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Introduction

The enactment of Senate Bill 241 on March 10, 2026, codified in statute New Mexico's historic and nation-leading universal child care program. New Mexico's universal child care first took effect on November 1, 2025, when the state began offering child care assistance at no cost to families regardless of income. Since then, over 25,000 new children have been enrolled in the child care assistance program and more than 47,000 children have received assistance in 2026. Sixty-two percent of newly enrolled families had incomes below the previous eligibility cap, underscoring how universal child care improves access for families at all income levels.

New Mexico's investment in universal child care is a fundamental commitment to its children and families and a bridge to building a stronger, more prosperous New Mexico economy that will lead to better opportunities for all residents. Child care is essential to family stability and workforce participation. Today, universal child care is reducing financial strain for tens of thousands of New Mexican families, saving them an average of \$12,000 per child each year and giving parents more freedom to pursue stable jobs and fulfilling careers, pay bills, and save and plan for the future. Testimony from parents across the state has made clear this historic achievement is already transforming and benefiting family well-being. Universal child care is also important for children's healthy growth, development, and learning. The program helps make sure that when parents are at work or school, children are in early education and care settings that support their developmental and learning needs so that every child has an equitable opportunity to be successful in school. Ensuring all children have access to high-quality child care is a priority for the department and the state.

The state's universal child care program offers parents a variety of child care settings and options. The mixed delivery system of providers gives parents choices with nonprofit, for-profit, secular, faith-based, and Tribal child care in centers and home-based settings. New Mexico PreK and the federal Early Head Start and Head Start programs are also important parts of New Mexico's early education offerings that help meet the needs of children and families and can be used in combination with child care assistance to create a full-day, full-year program. New Mexico's universal child care program is now funded at \$606 million annually, and more than 85 percent of all providers receive funding through universal child care. While most child care in New Mexico is delivered by non-profit and for-profit businesses, it is now primarily publicly funded. Testimony from providers makes clear this investment is stabilizing and helping the child care sector grow to better meet the needs of children and parents.

The universal child care program is structured to promote quality care that supports children's development, competitive compensation for the staff that provides this essential service to children and families, incentive supply growth and stable business operations so parents can find the child care that meets their needs. Competitive and fair compensation for the workforce who care for New Mexico's children is particularly critical to these goals, the long-term success of the state's universal child care program, and the prudent use of public dollars. The program uses a cost-estimation model to inform the child care assistance rates it pays providers. The model is informed by engagement with providers and comprehensive data analysis of what is needed to sustainably support staffing patterns, quality service delivery, program size, child age, non-personnel expenses, hours of operation, and health and safety standards. New Mexico has

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prioritized multiple payment rate increases over the past five years, which has helped drive a 27 percent increase in licensed capacity and a 20 percent increase in the number of licensed child care providers. Entry wages in the cost-estimation model have risen from \$12.10 per hour to \$18 per hour over this period, which has helped strengthen the stability of the state's child care workforce, which has grown by 64 percent. These rules build on these accomplishments and take additional important steps to strengthen the workforce by setting a minimum portion of state payments that must go to staff salaries and benefits.

These rules further codify New Mexico's historic universal child care program with the passage of SB 241. They set forth the structure of a program designed to meet the needs of children and families, support the essential staff who care for our children, and promote a stable child care sector that can meet the needs of our families in ways that will strengthen New Mexico's economy. They also complement the department's ongoing efforts to build the supply of high-quality care, increase the compensation and professional development of the child care workforce, and reduce barriers to supply growth. The department offers free professional development, and technical assistance to child care providers and free coaching for providers participating in its FOCUS quality system to enhance classroom quality and help build a stronger early childhood workforce for the future. The department is also in the final stages of a multi-year effort to redesign the FOCUS quality rating and improvement system based on community feedback and research of best practices for supporting children's development and well-being. In addition, the department this fiscal year will pilot a cross-sector Wage Scale and Career Ladder, based on the recommendations of an implementation work group convened to develop structures that recognize and compensate the expertise, experience, and credentials of early childhood professionals. The department is also focused on the physical infrastructure necessary to meet the demands of universal child care. Strategic capital investments in child care facilities paired with the removal of local zoning barriers through the Regulated Child Care Zoning Requirements Act actively incentivize the construction, renovation, and expansion of child care supply statewide. Together, New Mexico's historic achievement of universal child care along with these other key department initiatives are building an equitable high-quality child care system that will create a stronger future for New Mexico's residents.

Statement of Purpose

To implement Senate Bill 241 and provide necessary updates to the licensing and child care assistance program regulations, the New Mexico Early Childhood Education and Care Department (ECECD) is amending New Mexico Administrative Code Sections 8.9.3 and 8.9.4. The final rule updates regulations to codify requirements in Senate Bill 241 and essential to the implementation of universal child care. These changes are detailed in the explanatory statements below.

Notice of Rulemaking and Public Comment

On June 9, 2026, a Notice of Rulemaking and Public Rule Hearing was published in the New Mexico Register for the proposed amendments to 8.9.3 NMAC and 8.9.4 NMAC. A copy of the Notice as well as a copy of the proposed amendments were posted on the Early Childhood Education and Care Department's website on the same day. Public comments were accepted

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from the posting of the Notice on June 9, 2026, through the end of the public hearing on July 9, 2026. The hearing was held in Santa Fe, NM, on July 9, 2025, where ECECD provided the public with the opportunity to offer comment on the proposed amendments. In total, ECECD received 183 written comments and 89 oral comments.

Discussion of Rule Changes

CHILD CARE ASSISTANCE, 8.9.3 NMAC

Portion of child care assistance rate required for wages and compensation

Ensuring that New Mexico's child care payments to providers are prioritized for the compensation and benefits of the workforce involved in the daily operations of caring for children is essential for all children to receive high-quality care and strong stewardship of public dollars. The final rule requires providers put at least half of child care assistance from ECECD towards the wages and compensation of their staff. Child care is a labor-intensive service because young children need individualized care and attention to ensure they are safe, happy, and learning while away from their families. In New Mexico and across America, child care workers have long been underpaid for the essential work they do caring and educating our children because the child care system is a broken economic market and parent fees cannot cover fair wages and compensation. Inadequate wages and compensation keep new professionals from entering the profession, spur high turnover rates, suppress supply, undermine the quality of care, and limit parents in finding the care they need. For these reasons, ECECD has prioritized multiple initiatives in the past five years to improve wages and these efforts, and they have risen 65 percent. It is critical that New Mexico's landmark universal child care program build on this success and ensure this substantial public investment create a system of fair and competitive wages and compensation for child care staff. This is fundamental to a successful New Mexico universal child care program and for the needs of children and families being met by this system and why SB 241 requires ECECD to set the portion of child care assistance required for wages and compensation. At the same time, child care providers need sufficient budget flexibility to maintain stable business operations and there must be sufficient flexibility for supply growth.

The final rule requires providers to use at least fifty percent of the child care assistance funding received from ECECD for the wages and compensation of specific staff. Calculation of the fifty percent includes the wages, benefits, and mandatory taxes of directors, assistant directors, teachers, assistant teachers, substitute teachers, floaters, administrative support involved in daily operations, cooking personnel involved in daily operations, transportation staff involved in daily operations, and custodial staff involved in daily operations. ECECD expects this list of staff to be standard in almost all instances, but in the rare case where a provider has a staff member critical to the daily provision of care for children not included in this rule, providers may apply for a waiver to include additional staff who provide daily on-site operational support at the child care facility. The required minimum portion for staff required in the final rule provides sufficient flexibility for sustainable business practices while prioritizing staff compensation. The requirement reflects the vital importance of ensuring that New Mexico's investments in a universal child care system both support a sustainable child care sector that can meet the needs of

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children and families but that the investments are primarily used to compensate the professionals who deliver that care and education.

Business Reporting Requirements

The final rule includes reporting requirements as required by SB 241 to ensure effective implementation and accountability of the child care assistance program by ECECD and the Legislature. SB 241 required ECECD to establish regulations to ensure effective implementation of reporting requirements, responsibilities, and accountability for the child care assistance program. These reporting requirements are commensurate with the significant fiscal investment by the state of New Mexico in the child care assistance program and the importance of strong oversight and good stewardship of this important investment.

As required by SB 241, the final rule requires businesses to report specific information on their business structure and operations. This includes information such as the legal structure of the business, some debts and liens against the business, out-of-state sources of funding, hours of operation, and employee benefit structure. The rule requires providers to begin reporting this information to ECECD by July 1, 2027 and annually by July 1 of each year thereafter.

Also as required by SB 241, the final rule requires businesses to report the total amount spent in the previous calendar year on employee salaries and benefits for specified roles. Providers must begin reporting this information to ECECD by July 1, 2027, and annually by July 1 of each year thereafter. Providers must also report wages benefit, and professional qualification of each employee, including staff members' roles and levels as established in the department's wage scale and career ladder framework. This information, which is also required by SB 241, must first be reported by July 1, 2027, and biannually by January 15 and July 1 of every year thereafter.

Concerns raised by the public about this information not remaining confidential within the department because it would be subject to disclosure requests under the Inspection of Public Records Act (IPRA) cannot be addressed without a statutory exception provided by the Legislature. The rule no longer requires staff addresses and telephone numbers be included in the data system to address safety concerns raised by commenters.

CHILD CARE LICENSING, 8.9.4 NMAC

Professional Development Information System

In 2026, the department launched the professional development information system (PDIS) as part of its ongoing efforts to modernize the licensing system, enhance professional development and learning support, and better understand the roles, credentials, and wages of the early childhood workforce. PDIS will be used by the department to streamline some licensing processes and reduce burden on providers and the child care workforce. PDIS will also be used to strategically design policies and practices aimed at advancing a well-compensated and credentialed workforce, including implementing the Wage Scale and Career Ladder. To effectively meet these important purposes for the field and the department, the final rule requires

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providers to maintain some personnel information in PDIS. The department does not require or expect an employee's entire personnel file to be uploaded to PDIS and the final rule clarifies what information is required to be maintained within PDIS and what information is required to be maintained by the provider outside of PDIS and made available for review upon request. The department notes that verification of background check results are to be included in PDIS but this data is limited only to results and the date of the background check and does not include any other information about the applicant, the application, the results, or the findings.

Concerns raised by the public about this information not remaining confidential within the department because it would be subject to disclosure requests under the Inspection of Public Records Act (IPRA) cannot be addressed without a statutory exception provided by the Legislature. The rule no longer requires staff addresses and telephone numbers to be included in the data system to address safety concerns raised by commenters.

Copayments

New Mexico's universal child care program provides child care assistance at no cost to families.

Copayments for some families will only go into effect if specific economic conditions in the state occur. If copayments policies are triggered by economic conditions, copayments may be assessed for families making over six hundred percent of the federal poverty line, which would be fewer than ten percent of families. The amount of copayment would be determined by income, household size, and federal poverty guidelines and published yearly by ECECD. Families would be given a 90-day notice period before any copayment would be issued.

The state conditions that would potentially trigger ECECD instituting any copayments are: the number of children receiving child care assistance exceeds the year's projected enrollment by three percent; the state recurring general fund revenue growth percentage is projected to be lower than the percentage change in the annual consumer price index for urban consumers in the prior calendar year; the 12-month average percentage change in the annual consumer price index for urban consumers exceeds three percent; the average price for west Texas intermediate crude oil during the applicable fiscal year is less than fifty dollars per barrel; or the department identifies an additional condition. If copayments are triggered, the state will pay copayments for families at or below 600 percent of the federal poverty level.

8.9.3 NMAC – Explanatory Statement 2026 AUG 27 PM 4:59

8.9.3.3 NMAC		
Current Language	Proposed Language	Final Adopted Language
8.9.3.3 NMAC Subsection E of Section 9-29-6 NMSA 1978; Section 7-9-77.2 NMSA 1978.	8.9.3.3 NMAC [Subsection E of Section 9-29-6 NMSA 1978] <u>The Child Care Assistance Program Act and Subsection A of Section 32A-32-3 NMSA 1978; the Early Childhood Education and Care Department Act and Subsection E of Section 9-29-6 NMSA 1978; the Public Health Act, Sections 24-1-1 to 24-1-22 NMSA 1978, Subsection D of Section 24-1-2 NMSA 1978, Subsection I of Section 24-1-3 NMSA 1978, and Section 24-1-5 NMSA 1978; and</u> Section 7-9-77.2 NMSA 1978.	8.9.3.3 NMAC [Subsection E of Section 9-29-6 NMSA 1978] <u>The Child Care Assistance Program Act and Subsection A of Section 32A-32-3 NMSA 1978; the Early Childhood Education and Care Department Act and Subsection E of Section 9-29-6 NMSA 1978; the Public Health Act, Sections 24-1-1 to 24-1-22 NMSA 1978, Subsection D of Section 24-1-2 NMSA 1978, Subsection I of Section 24-1-3 NMSA 1978, and Section 24-1-5 NMSA 1978; and</u> Section 7-9-77.2 NMSA 1978.
Explanatory Statement		
There were no substantive public comments received. ECECD is adopting the amendments as originally proposed.		

8.9.3.6 NMAC		
Current Language	Proposed Language	Final Adopted Language
8.9.3.6 NMAC A. To establish standards and procedures for the provision of child care assistance benefits to eligible clients and to establish the rights and responsibilities of child care providers who receive payment for providing child care services to clients receiving benefits. To establish minimum requirements for eligibility for program participation and for the provision of child care services to children whose families are receiving benefits and to allow children receiving these benefits access to quality child care settings that promote their physical, mental, emotional, and social development in a safe environment. To establish standards and procedures that promote equal access to services and prohibit discrimination based on race, color, religion, sex (including	8.9.3.6 NMAC [A.] To establish standards and procedures for the provision of child care assistance benefits to eligible clients and to establish the rights and responsibilities of child care providers who receive payment for providing child care services to clients receiving benefits. To establish minimum requirements for eligibility for program participation and for the provision of child care services to children whose families are receiving benefits and to allow children receiving these benefits access to quality child care settings that promote their physical, mental, emotional, and social development in a safe environment. To establish standards and procedures that promote equal access to services and prohibit discrimination based on race, color, religion, sex (including	8.9.3.6 NMAC [A.] To establish standards and procedures for the provision of child care assistance benefits to eligible clients and to establish the rights and responsibilities of child care providers who receive payment for providing child care services to clients receiving benefits. To establish minimum requirements for eligibility for program participation and for the provision of child care services to children whose families are receiving benefits and to allow children receiving these benefits access to quality child care settings that promote their physical, mental, emotional, and social development in a safe environment. To establish standards and procedures that promote equal access to services and prohibit discrimination based on race,

8.9.3.6 NMAC

Current Language	Proposed Language	Final Adopted Language 59
pregnancy, sexual orientation, or gender identity), national origin, disability, or age (40 or older). B. To establish child care assistance rates in accordance with the requirements of the Child Care and Development Block Grant (CCDBG) and the Child Care Development Fund (CCDF), which is the primary federal funding source of child care assistance to enable parents to work or pursue education and training so that they may better support their families while at the same time promoting the learning and development of their children. The CCDBG requires every state to submit an updated CCDF plan every three years. A key requirement of the CCDBG Act is that lead agencies establish subsidy payment rates that ensure equal access to child care for children receiving child care assistance. States have two options to establish subsidy payment rates that ensure equal access: lead agencies must collect and analyze data through either a statistically valid and reliable market rate survey, or through an administration for children and families pre-approved alternative methodology, such as a cost estimation model. New Mexico's rates, as set forth herein, were informed by a cost estimation model and with extensive statewide stakeholder engagement. This new cost estimation model was developed in collaboration with fiscal experts and local stakeholders to set subsidy rates at a level that supports the true cost of delivering high quality early childhood education to New Mexico's children and families. The child care subsidy rates set forth herein are designed to ensure equal access to child care for children on child care assistance and ensure parental choice by offering a full range of child care services.	pregnancy, sexual orientation, or gender identity), national origin, disability, or age (40 or older). B. To establish child care assistance rates in accordance with the requirements of the Child Care and Development Block Grant (CCDBG) and the Child Care Development Fund (CCDF), which is the primary federal funding source of child care assistance to enable parents to work or pursue education and training so that they may better support their families while at the same time promoting the learning and development of their children. The CCDBG requires every state to submit an updated CCDF plan every three years. A key requirement of the CCDBG Act is that lead agencies establish subsidy payment rates that ensure equal access to child care for children receiving child care assistance. States have two options to establish subsidy payment rates that ensure equal access: lead agencies must collect and analyze data through either a statistically valid and reliable market rate survey, or through an administration for children and families pre-approved alternative methodology, such as a cost estimation model. New Mexico's rates, as set forth herein, were informed by a cost estimation model and with extensive statewide stakeholder engagement. This new cost estimation model was developed in collaboration with fiscal experts and local stakeholders to set subsidy rates at a level that supports the true cost of delivering high quality early childhood education to New Mexico's children and families. The child care subsidy rates set forth herein are designed to ensure equal access to child care for children on child care assistance and ensure parental choice by offering a full range of child care services.	color, religion, sex (including pregnancy, sexual orientation, or gender identity), national origin, disability, or age (40 or older). B. To establish child care assistance rates in accordance with the requirements of the Child Care and Development Block Grant (CCDBG) and the Child Care Development Fund (CCDF), which is the primary federal funding source of child care assistance to enable parents to work or pursue education and training so that they may better support their families while at the same time promoting the learning and development of their children. The CCDBG requires every state to submit an updated CCDF plan every three years. A key requirement of the CCDBG Act is that lead agencies establish subsidy payment rates that ensure equal access to child care for children receiving child care assistance. States have two options to establish subsidy payment rates that ensure equal access: lead agencies must collect and analyze data through either a statistically valid and reliable market rate survey, or through an administration for children and families pre-approved alternative methodology, such as a cost estimation model. New Mexico's rates, as set forth herein, were informed by a cost estimation model and with extensive statewide stakeholder engagement. This new cost estimation model was developed in collaboration with fiscal experts and local stakeholders to set subsidy rates at a level that supports the true cost of delivering high quality early childhood education to New Mexico's children and families. The child care subsidy rates set forth herein are designed to ensure equal access to child care for children on child care assistance and ensure parental choice by offering a full range of child care

8.9.3.6 NMAC

Current Language	Proposed Language	Final Adopted Language: 59
C. Permissive language such as "may or may be" when referring to actions taken by the department, address situations where it is not always prudent or practical to apply these actions. It is not meant to reduce the weight of these actions nor should the intent of the policies be circumvented due to this wording. This language is intended to be construed in a fiscally responsible and equitable manner, keeping in mind that consistency in application is the ultimate goal.	C. Permissive language such as "may or may be" when referring to actions taken by the department, address situations where it is not always prudent or practical to apply these actions. It is not meant to reduce the weight of these actions nor should the intent of the policies be circumvented due to this wording. This language is intended to be construed in a fiscally responsible and equitable manner, keeping in mind that consistency in application is the ultimate goal. <u>To administer the Child Care Assistance Program by providing child care assistance to eligible families; establishing standards, procedures, and eligibility requirements for program participation and service delivery; defining the rights and responsibilities of participating providers; promoting parental choice among a full range of child care services; and ensuring access to safe, high-quality child care settings that support children's physical, cognitive, emotional, and social development. The Program shall promote equal access to services and prohibit discrimination, maintain program integrity and accountability, and comply with applicable state and federal laws, including the Child Care Assistance Program Act, the Child Care and Development Block Grant Act, and the Human Rights Act, to support families in achieving economic stability through work, education, and training while promoting children's learning and development.</u>	services: C. Permissive language such as "may or may be" when referring to actions taken by the department, address situations where it is not always prudent or practical to apply these actions. It is not meant to reduce the weight of these actions nor should the intent of the policies be circumvented due to this wording. This language is intended to be construed in a fiscally responsible and equitable manner, keeping in mind that consistency in application is the ultimate goal. <u>To administer the Child Care Assistance Program by providing child care assistance to eligible families; establishing standards, procedures, and eligibility requirements for program participation and service delivery; defining the rights and responsibilities of participating providers; promoting parental choice among a full range of child care services; and ensuring access to safe, high-quality child care settings that support children's physical, cognitive, emotional, and social development. The Program shall promote equal access to services and prohibit discrimination, maintain program integrity and accountability, and comply with applicable state and federal laws, including the Child Care Assistance Program Act, the Child Care and Development Block Grant Act, and the Human Rights Act, to support families in achieving economic stability through work, education, and training while promoting children's learning and development.</u>
Explanatory Statement		
There were no substantive public comments received. ECECD is adopting the amendments as originally proposed.		

8.9.3.7 (A)		
Current Language	Proposed Language	Final Adopted Language
8.9.3.7 (A)(1-2) NMAC A. Terms beginning with the letter "A": (1) "Attending a job training or educational program" means actively participating in an in-person or online job training or educational program. (2) "At-risk child care" means a program for families at-risk as determined by the department.	8.9.3.7(A)(1-3) NMAC A. Terms beginning with the letter "A": (1) <u>"Accredited educational institution" means a post-secondary educational institution that is accredited by the higher learning commission, authorized by the higher education department, or has the status of public recognition that an accrediting agency recognized by the United States department of education pursuant to Title 4 of the federal Higher Education Act of 1965 grants to an institution or educational program that meets the higher education department's established requirements</u> [(4)](2) "Attending a job training or educational program" means actively participating in an in-person or online job training or educational program. [(2)] "At-risk child care" means a program for families at-risk as determined by the department.] (3) <u>"At-risk child" means a child who may be vulnerable to or experiencing negative outcomes due to factors such as poverty, domestic violence, substance abuse, mental health issues, family involvement in the justice system, housing instability or homelessness; who has or is at risk of having a developmental delay or a disability; or whom the children, youth and families department identifies as experiencing or at risk for abuse or neglect.</u>	8.9.3.7(A)(1-3) NMAC A. Terms beginning with the letter "A": (1) <u>"Accredited educational institution" means a post-secondary educational institution that is accredited by the higher learning commission, authorized by the higher education department, or has the status of public recognition that an accrediting agency recognized by the United States department of education pursuant to Title 4 of the federal Higher Education Act of 1965 grants to an institution or educational program that meets the higher education department's established requirements</u> [(4)](2) "Attending a job training or educational program" means actively participating in an in-person or online job training or educational program. [(2)] "At-risk child care" means a program for families at-risk as determined by the department.] (3) <u>"At-risk child" means a child who may be vulnerable to or experiencing negative outcomes due to factors such as poverty, domestic violence, substance abuse, mental health issues, family involvement in the justice system, housing instability or homelessness; who has or is at risk of having a developmental delay or a disability; or whom the children, youth and families department identifies as experiencing or at risk for abuse or neglect.</u>
Explanatory Statement		
There were no substantive public comments received. ECECD is adopting the amendments as originally proposed.		

8.9.3.7 (C)		
Current Language	Proposed Language	Final Adopted Language
8.9.3.7(C)(1-5) NMAC	8.9.3.7 (C)(1-8) NMAC	8.9.3.7 (C)(1-8) NMAC

8.9.3.7 (C)

Current Language	Proposed Language	Final Adopted Language
C. Terms beginning with the letter “C”: (1) “CACFP” means the child and adult care food program, administered by the Early Childhood Education and Care Department. (2) “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 an individualized family service plan (IFSP), or other specialized services and supports; or children without identified conditions, but requiring specialized services, supports, or monitoring. (3) “Client” means the parent or legal guardian of the child that the department has determined is eligible for child care assistance benefits. (4) “Closure” means the client’s child care case is closed with the department. (5) “Copayment” means the portion of the approved and agreed upon monthly child care cost for clients receiving child care assistance that the client is required to pay to the child care provider. The department’s payment to the provider is reduced by the copayment amount.	C. Terms beginning with the letter “C”: (1) “CACFP” means the child and adult care food program, administered by the Early Childhood Education and Care Department. (2) “Child care assistance” means funding administered by the department to a child care facility to provide child care for eligible children through the Child Care Assistance Program. (3) “Child care facility” means a public or private entity, facility or premises that is licensed or registered and regulated by the department at which children receive child care services, including care, education and supervision, for fewer than 24 hours per day. (4) “Child with [a disability or] special needs” means a child with an identified disability, a physical or mental impairment that substantially limits one or more major life activities, or a health, or mental health conditions requiring early intervention, special education services, [under] an individualized education plan (IEP) [or] an individualized family service plan (IFSP), or other specialized services and supports; or children without identified conditions, but [requiring] who need specialized services, supports, or monitoring. <u>A child with special needs is considered an “at-risk child”</u> [3] (5) “Client” means the parent or legal guardian of the child that the department has determined is eligible for child care assistance benefits. [4] (6) “Closure” means the client’s child care case is closed with the department. (7) “Consensus revenue estimating group” means the professional economists or revenue analysts from the department of finance and administration, the taxation and revenue department, the	C. Terms beginning with the letter “C”: (1) “CACFP” means the child and adult care food program, administered by the Early Childhood Education and Care Department. (2) “Child care assistance” means funding administered by the department to a child care facility to provide child care for eligible children through the Child Care Assistance Program. (3) “Child care facility” means a public or private entity, facility or premises that is licensed or registered and regulated by the department at which children receive child care services, including care, education and supervision, for fewer than 24 hours per day. (4) “Child with [a disability or] special needs” means a child with an identified disability, a physical or mental impairment that substantially limits one or more major life activities, or a health, or mental health conditions requiring early intervention, special education services, [under] an individualized education plan (IEP) [or] an individualized family service plan (IFSP), or other specialized services and supports; or children without identified conditions, but [requiring] who need specialized services, supports, or monitoring. <u>A child with special needs is considered an “at-risk child”</u> [3] (5) “Client” means the parent or legal guardian of the child that the department has determined is eligible for child care assistance benefits. [4] (6) “Closure” means the client’s child care case is closed with the department. (7) “Consensus revenue estimating group” means the professional economists or revenue analysts from the department of finance and administration, the taxation and revenue department, the

8.9.3.7 (C)		
Current Language	Proposed Language	Final Adopted Language
	department of transportation and the legislative finance committee. [(5)] (8) "Copayment" means the portion of the approved and agreed upon monthly child care cost for clients receiving child care assistance that the client [is required to pay] pays to the child care provider. The department's payment to the provider is reduced by the copayment amount.	department of transportation and the legislative finance committee. [(5)] (8) "Copayment" means the portion of the approved and agreed upon monthly child care cost for clients receiving child care assistance that the client [is required to pay] pays to the child care provider. The department's payment to the provider is reduced by the copayment amount.
Explanatory Statement		
There were no substantive public comments received. ECECD is adopting the amendments as originally proposed.		

8.9.3.7.(D)		
Current Language	Proposed Language	Final Adopted Language
8.9.3.7(D)(1-2) NMAC D. Terms beginning with the letter "D": (1) "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. (2) "Department" means the New Mexico Early Childhood	8.9.3.7(D)(1-4) NMAC D. Terms beginning with the letter "D": (1) "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], incapacitated 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.] (2) "Department" means the New Mexico Early Childhood	8.9.3.7(D)(1-4) NMAC D. Terms beginning with the letter "D": (1) "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], incapacitated 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.] (2) "Department" means the [New Mexico] Early Childhood

8.9.3.7.(D)		
Current Language	Proposed Language	Final Adopted Language
Education and Care Department ("ECECD").	Education and Care Department ("ECECD"). (3) <u>"Developmental delay" means a discrepancy between chronological age, after correction for prematurity, and developmental age in one or more of the following areas of development: cognition; communication; physical and motor development, including vision and hearing; social and emotional development; and adaptive development.</u> (4) <u>"Disability" means a severe chronic disability of a person that is attributable to a mental or physical impairment.</u>	Education and Care Department ("ECECD"). (3) <u>"Developmental delay" means a discrepancy between chronological age, after correction for prematurity, and developmental age in one or more of the following areas of development: cognition; communication; physical and motor development, including vision and hearing; social and emotional development; and adaptive development.</u> (4) <u>"Disability" means a severe chronic disability of a person that is attributable to a mental or physical impairment.</u>
Explanatory Statement		
There were no substantive public comments received. ECECD is adopting the amendments as originally proposed.		

8.9.3.7(E)		
Current Language	Proposed Language	Final Adopted Language
8.9.3.7(E)(1) NMAC E. Terms beginning with the letter "E": (1) <u>"Earned income" means income received as gross wages from employment or as profit from self-employment.</u>	8.9.3.7(E)(1-4) NMAC E. Terms beginning with the letter "E": (1) <u>"Early intervention" means services provided through the family, infant, toddler program of the department that are designed to meet the developmental needs of children from birth to age three who have or who are at risk of having a developmental delay, special needs, or disability.</u> (2) <u>"Early intervention provider" means a person who provides early intervention.</u> (3) <u>"Early pre-kindergarten program" means an early pre-kindergarten program as defined in the Pre-Kindergarten Act.</u> (4) <u>"Earned income" means income received as gross wages from employment or as profit from self-employment.</u>	8.9.3.7(E)(1-4) NMAC E. Terms beginning with the letter "E": (1) <u>"Early intervention" means services provided through the family, infant, toddler program of the department that are designed to meet the developmental needs of children from birth to age three who have or who are at risk of having a developmental delay, special needs, or disability.</u> (2) <u>"Early intervention provider" means a person who provides early intervention.</u> (3) <u>"Early pre-kindergarten program" means an early pre-kindergarten program as defined in the Pre-Kindergarten Act.</u> (4) <u>"Earned income" means income received as gross wages from employment or as profit from self-employment.</u>

8.9.3.7(E)		
Current Language	Proposed Language	2021 Final Adopted Language
Explanatory Statement		
Public Comment Summary: Public comment requested a revision to the definition of earned income to explicitly include income earned as an independent contractor or other forms of self-employment. Department Response: The language in the proposed rule is taken directly from the Child Care Assistance Act, NMSA 1978 Section 32A-32-3(K), which defines earned income as "income received as gross wages from employment or as profit from self-employment." As such, the definition sufficiently includes income from employment as an independent contractor and self-employment. ECECD will provide technical assistance and training to child care eligibility staff to ensure they consistently recognize and appropriately evaluate non-traditional income sources when making eligibility determinations. ECECD is adopting the amendments as originally proposed.		

8.9.3.7 (F)		
Current Language	Proposed Language	Final Adopted Language
8.9.3.7(F)(1-3) NMAC F. Terms beginning with the letter "F": (1) "Federal poverty level" means a measure of income issued every year by the U.S. Department of Health and Human Services (HHS) that is used to determine eligibility for various programs and benefits, including New Mexico's Child Care Assistance Program. (2) "Fluctuation of earnings" means a family with inconsistent or variable income throughout the year. To calculate fluctuation of earning the department may: (a) average family earnings over a period of time (e.g., 12 months); or (b) choose to discount temporary increases in income provided that a family demonstrates an isolated increase in pay (e.g., short-term overtime pay, temporary increase to pay, etc.) and is not indicative of a permanent increase in income.	8.9.3.7(F)(1-4) NMAC Terms beginning with the letter "F": (1) <u>"Family, friend, or neighbor (FFN)"</u> means care provided temporarily in a home and only in the case of a public health emergency. (2) "Federal poverty level" means a measure of income issued every year by the U.S. Department of Health and Human Services (HHS) that is used to determine eligibility for various programs and benefits, including New Mexico's Child Care Assistance Program. [2] (3) "Fluctuation of earnings" means a family with inconsistent or variable income [F] throughout the year. To calculate fluctuation of earning, the department may: (a) average family earnings over a period of time (e.g., 12 months)[5] or (b) choose to discount temporary increases in income provided that a family demonstrates an isolated increase in pay (e.g., short-term overtime pay, temporary	8.9.3.7(F)(1-4) NMAC Terms beginning with the letter "F": (1) <u>"Family, friend, or neighbor (FFN)"</u> means care provided temporarily in a home and only in the case of a public health emergency. (2) "Federal poverty level" means a measure of income issued every year by the U.S. [D]department of [H]health and [H]human [S]services (HHS) that is used to determine eligibility for various programs and benefits, including New Mexico's Child Care Assistance Program. [2] (3) "Fluctuation of earnings" means a family with inconsistent or variable income [F] throughout the year. To calculate fluctuation of earning, the department may: (a) average family earnings over a period of time (e.g., 12 months)[5] or (b) choose to discount temporary increases in income, provided that a family demonstrates an isolated increase in pay (e.g., short-term overtime pay, temporary

8.9.3.7 (F)		
Current Language	Proposed Language	Final Adopted Language
(3) "FOCUS" is a voluntary tiered quality rating and improvement program that is open to licensed child care programs.	increase to pay, etc.) and is not indicative of a permanent increase in income. [(3)] (4) "FOCUS" is a voluntary tiered quality rating and improvement [program that is open to licensed child care programs] system developed by the department to rate the level of quality of a licensed child care facility.	increase to pay, etc.) and is not indicative of a permanent increase in income. [(3)] (4) "FOCUS" is a voluntary tiered quality rating and improvement [program that is open to licensed child care programs] system developed by the department to rate the level of quality of a licensed child care facility.
Explanatory Statement		
Public Comment Summary: Public comment recommended revisions to the "FOCUS" definition to align with the definition used in 8.9.4 NMAC. Department Response: The proposed definition of "FOCUS" aligns with the definition of "tiered quality rating system" used in the Child Care Assistance Program Act at NMSA 1978 Section 32A-32-2. The proposed definition of "FOCUS" does not contradict with that used in 8.9.4 NMAC. ECECD is adopting the amendments as originally proposed.		

