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606 CMR: DEPARTMENT OF EARLY EDUCATION AND CARE

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606 CMR 10.00: SUBSIDIZED CHILD CARE

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10.01 Introduction

606 CMR 10.00 is adopted in accordance with M.G.L. chs. 28A and 15D, which states the policy of state government to assure every child and family "a fair and full opportunity to reach his full potential." These standards are established in keeping with the Department of Early Education and Care's mission of leading the way in helping Massachusetts children and families reach their full potential by providing and coordinating a range of services designed to continuously improve the quality, affordability, and accessibility of early education and care in the Commonwealth.

These standards set forth the conditions for eligibility, for the provision and termination of child care services, for payment, and for the review of decisions to terminate or reduce services provided to children and families through subsidized child care programs. The goals of these standards include:

- (a) creating an integrated system of child care that ensures the seamless delivery of quality, accessible and affordable child care for children from birth through school age;
- (b) standardizing eligibility requirements and intake procedures for families; and
- (c) administering consistent procurement and payment policies and procedures.

10.02 Definitions

The following words shall have the following meanings unless the context otherwise requires:

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Caretaker. A person who lives with, supervises and cares for a child or children whose parents do not live in the home.

CCR&R. A Child Care Resource and Referral Agency.

Child. A person younger than 13 years, or 16 years if such person has special needs.

Child Care Provider. A licensed or exempt center-based child care program, or a licensed, family-based child care program located within the Commonwealth of Massachusetts.

Child Care Resource and Referral Agency or CCR&R. An agency that contracts with the Department of Early Education and Care (EEC), or subcontracts with an agency that contracts with EEC, to provide child care resource information, referral services, and/or child care voucher management services.

Child Care Subsidy. Financial assistance given to eligible parents for child care provided by a contracted or voucher child care provider.

Contracted Child Care Provider. A licensed child care program or family child care system that holds a contract with the Department of Early Education and Care for the provision of subsidized child care services.

Days. Calendar days, unless otherwise specified.

Dependent Child. A person under the age of 18, or a person under the age of 24 if he or she is a full time student.

Dependent Grandparent. A grandparent of the child receiving care who resides in the household with the child and is financially dependent on the child's parent(s).

Designated Authority. A person or organization authorized by the Department of Early Education and Care to determine eligibility for subsidized child care services.

DSS. Department of Social Services.

DTA. Department of Transitional Assistance.

EEC. Department of Early Education and Care.

Eligible Family. A family that qualifies for a child care subsidy based on criteria determined by EEC in regulation and policy.

ESL. An English language training program for people whose primary language is not English.

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Excessive Absence. More than three consecutive unexplained absences or 11 or more explained absences within a 30 day period.

Explained Absence. Absence due to illness, emergency, or a maximum of 10 days of vacation per year.

Family. One of the following:

(a) parent(s) and their dependent child(ren) and any dependent grandparent(s) who reside in the same household; or

(b) a teen parent and his/her child(ren) who reside in the same household.

Full Time Care. Care for not less than 30 nor more than 50 hours per week during the hours when the parent(s)' service need activity occurs, unless otherwise approved by EEC.

Full time Service Need. Service need of 30 hours or more per week.

In Home or Relative Child Care Provider. A caregiver who meets the In Home or Relative standards and requirements established by EEC, and is exempt from EEC licensure because the caregiver either provides care in the child's own home, or is a relative of the child.

Parent. A biological or adoptive parent or step-parent who resides in the household with his/her dependent child(ren), or a caretaker.

Part Time Child Care. Care up to 30 hours per week.

Part Time Service Need. Service need between 20 and up to 30 hours per week.

Relative. Sibling, aunt, uncle, or grandparent, whether by birth, marriage or adoption.

Service Need. The amount of time when no parent is available to care for his/her child due to the parent's employment, education or training, or incapacity. A particular child may also have a service need due to a documented disability or special need that requires child care, regardless of the parent(s)' activities.

