

922 KAR 2:160. Child Care Assistance Program.

RELATES TO: KRS 45.237-45.241, 81.010, 186.040, 199.892, 199.894(1),(5), 199.896, 199.898(1), (2), 199.8982, 199.899, 199.8994, 202A.011(12), 214.036, 314.011(5), 600.020(47), 605.120(5), 620.020(9), 7 C.F.R. 1463, 45 C.F.R. 98, 205.10(6), 400.66(d), 25 U.S.C. 459, 1261, 1401, 29 U.S.C. 723(a)(5), 38 U.S.C. 1815, 42 U.S.C. 601-619, 1451, 1771, 1775, 2000d, 3001, 4950-5084, 8621, 9902(2), 10602(c)

STATUTORY AUTHORITY: KRS 194A.050(1), 199.892, 199.8994

NECESSITY, FUNCTION, AND CONFORMITY: KRS 194A.050(1) requires the Secretary of the Cabinet for Health and Family Services to promulgate administrative regulations necessary to operate programs and fulfill the responsibilities vested in the cabinet, qualify for the receipt of federal funds, and cooperate with other state and federal agencies for the proper administration of the cabinet and its programs. KRS 199.892 enables the Cabinet for Health and Family Services to promulgate administrative regulations to qualify to receive federal funds under provisions of the federal Social Security Act, 42 U.S.C. 601-619, and to provide for effective regulation of child care centers. KRS 199.8994 requires the cabinet to administer all child care funds to the extent allowable under federal law or regulation and in a manner which is in the best interest of the clients to be served. This administrative regulation establishes requirements that enable the Cabinet for Health and Family Services to qualify for federal funds under the Child Care and Development Fund, and establishes procedures for the implementation of the Child Care Assistance Program to the extent that funding is available.

Section 1. Definitions. (1) "Applicant" means a child's natural or adoptive parent or an individual caring for a child in loco parentis who is applying for CCAP.

(2) "Cabinet" is defined by KRS 199.894(1).

(3) "Change in a circumstance" means a change that affects eligibility or benefit amounts and includes:

- (a) Beginning or ending employment;
- (b) Change in an employer or obtaining additional employment;
- (c) Increase or decrease in the number of work hours;
- (d) Increase or decrease in the rate of pay;
- (e) Increase or decrease in family members;
- (f) Change in self-employment activity;
- (g) Change in scheduled hours care is needed;
- (h) Beginning or ending an educational activity;
- (i) Change in child care provider;
- (j) Change in address or residence; or
- (k) Change in marital status.

(4) "Child care" means the provision of care for a child for a portion of a day on a regular basis, designed to supplement, but not substitute for, the parent's responsibility for the child's protection, development, and supervision.

(5) "Child care and development fund" or "CCDF" is defined by 45 C.F.R. 98.2.

(6) "Child Care Assistance Program" or "CCAP" means Kentucky's child care subsidy program providing families, who meet the eligibility requirements of this administrative regulation, with the financial resources to find and afford quality child care.

(7) "Child care certificate" is defined by 45 C.F.R. 98.2.

(8) "Child protective services" is defined in 922 KAR 1:330, Section 1(3).

(9) "Child with a special need" means a child who has a severe problem or multiple problems that require ongoing specialized care.

(10) "Employment" means public or private, permanent or temporary work for an average of twenty (20) hours per week for:

- (a) Wages;
- (b) Self-employment;
- (c) Student teaching, internship, or practicum; or
- (d) A combination of the above.

(11) "Family" means an applicant and a child related by blood or law who reside in the same residence and another responsible adult if present.

(12) "Family child-care home":

- (a) Is defined by KRS 199.894(5);
 - (b) Is described in KRS 199.8982; and
 - (c) Means a home certified in accordance with 922 KAR 2:100.
- (13) "Full day" means child care that is provided for five (5) or more hours per day.
- (14) "Health professional" means a person actively licensed as a:

- (a) Physician;
- (b) Physician's assistant;
- (c) Advanced registered nurse practitioner;
- (d) Qualified mental health professional as defined by KRS 600.020(47); or
- (e) Registered nurse as defined by KRS 314.011(5) under the supervision of a physician.

(15) "In loco parentis" means a person acting in place of a parent, including:

- (a) A legal guardian, or
 - (b) An individual related by blood, marriage, or adoption to the child.
- (16) "Infant" means a child who is less than one (1) year old.

(17) "Kentucky Transitional Assistance Program" or "K-TAP" means Kentucky's Temporary Assistance for Needy Families or "TANF" money payment program established in 921 KAR Chapter 2.

(18) "Nonurban" means a county without a first, second, or third class city as specified in KRS 81.010(1) through (3).

(19) "Part day" means child care that is provided for less than five (5) hours per day.

