

JUL 31 2006

ORIGINAL: 2549

14-505-12



Law Center North Central
3638 North Broad Street, Philadelphia, PA 19140
Phone: 215.227.2400, Fax: 215.227.2435
Web Address: www.clsphila.org

Louise E. Hayes
Staff Attorney
Direct: 215.227.2400 x2421
Email: LHayes@clsphila.org

By fax: (717) 346-9330
and by email: rfrein@state.pa.us

July 31, 2006

Robert Frein, Director
Bureau of Subsidized Child Care Services
Office of Child Development
Department of Public Welfare
Room 521 -- Health and Welfare Building
P.O. Box 521
Harrisburg, PA 17105

Re: **Comments on Proposed DPW Child Care
Regulations, 55 Pa. Code Chapter 168
Regulation 14-505**

Dear Mr. Frein:

On behalf of the Philadelphia Welfare Rights Organization and our clients who need child care to get or keep a job and move toward self-sufficiency, Community Legal Services, Inc. (CLS) submits these comments regarding DPW's July 1, 2006 proposed subsidized child care regulations. As you know, CLS represents thousands of low-income Philadelphians every year in obtaining or retaining benefits from the County Assistance Offices. Many of our clients are TANF, GA, and/or Food Stamp recipients who need child care to participate in work, education, or DPW's work-related activities, or to attend mental or behavioral health treatment as a precursor to going to work. The parents we represent seek a child care subsidy system that reliably pays for care when they need it, with as few bureaucratic requirements as possible.

Some of the changes made by this proposed regulation are ones that will clearly help parents, and we applaud these changes. In particular, we welcome the revisions to the rules governing subsidy eligibility for disabled children over the age of 13, and the shift of the burden of verifying child care costs from the parent to the provider. We also welcome the explicit incorporation of food stamp child care provisions into these regulations.

Most of our suggestions for change are contained in the mark-up of the regulations we are emailing you, which we developed in conjunction with the Pennsylvania Child Care Campaign; this mark-up is identical to the version submitted by the Campaign. We do wish to highlight certain issues separately:

1. We cannot support the new requirement for parents to attend a face-to-face interview at

the CCIS. Single mothers, especially those being pressed to work 30 hours/week by the CAO, have precious little spare time. We are not persuaded that the information provided in these sessions will be worth the time and expense of attending, especially for parents in rural areas. We remain convinced that there are other, less burdensome ways to convey information about the services of the CCIS and recipient rights and responsibilities.

If the Department insists on requiring these meetings, we urge that you adopt the language changes in the attached mark-up, and adopt the suggestions below, which are also being made by the Pennsylvania Child Care Campaign:

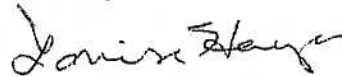
- o Grant the parent an excused absence from work activities required by DPW in order to attend a face-to-face meeting with the CCIS;
 - o Make CCIS staff available at EARN contractor sites to interview parents there and count the parent's time in the interview as work participation;
 - o Conduct the interview by telephone if a parent /caretaker continues to have a hardship in attending a face-to-face interview after two 30-day periods of attempting to arrange a face-to-face interview following the request for care;
 - o Provide that a parent /caretaker who does not participate in the interview required by this section within the required time frame will be ineligible for child care only until such time as he or she attends or participates in the interview and that, after the parent/caretaker attends or participates in the interview, his or her eligibility will be reinstated retroactive to the date of ineligibility.
 - o Waive the CCIS subsidy program face-to face meeting required by 55 Pa. Code § 3041.126 for parents who have attended a face-to-face interview with the CCIS as a TANF, GA, or food stamp participant.
2. We are concerned that the Department's new definition of "parent" changes existing eligibility rules, probably inadvertently. In particular, we are concerned about situations in which more than one adult with children is in a budget group or household; we want to ensure that all parents or caretakers can receive a child care subsidy if necessary. We are also worried about situations where a parent is denied a subsidy because a caseworker says that an individual who lives with her – but who is not legally responsible for the child – must care for the child instead. We were reassured to hear you say at the IMAC/ETAC meeting on July 25 that DPW did not intend to change eligibility rules. We have tried to address this concern in our mark-up, and would welcome an opportunity to discuss this issue.
3. We occasionally see individuals who need regular mental health or behavioral health treatment in order to move toward self-sufficiency, but who cannot obtain this treatment because they lack child care. These are tragic cases, such as women desperate to get clean of addictive drugs who cannot participate in substance abuse treatment without