State Median Income. The dollar amount which represents the midpoint in a rank ordering of the incomes of all families of the same size in Massachusetts, as calculated by the Department of Early Education and Care.

Supportive Child Care. A program of comprehensive educational and developmentally appropriate activities augmented by health and nutritional services, case management, social services and transportation, provided by child care providers under contract with EEC to families determined eligible by DSS.

TAFDC. Transitional Aid to Families with Dependent Children.

Vocational Training Program. A program other than graduate, medical or law school, which is intended to teach a specific skill leading to employment.

Voucher Child Care Provider. A caregiver who provides child care services pursuant to an EEC voucher provider agreement.

10.03 General Provisions

The following general provisions apply to all subsidies administered by EEC.

(1) Eligibility.

(a) Subsidies administered by the Department of Early Education and Care are available only to residents of the Commonwealth of Massachusetts.

(b) Eligibility Periods. Eligibility is determined for periods not to exceed twelve months, and is renewable in accordance with EEC policy. The CCR&R and/or contracted provider shall notify families that their eligibility period is ending no less than one month prior to the end of the eligibility period.

(c) Contact Information. In order to remain eligible for a child care subsidy parents must maintain current address and telephone number information, if any, with the contracted child care provider or CCR&R. A parent who does not have an address or telephone number must maintain as much current contact information as possible with the contracted child care provider or CCR&R.

(d) Documentation of Eligibility. In order to remain eligible for a child care subsidy parents must provide current documentation of income, service need and residence, and documentation of any change in family relationships as required by EEC policy, to their contracted child care provider or CCR&R. Such documentation must be provided prior to each voucher or authorization end date.

DTA Authorizations. For purposes of demonstrating continuing eligibility, parents who have a current authorization from DTA are not required to resubmit documentation of their current income or service need, except as otherwise required by DTA or by EEC policy or regulation.

(e) Current Eligibility Information. Parents receiving a child care subsidy must notify their contracted child care provider or CCR&R whenever there is a change in income, service need, residence or family size within two weeks of such a change.

(2) Fees. Parents receiving child care subsidies may be required to contribute to the cost of the child care services they receive, in accordance with a sliding fee scale established by EEC, as amended from time to time.

(a) How Fees are Assessed. The full weekly parent fee will be assessed for the first child in the family in EEC subsidized care; one half the weekly fee (appropriate for the child's program type) will be assessed for the second child in the family in EEC subsidized care, and one quarter of the weekly fee

(appropriate for the child's program type) will be assessed for each additional child in the family in EEC subsidized care.

(b) Additional Fees. No additional fees may be charged to parents, except in accordance with EEC policy.

(c) Reassessments. Fee obligations will be reviewed every 12 months, or sooner if the parent reports or the provider learns of a change in the family's size, income, or service need, or the child's program type.

(d) Payment and Collection.

1. Parent fees must be paid no later than the first business day of the week in which care is being provided.

2. Parent fees must be paid, at a minimum, in weekly amounts.

3. Providers are responsible for collecting parent fees in a timely fashion, and must take appropriate action if parents fail to pay fees as required.

(3) Priority in Funding.

(a) Children will be authorized for child care subsidies in accordance with priorities established by EEC, and subject to available funding.

(b) Parents whose eligibility for a specific EEC subsidy program is ending have priority for access to other EEC subsidies over other parents who have not previously received an EEC child care subsidy. In order to maintain priority access and facilitate transition to another subsidy program, parents must submit the information required to determine eligibility at least two weeks prior to termination from their current program.

(4) Location of Care. A child care subsidy may only be used for care provided within the Commonwealth of Massachusetts.

10.04 Income Eligible Child Care Subsidy

Subject to appropriation, an income eligible child care subsidy is available to eligible parents for care by a contracted, voucher, or in home or relative child care provider, in accordance with regulations, guidelines and policies established by EEC.

(1) Eligibility Criteria. To be eligible for an Income Eligible Child Care Subsidy, parents must meet both income eligibility and service need requirements established by EEC.

