



STATEMENT OF NEED AND REASONABLENESS
In the Matter of Proposed Revisions of Minnesota
Rules, Chapter 3400; Revisor ID No. 4560

Child Care Assistance Program

April, 2022

General information:

- 1) Availability: The State Register notice, this Statement of Need and Reasonableness (SONAR), and the proposed rule will be available during the public comment period on the Agency's Public Notices website: <https://mn.gov/dhs/partners-and-providers/policies-procedures/rulemaking/>
- 2) View older rule records at: [Minnesota Rule Statutes https://www.revisor.mn.gov/rules/status/](https://www.revisor.mn.gov/rules/status/)
- 3) Agency contact for information, documents, or alternative formats: Upon request, this Statement of Need and Reasonableness can be made available in an alternative format, such as large print, braille, or audio. To make a request, contact Cindy Schneider, Information Management Specialist, Minnesota Department of Human Services, PO Box 64962, St. Paul, MN 55164-0962; telephone 651-431-3864; email Cindy.Schneider@state.mn.us; or use your preferred telecommunications relay service.
- 4) How to read a Minnesota Statutes citation: Minn. Stat. § 999.09, subd. 9(f)(1)(ii)(A) is read as Minnesota Statutes, section 999.079, subdivision 9, paragraph (f), clause (1), item (ii), subitem (A).
- 5) How to read a Minnesota Rules citation: Minn. R. 9999.0909, subp. 9(B)(3)(b)(i) is read as Minnesota Rules, chapter 9999, part 0909, subpart 9, item B, subitem (3), unit (b), subunit (i).

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Acronyms

| | |
|-------------|--|
| APA | Administrative Procedures Act |
| ALJ | Administrative Law Judge |
| BSF | Basic Sliding Fee |
| CCAP | Child Care Assistance Program |
| CCDF | Child Care and Development Fund |
| CCDBG | Child Care and Development Block Grant |
| CFR | Code of Federal Regulations |
| DHS | Minnesota Department of Human Services |
| DWP | Diversionsary Work Program |
| MFIP | Minnesota Family Investment Program |
| Minn. R. | Minnesota Rules |
| Minn. Stat. | Minnesota Statutes |
| MMB | Minnesota Management and Budget |
| MN | Minnesota |
| MORS | MN Office of the Revisor of Statutes |
| OAH | Office of Administrative Hearings |
| SONAR | Statement of Need and Reasonableness |
| TANF | Temporary Assistance to Needy Families |
| TY | Transition Year |
| TYE | Transition Year Extension |

Introduction and overview

Introduction

The Child Care Assistance Program (CCAP) provides financial assistance to help families with low incomes pay for child care so that parents may pursue employment or education leading to employment, and to ensure that children are well-cared for and prepared to enter school ready to learn. CCAP is comprised of subprograms based on a family's participation with other assistance programs. These subprograms include: (1) Minnesota Family Investment Program (MFIP)/Diversionary Work Program (DWP) Child Care Assistance Program, (2) Transition Year (TY) and Transition Year Extension (TYE) Child Care Assistance Program, and (3) Basic Sliding Fee (BSF) Child Care Assistance Program. Generally, families participating in MFIP or DWP are eligible for child care assistance for child care used while they are working or participating in activities included in their Employment Plans.¹ People who transition off of cash assistance programs may be eligible for child care assistance through TY or TYE to ensure on-going funding. Finally, families who have not recently received cash assistance may receive child care assistance under the BSF subprogram if they meet income limits, activity participation requirements, and other eligibility factors. Participants in all programs must meet general eligibility requirements and contribute towards the cost of their child care expenses according to a sliding fee copayment schedule based on their family income.

Local agencies, including county human services agencies and some tribal agencies and multi-county collaboratives, administer CCAP with supervision from the Minnesota Department of Human Services (DHS or Department). CCAP is funded by money from federal, state, and local governments. Federal funds are paid from Temporary Assistance to Needy Families (TANF) and the Child Care and Development Fund (CCDF). State funds are paid from the general fund; money appropriated for child care assistance often is referred to in statute and rule as the child care fund. The amount of the county or tribe's mandatory contribution is determined by a statutory formula². Local agencies also have the option of contributing additional county or tribal dollars toward CCAP. Subprograms related to receipt of cash assistance benefits, MFIP/DWP, TY, and TYE, are fully funded programs. This means all families who are eligible for these subprograms and meet child care assistance eligibility requirements can receive child care assistance. The BSF subprogram, however, has a capped allocation. Because the BSF subprogram is not fully funded, some local agencies do not have enough funds to serve all the families who want and who are eligible for child care assistance. These agencies must establish waiting lists and manage their child care assistance funds carefully to ensure they serve as many families as possible while also protecting the stability of the program for participating families by not serving more families than funds allow.

The rules governing CCAP were last amended in 2008. Since that time the Department has fully implemented a statewide, electronic system to administer child care assistance, the Minnesota Electronic Child Care (MEC²) Integrated system. In addition, the state legislature has made changes to Minn. Stat. § 119B several times since the last rule revision resulting in outdated and inadequate rules. Finally, in November of 2014, the Child Care and Development Block Grant Act of 2014 was signed into law. The act reauthorized CCDF for the first time since 1996 and represented a dramatic re-envisioning of how federal CCDF funding must be spent. In September of 2016, the Office of Child Care published new federal rules to provide clarity to states on how to implement the law. In response to these federal

¹ An Employment Plan is a plan developed by a job counselor and the participant receiving MFIP that includes the participant's overall employment goal, activities necessary to reach that goal, and a time line for each activity.

² See Minn. Stat. § 119B.11.

changes, the Minnesota legislature made substantial program changes to CCAP in the 2017 and 2019 legislative sessions to bring Minnesota into substantial compliance with new federal laws. The new federal regulations established robust health and safety requirements for child care providers, increased transparency in consumer and provider education information, promoted family-friendly eligibility policies, and provided additional investments for activities to improve the quality of child care. States are required to establish a child care subsidy program under the Child Care Development Block Grant (CCDBG) and must commit at least 70 percent of CCDF funds to providing child care subsidies. In Minnesota, the CCDF-funded child care subsidy program is the Child Care Assistance Program.

Statement of general need

The Department needs these amendments to make sure that the rules governing CCAP align with and implement recent federal and state statutory changes, and to replace or remove outdated guidance. The amendments are necessary to clarify procedures and policies applicable to the program, and revise rule language to be more inclusive or more responsive to potential changes in statute. In doing so, the amendments benefit all those who are significantly affected by the rules: the Department; the county agencies, tribal agencies, and workers that administer CCAP; and child care providers and families.

Scope of the proposed amendments

The proposed changes affect Minnesota Rules, parts 3400.0010 through 3400.0235, which govern the administration of the child care fund through CCAP in Minnesota. During the 2017 legislative session, many changes were made to CCAP. Most of the changes were required under the federal Child Care and Development Block Grant Act of 2014. The Department is amending the rules to align with these federal and state statutory changes, adding clarity and consistency. The proposed amendments focus on providing equal access to stable child care for low-income children and strengthening requirements to protect the health and safety of children in child care and receiving CCAP funding. The amendments address determination of income for eligibility, frequency of redetermination, determination of copayments, maintaining consistent child care authorizations for children, reporting responsibilities for participants, provider requirements, and payment policies.

Public participation and stakeholder involvement

In developing the statutory changes to Minnesota law, primarily in response to the federal law changes, the Department engaged with representatives from local agencies, family advocacy groups, and child care providers to draft policies that balanced burdens of compliance and conformed to federal law. The Department conducted broader stakeholder engagement that was not specifically related to these rule revisions, but still informed the rule revisions. This engagement is noted elsewhere in the SONAR when related to specific proposed changes. Throughout this rulemaking process the Department further engaged with stakeholders in the following ways:

- The Notice of Request for Comments was posted in the State Register (https://mn.gov/admin/assets/SR43_13%20-%20Accessible_tcm36-352433.pdf) on September 24, 2018.
- In conjunction with the publication of the Notice of Request for Comments, the Department emailed an invitation on September 24, 2018 to identified contacts at over 30 community and state agencies requesting participation in the CCAP Rule Revision Advisory Committee, and to all administrative and client access contacts (lead staff that have contact with families receiving CCAP) across the 80 county, tribal and subcontracted agencies that administer CCAP. The

Department also emailed an invitation to participate on September 26, 2018 to all licensed child care centers, licensed family child care providers and licensed exempt centers statewide, for a total of 10,556 individuals.³ Additionally, the Department sent a mailing via U.S. mail on September 26, 2018 to all legal nonlicensed child care providers registered to receive child care assistance, for a total of 474 providers.

- Due to the large response and initial interest in serving on the CCAP Rule Revision Advisory Committee, all interested persons were invited to attend the rule revision kick-off meeting held on October 30, 2018. This meeting, held in person at the Minnesota Department of Human Services in St. Paul and via virtual option, provided participants with:
 - An overview of the rule revision process;
 - Details on the child care assistance rule amendment topics and
 - Options on how to give input on the rule.
- Following the October 30, 2018 meeting, stakeholders were asked to indicate their interest in serving as a member of the CCAP Rule Revision Advisory Committee. A total of 60 stakeholders, representing a variety of sectors from different geographic areas of the state, expressed interest in continuing to serve as a committee member. Committee members represented the following entities:
 - 32 child care providers (26 licensed centers, 5 certified license exempt centers, and 1 licensed family);
 - 6 community agencies;
 - 10 CCAP agencies;
 - 11 state agencies; and
 - 1 parent.
- The Department established a specific rule revision email address (dhs.CCAPrule@state.mn.us) for stakeholders to submit questions and comments on proposed changes. The Department also established a CCAP rule revision website (<https://mn.gov/dhs/partners-and-providers/news-initiatives-reports-workgroups/child-care-and-early-education/ccap-rule-rev.jsp>) to post resources, meeting agendas and materials, and draft rule language.
- The Department engaged with families who either currently or previously had experience with CCAP to gather feedback on how proposed rules may impact families and to learn more about families' experiences with the program. The Department convened two sessions with families in the following locations:
 - March 25, 2019 with the Rochester Head Start Policy Council

³ This email went out via a listserv maintained by the Department that includes all child care centers, family child care providers, and exempt centers that are licensed or certified by the Department. This listserv, which reached 10,556 individuals, was used early on in the rulemaking in an effort to connect with providers. The intent of this listserv is to reach all licensed and certified providers; however, the Department has received feedback from providers requesting this listserv only be used in matters specifically related to licensing and certification. In response, the Department built a separate listserv in January 2019 specifically to inform child care providers registered to receive child care assistance about issues and policy changes related to CCAP. Other interested parties, such as county and tribal staff, and child care provider professional organizations, can also sign up for the listserv. Therefore, the Department is now using the listserv of child care providers to inform them of rulemaking efforts.

- October 9, 2019 with Think Small (Ramsey County)
- All CCAP Rule Revision Advisory Committee members were invited to a full-day, in person meeting on December 4, 2019 to review drafted rule language and have small group discussion. Draft rule language was provided to participants prior to the meeting. The 29 attendees participated in four break-out sessions and provided feedback on revisions. All proposed rule revisions were grouped into one of four topic areas:
 - Family policies
 - Provider policies
 - Notices, termination, overpayments and appeals
 - Subprograms and CCAP agency responsibilities
- Draft language and all advisory committee meeting materials were posted on the Department’s rule revision website on December 9, 2019, and an email was sent to approximately 160 stakeholders regarding the posting. Stakeholders were invited to submit feedback and comments on the draft to the Department’s rule revision email address.
- A revised draft, considering stakeholder feedback and depicting the changes from the December 4, 2019 draft, was posted on the Department’s rule revision website on November 25, 2020 and an email was sent to approximately 160 stakeholders regarding the posting. Stakeholders were invited to submit feedback and comments on the draft to the Department’s rule revision email address. Stakeholders were also informed that they will be notified when the Notice of Hearing/Intent to Adopt Rules is published, which will allow another opportunity of at least a 30 day time period to provide comments.
- The Department used the good cause exempt rulemaking process under Minnesota Statutes, section 14.388, subdivision 1, clause (2) to comply with the federal requirement to establish capacity limits and ratios on the number of children cared for by a legal nonlicensed provider who receives CCAP payments. Notice of the good cause rulemaking was sent electronically to all stakeholders who are members of the Legal Nonlicensed Child Care Provider Workgroup on June 16, 2021 and via US Mail to all legal nonlicensed child care providers registered to receive CCAP (177 total providers) on June 15, 2021. No comments were submitted to the Office of Administrative Hearings (OAH) on the rulemaking effort. On July 1, 2021, the OAH determined the Department has the statutory authority to adopt these proposed rules under the exempt rulemaking process and the adopted rules are approved. The exempt rules were posted in the State Register (https://mn.gov/admin/assets/SR46_13%20-%20Accessible_tcm36-500455.pdf) on September 27, 2021.

The proposed rule revisions take into consideration the feedback received from the advisory committee and other stakeholders, while being mindful of federal law, statutory requirements and program implementation.

Statutory authority

The Department’s authority to adopt rules related to CCAP is stated in several Minnesota statutes. Minnesota Statutes, section 256.01, subdivision 4 generally requires the Department to “supervise the administration of assistance to dependent children,” and allows the Department to make rules “necessary or desirable” to carry out related duties.

Additionally, “[a]ll rules made by the state agency shall be binding on the counties and shall be complied

with by the respective county agencies.”⁴

Minnesota Statutes, section 119B.02, subdivision 1 requires the Department to make rules to govern CCAP specifically:

The commissioner shall develop standards for county and human services boards to provide child care services to enable eligible families to participate in employment, training, or education programs. Within the limits of available appropriations, the commissioner shall distribute money to counties to reduce the costs of child care for eligible families. The commissioner shall adopt rules to govern the program in accordance with this section. . . . The commissioner shall maximize the use of federal money under title I and title IV of Public Law 104-193, the Personal Responsibility and Work Opportunity Reconciliation Act of 1996, and other programs that provide federal or state reimbursement for child care services for low-income families who are in education, training, job search, or other activities allowed under those programs. Money appropriated under this section must be coordinated with the programs that provide federal reimbursement for child care services to accomplish this purpose. Federal reimbursement obtained must be allocated to the county that spent money for child care that is federally reimbursable under programs that provide federal reimbursement for child care services. The counties shall use the federal money to expand child care services. The commissioner may adopt rules under chapter 14 to implement and coordinate federal program requirements.

Minnesota Statutes, section 119B.02, subdivision 3 also requires the commissioner to adopt rules “that establish minimum administrative standards for the provision of child care services by county boards of commissioners.”

Minnesota Statutes, section 119B.04, subdivision 2 allows the commissioner to adopt rules to administer the child care and development fund. Minnesota Statutes, section 119B.06, subdivision 2 allows the commissioner to adopt rules “to administer the child care development block grant program.”

The statutory authority in Minnesota Statutes, sections 119B.02, subdivision 1; 119B.04, subdivision 2; 119B.06, subdivision 2, and 256.01, subdivision 4, was adopted before January 1, 1996 and therefore is exempt from the 18-month requirement in Minnesota Statutes, section 14.125. The statutory authority in Minnesota Statutes, section 119B.02, subdivision 3, was adopted in 1999 and had an effective date of July 1, 1999. The Department of Human Services published a notice of intent to adopt Minnesota Rules, chapter 3400, governing CCAP, on December 26, 2000. Because the notice of intent to adopt rules was published within 18 months of the effective date of the new grant of rulemaking authority, the Department may amend the rules enacted in that initial rulemaking at any time.⁵

Under these statutes, the Department has the necessary statutory authority to adopt the proposed rules.

Reasonableness of the amendments

General Reasonableness

1) Changing references to “county” to “CCAP agency” or “county or tribe.”

⁴ Minn. Stat. § 256.01, subd. 4(a)(1) and (b)(1).

⁵ See Minn. Stat. § 14.125.

In the proposed amendments, the Department has substituted the term “CCAP agency” throughout rule in place of “county” (see proposed Minn. R. part 3400.0020, subpart 12f). This terminology is more plain language and more inclusive than the previous terminology of “Administering agency” (see existing Minn. R. part 3400.0020, subpart 4). “CCAP agency” is generally used when referencing the agency administering the child care assistance program and reflects the diverse agencies currently administering the program through subcontracting (see existing Minn. R. 3400.0140, subp. 7), human services agency mergers, and tribal contracts. In the last decade, more county social services agencies have entered into agreements with other county social services agencies to offer a shared social services model (e.g., Southwest Health and Human Services and MNPrairie). Under Minn. Stat. § 119B.02, subdivision 2, the commissioner of the Department of Human Services “may enter into contractual agreements with a federally recognized Indian tribe with a reservation in Minnesota to carry out the responsibilities of county human service agencies to the extent necessary for the tribe to operate child care assistance programs.” Two tribal nations, White Earth Nation and Red Lake Nation, have opted to contract with the Department of Human Services to carry out the responsibilities of county human services agencies to operate child care assistance for their members. The new term and definition of “CCAP agency” is more inclusive of the different allowable administrative structures. This is a clarifying change that does not create new burdens or administrative costs for parties administering or receiving child care assistance.

Because there are duties related to the administration of the child care assistance program that are specific to counties and tribes only, and not subcontracted agencies, there are instances in rule where replacing “county” with the term “CCAP agency” is not appropriate. The addition of the language “or tribe” recognizes that a tribe may fulfil the same function as a county in administering child care assistance and therefore must conform to the same responsibilities and requirements as the county in performance of those contractual obligations. The terminology “county or tribe” is being used throughout the proposed rule when referencing allocations (see proposed Minn. R. 3400.0020, subp. 8; Minn. R. 3400.0060, subp. 4; Minn. R. 3400.0183, subp. 1), fiscal matches (see proposed Minn. R. 3400.0140, subp. 9), geographical boundaries in which a family resides (see proposed Minn. R. 3400.0035, subp. 2; Minn. R. 3400.0060, subp. 9; Minn. R. 3400.0080, subp. 8), waiting lists (see proposed Minn. R. 3400.0065), tribal entities (see proposed Minn. R. 3400.0140, subp. 6), child care fund plans (see proposed Minn. R. 3400.0150), and contracting (see proposed Minn. R. 3400.0140, subp. 7).

2) Changing references to “parent” to “parentally responsible individual.”

Throughout chapter 3400, the word “parent” is used. The Department recognizes that parent does not accurately encompass all family structures eligible for the child care assistance program. The proposed changes include replacing parent throughout chapter 3400 with the term “parentally responsible individual” to reflect family structures that include parents, stepparents, legal guardians, and eligible relative caregivers and their spouses who are members of the child care assistance family and reside in the household that applies for child care assistance (see proposed Minn. R. 3400.0020, subp. 34b).

3) Grammatical, punctuation, and drafting changes.

Throughout chapter 3400, there are instances where readability of the language is overly complicated, compromising understanding and subsequent implementation. The proposed changes reflect efforts to simplify language throughout the chapter. This includes updating terminology to be more inclusive, plain language, and consistent throughout rule, as well as correcting grammatical, punctuation, and drafting errors. For example, for purposes of

readability and plain language, the word “must” has been used in place of the word “shall.” These simplification efforts are necessary and reasonable because they result in no substantive changes to rule, reduce read confusion, and improve overall usability of the rule.

4) Reorganization of chapter 3400.

The current organization of chapter 3400 can make it difficult to use and understand its provisions. Several parts in chapter 3400 include material that does not fall under the part’s title. There are also subparts that do not flow chronologically as one would expect when detailing child care assistance program processes. The proposed changes reorganize the chapter to group related provisions together and put content into chronological order and are necessary and reasonable because it will make the entire chapter easier to use and to understand.

5) Changing references to “provider” and “care.”

Throughout chapter 3400, the proposed changes replace “provider” with “child care provider” and “care” with “child care.” The use of consistent terms throughout the chapter provides clarity to the user and helps remove ambiguity from the language.

Each part and subpart of the rule for which the Department is proposing changes is addressed below. The changes are explained, and the need for and reasonableness of the changes is considered. Any time another part of the rule is mentioned, the reference is to the rule as proposed, unless otherwise noted.

Rule-by-Rule Analysis

Proposed change to Minnesota Rules 3400:

Part 3400.0010 PURPOSE AND APPLICABILITY.

Part 3400.0010, subpart 1. The proposed change to this subpart updates the purpose statement of the program. The change is necessary and reasonable because it reflects the recent change in purpose in the federal Child Care and Development Block Grant Act of 2014, which balances family self-sufficiency and healthy child development.

Part 3400.0010, subpart 2. The primary change proposed to this subpart adds “registered providers” to recognize that Minnesota Rules, chapter 3400, not only applies to families eligible for child care assistance but also to child care providers eligible to receive payment from the child care fund and child care providers requesting to receive payment. The proposed change to the statutory reference for applicability of the rules chapter to encompass all of Minnesota Statutes, chapter 119B rather than a specified range of sections is necessary and reasonable to ensure that if other sections are added to chapter 119B the rules will apply without further revisions to the rule. For example, section 119B.161, which governs a child care provider’s right to administrative review, was added during the 2019 legislative session and went into effect on February 26, 2021. These proposed changes clarify the applicability of the rule and include the statutory changes related to applicability. Additional changes are discussed under general amendment one.

Part 3400.0020 DEFINITIONS.

Part 3400.0020, subpart 1. This subpart is discussed under general amendment three.

Part 3400.0020, subpart 1a. “12-month eligibility period.” This proposed definition sets parameters to the time period in which limited factors can negatively impact a family’s child care assistance case. This change is necessary because it reflects the 12 month eligibility period that was established federally under the Child Care and Development Block Grant Act of 2014, Public Law Number 113 – 186, and the

Federal Child Care and Development Fund, 45 C.F.R. § 98.21. The change is reasonable because it supports a family's continuous eligibility and provide for stable, consistent child care arrangements for children. During this time frame between eligibility determinations, a family has limited reporting and verification requirements and fluctuations in a family's earnings and activity participation are taken into account. This definition is used throughout rule when describing the responsibilities of the family and the CCAP agency between a family's initial application and redetermination, and between subsequent redeterminations.

Part 3400.0020, subpart 1b. "12-month reporter." This proposed definition is necessary and reasonable to differentiate between families' reporting statuses and align with recent changes made in statute. Minn. Stat. § 119B.095, subd. 1 outlines the parameters in which care must be authorized and scheduled with a provider based on the applicant's or participant's verified activity schedule or child care choices. Any family not meeting the criteria outlined in Minn. Stat. § 119B.095, subd. 1 are considered to be a "12 month reporter."

Part 3400.0020, subpart 1c. "15-day adverse action." This proposed definition is necessary to accurately reflect the terminology used by the Child Care Assistance Program. When a family or a provider receives written notification of changes negatively impacting eligibility or authorization, notice is provided 15 days before the negative action takes effect. The proposed definition is reasonable because it accurately reflects program policy and clarifies the time frame that begins once the provider or family receives the notice until the adverse consequence is effective.

Part 3400.0020, subpart 1d. "A setting subject to public education standards." The Federal Child Care and Development Fund, 45 C.F.R. § 98.20(c) states that the citizenship and immigration status of the child is relevant for eligibility determination. The Personal Responsibility and Work Opportunity Reconciliation Act of 1996 (PRWORA) specifically provides that its provisions do not apply to Head Start and non-postsecondary educational programs and that it does not have any effect on the right of non-citizen children to participate in these programs. Consequently, the federal government has determined that when child care assistance funds are used to pay for child care in settings subject to public educational standards, such as a Head Start or a pre-kindergarten or a school-age care program operated under public education standards, PRWORA does not require verification of the child's citizenship or immigration status because the child is participating in a non-postsecondary educational program rather than receiving federal public benefits. The proposed addition of this definition is necessary and reasonable to accurately reflect what programs meet these standards and allow more accurate implementation across CCAP agencies.

Part 3400.0020, subpart 1e. "Activity schedule." In order to authorize child care, one of the factors the CCAP agency must consider under Minn. Stat. § 119B.095, subd. 1 is the amount of time, including the days and times, the parentally responsible individual participates in an authorized activity. The proposed addition of this subpart is necessary and reasonable to accurately reflect the terminology commonly used to describe the amount of time the parentally responsible individual participates in the activity.

Part 3400.0020, subpart 4. The proposed removal of the definition of "administering agency" is necessary and reasonable because the terminology is outdated and more accurately reflected in the new definition proposed for Minn. R. 3400.0020, subp. 12f. This subpart is discussed under general amendment one.

Part 3400.0020, subpart 5. "Administrative expense." The need and reasonableness of the proposed changes in the definition of this term is discussed under general amendments one and three.

Part 3400.0020, subpart 8. "Allocation." The proposed change to this definition replaces "be reimbursed for" with "use." Funds are allocated on a calendar year basis to counties and tribes based on the formula

in Minn. Stat. § 119B.03, subd. 6. The change in terminology more accurately reflects current child care assistance payment practices. The current use of “reimburse” implies inaccurately that counties and tribes first make payments to child care providers with county and tribal dollars and are later repaid by the state. The need and reasonableness of the other amendments to this part are discussed under general amendment one.

Part 3400.0020, subpart 9a. “Authorized activity.” In order to be eligible for child care assistance, a parentally responsible individual must be engaged in a work, education, or training program, searching for employment, or participating in activities allowed for families receiving MFIP under Minn. Stat. § 119B.05, subd. 1. The proposed addition of this subpart is necessary to accurately reflect the terminology commonly used when describing these activities, and is reasonable because it is a term easily understood and commonly used by the entities governed by the rules.

Part 3400.0020, subpart 10a. “Authorized hours.” The need and reasonableness of proposed changes to this subpart is discussed under general amendment three.

Part 3400.0020, subpart 10b. “Back-up child care provider.” This proposed definition was added to support proposed changes to Minn. R. 3400.0110, subp. 3b. Extensive content has been added to part 3400.0110 about authorizing care for children, including authorizing care during provider switches and when care is not available with a child’s usual provider. Families commonly use what is known as a backup provider when their usual provider is not available to care for the child. The backup provider must be registered to receive child care assistance and the limitations contained in Minn. R. 3400.0120, subp. 1 apply. This definition is necessary and reasonable because it adds clarity and supports rule content.

Part 3400.0020, subpart 10c. “Certified license-exempt child care center.” In the 2017 legislative session, changes were enacted to bring Minnesota into compliance with the federal Child Care and Development Block Grant (CCDBG) Act. As part of this effort, license-exempt centers participating in CCAP are required to become certified under Minn. Stat. § 245H in order to be eligible for payment from the child care fund. This proposed definition is necessary and reasonable to mirror language currently defined in Minn. Stat. § 245H.01 and reflect updated terminology.

Part 3400.0020, subpart 11a. “Child in an at-risk population.” The proposed change of adding “child” and “population” to the term being defined in this subpart creates specificity and more accurately reflects terminology used by the Child Care Assistance Program. The proposed change to this definition also removes the language “but are not limited to” and adds the words “such as.” This change is necessary and reasonable because it provides context for what may contribute to at-risk factors, rather than leaving the interpretation open-ended.

Part 3400.0020, subpart 12a. “Child care assistance household.” The proposed addition of this subpart is necessary and reasonable because it clarifies who is included in the definition of family under Minn. Stat. § 119B.011, subd. 13.

Part 3400.0020, subpart 12b. “Child care assistance program.” Minnesota Statutes, chapter 119B and Minnesota Rules, chapter 3400 govern the administration of the child care fund to reduce the cost of child care to eligible families. The proposed addition of this subpart is necessary and reasonable to accurately reflect the terminology commonly used by families, child care providers, CCAP agencies, and other stakeholders when referencing this financial support.

Part 3400.0020, subpart 12c. “Child care center employee.” Under Minn. Stat. § 119B.09, subd. 9, a child care center is limited to receiving 25 or fewer authorizations for children who are dependents of the center’s employees. This section of statute was developed and passed into law with the intent of (1)

ensuring that the payment of child care funds is limited when parents are working in the same child care setting that their children are attending and may be caring for their own children, and (2) to align with a prohibition in Minn. Stat. § 119B.09, subd. 9 that disallows payments to a family child care provider or their employee(s) for their own children. In a child care center, due to the varied roles and positions that are needed to operate a licensed or certified license exempt center, a definition of center employee is necessary to provide clarity to agencies administering the child care assistance program on who is counted as an employee. This proposed definition in rule is reasonable because it is supported by federal regulations, which similarly define a child care provider under Federal Child Care and Development Fund, 45 C.F.R. § 98.43(a)(2)(ii). These federal regulations also dictate how the state child care licensing program determines which individuals, including contractors, require a background study under Minn. Stat. § 245C, which is referenced in this definition.

Part 3400.0020, subpart 12d. “Commissioner.” The term “commissioner” is used throughout the current rule. Therefore, it is necessary and reasonable to include a definition that specifies which commissioner has the authority and responsibilities identified in rule. Rather than adopting the specific terminology from statute that identifies the Commissioner of the Department of Human Services, this proposed definition for rule has a more generic terminology that recognizes the potential for structural oversight changes and prevents the need for future rule revision.

Part 3400.0020, subpart 12e. “Copayment.” The term “copayment” or its equivalent is used throughout the current rule. Minn. Stat. § 119B.12 identifies the co-payment within the family fee schedule but does not define the term. The proposed changes to rule move this term from part 3400.0020, subp. 24 to subp. 12e and revise the definition to simplify the language. The revised definition is necessary and reasonable because it removes the use of “parent fee” as there may be instances where the family does not pay the copayment directly and instead it is paid by a third party, which still meets the family’s obligation and is allowed under Minn. Stat. § 119B.09, subd. 11 and Minn. Stat. § 119B.12, subd. 2. The proposed definition also clarifies the use of “copayment” in program materials, and creates singular terminology that will reduce confusion for families, child care providers, and administrative program staff. This is a clarifying change that does not create new burdens or administrative costs for parties administering or receiving child care assistance.

Part 3400.0020, subpart 12f. “Child care assistance program agency or CCAP agency.” The need and reasonableness for this proposed definition is discussed under general amendment one.

Part 3400.0020, subpart 12g. “Department.” The term “department” is used throughout the current rule. Therefore, it is necessary and reasonable to include a definition that specifies which department has the authority and responsibilities identified in rule. Rather than adopting the specific terminology from statute that identifies the Department of Human Services, a more generic terminology that recognizes the potential for structural oversight changes prevents the need for future rule revisions.

Part 3400.0020, subpart 18. “Documentation.” The need and reasonableness for the proposed change to this subpart is discussed under general amendment one.

Part 3400.0020, subpart 20. “Eligible relative caregiver.” The term “eligible relative caregiver” is used in Minn. Stat. § 119B.011, subd. 13 but a definition of the term is not included in statute. Therefore, it is necessary and reasonable to define this term in rule. The proposed revisions to the definition are necessary and reasonable to better align with practice and how other programs operationalize eligibility of non-parent caregivers for assistance. These are clarifying changes that do not create new burdens or administrative costs for parties administering or receiving child care assistance.

Part 3400.0020, subpart 20a. “Extended eligibility.” The proposed addition of this subpart is necessary and reasonable to align with recent changes made to statute. Minn. Stat. § 119B.105, which was created

in the 2017 legislative session, creates a three-month extended eligibility period. This time period is referred to as “extended eligibility.” The definition is necessary to accurately reflect the terminology used by the Child Care Assistance Program.

Part 3400.0020, subpart 24. “Family copayment fee.” The need and reasonableness for the repeal of this subpart is discussed under Minn. R. 3400.0020, subp. 12e.

Part 3400.0020, subpart 25. “Full calendar month.” The proposed change of adding “means” to this subpart is necessary and reasonable because it corrects a drafting error and results in no substantive changes to rule. Additionally, the proposed change to replace “to” with “through” provides a more accurate and inclusive depiction of the days that are considered to be within a given month.

Part 3400.0020, subpart 26. “Full-day basis.” Under Minn. R. 3400.0110, a CCAP agency must pay the provider’s full charge up to the applicable maximum rate for all hours of child care authorized and scheduled for the family. The current use of the word “provided” implies a provider is paid based on a child’s attended hours, rather than the child’s scheduled and authorized hours. The proposed language is necessary and reasonable because it clarifies how a provider is paid, and does not create any new burdens or administrative costs for parties administering or receiving child care assistance.

Part 3400.0020, subpart 28a. “Imminent risk.” The proposed addition of this definition is necessary and reasonable to ensure that CCAP agencies, counties, tribes, and child care providers understand what imminent risk for the health and safety of a child in a child care setting means. The term “imminent risk” is used in other parts of rule, including Minn. R. 3400.0150, subp. 2, which requires counties and tribes to include in their child care fund plan the conditions they recognize as presenting imminent risk of harm to a child; and Minn. R. 3400.0185, subp. 13, item (D), which contains notice requirements for CCAP agencies when terminating payment to a child care provider because there is imminent risk to a child in care.

Part 3400.0020, subpart 29a. “Immunization record.” The need and reasonableness for the changes to this subpart is discussed under general amendment three.

Part 3400.0020, subpart 31c. “Legal nonlicensed child care setting.” The Consolidated Appropriations Act of 2018 (Public Law 115-141) prohibits states from expending federal CCDF funds on providers at which a serious injury or death occurred due to substantiated health or safety violations. This is reflected in the proposed language for part 3400.0140, subp. 6. When substantiated maltreatment occurs while a child is in the care of a legal nonlicensed child care provider, it is necessary and reasonable to define what is considered the setting in which the substantiated maltreatment occurred, as this subsequently results in a legal nonlicensed child care provider being unable to receive payment from the child care fund.

Part 3400.0020, subpart 31d. “Licensed child care center.” Minn. Stat. § 119B.011, subd. 19 provides a definition of provider but does not have a definition specific to a licensed child care center. The proposed definition is necessary and reasonable to accurately reflect the terminology used by the Child Care Assistance Program and adds clarity to policies that pertain to this provider type.

Part 3400.0020, subpart 31e. “Licensed family child care provider.” Minn. Stat. § 119B.011, subd. 19 provides a definition of provider but does not have a definition specific to licensed family child care provider. The proposed definition is necessary and reasonable to accurately reflect the terminology used by the Child Care Assistance Program and add clarity to policies that pertain to this provider type.

Part 3400.0020, subpart 31f. “Lump sum.” Changes made in 2015 to Minn. Stat. § 119B.011, subd. 15 updated the definition of income to align with other public assistance programs in Minnesota Statutes, chapter 256P. Under Minn. Stat. § 119B.09, subd. 4(c), lump sums counted as income under Minn. Stat.

§ 256P, subd. 3 must be included in the annual income calculation to determine a family's child care assistance eligibility. This proposed definition is necessary and reasonable to provide clarity about what is considered a lump sum and ensure consistent application of policy.

Part 3400.0020, subpart 32b. "Minimum wage." The current rule definition only cites Minnesota state minimum wage and omits a citation to federal minimum wage. Minn. Stat. § 119B.10 requires that child care assistance applicants and participants at redetermination must be receiving applicable minimum wage. The minimum wage amount is used to determine if a parentally responsible individual is meeting minimum activity requirements, which impacts a family's eligibility for child care assistance. Due to ongoing changes in both state and federal minimum wages, the proposed change is reasonable because it includes citations to both federal and state minimum wages, which is necessary for determining the applicable minimum wage as required by statute.

Part 3400.0020, subpart 33. "Overpayment." The need and reasonableness for the proposed changes to this subpart is discussed under general amendment five.

Part 3400.0020, subpart 34b. "Parentally responsible individual." The need and reasonableness for this subpart is discussed under general amendment three.

Part 3400.0020, subpart 34c. "Permanent end of an authorized activity." Under Minn. Stat. § 119B.105, a family's three-month extended eligibility period applies when a participant's employment or education program ends permanently. Under Minn. Stat. § 256P.07, subd. 6, a family must report a permanent end in a parentally responsible individual's authorized activity. The proposed addition of this subpart is necessary and reasonable to align with statute and reflect what constitutes a permanent end to an authorized activity to ensure consistent application of policy.

Part 3400.0020, subpart 34d. "Portability pool child care assistance." CCAP is comprised of different subprograms based on a family's participation with other assistance programs. Each subprogram is either fully funded or has a capped allocation. Under Minn. Stat. § 119B.03, subd. 9, portability pool child care assistance has funds appropriated under the capped basic sliding fee program. The proposed addition of this subpart is necessary and reasonable to align with statute and accurately reflect the terminology used by the Child Care Assistance Program when referencing this subprogram.

Part 3400.0020, subpart 35. "Provider rate." The need and reasonableness for this subpart is discussed under general amendments three and five.

Part 3400.0020, subpart 37. "Redetermination." The proposed changes to this definition include removing the term "periodically" because it is not necessary, as the time frames for collection are specified by Minn. R. 3400.0180. These changes are reasonable because they clarify policies and do not create new burdens or administrative costs for parties administering or receiving child care assistance. The need and reasonableness for the other edits to this subpart is discussed under general amendment one.

Part 3400.0020, subpart 37a. "Related to the child care provider." The Federal Child Care and Development Fund, 45 C.F.R. § 98.41(a)(1)(i)(B)(1) defines what family members are considered related. The relationship of a child care provider to a child they are caring for impacts a legal nonlicensed provider's training requirements (see Minn. R. 3400.0120, subp. 6), the capacity of children they are able to care for (see Minn. R. 3400.0120, subp. 7), and annual monitoring requirements (see Minn. R. 3400.0120, subp. 9). Adding this definition to rule is necessary and reasonable to support other proposed content changes and align with federal law.

Part 3400.0020, subpart 38. "Registration." The current rule only defines registration of legal nonlicensed child care providers. All provider types must register to be authorized for payment from the

child care fund under Minn. Stat. § 119B.125, subd. 1. The definition of “registration” is currently in Minn. Stat. § 119B.011, subd. 19a and is more encompassing of all provider types. The proposed removal of this duplicative and inadequate definition is necessary and reasonable to align the rule with statute.

Part 3400.0020, subpart 38b. “Scheduled hours.” This proposed change to this definition replaces “eligible activities schedules” with “authorized activity schedule,” which is necessary and reasonable to reflect terminology commonly used by the Child Care Assistance Program, and is further discussed under Minn. R. 3400.0020, subp. 9a. The need and reasonableness for additional edits to this subpart are discussed under general amendments one and two.

Part 3400.0020, subpart 38c. “Schedule reporter.” This proposed definition is necessary and reasonable because it clarifies and differentiates between families’ reporting statuses, and aligns with statute. Minn. Stat. § 119B.095, subd. 1, states the parameters in which care must be authorized and scheduled with a provider based on the applicant’s or participant’s verified activity schedule or child care choices. Any family meeting the criteria in Minn. Stat. § 119B.095, subd. 1, is considered to be a “schedule reporter.”

Part 3400.0020, subpart 38d. “Service period.” The Child Care Assistance Program uses two week blocks of time for billing and payment purposes, commonly referred to as a “biweekly period.” In some instances, the term “two week period” is used in the current rule. Using the proposed term “service period” rather than “two week period” is necessary and reasonable to provide consistent language throughout rule, mirror language currently used in Minn. Stat. § 119B, and more clearly define the two week period.

Part 3400.0020, subpart 39. “State median income.” The Federal Child Care and Development Fund, 45 C.F.R. § 98.20(a)(2)(i) requires that states use the most recent state median income data that is published by the Bureau of the Census. At present, federal Department of Health and Human Services no longer publishes the state median income in the Federal Register. Changes proposed to this subpart are necessary and reasonable to ensure that information related to CCAP is not tied to one particular source, yet continues to comply with federal laws.

Part 3400.0020, subpart 39a. “Student parent.” Under Minn. Stat. § 119B.011, subd. 20, student parent families that meet transition year child care requirements must receive transition year child care. This ensures student parent families continue receiving child care assistance through extended eligibility, or for the remainder of the 12 month eligibility period if their authorized activity ends, changes, or they turn 21 years of age. This also ensures the family continues receiving child care assistance at redetermination if other eligibility requirements are met. Minn. Stat. § 119B.011, subd. 19 lists the criteria a person must meet in order to be considered a “student parent.” There may be student parent families who are not eligible for transition year child care. These families are allowed to continue receiving child care assistance under Minn. Stat. § 119B.05, subd. 1, further benefitting the family. Addition this definition of “student parent” is necessary and reasonable to ensure alignment with statute.

Part 3400.0020, subpart 40. “Student.” Proposed changes to this subpart are necessary and reasonable to mirror language currently defined in Minn. Stat. § 119B.011, subd. 11. This proposed definition removes language stating a MFIP student is one who is in compliance with their education or training program as stated in their employment plan. There may be instances in which a student is not fully in compliance with their education plan (e.g., not attending the required amount of hours) and their MFIP benefits may be sanctioned for non-compliance; however, they would still be considered a student if they continue to attend the education or training program. The cross reference to the definition of

education plan in Minn. Stat. § 119B.011, subd. 11, and that definition’s cross reference to the definition of employment plan in Minn. Stat. § 119B.011, subd. 12, are sufficient to describe policies related to a student receiving MFIP, so no additional content is needed in rule. Other edits pertaining to a student’s full or part time status were made to reflect plain language.

Part 3400.0020, subpart 40a. “Temporarily absent.” Proposed changes to this subpart are necessary and reasonable to align the definition of temporarily absent with Minn. Stat. § 119B.011, subd. 13, which establishes a time limit of sixty days for adult family members included in the child care assistance household who are not in an authorized activity under the chapter. The proposed changes to rule further support and clarify that family members in an authorized activity are not subject to the sixty day limit. Additional edits provide types of commonly occurring temporary absences for both adult and child members of the child care assistance household.

Part 3400.0020, subpart 40b. “Transition year child care.” CCAP is comprised of different subprograms based on a family’s participation with other assistance programs. Minn. Stat. § 119B.011, subd. 20 defines which families are eligible to receive child care assistance under the transition year subprogram. The proposed addition of this subpart is necessary and reasonable to accurately reflect the terminology used by the Child Care Assistance Program when referencing this subprogram.

Part 3400.0020, subpart 40c. “Unable to care.” Under Minn. R. 3400.0040, subp. 5, parentally responsible individuals applying for or participating in CCAP must meet employment, education, and training requirements. In households with more than one parentally responsible individual, the parents other than the applicant or participant must meet the same employment, education or training requirements, or be unable to care for the child. Therefore, a definition for “unable to care” is necessary and reasonable because it gives a uniform meaning to the term and context to the parentally responsible individual’s status, and promotes consistent application of policy.

Part 3400.0020, subpart 40d. “Unsafe care.” This proposed definition is reasonable because it mirrors language used in Minn. Stat. § 119B.125, subd. 4, and is necessary to provide clarity, and create consistency between statute and rule.

Part 3400.0020, subpart 40e. “Verification.” This definition, while similar to the definition in Minn. R. 3400.0020, subp. 18, is necessary because it adds detail that any format of proof is acceptable, and prevents a CCAP agency from requesting a specific document or form of proof. This clarification is reasonable because it will assist families by expanding what is considered a required form of proof and by expanding the ways in which a family can submit the forms of proof at application, redetermination, or during the 12 month eligibility period. Additionally, because verification is used to support an assertion, the definition further specifies that reporting information on an application, redetermination, or on a reporting form is not recognized as verification.

