

## CHAPTER 119B

### CHILD CARE PROGRAMS

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#### 119B.011 DEFINITIONS.

*[For text of subds 1 to 4, see M.S.2002]*

Subd. 5. **Child care.** "Child care" means the care of a child by someone other than a parent, stepparent, legal guardian, eligible relative caregiver, or the spouses of any of the foregoing in or outside the child's own home for gain or otherwise, on a regular basis, for any part of a 24-hour day.

Subd. 6. **Child care fund.** "Child care fund" means a program under this chapter providing:

(1) financial assistance for child care to parents engaged in employment, job search, or education and training leading to employment; and

(2) grants to develop, expand, and improve the access and availability of child care services statewide.

*[For text of subd 7, see M.S.2002]*

Subd. 8. **Commissioner.** "Commissioner" means the commissioner of education.

*[For text of subd 9, see M.S.2002]*

Subd. 10. **Department.** "Department" means the Department of Education.

*[For text of subds 11 to 14, see M.S.2002]*

Subd. 15. **Income.** "Income" means earned or unearned income received by all family members, including public assistance cash benefits, unless specifically excluded and child support and maintenance distributed to the family under section 256.741, subdivision 15. The following are excluded from income: funds used to pay for health insurance premiums for family members, Supplemental Security Income, scholarships, work-study income, and grants that cover costs or reimbursement for tuition, fees, books, and educational supplies; student loans for tuition, fees, books, supplies, and living expenses; state and federal earned income tax credits; assistance specifically excluded as income by law; in-kind income such as food support, energy assistance, foster care assistance, medical assistance, child care assistance, and housing subsidies; earned income of full-time or part-time students up to the age of 19, who have not earned a high school diploma or GED high school equivalency diploma including earnings from summer employment; grant awards under the family subsidy program; nonrecurring lump sum income only to the extent that it is earmarked and used for the purpose for which it is paid; and any income assigned to the public authority according to section 256.741.

*[For text of subds 16 to 18, see M.S.2002]*

Subd. 19. **Provider.** "Provider" means: (1) an individual or child care center or facility, either licensed or unlicensed, providing legal child care services as defined under section 245A.03; or (2) an individual or child care center or facility holding a valid child care license issued by another state or a tribe and providing child care services in the licensing state or in the area under the licensing tribe's jurisdiction. A legally unlicensed family child care provider must be at least 18 years of age, and not a member of the MFIP assistance unit or a member of the family receiving child care assistance to be authorized under this chapter.

Subd. 19a. **Registration.** "Registration" means the process used by a county to determine whether the provider selected by a family applying for or receiving child care assistance to care for that family's children meets the requirements necessary for payment of child care assistance for care provided by that provider.

Subd. 20. **Transition year families.** (a) "Transition year families" means families who have received MFIP assistance, or who were eligible to receive MFIP assistance after choosing to discontinue receipt of the cash portion of MFIP assistance under section 256J.31, subdivision 12, for at least three of the last six months before losing eligibility for MFIP. Transition year child care may be used to support employment or job search. Transition year child care is not available to families who have been disqualified from MFIP due to fraud.

(b) "Transition year extension year families" means families who have completed their transition year of child care assistance under this subdivision and who are eligible for, but on a waiting list for, services under section 119B.03. For purposes of sections 119B.03, subdivision 3, and 119B.05, subdivision 1, clause (2), families participating in extended transition year shall not be considered transition year families. Transition year extension child care may be used to support employment or a job search that meets the requirements of section 119B.10 for the length of time necessary for families to be moved from the basic sliding fee waiting list into the basic sliding fee program.

Subd. 21. **Recoupment of overpayments.** "Recoupment of overpayments" means the reduction of child care assistance payments to an eligible family or a child care provider in order to correct an overpayment of child care assistance.

*[For text of subd 22, see M.S.2002]*

**History:** 2003 c 130 s 5,6; 1Sp2003 c 9 art 12 s 1; 1Sp2003 c 14 art 1 s 106; art 9 s 1-7

## **119B.02 DUTIES OF COMMISSIONER.**

Subdivision 1. **Child care services.** The commissioner shall develop standards for county and human services boards to provide child care services to enable eligible families to participate in employment, training, or education programs. Within the limits of available appropriations, the commissioner shall distribute money to counties to reduce the costs of child care for eligible families. The commissioner shall adopt rules to govern the program in accordance with this section. The rules must establish a sliding schedule of fees for parents receiving child care services. The rules shall provide that funds received as a lump sum payment of child support arrearages shall not be counted as income to a family in the month received but shall be prorated over the 12 months following receipt and added to the family income during those months. The commissioner shall maximize the use of federal money under title I and title IV of Public Law 104-193, the Personal Responsibility and Work Opportunity Reconciliation Act of 1996, and other programs that provide federal or state reimbursement for child care services for low-income families who are in education, training, job search, or other activities allowed under those programs. Money appropriated under this section must be coordinated with the programs that provide federal reimbursement for child care services to accomplish this purpose. Federal reimbursement obtained must be allocated to the county that spent money for child care that is federally reimbursable under programs that provide federal reimbursement for child care services. The counties shall use the federal money to expand child care services. The commissioner may adopt rules under chapter 14 to implement and coordinate federal program requirements.