(20) "Preschool child" means a child who has reached the third birthday up to, but not including, the sixth birthday.

(21) "Preventive services" is defined by KRS 620.020(9).

(22) "Provider" means the entity providing child care services.

(23) "Qualified alien" means a child who meets the requirements of 921 KAR 2:006, Section 1(15).

(24) "Registered provider" means a child care provider who meets the requirements of 922 KAR 2:180.

(25) "Related" means having one (1) of the following relationships with the provider:

1. Child;
2. Stepchild;
3. Grandchild;
4. Great-grandchild;
5. Niece;
6. Nephew;

- 7. Sibling; or
- 8. Child in legal custody of the provider.
- (26) "Responsible adult" means a person other than the applicant who is in the child's household and who is:
 - (a) The natural parent, adoptive parent, or stepparent; or
 - (b) The spouse of an individual caring for a child in loco parentis.
- (27) "School-age child" means a child who has reached the sixth birthday.
- (28) "Teenage parent" means a parent who is:
 - (a) Nineteen (19) years of age or younger; and
 - (b) Attending high school or pursuing a GED.
- (29) "Toddler" means a child who has reached the first birthday up to, but not including, the third birthday.
- (30) "Urban" means a county listed in KRS 81.010(1) through (3) as having a first, second, or third class city.

Section 2. Application Rights and Requirements. (1) An individual may apply or reapply for CCAP through the cabinet or its designee.

(2)(a) Unless an applicant is approved according to the criteria in Section 5 or 6 of this administrative regulation, an application shall have been made:

- 1. On the date a signed DCC-90, Application for Subsidized Child Care Assistance, or DCC-90.1, Intent to Apply for Child Care Assistance is received at the cabinet or its designee office; or
- 2. On the date the agency is contacted, if the person:
 - a. Has a physical or mental disability; and
 - b. Needs special accommodation due to the impairment.
- (b) If the applicant is physically unable to come to the office to apply, applicant the may designate an authorized representative to make application.
- (c) The applicant may be:
 - 1. Assisted by another individual of choice in the application process; and
 - 2. Accompanied by the individual in a contact with the agency.
- (d) In accordance with the procedures described in 920 KAR 1:070, interpreter services shall be provided for persons who are:
 - 1. Deaf; or
 - 2. Hard of hearing.
- (e) Interpreter services shall be provided for a non-English speaking individual in accordance with Section 601 of Title VI of the Civil Rights Act of 1964, 42 U.S.C. Section 2000d.
- (3) The cabinet or its designee shall not discriminate against an applicant based on age, race, color, sex, disability, religious creed, national origin or political beliefs.
- (4) For the month child care payment is intended to cover, a family shall meet the technical and financial eligibility criteria, according to its particular circumstances, as described in Sections 3, 4, 5, 6, and 7 of this administrative regulation.
- (a) The applicant or recipient shall be the primary source of information and shall:
 - 1. Furnish verification of:
 - a. Income; and
 - b. Technical eligibility; and
 - 2. Give written consent to the cabinet or its designee necessary to verify information pertinent to the eligibility determination.
- (b) Upon receiving written notice of a request for information or a scheduled appointment to present required documentation, failure of an applicant or recipient to respond shall be considered a failure to present adequate proof of eligibility.
- (5) A decision shall be made on an application and written notification sent to the applicant within thirty (30) calendar days of receipt of the application form.
- (6) Each decision regarding eligibility for assistance shall be supported by documentation recorded in the applicant or recipient's case record.
- (7) A family shall not receive:
 - (a) Assistance until approval of the application for benefits; or
 - (b) Benefits prior to application.

Section 3. Technical Eligibility. (1) A child shall be eligible for child care assistance, if the child:

- (a) Is a:
 - 1. Resident of Kentucky; and
 - 2. U.S. citizen or qualified alien;
- (b) Is under age:
 - 1. Thirteen (13); or
 - 2. Nineteen (19) and is:
 - a. Physically or mentally incapable of caring for himself, as demonstrated by a written document provided by a:
 - (i) Health professional;
 - (ii) Collateral agency approved by the cabinet, including a school or comprehensive care center; or
 - (iii) Cabinet employee or designee through a child protective service or preventive service authorization;
 - b. Under court supervision; or
 - c. Identified as a priority by federal statute, regulation, or funding source; and
- (c) Has a current immunization certificate showing that the child is immunized, unless:
 - 1. There is an exception pursuant to KRS 214.036; or
 - 2. The child is attending a:
 - a. Licensed child care center;
 - b. Certified child care home;
 - c. Public school;
 - d. Head Start; or
 - e. Other entity that requires the immunization record.
- (2) If a child served by the CCAP is not immunized, child care assistance benefits shall be available or continue for a period of thirty (30) calendar days following the notification of the needed immunization while the family takes necessary action to comply with the immunization requirement.
- (3) A family shall not be eligible for a CCAP benefit if care is provided by:
 - (a) A parent or stepparent;
 - (b) A legal guardian;
 - (c) A member of the K-TAP or food stamp assistance case in which the child in need of child care assistance is included;
 - (d) A person living in the same home as the child in need of care;
 - (e) A provider not:

