

# Chapter 170-290 WAC

## WORKING CONNECTIONS AND SEASONAL CHILD CARE SUBSIDY PROGRAMS

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170-290-0100	When WCCC benefits start for consumers not receiving TANF. [Statutory Authority: RCW 43.215.060, 43.215.070, 2006 c 265, and chapter 43.215 RCW. WSR 09-22-043, § 170-290-0100, filed 10/28/09, effective 12/1/09. WSR 08-08-047, recodified as § 170-290-0100, 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, § 388-290-0100, filed 3/29/04 and 4/7/04, effective 5/28/04. Statutory Authority: RCW 74.04.050 and C.F.R. Parts 98 and 99 (Child Care Development Fund Rules). WSR 02-01-135, § 388-290-0100, filed 12/19/01, effective 1/19/02.] Repealed by WSR 11-18-001, filed 8/24/11, effective 9/24/11. Statutory Authority: Chapter 43.215 RCW, RCW 43.215.060, 43.215.070, 2011 1st sp.s. c 42, 2011 1st sp.s. c 50, and 2006 c 265 § 501.	170-290-0273	When would my licensed or certified provider or DSHS contracted seasonal day camp get an overpayment? [WSR 08-08-047, recodified as § 170-290-0273, filed 3/27/08, effective 3/27/08. Statutory Authority: RCW 74.04.050, 74.12.340, and 74.13.085. WSR 05-22-078, § 388-290-0273, filed 10/31/05, effective 12/1/05. 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, § 388-290-0273, filed 3/29/04 and 4/7/04, effective 5/28/04.] Repealed by WSR 09-22-043, filed 10/28/09, effective 12/1/09. Statutory Authority: 2006 c 265 and chapter 43.215 RCW. Later promulgation, see WAC 170-290-0268.
170-290-0105	How do I reapply for WCCC when my eligibility period is ending? [WSR 08-08-047, recodified as § 170-290-0105, 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, § 388-290-0105, 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, § 388-290-0105, 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, § 388-290-0105, filed 12/19/01, effective 1/19/02.] Repealed by WSR 09-22-043, filed 10/28/09, effective 12/1/09. Statutory Authority: 2006 c 265 and chapter 43.215 RCW. Later promulgation, see WAC 170-290-0109.	170-290-0274	When would my in-home/relative provider get an overpayment? [WSR 08-08-047, recodified as § 170-290-0274, filed 3/27/08, effective 3/27/08. Statutory Authority: RCW 74.04.050, 74.12.340, and 74.13.085. WSR 05-22-078, § 388-290-0274, filed 10/31/05, effective 12/1/05.] Repealed by WSR 09-22-043, filed 10/28/09, effective 12/1/09. Statutory Authority: 2006 c 265 and chapter 43.215 RCW. Later promulgation, see WAC 170-290-0268.
		170-290-3510	SCC definitions. [Statutory Authority: RCW 43.215.060, 43.215.070, 2006 c 265, and chapter 43.215 RCW. WSR 09-22-043, § 170-290-3510, filed 10/28/09, effective 12/1/09.] Repealed by WSR 11-12-078, filed 5/31/11, effective 7/1/11. Statutory Authority: RCW 43.215.060, 43.215.070, and chapter 43.215 RCW.
		170-290-3670	Preauthorization for the SCC program. [Statutory Authority: RCW 43.215.060, 43.215.070, 2006 c 265, and chapter 43.215 RCW. WSR 09-22-043, § 170-290-

- 3670, filed 10/28/09, effective 12/1/09.] Repealed by WSR 11-12-078, filed 5/31/11, effective 7/1/11. Statutory Authority: RCW 43.215.060, 43.215.070, and chapter 43.215 RCW.
- 170-290-3820 Review of eligibility and copayment information. [Statutory Authority: RCW 43.215.060, 43.215.070, 2006 c 265, and chapter 43.215 RCW. WSR 09-22-043, § 170-290-3820, filed 10/28/09, effective 12/1/09.] Repealed by WSR 11-12-078, filed 5/31/11, effective 7/1/11. Statutory Authority: RCW 43.215.060, 43.215.070, and chapter 43.215 RCW.
- 170-290-3830 Redetermination of SCC benefits. [Statutory Authority: RCW 43.215.060, 43.215.070, 2006 c 265, and chapter 43.215 RCW. WSR 09-22-043, § 170-290-3830, filed 10/28/09, effective 12/1/09.] Repealed by WSR 11-12-078, filed 5/31/11, effective 7/1/11. Statutory Authority: RCW 43.215.060, 43.215.070, and chapter 43.215 RCW.

## PART I. INTRODUCTION

**WAC 170-290-0001 Purpose and intent.** (1) This chapter establishes the requirements for eligible families to receive subsidized child care through the working connections child care (WCCC) and seasonal child care (SCC) programs under applicable state and federal law, to the extent of available funds. As used in chapter 170-290 WAC, "to the extent of available funds" includes one or more of the following:

- (a) Limiting or closing enrollment;
  - (b) Establishing a priority list for new enrollees subject to applicable state and federal law; or
  - (c) Creating and maintaining a waiting list.
- (2) The purpose of WCCC, as provided in part II of this chapter, is to:
- (a) Assist eligible families in obtaining child care subsidies for approvable activities that enable them to work, attend training, or enroll in educational programs; and
  - (b) Consider the health and safety of children while they are in care and receiving child care subsidies.
- (3) The purpose of SCC, as provided in part III of this chapter, is to:
- (a) Assist eligible families who are seasonally employed in agriculturally related work to pay for licensed child care; and
  - (b) Consider the health and safety of children while they are in care and receiving child care subsidies.

[Statutory Authority: Chapter 43.215 RCW, RCW 43.215.060, 43.215.070, 2011 1st sp.s. c 42, 2011 1st sp.s. c 50, and 2006 c 265 § 501. WSR 11-18-001, § 170-290-0001, filed 8/24/11, effective 9/24/11. Statutory Authority: RCW 43.215.060, 43.215.070, 2006 c 265, and chapter 43.215 RCW. WSR 09-22-043, § 170-290-0001, filed 10/28/09, effective 12/1/09. WSR 08-08-047, recodified as § 170-290-0001, 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, § 388-290-0001, filed 3/29/04 and 4/7/04, effective 5/28/04. Statutory Authority: RCW 74.04.050 and C.F.R. Parts 98 and 99 (Child Care Development Fund Rules). WSR 02-01-135, § 388-290-0001, filed 12/19/01, effective 1/19/02.]

### **WAC 170-290-0002 Scope of agency responsibilities.**

- (1) The responsibilities of the department of early learning (DEL) include, but are not limited to:
- (a) Determining child care subsidy policy for the WCCC and SCC programs, including determining thresholds for eligibility and copayment amounts and establishing rights and responsibilities. DEL is also designated as the lead agency for

child care and development funds (CCDF) and oversees expenditure of CCDF funds; and

(b) Serving as the designated representative for the state to implement the collective bargaining agreement under RCW 41.56.028 for in-home/relative providers as defined in WAC 170-290-0003(7), and for all licensed family child care providers.

(2) The responsibilities of the department of social and health services (DSHS) include, but are not limited to, service delivery for the WCCC and SCC programs, including determining who is eligible for WCCC and SCC benefits, authorizing payments for these programs, and managing payments made to providers that receive WCCC and SCC subsidies.

(3) This allocation between DEL and DSHS is pursuant to section 501(2), chapter 265, Laws of 2006 (2SHB 2964), in which the legislature transferred all of the powers, duties, and functions relating to the WCCC program from DSHS to DEL, except for eligibility staffing and eligibility payment functions, which remain in DSHS.

[Statutory Authority: RCW 43.215.060, 43.215.070, and chapter 43.215 RCW. WSR 11-12-078, § 170-290-0002, 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, § 170-290-0002, filed 10/28/09, effective 12/1/09.]

**WAC 170-290-0003 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.

**"Authorization"** means the documentation that DSHS gives to providers specifying units of full-day, half-day or hourly child care a family may receive during their eligibility period, which may be adjusted based on the family's need for care or changes in eligibility.

**"Available"** means being free to provide care when not participating in an approved work activity under WAC 170-290-0040, 170-290-0045, 170-290-0050, or 170-290-0055 during the time child care is needed.

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

**"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 receiving:

- (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 toward the cost of child care each month.

**"Days"** means calendar days unless otherwise specified.

**"DEL"** means the department of early learning.

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

**"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.

**"Employment"** or **"work"** means engaging in any legal, income generating activity that is taxable under the United States Tax Code or that would be taxable with or without a treaty between an Indian Nation and the United States. This includes unsubsidized employment, as verified by an employee's pay stubs or DSHS employer verification form, 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.

**"In-home/relative provider"** or **"license-exempt provider,"** referred to in the collective bargaining agreement as **"family, friends and neighbors provider"** or **"FFN provider,"** means a provider who meets the requirements in WAC 170-290-0130 through 170-290-0167.

**"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.

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

**"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.

**"Seasonally available labor"** or **"seasonally available agricultural related work"** means work that is available only in a specific season during part of the calendar year. The work is directly related to the cultivation, production, harvesting or processing of fruit trees or crops.

**"Self-employment"** means engaging in any legal income generating activity that is taxable under the United States Tax Code or that would be taxable with or without a treaty between an Indian Nation and the United States, as verified by Washington state business license, or a tribal, county, or city business or occupation license, as applicable, and a uniform business identification (UBI) number for approved self-employment activities that occur outside of the home. Incorporated businesses are not considered self-employment enterprises.

**"Waiting list"** means a list of families who are currently working and waiting for child care subsidies when funding is not available to meet the requests from all eligible families.

**"WCCC"** means the working connections child care program, which is a child care subsidy program described in part II of this chapter that assists eligible families in obtaining child care subsidies for approvable activities that enable them to work, attend training, or enroll in educational programs outside the consumer's home.

[Statutory Authority: RCW 43.215.070, 43.215.060 and chapter 43.215 RCW. 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.]

## PART II. WORKING CONNECTIONS CHILD CARE

### Eligibility Requirements

**WAC 170-290-0005 Eligibility.** (1) **Parents.** To be eligible for WCCC, the person applying for benefits must:

(a) Have parental control of one or more eligible children;

(b) Live in the state of Washington;

(c) Be the child's:

(i) Parent, either biological or adopted;

(ii) Stepparent;

(iii) Legal guardian verified by a legal or court document;

(iv) Adult sibling or step-sibling;

(v) Nephew or niece;

(vi) Aunt;

(vii) Uncle;

(viii) Grandparent;

(ix) Any of the relatives in (c)(vi), (vii), or (viii) of this subsection with the prefix "great," such as great-aunt; or

(x) An approved in loco parentis custodian responsible for exercising day-to-day care and control of the child and who is not related to the child as described above;

(d) Participate in an approved activity under WAC 170-290-0040, 170-290-0045, 170-290-0050, or have been approved per WAC 170-290-0055;

(e) Comply with any special circumstances that might affect WCCC eligibility under WAC 170-290-0020;

(f) Have countable income at or below two hundred percent of the federal poverty guidelines (FPG). The consumer's eligibility shall end if the consumer's countable income is greater than two hundred percent of the FPG;

(g) Not have a monthly copayment that is higher than the state will pay for all eligible children in care;

(h) Complete the WCCC application and DSHS verification process regardless of other program benefits or services received; and

(i) Meet eligibility requirements for WCCC described in Part II of this chapter.

(2) **Children.** To be eligible for WCCC, the child must:

(a) Belong to one of the following groups as defined in WAC 388-424-0001:

(i) A U.S. citizen;

(ii) A U.S. national;

(iii) A qualified alien; or

(iv) A nonqualified alien who meets the Washington state residency requirements as listed in WAC 388-468-0005;

(b) Live in Washington state, and be:

(i) Less than age thirteen; or

(ii) Less than age nineteen, and:

(A) Have a verified special need, according WAC 170-290-0220; or

(B) Be under court supervision.

[Statutory Authority: Chapter 43.215 RCW. WSR 12-21-008, § 170-290-0005, filed 10/5/12, effective 11/5/12. Statutory Authority: Chapter 43.215 RCW, RCW 43.215.060, 43.215.070, 2011 1st sp.s. c 42, 2011 1st sp.s. c 50, and 2006 c 265 § 501. WSR 11-18-001, § 170-290-0005, filed 8/24/11, effective 9/24/11. Statutory Authority: RCW 43.215.060, 43.215.070, 2006 c 265, and chapter 43.215 RCW. WSR 09-22-043, § 170-290-0005, filed 10/28/09, effective 12/1/09. WSR 08-08-047, recodified as § 170-290-0005, 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, § 388-290-0005, filed 3/29/04 and 4/7/04, effective 5/28/04. Statutory Authority: RCW 74.04.050 and C.F.R. Parts 98 and 99 (Child Care Development Fund Rules). WSR 02-01-135, § 388-290-0005, filed 12/19/01, effective 1/19/02.]

**WAC 170-290-0012 Verifying consumers' information.** (1) A consumer must complete the DSHS application for WCCC benefits and provide all required information to DSHS to determine eligibility when:

- (a) The consumer initially applies for benefits; or
- (b) The consumer reapplies for benefits.

(2) A consumer must provide verification to DSHS to determine if he or she continues to qualify for benefits during his or her eligibility period when there is a change of circumstances under WAC 170-290-0031.

- (3) All verification that is provided to DSHS must:
  - (a) Clearly relate to the information DSHS is requesting;
  - (b) Be from a reliable source; and
  - (c) Be accurate, complete, and consistent.

(4) If DSHS has reasonable cause to believe that the information is inconsistent, conflicting or outdated, DSHS may:

(a) Ask the consumer to provide DSHS with more verification or provide a collateral contact (a "collateral contact" is a statement from someone outside of the consumer's residence that knows the consumer's situation); or

(b) Send an investigator from the DSHS office of fraud and accountability (OFA) to make an unannounced visit to the consumer's home to verify the consumer's circumstances. See WAC 170-290-0025(9).

(5) The verification that the consumer gives to DSHS includes, but is not limited to, the following:

- (a) A current WorkFirst IRP for consumers receiving TANF;
- (b) Employer name, address, and phone number;
- (c) State business registration and license, if self-employed;
- (d) Work, school, or training schedule (when requesting child care for non-TANF activities);
- (e) Hourly wage or salary;
- (f) Either the:
  - (i) Gross income for the last three months;
  - (ii) Federal income tax return for the preceding calendar year; or
  - (iii) DSHS employment verification form;
- (g) Monthly unearned income the consumer receives, such as child support or supplemental security income (SSI) benefits;
- (h) If the other parent is in the household, the same information for them;
- (i) Proof that the child belongs to one of the following groups as defined in WAC 388-424-0001:
  - (i) A U.S. citizen;
  - (ii) A U.S. national;
  - (iii) A qualified alien; or
  - (iv) A nonqualified alien who meets the Washington state residency requirements as listed in WAC 388-468-0005;
  - (j) Name and phone number of the licensed child care provider; and
  - (k) For the in-home/relative child care provider, a:

(i) Completed and signed criminal background check form;

(ii) Legible copy of the proposed provider's photo identification, such as a driver's license, Washington state identification, or passport;

(iii) Legible copy of the proposed providers' valid Social Security card; and

(iv) All other information required by WAC 170-290-0135.

(6) If DSHS requires verification from a consumer that costs money, DSHS must pay for the consumer's reasonable costs.

(7) DSHS does not pay for a self-employed consumer's state business registration or license, which is a cost of doing business.

(8) If a consumer does not provide all of the verification requested, DSHS will determine if a consumer is eligible based on the information already available to DSHS.

[Statutory Authority: Chapter 43.215 RCW. WSR 12-21-008, § 170-290-0012, 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, § 170-290-0012, filed 5/8/12, effective 6/8/12. Statutory Authority: Chapter 43.215 RCW, RCW 43.215.060, 43.215.070, 2011 1st sp.s. c 42, 2011 1st sp.s. c 50, and 2006 c 265 § 501. WSR 11-18-001, § 170-290-0012, filed 8/24/11, effective 9/24/11. Statutory Authority: RCW 43.215.060, 43.215.070, 2006 c 265, and chapter 43.215 RCW. WSR 09-22-043, § 170-290-0012, filed 10/28/09, effective 12/1/09. WSR 08-08-047, recodified as § 170-290-0012, 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, § 388-290-0012, filed 3/29/04 and 4/7/04, effective 5/28/04.]

**WAC 170-290-0015 Eligibility—Family size.** DSHS determines a consumer's family size as follows:

<b>(1) If a consumer's family includes:</b>	<b>DSHS counts the following individuals as part of the family for WCCC eligibility:</b>
(a) A single parent, including a minor parent living independently.	The consumer and the consumer's children.
(b) Unmarried parents who have at least one mutual child.	Both parents and all their children living in the household.
(c) Unmarried parents with no mutual children.	Unmarried parents and their respective children living in the household as separate WCCC families.
(d) Married parents.	Both parents and all their children living in the household.
(e) Parents who are undocumented aliens as defined in WAC 388-424-0001.	Parents and children, documented and undocumented, as long as the child needing care belongs to one of the following groups as defined in WAC 388-414-0001: <ul style="list-style-type: none"> <li>(i) A U.S. citizen;</li> <li>(ii) A U.S. national;</li> <li>(iii) A qualified alien; or</li> </ul>

	(iv) A nonqualified alien who meets the Washington state residency requirements as listed in WAC 388-468-0005. All other family rules in this section apply.
(f) A legal guardian verified by a legal or court document; adult sibling or step-sibling; nephew, niece, aunt, uncle, grandparent; or great-nephew, great-niece, great-aunt, great-uncle, or great-grandparent.	The children only (the children and their income are counted).
(g) A minor parent with children and lives with a parent/guardian.	Only the minor parent and their children.
(h) A parent who is out of the household because of employer requirements, such as the military or training, and is expected to return to the household.	The consumer, the absent parent, and the children. Subsection (1)(b) and (d) of this section apply.
(i) A parent who is voluntarily out of the household for reasons other than requirements of the employer, such as unapproved schooling and visiting family members, and is expected to return to the household.	The consumer, the absent parent, and the children. Subsection (1)(b) and (d) of this section apply as well as WAC 170-290-0020.
(j) An incarcerated parent.	The incarcerated individual is not part of the household count in determining income and eligibility. DSHS counts all remaining household members. All other family rules in this section apply.
<b>(2) If the consumer's household includes:</b>	<b>DSHS counts the following individuals as part of the family for WCCC eligibility:</b>
(a) Eighteen year old siblings of the children who require care and are enrolled in high school or general equivalency diploma (GED) program.	The eighteen year olds (unless they are a parent themselves), until they turn nineteen or complete high school/GED, whichever comes first. All other family rules in this section apply.
(b) Siblings of the children requiring care who are up to twenty-one years of age and who are participating in an approved program through	The individual participating in an approved program through RCW 28A.155.020 up to twenty-one years of age (unless they are a parent

the school district's special education department under RCW 28A.155.020.	themselves). All other family rules in this section apply.
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[Statutory Authority: Chapter 43.215 RCW, RCW 43.215.060, 43.215.070, 2011 1st sp.s. c 42, 2011 1st sp.s. c 50, and 2006 c 265 § 501. WSR 11-18-001, § 170-290-0015, filed 8/24/11, effective 9/24/11. Statutory Authority: RCW 43.215.060, 43.215.070, 2006 c 265, and chapter 43.215 RCW. WSR 09-22-043, § 170-290-0015, filed 10/28/09, effective 12/1/09. WSR 08-08-047, recodified as § 170-290-0015, 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, § 388-290-0015, 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, § 388-290-0015, 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, § 388-290-0015, filed 12/19/01, effective 1/19/02.]

**WAC 170-290-0020 Eligibility—Special circumstances. (1) Child care provided at the consumer's place of work.** A consumer is not eligible for WCCC benefits for his or her children when child care is provided at the same location where the consumer works.

**(2) Consumer's child care employment.**

(a) A consumer may be eligible for WCCC benefits during the time she or he works in a child care center but does not provide direct care in the same classroom to his or her children during work hours.

(b) A consumer is not eligible for WCCC benefits during the time she or he works in a family home child care where his or her children are also receiving subsidized child care.

(c) In-home/relative providers who are paid child care subsidies to care for children receiving WCCC benefits may not receive those benefits for their own children during the hours in which they provide subsidized child care.

(d) A child care provider who receives TANF benefits on behalf of a dependent child may not bill the state for subsidized child care for that same child.

**(3) Two-parent family.**

(a) A consumer may be eligible for WCCC if he or she is a parent in a two-parent family and one parent is not able or available as defined in WAC 170-290-0003 to provide care for the children while the other parent is working or participating in approved activities.

