ends has 183 days to request and receive subsidized child care if the parent needs it for work or a combination of work or training. A parent who formerly received TANF receives priority status and cannot be put on a waiting list for subsidized child care during this 183-day period.

*Comment: The proposed rule is consistent with the goal of assisting TANF families toward self sufficiency.*

**Child Support:** The proposed rulemaking allows families to make their own child support arrangements, rather than requiring pursuit of court-ordered child support as a prerequisite for receiving child care subsidy and removes the requirement to establish paternity entirely.

*Comment: Experience with the current policy and practice with the requirement that parents seek child support through the courts would seem to indicate that although the requirement was well intended; it results in actual support payments being received or increasing at any significant level in only a minority or cases. Most often the applicant registers the order but because of other circumstances does not receive payments. While some area of the Commonwealth may have some higher success rate of actual collections, overall the resulting benefits to a few families does not offset the hardship of time and effort need to comply when the outcome is so often not beneficial to the family or child. Additional efforts should be made to provide information to parents about the benefits of seeking support and especially about the benefits of establishing paternity.*

## **Changes not noted or emphasized in the preamble to the proposed rulemaking.**

### **3041.3 Definitions**

**Caretaker:** The proposed rulemaking establishes the following definition of family for the purpose of eligibility determination for subsidized child care:

*Caretaker--*

- (i) An adult other than the child's biological or adoptive parent or stepparent, who lives with and exercises care and control of a child for whom subsidized child care is requested.
- (ii) The term includes a foster parent, formal and informal kinship caregiver and other relative or nonrelative caring for the child.

This new definition removes a previous requirement that the caretaker have legal custody of the child.

**Family:** The proposed rulemaking establishes the following definition of family for the purpose of eligibility determination for subsidized child care:

*Family--*The child or children for whom subsidized child care is requested and the following individuals who live with that child or children in the same household:

- (i) A biological, adoptive, foster or stepparent of the child for whom subsidized child care is requested.
- (ii) A caretaker and a caretaker's spouse.

**Comments on proposed changes in rulemaking for Subsidized Child Care Eligibility**  
**Regulations as published 9/11/04.**

- (iii) A biological, adoptive or foster child or stepchild of the parent or caretaker who is under 18 years of age and not emancipated by marriage or by the court.
- (iv) An unrelated child under the care and control of the parent or caretaker, who is under 18 years of age and not emancipated by marriage or by the court.
- (v) A child who is 18 years of age or older but under 22 years of age who is enrolled in a high school, a general educational development program or a post-secondary program leading to a degree, diploma or certificate and who is wholly or partially dependent upon the income of the parent or caretaker or spouse of the parent or caretaker.

This new definition removes a previous requirement that included the applicant's live-in companion as a member of the family when applying for subsidized child care. Under the proposed rulemaking a live-in companion would not be counted as part of the applicant family nor would their income be considered for the purpose of determining eligibility.

*Comment: The proposed family definition and changes to eligibility requirements seems to be legalistic in their view and fail to recognize the diversity of "family" constructs that currently exists in our society. The requirements and definitions for eligibility for services that support parents/caretakers' in finding and maintaining employment need to recognize the resources available to support that effort and the persons dependent on those resources and to treat all configurations of "families" with balance and equity. Two parent families who choose to marry and raise children together should not be treated differently than two persons who choose not to marry and raise children together. Perhaps we need to redefine our unit of eligibility to take the variety of "families" into consideration and recognize the resources that are available in all cases. Persons who choose to live together without the legal commitment of marriage do contribute resources to the household and should be considered part of the eligibility unit. The questions of inclusion in the applicant family needs to look at who is contributing resources to the household and who is directly benefiting from those resources. Specific exclusions can be designed to address special living circumstances such as a parent who lives with their parents, foster situations, kinship care, and other special circumstances. As currently defined, the family definition affords better treatment to households who opt not to marry than to those who choose to marry and fails to recognize that a "live in companion" may contribute resources to the household.*

*Also the caretaker definition needs to more clearly define "care and control". There seems to be a lack of consistency with regard to establishing the "family unit" for eligibility purposes. The family definition seems to be based on legalistic constructs regarding who is legally related to the child and parent but then the "caretaker" definition applies a much more casual approach to defining relationships. This mixed approach lacks a consistent rationale. If the Department uses a legalistic approach to defining family, that defines family as a group having biological, step, or foster relationships, excluding other persons more casually in the household; then that same approach should be applied to caretaker relationships. Conversely, if the Department seeks to recognize that non-traditional family relationships exist in the caretaker situation, it needs to recognize those same non-traditional relationships in all families. Otherwise, the family who commits to marriage in a societal supported traditional manner is placed in a less advantageous situation to the family who maintains a more casual arrangement.*



**Comments on proposed changes in rulemaking for Subsidized Child Care Eligibility**  
**Regulations as published 9/11/04.**

**Changes related to co-payments**

**3041.101 (d)** The co-payment includes each day of the week for which the family establishes a need for child care.

**3041.101 (e)** A change is proposed so that the co-payment is due on the first day of the family's first full service week and each week thereafter. (Current the co-payment is due on the first day of the service week.)