1. Licensed according to 922 KAR 2:090, Child care center licensure;
2. Certified according to 922 KAR 2:100, Certification of family child care homes; or
3. Registered according to 922 KAR 2:180, Requirements for registered child care providers in the Child Care Assistance Program;
 - (f) An alternative program such as Head Start, state preschool, or state kindergarten; or
 - (g) Another child care provider if the family operates the child care business in the home.
- (4) If the restrictions specified in subsection (3) of this section do not apply to the provider related to the child, the provider related to the child may be eligible for payment from CCAP if the requirements of 922 KAR 2:180 are met.

Section 4. Requirements for Low Income Working Family Eligibility Determination. A child shall be eligible to receive CCAP if the child meets the requirements specified in Section 3 of this administrative regulation and resides with:

- (1) An applicant who has employment an average twenty (20) hours per week;
- (2) An applicant and a responsible adult who have employment an average of forty (40) hours per week combined, if the individual with the least employment has an average of at least five (5) hours of employment per week;
- (3) An applicant and a responsible adult if either the applicant or the responsible adult has employment an average of twenty (20) hours per week, and the other is physically or mentally unable to provide adequate care or supervision as documented by a written statement from a health professional; or
- (4) A relative caregiver pursuant to the conditions of a program established by KRS 605.120(5), who:
 - (a) Meets all requirements in this section; and
 - (b) Meets income eligibility standards in Section 7(1).

Section 5. Requirements for Protection and Permanency Eligibility Determination. (1) A child shall be eligible to receive CCAP if the child:

- (a) Resides with an applicant who:
 1. Receives child protective or preventive services; or
 2. Needs to receive child protective or preventive services based upon an assessment conducted by child protective services staff pursuant to 922 KAR 1:330; and
- (b) Meets the requirements listed in Section 3 of this administrative regulation.
- (2) A child shall be approved for child care assistance by the cabinet in accordance with subsection (1) of this section without a separate application, as an integral part of a protective or preventive services plan.
- (3) A child who participates in the CCAP as a result of a child protective or preventive services authorization:
 - (a) Shall not be eligible for more than six (6) months without further authorization; and
 - (b) May have the family copayment required by Section 10 of this administrative regulation waived by the cabinet based on an assessment in accordance with 922 KAR 1:330. If the family copayment is waived, the reason for the waiver shall be documented in the protective or preventive services plan.

Section 6. Kentucky Works Child Care Eligibility Determination. (1) A child shall be eligible for CCAP if the child:

- (a) Resides with an applicant who is participating in the Kentucky Works Program described in 921 KAR 2:370; and
- (b) Meets the requirements listed in Section 3 of the administrative regulation.
- (2) A child shall be approved for child care assistance by the cabinet in accordance with subsection (1) of this section without a separate application as an integral part of a Kentucky Works Program self sufficiency plan.

Section 7. Income Eligibility. (1) A child shall be eligible for the CCAP if the family's income is less than or equal to:

- (a) 150 percent of the federal poverty level at the initial application; or
- (b) 165 percent of the federal poverty level at the redetermination.
- (2) A family that becomes ineligible for K-TAP shall remain eligible for CCAP if the family's income remains less than or equal to 165 percent of the federal poverty level.
- (3) Except for a child who is eligible as specified in Section 5 of this administrative regulation, gross income received or anticipated to be received by the applicant and responsible adult shall be considered when the cabinet or its designee determines the family's eligibility for the CCAP.
- (4) A child that is eligible for CCAP as specified in Section 5 of this administrative regulation shall be eligible without regard to the family's income.
- (5) Excluded income shall be:
 - (a) All income received by or on behalf of a child;
 - (b) K-TAP child only payments, including back payment;
 - (c) A payment received from the Kinship Care Program, pursuant to 922 KAR 1:130, including back payment;
 - (d) Educational grant, loan, scholarship, and work study income, including:
 1. Payment obtained and used under a condition that precludes the recipient's use for current living cost; and
 2. An education grant or loan to an undergraduate made or insured under a program administered by:
 - a. The United States Commissioner of Education; or
 - b. The Bureau of Indian Affairs;
 - (e) The value of Kentucky Works supportive services payment pursuant to 921 KAR 2:017;
 - (f) The value of United States Department of Agriculture program benefits including:
 1. Donated food;
 2. Supplemental food assistance received pursuant to 42 U.S.C. 1771;
 3. Special food service program for a child pursuant to 42 U.S.C. 1775;
 4. Nutrition program for the elderly pursuant to 42 U.S.C. 3001; and
 5. The monthly food stamp allotment;
 - (g) Payment made directly to a third party on behalf of the applicant or recipient by a nonresponsible person;
 - (h) In-kind income;
 - (i) Reimbursement for transportation in performance of an employment duty, if identifiable;
 - (j) Nonemergency medical transportation payment;
 - (k) Highway relocation assistance;
 - (l) Urban renewal assistance;
 - (m) Federal disaster assistance and state disaster grant;
 - (n) Home produce utilized for household consumption;
 - (o) Housing subsidy received from federal, state, or local governments;
 - (p) Receipt distributed to a member of certain Indian tribes by the federal government pursuant to 25 U.S.C. 459, 1261 and 1401;
 - (q) Funds distributed per capita to or held in trust for a member of an Indian tribe by the federal government pursuant to 25 U.S.C. 459, 1261 and 1401;
 - (r) Payment for supporting services or reimbursement of out-of-pocket expense made to an individual volunteering as:

