

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 transaction created by DSHS which allows the provider the ability to claim ((a)) payment ((for child care provided during a family's approved activities)) during ((the current)) a certification period. The transaction may be adjusted based on the family need.

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

"Benefit" means a regular payment made by a government agency to a person qualified to receive it.

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

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

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

"Consumer" means the person 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, whether provided under a voucher or contract, 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.

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

"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 DSHS, and subsidized employment, such as:

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

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

"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.

"New child care provider" means a licensed or certified provider who did not receive a state subsidy payment between July 1, 2015, and June 30, 2016.

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

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

"Phase out period" means a three-month eligibility period a consumer may be eligible for at reapplication when the consumer's household income is greater than two hundred percent of the federal poverty guidelines (FPG) but less than two hundred twenty percent of the FPG.

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

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

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

"School age child" means a child (~~(not less than)~~) who is between five years of age through twelve years of age and who is attending ((kindergarten or elementary school)) public or private school or is receiving home-based instruction under chapter 28A.200 RCW.

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

"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 applicants or reapplicants eligible to receive subsidy benefits but funding is not available.

"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 subsidy for child care (~~((subsidies for approvable activities outside the consumer's home))~~).

AMENDATORY SECTION (Amending WSR 16-09-059, filed 4/15/16, effective 5/16/16)

WAC 170-290-0005 Eligibility. (1) At application and reapplication, to be eligible for WCCC, the ((person applying for benefits)) applicant or reapplicant 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)) eighty-five percent of the state median income or if resources exceed one million dollars;~~
 - (g) Complete the WCCC application and DSHS verification process regardless of other program benefits or services received; and
 - ~~((i))~~ (h) 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 thirteen years of age; or
 - (ii) Less than nineteen years of age, and:
 - (A) Have a verified special need, according WAC 170-290-0220; or
 - (B) Be under court supervision.

AMENDATORY SECTION (Amending WSR 16-09-059, filed 4/15/16, effective 5/16/16)

WAC 170-290-0012 Verifying consumers' information. (1) A consumer must provide all required information to DSHS to determine eligibility when the consumer initially applies or reapplies for benefits.

(2) (~~(A consumer must provide verification to DSHS to determine continued eligibility for benefits when there is a change of circumstances under WAC 170-290-0031 during the eligibility period.~~

~~(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))~~ (3) 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))~~ (4) The verification that the consumer gives to DSHS includes, but is not limited to, the following:

(a) A current WorkFirst individual responsibility plan (IRP) for consumers receiving TANF;

(b) Employer name, address, and phone number;

(c) State business registration and license, if self-employed;

(d) Hourly wage or salary;

(e) Either the:

(i) Gross income for the last three months;

(ii) Self-attestation of anticipated wages for new employment and third-party verification of the wages within sixty days of the date DSHS approved the consumer's application or reapplication for WCCC benefits;

(iii) Federal income tax return for the preceding calendar year; or

~~((iii))~~ (iv) DSHS employment verification form;

(f) Monthly unearned income the household receives, such as supplemental security income (SSI) benefits or child support. Child support payment amounts are verified as follows:

(i) 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;

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

(iii) For applicants or consumers who have an informal verbal or written child support agreement, the amount as verified by the written agreement signed by the noncustodial parent (NCP);

(iv) For applicants or consumers who cannot provide a written agreement signed by the NCP, the amount received for child support verified by a written statement from the consumer that documents why they cannot provide the statement from the NCP.

(g) If the other parent is in the household, the same information for them;

(h) 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.

~~((+6))~~ (5) If DSHS requires verification from a consumer that costs money, DSHS must pay for the consumer's reasonable costs.

~~((+7))~~ (6) DSHS does not pay for a self-employed consumer's state business registration or license, which is a cost of doing business.

~~((+8))~~ (7) If a consumer does not provide all of the verification requested within thirty days from the application date, DSHS will determine if a consumer is eligible based on the information already available to DSHS.

AMENDATORY SECTION (Amending WSR 16-09-059, filed 4/15/16, effective 5/16/16)

WAC 170-290-0014 Verifying information for a provider's payment.

(1) A consumer must provide all required information (~~to DSHS to determine eligibility~~) for payment to be authorized to their provider.

(2) 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.

(3) 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).

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

(a) Name and phone number of the licensed child care provider; and

(b) 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 provider's valid Social Security card; ~~(and)~~

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

(c) Self-attestation of work, school or training schedule when the consumer requests child care for non-TANF activities. An authorization based on a self-attested schedule is subject to change if DSHS subsequently receives more accurate, complete, or consistent third-party information.

WAC 170-290-0020 Eligibility—Special circumstances. (1)
~~((Child care provided at the consumer's place of work.))~~ At applica-
tion, reapplication and change reporting:

(a) A consumer is not eligible for WCCC benefits for the consumer's children when child care is provided at the same location where the consumer works.

(b) A legal guardian under WAC 170-290-0005 may receive WCCC benefits for approved activities without the spouse or live-in partner's availability to provide care being considered unless the spouse or live-in partner is also named on the permanent custody order.

(i) Eligibility for WCCC benefits is based on:

(A) The consumer's work or approved activities schedule;

(B) The child's need for care;

(C) The child's income eligibility; and

(D) Family size based on number of children under guardianship and needing care.

(ii) 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.

(c) 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 stepparents.

(i) 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:

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

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

(ii) Eligibility for WCCC benefits is based on:

(A) The consumer's work schedule;

(B) The child's need for care;

(C) The child's income eligibility; and

(D) Family size based on number of children under in loco parentis and needing care.

(iii) 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.

(2) ~~((Consumer's child care employment.))~~ At application and re-
application:

(a) A consumer may be eligible for WCCC benefits while working in a child care center if the consumer does not provide direct care in the same classroom to the consumer's children during work hours.

(b) A consumer is not eligible for WCCC benefits while working in a family home child care where the consumer's 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 the consumer 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))~~ (e) If a consumer claims one parent is not able to care for the children the consumer must provide written documentation from an acceptable medical source (see WAC 388-449-0010) 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.)~~ (f) A consumer is not eligible for WCCC benefits when the consumer 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 approved activities without the spouse or live in partner's availability to provide care being considered unless the spouse or live in partner is also named on the permanent custody order.~~

~~(b) Eligibility for WCCC benefits is based on the consumer's:~~

~~(i) Work or approved activities schedule;~~

~~(ii) The child's need for care;~~

~~(iii) The child's income eligibility; and~~

~~(iv) Family size based on number of children under guardianship and needing care.~~

~~(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 the consumer's:~~

~~(i) Work schedule;~~

~~(ii) The child's need for care;~~

~~(iii) The child's income eligibility; and~~

~~(iv) Family size based on number of children under in loco parentis and needing care.~~

~~(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))~~ (3) A consumer may be eligible for WCCC if the consumer is participating in an approved activity needed to remove a sanction penalty or to reopen the consumer's WorkFirst case.

