



Rules of
Department of Social Services
Division 40—Family Support Division
Chapter 32—Child Care

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**Title 13—DEPARTMENT OF
SOCIAL SERVICES
Division 40—Family Support Division
Chapter 32—Child Care**

13 CSR 40-32.010 Basis of Payment
(Rescinded December 30, 2007)

AUTHORITY: section 207.020, RSMo 1986. Original rule filed Dec. 30, 1975, effective Jan. 9, 1976. Amended: Filed Aug. 18, 1977, effective Dec. 11, 1977. Emergency amendment filed Jan. 15, 1980, effective Feb. 1, 1980, expired April 10, 1980. Amended: Filed Jan. 15, 1980, effective April 11, 1980. Emergency amendment filed Feb. 20, 1980, effective March 1, 1980, expired June 11, 1980. Amended: Filed Feb. 20, 1980, effective June 12, 1980. Emergency rescission filed May 14, 1980, effective May 24, 1980, expired June 12, 1980. Rescinded: Filed May 14, 1980, effective Aug. 11, 1980. Emergency rule filed July 15, 1980, effective July 25, 1980, expired Oct. 10, 1980. Readopted: Filed July 15, 1980, effective Oct. 11, 1980. Emergency amendment filed Oct. 5, 1981, effective Oct. 14, 1981, expired Jan. 13, 1982. Amended: Filed Oct. 5, 1981, effective Jan. 14, 1982. Amended: Filed June 28, 1983, effective Nov. 11, 1983. Emergency amendment filed March 22, 1990, effective April 1, 1990, expired July 29, 1990. Amended: Filed April 18, 1990, effective June 28, 1990. Emergency rescission and rule filed Oct. 22, 1991, effective Nov. 1, 1991, expired Feb. 28, 1992. Rescinded and readopted: Filed Nov. 13, 1991, effective March 9, 1992. Emergency amendment filed March 22, 2007, effective April 1, 2007, expired Sept. 27, 2007. Rescinded: Filed June 15, 2007, effective Dec. 30, 2007.

13 CSR 40-32.020 Processing of Applications for State and Federal Funds for Providing Child Care Services

PURPOSE: The purpose of this rule is to implement the provisions of section 210.025, RSMo 2000 relating to conducting background checks of persons applying for state or federal funds for providing child care services in the home.

(1) General. To qualify for receipt of state or federal funds for providing child care services in the home either by direct payment or through reimbursement to a child care beneficiary, an applicant, pursuant to section 210.025, RSMo, or a recipient, pursuant to section 210.027, RSMo, and any person over the age of eighteen (18) who is living in the

applicant's home shall be required to submit to background checks as prescribed below. A person over the age of eighteen (18) is a person who has attained his or her eighteenth birthday. These required background checks include the following:

(A) A criminal background check pursuant to section 43.540, RSMo;

(B) A check of the child abuse central registry established pursuant to section 210.145, RSMo; and

(C) A check of licensure suspensions and revocations pursuant to section 210.221 or 210.496, RSMo.

(2) Processing of Applications.

(A) Upon receipt of an application for state or federal funds for providing child care services in the home, pursuant to section 210.025, RSMo, or upon review of a recipient, pursuant to 210.027, RSMo, which review shall occur at least annually, the Division of Family Services shall:

1. Determine if a probable cause (or reason to suspect) finding of child abuse or neglect involving the applicant, pursuant to section 210.025, RSMo, or the recipient, pursuant to section 210.027, RSMo, or any person over the age of eighteen (18) who is living in the applicant's home has been recorded pursuant to section 210.221 or 210.145, RSMo;

2. Determine if the applicant, pursuant to section 210.025, RSMo, or the recipient, pursuant to section 210.027, RSMo, or any person over the age of eighteen (18) who is living in the applicant's home has been refused licensure or has experienced licensure suspension or revocation pursuant to section 210.221 or 210.496, RSMo; and

3. Request a criminal background check pursuant to section 43.540, RSMo, of the applicant, pursuant to section 210.025, RSMo, or a recipient, pursuant to section 210.027, RSMo, and any person over the age of eighteen (18) who is living in the applicant's home.