1. Senior health aide; or
 2. Member of the:
 - a. Service Corps of Retired Executives; or
 - b. Active Corps of Executives;
- (s) Payment made to an individual from a program pursuant to 42 U.S.C. 4950 to 5084 if less than the minimum wage under state or federal law, whichever is greater, including:
1. Volunteers in Service to America (VISTA);
 2. Foster Grandparents;
 3. Retired and Senior Volunteer Program; or
 4. Senior Companion;
- (t) Payment from the cabinet for:
1. Child foster care; or
 2. Adult foster care;
- (u) Energy assistance payment made under:
1. The Low Income Home Energy Assistance Program pursuant to 42 U.S.C. 8621; or
 2. Other energy assistance payment made to an energy provider or provided in-kind;
- (v) The principal of a verified loan;
- (w) Up to \$12,000 to Aleuts and \$20,000 to an individual of Japanese ancestry for payment made by the United States Government to compensate for a hardship experienced during World War II;
- (x) The advance payment or refund of earned income tax credit;
- (y) Payment made from the Agent Orange Settlement Fund;
- (z) Payment made from the Radiation Exposure Compensation Trust Fund;
- (aa) Up to \$2,000 per year of income received by individual Indians denied from a lease or other use of individually-owned trust or restricted lands;
- (bb) Payment made to an individual because of the individual's status as a victim of Nazi persecution;
- (cc) Income received from temporary employment from the United States Department of Commerce, Bureau of the Census;
- (dd) A payment received from the National Tobacco Growers Settlement Trust;
- (ee) A Tobacco Loss Assistance Program payment pursuant to 7 C.F.R. 1463;
- (ff) A payment received from a crime victim compensation program according to the Antiterrorism and Effective Death Penalty Act of 1996 pursuant to 42 U.S.C. 10602(c);
- (gg) A payment made, pursuant to 38 U.S.C. 1815 by the Veteran's Administration, to children of female Vietnam veterans;
- (hh) A discount or subsidy provided to Medicare beneficiaries pursuant to Section 1860D-31(g)(6) of the Social Security Act, 42 U.S.C. 601-619;
- (ii) Any cash grant received by the applicant under the Department of State or Department of Justice Reception and Placement Programs pursuant to 45 C.F.R. 400.66(d); or
- (jj) Reimbursement payment for a vocational rehabilitation individual participating in Preparing Adults for Competitive Employment pursuant to 29 U.S.C. 723(a)(5).
- (6) Deductions from gross income shall be:
- (a) Actual, legally obligated child support payment made by the applicant or responsible adult to a party not living in the family's residence; and
 - (b) Operating costs to determine adjusted gross income from self employment.
- (7) Best estimate.
- (a) Gross income shall be computed by using a best estimate of income that may exist in the benefit month.
- (b) The following method shall be used to calculate a best estimate of earned income other than earned self-employment:
1. Cents shall not be rounded at any step in the calculation;
 2. Unless it does not represent the ongoing situation, income from all pay periods in the preceding two (2) calendar months shall be used;
 3. A monthly amount shall be determined by:
 - a. Adding gross income from each pay period;
 - b. Dividing by the total number of pay periods considered; and
 - c. Converting the pay period figure to a monthly figure by multiplying a:
 - (i) Weekly amount by (4.334);
 - (ii) Biweekly amount by (2.667); or
 - (iii) Semimonthly amount by two (2); and
 4. If income has recently begun and the applicant or recipient has not received two (2) calendar months of earned income, the anticipated monthly income shall be computed by:
 - a. Multiplying the:
 - (i) Hourly rate by the estimated number of hours to be worked in a pay period; or
 - (ii) Daily rate by the estimated number of days to be worked in the pay period; and
 - b. Converting the resulting pay period figure to a monthly amount pursuant to subparagraph 3c of this paragraph.
- (c) For a case with unearned income, other than unearned self-employment income, a monthly amount shall be determined by:
1. Not rounding cents at any step in the calculation;
 2. Using the gross monthly amount of continuing, stable unearned income received on a monthly basis; and
 3. Averaging the amount of nonstable unearned income received in the three (3) prior calendar months, unless it does not represent the ongoing situation.
- (d) For a case with self-employment income, a monthly amount shall be determined as follows:
1. Cents shall not be rounded at any step in the calculation;
 2. If the self-employment enterprise has been in operation for at least a year, the income shall be prorated by dividing the income from the last calendar year by twelve (12);
 3. If the self-employment enterprise has been in operation for less than a year, the income shall be prorated by dividing by the number of months the business has been in existence; and
 4. Profit shall be determined by:
 - a. Dividing the allowable expenses permitted by the Internal Revenue Service except for depreciation by:
 - (i) Twelve (12) if the enterprise has been in operation for at least a year; or
 - (ii) The number of months the business has been operating if the business has been in existence for less than a year; and
 - b. Subtracting the monthly expense from the monthly income.

