

606 CMR 10.00: SUBSIDIZED CHILD CARE

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10.01: Introduction

606 CMR 10.00 is adopted pursuant to federal law at 45 CFR Part 98.11(b)(2) and (8), which requires the Department of Early Education and Care, as the Lead Agency for administering the Child Care Development Fund (CCDF) in Massachusetts, to promulgate rules and regulations to administer the CCDF Plan, and, in accordance with M.G.L. c. 15D which states the policy of state government to assure every child and family "a fair and full opportunity to reach his full potential". 606 CMR 10.00 is established in keeping with the Department of Early Education and Care's mission of providing the foundation that supports all children in their development as lifelong learners and contributing members of the community, and supporting families in their essential work as parents and caregivers.

606 CMR 10.00 sets 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 606 CMR 10.00 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:

Absence. Any day that a child is authorized to attend an early education and care program, but is not in attendance.

Caretaker. A person who lives with, supervises and cares for a child or children whose parents do not live in the home, such as a foster parent, legal guardian (temporary or permanent), or designated caregiver, in accordance with M.G.L. c. 201F.

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

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

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

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Child Care Resource and Referral Agency. 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 educator/provider.

Contracted Child Care Educator/Provider. A licensed, or license exempt, child care program or family child care system that holds a contract with EEC for the provision of subsidized child care services.

Days. Calendar days, unless otherwise specified.

DCF. Massachusetts Department of Children and Families.

Dependent Child. A person younger than 18 years old, or a person younger than 24 years old 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).

DHCD. Massachusetts Department of Housing and Community Development.

DTA. Massachusetts Department of Transitional Assistance.

EEC. Massachusetts 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.

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

Excessive Absence. More than three consecutive days of unexplained absences or more than 30 explained absences within a six month period.

Explained Absence. Absence due to:

- (a) Child illness or medical condition;
- (b) Death in the family;
- (c) Emergency circumstances;
- (d) Religious holidays; and
- (e) Up to ten days of vacation in a 12 month period.

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 hours nor more than 50 hours per week at any one placement, 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 Child Care Provider 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 or her dependent child(ren), or a caretaker.

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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.

Protective Services. Families authorized for a child care subsidy based on clinical decision by DCF will be deemed to be in need of protective services, including foster care. Additionally, children may be deemed at risk of needing protective services in special circumstances, wherein families are unable to provide child care for any portion of a 24 hour day due to a situation of domestic violence or homelessness; a physical, mental, emotional or medical condition; or participation in a drug treatment or drug rehabilitation program.

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

Service Need. The amount of time child care is required due to the parent's participation in an approved activity.

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.

Subsidy Administrator. A person or organization authorized or designated by EEC to conduct eligibility determinations for child care subsidies, subject to EEC oversight and review, including but not limited to a CCR&R or contracted child care educator/provider.

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 educators/providers under contract with EEC to families determined eligible by DCF.

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 Educator/Provider. A caregiver who provides child care services pursuant to an EEC voucher services agreement.

10.03: General Provisions

The following general provisions apply to all child care subsidies administered by EEC, unless otherwise stated.

(1) Eligibility.

(a) Family Composition and Size. Prior to issuing a child care subsidy authorization, subsidy administrators shall verify, through documentary evidence, the family size and household composition of the applicant by verifying the relationship of each child younger than 18 years old, or younger than 24 years old, if the child is a full-time student, who resides in the household and is financially dependent on the parent(s) applying for child care financial assistance. Required documentary evidence shall be readily available to the applicant. Examples of acceptable documentation include: birth certificates; hospital birth records; copies of previously issued EEC child care authorizations or vouchers; social security benefits records; court orders establishing custody or guardianship; or school records verifying the address of the child, as well as the name and relationship of the relative responsible for the child. Any documents which reasonably establish family composition and size must be accepted, and no requirement for a specific type of documentation may be imposed.

Parents of teen parents may include the teen parent and his or her child(ren) in the applicant's family size provided that the teen is not receiving EEC financial assistance for his or her child(ren).

