

# Regulatory Analysis Form

(1) Agency Department of Public Welfare	This space for use by IRRC  IRRC Number: <u>2549</u>
(2) I.D. Number (Governor's Office Use) # <u>14-505</u>	(5) Agency Contacts & Telephone Numbers Primary Contact: Robert Frein (717) 346-9323 Secondary Contact: Karen Mercadante, (717) 772-4848
(3) Short Title Child Care	(6) Type of Rule Making (Check One) <input checked="" type="checkbox"/> Proposed Rule Making <input type="checkbox"/> Final Order Adopting Regulation <input type="checkbox"/> Final Order, Proposed Rule Making Omitted
(7) Is a 120-Day Emergency Certification Attached? (To be used only for emergency-certified regulations.)  <input checked="" type="checkbox"/> No <input type="checkbox"/> Yes: By the Attorney General <input type="checkbox"/> Yes: By the Governor	(8) Briefly explain the regulation in clear and nontechnical language.  The purpose of the proposed rulemaking is to establish consistent child care policies within the Office of Income Maintenance (OIM) and Office of Child Development (OCD) that best meet the needs of all families receiving subsidized child care and improve child care services to families receiving Temporary Assistance for Needy Families (TANF), General Assistance (GA) and Food Stamp benefits. This rulemaking also makes the provisions of this chapter applicable to food stamps recipients who qualify for subsidized child care. The Department's goal is to establish for cash assistance and food stamps recipients a "user-friendly" child care system that is accessible to eligible families who need help finding and paying for quality child care that is responsive to their needs.  The proposed rulemaking supports families and children by promoting the following goals: (1) Family self-sufficiency by giving parents reliable child care so they can work or improve their skills and earning potential through education or training, while working. (2) Parent choice by providing parents with a broad range of child care options and empowering them to make their own decisions on the child care that best meets the needs of the child and the family.

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## Regulatory Analysis Form

(9) State the statutory authority for the regulation and any relevant state or federal court decisions.

Articles II and IV of the Public Welfare Code (62 P. S. §§ 201--211 and 401--493).

(10) Is the regulation mandated by any federal or state law or court order, or federal regulation? If yes, cite the specific law, case or regulation, and any deadlines for action.

This proposed rulemaking is not mandated by a Federal or state law, court order or regulation.

(11) Explain the compelling public interest that justifies the regulation. What is the problem it addresses?

The proposed rulemaking benefits children and families receiving TANF, GA and Food Stamp benefits by allowing easier access to affordable, quality child care. Improvements include: incorporating the eligibility requirements for families receiving GA and Food Stamp child care with the eligibility requirements for families receiving TANF child care; establishing consistent child care policies within OIM and OCD that best meet the needs of all families receiving subsidized child care; clarifying co-payment requirements for families receiving TANF benefits; making the regulations easier to read; simplifying regulatory language to make the eligibility and payment process easier to understand and simplifying verification requirements to make it easier for families to apply and qualify for subsidized child care. The rulemaking establishes more verification options, allows self-certification by the parent or caretaker for certain factors and eliminates certain verification requirements. The rulemaking makes it easier for parents and caretakers to document eligibility.

(12) State the public health, safety, environmental or general welfare risks associated with non-regulation.

Failure to implement the proposed rulemaking will make it more difficult for some families receiving TANF, GA or Food Stamp benefits to achieve financial self-sufficiency. Child care is a critical part of the pathway to self-sufficiency. Providing child care to meet the parents' needs during their hours of work, education or training helps families to move toward financial self-sufficiency.

There are risks to children associated with non-regulation. The proposed rulemaking will help families receiving TANF, GA or Food Stamp benefits to obtain quality and affordable child care. Without the proposed rulemaking, it would be more difficult for families to secure critical child care services. Without the proposed rulemaking, families will also continue to face barriers because child care services and payment will not be streamlined through a single subsidy system that provides specialized and comprehensive parent information, counseling and resource and referral services.

## Regulatory Analysis Form

(13) Describe who will benefit from the regulation. (Quantify the benefits as completely as possible and approximate the number of people who will benefit.)

The proposed rulemaking benefits approximately 47,000 children and approximately 27,650 families of low income by allowing easier access to affordable, quality child care. The proposed rulemaking simplifies the verification requirements to make it easier for families to apply and qualify for child care. Simplification makes the eligibility process easier to understand for parents and eligibility agencies.

(14) Describe who will be adversely affected by the regulation. (Quantify the adverse effects as completely as possible and approximate the number of people who will be adversely affected.)

No adverse affects are anticipated.

(15) List the persons, groups or entities that will be required to comply with the regulation. (Approximate the number of people who will be required to comply.)

The proposed rulemaking affects approximately 27,650 families who apply for or receive subsidized child care and 158 agencies authorized by the Department to administer subsidized child care.

Families are affected by the requirements in the proposed rulemaking that specify the eligibility conditions, verification and reporting requirements that they must meet to access subsidized child care. Providers are affected by the simplified requirements that apply to the families receiving child care services. Agencies authorized by the Department to administer subsidized child care are affected since the rulemaking changes the process and requirements related to the eligibility determination procedures and child care payment.

(16) Describe the communications with and input from the public in the development and drafting of the regulation. List the persons and/or groups who were involved, if applicable.

The Department has worked closely with families who access the subsidized child care program, child development and community service advocates, providers, agencies authorized by the Department to administer subsidized child care and other interested stakeholders to listen and respond to the needs, concerns and suggestions of each of these groups. The proposed rulemaking is the result of an ongoing, inclusive process between the child care community and the Department.

(17) Provide a specific estimate of the costs and/or savings to the regulated community associated with compliance, including any legal, accounting or consulting procedures that may be required.

There are no new costs or savings to the regulated community associated with compliance with this proposed rulemaking.

## Regulatory Analysis Form

(18) Provide a specific estimate of the costs and/or savings to local governments associated with compliance, including any legal, accounting or consulting procedures that may be required.

There are no new costs or savings to local government associated with compliance with this proposed rulemaking.

(19) Provide a specific estimate of the costs and/or savings to state government associated with the implementation of the regulation, including any legal, accounting, or consulting procedures that may be required.

During a phase-in period in the first year, the estimated net cost is \$3.526 million for additional staff and related operating costs.

## Regulatory Analysis Form

(20) In the table below, provide an estimate of the fiscal savings and costs associated with implementation and compliance for the regulated community, local government, and state government for the current year and five subsequent years.

	Current FY Year	FY +1 Year	FY +2 Year	FY +3 Year	FY +4 Year	FY +5 Year
<b>SAVINGS:</b>						
Regulated Community						
Local Government						
State Government CAO - 10264	\$0	\$1.003	\$5.813	\$5.813	\$5.813	\$5.813
<b>Total Savings</b>	\$0	\$1.003	\$5.813	\$5.813	\$5.813	\$5.813
<b>COSTS:</b>						
Regulated Community						
Local Government						
State Government Cash Grants – 10265		\$ .619 M	3.172 M	3.965 M	4.758 M	\$5.551 M
Child Care - 10253	\$0	\$3.910 M	\$6.143 M	\$6.327 M	\$6.517 M	\$6.712 M
<b>Total Costs</b>		\$4.529 M	\$9.315 M	\$10.292 M	\$11.275 M	\$12.263 M
<b>REVENUE LOSSES:</b>						
Regulated Community						
Local Government						
State Government						
<b>Total Revenue Losses</b>						

(20a) Explain how the cost estimates listed above were derived.

The costs were derived by taking the total population of children receiving child care services in these programs and dividing by the average statewide staff-to-child ratio. Salaries, benefits and operating costs were calculated from the additional staff complement required to serve the additional children. A one-time cost was included in the first year to cover unique implementation expenses.