*Comment:*

*This system of co-payment assessment is often not in synch with the reality of families' and providers' situation and practices. Families often begin services mid-week because they begin employment mid-week, therefore they do not yet have the income to pay a full co-payment.*

*Providers on the other hand have established pricing practices that are directly related to rate per day multiplied by the number of days provided. When they provide service to subsidized families they use the same formula to calculate their price, rate per day multiplied by the number of days provided, and then deduct the co-payment based on co-payment per day multiplied by the number of days provided. This practice is well established, having been used for more than twenty years to administer public payments for child care, but also makes good business sense. The proposed practice is supported by software developed for use in the subsidized program called CCMIS. Providers currently being paid under CCMIS are experiencing great confusion trying to adapt to this new approach. They are unable to balance their books because the CCMIS method of payment does not match business practice. They report that they are underpaid when the month ends midweek and report overpayment for children who began midweek.*

*CCIS programs have also been advised to train providers that the lack of accounting for the co-payment for the first week will balance out against the last week of service. This scheme does not account for the changes that occur in family co-payment and simply is too long to wait to balance.*

*The co-payment management system of CCMIS needs to be revisited. It must more closely resemble the common business practices of child care providers as CAMIS did. Providers are spending and will continue to spend inordinate amounts of time trying to reconcile their accounting to the payments created by CCMIS. The CCIS programs are spending similar inordinate amounts of time trying to assist providers to understand the calculation of this system. It has been reported that some CCIS programs are trying to manipulate enrollment dates to administer co-payments in a more understandable way.*

*Clearly correcting this problem will have costs, but CCMIS needs to be a design that meets the management needs of the CCIS programs, provides the information needed by the Department, but also manages provider payments based on the clearly understood and accepted business practices of the industry it seeks to manage. To impose artificial constructs that do not reflect how the industry actually*

**Comments on proposed changes in rulemaking for Subsidized Child Care Eligibility**  
**Regulations as published 9/11/04.**

*operates make no great sense regardless of good intentions. Revisions to the co-payment system need to occur in regulation now before the remainder of the design moves forward.*

**3041.104 (f) Parent or caretaker co-payment requirements.** The proposed rule states, "The co-payment is due on the first day of the service week."

*Comment: This is as current but is in direct conflict with 3041.101.*

**3041.104 (d)** A rule change is proposed as. "A family whose subsidy is terminated for failure to make required co-payments may not be reauthorized for subsidy until all outstanding co-payments have been paid in full." Currently a family who leaves subsidy and owes co-payments to a provider is ineligible for subsidy for 90 calendar days after the delinquent co-payments are paid.

*Comment: The current 90 day disqualification is excessively severe and we support the intention to make this change. However, it would seem preferable that the family in this situation would be ineligible for services until all outstanding co-payments have been paid in full. Under the proposed change the family could apply be found eligible and be on a waiting list for any period of time while the provider remains unpaid. It would seem more equitable to the provider (since the Department does not act as a guarantor of the co-payment) that a family would be ineligible to apply for services until outstanding co-payments are satisfied.*

**3041.109** A new rule is proposed to that would treat families headed by a caretaker differently than those headed by a natural or adoptive parent. Co-payment for families headed by a caretaker is set at the minimum co-payment regardless of family income.

*Comment: see family definition comments.*

#### **Other Co-payment Changes**

Removes a current rule that states, "If, during 1 year of eligibility, the parent/caretaker has been sent two notices of discontinuance of subsidy due to overdue co-payments and has paid the overdue co-payments to avoid the discontinuance of subsidy at the time of the third delinquent co-payment, the eligibility agent shall initiate action to discontinue child care subsidy on the basis of habitual delinquency. The parent/caretaker is ineligible for subsidy for 90 days after the discontinuance of subsidy for habitual delinquency.

**3041.123** A proposed rule changes is made which would affect the coverage of child care costs. Currently a family can expect to begin to receive assistance in paying for child care when funds are available within thirty days of completing an application for subsidized services. Under the proposed change coverage would begin retroactive to the date an application was signed if funds were available.

*Comment: The proposed change fails to recognize that an application signature does not indicate that the employment circumstances establishing eligibility have occurred. Families frequently apply for services in anticipation of employment. This provision needs to be modified so that coverage would begin at the earliest date the family establishes their need for service related to employment with the application date being the earliest that coverage could occur.*

**Comments on proposed changes in rulemaking for Subsidized Child Care Eligibility**  
**Regulations as published 9/11/04.**

**Removal of Minimum Wage requirement**

In the current regulations section 3040.34 (a)(2) establishes a requirement that each adult household member work for wages equal to or more than minimum wage. This requirement was repeated in the definition of employment and also in 3040.33 so that it would apply to a self-employed individual. The proposed regulations remove this requirement and simply define employment as "working for another individual or entity for income" and no income definition is made for the self-employed.

*Comment: All employees, except for those specifically exempt (currently in regulation), in the Commonwealth are to be paid at least the minimum wage. State and Federal funds should not be used to support employment of any kind that clearly violates fair employment law. Clearly any person employed in a non-exempt situation should be paid at least the minimum wage by law and we should support employment that violates that practice or we act as partners to the exploitation of that employee.*

*In the case of self-employment, some tests of validity need to be created that determine whether a person is actually employed for the purpose of economic benefit. While it is reasonable that a new business may not generate profit for some period of time; some reasonable test needs to be proscribed or some time limit set for defining the period when a person may receive a benefit due to self-employment without generating economic benefit.*

*Other minor changes exist on wording and definition that do not appear to have substantive effect.*

Original: 2489

OCT 20 2004

October 13, 2004

Susan Miller  
Department of Child Day Care  
PO Box 2675  
Harrisburg, PA 17105

RECEIVED

2004 OCT 25 PM 3: 27

PENNSYLVANIA REGULATORY  
REVIEW COMMISSION

14-489-39

As a supporter of children's issues and someone who truly believes that no child should be left behind I urge you to support an amendment to increase the subsidized child care age requirements from 13 to 15 yrs of age. Currently, the licensing regulations in Pennsylvania state that children can participate in child care programs until age 15, however the age requirements for eligibility of subsidized care cease at age 13. The Department of Public Welfare should be consistent and in alignment.