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(b) Identity. Prior to the initial authorization, the subsidy administrator shall verify, through documentary evidence, the identity of each parent(s) applying for subsidized child care. Required documentary evidence shall contain a photo of the applicant and must be readily available to the applicant. Examples of acceptable documentation include: U.S. passports; certificates of naturalization; driver's licenses, permits or state identification cards; U.S. military cards; non-U.S. passports; or school identification cards. Any documents which reasonably establish identity must be accepted, and no requirement for a specific type of documentation may be imposed.

(c) Residency. The subsidy administrator must verify that families seeking child care assistance reside in a Massachusetts household because subsidies administered by EEC are available only to residents of the Commonwealth of Massachusetts. Required documentary evidence shall be readily available to the applicant. Examples of acceptable documentation include: utility bills; property tax bills; individual income tax returns; mortgage documents or home owner insurance documents; vehicle registration cards; residential rental or lease agreements; or letters from shelter programs confirming residence in a Massachusetts shelter program. Any documents which reasonably establish residency must be accepted, and no requirement for a specific type of documentation may be imposed.

(d) Citizenship or Immigration Status. In accordance with federal law, the subsidy administrator shall verify, through documentary evidence, the United States citizenship status or immigration status of each child for whom care is requested. Required documentary evidence shall be readily available to the applicant. Examples of acceptable documentation include: U.S. passports; birth certificates; or reports of birth abroad. Any documents which reasonably establish the citizenship or immigration status of the child must be accepted, and no requirement for a specific type of documentation may be imposed. No child shall be denied child care financial assistance based solely on an applicant's failure to demonstrate citizenship or immigration status without final review by EEC.

(e) Eligibility Periods. Eligibility is determined for periods not to exceed 12 months, and is renewable subject to the family's continued eligibility for child care financial assistance. Subsidy administrators shall notify families, in writing, that their eligibility period is ending no less than 30 days prior to the end of the eligibility period.

(f) 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 educator/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 educator/provider or CCR&R.

(g) Documentation of Continued Eligibility. In order to remain eligible for a child care subsidy, parents must provide current documentation of income, service need and residence to their subsidy administrator. Such documentation must be provided prior to each voucher or authorization end date.

(h) Current Eligibility Information. Parents receiving a child care subsidy must notify their contracted child care educator/provider or CCR&R whenever there is a substantial change that might affect their eligibility to receive financial assistance for early education and care, including significant changes in income (*i.e.*, increases to total household income equaling or exceeding 20% of the previously reported gross income or increases to household income that may render the family ineligible for child care financial assistance, in accordance with 606 CMR 10.04(1)(a)), service need change (*i.e.*, job loss, new employer, change in work or school/training schedule), change in address or change in family size (*i.e.*, new household members) within 14 days of such a change.

(i) Child Attendance. In order to remain eligible for a child care subsidy, all children receiving EEC financial assistance shall attend the early education and care program, in accordance with the terms of the child care authorization. Failure to attend the child care program may result in the termination of the child care subsidy for excessive absence, in accordance with 606 CMR 10.13. Children shall not be authorized for early education and care on days that they are regularly scheduled to be absent (*i.e.*, every Friday, homework clubs, *etc.*).

Payment for Child Care Absences. Educators/Providers shall not be paid for more than 30 child absence days in a six month period or for more than three consecutive unexplained absences without written approval from EEC.

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(j) Data Sharing. For purposes of program integrity and in an effort to establish front end detection necessary to combat fraud, waste and abuse, EEC may use data collected from child care subsidy applicants to conduct data matches with other government entities. If data matches demonstrate inconsistencies with the statements or documents submitted by the child care applicant(s), the subsidy administrator or EEC may request additional documentation. Failure to resolve the inconsistencies may result in the termination or reduction of an applicant's child care subsidy, in accordance with 606 CMR 10.13.

(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.