State savings do not include any inflationary factor in future planning years. State savings could be more significant depending on the future State Labor Contract. In addition, state government costs include the costs of children in TANF families utilizing higher quality child care programs. This cost is outweighed by the benefits of investing in early childhood education, with

Sinda S. Luehly 2-16-2006

## Regulatory Analysis Form

(20b) Provide the past three year expenditure history for programs affected by the regulation. (amounts in thousands)

Program	FY -3	FY -2	FY -1	Current FY
Child Care Services (State)	59,683	59,683	60,877	80,209
County Assistance Offices (State)	250,299	252,318	244,871	254,304
Cash Grants (State)	301,753	330,772	384,182	377,331

(21) Using the cost-benefit information provided above, explain how the benefits of the regulation outweigh the adverse effects and costs.

A single, unified child care system at the local level for all families, whether TANF, former TANF, or low-income subsidy eligible, with specialized services and trained staff has many benefits for families and children. The TANF family would have one place to go for child care from the moment they enter the path towards self-sufficiency through employment/training at a CAO until they become a former TANF family. TANF families needing child care who become former TANF families will eventually go to a CCIS for child care services.

## Regulatory Analysis Form

(22) Describe the nonregulatory alternatives considered and the costs associated with those alternatives. Provide the reasons for their dismissal.

No non-regulatory alternatives were considered.

(23) Describe alternative regulatory schemes considered and the costs associated with those schemes. Provide the reasons for their dismissal.

No other regulatory schemes were considered because the changes in this proposed rulemaking were the only way to accomplish the alignment of child care policies for subsidized child care.

(24) Are there any provisions that are more stringent than federal standards? If yes, identify the specific provisions and the compelling Pennsylvania interest that demands stronger regulation.

This proposed rulemaking is not more stringent than Federal standards.

(25) How does this regulation compare with those of other states? Will the regulation put Pennsylvania at a competitive disadvantage with other states?

No. The proposed rulemaking will not put Pennsylvania at a competitive disadvantage with other states.

Other states have also recognized the advantages of a single, consolidated child care system. Some of the states that have a single system of eligibility are Illinois, Maryland, Connecticut, Ohio, Rhode Island, Vermont, Wisconsin, Utah, Michigan, New Jersey and South Dakota.

(26) Will the regulation affect existing or proposed regulations of the promulgating agency or other state agencies? If yes, explain and provide specific citations.

This proposed rulemaking does not affect existing or proposed regulations of the Department or another state agency.

(27) Will any public hearings or informational meetings be scheduled? Please provide the dates, times, and locations, if available.

The Department will meet and discuss specific issues relating to the proposed regulation with affected individuals and organizations, based on the public comments received.

(28) Will the regulation change existing reporting, record keeping, or other paperwork requirements? Describe the changes and attach copies of forms or reports that will be required as a result of implementation, if available.

No new reports, forms, recordkeeping or paperwork are required by this proposed regulation.

## Regulatory Analysis Form

(29) Please list any special provisions that have been developed to meet the particular needs of affected groups or persons including, but not limited to, minorities, elderly, small businesses, and farmers.

No special groups are affected by this proposed rulemaking.

(30) What is the anticipated effective date of the regulation; the date by which compliance with the regulation will be required; and the date by which any required permits, licenses or other approvals must be obtained?

This rulemaking is effective upon final publication in the *Pennsylvania Bulletin*.

(31) Provide the schedule for continual review of the regulation.

This rulemaking will be reviewed on an ongoing basis as the Department continues to review the demand for child care and the expenditures of the subsidized child care program.



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**(Pursuant to Commonwealth Documents Law)**

DO NOT WRITE IN THIS SPACE

Copy below is hereby approved  
as to form and legality.  
Attorney General

*Angela M. Elliott*  
BY: \_\_\_\_\_

(Deputy Attorney General)

**JUN 07 2006**

Date of Approval

Check if applicable  
Copy not approved.  
Objections attached.

Copy below is hereby certified to be a true and correct  
copy of a document issued, prescribed or promulgated  
by:

**DEPARTMENT OF PUBLIC WELFARE**

(Agency)

LEGAL COUNSEL: *Jean E. Graybill*

DOCUMENT/FISCAL NOTE NO. *14-505*

DATE OF ADOPTION: \_\_\_\_\_

BY: *Estelle B. Richman*

TITLE: **SECRETARY OF PUBLIC WELFARE**  
(Executive Officer, Chairman or Secretary)

Copy below is hereby approved as to  
form and legality. Executive or  
Independent Agencies.

BY: *David J. DeGries*  
\_\_\_\_\_

**APR 25 2006**

Date of Approval

**EXECUTIVE**

(Deputy General Counsel)

(Chief Counsel, Independent Agency)

(Strike inapplicable title)

Check if applicable. No Attorney  
General approval or objection  
within 30 days after submission.

**NOTICE OF PROPOSED RULEMAKING**

**DEPARTMENT OF PUBLIC WELFARE**

**OFFICE OF CHILD DEVELOPMENT**

[55 Pa.Code Chapter 168]

**Child Care**

### *Statutory Authority*

Notice is hereby given that the Department of Public Welfare (Department) under the authority of Articles II and IV of the Public Welfare Code (62 P. S. §§ 201--211 and 401--493) intends to amend the regulation as set forth in Annex A.

### *Purpose of Regulation*

The purpose of the proposed rulemaking is to establish consistent child care policies within the Office of Income Maintenance (OIM) and Office of Child Development (OCD) that best meet the needs of all families receiving subsidized child care and improve child care services to families receiving Temporary Assistance for Needy Families (TANF), General Assistance (GA) and Food Stamp benefits. This rulemaking also makes the provisions of this chapter applicable to food stamps recipients who qualify for subsidized child care. The Department's goal is to establish for cash assistance and food stamps recipients a "user-friendly" child care system that is accessible to eligible families who need help finding and paying for quality child care that is responsive to their needs.

The proposed rulemaking supports families and children by promoting the following goals:

- (1) Family self-sufficiency by giving parents reliable child care so they can work or improve their skills and earning potential through education or training, while working.

- (2) Parent choice by providing parents with a broad range of child care options and empowering them to make their own decisions on the child care that best meets the needs of the child and the family.

### *Requirements*

The proposed rulemaking benefits children and families receiving TANF, GA and Food Stamp benefits by allowing easier access to affordable, quality child care. Improvements include: incorporating the eligibility requirements for families receiving GA and Food Stamp child care with the eligibility requirements for families receiving TANF child care; establishing consistent child care policies within OIM and OCD that best meet the needs of all families receiving subsidized child care; clarifying co-payment requirements for families receiving TANF benefits; making the regulations easier to read; simplifying regulatory language to make the eligibility and payment process easier to understand and simplifying verification requirements to make it easier for families to apply and qualify for subsidized child care.

The rulemaking establishes more verification options, allows self-certification by the parent or caretaker for certain factors and eliminates certain verification requirements. The rulemaking makes it easier for parents and caretakers to document eligibility.

Following is a summary of the major proposed amendments:

1. The proposed rulemaking includes changes or deletions in terminology throughout the document as follows:
  - “CAO (County Assistance Office)” is amended to “Department;”

- “Work-related activities” is amended to “work activities;”
- “LMA (Local Management Agency)” is deleted;
- “Individual,” “person,” “participant,” “client,” “parent/caretaker,” “biological or adoptive parent,” “specified relative,” “legal guardian,” “caretaker,” “applicant,” and “recipient” are amended to “parent;”
- “Budget group” is amended to “family” or “TANF budget group;”
- “Fee” is amended to “co-payment;”
- “Special allowance” and “allowance” are amended to “payment;”
- “Documented” and “documentation” are amended to “verified” and “verification;”
- “Overdue” is amended to “delinquent;” and
- “Handicap” is amended to “injury or impairment” or “disability.”

2. § 168.1. *(relating to policy on payment of child care).*

At subsection (a), the Department added cross-references to 55 Pa.Code §§ 165.31 and 501.6 (relating to RESET participation requirements and employment and training program) to make the regulation easier to read and avoid duplication of requirements. The Department also included a provision for families receiving GA and Food Stamp benefits who qualify for child care. This change allows incorporation of child care requirements for all families receiving TANF, GA and Food Stamp child care.