8.9.3.7 (H)		
Current Language	Proposed Language	Final Adopted Language
8.9.3.7(H)(1-3) NMAC H. Terms beginning with the letter "H": (1) "Homeless children and youth" means individuals who lack a fixed, regular, and adequate nighttime residence, which includes: (a) Children and youth who are temporarily sharing the housing of other persons due to loss of housing, economic hardship, or a similar reason; are living in motels, hotels, trailer parks (excludes mobile homes), or camping ground due to the lack of alternative adequate accommodations; are living in emergency or transitional shelters; are abandoned in hospitals; or are awaiting foster care placement; (b) children and youth who have a primary nighttime residence that is a public or private place not designed for or ordinarily used as a regular	8.9.3.7(H)(1-3) NMAC H. Terms beginning with the letter "H": (1) "Homeless [children and youth]" means individuals who <u>are experiencing the lack of</u> a fixed, regular, and adequate nighttime residence, which includes: (a) Children and youth who are temporarily sharing the housing of other persons due to loss of housing, economic hardship, or a similar reason; are living in motels, hotels, trailer parks (excludes mobile homes), or camping ground due to the lack of alternative adequate accommodations; are living in emergency or transitional shelters; are abandoned in hospitals; or are awaiting foster care placement; (b) children and youth who have a primary nighttime residence that is a public or private place not designed for or ordinarily used as a regular	8.9.3.7(H)(1-3) NMAC H. Terms beginning with the letter "H": (1) "Homeless [children and youth]" means individuals who <u>are experiencing the lack of</u> a fixed, regular, and adequate nighttime residence, which includes: (a) Children and youth who are temporarily sharing the housing of other persons due to loss of housing, economic hardship, or a similar reason; are living in motels, hotels, trailer parks (excludes mobile homes), or camping ground due to the lack of alternative adequate accommodations; are living in emergency or transitional shelters; are abandoned in hospitals; or are awaiting foster care placement; (b) children and youth who have a primary nighttime residence that is a public or private place not designed for or ordinarily used as a regular

8.9.3.7 (H)		
Current Language	Proposed Language	Final Adopted Language
sleeping accommodation for human beings; (c) children and youth who are living in cars, parks, public spaces, abandoned buildings, substandard housing, bus or train stations, or similar settings; and (d) migratory children who qualify as homeless for the purposes of this subtitle because the children are living in circumstances described in Subparagraphs (a) through (c) of this Paragraph. (2) "Household" means the household as defined below in Paragraph (1) of Subsection C of 8.9.3.11 NMAC. (3) "Household income" means household income as defined below in Paragraph (3) of Subsection C of 8.9.3.11 NMAC.	sleeping accommodation for human beings; (c) children and youth who are living in cars, parks, public spaces, abandoned buildings, substandard housing, bus or train stations, or similar settings; and (d) migratory children who qualify as homeless for the purposes of this subtitle because the children are living in circumstances described in Subparagraphs (a) through (c) of this Paragraph. (2) "Household" means the household as defined below in Paragraph (1) of Subsection C of [8.9.3.11] 8.9.3.10 NMAC. (3) "Household income" means household income as defined below in Paragraph (3) of Subsection C of [8.9.3.11] 8.9.3.10 NMAC.	sleeping accommodation for human beings; (c) children and youth who are living in cars, parks, public spaces, abandoned buildings, substandard housing, bus or train stations, or similar settings; and (d) migratory children who qualify as homeless for the purposes of this subtitle because the children are living in circumstances described in Subparagraphs (a) through (c) of this Paragraph. (2) "Household" means the household as defined below in Paragraph (1) of Subsection C of [8.9.3.11] 8.9.3.10 NMAC. (3) "Household income" means household income as defined below in Paragraph (3) of Subsection C of [8.9.3.11] 8.9.3.10 NMAC.
Explanatory Statement		
Public Comment Summary: Public comment recommended revisions to the definition of "homeless" to align with the definition of "homeless children and youth" used in 8.9.4 NMAC. Department Response: Proposed amendments to the definition of homeless are not substantive and do not conflict with the definition of "homeless children and youth" used in 8.9.4 NMAC. ECECD is adopting the amendments as originally proposed.		

8.9.3.7 (I)		
Current Language	Proposed Language	Final Adopted Language
8.9.3.7(I)(1-2) NMAC I. Terms beginning with the letter "I": (1) "Incidental money" means earnings of a minor child for occasional work performed such as baby-sitting, cutting lawns, and other similar activities. (2) "Infant, toddler, preschool, school age" means the age categories used for assigning child care provider	8.9.3.7(I)(1-4)NMAC I. Terms beginning with the letter "I": (1) <u>"Incapacitation" means a person is unable to meet an eligibility requirement due to an inability to care for a child because of a disability, a physical or mental impairment that substantially limits one or more major life activities, health-related illness, rehabilitation treatment or other</u>	8.9.3.7(I)(1-4)NMAC A. Terms beginning with the letter "I": (1) <u>"Incapacitation" means a person is unable to meet an eligibility requirement due to an inability to care for a child because of a disability, a physical or mental impairment that substantially limits one or more major life activities, health-related illness, rehabilitation treatment or other</u>

8.9.3.7 (I)		
Current Language	Proposed Language	Final Adopted Language
reimbursement rates, defined as follows: (a) infant: zero - 23 months; (b) toddler: 24 -35 months; (c) preschool: three to five year olds; and (d) school age: six year olds and older.	reason as determined by the department. (2) <u>"Incidental money"</u> means earnings of a minor child for occasional work performed such as baby-sitting, cutting lawns, and other similar activities. [(2)] (3) <u>"Infant, toddler, preschool, school age"</u> means the age categories used for assigning child care provider reimbursement rates, defined as follows: (a) infant: zero - 23 months; (b) toddler: 24 -35 months; (c) preschool: three years old to five [year-olds] years old, provided that the child has turned five years old after September 1 of the year; and, (d) school age: [six-year olds and older] anyone who is at least five years old by 12:01 a.m. on September 1 of the school year. (4) <u>"In-home provider"</u> means child care provided in the child's own home.	reason as determined by the department. (2) <u>"Incidental money"</u> means earnings of a minor child for occasional work performed such as baby-sitting, cutting lawns, and other similar activities. [(2)] (3) <u>"Infant, toddler, preschool, school age"</u> means the age categories used for assigning child care provider reimbursement rates, defined as follows: (a) infant: zero - 23 months; (b) toddler: 24 -35 months; (c) preschool: three years old to five [year-olds] years old, provided that the child turns five years old after 12:01 a.m. on September 1 of the school year; and, (d) school age: [six-year olds and older] anyone who is at least five years old by 12:01 a.m. on September 1 of the school year. (4) <u>"In-home provider"</u> means child care provided in the child's own home.
Explanatory Statement		
Public Comment Summary: Public comment recommended delaying the implementation of preschool and school-age determinations until October 1, 2026, to allow for sufficient time for the department to make necessary information technology updates. Department Response: ECECD will modify the final rule to include an effective date of September 1, 2026, for the definitions of preschool and school-age. These amendments are addressed at 8.9.3.19(D) NMAC. ECECD will complete IT updates by September 1, 2026. Public Comment Summary: Other public comment suggested revisions to align the definitions of "infant, toddler, preschool, and school-age" used in 8.9.3 NMAC and in 8.9.4 NMAC. Department Response: Age definitions used in 8.9.3 NMAC use age groupings based on payment practices and are designed to facilitate reimbursement. Age definitions used in 8.9.4 NMAC use age groupings based on health and safety needs, which follow developmentally appropriate practices. The age definitions used in 8.9.3 and 8.9.4 NMAC serve different purposes depending on the context of the rule and may not align. ECECD is adopting the amendments as originally proposed.		

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8.9.3.7(J)		
Current Language	Proposed Language	Final Adopted Language
8.9.3.7(J) NMAC J. Terms beginning with the letter “J”: “Job training and educational program” means participation in a short or long term educational or training program, including online programs that provide specific job skills which allow the participant to enter the workforce and directly relates to enhancing job skills, including but not limited to the acquisition of a general equivalency diploma (GED), English as a second language, literacy training, vocational education training, secondary education including adult basic education and accredited high school programs, and post-secondary institutions. Educational programs include graduate and post graduate programs or classes.	8.9.3.7(J) NMAC Terms beginning with the letter “J”: “Job training and educational program” means participation in a short- or long-term educational [or] <u>program, state-approved job training program, registered apprenticeship program, or pre-apprenticeship program</u>, including online programs that provide specific job skills [which allow] <u>enabling</u> the participant to enter the workforce [and directly relates to enhancing job skills, including]. The term includes, but is not limited to, the acquisition of a general equivalency diploma (GED), English as a second language, literacy training, vocational education training, secondary education including adult basic education and accredited high school programs, and post-secondary institutions. Educational programs include graduate and post graduate programs or classes.	8.9.3.7(J) NMAC Terms beginning with the letter “J”: “Job training and educational program” means participation in a short- or long-term educational [or] <u>program, state-approved job training program, registered apprenticeship program, or pre-apprenticeship program</u>, including online programs that provide specific job skills [which allow] <u>enabling</u> the participant to enter the workforce [and directly relates to enhancing job skills, including]. The term includes, but is not limited to, the acquisition of a general equivalency diploma (GED), English as a second language, literacy training, vocational education training, secondary education including adult basic education and accredited high school programs, and post-secondary institutions. Educational programs include graduate and post graduate programs or classes.
Explanatory Statement		
There were no substantive public comments received. ECECD is adopting the amendments as originally proposed.		

8.9.3.7(L)		
Current Language	Proposed Language	Final Adopted Language
8.9.3.7(L) NMAC L. Terms beginning with the letter “L”: [RESERVED]	8.9.3.7(L)(1-4) NMAC L. Terms beginning with the letter “L”: [RESERVED] (1) “Legal guardian” includes both a temporary and permanent legal guardian or custodian. (2) “Licensed center” means a nonresidential facility that meets the applicable state and local building and safety codes and provides care and services to and supervision of children for less than 24 hours of any day.	8.9.3.7(L)(1-4) NMAC L. Terms beginning with the letter “L”: [RESERVED] (1) “Legal guardian” includes both a temporary and permanent legal guardian or custodian. (2) “Licensed center” means a nonresidential facility that meets the applicable state and local building and safety codes and provides care and services to and supervision of children for less than 24 hours of any day.

8.9.3.7(L)

Current Language	Proposed Language	Final Adopted Language
	(3) <u>"Licensed family child care home" means a private dwelling in which the licensee resides and is the primary educator who provides care and services to and supervision of children as part of the child care home program for a period of less than 24 hours of any day for no more than six children.</u> (4) <u>"Licensed group child care home" means a home in which the licensee resides and is the primary educator who provides care and services to and supervision of children as part of the child care home program for at least seven but no more than 12 children.</u>	(3) <u>"Licensed family child care home" means a private dwelling in which the licensee resides and is the primary educator who provides care and services to and supervision of children as part of the child care home program for a period of less than 24 hours of any day for no more than six children.</u> (4) <u>"Licensed group child care home" means a home in which the licensee resides and is the primary educator who provides care and services to and supervision of children as part of the child care home program for at least seven but no more than 12 children.</u>

Explanatory Statement

Public Comment Summary:

Public comment suggested revisions to align the proposed definitions of licensed center, licensed family child care home, and licensed group child care home with those used in 8.9.4 NMAC.

Department Response:

The definitions as originally proposed match the statutory definitions used in the Early Childhood Education and Care Department Act at NMSA 1978 Section 9-29-2. ECECD is adopting the amendments as originally proposed.

8.9.3.7(N)

Current Language	Proposed Language	Final Adopted Language
8.9.3.7(N)(1) NMAC N. Terms beginning with the letter "N": (1) "National accreditation status" means the achievement and maintenance of accreditation status by an accrediting body that has been approved by ECECD. ECECD determines the program criteria and standards to evaluate and approve accrediting bodies. (a) The following are the only national accrediting bodies that are approved by ECECD: (i) the association of Christian schools international (ACSI);	8.9.3.7(N)(1) NMAC N. Terms beginning with the letter "N": [(1)"National accreditation status" means the achievement and maintenance of accreditation status by an accrediting body that has been approved by ECECD. ECECD determines the program criteria and standards to evaluate and approve accrediting bodies: (a) The following are the only national accrediting bodies that are approved by ECECD: (i) the association of Christian schools international (ACSI);	8.9.3.7(N)(1) NMAC N. Terms beginning with the letter "N": [(1)"National accreditation status" means the achievement and maintenance of accreditation status by an accrediting body that has been approved by ECECD. ECECD determines the program criteria and standards to evaluate and approve accrediting bodies. (a) The following are the only national accrediting bodies that are approved by ECECD: (i) the association of Christian schools international (ACSI);

8.9.3.7(N)

Current Language	Proposed Language	Final Adopted Language
(ii) the council on accreditation (COA) for early childhood education and after school programs; (iii) the international Christian accrediting association (ICAA); (iv) the national accreditation commission for early care and education programs (NAC); (v) the national association for the education of young children (NAEYC) academy for early childhood program accreditation; (vi) the national association of family child care (NAFCC); or (vii) the national early childhood program accreditation (NECPA). (viii) association Montessori internationale (AMI); or (ix) American Montessori society (AMS). (b) Effective July 15, 2014 accrediting bodies that have been previously approved that are not on the above list will no longer be ECECD approved national accrediting bodies.	(ii) the council on accreditation (COA) for early childhood education and after school programs; (iii) the international Christian accrediting association (ICAA); (iv) the national accreditation commission for early care and education programs (NAC); (v) the national association for the education of young children (NAEYC) academy for early childhood program accreditation; (vi) the national association of family child care (NAFCC); or (vii) the national early childhood program accreditation (NECPA); (viii) association Montessori internationale (AMI); or (ix) American Montessori society (AMS). (b) Effective July 15, 2014 accrediting bodies that have been previously approved that are not on the above list will no longer be ECECD approved national accrediting bodies.] (1) "National provider accreditation" means a child care provider's achievement and maintenance of accreditation status by a national accrediting body that has been approved by ECECD using its program criteria and standards for the purposes of determining quality ratings.	(ii) the council on accreditation (COA) for early childhood education and after school programs; (iii) the international Christian accrediting association (ICAA); (iv) the national accreditation commission for early care and education programs (NAC); (v) the national association for the education of young children (NAEYC) academy for early childhood program accreditation; (vi) the national association of family child care (NAFCC); or (vii) the national early childhood program accreditation (NECPA); (viii) association Montessori internationale (AMI); or (ix) American Montessori society (AMS). (b) Effective July 15, 2014 accrediting bodies that have been previously approved that are not on the above list will no longer be ECECD approved national accrediting bodies.] (1) "National provider accreditation" means a child care provider's achievement and maintenance of accreditation status by a national accrediting body that has been approved by ECECD using its program criteria and standards for the purposes of determining quality ratings.

Explanatory Statement

Public Comment Summary:

Public comment suggested revisions to the definition of "national provider accreditation" at 8.9.3.7(N)(1).

Department Response:

ECECD has reviewed the comments and determined the regulation is sufficient as written. ECECD is adopting the amendment as originally proposed.

Public Comment Summary:

8.9.3.7(N)		
Current Language	Proposed Language	Final Adopted Language
Public comment also suggested changes to align the list of approved national provider accrediting bodies between 8.9.3 NMAC and 8.9.4 NMAC.		
Department Response: ECECD has revised 8.9.4 NMAC to address the suggested alignment in the public comment.		

8.9.3.7 (O)		
Current Language	Proposed Language	Final Adopted Language
8.9.3.7(O)(1-2) NMAC O. Terms beginning with the letter "O": (1) "Open case" means a case that has not been closed as a result of a failure to recertify, or that has not been closed due to becoming otherwise ineligible for child care assistance benefits. (2) "Overpayment" means a payment of child care assistance benefits received by a client or provider for which they are ineligible based on incomplete or inaccurate information provided by either the client or the provider, or agency error.	8.9.3.7(O)(1-3) NMAC O. Terms beginning with the letter "O": (1) "Open case" means a case that has not been closed as a result of a failure to recertify, or that has not been closed due to becoming otherwise ineligible for child care assistance benefits. (2) <u>"Out-of-school time care" means care at a school-age program at a specific site, usually a school or community center, offering on a consistent basis a variety of developmentally appropriate activities that are both educational and recreational.</u> [(2)] (3) "Overpayment" means a payment of child care assistance benefits received by a client or provider for which they are ineligible based on incomplete or inaccurate information provided by either the client or the provider, or agency error.	8.9.3.7(O)(1-3) NMAC O. Terms beginning with the letter "O": (1) "Open case" means a case that has not been closed as a result of a failure to recertify, or that has not been closed due to becoming otherwise ineligible for child care assistance benefits. (2) <u>"Out-of-school time care" means care at a school-age program at a specific site, usually a school or community center, offering on a consistent basis a variety of developmentally appropriate activities that are both educational and recreational.</u> [(2)] (3) "Overpayment" means a payment of child care assistance benefits received by a client or provider for which they are ineligible based on incomplete or inaccurate information provided by either the client or the provider, or agency error.
Explanatory Statement		
Public Comment Summary: Public comment suggested revisions to the definition of "out-of-school time care."		
Department Response: The definition as originally proposed matches the statutory definition of out-of-school time care used in the Early Childhood Education and Care Department Act at Section 9-29-2 NMSA 1978. ECECD is adopting the amendment as originally proposed.		

8.9.3.7(P)		
Current Language	Proposed Language	Final Adopted Language
8.9.3.7(P)(1-3) NMAC	8.9.3.7(P)(1-3) NMAC	8.9.3.7(P)(1-3) NMAC

8.9.3.7(P)

Current Language	Proposed Language	Final Adopted Language
P. Terms beginning with the letter "P": (1) "Provider types" means the characteristics of child care providers, which determine their approved reimbursement rate, capacity, staffing levels etc. as follows: (a) "In-home" care means care provided in the child's own home. (b) "Registered home" means child care provided in the home of a provider who is registered with the department to care for up to four children. All registered homes receiving child care assistance subsidies may enroll[ed] and participate in the child and adult care food program (CACFP). (c) "Licensed family child care home" means child care provided in the home of a provider who is licensed by the department to care for up to six children. (d) "Licensed group child care home" means child care provided in the home of a provider who is licensed by the department to care for up to 12 children. (e) "Licensed center" means child care provided in a non-residential setting, which is licensed by the department to provide such care. (f) "Out-of-school time care" means child care provided to a kindergartner or school age child up to age 13 immediately before or immediately after a regularly scheduled school day or when regular school is not in session. (g) "Family, friend, or neighbor (FFN)" means care provided temporarily in a home and only in the case of a public health emergency. (3) "PreK" means a statewide, voluntary developmental readiness program funded by ECECD for children who have	P. Terms beginning with the letter "P": (1) "Provider types" means the characteristics of child care providers, which determine their approved reimbursement rate, capacity, staffing levels etc., <u>and includes in-home, registered child care home, licensed family child care home, licensed group child care home, licensed center, out-of-school time care, and, in the case of a public health emergency, family, friend, or neighbor care.</u> [as follows: (a) "In-home" care means care provided in the child's own home. (b) "Registered home" means child care provided in the home of a provider who is registered with the department to care for up to four children. All registered homes receiving child care assistance subsidies may enroll[ed] and participate in the child and adult care food program (CACFP). (c) "Licensed family child care home" means child care provided in the home of a provider who is licensed by the department to care for up to six children. (d) "Licensed group child care home" means child care provided in the home of a provider who is licensed by the department to care for up to 12 children. (e) "Licensed center" means child care provided in a non-residential setting, which is licensed by the department to provide such care. (f) "Out-of-school time care" means child care provided to a kindergartner or school age child up to age 13 immediately before or immediately after a regularly scheduled school day or when regular school is not in session. (g) "Family, friend, or neighbor (FFN)" means care provided	P. Terms beginning with the letter "P": (1) "Provider types" means the characteristics of child care providers, which determine their approved reimbursement rate, capacity, staffing levels etc., <u>and includes in-home, registered child care home, licensed family child care home, licensed group child care home, licensed center, out-of-school time care, and, in the case of a public health emergency, family, friend, or neighbor care.</u> [as follows: (a) "In-home" care means care provided in the child's own home. (b) "Registered home" means child care provided in the home of a provider who is registered with the department to care for up to four children. All registered homes receiving child care assistance subsidies may enroll[ed] and participate in the child and adult care food program (CACFP). (c) "Licensed family child care home" means child care provided in the home of a provider who is licensed by the department to care for up to six children. (d) "Licensed group child care home" means child care provided in the home of a provider who is licensed by the department to care for up to 12 children. (e) "Licensed center" means child care provided in a non-residential setting, which is licensed by the department to provide such care. (f) "Out-of-school time care" means child care provided to a kindergartner or school age child up to age 13 immediately before or immediately after a regularly scheduled school day or when regular school is not in session. (g) "Family, friend, or neighbor (FFN)" means care provided

8.9.3.7(P)

Current Language	Proposed Language	Final Adopted Language
attained their third or fourth birthday prior to September 1 that delivers to eligible children programs that address their total developmental needs, including their physical, cognitive, social and emotional needs, and that supports their development in the areas of health care, nutrition and safety and multicultural awareness. (4) “Presumptive Eligibility” in the context of the Child Care and Development Block Grant (CCDBG) refers to a policy that allows for the assumption of eligibility for certain programs based on preliminary information rather than complete documentation. This means that individuals or families may be deemed eligible for assistance before all necessary verification is completed, which can expedite access to services.	temporarily in a home and only in the case of a public health emergency.] (2) “PreK” or “pre-kindergarten program” means a statewide, voluntary developmental readiness program funded by ECECD for children who have attained their third or fourth birthday prior to September 1 that delivers to eligible children programs that address their total developmental needs, including their physical, cognitive, social and emotional needs, and that supports their development in the areas of health care, nutrition and safety and multicultural awareness. (3) “Presumptive Eligibility” [in the context of the Child Care and Development Block Grant (CCDBG) refers to a policy that allows for the assumption of] <u>Temporary eligibility</u> [for certain programs] <u>provided</u> based on <u>an applicant’s</u> preliminary information [rather than complete documentation. This means that individuals or families may be deemed eligible for assistance] before all necessary verification is completed, [which can] <u>in order to</u> expedite access to services.	temporarily in a home and only in the case of a public health emergency.] (2) “PreK” or “pre-kindergarten program” means a statewide, voluntary developmental readiness program funded by ECECD for children who have attained their third or fourth birthday prior to September 1 that delivers to eligible children programs that address their total developmental needs, including their physical, cognitive, social and emotional needs, and that supports their development in the areas of health care, nutrition and safety and multicultural awareness. (3) “Presumptive Eligibility” [in the context of the Child Care and Development Block Grant (CCDBG) refers to a policy that allows for the assumption of] <u>means temporary eligibility</u> [for certain programs] <u>provided</u> based on <u>an applicant’s</u> preliminary information [rather than complete documentation. This means that individuals or families may be deemed eligible for assistance] before all necessary verification is completed, [which can] <u>in order to</u> expedite access to services.

Explanatory Statement

There were no substantive public comments received. ECECD is adopting the amendment as originally proposed.

8.9.3.7(R)

Current Language	Proposed Language	Final Adopted Language
8.9.3.7(R)(1-2) NMAC R. Terms beginning with the letter “R”: (1) “Recertification” means the process by which a client’s eligibility to continue to receive child care assistance benefits are determined. (2) “Registration/educational fee” means a fee charged to private	8.9.3.7(R)(1-4) NMAC R. Terms beginning with the letter “R”: (1) “Recertification” means the process by which a client’s eligibility to continue to receive child care assistance benefits [are] <u>is</u> determined. (2) “Registered child care home” means an independent primary caregiver who has registered	8.9.3.7(R)(1-4) NMAC R. Terms beginning with the letter “R”: (1) “Recertification” means the process by which a client’s eligibility to continue to receive child care assistance benefits [are] <u>is</u> determined. (2) “Registered child care home” means an independent primary caregiver who has registered

pay and families receiving child care assistance for materials and supplies.	<u>the independent primary caregiver's home or residence with the department to provide care and services to and supervision of children as part of the child care home program for a period of less than 24 hours of any day for no more than four children.</u> <u>[(2)] (3) "Registration/educational fee" means a fee[charged to private pay and families receiving child care assistance for materials and supplies], payment, or donation in any form that is accepted, charged, or required by a provider beyond the rate paid by the department under the Child Care Assistance Program.</u> <u>(4) "Resident" means a person who is domiciled in New Mexico, including a person who is homeless or who is temporarily residing in a domestic violence or homeless shelter; provided that for the purposes of the Child Care Assistance Program Act, a person may have only one domicile; and provided further that for a federally eligible applicant, the applicant's residency determination shall be aligned with applicable federal regulations.</u>	<u>the independent primary caregiver's home or residence with the department to provide care and services to and supervision of children as part of the child care home program for a period of less than 24 hours of any day for no more than four children.</u> <u>[(2)] (3) "Registration/educational fee" means a fee[charged to private pay and families receiving child care assistance for materials and supplies], payment, or donation in any form that is accepted, charged, or required by a provider beyond the rate paid by the department under the Child Care Assistance Program.</u> <u>(4) "Resident" means a person who is domiciled in New Mexico, including a person who is homeless or who is temporarily residing in a domestic violence or homeless shelter; provided that for the purposes of the Child Care Assistance Program Act, a person may have only one domicile; and provided further that for a federally eligible applicant, the applicant's residency determination shall be aligned with applicable federal regulations.</u>
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Explanatory Statement

Summary of Public Comment:

Public comment expressed concern that the proposed definition of "registration/educational fee" would eliminate child care providers' ability to charge any fees beyond the department's rate and requested that the department clarify rules to address allowed and prohibited fees.

Department Response:

8.9.3.17(F) NMAC specifically addresses the exceptions for incidental costs such as field trips, special lunches, or other similar situations. The proposed definition does not change the ability to charge allowable fees as described in 8.9.3.17(F) NMAC. Additionally, the definition is consistent with the requirements of NMSA Section 32A-32-6(A)(2). ECECD is adopting the amendment as originally proposed.

Summary of Public Comment:

Public comment also suggested revisions to the definition of "registered child care home."

Department Response:

The definition as originally proposed matches the statutory definition of registered child care home used in the Early Childhood Education and Care Department Act at Section 9-29-2 NMSA 1978. ECECD is adopting the amendment as originally proposed.

8.9.3.7(S)		
Current Language	Proposed Language	Final Adopted Language
8.9.3.7(S)(1-5) NMAC S. Terms beginning with the letter "S": (1) "Sanctions" means a measure imposed by the department for a violation or violations of applicable regulations. (2) "SNAP" means the supplemental nutrition assistance program administered by the U.S. department of agriculture, which helps low-income families purchase healthy food. SNAP was previously referred to as food stamps employment and training program. (3) "Special supervision" means the special supervision for child(ren) as defined below in Subsection G of 8.9.3.11 NMAC. (4) "Star level" means a license indicating the level of quality of an early childhood program. A greater number of stars indicates a higher level of quality. (5) "Suspension" means the voluntary cessation of child care benefits at the client's request, during which the client remains eligible.	8.9.3.7(S)(1-5) NMAC S. Terms beginning with the letter "S": (1) "Sanctions" means a measure imposed by the department for a violation or violations of applicable regulations. (2) "SNAP" means the supplemental nutrition assistance program administered by the U.S. department of agriculture, which helps low-income families purchase healthy food. SNAP was previously referred to as food stamps employment and training program. (3) "Special supervision" means the special supervision for child(ren) as defined below in Subsection G of [8.9.3.11] 8.9.3.10 NMAC. (4) "Star level" means a license indicating the level of quality of an early childhood program. A greater number of stars indicates a higher level of quality. (5) "Suspension" means the voluntary cessation of child care [benefits] assistance at the client's request, during which the client remains eligible.	8.9.3.7(S)(1-5) NMAC 5:00 S. Terms beginning with the letter "S": (1) "Sanctions" means a measure imposed by the department for a violation or violations of applicable regulations. (2) "SNAP" means the supplemental nutrition assistance program administered by the U.S. department of agriculture, which helps low-income families purchase healthy food. SNAP was previously referred to as food stamps employment and training program. (3) "Special supervision" means the special supervision for child(ren) as defined below in Subsection G of [8.9.3.11] 8.9.3.10 NMAC. (4) "Star level" means a license indicating the level of quality of an early childhood program. A greater number of stars indicates a higher level of quality. (5) "Suspension" means the voluntary cessation of child care [benefits] assistance at the client's request, during which the client remains eligible.
Explanatory Statement		
There were no substantive public comments received. ECECD is adopting the amendments as originally proposed.		

8.9.3.7(T)		
Current Language	Proposed Language	Final Adopted Language
8.9.3.7(T)(1-5) NMAC T. Terms beginning with the letter "T": (1) "TANF" means the temporary assistance to needy families program administered by the U.S. department of health and human services. TANF is the successor to the aid to families with dependent	8.9.3.7.(T)(1-4) T. Terms beginning with the letter "T": (1) "TANF" means the temporary assistance to needy families program administered by the U.S. department of health and human services. TANF is the successor to the aid to families with dependent children (AFDC) program and	8.9.3.7.(T)(1-4) T. Terms beginning with the letter "T": (1) "TANF" means the temporary assistance to needy families program administered by the U.S. department of health and human services. TANF is the successor to the aid to families with dependent children (AFDC) program and

8.9.3.7(T)

Current Language	Proposed Language	2024 Final Adopted Language
children (AFDC) program and provides cash assistance to qualified low-income families with dependent children. (2) “Teen parent” means a biological parent under the age of 20 who is attending high school, working towards a general equivalency diploma (GED) or attending any other job skills training or educational programs directly related to enhancing employment opportunities. (3) “Temporary change of activity” means one of the following events: (a) limited absence from work for employed parents or legal guardians for periods of family leave (including parental leave) or sick leave; (b) interruption in work for a seasonal worker who is not working between regular industry work seasons; (c) student holiday or break for a parent or legal guardian participating in training or education; (d) reduction in work, training or education hours, as long as the parent or legal guardian is still working or attending training or education; and (e) cessation of work or attendance at a training or education program less than three months. (4) “Termination” means the client’s child care case will be closed due to cause. (5) “Tribal per capita payments” means cash distributions from tribal trust funds or casino revenues to individual tribal members.	provides cash assistance to qualified low-income families with dependent children. (2) “Teen parent” means a biological parent under the age of 20 who is attending high school, working towards a general equivalency diploma (GED) or attending any other job skills training or educational programs directly related to enhancing employment opportunities. [(3)] “Temporary change of activity” means one of the following events: (a) limited absence from work for employed parents or legal guardians for periods of family leave (including parental leave) or sick leave; (b) interruption in work for a seasonal worker who is not working between regular industry work seasons; (c) student holiday or break for a parent or legal guardian participating in training or education; (d) reduction in work, training or education hours, as long as the parent or legal guardian is still working or attending training or education; and (e) cessation of work or attendance at a training or education program less than three months. [(4)] (3) “Termination” means the client’s child care case will be closed due to cause. [(5)] (4) “Tribal per capita payments” means cash distributions from tribal trust funds or casino revenues to individual tribal members.	provides cash assistance to qualified low-income families with dependent children. (2) “Teen parent” means a biological parent under the age of 20 who is attending high school, working towards a general equivalency diploma (GED) or attending any other job skills training or educational programs directly related to enhancing employment opportunities. [(3)] “Temporary change of activity” means one of the following events: (a) limited absence from work for employed parents or legal guardians for periods of family leave (including parental leave) or sick leave; (b) interruption in work for a seasonal worker who is not working between regular industry work seasons; (c) student holiday or break for a parent or legal guardian participating in training or education; (d) reduction in work, training or education hours, as long as the parent or legal guardian is still working or attending training or education; and (e) cessation of work or attendance at a training or education program for less than three months. [(4)] (3) “Termination” means the client’s child care case will be closed due to cause. [(5)] (4) “Tribal per capita payments” means cash distributions from tribal trust funds or casino revenues to individual tribal members.

Explanatory Statement

There were no substantive public comments received. ECECD is adopting the amendments as originally proposed.

8.9.3.7(U)		
Current Language	Proposed Language	Final Adopted Language
8.9.3.7(U)(1-2) U. Terms beginning with the letter "U": (1) "Underpayment" means a payment made by the department for services provided which did not fully reimburse the client or provider. (2) "Unearned income" means income in the form of benefits such as TANF, workmen's compensation, social security, supplemental security income; child support, pensions, contributions, gifts, loans, grants and other income which does not meet the definition of earned income.	8.9.3.7(U)(1-2) U. Terms beginning with the letter "U": (1) "Underpayment" means a payment made by the department for services provided which did not fully reimburse the client or provider. (2) "Unearned income" means income in the form of benefits such as [TANF, workmen's compensation, social security, supplemental security income; child support, pensions, contributions, gifts, loans, grants and other income which does not meet the definition of earned income.] <u>benefits received pursuant to state and federal programs, child support, pensions, gifts, loans, grants and other income that is not income received as gross wages from employment or as profit from self-employment.</u>	8.9.3.7(U)(1-2) U. Terms beginning with the letter "U": (1) "Underpayment" means a payment made by the department for services provided which did not fully reimburse the client or provider. (2) "Unearned income" means income in the form of benefits such as [TANF, workmen's compensation, social security, supplemental security income; child support, pensions, contributions, gifts, loans, grants and other income which does not meet the definition of earned income.] <u>benefits received pursuant to state and federal programs, child support, pensions, gifts, loans, grants and other income that is not income received as gross wages from employment or as profit from self-employment.</u>
Explanatory Statement		
There were no substantive public comments received. ECECD is adopting the amendments as originally proposed.		

8.9.3.7(W)		
Current Language	Proposed Language	Final Adopted Language
8.9.3.7(W) NMAC W. Terms beginning with the letter "W": "Working" means employment of any type, including self-employment and teleworking. For TANF recipients, this includes work experience or community service or any other activity that meets the TANF work activity requirements.	8.9.3.7(W) NMAC W. Terms beginning with the letter "W": "Working" means employment of any type, including self-employment and teleworking. For TANF recipients, this includes work experience or community service or any other activity that meets the TANF work activity requirements.	8.9.3.7(W) NMAC W. Terms beginning with the letter "W": (1) "Working" means employment of any type, including self-employment and teleworking. For TANF recipients, this includes work experience or community service or any other activity that meets the TANF work activity requirements.
Explanatory Statement		
There were no substantive public comments received. ECECD is adopting the amendments as originally proposed.		

8.9.3.9(A-I)		
Current Language	Proposed Language	2026 Final/Adopted Language
8.9.3.9(A-I) NMAC 8.9.3.9 CATEGORIES FOR ASSISTANCE: A. Any funds received by the department under the child care development fund and other sources are expended for child care assistance pursuant to the following categories. The department prioritizes child care services for children with special needs, disabilities, families experiencing homelessness, and for teen parents: B. Category One A: Clients receiving temporary assistance to needy families (TANF) benefits to include TANF diversionary payments, are considered category one clients. (1) Participation exemption: The health care authority (HCA) grants participation exemptions to TANF clients who cannot locate child care. The Early Childhood Education and Care Department is responsible for the verification of the TANF participant's inability to locate child care. Reasons for participation exemption due to lack of child care are as follows: (a) the unavailability of appropriate child care within a reasonable distance from the individual's home or work site; (b) the unavailability or unsuitability of informal child care by a relative or under other arrangements; or (c) the unavailability of appropriate and affordable formal child care by a relative or under other arrangements. (2) A person who applies for participation exemption for any or all of the above reasons is referred to the Early Childhood Education and Care Department child care resource and	8.9.3.9(A-I) NMAC [8.9.3.9 CATEGORIES FOR ASSISTANCE: A. Any funds received by the department under the child care development fund and other sources are expended for child care assistance pursuant to the following categories. The department prioritizes child care services for children with special needs, disabilities, families experiencing homelessness, and for teen parents: B. Category One A: Clients receiving temporary assistance to needy families (TANF) benefits to include TANF diversionary payments, are considered category one clients. (1) Participation exemption: The health care authority (HCA) grants participation exemptions to TANF clients who cannot locate child care. The Early Childhood Education and Care Department is responsible for the verification of the TANF participant's inability to locate child care. Reasons for participation exemption due to lack of child care are as follows: (a) the unavailability of appropriate child care within a reasonable distance from the individual's home or work site; (b) the unavailability or unsuitability of informal child care by a relative or under other arrangements; or (c) the unavailability of appropriate and affordable formal child care by a relative or under other arrangements. (2) A person who applies for participation exemption for any or all of the above reasons is referred to the Early Childhood Education and Care Department child care resource and	8.9.3.9(A-I) NMAC [8.9.3.9 CATEGORIES FOR ASSISTANCE: A. Any funds received by the department under the child care development fund and other sources are expended for child care assistance pursuant to the following categories. The department prioritizes child care services for children with special needs, disabilities, families experiencing homelessness, and for teen parents: B. Category One A: Clients receiving temporary assistance to needy families (TANF) benefits to include TANF diversionary payments, are considered category one clients. (1) Participation exemption: The health care authority (HCA) grants participation exemptions to TANF clients who cannot locate child care. The Early Childhood Education and Care Department is responsible for the verification of the TANF participant's inability to locate child care. Reasons for participation exemption due to lack of child care are as follows: (a) the unavailability of appropriate child care within a reasonable distance from the individual's home or work site; (b) the unavailability or unsuitability of informal child care by a relative or under other arrangements; or (c) the unavailability of appropriate and affordable formal child care by a relative or under other arrangements. (2) A person who applies for participation exemption for any or all of the above reasons is referred to the Early Childhood Education and Care Department child care resource and

referral. The child care resource and referral assists the client with location of child care. The final validation/verification of a client's inability to locate child care is determined by the child care services bureau supervisor in conjunction with his/her supervisor. A client who receives a participation exemption due to lack of child care is required to re-apply for the exemption every six months. If a person disagrees with the determination of their eligibility for a participation exemption, they may apply for a fair hearing with HCA. HCA is responsible for providing notice of the approval or denial of a participation exemption.