(a) How Fees are Assessed. The full weekly parent fee will be assessed for the oldest child in the family enrolled in EEC subsidized care; one half the weekly fee (appropriate for the child's program type) will be assessed for the second oldest child in the family enrolled 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 enrolled 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 at least every 12 months, or sooner if the parent reports or the educator/provider learns of a change in the family's size, income, or service need, or the child's program type, in accordance with the self-reporting requirements set forth in 606 CMR 10.03(1)(h).

(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. Educators/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 or voucher educator/provider, 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. General Rule. Families seeking child care financial assistance meet the financial requirements for the Income Eligible Child Care Program provided that the total gross monthly income for the household is at or below 50% of the State Median Income at the time of the family's initial enrollment. Families, whose gross monthly income is at or below 50% of the State Median Income at the initial assessment, will continue to meet the financial requirements provided that the total gross monthly income for the household remains at or below 85% of the State Median Income.

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2. Families With an Incapacitated Parent or a Child with Special Needs. Families with an incapacitated parent or a child with special needs meet the financial requirements for the Income Eligible Child Care Program provided that the total gross monthly income for the household is at or below 85% of the State Median Income at the time of the family's initial enrollment. Families, whose gross monthly income is at or below 85% of the State Median Income at the initial assessment, will continue to meet the financial requirements provided that the total gross monthly income for the household remains at or below 100% of the State Median Income. The incapacity of the parent and/or special need of the child must be verified and documented on a case by case basis, as required by federal and state law.
  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. Both parents living in the household must document either a part time or full time service need.
1. Approved Activities. 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 12 weeks; participating in education or training; or receiving or at risk of receiving protective services. Each activity is outlined in 606 CMR 10.04(1)(b)1.a. through e.:
    - a. Seeking Paid Employment. Parents seeking paid employment may comply with the service need requirement in 606 CMR 10.04(1)(b)1.a.i. and ii.:
      - 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 exigent or emergent circumstances with written approval from EEC. Examples of circumstances that may qualify for additional job search include: involuntarily separation from employment; natural disasters; or domestic violence situations.
      - 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.
    - b. Paid Employment. The following activities meet the service need requirement of paid employment: existing employment, including self employment; active deployment in the military; and retirement, if the head of household is a caretaker, as defined in 606 CMR 10.02, and 65 years of age or older.
      - i. Self-employment and Minimum Wage. All self-employed parents must participate in self-employment activities for an average of 20 hours per week and show income equivalent to minimum wage in the Commonwealth. Minimum wage shall be verified by dividing the gross income reported, after allowable deductions, by the minimum wage of the state wherein the employment takes place to determine the number of eligible hours the parent(s) may use towards establishing a service need for child care subsidy.
      - ii. Limitations on Self-employment. For parents engaged in home-based self-employment activities, the self-employment activity shall not qualify as an approved activity, unless:
        - (i) The type of work performed entails a clear and present danger to children; or
        - (ii) The primary type of work performed consists of face-to-face meetings/appointments with clients, which prevents direct supervision of children.
    - c. Maternity Leave. A parent, whose child care has been subsidized by EEC, may take up to 12 weeks of maternity (parental) leave from paid employment and continue to receive financial assistance, provided that the parent expects to return to any EEC approved activity, except for job search, at the end of the maternity leave.
    - d. 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 ESOL program; or an accredited college or university, leading to an Associate's or a Bachelor's degree.

