



Rules of
Department of Social Services
Division 35—Children’s Division
Chapter 32—Child Care

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**Title 13—DEPARTMENT OF
SOCIAL SERVICES
Division 35—Children's Division
Chapter 32—Child Care**

13 CSR 35-32.010 Basis of Payment
(Rescinded August 30, 2017)

AUTHORITY: section 207.020, RSMo 2000. Original rule filed June 15, 2007, effective Dec. 30, 2007. Rescinded: Filed Jan. 3, 2017, effective Aug. 30, 2017.

13 CSR 35-32.020 Foster Care Case Management Contracts

PURPOSE: This rule establishes the governing provisions for foster care case management contracts to provide a comprehensive system of service delivery for children and their families as set forth in section 210.112.8., RSMo.

(1) This rule shall apply to the foster care case management contracts for the provision of case management services for youth placed in the custody or under the supervision of the Children's Division as provided in section 210.112, RSMo, as well as govern the work of contractors and their officers, agents, and employees pursuant to those contracts.

(2) When providing case management services pursuant to the foster care case management contract with the Children's Division, the contractor shall fully implement and comply with all requirements of federal and state law which apply to permanency planning and shall fully implement and comply with all written policies of the Children's Division which do not conflict with those federal and state laws. This includes, but is not limited to, all regulations promulgated by the Children's Division. The Children's Division, in collaboration with the contractors, shall develop a mechanism for contractors to provide input and feedback regarding pending Children's Division policy prior to implementation when such policy could have financial or programmatic impact on the contractor. Policy of the Children's Division, laws, and regulations shall supersede any policy of the contractor when they conflict.

(3) Contractors shall provide a range of child welfare services including case management services for children in out-of-home placements, family-centered services for parents and legal guardians from whose care the child was removed, and community resource development. Family-centered services shall

be defined as the family-focused intervention method utilized by the Children's Division when working with families to assist them in identifying their strengths and needs and to develop a family plan for change.

(A) Case management services shall include assessments, case planning, placement services, service planning, permanency planning, and concurrent planning. The contractor shall have ongoing contact with the child; the child's out-of-home care provider; the parents or the guardian of the child in care, if parental/guardianship rights have not been terminated; the children remaining in the home; the court; and the members of the child's Family Support Team as defined in the Children's Division's written policies. The contractor must provide case management services that respect the culture, ethnicity, and religious practices of the children and that of his/her family. The contractor shall document all case management services provided in the case record as well as in the automated case management system within the timeframes outlined in the contract and in the policies of the Children's Division.

1. Assessments shall be defined as the consideration of all social, psychological, medical, educational, and other factors to determine diagnostic data to be used as a basis for the case plan.

2. Case planning is a process of negotiation between the family case manager, the parent(s) or guardian(s) from whom the child was removed, and the juvenile officer, which describes the services and activities necessary for the purpose of achieving a permanent familial relationship for the child. The case plan shall include the permanency plan as defined in paragraph (3)(A)5. below, the concurrent plan as defined in paragraph (3)(A)6. below, the service plan as defined in paragraph (3)(A)4. below, the timeframes in which services will be delivered, and the timeframes for obtaining reports from service providers, when applicable.

A. Contractors shall develop a case plan no later than fourteen (14) days after referral of the child's case to the contractor by the Children's Division. The contractor shall submit case plans to the court in accordance with local court procedures.

B. The case plan shall be developed in accordance with the written policies of the Children's Division and applicable federal and state law. In the event that the policies of the Children's Division conflict with applicable federal and state law, federal and state law shall prevail.

C. The contractor's case manager shall give careful consideration to the unique needs of each child and family when develop-

ing the case plan.

D. As necessary to effectuate the best interests of the subject child, the case plan may be amended from time-to-time throughout the contract period.

3. Placement services is the selection of, and placement with, the most appropriate resource for children in out-of-home care based on the assessment of the child's unique needs and personality and the out-of-home care provider's capacity and skills in meeting those needs.

A. The contractor's case manager must utilize the least restrictive out-of-home placement for a child.

(I) The best interests of the child in care shall govern all placement decisions. When the placement would not be contrary to the best interest of the child, the contractor must give relatives of the child in care preference and first consideration to serve as the child's out-of-home care provider. As required by applicable federal and state law, the contractor must conduct an immediate search to locate, contact, and, where appropriate, place the child in care with his/her grandparent(s). Therefore, grandparents of the child in care shall be given first consideration for placement before other relatives of the child in care are considered. Whenever the contractor decides that relative placement is contrary to the best interests of the child, the contractor shall document the reasons for this decision in the case plan.

(II) Placements in residential treatment shall be based on an assessment of the child's needs. Such placements shall be considered for children in care who need structured and therapeutic intervention. Placement in a residential treatment facility must be of a limited duration and treatment during this time must be focused on enabling the child in care to transition to family and/or community-based care as soon as possible.

(III) In coordination with the child in care's Family Support Team, the contractor shall periodically reassess the placement of the child to determine whether the placement is consistent with the child's permanency plan and is meeting the child's needs.

(IV) As required by the written policies of the Children's Division, the contractor shall convene Family Support Team meetings to discuss any change in placement.

B. The contractor shall exercise reasonable and continuing efforts to preserve, foster, and encourage the relationships between siblings of children under case management with the contractor unless it is contrary to the safety or welfare of one (1) or more of the siblings to do so.

(I) Whenever reasonably possible,



the contractor shall place a child in out-of-home care with any siblings who are also removed from their home. The contractor shall make reasonable efforts to place siblings in the same placement unless doing so would be contrary to the safety or welfare of any of the siblings.

(II) The contractor must make arrangements for regular, frequent, and continuing visitation between siblings who are not in the same placement unless it is contrary to the safety or welfare of one (1) or more of the siblings to do so.

(III) Unless it is contrary to the safety or welfare of one (1) or more of the siblings to do so, the contractor shall reunite siblings at the earliest time possible when circumstances change and different caregivers are no longer required.

(IV) The contractor shall document in the case file its efforts to place siblings in the same home and, if not placed in the same home, its efforts to maintain the sibling relationship. If the contractor determines that placement of siblings in the same placement or visitation between the siblings is contrary to the safety or welfare of the siblings, the contractor shall document the reasons therefore in the case file.

C. When an appropriate placement is available and it is in the best interests of the child to do so, placements of children in care shall be made in the child's home community.

D. Unless otherwise ordered or authorized by the court, placement of children in care shall be with a licensed out-of-home care provider.

E. The contractor's case manager shall not place a child in a home in which any person residing in the home has been found guilty of, or pled guilty to, any crimes identified in section 210.117, RSMo.

4. Service planning is the provision of any services indicated and identified as needed through an assessment and case plan, or ordered by the juvenile court.

5. Permanency planning is determining the permanent plan which best meets the needs of the child in care and which complies with the applicable requirements of federal law. Contractors shall provide ninety (90) calendar days of services to the child and family after a child is reunified with their parent(s) to assure a continued successful outcome as defined in the contract. Contractors shall provide ninety (90) calendar days of services to the child and family after a child is reunified with their legal guardian(s), from whom they were removed, to assure a continued successful outcome as defined in the contract. The permanency plan shall consider—

A. The child's need for a continuing relationship with his/her parent(s) or legal guardian(s) prior to the child's removal from the home;

B. The ability and willingness of the child's parent(s) or legal guardian(s) prior to the child's removal from the home to actively perform their functions as the child's caregiver with regards to the needs of the child;

C. The interaction and interrelationship of a child with the child's parent(s) or legal guardian(s) from whom they were removed, the child's out-of-home care provider, siblings, and any other person who may have a significant impact upon the child's best interest;

D. The child's adjustment to his/her out-of-home placement, school, and community; and

E. The mental and physical health of all individuals involved, including any history of abuse of or by any individuals involved.

6. A permanency plan shall include an individualized primary permanency plan and a concurrent permanency plan for each child. Concurrent permanency planning is a process of pursuing a primary permanency goal for a child in care, such as reunification, while simultaneously establishing and implementing an alternative permanency plan for that child. The contractor shall make active, reasonable efforts to finalize the primary or concurrent permanency plan and shall document those efforts in the case file. The permanency plan shall be developed at the earliest possible opportunity and in no case later than fourteen (14) days after case referral. The plan shall be submitted to the court in the manner prescribed by law or as otherwise ordered by the court. As required by Children's Division written policies, the permanency plan shall be periodically reviewed and, where appropriate, may be modified if modification is in the best interests of the child as determined by the child's Family Support Team or as ordered by the court.

(B) Community resource development is the recruitment, assessment, training, maintenance, and retention of out-of-home care providers. It shall also include the development of those services which shall best meet the needs of the child and family.

1. The contractor shall conduct community resource development activities to obtain appropriate out-of-home resource providers to enable the contractor to perform its duties under the contract.

2. Unless such policies conflict with applicable state law, the contractor shall ensure background investigations are conducted on all out-of-home care providers as required by the written policies of the Children's Division.

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3. The contractor shall utilize a training curriculum which meets or exceeds the resource development standards set forth in the written policies of the Children's Division. The contractor shall obtain approval from the Children's Division designee prior to finalizing the curriculum and content for the training sessions.

(C) The contractor may directly provide or contract for the services required by this rule in accordance with the proposal submitted in response to the Request for Proposal or Invitation for Bid for the contract awarded for such services. However, any subcontractors employed by the contractor must comply with all requirements of this regulation.

(4) The contractor shall ensure that all children under the age of ten (10) years old referred to the contractor receive a Healthy Children and Youth assessment within thirty (30) days of entering care and every six (6) months thereafter. Such assessments will be utilized to determine treatment services which will meet the child's psychological and social needs. When the assessment indicates intensive twenty-four (24)-hour treatment services, appropriate services will be provided. A written report of the assessments shall be maintained in the case file.

(5) The contractor shall deliver all services through qualified professionals who have substantial and relevant education and experience and who are competent, as defined by the Council on Accreditation, to deliver case management services. The contractor's personnel must meet or exceed all of the applicable licensing or certification requirements of their profession set by the state of Missouri, if such licensure or certification is required by their profession for the performance of their specific job function. The contractor's personnel must meet the education and experience expectations outlined in the most current child placing rules set forth at 13 CSR 40-73.035.

(A) The contractor shall maintain a personnel file for each employee which shall be accessible to the Children's Division upon request for the purpose of verifying compliance with the requirements of its contract with the Children's Division. At a minimum, the file must include complete and current criminal record checks, background investigations, resumes, degrees or diplomas, date of employment, training records, performance appraisals, commendations, disciplinary actions, and other related actions. Background checks, including criminal background checks, shall be periodically updated



as requested by the Children's Division. Contractors shall immediately notify the Children's Division of any act or occurrence which may impact their employee's ability, qualifications, or certification to provide services under the contract.

(6) The contractors shall deliver all services through professionals who have substantial and relevant training.

(A) The contractor's personnel providing case management services or direct supervision of case management services must successfully complete training which emphasizes—

1. A strengths-based assessment of the family;

2. Engagement of the family throughout a child's out-of-home placement beginning with the assessment;

3. Treatment and service planning for all family members with a commitment to reuniting the child with his/her biological family whenever possible, to preserving a child's connection to his/her family of origin whenever possible, and a commitment to a child's right to belong to a family;

4. Family dynamics, including human growth and development;

5. A team approach to case planning which draws upon the experience of professionals who are familiar to the members of the child in care's family;

6. Advocacy for the families and children served through the child welfare system;

7. The relevant legal and due process rights of children, parents, families, and care providers;

8. A background in the laws and procedures governing the juvenile courts; and

9. Cultural sensitivity.

(B) The contractor's personnel providing case management and direct supervision of case management staff must successfully complete pre-service training either by attending the Children's Division pre-service training, or by directly providing or arranging for another entity to provide pre-service training. The training shall include all of the topics listed in subsection (6)(A) above.

1. When the contractor plans to provide or arrange for another entity to provide pre-service training for its employees, the contractor must submit the curriculum to the Children's Division for prior approval.

A. When the contractor is granted permission to provide the pre-service training, or to arrange for another entity to provide the pre-service training, it shall be the contractor's responsibility to ensure the training is provided. In such instances, employees and/or subcontractors of the contractor will

be eligible to attend the pre-service training provided by the Children's Division only if agreed between the children's division and the contractor.

2. The pre-service training for newly-hired case managers and direct supervisors must be completed within the first ninety (90) calendar days of employment.

3. Pre-service training must incorporate skill-based instruction and skill building exercises. For the first ninety (90) days of employment, the contractor must provide case managers with on-the-job support which includes experiential learning techniques.

4. Contractor's personnel attending Children's Division pre-service training will be scheduled for the first available session with openings.

5. The pre-service training must—

A. Clearly identify the case management role;

B. Clearly acquaint personnel with federal and state laws relating to child welfare practices; this includes, but is not limited to, the constitutional rights of families and children who are involved in the juvenile justice system, including training on due process, the Fourth Amendment to the U.S. Constitution, the Adoption and Safe Families Act, the requirement that Children's Division exercise reasonable efforts to finalize permanency plans, concurrent planning, termination of parental rights, guardianships, the Missouri Rules of Procedure for Juvenile Courts, and federal and state law governing permanency planning;

C. Acquaint personnel with Children's Division's policies relating to out-of-home care, adoption and guardianship subsidy programs, family-centered services, intensive in-home services, and resource development as defined by Children's Division written policies;

D. Acquaint personnel with record-keeping requirements as set forth in the written policies of the Children's Division;

E. Acquaint personnel with the automated information system utilized by the Children's Division; and

F. Successful completion of pre-service training must be documented in personnel records for all personnel providing case management services and direct supervisors.