C. Category One B: This category is child care assistance for income eligible families whose income is at or below one hundred percent of the federal poverty level, adjusted annually in accordance with federal guidelines.

D. Category Two: This category is for families transitioning off TANF and clients who have received a TANF diversionary payment. Clients must have received TANF for at least one month, or a diversionary payment, in the past 12 months in order to qualify for category two. Only clients transitioning off TANF whose TANF cases are closed at least in part due to increased earnings or loss of earned income deductions or disregards are eligible for category two. Category two clients do not have to meet income eligibility requirements during their 12 consecutive month period of eligibility for category four child care.

E. Category Three: [RESERVED]

F. Category Four A: This category is child care assistance for income eligible families whose income is above one hundred percent of the federal poverty level but at or below two hundred percent of the federal poverty level, adjusted

referral. The child care resource and referral assists the client with location of child care. The final validation/verification of a client's inability to locate child care is determined by the child care services bureau supervisor in conjunction with his/her supervisor. A client who receives a participation exemption due to lack of child care is required to re-apply for the exemption every six months. If a person disagrees with the determination of their eligibility for a participation exemption, they may apply for a fair hearing with HCA. HCA is responsible for providing notice of the approval or denial of a participation exemption.

C. Category One B: This category is child care assistance for income eligible families whose income is at or below one hundred percent of the federal poverty level, adjusted annually in accordance with federal guidelines.

D. Category Two: This category is for families transitioning off TANF and clients who have received a TANF diversionary payment. Clients must have received TANF for at least one month, or a diversionary payment, in the past 12 months in order to qualify for category two. Only clients transitioning off TANF whose TANF cases are closed at least in part due to increased earnings or loss of earned income deductions or disregards are eligible for category two. Category two clients do not have to meet income eligibility requirements during their 12 consecutive month period of eligibility for category four child care.

E. Category Three: [RESERVED]

F. Category Four A: This category is child care assistance for income eligible families whose income is above one hundred percent of the federal poverty level but at or below two hundred percent of the federal poverty level, adjusted

referral. The child care resource and referral assists the client with location of child care. The final validation/verification of a client's inability to locate child care is determined by the child care services bureau supervisor in conjunction with his/her supervisor. A client who receives a participation exemption due to lack of child care is required to re-apply for the exemption every six months. If a person disagrees with the determination of their eligibility for a participation exemption, they may apply for a fair hearing with HCA. HCA is responsible for providing notice of the approval or denial of a participation exemption.

C. Category One B: This category is child care assistance for income eligible families whose income is at or below one hundred percent of the federal poverty level, adjusted annually in accordance with federal guidelines.

D. Category Two: This category is for families transitioning off TANF and clients who have received a TANF diversionary payment. Clients must have received TANF for at least one month, or a diversionary payment, in the past 12 months in order to qualify for category two. Only clients transitioning off TANF whose TANF cases are closed at least in part due to increased earnings or loss of earned income deductions or disregards are eligible for category two. Category two clients do not have to meet income eligibility requirements during their 12 consecutive month period of eligibility for category four child care.

E. Category Three: [RESERVED]

F. Category Four A: This category is child care assistance for income eligible families whose income is above one hundred percent of the federal poverty level but at or below two hundred percent of the federal poverty level, adjusted

annually in accordance with federal guidelines. G. Category Four B: This category is child care assistance for families whose income is above two hundred percent of the federal poverty level but at or below four hundred percent of the federal poverty level, adjusted annually in accordance with federal guidelines. H. Category Four C: This category is child care assistance for families whose income is above four hundred percent of the federal poverty level, adjusted annually in accordance with federal guidelines. Families qualifying for child care assistance for category four C do not have an income cap for eligibility purposes. I. Category Five: The department pays for at-risk child care as approved by the department to include families involved with, or children in custody of, Child Protective Services (CPS), families experiencing homelessness, participants in the Comprehensive Addiction and Recovery Act Program (CARA), and other circumstances deemed at-risk by the department. Grandparents with legal custody or kinship guardianship of their own grandchild qualify for child care assistance under this category. Income, work, and education requirements and copayments are waived for clients in this category	annually in accordance with federal guidelines. G. Category Four B: This category is child care assistance for families whose income is above two hundred percent of the federal poverty level but at or below four hundred percent of the federal poverty level, adjusted annually in accordance with federal guidelines. H. Category Four C: This category is child care assistance for families whose income is above four hundred percent of the federal poverty level, adjusted annually in accordance with federal guidelines. Families qualifying for child care assistance for category four C do not have an income cap for eligibility purposes. I. Category Five: The department pays for at-risk child care as approved by the department to include families involved with, or children in custody of, Child Protective Services (CPS), families experiencing homelessness, participants in the Comprehensive Addiction and Recovery Act Program (CARA), and other circumstances deemed at-risk by the department. Grandparents with legal custody or kinship guardianship of their own grandchild qualify for child care assistance under this category. Income, work, and education requirements and copayments are waived for clients in this category.]	annually in accordance with federal guidelines. G. Category Four B: This category is child care assistance for families whose income is above two hundred percent of the federal poverty level but at or below four hundred percent of the federal poverty level, adjusted annually in accordance with federal guidelines. H. Category Four C: This category is child care assistance for families whose income is above four hundred percent of the federal poverty level, adjusted annually in accordance with federal guidelines. Families qualifying for child care assistance for category four C do not have an income cap for eligibility purposes. I. Category Five: The department pays for at-risk child care as approved by the department to include families involved with, or children in custody of, Child Protective Services (CPS), families experiencing homelessness, participants in the Comprehensive Addiction and Recovery Act Program (CARA), and other circumstances deemed at-risk by the department. Grandparents with legal custody or kinship guardianship of their own grandchild qualify for child care assistance under this category. Income, work, and education requirements and copayments are waived for clients in this category.]
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Explanatory Statement

There were no substantive public comments received. ECECD is adopting the amendments as originally proposed.

8.9.3.9 (A)		
Current Language	Proposed Language	Final Adopted Language
8.9.3.10(A) NMAC 8.9.3.10 APPLICATION PROCESS: A. Clients apply for child care assistance benefits by presenting the	8.9.3.9(A) NMAC [8.9.3.10] 8.9.3.9 APPLICATION PROCESS: A. Clients apply for child care assistance benefits by presenting the	8.9.3.9(A) NMAC 8.9.3.9 APPLICATION PROCESS: A. Clients apply for child care assistance benefits by presenting the

following documents to establish eligibility:

(1) a completed and signed application form;

(2) documentation of current countable earned and unearned income as listed below and defined in Paragraph (5) of Subsection C of 8.9.3.10 NMAC;

(3) documentation of the applicant's TANF eligibility or participation, if applicable, and can include applicant's social security number or assigned TANF identification number;

(4) school schedule or verification of educational activity, if applicable;

(5) verification of enrollment in a state-approved job training program, registered apprenticeship program, or pre-apprenticeship program, if applicable;

(6) demonstration of incapacity for parent or legal guardian, if applicable;

(7) verification of birth for all applicant's household children;

(8) documentation of qualifying immigration status, as defined by the United States department of health and human services, administration for children and families, office of child care, for all children requesting child care assistance;

(9) verification of guardianship of children, if applicable;

(10) verification of dependency of a child or adult household member, if applicable;

(11) documentation of New Mexico residency;

(12) verification of foster parent status, if applicable;

(13) documentation of participation in services pursuant to

following documents to establish eligibility:

(1) a completed signed application form;

(2) documentation of current countable earned and unearned income as listed below and defined in Paragraph (5) of Subsection C of 8.9.3.11 NMAC;

(3) documentation of the applicant's TANF eligibility or participation, if applicable, and can include applicant's social security number or assigned TANF identification number;

(4) school schedule or verification of educational activity, if applicable;

(5) demonstration of incapacity for parent or legal guardian, if applicable;

(6) verification of birth for all applicant's household children;

(7) documentation of qualifying immigration status, as defined by the United States department of health and human services, administration for children and families, office of child care, for all children requesting child care assistance;

(8) verification of guardianship of children, if applicable;

(9) verification of dependency of a child or adult household member, if applicable;

(10) documentation of New Mexico residency;

(11) identification for parent/guardian; and

(12) department approved provider.

following documents to establish eligibility:

(1) a completed and signed application form;

(2) documentation of current countable earned and unearned income as listed below and defined in Paragraph (5) of Subsection C of [8.9.3.11] 8.9.3.10 NMAC;

(3) documentation of the applicant's TANF eligibility or participation, if applicable, and can include applicant's social security number or assigned TANF identification number;

(4) school schedule or verification of educational activity, if applicable;

(5) enrollment in state-approved job training program, registered apprenticeship program or pre-apprenticeship program, if applicable;

(6) demonstration of incapacity for parent or legal guardian, if applicable;

[6] (7) verification of birth for all applicant's household children;

[7] (8) documentation of qualifying immigration status, as defined by the United States department of health and human services, administration for children and families, office of child care, for all children requesting child care assistance;

[8] (9) verification of guardianship of children, if applicable;

[9] (10) verification of dependency of a child or adult household member, if applicable;

[10] (11) documentation of New Mexico residency;

(12) verification of foster parent status, if applicable;

(13) documentation of participation in services pursuant to the Comprehensive Addiction and

	<u>Recovery Act of 2016 (CARA), provided by CYFD, if applicable;</u> [(11)] (14) identification for parent/guardian; and [(12)] (15) department approved provider.	the Comprehensive Addiction and Recovery Act of 2016 (CARA), provided by the children, youth and families department (CYFD), if applicable; (14) identification for parent/guardian; and (15) department-approved provider.
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Explanatory Statement

Public Comment Summary:

Public comments requested clarification regarding the child care assistance application process for foster parents, including whether ECECD or the Children, Youth, and Families Department (CYFD) will administer and approve child care assistance contracts for foster children and children in CYFD's protective custody.

Department Response:

ECECD is solely responsible for eligibility determinations for the child care assistance program. ECECD is modifying the originally proposed language to clarify that clients apply for child care assistance by presenting acceptable documents to the department. In addition, ECECD is partnering with CYFD to administer and manage child care assistance on behalf of children in CYFD's protective custody. This transition will ensure greater consistency in contract approvals and timely, accurate payment for services, but will require administrative updates for both departments before the transition is complete. During the transition period, CYFD will continue to manage foster care child care assistance contracts, and all questions and concerns related to those contracts should be directed to CYFD. ECECD will provide updates as systems and processes are aligned to support a smooth transition for foster families, providers, and caseworkers.

Public Comment Summary:

Other public comment asked for clarification regarding what documentation will be accepted to verify hours of care for parents who have irregular hours or frequent overtime that may not be reflected on other employment documentation.

Department Response:

In these cases, ECECD staff will work with parents on an individual case-by-case basis to establish needed hours of care supported by an activity. ECECD is adopting the amendments as originally proposed.

8.9.3.9 (B)

Current Language	Proposed Language	Final Adopted Language
8.9.3.10(B) NMAC B. The following are acceptable documents to use to verify eligibility. Other documents may be considered and taken to the supervisor to be reviewed for eligibility. The department may be able to obtain certain data from the New Mexico Department of Workforce Solutions or the New Mexico HCA in lieu of the client providing verification of birth, New Mexico residency, citizenship/immigration verification, and proof of income.	8.9.3.9(B) NMAC B. The following are acceptable documents to use to verify eligibility. Other documents may be considered and taken to the supervisor to be reviewed for eligibility. The department may be able to obtain certain data from the [New Mexico Department of Workforce Solutions or the New Mexico HCA] <u>federal agencies, New Mexico state agencies, or other trusted data sources</u> in lieu of the client providing verification of birth, New Mexico residency,	8.9.3.9(B) NMAC B. The following are acceptable documents to use to verify eligibility. Other documents may be considered and [taken to the supervisor to be reviewed] <u>reviewed by a supervisor</u> for eligibility. The department may be able to obtain certain data from the [New Mexico Department of Workforce Solutions or the New Mexico HCA] <u>federal agencies, New Mexico state agencies, or other trusted data sources</u> in lieu of the client providing verification of birth, New Mexico residency,

8.9.3.9 (B)		
Current Language	Proposed Language	Final Adopted Language
<i>[See Table A1 in Appendix]</i>	citizenship/immigration verification, and proof of income. <i>[See Table A2 in Appendix]</i>	citizenship/immigration verification, and proof of income. <i>[See Table A3 in Appendix]</i>
Explanatory Statement		
There were no substantive public comments received. ECECD is adopting the amendments as originally proposed.		

8.9.3.9 (C)		
Current Language	Proposed Language	Final Adopted Language
8.9.3.10(C) NMAC C. The department may approve a client to submit their initial application by fax, email, electronic submission, or mail. Clients shall have 14 calendar days after initial submission of an application to submit all other required forms. Clients may be given longer than 14 calendar days, but no more than 30 calendar days, to submit required documentation.	8.9.3.9(C) NMAC C. [The department may approve a client to] <u>Applicants may</u> submit their initial application by fax, email, electronic [submission] <u>transmission</u> , [or] <u>by mail, or in-person at an ECECD office.</u> [Clients] <u>Applicants</u> shall have 14 calendar days after initial submission of an application to submit all other required forms. [Clients may be given] <u>The department may give applicants</u> longer than 14 calendar days, but no more than 30 calendar days, to submit required documentation.	8.9.3.9(C) NMAC C. [The department may approve a client to] <u>Applicants may</u> submit their initial application by fax, email, electronic [submission] <u>transmission</u> , [or] <u>by mail, or in-person at an ECECD office.</u> [Clients] <u>Applicants</u> shall have 14 calendar days after initial submission of an application to submit all other required forms. [Clients may be given] <u>The department may give applicants</u> longer than 14 calendar days, but no more than 30 calendar days, to submit required documentation.
Explanatory Statement		
There were no substantive public comments received. ECECD is adopting the amendments as originally proposed.		

8.9.3.9 (D)(1-2)		
Current Language	Proposed Language	Final Adopted Language
8.9.3.10(D)(1-2) NMAC D. A client may be determined presumptively eligible for services based on self-attested income and qualifying activity. The department will presumptively determine a client to be eligible once the client meets New Mexico residency requirements, birth verification, and citizenship/qualified immigrant requirements as set forth herein. Clients must submit all other required forms or documents within sixty calendar days to become eligible for the twelve month eligibility period. The department	8.9.3.9(D)(1-2) NMAC D. [A client may be determined] <u>The department may determine a client to be</u> presumptively eligible for services based on self-attested income and qualifying activity. The department will presumptively determine a [client] <u>applicant</u> to be eligible once the [client] <u>applicant</u> meets New Mexico residency requirements, birth verification, and citizenship/qualified immigrant requirements as set forth herein. [Clients] <u>Applicants</u> must submit all other required forms or documents within [sixty] <u>60</u> calendar days to become eligible for the [twelve] <u>12</u>	8.9.3.9(D)(1-2) NMAC D. [A client may be determined] <u>The department may determine an applicant to be</u> presumptively eligible for services based on self-attested income and qualifying activity. The department will presumptively determine an [client] <u>applicant</u> to be eligible once the [client] <u>applicant</u> meets New Mexico residency requirements, birth verification, and citizenship/qualified immigrant requirements as set forth herein. [Clients] <u>Applicants</u> must submit all other required forms or documents within [sixty] <u>60</u> calendar days to

may grant an additional thirty days to submit required documentation if the client shows that extenuating circumstances exist meriting an extension. (1) In order to receive presumptive eligibility, the client must submit the documentation as listed below and self-attest to the following information per below: <i>[See Table B1 in Appendix]</i> (2) Clients are not eligible for presumptive eligibility if they: (a) Received child care assistance in the previous month; (b) Obtained presumptive eligibility in their previous eligibility determination; or (c) Were denied for presumptive eligibility in their previous eligibility determination. (3) Payments will be made according to the ECECD regulatory payment process during presumptive eligibility period. Payments made during presumptive eligibility period are not subject to recoupment based on eligibility. If a child is deemed to be ineligible during the presumptive eligibility period, the department will provide timely notice to the provider. <i>[See Table B1 in Appendix]</i>	month eligibility period. The department may grant an additional STA <u>30</u> days to submit required documentation if the client <u>applicant</u> shows that extenuating circumstances [exist meriting] <u>merit</u> an extension. (1) In order to receive presumptive eligibility, the client <u>applicant</u> must submit the documentation as listed below and self-attest to the following information per below: <i>[See Table B2 in Appendix]</i> (2) [Clients] <u>Applicants</u> are not eligible for presumptive eligibility if they: (a) Received child care assistance in the previous month; (b) Obtained presumptive eligibility in their previous eligibility determination; or (c) Were denied for presumptive eligibility in their previous eligibility determination. (3) Payments will be made according to the ECECD regulatory payment process during presumptive eligibility period. Payments made during presumptive eligibility period are not subject to recoupment based on eligibility. If a child is deemed to be ineligible during the presumptive eligibility period, the department will provide timely notice to the provider. <i>[See Table B2 in Appendix]</i>	become eligible for the [twelve] <u>12</u> month eligibility period. The department may grant an additional [thirty] <u>30</u> days to submit required documentation if the client <u>applicant</u> shows that extenuating circumstances [exist meriting] <u>merit</u> an extension. (1) In order to receive presumptive eligibility, [the client] <u>an applicant</u> must submit the documentation and self-attest as listed below [and self-attest to the following information per below]: <i>[See Table B2 in Appendix]</i> (2) [Clients] <u>Applicants</u> are not eligible for presumptive eligibility if they: (a) Received child care assistance in the previous month; (b) Obtained presumptive eligibility in their previous eligibility determination; or (c) Were denied for presumptive eligibility in their previous eligibility determination. (3) Payments will be made according to the ECECD regulatory payment process during presumptive eligibility period. Payments made during presumptive eligibility period are not subject to recoupment based on eligibility. If a child is deemed to be ineligible during the presumptive eligibility period, the department will provide timely notice to the provider. <i>[See Table B3 in Appendix]</i>
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Explanatory Statement

Public Comment Summary:

Public comment expressed concern that procedures for presumptive eligibility increase the risk for fraud and improper payments within the child care assistance program and improperly expand ECECD's statutory authority.

Department Response:

The Child Care Assistance Program Act at NMSA 1978 Section 32A-32-3(H) gives ECECD the authority to make a presumption of eligibility based on proof of residency and parentage or guardianship before other documentation is received. In addition, ECECD's procedures for presumptive eligibility align with federal Child Care Development Fund (CCDF) rules for presumptive eligibility at 45 CFR 98.21(e). ECECD will continue to implement internal controls that ensure integrity and accountability for the child care assistance program. ECECD is adopting the amendments as originally proposed.

8.9.3.9(E)		
Current Language	Proposed Language	Final Adopted Language
8.9.3.10(E)(1-3) NMAC (E) Assistance is provided effective the first day of the month of application if all of the following apply: (1) the client is utilizing child care services and the child or children are attending child care; (2) the client is employed, attending school or a training program or seeking employment unless exempted from this requirement. In the case of a public health emergency, the department secretary may waive the requirement for employment, attending school or a training program; and (3) the provider is eligible to be paid.	8.9.3.9(E)(1-3) NMAC (E) Assistance is provided effective the first day of the month of application if all of the following apply: (1) the [client] applicant is utilizing child care services and the child or children are attending child care; (2) the [client is employed, attending school or a training program or seeking employment unless exempted from this requirement] applicant is determined to be eligible, including presumptively eligible. In the case of a public health emergency, the department secretary may waive the requirement for employment, attending school or a training program; and, (3) the provider is eligible to be paid.	8.9.3.9(E)(1-3) NMAC (E) Assistance is provided effective the first day of the month of application if all of the following apply: (1) the [client] applicant is utilizing child care services and the child or children are attending child care; (2) the [client is employed, attending school or a training program or seeking employment unless exempted from this requirement] applicant is determined to be eligible, including presumptively eligible. In the case of a public health emergency, the department secretary may waive the requirement for employment, attending school or a training program; and, (3) the provider is eligible to be paid.
Explanatory Statement		
There were no substantive public comments received. ECECD is adopting the amendments as originally proposed.		

8.9.10(A-B)		
Current Language	Proposed Language	Final Adopted Language
8.9.3.11 (A-B) NMAC 8.9.3.11 ELIGIBILITY REQUIREMENTS: Clients are eligible for child care assistance benefits upon meeting the requirements for eligibility as determined by the department and federal regulation. A. Child care staff shall initiate communication at the initial determination of their eligibility period to provide outreach and consumer education with a case management approach and	8.9.3.10 (A-B) NMAC [8.9.3.11] 8.9.3.10 ELIGIBILITY REQUIREMENTS: [Clients] Applicants are eligible for child care assistance benefits upon meeting the requirements for eligibility as determined by the department and federal regulation. A. Child care staff shall initiate communication at the initial determination of their eligibility period to provide outreach and consumer education with a case management approach and	8.9.3.10 (A-B) NMAC [8.9.3.11] 8.9.3.10 ELIGIBILITY REQUIREMENTS: [Clients] Applicants are eligible for child care assistance benefits upon meeting the requirements for eligibility as determined by the department and federal regulation. A. Child care staff shall initiate communication at the initial determination of their eligibility period to provide outreach and consumer education with a case management approach and

8.9.10(A-B)

Current Language	Proposed Language	Final Adopted Language
coordination of services to support families. B. Eligibility period: Based upon the client meeting all eligibility requirements, a 12-month certification period shall be granted. (1) Eligibility may be granted for less than 12 months at the parent or legal guardian's request. The parent or legal guardian shall, however, remain eligible for the approved 12-month eligibility period. (2) A client may be determined presumptively eligible for up to 90 days pursuant to 8.9.3.10(D). Once the client has supplied all required documentation, the remainder of the 12-month eligibility will be determined by the department. (3) Eligibility may be granted for up to three months for seeking employment. The eligibility may be closed if the client fails to obtain a qualifying activity within three months. The department has the discretion to extend the job search period. (4) The client shall remain eligible if a temporary change of activity occurs. A child may continue to use services during this temporary change period. (5) If a client experiences a non-temporary change in activity, the child care placement agreement may close; however, the client shall remain eligible for the approved 12-month eligibility period. (6) If an additional eligible child in need of care is added to the household, the household eligibility will extend for an additional 12-months from the month documentation for the new child is provided to the department, in accordance with 8.9.3.10 NMAC.	coordination of services to support families. B. Eligibility period: Based upon [the client] <u>an applicant</u> meeting all eligibility requirements, a [12-month] certification period <u>of not less than 12 months</u> shall be granted, <u>except as otherwise provided in 8.9.3 NMAC.</u> (1) Eligibility may be granted for less than 12 months at the parent or legal guardian's request. The parent or legal guardian shall, however, remain eligible for the approved [12-month] eligibility period. (2) [A client] <u>An applicant</u> may be determined presumptively eligible for up to 90 days pursuant to [8.9.3.10(D)] <u>Subsection D of 8.9.3.9 NMAC.</u> Once the [client] <u>applicant</u> has supplied all required documentation, the remainder of the [12-month] eligibility will be determined by the department. (3) Eligibility may be granted for up to [three months] <u>90 days</u> for <u>applicants</u> seeking employment. The eligibility may be closed if the [client] <u>applicant</u> fails to obtain a qualifying activity within [three months] <u>90 days</u>. [The department has the discretion to extend the job search period.] (4) The [client] <u>applicant</u> shall remain eligible if a temporary change of activity occurs. A child may continue to use services during this temporary change period. (5) If a [client] <u>applicant</u> experiences a non-temporary change in activity, the child care placement agreement may close; however, the [client] <u>applicant</u> shall remain eligible for the approved [12-month] eligibility period. (6) If an additional eligible child in need of care is added to the household, the household eligibility	coordination of services to support families. B. Eligibility period: Based upon [the client] <u>an applicant</u> meeting all eligibility requirements, a [12-month] certification period <u>of not less than 12 months</u> shall be granted, <u>except as otherwise provided in 8.9.3 NMAC.</u> (1) Eligibility may be granted for less than 12 months at the parent or legal guardian's request. The parent or legal guardian shall, however, remain eligible for the approved [12-month] eligibility period. (2) [A client] <u>An applicant</u> may be determined presumptively eligible for up to 90 days pursuant to [8.9.3.10(D)] <u>Subsection D of 8.9.3.9 NMAC.</u> Once the [client] <u>applicant</u> has supplied all required documentation, the remainder of the [12-month] eligibility will be determined by the department. (3) Eligibility may be granted for up to [three months] <u>90 days</u> for <u>applicants</u> seeking employment. The eligibility may be closed if the [client] <u>applicant</u> fails to obtain a qualifying activity within [three months] <u>90 days</u>. [The department has the discretion to extend the job search period.] (4) The [client] <u>applicant</u> shall remain eligible if a temporary change of activity occurs. A child may continue to use services during this temporary change period. (5) If a [client] <u>applicant</u> experiences a non-temporary change in activity, the child care placement agreement may close; however, the [client] <u>applicant</u> shall remain eligible for the approved [12-month] eligibility period. (6) If an additional eligible child in need of care is added to the household, the household eligibility

8.9.10(A-B)		
Current Language	Proposed Language	Final Adopted Language
	will extend for an additional [12-months] eligibility period from the month [documentation] the application for the new child is [provided to the department] submitted to the department, in accordance with [8.9.3.10] 8.9.3.9 NMAC.	will extend for an additional [12-months] eligibility period from the month [documentation] the application for the new child is [provided to the department] submitted to the department, in accordance with [8.9.3.10] 8.9.3.9 NMAC.
Explanatory Statement		
Public Comment Summary: Public comment recommended that the department retain the discretion to extend the job-search eligibility period beyond 90 days to support clients who are seeking employment. Department Response: The proposed language maintains ECECD's discretion to extend the job search eligibility period. ECECD is adopting the amendments as originally proposed.		

8.9.3.10(C)		
Current Language	Proposed Language	Final Adopted Language
8.9.3.11(C) NMAC C. Income eligibility determination: (1) The household: The household includes biological parents, stepparents, 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. 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. Periods of absences: A household member may be absent from the home and will be considered as living in the home and be counted in the household composition as long as the absent household member plans to return to the home. Any parent or legal guardian who remains in the home must be working, attending school, or participating in a job training or educational program. Temporary absence may include, but are not limited to,	8.9.3.10(C) NMAC C. Income eligibility determination: (1) The household: The household includes biological parents, stepparents, 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. 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. Periods of absences: A household member may be <u>temporarily</u> absent from the home and [with] <u>shall</u> be considered as living in the home and be counted in the household composition as long as the absent household member plans to return to the home. Any parent or legal guardian who remains in the home must be [working, attending school, or participating in a job training or educational program] engaged in a qualifying activity or	8.9.3.10(C) NMAC C. Income eligibility determination: (1) The household: The household includes biological parents, stepparents, 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. 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. Periods of absences: A household member may be <u>temporarily</u> absent from the home and [with] <u>shall</u> be considered as living in the home and be counted in the household composition as long as the absent household member plans to return to the home. Any parent or legal guardian who remains in the home must be [working, attending school, or participating in a job training or educational program] engaged in a qualifying activity or

8.9.3.10(C)

Current Language	Proposed Language	Final Adopted Language
attending school, working, training, medical or other health related treatment, or military service. (2) Legal guardians who are not the parents of the child(ren) for whom child care assistance is sought, are required to qualify for child care assistance as per Paragraph (3) below, and, upon qualification, have the required copayment waived. (3) Household income: The household's gross monthly or annual average countable earned and unearned income, taking into account any fluctuation(s) of earnings, and shall always be calculated in favor of eligibility as paragraphs (7) and (8) of Subsection C of 8.9.3.11 NMAC. Household income does not include any earned and unearned income received by grandparents who are not legal guardians, and any legal dependents of the biological parents, stepparents, or legal guardians of the child(ren) for whom child care assistance is sought, living in the household. (4) Family assets: Family assets: Family assets exceeding one million dollars must be reported. (5) Countable earned and unearned income: The following sources of income are counted when computing a family's eligibility for assistance and for determining the copayment (if applicable): income from employment by working for others or from self-employment; alimony payments; veterans administration (VA) payments except VA payments that are specifically	<u>have a qualifying status pursuant to Subsection H of 8.9.3.10 NMAC.</u> Temporary [absence may] <u>absences</u> include, but are not limited to, attending school, working, training, medical or other health related treatment, or military service. (2) Legal guardians who are not the parents of [the child(ren)] <u>any children</u> for whom child care assistance is sought, are required to qualify for child care assistance [as per] <u>in accordance</u> Paragraph (3) of this subsection below, and, upon qualification, have the required copayment waived. (3) Household income: The household's gross monthly or annual average countable earned and unearned income, taking into account any fluctuation(s) of earnings, [and] shall [always] be calculated in favor of eligibility [as paragraphs (7) and] <u>in accordance with paragraphs (5) through (8)</u> of Subsection C of [8.9.3.11] <u>8.9.3.10</u> NMAC. Household income does not include any earned and unearned income received by grandparents who are not legal guardians, and any legal dependents of the biological parents, stepparents, or legal guardians of [the child(ren)] <u>any children</u> for whom child care assistance is sought, living in the household. (4) Family assets: [Family assets:] Family assets exceeding one million dollars must be reported. (5) Countable earned and unearned income: The following sources of income are counted when computing a family's eligibility for assistance and for determining the copayment (if applicable): income from employment by working for others or from self-employment; alimony payments; veterans administration (VA) payments except VA payments that are specifically	2016 APR 27 PM 5:00 <u>have a qualifying status pursuant to Subsection H of 8.9.3.10 NMAC.</u> Temporary [absence may] <u>absences</u> include, but are not limited to, attending school, working, training, medical or other health-related treatment, or military service. (2) Legal guardians who are not the parents of [the child(ren)] <u>any children</u> for whom child care assistance is sought, are required to qualify for child care assistance [as per] <u>in accordance with</u> Paragraph (3) of this subsection below, and, upon qualification, have the required copayment waived. (3) Household income: The household's gross monthly or annual average countable earned and unearned income, taking into account any fluctuation(s) of earnings, [and] shall [always] be calculated in favor of eligibility [as paragraphs (7) and] <u>in accordance with paragraphs (5) through (8)</u> of Subsection C of [8.9.3.11] <u>8.9.3.10</u> NMAC. Household income does not include any earned and unearned income received by grandparents who are not legal guardians, and any legal dependents of the biological parents, stepparents, or legal guardians of [the child(ren)] <u>any children</u> for whom child care assistance is sought, living in the household. (4) Family assets: [Family assets:] Family assets exceeding one million dollars must be reported. (5) Countable earned and unearned income: The following sources of income are counted when computing a family's eligibility for assistance and for determining the copayment (if applicable): income from employment by working for others or from self-employment; alimony payments; veterans administration (VA) payments except VA payments that are specifically

8.9.3.10(C)		
Current Language	Proposed Language	Final Adopted Language
exempted in Paragraph (6) of Subsection C of 8.9.3.11 NMAC; overtime shall be counted at ECECD's discretion if ECECD determines that the applicant is paid overtime on a regular basis. (6) Exempt income: The types of income not counted when computing eligibility or copayments include but are not limited to: earnings of household dependents; 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 food and housing allowances; an increase in military salary or allowances due to "temporary national emergency status beginning September 11, 2001"; third party payments; energy assistance benefits; foster care payments; adoption subsidies; loans; child or adult nutrition programs; income tax refunds; payments for educational purposes including graduate and other educational stipends; compensation under the Domestic Volunteer Services Act and the volunteers in service to America (VISTA) program or AmeriCorps; Work Investment Act (WIA) payments made to dependent children; relocation payments; department of vocational rehabilitation (DVR) training payments; in-kind gifts; cash gifts; employer reimbursements; overtime, unless ECECD determines that the applicant is paid overtime on a regular basis; payments from special funds such as the agent orange	exempted in Paragraph (6) of Subsection C of [8.9.3.11] <u>8.9.3.10</u> NMAC; workman's compensation; railroad retirement benefits; pensions; royalties; income from rental property; social security benefits except social security payments that are specifically exempted in Paragraph (6) of Subsection C of [8.9.3.11] <u>8.9.3.10</u> NMAC; overtime shall be counted at ECECD's discretion if ECECD determines that the applicant is paid overtime on a regular basis. (6) Exempt income: The types of income not counted when computing eligibility or copayments include but are not limited to: earnings of household dependents; 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 food and housing allowances; an increase in military salary or allowances due to "temporary national emergency status beginning September 11, 2001"; third party payments; energy assistance benefits; foster care payments; adoption subsidies; loans; child or adult nutrition programs; income tax refunds; payments for educational purposes including graduate and other educational stipends; compensation under the Domestic Volunteer Services Act and the volunteers in service to America (VISTA) program or AmeriCorps; Work Investment Act (WIA) payments made to dependent children; relocation payments;	exempted in Paragraph (6) of Subsection C of [8.9.3.11] <u>8.9.3.10</u> NMAC; workman's compensation; railroad retirement benefits; pensions; royalties; income from rental property; social security benefits except social security payments that are specifically exempted in Paragraph (6) of Subsection C of [8.9.3.11] <u>8.9.3.10</u> NMAC; overtime shall be counted at ECECD's discretion if ECECD determines that the applicant is paid overtime on a regular basis. (6) Exempt income: The types of income not counted when computing eligibility or copayments include but are not limited to: earnings of household dependents; 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 food and housing allowances; an increase in military salary or allowances due to "temporary national emergency status beginning September 11, 2001"; third-party payments; energy assistance benefits; foster care payments; adoption subsidies; loans; child or adult nutrition programs; income tax refunds; payments for educational purposes including graduate and other educational stipends; compensation under the Domestic Volunteer Services Act and the volunteers in service to America (VISTA) program or AmeriCorps; Work Investment Act (WIA) payments made to dependent children; relocation payments;

8.9.3.10(C)

Current Language	Proposed Language	Final Adopted Language
settlement fund or radiation exposure compensation settlement fund; lump sum payments such as those resulting from insurance settlements and court judgments; Tribal per capita payments; or other resources such as savings, individual retirement accounts (IRAs), vehicles, certificates of deposits (CDs) or checking accounts. In the case of an emergency, or under extenuating circumstances, the department secretary may disregard certain temporary income, such as federal stimulus payments or hazard pay. (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 documentation of income for 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. 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 shall be evaluated by the child care assistance supervisor, at which point services may be reduced or discontinued. (8) Calculating income: (a) Current income provided to determine eligibility shall be used as an indicator of the income that is and shall be available to the household during the certification period. Fluctuation(s) of earnings may be taken into account as specified in Paragraph (3) of Subsection C of 8.9.3.11 NMAC. (b) Conversion factors: When income is received on a weekly, biweekly, or semimonthly basis, the	department of vocational rehabilitation (DVR) training payments; in-kind gifts; cash gifts; employer reimbursements; overtime, unless ECECD determines that the applicant is paid overtime on a regular basis; payments from special funds such as the agent orange settlement fund or radiation exposure compensation settlement fund; lump sum payments such as those resulting from insurance settlements and court judgments; Tribal per capita payments; or other resources such as savings, individual retirement accounts (IRAs), vehicles, certificates of deposits (CDs) or checking accounts. In the case of an emergency, or under extenuating circumstances, the department secretary may disregard certain temporary income, such as federal stimulus payments or hazard pay. (7) Verification of household countable earned and unearned income: [Clients] <u>Applicants</u> applying for child care assistance [benefits] are required to verify household countable earned and unearned income by providing current documentation of income for biological parents, stepparents, and legal guardians of [the child(ren)] <u>any children</u> for whom child care assistance is sought, living in the household[, who receive] <u>and, receiving</u> such income. 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 shall be evaluated by the child care assistance supervisor, at which point services may be reduced or discontinued. (8) Calculating income: (a) Current income provided to determine eligibility shall be used as	department of vocational rehabilitation (DVR) training payments; in-kind gifts; cash gifts; employer reimbursements; overtime, unless ECECD determines that the applicant is paid overtime on a regular basis; payments from special funds such as the agent orange settlement fund or radiation exposure compensation settlement fund; lump sum payments such as those resulting from insurance settlements and court judgments; Tribal per capita payments; or other resources such as savings, individual retirement accounts (IRAs), vehicles, certificates of deposits (CDs) or checking accounts. In the case of an emergency, or under extenuating circumstances, the department secretary may disregard certain temporary income, such as federal stimulus payments or hazard pay. (7) Verification of household countable earned and unearned income: [Clients] <u>Applicants</u> applying for child care assistance [benefits] are required to verify household countable earned and unearned income by providing current documentation of income for biological parents, stepparents, and legal guardians of [the child(ren)] <u>any children</u> for whom child care assistance is sought, living in the household[, who receive] <u>and, receiving</u> such income. A self-employed individual who does not show a profit that is equal to federal minimum wage [times] <u>multiplied by</u> the amount of hours needed per week within 24 months from the start date of receiving child care assistance shall be evaluated by the child care assistance supervisor, at which point services may be reduced or discontinued. (8) Calculating income: (a) Current income provided to determine eligibility shall be used as

8.9.3.10(C)

Current Language	Proposed Language	Final Adopted Language
income shall be converted to monthly amount as follows: (i) Income received on a weekly basis is averaged and multiplied by four and three-tenths. Weekly income is defined as income received once per week. (ii) Income received on a biweekly basis is averaged and multiplied by two and fifteen one-hundredths. Biweekly income is defined as income received once every two weeks. Income is received on the same day of the week each pay period, therefore receiving 26 payments per year. (iii) Income received on a semimonthly basis is averaged and multiplied by two. Semimonthly income is defined as income received twice per month every month of the year. Income is received on specific dates of the month, therefore receiving 24 payments per year. (iv) Income received on a monthly basis is averaged and multiplied by one. Monthly income is defined as income received once per month.	an indicator of the income that is and shall be available to the household during the certification period. Fluctuation(s) of earnings may be taken into account as specified in Paragraph (3) of Subsection C of [8.9.3.11] 8.9.3.10 NMAC. (b) Conversion factors: When income is received on a weekly, biweekly, or semimonthly basis, the income shall be converted to monthly amount as follows: (i) Income received on a weekly basis is averaged and multiplied by four and three-tenths. Weekly income is defined as income received once per week. (ii) Income received on a biweekly basis is averaged and multiplied by two and fifteen one-hundredths. Biweekly income is defined as income received once every two weeks. Income is received on the same day of the week each pay period, therefore receiving 26 payments per year. (iii) Income received on a semimonthly basis is averaged and multiplied by two. Semimonthly income is defined as income received twice per month every month of the year. Income is received on specific dates of the month, therefore receiving 24 payments per year. (iv) Income received on a monthly basis is averaged and multiplied by one. Monthly income is defined as income received once per month.	an indicator of the income that is and shall be available to the household during the certification period. Fluctuation(s) of earnings may be taken into account as specified in Paragraph (3) of Subsection C of [8.9.3.11] 8.9.3.10 NMAC. (b) Conversion factors: When income is received on a weekly, biweekly, or semimonthly basis, the income shall be converted to monthly amount as follows: (i) Income received on a weekly basis is averaged and multiplied by four and three-tenths. Weekly income is defined as income received once per week. (ii) Income received on a biweekly basis is averaged and multiplied by two and fifteen one-hundredths. Biweekly income is defined as income received once every two weeks. Income is received on the same day of the week each pay period, therefore receiving 26 payments per year. (iii) Income received on a semimonthly basis is averaged and multiplied by two. Semimonthly income is defined as income received twice per month every month of the year. Income is received on specific dates of the month, therefore receiving 24 payments per year. (iv) Income received on a monthly basis is averaged and multiplied by one. Monthly income is defined as income received once per month.