Part 3400.0020, subpart 40f. “Verified activity schedule.” In order to authorize child care, one of the factors the CCAP agency must consider under Minn. Stat. § 119B.095, subd. 1 is the amount of time the parentally responsible individual participates in an authorized activity. A parentally responsible individual confirms this amount of time by submitting verification of the days and times they are engaged in the activity. The proposed addition of a definition for “verified activity schedule” is necessary and reasonable to accurately reflect the terminology commonly used to describe this verification when the parentally responsible individual participates in the activity.

Part 3400.0020, subpart 44. “Weekly basis.” This proposed changes to this subpart are necessary and reasonable to accurately reflect the terminology used by the Child Care Assistance Program. Child care assistance is paid based on a child’s scheduled and authorized hours, and is not based on the actual hours of attendance or hours of care provided. The current definition implies that a provider cannot

provide care for more than 50 hours per week. Proposed rule part 3400.0110, subp. 3d(E) contains the standards for converting child care paid on a weekly basis to hours and states that payment at the weekly maximum rate is equal to 50 hours of care. The proposed changes to this definition align with proposed Minn. R. part 3400.0110, subp. 3d(E) and Minn. Stat. § 119B.13, subd. 1(d). The proposed changes clarify that care authorized for 35 hours a week or more results in the application of the weekly maximum rate and do not tie the weekly maximum rate to actual care provided.

Part 3400.0030 NOTICE OF BASIC SLIDING FEE PROGRAM ALLOCATION.

Deleting this rule part and moving some of the content to part 3400.0060 where other criteria related to the Basic Sliding Fee subprogram are identified is necessary and reasonable to make the rule more clear and concise. This part is further discussed under general amendment four.

Part 3400.0035 APPLICATION PROCEDURE.

Part 3400.0035, subpart 1. Proposed changes to this subpart are necessary and reasonable to provide clarity and reflect current program practices. The proposed changes reduce the specificity of information the CCAP agency must provide to families requesting information about the Child Care Assistance Program, but expand the scope of information to encompass federal consumer education requirements. The proposed changes break current subpart 1 into informational requests and assistance requests (see Minn. R. 3400.0035, subp. 1a) which clarifies responsibilities of CCAP agencies. Additionally, current materials produced by the Department that local CCAP agencies supply to families and the Department posts publicly on its public website meet the requirements of the proposed rule so adoption of new rule language does not create new burdens or administrative costs for parties administering or receiving child care assistance.

Part 3400.0035, subpart 1a. Proposed changes to this subpart are necessary and reasonable to provide clarity and reflect current program practices. As in subpart 1, the proposed changes to this subpart reduce the specificity of information the administering agency must provide to families requesting information about the Child Care Assistance Program. Current materials produced by the Department that local CCAP agencies supply to families and the Department posts on its public website meet the requirements of the proposed rule so adoption of new rule language does not create new burdens or administrative costs for parties administering or receiving child care assistance.

The proposed changes revise item E and remove the requirement to provide families detail on how the copayment is determined. Minn. Stat. § 119B.12 provides guidance on how the copayment fee is determined. The Department's rationale for revising this language is to focus on providing families practical information on their financial responsibility when receiving child care assistance, rather than providing detail on the actual computation of the copayment amount. Families are informed of their requirement to pay a copayment in numerous Department-created communications, which families receive both when inquiring about and when applying for child care assistance. The copayment schedule, which details copayment amounts based on annual gross income and family size, is regularly updated, made publicly available on the Department's public website and provided to each CCAP agency, as outlined in Minn. R. 3400.0100, subp. 5. Additionally, families receive specific information on their copayment amount when receiving a notice of eligibility approval (see Minn. R. 3400.0185, subp. 6) and a notice of authorization (see Minn. R. 3400.0185, subp. 8).

The proposed changes to item J reflect all current reporting requirements under Minn. R. 3400.0040, subp. 4. Due to changes to Minn. Stat. § 119B.03, subd. 9, which require a family to notify their previous county of residence when moving to a new county and to Minn. Stat. § 119B.09, which removes time limits for portability pool funding for families who move between counties with basic sliding fee waiting

lists, the proposed changes to item J remove specific language on the reporting of moves between counties, continuation of benefits, and overpayments.

Part 3400.0035, subpart 1b. The proposed addition of this subpart incorporates content that is currently in Minn. R. 3400.0060, subp. 8, as the requirements in this subpart apply to families on all subprograms, not just basic sliding fee as discussed in part 3400.0060. This reorganization of rule is necessary and reasonable because it groups related provisions together and provides clarity, and is further discussed under general amendment four.

Part 3400.0035, subpart 2. Proposed changes to this subpart are necessary and reasonable to improve the readability and consistent application of the rule. The changes include moving content that addresses how a CCAP agency handles a family's request for application from item A and incorporating it into Minn. R. 3400.0035, subd. 1. Item B has also been removed as this content is now covered in Minn. R. 3400.0065. This reorganization is further discussed under general amendment four.

Proposed changes to item C clarify what actions a CCAP agency must take if a family submits an application to a CCAP agency in a county that is different from the family's county of residence or to a tribal CCAP agency with criteria for serving families that the family applying does not meet. Under Minn. Stat. § 119B.02, subd. 2, the commissioner "may enter into contractual agreements with a federally recognized Indian tribe with a reservation in Minnesota to carry out the responsibilities of county human service agencies to the extent necessary for the tribe to operate child care assistance programs." When entering into these agreements, the tribe designates criteria for families they plan to serve. The proposed language is necessary to clarify that a tribal CCAP agency will only process applications from families who meet the tribal CCAP agency's criteria for families served. For those families not meeting the tribal CCAP agency's criteria for families served, the family's application is forwarded to the family's county of residence. The absence of previous guidance has led to inconsistent policy application and families receiving disparate treatment based on the CCAP agency they submit an application to in error. Proposed changes also remove language addressing application processing timeframes. This content is currently included in Minn. Stat. § 119B.925, subdivision 1(b). The proposed removal of this duplicative provision better aligns the rule with statute.

The need and reasonableness for additional edits are discussed under general amendment one.

Part 3400.0035, subpart 2a. The proposed addition of this subpart is necessary and reasonable to align the rule with related statutes. Minn. Stat. § 119B.025, subd. 1(c)(5) allows the commissioner to determine how frequently expedited application processing may be used for an applicant who is experiencing homelessness. Families eligible for child care assistance under Minn. Stat. § 119B.025, subd. 1(c) are able to receive care for a minimum of three months. If, after those three months, the family has not submitted all required verifications, the family must be placed into temporary ineligibility for a maximum of 90 days as stated in the proposed changes to Minn. R. 3400.0040, subp. 17. During this 90 day temporary ineligibility period, the family may submit required verifications to again become eligible for child care assistance. By limiting expedited application processing to every six months, this coincides with the timeframe of three months of eligibility and up to 90 days of temporary ineligibility. Additionally, because families self-report their status as experiencing homelessness, county and tribal agencies have expressed concerns to the Department about potential misuse of the policy and the need to impose a limit. While advocates for the homeless have been less supportive of imposing a limit as families experiencing homelessness have multiple barriers to meeting child care assistance program requirements, the Department concluded that limiting expedited application processing to every six months while allowing for 90 days of temporary ineligibility was the most balanced approach.

Part 3400.0035, subpart 3. Under Minn. Stat. § 119.13, subd. 5 and Minn. R. 3400.0185, a CCAP agency

is only able to share certain information about a family with the family's child care provider; no private data can be shared. However, some families prefer to have the CCAP agency communicate directly with their child care provider about their child care assistance benefits and case status to help coordinate benefits. Proposed changes to item B are necessary and reasonable to clarify that CCAP agencies are able to communicate additional information with the family's child care provider with an information release. Other proposed changes reflect plain language edits resulting in no substantive changes to rule and other edits are discussed under general amendment one.

Part 3400.0035, subpart 4. Proposed changes include repealing this subpart and moving the content to Minn. R. 3400.0185, subp. 7. The proposed changes are necessary and reasonable to improve readability and application of the rule: all notice requirements have been moved to part 3400.0185 and all content in part 3400.0185 has been organized in the chronological order of typical child care assistance program processes.

Part 3400.0035, subpart 5. Proposed changes include repealing this subpart and moving the content to Minn. R. 3400.0185, subp. 6. The proposed changes are necessary and reasonable to improve readability and application of the rule: all notice requirements have been moved to part 3400.0185 and all content in part 3400.0185 has been organized in the chronological order of typical child care assistance program processes.

Part 3400.0035, subpart 6. Proposed changes include repealing this subpart and moving the content to Minn. R. 3400.0185, subp. 9. The proposed changes are necessary and reasonable to improve readability and application of the rule: all notice requirements have been moved to part 3400.0185 and all content in part 3400.0185 has been organized in the chronological order of typical child care assistance program processes.

Part 3400.0035, subpart 7. Proposed changes to this subpart are necessary and reasonable to better align with statute and improve readability and application of the rule. Minn. R. 3400.0120, subp. 1, reference statutes that give CCAP agencies and the Department authority to deny payment to child care providers holding valid child care licenses. Adding a cross reference to part 3400.0120 to this subpart clarifies that a family is able to select a provider that best meets their needs within the limitations identified in part 3400.0120, subp. 1. Additional proposed changes to this subpart clarify that a provider must first be authorized to care for a child before payments can be issued, which better reflects how the child care assistance program is operationalized. Additional proposed content clarify that a family's selection of a child care provider does not only happen at application but also applies to current program participants; a family is able to select a provider or change their provider at any time while receiving child care assistance and the same criteria apply.

Part 3400.0035, subpart 8. Proposed changes clarify that a family's selection of a legal nonlicensed child care provider does not only happen at application but also applies to current program participants; a family is able to select a provider or change their provider at any time while receiving child care assistance and the same criteria apply. Other proposed changes to this subpart that require an applicant or participant to sign an acknowledgement before the CCAP agency can authorize care is both necessary logistically and for risk management purposes. The most direct way to systematically ensure that an acknowledgement is signed before a CCAP agency pays any child care expenses to a legal nonlicensed provider is to prevent a service authorization from being issued until a signed acknowledgment is received. This proposed change is reasonable because it reflects how the program currently operates and clarifies on-going implementation of the program. It is necessary to include this detail in rule to create a procedural barrier to issuing a service authorization. Preventing a CCAP agency from issuing a service authorization until the form is signed manages the risk of care being provided or paid to an unlicensed provider before the parent has had an opportunity to review and understand the

implications of choosing an unregulated child care provider. This is a clarifying change that doesn't create new burdens or administrative costs for parties administering or receiving child care assistance.

Proposed changes to item D reduce the length of time in which a legal nonlicensed provider must obtain a copy of a child's immunization records from 90 to 30 days. The Federal Child Care and Development Fund, 45 C.F.R. § 98.41(a)(1)(i)(C) requires states to establish a grace period that allows children experiencing homelessness to receive child care assistance while their families take necessary action to submit immunization materials and allows states to establish a grace period for other families not experiencing homelessness. The Minnesota Department of Human Services and the Minnesota Department of Health collaborated to develop a 30 day grace period for families experiencing homelessness to submit immunization information to licensed programs, and this requirement has been approved in Minnesota's CCDF plan for the fiscal year 2019-2021. Reducing the length of time in which a legal nonlicensed provider must obtain a copy of a child's immunization records from 90 days to 30 days is reasonable because it creates consistency with the 30 day grace period for families of children experiencing homelessness to submit immunization materials.⁶ The proposed changes to this subpart are necessary to reflect new policies and does not create any additional financial or administrative burdens on providers and families beyond what was imposed by statute.

Proposed language in Item E reflects a change in 2011 to Minn. Stat. § 119B.09, subd. 10 which mandates that funds paid under Minnesota Statutes, chapter 119B must not be paid to a provider who lives in the same household or residence as the child. Further proposed language to include program participants is necessary to reflect new policies and does not create any additional financial or administrative burdens on providers and families beyond what was imposed in the statute change.

The Child Care and Development Block Grant Act of 2014 included substantial new requirements related to provider training under Federal Child Care and Development Fund, 45 C.F.R. § 98.44 and parental notification of consumer education standards under 45 C.F.R. § 98.33. Additional provider training requirements are incorporated into the proposed changes to Minn. R. 3400.0120, subp. 6. The proposed language in Item F adds consumer education by including information about the provider's training requirements in the legal nonlicensed provider acknowledgment that an applicant or participant must sign. This proposed change is reasonable because it provides important information to parentally responsible individuals about the qualifications of the child care provider and can be easily incorporated into the standard acknowledgment form managed by the Department. This is a clarifying change that does not create new burdens or administrative costs for parties administering or receiving child care assistance.

Proposed language to include an acknowledgement of the implications for a child care provider if their care is determined to be unsafe is reasonable because it establishes a regulatory mechanism for ending care and denying payment under Minn. Stat. § 119B.125, subd. 4 and Minn. Stat. § 119B.09, subd. 5 and provides parents with notice that care may be terminated due to safety concerns. This is a clarifying change that does not create new burdens or administrative costs for parties administering or receiving child care assistance.

Additional edits are discussed under general amendments one and two.

Part 3400.0035, subpart 9. Proposed changes to this subpart are necessary and reasonable to clarify that a family's selection of an in-home child care provider does not only happen at application but also

⁶ These changes do not conflict with state laws governing immunization compliance or exemptions in Minn. Stat. § 121A.15, but merely reduce the timeline in which a parentally responsible individual must share documentation of their child's immunization status with their child's legal nonlicensed child care provider.

applies to participants; a family is able to select a provider or change their provider at any time while receiving child care assistance and the same criteria apply.

Part 3400.0040 ELIGIBILITY REQUIREMENTS AND STANDARDS.

Part 3400.0040, subpart 3. Proposed changes to this subpart are necessary and reasonable because they reflect changes to Minn. Stat. § 119B.025 that redefine verification requirements and timelines to establish twelve month continuous eligibility for families. Changes are necessary to differentiate when verification is required to determine eligibility (item A) versus to authorize child care (item C). In addition, proposed changes to item B differentiate optional verifications, without which a family may still be determined eligible but may result in a different amount of benefits if verified. These differentiations will make it easier for CCAP agencies to administer the program and are more family-friendly for participants. The proposed changes do not create new burdens or administrative costs for parties administering or receiving child care assistance.

Under item A, proposed changes remove the requirement to verify the relationship of the children in the family to the applicant, as this requirement is listed in Minn. Stat. § 119B.025, subd. 1, clause 3. Further proposed changes move income eligibility from subitem (5) to subitem (4). This revision reflects changes in 2015 to Minn. Stat. § 119B.011, subd. 15 to update the definition of income to align with other public assistance programs in Minn. Stat. § 256P. Proposed changes also remove the statutory reference from subitem (6) to align with the proposed changes throughout the rule to use the term “parentally responsible individual” (see general amendment two). The proposed addition of subitem (7) is addressed later in the SONAR along with the proposed addition of Minn. R. 3400.0040, subpart 5b.

Proposed item D provides details about citizenship and immigration status for children. To meet CCAP eligibility requirements, the citizenship or immigration status must be verified for at least one child in the family, unless the child is receiving care in a setting subject to public education standards. A family having at least one child with verified citizenship or immigration status meets the citizenship or immigration eligibility requirement. Federal Child Care and Development Fund, 45 C.F.R. § 98.20(c) states that only the citizenship and immigration status of the child is relevant, and no eligibility for services under § 98.50 is based on the citizenship or immigration status of the child’s parent. The Personal Responsibility and Work Opportunity Reconciliation Act of 1996 (PRWORA) specifically provides that its provisions do not apply to Head Start and non-postsecondary educational programs and that it does not have any effect on the right of non-citizen children to participate in these programs. Consequently, the federal government has determined that when child care assistance funds are used to pay for child care in settings subject to public educational standards, such as a Head Start or a pre-kindergarten or a school-age care program operated under public education standards, PRWORA does not require verification of the child’s citizenship or immigration status because the child is participating in a non-postsecondary educational program rather than receiving federal public benefits.⁷

Proposed changes remove content related to redetermining eligibility from item E because Minn. R. 3400.0175 as proposed addresses the redetermination process in its entirety. This reorganization is further discussed under general amendment four.

Part 3400.0040, subpart 4. Proposed language in this subpart are necessary and reasonable to address changes in statute and program policy relating to a family’s reporting requirements based on a family’s reporting type. Clarification of reporting requirements supports consistent application of statute, which in turn can protect families from being assessed overpayments when reporting requirements are followed. Item A reflects changes to reporting policy for families during their twelve-month eligibility

⁷ See “Clarification of Interpretation of ‘Federal Public Benefit’ Regarding CCDF Services.”

period. Under Minn. Stat. § 256P.07, families are no longer required to report all of the identified items within 10 days, making the proposed changes to the identified items in rule necessary to align with statute. Additionally, families must report within 10 days if a parentally responsible individual begins providing child care or working in a child care setting. Under Minn. Stat. § 119B.09, subd. 9, licensed and legal nonlicensed child care providers and their employees are not eligible to receive child care assistance subsidies for their own children or children in their family during the hours they are providing care or being paid to provide child care. Requiring a family to report this employment ensures that care is authorized appropriately. This reporting requirement also ensures that if a parentally responsible individual begins working for a licensed child care center where their children are authorized to receive child care assistance, the children count towards the limit of 25 center employees children under Minn. Stat. § 119B.09, subd. 9a.

Proposed language in item B is necessary to reflect changes to Minn. Stat. § 119B.095. Section 119B.095 establishes two different reporting requirements for families receiving child care assistance based on employment status or child care provider choices. Because care must be authorized and scheduled with a child care provider based on a schedule reporter's verified activity schedule, providing in rule the additional items a schedule reporter family must report adds clarity and details to a schedule reporter's reporting responsibilities.

Moving content from the current item B to a new item C and reformatting makes the item easier to read and presents requirements in a chronological format. Proposed language in item C also addresses additional reasons for closure of a provider's registration that are based on a statutory change made during the 2019 legislative session. Minn. Stat. § 119B.161, subd. 2(c) states that when a CCAP agency or commissioner (1) suspends a provider's payment, or (2) revokes or denies a provider's authorization, the CCAP agency or commissioner must provide notice to a family, and the notice is effective on the date the notice is created. In these two situations, a family is not required to give 15 calendar days' notice of an intent to change their provider.

Moving existing language to a new item D makes the content easier to understand. Proposed revisions to language reflect changing technology and opportunities to expand electronic communication methods and channels of verification. These changes do not create new burdens or administrative costs for parties administering child care assistance and lessens burdens on those receiving child care assistance by identifying expanded reporting options.

The proposed language in new item E identifies potential consequences for a family when reporting requirements are not met. Assessing an overpayment, and disqualifying or terminating a family from receiving child care assistance benefits are situational and are addressed separately in other parts of law.

Part 3400.0040, subpart 4a. In addition to language in Minn. Stat. § 119B.025, subd. 4, the proposed language in this new subpart is necessary and reasonable to address what changes a family must verify during the 12 month eligibility period and how the change may impact a family's child care assistance benefits, based on the family's reporting type and the reported change. Because families are not required to report some changes adding this subpart clarifies when a family needs to provide verification of a change. This proposed subpart will also clarify when a CCAP agency needs to request verification of a change, and any subsequent required action, as not all changes in a family's circumstances result in a family's ineligibility for child care assistance or change in a child's authorization. Additionally, the proposed content in item D mandates what is currently permissible under Minn. Stat. § 119B.095, subd. 2(b), and requires a CCAP agency to increase the amount of child care authorized when a reported and verified change results in an increase of authorized hours, regardless of a family's reporting type.

Part 3400.0040, subpart 5. Proposed changes to this subpart align with proposed changes to Minn. R. 3400.0110, subp. 10. Aligning these parts of rule is necessary and reasonable to reduce verification and documentation burdens of parentally responsible individuals who are either determined medically unable to care or have child care assistance granted during a medical leave of absence, as well as reduce administrative burdens for CCAP agencies. The proposed changes also preserve high standards for professionals who have authorization to make a determination. The proposed addition of a licensed psychiatrist is reasonable as this a medical professional trained to diagnose and treat people with mental health conditions and is a professional capable of determining a parentally responsible individual's unable to care status, similar to that of a licensed psychologist. Additionally, the proposed change from local social services agency to licensed social worker is beneficial to the family. Typically, the local social services agency's determination of a parentally responsible individual's unable to care status is made by a licensed social worker at the agency. This proposed change allows other licensed social workers to make the determination, aside from only those associated with the local social services agency and includes those the family may already have an existing relationship with.

Further proposed changes clarify that a parentally responsible individual may be either temporarily or permanently unable to care for their child to encompass the types of determinations the CCAP agency may receive from the allowed professionals. The addition of the word "participant" reflects that unable to care policy also applies to parentally responsible individuals currently receiving child care assistance who meet the criteria under this subpart. Other edits are discussed under general amendment two.

Part 3400.0040, subpart 5a. Proposed changes to this subpart are necessary and reasonable reflect changes to Minn. Stat. § 119B.09 that require cooperation with child support at application and redetermination only. This statutory change was made in the 2017 legislative session to ensure twelve-month continuous eligibility and comply with federal law. Proposed changes also remove language from item A because the same language currently exists in Minn. Stat. § 119B.09, subd. 1(c). The proposed removal of this duplicative language better aligns the rule with statute.

Proposed items B, C and D govern eligibility for CCAP in relation to cooperation with child support. Establishing rule language for this policy ensures consistent application of policy across families and CCAP agencies. Further proposed language to include program participants is necessary to reflect new policies and does not create any additional financial or administrative burdens on providers and families beyond what was imposed in the statute change.

Part 3400.0040, subpart 5b. This proposed subpart is necessary and reasonable to ensure compliance with a federal requirement in the Child Care and Development Block Grant Act of 2014, Public Law 113-186, 42 U.S.C. § 9858n(4) and the Federal Child Care and Development Fund, 45 C.F.R. § 98.20, that requires families applying for and receiving CCDF funding child care subsidies to declare their assets are one million dollars or less. Minnesota law does not address asset limits for the child care assistance program; therefore, it is necessary to codify this requirement in rule. Additionally, to ensure this federal requirement is met, Minnesota has stated in its approved CCDF plan for fiscal year 2019-2021 that it "will require family members to certify that family assets do not exceed \$1,000,000 by checking off a certification box on their application and annually thereafter on their redetermination form."

The asset evaluation policies under proposed item A closely align with personal property limitations under Minn. Stat. § 256P.02, which apply to families receiving benefits from the Minnesota Family Investment Program (MFIP). Aligning asset evaluation policies among programs will reduce verification and documentation burdens for families as well as administrative oversight for CCAP agencies.

Part 3400.0040, subpart 6a. Proposed updates to this subpart are necessary and reasonable to reflect proposed updates to the term "copayment" under Minn. R. 3400.0020, subp. 12e. The proposed

language also clarifies that a CCAP agency only pays a parent when care is provided in the child's home as required by Minn. Stat. § 119B.09, subd. 10. This is a clarifying change that does not create new burdens or administrative costs for parties administering or receiving child care assistance. Additional edits are discussed under general amendment one.

Part 3400.0040, subpart 6c. Proposed changes to this subpart are necessary and reasonable to clarify the beginning date of eligibility for Transition Year child care and updates terminology for consistency (see Minn. R. 3400.0090, subp. 2). When a family loses eligibility for MFIP or DWP, the family remains eligible on the last day of a month (for example September 30) and is considered ineligible for MFIP/DWP on the first day of the subsequent month (for example October 1). A family's move from the MFIP/DWP child care subprogram to Transition Year child care subprogram is intended to be a seamless transition, resulting in no interruption in child care assistance for eligible families. This is a clarifying change that does not create new burdens or administrative costs for parties administering or receiving child care assistance

Part 3400.0040, subpart 7. The proposed repeal of this subpart is necessary and reasonable because there is similar and clearer language in Minn. Stat. § 119B.09, subd. 6. The current subpart could create confusion because there are instances in which a child may be authorized for more than 120 hours biweekly (see Minn. R. 3400.0110, subps. 3a and 3b). Additional language in rule is not necessary to implement the law as written in statute and therefore it is reasonable to repeal this language.

Part 3400.0040, subpart 8. The proposed removal of language in item B and addition of item E to this subpart are necessary and reasonable to reflect changes to Minn. Stat. § 119B.10 that require parents to meet minimum activity requirements at application and redetermination only. For families whose eligibility is determined based on participation in job search, they have until the end of their job search period to meet the activity participation requirements. These statutory changes were made in the 2017 legislative session to ensure twelve-month continuous eligibility and comply with federal law.

Proposed changes to item C clarify that a CCAP agency must apply the minimum wage to determine if a parent's work activity meets minimum participation requirements whenever the parent receives compensation other than an hourly wage. This is a clarifying change that doesn't create new burdens or administrative costs for parties administering or receiving child care assistance.

Other edits are discussed under general amendments one and three.

Part 3400.0040, subpart 9. Under Minn. Stat. § 119B.10, subd. 1(b), an employed person with an employment plan must receive child care assistance as specified in that plan. Proposed changes to this subpart are necessary and reasonable to align with statute and add details about who is considered to be an employed person, which includes all employed persons except those eligible under part 3400.0080 with an approved employment plan. Other edits are discussed under general amendment one.

Part 3400.0040, subpart 10. Proposed changes to this section are necessary and reasonable to reflect changes to Minn. Stat. § 119B.10 that expanded eligibility for child care to families eligible for Transition Year and attending approved education or training programs. This change was made in the 2017 legislative session to ensure twelve-month continuous eligibility and comply with federal law. As a result, CCAP agencies must approve education programs for families receiving transition year child care by following the criteria in CCAP agency's approved child care fund plan.

Proposed changes to items A and B clarify and align the process for authorizing child care when a parent is engaged in education activities. Using the same methodology to authorize care regardless of the parent's full- or part-time enrollment status is reasonable because it is simpler to implement

consistently across CCAP agencies. This proposed change is necessary to resolve conflicts between current rule language and Minn. Stat. § 119B.10, subd. 3, which provides authorization guidance that doesn't differentiate authorization processes based on the parentally responsible individual's enrollment status. The proposed addition of "online course" to item A reflects the way education is currently delivered.

Proposed item B requires CCAP agencies to authorize care for students receiving benefits from the Minnesota Family Investment Program who have education written into the employment plan. CCAP agencies are required to authorize care based on the employment plan, which in some instances may include hours beyond those specified in item A. Because employment counselors work closely with families in developing an employment plan, the employment counselor may be aware of additional supports needed by the family to be successful.

Proposed item D consists of revised content from current Minn. R. 3400.0060, subp. 9(D). The proposed revisions reflect language in 1) Minn. Stat. § 119B.10, which does not allow CCAP agencies to limit the duration of child subsidies for parents in an educational program unless the parent is otherwise ineligible for child care assistance, and 2) Minn. Stat. § 119B.095, which requires the amount of care authorized to continue at the same number of hours or more until the family's next redetermination. As a result, CCAP agencies are not allowed to terminate approval for a family's education plan during the 12 month eligibility period when the family moves and any changes to the previously approved education plan must wait until redetermination, unless requested by the family.

Proposed item E reflects changes to Minn. Stat. § 119B.095 that establishes two different reporting requirements for families receiving child care assistance based on their employment status or child care provider choices. While a schedule reporter family has care authorized based on their activity schedule, due to the duration of some school breaks and the amount of time required before an adverse action takes effect under Minn. R 3400.0185, there are times it is not appropriate to reduce or terminate authorizations. However, in situations where a schedule reporter family has a school break which is longer than the amount of time required before an adverse action takes effect, it is appropriate to suspend the family's eligibility if they have no other activity or reduce their authorization for remaining activities until their school activity resumes.

Additional edits are discussed under general amendments one and three. Plain language edits were also made and result in no substantive changes to rule.

Part 3400.0040, subpart 11. Proposed changes to this subpart reflect changes to Minn. Stat. § 119B.10 that require parentally responsible individuals to meet minimum activity requirements at application and redetermination only. This statute was made in the 2017 legislative session to ensure twelve-month continuous eligibility and comply with federal law. Further proposed restructuring of this rule into several items improves clarity and readability to allow more accurate implementation across CCAP agencies. Revising language referring to activity requirements is necessary to reflect new policies and is reasonable because it does not create any additional financial or administrative burdens on providers and families beyond what was imposed in the statutory change. Additional edits are discussed under general amendments one and three.

Part 3400.0040, subpart 12. Proposed changes to this subpart reflect changes to Minn. Stat. § 119B.10 that expanded eligibility for child care to families eligible for transition year and attending approved education or training programs. This change was made in the 2017 legislative session to ensure twelve-month continuous eligibility and comply with federal law. As a result, CCAP agencies must approve education activities for families receiving transition year child care following the criteria in a CCAP agency's approved child care fund plan. Revising language referring to program participants is necessary

and reasonable to reflect new policies and does not create any additional financial or administrative burdens on providers and families beyond what was imposed in the statute change.

Part 3400.0040, subpart 13. Proposed changes to this subpart are necessary and reasonable to reflect changes to Minn. Stat. § 119B.10 that expand eligibility for child care to families eligible for transition year and attending approved education or training programs. This change was made in the 2017 legislative session to ensure twelve-month continuous eligibility and comply with federal law. While Minn. Stat. § 119B.10, subd. 3(b) requires a student to be in good standing in their approved education or training program and making satisfactory progress towards the degree, Minn. Stat. § 119B.095, subd. 2 requires families to maintain steady child care authorizations during the 12 month eligibility period. Proposed language to this subpart clarifies that although care cannot end during the 12 month eligibility period, the CCAP agency must terminate the approval of the education plan at redetermination if the student is not in good academic standing.

Part 3400.0040, subpart 14. Proposed changes to this subpart are necessary and reasonable to reflect the repeal of Minn. Stat. § 119B.07 and align with changes to Minn. Stat. § 119B.10 that expand eligibility for child care to families eligible for transition year and attending approved education or training programs. This change was made in the 2017 legislative session to ensure twelve-month continuous eligibility and comply with federal law.

Additional edits are discussed under general amendment one and also update a statutory reference.

Part 3400.0040, subpart 15. Proposed changes to this subpart establish that CCAP agencies must document in their child care fund plan their policy for approving changes to education plans. This is necessary to create authority for a CCAP agency to deny an education plan that does not meet their standards. Proposed language specifying that this authority only applies to education plans under parts 3400.0060 and 3400.0090 is necessary and reasonable because education activities for families eligible under part 3400.0080 are included in an employment plan. Additional proposed edits reasonably limit agency discretion by requiring a CCAP agency to approve a requested change when a student's health and safety is at risk; under the current language, approval of such a request is at the CCAP agency's discretion.

Part 3400.0040, subpart 15a. Federal law establishes additional requirements around parents who are determined eligible for child care subsidy to look for work. Care must be provided for no fewer than three months when eligibility is determined based on job search. State law limits job search outside of an employment plan to 240 hours per calendar year. Proposed changes to this subpart are necessary to comply with both state and federal law, and require CCAP agencies to authorize no more than 20 hours of child care per week when a family's basis of eligibility is job search. These changes are reasonable because they ensure that eligibility will continue for at least 12 weeks to comply with federal law but also ensure that no more than 240 hours will be used in a calendar year to comply with state law.

Proposed changes to item A removes mention of the job search timeframe limit of 240 hours per calendar year and instead cross reference the timeframe as stated in Minn. Stat. § 119B.10, subd. 1. Referencing statute helps to keep the rule current if the number of hours of job search allowed are revised in statute.

Proposed language in item C aligns with federal law, which does not allow a decrease in authorized hours during the 12 month eligibility period for the majority of families. Because the job search timeline is limited to 240 hours in a calendar year, authorizing job search in combination with other activities would result in a reduction of the family's hours at the end of job search. Therefore, not allowing authorization of job search in combination with other activities is necessary to comply with federal guidance.

Part 3400.0040, subpart 17. Proposed changes to this subpart are necessary and reasonable because they (1) more clearly state the timeframe of temporary ineligibility status and (2) add items A, B, and C, which identify the situations in which a CCAP agency must place a family into temporary ineligibility status, as required by statute. The proposed item C is in response to an addition to statute made in the 2019 legislative session for families eligible for child care assistance under Minn. Stat. § 119B.025, subd. 1(c) who are able to receive care for a minimum of three months without requiring all typically required eligibility verifications. If, after those three months, the family has not submitted all required verifications, the family must be placed into temporary ineligibility for a maximum of 90 days. This period of temporary ineligibility allows a family an additional 90 days to submit required verifications without the family needing to reapply for child care assistance. The burden on the family is lessened because the family is not required to submit a new application nor is the family subjected to a possible waiting list during those additional 90 days. This also reduced administrative burden on the CCAP agency. These are clarifying changes that do not create new burdens or administrative costs for parties administering or receiving child care assistance. Additional edits are discussed under general amendment one.

Part 3400.0040, subparts 17a and 17b. Proposed changes to these subparts are necessary and reasonable to clarify differences in how temporarily ineligibility policies are applied to families (1) already determined eligible and (2) on a waiting list. Separating these two scenarios provides clearer policy guidance for CCAP agencies and more understandable expectations for families.

Proposed changes to subpart 17a reflect changes to Minn. Stat. § 119B.025, subd. 1(c) that establish eligibility for a family who meets the definition of homeless, and changes to Minn. Stat. § 119B.095 that establish two different reporting requirements for families receiving child care assistance based on their employment status or child care provider choices. Families eligible for child care assistance under Minn. Stat. § 119B.025, subd. 1(c) are able to receive care for a minimum of three months. After those three months, if the family has not submitted all required verifications, the family must be placed into temporary ineligibility for a maximum of 90 days as stated in Minn. R. 3400.0040, subp. 17. During this 90 day temporary ineligibility period, the family may submit required verifications to become eligible for child care assistance again. Providing clarity on the date eligibility must begin ensures that policies are applied consistently across CCAP agencies, while still requiring families to participate in an authorized activity to move out of temporary ineligibility and have care authorized.

The proposed language in subpart 17b clarifies the 90 day timeframe in which a family must be held at the top of the basic sliding fee waiting list, in accordance with the typical 90 day temporary ineligibility timeframe. Depending on a family's situation, the family's position may be reserved for less than 90 days. Examples of situations in which a family's position may be held at the top of the basic sliding fee waiting list include: a parentally responsible individual is pregnant and child care is not yet needed; a parentally responsible individual is on a temporary break from employment and plans to return in the near future; or a child is in foster care and will soon be reunited with their family. Proposed changes also remove language from this subpart regarding a family's approval to receive child care assistance once the family reaches the top of the waiting list. CCAP agencies may only conduct a preliminary determination of eligibility when placing a family on the waiting list (see Minn. R. 3400.0065, subp. 1) and must not determine eligibility until the family applies for child care assistance. Additional edits are discussed under general amendment one.

Part 3400.0040, subpart 18. Proposed changes to this subpart are reasonable and necessary to reflect changes to Minn. Stat. § 119B.095, which establishes steady child care authorizations for most families on child care assistance. This statutory change was made in the 2017 legislative session to ensure twelve-month continuous eligibility and comply with federal law.

Part 3400.0040, subpart 18a. The proposed addition of this subpart is necessary and reasonable to clarify how a CCAP agency must authorize child care when a family documents a continued need for child care assistance after a period suspension. Differences reflect statute changes to Minn. Stat. § 119B.095 that establishes two different reporting requirements for families receiving child care assistance based on their employment status or child care provider choices.

Part 3400.0060 BASIC SLIDING FEE PROGRAM.

Part 3400.0060, subpart 2. Proposed language in this subpart is necessary and reasonable because it incorporates information currently found in Minn. R. 3400.0030. The need and reasonableness of this reorganization is further discussed under general amendment four.

Part 3400.0060, subpart 4. The need and reasonableness of the proposed changes to this subpart are discussed under general amendments one and three.

Part 3400.0060, subpart 5. The proposed changes to this subpart are necessary and reasonable because they replace the term “family” with “applicant” which provides clarity and consistency with items A and B.

Part 3400.0060, subpart 6. The proposed repeal of this subpart is necessary and reasonable because related content is proposed for Minn. R. 3400.0065, subp. 1 and 3. This reorganization is further discussed under general amendment four.

Part 3400.0060, subpart 6a. The proposed repeal of this subpart is necessary and reasonable because related content is proposed for Minn. R. 3400.0065, subp. 4. This reorganization is further discussed under general amendment four.

Part 3400.0060, subpart 7. The proposed repeal of this subpart is necessary and reasonable because related content is proposed for Minn. R. 3400.0065, subp. 5. This reorganization is further discussed under general amendment four.

Part 3400.0060, subpart 8. Proposed repeal of this subpart is necessary and reasonable because applying for child care assistance applies to families on all subprograms, not just basic sliding fee as currently discussed in part 3400.0060. Proposed changes also add related content to Minn. R. 3400.0035, subp. 1a. Moving this content is reasonable and results in better organization of rule because part 3400.0035 discusses application procedures for all families requesting child care assistance benefits.

Part 3400.0060, subpart 9. In item A of this subpart, proposed removal of the requirement that a family notify their new county of residence if they move is reasonable and necessary because the requirement conflicts with statute. Minn. Stat. § 119B.03, subd. 9 requires a family to notify their *previous* (not their new) county of residence if they move.

Proposed language has been added to item A regarding the transfer of a family’s child care assistance case to a tribal agency. Under Minn. Stat. § 119B.02, subd. 2, the commissioner “may enter into contractual agreements with a federally recognized Indian tribe with a reservation in Minnesota to carry out the responsibilities of county human service agencies to the extent necessary for the tribe to operate child care assistance programs.” When entering into these agreements, the tribe designates criteria for families they plan to serve. The proposed language is necessary to clarify that only families who meet the tribal agency’s criteria will be transferred to the tribal nation for service of their child care assistance case.

Proposed changes to item B reflect changes to Minn. Stat. § 119B.09 that removed time limits for portability pool funding for families who move between counties with Basic Sliding Fee waiting lists. This

change was made in the 2019 legislative session to ensure twelve-month continuous eligibility and to comply with federal law.

Proposed changes also move content from this subpart to other places in rule. In item B, content that addresses a family's waiting list date under portability pool has been moved to Minn. R. 3400.0065, subp. 2, item C. Content that requires a family to be treated as a new applicant and to have a household income that meets program entry limits has been moved to Minn. R. 3400.0170. Item D has been removed in its entirety and related content has been added to Minn. R. 3400.0040, subp. 10, item D. The need and reasonableness for this reorganization is further discussed under general amendment four. Other edits throughout subpart 9 are discussed in general amendment one.

Part 3400.0060, subpart 10. Proposed revisions to this subpart change “may not” to “must not” and are necessary and reasonable to eliminate confusion and align with current plain language principles. Additional proposed changes to this subpart reflect the repeal of Minn. Stat. § 119B.07, changes to Minn. Stat. § 119B.10, and the additions of Minn. Stat. § 119B.105, created in the 2017 legislative session, and Minn. Stat. § 119B.025, subd. 1(d), created in the 2019 legislative session. Revising language referring to outdated statutory references is necessary to reflect new policies and does not create any additional financial or administrative burdens on providers and families beyond what was imposed in the statutory changes. Other edits are discussed in general amendment one.

Part 3400.0065 BASIC SLIDING FEE WAITING LIST.

Part 3400.0065, subpart 1. Proposed changes to this subpart are reasonable and necessary to reduce duplication of language already in Minn. Stat. § 119B.03 and clarify CCAP agency responsibilities and procedures related to waiting list management under § 119B.03, subd. 2. Specifically, proposed changes clarify that 1) a family's responsibility to provide information in order to be added to the waiting list does not include a responsibility to provide verification; 2) a CCAP agency must keep record of families who have been placed on the waiting list; and 3) a CCAP agency is not required to keep a written record of a family's request for child care assistance when the CCAP agency has basic sliding fee funds available to serve a family and the family is determined eligible. Additional edits are discussed under general amendments one and three.

Part 3400.0065, subpart 2. Minn. Stat. § 119B.03, subd. 4 creates funding priorities for families on the basic sliding fee waiting list. As stated in subpart 1, families are placed in the highest priority group for which they qualify. Once basic sliding fee funds become available, families are served in order based on 1) their waiting list priority and 2) their waiting list date. Proposed addition of this subpart is reasonable and necessary to clarify the date used when a family is placed on the basic sliding fee waiting list.

Part 3400.0065, subpart 3. The proposed addition of this subpart is necessary and reasonable because it includes the reorganization of content from Minn. R. 3400.0060, subp. 1. Additional proposed changes replace certain language with reference Minn. R. 3400.0040, subp. 17b to avoid duplicate provisions within chapter 3400. Plain language edits were also made and result in no substantive changes to rule. Other edits are discussed under general amendments one and three.

Part 3400.0065, subpart 4. The proposed addition of this subpart is necessary and reasonable because it includes the reorganization of content from Minn. R. 3400.0060, subp. 6a and more specific statutory citations. Additional edits are discussed under general amendments one and three.

Part 3400.0065, subpart 5. The proposed addition of this subpart is necessary and reasonable because it includes the reorganization of content from Minn. R. 3400.0060, subp. 7. Proposed changes remove language regarding a family's waiting list date from this subpart and add similar language to Minn. R. 3400.0065, subp. 2. Other proposed changes to this subpart reflect changes to Minn. Stat. § 119B.10

that expand eligibility for child care to families eligible for Transition Year and attending approved education or training programs. This change was made in the 2017 legislative session to ensure twelve-month continuous eligibility and comply with federal law. Additional edits are discussed under general amendments one and three.

Part 3400.0065, subpart 6. Some families on the basic sliding fee waiting list continue to receive child care assistance under other funding sources while waiting for basic sliding fee funding to become available. This includes families receiving child care assistance under transition year extension, portability pool, and MFIP child care as a student parent defined under Minn. R. 3400.0020, subp. 39a. The proposed addition of this subpart clarifies situations in which a family must be removed from the waiting list, including when a family's eligibility under these other funding sources ends. This language is reasonable and necessary to ensure that families with a later waiting list date will be served prior to families that have lost eligibility and are now subject to a new waiting list date. Additionally, because the basic sliding fee allocation formula in Minn. Stat. § 119B.03, subd. 6 is partially dependent on waiting list averages, it is essential that families be removed from the waiting list when appropriate so waiting list data is as accurate as possible.

Part 3400.0080 MFIP CHILD CARE PROGRAM.

Part 3400.0080, subpart 1a. Participants receiving benefits from MFIP are subject to financial sanctions if they are not complying with program requirements. A family remains eligible to receive child care assistance under Minn. Stat. § 119B.05 as long as the family remains eligible to receive MFIP benefits; however, the family's child care assistance authorization may be affected by a sanction. A sanction may mean a parentally responsible individual is not complying with some or all of their employment plan, with child support enforcement, or with financial services orientation. This non-compliance may happen at when the family is applying for child care assistance, when redetermining their eligibility for child care assistance, or during the 12 month eligibility period. The proposed revisions to this subpart are necessary to reflect changes to Minn. Stat. § 119B.095, subd. 1(b) and Minn. Stat. § 119B.105. The changes are reasonable because they take into account the family's reporting type (see Minn. R. 3400.0020, subps. 1b and 38c), their level of participation in an authorized activity, including a lack thereof, and the point in time at which the family is either applying for or receiving child care assistance to determine the amount of care that may be authorized while sanctioned.