(b) If a consumer claims one parent is not able to care for the children the consumer must provide written documentation from a licensed professional (see WAC 388-448-0020) that states the:

- (i) Reason the parent is not able to care for the children;
- (ii) Expected duration and severity of the condition that keeps the parent from caring for the children; and

(iii) Treatment plan if the parent is expected to improve enough to be able to care for the children. The parent must provide evidence from a medical professional showing he or she is cooperating with treatment and is still not able to care for the children.

**(4) Single-parent family.** A consumer is not eligible for WCCC benefits when he or she is the only parent in the family and will be away from the home for more than thirty days in a row.

**(5) Legal guardians.**

(a) A legal guardian under WAC 170-290-0005 may receive WCCC benefits for his or her work or approved activ-

ities without his or her spouse or live-in partner's availability to provide care being considered unless his or her spouse or live-in partner is also named on the permanent custody order.

(b) Eligibility for WCCC benefits is based on the consumer's work or approved activities schedule, the child's need for care, and the child's income eligibility and family size of one.

(c) The consumer's spouse or live-in partner is not eligible to receive subsidized child care payments as a child care provider for the child.

**(6) In loco parentis custodians.**

(a) An in loco parentis custodian may be eligible for WCCC benefits when he or she cares for an eligible child in the absence of the child's legal guardian or biological, adoptive or step-parents.

(b) An in loco parentis custodian who is not related to the child as described in WAC 170-290-0005(1) may be eligible for WCCC benefits if he or she has:

(i) A written, signed agreement between the parent and the caregiver assuming custodial responsibility; or

(ii) Receives a TANF grant on behalf of the eligible child.

(c) Eligibility for WCCC benefits is based on his or her work schedule, the child's need for care, and the child's income eligibility and family size of one.

(d) The consumer's spouse or live-in partner is not eligible to receive subsidized child care payments as a child care provider for the child.

**(7) WorkFirst sanction.**

(a) A consumer may be eligible for WCCC if he or she is a sanctioned WorkFirst participant and participating in an activity needed to remove a sanction penalty or to reopen his or her WorkFirst case.

(b) A WorkFirst participant who loses his or her TANF grant due to exceeding the federal time limit for receiving TANF may still be eligible for WCCC benefits under WAC 170-290-0055.

[Statutory Authority: Chapter 43.215 RCW, RCW 43.215.060, 43.215.070, 2011 1st sp.s. c 42, 2011 1st sp.s. c 50, and 2006 c 265 § 501. WSR 11-18-001, § 170-290-0020, filed 8/24/11, effective 9/24/11. Statutory Authority: RCW 43.215.060, 43.215.070, 2006 c 265, and chapter 43.215 RCW. WSR 09-22-043, § 170-290-0020, filed 10/28/09, effective 12/1/09. WSR 08-08-047, recodified as § 170-290-0020, filed 3/27/08, effective 3/27/08. Statutory Authority: RCW 74.04.050, 74.04.055, 74.04.057, 74.08.090, 74.08A.260, chapter 74.08A RCW. WSR 06-10-035, § 388-290-0020, filed 4/27/06, effective 6/1/06. Statutory Authority: RCW 74.04.050, 74.12.340, and 74.13.085. WSR 05-22-078, § 388-290-0020, filed 10/31/05, effective 12/1/05. 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, § 388-290-0020, 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, § 388-290-0020, 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, § 388-290-0020, filed 12/19/01, effective 1/19/02.]

## Rights and Responsibilities

**WAC 170-290-0025 Consumers' rights.** When a consumer applies for or receives WCCC benefits, the consumer has the right to:

(1) Be free from discrimination in accordance with all applicable federal and state nondiscrimination laws, regulations, and policies;

(2) Have WCCC eligibility determined within thirty days from his or her application date per WAC 170-290-0095;

(3) Be informed, in writing, of his or her legal rights and responsibilities related to WCCC benefits;

(4) Receive a written notice at least ten days before DSHS makes changes to lower or stop benefits except as stated in WAC 170-290-0120;

(5) Ask for an administrative hearing if he or she does not agree with DSHS about a decision per WAC 170-290-0280;

(6) Ask a supervisor or administrator to review a decision or action affecting the consumer's benefits without affecting the right to an administrative hearing;

(7) Have an interpreter or translator service provided by DSHS within a reasonable amount of time and at no cost to the consumer;

(8) Choose a provider as long as the provider meets the requirements in WAC 170-290-0125;

(9) Ask the fraud early detection (FRED) investigator from the DSHS office of fraud and accountability (OFA) to come back at another time. A consumer does not have to let an investigator into his or her home. This request will not affect the consumer's eligibility for benefits. If the consumer refuses to cooperate (provide the information requested) with the investigator, it could affect his or her benefits;

(10) Access his or her child at all times while the child is in child care;

(11) Terminate child care without cause and without notice to the provider. Notice must be given to DSHS within five days of termination;

(12) Not be charged by the consumer's licensed, certified, or license-exempt provider, or be made to pay for the difference between the provider's private rate and the state maximum rate, when the provider's private rate for child care is higher than the maximum state rate;

(13) Not be charged by the consumer's licensed or certified provider, or be made to pay for:

(a) The difference between the provider's registration fee and the state's maximum registration fee, when the provider's registration fee is higher;

(b) Any day when the consumer's child is absent;

(c) Vacation days when the provider chooses to close;

(d) A higher amount than the state allows for field trips.

If the consumer requests, and the provider has a written policy in place, the consumer may voluntarily pay the difference between the amount that the state allows and the actual field trip cost;

(e) A preschool tuition fee in addition to regular child care services; or

(f) Child care services after the final day of care, when the provider stops caring for the consumer's children.

[Statutory Authority: RCW 43.215.070, 43.215.060 and chapter 43.215 RCW. WSR 12-11-025, § 170-290-0025, filed 5/8/12, effective 6/8/12. Statutory Authority: Chapter 43.215 RCW, RCW 43.215.060, 43.215.070, 2011 1st sp.s. c 42, 2011 1st sp.s. c 50, and 2006 c 265 § 501. WSR 11-18-001, § 170-290-0025, filed 8/24/11, effective 9/24/11. Statutory Authority: RCW 43.215.060, 43.215.070, 2006 c 265, and chapter 43.215 RCW. WSR 09-22-043, § 170-290-0025, filed 10/28/09, effective 12/1/09. WSR 08-08-047, recodified as § 170-290-0025, 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, § 388-290-0025, filed 3/29/04 and 4/7/04, effective 5/28/04. Statutory Authority: RCW 74.04.050 and C.F.R. Parts 98

and 99 (Child Care Development Fund Rules). WSR 02-01-135, § 388-290-0025, filed 12/19/01, effective 1/19/02.]

**WAC 170-290-0030 Consumers' responsibilities.**

When a person applies for or receives WCCC benefits, the applicant or consumer must, as a condition of receiving those benefits:

(1) Give DSHS correct and current information so DSHS can determine eligibility and authorize child care payments correctly;

(2) Choose a provider who meets requirements of WAC 170-290-0125;

(3) Pay the copayment directly to the child care provider or arrange for a third party to pay the copayment directly to the provider;

(4) In cases of overdue or past due copayments, the consumer, as a condition of maintaining his or her eligibility, must do one or more of the following:

(a) Pay past or overdue copayments;

(b) Give DSHS a written agreement between the provider and consumer to verify that copayment arrangements include one or more of the following:

(i) An installment payment plan;

(ii) A collection agency payment plan;

(iii) In-kind services in lieu of paying the copayment;

(iv) Forgiveness of the copayment from the provider; or

(c) Provide proof that the consumer has attempted to pay a copayment to a licensed provider who is no longer in business or a license-exempt provider who is no longer providing child care. "Proof" includes, but is not limited to, a return receipt that was signed for and not responded to, or a returned document that was not picked up;

(5) Only use WCCC benefits while the consumer is working or in WCCC approved activities outside the consumer's home;

(6) Pay the provider for child care services when he or she requests additional child care for personal reasons other than working or participating in WCCC approved activities that have been authorized by DSHS;

(7) Pay the provider for optional child care programs that he or she requests. The provider must have a written policy in place charging all families for these optional child care programs;

(8) Pay the provider the same late fees that are charged to other families, if the consumer pays a copayment late or picks up the child late;

(9) Ensure that care is provided in the correct home per WAC 170-290-130 if the consumer uses an in-home/relative provider, and monitor the in-home/relative provider's quality of care to ensure that the child's environmental, physical, nutritional, emotional, cognitive, safety, and social needs are being met;

(10) Cooperate (provide the information requested) with the child care subsidy audit process to remain eligible for WCCC. A consumer becomes ineligible for WCCC benefits upon a determination of noncooperation and remains ineligible until he or she meets child care subsidy audit requirements. If DSHS determines that a consumer is not cooperating, the consumer will not be eligible for WCCC benefits. The consumer may become eligible again when he or she meets WCCC requirements in part II of this chapter;

(11) Provide the information requested by the fraud early detection (FRED) investigator from the DSHS office of fraud and accountability (OFA). If the consumer refuses to provide the information requested within fourteen days, it could affect his or her benefits;

(12) Document their child's attendance in subsidized child care by having the consumer or other person authorized by the consumer to take the child to or from the child care:

(a) If the provider uses a paper attendance record, sign the child in on arrival and sign the child out at departure, using their full signature and writing the time of arrival and departure; or

(b) Record the child's attendance using an electronic system if used by the provider;

(13) Provide to his or her in-home/relative provider the names, addresses, and telephone numbers of persons who are authorized to pick up the child from care; and

(14) Ensure that their children who receive subsidized child care outside of their own home are current on all immunizations required under WAC 246-105-030, except when the parent or guardian provides:

(a) A department of health (DOH) medical exemption form signed by a health care professional; or

(b) A DOH form or similar statement signed by the child's parent or guardian expressing a religious, philosophical or personal objection to immunization.

[Statutory Authority: RCW 43.215.070, 43.215.060 and chapter 43.215 RCW. WSR 12-11-025, § 170-290-0030, filed 5/8/12, effective 6/8/12. Statutory Authority: Chapter 43.215 RCW, RCW 43.215.060, 43.215.070, 2011 1st sp.s. c 42, 2011 1st sp.s. c 50, and 2006 c 265 § 501. WSR 11-18-001, § 170-290-0030, filed 8/24/11, effective 9/24/11. Statutory Authority: RCW 43.215.060, 43.215.070, 2006 c 265, and chapter 43.215 RCW. WSR 09-22-043, § 170-290-0030, filed 10/28/09, effective 12/1/09. WSR 08-08-047, recodified as § 170-290-0030, filed 3/27/08, effective 3/27/08. Statutory Authority: RCW 74.04.050, 74.12.340, and 74.13.085. WSR 05-22-078, § 388-290-0030, filed 10/31/05, effective 12/1/05. 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, § 388-290-0030, filed 3/29/04 and 4/7/04, effective 5/28/04. Statutory Authority: RCW 74.04.050 and C.F.R. Parts 98 and 99 (Child Care Development Fund Rules). WSR 02-01-135, § 388-290-0030, filed 12/19/01, effective 1/19/02.]

**WAC 170-290-0031 Notification of changes.** When a consumer applies for or receives WCCC benefits, he or she must:

(1) Notify DSHS, within five days, of any change in providers;

(2) Notify the consumer's provider within ten days when DSHS changes his or her child care authorization;

(3) Notify DSHS within ten days of any significant change related to the consumer's copayment or eligibility, including:

(a) The number of child care hours the consumer needs (more or less hours);

(b) The consumer's countable income, including any TANF grant or child support increases or decreases, only if the change would cause the consumer's countable income to exceed the maximum eligibility limit as provided in WAC 170-290-0005. A consumer may notify DSHS at any time of a decrease in the consumer's household income, which may lower the consumer's copayment under WAC 170-290-0085;

(c) The consumer's household size such as any family member moving in or out of his or her home;



- (d) Employment, school or approved TANF activity (starting, stopping or changing);
- (e) The address and telephone number of the consumer's in-home/relative provider;
- (f) The consumer's home address and telephone number; and
- (g) The consumer's legal obligation to pay child support;
- (4) Report to DSHS, within twenty-four hours, any pending charges or conviction information the consumer learns about his or her in-home/relative provider; and
- (5) Report to DSHS, within twenty-four hours, any pending charges or conviction information the consumer learns about anyone sixteen years of age and older who lives with the provider when care occurs outside of the child's home.

[Statutory Authority: Chapter 43.215 RCW. WSR 12-21-008, § 170-290-0031, 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, § 170-290-0031, filed 5/8/12, effective 6/8/12. Statutory Authority: RCW 43.215.060, 43.215.070, chapter 43.215 RCW, and 2010 c 273. WSR 11-01-090, § 170-290-0031, filed 12/14/10, effective 1/14/11. Statutory Authority: RCW 43.215.060, 43.215.070, 2006 c 265, and chapter 43.215 RCW. WSR 09-22-043, § 170-290-0031, filed 10/28/09, effective 12/1/09. WSR 08-08-047, recodified as § 170-290-0031, 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, § 388-290-0031, filed 3/29/04 and 4/7/04, effective 5/28/04.]

**WAC 170-290-0032 Failure to report changes.** A consumer's failure to report changes as required in WAC 170-290-0031 within the stated time frames may cause:

- (1) A copayment error. The consumer may be required to pay a higher copayment as stated in WAC 170-290-0085; or
- (2) A WCCC payment error. If an overpayment occurs, the consumer may receive an overpayment for what the provider is allowed to bill, including billing for absent days (see publication *Child Care Subsidies, A Booklet for Licensed and Certified Child Care Providers*, revised 2012).

[Statutory Authority: RCW 43.215.070, 43.215.060 and chapter 43.215 RCW. WSR 12-11-025, § 170-290-0032, filed 5/8/12, effective 6/8/12. Statutory Authority: RCW 43.215.060, 43.215.070, chapter 43.215 RCW, and 2010 c 273. WSR 11-01-090, § 170-290-0032, filed 12/14/10, effective 1/14/11. Statutory Authority: RCW 43.215.060, 43.215.070, 2006 c 265, and chapter 43.215 RCW. WSR 09-22-043, § 170-290-0032, filed 10/28/09, effective 12/1/09. WSR 08-08-047, recodified as § 170-290-0032, filed 3/27/08, effective 3/27/08. Statutory Authority: RCW 74.04.050, 74.12.340, and 74.13.085. WSR 05-22-078, § 388-290-0032, filed 10/31/05, effective 12/1/05. 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, § 388-290-0032, filed 3/29/04 and 4/7/04, effective 5/28/04.]

**WAC 170-290-0034 Providers' responsibilities.** Child care providers who accept child care subsidies must do the following:

- (1) Comply with:
  - (a) All of the DEL child care licensing or certification requirements as provided in chapter 170-295, 170-296A, or 170-151 WAC, for child care providers who are licensed or certified; or
  - (b) All of the requirements in WAC 170-290-0130 through 170-290-0167, 170-290-0250, and 170-290-0268, for child care providers who provide in-home/relative care;
- (2) Report pending charges or convictions to DSHS as provided in:
  - (a) Chapter 170-295, 170-296A, or 170-151 WAC, for child care providers who are licensed or certified; or

- (b) WAC 170-290-0138 (2) and (3), for child care providers who provide in-home/relative care;

- (3) Keep complete and accurate daily attendance records for children in their care, and allow access to DEL to inspect attendance records during all hours in which authorized child care is provided as follows:

- (a) Current attendance records (including records from the previous twelve months) must be available immediately for review upon request by DEL.

- (b) Attendance records older than twelve months to five years old must be provided to DSHS or DEL within two weeks of the date of a written request from either department.

- (c) Failure to make available attendance records as provided in this subsection may:

- (i) Result in the immediate suspension of the provider's subsidy payments; and

- (ii) Establish a provider overpayment as provided in WAC 170-290-0268;

- (4) Allow consumers access to their child at all times while the child is in care;

- (5) Collect copayments directly from the consumer or the consumer's third-party payor, and report to DSHS if the consumer has not paid a copayment to the provider within the previous sixty days;

- (6) Follow billing procedures:

- (a) As described in "*Child Care Subsidies: A Booklet for Licensed and Certified Child Care Providers*," revised 2012, for licensed and certified providers, including billing only for actual hours of child care both authorized and provided or allowed under WCCC billing guidelines; or

- (b) As described in "*In-Home/Relative Child Care Providers: Information to Help You*," revised 2012, for in-home/relative providers, including billing only for actual hours of child care both authorized and provided;

- (7) Not claim a payment in any month in which a child has not attended at least one day in that month;

- (8) Invoice the state no later than one calendar year after the actual date of service;

- (9) For both licensed and certified providers and in-home/relative providers, not charge subsidized families the difference between the provider's customary rate and the maximum allowed state rate; and

- (10) For licensed and certified providers, not charge subsidized families for:

- (a) Registration fees in excess of what is paid by subsidy program rules;

- (b) Absence days in excess of five days per month, regardless of whether the child attended or not;

- (c) Handling fees to process consumer copayments, child care services payments, or paperwork;

- (d) Fees for materials, supplies, or equipment required to meet licensing rules and regulations; or

- (e) Child care or fees related to subsidy billing invoices that are in dispute between the provider and the state.

[Statutory Authority: RCW 43.215.070, 43.215.060 and chapter 43.215 RCW. WSR 12-11-025, § 170-290-0034, filed 5/8/12, effective 6/8/12.]

**WAC 170-290-0035 DSHS's responsibilities to consumers.** DSHS is responsible to:

- (1) Treat consumers in accordance with all applicable federal and state nondiscrimination laws, regulations, and policies;
- (2) Determine a consumer's eligibility within thirty days from the date the consumer applied (application date as described in WAC 170-290-0095);
- (3) Allow a consumer to choose his or her provider as long as the provider meets the requirements in WAC 170-290-0125;
- (4) Review a consumer's chosen in-home/relative provider's background check results;
- (5) Authorize payments only to child care providers who allow a consumer to access his or her children whenever they are in care;
- (6) Only authorize payment when no adult in a consumer's family (under WAC 170-290-0015) is able or available (under WAC 170-290-0003) to care for the consumer's children;
- (7) Inform a consumer of:
  - (a) His or her rights and responsibilities under the WCCC program at the time of application and reapplication;
  - (b) The types of child care providers DSHS can pay;
  - (c) The community resources that can help a consumer select child care when needed; and
  - (d) Any change in a consumer's copayment during the authorization period except under WAC 170-290-0120(5).
- (8) Respond to a consumer within ten days if the consumer reports a change of circumstance that affects the consumer's:
  - (a) WCCC eligibility;
  - (b) Copayment; or
  - (c) Providers.
- (9) Provide prompt child care payments to a consumer's child care provider;
- (10) Provide an interpreter or translator service within a reasonable amount of time and at no cost to the consumer;
- (11) Ensure that Social Security cards, driver's licenses, or other government-issued identification for in-home/relative providers are valid and verified; and
- (12) For providers who care for children in states bordering Washington, verify that they are currently complying with their state's licensing regulations.

[Statutory Authority: RCW 43.215.070, 43.215.060 and chapter 43.215 RCW. WSR 12-11-025, § 170-290-0035, filed 5/8/12, effective 6/8/12. Statutory Authority: Chapter 43.215 RCW, RCW 43.215.060, 43.215.070, 2011 1st sp.s. c 42, 2011 1st sp.s. c 50, and 2006 c 265 § 501. WSR 11-18-001, § 170-290-0035, filed 8/24/11, effective 9/24/11. Statutory Authority: RCW 43.215.060, 43.215.070, 2006 c 265, and chapter 43.215 RCW. WSR 09-22-043, § 170-290-0035, filed 10/28/09, effective 12/1/09. WSR 08-08-047, recodified as § 170-290-0035, filed 3/27/08, effective 3/27/08. Statutory Authority: RCW 74.04.050, 74.12.340, and 74.13.085. WSR 05-22-078, § 388-290-0035, filed 10/31/05, effective 12/1/05. 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, § 388-290-0035, 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, § 388-290-0035, 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, § 388-290-0035, filed 12/19/01, effective 1/19/02.]

[Ch. 170-290 WAC p. 10]

## Approved Activities

**WAC 170-290-0040 Approved activities for consumers participating in WorkFirst.** Applicants and consumers who participate in WorkFirst activities may be eligible for WCCC benefits for the following approved activities in their individual responsibility plans (IRPs), for up to a maximum of sixteen hours per day, including:

- (1) An approved WorkFirst activity under WAC 388-310-0200, with the following exception: In-home/relative providers who are paid child care subsidies to care for children receiving WCCC benefits may not receive those benefits for their own children during the hours in which they provide subsidized child care. These consumers may be eligible for other approved activities in their IRPs;
- (2) Employment as defined in WAC 170-290-0003;
- (3) Self-employment as defined in WAC 170-290-0003 and as described in the consumer's current WorkFirst IRP;
- (4) Transportation time between the location of child care and the consumer's place of employment or approved activity;
- (5) Up to ten hours per week of study time for approved classes; and
- (6) Up to eight hours of sleep time before or after a night shift.

