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## CHAPTER 1

### CHILD CARE, PURCHASE OF SERVICE GENERAL

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## STATEMENT OF REASONS

### CHAPTER 1

#### CHILD CARE, PURCHASE OF SERVICE

The Department of Family Services amended Chapter 1, Child Care, Purchase of Service administrative rules. Wyoming Statutes 42-2-103 (b) (xiii) authorize the Department of Family Services to promulgate rules.

These rules amend the previous rules filed with the Secretary of State to:

1. Change definitions and terminology to reflect changes to the administrative rules for Child Care Licensing.
2. Assure payment to licensed child care facilities who care for potentially eligible children during the thirty (30) day initial application processing period.
3. Expand eligibility to 200% of the Federal Poverty Level (FPL).
4. To allow for a \$200.00 work disregard for each working adult in the assistance unit.
5. Eliminate resources from the determination of eligibility.
6. Allow for the purchase of part day and full day slots when the licensed child care facility requires payment for services on other than an hourly basis.
7. Increase health and safety requirements for legally exempt providers receiving payment from DFS to require the safe storage of weapons, poisons, chemicals, bleach and cleaning materials and current certification in infant/child CPR and first aid.
8. Require providers receiving payment from DFS to retain attendance records for a period of three (3) years.

## CHAPTER 1

### CHILD CARE, PURCHASE OF SERVICE GENERAL

**Section 1. Authority.** W.S. 42-2-103(b)(xiii). and W.S. 16-3-101 *et. seq.* authorizes the Department of Family Services to promulgate rules and regulations to be used by the Department in the discharge of its functions.

**Section 2. Purpose.** These rules are adopted to standardize the Department's purchase of child care in Wyoming.

The State of Wyoming has submitted a state plan for the Child Care and Development Fund (CCDF) to the Administration of Children and Families of the Department of Health and Human Services. The state plan is provided for in Section 658D and E of the federal Child Care and Development Block Grant (CCDBG) as amended by Public Law 104-193. The regulations as amended in 45 Code of Federal Regulations Sections 98 and 99 apply. The Food Stamp regulations as amended in 7 Code of Federal Regulations Section 273 apply.

The Wyoming Child Care Purchase of Service program is a public assistance program for low income families who need child care services in order to work or attend approved educational or training programs. Child Care Purchase of Services is funded through a federal block grant and with state dollars.

The goals of the Child Care Purchase of Service program are:

1. Provide assistance to low income families who need child care assistance because of work or attending an educational or an employment training program which is directed at increasing the family's ability to become economically self-sufficient.
2. Encourage the client to continue his/her work, education or employment training activity and move toward self-support and self-sufficiency.
3. Encourage the client to become independent of public assistance by requiring a parental contribution for services as income increases.
4. Increase the client's knowledge of quality child care and ability to make informed decisions concerning child care through providing consumer education materials and licensed provider lists to applicants.
5. Promote parental choice by allowing clients to make their own decisions on the child care that best suits their family's needs.

6. Promote quality child care services through a coordinated effort with the child care licensing workers and child care providers and organizations.

**Section 3. Severability.** If any provision of these rules or the application thereof to any person, program, service or circumstance is held invalid, the invalidity shall not affect other provisions or applications of these rules. To the extent that these rules can be given effect without the invalid provision, the provisions of these rules are severable.

**Section 4. Definitions.**

(a) “Adult” is a person age eighteen (18) or over, or a person under age eighteen (18) who meets the Wyoming emancipation laws.

(b) “Adverse action” is a process to terminate or reduce the child care benefits.

(c) “Anticipated income” is income which is expected to be received in the benefit month.

(d) “Applicant” is a person who expresses in writing a desire to receive assistance.

(e) “Application date” is the date a completed and signed application is received and date stamped in the DFS field office.

(f) “Approved activity” is:

(i) Work.

(ii) An educational program which includes:

(A) High school or GED; or

(B) A postsecondary educational program which does not exceed the first associate or baccalaureate degree unless the associate degree was received while the parent(s)/ caretaker(s) was pursuing a baccalaureate degree as the original educational goal.

(iii) An employment training program.

(iv) Other approved work activity through the POWER or the Food Stamp E & T programs.

(g) “Assistance unit” is one or more children living with their parent(s) or caretaker(s).

(h) “Authorization” is issued to a parent/caretaker to show the child(ren) is eligible for child care assistance. The Child Care Authorization is assistance to the client, not assistance to the provider. The authorization shows:

- (i) The maximum child care hours allowed by DFS,
- (ii) The maximum payment DFS will make, and
- (iii) The parental obligation for a portion of the child care costs.

(i) “Best estimate” is a determination of what will occur based on knowledge of the past and present circumstances and future expectations.

(j) “Benefit Specialist” is an employee of DFS who case manages economic assistance cases including the determination of eligibility for child care services.

(k) “Block grant or Child Care Development Fund (CCDF)” is a federally funded child care assistance program for families in which the parent(s)/caretaker(s) is working, attending school, participating in a work program or attending a job training program.

(l) “Budgeting” is the act of calculating the amount of money to be authorized to the assistance unit to assist in meeting child care costs.

(m) “Business expense” is the cost directly related to the production of the goods or services provided by the operation which are then subtracted from the gross income to determine net income.

(n) “Caretaker” is an adult related to the child or an adult who has a court order giving legal responsibilities or guardianship and who is exercising the care and control of the child(ren). This includes foster parents.

(o) “Case” is the material on file for an assistance unit as well as the listing and history of the assistance unit on the Eligibility Payment Information Computer System (EPICS) and the Jobs Automated System (JAS).

- (p) “Categorically eligible”:
- (i) For POWER, adult member of the assistance unit who is income and/or resource eligible for child care assistance because he/she is included in the assistance unit’s POWER payment.
  - (ii) For Food Stamps, the adult Food Stamp recipient who is eligible for child care assistance because he/she is participating in the Food Stamp E & T program.
- (q) “Central Registry” means an electronic record maintained by DFS of persons who have been the subject of a child abuse or neglect complaint. The record contains the findings of the child protection investigation. The Central Registry is not a list of court adjudications.
- (r) “Certified provider” see Licensed provider.
- (s) “Child Abuse-Neglect Record Check” is the process of examining the Wyoming Department of Family Services’ Central Registry and other department records to determine if an individual has been the subject of a child abuse or neglect investigation.
- (t) “Child care” is the direct care and services to infants and children in the child’s own home or another facility, not to exceed sixteen (16) hours in a twenty-four (24) hour day unless overnight travel is necessary for the parent(s)/caretaker(s) to accept or retain employment
- (u) “Child Care Center (CCC)” is any private person, partnership, association or corporation that is operating a business for profit or otherwise, where sixteen (16) or more children receive care for a portion of the day.
- (v) “Child care facility” is the business that keeps or cares for more than two (2) minors at the request of the parent(s), legal guardian(s) or an agency responsible for the daily care and control of those children when the responsible party is not present.
- (w) “Child care review” is a review of all eligibility factors at least once every six (6) months.
- (x) “Child support” is voluntary, including military allotments, or court ordered payments made by an absent parent for the purpose of meeting the needs of his/her child(ren).
- (y) “Child Support Enforcement Services (CSES)” is a legal entity charged with maintaining a child support enforcement program at the judicial district level. The CSES

complies with the provisions of state law and Title III of Public Law 104-193. The local agencies are known as the Child Support Authority (CSA).

(z) “Commingled” is a financial account in which countable and exempt funds are mixed together.

(aa) “Component activity” is an educational, training, or employment related activity described in the current Food Stamp E & T regulations and approved by the United States Department of Agriculture or a work activity defined in the current POWER work requirement administrative rules.

(bb) “Countable” is a category of income taken into consideration when determining eligibility.

(cc) “Criminal History Prescreen” is a prescreening by DFS of Wyoming Criminal records limited to certain crimes against persons and various crimes involving children.

(dd) “Date of eligibility” is the day benefits are required to begin. This is the date of the child care application, the first day the child received care or the date the approved employment or educational component or work activity began, whichever is later.

(ee) “Death benefit” is the benefit received as a result of another’s death. Death benefits include:

(i) Proceeds of life insurance policies received due to the death of the insured,

(ii) Lump sum death benefits from SSA, RR burial benefits, VA benefits,

(iii) Inheritance in cash or in-kind, or

(iv) Cash or in-kind gifts given by relatives, friends, or community to assist with death related expenses.

(ff) “Department of Family Services (DFS)” is the Wyoming department responsible for the provision of child care purchase of services. DFS-FO is a department field office. DFS-CO is the department central office.

(gg) “Developmentally Delayed (DD)” is a child who is experiencing developmental delays in one or more of the following areas:

- (i) Cognitive development,
- (ii) Physical development including hearing and vision, language and speech development,
- (iii) Psychosocial development, or
- (iv) Self-help skills.

(hh) “Documentation” is the act of entering in the case file or in the case computer record the proof or statement of proof the verification or action was accomplished.

(ii) “Earned income disregard” is a two hundred dollar (\$200.00) deduction from gross earned income for each employed adult in the assistance unit.