child care, and women with treatable mental health problems who cannot get to needed treatment sessions. There are almost no sources of payment for child care for these individuals, whose hopes to move toward self-sufficiency are thwarted by their inability to pay for child care. The Department's MPP program has authority to pay for child care while a parent receives treatment, but not all needy individuals qualify for MPP, and the MPP budget has been cut dramatically this year. It is also not clear that MPP-funded child care will continue should these regulations take effect. We urge DPW to provide for payment for child care for this purpose in these regulations. Such payment is authorized by 62 P.S. § 408(a).

4. Finally, we urge the Department to address adult care in these regulations. The federal food stamp regulations do not provide for "child care," but rather for "dependent care," which includes care of disabled adult household members when necessary for a food stamp household member to participate in an employment and training program. 7 C.F.R. § 273.7(d)(3)(i). We are uncertain how DPW currently provides for such care, but urge the Department to address this issue in the regulations. Care for an disabled adult family member may also be needed to allow a TANF recipient to participate in work activities. The Department provides for an earned income disregard for employed TANF recipients caring for disabled adults, in 55 Pa. Code § 183.94(3), but the amount is inadequate to pay for care. DPW should eliminate this outdated payment model, which it previously discarded for child care, and provide for direct DPW payment for adult care if needed to enable a TANF or GA recipient to participate in work or unpaid work activities.

Thank you for considering these comments. We would welcome an opportunity to discuss them further with you.

Sincerely,



Louise Hayes
Amy Hirsch
Richard P. Weishaupt

cc: IRRRC (via email: irrc@irrc.state.pa.us)

Annex A

TITLE 55. PUBLIC WELFARE

PART II. PUBLIC ASSISTANCE MANUAL

Subpart C. ELIGIBILITY REQUIREMENTS

CHAPTER 168. CHILD CARE

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/caretaker to participate or volunteer¹ in [work-related] work activities as defined in §§ 165.31 and 501.6 and 7 C.F.R. §273.7(e) (relating to RESET participation requirements; and food stamp employment and training program).² 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.] parent/caretaker shall be eligible to receive food stamps or cash assistance. This includes parent/caretakers who do not receive a cash payment due to the minimum monthly check requirement or due to a month of zero cash payment.

Deleted:]

(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] CCIS, 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/caretaker will have access to the child care provider of the [participant's] parent/caretaker's choice. The advance payment requirement does not apply to vendor

Formatted: Font: (Default) Times New Roman, Complex Script Font: Times New Roman

Formatted: Font: (Default) Times New Roman, Complex Script Font: Times New Roman

Formatted: Font: (Default) Times New Roman, Complex Script Font: Times New Roman

¹ TANF/GA and food stamps regulations allow parent/caretakers to volunteer to participate in approved education and training programs and to receive supportive services, including child care. It would be good for that to be expressly acknowledged in the regulations so that no issue over this will arise.

² Is this bracket supposed to be here?

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 § 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] AMR or EDP** is developed or revised as specified in §§ 165.25 and 165.31 (relating to RESET participation requirements following exemption; and RESET participation requirements and 7 C.F.R. 273.7(c)(6) relating to participation in the food stamp employment and training program), **the Department will inform parent/caretakers** in writing and orally of the availability of child care allowances.

* * * * *

(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 or EDP** is developed or revised and reflects a need for child care. The **[CAO] Department** will advise **[clients] parent/caretakers** 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.³

Deleted:) As defined in § 183.2 (relating to definitions).

Deleted: |

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.