[Statutory Authority: RCW 43.215.070, 43.215.060 and chapter 43.215 RCW. WSR 12-11-025, § 170-290-0040, filed 5/8/12, effective 6/8/12. Statutory Authority: Chapter 43.215 RCW, RCW 43.215.060, 43.215.070, 2011 1st sp.s. c 42, 2011 1st sp.s. c 50, and 2006 c 265 § 501. WSR 11-18-001, § 170-290-0040, filed 8/24/11, effective 9/24/11. Statutory Authority: RCW 43.215.060, 43.215.070, 2006 c 265, and chapter 43.215 RCW. WSR 09-22-043, § 170-290-0040, filed 10/28/09, effective 12/1/09. WSR 08-08-047, recodified as § 170-290-0040, 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, § 388-290-0040, 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, § 388-290-0040, 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, § 388-290-0040, filed 12/19/01, effective 1/19/02.]

**WAC 170-290-0045 Approved activities for consumers not participating in WorkFirst.** This section applies to applicants and consumers of WCCC who do not participate in WorkFirst activities:

- (1) **General requirements for employment, self-employment, or Basic Food employment and training (BF E&T) program.** He or she may be eligible for WCCC benefits for up to a maximum of sixteen hours per day, including travel, study, and sleep time before or after a night shift, when he or she is:
  - (a) Employed under WAC 170-290-0003;
  - (b) Self-employed under WAC 170-290-0003; or
  - (c) Participating in the BF E&T program under chapter 388-444 WAC.
- (2) **Special requirements for education.**
  - (a) An applicant or consumer who is under twenty-two years of age may be eligible for WCCC benefits for high school (HS) or general educational development (GED) program without a minimum number of employment hours.
  - (b) An applicant or consumer who is twenty-two years of age or older:

(10/31/13)

(i) May be eligible to receive the benefits under this subsection only once during his or her lifetime. In order to qualify for the general education and training benefits under this subsection, he or she must work either:

(A) Twenty or more hours per week of unsubsidized employment; or

(B) Sixteen or more hours per week in a paid federal or state work study program;

(ii) Is limited to up to twenty-four consecutive months of WCCC benefits for participation in:

(A) Adult basic education (ABE);

(B) English as a second language (ESL); or

(C) High school/general educational development (GED) completion; and

(iii) Is limited to up to thirty-six consecutive months of WCCC benefits for participation in vocational education (Voc Ed). The vocational education program must lead to a degree or certificate in a specific occupation and be offered by the following accredited entities only:

(A) Public and private technical college or school;

(B) Community college; or

(C) Tribal college.

[Statutory Authority: Chapter 43.215 RCW. WSR 12-21-008, § 170-290-0045, 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, § 170-290-0045, filed 5/8/12, effective 6/8/12. Statutory Authority: Chapter 43.215 RCW, RCW 43.215.060, 43.215.070, 2011 1st sp.s. c 42, 2011 1st sp.s. c 50, and 2006 c 265 § 501. WSR 11-18-001, § 170-290-0045, filed 8/24/11, effective 9/24/11. Statutory Authority: RCW 43.215.060, 43.215.070, 2006 c 265, and chapter 43.215 RCW. WSR 09-22-043, § 170-290-0045, filed 10/28/09, effective 12/1/09. WSR 08-08-047, recodified as § 170-290-0045, filed 3/27/08, effective 3/27/08. Statutory Authority: RCW 74.12.340. WSR 06-12-094, § 388-290-0045, filed 6/6/06, effective 7/7/06. 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, § 388-290-0045, 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, § 388-290-0045, 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, § 388-290-0045, filed 12/19/01, effective 1/19/02.]

**WAC 170-290-0050 Additional requirements for self-employed WCCC consumers. (1) Self-employment generally.** To be considered self-employed, a WCCC consumer must:

(a) Earn income directly from his or her trade or business, not from wages paid by an employer;

(b) Be responsible to pay his or her self-employment Social Security and federal withholding taxes;

(c) Not have work schedule, activities or services controlled in an employee-employer relationship;

(d) Participate directly in the production of goods or services that generate the consumer's income; and

(e) Work outside of the home during the hours he or she requests WCCC benefits. If a consumer's self-employment activities are split between the home and outside of the home, only self-employment and other approved activities outside of the home will be eligible for child care benefits.

(2) **Self-employed consumers receiving TANF.** If a consumer receives TANF and is also self-employed, he or she may be eligible for WCCC benefits for up to sixteen hours in a twenty-four-hour period for self-employment activities outside of the consumer's home.

(a) The consumer must have an approved self-employment plan in the consumer's IRP under WAC 388-310-1700;

(10/31/13)

(b) The amount of WCCC benefits a consumer receives for self-employment is equal to the number of hours in his or her approved plan; and

(c) Income from self-employment while the consumer is receiving TANF is determined by WAC 388-450-0085.

(3) **Self-employed consumers not receiving TANF.** If a consumer does not receive TANF and requests WCCC benefits for his or her self-employment, he or she may be eligible for WCCC benefits for up to sixteen hours in a twenty-four-hour period for self-employment activities outside of the consumer's home.

(a) Consumers who do not receive TANF cash assistance and request WCCC benefits for self-employment must provide DSHS with his or her:

(i) Washington state business license, or a tribal, county, or city business or occupation license, as applicable;

(ii) Uniform business identification (UBI) number;

(iii) Completed self-employment plan that is written, signed, dated and includes, but is not limited to, a description of the self-employment business, proposed days and hours of work activity including time needed for transportation, and the location of work activity;

(iv) Profit and loss statement (or projected profit and loss statement, if starting a new business); and

(v) Either:

(A) Federal self-employment tax reporting forms for the most current reporting year; or

(B) DSHS self-employment income and expense declaration form.

(b) During the first six consecutive months of starting a new self-employment business, the hours of care the consumer is eligible to receive is based on his or her report of how many hours are needed, up to sixteen hours per day. A consumer is eligible to receive this provision only once during his or her lifetime. The consumer must use the benefit provided by this provision within the consumer's authorization period.

(c) A consumer's need for care after she or he has received WCCC benefits for self-employment for six consecutive months as provided in (b) of this subsection is determined by DSHS in the following manner:

(i) Dividing the consumer's gross monthly self-employment income by the federal or state minimum wage (whichever is lower) to determine the average monthly hours of care needed by the consumer; and

(ii) Adding the consumer's additional child care needs for other approved employment, education, training, or travel to the total approved self-employment hours.

(d) If both parents in a two-parent family are self-employed, at the same or a different business, each parent must report his or her own self-employment earnings and self-employment plan. If the requested verification is not provided, then WAC 170-290-0012(5) applies to determining eligibility.

[Statutory Authority: Chapter 43.215 RCW, RCW 43.215.060, 43.215.070, 2011 1st sp.s. c 42, 2011 1st sp.s. c 50, and 2006 c 265 § 501. WSR 11-18-001, § 170-290-0050, filed 8/24/11, effective 9/24/11. Statutory Authority: RCW 43.215.060, 43.215.070, 2006 c 265, and chapter 43.215 RCW. WSR 09-22-043, § 170-290-0050, filed 10/28/09, effective 12/1/09. WSR 08-08-047, recodified as § 170-290-0050, 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, § 388-290-0050, 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, § 388-290-0050, 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, § 388-290-0050, filed 12/19/01, effective 1/19/02.]

**WAC 170-290-0055 Receipt of benefits when not engaged in approved activities.** When care is approved in the situations described in subsections (1) and (2) of this section, the child needs to attend for the provider to bill.

(1) **Fourteen-day wait period.** DSHS may authorize WCCC payments for a child's attendance in child care for up to fourteen consecutive days when a consumer is waiting to enter an approved activity under WAC 170-290-0040 or 170-290-0045.

(2) **Twenty-eight-day gap period.** DSHS may authorize WCCC payments to ensure a child's continuing attendance in child care for up to twenty-eight consecutive days when a consumer experiences a gap in his or her employment or approved activity. The consumer may be eligible for this twenty-eight-day gap period:

(a) Twice in a calendar year; and

(b) For the same number of units open while the consumer is in the approved activity, not to exceed two hundred thirty hours a month.

(3) The twenty-eight-day gap period must be used within the consumer's authorization period.

(4) In order for a consumer to qualify for the twenty-eight-day gap period:

(a) The consumer must be currently receiving WCCC benefits;

(b) The consumer must report to DSHS within ten days the loss of his or her employment or approved activity; and

(c) The consumer must:

(i) Be looking for another job; or

(ii) Have verbal or written assurance from the consumer's employer or approved activity that the employment or approved activity will resume within the twenty-eight-day gap period.

(5) A consumer is eligible for the minimum copayment during the fourteen-day wait period or twenty-eight-day gap period.

[Statutory Authority: Chapter 43.215 RCW, RCW 43.215.060, 43.215.070, 2011 1st sp.s. c 42, 2011 1st sp.s. c 50, and 2006 c 265 § 501. WSR 11-18-001, § 170-290-0055, filed 8/24/11, effective 9/24/11. Statutory Authority: RCW 43.215.060, 43.215.070, 2006 c 265, and chapter 43.215 RCW. WSR 09-22-043, § 170-290-0055, filed 10/28/09, effective 12/1/09. WSR 08-08-047, recodified as § 170-290-0055, 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, § 388-290-0055, 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, § 388-290-0055, 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, § 388-290-0055, filed 12/19/01, effective 1/19/02.]

### Income and Copayment Calculations

**WAC 170-290-0060 Countable income.** DSHS counts income as money an applicant or consumer earns or receives from:

(1) A TANF grant, except when the grant is for the first three consecutive calendar months after the consumer starts a

new job. The first calendar month is the month in which he or she starts working;

(2) The following child support payment amounts:

(a) For applicants or consumers who are not receiving DSHS division of child support services, the amount as shown on a current court or administrative order; or

(b) For applicants or consumers who are receiving DSHS division of child support services, the amount as verified by the DSHS division of child support.

(3) Supplemental security income (SSI);

(4) Other Social Security payments, such as SSA and SSDI;

(5) Refugee assistance payments;

(6) Payments from the Veterans' Administration, disability payments, or payments from labor and industries (L&I);

(7) Unemployment compensation;

(8) Other types of income not listed in WAC 170-290-0070;

(9) VISTA volunteers, AmeriCorps, and Washington Service Corps (WSC) if the income is taxed;

(10) Gross wages from employment or self-employment as defined in WAC 170-290-0003. Gross wages includes any wages that are taxable;

(11) Corporate compensation received by or on behalf of the consumer, such as rent, living expenses, or transportation expenses;

(12) Lump sums as money a consumer receives from a one-time payment such as back child support, an inheritance, or gambling winnings; and

(13) Income for the sale of property as follows:

(a) If a consumer sold the property before application, DSHS considers the proceeds an asset and does not count as income;

(b) If a consumer sold the property in the month he or she applies or during his or her eligibility period, DSHS counts it as a lump sum payment as described in WAC 170-290-0065(2);

(c) Property does not include small personal items such as furniture, clothes, and jewelry.

[Statutory Authority: Chapter 43.215 RCW. WSR 12-21-008, § 170-290-0060, 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, § 170-290-0060, filed 5/8/12, effective 6/8/12. Statutory Authority: Chapter 43.215 RCW, RCW 43.215.060, 43.215.070, 2011 1st sp.s. c 42, 2011 1st sp.s. c 50, and 2006 c 265 § 501. WSR 11-18-001, § 170-290-0060, filed 8/24/11, effective 9/24/11. Statutory Authority: RCW 43.215.060, 43.215.070, 2006 c 265, and chapter 43.215 RCW. WSR 09-22-043, § 170-290-0060, filed 10/28/09, effective 12/1/09. WSR 08-08-047, recodified as § 170-290-0060, 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, § 388-290-0060, filed 3/29/04 and 4/7/04, effective 5/28/04. Statutory Authority: RCW 74.04.050 and C.F.R. Parts 98 and 99 (Child Care Development Fund Rules). WSR 02-01-135, § 388-290-0060, filed 12/19/01, effective 1/19/02.]

### WAC 170-290-0065 Calculation of income.

DSHS uses a consumer's countable income when determining his or her income eligibility and copayment. A consumer's countable income is the sum of all income listed in WAC 170-290-0060 minus any child support paid out (through a court order, division of child support administrative order, or tribal government order).

(1) To determine a consumer's income, DSHS:

(a) Determines the number of months, weeks or pay periods it took the consumer's WCCC household to earn the income and divide the income by the same number of months, weeks or pay periods to determine an average monthly amount; or

(b) Uses the best available estimate of the consumer's WCCC household's current income when he or she begins new employment, or if the consumer does not have an income history to make an accurate estimate of his or her future income, DSHS may ask the consumer's employer to verify his or her income.

(2) If a consumer receives a lump sum payment (such as money from the sale of property or back child support payment) in the month of application or during his or her WCCC eligibility:

(a) DSHS divides the lump sum payment by twelve to come up with a monthly amount;

(b) DSHS adds the monthly amount to the consumer's expected average monthly income for the month it was received and the remaining months of the current authorization period; and

(c) The consumer must meet income guidelines for WCCC after the lump sum payment is applied to remain eligible for WCCC.

[Statutory Authority: RCW 43.215.060, 43.215.070, 2006 c 265, and chapter 43.215 RCW. WSR 09-22-043, § 170-290-0065, filed 10/28/09, effective 12/1/09. WSR 08-08-047, recodified as § 170-290-0065, 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, § 388-290-0065, filed 3/29/04 and 4/7/04, effective 5/28/04. Statutory Authority: RCW 74.04.050 and C.F.R. Parts 98 and 99 (Child Care Development Fund Rules). WSR 02-01-135, § 388-290-0065, filed 12/19/01, effective 1/19/02.]

**WAC 170-290-0070 Excluded income and deductions.** (1) The WCCC program does not count the following income types when determining a consumer's income eligibility and copayment:

(a) Income types as defined in WAC 388-450-0035, 388-450-0040, and 388-450-0055;

(b) Compensatory awards, such as an insurance settlement or court-ordered payment for personal injury, damage, or loss of property;

(c) Adoption support assistance and foster care payments;

(d) Reimbursements, such as an income tax refund;

(e) Diversion cash assistance;

(f) Military housing and food allowance;

(g) The TANF grant for the first three consecutive calendar months after the consumer starts a new job. The first calendar month is the month in which he or she starts working;

(h) Payments to the consumer from his or her employer for benefits such as medical plans;

(i) Earned income of a WCCC family member defined under WAC 170-290-0015(2);

(j) Income of consumers described in WAC 170-290-0005 (1)(c)(iii) through (ix);

(k) Earned income from a minor child who DSHS counts as part of the consumer's WCCC household; and

(l) Benefits received by children of Vietnam War veterans who are diagnosed with any forms of manifestations of spina bifida except spina bifida occulta.

(10/31/13)

(2) WCCC deducts the amount a consumer pays for child support under court order, division of child support administrative order, or tribal government order, from the consumer's other countable income when figuring his or her eligibility and copayment for the WCCC program.

[Statutory Authority: RCW 43.215.070, 43.215.060 and chapter 43.215 RCW. WSR 12-11-025, § 170-290-0070, filed 5/8/12, effective 6/8/12. Statutory Authority: Chapter 43.215 RCW, RCW 43.215.060, 43.215.070, 2011 1st sp.s. c 42, 2011 1st sp.s. c 50, and 2006 c 265 § 501. WSR 11-18-001, § 170-290-0070, filed 8/24/11, effective 9/24/11. Statutory Authority: RCW 43.215.060, 43.215.070, 2006 c 265, and chapter 43.215 RCW. WSR 09-22-043, § 170-290-0070, filed 10/28/09, effective 12/1/09. WSR 08-08-047, recodified as § 170-290-0070, 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, § 388-290-0070, filed 3/29/04 and 4/7/04, effective 5/28/04. Statutory Authority: RCW 74.04.050 and C.F.R. Parts 98 and 99 (Child Care Development Fund Rules). WSR 02-01-135, § 388-290-0070, filed 12/19/01, effective 1/19/02.]

**WAC 170-290-0075 Determining income eligibility and copayment amounts.** (1) DSHS takes the following steps to determine a consumer's eligibility and copayment:

(a) Determine the consumer's family size (under WAC 170-290-0015); and

(b) Determine the consumer's countable income (under WAC 170-290-0065).

(2) Before February 1, 2011, if the consumer's family countable monthly income falls within the range below, then his or her copayment is:

IF A CONSUMER'S INCOME IS:	THEN THE CONSUMER'S COPAYMENT IS:
(a) At or below 82% of the federal poverty guidelines (FPG).	\$15
(b) Above 82% of the FPG up to 137.5% of the FPG.	\$50
(c) Above 137.5% of the FPG through 175% of the FPG.	The dollar amount equal to subtracting 137.5% of FPG from countable income, multiplying by 44%, then adding \$50
(d) Above 175% of the FPG, a consumer is not eligible for WCCC benefits.	

(3) Effective February 1, 2011, through February 28, 2011, if the consumer's family countable monthly income falls within the range below, then his or her copayment is:

IF A CONSUMER'S INCOME IS:	THEN THE CONSUMER'S COPAYMENT IS:
(a) At or below 82% of the federal poverty guidelines (FPG).	\$15
(b) Above 82% of the FPG up to 137.5% of the FPG.	\$60
(c) Above 137.5% of the FPG through 175% of the FPG.	The dollar amount equal to subtracting 137.5% of FPG from countable income, multiplying by 44%, then adding \$60
(d) Above 175% of the FPG, a consumer is not eligible for WCCC benefits.	

(4) Effective March 1, 2011, through June 30, 2012, if the consumer's family countable monthly income falls within the range below, then his or her copayment is:

IF A CONSUMER'S INCOME IS:	THEN THE CONSUMER'S COPAYMENT IS:
(a) At or below 82% of the federal poverty guidelines (FPG).	\$15
(b) Above 82% of the FPG up to 137.5% of the FPG.	\$65
(c) Above 137.5% of the FPG through 175% of the FPG.	The dollar amount equal to subtracting 137.5% of FPG from countable income, multiplying by 50%, then adding \$65
(d) Above 175% of the FPG, a consumer is not eligible for WCCC benefits.	

(5) On or after July 1, 2012, if the consumer's family countable monthly income falls within the range below, then his or her copayment is:

IF A CONSUMER'S INCOME IS:	THEN THE CONSUMER'S COPAYMENT IS:
(a) At or below 82% of the federal poverty guidelines (FPG).	\$15
(b) Above 82% of the FPG up to 137.5% of the FPG.	\$65
(c) Above 137.5% of the FPG through 200% of the FPG.	The dollar amount equal to subtracting 137.5% of the FPG from countable income, multiplying by 50%, then adding \$65.
(d) Above 200% of the FPG, a consumer is not eligible for WCCC benefits.	

(6) DSHS does not prorate the copayment when a consumer uses care for part of a month.

(7) The FPG is updated every year on April 1. The WCCC eligibility level is updated at the same time every year to remain current with the FPG.

[Statutory Authority: Chapter 43.215 RCW. WSR 12-21-008, § 170-290-0075, filed 10/5/12, effective 11/5/12. Statutory Authority: Chapter 43.215 RCW, RCW 43.215.060, 43.215.070, 2011 1st sp.s. c 42, 2011 1st sp.s. c 50, and 2006 c 265 § 501. WSR 11-18-001, § 170-290-0075, filed 8/24/11, effective 9/24/11. Statutory Authority: RCW 43.215.060, 43.215.070, 2006 c 265, and chapter 43.215 RCW. WSR 09-22-043, § 170-290-0075, filed 10/28/09, effective 12/1/09. WSR 08-08-047, recodified as § 170-290-0075, 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, § 388-290-0075, filed 3/29/04 and 4/7/04, effective 5/28/04. Statutory Authority: RCW 74.04.050, 74.13.085. WSR 02-14-067, § 388-290-0075, filed 6/27/02, effective 8/1/02. Statutory Authority: RCW 74.04.050 and C.F.R. Parts 98 and 99 (Child Care Development Fund Rules). WSR 02-01-135, § 388-290-0075, filed 12/19/01, effective 1/19/02.]

**WAC 170-290-0082 Eligibility period.** (1) A consumer who meets all of the requirements of part II of this chapter is eligible to receive WCCC subsidies for twelve months before having to redetermine his or her income eligibility. The twelve-month eligibility period in this subsection applies only if enrollments in the WCCC program are capped as provided in WAC 170-290-0001(1). Regardless of the length of eligibility, consumers are still required to report changes of circumstances to DSHS as provided in WAC 170-290-0031.

(2) A consumer's eligibility may be for less than twelve months if:

- (a) Requested by the consumer; or
- (b) A TANF consumer's individual responsibility plan indicates child care is needed for less than twelve months.

(3) A consumer's eligibility may end sooner than twelve months if:

- (a) The consumer no longer wishes to participate in WCCC; or
- (b) DSHS terminates the consumer's eligibility as stated in WAC 170-290-0110.