At subsection (b), the Department clarified that a recipient of GA or Food Stamp benefits who is in need of child care will be notified of the services providers offer, in addition to the types and locations of child care providers.

At (b)(3)(i), the Department added a cross-reference to § 165.42 (relating to advance payment of special allowances for supportive services) to clarify that the Department will make an exception to the provisions which limit advance payment to instances in which the provider requires it, and which restrict advance payment for providers enrolled in the child care vendor payment system for a TANF budget group determined prospectively ineligible as a result of starting new employment under § 168.71(1)(ii) (relating to monthly payment determination).

At (b)(3)(ii), the Department clarified that it will make an advance payment to cover the period from the first day of employment until the date of TANF discontinuance if the information regarding new employment is verified through a collateral contact consistent with § 168.41(4) (relating to verification requirements).

At subsection (c), the Department added cross-references to §§ 165.25 and 165.31 (relating to RESET participation requirements following an exemption and RESET participation requirements) to make the regulation easier to read and avoid duplication of information.

At subsection (f), the Department clarified the cross-reference to Chapter 3041, Appendix B to reference the name of the appendix.

At subsection (g), the Department clarified that a parent may receive help in finding and selecting a child care provider, including information about how to identify high quality providers.

3. § 168.2. (relating to definitions).

*AMR*

AMR is defined because the term is used throughout the chapter.

*Budget group*

Budget group is defined as set forth in 55 Pa.Code § 183.2 (relating to definitions). The Department changed this definition to incorporate by reference the definition in 55 Pa.Code § 183.2.

*CAO*

CAO is defined because the term is used throughout the chapter. The Department defined CAO as the local office of the Department responsible for the determination of eligibility in the Cash Assistance, Food Stamp and Medical Assistance programs.

*CCIS*

The Department deleted the reference to LMA because the term LMA is no longer used.

*Child care vendor file*

The Department deleted this definition because the term is obsolete.

*Co-payment*

The Department amended this definition to reflect that the amount the family pays for subsidized child care is due weekly rather than monthly.

### *Co-payment sliding fee scale*

The Department clarified the cross-reference to Chapter 3041, Appendix B to reference the name of the appendix.

### *Disability*

The Department defined disability to establish consistent child care policies within OIM and OCD that best meet the needs of all families receiving subsidized child care and to add clarity. The Department defined disability as a physical or mental impairment that precludes a parent's ability to participate in work, education or training.

### *Family*

The Department defined family for clarity. The Department defined family as a budget group or a household requesting help in paying child care costs.

### *Full-time employment*

The Department deleted this definition because the definition in the eligibility regulations at 55 Pa.Code § 165.31 (relating to RESET participation requirements) applies. In addition, if the eligibility requirements in Chapter 165 change, it will not be necessary to revise this chapter.

### *Household*

The Department defined household for clarity. The Department defined household as the term as defined in 7 CFR 273.1(a)(2) (relating to household

concept).

*In-home care*

The Department defined in-home care for clarity. The Department defined in-home care as child care provided by an individual who is specifically exempt from certification or registration under Chapters 3270, 3280 and 3290 and who cares for a child in the child's home.

*LMA*

The Department deleted the definition because the term LMA is no longer used.

*Maximum child care allowance*

The Department added the common acronym MCCA to the definition because the acronym is commonly known. The Department also deleted surplusage.

*Nontraditional hours*

The Department revised the definition as hours of child care provided to a child whose parent works on Saturday, Sunday or between the hours of 6 p.m. and 6 a.m.

*Parent*

The Department defined parent for clarity. The Department defined parent as a TANF specified relative as defined in 55 Pa.Code § 151.42 (relating to definitions), the General Assistance payment name as defined in 55 Pa.Code



§ 171.21(b)(2) (relating to budget group provisions for AFDC/GA) or a responsible member of the food stamp household as defined in 7 CFR 273.1(d) (relating to household concept).

*Pre-expenditure approval*

The Department clarified the definition to include individuals who receive GA or Food Stamp benefits.

*Provider agreement*

The Department defined provider agreement for clarity. The Department defined provider agreement as a document signed by the child care provider in order to participate in the Department's subsidized child care program.

*Regulated care*

The Department revised the definition as child care provided by a child day care center certified under Chapter 3270 (relating to child day care centers), a group child day care home certified under Chapter 3280 (relating to group child day care homes) or a family day care home registered under Chapter 3290 (relating to family child day care homes). This change was made to establish consistent child care policies within OIM and OCD that best meet the needs of all families receiving subsidized child care.

*Relative/neighbor care*

The Department clarified the definition as child care provided by an individual who is specifically exempt from certification or registration under

Chapters 3270, 3280 and 3290 and who cares for three or fewer children unrelated to the caregiver in the caregiver's home to establish consistent child care policies within OIM and OCD that best meet the needs of all families receiving subsidized child care.

*Self-certification*

The Department defined self-certification to establish consistent child care policies within OIM and OCD that best meet the needs of all families receiving subsidized child care. The Department defined self-certification as a written statement provided by the parent for the purpose of establishing verification of a child's immunization or exemption from immunization.

*Service month*

The Department defined service month for clarity. The Department defined service month as the calendar month during which child care services were provided.

*Sleep-time*

The Department revised the definition as care provided for a child whose parent's work shift ends between the hours of 12 a.m. and 9 a.m. in order to allow the parent to sleep. This change was made to establish consistent child care policies within OIM and OCD that best meet the needs of all families receiving subsidized child care.

### *Unregulated care*

The Department defined unregulated care for clarity. The Department defined unregulated care as relative/neighbor and in-home care.

### *Vendor payment*

The Department revised the definition as a child care payment made by the Department directly to a child care provider who has signed the provider agreement. This revision was made to establish consistent child care policies within OIM and OCD that best meet the needs of all families receiving subsidized child care.

#### 4. § 168.3. *(relating to child abuse reporting).*

The Department moved the requirement that an agency authorized by the Department of Public Welfare of the Commonwealth to administer subsidized child care report suspected child abuse to a separate section.

#### 5. § 168.4. *(relating to authority to administer subsidized child care).*

The Department added a provision authorizing the delegation of the responsibilities of the Department set forth in this chapter to the Child Care Information Services (CCIS) agency or another approved entity. This provision enables the Department to delegate authority to an entity that is familiar with local needs and resources. In addition, this change supports a single, seamless system that will serve all families receiving subsidized child care.

6. § 168.11. *(relating to general requirements).*

At paragraphs (a)(1) – (5), the Department revised the language to mirror the language in 55 Pa.Code § 3041.13(a) (relating to parent choice) to provide clarity and to be consistent with OCD policies regarding types of child care for which subsidy is available.

At subsection (b), the Department clarified that a parent may choose from any provider who meets the requirements of this chapter and who meets the Department's standards for provider participation.

7. § 168.17. *(relating to eligible children).*

The Department added a provision to include a child who is considered a mandatory food stamp household member as specified in 7 CFR 273.1(b) (relating to household concept). As mentioned earlier, this rulemaking makes the provisions of this chapter applicable to food stamps recipients who qualify for subsidized child care.

The Department also revised the language to reflect the requirement that a child shall be under 13 years of age or shall be 13 years of age or older but under 19 years of age and incapable of caring for himself as verified by a physician or licensed psychologist. The Department made this revision to establish consistent child care policies within OIM and OCD that best meet the needs of all families receiving subsidized child care. The Department made this revision to conform OIM policy with OCD policy which requires this standard.

The Department also amended language to reflect the requirement that a child must be age appropriately immunized unless the parent objects to

immunizations on religious grounds or the child's medical condition contraindicates immunizations. The Department made this revision to establish consistent child care policies within OIM and OCD that best meet the needs of all families receiving subsidized child care. The Department also clarified that if the child does not have age-appropriate immunizations and is not exempt from immunization, the parent has 90 days to obtain immunizations for the child.