(B) Except as otherwise provided in section (3) below, upon completion of the background checks required in subsection (2)(A) above, an applicant, pursuant to section 210.025, RSMo, or a recipient, pursuant to section 210.027, RSMo, shall be denied state or federal funds for providing child care if such applicant, pursuant to section 210.025, RSMo, or a recipient, pursuant to section 210.027, RSMo, or any person over the age of eighteen (18) who is living in the applicant's home:

1. Has had a probable cause (or reason to suspect) finding of child abuse or neglect pursuant to section 210.145, RSMo;

2. Has been refused licensure or has experienced licensure suspension or revocation pursuant to section 210.496, RSMo; or

3. Has plead guilty or *nolo contendere* to or been found guilty of:

A. Any felony for an offense against the person as defined in Chapter 565, RSMo, or any other offense (misdemeanor or felony) against the person involving the endangerment of a child as prescribed by law;

B. Any misdemeanor or felony for a sexual offense as defined by Chapter 566, RSMo;

C. Any misdemeanor or felony for an offense against the family as defined in Chapter 568, RSMo, with the exception of the sale of fireworks to a child under the age of eighteen (18);

D. Any misdemeanor or felony for pornography or related offense as defined by Chapter 573, RSMo; or

E. Any similar crime in any federal, state, municipal or other court of similar jurisdiction of which the director has knowledge or any offenses or reports which will disqualify an applicant from receiving state or federal funds, including the following:

(I) Murder, in any degree, which is considered a felony in the jurisdiction in which it was filed; or

(II) Manslaughter, in any degree, which is considered a felony in the jurisdiction in which it was filed; or

(III) Assault, in any degree, which is considered a felony in the jurisdiction in which it was filed; or

(IV) Assault, in any degree, involving a child victim which is considered a misdemeanor or a felony in the jurisdiction in which it is filed; or

(V) Kidnapping, in any degree, which is considered a felony (or, if involving the endangerment of a child, either a misdemeanor or felony) in the jurisdiction in which it was filed; or

(VI) Felonious restraint or false imprisonment, in any degree, which is considered a felony (or, if involving the endangerment of a child, either a misdemeanor or felony) in the jurisdiction in which it was filed; or

(VII) Interference with child custodial rights, in any degree, which is considered a felony (or, if involving the endangerment of a child, either a misdemeanor or felony) in the jurisdiction in which it was filed; or

(VIII) Elder abuse, in any degree, which is considered a felony in the jurisdiction in which it was filed; or



(IX) Adult abuse or stalking, in any degree, which is considered a felony in the jurisdiction in which it was filed; or

(X) Any form of rape, in any degree, which is considered a felony or a misdemeanor in the jurisdiction in which it was filed; or

(XI) Any form of sodomy, in any degree, which is considered a felony or a misdemeanor in the jurisdiction in which it was filed; or

(XII) Any form of prostitution, in any degree, which is considered a felony or a misdemeanor in the jurisdiction in which it was filed; or

(XIII) Any form of child molestation, in any degree, which is considered a felony or a misdemeanor in the jurisdiction in which it was filed; or

(XIV) Any form of bigamy, in any degree, which is considered a felony or a misdemeanor in the jurisdiction in which it was filed; or

(XV) Any form of child abandonment, in any degree, which is considered a felony or a misdemeanor in the jurisdiction in which it was filed; or

(XVI) Any form of criminal non-support of a child, in any degree, which is considered a felony or a misdemeanor in the jurisdiction in which it was filed; or

(XVII) Any form of child endangerment, in any degree, which is considered a felony or a misdemeanor in the jurisdiction in which it was filed; or

(XVIII) Any form of child abuse, in any degree, which is considered a felony or a misdemeanor in the jurisdiction in which it was filed; or

(XIX) Any form of robbery, in any degree, which is considered a felony or a misdemeanor in the jurisdiction in which it was filed; or

(XX) Any form of arson, in any degree, which is considered a felony or a misdemeanor in the jurisdiction in which it was filed; or

(XXI) Any form of armed criminal action, in any degree, which is considered a felony or a misdemeanor in the jurisdiction in which it was filed; or

(XXII) Any form of unlawful possession, unlawful use, or unlawful transfer of a firearm, in any degree, which is considered a felony or a misdemeanor in the jurisdiction in which it was filed; or

(XXIII) Any form of unlawful promotion, unlawful possession, or unlawful furnishing of obscene or pornographic materials, including, but not limited to, child pornography, in any degree, which is consid-

ered a felony or a misdemeanor in the jurisdiction in which it was filed; or

(XXIV) Any form of unlawful possession, sale, transfer or trafficking (or any similar term in the jurisdiction in which the offense occurred) of a controlled substance, in any degree, which is considered a felony or a misdemeanor in the jurisdiction in which it was filed; or

(XXV) Any adjudication of guilt, any plea of guilty, or any plea of *nolo contendere* in a municipal court for conduct which if prosecuted in a court of general jurisdiction would be an offense described in part (2)(B)3.E.(I) through (XXIV) above.

