**R986. Workforce Services, Employment Development.**

**R986-700. Child Care Assistance.**

**R986-700-701. Authority for Child Care Assistance and Other Applicable Rules.**

(1) The Department administers Child Care assistance (CC) pursuant to the authority granted in Section 35A-3-310.

(2) Rule R986-100 applies to CC except as noted in this rule.

(3) Rule R986-200 applies to CC, except as noted in this rule or where in conflict with this rule.

**R986-700-701.1. Definitions and Acronyms.**

(1) The terms used in this rule are defined in Sections 35A-3-102 and 35A-3-201, and in Sections R986-100-103 and R986-100-104 except as noted in Subsection (2) of this section.

(2) In addition:

(a) "ADH" means administrative disqualification hearing.

(b) "Applicant" means a person requesting CC.

(c) "Approved Provider" means a provider that meets the requirements in Section R986-700-726.

(d) "CCDF" means Child Care and Development Fund.

(e) "CCL" means DHHS, Division of Licensing and Background Checks, Child Care Licensing.

(f) "CCQS" means Child Care Quality System, a comprehensive statewide system administered by OCC that provides quality ratings to eligible programs and supports programs in attaining higher levels of quality.

(g) "Certification period" as it relates to a recipient of CC is the period for which CC is presumptively approved.

(h) "Client" means an applicant for, or recipient of, CC.

(i) "Child" includes the singular and the plural, child or children.

(j) "Child Care Provider" or "Provider" means a person, individual or corporation, institution, or organization that provides child care services.

(k) "Civil money penalty" is a fine assessed by CCL for repeat citations, or when the first instance of noncompliance results in, or is likely to result in, extreme risk or harm.

(l) "DHHS" means the Department of Health and Human Services.

(m) "Employment" means a job or providing a service that pays wages, a salary, in-kind benefits, or self-employment income, provided federal or state law does not prohibit the occupation.

(n) "ES CC" means Employment Support Child Care assistance.

(o) "ESG" means Enhanced Subsidy Grant. An ESG is a monthly payment issued to an eligible program serving children covered by CC subsidies and achieving a rating of CCQS High Quality or High Quality Plus.

(p) "FEP CC" means Family Employment Program Child Care assistance.

(q) "FFN provider" means Family, Friend, and Neighbor provider.

(r) "GED" means General Education Development diploma.

(s) "Licensed-center provider" means a non-hourly, licensed child care center that is regulated through CCL.

(t) "Locked-in benefit" means the amount of the first full month of benefits paid on behalf of a client.

(u) "OCC" means Department of Workforce Services, Office of Child Care.

(v) "Parent" includes a natural, adoptive, or step parent.

(w) "Recipient" means an individual receiving CC.

(x) "Review or recertification" means the process to determine continued eligibility.

(y) "Transitional CC" means CC available to a customer whose FEP case closed because of increased income and who meets ES CC eligibility requirements.

**R986-700-702. General Provisions.**

(1)(a) CC is provided to support employment for a qualified household with at least one minor dependent child who is a United States citizen or who meets qualified alien status.

(b) CC for approved education and training activities, job search, or for an approved temporary change as defined in Section R986-700-703 may be authorized in accordance with this rule.

(2) CC is available, as funding permits, to a client who is employed or is participating in activities that lead to employment, and is:

(a) a parent, including a foster care parent who receives foster care reimbursement from the Utah Department of Health and Human Services, Division of Child and Family Services, or its successor;

(b) a specified relative;

(c) a client who has been awarded custody or appointed guardian of the child by court order and both parents are absent from the home; or

(d) as determined by the Department on a case-by-case basis, a client acting as a child's guardian although no court order exists and both parents are absent from the home.

(3)(a) Except for FEP CC and transitional CC, household eligibility is determined for a minimum period of 12 months.

(b) The eligibility period and eligibility review may be extended to no more than 12 months, but may not be shortened to less than 12 months.

(c) Each requested verification must be provided at the time of the application and review.

(d) The application or review is not complete until the client has completed, signed, and returned each necessary application or review form to the local office or through the Department's online portal.

(e) If the Department determines the household's gross monthly income exceeds the percentage of the state median income as determined by the Department under Subsection R986-700-710(4), the Department may terminate CC even if the certification period has not expired.

(4)(a) CC is provided only for a child who lives in the home of the client and only during hours when no parent or other guardian is available to provide care for the child.

(b) The child must have a need for at least eight hours of child care per month to be eligible for CC.

(5) The need for each child shall be reported at the time of the application or review. After the initial approval, the need for additional children shall require a new application for assistance. If a client is eligible to receive CC, each of the following children, living in the household unit, are eligible at the time of application or review:

(a) a child under the age of 13 years; and

(b) a child up to the age of 18 years if the child is under court supervision or meets the requirements of Section R986-700-717.

(6) When a request is made for an additional child to be added to an open CC case, a new application is required. The household must meet all eligibility requirements that the household was subject to at the time of the most recent approval. The eligible child may be added for a minimum of 365 days or 12 full months of benefits and the review for the household may be extended, as follows.

(a) If parent participation does not change, the additional child shall be added to the existing locked-in benefit at its current amount and the review will be extended for a minimum of 12 full months from the first full month of the new child's participation.

(b) If parent participation decreases, but continues to meet the minimum work requirement, the new child will be added to the existing locked-in benefit at its current amount and the review will be extended for a minimum of 12 full months from the first full month of the new child's participation.

(c) If adding a child increases the benefit, specifically a decrease in co-pay or increased hours, the household benefit will increase for the next 12 months from the first full month of the new child's participation.

(7) When requesting to add a child to an open case, CC will be denied for the additional child if the household does not meet all eligibility requirements to which the household was subject at the time of the most recent approval. The remaining children who were determined to be eligible will remain eligible through the end of the current review period.

(8)(a) The child care needs of a client who qualifies for CC will be paid if and as funding is available.

(b) When the child care needs of an eligible applicant exceeds available funding, the applicant will be placed on a waiting list.

(i) Eligible applicants on the waiting list will be served as funding becomes available.

(ii) Special needs children, homeless children, and FEP or FEPTP eligible children will be prioritized at the top of the waiting list and will be served first.

(iii) "Special needs child" is defined in Section R986-700-717.

(9)(a) CC is issued monthly based on a client's eligibility for services in that month.

(b) The amount of CC might not cover the entire cost of care.

(10)(a) A client is only eligible for CC if the client has no other options available for child care.

(b) Clients are encouraged to obtain child care at no cost from a parent, sibling, relative, or other suitable provider.

(c) If suitable child care is available to a client at no cost from another source, CC cannot be provided.

(11)(a) CC may only be provided by an eligible provider approved by the Department and will not be provided for illegal or unsafe child care.

(b) Illegal child care is care provided by a person or facility required to be licensed or certified but where the provider has not fulfilled the requirements necessary to obtain the license or certification.

(12)(a) CC will not be paid for the care of a client's own child during the time the client is working as a caregiver in the same residential setting where care is being provided.

(b) CC will not be approved where the client is working for an approved child care center and regularly watches the client's own children at the center or has an ownership interest in the child care center.

(c) CC will not be paid for the care of a client's own child if the client is also the licensee or is a stockholder, officer, director, partner, manager, or member of a corporation, partnership, limited liability partnership or company, or similar legal entity providing the child care.

(d)(i) A person who is self-employed as a child care provider cannot receive CC for child care provided for that person's children during the time the person is working as a child care provider, regardless of where the person's child receives child care.

(ii) A person who is self-employed as a child care provider may receive CC when needed for approved activities while the person is not engaged in child care.

(13) Neither the Department nor the state is liable for an injury that may occur when a child is placed in child care even if the parent receives CC from the Department.

**R986-700-703. Client Rights and Responsibilities.**

In addition to the client rights and responsibilities found in Rule R986-100, the rights and responsibilities listed in this section apply.

(1) A client may select the type of child care that best meets the family's needs, including reporting the client's choice of provider to the Department and start date of care, if known. If no start date is reported or a discrepancy in start dates exists, the Department may use the start date verified with the client's chosen provider.

(2) If a client requests help in selecting a provider, the Department will refer the client to the local Care About Childcare agency.

(3)(a) A client must verify identity.

(b)(i) A client is not required to provide a Social Security Number.

(A) The Department will verify a Social Security Number supplied by a client.

(B) The Department will request further verification to confirm an individual's identity if a Social Security Number cannot be verified.

(ii) Benefits will not be denied or withheld if a client chooses not to provide a Social Security Number if the client is otherwise eligible.

(4) A client is responsible for monitoring the child care provider.

(5)(a) A client is responsible to pay all costs of care charged by the provider.

(b) If the CC payment provided by the Department is less than the amount charged by the provider, the client is responsible for paying the provider the difference.

(6) Within ten days of occurrence, a client shall report any of the changes listed in this subsection.

(a) If the household's gross monthly income exceeds the percentage of the state median income as determined by the Department in Subsection R986-700-710(4).

(b) If the client no longer needs child care.

(c) A change of address.

(d) If a child receiving child care:

(i) moves out of the home; or

(ii) has stopped attending child care.

(e) A change in the child care provider, including when care is provided at no cost.

(7) Allowable temporary changes.

(a) The following are allowable temporary changes:

(i) time-limited absences from work due to medical or other emergency, including maternity leave, bed rest, or temporary medical issues of the client or an immediate family member living in the client's home if the client is responsible for the immediate family member's care;

(ii) temporary fluctuations in earnings or hours, including summer break for teachers or seasonal hours changes for IRS employees, that would otherwise have the effect of causing the client to fail to meet the minimum work requirements for eligibility;

(iii) scheduled holidays or breaks in a client's educational training schedule;

(iv) an eligible child turning 13 years old during an eligibility review period, unless the child no longer has a need for child care; and

(v) a client who has been approved for ongoing ES CC at application or recertification and has a permanent loss of employment may remain eligible through the rest of the certification period.

(b) A client who experiences an allowable temporary change after having been approved for ongoing ES CC may continue to receive CC at the same level for the rest of the certification period if the child attends child care at least eight hours each month.