(C) The contractor's personnel who recruit, train, and assess foster parents serving children with elevated needs, or who provide ongoing support to such foster parents, must successfully complete specific training which is designed for the elevated needs program. Elevated needs shall be defined as provided in 13 CSR 35-60.070. Training for elevated needs providers must be provided by

the Children's Division or by the contractor's staff utilizing curriculum which has been previously approved by the Children's Division.

(D) The contractor's personnel who train staff who are tasked to recruit, train, and assess foster parents serving children with elevated needs must successfully complete a Train-the-Trainer session provided by the Children's Division or by another entity approved to provide such training by the Children's Division.

(7) The contractor must submit all required information to the family care safety registry on behalf of all professional personnel assigned to provide services under the contract prior to such personnel providing service to children in care. Such information shall be updated on an annual basis thereafter. Any personnel who reside in another state and work in the state of Missouri, or who have relocated to the state of Missouri within the last five (5) years, shall provide documentation of background screening(s) from their state of origin to include, but not limited to, child abuse/neglect and criminal background screening check(s), prior to such personnel providing service. If the employee continues to reside in another state while performing case management services for the contractor, the out-of-state check shall be done annually. The contractor's professional personnel assigned to the contract must have background investigations submitted to the Children's Division via a form provided by the Children's Division prior to such professional personnel providing services under the contract.

(A) The form shall be submitted no later than fifteen (15) calendar days after the effective date of the contract for all professional personnel.

(B) The form shall be submitted for each new or anticipated professional personnel assigned to provide services under the contract prior to such personnel providing services.

(C) When child abuse/neglect or criminal activity is discovered through the background investigation of any professional personnel assigned to provide services under the contract, the contractor must review the information to determine the relevance of such finding to the provision of case management services.

1. The contractor shall not allow individuals to perform case management duties when his/her background investigation reveals that he/she has been found guilty, pled guilty, or has been convicted of—

A. A felony conviction for child abuse or neglect or spousal abuse;



B. A felony or misdemeanor conviction for any crime in which a child was a victim or a crime against children, to include, but not limited to, any offense involving child pornography;

C. Any crime involving violence and/or sexual offenses, including, but not limited to, rape, domestic violence, domestic assault, armed criminal action, sexual assault, or homicide;

D. Failure to report suspected child abuse to the child abuse and neglect hotline as required by section 210.115, RSMo;

E. A felony conviction for physical assault, battery, or a drug-related offense within the past five (5) years; or

F. Any other crime listed in section 210.117, RSMo.

2. The contractor must submit a written request to the Children's Division designee when the contractor desires to hire an individual with a history of child abuse/neglect or criminal activity which does not meet the criteria identified in paragraph (7)(C)1. above. The Children's Division designee shall review the request and provide a written response indicating if the individual may provide case management services.

A. The contractor shall request an administrative review no later than thirty (30) days from the date of Children's Division decision when they dispute such decision.

B. The request for an administrative review shall be in writing and generally set out the reasons for the request.

C. The Children's Division shall schedule an administrative review within three (3) business days of receipt of the request. The administrative review shall take place before the Children's Division designee. The Children's Division shall notify the contractor of the date and time of the review. The review may be continued at the request of the contractor, but the employment exclusion shall remain in effect pending the administrative review.

D. The review shall be informal, the rules of evidence shall not apply, and both the contractor and the Children's Division may submit any information relevant to the appealed decision. The purpose of the review will be to determine the potential employee's suitability for employment under the contract.

(I) The contractor's personnel application must include an authorization for the Children's Division to release information which directly relates the employee's suitability for employment under the contract.

(II) Upon completion of the administrative hearing, the Children's Division

designee will submit a recommendation to the director of the Children's Division. The director may affirm or reverse the initial decision. Such decision shall be final.

(D) The contractor must submit a written request to the Children's Division designee when the contractor desires to hire a current or former child welfare employee of the Children's Division. The Children's Division will review the request and provide a written response indicating if the individual may provide the case management services. The administrative review process described in paragraph (8)(C)2. above shall be utilized when the contractor disputes the decision.

1. The administrative review process described in paragraph (8)(C)2. above shall not apply when the contractor does not have a signed, written authorization for the Children's Division to release information to the contractor.

(E) The contractor's personnel may be dismissed at the discretion of the contractor. However, an employee of the contractor shall be dismissed if required pursuant to section 207.085, RSMo.

(8) Contractors shall have a proven record of providing quality child welfare services within the state of Missouri.

(A) Contracts shall be awarded through a competitive bid process to—

1. Children's services providers and agencies contracted with the state of Missouri on or before July 1, 2005, to provide a comprehensive system of service delivery for children and their families; or

2. Public and private not-for-profit or limited liability corporations owned exclusively by not-for-profit children's services providers and agencies with a proven record of providing child welfare services within the state of Missouri.

(B) The contractor and/or contractor's subcontractors performing case management and resource development services must be licensed as a child placing agency by the state of Missouri.

(C) The contractor's case management program must be accredited by one (1) or more of the following national accrediting bodies: the Council on Accreditation (COA); the Joint Commission; or the Commission on Accreditation of Rehabilitation Facilities. The Children's Division shall accept as prima facie evidence of completion of the requirements for licensure under sections 210.481 and 210.511, RSMo, proof that an agency is accredited. The Children's Division shall not require any further evidence of qualification for licensure if such proof of voluntary accreditation is submitted.

(D) The contractor must have personnel available to the Children's Division, out-of-home care providers, juvenile court personnel, guardians ad litem, and children in out-of-home care twenty-four (24) hours a day, seven (7) days a week.

1. The contractor's case manager must provide services after normal working hours and on weekends as necessary.

(E) A case manager's caseload may not exceed COA standards.

(F) The contractor's supervisor-to-worker ratio may not exceed COA standards.

(9) Children's Division shall award contracts through a competitive bid process, subject to appropriation.

(10) Subject to appropriation, the Children's Division shall continue to offer contracts in areas of the state where eligible providers are capable of providing a broad range of services. Subject to appropriation, the Children's Division may consider expansion of the contracts to areas of the state where caseloads exceed COA standards.

(11) The contract may not result in the loss of federal funding. The contractor shall therefore comply with and implement the requirements of all relevant federal and state laws and policies including, but not limited to, those listed below which pertain to the child under case management by the contractor. In the event of a discrepancy between the policies of the Children's Division and federal or state law, the contractor shall comply with the federal or state law—

(A) Missouri rules and regulations governing child placing agencies;

(B) Missouri laws pertaining to the services described in the contract;

(C) The rules of procedure for the juvenile courts;

(D) Any court order pertaining to an assigned case;

(E) Interstate Compact on the Placement of Children/Juveniles;

(F) The Indian Child Welfare Act;

(G) Multi-Ethnic Placement Act of 1994;

(H) Children's Division written policies pertaining to the services described in the contract;

(I) Children's Division policy directives to provide services through best child welfare practices;

(J) Children's Division Federal Program Improvement Plan;

(K) Federal laws, rules, and regulations including, but not limited to, the Adoption and Safe Families Act and the Health Insurance Portability and Accountability Act;



(L) All federal and state laws and all policies and resolutions of the Missouri Department of Social Services regarding disclosure of confidential information and statements to the public and news media about any case assigned under the terms of the contract.

1. The contractor's policies and procedures shall be open to the public upon request.

2. The contractor is not prohibited from making public statements about the contractor, general policies and procedures of the contractor, and other issues of public importance not otherwise prohibited by law, regulation, or policy; and

(M) Local initiatives pertaining to services which a case manager provides to children in out-of-home placements and their families which have been approved by the Children's Division state office. This shall include, but shall not be limited to, requirements related to Family-to-Family. Expectations of contractors shall not exceed requirements of Children's Division staff.

(12) All contracts and contractors shall be subject to oversight and inspection by the Missouri Department of Social Services and/or the Children's Division to assure compliance with standards which shall be consistent with applicable federal standards, but not less than the standards and policies utilized by the Children's Division. The contractor shall allow reasonable and timely site visits by the Missouri Department of Social Services and/or the Children's Division.

(A) The contractor shall maintain adequate, legible, genuine, current, and complete records of services rendered under the terms of the contract which are not part of the child's record for a period of five (5) calendar years following the expiration of the contract. This shall include, but is not limited to, resource records, expenditures, invoices, and other documentation pertaining to payments made under the terms of the contract.

(B) Adequate and complete documentation shall mean the contractor's records are such that an orderly examination by a reasonable person is possible and can be conducted without the use of information extrinsic to the records and that such an examination can readily determine the contractor's reported services were, in fact, provided; to whom the services were provided; and the extent and duration of such services. At a minimum, the required records shall consist of service authorization forms and copies of invoices submitted to the Children's Division for payment.

(C) The contractor's failure to maintain adequate, legible, genuine, current, and complete records of services rendered under the

terms of the contract for a period of five (5) calendar years shall be deemed a material breach of the contract and the contractor shall repay to the Children's Division all amounts received for any services which are not adequately verified and fully documented by the contractor's records.

(D) The contractor shall indemnify and hold harmless the state of Missouri, the Missouri Department of Social Services and its agents, officers, and employees from any and all liability, loss, damages, or expenses which the Missouri Department of Social Services, the Children's Division, or the state of Missouri may sustain, incur, or be required to pay by reason of any person's injury, death, property loss, or damage sustained and/or suffered because of any act or omission by the contractor, its employees, or subcontractors that results from violation of a law, regulation, or policy of the Missouri Department of Social Services or the Children's Division. This includes, but is not limited to, court costs and attorney fees incurred by or charged to the Missouri Department of Social Services or the Children's Division as the result of such act or omission by the contractor, its officers, employees, agents, representatives, or subcontractors.

(E) In the event the court finds the contractor liable for sanctions or otherwise holds the contractor in contempt as a result of the contractor's violation of any law, rule, court order, or procedure or policy of Missouri Department of Social Services or the Children's Division, the contractor shall be solely responsible for the payment of any fines, penalties, or sanctions, including attorney fees and costs, that arise under any such action. Additionally, the contractor shall save, indemnify, and hold the state of Missouri harmless, including its agencies, employees, and assigns, from every expense, liability, or payment arising out of such sanction, fine, or penalty assessed against the contractor or against the Missouri Department of Social Services, the Children's Division, or the department's Division of Legal Services as a result of the actions of the contractor, including court costs, attorney fees, and litigation expenses.

(13) Contractors shall be evaluated by the Children's Division based on objective, consistent, and performance-based criteria as further defined in the contract.

(A) A percentage of children under the jurisdiction of the juvenile court and in the care of the contractor must achieve permanency within a twelve (12)-month period as specified in the contract. For purposes of this section, permanency shall be defined as

reunification with the child's parent(s), reunification with the child's guardian(s), a finalized adoption, or the establishment of a legal guardianship for the child.

(B) A percentage of children under the jurisdiction of the juvenile court and in the care of the contractor must not have substantiated child abuse/neglect reports with the out-of-home care provider listed as the perpetrator within a twelve (12)-month period as specified in the contract.

(C) A percentage of children under the jurisdiction of the juvenile court and in the care of the contractor must not reenter Children's Division custody or supervision within twelve (12) months of their previous exit from such custody or within twelve (12) months of the date of reunification as specified in the contract.

(D) The Children's Division may monitor additional outcomes including, but not limited to: the number of placement settings for children in out-of-home care; residential utilization; outcomes for older youth; and the number of resource homes developed by the contractor as identified in the Request for Proposal or Invitation for Bid. The Children's Division may require corrective action when the contractor fails to meet the standards set forth in the Request for Proposal or Invitation for Bid.

(14) The contractor shall participate and cooperate with any program evaluation and improvement plan, including on-going record keeping, evaluation, and reporting in accordance with the program evaluation design, and preparation for, and participation in, the federal Child and Family Service Review, or any other performance initiative required of, or by, the Children's Division. Any program evaluation will include the same outcome measures for the contractors and the Children's Division within a specified region.

(15) If the contractor does not comply with its obligations under this regulation, or breaches its contract with the Children's Division, the Children's Division shall have the discretion to terminate the contract and seek any remedies which may be available in law and equity for breach of contract. If the Children's Division determines that the contractor has failed to meet the outcome measures specified in the contract, the Children's Division may reduce the contractor's caseload or cancel the contract in its entirety. The contractor shall be allowed an opportunity to review the outcomes prior to the development of the final outcomes report. The contractor shall be responsible for any updates in the automated case management



system which are necessary to correct the outcomes. The Children’s Division shall correct any programming errors identified by the contractor.

(16) In addition to those measures authorized in section (15) above, if the contractor does not meet the outcome goals specified in the contract, or otherwise fails to comply with this regulation or the contract, the Children’s Division may elect to require the contractor to implement a practice improvement plan to correct any deficiencies in performance. Failure of the contractor to take action as indicated in the practice improvement plan within ninety (90) calendar days or the number of days specified in the practice improvement plan shall be considered a breach of contract. Thereafter, the Children’s Division may terminate the contract or pursue any other remedies in law or equity available to the Children’s Division. The written practice improvement plan shall address—

- (A) Reasons why the outcome was not achieved;
- (B) Steps taken to meet the outcome;
- (C) Individual(s) responsible for necessary action; and
- (D) Timeframe for meeting the defined outcome.

AUTHORITY: section 207.020, RSMo 2000, section 210.112, RSMo Supp. 2010, and Young v. Children’s Division, State of Missouri Department of Social Services, 284 S.W.3d 553 (Mo. 2009). Original rule filed Feb. 28, 2011, effective Oct. 30, 2011.*

**Original authority: 207.020, RSMo 1945, amended 1961, 1965, 1977, 1981, 1982, 1986, 1993 and 210.112, RSMo 2004, amended 2005.*

13 CSR 35-32.030 Contracted Foster Care Case Management Costs

PURPOSE: This rule establishes the methodology for the provision of reasonable cost for foster care case management contracted services as set forth in section 210.112.4.(6), RSMo.