~~((b) A WorkFirst participant who loses a TANF grant due to exceeding the federal time limit for receiving TANF may still be eligi-~~

~~ble for WCCC benefits under WAC 170-290-0055.)) (4) 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.~~

~~(5) When a consumer's monthly copayment is higher than the state maximum rate including any special needs payments for all of the consumer's children in care under WAC 170-290-0005:~~

~~(a) The consumer's eligibility period may continue; and~~

~~(b) DSHS will not authorize payment to the provider until the copayment becomes lower than the state maximum rate including any special needs payments for all of the consumer's children in care under WAC 170-290-0005.~~

NEW SECTION

WAC 170-290-0022 Eligibility—Resources. (1) Effective October 1, 2016, to be eligible for WCCC, the consumer applying or receiving benefits must have countable resources less than one million dollars. The resources count if:

(a) The consumer has control over the resource;

(b) The consumer could legally sell the resource or convert it into cash;

(c) The resource belongs to the consumer or dependents that are part of the household and applying for or receiving WCCC.

(2) Resources that count include both liquid and nonliquid resources:

(a) Liquid resources easily convert into cash. Some examples of liquid resources include:

(i) Value of all bank accounts;

(ii) Cash on hand;

(iii) Money market accounts, IRAs, certificate of deposits (CDs), stocks, bonds, annuities, mutual funds less early withdrawal penalties including taxes;

(iv) Available trust accounts;

(v) If a consumer owns a resource with someone not part of his or her household, we count the portion of the resource that the consumer owns.

(b) Nonliquid resources do not easily convert to cash. Some examples of nonliquid resources include:

(i) Value of any additional vehicles not excluded. Vehicle value determined by applying WAC 388-470-0075;

(ii) A house the consumer does not live in or intend to return to;

(iii) Property the consumer does not live on.

(3) Excluded resources include:

(a) Legal guardians resources;

(b) In loco parentis custodians resources;

(c) Resources with a legal barrier, which include:

(i) Resources tied up in a divorce proceeding;

(ii) Jointly owned resources that the consumer has no clear access to obtain the resource;

(iii) If the consumer cannot overcome the barrier to obtain the resource;

(iv) The consumer must petition the courts for access of the resource;

(v) Making the resource available would place the consumer at risk of harm.

(d) For a one-parent household, one vehicle, defined as a motorized device the consumer can use as a regular means of transportation. For a two-parent household, two vehicles, defined as a motorized device the consumers can use as a regular means of transportation;

(e) One home and the surrounding property the consumer and consumer's dependents live in;

(f) Personal effects;

(g) Household goods;

(h) Life insurance policies, including a policy with cash surrender value;

(i) Federal law resources:

(i) Child nutrition act for Women, Infants, and Children (WIC) including day care and school lunch programs (P.L. 89-642);

(ii) Reimbursement from the Uniform Relocation Assistance and Real Property Acquisition Act of 1970 (P.L. 91-646);

(iii) Payments from the Domestic Volunteer Services Act of 1973 (P.L. 93-113);

(iv) Disaster or emergency payments under the Disaster Relief Act of 1974 (P.L. 93-288) from:

(A) Federal Emergency Management Agency (FEMA);

(B) States or local governments; or

(C) Disaster assistance organizations.

(v) Disaster assistance payments to farmers under the Disaster Relief Act of 1974 (P.L. 93-288 as amended by 100-387);

(vi) Home energy assistance payments under the Low-Income Home Energy Assistance Act (P.L. 99-425);

(vii) Housing and Urban Development (HUD) community development block grant funds;

(viii) Title IV financial assistance other than room, board, and dependent care provided by the Higher Education Act (P.L. 99-498 as amended by 100-50);

(ix) Restitution payments under the Civil Liberties Act of 1988 to certain Asian Americans and Aleuts interned during World War II (P.L. 100-383);

(x) Yearly disability payments to veterans or lump sum payments to survivors of a deceased veteran retroactive to January 1, 1989, from the Agent Orange Settlement Fund (P.L. 101-201). These are different funds than those from the Agent Orange Act of 1991, which are not excluded (P.L. 102-4);

(xi) Payments received by an injured person, the surviving spouse, children, grandchildren, or grandparents under the Radiation Exposure Compensation Act (P.L. 101-426);

(xii) Payments to victims of Nazi persecution (P.L. 103-286); and

(xiii) Payments to crime victims from a federal or federally funded state or local program including Washington state crime victims compensation program (P.L. 103-322, section 23022).

(j) Native American resources:

(i) II compensation including cash, stock, partnership interest, land, and interest in land under the Alaska Native Claims Settlement Act (P.L. 92-203 & 100-241);

(ii) Funds held in trust, restricted lands and the first two thousand dollars of each per capita judgment award (P.L. 93-134 as amended by 97-458, 98-64 & 103-66);

- (iii) Relocation assistance payments to members of the Navajo and Hopi tribes (P.L. 93-531, section 22);
- (iv) Payments to certain Indian tribal members, regarding submarginal land held in trust by the U.S. (P.L. 94-114). Call state office for a list of affected tribes;
- (v) Funds distributed per capita or held in trust under the Sac and Fox Indian Claims Agreement (P.L. 94-189);
- (vi) Payments from the disposition of funds to the Grand River Band of Ottawa Indians (P.L. 94-540);
- (vii) Payments to the Confederate Tribe of the Yakama Indian Nation and the Apache Tribe from the Indian Claims Commission (P.L. 95-433);
- (viii) Payments under the Maine Indian Claims Settlement Act of 1980 (P.L. 96-420);
- (ix) Payments and certain funds held in trust for Chippewa Indians (P.L. 97-403, 98-102, 99-146, 99-264, 99-346, & 99-377);
- (x) Payments under the Puyallup Tribe of Indians Settlement Act of 1989 (P.L. 101-41) as follows:
 - (A) Annuity fund established by P.L. 101-41 made to a Puyallup Tribal member upon reaching age twenty-one; and
 - (B) Payments made to a Puyallup tribe member from the trust fund established by P.L. 101-41;
- (xi) Payments to the Confederated Tribes of the Colville Reservation Grand Coulee Dam Settlement Act (P.L. 103-436) including:
 - (A) Real or personal property purchased directly with such funds; and
 - (B) Appreciation in value of the initial investment.
- (xii) Payments to the Blackfeet, Gros Ventre, and Assiniboine tribes, Montana; and the Papag, Arizona (P.L. 97-408 & 98-124);
- (xiii) Per capita shares to heirs of two thousand dollars or less under the Old Age Assistance Claims Settlement Act (P.L. 98-500);
- (xiv) Financial assistance provided by the Bureau of Indian Affairs under the Higher Education Act (P.L. 99-498 as amended by 100-50);
- (xv) Loans provided under the Tribal Development Student Assistance Revolving Loan Program of the Higher Education Act (P.L. 99-498 as amended by 102-325). These payments are counted for SSI-related medical; and
- (xvi) Payments under the Seneca Nation Settlement Act (P.L. 101-503).

