

Title of Proposed Rule: Colorado Child Care Assistance Program Rules

CDEC Tracking #: 2023-01-01

Office, Division, & Program:
Office of Program Delivery,
Division of Early Learning
Access & Quality, Colorado
Child Care Assistance
Program

Rule Author: Danielle Greer

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RULEMAKING PACKET

Type of Rule:

Regular

Emergency

Regular following Emergency
SoS# _____

This package is submitted for: *(check all that apply)*

County
Subcommittee
Review (if
needed)

Rules Advisory
Council Review

Review by
Attorney
General's Office

Final Public
Rulemaking Hearing by
the Executive Director

Estimated Dates – What dates are you hoping to have this reviewed by the following groups?

County Subcommittee (if required)	5/4/2023
Rules Advisory Council	5/11/2023
Public Rulemaking Hearing	5/15/2023
Effective Date	7/1/2023
If emergency rule – effective date of permanent rule?	8/14/2023
Is this date legislatively required?	Yes

What other state departments, offices, and/or divisions have been consulted in the creation or revision of this rule package? (examples could include: Colorado Department of Human Services; Colorado Department of Education; Office of Information Technology; CDEC Legislative and Policy Division; etc.):

The Division of Child Support Services under the Office of Economic Security at the Colorado Department of Human Services was engaged during the revision of this rule.

Comments / Notes from Review by Rules Advisory Council Manager:

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STATEMENT OF BASIS AND PURPOSE

Summary of the basis and purpose for new rule or rule change.

*Explain why the rule or rule change is necessary and what the program hopes to accomplish through this rule. **1500 Character max***

The Colorado Child Care Assistance Program (CCCAP) Rules currently allow counties the option to require parents'/legal guardians' to cooperate with Child Support Services as a CCCAP eligibility component. This option was also in state statute; however, when HB22-1295 passed, this option was removed. Per 26.5-4-111(6), C.R.S., counties are no longer allowed to require cooperation with Child Support Services as of July 1, 2023.

CCCAP Rules currently apply a 12-week time limit to temporary breaks in eligible activity that occur due to medical leave, maternity/paternity leave, seasonal employment, or scheduled breaks from an education or training activity. Based on recent federal guidance, these time limits are not in alignment with what is required in 45 CFR 98.21(a)(1)(ii). The rules also require an individual to have an active CCCAP case in order to qualify for a temporary break that is due to maternity leave. This conflicts with 26.5-4-111(7)(c), C.R.S. and the Colorado Department of Early Childhood (the Department) must not deny a CCCAP application due to an individual for being on maternity leave.

CCCAP rules currently allow a non-licensed Qualified Exempt Child Care Provider to care for any number of children directly related to the provider, up to four children who are unrelated to the provider, and any number of siblings from one family that is unrelated to the provider. Our rule is currently not in compliance with 45 CFR 98.41(d)(1) because we do not properly define group size limitations for Qualified Exempt providers since we allow for any number of siblings from one family that is unrelated to the provider.

The Prudent Person Principle (PPP) definition currently only outlines a worker's ability to exercise their reasonable judgement while determining eligibility. This does not allow for the same flexibility that is often needed when determining provider Fiscal Agreement start dates and reimbursing child care providers for care that was not automatically processed through the Child Care Automated Tracking System (CHATS).

The Parent Fee formula is currently set to sunset as of June 30, 2023, and the rule needs to be revised to reflect our ability to extend it through June 30, 2024.

An emergency rule-making (which waives the initial Administrative Procedure Act noticing requirements) is necessary:

- | | |
|-------------------------------------|---|
| <input checked="" type="checkbox"/> | to comply with state/federal law and/or |
| <input type="checkbox"/> | to preserve public health, safety and welfare |

Justification for emergency:

If these rules are not put into effect as of July 1, 2023, the Department will be out of compliance per 26.5-4-111(6), C.R.S., as counties are no longer allowed to require cooperation with Child Support Services

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as of July 1, 2023. Additionally, we would be further out of compliance with 45 CFR 98.21(a)(1)(ii) and 26.5-4-111(7)(c), C.R.S. if we do not promulgate these rules to make revisions to our temporary break requirements.

Executive Director Authority for Rule:

Code	Description
26.5-1-105(1), C.R.S. (2022)	The executive director is authorized to promulgate all rules for the administration of the department and for the execution and administration of the functions specified in <u>section 26.5-1-109</u> and for the programs and services specified in this title 26.5. CCCAP is administered by the Department under part 1 of Article 4 of Title 26.5. § 26.5-4-104(1), C.R.S.

Program Authority for Rule: *Give federal and/or state citations and a summary of the language authorizing the rule-making function AND authority.*

Code	Description
26.5-4-105(1)(b), C.R.S. (2022)	The Department shall provide services to county departments for the effective administration of CCCAP as set out in Department rules related to CCCAP scope and content.
26.5-4-111(4)(a)(I), (7)(c)(IV), (14), C.R.S. (2022)	The Executive Director shall adopt rules for the implementation of CCCAP. Department rule must determine the parent fee formula. A parent must not be determined ineligible for assistance for taking a temporary break in eligible activity as defined in Department rule.
45 CFR 98.1(b)(7)	To continue receiving federal funding, lead agencies such as the Department are required to design programs that provide uninterrupted service to families and providers, to the extent allowed under the statute, to support parental education, training, and employment and continuity of care that minimizes disruptions to children's learning and development.
45 CFR 98.41(d)(1)	To continue receiving federal funding, lead agencies must determine group size limits for specific age populations to provide for the safety and developmental needs of the children served.

Does the rule incorporate material by reference?

Yes

No

Does this rule repeat language found in statute?

Yes

No

If yes, please explain.

There are several definitions which incorporate other state agency regulations or federal materials for additional information and clarity.

REGULATORY ANALYSIS

1. List of groups impacted by this rule.

Which groups of persons will benefit, bear the burdens or be adversely impacted by this rule? How will the rule impact particular populations, such as populations experiencing poverty, immigrant/refugee communities, non-English speakers, and rural communities?

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First, the changes to the Child Support Services (CSS) cooperation option will reduce barriers to families in counties where it is currently a required Colorado Child Care Assistance Program (CCCAP) eligibility component. While there are currently exemptions for teen parents and domestic violence survivors, this change removes the requirement for families who have other personal reasons for not applying for CSS. Counties may see an increase in applications once they are no longer able to require cooperation with CSS. Counties will also need to continue working with their CSS teams to ensure that families are still educated on the importance and value of the CSS program.

Second, removing the 12-week time limit associated with temporary breaks in eligible activity that occur due to medical leave, maternity/paternity leave, seasonal employment, or scheduled breaks from an education or training activity will allow families to remain eligible for CCCAP for a longer period of time if their break exceeds 12 weeks. Aligning the rules with statute and no longer denying an individual for being on maternity leave will support families by ensuring they are able to take their child(ren) to child care while they're bonding with their new baby, providing consistency for the child during a time of change in their family, as well as ensuring the parent has access to child care when they return to their activity. Counties may see an increase in the number families that remain eligible during the 12-month eligibility period as well as an increase of approved applications due these changes.

Next, the revisions to the Qualified Exempt Child Care Provider group size limitations would not increase burdens to families, providers, or counties. In addition to ensuring compliance with federal regulations, the change helps ensure child safety.

Additionally, the Prudent Person Principle (PPP) definition revisions support counties so they are able to perform their job in the most effective way possible. The change will now allow counties to use their best judgment when entering Fiscal Agreements with providers and processing manual claims which can positively impact child care providers and ultimately families.

Lastly, extending the sunset date for the current Parent Fee formula allows CCCAP to continue supporting families by allowing them to retain more of their income as they receive raises.

2. Describe the qualitative and quantitative impact.

How will this rule-making impact those groups listed above? How many people will be impacted? What are the short-term and long-term consequences of this rule?

Since November 2022, 64 families were denied child care assistance for not cooperating with Child Support Services (CSS). Once this rule is passed to align with the Colorado statutes, these individuals would be eligible for child care. While we cannot quantify the number of families that do not apply due this requirement in the 38 counties that require cooperation with CSS, we do anticipate that application numbers will go up in these counties.

There are currently less than 16 CCCAP cases where the caretaker is on a temporary break. Based on the rule revisions, these individuals could remain eligible for their entire 12-month eligibility period instead of losing assistance after 12 weeks. This rule revision will also allow more families to be eligible for CCCAP at application, but we are unable to quantify the potential number of applications counties could expect to receive based on this revision.

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3. Alignment and Coordination.