(jj) “Educational program” is a postsecondary course of study, not exceeding the first associate or baccalaureate degree (unless the associate degree was received while the parent(s)/caretaker(s) was pursuing a baccalaureate degree as the original educational goal). The program is designed to assist the student in obtaining employment in a specific job when the course of study is complete.

(kk) “Eligibility factor” is a specified condition an applicant/recipient must meet in order to qualify for child care assistance.

(ll) “Eligible” qualifies for child care assistance after meeting all of the specified conditions or factors.

(mm) “Emancipated” is a person who has obtained the legal status of an adult. Under W.S. 14-1-101 a minor can be emancipated as follows (see Financial responsibility):

- (i) Is or was married,
- (ii) Is in the military service of the United States, or
- (iii) Has a decree of emancipation from a district court.

(nn) “Employment” is an activity in which an individual works for income.



(oo) “Eligibility Payment Information Computer System (EPICS)” is the computer system used by the DFS for the POWER, Food Stamp and Medicaid programs.

(pp) “Employment & Training (E & T)” is the employment and training program as described in the current Food Stamp E & T regulations and approved by the United States Department of Agriculture.

(qq) “Employment training” is a planned, supervised program which may be a combination of classroom and on-the-job training experiences that imparts knowledge or develops skills or abilities to prepare a person for employment.

(rr) “Equity value (EV)” is the amount of money the sale of property would bring on the open market in the community where the property is located less any legal debts (such as mortgages, loans, penalties, cost of sale, etc.) against the property or resource.

(ss) “Exempt” is a category of income or circumstances not subject to program policy or limits and will not be counted for eligibility purposes.

(tt) “Family Child Care Center (FCCC)” is a licensed facility in which care is provided for a maximum of fifteen (15) unrelated children for part of a day, which may be in a residential or commercial type structure.

(uu) “Family child care home (FCCH)” is a licensed facility in which care is provided for three (3) to ten (10) unrelated children from more than one immediate family for part of a day in the home of the provider.

(vv) “Financial responsibility” means answerable for providing the funds to meet the needs of a spouse and/or child(ren). Under child care rules a:

(i) Parent is responsible for a natural child, adopted child, or stepchild until age eighteen (18) or emancipated when the child is eligible and living with the parent.

(ii) Spouse is responsible for his/her spouse when they live together.

(iii) Legal guardian of a child may be responsible for the support of that child if so directed by court order.

(ww) “Foster care provider” is the person(s) caring for the child(ren) placed in a care facility by DFS.

(xx) “Foster child” is a child who has been placed in a foster care home or facility by DFS.

(yy) “Fraud” is documented deliberate misrepresentation, concealment or nondisclosure of information by an applicant, recipient, or provider pertaining to an eligibility or billing factor:

- (i) To obtain assistance or provider payment,
- (ii) To remain eligible for assistance or provider payments, or
- (iii) To avoid a decrease in assistance or provider payment, or
- (iv) For obtaining payment for services that were not rendered.

(zz) “Fugitive felon” is a person fleeing to avoid prosecution, or custody or confinement after conviction (Section 408 of Public Law 104-193, as amended):

- (i) Under the laws of the state from which he/she is fleeing; and
- (ii) For a crime, or an attempt to commit a crime, which is a felony under the laws of the state from which he/she is fleeing, i.e., murder, burglary, etc.

(aaa) “Full day” is five or more hours of child care in a day.

(bbb) “Garnishment” is a legal withholding of a specified sum from wages to satisfy a creditor.

(ccc) “General Equivalency Diploma (GED)” is the document that indicates a person has passed prescribed testing to obtain the equivalent of a high school education without the diploma.

(ddd) “Guardian” is an individual appointed by the court to care for a person as reflected in a court order specifying the guardianship.

(eee) “Household (HH)” refers to the person or persons occupying one (1) or more rooms of a house, apartment or mobile home and may include one (1) or more assistance units and/or ineligible person(s).

(fff) “Household circumstances” are situations that could have an effect on one of the eligibility factors.

(ggg) “Immediate family” are the minor brothers, sisters, stepbrothers, stepsisters, half brothers and half sisters who live together with their parent(s)/caretaker(s) in the same residence. Immediate family is used to determine assistance unit composition and whether the provider selected by the assistance unit needs to be licensed.

(hhh) “Income” is money received from any source

(i) Countable income - the total of gross earned income less allowable earned income disregards and gross unearned income expected or received by the assistance unit for a specified month and includes child support received by the applicant or recipient.

(ii) Earned income - a payment received in cash or in-kind for wages, salary, tips, commissions as an employee or net profit from activities in which the individual is engaged as self-employed. It is the total income before deductions for personal or employment expenses and excludes the meal allowance used to compute Federal Insurance Contribution Act (FICA).

(iii) Exempt income - money set aside or free from program policy or limits and is not counted.

(iv) Fluctuating income - income that varies in frequency of receipt or income that varies in amount each month due to:

(A) Working overtime,

(B) Hourly pay with varying hours,

(C) Receipt of tips or commissions,

(D) Changes of hours or pay rate, or

(E) Decrease or increase in hours of work due to vacations or sick leave or seasonal employment.

(v) Gross income - the total money the person is entitled to receive, prior to any deductions such as the earned income disregard, Social Security, withholding tax, garnishments, etc.

(vi) Infrequent income - income that is less than \$50 per individual when received and not received more often than once every calendar quarter.

(vii) In-kind income - the receipt of a good(s) or a service(s) instead of money or cash. In-kind earned income is considered when the applicant/recipient has a legal interest in a liquidated sum and has the legal ability to make such sum available for support and maintenance.

(viii) Net income - the gross receipts from self-employment less the current business expenses.

(ix) Nonexempt income - all money received to which the program policy limits are applied and is countable.

(x) Ongoing income - money received on a regular basis not less frequently than monthly and is expected to continue.

(xi) Periodic income - money that is not received on a regular basis.

(xii) Stable income - income received in a set/fixed amount from the same source(s) on a regular basis and there is no additional income which fluctuates.

(xiii) Unearned income - all money received not earned by providing goods and services or defined as a resource.

(iii) "Infant" is a child from birth to twelve (12) months of age.

(jjj) "In-home care" is child care provided in the child's own home. In-home care is for any number of children who are immediate family members residing in the child(ren)'s home.

(kkk) "Initial eligibility determination" is the process of determining eligibility when the assistance unit applies for services for the first time or when there has been a break in aid of thirty (30) days or more.

(lll) "Insurance settlements" are the money received by a person(s) from a company for damage of property or person.

(mmm) "Intentional program violation (IPV)" is the action by an applicant, recipient or provider of making a false or misleading statement or misrepresentation, concealment or withholding of facts for the purpose of:

(i) Establishing or maintaining eligibility for child care assistance, or

(ii) Increasing or preventing a reduction in the amount of child care assistance or payment.

(nnn) “JOBS Automated System (JAS)” is the computer system for the POWER work requirement, Employment and Training and Child Care Purchase of Service programs.

(ooo) “Knowledgeable source” is a person who has considerable degree of familiarity of a subject gained through experience of or association with the individual or subject.

(ppp) “Licensed provider” is a provider who meets the licensing standards established by DFS.

(qqq) “Loan” is a debt the borrower has an obligation to repay. A bona fide loan is one where there is a written agreement to repay the loan. Bona fide loans the assistance unit has an obligation to repay are not counted as income.

(rrr) “Lump sum” is a payment of earned or unearned money made not more than once per quarter.

(sss) “Minimum health and safety standards” are requirements established to assure the health and safety of a child(ren) receiving child care services. (45CFR 98.41)

(ttt) “Minor” is a person under eighteen (18) years old who does not meet Wyoming’s emancipation laws.

(uuu) “Month” is:

(i) Current month - the month in which eligibility is determined.

(ii) Payment month - the calendar month for which the assistance is issued.

(vvv) “Month received” is the calendar month in which the payer or source made the money available or the individual receives the money in hand, whichever occurs first. Exception: SSA, SSI, VA and POWER received at the end of the month are considered for the following month.

(www) “Need” for child care is the time when the eligible parent/caretaker is actually participating in an approved activity or component and the eligible child requires care.

(xxx) “Net profit” is the gross receipts, less the current business expenses.

(yyy) “Noncooperation or noncompliance” is the act of refusing or failing to comply with a child support, work program or POWER requirement or to work with another to accomplish a common end or specified goal.

(zzz) “Nonexempt or countable” refers to a category of income to be used in budgeting or to which the program policy and limits are to be applied.

(aaaa) “Notice of Action” is a written statement, mailed to be received no later than the date of action or the date payment would be received. (W.S. 42-2-106 and W.S. 42-2-110) The notice informs the applicant or recipient of the:

- (i) Intended action to be taken,
- (ii) Manner and amount of payment,
- (iii) Period of eligibility,
- (iv) Reason for and specific regulation supporting the action, and
- (v) Statement of a person’s right to request an administrative hearing.

(bbbb) “Parent” is a natural, adoptive, or step mother or father of any age. (See Caretaker.)

(cccc) “Parental access” is allowing parents to visit the child care facility and see their children at any time. (45 CFR 98.31)

(dddd) “Parental choice” is allowing the parent/caretaker to select any person he/she chooses who meets the definition, requirements and limitations of a provider. (45 CFR 98.30)

(eeee) “Parental obligation” is the portion of the child care cost the parent(s)/caretaker(s) is responsible to pay based on the assistance unit size and income.