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- i. 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.
  - ii. The service need for parents participating in a full time high school program will be considered full time, regardless of the program schedule.
  - iii. The service need for parents participating in college coursework with 12 credit hours or more will be considered full time. For parents participating in less than 12 credit hours, the actual credit hours shall be multiplied by 2.5 to establish a child care need.
  - iv. The service need for parents participating in education or training programs other than college or high school including high school equivalency programs (*i.e.*, GED program), is 2.5 hours of service need for each hour spent in the education or training program per week.
  - v. 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.
- e. Incapacity of Parent. Families with an incapacitated parent(s) meet the service need requirement, subject to the limitations described in 606 CMR 10.04(1)(b)4. The incapacity of a parent(s) must be verified and documented on a case by case basis, as required by federal and state law.
2. Combining Service Need Activities. Work and education or training may be combined to meet service need requirements. An activity of seeking paid employment or incapacity of parent may not be combined with any other approved activity to establish a service need.
3. Travel Time. Up to five hours of travel time per week may be added to a parent's service need, provided that the travel is reasonably related to the necessary time to/from the child care program and the parent's service need activity. Before travel time may be added to a service need, the parent must establish a minimum of at least 20 hours in an EEC approved activity, pursuant to 606 CMR 10.04(1)(b)1.
4. Amount of Care. 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. Parents unable to document either a full time or a part time service need are not eligible for subsidized child care.
- i. Children with Disabilities/Special Needs. Children with documented special needs may be eligible for either full time or part-time care, in accordance with the supporting documentation, provided that the child's parent(s) establishes at least a part time service need, in accordance with 606 CMR 10.04(1)(b).
  - ii. Parents with Disabilities/Special Needs. Families with documented physical or mental disability of a parent may be eligible for either full time or part-time care, in accordance with the supporting documentation. Unless approved in writing by EEC, authorizations based on the physical or mental disability of a parent may not be authorized for more than two years.
- (2) Referral and Waitlist.
- (a) Child Care Resource and Referral Agency. Based on availability and in accordance with EEC enrollment priorities and policies, the CCR&R must:
- 1. issue a voucher to the eligible parent that may be used toward payment of a voucher child care educator/provider, subject to an eligibility determination; or
  - 2. refer the eligible parent to a contracted child care educator/provider who has an opening appropriate for the age and needs of the child in need of care; or
  - 3. enter the child on the waitlist for a child care subsidy.
- (b) Contracted Child Care Educator/Provider. Based on availability and in accordance with EEC enrollment priorities and policies, the contracted educator/provider must:
- 1. enroll the eligible child in his or her child care program if a contract slot appropriate to the age and needs of the child exists, subject to an eligibility determination; or
  - 2. if an appropriate contract slot does not exist, refer the parent to the regional CCR&R; and

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3. enter the child on the waitlist for a child care subsidy.
  - (c) Parent Choice. Parents may not be required to enroll their children at a particular child care program. Upon 14 days 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, subject to appropriation.
  - (d) Enrollment Prior to Service Need. Eligible children may be enrolled in care 14 days prior to the start of the parent's service need, when appropriate.
- (3) Eligibility Determination. A subsidy administrator 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 CCR&R. 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, in accordance with the requirements established in 606 CMR 10.03 and 10.04, parents must submit documentation that verifies their identity, residency, citizenship or immigration status of any child seeking subsidized child care, income, service need, and relationship to all children and dependent grandparents in the family. At each subsequent reassessment, parents must submit documentation that verifies their residency, income and service need.

10.05: Employment Services Program

Subject to appropriation, DTA may issue authorizations or referrals for TAFDC recipients seeking child care financial assistance through the Employment Services Program, as described below. DTA authorizations or referrals for subsidized child care shall be issued in accordance with the regulations, guidelines and policies established by DTA and in accordance with 606 CMR 10.03, unless otherwise noted.

- (1) Authorization. For any eligible parent seeking child care through DTA's Employment Services Program, DTA may issue a written child care authorization to the eligible parent based on the family's TAFDC status.
  - (a) TAFDC Families. Parents, who currently receive TAFDC cash assistance and participate in the Employment Services Program, may be issued a written child care authorization for priority access to subsidized child care.
  - (b) 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 meet EEC eligibility guidelines.
- (2) Referral. DTA shall refer parents with a written child care authorization to the appropriate EEC subsidy administrator. Parents with DTA authorizations must contact the subsidy administrator to obtain either a voucher or a referral to a contracted child care slot, depending upon availability. The subsidy administrator shall help the parents identify a child care educator/provider who can provide subsidized care as defined in 606 CMR 10.11.
- (3) Eligibility Criteria. Eligibility for a child care subsidy through the Employment Services Program shall be determined by DTA and verified by the subsidy administrator based on the parent's TAFDC status, as described in 606 CMR 10.05(3)(a) and (b).
  - (a) TAFDC Families. 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. Subsidy administrators shall verify the identity of the parent(s) listed on the child care authorization issued by DTA, in accordance with 606 CMR 10.03(b).
    - Fee Assessment. TAFDC families with written child care authorizations from DTA shall not be charged any parent co-payment fees.