(1) Payment to foster care case management providers contracted by the Children’s Division (CD) shall be based on the reasonable cost of services as determined through the competitive procurement process. Providers shall certify their bid covers all reasonable costs.

(A) Upon request by CD, the provider shall submit a written explanation and supporting documentation detailing how the provider calculated the reasonable costs of

services. The CD may not award a contract to any provider which fails to submit such information when requested by CD.

(B) CD, in its sole discretion, may reject any bid where CD determines that the bid amount for a service or services exceeds the reasonable cost of the service or services. CD shall use federal guidelines, OMB Circular A-122, to define reasonable costs as follows:

1. Reasonable costs. A cost is reasonable if, in its nature or amount, it does not exceed that which would be incurred by a prudent person under the circumstances prevailing at the time the decision was made to incur the costs. The question of the reasonableness of specific costs must be scrutinized with particular care in connection with organizations or separate divisions thereof which receive the preponderance of their support from awards made by federal agencies. In determining the reasonableness of a given cost, consideration shall be given to—

A. Whether the cost is of a type generally recognized as ordinary and necessary for the operation of the organization or the performance of the award;

B. The restraints or requirements imposed by such factors as generally-accepted sound business practices, arms-length bargaining, federal and state laws and regulations, and terms and conditions of the award;

C. Whether the individuals concerned acted with prudence in the circumstances, considering their responsibilities to the organization, its members, employees, and clients, the public at large, and the federal government; and

D. Significant deviations from the established practices of the organization which may unjustifiably increase the award costs.

(2) CD may, in its sole discretion, establish a cap on the highest amount that CD will pay for the reasonable cost of services identified in the Request for Proposal (RFP) or Invitation for Bid (IFB). CD will announce the cap for services in the RFP or IFB. CD shall utilize one (1) or more of the following methods to establish the cap as part of the competitive procurement process:

(A) Industry cost reports for the previous three (3) calendar years which demonstrate the costs to the provider to deliver the services identified in the RFP or IFB. Such reports shall include costs for case management services, community resource development, treatment services, special expenses, crisis expenses, administrative costs, and any other cost incurred to provide the services identified in the RFP or IFB. Upon request by CD, case management providers or

prospective case management providers who submit a proposal or bid for a contract shall provide CD with cost reports and supporting documentation. The format for submission of cost report information shall be included in the RFP or IFB.

1. Cost for case management services shall include all costs associated with assessments, case planning, placement services, service planning, permanency planning, and concurrent planning. Such costs shall include salaries and benefits for required staff.

A. Assessments shall be defined as the consideration of all social, psychological, medical, educational, and other factors to determine diagnostic data to be used as a basis for the case plan.

B. Case planning is a process of negotiation between the family case manager, parent(s) or guardian(s) from whom the child was removed, and the juvenile officer which describes the services and activities necessary for the purpose of achieving a permanent familial relationship for the child.

C. Placement services is the selection of the most appropriate placement resource for children in out-of-home care based on the assessment of the child’s unique needs and personality and the out-of-home care provider’s capacity and skills in meeting those needs.

D. Service planning is the provision of any services indicated and identified as needed through an assessment and case plan or ordered by the juvenile court.

E. Permanency planning is determining the permanent plan which best meets the needs of the child.

F. Concurrent planning is a process of pursuing a primary permanency goal for children in out-of-home care, such as reunification, while simultaneously establishing and implementing an alternative permanency plan for that child.

2. Cost for community resource development shall include all costs associated with the recruitment, assessment, training, and maintenance and retention of out-of-home care providers. It shall also include the development of those services which shall best meet the needs of the child and his/her family.

3. Cost for treatment services shall include all services designed to meet the service and treatment needs of an individual.

4. Cost for special expenses shall include all costs associated with needs of children which are not designed to meet a service or treatment need. These costs would not be included in the foster care maintenance payment to the placement provider. An example is a clothing allowance.



5. Cost for crisis expenses shall include all costs incurred to address the critical financial and resource needs of families. Crisis funds are utilized to purchase specific items family members need to alleviate a crisis. An example is payment to have utilities restored so that a child may be returned home.

6. Administrative costs are those which are incurred to deliver the case management services defined in the RFP or IFB which are not included above in paragraph (2)(A)1., (2)(A)2., (2)(A)3., (2)(A)4., or (2)(A)5. Such costs include expenses for general administrative functions and overhead.

7. Provider costs shall be determined and validated by a third-party contractor retained by CD or the Department of Social Services for that purpose. The provider shall submit any and all information that CD, the Department of Social Services, or the third-party contractor may require to validate the cost report. The provider shall certify such information is truthful, accurate, and complete.

8. Provider costs shall include any applicable credits or payments received through federal or state funding sources or private contributions.

9. Industry cost reports shall include any audited financial statements for the applicable time period under review;

(B) Cost to CD for the three (3) previous calendar years for similar services identified in the RFP or IFB;

(C) Historical expenditures of agencies contracted to provide the services identified in the RFP or IFB for up to three (3) previous calendar years. These expenditures shall include any payments the contractor has made on behalf of the children and families receiving services identified in the RFP or IFB;

(D) Historical expenditures of the CD for up to three (3) previous calendar years for all services identified in the RFP or IFB which have been provided to children placed in out-of-home care in the regions to be served by the foster care case management contractors. CD expenditures shall only be utilized in conjunction with industry cost reports and/or historical expenditures of agencies contracted to provide the services identified in the RFP or IFB; and

(E) CD shall consider all applicable state and federal laws and regulations when a cap is established.

(3) Awards shall be made to the lowest and best qualified bidder(s), subject to applicable procurement law and available appropriation. A qualified bidder is a provider which meets all of the requirements in law, regulation, and

policy related to the services identified in the RFP or IFB. A qualified bidder must also meet the qualifications outlined in the RFP or IFB.

(4) The number of bids and cases awarded to any given provider are subject to available appropriation.

(5) The contract shall specify the monthly amount which is to be paid based on the number of cases awarded unless payment has been reduced for reasons specified in this regulation. The contract may include a provision that the parties to the contract may amend the contract to increase the rate if specifically authorized by statute or appropriation.

(6) The contract shall provide for the payment of incentives to recognize accomplishment of case goals and corresponding cost savings to the state.

(A) For contracts effective on or before September 30, 2011, incentives shall be provided when contractors exceed the permanency expectations identified in the contract as follows:

1. The contract shall identify the percentage of children who are to achieve permanency in a twelve (12)-month period. Permanency shall be defined as reunification with the child's parent(s) or legal guardian(s), a finalized adoption, or establishment of a legal guardianship;

2. CD shall refer the number of cases in the Notice of Award during the first month of the contract year. CD shall refer additional cases throughout the contract year with the intention of replacing cases which are expected to move to permanency each month based on the percentage of children who are to achieve permanency as identified in the contract; and

3. The contractor shall be paid monthly for the number of cases awarded, regardless of the number they actually serve, except in the following situations:

A. CD shall reduce the payment when CD determines it is in the best interest of a child to reassign the case to CD staff and the case is not replaced. CD shall reduce payment by the number of cases which have been disenrolled and reassigned for case management which were not replaced;

B. CD shall reduce payment when the contractor is placed on referral hold as the result of the contractor's staff involvement with an unacceptable, egregious situation as defined in the contract. Payment shall be reduced by the number of cases which CD is unable to refer while the contractor is on referral hold due to an egregious situation.

Egregious situations are defined in this rule to include any situation which seriously impacts the delivery of services to a child or family assigned to the contractor, including a material breach of the contract with the division, and shall include, but is not limited to, the following:

(I) Court contempt order;

(II) Violating the condition(s) of a court order;

(III) Unsafe environments or inappropriate out-of-home provider as evidenced by the following:

(a) Placement in unlicensed foster homes or facilities unless approved by the court;

(b) Placements with a provider without conducting a background screening;

(c) Placements with a provider with a failed background screening as defined in the CD Child Welfare Manual;

(d) Placements without full compliance with the requirements of the Interstate Compact on the Placement of Children (section 210.620, RSMo); and

(e) Placements without court approval where court approval is required;

(IV) Breaches of confidentiality as defined in the contract;

(V) Intentionally, recklessly, knowingly, or negligently entering false data in CD's automated case management system;

(VI) Failure to comply with the requirement to report suspected child abuse and neglect, child injuries, child fatalities, or other critical incidents as required by contract and/or as required by section 210.115, RSMo; and

(VII) Other violations of federal or state law;

C. The contractor shall not invoice for reentries into care within twelve (12) months of previous exit except under those circumstances described below—

(I) The contractor shall be paid for reentries into care during the contract year whereby the number of cases replacing those which are expected to move to permanency each month shall be reduced to correspond with the number of reentries when—

(a) The contractor does not have an opportunity to serve the case or the court terminates jurisdiction and there is clear and convincing documentation to support the contractor was against the release of jurisdiction;

(b) Reunification does not occur;

(c) The case has been replaced;

(II) The contractor shall be paid for reentries into care during the next contract year whereby the reentry into care shall count



as an active case at the beginning of the contract year when—

(a) The contractor does not have an opportunity to serve the case or the court terminates jurisdiction and there is clear and convincing documentation to support the contractor was against the release of jurisdiction; and

(b) Reunification did occur when the court first terminated jurisdiction after assignment to the contractor;

D. CD shall reduce the monthly case rate to remove the foster care maintenance payment for those children who have been enrolled in the interdivisional agreement through the Mental Retardation and Developmental Disabilities (MRDD) waiver with the Missouri Department of Mental Health; and

E. CD shall reduce the monthly case rate to reimburse the contractor for only case management services when a child meets the definition of a catastrophic case as defined in the contract and CD is providing additional funding for the child.

(B) For new contracts issued based on an RFP or IFB on or after October 1, 2011, subject to available appropriation, CD shall pay an incentive for the sum of the monthly differences between the number of children who are expected to achieve permanency as defined in the contract and the number of children who do achieve permanency when the one-for-one case replacement methodology is utilized. Permanency shall be defined as reunification with the child's parent(s) or legal guardian(s), a finalized adoption, or establishment of a legal guardianship. The following provisions shall apply to the administration of the incentive:

1. The percentage of children which are to achieve permanency in a twelve (12)-month period shall be based on the following percentage, whichever number is higher:

A. The percentage of children who move to permanency within a region, utilizing an average for all counties served within the region; or

B. The percentage of children contractors serve who move to permanency within a region, utilizing an average of the performance of contractors serving the region;

2. The contractor may return cases to CD when children have been placed with their parent(s) for more than ninety (90) days. The contractor may return cases to CD when children have been placed with their legal guardian(s), from whom they were removed, for more than ninety (90) days. The contractor may retain management of the case after ninety (90) days only with the prior, written permission of the CD. When permission is granted, the contractor shall understand the

permanency expectation will not change. The contractor shall return cases when an adoption has been finalized, the courts have awarded a legal guardianship, and when the juvenile court has terminated jurisdiction over the child. CD may replace such cases on a one-for-one basis. When the one-for-one case replacement methodology is utilized, CD shall replace cases in the following order of preference if cases are available:

A. The next child and any sibling who enter care within ten (10) calendar days in the county where the case was returned;

B. A child and any sibling currently case managed by CD in the county where the case was returned with services being provided by a supervisor or coworker due to the extended absence of the service worker;

C. A child and any sibling which entered care within thirty (30) calendar days in the county where the case was returned which is case managed by CD;

D. A child and any sibling from a county other than the one where the record was returned which is served by the contracted provider and meets the criteria set forth in subparagraph (6)(B)2.A., (6)(B)2.B., or (6)(B)2.C. above, when agreeable to the contractor; and

E. In the event the contractor is assigned more active cases than awarded in an effort to keep one (1) worker assigned to a sibling group, cases shall not be replaced until such a time when the contractor is serving the amount of active cases awarded. Active cases do not include children who have been placed with their parent(s) for more than ninety (90) days unless the CD has granted permission for the contractor to keep the case; children who have been placed with their legal guardian(s), from whom they were removed, for more than ninety (90) days unless the CD has granted permission for the contractor to keep the case; children who have been adopted; those situations where the courts have awarded a legal guardianship; situations where the juvenile court has terminated jurisdiction over the child; or reentries into care unless they meet the criteria specified in part (6)(A)3.C.(I) above or the rate of re-entries or the number of re-entries into care within twelve (12) months has not exceeded the allowable rate or number as defined in (6)(B) 3.D. below. The contractor shall not be assigned a sibling group which would increase the number of cases awarded by more than two percent (2%). The contractor shall inform CD of the additional number of cases which may need to be replaced to keep the contractor at the number of cases awarded by the end of the contract year;

3. The contractor shall be paid for the

number of cases awarded except in the following situations:

A. Payment shall be reduced in the following and subsequent months during the contract year and subsequent renewal periods to correspond with the number of cases which could not be assigned when the counties have no case which meets any of the criteria identified in subparagraph (6)(B)2.A., (6)(B)2.B., (6)(B)2.C., or (6)(B)2.D. above. CD reserves the right to increase the number of referrals during subsequent renewal periods when the number of children entering CD's custody increases in the geographic region served by the contractor, when the provider is agreeable to such;

B. CD shall reduce the payment when CD determines it is in the best interest of a child to reassign the case to CD staff and the case is not replaced. CD shall reduce payment by the number of cases which have been disenrolled and reassigned for case management which were not replaced;

C. CD shall reduce payment when the contractor is placed on referral hold as the result of the contractor's staff involvement with an unacceptable, egregious situation as defined in the contract. Payment shall be reduced by the number of cases which CD is unable to refer while the contractor is on referral hold;

D. CD shall set an allowable rate of re-entries or the number of re-entries into care within twelve (12) months of previous exit, which shall not include the re-entries defined below. The rate or the number allowed shall be based on historical data. CD, at its sole discretion, may adjust this rate or number based on mitigating factors. The contract shall set forth that after the rate is exceeded, the contractor shall not be paid for cases exceeding the allowable number of re-entries set forth in the contract or shall be assessed a penalty after the rate is exceeded. If a penalty is assessed, the penalty shall be based on a methodology set forth in the contract.