*[For text of subs 2 to 6, see M.S.2002]*

**History:** 1Sp2003 c 14 art 9 s 8

**119B.025 DUTIES OF COUNTIES.**

Subdivision 1. **Factors which must be verified.** (a) The county shall verify the following at all initial child care applications using the universal application:

- (1) identity of adults;
- (2) presence of the minor child in the home, if questionable;
- (3) relationship of minor child to the parent, stepparent, legal guardian, eligible relative caretaker, or the spouses of any of the foregoing;
- (4) age;
- (5) immigration status, if related to eligibility;
- (6) social security number, if given;
- (7) income;
- (8) spousal support and child support payments made to persons outside the household;
- (9) residence; and
- (10) inconsistent information, if related to eligibility.

(b) If a family did not use the universal application to apply for child care assistance, the family must complete the universal application at its next eligibility redetermination and the county must verify the factors listed in paragraph (a) as part of that redetermination. Once a family has completed a universal application, the county shall use the redetermination form described in paragraph (c) for that family's subsequent redeterminations.

(c) The commissioner shall develop a recertification form to redetermine eligibility that minimizes paperwork for the county and the participant.

**Subd. 2. Social security numbers.** The county must request social security numbers from all applicants for child care assistance under this chapter. A county may not deny child care assistance solely on the basis of failure of an applicant to report a social security number.

**History:** 1Sp2003 c 14 art 9 s 9

**119B.03 BASIC SLIDING FEE PROGRAM.**

*[For text of subs 1 to 3, see M.S.2002]*

**Subd. 4. Funding priority.** (a) First priority for child care assistance under the basic sliding fee program must be given to eligible non-MFIP families who do not have a high school or general equivalency diploma or who need remedial and basic skill courses in order to pursue employment or to pursue education leading to employment and who need child care assistance to participate in the education program. Within this priority, the following subpriorities must be used:

- (1) child care needs of minor parents;
- (2) child care needs of parents under 21 years of age; and
- (3) child care needs of other parents within the priority group described in this paragraph.

(b) Second priority must be given to parents who have completed their MFIP or work first transition year, or parents who are no longer receiving or eligible for diversionary work program supports.

(c) Third priority must be given to families who are eligible for portable basic sliding fee assistance through the portability pool under subdivision 9.

(d) Families under paragraph (b) must be added to the basic sliding fee waiting list on the date they begin the transition year under section 119B.011, subdivision 20, and must be moved into the basic sliding fee program as soon as possible after they complete their transition year.

*[For text of subds 5 to 8, see M.S.2002]*

Subd. 9. **Portability pool.** (a) The commissioner shall establish a pool of up to five percent of the annual appropriation for the basic sliding fee program to provide continuous child care assistance for eligible families who move between Minnesota counties. At the end of each allocation period, any unspent funds in the portability pool must be used for assistance under the basic sliding fee program. If expenditures from the portability pool exceed the amount of money available, the reallocation pool must be reduced to cover these shortages.

(b) To be eligible for portable basic sliding fee assistance, a family that has moved from a county in which it was receiving basic sliding fee assistance to a county with a waiting list for the basic sliding fee program must:

(1) meet the income and eligibility guidelines for the basic sliding fee program; and

(2) notify the new county of residence within 60 days of moving and submit information to the new county of residence to verify eligibility for the basic sliding fee program.

(c) The receiving county must:

(1) accept administrative responsibility for applicants for portable basic sliding fee assistance at the end of the two months of assistance under the Unitary Residency Act;

(2) continue basic sliding fee assistance for the lesser of six months or until the family is able to receive assistance under the county's regular basic sliding program; and

(3) notify the commissioner through the quarterly reporting process of any family that meets the criteria of the portable basic sliding fee assistance pool.

*[For text of subd 10, see M.S.2002]*

**History:** 1Sp2003 c 14 art 1 s 1; art 9 s 10,11

#### **119B.05 MFIP CHILD CARE ASSISTANCE PROGRAM.**

Subdivision 1. **Eligible participants.** Families eligible for child care assistance under the MFIP child care program are:

(1) MFIP participants who are employed or in job search and meet the requirements of section 119B.10;

(2) persons who are members of transition year families under section 119B.011, subdivision 20, and meet the requirements of section 119B.10;

(3) families who are participating in employment orientation or job search, or other employment or training activities that are included in an approved employability development plan under chapter 256K;

(4) MFIP families who are participating in work job search, job support, employment, or training activities as required in their job search support or employment plan, or in appeals, hearings, assessments, or orientations according to chapter 256J;

(5) MFIP families who are participating in social services activities under chapter 256J or 256K as required in their employment plan approved according to chapter 256J or 256K;

(6) families who are participating in programs as required in tribal contracts under section 119B.02, subdivision 2, or 256.01, subdivision 2; and

(7) families who are participating in the transition year extension under section 119B.011, subdivision 20, paragraph (a).