Part 3400.0080, subpart 1b. Proposed changes to this subpart are necessary and reasonable because they replace language referring to the job search timeframe limit of 240 hours per calendar year with a cross reference to the timeframe as stated in Minn. Stat. § 119B.10, subd. 1. Referencing statute helps to keep the rule current if the number of hours of job search allowed are revised in statute. Additional plain language edits result in no substantive changes to rule.

Part 3400.0080, subpart 8. Under Minn. Stat. § 119B.02, subd. 2, the commissioner "may enter into contractual agreements with a federally recognized Indian tribe with a reservation in Minnesota to carry out the responsibilities of county human service agencies to the extent necessary for the tribe to operate child care assistance programs." When entering into these agreements, the tribe designates criteria for families they plan to serve. The proposed language is reasonable and necessary to clarify that only families who meet the tribal agency's criteria will be transferred to the tribal nation for service of their child care assistance case.

Proposed language also identifies specific subdivisions of Minn. Stat. § 256G.07 which is reasonable and necessary because it helps clarify that the eligibility review requirements in subdivision 2 do not apply to the child care assistance program. Minn. Stat. § 119B.025, subd. 3(c) states that eligibility must not be redetermined more frequently than every 12 months, making the current broad use of Minn. Stat. §

256G.07 in this subpart and the requirement for an eligibility review after a family moves incorrect.

Additional plain language edits result in no substantive changes to rule. Other edits are discussed under general amendment one.

Part 3400.0090 TRANSITION YEAR CHILD CARE.

Part 3400.0090, subpart 1. Proposed changes to this subpart are reasonable and necessary to reflect updates to program administration as a result of the establishment of a statewide electronic eligibility system and changes to federal law. Families now experience relatively seamless transitions from one subprogram to another based on systematic eligibility determinations. If a family is eligible for transition year child care when their MFIP/DWP case closes, an approval notice is generated and the family's child care assistance case continues uninterrupted; the family is not required to establish eligibility under transition year child care until their next redetermination. Rights and responsibilities for child care assistance are the same between subprograms; new documentation is only sent if there is a break in eligibility for assistance. Although sending a notice of eligibility is no longer federally required, it is a best practice to inform the family about their child care assistance case. Notices are generated for MFIP/DWP participants by county and tribal staff who administer those programs, not the Child Care Assistance Program, and revising this rule language codifies current practice and places no additional burden on CCAP agencies. This is a clarifying change that does not create new burdens or administrative costs for parties administering or receiving child care assistance.

Part 3400.0090, subpart 2. Proposed changes to this subpart are reasonable and necessary to reflect changes to Minn. Stat. § 119B.10 that expanded eligibility for child care to families eligible for transition year and attending approved education or training programs. This change was made in the 2017 legislative session to ensure twelve-month continuous eligibility and comply with federal law.

Proposed changes to item A reflect changes to Minn. Stat. § 119B.011 that reduce the period of time for which a family must receive MFIP or DWP to qualify for transition year child care assistance. Revising language referring to eligibility timelines is necessary to reflect new policies and does not create any additional financial or administrative burdens on providers and families beyond what was imposed in the statute change. Proposed plain language edits to subitem (4) explain which children are eligible for transition year child care. The edits reflect current practices and do not introduce any new situations in which a child is eligible for transition year child care assistance.

Proposed changes to item B are consistent with proposed changes to Minn. R. 3400.0040, subp. 6c. Using consistent language throughout rule improves clarity and allows for more accurate implementation of policy across CCAP agencies.

Proposed changes to item D ensure that redeterminations do not occur during the family's twelve-month eligibility period. This is necessary due to changes to Minn. Stat. § 119B.025, subd. 3(c) which states that eligibility must not be redetermined more frequently than every 12 months. Revising language referring to redetermination timelines is necessary to reflect new policies and does not create any additional financial or administrative burdens on providers and families beyond what was imposed in the statutory change.

Additional edits are discussed under general amendment three.

Part 3400.0090, subpart 3. Proposed language added to item B is necessary to clarify the reasons why a family's eligibility under transition year must end. Families who lose eligibility under transition year may be required to meet income entrance levels under Minn. R. 3400.0170, subp. 1a upon reapplying; therefore, adding a cross reference to this subpart is reasonable.

Part 3400.0090, subpart 4. Proposed changes to this subpart are reasonable and necessary to reflect changes to Minn. Stat. § 119B.011 that reduce the period of time for which a family must receive MFIP or DWP to qualify for transition year child care assistance. Revising language referring to eligibility timelines is necessary to reflect new policies and does not create any additional financial or administrative burdens on providers and families beyond what was imposed in the statutory change.

Part 3400.0090, subpart 10. The proposed addition of this subpart is necessary to provide more expansive information about how to operationalize the transition year extension program established in 2003. Although chapter 3400 was revised in 2008 after the establishment of the transition year extension program, current rule only makes one reference to the transition year extension program. The proposed language is reasonable because it aligns with the operationalization of other subprograms, including the movement of families between subprograms, and is for the benefit of families. Item D provides necessary detail on when a family's eligibility for receiving child care assistance under this subprogram ends, and specifically states that a family is required to reapply for child care assistance if they lose their eligibility while on transition year extension. These are clarifying changes that do not create new burdens or administrative costs for parties administering or receiving child care assistance.

Part 3400.0100 COPAYMENTS AND COPAYMENT SCHEDULES.

Part 3400.0100, subpart 2a. Proposed plain language edits to this subpart are reasonable because they result in no substantive changes to rule. Proposed updates to terminology are necessary to make the language more inclusive and consistent throughout chapter 3400. Additional edits are discussed under general amendment one.

Part 3400.0100, subpart 2b. The proposed repeal of this subpart is necessary because relevant language is proposed in Minn. R. 3400.0130, subp. 1b. Information about payment of provider charges that exceed the maximum child care payment is reasonably placed in part 3400.0130, as this part specifically provides guidance on the maximum rates the child care assistance program is able to pay, and subsequently what expenses a family is responsible for outside of their child care assistance benefits. This reorganization is further discussed under general amendment four.

Part 3400.0100, subpart 2c. The reasonableness and need for the repeal of this subpart is discussed under part 3400.0100, subp. 2b.

Part 3400.0100, subpart 5. The Federal Child Care and Development Fund, 45 C.F.R. § 98.20(a)(2)(i) requires that states use the most recent state median income data that is published by the Bureau of the Census. At present, the federal Department of Health and Human Services no longer publishes the state's annual median income in the Federal Register. Instead, the most recent data is published in an information memorandum. Therefore, the current rule language in this subpart is obsolete. Current federal poverty guidelines are also necessary for calculating the copayment schedules under Minn. Stat. § 119B.12, subd. 1. At present, the federal Department of Health and Human Services publishes the most recent federal poverty guidelines on an annual basis in the Federal Register, but the Department recognizes this current practice may change and is reluctant to include rule language that specifies the availability and source of this data. Changes proposed to this subpart are reasonable and necessary to ensure that information related to CCAP is not tied to one particular source, yet continues to comply with federal laws.

Proposed changes remove the requirement to publish state median income for a family of three and a fee schedule annually in the State Register. This information is not content that would typically need to be published in the State Register but for the existing rule requirement. The state median income information and associated copayment schedule are currently electronically published in the

Department's public document repository and continue to be publicly available. This information is also announced via email and provided to all CCAP agencies electronically when updated. Existing language was written before information was publicly available and accessible through widely used electronic means. This change is reasonable because it reduces administrative burden and program costs without creating additional burdens or barriers to accessing the information.

Proposed changes modify the effective date of updated copayment schedules. The Department updates the copayment schedule in accordance with Minn. Stat. § 119B.12 based on the most recently available state median income and federal poverty guidelines as described above. Because the availability date of these two data sets varies, tying the effective date of the updated copayment schedule strictly to a publication of data is problematic. Requiring the Department to make the copayment schedule available three months after the state median income and federal poverty guidelines are available is reasonable because it still holds the Department responsible for timely creation of the schedule while also allowing the Department adequate time to implement copayments in the statewide electronic eligibility system.

Part 3400.0110 CHILD CARE ASSISTANCE AUTHORIZATION AND PAYMENTS.

Part 3400.0110, subpart 1. Proposed changes to this subpart are reasonable and necessary to reflect the implementation of a statewide electronic payment system. Payment monitoring occurs electronically and happens at both the state and local agency level. The proposed revisions redirect the focus of the subpart to ensuring appropriate payments. This is a clarifying change that doesn't create new burdens or administrative costs for parties administering or receiving child care assistance. Further changes include the addition of a cross reference to Minn. R. 3400.0120, which details what constitutes an eligible provider. Statutes referenced in part 3400.0120 set authorization limitations, and give authority to both the Department and CCAP agencies to deny payment from the child care fund to child care providers holding valid child care licenses in certain situations.

Part 3400.0110, subpart 1a. Proposed changes to this subpart include the addition of a cross reference to Minn. R. 3400.0120, which is necessary and reasonable because part 3400.0120 details what constitutes an eligible provider. Statutes referenced in part 3400.0120 set authorization limitations, and give authority to both the Department and CCAP agencies to deny payment from the child care fund to child care providers holding valid child care licenses in certain situations.

Part 3400.0110, subpart 2. Proposed changes to this subpart are necessary and reasonable because they clarify when legal nonlicensed providers can be paid and includes a cross reference to Minn. R. 3400.0120, which details what constitutes an eligible provider. Statutes referenced in part 3400.0120 set authorization limitations, and give authority to both the Department and CCAP agencies to deny payment from the child care fund to child care providers holding valid child care licenses in certain situations. Further proposed changes reflect training requirements under Minn. Stat. § 119B.025, subd. 1b, and training in health and safety topics required under the Federal Child Care and Development Fund, 45 C.F.R. § 98.41. Additional proposed changes update terminology to be more inclusive, plain language, and consistent with other rule revisions, and result in no substantive changes.

Proposed changes that remove language about paying a parent are necessary and reasonable because relevant information is already in Minn. Stat. § 119B.09, subd. 10, which details when child care funds must be paid directly to a parent. Items A through D contain the criteria for determining when payment can start for care provided by a legal nonlicensed provider.

Part 3400.0110, subpart 2a. The Federal Child Care and Development Fund, 45 C.F.R. § 98.43 no longer permits states to issue payments to a child care provider before they have cleared a federally-compliant background study. CCAP agencies have discontinued issuing provisional payments to child care providers

since 2016. The proposed repeal of this subpart is necessary to reflect the repeal of Minn. Stat. § 119B.125, subd. 5 in the 2021 legislative session, current federal policies, and CCAP agency practices to ensure the health and safety of children. Repealing this language in rule is reasonable because it does not create any additional financial or administrative burdens on child care providers, families, or CCAP agencies.

Part 3400.0110, subpart 2b. This proposed subpart is reasonable and necessary because it specifies that license exempt centers must be certified in order to receive payments from the child care fund. The proposed language in this subpart regarding retroactive payment of a certified center language aligns with proposed language in subpart 2 regarding a family's authorization and eligibility date.

Part 3400.0110, subpart 3. Proposed changes to this subpart are reasonable and necessary to reflect changes to Minn. Stat. § 119B.095 that establish steady child care authorizations for most families on child care assistance, with the amount of care authorized for the 12 month eligibility period typically being set at application and redetermination. These statutory changes were made in the 2017 legislative session to ensure twelve-month continuous eligibility and comply with federal law. When authorizing care and determining the number of to authorize, a CCAP agency considers verifications submitted by the family, including activity schedules, school schedules for children needing care, and child custody schedules, as well as times the provider is able to provide care. The Department conducts monthly case reviews on a statewide sample of CCAP cases to ensure that care is being authorized for families appropriately. CCAP agencies also conduct case management reviews to determine causes of errors and identify specific policies needing review. These practices exist to help ensure CCAP agencies consider the factors in item A when authorizing and determining the amount of care. The proposed deletion of language from item A that allows a county to reimburse a provider in an amount that exceeds the applicable maximum weekly rates is necessary because this practice is no longer permitted by Minn. Stat. § 119B.13.

Child care authorizations are limited to 120 hours per child per service period. Proposed changes to item B add the two exceptions when authorizing hours over 120 hours per service period is allowed. The payment limit of 120 hours per child per service period still applies in these two situations (see Minn. R. part 3400.0110, subp. 3d, item B). Additional proposed changes remove language on limiting CCAP payments to 120 hours per service period and converting care paid on a full-day or weekly basis from item B to a new subpart 3d, as this new subpart is specific to payment of child care. This reorganization of rule is reasonable and necessary because it groups related provisions together and provides clarity.

Minn. Stat. § 119B.095 also establishes two different reporting requirements for families receiving child care assistance based on their employment status or child care provider choices, which has an impact on authorization. Care must be authorized and scheduled with a child care provider based on a schedule reporter's verified activity schedule, which can result in fluctuation in authorization during the family's 12 month eligibility period. The additions to this subpart, particularly items C and D, are reasonable and necessary to reflect how a family's authorization during the 12 month period is based on their reporting status. Items C and D also provide examples of when a parentally responsible individual might experience a temporary break or change from their activity during the 12 month eligibility period. Families who are schedule reporters must report a change in employment, education, or training status, which includes a temporary break. A temporary break will not impact a family's eligibility for child care assistance but may impact their child care authorization, specifically for schedule reporters.

Proposed items E through H provide additional authorization guidance and cross references to applicable statutes based on specific situations. Because the referenced statutes have a direct impact on the amount of care that a CCAP agency may authorize, the Department proposes adding these additional items as a way to organize authorization content and support CCAP agencies in applying

policy accurately and consistently.

Proposed item F details implementation of changes to Minn. Stat. § 119B.09, subd. 1(e) made in the 2019 legislative session. When a child who is currently authorized for CCAP reaches age 13, or when a child who is currently authorized for CCAP with a documented disability reaches age 15, the child's Service Authorization must end on the child's birthdate, but the child remains eligible for CCAP until the family's next redetermination. If care is still needed after the child reaches age 13 or the child with a disability reaches age 15, the parentally responsible individual must contact their CCAP worker and request authorization of care. Requiring the family to request care when the child reaches age 13 or the child with a disability reaches the age of 15 helps to ensure the child is still attending care with their provider. If the child is attending a licensed center, it helps to ensure that the provider has received a licensing variance to care for the child. The amount of care that may be authorized for the child at age 13 or the child with a disability at age 15 is based on the family's reporting status under Minn. Stat. § 119B.095.

Proposed item G specifically states that the CCAP agency must authorize 100 hours of care biweekly for a child eligible to receive a weekly authorization for high-quality care under Minn. Stat. § 119B.13, subd. 3c. This policy is designed to support consistent care schedules for young children attending a high-quality care provider and allow higher CCAP payments. Children ages 0-5 that qualify for 30 to 49 hours of care per week (60 to 99 hours biweekly) with a high-quality care provider are issued authorizations for 50 hours of care per week (100 hours biweekly). However, there may instances where the parentally responsible individual and the provider determine a schedule of care that is less than 50 hours of care per week (100 hours biweekly), resulting in fewer hours of care being authorized (for example, the provider does not have space for the child to attend more days or hours or the parentally responsible individual requests less care be authorized).

Part 3400.0110, subpart 3a. Minn. Stat. § 119B.09, subd. 6 sets the maximum amount of child care assistance that can be paid in a service period at 120 hours per child. However, there may be situations when a child requires more than 120 hours of care authorized in a service period. The addition of this subpart is reasonable and necessary because it identifies situations for which additional hours of authorized care are appropriate, while still maintaining the maximum payment requirement (see proposed changes to Minn. R. 3400.0110, subp. 3d, item B).

Part 3400.0110, subpart 3b. In order for a provider to bill and receive payment from the child care fund, the provider's care must be available to the family, unless the criteria in Minn. R. 3400.0120, subp. 9 are met. The proposed addition of this subpart is necessary and reasonable because it supports CCAP agencies in authorizing care with a back-up provider, and is beneficial to families so they can continue to receive care when their usual provider is not available without unnecessary delay. Not all families request care with a back-up provider when their usual provider is unavailable, as some families choose to use informal care arrangements in these situations and do not access their child care assistance benefit. For this reason, the proposed language in rule is permissive, stating that families may request that a CCAP agency authorize care with a backup provider.

Part 3400.0110, subpart 3c. Minn. Stat. § 119B.09, subd. 9 specifies that a CCAP agency may not authorize care for more than 25 children who are dependents of the center's employees. The proposed addition of this subpart allows a CCAP agency to terminate any authorization granted in excess of the limit, which may occur due to CCAP agency error, and is necessary to ensure a child care center remains within the limit outlined in statute. Requiring the termination to occur in order of last one authorized, first one terminated, is a reasonable approach to ensure consistent application of the policy across CCAP agencies and is the most equitable approach for families. Further proposed language in this subpart allows a CCAP agency to terminate an authorization if the parentally responsible individual later

becomes an employee at the center where their child(ren) are authorized if this authorization results in the center exceeding the limit. The proposed language also ensures that a child care center remains within the 25 employee child limit required by statute.

Part 3400.0110, subpart 3d. The proposed addition of this subpart restructures and expands on information previously included in subpart 3 and is specific to payment of child care. Restructuring these sections is reasonable and necessary because it separates and clarifies differences between authorization and payment of child care hours, groups related provisions together, and provides clarity.

Proposed new language in item C reflects the importance of not paying more than one provider for the same period of time, which aligns with authorization policy in subpart 3. Proposed new language also reflects changes from 2017 in Minn. Stat. § 119B.097, which limits payment when a child has multiple providers.

Because item E is specific to licensed and certified license exempt providers, proposed item D reflects legal nonlicensed child care payment policies under Minn. Stat. § 119B.13, subd. 1a. This proposed language clarifies how hours are counted for all provider types.

Part 3400.0110, subpart 4a. The proposed language in this subpart is reasonable and necessary to clarify existing policy that has been applied inconsistently due to the absence of explicit language differentiating between same and different child care expenses. The proposed language aligns with Minn. R. 3400.0110, subp. 3 which indicates authorization should minimize a family's out-of-pocket child care costs. This is a clarifying change that does not create new burdens or administrative costs for parties administering or receiving child care assistance. Additional edits are discussed under general amendment one.

Part 3400.0110, subpart 7. Proposed changes to this subpart simplify language about advance payments from parents and sending billing forms. The proposed changes also reflect new requirements in Minn. Stat. §119B.13, subd. 6(a), which require providers to be paid within 21 days of submitting a completed bill, and improve program integrity by establishing a provider's signature as an essential element of completed billing forms. These changes are necessary to clarify current language and reflect statutory changes. The changes are reasonable because they do not create any additional financial or administrative burdens on providers and families beyond what is imposed in statute. Additional edits are discussed under general amendments one and two.

Part 3400.0110, subpart 8. Proposed changes to this subpart include breaking it up into two items to improve clarity and readability and promote consistent implementation across CCAP agencies. Removing the cross reference aligns with other language in rule and simplifies the rule without changing its meaning. Other edits update terminology to be more inclusive, consistent and plain language, which result in no substantive changes to rule, and coincide with language used in the child care fund plan. These changes are necessary and reasonable because they do not create any new burdens or administrative costs for parties administering or receiving child care assistance. Additional edits are discussed under general amendment one.

Part 3400.0110, subpart 9. Proposed changes to item D, subitem (2) allow a provider to choose which days the provider may take as paid cultural or religious holidays, and remove the requirement that the days be only state or federal holidays. This is in response to feedback from providers about wanting more flexibility to use the ten paid holidays in ways that are more in line with their cultural and religious beliefs. The proposed changes are necessary and reasonable because they give more flexibility to providers, but do not change the maximum of ten days in a calendar year for which the provider is paid but not providing care. The provider is still responsible for timely reporting these days to the CCAP agency.

Providers are required to give notice to the CCAP agency of the cultural or religious holiday either prior to the day or within 10 calendar days after the day occurs. Notice is required even when the holiday is a designated state or federal holiday, since a CCAP agency cannot assume all providers will use one of the designated state or federal holidays. Most providers indicate the holiday information when registering to receive child care assistance. Providers also typically share this information with the families they serve as part of their standard policies to assist families in planning for days when care is not available. Allowing a provider to inform the CCAP agency within 10 days after the day occurs is beneficial to the provider, particularly if one of the days is unplanned or if the provider neglected to notify the CCAP agency prior to the day. This 10 day notification timeline after the day occurs aligns with the 10 day timeframe a family has to notify the CCAP agency of a holiday substitution under proposed item F. The notification of holidays also aids the CCAP agency in knowing which days a provider is closed and eligible for payment as a holiday. The addition of subitem (5) proposes language clarifying that in order for a provider to receive payment for a holiday, the provider must correctly bill that day as a holiday.

Proposed changes to item F provide additional clarity on a family's ability to substitute holidays under Minn. Stat. § 119B.13, subd. 7(d). Parents are allowed to substitute other cultural and religious holidays for the ten recognized state and federal holidays. However, if care is available for the day the parent is substituting, the provider is unable to bill this day as a holiday as the criteria for billing states the provider must not be providing care. Proposed revisions to this item stating that the provider must be closed and not providing care on a day substituted by the parent are necessary to correct a conflict between rule and statute.

Proposed language in item G about holidays that fall on weekends codifies current practice into rule, reflects general business practices for child care providers, and aligns with Minn. Stat. § 645.44, subd. 5. This change also aligns with the Federal Child Care and Development Fund, 45 C.F.R. § 98.45(l), which requires states to establish payment policies that reflect generally accepted payment practices for child care providers.

Further proposed changes, including the addition of item H, detail implementation of changes to Minn. Stat. § 119B.13, subd. 7 that were made in the 2013 legislative session to increase the number of paid child absent days and allow for reasonable medical exemptions. Proposed changes clarify that the child care center director and lead teacher in Minn. Stat. § 119B.13, subd. 7 include those who work in licensed child care centers and certified license-exempt child care centers. The proposed changes are necessary and reasonable to align with the definition of provider in Minn. Stat. § 119B.011, subd. 19, which references both of these provider types as a center. These changes also support federal goals to establish payment policies that reflect generally accepted payment practices. The proposed changes reflect current practices and do not result in any additional program costs. Revising language in rule related to absent days and holidays is necessary to reflect new state and federal policies and does not create any additional financial or administrative burdens on providers and families beyond what was imposed by the statute.

Part 3400.0110, subpart 10. Proposed changes are necessary and reasonable to clarify that the medical leave policy described in this subpart only applies to families designated as schedule reporters because authorization for child care depends on their activity schedule, whereas for 12 month reporter families there are no limits to the amount of child care that can be paid for medical leaves during the twelve-month eligibility period. These proposed changes reflect changes to Minn. Stat. § 119B.095 related to maintaining consistent child care arrangements for most families.

Proposed changes to this subpart align with proposed changes to Minn. R. 3400.0040, subp. 5. Aligning these parts of rule will reduce verification and documentation burdens of parentally responsible individuals who are either determined medically unable to care, or have child care assistance granted

during a medical leave of absence, as well as reduce administrative burdens for CCAP agencies. The proposed changes also preserve high standards for professionals who have authorization to make a determination. The proposed addition of a licensed psychiatrist is reasonable as this a medical professional trained to diagnose and treat people with mental health conditions and is a professional capable of determining a parentally responsible individual's necessity for a medical leave of absence, similar to that of a licensed psychologist. In addition to aligning policies, the proposed addition of licensed social worker is beneficial to the family as this is a professional knowledgeable of a family's situation and capable of making a medical leave of absence determination.

Proposed changes to item C that indicate the number of hours of child care that can be authorized during a medical leave of absence provide clarity and create consistency. Current language that uses the term "one month of full time care" is less precise and may be interpreted differently by CCAP agencies and families. Standardizing the amount of hours to 215 is necessary to promote consistent application of policy, and reasonable because 215 hours is the equivalent of 50 hours per week, which is considered full time care under Minn. R. 3400.0110, subp. 3d, item E, for one month.

Proposed updates to terminology have been made consistently throughout rule and additional edits are discussed under general amendments one and two.

Part 3400.0110, subpart 12. The proposed addition of subpart 12 is necessary and reasonable to allow payment for care provided at short-term alternative locations, and is in response to certified licensed exempt providers concerns and challenges about their programs' existing business practices and compliance with child care assistance policies. It is common for certified license exempt providers to care for a child at a different certified license exempt location on days when the child's primary child care site is not open, particularly on school release days. These are typically short-term arrangements and involved children being cared for by the same provider entity, just at a different physical location. Under current child care assistance program policies, caring for children at a different site involves changing each individual child's authorization to the new site for very limited periods of time, which is burdensome for the provider, the family, and the CCAP agency.

Part 3400.0120 ELIGIBLE CHILD CARE PROVIDERS AND CHILD CARE PROVIDER REQUIREMENTS.

Part 3400.0120, subpart 1. Proposed changes to this subpart are reasonable and necessary to clarify that child care providers must be registered in order to receive child care assistance payments. The proposed changes also support and reference statutes that give CCAP agencies and the Department of Human Services authority to deny payment to child care providers holding valid child care licenses in certain situations.

Proposed language in this subpart reflects Minn. Stat. § 119B.09, which describes situations for which child care providers may not receive child care assistance payments for their own children, children in their families, or children of child care center employees, regardless of the child care provider's license and child care assistance registration status. Further changes to this subpart reflect changes to Minn. Stat. § 119B.097 which limits the number of child care providers the program can pay for a family's child care needs.

Minn. Stat. § 119B.13, subd. 6(d) describes the seven circumstances under which CCAP agencies and the commissioner may refuse to issue an authorization, revoke an existing authorization, stop payment or refuse to pay a bill. This is an optional policy that local CCAP agencies must indicate and have approved in their biennial county and tribal child care fund plan prior to implementation. The statute allows the option to withhold the provider's authorization or payment for a period of time not to exceed three

months beyond when the condition has been corrected. This optional policy is implemented in various ways across CCAP agencies, and often includes escalating consequences to the provider within the three month time period. Many CCAP agencies have viewed escalating consequences, such as giving a warning or a sanction shorter than three months, as a way to educate a child care provider on proper policies. Because a provider may be registered to receive child care assistance payments from more than one CCAP agency, each incident is recorded on a statewide basis to assist CCAP agencies in tracking occurrences in an effort to standardize policy. During rule development, CCAP agency stakeholders expressed support for standardization of tracking statewide occurrences. The standardization also aligns with statewide disqualification of a provider for fraud under Minn. Stat. § 256.98, subd. 8. Proposed language in rule clarifies that if a provider's registration is terminated prior to the condition being corrected, the provider must re-register after serving the penalty period in order to again receive child care assistance payments. This is consistent with Minn. Stat. § 119B.125, subd. 1 which requires a provider to be authorized before the CCAP agency can authorize payments for care provided. The proposed revisions in this subpart are reasonable and necessary to reflect new policies and do not create any additional financial or administrative burdens on providers and families beyond what is imposed by statute.

Part 3400.0120, subpart 1a. Under current child care assistance program policies, individual CCAP agencies register child care providers to receive payment from the child care fund. However, state statute does not require a CCAP agency to be responsible for registration, and the Department is considering taking on that role. Proposed changes to this subpart that remove specific reference to the CCAP agency for purposes of registration are necessary and reasonable so that rule language will not prevent the Department from conducting the provider registration process should it take on that role in the future.

The proposed revisions include moving content currently found in Minn. R. 3400.0140, subp. 4 to this subpart. It is necessary and reasonable to move this content because part 3400.0140, subp. 4 governs the responsibilities of a CCAP agency in registering a child care provider, whereas part 3400.0120, subp. 1a governs the responsibilities of the provider for registration. The moved content related to the responsibilities of the provider so it makes sense to present it under part 3400.0120, subp. 1a instead of part 3400.0140. Further proposed changes base the processing of a provider's registration based on the receipt of the provider's registration and acknowledgement form, or the receipt of a background study determination for a legal nonlicensed provider. All providers must complete the registration and acknowledgement form to register to receive CCAP; therefore, it is reasonable to base processing of the registration to receipt of that form. Additionally, the process of completing a fully compliant background study and receiving study results for legal nonlicensed child care providers often takes longer than 30 days. Defining the provider registration processing timeframe provides consistency and gives clear expectations to providers. Additional proposed revisions update the name of the form used by child care providers to register to receive child care assistance to the "registration and acknowledgment form." This change is proposed both in this subpart and throughout rule to promote the use of consistent terminology.

Proposed changes to this subpart also reflect state statutory changes related to provider obligations and federal law changes that impose additional health and safety requirements on child care providers who are paid using federal CCDF funds. The proposed additional acknowledgements in this subpart would be incorporated into the standard acknowledgment form managed by the Department and do not create any additional financial or administrative burdens for providers, families, and CCAP agencies beyond what is imposed by statute. The proposed revisions to each item are as follows:

Revisions to item B incorporate current language used by the Department, making this language

consistent across child care assistance materials. These edits result in no substantive changes to rule.

Additional language in item C is based on the program integrity requirements in Minn. Stat. § 119B.02, subd. 5 which allow for investigations into program integrity and fraud if concerns become known.

Item D is discussed under general amendment two.

Additions to item E accommodate provider reporting requirements under Minn. Stat. § 119B.125, subd. 9.

Changes to item F include removing the term “immediately.” Rule does not have a definition of “immediately,” making this reporting requirement difficult to enforce, and it may not always be practical for a provider to report changes immediately to the CCAP agency. Removing “immediately” does not change the provider’s reporting requirement. Additional edits are discussed under general amendment one.

Proposed changes to item G reflect the repeal of Minn. Stat. § 626.556 and the recodification of the Maltreatment of Minors Act to Minn. Stat. Ch. 260E, changes made during the 2020 legislative session. The Department used the good cause exemption process under Minnesota Statutes, section 14.388, subdivision 1, clause (3), to update this reference while simultaneously using the good cause exemption process to comply with the federal requirement to establish capacity limits and ratios on the number of children cared for by a legal nonlicensed provider who receives CCAP payments (see Minn. R. 3400.0120, subp.7). On July 1, 2021, the Office of Administrative Hearings determined the Department has the statutory authority to adopt these proposed rules under the exempt rulemaking process and the adopted rules are approved. The exempt rules were posted in the State Register on September 27, 2021.⁸

Edits to item H include requiring documentation that a child care provider acknowledges the consequences of a determination that the provider’s care is unsafe under Minn. Stat. § 119B.125, subd. 4 and Minn. Stat. § 119B.09, subd. 5, and a cross reference to part 3400.0185, subp. 13 because the typical 15-day termination notice requirements are not applicable in unsafe care arrangements. Additional edits are discussed under general amendment one.

Additional items I and J reflect the statutory requirement that providers acknowledge record keeping requirements and ensure adherence to child care assistance policy.

The addition of item K reflects Minn. Stat. § 119B.11, subd. 2a(e), which requires a provider’s overpayment to be recovered through reductions in child care assistance payments when the provider continues to care for children receiving child care assistance. Having all providers acknowledge this requirement during the registration process provides clear expectations of recoupment for providers.

The addition of item L reflects the statutory requirement that providers acknowledge holiday billing requirements currently required under Minn. Stat. § 119B.13, subd. 7(i) and to ensure adherence to child care assistance policy.

Part 3400.0120, subpart 1c. The proposed addition of this subpart is reasonable and necessary to identify the specific registration requirements that a licensed center, licensed family and certified license exempt center must meet before receiving payments from the child care fund. For example, these providers must provide a taxpayer identification number and certification so that the Department can file an information return with the Internal Revenue Service. Providers are also required to acknowledge

⁸ The State Register posting is available here: https://mn.gov/admin/assets/SR46_13%20-%20Accessible_tcm36-500455.pdf.

absent policies under Minn. Stat. § 119B.13, subd. 7 to ensure adherence to child care assistance policy. These policies are specific to licensed centers, licensed family and certified license exempt centers as legal nonlicensed providers are (1) not eligible to receive absent day payments under Minn. Stat. § 119B.13, subd. 7(a) and (2) required to submit verification as specified in part 3400.0120, subp. 2, item B to receive payment from the child care fund.

Part 3400.0120, subpart 1d. The Department has the authority to certify license exempt centers under Minn. Stat. § 245H. Once a license exempt center is certified, the center meets the federal health and safety requirements under the Federal Child Care and Development Fund, 45 C.F.R. § 98.41. The proposed addition of this subpart is reasonable and necessary to clarify that a program that is exempt from licensure under Minn. Stat. § 245A.03, subd. 2(a), clauses (5), (11) to (13), (15), (18), or (26) must be certified in order to receive payment from the child care fund.

Part 3400.0120, subpart 2. Under current child care assistance program policies, individual CCAP agencies register child care providers to receive payment from the child care fund. However, state statute does not require a CCAP agency to be responsible for registration, and the Department is considering taking on that role. Proposed changes to this subpart that remove specific reference to the CCAP agency for purposes of registration are necessary and reasonable so that rule language will not prevent the Department from conducting the provider registration process should it take on that role in the future.

Further proposed changes are reasonable and necessary to reflect federal law changes under the Federal Child Care and Development Fund, 45 C.F.R. § 98.41 that impose additional health and safety requirements on child care providers who are paid using federal CCDF funds. Minn. Stat. § 119B.125, subd. 1, generally requires that: “the commissioner must establish the requirements necessary for the authorization of providers.” The more expansive requirements for legal nonlicensed providers as proposed in this subpart ensure Minnesota’s compliance with federal law and the health and safety of young children in unlicensed environments. Additional training requirements may impose costs on legal nonlicensed providers. However, since the establishment of additional federal requirements, the Department has funded required training with federal funds and intends to continue covering the costs for the foreseeable future to prevent imposing these costs on providers. The acknowledgements and releases as proposed will be incorporated into the standard acknowledgment form managed by the Department and does not create any additional financial or administrative burdens on providers, families, and CCAP agencies beyond what is imposed in statute. The proposed revisions to each item are as follows.

Deleting language from item A avoids duplicate provisions within chapter 3400, as this same requirement is included in subpart 1a. The addition of subitem (7) is in response to the Federal Child Care and Development Fund, 45 C.F.R. § 98.42(b)(4) which requires providers to report serious injuries or death of children occurring in their care. Subitem (8) addresses the requirement in Minn. Stat. § 245.095 that the Department must prevent a provider who has been disqualified in one Department program from being a provider in any other Department program. Under subitem (9), providers are required to submit verification that all required trainings have been completed in accordance with state and federal law.

Revisions to item B remove the option to ask for a Social Security number from providers not requesting payment from the child care fund. There is no business need to obtain this information; only the Social Security number or tax identification number are needed of providers who are receiving payment from the child care fund. Other revisions clarify that the provider must either provide their Social Security number or their tax identification number, as the Internal Revenue Service requires one of these identifiers to report what is paid to a child care provider. Informing the provider about the number’s use

and the legal authority is accomplished through language on the W-9 form, which all providers receive, and within the Minnesota Child Care Assistance Program (CCAP) Child Care Provider Guide (DHS-5260), a guide produced by the Department of Human Services that is publically available on the Department of Human Services' public website. When registering to receive child care assistance, all providers attest on the provider registration and acknowledgement form they have received a copy of the provider guide, and have read and understand the information.

Revisions in item C reduces the length of time by which a legal nonlicensed provider must obtain a copy of a child's immunization records from 90 to 30 days. The Child Care and Development Block Grant Act of 2014, 42 U.S.C. § 9858c(c)(2)(I)(i)(I), requires states to establish a grace period for children experiencing homelessness to submit immunization materials. In response to this federal requirement, the Minnesota Department of Human Services and the Minnesota Department of Health collaborated to develop a 30-day grace period for these families to submit immunization information in licensed programs. This timeline is reasonable because it aligns with the timeline for families to submit immunization information to their legal nonlicensed provider. Note that these changes do not change state laws around immunization compliance or exemptions in Minn. Stat. § 121A.15, but merely reduce the timeline in which a parent must share documentation of their child's immunization status with their child's legal nonlicensed provider.

Proposed additions of items D and E move content from current Minn. R. 3400.0140, subp. 5 to this subpart to group provisions related to the registration of legal nonlicensed child care providers together.

Part 3400.0120, subpart 2a. Proposed changes to this subpart are reasonable and necessary to clarify the need for child care providers to be registered in order to receive child care assistance payments. Further changes also recognize that while an in-home child care provider is typically a legal nonlicensed child care provider, a child care provider may also become licensed to provide care in the child's home. These are the only two provider types that would provide in-home care; the other two provider types, licensed center or certified license exempt center, would not provide care in an in-home care setting. Although a provider rarely becomes licensed to provide care in a child's home, the Department finds it helpful to clarify.

Part 3400.0120, subpart 3. The reasonableness and need for proposed changes to this subpart are discussed under general amendment two. Further proposed plain language edits result in no substantive changes to rule.

Part 3400.0120, subpart 5. Proposed revisions to this subpart are reasonable and necessary to address all provider reporting requirements and methods, so that the subpart encompasses more than just reporting requirements when care for a child has been terminated.

The proposed revisions remove the word "immediately" from the reporting requirement for when a provider believes a family will end care. Rule does not have a definition of "immediately," making this reporting requirement difficult to enforce and it may not always be practical for a provider to report immediately to the CCAP agency once they believe a family will end care. Removing "immediately" does not change the provider's reporting requirement. Additionally, under Minn. R. 3400.0040, subp. 4, item B, families are responsible for reporting changes in their provider 15 calendar days in advance, allowing the CCAP agency to act accordingly on the change in a timely manner.

Minn. Stat. § 119B.125, subd. 9 specifies how a provider must report a child's part time attendance. Proposed language in this subpart clarifies that other reporting requirements do not require a specific method of reporting to the CCAP agency, and that there are multiple reporting options.

The Federal Child Care and Development Fund, 45 C.F.R. § 98.33(a)(5), requires that aggregate number

of deaths and serious injuries and instances of substantiated child abuse that occur in child care setting each year are disseminated to the public yearly via a consumer education website. Legal nonlicensed providers must submit reports of serious injuries and deaths of children occurring in child care to their CCAP agency, which are then required to report aggregate numbers to the Department of Human Services (see Minn. R. 3400.0140, subp. 14). Minnesota has defined “serious injury” in its approved CCDF federal fiscal year (FFY) 2019-2021 plan as “an injury that requires treatment by a physician or dentist.”

Other revisions to this subpart are discussed under general amendment one.

Part 3400.0120, subpart 6. The Child Care and Development Block Grant Act of 2014, Public Law Number 113-186 and the Federal Child Care and Development Fund, 45 C.F.R. § 98.41 require states ensure all providers who receive payments from the Child Care and Development Fund are trained in twelve health and safety topics. These requirements include additional training based on the ages of children served and the relationship of the provider to the children. Minnesota statutes do not prohibit or mandate this training. However, Minn. Stat. § 119B.125, subd. 1 requires the Department to establish requirements necessary to authorize providers, and under this directive the Department began requiring legal nonlicensed providers to participate in federally-mandated training beginning September 30, 2017.

The Department is proposing in item A that a legal nonlicensed child care provider must complete training specifically in pediatric first aid (Minn. Stat. § 119B.125, subd. 1b only mentions general first aid) to ensure that providers are trained to render care specific to the infants and children they care for. Proposed changes are reasonable because they align with the pediatric first aid requirement for licensed family child care providers under Minn. Stat. § 245A.50, subd. 3 and with who is able to provide training to legal nonlicensed child care providers under Minn. Stat. § 119B.125, subd. 1b. Further proposed changes identify what training is required at registration.

Proposed changes in item B specify training that is required to be current at each subsequent registration renewal and who must provide the training. Proposed changes are reasonable because they align with the pediatric first aid requirement under Minn. Stat. § 245A.50, subd. 3 and pediatric cardiopulmonary resuscitation training requirement for licensed family child care providers under Minn. Stat. § 245A.50, subd. 4, and with who is able to provide training to legal nonlicensed child care providers under Minn. Stat. § 119B.125, subd. 1b. These proposed edits provide clearer policy guidance and more understandable expectations for providers. It is necessary to codify these requirements in rule in order to comply with federal law.

Further proposed changes to this subpart reflect language in the Federal Child Care and Development Fund, 45 C.F.R. § 98.41, which exempts individuals who are considered related from some training requirements. The Department has been using federal funds to cover the costs of training legal nonlicensed providers and intends to continue covering the costs of training for the foreseeable future.

Part 3400.0120, subpart 7. The Child Care and Development Block Grant Act of 2014, Public Law Number 113-186 and the Federal Child Care and Development Fund, 45 C.F.R. § 98.41 requires states to establish capacity and ratios for all child care providers who receive payments from the Child Care and Development Fund. For licensed and certified license-exempt programs, ratio and capacity requirements are codified into Minn. Stat. 245A and Minn. R. 9502 and 9503. Currently, legal nonlicensed providers reimbursed for child care expenses by the Child Care Assistance Program are limited to serving only related children, or the children from one unrelated family, or both. Minnesota received notice from the federal Office of Child Care on April 12, 2019 that Minnesota is non-compliant with federal law because a numerical ratio for the number of children a legal nonlicensed provider can serve was not established. The proposed revisions are necessary to establish a numerical limit to overlay existing policy and ensure

federal compliance.

The proposed limit of eight children age 11 and younger is reasonable to ensure that children remain well-cared for and safe. Less than one percent of legal nonlicensed providers authorized to care for children receiving child care assistance served more than eight children in state fiscal year 2019; these data support that implementing a limit of eight children will not impact the majority of legal nonlicensed providers or families receiving child care assistance funds.

The Department engaged multiple stakeholders on this topic. The topic was discussed during the Department's Rule Revision Advisory Committee Meeting in December 2019. Stakeholders expressed concerns about the number of young children allowed to be in care at the same time, and were in support of age limits due to the more strenuous demands of caring for infants and toddlers. There was some concern from CCAP agencies about how best to implement and track the number of children authorized with a provider at any given time. The Department intends to address this concern through technical assistance to CCAP agencies, particularly since this impacts a small number of providers statewide (in state fiscal year 2020, a monthly average of 122 legal nonlicensed child care providers received payment from the child care fund).

Department of Human Services Child Care Assistance Program staff also met with the Legal Nonlicensed Child Care Provider Workgroup in February 2020. This workgroup, comprised of child care assistance workers from local CCAP agencies and county family child care licensors, expressed support for legal nonlicensed provider age limits mirroring licensed family age limits and for ratio requirements to be a point in time rather than a total limit.

In response to stakeholder feedback, using available data on current legal nonlicensed care arrangements, and the overall health and safety of children in care, the Department is proposing the limit of eight children age 11 and younger, with further limits for certain ages. Including the provider's own children within these limits if the children are present while care is being provided is necessary to help ensure a provider can adequately care for all children.