Do the proposed rules or rule revisions (indicate all that apply):

X	Reduce the administrative burden on families and providers of accessing programs and services, implementing programs, and providing services
X	Decrease duplication and conflicts in implementing programs and providing services
X	Increase equity in access to programs and services and in child and family outcomes
X	Increase administrative efficiencies among the programs and services provided by the department
	Ensure that the rules are coordinated across programs and services so that programs are implemented and services are provided with improved ease of access, quality of family and provider experience, and ease of implementation by state, local, and tribal agencies

4. Fiscal Impact

*For each of the categories listed below explain the distribution of dollars; please identify the costs, revenues, matches or any changes in the distribution of funds even if such change has a total zero effect for any entity that falls within the category. If this rule-making requires one of the categories listed below to devote resources without receiving additional funding, please explain why the rule-making is required and what consultation has occurred with those who will need to devote resources. **Answer should NEVER be just “no impact” answer should include “no impact because....”***

State Fiscal Impact (Identify all state agencies with a fiscal impact, including any Colorado Benefits Management System (CBMS) change request costs required to implement this rule change)

There is no state fiscal impact as the changes in CHATS are covered under standard operations. The funding to extend the parent fee formula was previously secured so no additional funding is necessary.

County Fiscal Impact

Counties may see an increase in the number of eligible families as a result of the changes to the Child Support Services and Temporary Break rules. This cannot be fully quantified, however, as we can not guarantee that new families will apply based upon these rule changes.

Federal Fiscal Impact

There is no federal fiscal impact as these changes are required and any changes are covered under standard operations.

Other Fiscal Impact (such as providers, local governments, etc.)

There are no other fiscal impacts to these rule changes because they are beneficial to families and child care providers.

5. Data Description

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List and explain any data, such as studies, federal announcements, or questionnaires, which were relied upon when developing this rule?

The majority of the rule changes included in this rule packet were developed in order to comply with federal regulations or state statutes. The remaining revisions, including the Prudent Person Principle definition and Parent Fee Formula changes, were revised to support families and providers. Data was only used to quantify impact of the rule changes.

6. Describe the monitoring and evaluation.

How will implementation of this proposed rule or rule revision be monitored and evaluated? Please include information about measures and indicators that CDEC will utilize, including information on specific populations (identified above).

Counties utilize the Child Care Automated Tracking System (CHATS) to determine eligibility for the Colorado Child Care Assistance Program (CCCAP). The system will be updated to reflect the eligibility changes that will come as a result of the CSS cooperation and Temporary Break rule changes. Counties are also expected to use CHATS as designed to assess parent fees. According to rule, compliance with the use of CHATS is monitored through the CCCAP County Monitoring Process, Quality Assurance Process, and other audits including those conducted by the Office of the State Auditor and the federal office.

7. Alternatives to this Rule-making

Describe any alternatives that were seriously considered. Are there any less costly or less intrusive ways to accomplish the purpose(s) of this rule? Explain why the program chose this rule-making rather than taking no action or using another alternative. Answer should NEVER be just “no alternative” answer should include “no alternative because...”

There are no alternatives to rule making because most of the rule revisions are required by federal regulations or state statutes. If we do not promulgate these rules, we would be out of compliance with the federal requirements for the Child Care and Development Fund (CCDF) and could face fiscal implications.

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OVERVIEW OF PROPOSED RULE

Compare and/or contrast the content of the current regulation and the proposed change.

Rule section Number	Issue	Old Language	New Language or Response	Reason / Example / Best Practice	Public Comment / Detail
General	Several technical changes were made throughout the rules to provide clarity.		<ul style="list-style-type: none"> - Colorado Child Care Assistance Program, Attendance Tracking System, and Federal Poverty Guideline were abbreviated consistently. - The terms state department, state-approved, and state-prescribed were changed to Department, Department-approved, and Department-prescribed respectively to align with definitions in the rule and with the Colorado Revised Statutes. - Punctuation and grammar was corrected. - Shall was changed to Must to correctly align with legal definitions of the terms. - Gender-specific terms were made gender-neutral. 	These changes were made to ensure consistency throughout the rules, provide clarity to the reader, and ensure the use of legally correct and gender-neutral language.	NO
3.103	The Application definition has redundant and undefined language	<p>“Application” is a State-approved form that may include, but is not limited to:</p> <p>A. An original state-prescribed low-income application (valid for sixty (60) days), which is the first application for the Colorado Child Care Assistance Program filed by prospective program participant; or,</p> <p>B. At the option of the county, any application for another public assistance program.</p>	<p>“Application” is a DEPARTMENTState-approved form that may include, but is not limited to:</p> <p>A. An original DEPARTMENTstate-prescribed low-income CHILD CARE application (valid for sixty (60) days), which is the first application for the CCCAP Colorado Child Care Assistance Program filed by THE ADULT CARETAKER(S) OR TEEN PARENT(S) prospective program participant; or,</p> <p>B. At the option of the county, any application for another public assistance program.</p>	The revised definition removes language that is reiterated in the body of the rules and also uses language that is properly defined to provide clarity for the reader.	NO
3.103	The Application Date definition includes language that is only necessary in the rules and is not relevant to the definition.	<p>“Application date” means the date that the county receives the signed application. Required supporting documents may be submitted up to sixty (60) days after receipt of the signed completed application.</p>	<p>“Application date” means the date that the county receives the signed application. Required supporting documents may be submitted up to sixty (60) days after receipt of the signed completed application.</p>	The revised definition removes language that is reiterated in the body of the rules.	NO

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3.103	The Application date for pre-eligibility determinations definition includes language is only necessary in the rules and is not relevant to the definition.	“Application date for pre-eligibility determinations” means the date that the application is received from the Child Care Provider or Applicant by the county. Required supporting documents may be submitted up to thirty (30) days after receipt of the signed application.	“Application date for pre-eligibility determinations” means the date that the application is received from the Child Care Provider or Applicant by the county. Required supporting documents may be submitted up to thirty (30) days after receipt of the signed application. Required supporting documents may be submitted up to thirty (30) days after receipt of the signed application.	The revised definition removes language that is reiterated in the body of the rules.	NO
3.103	Child care provider was redefined when the CDEC formed and the CCCAP definition does not align with statute.	“Child care provider” means licensed individuals or businesses that provide less than twenty-four (24) hour care and are licensed or qualified exempt child care providers including child care centers, preschools, and child care homes. Qualified exempt child care providers include care provided in the child’s own home, in the home of a relative, or in the home of a non-relative.	“Child care provider” means A CHILD CARE PROVIDER licensed PURSANT TO PART 3 OF ARTICLE 5 OF TITLE 26.5 THAT HAS AN AGREEMENT OR ENROLLMENT CONTRACT TO PARTICIPATE IN CCCAP. individuals or businesses that provide less than twenty-four (24) hour care and are licensed or qualified exempt child care providers including child care centers, preschools, and child care homes. Qualified exempt child care providers include care provided in the child's own home, in the home of a relative, or in the home of a non-relative.	The definition must with statute so it has been revised.	NO
3.103	Because CCCAP is no longer under CDHS, the Child Welfare rules must be incorporated by reference.	“Child Welfare Child Care” means a child care component within CCCAP where less than twenty-four (24) hour child care assistance to maintain children in their own homes or in the least restrictive out-of-home care when there are no other child care options available. See rule manual Volume 7, Section 7.302, Child Welfare Child Care (12 CCR 2509-4).	“Child Welfare Child Care” means a child care component within CCCAP where less than twenty-four (24) hour child care assistance to maintain children in their own homes or in the least restrictive out-of-home care when there are no other child care options available. See rule manual Volume 7, Section 7.302, Child Welfare Child Care (12 CCR 2509-4). (MAR. 3, 2023), HEREIN INCORPORATED BY REFERENCE. NO LATER EDITIONS OR AMENDMENTS ARE INCORPORATED. THESE REGULATIONS ARE AVAILABLE AT NO COST FROM THE COLORADO DEPARTMENT OF HUMAN SERVICES, 1575 SHERMAN ST., DENVER, COLORADO 80203, OR AT HTTPS://WWW.SOS.STATE.CO.US. THESE REGULATIONS ARE ALSO AVAILABLE FOR INSPECTION AND COPYING AT THE COLORADO DEPARTMENT OF EARLY CHILDHOOD, 710 S. ASH STREET, DENVER, COLORADO 80246 DURING	Child Welfare rules must be incorporated by reference now that CCCAP is under CDEC to ensure they are still accessible by the public.	NO