(a) Financial Requirements. Income eligibility is based on the income and the size of the family. Families headed by caretakers are exempt from financial eligibility guidelines.

1. Families With an Incapacitated Parent or a Child with Special Needs.

Families with an incapacitated parent or a child with special needs are financially eligible for the Income Eligible Child Care Program provided that their gross monthly income is at or below 85% of the State Median Income as determined by EEC at the time of enrollment. Financial eligibility will continue until the family's income reaches 100% of the State Median Income as determined by EEC. The incapacity of a parent

and the special needs of a child must be documented as required by EEC policy.

2. All Other Families. Families who do not have an incapacitated parent or a child with special needs are financially eligible for the Income Eligible Child Care Program provided that their gross monthly income is at or below 50% of the State Median Income as determined by EEC at the time of enrollment. Financial eligibility will continue until the family's income reaches 85% of the State Median Income as determined by EEC.

3. Relevant income. When determining financial eligibility relevant income includes, but is not limited to, wages or salary (including overtime), social security benefits, alimony, child support, and public assistance.

(b) Service Need Requirements. Except when requesting a subsidy for a child with special needs, both parents living in the household must document either a part time or full time service need. Activities acceptable for establishing a service need are: seeking paid employment for a maximum of eight weeks; paid employment; maternity leave from paid employment for a maximum of twelve weeks; participating in education or training, as outlined at 606 CMR 10.04(1)(b)5.; or incapacity of the parent.

1. Parents who document a full time service need will be eligible for full time child care. Parents who document a part time service need will be eligible for part time child care.

2. Job Search.

(i) Parents with a full or part time child care subsidy for work, education or training who lose their job or finish their education or training and are actively seeking employment will qualify for the equivalent full or part time service need for a period of job search not to exceed eight weeks in a 52 week period. An additional four weeks may be available in accordance with EEC policy.

(ii) Parents who have not been receiving a child care subsidy and are actively seeking employment will qualify for a full time service need for a period of job search not to exceed eight weeks in a 52 week period.

3. Education or Training. Parents will qualify for a service need of education or training if they are enrolled in and attending any of the following: a full time high school program; a high school equivalency program; a vocational training program, not including graduate, medical or law school; an ESL program; or an accredited college or university, leading to an Associate's or a Bachelor's degree.

a. The service need of education or training shall continue through a semester break for parents registered for the following semester. The service need of education shall not continue during the summer break unless parents are enrolled in and attend school or training during the summer.

b. The service need for parents participating in a full time high

school program will be considered full time, regardless of the program schedule.

c. The service need for parents participating in college coursework with 12 credit hours or more will be considered full time. Credit hours fewer than 12 are counted as a part time service need .

d. The service need for parents participating in education or training programs other than college or high school is one hour of service need for each hour spent in the education or training program per week.

e. Work study hours and required practical and clinical experiences (including student teaching) are counted as hours of employment, for the purpose of determining service need.

4. Work and education or training may be combined to meet service need requirements.

5. Travel Time. Up to five hours of travel time per week may be added to a parent's service need when required for travel between the child care program and the parent's service need activity.

6. Children with Special Needs. Children with documented special needs meet the service need criterion for full time care, whether or not the parents are available to provide care.

(2) Eligibility Determination. An EEC Designated Authority will make eligibility determinations based on the parent(s) application and documentation and based upon relevant regulations and policies.

(a) Application. Parents may apply for an income eligible child care subsidy at a contracted child care program or at a Child Care Resource and Referral agency. At the time of application and at each subsequent reassessment, parents must complete and sign a child care application and fee agreement on forms provided or approved by EEC.

(b) Documentation. At the time of application parents must submit documentation that verifies their income, service need, residence and relationship to all children and dependent grandparents in the family, and at each subsequent reassessment, parents must submit documentation that verifies their income and service need, in accordance with EEC regulation and policy.

(3) Referral and Enrollment.

