

**Sec. 17b-749-12. Eligibility requirements for child care providers**

**(a) Eligible Settings**

(1) To be eligible for payments, care shall be given in one of the following settings located and operating legally within Connecticut:

- (A) the child's home;
- (B) a family day-care home licensed by the Department of Public Health;
- (C) a day-care center licensed by the Department of Public Health;
- (D) a group day-care home licensed by the Department of Public Health;
- (E) the home of a relative as defined in subsection (34) of section 17b-749-01 of the Regulations of Connecticut State Agencies;
- (F) the home of a non-relative provider, if care is provided for less than three hours per day;
- (G) a public or private school-based child care program as defined in subsection (37) of section 17b-749-01 of the Regulations of Connecticut State Agencies;
- (H) a recreational program operated by a library, boys' and girls' club, church-related organization, scouting, camping or community youth program or other similar entity that is legally exempt from separate licensing by the Department of Public Health pursuant to section 19a-77 of the Connecticut General Statutes, and that provides stable and regular care; or
- (I) a drop-in supplemental child care program where parents are present on-site, for which the parent is charged a fee for child care services.

(2) The commissioner shall have discretion to approve payments for child care services given by a licensed provider located and operating legally in an adjoining state on an exception basis. Approval shall be based on the circumstances of the individual family, including, but not limited to the availability of licensed child care services in the area where the family lives, the need to utilize out-of-state services due to the location of the child's school or the parent's work, education or employment services activity and any special needs of the child. The provider shall be licensed and in good standing with the state agency responsible for regulating child care services in the adjoining state. In addition, the provider shall be subject to all other relevant requirements specified in section 17b-749-01 to 17b-749-23 of the Regulations of Connecticut State Agencies, inclusive, and shall cooperate with the department in providing or obtaining any verification needed to establish the eligibility of the child care arrangement. The determination by the commissioner shall be considered final and is not subject to an administrative hearing.

(3) When determining if a provider is eligible, the department shall give full force and effect to any decision rendered by another agency concerning a license or application for a license to provide child care.

(4) The following individuals shall not be eligible to receive payments from CCAP for providing child care because of their relationship to the child:

- (A) a person who is a mandatory inclusion in the family unit for CCAP eligibility purposes pursuant to section 17b-749-03 of the Regulations of Connecticut State Agencies;
- (B) the natural or adoptive parent or legal guardian of the child, or the current or former spouse of such individual;
- (C) if the child's parent is a minor who is not emancipated, the natural or adoptive parent

or legal guardian of the minor parent, or the current or former spouse of such individual if living in the same household as the minor parent;

(D) the child's sibling through blood, marriage or adoption if living in the same household as the child regardless of the sibling's age;

(E) an adult, regardless of relationship, living in the same household with the child who provides care between the hours of eleven o'clock p.m. and seven o'clock a.m., unless the child is less than three years of age or has special needs; and

(F) an individual who has been designated as the caretaker relative of the child under the cash assistance program and the individual's spouse.

(5) A child care provider who has been convicted of vendor fraud pursuant to section 17b-99 of the Connecticut General Statutes shall not be eligible to receive payments from the CCAP program for providing child care services.

**(b) Provisions Applicable to all Providers**

(1) The department shall not be considered a licensing authority or the employer of the provider. The agreement to provide care is an arrangement between the parent and the provider and shall not be considered a legal contract between the department or the CCAP administrator and the provider. Parents shall be responsible for selecting a provider who can provide safe, appropriate and suitable care for their child. The Department or the CCAP administrator shall only determine whether the provider has submitted evidence of compliance with the requirements of section 17b-749-12 of the Regulations of Connecticut State Agencies and is therefore eligible to participate in the CCAP program. Neither the Department nor the CCAP administrator shall undertake any duty of care that can be reasonably relied upon by any person that a provider is suitable or appropriate to provide child care.

(2) Neither the department nor the CCAP administrator shall be considered the employer of the provider. The Department or the CCAP administrator, by making benefit payments on behalf of an eligible family to a provider that has been selected by the family, does not undertake any of the responsibilities of an employer, including, but not limited to, tax withholding, unemployment compensation or worker's compensation. The Department's responsibility shall be limited to making child care assistance payments to providers who are eligible to receive payment for child care services provided on behalf of eligible families, in accordance with the terms, conditions and limitations of sections 17b-749-01 to 17b-749-23 of the Regulations of Connecticut State Agencies, inclusive.

(3) Providers shall allow parents unlimited access to their children and to the location where child care is provided.

(4) Providers shall certify that they will report any instances of suspected child abuse or neglect to the appropriate protective service agency in a manner required by section 17a-101a of the Connecticut General Statutes.

(5) In order to maintain eligibility for payments, providers shall provide the following information to the CCAP administrator upon request:

(A) the name, address, photo identification, Social Security number and telephone number of the provider and all adults who work for or reside at the location where care is provided;

(B) the name and address of the child's doctor or primary care provider and health

insurance company;

(C) whether the child is immunized and has had appropriate health screens; and

(D) the number of children cared for by the provider.