(I) The reentry into care will count as an active case and the contractor will be paid for the case when CD is able to determine that the contractor did not have an opportunity to serve the case or the court terminated jurisdiction and there is clear and convincing documentation to support the contractor was against the release of the jurisdiction. In the event the contractor is serving more active cases than awarded as the result of the reentry into care, they shall not be paid for such. However, cases shall not be replaced until such a time when the contractor is serving the amount of active cases awarded;



E. The monthly case rate shall be reduced to remove the foster care maintenance when the contract specifies the division shall be responsible for such; and

F. CD shall reduce the monthly case rate to reimburse the contractor for only case management services when a child meets the definition of a catastrophic case as defined in the contract and CD is providing additional funding for the child;

4. CD shall determine the number of children achieving permanency during the contract year while being served by the contractor. The contractor will be paid for the sum of the monthly differences between the number of children who are expected to achieve permanency as defined in the contract and the number of children who do achieve permanency, subject to available appropriation, as follows:

A. Contractors shall be paid the monthly amount bid and awarded for the sum of the monthly differences during the contract year as identified in paragraph (6)(B)4. above, subject to available appropriation; and

B. The incentive shall be a one (1)-time payment for the number of children who exceeded the permanency standard during the contract year as identified in paragraph (6)(B)4. above; and

5. CD reserves the right in its sole discretion to reduce the number of cases assigned in subsequent contract years with payment reduced to correspond when the contractor fails to meet the permanency standard defined in the contract. CD also reserves the right to terminate the contract. In the event the contractor fails to meet the permanency standard and the number of cases are reduced in subsequent contract years, CD may reduce the number of cases awarded as follows:

A. CD may request the return of active cases;

B. CD may not replace cases which are closed by the contractor; and

C. CD will reduce payment to correspond with the number of active cases served.

AUTHORITY: section 207.020, RSMo 2000, section 210.112, RSMo Supp. 2010, and Young v. Children's Division, State of Missouri Department of Social Services, 284 S.W.3d 553 (Mo. 2009). Original rule filed Feb. 28, 2011, effective Oct. 30, 2011.*

**Original authority: 207.020, RSMo 1945, amended 1961, 1965, 1977, 1981, 1982, 1986, 1993 and 210.112, RSMo 2004, amended 2005.*

13 CSR 35-32.040 Hand-Up Pilot Program (Rescinded August 30, 2018)

AUTHORITY: section 208.053, RSMo Supp. 2012. Original rule filed May 1, 2013, effective Nov. 30, 2013. Rescinded: Filed Jan. 16, 2018, effective Aug. 30, 2018.

13 CSR 35-32.050 Definitions

PURPOSE: This regulation establishes the definitions that will be used throughout regulations 13 CSR 35-32.050 to 13 CSR 35-32.130.

(1) For the purposes of 13 CSR 35-32.050 through 13 CSR 35-32.130, the following terms shall be defined pursuant to this regulation.

(2) "Adjusted Gross Income" means the applicant's gross income less health insurance premiums paid for by household members.

(3) "Agency Error" means Child Care Subsidy incorrectly paid on behalf of a participant due to an action by the division. These actions may include, but are not limited to:

(A) Loss or misfiling of forms or documents;

(B) Data entry errors;

(C) System errors;

(D) Mathematical errors;

(E) Failure to determine eligibility correctly or in a timely manner or to certify subsidy in the correct amount when all essential information was available to the division; or

(F) Failure to make timely changes to re-determine eligibility following amendments to policies requiring the changes by a specific date.

(4) "Applicant" means a person applying to be a recipient of Child Care Subsidy.

(5) "Background check" shall include:

(A) A search of the state criminal and sex offender registries or repositories in Missouri and in the state where the child care provider, employee, or volunteer resides, and each state where such person resided during the preceding five (5) years;

(B) A search of the Family Care Safety Registry as described in sections 210.903 through 210.936, RSMo, and state-based child abuse and neglect registries and databases in the state where the child care provider, employee, or volunteer resides, and each state where such person resided during the preceding five (5) years; and

(C) A search of the National Crime Information Center, a Federal Bureau of Investiga-

tion fingerprint check using the Integrated Automated Fingerprint Identification System, and a search of the National Sex Offender Registry established under the Adam Walsh Child Protection and Safety Act of 2006 (42 U.S.C. 16901 et seq.).

(6) "Certificate of Registration" means the legal document issued to a child care provider by the division for a period not to exceed one (1) year which indicates the child care provider has met the minimum health and safety requirements, subject to compliance with sections 210.025 and 210.027, RSMo and 13 CSR 35-32.070.

(7) "Child Care Services" means child care provided to an eligible child on a regular basis either in or away from the child's residence, for less than twenty-four (24) hours per day, provided by an eligible child care provider as defined in section (16).

(8) "Child Care Provider" means a child care center, group home, or family home that provides child care services, whether known or incorporated under another title or name.

(9) "Child Care Provider Applicant" means an individual applying to be registered or contracted as a child care provider.

(10) "Child Care Subsidy" means the program that makes payment to a child care provider, or in rare circumstances reimburses the parent, by the division if the department finds a family unit eligible for child care services.

(11) "Child with Special Needs" means an eligible child who is under the age of eighteen (18), or under age nineteen (19) and still in school, who meets one (1) or more of the following verified criteria:

(A) A child receiving Supplemental Security Income (SSI);

(B) A child receiving services through the Missouri Department of Mental Health;

(C) A child with a physical or mental disability or delay verified in writing by a medical professional or mental health professional;

(D) A Protective Service Child;

(E) An Adoption Subsidy Child; or

(F) A child under court-ordered supervision.

(12) "Department" means the Missouri Department of Social Services.

(13) "Director" means the director of the Children's Division of the Department of Social Services.



- (14) "Division" means the Children's Division of the Department of Social Services.
- (15) "Eligible Child" means:
- (A) A child who resides with a parent who meets the program and financial eligibility requirements for the particular type of Child Care Subsidy and who—
 1. Is a citizen of the United States of America or a qualified alien; and
 2. Is under the age of thirteen (13); or
 3. Is under the age of eighteen (18) and classified as having a special need; or
 4. Is under age nineteen (19) and still in school and classified as having a special need; or
 - (B) A protective Services Child.
- (16) "Eligible Child Care Provider" means one (1) of the following:
- (A) A child care provider licensed by the Missouri Department of Health and Senior Services and contracted with the Missouri Department of Social Services; or
 - (B) A child care provider determined to be license exempt by the Missouri Department of Health and Senior Services and registered and contracted with the department; or
 - (C) A child care provider caring for four (4) or fewer children not related to the child care provider within the third degree by blood, marriage, or adoption and registered and contracted with the department, in accordance with 13 CSR 35-32.070; or
 - (D) An out-of-state child care provider licensed or exempt from licensure, based on that state's license requirements, and registered and contracted with the department; or
 - (E) A child care provider under the jurisdiction of a military base and is registered and contracted with the department.
- (17) "Eligibility Unit" means people living in the same household, whose needs and income shall be considered when determining eligibility for Child Care Subsidy, including:
- (A) The child for whom care is requested;
 - (B) The child's parents (whether married or unmarried);
 - (C) The child's parent's spouse;
 - (D) The child's biological, step-, half-, or adopted sibling(s) under eighteen (18) years of age;
 - (E) The unmarried parental partner who is the parent of the child's sibling;
 - (F) The child under eighteen (18) years of age of the unmarried parental partner;
 - (G) The Non-Parent Caretaker Relative (NPCR) if no biological or adoptive parent or legal guardian resides in the household; and
 - (H) A school age child, who is also the parent of a child in the same home, has the option of being a separate family unit for purposes of determining eligibility for Child Care Subsidy.
- (18) "Emergency preparedness and response plan" means planning for emergencies resulting from a natural disaster or a man-caused event (such as violence at a child care facility).
- (19) "Exempt from licensure" means a child care provider pursuant to section 210.211, RSMo.
- (20) "Gross Income" includes, but is not limited to, income from the following:
- (A) Wages, salary, and income from self-employment;
 - (B) Commissions, tips, bonuses;
 - (C) Dividends and interest;
 - (D) Social Security benefits, including disability and survivor benefits;
 - (E) Pensions and annuities;
 - (F) Estate Income;
 - (G) Unemployment and worker's compensation; and
 - (H) Alimony and child support.
- (21) "Intentional Violation" means the receipt of any benefit through the wrongful acquisition or issuance of Child Care Subsidy payment for child care services by the division through false representation or concealment of material facts by the participant, eligibility unit, child care provider, or any other representatives. These actions may include, but are not limited to:
- (A) Submission of inaccurate information for the purpose of obtaining compensation for which the child care provider is not legally entitled;
 - (B) Charging the division an amount higher than what is charged for private pay participants for the same child care services;
 - (C) Failure to maintain the Child Attendance Record by the eligibility unit as specified by the division;
 - (D) Improper billing practices that do not comply with the child care provider's agreement or that do not comply with state or federal laws and regulations governing child care services;
 - (E) False or misleading statements, oral or written, regarding the participant's income or other circumstances that affect eligibility or the amount of subsidy received; or
 - (F) Failure to timely report changes in income or other circumstances that affect eligibility or the amount of subsidy received.
- (22) "Licensed child care provider" means a child care provider pursuant to section 210.201, RSMo.
- (23) "Licensed exempt" means a child care provider pursuant to section 210.211, RSMo.
- (24) "Maximum base rate" means the amount paid to the child care provider based on the age of the child for whom child care services are requested, hours of care requested, the facility type requested, and the applicable geographic area of the state.
- (25) "Medical Professional" means a licensed physician pursuant to section 632.005, RSMo, a nurse practitioner, or physician's assistant.
- (26) "Mental Health Professional" means a mental health professional pursuant to section 632.005, RSMo, or licensed clinical social worker.
- (27) "Overpayment" means any benefit or payment received in an amount greater than the amount the participant or child care provider is entitled to receive.
- (28) "Parent" means a child's biological parent whose parental rights have not been terminated, a step-parent, an adoptive parent, a legal guardian, a caretaker relative, or other person standing in *loco parentis* for the child who has applied for Child Care Subsidy.
- (29) "Participant" means an applicant for Child Care Subsidy found to be eligible to receive Child Care Subsidy.
- (30) "Promissory Note" means a written, dated, and signed promise by one (1) party to pay money to another party on demand or at a specified future date.
- (31) "Protective Services Child" means a child in foster care or receiving preventive services through the division.
- (32) "Qualified Alien" means any person who is not a citizen or national of the United States who, at the time such person applies for, receives, or attempts to receive a federal public benefit, is—
- (A) Lawfully admitted for permanent residence under the Immigration and Nationality Act, as codified in 8 U.S.C. section 1101, et. seq.;
 - (B) Granted asylum under section 208 of such Act, as codified in 8 U.S.C. section 1158;
 - (C) A refugee admitted to the United States under section 207 of such Act, as codified in 8 U.S.C. section 1157;
 - (D) Paroled into the United States for a period of at least one (1) year under section 212(d)(5) of such Act, as codified in 8



U.S.C. section 1182 (d)(5);

(E) An alien whose deportation is being withheld under section 243(h) of such Act, as codified in 8 U.S.C. section 1253 as amended;

(F) Granted conditional entry pursuant to section 203(a)(7) of such Act, as codified in 8 U.S.C. section 1153 (a)(7) as in effect prior to April 1, 1980; or

(G) A Cuban or Haitian entrant, as defined in section 501(e) of the Refugee Education Assistance Act of 1980 (Public Law 96-422).

(33) “Rate Differential” means an additional amount paid to a child care provider over and above the maximum base rate.

(34) “Recoupment” means the repayment of an overpayment by a reduction in a future payment to the child care provider.

(35) “Registered Child Care Provider” means a child care provider who is exempt from licensure or licensed exempt as defined in section 210.211, RSMo.

(36) “Related Child” means the relationship of the child to the child care provider is within the third degree, which includes siblings (if not residing in the same home), nephews, nieces, grandchildren, and great-grandchildren.

(37) “School Age” means an eligible child at least five (5) years of age.

(38) “Sliding Fee” means participant’s share of the child care cost based on the eligibility unit’s income and household size.

(39) “Staff” means a person employed by a child care provider or a volunteer who is counted in staff/child ratios.

(40) “Substantiated Child Abuse and Neglect Report” or “Substantiated CA/N Report” means when the division has determined that there is sufficient evidence to believe that a person committed child abuse or neglect, either by finding of probable cause prior to August 28, 2004, or by a preponderance of the evidence after August 28, 2004.

(41) “Transitional Child Care” means a benefit program assisting families currently receiving Child Care Subsidy with the continued cost of child care at a reduced rate of the regular Child Care Subsidy payment when the family’s income increases and becomes greater than the full Child Care Subsidy income eligibility guidelines allow, with the families having an increased responsibility

for the cost of child care.