(a) Child Care Resource and Referral Agency. Based on availability and in accordance with EEC enrollment priorities and policies, the CCR&R must:

1. refer the eligible parent to a contracted child care provider who has an opening appropriate for the age and needs of the child in need of care; or
2. issue a voucher to the eligible parent that may be used toward payment of a voucher child care provider; or
3. enter the child on the waitlist for a child care subsidy, in accordance with EEC policy.

(b) Contracted Provider. Based on availability and in accordance with EEC

enrollment priorities and policies, the contracted provider must:

1. enroll the eligible child in his/her child care program if a contract slot appropriate to the age and needs of the child exists; or
2. if an appropriate contract slot does not exist, refer the parent to the regional Child Care Resource and Referral agency; and
3. enter the child on the waitlist for a child care subsidy, in accordance with EEC policy.

(c) Parent Choice. Parents may not be required to enroll their children at a particular child care program. Upon two weeks' notice, parents may choose to withdraw their children from one child care program and enroll in another available program for the duration of the child care subsidy.

(d) Eligible children may be enrolled in care two weeks prior to the start of the parent's service need, when appropriate.

10.05 Employment Services Program

(1) Eligibility Determination. Eligibility for a child care subsidy through the employment services program shall be determined by the Department of Transitional Assistance (DTA), pursuant to DTA regulations and policies.

(2) TAFDC Families. Parents receiving TAFDC benefits must obtain written child care authorization from DTA. The written child care authorization is sufficient documentation that the parent is eligible for a child care subsidy for each child included in the authorization.

(3) Transitional Families. Parents who received TAFDC benefits within the 12 months prior to their application for a child care subsidy and who obtain a written child care authorization from DTA will have priority access to a child care subsidy, provided they continue to meet EEC eligibility guidelines. The written child care authorization is evidence of family relationship for all children included in the authorization. Parents must submit evidence of their income, service need, residence, and their relationship to children or dependent grandparents not included in the child care authorization.

(4) Referral. DTA shall refer parents with a written child care authorization to the local CCR&R. Parents with DTA authorizations must contact the CCR&R to obtain either a voucher or a referral to a contracted child care slot, depending upon availability. The CCR&R shall help the parents identify a Caregiver who can provide subsidized care as defined in 606 CMR 10.10.

(5) Enrollment. Parents will enroll children directly at the Caregiver's child care site, in accordance with the procedures of the Caregiver.

(6) Denial or Termination of Authorization. Parents aggrieved by the denial or termination of a child care authorization by the Department of Transitional Assistance may pursue their grievance through the DTA Fair Hearing Process.

10.06 Supportive Child Care.

Subject to appropriation, a supportive child care subsidy is available to children with an open protective case with the Department of Social Services (DSS). An open protective case exists when a report pursuant to M.G.L. c. 119, § 51B has substantiated allegations of abuse or neglect of a child within the 12 months prior to referral for subsidized care, or when there is a determination of need to begin or continue supportive services at a DSS Progress, Supervisory, or Foster Care Review.

(1) Eligibility.

(a) Criteria. DSS or its designee will determine eligibility of its clients for supportive child care services, in accordance with DSS regulations and policy.

(b) Duration. The supportive child care subsidy will be authorized by DSS for a maximum of 6 months, and may be renewed by DSS for a second 6 month period. Unless approved by the DSS Area Director, authorization for supportive services may not be renewed more than once.

(2) Fee Assessment. DSS will determine whether applicable parent fees shall be waived.

(3) Referral or Waitlisting. DSS or its designee will determine the appropriateness of and authorize all referrals for supportive child care, and may either:

(a) refer the parent to a contracted provider with supportive child care openings appropriate to the age and needs of the child, or

(b) enter the child on a waitlist for care, if there are no appropriate openings available.

(4) Information Sharing. DSS or its designee will share information with the child care provider regarding the child's behavior and the family's psychosocial history to assist the provider in meeting the needs of the child and family.

(5) Enrollment. The parent must meet with the contracted provider to complete the enrollment process in accordance with the provider's policies and procedures.