(4) All children in the consumer's household under WAC 170-290-0015 are eligible for the twelve-month eligibility period.

(5) The twelve-month eligibility period begins:

- (a) When benefits begin under WAC 170-290-0095; or
- (b) Upon reapplication under WAC 170-290-0109(4).

[Statutory Authority: Chapter 43.215 RCW. WSR 12-21-008, § 170-290-0082, filed 10/5/12, effective 11/5/12. Statutory Authority: Chapter 43.215 RCW, RCW 43.215.060, 43.215.070, 2011 1st sp.s. c 42, 2011 1st sp.s. c 50, and 2006 c 265 § 501. WSR 11-18-001, § 170-290-0082, filed 8/24/11, effective 9/24/11. Statutory Authority: RCW 43.215.060, 43.215.070, 2010 c 273, chapter 43.215 RCW, and 2006 c 265. WSR 10-15-063 and 10-16-128, § 170-290-0082, filed 7/15/10 and 8/3/10, effective 9/1/10. Statutory Authority: RCW 43.215.060, 43.215.070, 2006 c 265, and chapter 43.215 RCW. WSR 09-22-043, § 170-290-0082, filed 10/28/09, effective 12/1/09. WSR 08-08-047, recodified as § 170-290-0082, 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, § 388-290-0082, filed 3/29/04 and 4/7/04, effective 5/28/04.]

**WAC 170-290-0085 Change in copayment.** (1) A consumer's copayment may change when:

- (a) The consumer's monthly income decreases;
- (b) The consumer's family size increases;
- (c) DSHS makes an error in the consumer's copayment computation;
- (d) The consumer did not report all income, activity and household information at the time of application, reapplication, or when reporting a change in circumstances;
- (e) The consumer is no longer eligible for the minimum copayment under WAC 170-290-0090;
- (f) DEL makes a mass change in benefits due to a change in law or program funding;
- (g) The consumer is approved for a new eligibility period; or
- (h) The consumer is approved for the fourteen-day wait period or twenty-eight-day gap period as provided in WAC 170-290-0055.

(2) Copayment changes are effective on the first day of the month immediately following the date the copayment change was made.

(3) DSHS does not increase a consumer's copayment during his or her current eligibility period when his or her countable income remains at or below the maximum eligibility limit as provided in WAC 170-290-0005, and:

- (a) The consumer's monthly countable income increases;
- or
- (b) The consumer's family size decreases.

[Statutory Authority: RCW 43.215.070, 43.215.060 and chapter 43.215 RCW. WSR 12-11-025, § 170-290-0085, filed 5/8/12, effective 6/8/12. Statutory Authority: Chapter 43.215 RCW, RCW 43.215.060, 43.215.070, 2011 1st sp.s. c 42, 2011 1st sp.s. c 50, and 2006 c 265 § 501. WSR 11-18-001, § 170-290-0085, filed 8/24/11, effective 9/24/11. Statutory Authority: RCW 43.215.060, 43.215.070, 2006 c 265, and chapter 43.215 RCW. WSR 09-22-043, § 170-290-0085, filed 10/28/09, effective 12/1/09. WSR 08-08-047, recodified as § 170-290-0085, 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, § 388-290-0085, filed 3/29/04 and 4/7/04, effective 5/28/04. Statutory Authority: RCW 74.04.050, 74.13.085. WSR

02-14-067, § 388-290-0085, filed 6/27/02, effective 8/1/02. Statutory Authority: RCW 74.04.050 and C.F.R. Parts 98 and 99 (Child Care Development Fund Rules). WSR 02-01-135, § 388-290-0085, filed 12/19/01, effective 1/19/02.]

**WAC 170-290-0090 Minimum copayment.** (1) The minimum copayment is paid when the consumer has countable monthly income at or below eighty-two percent of the federal poverty guidelines.

(2) **First application.** The consumer pays the minimum copayment when he or she first applies for WCCC, and benefits are paid. The consumer pays the minimum copayment beginning in the month that DSHS pays for WCCC child care services, and the first full calendar month thereafter.

(3) **Reapplication.** The consumer pays the minimum copayment when the consumer reapplies for WCCC after a break of at least thirty days in his or her approved activity. The consumer pays the minimum copayment beginning in the month that DSHS pays for WCCC child care services, and the first full calendar month thereafter.

(4) The consumer pays the minimum copayment when he or she is a minor parent, and:

- (a) Receives TANF; or
- (b) Is part of the parent's or relative's TANF assistance unit.

(5) Two-parent families automatically qualify for the minimum copayment during a twenty-eight-day gap period in WAC 170-290-0055 only if both parents meet the gap requirements. Otherwise, eligibility workers must determine the change in copayment based on the family's countable income and family size, as specified in WAC 170-290-0065 and 170-290-0085.

[Statutory Authority: RCW 43.215.070, 43.215.060 and chapter 43.215 RCW. WSR 12-11-025, § 170-290-0090, 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, § 170-290-0090, filed 10/28/09, effective 12/1/09. WSR 08-08-047, recodified as § 170-290-0090, 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, § 388-290-0090, filed 3/29/04 and 4/7/04, effective 5/28/04. Statutory Authority: RCW 74.04.050 and C.F.R. Parts 98 and 99 (Child Care Development Fund Rules). WSR 02-01-135, § 388-290-0090, filed 12/19/01, effective 1/19/02.]

### Start Dates and Eligibility Period

**WAC 170-290-0095 When WCCC benefits start.** (1) WCCC benefits for an eligible consumer may begin when the following conditions are met:

(a) The consumer has completed the required WCCC application and verification process as described under WAC 170-290-0012 within thirty days of the date DSHS received the consumer's application or reapplication for WCCC benefits;

(b) The consumer is working or participating in an approved activity under WAC 170-290-0040, 170-290-0045, 170-290-0050 or 170-290-0055;

(c) The consumer needs child care for work or approved activities within at least thirty days of the date of application for WCCC benefits; and

(d) The consumer's eligible provider (under WAC 170-290-0125) is caring for his or her children.

(10/31/13)

(2) If a consumer fails to turn in all information within thirty days from his or her application date, the consumer must restart the application process.

(3) The consumer's application date is whichever is earlier:

(a) The date the consumer's application is entered into DSHS's automated system; or

(b) The date the consumer's application is date stamped as received.

[Statutory Authority: Chapter 43.215 RCW, RCW 43.215.060, 43.215.070, 2011 1st sp.s. c 42, 2011 1st sp.s. c 50, and 2006 c 265 § 501. WSR 11-18-001, § 170-290-0095, filed 8/24/11, effective 9/24/11. Statutory Authority: RCW 43.215.060, 43.215.070, 2006 c 265, and chapter 43.215 RCW. WSR 09-22-043, § 170-290-0095, filed 10/28/09, effective 12/1/09. WSR 08-08-047, recodified as § 170-290-0095, 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, § 388-290-0095, 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, § 388-290-0095, 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, § 388-290-0095, filed 12/19/01, effective 1/19/02.]

**WAC 170-290-0107 Denial of benefits—Date of re-determining eligibility.** DSHS sends a consumer a denial letter when the consumer has applied for child care and the consumer:

(1) Withdraws his or her request;

(2) Is not eligible due to the consumer's:

(a) Family composition;

(b) Income; or

(c) Activity.

(3) Did not provide information required to determine the consumer's eligibility according to WAC 170-290-0012;

(4) If a consumer turns in information or otherwise meets eligibility requirements after DSHS sends the consumer a denial letter, DSHS determines the consumer's benefit begin date as provided in WAC 170-290-0095(3).

[Statutory Authority: Chapter 43.215 RCW, RCW 43.215.060, 43.215.070, 2011 1st sp.s. c 42, 2011 1st sp.s. c 50, and 2006 c 265 § 501. WSR 11-18-001, § 170-290-0107, filed 8/24/11, effective 9/24/11. Statutory Authority: RCW 43.215.060, 43.215.070, 2006 c 265, and chapter 43.215 RCW. WSR 09-22-043, § 170-290-0107, filed 10/28/09, effective 12/1/09. WSR 08-08-047, recodified as § 170-290-0107, 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, § 388-290-0107, filed 3/29/04 and 4/7/04, effective 5/28/04.]

**WAC 170-290-0109 New eligibility period.** (1) If a consumer wants to receive child care benefits for another eligibility period, he or she must reapply for WCCC benefits before the end of the current eligibility period. To determine if a consumer is eligible, DSHS:

(a) Requests reapplication information before the end date of the consumer's current WCCC eligibility period; and

(b) Verifies the requested information for completeness and accuracy.

(2) A consumer may be eligible for WCCC benefits for a new eligibility period if:

(a) DSHS receives the consumer's reapplication information no later than the last day of the current eligibility period;

(b) The consumer's provider is eligible for payment under WAC 170-290-0125; and

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(c) The consumer meets all WCCC eligibility requirements.

(3) If DSHS determines that a consumer is eligible for WCCC benefits based on his or her reapplication information, DSHS notifies the consumer of the new eligibility period and copayment.

(4) When a consumer submits a reapplication after the last day of his or her current eligibility period, the consumer's benefits begin:

(a) On the date that the consumer's reapplication is date-stamped as received in DSHS's community service office or entered into the DSHS automated system, whichever date is earlier;

(b) When the consumer is working or participating in an approved WorkFirst activity; and

(c) The consumer's child is being cared for by his or her eligible WCCC provider.

[Statutory Authority: Chapter 43.215 RCW, RCW 43.215.060, 43.215.070, 2011 1st sp.s. c 42, 2011 1st sp.s. c 50, and 2006 c 265 § 501. WSR 11-18-001, § 170-290-0109, filed 8/24/11, effective 9/24/11. Statutory Authority: RCW 43.215.060, 43.215.070, 2006 c 265, and chapter 43.215 RCW. WSR 09-22-043, § 170-290-0109, filed 10/28/09, effective 12/1/09.]

**WAC 170-290-0110 Termination of and redetermination of eligibility for benefits.** (1) DSHS stops a consumer's eligibility for WCCC benefits when:

(a) The consumer's monthly copayment is higher than the state maximum monthly rate for all of the consumer's children in care under WAC 170-290-0005; or

(b) The consumer does not:

(i) Comply with the copayment requirements of WAC 170-290-0030 (3) and (4);

(ii) Complete the requested application or reapplication before the deadline noted in WAC 170-290-0109 (2)(a);

(iii) Meet other WCCC eligibility requirements related to family size, income and approved activities; or

(iv) Cooperate with the child care subsidy audit process or with the DSHS office of fraud and accountability (OFA).

(2) A consumer may be eligible for WCCC again beginning on the date that the consumer:

(a) Meets all WCCC eligibility requirements;

(b) Complies with the copayment requirements of WAC 170-290-0003 (3) and (4); and

(c) Cooperates with the child care subsidy audit process or with the DSHS office of fraud and accountability (OFA).

[Statutory Authority: RCW 43.215.070, 43.215.060 and chapter 43.215 RCW. WSR 12-11-025, § 170-290-0110, 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, § 170-290-0110, filed 10/28/09, effective 12/1/09. WSR 08-08-047, recodified as § 170-290-0110, 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, § 388-290-0110, filed 3/29/04 and 4/7/04, effective 5/28/04. Statutory Authority: RCW 74.04.050 and C.F.R. Parts 98 and 99 (Child Care Development Fund Rules). WSR 02-01-135, § 388-290-0110, filed 12/19/01, effective 1/19/02.]

### Notice

**WAC 170-290-0115 Notice of payment changes.** DSHS provides WCCC consumers with at least ten days written notice for changes to payments related to suspension, reduction, or termination of benefits, or forces a change in

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child care arrangements, except as noted in WAC 170-290-0120.

[Statutory Authority: RCW 43.215.060, 43.215.070, 2006 c 265, and chapter 43.215 RCW. WSR 09-22-043, § 170-290-0115, filed 10/28/09, effective 12/1/09. WSR 08-08-047, recodified as § 170-290-0115, filed 3/27/08, effective 3/27/08. Statutory Authority: RCW 74.04.050 and C.F.R. Parts 98 and 99 (Child Care Development Fund Rules). WSR 02-01-135, § 388-290-0115, filed 12/19/01, effective 1/19/02.]

**WAC 170-290-0120 When notice of payment changes is not required.** DSHS does not give a consumer written notice of changes to WCCC eligibility or provider payments when:

(1) The consumer tells DSHS that he or she no longer wants WCCC; or

(2) The consumer has not informed DSHS of his or her new mailing address.

[Statutory Authority: Chapter 43.215 RCW, RCW 43.215.060, 43.215.070, 2011 1st sp.s. c 42, 2011 1st sp.s. c 50, and 2006 c 265 § 501. WSR 11-18-001, § 170-290-0120, filed 8/24/11, effective 9/24/11. Statutory Authority: RCW 43.215.060, 43.215.070, 2006 c 265, and chapter 43.215 RCW. WSR 09-22-043, § 170-290-0120, filed 10/28/09, effective 12/1/09. WSR 08-08-047, recodified as § 170-290-0120, 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, § 388-290-0120, 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, § 388-290-0120, 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, § 388-290-0120, filed 12/19/01, effective 1/19/02.]

### Eligible Child Care Providers

**WAC 170-290-0125 Eligible child care providers.** To receive payment under the WCCC program, a consumer's child care provider must be:

(1) **A licensed, certified, or DEL-contracted provider.**

(a) Licensed providers are:

(i) Currently licensed as required by chapter 43.215 RCW and chapters 170-295, 170-296, or 170-151 WAC; or

(ii) Meeting the provider's state's licensing regulations, for providers who care for children in states bordering Washington. DSHS pays the lesser of the following to qualified child care facilities in bordering states:

(A) The provider's private pay rate for that child; or

(B) The DSHS maximum child care subsidy daily rate for the DSHS region where the child resides.

(b) Certified providers are exempt from licensing but certified by DEL, such as:

(i) Tribal child care facilities that meet the requirements of tribal law;

(ii) Child care facilities on a military installation; and

(iii) Child care facilities operated on public school property by a school district.

(c) DEL-contracted seasonal day camp have a contract with DEL to provide subsidized child care; or

(2) **An in-home/relative provider.** Providers other than those specified in subsection (1) of this section must meet the requirements in WAC 170-290-0130.

[Statutory Authority: RCW 43.215.060, 43.215.070, 43.43.832(6), 2006 c 265, and chapter 43.215 RCW. WSR 09-22-043, § 170-290-0125, filed 10/28/09, effective 12/1/09. WSR 08-08-047, recodified as § 170-290-0125, 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-

(10/31/13)



134, § 388-290-0125, 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, § 388-290-0125, 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, § 388-290-0125, filed 12/19/01, effective 1/19/02.]

**WAC 170-290-0130 In-home/relative providers—**

**Eligibility.** (1) To be eligible as an in-home/relative provider to care for children under WCCC, the applicant must be:

- (a) Eighteen years of age or older;
- (b) A citizen or legal resident of the U.S.; and
- (c) Meet all of the requirements listed in WAC 170-290-0135.

(2) Additionally, eligible in-home/relative providers must:

- (a) Meet all applicable background check requirements in part II of this chapter;
- (b) Agree to provide care, supervision, and daily activities based on the child's developmental needs, including environmental, physical, nutritional, emotional, cognitive, safety, and social needs; and
- (c) Bill only for actual hours of care provided. Those hours must be authorized by DSHS, and used by the parent for his or her DSHS approved activities or work hours.

(3) The following eligible in-home/relative providers, except those providers residing with a disqualified person, may provide care in either their home or the child's home:

- (a) Adult siblings that live outside the child's home;
  - (b) Extended tribal family members;
  - (c) Grandparent or great-grandparent; or
  - (d) Aunt or uncle, or great-aunt or great-uncle.
- (4) All other eligible providers, including other family members, friends, neighbors, or nannies must provide care in the child's home only.

(5) The following persons are not eligible to provide in-home/relative care under part II of this chapter:

- (a) The child's biological, adoptive, or step-parent;
- (b) The child's legal guardian or the guardian's spouse or live-in partner; or
- (c) Another adult acting in loco parentis or that adult's spouse or live-in partner.

(6) WCCC consumers may have up to two in-home/relative providers authorized for payment during the consumer's eligibility period, plus one back-up provider, either licensed or in-home/relative also authorized to care for the consumer's children.

(7) WCCC consumers who choose in-home/relative care are responsible to monitor the environment and child care services they receive from their provider. WCCC consumers must ensure that their children who receive subsidized child care outside of their own home are current on all Washington state immunizations, except in cases based on religious preference or medical conditions.

(8) In-home/relative providers who are paid child care subsidies to care for children receiving WCCC benefits may not receive those benefits for their own children during the hours in which they provide subsidized child care.

[Statutory Authority: Chapter 43.215 RCW, RCW 43.215.060, 43.215.070, 2011 1st sp.s. c 42, 2011 1st sp.s. c 50, and 2006 c 265 § 501. WSR 11-18-001, § 170-290-0130, filed 8/24/11, effective 9/24/11. Statutory Authority: RCW 43.215.060, 43.215.070, 43.43.832(6), 2006 c 265, and chapter 43.215 RCW. WSR 09-22-043, § 170-290-0130, filed 10/28/09, effective 12/1/09.

(10/31/13)

WSR 08-08-047, recodified as § 170-290-0130, filed 3/27/08, effective 3/27/08. Statutory Authority: RCW 74.04.050, 74.12.340, and 74.13.085. WSR 05-22-078, § 388-290-0130, filed 10/31/05, effective 12/1/05. 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, § 388-290-0130, 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, § 388-290-0130, 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, § 388-290-0130, filed 12/19/01, effective 1/19/02.]

**WAC 170-290-0135 In-home/relative providers—**

**Information provided to DSHS.** (1) When a consumer chooses in-home/relative child care, the consumer and the provider must give DSHS the following information:

- (a) The in-home/relative provider's legal name, address, and telephone number;
- (b) A copy of the provider's valid Social Security card;
- (c) A copy of the provider's photo identification;
- (d) A completed, signed and dated background check form; and
- (e) A completed WCCC application form, signed and dated by the consumer and the provider, in which they both attest that the provider is:

- (i) Of suitable character and competence;
- (ii) Of sufficient physical and mental health to be a safe child care provider and meet the needs of the children in care;
- (iii) Able to work with the children without using corporal punishment or psychological abuse;
- (iv) Able to accept and follow instructions;
- (v) Able to maintain personal cleanliness;
- (vi) Prompt and regular in job attendance; and
- (vii) Informed about basic health practices, prevention and control of infectious disease, and immunizations.

(2) If DSHS requests it, the consumer and/or the provider must provide written medical or legal evidence that the in-home/relative provider is of sufficient physical and mental health to provide safe, reliable and developmentally appropriate child care services.

(3) When a consumer chooses in-home/relative child care, the provider must give DSHS information as to whether an individual sixteen years of age or older living with the provider is a registered sex offender.

[Statutory Authority: RCW 43.215.070, 43.215.060 and chapter 43.215 RCW. WSR 12-11-025, § 170-290-0135, filed 5/8/12, effective 6/8/12. Statutory Authority: RCW 43.215.060, 43.215.070, 43.43.832(6), 2006 c 265, and chapter 43.215 RCW. WSR 09-22-043, § 170-290-0135, filed 10/28/09, effective 12/1/09. WSR 08-08-047, recodified as § 170-290-0135, filed 3/27/08, effective 3/27/08. Statutory Authority: RCW 74.04.050, 74.12.340, and 74.13.085. WSR 05-22-078, § 388-290-0135, filed 10/31/05, effective 12/1/05. 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, § 388-290-0135, 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, § 388-290-0135, 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, § 388-290-0135, filed 12/19/01, effective 1/19/02.]

**WAC 170-290-0138 In-home/relative providers—**

**Responsibilities.** An in-home/relative provider must:

- (1) Provide care, supervision, and daily activities based on the child's developmental needs;
- (2) Report to DSHS within ten days any changes to their legal name, address or telephone number;

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(3) Report to DSHS within twenty-four hours any pending charges or convictions they have;

(4) Report to DSHS within twenty-four hours any pending charges or convictions for anyone sixteen years of age and older who lives with the provider, including any person sixteen years of age or older who newly resides with the provider, when the provider cares for the child in the provider's home. Background checks must be completed for these persons as provided in WAC 170-290-0143;

(5) Bill only for actual hours of care provided. Those hours must be authorized by DSHS, and used by the consumer for his or her DSHS approved activities;

(6) Bill for no more than six children at one time during the same hours of care;

(7)(a) If paper attendance records are used, have the consumer sign and date the attendance records at least weekly, verifying the accuracy of the dates and times.

(b) Providers may use an electronic attendance system as provided in WAC 170-290-0139 to record attendance in lieu of a paper sign-in record.