I am writing to you as both a concerned mother and a professional in the child care field. I have personal experience as a childcare Director and have two children for whom I will be looking for after school options. The importance of accessible and available child care options to the middle-schoolers is more important than ever.

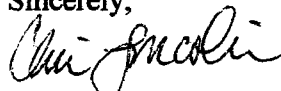
Research has proven that the hours between 3 and 8 pm are most critical for school age children.

- Increases in teen pregnancy, underage drinking, smoking, vandalism, and juvenile delinquency are just some of the ill effects on our children and communities where viable options are not available.
- 86% of police chiefs agreed that overall, "expanding after-school programs and educational child care programs would greatly reduce youth crime and violence".
- Research also shows that children who participate in after school programs may behave better in class, handle conflict more effectively, and cooperate more with authority figures and with their peers.
- Research demonstrates that after school programs can raise standardized test scores and reduce high school dropout rates.

As a community, we must expand the options for parents who must work outside the home and make resources available so they can have peace of mind in knowing that their children are safe during the after school hours. We know that when money for after school programs is not available that children are left unsupervised. Low income parents who are trying to remain self sufficient but they need an extra hand. Parents need the age of eligibility expanded to ensure that their children can continue in care through the age of 15.

Thank you for your consideration

Sincerely,



Christina Lincoln

To whom it may concern: **OCT 12 2004**

Original: 2429

17 707-12

My name is Victoria McCain and I am a single mother of two children. My daughter, Ebony Gonzalez will turn 13 in November and will lose her Title XX funding. Losing this funding will require my daughter to be at home, ALONE, everyday all summer while myself and her younger brother are at work and daycare respectively. Unfortunately, due to financial circumstances, I live in a neighborhood where I am not comfortable leaving my child alone each day, with no supervision, while I am at work. It is a fact that at this impressionable age, children are tempted and tend to make decisions that do not reflect their best judgement. My first concern is my child's well-being, social development and safety. All of these things are present and secure when she is at her daycare center. At home I cannot assure the same.

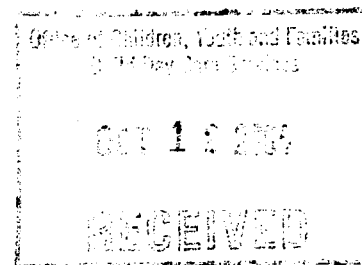
Parents in my situation are in a tough position being forced to choose between caring financially for our children's basic needs and caring for their safety and well-being. It is important to me that I can provide both for my daughter and the only way to do that is to keep her enrolled in her current daycare program. I cannot personally afford this without the help of the Title XX program. I think it would be extremely beneficial to all mothers in my situation if Title XX funding was provided until the child reaches high school. Please take time to consider this matter. Thank you kindly for your attention to this matter.

Sincerely,



Victoria McCain

OCT 11 PM 3:07



OCT 12 2004

14-489-26

Original: 2429

To whom it may concern,

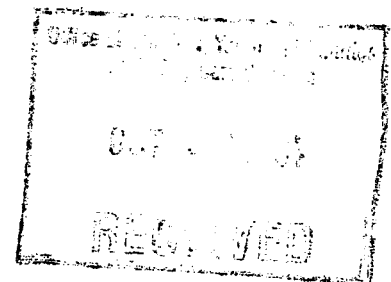
My name is Lucy Ortiz. My daughter, Samantha Fritz, turned thirteen this past August and is no longer eligible to receive Title XX. The big concern that I have now is that she has to walk to and from school when it is raining, hot or bitter cold outside. When I received Title XX for my daughter I was able to take her to daycare in the morning for her to be transported to school. Now that she walks to school everyday, there is not a minute that I don't think about her, hoping she made it safe and nothing happened to her.

My second concern is that she will be unable to attend daycare this summer because I cannot afford it. Sure, some people may think that thirteen year olds are capable of taking care of themselves, but I do not necessarily think so. This is the age where children tend to get into trouble because they are bored at home, have nothing to do, no supervision and they make wrong decisions. Having her at the daycare in the summer helps me feel a lot more secure, knowing that everyday she is there and she is safe. It would be a great help to myself and other parents in this situation if funding would continue for children until they reach high school age. Children at this age deserve the best and our desire is to give that to them. Please consider our dilemma. Thank you so much for your attention to this matter.

Sincerely,

*Lucy A. Ortiz*

Lucy Ortiz



OCT 11 2004

14-489-12

Original: 2429



October 11.2004

Susan Miller  
Bureau of Child Day Care  
P.O. Box 2675  
Harrisburg, PA 17105

**Re: September 11, 2004 Proposed Subsidized Child Care Regulations**

Dear Susan:

On Friday, October 8, I sent you The Pennsylvania Child Care Campaign's (PaCCC) "Comments In Support of DPW's September 11, 2004 Proposed Child Care Subsidy Regulations." Since that time two more PaCCC member organizations have joined in the comments, bringing the total to 31.

Attached is another copy of the comments, with a revised page 8 where these two organizations have been added. Please substitute this for the draft I sent on Friday. I will send this by regular mail, as well.