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			REGULAR BUSINESS HOURS.		
3.103	The Personal Responsibility and Work Opportunity Reconciliation Act (PRWORA) is not correctly incorporated by reference.	“Citizen/legal resident” means a citizen of the United States, current legal resident of the United States, or a person lawfully present in the United States pursuant to Title IV of the Personal Responsibility and Work Opportunity Reconciliation Act (PRWORA) of 1996, Public Law 104-193; Federal Register notices 62 FR 61344-61416 and 63 FR 41658. (No later amendments or editions are incorporated after 1998. Copies of this material may be inspected by contacting the Colorado Department of Early Childhood (CDEC), 710 S Ash Street, Denver, Colorado; or any state publications depository library.) Since the child is the beneficiary of child care assistance, the citizen/legal resident requirement only applies to the child who is being considered for assistance.	“Citizen/legal resident” means a citizen of the United States, current legal resident of the United States, or a person lawfully present in the United States pursuant to Title IV of the Personal Responsibility and Work Opportunity Reconciliation Act (PRWORA) of 1996, Public Law 104-193; AND Federal Register notices 62 FED. REG. 61344-61416 (NOV. 17, 1997) and 63 FED. REG. 41658 (AUG. 4, 1998), HEREIN INCORPORATED BY REFERENCE. (No later amendments or editions are incorporated. after 1998. Copies of this material may be inspected by contacting the THESE DOCUMENTS ARE AVAILABLE AT NO COST FROM THE OFFICE OF THE FEDERAL REGISTER 7 G STREET, NW, STE. A-734, WASHINGTON, D.C. 20401, OR AT HTTPS://WWW.FEDERALREGISTER.GOV/ . THESE DOCUMENT ARE ALSO AVAILABLE FOR INSPECTION AND COPYING AT THE Colorado Department of Early Childhood (CDEC), 710 S. Ash Street, Denver, Colorado 80246.; or any state publications depository library.) Since the child is the beneficiary of child care assistance, the citizen/legal resident requirement only applies to the child who is being considered for assistance.	The Personal Responsibility and Work Opportunity Reconciliation Act (PRWORA) must be correctly incorporated by reference to ensure the public is able to access the information.	NO
3.103	The current definition of Clear and Convincing is not legally correct.	“Clear and convincing” means proof which results in a reasonable certainty of the truth of the ultimate fact in controversy. It is stronger than a preponderance of the evidence and is unmistakable or free from serious or substantial doubt.	“Clear and convincing” means proof which results in a reasonable certainty of the truth of the ultimate fact in controversy. It THAT is stronger than a preponderance of the evidence and is unmistakable or free from serious or substantial doubt.	The definition must align with Colorado case law.	NO

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3.103	The current definition of CCCAP does not align with statute.	“Colorado Child Care Assistance Program (CCCAP)” means a program of the Department which provides child care subsidies to households in the following programs: Low-Income, Colorado Works, Protective Services, and Child Welfare. CDEC is responsible for the oversight and coordination of all child care funds and services.	“Colorado Child Care Assistance Program” OR (“CCCAP”) means THE PUBLIC ASSISTANCE PROGRAM FOR CHILD CARE KNOWN AS THE COLORADO CHILD CARE ASSISTANCE PROGRAM ESTABLISHED IN PART 1 OF ARTICLE 4 OF TITLE 26.5. CCCAP IS a program of the ADMINISTERED BY THE Department which AND provides child care subsidies to households in the following programs: Low-Income CHILD CARE , Colorado Works CHILD CARE , Protective Services CHILD CARE , and Child Welfare CHILD CARE . CDEC is responsible for the oversight and coordination of all child care funds and services.	The definition has been revised to align with statute.	NO
3.103	Because CCCAP is no longer under CDHS, the Colorado Works rules must be incorporated by reference.	The following definitions have been revised to incorporate the Colorado Works rules by reference and to clarify that they are administered by CDHS: - Colorado Works Program - Colorado Works Child Care - Colorado Works Households	The revisions clarify the area of statute in which it is specified that Colorado Works is administered by CDHS and how the public can reference the Colorado Works program rules.	Colorado Works rules must be incorporated by reference now that CCCAP is under CDEC to ensure they are still accessible by the public since we they are not all under the same Department.	NO
3.103	Cooperation with Child Support Services rules are no longer valid per statute.	“Cooperation with Child Support Services (county option)” means applying for Child Support Services for all children who are in need of care and have an absent parent, within thirty (30) calendar-days of the completion and approval of the CCCAP application and maintaining compliance with Child Support Services case unless a good cause exemption exists. The county IV-D administrator or designee determines cooperation with Child Support Services.	Repealed	According to C.R.S. 26.5-4-111 (6), counties are no longer able to require Child Support Services as a component of CCCAP eligibility as of July 1, 2023.	YES
3.103	The current definition of County or Counties does not align with statute, which is required.	“County or Counties” means the county departments of social/human services or other agency designated by the Board of County Commissioners as the agency responsible for the administration of CCCAP.	“County or Counties” means the county departments of social/human services. or other agency designated by the Board of County Commissioners as the agency responsible for the administration of CCCAP.	The definition was revised to align with 26.5-4-103(3).	NO

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3.103	The current definition of Discovery does not distinguish who finds pertinent facts related to CCCAP eligibility.	“Discovery” means that a pertinent fact related to CCCAP eligibility was found to exist.	“Discovery” means that a pertinent fact related to CCCAP eligibility was found BY THE COUNTY to exist.	This definition was revised for clarity.	NO
3.103	The current definition of Eligible Child uses the terms “citizen of the United States or a qualified alien” which are not defined terms.	“Eligible child” means a child, from birth to the age of thirteen (13) years who needs child care services during a portion of the day, but less than twenty four (24) hours, and is physically residing with the eligible adult caretaker(s) or teen parent(s); or a child with additional care needs under the age of nineteen (19) who is physically or mentally incapable of caring for himself or herself or is under court supervision and is physically residing with the eligible adult caretaker(s) or teen parent(s). Any child served through the Colorado Works program or the Low-Income Child Care program shall be a citizen of the United States or a qualified alien.	“Eligible child” means a child, from birth to the age of thirteen (13) years who needs child care services during a portion of the day, but less than twenty four (24) hours, and is physically residing with the eligible adult caretaker(s) or teen parent(s); or a child with additional care needs under the age of nineteen (19) who is physically or mentally incapable of caring for THEMSELVES-himself or herself or is under court supervision and is physically residing with the eligible adult caretaker(s) or teen parent(s). Any child served through the Colorado Works program or the Low-Income Child Care program shall be a CITIZEN/LEGAL RESIDENT citizen of the United States or a qualified alien.	The definition was updated to utilize defined terminology for clarity.	NO

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3.103	The current definition of Families Experiencing Homelessness uses the term “youths” which is not a defined term.	<p>“Families experiencing homelessness” means families who lack a fixed, regular, and adequate nighttime residence and at least one of the following:</p> <p>A. Children and youths who are sharing the housing of other persons due to loss of housing, economic hardship, or a similar reason; are living in motels, hotels, or camping grounds due to the lack of alternative accommodations; are living in emergency or transitional shelters;</p> <p>B. Children and youths who have a primary nighttime residence that is a public or private place not designed for or ordinarily used as a regular sleeping accommodation for human beings;</p> <p>C. Children and youths who are living in cars, parks, public spaces, abandoned buildings, substandard housing, bus or train stations, or similar settings; and,</p> <p>D. Migratory children who qualify as homeless for the purposes of this subtitle because the children are living in circumstances described in this definition A through C.</p>	<p>“Families experiencing homelessness” means families who lack a fixed, regular, and adequate nighttime residence and at least one of the following:</p> <p>A. Children and youths who are sharing the housing of other persons due to loss of housing, economic hardship, or a similar reason; are living in motels, hotels, or camping grounds due to the lack of alternative accommodations; are living in emergency or transitional shelters;</p> <p>B. Children and youths who have a primary nighttime residence that is a public or private place not designed for or ordinarily used as a regular sleeping accommodation for human beings;</p> <p>C. Children and youths who are living in cars, parks, public spaces, abandoned buildings, substandard housing, bus or train stations, or similar settings; ORand,</p> <p>D. Migratory children who qualify as EXPERIENCING homelessNESS for the purposes of THESE RULES this subtitle because the children are living in circumstances described in this definition A through C.</p>	The definition was updated to utilize defined terminology for clarity.	NO
3.103	Rules related to cooperation with Child Support Services are no longer valid per statute.	“Good cause exemption for child support” may include potential physical or emotional harm to the adult caretaker(s), teen parent(s) or child(ren); a pregnancy related to rape or incest; legal adoption or receiving pre-adoption services; or, when the county director or his/her designee has/have determined any other exemptions.	Repealed	According to C.R.S. 26.5-4-111 (6), counties are no longer able to require Child Support Services as a component of CCCAP eligibility as of July 1, 2023.	YES

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Access & Quality, Colorado
Child Care Assistance
Program