Section 8. Continuing Eligibility. (1) Continued eligibility under the CCAP shall be redetermined:

- (a) At least every twelve (12) months; or

- (b) At least every six (6) months for a child eligible pursuant to requirements in Section 5 of this administrative regulation.
- (2) Eligibility shall be reviewed and recalculated if necessary due to a known or reported change in circumstance.

Section 9. Payment Rates and Policy. (1) To the extent funds are available, the cabinet shall make payments as listed in the DCC-300, Kentucky Child Care Maximum Payment Rates Chart.

(a) The rates in the DCC-300 shall represent the maximum payment rates on a per day, per child, per child care provider basis.

(b) The maximum payment rates shall include the following categories:

1. Full day;
2. Part day;
3. Urban;
4. Nonurban;
5. Licensed;
6. Certified;
7. Registered;
8. Infant/Toddler;
9. Preschool; and
10. School-age.

(2) To the extent funds are available, a licensed or certified provider shall receive:

(a) Two (2) dollars per day beyond the maximum rate if the provider is accredited by the:

1. National Association for the Education for Young Children;
2. National Early Childhood Program Accreditation;
3. National Association for Family Child Care;
4. National After School Association; or
5. Other accrediting body approved by the Early Childhood Development Authority or the cabinet; or

(b) One (1) dollar per day beyond the maximum rate for nontraditional care for providing child care assistance between:

1. 6 p.m. to 6 a.m. daily; or
2. Friday, 6 p.m. through Monday, 6 a.m.

(3) To the extent funds are available, a licensed, certified, or registered provider shall receive a special care rate of one (1) additional dollar per day beyond the maximum rate for care of a child:

(a) With a special need; or

(b) Who is between age thirteen (13) and nineteen (19) and is:

1. Physically or mentally incapable of caring for himself as determined by a health professional; or
2. Under court supervision.

(4) The cabinet or its designee shall determine the maximum daily reimbursement rate not to exceed the amount charged to the general public.

(5) A child care provider registered according to 922 KAR 2:180 shall not be paid for more than:

- (a) Three (3) children receiving CCAP per day; or
- (b) Six (6) children receiving CCAP per day, if those children are a part of a sibling group.

(6) A family meeting the requirements of Section 4 or 6 of this administrative regulation shall be eligible for payment to cover child care needs due to full-time or part-time enrollment in an educational program.

(7) To the extent funds are available, required enrollment fees shall be paid no more than three (3) times in a twelve (12) month period for a family meeting the requirements in Section 6 of this administrative regulation.

Section 10. Family Copayment. (1) Unless a family copayment has been waived in accordance with Section 5(3)(b) of this administrative regulation, a family of a child served by the CCAP shall be responsible for a copayment in accordance with the family copayment table in subsection (3) of this section.

(2) If a court orders a parent of a CCAP-eligible child to pay a portion of the child's child care expenses, the court-ordered payment shall be in lieu of the family copayment required by subsection (3) of this section.