Feel free to contact me if you have any questions:

Peter Zurflieh  
Community Justice Project  
118 Locust Street  
Harrisburg, PA 17101

(717) 236-9486 ext. 210  
[pzurflieh@palegalservices.org](mailto:pzurflieh@palegalservices.org)

Sincerely,

Peter Zurflieh  
Chair,  
Pennsylvania Child Care Campaign

October 11, 2004

Susan Miller  
Bureau of Child Day Care Services  
P.O. Box 2675  
Harrisburg, PA 17105

**Re: September 11, 2004 Proposed Child Care Subsidy Regulations**

Dear Sue:

Success Against All Odds (SAO) is an organization of low-income, single mothers united by their desire and their efforts to escape welfare or low-wage employment and obtain good jobs at family sustaining wages. Formed in the mid-90s, SAO has worked tirelessly to expand education and training opportunities for parents on public assistance and to improve the subsidized child care program, upon which these parents rely in order to go to school, training, or work.

SAO strongly supports DPW's proposed regulations revamping the subsidized child care program. Not only do these regulations address barriers facing SAO parents who need child care subsidies, they adopt many of the specific solutions long ago suggested by SAO for improving and simplifying the program. SAO will be especially pleased to see: (i) the work requirement reduced from 25 to 20 hours per week (with the option to count time spent in education or training); (ii) replacement of mandatory support cooperation with a program that informs parents about the advantages of court ordered support, but allows the parent to choose whether to obtain a support order or negotiate a voluntary support agreement; and (iii) the simplification and streamlining of verification requirements.

Thank you for considering these comments in support of the proposed regulations.

Sincerely,

Sheila St. Amand  
Co-founder, SAO





## **Pennsylvania Child Care Campaign Comments in Support of DPW's September 11, 2004 Proposed Child Care Subsidy Regulations (10-11-04)**

### **1. Background.**

The Pennsylvania Child Care Campaign (PACCC) is a coalition of low-income parents, child care providers, child advocates, faith-based organizations, and others concerned about access to affordable, quality child care for low-income, working families. Although composed of diverse organizations and individuals, Campaign members are firmly united in the belief that child care is a cornerstone ingredient to a family's self-sufficiency and to ensuring that children are in safe, affordable, and quality child care while their parents work.

Formed in 1996, PACCC has worked extensively with the General Assembly and other elected officials, the Independent Regulatory Review Commission (IRRC), and the Department of Public Welfare (DPW), advocating for a fair and seamless child care system and the removal of barriers that have prevented low-income, working parents and caretakers from receiving the subsidies they need.

### **2. DPW's Proposed Child Care Subsidy Regulations Respond to the Concerns of the Community and Elected Officials.**

The Department of Public Welfare, under the present administration, recognized that barriers in the current subsidized child care program have been a significant concern to low-income families, the community, and elected officials. Working in partnership with families, their advocates, child care providers, and the child care eligibility agencies, DPW began a process of critically reviewing and substantially revising the subsidized child care program. This process culminated in the proposed rulemaking at 55 Pa. Code Chapter 3041, replacing entirely the existing Chapter 3040.

The proposed regulations at Chapter 3041 respond to the many concerns and suggestions of the Pennsylvania Child Care Campaign. In fact, DPW included and

consulted with the Campaign at every stage in the development of the proposed regulations.

DPW has not only addressed barriers to participation, the Department has also reorganized the Chapter, arranging sections in a more logical sequence and relocating provisions relating to the same topic so that they appear together in the same section. Wherever possible, regulatory language has been simplified to make the regulations more readable. These improvements, separate and apart from the policy changes, will make it easier for families to understand and follow the eligibility process and to comply with program rules.

Finally, DPW has revised and added provisions to promote continuous, uninterrupted care to help children maintain stable relationships with their caregivers, promoting children's cognitive, social, and emotional development.

The Pennsylvania Child Care Campaign strongly supports the proposed regulations at 55 Pa. Code Chapter 3041. Summarized below are several of the most significant policy changes, accompanied by a brief description of the problems that these changes will solve for families.

### **3. Summary of the Most Significant Policy Changes in the Revised Chapter and the Barriers they Address.**

The following policy changes address the three most substantial barriers to participation in the subsidized child care program under the existing regulations:

(a) Restoring the 20 hour per week work requirement.

(b) Substituting a program that informs parents about the benefits of pursuing court ordered child support and encourages and helps them file support actions for the current mandate that all parents file for court ordered support.

(c) Streamlining and simplifying the verification process.

#### **(a) Restoring the 20 Hour per Week Work Requirement.**

This policy change:

- returns to a 20 hour per week work requirement, conforming the subsidized child care work requirement to the 20 hour per week welfare work requirement established by the General Assembly in Act 35.
- helps parents qualify for higher paying jobs with benefits by allowing parents in education or training programs, who are working at least 10 hours per

week, to count the time they spend in class toward the 20 hour per week work requirement.

**Problems addressed:**

- Currently, parents who are meeting the TANF 20 hour a week work requirement and who become ineligible for TANF as a result of their earnings, lose eligibility for child care assistance after leaving TANF and entering the CCIS child care program if, as is often the case, they cannot get an additional five (5) hours per week of work from their employers within 6 months.
- The current 25 hour per week threshold is a barrier for working parents who have never been on welfare. Many employers hire part-time workers for 20 to 25 hours per week and, therefore, do not provide a consistent average of 25 or more hours per week of employment. Working parents with jobs averaging more than 20 hours per week, but less than 25 (despite the parent's request for more hours) have had their child care subsidies terminated or their applications denied.
- Current policy does not count hours spent in education or job skills training activities toward the work requirement, making it difficult for parents to increase their earning capacity. Single parents who go to school in order to qualify for higher paying jobs and who do not want to go on welfare find it extremely difficult to work a full 25 hours per week while maintaining passing grades and raising their children. These parents -- who work, but understandably cannot manage a full 25 hours per week -- have been forced to go on welfare in order to finish school.