Explanatory Statement

There were no substantive public comments received. ECECD is adopting the amendments as originally proposed.

8.9.3.10 (D)

Current Language	Proposed Language	Final Adopted Language
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8.9.3.11(D) NMAC D. Residency requirement: An applicant of child care assistance and a child care provider must be a resident of the state of New Mexico. Proof of residency is required.	8.9.3.10(D) NMAC D. Residency requirement: [An applicant of] Both a child for whom child care assistance is being applied and a child care provider must be a resident of the state of New Mexico. Proof of residency is required.	8.9.3.10(D) NMAC WITH STATE BILL 2023-0112 D. Residency requirement: [An applicant of] Both a child for whom child care assistance is being applied and a child care provider must be a resident of the state of New Mexico. Proof of residency is required.
Explanatory Statement		
There were no substantive public comments received. ECECD is adopting the amendments as originally proposed.		

8.9.3.10 (E)		
Current Language	Proposed Language	Final Adopted Language
8.9.3.11(E) NMAC E. Citizenship and eligible immigration status: A families eligibility for financial assistance shall not be impacted by the citizenship status of the participating child(ren). If a participating child does not have a federally eligible citizenship status the financial assistance will be paid for with state funds.	8.9.3.10(E) NMAC E. Citizenship and eligible immigration status: [A families] <u>An applicant's</u> eligibility for [financial] <u>child care</u> assistance shall not be impacted by the citizenship status of the participating child(ren). If a participating child does not have a federally eligible citizenship status the financial assistance will be paid for with state funds.	8.9.3.10(E) NMAC E. Citizenship and eligible immigration status: [A families] <u>An applicant's</u> eligibility for [financial] <u>child care</u> assistance shall not be impacted by the citizenship status of the participating child(ren). If a participating child does not have a federally eligible citizenship status the financial assistance will be paid for with state funds.
Explanatory Statement		
Public Comment Summary: Public comment expressed concern that the provision to allow state-funded child care assistance for children without federally eligible citizenship status exceeds the department's authority granted by statute and represents an improper expansion of executive authority. Commenters stated that only the Legislature may authorize spending state funds for individuals without lawful immigration status and argued that the proposal could improperly direct taxpayer dollars to non-citizens.		
Department Response: Per the Child Care Assistance Program Act, NMSA 1978 Section 32A-32-3(B) a child receiving child care services from ECECD must only be a resident of New Mexico. The definition of resident in the Child Care Assistance Program Act enacted by Senate Bill 241 (2026) specifically excludes a determination of citizenship status. Section 32A-32-3(F) specifies that for federal eligibility only (i.e. to receive federally funded child care assistance), the applicant must meet federal residency requirements, which would include an evaluation of the child's immigrant status. The Child Care Assistance Program Act is clear in its exclusion of immigrant status for eligibility of state-funded child care assistance and ECECD cannot restrict eligibility to deny statutorily eligible residents this public benefit. ECECD is adopting the amendments as originally proposed.		

8.9.3.10(F)		
Current Language	Proposed Language	Final Adopted Language

8.9.3.11(F) NMAC F. Age requirement: Child care benefits are paid for children between the ages of six weeks up to the day in which the child turns 13 years old. Eligibility determinations made prior to a child turning 13 years old may be granted a 12-month eligibility period or a lesser period of time as determined by the department for at-risk child care.	8.9.3.10(F) NMAC F. Age requirement: Child care [benefits are paid] <u>assistance is provided</u> for children [between] <u>from</u> the ages of six weeks up to the day [in] <u>on</u> which the child turns 13 years old, <u>except as provided in Subsection G of this section.</u> Eligibility determinations made prior to a child turning 13 years old may be granted [a 12-month] <u>for an</u> eligibility period [or a lesser period of time as determined by the department for at-risk child care] <u>of at least 12 months.</u> <u>Child care benefits are paid for children between the ages of six and 12 years old who are eligible for federal child care assistance and for up to 13,000 children between the ages of six and 12 years old who are not federally eligible.</u>	8.9.3.10(F) NMAC F. Age requirement: Child care [benefits are paid] <u>assistance is provided</u> for children [between] <u>from</u> the ages of six weeks up to the day [in] <u>on</u> which the child turns 13 years old, <u>except as provided in Subsection G of this section.</u> Eligibility determinations made prior to a child turning 13 years old may be granted [a 12-month] <u>for an</u> eligibility period [or a lesser period of time as determined by the department for at-risk child care] <u>of at least 12 months.</u> <u>Child care benefits are paid for children between the ages of six and 12 years old who are eligible for federal child care assistance and for up to 13,000 children between the ages of six and 12 years old who are not federally eligible.</u>
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Explanatory Statement

Public Comment Summary:

Public comment requested additional clarification regarding how ECECD will implement the proposed cap of 13,000 non-federally eligible school age children.

Department Response:

ECECD will continuously monitor the number of non-federally eligible school-aged children enrolled in the child care assistance program and will provide reasonable notice to families and providers before any cap or waitlist is implemented. In the case ECECD reaches 13,000 enrolled non-federally eligible school-aged children, ECECD will implement the waitlist procedure pursuant to 8.9.3.13 NMAC. ECECD is adopting the amendments as originally proposed.

8.9.3.10 (G)	8.9.3.10 (G)	8.9.3.10 (G)
Current Language	Proposed Language	Final Adopted Language
8.9.3.11(G) NMAC G. Special supervision: Children between the ages of 13 and 19 who are under the supervision of a court of law, or who are determined by a medical or treatment professional to require supervision.	8.9.3.10(G) NMAC G. Special supervision: <u>Child care assistance is provided for C]</u> children between the ages of 13 and 19 who are under the supervision of a court of law, or who are determined by a medical or treatment professional <u>to be physically or mentally incapable of caring for themselves and who</u> require supervision.	8.9.3.10(G) NMAC G. Special supervision: <u>Child care assistance is provided for</u> children [Children] between the ages of 13 and 19 who are under the supervision of a court of law, or who are determined by a medical or treatment professional <u>to be physically or mentally incapable of caring for themselves and who</u> require supervision.

8.9.3.10 (G)

Current Language	Proposed Language	Final Adopted Language
Explanatory Statement		
There were no substantive public comments received. ECECD is adopting the amendments as originally proposed.		

8.9.3.10 (H)

Current Language	Proposed Language	Final Adopted Language
8.9.3.11(H)(1-3) NMAC H. Work/education requirement: (1) Child care benefits are paid only for families who are working, attending school or participating in a job training or educational program. (2) Clients who are receiving TANF are required to submit verification of the TANF approved activity unless they are exempt by TANF. (3) Parents or guardians may be exempted from this requirement upon submission of a demonstration of incapacitation.	8.9.3.10(H)(1-11) NMAC [H. Work/education requirement: (1) Child care benefits are paid only for families who are working, attending school or participating in a job training or educational program. (2) Clients who are receiving TANF are required to submit verification of the TANF approved activity unless they are exempt by TANF. (3) Parents or guardians may be exempted from this requirement upon submission of a demonstration of incapacitation.] H. Qualifying Activity or Status: To be eligible to participate in the Child Care Assistance Program, each parent or legal guardian of a child who lives in the household with the child shall be: (1) <u>employed;</u> (2) <u>a full-time student and enrolled in at least 12 credit hours at an accredited educational institution;</u> (3) <u>a part-time student and enrolled in at least six credit hours at an accredited educational institution;</u> (4) <u>enrolled in a state-approved job training program, registered apprenticeship program, or pre-apprenticeship program;</u> (5) <u>receiving aid from the federal Temporary Assistance for Needy Families program;</u> (6) <u>experiencing homelessness;</u> (7) <u>under the age of 21 and attending primary or secondary</u>	8.9.3.10(H)(1-11) NMAC [H. Work/education requirement: (1) Child care benefits are paid only for families who are working, attending school or participating in a job training or educational program. (2) Clients who are receiving TANF are required to submit verification of the TANF approved activity unless they are exempt by TANF. (3) Parents or guardians may be exempted from this requirement upon submission of a demonstration of incapacitation.] H. Qualifying Activity or Status: To be eligible to participate in the Child Care Assistance Program, each parent or legal guardian of a child who lives in the household with the child shall be: (1) <u>employed;</u> (2) <u>a full-time student and enrolled in at least 12 credit hours at an accredited educational institution;</u> (3) <u>a part-time student and enrolled in at least six credit hours at an accredited educational institution;</u> (4) <u>enrolled in a state-approved job training program, registered apprenticeship program, or pre-apprenticeship program;</u> (5) <u>receiving aid from the federal Temporary Assistance for Needy Families program;</u> (6) <u>experiencing homelessness;</u> (7) <u>under the age of 21 and attending primary or secondary</u>

8.9.3.10 (H)			STATE FILED WITH
Current Language	Proposed Language	Final Adopted Language	
	school; (8) <u>participating in services pursuant to the federal Comprehensive Addiction and Recovery Act of 2016 provided by the children, youth and families department;</u> (9) <u>a grandparent raising the grandparent's grandchild;</u> (10) <u>a foster parent; or</u> (11) <u>engaged in an eligible activity or exempted from the eligible activity for a reason, including incapacitation, as determined by the department and in accordance with federal law.</u>	school (8) <u>participating in services pursuant to the federal Comprehensive Addiction and Recovery Act of 2016 provided by the children, youth and families department;</u> (9) <u>a grandparent raising the grandparent's grandchild;</u> (10) <u>a foster parent; or</u> (11) <u>engaged in an eligible activity or exempted from the eligible activity for a reason, including incapacitation, as determined by the department and in accordance with federal law.</u>	2026 AUG 27 PM 5:01
Explanatory Statement			
Public Comment Summary: Public comment expressed concern that credit hour requirements for part-time students may restrict some parents from qualifying for child care assistance. Department Response: The language in the proposed rule is taken directly from the Child Care Assistance Act., NMSA 1978 Section 32A-32-4(C)(3). The Act requires part-time students to be "enrolled in at least six credit hours at an accredited educational institution." ECECD is adopting the amendments as originally proposed.			

8.9.3.10 (I)		
Current Language	Proposed Language	Final Adopted Language
8.9.3.11(I)(1-5) NMAC I. Determining Child Care Placement Type: (1) The department determines the child care placement type needed in consultation with the parent or legal guardian at the time of certification and needs of the child. The approved placement type will be reflected in the child care placement agreement covering the certification period. (2) Children enrolled in Head Start, kindergarten, school or other programs: Child care benefits are not paid during the hours that children are	8.9.3.10(I)(1-6) NMAC I. Determining Child Care Placement [Type] Category: (1) The department determines the child care placement [type] category needed in consultation with the parent or legal guardian at the time of certification and <u>based on the</u> needs of the child. The approved placement [type] category will be reflected in the child care placement agreement covering the certification period. (2) Children enrolled in Head Start, kindergarten, school, or other programs: Child care benefits are	8.9.3.10(I)(1-6) NMAC I. Determining Child Care Placement Category: (1) The department determines the child care placement category needed in consultation with the parent or legal guardian at the time of certification and based on the needs of the child. The approved placement category will be reflected in the child care placement agreement covering the certification period. (2) Children enrolled in Head Start, kindergarten, school, or other programs: children are not eligible for child care assistance during the

8.9.3.10 (I)

Current Language	Proposed Language	Final Adopted Language
attending Head Start, kindergarten, New Mexico Pre-K, school or other programs, such as online or home-schooling. Child care benefits are paid during the hours that children are attending a dedicated Early Head Start-Child Care Partnerships Program funded by the U.S. Department of Health and Human Services, Administration for Children and Families, Office of Child Care. (3) The department determines the child care placement type needed based on preferences of the family and individual child, availability of the provider to meet the family's preferences, and the units of service set forth below: <i>[See Table C1 in Appendix]</i> (4) The department, in an attempt to limit burden to families and providers as well as to promote continuous payment throughout a family's certification period used the cost estimation model to calculate wrap-around-care to cover more than the necessary amount of time a parent or guardian working full-time would need for their children if they attended all instructional hours required by the New Mexico Public Education Department, PreK and Head Start curriculum. (5) Monthly base reimbursement payment rates will be paid for the child care placement types as noted in 8.9.3.17(G) NMAC. The department will routinely review and periodically make adjustments to these rates.	not paid children are not eligible for <u>child care assistance</u> during the hours that children are attending Head Start, <u>early Head Start</u>, kindergarten, New Mexico Pre-K, school, or other programs, such as online or home-schooling, <u>unless determined necessary by the department</u>; <u>provided that, children are eligible for child care assistance</u> [Child care benefits are paid] during the hours that children are attending a dedicated Early Head Start-Child Care Partnerships Program funded by the U.S. Department of Health and Human Services, Administration for Children and Families, Office of [Child Care] Head Start. (3) For clients with an annual household income greater than six hundred percent of the federal poverty level, eligibility for child care assistance shall be limited to the hours of care supported by the parent's or legal guardian's qualifying activity schedule. [(3)] (4) The department determines the child care placement [type] category needed based on preferences of the family and individual child, availability of the provider to meet the family's preferences, and the units of service set forth below: <i>[See Table C2 in Appendix]</i> [(4)] (5) The department, in an attempt to limit burden to families and providers as well as to promote continuous payment throughout a family's certification period [used], <u>uses a</u> the cost estimation model to calculate wrap-around-care to cover more than the necessary amount of time a parent or guardian working full-time would need for their children if they attended all instructional hours required by the New Mexico Public Education	hours that children are attending Head Start, early Head Start, kindergarten, New Mexico Pre-K, school, or other programs, such as online or home-schooling, unless determined necessary by the department; provided that children are eligible for child care assistance during the hours that children are attending a dedicated Early Head Start-Child Care Partnerships Program funded by the U.S. Department of Health and Human Services, Administration for Children and Families, Office of Head Start. (3) For clients with an annual household income greater than six hundred percent of the federal poverty level, eligibility for child care assistance shall be limited to the hours of care supported by the parent's or legal guardian's qualifying activity schedule. (4) The department determines the child care placement category needed based on preferences of the family and individual child, availability of the provider to meet the family's preferences, and the units of service set forth below: <i>[See Table C3 in Appendix]</i> (5) The department, in an attempt to limit burden to families and providers, as well as to promote continuous payment throughout a family's certification period, uses a cost estimation model to calculate wrap-around care to cover more than the necessary amount of time a parent or guardian working full-time would need for their children if they attended all instructional hours required by the public education department, PreK, or Head Start curriculum. (6) Monthly base reimbursement payment rates will be paid for the child care placement categories as noted in Subsection G of 8.9.3.19 NMAC. The department will

8.9.3.10 (I)

Current Language	Proposed Language	Final Adopted Language
	Department, PreK and Head Start curriculum. [(5)] (6) Monthly base reimbursement payment rates will be paid for the child care placement [types] categories as noted in [8.9.3.17(G)] Subsection G of <u>8.9.3.19</u> NMAC. The department will routinely review and periodically make adjustments to these rates.	routinely review and periodically make adjustments to these rates.

Explanatory Statement

Public Comment Summary:

Public comment requested clarification on how ECECD intends to implement the requirement to limit eligibility for households over 600% of the Federal Poverty Line (FPL) to the hours of care supported by the parent's qualifying activity schedule. In particular, public comment was concerned with how ECECD will determine hours of care for parents with flexible or irregular schedules.

Department Response:

The requirement to limit eligibility for households over 600% FPL to the hours of care supported by the qualifying activity schedule is consistent with the Child Care Assistance Program Act at NMSA 1978 Section 32A-32-4(G). For parents with flexible or irregular schedules, ECECD staff will work with parents on an individual case-by-case basis to establish needed hours of care supported by an activity. ECECD is adopting the amendment as originally proposed.

Public Comment Summary:

Other public comment expressed concern with current rules for full-time, wrap-around, and part-time placement types, and recommended revisions to increase reimbursement for children receiving part-time care and to facilitate access for families who need multiple providers.

Department Response:

ECECD is declining to revise placement types at this time and is adopting amendments as originally proposed.

8.9.3.11

Current Language	Proposed Language	Final Adopted Language
<u>8.9.3.12</u> NMAC 8.9.3.12 RECERTIFICATION: Clients must recertify for services at the end of their eligibility period by complying with all requirements of initial certification. The department will use the requirements set forth in 8.9.3.9 NMAC to determine eligibility for purposes of recertification. If recertification is not completed in a	<u>8.9.3.11</u> NMAC [8.9.3.12] 8.9.3.11 RECERTIFICATION: Clients must recertify for [services] <u>the Child Care Assistance Program</u> at the end of their eligibility period by complying with all <u>eligibility</u> requirements of initial certification. The department will use the requirements set forth in [8.9.3.9] <u>8.9.3.10</u> NMAC to determine eligibility for purposes of	<u>8.9.3.11</u> NMAC [8.9.3.12] 8.9.3.11 RECERTIFICATION: Clients must recertify for [services] <u>the Child Care Assistance Program</u> at the end of their eligibility period by complying with all <u>eligibility</u> requirements of initial certification. The department will use the requirements set forth in [8.9.3.9] <u>8.9.3.10</u> NMAC to determine eligibility for purposes of

8.9.3.11

Current Language	Proposed Language	Final Adopted Language
timely manner, the case may be closed on the last day of the month for which assistance is provided under the previous child care placement agreement. At time of recertification, clients must provide a completed application and documentation of income, [or] proof of school enrollment and employment. Changes in income, household size, employment, training or educational status are noted in the client's record. Copayment, if applicable, is re-determined at the time of recertification. A 12-month certification period will be granted in accordance with eligibility requirements outlined in Subsection B of 8.9.3.11 NMAC.	recertification. If recertification is not completed in a timely manner, <u>and no later than the month after the eligibility expires</u> , the case may be closed on the last day of the month for which assistance is provided under the previous child care placement agreement. At <u>the</u> time of recertification, clients must provide a completed application, [and] documentation of income, [or] <u>and</u> proof of [school enrollment and employment] <u>qualifying activity or status</u> . Changes in income, household size, employment, training or educational status are noted in the client's record. [Copayment] <u>A copayment</u> , if applicable, is [re-] determined at the time of recertification. A [12-month] <u>client that meets all eligibility requirements for recertification will be granted a certification period</u> [will be granted in accordance with eligibility requirements outlined in Subsection B of 8.9.3.11 NMAC] <u>of not less than 12 months.</u>	recertification. If recertification is not completed in a timely manner, <u>and no later than the month after the eligibility expires</u> , the case may be closed on the last day of the month for which assistance is provided under the previous child care placement agreement. At <u>the</u> time of recertification, clients must provide a completed application, [and] documentation of income, [or] <u>and</u> proof of [school enrollment and employment] <u>qualifying activity or status</u> . Changes in income, household size, employment, training or educational status are noted in the client's record. [Copayment] <u>A copayment</u> , if applicable, is [re-] determined at the time of recertification. A [12-month] <u>client that meets all eligibility requirements for recertification will be granted a certification period</u> [will be granted in accordance with eligibility requirements outlined in Subsection B of 8.9.3.11 NMAC] <u>of not less than 12 months.</u>
Explanatory Statement		
There were no substantive public comments received. ECECD is adopting the amendments as originally proposed.		

8.9.3.12

Current Language	Proposed Language	Final Adopted Language
N/A – New Text	<i>8.9.3.12 (A-E) NMAC</i> <u>8.9.3.12 CONDITIONS FOR COPAYMENT OR WAITLIST: If</u> <u>in a given year any of the following conditions are met, the department will implement a waitlist in accordance with 8.9.3.13 NMAC or monthly copayments in accordance with the Child Care Assistance Program Act and 8.9.3.14 NMAC:</u> <u>A.</u> <u>the number of children receiving child care assistance services exceeds that year's projected</u>	<i>8.9.3.12 (A-E) NMAC</i> <u>8.9.3.12 CONDITIONS FOR COPAYMENT OR WAITLIST: If</u> <u>in a given year any of the following conditions are met, the department will implement a waitlist in accordance with 8.9.3.13 NMAC or monthly copayments in accordance with the Child Care Assistance Program Act and 8.9.3.14 NMAC:</u> <u>A.</u> <u>the number of children receiving child care assistance services exceeds that year's projected</u>

8.9.3.12		FILED WITH STATE REVENUE CENTER
Current Language	Proposed Language	Final Adopted Language
	enrollment by three percent, as determined by the department; B. the state recurring general fund revenue growth percentage is projected to be lower than the percentage change in the annual consumer price index for all urban consumers for the prior calendar year as determined by the consensus revenue estimating group; C. the 12-month average percentage change in the annual consumer price index for all urban consumers exceeds three percent; D. the average price for west Texas intermediate crude oil during the applicable fiscal year is less than fifty dollars (\$50.00) per barrel, as determined by the consensus revenue estimating group; or E. the department identifies a different or additional condition.	enrollment by three percent, as determined by the department; B. the state recurring general fund revenue growth percentage is projected to be lower than the percentage change in the annual consumer price index for all urban consumers for the prior calendar year as determined by the consensus revenue estimating group; C. the 12-month average percentage change in the annual consumer price index for all urban consumers exceeds three percent; D. the average price for west Texas intermediate crude oil during the applicable fiscal year is less than fifty dollars (\$50.00) per barrel, as determined by the consensus revenue estimating group; or E. the department identifies a different or additional condition.
Explanatory Statement		
Public Comment Summary: Public comment expressed concern that the proposed rules needed additional guardrails against sudden implementation to protect families from financial hardship. Department Response: The Child Care Assistance Program Act establishes the conditions for the implementation of copayments or waitlists at NMSA 1978 Section 32A-32-4 (C). At this time, copayments are waived for all families and ECECD is not currently maintaining a waitlist for child care assistance. ECECD will continuously monitor these statutory conditions and will provide clear advance notice and guidance to families before either a waitlist or copayments are implemented. In addition, under the law at NMSA 1978 Section 32A-32-4(A), ECECD is required to provide 90-days' notice to families before the implementation of a copayment. Additional procedures to manage the implementation of copayments if any of these triggering conditions are met, including details on how copayment amounts are determined, are addressed in 8.9.3.14 NMAC. ECECD is adopting the amendments as originally proposed.		

8.9.3.13		
Current Language	Proposed Language	Final Adopted Language
N/A – New Text	<i>8.9.3.13 (A-E) NMAC</i> 8.9.3.13 WAITLIST: If a waitlist is implemented in accordance with the conditions under 8.9.3.12 NMAC, the department prioritizes child care assistance benefits in the following order:	<i>8.9.3.13 (A-E) NMAC</i> 8.9.3.13 WAITLIST: If a waitlist is implemented in accordance with the conditions under 8.9.3.12 NMAC, the department prioritizes child care assistance benefits in the following order:

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8.9.3.13

Current Language	Proposed Language	Final Adopted Language
	<u>A. clients receiving TANF benefits will continue to be eligible to receive benefits and will not be subject to the waitlist;</u> <u>B. clients whose income is not greater than one hundred fifty percent of the federal poverty level, adjusted annually in accordance with federal guidelines will continue to be eligible to receive benefits and will not be subject to a waitlist</u> <u>C. children disabilities or who are at-risk, including children with special needs;</u> <u>D. clients with children birth to age three whose income is not greater than four hundred percent of the federal poverty level, adjusted annually in accordance with federal guidelines; and,</u> <u>E. clients whose income is not greater than four hundred percent, five hundred percent, six hundred percent, nine hundred percent, respectively of the federal poverty level, adjusted annually in accordance with federal guidelines.</u>	<u>A. clients receiving TANF benefits will continue to be eligible to receive benefits and will not be subject to the waitlist;</u> <u>B. clients whose income is not greater than one hundred fifty percent of the federal poverty level, adjusted annually in accordance with federal guidelines will continue to be eligible to receive benefits and will not be subject to a waitlist</u> <u>C. children with disabilities or who are at-risk, including children with special needs;</u> <u>D. clients with children birth to age three whose income is not greater than four hundred percent of the federal poverty level, adjusted annually in accordance with federal guidelines; and,</u> <u>E. clients whose income is not greater than four hundred percent, five hundred percent, six hundred percent, or nine hundred percent, respectively of the federal poverty level, adjusted annually in accordance with federal guidelines.</u>
Explanatory Statement There were no substantive public comments received. ECECD is adopting the amendments as originally proposed.		

8.9.3.14

Current Language	Proposed Language	Final Adopted Language
N/A – New Section. Original Copayment text appeared at 8.9.3.13 NMAC in the original language.	<i>8.9.3.14(A-E) NMAC</i> <u>8.9.3.14 COPAYMENTS:</u> <u>A. Copayments, if required in accordance with 8.9.3.12 NMAC, are paid by clients in families making over 600% of the federal poverty level or by the department using state funds when the department determines that it has sufficient state funds to cover copayments for families making over 600% of the</u>	<i>8.9.3.14(A-E) NMAC</i> 8.9.3.14 COPAYMENTS: <u>A. Copayments, if required in accordance with 8.9.3.12 NMAC, are paid by clients in families making over six hundred percent of the federal poverty level or by the department using state funds when the department determines that it has sufficient state funds to cover copayments for families making over six hundred percent of the federal</u>

Current Language	Proposed Language	Final Adopted Language
	<u>federal poverty level. The department pays copayments for all families making 600% or less of the federal poverty level. Copayments are determined by income, household size, and the federal poverty guidelines. The copayment schedule is published yearly at https://www.nmececd.org/child-care-assistance/. In the case of an emergency, or under extenuating circumstances, the department secretary may waive copayments for families receiving child care, during which period, the department will pay providers the client's approved rate, including required copayments. 90 days notice will be given to providers and families prior to implementation of a copayment.</u> <u>B. Copayments are used for determining the base copayment for the first eligible child. The formula for determining the copayment amount based on the copayment schedule is the sum of the gross monthly household income multiplied by the applicable percent of the federal poverty level percentage (FPL) for family size (see Subsection D of this section). The base copayments for a client's second child is determined at one half of the copayment for the previous child. If there are more than two children in the household accessing child care assistance, the copayment will be waived for any additional children.</u> <u>(1) The first child is identified as the child requiring the highest number of hours of child care.</u> <u>(2) The second child is identified as the child with the second highest number of hours needed for child care.</u> <u>C. Each child's copayment will be adjusted based on the units of</u>	<u>poverty level. The department pays copayments for all families making six hundred percent or less of the federal poverty level. Copayments are determined by income, household size, and the federal poverty guidelines. The copayment schedule is published yearly at https://www.nmececd.org/child-care-assistance/. In the case of an emergency, or under extenuating circumstances, the department secretary may waive copayments for families receiving child care, during which period, the department will pay providers the client's approved rate, including required copayments. 90 days' notice will be given to providers and families prior to implementation of a copayment.</u> B. Copayments are used for determining the base copayment for the first eligible child. The formula for determining the copayment amount based on the copayment schedule is the sum of the gross monthly household income multiplied by the applicable percent of the federal poverty level percentage (FPL) for family size (see Subsection D of this section). The base copayments for a client's second child are determined at one half of the copayment for the previous child. If there are more than two children in the household accessing child care assistance, the copayment will be waived for any additional children. (1) The first child is identified as the child requiring the highest number of hours of child care. (2) The second child is identified as the child with the second highest number of hours needed for child care. C. Each child's copayment will be adjusted based on the units of services described in Subsection E of 8.9.3.17 NMAC, as follows:

8.9.3.14

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Current Language	Proposed Language	Final Adopted Language
	services described in Subsection E of 8.9.3.17 NMAC, as follows: (1) full time care will be based on one hundred percent of the base copayment; (2) Wrap around care will be based on seventy-five percent of the base copayment; and (3) part time care will be based on fifty percent of the base copayment; D. Below is the chart with the formula used to determine child care copayments as published yearly at https://www.nmececd.org/child-care-assistance/. When implemented, the department will use a sliding scale payment schedule to ensure that the department has sufficient funds to meet the costs of the Child Care Assistance Program and that a monthly copayment does not exceed the following percentages of a client's gross monthly household income: <i>[See Table D1 in Appendix]</i> <u>*Not to exceed twenty-five percent of the average rate paid for the applicable age group to the child care facility.</u> <u>**Not to exceed fifty percent of the average rate paid for the applicable age group to the child care facility.</u> E. Clients pay copayments directly to their child care provider and must remain current in their payments. A client who does not pay copayments may be subject to sanctions. Copayment cost-sharing will be deducted from payment rates as determined in 8.9.3.19 NMAC.	(1) Full time care will be based on one hundred percent of the base copayment. (2) Wrap-around care will be based on seventy-five percent of the base copayment. (3) Part time care will be based on fifty percent of the base copayment. D. Below is the chart with the formula used to determine child care copayments as published yearly at https://www.nmececd.org/child-care-assistance/. Effective March 1, 2027, when implemented in accordance with 8.9.3.12 NMAC, the department will use a sliding scale payment schedule to ensure that the department has sufficient funds to meet the costs of the Child Care Assistance Program and that a monthly copayment does not exceed the following percentages of a client's gross monthly household income: <i>[See Table D2 in Appendix]</i> *Not to exceed twenty-five percent of the average rate paid for the applicable age group to the child care facility. **Not to exceed fifty percent of the average rate paid for the applicable age group to the child care facility. E. Clients pay copayments directly to their child care provider and must remain current in their payments. A client who does not pay copayments may be subject to sanctions. Copayment cost-sharing will be deducted from payment rates as determined in 8.9.3.19 NMAC.

Explanatory Statement**Public Comment Summary:**

Public comment suggested technical corrections to the copayment table and adjustments to implementation dates to ensure system readiness.

8.9.3.14		
Current Language	Proposed Language	Final Adopted Language
Department Response: ECECD will modify the proposed language to incorporate the technical corrections and adjust implementation dates as requested to align the copayment system with IT capabilities. Public Comment Summary: Public comment expressed concern about the copayment structure and calculations and requested additional supporting analysis for the copayment structure. Department Response: Unless certain economic conditions are triggered as described in 8.9.3.12, families receive child care assistance with no copayment cost assessed. In the case that conditions in the state for copayments are met, the Child Care Assistance Program Act establishes the copayment structure and tiers at NMSA 1978 Section 32A-32-4. The proposed copayment structure is consistent with the Act. ECECD is adopting the amendments as originally proposed.		

