

WSR 22-09-019
PROPOSED RULES
DEPARTMENT OF
CHILDREN, YOUTH, AND FAMILIES
[Filed April 11, 2022, 10:56 a.m.]

Original Notice.

Preproposal statement of inquiry was filed as WSR 21-15-028.

Title of Rule and Other Identifying Information: WAC 110-15-0003 Definitions, 110-15-0215 Infant enhanced rate, 110-15-0225 Special needs rates—Licensed or certified child care facilities and seasonal day camps, and 110-15-3770 Authorized SCC payments.

Hearing Location(s): On May 24, 2022, at telephonic. Oral comments may be made by calling 360-902-8084 and leaving a voicemail that includes the comment and an email or physical mailing address where department of children, youth, and families (DCYF) will send its response. Comments received through, and including, May 24, 2022, will be considered.

Date of Intended Adoption: May 25, 2022.

Submit Written Comments to: DCYF Rules Coordinator, email dcyf.rulescoordinator@dcyf.wa.gov, https://dcyf.wa.gov/practice/policy-laws-rules/rule-making/participate/online, by May 24, 2022.

Assistance for Persons with Disabilities: Contact DCYF rules coordinator, phone 360-902-7956, email dcyf.rulescoordinator@dcyf.wa.gov, by May 20, 2022.

Purpose of the Proposal and Its Anticipated Effects, Including Any Changes in Existing Rules: For child care providers participating in the working connections and seasonal child care programs, establish an incentive of \$90 per infant per month for providers who care for infants from birth to 11 months of age.

Reasons Supporting Proposal: The 2021 legislature found that Washington state suffers from an extreme shortage of infant child care, which impacts parents' ability to participate in the workforce, and that parents struggle to find access to high-quality care during a time of their infants' critical growth and brain development. In an effort to expand access to high-quality child care for infants, the 2021 legislature directed DCYF to provide an infant rate enhancement to the providers who care for infants from birth to 11 months of age.

Statutory Authority for Adoption: RCW 43.216.579.

Statute Being Implemented: RCW 43.216.579.

Rule is not necessitated by federal law, federal or state court decision.

Name of Proponent: DCYF, governmental.

Name of Agency Personnel Responsible for Drafting: Toni Sebastian, 206-200-0824; Implementation and Enforcement: DCYF, statewide.

A school district fiscal impact statement is not required under RCW 28A.305.135.

A cost-benefit analysis is not required under RCW 34.05.328. DCYF is not among the agencies listed as required to comply with RCW 34.05.328 (5) [(a)] (i). Further, DCYF does not voluntarily make that section applicable to the adoption of this rule.

This rule proposal, or portions of the proposal, is exempt from requirements of the Regulatory Fairness Act because the proposal:

Is exempt under RCW 19.85.025(3) as the rule content is explicitly and specifically dictated by statute; and rules set or adjust fees under the authority of RCW 19.02.075 or that set or adjust fees or rates pursuant to legislative standards,

including fees set or adjusted under the authority of RCW 19.80.045.

April 11, 2022
Brenda Villarreal
Rules Coordinator

OTS-3687.2

AMENDATORY SECTION (Amending WSR 22-05-007, filed 2/3/22, effective 3/6/22)

WAC 110-15-0003 Definitions. The definitions in this section apply throughout this chapter unless the context clearly requires otherwise.

"Able" means being physically and mentally capable of caring for a child in a responsible manner.

"Administrative error" means an error made by DCYF through no fault of the consumer or provider.

"Approved activity" means an activity that a consumer is required to participate in at application and reapplication to be eligible to collect benefits.

"Authorization" means the transaction created by DCYF which allows the provider to claim payment during a certification period. The transaction may be adjusted based on the family need.

"Available" means being free to provide care when not participating in an approved activity under WAC 110-15-0040, 110-15-0045, or 110-15-0050 during the time child care is needed.

"Benefit" means a regular payment made by a government agency on behalf of a person eligible to receive it.

"Calendar year" means those dates between and including January 1st and December 31st.

"Capacity" means the maximum number of children the licensee is authorized to have in care at any given time.

"Collective bargaining agreement" or **"CBA"** means the most recent agreement that has been negotiated and entered into between the exclusive bargaining representative for all licensed and license-exempt family child care providers as defined in chapter 41.56 RCW.