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(b) Transitional Families. The written child care authorization is evidence of family relationship for all children included in the authorization. Subsidy administrators shall verify the identity of the parent(s) listed on the child care authorization issued by DTA, in accordance with 606 CMR 10.03(b). Parents must also submit evidence of their income, service need, residence, and their relationship to children or dependent grandparents not included in the child care authorization.

(4) Eligibility Period. Subsidy administrators should approve the length of time for subsidized child care based on the parent's TAFDC status, as described in 606 CMR 10.05(4)(a) and (b). The subsidy administrator shall notify families, in writing, that their eligibility period is ending no less than 30 days prior to the end of the eligibility period.

(a) TAFDC Families. Subsidy administrators shall approve the subsidized child care based on the DTA authorization, not to exceed 12 months, provided that the family continues to receive TAFDC cash assistance.

(b) Transitional Families. Subsidy administrators shall approve the subsidized child care based on the parent's service need, not to exceed 12 months from the date the family's TAFDC case closed.

(5) Enrollment. Parents will enroll children directly at the educator/provider child care site, in accordance with the procedures of the educator/provider.

(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.

(7) Continuity of Care. Subject to appropriation, parent(s) seeking to continue eligibility upon the closure of the family's DTA Employment Services Program authorization or termination of transitional TAFDC benefits may continue to receive child care financial assistance through the Income Eligible Child Care program provided that the family meets the requirements set forth in 606 CMR 10.03 and 10.04.

10.06: Supportive Child Care Program

Subject to appropriation, DCF may issue authorizations or referrals for children that are receiving, or at risk of receiving protective services, as defined at 606 CMR 10.02, through the Supportive Child Care Program, as described in 606 CMR 10.06(1) through (9). DCF authorizations or referrals for subsidized child care shall be issued in accordance with the regulations, guidelines and policies established by DCF and in accordance with the general provisions for subsidized child care described in 606 CMR 10.03, unless otherwise noted.

(1) Authorization. For any child receiving or at risk of receiving protective services through DCF, DCF may issue a written authorization for child care services to the parent.

(2) Referral and Waitlist. DCF 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 child care educator/provider with supportive child care openings appropriate to the age and needs of the child; or

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

(3) Eligibility Criteria. DCF or its designee shall determine eligibility of its clients for supportive child care services, in accordance with DCF regulations and policy. The written child care authorization is sufficient documentation that the children listed on the authorization are eligible for supportive child care services. Subsidy administrators shall verify the identity of the parent(s) listed on the child care authorization issued by DCF, in accordance with 606 CMR 10.03(b).

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- (4) Eligibility Period. The supportive child care subsidy will be authorized by DCF for a maximum of six months, and may be renewed by DCF for a second six month period. Unless approved by the DCF Area Director, authorization for supportive services may not be renewed more than once. Subject to appropriation, DCF may authorize transitional supportive child care to continue beyond the closure of the DCF case for up to six months. The EEC subsidy administrator shall notify families, in writing, that their eligibility period is ending no less than 30 days prior to the end of the eligibility period.
- (5) Fee Assessment. On a case by case basis, DCF will determine whether applicable parent fees shall be waived.
- (6) Information Sharing. DCF or its designee will share information with the child care educator/provider regarding the child's behavior and the family's psychosocial history to assist the educator/provider in meeting the needs of the child and family.
- (7) Enrollment. The parent must meet with the contracted educator/provider to complete the enrollment process in accordance with the educator's/provider's policies and procedures.
- (8) Denial or Termination of Supportive Child Care Services. Supportive Child Care Services will end when the protective case closes, or when DCF determines that services are no longer appropriate, whichever first occurs. Parents wishing to appeal the termination of Supportive Child Care Services may do so through the DCF Fair Hearing Process, in accordance with DCF policy and 110 CMR 10.00: *Fair Hearings and Grievances*.
- (9) Continuity of Care. Subject to appropriation, parent(s) seeking to continue eligibility upon the closure of the family's Supportive Child Care Services may continue to receive child care financial assistance through the Income Eligible Child Care program provided that the family meets the requirements set forth in 606 CMR 10.03 and 10.04.