(6) Providers shall notify the CCAP administrator of any changes in the child care arrangements, including but not limited to changes in the hours of care, actual charges, changes in programs due to the age group of the child, the location where care is given and changes in licensing or accreditation status. Changes shall be reported in writing or by phone by the time the first invoice is submitted following the date of the change. This requirement shall not relieve the parent of the responsibility to report these changes to the CCAP administrator within ten days of the date of the change.

(7) Providers shall report actual charges and attendance accurately in the format required by the CCAP administrator. Providers shall maintain records of such figures on-site for at least one year and make such records accessible to the department for inspection upon request.

(8) Providers shall not charge or report charges for CCAP participants at a rate that is higher than the rate charged to a comparable family not participating in the CCAP program. The charges reported to CCAP shall be the actual amount charged to the parent for services, unless the child attends a state-supported day care center or school readiness program funded under section 8-210(b) or sections 10-16p(8)(c) or 10-16p(8)(d) of the Connecticut General Statutes respectively. For children attending such state-supported programs, the charges reported to CCAP for use in determining the benefit calculation and payment shall be the lesser of the provider's full charge for the program or the approved cost of care as determined in subsection (a) of section 17b-749-13 of the Regulations of Connecticut State Agencies.

(9) Providers shall not increase charges to CCAP parents to offset a reduction in payments due to an overpayment that was caused by the provider that is being recouped by the department.

**(c) Requirements for Providers Subject to Licensing by the Department of Public Health**

(1) Child care providers that are required to be licensed by the Department of Public Health in accordance with section 19a-77 of the Connecticut General Statutes shall be licensed and in good standing before any payments to the provider are approved.

(2) Providers shall report changes in licensing status to the CCAP administrator by phone or in writing by the time the first invoice is submitted following the date the Department of Public Health informs the provider of the change. Changes in accreditation status shall be reported within ten days of the date of the change.

(3) Payments shall not be made for child care services provided during periods the provider did not possess or maintain the required license, except when the provider has timely taken steps to renew a license but the Department of Public Health has not completed the renewal process. Providers shall not be entitled to advance notice if payments are terminated because the provider is not licensed.

(4) The CCAP administrator shall withhold any payments that have not already been issued for periods during which the provider was determined to be operating illegally without a license. Any payments issued for services provided during periods the provider

was operating without a required license shall be considered overpayments caused by the provider.

(5) The CCAP administrator shall report providers who appear to be over capacity to the Department of Public Health for investigation of regulatory violations.

**(d) Requirements for Unlicensed Child Care Providers**

(1) Unlicensed child care providers shall be eighteen years of age or older. Parents receiving benefits for care given by a provider who is less than eighteen years old shall have up to ninety days from the effective date of this regulation to locate a new provider. Payments shall continue during the ninety-day period provided the family is otherwise eligible.

(2) The provider shall disclose his or her full name, residence address, date of birth and social security number or any other information necessary to verify identity. Upon request, the provider shall provide identification that includes the provider's photograph, date of birth and signature.

(3) The provider shall not be working another job during the hours that the child is in care or engage in an activity that distracts his or her attention from providing child care services.

(4) No child care subsidy shall be paid to an unlicensed child care provider if such provider has been convicted of any crime involving sexual assault of a minor or serious physical injury to a minor or any crime committed in any other state or jurisdiction the essential elements of which are substantially the same as such crimes pursuant to section 17b-750 of the Connecticut General Statutes. The commissioner shall have discretion to refuse payments to any provider if the person has been convicted in this state or any other state of any crimes specified in section 17b-749k of the Connecticut General Statutes or has a criminal record or was the subject of a substantiated report of child abuse or neglect in this state or in any other state that the commissioner reasonably believes renders the person unsuitable to provide child care.

(5) The commissioner shall have discretion to refuse payments under the following conditions:

(A) if the provider has an outstanding arrest warrant for any offense that is classified as a felony;

(B) if the provider has a child abuse or neglect allegation pending;

(C) if the provider is physically or mentally incapable of providing safe or competent care to the child; or

(D) whenever the commissioner has obtained information from a reliable source that a provider has not been providing or is not capable of providing safe or competent care, including but not limited to a record of an outstanding arrest for child abuse or neglect, risk of injury or impairing the morals of a minor, the illegal use, sale or possession of controlled substances, a crime against persons or other similar offenses.

(6) The parent and provider shall both certify that the provider is capable of providing safe and competent care as a condition of payment eligibility, including the ability to feed, bathe and toilet the child as appropriate, the ability to respond to potential emergencies and the ability to provide adequate care and supervision. The department may deny payment if sufficient evidence exists to support a conclusion that the child's needs may not be satisfied

or that the child's health and safety may be at risk in the child care setting. In making this determination, the department shall consider information obtained from police records, medical records and information obtained from other agencies, physicians, health care workers, social workers health officials or other sources. The hours of care, the child's age and special needs shall be taken into consideration when assessing the ability of the provider to properly care for and supervise the child.