(8)(a) Once an eligibility determination is made and a full month's payment and copayment is assessed, benefits will be paid at the same level during the rest of the certification period so long as the client remains eligible.

(b) The Department may act on reported changes that result in a participation increase or copayment decrease.

(c) Benefits may be reduced if a child care provider reports a lower monthly charge or the client changes to a different child care provider.

(9)(a) If an overpayment is established and it is determined that the client was at fault in the creation of the overpayment, the client must repay the overpayment to the Department.

(b) The Department may find that the client and provider are jointly liable for the overpayment.

(c) In the case of joint liability, both parties can be held liable for the entire overpayment.

(10) The Department may release the following information to the designated provider:

(a) limited information regarding the status of a CC payment including that no payment was issued or services were denied;

(b) the date the CC payment was issued;

(c) the CC payment amount for that provider;

(d) the copayment amount;

(e) information available in the Department Provider Portal;

(f) the month the client is scheduled for review;

(g) the date the client's application was received; and

(h) general information about what additional information or verification is needed to approve CC including the client's work schedule and income.

(11)(a) If a client changes providers, the change will be made based upon reporting requirements for the following month's subsidy payment.

(b) No additional payment will be made to another provider for any days remaining in the current benefit month, unless the maximum subsidy payment amount for the month will not be exceeded by paying the second provider or if one of the exceptions listed in this subsection applies.

(i) The Department was notified of the change in the month before the change.

(ii) The initial provider is no longer an approved provider or has been disqualified by the Department.

(iii) The initial provider is not holding the child's space for the rest of the month.

(iv) The client relocates to a different residence and it is no longer reasonably feasible to continue using the initial provider due to travel time or distance.

(v) There is a substantial change in the days or times of day when child care is needed, including a change in the timing of the shifts the client is working, that cannot be accommodated by the initial provider.

(vi)(A) The Department determines a change in child care providers is necessary due to a report of endangerment for the child.

(B) The Department may, in its discretion, approve payment to a second provider due to a report of endangerment even if the maximum subsidy payment amount would be exceeded.

(vii) The Department determines a change in child care providers is necessary due to circumstances related to a pandemic, natural disaster, or other state of emergency.

(12) A client may select an authorized representative.

(a) An authorized representative is an individual selected by a client to conduct business on the client's behalf.

(b) An authorized representative may provide verifications and complete forms for the client.

(c) A client's child care provider may act as an authorized representative for the client after the client has been informed of the provider's potential conflict of interest.

**R986-700-704. Establishment of Paternity.**

The sections of Rules R986-100 and R986-200 pertaining to cooperation with ORS in the establishment of paternity and collection of child support do not apply to ES CC.

**R986-700-707. Copayment.**

(1) "Copayment" means a dollar amount which is deducted by the Department from the standard CC subsidy for ES CC. The copayment is determined on a sliding scale and the amount of the copayment is based on the parent's countable earned and unearned income and household size.

(2) The parent is responsible for paying the amount of the copayment directly to the child care provider.

(3) If the copayment exceeds the actual cost of child care, the family is not eligible for CC.

(4) The Department will deduct the full monthly copayment from the subsidy even if the client receives CC for only part of the month.

(5) The following clients are not subject to the copayment requirement:

(a) clients at or below 100% of the poverty level;

(b) clients receiving transitional CC and FEP CC as provided in Section R986-700-708; or

(c) other households in accordance with CCDF guidance.

**R986-700-707.1. Initial Registration Fee Assistance.**

(1) The Department may pay an initial registration fee per child to an approved provider.

(2) A provider must indicate on the Care About Childcare website that the provider charges an initial registration fee per child. If the indicator is marked, the provider must enter the amount of the initial registration fee per child.

(3)(a) An initial registration fee may be paid up to the allowed amount for the provider type. The allowable amount is a set amount determined by the Department.

(b) The fee paid by the Department may not cover the full initial registration charge.

(c) If a client has already paid an initial registration fee, the provider will be expected to reimburse the parent for any portion of the fee paid by the Department.

(4) The Department will only pay for one initial registration fee per child per provider within a 12-month period, at initial approval, or when a change of providers is reported. Annual registration fees are not covered.

(5) Initial registration fees will not be paid retroactively or prior to the date stated on the Care About Childcare website.

**R986-700-708. Family Employment Program Child Care and Transitional Child Care.**

(1) FEP CC may be provided to clients receiving financial assistance from FEP or FEPTP. Family Employment Program CC will only be provided to cover the hours a client needs child care to support the activities required by the employment plan.

(2) Transitional child care is available during the six months immediately following a FEP or FEPTP termination if the termination was due to increased earned income and the household meets the work requirement and income rules for ES CC.

(3) Clients receiving transitional child care are not subject to the copayment requirement.

(a) The copayment will resume in the seventh month after the termination of FEP or FEPTP.

(b) The six month time limit is the same regardless of whether the client receives TCA or not.

(4) A client does not need to fill out a new application for child care during the six month transitional period even if there is a gap in services during those six months.

**R986-700-709. Employment Support Child Care Assistance.**

(1) Parents who are not eligible for FEP CC may be eligible for Employment Support (ES) CC.

(2) ES CC is available in the following circumstances:

(a) In a single-parent household, the single parent must be the custodial parent of the eligible child and must be:

(i) employed an average of at least 15 hours per week;

(ii) employed to the single parent's full capacity if the single parent has a disability that has been verified and confirmed by the Department;

(iii) enrolled and participating in either an in-person, formal course of study or online courses with a set class schedule to obtain a high school diploma or GED;

(iv) employed an average of at least 15 hours per week and participating in education and training activities as defined in Section R986-700-711; or

(v) enrolled in a WIOA or TANF non-FEP funded training or educational program approved by the Department.

(b) Two-parent households.

(i) In a two-parent household, the parents must be:

(A) employed, with one parent employed an average of at least 30 hours per week and the second parent employed an average of at least 15 hours per week;

(B) employed to both parents' full capacities if one or both parents has a disability that has been verified and confirmed by the Department;

(C) employed, with one parent employed an average of at least 30 hours per week and the second parent employed an average of at least 15 hours per week and participating in education and training activities as defined in Section R986-700-711;

(D) enrolled and participating in an in-person, formal course of study or online courses with a set class schedule to obtain a high school diploma or GED; or

(E) enrolled in a WIOA or TANF non-FEP funded training or educational program approved by the Department.

(ii)(A) The Department shall authorize ES CC to two-parent households only when neither the parents' work schedules nor course schedules can be changed to provide care for the parents' child.

(B) The Department may authorize ES CC when both parents are enrolled and participating in a formal course of study to obtain a high school diploma or GED.

(C) The Department may authorize ES CC when one parent is working and the second parent is participating in the formal course of study to obtain a high school diploma or GED.

(D) The Department may authorize ES CC when both parents are enrolled and participating in approved WIOA or TANF non-FEP funded training or education.

(E) The Department may authorize ES CC when one parent is working and the second parent is participating in approved WIOA or TANF non-FEP funded training or education.

(c) Self-employed parents.

(i) Self-employed parents may receive ES CC if they meet the minimum work requirements and earn wages or profit from self-employment at a rate equal to at least minimum wage, calculated by dividing the wage or profit earned through self-employment by the number of hours worked in the timeframe used to determine eligibility.

(ii) A self-employed parent shall submit business records for the most recent three-month period of self-employment to establish that the self-employed parent is earning at least minimum wage.

(iii) An exception to the requirement that a self-employed parent earn at least minimum wage may apply if the self-employed parent has a barrier to other types of employment.

(3) Employment Support CC shall be provided to cover the hours the parent needs child care for employment or approved educational or training activities.

(4) Disability.

(a) A household may verify a disability under this section by establishing:

(i) the disabled parent has an inability to earn a minimum of $500 per month;

(ii) the disabled parent has a temporary physical, emotional, or mental incapacity expected to last 30 days or longer that has been verified by the household by submitting the following, and the incapacity is confirmed by the Department:

(A) evidence that the disabled parent receives disability benefits from SSA if it proves the incapacity prevents the parent from providing care for the parent's child;

(B) a determination by VA that the parent is 100% disabled if it proves the incapacity prevents the parent from providing care for the parent's child; or

(C) a written statement from a licensed:

(I) medical doctor;

(II) doctor of osteopathy;

(III) Mental Health Therapist as defined in Section 58-60-102;

(IV) Advanced Practice Registered Nurse; or

(V) Physician's Assistant; and

(iii) in a two-parent household, the disabled parent is unable to provide care for the child while the other parent is employed.

(b) A parent who is employed and earning more than $500 per month or participating in educational or training activities will not be considered disabled under this section unless the Department confirms the disability.

(5) As used in this section the term "employment" does not include:

(a) AmeriCorps\* Vista, Job Corps and other similar training activities; or

(b) Work Study activities.

**R986-700-710. Household Assistance Unit, Income, and Asset Limits for Employment Support Child Care.**

(1) For the purposes of this section, "common facilities" means essential household utilities including water, electricity, heating, and other utilities, or parts of a physical structure including kitchen, restroom, and other portions of a residential building shared by a household or group of individuals.

(2)(a) Except as provided in this section, Rule R986-200 is used to determine who must be included as part of the household assistance unit to determine income that must be counted to establish the household's eligibility.

(i) Determining household composition for an ES CC household may be different from determining household composition for a FEP or FEPTP household.

(ii) Employment Support CC follows the parent and the child. If a parent in the household is ineligible for ES CC, the entire household assistance unit is ineligible.

(3) Household Assistance Unit.

(a) An eligible child and one or more of the following residing in the same structure with common facilities is considered a household assistance unit:

(i) a parent;

(ii) specified relative;

(iii) unrelated adults with a child in common; or

(iv) unrelated adult with legal custody of a child.

(b) Any person living on the same property or at the same address and sharing common facilities with other individuals is part of a household assistance unit, even if the person lives in a separate structure.

