

Smith, Ashleigh, ECECD

From: [REDACTED]
Sent: Monday, November 30, 2020 5:57 AM
To: ECECD-ECS-PublicComment
Subject: [EXT] Comments for ECED

Follow Up Flag: Follow up
Flag Status: Flagged

Hello,

As a recipient and a community member I think these changes are needed. I think child support should not be a requirement because sometimes parents have their own agreement and even if child support is filed the mom may never see that money or is inconsistent. As a parent may feel for many reason the other parent should be included in any shape or form for many different reasons.

I do think that the income household does need to be changed. Sometimes as parents are income makes our copay very high and sometimes still unaffordable. Just because a parent or parents make a lot of money for the income bracket does not mean parents can afford a \$500 copay per mo the. There are still those bills parents need to pay. I also think that public educators who make more money do not qualify for childcare assistance. There should be something to help out other early childhood workers who can not afford to pay childcare full cost at \$1000 a month for two children. There needs to be something to support over income parents and other early childhood educators.

I speak as an early childhood educator because I do pay a high copay due to my field in early childhood education it is very stressful for me to still pay that copay. I have been very thankful for the pandemic relief for copay because my elementary child is having to attend daycare full time when he typically would not attend only on school closures that I am still required to work.

Please keep us hardworking and "over income" parents in mind when creating the income eligibility. We need childcare for our cute n as well as income appropriate because childcare for 2 kids at \$1000 is very unrealistic for even us over income Parents.

Thank you for all that you do.

[REDACTED]
Sent from my iPhone

Smith, Ashleigh, ECECD

From: [REDACTED]
Sent: Tuesday, December 8, 2020 1:50 PM
To: ECECD-ECS-PublicComment
Subject: [EXT] "8.15.2 NMAC Public Comment"

Application Process

We need to be included in the application process

The childcare center needs to be included in this process. We have two options as a provider: 1. allow the child to start and risk the chance of not being paid for the complete time the child is in attendance 2. not allow the child to start attending until we get a contract from the caseworker.

As a provider we need to be informed if a individual has submitted an application, if all items have been completed and received, if they are missing items.

Co-Payments

We need to be informed of their co-payment immediately

We are not informed of the individuals co-payments until one to two months after the child has started (this is because we do not receive the contract right away) The process is long and we are not included in the communication between the caseworker and individual. The family is then told of a co-payment for several months that they cannot pay.

Change of Provider

We need to be informed of this request / process

When a individual starts or ends their enrollment with us we at time have no clue.

Provider Requirements

Signed placement must be returned within 30 days - We NEED a reply from the caseworker stating this was received (when sent by email). I currently have 3+ contracts that we did not get paid for. The signed contract was sent but it was not processed. I then have to supply a years worth of attendance records to prove that the child attended. I was not at fault for the contract not being completed. Doing this is time consuming for us and for the case worker. A better system needs to be put in place for the sake of your caseworkers.

Department Responsibilities

Fluent communication with the Childcare center is important. We understand that the caseworkers have large case loads and are doing their best. If we had fluent communication we can help the process. It state "a timely manner" however this is impossible with all the each caseworker is expected to do. The caseworkers need to be set up to succeed instead of fail.

Caseworker Change / Leave

Emails need to be forwarded and notification need to be sent out, preferably by email.

When a caseworker leaves no one takes over their email or their email is not forwarded to another. We have to call the main office and ask or contact a supervisor. This takes time away from those individuals and creates confusion.

Smith, Ashleigh, ECECD

From: [REDACTED]
Sent: Thursday, December 10, 2020 1:34 PM
To: ECECD-ECS-PublicComment
Subject: [EXT] Comment on Amendments to 8.15.2 NMAC

I would like to express my support for the proposed amendments to 8.15.2 NMAC, particularly those dealing with deletion of the requirement for child support and household income caps. Anything we can do to assist families who are struggling during this difficult time is of great importance to ensure that the current economic situation resulting from COVID 19 does not permanently damage our children and their caregivers.

[REDACTED]

Smith, Ashleigh, ECECD

From: [REDACTED]
Sent: Tuesday, December 15, 2020 11:52 AM
To: ECECD-ECS-PublicComment
Subject: [EXT] 8.15.2 NMAC Public Comment

Dear State Government,

I am writing as a family physician and father in Albuquerque, wanting to voice my support for the proposed rules which will expand access to child care assistance and increase affordability of the program.

Many of the families I care for struggle in access and affordability when it comes to child care, taking a toll on the health of their family. For instance, a child may be left in an unsafe childcare situation with a relative because it is the only affordable option for that family.

I am excited to see NM become a leader nationwide in the realm of supporting child care assistance across the board, standing for this as a necessity for working families, for all families.

In health and movement,

[REDACTED]
[REDACTED]
*UNM Dept of Family/Community Medicine and College of Population Health
Running Medicine and Native Health Initiative
<http://runningmedicine.org>, www.loving-service.us*

[REDACTED]
#1 Proudest Daddy Award (self-nominated, self-elected)

"Justice is what love looks like in public." - Cornel West

Smith, Ashleigh, ECECD

From: [REDACTED]
Sent: Wednesday, December 16, 2020 11:16 AM
To: ECECD-ECS-PublicComment
Cc: [REDACTED]
Subject: [EXT] "8.15.2 NMAC Public Comment

Follow Up Flag: Follow up
Flag Status: Flagged

On behalf of Catholic Charities to the Education and Care Department (ECECD) for the propose of Public Comments on Proposed Rule Changes in Regards to Eligibility for Childcare Assistant

Catholic Charities a multi-human services provider including early childhood development & educational services through its Children's Learning Center expresses support for the proposed changes that will make it easier for parents and caregivers to enroll and maintain enrollment of New Mexican children in childcare and other associate early childhood development and education services. We applaud the State of New Mexico for extending the ease in which children can be determined eligible, and families fiscally assisted with maintaining state financial tuition assistance. Catholic Charities further urges the Administration of the State and Early Childhood Education and Care Department (ECECD) to make such regulatory and fiscal investments in improving and elevating childcare and early childhood educational services.

These changes in regulations and requirements for assistance via the ECECD is a first step in creating greater access to appropriate care for children while their parents/caregivers are engaged in employment, education and career improvements that lead to stable homes for our children. While the focus must be on the children and the development and educational services they need. The support of families striving to be participants in their communities and gain the resources that promote stability in home life must also be supported. When families thrive our children thrive as well.

Catholic Charities urges the Early Childhood Education and Care Department to continue upgrading not only access to services, but the level of professionalism and effectiveness in Early Childhood Development and Educational assistance provided to our youngest residents of the state and their families. As a state, we need to create pathways that assist the direct care staff to be more professional and prepared as instructors, care givers and family coaches to improve the lives of our children. Existing staff need support in their professional development so that they are increasingly more effective in their duties and elevating the level of Early Childhood intervention, development and education in New Mexico.

The direct care/service staff need also the support of the state in terms of raised compensation. Childcare and early childhood direct staff need to be compensated at levels that promote dignity and create career opportunities in caring for our children. Currently these direct staff as a collective group are among our lowest wage earners in our state. They receive insufficient level of time off, health care coverage for themselves and their families, retirement and incentives to participate in advancing their skills and education in the field. They are among the recently discovered essential workers of our communities formerly taken for granted. They have been part of the front line fight against COVID. Like our hospitals and healthcare facilities we tried to build a wall against the virus coming in, but still outbreaks occur and co-workers get the virus. Facilities and classrooms are shut, thoroughly cleansed, and they get back up to continue the mission.

We urge the State of New Mexico and its Administration to not only go forward with these regulatory improvements, but clearly state this is a first step. That like the landing on the moon decades ago was declared to the world it was to be accomplished even before the means of achievement were fully known. New Mexico, all of New Mexicans must declare

now we are committed and obligated to create an Early Childhood Education and Development network that is first in its education and care of children, first in its level of professionalism, first in its just compensation of the women & men who provide the care, first in its attention to the nutritional needs of our children, in protecting our children from physical and psychological harm and is inclusive and available to every child in our state.

Smith, Ashleigh, ECECD

From: [REDACTED]
Sent: Wednesday, December 16, 2020 12:47 PM
To: ECECD-ECS-PublicComment
Subject: [EXT] 8.15.2 NMAC Public Comment
Attachments: OLE Comments on proposed ECECD Regs.pdf

Please see attached.

Sincerely,

[REDACTED]
[REDACTED]
OLE Education Fund



Secretary Elizabeth Groginsky
Early Childhood Education & Care Department
submitted electronically

December 15, 2020

Dear Secretary Groginsky,

I am writing on behalf of the thousands of parents and early educators who are members of OLÉ, whose children are enrolled in child care programs or who work for early learning programs. On their behalf, we are writing in support of the proposed rule changes that you are seeking public comment on in your upcoming January 6 public hearing.

For many years, OLÉ members have fought New Mexico's regulation that requires a parent to sue a non-custodial parent for child support in order to qualify for public assistance. This regulation has endangered countless survivors of domestic violence who have had to choose between antagonizing a former abuser or foregoing child care assistance. Mothers who had informal payment arrangements with their children's father have had to endure legal processes that have upended agreements that already served their family's financial and emotional needs. Furthermore, many parents who were awarded child support payments by the courts were then determined by the State to be over-income for child care assistance, even in cases where non-custodial parents failed to make their court-ordered payments. These injustices led OLÉ members to protest this regulation, even going so far as to take over the CYFD office in Albuquerque in recent years. Your proposal to remove this regulation will finally bring closure to this fight, making our families safer and more likely to qualify for child care assistance.

Your proposal to limit the kinds of income that caseworkers will consider in making a determination of eligibility for child care assistance is also an important reform. This change will insure that more families qualify for assistance, and it will also make the application process simpler and more transparent, enabling more parents to apply for assistance with greater certainty that they qualify.

We support the Department's new regulations to make co-pay calculations more transparent, to clarify that child care assistance applications can be made electronically, to make graduate students eligible for assistance, and to protect applicants' privacy. All of these are valuable reforms that will make New Mexico's child care programs more accessible and family-friendly. Parents not having to take days off from work in order to apply for assistance in-person at a State

Organizers in the Land of Enchantment



olenm.org

office will protect families' financial security and not erode paid time off that they may have at their place of employment. Expanding eligibility to graduate students ensures that the State is supporting parents who pursue careers that require or benefit from post-graduate education.

We thank you for proposing these reforms and support them whole-heartedly.

Sincerely,

A large black rectangular redaction box covers the signature area, obscuring the name and any handwritten notes.

OLE Education Fund

Smith, Ashleigh, ECECD

From: [REDACTED]
Sent: Thursday, December 17, 2020 10:47 AM
To: ECECD-ECS-PublicComment
Subject: [EXT] 8.15.2 NMAC Public Comment
Importance: High

Greetings,

I want to voice my opinion as a Child Development Teacher. “I support the proposed rules, because they will expand access to child care assistance and increase affordability of the program.” Without expanding access to child care assistance the need for my position may be decreased or even eliminated. Families need opportunity to access quality child care and not have to settle for low quality care due to not being able to afford those centers who carry a 5 star rating with accreditation programs.

Sincerely,



From: [REDACTED]
Sent: Thursday, December 17, 2020 10:53 AM
To: ECECD-ECS-PublicComment
Subject: [EXT] Public comments

3. What you might include in your written or oral comments:

a) Say you support the proposed regulations: “I support the proposed rules, because they will expand access to child care assistance and increase affordability of the program.”

I support the porpoises rules because they will help expand access to more families, it will finally allow the partners scared to get childcare because of the custody requirement. I hope that the income part will maybe include parents who are married but have children from other relationships because this has been a big issue with my prospected clients they marry but have four kids with someone else and the state requires them to use their new husbands income but also expects them to report the child support now that the child supports gone the state needs to look at those extra kids on the mothers income only especially if the child gets child support and supports them primarily on her own.

b) Explain why child care assistance is important to you or your community.