10.07: Teen Parent Child Care Services Program

Subject to appropriation, teen parents may be eligible to receive subsidized child care through the Teen Parent Child Care Services Program, as described in 606 CMR 10.07(1) through (7), and as provided they meet the requirements of the general provisions for subsidized child care described in 606 CMR 10.03, unless otherwise noted:

- (1) Application and Referral. 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.
- (2) Referral and Waitlist. Based on availability, parents will be referred to and/or enrolled, subject to an eligibility determination, in a program eligible to provide Teen Parent Child Care services. Parents unable to enroll in a Teen Parent Child Care Services Program due to a lack of available funding will be placed on a child care subsidy waitlist.
- (3) Eligibility Criteria. Teen parents seeking access to subsidized child care through the Teen Parent Child Care Services Program must comply with the financial and service need requirements of 606 CMR 10.04, unless excepted in 606 CMR 10.07(3)(a) and (b).
  - (a) Service Need Requirements. Unless authorized by DTA or DCF, teen parents must participate 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).

10.07: continued

- (b) Age Requirements. 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 20<sup>th</sup> birthday. Enrolled teens who turn 20 years of age may continue through the completion of their service need activity.
- (4) Eligibility Periods. Eligibility is determined for periods not to exceed 12 months, subject to the family's continued eligibility for child care financial assistance. The EEC subsidy administrator shall notify teen parents, in writing, that their eligibility period is ending no less than 30 days prior to the end of the eligibility period.
- (5) Participation Requirements. In addition to the Eligibility Criteria outlined in 606 CMR 10.07(3), teen parents participating in the Teen Parent Services Child Care Program must comply with the requirements in 606 CMR 10.07(5)(a) through (c):
- (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 TAFDC must comply with all TAFDC requirements.
- (6) Denial, Termination or Reduction of Services. All denials, terminations or reductions related to the Teen Parent Child Care Services Program shall comply with 606 CMR 10.13 and 10.14.
- (7) Continuity of Care. Subject to appropriation, parent(s) seeking to continue eligibility upon the closure of the family's Teen Parent Child Care Services may continue to receive child care financial assistance through the Income Eligible Child Care Program provided that the family meets the requirements set forth in 606 CMR 10.03 and 10.04.

10.08: Homeless Child Care Services Program

Subject to appropriation, child care subsidies may be available for children experiencing homelessness or at risk of homelessness, through the Homeless Child Care Services Program, as described in 606 CMR 10.08(1) through (8), and in accordance with 606 CMR 10.03, unless otherwise noted.

- (1) Authorization. DHCD and/or DCF may issue a written child care authorization or referral for any family seeking to enroll a child in the Homeless Child Care Services Program, provided that the family is participating in an approved homeless activity, including, but not limited to: residing in an emergency assistance shelter, domestic violence shelter or residential family substance abuse treatment shelter; placement in temporary housing at a motel/hotel; or participation in either a homeless stabilization or diversion program.
- (2) Referral and Waitlist. Upon issuance of the written child care authorization, DHCD, DCF or their respective designees shall refer parents to a child care educator/provider with homeless child care openings appropriate to the age and needs of the child. If no appropriate child care openings are available, the family may be placed on a waiting list for Homeless Child Care Services.
- (3) Eligibility Criteria. Unless authorized for a child care subsidy through 606 CMR 10.05 or 10.06, homeless families seeking subsidized child care through the Homeless Child Care Services Program must comply with the financial and service need requirements of 606 CMR 10.04, unless excepted in the following.
- Service Need Requirement. Receipt of a current, active referral form from either DHCD or DCF serves as sufficient documentation to establish the service need requirement of the child care financial assistance laws and policies of the Commonwealth. Families with homeless child care referrals from DHCD or DCF establish a full-time need for child care.