**(b) Program to Encourage Parents to File for Support/Elimination of Mandatory Support Cooperation.**

**This policy change:**

- returns to prior policy, permitting the decision about whether to pursue court ordered support or work out a voluntary support agreement -- a decision that can have profound implications for children -- to be made by the parent, not the state.
- adds a component to inform parents of the potential benefits of court-ordered support and assist them in applying.

**Problem(s) addressed:**

- Working, single mothers have been forced to leave the subsidized child care program, or have elected to abandon their applications for subsidy, rather than pursue court ordered support and risk upsetting carefully negotiated

voluntary support agreements that keep fathers financially and emotionally involved in their children's lives.

- Children need their fathers' time, as well as their financial support; voluntary support arrangements often represent the best balance a mother is able to negotiate between these two important, but sometimes competing needs.

### **(c) Streamlining and Simplifying the Verification Process.**

This set of policy changes:

Allow child care subsidies to be provided to families more expeditiously by:

- permitting alternative forms and methods of verification for each factor of eligibility through the following sequential verification scheme:
    - Step 1. Preferred verification.** Preferred verification would include any document from a list of acceptable documents specified for each factor of eligibility.
    - Step 2. Collateral contact/eligibility assistance.** If the parent cannot obtain one of the listed documents, the eligibility agency worker would, with the parent's consent, attempt to contact a third party (e.g., an employer) or agency by phone to verify the information needed.
    - Step 3. Self-declaration.** If the attempted collateral contact does not succeed, then the parent will be permitted to self-declare the information needed, using a form provided by DPW, which the parent would sign under penalty of perjury. Child care would be authorized or reauthorized to an otherwise eligible family based upon the parent's self-declaration.
- Within **30 days** of authorization or redetermination, a parent who has self-declared would be required to provide documentary evidence or verification by way of a collateral contact.
- adopting important principles of verification applicable to other public assistance programs, such as (i) requiring eligibility agency workers to assist families where needed in obtaining verification; (ii) providing that child care assistance will not be denied or terminated for lack of verification where verification cannot be obtained due to lack of cooperation by a third party; and (iii) adopting of the Juras<sup>1</sup> rule for resolving appeals involving verification issues.

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<sup>1</sup> Juras v. DPW is a Commonwealth Court decision, which held that when a parent files a timely appeal from a decision denying or terminating assistance for failure to verify eligibility, the parent may submit the missing verification at any time up to and including the hearing. The agency must then settle the appeal

Problem addressed:

- Under existing regulations, families are all too frequently excluded or terminated from the child care program, not because they do not meet the eligibility requirements, but because they cannot understand or comply with unnecessarily rigid documentation requirements.

#### **4. Other helpful policy changes**

The proposed regulations include many other helpful policy changes supported by PACCC. Some highlights include:

- Provisions paralleling the federal Family Violence Option adopted by DPW for the TANF and GA programs providing for waivers of certain subsidized child care program eligibility and verification requirements for victims of domestic violence. These new provisions allow the special circumstances of victims and their families to be accommodated.
- More streamlined and inclusive TANF transfer provisions permitting families exiting TANF a 183 day time period to enroll in subsidized child care with priority status maintained.
- Special provisions to support children from low-income families enrolled in Head Start or a pre-kindergarten program and who need extended hours or days of care. Under these rules, eligibility will be maintained regardless of changes in family circumstances, as long as the child is participating in the program. These new provisions allow for continuous, uninterrupted care helping to ensure that these children are able to remain in programs designed to prepare them for school.
- Expansion of subsidy continuation from 30 days to 60 days due to involuntary loss of work, or the parent's completion of an education or training program.
- Inclusion of a step-parent deduction in calculation of family income and co-payments and elimination of the requirement to count the income of live-in companions.
- More flexible requirements and an extended 30-day time-frame for face-to-face interviews to better accommodate working parents and caretakers.

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and restore benefits retroactive the date of denial or termination, provided the verification shows the family to have been eligible during this period. The Juras rule applies to the cash assistance, food stamps, and medical assistance programs, but is not followed under the existing subsidized child care regulations.

- Provision of subsidy to two-parent families where one parent works and the other parent has a physical or mental disability or need for treatment that results in an inability to work or care for the child.
- Provision allowing for suspension of subsidy over a parent's summer break in education so the child can be at home with her parent over the summer, but continue in the subsidy program the in the fall. This is another provision that promotes continuous care for the child in a familiar setting.
- Inclusion of travel time in the hours for which child care will be paid.
- Expansion of the hours of uninterrupted sleep time during which a parent or caretaker is eligible for subsidized child care.
- An expanded definition of disability for children between 13 and 19 who are over the program's normal age limit and would otherwise not be eligible for subsidy.
- Elimination of the minimum wage requirement.
- Expansion of subsidy continuation to 84 days (12 weeks) due to family leave, other than maternity leave.
- Clear statement in the preamble of the goals of the subsidy program, including: (i) healthy child development; (ii) family self-sufficiency; and (iii) parent choice.