It's important because many parents can't afford to pay their bills plus quality care for their children so they have to leave them with unreliable care.

c) Explain how the proposed regulations will impact you or your community.

More people will finally apply and get approved. People will be able to go look for work and get daycare which will help build more daycares up especially after the pandemic ends

Comments:

I really wish the dept would change the rates and make all centers and family group home rates the same we do the same focus yet get only a 250 increase and a center gets 550 who ever made these rates was extremely bias



“Change the world by being yourself.”
– **Amy Poehler**

..... if received in error please delete; please excuse all errors!---

Smith, Ashleigh, ECECD

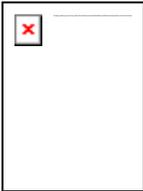
From: [REDACTED]
Sent: Thursday, December 17, 2020 11:20 AM
To: ECECD-ECS-PublicComment
Subject: [EXT] 8.15.2 NMAC Public Comment

I support the proposed rules, because they will expand access to child care assistance and increase affordability of the program.”

We have too many high school students babysitting their siblings while they should be attending online classes.

The new regulations would assist families beyond measure! It will give the small children a place to go to learn how to act socially before they start school. This will free up our older students to be students as they should be and not baby-sitters. It will also free up parents to get jobs or a second job as needed in this pandemic.

Thank you for your consideration.



[REDACTED]
[REDACTED]
[Mission Achievement and Success Charter School](#)
[REDACTED]
[REDACTED]

"The true character of a society is revealed in how it treats its children."-Nelson Mandela

Smith, Ashleigh, ECECD

From: [REDACTED]
Sent: Thursday, December 17, 2020 11:35 AM
To: ECECD-ECS-PublicComment
Subject: [EXT] 8.15.2 NMAC Public Comment

I support the proposed rules, because they will expand access to child care assistance and increase affordability of the program.

[REDACTED]
Science Instructional Coach
MAS 1.0 Yale Campus

[REDACTED]



100% Graduation Rate | Top New Mexico Public School Since 2015

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Smith, Ashleigh, ECECD

From: [REDACTED]
Sent: Thursday, December 17, 2020 11:40 AM
To: ECECD-ECS-PublicComment
Subject: [EXT] 8.15.2NMAC Public Comment

I support the proposed rules because they will expand access to child care assistance and increase affordability of the program. If there is anything this COVID-19 pandemic has done is underscored the barriers to high-quality childcare and the resulting damage to our economy. I will always support removing these barriers and making it a societal norm that all children receive high quality child care so their families can safely go to work or pursue higher education. Without high quality early childhood care and education our economy will continue to suffer, and many people will be removed from the workforce. This is not just a safety net issue, it is a workforce development and expansion issue, as well as health, public safety and economic growth issues. New Mexico must protect and prepare our youngest citizens so that our economy and culture will grow. We are behind in many markers of poverty and child welfare because we start behind, stay behind and can never catch up, let alone succeed. We need to remove the barriers that are preventing us from succeeding. Thank you, [REDACTED]

Sent from my iPad

Smith, Ashleigh, ECECD

From: [REDACTED]
Sent: Thursday, December 17, 2020 7:10 PM
To: ECECD-ECS-PublicComment
Subject: [EXT] 8.15.2 NMAC Public Comment

I fully support the proposed changes to recipients of daycare assistance and they all seem very in touch with the realities families encounter. I am a Registered Home provider in Albuquerque and I know from experience, many families desperately need the financial help to pay for daycare services at this time with fewer obstacles to acquire it and/or continue the assistance, especially single parent homes.

It is rather hard and intimidating to ask for assistance from the State and I do believe lessening the criteria will help parents to feel more comfortable about applying and maybe also lessen the stigma associated with government assistance. Local families, especially new families, are struggling just to maintain a roof over their heads and to put food on the table for their kids, therefore, daycare is something they can not even fathom affording. For instance, how can a single mother making minimum wage possibly afford upwards of \$600 per month, which is the low market rate for daycare services in Albuquerque, possibly see any real value in going back to work while her child is young, would you?

Many thanks for hearing me out and I would like to do what I can to advocate for New Mexico children - they are our future and deserve the best.

Best Regards,

[REDACTED]



[REDACTED]

[REDACTED]

[new, local daycare now accepting new babies and children.](#)

Smith, Ashleigh, ECECD

From: [REDACTED]
Sent: Monday, December 21, 2020 5:43 AM
To: ECECD-ECS-PublicComment
Subject: [EXT] 8.15.2 NMAC Public Comment

I'm writing in support of the proposed rule changes to the childcare assistance program that will make this vital resource available to more families. I am a Home Visitor and the families I serve desperately need expanded access to childcare to support their capacity for employment. Please approve the proposed changes [REDACTED]

[REDACTED]

ALBUQUERQUE NM 870

16 DEC 2020 PM 2 L

ECED

P.O. Drawer 5619

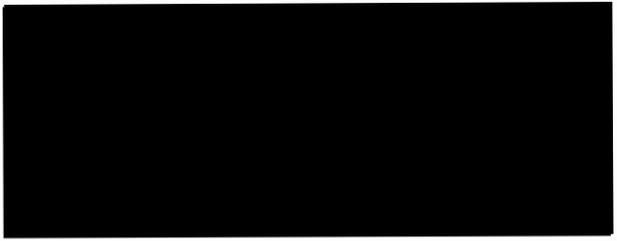
Santa Fe, NM

87502-5619

8.15.2 NMAC
Re: Public Comments

87502-561919





ECECD

P.O. Drawer 5619

Santa Fe, NM 87502

Dear CYFD/ECECD Representative,

I am an educator and community member and agree with the proposed amendments/changes. Child care assistance should not be tied to child support. There are too many children needing child care coming from families where the non-custodial parent is non-compliant, abusive, absent, and/or dangerous. Child care is expensive from more than a monetary point of view and, relieving the stress of trying to pay without child support or with the custodial parent trying to get it, is important.

Thank you,



Smith, Ashleigh, ECECD

From: [REDACTED]
Sent: Thursday, December 24, 2020 10:16 PM
To: ECECD-ECS-PublicComment
Subject: [EXT] Nota acerca del comunicado de Propuestas y Enmiendas.

Follow Up Flag: Follow up
Flag Status: Flagged

Hola, somos proveedores de cuidado infantil y es muy difícil para algunos padres conseguir el contrato para cuidado de sus hijos porque algunos se les dificulta ponerles manutención de sus hijos ya que en algunos casos uno de los padres no se encuentra en este .país y debido a eso no califican para la ayuda, convirtiéndose en un gran problema, por favor ayudenos a que nuestras familias obtengan apoyo en estos momentos duros y faciliten los subsidios para mejoras de nuestra comunidad.

Attentamente, [REDACTED]
[REDACTED]
[REDACTED]

Smith, Ashleigh, ECECD

From: [REDACTED]
Sent: Thursday, December 31, 2020 12:39 PM
To: [REDACTED]
Cc: [REDACTED]
Subject: FW: [EXT] ECECD reguation changes jan 2020
Attachments: ECECD reguation changes jan 2020.docx

Happy New Year everyone,

Attached are [REDACTED] public comments to the proposed regulation changes. I spoke to her today and she expressed some of the concerns in the attached.

[REDACTED]

-----Original Message-----

From: [REDACTED]
Sent: Thursday, December 31, 2020 12:20 PM
To: [REDACTED]
Subject: [EXT] ECECD reguation changes jan 2020

Dear ,

Thank you for the opportunity to provide written feedback on the New Mexico Children, Youth and Families Department (CYFD) and the Early Childhood Education and Care Department (ECECD) proposed amendments to the rules regarding SOCIAL SERVICES CHILD CARE ASSISTANCE REQUIREMENTS FOR CHILD CARE ASSISTANCE PROGRAMS FOR CLIENTS AND CHILD CARE PROVIDERS as authorized by Section 9-2A-7 NMSA 1978:

I look forward to hearing from you and having the opportunity for discuss the proposed changes before the reach their final form.

RECOMMENDATIONS:

D. “Child with a disability or special needs” means a child with an identified disability, health, or mental health conditions requiring early intervention, special education services, under an individualized education plan (IEP), or other specialized services and supports; or children without identified conditions, but requiring specialized services, supports, or monitoring.

Should this include Individualized Family Service Plan (IFSP). If not, why not?

H. “Demonstration of incapacity” means written documentation that an individual is unable to fulfill an eligibility requirement, such as work, school, or the ability to provide child care, and should otherwise be excluded, in whole or in part, from the determination of eligibility. Written documentation of incapacity includes, but is not limited to, the following: statements or letters on a physician’s/medical professional’s/treatment provider’s letterhead stationary; statements, records or letters from a federal government agency that issues or provides disability benefits; statements, records or letters from a state vocational rehabilitation agency counselor; records or letters from a treatment facility/counselor; certification from a private vocational rehabilitation or other counselor that issues or provides disability benefits.

This is welcome language. New Mexico has many grandparents raising their grant children. In some cases, they have physical or other limitation in being able to meet the developmental needs of their grandchildren, especially if their grandchildren have special needs. In these cases, high quality child care can provided a supportive community, respite care, and targeted interventions.

~~[H.]~~ **I.** “Department” means the New Mexico children, youth and families department (CYFD).
By definition, how is the Early Childhood Education and Care Department (ECECD) referred to.

~~[I.]~~ **J.** “Earned income” means income received as gross wages from employment or [as profit from] self-employment.

(7) “Friend, family, or neighbor (FFN)” means care to be provided temporarily in a home to be self-certified by the parent or legal guardian and registered by the department, not to exceed six months. In the case of a public health emergency, the department may extend the temporary status.

I am very concerned about this language. If not corrected, it would be interpreted to imply Family, Friend and Neighbor is a tool to be used outside of a public health emergency. Why would “the department” use FFN when we have registered care. The new language should read:

7) “Friend, family, or neighbor (FFN)” means care to be provided temporarily in a home to be self-certified by the parent or legal guardian and registered by the department, not to exceed six months in the case of a public health emergency. During a continued public health emergency, the department may extend the temporary status.

Further, unless the distinction between “the department” being CYFD or ECECD, CYFD will be in charge of FFN care.

8.15.2.8 TYPES OF CHILD CARE: These policies apply to child care assistance benefits provided to eligible children for the following types of child care to ensure that parents or legal guardians have a variety of child care services from which to choose:

- A. licensed child care programs administered by public schools and post-secondary institutions that provide on-site care for the children of students;
- B. licensed child care programs administered by tribal entities;
- C. licensed child care programs administered by church or religious organizations;
- D. in-home care;
- E. licensed child care centers;
- F. registered family childcare homes;
- G. licensed family and group childcare homes;
- H. licensed out of school time programs; ~~and~~
- I. licensed programs operated by employers for their employees~~[-]; and~~
- J. FFN.**

[8.15.2.8 NMAC - Rp, 8.15.2.8 NMAC, 10/1/2016]

It appears these rule changes create a new type of child care, to be approved, extended, etc. at the discretion of “the department”. I am opposed to a new category of unlicensed care. This is the existing purpose of registered family child care homes.

~~[G. — Child protective services (CPS) child care: The department pays for CPS child care as determined by the protective services of the department. Income requirements and copayments are waived for clients in this priority.]~~

~~[H.] G. [At-risk child care] Priority five: In addition to these priorities, the department pays for at-risk [protective services] child care as approved by the department. Child care benefits are provided for a minimum of six months to support the family. Income, work and education requirements and copayments are waived for clients in this priority.~~

Why are these proposed changes needed? How do they change current eligibility and services? Again, it seems to be tied to the new category of FFN care. Why wouldn't children in CPS continue to access the other categories of child care? Without oversight, could families, friends, and neighbors be providing care without the proper health and safety standards, background checks, etc?

8.15.2.10 APPLICATION PROCESS:

A. Clients apply for child care assistance benefits by presenting the following documents to establish eligibility ~~[in person at the local child care office. Upon a need or request by the client, the department may approve a client to submit their initial application by fax, email, or mail. Clients shall have 14 calendar days after initial submission of an application to submit all other required forms. Under documented extenuating circumstances and with approval from the early childhood services director, clients may be given longer than 14 days but no more than 30 days to submit required documentation]:~~

This is a wonderful change. COVID has demonstrated the state's capacity to determine eligibility without a face to face meeting. Parents will miss less work and their wait time for enrollment will decrease.