10.08: continued

- (4) Eligibility Period. The length of the child care authorization shall be established by the authorizing agency, either DHCD or DCF, for a period not to exceed 12 months. In determining the eligibility period, DHCD or DCF shall take into account the individual needs of the family.
- (5) Fee Assessment. On a case by case basis, DHCD or DCF will determine whether applicable parent fees shall be waived.
- (6) Enrollment. The parent must meet with the child care educator/provider to complete the enrollment process in accordance with the educator's/provider's policies and procedures.
- (7) Denial, Termination or Reduction of Services. Homeless Child Care Services will end when the applicant family is longer homeless or when DHCD or DCF determines that child care services are no longer appropriate, whichever occurs first, or in accordance with EEC's reasons for denial, termination and reduction at 606 CMR 10.13. All denials, terminations or reductions related to the Homeless Child Care Services Program shall comply with 606 CMR 10.13 and 10.14.
- (8) Continuity of Care. Subject to appropriation, parent(s) seeking to continue eligibility upon the closure of the family's Homeless Child Care Services may continue to receive child care financial assistance through the Income Eligible Child Care Program provided that the family meets the requirements set forth in 606 CMR 10.03 and 10.04.

10.09: 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 or 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) Waitlist. If the child care program has reached its licensed capacity at the time the parent requests care, the child will be entered on a waitlist for care and notified as soon as space is available for the child.

10.10: Child Care for Special Populations

Families with specialized child care 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.

10.11: Child Care Educators/Providers and Caregivers

- (1) Care by Licensed Educators/Providers. Except as set forth in 606 CMR 10.11(2), subsidized child care may be provided by an EEC licensed family child care educator/provider, a licensed group or school age child care program or through a family child care system, if the educator/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.

## 10.11: continued

(b) In Home or Relative Child Care.

1. Child Care by a Relative of the Child. 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. 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 of age and has a background free of conduct which, in the judgment of 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): *Applicants and Family Day Care*.
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;
  - b. satisfy all applicable health and safety requirements; and
  - c. sign an agreement to provide subsidized child care services.
4. Relative caregivers and caregivers providing care in the child's own home may not care for more than six children younger than 13 years old.

10.12: Reimbursement

- (1) Rates. Reimbursement to child care educators/providers shall be made in accordance with rates established by EEC.
- (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 educator/provider fails to follow EEC regulations, policies, procedures, or contract requirements.

10.13: Denial, Reduction and/or Termination 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 DCF in accordance with DCF 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 10.14.

- (1) Reasons for Denial or 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 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 assessment or reassessment;
  - (f) submission of false or misleading information or documentation to the contracted child care educator/provider, CCR&R or EEC, which is material to the parent's eligibility; or
  - (g) failure of the parent(s) to comply with EEC policies, the child care educator's/provider's policies, or the CCR&R'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.

## 10.13: continued

(3) Notice. Whenever a family is being removed from a waiting list, the contracted child care educator/provider or CCR&R shall give to the parent written notice of the removal within 14 calendar days of the decision using a notice form provided or prescribed by EEC. Whenever a subsidy is being denied, reduced or terminated, the contracted child care educator/provider or CCR&R must give the parent(s) written notice of the denial, reduction or termination and the option to request a review of the action through the EEC review process. The contracted child care educator/provider or CCR&R shall use a notice form provided or prescribed by EEC and shall provide the parent with the notice at least 14 calendar days before the effective date of the reduction or termination or within 14 calendar days of the decision to deny access to child care subsidy. At a minimum, the notice shall include the following:

- (a) a clear and plain statement of the action to be taken;
- (b) the effective date of the action;
- (c) an explanation of the reason(s) for the action;
- (d) the regulation or other legal authority on which the action is based;
- (e) contact information to obtain further information related to the action;
- (f) an explanation of the right to request a review;
- (g) a copy of the request for review form;
- (h) the circumstances under which child care services may continue pending a review;
- (i) a notice of the right to be represented; and
- (j) contact information for the EEC unit that receives appeal requests.