(3) The cabinet or its designee shall determine a copayment that a family shall pay to the provider for the cost of child care, based on the following table:

Family Co-Payment Per Day								
Income Range Monthly		Family Size 2 Family Co-Pay With 1 Child	Family Size 3 Family Co-Pay		Family Size 4 Family Co-Pay		Family Size 5 or More Family Co-Pay	
			With 1 Child	With 2 or more	With 1 Child	With 2 or more	With 1 Child	With 2 or more
0	899	\$0.00	\$0.00	\$0.00	\$0.00	\$0.00	\$0.00	\$0.00
900	999	\$2.00	\$2.00	\$3.00	\$2.00	\$2.00	\$2.00	\$2.00
1,000	1,099	\$3.00	\$3.00	\$3.00	\$2.00	\$3.00	\$2.00	\$3.00
1,100	1,199	\$4.00	\$4.00	\$4.00	\$3.00	\$3.00	\$2.00	\$3.00
1,200	1,299	\$4.00	\$4.00	\$5.00	\$4.00	\$4.00	\$3.00	\$3.00
1,300	1,399	\$5.00	\$5.00	\$5.00	\$5.00	\$5.00	\$3.00	\$4.00
1,400	1,499	\$6.00	\$5.00	\$6.00	\$5.00	\$6.00	\$4.00	\$4.00
1,500	1,599	\$7.00	\$6.00	\$6.00	\$6.00	\$6.00	\$5.00	\$5.00
1,600	1,699	\$8.00	\$6.00	\$7.00	\$6.00	\$7.00	\$6.00	\$6.00
1,700	1,799	\$9.00	\$7.00	\$8.00	\$7.00	\$8.00	\$6.00	\$7.00
1,800	1,899	\$10.00	\$8.00	\$9.00	\$7.00	\$8.00	\$7.00	\$8.00
1,900	1,999	\$10.00	\$9.00	\$10.00	\$8.00	\$9.00	\$8.00	\$9.00
2,000	2,099	\$11.00	\$10.00	\$11.00	\$8.00	\$9.00	\$8.00	\$9.00
2,100	2,199	\$12.00	\$10.00	\$11.00	\$9.00	\$10.00	\$9.00	\$10.00
2,200	2,299	\$12.00	\$11.00	\$12.00	\$10.00	\$11.00	\$9.00	\$10.00
2,300	2,399		\$12.00	\$13.00	\$11.00	\$12.00	\$9.00	\$10.00
2,400	2,499		\$12.00	\$13.00	\$12.00	\$13.00	\$10.00	\$11.00

2,500	2,599		\$13.00	\$14.00	\$12.00	\$13.00	\$10.00	\$11.00
2,600	2,699		\$13.00	\$14.00	\$13.00	\$14.00	\$12.00	\$13.00
2,700	2,799				\$13.00	\$14.00	\$13.00	\$14.00
2,800	2,899				\$14.00	\$15.00	\$14.00	\$15.00
2,900	2,999				\$14.00	\$15.00	\$16.00	\$17.00
3,000	3,099				\$15.00	\$16.00	\$18.00	\$19.00
3,100	3,199				\$15.00	\$16.00	\$20.00	\$21.00
3,200	3,299						\$20.00	\$21.00
3,300	3,399						\$22.00	\$23.00
3,400	3,499						\$22.00	\$23.00
3,500	3,599						\$24.00	\$25.00
3,600	3,699						\$25.00	\$25.00

(a) The maximum copayment for an eligible family with more than five (5) members shall be twenty-five (25) dollars.

(b) The family copayment table shall be effective May 1, 2008.

(c) The co-payment for a child who was in the CCAP prior to May 1, 2008, shall remain unchanged until the next action involving the child's eligibility, including:

1. A change in the circumstances of the child or the child's family; or

2. An eligibility redetermination of the child and the child's family.

(4)(a) If a provider notifies the cabinet or its designee that a family has failed to comply with a required copayment for two (2) weeks, the cabinet or its designee shall request that the provider develop a payment plan with the family.

(b) If a family fails to enter into a payment plan within ten (10) days from a provider's notification that a payment plan is necessary, or a family fails to make two (2) payments in accordance with the payment plan, the cabinet shall:

1. Not pay a subsequent provider until the family demonstrates compliance with the payment plan; and

2. Terminate CCAP for the family.

(c) The cabinet or its designee may grant an exception to paragraph (b) of this subsection due to:

1. A disaster;

2. The closure of a provider;

3. Family circumstances, such as relocation, illness, or death; or

4. A risk to the health, welfare, or safety of the child or parent.

Section 11. Family Rights and Responsibilities. (1) The family of a child served by the CCAP shall have rights pursuant to KRS 199.898(1) and (2).

(2) Unless an alternative program such as Head Start, state preschool or state kindergarten is available and accessible during the time child care is needed, an applicant for a child who receives or has been approved to receive CCAP benefits shall:

(a) Be offered choice of child care assistance subject to the availability of state and federal funds; and

(b) Receive a child care certificate, DCC-94, Child Care Service Agreement and Certificate.