(c) Providers must keep attendance records for five years documenting the days and hours of care provided;

(8) Repay any overpayments under WAC 170-290-0268; and

(9) Have at least one working telephone accessible in the home for incoming and outgoing calls during all times that subsidized child care is provided. The telephone must have 911 emergency services calling access.

[Statutory Authority: RCW 43.215.070, 43.215.060 and chapter 43.215 RCW. WSR 12-11-025, § 170-290-0138, filed 5/8/12, effective 6/8/12. Statutory Authority: RCW 43.215.060, 43.215.070, 43.43.832(6), 2006 c 265, and chapter 43.215 RCW. WSR 09-22-043, § 170-290-0138, filed 10/28/09, effective 12/1/09. WSR 08-08-047, recodified as § 170-290-0138, filed 3/27/08, effective 3/27/08. Statutory Authority: RCW 74.04.050, 74.12.340, and 74.13.085. WSR 05-22-078, § 388-290-0138, filed 10/31/05, effective 12/1/05.]

**WAC 170-290-0139 In-home/relative providers—Electronic attendance records—Records retention.** (1) In-home/relative providers must record attendance as provided in WAC 170-290-0138(7).

(2) If an electronic system is used to record attendance, it must record either an electronic signature, swipe card, personal identification number (PIN), biometric reader, or similar action by the parent or designee when signing the child in and out of the in-home/relative provider's care.

(3) The electronic system selected must ensure the authenticity, confidentiality, integrity, security, accessibility, and protection against repudiation of the electronic records, and must be able to:

(a) Produce an authentic, verifiable written record for each transaction upon demand that complies with all legal and other requirements regarding the record's structure, content, and time of creation or receipt;

(b) Authenticate (prove the identity of) the sender of the record and ensure that the electronic record has not been altered;

(c) Uniquely identify each record;

(d) Capture an electronic record for each transaction conducted;

(e) Maintain the integrity of electronic records as captured or created so that they can be accessed, displayed, and managed as a unit;

(f) Retain electronic records in an accessible form for their legal minimum retention period;

(g) Search and retrieve electronic records in the normal course of business throughout their entire legal minimum retention period;

(h) Produce authentic copies of electronic records and supply them in useable formats, including hard copies, for business purposes and all public access purposes;

(i) Develop an approach to maintain the authenticity and integrity of electronically signed electronic records;

(j) Ensure that the electronic system performs in an accurate, reliable, and consistent manner in the normal course of business; and

(k) Limit system access to authorized individuals and for authorized purposes, and maintain physical and environmental security controls.

(4) Electronic attendance records must contain all of the information necessary to reproduce the entire electronic record and associated signatures in a form that permits the person viewing or printing the entire electronic record to verify:

(a) The contents of the electronic record;

(b) The method used to sign the electronic record, if applicable;

(c) The person signing the electronic record; and

(d) The date when the signature was executed.

(5) As used in this section:

**"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. An electronic signature is a paperless way to sign a document using an electronic sound, symbol, or process, attached to or logically associated with a record, and executed or adopted by a person with the intent to sign the record.

**"Sign"** includes signing by physical signature, if available, or electronic signature.

[Statutory Authority: RCW 43.215.070, 43.215.060 and chapter 43.215 RCW. WSR 12-11-025, § 170-290-0139, filed 5/8/12, effective 6/8/12.]

**WAC 170-290-0140 In-home/relative providers—Ineligibility.** DSHS does not pay for the cost of child care provided by an in-home/relative provider if:

(1) The provider does not meet the requirements listed in WAC 170-290-0130, 170-290-0135, and 170-290-0138;

(2) The provider has been convicted of, or has charges pending for crimes on the DEL director's list in WAC 170-06-0120;

(3) DSHS has not received all background check results under WAC 170-290-0143(1) and 170-290-0150; or

(4) DSHS determines a consumer's provider is not of suitable character and competence or of sufficient physical or mental health to meet the needs of the child in care, or the consumer's child may be at risk of harm by this provider, as indicated by information other than conviction information.

DSHS will use criteria, such as the following, when reviewing information about incidents, issues, reports, and findings:

- (a) Recency;
- (b) Seriousness;
- (c) Type;
- (d) Frequency; and
- (e) Relationship of the information obtained to the direct care of a child, including but not limited to, impacts to the child's environmental, physical, nutritional, emotional, cognitive, safety, and social needs.

[Statutory Authority: RCW 43.215.060, 43.215.070, 43.43.832(6), 2006 c 265, and chapter 43.215 RCW. WSR 09-22-043, § 170-290-0140, filed 10/28/09, effective 12/1/09. WSR 08-08-047, recodified as § 170-290-0140, filed 3/27/08, effective 3/27/08. Statutory Authority: RCW 74.04.050, 74.12.340, and 74.13.085. WSR 05-22-078, § 388-290-0140, filed 10/31/05, effective 12/1/05. 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, § 388-290-0140, filed 3/29/04 and 4/7/04, effective 5/28/04. Statutory Authority: RCW 74.04.050 and C.F.R. Parts 98 and 99 (Child Care Development Fund Rules). WSR 02-01-135, § 388-290-0140, filed 12/19/01, effective 1/19/02.]

**WAC 170-290-0143 In-home/relative providers—Background checks—Required persons.** (1) Background checks for eligible licensed and certified providers are covered under chapter 170-06 WAC.

- (2) A background check must be completed for:
  - (a) All in-home/relative providers who apply to care for a WCCC consumer's child; and
  - (b) Any individual sixteen years of age or older who is residing with a provider when the provider cares for the child in the provider's own home.
- (3) A background check must be completed for individuals listed in subsection (2)(a) and (b) of this section at least every two years.
- (4) Additional background checks must be completed for individuals listed in subsection (2)(a) and (b) of this section when:
  - (a) Any individual sixteen years of age or older is newly residing with a provider when the provider cares for the child in the provider's own home;
  - (b) DSHS has a valid reason to check more frequently;
  - (c) An in-home/relative provider applies to provide care for a family, such as when:
    - (i) A break in service occurs to the current consumer;
    - (ii) There is a break in consumer eligibility; or
    - (iii) A provider is currently providing care and there are no prior background results for this provider.
  - (5) DSHS does not need to request a new background check for an individual in subsection (2)(a) or (b) if:
    - (a) DSHS has results that were received no more than ninety days prior to the current requested start date of care; and
    - (b) The results indicate there is no record.

[Statutory Authority: RCW 43.215.060, 43.215.070, 43.43.832(6), 2006 c 265, and chapter 43.215 RCW. WSR 09-22-043, § 170-290-0143, filed 10/28/09, effective 12/1/09. WSR 08-08-047, recodified as § 388-290-0143, 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, § 388-290-0143, filed 3/29/04 and 4/7/04, effective 5/28/04. Statutory Authority: RCW 74.04.050, 74.13.085. WSR 02-14-066, § 388-290-0143, filed 6/27/02, effective 7/1/02.]

(10/31/13)

**WAC 170-290-0145 In-home/relative providers—Background checks—Reasons and notification.** (1) DSHS requires background checks to:

- (a) Help safeguard the health, safety, and well-being of children;
- (b) Reduce the possible risk of harm from persons who have been convicted or have charges pending of certain crimes having access to WCCC children; and
- (c) Help consumers make informed decisions about individuals who have access to their children.

(2) DSHS notifies the WCCC consumer, after receiving the results of the background checks, if the consumer's chosen provider is an eligible provider under the WCCC rules.

(3) DSHS also notifies the consumer of the following results from the completed background checks:

- (a) No background information is found given current sources of information;
- (b) Background information is found, but the information will not disqualify the individual being checked; or
- (c) Background information is found that disqualifies the individual being checked.

[Statutory Authority: RCW 43.215.060, 43.215.070, 43.43.832(6), 2006 c 265, and chapter 43.215 RCW. WSR 09-22-043, § 170-290-0145, filed 10/28/09, effective 12/1/09. WSR 08-08-047, recodified as § 170-290-0145, 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, § 388-290-0145, filed 3/29/04 and 4/7/04, effective 5/28/04. Statutory Authority: RCW 74.04.050, 74.13.085. WSR 02-14-066, § 388-290-0145, filed 6/27/02, 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, § 388-290-0145, filed 12/19/01, effective 1/19/02.]

**WAC 170-290-0150 In-home/relative providers—Background checks—Included information and sources.**

(1) DSHS obtains background information, at a minimum, from the Washington state patrol under chapter 10.97 RCW and RCW 43.43.830 through 43.43.837 via the background check central unit (BCCU).

(2) The background information includes, at a minimum, criminal convictions and pending charges. Additional sources may include:

- (a) Child/adult protective service case information;
- (b) Civil judgments, determinations, or disciplinary board final decisions of abuse or neglect;
- (c) Other states and federally recognized Indian tribes;
- (d) The department of corrections and the courts;
- (e) The individual being checked, if he or she self-discloses information; and

(f) Law enforcement records of convictions and pending charges in other states or locations if reports from credible community sources indicate a need to investigate another state's records.

[Statutory Authority: RCW 43.215.060, 43.215.070, 43.43.832(6), 2006 c 265, and chapter 43.215 RCW. WSR 09-22-043, § 170-290-0150, filed 10/28/09, effective 12/1/09. WSR 08-08-047, recodified as § 170-290-0150, 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, § 388-290-0150, filed 3/29/04 and 4/7/04, effective 5/28/04. Statutory Authority: RCW 74.04.050, 74.13.085. WSR 02-14-066, § 388-290-0150, filed 6/27/02, 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, § 388-290-0150, filed 12/19/01, effective 1/19/02.]

[Ch. 170-290 WAC p. 19]

**WAC 170-290-0155 In-home/relative providers—Background checks—Subsequent steps.** After DSHS receives the background information, DSHS:

(1) Compares the background information with convictions of, or charges pending for crimes on the DEL director's list in WAC 170-06-0120;

(2) Reviews the background information using the following rules:

(a) DSHS gives the same weight to a pending charge for a crime as a conviction;

(b) If the conviction has been renamed, DSHS gives the same weight as the previous named conviction. For example, larceny is now called theft;

(c) DSHS gives convictions whose titles are preceded with the word "attempted" the same weight as those titles without the word "attempted"; and

(d) DSHS does not consider the crime a conviction for the purposes of WCCC when:

(i) It has been pardoned; or

(ii) A court of law acts to expunge, dismiss, or vacate the conviction record.

(3) Notifies the consumer whether or not the provider has been disqualified for WCCC;

(4) Allows the consumer to decide character and suitability of the provider when an individual is not automatically disqualified due to the background information from the record of arrests and prosecutions (RAP) sheet or other information available to DSHS; and

(5) Denies or stops payment when the background information disqualifies the individual being checked.

[Statutory Authority: RCW 43.215.060, 43.215.070, 43.43.832(6), 2006 c 265, and chapter 43.215 RCW. WSR 09-22-043, § 170-290-0155, filed 10/28/09, effective 12/1/09. WSR 08-08-047, recodified as § 170-290-0155, filed 3/27/08, effective 3/27/08. Statutory Authority: RCW 74.04.050, 74.12.340, and 74.13.085. WSR 05-22-078, § 388-290-0155, filed 10/31/05, effective 12/1/05. 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, § 388-290-0155, filed 3/29/04 and 4/7/04, effective 5/28/04. Statutory Authority: RCW 74.04.050, 74.13.085. WSR 02-14-066, § 388-290-0155, filed 6/27/02, 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, § 388-290-0155, filed 12/19/01, effective 1/19/02.]

**WAC 170-290-0160 In-home/relative providers—Background checks—Disqualified providers.** (1) DSHS permanently disqualifies the person as an in-home/relative provider for WCCC if:

(a) A consumer's provider or an individual listed in WAC 170-290-0143(2) has a background containing a permanently disqualifying conviction for crimes on the DEL director's list in WAC 170-06-0120(1); or

(b) The in-home/relative provider intentionally or knowingly gives DSHS incorrect or misleading information or withholds information as to whether an individual sixteen years of age or over living with the provider is a registered sex offender.

(2) If the conditions in WAC 170-290-0167 (1)(a) and (b) are met, the disqualifying background of an individual sixteen years of age or over living with the provider may not permanently disqualify the provider. This subsection does not apply to subsection (1)(b) of this section.

[Statutory Authority: RCW 43.215.070, 43.215.060 and chapter 43.215 RCW. WSR 12-11-025, § 170-290-0160, filed 5/8/12, effective 6/8/12. Stat-

utory Authority: RCW 43.215.060, 43.215.070, 43.43.832(6), 2006 c 265, and chapter 43.215 RCW. WSR 09-22-043, § 170-290-0160, filed 10/28/09, effective 12/1/09. WSR 08-08-047, recodified as § 170-290-0160, 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, § 388-290-0160, filed 3/29/04 and 4/7/04, effective 5/28/04. Statutory Authority: RCW 74.04.050, 74.13.085. WSR 02-14-066, § 388-290-0160, filed 6/27/02, 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, § 388-290-0160, filed 12/19/01, effective 1/19/02.]

**WAC 170-290-0165 In-home/relative providers—Background checks—Other disqualifying information.**

(1) DSHS can disqualify a consumer's in-home/relative provider if the individual being checked has a background containing information other than conviction information that DSHS determines:

(a) Makes the individual not of suitable character and competence or of sufficient physical or mental health to meet the needs of the child in care; or

(b) Puts the consumer's child at risk for harm.

(2) If an individual being checked has a background containing a five-year disqualifying conviction for crimes on the DEL director's list in WAC 170-06-0120(2), the consumer's provider is disqualified as an in-home/relative provider for WCCC for five years after the conviction date.

(3) If an individual being checked has:

(a) A conviction listed in subsection (2) of this section, and it has been more than five years; or

(b) Any conviction other than those crimes on the DEL director's list in WAC 170-06-0120, DSHS allows the consumer to determine the provider's character, suitability, and competence by reviewing important information such as the:

(i) Amount of time that has passed since the conviction;

(ii) Seriousness of the crime that led to the conviction;

(iii) Individual's age at the time of conviction;

(iv) Individual's behavior since the conviction;

(v) Number and types of convictions in the individual's background; and

(vi) Individual's verification, if any, of successful completion of all court-ordered programs and restitution.

(4) If conditions in WAC 170-290-0167 (1)(a) and (b) are met, the disqualifying background of an individual sixteen years of age or over living with the provider may not disqualify the provider.

[Statutory Authority: RCW 43.215.060, 43.215.070, 43.43.832(6), 2006 c 265, and chapter 43.215 RCW. WSR 09-22-043, § 170-290-0165, filed 10/28/09, effective 12/1/09. WSR 08-08-047, recodified as § 170-290-0165, 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, § 388-290-0165, filed 3/29/04 and 4/7/04, effective 5/28/04. Statutory Authority: RCW 74.04.050, 74.13.085. WSR 02-14-066, § 388-290-0165, filed 6/27/02, 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, § 388-290-0165, filed 12/19/01, effective 1/19/02.]

**WAC 170-290-0167 In-home/relative providers—Background checks—Disqualified person living with the provider.**

(1) If a consumer's in-home/relative provider is disqualified based only on the disqualifying background of a person living with the provider, then:

(a) Child care is allowed only in the child's home away from the disqualified individual, regardless of whether or not

the provider meets the other qualifications listed in WAC 170-290-0130; and

(b) The consumer and provider sign an agreement with DSHS stating that:

(i) Care will occur only in the child's home; and  
 (ii) There is no contact between the child and disqualified person during child care hours.

(2) The consumer may also choose to select a licensed child care center or family child care home provider, or submit an application for a different in-home/relative provider.

(3) If DSHS becomes aware that the consumer and provider are not meeting the conditions in subsection (1)(a) and (b) of this section:

(a) DSHS may terminate payments without notice; and

(b) The consumer may be subject to an overpayment under WAC 170-290-0271.

[Statutory Authority: RCW 43.215.060, 43.215.070, 43.43.832(6), 2006 c 265, and chapter 43.215 RCW. WSR 09-22-043, § 170-290-0167, filed 10/28/09, effective 12/1/09. WSR 08-08-047, recodified as § 170-290-0167, 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, § 388-290-0167, filed 3/29/04 and 4/7/04, effective 5/28/04. Statutory Authority: RCW 74.04.050, 74.13.085. WSR 02-14-066, § 388-290-0167, filed 6/27/02, effective 7/1/02.]

### Subsidy Rates and Fees

**WAC 170-290-0180 WCCC subsidy rates—Effective date.** State child care subsidy rates (full-day, half-day and hourly) in part II of this chapter are effective on July 1, 2009, and are subject to legislative change.

[Statutory Authority: RCW 43.215.060, 43.215.070, 2006 c 265, and chapter 43.215 RCW. WSR 09-22-043, § 170-290-0180, filed 10/28/09, effective 12/1/09. WSR 08-08-047, recodified as § 170-290-0180, filed 3/27/08, effective 3/27/08. Statutory Authority: RCW 74.04.050, 74.12.340, 74.13.085, and 2005 c 518 § 207(3). WSR 05-20-051, § 388-290-0180, filed 9/30/05, effective 11/1/05. 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, § 388-290-0180, filed 3/29/04 and 4/7/04, effective 5/28/04. Statutory Authority: RCW 74.04.050 and C.F.R. Parts 98 and 99 (Child Care Development Fund Rules). WSR 02-01-135, § 388-290-0180, filed 12/19/01, effective 1/19/02.]

**WAC 170-290-0185 WCCC subsidy rates—Five-year-old children.** The rate paid for a five-year-old child is:

(1) The preschool rate for a child who has not entered kindergarten; or

(2) The school-age rate for a child who has entered kindergarten.

[Statutory Authority: RCW 43.215.060, 43.215.070, 2006 c 265, and chapter 43.215 RCW. WSR 09-22-043, § 170-290-0185, filed 10/28/09, effective 12/1/09. WSR 08-08-047, recodified as § 170-290-0185, filed 3/27/08, effective 3/27/08. Statutory Authority: RCW 74.04.050 and C.F.R. Parts 98 and 99 (Child Care Development Fund Rules). WSR 02-01-135, § 388-290-0185, filed 12/19/01, effective 1/19/02.]

**WAC 170-290-0190 WCCC authorized and additional payments—Determining units of care.** (1) DSHS may authorize and pay for the following child care hours:

(a) Full-day child care to licensed or certified facilities and DEL contracted seasonal day camps when a consumer's children need care between five and ten hours per day;

(b) Full-day child care to licensed or certified facilities and DEL contracted seasonal day camps when the consumer participates in one hundred ten hours or more of approved

activities per calendar month based on the consumer's approved activity schedule and the child's activity schedule;

(c) Half-day child care to licensed or certified facilities and DEL contracted seasonal day camps when a consumer's children need care for less than five hours per day and the consumer does not participate in one hundred ten hours or more of approved activities per calendar month based on the consumer's approved activity schedule and the child's activity schedule;

(d) Hourly child care for in-home/relative child care as follows:

(i) Two hundred thirty hours for in-home/relative child care when the consumer participates in one hundred ten hours or more of approved activities per calendar month based on the consumer's approved activity schedule and the child's activity schedule;

(ii) Hourly child care when the consumer does not participate in one hundred ten hours or more of approved activities per calendar month based on the consumer's approved activity schedule and the child's activity schedule;

(e) A registration fee (under WAC 170-290-0245);

(f) A field trip fee (under WAC 170-290-0247);

(g) Special needs care when the child has a documented need for a higher level of care (under WAC 170-290-0220, 170-290-0225, 170-290-0230, and 170-290-0235); and

(h) A nonstandard hours bonus under WAC 170-290-0249.

(2) DSHS may authorize up to the provider's private pay rate if:

(a) The parent is a WorkFirst participant; and

(b) Appropriate child care, at the state rate, is not available within a reasonable distance from the home or work (activity) site.

"Appropriate" means licensed or certified child care under WAC 170-290-0125, or an approved in-home/relative provider under WAC 170-290-0130.

"Reasonable distance" is determined by comparing what other local families must travel to access appropriate child care.

(3) DSHS authorizes an additional amount of care if:

(a) More than ten hours of care is provided per day (up to a maximum of sixteen hours a day); and

(b) The provider's written policy is to charge all families for these hours of care in excess of ten hours per day.

[Statutory Authority: RCW 43.215.060, 43.215.070, and chapter 43.215 RCW. WSR 13-22-040, § 170-290-0190, filed 10/31/13, effective 12/1/13. Statutory Authority: Chapter 43.215 RCW, RCW 43.215.060, 43.215.070, 2011 1st sp.s. c 42, 2011 1st sp.s. c 50, and 2006 c 265 § 501. WSR 11-18-001, § 170-290-0190, filed 8/24/11, effective 9/24/11. Statutory Authority: RCW 43.215.060, 43.215.070, 2006 c 265, and chapter 43.215 RCW. WSR 09-22-043, § 170-290-0190, filed 10/28/09, effective 12/1/09. WSR 08-08-047, recodified as § 170-290-0190, filed 3/27/08, effective 3/27/08. Statutory Authority: RCW 74.12.340. WSR 06-12-094, § 388-290-0190, filed 6/6/06, effective 7/7/06. Statutory Authority: RCW 74.04.050, 74.12.340, 74.13.085, and 2005 c 518 § 207(3). WSR 05-20-051, § 388-290-0190, filed 9/30/05, effective 11/1/05. 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, § 388-290-0190, 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, § 388-290-0190, 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, § 388-290-0190, filed 12/19/01, effective 1/19/02.]