*[For text of subds 4 and 5, see M.S.2002]*

**History:** 1Sp2003 c 14 art 9 s 12

#### **119B.061 [Repealed, 1Sp2003 c 14 art 9 s 38]**

**119B.08 REPORTING AND PAYMENTS.**

*[For text of subds 1 and 2, see M.S.2002]*

Subd. 3. **Child care fund plan.** The county and designated administering agency shall submit a biennial child care fund plan to the commissioner. The commissioner shall establish the dates by which the county must submit the plans. The plan shall include:

(1) a description of strategies to coordinate and maximize public and private community resources, including school districts, health care facilities, government agencies, neighborhood organizations, and other resources knowledgeable in early childhood development, in particular to coordinate child care assistance with existing community-based programs and service providers including child care resource and referral programs, early childhood family education, school readiness, Head Start, local interagency early intervention committees, special education services, early childhood screening, and other early childhood care and education services and programs to the extent possible, to foster collaboration among agencies and other community-based programs that provide flexible, family-focused services to families with young children and to facilitate transition into kindergarten. The county must describe a method by which to share information, responsibility, and accountability among service and program providers;

(2) a description of procedures and methods to be used to make copies of the proposed state plan reasonably available to the public, including members of the public particularly interested in child care policies such as parents, child care providers, culturally specific service organizations, child care resource and referral programs, interagency early intervention committees, potential collaborative partners and agencies involved in the provision of care and education to young children, and allowing sufficient time for public review and comment; and

(3) information as requested by the department to ensure compliance with the child care fund statutes and rules promulgated by the commissioner.

The commissioner shall notify counties within 90 days of the date the plan is submitted whether the plan is approved or the corrections or information needed to approve the plan. The commissioner shall withhold a county's allocation until it has an approved plan. Plans not approved by the end of the second quarter after the plan is due may result in a 25 percent reduction in allocation. Plans not approved by the end of the third quarter after the plan is due may result in a 100 percent reduction in the allocation to the county. Counties are to maintain services despite any reduction in their allocation due to plans not being approved.

*[For text of subd 4, see M.S.2002]*

**History:** 1Sp2003 c 14 art 9 s 13

**119B.09 FINANCIAL ELIGIBILITY.**

Subdivision 1. **General eligibility requirements for all applicants for child care assistance.** (a) Child care services must be available to families who need child care to find or keep employment or to obtain the training or education necessary to find employment and who:

(1) meet the requirements of section 119B.05; receive MFIP assistance; and are participating in employment and training services under chapter 256J or 256K;

(2) have household income below the eligibility levels for MFIP; or

(3) have household income less than or equal to 175 percent of the federal poverty guidelines, adjusted for family size, at program entry and less than 250 percent of the federal poverty guidelines, adjusted for family size, at program exit.

(b) Child care services must be made available as in-kind services.

(c) All applicants for child care assistance and families currently receiving child care assistance must be assisted and required to cooperate in establishment of paternity and enforcement of child support obligations for all children in the family as a condition of program eligibility. For purposes of this section, a family is considered to meet the requirement for cooperation when the family complies with the requirements of section 256.741.

Subd. 2. **Sliding fee.** Child care services to families must be made available on a sliding fee basis.

*[For text of subds 3 to 6, see M.S.2002]*

Subd. 7. **Date of eligibility for assistance.** (a) The date of eligibility for child care assistance under this chapter is the later of the date the application was signed; the beginning date of employment, education, or training; or the date a determination has been made that the applicant is a participant in employment and training services under Minnesota Rules, part 3400.0080, subpart 2a, or chapter 256J or 256K.

(b) Payment of child care assistance for employed persons on MFIP is effective the date of employment or the date of MFIP eligibility, whichever is later. Payment of child care assistance for MFIP or work first participants in employment and training services is effective the date of commencement of the services or the date of MFIP or work first eligibility, whichever is later. Payment of child care assistance for transition year child care must be made retroactive to the date of eligibility for transition year child care.

*[For text of subd 8, see M.S.2002]*

Subd. 9. **Licensed and legal nonlicensed family child care providers; assistance.** Licensed and legal nonlicensed family child care providers are not eligible to receive child care assistance subsidies under this chapter for their own children or children in their custody.