(6) Termination of Supportive Child Care Services. Supportive Child Care Services will end when the protective case closes, or when DSS determines that services are no longer appropriate, whichever first occurs.

(7) Appeal of Termination. Parents wishing to appeal the termination of Supportive Child Care Services may do so through the DSS Fair Hearing Process, in accordance with DSS policy and regulation.

10.07 Teen Parent Child Care Services.

Teen parents are eligible to receive subsidized child care through the Teen Parent Child Care Services program, provided they meet the following requirements:

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(1) Eligibility. Teen parents must be authorized by DTA or meet the income, service need and age requirements specified below. Teens with an open protective case with DSS are eligible when they meet the income, service need and age requirements specified below.

(a) Income Requirements. Teen parents must be authorized by DTA or must meet the financial eligibility requirements of the Income Eligible Child Care Program, as specified at 606 CMR 10.04(1)(a).

(b) Service Need Requirements. Teen parents must be authorized by DTA or must be participating in a full time high school program or a high school equivalency (GED) program, or must have received a GED or high school diploma and be participating in an approved higher education, training, and/or work activity, as specified at 606 CMR 10.04(1)(b).

(c) Age Requirements.

1. Children are eligible for child care services through the Teen Parent Child Care Services program from birth through school age.
2. Teens in their third trimester of pregnancy and teen parents are eligible to participate in the Teen Parent Child Care Services program until they reach their 20th birthday. Enrolled teens who turn twenty may continue through the completion of their service need activity.

(2) Application. Teen parents may apply for child care subsidies at a CCR&R, a program contracted to provide Teen Parent Child Care services, a local DTA office, or any other location authorized by EEC. At the time of application and at each subsequent redetermination the parents must complete a child care application and fee agreement on forms provided or approved by EEC, and must submit documentation that verifies their income, service need, residence and family relationships, in accordance with EEC regulation and policy. If a teen parent has a current child care authorization from DTA, the authorization is sufficient documentation of their income and service need.

(3) Referral or Enrollment. Based on availability, parents who are determined eligible will be referred to and/or enrolled in a program contracted to provide Teen Parent Child Care services.

(4) Participation Requirements.

(a) Teens must participate at least eight hours per month in structured social service support activities through the Teen Parent Child Care Services program unless they are receiving equivalent services from other sources.

(b) Teens must participate in child care activities in their child's classroom or family child care home at least one hour each month.

(c) Teen parents receiving Transitional Aid to Families with Dependent Children must comply with all TAFDC requirements.

(5) Waitlist. Parents who cannot be enrolled in a Teen Parent Child Care Services program due to a lack of available funding will be placed on a child care subsidy waitlist in accordance with EEC guidelines and policy.

10.08 Trial Court Child Care.

- (1) Eligibility. Children whose parents have occasional business with the trial court are eligible for short term care on a first come, first served basis.
- (2) Enrollment. A parent who has business with the trial court may enroll his/her child directly at the Trial Court Child Care Program on the day the care is needed, in accordance with the program's procedures and EEC policies.
- (3) Waitlisting. If the child care program has reached its licensed capacity at the time the parent requests care, the child will be entered on a waiting list for care and notified as soon as space is available for the child.

10.09 Child Care for Special Populations.

Families with special needs may be eligible for assistance in receiving child care and other supportive services through EEC's Specialized Child Care Services programs, in accordance with EEC policies. Parents and children who wish to participate in a specialized child care services program must meet eligibility criteria established by EEC. Parents may apply through their local CCR&R or through a child care program that holds a contract to provide these specialized services.