(ffff) “Part day” is less than five (5) hours of child care in a day.

(gggg) “Personal Opportunities With Employment Responsibilities (POWER)” refers to the Wyoming program under the Personal Responsibility and Work Opportunity Reconciliation Act of 1996 (Public Law 104-193, as amended) and the Wyoming welfare reform statutes.

(hhhh) “POWER work requirement” the POWER performance requirements which include work activities, registration at ERD and referrals to DVR or SSI.

(iiii) “Presumptive eligibility” is the assurance of payment for thirty (30) days of child care services by a licensed child care facility when the assistance unit appears eligible due to the parent/caretaker’s statements on the initial application. Presumptive eligibility payments cannot be made on behalf of an assistance unit more than once every twelve (12) months.

(jjjj) “Program requirement” is the specification an eligibility factor must be met.

(kkkk) “Prospective budgeting” is using the best estimate of the income and circumstances that will exist in the child care payment month to determine household’s benefit.

(llll) “Provider” is any person who is approved to provide child care services under the child care regulations and rules and who has provided child care services for a child(ren).

(mmmm) “Provider registration process” is completing the Provider Registration Form, and the Child Abuse-Neglect Record Check and Criminal History Prescreening, and assuring the provider meets the minimum health and safety standards.

(nnnn) “Provisional license” is a temporary license issued by DFS which allows operation of a child care facility when issues arise surrounding compliance with licensing rules. (W.S. 14-4-105)

(oooo) “Reapplication” is the completion of an application in writing requesting assistance after being ineligible for child care assistance for more than one (1) calendar month.

(pppp) “Reasonably expected” is the condition of being in agreement with the belief that an event will occur.

(qqqq) “Reconcile” is to compare the circumstance at two (2) different points in time and adjust for the difference.

(rrrr) “Redetermination” is the reverification of each factor of eligibility and a decision of eligibility and payment based on the verified information.

(ssss) “Registered provider” is any child care provider who has completed the Provider Registration Form and received a favorable Child Abuse-Neglect Record Check and Criminal History prescreening. This includes child care providers who are licensed as well as those who are exempt from licensing according to Wyoming law. (W.S. 14-4-102)

(tttt) “Relative” refers to an individual who is through marriage, blood relationship, or court decree, the grandparent, great grandparent, sibling, aunt or uncle of a child receiving care.

(uuuu) “Resident” is a person who lives or dwells in Wyoming with the intent of making his/her home in the state.

(vvvv) “Resource” is all real and personal property owned by a person which are exempt for the purpose of eligibility determination.

(wwww)“Satisfactory progress” refers to:

(i) In a postsecondary educational work activity, a participant must meet, each term or semester at least a 2.0 cumulative grade point average in her/his degree requirements.

(ii) In a training work activity, the participant must meet quarterly a consistent standard of progress, which includes gains or proficiency levels and a reasonable time limit for completion of the training as determined by the instructor and POWER case manager or Benefit Specialist.

(xxxx) “Social Security Administration (SSA)” refers to the federal agency which pays benefits under Title II of the Social Security Act for Retirement, Survivors and Disability Insurance (RSDI) and under Title XVI for Supplemental Security Income (SSI).

(yyyy) “Special needs child” is a minor who is developmentally delayed or has a mental or physical incapacity which limits his/her ability to care for him/herself and would be at risk of physical harm if child care was not provided.

(zzzz) “Statement” is formal declaration of circumstance(s) as requested by the agency.

(aaaaa) “Statewide maximum limit” is the maximum amount DFS will pay for child care as published in the CCDF State Plan.

(bbbbb)“Student” is a person attending high school, employment training programs or postsecondary undergraduate program.



(ccccc)“Substitute provider” is a person who meets the definition of "provider" and who fills in for the provider less than twenty-four (24) hours in a month.

(dddd)“Supplemental Security Income (SSI)” refers to the Social Security program under Title XVI of the Social Security Act which provides benefits to aged, disabled or blind persons.

(eeee) “Termination” is to close a case and/or individual from the program.

(ffff) “Transitional Services” will allow the assistance unit to continue to receive child care assistance at Step five (5) of the sliding fee scale in Appendix A when the gross income has increased due to earned income.

(gggg)“Veteran’s Administration (VA)” refers to the federal agency responsible for services and benefits to veterans.

(hhhh)“Weapon” means, but is not limited to, a firearm, explosive or incendiary material, or other device, instrument, material or substance, which in the manner it is ordinarily used, or is ordinarily intended to be used, is reasonably capable of producing death or serious bodily injury.

**Section 5. Application Process.** The following process is followed when an applicant makes a request for Child Care assistance (W.S. 42-2-105):

(a) A DFS application form is provided or mailed on request during regular business hours when a current application form is not on file in the DFS-FO.

(b) A signed application form is accepted by the DFS-FO and date stamped upon receipt during regular business hours.

(c) An applicant may request and will receive assistance in completing the application form.

(d) A face-to-face interview is required with the applicant who has not already had an application intake interview.

(e) A separate application is required for each assistance unit.

(f) Applicants are informed of their rights and responsibilities, program requirements and benefits.

(g) Applicants are provided with consumer information upon request concerning informed choices of quality child care. (45CFR 98.30)

(h) Applicants are referred to a child care resource and referral agency for a list of licensed child care providers upon request.

(i) Applicants are informed concerning the provider licensing or registration requirements and enrollment of providers for payment.

(j) Applicants are advised concerning what verification or documents will be needed to complete the processing of the application and provider enrollment and will be given up to ten (10) days to furnish the information.

(k) Each completed application or written request is acted on within thirty (30) calendar days from the time of its receipt.

(i) Payment for thirty (30) days of licensed child care services will be assured when the assistance unit appears to be presumptively eligible based on the parent/caretaker's statement on the DFS application.

(ii) An application is approved when an applicant is found to be eligible and there was a child care need.

(iii) An application is denied when:

(A) An applicant is found to be ineligible or has failed to cooperate in establishing program eligibility, has withdrawn the application, died or cannot be located, or

(B) The care was not provided by an approved provider; or

(C) There was not a child care need because the parent/caretaker was not working, attending an approved educational or training program or meeting POWER or E & T work requirements.

(l) Documentation of the action taken on the application and the reason for the action will be made in the case file.

(m) Applicants shall be notified in writing of any action taken on their applications.

## **Section 6. Child Care, Purchase of Service Program Rights.**

- (a) The applicant has a right to apply for child care assistance:
  - (i) Upon request and without delay during regular business hours at the DFS-FO in the county of residence on the prescribed form(s) obtained in person or by mail;
  - (ii) To be accompanied or represented by person(s) of his/her choice; and
  - (iii) To request and receive assistance in completing an application or obtaining required verification.
  
- (b) The application and other personally identifiable information are confidential and will not be disclosed except as necessary to determine eligibility or to pay the provider.
  - (i) Confidentiality regulations are specified in:
    - (A) W.S. 16-4-203 concerning inspection of welfare program records;
    - (B) W.S. 42-2-111 concerning prohibited disclosure and use of records;
    - (C) The Privacy Act of 1974, 5 USC 552(a); and
    - (D) Public Law 104-193, as amended;
      - (I) Section 408 concerning fleeing felons and probation and parole violators;
      - (II) Section 411A concerning aliens and immigrants; and
    - (E) Section 1137 of the Social Security Act, as amended concerning the Income and Eligibility Verification System which mandates exchange of information with IRS, SSA and unemployment compensation agency.
  - (ii) The use or disclosure of information concerning clients will be limited to purposes directly connected with:
    - (A) The administration of DFS programs or SSI. Such purposes include establishing eligibility, determining the amount of the child care payment and approving the child care provider for payment.

(B) Any investigation, prosecution, criminal or civil proceeding conducted in connection with the administration of such programs.

(C) The administration of any other federal or federally assisted program which provides cash or in-kind assistance or services directly to individuals on the basis of need.

(D) Any audit or similar activity conducted in connection with the administration of any such program by any governmental entity which is authorized by law to conduct such audit or activity.

(E) The administration of the state unemployment compensation program.

(F) The administration of the state's worker's compensation program as related to providers.

(iii) DFS will make available, upon request, to any federal, state or local law enforcement officer the address, Social Security Number and, if available, a photo identification of a recipient if the officer furnishes the recipient's name and notifies the agency the individual (W.S. 42-2-111):

(A) Is fleeing to avoid prosecution, custody or confinement for a felony;

(B) Is violating a condition of parole or probation; or

(C) Has information necessary for the officer to conduct an official duty related to a felony or parole violation.

(iv) DFS will limit the report to law enforcement concerning a fleeing felon to the felon's address when the Department becomes aware of the fleeing felon and a law enforcement officer has not requested the information as specified under (iii). (W.S. 42-2-111)

(v) DFS will report to INS the name and address and other identifying information on any individual who is known to be unlawfully in the U.S. (Section 411A of Public Law 140-193)

(vi) The following types of information to be safeguarded include, but are not limited to:

(A) The names and addresses of applicants and recipients and amount of child care payments provided.