(c) An absent parent or provider is part of the household assistance unit if the Department determines that the individual does not have a separate address, or lives in a structure without common facilities separate from the household.

(d) Notwithstanding Subsection R986-700-710(3)(a), a parent under the age of 18 with an eligible child is a household assistance unit, even if the parent under the age of 18 lives with a parent or guardian and shares common facilities.

(e) A specified relative may not opt out of the household assistance unit when determining eligibility for CC.

(f) Recipients of SSI benefits are included in the household assistance unit.

(g) Foster care parents, their children and foster care children may not opt out of the household assistance unit when determining eligibility for CC.

(4) Countable Income.

(a)(i) If both parents are living in the household, the income of both parents is counted.

(ii) If only one parent lives in the household, only the income of that parent is counted as income.

(b) The income of each specified relative in the household must be counted.

(c) The income of each foster parent in the household must be counted.

(d)(i) Child support is counted as unearned income of the child, even if it exceeds the amount ordered by a court or ORS, if the payment is made directly to a parent or member of the household.

(ii) If a child support payment is paid to a third party, only the amount up to the court or ORS ordered child support amount is counted.

(e)(i) If a non-applicant parent pays a portion of the child care costs directly to the applicant parent, that amount is counted as income.

(ii) If the non-applicant parent pays the child care provider directly, that amount will be deducted from the amount the provider reports to the Department as the charge for the child.

(e) SSI benefits paid to an SSI recipient are not countable income.

(f) The earned income of a child who is not a parent is not counted.

(g) An independent living grant paid by DHHS to a minor parent is not counted as income.

(5) Income deductions allowed on a monthly basis.

(a) The first $50 of child support received by the family.

(b) Court ordered and verified child support and alimony paid out by the household.

(c) $100 for each person with countable earned income.

(d)(i) $100 automatic medical deduction.

(ii) The medical deduction does not require proof of expenditure.

(6)(a) The household assistance unit must meet the CCDF asset limit.

(b) The household's countable income, less applicable deductions in this section, must be at, or below, a percentage of the state median income as determined by the Department.

(c) The Department will adjust the percentage of the state median income as funding permits.

(d) The state median income used to determine eligibility and copayment amounts are available on the Department's website.

**R986-700-711. Employment Support Child Care Assistance to Support Education and Training Activities.**

(1) ES CC may be provided when the client is engaged in education or training and employment, provided the client meets the work requirements under Section R986-700-709.

(2) The work requirement may be waived as provided in Subsection R986-700-709(2)(a)(iii), R986-700-709(2)(a)(v), or R986-700-709(2)(b)(i)(C) for a client who is unemployed and is enrolled in a formal course of study to obtain a high school diploma or GED.

(a) The 24 calendar month time limit in Subsection R986-700-711(4) does not apply to high school or GED completion.

(b) The client must provide verification of satisfactory progress to receive continued ES CC beyond 12 months.

(3) The education or training is limited to courses approved by the Department that directly relate to improving the parent's employment skills.

(4) ES CC will only be paid to support education or training activities for a total of 24 calendar months.

(a) The months do not need to be consecutive.

(b) On a case-by-case basis, and for a reasonable length of time, months do not count toward the 24-month time limit when the client is meeting the work requirements of Section R986-700-709 and is enrolled in a formal course of study for any of the following:

(i) obtaining a high school diploma or GED;

(ii) adult basic education; or

(iii) learning English as a second language.

(c) Months during which the client received FEP CC while receiving education and training do not count toward the 24-month time limit.

(d)(i) CC is not ordinarily used to support short-term workshops unless they are required or encouraged by the employer.

(ii) If a short-term workshop is required or encouraged by the employer, and approved by the Department, months during which the client receives child care to attend such a workshop do not count toward the 24-month time limit.

(5) Education or training can only be approved if the client can realistically complete the course of study within 24 months and demonstrates progress in the program.

(6) Any CC payment to cover training participation hours made for a calendar month, or a partial calendar month, counts as one month toward the 24-month limit.

(7) Except as provided in Section R986-700-711, there are no exceptions to the 24-month time limit, and no extensions may be granted.

(8) Only the last two years of a four-year program may be supported.

(9) CC is not allowed to support education or training if the client already has a bachelor's degree.

(10) CC cannot be approved for graduate study or obtaining a teaching certificate if the client already has a bachelor's degree.

**R986-700-712. Child Care Assistance for Certain Homeless Families.**

(1) CC can be provided for homeless families with one or two parents when the family meets the following criteria:

(a)(i) The family must present a referral for CC from an agency known by the local office to be an agency that works with homeless families, including shelters for abused women and children.

(ii) This referral will serve as proof of the family's homeless state.

(iii) Local offices will provide a list of recognized homeless agencies in the local office area.

(b) The family must meet ES CC relationship and income eligibility criteria, but the minimum work requirements are waived.

(2) CC for homeless families is provided for up to 12 months.

(3) Qualifying families may use CC for any activity including employment, job search, training, shelter search, or working through a crisis situation.

(4) If the family is eligible for a different type of CC, the family will be paid under the other type of CC.

**R986-700-713. Amount of Child Care Assistance.**

CC will be paid at the lower of the following levels.

(1) The maximum monthly local market rate as calculated using the Local Market Survey.

(2) The rate established by the provider for services and reported to the local Care About Childcare agency or the Department, provided that CC cannot pay more for services than is charged to the public for the same service.

(3)(i) The unit cost multiplied by the number of hours approved by the Department.

(ii) The unit cost is determined by dividing the maximum monthly local market rate by 137.6 hours.

**R986-700-714. Child Care Assistance Payment Method.**

(1)(a) The provider must provide a valid financial account and routing number to allow for payment by direct deposit.

(b) For open, ongoing cases, payment will be issued on the first day of the month for services to be provided during that month.

(c) The provider is not an employee of the Department, the Office of Child Care, or the state even if the provider is only providing care for one client.

(2)(a) Under unusual or extraordinary circumstances, the Department may issue payment by check.

(b) If a provider cannot obtain a financial account for direct deposit, the provider must contact the Department and explain why direct deposit is not possible.

(3)(a) If a check is reported as lost or stolen, the provider shall sign a statement that they have not received funds from the original check before a replacement check can be issued.

(b) The check must be reported as lost or stolen within 60 days of the date the check was mailed. The statement must be signed on an approved Department form.

(c) If the original check has been redeemed, the Department will conduct an investigation and the provider may be required to provide a sworn, notarized statement that the signature on the endorsed check is a forgery.

(d) If the Department determines the redeemed check was a forgery, the Department may require a waiting period before issuing a replacement check.

(4) The Department may stop payment on a CC check without prior notice if:

(a) the Department has determined that the client or the provider was not eligible for the CC payment, the Department has confirmed with the provider that no services were provided for the month in question or the provider cannot be located, and the Department has made an attempt to contact the provider;

(b) when the check has been outstanding for at least 90 days; or

(c) the check is lost or stolen.

(5) No stop payment will be issued by the Department without prior notice to the provider unless the provider is not providing services or cannot be contacted.

**R986-700-716. Child Care Assistance in Unusual Circumstances.**

(1)(a) ES CC may be authorized to support clients in education or training activities and study time, or for time between classes if the parent has classes scheduled in such a way that it is not feasible or practical to pick up the child between classes.

(b) The Department will only approve ES CC for study time hours up to the same number of hours the client is enrolled in approved classes, except as authorized in Subsection (1)(a).

(c) For customers enrolled in a WIOA or TANF FEP funded programs, the Department may authorize additional CC than would be approved under Subsection (1)(b).

(d) The Department may authorize ES CC for approved class activities away from home.

(2)(a) ES CC may be authorized to support employment for clients who work graveyard shifts and need child care services during the day for sleep time.

(b) If no other child care options are available, child care services may be authorized for the graveyard shift or during the day, but not for both.

(3)(a) ES CC may be authorized to support telework or self-employment, except as otherwise provided by rule, for clients who work at home if the client makes at least minimum wage from the at-home work and the client has a need for child care services.

(b) The client must choose a provider setting outside the home, unless a child in the home has special needs and has been approved for special needs child care as defined in Section R986-700-717.

**R986-700-717. Child Care Assistance for Children With Disabilities or Special Needs.**

(1) The Department will fund CC for children with disabilities or special needs at a higher rate if the child has a physical, social, or mental condition or special health care need that requires:

(a) an increase in the amount of care or supervision; or

(b) special care needs, which include the use of special equipment, assistance with movement, feeding, toileting, or the administration of medications that require specialized procedures.

(2) To be eligible under this section, the client must submit a statement from one of the professionals listed in Subsection R986-700-709(4)(a)(ii)(C) or one of the following documenting the child's disability and special child care needs:

(a) Social Security Administration showing that the child is a SSI recipient;

(b) Division of Services for People with Disabilities;

(c) Division of Mental Health;

(d) State Office of Education;

(e) Baby Watch, Early Intervention Program; or

(f) by submitting a written statement from:

(i) a licensed medical doctor;

(ii) a licensed Advanced Practice Registered Nurse;

(iii) a licensed Physician's Assistant; or

(iv) a licensed or certified Psychologist.

(3) Verification to support that the child is disabled and has a special need must be dated and signed by the preparer and include the following:

(a) the child's name;

(b) a description of the child's disability; and

(c) the special provisions that justify a higher payment rate.

(4) The Department may require additional information and may deny requests if adequate or complete information or justification is not provided.

(5) The higher rate is available through the month the child turns 18 years of age.

(6) A client qualifies for CC under this section if the household is at or below 85% of the state median income.

(7) The higher rate in effect for each CC category is available at any Department office.

**R986-700-720. Provider General Provisions.**

(1) The Department will only pay CC to a client who selects an:

(a) eligible provider,

(b) who is providing care in an eligible setting; and

(c) who has approved provider status.

(2) In addition to the requirements in this section, an eligible provider must meet all CCDF requirements.

(3) CC is only available for care provided in the state of Utah.