Care and control -- Is exercising responsibility for the care and control of the child. This means actually participating in making plans for the support, education and maintenance of the child and supervising carrying out the plans. [PZ, did you drop a footnote here?]

Formatted: Font: Italic

Formatted: Font: Bold

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).

4

EDP – Employment Development Plan.

Deleted: Disability--A physical or mental impairment that precludes a

Deleted: parent/caretaker

Deleted: 's

Deleted: ability to participate in work, education or training.

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

* * * * *

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

Household--As defined in 7 CFR 273.1 (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

Formatted: Not Highlight

Deleted: (a)(2)

Deleted: ¶

³ The definition at Section 183.2 omits a child on SSI. Clearly DPW intends that care for such children be available the parent/caretaker needs it to participate in a work activity. We suggest keeping the existing definition, which expressly includes SSI kids.

⁴ This definition is unnecessarily restrictive. The only use of this term in the regulations is in sections 168.43 and 168.44, each of which includes its own definition that is specific to its context.

child day care homes; and family child day care homes) and who cares for a child in the child's home.

[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.]

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/caretaker works on Saturday, Sunday or between the hours of 6 p.m. and 6 a.m.

Parent/caretaker--⁵ A person in the TANF/GA budget group or food stamp household with care and control of a child in the budget group or household in need of care.

* * * * *

⁶ 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, a group child day care home certified under Chapter 3280 or a family child day care home registered under Chapter 3290.

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

Deleted: ATANF specified relative as defined in § 151.42 (relating to definitions), the General Assistance payment name as defined in § 171.21(b)(2) (relating to policy) or a responsible member of the food stamp household as defined in 7 CFR 273.1(d) (relating to household concept)

Deleted: [Pre-expenditure] Preexpenditure 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.

Deleted: ¶

⁵ The proposed revised definition is vague, requires looking at 3 other sections of regulations, and would be difficult for CAOs to apply. It's not very clear who's within and who's outside of the definition, and we are worried that some parent/caretakers are inadvertently omitted. We've suggested some language that we think more explicitly states who can get child care and the kind of relationship with the child that must exist. We don't think this represents an expansion of current practice. Re-inserting the term "caretaker" also allows the term "parent" to be used in its natural sense (as the biological or adoptive parent) in section 168.19.

⁶ We do not believe CAOs have followed this policy in the context of child care for quite some time, and for good reason. If it were followed, parent/caretakers would be unable to get child care coverage for costs they incur when they begin work or a work-related activity, but the CAO has not yet finished processing their verification and authorized payment. The simple solution is to delete this provision. In fact, to fully align this with CCIS policy, we have inserted into the text of the regulations suggested language clarifying that coverage is retroactive to the date the parent/caretaker begins to incur child care costs.

Deleted: /caretaker

Deleted: /caretaker

3270, 3280 and 3290 and who cares for three or fewer children unrelated to the [caregiver] provider in the provider's home.

* * * * *

Satisfactory arrangement--[The plan made by the budget group to pay overdue fees which are] The plan made by the parent/caretaker to pay an overdue co-payment which is acceptable to the child care provider.

Self-certification--A written statement provided by the parent/caretaker 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.

* * * * *

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/caretaker's work shift ends between the hours of 12 a.m. and 9 a.m. to allow the parent/caretaker time to sleep.

* * * * *

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/caretaker shall have the right to⁷ 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.

Deleted: may

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

§ 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]:

* * * * *

(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.

⁷ States must allow parent/caretakers the opportunity to choose among the various types of child care providers under federal law governing subsidized child care, 45 C.F.R. §98.30(e). CCIS regulations recognize this right of parent/caretaker choice, 55 Pa Code §3041.13. These regulations should do the same.

(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.⁸ (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:

Deleted: Is considered a mandatory food stamp household member as specified in 7 CFR 273.1(b) (relating to household concept).
Deleted: ¶

- (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, child care shall be authorized and the parent/caretaker shall be given 90 days to obtain immunizations for the child and self-certify that the child has the required immunizations or is exempt.⁹

Deleted: has

§ 168.18. Need for child care.