8. *§ 168.18. (relating to need for child care).*

At subsection (a) and paragraph (b)(2), the Department added cross-references to 55 Pa.Code §§ 165.31 and 501.6 to make the regulation easier to read and avoid duplication of requirements. The Department also clarified that a family may receive subsidized child care when an unemployed parent is in the home as long as the parent is participating in an education program for pregnant or parenting youth that is approved by the Department.

The Department deleted paragraph (b)(3) to establish consistent child care policies within OIM and OCD that best meet the needs of all families receiving subsidized child care. This chapter is not intended to include provisions related to the provision of subsidized child care as it relates to child protective services. Children in a protective services situation can receive child care under purchase of service agreements between child care providers and county Children and Youth Agencies.

At subsection (c), the Department added cross-references to 55 Pa.Code §§ 165.31 and 501.6 to make the regulation easier to read and to avoid duplication of information. The Department also clarified that child care will

be considered as needed for entry into or during breaks in approved work activities for up to 30 days.

At subsection (d), the Department revised the language to establish consistent child care policies within OIM and OCD that best meet the needs of all families receiving subsidized child care. The Department mirrored the language in 55 Pa.Code § 3041.16(c) (relating to subsidy limitations).

At subsection (e), the Department added a condition that subsidized child care may not be used as a substitute for a publicly funded educational program, such as kindergarten or a specialized treatment program in order to establish consistent child care policies within OIM and OCD. The Department mirrored the language in 55 Pa.Code § 3041.16(b) (relating to subsidy limitations).

At subsection (f), the Department added a condition that a parent shall attend a face-to-face interview no later than 30 calendar days following the request for care. The Department added a provision that the 30-day time frame may be extended if a parent claims hardship due to conflicts with the parent's working hours, transportation problems or illness of the parent or another family member. At the time the parent claims hardship, the Department may grant an additional 30 days from the date the hardship is claimed for the interview. This change was made to establish consistent child care policies within OIM and OCD. The Department also added a provision that a telephone contact may be substituted for a face-to-face interview if a face-to-face interview cannot be scheduled without the parent having to take time off from work.

At subsection (g), the Department added a condition that a parent is ineligible for subsidized child care if he does not select an eligible child care provider and enroll the child within 30 calendar days following the date the Department notifies the parent that the child may be enrolled or that the family's current child care provider is ineligible to participate in the subsidized child care program. This change was made to establish consistent child care policies within OIM and OCD. The Department mirrored the language in 55 Pa.Code § 3041.16(e) (relating to subsidy limitations).

9. § 168.19. *(relating to child care arrangements).*

To establish consistent child care policies within OIM and OCD that best meet the needs of all families receiving subsidized child care, the Department clarified at subparagraph (1)(i) that a child care provider must comply with the Department's standards for provider participation.

10. § 168.20. *(relating to child care co-payment).*

At subsection (a), the Department clarified that the employed TANF budget group shall pay the required co-payment toward the cost of child care. In establishing consistent child care policies within OIM and OCD that best meet the needs of all families receiving subsidized child care, it is necessary to clarify that co-payment requirements are applicable only for an employed TANF budget group.

At subsections (b) – (e), the Department added language to clarify when a co-payment is due, when a co-payment is decreased, when a

co-payment is increased and when a family is ineligible for subsidized child care because the co-payments for 1 month exceed the monthly payment for care with that provider. The Department added the language to establish consistent child care policies within OIM and OCD that best meet the needs of all families receiving subsidized child care.

11. § 168.21. *(relating to ineligibility for failure to pay co-payment).*

At subsection (a), the Department clarified that the employed TANF budget group shall pay the required co-payment toward the cost of child care on the first day of the service week and that when the co-payment is not paid by the last day of the service week the employed TANF budget group is ineligible until delinquent co-payments are paid or satisfactory arrangements are made to pay the delinquent co-payments. In establishing consistent child care policies within OIM and OCD that best meet the needs of all families receiving subsidized child care, it is necessary to clarify that co-payment requirements are applicable only for an employed TANF budget group.

At subsections (b) – (d), the Department added language to clarify when a co-payment is delinquent. The Department will provide the employed TANF budget group with advance written notice that action will be taken to terminate subsidized child care on the day the provider reports the co-payment is delinquent. The Department will also notify the budget group that when a co-payment is delinquent the first payment made during a week is applied to the current week's co-payment and that subsequent payment during a week is applied to the delinquent co-payment.



12. § 168.41. *(relating to verification requirements).*

At subparagraph (1)(i), the Department added cross-references to 55 Pa.Code §§ 165.31 and 501.6 to make the regulation easier to read and avoid duplication of requirements.

To establish consistent child care policies within OIM and OCD that best meet the needs of all families receiving subsidized child care and reduce verification requirements for parents, at paragraph (3), the Department deleted the requirement that the parent obtain a signed written statement from the provider to verify child care costs. Verification of child care costs is a responsibility of the provider. The provider must monthly submit verification of child care costs on a form specified by the Department.

13. § 168.45. *(relating to verification of suspected child abuse).*

The Department deleted the requirement that a parent provide verification of suspected child abuse to establish consistent child care policies within OIM and OCD.

14. § 168.49. *(relating to verification of payment of co-payment for the employed budget group).*

The Department deleted the requirement that the provider verify to the Department that a co-payment is paid timely. The provider shall report when a co-payment is delinquent on the last day of the service week and when the delinquent co-payment has thereafter been paid or satisfactory arrangements for payment of the delinquent co-payment have been made.

15. § 168.51. *(relating to verification of age-appropriate immunizations).*

The Department revised the verification requirement, allowing a parent to provide self-certification indicating that the child has received age-appropriate immunizations or that the child is exempt from immunization on the basis of religious grounds or a medical condition which contraindicates immunizations. The Department revised this language to establish consistent child care policies within OIM and OCD that best meet the needs of all families receiving subsidized child care and reduce verification requirements for parents.

16. § 168.61. *(relating to reporting requirements).*

The Department clarified that a parent must report changes to child care arrangements within 10 calendar days from the date the change occurred and deleted the requirement that a parent report child care costs monthly. The Department revised this language to establish consistent child care policies within OIM and OCD that best meet the needs of all families receiving subsidized child care and reduce reporting requirements for parents. Reporting child care costs is a responsibility of the provider. The provider must monthly submit verification of child care costs on a form specified by the Department. The Department also clarified that documentation of child care payment shall be

retained in the case record for the period of time set forth in 55 Pa.Code § 3041.85 (relating to record retention).

17. § 168.71. *(relating to monthly payment determination).*

At paragraph (1), the Department clarified that the allowable child care payment is the rate the provider charges to the general public or the MCCA established by the Department, whichever is less. The Department revised this language to establish consistent child care policies within OIM and OCD that best meet the needs of all families receiving subsidized child care.

At subparagraph (1)(i), the Department added cross-references to 55 Pa.Code §§ 165.31 and 501.6 to make the regulation easier to read and avoid duplication of requirements. The Department also revised the language to reflect the revisions at paragraph (1).

The Department also added cross-references to 55 Pa.Code §§ 165.31 and 501.6 at subparagraph (1)(ii) and revised the cross-reference to reflect the amended definition of co-payment. This change is beneficial to families because it allows families to pay a co-payment weekly rather monthly.

At clauses (1)(ii)(A) and (B), the Department clarified the co-payment waiver provisions for a TANF budget group determined prospectively ineligible or eligible for TANF benefits.

18. § 168.72. *(relating to determining monthly child care costs).*

At paragraph (1), the Department clarified that child care must occur during the hours of the work activity, including travel time and sleep-time and

added a cross-reference to 55 Pa.Code §§ 165.31 and 501.6. The Department also deleted the phrase “for third shift employment” to reflect the revised definition of non-traditional hours.

At paragraph (2), the Department deleted the word “levied” and the phrase “vacation, and the like”. The Department also added language to clarify that subsidized child care costs include a charge for up to 10 consecutive days on which the child was not in attendance due to illness.