## **5. Proposed Compromise Recommendation Regarding Eligibility Redeterminations**

The Campaign has long advocated for a return to 12 month redeterminations. The Department's proposed regulations retain a 6 month redetermination, but provide a more streamlined process. While the proposed redetermination process is clearly an improvement over the current practice, it still requires families to verify income from employment every six months, whether or not family earnings have changed. PACCC proposes a compromise under which redeterminations would occur every 6 months under the streamlined process proposed by DPW, but with two modifications:

First, earned income would only have to be verified at redetermination if it has increased by \$300 or more per month from the amount last reported by the family.

Second, increases in earnings would not have to be reported in between 6 month redeterminations, unless the increase causes total family income to exceed the 235% of Federal Poverty Income Guideline (FPIG) income eligibility limit.

The PACCC compromise could be accomplished with the following recommended changes to Sections 3041.127 and 3041.130 of the proposed regulations:

<b>3041.127 Parent and caretaker report of change</b>	In subsection (b)(3), delete the requirement that parents report increases in monthly gross income of \$300 or more in between redeterminations, but retain the requirement that families report increases in gross income that cause total family income to exceed 235% of FPIG.
<b>3041.130 Redetermination of eligibility</b>	In subsection (b)(2), require that the parent or caretaker verify earned income <b>only</b> if gross monthly earned income has increased by \$300 or more from the amount last reported by the family.

## **6. Recommendations for Further Changes**

In addition to the above compromise recommendation regarding eligibility redeterminations, the Campaign recommends a number of technical and structural changes in the proposed regulations. Attached is a chart listing these recommendations. The Campaign is hopeful that DPW will agree to make these additional changes.

## **7. Conclusion**

The Pennsylvania Child Care Campaign strongly supports DPW's September 11, 2004 Proposed Child Care Subsidy regulations at 55 Pa. Code Chapter 3041. While the Campaign encourages the Department to further refine the structure and technical content of regulations, the revised Chapter of subsidy regulations substantially improves access to the subsidy program for low-income working parents and their children; improves the readability and understandability of the rules governing subsidy eligibility; and promotes continuous, uninterrupted care, so that children are able to maintain stable relationships with their caregivers. The Campaign looks forward to approval of the regulatory package by the IRRRC and implementation by DPW of a vastly improved child care subsidy program.

The Campaign also supports the Department's commitment to add \$5.5 million of additional federal child care block grant funds to serve 3,388 more children annually under the revised subsidy program.

## **Pennsylvania Child Care Campaign**

ABC Learning Academy, ActionAIDS, Associated Day Care Services, Inc., Center for Youth Development: United Way of Southeastern Pennsylvania, Christian Churches United of the Tri-County Area, Community Legal Services, Community Justice Project, Delaware Valley Association for the Education of Young Children, Diversified Community Services, Early to Learn: Partners for School Readiness, For Love of Children – Bucks County, League of Women Voters of Pennsylvania, Lutheran Advocacy Ministry in Pennsylvania, Lutheran Settlement House, Maternity Care Coalition, Mon Valley Unemployed Committee, National Association of Social Workers - Pennsylvania Chapter, Pathways PA, Pennsylvania Association of Child Care Agencies (PACCA), Pennsylvania Association for the Education of Young Children, Pennsylvania Hunger Action Center, Pennsylvania Partnerships for Children (PPC), People's Emergency Center, Philadelphia Citizens for Children and Youth (PCCY), Success Against All Odds, Sunshine and Rainbows Day Care Center, United Way of Berks County, United Way of Lancaster County Success by Six, United Way of Southeastern Pennsylvania, Women's Law Project

PACCC Chair: Peter Zurflieh, Community Justice Project, 118 Locust Street,  
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PACCC Vice Chair: Sheila St. Amand, Success Against All Odds  
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# **Pennsylvania Child Care Campaign (PACCC) Chart of Recommended Changes to DPW's September 11, 2004 Proposed Child Care Subsidy Regulations**

## **General Provisions**

<b>Section</b>	<b>Recommended change</b>	<b>Reason</b>
3041.3 Definitions: TANF	Clarify that TANF includes Extended TANF	We know this is DPW's intent, but thought it should be made clear.
3041.14 Subsidy benefits	We agree that subsidy should not be provided where one parent in a 2 parent household is available to care for the child, but we think that, in a caretaker situation, subsidy should be allowed, even where the spouse of the caretaker is available.	Parents have a legal obligation to care for their children, whereas caretakers generally do not. It is not safe to presume where a caretaker assumes responsibility for a child that her spouse will be equally willing to share in that responsibility and will provide adequate child care.
3041.19 Absence	In subsection (a), add the word "mental," so that the phrase reads, "physical, mental, or developmental."	Since it is not clear whether developmental includes all forms of mental impairments, both terms should be used.
	In subsection (b)(2), substitute "will not be terminated" for "may resume."	Using the word "resume" implies that the eligibility agency will be discontinuing subsidy before the 10 day advance notice period has expired, something it cannot lawfully do (Goldberg v. Kelly). This needs to be corrected.
3041.20 Subsidy continuation	In subsection (3), drop the 31 day limitation and just say that subsidy will continue during scheduled breaks other than summer breaks.	Some schools have breaks between Fall and Spring semesters that are longer than 30 days.

**Determining Family Size and Income  
Eligibility Requirements**

3041.43 Work, education and training	In subsection (d), add "or other reason."	There is no need to make the list finite. There may be other reasons for missing work that the employer is willing to accommodate. If the reason is good enough for the employer it ought to be good enough for DPW.
3041.46 Immunization	In subsection (a)(2), delete "as documented by a physician."	Guidance on verification should not be mixed in with the substance of the eligibility conditions, but should be set out separately in the subsequent section on verification of eligibility.
	Delete subsection (c).	Same reason as above.