(3) the ~~[eligible]~~ provider is eligible to be paid ~~[was providing care from the first day of the month forward]~~. Thank you for this change. It aligns with industry standards.

8.15.2.11 ELIGIBILITY REQUIREMENTS: Clients are eligible for child care assistance benefits upon meeting the requirements for eligibility as determined by the department and federal regulation.

B

(2) ~~[Eligibility for CPS and a]~~ At-risk child care may be granted for less than 12 months as determined by the department.

Again, this seems to be a shifting CPS clients from accessing all types of care to FFN.

(1) The household: The household includes biological parents, stepparents, ~~and~~ legal guardians of the child(ren) for whom child care assistance is sought, and any legal dependents of the aforementioned, living in the household, thereby constituting an economic unit,[- and any dependents of the aforementioned who are under 18 years of age. Grandparents will be considered household members only if they are legal guardians of the children,

~~are providing for the physical and emotional needs of the children, and are applying for child care benefits on behalf of the children.] Grandparents who are not legal guardians living in the household are counted as members of the household, but their earned and unearned income is excluded from the eligibility calculations.~~

This is such a welcomed change. With this change, multi-family households are being valued.

~~[(8)] (7) Verification of household countable earned and unearned income: Clients applying for child care assistance benefits are required to verify household countable earned and unearned income by providing current ~~[proof]~~ documentation of income for ~~[all members of the household]~~ biological parents, stepparents, and legal guardians of the child(ren) for whom child care assistance is sought, living in the household, who receive such income. ~~[Self-employed clients must show proof of business expenses in order for the countable self-employment income to be determined.]~~ A self-employed individual who does not show a profit that is equal to federal minimum wage times the amount of hours needed per week within 24 months from the start date of receiving child care assistance will be evaluated by the child care assistance supervisor, at which point services may be reduced or discontinued.~~

E. Citizenship: Any child receiving child care assistance must be a citizen or legal resident of the United States; or a qualified ~~[alien]~~ immigrant as ~~[determined by applicable federal laws]~~ defined by the United States Department of Health and Human Services, Administration for Children & Families, Office of Child Care. ~~[If a child is determined to be a citizen of the United States or a qualified alien, as approved by the New Mexico human services department, the child will be eligible provided all other eligibility requirements are met regardless of the citizenship or alien status of the child's parent or parents.]~~

Did the federal guidelines for eligibility change or are we using state general funds to pay for children who do not qualify according to federal laws? How much do we estimate the annual cost to be for this expansion?

RATE INCREASES

Increase cost to deliver services on behalf of the state. The state of New Mexico passed legislation requiring annual increases of minimum wage until we reach a minimum wage of \$12.50 an hour. There is no rate increase, yet minimum wage has gone up over three dollars per hour since last rate increase, over four years ago. Without an equitable increase in rate increases, the minimum wage is an unfunded mandate. Each year, PED advocates for “cost of living” increases for staff wages. All child care providers are experiencing the same increased cost of doing business. It is possible that mandated sick leave, paid maturity leave, etc. will become law and will further impact centers. ECECD must adjust reimbursement rates.

Lower ratios for special needs children. The number of special needs children enrolled in child care centers continues to grow, especially children on the spectrum. The federal guidance allows the state to pay differential rates for children with special needs (IEP and IFSP). For years, centers and special need advocates have been asking for differential rates, allowing centers to have a lower teacher child ratio. We know that early interventions allow over 80% of young children to enter kindergarten without an IEP. This can only be accomplished with differential rates. To continue ignoring this desperate need is not a service to our most vulnerable children.

Relative caregivers- Unless I am reading the proposed regulations wrong, relative caregivers still qualify based on their household income. When the state has a choice between CPS or safe and healthy relative care, it seems in the state and child's best interest that we place the child with the safe and healthy relative. An aunt may be able to care for the child, but not be able to pay private child care. A grandparent may be willing to care for the child, but need assistance during the day, due to their physical abilities to keep up with a young child 24 hours a day.

Smith, Ashleigh, ECECD

From: [REDACTED]
Sent: Monday, January 4, 2021 2:23 PM
To: ECECD-ECS-PublicComment
Subject: [EXT] New Mexico Child Care & Education Association - Written Comment

Please find the written comment attached

RECOMMENDATIONS:

D. "Child with a disability or special needs" means a child with an identified disability, health, or mental health conditions requiring early intervention, special education services, under an individualized education plan (IEP), or other specialized services and supports; or children without identified conditions, but requiring specialized services, supports, or monitoring.

Should this include the Individualized Family Service Plan (IFSP). If not, why not?

H. "Demonstration of incapacity" means written documentation that an individual is unable to fulfill an eligibility requirement, such as work, school, or the ability to provide child care, and should otherwise be excluded, in whole or in part, from the determination of eligibility. Written documentation of incapacity includes, but is not limited to, the following: statements or letters on a physician's/medical professional's/treatment provider's letterhead stationery; statements, records or letters from a federal government agency that issues or provides disability benefits; statements, records or letters from a state vocational rehabilitation agency counselor; records or letters from a treatment facility/counselor; certification from a private vocational rehabilitation or another counselor that issues or provides disability benefits.

This is a welcomed language. New Mexico has many grandparents raising their grandchildren. In some cases, they have physical or other limitations in being able to meet the developmental needs of their grandchildren, especially if their grandchildren have special needs. In these cases, high-quality child care can provide a supportive community, respite care, and targeted interventions.

[H.] I. "Department" means the New Mexico Children, youth and families department (CYFD).

By definition, how is the Early Childhood Education and Care Department (ECECD) referred to.

[I.] J. "Earned income" means income received as gross wages from employment or [as profit from] self-employment.

It has always been net wages in the past and this change could hurt the families that we are trying to serve. Earned income should be defined as net income.

(7) "Friend, family, or neighbor (FFN)" means care to be provided temporarily in a home to be self-certified by the parent or legal guardian and registered by the department, not to exceed six months. In the case of a public health emergency, the department may extend the temporary status.

This language is concerning. If not corrected, it would be interpreted to imply Family, Friend and Neighbor is a tool to be used outside of a public health emergency. Why would "the department" use FFN when we have registered care. The new language should read:

7) “Friend, family, or neighbor (FFN)” means care to be provided temporarily in a home to be self-certified by the parent or legal guardian and registered by the department, not to exceed six months in the case of a public health emergency. During a continued public health emergency, the department may extend the temporary status. Further, unless the distinction between “the department” being CYFD or ECECD, CYFD will be in charge of FFN care.

[8.15.2.8](#) TYPES OF CHILD CARE: These policies apply to child care assistance benefits provided to

eligible children for the following types of child care to ensure that parents or legal guardians have a variety of child care services from which to choose:

A. licensed child care programs administered by public schools and post-secondary institutions that provide on-site care for the children of students;

B. licensed child care programs administered by tribal entities;

C. licensed child care programs administered by church or religious organizations;

D. in-home care;

E. licensed child care centers;

F. registered family childcare homes;

G. licensed family and group childcare homes;

H. licensed out of school time programs; [and]

I. licensed programs operated by employers for their employees[.]; and

J. FFN.

[\[8.15.2.8 NMAC - Rp, 8.15.2.8 NMAC, 10/1/2016\]](#)

It appears these rule changes create a new type of childcare, to be approved, extended, etc. at the discretion of “the department”. We are opposed to a new category of unlicensed care. This is the existing purpose of registered family childcare homes.

[G. Child protective services (CPS) child care: The department pays for CPS child care as determined by the protective services of the department. Income requirements and copayments are waived for clients in this priority.]

[H.] G. [At-risk child care] Priority five: In addition to these priorities, the department pays for at-risk

[protective services] childcare as approved by the department. Childcare benefits are provided for a minimum of six months to support the family. Income, work, and education requirements and copayments are waived for clients in this priority.

Why are these proposed changes needed? How do they change current eligibility and services? Again, its seems to be tied to the new category of FFN care. Why wouldn’t children in CPS continue to access the other categories of child

care? Without oversight, could families, friends, and neighbors be providing care without the proper health and safety standards, background checks, etc?

8.15.2.10 APPLICATION PROCESS:

A. Clients apply for child care assistance benefits by presenting the following documents to establish eligibility [in person at the local child care office. Upon a need or request by the client, the department may approve a client to submit their initial application by fax, email, or mail. Clients shall have 14 calendar days after the initial submission of an application to submit all other required forms. Under documented extenuating circumstances and with approval from the early childhood services director, clients may be given longer than 14 days but no more than 30 days to submit the required documentation]:

This is a wonderful change. COVID has demonstrated the state’s capacity to determine eligibility without a face to face meeting. Parents will miss less work and their wait time for enrollment will decrease.

(3) the [eligible] provider is eligible to be paid [was providing care from the first day of the month forward].

Thank you for this change. It aligns with industry standards.

8.15.2.11 ELIGIBILITY REQUIREMENTS: Clients are eligible for child care assistance benefits upon meeting the requirements for eligibility as determined by the department and federal regulation.

B (2) [Eligibility for CPS and a]At-risk child care may be granted for less than 12 months as determined by the department.

Again, this seems to be a shifting CPS client from accessing all types of care to FFN.

(1) The household: The household includes biological parents, stepparents, [and] legal guardians of the child(ren) for whom child care assistance is sought, and any legal dependents of the aforementioned, living in the household, thereby constituting an economic unit.[, and any dependents of the aforementioned who are under 18 years of age.

Grandparents will be considered household members only if they are legal guardians of the children,

are providing for the physical and emotional needs of the children, and are applying for child care benefits on behalf of the children.] Grandparents who are not legal guardians living in the household are counted as members of the household, but they're earned and unearned income is excluded from the eligibility calculations.

This is such a welcomed change. With this change, multi-family households are being valued.

[(8)] (7) Verification of household countable earned and unearned income: Clients applying for child care assistance benefits are required to verify household countable earned and unearned income by providing current [proof] documentation of income for [all members of the household] biological parents, stepparents, and legal guardians of the child(ren) for whom child care assistance is sought for, living in the household, who receive such income. [Self-employed clients must show proof of business expenses in order for the countable self-employment income to be determined.] A self-employed individual who does not show a profit that is equal to federal minimum wage times the amount of hours needed per week within 24 months from the start date of receiving child care assistance will be evaluated by the child care assistance supervisor, at which point services may be reduced or discontinued.

E. Citizenship: Any child receiving child care assistance must be a citizen or legal resident of the United States; or a qualified [alien] immigrant as [determined by applicable federal laws] defined by the United States Department of Health and Human Services, Administration for Children & Families, Office of Child Care. [If a child is determined to be a citizen of the United States or a qualified alien, as approved by the New Mexico human services the department, the child will be eligible provided all other eligibility requirements are met regardless of the citizenship or alien status of the child's parent or parents.]

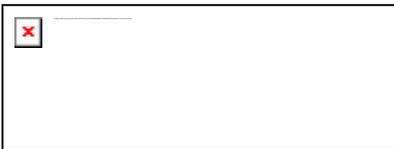
Did the federal guidelines for eligibility change or are we using state general funds to pay for children who do not qualify according to federal laws? How much do we estimate the annual cost to be for this expansion?

RATE INCREASES

Increase cost to deliver services on behalf of the state. The state of New Mexico passed legislation requiring annual increases of minimum wage until we reach a minimum wage of \$12.50 an hour. There is no rate increase, yet the minimum wage has gone up over three dollars per hour since the last rate increase, over four years ago. Without an equitable increase in rate increases, the minimum wage is an unfunded mandate. Each year, PED advocates for "cost of living" increases for staff wages. All child care providers are experiencing the same increased cost of doing business. It is possible that mandated sick leave, paid maturity leave, etc. will become law and will further impact centers. ECECD must adjust reimbursement rates.