The Department used the good cause exempt rulemaking process under Minnesota Statutes, section 14.388, subdivision 1, clause (2) to comply with the federal requirement to establish capacity limits and ratios on the number of children cared for by a legal nonlicensed provider who receives CCAP payments. Notice of the good cause rulemaking was sent electronically to all stakeholders who are members of the Legal Nonlicensed Child Care Provider Workgroup on June 16, 2021 and via US Mail to all legal nonlicensed child care providers registered to receive CCAP (177 total providers) on June 15, 2021. No comments were submitted to the Office of Administrative Hearings (OAH) on the rule making effort. On July 1, 2021, the OAH determined the Department has the statutory authority to adopt these proposed rules under the exempt rulemaking process and the adopted rules are approved. The exempt rules were posted in the State Register on September 27, 2021.⁹

Following the adoption of the exempt rules, the federal Office of Child Care (OCC) reviewed Minnesota's CCDF plan for the fiscal year 2022-2024 and found that Minnesota did not meet the health and safety requirements for ratio and group size because Minnesota did not report group sizes for children 12 years old and over in licensed exempt homes. In response, the Department reviewed data and as of February 3, 2022, none of the current 66 legal nonlicensed child care providers were authorized to care for more than six children, and none were authorized to care for children ages 12-14. The Department also notified the OCC that as part of rule revision currently underway, Minnesota will add language to

⁹ The State Register posting is available here: https://mn.gov/admin/assets/SR46_13%20-%20Accessible_tcm36-500455.pdf.

meet the ratio and group size requirement. The proposed language applies the current group size of eight children to include all children age 12 and under and children age 13-14 with special needs due to disability who are or who become authorized by CCAP, aligning with the definition of “child” under Minn. Stat. § 119B.011, subd. 4.

To ensure stakeholders are informed of this change required by federal directive, the Department will specifically reach out to members of the Legal Nonlicensed Child Care Provider Workgroup electronically to alert them to this language when the Notice of Intent to Adopt Rules Without a Public Hearing Unless 25 or More Persons Request a Hearing, and Notice of Hearing if 25 or More Requests for Hearing Are Received is posted in the state register. Additionally, the Department will notify all legal nonlicensed child care providers registered to receive child care assistance via U.S. Mail of this specific language when the Dual Notice is posted.

Part 3400.0120, subpart 8. The Child Care and Development Block Grant Act of 2014, Public Law Number 113-186 and the Federal Child Care and Development Fund, 45 C.F.R. § 98.41 require child care providers who receive payments from the Child Care and Development Fund to 1) be trained in twelve health and safety topics and 2) develop an emergency preparedness plan. Minnesota Statutes do not prohibit or mandate an emergency plan. However, Minn. Stat. § 119B.125, subd. 1 authorizes the Department to establish requirements necessary to authorize providers, and under this directive the Department began requiring legal nonlicensed providers to develop an emergency plan beginning October 1, 2018. Under the proposed rule revisions, legal nonlicensed providers must attest on their provider registration and acknowledgement form that they will complete and maintain a plan, and CCAP agencies may request a copy of the plan as part of broader annual monitoring requirements (see Minn. R. 3400.0120, subp. 9). Including this requirement in rule is necessary so that a consequence can be imposed on a provider who has failed or refused to comply with the emergency preparedness plan. Because federal experts have found that developing an emergency preparedness plan is necessary to ensure the safety of children in care during an emergency, it is reasonable to impose a consequence on a child care provider who does not comply with this requirement.

Part 3400.0120, subpart 9. The Child Care and Development Block Grant Act of 2014, Public Law Number 113-186 and the Federal Child Care and Development Fund, 45 C.F.R. § 98.41 require that child care providers who receive payments from the Child Care and Development Fund and are not related to all of the children they care for are monitored annually to ensure compliance with health and safety requirements. Minnesota statutes do not prohibit or mandate annual monitoring for legal nonlicensed providers. However, Minn. Stat. § 119B.125, subd. 1 authorizes the Department to establish requirements necessary to authorize providers, and under this directive the Department began requiring legal nonlicensed providers to comply with an annual monitoring visit beginning October 1, 2018.

To develop this policy and establish the monitored health and safety requirements, Minnesota relied on federal guidance as a baseline for health and safety policies.¹⁰ In addition, starting in July 2015, the Department began meeting with a group of stakeholders from CCAP agencies who work in family child care licensing or Child Care Assistance Program delivery to develop health and safety standards for legal

¹⁰ Specifically, the Department reviewed “Caring for Our Children Basics: Health and Safety Foundations for Early Care and Education,” a resource developed by the U.S. Department of Health and Human Services’ Office of the Administration for Children and Families that represents the minimum health and safety standards experts believe should be in place in settings where children are cared for outside their homes. This resource is available in pdf form at: https://www.acf.hhs.gov/sites/default/files/documents/ecd/caring_for_our_children_basics.pdf (last visited March 15, 2021).

nonlicensed providers. In early 2018, the Department published an optional health and safety checklist¹¹ for legal nonlicensed providers to begin self-assessing their care environment. The Department made slight adjustments to the standards in May 2019 following additional engagement with CCAP agencies that would be implementing the policy and with the consultants hired by the Department to develop a standardized implementation guide and training for CCAP agency workers to perform annual monitoring visits. In short, the Department leveraged substantial outside feedback and expertise to ensure that the health and safety requirements the Department proposes and the procedures with which monitoring visits are implemented are reasonable.

The proposed language in item C is in response to the requirement in the Federal Child Care and Development Fund, 45 C.F.R. § 98.15(b)(5) to publish monitoring and inspection reports online. Legal nonlicensed provider annual monitoring visit summaries are currently posted on the Department's public website.¹² Parent Aware also provides a link to these publically posted results on their website.¹³

During the annual monitoring visit, a CCAP agency may discover that a provider has failed certain requirements. Items D and E are proposed to establish the situations in which a legal nonlicensed provider may submit additional written information to establish compliance. Under item D, if a CCAP agency determines during the annual monitoring visit that a provider failed certain requirement(s), there is an option for the provider to submit written information to the agency to establish compliance and have the provider's registration and child care authorizations remain open. Under item E, if a CCAP agency determines during the annual monitoring visit that a provider failed any requirements that have no written correction option, the provider's registration and all open authorizations must close after being given proper notice.

The Department has developed and made available to CCAP agencies the Child Care Assistance Program Legal Nonlicensed Provider Monitoring Checklist (DHS-7867).¹⁴ This checklist assists CCAP agency staff in evaluating each of the required health and safety standards to ensure consistent implementation of health and safety standards across CCAP agencies. This checklist indicates which requirements have a written correction option to meet a failed requirement (for example, clean towels and washcloths are provided daily or are disposable after use), and which requirements do not have a written correction option. The requirements that do not have a written correction option are more serious health and safety concerns (for example, exit doors or windows are unable to be opened from the inside).

The proposed addition of item F addresses the policies for how annual monitoring is conducted that counties and tribes must include in their biennial child care fund plans. Item F specifically requires a county or tribe to include the conditions under which a provider who does not show compliance with an annual monitoring visit can again register to receive child care assistance in the future. These conditions may include only if the provider becomes licensed, or if the provider shows compliance when the CCAP agency conducts another monitoring visit and any conditions placed on that visit (for example, the time limit that the provider must wait before another monitoring visit can be performed or a limit on the number of re-inspections). Identifying these conditions in the child care fund plan are reasonable and

¹¹ This checklist is available on the Department's publicly-accessible document library:

<https://edocs.dhs.state.mn.us/lfs/Server/Public/DHS-5192B-ENG>.

¹² <https://mn.gov/dhs/partners-and-providers/policies-procedures/child-care-and-early-education/legal-nonlicensed-provider-annual-monitoring/>.

¹³ Parent Aware is Minnesota's Quality Rating and Improvement System for early childhood care and education programs. The Parent Aware webpage that links to the annual monitoring visit summaries is available here: <https://www.parentaware.org/learn/types-of-child-care/>.

¹⁴ This document is available on the Department's publicly-accessible document library: <https://edocs.dhs.state.mn.us/lfs/Server/Public/DHS-7867-ENG>.

necessary to ensure that children being cared for by the provider are in safe care environment and that all legal nonlicensed providers registered to receive child care assistance through the same CCAP agency are treated consistently.

Proposed item G addresses what action the CCAP agency must take if the legal nonlicensed child care provider is unavailable for the scheduled monitoring visit. Allowing the provider 15 days to reschedule the visit is consistent with other child care assistance notification timelines, as is closing the provider's authorizations for any unrelated children with a 15 day adverse action if the provider is not available for the rescheduled visit. In the event the monitoring visit is completed later, specifying the authorization effective date ensures unrelated children are treated consistently across all CCAP agencies while remaining within existing retro-authorization policies.

Proposed items H and I address the policies counties and tribes include in their biennial child care fund plan. Counties and tribes must identify 1) conditions of unsafe care that apply to legal nonlicensed providers beyond those contained in Minn. Stat. § 245C.14 and Minn. Stat. §245C.15 and 2) conditions that present an imminent risk to the health, safety or rights of a child in care with a legal nonlicensed provider. Termination notice requirements depend upon the conditions identified during the annual monitoring visit.

Part 3400.0130 CHILD CARE ASSISTANCE PROGRAM MAXIMUM RATES.

Part 3400.0130, subpart 1. Proposed changes to this subpart include the addition of a cross reference to statute under which the child care market rate survey is described. Adding this cross reference is necessary and reasonable for clarity and consistency with statute. Additional edits are described under general amendment three.

Part 3400.0130, subpart 1a. Proposed changes to this subpart reorganize content from subpart 5, which specifies (1) the location of where care is provided determines the maximum rate that may be paid and (2) the applicable maximum rate that applies to legal child care providers located outside the state of Minnesota. The location of where care is provided usually refers to the Minnesota county in which care is provided, but proposed language also includes rates within certain cities, which reflects a change made to Minn. Stat. § 119B.13, subd. 1 during the 2017 legislative session. This statutory change created a separate rate determination for child care providers located within the boundaries of a city located in two or more counties of Benton, Sherburne, and Stearns. This reorganization of rule is necessary and reasonable because it groups related provisions together and provides clarity to the user, and is further discussed under general amendment four.

Additional proposed changes include removing language and reorganizing the content under new subpart 1b, which is specific to provider charges exceeding the maximum child care assistance payment. This reorganization of rule is necessary and reasonable because it groups related provisions together and provides clarity to the user, and is further discussed under general amendment four. Other edits are discussed under general amendment one.

Part 3400.0130, subpart 1b. The proposed addition of this subpart reorganizes content from Minn. R. 3400.0130, subp. 1a and Minn. R. 3400.0100, subps. 2b and 2c. In addition to language in Minn. Stat. § 119B.13, subd. 1, this proposed subpart is necessary and reasonable because it provides further clarity on the charges and expenses a family is responsible for outside of what child care assistance is allowed to pay. This subpart also recognizes that a third party may make these payments on behalf of the family as allowed under Minn. Stat. § 119B.12, subd. 2, which satisfies the family's obligation.

Part 3400.0130, subpart 2. In the 2017 legislative session, changes were enacted to bring Minnesota into compliance with the federal Child Care and Development Block Grant (CCDBG) Act. As part of this

effort, license-exempt centers participating in the Child Care Assistance Program are required to become certified under Minn. Stat. § 245H in order to be eligible for payment from the child care fund. Proposed changes to this subpart are necessary and reasonable because they add the word “certified” to reflect updated terminology and be consistent with other rule revisions, and add the appropriate legal authority to recognize the statutory change.

Part 3400.0130, subpart 3. Minn. Stat. § 119B.13, subd. 3 allows providers who care for children with disabilities or special needs to be reimbursed at a higher rate. Proposed changes to this subpart are necessary and reasonable to clarify that the rate determination process differs for individual children (see subpart 3a) and at-risk populations (see subpart 3b). Separating these two scenarios provides clearer policy guidance for CCAP agencies and more understandable expectations for families. Additionally, proposed deletion of language is necessary because special needs rates for individual children are not approved as an amendment to a county or tribe’s child care fund plan; these are public documents and do not contain information on individual children or families.

Based on the processes described below (see subpart 3a and subpart 3b), there may be situations where the rate requested is more than the rate approved.

Part 3400.0130, subpart 3a. For individual special needs rates, the rate is based on the needs of the child and the provider’s description of services. The Department has developed a process to pay a rate in relation to the standard maximum rates paid for all other children. A consistent rating tool is used for all special needs requests and assesses a child’s needs across six categories: special medical needs and health; behavioral issues; mobility; receptive and expressive communication skills; self-sufficiency; and extra supervision for safety. Documentation of the child’s special needs submitted by the family and the provider is reviewed and the rating tool is completed by multiple Department staff persons. The results following the use of the rating tool drives the approved rate. There are three tiers of special needs rates tied to the maximum rates, recognizing there are increased costs associated with including a child with special needs in a typical child care setting. The first tier results in special needs rates 75 percent higher than the maximum rates, the second tier results in special needs rates 150 percent higher than the maximum rates, and the third tier results in special needs rates 200 percent higher than the maximum rates.

Proposed additions to this subpart are necessary and reasonable because they specifically describe special needs approval dates, and allow retroactive approval under Minn. Stat. § 119B.13, subd. 7 and Minn. Stat. § 119B.09, subd. 7. The approval of special needs are typically granted for a full 12 month period before requiring renewal, but may be granted for less time if requested by the family or provider. While many CCAP processes and timeframes are tied to the family’s 12 month eligibility period, special needs approvals are tied to the individual needs of the child and are not aligned with the family’s redetermination date. Proposed changes that require the Department to notify both the family and the provider in writing of the commissioner’s decision codify a long-standing and current practice.

Additional edits are discussed under general amendments one and two.

Part 3400.0130, subpart 3b. Proposed new language in this subpart is reasonable and necessary to reflect the predominance of children a provider serves who meet the at-risk population criteria, replacing language that is specific to individual children. To receive commissioner’s approval, counties and tribes submit the request for higher rates to be paid as part of their child care fund plan or as an amendment to the fund plan. Information required includes the documentation in item B that supports specialized services by the provider to the at-risk population, and is not specific to needs of an individual child. Requests are submitted by providers only and not by parents as in individual special needs approvals. Approval of the special rate are retroactive as allowed by statute.

Additional edits are discussed under general amendment one.

Part 3400.0130, subpart 5. Proposed changes to this subpart are necessary and reasonable to reflect a shift in CCAP's focus from child care rates to age categories. Content regarding the the maximum rate that may be paid as determined by location and the maximum rate for legal child care providers located outside the state of Minnesota has been moved to subpart 1a. This reorganization of rule groups related provisions together, provides clarity to the user, and is further discussed under general amendment four.

Minn. Stat. § 119B.13, subd. 1(h) addresses the implementation dates of changes to maximum rates. Proposed changes to this subpart remove duplicative language to help ensure the rules do not become obsolete if statutory provisions are revised.

Under Minn. Stat. § 119B.13, subd. 1(c), maximum rates for each type of care are determined on an hourly, daily, and weekly basis. These maximum rates also vary based on the age of the child. The proposed additional language in items A through D clarifies the maximum rate that a CCAP agency is allowed to pay based on the age of the child and provider type. There are some instances where licensing allows for exceptions to standard age categories. The licensing provision for age flexibility under Minn. R. 9503.0040, subp. 4 allows children attending licensed child care centers to receive care in a different age category classroom for a short period of time without a licensing variance. Licensing may also grant a variance to a licensed family child care provider or a licensed child care center, allowing the provider to consider the child a different age category (see Minn. Stat. § 245A) or care for the child within a different age category classroom (see Minn. R. 9503.0005, subp. 26). Proposed language is reasonable and necessary to address these statutory requirements and exceptions.

Other edits are discussed under general amendment one.

Part 3400.0130, subpart 5a. Proposed changes to this subpart are necessary and reasonable to align with statute and provide clarity, adding a cross reference to statute which establishes limits on the use of in-home child care. Further additions recognize that while an in-home child care provider is typically a legal nonlicensed provider, a child care provider may also become licensed to provide care in the child's home. Although this is a care situation that has been encountered very few times by the Department, it is still necessary to clarify the applicable maximum rate that applies. Proposed removal of certain language reflects plain language and is consistent with other rule revisions, resulting in no substantive changes in rule.

Part 3400.0130, subpart 7. Proposed changes to this section are necessary and reasonable to align with statute and provide clarity, adding a cross reference to Minn. Stat. § 119B.13, which sets the reimbursement rate for registration fees. Additional edits are discussed under general amendments one and three.

Part 3400.0140 RESPONSIBILITIES OF A CCAP AGENCY.

Part 3400.0140, subpart 1. Proposed language in this subpart is reasonable and necessary to clarify that all adopted CCAP agency policies applicable to child care assistance must be approved by the commissioner under Minn. Stat. § 119B.08, subd. 3. Additional edits are discussed under general amendment one.

Part 3400.0140, subpart 2. The primary change proposed to this section adds "families" to the list of entities a CCAP agency must provide information to as needed to fully use its fund allocation. As families are the recipients of child care assistance, it is necessary to specify that families should be included in outreach efforts the CCAP agency undertakes. Because there is no specific action or burden required to

comply with this new provision, it is reasonable to expand the list of entities to include families. Additional edits are discussed under general amendments one and three.

Part 3400.0140, subpart 4. Under current child care assistance program policies, individual CCAP agencies register child care providers to receive payment from the child care fund. However, state statute does not require a CCAP agency to be responsible for registration, and the Department is considering taking on that role. Proposed changes to this subpart 1) move content related to the time frame for provider registration to Minn. R. part 3400.0120, subp. 1a and 2) remove specific reference to the CCAP agency for purposes of registration. These proposed changes are necessary and reasonable so that rule language will not prevent the Department from conducting the provider registration process should it take on that role in the future, and reorganizes the chapter to group related provisions together as discussed under general amendment four.

Child care providers are responsible for submitting appropriate materials to register to receive child care assistance under Minn. R. 3400.0120; therefore, basing the provider's registration on actions related to the family, such as eligibility determination or provider selection, is not appropriate and the proposed removal of this language from rule is reasonable. Providers must be allowed to register to receive child care assistance even if they are not currently caring for a child receiving child care assistance benefits. Basing the provider's registration approval on the receipt of background study results is also problematic as not all providers require a background study at the time of registration. Proposed changes to Minn. R. 3400.0120, subp. 1a specify the circumstances under which it is appropriate to use background study determinations when a provider is registering to receive child care assistance.

The proposed removal of language from this subpart reflects changes to Minn. Stat. § 119B.16 and Minn. Stat. § 119B.161 that establish due process rights for child care providers for negative actions a CCAP agency takes against a child care provider, including denial of a provider's registration. Effective February 26, 2021, a family, either as an applicant or recipient, does not have the right to a fair hearing if a CCAP agency or the commissioner takes action against a provider.

Part 3400.0140, subpart 5. Under current child care assistance program policies, individual CCAP agencies register child care providers to receive payment from the child care fund. However, state statute does not require a CCAP agency to be responsible for registration, and the Department is considering taking on that role. Proposed changes to this subpart 1) move content on the registration of a legal nonlicensed provider to Minn. R. 3400.0120, subp. 2, items D and E, and 2) remove specific reference to the CCAP agency for purposes of registration. This proposed change is necessary and reasonable so that rule language will not prevent the Department from conducting the provider registration process should it take on that role in the future, and reorganizes the chapter to group related provisions together as discussed under general amendment four.

Part 3400.0140, subpart 6. Minn. Stat. § 119B.125, subd. 4, allows a CCAP agency to identify the conditions under which a child care arrangement is considered unsafe and when unsafe care conditions present an imminent risk for children in care. Proposed language in this subpart is reasonable and necessary to clarify that CCAP agencies must determine if a substantiated complaint meets either of these criteria, as termination notices to a provider under Minn. R. 3400.0185, subp. 13 depend on the determination.

Additional proposed language further clarifies that if a provider's registration is terminated prior to the correction of conditions underlying a substantiated complaint, the provider will need to re-register in order to again receive child care assistance payments. This is consistent with Minn. Stat. § 119B.125, subd. 1 which requires a provider to be authorized before the CCAP agency can authorize payments for care provided.

The Consolidated Appropriations Act of 2018 (Public Law 115-141) prohibits states from expending federal CCDF funds on providers where a serious injury or death occurred due to substantiated health or safety violations. Minnesota has defined “serious injury” in its approved CCDF FFY 2019-2021 plan as “an injury that requires treatment by a physician or dentist.” Proposed language in this subpart clarifies that if a child dies or has a serious injury while in a nonlicensed care setting, the provider must not receive payment from the child care fund in accordance with federal law.

References to Minn. Stat. § 626.556 have been removed and updated to reflect the recodification of the Maltreatment of Minors Acts to Minnesota Statutes, chapter 260E. Additional edits are discussed under general amendments one and three.

Part 3400.0140, subpart 7. Proposed changes in this subpart are necessary and reasonable because they reduce administrative burden for CCAP agencies without compromising state oversight of CCAP administration. Rather than having to develop an explanation of the contract between the CCAP agency and the subcontracted agency in its child care fund plan, under the proposed changes the CCAP agency need only submit the contract to the Department. The Department can then assess the contract directly. Additional edits are discussed under general amendments one and three.

Part 3400.0140, subpart 8. The need and reasonableness of the proposed changes to this subpart are discussed under general amendment one. Proposed changes also include plain language edits and result in no substantive changes.

Part 3400.0140, subpart 9. The need and reasonableness of the proposed changes to this subpart are discussed under general amendments one and three.

Part 3400.0140, subpart 9a. The need and reasonableness of the proposed changes to this subpart are discussed under general amendments one and three. Proposed changes also include plain language edits and result in no substantive changes.

Part 3400.0140, subpart 10. Proposed revisions to this subpart are necessary and reasonable to prevent a CCAP agency from excluding an eligible family under Minn Stat. § 119B.03, subd. 3 if the agency has funding and the family has submitted a complete application and verifications as required under part 3400.0040. Further proposed changes are discussed under general amendments one and three. Proposed changes also include plain language edits and result in no substantive changes.

Part 3400.0140, subpart 14. Proposed removal of the word “federal” from this subpart clarifies that the scope of the CCAP agency’s reporting requirements include reporting required not just by the federal government but also by the state or other entities. For example, the Department currently requires CCAP agencies to report certain information to the state, such as waiting lists under Minn. Stat. § 119B.03, subd. 2 and child fatalities, substantiated maltreatment, and serious injury incidents that occur in the child care setting under 45 C.F.R. § 98.33(a)(5). Because Minn. Stat. § 119B.02, subd. 3 requires the Commissioner of the Department to supervise child care programs administered by the county, it is both necessary and reasonable to “federal” to ensure CCAP agencies report all required information to the Commissioner as requested. Additional edits are discussed under general amendment one.

Part 3400.0140, subpart 21. Under Minn. Stat. § 256P.07, subd. 3, families are required to report changes within ten days of the date they occur. Under Minn. Stat. § 119B.025, subd. 1, CCAP agencies are given a time frame in which to approve or deny assistance; however, no time limit currently exists in statute or rule for when a CCAP agency must act on a reported change. Adding a time frame in which CCAP agencies must act on reported changes as proposed in this subpart is necessary and reasonable as other CCAP agency processes have defined timelines and it will help prevent families from experiencing unneeded delays in case action.

Part 3400.0150 CHILD CARE FUND PLAN.

Part 3400.0150, subpart 1. Minn. Stat. § 119B.08, subd. 3 currently establishes that the county and designated administering agency must submit biennial child care fund plans to the Department every two years. Under the Child Care and Development Block Grant Act of 2014, the requirement for states to submit a CCDF plan was changed from biennially to every three years. It is possible that in the future the Minnesota legislature will decide to align the time frame in which county and tribal agencies must submit plans to the state with the time frame in which states must submit plans to the federal government. To help ensure that state rule and statute remain aligned in this time frame, the Department's proposal to remove the "biennial" qualifier for the child care fund plan and instead referencing the statute in which the time frame is set is necessary and reasonable. This language change does not make any modifications to the current biennial submission timeframe required by statute.

The proposed changes to this subpart also replace the specific reference to Minn. Stat. § 119B.011 to 119B.16 with more general language that includes all applicable Minnesota statutes and federal regulations. This proposed change is reasonable and necessary to better reflect the original intent of the subpart which is to ensure compliance with any new mandates that apply to the child care assistance program. Additional proposed edits are discussed under general amendments one and three.

Part 3400.0150, subpart 2. Proposed deletion of language in this subpart that requires "a description of the process used to assure that information in forms and notices about child care assistance are accurate, clearly written, and understandable" is necessary and reasonable because the rule already requires that a county or tribe submit all county and tribal developed forms, policies, and procedures for Departmental approval. The Department ensures that forms and notices developed locally meet the requirements for plain language and readability and therefore a description of the local agency process used to assure the documents meet those standards is unnecessary and irrelevant. Removing the language alleviates administrative burden for local agencies. Additional proposed edits are discussed under general amendment one.

Part 3400.0150, subpart 2a. Language in this proposed new subpart codifies current Department practices established to carry out Minn. Stat. § 119B.08, subd. 3. Although the statute states that the commissioner must approve the child care fund plan and must notify local agencies of the plan approval, the statute does not explicitly indicate that the plan must comply with state and federal laws, nor that the plan must be complete. Although the statute does explicitly state that the plan must include "a description of the procedures and methods to be used to make copies of the proposed state plan reasonably available to the public," it does not explicitly state that plans continue to be a matter of public information once approved and should therefore be readily available to the public. Requiring local agencies to provide information about how they make the approved plan available to the public within the plan is necessary and reasonable because it: (1) makes clear to the county or tribe that this information must be publicly available even after approval, (2) ensures the Department is able to supervise this local agency responsibility effectively, and (3) informs the members of the public who review the proposed plan how to access the approved plan.

Part 3400.0150, subpart 3. Proposed language in this subpart indicating the county or tribe may submit a written request to amend its child care fund plan is necessary to codify current agency practice related to child care fund plan amendments. Requiring the request to be written is reasonable because it also provides a documentable time stamp for when the commissioner's 60 day timeline to approve or disapprove must be met.

Further additional proposed language that requires the county or tribe to include the approved amendment when making the approved plan available to the public reaffirms the need for transparency

and ease of public access to approved child care fund plans. If the county or tribe amends their plan during the period that the child care fund plan covers but does not share the amendment, the public will not receive full and accurate information for how the county or tribe is administering child care assistance.

Part 3400.0170 INCOME ELIGIBILITY FOR CHILD CARE ASSISTANCE.

Part 3400.0170, subpart 1. Income, as defined under Minn. Stat. § 119B.011, subd. 15 is the family's gross income after allowable deductions. The proposed addition to this subpart of the term "gross" prior to mentions of income is necessary and reasonable to best reflect statute and assist CCAP agencies in properly determining a family's annual income and subsequent eligibility for child care assistance (see proposed edits to Minn. R. 3400.0170, subs. 4, 6a and 7). Under Minn. Stat. § 256P, not all income received by the family is considered countable income; therefore, the proposed addition of the modifier "countable" to income in this subpart is necessary to clarify that only counted income must be verified by the CCAP agency.

Additional proposed edits are discussed under general amendment one.

Part 3400.0170, subpart 1a. The proposed addition of this subpart is reasonable and necessary to clarify income limits for applicants and participants. Under Minn. Stat. § 119B.09, subd. 1, income limits vary based on the family's participation in MFIP while income limits at redetermination are consistent for families. Additionally, the Federal Child Care and Development Fund, 45 C.F.R. § 98.21 requires that a family's fluctuation in income during the 12 month period is taken into account and requires a graduated phase out for families who income exceeds the entrance level, but does not exceed 85 percent of state median income (see Minn. Stat. § 119B.025, subd. 4(e) and (f)). This proposed subpart also clarifies when families are subject to income limits after a time of suspension or ineligibility. Adding this subpart provides clarity by organizing all income limits in one subpart and helps to ensure families are treated consistently across CCAP agencies.

Part 3400.0170, subpart 3. Proposed changes to this subpart reflect changes made in 2015 to Minn. Stat. § 119B.011, subd. 15 that updated the definition of income to align with other public assistance programs in Minn. Stat. § 256P. Under state statute, when determining income for program eligibility, the concept of "excluded income" is no longer used. Therefore, the proposed deletion of the language referencing "excluded income" is necessary and reasonable. Other proposed edits are discussed under general amendments one and three.

Part 3400.0170, subpart 4. Proposed changes to this subpart are reasonable and necessary to reflect changes made in 2015 to Minn. Stat. § 119B.011, subd. 15 that updated the definition of income to align with other public assistance programs in Minn. Stat. § 256P. Under Minn. Stat. § 119B.09, subd. 4(c), lump sums counted as income under Minn. Stat. § 256P, subd. 3 must be annualized over 12 months. Lump sums received prior to the family participating in the Child Care Assistance Program are not counted; however, if a family receiving child care assistance receives a lump sum and the family's eligibility ends, the lump sum must be counted through the end of the original annualization period if the family later reapplies. This ensures that receipt of lump sum income that previously made a family income ineligible to receive child care assistance continues to be counted in the event the family later reapplies and becomes eligible.

Other proposed changes to this subpart are reasonable and necessary to reflect changes made in 2015 and 2017 to Minn. Stat. § 256P.06 that address identification of family members with counted income and family members with income that is not counted. This proposed change clarifies that each family member's income is evaluated, and updates how the income is evaluated so that it aligns with other

public assistance programs in Minn. Stat. § 256P.

Part 3400.0170, subpart 4a. The addition of this subpart revises rule to reflect 2015 state statute changes to Minn. Stat. § 119B.011, subdivision 15 which change the definition of income to align with other public assistance programs in Minn. Stat. § 256P. Income received by members of the child care assistance family must be counted in the annualization of income; however, income earned by family members under Minn. Stat. § 256P.06, subdivision 2(a) are exempt. Additionally, due 2017 state statute changes to Minn. Stat. § § 256P.06, subdivision 2(c) about how to count the income of newly married members of assistance units, income of designated new spouses of MFIP or DWP applicants or participants are also exempt. The addition of this subpart is necessary to reflect new policies and is reasonable because it does not create any additional financial or administrative burdens beyond what was imposed in the statute changes.

Part 3400.0170, subpart 6a. Under Minn. Stat. § 119B.011, subdivision 15, the funds used by a family to pay for health insurance premiums for family members are allowed to be deducted. Proposed changes to this subpart are necessary to clarify that these deductions may be verified at any point, either while eligibility is being determined or during the 12 month eligibility period, allowing families to maximize their child care assistance benefit. It is reasonable to expand the rule language to include vision as a health insurance premium expense as this further benefits families. This does not create any additional financial or administrative burdens as it reflects the Department's current application of state statute. It is also reasonable to include in rule that if a family is reimbursed for any portion of these premiums by medical assistance, those amounts may not be deducted because they are no longer expenses. When expenditures are necessary to secure payment of unearned income, such as legal fees, these expenses are allowed as a deduction.

Part 3400.0170, subpart 7. Minn. Stat. § 119B.09, subd. 4 requires self-employment income to be calculated with the use of gross receipts and operating expenses. It is reasonable for a self-employed person to have business records and be able to provide these records to the CCAP agency to determine the family's annual income and subsequent eligibility for child care assistance. Proposed language in this subpart provides an alternative way for families in the start-up phase of self-employment who may not yet have sufficient documentation to predict their income. Permitting self-attestation is a necessary and reasonable approach to allow eligible families without long-term, established self-employment to receive child care assistance, while still allowing the CCAP agency or the Department, as allowed under Minn. Stat. § 245E.02, to assess an overpayment if business records later provided do not support the family's eligibility or the amount of care authorized.

Part 3400.0170, subpart 8. The Department proposes deleting language in this subpart that describes how information in the subpart is made available. The document referenced by the subpart is known as the Combined Manual, and is currently located on the Department's public website. The Combined Manual contains the policies and procedures for public assistance programs in Minnesota, including cash, food, and housing support, to assist financial workers in correctly applying policies to determine eligibility. Previously this document was accessible to the public through the Minitex interlibrary loan system. Deleting the language describing the Minitex interlibrary loan system is necessary and reasonable because the Combined Manual is now available through the Department's public website.

Proposed deletion of items I through L in this subpart regarding expenses is necessary in order to simplify and align with changes that have been made to other programs since this rule was last updated. For the Supplemental Nutrition Assistance Program (SNAP), in the policies related to expenses for roomers and boarders, the flat rate deduction no longer exists and all reasonable expenses are allowed.

Similarly, both the Minnesota Family Investment Program (MFIP) and SNAP no longer limit the amount

of expenses allowed for upkeep and repair of rental property. Therefore, it is necessary and reasonable to remove the items from this subpart that reference the flat rate deduction or a limit on expenses.

Part 3400.0170, subpart 9. Proposed deletion of language in this subpart that identifies specific expenses is necessary and reasonable. There are very few families receiving CCAP for self-employment, and even fewer cases in the start-up phase or first year of operations where documents other than a tax schedule are needed. Removing this language simplifies and clarifies application of the policy without changing the policy.

Part 3400.0170, subpart 10. The proposed addition of farm insurance payments to gross receipts for determining income creates a more comprehensive list of the types of farming income a family may receive. This addition is necessary and reasonable because insurance proceeds are included on IRS form 4835, Farm Rental Income and Expenses.

Part 3400.0170, subpart 11. Proposed changes to this subpart move language from items A and B to the subitems under item D and are necessary and reasonable for purposes of clarity and better organization of the information. All subitems under D are allowed expenses, regardless of whether the rental income is considered earned or unearned income. The allowed expenses align with expenses allowed under SNAP.

Part 3400.0175 EXTENDED ELIGIBILITY.

The proposed addition of part 3400.0175 establishes requirements for implementing Minn. Stat. § 119B.105, which was created in the 2017 legislative session. Adding this part is necessary to provide clarity and reflect new policies, and is reasonable because it does not create any additional administrative burdens on CCAP agencies or families beyond what is imposed by the statute.

Part 3400.0175, subpart 1. Minn. Stat. § 119B.105, subd. 1(b) identifies situations in which a family continues to be eligible for child care assistance for up to three months or until the family's redetermination, whichever happens first, after having a permanent end to their only authorized activity. This proposed subpart is necessary and reasonable as it includes additional situations that signify a permanent end to an activity when a family is eligible to receive extended eligibility.

Part 3400.0175, subpart 2. While all families are required to report a permanent end in activity to the CCAP agency under Minn. Stat. § 256P.07, subd. 6, there may be situations in which the family or the CCAP agency do not know whether the activity end is temporary or permanent, or a temporary activity loss later becomes permanent. This proposed subpart is necessary and reasonable as it addresses these situations by providing guidance of when the extended eligibility period starts based on varying situations, and clarifies that extended eligibility is only available after all activities have permanently ended.

Part 3400.0175, subpart 3. Minn. Stat. § 110B.105, subd. 2 contains requirements for a family to continue receiving child care assistance after the family has received three months of extended eligibility or if the family's redetermination of eligibility occurs prior to the end of the three month extended eligibility period. The proposed addition of this subpart is necessary and reasonable as it provides guidance on the requirements at the end of the extended eligibility period based on varying situations.

Proposed item A expands on these requirements and provides further details about the activities that would result in continued eligibility. Proposed item B supports a CCAP agency in terminating a family's eligibility if the parentally responsible individual is not participating in an authorized activity at the end of the extended eligibility period. Proposed item C clarifies when a CCAP agency must end a family's

eligibility related to parentally responsible individuals who have been deemed unable to care. Proposed changes to Minn. R. 3400.0040, subp. 5 state that the unable to care status of a parentally responsible individual may be permanent or temporary. If the CCAP agency does not have either verification of an ongoing unable to care status or knowledge of the parentally responsible individual's activity participation, the family's eligibility must end at the end of the extended eligibility period.

Part 3400.0175, subpart 4. To be eligible to receive child care assistance, a family must have a qualifying activity under Minn. Stat. § 119B.10 at application and redetermination. The proposed addition of this subpart is necessary and reasonable as it clarifies that extended eligibility is not available at application or redetermination: a family must be participating in a qualifying activity at the time of the application date or redetermination due date.

Part 3400.0175, subpart 5. During the extended eligibility period, children in the household who do not currently have child care authorized may need care. Examples of this may include a new child joining the household or a school aged child needing care for the summer months. The proposed addition of this subpart is necessary and reasonable as it provides guidance on how a CCAP agency authorizes care for a child when a parentally responsible individual is not participating in an authorized activity.

Part 3400.0175, subpart 6. Minn. Stat. § 110B.105, subd. 2 contains requirements for a family to continue receiving child care assistance after the family has received three months of extended eligibility or if the family's redetermination of eligibility occurs prior to the end of the three month extended eligibility period. The addition of this subpart is necessary and reasonable as it allows care to be paid retroactively to the end of extended eligibility period through the end of the family's 12 month eligibility period, benefitting both the family and the child care provider, and allowing for consistent care for a child when a parentally responsible individual is participating in an authorized activity.

Proposed item A expands on these requirements and provides further details about the new activities that would result in continued eligibility if the parentally responsible individual reports such an activity prior to the end of the extended eligibility period. Proposed language in item A, subitem (2) is specifically permissive and states that care *can be* authorized back as allowed under retroactive authorization policies. This language is permissive because there may be situations in which a child was not using receiving during that retroactive time period, and while the family would remain eligible, it may not be appropriate to authorize care.

Proposed item B clarifies that in the event a parentally responsible individual fails to report they are participating in a new authorized activity during the extended eligibility period, care can be authorized back to the end of the extended eligibility period if the parentally responsible individual remains eligible and reports within 90 days that the new activity started before extended eligibility ended.

Part 3400.0180 REDETERMINATION OF ELIGIBILITY.

Proposed changes to part 3400.0180 are reasonable and necessary to reflect changes to Minn. Stat. § 119B.025, subd. 3, which redefined redetermination timelines to establish twelve month continuous eligibility for families, as required under the Federal Child Care and Development Fund, 45 C.F.R. § 98.21.

Part 3400.0180, subpart 1. Proposed changes to this subpart are reasonable and necessary to reflect that eligibility redeterminations must occur no more frequently than every twelve months as required under Minn. Stat. § 119B.025, subd. 3. Generally, the time for redeterminations is every twelve months and is implemented systematically based on dates are in the statewide eligibility and payment system. Proposed language establishes circumstances in which a CCAP agency may extend the redetermination timeline beyond twelve months allowed under statute. This is currently being operationalized by

counties and tribes amending their biennial child care fund plan to include criteria under which redetermination timelines are extended.

Proposed language also incorporates a specific scenario in state statute in which the redetermination timeline may be extended for caregivers who are students. Under Minn. Stat. 119B.025, subd. 3, if a parent is younger than 21 years of age and attending a certain education program, the redetermination of eligibility may be deferred beyond 12 months “to the end of the student’s school year.” The statute does not identify a specific date for the end of the school year which has resulted in inconsistent application of policy among CCAP agencies. For example, CCAP agencies may determine that the end of the school year is the student’s graduation date, the end of the school district’s regular session, or the end of the school district’s summer school session. Extension of the redetermination due date beyond 12 months to August 31 as the end of the student parent’s school year is beneficial to the family. It gives most student parents who graduated with a high school diploma or general equivalency diploma a limited amount of time following graduation to remain on CCAP and enroll in another authorized activity, which is particularly beneficial if the student’s only activity was education. This proposed change is necessary and reasonable because it provides further support to this vulnerable population and helps to ensure consistent care arrangements. Per statute and rule this extension remains optional; CCAP agencies can either keep student parent redeterminations at 12 months or extend beyond 12 months to August 31. Revising language in this section is necessary to reflect new policies and provide consistent application of policies, and is reasonable because it does not create any additional financial or administrative burdens on providers and families beyond what is imposed by statute.

Part 3400.0180, subpart 2. Under Minn. Stat. § 119B.025, subd. 1, CCAP agencies are provided a time frame in which to approve or deny assistance; however, no time limit currently exists in statute or rule for when a CCAP agency must act on a submitted redetermination. The proposed addition to this subpart of a time frame in which CCAP agencies must act on submitted redeterminations is necessary and reasonable as it helps prevent families experience unneeded delays in case action, particularly when families only have a certain amount of time to submit all needed verifications in order for a redetermination to be considered complete under Minn. Stat. § 119B.025, subd. 3.

Further changes clarify that the term “documentary evidence” in the current item B means a completed, signed redetermination form and accompanying verification. These are clarifying changes that do not create new burdens or administrative costs for parties administering or receiving child care assistance.

Part 3400.0180, subpart 3. The proposed addition of this subpart is reasonable and necessary because it clarifies the requirements from Minn. Stat. § 119B.025, subd. 1(a) that must be verified at redetermination as indicated in Minn. Stat. § 119B.025, subd. 3(b). Because some of the factors verified at application are unchanging, such as identity, age, and relationship, it is not necessary to re-verify them at redetermination if there is no indication that the information has changed.

These changes align with the restructuring proposed in Minn. R., part 3400.0040, subpart 3. Changes are necessary to differentiate when verification is required to determine eligibility (i.e. item A) versus to authorize child care (i.e. item C). In addition, content added to item B differentiates optional verifications, the absence of which would not prevent a family from being determined eligible but may result in a different amount of benefits if verified. These clarifications will make it easier for CCAP agencies to administer the program and are more family-friendly for participants. These changes do not create new burdens or administrative costs for parties administering or receiving child care assistance.

The proposed addition of item D provides detail about the citizenship and immigration status for children. To meet eligibility requirements at redetermination, the citizenship or immigration status must be verified for at least one child in the family in order to be eligible, unless the child is receiving care in a

setting subject to public education standards. A family having at least one child with verified citizenship or immigration status meets the citizenship or immigration eligibility requirement. Federal Child Care and Development Fund, 45 C.F.R. § 98.20(c) states that only the citizenship and immigration status of the child is relevant, and eligibility for services under § 98.50 may not be based on the citizenship or immigration status of a parent. The Personal Responsibility and Work Opportunity Reconciliation Act of 1996 (PRWORA) specifically provides that its provisions do not apply to Head Start and non-postsecondary educational programs and that it does not have any effect on the participation of non-citizen children in these programs.¹⁵ Consequently, the federal government has determined that when child care assistance funds are used to pay for child care in settings subject to public educational standards, such as a Head Start or a pre-kindergarten or a school-age care program operated under public education standards, PRWORA does not require verification of the child's citizenship or immigration status because the child is participating in a non-postsecondary educational program.

Part 3400.0180, subpart 4. This proposed new subpart specifies what is needed for a CCAP agency to approve eligibility at a redetermination. This change is necessary and reasonable because it provides clarity and does not create new burdens or administrative costs for parties administering or receiving child care assistance. Plain language edits result in no substantive changes to rule.