**WAC 170-290-0200 Daily child care rates—Licensed or certified child care centers and DEL contracted seasonal day camps. (1) Base rate.** DSHS pays the lesser of the following to a licensed or certified child care center or DEL contracted seasonal day camp:

- (a) The provider's private pay rate for that child; or
- (b) The maximum child care subsidy daily rate for that child as listed in the following table:

		Infants (One month - 11 mos.)	Toddlers (12 - 29 mos.)	Preschool (30 mos. - 5 yrs)	School-age (5 - 12 yrs)
Region 1	Full-Day	\$29.10	\$24.47	\$23.12	\$21.77
	Half-Day	\$14.57	\$12.24	\$11.57	\$10.88
Spokane County	Full-Day	\$29.76	\$25.03	\$23.65	\$22.27
	Half-Day	\$14.90	\$12.53	\$11.84	\$11.13
Region 2	Full-Day	\$29.39	\$24.53	\$22.75	\$20.12
	Half-Day	\$14.70	\$12.27	\$11.37	\$10.08
Region 3	Full-Day	\$38.89	\$32.43	\$28.01	\$27.20
	Half-Day	\$19.45	\$16.21	\$14.00	\$13.61
Region 4	Full-Day	\$45.27	\$37.80	\$31.71	\$28.56
	Half-Day	\$23.08	\$18.91	\$15.86	\$14.28
Region 5	Full-Day	\$33.19	\$28.56	\$25.14	\$22.32
	Half-Day	\$16.59	\$14.28	\$12.57	\$11.17
Region 6	Full-Day	\$32.63	\$28.01	\$24.47	\$23.93
	Half-Day	\$16.33	\$14.00	\$12.24	\$11.97

- (i) Centers in Clark County are paid Region 3 rates.
- (ii) Centers in Benton, Walla Walla, and Whitman counties are paid Region 6 rates.

**WAC 170-290-0205 Daily child care rates—Licensed or certified family home child care providers. (1) Base rate.** DSHS pays the lesser of the following to a licensed or certified family home child care provider:

- (a) The provider's private pay rate for that child; or
- (b) The maximum child care subsidy daily rate for that child as listed in the following table.

		Infants (Birth - 11 mos.)	Enhanced Toddlers (12 - 17 mos.)	Toddlers (18 - 29 mos.)	Preschool (30 mos. - 5 yrs)	School-age (5 - 12 yrs)
Region 1	Full-Day	\$24.78	\$24.78	\$21.54	\$21.54	\$19.16
	Half-Day	\$12.38	\$12.38	\$10.77	\$10.77	\$9.58
Spokane County	Full-Day	\$25.34	\$25.34	\$22.03	\$22.03	\$19.59
	Half-Day	\$12.67	\$12.67	\$11.02	\$11.02	\$9.79
Region 2	Full-Day	\$26.16	\$26.16	\$22.75	\$20.35	\$20.35
	Half-Day	\$13.08	\$13.08	\$11.37	\$10.17	\$10.17
Region 3	Full-Day	\$34.71	\$34.71	\$29.92	\$26.33	\$23.93
	Half-Day	\$17.36	\$17.36	\$14.96	\$13.17	\$11.97
Region 4	Full-Day	\$40.84	\$40.84	\$35.51	\$29.92	\$28.72
	Half-Day	\$20.43	\$20.43	\$17.77	\$14.96	\$14.36
Region 5	Full-Day	\$27.53	\$27.53	\$23.93	\$22.75	\$20.35
	Half-Day	\$13.77	\$13.77	\$11.97	\$11.37	\$10.17
Region 6	Full-Day	\$27.53	\$27.53	\$23.93	\$23.93	\$22.75
	Half-Day	\$13.77	\$13.77	\$11.97	\$11.97	\$11.37

(2) The family home child care WAC 170-296A-0010 and 170-296A-5550 allows providers to care for children from birth up to and including the day before their thirteenth birthday.

(3) If the family home provider cares for a child who is thirteen or older, the provider must have a child-specific and time-limited exception and the child must meet the special needs requirement according to WAC 170-290-0220.

(4) DSHS pays family home child care providers at the licensed home rate regardless of their relation to the children

(2) The child care center WAC 170-295-0010 allows providers to care for children from one month up to and including the day before their thirteenth birthday. The provider must obtain a child-specific and time-limited exception from their child care licensor to provide care for a child outside the age listed on the center's license. If the provider has an exception to care for a child who has reached his or her thirteenth birthday, the payment rate is the same as subsection (1) of this section, and the five through twelve year age range column is used for comparison.

(3) If the center provider cares for a child who is thirteen or older, the provider must have a child-specific and time-limited exception and the child must meet the special needs requirement according to WAC 170-290-0220.

[Statutory Authority: RCW 43.215.060, 43.215.070, and chapter 43.215 RCW. WSR 13-21-113, § 170-290-0200, filed 10/22/13, effective 11/22/13. Statutory Authority: Chapter 43.215 RCW. WSR 12-21-008, § 170-290-0200, 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, § 170-290-0200, 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, § 170-290-0200, filed 10/28/09, effective 12/1/09. WSR 08-08-047, recodified as § 170-290-0200, filed 3/27/08, effective 3/27/08. Statutory Authority: RCW 74.04.050, 74.12.340, 74.13.085, and 2005 c 518 § 207(3). WSR 05-20-051, § 388-290-0200, filed 9/30/05, effective 11/1/05. 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, § 388-290-0200, 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, § 388-290-0200, 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, § 388-290-0200, filed 12/19/01, effective 1/19/02.]

(with the exception listed in subsection (5) of this section). Refer to subsection (1) and the five through twelve year age range column for comparisons.

(5) DSHS cannot pay family home child care providers to provide care for children in their care if the provider is:

- (a) The child's biological, adoptive or step-parent;
- (b) The child's legal guardian or the guardian's spouse or live-in partner; or
- (c) Another adult acting in loco parentis or that adult's spouse or live-in partner.

[Statutory Authority: RCW 43.215.060, 43.215.070, and chapter 43.215 RCW. WSR 13-21-113, § 170-290-0205, filed 10/22/13, effective 11/22/13. Statutory Authority: Chapter 43.215 RCW. WSR 12-21-008, § 170-290-0205, 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, § 170-290-0205, 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, § 170-290-0205, filed 10/28/09, effective 12/1/09. WSR 08-08-047, recodified as § 170-290-0205, filed 3/27/08, effective 3/27/08. Statutory Authority: RCW 74.04.050, 74.12.340, 74.13.085, and 2005 c 518 § 207(3). WSR 05-20-051, § 388-290-0205, filed 9/30/05, effective 11/1/05. 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, § 388-290-0205, 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, § 388-290-0205, 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, § 388-290-0205, filed 12/19/01, effective 1/19/02.]

**WAC 170-290-0210 Tiered reimbursement.** Starting September 1, 2013, providers receiving payment under the WCCC program will receive a two percent increase in the subsidy rate, calculated on the base rate, for enrolling in level 2 in the early achievers program. Providers must complete level 2, advance to level 3 within thirty months, and maintain a level 3 rating in order to maintain this increase.

[Statutory Authority: RCW 43.215.060, 43.215.070, and chapter 43.215 RCW. WSR 13-21-113, § 170-290-0210, filed 10/22/13, effective 11/22/13.]

**WAC 170-290-0220 Special needs rates—Qualification and required documentation.** (1) **Qualification.** To qualify for a special needs rate in addition to the base rate, the consumer must request a special needs rate review for his or her child. The child must either:

(a) Be thirteen up to nineteen years old and be under court supervision; or

(b) Be less than nineteen years old and have a verified physical, mental, emotional, or behavioral condition that requires a higher level of care needed in the child care setting.

(2) **Required documentation.** Documentation must:

(a) Support the severity of the condition and level of care required to meet that child's need;

(b) Describe the child's needs in addition to the daily routine care required under chapter 170-295, 170-296A, or 170-151 WAC, for child care providers who are licensed or certified, or WAC 170-290-0130 and 170-290-0138 for child care providers who provide in-home/relative care;

(c) Address relevant areas, such as ambulatory assistance, feeding, hygiene assistance, communication, or behavior as applicable and as needed by the child;

(d) Include the DEL special needs request form completed by the consumer and the provider; and

(e) Have the child's condition and need for higher level of care verified by an individual who is not employed by the child care facility nor a relative of the provider or the child's family, and is either a:

(i) Health, mental health, education or social service professional with at least a master's degree; or

(ii) Registered nurse;

(f) Include one or more of the following completed forms from a person listed in (e) of this subsection:

(i) Individualized education plan (IEP);

(ii) Individual habilitation plan (IHP);

(iii) Individual family plan (IFP);

(iv) Basic health records from his or her health care provider;

(v) Comprehensive assessments from a mental health professional; or

(vi) Medical or psychological reports from a mental health professional.

(3) **Special needs review.**

(a) DSHS processes all Level 1 special needs cases.

(b) DEL and DSHS jointly process Level 2 and Level 3 special needs cases.

(c) All requests for Levels 1, 2, and 3 special needs additional rates are decided within fifteen consecutive days of the initial request. The fifteen-day time limit begins on the day after the date that the consumer and provider provide all of the required verification for that case as provided in this section.

(4) **Purpose of special needs rate.** WCCC does not pay for the provider's training needs to care for a specific child or for the child's equipment needs while in the child care setting. The special needs rate is for care provided in addition to the daily routine care required under chapter 170-295, 170-296A, or 170-151 WAC, for child care providers who are licensed or certified, or WAC 170-290-0130 and 170-290-0138 for child care providers who provide in-home/relative care.

[Statutory Authority: RCW 43.215.070, 43.215.060 and chapter 43.215 RCW. WSR 12-11-025, § 170-290-0220, 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, § 170-290-0220, filed 10/28/09, effective 12/1/09. WSR 08-08-047, recodified as § 170-290-0220, 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, § 388-290-0220, filed 3/29/04 and 4/7/04, effective 5/28/04. Statutory Authority: RCW 74.04.050 and C.F.R. Parts 98 and 99 (Child Care Development Fund Rules). WSR 02-01-135, § 388-290-0220, filed 12/19/01, effective 1/19/02.]

**WAC 170-290-0225 Special needs rates—Licensed or certified child care centers and seasonal day camps.** (1)

In addition to the base rate for licensed or certified child care centers and seasonal day camps listed in WAC 170-290-0200, DSHS may authorize the following additional special needs daily rates which are reasonable and verifiable as provided in WAC 170-290-0220:

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

		Infants (One month - 11 mos.)	Toddlers (12 - 29 mos.)	Preschool (30 mos. - 5 yrs)	School-age (5 - 12 yrs)
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; or

(c) **Level 3.** A rate that exceeds \$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 years of age; and

(b) Meet the requirements for being an assistant under chapter 170-295 WAC and 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:

(a) Is thirteen years or older; and

(b) Has special needs according to WAC 170-290-0220, DSHS authorizes the special needs payment rate as described in subsection (1) of this section using the five through twelve year age range for comparison.

[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.]

**WAC 170-290-0230 Special needs rates—Licensed or certified family home child care providers.** (1) In addition to the base rate for licensed or certified family home child care providers listed in WAC 170-290-0205, DSHS may authorize the following additional special needs daily rates which are reasonable and verifiable as provided in WAC 170-290-0220:

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

		Infants (Birth - 11 mos.)	Toddlers (12 - 29 mos.)	Preschool (30 mos. - 5 yrs)	School-age (5 - 12 yrs)
Region 1	Full-Day	\$6.00	\$5.40	\$5.40	\$4.80
	Half-Day	\$3.00	\$2.70	\$2.70	\$2.40
Region 2	Full-Day	\$6.00	\$5.70	\$5.10	\$5.10
	Half-Day	\$3.00	\$2.85	\$2.55	\$2.55
Region 3	Full-Day	\$8.70	\$7.50	\$6.60	\$6.00
	Half-Day	\$4.35	\$3.75	\$3.30	\$3.00
Region 4	Full-Day	\$9.00	\$8.90	\$7.50	\$7.20
	Half-Day	\$4.50	\$4.45	\$3.75	\$3.60
Region 5	Full-Day	\$6.60	\$6.00	\$5.70	\$5.10
	Half-Day	\$3.30	\$3.00	\$2.85	\$2.55
Region 6	Full-Day	\$6.60	\$6.00	\$6.00	\$5.70
	Half-Day	\$3.30	\$3.00	\$3.00	\$2.85

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

(c) **Level 3.** A rate that exceeds \$15.89 per hour.

(2) If the provider has an exception to care for a child who:

(a) Is thirteen years or older; and

(b) Has special needs according to WAC 170-290-0220, DSHS authorizes the special needs payment rate as described in subsection (1) of this section using the five through twelve year age range for comparison.

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

(a) Be at least eighteen years old; and

(b) Meet the requirements for being an assistant under chapter 170-296A WAC and maintain daily records of one-on-one care provided, to include the name of the employee providing the care.

[Statutory Authority: Chapter 43.215 RCW. WSR 12-21-008, § 170-290-0230, 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, § 170-290-0230, 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, § 170-290-0230, filed 10/28/09, effective 12/1/09. WSR 08-08-047, recodified as § 170-290-0230, 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, § 388-290-0230, 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, § 388-290-0230, 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, § 388-290-0230, filed 12/19/01, effective 1/19/02.]

**WAC 170-290-0235 Special needs rates—In-home/relative providers.** (1) In addition to the base rate as provided in WAC 170-290-0240(1), the state may authorize the following additional special needs rate which is reasonable and verifiable as provided in WAC 170-290-0220:

(a) **Level 1.** Sixty-two cents per hour, for a total of two dollars and eighty-two cents per hour;

(b) **Level 2.** A rate greater than Level 1, but not to exceed \$9.41 per hour; or

(c) **Level 3.** A rate that exceeds \$9.41 per hour.

(2) If other children in the home are also authorized for in-home/relative care with the same provider, DSHS authorizes two dollars and twenty cents per hour for the child who needs the greatest number of hours of care and two dollars and seventeen cents per hour for the care of each additional child in the family.

[Statutory Authority: RCW 43.215.070, 43.215.060 and chapter 43.215 RCW. WSR 12-11-025, § 170-290-0235, 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, § 170-290-0235, filed 10/28/09, effective 12/1/09. WSR 08-08-047, recodified as § 170-290-0235, 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, § 388-290-0235, filed 3/29/04 and 4/7/04, effective 5/28/04. Statutory Authority: RCW 74.04.050 and C.F.R. Parts 98 and 99 (Child Care Development Fund Rules). WSR 02-01-135, § 388-290-0235, filed 12/19/01, effective 1/19/02.]

**WAC 170-290-0240 Child care subsidy rates—In-home/relative providers.** (1) **Base rate.** When a consumer employs an in-home/relative provider, DSHS pays the lesser of the following to an eligible in-home/relative provider for child care:

(a) The provider's private pay rate for that child; or

(b) The maximum child care subsidy rate of two dollars and twenty-four cents per hour for the child who needs the greatest number of hours of care and two dollars and twenty-one cents per hour for the care of each additional child in the family.



(2) DSHS may pay above the maximum hourly rate for children who have special needs under WAC 170-290-0235.

(3) DSHS makes the WCCC payment directly to a consumer's eligible provider.

(4) When applicable, DSHS pays the employer's share of the following:

(a) Social Security and medicare taxes (FICA) up to the wage limit;

(b) Federal Unemployment Taxes (FUTA); and

(c) State unemployment taxes (SUTA).

(5) If an in-home/relative provider receives less than the wage base limit per family in a calendar year, DSHS refunds all withheld taxes to the provider.

[Statutory Authority: RCW 43.215.060, 43.215.070, and chapter 43.215 RCW. WSR 13-21-113, § 170-290-0240, filed 10/22/13, effective 11/22/13. Statutory Authority: RCW 43.215.070, 43.215.060 and chapter 43.215 RCW. WSR 12-11-025, § 170-290-0240, 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, § 170-290-0240, filed 10/28/09, effective 12/1/09. WSR 08-08-047, recodified as § 170-290-0240, filed 3/27/08, effective 3/27/08. Statutory Authority: RCW 74.04.050, 74.12.340, and 74.13.085. WSR 05-22-078, § 388-290-0240, filed 10/31/05, effective 12/1/05. Statutory Authority: RCW 74.04.050, 74.13.085. WSR 02-12-069, § 388-290-0240, 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, § 388-290-0240, filed 12/19/01, effective 1/19/02.]

**WAC 170-290-0245 Registration fees.** (1) DSHS may pay licensed or certified child care providers and DEL contracted seasonal day camps a registration fee when:

(a) A child is first enrolled by the consumer for child care with a provider;

(b) A consumer enrolls their child with a new child care provider during their eligibility period; or

(c) A child has more than a sixty-day break in child care services with the same provider, and it is the provider's policy to charge all parents this fee when there is a break in service.

(2) A registration fee will be paid only once per calendar year for children who are cared for by the same provider, even if the provider receives subsidy payments under different subsidy programs during this time period for the enrolled children, unless there is a break of sixty days or more as provided in subsection (1)(c) of this section.

[Statutory Authority: RCW 43.215.060, 43.215.070, 2006 c 265, and chapter 43.215 RCW. WSR 09-22-043, § 170-290-0245, filed 10/28/09, effective 12/1/09. WSR 08-08-047, recodified as § 170-290-0245, 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, § 388-290-0245, 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, § 388-290-0245, 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, § 388-290-0245, filed 12/19/01, effective 1/19/02.]

**WAC 170-290-0247 Field trip fees.** DSHS pays licensed or certified family home child care providers a monthly field trip fee up to twenty dollars per child or the provider's actual cost for the field trip, whichever is less, only if the fees are required of all parents whose children are in the provider's care. DEL-licensed or certified child care centers and school-age centers are not eligible to receive field trip fees. The field trip fee is to cover the provider's actual expenses for:

(1) Admission;

(2) Transportation (not to include the provider's gas and insurance); and

(3) The cost of hiring a nonemployee to provide an in-house field trip activity.

[Statutory Authority: Chapter 43.215 RCW, RCW 43.215.060, 43.215.070, 2011 1st sp.s. c 42, 2011 1st sp.s. c 50, and 2006 c 265 § 501. WSR 11-18-001, § 170-290-0247, filed 8/24/11, effective 9/24/11. Statutory Authority: RCW 43.215.060, 43.215.070, 2006 c 265, and chapter 43.215 RCW. WSR 09-22-043, § 170-290-0247, filed 10/28/09, effective 12/1/09. WSR 08-08-047, recodified as § 170-290-0247, 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, § 388-290-0247, filed 3/29/04 and 4/7/04, effective 5/28/04.]

**WAC 170-290-0249 Nonstandard hours bonus.** (1) A consumer's provider may receive a nonstandard hours bonus (NSHB) payment of fifty dollars per child per month for care provided in January 2008 or later if:

(a) The provider is licensed or certified;

(b) The provider provides at least forty hours of nonstandard hours care during one month; and

(c) The total cost of the NSHB to the state does not exceed the amount appropriated for this purpose by the legislature for the current state fiscal year.

(2) Nonstandard hours are defined as:

(a) Weekdays before 6 a.m. or after 6 p.m.;

(b) Saturdays and Sundays; and

(c) Legal holidays, as defined in RCW 1.16.050.

[Statutory Authority: RCW 43.215.060, 43.215.070, 2006 c 265, and chapter 43.215 RCW. WSR 09-22-043, § 170-290-0249, filed 10/28/09, effective 12/1/09.]

**WAC 170-290-0250 Eligible provider capacity and payment.** (1) DSHS may pay:

(a) Licensed and certified providers for authorized care up to the provider's licensed capacity as determined under WAC 170-151-080, 170-295-0080, or 170-296A-5700, as appropriate; and

(b) In-home/relative providers for authorized care up to a maximum of six eligible children as provided in WAC 170-290-0138(6).

(2) Licensed providers may not bill the state for more than the number of children they have in their licensed capacity and who are authorized to receive child care subsidies.

(3) A violation of subsection (2) of this section may:

(a) Result in the immediate suspension of the provider's subsidy payments; and

(b) Establish a provider overpayment as provided in WAC 170-290-0268.

(4) As used in this section, "capacity" has the same meaning as defined in WAC 170-151-010, 170-295-0010, and 170-296A-0010.

[Statutory Authority: RCW 43.215.070, 43.215.060 and chapter 43.215 RCW. WSR 12-11-025, § 170-290-0250, filed 5/8/12, effective 6/8/12.]