Subd. 10. **Payment of funds.** All federal, state, and local child care funds must be paid directly to the parent when a provider cares for children in the children's own home. In all other cases, all federal, state, and local child care funds must be paid directly to the child care provider, either licensed or legal nonlicensed, on behalf of the eligible family.

**History:** 1Sp2003 c 14 art 9 s 14-18

## 119B.11 COUNTY CONTRIBUTION.

*[For text of subd 1, see M.S.2002]*

Subd. 2a. **Recovery of overpayments.** (a) An amount of child care assistance paid to a recipient in excess of the payment due is recoverable by the county agency under paragraphs (b) and (c), even when the overpayment was caused by agency error or circumstances outside the responsibility and control of the family or provider.

(b) An overpayment must be recouped or recovered from the family if the overpayment benefited the family by causing the family to pay less for child care expenses than the family otherwise would have been required to pay under child care assistance program requirements. If the family remains eligible for child care assistance, the overpayment must be recovered through recoupment as identified in Minnesota Rules, part 3400.0187, except that the overpayments must be calculated and collected on a service period basis. If the family no longer remains eligible for child care assistance, the county may choose to initiate efforts to recover overpayments from the family for overpayment less than \$50. If the overpayment is greater than or equal to \$50, the county shall seek voluntary repayment of the overpayment from the family. If the county is unable to recoup the overpayment through voluntary repayment, the county shall initiate civil court proceedings to recover the overpayment unless the county's costs to recover the overpayment will exceed the amount of the overpayment. A family with an outstanding debt under this subdivision is not eligible for child care assistance until: (1) the debt is paid in full; or (2) satisfactory arrangements are made with the county to retire the debt consistent with the requirements of this chapter and Minnesota Rules, chapter 3400, and the family is in compliance with the arrangements.

(c) The county must recover an overpayment from a provider if the overpayment did not benefit the family by causing it to receive more child care assistance or to pay less for child care expenses than the family otherwise would have been eligible to receive or required to pay under child care assistance program requirements, and

benefited the provider by causing the provider to receive more child care assistance than otherwise would have been paid on the family's behalf under child care assistance program requirements. If the provider continues to care for children receiving child care assistance, the overpayment must be recovered through reductions in child care assistance payments for services as described in an agreement with the county. The provider may not charge families using that provider more to cover the cost of recouping the overpayment. If the provider no longer cares for children receiving child care assistance, the county may choose to initiate efforts to recover overpayments of less than \$50 from the provider. If the overpayment is greater than or equal to \$50, the county shall seek voluntary repayment of the overpayment from the provider. If the county is unable to recoup the overpayment through voluntary repayment, the county shall initiate civil court proceedings to recover the overpayment unless the county's costs to recover the overpayment will exceed the amount of the overpayment. A provider with an outstanding debt under this subdivision is not eligible to care for children receiving child care assistance until:

(1) the debt is paid in full; or

(2) satisfactory arrangements are made with the county to retire the debt consistent with the requirements of this chapter and Minnesota Rules, chapter 3400, and the provider is in compliance with the arrangements.

(d) When both the family and the provider acted together to intentionally cause the overpayment, both the family and the provider are jointly liable for the overpayment regardless of who benefited from the overpayment. The county must recover the overpayment as provided in paragraphs (b) and (c). When the family or the provider is in compliance with a repayment agreement, the party in compliance is eligible to receive child care assistance or to care for children receiving child care assistance despite the other party's noncompliance with repayment arrangements.

*[For text of subds 3 and 4, see M.S.2002]*

**History:** *1Sp2003 c 14 art 9 s 19*

## 119B.12 SLIDING FEE SCALE.

*[For text of subd 1, see M.S.2002]*

**Subd. 2. Parent fee.** A family must be assessed a parent fee for each service period. A family's parent fee must be a fixed percentage of its annual gross income. Parent fees must apply to families eligible for child care assistance under sections 119B.03 and 119B.05. Income must be as defined in section 119B.011, subdivision 15. The fixed percent is based on the relationship of the family's annual gross income to 100 percent of the annual federal poverty guidelines. Parent fees must provide for graduated movement to full payment.

**History:** *1Sp2003 c 14 art 9 s 20*

## 119B.125 PROVIDER REQUIREMENTS.

**Subdivision 1. Authorization.** Except as provided in subdivision 5, a county must authorize the provider chosen by an applicant or a participant before the county can authorize payment for care provided by that provider. The commissioner must establish the requirements necessary for authorization of providers.

**Subd. 2. Persons who cannot be authorized.** (a) A person who meets any of the conditions under paragraphs (b) to (n) must not be authorized as a legal nonlicensed family child care provider. For purposes of this subdivision, a finding that a delinquency petition is proven in juvenile court must be considered a conviction in state district court.