(7) The provider shall certify in writing that he or she has not been convicted of any crime or subject to any of the conditions listed in subdivisions (4) and (5) of this subsection.

(8) The provider and parent shall certify by signing the child care agreement form that the child care location meets the following requirements:

- (A) there is an operating fire extinguisher available at the child care location;
- (B) there is an operating smoke alarm installed at the child care location;
- (C) there is an operating hard wired telephone at the child care location or a cellular phone owned and operated by the provider with emergency telephone numbers posted; and
- (D) the child care location complies with all applicable local and state fire, zoning and building codes.

(9) The child care arrangements shall not be approved if care is provided in a location that does not meet the requirements of subdivision (8) of this subsection.

(10) An unlicensed child care arrangement shall not be approved if care is provided by an in-home child care provider or a relative who provides child care services to more than six children during substantially the same hours. Up to three children under the age of two may receive child care services together at a time, as long as they are the only children in the provider's care. No more than two infants may receive care at any one time if the provider cares for any other preschool or school age children during the same hours.

**(e) Criminal and Child Abuse Background Checks for Unlicensed Providers**

(1) The department shall check the state's child abuse registry at application and periodically according to a schedule established by the department to determine if the provider has a substantiated history of child abuse or neglect.

(2) The department shall check the state and national criminal history of any unlicensed provider that is suspected of having a conviction for sexual assault of a minor or other related crime in accordance with the requirements of section 17b-750 of the General statutes.

(3) The department shall conduct criminal background checks for unlicensed providers pursuant to the requirements of sections 17b-749k and 17b-750 of the Connecticut General Statutes.

(4) Providers shall be informed of the requirements to conduct criminal and child abuse background checks and shall supply the department with fingerprints and any other information required to conduct the background check when requested by the CCAP administrator. Providers shall be given a minimum of thirty days to return the requested information to the department.

(5) The department may charge the provider for any fees charged by the State Police or the FBI for conducting the criminal background check. The department may deduct the fee from payments made to the provider or require the submission of payment with the fingerprints. A provider who does not submit fingerprints, fees or other information when requested shall be ineligible for payments until such time the provider complies with the

request.

(6) Assistance shall not be delayed pending the completion of a criminal or child abuse background check unless evidence exists to warrant a delay, except as specified in subdivision (f) of this section.

**(f) Termination of Payments**

(1) No child care subsidy shall be paid to any licensed or unlicensed child care provider if there is evidence that a child's needs are not being met, or that the child is not receiving or is not likely to receive safe and competent care from the provider. Parents and providers shall be notified of the denial or termination of payments to the provider. Disclosure of information obtained from the child abuse registry shall be in accordance with the requirements of subsection (d) of section 17b-749-02 of the Regulations of Connecticut State Agencies.

(2) Providers who disagree with the results of the background check shall be referred to the Departments of Children and Families or Public Safety if they wish to dispute the findings of those agencies. If the findings are reversed, payments may be authorized as of the date verification of the decision by the Department of Children and Families or Public Safety is submitted to the department.

(3) Providers may ask the department to reconsider the decision to deny or discontinue payments if they feel the decision was made in error. The decision by the department shall be considered final and shall not be subject to an administrative hearing request by the provider. Parents may appeal the decision to deny or discontinue payments pursuant to the requirements of section 17b-749-21 of the Regulations of Connecticut State Agencies.

(4) The request for reconsideration shall be made in writing by the provider and contain the details the department is being asked to consider. The department shall reach a decision within ten days of the date of the written request for reconsideration or the date that all necessary documentation has been submitted or obtained. The parent and provider shall be provided with a written response concerning the request for reconsideration..

**(g) Enrollment of the Provider**

(1) To be eligible for payment, the child care provider shall enroll in the CCAP program as the child's provider. To enroll, the provider shall complete the following actions:

(A) submit a completed child care agreement using a form prescribed by the department that provides details of the child care arrangements, including but not limited to information about the provider's licensing and accreditation status, the relationship of the provider to the child, the location where care is given, the days and hours of care and the actual charges for the care provided;

(B) certify that the child care provider and the facility meet the licensing and health and safety standards outlined in this section;

(C) provide any additional documentation required by the CCAP administrator, including but not limited to verification of identity;

(D) agree to report changes in the child care arrangements or licensing and accreditation status by the date the first invoice is submitted following the date of the change, whichever is earlier; and

(E) submit a completed W-9 form or other documentation of tax identification number as specified by the department.



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(2) The parent shall be required to co-sign the child care agreement form. The parent's signature confirms the child care arrangements and serves as a release to allow the department to share information with the provider or as necessary for the administration of the CCAP program in accordance with the requirements of subsection (d) of section 17b-749-02 of the Regulations of Connecticut State Agencies.

(Adopted effective July 10, 2001)