10.10 Caregivers

- (1) Care by Licensed Providers. Except as set forth in 606 CMR 10.10(2), subsidized child care may be provided by an EEC licensed family child care provider, a licensed group or school age child care program or through a family child care system, if the provider, program or system holds a contract or agreement with EEC to provide subsidized child care services or a voucher agreement with a CCR&R.
- (2) Care Exempt from Licensure:
 - (a) Subsidized child care may be provided by a group or school age child care program that has been determined by EEC to be exempt from licensure, and with whom EEC holds a contract or an agreement to provide subsidized child care services.
 - (b) In Home or Relative Child Care.
 1. Child care by a Relative of the Child. In accordance with EEC policy, subsidized child care may be provided by a relative of the child in a private residence, provided that the caregiver is at least 18 years old and is not the child's parent. Relative caregivers who provide subsidized child care services must submit to the CCR&R evidence of their relationship to the child receiving care. Such evidence may include birth certificates, baptismal certificates, and marriage certificates.

2. In Home Child Care. In accordance with EEC policy, subsidized child care may be provided in the home of the child by a caregiver unrelated to the child, provided that the caregiver is at least 18 years old and has a background free of conduct which, in the judgment of the EEC, bears adversely upon his or her ability to provide for the safety and well-being of a child. Such conduct shall include, but not be limited to, conduct identified in EEC's Enforcement Regulations, 102 CMR 1.05(1).
3. Prior to providing and being reimbursed for subsidized child care, relative caregivers and caregivers providing care in the child's own home must:
 - a. complete an orientation to child care, in accordance with EEC policies;
 - b. satisfy all applicable health and safety requirements; and
 - c. sign an agreement to provide subsidized child care services in accordance with EEC policy.
4. Relative caregivers and caregivers providing care in the child's own home may not care for more than six children under the age of 13 years, in accordance with EEC policy.

10.11 Reimbursement.

- (1) Rates. Reimbursement to child care providers shall be made in accordance with rates established by EEC, as periodically amended.
- (2) Hours. Unless approved by EEC or authorized by DTA, providers shall not be reimbursed for more than ten hours of care per day or 50 hours of care per week per child.
- (3) Denial. EEC may deny reimbursement of child care services when:
 - (a) the care provided does not meet EEC health and safety standards;
 - (b) the care provided is not in the best interest of the children served; or
 - (c) the provider fails to follow EEC regulations, policies, procedures, or contract requirements.

10.12 Termination and Reduction of Services

Parents aggrieved by the denial, reduction or termination of their DTA authorization for a child care subsidy may request a fair hearing on the matter from DTA in accordance with DTA regulations and policies. Parents aggrieved by the denial, reduction or termination of their eligibility for supportive child care services may request a fair hearing on the matter from DSS in accordance with DSS regulations and policies. All others whose subsidies are terminated, reduced or denied may request EEC to review the decision through the EEC Review Process, as specified at 606 CMR 10.13.

- (1) Reasons for Termination. In accordance with EEC policies, EEC child care subsidies may be terminated for reasons including, but not limited to, the following:

- (a) lack of a continuing service need;
- (b) lack of financial eligibility;
- (c) non-payment or late payment of fees;
- (d) unexplained or excessive absence;
- (e) failure to submit the required documentation at reassessment; or
- (f) failure of the parent(s) to comply with EEC policies, the contracted or voucher provider's policies, or the Child Care Resource and Referral agency's policies.

(2) Reasons for Reduction. If the parent(s)' service need changes from full time to part time, or otherwise diminishes, the amount of child care subsidy must be reduced proportionately.

(3) Notice. Whenever a subsidy is being denied following an initial application or a family is being removed from a waiting list, the contracted provider or CCR&R shall give to the parent written notice of the denial or removal within 10 calendar days of the decision using a notice form provided or prescribed by EEC. Whenever a subsidy is being reduced or terminated, the contracted provider or CCR&R must give the parent(s) written notice of the reduction or termination and the option to request a review of the action through the EEC review process. The contracted provider or CCR&R shall use a notice form provided or prescribed by EEC and shall provide the parent with the notice at least 2 weeks before the effective date of the reduction or termination.

All notices required by EEC regulation and policy will be deemed adequately served if they are mailed to parents at their last known address, or if they are otherwise mailed or delivered to parents based on the contact information that they maintain with their contracted child care provider or CCR&R.