(B) Information related to the social and economic conditions or circumstance of a particular individual including information obtained from the Internal Revenue Services and SSA which must be safeguarded in accordance with procedures set forth by those agencies.

(C) Agency evaluation of information about a particular individual.

(D) Medical data, including psychological evaluations. All medical information will be directly released by the medical professional. Medical information shall not be released without written authorization from the medical professional.

(vii) DFS will allow materials to be sent or distributed to applicants, recipients or medical and child care vendors which are in the immediate interest of the health and welfare of clients. These materials include consumer information.

(c) Applicants and recipients shall be informed in writing or verbally of:

(i) Eligibility factors, verifications and documents needed to process the application and allowed up to ten (10) days to submit the requested verification or document.

(ii) The purpose and length of time for which assistance is provided.

(iii) The rights and responsibilities of applicants and recipients.

(iv) The freedom of parental choice to select the child care provider within the following limitations:

(A) The client cannot change child care providers more than three (3) times within a six (6) month period unless there is good cause; and

(B) The selected child care provider must meet all the Child Care Provider Eligibility and Payment Requirements as stated in Section 14 of this chapter.

(v) The right to request an administrative hearing within thirty (30) days from the date of an adverse notice. (W.S. 42-2-110)

(A) The Child Care, Purchase of Service payment will not be authorized pending the administrative hearing decision on a client request for a hearing.

(B) The administrative hearing processes in W.S. 16-3-107 through 16-3-112 will apply.

(vi) The right to receive consumer information concerning the selection of quality child care. (45 CFR 98.33)

(vii) The right to receive a list of licensed child care providers upon request.

(viii) The right to unlimited access to providers and to their child(ren) during the normal hours of provider operation and whenever the child(ren) are in the care of the provider. (45 CFR 98.31)

(ix) The right to register a complaint against a provider. Complaints will be referred to the appropriate Child Protective Services, Child Care Licensing or Prosecution Recovery Investigation Collection and Enforcement (PRICE) unit for investigation.

(d) A decision on the application will be made within thirty (30) calendar days of the application date. A decision may be delayed for up to sixty (60) days if the provider must be licensed and is following the procedures to complete the licensing process.

(i) The client has the right to a written notice concerning a decision on an application or on any adverse action. See notification requirements in Section 10 of this chapter.

(ii) The applicant/recipient has the right to reapply following denial or termination of benefits.

(e) A minor parent has the right to apply on his/her own behalf.

**Section 7. Child Care, Purchase of Services Program Responsibilities.**

(a) Client responsibilities:

(i) Complete an application in the manner and form prescribed by DFS.

The application must:

(A) Be dated.

(B) Provide an answer to the questions asked on the application and provide verification to support the answers.

(C) Be signed in ink, under penalty of perjury, by the applicant or the applicant's representative.

(ii) Cooperate with the process of determining initial and ongoing eligibility by providing:

(A) Information essential to reach a decision on eligibility.

(B) Documents for required verification including estimated hours of child care need and the reason for the need.

(C) A written statement authorizing a person to represent the applicant or other assistance unit adults if desired.

(D) Verification of any changes within ten (10) days of the change which may affect eligibility or benefit amount. If the change is not reported and verified within the ten (10) day reporting period, any increase in child care benefits resulting from the change will be effective the date the change was reported and verified.

(E) Verification as specified by DFS to establish the child care provider's eligibility for payment.

(b) DFS-responsibilities:

(i) Assure child care requirements have been met and established procedures have been followed.

(ii) Inform the clients concerning their rights and responsibilities as outlined in Sections 6 and 7(a).

(iii) Provide an application in the manner and form prescribed by DFS upon request during regular business hours.

(iv) Make a decision on the application within thirty (30) days of the application date and provide the client with written notice concerning the decision.

(v) Act on reported changes immediately to assure the child care services continue without a break or to terminate assistance and provide the client with an adverse action notice.

(vi) Assure the provider has completed the licensing or registration process and has been enrolled for payment.

(vii) Coordinate the authorization of services with the work program case managers or child protective services (CPS) to assure the client's child care needs are met.

(viii) Review the child care case for possible continuation of child care payments when a POWER, Medicaid or Food Stamp case has been closed because of increased earnings. Notify the client of any adverse actions.

(ix) Audit the billing form using procedures established by the DFS-District manager.

(x) Assure payments within twenty (20) working days of the bill submission date when the billing passes the audit.

(xi) Assure overpayments have been instituted promptly and within the established guidelines.

(xii) Establish a procedure for handling client and provider complaints.

### **Section 8. Eligibility Factors.**

(a) Each factor of eligibility shall be verified either by considering the worker's observation/knowledge when appropriate, or using other sources of verification when it is not appropriate to verify through observation/knowledge.

(b) Approved cases will include documentation in the case file as to how each eligibility factor was met and the amount of payment.



(c) The application will be denied or assistance terminated when eligibility cannot be determined because the applicant/recipient refuses to provide the requested documentation or the written consent to obtain the documentation.

(d) Denied cases will include documentation in the case file of the reason(s) for the denial.

(e) The following eligibility factors must be met:

(i) Eligible persons.

(A) Child care assistance shall be available for a child who is under age thirteen (13) years, a child over thirteen (13) who has special needs, is developmentally delayed, or is physically or mentally incapable of caring for himself or herself as verified by a physician or licensed or certified psychologist, or under court supervision.

(B) Child care assistance is available only to children who live with their parent(s) or caretaker(s) when the parent(s) or caretaker(s) is participating in an approved activity outside the home.

(C) Child care assistance shall be available only when the child(ren)'s parent(s)/caretaker(s) participates in at least one of the following approved activities outside the home:

(I) Employment;

(II) Employment Training program;

(III) Educational program;

(IV) POWER work requirement; or

(V) Food Stamp E & T activity.

(D) Child care assistance shall be available for a child(ren) in a two parent/caretaker assistance unit when both parents/caretakers are participating in an approved activity during the same hours.

(E) Child care assistance shall be available for a child(ren) in a two parent/caretaker assistance unit when one parent/caretaker is disabled and unable to care for the child(ren) if:

(I) Child care is necessary to allow the other parent/caretaker to maintain employment, and

(II) The disability and the parent/caretaker's inability to care for the child(ren) is verified by a medical professional, and

(III) Verification has been submitted to document the parent with the disability is following prescribed medical treatment, and

(IV) The assistance unit is pursuing and accepting any other available resources to move the assistance unit toward self sufficiency, and

(F) Child care assistance shall not be available to an assistance unit if fraud against DFS has been established in a court of law or by a DFS hearing officer. The assistance unit is ineligible until all penalties have been served and full restitution has been made.

(G) Child care assistance is not available when the parent/caretaker fails to remain eligible for POWER, Food Stamps or Medicaid by noncooperation with program requirements. The client is ineligible for child care assistance until he/she:

(I) Cooperates with the POWER, Food Stamp or Medicaid program requirements; or

(II) Has not received a POWER payment within thirty (30) days and becomes employed twenty (20) or more hours per week.

(H) Child care assistance is available for a child(ren) whose parent(s)/ caretaker(s) is attending an approved educational program, including college undergraduate study when:

(I) The parent/caretaker is making satisfactory progress, and

(II) The educational program does not exceed the first associate or baccalaureate degree unless the associate degree was received while the parent(s)/caretaker(s) was pursuing a baccalaureate as the original employment goal.

(I) Child care assistance is available for a child(ren) whose parent(s)/ caretaker(s) is self-employed.

(J) Child care assistance is available for a foster child(ren) whose foster parent(s) is participating in an approved activity.

(K) A minor parent(s) who lives with his/her parent(s) may receive child care assistance if the minor parent(s) and her/his parent(s) are all working or attending an educational program during the same hours.

(L) Child care assistance is not available to fugitive felons.

(M) Child care assistance is available when the parent(s)/caretaker(s) has not been found guilty of fraud in a court of law or by the DFS hearing officer and an overpayment has been established and the parent/caretaker is in compliance with the repayment agreement or made full restitution.

(N) Child care assistance is available for a child(ren) living in an assistance unit whose income is within step one (1) through step four (4) of the sliding fee Scale in Appendix A during the initial eligibility determination.

(O) Child care assistance is available for a child(ren) living in an assistance unit whose income is within step five (5) of the sliding fee Scale in Appendix A when;

(I) The assistance unit has previously qualified for assistance in step one (1) through step four (4); and

(II) The assistance unit's gross income has increased due to employment; and

(III) There has not been a break in assistance of thirty (30) days or more.

(ii) Residency/identity/citizenship/Social Security Number.

(A) Except for migrant working families, families must be Wyoming residents.

(B) The assistance unit cannot be receiving assistance from another state.

(C) Proof of identity for each applicant/recipient and eligible child is required.

(D) The eligible child must be:

(I) A citizen of the United States; or

(II) A child of a legal alien parent(s)/caretaker(s) as defined and identified under P.L. 104-193.

(E) Verification of Social Security Number or verification of application for a social security number of each applicant/recipient and child is required.

(iii) Income. The income criteria in Appendix B and C shall apply in addition to the following special considerations.

(A) The parent's income is considered in determining eligibility for child care services.