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8.9.3.15		
Current Language	Proposed Language	Final Adopted Language
8.9.3.15 NMAC 8.9.3.13 CLIENT RESPONSIBILITIES: Clients must abide by the regulations set forth by the department and utilize child care assistance benefits only while they are working, seeking employment, attending school or participating in a training or educational program.	8.9.3.15 NMAC [8.9.3.13] 8.9.3.15 CLIENT RESPONSIBILITIES: Clients must abide by the regulations set forth by the department and utilize child care assistance benefits only [while they are working, seeking employment, attending school or participating in a training or educational program] <u>during the eligibility period for which they have been certified. Clients who violate any of the regulations of this section may be subject to sanctions, including case closure or case suspension.</u>	8.9.3.15 NMAC [8.9.3.13] 8.9.3.15 CLIENT RESPONSIBILITIES: Clients must abide by the regulations set forth by the department and utilize child care assistance benefits only [while they are working, seeking employment, attending school or participating in a training or educational program] <u>during the eligibility period for which they have been certified. Clients who violate any of the regulations of this section may be subject to sanctions, including case closure or case suspension.</u>
Explanatory Statement		
There were no substantive public comments received. ECECD is adopting the amendments as originally proposed.		

8.9.3.15 (A)		
Current Language	Proposed Language	Final Adopted Language
8.9.3.13(A-E) NMAC A. Copayments: Copayments are paid by all clients receiving child care assistance benefits, except for at-risk child care and qualified grandparents or legal guardians. Copayments are determined by income and household	8.9.3.15(A-E) NMAC [A. — Copayments: Copayments are paid by all clients receiving child care assistance benefits, except for at-risk child care and qualified grandparents or legal guardians. Copayments are determined by	8.9.3.15(A-E) NMAC [A. — Copayments: Copayments are paid by all clients receiving child care assistance benefits, except for at-risk child care and qualified grandparents or legal guardians. Copayments are determined by

8.9.3.15 (A)	FILED WITH STATE REVENUE DEPARTMENT	
Current Language	Proposed Language	Final Adopted Language
size. The copayment schedule is published yearly at https://www.nmcecd.org/child-care-assistance/. In the case of an emergency, or under extenuating circumstances, the department secretary may waive copayments for families receiving child care, and for certain categories set forth in 8.9.3.9 NMAC, during which period, the department will pay providers the client's approved rate, including required copayments. If copayments are waived, three months notice will be given to providers and families prior to reinstatement.	income and household size. The copayment schedule is published yearly at https://www.nmcecd.org/child-care-assistance/. In the case of an emergency, or under extenuating circumstances, the department secretary may waive copayments for families receiving child care, and for certain categories set forth in 8.9.3.9 NMAC, during which period, the department will pay providers the client's approved rate, including required copayments. If copayments are waived, three months notice will be given to providers and families prior to reinstatement.	income and household size. The copayment schedule is published yearly at https://www.nmcecd.org/child-care-assistance/. In the case of an emergency, or under extenuating circumstances, the department secretary may waive copayments for families receiving child care, and for certain categories set forth in 8.9.3.9 NMAC, during which period, the department will pay providers the client's approved rate, including required copayments. If copayments are waived, three months notice will be given to providers and families prior to reinstatement.
B. Copayments described in Subsection A of 8.9.3.13 NMAC, are used for determining the base copayment for the first eligible child. The formula for determining the copayment amount based on the copayment schedule is the gross monthly household income multiplied by the applicable percent of the federal poverty level percentage (FPL) for family size (see Subsection D of 8.9.3.13 NMAC), which will equal the monthly copayment. The base copayments for the second child in the family is determined at one half of the copayment for the previous child. If there are more than two children in the household accessing child care assistance, the copayment will be waived for any additional children.	B. Copayments described in Subsection A of 8.9.3.13 NMAC, are used for determining the base copayment for the first eligible child. The formula for determining the copayment amount based on the copayment schedule is the gross monthly household income multiplied by the applicable percent of the federal poverty level percentage (FPL) for family size (see Subsection D of 8.9.3.13 NMAC), which will equal the monthly copayment. The base copayments for the second child in the family is determined at one half of the copayment for the previous child. If there are more than two children in the household accessing child care assistance, the copayment will be waived for any additional children.	B. Copayments described in Subsection A of 8.9.3.13 NMAC, are used for determining the base copayment for the first eligible child. The formula for determining the copayment amount based on the copayment schedule is the gross monthly household income multiplied by the applicable percent of the federal poverty level percentage (FPL) for family size (see Subsection D of 8.9.3.13 NMAC), which will equal the monthly copayment. The base copayments for the second child in the family is determined at one half of the copayment for the previous child. If there are more than two children in the household accessing child care assistance, the copayment will be waived for any additional children.
(1) The first child is identified as the child requiring the highest number of hours of child care.	(1) The first child is identified as the child requiring the highest number of hours of child care.	(1) The first child is identified as the child requiring the highest number of hours of child care.
(2) The second child is identified as the child with the second highest number of hours needed for child care.	(2) The second child is identified as the child with the second highest number of hours needed for child care.	(2) The second child is identified as the child with the second highest number of hours needed for child care.
C. Each child's copayment will be adjusted based on the units of services described in Subsection E of 8.9.3.17 NMAC, as follows:	C. Each child's copayment will be adjusted based on the units of services described in Subsection E of 8.9.3.17 NMAC, as follows:	C. Each child's copayment will be adjusted based on the units of services described in Subsection E of 8.9.3.17 NMAC, as follows:

8.9.3.15 (A)		
Current Language	Proposed Language	Final Adopted Language
(1) full time care will be based on one hundred percent of the base copayment; (2) Wrap-Around-Care will be based on seventy-five percent of the base copayment; (3) part time care will be based on fifty percent of the base copayment; and D. Below is the cost sharing chart with the formula used to determine child care copayments as set forth immediately above and as published yearly at https://www.nmcecd.org/child-care-assistance/; <i>[See Table E1 in Appendix]</i> E.- Clients pay copayments directly to their child care provider and must remain current in their payments. A client who does not pay copayments may be subject to sanctions. Copayment cost-sharing will be deducted from payment rates as determined in 8.9.3.17(G) through (M) NMAC. Copayments are currently waived and ECECD will provide three (3) months' notice to clients and providers if it reinstates copayment requirements.	(1) full time care will be based on one hundred percent of the base copayment; (2) Wrap-Around-Care will be based on seventy-five percent of the base copayment; (3) part time care will be based on fifty percent of the base copayment; and D. Below is the cost sharing chart with the formula used to determine child care copayments as set forth immediately above and as published yearly at https://www.nmcecd.org/child-care-assistance/; <i>[See Table E2 in Appendix]</i> E.- A. Copayments shall be paid by clients when required by the department and in accordance with 8.9.3.14 NMAC. Clients must pay copayments directly to their child care provider and must remain current in their payments. A client who does not pay copayments may be subject to sanctions. Copayment cost-sharing will be deducted from payment rates as determined in [8.9.3.17(G) through (M)] Subsections G through M of 8.9.3.19 NMAC. [Copayments are currently waived and ECECD will provide three (3) months' notice to clients and providers if it reinstates copayment requirements.]	FILED WITH STATE SECRETARY 2023 AUG 27 PM 5:01 (1) full time care will be based on one hundred percent of the base copayment; (2) Wrap-Around-Care will be based on seventy-five percent of the base copayment; (3) part time care will be based on fifty percent of the base copayment; and D. Below is the cost sharing chart with the formula used to determine child care copayments as set forth immediately above and as published yearly at https://www.nmcecd.org/child-care-assistance/; <i>[See Table E3 in Appendix]</i> E.- A. Copayments shall be paid by clients when required by the department and in accordance with 8.9.3.14 NMAC. Clients must pay copayments directly to their child care provider and must remain current in their payments. A client who does not pay copayments may be subject to sanctions. Copayment cost-sharing will be deducted from payment rates as determined in [8.9.3.17(G) through (M)] Subsections G through M of 8.9.3.19 NMAC. [Copayments are currently waived and ECECD will provide three (3) months' notice to clients and providers if it reinstates copayment requirements.]
Explanatory Statement		
There were no substantive public comments received. ECECD is adopting the amendments as originally proposed.		

8.9.3.15 (C)		
Current Language	Proposed Language	Final Adopted Language
8.9.3.13(G) NMAC G. Notification of changes: Clients must provide	8.9.3.15(C) NMAC C. Notification of changes: Clients must [provide notification of	8.9.3.15(C) NMAC C. Notification of changes: Clients must [provide notification of

8.9.3.15 (C)	FILED WITH STATE OF CALIFORNIA	
Current Language	Proposed Language	Final Adopted Language
notification of changes via fax, e-mail, or telephone that affect the need for care to their local child care assistance office. (1) A client must notify the department of any non-temporary change in activity or changes to household composition. Notifications must be provided within 14 calendar days of the change. (2) A client must notify the department when their household income exceeds eighty-five percent of the state median income, taking into account any fluctuation(s) of income. (3) A client must notify the department of any changes to their contact information. (4) A client who changes a provider must notify the department and the current provider 14 calendar days prior to the expected last day of enrollment. If this requirement for notification is met by the client, the current provider will be paid through the 14th calendar day. If this notification requirement is not met, the current provider will be paid 14 calendar days from the last date of nonattendance. The child care placement agreement with the new provider shall become effective when payment to the previous provider ceases. The client will be responsible for payment to the new provider beginning on the start date at the new provider and until the final date of payment to the former provider. (5) If the client has not used the authorized provider for 14 consecutive calendar days, the child will be disenrolled from that provider and the client will remain eligible for the remainder of their eligibility period. (6) Clients who do not comply with this requirement may be sanctioned.	changes via fax, e-mail] <u>notify the department via electronic transmission, in-person at an ECECD office location, or by telephone of changes that affect [the] their need for care [to their local child care assistance office] within 14 calendar days of the change. Clients who do not comply with this requirement may be sanctioned.</u> (1) A client must notify the department of any non-temporary change in activity or changes to household composition. [Notifications must be provided within 14 calendar days of the change.] (2) A client must notify the department when their household income exceeds eighty-five percent of the state median income, taking into account any fluctuation(s) of income. (3) A client must notify the department of any changes to their contact information. (4) A client who changes a provider must notify the department and the current provider 14 calendar days prior to the expected last day of enrollment. If this requirement for notification is met by the client, the current provider will be paid through the 14th calendar day. If this notification requirement is not met, the current provider will be paid 14 calendar days from the last date of nonattendance. The child care placement agreement with the new provider shall become effective when payment to the previous provider ceases. The client will be responsible for payment to the new provider beginning on the start date at the new provider and until the final date of payment to the former provider. [(5) If the client has not used the authorized provider for 14 consecutive calendar days, the child will be disenrolled from that provider and the client will remain eligible for	changes via fax, e-mail] <u>notify the department via electronic transmission, in-person at an ECECD office location, or by telephone of changes that affect [the] their need for care [to their local child care assistance office] within 14 calendar days of the change. Clients who do not comply with this requirement may be sanctioned.</u> (1) A client must notify the department of any non-temporary change in activity or changes to household composition. [Notifications must be provided within 14 calendar days of the change.] (2) A client must notify the department when their household income exceeds eighty-five percent of the state median income, taking into account any fluctuation(s) of income. (3) A client must notify the department of any changes to their contact information. (4) A client who changes a provider must notify the department and the current provider 14 calendar days prior to the expected last day of enrollment. If this requirement for notification is met by the client, the current provider will be paid through the 14th calendar day. If this notification requirement is not met, the current provider will be paid 14 calendar days from the last date of non-attendance. The child care placement agreement with the new provider shall become effective when payment to the previous provider ceases. The client will be responsible for payment to the new provider beginning on the start date [at] with the new provider and until the final date of payment to the former provider. [(5) If the client has not used the authorized provider for 14 consecutive calendar days, the child will be disenrolled from that provider

8.9.3.15 (C)		
Current Language	Proposed Language	Final Adopted Language
	the remainder of their eligibility period. (6) Clients who do not comply with this requirement may be sanctioned.]	and the client will remain eligible for the remainder of their eligibility period. (6) Clients who do not comply with this requirement may be sanctioned.]
Explanatory Statement		
There were no substantive public comments received. ECECD is adopting the amendments as originally proposed.		

8.9.3.15(D)		
Current Language	Proposed Language	Final Adopted Language
N/A – New Text	8.9.3.15(D) NMAC D. If the client has not used the authorized provider for 14 consecutive calendar days, the child will be disenrolled from that provider and will remain eligible for the remainder of their eligibility period.	8.9.3.15(D) NMAC D. If the client has not used the authorized provider for 14 consecutive calendar days, the child will be disenrolled from that provider and will remain eligible for the remainder of their eligibility period.
Explanatory Statement		
Public Comment Summary: Public comment asked for clarification regarding how disenrollment after 14 days of non-attendance is applied in the case of scheduled breaks, alternate arrangements, or absences due to illness. Department Response: Rules for notification of changes are addressed at 8.9.3.17(E) NMAC. In the case a client notifies the provider of non-attendance beyond 14 consecutive calendar days, the department will continue to pay the provider for the period of non-attendance, not to exceed six weeks following the first date of non-attendance. ECECD is adopting the amendment as originally proposed.		

8.9.3.16(A-C)		
Current Language	Proposed Language	Final Adopted Language
8.9.3.14(A-C) NMAC 8.9.3.14 CASE SUSPENSIONS AND CLOSURES: A. A case may be suspended at the request of the client if child care benefits are not being utilized with payment being discontinued to the provider. The client shall remain eligible for child care assistance	8.9.3.16(A-C) NMAC [8.9.3.14] 8.9.3.16 CASE SUSPENSIONS AND CLOSURES: A. A case may be suspended at the request of [the] a client if child care [benefits are] assistance is not being utilized with payment being discontinued to the provider. The	8.9.3.16(A-C) NMAC [8.9.3.14] 8.9.3.16 CASE SUSPENSIONS AND CLOSURES: A. A case may be suspended at the request of [the] a client if child care [benefits are] assistance is not being utilized with payment being discontinued to the provider. The

8.9.3.16(A-C)		
Current Language	Proposed Language	Final Adopted Language
through the remainder of their eligibility period. B. If the client experiences a non-temporary change of activity including the loss of employment, no longer attending school, or no longer participating in a job training or education program, the child care placement agreement may close; however, the client shall remain eligible for the approved 12-month eligibility period. C. A case will be closed for failing to recertify at the end of approved eligibility period.	client shall remain eligible for child care assistance through the remainder of their eligibility period. B. If [the] a client experiences a non-temporary change of activity including the loss of employment, <u>is</u> no longer attending school, or <u>is</u> no longer participating in a job training or education program, the child care placement agreement may close; however, the client shall remain eligible for the <u>remainder of the</u> approved [12-month] eligibility period. C. A case will be closed for failing to recertify at the end of approved eligibility period.	client shall remain eligible for child care assistance through the remainder of their eligibility period. B. If [the] a client experiences a non-temporary change of activity including the loss of employment, <u>is</u> no longer attending school, or <u>is</u> no longer participating in a job training or education program, the child care placement agreement may close; however, the client shall remain eligible for the <u>remainder of the</u> approved [12-month] eligibility period. C. A case will be closed for failing to recertify at the end of approved eligibility period.

Explanatory Statement

Public Comment Summary:

Public comment expressed concern that 8.9.3.15(D) NMAC and 8.9.3.16(A) NMAC appear inconsistent regarding how providers should handle child absences longer than 14 consecutive days, creating uncertainty about which provision applies and when a case may be suspended or closed.

Department Response:

Sections 8.9.3.15 NMAC and 8.9.3.16 NMAC address different circumstances. Section 8.9.3.16 NMAC addresses circumstances under which a case may be suspended or closed. Subsection (A) applies when a client requests suspension because they no longer need child care assistance. Subsection (B) applies when a client experiences a non-temporary change in qualifying activity, such as loss of employment or no longer attending school or training programs. Section 8.9.3.15 addresses rules for non-attendance. Per 8.9.3.17(E) NMAC, if a client provides appropriate notification of non-attendance exceeding 14 days to the provider, ECECD will continue to pay child care assistance for up to six weeks. ECECD determined that the existing language is clear and does not require revision. ECECD is adopting the amendments as originally proposed.

8.9.3.17 (A)		
Current Language	Proposed Language	Final Adopted Language
8.9.3.15(A) NMAC A. All child care providers who receive child care assistance reimbursements are required to be licensed or registered by the department and meet and maintain compliance with the appropriate licensing and registration regulations in order to receive payment for child care services.	8.9.3.17(A) NMAC A. [All child care providers who receive child care assistance reimbursements are required to] <u>In order to receive child care assistance payments for child care services, a child care provider must</u> be licensed or registered by the department and meet and maintain compliance with the appropriate licensing and	8.9.3.17(A) NMAC A. [All child care providers who receive child care assistance reimbursements are required to] <u>In order to receive child care assistance payments for child care services, a child care provider must</u> be licensed or registered by the department and meet and maintain compliance with the appropriate licensing and

8.9.3.17 (A)		
Current Language	Proposed Language	Final Adopted Language
	registration regulations [in order to receive payment for child care services]. <u>Child care providers holding a 1-star license are not eligible for child care assistance.</u>	registration regulations [in order to receive payment for child care services]. <u>Child care providers holding a 1-star license are not eligible for child care assistance.</u>
Explanatory Statement		
There were no substantive public comments received. ECECD is adopting the amendments as originally proposed.		

8.9.3.17(B)		
Current Language	Proposed Language	Final Adopted Language
8.9.3.15(B) NMAC B. The department honors properly issued military child care licenses to providers located on military bases and tribal child care licenses properly issued to providers located on tribal lands.	8.9.3.17(B) NMAC B. <u>[The] In accordance with 8.9.4.11, the department honors properly issued military child care licenses to providers located on military bases [and], certified military child care homes serving only military families, and tribal child care licenses properly issued to providers located on tribal lands.</u>	8.9.3.17(B) NMAC B. <u>[The] In accordance with 8.9.4.11, the department honors properly issued military child care licenses to providers located on military bases [and], certified military child care homes serving only military families, and tribal child care licenses properly issued to providers located on tribal lands.</u>
Explanatory Statement		
There were no substantive public comments received. ECECD is adopting the amendments as originally proposed.		

8.9.3.17(C)		
Current Language	Proposed Language	Final Adopted Language
8.9.3.15(C) NMAC C. Signed child care placement agreements (including electronically signed child care placement agreements) must be returned by hand delivery, mail, email, fax, or electronic submission to the local child care office within 30 calendar days of issuance. Failure to comply may affect payment for services and the child care placement agreement will be closed. The department will provide reasonable accommodations to allow a client or provider to meet this requirement.	8.9.3.17(C) NMAC C. Signed child care placement agreements (including electronically signed child care placement agreements) must be returned by hand delivery, mail, email, [fax,] or electronic submission to the [local child care office] <u>department</u> within 30 calendar days of issuance. Failure to comply may affect payment for services and the child care placement agreement will be closed. The department will provide reasonable accommodations to allow a client or provider to meet this requirement.	8.9.3.17(C) NMAC C. Signed child care placement agreements (including electronically signed child care placement agreements) must be returned by hand delivery, mail, email, [fax,] or electronic submission to the [local child care office] <u>department</u> within 30 calendar days of issuance. Failure to comply may affect payment for services and the child care placement agreement will be closed. The department will provide reasonable accommodations to allow a client or provider to meet this requirement.

8.9.3.17(C)			FILED WITH STATE RECORDS DIVISION
Current Language	Proposed Language	Final Adopted Language	
Explanatory Statement			2026 AUG 27 PM 5:01
There were no substantive public comments received. ECECD is adopting the amendments as originally proposed.			

8.9.3.17(D)		
Current Language	Proposed Language	Final Adopted Language
8.9.3.15(D) NMAC D. Child care providers collect required copayments from clients and provide child care according to the terms outlined in the child care placement agreement.	8.9.3.17(D) NMAC D. Child care providers <u>shall</u> collect required copayments from clients and provide child care according to the terms outlined in the child care placement agreement.	8.9.3.17(D) NMAC D. Child care providers <u>shall</u> collect required copayments from clients and provide child care according to the terms outlined in the child care placement agreement.
Explanatory Statement		
There were no substantive public comments received. ECECD is adopting the amendment as originally proposed.		

8.9.3.17(E)		
Current Language	Proposed Language	Final Adopted Language
8.9.3.15(E) NMAC E. Notification of changes: Child care providers must notify the department if a child is disenrolled or child care has not been used for 14 consecutive calendar days without notice from the client. If a client notifies the provider of non-attendance beyond 14 consecutive calendar days, the department will continue to pay the provider for the period of non-attendance, not to exceed six weeks following the first date of nonattendance. (1) If the provider notifies the department of the above, the provider will be paid through the period of nonattendance, not to exceed six weeks. (2) If a provider does not notify the department of disenrollment or of non-use for 14 consecutive calendar days, the provider will be paid through the last date of attendance.	8.9.3.17(E) NMAC E. Notification of changes: Child care providers must notify the department if a child is disenrolled or child care has not been used for 14 consecutive calendar days without notice from the client. If a client notifies the provider of non-attendance beyond 14 consecutive calendar days, the department will continue to pay the provider for the period of non-attendance, not to exceed six weeks following the first date of non-attendance. (1) If the provider notifies the department of the above, the provider will be paid through the period of nonattendance, not to exceed six weeks. (2) If a provider does not notify the department of disenrollment or of non-use for 14 consecutive calendar days, the provider will be paid through the last date of attendance.	8.9.3.17(E) NMAC E. Notification of changes: Child care providers must notify the department if a child is disenrolled or child care has not been used for 14 consecutive calendar days without notice from the client. If a client notifies the provider of non-attendance beyond 14 consecutive calendar days, the department will continue to pay the provider for the period of non-attendance, not to exceed six weeks following the first date of non-attendance. (1) If the provider notifies the department of the above, the provider will be paid through the period of non-attendance, not to exceed six weeks. (2) If a provider does not notify the department of disenrollment or of non-use for 14 consecutive calendar days, the provider will be paid through the last date of attendance.

8.9.3.17(E)

Current Language	Proposed Language	Final Adopted Language
(3) If a child was withdrawn from a provider because the health, safety, or welfare of the child was at risk, as determined by a substantiated complaint against the child care provider, payment to the former provider will be made through the last day that care was provided. (4) Providers who do not comply with this requirement are sanctioned and may be subject to recoupment or disallowance of payments as provided in 8.9.3.21 NMAC.	(3) If a child was withdrawn from a provider because the health, safety, or welfare of the child was at risk, as determined by a substantiated <u>[compliant] complaint</u> against the child care provider, payment to the former provider will be made through the last day that care was provided. (4) Providers who do not comply with this requirement are sanctioned and may be subject to recoupment or disallowance of payments as provided in <u>[8.9.3.21] 8.9.3.23</u> NMAC.	(3) ³⁰⁷⁶ AVG ^{PM 5:02} If a child was withdrawn from a provider because the health, safety, or welfare of the child was at risk, as determined by a substantiated <u>[compliant] complaint</u> against the child care provider, payment to the former provider will be made through the last day that care was provided. (4) Providers who do not comply with this requirement are sanctioned and may be subject to recoupment or disallowance of payments as provided in <u>[8.9.3.21] 8.9.3.23</u> NMAC.
Explanatory Statement		
There were no substantive public comments received. ECECD is adopting the amendments as originally proposed.		

8.9.3.17(F)

Current Language	Proposed Language	Final Adopted Language
8.9.3.15(F)(1-3) NMAC F. Child care providers accept the rate the department pays for child care and are not allowed to charge families receiving child care assistance above the department rate for the hours listed on the child care placement agreement. Failure to comply with this requirement may result in sanctions. (1) Providers are not allowed to charge clients a registration/educational fee for any child who is receiving child care assistance benefits as listed under 8.9.3 NMAC. The rates set forth below are informed by a cost estimation model and include expenses for registration/educational fees per child and child and family activities on behalf of clients under 8.9.3 NMAC. (2) In situations where an incidental cost may occur such as field trips, special lunches or other similar situations, the child care	8.9.3.17(F)(1-5) NMAC F. Child care providers <u>must</u> accept the rate the department pays for child care and <u>[are] shall not [allowed to] charge, accept, or require payment or donations in any form from</u> families receiving child care assistance above the department rate for the hours listed on the child care placement agreement, <u>except as provided in this section</u>. Failure to comply with this requirement may result in sanctions. (1) <u>[Providers are not allowed to charge clients a registration/educational fee for any child who is receiving child care assistance benefits as listed under 8.9.3 NMAC. The rates set forth below are informed by a cost estimation model and include expenses for registration/educational fees per child and child and family activities on behalf of clients under 8.9.3 NMAC.] Providers shall not charge clients a registration/educational fee for any</u>	8.9.3.17(F)(1-5) NMAC F. Child care providers <u>must</u> accept the rate the department pays for child care and <u>[are] shall not [allowed to] charge, accept, or require payment or donations in any form from</u> families receiving child care assistance above the department rate for the hours listed on the child care placement agreement, <u>except as provided in this section</u>. Failure to comply with this requirement may result in sanctions. (1) <u>[Providers are not allowed to charge clients a registration/educational fee for any child who is receiving child care assistance benefits as listed under 8.9.3 NMAC. The rates set forth below are informed by a cost estimation model and include expenses for registration/educational fees per child and child and family activities on behalf of clients under 8.9.3 NMAC.] Providers shall not charge clients a registration/educational fee for any</u>

8.9.3.17(F)	Proposed Language	Final Adopted Language
provider is allowed to charge the child care assistance family the additional cost, provided the cost does not exceed that charged to private pay families. (3) Child care providers are not allowed to charge child care assistance families the gross receipts tax for the sum of the child care assistance benefit and copayment. Child care providers may claim the gross receipts tax deduction pursuant to Section 7-9-77.2 NMSA 1978, as applicable.	<u>child who is receiving child care assistance benefits. The rates set forth in these regulations are informed by a cost estimation model and include expenses for registration/educational fees per child and child and family activities on behalf of clients under 8.9.3 NMAC. Providers are encouraged to participate in the United States Department of Agriculture (USDA) Child and Adult Care Food Program (CACFP). Providers that do not participate in CACFP may charge clients a reasonable fee to reimburse the cost of meals served during operating hours. Providers participating in the CACFP non-pricing program shall not charge any fees for meals or snacks. Providers participating in the CACFP pricing program shall not charge participants who qualify for the free rate but may charge the difference between the highest USDA reimbursement rate and the reimbursement rate for children eligible for the reduced-price or paid rate, consistent with CACFP requirements.</u> (2) In situations where an incidental cost may occur such as field trips, special lunches or other similar situations, the child care provider is allowed to charge the child care assistance family the additional cost, provided the cost does not exceed that charged to private pay families. (3) Child care providers are not allowed to charge child care assistance families the gross receipts tax for the sum of the child care assistance benefit and copayment. Child care providers may claim the gross receipts tax deduction pursuant to Section 7-9-77.2 NMSA 1978, as applicable. (4) <u>Child care providers shall not charge, accept or receive payments for child care assistance for hours that</u>	child who is receiving child care assistance benefits. The rates set forth in these regulations are informed by a cost estimation model and include expenses for registration/educational fees per child and child and family activities on behalf of clients under 8.9.3 NMAC. Providers are encouraged to participate in the United States department of agriculture (USDA) Child and Adult Care Food Program (CACFP). Providers that do not participate in CACFP may charge clients a reasonable fee to reimburse the cost of meals served during operating hours. Providers participating in the CACFP non-pricing program shall not charge any fees for meals or snacks. Providers participating in the CACFP pricing program shall not charge participants who qualify for the free rate but may charge the difference between the highest USDA reimbursement rate and the reimbursement rate for children eligible for the reduced-price or paid rate, consistent with CACFP requirements. (2) In situations where an incidental cost may occur such as field trips, special lunches or other similar situations, the child care provider is allowed to charge the child care assistance family the additional cost, provided the cost does not exceed that charged to private pay families. (3) Child care providers are not allowed to charge child care assistance families the gross receipts tax for the sum of the child care assistance benefit and copayment. Child care providers may claim the gross receipts tax deduction pursuant to Section 7-9-77.2 NMSA 1978, as applicable. (4) <u>Child care providers shall not charge, accept or receive payments for child care assistance for hours that</u>

8.9.3.17(F)

Current Language	Proposed Language	Final Adopted Language
	a child is enrolled in a head start program or an early head start program or an early pre-kindergarten program or a pre-kindergarten program, except when determined necessary by the department (5) Payments received by a child care facility for services provided under the Child Care Assistance Program shall not be used to supplant funding received through the state equalization guarantee distribution or funds appropriated for instructional or general funding.	a child is enrolled in a head start program or an early head start program or an early pre-kindergarten program or a pre-kindergarten program, except when determined necessary by the department (5) Payments received by a child care facility for services provided under the Child Care Assistance Program shall not be used to supplant funding received through the state equalization guarantee distribution or funds appropriated for instructional or general funding.

Explanatory Statement

Public Comment Summary:

Public comment recommended striking reference to a cost estimation model that predates the current model implemented in 2025.

Department Response:

The proposed amendment reflects the cost estimation model that the department currently uses to set the rate the department pays for child care. ECECD is adopting the amendments as originally proposed.

Public Comment Summary:

Public comment recommended ECECD raise reimbursement rates to meet the tuition rates of all child care programs that existed when Universal Child Care began in 2025 or allow parents to pay the difference between the state rate and a program's pre-existing tuition.

Department Response:

New Mexico Universal Child Care allows all families in New Mexico to get assistance paying for child care, no matter their income. ECECD payment rates are informed by a cost estimation methodology and the department makes increases to rates as budget allows while ensuring all families in New Mexico can get assistance paying for child care. Payment rates have been set to support stable child care businesses, competitive compensation for educators, and quality learning environments for children. ECECD is adopting the amendments as originally proposed.

Public Comment Summary:

Public comment recommended revising language at 8.9.3.17(F)(5) NMAC to restrict public providers receiving child care assistance from receiving additional public funding, such as federal or state grants, and recommended other revisions to support funding for private programs providing wrap-around care. Other public comment recommended that the department continue to allow programs receiving child care assistance to seek public grants.

Department Response:

The language at 8.9.3.17(F)(5) NMAC is consistent with the statutory language used in the Child Care Assistance Program Act at NMSA 1978 Section 32A-32-6(E) and does not allow programs to supplant funding received through the state equalization guarantee distribution or other public funds appropriated for instructional or general funding with child care assistance funds. ECECD is adopting the amendments as originally proposed.

Public Comment Summary:

Public comment recommended ECECD provide guidance to assist Head Start programs with blended funding models in managing instructional hours to meet requirements at 8.9.3.17(F)4.

8.9.3.17(F)		FILED WITH STATE REGISTRY 2076 AUG 27 PM 5:02
Current Language	Proposed Language	Final Adopted Language
Department Response: ECECD will provide ongoing technical assistance to support programs in meeting regulatory requirements. ECECD is adopting the amendments as originally proposed.		

8.9.3.17(G)		
Current Language	Proposed Language	Final Adopted Language
8.9.3.17(G) NMAC G. Under emergency circumstances, when ECECD has reason to believe that the health, safety or welfare of a child is at risk, the department may immediately suspend or terminate assistance payments to a licensed or registered provider. The child care resource and referral will assist clients with choosing another ECECD approved provider.	8.9.3.17(G) NMAC [G. Under emergency circumstances, when ECECD has reason to believe that the health, safety or welfare of a child is at risk, the department may immediately suspend or terminate assistance payments to a licensed or registered provider. The child care resource and referral will assist clients with choosing another ECECD approved provider.]	8.9.3.17(G) NMAC [G. Under emergency circumstances, when ECECD has reason to believe that the health, safety or welfare of a child is at risk, the department may immediately suspend or terminate assistance payments to a licensed or registered provider. The child care resource and referral will assist clients with choosing another ECECD approved provider.]
Explanatory Statement There were no substantive public comments received. ECECD is adopting the amendments as originally proposed.		

8.9.3.17(G)		
Current Language	Proposed Language	Final Adopted Language
8.9.3.15(H) NMAC H. Owners and licensees may not receive child care subsidy payments to provide care for their own children.	8.9.3.17(G) NMAC [H.] G. Owners and licensees may not receive <u>department payments for providing child care</u> [subsidy payments] <u>services under the Child Care Assistance Program</u> to provide care for their own children.	8.9.3.17(G) NMAC [H.] G. Owners and licensees may not receive <u>department payments for providing child care</u> [subsidy payments] <u>services under the Child Care Assistance Program</u> to provide care for their own children.
Explanatory Statement Public Comment Summary: Public comment requested that the department revise rules to allow providers to receive child care assistance payments for care for their own children. Department Response: Federal rules under the Child Care Development Fund (CCDF) restrict the use of child care assistance funds for providers' own children in their own homes. ECECD is declining the suggested revision and is adopting the amendments as originally proposed.		

8.9.3.17(H)		FILED WITH STATE DEPT
Current Language	Proposed Language	Final Adopted Language
8.9.3.15(I) NMAC I. Providers who are found to have engaged in fraud relating to any state or federal programs, or who have pending charges for or convictions of any criminal charge related to financial practices will not be eligible to participate in the subsidy program.	8.9.3.17(H) NMAC [H] H. Providers who are found to have engaged in fraud relating to any state or federal programs, or who have pending charges for or convictions of any criminal charge related to financial practices [will not be eligible] <u>are ineligible</u> to participate in the [subsidy program] <u>Child Care Assistance Program</u>.	8.9.3.17(H) NMAC 5:02 [H] H. Providers who are found to have engaged in fraud relating to any state or federal programs, or who have pending charges for or convictions of any criminal charge related to financial practices [will not be eligible] <u>are ineligible</u> to participate in the [subsidy program] <u>Child Care Assistance Program</u>.
Explanatory Statement		
There were no substantive public comments received. ECECD is adopting the amendments as originally proposed.		

8.9.3.17(I)		
Current Language	Proposed Language	Final Adopted Language
8.9.3.15(J) NMAC J. Providers must promote the equal access of services for all children and families by developing and implementing policies and procedures that prohibit discrimination based on race, color, religion, sex (including pregnancy, sexual orientation, or gender identity), national origin, disability, or age (40 or older).	8.9.3.17(I)(1-3) NMAC [J] I. [Providers must] <u>Child care providers participating in the Child Care Assistance Program shall</u> (1) <u>promote the equal access of services for all children and families by developing and implementing policies and procedures that prohibit discrimination based on race, color, religion, sex (including pregnancy, sexual orientation, or gender identity), national origin, disability, <u>special needs</u>, or age (40 or older).</u> (2) <u>refer an at-risk child, including a child with special needs, to appropriate programs of the department and, when applicable, to an appropriate tribal department for services;</u> (3) <u>meet and maintain required training as set by rule of the department to identify and refer at-risk children, including a child with special needs, to home visiting and the family, infant, toddler programs of</u>	8.9.3.17(I)(1-4) NMAC I. Child care providers participating in the Child Care Assistance Program shall: (1) promote the equal access of services for all children and families by developing and implementing policies and procedures that prohibit discrimination based on race, color, religion, sex (including pregnancy, sexual orientation, or gender identity), national origin, disability, special needs, or age (40 or older); (2) maintain all documentation related to the Child Care Assistance Program for at least five years after the termination of the contract and make it available for inspection upon request by the department; (3) refer an at-risk child, including a child with special needs, to appropriate programs of the department and, when applicable, to an appropriate tribal department for services; (4) meet and maintain required training as set by rule of the department to identify and refer at-risk children, including a child with

8.9.3.17(I)		
Current Language	Proposed Language	Final Adopted Language
	<u>the department and of tribal departments, as appropriate;</u>	special needs, to home visiting and the family, infant and toddler programs of the department and of tribal departments, as appropriate;
Explanatory Statement		
Public Comment Summary: Public comment recommended additional funding, training, and support to help programs meet non-discrimination and referral requirements and to better serve children who require individualized support. Department Response: Referral requirements for at-risk children and training requirements for providers to make referrals are established in the Child Care Assistance Program Act at NMSA 1978 Section 32A-32-6. ECECD appreciates the ongoing need for additional support and is working to develop additional offerings to support providers in meeting referral and training requirements, creating inclusive classrooms, and managing challenging behaviors. Providers are encouraged to take advantage of existing supports offered by the department, such as infant and early childhood mental health consultation provided through the Social and Emotional Early Development (SEED) Initiative, inclusion coaching, and individualized services provided through the Family Infant Toddler program. Public Comment Summary: Public comment questioned the inclusion of a “child with special needs” in addition to “at-risk children” in referral requirements. Department Response: ECECD considers a child with special needs to be an at-risk child under these rules and has included this language for clarity. Public Comment Summary: Other public comments recommended revisions to support referrals for children who are too old for early intervention services. Department Response: ECECD will maintain alignment with referral language as it is used in the Child Care Assistance Program Act. ECECD is adopting the amendments as originally proposed.		

