

State of Utah
Administrative Rule Analysis
 Revised December 2019

NOTICE OF EMERGENCY (120-DAY) RULE		
	Title No. - Rule No. - Section No.	
Utah Admin. Code Ref (R no.):	R986-700	Filing No. (Office Use Only)

Agency Information

1. Department:	Department of Workforce Services	
Agency:	Office of Child Care	
Building:	Olene Walker Building	
Street address:	140 East 300 South	
City, state, zip:	Salt Lake City, Utah 84111	
Mailing address:	PO Box 45244	
City, state, zip:	Salt Lake City, UT 84145-0244	
Contact person(s):		
Name:	Phone:	Email:
Amanda B. McPeck	801-517-4709	ampeck@utah.gov
Please address questions regarding information on this notice to the agency.		

General Information

2. Rule or section catchline:
986-700-900. Emergency Rules, Pandemic.
3. Effective Date (mm/dd/yyyy):
04/20/2020
4. Purpose of the new rule or reason for the change:
The new emergency rule allows the Department of Workforce Services, Office of Child Care to exclude Federal Pandemic Unemployment Compensation from unearned income for purposes of determining eligibility for child care subsidy payments.
5. Summary of the new rule or change:
The new emergency rule allows the Department of Workforce Services, Office of Child Care to exclude Federal Pandemic Unemployment Compensation from unearned income for purposes of determining eligibility for child care subsidy payments.
6. Regular rulemaking would:
<input checked="" type="checkbox"/> cause an imminent peril to the public health, safety, or welfare;
<input type="checkbox"/> cause an imminent budget reduction because of budget restraints or federal requirements; or
<input type="checkbox"/> place the agency in violation of federal or state law.
Specific reason and justification:
Due to the COVID-19 pandemic there are child care subsidy (CC) customers who have lost employment through no fault of their own and require additional funds in order to care for their children. Excluding the \$600 per week Federal Pandemic Unemployment Compensation (FPUC) payments from CC income eligibility determinations will allow families who are eligible for CC to maintain eligibility while receiving FPUC, thus allowing them to return to work more quickly once business resumes. The emergency rule also allows child care providers to continue to receive CC funding based on the enrollment of families covered. This will allow child care providers to have the resources to maintain payroll, pay rent, pay for materials, and meet health and safety requirements for families continuing to need child care.

Fiscal Information

7. Aggregate anticipated cost or savings to:
A) State budget:
The new emergency rule is not expected to have any fiscal impacts on state revenues or expenditures. There are no additional state employees or resources needed to oversee the new emergency rule. The new emergency rule will not increase workload and can be carried out with existing budget. Any costs will be paid with funds granted to the State through the federal Child Care and Development Fund.

B) Local governments:

The new emergency rule is not expected to have any fiscal impacts on local government revenues or expenditures because the program is federally-funded and does not rely on local governments for funding, administration, or enforcement.

C) Small businesses ("small business" means a business employing 1-49 persons):

The majority of child care providers are small businesses (NAICS 624410). It is anticipated that this new emergency rule will allow approximately 397 families with 725 children to continue to receive child care based on data obtained on April 17, 2020. The average subsidy payment per child each month is \$478. As a result, this will allow approximately \$346,550 per month to continue to flow to child care providers so they can maintain their businesses. In the absence of the rule change, these programs will lose this funding at a time when enrollment and revenues in programs are dramatically reduced.

D) Persons other than small businesses, non-small businesses, state, or local government entities ("person" means any individual, partnership, corporation, association, governmental entity, or public or private organization of any character other than an **agency**):

It is anticipated that this emergency rule will allow approximately 397 families with 725 children to continue to receive child care based on data obtained on April 17, 2020. The average subsidy payment per child each month is \$478. The new emergency rule will support low-income parents to maintain their child care arrangements during the COVID-19 pandemic.

8. Compliance costs for affected persons:

The new emergency rule is not expect to cause any compliance costs for affected persons because the amendment does not create any new administrative fees. Provider compliance responsibilities are not changed with this amendment.

9. A) Comments by the department head on the fiscal impact this rule may have on businesses:

The funding for child care is provided by the federal Child Care and Development Block Grant (CCDBG). At this time, child care programs continue to receive subsidy payments for all families that were determined eligible for subsidies at the time of application unless their earnings exceed the federally established income threshold of 85% of the state median income (SMI). The CCDBG Act allows states to establish the definition of "income" for purposes of determining whether a family is at 85% SMI. Utah includes standard unemployment benefits as "income" for purposes of eligibility. This rule will not change that underlying requirement. However, by excluding the additional unemployment payment of \$600 per week established in the Coronavirus Aid, Relief, and Economic Security Act of 2020 for all qualified UI recipients, Utah will be supporting the child care businesses that rely on family tuition payments to meet most operating expenses by maintain program income through a stable child care subsidy program. This is of great economic importance to Utah given that approximately 38% of licensed centers and 18% of licensed family child care programs have already had to close during the COVID-19 pandemic due to low enrollment.

B) Name and title of department head commenting on the fiscal impacts:

Jon Pierpont, Executive Director

Citation Information

10. This rule change is authorized or mandated by state law, and implements or interprets the following state and federal laws. State code or constitution citations (required):

Section 35A-3-310

Section 53F-5-210

Incorporations by Reference Information

(If this rule incorporates more than two items by reference, please include additional tables)

11. A) This rule adds, updates, or removes the following title of materials incorporated by references (a copy of materials incorporated by reference must be submitted to the Office of Administrative Rules; *if none, leave blank*):

	First Incorporation
Official Title of Materials Incorporated (from title page)	
Publisher	
Date Issued	
Issue, or version	

B) This rule adds, updates, or removes the following title of materials incorporated by references (a copy of materials incorporated by reference must be submitted to the Office of Administrative Rules; *if none, leave blank*):

	Second Incorporation

Official Title of Materials Incorporated (from title page)	
Publisher	
Date Issued	
Issue, or version	

Agency Authorization Information

To the agency: Information requested on this form is required by Sections 63G-3-301, 304, and 402. Incomplete forms will be returned to the agency for completion, possibly delaying the effective date and publication in the *Utah State Bulletin*.

Agency head or designee, and title:	Jon Pierpont, Executive Director	Date (mm/dd/yyyy):	04/20/2020
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R986. Workforce Services, Employment Development.

R986-700. Child Care Assistance.

R986-700-900. Emergency Rules, Pandemic.

(1) This Section supersedes any conflicting provisions of Rules R986-200 and R986-700.

(2) Federal Pandemic Unemployment Compensation under Section 2104 of the Coronavirus Aid, Relief, and Economic Security Act of 2020, Pub. L. No. 116-136, is not countable unearned income for purposes of determining eligibility for any child care subsidy program.

KEY: child care, grant programs

Date of Enactment or Last Substantive Amendment: April 20~~January 9~~, 2020

Notice of Continuation: September 3, 2015

Authorizing, and Implemented or Interpreted Law: 35A-3-310; 53A-1b-110; 53F-5-210