(C) Any costs associated with such checks shall be paid by the applicant, pursuant to section 210.025, RSMo, or a recipient, pursuant to section 210.027, RSMo.

(D) Identity of the name of the applicant, pursuant to section 210.025, RSMo; or a recipient, pursuant to section 210.027, RSMo; or any person over the age of eighteen (18) who is living in the home of the applicant, pursuant to section 210.025, RSMo, or a recipient, pursuant to section 210.027, RSMo, and either such person's Social Security number or date of birth to the name and either the Social Security number or date of birth of the perpetrator of an incident of child abuse or neglect, or person who was subject to licensure suspension or revocation pursuant to section 210.496, RSMo, or defendant in a criminal offense shall be sufficient to find that the applicant, pursuant to section 210.025, RSMo; or a recipient, pursuant to section 210.027, RSMo; or person over the age of eighteen (18) who is living in the home of the applicant is the same person who was found to have perpetrated the child abuse or neglect, or who was subject to licensure suspension or revocation pursuant to section 210.496, RSMo, or who committed the criminal offense. The applicant, pursuant to section 210.025, RSMo, or a recipient, pursuant to section 210.027, RSMo, may present evidence to rebut this presumption. However, the presumption survives the presentation of such evidence and may be sufficient to find that the applicant, pursuant to section 210.025, RSMo, or a recipient, pursuant to section 210.027, RSMo, or person over the age of eighteen (18) who is living in the home of the applicant, pursuant to section 210.025, RSMo, or a recipient, pursuant to section 210.027, RSMo, is the same person who was found to have perpetrated the child abuse or neglect, or who was subject to licensure suspension or revocation pursuant to section 210.496, RSMo, or who committed the criminal offense despite the presentation of contrary evidence.

(3) Extenuating or Mitigating Circumstances. Upon completion of background checks required by this rule, the division shall give an applicant, pursuant to section 210.025, RSMo, or a recipient, pursuant to section 210.027, RSMo, an opportunity to offer any extenuating or mitigating circumstances concerning adverse information found relating to findings of child abuse or neglect, licensure refusal or suspension, or criminal background checks against the applicant, pursuant to section 210.025, RSMo, or a recipient, pursuant to section 210.027, RSMo, or any person over the age of eighteen (18) who is living in the applicant's home. Such extenuation or mitigation may include, but is not limited to, the extent of the individual's participation in the abuse, neglect or offense; the length of time since the last incident of abuse, neglect or offense; the age of the person at the time of the abuse, neglect or offense; and remedial measures taken by the individual such as counseling, training, or therapy. In addition, the division may consider all information relating to any allegations of abuse or neglect including reports of investigation, if available. However, the fact that the report of investigation of an incident of abuse or neglect is no longer available, will not prevent the division from considering such a finding of abuse or neglect. Such a finding shall be considered along with any information the applicant wishes to present regarding the incident and any extenuating or mitigating information. Such extenuating or mitigating circumstances may be considered by the division in its determination whether to permit such applicant to receive state or federal funds for providing child care in the home.

(4) Family Care Safety Registry.

(A) The Family Care Safety Registry will contain criminal background information on only felony criminal offenses pursuant to Chapters 198, 334, 560, 565, 568, 569, 573, 575, and 578, RSMo (section 210.909.1(4), RSMo). Providers of in-home child care services are not eligible to receive state or federal funds if they or members of their household over the age of eighteen (18) have criminal records involving Chapters 565 (felonies or any offense involving the endangerment of a child), 566 (misdemeanors or felonies), 568 (misdemeanors or felonies), 573 (misdemeanors or felonies), any offense which would disqualify the applicant or recipient from receiving state or federal funds, or of any similar crimes in any federal, state or municipal court.