19. § 168.74. *(relating to determining weekly child care co-payment for the TANF budget group).*

The Department revised the language to provide that co-payments are due weekly rather than monthly. This change is beneficial to families because it allows families to spread payment of their co-payment each week rather than have a single, larger co-payment at the end of the month.

20. § 168.81. *(relating to payment methods).*

The Department deleted the language regarding specific payment methods and added language to clarify that payment is made to the provider in accordance with the provisions of the provider agreement, except that payment is made to the parent when care is provided in the child’s home and when the parent requires reimbursement for child care costs incurred during retroactive periods of eligibility.

21. § 168.82. *(relating to timeframes for authorization of payment).*

The Department added a subsection to clarify the requirements and timeframes associated with the authorization of payment.

22. § 168.91. *(relating to restitution).*

At subsection (a), the Department clarified that provisions of Chapter 255 (relating to restitution) apply to a parent that has received a child care payment except that the provision for recoupment of an overpayment does not apply.

23. § 168.101. *(relating to appeal and fair hearing).*

The Department deleted all references to adverse action notices and replaced it with the term “advance written notice of adverse action”.

*Affected Individuals and Organizations*

The proposed rulemaking affects approximately 47,000 children who receive subsidized child care, 27,650 families who apply for or receive subsidized child care, and 158 agencies authorized by the Department to administer subsidized child care, including the 59 Child Care Information Services (CCIS) agencies to whom the Department intends to delegate authority.

Children and families are affected by the requirements in the proposed rulemaking that specify the eligibility conditions, verification and reporting requirements that they must meet to access subsidized child care. Providers are affected by the simplified requirements that apply to the families receiving child care services. Agencies authorized by the Department to administer subsidized child

care are affected since the rulemaking changes the process and requirements related to the eligibility determination procedures and child care payment.

The Department has worked closely with families who access the subsidized child care program, child development and community service advocates, providers, agencies authorized by the Department to administer subsidized child care and other interested stakeholders to listen and respond to the needs, concerns and suggestions of each of these groups. The proposed rulemaking is the result of an ongoing, inclusive process between the child care community and the Department.

#### *Accomplishments and Benefits*

The proposed rulemaking benefits approximately 47,000 children and 27,650 families of low-income by allowing easier access to affordable, quality child care. The proposed rulemaking simplifies the verification requirements to make it easier for families to apply and qualify for child care.

#### *Fiscal Impact*

The rulemaking will result in no additional costs to parents receiving subsidized child care or providers. During a phase-in period in the first year, the estimated net cost is \$3.526 million for additional staff and related operating costs.

#### *Paperwork Requirements*

There are no changes in paperwork requirements as a result of the proposed rulemaking.

*Effective Date*

This regulation is effective upon final publication in the ***Pennsylvania Bulletin***.

*Public Comment*

Interested persons are invited to submit written comments, suggestions or objections regarding the proposed rulemaking to the Department at the following address: Robert Frein, Director of the Bureau of Subsidized Child Care Services, Office of Child Development, Room 521, Health & Welfare Building, P.O. Box 521, Harrisburg, PA 17105, within 30 calendar days after the date of publication of this proposed rulemaking in the ***Pennsylvania Bulletin***. Reference Regulation No.

14-505 when submitting comments.

Persons with a disability who require an auxiliary aid or service may submit comments by using the AT&T Relay Service at 1-800-654-5984 (TDD users) or 1-800-654-5988 (voice users).

*Regulatory Review Act*

JUN 19 2006 Under § 5(a) of the Regulatory Review Act (71 P.S. § 745.5(a)), on the Department submitted a copy of this proposed rulemaking to the Independent Regulatory Review Commission (IRRC) and to the Chairpersons of the House Committee on Health and Human Services and the Senate Committee on Public Health and Welfare. In addition to submitting the proposed rulemaking, the Department has provided the IRRC and the Committees with a copy of a Regulatory

Analysis Form prepared by the Department. A copy of this form is available to the public upon request.

Under § 5(g) of the Regulatory Review Act, if the IRRC has any comments, recommendations or objections to any portion of the proposed regulation, it may notify the Department and the Committees within 30 days after the close of the public comment period. Such notification shall specify the regulatory review criteria that have not been met. The Regulatory Review Act specifies detailed procedures for review by the Department, the General Assembly and the Governor, of any comments, recommendations or objections raised, prior to final publication of the regulation.



Annex A

TITLE 55. PUBLIC WELFARE

PART II. PUBLIC ASSISTANCE MANUAL

Subpart C. Eligibility Requirements

CHAPTER 168. CHILD CARE

GENERAL PROVISIONS

Sec.

- 168.1. Policy on payment of child care.
- 168.2. Definitions.
- 168.3. Child abuse reporting.
- 168.4. Authority to administer subsidized child care.

ELIGIBILITY REQUIREMENTS

- 168.11. General requirements.
- 168.12. – 168.16. Reserved.
- 168.17. Eligible children.
- 168.18. Need for child care.
- 168.19. Child care arrangements.
- 168.20. Child care co-payment.
- 168.21. Ineligibility for failure to pay co-payment.

VERIFICATION

- 168.41. Verification requirements.
- 168.42. Reserved.
- 168.43. Verification of [the disability of a child] a child's disability.
- 168.44. Verification of [the disability of a parent/caretaker] a parent's disability.
- 168.45. [Verification of suspected child abuse.] Reserved.
- 168.46. Reserved.
- 168.47. Reserved.
- 168.48. Verification of child care costs.
- 168.49. [Verification of payment of co-payment for the employed budget group.]  
Reserved.
- 168.50. Reserved.
- 168.51. Verification of age-appropriate immunizations.

## REPORTING REQUIREMENTS

168.61. Reporting requirements.

## PAYMENT DETERMINATION

168.71. Monthly payment determination.  
168.72. Determining monthly child care costs.  
168.73. Reserved.  
168.74. Determining [monthly] weekly child care co-payment for the employed TANF budget group.  
168.75. Reserved.  
168.76. Reserved.

## CHILD CARE PAYMENT METHODS

168.81. Payment methods.  
168.82. Time frames for authorization of payment.

## RESTITUTION

168.91. Restitution.

## APPEAL AND FAIR HEARING

168.101. Appeal and fair hearing.

## GENERAL PROVISIONS

### § 168.1. Policy on payment of child care.

(a) To the extent funds are available, payment for child care will be made to enable the [parent/caretaker] parent to participate in [work-related] work activities as defined in 55 Pa.Code §§ 165.31 and 501.6 (relating to RESET participation requirements and employment and training program). [To qualify for a child care payment the individual must be eligible to receive cash assistance, including persons who do not receive a cash payment due to the minimum monthly check requirement or due to a month of zero cash payment. Child care payments are considered a reimbursement for past or

future child care expenses for food stamp eligibility purposes.] To qualify for a child care payment the parent must be eligible to receive food stamps or cash assistance. This includes parents who do not receive a cash payment due to the minimum monthly check requirement or due to a month of zero cash payment.

(b) The [CAO] Department will promptly inform a recipient of food stamps or cash assistance who is in need of child care about the following:

(1) The types and locations of child care providers and the services the providers offer.

(2) The services available from the [Local Management Agency (LMA), also known as the Child-Care] Child Care Information Services (CCIS) Agency, for help in finding and selecting a child care provider.

(3) Child care payments will be paid in advance of the date that payment is required by the provider, consistent with the requirements and time frames in § 165.42 (relating to advance payment of special allowances for supportive services), to ensure that the [participant] parent will have access to the child care provider of the [participant's] parent's choice. The advance payment requirement does not apply to vendor payments for child care. [Advance payments are considered a reimbursement of future child care expenses for food stamp eligibility purposes.]

(i) The Department will make an exception to the provisions which limit advance payment to instances in which the provider requires it, and which restrict advance payment for providers enrolled in the child care vendor payment system as set forth in 55 Pa.Code § 165.42 (relating to advance

payment of special allowances for supportive services) for a TANF budget group determined prospectively ineligible as a result of starting new employment under § 168.71(1)(ii) (relating to monthly payment determination).