AMENDATORY SECTION (Amending WSR 16-09-059, filed 4/15/16, effective 5/16/16)

WAC 170-290-0031 Notification of changes. (1) 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))~~ (a) Report to DSHS, within twenty-four hours, any pending charges or conviction information the consumer learns about his or her in-home/relative provider;

(b) Report to DSHS, within twenty-four hours, any pending charges or conviction information the consumer learns about anyone sixteen years of age or older who lives with the provider when care occurs outside of the child's home;

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

(d) Notify DSHS, within ten days, of changes of the address and telephone number of the consumer's in-home/relative provider;

(e) Notify DSHS, within ten days, when the consumer's countable income increases and exceeds eighty-five percent of state median income as provided in WAC 170-290-0005;

(f) Notify DSHS, within ten days, when the consumer's countable resources exceed one million dollars as provided in WAC 170-290-0005; and

(g) Notify the consumer's provider, within ten days, when DSHS changes the consumer's child care authorization(~~(+~~
~~3~~)).

(2) When a consumer receives WCCC benefits, he or she may notify DSHS (~~(within ten days of any significant change related to the consumer's copayment or eligibility, including)) when:~~

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

(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;)) The household income changes, 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 the 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)) increases, which may lower the copayment; or~~

~~(d) 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 the consumer's 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)) increases, which may lower the copayment.~~

(3) Effective dates of changes are as follows:

(a) Copayment changes are effective as provided in WAC 170-290-0085;

(b) Changes under subsection (1)(c) and (d) of this section are effective:

(i) The date of change, if reported within five days; or

(ii) The date the change was reported, if not reported within five days.

(c) Changes to consumer information described in WAC 170-290-0012 are effective:

(i) The date the change was reported, if reported within ten days from the date of change or if received within ten days from the date of request for verification; or

(ii) The date verification is received, if verification is not received within ten days from the date the change is reported or if not received within ten days from the request of verification.

AMENDATORY SECTION (Amending WSR 16-09-059, filed 4/15/16, effective 5/16/16)

WAC 170-290-0032 Failure to report changes. (1) A consumer's failure to report changes as required in WAC 170-290-0031 within the stated time frames may cause:

~~((1))~~ (a) A copayment error. The consumer may be required to pay a higher copayment as stated in WAC 170-290-0085; or

~~((2))~~ (b) A WCCC payment error. If an overpayment occurs, the consumer may receive an overpayment for what the provider has correctly billed, including absent days (see publications "*Child Care Subsidies: A Guide for Licensed and Certified Child Care Centers*," "*Child Care Subsidies: A Guide for Licensed and Certified Family Home Child Care Providers*" and "*Child Care Subsidies: A Guide for Family, Friends and Neighbors Child Care Providers*").

(2) If a consumer receives an overpayment for failure to report changes or failure to provide required verification, they will be required to repay any overpayment as provided in WAC 170-29-0271.

AMENDATORY SECTION (Amending WSR 16-09-059, filed 4/15/16, effective 5/16/16)

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 170-297 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 170-297 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 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) Keep receipts for billed field trip/quality enhancement fees as follows:

(a) Receipts from the previous twelve months must be available immediately for review upon request by DEL;

(b) Receipts from one to five years old must be provided to DSHS or DEL within two weeks of the date of a written request from either department;

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

(6) 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;

(7) Follow billing procedures:

(a) As described in the most current version of "*Child Care Subsidies: A Guide for Licensed and Certified Family Home Child Care Providers*"; or

(b) As described in the most current version of "*Child Care Subsidies: A Guide for Family, Friends and Neighbors Child Care Providers*"; or

(c) As described in the most current version of "*Child Care Subsidies: A Guide for Licensed and Certified Child Care Centers*."

(8) Not claim a payment in any month(~~(+~~

~~(+))~~) a child has not attended at least one day within the authorization period in that month(~~(+~~

~~(+))~~ ~~The day attended is within the authorization period~~)).

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

(10) 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

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

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

(b) Absent days on days in which the child is scheduled to attend and authorized for care;

(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.

AMENDATORY SECTION (Amending WSR 12-11-025, 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). Under WAC 170-290-0012 (5)(e)(ii), a determination made within thirty days of application using self-attestation of new employment wages is compliant with this subsection even if third-party verification is provided more than thirty days after the date of application;
- (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 at application and reapplication;
- (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.

AMENDATORY SECTION (Amending WSR 16-09-059, filed 4/15/16, effective 5/16/16)

- 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 the consumer's trade or business, not from wages paid by an employer;
 - (b) Be responsible to pay the consumer's self-employment Social Security and federal withholding taxes;

(c) Have a work schedule, activities or services that are not controlled in an employee-employer relationship;

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

(e) At application and reapplication, work outside of the home (~~during~~) the amount of hours for which the consumer 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;

(b) The amount of WCCC benefits a consumer receives for self-employment is equal to the number of hours in the consumer's 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 the consumer's self-employment, the consumer 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) A consumer who does not receive TANF cash assistance and requests WCCC benefits for self-employment must provide DSHS with the consumer's:

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

(ii) Uniform business identification (UBI) number for the state of Washington, or, for self-employment in bordering states, the registration or filing 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, projected profit and loss statement if starting a new business; and

(v) Either federal self-employment tax reporting forms for the most current reporting year or DSHS self-employment income and expense declaration form.

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

(c) At application and reapplication, DSHS determines (~~a consumer's need for care~~) the number of care hours the consumer is eligible to receive after receiving WCCC self-employment benefits for six consecutive months as provided in (b) of this subsection by:

(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 the parent's own self-employment earnings and self-employment plan. If the requested verification is not provided, then WAC 170-290-0012 applies to determining eligibility.

AMENDATORY SECTION (Amending WSR 16-09-059, filed 4/15/16, effective 5/16/16)

WAC 170-290-0055 Receipt of benefits (~~when not engaged in approved activities~~) during fourteen-day wait period. (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 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 full time care.~~

~~(3) The twenty eight day gap period must be used within the consumer's current eligibility period and is not an approved activity for the purpose of determining eligibility.~~

~~(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 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.~~

~~(6)) If the consumer does not enter the fourteen-day wait period activity, DSHS will terminate the consumer's case, as provided in WAC 170-290-0110.~~

(3) In the situation described in subsection (1) of this section, the child needs to attend at least one day in the calendar month for the provider to bill.

(4) DSHS does not prorate the copayment.

AMENDATORY SECTION (Amending WSR 16-09-059, filed 4/15/16, effective 5/16/16)

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. 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).

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

(4) The twelve-month eligibility period begins:

(a) When the benefits begin under WAC 170-290-0095; or

(b) Upon reapplication under WAC 170-290-0109.

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

(a) Requested by the consumer; or

(b) DSHS terminates the consumer's eligibility as stated in WAC 170-290-0110.

~~((3) All children in the consumer's household under WAC 170-290-0015 are eligible for the twelve-month eligibility period.~~

~~(4) 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).)~~

AMENDATORY SECTION (Amending WSR 16-09-059, filed 4/15/16, effective 5/16/16)

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 and causes the copayment to decrease;

(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; or

(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 the current eligibility period when 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)).~~

(4) DSHS does not prorate the copayment.