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3.103	The current definition of Head Start does not align with statute, which is required.	“Head Start” is a federally funded early learning program that provides comprehensive services to Low Income pregnant women and households with children ages birth to five years of age through provision of education, health, nutrition, social and other services.	“Head Start” MEANS A PROGRAM OPERATED BY A LOCAL PUBLIC OR PRIVATE NONPROFIT AGENCY DESIGNATED BY THE FEDERAL DEPARTMENT OF HEALTH AND HUMAN SERVICES TO OPERATE A HEAD START PROGRAM PURSUANT TO THE PROVISIONS OF TITLE V OF THE FEDERAL “ECONOMIC OPPORTUNITY ACT OF 1964”, AS AMENDED. is a federally funded early learning program that provides comprehensive services to Low Income pregnant women and households with children ages birth to five years of age through provision of education, health, nutrition, social and other services.	This definition was revised to align with 26.5-4-103(6).	NO
3.103	The definition of In Loco Parentis currently uses the term minor which is not defined or used in other areas of the rule.	“In loco parentis” means a person who is assuming the parent obligations for a minor, including protecting his/her rights and/or a person who is standing in the role of the parent of a minor without having gone through the formal adoption process. Parent obligations include, but are not limited to, attending parent teacher conferences, regularly picking up and dropping children at child care, and regularly taking the child to doctor appointments.	“In loco parentis” means a person who is assuming the parent obligations for a CHILD minor , including protecting THEIR his/her rights and/or a person who is standing in the role of the parent of a CHILD minor without having gone through the formal adoption process. Parent obligations include, but are not limited to, attending parent teacher conferences, regularly picking up and dropping children at child care, and regularly taking the child to doctor appointments.	The definition was updated to say child to be consistent with the overall rules.	NO
3.103	Maternity leave cannot be limited to 12 weeks according to federal regulations	“Maternity and/or paternity leave” is a temporary period of absence from the adult caretaker or teen parent’s Low-Income Child Care eligible activity that is granted to expectant or new mothers and/or fathers for up to twelve (12) weeks for the birth and care of a newborn child.	“Maternity and/or paternity leave” is a temporary period of absence from the adult caretaker or teen parent’s Low-Income Child Care eligible activity that is granted to expectant or new mothers and/or fathers for up to twelve (12) weeks for the birth and care of a newborn child.	In order to be in compliance with 45 CFR 98.21(a)(1)(ii), we have to remove the 12-week time limit associated with maternity leave.	YES
3.103	Medical leave cannot be limited to 12 weeks according to federal regulations	“Medical leave” means a temporary period of absence from the adult caretaker or teen parent’s Low-Income Child Care eligible activity that is granted due to a personal	“Medical leave” means a temporary period of absence from the adult caretaker or teen parent’s Low-Income Child Care eligible activity that is granted due to a personal illness or injury, or to care for a family member THAT IS NOT	In order to be in compliance with 45 CFR 98.21(a)(1)(ii), we have to remove the 12-week time limit associated	YES

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		illness or injury, or to care for a family member for up to twelve (12) weeks per instance.	RELATED TO MATERNITY/PATERNITY LEAVE for up to twelve (12) weeks per instance.	with medical leave.	
3.103	The Negative Licensing Action definition does not align with statute.	“Negative licensing action” means a Final Agency Action resulting in the denial, suspension, or revocation of a license issued pursuant to the Child Care Licensing Act.; or the demotion of such a license to a probationary license.	“Negative licensing action” means a Final Agency Action resulting in the denial OF AN APPLICATION, THE IMPOSITION OF FINES, OR THE suspension, or revocation of a license issued pursuant to the Child Care Licensing Act. or the demotion of such a license to a probationary license.	The definition has been revised to align with statute.	NO
3.103	The CCCAP definition of Preponderance of Evidence does not align with the legal definition of preponderance of evidence.	“Preponderance of evidence” means proof by information that, compared with that opposing it, leads to the conclusion that the fact at issue is more probably true than not.	“Preponderance of evidence” means CREDIBLE EVIDENCE THAT A CLAIM IS MORE LIKELY TRUE THAN NOT. proof by information that, compared with that opposing it, leads to the conclusion that the fact at issue is more probably true than not.	The definition must align with the legal definition.	NO
3.103	The Prudent Person Principle (PPP) definition does not support all areas of CCCAP that it needs to in order to support counties, families, and child care providers.	“Prudent person principle” means allowing the child care technician the ability to exercise reasonable judgment in executing his/her responsibilities in determining CCCAP eligibility.	“Prudent person principle (PPP)” means allowing the child care technician TO ACT IN A MANNER CONSISTENT WITH WHAT A REASONABLE PERSON OF ORDINARY PRUDENCE WOULD OR WOULD NOT DO UNDER THE SAME OR SIMILAR CIRCUMSTANCES WHEN the ability to exercise reasonable judgment in executing his/her THEIR responsibilities in TO DETERMINE determining CCCAP eligibility, ENTER INTO A FISCAL AGREEMENT, AND REIMBURSE CHILD CARE PROVIDERS FOR CARE THAT WAS NOT AUTOMATICALLY PROCESSED THROUGH CHATS.	The PPP definition was revised to allow counties the ability to also apply PPP to provider related tasks to ensure that providers and families are supported.	YES
3.103	The Qualified Exempt Child Care Facilities and Qualified Exempt Child Care Provider definitions reference licensing rules which have not moved under CDEC.	The Qualified Exempt Child Care Facilities and Qualified Exempt Child Care Provider definitions currently directly cite Child Care Licensing rules.	The revisions to both definitions clarify how the public can reference the Child Care Licensing rules since they are not yet under CDEC.	Because Licensing rules have not yet moved under the CDEC, their rules must be incorporated by reference to ensure they are still accessible by the public since we they are not all under the same Department.	NO

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3.103	The definition of Recipient is not currently in alignment with statute.	"Recipient" means the person receiving the benefit. For the purposes of the Colorado Child Care Assistance Program, the recipient is the child.	"Recipient" means the person INDIVIDUAL OR FAMILY WHO IS receiving OR HAS RECEIVED BENEFITS FROM CCCAP PURSUANT TO PART 1 OF ARTICLE 4 OF TITLE 26.5. the benefit. For the purposes of the Colorado Child Care Assistance Program, the recipient is the child.	The definition must be revised in order to align with statute.	NO
3.103	The RAC subcommittee requested that we further define what the term temporary means for clarity.	New	TEMPORARY ABSENCE OR TEMPORARY BREAK MEANS A PERIOD OF TIME WHEN AN ADULT CARETAKER OR TEEN PARENT IS ABSENT FROM THEIR EMPLOYMENT, SELF-EMPLOYMENT, OR EDUCATION ACTIVITY DUE TO SEASONAL WORK, MEDICAL LEAVE, MATERNITY/PATERNITY LEAVE, AND HOLIDAYS OR SCHEDULED BREAKS BUT STILL REMAINS EMPLOYED, SELF-EMPLOYED, OR ENROLLED IN TRAINING OR EDUCATION AND WILL RETURN TO THE ACTIVITY AFTER THE DURATION OF THEIR LEAVE OR BREAK.	Temporary absence/break was defined to help counties better understand the rule so it's easier to apply.	NO
3.105.1 (A)	The citation is incorrect based on the reordering of the rule section.	A. All adult caretakers and teen parents shall be verified residents of the county from which assistance is sought and received at the time of application and re-determination. Adult caretaker(s) or teen parent(s) shall remain eligible for the duration of the eligibility period if they report that they are no longer residents of the county in which they are actively receiving assistance per section 3.112 (CC).	A. All adult caretakers and teen parents shall be verified residents of the county from which assistance is sought and received at the time of application and re-determination. Adult caretaker(s) or teen parent(s) shall remain eligible for the duration of the eligibility period if they report that they are no longer residents of the county in which they are actively receiving assistance per section 3.112 (BBCC).	Section 3.112 was reordered so the citation was revised to reflect this change.	NO

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3.105.1 (C)(1)(b)	The rule is not clear as to who is encouraged to work with Head Start programs when the Head Start application is used in lieu of the CCCAP application.	b. Counties with Head Start programs may accept the Head Start application in lieu of the Low-Income Child Care application for those children enrolled in the head start program and are encouraged to work with local Head Start programs to coordinate this effort.	b. Counties with Head Start programs may accept the Head Start application in lieu of the Low-Income Child Care application for those children enrolled in the Head Start program and COUNTIES are encouraged to work with local Head Start programs to coordinate this effort.	The rule was revised for clarity so the reader understands who is responsible for working with Head Start programs.	NO
3.105.1 (D)(6)	Because CCCAP is no longer under CDHS, the Colorado Works rules must be incorporated by reference.	Adult caretakers or teen parents that are not determined work eligible per Colorado Works Program rule (9 CCR 2503-6) who are caring for children receiving Basic Cash Assistance through the Colorado Works Program are not eligible for Colorado Works Child Care but may be eligible for Low-Income Child Care if the adult caretaker or teen parent meets all other Low-Income program criteria.	Adult caretakers or teen parents that are not determined work eligible per Colorado Works Program rule (9 CCR 2503-6), INCORPORATED BY REFERENCE IN SECTION 3.103, ABOVE who are caring for children receiving Basic Cash Assistance through the Colorado Works Program are not eligible for Colorado Works Child Care but may be eligible for Low-Income Child Care if the adult caretaker or teen parent meets all other Low-Income program criteria.	Colorado Works rules must be incorporated by reference now that CCCAP is under CDEC to ensure they are still accessible by the public since we they are not all under the same Department.	NO