(B) Because in-home child care providers are ineligible to receive state or federal funds for a different range of criminal offenses (for



example, certain misdemeanors and similar crimes in any federal, state or municipal court) than would be included in the Family Care Safety Registry, applicants for direct payment or reimbursement of in-home child care services and members of their household over the age of eighteen (18) will be required to sign a request for criminal background check by the Missouri State Highway Patrol. The costs associated with this check shall be paid by the applicant, pursuant to section 210.025, RSMo, or a recipient, pursuant to section 210.027, RSMo.

(5) Evidence. In determining whether there has been a finding of probable cause to suspect (or reason to suspect) that child abuse or neglect has been committed by an applicant, pursuant to section 210.025, RSMo, or a recipient, pursuant to section 210.027, RSMo, or a person over the age of eighteen (18) living in the applicant's home, the following shall be considered in evidence in making such determination:

(A) The letter, or a copy of the letter, from the Division of Family Services to the subject stating that there was probable cause to suspect (or reason to suspect) that the subject had committed child abuse or neglect;

(B) The letter, or a copy of the letter, from the Child Abuse and Neglect Review Board to the subject affirming the decision of the Division of Family Services which found that there was probable cause to suspect (or reason to suspect) that the subject had committed child abuse or neglect;

(C) A computer printout documenting either that the Division of Family Services made a probable cause (or reason to suspect) finding that child abuse or neglect occurred or that the Child Abuse and Neglect Review Board affirmed such finding which is otherwise authenticated pursuant to Chapter 490, RSMo, or with regard to which authentication is waived; or

(D) Any order, judgment or decree of a court of competent jurisdiction which found that the subject committed child abuse or neglect.

(E) The fact that any documentation regarding a finding of abuse or neglect, including but not limited to the report of investigation, cannot be found or has been destroyed shall not prevent that finding of abuse (otherwise documented in written or electronic form) from being considered by the division.

(6) Child Abuse or Neglect Findings. For purposes of disqualification, probable cause findings to suspect that child abuse or neglect occurred and reason to suspect findings that

child abuse or neglect occurred shall be considered synonymous.

(7) All providers of child care services in the home pursuant to this rule shall be at least eighteen (18) years old, i.e., such providers must have attained their eighteenth birthday.

(8) If there are no local ordinances or regulations regarding smoke detectors which apply to the location where the provider will be providing child care services in the home, providers must install and maintain smoke detectors as follows:

(A) Structures Included. Smoke detectors shall be provided in all structures occupied by children in connection with child care services in the home.

(B) Location.

1. A detector shall be mounted on the ceiling or wall at a point centrally located in a corridor or other area giving access to rooms used for providing child care services in the home unless the manufacturer's instructions provide otherwise, then in accordance with those instructions.

2. All detectors shall be located in accordance with approved manufacturer's instructions. When actuated, the detectors shall provide an alarm in the structure or room.

(C) Duties.

1. It shall be the duty of the provider of child care services in the home regulated by this section to provide an operable smoke alarm system.

2. It shall be the duty of the provider of child care services in the home regulated by this section to maintain the smoke alarm system.

(9) All providers of child care services in the home regulated by this section shall be tested at least annually for tuberculosis. Initially providers of child care services in the home shall have a screening test (e.g., skin test). Any provider testing positive in the screening test shall submit, within one week of notice of the positive screening test, to additional, specific medical tests to verify the positive screening test and to determine if the provider is medically diagnosed with an active case of tuberculosis. If the provider is medically diagnosed with an active case of tuberculosis, the provider shall be ineligible to receive state or federal funds for the provision of child care services in the home while the medical diagnosis of an active case of tuberculosis remains.

(10) All providers, of child care services in the home, regulated by this section who do not have immediate access to a telephone

shall notify the parents of the child(ren) of the lack of immediate access to a telephone and shall notify the parents of the child(ren) how the parents may contact the provider.

(11) Appeal. Any applicant, pursuant to section 210.025, RSMo, or a recipient, pursuant to section 210.027, RSMo, who has been denied state or federal funds for providing child care services in the home may appeal such denial decisions in accordance with the provisions of section 208.080, RSMo.

AUTHORITY: section 210.025, RSMo 2000. Emergency rule filed Dec. 19, 2000, effective Jan. 1, 2001, expired June 29, 2001. Original rule filed Dec. 19, 2000, effective June 30, 2001.*

**Original authority: 210.025, RSMo 1999.*