### Payment Discrepancies

**WAC 170-290-0266 Payment discrepancies—Generally.** (1) Payment discrepancies include both underpayments and overpayments.

(2) For providers or consumers not covered under WAC 170-290-0267 through 170-290-0275, payment discrepancies are subject to chapter 388-410 WAC (benefit errors).

(3) For providers covered under the collective bargaining agreement, all other payment discrepancy issues are covered under WAC 170-290-0275.

[Statutory Authority: RCW 43.215.060, 43.215.070, 2006 c 265, and chapter 43.215 RCW. WSR 09-22-043, § 170-290-0266, filed 10/28/09, effective 12/1/09.]

**WAC 170-290-0267 Payment discrepancies—Provider underpayments.** (1) Underpayments to a provider occur if DSHS pays less than the amount the provider is eligible to receive.

(2) Underpayment requests will only be considered by DSHS if the provider submitted his or her original invoice for payment to DSHS no later than twelve months after the date of service.

[Statutory Authority: RCW 43.215.060, 43.215.070, 2006 c 265, and chapter 43.215 RCW. WSR 09-22-043, § 170-290-0267, filed 10/28/09, effective 12/1/09.]

**WAC 170-290-0268 Payment discrepancies—Provider overpayments.** (1) An overpayment occurs when a provider receives payment that is more than the provider is eligible to receive. Provider overpayments are established when that provider:

- (a) Bills and receives payment for services not provided;
- (b) Bills without attendance records that support their billing;
- (c) Bills and receives payment for more than they are eligible to bill;
- (d) With respect to license-exempt providers, bills the state for more than six children at one time during the same hours of care; or
- (e) With respect to licensed or certified providers:
  - (i) Bills the state for more than the number of children they have in their licensed capacity; or
  - (ii) Is caring for a WCCC child outside their licensed allowable age range without a DEL-approved exception; or
  - (f) With respect to certified providers caring for children in a state bordering Washington:
    - (i) Is determined not to be in compliance with their state's licensing regulations; or
    - (ii) Fails to notify DSHS within ten days of any suspension, revocation, or change to their license.

(2) DEL or DSHS may request documentation from a provider when preparing to establish an overpayment. The provider has fourteen consecutive calendar days to supply any requested documentation.

(3) Providers are required to repay any payments that they were not eligible to receive.

(4) If an overpayment was made through departmental error, the provider is still required to repay that amount.

[Statutory Authority: RCW 43.215.070, 43.215.060 and chapter 43.215 RCW. WSR 12-11-025, § 170-290-0268, 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, § 170-290-0268, filed 10/28/09, effective 12/1/09.]

**WAC 170-290-0269 Payment discrepancies—Consumer underpayments.** If a copayment amount determined by DSHS for a consumer results in an underpayment, the consumer may request reimbursement within three years of the date of child care service, if he or she:

(1) Meets all WCCC eligibility requirements during the time he or she is claiming an underpayment; and

(2) Verifies all copayments made by the consumer to the provider during the time the consumer is claiming an underpayment.

[Statutory Authority: RCW 43.215.060, 43.215.070, 2006 c 265, and chapter 43.215 RCW. WSR 09-22-043, § 170-290-0269, filed 10/28/09, effective 12/1/09.]

**WAC 170-290-0271 Payment discrepancies—Consumer overpayments.** (1) DSHS establishes overpayments for past or current consumers when the consumer:

- (a) Received benefits when he or she was not eligible;
- (b) Used care for an unapproved activity or for children not in his or her WCCC household;
- (c) Failed to report information to DSHS resulting in an error in determining eligibility, amount of care authorized, or copayment;
- (d) Used a provider that was not eligible per WAC 170-290-0125; or
- (e) Received benefits for a child who was not eligible per WAC 170-290-0015 or 170-290-0020.

(2) DEL or DSHS may request documentation from a consumer when preparing to establish an overpayment. The consumer has fourteen consecutive calendar days to supply any requested documentation.

(3) Consumers are required to repay any benefits paid by DSHS that they were not eligible to receive.

(4) If an overpayment was made through departmental error, the consumer is still required to repay that amount.

(5) If a consumer is not eligible under WAC 170-290-0032 and the provider has billed correctly, the consumer is responsible for the entire overpayment, including any absent days.

[Statutory Authority: RCW 43.215.070, 43.215.060 and chapter 43.215 RCW. WSR 12-11-025, § 170-290-0271, 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, § 170-290-0271, filed 10/28/09, effective 12/1/09. WSR 08-08-047, recodified as § 170-290-0271, filed 3/27/08, effective 3/27/08. Statutory Authority: RCW 74.04.050, 74.12.340, and 74.13.085. WSR 05-22-078, § 388-290-0271, filed 10/31/05, effective 12/1/05. 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, § 388-290-0271, filed 3/29/04 and 4/7/04, effective 5/28/04.]

**WAC 170-290-0275 Payment discrepancies—Providers covered under collective bargaining.** (1) This section applies to any provider covered under the collective bargaining agreement.

(2) For in-home/relative and licensed family home child care providers, disputes regarding underpayments shall be grievable.

(3) Beginning July 1, 2007, there are different time frames for how far back a payment discrepancy may be corrected. The time frames, as provided in this subsection are based on:

- (a) When services were provided;

(b) When the request for the underpayment was made; and

(c) The type of provider: Family home or in-home/relative provider.

(4) Family home and in-home/relative providers must submit a claim for payment no later than twelve months after the date of service. "Submitting a claim for payment" means turning the original invoice in to DSHS for services no later than twelve months after the date of service. If the claim for payment is made within the twelve-month period, the time limits for correcting payment errors are:

(a) Two years back if the error is on rates paid by age and/or region, unless discovered by a federal audit. This means the provider has up to two years after the date of service to ask for a corrected payment; or

(b) Three years back if the error was for any other reason, including those discovered by a federal audit. This means the provider has up to three years after the date of service to ask for a corrected payment.

[Statutory Authority: RCW 43.215.060, 43.215.070, 2006 c 265, and chapter 43.215 RCW. WSR 09-22-043, § 170-290-0275, filed 10/28/09, effective 12/1/09.]

### Administrative Hearings - WCCC

**WAC 170-290-0280 Right to request an administrative hearing.** (1) WCCC consumers have a right to request a hearing under chapter 388-02 WAC on any action affecting WCCC benefits except for mass changes resulting from a change in policy or law.

(2) Licensed or certified child care providers or in-home/relative providers may request hearings under chapter 388-02 WAC only for WCCC overpayments.

(3) To request a hearing, a consumer, the licensed/certified provider, or in-home/relative provider:

(a) Contacts the DSHS office which sent them the notice; or

(b) Writes to the office of administrative hearings, P.O. Box 42489, Olympia, WA 98504-2489; and

(c) Makes the request for a hearing within:

(i) Ninety days of the date a decision is received for consumers; or

(ii) Twenty-eight days of the date a decision is received for providers.

(4) The office of administrative hearings administrative law judge enters initial or final orders as provided in WAC 388-02-0217. Initial orders may be appealed to a DSHS review judge under chapter 388-02 WAC.

(5) To request a hearing under the seasonal child care program, see WAC 170-290-3860 and 170-290-3865.

[Statutory Authority: RCW 43.215.060, 43.215.070, 2006 c 265, and chapter 43.215 RCW. WSR 09-22-043, § 170-290-0280, filed 10/28/09, effective 12/1/09.]

**WAC 170-290-0285 Receipt of WCCC benefits pending the outcome of an administrative hearing.** (1) A consumer may receive WCCC benefits pending the outcome of a hearing if he or she requests the hearing:

(a) On or before the effective date of an action; or

(b) No more than ten days after DSHS sends the consumer a notice of adverse action.

(10/31/13)

As used in this section, "adverse action" means an action to reduce or terminate a consumer's WCCC benefits.

(2) If a consumer loses a hearing, any WCCC benefit that a consumer uses between the date of the adverse action and the date of the hearing decision is an overpayment to the consumer.

(3) A consumer may not receive WCCC benefits pending the outcome of a hearing if he or she requests payment to a provider who is not eligible under WAC 170-290-0125.

(4) A consumer may receive WCCC benefits for another eligible provider, pending the outcome of the hearing.

[Statutory Authority: RCW 43.215.060, 43.215.070, 2006 c 265, and chapter 43.215 RCW. WSR 09-22-043, § 170-290-0285, filed 10/28/09, effective 12/1/09.]

## PART III. SEASONAL CHILD CARE

### Introduction

**WAC 170-290-3501 Program funding.** The seasonal child care (SCC) program is subject to available funds. As used in this chapter, "subject to available funds" includes one or more of the following:

(1) Limiting or closing enrollment;

(2) Establishing a priority list for new enrollees subject to applicable state and federal law; or

(3) Creating and maintaining a waiting list.

[Statutory Authority: RCW 43.215.060, 43.215.070, and chapter 43.215 RCW. WSR 11-12-078, § 170-290-3501, 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, § 170-290-3501, filed 10/28/09, effective 12/1/09.]

### Eligibility Requirements

**WAC 170-290-3520 Eligibility.** (1) **Parents.** To be eligible for SCC, the person applying for benefits:

(a) Is not currently receiving temporary aid for needy families (TANF);

(b) Lives in one of the following Washington state counties: Adams, Benton, Chelan, Douglas, Franklin, Grant, Kittitas, Okanogan, Skagit, Walla Walla, Whatcom, or Yakima;

(c) Has parental control of one or more children; and

(d) Is the child's:

(i) Parent, either biological or adopted;

(ii) Stepparent;

(iii) Legal guardian as verified by a legal or court document;

(iv) Adult sibling or step-sibling;

(v) Aunt;

(vi) Uncle;

(vii) Niece or nephew;

(viii) Grandparent; or

(ix) Any of the above relatives in (v), (vi), or (viii) of this subsection, with the prefix "great," such as great-aunt.

(e) Participates in an approved activity under WAC 170-290-3555;

(f) Has countable income at or below the maximum eligibility limit described in WAC 170-290-0005;

(g) Completes the SCC application and DSHS verification process regardless of other program benefits or services received; and

[Ch. 170-290 WAC p. 27]

(h) Meets eligibility requirements for SCC described under part III of this chapter.

(2) **Children.** To be eligible for SCC, the child receiving SCC must:

(a) Belong to one of the following groups as defined in WAC 388-424-0001:

- (i) A U.S. citizen;
- (ii) A U.S. national;
- (iii) A qualified alien; or

(iv) A nonqualified alien who meets the Washington state residency requirements as listed in WAC 388-468-0005.

(b) Live in Washington state, and be:

- (i) Less than age thirteen; or
- (ii) Less than age nineteen, and:

(A) Have a verified special need, according to WAC 170-290-0220; or

(B) Be under court supervision.

(3) Consumers are not eligible for SCC program subsidies if they:

(a) Have a copayment, under WAC 170-290-0075, that is higher than the maximum monthly state child care rate for all of the consumer's children in care;

(b) Are receiving TANF benefits; or

(c) Are the only parent in the household and will be away from the home for more than thirty days in a row.

[Statutory Authority: RCW 43.215.060, 43.215.070, and chapter 43.215 RCW. WSR 11-12-078, § 170-290-3520, 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, § 170-290-3520, filed 10/28/09, effective 12/1/09.]

**WAC 170-290-3530 Verifying consumers' information.** DSHS verifies a consumer's information as provided in WAC 170-290-0012.

[Statutory Authority: RCW 43.215.070, 43.215.060 and chapter 43.215 RCW. WSR 12-11-025, § 170-290-3530, filed 5/8/12, effective 6/8/12; WSR 11-12-078, § 170-290-3530, 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, § 170-290-3530, filed 10/28/09, effective 12/1/09.]

**WAC 170-290-3540 Eligibility—Family size.** DSHS determines a consumer's family size as provided in WAC 170-290-0015.

[Statutory Authority: RCW 43.215.060, 43.215.070, and chapter 43.215 RCW. WSR 11-12-078, § 170-290-3540, 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, § 170-290-3540, filed 10/28/09, effective 12/1/09.]

**WAC 170-290-3550 Eligibility—Special circumstances for two-parent families.** (1) A consumer may be eligible for the SCC program when he or she is a parent in a two-parent family and both parents currently work in seasonally available agricultural related work.

(2) A consumer may be eligible for SCC if he or she is a parent in a two-parent family and one parent is not able or available as defined in WAC 170-290-0003 to provide care for the children while the other parent is currently working or participating in approved seasonally agricultural related work.

(3) If a consumer claims one parent is not able to care for the children, the consumer must provide written documenta-

tion from a licensed professional (see WAC 388-448-0020) that states the:

(a) Reason the parent is not able to care for the children; and

(b) Expected duration and severity of the condition that keeps the parent from caring for the children.

[Statutory Authority: RCW 43.215.060, 43.215.070, and chapter 43.215 RCW. WSR 11-12-078, § 170-290-3550, 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, § 170-290-3550, filed 10/28/09, effective 12/1/09.]

#### **WAC 170-290-3555 Eligibility—Approved activities.**

(1) A consumer may be eligible for SCC program subsidies for up to sixteen hours per day for the time he or she is involved in seasonally available agricultural related work in Washington state.

(2) When the consumer is part of a two-parent family, both parents must be employed as described in subsection (1) of this section;

(3) DSHS may authorize care for:

(a) Travel time only between the child care location and the employment location;

(b) Job search, of no more than five days per month, if the consumer's seasonally available agricultural related work ends and he or she is still eligible and continues to need child care; or

(c) Sleep time, up to eight hours per day when needed, if the consumer works nights and sleeps days.

[Statutory Authority: RCW 43.215.060, 43.215.070, and chapter 43.215 RCW. WSR 11-12-078, § 170-290-3555, 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, § 170-290-3555, filed 10/28/09, effective 12/1/09.]

#### **Rights and Responsibilities**

**WAC 170-290-3560 Consumers' rights.** When a consumer applies for or receives SCC program subsidies, he or she has the right to:

(1) Be free from discrimination in accordance with all applicable federal and state nondiscrimination laws, regulations and policies;

(2) Have the consumer's application accepted and acted upon within thirty days;

(3) Be informed, in writing, of the consumer's legal rights and responsibilities related to the SCC subsidy program;

(4) Have the consumer's information shared with other agencies only when required by federal or state regulations;

(5) Be allowed to choose a licensed or certified child care provider as long as the provider meets requirements in WAC 170-290-3750;

(6) Receive a written notice at least ten days before changes are made to lower or stop benefits except as stated in WAC 170-290-3730;

(7) Ask for an administrative hearing if the consumer does not agree with a decision per WAC 170-290-3860;

(8) Ask to speak to a supervisor or administrator at DSHS to review a decision or action affecting the consumer's benefits without affecting the consumer's right to an administrative hearing;

(9) Have interpreter or translator services provided by DSHS within a reasonable amount of time and at no cost to the consumer;

(10) Refuse to speak to a fraud early detection (FRED) investigator from the DSHS office of fraud and accountability (OFA) when they ask to come into your home. This request will not affect eligibility for SCC program subsidies. If the consumer refuses to cooperate with the investigator at a later date, it could affect his or her SCC program subsidies;

(11) Access his or her child at all times while the child is in child care;

(12) Terminate child care without cause and without notice to the provider. Notice must be given to DSHS within five days of termination;

(13) Not be charged by the consumer's licensed or certified provider, or be made to pay, for the difference between the child care provider's private rate and the state maximum child care subsidy rate, when the provider's private rate for child care is higher than the maximum state rate; and

(14) Not be charged by the consumer's licensed or certified provider, or be made to pay for:

(a) The difference between the provider's registration fee and the state's maximum registration fee, when the provider's registration fee is higher;

(b) Any day when the consumer's child is absent;

(c) Vacation days when the provider chooses to close;

(d) A higher amount than the state allows for field trips;

(e) A preschool tuition fee in addition to regular child care services; or

(f) Child care services after the final day of care, when the provider stops caring for the consumer's children.

[Statutory Authority: RCW 43.215.070, 43.215.060 and chapter 43.215 RCW. WSR 12-11-025, § 170-290-3560, filed 5/8/12, effective 6/8/12; WSR 11-12-078, § 170-290-3560, 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, § 170-290-3560, filed 10/28/09, effective 12/1/09.]

#### **WAC 170-290-3565 Consumers' responsibilities.**

When a person applies for or receives SCC program subsidies, the applicant or consumer must, as a condition of receiving those subsidies:

(1) Give DSHS correct and current information so that DSHS can determine the consumer's eligibility and authorize child care payments correctly;

(2) Choose a licensed or certified child care provider who meets requirements of WAC 170-292-3750;

(3) Leave the consumer's children with his or her provider while the consumer is in SCC approved activities outside of the consumer's home;

(4) Pay the provider for child care services when the consumer requests additional child care for personal reasons other than working or participating in SCC approved activities that have been authorized by DSHS;

(5) Pay the provider for optional child care programs for the child that the consumer requests. The provider must have a written policy in place charging all families for these optional child care programs;

(6) Pay the copayment directly to the child care provider or arrange for a third party to pay the copayment directly to the provider;

(10/31/13)

(7) In cases of overdue or past due copayments, the consumer, as a condition of maintaining his or her eligibility, must do one or more of the following:

(a) Pay past or overdue copayments;

(b) Give DSHS a written agreement between the provider and consumer to verify that copayment arrangements include one or more of the following:

(i) An installment payment plan;

(ii) A collection agency payment plan;

(iii) In-kind services in lieu of paying the copayment; or

(iv) Forgiveness of the copayment from the provider; or

(c) Provide proof that the consumer has attempted to pay a copayment to a licensed provider who is no longer in business or a license-exempt provider who is no longer providing child care. "Proof" includes, but is not limited to, a return receipt that was signed for and not responded to, or a returned document that was not picked up;

(8) Pay the provider the same late fees that are charged to other families, if the consumer pays a copayment late or picks up the child late;

(9) Document their child's attendance in subsidized child care by having the consumer or other person authorized by the consumer to take the child to or from child care:

(a) If the licensee uses a paper attendance record, sign the child in on arrival and sign the child out at departure, using their full signature and writing the time of arrival and departure; or

(b) Record the child's attendance using an electronic system if used by the licensee;

(10) Provide the information requested by the fraud early detection (FRED) investigator from the DSHS office of fraud and accountability (OFA). If the consumer refuses to provide the information requested within fourteen days, it could affect his or her SCC program subsidies. If DSHS determines a consumer is not cooperating by supplying the requested information, the consumer will not be eligible for SCC program subsidies. The consumer may become eligible again when he or she meets SCC program requirements in part III of this chapter;

(11) Ensure that their children who receive subsidized child care outside of their own home are current on all immunizations required under WAC 246-105-030, except when the parent or guardian provides:

(a) A department of health (DOH) medical exemption form signed by a health care professional; or

(b) A DOH form or similar statement signed by the child's parent or guardian expressing a religious, philosophical or personal objection to immunization.

[Statutory Authority: RCW 43.215.070, 43.215.060 and chapter 43.215 RCW. WSR 12-11-025, § 170-290-3565, filed 5/8/12, effective 6/8/12; WSR 11-12-078, § 170-290-3565, 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, § 170-290-3565, filed 10/28/09, effective 12/1/09.]

**WAC 170-290-3566 Subsidized child care providers' responsibilities.** Licensed or certified child care providers who accept SCC subsidies must do the following:

(1) Comply with all of the DEL child care licensing or certification requirements as provided in chapter 170-295, 170-296A, or 170-151 WAC;

[Ch. 170-290 WAC p. 29]

(2) Report pending charges or convictions to DSHS as provided in chapter 170-295, 170-296A, or 170-151 WAC;

(3) Keep complete and accurate daily attendance records for children in their care; and allow access to DEL to inspect attendance records during all hours in which authorized child care is provided as follows:

(a) Current attendance records (including records from the previous twelve months) must be available immediately for review upon request by DEL.

(b) Attendance records older than twelve months to five years old must be provided to DSHS or DEL within two weeks of the date of a written request from either department.

(c) Failure to make available attendance records as provided in this subsection may:

(i) Result in the immediate suspension of the provider's subsidy payments; and

(ii) Establish a provider overpayment as provided in WAC 170-290-0268;

(4) Allow consumers access to their child at all times while the child is in care;

(5) Collect copayments directly from the consumer or the consumer's third-party payor, and report to DSHS if the consumer has not paid a copayment to the provider within the previous sixty days;

(6) Follow billing procedures as described in "*Child Care Subsidies: A Booklet for Licensed and Certified Child Care Providers*" revised 2012, including billing only for actual hours of child care provided or allowed under WCCC billing guidelines;

(7) Not claim a payment in any month in which a child has not attended at least one day in that month;

(8) Invoice the state no later than one calendar year after the actual date of service;

(9) Not charge subsidized families for:

(a) The difference between the provider's customary rate and the maximum allowed state rate;

(b) Registration fees in excess of what is paid by subsidy program rules;

(c) Absence days in excess of five days per month, regardless of whether the child attended or not;

(d) Handling fees to process consumer copayments, child care services payments, or paperwork;

(e) Fees for materials, supplies, or equipment required to meet licensing rules and regulations; or

(f) Child care or fees related to subsidy billing invoices that are in dispute between the provider and the state; and

(10) For providers who care for children in states bordering Washington, verify that they are currently complying with their state's licensing regulations, and notify DSHS within ten days of any suspension, revocation, or changes to their license.