Part 3400.0180, subpart 5. This proposed new subpart implements changes to reporting requirements in Minn. Stat. § 256P.07 made in the 2017 legislative session. Further changes to Minn. Stat. § 119B.025 and Minn. Stat. § 119B.095 in the 2017 legislative session significantly limit the circumstances under which a family's benefit level would change during their twelve month eligibility period. With a longer redetermination period and reduced reporting requirements, it is more likely that a CCAP agency will not know about changes the family experiences until redetermination. At that time, it may be necessary for the CCAP agency to determine if care was paid for which the family was ineligible. To ensure continuity of care for the children in the household, the CCAP agency should not delay determining the family's current eligibility. The proposed standards in this subpart are necessary to provide guidance to the CCAP agency for how to address information received at redetermination that should have been reported earlier to ensure consistent application of policy across CCAP agencies. These requirements ensure families retain the benefits they are eligible for but are not dis-incentivized from complying with reporting timelines.

Changes to Minn. Stat. § 119B.11, subd. 2a(c) made in the 2021 legislative session gives the commissioner authority to assess an overpayment to a family if the overpayment is part of an investigation conducted under Minn. Stat. § 245E. The proposed addition of item B addresses the recoupment or recovery of overpayments due to unreported changes, by either the CCAP agency or the commissioner, according to the rates specified in Minn. R. 3400.0187. Adding language about unreported changes and potential overpayments are necessary to reflect new policies and are reasonable because they do not create any additional financial or administrative burdens on providers and families beyond what is imposed by statute.

Part 3400.0180, subpart 6. This proposed new subpart is reasonable and necessary because it implements changes to reporting requirements in Minn. Stat. § 256P.07 made in the 2017 legislative session. Further changes to Minn. Stat. § 119B.025 and Minn. Stat. § 119B.095 in the 2017 legislative session significantly limit the circumstances under which a family's benefit level would change during their twelve month eligibility period. Differences in reporting requirements between different public assistance programs means that sometimes a CCAP agency will have information about a change in

¹⁵ The specific PRWORA citation is 8 U.S.C. § 1611(c)(1)(B), which includes specifically postsecondary education in the definition of federal public benefit.

family circumstances but it may be a change that the family is not required to report to the CCAP agency and therefore the CCAP agency is prohibited from acting on it. At redetermination, as long as the family's current income is verified and the CCAP agency is able to annualize income with the information on hand, it is not necessary to verify past income increases that are no longer relevant. Doing so would be contrary to federal direction to reduce burdens on families and only verify information necessary to determine eligibility.

Establishing twelve month eligibility was a significant change to the implementation of CCAP, necessitating explicit guidance about how existing policies, such as overpayments, interact with the new policies. Guidance in item B of this subpart addresses this issue and identifies when overpayments are not appropriate. Adding language about the interaction of changes and reporting is necessary to reflect new policies and does not create any additional financial or administrative burdens on providers and families beyond what was imposed in the statute change.

Part 3400.0180, subpart 7. This proposed new subpart establishes timelines and procedures for making changes to a family's authorized hours. These rules are necessary to implement Minn. Stat. § 119B.095, which was added in the 2017 legislative session. This proposed subpart aligns with procedures for copayment changes in part 3400.0180, subpart 8. The subpart also aligns with adverse action notice requirements under part 3400.0185. Adding language about authorization changes and timelines is necessary to reflect new policies and is reasonable because it does not create any additional financial or administrative burdens on providers and families beyond what is imposed by the statute.

Part 3400.0180, subpart 8. This proposed new subpart updates the reference for how copayments are calculated to Minn. Stat. § 119B.12 which contains the relevant information. This update is necessary because current language references Minn. R. 3400.0100 which does not include any information on calculating copayments. It is reasonable to reference statute because it includes the applicable information to calculate copayments.

Proposed language also includes the process for implementing copayment increases and implementing changes to copayments that are not an adverse action (in other words, changes that decrease the amount of the copayment). These are clarifying changes that do not create new burdens or administrative costs for parties administering or receiving child care assistance.

Part 3400.0180, subpart 9. The Child Care and Development Block Grant Act of 2014, Public Law Number 113-186 and the Federal Child Care and Development Fund, 45 C.F.R. § 98.41 requires that families who are otherwise eligible for assistance receive continued eligibility while on temporary leave from their authorized activity. During a family's twelve month eligibility period, if the family does not fall under a condition identified in Minn. Stat. § 119B.095, subd. 1(b) and is therefore a twelve-month reporter under Minn. R. 3400.0020, subp. 1b, the family must have care continue uninterrupted until the family's redetermination. A family who does fall under a condition identified in Minn. Stat. § 119B.095, subd. 1(b) and is therefore a schedule reporter under Minn. R. 3400.0020, subp. 38c, must have care reduced or suspended based on their verified activity schedule but may maintain eligibility until their redetermination. At redetermination, to maintain eligibility a family must verify their participation in an authorized activity. To have care authorized, they must verify their current activity schedule. Families who still have an authorized activity but who are not currently scheduled in that activity must be determined eligible but must not have care authorized for an activity they are not participating in. The proposed language in this subpart clarifies how families on a temporary leave should be handled at redetermination. Minnesota's approach balances federal direction and program integrity to reasonably support continuity of care for children while ensuring that funds are being used to support parental authorized activities. Adding language about temporary breaks in activity at redetermination is necessary to reflect new policies and is reasonable because it does not create any

additional financial or administrative burdens on providers and families beyond what is imposed by statute.

Part 3400.0183 TERMINATION OF CHILD CARE ASSISTANCE.

Part 3400.0183, subpart 1. Proposed edits to item B are reasonable and necessary to clarify that a county or tribe must give a family notice as described under the proposed changes to Minn. R. 3400.0185, subp. 12 when child care assistance is being terminated due to a revised allocation from the child care fund. The addition of this language ensure families are given proper notice of their assistance ending.

Further proposed revisions are reasonable and necessary to provide clarity around the process and order of removing families from the basic sliding fee program, specifically surrounding the previous language of “last on, first off.” The intent of the language is to specify that the last family who had their CCAP eligibility approved is the first family to be removed from child care assistance due to a change in allocation and lack of funding. The proposed language clarifies that this includes a family receiving child care assistance for the first time, and also includes families who may have a history of child care assistance participation, but had a break in service, and were later reappraised with a new application. The language also specifies that the date used for this process is the date of the latest eligibility approval at *application* for all families; this specification is necessary to ensure the family’s latest eligibility approval date at redetermination is not used.

Other proposed changes remove language referencing reinstatement. For child care assistance processes, reinstatement typically means the family’s child care case is opened back to the date of closure. The process in item B is not the same as this programmatic understanding of reinstatement. Under item B, once funds become available, those families who were removed due to reduced funding are the first families to have their eligibility determined. If the family is eligible, they may be placed back on the basic sliding fee program prior to other families on the waiting list; however, once funds are available, the family is only able to receive basic sliding fee child care starting from the point they are determined eligible, and their eligibility is not reinstated back to when their case closed. Removing references to reinstatement in item B is necessary to create clarity.

Further proposed edits to item B are reasonable and necessary to clarify that eligibility for new applicants cannot be approved when families previously receiving assistance were terminated, replacing the current language which states that new applications cannot be accepted by the county or tribe. This change aligns with Minn. R. 3400.0035, subp. 2, which states that CCAP agencies must accept all signed and dated applications. This clarifying change ensures rule language is in alignment across chapter 3400.

Additional edits are discussed under general amendments one and three.

Part 3400.0183, subpart 2. Under the Child Care and Development Block Grant Act of 2014, Public Law Number 113 – 186, and the Federal Child Care and Development Fund, 45 C.F.R. § 98.21, the 12 month eligibility period was established to support a family’s continuous eligibility and provide for stable, consistent child care arrangements for children. Proposed changes in this subpart are reasonable and necessary to reflect these changes to federal law. During the time between eligibility determinations, there are limited reasons for terminating a family’s eligibility for child care assistance. Reasons for eligibility termination are noted in item B. When the family’s eligibility is redetermined, the family must meet the eligibility requirements in Minn. R. 3400.0180. If the family fails to meet eligibility requirements, the family’s eligibility must be terminated for the reasons in item C.

Part 3400.0183, subpart 5. Minn. Stat. § 256.98, subd. 8(b) provides that a family can be disqualified from receiving child care assistance due to fraud. The proposed addition of the word “family” to this

subpart is reasonable and necessary to clarify that this language is specific to families. The proposed addition of subpart 6 to part 3400.0183 sets the disqualification effective dates and is specific to child care providers.

Part 3400.0183, subpart 6. Minn. Stat. § 256.98, subd. 8(c) provides that a provider can be disqualified from receiving child care assistance due to fraud. This proposed subpart is reasonable and necessary to clarify the effective date of the provider disqualification. Similar language pertaining specifically to families exists in Minn. R. 3400.0183, subp. 5. The addition of this subpart clarifies similar provisions that exist for providers, and provides necessary guidance to CCAP agencies for determining a provider's disqualification effective date.

Part 3400.0185 NOTICE REQUIREMENTS.

Proposed changes revise part 3400.0195 to include all notice requirements, and reorganize the rule part so that it flows in more of a chronological order for child care assistance program processes. The changes and reorganization group related provisions together, making the entire chapter easier to use and understand. Due to numerous statutory changes enacted in response to the passage of the Child Care and Development Block Grant Act of 2014, Public Law Number 113-186 and the Federal Child Care and Development Fund, 45 C.F.R., the Department reviewed all notices received by families and child care providers. As a result of this review, the Department made updates to ensure that language in the notices accurately reflected policy, and that the notices include all elements required by statute and are written in plain language. Proposed changes to this rule part are reasonable and necessary to align with the recent changes to federal and state statutes, and reflect changes the Department has made to the notices themselves.

Part 3400.0185, subpart 1. Proposed changes repeal this subpart and move the content to Minn. R. 3400.0185, subp. 12.

Part 3400.0185, subpart 2. Proposed changes repeal this subpart and move the content to Minn. R. 3400.0185, subp. 13.

Part 3400.0185, subpart 3. Proposed changes repeal this subpart and move the content to Minn. R. 3400.0185, subp. 10.

Part 3400.0185, subpart 4. Proposed changes repeal this subpart and move the content to Minn. R. 3400.0185, subp. 11.

Part 3400.0185, subpart 6. This proposed subpart reflects content related to eligibility approval of the family that is currently found in Minn. R. 3400.0035, subp. 5. Current content in part 3400.0035, subp. 5 includes both eligibility approval and authorization of care, which is not an accurate reflection of what a family receives. A family's eligibility and authorization are often not a simultaneous process and are treated separately. A family may be determined eligible before a provider is selected and the type of provider selected, the provider's location, and the provider's availability determines much of the information that is included in an authorization. A family receives a separate notice for each function, so content in this subpart focuses specifically on the notice requirements for eligibility approval. While a CCAP agency must notify families of the hours of care authorized and the maximum rates that may be paid, it is not necessary for this information to be included in an approval notice. Notice of authorization is detailed in part 3400.0185, subp. 8. The content changes reflected in this proposed subpart are necessary and reasonable to reflect how the program is currently operationalized.

Other proposed changes to this subpart from the current language in part 3400.0035, subp. 5 are needed and reasonable to better align with related statutes. The revised language reflects the reporting

requirements for families during their 12-month eligibility period. Under Minn. Stat. § 256P.07, families are no longer required to report within 10 days all of the items currently identified in part 3400.0035, subp. 5. Due to changes to Minn. Stat. § 119B.03, subd. 9 in the 2019 legislative session, there is no longer a limit on how long a family may receive portability pool funding. Therefore, the proposed language for subpart 5 reasonably removes language referencing these two items.

Further restructuring of this subpart into several items improves clarity and readability and promotes more accurate implementation across CCAP agencies.

Part 3400.0185, subpart 7. This proposed subpart reflects content related to eligibility denial to the family that is currently found in Minn. R. 3400.0035, subp. 4. This subpart is necessary and reasonable because the content remains relatively unchanged, and restructuring this subpart into several items improves clarity and readability.

Part 3400.0185, subpart 8. This proposed subpart reflects content related to authorization of the family that is currently found in Minn. R. 3400.0035, subp. 5. Current content in part 3400.0035, subp. 5 includes both eligibility approval and authorization of care, which is not an accurate reflection of what a family receives. A family's eligibility and authorization are often not a simultaneous process and are treated separately. Previous content that was specific to authorization has also been expanded to include the number of absent days used in the calendar year and the family's copayment. These factors are reasonable as they assist a family in tracking the amount of paid absent days already used and the copayment amount they are responsible for, both of which have an impact on their overall benefit from the program. The addition of this subpart is reasonable and necessary because it reflects current practice and is the most efficient and timely way to notify families of their authorization. The proposed content also closely mirrors language in part 3400.0185, subp. 9, which addresses the authorization notice received by the provider.

Part 3400.0185, subpart 9. This proposed subpart reflects content related to giving notice to a provider that is currently found in Minn. R. 3400.0035, subp. 6. Content remains relatively unchanged with the exception of restructuring this subpart into several items to improve clarity and readability. Proposed new content also includes the addition of the amount of the family's copayment. Inclusion of the family's copayment is reasonable as the provider needs to know how much to collect from the family, as required under Minn. Stat. § 119B.12, subd. 2. This subpart as proposed is reasonable and necessary because it reflects current practice and is the most efficient and timely way to notify providers of their authorization.

Part 3400.0185, subpart 10. This proposed subpart reflects content related to giving notice to a family of an adverse action that is currently found in Minn. R. 3400.0185, subp. 3. Proposed new language is reasonable and necessary because it clarifies that an eligible provider, as defined under proposed Minn. R. 3400.0120, subp. 1, may receive reimbursement for documented eligible expenses if the family's adverse action is reversed and the eligible provider meets the billing requirements under Minn. Stat. § 119B.13, subd. 6, paragraphs (a) through (c). CCAP may only pay for care that has been authorized and may not reimburse families directly for incurred expenses. All payments must be made directly to the child care provider, with the exception of payments made to a parentally responsible individual when a provider cares for a child in the child's home under Minn. Stat. § 119B.09, subd. 10. Plain language edits result in no substantive changes to rule. Other edits are discussed under general amendment one.

Part 3400.0185, subpart 11. This proposed subpart reflects content related to notice to a child care provider of an adverse action to a family that is currently found in Minn. R. 3400.0185, subp. 4. This subpart is necessary and reasonable because the content remains relatively unchanged with the exception of a slight restructuring to improve clarity and readability. Other edits are discussed under

general amendment one.

Part 3400.0185, subpart 12. The proposed subpart reflects content related to giving notice to a family of termination of child care assistance that is currently found in Minn. R. 3400.0185, subp. 1. Proposed new language is necessary and reasonable because it clarifies that an eligible provider as defined under proposed Minn. R. 3400.0120, subp. 1 may receive reimbursement for documented eligible expenses if a family's termination is reversed and the eligible provider meets the billing requirements under Minn. Stat. § 119B.13, subd. 6, paragraphs (a) through (c). CCAP may only pay for care that has been authorized and may not reimburse families directly for incurred expenses. All payments must be made directly to the child care provider, with the exception of payments made to a parentally responsible individual when a provider care for a child in the child's home under Minn. Stat. § 119B.09, subd. 10.

Due to changes to Minn. Stat. § 119B.03, subd. 9 in the 2019 legislative session, there is no longer a limit on how long a family may receive portability pool funding. Therefore, this subpart as proposed removes specific language requiring a family to apply for benefits in a new county within 60 days. Plain language edits result in no substantive changes to rule. Other edits are discussed under general amendment one.

Part 3400.0185, subpart 13. This proposed subpart reflects content related to giving notice to a child care provider of termination of child care assistance that is currently found in Minn. R. 3400.0185, subp. 2. The proposed changes are reasonable and necessary to provide clarity and consistency. The proposed addition of notification time frames ensures that providers are given proper termination notice and aligns with other 15 day notice requirements used by CCAP. Item A specifies what information must be included in the termination notice. Proposed removal of language from item A, subitem (4) that addresses what *cannot* be included in a termination notice helps simplify the language and removes confusion.

Proposed changes to items A, subitem (4) and item B, subitem (4) provide clarity. Current language indicates payments will no longer be made effective on the date of termination. Under Minn. Stat. § 119B.13, subd. 6, if a provider has received an authorization, the provider may submit a bill within 60 days of the last date of service on the bill, or more than 60 days but less than one year if the provider shows good cause for the delay. While a CCAP agency must not pay for care provided *after* the termination date, proposed language clarifies that the CCAP agency may pay for care authorized and provided *before* the termination date. This is the same justification for proposing replacement of the term "payments" with "authorization" in item B, subitem (3).

Proposed changes to item D clarify that "imminent risk" is defined by each CCAP agency in their child care fund plan. Plain language edits result in no substantive changes to rule. The proposed addition of item E reflects a statutory change made during the 2019 legislative session. Minn. Stat. § 119B.161, subd. 2(c) governs the notice requirements to a family when a provider's payment is suspended or a provider's authorization is denied or revoked, and states that the notice sent to a family is effective on the date the notice is created. While it can be implied that this same notice requirement applies to providers, this is not explicitly stated in statute. To provide additional context and clarity, proposed item E specifies that the termination notice sent to the provider is also effective on the date the notice is created. Other edits are discussed under general amendment one.

Part 3400.0187 RECOUPMENT AND RECOVERY OF OVERPAYMENTS.

Part 3400.0187, subpart 1. The current language in this subpart is fully incorporated into Minn. Stat. § 119B.11, subd. 3, rendering this subpart duplicative and unnecessary, and therefore reasonable to repeal.

Part 3400.0187, subpart 1b. While current language in part 3400.0187 discusses recoupment and

recovery, it does not address the establishment of the overpayment. The proposed addition of this subpart is reasonable and necessary because it clarifies that overpayments apply to both providers and families and may be assessed by the Department or the CCAP agency. The establishment of an overpayment must include any amount that the family or provider was not eligible to receive, and must consider the dates over which those payments were received. The proposed language also reflects changes made during the 2021 legislative session to Minn. Stat. § 119B.11, subd. 2a(a) which prohibits the establishment or collection of overpayments designated solely as agency error and to Minn. Stat. § 119B.11, subd. 2a(h), which addresses the time period after which overpaid funds should not be collected (lookback period). This is a clarifying change that does not create new burdens or administrative costs for parties administering or receiving child care assistance.

Part 3400.0187, subpart 2. Proposed changes to this subpart are reasonable and necessary to align with statute. The Department proposes adding the term “commissioner” to this subpart because Minn. Stat. § 119B.125 also gives the commissioner authority to establish an overpayment claim and recoup or recover overpayments from child care providers. Proposed edits also include adding “entity” as a party who must be notified of an overpayment, as there are instances of provider overpayments for which the licensed or certified business under Minn. Stat. § 119B.011, subd. 19 is responsible for the overpayment. Additional edits are discussed under general amendment one.

Part 3400.0187, subpart 3. The proposed repeal of this subpart reflects changes to Minn. Stat. § 119B.025, subd. 3 that redefined redetermination timelines to establish twelve month continuous eligibility for families. CCAP agencies cannot redetermine a family’s eligibility when an overpayment has occurred because redeterminations cannot occur more frequently than every 12 months so it is necessary and reasonable to repeal the existing language. Revising language in this section is reasonable and necessary to reflect new policies and does not create any additional financial or administrative burdens on providers and families beyond what is imposed by statute.

Part 3400.0187, subpart 4. Proposed changes to this subpart are reasonable and necessary to align with statute. The Department proposes adding the term “commissioner” to this subpart because Minn. Stat. § 119B.11, subd. 2a(c) also gives the commissioner authority to establish an overpayment claim and recoup or recover overpayments from a family if part of an investigation conducted under Minn. Stat. § 245E.

Proposed language in items A, B, and C reflects changes made during the 2021 legislative session to Minn. Stat. § 119B.11, subd. 2a(a) which prohibit the establishment or collection of overpayments designated solely as agency error.

The proposed deletion of “subdivision 1” under item D is necessary so that all of Minn. Stat. § 256.98 is referenced. Currently, in addition to subdivision 1, subdivision 8 of § 256.98 also applies to item D. Referencing all of § 256.98 is reasonable to ensure that if other violations are added to the statute they will apply to item D without necessitating further revisions to the rule.

The proposed removal of language in this subpart is discussed under Minn. R. 3400.0187, subp. 3. Additional edits are discussed under general amendment one.

Part 3400.0187, subpart 6. Proposed changes to this subpart are reasonable and necessary to align with statute. The Department proposed adding the term “commissioner” to this subpart because Minn. Stat. § 119B.125 also gives the commissioner authority to establish an overpayment claim and recoup or recover overpayments from child care providers. Additional edits are discussed under general amendment one.

Proposed language in items A and B reflects changes made during the 2021 legislative session to Minn.

Stat. § 119B.11, subd. 2a(a) which prohibit the establishment or collection of overpayments designated solely as agency error.

The proposed deletion of “subdivision 1” under item C is necessary so that all of Minn. Stat. § 256.98 is referenced. Currently, in addition to subdivision 1, subdivision 8 of § 256.98 also applies to item C. Referencing all of § 256.98 is reasonable to ensure that if other violations are added to the statute they will apply to item C without necessitating further revisions to the rule.

Proposed language in items E and item F addresses what happens when CCAP agencies or the commissioner assess multiple overpayments against a provider. The CCAP agency that issued the payment to a provider is responsible for establishing and assessing any related overpayments. This is reasonable and necessary because it helps to ensure that recovered funds will go back to the specific county or tribe that initially paid the funds in the manner required by Minn. Stat. § 119B.11, subd. 3. Many child care providers receive child care assistance payments from multiple CCAP agencies. When multiple CCAP agencies assess an overpayment against a provider or the Department assesses overpayments for multiple counties and tribes for the same incident (for example, payment at the wrong rate), each payment the provider receives is recouped at the amount specified in items A to C. However, if a provider is assessed an overpayment across multiple CCAP agencies, the overpayment is recouped on all open overpayments at once, resulting in a higher recoupment amount than is specified in items A to C. For example, if three CCAP agencies assess three separate overpayments against the same provider for agency error of paying incorrect rates, under current rule language, the recoupment amount would be 30 percent (10 percent for each claim). The proposed addition of item F clarifies that the recoupment amount for the same incident should be ten percent, which is reasonable because it benefits the provider, and prevents recoupment of more than the allowed amount. Proposed language in item E further clarifies that if a provider is assessed overpayments for different incidents (for example, payment at the wrong rate at one point in time and failure to provide accurate information at a different point in time), the recoupment would be the amounts in items A to C simultaneously.

Part 3400.0200. Current language in rule is fully incorporated into Minn. Stat. § 119B.15 and Minn. Stat. § 119B.08, subdivision 2, rendering this rule language unnecessary and reasonable to repeal to avoid duplicate provisions.

Part 3400.0220. Current language in rule is fully incorporated into Minn. Stat. § 119B.11, subdivision 3 rendering this rule language unnecessary and reasonable to repeal to avoid duplicate provisions.

Part 3400.0230 RIGHT TO FAIR HEARING.

Part 3400.0230, subpart 3. Proposed updates to this subpart are reasonable and necessary to align with notice requirements to families and providers in part 3400.0185. If the outcome of an appeal necessitates an adverse action, the CCAP agency must send notice to the family and the provider 15 days before the adverse action takes effect. The adverse action would not necessarily occur on the date of the notice as this subpart currently states. Additionally, depending upon the appeal decision, the CCAP agency must determine if any overpayments should be assessed during the adverse action period.

Proposed language clarifies that an eligible provider as defined in proposed part 3400.0120, subp. 1 may receive reimbursement for documented eligible expenses if a family’s adverse action or termination is reversed and the eligible provider meets the billing requirements under Minn. Stat. § 119B.13, subd. 6, paragraphs (a) through (c). CCAP only pays for care that has been authorized and does not reimburse families directly for incurred expenses. All payments must be made directly to the child care provider, with the exception of payments made to a parentally responsible individual when a provider cares for a child in the child’s home under Minn. Stat. § 119B.09, subd. 10.

Additional edits are discussed under general amendments one and three.

Part 3400.0230, subpart 4. The proposed addition of this subpart is reasonable and necessary to reflect changes to Minn. Stat. § 119B.16 made in the 2019 legislative session that expand a provider’s ability to request a fair hearing. Current language in part 3400.0230 only allows families to continue receiving child care assistance pending an appeal. Proposed subpart 4 would also allow a provider to continue receiving child care assistance payments during the appeal, but results in their payments being reduced.

On or after February 26, 2021, a provider who requests a hearing prior to the effective date of the adverse action may continue receiving child care assistance pending appeal, except when: (1) the provider is appealing the assignment or responsibility, amount, or recovery of an overpayment because recoupment cannot be stopped pending an appeal; (2) the fair hearing is stayed pending the outcomes of a licensing appeal; or (3) the adverse action entitles the provider to an administrative review. In these situations, the provider’s ability to continue receiving benefits pending appeal is addressed in proposed subpart 5 of this part.

Proposed subpart 4 also clarifies that if on appeal the commissioner determined that care should not have been terminated or reduced, the provider must re-register as required under Minn. R. 3400.0120 in order to receive child care assistance again. This is consistent with Minn. Stat. § 119B.125, subd. 1, which requires a provider to be registered before the CCAP agency can authorize payments for care provided.

Part 3400.0230, subpart 5. The proposed addition of this subpart is reasonable and necessary to reflect changes to Minn. Stat. § 119B.16 made in the 2019 legislative session that allow a provider to request an administrative review effective on or after February 26, 2021. Proposed language clarifies that a provider cannot receive payment pending an administrative review when payments are stopped for suspected fraud. Proposed language also clarifies that if the Department determines there is good cause under Minn. Stat. § 119B.161, subd. 4 to lift the payment hold, the provider must re-register as required under Minn. R. 3400.0120 in order to receive child care assistance again. This is consistent with Minn. Stat. § 119B.125, subd. 1, which requires a provider to be registered before the CCAP agency can authorize payments for care provided.

Part 3400.0235 AT-HOME INFANT CHILD CARE PROGRAM.

The Department proposes the repeal of part 3400.0235 in its entirety. Minn. Stat. § 119B.035 includes the At-Home Infant Child Care (AHIC) program, but funding for the program ended July 1, 2007 and it has not been funded since. Due to other statutory and overall procedural and system changes to CCAP, the current rule language regarding AHIC is no longer relevant and cannot be implemented. Therefore, it is reasonable and necessary to repeal this rule part at this time. In the event AHIC is funded in the future, the Department will consider revised guidance and rule language as necessary to operationalize the program.

Regulatory analysis

A. Description of the classes of persons who probably will be affected by the proposed rule, including classes that will bear the costs of the proposed rule and classes that will benefit from the proposed rule.

Local governments, families receiving child care assistance, and child care providers will overall benefit from the proposed rules.

The proposed rules will benefit the Department, and county agencies, tribal agencies and workers

that administer the Child Care Assistance Program by aligning Minnesota Rules, chapter 3400 with changes in statute, clarifying procedures and policies applicable to the program, and revising rule language to be more inclusive or more responsive to potential changes in statute. The current rules do not reflect changes over the last ten years which have:

- Aligned income definitions across public assistance programs,
- Rebalanced program priorities between work support and child development,
- Required states to establish health and safety requirements and monitoring structures for any child care provider receiving payments from the Child Care Assistance Program, and
- Incorporated additional program integrity measures.

Because current rules do not reflect these programmatic changes in state and federal law, it is difficult for CCAP agencies to determine which provisions of rule are still valid and how they align with new laws. Amending the rules to remove obsolete language and clarify existing provisions will make it easier for CCAP agencies to administer the laws governing CCAP. For example, proposed rules reflect changes to Minn. Stat. § 119B.09, which removed time limits for portability pool funding for families who move between counties with basic sliding fee waiting list (see proposed rule parts 3400.0035, subp. 1a and 3400.0060, subp. 9). The proposed rules also add content previously absent from rule on transition year extension (see proposed rule part 3400.0090, subp. 10) and reflect changes to Minn. Stat. § 119B.011 that shortened the period of time in which a family must receive MFIP or DWP to qualify for transition year child care assistance (see proposed rule part 3400.0090, subp. 2). Clarifying policy will ensure more consistent program administration for families across the state.

Families eligible for or using the Child Care Assistance Program will benefit from the proposed rules. The proposed rule changes reflect statutory changes that significantly reduce the circumstances under which a family's benefit level is able to change during their twelve month eligibility period. Other specific examples of how families will benefit from the proposed rule include:

- Expanding allowable deducted health insurance expenses to include vision insurance premiums (see proposed rule part 3400.0170, subp. 6a);
- Consistent authorization of care for students, regardless of the student's part-time or full-time status (see proposed rule part 3400.0040, subp. 10);
- Allowing authorizations for students receiving benefits from MFIP to be based on the student's employment plan, which may include additional hours that differ from authorization standards (see proposed rule part 3400.0040, subp. 10); and
- Differentiating between what verifications are needed to determine eligibility versus authorize care, and outlining which optional verifications a family is able to submit that may result in a greater CCAP benefit (see proposed rule parts 3400.0040, subp. 3 and 3400.0180, subp. 3).

Child care providers will also benefit from the proposed rule. In addition to bringing rules into alignment with statute, a notable benefit in the proposed rules allow a child care provider to choose which days the provider may take as a paid cultural and religious holiday, and removes the requirement that the days be only state or federal holidays. This proposed change provides more flexibility for providers to use the ten paid holidays in ways that are more in line with their cultural and religious beliefs (see proposed rule part 3400.0110, subp. 9). Additionally, proposed rules pertaining to certified license exempt centers allow payment to an alternative location operated by the same entity on a short-term basis when a child's primary certified license exempt site is not open, most commonly on school release days. The proposed rules avoid complicated, short-term

authorization changes that are burdensome on providers, families, and CCAP agencies (see proposed rule part 3400.0110, subp. 12).

B. The probable costs to the agency and to any other agency of the implementation and enforcement of the proposed rule and any anticipated effect on state revenues.

As a result of the proposed rules, the Department plans to update needed forms and the CCAP policy manual which are posted on the Department's public website. The work necessary to publish these documents will be performed during normal work hours and will not produce any additional staff expense. Additionally, any needed training for workers who administer CCAP to support implementation of the proposed rule will be folded into existing worker training conducted yearly by the Department throughout the state, and would not be a specific expense attributed to the proposed rules. Most of the rule provisions simplify codify existing policies that were funded by statutory allocations and overall, the rules do not impose new administrative burdens on program staff.

Some changes, such as the proposed clarification to not require families to submit verifications during a preliminary determination of eligibility prior to being added to the Basic Sliding Fee waiting list (see proposed rule part 3400.0065, subp. 1), could reduce costs for local agencies related to case processing and waiting list management, in addition to being a more family-friendly reform. Additionally, aligning medical professionals qualified to determine when a parent is unable to care with the professionals who are able to determine a schedule reporter's medical leave of absence reduces verification and documentation burdens, as well as administrative oversight (see proposed rule parts 3400.0040, subp. 5 and 3400.0110, subp. 10).

Costs for other policies, such as the changes to authorization methodology for part-time students (see proposed rules part 3400.0040, subp. 10) are harder to gauge because there may be an increased cost to state revenues due to families receiving more service, but simplifying the program may reduce administrative costs for local agencies. Further, the proposed rule adds a processing timeframe of ten calendar days from when the CCAP agency receives a family's redetermination (see proposed rules part 3400.0180, subp. 2). In addition to benefiting families by preventing unnecessary delays in case actions, this timeframe would also help CCAP agencies to ensure timely case action, which lessens administrative burden and aids CCAP agencies in managing and prioritizing workload.

Local agencies will incur costs related to new federal provisions enacted through rule primarily in proposed rule part 3400.0120. Specifically, local agencies have had the responsibility of performing annual monitoring visits using the protocol developed by the department under the advisement of local agency staff since October 1, 2018 (see proposed rule part 3400.0120, subp. 9). The cost involved varies by agency based on internal policies and the number of legal nonlicensed child care providers that care for unrelated children in their area. However, because annual monitoring visits are a federal requirement, any costs incurred by local agencies are not attributed to the proposed rules. In addition, a greater regulatory burden on legal nonlicensed providers may result in fewer legal nonlicensed providers being willing to serve families whose child care expenses are reimbursed by child care assistance. These new federal provisions could result in more families selecting higher-cost licensed providers and higher program costs which will impact state revenues.

The primary group who will be financially impacted by new federal provisions enacted through rules are legal nonlicensed child care providers who are reimbursed by the Child Care Assistance Program. The Child Care and Development Block Grant Act of 2014, Public Law Number 113-186 and the Federal Child Care and Development Fund, 45 C.F.R. § 98.41 requires states to ensure all providers

who receive payments from the Child Care and Development Fund are providing healthy and safe child care environments by establishing health and safety standards in twelve topic areas, training child care providers and staff in the topic areas, and annually monitoring any program that serves unrelated children for compliance with established standards. Minnesota statutes do not prohibit or mandate the imposition of these federal requirements on legal nonlicensed providers. However, Minn. Stat. § 119B.125, subd. 1 requires the Department to establish requirements necessary to authorize providers, and under this directive the Department began requiring legal nonlicensed providers to comply with the federal standards before or on October 1, 2018. To offset costs, the Department has invested federal CCDF grant funds to offer free training to these providers. Again, because these requirements are necessitated by federal regulations, any costs incurred by legal nonlicensed child care providers are not attributed to the proposed rules.

C. A determination of whether there are less costly methods or less intrusive methods for achieving the purpose of the proposed rule.

The Department has not determined any less costly or intrusive methods. Changes must be made to rule to align with federal and state statutory changes. Not revising rule is not a viable option for cost savings and there was little discretion for the Department to consider alternative methods or language. Because rule must be revised, and the proposed revisions align with federal regulations, state statutes, and current practice without imposing additional costs on affected parties, there is not a less costly or intrusive method to achieve the purpose of the proposed rule.

Several provisions could have been incorporated into state statute at the option of the legislature including health and safety requirements for legal nonlicensed providers primarily in part 3400.0120 and establishing an asset limit declaration for families in part 3400.0040, subp. 5b. However, because the legislature failed to act and the Department has authority to (1) establish authorization requirements for providers under Minn. Stat. § 119B.125, subd. 1 and (2) administer the Child Care and Development Block Grant under Minn. Stat. § 119B.06, subd. 1, codifying these requirements in rule is both reasonable and necessary.

In considering options to implement required federal health and safety provisions, the Department opted to move forward with the least amount of additional requirements to comply with the new federal law. Overall, this approach was the least costly and intrusive method of compliance. For example, in the proposed rules the Department exempted legal nonlicensed providers who serve only related children from most of the health and safety provisions and added minimal new pre-service training requirements for all legal nonlicensed providers beyond those already required by state law.

However, in the proposed rules the Department opted to require training in preventing abusive head trauma for any legal nonlicensed provider serving children under five years old and training in preventing sudden unexpected infant death for any legal nonlicensed provider serving children under one year old. Although the federal law does not require the completion of any specific training pre-service, these trainings, in addition to already required training in Cardiopulmonary Resuscitation (CPR) and First Aid, seemed essential to child safety, and reasonable to require before a legal nonlicensed provider could be paid from the child care fund. It would be somewhat less costly and intrusive to only require legal nonlicensed providers who serve only unrelated children to take these trainings within ninety days of the start of care, but the Department did not believe that the reduction in cost and intrusion was justified when weighed against the health and safety of young children.

D. A description of any alternative methods for achieving the purpose of the proposed rule that were seriously considered by the Agency and the reasons why they were rejected in favor of the proposed rule.

See response to C.

E. The probable costs of complying with the proposed rule, including the portion of the total costs that will be borne by identifiable categories of affected parties, such as separate classes of governmental units, businesses, or individuals.

See response to B.

F. The probable costs or consequences of not adopting the proposed rule, including those costs or consequences borne by identifiable categories of affected parties, such as separate classes of government units, businesses, or individuals.

The most substantial probable cost of not adopting the proposed rules, particularly the provisions to comply with the Child Care and Development Block Grant Act of 2014, Public Law Number 113-186 and the Federal Child Care and Development Fund, 45 C.F.R. § 98.41, is a federal penalty of up to four percent of the CCDF Discretionary funds under 45 C.F.R. § 98.62(b)(2)(i) and up to five percent of the CCDF Discretionary funds under 45 C.F.R. § 98.92(b)(4)(i). The federal Office of Child Care notified the Department's Commissioner in April 2019 that failure to fully comply with all federal requirements would result in a financial penalty.

Changes proposed to align with changes in state statute and procedural clarifications may not have specific monetary costs, but will continue to result in confusion for CCAP agency staff administering the program and inconsistently applied policy statewide. Further, when language is unclear or conflicting, it can result in inconsistent appeal decisions leading to higher administrative and legal costs both for CCAP agencies and the state appeals system. Families receiving child care assistance and providers reimbursed by the program also may be confused about which rules are still valid if the proposed rules are not adopted.

G. An assessment of any differences between the proposed rule and existing federal regulations and a specific analysis of the need for and reasonableness of each difference.

One of the motivating factors in proposing the rule revisions is to align Child Care Assistance Program rules and existing federal regulations. Should the proposed rule be adopted, it will be substantially more aligned with existing federal regulations, and any differences between the current rule and existing federal regulations will be eliminated.

H. An assessment of the cumulative effect of the rule with other federal and state regulations related to the specific purpose of the rule.

Other state and federal regulations related to the specific purpose of these amendment are:

1. Child Care and Development Block Grant Act of 2014, Public Law Number 113-186, which reauthorized the law governing the Child Care and Development Fund program.
2. Federal Child Care and Development Fund, 45 C.F.R. § 98, which provides clarity to states on how to implement the Child Care and Development Fund program and administer the program in a way that best meets the needs of children, child care providers, and families.
3. Minnesota Statutes, chapter 119B, which sets out the standards for the administration and implementation of the Child Care Assistance Program
4. Minnesota Statutes, chapter 256P, which aligns income policies across multiple public

assistance programs, including the Child Care Assistance Program.

5. Minnesota Statutes, chapter 245E, which sets out the standards for Child Care Assistance Program fraud investigations.
6. Minnesota Statutes, chapters 245A and 245H, and Minnesota Rules, parts 9502 and 9503, which set out the standards for licensing and certifying child care providers operating in Minnesota.
7. Minnesota Statutes, sections 256.045 – 245.046, which set out the standards for Child Care Assistance Program appeals.
8. Minnesota Statutes, section 256.98, which describes the acts or omissions that result in wrongfully obtaining child care assistance and subsequent program disqualification.

The cumulative effect of the proposed amendments with these state and federal regulations will be to ensure that the Department is administering CCAP in an efficient, uniform, and clear manner. As noted in other parts of this SONAR and explored in depth in the Rule Analysis, the purpose of amending the CCAP rules is to better align them with these federal and state regulations, and to ensure that federal and state requirements are carried out in a uniform manner. The Department intends for the cumulative effect of the amendments with other federal and state regulations to be positive and manageable for the people and organizations that are regulated by or carry out these rules.

Equity Review

The Department completed an equity review of the proposed revisions to chapter 3400. Overall, the proposed rule amendments have a positive impact on families, providers and CCAP agencies. The proposed amendments:

- Reduce negative impacts on all families and children who receive CCAP, who are predominately children of color, specifically African-American, Asian/Pacific Islander, Hispanic/Latino, multiple races, and American Indian children.
- Add clarification to policy to support more consistent program administration for all families and child care providers across the state.

Those items that may be viewed as having a negative impact are either currently federally or statutorily required or are intended to strengthen and support the intent of current statutory requirements. These items include program integrity measures. Generally, program integrity measures increase accountability and ensure funds are spent with financial and administrative integrity. This benefits all families and children on the program, specifically those children that are most vulnerable, and child care providers who receive CCAP.

Additional Notice Plan

Minnesota Statutes, section 14.131, requires that an agency include in its SONAR a description of its efforts to provide additional notification to persons or classes of persons who may be affected by the proposed rule or must explain why these efforts were not made.

Our Additional Notice Plan consists of:

- Sending notice to people registered with the Department to receive notices of rulemaking;
- Notifying electronically via the Department of Human Services Child Care Assistance Program

provider listserv that includes licensed child care centers, licensed family child care providers and licensed exempt centers across the state;

- Notifying via email all administrative and client access contacts (lead staff that have contact with families receiving CCAP) across the 80 county, tribal, and subcontracted agencies who administer CCAP;
- Notifying via U.S. Mail all legal nonlicensed child care providers registered to receive child care assistance;
- Notifying via email identified stakeholders consisting of state agencies, child care provider professional associations, non-profits, and those who expressed interest in the rule revision process;
- Notifying via email the CCAP Rule Revision Advisory Committee members;
- Notifying via email stakeholders who are connected with families and providers, and ask them to help give the information to families;
- Posting draft versions of rule and all advisory committee meeting materials on the Department's rule revision webpage; and
- Posting notice and other supporting documents on the Department's rulemaking docket webpage.

Minnesota Rules, part 1400.2060, subpart 2, item B, also requires an explanation of why we believe our Additional Notice Plan complies with Minnesota Statutes, section 14.22, i.e., why our Additional Notice Plan constitutes reasonable efforts to notify persons or classes of persons who might be significantly affected by the rules. We believe our Additional Notice Plan complies with the statute because our notification efforts are tailored to those who will be significantly affected by the rules: families receiving child care assistance and child care providers, as well as the county agencies, tribal agencies, and workers that administer CCAP. We will reach the identified people and organizations by communicating the rule changes to them via the communication channels that the Department uses regularly to communicate with these groups. The Department has also already successfully connected and engaged with the people and groups significantly affected by the rule using these same efforts earlier in rulemaking process, while developing the rules and SONAR.

Child care providers registered to receive CCAP

The Department maintains an electronic listserv of child care providers registered to receive child care assistance. The purpose of the listserv is to keep child care providers informed about issues and policies changes related to CCAP. Child care providers supply their email address when they register or renew their registration to receive CCAP payments, and are subsequently added to the listserv. Additionally, other parties interested in CCAP policies that impact child care providers are able to sign up for the listserv, such as county and tribal staff or child care provider professional organizations. The listserv debuted in January 2019 and currently has 7,790 subscribers.¹⁶

¹⁶ Prior to the existence of the child care provider listserv, the Department utilized an electronic listserv of all child care centers, family child care providers, and exempt centers that are licensed or certified by the Department. This listserv, which reached 10,556 individuals, was used in earlier efforts to connect with providers to inform them of rulemaking efforts. The intent of this listserv is to reach all licensed and certified providers; however, the Department has received feedback from providers requesting this listserv only be used in matters specifically related to licensing and certification. Therefore, the Department will be using the listserv of child care providers to inform them of rulemaking efforts.

Legal nonlicensed child care providers

The Department maintains U.S. Mail contact information for legal nonlicensed child care providers registered with the Department to receive child care assistance. Some legal nonlicensed child care providers may be signed up for the child care provider listserv; however, legal nonlicensed child care providers are often grandparents, neighbors, or others who are not connected electronically. Therefore, the Department typically reaches out to this group via U.S. Mail. The Department has already used this channel of communication to reach legal nonlicensed child care providers in its earlier efforts to connect with them through the course of the rulemaking process. The Department has contact information for all 161¹⁷ legal nonlicensed child care providers who are registered to receive child care assistance.