(4) Continuation of Care. The child care subsidy shall continue after receipt of a notice of termination or reduction if:

- (a) the parent takes appropriate action to resolve the circumstances which caused the notice of termination or reduction prior to the effective date of the notice; or
- (b) prior to the effective date of the notice, the parent files with EEC a request for a Review and a request for continuation of child care services; and while the Review is pending, the parent keeps all undisputed fee payments current, and the child continues to attend care in accordance with EEC attendance policies.

10.13 Review Process

(1) Reasons for Review. A parent may request an EEC Review when a contracted child care provider or CCR&R:

- (a) denies, terminates or reduces the parent's child care subsidy;
- (b) assesses a fee that the parent believes is not in accordance with EEC policy;
- or
- (c) acts or fails to act in a way that the parent believes violates EEC subsidy regulations or policy.

- (2) Scope of Review. A parent may not challenge the legality of state or federal law or EEC policy in the EEC review process. The scope of an EEC review shall be limited to determining whether the contracted provider or CCR&R acted in accordance with EEC regulation and policy.
- (3) Filing a Request for Review. The parent shall submit to EEC a written, signed and dated request for a review within 30 days of notice that their child care is being terminated or reduced, or within 30 days of an action or determination by the provider which the parent claims violates EEC subsidy regulations or policy. The request for a review shall contain the parent's name, address, and telephone number; the name, address and telephone number of the contracted provider or CCR&R and the reason for the request. The parent may submit evidence in support of his/her request, such as documents or receipts. In order to make such evidence a part of the record, the parent must submit such evidence within 14 days of submitting the request for review.
- (4) Representation. The parent may be represented by a person of his/her choosing at any stage of the review process.
- (5) Continuation of Subsidized Child Care Services. In order for subsidized child care services to continue pending outcome of the review, the parent shall:
- (a) file with EEC a written request for the continuation of child care services on a form provided or prescribed by EEC prior to the termination of the child care services;
 - (b) at all times during the review process and any subsequent appeals keep all undisputed fee payments current; and
 - (c) at all times during the review process and any subsequent appeals ensure that the child continues to attend care in accordance with EEC attendance policies.
- (6) Termination of Continued Subsidized Child Care. Subsidized child care services continued in accordance with 606 CMR 10.13(5) shall be terminated if at any time during the review process or any subsequent appeals:
- (a) a determination is made that the sole issue is a challenge to the validity of a particular law or regulation; or
 - (b) a change affecting the parent's subsidy occurs subsequent to the filing of the request for a review which makes the previously filed request for a review moot, and the parent fails to request a hearing on the subsequent matter within the applicable time period; or
 - (c) the parent fails to comply with the requirements for continuing subsidized care listed in 606 CMR 10.13(5)(b) and (c).
- (7) Preliminary Review.
- (a) Notification. Within 7 days of receipt of the parent's request for review the EEC Review Officer shall notify the contracted child care provider or the CCR&R of the Request for a Review, and shall request that the provider or CCR&R submit evidence in support of his/her determination.

(b) Response. Within 7 days of the date of notification from EEC the provider or CCR&R must submit to the EEC Review Officer its evidence in support of its decision, action or inaction which allegedly forms the basis for the parent's request for review.

(c) Decisions.

1. How made. The EEC Review Officer will review all information submitted by the parent and the provider or CCR&R and seek clarification from the parties, if necessary. The Review Officer may take administrative notice of general, technical or scientific facts within his/her specialized knowledge and may use his or her experience and specialized knowledge in the evaluation of the evidence presented.

2. When made. Within 30 days of EEC'S receipt of the Request for Review, the EEC Review Officer shall issue a written decision to the parent and the provider or CCR&R which upholds, reverses, or modifies the provider's or CCR&R's decision, action or inaction.

3. When implemented. Unless 606 CMR 10.13(8)(b) applies, the EEC Review Officer's decision will be implemented in accordance with the timelines set forth in the decision.