(ii) The [CAO] Department will make an advance payment to cover the period from the first day of employment until the date of TANF discontinuance if the information regarding new employment is verified through a collateral contact consistent with § 168.41(4) (relating to verification requirements).

(c) At application, reapplication and whenever the [agreement of mutual responsibility is developed or revised, the CAO will inform applicants and recipients] Agreement of Mutual Responsibility (AMR) is developed or revised as specified in §§ 165.25 and 165.31 (relating to RESET participation requirements following exemption and RESET participation requirements), the Department will inform parents in writing and orally of the availability of child care allowances.

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(f) The [CAO] Department will discuss the maximum child care allowances and the co-payment sliding fee scale in Chapter 3041, Appendix B (relating to co-payment chart, family co-payment scale), whenever the [Agreement of Mutual Responsibility (AMR)] AMR is developed or revised and reflects a need for child care. The [CAO] Department will advise [clients] parents that copies of the maximum child care allowances and the co-payment sliding fee scale are available upon request [at the CAO].

(g) The [CAO] Department will [refer the client to the LMA/CCIS whenever help is needed] provide help in finding and selecting a child care provider, including providing information about how to identify high quality providers.

## § 168.2. Definitions.

The following words and terms, when used in this chapter, have the following meanings, unless the context clearly indicates otherwise:

AMR—Agreement of Mutual Responsibility.

Budget group—[A group of persons receiving TANF. A child receiving SSI benefits and for whom child care payments are requested is included in the budget group.] As defined in 55 Pa.Code § 183.2 (relating to definitions).

CAO—County Assistance Office—The local office of the Department responsible for the determination of eligibility in the Cash Assistance, Food Stamp and Medical Assistance programs.

CCIS—Child Care Information Services Agency—A public or private agency with which the Department has a contract to manage the subsidized child care program in part of a county, a county or several counties. [The subsidized child care program is for families not receiving TANF. This agency is also known as an LMA.]

Child care vendor file—A listing of regulated child care providers who have signed the required agreement to receive a vendor payment from the Department.]

Co-payment—The [monthly] weekly amount the family pays for child care that is subsidized.

Co-payment sliding fee scale—A scale based on family [sizes] size and income from which a determination of the child care co-payment is made as set forth in Chapter 3041, Appendix B (relating to co-payment chart, family co-payment scale).

Disability—A physical or mental impairment that precludes a parent's ability to participate in work, education or training.

Family—A budget group or a household requesting help in paying child care costs.

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Full-time employment—Employment which averages at least 30 hours per week in a calendar month.

LMA—Local Management Agency—A public or private agency with which the Department has a contract to manage the subsidized child care program for families who are not receiving TANF. This agency may be known as a CCIS agency of part of a county, a county or several counties.]

Household—As defined in 7 CFR 273.1(a)(2) (relating to household concept).

In-home care—Child care provided by an individual who is specifically exempt from certification or registration under Chapters 3270, 3280 and 3290 (relating to child day care centers, group child day care homes and family child day care homes) and who cares for a child in the child's home.

MCCA—Maximum child care allowance—The ceiling set by the Department for payment of child care services [to budget groups eligible for child care payment].

Nontraditional hours—Hours of child care [which include evening, night, early morning, holiday or weekend hours] provided to a child whose parent works on Saturday, Sunday or between the hours of 6 p.m. and 6 a.m.

Parent—A TANF specified relative as defined in 55 Pa.Code § 151.42 (relating to definitions), the General Assistance payment name as defined in 55 Pa.Code §171.21(b)(2) (relating to budget group provisions for AFDC/GA) or a responsible

member of the food stamp household as defined in 7 CFR 273.1(d) (relating to household concept.

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*Pre-expenditure approval*—Approval by [a person] an individual specified by the Department prior to the [recipient's] recipient of food stamps or cash assistance incurring an expense for child care.

*Provider Agreement*—A document signed by the child care provider in order to participate in the Department's subsidized child care program.

*Regulated care*—[Child care given by a person or entity which is licensed by or registered with the Department or approved by the Department of Education] Child care provided by a child care center certified under Chapter 3270 (relating to child day care centers), a group child day care home certified under Chapter 3280 (relating to group child day care homes) or a family child day care home registered under Chapter 3290 (relating to family child day care homes).

*Relative/neighbor care*—[Care given by a person who is exempt from certification or registration under Chapters 3270, 3280 and 3290 (relating to child day care centers; group child day care homes; and family child day care homes)] Child care provided by an individual who is specifically exempt from certification or registration under Chapters 3270, 3280 and 3290 and who cares for three or fewer children unrelated to the [caregiver] provider in the provider's home.

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*Satisfactory arrangement*—[The plan made by the budget group to pay overdue fees which are] The plan made by the parent to pay an overdue co-payment which is

acceptable to the child care provider.

Self-certification—A written statement provided by the parent for the purpose of establishing verification of a child's immunization or exemption from immunization.

Service month—The calendar month during which child care services were provided.

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Sleep-time—[Hours of care following third shift employment when the parent/caretaker has an eligible child in the home and needs care for the child in order] Care provided for a child when the parent's work shift ends between the hours of 12 a.m. and 9 a.m. in order to allow the parent time to sleep.

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Unregulated care—Relative/neighbor care and in-home care.

Vendor payment—A child care payment made by the Department directly to a [regulated] child care provider who has signed [the Child Care Vendor Program Enrollment Request Agreement and is enrolled in the child care vendor payment system] a Provider Agreement.

### **§ 168.3. Child abuse reporting.**

Suspected child abuse shall be reported in accordance with 23 Pa.C.S. Chapter 63 (relating to the Child Protective Services Law) and Chapter 3490 (relating to child protective services).

### **§ 168.4. Authority to administer subsidized child care.**

The Department may delegate to another approved entity, such as the CCIS, the



responsibilities set forth in this chapter for the purpose of administering subsidized child care.

## ELIGIBILITY REQUIREMENTS

### § 168.11. General requirements.

(a) [Special allowances] Payment for child care [are] is available for the following types of [child care] providers:

(1) [Center-based] A child day care center certified under Chapter 3270  
(relating to child day care centers).

(2) [Group home] A group child day care home certified under Chapter 3280  
(relating to group child day care homes).

(3) [Family] A family child day care home registered under Chapter 3290  
(relating to family child day care homes).

(4) [Relative/neighbor care] A relative or neighbor provider specifically exempt  
from certification or registration under Chapters 3270, 3280 and 3290.

(5) [In-home care] An in-home provider specifically exempt from certification  
or registration under Chapters 3270, 3280 and 3290.

(b) The [parent/caretaker shall have the right to] parent may choose from any [type of] child care provider that is a type of provider available under this chapter [and the right to choose any child care provider] who meets the requirements of this chapter and who meets the Department's standards for provider participation.

(c) [Pre expenditure] Pre-expenditure approval is required unless the child care is for a job interview and the [client] parent documents that he was unable to contact the worker prior to the scheduled interview.

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**§ 168.17. Eligible children.**

To be eligible for a child care payment, the [budget group] family shall include a child who meets the following criteria[. The child meets the following conditions]:

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(2) [Meets one of the following conditions:

(i) Is under 13 years of age.

(ii) Is 13 years of age or older and meets one of the following conditions:

(A) Is under 19 years of age and not physically capable of caring for himself as verified by a physician.

(B) Is under 19 years of age with a developmental age of less than 13 years of age as verified by a physician or licensed psychologist.] Is considered a mandatory food stamp household member as specified in 7 CFR 273.1(b) (relating to household concept).

(3) [Is age appropriately immunized. If the child does not have age-appropriate immunizations, the parent/caretaker has 90 days to obtain and document immunizations for the child unless one of the following applies:

(i) The parent/caretaker objects to immunizations on religious grounds.

(ii) The child's medical condition contraindicates immunizations as verified by a physician.] Meets one of the following conditions:

(i) Is under 13 years of age.

(ii) Is 13 years of age or older but under 19 years of age and is incapable of caring for himself as verified by a physician or licensed psychologist.