State agencies, child care provider professional associations, non-profits, and those who expressed interest in the rule revision process

The Department will contact the following organizations and agencies electronically:

- Center for Inclusive Child Care
- Child Care Aware of Minnesota
- Children's Defense Fund
- Elders for Infants
- DHS Child Care Licensing
- DHS Child Development Services (CDS)
- DHS Cultural and Ethnic Communities Leadership Council (CECLC)
- DHS Early Childhood Mental Health
- DHS Early Childhood Systems Reform
- DHS Economic Assistance and Employment Supports Division (EAESD)
- DHS Instructional Design Training Team (IDTT)
- DHS MEC² Help Desk
- DHS Office of Inspector General (OIG)
- First Children's Finance
- Isaiah: Kids Count on Us
- Minnesota Association for Child Care Professionals (MACCP)
- Minnesota Association of County Social Service Administrators (MACSSA)
- Minnesota Association for the Education of Young Children (MNAEYC)/Minnesota School-Age Care Alliance (MNSACA)
- Minnesota Child Care Association (MCCA)
- Minnesota Child Care Provider Information Network (MCPINN)
- Minnesota's Children's Cabinet
- Minnesota Department of Education (MDE) Early Learning Services
- Minnesota Department of Health (MDH) Community and Family Health Division
- Minnesota Head Start Association (MHSA)
- Minnesota Interagency Council on Homelessness
- Minnesota Tribal Resources for Early Childhood Care (MNTRECC)
- Northside Achievement Zone (NAZ)
- Prevent Child Abuse Minnesota (PCAM)
- State Advisory Council on Early Childhood Education and Care

¹⁷ This number is current as of March 1, 2022.

- Think Small
- University of Minnesota's Center for Early Education and Development (CEED)
- Voices and Choices
- Way to Grow

Stakeholders who are connected with families and providers

The Department will contact the following stakeholders electronically and ask them to help give the notice and rulemaking information to families:

- Children's Defense Fund
- Isaiah: Kids Count on Us
- Minnesota Child Care Association (MCCA)
- Minnesota Head Start Association (MHSA)
- Voices and Choices

CCAP Rule Revision Advisory Committee

In conjunction with the publication of the Notice of Request for Comments, the Department emailed an invitation on September 24, 2018 to identified contacts at over 30 community and state agencies requesting participation in the CCAP Rule Revision Advisory Committee. The Department also emailed an invitation to participate on September 26, 2018 to all licensed child care centers, licensed family child care providers and licensed exempt centers statewide, for a total of 10,556 individuals. Additionally, the Department sent a mailing via U.S. Mail on September 26, 2018 to all 474¹⁸ legal nonlicensed child care providers who were registered to receive child care assistance at that time. Due to the large response and initial interest in serving on the CCAP Rule Revision Advisory Committee, all interested persons were invited to attend the rule revision kick-off meeting held on October 30, 2018. This meeting, held in person at the Minnesota Department of Human Services in St. Paul and with a virtual option, provided participants with:

- An overview of the rule revision process;
- Details on the child care assistance rule amendment topics; and
- Options on how to give input on the rule.

Following the October 30, 2018 meeting, stakeholders were asked to indicate their interest in serving as a member of the CCAP Rule Revision Advisory Committee. A total of 60 stakeholders, representing a variety of sectors from different geographic areas of the state, expressed interest in continuing to serve as a committee member. Committee members represented the following entities:

- 32 child care providers (26 licensed centers, 5 certified license exempt centers, and 1 licensed family);
- 6 community agencies;
- 10 CCAP agencies;
- 11 state agencies; and
- 1 parent.

The Department has been communicating with the Rule Revision Advisory Committee via email throughout the course of this rulemaking project. Accordingly, the Department will email notice to the

¹⁸ This was the number of legal nonlicensed child care providers who were registered on September 26, 2018.

Committee members, as well as post to the Department’s webpage specifically dedicated to the CCAP rule revision and the Department’s general Rulemaking Docket webpage.

With the above information the Department believes that it has demonstrated compliance with Minnesota Statutes, section 14.22, and Minnesota Rules, part 1400.2060, subpart 2, item B.

Performance-based rules

Minnesota Statutes, section 14.002, requires state agencies, whenever feasible, to develop rules that are not overly prescriptive and inflexible, and rules that emphasize achievement of the Department’s regulatory objectives while allowing maximum flexibility to regulated parties and to the Department in meeting those objectives.

There were few opportunities for performance-based rules in this proceeding because many of the proposed amendments to the rules were to bring rule into conformance with statutory changes at the state and federal level. For these changes, the Department had little discretion to consider alternative methods or language that would give flexibility to regulated parties. When there was opportunity to choose between options, the Department typically opted for greater flexibility for families to comport with the family-friendly focus of the Child Care and Development Block Grant Act of 2014, Public Law Number 113-186 and the Federal Child Care and Development Fund, 45 C.F.R. § 98.41. For example:

- In proposed rule part 3400.0180, subp. 1 the Department establishes a uniform definition for the end of the school year. This definition would provide consistency to CCAP agencies in determining when the end of the school year is and increase the flexibility for student parent families to continue eligibility.
- In proposed rule part 3400.0040, subp. 17, a CCAP agency must place a family eligible under Minn. Stat. § 119B.025, subd. 1(c) in temporarily ineligibility if the family does not submit all required verifications after three months, rather than terminating the family’s eligibility. This period of temporary ineligibility allows a family an additional 90 days to submit required verifications, instead of placing additional burden on the family by requiring a new application for CCAP.
- In proposed rule part 3400.0040, subp. 15a, the Department allows job search activities at application and redetermination, which is not required under the Federal Child Care and Development Fund, 45 C.F.R. § 98.21(a)(2)(iii), but done at the Department’s option to further support families eligible for CCAP.

Consult with MMB on local government impact

As required by Minnesota Statutes, section 14.131, the Department will consult with Minnesota Management and Budget (MMB).

We will do this by sending MMB copies of the documents that we send to the Governor’s Office for review and approval on the same day we send them to the Governor’s office. We will do this before the Department publishes the Notice of Intent to Adopt. The documents will include: the Governor’s Office Proposed Rule and SONAR Form; the proposed rules; and the SONAR. The Department will submit a copy of the cover correspondence and any response received from Minnesota Management and Budget to OAH at the hearing or with the documents it submits for ALJ review.

The Department considered the cost to local governments in section (B) of the Regulatory Analysis.

Impact on local government ordinances and rules

Minnesota Statutes, section 14.128, subdivision 1, requires an agency to make a determination of whether a proposed rule will require a local government to adopt or amend any ordinances or other regulation in order to comply with the rule. The Department has determined that the proposed amendments will not have any effect on local ordinances or regulations.

Proposed rules are needed to implement federal regulations, including federal health and safety provisions for child care providers, bring Minnesota Rules, chapter 3400 into alignment with changes in Minnesota statute, and clarify Child Care Assistance Program procedures and policies. Overall, the proposed rules do not impose any burden on local government to adopt or amend any new ordinance or regulation.

Costs of complying for small business or city

Minnesota Statutes, section 14.127, subdivisions 1 and 2, require an agency to “determine if the cost of complying with a proposed rule in the first year after the rule takes effect will exceed \$25,000 for any one business that has less than 50 full-time employees, or any one statutory or home rule charter city that has less than ten full-time employees.” The Department has determined that the cost of complying with the proposed rules in the first year after the rules take effect will not exceed \$25,000 for any small business or small city.

The Department has made this determination based on the probable cost of complying with the proposed rule, as described in the Regulatory Analysis section of this SONAR beginning on page 68. The proposed rules do not apply to small cities; therefore, these cities cannot incur any costs to comply with the proposed rules.

Further, the Department believes the proposed rules do not impose any new costs on small businesses. The Department considers child care centers, including licensed and certified license exempt centers, and family child care providers, to be small businesses and believes these provider types will not incur cost to comply with the proposed rules. Instead, the proposed amendments simply bring the rules into conformance with existing statutes and federal regulations, or add detail to procedures already required by statute. Consequently, any costs incurred by these child care providers are due to state statute and federal regulations, not the proposed rules.

As discussed on pages 70-71, the Department does recognize potential costs incurred by legal nonlicensed child care providers to comply with federal regulations; however, these costs are not due to the proposed rule. Further, the Department does not consider a legal nonlicensed child care provider to be a small business. A legal nonlicensed provider is a family member, friend or neighbor who is excluded from licensing requirements, is limited in the children they are able to care for, does not employ staff, and is not organized for profit.

While the Department does not consider there to be a cost to small businesses to comply with proposed rules, the Department does recognize that the proposed rules may result in a financial impact on some licensed and licensed exempt centers in the form of reduced child care assistance payments. This impact stems from language in Minn. Stat. § 119B.09, subd. 9, which limits a child care center to receiving 25 or fewer authorizations for children who are dependents of the center’s employees.

Minn. Stat. § 119B.09, subd. 9 went into effect on April 23, 2018. On that date, if a child care center had open authorizations for more than 25 employees’ children, those authorizations remained open, as long as the families remained eligible and the children remained authorized. Additionally, after

implementation, if children were authorized in error above the 25 child limit, CCAP agencies were instructed to not close any authorizations above the limit. These policies have resulted in some child care centers having more than 25 employees' children authorized, and in some instances, child care centers remaining over the 25 child limit well past the implementation date.

Proposed part 3400.0110, subp. 3c strengthens the statutory requirement by allowing a CCAP agency to terminate authorizations in excess of the 25 child limit, and to allow authorizations to close if a parent later becomes employed at the center where their child is authorized if this employment results in the center being over the 25 child limit. Child care centers have been subject to the statutory 25 child limit for over three years and at present, the vast majority of all child care centers are below the limit. There are no additional costs for a center to comply with this proposed rule. However, for those few child care centers over the 25 child limit at the time the rule is promulgated and for any authorizations approved over 25 at centers moving forward, there will be an impact on the provider's child care assistance payments when authorizations for any center employees' children over the 25 child limit are terminated.

Further, because Minn. Stat. § 119B.09, subd. 9 uses the term "center employee" but none of the relevant statutes contain a definition of the term, the Department provides a definition in proposed rule part 3400.0020, subp. 12c. The proposed definition is supported by federal regulations and aligns with which individuals require a background study for licensing purposes under Minn. Stat. ch. 245C. The proposed definition provides clarity and also aligns with the intent of the statutory requirement. There are no additional costs for a center to comply with this proposed rule part. However, the Department recognizes that there may be a financial impact on some child care providers in the form of reduced child care assistance payments if additional parents are considered employees under the proposed definition.

It is difficult to quantify the dollar amount of the potential financial impact of reduced child care assistance payments based on proposed language. The financial impact depends on several factors: the number of center employees' children a provider is currently authorized for over 25 that will no longer be reimbursed by the child care fund, how many parents the child care provider employs and in what capacity, and the provider's general business practices. Additionally, if a provider is unable to receive payment from the child care fund for some employees' children, the provider is still able to charge those families for the cost of care, resulting in the provider continuing to receive payment. Despite the difficulty to anticipate a dollar amount, the Department has determined that the financial impact to any provider to comply with the proposed rules will not exceed \$25,000.

Differences with federal and other state standards

As noted previously, one of the motivating factors in proposing the rule revisions was to align Child Care Assistance Program rules with existing federal regulations and with other state standards. As explained throughout the rule-by-rule analysis, should the proposed rules be adopted, they will be substantially more aligned with existing federal regulations and other state standards.

Authors, witnesses and SONAR exhibits

Witnesses

If these rules go to a public hearing, the Department anticipates having the following witnesses testify in support of the need for and reasonableness of the rules:

- 1) Members of the advisory committee and rule workgroups to testify about the development of the proposed rules.
- 2) Staff from counties, tribes, and subcontracted agencies who administer CCAP to testify about the implementation of proposed rules.
- 3) Laurie Possin, Manager, Child Care Assistance Program, Department of Human Services, to testify about other substantive issues proposed in the rules.
- 4) Vanessa Vogl, Rulemaking Attorney, Department of Human Services, to introduce the required jurisdictional documents into the record and testify on any Minnesota Administrative Procedure Act process questions. Vanessa also assisted with writing this SONAR.

Authors

- 1) Andrea Lentini, Policy Analyst, Child Care Assistance Program, Department of Human Services. Andrea is the subject matter expert and author of this SONAR.

SONAR exhibits

- 1) This SONAR does not contain any exhibits.

Conclusion

In this SONAR, the Department has established the need for and the reasonableness of each of the proposed amendments to Minnesota Rules, chapter 3400. The Department has provided the necessary notice and in this SONAR documented its compliance with all applicable administrative rulemaking requirements of Minnesota statute and rules.

Based on the forgoing, the proposed amendments are both needed and reasonable.



Amy Akbay, Chief General Counsel
Department of Human Services

March 28, 2022

Date

1.1 **Department of Human Services**

1.2 **Proposed Permanent Rules Relating to Child Care Assistance Program**

1.3 **3400.0010 PURPOSE AND APPLICABILITY.**

1.4 Subpart 1. **Purpose.** The purpose of this chapter is to:

1.5 A. govern the administration of the child care fund, to reduce, according to a
1.6 sliding fee schedule, the costs of child care services for eligible families to enable them to
1.7 seek or retain employment or to participate in education or training programs to obtain
1.8 employment; and to

1.9 B. provide eligible families with ~~the~~ financial resources to find and afford quality
1.10 child care ~~for their children~~ supporting their children's development, school readiness, and
1.11 well-being. This chapter ~~sets~~ establishes child care assistance eligibility and child care
1.12 assistance authorization standards for recipients participants and registered child care
1.13 providers and administrative requirements for child care assistance program (CCAP) agencies
1.14 administering the child care funds fund.

1.15 Subp. 2. **Applicability.** This chapter applies to all ~~county and human service boards~~
1.16 CCAP agencies providing child care assistance services to eligible families, registered child
1.17 care providers, and child care providers seeking to register for child care assistance under
1.18 Minnesota Statutes, sections 119B.011 to 119B.16 chapter 119B.

1.19 **3400.0020 DEFINITIONS.**

1.20 Subpart 1. **Scope.** ~~As used~~ In parts 3400.0010 to 3400.0230, the terms defined in
1.21 Minnesota Statutes, section 119B.011, have the meanings given them in that section, and
1.22 the following terms have the meanings given them in this part.

1.23 Subp. 1a. 12-month eligibility period. "12-month eligibility period" means the time
1.24 period after a CCAP agency has approved a family's application or completed a
1.25 redetermination of a family's eligibility until the family's next eligibility determination.

2.1 Subp. 1b. **12-month reporter.** "12-month reporter" means a family that is not a
2.2 schedule reporter.

2.3 Subp. 1c. **15-day adverse action notice.** "15-day adverse action notice" means the
2.4 written notification that a family or child care provider receives 15 days in advance of a
2.5 negative action impacting the family's or child care provider's eligibility or authorization.

2.6 Subp. 1d. **A setting subject to public education standards.** "A setting subject to
2.7 public education standards" means an education program that meets the state's expectations
2.8 for student learning in K-12 public schools, such as Head Start programs and prekindergarten
2.9 or school-age care programs.

2.10 Subp. 1e. **Activity schedule.** "Activity schedule" means the days and times when a
2.11 parentally responsible individual works, attends school, or participates in an authorized
2.12 activity allowed by Minnesota Statutes, section 119B.05, subdivision 1. When a parentally
2.13 responsible individual has a job with a flexible schedule, activity schedule means the typical
2.14 days and times that the parentally responsible individual works or the possible days and
2.15 times when the parentally responsible individual may work.

2.16 Subp. 2. [Repealed, 26 SR 253]

2.17 Subp. 3. [Repealed, 26 SR 253]

2.18 Subp. 4. [See repealer.]

2.19 Subp. 5. **Administrative expenses.** "Administrative expenses" means costs associated
2.20 with the direct services administration of the child care fund. Administrative expenses
2.21 include:

2.22 A. salaries, wages, and related payroll expenses ~~incurred~~ that a CCAP agency
2.23 incurs in the administration of the child care fund, including direct personnel costs, expenses
2.24 for general administration and supervision, and expenses for secretarial, clerical, accounting,
2.25 and other support services;

3.1 [For text of items B to E, see Minnesota Rules]

3.2 Subp. 6. [Repealed, 26 SR 253]

3.3 Subp. 7. [Repealed, 26 SR 253]

3.4 Subp. 8. **Allocation.** "Allocation" means the share of the total state appropriation of
3.5 money from the child care funds fund that a county or Tribe may earn and ~~be reimbursed~~
3.6 ~~for in~~ use during an allocation period. The commissioner may raise or lower a county's or
3.7 Tribe's allocation ~~may be raised or lowered~~ during the allocation period when the
3.8 commissioner redistributes unexpended or unencumbered allocations or when additional
3.9 ~~funds~~ money become available.

3.10 Subp. 9. [Repealed, 26 SR 253]

3.11 Subp. 9a. [Renumbered subp 11a]

3.12 Subp. 9a. **Authorized activity.** "Authorized activity" means a parentally responsible
3.13 individual is seeking employment or participating in an employment, education, or training
3.14 program as allowed by Minnesota Statutes, section 119B.10, or an MFIP family participating
3.15 in an authorized activity as allowed by Minnesota Statutes, section 119B.05, subdivision
3.16 1.

3.17 Subp. 10. [Repealed, 26 SR 253]

3.18 Subp. 10a. **Authorized hours.** "Authorized hours" means the number of hours in a
3.19 service period, not to exceed the maximum hour limit established in Minnesota Statutes,
3.20 section 119B.09, subdivision 6, ~~that may be paid for~~ payable for a child from the child care
3.21 ~~for a child~~ fund.

3.22 Subp. 10b. **Back-up child care provider.** "Back-up child care provider" means a
3.23 child care provider that meets the criteria of part 3400.0120, subpart 1, and cares for a child
3.24 on a sporadic basis when the child's primary or secondary child care provider is unavailable.

4.1 Subp. 10c. **Certified license-exempt child care center.** "Certified license-exempt
4.2 child care center" has the meaning given in Minnesota Statutes, section 245H.01.

4.3 Subp. 11. [Repealed, 26 SR 253]

4.4 Subp. 9a. 11a. **Child in an at-risk population.** "Child in an at-risk population" means
4.5 a child with environmental or familial factors that create barriers to a the child's optimal
4.6 achievement. Factors include, but are not limited to, such as a federal or state disaster,
4.7 limited English proficiency in a family, a history of abuse or neglect, a determination that
4.8 the children are child is at risk of abuse or neglect, family violence, homelessness, the age
4.9 of the child's mother, the level of maternal education, mental illness, a developmental
4.10 disability, or parental chemical dependency, or a history of other substance abuse.

4.11 [For text of subpart 12, see Minnesota Rules]

4.12 Subp. 12a. **Child care assistance household.** "Child care assistance household" means
4.13 individuals living in the same home, including individuals who are temporarily absent from
4.14 the home, who are a family as defined by Minnesota Statutes, section 119B.011, subdivision
4.15 13.

4.16 Subp. 12b. **Child care assistance program.** "Child care assistance program" means
4.17 financial assistance for child care costs. The child care assistance program supports a
4.18 parentally responsible individual with a low income who is employed, engaged in a job
4.19 search, or engaged in education. The child care assistance program ensures that children of
4.20 parentally responsible individuals have access to child care and are prepared to enter school.

4.21 Subp. 12c. **Child care center employee.** "Child care center employee" means:

4.22 A. a person employed by a licensed or certified license-exempt child care center;

4.23 B. a person who is not employed by a licensed or certified license-exempt child
4.24 care center who has direct contact with children that the center serves and who has a

5.1 background study required by Minnesota Statutes, section 245C.03, subdivision 1, paragraph
5.2 (a), clause (3);

5.3 C. a person who is a contractor under Minnesota Statutes, section 245C.02,
5.4 subdivision 9; or

5.5 D. a person who is a child care staff member under Code of Federal Regulations,
5.6 title 45, section 98.43(a)(2)(ii).

5.7 Subp. 12d. **Commissioner.** "Commissioner" means the commissioner of the state
5.8 agency that supervises the child care assistance program.

5.9 Subp. 12e. **Copayment.** "Copayment" means the amount that a family must contribute
5.10 to child care costs as determined under Minnesota Statutes, section 119B.12.

5.11 Subp. 12f. **Child care assistance program agency or CCAP agency.** "Child care
5.12 assistance program agency" or "CCAP agency" means a county agency, Tribal agency, or
5.13 subcontracted agency designated by the county board or Tribal council to administer the
5.14 child care assistance program (CCAP).

5.15 Subp. 12g. **Department.** "Department" means the state agency that supervises the
5.16 child care assistance program.

5.17 Subp. 13. [Repealed, 26 SR 253]

5.18 Subp. 14. [Repealed, 26 SR 253]

5.19 Subp. 15. [Repealed, 26 SR 253]

5.20 Subp. 16. [Repealed, 26 SR 253]

5.21 Subp. 17. [Repealed, 26 SR 253]

5.22 *[For text of subpart 17a, see Minnesota Rules]*

6.1 Subp. 18. **Documentation.** "Documentation" means a written statement or record,
6.2 including an electronic record, that substantiates or validates an assertion made by a person
6.3 or an action taken by ~~an administering agency~~ a CCAP agency.

6.4 *[For text of subpart 18a, see Minnesota Rules]*

6.5 Subp. 19. [Repealed, 26 SR 253]

6.6 Subp. 20. **Eligible relative caregiver.** "Eligible relative caregiver" means a person
6.7 identified under Minnesota Statutes, section 256J.08, subdivision 11, (1) who is a caregiver
6.8 of a child receiving a MFIP child-only grant or (2) who is a caregiver receiving an MFIP
6.9 participant grant and the MFIP caregiver of a child. A person has the status of an eligible
6.10 relative caregiver for child care assistance if the person is a caregiver receiving assistance
6.11 under Minnesota Statutes, chapter 256J. After an eligible relative caregiver begins receiving
6.12 child care assistance, status as an the eligible relative caregiver continues through retains
6.13 eligible caregiver status for all child care assistance programs until there is a break in the
6.14 eligible relative caregiver's eligibility for child care assistance.

6.15 Subp. 20a. **Extended eligibility.** "Extended eligibility" means that a family continues
6.16 to be eligible for child care assistance for up to three months or until the family's
6.17 redetermination, whichever occurs first, after a parentally responsible individual experiences
6.18 a permanent end to the individual's only authorized activity or when another parentally
6.19 responsible individual moves into the household and is not participating in an authorized
6.20 activity. During a family's extended eligibility period, a CCAP agency must not reduce the
6.21 family's authorized amount of child care unless the family requests a reduction of the
6.22 authorized amount of child care.

6.23 Subp. 21. [Repealed, 26 SR 253]

6.24 Subp. 22. [Repealed, 26 SR 253]

6.25 Subp. 23. [Repealed, 26 SR 253]

7.1 Subp. 24. [See repealer.]

7.2 Subp. 25. **Full calendar month.** "Full calendar month" means from the first day of
7.3 a month ~~to~~ through the last day of that month.

7.4 Subp. 26. **Full-day basis.** "Full-day basis" means child care ~~provided by~~ that a family
7.5 has scheduled and a CCAP agency has authorized with a child care provider for more than
7.6 five hours per day.

7.7 Subp. 27. [Repealed, 30 SR 1318]

7.8 *[For text of subpart 28, see Minnesota Rules]*

7.9 Subp. 28a. **Imminent risk.** "Imminent risk" means an immediate and impending threat
7.10 to the health, safety, or rights of a child while in the care of a child care provider.

7.11 Subp. 29. [Repealed, 26 SR 253]

7.12 Subp. 29a. **Immunization record.** "Immunization record" means the statement
7.13 described in Minnesota Statutes, section 121A.15, subdivision 1~~;~~ 3, paragraph (c) or (d)~~;~~
7.14 or 4.

7.15 Subp. 30. [Repealed, 26 SR 253]

7.16 Subp. 31. [Repealed, 26 SR 253]

7.17 Subp. 31a. MR 2001 [Removed, L 2003 1Sp14 art 1 s 106]

7.18 *[For text of subpart 31b, see Minnesota Rules]*

7.19 Subp. 31c. **Legal nonlicensed child care setting.** "Legal nonlicensed child care
7.20 setting" means the indoor and outdoor space where a legal nonlicensed child care provider
7.21 provides child care.

7.22 Subp. 31d. **Licensed child care center.** "Licensed child care center" means a child
7.23 care program operating at a facility requiring a license under Minnesota Statutes, chapter

8.1 245A. A licensed child care center is not excluded from licensure under Minnesota Statutes,
8.2 section 245A.03, subdivision 2, and is not required to be licensed under parts 9502.0315 to
8.3 9502.0445 as a family or group family day care home.

8.4 Subp. 31e. **Licensed family child care provider.** "Licensed family child care provider"
8.5 means:

8.6 A. an individual who is licensed to provide child care under Minnesota Statutes,
8.7 chapter 245A, when the individual operates as a child care provider within the terms of the
8.8 license;

8.9 B. an individual who: (i) holds a valid child care license issued by another state
8.10 or a Tribe; (ii) provides child care services in the licensing state or in the area under the
8.11 licensing Tribe's jurisdiction; and (iii) is in compliance with federal health and safety
8.12 requirements certified by the licensing state or Tribe or determined by the receipt of child
8.13 care development block grant funds in the licensing state; or

8.14 C. an individual who provides child care while operating under the jurisdiction of
8.15 the federal government.

8.16 Subp. 31f. **Lump sum.** "Lump sum" means money or payments that a family receives
8.17 on a nonrecurring or irregular basis, such as child support arrears, an inheritance, an insurance
8.18 payment, or gambling winnings.

8.19 Subp. 32. [Repealed, 26 SR 253]

8.20 Subp. 32a. [Repealed, 33 SR 695]

8.21 Subp. 32b. **Minimum wage.** "Minimum wage" means the minimum wage applicable
8.22 under Minnesota Statutes, chapter 177, and under Code of Federal Regulations, title 29,
8.23 part 531, to the applicant or participant or the premises where the applicant or participant
8.24 is employed.

9.1 Subp. 33. **Overpayment.** "Overpayment" means the portion of a child care payment
9.2 that is greater than the amount for which a recipient is eligible or greater than the amount
9.3 that a child care provider should have received.

9.4 Subp. 34. [Repealed, 26 SR 253]

9.5 [For text of subpart 34a, see Minnesota Rules]

9.6 Subp. 34b. **Parentally responsible individual.** "Parentally responsible individual"
9.7 means a parent, stepparent, legal guardian, eligible relative caregiver, or eligible relative
9.8 caregiver's spouse who is a member of the child care assistance family as defined under
9.9 Minnesota Statutes, section 119B.011, subdivision 13, and who resides in the household
9.10 that applies for child care assistance.

9.11 Subp. 34c. **Permanent end of an authorized activity.** "Permanent end of an authorized
9.12 activity" means a parentally responsible individual is no longer participating in an authorized
9.13 activity as allowed under subpart 9a.

9.14 Subp. 34d. **Portability pool child care assistance.** "Portability pool child care
9.15 assistance" means continuous child care assistance for eligible families who move between
9.16 Minnesota counties under Minnesota Statutes, section 119B.03, subdivision 9.

9.17 Subp. 35. **Provider rate.** "Provider rate" means the amount that the child care provider
9.18 charges for child care.

9.19 Subp. 36. [Repealed, 26 SR 253]

9.20 Subp. 37. **Redetermination.** "Redetermination" means the process by which
9.21 information is collected ~~periodically by the county~~ a CCAP agency and used that the CCAP
9.22 agency uses to determine whether a recipient participant is eligible for continued assistance
9.23 under from the child care fund.

10.1 Subp. 37a. **Related to the child care provider.** "Related to the child care provider"
10.2 means that the legal nonlicensed child care provider under Minnesota Statutes, section
10.3 119B.011, subdivision 16, is the child's sibling, aunt, uncle, grandparent, or great-grandparent,
10.4 based on a blood relationship, marriage, or court decree.

10.5 Subp. 38. [See repealer.]

10.6 [For text of subpart 38a, see Minnesota Rules]

10.7 Subp. 38b. **Scheduled hours.** "Scheduled hours" means the specific days and hours
10.8 during a service period that a child will attend child care as determined by the ~~child care~~
10.9 ~~worker~~ CCAP agency, the parent parentally responsible individual, and the child care
10.10 provider based on the parents' parentally responsible individual's verified eligible activities
10.11 schedules authorized activity schedule, the child's school schedule, and any other factors
10.12 relevant to the family's child care needs.

10.13 Subp. 38c. **Schedule reporter.** "Schedule reporter" means a family that meets at least
10.14 one of the following criteria:

10.15 A. a parentally responsible individual in the family is employed by a child care
10.16 center licensed by the Minnesota Department of Human Services;

10.17 B. at least one child in the family is authorized for child care assistance with a
10.18 legal nonlicensed child care provider; or

10.19 C. at least one child in the family is authorized for child care assistance with more
10.20 than one child care provider.

10.21 Subp. 38d. **Service period.** "Service period" means the biweekly period that the child
10.22 care assistance program uses for billing and payment purposes.

10.23 Subp. 39. **State median income.** "State median income" means the state's annual
10.24 median income for a family of three, adjusted for family size, developed by the United

11.1 ~~States Bureau of the Census and published annually by the United States Department of~~
11.2 ~~Health and Human Services in the Federal Register.~~

11.3 Subp. 39a. **Student parent.** "Student parent" means a person who meets the criteria
11.4 in Minnesota Statutes, section 119B.011, subdivision 19b, who is not eligible for transition
11.5 year child care.

11.6 Subp. 40. **Student.** "Student" means an individual enrolled in an educational education
11.7 program as defined in Minnesota Statutes, section 119B.011, subdivision 11. A non-MFIP
11.8 student is a student's full-time student if the student or part-time status is defined by the
11.9 student's educational institution as a full-time student. A non-MFIP student is a part-time
11.10 student if the student is defined by the student's educational institution as a part-time student.
11.11 A MFIP student is a student who is in compliance with the education or training requirements
11.12 in the student's employment plan.

11.13 Subp. 40a. **Temporarily absent.** "Temporarily absent" means that a family member
11.14 included in the child care assistance program household is living away from the family's
11.15 residence but and intends to return to the residence after a temporary absence. A temporarily
11.16 absent adult who is in an authorized activity is not subject to the 60-day limit under Minnesota
11.17 Statutes, section 119B.011, subdivision 13. Temporary absences include circumstances
11.18 under which a family member is away from the household such as:

11.19 A. a family member who attends a school away from home;

11.20 B. a family member in foster care;

11.21 C. a family member in a residential treatment facility;

11.22 D. a family member in military service;

11.23 E. a family member in a rehabilitation program; and

11.24 F. an incarcerated family member.

12.1 Subp. 40b. **Transition year child care.** "Transition year child care" means child care
12.2 assistance that an eligible family under Minnesota Statutes, section 119B.011, subdivision
12.3 20, may use to support a parentally responsible individual's employment, education, or job
12.4 search.

12.5 Subp. 40c. **Unable to care.** "Unable to care" means that a parentally responsible
12.6 individual is not capable of adequately caring for or supervising a child.

12.7 Subp. 40d. **Unsafe care.** "Unsafe care" means that a CCAP agency knows or has
12.8 reason to believe that a child care provider is unsafe or the circumstances of the chosen
12.9 child care arrangement are unsafe under Minnesota Statutes, section 119B.125, subdivision
12.10 4.

12.11 Subp. 40e. **Verification.** "Verification" means a written statement or record, in any
12.12 form, including an electronic record, that substantiates or validates an assertion that a person
12.13 makes. Information that a person reports on an application, at redetermination, or on a
12.14 reporting form does not qualify as a verification.

12.15 Subp. 40f. **Verified activity schedule.** "Verified activity schedule" means a written
12.16 statement or record that substantiates or validates the days and times when a parentally
12.17 responsible individual works, attends school, or participates in an authorized activity under
12.18 Minnesota Statutes, section 119B.05, subdivision 1.

12.19 Subp. 41. [Repealed, 26 SR 253]

12.20 Subp. 42. [Repealed, 26 SR 253]

12.21 Subp. 43. [Repealed, 26 SR 253]

12.22 Subp. 44. **Weekly basis.** "Weekly basis" means child care ~~provided by~~ that a CCAP
12.23 agency authorizes with a child care provider for more than 35 but not more than 50 hours
12.24 per week.

13.1 **3400.0035 APPLICATION PROCEDURE.**

13.2 Subpart 1. ~~Response to informational~~ Information requests. When a family asks
 13.3 for information about ~~child care assistance~~ paying for child care, the administering a CCAP
 13.4 agency must give the family information supplied by the ~~department regarding~~ commissioner
 13.5 about the following items:

13.6 A. the child care assistance program and eligibility requirements;

13.7 B. ~~the availability of~~ federal and state child and dependent care tax credits;

13.8 C. federal earned income tax credits;

13.9 D. Minnesota working family credits;

13.10 E. early childhood family education, school readiness, and Head Start programs;

13.11 F. early childhood screening;

13.12 G. ~~MinnesotaCare~~ health care programs, including health care programs for
 13.13 children in Minnesota;

13.14 H. child care resource and referral services; ~~other programs with services for~~
 13.15 young children and families; and

13.16 I. financial assistance for families, including early learning scholarships established
 13.17 by Minnesota Statutes, section 124D.165, and the postsecondary child care grant program
 13.18 established ~~in~~ by Minnesota Statutes, section 136A.125; and

13.19 J. ~~The administering agency also must inform the family of the following items;~~
 13.20 other programs and services for young children and families.

13.21 Subp. 1a Child care assistance requests. When a family requests an application for
 13.22 child care assistance, a CCAP agency must give the family an application or provide
 13.23 information about how to submit an application electronically. When a family applies for

14.1 child care assistance, a CCAP agency must give the family the information in subpart 1 and
 14.2 the following information:

14.3 A. the eligibility requirements ~~under~~ for the child care fund;

14.4 B. the documentation necessary to confirm a family's eligibility;

14.5 C. ~~whether if~~ if a waiting list exists ~~and, if so,~~ the number of families on the waiting
 14.6 list or the estimated time that the applicant will spend on the waiting list before reaching
 14.7 the top of the list;

14.8 D. the procedure for applying for child care assistance;

14.9 E. the family requirement to pay a copayment fee schedule and how the fee is
 14.10 ~~computed~~ based on a family's size and income;

14.11 F. ~~information about~~ how to choose a child care provider;

14.12 G. ~~the~~ a family's rights and responsibilities when choosing a child care provider;

14.13 H. ~~information about the availability of~~ special needs rates;

14.14 I. ~~the~~ a family's responsibility for paying child care provider charges that exceed
 14.15 ~~county~~ the maximum ~~payments~~ child care payment in addition to the ~~family~~ copayment fee;
 14.16 and

14.17 J. ~~the importance of prompt reporting of a move to another county to avoid~~
 14.18 ~~overpayments and to increase the likelihood of continuing benefits, because child care~~
 14.19 ~~assistance benefits may be affected by moving to another county~~ the family's reporting
 14.20 responsibilities under part 3400.0040, subpart 4.

14.21 Subp. 1b. Application for child care assistance. A family must apply for child care
 14.22 assistance in the family's county of residence.

15.1 Subp. 2. ~~Application procedure~~ Accepting and processing applications. ~~An~~
15.2 ~~administering~~ A CCAP agency must follow the application procedures in items A and B.

15.3 ~~A. If a family requests child care assistance and it appears that the family is eligible~~
15.4 ~~for child care assistance and funds are available, or if a family requests an application, the~~
15.5 ~~administering agency must mail or hand the family a universal child care assistance~~
15.6 ~~application.~~

15.7 ~~B. If a family requests child care assistance and funds are not available, the~~
15.8 ~~administering agency must inform the family of a waiting list, screen the family for potential~~
15.9 ~~eligibility, and place the family on the waiting list if they appear eligible. The administering~~
15.10 ~~agency must place the family on the waiting list in the highest priority for which the family~~
15.11 ~~is eligible. As child care funds become available, the administering agency must inform the~~
15.12 ~~family at the head of the waiting list and ask the family to complete an application.~~

15.13 ~~C. The administering agency must accept all signed and dated applications that~~
15.14 ~~are submitted by mail or delivered to the agency within 15 calendar days after the date of~~
15.15 ~~signature~~ for child care assistance that the CCAP agency receives. ~~A county may~~ CCAP
15.16 agency must accept an application from an applicant who does not reside in ~~that~~ a county
15.17 but served by the CCAP agency or who does not meet the Tribal CCAP agency's criteria
15.18 for families that the Tribal CCAP agency serves. If a CCAP agency receives an application
15.19 from an applicant who does not reside in a county served by the CCAP agency or who does
15.20 not meet the Tribal CCAP agency's criteria for families that the Tribal CCAP agency serves,
15.21 the agency must immediately ~~must~~ forward the application to ~~the county where the applicant~~
15.22 ~~resides. The administering agency must mail a notice of approval or denial of assistance to~~
15.23 ~~the applicant within 30 calendar days after receiving the application. With the consent of~~
15.24 ~~the applicant, the administering agency may extend the response time by 15 calendar days~~
15.25 a CCAP agency that may serve the applicant's family based on the family's place of residence

16.1 or forward to a Tribal CCAP agency if the applicant meets the Tribal CCAP agency's criteria
16.2 for families that the Tribal CCAP agency serves.

16.3 Subp. 2a. **Application processing for family experiencing homelessness.** An
16.4 applicant is not eligible for expedited application processing under Minnesota Statutes,
16.5 section 119B.025, subdivision 1, paragraph (c), if less than six months have passed from
16.6 the date that a CCAP agency approved a previous application using expedited application
16.7 processing.

16.8 **Subp. 3. Informational release.**

16.9 A. When it appears the CCAP agency determines that an applicant may be eligible
16.10 for child care assistance but is unable to document the applicant's eligibility for the program,
16.11 the administering CCAP agency must offer an applicant the opportunity to sign an
16.12 informational release to permit the county CCAP agency to verify whether an applicant
16.13 qualifies for child care assistance.

16.14 B. The administering A CCAP agency must also offer an applicant an opportunity
16.15 to sign an obtain a signed informational release from a family to permit the county CCAP
16.16 agency to give the family's child care provider the additional information listed in subpart
16.17 6 and in part 3400.0185, subparts 2 and 4, that is not required by that is not required by part
16.18 3400.0185, subparts 9, 11, and 13, and Minnesota Statutes, section 119B.13, subdivision
16.19 5.

16.20 C. The administering CCAP agency must give the applicant the information
16.21 required by Minnesota Statutes, section 13.04, subdivision 2.

16.22 **Subp. 4. [See repealer.]**

16.23 **Subp. 5. [See repealer.]**

16.24 **Subp. 6. [See repealer.]**

17.1 Subp. 7. **Selection of child care provider.** An applicant must select a child care
17.2 provider and the child care provider must meet the criteria in part 3400.0120, subpart 1,
17.3 before a CCAP agency authorizes a child to receive child care from the child care provider
17.4 and issues payments ~~can be made~~ to the child care provider from the child care fund. The
17.5 same criteria applies if a parentally responsible individual selects a child care provider at a
17.6 time other than at the time of application.

17.7 Subp. 8. **Selection of legal nonlicensed child care provider.** Before a CCAP agency
17.8 authorizes child care with a legal nonlicensed child care provider, an applicant or participant
17.9 who selects a legal nonlicensed child care provider must ~~be informed about the following~~
17.10 information and must sign an acknowledgment a document that contains:

17.11 A. a description of the registration process for a legal nonlicensed providers child
17.12 care provider;

17.13 B. a description of the parent's parentally responsible individual's rights and
17.14 responsibilities when choosing a child care provider;

17.15 C. an acknowledgment that the parent parentally responsible individual and the
17.16 legal nonlicensed child care provider have reviewed the health and safety information
17.17 provided ~~by the county~~ during the registration process; and

17.18 D. ~~if the parent has selected a legal nonlicensed family child care provider,~~ an
17.19 assurance that the parent parentally responsible individual will provide an immunization
17.20 record for each ~~child~~ of the parentally responsible individual's children to the legal
17.21 nonlicensed ~~family~~ child care provider within ~~90~~ 30 days of the date that the CCAP agency
17.22 authorizes child care to begin for the each child begins and will give the legal nonlicensed
17.23 family child care provider the information necessary to update ~~the~~ each child's immunization
17.24 record;

18.1 E. an acknowledgment that the legal nonlicensed child care provider does not
18.2 share a home or residence with a child whose family is applying for or receiving child care
18.3 assistance;

18.4 F. an acknowledgment that the legal nonlicensed child care provider must complete
18.5 training as outlined in part 3400.0120, subpart 6, and Minnesota Statutes, section 119B.125,
18.6 subdivision 1b, before the CCAP agency authorizes the legal nonlicensed child care provider
18.7 to provide child care for the child; and

18.8 G. an acknowledgment that if the CCAP agency knows that the child care provider
18.9 is unsafe or that the circumstances of the child care arrangement are unsafe, the CCAP
18.10 agency may deny CCAP payments to the child care provider.

18.11 **Subp. 9. Selection of in-home child care provider.** A CCAP agency must inform
18.12 an applicant or a participant who selects a child care provider who will to provide child care
18.13 in the applicant's or participant's home ~~must be informed that this choice of selecting an~~
18.14 in-home child care ~~may create~~ provider creates an employer/employee relationship between
18.15 the parent and the child care provider and. If an applicant or participant selects an in-home
18.16 child care provider, a CCAP agency must ~~be referred~~ refer the applicant or participant to
18.17 resources that are available for more information about these the applicable legal rights and
18.18 responsibilities.

18.19 **3400.0040 ELIGIBILITY REQUIREMENTS AND STANDARDS.**

18.20 *[For text of subpart 1, see Minnesota Rules]*

18.21 **Subp. 2. [Repealed, 26 SR 253]**

19.1 Subp. 3. ~~Documentation of eligibility information~~ Verification requirements at
 19.2 application.

19.3 A. In addition to the requirements in Minnesota Statutes, section 119B.025,
 19.4 subdivision 1, an applicant for child care assistance must document the provide verification
 19.5 to a CCAP agency of:

19.6 (1) the citizenship or immigration status or participation in a program that
 19.7 makes a child exempt from this documentation requirement for all children for whom child
 19.8 care assistance is being sought of children in the applicant's family according to item D;

19.9 (2) ~~relationship of the children in the family to the applicant;~~

19.10 (3) ~~date~~ the dates of birth of ~~the~~ all children in the family;

19.11 (4) ~~the~~ the date of birth of the applicant if the applicant is under 21 years of
 19.12 age;

19.13 (4) the income, if counted under Minnesota Statutes, chapter 256P, of each
 19.14 member of the applicant's family, including each member who is temporarily absent from
 19.15 the applicant's household;

19.16 (5) the identity, income eligibility, and place of residence for all members of
 19.17 each member of the applicant's family, including ~~members~~ each member who is temporarily
 19.18 absent from the household as defined in part 3400.0020, subpart 40a; and

19.19 (6) the work, education, or and training activity status for all applicants as
 19.20 defined in Minnesota Statutes, section 119B.011, subdivision 2. of each parentally responsible
 19.21 individual; and

19.22 (7) the family's assets, if the family's total assets exceed \$1,000,000.