4. Notice of Right to Appeal. The Review Officer's written decision shall inform the parent of the parent's right to appeal the written decision by requesting an Informal Hearing in accordance with 606 CMR 10.13(8). If the parent does not appeal, the Review Officer's written decision shall become EEC'S final agency decision.

(8) Informal Hearing. After a Preliminary Review aggrieved parents may appeal the EEC Review Officer's decision by requesting an informal hearing.

(a) Requesting an Informal Hearing. Parents may request an informal hearing by submitting to the EEC General Counsel a written, signed and dated request for an informal hearing on a form prescribed or provided by EEC within 7 days of the date of the EEC Review Officer's written decision. The request for informal hearing must state the grounds for the appeal.

(b) Continuation of Benefits Pending an Informal Hearing. If the parent timely appeals the decision in accordance with 606 CMR 10.13(8)(a), the child care subsidy will automatically continue pending the outcome of the appeal unless EEC has determined, in writing, that 606 CMR 10.13(6)(b) or (c) applies.

(c) Notice of Hearing. The General Counsel or the designated EEC Hearing Officer shall notify the parent and the provider or CCR&R of the date, time, and place of the hearing. The notice shall also describe the hearing procedure.

(d) Hearings

1. Procedure. The hearing shall be conducted in accordance with the Standard Adjudicatory Rules of Practice and Procedure Informal/Fair Hearing Rules at 801 CMR 1.02. The General Counsel may appoint an EEC Hearing Officer to preside over the hearing.

2. Adjustment of Matters Relating to the Hearing. The EEC Hearing Officer may make informal disposition of the adjudicatory proceeding by stipulation, agreed settlement, consent order, or default, and may limit the

issues to be heard, in accordance with M.G.L. c. 30A, § 10.

3. Submission Without a Hearing. The parent may elect to waive a hearing and to submit any documents without appearing at the time and place designated for the hearing. Submission of a case without a hearing does not relieve the parties from supplying all documents supporting their claims or defenses. Affidavits and stipulations may be used to supplement other documentary evidence in the record.

4. Location. The Informal Hearing shall be held in EEC's central office, unless otherwise designated by the EEC Hearing Officer.

5. Hearing Record. The EEC Hearing Officer shall ensure that a record is made of the hearing. All documents and other evidence offered and accepted shall become part of the record. The record shall also include the Request for Review, the Request for Informal Hearing and the decision by the EEC Review Officer.

6. Burden of Proof. The EEC Hearing Officer's decision shall be supported by substantial evidence presented at the hearing.

(e) Reasons for Dismissal. The EEC Hearing Officer may dismiss a request for an informal hearing if a parent:

1. fails to appear at the informal hearing; or
2. withdraws the request for Informal Hearing in writing or on the record at the hearing.

(f) Decisions. Within 30 days of conducting the Informal Hearing, or as promptly as administratively feasible, the EEC Hearing Officer shall issue a written decision in accordance with M.G.L. c. 30A, § 11(8).

(g) Judicial Review and Finality of Decision. The decision of the EEC Hearing Officer following an Informal Hearing shall be the final agency decision for purposes of judicial review under M.G.L. c. 30A.

(h) Further Appeal and Stay of Decision. Following the Informal Hearing, the decision of the Hearing Officer shall be implemented in accordance with the timelines set forth in the Hearing Officer's decision unless the parent:

1. timely appeals the decision to superior court pursuant to M.G.L. c. 30A;
2. submits a written request for a stay of the decision to the EEC General Counsel; and
3. the General Counsel grants the request for a stay.

10.14 Applicability

If any provision contained in 606 CMR 10.00 et seq. or the application thereof is held invalid to any person or circumstance, the remainder of 606 CMR 10.00 and the application of the provision in question to other persons not similarly situated, or to other circumstances, shall not be affected thereby.

REGULATORY AUTHORITY

606 CMR 10.00: M.G.L. chs. 28A and 15D.