**Verification**

3041.61 General verification requirements	Add a new subsection (b) acknowledging that because of age, disability, language, and other factors some parents or caretakers will be less able to assist in the verification process and will require help from the eligibility agency.	This acknowledgment is important to: ensure that: (a) eligibility agencies provide the help and flexibility required under the Americans with Disabilities Act, as well as Title VI of the Civil Rights Act; and (b) verification policies for the subsidy child care program provide the same level of protection for less capable applicants and recipients that is required in the TANF and GA programs. The language proposed by PACCC is nearly verbatim the language found in 55 Pa Code §201.1(2), concerning verification policies for TANF and GA.
3041.66 Verification of income	In subsection (a)(1), add the words, "or anticipated earnings."	This clarifies that the provision covers verification of earnings for both current employment, as well as prospective employment.
3041.68 Verification of citizenship	Add "or immigration status."	This would clarify that the parent's or caretaker's self-certification is acceptable verification not only of citizenship, but immigration status, as well.

3041.70 Verification of inability to continue work, education or training	In subsection (a), reword for greater clarity.	
3041.71 Verification of permanent inability to work.	Delete section heading and subsection (a).	We see no need to distinguish between permanent and temporary disabilities with regard to either the provision that allows for 6 months of continued subsidy where a working parent cannot continue work due to disability or the provision that allows a family to receive subsidy where one parent is at home but cannot work or care for the child due to disability.
	Make subsection (b) part of revised 3041.70.	We suggest that verification of receipt of social security, SSI, or other disability payments be accepted as verification of inability to work or care for the child, in cases where the parent's or caretaker's disability happens to be permanent.
	Delete subsection (c)	Since it is in the family's financial interest to apply for disability benefits if one of the parents is permanently disabled, it seems unnecessary to us to require this as a condition of ongoing eligibility. Doing so, simply create a verification hurdle for families.
3041.73 (new)	Add a section on "Verification of a child's incapacity to care for himself."	Guidance must be provided on how to verify this exception to the general requirement that children must be under 13 to receive subsidy. This is the appropriate place in the regulations to provide such guidance.
3041.74 (new)	Add a section on "Verification of incapacity or unavailability of a parent or caretaker otherwise expected to care for the child."	The proposed regulations as presently written do not provide sufficient guidance on how to verify disability or unavailability of a parent otherwise expected to care for the child. Our suggested new provision would clarify this.

3041.75 (new)	Add a section on "Verification that a child is at risk because of suspected abuse."	Guidance must be provided on how to verify this exception to the general rule that the parent in the home is expected to provide care for the child. This is the appropriate place in the regulations to provide such guidance.
3041.76 (new)	Add a section on "Verification of grounds for subsidy continuation during breaks in work, education or training."	Guidance must be provided on how to verify grounds for subsidy continuation. This is the appropriate place in the regulations to provide such guidance.
3041.77 (new)	Add a section on "Verification of grounds for subsidy suspension."	Guidance must be provided on how to verify grounds for subsidy suspension. This is the appropriate place in the regulations to provide such guidance.

### **Eligibility Agency Responsibilities**

3041.83 Confidentiality	Add a subsection (f) requiring the eligibility agency to advise parents that any disclosure of domestic violence by the parent will be kept confidential.	Victims of domestic violence must be assured that any personal information they disclose to the eligibility agency, including their address, will not be shared. Without this assurance, victims may not disclose domestic violence and request the special protections and accommodations available under these proposed regulations out of fear that this information will get back to the abuser and reveal the victim's whereabouts or result in retaliation.
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### Domestic Violence Waivers

<p>3041.91 General requirements (relating to domestic violence waivers)</p>	<p>In subsection (b), add the third prong of the federal TANF Family Violence Option waiver standard permitting waiver of program requirements where compliance with the requirement would “unfairly penalize the family or household member because of domestic violence.”</p>	<p>The proposed subsidized child care regulations include provisions modeled after the federal TANF Family Violence Option adopted by DPW for the TANF and GA programs. DPW, however, omitted the third prong of the federal FVO standard. Many TANF parents have relied upon this prong of the standard to obtain waivers of program requirements where the parent is no any longer in danger from the abuser, but is still suffering from the effects of past abuse and cannot comply with the requirement for that reason. There is no reason not to extend the opportunity for waivers on the same basis to DV victims in the subsidized child care program.</p>
	<p>Delete subsection (h) requiring the eligibility agency to document the reasons for granting or denying the waiver on a form provided by the Department.</p>	<p>We are not clear on the purpose of this provision and are concerned that it could violate confidentiality.</p>
<p>3041.93 (new) Verification of domestic violence</p>	<p>Add a new section providing guidance on how to verify domestic violence.</p>	<p>The Family Violence Option policies developed by DPW for the TANF and GA program include carefully crafted verification provisions, which take into account the unique difficulties faced by domestic violence in documenting abuse. The same verification policies should apply to the subsidized child care program, (which we believe is DPW's intent), but this must be made clear by providing appropriate guidance in the regulations.</p>

### **Co-Payments and Payment by the Department**

3041.106 Eligibility agency responsibilities (regarding co-payments)	In subsection (c)(1), substitute "continue without interruption" for "begin again on the date the delinquent co-payment is made."	Using the phrase "begin again" implies that the eligibility agency will be discontinuing subsidy before the 10 day advance notice period has expired, something it cannot lawfully do (Goldberg v. Kelly). This needs to be corrected.
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### **Eligibility Determination and Redetermination**