(a) Child care must be needed to enable a [member of the budget group] parent/caretaker to participate or volunteer in a [work-related] work activity as defined in §§ 165.31 and 501.6 and 7 C.F.R. §273.7(e) (relating to RESET participation requirements; and food stamp employment and training program), or to receive medical or behavioral health care as needed for rehabilitation or to relieve suffering and distress from disabilities.¹⁰

Formatted: Font: Bold
Formatted: Font: Bold
Deleted: []
Deleted:]
Deleted: parent
Deleted: ¶
Formatted: Font: 10 pt, Complex Script Font: 10 pt
Formatted: Font: 10 pt, Complex Script Font: 10 pt
Formatted: Font: 10 pt, Complex Script Font: 10 pt
Formatted: Font: 10 pt, Complex Script Font: 10 pt
Formatted: Font: 10 pt, Complex Script Font: 10 pt
Formatted: Font: 10 pt, Complex Script Font: 10 pt
Formatted: Font: 10 pt, Complex Script Font: 10 pt

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

⁸ This language confuses us, and does not seem appropriate for non-FS households, nor necessary for FS households.

⁹ The inserted language aligns this subsection with the parallel CCIS regulation, at 55 Pa. Code §3041.46(b).

¹⁰ Participation in medical treatment that is needed for rehabilitation is often an essential component of the movement toward self-sufficiency, and such treatment is often necessary to relieve suffering from disabilities. Child care should be provided to address these needs. Payment for this care is authorized by 62 P.S. 408(a).

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

- Deleted: [
- Deleted:]
- Deleted: parent
- Deleted: [
- Deleted:]
- Deleted: parent
- Deleted: and
- Formatted: Font: Bold

(2) The parent/caretaker is involved in [work-related] work activities as defined in §§ 165.31, 501.6 and 7 C.F.R. §273.7(e), or the custodial parent/caretaker 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 §§ 165.31, 501.6 and 7 C.F.R. §273.7(e) for [one of the following:

- Deleted: and

(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.

- Deleted: (2)
- Formatted: Bullets and Numbering

(d) [Child will not be considered as needed when the biological or adoptive parent/caretaker, 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/caretaker 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) and when space is available to enroll the parent/caretaker's child at the facility operated by the parent/caretaker, that child is not eligible to receive subsidized child care.

- Formatted: Not Highlight
- Formatted: Not Highlight
- Deleted: is ineligible for subsidized child care if he does not
- Deleted: may
- Formatted: Not Highlight
- Deleted: , on or before the 30th calendar day,
- Formatted: Not Highlight
- Formatted: Not Highlight
- Formatted: Not Highlight
- Formatted: Not Highlight
- Deleted: may
- Deleted: may
- Formatted: Not Highlight
- Formatted: Not Highlight
- Deleted: a face-to-face interview cannot be scheduled without the
- Deleted: parent
- Deleted: having to take time off from work.
- Formatted: Not Highlight

(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/caretaker shall attend a face-to-face interview no later than 30 calendar days following the request for care. The Department shall extend the 30-day time frame for the face-to-face interview if the parent/caretaker claims hardship due to, for example, conflicts with the parent/caretaker's working hours, transportation problems, or illness of the parent/caretaker or another family member. At the time the parent/caretaker claims hardship, the Department shall grant an additional 30 days from the date the hardship is claimed for the interview. The Department shall substitute a telephone contact for a face-to-face interview if the parent/caretaker continues to have a hardship in attending a face-to-face interview after two 30-day periods following the request for care/caretaker. If the parent/caretaker does not participate in the interview required by this section within the required time frame, the parent/caretaker's eligibility for child care will be suspended until such time as he or she attends or participates in the interview. After the parent/caretaker

attends or participates in the interview, his or her eligibility will be reinstated retroactive to the date of suspension.

¹¹

§ 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.

* * * * *

(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/caretaker or legal guardian of the child.¹²

* * * * *

§ 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 or partial 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.