AMENDATORY SECTION (Amending WSR 16-09-059, filed 4/15/16, effective 5/16/16)

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 at first application for WCCC when benefits are paid. The consumer pays the minimum copayment:

(a) Beginning in the month that DSHS pays for WCCC child care services((7)); and

(b) The first full calendar month thereafter.

(3) **Reapplication.** The consumer pays the minimum copayment at re-application for WCCC after a break of at least thirty days in the consumer's approved activities. The consumer pays the minimum copayment:

(a) Beginning in the month that DSHS pays for WCCC services((7)); and

(b) 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.~~

(6)) DSHS does not prorate the copayment.

AMENDATORY SECTION (Amending WSR 16-09-059, filed 4/15/16, effective 5/16/16)

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 for WCCC benefits, except in the case of new employment or new non-TANF activities. In those cases, under WAC 170-290-0012 and 170-290-0014, the consumer must provide third-party verification within sixty days of DSHS approving the application or reapplication;

(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; and

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

(2) If a consumer fails to turn in all information within thirty days from the application date, the consumer must restart the application process, except in the case of new employment or new non-TANF activities. In those cases, under WAC 170-290-0012 and 170-290-0014, the consumer must provide third-party verification within sixty days of DSHS approving the application or reapplication.

(3) The consumer's application date is whichever of the following 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.

AMENDATORY SECTION (Amending WSR 16-09-059, filed 4/15/16, effective 5/16/16)

WAC 170-290-0109 Reapplication. (1) If a consumer wants to receive uninterrupted child care benefits for another eligibility period, the consumer 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

(c) The consumer meets all WCCC eligibility requirements.

(3) Effective October 1, 2016, if a consumer's household has countable income greater than two hundred percent of the federal poverty guidelines (FPG) but less than two hundred twenty percent of the FPG, the consumer may be eligible for a three-month eligibility period called Income Phase-Out. In determining eligibility for the Income Phase-Out period, the following rules apply:

(a) All countable income must be between two hundred and two hundred twenty percent of the FPG. If the countable income exceeds two hundred twenty percent of the FPG, DSHS denies the reapplication;

(b) DSHS applies all other eligibility criteria for a reapplication, with the exception of income as described above;

(c) There is no break between the twelve-month eligibility period and the Income Phase-Out period;

(d) DSHS calculates the consumer's copayment at two hundred percent of the FPG of countable household income;

(e) DSHS certifies the consumer for a three-month eligibility period;

(f) The consumer will need to reapply for a new twelve-month certification period if the consumer's household income falls below two hundred percent of the FPG during or at the end of the three-month Income Phase-Out period; and

(g) The consumer will not be eligible for a second, back-to-back Income Phase-Out period if the countable income of the consumer's household remains between two hundred and two hundred twenty percent of the FPG at the end of the first three-month Income Phase-Out period.

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

~~((4))~~ (5) When a consumer submits a reapplication after the last day of the 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 activity; and

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

AMENDATORY SECTION (Amending WSR 16-09-059, filed 4/15/16, effective 5/16/16)

WAC 170-290-0110 Termination of and redetermining eligibility for benefits. (1) DSHS stops a consumer's eligibility for WCCC benefits when the consumer does not:

~~(a) ((The consumer's monthly copayment is higher than the state maximum monthly rate, including special needs payment, but not including registration, field trip and nonstandard hours bonus payments, 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))~~ (b) 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))~~ (c) Enter the approved activity at the end of the fourteen-day wait period;

(d) Complete the WorkFirst orientation process when approved for TANF;

(e) Return the requested income verification of new employment by the sixtieth day as provided in WAC 170-290-0012; or

(f) 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 170-290-0030 (3) and (4); and

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

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

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

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

(a) Licensed providers must:

(i) Be currently licensed as required by chapter 43.215 RCW and as described by chapters 170-295, 170-296A, or 170-297 WAC; or

(ii) Meet 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) New child care providers, as defined in WAC 170-290-0003, who are subject to licensure or are certified to receive state subsidy as required by chapter 43.215 RCW and as described by chapter 170-295, 170-296A, or 170-297 WAC, who received a subsidy payment for nonschool age child care on or after July 1, 2016, and received no such payments during the period July 1, 2015, through June 30, 2016, must:

(i) Enroll in the early achievers program within thirty days of receiving the initial state subsidy payment. A provider who fails to meet this requirement will lose eligibility to receive state subsidy payments for nonschool age child care.

(A) Out-of-state providers that provide care for children receiving Washington state child care subsidies are neither required nor eligible to participate in early achievers; and

(B) Out-of-state providers are not eligible to receive quality improvement awards, tiered reimbursement, or other awards and incentives associated with participation in early achievers.

(ii) Adhere to the provisions for participation as outlined in the most recent version of the *Early Achievers Operating Guidelines*. Failure to adhere to these guidelines may result in a provider's loss of eligibility to receive state subsidy payments nonschool age child care;

(iii) Complete level 2 activities in the early achievers program within twelve months of enrollment. A provider who fails to meet this requirement will lose eligibility to receive state subsidy payments for nonschool age child care;

(iv) Rate at a level 3 or higher in the early achievers program within thirty months of enrollment. If an eligible provider fails to rate at a level 3 or higher within thirty months of enrollment in the early achievers program, the provider must complete remedial activities with the department and rate at a level 3 or higher within six

months of beginning remedial activities. A provider who fails to receive a rating within thirty months of enrollment or fails to rate at a level 3 or higher within six months of beginning remedial activities will lose eligibility to receive state subsidy payments for nonschool age child care; and

(v) Maintain an up to date rating by renewing their facility rating every three years and maintaining a rating level 3 or higher. If a provider fails to renew their facility rating or maintain a rating level 3 or higher, they will lose eligibility to receive state subsidy payments nonschool age child care.

(d) Existing child care providers who are subject to licensure or are certified to receive state subsidy as required by chapter 43.215 RCW and as described by chapter 170-295, 170-296A, or 170-297 WAC, who have received a subsidy payment for a nonschool age child in the period July 1, 2015, through June 30, 2016, must:

(i) Enroll in the early achievers program by August 1, 2016. A provider who fails to meet this requirement will lose eligibility to receive state subsidy payments for nonschool age child care;

(A) Out-of-state providers that provide care for children receiving Washington state child care subsidies are neither required nor eligible to participate in early achievers; and

(B) Out-of-state providers are not eligible to receive quality improvement awards, tiered reimbursement, or other awards and incentives associated with participation in early achievers.

(ii) Complete level 2 activities in the early achievers program by August 1, 2017. A provider who fails to meet this requirement will lose eligibility to receive state subsidy payments for nonschool age child care;

(iii) Rate at a level 3 or higher in the early achievers program by December 31, 2019;

(iv) If an existing provider fails to rate at a level 3 or higher by December 31, 2019, in the early achievers program, the provider must complete remedial activities with the department and rate at a level 3 or higher by June 30, 2020. A provider who fails to receive a rating by December 31, 2019, or fails to rate at a level 3 or higher by June 30, 2020, after completing remedial activities will lose eligibility to receive state subsidy payments for nonschool age child care; and

(v) Maintain an up-to-date rating by renewing their facility rating every three years and maintaining a rating level 3 or higher. If a provider fails to renew their facility rating or maintain a rating level 3 or higher, they will lose eligibility to receive state subsidy payments nonschool age child care.

