

3400.0130 CHILD CARE ASSISTANCE PROGRAM MAXIMUM RATES.

Subpart 1. **Rate determination.** The commissioner must determine the applicable child care assistance program maximum rate as described in Minnesota Statutes, section 119B.13. Any rate survey conducted by the commissioner as described in Minnesota Statutes, section 119B.02, must include a survey of registration fees when it is usual and customary for a category of child care provider to charge registration fees.

Subp. 1a. **Child care assistance program maximum rate.** Except as provided in this part, the maximum rate payable by a CCAP agency for child care assistance is the child care provider's rate or the applicable maximum rate determined by the commissioner under Minnesota Statutes, section 119B.13, whichever is less. In Minnesota, the child care assistance program maximum rate must be based on the county, or city when applicable, where a child care provider provides child care. Outside Minnesota, the child care assistance program maximum rate must be based on the participant's county of residence.

Subp. 1b. **Child care provider charges and registration fees in excess of maximum child care payment.** A CCAP agency must not pay a child care provider more than the child care assistance program maximum rate and registration fee. In addition to any copayment, a family is responsible for:

- A. the difference between the child care assistance program maximum rate and the child care provider rate;
- B. any charges that exceed the allowable CCAP payment under part 3400.0110, subpart 3d;
- C. the difference between the applicable maximum registration fee and the child care provider registration fee when the child care provider charge does not include the registration fee;
- D. the child care provider registration fee when a CCAP agency has paid two registration fees per child in a 12-month period; and
- E. any other fees that the child care provider charge does not include.

A third party may pay part or all of a family's child care expenses under Minnesota Statutes, section 119B.09, subdivision 11.

Subp. 2. **Rate determination for certified license-exempt child care centers.** A CCAP agency must pay a certified license-exempt child care center as defined in Minnesota Statutes, section 245H.01, subdivision 5, the applicable maximum rate for licensed child care centers or the child care provider rate, whichever is less.

Subp. 2a. [Repealed, 30 SR 1318]

Subp. 3. **Rate determination for special needs due to disability or inclusion in at-risk population.** A CCAP agency must submit a request to pay a special needs rate for a child with a disability or for a child care provider caring for a child in an at-risk population to the commissioner. The commissioner must evaluate a request for a special needs rate using the commissioner's

methodology. Based on the commissioner's methodology, approved special needs rates may be lower than the requested rates.

Subp. 3a. Rate determination; children with special needs due to disability.

A. When a parentally responsible individual or a child care provider asks a CCAP agency for a special needs rate for a child with a disability that exceeds the applicable maximum rate, the CCAP agency must use the following process to determine whether a special needs rate is necessary and, if so, to establish the requested special needs rate. The CCAP agency must:

- (1) obtain documentary evidence of the child's disability;
- (2) obtain the following documentation from the child care provider:
 - (a) a description of the specialized training, services, or environmental adaptations that the child care provider will furnish to meet the individual needs of the child;
 - (b) the child care provider's assurance of compliance with applicable provisions of the Americans with Disabilities Act;
 - (c) the child care provider's assurance that the rate that the child care provider is requesting is the same as the rate that would be charged for similar services provided to a child with a disability in a family not receiving child care assistance; and
 - (d) if applicable, a statement from the child care provider explaining that the rate that the child care provider charges for all children in child care should be adopted as the special needs rate for the child with a disability because the child care provider has chosen to spread the cost of caring for children with special needs across all families in child care;
- (3) seek the commissioner's approval and determination of the special needs rate. The commissioner must evaluate the request and, upon approval, allow a CCAP agency to pay a special needs rate at 75 percent, 150 percent, or 200 percent of the applicable maximum rate by assessing the child's needs in the following areas:
 - (a) special medical needs and health;
 - (b) behavioral issues;
 - (c) mobility;
 - (d) communication skills;
 - (e) self-sufficiency; and
 - (f) extra supervision for safety; and
- (4) notify the child care provider and parentally responsible individual of the commissioner's decision in writing, including the reasons for approval or denial.

B. Upon written approval by the commissioner, a CCAP agency must pay the approved special needs rate retroactively from the date of the child care provider's or parentally responsible

individual's request for the special needs rate under Minnesota Statutes, sections 119B.09, subdivision 7, and 119B.13, subdivision 6. A special needs rate approval must not exceed a time period of 12 months. If a parentally responsible individual or child care provider requests a special needs rate for longer than 12 months, the parentally responsible individual or child care provider must seek a renewal of the special needs rate by the end of the 12-month period.