20.1 ~~B. The county must ask for the applicant's Social Security number, but the applicant~~
20.2 ~~is not required to disclose this information. Before asking for the applicant's social security~~
20.3 ~~number, the county must tell the applicant that:~~

20.4 ~~(1) the disclosure is voluntary;~~

20.5 ~~(2) the number is being solicited under the Code of Federal Regulations, title~~
20.6 ~~45, section 98.71(a)(13); and~~

20.7 ~~(3) the social security number will be used by county, state, and federal~~
20.8 ~~governments and their employees for the purposes of verification, reporting, research, and~~
20.9 ~~any other purpose authorized by law.~~

20.10 B. At the time of application for child care assistance, a family may verify:

20.11 (1) the income deductions allowed under part 3400.0170. A CCAP agency
20.12 must process an application without income deductions if a family has not verified income
20.13 deductions by the end of the application processing period in Minnesota Statutes, section
20.14 119B.025, subdivision 1;

20.15 (2) the school status of students six years of age and older with earned income.
20.16 If a family has not verified a student's school status by the end of the application processing
20.17 period in Minnesota Statutes, section 119B.025, subdivision 1, a CCAP agency must count
20.18 the student's earned income under Minnesota Statutes, section 256P.06, subdivision 3, clause
20.19 (1); and

20.20 (3) the Social Security number of all applicants as required by Minnesota
20.21 Statutes, section 119B.025, subdivision 2.

20.22 C. For a CCAP agency to authorize care of children at the time of application, an
20.23 eligible family must:

21.1 (1) verify the work, education, and training schedule of each parentally
21.2 responsible individual; and

21.3 (2) provide the school schedule of each child who needs child care and attends
21.4 school.

21.5 D. An applicant must have at least one child who meets the citizenship or
21.6 immigration status requirement in the Federal Child Care and Development Fund, Code of
21.7 Federal Regulations, title 45, section 98.20(c), or who is receiving child care in a setting
21.8 subject to public education standards. For a CCAP agency to authorize care of a child, a
21.9 family must verify the child's citizenship or immigration status unless a setting subject to
21.10 public education standards is providing care for the child.

21.11 ~~C. E. The county~~ A CCAP agency must determine an applicant's eligibility for
21.12 child care assistance ~~at the time of application. The county must redetermine eligibility~~
21.13 ~~according to part 3400.0180~~ within the time frames in Minnesota Statutes, section 119B.025,
21.14 subdivision 1.

21.15 **Subp. 4. Participant reporting responsibilities.** ~~A participant must meet the reporting~~
21.16 ~~requirements in items A and B. A participant may report a change in person, by telephone,~~
21.17 ~~by facsimile, or by mail, including electronic mail.~~

21.18 ~~A. When there is a change in the information reported by the participant at~~
21.19 ~~application or at the most recent redetermination of eligibility, the participant must report~~
21.20 ~~the new information to the county within ten calendar days after the change occurs. This~~
21.21 ~~reporting requirement applies to changes in income, residence, employment status, education~~
21.22 ~~or training status, family status, or family size. A change in income occurs on the day the~~
21.23 ~~participant receives the first payment reflecting the change in income.~~

21.24 ~~B. Except in cases where the license of a provider licensed by the state of~~
21.25 ~~Minnesota has been temporarily immediately suspended or where there is an imminent risk~~

22.1 ~~of harm to the health, safety, or rights of a child in care with a legal, nonlicensed provider,~~
22.2 ~~license exempt center, or provider licensed by an entity other than the state of Minnesota,~~
22.3 ~~a participant must notify the county and the provider of the intent to change providers at~~
22.4 ~~least 15 calendar days before changing providers.~~

22.5 A. In addition to the reporting requirements in Minnesota Statutes, sections
22.6 119B.03, subdivision 9, and 256P.07, subdivisions 3 and 6, a family must report the following
22.7 information to a CCAP agency within ten calendar days:

22.8 (1) the family's assets when the assets are listed under subpart 5b and are
22.9 over \$1,000,000 in total;

22.10 (2) the parentally responsible individual begins providing child care to
22.11 children; or

22.12 (3) the parentally responsible individual begins working in a child care setting.

22.13 B. In addition to the reporting requirements in item A, a schedule reporter must
22.14 report the following changes to a CCAP agency within ten calendar days of the change:

22.15 (1) a change in employment, education, or training status, including starting
22.16 an authorized activity, ending an authorized activity, or temporary breaks in an authorized
22.17 activity;

22.18 (2) changes in an employment schedule or education schedule; and

22.19 (3) changes in the number of hours of job search participation.

22.20 C. A family must notify a CCAP agency and the family's child care provider of
22.21 the family's intent to change child care providers at least 15 calendar days in advance of the
22.22 date when the change takes effect. A family is not required to notify a CCAP agency and
22.23 the child care provider 15 calendar days in advance of the date when the change takes effect
22.24 under one of the following conditions:

23.1 (1) when a child care provider is licensed by the state of Minnesota and the
23.2 child care provider's license is temporarily immediately suspended under Minnesota Statutes,
23.3 section 245A.07;

23.4 (2) when there is an imminent risk of harm to the health, safety, or rights of
23.5 a child in the care of the child care provider and the child care provider is a legal nonlicensed
23.6 child care provider, certified license-exempt child care center, or child care provider licensed
23.7 by an entity other than the state of Minnesota;

23.8 (3) when a CCAP agency or the commissioner has suspended the child care
23.9 provider's payment under Minnesota Statutes, chapter 245E; or

23.10 (4) when a CCAP agency or the commissioner has denied or revoked the
23.11 child care provider's registration under Minnesota Statutes, section 119B.13, subdivision
23.12 6, paragraph (d), clause (1) or (2).

23.13 D. A participant may report a change to the CCAP agency in person, by telephone,
23.14 by facsimile, by mail, electronically, by e-mail, or on a change reporting form.

23.15 **Subp. 4a. Verification requirements during 12-month eligibility period.**

23.16 A. A CCAP agency must request verification of a change when a 12-month reporter
23.17 or a schedule reporter reports any of the following changes during the 12-month eligibility
23.18 period:

23.19 (1) a change in income that results in income exceeding 85 percent of the
23.20 state median income;

23.21 (2) a new authorized activity at the end of a job search, unless the job search
23.22 is an authorized activity in an employment plan; or

23.23 (3) a move out of the state.

24.1 A CCAP agency must allow a 12-month reporter or schedule reporter 15 calendar days to
24.2 return a verification to the CCAP agency. If a verification demonstrates that the 12-month
24.3 reporter or schedule reporter is no longer eligible for child care assistance or if the 12-month
24.4 reporter or schedule reporter does not return a verification to the CCAP agency after 15
24.5 days, the CCAP agency must terminate the 12-month reporter's or schedule reporter's
24.6 eligibility with a 15-day adverse action notice.

24.7 B. The CCAP agency must request verification of a change when a 12-month
24.8 reporter reports any of the following changes during the 12-month eligibility period:

24.9 (1) the permanent end of an authorized activity;

24.10 (2) new employment if the parentally responsible individual is employed by
24.11 a child care center licensed by Minnesota; or

24.12 (3) authorized activity changes if the family is requesting authorization for
24.13 more hours of child care.

24.14 A CCAP agency must allow a 12-month reporter 15 calendar days to return a verification
24.15 to the CCAP agency. If the CCAP agency does not receive verification of the permanent
24.16 end of an authorized activity and the 12-month reporter has no other authorized activity, a
24.17 CCAP agency must place the 12-month reporter in extended eligibility according to part
24.18 3400.0175 on the date that the CCAP agency becomes aware of the permanent end of the
24.19 authorized activity. If the CCAP agency does not receive verification from a 12-month
24.20 reporter of a parentally responsible individual's new employment at a licensed child care
24.21 center within 15 days, the CCAP agency must terminate the 12-month reporter's child care
24.22 authorization with a 15-day adverse action notice and suspend the 12-month reporter's
24.23 eligibility until the CCAP agency receives verification that allows the CCAP agency to
24.24 authorize child care. If a CCAP agency does not receive a verification of an authorized
24.25 activity change, the CCAP agency must not increase a 12-month reporter's authorized child
24.26 care hours until the CCAP agency receives verification.

25.1 C. A CCAP agency must request verification of a change when a schedule reporter
25.2 reports any of the following changes during the 12-month eligibility period:

25.3 (1) a schedule change;

25.4 (2) new employment;

25.5 (3) a temporary break from an authorized activity; or

25.6 (4) a permanent end of an authorized activity.

25.7 A CCAP agency must allow a schedule reporter 15 calendar days to return a verification to
25.8 the CCAP agency. If the CCAP agency does not receive a verification, the CCAP agency
25.9 must terminate the schedule reporter's child care authorization with a 15-day adverse action
25.10 notice and suspend the schedule reporter's eligibility until the CCAP agency receives
25.11 verification that allows the CCAP agency to authorize child care. If the CCAP agency
25.12 receives the verification and the change results in a reduction in authorized child care hours,
25.13 the CCAP agency must send the schedule reporter and the child care provider a 15-day
25.14 adverse action notice before the reduction in authorized child care hours is effective.

25.15 D. When a family's reported and verified change results in an increase in authorized
25.16 child care hours, a CCAP agency must increase the amount of the family's authorized child
25.17 care.

25.18 Subp. 5. **Employment, education, and training requirements.** In a family with a
25.19 single ~~parent~~ parentally responsible individual, or unmarried legal guardian or eligible
25.20 relative caregiver, the applicant or participant must meet employment, education, or training
25.21 requirements and other eligibility requirements in this part and in part 3400.0060, 3400.0080,
25.22 or 3400.0090 for the child care assistance program for which the family is applying or in
25.23 which the family is participating.

25.24 In a family with more than one ~~parent~~ parentally responsible individual or any
25.25 combination of parents, stepparents, legal guardians and spouses, and eligible relative

26.1 caregivers and spouses, at least one parent, legal guardian, eligible relative caregiver, or
26.2 spouse must meet employment, education, or training requirements and other eligibility
26.3 requirements in this part and in part 3400.0060, 3400.0080, or 3400.0090 for the child care
26.4 assistance program for which the family is applying or participating in. The other parents,
26.5 legal guardians, eligible relative caregivers, or spouses must:

26.6 A. meet the employment, education, or training requirements and other eligibility
26.7 requirements in this part and part 3400.0060, 3400.0080, or 3400.0090 for the child care
26.8 assistance program for which the family is applying or participating in; or

26.9 B. be unable to care for the applicant's or participant's child or dependent as
26.10 determined by a licensed physician, licensed psychologist, licensed psychiatrist, ~~or the local~~
26.11 licensed social services agency worker. The status of a parentally responsible individual
26.12 who is unable to care for the child is permanent when the parentally responsible individual's
26.13 condition is ongoing and unlikely to improve; or temporary when the individual's condition
26.14 has an expected or defined end date.

26.15 Subp. 5a. **Child support cooperation.**

26.16 A. All applicants and participants of the child care assistance program must
26.17 cooperate with ~~establishment of paternity and enforcement of~~ child support obligations ~~for~~
26.18 ~~all minor children in the family with an absent parent. For purposes of this part, a family~~
26.19 ~~has met the cooperation requirement when the family complies with Minnesota Statutes,~~
26.20 ~~section 256.741, or there is a finding under Minnesota Statutes, section 256.741, subdivision~~
26.21 ~~10, of good cause for failing to cooperate.~~ under Minnesota Statutes, section 119B.09,
26.22 subdivision 1, paragraph (c).

26.23 B. A family cooperating with child support at application is retroactively eligible
26.24 for child care assistance within the time frames in Minnesota Statutes, section 119B.09,
26.25 subdivision 7, paragraph (c).

27.1 C. A CCAP agency must deny an application for child care assistance if the
27.2 applicant is not cooperating with child support by the end of the application processing time
27.3 frame in Minnesota Statutes, section 119B.025, subdivision 1, paragraph (b).

27.4 D. A CCAP agency must terminate a family's eligibility when the family is not
27.5 cooperating with child support at the time of redetermination. If a family meets the
27.6 requirements in Minnesota Statutes, section 119B.025, subdivision 3, paragraph (c), clause
27.7 (1), and cooperates with child support within 30 days after the date that the redetermination
27.8 was due, a CCAP agency must reinstate the family's eligibility retroactively from the date
27.9 that the family's eligibility ended.

27.10 E. The child care portion of the child support order for children receiving child
27.11 care assistance must be assigned to the public authority as provided in Minnesota Statutes,
27.12 section 256.741.

27.13 Subp. 5b. Assets. To be eligible for child care assistance, a family's countable assets
27.14 must not exceed \$1,000,000.

27.15 A. Countable assets include:

27.16 (1) the value of all cash held by all members of the family;

27.17 (2) the value of all bank accounts held by all members of the family;

27.18 (3) the value of stocks, bonds, pensions, and retirement funds held by all
27.19 members of the family that are readily accessible without a financial penalty;

27.20 (4) the trade-in value of vehicles, excluding one vehicle per family member
27.21 age 16 or older; and

27.22 (5) the value of real property, excluding property where the family resides,
27.23 real property that is homesteaded, and property that the family uses for self-employment or
27.24 self-support.

28.1 B. When a family declares or reports that the family's assets exceed \$1,000,000,
 28.2 a CCAP agency must request verification of the family's assets. A CCAP agency must allow
 28.3 a family 15 calendar days to return the verification. If the verification confirms that the
 28.4 value of a family's countable assets is over \$1,000,000 or if a family does not return the
 28.5 verification, a CCAP agency must deny the family's application or terminate the family's
 28.6 eligibility with a 15-day adverse action notice.

28.7 Subp. 6. [Repealed, 26 SR 253]

28.8 Subp. 6a. **Ineligibility ~~for~~ due to failure to pay fees under the child care fund.**

28.9 A. A family that fails to pay the required family copayment fee under the child
 28.10 care fund Minnesota Statutes, section 119B.09, subdivision 1, paragraph (d), is ineligible
 28.11 for child care assistance until the family pays the fees ~~are paid~~ or until the family reaches
 28.12 an agreement for payment with the child care provider and the county CCAP agency and
 28.13 then continues to comply with the payment agreement.

28.14 B. When a child care provider provides child care in a child's home and the county
 28.15 pays the parent, a child's family that fails to pay the child care provider the amount of the
 28.16 child care assistance payment, the family is ineligible for child care assistance until the
 28.17 family makes the child care assistance payment is ~~made~~ or until the family reaches an
 28.18 agreement for payment with the child care provider and the county CCAP agency and then
 28.19 continues to comply with the payment agreement.

28.20 *[For text of subpart 6b, see Minnesota Rules]*

28.21 Subp. 6c. **Date of eligibility for child care assistance.** A CCAP agency must determine
 28.22 the date of a family's eligibility for child care assistance under parts 3400.0060 and 3400.0080
 28.23 ~~must be determined~~ according to Minnesota Statutes, section 119B.09, subdivision 7. The
 28.24 date of eligibility for child care assistance under part 3400.0090 is begins on the date ~~the~~
 28.25 that a family's MFIP or DWP case was closed.

29.1 Subp. 7. [See repealer.]

29.2 Subp. 8. **Child care assistance during employment.**

29.3 A. In addition to meeting other eligibility requirements, ~~an employed persons~~
 29.4 person who is eligible for child care assistance under part 3400.0060, 3400.0080, or
 29.5 3400.0090 must work at least an average of 20 hours per week and receive at least the
 29.6 minimum wage for all hours worked that the employed person works. ~~An employed persons~~
 29.7 person who is eligible for child care assistance under part 3400.0080 ~~are~~ is exempt from
 29.8 this requirement if ~~they have~~ the person's work is an authorized activity in an approved
 29.9 employment plan that allows fewer work hours or a lower wage.

29.10 B. ~~The county~~ A CCAP agency and ~~the~~ an applicant or participant ~~may~~ must
 29.11 determine a length of time, not to exceed the most recent six months, over which the number
 29.12 of hours worked that an employed person works weekly can be ~~is~~ is averaged and counted
 29.13 toward the participant's applicant or participant meeting the average of 20 hours per week
 29.14 requirement. If the number of hours worked during the designated time period actually
 29.15 averages less than 20 hours per week, any child care assistance funds paid by the county
 29.16 on the participant's behalf during the designated time period are subject to recoupment or
 29.17 recovery.

29.18 C. When a participant does not ~~work by the hour and is not paid~~ receive an hourly
 29.19 wage, the participant's earned income over a given period must be divided by the minimum
 29.20 wage to determine whether the participant has met the requirement to average at least 20
 29.21 hours of work per week at minimum wage.

29.22 D. A CCAP agency must authorize child care assistance during a parentally
 29.23 responsible individual's employment shall be authorized for the number of hours that the
 29.24 individual is scheduled to be worked work, including break and meal time during the
 29.25 individual's employment, and up to two hours per day for the individual's travel time.

30.1 E. An employed person must meet minimum work requirements under item A at
 30.2 application, redetermination, or upon completing a job search. If a parentally responsible
 30.3 individual's work hours decrease below 20 hours per week or if the parentally responsible
 30.4 individual's wage drops below minimum wage during the 12-month eligibility period, the
 30.5 parentally responsible individual's eligibility for child care assistance continues until
 30.6 redetermination.

30.7 Subp. 9. **Child care assistance in support of employment.** A ~~county~~ CCAP agency
 30.8 must authorize child care assistance in support of employment for nonwork hours to an
 30.9 employed person who is eligible for child care assistance under parts 3400.0060 and
 30.10 3400.0090, and an employed person who is eligible for child care assistance under part
 30.11 3400.0080 without an approved employment plan, when the following conditions exist:

30.12 A. the employee cannot reasonably modify ~~his or her~~ the employee's nonwork
 30.13 schedule to provide child care; and

30.14 B. the child care assistance does not exceed the amount of child care assistance
 30.15 that would be granted under subpart 8, item D, during employment.

30.16 Subp. 10. **Child care assistance during education or training.** ~~Counties shall~~ A
 30.17 CCAP agency must provide child care assistance to students a student who is eligible for
 30.18 child care assistance under part 3400.0060 ~~or~~, 3400.0080, or 3400.0090 and enrolled in
 30.19 ~~county-approved~~ a CCAP agency-approved education or training ~~programs~~ program or
 30.20 employment ~~plans~~ plan according to items A to ~~E~~ E.

30.21 ~~A. Counties must authorize child care for full-time students for the days of class~~
 30.22 ~~and on nonclass days, if needed for study, as determined by the county, not to exceed the~~
 30.23 ~~maximum biweekly child care allowed.~~

30.24 ~~B. A. Counties~~ A CCAP agency must authorize child care for ~~part-time students~~
 30.25 a student who is eligible under parts 3400.0060 and 3400.0090 as needed necessary for:

31.1 (1) all hours of actual class time and credit hours for independent study ~~and,~~
 31.2 internships, and online courses;

31.3 (2) time periods between nonconsecutive classes;

31.4 (3) up to two hours per day for travel time; and

31.5 (4) two hours per week per credit hour for a postsecondary student for student
 31.6 to study and attend academic appointments.

31.7 ~~When a part-time student has more than one hour between classes on any one day, the~~
 31.8 ~~study and academic appointment time authorized under subitem (4) shall be reduced by the~~
 31.9 ~~number of hours between classes.~~

31.10 B. A CCAP agency must authorize child care for a student who is eligible for
 31.11 child care assistance under part 3400.0080 according to an approved employment plan.

31.12 C. Child care assistance for basic or remedial classes is subject to county CCAP
 31.13 agency approval under subpart 12. Upon county CCAP agency approval of the a basic or
 31.14 remedial class or classes education program, the county shall a CCAP agency must authorize
 31.15 the necessary child care assistance necessary to hours that enable the student to attend class
 31.16 classes and to complete class assignments.

31.17 D. If a family who is eligible for child care assistance under part 3400.0060 or
 31.18 3400.0090 had an approved education plan with a CCAP agency and the family begins
 31.19 receiving services from another CCAP agency, the education plan remains in effect until
 31.20 the family's next redetermination or until the family requests a change. When another CCAP
 31.21 agency redetermines the family's eligibility at redetermination, the student's education plan
 31.22 is subject to the CCAP agency's approval, rejection, or modification.

31.23 E. A student taking a school break who is expected to return to school following
 31.24 the break remains eligible for child care assistance during the school break. For 12-month
 31.25 reporters, a CCAP agency must not reduce authorized child care hours or terminate child

32.1 care authorizations during school breaks. Notwithstanding item B, for schedule reporters,
 32.2 a CCAP agency must:

32.3 (1) not reduce authorized child care hours or terminate child care
 32.4 authorizations during a school break if the break is scheduled to last 15 calendar days or
 32.5 less;

32.6 (2) suspend a family's eligibility if the family's only authorized activity is
 32.7 education and the school break is scheduled to last more than 15 days; and

32.8 (3) reduce the number of authorized child care hours based on a family's other
 32.9 authorized activities if the school break is scheduled to last more than 15 days.

32.10 Subp. 11. **Child care assistance during employment and during education or**
 32.11 **training.**

32.12 A. Employed students, including students on work study programs, are eligible
 32.13 for child care assistance during employment and education or training. ~~Counties shall use~~
 32.14 A CCAP agency must follow the standards in subparts 8 and 10 to determine the amount
 32.15 of child care assistance hours to authorize.

32.16 B. ~~When~~ At the time of application and redetermination, a full-time ~~students~~
 32.17 ~~request~~ student who requests child care for during the student's employment, the employment
 32.18 ~~hours~~ must work an average of at least ten hours per week at for which the student receives
 32.19 minimum wage. ~~For purposes of determining whether the ten hours at minimum wage~~
 32.20 ~~requirement in this subpart applies to a student,~~ A full-time student retains full-time status
 32.21 during school breaks, including summers, if the student is expected to return to school full
 32.22 time after the break.

32.23 C. At the time of application and redetermination, a part-time student who requests
 32.24 child care during employment must work an average of at least 20 hours per week for which
 32.25 the student receives minimum wage.

33.1 D. To determine whether an employed student meets the hourly minimum wage
 33.2 requirement in this subpart, a CCAP agency must count the student's work-study hours and
 33.3 income as employment.

33.4 E. Students A student who is eligible for child care assistance under part 3400.0080
 33.5 are is exempt from the ten minimum hours per week at requirement and the minimum wage
 33.6 requirement if they have the student has an approved employment plan that allows fewer
 33.7 work hours or a lower wage than the minimum otherwise required. For purposes of
 33.8 determining whether the ten hours at minimum wage requirement in this subpart has been
 33.9 met, work-study hours and income must be counted as employment.

33.10 **Subp. 12. Acceptable course of study.** An acceptable course of study for a student
 33.11 who is eligible for child care assistance under part 3400.0060 or 3400.0090 is an education
 33.12 or training program approved by the county CCAP agency according to the standards in
 33.13 the CCAP agency's child care fund plan that will reasonably lead to full-time employment
 33.14 opportunities as determined by the county. An acceptable course of study for a student who
 33.15 is eligible for child care assistance under part 3400.0080 is an approved education or training
 33.16 program described in the MFIP participant's employment plan.

33.17 **Subp. 13. Satisfactory progress in education or training program.** Subject to the
 33.18 limitation in subpart 14, a county shall CCAP agency must provide child care assistance to
 33.19 students a student with an approved education or training program for the length during the
 33.20 time of the student's education or training program if the student is making satisfactory
 33.21 progress in the education or training program. Satisfactory progress in the education or
 33.22 training program means that a student remains in good academic standing in the education
 33.23 or training program as determined by the educational institution and meets the requirements
 33.24 of the student's education plan under part 3400.0060 or 3400.0090, or employment plan
 33.25 under part 3400.0080. A CCAP agency must not terminate a student's approved education
 33.26 plan during the 12-month eligibility period. At redetermination, if the county determines a

34.1 CCAP agency receives documentation from an educational institution demonstrating that
 34.2 a student is not making satisfactory progress towards toward completion of an education
 34.3 or training program, the county shall CCAP agency must notify the student and discontinue
 34.4 child care assistance according to part 3400.0185 terminate approval of the student's
 34.5 education plan with a 15-day adverse action notice.

34.6 Subp. 14. **Maximum education or training under child care fund.** The maximum
 34.7 length of time that a student is eligible for child care assistance under the child care fund
 34.8 for education or training is described in items A to ~~D~~ E.

34.9 A. A student eligible under part 3400.0060 is eligible for child care assistance
 34.10 according to Minnesota Statutes, section ~~119B.07~~ 119B.10.

34.11 B. A student eligible under part 3400.0080 is eligible for child care assistance for
 34.12 the length of time necessary to complete authorized activities ~~authorized~~ in the student's
 34.13 employment plan according to the standards in Minnesota Statutes, chapter 256J.

34.14 C. A student who is eligible under part 3400.0090 is eligible for child care
 34.15 assistance according to Minnesota Statutes, section 119B.10.

34.16 E D. A student who is eligible under part 3400.0060 or 3400.0090 who has
 34.17 completed or who has participated in but failed to complete an education or training program
 34.18 under the child care fund ~~may~~ is eligible to receive child care assistance for a second
 34.19 education or training program if:

34.20 (1) a CCAP agency approves of the new education or training program is
 34.21 ~~approved by the county~~; and

34.22 (2) ~~the county~~ a CCAP agency expects that completing the program will lead
 34.23 to the student's full-time employment.

34.24 ~~D~~ E. A student who is eligible under part 3400.0060 or 3400.0090 with a
 34.25 baccalaureate degree ~~may~~ is only obtain eligible to receive child care assistance for education

35.1 or training if the education or training is for continuing education units, certification, or
 35.2 coursework that is related to the baccalaureate degree or current employment and that is
 35.3 necessary to update credentials to obtain or retain employment.

35.4 Subp. 15. **Changes in education or training programs.** A proposed change in an
 35.5 education or training program for a participant who is eligible for child care assistance under
 35.6 parts 3400.0060 and 3400.0090 is subject to ~~county~~ CCAP agency approval before the
 35.7 participant makes the change ~~may be made~~. A CCAP agency must describe the approval
 35.8 policy for a participant's change to an education or training program in the CCAP agency's
 35.9 child care fund plan. A ~~county may~~ CCAP agency must not deny a request for a change in
 35.10 an education or training program when the student requesting the change ~~can show~~
 35.11 demonstrates that changing a course or focus of study is necessary for reasons related to
 35.12 the health and safety of the student.

35.13 Subp. 15a. **Child care assistance during job search.**

35.14 A. A ~~county shall~~ CCAP agency must provide ~~up to 240 hours per calendar year~~
 35.15 ~~of child care assistance for job search activities to participants~~ child care assistance to an
 35.16 applicant or participant at application and redetermination for job search activities as required
 35.17 by Minnesota Statutes, section 119B.10, subdivision 1, and for no more than 40 hours in a
 35.18 service period if the applicant or participant is:

35.19 (1) eligible under part 3400.0080 ~~who do~~ and does not have an approved job
 35.20 ~~search support plans~~ employment plan;

35.21 (2) ~~or whose~~ eligible under part 3400.0080 and has an approved employment
 35.22 ~~plans do~~ plan that does not include a job search as an authorized activity;

35.23 (2) (3) eligible under part 3400.0090 ~~who are~~ and is seeking employment;
 35.24 and or

35.25 (3) (4) eligible under part 3400.0060 ~~who are~~ and is seeking employment.

36.1 B. ~~The county shall grant child care assistance for job search activities:~~ For an
 36.2 applicant or a participant who is eligible under part 3400.0080 with an employment plan
 36.3 that includes a job search as an authorized activity, a CCAP agency must provide child care
 36.4 assistance to the applicant or participant for job search activities for the number of hours in
 36.5 the applicant's or participant's approved employment plan for job search activities.

36.6 (1) ~~according to the number of hours in the individual's approved job search~~
 36.7 ~~plan;~~

36.8 (2) ~~by applying the criteria identified in its child care fund plan; or~~

36.9 (3) ~~by verifying the actual number of hours spent on job search.~~

36.10 C. ~~At the option of the individual in job search and with prior county approval,~~
 36.11 ~~child care may be used at a rate that is less than full time provided the total child care~~
 36.12 ~~assistance does not exceed 240 hours of child care per calendar year. A CCAP agency must~~
 36.13 ~~not authorize a job search in combination with any other activity for an applicant or a~~
 36.14 ~~participant who is eligible under item A.~~

36.15 *[For text of item D, see Minnesota Rules]*

36.16 Subp. 16. [Repealed, 26 SR 253]

36.17 Subp. 17. **Temporary ineligibility for participants.** ~~Counties~~ A CCAP agency must
 36.18 reserve a family's position under the child care assistance fund if a family has been receiving
 36.19 child care assistance but is temporarily ineligible for assistance. A child care assistance
 36.20 participant who is a student may be temporarily ineligible for a maximum of one academic
 36.21 quarter or semester as determined by the student's academic calendar at the educational
 36.22 institution. Any other participant, including an employed participant, may be temporarily
 36.23 ineligible for a maximum of 90 days. A CCAP agency must place a family in temporary
 36.24 ineligibility when:

37.1 A. a family meets all eligibility requirements at redetermination in Minnesota
37.2 Statutes, sections 119B.09 and 119B.10, but is on an unverified temporary break from the
37.3 family's authorized activity. To end a family's temporary ineligibility, a parentally responsible
37.4 individual must meet and verify the minimum authorized activity requirements in Minnesota
37.5 Statutes, section 119B.10;

37.6 B. a family is ineligible for child care assistance due to increased income from
37.7 active military service as provided in Minnesota Statutes, section 119B.09, subdivision 4a;
37.8 or

37.9 C. a family is eligible under Minnesota Statutes, section 119B.025, subdivision
37.10 1, paragraph (c), but has not submitted a verification of eligibility within the time frame
37.11 required by Minnesota Statutes, section 119B.025, subdivision 1, paragraph (d).

37.12 Subp. 17a. **Authorization after temporary ineligibility.**

37.13 A. If a family in temporary ineligibility becomes eligible for child care assistance,
37.14 the family's eligibility begins on the date that the family meets all eligibility requirements.
37.15 For a family that is eligible for child care assistance under Minnesota Statutes, section
37.16 119B.025, subdivision 1, paragraph (c), the family's eligibility begins retroactively from
37.17 the date that temporary ineligibility began, or on the date that the family began participating
37.18 in an authorized activity, whichever is later.

37.19 B. If a schedule reporter in temporary ineligibility becomes eligible for child care
37.20 assistance, a CCAP agency must authorize child care based on the parentally responsible
37.21 individual's verified activity schedule.

37.22 C. If a 12-month reporter in temporary ineligibility becomes eligible for child
37.23 care assistance during the 12-month eligibility period, a CCAP agency must authorize the
37.24 same amount of child care that the family received before the family became temporarily
37.25 ineligible, unless the family requests less child care or the family verifies that the family

38.1 needs more child care. If a 12-month reporter who is temporarily ineligible becomes eligible
 38.2 when a CCAP agency approves the 12-month reporter's redetermination, the CCAP agency
 38.3 must authorize child care based on the amount of child care that the family needs and the
 38.4 verification that the family provides at redetermination. If a CCAP agency determines that
 38.5 a 12-month reporter is temporarily ineligible at redetermination and on a different date the
 38.6 12-month reporter becomes eligible, a CCAP agency must authorize child care based on
 38.7 the amount of child care that the 12-month reporter needed and verified at the time that the
 38.8 family was no longer temporarily ineligible.

38.9 Subp. 17b. **Temporary ineligibility of family on waiting list.** A county may CCAP
 38.10 agency must reserve a family's position under the child care assistance fund for up to 90
 38.11 days if a family is approved to receive child care assistance and reaches the top of the basic
 38.12 sliding fee waiting list but is temporarily ineligible for child care assistance. In its a CCAP
 38.13 agency's child care fund plan, a county the CCAP agency must specify whether it the agency
 38.14 reserves positions under the child care assistance fund longer than 90 days for temporarily
 38.15 ineligible families who reach the top of the basic sliding fee waiting list and, if so, the criteria
 38.16 used to make the decision whether to reserve a position. Employed participants may be
 38.17 temporarily ineligible for a maximum of 90 days. Child care assistance participants who
 38.18 are students may be temporarily ineligible for a maximum of one academic quarter or
 38.19 semester as determined by the educational institution amount of additional time that the
 38.20 CCAP agency will reserve a family's position and the conditions under which the CCAP
 38.21 agency will reserve a family's position longer than 90 days.

38.22 **Subp. 18. Suspension.**

38.23 A. Counties A CCAP agency must suspend, and may not terminate, a family's
 38.24 eligibility for child care assistance for up to one continuous year if:

38.25 (1) there are temporary breaks when the family does not need child care
 38.26 assistance is not needed;

39.1 (2) the CCAP agency is unable to authorize child care due to missing schedule
39.2 verifications; or

39.3 (3) the family does not have an ~~authorized~~ eligible child care provider ~~but~~
39.4 ~~the family remains eligible for child care assistance.~~

39.5 B. A CCAP agency must not decrease a 12-month reporter's authorized child care
39.6 during the 12-month eligibility period if there is a temporary break or a change in the
39.7 parentally responsible individual's employment, education and training, or employment
39.8 plan activity, unless the 12-month reporter requests a reduction in authorized child care
39.9 hours or requests that the CCAP agency suspend child care.

39.10 C. A CCAP agency must end a schedule reporter's authorization and suspend the
39.11 schedule reporter's eligibility if there is a temporary break in the schedule reporter's
39.12 employment, education or training, or employment plan activity and the parentally
39.13 responsible individual has no other authorized activity, unless the parentally responsible
39.14 individual meets the criteria in part 3400.0110, subpart 10.

39.15 Subp. 18a. **Authorization after suspension.**

39.16 A. If a schedule reporter is no longer suspended, a CCAP agency must authorize
39.17 the schedule reporter's child care based on the parentally responsible individual's verified
39.18 activity schedule.

39.19 B. If a 12-month reporter is no longer suspended during the 12-month eligibility
39.20 period, a CCAP agency must authorize the same amount of child care that the 12-month
39.21 reporter received before the 12-month reporter's suspension, unless the 12-month reporter
39.22 requests less child care or the 12-month reporter verifies that the 12-month reporter needs
39.23 more child care. If a 12-month reporter is no longer suspended when a CCAP agency
39.24 approves the 12-month reporter's child care at redetermination, a CCAP agency must
39.25 authorize the 12-month reporter's child care based on the amount of child care that the

40.1 12-month reporter needs and the verification that the 12-month reporter provides at
40.2 redetermination. If a 12-month reporter is suspended at redetermination and on another date,
40.3 becomes eligible, a CCAP agency must authorize the 12-month reporter's child care based
40.4 on the amount of child care that the 12-month reporter needs and that the 12-month reporter
40.5 verifies at the time that the 12-month reporter becomes eligible.

40.6 **3400.0060 BASIC SLIDING FEE PROGRAM.**

40.7 Subpart 1. [Repealed, 26 SR 253]

40.8 Subp. 2. **Basic sliding fee allocation.** The commissioner ~~shall~~ must allocate money
40.9 from the child care funds fund for the basic sliding fee program as provided in Minnesota
40.10 Statutes, section 119B.03, subdivisions 6 to 9. By July 1 of each year, the commissioner
40.11 must notify all county, Tribal, and human services boards of their allocations under the
40.12 basic sliding fee program, including the amount available for payment of administrative
40.13 expenses.

40.14 Subp. 3. [Repealed, 26 SR 253]

40.15 Subp. 4. **Reallocation of unexpended or unencumbered funds.** The commissioner
40.16 ~~shall~~ must reallocate unexpended or unencumbered funds according to items A to D.

40.17 A. The commissioner may reallocate unexpended or unencumbered funds following
40.18 the first, second, and third quarters of the allocation period as provided in Minnesota Statutes,
40.19 section 119B.03, subdivision 5. Following the fourth quarter of the allocation period, the
40.20 commissioner ~~shall~~ must review county and Tribal expenditures under the basic sliding fee
40.21 program and ~~shall~~ must reallocate unearned allocations to counties and Tribes that had direct
40.22 service earnings in excess of their allocation.

40.23 B. The amount reallocated to any county ~~shall~~ or Tribe must be based on direct
40.24 service earnings in excess of its allocation. The amount reallocated ~~shall~~ must not be greater
40.25 than the direct service earnings in excess of allocation minus the county's or Tribe's fixed

41.1 local match to be calculated as specified in Minnesota Statutes, section 119B.11, subdivision
41.2 1.

41.3 C. If the amount of funds available for reallocation is less than total county or
41.4 Tribe direct service earnings in excess of allocations, the reallocated funds ~~shall~~ must be
41.5 prorated to each county and Tribe based on the ratio of the county's or Tribe's direct service
41.6 earnings in excess of its allocation to the total of all county and Tribal direct service earnings
41.7 in excess of their allocation.

41.8 D. If the amount of funds available for reallocation is greater than total county or
41.9 Tribe direct service earnings in excess of allocations under the basic sliding fee program,
41.10 the funds remaining after the basic sliding fee reallocation ~~shall~~ must be carried forward
41.11 and added to the funds available for allocation in the next allocation period.

41.12 Subp. 5. **Families eligible for assistance under the basic sliding fee program.** To
41.13 the extent of available allocations, ~~a family~~ an applicant is eligible for child care assistance
41.14 under the basic sliding fee program if:

41.15 *[For text of items A to C, see Minnesota Rules]*

41.16 Subp. 6. [See repealer.]

41.17 Subp. 6a. [See repealer.]

41.18 Subp. 7. [See repealer.]

41.19 Subp. 8. [See repealer.]

41.20 Subp. 9. **~~County~~ Child care responsibility when family moves.**

41.21 A. When a family receiving child care assistance from the basic sliding fee program
41.22 moves to a new county ~~within~~ or moves to an area served by a Tribal CCAP agency in
41.23 Minnesota, the original county or Tribal CCAP agency must continue to provide child care
41.24 assistance to a family for two full calendar months after the family's move if the family

42.1 needs child care and remains eligible for the basic sliding fee program. ~~The family is~~
42.2 ~~responsible for notifying the new county of residence within 60 days of moving and applying~~
42.3 ~~for basic sliding fee assistance in the new county. Before a family transfers to a Tribal CCAP~~
42.4 ~~agency, the family must meet the Tribal CCAP agency's criteria for families that the Tribal~~
42.5 ~~CCAP agency serves. The limitation in Minnesota Statutes, section 119B.09, subdivision~~
42.6 ~~1, paragraph (a), clause (2), regarding the family's household income at program entry does~~
42.7 ~~not apply when a family receiving assistance moves to another county or moves to an area~~
42.8 ~~served by a Tribal CCAP agency and timely applies under this item to continue~~ continues
42.9 ~~receiving assistance in~~ from the new county or Tribal CCAP agency.

42.10 B. If there is a waiting list for the basic sliding fee program in the receiving county
42.11 or Tribal CCAP agency when ~~it~~ the county or Tribal CCAP agency assumes responsibility
42.12 for the family after two full calendar months following the family's move, the receiving
42.13 county or Tribal CCAP agency must fund child care assistance for the family through the
42.14 portability pool while the family remains eligible. ~~Portability pool funding must continue~~
42.15 ~~for the lesser of six months or until the family is able to receive assistance under the receiving~~
42.16 ~~county's basic sliding fee program. The family must also be added to the basic sliding fee~~
42.17 ~~program waiting list according to portability pool priority group in the receiving county~~
42.18 ~~effective the date of the move. If the family reaches the top of the waiting list and funds~~
42.19 ~~become available before the six months have ended, the receiving county must immediately~~
42.20 ~~add the family to its basic sliding fee program. If basic sliding fee funds are not available~~
42.21 ~~when the six months has ended, services to the family must be terminated. The family must~~
42.22 ~~stay on the waiting list effective the date of the move. If funds become available after the~~
42.23 ~~family's child care assistance has been terminated due to the end of the portability pool~~
42.24 ~~period, the family must be treated as a new applicant and must have a household income~~
42.25 ~~that meets the income requirements in Minnesota Statutes, section 119B.09, subdivision 1,~~
42.26 ~~for program entry. An eligible family must continue to receive child care assistance through~~

43.1 the portability pool until the family is able to receive child care assistance through the
 43.2 receiving county's or Tribe's basic sliding fee program.

43.3 C. If there is no waiting list for the basic sliding fee program and funds are
 43.4 available, the receiving county or Tribal CCAP agency must immediately move the family
 43.5 into ~~its~~ the county's or agency's basic sliding fee program when ~~it~~ the county or agency
 43.6 assumes responsibility for the family after two full calendar months following the family's
 43.7 move according to Minnesota Statutes, section 256G.07, subdivision 1.

43.8 ~~D. If the participant had an approved educational plan in the original county, the~~
 43.9 ~~plan transfers with the participant. The plan remains in effect during the two months that~~
 43.10 ~~the original county continues to pay for the family's child care assistance and during any~~
 43.11 ~~time the family's child care assistance is paid through the portability pool. When the receiving~~
 43.12 ~~county pays the family's basic sliding fee assistance from its own allocation, the receiving~~
 43.13 ~~county may reject, approve, or modify the family's educational plan based on the receiving~~
 43.14 ~~county's criteria for approving educational plans.~~

43.15 Subp. 10. **Continued eligibility under basic sliding fee program.** A county ~~may~~
 43.16 CCAP agency must not refuse to provide continued child care assistance to a family receiving
 43.17 assistance ~~under~~ through the basic sliding fee program when there is a change in the family's
 43.18 financial or household status ~~provided that~~ as long as the family continues to meet the
 43.19 eligibility requirements in this part and the general eligibility requirements in part 3400.0040.
 43.20 Except for the job search time limit under Minnesota Statutes, section 119B.10, subdivision
 43.21 1, paragraph (a); ~~the education time limit in Minnesota Statutes, section 119B.07; and the~~
 43.22 ~~time limit for the at-home infant care program in Minnesota Statutes, section 119B.035,~~
 43.23 ~~subdivision 4, counties may~~ 119B.10, subdivision 3, paragraph (b); the extended eligibility
 43.24 period in Minnesota Statutes, section 119B.105; and the time limit to submit proof of
 43.25 eligibility under Minnesota Statutes, section 119B.025, subdivision 1, paragraph (d), a
 43.26 CCAP agency must not set a time limit for eligibility under the basic sliding fee program.

44.1 **3400.0065 BASIC SLIDING FEE WAITING LIST.**

44.2 Subpart 1. Basic sliding fee program waiting lists. When a family inquires about or
44.3 applies for child care assistance and basic sliding fee funding is not immediately available,
44.4 a CCAP agency must perform a preliminary determination of the family's eligibility. A
44.5 CCAP agency must not request or require a family to submit verifications during the
44.6 preliminary determination of eligibility. If a CCAP agency determines that a family is or
44.7 will likely be eligible for child care assistance and funding is not immediately available,
44.8 the CCAP agency must place the family on a waiting list. A CCAP agency must determine
44.9 the highest priority group for which a family qualifies and must notify the family of this
44.10 determination. A CCAP agency must keep a written record identifying each family that the
44.11 CCAP agency places on the child care waiting list.