(B) The caretaker's income is considered according to the court order. The caretaker's voluntary contribution statement is used when there is no court order.

(C) A foster parent's income is not considered in determining eligibility for a foster child.

(D) Income eligibility is determined prospectively using the best estimate of income which will be available during the payment month(s).

(I) The current month's ongoing gross income is used as the best indicator for the assistance unit's eligibility. Any other income which will be received during the benefit period will be calculated as anticipated. The sources of income are converted to a monthly average for the benefit period.

(II) Past months are considered as an indicator of the types of income that may be received during the benefit period for prospective budgeting when income is received periodically.

(III) To determine prospective monthly income add the total of the following:

(1.) Anticipated monthly income.

(2.) The amount of periodic income is multiplied by number of the times it is expected to be received within the benefit period unless the income can

be excluded as infrequent or irregular. Divide that amount by the number of months in the benefit period.

(3.) Divide the total amount of income specified in an annual employment contract, regardless of the amount paid monthly, by twelve (12) to arrive at a monthly average.

(4.) Gross income from weekly amounts is multiplied by 4.3; bi-weekly amounts by 2.15; semi-monthly amounts by 2 and monthly amounts by 1.

(5.) Deduct two hundred dollars (\$200.00 from the earned income of each working adult in the assistance unit.

(6.) The monthly amount is rounded up to the nearest dollar.

(E) Available/Accessible income to the assistance unit is considered and verified in determining eligibility:

(I) The income of all assistance unit members living together.

(II) The income of the minor child who needs child care and the minor parent.

(III) Income of a child(ren) who is ineligible for child care assistance is not counted.

(IV) The income of a legal guardian, grandparent or relative other than the parent is exempt unless there is a court order specifying the individual is financially responsible for the child(ren).

(V) The criteria in Appendix B will be used to determine if the income is exempt or nonexempt using the following special considerations.

(1.) Accumulated vacation and sick pay is countable when the money is paid to the individual.

(2.) Burial fund is countable when the money withdrawn from a burial fund is used for a purpose other than burial expense.

(3.) Contributions to the assistance unit are countable.

a. The amount of the contribution of a nonfinancially responsible person living with the assistance unit is used according to that person's written statement.

b. The amount of the contribution of anyone living elsewhere is used according to his or her written statement.

(4.) Death benefits are nonexempt when the amount received exceeds the deceased person's last illness and burial expenses.

(5.) Infrequent or irregular income including gifts, interest, etc. which cannot reasonably be anticipated, is in the form of cash or check and is received only once during a calendar quarter is exempt when the total does not exceed fifty dollars (\$50) per individual in the assistance unit.

(6.) Insurance Settlement - Money received by a person(s) from a company for damage of property or person for trauma is income. Any cash received from medical or liability insurers for medical services already received by the individual is not income. However, any amount received which exceeds the actual cost of the medical expenses is counted as unearned income.

(8.) Lump sum.

a. The total amount less legal fees required to make the money available and less the amount designated by the payer or source for medical expenses is considered.

b. A lump sum (one-time payment) may cause a recipient to become ineligible or eligible for reduced benefits if the amount cannot be excluded using the infrequent and irregular policy.

c. The period of ineligibility or reduction, when appropriate, begins the month following the month the lump sum is received.

d. The period of ineligibility is determined by dividing the lump sum amount by the maximum income limit on Appendix A plus one dollar (\$1.00) for the assistance unit size.

e. The result is the number of months the assistance unit will be ineligible for child care assistance. Any fractions will be rounded up.

f. A shortened period of ineligibility is allowed in the specified situations and under the specified conditions:

i. First, one of these situations must exist:

A. The assistance unit incurs and pays medical expenses not covered by health insurance or a third party.

B. The lump sum becomes unavailable to the assistance unit because of a disaster which was beyond the assistance unit's control. The reasons considered beyond the control of the assistance unit are the occurrence of an earthquake, fire, flood, tornado, robbery, or furnace breakdown and/or broken water pipes in the home when owned by a person in the assistance unit.

C. The lump sum was received from an insurance policy payable because of a loss or reimbursement for the actual cost of replacement. It does not include payment received for "pain and suffering."

D. The lump sum payment was issued in error and written verification from the payer is received indicating the client is required to return the lump sum money.

ii. Second, all of these conditions must be met:

A. The lump sum was spent for food, clothing, and/or shelter prior to when the disaster occurred; and

B. The lump sum has been or will be spent for expenses related to the situation; and

C. The assistance unit has no other income to meet the expenses of the disaster.

(9.) Room and/or board income - The net income is determined as follows:

- a. The client can prove that the vacancies are filled through advertisement.
- b. The charge(s) for the service(s) is equal to the ongoing rate for such services in the community.
- c. The utility expense is deducted . The utility expense is calculated by dividing the number of income producing rooms (excluding bathrooms, closets and hallways) by the total number of rooms in the building and multiplying the resulting percentage times fifty-seven dollars (\$57), to arrive at the expense of providing utilities.
- d. An amount of twenty dollars (\$20) per month for the expense of maintaining the room is deducted.
- e. The Food Stamp Thrifty Food Plan amount per person is deducted for the expense of providing board.

(10.) Self-employment - The net income is determined as follows:

- a. The business expenses such as cost of merchandise, supplies, rent, utilities and upkeep of the premises as determined. Business expenses also include labor, feed, seed, machinery repairs, transportation required to perform the service or deliver the goods and taxes or any other expense connected solely with the function of the business. Business expenses do not include such items as depreciation, personal expenses, entertainment expenses, personal transportation, purchase of capital equipment and payments on the principal of loans for capital assets, equipment or vehicle.
- b. The net profit will be determined by subtracting the business expenses from the gross income.
- c. To determine farm self-employment net income operating expenses from the operation of a farm by a person on his account, as an owner, renter or sharecropper are subtracted from the gross receipts. Gross receipts include the value of all products sold, government crop loans, money received from the rental of farm equipment to others, and incidental receipts from the sale of wood, sand, gravel, and similar items. Operating expenses include cost of feed, fertilizer, seed and other farming supplies, rent, interest on farm mortgages, farm building repairs, farm taxes (not state and federal income taxes) and similar expenses. The value of fuel, food or other farm products used for assistance unit living is not included as part of net income.



d. The net profit from the business is the countable income for determining eligibility.

(11.) Veterans' Administration (VA);

a. Service connected disability payments are exempt when the compensation on an annual basis is not more than one hundred percent (100%) of the federal poverty level (FPL) as determined by OMB. Use the full amount when it exceeds one hundred percent (100%) of the FPL.

b. The portion of the payment made under the Veterans' Educational Assistance Program (GI Bill) actually used for items such as tuition, books, fees and other costs necessary for school attendance is exempt if the same expense is not covered by another loan, grant, scholarship or program.

c. All other payments made through the Veterans' Administration are nonexempt.

(VI) Income eligibility shall be determined as follows:

(1.) Income levels shall be redetermined at least once every six (6) months, or more often when a change of circumstance occurs.

(2.) All countable income including gross earnings and cash benefit programs paid to the client shall be included.

(3.) All income shall be budgeted prospectively.

(4.) Any amount of money given to eligible clients by their employer or any other person, for the purchase of child care shall not be counted as income when determining eligibility.

(iv) Resources will not be considered in determining eligibility.

**Section 9. Benefit Computation.**

(a) The client or child care provider is required to use a form prescribed by DFS to report child care expenses and to submit it monthly to DFS.

(b) All bills will be reviewed for auditing purposes prior to authorizing payment for child care services.

(c) The following steps are used to determine the DFS payment level:

(i) The type of child care provider is determined.

(ii) The actual charge for child care is determined.

(iii) The actual charge is compared to the local market rate for the type of care used and the state maximum limit.

(iv) Payment for the lowest amount of actual charge, local market rate, or State limit is authorized.

(v) If the actual charge exceeds the local market rate or State limit, the client is responsible for the balance.

(d) Participants in the Food Stamp E & T program will be limited to child care assistance as outlined for the E & T program unless the subsidy payments are made through the CCDF.

(e) A part day or full day slot will be purchased for days the parent/caretaker(s) is participating in an approved activity when the licensed child care facility has payment policies which require private pay customers to purchase a child care slot.

(f) Payment will be based on the actual time the recipient is actively participating in work, employment training, an educational program, a POWER work requirement activity, or a Food Stamp Employment and Training (Food Stamp E & T) component activity.

(i) Subject to the availability of funds, provide to recipients in an approved education program under W.S. 42-2-109(a) at least two (2) hours of dependent day care, if needed, for each hour the applicant is required to be in class, laboratory or other required instructional activity not to exceed the statewide maximum limit .

(ii) Child Care benefits for self-employment activities shall be calculated by dividing the monthly net income by the federal minimum wage prior to deducting the earned income disregard. The result is the number of child care hours which may be authorized per month.

(iii) One hour per day for lunch, if it occurs during the activity schedule, is allowed except for those participating in a Food Stamp E & T component.

(iv) No more than twelve (12) hours per month for a maximum of two months in each twelve (12) month period for Food Stamp E & T individual job search is allowed.

(v) Child care hours for the time the client participates in a POWER work requirement activity as verified by the POWER work requirement case manager are allowed.