8.9.3.17(I)		
Current Language	Proposed Language	Final Adopted Language
N/A – New text	8.9.3.17(I)(4) NMAC (4) <u>use not less than fifty-seven percent of the payment rates paid by the department under 8.9.3.19 NMAC for salaries and benefits for the following positions:</u> (a) <u>director: a person in charge of the day-to-day operation and program of a child care facility;</u>	8.9.3.17(I)(5) NMAC (5) <u>use not less than fifty percent of the payment rates paid by the department under 8.9.3.19 NMAC for wages, mandatory taxes, and benefits for the following positions:</u>

8.9.3.17(I)

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Current Language	Proposed Language	Final Adopted Language
	(b) <u>assistant director: a person who supports the director in managing the day-to-day operation and program of a child care facility;</u> (c) <u>teacher: an adult who directly cares for, serves, and supervises children in a child care facility;</u> (d) <u>substitute teacher: an adult who directly cares for, serves, and supervises children in a child care facility, who works in place of the regular educator, and who works less than an average of 40 hours per month in a six month period;</u> (e) <u>floater: an adult who provides coverage during breaks, supporting teachers' planning activities and facilitating release time;</u> (f) <u>administrative support: an adult who supports day-to-day operations by making contact with parents, keeping appropriate records, working with the director and other staff members, and by engaging in other similar support duties.</u>	2026 AUG 27 11:30 AM (a) <u>director: a person in charge of the day-to-day operation and program of a child care facility;</u> (b) <u>assistant director: a person who supports the director in managing the day-to-day operation and program of a child care facility;</u> (c) <u>teacher: an adult who directly cares for, serves, and supervises children in a child care facility;</u> (d) <u>substitute teacher: an adult who directly cares for, serves, and supervises children in a child care facility, who works in place of the regular educator, and who works fewer than an average of 40 hours per month in a six-month period;</u> (e) <u>floater: an adult who provides coverage during breaks, supporting teachers' planning activities and facilitating release time;</u> (f) <u>administrative support: an adult who supports day-to-day operations by making contact with parents, keeping appropriate records, working with the director and other staff members, and by engaging in other similar support duties;</u> (g) <u>cooking personnel: an adult whose primary responsibility is cooking or preparing meals at a child care facility as part of the facility's daily operations;</u> (h) <u>transportation staff: an adult whose primary responsibility is to provide transportation for children to and from a child care facility as part of the facility's daily operations;</u> (i) <u>custodial staff: an adult whose primary responsibility is to conduct cleaning duties at a child care facility as part of the facility's daily operations; and</u> (j) <u>any other staff member not included herein who provides daily, on-site operational support and for whom the child care facility has requested, and the</u>

8.9.3.17(I)		
Current Language	Proposed Language	Final Adopted Language
		The department has granted a waiver to be included in this paragraph.
Explanatory Statement		
Public Comment Summary: Public comment expressed concern that the 57% salary-and-benefit requirement is unfeasible and unrealistic for child care operations. In particular, comment emphasized that the proposed percentage is too high and would limit programs' ability to respond to and plan effectively for other financial obligations. Public comment also emphasized that the rule recognizes too narrow a set of positions and excludes other essential roles such as education coordinators, HR, transportation staff, cooks, administrative personnel, and support staff. Public comment also asked for additional guidance for home-based providers, who often operate as sole operators. Commenters recommended ECECD revise the proposed percentage downward, include all essential staff, and provide clearer guidance so the policy supports higher wages without endangering the financial health or operational viability of New Mexico's child care system. Some comments also ask ECECD to provide the methodology or supporting analysis used to develop the 57% requirement. Other commenters expressed support for requiring 57% of payment rates to be spent on wages and benefits as a necessary accountability measure to ensure public funds directly support educators providing care. Department Response: ECECD is amending the proposed language. The proposed requirement that programs spend 57% of their Child Care Assistance revenues on salaries and benefits for professionals in specific roles has been amended to 50%. While the 57% figure was strongly grounded in the cost model used to set Child Care Assistance rates, the change was made in response to extensive feedback from the provider community related to how the 57% requirement would impact their diverse program models. Some providers raised concerns about increasing costs for non-personnel expenses such as facilities and liability insurance, and concerns that the 57% requirement would hinder them in seeking financing for expansion and startup. The department has also considered public comment related to the types of job roles and personnel included in the 57%. In response to those public comments, the department has expanded the included job roles to add vital support roles such as cooks and bus drivers, who add important value to the child care sector through the provision of nutritious meals or through transportation that reduces barriers to access. The department has expanded the included personnel categories to include these and other roles, and has also specified that the now 50% requirement includes any substitute teachers and includes all mandatory taxes related to compensation. A waiver option has also been added in the event that a provider believes an employee who provides daily, on-site operational support that is not expressly included in this section should apply to the 50% calculation. In that case, a provider will be able to submit a waiver request to the department for consideration to add that employee to the 50% calculation. Additionally, the department changed the term "salary" to "wages" to encompass employees who may be paid in a variety of methods.		

8.9.3.17(I)		
Current Language	Proposed Language	Final Adopted Language
N/A – New Text	8.9.3.17(I)(5-6) NMAC (5) <u>meet and maintain required training, professional development, and certification pathways, as required under 8.9.4 NMAC;</u> (6) <u>not unreasonably exclude early intervention providers from accessing a child care setting to provide early intervention services. If a provider excludes an early</u>	8.9.3.17(I)(5-6) NMAC (5) <u>meet and maintain required training, professional development, and certification pathways, as required under 8.9.4 NMAC;</u> (6) <u>not unreasonably exclude early intervention providers from accessing a child care setting to provide early intervention services. If a provider excludes an early</u>

8.9.3.17(I)		
Current Language	Proposed Language	Final Adopted Language
	intervention provider for any reason, the provider shall notify the department within 48 hours; and	intervention provider for any reason, the provider shall notify the department within 48 hours; and
Explanatory Statement		
Public Comment Summary: Public comment recommended additional funding, training, and support to help programs meet early intervention inclusion requirements and to provide support to children who need individualized services. Department Response: Requirements to include early intervention providers are established in the Child Care Assistance Program Act at NMSA 1978 Section 32A-32-6. ECECD is working to develop additional offerings to support providers in creating inclusive classrooms and to understand the supportive role of early intervention providers in child care programs. Providers are encouraged to take advantage of available supports offered by the department, such as infant and early childhood mental health consultation provided through the Social and Emotional Early Development (SEED) Initiative, inclusion coaching, and individualized services provided through the Family Infant Toddler program. ECECD is adopting the amendments as originally proposed.		

8.9.3.17(I)		
Current Language	Proposed Language	Final Adopted Language
N/A – New Text	8.9.3.17(I)(7) NMAC (7) <u>notify the department of any ownership changes to the facility or the provider not later than 60 days of the transaction closing.</u>	8.9.3.17(I)(7) NMAC (7) <u>notify the department of any ownership changes to the facility or the provider not later than 60 days of the transaction closing.</u>
Explanatory Statement		
Public Comment Summary: Public comment expressed support for the proposed amendment to collect notification of ownership changes. Department Response: The Child Care Assistance Program Act at NMSCA 1978 Section 32A-32-6(D) requires the department to collect this information. ECECD is adopting the amendment as originally proposed.		

8.9.3.17(J)		
Current Language	Proposed Language	Final Adopted Language
N/A: New Text	8.9.3.17(J)(1-4) NMAC J. <u>Providers shall report data as follows, using department-designated information systems and in the format, method, and schedule required by the department.</u>	8.9.3.17(J)(1-4) NMAC J. Providers shall report data as follows, using department-designated information systems and in the

8.9.3.17(J)			FILED WITH
Current Language	Proposed Language	STATE REVISIONS	Final Adopted Language
	(1) <u>Providers shall report the following child care facility business information to the department by October 1, 2026, and annually by July 1 of each year thereafter:</u> (a) <u>the legal name and address of the business;</u> (b) <u>the legal name and address of any management company, owner or entity with a direct or indirect ownership interest in the business;</u> (c) <u>the name and address, if applicable, of any members of a board of directors of the business;</u> (d) <u>the legal structure of the business, including its form of organization;</u> (e) <u>the legal structure of any owner or ownership entity of the business;</u> (f) <u>each investment in the business by any person or entity comprising a ten percent equity stake or greater;</u> (g) <u>each debt or lien against the business comprising at least ten percent of the annual revenue of the business;</u> (h) <u>all documentation of any changes in ownership of the business in the past five years, including sales, transfers, mergers or acquisitions;</u> (i) <u>all details of any out-of-state sources of funding or investment for the business;</u> (j) <u>hours of operation and days of care provided annually; and,</u> (k) <u>the employee benefit structure.</u> (2) <u>By July 1, 2027, and annually by July 1 of each year thereafter, providers shall report annually, by July 1 and beginning in 2027, the total amount spent in the previous calendar year on employee salaries</u>	format, method, and schedule required by the department. (1) Providers shall report the following child care facility business information to the department by July 1, 2027, and annually by July 1 of each year thereafter: (a) the legal name and address of the business; (b) the legal name and address of any management company, owner or entity with a direct or indirect ownership interest in the business; (c) the name and address, if applicable, of any members of a board of directors of the business; (d) the legal structure of the business, including its form of organization; (e) the legal structure of any owner or ownership entity of the business; (f) each investment in the business by any person or entity comprising a ten percent equity stake or greater; (g) each debt or lien against the business comprising at least ten percent of the annual revenue of the business; (h) all documentation of any changes in ownership of the business in the past five years, including sales, transfers, mergers or acquisitions; (i) all details of any out-of-state sources of funding or investment for the business; (j) hours of operation and days of care provided annually; and, (k) the employee benefit structure. (2) By July 1, 2027, and annually by July 1 of each year thereafter, providers shall report the total amount spent in the previous calendar year on employee salaries and benefits for the roles specified in Paragraph (4) of Subsection I of this section. (3) Beginning July 1, 2027, and biannually by January 15 and July 1 of every year thereafter, providers shall report to the department the following for each employee: salaries,	

8.9.3.17(J)

Current Language	Proposed Language	2026 Final Adopted Language
	<u>and benefits for the roles specified in Paragraph (4) of Subsection J I of this section.</u> <u>(3) By July 1, 2027, and quarterly thereafter, providers shall report quarterly to the department the following for each employee: salaries, benefits, and professional qualifications of staff members, including staff members' roles and levels as established in the department's wage scale and career ladder framework, salaries and benefits for each employee.</u> <u>(4) Beginning January 1, 2027, and monthly thereafter, providers shall report monthly program participation through submission of daily attendance records.</u>	benefits, and professional qualifications of staff members, including staff members' roles and levels as established in the department's wage scale and career ladder framework, salaries and benefits for each employee. (4) Beginning July 1, 2027, and monthly thereafter, providers shall report program participation through submission of daily attendance records.

Explanatory Statement

Summary of Public Comment:

Public comment requested that ECECD address certain privacy and security concerns if providers will be required to use "department-designated information systems" for mandatory reporting. Public comments specifically expressed concern with whether information uploaded into department systems would be subject to the Inspection of Public Records Act (IPRA) and were concerned that this may put sensitive employee information or proprietary business information at risk.

Department Response:

Data that is required to be collected and reported to the department under the Child Care Assistance Program Act is subject to the Inspection of Public Records Act (IPRA). Creating an exception for this data under IPRA would require a statutory change that is outside of the authority of the department and this regulation. However, ECECD is modifying the proposed language to extend the effective date of these reporting requirements to July 1, 2027. This will allow additional time for the department to review privacy and security concerns and make appropriate system changes.

In order to further address these concerns, ECECD is also amending 8.9.4 NMAC to remove certain requirements to upload personal information in the Professional Development Information System (PDIS) and to clarify what information providers must keep onsite rather than in department systems. These amendments are addressed in the explanatory statement for 8.9.4 NMAC.

ECECD would also like to clarify that background check information is not subject to IPRA and is not held in the Professional Development Information System (PDIS). Sensitive information that ECECD collects during the background check process, such as social security number or criminal history, is held in a separate, private system and would not be released in public records request. In addition, the department enhances confidentiality protections by applying established state IT security safeguards to all sensitive data associated with PDIS. Access to nonpublic personnel information is restricted through role-based permissions and minimum necessary use, while secure transmission protocols, auditing, and monitoring controls help detect and prevent unauthorized access. These measures align with existing requirements for handling confidential state information and reinforce the department's broader IT risk management practices. The department also strengthens safeguards related to IPRA exposure by maintaining secure storage environments, applying consistent redaction procedures, and conducting structured review of any PDIS related

8.9.3.17(J)

Current Language	Proposed Language	2026 ANG 27 Adopted Language
records prior to release. IT staff and contractors supporting PDIS comply with state IT security standards, including encryption, authentication controls, and quality assurance requirements, ensuring that confidential information remains protected throughout system development and maintenance. Public Comment Summary: Public comment expressed concern that the proposed reporting requirements created a significant administrative burden. Department Response: ECECD is modifying the proposed language to extend the effective date of required reporting to July 1, 2027. This change will allow time for the development of appropriate technical assistance and streamlined secure reporting systems. In addition, ECECD is revising the language to reduce the frequency of required reporting at 8.9.3.17(J)(3) NMAC to biannually. Summary of Public Comment: Public comment expressed concern that the proposed reporting requirements exceeded ECECD's statutory authority. Department Response: Business information, salary and benefits, and professional qualification reporting requirements at 8.9.3.17(J)(1) and (3) NMAC are directly established in the Child Care Assistance Program Act at NMSA 1978 Section 32A-32-6(A)(7) and (8). The Child Care Assistance Program Act also directly requires the reporting of program participation at NMSA 1978 Section 32A-32-6(A)(7), which the department will collect through daily attendance records at 8.9.3.17(J)(4) NMAC. Reporting requirements regarding the total amount spent on employee salaries and benefits at 8.9.3.17(J)(2) NMAC are necessary in order to monitor and verify compliance with wage and benefit spending required under the Child Care Assistance Program Act at NMSA 1978 Section 32A-32-5(C). ECECD is adopting the amendments as originally proposed.		

8.9.3.18(A)

Current Language	Proposed Language	Final Adopted Language
8.9.3.16(A) NMAC A. The department pays child care providers who provide child care services to department clients in a timely manner.	8.9.3.18(A) NMAC A. The department pays child care <u>assistance</u> to providers who provide child care services to [department] clients in a timely manner.	8.9.3.18(A) NMAC A. The department pays child care <u>assistance</u> to providers who provide child care services to [department] clients in a timely manner.

Explanatory Statement

Public Comment Summary:

Public comment recommended an additional revision to 8.9.3.18 NMAC to require the department to provide technical assistance for the use of department-designated information systems and require the department to consider system issues before issuing compliance determinations.

Department Response:

ECECD provides continuous technical assistance to providers to learn, manage, and troubleshoot required systems, including written user guides in English and Spanish, FAQs, live-support office hour opportunities, and dedicated phone and email support. Technical assistance for the Professional Development Information system (PDIS) can be accessed at www.nmcecd.org/pdis/. In addition, ECECD does not penalize providers for compliance issues that are

8.9.3.17(J)

Current Language	Proposed Language	Final Adopted Language
due to documented system issues or delays and provides flexible deadlines and support to ensure providers are not penalized for technical issues outside of their control. Given these internal procedures, ECECD is adopting the amendments as originally proposed.		

8.9.3.18(C)		
Current Language	Proposed Language	Final Adopted Language
8.9.3.16(C) NMAC C. Child care assistance workers will perform all eligibility and recertification determinations within 10 working days upon receipt of all required documentation from the client. The department will seek to obtain such data from the New Mexico Department of Workforce Solutions and the New Mexico HCA.	8.9.3.18(C) NMAC C. Child care assistance workers will perform all eligibility and recertification determinations within 10 working days upon <u>of</u> receipt of all required documentation from the client <u>an applicant</u>. The department will <u>may</u> seek to obtain such <u>verification</u> data from the New Mexico Department of Workforce Solutions and the New Mexico HCA <u>federal agencies, New Mexico state agencies, or other trusted data sources</u>.	8.9.3.18(C) NMAC C. Child care assistance workers will perform all eligibility and recertification determinations within 10 working days upon <u>of</u> receipt of all required documentation from the client <u>an applicant</u>. The department will <u>may</u> seek to obtain such <u>verification</u> data from the New Mexico Department of Workforce Solutions and the New Mexico HCA <u>federal agencies, New Mexico state agencies, or other trusted data sources</u>.
Explanatory Statement		
There were no substantive public comments received. ECECD is adopting the amendments as originally proposed.		

8.9.3.18(D)

Current Language	Proposed Language	Final Adopted Language
8.9.3.16(D) NMAC D. Child care assistance workers notify clients and providers in writing of all actions, which affect services, benefits, or provider payments or status, citing the applicable policy.	8.9.3.18(D) NMAC D. Child care assistance workers notify clients and providers in writing of all actions, which <u>that</u> affect services, benefits, or provider payments or status, citing the applicable policy.	8.9.3.18(D) NMAC D. Child care assistance workers notify clients and providers in writing of all actions, which <u>that</u> affect services, benefits, or provider payments or status, citing the applicable policy.
Explanatory Statement		
There were no substantive public comments received. ECECD is adopting the amendments as originally proposed.		

8.9.3.18(E)		
Current Language	Proposed Language	Final Adopted Language
8.9.3.16(E) NMAC E. Child care assistance workers determine eligibility for all child care assistance programs except for TANF. Eligibility for TANF is determined by the New Mexico HCA.	8.9.3.18(E) NMAC E. Child care assistance workers determine eligibility for all child care assistance programs except for TANF. Eligibility for TANF is determined by the New Mexico [HCA] <u>health care authority</u>.	8.9.3.18(E) NMAC E. Child care assistance workers determine eligibility for all child care assistance programs except for TANF. Eligibility for TANF is determined by the New Mexico [HCA] <u>health care authority</u>.
Explanatory Statement		
There were no substantive public comments received. ECECD is adopting the amendments as originally proposed.		

8.9.3.18(G)		
Current Language	Proposed Language	Final Adopted Language
8.9.3.16(G) NMAC G. The department and other organizations approved by the department provide information and orientation programs regarding child care assistance benefits, quality child care issues, and the impact of child care on the child's physical, mental, social and emotional development to parents or legal guardians and providers.	8.9.3.18(G) NMAC G. The department and other organizations approved by the department provide information and orientation programs regarding child care assistance benefits, quality child care issues, and the impact of child care on the child's physical, mental <u>cognitive</u>, social, and emotional development to parents or legal guardians and providers.	8.9.3.18(G) NMAC G. The department and other organizations approved by the department provide information and orientation programs regarding child care assistance benefits, quality child care issues, and the impact of child care on the child's physical, mental <u>cognitive</u>, social, and emotional development to parents or legal guardians and providers.
Explanatory Statement		
There were no substantive public comments received. ECECD is adopting the amendments as originally proposed.		

8.9.3.18(H)		
Current Language	Proposed Language	Final Adopted Language
8.9.3.16(H) NMAC H. The department and other organizations approved by the department offers provider education programs consisting of training on program participation requirements, parent or legal guardian and provider responsibilities, licensing and registration requirements, payment issuance and background check processing, the competency areas for child care providers as outlined by the	8.9.3.18(H) NMAC H. The department and other organizations approved by the department offers <u>offer</u> provider education programs consisting of training on program participation requirements, parent or legal guardian and provider responsibilities, licensing and registration requirements, payment issuance and background check processing, the competency areas for child care	8.9.3.18(H) NMAC H. The department and other organizations approved by the department offers <u>offer</u> provider education programs consisting of training on program participation requirements, parent or legal guardian and provider responsibilities, licensing and registration requirements, payment issuance and background check processing, the competency areas for child care

8.9.3.18(H)		
Current Language	Proposed Language	2026 Final Adopted Language
office of child development, or the department, the importance of providing quality child care, and other topics of interest to parents or legal guardians and providers. These education programs count toward the continuing education hours required of providers by registration and licensing regulations.	providers as outlined by the office of child development, or the department, the importance of providing quality child care, and other topics of interest to parents or legal guardians and providers. These education programs count toward the continuing education hours required of providers by registration and licensing regulations.	providers as outlined by the office of child development, or the department, the importance of providing quality child care, and other topics of interest to parents or legal guardians and providers. These education programs count toward the continuing education hours required of providers by registration and licensing regulations.
Explanatory Statement		
There were no substantive public comments received. ECECD is adopting the amendments as originally proposed.		

8.9.3.18(I)		
Current Language	Proposed Language	Final Adopted Language
N/A – New Text	8.9.3.18(I) NMAC I. The department expends <u>federal child care assistance funds, including required state match and maintenance-of-efforts amounts, for federally eligible children prior to expending state funds for child care assistance. The department will reasonably ensure that eligible federal and state child care tax benefits are maximized.</u>	8.9.3.18(I) NMAC I. The department expends <u>federal child care assistance funds, including required state match and maintenance-of-efforts amounts, for federally eligible children prior to expending state funds for child care assistance. The department will reasonably ensure that eligible federal and state child care tax benefits are maximized.</u>
Explanatory Statement		
There were no substantive public comments received. ECECD is adopting the amendments as originally proposed.		

8.9.3.19		
Current Language	Proposed Language	Final Adopted Language
8.9.3.17 NMAC 8.9.3.17 PAYMENT FOR SERVICES: The department pays child care providers on a monthly basis, according to standard practice for the child care industry. Payment is based upon the child's enrollment with the provider as reflected in the child care placement agreement,	8.9.3.19 NMAC [8.9.3.17] 8.9.3.19 PAYMENT FOR SERVICES: The department pays child care providers on a monthly basis, according to standard practice for the child care industry. Payment is based [upon] <u>on</u> a the child's enrollment with the provider as reflected in the child care placement	8.9.3.19 NMAC [8.9.3.17] 8.9.3.19 PAYMENT FOR SERVICES: The department pays child care providers on a monthly basis, according to standard practice for the child care industry. Payment is based [upon] <u>on</u> a the child's enrollment with the provider as reflected in the child care placement

8.9.3.19		
Current Language	Proposed Language	2026 Final Adopted Language
rather than daily attendance. As a result, most placements reflect a month of service provision and are paid on this basis. However, placements may be closed at any time during the month. A signed child care placement agreement must be returned to the department for payment to be issued to the provider. The following circumstances under which the department may close placements or discontinue payment at a time other than the end of the month:	agreement, rather than <u>on</u> daily attendance. As a result, most placements reflect a month of service provision and are paid on this basis. However, placements may be closed at any time during the month. A signed child care placement agreement must be returned to the department for payment to be issued to the provider. The following <u>are</u> circumstances under which the department may close placements or discontinue payment at a time other than the end of the month:	agreement, rather than <u>on</u> daily attendance. As a result, most placements reflect a month of service provision and are paid on this basis. However, placements may be closed at any time during the month. A signed child care placement agreement must be returned to the department for payment to be issued to the provider. The following <u>are</u> circumstances under which the department may close placements or discontinue payment at a time other than the end of the month:
Explanatory Statement		
There were no substantive public comments received. ECECD is adopting the amendments as originally proposed.		

8.9.3.19(A)		
Current Language	Proposed Language	Final Adopted Language
8.9.3.17(A) NMAC A. When the child care placement agreement expires during the month, or when the provider requests that the client change providers or the provider discontinues services; payment will be made through the last day that care is provided.	8.9.3.19(A) NMAC A. When [the] a child care placement agreement expires during the month, or when the provider requests that the client change providers or the provider discontinues services; payment will be made through the last day that care is provided.	8.9.3.19(A) NMAC A. When [the] a child care placement agreement expires during the month, or when the provider requests that the client change providers or the provider discontinues services; payment will be made through the last day that care is provided.
Explanatory Statement		
There were no substantive public comments received. ECECD is adopting the amendments as originally proposed.		

8.9.3.19(C)		
Current Language	Proposed Language	Final Adopted Language
8.9.3.17(C) NMAC C. The rates set forth below are informed by a cost estimation model and include expenses for registration/educational fees per child and child and family activities on behalf of clients under 8.9.3 NMAC.	8.9.3.19(C) NMAC C. [The rates set forth below are informed by a cost estimation model and include expenses for] <u>The child care assistance payment rates provided in this section correspond to differences in quality based on FOCUS and are informed by a cost</u>	8.9.3.19(C) NMAC C. The child care assistance payment rates provided in this section correspond to differences in quality based on FOCUS and are informed by a cost estimation model developed in accordance with the requirements of the federal child care and

8.9.3.19(C)

Current Language	Proposed Language	Final Adopted Language
	<u>estimation model developed in accordance with the requirements of the federal child care and development fund program authorized by the federal Child Care and Development Block Grant Act of 1990. The model incorporates feedback and input from early childhood education and development experts, a diverse group of child care facilities of a variety of facility types, families and organizations representing child care directors, tribal representatives, advocacy organizations, teachers, and other relevant parties as determined by the department. Rates are developed to promote equal access to child care services for eligible children, support parental choice by offering a full range of child care services, ensure adequate wages for child care facility staff and account for allowable cost components, including registration/educational fees per child and child and family activities on behalf of clients under 8.9.3 NMAC.</u>	development fund program authorized by the federal Child Care and Development Block Grant Act of 1990. The model incorporates feedback and input from early childhood education and development experts, a diverse group of child care facilities of a variety of facility types, families and organizations representing child care directors, tribal representatives, advocacy organizations, teachers, and other relevant parties as determined by the department. Rates are developed to promote equal access to child care services for eligible children, support parental choice by offering a full range of child care services, ensure adequate wages for child care facility staff, and account for allowable cost components including registration/educational fees per child and child and family activities on behalf of clients under 8.9.3 NMAC.

Explanatory Statement

Public Comment Summary:

Public comment recommended revisions to the proposed description of child care assistance payment rates and the cost estimation model.

Department Response:

The proposed language was developed to align with the requirements for payment rates set forth in the Child Care Assistance Program Act at NMSA 1978 Section 32A-32-5. ECECD is adopting the amendments as originally proposed.

8.9.3.19(D)

Current Language	Proposed Language	Final Adopted Language
8.9.3.17(D) NMAC D. The amount of the payment is based upon the age of the child and average number of hours per week needed per child during the certification period. The number of hours of care needed is determined with the parent or legal guardian at the time of certification and is	8.9.3.19(D) NMAC D. The amount of the payment is based upon the age of the child and average number of hours per week needed per child during the certification period. The number of hours of care needed is determined with the parent or legal guardian at the time of certification and is	8.9.3.19(D) NMAC D. The amount of the payment is based upon the age of the child and average number of hours per week needed per child during the certification period. The number of hours of care needed is determined with the parent or legal guardian at the time of certification and is

8.9.3.19(D)		
Current Language	Proposed Language	Final Adopted Language
reflected in the provider agreement. Providers are paid according to the units of service needed which are reflected in the child care placement agreement covering the certification period.	reflected in the provider agreement <u>and signed by all parties</u> . Providers are paid according to the units of service needed which are reflected in the child care placement agreement covering the certification period.	reflected in the provider agreement. Providers are paid according to the units of service needed, which are reflected in the child care placement agreement covering the certification period. Effective September 1, 2026, a preschool child's placement category will be changed to a school age placement if the child's 5th birthday is prior to September 1 of that year. Any preschool child who has a 5th birthday after September 1 will remain at a preschool category for that year.
Explanatory Statement		
Public Comment Summary: Public comment recommended delaying the implementation of pre-school and school-age determinations until October 1, 2026, to allow for sufficient time for the department to make necessary information technology updates. Department Response: ECECD will modify the final rule to incorporate the proposed age determinations in the payment for services section and will include an effective date of September 1, 2026. ECECD will modify the final rule at 8.9.3.19(D) NMAC to include an effective date of September 1, 2026, for the definitions of preschool and school-age. The amendments to the definitions appear at 8.9.3.7(I) NMAC.		

8.9.3.19(E)		
Current Language	Proposed Language	Final Adopted Language
8.9.3.17(E) NMAC E. The department pays for care based upon the following units of service: <i>[See Table F1 in Appendix]</i>	8.9.3.19(E) NMAC E. The department pays for care based upon the following units of service: <i>[See Table F2 in Appendix]</i>	8.9.3.19(E) NMAC E. The department pays for care based upon the following units of service: <i>[See Table F3 in Appendix]</i>
Explanatory Statement		
Summary of Public Comment: Public comment expressed concern that reimbursement rates for certain units of service and age groups were insufficient, especially for infants receiving part-time care and school-age children receiving wrap-around care only during the summer. Public comment recommended revisions to the units of service definitions and reimbursement payment rates to address these issues. Department Response: ECECD establishes payment rates based on a cost estimation model and set to sustainably support staffing, quality service delivery, program type, child age, non-personnel expenses, hours of operation, and health and safety standards.		

Children must receive the appropriate placement type in their child care assistance contracts in order to ensure that providers are appropriately reimbursed for their services. ECECD will take steps to review the eligibility intake process to make sure that contracts are issued appropriately for the level of care needed. For example, children who are cared for by a provider exclusively for full-time summer care should receive full-time contracts for the summer months, not wrap-around contracts. This can be addressed through implementation improvements and does not require a rate change. ECECD is declining to further revise reimbursement rates and placement types at this time and is adopting the amendments as originally proposed.

8.9.3.19(F)		
Current Language	Proposed Language	Final Adopted Language
8.9.3.17(F) NMAC F. Hours of care shall be rounded to the nearest whole number. Hours for seeking employment is set at full-time.	8.9.3.19(F) NMAC F. Hours of care shall be rounded to the nearest whole number. [Hours for seeking employment [is] set at full-time.]	8.9.3.19(F) NMAC F. Hours of care shall be rounded to the nearest whole number. [Hours for seeking employment [is] set at full-time.]
Explanatory Statement		
There were no substantive public comments received. ECECD is adopting the amendments as originally proposed.		

8.9.3.19(G)		
Current Language	Proposed Language	Final Adopted Language
8.9.3.17(G) NMAC G. Monthly reimbursement rates: <i>[See Table G1 in Appendix]</i>	8.9.3.19(G) NMAC G. Monthly reimbursement rates: <i>[See Table G2 in Appendix]</i>	8.9.3.19(G) NMAC G. Monthly reimbursement rates: <i>[See Table G3 in Appendix]</i>
Explanatory Statement		
Public Comment Summary: Public comment requested revisions to generally increase reimbursement rates and other revisions to support payment rates for home-based providers limited by ratio requirements. Department Response: ECECD is amending reimbursement rates for preschool children in licensed family homes to address a technical issue. ECECD is declining to revise other reimbursement rates at this time. ECECD is adopting the amendments as originally proposed.		

8.9.3.19(H)		
Current Language	Proposed Language	Final Adopted Language
8.9.3.17(H) NMAC H. The department pays a different rate according to the license	8.9.3.19(H) NMAC H. The department pays a different rate according to the license	8.9.3.19(H) NMAC H. The department pays a different rate according to the license

8.9.3.19(H)		
Current Language	Proposed Language	Final Adopted Language
or registration status of the provider, national accreditation status of the provider if applicable, head start and early head start status, and star level status of the provider if applicable. In the case of a public health emergency, the department secretary may approve a different rate be paid to licensed providers.	or registration status of the provider, national <u>provider</u> accreditation status of the provider if applicable, head start and early head start status, and star level status of the provider if applicable. In the case of a public health emergency, the department secretary may approve a different rate <u>to</u> be paid to licensed providers.	or registration status of the provider, national <u>provider</u> accreditation status of the provider if applicable, head start and early head start status, and star level status of the provider if applicable. In the case of a public health emergency, the department secretary may approve a different rate <u>to</u> be paid to licensed providers.
Explanatory Statement		
There were no substantive public comments received. ECECD is adopting the amendments as originally proposed.		

8.9.3.19 (I)		
Current Language	Proposed Language	Final Adopted Language
8.9.3.17(I) NMAC I. Providers holding and maintaining ECECD approved national accreditation status will receive the differential rate listed in Subsection J below, per child per month for full time care above the base rate for type of child care (licensed center, group home or family home) and age of child. All providers who maintain ECECD approved national accreditation status will be paid at the accredited rates for the appropriate age group and type of care. In order to continue at this accredited reimbursement rate, a provider holding national accreditation status must meet and maintain licensing standards and maintain national accreditation status without a lapse. If a provider holding national accreditation status fails to maintain these requirements, this will result in the provider reimbursement reverting to a lower level of reimbursement. The licensee shall notify the licensing authority within 48 hours of any adverse action by the national accreditation body against the licensee's national	8.9.3.19(I) NMAC I. Providers holding and maintaining [ECECD approved] national <u>provider</u> accreditation status will receive the differential rate listed in Subsection J below, per child per month for full time care above the base rate for type of child care (licensed center, group home or family home) and age of child. All providers who maintain [ECECD approved] national <u>provider</u> accreditation status will be paid at the accredited rates for the appropriate age group and type of care. In order to continue at this accredited reimbursement rate, a provider holding [national] <u>provider</u> accreditation status must meet and maintain licensing standards and maintain national <u>provider</u> accreditation status without a lapse. If a provider holding national <u>provider</u> accreditation status fails to maintain these requirements, this will result in the provider reimbursement reverting to a lower level of reimbursement. The licensee shall notify the licensing authority within 48 hours of any adverse action by the national <u>provider</u> accreditation body against the licensee's national	8.9.3.19(I) NMAC I. Providers holding and maintaining [ECECD approved] national <u>provider</u> accreditation status will receive the differential rate listed in Subsection J below, per child per month for full time care above the base rate for type of child care (licensed center, group home or family home) and age of child. All providers who maintain [ECECD approved] national <u>provider</u> accreditation status will be paid at the accredited rates for the appropriate age group and type of care. In order to continue at this accredited reimbursement rate, a provider holding [national] <u>provider</u> accreditation status must meet and maintain licensing standards and maintain national <u>provider</u> accreditation status without a lapse. If a provider holding national <u>provider</u> accreditation status fails to maintain these requirements, this will result in the provider reimbursement reverting to a lower level of reimbursement. The licensee shall notify the licensing authority within 48 hours of any adverse action by the national <u>provider</u> accreditation body against the licensee's national

8.9.3.19 (I)		
Current Language	Proposed Language	Final Adopted Language
revocation, denial, nonrenewal, lapse or other action that could affect its national accreditation status. All providers are required to notify the department immediately when a change in accreditation status occurs.	<u>provider</u> accreditation status, including but not limited to expiration, suspension, termination, revocation, denial, nonrenewal, lapse, or other action that could affect its national <u>provider</u> accreditation status. All providers are required to notify the department immediately when a change in <u>national provider</u> accreditation status occurs.	2026 APR 27 PM 5:03 provider accreditation status, including but not limited to expiration, suspension, termination, revocation, denial, nonrenewal, lapse, or other action that could affect its national <u>provider</u> accreditation status. All providers are required to notify the department immediately when a change in <u>national provider</u> accreditation status occurs.
Explanatory Statement		
There were no substantive public comments received. ECECD is adopting the amendments as originally proposed.		