- (4) Is age-appropriately immunized unless one of the following applies:
- (i) The parent/caretaker objects to immunizations on religious grounds.
  - (ii) The child's medical condition contraindicates immunization.
  - (iii) If the child does not have age-appropriate immunizations and is not exempt from immunization, the parent has 90 days to obtain immunizations for the child.

**§ 168.18. Need for child care.**

(a) Child care must be needed to enable a [member of the budget group] parent to participate in a [work-related] work activity as defined in 55 Pa.Code §§ 165.31 and 501.6 (relating to RESET participation requirements and employment and training program).

(b) Child care services will not be considered as needed when an unemployed [parent/caretaker] parent of the child is in the home, unless one of the following applies:

(1) The [parent/caretaker] parent is physically or mentally incapable of providing child care, as verified by a physician or licensed psychologist.

(2) The [parent/caretaker] parent is involved in [work-related] work activities as defined in 55 Pa.Code §§ 165.31 and 501.6, or the custodial parent is participating in [a Department of Education Pregnant and Parenting Youth Program] an education program for pregnant or parenting youth that is approved by the Department.

[(3) The child is at risk because of suspected child abuse.]

(c) Child care will be considered as needed for entry into or during breaks in approved [work-related] work activities as defined in 55 Pa.Code §§ 165.31 and 501.6

for [one of the following:

(1) Up to 2 weeks.

(2) Up to 30 days when it is verified that the child care arrangements would otherwise be lost in the interim] up to 30 days.

(d) [Child will not be considered as needed when the biological or adoptive parent, specified relative or legal guardian of the child is the owner/operator of a child is the owner/operator of a child care business where care is available for the child] When a parent is the operator of a child day care center, group child day care home or family child day care home as specified in Chapter 3270, Chapter 3280 or Chapter 3290 (relating to child day care centers; group child day care homes; and family child day care homes) or is the operator of a home that is exempt from certification or registration under section 1070 of the Public Welfare Code (62 P. S. § 1070 (relating to definitions)) and when space is available to enroll the parent's child at the facility operated by the parent, that child is not eligible to receive subsidized child care.

(e) Subsidized child care may not be used as a substitute for a publicly funded educational program, such as kindergarten or a specialized treatment program.

(f) A parent is ineligible for subsidized child care if he does not attend a face-to-face interview no later than 30 calendar days following the request for care. The Department may extend the 30-day time frame for the face-to-face interview if, on or before the 30<sup>th</sup> calendar day, the parent claims hardship due to conflicts with the parent's working hours, transportation problems or illness of the parent or another family member. At the time the parent claims hardship, the Department may grant an additional 30 days from the date the hardship is claimed for the interview. The

Department may substitute a telephone contact for a face-to-face interview if a face-to-face interview cannot be scheduled without the parent having to take time off from work.

(g) A parent is ineligible for subsidized child care if he does not select an eligible child care provider and enroll the child within 30 calendar days following the date the Department notifies the parent that the child may be enrolled or that the family's current child care provider is ineligible to participate in the subsidized child care program.

### **§ 168.19. Child care arrangements.**

Payment for child care will be made when the child care arrangements are as follows:

(1) The [person] individual or entity providing child care meets the following conditions:

(i) [Provides care in accordance with applicable standards of Federal, State and local law.] Complies with the Department's standards for provider participation.

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(iii) Is [a person who is at least] 18 years of age or older.

(2) The [person or entity] individual providing child care may not be one of the following:

(i) The [biological or adoptive parent or legal guardian] parent of the child.

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**§ 168.20. Child care co-payment.**

(a) The employed TANF budget group shall pay the required co-payment toward the cost of child care.

(b) The co-payment is due on the first day of the service week and each week thereafter, regardless of the day the child is enrolled.

(c) If the co-payment is decreased as the result of a redetermination, the employed TANF budget group shall begin paying the reduced co-payment on the first day of the service week following the date of the redetermination.

(d) If the co-payment is increased as the result of a redetermination, the employed TANF budget group shall begin paying the increased co-payment on the first service day of the week following the notification advising the budget group of the co-payment increase.

(e) If the co-payments for 1 month are equal to or exceed the monthly payment for care, the family is not eligible for subsidized child care with that provider.

**§ 168.21. Ineligibility for failure to pay co-payment.**

(a) Ineligibility for child care payment results when the TANF budget group is employed and fails to pay the required co-payment toward the cost of child care as specified in § 168.20(b) (relating to child care co-payment). The TANF budget group is ineligible until [overdue] delinquent co-payments are paid or satisfactory arrangements to pay [overdue] delinquent co-payments are made with the provider.

(b) A co-payment is delinquent if it is not paid by the last day of the service week.

(c) On the day the provider reports the co-payment is delinquent, the Department will notify the TANF budget group in writing, with advance notice, that action will be taken to terminate subsidized child care for the child.

(d) When a co-payment is delinquent, the first payment made during a week is applied to the current week's co-payment. Subsequent payment during a week is applied to the delinquent co-payment.

## VERIFICATION

### § 168.41. Verification requirements.

The [applicant or recipient] parent is required, as a condition of eligibility, to cooperate in providing necessary information and verification to establish eligibility.

(1) Before authorizing the initial child care payment, the [CAO] Department will determine the following:

(i) Whether the child care is necessary to participate in a [work-related] work activity as defined in 55 Pa.Code §§ 165.31 and 501.6 (relating to RESET participation requirements and employment and training program).

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(iii) The date the service is needed [by the participant].

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(2) When the [parent/caretaker] parent provides verification to the [CAO] Department that indicates a change in eligibility, payment will be reduced, terminated or increased, as appropriate, upon issuance of appropriate notice to the [parent/caretaker] parent, in accordance with 55 Pa.Code §§ 133.4 and 168.101 (relating to procedures; and appeal and fair hearing).

(3) Child care costs shall be verified by the provider monthly on a form specified by the Department [or by a written statement signed by the provider] or by a collateral contact by the [CAO and] Department with the child care provider.

(4) A collateral contact will be used whenever necessary to ensure that payment is made in advance of the date that payment is required by the child care provider consistent with § 168.1(b)(3) (relating to policy on payment of child care). When a child care [allowance] payment is authorized based on a collateral contact with or by a written statement from the provider, verification of the charge for child care on a form specified by the Department shall be submitted to the [CAO] Department within 30 days of the first day child care costs were incurred. The [CAO] Department will assist the [client] parent, as needed, to obtain a completed verification form from the provider. Failure to provide verification within the specified time period could result in nonauthorization of the child care payment.

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**§ 168.43. Verification of [the disability of a child] a child's disability.**

A written statement from a physician or licensed psychologist which confirms that the child has a physical or mental [handicap] injury or impairment which prevents the child from caring for himself is required.

**§ 168.44. Verification of [the disability of a parent/caretaker] a parent's disability.**

A written statement from a physician or licensed psychologist which confirms that the [biological or adoptive parent, specified relative or legal guardian has a physical or mental handicap] parent has a disability which prevents the [person] parent from providing child care is required.



**§ 168.45. [Verification of suspected child abuse.**

The statement of the parent/caretaker, caseworker or other professional is acceptable evidence to verify suspected child abuse. Suspected child abuse will be reported in accordance with 23 Pa.C.S. Chapter 63 (relating to the Child Protective Services Law) as defined in Chapter 3490 (relating to protective services).] Reserved.

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**§ 168.49. Verification of payment of co-payment for the employed budget group.**

[A signed, written statement from the child care provider on a Department form which confirms that the child care co-payment has been paid for a specified month is required. If co-payments are owed, a signed, written statement by the child care provider that the overdue co-payments have been paid or that satisfactory arrangements for payment have been made is acceptable.] The provider is not required to report to the Department if a co-payment is paid timely. The provider shall report to the Department when a co-payment is delinquent on the last day of the service week, when a delinquent co-payment has thereafter been paid and when satisfactory arrangements for payment of a delinquent co-payment have been made.