Lower ratios for special needs children. The number of special needs children enrolled in child care centers continues to grow, especially children on the spectrum. The federal guidance allows the state to pay differential rates for children with special needs (IEP and IFSP). For years, centers and special needs advocates have been asking for differential rates, allowing centers to have a lower teacher-child ratio. We know that early interventions allow over 80% of young children to enter kindergarten without an IEP. This can only be accomplished with differential rates. To continue ignoring this desperate need is not a service to our most vulnerable children.

Relative caregivers- Unless I am reading the proposed regulations wrong, relative caregivers still qualify based on their household income. When the state has a choice between CPS or safe and healthy relative care, it seems in the state and child's best interest that we place the child with a safe and healthy relative. An aunt may be able to care for the child, but not be able to pay for private child care. A grandparent may be willing to care for the child, but need assistance during the day, due to their physical abilities to keep up with a young child 24 hours a day.



Smith, Ashleigh, ECECD

From: [REDACTED]
Sent: Monday, January 4, 2021 3:05 PM
To: ECECD-ECS-PublicComment
Subject: [EXT] 8.15.2 NMAC Public Comment

Follow Up Flag: Follow up
Flag Status: Flagged

- I support the proposed rules, because they will expand access to child care assistance and increase affordability of the program.
- Working families need access to affordable childcare they can trust to ensure their children have a safe space to learn while the parents are working to further their education or participate in the workforce.
- Every working parent should be able to access quality child care without worrying about sacrificing basic needs like food and rent.
- We know that the earliest years in children's lives are the most important in their development and lay the foundation for all that is to come. That is why it's so important that all working families be able to access affordable childcare that they can trust.
- Child support requirements are burdensome to administer, have few benefits for families and put domestic violence survivors in danger. Other states have eliminated these requirements.
- Child care is unaffordable for low income families, because the program has high copays. The federal government recommends that families pay no more than 7% of their income on child care so that is affordable. New Mexico should eliminate co-pays for families below 100% of the federal poverty level and make them affordable for other families.
- It will be easier to find a job if childcare is available when families are looking for work.
- Eliminating the requirement to submit applications in-person will lower burdens on applicants and increases child care accessibility.

Thank you. [REDACTED]

Sent from [Mail](#) for Windows 10

Smith, Ashleigh, ECECD

From: [REDACTED]
Sent: Monday, January 4, 2021 8:39 PM
To: ECECD-ECS-PublicComment
Subject: [EXT] 8.15.2 NMAC Public Comment

Follow Up Flag: Follow up
Flag Status: Flagged

I support the proposed rules, because they will expand access to child care assistance and increase affordability of the program.

Working families need access to affordable childcare they can trust to ensure their children have a safe space to learn while the parents are working to further their education or participate in the workforce. Every working parent should be able to access quality child care without worrying about sacrificing basic needs like food and rent.

We know that the earliest years in children's lives are the most important in their development and lay the foundation for all that is to come. That is why it's so important that all working families be able to access affordable childcare that they can trust.

Child support requirements are burdensome to administer, have few benefits for families and put domestic violence survivors in danger. Other states have eliminated these requirements. Child care is unaffordable for low income families, because the program has high copays. The federal government recommends that families pay no more than 7% of their income on child care so that is affordable. New Mexico should eliminate co-pays for families below 100% of the federal poverty level and make them affordable for other families.

It will be easier to find a job if childcare is available when families are looking for work. Eliminating the requirement to submit applications in-person will lower burdens on applicants and increases child care accessibility.

Thank you for considering my comments.

[REDACTED]
Albuquerque Resident

Smith, Ashleigh, ECECD

From: [REDACTED]
Sent: Monday, January 4, 2021 8:59 PM
To: ECECD-ECS-PublicComment
Subject: [EXT] 8.15.2 NMAC Public Comment.

Follow Up Flag: Follow up
Flag Status: Flagged

I am in favor of expanding access to childcare assistance in New Mexico. Childcare is one of the primary expenses for working families, and can cost as much as post secondary education. many parents are priced out of the workforce because of these costs, keeping them trapped in a cycle of financial insecurity

Smith, Ashleigh, ECECD

From: [REDACTED]
Sent: Tuesday, January 5, 2021 8:29 AM
To: ECECD-ECS-PublicComment
Subject: [EXT] NOTICE OF RULEMAKING AND PUBLIC RULE HEARING - Public Comment

Follow Up Flag: Follow up
Flag Status: Flagged

Hello,

I have the following concerns about exempting “child support payment” out of the income for eligibility:

- 1) We have seen an increase in fathers out of the life of children, which is the number one cause of incarceration in youth and young adults. At least child support keeps fathers in the lives of the children. Now not forcing the fathers to pay for child support, they will disappear from the lives of the children causing more mental health in our children.
- 2) Of course, the intent is to increased childcare assistance, however with an NM government hostile to the gas and oil industry where most of the childcare income comes. My question is where the money will come from. NM budget is already in the red. I am afraid that we will bankrupt the childcare assistant system, and families that really need this program won't be able to qualify for it.
- 3) Did you plan or estimate the percentage of increase in the child care assistant eligibility expansion?
- 4) I see this exemption as an open the door to fraud: parents living together but not married. This gives the opportunity to the parent seeking for childcare assistant to not claim the income of the other parent.
- 5) The base of society is the nuclear family. Giving more access to government assistant to single parents empowers the rupture of marriage right away, instead of giving the opportunity for the couple to work their problems in order to keep their marriage. There should be a way to counsel the parents to fix their marriages instead of giving them the tools to break it.
- 6) Right now, new or renewal child care assistant contracts are taking longer than usual for lack of staff. This means ECECD will grow more because ECECD will need to hire more staff, which increases the income necessary to sustain the department.

(6) Exempt income: The types of income not counted when computing eligibility or co-payments include but are not limited to: earnings of [a] household dependents [child who is under 18 and in school]; earnings of household grandparents who are not the legal guardians of the child(ren) for whom child care assistance is sought; SNAP; TANF benefits, including diversion payments; supplemental security income (SSI); social security disability insurance (SSDI); social security benefits received by household children; any VA payments made on behalf of the child(ren); VA benefits for educational purposes or for disability; unemployment benefits; work study income; child support payments; military

With gratitude,



Closures:

Week of Christmas: 12/21 to 12/25/2020

New Year's Eve and New Year's Day: 12/31/2020 and 01/01/2021



LA ESPERANZA CHILD DEVELOPMENT CENTER, LLC

Nurturing children from 6 weeks to 12 years old



"That your faith should not stand in the wisdom of men: but in the power of God." 1 Cor, 2:5

Smith, Ashleigh, ECECD

From: [REDACTED]
Sent: Tuesday, January 5, 2021 10:50 AM
To: ECECD-ECS-PublicComment
Subject: [EXT] 8.15.2 NMAC Public Comment

- I support the proposed rules, because they will expand access to child care assistance and increase affordability of the program.
- Working families need access to affordable childcare they can trust to ensure their children have a safe space to learn while the parents are working to further their education or participate in the workforce.
- Every working parent should be able to access quality child care without worrying about sacrificing basic needs like food and rent.
- We know that the earliest years in children's lives are the most important in their development and lay the foundation for all that is to come. That is why it's so important that all working families be able to access affordable childcare that they can trust.
- Child support requirements are burdensome to administer, have few benefits for families and put domestic violence survivors in danger. Other states have eliminated these requirements.
- Child care is unaffordable for low income families, because the program has high copays. The federal government recommends that families pay no more than 7% of their income on child care so that is affordable. New Mexico should eliminate co-pays for families below 100% of the federal poverty level and make them affordable for other families.
- It will be easier to find a job if childcare is available when families are looking for work.
- Eliminating the requirement to submit applications in-person will lower burdens on applicants and increases child care accessibility.

Thank you,

[REDACTED]

Smith, Ashleigh, ECECD

From: [REDACTED]
Sent: Tuesday, January 5, 2021 11:17 AM
To: ECECD-ECS-PublicComment
Subject: [EXT] 8.15.2 NMAC Public Comment

Follow Up Flag: Follow up
Flag Status: Flagged

I support the proposed rules, because they will expand access to child care assistance and increase affordability of the program. Child care is not currently affordable to so many and having the chance to gain some assistance is vital to parents and children in the state of NM. Many children are in the custody of grandparents, Aunts and Uncles, or other family member right now and because they don't have full legal rights they are not being allowed a contract to give their "child" an education. These people are the ones who need the help most, the one who are trying to make a positive change for the child in need. I am a single mother of 3 who lives paycheck to paycheck and have been denied when I NEED child care, especially right now during the school closures and me still working. This bill passing could help me get my 9y.o. into a center that can help her with school so all my children can succeed in this crazy school year we have going.

Smith, Ashleigh, ECECD

From: [REDACTED]
Sent: Tuesday, January 5, 2021 2:20 PM
To: ECECD-ECS-PublicComment
Subject: [EXT] "8.15.2NMAC Public Comment"

Follow Up Flag: Follow up
Flag Status: Flagged

My name is [REDACTED] and I [REDACTED] in Roswell, we are the [REDACTED] in New Mexico and I have been in Early Education for 37 years. I am writing to show my support for most of the new proposed regulations that will make child care more accessible.

1.) The first requirement that a custodial parent file for child support is not a bad requirement. However, you may have a parent that was in abusive situation and has a restraining order. This could lead to a tragic situation, but if most parents could receive additional monetary assistance this is not a terrible outcome. I think that each situation needs to be looked at separately to keep everyone safe.

2.) I cannot speak to the second proposal as there are no specifics listed. Not counting some income would be a great help to single parents especially. I'm just not sure which income that would be.

3.) Eliminating the requirement of applying in-person: I think that the first time parent should apply in-person so they can start to create a relationship with their caseworker. I believe this important so if there is a problem they will already have that relationship cemented. After the initial contract I don't believe it is necessary that they meet in person, just so long as they stay in contact incase of any changes to their contract.

4.) I believe granting three months of benefits to families that are searching for work is an excellent idea.

5.) I believe extending eligibility to families pursuing higher education. Just today I had a parent who is losing her older child's placement because her college is dropping her school time because of covid. Her other two will be dropping to part-time even though her study time will be the same as will her lab times. It is only the face-to-face class time.

6.) I believe that extending access to families with special needs or a disability is a great idea.

New Mexico would benefit greatly from these regulations but also by extending the poverty level to 200%. I realize that in this time of pandemic everyone is hurting and many are looking for jobs that are just now there, but we need to do everything we can to ensure that the most at risk have the opportunity to exceptional, safe Early Education.

Thank you, [REDACTED]

Smith, Ashleigh, ECECD

From: [REDACTED]
Sent: Tuesday, January 5, 2021 10:18 PM
To: ECECD-ECS-PublicComment
Subject: [EXT] 8.15.2 NMAC Public Comment"

Dear,

I am [REDACTED] from the Vietnamese community,

I support the proposed rules, because they will expand access to child care assistance and increase affordability of the program.

It's very important to our community because working parents need safe, reliable and affordable child care.

Many of them depend on friends and family to watch their children while they work, this may be a good option for some parents, others may not have such support. In addition, children in home care may not receive educational and social opportunities that state-regulated child-care centers offer.

The high-quality child-care assistance will also help children healthy, safe and develop skills they need for school and communication skills.

The proposed regulations will impact me and my community is:

It should be easier to qualify so that all our children can use the services which they deserve.

Smith, Ashleigh, ECECD

From: [REDACTED]
Sent: Wednesday, January 6, 2021 9:44 AM
To: ECECD-ECS-PublicComment
Subject: [EXT] 8.15.2 NMAC Public Comment.

Follow Up Flag: Follow up
Flag Status: Flagged

All families deserve access to safe, reliable child care. I support expand access by ending costly, burdensome & ineffective application & eligibility requirements.