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3.105.1 (D)(8)&(9)	Maternity and medical leave cannot be limited to 12 weeks according to federal regulations. We also cannot deny a case at application if the individual is on maternity leave.	8. Adult caretaker(s) or teen parent(s) with an open and active Low-Income Child Care case who are participating in a low-income eligible activity and go on verified maternity/paternity leave. Not to exceed twelve (12) weeks. 9. Adult caretaker(s) or teen parent(s) with an open and active Low-Income Child Care case who are participating in a low-income eligible activity and go on verified medical leave and are unable to care for his/her children. Not to exceed twelve (12) weeks per instance.	8. Adult caretaker(s) or teen parent(s) with an open and active Low-Income Child Care case who are participating in a low-income eligible activity and go on TEMPORARY verified maternity/paternity leave. Not to exceed twelve (12) weeks. 9. Adult caretaker(s) or teen parent(s) with an open and active Low-Income Child Care case who are participating in a low-income eligible activity and go on TEMPORARY verified medical leave and are unable to care for THEIR his/her children. Not to exceed twelve (12) weeks per instance.	In order to be in compliance with 45 CFR 98.21 (a)(1)(ii), we have to remove the 12-week time limit associated with medical and maternity leave. Additionally, we cannot deny an individual at application on the basis of being on maternity leave according to C.R.S. 26.5-4-111 (7)(c).	YES
3.105.1 (F)(1)	The rule uses language to refer to a citizen that is not defined.	1. All children who have had an application made on their behalf or are receiving child care assistance shall verify that they are a U.S. citizen or qualified alien and provide proof of identity if inconsistent, in accordance with 3.105.1 (C)(2)(b).	1. All children who have had an application made on their behalf or are receiving child care assistance shall verify that they are a CITIZEN/LEGAL RESIDENT U.S. citizen or qualified alien and provide proof of identity if inconsistent, in accordance with 3.105.1 (C)(2)(b).	The rule was revised to utilize language that is defined in section 3.103.	NO
3.105.1(G) (2)(a)	The rule does not provide enough clarity on the verification process.	The adult caretaker(s) or teen parent(s) shall submit documentation listing his/her income and work-related expenses. All expenses shall be verified or they will not be allowed.	a. The adult caretaker(s) or teen parent(s) shall submit documentation listing his/her income and work-related expenses. THE COUNTY SHALL OBTAIN VERIFICATION OF ALL EXPENSES FROM THE ADULT CARETAKER(S) OR TEEN PARENT(S) All expenses shall be verified or they will not be allowed.	The rule was revised for clarity.	NO

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3.105.1(G) (2)(e)	The rule has duplicative language	e. Adult caretakers or teen parent(s) whose self-employment endeavor is less than twelve (12) months old, may be granted child care for six (6) months or until their next re-determination, whichever is longer, to establish their business. At the end of the launch period, adult caretakers shall provide documentation of income, verification of expenses and proof that they are making at least federal minimum wage for the number of hours worked. Projected income for the launch period shall be determined based upon the federal minimum wage times the number of declared number of hours worked.	e. Adult caretakers or teen parent(s) whose self-employment endeavor is less than twelve (12) months old, may be granted child care for six (6) months or until their next re-determination, whichever is longer, to establish their business. At the end of the launch period, adult caretakers shall provide documentation of income, verification of expenses and proof that they are making at least federal minimum wage for the number of hours worked. Projected income for the launch period shall be determined based upon the federal minimum wage times the number of declared number of hours worked.	The duplicative language was removed to improve the clarity of the rule.	NO
3.105.1(h) (4)(a)(3)	The rule does not provide enough clarity on the verification process.	For self-employment income the adult caretaker or teen parent shall submit documentation listing his/her income and work-related expenses for the prior thirty (30) day period. On a case-by-case basis, if the prior thirty (30) day period does not provide an accurate indication of anticipated income, a county can require verification of up to twelve (12) of the most recent months of income and expenses to determine a monthly average. The adult caretaker(s) or teen parent(s) may also provide verification of up to twelve (12) of the most recent months of income and expenses if he/she chooses to do so if such verification more accurately reflects a household's current income level. All expenses shall be verified or they will not be allowed.	3) For self-employment income the adult caretaker or teen parent shall submit documentation listing his/her income and work-related expenses for the prior thirty (30) day period. On a case-by-case basis, if the prior thirty (30) day period does not provide an accurate indication of anticipated income, a county can require verification of up to twelve (12) of the most recent months of income and expenses to determine a monthly average. The adult caretaker(s) or teen parent(s) may also provide verification of up to twelve (12) of the most recent months of income and expenses if THEY he/she chooses to do so if such verification more accurately reflects a household's current income level. THE COUNTY SHALL OBTAIN VERIFICATION OF ALL EXPENSES FROM THE ADULT CARETAKER(S) OR TEEN PARENT(S) All expenses shall be verified or they will not be allowed. The adult caretaker(s) or teen parent(s) shall submit documentation listing his/her income and work-related expenses TO THE COUNTY.	The rule was revised for clarity.	NO

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3.105.1 (I)&(J)	The rule sections do not have introductory statements to clarify that the lists include income types that are either included or excluded when determining income eligibility for CCCAP.	New	Introductory statements were added to the Income Inclusion and Exclusion sections to clarify whether or not the lists of income sources are considered as a part of determining eligibility for CCCAP.	Added for clarity.	NO
3.105.1 (I)(3)	The rule contains language that has negative connotations and associations with Jim Crow and other Civil Rights violations.	3. Taxable gross income (gross receipts minus operating expenses from the operation of a farm by a person on his own account, as an owner, renter or sharecropper) from farm self-employment.	3. Taxable gross income (gross receipts minus operating expenses from the operation of a farm by a person on his own account, as an owner, renter, or TENANT FARMING sharecropper) from farm self-employment.	The rule was updated to remove language that has negative connotations and replace it with more appropriate terminology.	NO
3.105.1 (J)(17)	The acronym WIA is not defined or spelled out.	17. Training allowances granted by WIA to enable any individual, whether dependent child or caretaker relative, to participate in a training program are exempt.	17. Training allowances granted by WORKFORCE INVESTMENT ACT (WIA) to enable any individual, whether dependent child or caretaker relative, to participate in a training program are exempt.	Spelling out the acronym WIA makes it clear to the reader which type of income is not countable for CCCAP.	NO

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3.105.1 (L)	Rules related to cooperation with Child Support Services are no longer valid per statute.	<p>L. Child Support Services (County Option)</p> <p>a. At the option of the county, the county may require adult caretakers in households receiving Low-Income Child Care Assistance to apply for and cooperate with Child Support Services pursuant to Section 26.5-4-111, C.R.S.</p> <p>b. At the option of the county, teen parents may be required to cooperate with the child support services unit upon re-determination if during the twelve (12) month eligibility period, they have graduated from high school or have completed the high school equivalency exam.</p> <p>c. Participating counties shall refer all dependent children with a non-custodial parent that are in need of care to the Child Support Services Unit or their delegates unless an active child support case exists or if a good cause exemption has been granted.</p> <p>i. Counties shall inform all adult caretakers or teen parents (per section 3.105.1, L, 2) of their right to apply for a good cause exemption utilizing the state prescribed good cause waiver at the time of application as well as any time while receiving child care. Counties shall extend benefits until a good cause determination is complete.</p> <p>ii. "Good cause" shall include, but not be limited to, the following:</p> <ol style="list-style-type: none"> 1. Potential physical or emotional harm to a child or children; or, 2. Potential physical or emotional harm to an adult caretaker relative or teen parents; or, 3. Pregnancy or birth of a child related to incest or forcible rape; or, 4. Legal adoption in a court of law or a parent receiving pre-adoption services; or, 5. Other exemption reasons as determined by the county director or designee. <p>iii. The county director or designee shall make determination of good cause exemption and shall determine if good cause needs to be reviewed at some future date.</p> <p>iv. If an adult caretaker has been approved for good cause in another public assistance program that requires child support Services, a good cause exemption shall be extended to CCCAP.</p> <p>d. The adult caretaker(s) or teen parent(s) (per section 3.105.1, L, 2) shall apply for and cooperate with the Child Support Services Unit or delegate agency within thirty (30) calendar-days of initial date of approval for child care. For ongoing child care cases, the county shall require the adult caretaker(s) to cooperate with Child Support Services at re-determination.</p> <p>e. For Low-Income Child Care Assistance "Child Support Services cooperation" is defined as:</p> <ol style="list-style-type: none"> i. Applying for Child Support Services within thirty (30) calendar-days of being notified of the requirement; and, ii. Maintaining an active Child Support Services case while receiving ongoing Low-Income Child Care Assistance benefits; and, iii. Cooperating with Child Support Services is required for all children that are requesting care in the ongoing child care household with an absent parent. <p>f. If CCCAP receives written notice within required timeframes from the Child Support Services Unit that the child care household has not cooperated, the following steps shall be taken at application or re-determination only:</p> <ol style="list-style-type: none"> i. The county or its designee child care staff shall notify the household within fifteen (15) calendar-days, in writing, that he/she has fifteen (15) calendar-days from the date the notice is mailed to cooperate, or request a good cause exemption, before the child care case and all authorizations shall be closed. ii. If the adult caretaker or teen parent (per section 3.105.1, L, 2) fails to cooperate within the required time frames 	Repealed	According to C.R.S. 26.5-4-111 (6), counties are no longer able to require Child Support Services as a component of CCCAP eligibility as of July 1, 2023.	YES
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and/or with the Child Support Services Unit, the CCCAP case shall be closed. Upon notification of a request for good cause, the county shall extend benefits until a good cause determination is complete, as long as the household meets all other eligibility criteria. The county shall make a good cause determination within fifteen (15) calendar-days of the request.