Subp. 3b. Rate determination; child care provider who serves children in at-risk population. To determine a special needs rate for a child care provider caring for children in an at-risk population as defined in the CCAP agency's child care fund plan, a CCAP agency must:

A. obtain documentary evidence that the children that the child care provider serves are predominantly in the at-risk population defined in the CCAP agency's child care fund plan;

B. obtain the following documentation from the child care provider:

(1) a description of the specialized training, services, or environmental adaptations that the child care provider will receive or provide to meet the needs of the children in the at-risk population;

(2) the child care provider's assurance that the rate that the child care provider is requesting is the same as the rate that the child care provider would charge for similar services provided to a child in the at-risk population in a family that is not receiving child care assistance; and

(3) if applicable, a statement from the child care provider explaining that the rate that the child care provider charges for all children in the child care provider's care should be adopted as the special needs rate for children in the at-risk population because the child care provider has chosen to spread the cost of caring for children with special needs across all families receiving child care from the child care provider;

C. determine how many child care providers in the county offer child care for children in the at-risk population;

D. identify the 75th percentile rate if the CCAP agency finds that four or more child care providers offer child care for children in the at-risk population and pay the 75th percentile rate, the rate negotiated with the child care provider by the CCAP agency, or the child care provider's rate, whichever is less;

E. pay the lesser of the rate negotiated with the child care provider by the CCAP agency or the child care provider's rate if the CCAP agency finds that fewer than four child care providers offer child care for children in the at-risk population; and

F. seek the commissioner's approval of the special rate as determined under item D or E. A CCAP agency must submit the special needs rate request for the commissioner's approval with or as an amendment to the CCAP agency's child care fund plan.

Upon written approval by the commissioner, a CCAP agency must pay the approved special needs rate retroactively from the date of the child care provider's request for the special needs rate under Minnesota Statutes, sections 119B.09, subdivision 7, and 119B.13, subdivision 6.

Subp. 4. [Repealed, 26 SR 253]

Subp. 5. **Age categories.** A CCAP agency must determine a child's maximum child care assistance rate according to the age of the child and the type of child care provider caring for the child as follows.

A. The age categories in Minnesota Statutes, section 245A.02, subdivision 19, apply to a licensed family child care provider and to a legal nonlicensed child care provider.

B. The age categories in part 9503.0005, subpart 2, apply to a licensed child care center.

C. The age categories in Minnesota Statutes, section 245H.08, subdivisions 4 and 5, apply to a certified license-exempt child care center.

D. If a licensed family child care provider or a licensed child care center cares for the child, a CCAP agency must base the maximum rate that the agency pays for the child's care on a different age category when a parentally responsible individual or child care provider notifies the CCAP agency that the child's setting or age category differs from the applicable age category under item A or B; and:

(1) the child meets the age criteria to qualify for the licensing provision for age flexibility for licensed centers under part 9503.0040, subpart 4, item A; or

(2) the commissioner has granted a licensing variance to the child's licensed child care center under part 9503.0005, subpart 26, or licensed family child care provider under part 9502.0315, subpart 31.

E. A CCAP agency must consider a child to be in the school-age rate category on September 1 following the child's fifth birthday unless the parentally responsible individual informs the CCAP agency that the child will not be starting school.

Subp. 5a. **Rates for in-home care.** When a child care provider cares for a child in the child's home under Minnesota Statutes, section 119B.09, subdivision 13, a CCAP agency must base the applicable maximum rate on the allowable rate for a legal nonlicensed child care provider. If a child care provider is licensed to care for a child in the child's home, a CCAP agency must base the applicable maximum rate on the allowable rate for a licensed child care provider.

Subp. 6. [Repealed, 26 SR 253]

Subp. 7. **Payment of registration fees.** If a child care provider charges a family a registration fee to enroll a child in the child care provider's program and the child care provider rate does not include the registration fee, a CCAP agency must pay the child care provider registration fee or up to the applicable maximum registration fee that the commissioner determines under Minnesota Statutes, section 119B.13. A CCAP agency must not pay for more than two registrations per child in a 12-month period.

Subp. 8. [Repealed, L 2011 1Sp9 art 3 s 35]

Subp. 9. [Repealed, 26 SR 253]

Subp. 10. [Repealed, 26 SR 253]

Statutory Authority: *MS s 14.3895; 119B.02; 119B.04; 119B.06; 256.01; 256H.01 to 256H.19*

History: *14 SR 519; 18 SR 1144; 26 SR 253; 30 SR 1318; 33 SR 695; L 2011 1Sp9 art 3 s 35; 47 SR 391*

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