Thank you,

[REDACTED]

Find my writing and farm at [REDACTED]

Sent from my T-Mobile 4G LTE Device

Smith, Ashleigh, ECECD

From: [REDACTED]
Sent: Wednesday, January 6, 2021 9:54 AM
To: ECECD-ECS-PublicComment
Subject: [EXT] 8.15.2NMAC Public Comment

This is [REDACTED] and we [REDACTED] and parents support your bill. Thank you.

I have a story to share with one of the items on your bill.

I have a parent that needed to recertify in November. Contracted ended 10-31. She attempted to call her caseworker many times, emailed her, received an email that she had 7-10 days to respond. So she waited. When she was asked to send her documentation she did, an other 10 days and she need more information. She was told she would get to her when she could other contracts came before her and she could wait till she got to it. She did get to it and need a document signed by her x husband in another state on Kidney dialysis and in very poor health. This needed to be notarized which was an issue. Later she was contacted she needed a CPA to give her a Profit and Loss Statement. She tried to start a new business due to Covid and not being essential. No CPA would see her for 2 months. She called quite a few. In the meantime her contract expired and she felt so bad and felt like she had hit a block wall. I offered her my Accountant who finally helped her since she waited to long for another that never came through. In the meantime she stopped bringing the kids in. She worked from her car and took the kids with her. All this time she let me know what she was doing to get the contract information in to her caseworker. We had a Positive case in our home so we were in Quarantine also. Week before Christmas she is still waiting and has no information. We finally got the documentation to them on 12/31. We sent the information to caseworker and her boss. The response made me cry.

We were emailed that in the future to let her boss know and that the caseworker should of asked upermanagement for help and they could of helped after I shared her story. I have no current contract but asked her to bring in her kids and shared groceries, Jackets, clothes and Christmas gifts for the kids. (She cried and said, "Oh my God, you have no idea how this helps". I had asked her to bring them in earlier but she felt she would just owe more that she was and could not afford it, and felt maybe starting a small business was the worst decision ever. (Estate sales) With Covid and the Holidays add a Quarantine to this and here we are just waiting. We are extended families and our job is to help our community.

I have a [REDACTED] with 5 contracts still pending and have had to contact others for help. The calls with the Secretary and ECEDC we listen to said they were extending the expiration date now with Covid, it may have ended but the problems still exist, on current contracts. The caseworkers said different. The time getting back with clients and following through is not helping the client or the provider. We will loose clients now that all our centers across the states are at an all time low on children in their centers. Many are facing closure. (my son and daughter face struggles in this time with their centers and have contract issues also).

We are asking for your help. Thank you. These are our struggles still trying to help our families.

Sent from [Mail](#) for Windows 10

Smith, Ashleigh, ECECD

From: [REDACTED]
Sent: Wednesday, January 6, 2021 10:08 AM
To: ECECD-ECS-PublicComment
Subject: [EXT] 8.15.2 NMAC Public Comment
Attachments: KW Consutling LLC Letter Proposed Amendments to 8.15.2 NMAC.pdf

Please see the attached document with my public comment regarding the proposed amendments to [8.1.5.2](#) NMAC.

Please confirm receipt of this email.

Best,

[REDACTED]

[REDACTED]
KW Consulting LLC
[REDACTED]



January 5, 2021

New Mexico Early Childhood Education and Care Department
P.O. Drawer 5619
Santa Fe, New Mexico 87502-5619

Delivered Via Email to: ECECD-ECS-PublicComment@state.nm.us

RE: 8.15.2 NMAC Public Comment

Dear Secretary Gronginsky,

As a New Mexico small business owner, I appreciate the opportunity to comment on the proposed amendments to 8.1.15 NMAC, which were initially published as emergency amendments effective September 18, 2020 and revise the requirements for child care assistance programs for clients and child care providers.

My public comment is in relation to the proposed changes in 8.1.15.2.7 NMAC to the definition of "Earned income." The proposed changes are outlined below:

[+.] J. "Earned income" means income received as gross wages from employment or ~~as profit from~~ self-employment.

The current administrative correctly makes a distinction between *wages* from employment and *profit* from self-employment. This is an important distinction because according to the New Mexico Economic Development Department there are 122,042 nonemployer businesses in New Mexico, which make up about 73.6% of all businesses in the state. Additionally, the National Federation of Independent Business states that eighty-five (85) percent of small businesses are structured as pass-through entities (limited liability companies, sole proprietorships, etc.) that pay taxes on their business at the individual rate.

This means that a significant number of self-employed individuals are not receiving wages through a traditional w-2, but rather receiving pass-through income from their small business.

In this instance, would a self-employed individual report zero income received as gross wages, since no w-2 wages were received? Or since self-employment pass-thru income is not captured in “earned income,” would it be captured under “other income,” which was added to the definition of “unearned income?”

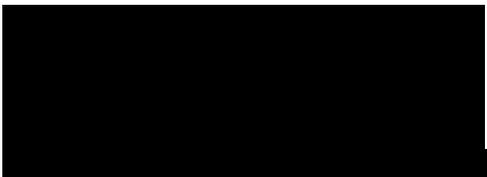
Additionally, since the word “profit” is being actively deleted in the proposed amendments it could be construed that a self-employed individual is required to count the total amount of income generated by the sales of good or services (otherwise known as business revenue). The business revenue could be significantly higher than a business profit, because a profit is the amount of income that remains after accounting for all expenses, debts, and operating costs.

For example, is an independent jewelry maker in rural New Mexico, may have been able to sale \$25,000 worth of jewelry in the last year, however, it cost the jewelry maker \$10,000 to make the jewelry. The profit from self-employment would be \$15,000, however, the income generated (revenue) would be \$25,000.

My fear is that the lack of clarity in this specific proposed amendment to 8.15.2.7, could inadvertently result, in self-employed individuals losing eligibility to child care assistance programs.

I appreciate the opportunity to offer comments on the proposed changes to 8.15.2.7 NMAC. If you have any questions, please do not hesitate to reach out.

Respectfully,



KW Consulting LLC



Smith, Ashleigh, ECECD

From: [REDACTED]
Sent: Wednesday, January 6, 2021 12:46 PM
To: ECECD-ECS-PublicComment
Subject: [EXT] 8.15.2 NMAC Public Comment

Follow Up Flag: Follow up
Flag Status: Flagged

This is to strongly support the proposed rules which will expand child care assistance. My family was unnecessarily destroyed by the old rules and my child left in poverty. The present system is outmoded, ineffective and unjust. The proposed changes are long past-due.

Thank you for your consideration.

[REDACTED]
Albuquerque, NM
[REDACTED]

Smith, Ashleigh, ECECD

From: [REDACTED]
Sent: Wednesday, January 6, 2021 1:08 PM
To: ECECD-ECS-PublicComment
Cc: [REDACTED]
Subject: [EXT] 8.15.2 NMAC Public Comment
Attachments: Rep. [REDACTED] Comments for CYFD and ECECD Proposed Regulations Regarding Child Care Assistance.pdf

Follow Up Flag: Follow up
Flag Status: Flagged

To Whom It May Concern:

Per instructions from [REDACTED], I am emailing her comments to your office regarding proposed rules involving Social Services Child Care Assistance Requirements for Child Care Assistance Programs for Clients and Child Care Providers. If possible, please verify that [REDACTED] comments have been successfully received.

If there are any questions, please do not hesitate to contact me at this email address or at [REDACTED]

Thank you for your attention in this important matter.

[REDACTED]

[REDACTED]



State of New Mexico
House of Representatives
Santa Fe

January 6, 2021

COMMITTEES:
Enrolling & Engrossing
Health & Human Services
Labor & Economics Development

The Honorable Elizabeth Groginsky
Cabinet Secretary
NM Early Childhood Education and Care Dept.
Post Office Drawer 5619
Santa Fe, New Mexico 87502-1321

The Honorable Brian Blalock
Cabinet Secretary
NM Children, Youth, and Families Dept.
Post Office Drawer 5160
Santa Fe, New Mexico 87502

Dear Sec. Groginsky and Sec. Blalock:

Thank you for the opportunity to provide written feedback regarding the New Mexico Children, Youth and Families Department's (CYFD) and the Early Childhood Education and Care Department's (ECECD) proposed amendments to the rules regarding SOCIAL SERVICES CHILD CARE ASSISTANCE REQUIREMENTS FOR CHILD CARE ASSISTANCE PROGRAMS FOR CLIENTS AND CHILD CARE PROVIDERS as authorized by Section 9-2A-7 NMSA 1978.

On January 5, 2021, team members from ECECD met with me via Zoom clarifying intent behind these proposed regulations and those discussions have shaped the following feedback.

Thank you for allowing me to understand and engage in this public comment process.

RECOMMENDATIONS:

D. "Child with a disability or special needs" means a child with an identified disability, health, or mental health conditions requiring early intervention, special education services, under an individualized education plan (IEP), or other specialized services and supports; or children without identified conditions, but requiring specialized services, supports, or monitoring.

Should this include Individualized Family Service Plan (IFSP)? If not, why not?

H. "Demonstration of incapacity" means written documentation that an individual is unable to fulfill an eligibility requirement, such as work, school, or the ability to provide child care, and should otherwise be excluded, in whole or in part, from the determination of eligibility. Written documentation of incapacity includes, but is not limited to, the following: statements or letters on a physician's/medical professional's/treatment provider's letterhead stationary; statements, records or letters from a federal government agency that issues or provides disability benefits; statements, records or letters from a state vocational rehabilitation agency counselor; records or letters from a treatment facility/counselor; certification from a private vocational rehabilitation or other counselor that issues or provides disability benefits.

This is welcome language. New Mexico has many grandparents raising their grand children. In some

cases, they have physical or other limitation in being able to meet the developmental needs of their grandchildren, especially if their grandchildren have special needs. In these cases, high quality child care can provide a supportive community, respite care, and targeted interventions.

[H.] I. “Department” means the New Mexico children, youth and families department (CYFD).
By definition, how is the Early Childhood Education and Care Department (ECECD) referred to.

[I.] J. “Earned income” means income received as gross wages from employment or [~~as profit from~~] self-employment.

It is unclear why this language change is needed. I understand from the meeting that the intent is to expand eligibility, yet without clarity, I understand it to read that self-employed will be eligible based on gross income (not profit or taxable income). This language needs to be clarified. Without clarity, the language will be subjective. As a result, small business and self-employed families could lose eligibility.

(7) “Friend, family, or neighbor (FFN)” means care to be provided temporarily in a home to be self-certified by the parent or legal guardian and registered by the department, not to exceed six months. In the case of a public health emergency, the department may extend the temporary status.

I am very concerned about this language. If not corrected, it would be interpreted to imply Family, Friend and Neighbor is a tool to be used outside of a public health emergency. Why would “the department” use FFN when we have registered care. The new language should read:

Based on the meeting with ECECD, it seems the intent is to make FFN a new category. As such it should be included in and referenced throughout Chapter 17, Non-licensed care.

CHAPTER 17	<u>NON-LICENSED CHILD CARE</u>
Reg# 8.17.2 NMAC	<u>REQUIREMENTS GOVERNING REGISTRATION OF NON-LICENSED FAMILY CHILD CARE HOMES</u>

Further, unless the distinction between “the department” being CYFD or ECECD, CYFD will be in charge of FFN care.

8.15.2.8 TYPES OF CHILD CARE: These policies apply to child care assistance benefits provided to eligible children for the following types of child care to ensure that parents or legal guardians have a variety of child care services from which to choose:

- A. licensed child care programs administered by public schools and post-secondary institutions that provide on-site care for the children of students;
- B. licensed child care programs administered by tribal entities;
- C. licensed child care programs administered by church or religious organizations;
- D. in-home care;
- E. licensed child care centers;
- F. registered family childcare homes;
- G. licensed family and group childcare homes;
- H. licensed out of school time programs; [~~and~~]
- I. licensed programs operated by employers for their employees[~~;~~]; and
- J. FFN.