8.9.3.19(J)		
Current Language	Proposed Language	Final Adopted Language
8.9.3.17(J) NMAC J. The department will pay a higher rate per child per month for full time care above the base reimbursement rate to providers achieving higher Star levels by meeting FOCUS essential elements of quality, maintaining ECECD approved national accreditation status, or status as head start, or early head start, as follows: <i>[See Table H1 in Appendix]</i>	8.9.3.19(J) NMAC J. The department will pay <u>pays</u> a higher rate per child per month for full-time care above the base reimbursement rate to providers achieving higher Star levels by meeting FOCUS essential elements of quality, maintaining [ECECD approved] <u>[ECECD approved]</u> national <u>provider</u> accreditation status, or status as head start, or early head start, as follows: <i>[See Table H2 in Appendix]</i>	8.9.3.19(J) NMAC J. The department pays a higher rate per child per month for full-time care above the base reimbursement rate to providers achieving higher star levels by meeting FOCUS essential elements of quality, maintaining national provider accreditation status, or status as head start, or early head start, as follows: <i>[See Table H3 in Appendix]</i>
Explanatory Statement		
Public Comment Summary: Public comment recommended delaying the implementation of proposed changes to licensed family home payment rates until October 1, 2026, to allow sufficient time for the department to make necessary information technology updates. Department Response: ECECD is modifying the final rule to include an effective date of October 1, 2026, for these updates. Public Comment Summary: Public comment recommended revisions to raise reimbursement rates for high-quality licensed centers, including raising rates to match certain private tuition costs or create higher differentiation between star levels. Department Response: ECECD is amending reimbursement rates for preschool children in licensed family homes to address a technical issue. ECECD is declining to revise other reimbursement rates at this time. ECECD is adopting the amendments as originally proposed.		

8.9.3.19(K)		
Current Language	Proposed Language	Final Adopted Language
8.9.3.17(K) NMAC K. In order to continue at the FOCUS reimbursement rates, a provider must meet and maintain the most recent FOCUS eligibility requirements and star level criteria. If the provider fails to meet the FOCUS eligibility requirements and star level criteria the provider reimbursement will revert to the FOCUS criteria level demonstrated.	8.9.3.19(K) NMAC K. In order to continue at the FOCUS reimbursement rates, a provider must meet and maintain the most recent FOCUS eligibility requirements and star level criteria. If the provider fails to meet the FOCUS eligibility requirements and star level criteria, the provider's reimbursement rates will revert to the FOCUS criteria level demonstrated.	8.9.3.19(K) NMAC K. In order to continue at the FOCUS reimbursement rates, a provider must meet and maintain the most recent FOCUS eligibility requirements and star level criteria. If the provider fails to meet the FOCUS eligibility requirements and star level criteria, the provider's reimbursement rates will revert to the FOCUS criteria level demonstrated.
Explanatory Statement		
There were no substantive public comments received. ECECD is adopting the amendments as originally proposed.		

8.9.3.19(M)		
Current Language	Proposed Language	Final Adopted Language
8.9.3.17(M) NMAC M. The department pays a higher rate to providers who provide at least ten hours of care during the day, at least five days a week (not including holidays, breaks, or special programming such as parent teacher conferences and professional development), and meet the following minimum pay requirements for their floaters, assistant teachers, and assistant educators:	8.9.3.19(M) NMAC M. The department pays a higher rate, <u>not to exceed an average of ten percent above the rate provided in Subsection G of this section,</u> to providers who provide at least [ten] <u>10</u> hours of care during the day, at least five days a week (not including holidays, breaks, or special programming such as parent teacher conferences and professional development), and meet the following minimum pay requirements for their floaters, assistant teachers, and assistant educators:	8.9.3.19(M) NMAC M. The department pays a higher rate, <u>not to exceed an average of ten percent above the rate provided in Subsection G of this section,</u> to providers who provide at least [ten] <u>10</u> hours of care during the day, at least five days a week (not including holidays, breaks, or special programming such as parent teacher conferences and professional development), and meet the following minimum pay requirements for their floaters, assistant teachers, and assistant educators:
Explanatory Statement		
Public Comment Summary: Public comment expressed concern that the ten hours of care per day, five days a week requirement to qualify for enhanced rates restricts participation from programs that offer part-time models. Department Response: Enhanced rates are intended as an incentive to help programs maintain longer hours and meet particular wage requirements, and program participation in enhanced rates is optional. Programs that choose not to participate in enhanced rates may receive higher reimbursement rates for their level of quality achieved through participation in FOCUS or national accreditation. ECECD is adopting the amendments as originally proposed.		

8.9.3.19(N)		
Current Language	Proposed Language	Final Adopted Language
8.9.3.17(N) NMAC N. The department pays the following enhanced rates to providers who comply with the requirements as outlined in 8.9.3.17(M) NMAC: <i>[See Table II in Appendix]</i>	8.9.3.19(N) NMAC N. The department pays the following enhanced rates to providers who comply with the requirements as outlined in <u>[8.9.3.17(M)] Subsection M of 8.9.3.19 NMAC</u>: <i>[See Table I2 in Appendix]</i>	8.9.3.19(N) NMAC N. The department pays the following enhanced rates to providers who comply with the requirements as outlined in Subsection M of 8.9.3.19 NMAC: <i>[See Table I3 in Appendix]</i>
Explanatory Statement		
Public Comment Summary: Public comment expressed that enhanced rates were insufficient to meet program costs for school-age children and recommended revisions to the enhanced rate structure to raise reimbursement rates for this age group. Department Response: ECECD is amending reimbursement rates for preschool children in licensed family homes to address a technical issue. ECECD is declining to revise other reimbursement rates at this time. ECECD is adopting the amendments as originally proposed.		

8.9.3.19(O)		
Current Language	Proposed Language	Final Adopted Language
8.9.3.17(O) NMAC O. If a significant change occurs in the client's circumstances, (see Subsection F of 8.9.3.13 NMAC) the child care placement agreement may be modified and the rate of payment is adjusted. The department monitors attendance and reviews the placement at the end of the certification period when the child is re-certified.	8.9.3.19(O) NMAC O. If a significant change occurs in the client's circumstances, (see Subsection <u>[F] C</u> of <u>[8.9.3.13] 8.9.3.15 NMAC</u>) the child care placement agreement may be modified and the rate of payment <u>[is]</u> <u>may be</u> adjusted. The department monitors attendance and reviews the placement at the end of the certification period when the child is re-certified.	8.9.3.19(O) NMAC O. If a significant change occurs in the client's circumstances, (see Subsection <u>[F] C</u> of <u>[8.9.3.13] 8.9.3.15 NMAC</u>) the child care placement agreement may be modified and the rate of payment <u>[is]</u> <u>may be</u> adjusted. The department monitors attendance and reviews the placement at the end of the certification period when the child is re-certified.
Explanatory Statement		
There were no substantive public comments received. ECECD is adopting the amendments as originally proposed.		

8.9.3.19(P)		
Current Language	Proposed Language	Final Adopted Language
8.9.3.17(P) NMAC P. The department may conduct provider, parent, or legal guardian, audits to assess that the approved service units are consistent with	8.9.3.19(P) NMAC P. The department may conduct provider, parent, or legal guardian, audits to assess <u>[that]</u> whether the approved service units are consistent	8.9.3.19(P) NMAC P. The department may conduct provider, parent, or legal guardian, audits to assess <u>[that]</u> <u>whether</u> the approved service units are consistent

8.9.3.19(P)		
Current Language	Proposed Language	FILED WITH STATES Final Adopted Language
usage. Providers found to be defrauding the department are sanctioned. Providers must provide all relevant information requested by the department during an audit.	with usage. Providers found to be defrauding the department are sanctioned. Providers must provide all relevant information requested by the department during an audit.	with usage. Providers found to be defrauding the department are sanctioned. Providers must provide all relevant information requested by the department during an audit.
Explanatory Statement		
There were no substantive public comments received. ECECD is adopting the amendments as originally proposed.		

8.9.3.20		
Current Language	Proposed Language	Final Adopted Language
8.9.3.18 NMAC 8.9.3.18 UNDER PAYMENTS: If a client or provider is underpaid for child care services, the department may issue a one-time payment within 15 calendar days of the department's knowledge or receipt of notification. Notification of the department by the client or provider must occur within three months of the occurrence of alleged underpayment or underpayment may be denied.	8.9.3.20 NMAC [8.9.3.18] 8.9.3.20 UNDER PAYMENTS: If a client or provider is underpaid for child care services, the department may issue a one-time payment within 15 calendar days of the department's knowledge or receipt of notification. [Notification of the department by the] The client or provider must [occur] notify the department within three months of the occurrence of the alleged underpayment, [or] otherwise the underpayment may be denied.	8.9.3.20 NMAC [8.9.3.18] 8.9.3.20 UNDER PAYMENTS: If a client or provider is underpaid for child care services, the department may issue a one-time payment within 15 calendar days of the department's knowledge or receipt of notification. [Notification of the department by the] The client or provider must [occur] notify the department within three months of the occurrence of the alleged underpayment, [or] otherwise the underpayment may be denied.
Explanatory Statement		
There were no substantive public comments received. ECECD is adopting the amendments as originally proposed.		

8.9.3.21		
Current Language	Proposed Language	Final Adopted Language
8.9.3.19 NMAC 8.9.3.19 OVER PAYMENT AND RECOUPMENT: If a provider receives payment for services for which he/she is not entitled, or a client receives benefits on behalf of their child for which he/she is not entitled, and this results in an overpayment, the child care worker will initiate recoupment procedures unless the early childhood services director deems otherwise in	8.9.3.21 NMAC [8.9.3.19] 8.9.3.21 OVER PAYMENT AND RECOUPMENT: If a provider receives payment for services for which [he/she] the provider is not entitled, or a client receives benefits on behalf of their child for which [he/she] the provider is not entitled, [and this results] resulting in an overpayment, the child care worker will initiate recoupment procedures, unless the early childhood	8.9.3.21 NMAC [8.9.3.19] 8.9.3.21 OVER PAYMENT AND RECOUPMENT: If a provider receives payment for services for which [he/she] the provider is not entitled, or a client receives benefits on behalf of their child for which [he/she] the provider is not entitled, [and this results] resulting in an overpayment, the child care worker will initiate recoupment procedures, unless the early childhood

8.9.3.21			FILED WITH STATE RECORDS DIVISION
Current Language	Proposed Language	Final Adopted Language	
exceptional circumstances. Recoupments will only be sought from providers. The department will not seek a recoupment from a client unless substantiated fraud by that client has been determined. The client or provider must repay the amount of the overpayment to the department within 30 calendar days of notification, unless the department determines that the amount is so large that it cannot be paid in one lump sum. In this case, the department may allow the client or provider to repay the amount over a payment period, negotiated between the client and the department, usually not to exceed four months. Failure to pay the overpayment within 30 days of the notice or failure to make regular payments under an agreed upon payment schedule may result in sanctions including termination of benefits or referral of the account to a collection agency or legal action.	services director deems otherwise in exceptional circumstances. Recoupments will only be sought from providers. The department will not seek a recoupment from a client unless substantiated fraud by that client has been determined. The client or provider must repay the amount of the overpayment to the department within 30 calendar days of notification, unless the department determines that the amount is so large that it cannot be paid in one lump sum. In this case, the department may allow the client or provider to repay the amount over a payment period, negotiated between the client and the department <u>and</u> usually not to exceed four months. Failure to pay the overpayment within 30 days of the notice or failure to make regular payments under an agreed upon payment schedule may result in sanctions, including termination of benefits or referral of the account to a collection agency, or <u>in</u> legal action.	services director deems otherwise in exceptional circumstances. Recoupments will only be sought from providers. The department will not seek a recoupment from a client unless substantiated fraud by that client has been determined. The client or provider must repay the amount of the overpayment to the department within 30 calendar days of notification, unless the department determines that the amount is so large that it cannot be paid in one lump sum. In this case, the department may allow the client or provider to repay the amount over a payment period, negotiated between the client and the department <u>and</u> usually not to exceed four months. Failure to pay the overpayment within 30 days of the notice or failure to make regular payments under an agreed upon payment schedule may result in sanctions, including termination of benefits or referral of the account to a collection agency, or <u>in</u> legal action.	2022 JUL 27 PM 09
Explanatory Statement			
Public Comment Summary: Public comment suggested the department revise recoupment procedures to limit the time period within which the department may seek recoupment. Department Response: ECECD believes the recoupment rules are sufficient as proposed. ECECD is adopting the amendments as originally proposed.			

8.9.3.22		
Current Language	Proposed Language	Final Adopted Language
8.9.3.20 NMAC 8.9.3.20 FRAUD: The purposeful misrepresentation of facts relating to eligibility for benefits, or knowingly omitting information that affects eligibility, is fraud and appropriate sanctions, including recoupment, termination of benefits, and referral to law enforcement, shall be initiated by	8.9.3.22 NMAC [8.9.3.20] 8.9.3.22 FRAUD: [The] Fraud is the purposeful misrepresentation of facts, <u>falsification of documents, or knowingly omitting information relating to eligibility</u> [for benefits, or knowingly omitting information that affects eligibility is fraud and],	8.9.3.22 NMAC 8.9.3.22 FRAUD: Fraud is the purposeful misrepresentation of facts, falsification of documents, or knowingly omitting information relating to eligibility, certification, recertification, or payments. If fraud is substantiated by the department, the department will impose appropriate

8.9.3.22		
Current Language	Proposed Language	Final Adopted Language
the department. Fraudulent cases are reported to the department, which will take such action as is deemed necessary. The case remains open at the same rate of benefits until the investigation is concluded and disposition is determined. In cases where substantiated fraud has been determined, the department may disqualify a client or provider until their debt has been paid in full.	certification, recertification, or payments. If fraud is substantiated by the department, the department will impose appropriate sanctions, including recoupment, termination of benefits, [and] or referral to law enforcement[, shall be initiated by the department]. Fraudulent cases [are] <u>must be</u> reported to the department, which will take such action as is deemed necessary. The case remains open at the same rate of benefits until the investigation is concluded and disposition is determined. In cases where substantiated fraud has been determined, the department may disqualify a client or provider until their debt has been paid in full.	sanctions, including recoupment, termination of benefits, or referral to law enforcement. Fraudulent cases must be reported by anyone with knowledge to the department, which will take such action as is deemed necessary. The case remains open at the same rate of benefits until the investigation is concluded and disposition is determined. In cases where substantiated fraud has been determined, the department may disqualify a client or provider until their debt has been paid in full.

Explanatory Statement

Public Comment Summary:

Public comment recommended revisions to fraud procedures to support verification and monitoring of fair wages and recommended additional transparency procedures to support monitoring for waste, fraud, and abuse.

Department Response:

ECECD is modifying proposed language at 8.9.3.17(1)(2) NMAC to include a requirement that providers maintain all documentation related to the Child Care Assistance program for a certain number of years and make it available upon request to the department. This modification addresses public concerns regarding monitoring, verification, and fraud. ECECD is adopting the language in this section as originally proposed.

8.9.3.23(A-E)		
Current Language	Proposed Language	Final Adopted Language
8.9.3.21(A-D) NMAC 8.9.3.21 SANCTIONS: Sanctions may be imposed according to the severity of the infraction as determined by the department as detailed below. A. Providers or clients who fail to make timely payments in the case of recoupment of overpayments may be referred to a collection agency. B. The department may initiate the recoupment process against any provider who fail to report in a timely manner that a child has not been in	8.9.3.23(A-E) NMAC [8.9.3.21] 8.9.3.23 SANCTIONS: [Sanctions may be imposed] <u>The department may impose sanctions</u> according to the severity of the infraction [as determined by the department] as detailed below. A. Providers or clients who fail to make timely payments in the case of recoupment of overpayments may be referred to a collection agency. B. The department may initiate the recoupment process against any provider [who fail] <u>that fails</u> to report	8.9.3.23(A-E) NMAC 8.9.3.23 SANCTIONS: The department may impose sanctions according to the severity of the infraction as detailed below. A. Providers or clients who fail to make timely payments in the case of recoupment of overpayments may be referred to a collection agency. B. The department may initiate the recoupment process against any provider who fails to report in a timely manner that a child

8.9.3.23(A-E)

Current Language	Proposed Language	Final Adopted Language
attendance for 14 consecutive calendar days. C. Providers who allow their registration or license to lapse without renewal will not be paid during the periods for which the license or registration is not current. Providers who lose national accreditation status or lose eligibility for payment at any level of reimbursement for failure to maintain the standards required to be paid at that level of reimbursement, will not be paid at that level of reimbursement beginning with the first day of the month during which the loss of accreditation or eligibility occurred. Payment recoupment will be sought for any period for which excessive benefits have been paid. D. Clients who fail to pay copayments may be disqualified until the copayment is paid or until an agreement is made between the client and the provider to bring the copayment current.	in a timely manner that a child has not been in attendance for 14 consecutive calendar days. C. Providers who allow their registration or license to lapse without renewal will not be paid during the periods for which the license or registration is not current. Providers who lose <u>[national] provider</u> accreditation status or lose eligibility for payment at any level of reimbursement for failure to maintain the standards required to be paid at that level of reimbursement, will not be paid at that level of reimbursement beginning with the first day of the month <u>[during] within</u> which the loss of <u>national provider</u> accreditation or eligibility occurred. Payment recoupment will be sought for any period for which excessive benefits have been paid. [D. Clients who fail to pay copayments may be disqualified until the copayment is paid or until an agreement is made between the client and the provider to bring the copayment current.] <u>D. If a provider violates any of the provisions of 8.9.3 NMAC, the department may suspend or terminate a child care provider's assistance payments, license, or registration, adjust payments to align with care provided, impose a corrective action plan, or revoke eligibility for enhanced reimbursement rates. The department shall promptly report any suspected intentional misuse of funds or fraud to local law enforcement, the local district attorney or attorney general, and the state auditor.</u> <u>E. If, under emergency circumstances, the department has reason to believe that the health, safety or welfare of a child is at risk, the department may immediately suspend or terminate child care</u>	has not been in attendance for 14 consecutive calendar days. C. Providers who allow their registration or license to lapse without renewal will not be paid during the periods for which the license or registration is not current. Providers who lose provider accreditation status or lose eligibility for payment at any level of reimbursement for failure to maintain the standards required to be paid at that level of reimbursement, will not be paid at that level of reimbursement beginning with the first day of the month within which the loss of national provider accreditation or eligibility occurred. Payment recoupment will be sought for any period for which excessive benefits have been paid. D. If a provider violates any of the provisions of 8.9.3 NMAC, the department may suspend or terminate a child care provider's assistance payments, license, or registration, adjust payments to align with care provided, impose a corrective action plan, or revoke eligibility for enhanced reimbursement rates. The department shall promptly report any suspected intentional misuse of funds or fraud to local law enforcement, the local district attorney or attorney general, and the state auditor. E. If, under emergency circumstances, the department has reason to believe that the health, safety or welfare of a child is at risk, the department may immediately suspend or terminate child care assistance payments to a licensed or registered provider. The child care resource and referral will assist affected clients with choosing another ECECD approved provider.

8.9.3.23(A-E)		
Current Language	Proposed Language	Final Adopted Language
	assistance payments to a licensed or registered provider. The child care resource and referral will assist affected clients with choosing another ECECD approved provider.	2026 AUG 27 PM 5:03
Explanatory Statement		
Public Comment Summary: Public comments recommended revisions to sanction procedures to ensure that providers are not sanctioned for issues outside of their control, such as system failures. Department Response: ECECD does not penalize providers for compliance issues that are due to documented system issues or delays and provides flexible deadlines and support to ensure providers are not penalized for technical issues outside of their control. ECECD is adopting the amendments as originally proposed. Public Comment Summary: Public comment recommended revisions to include additional sanctions for providers who deliberately misrepresent wages. Department Response: Current rules maintain ECECD's ability to issue appropriate sanctions if a provider violates a provision within 8.9.3 NMAC. ECECD is adopting the amendments as originally proposed.		

8.9.3.24		
Current Language	Proposed Language	Final Adopted Language
8.9.3.24 NMAC 8.9.3.24 COPAYMENT SCHEDULE: The department will develop and publish an annual schedule based on the federal poverty guidelines.	<i>N/A - Deleted Section</i> [8.9.3.24 — COPAYMENT SCHEDULE: The department will develop and publish an annual schedule based on the federal poverty guidelines.]	<i>N/A - Deleted Section</i> [8.9.3.24 — COPAYMENT SCHEDULE: The department will develop and publish an annual schedule based on the federal poverty guidelines.]
Explanatory Statement		
There were no substantive public comments received. ECECD is adopting the amendments as originally proposed.		

8.9.3.26(A-E)		
Current Language	Proposed Language	Final Adopted Language
8.9.3.25(A-E) NMAC 8.9.3.25 CONFIDENTIALITY: Client files are established and maintained solely for use in the administration of the	8.9.3.26(A-E) NMAC [8.9.3.25 —] 8.9.3.26 CONFIDENTIALITY: Client files are established and maintained solely for use in the administration of the	8.9.3.26(A-E) NMAC [8.9.3.25 —] 8.9.3.26 CONFIDENTIALITY: Client files are established and maintained solely for use in the administration of the

8.9.3.26(A-E)

Current Language	Proposed Language	Final Adopted Language
child care assistance program. Information contained in the records is confidential and is released only in the following limited circumstances: A. to the client upon request; B. to an individual who has written authorization from the client; C. to department employees and agents who need it in connection with program administration, including program auditors; or D. to other agencies or individuals including law enforcement officers who satisfy the following conditions: (1) agency or individual is involved in the administration of a federal or a federally-assisted program, which provides assistance in cash, in kind or in services directly to individuals on the basis of need; (2) information is to be used for the purpose of establishing eligibility, determining amount of assistance or for providing services for applicants or recipients; (3) agency or individual is subject to standards of confidentiality comparable to those contained herein; and (4) agency or individual has actual or implied consent of the applicant or recipient to release the information; in an emergency, information may be released without permission, but the client must be informed of its release immediately thereafter; consent may be considered as implied if the client has made application to the inquiring agency for a benefit of service; E. as requested in a subpoena or subpoena duces tecum.	[child care assistance program] <u>Child Care Assistance Program.</u> Information contained in the records is confidential and is released only in the following limited circumstances: A. to the client upon request; B. to an individual who has written authorization from the client; C. to department employees and agents who need it in connection with program administration, including program auditors; [or] D. to other agencies or individuals including law enforcement officers, who satisfy the following conditions: (1) agency or individual is involved in the administration of a federal or a federally-assisted program, which provides assistance in cash, in kind or in services directly to individuals on the basis of need; (2) information is to be used for the purpose of establishing eligibility, determining amount of assistance or for providing services for applicants or recipients; (3) agency or individual is subject to standards of confidentiality comparable to those contained herein; and (4) agency or individual has actual or implied consent of the applicant or recipient to release the information; in an emergency, information may be released without permission, but the client must be informed of its release immediately thereafter; consent may be considered as implied if the client has made application to the inquiring agency for a benefit of service; <u>or</u> E. as requested in a subpoena or subpoena duces tecum.	[child care assistance program] <u>Child Care Assistance Program.</u> Information contained in the records is confidential and is released only in the following limited circumstances: A. to the client upon request; B. to an individual who has written authorization from the client; C. to department employees and agents who need it in connection with program administration, including program auditors; [or] D. to other agencies or individuals including law enforcement officers, who satisfy the following conditions: (1) agency or individual is involved in the administration of a federal or a federally-assisted program, which provides assistance in cash, in kind or in services directly to individuals on the basis of need; (2) information is to be used for the purpose of establishing eligibility, determining amount of assistance or for providing services for applicants or recipients; (3) agency or individual is subject to standards of confidentiality comparable to those contained herein; and (4) agency or individual has actual or implied consent of the applicant or recipient to release the information; in an emergency, information may be released without permission, but the client must be informed of its release immediately thereafter; consent may be considered as implied if the client has made application to the inquiring agency for a benefit of service; <u>or</u> E. as requested in a subpoena or subpoena duces tecum.
Explanatory Statement		

8.9.3.26(A-E)			FILED WITH STATE BOARD OF EDUCATION
Current Language	Proposed Language	Final Adopted Language	
There were no substantive public comments received. ECECD is adopting the amendments as originally proposed.			

8.9.3.27		
Current Language	Proposed Language	Final Adopted Language
Reorganized with no changes; see 8.9.3.7(N)(1).	8.9.3.27(A) <i>NMAC</i> <u>8.9.3.27 APPROVED NATIONAL PROVIDER ACCREDITING BODIES:</u> A. The following are the only national accrediting bodies that are approved by ECECD for purposes of determining quality ratings: (1) the association of Christian schools international (ACSI); (2) the council on accreditation (COA) for early childhood education and after school programs; (3) the international Christian accrediting association (ICAA); (4) the national accreditation commission for early care and education programs (NAC); (5) the national association for the education of young children (NAEYC) academy for early childhood program accreditation; (6) the national association of family child care (NAFCC); (7) the national early childhood program accreditation (NECPA); (8) association Montessori internationale (AMI); or (9) American Montessori Society (AMS).	8.9.3.27(A) <i>NMAC</i> <u>8.9.3.27 APPROVED NATIONAL PROVIDER ACCREDITING BODIES:</u> A. The following are the only national accrediting bodies that are approved by ECECD for purposes of determining quality ratings: (1) the association of Christian schools international (ACSI); (2) the council on accreditation (COA) for early childhood education and after school programs; (3) the international Christian accrediting association (ICAA); (4) the national accreditation commission for early care and education programs (NAC); (5) the national association for the education of young children (NAEYC) academy for early childhood program accreditation; (6) the national association of family child care (NAFCC); (7) the national early childhood program accreditation (NECPA); (8) association Montessori internationale (AMI); or (9) American Montessori Society (AMS).
Explanatory Statement		
Public Comment Summary: Public comment recommended revisions to the list of approved national provider accrediting bodies, including concerns regarding the inclusion of religious accreditation bodies. Department Response:		

ECECD has reviewed the comments and determined the regulation is sufficient as written. ECECD is adopting the amendments as originally proposed.

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8.9.3.28		
Current Language	Proposed Language	Final Adopted Language
Reorganized with no changes; see 8.9.3.6(C).	<i>8.9.3.28 NMAC</i> 8.9.3.28 CONSTRUCTION: <u>Permissive language such as "may or may be" when referring to actions taken by the department, address situations where it is not always prudent or practical to apply these actions. It is not meant to reduce the weight of these actions nor should the intent of the policies be circumvented due to this wording. This language is intended to be construed in a fiscally responsible and equitable manner, keeping in mind that consistency in application is the ultimate goal.</u>	<i>8.9.3.28 NMAC</i> 8.9.3.28 CONSTRUCTION: <u>Permissive language such as "may or may be" when referring to actions taken by the department, address situations where it is not always prudent or practical to apply these actions. It is not meant to reduce the weight of these actions nor should the intent of the policies be circumvented due to this wording. This language is intended to be construed in a fiscally responsible and equitable manner, keeping in mind that consistency in application is the ultimate goal.</u>
Explanatory Statement		
There were no substantive public comments received. ECECD is adopting the amendments as originally proposed.		

Appendix – Tables for 8.9.3 NMAC

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Table A1

Current Language – 8.9.3.10(B) NMAC

Verification Type	Acceptable documentation or information (examples)
Verification of Birth	-Birth certificate -Hospital or public health records -Certificate of Indian blood -Birth center records
Countable Earned Income	-Paystubs -Employer statement/verification of work form (for new employment) -Client statement, if earning wages from various odd jobs/day labor -Employer contract/work agreement -Payroll/gross wage history For self-employed individuals: -Federal income tax return -Profit and loss (must be verified by a bookkeeper or accountant) -Common reporting standard (CRS) statements from New Mexico taxation and revenue department
Countable Unearned Income	-Benefit award letter (i.e. – social security, veteran administration (VA)) -Letter or document from agency making payment -Court records or other legal documents -Statement from tribal agency -Bank or other financial statement -Divorce or separation decree -Trust documents -Workers' compensation documents -Rental income information
Qualifying Activity	-Proof of TANF participation (example: work participation agreement (WPA)) -School schedule -Statement from educational institution -Work schedule -Paystubs -Employer statement -Client statement -Contract/work agreement -Proof of new business registration with state
Documentation of Incapacity	-Statement or letter from medical professional on letterhead/stationary -Statement/record/letter from a federal government agency that issues or provides disability benefits -Statement/records/letters from a state vocational rehabilitation agency counselor -Records/letters from a treatment facility/counselor -Certification from a private vocational rehabilitation or other counselor that issues or provides disability benefits
Guardianship	-Court order, or other legal records -Notarized statement -Guardianship documentation -Durable power of attorney -Statement signed under penalty of perjury -Attorney records

Dependency	-Court order -Federal tax documents verifying person is claimed as a dependent -Written statement with supervisor's approval
New Mexico Residency	-Lease/rental agreement -Utility bill -Mortgage receipt -Written statement from person client is residing with -Current New Mexico driver's license -Statement from landlord -Other records that provide a name and address
Identification for Parent/Guardian	-Current or expired government issued photo identification/passport -School photo identification -Government issued immigration document with photo -Employer identification with photo
Citizenship/Immigration Verification	-United States birth certificate -Military identification -Passport -Naturalization certificate -Permanent resident card -Numident (from social security office) -Refugee/asylee letter from United States secretary of state or from homeland security -Any document from the immigration and naturalization services (INS), department of homeland security (DHS), or other authoritative document showing a child's immigration status that qualifies the child for assistance

Table A2

Proposed Language—8.9.3.9(B) NMAC

Verification Type	Acceptable documentation or information (examples)
Verification of Birth	-Birth certificate -Hospital or public health records -Certificate of Indian blood -Birth center records

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Countable Earned Income	- Paystubs - Employer statement/verification of work form (for new employment) - Client statement, if earning wages from various odd jobs/day labor - Employer contract/work agreement - Payroll/gross wage history For self-employed individuals: - Federal income tax return - Profit and loss (must be verified by a bookkeeper or accountant) - Common reporting standard (CRS) statements from New Mexico taxation and revenue department
Countable Unearned Income	- Benefit award letter (i.e. – social security, veteran administration (VA)) - Letter or document from agency making payment - Court records or other legal documents - Statement from tribal agency - Bank or other financial statement - Divorce or separation decree - Trust documents - Workers' compensation documents - Rental income information
Qualifying Activity	- Proof of TANF participation (example: work participation agreement (WPA)) - School schedule - Statement from educational institution - Work schedule - Paystubs - Employer statement - Client statement - Contract/work agreement - Proof of new business registration with state
Documentation of Incapacity	- Statement or letter from medical professional on letterhead ☐ or stationary - Statement ☐ , record ☐ or letter from a federal government agency that issues or provides disability benefits - Statement ☐ , records ☐ or letters from a state vocational rehabilitation agency counselor - Records ☐ or letters from a treatment facility ☐ or counselor - Certification from a private vocational rehabilitation or other counselor that issues or provides disability benefits
Guardianship	- Court order ☐ or other legal records - Notarized statement - Guardianship documentation - Durable power of attorney - Statement signed under penalty of perjury - Attorney records
Dependency	- Court order - Federal tax documents verifying person is claimed as a dependent - Written statement with supervisor's approval

New Mexico Residency	FILED WITH STATE OF NEW MEXICO 2026 AUG 27 PM 5:03 -Lease/rental agreement -Utility bill -Mortgage receipt -Written statement from person client is residing with -Current New Mexico driver's license -Statement from landlord -Other records that provide a name and address
Identification for Parent/Guardian	-Current or expired government issued photo identification[<i>/</i>] or passport -School photo identification -Government issued immigration document with photo -Employer identification with photo
Citizenship/Immigration Verification	-United States birth certificate -Military identification -Passport -Naturalization certificate -Permanent resident card -Numident (from social security office) -Refugee[<i>/</i>] or asylee letter from United States secretary of state or from homeland security -Any document from the immigration and naturalization services (INS), department of homeland security (DHS), or other authoritative document showing a child's immigration status that qualifies the child for assistance
Foster Parent Verification	-Official record or license from CYFD, court order, or similar legal documents evidencing a foster parent- relationship.

Table A3

Adopted Language—8.9.3.9(B) NMAC

<u>Verification Type</u>	<u>Acceptable documentation or information (examples)</u>
Verification of Birth	-Birth certificate -Hospital or public health records -Certificate of Indian blood -Birth center records
Countable Earned Income	-Paystubs -Employer statement/verification of work form (for new employment) -Client statement, if earning wages from various odd jobs/day labor -Employer contract/work agreement -Payroll/gross wage history For self-employed individuals: -Federal income tax return -Profit and loss (must be verified by a bookkeeper or accountant) -Common reporting standard (CRS) statements from [New Mexico] the taxation and revenue department

Countable Unearned Income	-Benefit award letter (i.e. – social security, veteran administration (VA)) -Letter or document from agency making payment -Court records or other legal documents -Statement from tribal agency -Bank or other financial statement -Divorce or separation decree -Trust documents -Workers' compensation documents -Rental income information
Qualifying Activity	-Proof of TANF participation (example: work participation agreement (WPA)) -School schedule -Statement from educational institution -Work schedule -Payscale -Employer statement -Client statement -Contract/work agreement -Proof of new business registration with state
Documentation of Incapacity	-Statement or letter from medical professional on letterhead <u>[/]</u> or stationary -Statement <u>[/]</u>, record <u>[/]</u> or letter from a federal government agency that issues or provides disability benefits -Statement <u>[/]</u>, records <u>[/]</u> or letters from a state vocational rehabilitation agency counselor -Records <u>[/]</u> or letters from a treatment facility <u>[/]</u> or counselor -Certification from a private vocational rehabilitation or other counselor that issues or provides disability benefits
Guardianship	-Court order <u>[/]</u> or other legal records -Notarized statement -Guardianship documentation -Durable power of attorney -Statement signed under penalty of perjury -Attorney records
Dependency	-Court order -Federal tax documents verifying person is claimed as a dependent -Written statement with supervisor's approval
New Mexico Residency	-Lease/rental agreement -Utility bill -Mortgage receipt -Written statement from person <u>the</u> client is residing with -Current New Mexico driver's license -Statement from landlord -Other records that provide a name and address
Identification for Parent/Guardian	-Current or expired government issued photo identification <u>[/]</u> or passport -School photo identification -Government issued immigration document with photo -Employer identification with photo
Citizenship/Immigration Verification	-United States birth certificate -Military identification -Passport

	-Naturalization certificate -Permanent resident card -Numident (from social security office) -Refugee[?] or asylee letter from the United States secretary of state or from homeland security -Any document from the immigration and naturalization services (INS), department of homeland security (DHS), or other authoritative document showing a child's immigration status that qualifies the child for assistance
Foster Parent Verification	-Official record or license from the children, youth, and families department (CYFD), court order, or similar legal documents evidencing a foster parent- relationship.