(e) If a child care provider serving nonschool age children, as defined in WAC 170-290-0003, and receiving state subsidy payments for nonschool age child care has successfully completed all level 2 activities and is waiting to be rated, the provider may continue to receive a state subsidy pending the successful completion of the level 3 rating activity.

(f) DEL-contracted seasonal day camps ((has)) have a contract with DEL to provide subsidized child care.

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 approved activities~~)).

(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) Grandparents or great-grandparents; or
- (d) Aunts or uncles, or great-aunts or great-uncles.

(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;

(c) Another adult acting in loco parentis or that adult's spouse or live-in partner; or

(d) An individual who has a revoked child care license.

(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, unless exempt under department of health regulations.

(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. 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.

(9) In-home/relative provider payments cannot begin prior to the receipt of all required background checks indicating no disqualifying information.

(10) WCCC consumers must be in an approved activity at application and reapplication and the requirements in WAC 170-290-0020 pertain for the in-home/relative provider to be eligible for subsidy payments.

AMENDATORY SECTION (Amending WSR 16-09-059, filed 4/15/16, effective 5/16/16)

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;

(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) Report a revoked child care license;

(6) Bill only for actual hours of care provided. Those hours:

(a) Must be authorized by DSHS((, and));

(b) Must be used by the consumer ((for approved activities)); and

(c) Can be claimed whether or not the consumer is present during the hours of care.

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

(8) Track attendance documenting the days and hours of care provided and keep records for five years:

(a) If paper attendance records are used, the provider must 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;

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

(10) 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.

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

(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) 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;

(c) Hourly child care for in-home/relative child care;

(d) Full-time 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. Full-time care means the following:

(i) For licensed care or certified facilities, twenty-three full-day units if the child needs five or more hours of care per day, or thirty half-day units if the child needs fewer than five hours of care per day; and

(ii) Two hundred thirty hours for in-home/relative child care;

(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) Beginning September 1, 2016, and applicable to school-age children, DSHS will authorize and pay for child care as follows:

(a) DSHS will automatically increase half-day authorizations to full-day authorizations beginning the month of June when the child needs full-day care; and

(b) DSHS will automatically decrease full-day authorizations to half-day authorizations beginning the month of September unless the child continues to need full-day care during the school year until the following June. If the consumer's schedule has changed and more care is needed, the consumer must request an increase, and DSHS will verify the need for increased care. DSHS will send the consumer notification of the decrease as stated in WAC 170-290-0025;

(3) 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 approved 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))~~ (4) DSHS authorizes overtime 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.

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

AMENDATORY SECTION (Amending WSR 16-09-059, filed 4/15/16, effective 5/16/16)

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. - 6 yrs not attending kindergarten or school)	School-age (5 - 12 yrs attending kindergarten or school)
Region 1	Full-Day	\$((31.47)) <u>32.10</u>	\$((26.47)) <u>27.00</u>	\$((25.00)) <u>25.50</u>	\$((23.55)) <u>24.02</u>
	Half-Day	\$((15.74)) <u>16.05</u>	\$((13.24)) <u>13.50</u>	\$((12.50)) <u>12.75</u>	\$((11.78)) <u>12.01</u>
Spokane County	Full-Day	\$((32.19)) <u>32.84</u>	\$((27.07)) <u>27.62</u>	\$((25.58)) <u>26.10</u>	\$((24.09)) <u>24.58</u>
	Half-Day	\$((16.10)) <u>16.42</u>	\$((13.54)) <u>13.81</u>	\$((12.79)) <u>13.05</u>	\$((12.05)) <u>12.29</u>
Region 2	Full-Day	\$((31.79)) <u>32.44</u>	\$((26.53)) <u>27.06</u>	\$((24.61)) <u>25.10</u>	\$((21.76)) <u>22.20</u>
	Half-Day	\$((15.90)) <u>16.22</u>	\$((13.27)) <u>13.53</u>	\$((12.31)) <u>12.55</u>	\$((10.88)) <u>11.10</u>
Region 3	Full-Day	\$((42.07)) <u>42.92</u>	\$((35.08)) <u>35.78</u>	\$((30.30)) <u>30.92</u>	\$((29.42)) <u>30.02</u>
	Half-Day	\$((21.04)) <u>21.46</u>	\$((17.54)) <u>17.89</u>	\$((15.15)) <u>15.46</u>	\$((14.71)) <u>15.01</u>
Region 4	Full-Day	\$((48.96)) <u>49.94</u>	\$((40.88)) <u>41.70</u>	\$((34.30)) <u>35.00</u>	\$((30.89)) <u>31.52</u>
	Half-Day	\$((24.48)) <u>24.97</u>	\$((20.44)) <u>20.85</u>	\$((17.15)) <u>17.50</u>	\$((15.45)) <u>15.76</u>
Region 5	Full-Day	\$((35.90)) <u>36.62</u>	\$((30.89)) <u>31.52</u>	\$((27.20)) <u>27.74</u>	\$((24.14)) <u>24.62</u>
	Half-Day	\$((17.95)) <u>18.31</u>	\$((15.45)) <u>15.76</u>	\$((13.60)) <u>13.87</u>	\$((12.07)) <u>12.31</u>
Region 6	Full-Day	\$((35.30)) <u>36.02</u>	\$((30.30)) <u>30.92</u>	\$((26.47)) <u>27.00</u>	\$((25.89)) <u>26.42</u>
	Half-Day	\$((17.65)) <u>18.01</u>	\$((15.15)) <u>15.46</u>	\$((13.24)) <u>13.50</u>	\$((12.95)) <u>13.21</u>

(Chart effective ((01/01/15)) 07/01/16)

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

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

(2) The child care center WAC 170-295-0010 and 170-295-0050 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 the child's 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.

AMENDATORY SECTION (Amending WSR 16-09-059, filed 4/15/16, effective 5/16/16)