g. If a household's benefits are terminated due to failure to cooperate, that household may remain ineligible in all counties that have this option until cooperation is verified by the Child Support Services Unit or delegate agency.

h. At the time of transition from Colorado Works to Low-Income Child Care, the child care technician shall notify the adult caretaker or teen parent in writing via the Client Responsibilities Agreement of his/her continued requirement to cooperate with the Child Support Services Unit.

i. At the time of transition from Colorado Works to Low-Income Child Care, the child care technician shall notify Child Support Services of the household's continued requirement to cooperate with the Child Support Services Unit.

j. Households shall not be required to cooperate with Child Support Services if:

i. Good cause has been established; or,

ii. The child support case is closed pursuant to Section 6.260.51 (9 CCR 2504-1); or,

iii. The Low-Income Child Care case is a two-parent household if there are no absent parents for any children in the home.

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<p>3.105.2 (C)</p>	<p>The time limited breaks in our rules cannot be limited to 12 weeks. according to federal regulations.</p>	<p>C. Adult caretaker(s) or teen parent(s) have the responsibility to report and verify changes to income, only if the household's income exceeds eighty-five percent (85%) of the State median income, in writing, within ten (10) calendar-days of the change. Also, if the adult caretaker(s) or teen parent(s) is no longer in his/her qualifying low-income eligible activity, this shall be reported in writing within four (4) calendar weeks. This does not include a temporary break in low-income eligible activity such as a temporary job loss from the qualifying eligible activity or temporary change in participation in a training or education activity. A temporary break includes but is not limited to:</p> <ol style="list-style-type: none"> 1. Absence from seasonal employment not to exceed twelve (12) weeks per instance when returning to same employer; 2. Absence from low-income eligible activities including employment, self-employment, education, and/or training activity due to extended verified medical leave, not to exceed twelve (12) weeks per instance when returning to same employer; 3. Absence from low-income eligible activities including employment, self-employment, education, and/or training activity due to verified maternity/paternity leave, not to exceed twelve (12) when returning to same employer; or, 4. Absence from an education or training activity due to holidays or scheduled breaks, not to exceed twelve (12) weeks per instance. 	<p>A. Adult caretaker(s) or teen parent(s) have the responsibility to report and verify changes to income IN WRITING WITHIN TEN (10) CALENDAR-DAYS OF THE CHANGE, only if the household's income exceeds eighty-five percent (85%) of the State median income. in writing, within ten (10) calendar-days of the change. Also, if the adult caretaker(s) or teen parent(s) is no longer in THEIR his/her qualifying low-income eligible activity, this IS CONSIDERED TO BE A NON-TEMPORARY CESSATION OF ACTIVITY AND MUST shall be reported in writing within four (4) calendar weeks. This does not include a temporary break in low-income eligible activity such as a temporary job loss from the qualifying eligible activity or temporary change in participation in a training or education activity WHERE THE INDIVIDUAL REMAINS EMPLOYED, SELF-EMPLOYED, OR ENROLLED IN TRAINING OR EDUCATION. A temporary break includes but is not limited to:</p> <ol style="list-style-type: none"> 1. ANY INTERRUPTION IN WORK FOR A SEASONAL WORKER WHO IS NOT WORKING BETWEEN REGULAR INDUSTRY WORK SEASONS; from seasonal employment not to exceed twelve (12) weeks per instance when returning to same employer; 2. ANY TEMPORARY ABSENCE Absence from low-income eligible activities including employment, self-employment, education, and/or training activity due to extended verified medical leave; not to exceed twelve (12) weeks per instance when returning to same employer; 3. ANY TEMPORARY ABSENCE Absence from low-income eligible activities including employment, self-employment, education, and/or training activity due to verified maternity/paternity leave, not to exceed twelve (12) when returning to same employer; or, 4. ANY TEMPORARY ABSENCE Absence from an education or training activity due to holidays or scheduled breaks, not to exceed twelve (12) weeks per instance. 	<p>In order to be in compliance with 45 CFR 98.21(a)(1)(ii), we have to remove the 12-week time limit associated with our existing temporary breaks.</p>	<p>YES</p>
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3.105.2 (D)	The rule is not consistent with 3.105.1.F.2.	Adult caretaker(s) or teen parent(s) shall provide the County Department with up-to-date immunization records for child(ren) who receive child care from qualified exempt child care providers not related to the child(ren), where care is provided outside of the child's home and the child(ren) are not school age.	D. Adult caretaker(s) or teen parent(s) SHALL PROVIDE THE COUNTY DEPARTMENT WITH A COPY OF THEIR CHILD'S IMMUNIZATION RECORD TO THE COUNTY, INDICATING THAT THE CHILDREN ARE AGE-APPROPRIATELY IMMUNIZED, UNLESS EXEMPT DUE TO RELIGIOUS OR MEDICAL REASONS (SEE SECTIONS 25-4-902 AND 25-4-908, C.R.S.) provide the County Department with up-to-date immunization records for child(ren) who receive IF THEIR CHILD RECEIVES child care from A qualified exempt child care providers not related to the child(ren), where care is provided outside of the child's home and the child(ren) are not school age.	The rule was revised for consistency.	NO
3.105.2 (E)-(K)	Rules related to cooperation with Child Support Services are no longer valid per statute. The rule bullets were also updated based on repeal of 3.105.2(E).	E. Adult caretaker(s) or teen parent(s) shall cooperate with the child support services unit or the delegate agency for all children who are in need of care and have an absent parent, within thirty (30) days of requesting child care, as required by the county and per section 3.105.1, L.	Repealed	According to C.R.S. 26.5-4-111 (6), counties are no longer able to require Child Support Services as a component of CCCAP eligibility as of July 1, 2023.	YES
3.105.4 (B)(9)-(12)	Rules related to cooperation with Child Support Services are no longer valid per statute. The rule bullets were also updated based on repeal of 3.105.4(B)(9).	9. Adult caretaker(s) or teen parent(s) (per section 3.105.1 (L)(2)) is/are no longer cooperating with child support establishment during the twelve (12) month eligibility period, modification or enforcement services, at county option, and, if the adult caretaker(s) or teen parent(s) has/have applied for a good cause exemption, the county director or designee has determined that the adult caretaker(s) or teen parent(s) is/are not eligible for a good cause exemption.	Repealed	According to C.R.S. 26.5-4-111 (6), counties are no longer able to require Child Support Services as a component of CCCAP eligibility as of July 1, 2023.	YES
3.105.4 (C)	The rule does not clearly specify the types of electronic systems that may be used for noticing.	C. Reason for termination shall be documented on the state prescribed closure form and mailed via postal service, emailed or other electronic systems, faxed or hand-delivered to the primary adult caretaker or teen parent and child care provider.	C. Reason for termination MUST shall be documented on the state prescribed closure form and mailed via postal service; emailed or other electronic DELIVERY systems; OR , faxed or hand-delivered to the primary adult caretaker or teen parent and child care provider.	The rule was revised for clarity.	NO