(3) An applicant may change the applicant's provider a maximum of three (3) times in a twelve (12) month period, unless an exception is authorized by the cabinet or its designee due to:

(a) A disaster;

(b) Closure of a provider;

(c) Family circumstances, such as relocation, illness, or death; or

(d) A risk to the health, welfare, or safety of the child or the applicant.

(4) A family that changes the child care provider more than three (3) times as described in subsection (3) of this section shall be discontinued from the CCAP and unable to participate until the end of the eligibility period in effect at the time of discontinuance.

(5) An applicant for a child served by CCAP shall advise the cabinet or its designee of a change in a circumstance within ten (10) calendar days of the day the change is known.

(6) Failure to report a change in a circumstance may result in a decrease or discontinuance of CCAP benefits based on the type of change.

Section 12. Cabinet Requirements. (1) The DCC-94 shall:

(a) Be used for child care assistance provided by a licensed, certified, or registered provider; and

(b) Not be considered a contract, employment or grant to the child care provider, but shall be considered assistance to the applicant pursuant to 45 C.F.R. 98.30(c)(6).

(2) The cabinet or its designee shall provide consumer information regarding conditions for termination of the DCC-94 pursuant to KRS 199.8994(6)(b).

(3) The cabinet or its designee shall assure that a provider of child care assistance funded under the CCDF and other local, state, or federal funds shall comply with the applicable regulatory requirements pursuant to:

(a) 922 KAR 2:090, Child care center licensure;

(b) 922 KAR 2:100, Certification of family child care homes;

(c) 922 KAR 2:110, Child care facility provider requirements;

(d) 922 KAR 2:120, Child care facility health and safety standards; and

(e) 922 KAR 2:180, Requirements for registered child care providers in the Child Care Assistance Program.

(4) If CCAP benefits are reduced or terminated due to the shortage of funding, the cabinet shall provide a minimum thirty (30) calendar day notice to each family receiving child care assistance.

(5) If the daily maximum payment rate is reduced due to the shortage of funding, the cabinet shall provide a minimum thirty (30) calendar day notice to licensed, certified, or registered providers.

(6) The recipient shall be given ten (10) calendar days advance notice of the proposed action if a change in circumstances indicates:

(a) A child care benefit shall be:

1. Reduced;

2. Suspended; or

3. Discontinued; or

(b) An individual shall be removed from the child care benefit.

(7) The ten (10) calendar days advance notice of the proposed action shall:

(a) Be given on the DCC-105, Notice of Adverse Action;

(b) Explain the reason for the proposed action;

- (c) Cite the applicable state administrative regulation; and
- (d) Extend the opportunity to confer with the child care worker or to request an appeal pursuant to Section 17 of this administrative regulation.
- (8) The cabinet shall prioritize child care assistance benefits as determined by the available funds as follows:
 - (a) Child protective services or preventive services authorization;
 - (b) A child with a special need;
 - (c) A teen parent;
 - (d) A K-TAP recipient attempting through employment to transition off assistance;
 - (e) An applicant whose K-TAP case has been discontinued during the previous twelve (12) months and who needs child care assistance in order to accept or retain employment; or
 - (f) A low income working applicant.

Section 13. Provider Requirements. (1) A licensed, certified, or registered child care provider that serves a child who participates in the CCAP shall:

- (a) Sign and submit the DCC-94 to the cabinet or its designee prior to receiving payment from the CCAP;
- (b) Report all absences on the DCC-97, Provider Billing Form, submitted to the cabinet or its designee; and
- (c) Maintain a monthly sign-in sheet in which the daily arrival and departure times of each child have been recorded, and submit the sign-in sheet upon request of the cabinet or its designee.

(2) A licensed or certified child care provider shall complete the DCC-94B, Licensed or Certified Provider Information Form, prior to receiving payment from the CCAP.

(3) A registered child care provider shall complete all requirements of 922 KAR 2:180 prior to receiving payment from the CCAP.

(4) A licensed child care provider shall maintain written documents with attendance records stating the reason for any absence of a child receiving CCAP in excess of five (5) per month per child.

Section 14. Other Services. To the extent state funds are available, a child whose family's income is over the income limits for the CCAP described in Section 7 shall be eligible for:

- (1) Child care payments;
- (2) Enrollment fees;
- (3) Activity or day trip fees;
- (4) Material fees;
- (5) Transportation fees; or
- (6) Other items relating to child care services with prior approval of the cabinet.

Section 15. Erroneous Payments. (1) The cabinet or its designee shall investigate each:

(a) Instance of apparent erroneous payment; and

(b) Allegation of fraud related to a:

- 1. CCAP recipient family; or
- 2. Child care provider.

(2) Action shall be promptly taken to correct the payment in an active case.