"Consumer" means the person eligible to receive:

- (a) WCCC benefits as described in part II of this chapter; or
- (b) SCC benefits as described in part III of this chapter.

"Copayment" means the amount of money the consumer is responsible to pay the child care provider each month toward the cost of child care, whether provided under a voucher or contract.

"Days" means calendar days unless otherwise specified.

"DCYF" means the department of children, youth, and families.

"DSHS" means the department of social and health services.

"Early achievers" means a program that improves the quality of early learning programs and supports and rewards providers for their participation.

"Electronic record" means a record generated, communicated, received, or stored by electronic means for use in an information system or for transmission from one information system to another.

"Electronic signature" means a signature in electronic form attached to or logically associated with an electronic record including, but not limited to, a digital signature, symbol, or process executed by a person with the intent to sign the record.

"Eligibility" means that a consumer has met all of the requirements of:

- (a) Part II of this chapter to receive WCCC program subsidies; or
- (b) Part III of this chapter to receive SCC program subsidies.

"Eligibility period" means the months for which households are eligible to receive WCCC or SCC program subsidies.

"Employment" or **"work"** means engaging in any legal, income generating activity that is taxable under the U.S. Tax Code or that would be taxable with or without a treaty between an Indian Nation and the U.S. This includes unsubsidized employment, as verified by DCYF, and subsidized employment, such as:

- (a) Working in a federal or state paid work study program; or
- (b) VISTA volunteers, AmeriCorps, JobCorps, and Washington Service Corps (WSC) if the income is taxed.

"Existing child care provider" means a licensed or certified provider who received a state subsidy payment between July 1, 2015, and June 30, 2016.

"Fraud" means an intentional deception or misrepresentation made by a person with the knowledge that the deception could result in some unauthorized benefits to themselves or another person. See RCW 74.04.004.

"Homeless" means homeless as defined by the McKinney-Vento Homeless Assistance Act of 1987 without a fixed, regular, and adequate nighttime residence.

"In-home/relative provider" or **"family, friends, and neighbors (FFN) provider"** means an individual who is exempt from child care licensing standards and is approved for working connections child care (WCCC) payment under WAC 110-15-0125.

"In loco parentis" means the adult caring for an eligible child in the absence of the biological, adoptive, or step-parents, and who is not a relative, court-ordered guardian, or custodian, and is responsible for exercising day-to-day care and control of the child.

"Infant" means a child from birth to 11 months.

"Living in the household" means people who reside at the same physical address.

"Lump-sum payment" means a single payment that is not anticipated to continue.

"Newly eligible consumer" means a consumer that has at least one full calendar month break in benefit eligibility.

"Night shift" means employment for a minimum of six hours between the hours of 8 p.m. and 8 a.m.

"Nonschool age child" means a child who is six years of age or younger and is not enrolled in public or private school.

"Overpayment" means a payment or benefits received by a provider or consumer that exceeds the amount the provider or consumer is approved for or eligible to receive.

"Parental control" means a child is living with a biological or adoptive parent, stepparent, legal guardian verifiable by a legal or court document, adult sibling or step-sibling, nephew or niece, aunt, great-aunt, uncle, great-uncle, grandparent or great-grandparent, or an approved in loco parentis custodian responsible for exercising day-to-day care and control of the child.

"Preschool age child" means a child age 30 months through six years of age who is not attending kindergarten or elementary school.

"Private school" means a private school approved by the state under chapter 28A.195 RCW.

"Program violation" means a failure to adhere to program requirements, which results in an overpayment.

"Sanction" means deterrent action imposed by the department to address a program violation finding.

"SCC" means the seasonal child care program, which is a child care subsidy program described in part III of this chapter that assists eligible families who are seasonally employed in agriculturally related work outside of the consumer's home to pay for licensed or certified child care.

"School age child" means a child who is between five years of age through 12 years of age and who is attending public or private school or is receiving home-based instruction under chapter 28A.200 RCW.

"Seasonally available agricultural related work" means work that is directly related to the cultivation, production, harvesting, or processing of fruit trees or crops.

"Second tier eligibility" means an increased income limit for eligible families who reapply before the end of their current eligibility period.

"Self-employment" means engaging in a legal, income-generating activity earned directly from an individual's trade or business that is taxable under the U.S. Tax Code or that would be taxable with or without a treaty between an Indian Nation and the U.S.

"Sign" means placing a name or legal mark on a document by physically writing or using an electronic signature.