Title of Proposed Rule: Colorado Child Care Assistance Program Rules

CDEC Tracking #: 2023-01-01

Office, Division, & Program:
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3.111 (A)	The rule does not clearly state who is required to issue noticing to families.	A. Parent fees are based on gross countable income for the child care household compared to the household size and in consideration of the number of children in care. Parent fees are to be calculated in whole dollars by dropping the cents. Families shall be noticed of their parent fee at the time of Colorado Works Child Care referral; low-income application or re-determination; or, when a reduction/increase of household parent fee occurs.	A. Parent fees are based on gross countable income for the child care household compared to the household size and in consideration of the number of children in care. Parent fees are to be calculated in whole dollars by dropping the cents. COUNTIES MUST NOTICE Families shall be noticed of their parent fee at the time of Colorado Works Child Care referral; low-income application or re-determination; or, when a reduction/increase of household parent fee occurs.	The rule was revised for clarity.	NO
3.111 (1)(3)&(4)	Because CCCAP is no longer under CDHS, the Colorado Works and Child Welfare rules must be incorporated by reference.	3. Colorado Works households where the adult caretaker or teen parent has entered into a current individualized plan and is participating in an allowable work activity as defined in Colorado Works rule (9 CCR 2503-6) other than paid employment shall not have a parent fee. 4. Child Welfare Child Care households as defined in the Social Services rule manual, Section 7.000.5 (12 CCR 2509-1) shall not have a parent fee.	3. Colorado Works households where the adult caretaker or teen parent has entered into a current individualized plan and is participating in an allowable work activity as defined in Colorado Works rule (9 CCR 2503-6), INCORPORATED BY REFERENCE IN SECTION 3.103, ABOVE , other than paid employment shall not have a parent fee. 4. Child Welfare Child Care households as defined in the Social Services rule manual, Section 7.000.5 (12 CCR 2509-1), INCORPORATED BY REFERENCE IN SECTION 3.103, ABOVE , shall not have a parent fee.	Colorado Works and Child Welfare rules must be incorporated by reference now that CCCAP is under CDEC to ensure they are still accessible by the public since we they are not all under the same Department.	NO
3.111 (P)	The Parent Fee formula needs to be extended through 2024.	Beginning July 1, 2021 through September 30, 2023, the county must assess parent fees based upon a marginal rate increase of fourteen percent (14%) for every dollar of gross countable household income above one hundred percent (100%) of the federal poverty guidelines (FPG) outlined in section 3.105.1 (H)(2).	A. Beginning July 1, 2021 through September 30, 2023 2024 , the county must assess parent fees based upon a marginal rate increase of fourteen percent (14%) for every dollar of gross countable household income above one hundred percent (100%) of the federal poverty guidelines (FPG) outlined in section 3.105.1 (H)(2).	The Department has secured funding to extend the Parent Fee Formula through 2024.	YES

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3.112 (F)	The rule is not clearly written.	F. Counties shall use CHATS as designated by the state to administer CCCAP. Counties who do not use CHATS as prescribed by the state may not be reimbursed.	F. Counties MUST shall use CHATS as designated by the state to administer CCCAP. Counties who do not use CHATS as prescribed by the DEPARTMENT state may not be reimbursed.	Superfluous language was removed for clarity.	NO
3.112 (J)	The rule is not clearly written.	J. Counties shall monitor expenditures of Child Care funds and may suspend enrollments, as necessary, to prevent over-expenditures in child care. "Reimbursable expenditures" are supported in whole or in part by State General Fund, Federal (pass through) or a combination of State and Federal money.	J. Counties shall monitor expenditures of Child Care funds and may suspend enrollments, as necessary, to prevent over-expenditures in child care. "Reimbursable expenditures" are supported in whole or in part by State General Fund, Federal (pass through) MONEY , or a combination of State and Federal money.	The word "money" was added for clarity.	NO
3.112 (L)-(NNN)	Rules related to cooperation with Child Support Services are no longer valid per statute. The rule bullets were also updated based on repeal of 3.112(L). Citations in this section had to be revised as a result of the new bullet order.	L. If a county opts to require Child Support Services the county shall coordinate with the county Child Care Assistance Program or delegate agency and the delegate county Child Support Services Unit. This includes, but is not limited to: 1. Developing a referral process to notify the delegate Child Support Services unit within its county within fifteen (15) calendar-days of determining that a household is eligible for Low-Income Child Care. 2. Determining good cause procedures. Counties shall notify the delegate Child Support Services unit within its county within fifteen (15) calendar-days of making the good cause determination. 3. Developing cooperation and non-cooperation procedures which shall include timelines and processes for inter-department communication.	Repealed	According to C.R.S. 26.5-4-111 (6), counties are no longer able to require Child Support Services as a component of CCCAP eligibility as of July 1, 2023.	YES

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		4. Notifying Child Support Services no later than the end of the thirty (30) day reinstatement period of a Low-Income Child Care case closure.			
3.112(M)(3)(d)& (j)	Counties are still encouraged to inform families of the benefits of Child Support Services even though it can no longer be an eligibility component.	N/A	The acronym SNAP was added to Food Assistance Program so readers have familiar language associated with the benefit assistance program. Child Support Services was added as a Consumer Education type to ensure that counties still inform families of the benefit of the program.	According to C.R.S. 26.5-4-111 (6), counties are no longer able to require Child Support Services as a component of CCCAP eligibility as of July 1, 2023. Counties are still encouraged to provide information on the benefits of the program according to statute.	YES
3.112 (M)(4)	IDEA is not incorporated by reference and it should be.	4. Counties shall also provide information and referrals to services under early and periodic screening, diagnosis, and treatment (EPSDT) under Medicaid and Part C of IDEA (34 CFR 300).	4. Counties shall also provide information and referrals to services under early and periodic screening, diagnosis, and treatment (EPSDT) under Medicaid and Part C of IDEA (34 CFR PART 300). (APRIL 2023), HEREIN INCORPORATED BY REFERENCE. NO LATER EDITIONS OR AMENDMENTS ARE INCORPORATED. THESE REGULATIONS ARE AVAILABLE AT NO COST FROM THE U.S. DEPARTMENT OF EDUCATION, 400 MARYLAND AVENUE, SW, WASHINGTON, D.C. 20202, OR AT HTTPS://WWW.ECFR.GOV. THESE REGULATIONS ARE ALSO AVAILABLE FOR INSPECTION AND COPYING AT THE COLORADO DEPARTMENT OF EARLY CHILDHOOD, 710 S. ASH STREET, DENVER, COLORADO 80246 DURING REGULAR BUSINESS HOURS.	34 CFR Part 300 must be incorporated by reference since they are not a part of our program rules but must still be accessible by the public.	NO
3.112(X)	The Prudent Person Principle (PPP) rule does not support all areas of CCCAP that it needs to in order to support counties, families, and child care providers.	Counties shall use the prudent person principle when determining eligibility or authorizing care and shall document reasoning in the appropriate notes section of CHATS.	Counties shall MUST use the prudent person principle (PPP) TO BENEFIT FAMILIES AND CHILD CARE PROVIDERS when determining eligibility, or authorizing care, ENTERING INTO A FISCAL AGREEMENT, AND REIMBURSING CHILD CARE PROVIDERS FOR CARE THAT WAS NOT AUTOMATICALLY PROCESSED THROUGH CHATS. AN EXPLANATION OF WHY AND HOW THE COUNTY USED PPP MUST BE DOCUMENTED IN THE APPROPRIATE NOTES	The rule was revised to allow counties the ability to also apply PPP to provider related tasks to ensure that providers and families are supported.	NO

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			SECTION(S) OF CHATS. and shall document reasoning in the appropriate notes section of CHATS.		
3.112 (Z)	The rule does not clearly indicate who must report information during the eligibility period.	Z. County child care staff shall advise low-income adult caretaker(s) or teen parent(s) of their responsibilities in writing at application and re-determination. Information that shall be reported during the twelve (12) month eligibility period is as follows:	Z. County child care staff shall advise low-income adult caretaker(s) or teen parent(s) of their responsibilities in writing at application and re-determination. Information that ADULT CARETAKER(S) OR TEEN PARENT(S) MUST REPORT shall be reported during the twelve (12) month eligibility period is as follows:	The rule was revised so it is clear that adult caretakers and teen parents are required to report certain changes outlined in 3.112(Z).	NO
3.112 (HHH)	The rule does not clearly indicate which funds are to be used if provider payments are delayed beyond three months.	HHH. In any cases where payments to licensed child care providers or qualified exempt child care providers are delayed more than three (3) calendar months past the end of the month care was provided, county-only money shall be used to pay for this care.	HHHGGG . In any cases where payments to licensed child care providers or qualified exempt child care providers are delayed more than three (3) calendar months past the end of the month care was provided, county-only money THAT WAS NOT ALLOCATED BY THE DEPARTMENT shall be used to pay for this care.	The rule was revised for clarity.	NO
3.113	A rule citation needs to be revised based on the reordering of section 3.112.	An Early Care and Education provider may provide services to the household prior to the final determination of eligibility and shall be reimbursed for such services only if the county determines the household is eligible for Low-Income Child Care services and there is no need to place the household on the wait list. The start date of eligibility is defined in Section 3.112 (R). If the household is found ineligible for services, the Early Care and Education provider shall not be reimbursed for any services provided during the period between his/her pre-eligibility determination and the county's final determination of eligibility.	An Early Care and Education provider may provide services to the household prior to the final determination of eligibility and shall be reimbursed for such services only if the county determines the household is eligible for Low-Income Child Care services and there is no need to place the household on the wait list. The start date of eligibility is defined in Section 3.112 (QR). If the household is found ineligible for services, the Early Care and Education provider shall not be reimbursed for any services provided during the period between THEIR his/her pre-eligibility determination and the county's final determination of eligibility.	Section 3.112 was reordered so the citation was updated so it references the correct rule.	NO
3.114.1(A)	The rule cites licensing rules which have not moved under CDEC.	A. The following facilities are required to be licensed and comply with licensing rules as defined in the Social Services rule manual, sections 7.701 through 7.712 (12 CCR 2509-8).	A. The following facilities are required to be licensed and comply with licensing rules as defined in the Social Services rule manual, sections 7.701 through 7.712 (12 CCR 2509-8), INCORPORATED BY REFERENCE IN	Because Licensing rules have not yet moved under the CDEC, their rules must be incorporated by reference to ensure they are still	NO