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. - 6 yrs not attending kindergarten or school)	School-age (5 - 12 yrs attending kindergarten or school)
Region 1	Full-Day	\$((26.80)) <u>29.62</u>	\$((26.80))	\$((23.30))	\$((23.30)) <u>23.78</u>	\$((20.73)) <u>21.14</u>
	Half-Day	\$((13.40)) <u>14.81</u>	<u>29.62</u> \$((13.40)) <u>14.81</u>	<u>25.76</u> \$((11.65)) <u>12.88</u>	\$((11.65)) <u>11.89</u>	\$((10.37)) <u>10.57</u>
Spokane County	Full-Day	\$((27.40)) <u>30.32</u>	\$((27.40))	\$((23.83))	\$((23.83)) <u>24.32</u>	\$((21.18)) <u>21.60</u>
	Half-Day	\$((13.70)) <u>15.16</u>	<u>30.32</u> \$((13.70)) <u>15.16</u>	<u>26.36</u> \$((11.92)) <u>13.18</u>	\$((11.92)) <u>12.16</u>	\$((10.59)) <u>10.80</u>
Region 2	Full-Day	\$((28.30)) <u>30.66</u>	\$((28.30))	\$((24.61))	\$((22.01)) <u>24.44</u>	\$((22.01)) <u>22.46</u>
	Half-Day	\$((14.15)) <u>15.33</u>	<u>30.66</u> \$((14.15)) <u>15.33</u>	<u>26.66</u> \$((12.31)) <u>13.33</u>	\$((11.01)) <u>12.22</u>	\$((11.01)) <u>11.23</u>
Region 3	Full-Day	\$((37.54)) <u>41.98</u>	\$((37.54))	\$((32.36))	\$((28.48)) <u>35.54</u>	\$((25.89)) <u>28.80</u>
	Half-Day	\$((18.77)) <u>20.99</u>	<u>41.98</u> \$((18.77)) <u>20.99</u>	<u>35.54</u> \$((16.18)) <u>17.77</u>	\$((14.24)) <u>17.77</u>	\$((12.95)) <u>14.40</u>
Region 4	Full-Day	\$((44.17)) <u>53.30</u>	\$((44.17))	\$((38.41))	\$((32.36)) <u>39.98</u>	\$((31.06)) <u>31.68</u>
	Half-Day	\$((22.09)) <u>26.65</u>	<u>53.30</u> \$((22.09)) <u>26.65</u>	<u>44.42</u> \$((19.21)) <u>22.21</u>	\$((16.18)) <u>19.99</u>	\$((15.53)) <u>15.84</u>
Region 5	Full-Day	\$((29.78)) <u>36.34</u>	\$((29.78))	\$((25.89))	\$((24.61)) <u>26.66</u>	\$((22.01)) <u>22.46</u>
	Half-Day	\$((14.89)) <u>18.17</u>	<u>36.34</u> \$((14.89)) <u>18.17</u>	<u>31.60</u> \$((12.95)) <u>15.80</u>	\$((12.31)) <u>13.33</u>	\$((11.01)) <u>11.23</u>
Region 6	Full-Day	\$((29.78)) <u>32.68</u>	\$((29.78))	\$((25.89))	\$((25.89)) <u>26.66</u>	\$((24.61)) <u>25.10</u>
	Half-Day	\$((14.89)) <u>16.34</u>	<u>32.68</u> \$((14.89)) <u>16.34</u>	<u>28.42</u> \$((12.95)) <u>14.21</u>	\$((12.95)) <u>13.33</u>	\$((12.31)) <u>12.55</u>

(Chart effective ((01/01/15)) 07/01/16)

(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 years of age or older, the provider must follow WAC 170-296A-0050 and 170-296A-5625 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 (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.

AMENDATORY SECTION (Amending WSR 13-21-113, filed 10/22/13, effective 11/22/13)

WAC 170-290-0210 Tiered reimbursement and quality improvement awards. (1) 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.

(2) Quality improvement awards, as described by chapter 43.215 RCW, are reserved for early achievers participating providers offering programs to an enrollment population consisting of at least five percent of nonschool age children receiving a state subsidy.

(a) Qualifying state subsidy programs include working connections child care (WCCC), seasonal child care (SCC), children's administration (CA) child care programs, homeless child care program (HCCP), ECLIPSE and medicare child care programs. Participants providing homeless child care program, ECLIPSE, or medicaid services must present DEL with information indicating that services were provided under these programs.

(b) Percent subsidy calculations are derived from a monthly average of the number of children receiving state subsidy divided by the monthly average licensed capacity of a specific provider over a twelve-month period.

(i) The twelve-month period utilized for the above calculation will include the twelve months prior to the formal release of a facility's early achievers rating.

(ii) Facilities must have provided care at least one day in a given month for that month to be utilized in the above calculation.

AMENDATORY SECTION (Amending WSR 14-24-070, filed 11/26/14, effective 1/1/15)

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 (~~forty-two~~) forty-seven cents per hour for the child who needs the greatest number of hours of care and two dollars and (~~thirty-nine~~) forty-four 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.

AMENDATORY SECTION (Amending WSR 16-09-059, filed 4/15/16, effective 5/16/16)

WAC 170-290-0271 Payment discrepancies—Consumer overpayments.

(1) DSHS establishes overpayments for past or current consumers when the consumer:

(a) Received benefits when the consumer was not eligible;

(b) ~~((Used care for an unapproved activity or for children not in the consumer's WCCC household;))~~ Was determined eligible at application or reapplication based on the consumer's participation in an approved activity and used benefits while never participating in said activity;

(c) Failed to report ~~((information))~~ changes under the requirements of WAC 170-290-0031 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 170-290-0005, 170-290-0015 or 170-290-0020;

(f) Failed to enter their approved activity at the end of the fourteen-day wait period;

(g) Failed to have TANF approved and enter an approved WorkFirst activity; or

(h) Failed to return, by the sixtieth day, the requested income verification of new employment as provided in WAC 170-290-0012.

(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 170-290-0030 through 170-290-0032 and the provider has billed correctly, the consumer is responsible for the entire overpayment, including any absent days.

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

(a) Not currently be receiving temporary aid for needy families (TANF);

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

(c) At application and reapplication, have parental control of one or more children;

(d) Be 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) At application and reapplication, participate in an approved activity under WAC 170-290-3555;

(f) Have countable income at or below the maximum eligibility limit described in WAC 170-290-0005. The consumer's eligibility shall end if the consumer's countable income is greater than eighty-five percent of the state median income or if resources exceed one million dollars;

(g) Complete the application for child care and DSHS verification process, regardless of other program benefits or services received; and

(h) Meet 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; and

(b) Live in Washington state and be:

(i) Less than ((age)) thirteen years of age; or

(ii) Less than ((age)) nineteen years of age 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.)~~

AMENDATORY SECTION (Amending WSR 16-09-059, filed 4/15/16, effective 5/16/16)

WAC 170-290-3550 Eligibility—Special circumstances (~~(for two-parent families)~~). (1) A consumer may be eligible for the SCC program when the consumer 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 the consumer 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 documentation from an acceptable medical source (see WAC 388-449-0010) 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.

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

(5) When a consumer's monthly copayment is higher than the state maximum rate including any special needs payments for all of the consumer's children in care under WAC 170-290-0005:

(a) The consumer's eligibility period may continue; and

(b) DSHS will not authorize payment to the provider until the copayment becomes lower than the state maximum rate including any special needs payments for all of the consumer's children in care under WAC 170-290-0005.

AMENDATORY SECTION (Amending WSR 16-09-059, filed 4/15/16, effective 5/16/16)

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

(4) The twelve-month eligibility period begins:

(a) When benefits begin under WAC 170-290-0095; or

(b) Upon reapplication under WAC 170-290-0109.

(5) DSHS may authorize care for:

- (a) Travel time only between the child care location and the employment location; or
- ~~(b) ((Job search, of no more than five days per month, if the consumer's seasonally available agricultural related work ends and the consumer 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.

NEW SECTION

WAC 170-290-3558 Resources. DSHS verifies a consumer's resource as provided in WAC 170-290-0022.