**R986-700-721. Eligible Provider.**

A provider may only be eligible if the provider is:

(1) a provider regulated through CCL including a licensed:

(a) home provider;

(b) child care center, including an out-of-school time program and excluding an hourly center;

(c) commercial preschool; or

(d) home with a residential certificate; or

(2) a license exempt center, school-age program, or home provider which is not required by law to be licensed and is either;

(a) a license exempt center or school-age program as defined in Section R430-8-3, that has a current letter of exempt status from CCL identifying the provider as DWS Approved; or

(b) a DWS FFN provider as approved by CCL.

**R986-700-722. Ineligible Provider.**

(1) A provider is not eligible for any CC payment if the provider is:

(a) an undocumented alien; or

(b) under age 18.

(2) A provider who has been disqualified pursuant to Sections R986-700-733 and R986-700-734 is not eligible for any CC payment. The disqualification will remain in effect until the disqualification period has run, any related overpayment has been satisfied, and the provider is otherwise eligible.

**R986-700-723. Ineligible Provider Setting.**

(1) A provider is not eligible to receive a CC payment for a particular client if the provider is:

(a) living in the same home as the parent client and providing child care in the home where they live, unless the provider is caring for a child who has special needs as determined by the Department and who cannot be otherwise accommodated;

(b) a sibling of the child living in the home, even for a special needs child;

(c) a parent, foster care parent, stepparent or former stepparent of the child, even if living in another residence;

(d) providing care for the child in another state; or

(e) living in the same home as a non-custodial parent and providing child care for a child of that parent.

**R986-700-724. Family, Friend, and Neighbor Provider.**

(1) A FFN provider must comply with all CCDF and Department requirements and will not be approved for a CC payment unless each of the following requirements have been successfully completed and verification has been provided to CCL:

(a) complete, sign, and submit an application to CCL;

(b) complete New Provider orientation and agree to comply with Department requirements and policy, including ongoing training, as explained in the orientation;

(c) pass a home inspection as provided in Department policy;

(d) complete an infant and child CPR training;

(e) complete first aid training; and

(f) ensure the provider and all individuals 12 years old or older living in the home where care is provided submit to and pass a background check as provided in Sections R986-700-751 through R986-700-756.

(2) A FFN provider must also comply with all Department policies including abiding by the ratio requirements.

(3)(a) FFN approval must be renewed annually.

(b) The FFN CC Provider must complete an announced inspection and show compliance with all regulations at least 30 calendar days before the expiration date of the current approval.

(4) FFN CCL provider approval is for the provider and the location or locations and is not assignable or transferable.

**R986-700-725. Appeals of CCL adverse action.**

If a provider has any adverse action taken against it by CCL, the provider's appeal shall be made to CCL according to CCL's procedures.

**R986-700-726. Approved Provider Status.**

(1) If an eligible provider chooses not to comply with the following requirements, OCC will presume the provider has voluntarily chosen not to receive payment for CC clients. To obtain and retain approved provider status, an eligible provider shall comply with each of the following provisions.

(a) CCQS. A licensed-center provider must participate in the CCQS pursuant to Section R986-700-741.

(b) Care About Childcare. A provider, except a FFN provider, shall report its monthly, full-time child care rates to the local Care About Child care agency.

(c) Verification.

(i) A provider must provide verification information to the CCL and DWS to determine initial and continuing eligibility, which includes submission of a completed Internal Revenue Service Form W-9.

(ii) Payment may be withheld from a provider who fails to provide verification information until verification information is provided.

(d) Provider Guide.

(i) A provider must read and agree to the terms and conditions contained in the Provider Guide. A provider that has not previously received CC payment must comply with this subsection before being approved and receiving payment.

(ii) An approved provider will be notified of any substantial change to the terms and conditions of the Provider Guide.

(iii) An approved provider will be provided at least 30 days' notice of any substantial change to the terms and conditions of the Provider Guide.

(iv) An approved provider shall agree to the terms and conditions of the Provider Guide during the subsequent provider certification period pursuant to Subsection R986-700-727(5).

(v) If an approved provider fails to agree to any changes, CC payment will be withheld pursuant to Section R986-700-729.

(e) Certification.

(i) A provider must complete any ongoing certification in the Provider Portal, including any certification described in Subsection R986-700-727(5).

(ii) If a provider fails to complete a required certification, CC payment may be withheld pursuant to Section R986-700-729.

(iii) If a provider fails to complete a required certification, the provider may be subject to an audit conducted by the Department.

(2) The Director of OCC may recommend disqualifying a provider pursuant to Sections R986-700-733 and R986-700-734 if a provider:

(a) fails to provide necessary information or cooperate with a Department investigation or audit pursuant to Section R986-700-730;

(b) has an established pattern of overpayments pursuant to Section R986-700-731;

(c) commits an Intentional Program Violation pursuant to Section R986-700-732; or

(d) demonstrates a pattern of behavior indicating an inability or unwillingness to fulfill the provider's responsibilities under Section R986-700-727.

(3) If a provider is no longer an approved provider and the provider has accrued overpayments that have not been repaid and later seeks to become an approved provider, approval will not be granted until any overpayment is paid in full.

**R986-700-727. Approved Provider Responsibilities.**

(1)(a) The provider shall assume the responsibility to collect any copayment and any other fee for child care services.

(b) Neither the Department nor the state assumes responsibility for private payment to a provider.

(2) Time and Attendance Records.

(a) A licensed family provider or licensed center must track attendance using an electronic system which meets Department criteria and provide these records to the Department upon request. Attendance records submitted to the Department in other formats may not be accepted and may result in an overpayment.

(b) An accurate record of time and attendance for each CC client must be kept for at least three years.

(c) If a provider is not able to produce an accurate time and attendance record for a specific CC client for a specific month, there is a rebuttable presumption that the provider did not provide child care for that CC client during that month.

(d) "Accurate record" means a record that:

(i) was made at or near the time of the event;

(ii) was made by, or from information transmitted by, someone with knowledge; and

(iii) neither the source of information nor the method or circumstances of preparation of the record indicate a lack of trustworthiness.

(3) To receive a CC payment for an eligible household, the provider must contact the Department to report the children in care and their start date in care.

(4) Provider Portal.

(a) The provider has an ongoing responsibility to access the Provider Portal located at the Department website to:

(i) submit ongoing, monthly certification;

(ii) submit and manage bank account information, including reading and agreeing to the Financial Terms and Conditions contained in the Provider Portal;

(iii) view CC payment information; and

(iv) manage Provider Portal user access to ensure only a user with authority to make changes can do so.

(b) The provider is liable for any change made and information provided through the Provider Portal.

(5) Change reporting. Except as otherwise provided, a provider shall report any of the changes listed in this subsection to the Department within ten calendar days after the changes are known to the provider.

(a) A reduced or part-time rate for an individual child in care.

(b) Any rate change or other update that occurs for each child once a rate has been submitted in the Provider Portal.

(c) Each of the following child care attendance circumstances.

(i) Each child who attended less than eight hours of child care in the first month that a subsidy was paid and who is not expected to attend in the next month.

(ii) Each child who attended less than eight hours of child care in the first month that a subsidy was paid, and who attends or is expected to attend at least eight hours in the next month.

(iii) Each child who did not attend at least eight hours of child care in the current month and the provider determines that the child will not be returning.

(iv) If a child did not attend at least eight hours in a month and the provider cannot communicate with the parent to determine if the child will be returning to care, the provider shall report by the 25th of the month.

(v) Each child who is not expected to attend at least eight hours in the next month.

(vi) When the provider ceases to provide child care for a child.

(d) If the provider received a greater CC payment amount than what was charged to the client for the month of service.

(e) If the provider changes its financial institution account information for direct deposit.

(6) Certification.

(a) A licensed provider shall certify between the 20th of each month and the last day of the month, in a manner specified by the Department, the following:

(i) the provider has reviewed each child's attendance; and

(ii) the provider has reported any reportable change in each child's attendance, including any future change known or expected by the provider.

(b) The provider shall certify that the provider agrees to the terms and conditions specified in the most current Provider Guide.

(c)(i) If a provider fails to certify by the last day of the month, CC payment may be withheld until certification is completed pursuant to Section R986-700-729.

(ii) The Department may also increase monitoring or take other remedial action pursuant to OCC policy to ensure future compliance.

(7) A provider who is assessed an overpayment or IPV pursuant to Section R986-700-731 or R986-700-732 may be subject to increased monitoring or other remedial action pursuant to OCC policy to ensure future compliance with program rules.

**R986-700-728. Appropriate use of CC.**

(1) CC is to support an eligible client's monthly employment and any allowed training activity and allows for temporary absences and unforeseen circumstances.

(2) A provider must provide at least eight hours of care during the initial benefit month for which a CC payment was issued to be eligible for CC payment.

(a) A provider has the burden of proof to demonstrate the provider provided care to each CC client for which it receives CC payment.

(b) Pursuant to Subsection R986-700-727(2), if a provider is not able to produce a time and attendance record for a specific CC client for a specific month, there is a rebuttable presumption that the provider did not provide child care for that CC client during that month.

(3) Inappropriate use of a CC payment.

(a) Applying the CC payment to a:

(i) copayment;

(ii) registration fee;

(iii) late fee;

(iv) field trip; or

(v) client's out of pocket expenses.

(b) Carrying forward the CC payment for future months of service.

(4)(a) An excess CC payment cannot be used to cover an outstanding balance, a copayment, a registration fee, a late fee, a field trip, or future services.

(b) If excess funds are issued for a month of service, the excess funds must be returned to the Department.

(c) The CC payment for the following month may be reduced to offset the over-issuance.

(5) A provider who receives a CC payment when the child has not attended at least eight hours in a month may be responsible for repayment of any resulting overpayment under Title 35A, Chapter 3, Part 6, Administrative Determination of Overpayment Act, and Sections R986-700-731 and R986-700-731.1, and there may be a disqualification period pursuant to Sections R986-700-733 and R986-700-734, and potential criminal prosecution under Title 76, Chapter 8, Part 12, Public Assistance Fraud.