3041.125 Period of eligibility	Delete "provided the parent or caretaker meets the reporting requirement specified in . . . . ."	A family should be eligible for subsidy until determined ineligible - period. There should be no exceptions to or conditions on this basic rule. If a family fails to meet reporting requirements, it can be determined ineligible on that basis.
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### **PACCC Proposed Redetermination Compromise**

The Campaign has long advocated for a return to 12 month redeterminations. The Department's proposed regulations retain a 6 month redetermination, but provide a more streamlined process. While the proposed redetermination process is clearly an improvement over the current practice, it still requires families to verify income from employment every six months, whether or not family earnings have changed. PACCC proposes a compromise under which redeterminations would occur every 6 months under the streamlined process proposed by DPW, but with two modifications:

First, earned income would only have to be verified at redetermination if it has increased by \$300 or more per month from the amount last reported by the family.

Second, increases in earnings would not have to be reported in between 6 month redeterminations, unless the increase causes total family income to exceed the 235% of FPIG income eligibility limit.

The PACCC compromise could be accomplished with the following recommended changes to Sections 3041.127 and 3041.130 of the proposed

regulations:

3041.127 Parent and caretaker report of change	In subsection (b)(3), delete the requirement that parents report increases in monthly gross income of \$300 or more in between redeterminations, but retain the requirement that families report increases in gross income that cause total family income to exceed 235% of FPIG.	First element of PACCC proposed redetermination compromise.
3041.130 Redetermination of eligibility	In subsection (b)(2), require that the parent or caretaker verify earned income <b>only</b> if gross monthly earned income has increased by \$300 or more from the amount last reported by the family.	Second element of PACCC proposed redetermination compromise.

3041.130 Redetermination of eligibility	Delete subsection (b)(1)(vi).	For safety reasons, information regarding allegations of domestic violence should not be included on forms sent to the home, where the abuser might see them and react by retaliating. Great care was taken in the development of TANF and GA Family Violence Option policy to prevent this kind of scenario and the same precautions should be taken in the subsidized child care program.
	In subsection (b)(3), require that factors of eligibility other than earned income be verified only if necessary.	Some factors, like change in address or family composition, do not require verification beyond what the parent or caretaker states on the redetermination form.

### **TANF and Former TANF Families**

3041.142 General requirements for former TANF families	In subsection (b), add a sentence providing that if a parent needs subsidy for an additional child, she should be permitted to add the child before or after the 183 day period without having the child placed on a waiting list.	In many cases, receiving subsidy for one child, while another is on a waiting list, will still leave the family unable to afford its total child care costs.
	In subsection (d), add "or before"	As presently written, eligibility agencies must complete the redetermination on exactly the 184 <sup>th</sup> day. The suggested change gives the agency a bit more flexibility.
3041.143 Notification	In subsection (a) provide for notification be sent to the provider, as well as the parent or caretaker.	Notifying providers that the family is being transferred for the CAO to the CCIS child care program will help to assure the provider that payments will continue.
	In subsection (a)(1), strike "eligibility for" and add "on or before"	Same reason as previously stated.
3041.144 Face to face interview for former TANF families	In subsection (a), provide that the interview must occur within 30 days of the date the parent contacts the agency in response to the letter, rather than within 30 days of the date of the letter.	This change would give the parent a bit more time to make arrangements to come in for an interview.
3041.148 Retroactive payment	In subsection (c), strike "day following the" date the parent or caretaker first incurred child care expenses.	As presently written, this provision would leave the parent responsible for the first day of child care costs.

### **Notification and Right to Appeal**

3041.161 General notification requirements	In subsection (a), delete "no later than 10 calendar days prior to taking of" an action.	This language logically applies only to termination actions, not decisions on applications. The suggested change makes the provision general enough to apply to either.
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3041.164 Notice of ineligibility	In subsection (b), delete "at the time of redetermination or at a review of a reported change"	Families already in pay status should get a notice of adverse action, which provides the opportunity to appeal with benefits continuing pending a hearing (Goldberg v. Kelly). A notice of ineligibility does not provide this option.
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### **Appeal and Hearing Procedures**

3041.173 Subsidy continuation during the appeal process	In subsection (c), note and provide a cross reference to the exception (where the hearing officer finds that collection would result in hardship to the family).	
3041.176 Hearing procedures	In subsection (g), insert fails "without good cause" to appear for a hearing.	A family should not lose it's right to a hearing where there was a good reason for the parent's failure to appear.

### **Overpayment and Disqualification**

#### **PACCC Proposed Overpayment Compromise**

There are essentially three types of overpayments: fraud, inadvertent family error, and agency error. DPW proposes to collect fraud overpayments and overpayments caused by "failure to comply with program rules," which could include overpayments caused by either family or agency failure to follow the rules.

PACCC proposes a compromise: revise Section 3041.181, as indicated below, to provide for DPW to recover fraud and inadvertent family error overpayments, but not to recover from families overpayments caused by the agency, through no fault of the family.

3041.181 Overpayments	In subsection (2), insert the words "Inadvertent parent or caretaker" failure to comply with this chapter.	PACCC proposed compromise.
3041.183 Delaying recoupment	Insert "files an" appeal of the overpayment decision "that is postmarked or received" no later than 10 days after the date of the notice.	Same reason as previously stated.

3041.188 Collection for a family whose child is no longer in care	In subsection (b)(1) insert "either in a single payment or under a payment plan agreed to by the parent or caretaker and the Department."	In order to avoid impoverishing low- income families, DPW should give families the option of repaying an overpayment over time in regular installments.