(b) The person has been convicted of one of the following offenses or has admitted to committing or a preponderance of the evidence indicates that the person has committed an act that meets the definition of one of the following offenses:

sections 609.185 to 609.195, murder in the first, second, or third degree; 609.2661 to 609.2663, murder of an unborn child in the first, second, or third degree; 609.322, solicitation, inducement, or promotion of prostitution; 609.323, receiving profit from prostitution; 609.342 to 609.345, criminal sexual conduct in the first, second, third, or fourth degree; 609.352, solicitation of children to engage in sexual conduct; 609.365, incest; 609.377, felony malicious punishment of a child; 617.246, use of minors in sexual performance; 617.247, possession of pictorial representation of a minor; 609.2242 to 609.2243, felony domestic assault; a felony offense of spousal abuse; a felony offense of child abuse or neglect; a felony offense of a crime against children; or an attempt or conspiracy to commit any of these offenses as defined in Minnesota Statutes; or an offense in any other state or country where the elements are substantially similar to any of the offenses listed in this paragraph.

(c) Less than 15 years have passed since the discharge of the sentence imposed for the offense and the person has received a felony conviction for one of the following offenses, or the person has admitted to committing or a preponderance of the evidence indicates that the person has committed an act that meets the definition of a felony conviction for one of the following offenses: sections 609.20 to 609.205, manslaughter in the first or second degree; 609.21, criminal vehicular homicide; 609.215, aiding suicide or aiding attempted suicide; 609.221 to 609.2231, assault in the first, second, third, or fourth degree; 609.224, repeat offenses of fifth degree assault; 609.228, great bodily harm caused by distribution of drugs; 609.2325, criminal abuse of a vulnerable adult; 609.2335, financial exploitation of a vulnerable adult; 609.235, use of drugs to injure or facilitate a crime; 609.24, simple robbery; 617.241, repeat offenses of obscene materials and performances; 609.245, aggravated robbery; 609.25, kidnapping; 609.255, false imprisonment; 609.2664 to 609.2665, manslaughter of an unborn child in the first or second degree; 609.267 to 609.2672, assault of an unborn child in the first, second, or third degree; 609.268, injury or death of an unborn child in the commission of a crime; 609.27, coercion; 609.275, attempt to coerce; 609.324, subdivision 1, other prohibited acts, minor engaged in prostitution; 609.3451, repeat offenses of criminal sexual conduct in the fifth degree; 609.378, neglect or endangerment of a child; 609.52, theft; 609.521, possession of shoplifting gear; 609.561 to 609.563, arson in the first, second, or third degree; 609.582, burglary in the first, second, third, or fourth degree; 609.625, aggravated forgery; 609.63, forgery; 609.631, check forgery, offering a forged check; 609.635, obtaining signature by false pretenses; 609.66, dangerous weapon; 609.665, setting a spring gun; 609.67, unlawfully owning, possessing, or operating a machine gun; 609.687, adulteration; 609.71, riot; 609.713, terrorist threats; 609.749, harassment, stalking; 260.221, grounds for termination of parental rights; 152.021 to 152.022, controlled substance crime in the first or second degree; 152.023, subdivision 1, clause (3) or (4), or 152.023, subdivision 2, clause (4), controlled substance crime in third degree; 152.024, subdivision 1, clause (2), (3), or (4), controlled substance crime in fourth degree; 617.23, repeat offenses of indecent exposure; an attempt or conspiracy to commit any of these offenses as defined in Minnesota Statutes; or an offense in any other state or country where the elements are substantially similar to any of the offenses listed in this paragraph.

(d) Less than ten years have passed since the discharge of the sentence imposed for the offense and the person has received a gross misdemeanor conviction for one of the following offenses or the person has admitted to committing or a preponderance of the evidence indicates that the person has committed an act that meets the definition of a gross misdemeanor conviction for one of the following offenses: sections 609.224, fifth degree assault; 609.2242 to 609.2243, domestic assault; 518B.01, subdivision 14, violation of an order for protection; 609.3451, fifth degree criminal sexual conduct; 609.746, repeat offenses of interference with privacy; 617.23, repeat offenses of indecent exposure; 617.241, obscene materials and performances; 617.243, indecent literature, distribution; 617.293, disseminating or displaying harmful material to minors; 609.71, riot; 609.66, dangerous weapons; 609.749, harassment, stalking; 609.224, subdivision 2, paragraph (c), fifth degree assault against a vulnerable adult by a caregiver; 609.23, mistreatment of persons confined; 609.231, mistreatment of residents or



patients; 609.2325, criminal abuse of a vulnerable adult; 609.2335, financial exploitation of a vulnerable adult; 609.233, criminal neglect of a vulnerable adult; 609.234, failure to report maltreatment of a vulnerable adult; 609.72, subdivision 3, disorderly conduct against a vulnerable adult; 609.265, abduction; 609.378, neglect or endangerment of a child; 609.377, malicious punishment of a child; 609.324, subdivision 1a, other prohibited acts, minor engaged in prostitution; 609.33, disorderly house; 609.52, theft; 609.582, burglary in the first, second, third, or fourth degree; 609.631, check forgery, offering a forged check; 609.275, attempt to coerce; an attempt or conspiracy to commit any of these offenses as defined in Minnesota Statutes; or an offense in any other state or country where the elements are substantially similar to any of the offenses listed in this paragraph.