(6) A provider who provides services for any part of a month and then terminates services with the client or for a child during the month may be required to reimburse the Department for the days when care was not provided.

(a) If it was necessary to remove the child from care because the child or others were endangered, and the incident was reported to CCL or local authorities, the Department may waive repayment.

(7) The Department will issue a IRS Form 1099 annually where applicable to each eligible provider who received a CC payment during the year.

(8) A provider who applies CC funds inappropriately may be subject to an overpayment and possible disqualification pursuant to Sections R986-700-731, R986-700-733, and R986-700-734.

**R986-700-729. Withholding of CC Payment.**

(1) Pursuant to Section R986-700-731.1, CC payment may be withheld if a provider is found to have been overpaid and:

(a) fails to repay the overpayment; or

(b) fails to enter into a repayment or recoupment plan in accordance with Department policy; or

(c) is not current with repayment in accordance with a repayment plan.

(2) CC payment may be withheld if a provider fails to comply with each requirement of Sections R986-700-726 and R986-700-727.

(3) CC payment withheld pursuant to Section R986-700-729 will be released once the provider complies with the requirement.

(4) A provider shall not charge a client for a withheld CC payment. Although the client remains eligible, the provider will not receive CC payment until the provider complies with all participation requirements as provided by Sections R986-700-726, R986-700-727, R986-700-729, and R986-700-731.1.

**R986-700-730. Audits and Investigations.**

(1) The Department has the right to investigate a provider and audit a provider's records.

(a) An audit or investigation may be performed by a person or entity under contract with the Department, a Department employee, or other person authorized by the Department to obtain information on behalf of the Department.

(b) A provider shall cooperate with an investigation or audit to determine ongoing client eligibility or if client eligibility was correctly determined.

(2) A client or a provider shall cooperate with any investigation or audit in a timely manner.

(a) A timely manner means ten business days for written or electronic documentation and two business days to return a phone call or email request.

(b) Cooperation means timely:

(i) providing information and verification of any record as requested by the Department;

(ii) returning a telephone call; and

(iii) responding to an email request.

(c) Cooperation with an audit includes submitting a written statement that the person chooses not to respond to an audit finding included in a draft audit report.

(3) If a client fails to cooperate with an investigation or audit without good cause, the case will be referred to the public assistance overpayments unit and the client may be found liable for an overpayment.

(4)(a) If a provider fails to cooperate with an investigation or audit without good cause, or fails to keep an accurate and complete time and attendance record for three years without good cause, CC payment may be withheld until the provider cooperates and the Director of OCC may recommend disqualifying the provider pursuant to Sections R986-700-733 and R986-700-734.

(b) The provider will also be referred to the public assistance overpayments unit and the provider may be found liable for an overpayment.

(c) If a provider significantly impairs or unnecessarily delays an audit or investigation, CC payment may be withheld and the Director of OCC may recommend disqualifying the provider pursuant to Sections R986-700-733 and R986-700-734.

(5) Good cause. Good cause is limited to circumstances where the client or provider can show that the reason for the failure to cooperate, to timely respond to a request, or to provide or keep a record was due to circumstances beyond the client or provider's control or were compelling and reasonable.

(6) Providing incomplete or incorrect information will be treated as a failure to cooperate if the incorrect or insufficient information results in an improper decision with regard to eligibility.

(7) A provider has the burden of proof to demonstrate the provider actually provided care to any CC client for which it receives CC payment.

**R986-700-731. Overpayments.**

(1) An overpayment may occur when:

(a) a client or provider receives CC for which the client was not eligible;

(b) a provider receives a CC payment but does not provide care for at least eight hours during the initial benefit month of CC;

(c) a provider receives a CC payment when a child attends less than eight hours in a month;

(d) a provider receives a greater CC payment amount than the client is charged for the month of service; or

(e) a provider applies CC to nonallowable costs pursuant to Section R986-700-728.

(2)(a) Pursuant to Section 35A-3-603 of the Administrative Determination of Overpayments Act, any provider, client, or other person who receives an overpayment shall return the overpaid funds to the Department, regardless of fault.

(b) The client and provider shall be jointly and severally responsible for repayment of any overpayment except when:

(i) an overpayment is caused by an IPV solely by the client or solely by the provider; or

(ii) a provider receives a CC payment, provides at least eight hours of child care during the month, and provides an attendance record to verify the provision of care, unless the provider terminated services during the month as described in Subsection R986-700-728(6).

(3) A provider who is assessed an overpayment pursuant to this section may be subject to increased monitoring or other remedial action pursuant to Subsection R986-700-727(6).

**R986-700-731.1. Collection of Overpayments.**

(1) A CC overpayment must be repaid to the Department pursuant to Section 35A-3-603.

(a) The Department reserves the right to pursue collection of any overpayment pursuant to Title 35A, Chapter 3, Part 6, Administrative Determination of Overpayment Act.

(b) For the purposes of this section "recoupment" or "recoup" means applying a CC payment or grant funds to an overpayment balance.

(c) For the purposes of this section "withholding" means delaying payment until a specified condition is met. Once the condition is met, the payment will be released.

(2) A client who is receiving CC and has an outstanding CC overpayment balance may be subject to recoupment of the overpayment from ongoing CC payment.

(3) If a provider does not repay an overpayment within 30 days of the order establishing that overpayment, the Department may take one of the following actions:

(a) for a provider receiving an ESG, recoup grant funds pursuant to Subsection R986-700-742(3), regardless of whether the provider agrees to recoupment;

(b) recoup a CC payment, if the provider voluntarily agrees to recoupment;

(c) establish a repayment plan with the provider;

(d) if the provider is not receiving an ESG and does not establish a repayment plan or voluntary recoupment, or fails to comply with a repayment plan, withhold any CC payment until the provider establishes a repayment plan or voluntary recoupment, the provider complies with the repayment plan, or the overpayment is paid in full; or

(e) file an abstract of the final administrative order and pursue a lien pursuant to Section 35A-3-606.

(4) Providers with adjudicated overpayments and who are not current on a repayment plan are ineligible to apply for grants administered through OCC.

(5) Overpayment assessed against a provider before May 8, 2020. For a provider that accrued any overpayment that has not been repaid before May 8, 2020, the following provisions apply.

(a) A provider shall repay an overpayment within 12 months of the order establishing that overpayment or enter into and comply with a repayment plan.

(b) A provider that does not repay an overpayment within 12 months of the order establishing the overpayment or comply with a repayment plan shall be subject to one of the following:

(i) for a provider receiving an ESG, involuntary recoupment of an ESG pursuant to Subsection R986-700-742(3), regardless of whether the provider agrees to recoupment;

(ii) voluntary recoupment of a CC payment, if the child care provider agrees to the voluntary recoupment;

(iii) the Department may withhold CC payment until the overpayment is paid in full; or

(c) the Department may file an abstract of the final administrative order and pursue a lien pursuant to Section 35A-3-606.

(6) A provider may not penalize any current CC client as a result of a Department collection action.

(i) "Penalize" includes:

(A) requiring a client to pay new or additional fees for service, excluding the copayment or amount exceeding the CC payment; or

(B) terminating services with the client.

(7) If the client or provider files a timely appeal, collection procedures will be stayed during the appeal process.

**R986-700-732. Intentional Program Violation.**

(1) An IPV occurs when a person:

(a) either personally or through a representative;

(b) intentionally, knowingly, or recklessly, as defined in Section 76-2-103 concerning definitions of culpable conduct;

(c) violates a program rule, or helps another person violate a program rule;

(d) in an attempt to:

(i) obtain;

(ii) maintain;

(iii) increase; or

(iv) prevent the decrease or termination of CC payment.

(2) The evidentiary standard for determining an IPV is clear and convincing evidence.

(3) Acts which may constitute an IPV include:

(a) making a false or misleading statement;

(b) misrepresenting, concealing, or withholding information;

(c) posing as someone else;

(d) taking, using, or accepting a CC payment the person knew they were not eligible to receive;

(e) not reporting the receipt of a CC payment the person knew they were not eligible to receive;

(f) not reporting a material change as required by Sections R986-700-727 and R986-100-113; and

(g) committing an act intended to mislead, misrepresent, conceal or withhold a fact, or propound a falsity.

(4) When an IPV is alleged, the Department may:

(a) refer the case for criminal prosecution;

(b) in the case of a client IPV, issue a notice of agency action finding the person committed an IPV, which the person may appeal through the fair hearing process set forth in Rule R986-100;

(c) in the case of a provider IPV which occurred before May 8, 2020, or for which the Director of OCC does not recommend disqualifying the provider, in addition to any increased monitoring or remedial action pursuant to Subsection R986-700-727(6), issue a notice of agency action establishing an overpayment and penalty finding the provider committed an IPV, which the provider may appeal via the fair hearing process set forth in Rule R986-100; or

(d) in the case of a provider IPV for which the Director of OCC recommends disqualifying the provider, in addition to any increased monitoring or remedial action pursuant to Subsection R986-700-727(6), refer the case for an administrative disqualification hearing (ADH) pursuant to Section R986-700-733.

(5) The Department may not disqualify a provider unless an ADH has been held and the ALJ has ordered disqualification or the provider has been criminally convicted.

(6)(a) The Department may not make a concurrent referral for an ADH and a criminal prosecution.

(b) If a case referred for criminal prosecution is dismissed or referred back to the Department without prosecution, the Department may issue a notice of agency action or refer the case for an ADH pursuant to Subsection R986-700-732(4).

(7) A provider found to have committed an IPV will be responsible for repayment of both any related overpayment and a civil penalty pursuant to Subsection 35A-3-603(4).

**R986-700-733. Administrative Disqualification Hearing.**

(1) An ADH will be held if the Director of OCC recommends disqualifying a provider pursuant Subsection R986-700-726(2), R986-700-730(4), or R986-700-732(4).

(2) The hearing procedures set forth in Rule R986-100 apply to an ADH unless otherwise specified or inconsistent with this section.

(3)(a) The Division of Adjudication will schedule an ADH. Each party will be given 30-days' notice of the date and time of the ADH.