AMENDATORY SECTION (Amending WSR 16-09-059, filed 4/15/16, effective 5/16/16)

WAC 170-290-3565 Consumers' responsibilities. (1) When a person applies for or receives SCC program subsidies, the applicant or consumer must, as a condition of receiving those subsidies:

- (a) Give DSHS correct and current information so that DSHS can determine the consumer's eligibility and authorize child care payments correctly;
- (b) Choose a licensed or certified child care provider who meets requirements of WAC 170-292-3750;
- ~~(c) ((Leave the consumer's children with the eligible provider while the consumer is in SCC approved activities outside of the consumer's home;~~
- ~~(d))~~ 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))~~ outside of the current authorization;
- ~~((e))~~ (d) 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;
- ~~((f))~~ (e) Document their child's attendance in child care by having the consumer or other person authorized by the consumer to take the child to or from child care:
 - (i) 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
 - (ii) Record the child's attendance using an electronic system if used by the provider;
- ~~((g))~~ (f) 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 the consumer's benefits;
- ~~((h))~~ (g) Cooperate (provide the information requested) with the child care subsidy audit process.

(i) A consumer becomes ineligible for SCC benefits upon a determination of noncooperation and remains ineligible until he or she meets child care subsidy audit requirements.

(ii) The consumer may become eligible again when he or she meets SCC requirements in Part III of this chapter and cooperates.

(iii) Care can begin on or after the date the consumer cooperated and meets SCC requirements in Part III of this chapter.

~~((i))~~ (h) 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:

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

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

~~((j))~~ (i) Pay the copayment directly to the child care provider or arrange for a third party to pay the copayment directly to the provider; and

~~((k))~~ (j) 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.

(2) In cases of overdue or past due copayments, the consumer, as a condition of maintaining eligibility, must do one 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 signed return receipt for correspondence not responded to, or a returned document that was not picked up.

AMENDATORY SECTION (Amending WSR 16-09-059, filed 4/15/16, effective 5/16/16)

WAC 170-290-3570 Notification of changes. (1) When a consumer applies for or receives SCC program subsidies, the consumer must:

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

~~((2))~~ (b) Notify DSHS, within ten days, when the consumer's countable income increases and the change would cause the consumer's countable income to exceed eighty-five percent state median income as provided in WAC 170-290-0005;

(c) Notify DSHS, within ten days, when the consumer's countable resources exceed one million dollars as provided in WAC 170-290-3558;

(d) Notify DSHS, within ten days, when the consumer's home address or telephone number changes; and

(e) Notify the consumer's provider, within ten days, when DSHS changes the consumer's child care authorization(~~(+ (3) Notify DSHS within ten days of any change in the consumer's+)~~).

(2) When a consumer receives SCC benefits, he or she may notify DSHS when:

(a) The number of child care hours ((needed)) the consumer needs changes (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)) decreases, which may lower the copayment;~~

~~((+d)) (c) Household size such as any family member moving in or out of the consumer's home((+~~

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

~~(f) Home address and telephone number)), which may lower the copayment; or~~

~~((+g)) (d) The consumer's legal obligation to pay child support ((payments made by the consumer)) changes.~~

AMENDATORY SECTION (Amending WSR 16-09-059, filed 4/15/16, effective 5/16/16)

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, the consumer may have to pay additional costs, such as a higher copayment, or DSHS may terminate benefits.

(2) If an overpayment occurs, the consumer may receive an overpayment for what the provider has correctly billed, including absent days (see publication "*Child Care Subsidies: A Guide for Licensed and Certified Child Care Centers*" and "*Child Care Subsidies: A Guide for Licensed and Certified Family Home Child Care Providers*").

(3) If a consumer receives an overpayment for failure to report changes or failure to provide required verification, they will be required to repay any overpayment as provided in WAC 170-290-0271.

AMENDATORY SECTION (Amending WSR 16-09-059, filed 4/15/16, effective 5/16/16)

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) At application and reapplication, 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 170-290-0003;

(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;

(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.

AMENDATORY SECTION (Amending WSR 16-09-059, filed 4/15/16, effective 5/16/16)

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; and

(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) At application and reapplication, if a consumer's family's income is above the maximum eligibility limit as provided in WAC 170-290-0005, the consumer's family is not eligible for the SCC program.

(3) The FPG is updated every year. 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)).~~

AMENDATORY SECTION (Amending WSR 16-09-059, filed 4/15/16, effective 5/16/16)

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 and causes the copayment to decrease;

(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~~) application and reapplication; or

(e) The consumer is approved for a new eligibility period.

(2) If a consumer's copayment changes during the eligibility period, the change is effective(~~(-~~

~~(+))~~ on the first day of the month immediately following the date the copayment change(, when:

~~(i) The report is made to DSHS or the information is learned by DSHS ten or more days after the change as provided in WAC 170-290-3570; and~~

~~(ii) The consumer receives ten days written notice; 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))~~ was made.

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

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

AMENDATORY SECTION (Amending WSR 12-11-025, filed 5/8/12, effective 6/8/12)

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))~~ twelve months before having to re-determine (~~(his or her income))~~ eligibility. The (~~(six-month))~~ twelve-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))~~ twelve months if requested by the consumer.

(3) A consumer's eligibility may end sooner than (~~(six))~~ twelve 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.

AMENDATORY SECTION (Amending WSR 16-09-059, filed 4/15/16, effective 5/16/16)

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 and 170-290-0014 within thirty days of the date DSHS received the consumer's application for SCC benefits, except in the case of new employment. In that case, under WAC 170-290-0012, the consumer must provide third-party verification within sixty days of application or reapplication;

(b) The consumer is working or participating in an approved activity under WAC 170-290-3555 at application and reapplication; and

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

(2) If a consumer fails to turn in all information within thirty days from the application date, the consumer must restart the application process, except in the case of new employment. In that case, under WAC 170-290-0012, the consumer must provide third-party verification within sixty days of application or reapplication.

(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.

AMENDATORY SECTION (Amending WSR 11-12-078, filed 5/31/11, effective 7/1/11)

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.

AMENDATORY SECTION (Amending WSR 16-09-059, filed 4/15/16, effective 5/16/16)

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 170-295, 170-296A, or 170-297 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.

(4) New child care providers, as defined in WAC 170-290-0003, who are subject to licensure or are certified to receive state subsidy as required by chapter 43.215 RCW and as described by chapter 170-295, 170-296A, or 170-297 WAC, who received a subsidy payment for nonschool age child care on or after July 1, 2016, and received no such payments during the period July 1, 2015, through June 30, 2016, must:

(a) Enroll in the early achievers program within thirty days of receiving the initial state subsidy payment. A provider who fails to meet this requirement will lose eligibility to receive state subsidy payments for nonschool age child care;

(i) Out-of-state providers that provide care for children receiving Washington state child care subsidies are neither required nor eligible to participate in early achievers; and

(ii) Out-of-state providers are not eligible to receive quality improvement awards, tiered reimbursement, or other awards and incentives associated with participation in early achievers.