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 educator/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.

10.14: Review Process

(1) Reasons for Review. A parent may request an EEC Review when a contracted child care educator/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 regulation or 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 in the EEC review process. The scope of an EEC review shall be limited to determining whether the contracted child care educator/provider or CCR&R acted, or failed to act, in accordance with state or federal laws or regulations.

(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 child care educator/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 child care educator/provider or CCR&R and the reason for the request. If a parent wishes to submit evidence in support of his or her request, such as documents or receipts, the evidence must be received by EEC within 14 calendar days of submitting the request for review, in order to make such evidence a part of the review record.

10.14: continued

- (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 10.14(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 EEC regulation;
  - (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 10.14(5)(b) and (c).
- (7) Preliminary Review.
- (a) Notification. Within seven days of receipt of the parent's request for review the EEC Review Officer shall notify the contracted child care educator/provider or the CCR&R of the Request for Review, and shall request that the child care educator/provider or CCR&R submit evidence in support of his or her determination. The EEC Review Officer shall also notify the parent and the contracted child care educator/provider or the CCR&R whether the subsidized child care shall continue pending the outcome of the review.
  - (b) Response. Within seven days of the date of notification from EEC the contracted child care educator/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) Record. The case record shall consist of any evidence submitted by the contracted child care educator/provider or the CCR&R, any evidence submitted by the parent, and, if applicable, any evidence obtained by the EEC Review Officer, including, but not limited to, documentary evidence obtained from other local, state, and/or federal agencies.
  - (d) Decisions.
    - 1. How Made. The EEC Review Officer will review all information submitted by the parent and the child care educator/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 or her specialized knowledge and may use his or her experience and specialized knowledge in the evaluation of the evidence presented. The EEC Review Officer may also take administrative notice of any public records or information from other local, state, and/or federal agencies.
    - 2. When Made. Within 30 days of EEC's receipt of the Request for Review or as promptly as administratively feasible, the EEC Review Officer shall issue a written decision to the parent and the child care educator/provider or CCR&R which upholds, reverses, or modifies the educator's/provider's or CCR&R's decision, action or inaction.
    - 3. When Implemented. Unless 606 CMR 10.14(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 10.14(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.

## 10.14: continued

- (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 seven 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 10.14(8)(a), the child care subsidy will automatically continue pending the outcome of the appeal unless EEC has determined, in writing, that 606 CMR 10.14(6) applies.
- (c) Notice of Hearing. The General Counsel or the designated EEC Hearing Officer shall notify the parent and the child care educator/provider or CCR&R of the date, time, and place of the hearing. The notice shall also describe the hearing procedure and the right to contact EEC to obtain further information, including the case file and documents to be submitted by EEC at the hearing.
- (d) Hearings.
1. Procedure. The hearing shall be conducted in accordance with 801 CMR 1.02: *Informal/Fair Hearing Rules*. 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. If the parent has a disability or is otherwise unable to appear at the Central Office, the parent may request that the hearing be held at an EEC regional office more conveniently located to the parent, subject to approval by EEC.
  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, in accordance with 801 CMR 1.02: *Informal/Fair Hearing Rules*;
  2. fails to prosecute his or her claim, in accordance with 801 CMR 1.02: *Informal/Fair Hearing Rules*(10)(e); or
  3. 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.



10.15: Applicability

If any provision contained in 606 CMR 10.00 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. c. 15D and 45 CFR Part 98.11(b)(2) and (8).

NON-TEXT PAGE