(e) Less than seven years have passed since the discharge of the sentence imposed for the offense and the person has received a misdemeanor conviction for one of the following offenses or the person has admitted to committing or a preponderance of the evidence indicates that the person has committed an act that meets the definition of a misdemeanor conviction for one of the following offenses: sections 609.224, fifth degree assault; 609.2242, domestic assault; 518B.01, violation of an order for protection; 609.3232, violation of an order for protection; 609.746, interference with privacy; 609.79, obscene or harassing telephone calls; 609.795, letter, telegram, or package opening, harassment; 617.23, indecent exposure; 609.2672, assault of an unborn child, third degree; 617.293, dissemination and display of harmful materials to minors; 609.66, dangerous weapons; 609.665, spring guns; an attempt or conspiracy to commit any of these offenses as defined in Minnesota Statutes; or an offense in any other state or country where the elements are substantially similar to any of the offenses listed in this paragraph.

(f) The person has been identified by the county's child protection agency or by the statewide child protection database as the person allegedly responsible for physical or sexual abuse of a child within the last seven years.

(g) The person has been identified by the county's adult protection agency or by the statewide adult protection database as the person responsible for abuse or neglect of a vulnerable adult within the last seven years.

(h) The person has refused to give written consent for disclosure of criminal history records.

(i) The person has been denied a family child care license or has received a fine or a sanction as a licensed child care provider that has not been reversed on appeal.

(j) The person has a family child care licensing disqualification that has not been set aside.

(k) The person has admitted or a county has found that there is a preponderance of evidence that fraudulent information was given to the county for application purposes or was used in submitting bills for payment.

(l) The person has been convicted or there is a preponderance of evidence of the crime of theft by wrongfully obtaining public assistance.

(m) The person has a household member age 13 or older who has access to children during the hours that care is provided and who meets one of the conditions listed in paragraphs (b) to (l).

(n) The person has a household member ages ten to 12 who has access to children during the hours that care is provided; information or circumstances exist which provide the county with articulable suspicion that further pertinent information may exist showing the household member meets one of the conditions listed in paragraphs (b) to (l); and the household member actually meets one of the conditions listed in paragraphs (b) to (l).

**Subd. 3. Authorization exception.** When a county denies a person authorization as a legal nonlicensed family child care provider under subdivision 2, the county later may authorize that person as a provider if the following conditions are met:

(1) after receiving notice of the denial of the authorization, the person applies for and obtains a valid child care license issued under chapter 245A, issued by a tribe, or issued by another state;

(2) the person maintains the valid child care license; and

(3) the person is providing child care in the state of licensure or in the area under the jurisdiction of the licensing tribe.

**Subd. 4. Unsafe care.** A county may deny authorization as a child care provider to any applicant or rescind authorization of any provider when the county knows or has reason to believe that the provider is unsafe or that the circumstances of the chosen child care arrangement are unsafe. The county must include the conditions under which a provider or care arrangement will be determined to be unsafe in the county's child care fund plan under section 119B.08, subdivision 3.

**Subd. 5. Provisional payment.** After a county receives a completed application from a provider, the county may issue provisional authorization and payment to the provider during the time needed to determine whether to give final authorization to the provider.

**Subd. 6. Record-keeping requirement.** All providers must keep daily attendance records for children receiving child care assistance and must make those records available immediately to the county upon request. The daily attendance records must be retained for six years after the date of service. A county may deny authorization as a child care provider to any applicant or rescind authorization of any provider when the county knows or has reason to believe that the provider has not complied with the record-keeping requirement in this subdivision.

**History:** 1Sp2003 c 14 art 9 s 21

### 119B.13 CHILD CARE RATES.

**Subdivision 1. Subsidy restrictions.** The maximum rate paid for child care assistance under the child care fund may not exceed the 75th percentile rate for like-care arrangements in the county as surveyed by the commissioner. A rate which includes a provider bonus paid under subdivision 2 or a special needs rate paid under subdivision 3 may be in excess of the maximum rate allowed under this subdivision. The department shall monitor the effect of this paragraph on provider rates. The county shall pay the provider's full charges for every child in care up to the maximum established. The commissioner shall determine the maximum rate for each type of care on an hourly, full-day, and weekly basis, including special needs and handicapped care. Not less than once every two years, the commissioner shall evaluate market practices for payment of absences and shall establish policies for payment of absent days that reflect current market practice.

When the provider charge is greater than the maximum provider rate allowed, the parent is responsible for payment of the difference in the rates in addition to any family co-payment fee.