(b) Adhere to the provisions for participation as outlined in the most recent version of the *Early Achievers Operating Guidelines*. Failure to adhere to these guidelines may result in a provider's loss of eligibility to receive state subsidy payments nonschool age child care;

(c) Complete level 2 activities in the early achievers program within twelve months of enrollment. A provider who fails to meet this requirement will lose eligibility to receive state subsidy payments for nonschool age child care;

(d) Rate at a level 3 or higher in the early achievers program within thirty months of enrollment. If an eligible provider fails to rate at a level 3 or higher within thirty months of enrollment in the early achievers program, the provider must complete remedial activities with the department and rate at a level 3 or higher within six months of beginning remedial activities. A provider who fails to receive a rating within thirty months of enrollment or fails to rate at a level 3 or higher within six months of beginning remedial activities will lose eligibility to receive state subsidy payments for nonschool age child care; and

(e) Maintain an up to date rating by renewing their facility rating every three years and maintaining a rating level 3 or higher. If a provider fails to renew their facility rating or maintain a rating level 3 or higher, they will lose eligibility to receive state subsidy payments nonschool age child care.

(5) Existing child care providers who are subject to licensure or are certified to receive state subsidy as required by chapter 43.215 RCW and as described by chapter 170-295, 170-296A, or 170-297 WAC, who have received a subsidy payment for a nonschool age child in the period July 1, 2015, through June 30, 2016, must:

(a) Enroll in the early achievers program by August 1, 2016. A provider who fails to meet this requirement will lose eligibility to receive state subsidy payments for nonschool age child care;

(i) Out-of-state providers that provide care for children receiving Washington state child care subsidies are neither required nor eligible to participate in early achievers; and

(ii) Out-of-state providers are not eligible to receive quality improvement awards, tiered reimbursement, or other awards and incentives associated with participation in early achievers.

(b) Complete level 2 activities in the early achievers program by August 1, 2017. A provider who fails to meet this requirement will lose eligibility to receive state subsidy payments for nonschool age child care;

(c) Rate at a level 3 or higher in the early achievers program by December 31, 2019;

(d) If an existing provider fails to rate at a level 3 or higher by December 31, 2019, in the early achievers program, the provider must complete remedial activities with the department and rate at a level 3 or higher by June 30, 2020. A provider who fails to receive a rating by December 31, 2019, or fails to rate at a level 3 or higher by June 30, 2020, after completing remedial activities will lose eligibility to receive state subsidy payments for nonschool age child care; and

(e) Maintain an up to date rating by renewing their facility rating every three years and maintaining a rating level 3 or higher. If a provider fails to renew their facility rating or maintain a rating level 3 or higher, they will lose eligibility to receive state subsidy payments nonschool age child care.

(6) If a child care provider serving nonschool age children, as defined in WAC 170-290-0003, and receiving state subsidy payments for nonschool age child care has successfully completed all level 2 activities and is waiting to be rated, the provider may continue to receive a state subsidy pending the successful completion of the level 3 rating activity.

AMENDATORY SECTION (Amending WSR 16-09-059, filed 4/15/16, effective 5/16/16)

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 a consumer's children need care (~~is needed~~) for five to ten hours per day;

(b) A half day of child care when a consumer's children need care (~~is needed~~) for less than five hours per day;

(c) Full-time 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. Full-time care means twenty-three full day units if the child needs five or more hours of care per day or thirty half-day units if the child needs fewer than five hours of care per day;

(d) Beginning September 1, 2016, for school-aged children, DSHS will authorize and pay for child care as follows:

(i) DSHS will automatically increase half-day authorizations to full-day authorizations beginning the month of June when the child needs full-day care; and

(ii) DSHS will automatically decrease full-day authorizations to half-day authorizations beginning the month of September unless the child continues to need full-day care during the school year, until the following June. DSHS will send the consumer notification of the decrease as stated in WAC 170-290-0025. If the consumer's schedule has changed and the child continues to need full-day care during the school year, the consumer must request the increase and verify the need for full-day care.

(2) A registration fee, according to WAC 170-290-0245;

(3) Subsidy rates for five-year old children according to WAC 170-290-0185;

(4) The field trip/quality enhancement 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.

AMENDATORY SECTION (Amending WSR 11-12-078, filed 5/31/11, effective 7/1/11)

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 written policy is to charge all families for these ~~((extra))~~ hours of care in excess of ten hours per day.

AMENDATORY SECTION (Amending WSR 16-09-059, filed 4/15/16, effective 5/16/16)

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.

(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 170-290-3670 and 170-290-3750; and

(c) The consumer meets all SCC eligibility requirements.

(3) Effective October 1, 2016, if a consumer's household has countable income greater than two hundred percent of the federal poverty guidelines (FPG) but less than two hundred twenty percent of the

FPG, the consumer may be eligible for a three-month eligibility period called income phase-out. In determining eligibility for the income phase-out period, the following rules apply:

(a) All countable income must be between two hundred and two hundred twenty percent of the FPG. If the countable income exceeds two hundred twenty percent of the FPG, DSHS denies the reapplication;

(b) DSHS applies all other eligibility criteria for a reapplication, with the exception of income as described above;

(c) There is no break between the twelve-month eligibility period and the income phase-out period;

(d) DSHS calculates the consumer's copayment at two hundred percent of the FPG of countable household income;

(e) DSHS certifies the consumer for a three-month eligibility period;

(f) The consumer will need to reapply for a new twelve-month certification period if the consumer's household income falls below two hundred percent of the FPG during or at the end of the three-month income phase-out period; and

(g) The consumer will not be eligible for a second, back-to-back income phase-out period if the countable income of the consumer's household remains between two hundred and two hundred twenty percent of the FPG at the end of the first three-month income phase-out period.

(4) If DSHS determines that a consumer is eligible for SCC program subsidies based on the consumer's reapplication information, DSHS notifies the consumer of the new eligibility period and copayment.

~~((4))~~ (5) 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.

AMENDATORY SECTION (Amending WSR 16-09-059, filed 4/15/16, effective 5/16/16)

WAC 170-290-3855 Termination of and redetermining eligibility for SCC program subsidies. (1) A consumer's continued eligibility for SCC ~~((program subsidies))~~ benefits stops when the consumer:

~~(a) ((The consumer's monthly copayment is equal to or higher than the state maximum monthly child care rate, including special needs payment, but not including registration, field trip, and nonstandard hours bonus payments, for all of the consumer's children in care; or~~

~~(b) The consumer:~~

~~(i))~~ Does not complete the requested application or reapplication before the deadline provided in WAC 170-290-3665 and 170-290-3840;

(b) At application and reapplication, is not participating in an approved activity as defined in WAC 170-290-3555;

~~((ii))~~ (c) Does not meet other SCC eligibility requirements related to family size, income and ((approved activities)) resources as provided in WAC 170-290-3558;

~~((iii))~~ (d) Does not return the requested income verification of new employment by the sixtieth day as provided in WAC 170-290-0012;

(e) Does not comply with the copayment requirements of WAC 170-290-3565 ((6) and (7)); or

~~((iv))~~ (f) 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).