(vi) Up to one hour per day will be allowed when needed for transportation time to the child care provider and the work activity.

(vii) Child care will only be provided for classes that are required to complete the degree or program.

(viii) Time for special situations as indicated by the instructor as part of the class work can be allowed.

(ix) No time will be allowed for study time.

(g) Payment for child care services cannot exceed sixteen (16) hours in a twenty four (24) hour day unless:

(i) Overnight travel is necessary for the parent(s)/caretaker(s) to accept or maintain employment, and

(ii) The absence of the parent(s)/caretaker(s) does not exceed thirty (30) days.

(h) Payment to hold a child care slot or for days and or hours the parent is not participating in an approved activity is not allowed unless contracted by DFS as part on an expansion/collaboration project.

(i) Duplicate payment by DFS when child care is paid by other programs, agencies or persons is prohibited.

(j) The amount given to the client or child care provider by another source for child care is deducted from the bill prior to DFS payment of the bill.

(k) Payment of child care for arrangements not authorized by DFS are the sole responsibility of the client.

(l) Payments for services not related to the child care program referred to in these rules are not allowed. Refer the client for other appropriate social services.

(m) Payment is made directly to the child care provider and not to the client.

(n) Payment to the provider will be made based on the provider's usual rate schedule for private pay customers but not to exceed the provider's daily, weekly, or monthly rate and not to exceed the hourly, part day or full day rates established by the provider for DFS purposes, whichever is less.

(o) Payment rates based on the child's age will be determined by the child's age on the first day of the month.

(p) Payment for substitute providers will be the responsibility of the provider who hired the substitute.

(q) DFS field office worker is required to authorize payment on the DFS computer payment system.

(r) The state has no responsibility for unpaid bills for child care fees charged above the state rates or for the collection of the parent(s)/caretaker(s) obligation for the cost of care.

(s) Rates for all child care program categories except payments made with Food Stamp E & T funds shall be based on Sliding Fee Scale in Appendix A.

(t) Payments subject to Food Stamp E & T regulations are limited to two hundred dollars (\$200) per month for infants and one hundred seventy-five dollars (\$175) per month for children two years or older.

(u) Up to an additional two hundred fifty dollars (\$250) per month may be paid for providing special needs services for the care of a child with documented physical or psychological special needs.

(i) The special needs must be verified and specified by a medical professional.

(ii) The provider must submit proof of specialized education, experience and/or training to meet the special needs of the child from an appropriate professional.

(iii) The parent or caretaker must apply for and accept any services which are available to meet the special needs before special needs child care can be approved.

(iv) A DFS or contract supervisor must approve the payment.

(v) Special needs child care is not respite care.

(v) Payment starting date for new cases is the date of the child care application, the date the child first enters care, or the date the parent began the approved activity, whichever is later when the provider has met the provider eligibility requirements during the thirty (30) day application processing time.

(w) Payment starting date for ongoing cases when a provider change is made is the date the change occurred when the Provider Registration process is completed within the ten (10) day period for reporting changes or the date the Provider Registration is completed when not reported and verified or not completed within ten (10) days of the change.

(x) When ten percent (10%) of the funds are remaining, only the following will be eligible: assistance units where the parent(s)/caretaker(s) is working with income through step two of the sliding fee scale in Appendix A and children in all steps who have special needs. (45 CFR 98.44)

#### **Section 10. Benefit Period.**

(a) Authorization begins with the date of the child care application, the date the approved activity begins, the date the child first entered child care, whichever is later. The provider must meet the provider eligibility requirements during the thirty (30) day client application processing time or during the client change of report period.

(b) Payment will be assured to a licensed child care facility for thirty (30) days to allow for application processing when the parent/caretaker's statement on the initial application shows the assistance unit to be presumptively eligible for child care assistance.

(i) A notice of presumptive eligibility will be issued to the provider within seven (7) working days from the date of application.

(ii) Child care assistance will be authorized on the JAS system within thirty (30) days from the date of application.

(A) If documentation of circumstances shows the assistance unit to be eligible, up to six (6) months of child care will be authorized from the date of application.

(B) If documentation of circumstances shows the assistance unit to be ineligible, only thirty (30) days of child care assistance will be authorized and the application will be denied for continued assistance.

(iii) Authorization for assistance based on presumptive eligibility will not be made more than once in a twelve (12) month period.

(c) Child Care benefits shall not be authorized for more than six (6) months at a time.

(d) Child Care benefits for students shall be authorized according to the length of time their studies are scheduled (i.e.; college - length of time per semester; vocational class - length of time expected to complete) not to exceed six (6) months at a time.

(e) Child Care benefits for seasonal workers shall be authorized according to the type of work and expected length of time the work will continue.

(f) Child Care benefits for POWER work requirements and/or Employment & Training (E & T) activities shall be authorized according to the schedule established by the assistance unit's POWER work requirements and/or E & T worker but for no longer than six (6) months at a time.

#### **Section 11. Notification.**

(a) Applicants of child care assistance shall be notified in writing within thirty (30) days of the date of application the application has been approved and the amount and duration of the programs or the reason for denial of the application.

(b) Recipients of child care assistance shall receive in writing a notice of action when benefits are reduced or terminated. The notice shall give the effective date and reason for the action. Termination does not mean expiration of the authorization.

(c) Written notice of reduction or termination of benefits shall be mailed to be received no later than the effective date of action or the date payment is made. The notice will include the applicable legal citations and the recipient's rights to an administrative hearing.

(d) It is the client's responsibility to complete the Child Care Review prior to the expiration of the eligibility period to ensure continuity of benefits. The State accepts no responsibility to send reminder notices the authorization or eligibility period is ending.

## **Section 12. Reviews.**

(a) A reconciliation of prospective eligibility:

(i) Is not required when the best estimate of prospective circumstances was used at the time of the eligibility determination but may be used if requested by the client and new circumstances are verified;

(ii) Is not made when a case is terminated or denied because of expiration of the application processing time, the client has failed to cooperate or because the authorization expired; and

(iii) A reconciliation can be made within thirty (30) days from the date of denial or termination.

(b) An Authorization Review consists of determining the assistance unit is eligible before writing an authorization for services.

(c) A Child Care Review is required at least once every six (6) months.

(i) All eligibility factors are reviewed.

(ii) A face-to-face or telephone interview may be used to complete the review.

(iii) A review can be conducted more often when there is reason to believe the household circumstances changed and have not been reported or were previously misrepresented.

(d) Good cause for changing child care providers more than three times in a six month period is:

(i) The provider no longer provides child care services.

(ii) The child care provider is required to be licensed but is no longer licensed.

(iii) The provider is ill and unable to care for the child(ren) temporarily.

(iv) The child's special needs are not being met by the current provider.

- (v) Imminent danger to the child.
- (vi) Other factors as determined by DFS-District manager.
- (e) Good cause for untimely reporting/verifications is:
  - (i) The applicant/recipient was out of town due to illness or death of a parent, grandparent, child, grandchild or sibling during the timely reporting period.
  - (ii) The relative/caretaker or child in the household was in the hospital during the timely reporting period.
  - (iii) The postmark on the envelope proves the information, change report and/or verification(s) was late due to problems in the postal service.
  - (iv) Circumstances of weather or disaster prevented the delivery or return of the information, change report and/or verification(s).
  - (v) Other circumstances beyond the parent's/caretaker's control for which no alternative was available.

**Section 13. Overpayment, Recovery or Fraud Referral.**

- (a) An overpayment claim will be filed against an assistance unit when it is discovered the assistance unit received benefits to which it was not eligible.
- (b) The overpayment will be established from the date the overpayment occurred.
- (c) An overpayment claim will be filed against a child care provider when:
  - (i) The provider overcharged the agency.
  - (ii) The provider misrepresented or gave false information on the Bill for Child Care Services.
  - (iii) The provider hired a person as a substitute who did not meet the substitute definition.
  - (iv) The provider misrepresented the information on the Provider Registration Form and would not have been eligible as a child care provider.



(d) An overpayment claim will be filed against either the provider and/or assistance unit, whichever is appropriate, when it is discovered that the agency created the overpayment.

(i) The overpayment will begin with the month the change would have been effective had the field office acted timely and correctly.

(ii) A claim will be filed against the provider when the child still attends care with that provider.

(iii) A claim will be filed against the assistance unit when the child no longer attends that child caring facility.

(iv) An overpayment to a provider currently receiving child care payments or benefits must be recovered through a reduction in the amount payable to the provider.

(v) Up to the total amount of payment the provider is eligible to receive may be recovered from the provider before payment is issued.

(vi) Recoupment of child care overpayments may be made from POWER benefits upon a voluntary written request of the assistance unit.

(vii) Overpayments to individuals may be recovered from the assistance unit which was overpaid, from individuals who were members of the assistance unit when overpaid, or from an assistance unit which includes members of a previously overpaid assistance unit. In cases of former recipients or recipients who refuse to repay, recovery shall be made by appropriate action under State law against the income and resources of the overpaid individual or assistance unit.

(viii) Underpayments and overpayments may be offset against each other in correcting incorrect payments.

(e) An overpayment and recovery must be established in all cases of fraud (provider or client) and in all cases where the overpayment amount would equal or exceed the costs of recovery.