**Subd. 1a. Legal nonlicensed family child care provider rates.** (a) Legal nonlicensed family child care providers receiving reimbursement under this chapter must be paid on an hourly basis for care provided to families receiving assistance.

(b) The maximum rate paid to legal nonlicensed family child care providers must be 80 percent of the county maximum hourly rate for licensed family child care providers. In counties where the maximum hourly rate for licensed family child care providers is higher than the maximum weekly rate for those providers divided by 50, the maximum hourly rate that may be paid to legal nonlicensed family child care providers is the rate equal to the maximum weekly rate for licensed family child care providers divided by 50 and then multiplied by 0.80.

(c) A rate which includes a provider bonus paid under subdivision 2 or a special needs rate paid under subdivision 3 may be in excess of the maximum rate allowed under this subdivision.

(d) Legal nonlicensed family child care providers receiving reimbursement under this chapter may not be paid registration fees for families receiving assistance.

Subd. 2. [Repealed, 1Sp2003 c 14 art 9 s 38]

*[For text of subds 3 to 5, see M.S.2002]*

Subd. 6. **Provider payments.** (a) Counties or the state shall make vendor payments to the child care provider or pay the parent directly for eligible child care expenses.

(b) If payments for child care assistance are made to providers, the provider shall bill the county for services provided within ten days of the end of the service period. If bills are submitted within ten days of the end of the service period, a county or the state shall issue payment to the provider of child care under the child care fund within 30 days of receiving a bill from the provider. Counties or the state may establish policies that make payments on a more frequent basis.

(c) All bills must be submitted within 60 days of the last date of service on the bill. A county may pay a bill submitted more than 60 days after the last date of service if the provider shows good cause why the bill was not submitted within 60 days. Good cause must be defined in the county's child care fund plan under section 119B.08, subdivision 3, and the definition of good cause must include county error. A county may not pay any bill submitted more than a year after the last date of service on the bill.

(d) A county may stop payment issued to a provider or may refuse to pay a bill submitted by a provider if:

(1) the provider admits to intentionally giving the county materially false information on the provider's billing forms; or

(2) a county finds by a preponderance of the evidence that the provider intentionally gave the county materially false information on the provider's billing forms.

(e) A county's payment policies must be included in the county's child care plan under section 119B.08, subdivision 3. If payments are made by the state, in addition to being in compliance with this subdivision, the payments must be made in compliance with section 16A.124.

**History:** 1Sp2003 c 14 art 9 s 22-24

## 119B.16 FAIR HEARING PROCESS.

*[For text of subd 1, see M.S.2002]*

Subd. 1a. **Fair hearing allowed for providers.** (a) This subdivision applies to providers caring for children receiving child care assistance.

(b) A provider to whom a county agency has assigned responsibility for an overpayment may request a fair hearing in accordance with section 256.045 for the limited purpose of challenging the assignment of responsibility for the overpayment and the amount of the overpayment. The scope of the fair hearing does not include the issues of whether the provider wrongfully obtained public assistance in violation of section 256.98 or was properly disqualified under section 256.98, subdivision 8, paragraph (c), unless the fair hearing has been combined with an administrative disqualification hearing brought against the provider under section 256.046.

Subd. 1b. **Joint fair hearings.** When a provider requests a fair hearing under subdivision 1a, the family in whose case the overpayment was created must be made a party to the fair hearing. All other issues raised by the family must be resolved in the same proceeding. When a family requests a fair hearing and claims that the county should have assigned responsibility for an overpayment to a provider, the provider must be made a party to the fair hearing. The referee assigned to a fair hearing may join a family or a provider as a party to the fair hearing whenever joinder of that party is necessary to fully and fairly resolve overpayment issues raised in the appeal.

Subd. 2. **Informal conference.** The county agency shall offer an informal conference to applicants and recipients adversely affected by an agency action to attempt to resolve the dispute. The county agency shall offer an informal conference to providers to whom the county agency has assigned responsibility for an overpayment in an attempt to resolve the dispute. The county agency or the provider may ask the family in whose case the overpayment arose to participate in the informal conference, but the family may refuse to do so. The county agency shall advise adversely affected applicants, recipients, and providers that a request for a conference with the agency is optional and does not delay or replace the right to a fair hearing.

**History:** 1Sp2003 c 14 art 9 s 25-27

**119B.189 CHILD CARE SERVICES GRANT DEFINITIONS.***[For text of subd 1, see M.S.2002]*

Subd. 2. **Interim financing.** "Interim financing" means funding for up to 18 months:

- (1) for activities that are necessary to receive and maintain state child care licensing;
- (2) to expand an existing child care program or to improve program quality; and
- (3) to operate for a period of six consecutive months after a child care facility becomes licensed or satisfies standards of the commissioner of education.