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**§ 168.51. Verification of age-appropriate immunizations.**

[The parent/caretaker shall provide a signed, written statement on a form specified by the Department to verify that the child has received age-appropriate immunizations, or that the parent/caretaker objects to immunizations on the basis of religious grounds, or documentation from a physician to verify that the child's medical condition contraindicates immunizations.] The parent shall provide self-certification indicating that

the child has received age-appropriate immunizations or that the child is exempt from immunization on the basis of religious grounds or a medical condition which contraindicates immunizations. Self-certification is a written statement provided by the parent for the purpose of establishing verification.

## REPORTING REQUIREMENTS

### § 168.61. Reporting requirements.

The [budget group] parent shall report changes to child care arrangements [and child care costs monthly consistent with Chapter 142 (relating to monthly reporting) and § 125.24(d) (relating to responsibility for reporting changes). Documentation will be retained in the case record to support the determination of the payment, including child care costs. These documents are retained in accordance with cash assistance case record retention policies] within 10 calendar days from the date the change occurred. Documentation of child care payment shall be retained in the case record in accordance with 55 Pa.Code § 3041.85 (relating to record retention).

## PAYMENT DETERMINATION

### § 168.71. Monthly payment determination.

The amount of the child care payment is determined for each month.

(1) The allowable child care payment is the [lowest of the actual child care costs, the rate charged the general public or the maximum allowance] rate the provider charges to the general public or the MCCA established by the Department, whichever is less.

(i) For [participants] parents in unpaid [work-related] work activities as defined in 55 Pa.Code §§ 165.31 and 501.6 (relating to RESET participation

requirements and employment and training program), payment is [made for the actual costs of child care up to the maximum allowance] the rate the provider charges to the general public or the MCCA established by the Department [or the rate charged the general public], whichever is less.

(ii) For [participants] parents in paid [work-related] work activities as defined in 55 Pa.Code §§ 165.31 and 501.6, payment is made for the actual costs of child care up to the maximum allowance established by the Department or the rate charged the general public, whichever is less, minus the family co-payment as determined in § 168.74 (relating to determining [monthly] weekly child-care [co-payments] co-payment for the employed TANF budget group).

(A) A TANF budget group determined prospectively ineligible for TANF benefits as a result of starting employment will have the co-payment waived from the first day of employment until the date of discontinuance of the TANF benefits in accordance with § 183.105 (relating to increases in income), if the budget group has reported timely in accordance with § 125.24(d) (relating to responsibility for reporting changes).

(B) A TANF budget group determined prospectively eligible for TANF benefits as a result of starting employment will have the co-payment waived from the first day of employment until the last day of the calendar month in which the first pay is received, provided the TANF budget group has reported timely in accordance with § 125.24(d).

(2) When the month of child care eligibility is not a full calendar month, the child care payment is prorated for the number of calendar days for which the TANF budget group is eligible.

[(3) Corrective or delayed payments are issued consistent with the requirements in Chapters 175 and 227 (relating to allowances and benefits; and central office disbursement).]

**§ 168.72. Determining monthly child care costs.**

The actual child care costs reported and verified as paid or incurred in the month are considered. Actual child care costs include the following:

(1) A charge for child care [reasonably related to] during the hours of the [work-related] work activity as defined in 55 Pa.Code §§ 165.31 and 501.6 (relating to RESET participation requirements and employment and training program), including travel time and sleep-time [for third shift employment].

(2) A charge [levied] for up to 10 consecutive days on which the child was not in attendance due to illness[, vacation, and the like].

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**§ 168.74. Determining [monthly] weekly child care co-payment for the employed TANF budget group.**

The co-payment is determined [for a month,] weekly based upon gross monthly income and [budget group] family size, using the co-payment sliding fee scale in Chapter 3041, Appendix B. Gross monthly income is determined based on anticipated or actual amounts as determined in accordance with Chapter 183 (relating to income).

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## CHILD CARE PAYMENT METHODS

### § 168.81. Payment methods.

The Department will make a child care payment for child care expenses paid or incurred in a month [as one of the following:

(1) A direct check to the client when the child care provider is not enrolled in the Department's child care vendor payment system.

(2) A vendor payment to the child care provider when the provider is regulated and enrolled in the Department's child care vendor payment system except when it is verified that the client has paid the enrolled provider directly. Payment will then be issued directly to the client.

(3) A restricted endorsement check made payable to the client and the child care provider when it has been demonstrated that the client failed to use a prior child care payment for its intended purpose]. Payment is made to the provider in accordance with the provisions of the provider agreement with the following exceptions:

(1) Payment is made to the parent when care is provided in the child's home.

(2) Payment is made to the parent when the parent requires reimbursement for child care costs incurred during retroactive periods of eligibility.

### § 168.82. Timeframes for authorization of payment.

(a) When verification of child care costs as specified in § 168.41(3) (relating to verification requirements) is obtained or received by the Department within 5 calendar days following a request for child care payment, the Department will authorize payment no later than 10 calendar days following the date of request.

(b) When verification of child care costs as specified in § 168.41(3) is obtained or received by the Department more than 5 days following a request for child care payment, the Department will authorize payment no later than 5 calendar days after receipt of the verification.

(c) When the last day for authorization of payment falls on a weekend or holiday, the Department will authorize payment on or before the working day immediately preceding the weekend or holiday.

(d) Authorization of payment shall include actually processing the data needed to issue a check, including completing required forms and performing data entry.

(e) The Department will issue the written decision approving child care payment within the time frame for authorization of payment in this section.

(f) The Department will use the method of payment, such as a county or central issuance, that is best calculated to provide child care payment to the parent or provider in advance of the date that payment is required by the provider.

## RESTITUTION

### § 168.91. Restitution.

The cash assistance provisions of Chapter 255 (relating to restitution) apply to a [recipient of] parent that has received a child care payment except that the provision for recoupment of an overpayment does not apply.

## APPEAL AND FAIR HEARING

### § 168.101. Appeal and fair hearing.

The cash assistance provisions of Chapter 275 (relating to appeal and fair hearing and administrative disqualification hearings) apply to an applicant or recipient of a child care payment with one exception; the requirement for an advance written notice of adverse action will not apply to a change in the method of payment, unless the change would result in a discontinuance, suspension, reduction or termination of benefits or would force a change in child care arrangements. If the [parent/caretaker] parent files an appeal within 10 days of the date of the advance written notice of adverse action, subsidy continues at the prior level until a final decision is made by the Bureau of Hearings and Appeals except when the adverse action is based solely on Federal or State law, regulations or policy or changes in Federal or State law, regulations or policy, or the Department lacks funding to continue subsidy.

**TRANSMITTAL SHEET FOR REGULATIONS SUBJECT TO THE  
REGULATORY REVIEW ACT**

1 RRC

I.D. NUMBER: 14-505  
 SUBJECT: CHILD CARE  
 AGENCY: DEPARTMENT OF PUBLIC WELFARE

RECEIVED  
 2006 JUN 29 19 PM 12:10  
 INDEPENDENT REGULATORY  
 REVIEW COMMISSION

**TYPE OF REGULATION**

- Proposed Regulation
- Final Regulation
- Final Regulation with Notice of Proposed Rulemaking Omitted
- 120-day Emergency Certification of the Attorney General
- 120-day Emergency Certification of the Governor
- Delivery of Tolled Regulation
  - a. With Revisions
  - b. Without Revisions

**FILING OF REGULATION**

DATE	SIGNATURE	DESIGNATION
X 6/19/06	<i>[Signature]</i>	HOUSE COMMITTEE ON HEALTH & HUMAN SERVICES
X 6/19/06	<i>[Signature]</i>	SENATE COMMITTEE ON PUBLIC HEALTH & WELFARE
X 6/19/06	<i>[Signature]</i>	INDEPENDENT REGULATORY REVIEW COMMISSION
		ATTORNEY GENERAL (for Final Omitted only)
X 6/19	<i>[Signature]</i>	LEGISLATIVE REFERENCE BUREAU (for Proposed only)