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Table B1

Current Language—8.9.3.10(D)(1) NMAC

Requirement	Presumptive Self Attested or Required Document
Verification of Birth	Required Documentation
Income Documentation	Self Attested
Qualifying Activity	Self Attested
NM Residency	Required documentation
Guardianship, as applicable	Required documentation
Citizenship/Immigration Verification	Required documentation
Identification	Required documentation
ECECD Approved Provider	Self Attested
Assets over a million dollars	Self Attested

Table B2

Proposed Language—8.9.3.9(D)(1) NMAC

Requirement	Presumptive Self Attested or Required Document
Verification of Birth	Required Documentation
Income Documentation	Self-Attested
Qualifying Activity	Self-Attested
NM Residency	Required documentation
Guardianship, as applicable	Required documentation
Citizenship/Immigration Verification	Required documentation
Identification	Required documentation
ECECD Approved Provider	Self-Attested
Assets over a million dollars	Self-Attested

Table B3

Adopted Language—8.9.3.9(D)(1) NMAC

Requirement	Presumptive Self Attested or Required Document
Verification of Birth	Required Documentation
Income Documentation	Self-Attested
Qualifying Activity	Self-Attested

NM Residency	Required documentation
Guardianship, as applicable	Required documentation
Citizenship/Immigration Verification	Required documentation
Identification	Required documentation
ECECD Approved Provider	Self-Attested
Assets over a million dollars	Self-Attested

Table C1

Current Language—8.9.3.11(I)(3) NMAC

Full Time Care	Wrap-Around Care	Part-Time Care (cases where a child may need two providers or less than full time care)
Hours of service are approved based on a negotiated arrangement between the family and a single provider with a minimum of 29 hours per week	Head Start, New Mexico PreK, and school age children needing Wrap-Around Care, including summer and breaks for a single provider	In the event one provider is unable to provide services for all child's needs, and care is needed for multiple providers or other purposes and for care needed less than 29 weekly hours

Table C2

Proposed Language—8.9.3.10(I)(4) NMAC

Full Time Care	Wrap-Around Care	Part-Time Care (cases where a child may need two providers or less than full time care)
Hours of service are approved based on a negotiated arrangement between the family and a single provider with a minimum of 29 hours per week	Head Start, New Mexico PreK, and school age children needing Wrap-Around Care. <u>[including] Wrap-Around Care includes providing full-time care during the summer and during breaks for a single provider</u>	In the event one provider is unable to provide services for all <u>of a</u> child's needs, and care is needed for multiple providers or other purposes and for care needed less than 29 weekly hours

Table C3

Adopted Language—8.9.3.10(I)(4) NMAC

Full Time Care	Wrap-Around Care	Part-Time Care (cases where a child may need two providers or less than full time care)
Hours of service are approved based on a negotiated arrangement between the family and a single provider with a minimum of 29 hours per week	Head Start, New Mexico PreK, and school age children needing Wrap-Around Care. <u>[including] Wrap-Around Care includes providing full-time care during the summer and during breaks for a single provider</u>	In the event one provider is unable to provide services for all of a child's needs, and care is needed for multiple providers or other purposes and for care needed <u>[less] fewer</u> than 29 weekly hours

Table D1

Proposed Language—8.9.3.14(D) NMAC

<u>FPL Percent Income Increments</u>	<u>Maximum Percentage of Gross Monthly Household Income to be Paid as Copayment</u>
<u>0.00 to 150.00</u>	<u>0.00%</u>
<u>151.01 to 250</u>	<u>0.01%</u>
<u>251.01 to 600</u>	<u>0.02%</u>
<u>600.01 to 900</u>	<u>3%*</u>
<u>900.01 and above</u>	<u>7%**</u>

Table D2

Adopted Language—8.9.3.14(D) NMAC

<u>FPL Percent Income Increments</u>	<u>Maximum Percentage of Gross Monthly Household Income to be Paid as Copayment</u>
<u>0.00 to 150.00</u>	<u>0.00%</u>
<u>150.01 to 250</u>	<u>0.01%</u>
<u>250.01 to 600</u>	<u>0.02%</u>
<u>600.01 to 900</u>	<u>3%*</u>
<u>900.01 and above</u>	<u>7%**</u>

Table E1

Current Language—8.9.3.13(D) NMAC

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FPL Percent Income Increments	Percent of Gross Income (Monthly) to Determine Copay
0.00 to 185.00	0.00%
185.01 to 250	0.01%
250.01 to 325	0.02%
325.01 to 400	0.03%
400.01 to 475	0.04%
475.01 to 500	0.05%
500.01 and above	1.50%

Table E2

Proposed Language—8.9.3.15(D) NMAC

FPL Percent Income Increments	Percent of Gross Income (Monthly) to Determine Copay
0.00 to 185.00	0.00%
185.01 to 250	0.01%
250.01 to 325	0.02%
325.01 to 400	0.03%
400.01 to 475	0.04%
475.01 to 500	0.05%
500.01 and above	1.50%

Table E3

Adopted Language—8.9.3.15(D) NMAC

FPL Percent Income Increments	Percent of Gross Income (Monthly) to Determine Copay
0.00 to 185.00	0.00%
185.01 to 250	0.01%
250.01 to 325	0.02%
325.01 to 400	0.03%
400.01 to 475	0.04%
475.01 to 500	0.05%
500.01 and above	1.50%

Table F1

Current Language—8.9.3.17(E) NMAC: Payment for Services

Full Time Care	Wrap-Around Care	Part-Time Care (cases where a child may need two providers or less than full time care)
Hours of service are approved based on a negotiated arrangement between the family and a single provider with a minimum of 29 hours per week	Head Start, New Mexico PreK, and school age children needing Wrap-Around Care, including summer and breaks for a single provider	In the event one provider is unable to provide services for all child's needs, and care is needed for multiple providers or other purposes and for care needed less than 29 weekly hours

Table F2

Proposed Language—8.9.3.19(E) NMAC

Full-Time Care	Wrap-Around Care	Part-Time Care (cases where a child may need two providers or less than full time care)
Hours of service are approved based on a negotiated arrangement between the family and a single provider with a minimum of 29 hours per week	Head Start, New Mexico PreK, and school age children needing Wrap-Around Care. <u>[including] Wrap-Around Care includes providing full-time care during the summer and during breaks for a single provider,</u>	In the event one provider is unable to provide services for all child's needs, and care is needed for multiple providers or other purposes and for care needed less than 29 weekly hours

Table F3

Adopted Language—8.9.3.19(E) NMAC

Full-Time Care	Wrap-Around Care	Part-Time Care (cases where a child may need two providers or less than full time care)
Hours of service are approved based on a negotiated arrangement between the family and a single provider with a minimum of 29 hours per week	Head Start, New Mexico PreK, and school age children needing Wrap-Around Care. <u>[including] Wrap-Around Care includes providing full-time care during the summer and during breaks for a single provider,</u>	In the event one provider is unable to provide services for all child's needs, and care is needed for multiple providers or other purposes and for care needed <u>[less] fewer</u> than 29 weekly hours

Table G1

Current Language—8.9.3.17(G) NMAC

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LICENSED CENTERS (2 STAR)											
Infant Full Time	Infant Part Time	Infant Wrap-Around Care	Toddler Full Time	Toddler Part Time	Toddler Wrap-Around Care	Preschool Full Time	Preschool Part time	Preschool Wrap-Around Care	School age Full time	School age (Wrap-Around Care, full year)	School age Part Time
\$1,200	\$600	\$720	\$875	\$438	\$525	\$735	\$368	\$552	\$689	\$525	\$263
LICENSED FAMILY HOMES (2 STAR)											
Infant Full Time	Infant Part Time	Infant Wrap-Around Care	Toddler Full Time	Toddler Part Time	Toddler Wrap-Around Care	Preschool Full Time	Preschool Part time	Preschool Wrap-Around Care	School age Full time	School age (Wrap-Around Care, full year)	School age Part Time
\$1,325	\$663	\$795	\$1,275	\$638	\$765	\$914	\$457	\$686	\$730	\$557	\$278
LICENSED GROUP HOMES (2 STAR)											
Infant Full Time	Infant Part Time	Infant Wrap-Around Care	Toddler Full Time	Toddler Part Time	Toddler Wrap-Around Care	Preschool Full Time	Preschool Part time	Preschool Wrap-Around Care	School age Full time	School age (Wrap-Around Care, full year)	School age Part Time
\$1,200	\$600	\$720	\$1,150	\$575	\$690	\$872	\$436	\$654	\$654	\$499	\$249.52
REGISTERED HOMES AND FFN (2 STAR)											
Infant Full Time	Infant Part Time	Infant Wrap-Around Care	Toddler Full Time	Toddler Part Time	Toddler Wrap-Around Care	Preschool Full Time	Preschool Part time	Preschool Wrap-Around Care	School age Full time	School age (Wrap-Around Care, full year)	School age Part Time
\$750	\$375	\$450	\$750	\$375	\$450	\$425	\$213	\$255	\$459	\$350	\$175.00

Table G2

Proposed Language—8.9.3.19(G) NMAC

LICENSED CENTERS (2 STAR)											
Infant Full Time	Infant Part Time	Infant Wrap-Around Care	Toddler Full Time	Toddler Part Time	Toddler Wrap-Around Care	Preschool Full Time	Preschool Part time	Preschool Wrap-Around Care	School age Full time	School age (Wrap-Around Care, full	School age Part Time

								STATE	FILED	year)	
\$1,200	\$600	\$720	\$875	\$438	\$525	\$735	\$368	\$552	\$689	\$525	\$263
LICENSED FAMILY HOMES (2 STAR)											
Infant Full Time	Infant Part Time	Infant Wrap-Around Care	Toddler Full Time	Toddler Part Time	Toddler Wrap-Around Care	Preschool Full Time	Preschool Part time	Preschool Wrap-Around Care	School age Full time	School age (Wrap-Around Care, full year)	School age Part Time
\$1,325	\$663	\$795	\$1,275	\$638	\$765	[\$914] \$1046.78	[\$457] \$523.39	[\$686] \$785.65	\$730	\$557	\$278
LICENSED GROUP HOMES (2 STAR)											
Infant Full Time	Infant Part Time	Infant Wrap-Around Care	Toddler Full Time	Toddler Part Time	Toddler Wrap-Around Care	Preschool Full Time	Preschool Part time	Preschool Wrap-Around Care	School age Full time	School age (Wrap-Around Care, full year)	School age Part Time
\$1,200	\$600	\$720	\$1,150	\$575	\$690	\$872	\$436	\$654	\$654	\$499	\$249.52
REGISTERED HOMES AND FFN (2 STAR)											
Infant Full Time	Infant Part Time	Infant Wrap-Around Care	Toddler Full Time	Toddler Part Time	Toddler Wrap-Around Care	Preschool Full Time	Preschool Part time	Preschool Wrap-Around Care	School age Full time	School age (Wrap-Around Care, full year)	School age Part Time
\$750	\$375	\$450	\$750	\$375	\$450	\$425	\$213	\$255	\$459	\$350	\$175.00

Table G3

Adopted Language—8.9.3.19(G) NMAC

LICENSED CENTERS (2 STAR)											
Infant Full Time	Infant Part Time	Infant Wrap-Around Care	Toddler Full Time	Toddler Part Time	Toddler Wrap-Around Care	Preschool Full Time	Preschool Part time	Preschool Wrap-Around Care	School age Full time	School age (Wrap-Around Care, full year)	School age Part Time
\$1,200	\$600	\$720	\$875	\$438	\$525	\$735	\$368	\$552	\$689	\$525	\$263
LICENSED FAMILY HOMES (2 STAR)											
Infant Full Time	Infant Part Time	Infant Wrap-Around Care	Toddler Full Time	Toddler Part Time	Toddler Wrap-Around Care	Preschool Full Time	Preschool Part time	Preschool Wrap-Around Care	School age Full time	School age (Wrap-Around Care, full year)	School age Part Time

\$1,325	\$663	\$795	\$1,275	\$638	\$765	[\$914] \$1046.78	[\$457] \$523.39	[\$686] \$785.65	[\$730] \$827.10	\$557	\$278
LICENSED GROUP HOMES (2 STAR)											
Infant Full Time	Infant Part Time	Infant Wrap-Around Care	Toddler Full Time	Toddler Part Time	Toddler Wrap-Around Care	Preschool Full Time	Preschool Part time	Preschool Wrap-Around Care	School age Full time	School age (Wrap-Around Care, full year)	School age Part Time
\$1,200	\$600	\$720	\$1,150	\$575	\$690	\$872	\$436	\$654	\$654	\$499	\$249.52
REGISTERED HOMES AND FFN (2 STAR)											
Infant Full Time	Infant Part Time	Infant Wrap-Around Care	Toddler Full Time	Toddler Part Time	Toddler Wrap-Around Care	Preschool Full Time	Preschool Part time	Preschool Wrap-Around Care	School age Full time	School age (Wrap-Around Care, full year)	School age Part Time
\$750	\$375	\$450	\$750	\$375	\$450	\$425	\$213	\$255	\$459	\$350	\$175.00

Table H1

Current Language—8.9.3.17(J) NMAC

LICENSED CENTERS											
Infant Full Time	Infant Part Time	Infant Wrap-Around Care	Toddler Full Time	Toddler Part Time	Toddler Wrap-Around Care	Preschool Full Time	Preschool Part time	Preschool Wrap-Around Care	School age Full time	School age (Wrap-Around Care, full year)	School age Part Time
2 + Star											
\$1,300	\$650	\$780	\$975	\$488	\$585	\$840	\$420	\$630	\$758	\$578	\$263
3 Star											
\$1,300	\$650	\$780	\$975	\$488	\$585	\$840	\$420	\$630	\$758	\$578	\$289
4 Star											
\$1,650	\$825	\$990	\$1,250	\$625	\$750	\$1,051	\$525	\$788	\$895	\$683	\$289
5 Star FOCUS, ECECD approved national accreditation, or Head Start, or Early Head Start											
\$2,175	\$1,088	\$1,305	\$1,700	\$850	\$1,020	\$1,182	\$591	\$886	\$1,033	\$788	\$341
LICENSED FAMILY HOMES											
Infant Full Time	Infant Part Time	Infant Wrap-Around Care	Toddler Full Time	Toddler Part Time	Toddler Wrap-Around Care	Preschool Full Time	Preschool Part time	Preschool Wrap-Around Care	School age Full time	School age (Wrap-Around Care, full year)	School age Part Time
2+ Star											

\$1,450	\$725	\$870	\$1,375	\$688	\$825	\$998	\$499	\$749	\$826	\$630	\$315
3 Star											
\$1,450	\$725	\$870	\$1,375	\$688	\$825	\$998	\$499	\$749	\$826	\$630	\$315
4 Star											
\$1,700	\$850	\$1,020	\$1,575	\$788	\$945	\$1,129	\$565	\$847	\$937	\$714	\$357
5 Star FOCUS, ECECD approved national accreditation, or Head Start, or Early Head Start											
\$1,900	\$950	\$1,140	\$1,800	\$900	\$1,080	\$1,219	\$609	\$914	\$999	\$762	\$381
LICENSED GROUP HOMES											
Infant Full Time	Infant Part Time	Infant Wrap-Around Care	Toddler Full Time	Toddler Part Time	Toddler Wrap-Around Care	Preschool Full Time	Preschool Part time	Preschool Wrap-Around Care	School age Full time	School age (Wrap-Around Care, full year)	School age Part Time
2+ Star											
\$1,300	\$650	\$780	\$1,250	\$625	\$750	\$956	\$478	\$717	\$751	\$573	\$286.29
3 Star											
\$1,300	\$650	\$780	\$1,250	\$625	\$750	\$956	\$478	\$717	\$751	\$573	\$286.29
4 Star											
\$1,575	\$788	\$945	\$1,500	\$750	\$900	\$1,087	\$544	\$816	\$861	\$657	\$328.32
5 Star FOCUS, ECECD approved national accreditation, or Head Start, or Early Head Start											
\$1,750	\$875	\$1,050	\$1,700	\$850	\$1,020	\$1,177	\$588	\$883	\$923	\$704	\$351.95

Table H2

Proposed Language—8.9.3.19(J) NMAC

LICENSED CENTERS												
	Infant Full Time	Infant Part Time	Infant Wrap-Around Care	Toddler Full Time	Toddler Part Time	Toddler Wrap-Around Care	Preschool Full Time	Preschool Part time	Preschool Wrap-Around Care	School age Full time	School age (Wrap-Around Care, full year)	School age Part Time
2 + Star												
	\$1,300	\$650	\$780	\$975	\$488	\$585	\$840	\$420	\$630	\$758	\$578	\$263
3 Star												
	\$1,300	\$650	\$780	\$975	\$488	\$585	\$840	\$420	\$630	\$758	\$578	\$289
4 Star												
	\$1,650	\$825	\$990	\$1,250	\$625	\$750	\$1,051	\$525	\$788	\$895	\$683	\$289
5 Star FOCUS, [ECECD approved] national provider accreditation, or Head Start, or Early Head Start												
	\$2,175	\$1,088	\$1,305	\$1,700	\$850	\$1,020	\$1,182	\$591	\$886	\$1,033	\$788	\$341
LICENSED FAMILY HOMES												
	Infant Full Time	Infant Part Time	Infant Wrap-Around Care	Toddler Full Time	Toddler Part Time	Toddler Wrap-Around Care	Preschool Full Time	Preschool Part time	Preschool Wrap-Around Care	School age Full	School age (Wrap-Around Care, full year)	School age Part Time

			Care			Care			Care	time	Around	
									STATE	PER	Care,	TER
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2+ Star												
	\$1,450	\$725	\$870	\$1,375	\$688	\$825	[\$998] \$1142.98	[\$499] \$571.49	[\$749] \$857.81	\$826	\$630	\$315
3 Star												
	\$1,450	\$725	\$870	\$1,375	\$688	\$825	[\$998] \$1142.98	[\$499] \$571.49	[\$749] \$857.81	\$826	\$630	\$315
4 Star												
	\$1,700	\$850	\$1,020	\$1,575	\$788	\$945	[\$1,129] \$1293.01	[\$565] \$697.08	[\$847] \$970.04	\$937	\$714	\$357
5 Star FOCUS, [ECECD-approved] national provider accreditation, or Head Start, or Early Head Start												
	\$1,900	\$950	\$1,140	\$1,800	\$900	\$1,080	[\$1,219] \$1396.08	[\$609] \$697.47	[\$914] \$1046.78	\$999	\$762	\$381
LICENSED GROUP HOMES												
	Infant Full Time	Infant Part Time	Infant Wrap- Around Care	Toddler Full Time	Toddler Part Time	Toddler Wrap- Around Care	Preschool Full Time	Preschool Part time	Preschool Wrap- Around Care	School age Full time	School age (Wrap- Around Care, full year)	School age Part Time
2+ Star												
	\$1,300	\$650	\$780	\$1,250	\$625	\$750	\$956	\$478	\$717	\$751	\$573	\$286.29
3 Star												
	\$1,300	\$650	\$780	\$1,250	\$625	\$750	\$956	\$478	\$717	\$751	\$573	\$286.29
4 Star												
	\$1,575	\$788	\$945	\$1,500	\$750	\$900	\$1,087	\$544	\$816	\$861	\$657	\$328.32
5 Star FOCUS, [ECECD-approved] national provider accreditation, or Head Start, or Early Head Start												
	\$1,750	\$875	\$1,050	\$1,700	\$850	\$1,020	\$1,177	\$588	\$883	\$923	\$704	\$351.95

Table H3

Adopted Language—8.9.3.19(J) NMAC

LICENSED CENTERS												
	Infant Full Time	Infant Part Time	Infant Wrap- Around Care	Toddler Full Time	Toddler Part Time	Toddler Wrap- Around Care	Preschool Full Time	Preschool Part time	Preschool Wrap- Around Care	School age Full time	School age (Wrap- Around Care, full year)	School age Part Time
2 + Star												
	\$1,300	\$650	\$780	\$975	\$488	\$585	\$840	\$420	\$630	\$758	\$578	\$263
3 Star												
	\$1,300	\$650	\$780	\$975	\$488	\$585	\$840	\$420	\$630	\$758	\$578	\$289
4 Star												

	\$1,650	\$825	\$990	\$1,250	\$625	\$750	\$1,051	\$525	\$788	\$895	\$683	\$289
5 Star FOCUS, [ECECD-approved] national provider accreditation, or Head Start, or Early Head Start												
	\$2,175	\$1,088	\$1,305	\$1,700	\$850	\$1,020	\$1,182	\$591	\$882	\$1,033	\$788	\$341
LICENSED FAMILY HOMES												
	Infant Full Time	Infant Part Time	Infant Wrap-Around Care	Toddler Full Time	Toddler Part Time	Toddler Wrap-Around Care	Preschool Full Time	Preschool Part time	Preschool Wrap-Around Care	School age Full time	School age (Wrap-Around Care, full year)	School age Part Time
2+ Star												
	\$1,450	\$725	\$870	\$1,375	\$688	\$825	[\$998] \$1142.98	[\$499] \$571.49	[\$749] \$857.81	\$826	\$630	\$315
3 Star												
	\$1,450	\$725	\$870	\$1,375	\$688	\$825	[\$998] \$1142.98	[\$499] \$571.49	[\$749] \$857.81	\$826	\$630	\$315
4 Star												
	\$1,700	\$850	\$1,020	\$1,575	\$788	\$945	[\$1,129] \$1293.01	[\$565] \$697.08	[\$847] \$970.04	\$937	\$714	\$357
5 Star FOCUS, [ECECD-approved] national provider accreditation, or Head Start, or Early Head Start												
	\$1,900	\$950	\$1,140	\$1,800	\$900	\$1,080	[\$1,249] \$1396.08	[\$609] \$697.47	[\$914] \$1046.78	\$999	\$762	\$381
LICENSED GROUP HOMES												
	Infant Full Time	Infant Part Time	Infant Wrap-Around Care	Toddler Full Time	Toddler Part Time	Toddler Wrap-Around Care	Preschool Full Time	Preschool Part time	Preschool Wrap-Around Care	School age Full time	School age (Wrap-Around Care, full year)	School age Part Time
2+ Star												
	\$1,300	\$650	\$780	\$1,250	\$625	\$750	\$956	\$478	\$717	\$751	\$573	\$286.29
3 Star												
	\$1,300	\$650	\$780	\$1,250	\$625	\$750	\$956	\$478	\$717	\$751	\$573	\$286.29
4 Star												
	\$1,575	\$788	\$945	\$1,500	\$750	\$900	\$1,087	\$544	\$816	\$861	\$657	\$328.32
5 Star FOCUS, [ECECD-approved] national provider accreditation, or Head Start, or Early Head Start												
	\$1,750	\$875	\$1,050	\$1,700	\$850	\$1,020	\$1,177	\$588	\$883	\$923	\$704	\$351.95

Table I1

Current Language—8.9.3.17(N) NMAC

LICENSED CENTERS — ENHANCED RATE										
	Infant Full Time	Infant Part Time	Infant Wrap-Around Care	Toddler Full Time	Toddler Part Time	Toddler Wrap-Around Care	Preschool Full Time	Preschool Part Time	Preschool Wrap-Around Care	

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2 Star

\$1,350	\$675	\$810	\$1,015	\$508	\$609	\$825	\$413	\$619
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2+ Star

\$1,400	\$700	\$840	\$1,075	\$538	\$645	\$890	\$445	\$668
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3 Star

\$1,400	\$700	\$840	\$1,075	\$538	\$645	\$890	\$445	\$668
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4 Star

\$1,950	\$975	\$1,170	\$1,525	\$763	\$915	\$1,150	\$575	\$863
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5 Star FOCUS, ECECD approved national accreditation, or Head Start, or Early Head Start

\$2,500	\$1,250	\$1,500	\$1,975	\$988	\$1,185	\$1,375	\$688	\$1,031
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LICENSED FAMILY HOMES — ENHANCED RATE

	Infant Full Time	Infant Part Time	Infant Wrap-Around Care	Toddler Full Time	Toddler Part Time	Toddler Wrap-Around Care	Preschool Full Time	Preschool Part Time	Preschool Wrap-Around Care
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2 Star

\$1,500	\$750	\$900	\$1,425	\$713	\$855	\$1,050	\$525	\$788
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2+ Star

\$1,625	\$813	\$975	\$1,525	\$763	\$915	\$1,175	\$588	\$881
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3 Star

\$1,625	\$813	\$975	\$1,525	\$763	\$915	\$1,175	\$588	\$881
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4 Star

\$1,975	\$988	\$1,185	\$1,850	\$925	\$1,110	\$1,375	\$688	\$1,031
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5 Star FOCUS, ECECD approved national accreditation, or Head Start, or Early Head Start

\$2,175	\$1,088	\$1,305	\$2,025	\$1,013	\$1,215	\$1,450	\$725	\$1,088
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LICENSED GROUP HOMES — ENHANCED RATE

Group Homes	Infant Full Time	Infant Part Time	Infant Wrap-Around Care	Toddler Full Time	Toddler Part Time	Toddler Wrap-Around Care	Preschool Full Time	Preschool Part Time	Preschool Wrap-Around Care
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2 Star

\$1,375	\$688	\$825	\$1,300	\$650	\$780	\$975	\$488	\$731
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2+ Star

\$1,475	\$738	\$885	\$1,400	\$700	\$840	\$1,075	\$538	\$806
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3 Star

\$1,475	\$738	\$885	\$1,400	\$700	\$840	\$1,075	\$538	\$806
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4 Star

\$1,775	\$888	\$1,065	\$1,700	\$850	\$1,020	\$1,200	\$600	\$900
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5 Star FOCUS, ECECD approved national accreditation, or Head Start, or Early Head Start

\$1,940	\$970	\$1,164	\$1,850	\$925	\$1,110	\$1,300	\$650	\$975
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LICENSED CENTERS — ENHANCED RATE — SCHOOL AGE

Star Rating	School Age Full Time	School Age Part-time	School Age Wrap-Around Care
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2 Star	\$699	\$268	\$535
2+ Star	\$768	\$294	\$588
3 Star	\$768	\$294	\$588
4 Star	\$905	\$347	\$693
5 Star	\$1,043	\$399	\$798

LICENSED FAMILY HOMES—ENHANCED RATE—SCHOOL AGE			
Star Rating	School Age Full Time	School Age Part-time	School Age Wrap-Around Care
2 Star	\$740	\$284	\$567
2+ Star	\$836	\$320	\$640
3 Star	\$836	\$320	\$640
4 Star	\$947	\$362	\$724
5 Star	\$1,009	\$386	\$772

LICENSED GROUP HOMES—ENHANCED RATE—SCHOOL AGE			
Star Rating	School Age Full Time	School Age Part-time	School Age Wrap-Around Care
2 Star	\$664	\$255	\$509
2+ Star	\$761	\$292	\$583
3 Star	\$761	\$292	\$583
4 Star	\$871	\$334	\$667
5 Star	\$933	\$357	\$714

Table I2

Proposed Language—8.9.3.19(N) NMAC

LICENSED CENTERS—ENHANCED RATE									
	Infant Full Time	Infant Part Time	Infant Wrap-Around Care	Toddler Full Time	Toddler Part Time	Toddler Wrap-Around Care	Preschool Full Time	Preschool Part Time	Preschool Wrap-Around Care
2 Star									
	\$1,350	\$675	\$810	\$1,015	\$508	\$609	\$825	\$413	\$619
2+ Star									
	\$1,400	\$700	\$840	\$1,075	\$538	\$645	\$890	\$445	\$668
3 Star									
	\$1,400	\$700	\$840	\$1,075	\$538	\$645	\$890	\$445	\$668
4 Star									
	\$1,950	\$975	\$1,170	\$1,525	\$763	\$915	\$1,150	\$575	\$863
5 Star FOCUS, [ECECD-approved] national provider accreditation, or Head Start, or Early Head Start									
	\$2,500	\$1,250	\$1,500	\$1,975	\$988	\$1,185	\$1,375	\$688	\$1,031
LICENSED FAMILY HOMES—ENHANCED RATE									
	Infant Full Time	Infant Part Time	Infant Wrap-Around Care	Toddler Full Time	Toddler Part Time	Toddler Wrap-Around Care	Preschool Full Time	Preschool Part Time	Preschool Wrap-Around Care

FILED WITH									
2 Star	\$1,500	\$750	\$900	\$1,425	\$713	\$855	\$1,050	\$525	\$788
2+ Star	\$1,625	\$813	\$975	\$1,525	\$763	\$915	\$1,175	\$588	\$881
3 Star	\$1,625	\$813	\$975	\$1,525	\$763	\$915	\$1,175	\$588	\$881
4 Star	\$1,975	\$988	\$1,185	\$1,850	\$925	\$1,110	\$1,375	\$688	\$1031
5 Star FOCUS, [ECECD approved] national provider accreditation, or Head Start, or Early Head Start									
	\$2,175	\$1,088	\$1,305	\$2,025	\$1,013	\$1,215	\$1,450	\$725	\$1088
LICENSED GROUP HOMES—ENHANCED RATE									
Group Homes	Infant Full Time	Infant Part Time	Infant Wrap-Around Care	Toddler Full Time	Toddler Part Time	Toddler Wrap-Around Care	Preschool Full Time	Preschool Part Time	Preschool Wrap-Around Care
2 Star	\$1,375	\$688	\$825	\$1,300	\$650	\$780	\$975	\$488	\$731
2+ Star	\$1,475	\$738	\$885	\$1,400	\$700	\$840	\$1,075	\$538	\$806
3 Star	\$1,475	\$738	\$885	\$1,400	\$700	\$840	\$1,075	\$538	\$806
4 Star	\$1,775	\$888	\$1,065	\$1,700	\$850	\$1,020	\$1,200	\$600	\$900
5 Star FOCUS, [ECECD approved] national provider accreditation, or Head Start, or Early Head Start									
	\$1,940	\$970	\$1,164	\$1,850	\$925	\$1,110	\$1,300	\$650	\$975

LICENSED CENTERS—ENHANCED RATE – SCHOOL AGE			
Star Rating	School Age Full Time	School Age Part-time	School Age Wrap-Around Care
2 Star	\$699	\$268	\$535
2+ Star	\$768	\$294	\$588
3 Star	\$768	\$294	\$588
4 Star	\$905	\$347	\$693
5 Star	\$1,043	\$399	\$798

LICENSED FAMILY HOMES—ENHANCED RATE– SCHOOL AGE			
Star Rating	School Age Full Time	School Age Part-time	School Age Wrap-Around Care
2 Star	\$740	\$284	\$567
2+ Star	\$836	\$320	\$640
3 Star	\$836	\$320	\$640
4 Star	\$947	\$362	\$724
5 Star	\$1,009	\$386	\$772

LICENSED GROUP HOMES—ENHANCED RATE– SCHOOL AGE

Star Rating	School Age Full Time	School Age Part-time	School Age Wrap-Around Care
2 Star	\$664	\$255	\$509
2+ Star	\$761	\$292	\$583
3 Star	\$761	\$292	\$583
4 Star	\$871	\$334	\$667
5 Star	\$933	\$357	\$714

Table I3

Adopted Language—8.9.3.19(N) NMAC

LICENSED CENTERS — ENHANCED RATE									
	Infant Full Time	Infant Part Time	Infant Wrap-Around Care	Toddler Full Time	Toddler Part Time	Toddler Wrap-Around Care	Preschool Full Time	Preschool Part Time	Preschool Wrap-Around Care
2 Star									
	\$1,350	\$675	\$810	\$1,015	\$508	\$609	\$825	\$413	\$619
2+ Star									
	\$1,400	\$700	\$840	\$1,075	\$538	\$645	\$890	\$445	\$668
3 Star									
	\$1,400	\$700	\$840	\$1,075	\$538	\$645	\$890	\$445	\$668
4 Star									
	\$1,950	\$975	\$1,170	\$1,525	\$763	\$915	\$1,150	\$575	\$863
5 Star FOCUS, [ECECD approved] national provider accreditation, or Head Start, or Early Head Start									
	\$2,500	\$1,250	\$1,500	\$1,975	\$988	\$1,185	\$1,375	\$688	\$1,031
LICENSED FAMILY HOMES — ENHANCED RATE									
	Infant Full Time	Infant Part Time	Infant Wrap-Around Care	Toddler Full Time	Toddler Part Time	Toddler Wrap-Around Care	Preschool Full Time	Preschool Part Time	Preschool Wrap-Around Care
2 Star									
	\$1,500	\$750	\$900	\$1,425	\$713	\$855	\$1,050	\$525	\$788
2+ Star									
	\$1,625	\$813	\$975	\$1,525	\$763	\$915	\$1,175	\$588	\$881
3 Star									
	\$1,625	\$813	\$975	\$1,525	\$763	\$915	\$1,175	\$588	\$881
4 Star									
	\$1,975	\$988	\$1,185	\$1,850	\$925	\$1,110	\$1,375	\$688	\$1031
5 Star FOCUS, [ECECD approved] national provider accreditation, or Head Start, or Early Head Start									
	\$2,175	\$1,088	\$1,305	\$2,025	\$1,013	\$1,215	\$1,450	\$725	\$1088
LICENSED GROUP HOMES — ENHANCED RATE									
Group Homes	Infant Full Time	Infant Part Time	Infant Wrap-Around	Toddler Full Time	Toddler Part Time	Toddler Wrap-Around	Preschool Full Time	Preschool Part Time	Preschool Wrap-Around

			Care			Care	FILED WITH STATE REF		Care
2 Star									
	\$1,375	\$688	\$825	\$1,300	\$650	\$780	2024 AUG 29 PM 5: 04 \$975	\$488	\$731
2+ Star									
	\$1,475	\$738	\$885	\$1,400	\$700	\$840	\$1,075	\$538	\$806
3 Star									
	\$1,475	\$738	\$885	\$1,400	\$700	\$840	\$1,075	\$538	\$806
4 Star									
	\$1,775	\$888	\$1,065	\$1,700	\$850	\$1,020	\$1,200	\$600	\$900
5 Star FOCUS, [ECECD-approved] national provider accreditation, or Head Start, or Early Head Start									
	\$1,940	\$970	\$1,164	\$1,850	\$925	\$1,110	\$1,300	\$650	\$975

LICENSED CENTERS—ENHANCED RATE – SCHOOL AGE			
Star Rating	School Age Full Time	School Age Part-time	School Age Wrap-Around Care
2 Star	\$699	\$268	\$535
2+ Star	\$768	\$294	\$588
3 Star	\$768	\$ 294	\$588
4 Star	\$905	\$ 347	\$693
5 Star	\$1,043	\$ 399	\$798

LICENSED FAMILY HOMES—ENHANCED RATE– SCHOOL AGE			
Star Rating	School Age Full Time	School Age Part-time	School Age Wrap-Around Care
2 Star	\$740	\$284	\$567
2+ Star	\$836	\$320	\$640
3 Star	\$836	\$320	\$640
4 Star	\$947	\$362	\$724
5 Star	\$1,009	\$386	\$772

LICENSED GROUP HOMES—ENHANCED RATE– SCHOOL AGE			
Star Rating	School Age Full Time	School Age Part-time	School Age Wrap-Around Care
2 Star	\$664	\$255	\$509
2+ Star	\$761	\$292	\$583
3 Star	\$761	\$292	\$583
4 Star	\$871	\$334	\$667
5 Star	\$933	\$357	\$714

FILED WITH
STATE DEPARTMENT

2026 AUG 27 PM 5:04