(42) “Unintentional Violation” means the receipt of any benefit through the wrongful acquisition or issuance of Child Care Subsidy payment for child care services by the division through incorrect representation, but not by the concealment of material facts by the participant, eligibility unit, child care provider, or any other representatives. These actions may include, but are not limited to:

(A) The participant or child care provider unintentionally failing to provide the division with the correct or complete information;

(B) The child care provider failing to notify the division that their license status has changed or business operation changes have occurred that affect the payment rate; or

(C) The child care provider submitting information, such as invoices or attendance records, with unintentional errors.

(43) “Unrelated Child” means a child who is not related to the provider within the third degree of consanguinity or affinity.

AUTHORITY: sections 207.020, 210.025, and 210.027, RSMo 2016, 42 U.S.C. section 9858, et. seq., Executive Order 03-03. Original rule filed Jan. 3, 2017, effective Aug. 30, 2017.*

**Original authority: 207.020, RSMo 1945, amended 1961, 1965, 1977, 1981, 1982, 1986, 1993, 2014; 210.025, RSMo 1999, amended 2004; and 210.027, RSMo 1999, amended 2014.*

13 CSR 35-32.060 Eligibility and Authorization for Child Care Subsidy

PURPOSE: This rule establishes the requirements for eligibility requirements and authorization of Child Care Subsidy.

(1) Eligibility. To be eligible to receive Child Care Subsidy, the applicant shall meet the following criteria:

(A) Residency. The applicant must reside in the state of Missouri and intend to remain in the state of Missouri for the duration Child Care Subsidy is provided;

(B) Citizenship Status. A child receiving services shall be a—

1. United States (U.S.) citizen; or

2. Qualified alien pursuant to 8 U.S.C. section 1641;

(C) Eligibility Unit. The applicant must qualify as an eligibility unit. A school age child, who is also the parent of a child in the same home, has the option of being a separate family unit for purposes of determining eligibility for Child Care Subsidy;

(D) Relationship. The applicant for child

care services must be the parent of the child for whom child care services are being requested;

(E) Income Eligibility Requirements.

1. To qualify for Child Care Subsidy, the eligibility unit’s Adjusted Gross Income must be less than or equal to the maximum income for the family size allowed by income guidelines. Guidelines shall be published annually in an electronic format available to the public. Income guidelines are based on the Federal Poverty Level as published in the *Federal Register*. An eligibility unit income may not exceed eighty-five percent (85%) of the state median income for an eligibility unit of the same size on the date a subsidized service is delivered. Protective services children do not have to demonstrate a financial need for Child Care Subsidy under this subsection.

2. Eligibility unit assets cannot exceed one (1) million dollars as certified by the applicant. The eligibility unit shall provide documentation of eligibility unit’s assets if requested by the division.

3. The applicant shall provide documentation or any information requested by the Family Support Division to verify the eligibility unit’s income;

(F) Need for Child Care.

1. To be eligible for Child Care Subsidy, applicant must have a valid need for child care and must be unable to arrange another child care plan. The applicant must provide documentation or any information requested by the Family Support Division to verify his/her need for child care. The need requirement is met under the following circumstances:

A. The applicant is a recipient of Temporary Assistance for Needy Families (TANF) benefits and employed, in school, or enrolled in a training program for employment; or

B. The applicant is enrolled in a school or training program—

(I) To complete the High School Equivalency Test (HiSET);

(II) To attend regular high school classes;

(III) To attend a college or university with the intent of receiving a bachelor’s degree; or

(IV) To attend a training or educational program in which the end result is a professional or technical job skill leading toward employment in a specific field upon graduation; or

C. The applicant has a disability or incapacity, confirmed by a medical professional or mental health professional, which renders him/her unable to care for a child except with the provision of child care. The applicant must submit a written, signed statement from a medical professional or mental



health professional. This statement must include the hours of care needed per day/week and the anticipated duration of need for care;

D. The applicant is consider homeless as defined in 42 U.S.C. section 11302(a), also known as the McKinney-Vento Homeless Assistance Act, and the applicant is working with a community based organization to eradicate homelessness; or

E. The child is in the legal custody of the Children's Division pursuant to an order of the juvenile court.

(2) Processing of Application.

(A) An applicant shall request child care subsidy in person, by telephone, by mail, by fax, or by electronic means using a form furnished by the division. The form shall include, but not be limited to, information related to the applicant's residency, citizenship, household composition, relationships, assets, and household income.

(B) Applicants shall provide complete and accurate information to the division when determining eligibility or continuing eligibility for child care services. Applicants who fail to provide complete and accurate information or to comply with the provisions of these rules shall be ineligible for Child Care Subsidy.

(C) Information provided by applicants or participants shall not be disclosed to the public, except as allowed by section 208.120, RSMo.

(D) Upon receipt of a completed application, the Family Support Division of the Department of Social Services shall review the application and determine the applicant's eligibility.

(E) If the Family Support Division determines the applicant is eligible for Child Care Subsidy, the Family Support Division will send a written notice to the applicant notifying him/her of child care services authorized, amount of sliding scale fee, and changes that must be reported to maintain eligibility.

(F) If the Family Support Division determines the applicant is not eligible for Child Care Subsidy, the Family Support Division will send a written notice to the applicant. The notice shall—

1. Inform the applicant of the nature of the decision;
2. Include a brief summary of the factual and legal basis for the division's decision; and
3. Notify the applicant of his/her right to appeal to the director.

(3) Payment.

(A) Parental Choice.

1. A participant may enroll his/her child with any child care provider contracted with the division, subject to acceptance by the child care provider. A parent may choose to

enroll his/her child with a different provider at any time. Child Care Subsidy payments shall be made directly to the child care provider. The parent shall notify the Family Support Division of the initial child care provider and any change in the child care provider within ten (10) days of the change. The notice shall include: the date of disenrollment from the provider, the names and identifying information of the child(ren) involved and, where applicable, identify the new subsidized child care provider.

2. If the participant chooses a child care provider who will care for a related child, the participant must sign an attestation of relationship to the child on a form provided by the division.

(B) Maximum Payment. Maximum payment by the division for infant, preschool, or school-age child care services shall not exceed the maximum base rate plus any rate differentials or the actual charges by the child care provider, whichever is less. The maximum base rate is set on an annual basis based on appropriations from the General Assembly for the child care subsidy program and is based on the age of the child, hours of care requested, facility type, and in the applicable geographic area of the state.

(C) Sliding Fee Scale. Child care participants may be required to pay a fee to the child care provider based on their adjusted gross income and family size. This fee shall be based on a sliding fee scale, which shall be determined on an annual basis based on appropriations from the General Assembly.

1. The sliding fee amount is determined by the household size and adjusted gross income.

2. The maximum child care subsidy payment shall be the maximum base rate minus the applicable sliding fee amount, if any.

3. The maximum base rate is based on the age of the child for whom child care services are requested, hours of care requested, the facility type requested, in the applicable geographic area of the state. The maximum base rate is subject to appropriations.

4. The sliding fee may be waived for a child with special needs.

5. Child care participants who fail to pay the required sliding fee shall be ineligible for Child Care Subsidy until the required sliding fee is paid or until the child care participant enters into a written agreement with the child care provider to pay the required fee. The participant shall provide a copy of any such agreement to the division before the subsidy is paid.

(D) Co-Payment. Child care participant may be required to pay a co-payment to the child care provider when the child care provider's rate for care is higher than the maximum rate paid by the division. The parent must negotiate

this fee directly with the child care provider. The division shall not be responsible for the payment of, collection, or enforcement of any co-payment.

(4) Maintaining Eligibility.

(A) Reporting Changes.

1. A participant must report the following events to the Family Support Division within ten (10) business days from the date of occurrence:

A. A change in income if it exceeds eighty-five percent (85%) of the state median income for an eligibility unit of the same size;

B. Eligible child no longer resides with the participant;

C. Cessation of employment, job training, or education program; or

D. Any changes to the participant's contact information, including, but not limited to, address and phone number.

2. Failure to timely report the above changes may result in a participant overpayment pursuant to 13 CSR 35-32.100.

3. Upon receipt of a reported change under subparagraphs (4)(A)1.A.–(4)(A)1.C, the Family Support Division shall redetermine the participant's eligibility to receive child care subsidy, and notify the participant of the redetermination in the same manner as described in section (2). The Family Support Division may, but is not required to, redetermine the participant's eligibility upon receipt of a reported change under subparagraph (4)(A)1.D.

4. Participants will remain eligible for child care subsidy for not less than three (3) months after parent's employment, job training, or educational program ends.

(B) Annual Redetermination. To continue to receive child care subsidy, participants shall request a redetermination every twelve (12) months from the date of initial eligibility determination or most recent redetermination.

(C) Transitional Child Care. An eligibility unit may be allowed a gradual phase out of child care assistance if the family income has increased but remains less than upper income limit for the highest level of transitional child care. The Family Support Division shall determine the eligibility unit's eligibility for transitional child care and shall notify the parent in writing.

(5) Direct Appeal to the Director. Any applicant or participant, whose child care subsidy eligibility has been denied or changed may appeal such decision to the director in accordance with the provisions of section 208.080, RSMo.

(A) The participant/applicant shall request



a direct appeal to the director in writing within ninety (90) days of the date of notification of the denial or change of Child Care Subsidy eligibility.

(B) If the participant/applicant timely makes a direct appeal to the director, the director shall designate the Administrative Hearings Unit of the Division of Legal Services of the Department of Social Services to hear all cases. The Administrative Hearings Unit shall hear cases under the procedures outlined in 13 CSR 40-2.160.

(C) The burden shall be on the participant/applicant to prove:

1. The denial or change of Child Care Subsidy eligibility was inconsistent with all applicable laws and regulations.

(D) The department may present testimony, documents, or other evidence to rebut evidence presented by the participant/applicant.

(E) Upon completion of the hearing, the Administrative Hearings Unit shall issue a written decision as approved by the director, except in default cases or cases disposed of by stipulation, consent order, or agreed settlement. The decision shall include or be accompanied by findings of fact and conclusions of law. The findings of fact shall be stated separately from the conclusions of law and shall include a concise statement of the findings on which the agency bases its order. The Administrative Hearings Unit shall deliver or mail its decision, findings of fact, and conclusions of law to each party, or his/her attorney of record. The decision of the Administrative Hearings Unit shall be the final decision of the department.

(6) Destruction of Records. The division may destroy all applications and records compiled in connection with the determination and payment of Child Care Subsidy after ten (10) years have elapsed after the case is closed or the application has been rejected and the decision is final.

AUTHORITY: sections 207.020, 210.025, and 210.027, RSMo 2016, 42 U.S.C. section 9858, et. seq., Executive Order 03-03. Original rule filed Jan. 3, 2017, effective Aug. 30, 2017.*

**Original authority: 207.020, RSMo 1945, amended 1961, 1965, 1977, 1981, 1982, 1986, 1993, 2014; 210.025, RSMo 1999, amended 2004; and 210.027, RSMo 1999, amended 2014.*

13 CSR 35-32.070 Registration Requirements for Child Care Providers Serving Four (4) or Less Unrelated Children

PURPOSE: The purpose of this rule is to

implement the provisions of sections 210.025 and 210.027, RSMo, for the purpose of registering child care providers and defining eligibility for providers to receive state or federal funds for providing child care services.

(1) Requirements for Registration. To receive a certificate of registration as a registered child care provider, the child care provider applicant shall meet the requirements set forth in this section.

(A) The child care provider applicant must have attained eighteen (18) years of age.

(B) The child care provider shall not care for more than four (4) unrelated children.

(C) A child care provider applicant shall—

1. Pass a background check as defined in 13 CSR 35-32.050. Passing a background check shall include:

A. The child care provider shall not have received a substantiated child abuse and neglect report;

B. The child care provider shall not have been previously refused licensure or have experienced licensure suspension or revocation;

C. The child care provider cannot appear on the Department of Mental Health's Disqualification Registry pursuant to section 630.170, RSMo;

D. The child care provider shall not be a registered sex offender or required to register as a sex offender in any state;

E. The child care provider applicant shall not have had a certificate of registration denied or revoked within the past six (6) months; and

F. A child care provider applicant shall not have pled guilty or *nolo contendere* to or been found guilty of—

(I) 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;

(II) Any misdemeanor or felony for sexual offense as defined in Chapter 566, RSMo, 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), for pornography or related offense as defined by Chapter 573, RSMo, for an offense relating to public assistance including, but not limited to, unlawful receipt, conversion or transfer of public benefits pursuant to sections 578.377 through 578.381, RSMo, (sections 570.400 through 570.404, RSMo, after January 1, 2017), perjury committed when obtaining public assistance pursuant to section 578.385, RSMo, (section 570.408, RSMo, after January 1, 2017); or

(III) Any similar crime in any federal, state, municipal, or other court of similar jurisdiction or any offenses or reports which will disqualify an applicant from receiving state or federal funds, including the following:

(a) The following crimes, in any degree, if considered a felony in the jurisdiction in which it was filed: murder, manslaughter, assault, kidnapping, felonious restraint, false imprisonment, interference with child custodial rights, adult abuse or stalking, burglary; or

(b) The following crimes, in any degree, if considered a felony or misdemeanor in the jurisdiction in which it was filed: rape, sodomy, prostitution, child molestation, bigamy, child abandonment, child endangerment, criminal nonsupport of a child, child abuse, elder abuse, robbery, arson, armed criminal action, unlawful possession/use/transfer of a firearm or weapon, unlawful promotion/possession/furnishing of obscene or pornographic material (including, but not limited to, child pornography), or human trafficking;

(c) The following crimes, in any degree, if considered a felony or misdemeanor in the jurisdiction in which it was filed and if involving the endangerment of a child or a child victim: assault, kidnapping, felonious restraint or false imprisonment, interference with child custodial rights; or

(d) The following crimes, in any degree, if considered a felony or misdemeanor in the jurisdiction in which it was filed and if filed within the past ten (10) years: unlawful possession, sale, transfer, or trafficking of a controlled substance or any similar crime;

(e) The following crimes, in any degree, if considered a felony in the jurisdiction in which it was filed and if committed against the Department of Social Services or any division thereof: fraud, stealing, or forgery; or

(f) Any municipal court offense for conduct which, if prosecuted in a court of general jurisdiction, would be an offense described in subparagraph (1)(C)1.F. above.