(b) The Department may withdraw a request for an ADH at any time before the scheduled hearing by sending written notice to the Division of Adjudication and all parties.

(4) The Division of Adjudication may combine a fair hearing and an ADH into a single hearing if the relevant factual issues arise out of the same or related circumstances.

(a) The notice of hearing shall indicate whether a fair hearing and an ADH will be combined into a single hearing.

(b) If the hearings are combined, the applicable filing deadline and hearing timeframe are those contained in this section to the extent of any conflict.

(c) If the provider fails to appear or participate in the combined hearing, the fair hearing will be dismissed but the ADH will still be held.

(5) The ALJ shall advise a witness that the witness has the right to refuse to answer any question during the hearing, and that the ALJ may draw any reasonable adverse inference based on a party's refusal to answer a question during the hearing.

(6) A qualified employee of the Department shall represent the Department at the ADH.

(7)(a) If the provider does not participate in the ADH, the ALJ will make a decision based solely on the evidence before the ALJ.

(b) If any party fails to participate in the hearing and disagrees with the hearing decision, the party may request reopening of the hearing as provided in Section R986-100-131.

(8)(a) Within 90 days of the date the notice of hearing is issued, the ALJ shall conduct the hearing, arrive at a decision, and issue written notice of the decision to the Department and each party. If the ADH is postponed for any reason, the 90-day time limit will be extended by as many days as the ADH is postponed.

(b) The ALJ shall determine if the provider should be disqualified pursuant to Section R986-700-734.

(9)(a) The ALJ is not required to disqualify a provider based solely upon a finding of IPV.

(b) If the ALJ determines the provider's conduct does not warrant disqualification, the Department may establish an overpayment pursuant to Section R986-700-731, assess a penalty pursuant to Section R986-700-732, and take remedial action pursuant to Subsection R986-700-727(6).

(10) Any party, including the Department, may request a further appeal pursuant to Section 63G-4-402, Section R986-100-135, and Subsection R986-100-735(3).

**R986-700-734. Approved Provider Disqualification.**

(1) When determining whether to disqualify a provider from approved provider status the Department may consider:

(a) the seriousness of offense or offenses;

(b) the extent of offense or offenses;

(c) a history of adjudicated overpayments or IPVs;

(d) previous imposition of increased monitoring or remedial action by the Department;

(e) failure to comply with monitoring or remedial action by the Department;

(f) the extent of notice, education, or warning given to the provider by the Department pertaining to the offense or offenses for which the provider is being considered for disqualification;

(g) the adequacy of assurances by the provider that the provider will comply prospectively with each Department and OCC requirement related to the offense; and

(h) whether a lesser sanction will be sufficient to remedy the problem.

(2) Disqualification period.

(a) The first disqualification assessed against a provider shall be 12 months.

(b) The second disqualification assessed against a provider shall be 24 months.

(c) The third disqualification assessed against a provider shall be a lifetime disqualification.

(3) A provider that has been disqualified pursuant to Sections R986-700-733 and R986-700-734:

(a) may not receive an ESG, a state-funded grant, or other CCDF funding during the disqualification period; and

(b) will remain ineligible for any CC payment, ESG, state-funded grant, or other CCDF funding until any overpayment and penalty established in conjunction with the disqualification has been satisfied in full.

(4) A disqualification is effective two benefit months from the date of the ALJ order.

(5) A disqualification will take effect even if the provider files an appeal pursuant to Section 63G-4-402, Section R986-100-135, and Subsection R986-100-735(3).

(6) Disqualifications run concurrently.

(7) A disqualification assessed to a provider will follow the facility, any successor facility, and a principal of the facility.

(a) A "successor facility" is any facility that acquires the business or acquires substantially all the assets of a facility that has been disqualified. This includes a facility whose provider changes from one status to another.

(b)(i) "Acquired" means to come into possession of, obtain control of, or obtain the right to use the assets of a business by any legal means including a gift, lease, repossession, or purchase.

(ii) For purposes of succession, a purchase through bankruptcy court proceedings where assets are being liquidated is not considered an acquisition, if the court places restrictions on the transfer of liability to the purchaser.

(iii) It is not necessary to purchase the assets to have acquired the right to their use, nor is it necessary for the predecessor to have actually owned the assets for the successor to have acquired them. The right to the use of the asset is the determining factor.

(c) "Assets" include any property, tangible or intangible, which has value. Assets may include the acquisition of the name of the business, customers, accounts receivable, patent rights, goodwill, employees, or an agreement by the predecessor not to compete.

(d) "Substantially all" means acquisition of 90% or more of the predecessor's assets.

(e) A "principal" is an individual who is responsible for the day to day business of a child care center, if that individual has an ownership interest in the center. An ownership interest includes a shareholder, director, or officer of a corporation, and a partner, member, or manager of a limited liability partnership or company.

**R986-700-735. Appeals.**

(1) A client may appeal an adverse agency action pursuant to Rule R986-100.

(2) A provider may appeal an overpayment pursuant to Rule R986-100. An appeal must be filed in writing within 30 days of the date of the notice of agency action establishing the overpayment.

(3) A provider may appeal an ADH disqualification pursuant to Section 63G-4-402, Section R986-100-135, and Subsection R986-100-735(3). Any appeal must be filed in writing within 30 days of the date of the ALJ order.

**R986-700-740. Child Care Quality System Definitions and Acronyms.**

In addition to the definitions and acronyms found in Title 35A, Chapter 3, Employment Support Act, Sections R986-100-103, R986-100-104, and R986-700-701.1, the following definitions apply to CCQS:

(1) "CC subsidy" means a Child Care assistance subsidy payment.

(2) "Certified quality rating" means the CCQS rating determined by applying the CCQS framework and assigned by OCC.

(3) "Certified Quality Rating Review Committee" or "Review Committee" means a committee consisting of one representative from OCC, one representative from a licensed private program; and one expert in the field of early childhood education or school-age children, which reviews disputed quality ratings and makes recommendations to the Director of Adjudication concerning final certified quality rating decisions.

(4) "CCQS status" means the status assigned by OCC to a program without a default rating or certified quality rating.

(5) "Eligible program" or "eligible provider" means a provider who:

(a) is classified as a CCQS-eligible license type from CCL, in accordance with OCC policy;

(b) meets CCDF eligibility requirements;

(c) is compliant with CCL licensing requirements;

(d) has followed the CCL process to indicate the program will accept funding from OCC, including funding for children covered by CC subsidy; and

(e) can potentially receive CC subsidy and OCC grants, including ESG, if approved.

(6) "License in good standing" means a program is currently licensed by CCL, but not with a conditional license.

(7) "Not participating" is a CCQS status referring to a program that:

(a) has opted out of participation in the CCQS;

(b) is not classified as a CCQS-eligible license type from CCL, in accordance with OCC policy;

(c) is ineligible due to being disqualified by OCC; or

(d) has not applied for a certified quality rating and has not elected to become CCQS-eligible.

(8) "Denied participation" is a CCQS status referring to an eligible program that is operating on a conditional license from CCL.

(9) "Program" refers to an individual location of a child care business.

**R986-700-741. Child Care Quality System Rating and Status.**

(1) Each program of an eligible license type from CCL shall receive a CCQS rating or status, unless the program withdraws from participation following the process established by OCC policy.

(a) A licensed center program that chooses not to apply for a certified quality rating will receive a default Foundation of Quality rating.

(b) An eligible child care program shall participate in CCQS by maintaining at least a default Foundation of Quality rating. An eligible program is not required to apply for a certified quality rating.

(c) CCQS ratings or statuses shall be made public on the Care About Childcare website.

(d) An eligible child care program that withdraws from participation in CCQS will become ineligible to receive CC subsidy and CCQS grants or funding.

(2) A program may apply for a certified quality rating in accordance with OCC policy through the Care About Childcare website.

(a) A rating shall be awarded or a status shall be assigned no later than 180 days after the application was submitted.

(b) Certified quality ratings will be published publicly on the first day of the month of the certified quality rating period.

(3) A certified quality rating shall remain in place during the 12-month certified quality rating period unless a program:

(a) loses its license in good standing and goes on conditional license; or

(b) is disqualified from accepting funds from CCDF.

(4) A program with a certified quality rating of high quality or high quality plus that is assessed a civil money penalty from CCL shall be reduced to a certified quality rating of building quality for the rest of the 12-month certified quality rating period during which the civil money penalty was assessed.

(5) The 12-month certified quality rating period may be modified when a program is receiving CCQS technical assistance and support from OCC, in accordance with OCC policy.

(6) Recertification. A program must recertify to maintain a certified quality rating.

(a) A program must follow the recertification procedures established by OCC policy.

(b) A program failing to recertify in a timely manner may receive one of the following ratings or statuses until a certified quality rating is awarded:

(i) a default Foundation of Quality rating for an eligible program;

(ii) not participating status for a program that is not eligible; or

(iii) denied participation status for a program operating on a conditional license at the time of recertification.

**R986-700-742. Enhanced Subsidy Grant.**

(1) To receive an ESG a program must:

(a) receive a certified quality rating of:

(i) High Quality; or

(ii) High Quality Plus;

(b) serve children for whom child care was paid for with CC subsidy during the 12-month period used to calculate the ESG;

(c) maintain a license in good standing with CCL during the 12-month certification period;

(d) maintain status as a DWS-Eligible child care program during the 12-month certification period;

(e) agree to comply with each requirement outlined in the certified quality rating award notice;

(f) agree to the amount of the ESG stated on the certified quality rating award notice;

(g) agree to receive the ESG through the process established by OCC policy;

(h) not be disqualified pursuant to Sections R986-700-733 and R986-700-734;

(i) not have a pending administrative review on the awarded certified quality rating;

(j) not have a pending referral from the Director of OCC for an administrative disqualification hearing pursuant to Sections R986-700-733 and R986-700-734; and

(k) not be assessed a civil money penalty from CCL during the 12-month certified quality rating period.