[Statutory Authority: RCW 43.215.070, 43.215.060 and chapter 43.215 RCW. WSR 12-11-025, § 170-290-3566, filed 5/8/12, effective 6/8/12.]

**WAC 170-290-3570 Notification of changes.** When a consumer applies for or receives SCC program subsidies, he or she must:

(1) Notify DSHS, within five days, of any change in providers;

(2) Notify his or her provider within ten days when DSHS changes his or her child care authorization;

[Ch. 170-290 WAC p. 30]

(3) Notify DSHS within ten days of any change in the consumer's:

(a) Number of child care hours needed (more or less hours);

(b) Child's eligibility for migrant Head Start or another child care program;

(c) Household income, including any new receipt of a TANF grant or child support increases or decreases;

(d) Household size such as any family member moving in or out of his or her home;

(e) Employment hours such as starting, stopping or changing employers;

(f) Home address and telephone number; or

(g) Child support payments made by the consumer.

[Statutory Authority: RCW 43.215.060, 43.215.070, and chapter 43.215 RCW. WSR 11-12-078, § 170-290-3570, 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, § 170-290-3570, filed 10/28/09, effective 12/1/09.]

**WAC 170-290-3580 Failure to report changes.** (1) If a consumer fails to report any changes as required in WAC 170-290-3570 within the stated time frames, DSHS may establish an overpayment to the consumer per WAC 170-290-3850 or the consumer may have to pay additional costs, such as a higher copayment.

(2) The consumer may receive an overpayment for what the provider is allowed to bill to include billing for absent days (see publication *Child Care Subsidies, A Booklet for Licensed and Certified Child Care Providers*, revised 2012).

[Statutory Authority: RCW 43.215.070, 43.215.060 and chapter 43.215 RCW. WSR 12-11-025, § 170-290-3580, filed 5/8/12, effective 6/8/12; WSR 11-12-078, § 170-290-3580, 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, § 170-290-3580, filed 10/28/09, effective 12/1/09.]

**WAC 170-290-3590 DSHS's responsibilities to consumers.** DSHS must:

(1) Treat consumers in accordance with all applicable federal and state nondiscrimination laws, regulations and policies;

(2) Complete applications for SCC program subsidies based on information the consumer provides, and determine a consumer's eligibility within thirty days from the date the consumer applied;

(3) Accept a variety of forms of verification and may not specify the type of documentation required;

(4) Authorize payments only to a licensed or certified child care provider the consumer chooses who meets the requirements in WAC 170-290-3750;

(5) Authorize payments only when no adult in a consumer's family (under WAC 170-290-3540) is able or available to care for the consumer's children as defined in WAC 170-290-3550;

(6) Inform a consumer of:

(a) The consumer's copayment amount as determined in WAC 170-290-3620 and defined in WAC 170-290-0075;

(b) The consumer's rights and responsibilities under the SCC program when he or she applies or reapplies;

(c) The types of child care providers the SCC program will pay;

(10/31/13)

(d) The community resources that can help the consumer select child care when needed;

(e) Other options for child care subsidies, if the consumer does not qualify for SCC program subsidies; and

(f) The consumer's rights to an administrative hearing;

(7) Provide prompt child care authorizations to a consumer's child care provider;

(8) Respond to a consumer within ten days if the consumer reports a change of circumstance that affects the consumer's:

(a) SCC eligibility;

(b) Copayment; or

(c) Providers; and

(9) Provide an interpreter or translator service at no cost to the consumer to explain information related to the SCC program.

[Statutory Authority: RCW 43.215.070, 43.215.060 and chapter 43.215 RCW. WSR 12-11-025, § 170-290-3590, filed 5/8/12, effective 6/8/12; WSR 11-12-078, § 170-290-3590, 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, § 170-290-3590, filed 10/28/09, effective 12/1/09.]

### Income and Copayment Calculations

**WAC 170-290-3610 Countable income.** DSHS counts income as money a consumer earns or receives from:

(1) Wages and commissions earned from employment;

(2) Unemployment compensation;

(3) The following child support payment amounts:

(a) For applicants or consumers who are not receiving DSHS division of child support services, the amount as shown on a current court or administrative order; or

(b) For applicants or consumers who are receiving DSHS division of child support services, the amount as verified by the DSHS division of child support;

(4) Supplemental security income (SSI);

(5) Other Social Security payments, such as Social Security Administration (SSA) and Social Security disability insurance (SSDI);

(6) Refugee assistance payments;

(7) Payments from the Veterans' Administration;

(8) Pensions or retirement income;

(9) Payments from labor and industries (L&I), or disability payments;

(10) Lump sums as money a consumer receives from a one-time payment such as back child support, an inheritance, or gambling winnings;

(11) Other types of income not listed in WAC 170-290-3630; and

(12) Gross wages from employment or self-employment income as defined in WAC 170-290-0003. Gross wages include any wages that are taxable.

[Statutory Authority: RCW 43.215.070, 43.215.060 and chapter 43.215 RCW. WSR 12-11-025, § 170-290-3610, filed 5/8/12, effective 6/8/12; WSR 11-12-078, § 170-290-3610, 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, § 170-290-3610, filed 10/28/09, effective 12/1/09.]

**WAC 170-290-3620 Calculation of income.** For the SCC program, DSHS calculates a consumer's income in the same manner as provided in WAC 170-290-0065.

[Statutory Authority: RCW 43.215.060, 43.215.070, and chapter 43.215 RCW. WSR 11-12-078, § 170-290-3620, 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, § 170-290-3620, filed 10/28/09, effective 12/1/09.]

**WAC 170-290-3630 Excluded income and deductions.** (1) The SCC program does not count the following income types when determining a consumer's income eligibility and copayment:

(a) Income types as defined in WAC 388-450-0035, 388-450-0040, and 388-450-0055;

(b) Savings accounts;

(c) Money received from sale of real property, such as a house, or personal property, such as a car;

(d) Reimbursements, such as tax refunds;

(e) Earned income credits;

(f) Diversion cash assistance;

(g) Compensatory awards, such as an insurance settlement or court-ordered payment for personal injury, damage, or loss of property;

(h) Capital gains;

(i) Basic Food program;

(j) Income earned by children as described in WAC 170-290-3540;

(k) Benefits received by children of Vietnam War veterans who are diagnosed with any form or manifestation of spina bifida except spina bifida occulta;

(l) Adoption support assistance and foster care payments; and

(m) Government economic stimulus payments.

(2) SCC deducts the amount a consumer pays for child support from his or her countable income when figuring his or her eligibility and copayment for the SCC.

[Statutory Authority: RCW 43.215.060, 43.215.070, and chapter 43.215 RCW. WSR 11-12-078, § 170-290-3630, 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, § 170-290-3630, filed 10/28/09, effective 12/1/09.]

**WAC 170-290-3640 Determining income eligibility and copayment.** (1) For the SCC program, DSHS determines a consumer's family's income eligibility and copayment by:

(a) The consumer's family size as defined under WAC 170-290-3540;

(b) The consumer's average monthly income as calculated under WAC 170-290-3620;

(c) The consumer's family's average monthly income as compared to the federal poverty guidelines (FPG); and

(d) The consumer's family's average monthly income as compared to the copayment chart defined in WAC 170-290-0075.

(2) If a consumer's family's income is above the maximum eligibility limit as provided in WAC 170-290-0005, his or her family is not eligible for the SCC program.

(3) The FPG is updated every year on April 1. The SCC eligibility level is updated at the same time every year to remain current with the FPG.

(4) SCC shall assign a copayment amount based on the family's countable income. The consumer pays the copayment directly to the provider.

(5) SCC does not prorate the copayment when a consumer uses care for part of a month.

[Statutory Authority: RCW 43.215.060, 43.215.070, and chapter 43.215 RCW. WSR 11-12-078, § 170-290-3640, 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, § 170-290-3640, filed 10/28/09, effective 12/1/09.]

**WAC 170-290-3650 Change in copayment.** (1) A consumer's SCC program copayment could change when:

- (a) DEL makes a mass change in subsidy benefits due to a change in law or program funding;
- (b) The consumer's family size increases;
- (c) DSHS makes an error in the consumer's copayment computation;
- (d) The consumer did not report all income, activity and household information at the time of eligibility determination or application/reapplication; or
- (e) The consumer is approved for a new eligibility period.

(2) If a consumer's copayment changes during his or her eligibility period, the change is effective:

- (a) On the first day of the month following the change, when:
  - (i) The report is made to DSHS or the information is learned by DSHS within ten or more days after the change as provided in WAC 170-290-3570;
  - (ii) The consumer receives ten days written notice; and
  - (iii) The copayment is increasing; or
- (b) On the first day of the month that the change occurred when:
  - (i) The report is made to DSHS or the information is learned by DSHS within ten days or less after the change as provided in WAC 170-290-3570; and
  - (ii) The copayment is decreasing.

[Statutory Authority: RCW 43.215.060, 43.215.070, and chapter 43.215 RCW. WSR 11-12-078, § 170-290-3650, 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, § 170-290-3650, filed 10/28/09, effective 12/1/09.]

**WAC 170-290-3660 Eligibility period.** (1) A consumer who meets all of the requirements of part III of this chapter is eligible to receive SCC subsidies for six months before having to redetermine his or her income eligibility. The six-month eligibility period applies only if enrollments in the SCC program are capped as provided in WAC 170-290-0001(1) and 170-290-3501. Regardless of the length of eligibility, consumers are still required to report changes of circumstances to DSHS as provided in WAC 170-290-3570.

(2) A consumer's eligibility may be for less than six months if requested by the consumer.

(3) A consumer's eligibility may end sooner than six months if:

- (a) The consumer no longer wishes to participate in SCC; or
- (b) DSHS terminates the consumer's eligibility as stated in WAC 170-290-3855.

[Statutory Authority: RCW 43.215.070, 43.215.060 and chapter 43.215 RCW. WSR 12-11-025, § 170-290-3660, filed 5/8/12, effective 6/8/12; WSR 11-12-078, § 170-290-3660, 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, § 170-290-3660, filed 10/28/09, effective 12/1/09.]

### Start Dates and Eligibility Period

**WAC 170-290-3665 When SCC program subsidies start.** (1) SCC benefits for an eligible consumer may begin when the following conditions are met:

- (a) The consumer has completed the required SCC application and verification process as described under WAC 170-290-0012 within thirty days of the date DSHS received the consumer's application or reapplication for SCC benefits;
- (b) The consumer is working or participating in an approved activity under WAC 170-290-3555;
- (c) The consumer needs child care for work or approved activities within at least thirty days of the date of application for SCC benefits; and
- (d) The consumer's eligible licensed or certified provider is caring for his or her children.

(2) If a consumer fails to turn in all information within thirty days from his or her application date, the consumer must restart the application process.

(3) The consumer's application date is whichever is earlier:

- (a) The date the consumer's application is entered into DSHS's automated system; or
- (b) The date the consumer's application is date stamped as received.

[Statutory Authority: RCW 43.215.060, 43.215.070, and chapter 43.215 RCW. WSR 11-12-078, § 170-290-3665, 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, § 170-290-3665, filed 10/28/09, effective 12/1/09.]

**WAC 170-290-3690 Denial of benefits—Date of redetermining eligibility.** (1) DSHS sends a consumer a denial letter when the consumer has applied for child care and the consumer:

- (a) Is not eligible due to the consumer's:
  - (i) Family composition;
  - (ii) Income; or
  - (iii) Activity; or
- (b) Did not provide information required to determine the consumer's eligibility according to WAC 170-290-3530.

(2) If a consumer turns in information or otherwise meets eligibility requirements after the denial letter is sent, the consumer's benefits begin according to WAC 170-290-3665.

(3) WCCC eligibility will be determined when a consumer is denied for SCC program subsidies.

[Statutory Authority: RCW 43.215.060, 43.215.070, and chapter 43.215 RCW. WSR 11-12-078, § 170-290-3690, 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, § 170-290-3690, filed 10/28/09, effective 12/1/09.]

### Notice

**WAC 170-290-3720 Notice of payment changes.** DSHS provides SCC consumers with at least ten days written notice of changes to payments related to the suspension, reduction, or termination of benefits, in child care arrangements, except as noted in WAC 170-290-3730.



[Statutory Authority: RCW 43.215.060, 43.215.070, and chapter 43.215 RCW. WSR 11-12-078, § 170-290-3720, 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, § 170-290-3720, filed 10/28/09, effective 12/1/09.]

**WAC 170-290-3730 When notice of payment changes is not required.** DSHS does not give a consumer notice if the consumer:

- (1) Tells DSHS that he or she no longer wants SCC; or
- (2) Has not informed DSHS of his or her new mailing address.

[Statutory Authority: RCW 43.215.060, 43.215.070, and chapter 43.215 RCW. WSR 11-12-078, § 170-290-3730, 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, § 170-290-3730, filed 10/28/09, effective 12/1/09.]

### Eligible Providers and Rates

**WAC 170-290-3750 Eligible child care providers.** To receive payment under the SCC program, a consumer's child care provider must be:

- (1) Currently licensed as required by chapter 43.215 RCW and chapters 170-295, 170-296, or 170-151 WAC;
- (2) Meeting their state's licensing regulations, for providers who care for children in states bordering Washington. The SCC program pays the lesser of the following to qualified child care facilities in bordering states:
  - (a) The provider's private pay rate for that child; or
  - (b) The state maximum child care subsidy rate for the DSHS region where the child resides; or
- (3) Exempt from licensing but certified by DEL, such as:
  - (a) Tribal child care facilities that meet the requirements of tribal law;
  - (b) Child care facilities on a military installation; and
  - (c) Child care facilities operated on public school property by a school district.

[Statutory Authority: RCW 43.215.060, 43.215.070, and chapter 43.215 RCW. WSR 11-12-078, § 170-290-3750, 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, § 170-290-3750, filed 10/28/09, effective 12/1/09.]

**WAC 170-290-3760 SCC subsidy rates—Effective date.** State child care subsidy rates in this part are effective as of the date stated in WAC 170-290-0180.

[Statutory Authority: RCW 43.215.060, 43.215.070, and chapter 43.215 RCW. WSR 11-12-078, § 170-290-3760, 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, § 170-290-3760, filed 10/28/09, effective 12/1/09.]

**WAC 170-290-3770 Authorized SCC payments.** The SCC program may authorize payments to licensed or certified child care providers for:

- (1) Basic child care either full-day or half-day, at rates listed in the chart in WAC 170-290-0200 and 170-290-0205:
  - (a) A full day of child care when care is needed for five to ten hours per day;
  - (b) A half day of child care when care is needed for less than five hours per day;
- (2) A registration fee, according to WAC 170-290-0245;

(10/31/13)

(3) Subsidy rates for five-year old children according to WAC 170-290-0185;

(4) The field trip fees in WAC 170-290-0247;

(5) The nonstandard hours bonus in WAC 170-290-0249; and

(6) Special needs care when the child has a documented special need and a documented need for a higher level of care, according to WAC 170-290-0220, 170-290-0225, and 170-290-0230.

[Statutory Authority: RCW 43.215.060, 43.215.070, and chapter 43.215 RCW. 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.]

**WAC 170-290-3790 When additional SCC subsidy payments are authorized.** DSHS may authorize additional child care when:

- (1) Needed to accommodate a family's work schedule;
- (2) Employer verification of work schedule is presented; and
- (3) More than ten hours of care is needed per day for the consumer to participate in an approved activity (up to a maximum of sixteen hours a day) and the provider's policy is to charge all families for these extra hours.

[Statutory Authority: RCW 43.215.060, 43.215.070, and chapter 43.215 RCW. WSR 11-12-078, § 170-290-3790, 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, § 170-290-3790, filed 10/28/09, effective 12/1/09.]

**WAC 170-290-3800 Eligible provider capacity and payment.** (1) DSHS may pay licensed and certified providers for authorized care up to the provider's licensed capacity as determined under WAC 170-151-080, 170-295-0080, or 170-296A-5700, as appropriate.

(2) Licensed providers may not bill the state for more than the number of children they have in their licensed capacity and who are authorized to receive child care subsidies.

(3) A violation of subsection (2) of this section may:

- (a) Result in the immediate suspension of the provider's subsidy payments; and
- (b) Establish a provider overpayment as provided in WAC 170-290-0268.

(4) As used in this section, "capacity" has the same meaning as defined in WAC 170-151-010, 170-295-0010, and 170-296A-0010.

[Statutory Authority: RCW 43.215.070, 43.215.060 and chapter 43.215 RCW. WSR 12-11-025, § 170-290-3800, filed 5/8/12, effective 6/8/12.]

### Review Process

**WAC 170-290-3840 New eligibility period.** (1) If a consumer wants to receive SCC program subsidies for another eligibility period, he or she must reapply for SCC benefits before the end of the current eligibility period. To determine if a consumer is eligible, DSHS:

- (a) Requests reapplication information before the end date of the consumer's current SCC eligibility period; and
- (b) Verifies the requested information for completeness and accuracy.

[Ch. 170-290 WAC p. 33]

(2) A consumer may be eligible for SCC program subsidies for a new eligibility period if:

(a) DSHS receives the consumer's reapplication information no later than the last day of the current eligibility period;

(b) The consumer's provider is eligible for payment under WAC 170-290-3750; and

(c) The consumer meets all SCC eligibility requirements.

(3) If DSHS determines that a consumer is eligible for SCC program subsidies based on his or her reapplication information, DSHS notifies the consumer of the new eligibility period and copayment.

(4) If a consumer fails to contact DSHS on or before the end date of the consumer's current SCC eligibility period to request SCC program subsidies, he or she must reapply according to WAC 170-290-3665.

[Statutory Authority: RCW 43.215.060, 43.215.070, and chapter 43.215 RCW. WSR 11-12-078, § 170-290-3840, 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, § 170-290-3840, filed 10/28/09, effective 12/1/09.]

### Payment Discrepancies

**WAC 170-290-3850 Payment discrepancies generally.** Child care subsidy payment discrepancies are described in WAC 170-290-0266 through 170-290-0275, with the exception of underpayments requested by licensed child care centers, which will only be considered for twelve months after the date of services.

[Statutory Authority: RCW 43.215.060, 43.215.070, and chapter 43.215 RCW. WSR 11-12-078, § 170-290-3850, 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, § 170-290-3850, filed 10/28/09, effective 12/1/09.]

**WAC 170-290-3855 Termination of and redetermining eligibility for SCC program subsidies.** (1) A consumer's continued eligibility for SCC program subsidies stops when:

(a) The consumer's monthly copayment is equal to or higher than the state maximum monthly child care rate for all of the consumer's children in care; or

(b) The consumer:

(i) Is not participating in an approved activity as defined in WAC 170-290-3555;

(ii) Does not meet other SCC eligibility requirements related to family size, income and approved activities;

(iii) Does not comply with the copayment requirements of WAC 170-290-3565 (6) and (7); or

(iv) Refuses to cooperate with the child care subsidy audit process or the DSHS office of fraud and accountability (OFA).

(2) A consumer might be eligible for SCC program subsidies again beginning on the date that the consumer:

(a) Meets all SCC program eligibility requirements;

(b) Complies with the copayment requirements of WAC 170-290-3565(6); and

(c) Cooperates with the child care subsidy audit process or with the DSHS office of fraud and accountability (OFA).

[Statutory Authority: RCW 43.215.070, 43.215.060 and chapter 43.215 RCW. WSR 12-11-025, § 170-290-3855, filed 5/8/12, effective 6/8/12; WSR 11-12-078, § 170-290-3855, 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, § 170-290-3855, filed 10/28/09, effective 12/1/09.]

### Administrative Hearings—SCC

**WAC 170-290-3860 Right to request an administrative hearing.** SCC consumers and licensed or certified child care providers must follow WAC 170-290-0280 to request a hearing.

[Statutory Authority: RCW 43.215.060, 43.215.070, and chapter 43.215 RCW. WSR 11-12-078, § 170-290-3860, 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, § 170-290-3860, filed 10/28/09, effective 12/1/09.]

**WAC 170-290-3865 Receipt of SCC program subsidies pending the outcome of an administrative hearing.** A consumer may receive SCC program subsidies while waiting for the outcome of a hearing as provided in WAC 170-290-0285.

[Statutory Authority: RCW 43.215.060, 43.215.070, and chapter 43.215 RCW. WSR 11-12-078, § 170-290-3865, 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, § 170-290-3865, filed 10/28/09, effective 12/1/09.]