(3) If an overpayment has occurred, the cabinet or its designee shall:

- (a) Determine the amount of the erroneous payment; and
- (b) Establish a claim to recover the amount of the overpayment.

(4) If an overpayment has occurred and fraud is suspected, the cabinet shall determine the efficacy of pursuing a judicial remedy prior to attempting to recover the amount of the overpayment through an administrative process.

(5) If a claim has been established, and a judicial remedy has been determined by the cabinet to be inappropriate, the cabinet or its designee shall:

(a) Advise the affected party of the claim; and

(b) Establish a repayment agreement using form DCC-98, Repayment Agreement, for the purpose of recovering a CCAP overpayment from the:

- 1. Applicant; or
- 2. Child care provider.

(6) Payments under the CCAP shall be discontinued if a family or provider:

- (a) Refuses to sign a DCC-98; or
- (b) Defaults on more than three (3) payments under a completed repayment agreement.

(7) If a family or provider reapplies for CCAP benefits after discontinuance from the program for noncompliance with a repayment agreement, as described in subsection (6) of this section, the cabinet or its designee shall reapprove CCAP benefits upon payment of the overdue installments.

(8) If a family or provider reapplies for CCAP benefits after discontinuance from the program for refusal to sign a DCC-98 as described in subsection (6) of this section, the cabinet or its designee shall reapprove CCAP benefits upon signing of the DCC-98 and payment of the overdue installments.

(9) If an underpayment has occurred, the cabinet or its designee shall:

- (a) Determine the amount owed; and
- (b) Issue a refund to the affected party.

(10) If both an overpayment and an underpayment exists for an individual family or provider, the overpayment and underpayment shall be offset one against the other.

Section 16. Criteria for Nonpayment. (1) Payment under the CCAP shall:

(a) Not be made to a licensed provider for more than five (5) absences per child during a month if the provider fails to verify in writing, and maintain attendance records verifying, that the additional absences were related to:

- 1. A death in the extended family;
- 2. Illness of:
 - a. Child; or
 - b. Applicant;
- 3. Court orders; or
- 4. Disaster.

(b) Not be made to a certified provider for more than five (5) absences per child during a month;

(c) Not be made to a registered provider for any absences;

(d) Be denied in accordance with KRS 199.8994(6);

(e) Cease if a family or provider:

- 1. Defaults on three (3) payments under a repayment agreement with the cabinet or its designee; or
- 2. Refuses to sign a DCC-98; or

(f) Not be made if a family no longer meets the technical or financial eligibility requirements under the CCAP.

(2) Subject to the availability of state or federal funds, the cabinet may suspend approval of initial application for benefits under the CCAP following the priorities established in Section 12(8) of this administrative regulation.

Section 17. Appeals. The cabinet or its designee shall inform a family that:

(1) Appeal of a denial, reduction, suspension, or termination of benefits shall be submitted in writing to the cabinet or its designee within thirty (30) calendar days of the date of the negative action.

(2) If a family appeals a:

(a) Reduction of benefits, child care assistance benefits shall be available at the reduced level during the appeal; or

(b) Suspension or termination of benefits, child care assistance benefits shall not be available during the appeal.

Section 18. Incorporation by Reference. (1) The following material is incorporated by reference:

(a) "DCC-90, Application for Subsidized Child Care Assistance", edition 3/08;

(b) "DCC-90.1, Intent to Apply for Child Care Assistance", edition 3/08.

(c) "DCC-94, Child Care Service Agreement and Certificate", edition 3/08;

(d) "DCC-94B, Licensed or Certified Provider Information Form", edition 3/08;

(e) "DCC-97, Provider Billing Form", edition 3/08;

(f) "DCC-98, Repayment Agreement", edition 3/08;

(g) "DCC-105, Notice of Adverse Action", edition 3/08; and

(h) "DCC-300, Kentucky Child Care Maximum Payment Rates Chart", edition 3/08.

(2) This material may be inspected, copied, or obtained, subject to applicable copyright law, at the Cabinet for Health and Family Services, Department for Community Based Services, 275 East Main Street, Frankfort, Kentucky 40621, Monday through Friday, 8 am through 4:30 pm. (25 Ky.R. 725; Am. 1075; 1375; eff. 11-18-98; Recodified from 905 KAR 2:160, 2-1-99; 26 Ky.R. 249; 634; 783; eff. 10-20-99; 28 Ky.R. 492; 900; eff. 9-25-2001; 29 Ky.R. 2810; 30 Ky.R. 68; 301; 2578; eff. 8-13-03; 31 Ky.R. 360; eff. 8-24-04; 32 Ky.R. 2191; 33 Ky.R. 500; 802; eff. 9-20-06; 34 Ky.R. 487; 804; eff. 5-2-2008.)