*[For text of subd 3, see M.S.2002]*

Subd. 4. **Training program.** "Training program" means child development courses offered by an accredited postsecondary institution or similar training approved by a county board or the commissioner. A training program must be a course of study that teaches specific skills to meet licensing requirements or requirements of the commissioner of education.

**History:** 2003 c 130 s 12**119B.19 GRANTS FOR SCHOOL AGE CHILD CARE PROGRAMS AND CHILD CARE RESOURCE AND REFERRAL PROGRAMS.**

Subdivision 1. **Distribution of funds for operation of child care resource and referral programs.** The commissioner of education shall distribute funds to public or private nonprofit organizations for the planning, establishment, expansion, improvement, or operation of child care resource and referral programs under this section. The commissioner must adopt rules for programs under this section and sections 119B.189 and 119B.21. The commissioner must develop a process to fund organizations to operate child care resource and referral programs that includes application forms, timelines, and standards for renewal.

*[For text of subds 1a to 6a, see M.S.2002]*

Subd. 7. **Child care resource and referral programs.** Within each region, a child care resource and referral program must:

- (1) maintain one database of all existing child care resources and services and one database of family referrals;
- (2) provide a child care referral service for families;
- (3) develop resources to meet the child care service needs of families;
- (4) increase the capacity to provide culturally responsive child care services;
- (5) coordinate professional development opportunities for child care and school-age care providers;
- (6) administer and award child care services grants;
- (7) administer and provide loans for child development education and training;
- (8) cooperate with the Minnesota Child Care Resource and Referral Network and its member programs to develop effective child care services and child care resources; and
- (9) assist in fostering coordination, collaboration, and planning among child care programs and community programs such as school readiness, Head Start, early childhood family education, local interagency early intervention committees, early childhood screening, special education services, and other early childhood care and education services and programs that provide flexible, family-focused services to families with young children to the extent possible.

**History:** 2003 c 130 s 12; 1Sp2003 c 14 art 9 s 28**119B.21 CHILD CARE SERVICES GRANTS.***[For text of subds 1 to 10, see M.S.2002]*

Subd. 11. **Statewide advisory task force.** The commissioner may convene a statewide advisory task force to advise the commissioner on statewide grants or other

child care issues. The following groups must be represented: family child care providers, child care center programs, school-age care providers, parents who use child care services, health services, social services, Head Start, public schools, school-based early childhood programs, special education programs, employers, and other citizens with demonstrated interest in child care issues. Additional members may be appointed by the commissioner. The commissioner may compensate members for their travel, child care, and child care provider substitute expenses for attending task force meetings. The commissioner may also pay a stipend to parent representatives for participating in task force meetings.

**History:** *1Sp2003 c 14 art 9 s 29*

### 119B.23 OTHER AUTHORIZATION TO MAKE GRANTS.

*[For text of subds 1 and 2, see M.S.2002]*

Subd. 3. **Biennial plan.** The county board shall biennially develop a plan for the distribution of money for child care services as part of the child care fund plan under section 119B.08. All licensed child care programs shall be given written notice concerning the availability of money and the application process.

**History:** *1Sp2003 c 14 art 9 s 30*

### 119B.24 DUTIES OF COMMISSIONER.

In addition to the powers and duties already conferred by law, the commissioner of education shall:

(1) administer the child care fund, including the basic sliding fee program authorized under sections 119B.011 to 119B.16;

(2) monitor the child care resource and referral programs established under section 119B.19; and

(3) encourage child care providers to participate in a nationally recognized accreditation system for early childhood and school-age care programs. Subject to approval by the commissioner, family child care providers and early childhood and school-age care programs shall be reimbursed for one-half of the direct cost of accreditation fees, upon successful completion of accreditation.

**History:** *2003 c 130 s 12*

### 119B.25 CHILD CARE IMPROVEMENT GRANTS.

*[For text of subdivision 1, see M.S.2002]*

Subd. 2. **Grants.** The commissioner shall distribute money provided by this section through a grant to a nonprofit corporation organized to plan, develop, and finance early childhood education and child care sites. The nonprofit corporation must have demonstrated the ability to analyze financing projects, have knowledge of other sources of public and private financing for child care and early childhood education sites, and have a relationship with the resource and referral programs under section 119B.211. The board of directors of the nonprofit corporation must include members who are knowledgeable about early childhood education, child care, development and improvement, and financing. The commissioners of the Departments of Education and Employment and Economic Development, and the commissioner of the Housing Finance Agency shall advise the board on the loan program. The grant must be used to make loans to improve child care or early childhood education sites, or loans to plan, design, and construct or expand licensed and legal unlicensed sites to increase the availability of child care or early childhood education. All loans made by the nonprofit corporation must comply with section 363A.16.

*[For text of subds 3 and 4, see M.S.2002]*

**History:** *2003 c 130 s 12; 1Sp2003 c 4 s 1*