(2) Upon final disposition of a pending administrative review, an ESG may be issued retroactively where all other ESG requirements are met and the program has not been disqualified pursuant to Sections R986-700-733 and R986-700-734.

(3) An ESG for a program that has an outstanding adjudicated overpayment or other debt owing to OCC shall be issued as follows:

(a) if the overpayment amount is less than the monthly ESG amount, the ESG shall be reduced by the amount of outstanding overpayment due; or

(b) if the overpayment amount is greater than the monthly ESG, a monthly ESG shall continue to be reduced until the overpayment is fully repaid.

(4) If a program is a party to a pending administrative review or appeal of an overpayment that does not involve a suspected IPV, the Department may not reduce the program's ESG as provided in Subsection (3) until final disposition of the action is issued.

(5) The monthly ESG will be calculated in accordance with OCC policy.

(6) Continuing receipt of ESG is subject to the program satisfying the requirements in Subsection (1).

(7) The Department shall discontinue ESG if a program is assessed a civil money penalty by CCL.

**R986-700-743. Child Care Quality System Rating Administrative Review.**

(1) A program may request a review of a certified quality rating following the process established by OCC policy.

(2) A review request shall be submitted within 30 calendar days of the date of the certified rating award notice except where there is good cause for failing to request a review within this timeframe.

(a) Good cause for failing to timely request review is limited to circumstances that are:

(i) beyond the party's control, or;

(ii) compelling and reasonable.

(b) Good cause excludes ordinary illness, lack of transportation, and temporary absences.

(3) Quality Rating Pending Review. The certified quality rating issued in the quality rating award notice shall be published by OCC and remain published until the review is complete. Issuance of an ESG shall be temporarily suspended until the review is complete.

(4) OCC Review. Each request for review submitted to OCC shall be subject to an OCC review. Upon final determination of the OCC review, a notice of determination shall be sent to the program.

(5) If a program does not agree with the OCC review determination, the program may request a review by the Certified Quality Rating Review Committee.

(a) A review request shall be submitted within 30 calendar days of the date of the OCC review determination, except where there is good cause for failing to request a review within this timeframe pursuant to Subsection R986-700-742(2).

(b) A review by the Review Committee is an informal adjudicative proceeding under the Utah Administrative Procedures Act.

(c) A review may:

(i) include an OCC staff member to present the conclusions of the OCC review;

(ii) provide an opportunity for the program to present their reasons and evidence for the review request; and

(iii) include witnesses or legal representatives, as applicable; and

(iv) a request for any additional documentation relevant to the review, from either OCC or the program.

(d) Failure by the program to respond to any request by the Review Committee shall result in a dismissal of the review request.

(e) The Review Committee will issue a recommendation to the Department of Workforce Services Director of Adjudication once the review process is complete.

(6) The Director of Adjudication will make a final certified quality rating decision based upon the recommendation of the Review Committee. The Director of Adjudication decision is the final agency action pursuant to the Utah Administrative Procedures Act.

**R986-700-751. Background Checks.**

(1) Sections R986-700-751 through R986-700-756 apply to a provider identified in Subsection 35A-3-310.5(1), a license-exempt provider, or other program or grantee not subject to CCL requirements.

(2) The following persons must submit to a background check:

(a) the provider;

(b) each person age 12 years old or older who is living in the household where the child care is provided; and

(c) each person who is employed or volunteering at the facility where the child care is provided, if the person's activities involve care or supervision of children or unsupervised access to children.

(3) If child care is provided in the child's home, a background check must be done on each person age 12 years old or older living in the child's home who is not on the client's child care case.

(4) A client is not eligible for CC if the client chooses a provider and any person described in Subsection R986-700-751(2) has:

(a) a supported finding of severe abuse or neglect by DHHS, a substantiated finding by a juvenile court under Section 80-3-404 or a criminal conviction related to neglect, physical abuse, or sexual abuse of any person; or

(b) a conviction for an offense as identified in Section R986-700-754; or

(c) an adjudication in juvenile court of an act which if committed by an adult would be an offense identified in Section R986-700-754.

**R986-700-752. Definitions.**

Terms used in Sections R986-700-751 through R986-700-756 are defined as followed:

(1) "Convicted" includes a conviction by a jury or court, a guilty plea or a plea of no contest, an adjudication in juvenile court, or an individual who is currently subjected to a deferred judgment and sentence agreement, a deferred prosecution agreement, a deferred adjudication agreement, or a plea in abeyance.

(2) "Covered Individual" means:

(a) a person providing child care;

(b) an individual 12 years old or older residing in a residence where child care is provided; or

(c) a person who is employed or volunteering at the facility where child care is provided, if the person's activities involve care or supervision of children or unsupervised access to children.

(3) "Supported" means a finding by DHHS, at the completion of an investigation by DHHS, that there is a reasonable basis to conclude that one or more of the following severe types of abuse or neglect has occurred:

(a) if committed by a person 18 years of age or older;

(i) severe or chronic physical abuse;

(ii) sexual abuse;

(iii) sexual exploitation;

(iv) abandonment;

(v) medical neglect resulting in death, disability, or serious illness;

(vi) chronic or severe neglect; or

(vii) chronic or severe emotional abuse; or

(b) if committed by a person under the age of 18:

(i) serious physical injury, as defined in Subsection 76-5-109(1) to another child which indicates a significant risk to other children; or

(ii) sexual behavior with or upon another child which indicates a significant risk to other children.

**R986-700-753. Criminal Background Checks.**

(1) The Department will contract with CCL to perform a criminal background check, which includes a review of the Bureau of Criminal Identification (BCI) database maintained by the Department of Public Safety pursuant to Title 53, Chapter 10, Part 2, Bureau of Criminal Identification; and if a fingerprint card, waiver, and fee are submitted, CCL will submit the fingerprint card and fee to the Department of Public Safety for submission to the FBI for a national criminal history record check.

(2)(a) Each client requesting approval of a covered provider must submit to CCL a form, which will include a certification, completed and signed by the provider as part of the DWS FFN approved provider process.

(i) Additional household members must give permission to run the background check.

(ii) The provider shall pay applicable background check fees.

(iii) A fingerprint card and fee, prepared either by the local law enforcement agency or an agency approved by local law enforcement, shall also be submitted if required by Subsection R986-700-753(4).

(iv) If the fingerprints are submitted electronically, they must be submitted in conformity with the CCL guidelines regarding electronic submissions.

(b) Fingerprints are not required to be submitted if:

(i) the covered individual has previously submitted fingerprints to CCL for a Next Generation national criminal history record check;

(ii) the covered individual has resided in Utah continuously since the fingerprints were submitted; and

(iii) the covered individual has not permitted their background check to lapse or expire since the fingerprints were submitted.

(3)(i) The provider must state in writing, based upon the provider's best information and belief, that no covered person, including the provider's own children, has ever been convicted of a felony, misdemeanor, or had a supported finding from DHHS or a substantiated finding from a juvenile court of severe abuse or neglect of a child.

(ii) If a provider is aware of any such conviction or supported or substantiated finding, but is not certain it will result in a disqualification, CCL will obtain information from the provider to assess the threat to children.

(iii) If a provider knowingly makes false representations or material omissions to CCL regarding a covered individual's record, the provider will be responsible for repayment to the Department of CC paid by the Department.

(iv) If a provider signs an attestation, a disqualification based on a covered individual who no longer lives in the home can be cured under certain conditions.

(4) A provider, caregiver who is 16 years old and older, or covered individual who is 18 years and older shall submit fingerprints under Sections R986-700-751 through R986-700-756 as requested.

(5) If CCL takes an action adverse to a covered individual based upon a background check, CCL will send a denial letter to the provider and the covered individual.

(6) A background check must be submitted for each covered individual:

(a) before the date the person becomes a covered individual, unless:

(i) the person is turning 12 years old and resides in the facility where child care is being provided, in which case the background check form must be submitted and authorized within ten business days of the date the child turns 12 years old;

(ii) the person is currently employed by another child care provider within the State and has a current background check; or

(iii) the person has been separated from employment from another child care provider within the State for no more than 180 days and has a current background check; and

(b) on an annual basis.

(7)(i) A person may not begin work as a covered individual until the person has completed a fingerprint-based check and the results have been received.

(ii) After the fingerprint-based check has been completed but before full completion of the background check process, a covered individual must be supervised by a person who has fully completed and passed the background check process.

(8) The Department may conduct background checks annually.

**R986-700-754. Exclusion from Child Care Due to a Criminal Conviction.**

(1) As required by Subsection 35A-3-310.5(4), if a criminal conviction was a felony, or is a misdemeanor that is not excluded under Subsection R986-700-754(2) or R986-700-754(3), a covered individual may not provide child care or reside in a home where child care is provided.