(D) The child care provider shall submit a "Risk Assessment for Tuberculosis" form, to be completed, signed, and dated by a medical professional no more than ninety (90) days prior to submission. If a child care provider has active, contagious tuberculosis, the child care provider must submit documentation showing that a medical professional has certified that the child care provider is non-infectious before the child care provider may become registered.

(E) Child care provider shall submit a



statement completed, signed, and dated by a medical professional no more than ninety (90) days prior to submission on a prescribed form, regarding his/her opinion of the physical and mental health of the child care provider applicant and certifying that a physical examination was completed within the past ninety (90) days, that the child care provider applicant was free from communicable disease, and is not a threat to the health of children.

(F) Child care provider applicant and anyone residing with the child care provider applicant shall be legally allowed in the presence of children.

(G) All individuals residing with the child care provider applicant over the age of seventeen (17) shall pass—

1. A search of the Family Care Safety Registry as described in sections 210.903 through 210.936, RSMo; and

2. State-based child abuse and neglect registries and databases in Missouri and in the state where the child care provider household member resides, and each state where such person resided during the preceding five (5) years;

3. State-based sex offender registry or repository in Missouri and in the state where the child care provider household member resides, and each state where such person resided during the preceding five (5) years;

4. No individual residing with the child care provider applicant over the age of seventeen (17) shall have received a substantiated child abuse and neglect report, appear on the Department of Mental Health employee disqualification list, or be a registered sex offender or required to register as a sex offender in any state.

(H) The department shall not pay for any costs associated with the requirements of registration.

(I) The child care provider applicant must cooperate and allow for an unannounced on-site inspection by the division or designee at initial application. The on-site inspections shall ensure that the child care provider applicant's home is in compliance with the following health, safety, fire, and other requirements:

1. Local ordinances, codes, and regulations.

A. The child care provider applicant's home shall meet local ordinances, codes, and regulations, particularly with regard to fire safety and smoke or carbon monoxide detectors.

B. If there are no local ordinances or regulations regarding smoke and carbon monoxide detectors that apply to the child care provider applicant's home, the child care provider applicant shall—

(I) Install and maintain operable smoke and carbon monoxide detectors in accordance with the manufacturer's instructions;

(II) Install and maintain all detectors 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; and

(III) Ensure that when activated, the detectors shall provide an alarm in the structure or room;

2. Physical Space: The physical space of the child care provider applicant's home must meet the following criteria:

A. It must be clean, free of insects and vermin;

B. It must have working heating and cooling systems;

C. It must have potable, running water, at least one (1) flushable toilet and one (1) sink for hand washing accessible to children;

D. Hygiene items such as toilet paper, soap, hand drying towels (paper or cloth) must be accessible to children;

E. The food preparation area clean and equipped to prepare snacks and meals;

F. It must have inside space for play and napping;

G. Hazardous materials must be inaccessible to children;

H. Smoking in the home is prohibited while children are present;

I. Weapons and ammunition stored in locked cabinets inaccessible to children; and

J. Smoke detectors and fire extinguisher present;

3. Outdoor play area: The outdoor play area must meet the following criteria:

A. It must be an area safe, maintained, and no hazards;

B. The outdoor area must either be continuously fenced to ensure that the children cannot leave and others cannot enter the premises without supervision; or, if not fenced, child care provider must have a division approved, supervision plan for when children are in outdoor play area;

C. Pools and open water areas are not accessible to children without adult supervision; and

D. Play equipment is well-constructed and free from hazards;

4. Emergency preparedness and response plan available and posted;

5. Animals: Any animals present on the premises must meet the following criteria:

A. They must be non-threatening to children;

B. None of the animals may have a

history of attacking or injuring human beings or other animals;

C. The animals must be disease free and have all required vaccinations according to state and local law;

D. Indoor and outdoor areas used by children are free of animal excrement; and

E. Litter boxes are not located in food preparation or serving area and inaccessible to children;

6. The child care provider applicant's home must be free of illegal substances and criminal activity.

(J) The child care provider applicant shall register with Opportunities in a Professional Education Network (OPEN) and secure a Missouri Professional Development Identifier (MOPD-ID) to track and successfully complete all required trainings as approved by the division. The child care provider shall provide satisfactory, written documentation of successful completion to the division. The child care provider applicant shall successfully complete training which includes, but is not limited to:

1. First Aid and Cardiopulmonary Resuscitation (CPR);

2. Child Care Subsidy Orientation;

3. Prevention of Sudden Infant Death Syndrome and Safe Sleeping;

4. Prevention of Shaken Baby Syndrome and Abusive Head Trauma;

5. Emergency Disaster Response and Planning;

6. Mandatory Child Abuse and Neglect (CA/N) Reporting;

7. Prevention and Control of Infectious Diseases (including immunizations);

8. Administration of Medication, consistent with standards for parental consent;

9. Prevention and Response to Food Allergy Emergencies;

10. Building and Physical Premises Safety; including identification of and protection from hazards that can cause bodily injury;

11. Handling and Storage of Hazardous Materials and the Appropriate Disposal of Bio-Contaminants; and

12. Transportation of Children.

(K) If a child care provider applicant has an outstanding debt owed to the state due to a previous child care overpayment, the child care provider applicant must participate in a repayment plan pursuant to 13 CSR 35-32.050 to become registered with the division.

(2) Providing Care for Related Child. If a child care provider applicant wishes to provide child care to a related child, the child care provider applicant must meet the requirements listed in section (1) and must



sign an attestation of relationship to child on a form provided by the division.

(3) Providing Care in the Child's Home. If a child care provider applicant wishes to provide child care in the child's home, the child care provider applicant must meet the requirements listed in section (1), with the exception of the on-site inspection listed in subsection (1)(I).

(4) Processing of Application.

(A) Upon receipt of an initial application for registration and completion of on-site inspection, the division shall review all information to make a determination as to whether the child care provider applicant is eligible to receive a certificate of registration. The division, in its discretion, may request additional documentation if concerns arise regarding the child care provider applicant's ability to provide for the health and safety of children, ability to follow generally accepted accounting practices (GAAP), or to address other concerns as noted by the division. The child care provider applicant shall provide all requested documentation.

(B) If the division determines the child care provider applicant meets all eligibility requirements, the division shall issue a certificate of registration good for one (1) year to the child care provider applicant.

(C) If the division determines the child care provider applicant fails to meet eligibility requirements, the division may, in its discretion, give the child care provider a reasonable opportunity to cure any defect. The division may specify a reasonable time frame for the provider to cure the deficiency, not to exceed ninety (90) days. The division shall take into account the severity of any defect and whether such defect is likely to be cured in a reasonable amount of time. If the division determines that a defect cannot be cured or the applicant is otherwise ineligible, the division shall provide written notice of the denial of registration. The notice shall—

1. Inform the child care provider applicant of the nature of the decision;
2. State generally the factual and legal basis for the division's decision; and
3. Notify the child care provider applicant of his/her right to seek an administrative review.

(5) Renewal of Child Care Provider Registration.

(A) A child care provider shall renew registration annually. The child care provider shall adhere to the time frames listed below for every subsequent renewal.

(B) To renew a certificate of registration as

a registered child care provider, the child care provider shall—

1. Within ten (10) days of circumstance, incident, or occurrence which would alter any information provided in the child care provider's original application for registration, the child care provider shall notify the division in writing;

2. Perform the following annually:

A. Cooperate and allow for an unannounced on-site inspection by the division or designee prior to renewal. The on-site inspections shall ensure that the registered child care provider is in compliance with the health, safety, fire, and other requirements listed in subsection (1)(I);

3. Perform the following every two (2) years:

A. Submit a "Risk Assessment for Tuberculosis" form, to be completed, signed, and dated by a medical professional no more than ninety (90) days prior to submission. If a registered child care provider has active, contagious tuberculosis, the registered child care provider must submit documentation showing that a medical professional has certified that the registered child care provider is non-infectious before the registered child care provider may become renewed; and

B. Submit a statement completed, signed, and dated no more than ninety (90) days prior to submission by a medical professional on a prescribed form, regarding his/her opinion of the physical and mental health of the registered child care provider and certifying that a physical examination was completed no more than ninety (90) days prior to submission, that the registered child care provider was free from communicable disease and is not a threat to the health of children;

4. Perform the following every five (5) years:

A. Pass a background check as defined in 13 CSR 35-32.050. Passage of a background check shall be determined as defined in paragraph (1)(C)1. above;

B. All individuals residing with the registered child care provider over the age of seventeen (17) shall adhere to the requirements listed in subsection (1)(G) above; and

C. Upon receipt of registration renewal request, the division shall make a determination as to whether the registered child care provider is eligible to receive a renewed certificate of registration. The division shall follow the same process for the renewal of a registration as that followed to process an initial application as described in section (2) above.

(6) Corrective Action. The division may require the child care provider to submit and implement a corrective action plan to resolve

any health or safety concerns, regulatory violations, or contractual violations. The division shall provide written notification to the child care provider of the requirement to submit and implement a corrective action plan, identifying the specific performance, regulatory requirements, or contractual requirements not being met, and the expected corrective resolution.

(A) The child care provider shall submit a written corrective action plan to the division within ten (10) days of notice.

(B) The corrective action plan must include the actions the child care provider proposes to take to remedy concerns, time frames for achieving such, the staff responsible for the necessary action, the improvement that is expected, a description of how progress will be measured, and a description of the actions to be taken to prevent the situation from recurring.

(C) The division shall notify the child care provider in writing if the corrective action plan is approved or if modifications are required. In the event the division requires changes to the corrective action plan, the child care provider shall submit a revised corrective action plan, within ten (10) days of notice that changes are required.

(7) Registration Revocation.

(A) The division shall revoke a child care provider's registration if—

1. Health or safety issues exist which place children at risk of immediate harm;

2. Child care provider or anyone over the age of seventeen (17) living in the child care provider's home has a substantiated child abuse or neglect report;

3. Child care provider committed an intentional violation;

4. Child care provider failed to report child abuse and neglect when required by law to do so;

5. Child care provider is not mentally, emotionally, or physically fit to care for children as determined by a medical professional or mental health professional;

6. Child care provider is not legally allowed in the presence of children;

7. Child care provider failed to cooperate in a Welfare Investigative Unit investigation, a law enforcement investigation, a Child Abuse and Neglect investigation, compliance review, or audit; or

8. The Department of Health and Senior Services determines the child care provider is operating in violation of law.

(B) The division may revoke a child care provider's registration if—

1. Child care provider failed to disclose all household members subject to a check of the Family Care Safety Registry;



2. Health and safety issues exist that negatively impact the safety and well-being of the children in the child care provider's care, and the child care provider fails or is unable to rectify the issues;

3. Child care provider fails to successfully submit or complete the requirements of a corrective action plan within time period specified in the plan; or

4. Child care provider is non-compliant with registration requirements.

(C) If any health or safety issues exist which place children at immediate risk of harm, the division shall immediately revoke the child care provider's registration. In the case of immediate revocation, the child care provider shall promptly be granted an administrative review under section (9).

(D) If the division determines the child care provider's registration is subject to revocation and no health or safety issues exist which place children at immediate risk of harm, the division shall provide written notice of the revocation. The notice shall—

1. Inform the child care provider applicant of the nature of the decision;

2. State generally the factual and legal basis for the division's decision; and

3. Notify the child care provider of his/her right to seek an administrative review.

(8) Contract. To be eligible to contract to receive state or federal funds as a registered child care provider, the child care provider shall meet the following requirements:

(A) Obtain a certificate of registration which shall be maintained throughout the duration of the contract;

(B) The child care provider shall sign a contract issued by the state, agreeing to all terms including, but not limited to:

1. All records of children shall be confidential, protected from unauthorized examination and available to the parent(s) and division upon request unless otherwise allowed by law;

2. Child care provider shall care for no more than four (4) or fewer unrelated children;

3. Child care provider shall not be engaged in any other employment while providing child care services;

4. Child care provider shall maintain records pursuant to 13 CSR 35-32.130;

5. Child care provider shall notify all custodial parents and legal guardians of the child care provider's—

A. Phone number;

B. Discipline policy; and

C. Emergency preparedness and response plan;

6. Child care provider shall notify cus-

tomodial parents and legal guardians if the child care provider does not have immediate access to a telephone and provide parents with an alternative, effective method of communication;

7. Child care provider shall ensure custodial parents and legal guardians have access to their child(ren);

8. Child care provider shall report child deaths and serious injuries to the division within twenty-four (24) hours of the incident, using a form provided by the division. This includes, but is not limited to:

A. The death of a child if the child died while at the child care provider;

B. The death of a child enrolled at the child care provider if the child died of a contagious disease; or

C. A "serious injury" to a child that occurs while the child is at the child care provider or away from the child care provider's facility but still in the care of the child care provider, if an injury results in the child being treated by a medical professional or admitted to a hospital;

9. Child care provider shall cooperate with any investigations, audits, or other requests of the division;

10. Child care provider shall follow all statutes, regulations, and policies of the division;

11. Child care providers must report the following changes to the division in writing within ten business (10) days: physical address, mailing address, telephone number, email address, the addition of any new household members seventeen (17) years of age or older, or current household member turns seventeen (17) years of age;

12. Child care provider shall not utilize physical or corporal punishment including, but not limited to, spanking, slapping, shaking, biting, or pulling hair;

13. Child care provider shall submit to monitoring by division or its designee for compliance with contractual or regulatory obligations. Such monitoring may include, but is not limited to—

A. Providing attendance records at the request of the division or its designee;

B. Submitting to unannounced or announced on-site inspections; or

C. Other monitoring as determined necessary by the division;

14. Child care provider shall attend annual training as approved by the division, and provide documentation of the successful completion of all training to the division through the Opportunities in a Professional Education Network (OPEN).