[8.15.2.8 NMAC - Rp, 8.15.2.8 NMAC, 10/1/2016]

If the rules and regulations for FFN care are addressed in Chapter 17, this section provided an additional category of designed to help folks enter the regulatory environment over a six-month period. Without capturing FFN care in Chapter 17, it appears that the department is creating a new type of child care, to be approved, extended, etc. at the discretion of “the department”. I am opposed to a new category of unlicensed care whose standards of application, implementation and regulation are not defined by rules.

~~[G. — Child protective services (CPS) child care: The department pays for CPS child care as determined by the protective services of the department. Income requirements and copayments are waived for clients in this priority.]~~

~~[H.]~~ G. ~~[At-risk child care]~~ Priority five: In addition to these priorities, the department pays for at-risk ~~[protective services]~~ child care as approved by the department. Child care benefits are provided for a minimum of six months to support the family. Income, work and education requirements and copayments are waived for clients in this priority.

How does this change current eligibility and services?

8.15.2.10 APPLICATION PROCESS:

A. Clients apply for child care assistance benefits by presenting the following documents to establish eligibility ~~[in person at the local child care office. Upon a need or request by the client, the department may approve a client to submit their initial application by fax, email, or mail. Clients shall have 14 calendar days after initial submission of an application to submit all other required forms. Under documented extenuating circumstances and with approval from the early childhood services director, clients may be given longer than 14 days but no more than 30 days to submit required documentation]:~~

This is a wonderful change. COVID has demonstrated the state’s capacity to determine eligibility without a face to face meeting. Parents will miss less work and their wait time for enrollment will decrease.

(3) the ~~[eligible]~~ provider is eligible to be paid ~~[was providing care from the first day of the month forward]~~.

Thank you for this change. It aligns with industry standards.

8.15.2.11 ELIGIBILITY REQUIREMENTS: Clients are eligible for child care assistance benefits upon meeting the requirements for eligibility as determined by the department and federal regulation.

B.

(1) The household: ~~The household includes biological parents, stepparents, [and] legal guardians of the child(ren) for whom child care assistance is sought, and any legal dependents of the aforementioned, living in the household, thereby constituting an economic unit. [, and any dependents of the aforementioned who are under 18 years of age. Grandparents will be considered household members only if they are legal guardians of the children, are providing for the physical and emotional needs of the children, and are applying for child care benefits on behalf of the children.] Grandparents who are not legal guardians living in the household are counted as members of the household, but their earned and unearned income is excluded from the eligibility calculations.~~

This is such a welcomed change. With this change, multi-family households are being valued.

~~(8)~~ (7) Verification of household countable earned and unearned income: Clients applying for child care assistance benefits are required to verify household countable earned and unearned income by providing current ~~[proof]~~ documentation of income for ~~[all members of the household]~~ biological parents, stepparents, and legal guardians of the child(ren) for whom child care assistance is sought, living in the household, who receive such income. ~~[Self-employed clients must show proof of business expenses in order for the countable self-employment income to be determined.]~~ A self-employed individual who does not show a profit that is equal to federal minimum

wage times the amount of hours needed per week within 24 months from the start date of receiving child care assistance will be evaluated by the child care assistance supervisor, at which point services may be reduced or discontinued.

What is the purpose of this language change?

E. Citizenship: Any child receiving child care assistance must be a citizen or legal resident of the United States; or a qualified ~~[alien]~~ immigrant as ~~[determined by applicable federal laws]~~ defined by the United States Department of Health and Human Services, Administration for Children & Families, Office of Child Care. ~~[If a child is determined to be a citizen of the United States or a qualified alien, as approved by the New Mexico human services department, the child will be eligible provided all other eligibility requirements are met regardless of the citizenship or alien status of the child's parent or parents.]~~

Did the federal guidelines for eligibility change or are we using state general funds to pay for children who do not qualify according to federal laws?

RATE INCREASES – the missing piece

Increase cost to deliver services on behalf of the state. The state legislature of New Mexico passed legislation requiring annual increases of minimum wage until we reach a minimum wage of \$12.50 an hour. There is no rate increase, yet minimum wage has gone up over three dollars per hour since last the rate increase, over four years ago. Without an equitable increase in payment rates, the minimum wage is an unfunded mandate. Each year, PED advocates for “cost of living” increases for staff wages. All child care providers are experiencing the same increased cost of doing business. It is possible that mandated sick leave, paid maternity leave, etc. will become law and will further impact centers. ECECD must adjust reimbursement rates. There is a balance that needs to be made when increasing eligibility and raising rates. We simply can't do one without the other. I understand there is a current “cost study” underway. Let's be honest, there is always a cost study underway. Every two years, it is required by the federal government and in the off year an advocacy group usually preforms one. In addition, there are countless secondary studies we can use for guidance. We all know the rates are too low. At the *very* least we should be adjusting for the increased minimum wage.

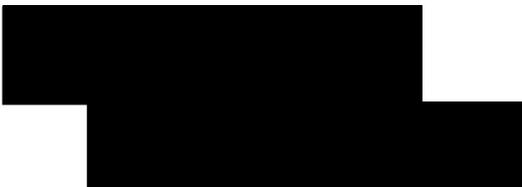
Lower ratios for special needs children. The number of special needs children enrolled in child care centers continues to grow, especially children on the spectrum. The federal guidance allows the state to pay differential rates for children with special needs (IEP and IFSP). For years, centers and special need advocates have been asking for differential rates, allowing centers to have a lower teacher child ratio. We know that early interventions allow over 80% of young children to enter kindergarten without an IEP. This can only be accomplished with differential rates. To continue ignoring this desperate need is not a service to our most vulnerable children.

We have all seen the reports criticizing child care providers for incidents and accidents that happen at their centers, and for disenrolling children with special needs. While the department has yet to cover the cost of care, as allowed (and I believe expected) by federal law to cover the cost of accommodating children with special needs, providers are fined, placed on conditions and criticized for incidents and accidents that happen at their centers, and for disenrolling children with special needs. It time to address this urgent need.

Relative caregivers- Unless I am reading the proposed regulations wrong, relative caregivers still qualify based on their household income. When the state has a choice between CPS or safe and healthy relative care, it seems in the state and child's best interest that we place the child with the safe and healthy relative. An aunt may be able to care for the child, but not be able to pay private child care. A grandparent may be willing to care for the child, but need assistance during the day, due to their physical abilities to keep up with a young child 24 hours a day.

Thank you again for your hard work and efforts to expand access. I look forward to rule changes with an equal acknowledgement and emphasis on the need to fund high quality, to assure appropriate care and accessibility to all, and that are funded in a way to assure the services are viable and sustainable.

Respectfully yours,

A large black rectangular redaction box covering the signature and name of the sender.

Smith, Ashleigh, ECECD

From: [REDACTED]
Sent: Wednesday, January 6, 2021 1:11 PM
To: ECECD-ECS-PublicComment
Subject: [EXT] 8.15.2 NMAC Public Comment.
Attachments: 8.15.2 NMAC Public Comment. .docx

Follow Up Flag: Follow up
Flag Status: Flagged

Please see the attached public comment from New Mexico Voices for Children

Thank you!

Public (and written) comment to The New Mexico Children, Youth and Families Department (CYFD) and the Early Childhood Education and Care Department (ECECD) re: proposed child care assistance regulations (8.15.2 NMAC)

New Mexico Voices for Children strongly supports the proposed rule changes, because they will expand access to child care assistance and increase affordability of the program.

Over the past two decades, no other program in New Mexico has seen the rollercoaster ride of changes in eligibility that the child care assistance program has. As a result, three thousand fewer children were enrolled in the program just prior to the COVID-10 pandemic than in 2010, despite the fact that New Mexico still ranks near the worst in the nation for poverty among full-time workers and parents who work. The pandemic has worsened the economic challenges for many New Mexico families, including many frontline and essential workers who are not able to take leave with pay. Making affordable child care a priority is essential for our working parents to have the support they need and confidence that the program will be there next year and the year after that. Employers who depend on those working parents also need that confidence, and New Mexico's families and business community need the state to be a dependable partner, especially during childrens' critical early years.

With one of the highest rates of poverty in the nation, New Mexico needs to provide its parents with more financial help and fewer barriers to child care. The proposed changes to the child care regulations are a commendable step in making the program more affordable and accessible.

- New Mexico Voices for Children supports the removal of child support requirements, which are burdensome to administer, have few benefits for families and put domestic violence survivors in danger. Other states have also eliminated these requirements.
- The extension of notification and application requirements to 14 days is also a way to ensure more access for families and uninterrupted care during times of transition. It will be easier to find a job if childcare is available when families are looking for work. Eliminating the requirement to submit applications in-person will also lower burdens on applicants and increase child care accessibility.
- Child care is unaffordable for low income families, because the program has high copays. The federal government recommends that families pay no more than 7% of their income on child care so that it is affordable. New Mexico should eliminate co-pays for families below 100% of the federal poverty level and make them affordable for other families.

The recent KIDS COUNT report says that New Mexico is 50th in child well-being, and this was before the public health and economic strain of the pandemic and recession. The proposed changes are a step in the right direction, especially as New Mexico is at a moment of great

challenge and our children and families need more support than ever in an era of employment and income instability and educational disruption.

In order for our communities, our economy, and our state to recover and succeed, it is necessary to ensure that all New Mexico children have the best possible opportunities to thrive and reach their full potential.

Smith, Ashleigh, ECECD

From: [REDACTED]
Sent: Wednesday, January 6, 2021 1:50 PM
To: [REDACTED]
Subject: [EXT] Fwd: 8.15.2 NMAC Public Comment
Attachments: Final Comments for Nov. 2020 NPRM-2021-01-06.pdf

Follow Up Flag: Follow up
Flag Status: Flagged

All,

I'm forwarding the public comments I sent to ECECD-ECS-PublicComment@state.nm.us earlier today. Please let me know if these are received and submitted to the record, or if you need any further action on my part.

[REDACTED]

[REDACTED]
NMCLP
[REDACTED]

----- Forwarded message -----

From: [REDACTED]
Date: Wed, Jan 6, 2021 at 12:45 PM
Subject: 8.15.2 NMAC Public Comment
To: <ECECD-ECS-PublicComment@state.nm.us>
Cc: [REDACTED]

Please see the attached written public comments regarding the Early Childhood Education and Care Department's proposed child care assistance regulations.

Sincerely,

[REDACTED]



January 6, 2021

Alejandra Rebolledo Rea
Early Childhood Education and Care Department
P.O. Drawer 5619
Santa Fe, NM 87502-5169

Via Email: ECECD-ECS-PublicComment@state.nm.us

Re: 8.15.2 NMAC Public Comment

Ms. Rebolledo Rea:

Please accept the following comments on the proposed revisions to 8.15.2 NMAC regarding the Early Childhood Education and Care Department's (the Department) child care assistance program.

The undersigned organizations have extensive experience working with families in New Mexico to ensure they have access to opportunities that improve the lives of children, particularly low-income families that face the largest barriers. We also have first-hand experience assisting families in accessing child care assistance in New Mexico. We have seen the benefits to families who are able to access affordable child care and are aware of administrative barriers that prevent eligible families from receiving assistance.

We applaud the Department's regulatory response to the COVID -19 pandemic. The April 7, 2020 emergency rule changes that allowed the secretary to waive co-payments and the work or education requirement during a public health emergency were meaningful steps to provide child care access during a difficult time and reach the Governor's goal of universal child care. We thank the Department for promulgating these emergency rules and for making these emergency provisions a permanent part of the child care regulations.

Additionally, we support the Department's proposed rules which will increase access to this dramatically underutilized, but effective program. While we support the proposed rules, we urge the Department to take the additional steps outlined below and promulgate a final rule which incorporates our specific suggestions.

Section 8.15.2.13(H) NMAC – We support eliminating child support enforcement requirements

We applaud the Department's decision to eliminate the assignment of child support enforcement rights as a condition of receipting child support enforcement. Tying child care assistance with child support enforcement prevents many families from enrolling and remaining enrolled in the program, and assigning rights is often not be in the best interests of the custodial parent and child. Federal law permits states to set their own policy regarding child support enforcement in the child care assistance program, and 27 states do not require child support enforcement to participate in the child care

program.¹ We thank the Department for its proposal to eliminate this burdensome administrative process that blocks access to benefits.