¹¹ We do not see the need for this requirement for CAO-side parent/caretakers, who do not face waiting lists. For example, a parent/caretaker may temporarily have no need for a child care subsidy if she has access to free child care for a period of time. If such a parent/caretaker loses her free care – perhaps because her mother has become ill or her sister has moved away – she should be immediately eligible for a subsidy. In a system without waiting lists, there is no need to close out a parent/caretaker's eligibility if she is not using a subsidy.

¹² This change appears to be a substantive eligibility change that we understand was not intended by these regulations. We believe a non-parent budget group member may appropriately be the provider for another budget group member.

Deleted: (g) A
Deleted: parent/caretaker
Deleted:
Deleted: 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
Deleted: parent/caretaker
Deleted:
Deleted: 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.

Deleted: [
Deleted:]
Deleted: parent

Deleted: /caretaker
Deleted: household or

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

Deleted: notification

(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/caretaker 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 §§ 165.31, 501.6 and 7 C.F.R. §273.7(e) (relating to RESET participation requirements; and food stamp employment and training program).

Deleted: and

* * * * *

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

* * * * *

(2) When the **parent/caretaker** 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**, in accordance with §§ 133.4 and 168.101 (relating to procedures; and appeal and fair hearing).

Deleted: [
Deleted:]
Deleted: parent
Deleted: [
Deleted:]
Deleted:
Deleted: parent

(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/caretaker**, 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.

* * * * *

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

For a child between the ages of 13 and 19 to be eligible for care pursuant to section 168.17(3)(ii), 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 or herself is required.

Deleted: A

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

§ 168.45. **[Verification of suspected child abuse] (Reserved)**.

[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).]

§ 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.

§ 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/caretaker 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/caretaker for the purpose of establishing verification.

REPORTING REQUIREMENTS

§ 168.61. Reporting requirements.

The [budget group] parent/caretaker shall report to either the CAO or CCIS 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 § 3041.85 (relating to record retention).

Formatted: Font: Bold

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] parent/caretakers in unpaid [work-related] work activities as defined in §§ 165.31, 501.6, and 7 C.F.R. §273.7(e) (relating to RESET participation requirements; and food stamp employment and training program), payment is [made for

Deleted: and

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] parent/caretakers in paid [work-related] work activities as defined in §§ 165.31, 501.6, and 7 C.F.R. §273.7(e), 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).

Deleted: and

(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).¹³

Deleted: [
Deleted:]

§ 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 §§ 165.31, 501.6, and 7 C.F.R. §273.7(e) (relating to RESET participation requirements; and food stamp employment and training program), including travel time and sleep-time [for third shift employment].

Deleted: and

¹³ Why is this section not needed?

(2) A charge [levied] for up to 10 consecutive days on which the child was not in attendance due to illness, vacation, and the like¹⁴

Deleted: [

Deleted:]

* * * * *

§ 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).

* * * * *

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/caretaker when care is provided in the child's home.

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

§ 168.82. Time frames for authorization of payment.¹⁵

¹⁴ Under CCIS rules, DPW will pay for up to 10 consecutive days of absence for any reason. 55 Pa. Code §3041.19(a). DPW should allow for days of absence for reasons other than just illness, as the existing language does. This is still more restrictive than the CCIS rule, but would help families retain a child's spot in a day care center when days are missed for legitimate, family-related reasons.

(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) Coverage of child care costs shall begin on the date the family began to incur child care costs for a work activity approved on the AMR or EDP.

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

Deleted: e

(g) 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/caretaker or provider in advance of the date that payment is required by the provider.

Deleted: f

RESTITUTION

§ 168.91. Restitution.

The cash assistance provisions of Chapter 255 (relating to restitution) apply to a [recipient of] parent/caretaker 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

¹⁵ Since it is not bracketed, we assume DPW intends to retain this section. We're not sure why it's in bold face, though?

discontinuance, suspension, reduction or termination of benefits or would force a change in child care arrangements. If the **[parent/caretaker] parent/caretaker** 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 **the** subsidy.

[Pa.B. Doc. No. 06-1206. Filed for public inspection June 30, 2006, 9:00 a.m.]