(i) Cases in which it appears the client or child care provider purposely misreported or failed to report information for more than one payment month, or the circumstances are the same as previous program offenses, will be referred to the DFS Prosecution, Recovery, Investigation, Collection Enforcement Program (PRICE) for possible prosecution or intentional program violation.

(ii) Penalties and procedures will follow those set forth in Chapter 1, Prosecution, Recovery, Investigation, Collection Enforcement Program (PRICE) Rules. In addition the following rules apply:

(A) Reviews will be done by PRICE to determine if referral to the DFS hearing officer or prosecution is appropriate.

(B) The child care assistance unit is disqualified when convicted of fraud in a court of law, until full restitution of all erroneous payments is completed and the court ordered sentence is completed.

(C) The child care provider is disqualified when convicted of fraud through a court of law until full restitution of all erroneous payments is made and the court ordered sentence has been completed and it has been at least five years since the fraud was committed.

(D) The child care assistance unit and/or the provider is disqualified when they were not prosecuted but did lose the disqualification hearing as follows:

(I) Twelve (12) months for the first disqualification; or

(II) Twenty-four (24) months for the second disqualification; or

(III) Permanently, or as specified in the notice from the hearing officer, for the third or subsequent disqualification; and

(IV) Full restitution is made.

#### **Section 14. Child Care Provider Eligibility and Payment Requirements.**

(a) The selected child care provider must:

(i) Be someone other than a mother, father, stepparent, member of the assistance unit, or foster parent who keeps or cares for a minor at the request of the parent(s)/caretaker(s) or an agency that is legally responsible for the child and receives payment for that care.

(ii) Be at least (eighteen) 18 years old or be emancipated in accordance with W.S 14-1-101.

(iii) Be licensed by the State of Wyoming unless the provider is legally exempt from licensing under W.S. 14-4-102.

(iv) Provide care within the State of Wyoming.

(v) Complete the provider registration process.

(vi) Meet all state, local, and federal laws related to operating a child care business.

(vii) Meet the minimum health and safety standards including:

(A) An operable smoke alarm or detector must be installed on all floor levels.

(B) An operable telephone must be available where the child care takes place. Exception: A telephone is not required when care is provided in the child's own home. However, there needs to be a phone nearby that can be used in case of an emergency and the case file must be documented when this exception applies.

(C) Weapons, ammunition, poisons, chemicals, bleach and cleaning materials must be locked up to make them inaccessible to children.

(D) Current certification in infant/child CPR and first aid training must be maintained.

(I) Verification must be submitted to the local DFS office within ninety (90) days of initial registration as a legally exempt provider.

(II) Verification must be submitted to the local DFS office prior to approval as a legally exempt provider when the provider was previously terminated for failure to submit required verification.

(E) The provider must keep immunization records of the children.

(viii) Receive a favorable Child Abuse-Neglect Record Check and a Criminal History Prescreening Report or good cause has been shown.

(A) The provider must furnish the name, Social Security Number and a signed authorization of release from all adult household members and any substitute provider(s) who have access to the child(ren) placed in care.

(I) A Child Abuse-Neglect Record Check and a Criminal History Prescreening Report will be done on these individuals.

(II) The provider will be held responsible for the actions of any employee, substitute or household member who has contact with the child(ren) while the child is in care.

(1.) Refusal of the provider to furnish the name(s) and Social Security number(s); or

(2.) The presence of any person(s) in the child care facility against whom there has been substantiated child abuse/neglect may make the provider ineligible to receive payment from DFS for child care services. (W.S. 14-3-213)

(ix) Allow parental access any time during business hours.  
(45 CFR 98.31)

(x) Make the Provider Registration Form available for public viewing upon request.

(xi) The substitute provider must meet the minimum health and safety standards and complete the provider registration process if the care goes beyond twenty-four (24) hours during a month because the provider is no longer considered a substitute.

(xii) Child care providers must meet the requirements of the Americans with Disabilities Act.

(xiii) The provider must maintain for a period of three (3) years, attendance records for each child in care and other evidence services were provided in accordance with each authorization and make these records available to state and federal auditors upon request.

(b) Payment for provider services is allowed only to providers who meet the criteria listed in (a) above as verified by the parent/caretaker.

(c) Payment for provider services is not allowed:

(i) For the period of time the provider is in violation of any federal, state, or local law, rules and/or regulation applicable to a child care business.

(ii) Payment is not allowed when abuse or neglect has been substantiated, unless a good cause determination has been made in accordance with W.S. 14-3-213(c).

(iii) Payment is not allowed to a provider when one of the natural, adoptive parents or stepparents is in the home and available to care for the child(ren). Payment to a provider is allowable if the child(ren) will be at risk of neglect or abuse as verified by Child Protective Services (CPS) if the stepparent or the grandparent in a minor parent situation provides the care.

(iv) An E & T participant is not entitled to the dependent care reimbursement if a member of the E & T participant's Food Stamp assistance unit provides the dependent care services. (7 CFR 273.7)

(d) The child care provider is not considered a State of Wyoming or DFS employee.

(e) The child care provider is required to complete the prescribed DFS form for child care expenses and return it to the DFS field office within ninety (90) days of when the month of service was provided for DFS to make any payment. Failure to submit the bill within the ninety (90) days will mean the provider's payment is forfeited unless the delay was the result of agency error.

(i) The DFS payment amount will cover and not exceed the actual eligible authorized hours used at the lowest rate of the actual charge, local market rate, or statewide limit.

(ii) Payment is not allowed to more than three providers per child within a six month period unless good cause has been established.

(f) The State of Wyoming and DFS have no responsibility for unpaid bills for child care fees charged above state rates or for the parent's/caretaker's obligation for the cost of care.

(g) The provider has the right to establish the child care rates for his/her facility.

(i) The rates charged to those receiving assistance from DFS must be the same rates as those charged to non-DFS clients.

(ii) When the provider has a rate other than hourly, the provider's rate must be converted to an hourly scale. The rate paid on the hourly scale cannot exceed the provider's daily, weekly, or monthly maximum rate.

(iii) Providers/Directors must submit any change of their rates to DFS using a prescribed DFS form and a copy of the rate sheet they use for non-DFS clients.

(iv) DFS will use the new rate when the provider submits the new rate more than five (5) working days prior to the effective date of the change. When the new rate is submitted less than five working days prior to the change, the new rate will be effective five (5) working days after it is received. The new rate applies only to authorizations written after the rate change.

(h) Payments may continue when a provider requests an administrative hearing pending action taken by the Child Care Licensing Unit unless there is a substantiated child abuse or neglect case.

(i) Overpayment, fraud, and intentional program violation disqualification procedures in Section 13 apply.

Appendix A

**Child Care, Purchase of Services  
Chapter One**

**Sliding Fee Scale**

	<b>Step1</b>	<b>Step 2</b>	<b>Step 3</b>	<b>Step 4</b>	<b>Transitional Step 5</b>
<b>Parental Obligation</b>	5¢ Per Hour Per Child	20¢ Per Hour Per Child	35¢ Per Hour Per Child	50¢ Per Hour Per Child	50¢ Per Hour Per Child
<b>Maximum Income Eligibility Level as a Percent of the Federal Poverty Level</b>	110%	125%	150%	185%	200%

The Sliding Fee Scale is used to determine the income eligibility levels of the households and to establish the household's co-payment. The Sliding Fee Scale maximum income eligibility level is a percentage of the Federal Poverty Level for the size of household. Section 658P(4) of the Child Care and Development Block Grant Act of 1990, as amended, provides that the maximum income eligibility level cannot exceed eighty-five percent (85%) of the Wyoming Median Income based on family size. As resources allow the scale will be adjusted yearly when the Federal Poverty Level is made available for DFS.

Appendix B

Child Care, Purchase of Services  
Chapter One

Types of Income and Calculation Method

INCOME SOURCE	EARNED	UNEARNED	EXEMPT	NONEXEMPT
Accumulated vacation/sick leave	X			X
AmeriCorps living allowance	X			X
AmeriCorps child care allowance		X	X	
College Work Study	X		X	
In-kind wages	X			X
JTPA (not HS student)	X			X
JTPA (FT HS student < 18)	X		X	
Jury duty	X			X
Sale of blood/plasma	X			X
Severance pay	X			X
U.S.D.A. food reimbursement	X			X
Vacation/sick pay	X			X
Wages, dependent child	X		X	
Wages, tips, bonuses	X			X
Child care	X			X
Property income (working to produce)	X			X
Room and board	X			X
Sale of produce/animal by-products	X			X
Self-employment	X			X
Adoption assistance		X	X	
Alimony		X		X
Assistance from other programs, purpose covered by POWER		X		X
Assistance from other programs, purpose not covered by POWER		X	X	