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			SECTION 3.103, ABOVE:	accessible by the public since we they are not all under the same Department.	
3.114.1 (B)(1)	Our rule is currently not in compliance with 45 CFR 98.41(d)(1) because we do not properly define group size limitations for Qualified Exempt providers since we allow for any number of siblings from one family that is unrelated to the provider. The rule order also needs to be revised as a result of the changes needed to comply.	B. Qualified Exempt Child Care Providers 1. Qualified exempt child care provider: A non-licensed family child care home in which less than twenty-four (24) hour care is given at any one time for: a. Any number of children directly related to the provider; b. Any number of siblings from one family unrelated to the provider; or, c. Up to four (4) children, who are unrelated to the provider. d. No more than two (2) children under the age of two (2) years may be cared for at any time if the provider's own children are in the provider's care as they are counted toward the maximum capacity of four (4). e. The relationships for care outlined in a-b of this section include:...	B. Qualified Exempt Child Care Providers 1. Qualified exempt child care provider: A non-licensed family child care home in which less than twenty-four (24) hour care is given at any one time for: a. Any number of children directly related to the provider; OR b. Any number of siblings from one family unrelated to the provider; or, be. Up to four (4) children, who are unrelated to the provider. cd. No more than two (2) children under the age of two (2) years may be cared for at any time if the provider's own children are in the provider's care as they are counted toward the maximum capacity of four (4). de. The relationships for care outlined in a-b of this section include:	These rules have been revised to remove the unlimited number of siblings that are unrelated to the provider to ensure compliance with federal regulations.	YES
3.114.1 (B)(4)(a)	The rule is currently contrary to section 19-1-307(2) as Trails background checks are only intended for further investigation and do not automatically preclude someone from providing care.	a. A qualified exempt child care provider and any adult eighteen years of age or older who resides in the exempt child care provider's home, not including the adult caretaker(s) or teen parent(s), must be subject to a county level background check. The background check will be used to preclude individuals with founded or substantiated child abuse or neglect from providing child care.	a. A qualified exempt child care provider and any adult eighteen years of age or older who resides in the exempt child care provider's home, not including the adult caretaker(s) or teen parent(s), must be subject to a county level background check. THE INFORMATION FROM THE BACKGROUND CHECK MUST SERVE ONLY AS THE BASIS FOR FURTHER INVESTIGATION. The background check will be used to preclude individuals with founded or substantiated child abuse or neglect from providing child care.	The rule was revised to address the conflict with statute.	NO
3.114.1 (B)(4)(e)	The rules were incorrectly formatted.	Rules 3.114.1(B)(e)(8)-(10) should be sub-bullets of 3.114.1 (B)(e)(7)	Rules 3.114.1(B)(e)(8)-(10) are now Rules 3.114.1(B)(e)(7)(a)-(d).	The rules were reformatted for clarity.	NO
3.114.1(B)(4)(e)(8)	Conviction is not define in the rules.	New	8) CONVICTION HAS THE SAME MEANING AS THAT IN SECTION 26.5-5-309(4)(A)(II), C.R.S.	The definition was included in the section for reference and clarity.	NO

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STAKEHOLDER COMMENT SUMMARY

Development

The following individuals and/or entities were included in the development of these proposed rules (such as other Program Areas, Legislative Liaison, and RAC Subcommittee):

The Department engaged Child Support Services at the Department of Human Services (CDHS) while revising this package. Additionally, the Department has shared this rule packet with the CCCAP Rule Re-write Committee for feedback. This committee is comprised of county staff, child care and early education professionals, and family and child advocates. Lastly, the Department hosted a public comment period in March to gather feedback from individuals across the state.

This Rule-Making Package

The following individuals and/or entities were contacted and informed that this rule-making was proposed for consideration by the Rule Advisory Council / CDEC:

The following entities/groups will have been notified of the rule changes prior to promulgation

- CDHS
- CCCAP Rule Re-write Committee
- RAC County Subcommittee

Other State Agencies

Are other State Agencies (such as CDHS, CDE, HCPF or CDPHE) impacted by these rules? If so, have they been contacted and provided input on the proposed rules?

Yes No

If yes, who was contacted and what was their input?

The Child Support Services team supported the revisions of this rule. Based on their feedback, we repealed rules regarding Child Support Services to comply with statute and added Child Support Services to the Consumer Education section of rule to ensure that the value of Child Support is still shared with families.

RAC County Subcommittee Review (if applicable)

Do the proposed rules have an impact on the functions, programs or services delivered by counties?

Yes No

If yes, have these rules been reviewed by the County Subcommittee?

Yes No

Date presented

May 4, 2023

What issues were raised?

A request was made to further clarify what the term temporary means in the context of temporary breaks. In response to this, the Department created a definition for "Temporary Absence or Temporary Break" in section 3.103 and elaborated on the Temporary Break rules in 3.105.2 (C). These changes are highlighted in green.

If not presented, explain why.

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Rules Advisory Council Review

Date presented	May 11, 2023		
What issues were raised?	Concerns were raised regarding the limits for Qualified Exempt Child Care Providers which only allows them to care for four (4) unrelated children at a time. While we understand that this could limit a family's ability to utilize an unrelated Qualified Exempt Child Care provider if they have more than four (4) children while receiving CCCAP, this limit is required by statute (26.5-5-304(1)(f)(l) C.R.S.) and we are unable to make changes.		
Recommendation from RAC to Approve, Approve with Changes, or Not Approve	Recommendation to Approve		
Vote Count	<i>For</i>	<i>Against</i>	<i>Abstain</i>
	Unanimous		
Any additional notes.			

Other Comments

Comments were received from stakeholders on the proposed rules:

Yes No

If "yes," summarize and/or attach the feedback received, by specifying the section and including the Department/Office/Division response. Provide proof of agreement or ongoing issues with a letter or public testimony by the stakeholder.

Proposed Rule Change Topic	Feedback	Department Response
Prudent Person Principle (PPP)	Minimal feedback was received on this rule; however, it was in support of the changes.	No action necessary.
Child Support Service Cooperation	Minimal feedback was received on this rule; however, it was in support of the changes.	No action necessary.
Temporary Breaks	The feedback received on these rules included: <ul style="list-style-type: none"> - Requests to further differentiate Maternity Leave and Medical Leave. - Requests to revise the originally drafted language so the word "time-limited" was changed to "temporary" since the goal of the rule revision is to remove the time limit associated with the temporary breaks. - Questions regarding implementation of the rule changes. 	The definitions and rules related to temporary breaks were revised based on the feedback. The language highlighted in yellow in these sections indicate there were changes made based on the public comment. The Department will be hosting county training to support them in the implementation of this rule change.
Parent Fee Sunset Date	No feedback was received.	
Qualified Exempt	Questions were received regarding the limits	CFR 98.41 (d)(1) Requires Lead Agencies

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Child Care Capacity	<p>that are now in place for Qualified Exempt Child Care providers that care for children that are not related to them, requesting clarity as to why the change is being made.</p> <p>We also received feedback requesting minor punctuation changes.</p>	<p>to define a limit. By allowing any number of children, this does not constitute as a limit. Additionally, 26.5-5-304(1)(f)(I), C.R.S. states without being licensed that there can be no more than four children being cared for, with no more than two children under two years of age from multiple families, regardless of the children's relation to the caregiver.</p> <p>The rule was revised to capture the punctuation errors as well as cite 26.5-5-304(1)(f)(I), C.R.S. for additional clarity. The language highlighted in yellow in this sections indicate there were changes made based on the public comment.</p>
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