"State median income (SMI)" means an annual income figure representing the point at which there are as many families earning more than that amount as there are earning less than that amount. The Census Bureau publishes median family income figures for each state each year, depending on family size.

"TANF" means temporary assistance for needy families, a cash assistance program administered by DSHS.

"Technical assistance" means a strategy that is focused on the resolution of a specific concern or need. This may be in writing or by phone call.

"To the extent of available funds" means one or more of the following:

- (a) Limited or closed enrollment;
- (b) Subject to a priority list for new enrollees pursuant to applicable state and federal law and as described in WAC 110-15-2210; or
- (c) Subject to a waiting list.

"Unintentional" means not done willfully or on purpose.

"Waiting list" means a list of applicants or reapplicants eligible to receive subsidy benefits when funding becomes available.

"WCCC" means the working connections child care program, a child care subsidy program described in part II of this chapter that assists eligible families to pay for child care.

[Statutory Authority: RCW 43.216.055 and 43.216.065. WSR 22-05-007, § 110-15-0003, filed 2/3/22, effective 3/6/22. Statutory Authority: RCW 43.216.055, 43.216.065 and 42 U.S.C. 9858, et seq. WSR 19-08-020, § 110-15-0003, filed 3/26/19, effective 4/26/19. WSR 18-14-078, recodified as § 110-15-0003, filed 6/29/18, effective 7/1/18. Statutory Authority: RCW 43.215.060, 43.215.070 and 2017 3rd sp.s. c 1 § 615. WSR

17-23-033, § 170-290-0003, filed 11/7/17, effective 12/8/17. Statutory Authority: RCW 43.215.060, 43.215.070, and chapter 43.215 RCW. WSR 17-12-013, § 170-290-0003, filed 5/26/17, effective 6/26/17. Statutory Authority: RCW 43.215.070, chapter 43.215 RCW. WSR 16-19-107, § 170-290-0003, filed 9/21/16, effective 10/22/16. Statutory Authority: RCW 43.215.060, 43.215.070, and chapter 43.215 RCW. WSR 16-09-059, § 170-290-0003, filed 4/15/16, effective 5/16/16; WSR 14-12-050, § 170-290-0003, filed 5/30/14, effective 6/30/14; WSR 12-11-025, § 170-290-0003, filed 5/8/12, effective 6/8/12; WSR 11-12-078, § 170-290-0003, filed 5/31/11, effective 7/1/11. Statutory Authority: RCW 43.215.060, 43.215.070, 2006 c 265, and chapter 43.215 RCW. WSR 09-22-043, § 170-290-0003, filed 10/28/09, effective 12/1/09.]

NEW SECTION

WAC 110-15-0215 Infant enhanced rate. Licensed and certified child care providers accepting state subsidy may receive an infant enhancement payment of \$90 per month for each infant who is enrolled in their child care and attends at least one day per month.

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AMENDATORY SECTION (Amending WSR 18-14-078, filed 6/29/18, effective 7/1/18)

WAC 110-15-0225 Special needs rates—Licensed or certified child care ((facilities)) centers and seasonal day camps. (1) In addition to the base rate for licensed or certified child care ((facilities)) centers and seasonal day camps listed in WAC ((170-290-0200, DSHS)) 110-15-0200, DCYF may authorize the following additional special needs daily rates which are reasonable and verifiable as provided in WAC ((170-290-0220)) 110-15-0220:

(a) **Level 1.** The daily rate listed in the table below:

		Infants (((One month)) Birth - 11 mos.)	Toddlers (12 - 29 mos.)	Preschool (30 mos. - 6 yrs not attending kindergarten or school)	School-age (5 - 12 yrs attending kindergarten or school)
Region 1	Full-Day	\$7.30	\$6.14	\$5.80	\$5.45
	Half-Day	\$3.65	\$3.07	\$2.90	\$2.73
Region 2	Full-Day	\$7.36	\$6.15	\$5.70	\$5.05
	Half-Day	\$3.68	\$3.08	\$2.85	\$2.52
Region 3	Full-Day	\$9.75	\$8.13	\$7.02	\$6.82
	Half-Day	\$4.88	\$4.06	\$3.51	\$3.41
Region 4	Full-Day	\$11.35	\$9.48	\$7.95	\$7.16
	Half-Day	\$5.67	\$4.74	\$3.98	\$3.58
Region 5	Full-Day	\$8.32	\$7.16	\$6.30	\$5.59
	Half-Day	\$4.16	\$3.58	\$3.15	\$2.80
Region 6	Full-Day	\$8.18	\$7.02	\$6.14	\$6.00
	Half-Day	\$4.09	\$3.51	\$3.07	\$3.00

(i) Centers in Clark County are paid Region 3 rates;

(ii) Centers in Benton, Walla Walla, and Whitman counties are paid Region 6 rates;

(b) **Level 2.** A rate greater than Level 1, not to exceed \$15.89 per hour.