INCOME SOURCE	EARNED	UNEARNED	EXEMPT	NONEXEMPT
Burial fund income		X		X
Contribution to client		X		X
Death benefits (1 time only)		X	X	
Disability insurance		X		X
Dividends/interest		X		X
DVR (not covered by POWER)		X	X	
DVR (covered by POWER)		X		X
Emergency assistance		X		X
Foster care		X	X	
General assistance		X		X
Gifts up to \$50 per qtr.		X	X	
Gifts - amount > \$50 per quarter		X		X
HUD Escrow Acct (cash)		X		X
Indian judgment funds		X	X	
Indian per capita		X	X	
Inheritance (money)		X		X
Joint bank account		X		X
Loan - bona fide		X	X	
Loan - non-bona fide		X		X
Military allotment		X		X
Mineral lease income		X		X
Pensions/retirement		X		X
Personal injury ins.		X		X
Private energy assistance		X	X	
Prizes/winnings		X		X
Property income (not working to produce)		X		X
RR retirement or UI		X		X
Royalty income		X		X
RSDI		X		X
Spousal support		X		X
SSI		X	X	
UIB		X		X
Utility allowance by HUD		X	X	
Utility allowance not from HUD		X		X
Vendor payment		X	X	
VA benefits		X		X

INCOME SOURCE	EARNED	UNEARNED	EXEMPT	NONEXEMPT
VA (GI bill) - portion used for school		X	X	
VA service connected disability		X	X	
Victims compensation				
Reimbursement		X	X	
Lost wages		X		X
Volunteer under federal program at time of application		X	X	
Volunteer under federal program after receipt of POWER		X		X
Windfalls		X		X
Workers' Compensation		X		X
Educational income/student financial assistance				
BIA grant		X	X	
Guaranteed Student Loan		X	X	
Natl Direct Student Loan		X	X	
Non -title IV		X	X	
Other non-federal		X	X	
Title IV		X	X	
PELL		X	X	
Scholarships		X	X	
SEOG		X	X	
State Incentive Grant		X	X	
VA grant for education		X	X	

Appendix C

**Child Care, Purchase of Services  
Chapter One**

**Income and Public Laws**

The following payments are exempt in determining resources and income when distributed under the Public Law cited in this Table. These payments are not exempt when commingled with nonexempt funds. Indian lands and property when purchased with exempt per capita funds are exempt.

<b>PAYMENT TYPE</b>	<b>TRIBE/ENTITY</b>	<b>PUBLIC LAW</b>
Receipts distributed from trust lands	Assiniboine and Sioux, Montana Bad River Band of the Lake Superior Tribe Of Chippewa Indians, Wisconsin Blackfoot Tribe, Montana Cherokee Nation, Oklahoma Cheyenne River Sioux Tribe, South Dakota Chippewa Tribe, Minnesota Crow Creek Sioux Tribe, South Dakota Devil's Lake Sioux Tribe, North Dakota Fond du Lac Reservation, Minnesota Ft. Belknap Indian Community, Montana Ft. Peck Sioux Tribes, Montana Grand Portage Reservation, Minnesota Keweenaw Bay Indian Community, Michigan LacCourte Oreilles Band of the Lake Superior Chippewa Indians, Wisconsin Lac du Flambeau Reservation, Wisconsin Lower Brule Sioux Tribe, North Dakota Navajo Tribe, New Mexico Nett Lake Reservation, Minnesota Oglala Sioux Tribe, South Dakota Red Cliff Reservation, Wisconsin Rosebud Sioux Tribe, South Dakota Shoshone-Bannock Tribe, Idaho Sokaogon Chippewa Community, Wisconsin	P.L. 94-114, Section 6 and P.L. 99-146
Per capita funds	Any tribe	P.L. 92-254
Payments/Funds held	Chippewas, Mississippi	P.L. 99-377

PAYMENT TYPE	TRIBE/ENTITY	PUBLIC LAW
in trust	Grand River Band of Ottawa Indians Leech Lake Reservation, Minnesota Miccosukee Tribe, Florida (below \$2,000) Mille Lac Reservation, Minnesota Puyallup Tribe of Indians Settlement Act of 1989, Washington Sac & Fox Tribes, Oklahoma, Mississippi, Iowa Saginaw Chippewa Indian Tribe, Michigan Seminole Nation, Oklahoma (below \$2,000) Seminole Tribe, Florida (below \$2,000) Seneca Nation Settlement Act of 1990 White Earth Reservation Land Settlement Act of 1885, Chippewa Indians, Minnesota	P.L. 94-540 P.L. 99-377 P.L. 101-277 P.L. 99-377 P.L. 101-41  P.L. 94-189 P.L. 99-346 P.L. 101-277 P.L. 101-277 P.L. 101-503 P.L. 99-264
Judgment funds Indian lands and property when purchased with exempt per capita funds	Blackfeet	P.L. 92-254
Funds held in trust  All tribal payments  All payments All judgment funds/ Funds held in trust	Alaska Native Claims Settlement Act (all compensation received under this Act) Any tribe  Agent Orange Compensation Exclusion Act Any tribe (below \$2,000 under this P.L.) BIA (all educational/training monies) Child Nutrition Act of 1966 Civil Liberties Act of 1988 (aka Wartime Relocation of Civilians) Crime Act of 1984 (reimbursed expenses) Disaster Relief Act of 1974 FEMA (only when national disaster/emergency declared by President) Domestic Volunteer Services Act of 1973, Titles I and II VISTA (if volunteer at application) Retired Sr. Volunteer Program (RSVP) Foster Grandparents Program	P.L. 92-203, P.L. 100-241 P.L. 98-64, P.L. 93-134, P.L. 103-66 P.L. 101-201 P.L. 93-143 P.L. 97-458  P.L. 89-642 P.L. 100-383  P.L. 103-322 P.L. 93-288  P.L. 93-113

PAYMENT TYPE	TRIBE/ENTITY	PUBLIC LAW
	Senior Companion Program Higher Education Act & BIA, Title IV Basic Educ. Opportunity Grants (BEOG) Carl D. Perkins Voc. Educ. Act College Assistance Migrant Program Federal Direct Student Loan Program (FDSLPL) (formerly GSL) Federal Pell Grants Federal Perkins Loan Program Fed. Supplemental Educ. Opportunity Grants (FSEOG) Federal Work Study Program High School Equivalency Program National Early Intervention Scholarship & Partnership Program (NEISP) Presidential Access Scholarships	P.L. 99-498 P.L. 102-325 P.L. 98-524 P.L. 102-325 P.L. 102-325
	Robert C. Byrd Honors Scholarship State Student Incentives Grants (SSIG) TRIO Grants (to baccalaureate level) Housing & Comm. Dev. Act - Youthbuild Pgm. Indian Child Welfare (on reservation)	P.L. 102-550 P.L. 95-608
	Low Income Home Energy Assistance Act	P.L. 99-425
	National & Community Service Trust Act National School Lunch Act (excluding provider payments) Summer Food Service Program Commodity Distribution Program Child/Adult Care Food Program Old Age Assistance Claims Settlement Act (below \$2,000 & paid to Indians) Older Americans Act, Title V (age 55+) American Association of Retired Persons Green Thumb National Assoc. for Spanish Speaking Elderly National Council on Aging National Council on Black Aging National Council of Senior Citizens National Urban League	P.L. 103-82 P.L. 79-396, P.L. 94- 105 P.L. 98-500 P.L. 100-175

PAYMENT TYPE	TRIBE/ENTITY	PUBLIC LAW
	U.S. Forest Service Radiation Exposure Compensation Act Uniform Relocation Assistance & Real Property Acquisition Policy Act (reimbursements) Victims of Nazi Persecution Payments Vietnam veteran child suffering from spina bifida (monthly payments of \$200-\$1,200)	P.L. 101-426 P.L. 91-646 P.L. 103-286 P.L. 104-204
	Payments to: Papago, Arizona Assiniboine, Montana Blackfeet, Montana Grosventre, Montana Navajo & Hopi Tribes Confederated Tribes of the Colville Reservation Grand Coulee Dam Settlement Act Indian Claims Commission Apache Tribe of the Mescalero Reservation Yakima Indian Nation Maine Indian Claims Settlement Act of 1980 Houlton Band of Maliseet Passamaquoddy Indian Tribe Penobscot Nation Turtle Mountain Band of Chippewas, Arizona	P.L. 97-408 P.L. 93-531 P.L. 103-436 P.L. 95-433 P.L. 96-420 P.L. 97-403
	(below \$2,000 under this P.L.) Arapaho/Shoshone Assiniboine Tribe, Ft. Belknap Indian Community, Montana Ft. Peck Reservation, Montana Red Lake Band of Chippewa Indians	P.L. 103-66 P.L. 97-458 P.L. 98-124 P.L. 98-124 P.L. 98-123
	Burns Indian Colony, Oregon Pueblos of Zia and Jemez, Florida Seminole Indians, Florida Stockbridge Munsee Indian Community, Wisconsin	P.L. 92-488 P.L. 84-926 P.L. 84-736 P.L. 92-480
	Grosventre Indian Claims Commission or Claims Court (below \$2,000) Miccosukee Tribe, Florida	P.L. 92-254 P.L. 93-134, P.L. 97- 458, P.L. 101-277

PAYMENT TYPE	TRIBE/ENTITY	PUBLIC LAW
	Seminole Tribes, Florida Seminole Nation, Oklahoma (below \$2,000 under this P.L.)  Standing Rock Sioux Tribe, North Dakota St. Croix Reservation, Wisconsin White Earth Reservation, Minnesota	P.L. 93-134 P.L. 64-540    P.L. 99-377