(C) If the child care provider is providing care for a child in the child's own home, the

child care provider shall sign a contract issued by the state, agreeing to all terms listed in subsection (8)(B), except for the requirement listed in subparagraph (8)(B)13.B. The child care provider shall further agree in the contract that he/she shall not provide child care in the child's home to any child who does not reside in the child's home;

(D) A child care provider may not be eligible for a contract if the child care provider was denied a contract or a previous contract was terminated for cause and the underlying issues causing denial or termination of the contract have not been resolved. A child care provider may not be eligible for a contract if the child care provider was the owner, director, board member, officer, shareholder, agent, agent registered with the secretary of state's office, or had decision making authority over a licensed or licensed exempt child care facility, and was denied a contract or a previous contract was terminated for cause;

(E) Termination of Contract. If a child care provider fails to adhere to the terms of the contract, the division may terminate the contract by providing written notice to the child care provider. The notice shall—

1. Inform the child care provider of the date upon which the contract shall be terminated;

2. State generally the factual and legal basis for the division's decision; and

3. Notify the child care provider of his/her right to seek administrative review.

(9) Administrative Review.

(A) The child care provider/applicant may request an administrative review of the decision to deny registration, deny registration renewal, revoke registration, deny a contract, or terminate a contract by providing a written request for an administrative review within ten (10) days of the notification. The child care provider/applicant may submit additional documentation for consideration with the request for an administrative review. The division may, in its discretion, review any information received after the request for review, but is not required to do so. In no circumstances shall the division be required to review information provided after the division has conducted its administrative review.

(B) The child care provider/applicant may request the opportunity to present additional information via telephone conference call by making such a request in writing with the request for administrative review. If the child care provider/applicant timely requests a telephone conference call, the division shall notify the child care provider/applicant in writing of the date, time, and telephone number at which the child care provider/applicant may



present information. In such circumstances, the child care provider/applicant is responsible for ensuring that he/she is able to present information via telephone on the date/time provided, and that he/she has a working telephone and stable connection. The division shall not be responsible for any technical difficulties the child care provider/applicant may experience.

(C) The division shall—

1. Review the denial of registration, denial of registration renewal, registration revocation, contract denial, or contract termination, and any written materials provided by the child care provider;

2. Conduct a telephone conference call, if requested by the child care provider/applicant; and

3. Upon completion of the administrative review, notify the child care provider of the results of the administrative review in writing.

(10) Direct Appeal to the Director. If, after conducting the administrative review, the division upholds the denial of registration, denial of registration renewal, or registration revocation, the child care provider/applicant may appeal the decision directly to the director pursuant to section 208.080, RSMo. The child care provider/applicant must submit a request for direct appeal to the director within ten (10) days of notification of the results of the administrative review.

(A) If the child care provider/applicant timely makes a direct appeal to the director, the director shall designate the Administrative Hearings Unit of the Division of Legal Services of the Department of Social Services to hear all cases. The Administrative Hearings Unit shall hear cases under the procedures outlined in 13 CSR 40-2.160.

(B) The burden shall be on the child care provider/applicant to prove the denial of registration, denial of registration renewal, or registration revocation was inconsistent with all applicable laws and regulations.

(C) Upon completion of the hearing, the Administrative Hearings Unit shall issue a written decision as approved by the director, except in default cases or cases disposed of by stipulation, consent order, or agreed settlement. The decision shall include or be accompanied by findings of fact and conclusions of law. The findings of fact shall be stated separately from the conclusions of law and shall include a concise statement of the findings on which the agency bases its order. The Administrative Hearings Unit shall deliver or mail its decision, findings of fact, and conclusions of law to each party, or his/her attorney of record. The decision of the Administrative

Hearings Unit shall be the final decision of the department.

AUTHORITY: sections 207.020, 210.025, and 210.027, RSMo 2016, 42 U.S.C. section 9858, et. seq., Executive Order 03-03. Original rule filed Jan. 3, 2017, effective Aug. 30, 2017.*

**Original authority: 207.020, RSMo 1945, amended 1961, 1965, 1977, 1981, 1982, 1986, 1993, 2014; 210.025, RSMo 1999, amended 2004; and 210.027, RSMo 1999, amended 2014.*

13 CSR 35-32.090 Registration Requirements for Licensed Child Care Facilities to Contract for State or Federal Child Care Funds

PURPOSE: The purpose of this rule is to define the requirements for child care providers licensed by the Department of Health and Senior Services, section for Child Care Regulations, who wish to contract with the division to receive state or federal funds for providing child care services.

(1) Requirements to Contract. To receive a contract from the department to receive state or federal funds, a licensed child care provider and staff shall meet the following requirements:

(A) The child care provider shall be fully licensed and in good standing with the Department of Health and Senior Services, section for Child Care Regulations;

(B) The licensed child care provider and all staff shall be legally allowed in the presence of children;

(C) The department shall not pay for any costs associated with the requirements of licensure or requirements to contract with the department;

(D) The licensed child care provider and all staff shall register with Opportunities in a Professional Education Network (OPEN) and secure a Missouri Professional Development Identifier (MOPD-ID) to track and complete trainings. The licensed child care provider and all staff shall complete the following training prior to a contract being issued, which includes, but is not limited to:

1. First Aid and Cardiopulmonary Resuscitation (CPR);

2. Prevention of Sudden Infant Death Syndrome and Safe Sleeping, if serving children two (2) years old or younger;

3. Prevention of Shaken Baby Syndrome and Abusive Head Trauma, if serving children two (2) years old or younger;

4. Emergency Disaster Response and Planning;

5. Mandatory Child Abuse and Neglect

(CA/N) Reporting;

6. Prevention and Control of Infectious Diseases (including immunizations);

7. Administration of Medication, consistent with standards for parental consent;

8. Prevention and Response to Food Allergy Emergencies;

9. Building and Physical Premises Safety; including identification of and protection from hazards that can cause bodily injury;

10. Handling and Storage of Hazardous Materials and the Appropriate Disposal of Bio-Contaminants; and

11. Transportation of Children, if providing transportation as part of child care services.

(E) If a licensed child care provider seeking to contract with the division has an outstanding debt owed to the state due to a previous child care overpayment, the licensed child care provider must participate in a repayment plan pursuant to 13 CSR 35-32.110 to become contracted with the division;

(F) A licensed child care provider shall require all staff to meet all requirements listed in section (1) within ninety (90) days of becoming employed or volunteering. A staff member shall not provide direct supervision of children until the staff member has met the eligibility criteria set forth in section (1). A licensed child care provider may not be eligible for a contract if the licensed child care provider was denied a contract, or a previous contract was terminated for cause, and the underlying issues causing denial or termination of the contract have not been resolved;

(G) A licensed child care provider may not be eligible for a contract if the owner, director, board member, officer, shareholder, agent, agent registered with the secretary of state's office, or any other person with decision making authority over the facility, was denied a contract, or a previous contract was terminated for cause, and previous owner, director, board member, officer, shareholder, agent, agent registered with the secretary of state's office, or any other person with decision making authority over the facility remains in a position to make decisions on behalf of the facility.

(2) Contract.

(A) Upon receipt of a request to contract, the division shall make a determination as to whether the licensed child care provider is eligible to enter into a contract with the department for state or federal funds for child care services.



(B) If the division determines the licensed child care provider meets all eligibility requirements, the division may issue a contract to the licensed child care provider. The licensed child care provider shall sign a contract, agreeing to all terms including, but not limited to:

1. Child care provider and staff shall not be engaged in other employment while providing child care services;

2. Child care provider shall maintain records pursuant to 13 CSR 35-32.130;

3. Child care provider shall notify all custodial parents and legal guardians of the child care provider's—

A. Phone number;

B. Discipline policy; and

C. Emergency preparedness and response plan;

4. Child care provider shall ensure custodial parents and legal guardians have access to their child(ren);

5. Child care provider shall report child deaths and serious injuries to the division within twenty-four (24) hours of the incident, using a form provided by the division. This includes, but is not limited to:

A. The death of a child if the child died while at the child care provider;

B. The death of a child enrolled at the child care provider if the child died of a contagious disease; or

C. A serious injury to a child that occurs while the child is at the child care provider or away from the child care provider's facility, but still in the care of the child care provider, which results in the child being treated by a medical professional or admitted to a hospital;

6. Child care provider shall cooperate with any investigations, audits, or other requests of the division;

7. Child care provider shall follow all statutes, regulations, and policies of the division;

8. Child care providers must report the following changes to the division in writing within ten business (10) days: physical address, mailing address, telephone number, email address, or any other circumstance, incident, or occurrence which would alter any information provided in the child care provider's original application for contract;

9. Child care provider shall not utilize physical or corporal punishment including, but not limited to, spanking, slapping, shaking, biting, or pulling hair;

10. Child care provider shall submit to monitoring by division or its designee for compliance with contractual or regulatory obligations. Such monitoring may include, but is not limited to:

A. Providing attendance records at the request of the division or its designee;

B. Submitting to unannounced or announced on-site inspections; or

C. Other monitoring as determined necessary by the division;

11. Child care provider shall attend annual training as approved by the division and provide documentation of the successful completion of all training to the division through the Opportunities in a Professional Education Network (OPEN).

(C) If the division determines the licensed child care provider fails to meet all requirements to contract, the division shall provide written notice of the denial to contract with the licensed child care provider. The notice shall—

1. Inform the child care facility of the nature of the decision;

2. State generally the factual and legal basis for the division's decision, if applicable; and

3. Notify the child care facility of the right to seek administrative review.

(D) Corrective Action. The division may require the licensed child care provider to submit and implement a corrective action plan to resolve any health or safety concerns, regulatory violations, or contractual violations. The division shall provide written notification to the licensed child care provider of the requirement to submit and implement a corrective action plan, identifying the specific performance, regulatory requirements, or contractual requirements not being met and the expected corrective resolution.

1. The licensed child care provider shall submit a written corrective action plan to the division within ten (10) days of notice.

2. The corrective action plan must include the actions the licensed child care provider proposes to take to remedy concerns, time frames for achieving such, the staff responsible for the necessary action, the improvement that is expected, a description of how progress will be measured, and a description of the actions to be taken to prevent the situation from recurring.

3. The division shall notify the licensed child care provider in writing if the corrective action plan is approved or if modifications are required. In the event the division requires changes to the corrective action plan, the licensed child care provider shall submit a revised corrective action plan within ten (10) days of notice that changes are required.

(E) Termination of Contract. The division may immediately terminate a licensed child care provider's contract upon written notice if—

1. The licensed child care provider

allows staff to work within the child care facility who have a substantiated CA/N report;

2. The licensed child care provider committed an intentional violation;

3. The licensed child care provider failed to report child abuse and neglect;

4. The licensed child care provider employs individuals or allows volunteers who are not mentally, emotionally, or physically fit to care for children as determined by a medical professional or mental health professional;

5. The licensed child care provider employs individuals or allows volunteers who are not legally allowed in the presence of children;

6. The licensed child care provider failed to cooperate in a Welfare Investigative Unit investigation, Child Abuse and Neglect investigation or assessment, compliance review, or audit; or

7. The Department of Health and Senior Services, section for Child Care Regulations, takes action to immediately suspend or revoke licensed child care provider's license;

8. If a condition exists that negatively impacts the health and/or safety of the children and the child care provider fails to rectify the issues in a timely manner;

9. The licensed child care provider fails to successfully submit or complete the requirements of a corrective action plan within the time period specified in the plan; or

10. The licensed child care provider is non-compliant with contractual requirements.

11. The division shall provide written notice of the termination. The notice shall—

A. Inform the child care facility of the nature of the termination of the contract; and

B. State generally the factual and legal basis for the division's decision; and

C. Notify the child care provider of his/her right to seek administrative review.

(3) Administrative Review.

(A) The licensed child care provider may request an administrative review of the decision to deny a contract by providing a written request for an administrative review within ten (10) days of the notification. The licensed child care provider may submit additional documentation for consideration with the request for an administrative review. Documentation received after the request may not be considered by the division.

(B) The licensed child care provider may request the opportunity to present additional information by telephone conference call by making such a request in writing with the request for administrative review. If the licensed child care provider timely requests a



telephone conference call, the division shall notify the licensed child care provider in writing of the date, time, and telephone number at which the licensed child care provider may present information. In such circumstances, the licensed child care provider is responsible for ensuring that he/she is able to present information via telephone on the date/time provided, and that he/she has a working telephone and stable connection. The division shall not be responsible for any technical difficulties the licensed child care provider may experience.

(C) The division shall—

1. Review the denial/termination of contract and any written materials provided by the licensed child care provider;

2. Conduct a telephone conference call, if timely requested by the licensed child care provider; and

3. Upon completion of the administrative review, the division shall notify the licensed child care provider of the results of the administrative review in writing. This decision shall be the final decision of the agency.

AUTHORITY: sections 207.020, 210.025, and 210.027, RSMo 2016, 42 U.S.C. section 9858, et. seq., Executive Order 03-03. Original rule filed Jan. 3, 2017, effective Aug. 30, 2017.*

**Original authority: 207.020, RSMo 1945, amended 1961, 1965, 1977, 1981, 1982, 1986, 1993, 2014; 210.025, RSMo 1999, amended 2004; and 210.027, RSMo 1999, amended 2014.*

13 CSR 35-32.100 Participant Overpayments

PURPOSE: This rule establishes procedures to use when determining and collecting child care subsidy overpayments made to participants.