Section 8.15.2.11(C)(3), (5), and (6) NMAC – We support the elimination of certain income for eligibility and co-payment calculation.

The Department’s proposal regarding which sources of income are counted for eligibility and copayment calculations are positive changes. The elimination of various sources of income that is not derived from employment will increase access and lower co-payments. One purpose of the Child Care Development Block Grant Act (“CDBG Act”) is to “increase the number and percentage of low-income children in high-quality child care settings.”² The elimination of some sources of income from the co-payment calculations is consistent with this purpose and is a step in the right direction toward the HHS recommendation to cap co-pays at 7 percent of family income.³

Section 8.15.2.10(A) NMAC – We Support Eliminating the In-person Application Requirement

We commend the Department’s decision to eliminate the in-person application requirement. Even before the pandemic made in-person interactions a public health problem, the in-person application requirement presented a barrier to families in accessing child care assistance. Many child care offices are not located conveniently to public transportation routes. This made it difficult for many families to travel to child care field offices and apply in-person. Additionally, the in-person application requirement forced parents to take off from work just to apply for care. The elimination of this requirement will increase program access.

Section 8.15.2.11(E) NMAC – Rename this section “Citizenship and Eligible Immigration Status”

A child’s citizenship *or eligible immigration status* determines eligibility to receive child care.⁴ This is because noncitizen children in eligible immigration statuses can receive child care.⁵ Therefore, we support the Department’s proposed amendments to 8.15.2.11(E) NMAC which incorporate the HHS definition of qualified immigrants.

However, the title of this section, “Citizenship,” implies that United States citizenship is required for receipt of child care assistance. In adopting its final rule, we urge the Department to retitle this section to read “Citizenship and Eligible Immigration Status.”

Section 8.15.2.16(A) NMAC – We Support eliminating the mid-certification checks.

¹ The states that do not require child support enforcement in their child care assistance programs are Alabama, Alaska, Arizona, California, Delaware, Florida, Georgia, Hawaii, Illinois, Indiana, Iowa, Louisiana, Massachusetts, Missouri, New Hampshire, New Jersey, Nevada, North Dakota, Ohio, Oregon, Pennsylvania, South Carolina, Tennessee, Utah, Vermont, Washington, and Wyoming.

² Sec. 658A Child Care Development Block Grant Act

³ Child Care and Development Fund (CCDF) Program, Preamble, 81 Fed. Reg. 67,438 (Nov. 29, 2016)

⁴ <https://www.federalregister.gov/documents/2016/09/30/2016-22986/child-care-and-development-fund-ccdf-program>

⁵ 45 C.F.R. § 98.20(c)

⁶ 8 U.S.C. § 1641 (Defining who is a “qualified alien” eligible to receive public benefits and listing eligible immigration statuses)

Federal regulations require that child care assistance contracts have a duration of at least 12 months and that agencies “shall re-determine a child’s eligibility for child care services no sooner than 12 months following the initial determination or most recent redetermination.”⁶ Therefore, we applaud the Department’s decision to eliminate the mid-certification communication in Section 8.15.2.16(A) NMAC. Since the Department contracts with clients for 12 months, the mid-certification communication is unnecessary and uses valuable department resources. Additionally, we thank the Department for amending Section 8.15.2.12 NMAC state that if a family meets the recertification requirements, the certification period will be for 12 months.

Section 8.15.2.11(C) NMAC – Add provisions that ensure grandparents are exempt from the work or education requirement and can receive child care assistance without having to apply for TANF.

The Department should make additional changes to ensure that children being raised by grandparents have access to care. The proposed regulations specify that only grandparents who are legal guardians must qualify under the program’s income limits and when they qualify, can have their co-payments waived. This is a positive change that we support. However, grandparents who are retired should not be subject to the work or educational requirements for child care. Current New Mexico law for the TANF cash assistance recognizes this and does not impose a work requirement on participants who are 60 or older.⁷ In its final regulation, we ask the Department to amend its rules to allow for waiving the work or educational requirement for grandparents raising grandchildren.

Additionally, when grandparents do work, their income should not be counted towards the eligibility limit. Again, the TANF cash assistance program also provides that grandparents can participate in that program regardless of income level.⁸ Current child care assistance regulations provide that TANF families are eligible for child care regardless of income level.⁹ However, we should not ask grandparents to apply for and participate in TANF to qualify for child care assistance. Instead, the Department should mirror the child care regulations to reflect the TANF program, and qualify children being raised by grandparents without regard to income.

Section 8.15.2.10(A) – Include all Verifications

We support the Department’s proposal to include documentation of TANF participation or eligibility and proof of incapacity in the verification list at Section 8.15.2.10 (A) NMAC. However, the regulations still do not contain a full list. The Department requires custody documents and documentation of identification, and relationship in some instances. These requirements must be detailed in regulation.

Section 8.15.2.11(I) NMAC - We support Graduate Student Eligibility

The Department’s proposal to open eligibility to families in graduate school aligns with the purposes of the CDBG Act to provide access to children to quality child care and recognizes the

⁶ 45 C.F.R. § 98.21(a)

⁷ NMSA 1978 §27-2B-5(I)(2); 8.102.420.11(A)(1) NMAC

⁸ 8.102.400.11 NMAC

⁹ 8.15.2.9(A) NMAC

economic realities of parents who are furthering their educations. We support this proposal and thank the Department for addressing this issue.

Policies Impacting Family Eligibility and the State Rules Act

State law requires ECECD to comply with the administrative procedures in the State Rules Act, because it is an “agency” under the Act.¹⁰ The State Rules Act defines a “rule” as “any rule, regulation, or standard” that affects “one or more agencies besides the agency issuing the rule,” “persons not members or employees of the issuing agency,” or “persons served by the agency.”¹¹ Any policy that meets this definition of a rule must be promulgated into regulation.

Include the Income Calculation Formula in Regulations

Currently, the Department’s monthly income calculations are in the worker manual, but they are not promulgated into regulation. The calculations in the manual include a formula that considers how frequently a family receives their paychecks. Since this is not in regulation, a family has no way of knowing how their income is calculated or if the determination as to their income is correct. Without this information, families cannot accurately determine which income bracket they fall into when using the co-pay formula. Therefore, the Department must include the formula for calculating income based on different payday frequencies in its final regulations. This change is also required by the Court’s Order in the *Torres v. Jacobson* case, which states that the Department must include in regulations “how the Department calculates monthly family income to determine child care assistance eligibility.”¹²

All new material proposed above is within the scope of the proposed regulation

Provisions included in a final regulation must be “within the scope” of the proposed rule to be valid.¹³ In its final rulemaking, the Department can make all the changes suggested in these comments since the scope of the proposed regulations encompass our suggested amendments, and the proposed rules provided notice to the public of the scope of the rule changes made by the final rule.¹⁴

For example, the proposed rules include changes in how income is counted for eligibility and copayments. Including the income calculation formula in the final regulations falls within the scope of the proposed rules, since it shares subject matter with the proposed rules. The changes between the proposed and final rules would not change how the Department calculates the income of program participants. This change to the final rule also would not change the effect of the proposed rules since the Department is already using this formula to determine income. Additionally, since this calculation

¹⁰ NMSA 1978 §14-4-2(A)

¹¹ NMSA 1978 §14-4-2(F)

¹² Order ¶ 3(a)

¹³ 1.24.25.14(C) NMAC (“amendments to a proposed rule may fall outside the scope of the rulemaking based on the following factors: (1) any person affected by the adoption of the rule, if amended, could not have reasonably expected that the changes from the published proposed rule would affect that person’s interest; (2) subject matter of the amended rule or the issues determined by that rule are different from those in the published rule; or (3) effect of the adopted rule differs from the effect of the published proposed rule.”)

¹⁴ The purpose of the State Rules Act is to provide notice. *State v. Joyce* 1980-NMCA-086 ¶ 8.

affects people served by the Department, the State Rules Act mandates its inclusion within the child care regulations, and the Department must make the suggested change to comply with state law.¹⁵

Other Important Changes

We commend the Department for the following additional proposed changes to regulations that comply with the State Rules Act:

- Defining “demonstration of incapacity” and the provision for exempting eligibility requirements upon submission of a demonstration of incapacity.
- Adding an explanation of how it will calculate and consider fluctuations in earnings.
- Putting into regulation policy that overpayments will not be issued to a client except in cases of substantiated fraud.
- Clarifying that the Department issues 12-month contracts in most instances and eliminating the mid-certification communication requirement that wasted valuable Department resources and created confusion for clients about the length of their contracts.
- Amending Section 8.15.2.13(G) NMAC to allow for multiple ways to report the changes will provide convenience and transparency for participating families since the Department’s prior policy of requiring reporting of changes in writing was not promulgated into regulation and violated the State Rules Act.
- Including TANF diversionary payment clients in the priorities list in Section 8.15.2.9 NMAC. This makes the eligibility standard for TANF diversionary participants part of the regulations and brings the Department’s eligibility policy regarding this group into compliance with the State Rules Act.

Conclusion

We thank the Department for its commitment to making childcare more accessible and affordable for New Mexico’s families. While we support all the changes, we ask the Department to include our suggested amendments in the final rule including the income calculation formula, the changes to regulations affecting grandparents raising grandchildren, and the regulations listing verifications. All of these are discussed above.

Sincerely,

NM Center on Law and Poverty
Strong Families New Mexico
Save the Children Action Network (SCAN)
Youth Development, Inc. (YDI)
New Mexico Asian Family Center
Center for Civic Policy (CCP)
Ngage New Mexico
Lutheran Advocacy Ministry – New Mexico
New Mexico Conference of Churches
New Mexico Comunidades en Acción y de Fé (CAFé)
New Mexico Working Families Party

¹⁵ NMSA 1978 §14-4-2(F)

Smith, Ashleigh, ECECD

From: [REDACTED]
Sent: Wednesday, January 6, 2021 3:07 PM
To: ECECD-ECS-PublicComment
Subject: [EXT] I strongly support new childcare assistance program

Follow Up Flag: Follow up
Flag Status: Flagged

Dear

I'm [REDACTED], I'm a [REDACTED] with Manzano Mesa Elementary School

I support the change childcare assistance because it really help our community has more chance to apply.

Thank you

[Sent from Yahoo Mail for iPhone](#)

Verbal Public Comment:

██████████, Independent Researcher, Sage Early Childhood Education Research

Good morning good afternoon, I am a early childhood researcher. I have about 20 years' experience in the field. From 1999 until 2019, I worked in New Mexico. So, first of all, let me say, I am so excited about the involvement, the enthusiasm. I attended a hearing about the child care subsidy modifications, in I think it was 2010, and there were 3 of us there. So, this is a fabulous fabulous, very heartening turnout. And I am so excited. I just have a couple of comments. One is an ongoing concern that I have had for a long, long time and that is with the child care subsidy copayments, they go to an income of \$2700 and then once you make \$2701, you are not eligible for subsidy anymore and if you have an infant in a 5 star program, that means that you go from paying \$148 a month for your childcare to paying \$1270 a month, which is the reimbursement rate. That is a big concern. And so, I really want to encourage the department to look at a wider bridge between qualifying and not qualifying. So, that is one thing. The second topic is the fact that the demographic of the families who participate in these childcare subsidy care programs are participating because they experience economic hardship which is one of the major factors in cases. And so, this population within our families in New Mexico are in need of a lot of extra attention and support and care. And so, I would recommend that the families who receive the child care subsidy also receive opportunities through the program to improve their ability to parent well. I think everyone actually, whether they're experiencing economic hardship or not, could use some really high-quality parenting tips but we do have a population that is identified as experiencing an economic hardship. So, there are those programs, the Harvard School of early child hood education has a lot of wonderful resources. I'm sure UNM has great resources that can be provided as video clips. The Tune In, Talk More, Take Turns Program that is funded by a bank east of the Mississippi, I just really feel that the parents who or the families who are participating in the child care subsidy deserve some extra help and that those goes to my final comment which is the aligning the SNAP, Medicare and child care subsidy application process in New Mexico would be great because families experience economic hardship have to go through the child care subsidy application process, SNAP, Medicare. Its all separate, it would be great if is one stop shopping talking for the families. Other than that, I just want to say thank you for your time. I miss New Mexico and hope to see you guys again. Thank you very much for the opportunity to speak.