(2) As allowed by Subsection 35A-3-310.5(5), the Department excludes the following misdemeanors and determines that a misdemeanor conviction listed below does not disqualify a covered individual from providing child care:

(a) a class B or C misdemeanor offense under Title 32B, Alcoholic Beverage Control Act, except for Section 32B-4-403, Unlawful sale, offer for sale, or furnishing to minor;

(b) a class B or C misdemeanor offense under Title 41, Chapter 6a, Traffic Code except for Section 41-6a-502, Driving under the influence of alcohol, drugs, or a combination of both or with specified or unsafe blood alcohol concentration, when the individual had a child in the car at the time of the offense;

(c) a class B or C misdemeanor offense under Title 58, Chapter 37, Utah Controlled Substances Act;

(d) a Class B or C misdemeanor offense under Title 58, Chapter 37a, Utah Drug Paraphernalia Act;

(e) a class B or C misdemeanor offense under Title 58, Chapter 37b, Imitation Controlled Substances Act;

(f) a class B or C misdemeanor offense under Title 76, Chapter 4, Inchoate Offenses, except for Section 76-4-401, Enticing a Minor;

(g) a class B or C conviction under Title 76, Chapter 6, Offenses Against Property,;

(h) a class B or C conviction under Title 76, Chapter 6a, Pyramid Scheme Act,;

(i) a class B or C conviction under Title 76, Chapter 8, Offenses Against the Administration of Government, Utah Criminal Code, except Sections 76-8-1201 through 76-8-1207, Public Assistance Fraud; and 76-8-1301 False statements regarding unemployment compensation;

(j) a class B or C conviction under Title 76, Chapter 9, Offenses Against Public Order and Decency, except for:

(i) 76-9-301, Cruelty to Animals;

(ii) 76-9-301.1, Dog Fighting;

(iii) 76-9-301.8, Bestiality;

(iv) 76-9-702, Lewdness;

(v) 76-9-702.5, Lewdness Involving Child; and

(vi) 76-9-702.7, Voyeurism; and

(k) a class B or C conviction under Title 76, Chapter 10, Offenses Against Public Health, Welfare, Safety and Morals, except for the following sections:

(i) 76-10-509.5, Penalties for providing Certain Weapons to a Minor;

(ii) 76-10-509.6, Parent or guardian providing firearm to violent minor;

(iii) 76-10-509.7, Parent or guardian knowing of minor's possession of dangerous weapon;

(iv) 76-10-1201 through 1229.5, Pornographic and Harmful Materials and Performances;

(v) 76-10-1301 through 1314, Prostitution; and

(vi) 76-10-2301, Contributing to the delinquency of a minor; and

(l) a class A misdemeanor where the conviction occurred more than ten years before the background check and the offense would be an excludable offense listed in this section.

(3) The Department will rely on the criminal background screening as conclusive evidence of the conviction and the Department may revoke or deny approval for a provider based on that evidence.

(4)(a) If a covered individual causes a provider to be disqualified as a provider based upon the criminal background screening and the covered individual disagrees with the information provided by BCI, the covered individual may challenge the information by contacting BCI directly.

(b) If the information causing the disqualification came from a Utah court, the covered individual must contact that court or seek an expungement as provided in Title 77, Chapter 40a, Expungement.

(5)(a) A provider shall report any felony and misdemeanor arrest, charge, or conviction of a covered individual to DHHS within 48 hours of the arrest, notice of the charge, or conviction.

(b)(i) A provider shall report a person aged 12 or older moving into the home where child care is provided within ten calendar days of that person moving in.

(ii) A release for a background check shall be provided for that person within the time requested by the Department or DHHS.

(6)(a) Pursuant to Subsection 35A-3-310.5(5)(b), the Department's designee for considering and exempting individual cases is the Child Care Licensing Administrator within DHHS.

(b) The Department's designee may exempt a covered individual from being excluded from providing child care due to a criminal conviction if the Department's designee determines that the nature of the background check finding or relevant mitigating circumstances indicate the covered individual does not pose a risk to children.

(c) Notwithstanding Subsection R986-700-754(6)(b), the Department's designee shall not exempt a covered individual convicted of any of the following:

(i) an offense specifically not excluded under Subsection R986-700-754(2);

(ii) a "violent felony" as that term is used in Subsection 76-3-203.5(1)(c);

(iii) a felony against a child, including child pornography;

(iv) a felony involving abuse or neglect of a spouse, child, or vulnerable adult;

(v) a felony involving rape or sexual assault;

(vi) a felony involving kidnapping;

(vii) a felony involving arson;

(viii) a felony involving physical assault or battery;

(ix) a drug-related felony, unless the offense was a nonviolent offense and occurred at least ten years before the date of the background check; or

(x) a violent misdemeanor committed as an adult against a child, including offenses involving child abuse, child endangerment, sexual assault, or child pornography.

**R986-700-755. Covered Individual with an Arrest or Pending Criminal Charge.**

If CCL determines there exists credible evidence that a covered individual has been arrested or charged with a felony or a misdemeanor that would not be excluded under Section R986-700-754, the Department will act to protect the health and safety of children in child care that the covered individual may have contact with. The Department may revoke or suspend approval of the provider if necessary to protect the health and safety of children in care.

**R986-700-756. Exclusion From Child Care Due to Finding of Abuse, Neglect, or Exploitation.**

(1) Pursuant to Subsection 80-2-708(2)(a)(v) CCL will screen each covered individual, including any child residing in a home where child care is provided, for a history of a supported finding of severe abuse, neglect, or exploitation from the licensing information system maintained by DHHS and the juvenile court records. The juvenile court records need only be accessed as provided in Subsection 35A-3-310.5(2)(c).

(2) If a covered individual appears on the licensing information system, the threat to the safety and health of children will be assessed. The Department or CCL may revoke any existing approval and refuse to permit child care in the home until the Department or CCL is reasonably convinced that the covered individual no longer resides in the home.

(3) If the Department or CCL denies or revokes approval of CC based upon the licensing information system, the Department will send a written decision to the client.

(4)(a) If DHHS determines a covered individual has a supported finding of severe abuse, neglect, or exploitation after the Department approves CC, the covered individual has ten calendar days to notify CCL.

(b) Failure to notify CCL may result in the provider being liable for an overpayment for CC paid to the client between the finding and when it is reported or discovered.

**R986-700-770. Provider Grant Eligibility.**

To be eligible for a CCDF-funded OCC grant from the Department a provider must:

(1) meet each CCDF requirement;

(2) participate in CCQS, if applicable;

(3)(a) have no outstanding overpayment pursuant to Section R986-700-731; or

(b) have an established repayment plan or recoupment with the Department and be current in repayment pursuant to Section R986-700-731.1;

(4) hold a license in good standing from CCL;

(5) not have a pending referral from the Director of OCC for an administrative disqualification hearing pursuant to Sections R986-700-733 and R986-700-734; and

(6) not be disqualified from receiving CC payment pursuant to Sections R986-700-733 and R986-700-734.

**R986-700-771. Grants for Child Care Start-up Costs.**

(1) In addition to the definitions found in Section 35A-3-212, the following definitions apply to this section:

(a) "Start-up Costs" means one-time expenses incurred to plan, organize, and launch a new eligible child care business or to expand an existing business, including initial acquisition of materials and supplies for the business, furnishings, minor renovations needed to comply with health and safety requirements, and licensing and inspection fees.

(b) "Start-up Costs" does not mean ongoing expenses for a provider, including property purchase or rent, office equipment and furnishings, vehicles, legal expenses, salaries, advertising, insurance, utilities, food, and other operating costs.

(2) OCC may contract with an organization to administer the grants.

(3)(a) OCC will announce the availability of the grants, and establish a due date for applications.

(b) OCC or the organization contracted to administer the grant shall develop grant application forms and make them available.

(4) To be considered for a grant an eligible child care provider shall submit the following information:

(a) the provider's name, address, phone, and email;

(b) the name and contact information for a responsible person;

(c) the facility address;

(d) licensed capacity, expected staffing levels, hours of operation, anticipated charges to parents, and the applicant's experience as a child care provider;

(e) a valid child care facility identification number from the Department of Health and Human Services, Division of Licensing and Background Checks;

(f) if applicable, proof the provider has a contract with an employer to provide child care services; and

(g) a detailed explanation of the requested amount for start-up costs, including:

(i) estimates from reliable sources showing the costs of the projects proposed to be funded with the grant, including materials, labor, or licensing and inspection fees;

(ii) a budget detailing how the requested funds would be used;

(iii) the need for the proposed project; and

(iv) other funding sources for the proposed child care provider.

(5) Each application will be evaluated based on availability of COVID-19 relief funds, viability of the proposed child care provider, and amount of requested grant funds.

(6) This grant program expires on September 30, 2024. All grant funds must be awarded before that date.

(7) The Office may provide start-up cost grants to existing child care providers, to expand physical capacity or open a new location.

(8)(a) An applicant whose application is denied may protest by submitting a written request to OCC.

(i) OCC shall review the decision to deny the application and may uphold, reverse, or modify the decision.

(ii) An applicant may protest the OCC review decision to the executive director or the director's designee.

(b) The executive director or designee shall determine if the information provided in the application justifies OCC's decision to deny the application. The executive director or designee may uphold, reverse, or modify the decision. The decision of the executive director or designee is final.

**R986-700-778. Training and Scholarships for Early Childhood Teachers.**

The Department may contract without outside entities, as funding permits, to provide training, scholarships, and consulting services to assist individuals who intend to receive a Child Development Associate credential.

**R986-700-779. Educational Improvement Opportunities Outside of the Regular School Day Grant Program.**

(1) This section is authorized by Section 53F-5-210, which creates a grant program for out-of-school time programs and instructs the Department to make rules to administer the grant program for private providers, nonprofit providers, and municipalities.

(2) The purpose of this section is to outline procedures for the Educational Improvement Opportunities Outside of the Regular School Day Grant Program, including the acceptance of grant applications and the awarding of grants.

(3)(a) Terms used in this section have the definitions given to them in Section 53F-5-210.

(b) For purposes of this section, "private matching funds" as used in Subsection 53F-5-210(7) means funds from a private source that have not been earmarked or pledged as a match for any other purpose. "Private matching funds" specifically excludes the following:

(i) any federal funds; and

(ii) parent funds or any other funds, if the practical effect of earmarking or pledging the funds is to pass the cost of the match along to parents.

(4)(a) For each year the Department is authorized to solicit grant applications, the Department shall publish a grant application timeline that includes the start and end dates for application acceptance and anticipated timeframes for grant evaluation, acceptance, or rejection, and funding.

(b) The Department may disregard any application that does not comply with the grant application timeline.

(5)(a) The Department shall create a grant application consistent with the requirements of Subsections 53F-5-210(4) and 53F-5-(7)(a).

(b) An applicant shall apply for a grant using the application the Department creates.

(c) The Department may disregard an incomplete or non-conforming application.

(6) The Department shall evaluate and accept or reject a grant application in accordance with the criteria set forth in Subsection 53F-5-210(5).

(7) A grant recipient shall execute and comply with a standard grant terms and conditions agreement with the Department as a condition of receiving a grant under this section.

(8) A grant recipient shall claim grant funds by submitting a reimbursement request in accordance with Department reimbursement procedures.

**KEY: child care, grant programs**

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