(2) If a provider is requesting one-on-one supervision or direct care for the child with special needs the person providing the one-on-one care must:

(a) Be at least (~~eighteen~~) 18 years of age;

(b) Meet the requirements for being an assistant under chapter (~~170-295~~) 110-300 WAC; and

(c) Maintain daily records of one-on-one care provided, to include the name of the employee providing the care.

(3) If the provider has an exception to care for a child who is age (~~thirteen~~) 13 years or older and has special needs according to WAC (~~170-290-0220, DSHS~~) 110-15-0220, DCYF authorizes the special needs payment rate as described in subsection (1) of this section using the five through (~~twelve~~) 12 year age range for comparison.

[WSR 18-14-078, recodified as § 110-15-0225, filed 6/29/18, effective 7/1/18. Statutory Authority: RCW 43.215.060, 43.215.070, and chapter 43.215 RCW. WSR 16-09-059, § 170-290-0225, filed 4/15/16, effective 5/16/16; WSR 14-12-050, § 170-290-0225, filed 5/30/14, effective 6/30/14; WSR 14-03-060, § 170-290-0225, filed 1/13/14, effective 2/13/14. Statutory Authority: Chapter 43.215 RCW. WSR 12-21-008, § 170-290-0225, filed 10/5/12, effective 11/5/12. Statutory Authority: RCW 43.215.070, 43.215.060 and chapter 43.215 RCW. WSR 12-11-025, § 170-290-0225, filed 5/8/12, effective 6/8/12. Statutory Authority: RCW 43.215.060, 43.215.070, 2006 c 265, and chapter 43.215 RCW. WSR 09-22-043, § 170-290-0225, filed 10/28/09, effective 12/1/09. WSR 08-08-047, recodified as § 170-290-0225, filed 3/27/08, effective 3/27/08. Statutory Authority: RCW 74.04.050, 74.12.340, 74.13.085, and 2003 1st sp.s. c 25. WSR 04-08-021 and 04-08-134, § 388-290-0225, filed 3/29/04 and 4/7/04, effective 5/28/04. Statutory Authority: RCW 74.04.050, 74.13.085. WSR 02-12-069, § 388-290-0225, filed 5/31/02, effective 7/1/02. Statutory Authority: RCW 74.04.050 and C.F.R. Parts 98 and 99 (Child Care Development Fund Rules). WSR 02-01-135, § 388-290-0225, filed 12/19/01, effective 1/19/02.]

AMENDATORY SECTION (Amending WSR 22-05-007, filed 2/3/22, effective 3/6/22)

WAC 110-15-3770 Authorized SCC payments. The SCC program may authorize payments to licensed or certified child care providers as described in WAC 110-15-0190, 110-15-0200, (~~and~~) 110-15-0205, and 110-15-0215.

[Statutory Authority: RCW 43.216.055 and 43.216.065. WSR 22-05-007, § 110-15-3770, filed 2/3/22, effective 3/6/22; WSR 20-08-077, § 110-15-3770, filed 3/26/20, effective 4/26/20. WSR 18-14-078, recodified as § 110-15-3770, filed 6/29/18, effective 7/1/18. Statutory Authority: RCW 43.215.070, chapter 43.215 RCW. WSR 16-19-107, § 170-290-3770, filed 9/21/16, effective 10/22/16. Statutory Authority: RCW 43.215.060, 43.215.070, and chapter 43.215 RCW. WSR 16-09-059, § 170-290-3770, filed 4/15/16, effective 5/16/16; WSR 11-12-078, § 170-290-3770, filed 5/31/11, effective 7/1/11. Statutory Authority: RCW 43.215.060, 43.215.070, 2006 c 265, and chapter 43.215 RCW. WSR 09-22-043, § 170-290-3770, filed 10/28/09, effective 12/1/09.]