██████████ New Mexico Center on Law and Poverty

My name is ██████████. I'm with New Mexico Center on Law and Poverty. And first, I would just like to start by thanking the department for its response to the current pandemic, the emergency regulations that promulgated and for making those permanent during a public health emergency. So, thank you for that. I'd also like to say that child care is a great investment for New Mexico. We all know that the earliest years in children's lives are the most important in their development. They lay the foundation for all that is to come. And working families need access to affordable child care that they can trust to ensure that their children have a safe space to learn while the parents are working to further their education and provide food for the table. And child care is effective because it addresses the family's needs at a two-generation level. It allows parents to work toward obtain economic security for their family and it provides a safe learning environment for the youngest New Mexicans. New Mexico's high quality child care increases school readiness for children and it improves child well being by helping to

prevent child abuse and neglect. And with all that in mind, the New Mexico Center on Law and Poverty would like to thank the department for all of the positive changes in these proposed rules, including but not limited to eliminating the child support enforcement requirements that were a barrier to accessing child care; revising which sources of income count for eligibility and copayment calculations. This will make child care more affordable. Eliminating the in-person application requirement and allowing applications through electronic submission; and also expanding eligibility to graduate students. Along with these steps in the right direction, we do ask that you take other steps in rulemaking to make child care more accessible and affordable for our families. In our written comments, outline these recommendations and they include putting a full list of required verifications into the regs; promulgating final regulations that make child care assistance available to all grandparents who are raising grandchildren; and putting the calculation for income into the regulations. And as we outline in our comments that we submitted today, all these recommendations are within the scope of the proposed rulemaking and can be promulgated in the final rule. So we encourage the department to take these steps and make these changes in the final rule and we appreciate all the positive steps that the department is taking in the notice of the proposed rulemaking and thank you for the opportunity to comment.

██████████, 3D Enterprises Incorporated, Gold Star Academy and Smiling Faces Child Care Center

Good afternoon, Thank you very much. First, I would like to thank Cabinet Secretary Groginsky, Deputy Secretary [Duran-]Sallee, Legal counsel Kate Girard and the other employees of ECECD for their time and work put into the review and the recommendations for the changes to the New Mexico child care regulations. What I would like to bring up is regulation 8.15.2.15 H. (1) And if I can read that for you, Required applications with New Mexico human services department child support enforcement division CSED (1) When one or both of the child's parents are absent from the home, the client shall apply for child care support through CSED within 12 months of initial application with the child care assistance program. And to my understanding now looking at the proposal that is looking to be stricken from the regulation. So, while I agree with the concept, I can see the thought behind the need to strike and remove this regulation, I do not agree with this proposal. The reason being that over 8 years ago, providers came to the table where there was the link that this was not needed, and fraud was being committed by parents and getting child care applications while not reporting a two-household income. So a true and accurate income that came from the providers, various providers, saying that there was actually a two household, a mother and father, sorry, however, not married and one applying and stating that they were receiving no help from the other parent. And so, when providers came to the table, after lots of back and forth, and communication, from the director at the time, Diana Martinez Gonzalez and Cabinet Secretary Deines, the proposed changed, after going through the process of public comment, was put into regulation. So a concern for women that were experiencing domestic violence and now having to file for child support with the fear that an offender would now find out where they were living was taken care of by having those clients file an affidavit stating their concern and that under oath, this was the reason they did not want to file for child support. That was still deemed and is deemed an acceptable exemption for filing child support. The concern with taking care of 8 years ago, when this was put into regulation, to my understanding and ██████████ that has had to apply and utilize the exemption for fear of leaving a domestic partner and having to move to a homeless shelter. The exemption works. The affidavit works. It was put into a place

at the time, that was deemed there was lots of fraud happening. Within the first year of changing this regulation, the department director told the legislative finance committee that millions of dollars had been saved, that could now be utilized for families that had been placed on waitlists and or are now actually eligible for those services. My concern with taking out this regulation is that you are now making it child care directors, owners and workers the policing of those families and responsible for now helping and reporting fraud. So, I hope that the committee can see the thoughtfulness and hard work that was put into making this change and instilling it into childcare regulations. The concern for victims of domestic violence was acknowledged and an alternative of affidavit was added to protect them. Of families trust in the system is vital and the cabinet secretary and director agree the affidavit is working. Removing it totally removes accountability from people seeking child care assistance and being honest and truthful. This regulation does not totally fix the fraud and abuse of the system, however, it definitely deterred people and alleviating program directors from having them police their families. Thank you.

At this time, I am doing public comment presenting myself, [REDACTED] 3D enterprises incorporated, doing business as Gold Star Academy and Smiling Faces Child Care Center.

[REDACTED], New Mexico Asian Family Center,

Hi. Thank you for this opportunity to share some of our experience and thoughts by working with the families and community in child care assistance programs. First of all, I am supporting the proposed changes by the department. I think that those are the rights, that in the right action to make child care assistance program more affordable and accessible to our families and we believe that this will create opportunity to improve the lives of the children's and families in our state, especially those lower income families in our state. Second, I am also supporting all comments submitted by the New Mexico Center on Law and Poverty and we signed on that letter. And especially, we think the proposal to include income calculation formula in regulation is important because again, the more we make the rule or regulation easy to understand, the better for the families. That is our experience. And also, we would like to, for the rule to be changed, to rename this section on citizenship and eligible immigration status because without changing the name, it is confusing to the community. If we just say citizenship, because again it is confusing that only children with citizenship can apply for that program. Also, the removal of the work or education requirement for grandparents are very important because you know, are family that take care of children does not only equals parents but also grandparents. And grandparents, its very hard for them to fulfill those requirements. Last, I believe that the child care assistance program should be, should provide language access for the family, because it, with the Asian families, Asian/Pacific family, we do face a lot of language access in understanding with what the program about through also accessing those programs. So, translation of the application and eligibility into languages, including Spanish, Vietnamese and Chinese would be very important for our families to access those programs. Thank you.

[REDACTED], OLÉ Educational Fund

Good afternoon. I just want to thank Secretary Groginsky and everyone in the Department for these proposed rule changes. We stand in favor of these rule changes, we speak with parents across the state

every day that are affected directly by many of the issues that these issues are going to address especially the issue with child support enforcement. We speak with parents who may have a court order that are, that requires another parent to pay child support and that is counted towards their income. However, they never see that money, that income. And we speak with parents whose husband have been deported and they are being required to sue that parent for child support. And they are unable to do that. But they are denied a contract because that parent has, is not paying child support. We speak with parents who are survivors of domestic violence and are afraid to sue their partner or previous partner for child support despite the fact the it has been addressed in the past. This is still an issue that we speak with parents about. And so, again, we just want to thank the Department for these rule changes and thank you for allowing.

[REDACTED]

Hi. This is [REDACTED]. That is sufficient. I've got four kids with me. I doubt that they are going to be quiet for much longer. I do support the child support being removed as a qualification requirement. I talked with some families, adoptive families, and they may have older children, as was said before, some have court orders and don't receive any of the funds or the child support is for the child that is not receiving care and they have adopted children that do need care and they are either having to pay such a high amount or are disqualified because of income that is coming into the home for another child but they are limited or have to have these exorbitant amounts of, you know, to cover child care because of the child support requirement. So that's all I wanted to say. I know that was said before and I agree with it. Thank you.

[REDACTED], Child and Families Services Inc. and Lea County Early Childhood Coalition

Yes. I would. I would again like to just echo all the sentiments of thanking Secretary Groginsky and all of the amazing staff at ECECD for the amazing work that they have done in such a short while. My comment is specifically regarding the payment for services. I really appreciate the new language that allows parents the flexibility and the option to enter into a new child care agreement with a new provider especially if they had their child withdrawn from a provider because of health, safety or welfare of the child was at risk. I know in the past, we've been challenged with parents who wanted to make a change but because they already had an existing contract, were not about to access services with the new provider as swiftly. And I noticed there're several notations regarding that and different cases that make it easier for parents and then of course the new child care providers. So, definitely in support of that and all of the proposed rulemaking.

[REDACTED]

I didn't get to catch in on the first part of the meeting. I was with the children. But I wanted a little clarification there on the last page where it talked about the provider. If the person that was getting assistance was behind in their copay, I think it needs to be on there documented somehow, because we do have the right to charge state tax, you know pass it on them, that whenever they give us money, that we can deem in our business whether we're going to apply it first to pay our state taxes or not since

they do have a contract with us. I know in the past, what it's been is, they show a receipt to the, their caseworker, like if they owe 30 bucks or whatever and then they are good to go to someone else and they pretty much leave us high and dry.

[break to spell last name]

I think there should be a provision for the providers, and they are not to be treated like that. Yes, it's true that we can go take them on to court but that's a real long process for the provider to do. And if can get some help this other way, that would be very much appreciated. Because it seems like it would be up to the business owner to see where they would want to apply that \$30 first. And I did have a question, also on the, I noticed in here it was listed monthly reimbursement rates, I was wondering about that because I thought there had been a cost study done and those rates weren't set in stone just yet because of the cost study. I was wondering about that.

Is there any clarification on that?

And you did get it noted that I was hoping there was going to be some clarification as it's up to the business owner where they apply that \$30 on their end first, correct?

It was the one about the uh, I noticed that there was uh, there's amount of money, it's like, for infants the toddlers, the preschool that's listed out on these proposed regulations. I knew that there had been like a cost study done. I was thinking is this is the result of the cost study right here or are we to await further - to see what that pans out to be.?

Public comments received during the 01/06/2021 Public Hearing

From [REDACTED] to Everyone: 01:31 PM
Regulation 8.15.2.17 I (1) (a) expired 12/31/17. Does it need to be deleted?

From [REDACTED] OLÉ to Everyone: 01:41 PM
I meant to include in my statement: I am happy that New Mexico joins other states like Arizona who also do not require Child Support

From [REDACTED] to Everyone: 01:42 PM
[REDACTED] - Little Forest Playschool - [REDACTED]
I support the changes to the child support reg

From [REDACTED] to Everyone: 01:53 PM
A comment from OLÉ: Estoy de acuerdo con los cambios de reglamentación, esto ayuda considerablemente a madres solteras que para ellas algunas veces es imposible declarar tanto requisito que piden. Atas situaciones muchas veces están dieran de sus manos, mientras tanto se les niega el contrato de cuidado infantil y es un limitante para ellas seguir adelante.

From Interpreter [REDACTED] to Everyone: 01:59 PM
[REDACTED] I am agree with the reg changes., This helps single mothers considerably some of them ...
it is imposible for some its it imposible to get seVICES due to the amount of requirements. So their hands are tied , Meanwhile they are denied contract for child care ... and this in turn limits their ability to get ahead.

From Count Your Blessings to Everyone: 01:56 PM
My name is [REDACTED] and I just wanted to say that [REDACTED] contracts at our center, we are really in support of the new changes that will be helping so many of our families!

From [REDACTED] to Everyone: 02:05 PM
My name is [REDACTED] Little FootPrints, i would like to state that we are in support of the new changes to have the families in our rural community.

From [REDACTED] to Everyone:

02:25 PM

I support the increase, when I was an early educator my husband decided to go back to school for a career change. We were dependent on my income, and have 2 children. I was considered over the limit to qualify for assistance, even though my income barely covered our monthly bills! Qualifications need to be raised so that we are able to provide quality care for our own children and not worry if we are unable to pay for childcare expenses.

[REDACTED]
Yes it is

From [REDACTED] to Everyone:

02:41 PM

I appreciate the work that you have done to ensure families can access high quality child care. The qualification process seems to be simplified for families.

[REDACTED]
Gallup McKinley County Schools