(1) Overpayments. All child care subsidy participant overpayments shall be subject to repayment from a participant up to the full amount of the overpayment.

(A) If the department determines that it has made an overpayment on behalf of a participant, as a result of agency error, participant error, fraud, intentional violations, unintentional violations, or inadvertent error, the department shall provide written notice to the participant. The department shall send the notification via first class mail to the participant's address of record. The notification shall include—

1. The total amount of the overpayment;
2. The service date and/or dates;
3. The reason for the overpayment; and

4. The method in which the overpayment may be contested.

(B) Notifications sent to participant's address of record via first class mail shall constitute good service of notice.

(C) If the participant wishes to contest the overpayment, the participant shall make a direct appeal to the director pursuant to section 208.080, RSMo, in writing within ninety (90) days of the date of the written notice of overpayment.

(D) If the participant does not timely make a direct appeal to the director in writing, the department may proceed to collection of overpayment.

(2) Direct Appeal to the Director.

(A) If the participant timely makes a direct appeal to the director, the director shall designate the Administrative Hearings Unit of the Division of Legal Services of the Department of Social Services to hear all cases. The Administrative Hearings Unit shall hear cases under the procedures outlined in 13 CSR 40-2.160.

(B) The department shall not seek collection or repayment of an overpayment until the hearing is completed and a decision rendered.

(C) The burden shall be on the participant to prove there was no overpayment or that the overpayment was calculated incorrectly.

(D) Upon completion of the hearing, the Administrative Hearings Unit shall issue a written decision as approved by the director, except in default cases or cases disposed of by stipulation, consent order, or agreed settlement. The decision shall include, or be accompanied by, findings of fact and conclusions of law. The findings of fact shall be stated separately from the conclusions of law and shall include a concise statement of the findings on which the agency bases its order. The Administrative Hearings Unit shall deliver or mail its decision, findings of fact, and conclusions of law to each party, or his/her attorney of record. The decision of the Administrative Hearings Unit shall be the final decision of the department.

(3) Collection and Repayment.

(A) Once the assessment of the overpayment is final, the department may utilize any and all procedures in law and equity to collect the overpayment.

(B) The department and participant may enter into a voluntary repayment plan as follows:

1. The department and the participant shall negotiate a repayment plan within forty-five (45) days from the date the overpayment becomes final;

2. The repayment plan may include a single lump-sum payment or equal, monthly

installment payments over a specified period of time; and

3. The department shall provide the negotiated repayment plan in writing to the participant. Every repayment plan that includes monthly installment payments shall also include a promissory note executed by the participant in favor of the Department of Social Services as provided by the department. The participant shall sign the repayment plan and promissory note, as applicable, and shall return the original, signed copy to the department. The participant shall then make payments as directed in the repayment plan and/or promissory note, as applicable.

(4) Default.

(A) An overpayment account shall be in default if—

1. The participant fails to negotiate a mutually agreeable repayment plan;

2. The participant fails to sign or return the repayment plan and/or promissory note;

3. The account is not subject to a repayment plan and the full amount is not repaid within ninety (90) days from the date of notice of overpayment or date of the Administrative Hearing Unit's decision, whichever is later; or

4. The account is subject to a repayment plan and/or an installment payment, and is not received within thirty (30) days of the date that it is due.

(B) If an overpayment is in default, the balance of the overpayment shall be immediately due and payable.

(C) The department may take appropriate actions to recover default accounts, which may include, but are not limited to:

1. Filing a claim for debt off-set with the Director of Revenue to recover the overpayment from any refunds due to the participant by the Department of Revenue pursuant to section 143.781, RSMo;

2. Filing a cause of action in a court of competent jurisdiction;

3. Other action as allowed by state or federal law as deemed appropriate by the department.

AUTHORITY: sections 207.020, 210.025, and 210.027, RSMo 2016, 42 U.S.C. section 9858, et. seq., Executive Order 03-03. Original rule filed Jan. 3, 2017, effective Aug. 30, 2017.*

**Original authority: 207.020, RSMo 1945, amended 1961, 1965, 1977, 1981, 1982, 1986, 1993, 2014; 210.025, RSMo 1999, amended 2004; and 210.027, RSMo 1999, amended 2014.*

13 CSR 35-32.110 Child Care Provider Overpayments

PURPOSE: This rule establishes procedures



to use when determining and collecting child care subsidy overpayments made to child care providers.

(1) Overpayments. All child care subsidy provider overpayments shall be subject to repayment or recoupment from a child care provider up to the full amount of the overpayment.

(A) If the department determines that it has made an overpayment to a child care provider as a result of agency error, child care provider error, participant error, fraud, intentional violations, unintentional violations, or inadvertent error, the department shall provide written notice to the child care provider. The department shall send the notification via first class mail to the child care provider’s address of record. The notification shall include—

1. The total amount of the overpayment;
2. The service date and/or dates;
3. The reason for the overpayment; and
4. The method in which the overpayment may be contested.

(B) Notification sent to the child care provider’s address of record via first class mail shall constitute good service of notice.

(C) If the child care provider wishes to contest the overpayment, the child care provider shall request an administrative review. This request shall be made in writing within thirty (30) days of the date on the notice of overpayment.

(D) If the child care provider does not timely request an administrative review in writing, the division may proceed to collection of overpayment.

(2) Administrative Review.

(A) If the child care provider timely requests administrative review, the child care provider may provide additional documentation for review within ten (10) business days of the request for administrative review. The department may not consider documents received after ten business (10) days.

(B) Upon receipt of a request for administrative review and additional documentation, the department shall—

1. Verify the child care subsidy payment and overpayment were properly calculated;
2. Examine additional documentation or other material timely provided by the child care provider; and
3. Upon completion of the administrative review, the department shall notify the child care provider of the results of the administrative review in writing. The results of the administrative review may include a confirmation of the original overpayment amount, a decrease in the overpayment amount, or an increase in the overpayment amount.

(C) The results of the administrative review shall be final.

(3) Collection and Repayment.

(A) Once the assessment of the overpayment is final, the department may utilize any and all procedures in law and equity to collect the overpayment.

(B) The department and child care provider may enter into a voluntary repayment plan as follows:

1. The department and the child care provider shall negotiate a repayment plan within forty-five (45) days from the date the overpayment becomes final;

2. The repayment plan may include:

- A. A single lump-sum payment;
- B. Equal, monthly installment payments over a specified period of time not to exceed one (1) year; or
- C. Recoupment from future child care provider subsidy payments;

3. The department shall provide the negotiated repayment plan in writing to the child care provider. Every repayment plan that includes monthly installment payments or recoupment from future child care provider subsidy payments shall also include a promissory note executed by the child care provider in favor of the department. The child care provider shall sign the repayment plan and promissory note, as applicable, and shall return the original, signed copy to the department. The child care provider shall then make payments as directed in the repayment plan or promissory note, as applicable.

(4) Default.

(A) An overpayment account shall be in default if—

1. The child care provider fails to timely negotiate a mutually agreeable repayment plan and promissory note;
2. The child care provider fails to timely sign or return the repayment plan and/or promissory note;
3. The account is not subject to a repayment plan, and the full amount is not repaid within ninety (90) days from the date of notice of overpayment or date of the results of the administrative review, whichever is later; or
4. The account is subject to a repayment plan, and an installment payment or lump-sum payment is not received within thirty (30) days of the installment or lump-sum due date.

(B) If an overpayment is in default, the balance of the overpayment shall be immediately due and payable.

(C) The department may take appropriate actions to recover default accounts, which

may include, but are not limited to:

1. Recoup the overpayment from future child care provider subsidy payments due to the child care provider by the department;

2. File a claim for debt off-set with the Director of Revenue to recover the overpayment from any refunds due to the child care provider by the Department of Revenue pursuant to section 143.781, RSMo;

3. File a cause of action in a court of competent jurisdiction; or

4. Other action as allowed by state or federal law as deemed appropriate by the department.

AUTHORITY: sections 207.020, 210.025, and 210.027, RSMo 2016, 42 U.S.C. section 9858, et. seq., Executive Order 03-03. Original rule filed Jan. 3, 2017, effective Aug. 30, 2017.*

**Original authority: 207.020, RSMo 1945, amended 1961, 1965, 1977, 1981, 1982, 1986, 1993, 2014; 210.025, RSMo 1999, amended 2004; and 210.027, RSMo 1999, amended 2014.*

13 CSR 35-32.120 Regulatory and Contractual Violations of Registered Child Care Providers

PURPOSE: This rule sets forth the investigation of complaints made on registered child care providers.

(1) Investigation.

(A) Any member of the public may notify the division of a regulatory or contractual violation of a registered child care provider. The division or designee shall investigate regulatory or contractual violations.

(B) Any member of the public wishing to notify the division of child abuse or neglect shall do so in accordance with section 210.145, RSMo.

(C) Registered child care providers shall fully cooperate with any investigation conducted by the division or designee. This includes, but is not limited to, providing information or documentation requested by the division or designee.

(D) Upon conclusion of an investigation, the division or designee shall notify the child care provider in writing. The notification shall include—

1. A description of the complaint;
2. Whether the division has substantiated the complaint; and
3. If substantiated, the child care provider’s right to an administrative review.

(2) Administrative Review.

(A) The child care provider may request an administrative review of the decision to substantiate the violation by providing a written



request for an administrative review within ten (10) days of the notification. The child care provider may submit additional documentation for consideration with the request for an administrative review. The division may, but is not required to, review documentation received after the request for administrative review.

(B) The child care provider may request the opportunity to present additional information by telephone conference call by making such a request in writing with the request for administrative review. If the child care provider timely requests a telephone conference, the division shall notify the child care provider in writing of the date, time, and telephone number at which the child care provider may present evidence. In such circumstances, the child care provider is responsible for ensuring that he/she is able to present information via telephone on the date/time provided, and that he/she has a working telephone and stable connection. The division shall not be responsible for any technical difficulties the child care provider may experience.

(C) If a child care provider makes a timely request for administrative review, the division will not include the provider in the list described in section (3) until the administrative review process is complete and a final decision has been made.

(D) The division shall—

1. Review the investigation of the violation and any written materials timely provided by the child care provider;

2. Conduct a telephone conference, if timely requested by the child care provider; and

3. Upon completion of the administrative review, notify the child care provider of the results of the administrative review in writing. The results of the administrative review may uphold or overturn the substantiated complaint.

(E) The results of the administrative review shall be final.

(3) Public Access.

(A) The division shall maintain a record of final, substantiated regulatory violations of registered child care providers and compliance actions taken against child care providers. Such record shall include the name of the child care provider, date of the violation, a description of the substantiated contractual or regulatory violation, and any corrective action taken.

(B) The division shall maintain a record of the date and results of any on-site inspection of a registered child care provider, including any regulatory violations found during the on-site inspection.

(C) The division shall make its records available for public viewing on the division's website.

AUTHORITY: sections 207.020, 210.025, and 210.027, RSMo 2016, 42 U.S.C. section 9858, et. seq., Executive Order 03-03. Original rule filed Jan. 3, 2017, effective Aug. 30, 2017.*

**Original authority: 207.020, RSMo 1945, amended 1961, 1965, 1977, 1981, 1982, 1986, 1993, 2014; 210.025, RSMo 1999, amended 2004; and 210.027, RSMo 1999, amended 2014.*

13 CSR 35-32.130 Recordkeeping

PURPOSE: This rule sets forth the records, documents, and reports which a child care provider shall maintain and, upon request, submit to the division.

(1) Notwithstanding any other provision of law, all registered and licensed child care providers shall maintain accurate, auditable records as described below.

(2) Child Information Register. The child care provider shall maintain an accurate register of all children who receive care from the provider. At a minimum, the register shall contain the following information for each child served under contract with the department:

(A) The child's full name and date of birth;

(B) The name, address, e-mail address, phone number, and other necessary contact information of each person legally responsible for each child;

(C) Allergies to food, medications, insects, or other materials;

(D) Daily medications, including dosage, time of administering, and route for administering;

(E) Listing of persons authorized to pick-up and drop-off child as approved by person legally responsible for the child; and

(F) For infants, feeding times and amount of breast milk or formula per feeding.

(3) Time and Attendance Register. The child care provider shall maintain a time and attendance register of all children who receive care from the provider. At a minimum, the time and attendance register shall contain the following information for each child served under a subsidized child care contract with the department:

(A) The actual dates and times that the child received subsidized child care services, showing for each day of service the date that the child arrived and the time that the child was picked up;

(B) The name of the person who dropped off the child and the name of the person who picked up the child; and

(C) The child care provider shall record the required information at the time the transaction took place.

(4) Billing Records. The child care provider shall maintain copies of all invoices submitted to the division for payment. The child care provider shall ensure all invoices, bills, and data are true, accurate, and complete at the time of submission to the division.

(5) The child care provider shall provide copies of all records to the division upon request.

(6) The child care provider shall maintain all registers and records listed in this regulation for all children no less than five (5) years after the date of the last day that subsidized child care services are provided for the child. The child care provider shall, in addition, keep the records for such additional time periods that the department may request for audit or litigation purposes.

AUTHORITY: sections 207.020, 210.025, and 210.027, RSMo 2016, 42 U.S.C. section 9858, et. seq., Executive Order 03-03. Original rule filed Jan. 3, 2017, effective Aug. 30, 2017.*

**Original authority: 207.020, RSMo 1945, amended 1961, 1965, 1977, 1981, 1982, 1986, 1993, 2014; 210.025, RSMo 1999, amended 2004; and 210.027, RSMo 1999, amended 2014.*