44.12 Subp. 2. Waiting list dates. Based on the funding priorities in Minnesota Statutes,
44.13 section 119B.03, subdivision 4, a CCAP agency must add a family to the basic sliding fee
44.14 program waiting list on the dates in items A to D.

44.15 A. A CCAP agency must add a family in priority group one or four to the basic
44.16 sliding fee program waiting list on the date that the family makes the child care assistance
44.17 request.

44.18 B. A CCAP agency must add a family in priority group two to the basic sliding
44.19 fee program waiting list on the date that the family begins a transition year under part
44.20 3400.0090.

44.21 C. A CCAP agency must add a family in priority group three to the basic sliding
44.22 fee program waiting list on the date that the family moves to a receiving county or moves
44.23 to an area served by a Tribal CCAP agency.

44.24 D. A CCAP agency must add any other family who will likely be eligible under
44.25 Minnesota Statutes, section 119B.03, subdivision 3, to the basic sliding fee program waiting
44.26 list on the date that the participant makes the child care assistance request.

45.1 Subp. 3. **Temporarily ineligible family on basic sliding fee waiting list.** When a
45.2 family inquires about or applies for child care assistance while the family is temporarily
45.3 ineligible, a CCAP agency must place the family on the waiting list if it is likely the family
45.4 will be eligible for child care assistance. When a family reaches the top of the CCAP agency's
45.5 waiting list and is temporarily ineligible for child care assistance, a CCAP agency must
45.6 follow the procedures in part 3400.0040, subpart 17b.

45.7 Subp. 4. **Transfer of family from waiting list to basic sliding fee program.** A CCAP
45.8 agency must move a family on the basic sliding fee waiting list to the basic sliding fee
45.9 program as funding permits according to the priorities listed in Minnesota Statutes, section
45.10 119B.03, subdivision 4. After a CCAP agency has complied with the priority requirements
45.11 in section 119B.03, subdivision 4, the CCAP agency must comply with any priority
45.12 requirements that the CCAP agency adopts under part 3400.0140, subpart 10, to move a
45.13 family on the waiting list to the basic sliding fee program.

45.14 Subp. 5. **Transfer of transition year family to basic sliding fee program.**

45.15 A. If a transition year family under part 3400.0090 moves to another county or
45.16 moves to an area served by a Tribal CCAP agency, the date that the original county or Tribal
45.17 CCAP agency placed the family on the basic sliding fee waiting list must transfer with the
45.18 family to the receiving county or Tribal CCAP agency.

45.19 B. A family who is eligible for, but does not use, transition year child care
45.20 assistance retains the family's priority status for the basic sliding fee program. A family
45.21 loses priority status at the conclusion of the transition year.

45.22 C. A county or Tribal CCAP agency must manage the county's or Tribal CCAP
45.23 agency's basic sliding fee allocation to allow a family to move from a transition year to the
45.24 basic sliding fee program without any interruption in child care. A CCAP agency must not
45.25 serve a family under the basic sliding fee program who is a lower priority on the basic
45.26 sliding fee waiting list than a transition year family unless the CCAP agency ensures that

46.1 there is basic sliding fee program funding for the transition year family at the end of the
46.2 family's transition year.

46.3 D. When a transition year ends, a CCAP agency must move a transition year
46.4 family into the basic sliding fee program. A transition year family that does not reach the
46.5 top of the CCAP agency's basic sliding fee program waiting list before completing a transition
46.6 year is eligible to continue receiving transition year extension child care assistance under
46.7 part 3400.0090, subpart 10. A CCAP agency must move a family receiving transition year
46.8 extension child care assistance into the basic sliding fee program as funding becomes
46.9 available according to the priorities in Minnesota Statutes, section 119B.03, subdivision 4.

46.10 Subp. 6. **Removal of family from waiting list.** If a family receives transition year
46.11 extension child care assistance or portability pool child care assistance, or is a student parent
46.12 as defined in part 3400.0020, subpart 39a, receiving MFIP child care, and the family is no
46.13 longer eligible for child care assistance, a CCAP agency must remove the family from the
46.14 basic sliding fee waiting list. If a family reapplies for child care assistance in a county or
46.15 with a Tribal CCAP agency with a waiting list, the family is subject to the waiting list
46.16 according to the priorities in Minnesota Statutes, section 119B.03. A family who loses
46.17 eligibility for child care assistance while receiving a transition year extension is no longer
46.18 eligible for second priority on the basic sliding fee waiting list.

46.19 **3400.0080 MFIP CHILD CARE PROGRAM.**

46.20 *[For text of subpart 1, see Minnesota Rules]*

46.21 **Subp. 1a. Eligibility and authorization of sanctioned MFIP participant.**

46.22 A. At the time of application and redetermination, a 12-month reporter or schedule
46.23 reporter who has been sanctioned under the MFIP program is eligible to receive child care
46.24 assistance as allowed by part 3400.0110, subpart 3, item A.

47.1 B. A MFIP participant eligible for 12-month reporter receiving child care assistance
 47.2 who has been sanctioned under the MFIP program ~~may~~ is eligible to receive child care
 47.3 assistance; as allowed under parts 3400.0110, subpart 3, item C, and 3400.0175.

47.4 C. A schedule reporter who receives child care assistance and has been sanctioned
 47.5 under the MFIP program is eligible to receive child care assistance as allowed by parts
 47.6 3400.0110, subpart 3, item D, and 3400.0175.

47.7 ~~A. for that portion of the participant's job search support or employment plan~~
 47.8 ~~which the participant is complying with according to Minnesota Statutes, chapter 256J; or~~

47.9 ~~B. according to Minnesota Statutes, section 119B.05, subdivision 1, clause (1).~~

47.10 Subp. 1b. **Child care assistance for approved job search.** A MFIP participant who
 47.11 has an approved job search support plan or whose employment plan that includes a job
 47.12 search as an authorized activity is not limited to 240 hours of job search child care assistance
 47.13 in a calendar year the job search time frame in Minnesota Statutes, section 119B.10,
 47.14 subdivision 1.

47.15 Subp. 2. [Repealed, 26 SR 253]

47.16 Subp. 3. [Repealed, 26 SR 253]

47.17 Subp. 4. [Repealed, 26 SR 253]

47.18 Subp. 5. [Repealed, 26 SR 253]

47.19 Subp. 6. [Repealed, 26 SR 253]

47.20 Subp. 7. [Repealed, 26 SR 253]

47.21 Subp. 8. **County Child care responsibility when a family moves to another**
 47.22 **county.** When a MFIP or DWP participant moves to a ~~new~~ another county or an area served
 47.23 by a Tribal CCAP agency and the new receiving county or Tribal CCAP agency accepts
 47.24 responsibility for the participant's approved job search support or employment plan under

48.1 Minnesota Statutes, section 256J.55, subdivision 3, the ~~new~~ receiving county or Tribal
 48.2 CCAP agency is responsible for providing child care assistance to the MFIP or DWP
 48.3 participant effective on the date that the county or Tribal CCAP agency accepted
 48.4 responsibility for the employment plan. In all other cases, a county or Tribal CCAP agency
 48.5 must provide child care assistance ~~must be provided~~ according to Minnesota Statutes, section
 48.6 256G.07, subdivisions 1, 3, and 4, when a MFIP or DWP participant moves to ~~a new~~ another
 48.7 county or an area served by a Tribal CCAP agency. A family must meet a Tribal CCAP
 48.8 agency's criteria for families that the Tribal CCAP agency serves for the Tribal CCAP
 48.9 agency to provide child care assistance to the family.

48.10 **3400.0090 TRANSITION YEAR CHILD CARE.**

48.11 Subpart 1. **Notice to family of eligibility.** ~~The administering agency must notify a~~
 48.12 ~~family, in writing,~~ At the time ~~the~~ that a family's MFIP or DWP case closes, the county or
 48.13 Tribal agency serving the family's MFIP or DWP case must send the family written notice
 48.14 of the family's potential eligibility for transition year child care. ~~The notification must include~~
 48.15 ~~information on how to establish eligibility for transition year child care and on the family's~~
 48.16 ~~rights and responsibilities under the transition year child care program.~~

48.17 Subp. 2. **Eligibility.**

48.18 A. A family must only use transition year child care assistance ~~may only be used~~
 48.19 to support employment and, a job search ~~related expenses,~~ and an approved education or
 48.20 training program that meets the requirements in Minnesota Statutes, section 119B.10. A
 48.21 family is eligible for transition year child care if the family meets the conditions in ~~items~~
 48.22 ~~A to D are met~~ subitems (1) to (4).

48.23 ~~A.~~ (1) The family's MFIP or DWP case has closed.

49.1 ~~B. (2)~~ At least one caregiver in the family received MFIP or DWP in at least ~~three~~
49.2 one of the six months immediately preceding the month in which the family's MFIP or DWP
49.3 case was closed.

49.4 ~~C. (3)~~ The family meets the income eligibility requirements specified in Minnesota
49.5 Statutes, section 119B.09, subdivision 1.

49.6 ~~D. (4)~~ ~~Transition year child care may be paid for the care of a child who would~~
49.7 ~~have been eligible to receive a MFIP grant, or for children who would have been eligible~~
49.8 ~~for MFIP, except for the child's receipt of SSI or Title IV-E foster care benefits. The child~~
49.9 ~~meets the definition of a family under Minnesota Statutes, section 119B.011, subdivision~~
49.10 ~~13; or the child received, or would have been eligible to receive, an MFIP or DWP grant.~~

49.11 B. Eligibility ~~A family becomes eligible~~ for transition year child care ~~begins the~~
49.12 ~~first month after~~ on the date that the family's MFIP or DWP case ~~has closed~~ closes and
49.13 continues to be eligible for 12 consecutive months. A family's temporary ineligibility for,
49.14 suspension of, or failure to use child care assistance during the transition year does not
49.15 suspend the transition year period.

49.16 C. A former MFIP or DWP participant may apply for transition year child care
49.17 at any time during the transition year and, notwithstanding the application date, shall must
49.18 receive retroactive transition year child care assistance according to Minnesota Statutes,
49.19 section 119B.09, subdivision 7.

49.20 D. If a family was receiving child care assistance when the family's MFIP or DWP
49.21 case closed, ~~determination of eligibility for transition year child care assistance must be~~
49.22 ~~treated as a redetermination rather than a new application~~ the family's child care assistance
49.23 continues until the next redetermination as long as the family meets the transition year
49.24 eligibility criteria in item A.

50.1 Subp. 3. **Loss of transition year child care eligibility.**

50.2 A. A family in which all caregivers have been disqualified from receiving MFIP
50.3 or DWP due to fraud is not eligible for transition year child care assistance.

50.4 B. A county or Tribal CCAP agency must end a family's transition year child care
50.5 assistance if the family meets one or more conditions for termination under part 3400.0183,
50.6 subpart 2.

50.7 Subp. 4. **Reestablishment of MFIP or DWP eligibility during transition year**
50.8 **period.** If a transition year family reopens ~~its~~ the family's MFIP or DWP case during the
50.9 transition year period and subsequently meets the conditions in subpart 2, the family qualifies
50.10 for a new 12-month transition year period. ~~If the family received MFIP or DWP for only~~
50.11 ~~one or two of the previous six months, but meets the requirements in subpart 2, items A, C,~~
50.12 ~~and D, the family is eligible for the remaining months of the transition year, treating the~~
50.13 ~~month or months on MFIP or DWP as a suspension of the child care benefit but not the~~
50.14 ~~transition year period.~~ A family who receives one month of MFIP or DWP assistance and
50.15 who meets the other conditions in subpart 2 is eligible for another 12-month transition year
50.16 period. To receive child care assistance while receiving MFIP or DWP, ~~the~~ a family must
50.17 meet the MFIP child care requirements under part 3400.0080.

50.18 Subp. 5. [Repealed, 26 SR 253]

50.19 Subp. 6. [Repealed, 26 SR 253]

50.20 Subp. 7. [Repealed, 33 SR 695]

50.21 Subp. 8. [Repealed, 26 SR 253]

50.22 Subp. 9. [Repealed, 26 SR 253]

51.1 Subp. 10. Transition year extension.

51.2 A. A family must only use transition year extension child care assistance to support
51.3 employment, a job search, and an approved education and training program that meets the
51.4 requirements in Minnesota Statutes, section 119B.10.

51.5 B. A family that meets the requirements of Minnesota Statutes, section 119B.011,
51.6 subdivision 20a, and all other applicable child care assistance eligibility requirements is
51.7 eligible for transition year extension child care assistance.

51.8 C. A family's transition year extension child care assistance begins after the
51.9 conclusion of 12 consecutive months of the family's transition year. Child care assistance
51.10 continues for a family as long as the family continues to meet child care assistance eligibility
51.11 requirements.

51.12 D. A family's transition year extension child care assistance continues until:

51.13 (1) basic sliding fee child care assistance funding becomes available;

51.14 (2) the family starts receiving MFIP or DWP assistance; or

51.15 (3) the family no longer meets child care assistance eligibility requirements.

51.16 E. A CCAP agency considers a family a new applicant when the family requests
51.17 child care assistance after a transition year extension ends.

51.18 **3400.0100 FAMILY COPAYMENT FEE SCHEDULE COPAYMENTS AND**
51.19 **COPAYMENT SCHEDULES.**

51.20 Subpart 1. [Repealed, 30 SR 1318]

51.21 Subp. 2. [Repealed, 26 SR 253]

51.22 Subp. 2a. ~~Copayment fees to be~~ Copayments prorated during start-up initial
51.23 service period. ~~Counties~~ A CCAP agency must prorate all a copayment fees during the

52.1 service period when ~~the~~ a family first receives service based on the number of calendar days
52.2 remaining in the service period.

52.3 Subp. 2b. [See repealer.]

52.4 Subp. 2c. [See repealer.]

52.5 Subp. 3. [Repealed, 30 SR 1318]

52.6 Subp. 3a. [Repealed, 30 SR 1318]

52.7 Subp. 4. [Repealed, 30 SR 1318]

52.8 Subp. 5. **Update and publication of fee copayment schedule in State Register.** The
52.9 ~~department shall publish annually in the State Register the state median income for a family~~
52.10 ~~of three, adjusted for family size, and a fee schedule. This information must be published~~
52.11 ~~after the date the state median income is published in the Federal Register by the United~~
52.12 ~~States Department of Health and Human Services. The department shall also distribute a~~
52.13 ~~copy of the fee schedule and the updated estimate of state median income to each county.~~
52.14 ~~The updated fee schedule shall take effect on July 1 or on the first day of the first full quarter~~
52.15 ~~following publication of the state median income in the State Register if publication occurs~~
52.16 ~~after July 1. Under Minnesota Statutes, section 119B.12, the updated fee copayment schedule~~
52.17 ~~must take effect within three months of the date that the state median income and federal~~
52.18 ~~poverty guidelines become publicly available. The commissioner must publish and make~~
52.19 ~~the updated copayment schedule electronically available to each CCAP agency.~~

52.20 **3400.0110 CHILD CARE ASSISTANCE AUTHORIZATIONS AND PAYMENTS.**

52.21 Subpart 1. **Payment options Use of money from child care fund.** Counties A CCAP
52.22 ~~agency must monitor child care~~ issue child care assistance payments to ensure that the funds
52.23 ~~are used for eligible families to eligible child care providers under part 3400.0120, subpart~~
52.24 1, from the child care fund.

53.1 Subp. 1a. **Date of payments must begin.** After ~~approval of an~~ a CCAP agency
 53.2 approves of a family's application for child care assistance, the CCAP agency must authorize
 53.3 payment of child care assistance ~~must be authorized to begin as of~~ to an eligible child care
 53.4 provider under part 3400.0120 beginning on the family's date of eligibility as determined
 53.5 under part 3400.0040, subpart 6c.

53.6 Subp. 2. **Authorization before Payment of legal nonlicensed providers child care**
 53.7 **provider.** After a legal nonlicensed child care provider is authorized by the county registered
 53.8 as a child care provider and eligible for child care assistance under part 3400.0120, the
 53.9 county must pay the provider or parent retroactive to a CCAP agency must pay the child
 53.10 care provider retroactively from the date in item A, B, or C that occurred most recently, or
 53.11 D, whichever is later:

53.12 A. the date ~~on which~~ that a CCAP agency authorizes child care to begin for the a
 53.13 family was authorized to begin that the legal nonlicensed child care provider serves;

53.14 B. the date ~~the~~ that a family signed the application that the legal nonlicensed child
 53.15 care provider serves became eligible for child care under part 3400.0040, subpart 6c; or

53.16 C. the date ~~the~~ that a family began using the legal nonlicensed child care provider;
 53.17 or

53.18 D. the date that the legal nonlicensed child care provider completed training
 53.19 required by part 3400.0120, subpart 6, and Minnesota Statutes, section 119B.125, subdivision
 53.20 1b.

53.21 Subp. 2a. [See repealer.]

53.22 Subp. 2b. **Payment of certified license-exempt child care centers.** After a
 53.23 license-exempt child care center is certified under Minnesota Statutes, chapter 245H,
 53.24 registered, and eligible under part 3400.0120, subpart 1, a CCAP agency must pay the

54.1 license-exempt child care center retroactively from the date in item A or B, whichever is
 54.2 later:

54.3 A. the date that a CCAP agency authorizes child care for a family to begin for a
 54.4 family that the certified license-exempt child care center serves; or

54.5 B. the date that a family that the certified license-exempt child care center serves
 54.6 became eligible for child care under part 3400.0040, subpart 6c.

54.7 Subp. 3. **County Authorization of child care.** Within the limits set by this chapter
 54.8 and Minnesota Statutes, chapter 119B, the amount of child care ~~authorized~~ that a CCAP
 54.9 agency authorizes must reflect the child care needs of the family and minimize out-of-pocket
 54.10 child care costs to the family according to items A to H.

54.11 A. ~~The amount of~~ At the time of application and redetermination, a CCAP agency
 54.12 must authorize child care ~~authorized~~ must be based on the parents' requirements in Minnesota
 54.13 Statutes, section 119B.095, and based on the parentally responsible individual's schedule
 54.14 of participation in authorized activities, the child's school schedule, the child care provider's
 54.15 availability, and any other factors that would affect the amount of child care that the child
 54.16 family needs. ~~The county must pay the provider's full charge up to the applicable maximum~~
 54.17 rate for all hours of child care authorized and scheduled for the family. When more than 50
 54.18 hours of child care assistance for one child are authorized with one provider in a week, the
 54.19 county may reimburse the provider in an amount that exceeds the applicable maximum
 54.20 weekly rate, if the provider charges the same amount for more than 50 hours of care for a
 54.21 family not receiving child care assistance.

54.22 B. A ~~county~~ CCAP agency must not authorize ~~or pay for~~ more than 120 hours of
 54.23 child care assistance per child every two weeks, except as provided under subparts 3a and
 54.24 3b. ~~To convert child care paid on a full-day or weekly basis into hours to determine if~~
 54.25 ~~payment exceeds 120 hours of child care assistance, counties must follow the standards in~~
 54.26 ~~items A and B.~~

55.1 ~~A. A full day is equal to ten hours of child care.~~

55.2 ~~B. A week is equal to 50 hours of child care.~~

55.3 C. A CCAP agency must not decrease the amount of a 12-month reporter's
55.4 authorized child care during the 12-month eligibility period due to a temporary break or a
55.5 change in the parentally responsible individual's employment, education and training, or
55.6 employment plan activity, unless the 12-month reporter requests a reduction in authorized
55.7 hours or requests that the CCAP agency suspend the 12-month reporter's child care under
55.8 part 3400.0040, subpart 18. Temporary breaks or changes include circumstances such as:

55.9 (1) medical leave;

55.10 (2) seasonal employment fluctuations;

55.11 (3) a school break between semesters; or

55.12 (4) a reduction in the parentally responsible individual's work, training, or
55.13 education hours while the parentally responsible individual is still engaged in the activity.

55.14 D. A CCAP agency must authorize child care during the 12-month eligibility
55.15 period for a schedule reporter based on the parentally responsible individual's activity
55.16 schedule. A CCAP agency must decrease the number of a schedule reporter's authorized
55.17 hours when there is a change in the parentally responsible individual's employment, education
55.18 and training, or employment plan activity and as a result of the change, the schedule reporter
55.19 needs fewer hours of child care. A CCAP agency must terminate a child care authorization
55.20 when there is a temporary break in the parentally responsible individual's employment,
55.21 education and training, or employment plan activity and the parentally responsible individual
55.22 has no other authorized activity, unless the parentally responsible individual meets the
55.23 criteria in subpart 10 or part 3400.0040, subpart 10, item E, subitem (1). Temporary breaks
55.24 include circumstances such as:

55.25 (1) a medical leave;

56.1 (2) seasonal employment fluctuations; and

56.2 (3) a school break between semesters.

56.3 E. If a parentally responsible individual experiences a permanent end of the
56.4 parentally responsible individual's only authorized activity under part 3400.0175, a CCAP
56.5 agency must authorize the same amount of child care for the family as the family received
56.6 before the permanent end of the authorized activity for up to three months or until the
56.7 family's next redetermination, whichever is sooner.

56.8 F. A CCAP agency must terminate a child's child care authorization on the child's
56.9 birthday when the child reaches 13 years of age or the child has a disability and reaches 15
56.10 years of age. A family remains eligible until redetermination under Minnesota Statutes,
56.11 section 119B.09, subdivision 1, paragraph (e). If continued child care is necessary, the
56.12 parentally responsible individual must request a CCAP agency to authorize child care. For
56.13 12-month reporters, a CCAP agency must authorize the same amount of child care under
56.14 this item as the family received before the child's birthday, unless the parentally responsible
56.15 individual verifies that the family needs additional child care hours or requests fewer child
56.16 care hours. For schedule reporters, a CCAP agency must authorize child care under this
56.17 item based on the parentally responsible individual's verified activity schedule. If the child
56.18 is attending a licensed child care center, the child care provider must have a variance under
56.19 chapter 9503 for a CCAP agency to authorize child care for the child.

56.20 G. A CCAP agency must authorize 100 hours of child care biweekly for a child
56.21 when the child, the parentally responsible individual's authorized activity, and the child's
56.22 child care provider meet the criteria in Minnesota Statutes, section 119B.13, subdivision
56.23 3c, unless the family chooses to have fewer hours authorized.

56.24 H. A CCAP agency must limit the amount of child care that the CCAP agency
56.25 authorizes with a secondary child care provider as provided in Minnesota Statutes, section
56.26 119B.097.

57.1 Subp. 3a. Authorization during change in child care provider. A CCAP agency
57.2 must not authorize more than 120 hours of child care per child during each service period,
57.3 except during a change in child care provider. Before authorizing a child's care with a new
57.4 child care provider, a CCAP agency must give the previous child care provider proper notice
57.5 under part 3400.0185, subpart 13. A CCAP agency is allowed to authorize child care with
57.6 a new child care provider before the CCAP agency terminates the child care authorization
57.7 of the previous child care provider if:

57.8 A. child care is no longer available with the previous child care provider;

57.9 B. the previous child care provider notifies the CCAP agency that the child care
57.10 provider will not bill for child care during the 15-day adverse action period; or

57.11 C. the child is no longer receiving child care from the previous child care provider
57.12 and the child has reached the absent day limit under Minnesota Statutes, section 119B.13,
57.13 subdivision 7.

57.14 Subp. 3b. Authorization of child care with back-up child care provider. When the
57.15 child's usual child care provider is unavailable, the family may request that a CCAP agency
57.16 authorize child care with a back-up child care provider for a maximum of the entire time
57.17 period that the child's usual child care provider is unavailable.

57.18 Subp. 3c. Authorization of children of child care center employee.

57.19 A. When a CCAP agency authorizes child care in excess of the limit of children
57.20 of child care center employees in Minnesota Statutes, section 119B.09, subdivision 9a, the
57.21 CCAP agency must issue a 15-day adverse action notice and terminate the authorization of
57.22 any child in excess of the limit. The CCAP agency must terminate the authorization of the
57.23 child or children whose child care was most recently authorized until there are no
57.24 authorizations in excess of the limit.

58.1 B. If a parentally responsible individual becomes a child care center employee at
58.2 the same child care center where the individual's child is authorized to receive child care
58.3 and the child care center exceeds the limit of children of child care center employees in
58.4 Minnesota Statutes, section 119B.09, subdivision 9a, the CCAP agency must issue a 15-day
58.5 adverse action notice and terminate authorization of the individual's child.

58.6 Subp. 3d. Child care payment.

58.7 A. A CCAP agency must pay a child care provider's full charge up to the applicable
58.8 maximum rate, less the copayment, for all authorized hours of child care for a child.

58.9 B. A CCAP agency must not pay for more than 120 hours of child care assistance
58.10 per child per service period. The 120-hour payment limit applies during a change in child
58.11 care provider under subparts 3a and 3b.

58.12 C. Except as provided under subpart 8, a CCAP agency must not pay for the care
58.13 of a child by more than one child care provider during the same period of time. If a child
58.14 uses two child care providers under Minnesota Statutes, section 119B.097, the payment
58.15 limits in Minnesota Statutes, section 119B.13, subdivision 1, apply. A CCAP agency must
58.16 not pay more than one primary child care provider for care of a child on the same day and
58.17 must not pay more than one secondary child care provider on the same day.

58.18 D. All hourly rates that a CCAP agency pays to a legal nonlicensed child care
58.19 provider count toward the 120-hour limit.

58.20 E. A CCAP agency must follow the standards in subitems (1) and (2) to convert
58.21 child care that a CCAP agency pays on a full-day or weekly basis into hours to determine
58.22 if a payment exceeds 120 hours of child care assistance per service period for licensed and
58.23 certified license-exempt child care providers.

58.24 (1) Payment at the daily maximum rate is equal to ten hours of child care.

58.25 (2) Payment at the weekly maximum rate is equal to 50 hours of child care.

59.1 Subp. 4. [Repealed, 33 SR 695]

59.2 Subp. 4a. **Reimbursement from other sources for child care costs.** A ~~county~~ CCAP
 59.3 agency must reduce the amount of a family's child care assistance payment by the amount
 59.4 of reimbursement earmarked for the same child care expenses that the family receives from
 59.5 sources other than the child care ~~assistance~~ fund. A CCAP agency must not reduce the
 59.6 amount of a family's child care assistance payments when another source pays for different
 59.7 child care expenses, such as copayments, differences between the applicable maximum rate
 59.8 and the child care provider's charge, or time periods that are not authorized under the child
 59.9 care fund.

59.10 Subp. 5. [Repealed, 26 SR 253]

59.11 Subp. 6. [Repealed, 26 SR 253]

59.12 Subp. 7. **County Payment policies and schedule.** A ~~county may~~ CCAP agency must
 59.13 not require ~~parents~~ a parentally responsible individual to pay ~~providers~~ a child care provider
 59.14 in advance of receiving payments from the child care fund ~~as a condition for receiving~~
 59.15 ~~payments from the child care fund.~~ The county shall A CCAP agency must make child care
 59.16 assistance payments at least monthly within 21 days of receiving a complete bill from a
 59.17 child care provider. A complete bill must include a child care provider's signature, unless
 59.18 the bill meets the good cause criteria defined in the CCAP agency's child care fund plan.
 59.19 ~~Providers must be sent~~ A CCAP agency must send a child care provider the forms necessary
 59.20 to bill for payment on or before the beginning of the billing cycle if the ~~county~~ CCAP agency
 59.21 ~~has received the information necessary for child care to be authorized~~ child care before this
 59.22 date.

59.23 Subp. 8. **Sick child care.**

59.24 A. Sick child care means ~~child care services provided to children who as a result~~
 59.25 ~~of illness cannot attend~~ that a child is unable to receive child care from the family's regular

60.1 child care provider due to the child's illness. In addition to making payments for regular
60.2 child care, the county a CCAP agency may make payments for to a second child care provider
60.3 that provides sick child care. A CCAP agency must include the CCAP agency's policy to
60.4 make payments to two child care providers when a child is sick in the CCAP agency's child
60.5 care fund plan.

60.6 B. If the county a CCAP agency chooses to pay a special needs rate for the care
60.7 of a sick child care, payment for sick child care must be at a rate comparable to like care
60.8 arrangements in the county. The county's sick child care policy and A CCAP agency must
60.9 include the CCAP agency's special needs rate shall be included for child care of sick children
60.10 in the county's CCAP agency's child care fund plan required under part 3400.0150.

60.11 **Subp. 9. Payment during child absences and holidays.**

60.12 A. If a child care provider does not charge all families for days on which a child
60.13 is absent from child care, the child care assistance program must not pay that the child care
60.14 provider for days on which a child is absent from care.

60.15 B. If a child care provider charges all families for days on which a child is absent
60.16 from child care, the child care assistance program must pay that the child care provider for
60.17 child absent days according to Minnesota Statutes, section 119B.13, subdivision 7.

60.18 C. Child care provider charges for absent days in excess of the amount established
60.19 by Minnesota Statutes, section 119B.13, subdivision 7, are the responsibility of the family
60.20 receiving child care assistance.

60.21 D. A CCAP agency must pay a child care provider must be paid for a holiday
60.22 days only if:

60.23 (1) according to the child care provider meets the requirements in Minnesota
60.24 Statutes, section 119B.13, subdivision 7, paragraph (b). (d);

61.1 (2) the day is a state or federal holiday as determined according
61.2 to Minnesota Statutes, section 645.44, subdivision 5- or another cultural or religious holiday
61.3 designated by the child care provider;

61.4 (3) A provider can be paid for a holiday day only if the provider meets the
61.5 requirements in Minnesota Statutes, section 119B.13, subdivision 7, paragraph (b), the child
61.6 care provider does not provide child care on the holiday, and it is in the provider's policies
61.7 to charge all families for the holiday. that day;

61.8 (4) the child care provider gives notice of the holiday or other designated day
61.9 to the CCAP agency before the holiday or designated day occurs or within ten calendar
61.10 days after the day occurs; and

61.11 (5) the child care provider bills the day as a holiday.

61.12 If child care is available on the a holiday, but and a child is scheduled and authorized
61.13 to be in the child care provider's care on that day and the child is absent on that day, the
61.14 child care provider must bill the day is as an absent day.

61.15 If a provider is closed on a cultural or religious holiday not identified in Minnesota
61.16 Statutes, section 645.44, subdivision 5, a parent may substitute that holiday for one of the
61.17 ten state and federal holidays identified in Minnesota Statutes, section 645.44, subdivision
61.18 5, if the parent gives notice of the substitution to the county before the holiday occurs or
61.19 within ten days after the holiday.

61.20 [For text of item E, see Minnesota Rules]

61.21 F. A parentally responsible individual may substitute other cultural or religious
61.22 holidays for the ten state and federal holidays identified in Minnesota Statutes, section
61.23 645.44, subdivision 5, if:

61.24 (1) the parentally responsible individual gives notice of the substitution to a
61.25 CCAP agency before the holiday occurs or within ten calendar days after the holiday; and

62.1 (2) the substitution is for a day when the child care provider is closed and
62.2 does not provide child care, and the child care provider agrees to bill the day as a holiday
62.3 and notify the CCAP agency according to item D, subitem (4).

62.4 G. If a holiday falls on a Saturday, the preceding day is used as a holiday. If a
62.5 holiday falls on a Sunday, the following day is used as a holiday.

62.6 H. A child with a documented medical condition may exceed the 25-absent-day
62.7 limit, or ten consecutive full-day absent limit, as provided by Minnesota Statutes, section
62.8 119B.13, subdivision 7, paragraph (b). The following criteria apply.

62.9 (1) A medical practitioner, public health nurse, or school nurse must complete
62.10 documentation of the child's medical condition. For purposes of this item, a medical
62.11 practitioner includes a physician, physician's assistant, nurse practitioner, psychiatrist,
62.12 psychologist, or chiropractor.

62.13 (2) If a child care provider sends a child home early from child care for a
62.14 medical reason, documentation of the medical condition may be verified by a licensed or
62.15 certified child care center director or child care center lead teacher. When the medical reason
62.16 is verified by the child care center director or lead teacher, the exemption is limited to up
62.17 to two weeks from the first day of the child's illness. To extend the exemption longer than
62.18 two weeks, a person listed in subitem (1) must complete documentation of the child's medical
62.19 condition.

62.20 (3) The exemption may begin on the first day of the child's illness, but not
62.21 more than 30 days prior to the date that the CCAP agency receives documentation of the
62.22 child's illness. When documentation is submitted by a medical practitioner, public health
62.23 nurse, or school nurse, the exemption is limited to the time period of the child's medical
62.24 condition or up to 12 months if the exemption is due to a chronic medical condition.

63.1 Subp. 10. **Payment during medical leaves of absence.** ~~Counties~~ A CCAP agency
 63.2 ~~must grant~~ authorize child care assistance for a schedule reporter during ~~a parent's~~ the
 63.3 schedule reporter's medical leave of absence from education ~~or~~, employment, or authorized
 63.4 activity in an employment plan if:

63.5 A. ~~the parent~~ parentally responsible individual is ~~incapable of providing~~ unable
 63.6 to provide child care ~~during~~ due to the individual's medical leave ~~or absence~~ condition;

63.7 B. ~~the parent~~ parentally responsible individual is expected to return to authorized
 63.8 employment or, an approved education or training program, or employment plan activity
 63.9 within 90 calendar days after leaving the job, education, or training program, or activity;
 63.10 and

63.11 C. the necessity of the medical leave and the inability to provide child care are
 63.12 documented by a licensed physician or, licensed psychiatrist, licensed psychologist, or
 63.13 licensed social worker.

63.14 The amount of child care authorized during the medical leave of absence must not
 63.15 exceed ~~the equivalent of one month of full-time~~ 215 hours of child care per child.

63.16 *[For text of subpart 11, see Minnesota Rules]*

63.17 Subp. 12. **Payment for child care provided at short-term alternate locations.** When
 63.18 child care is not available at a certified license-exempt child care center where a CCAP
 63.19 agency has authorized a child to receive child care assistance and the child receives child
 63.20 care at an alternate location, a CCAP agency must make child care assistance payments
 63.21 under the child's current authorization if the following criteria are met:

63.22 A. the alternate location is a certified license-exempt child care center;

63.23 B. the alternate location is registered to receive child care assistance;

64.1 C. the alternate location is controlled by the same entity as the authorized certified
 64.2 license-exempt child care center and has the same tax identification number;

64.3 D. the alternate location is identified by the authorized certified license-exempt
 64.4 child care center as an alternate location before a CCAP agency issues payment for child
 64.5 care that the child receives at the alternate location;

64.6 E. child care is unavailable at the certified license-exempt child care center where
 64.7 the child is authorized to receive child care;

64.8 F. the child receives child care for no more than 21 consecutive calendar days at
 64.9 the alternate location; and

64.10 G. the alternate location fulfills all child care assistance program requirements in
 64.11 this chapter and Minnesota Statutes, chapter 119B, and all certification requirements in
 64.12 Minnesota Statutes, chapter 245H.

64.13 **3400.0120 ELIGIBLE CHILD CARE PROVIDERS AND CHILD CARE PROVIDER**
 64.14 **REQUIREMENTS.**

64.15 Subpart 1. **Eligible ~~providers~~ child care provider.**

64.16 A. ~~Providers~~ A registered child care provider who ~~meet~~ meets the definition of a
 64.17 child care provider in Minnesota Statutes, section 119B.011, subdivision 19, ~~are~~ is eligible
 64.18 for ~~payment~~ payments from the child care fund. ~~Within the limitations specified in Minnesota~~
 64.19 ~~Statutes, sections 119B.09, subdivision 5, and 119B.25,~~

64.20 B. ~~parents~~ A parentally responsible individual may choose one or more eligible
 64.21 child care providers that best meet the needs of ~~their~~ the individual's family. ~~Parents may~~
 64.22 ~~choose more than one provider. A county may not deny a parent eligible for child care~~
 64.23 ~~assistance the use of a provider holding a valid child care license. with the following~~
 64.24 limitations:

65.1 (1) licensed family and legal nonlicensed child care providers and the child
65.2 care provider's employees are not eligible to receive child care subsidies for their own
65.3 children or children in their family during the hours that the child care providers and
65.4 employees provide child care or are paid to provide child care;

65.5 (2) a licensed child care center or a certified license-exempt child care center
65.6 must have no more than 25 authorized center employees' children or dependents at the child
65.7 care center; and

65.8 (3) a CCAP agency must not authorize a child to receive care from any more
65.9 than two of the following child care providers receiving payments from the child care fund:

65.10 (a) a licensed child care center;

65.11 (b) a licensed family child care provider; or

65.12 (c) a certified license-exempt child care center.

65.13 C. A CCAP agency or the commissioner may take action against a child care
65.14 provider according to Minnesota Statutes, section 119B.13, subdivision 6, paragraph (d),
65.15 clauses (1) to (7). A CCAP agency must indicate in the agency's child care fund plan which
65.16 clauses in Minnesota Statutes, section 119B.13, subdivision 6, paragraph (d), the agency is
65.17 implementing and must apply the policies consistently. For the purposes of implementing
65.18 Minnesota Statutes, section 119B.13, subdivision 6, paragraph (e), a CCAP agency or the
65.19 commissioner must (1) develop standards to define when a child care provider has corrected
65.20 a condition, and (2) describe the conditions under which the CCAP agency or commissioner
65.21 will withhold a child care provider's payment within the three-month time period. If a CCAP
65.22 agency or the commissioner develops standards for escalating consequences to a child care
65.23 provider within the three-month time period, any violation that the CCAP agency or the
65.24 commissioner establishes under Minnesota Statutes, section 119B.13, subdivision 6,
65.25 paragraph (d), is treated as a statewide occurrence. If the CCAP agency or commissioner

66.1 terminates a child care provider's registration, the child care provider must complete the
66.2 registration process in Minnesota Statutes, section 119B.011, subdivision 19a, and a CCAP
66.3 agency or the commissioner must determine that the child care provider has re-established
66.4 eligibility before the child care provider may receive any child care assistance payments.

66.5 Subp. 1a. **Child care provider registration and acknowledgment.** A child care
66.6 provider must sign and submit a child care provider registration and acknowledgment and
66.7 the county must have a signed provider acknowledgment form and register as a child care
66.8 provider before the child care provider or parent may a parentally responsible individual is
66.9 eligible to receive payment under payments from the child care fund. The process for
66.10 registering a child care provider eligible for payments from the child care fund must not
66.11 exceed 30 calendar days from the date that the child care provider's registration and
66.12 acknowledgment form is received or the date the child care provider's background study
66.13 determination required by Minnesota Statutes, section 119B.125, subdivision 1a, is received,
66.14 whichever is later. The child care provider registration and acknowledgment form must
66.15 include the following information:

66.16 A. the child care provider's rate, charges for child absences and holidays, any
66.17 notice days required before a child discontinues receiving child care, and any required
66.18 registration or activity fees;

66.19 B. documentation of the child care provider's license status and, if the child care
66.20 provider is seeking the provider accreditation rate bonus, any a higher rate for quality based
66.21 on accreditation or credential, documentation of the accreditation or credential held by the
66.22 child care provider;

66.23 C. a statement acknowledging that charging child care assistance participants
66.24 more than families who are not receiving child care assistance for like services or wrongfully
66.25 obtaining child care assistance may be investigated and may be a crime;

67.1 D. a statement acknowledging that ~~parents~~ a parentally responsible individual
67.2 must be given unlimited access to their children the individual's child and to the child care
67.3 provider caring for the children child during all hours that the ~~children are~~ child is in the
67.4 child care provider's care;

67.5 E. a statement acknowledging that the child care provider is responsible for
67.6 notifying the ~~county~~ CCAP agency as provided in subpart 5 of child absence days, reduced
67.7 attendance, and the end of child care;

67.8 F. a statement acknowledging that the child care provider is responsible for
67.9 ~~immediately notifying the county of~~ reporting any changes to the information supplied by
67.10 the child care provider in the provider's registration and acknowledgment form;

67.11 G. a statement acknowledging that the child care provider is a mandated reporter
67.12 of maltreatment of minors under Minnesota Statutes, chapter 260E; ~~and~~

67.13 H. a statement acknowledging that when the ~~county~~ CCAP agency knows that a
67.14 particular child care provider or child care arrangement is unsafe, the ~~county~~ CCAP agency
67.15 may deny child care assistance payments to ~~that~~ the child care provider; while following
67.16 the termination notice requirements in part 3400.0185, subpart 13;

67.17 I. a statement acknowledging that the child care provider is responsible for
67.18 maintaining daily attendance records according to Minnesota Statutes, section 119B.125,
67.19 subdivision 6;

67.20 J. a statement acknowledging that the child care provider is responsible for
67.21 maintaining documentation of payment of child care expenses by a source other than the
67.22 child's family according to Minnesota Statutes, section 119B.09, subdivision 11;

67.23 K. a statement acknowledging that if the child care provider receives an
67.24 overpayment from the child care fund, the CCAP agency or the commissioner must deduct
67.25 the overpayment from payments under part 3400.0187; and

68.1 L. a statement acknowledging that the child care provider must not bill for a
68.2 holiday unless the child care provider provides child care on the holiday, the child is
68.3 scheduled and authorized to be in child care on the holiday, and the child care provider
68.4 correctly indicates the day of the holiday when billing.

68.5 Subp. 1b. [Repealed, 33 SR 695]

68.6 Subp. 1c. **Registration of licensed child care centers, licensed family child care**
68.7 **providers, and certified license-exempt child care centers.** To register as a child care
68.8 provider, a licensed child care center, a licensed family child care provider, and a certified
68.9 license-exempt child care center must provide:

68.10 A. the child care provider registration and acknowledgment form required by
68.11 subpart 1a;

68.12 B. a completed request for taxpayer identification number and certification when
68.13 a child care provider is registering for the first time or registering after the child care
68.14 provider's registration has been terminated; and

68.15 C. a statement acknowledging that the child care provider must not bill for absent
68.16 days unless a child is absent for all scheduled hours on a day and the child care provider
68.17 correctly indicates the absent day when billing.

68.18 Subp. 1d. **Certification of license-exempt child care centers.** For a license-exempt
68.19 child care center to receive payments from the child care fund, the license-exempt child
68.20 care center must be registered, eligible under subpart 1, and certified under Minnesota
68.21 Statutes, chapter 245H. If the child care provider loses the child care provider's certification
68.22 under Minnesota Statutes, chapter 245H, the child care provider's registration and all of the
68.23 child care provider's child care authorizations must be terminated with a 15-day adverse
68.24 action notice.

69.1 Subp. 2. ~~Authorization~~ Registration of legal nonlicensed child care providers.

69.2 A. ~~A legal nonlicensed provider must be authorized by the county before the~~
69.3 ~~provider or parent may receive a payment under the child care fund. To be authorized by~~
69.4 ~~the county register, a legal nonlicensed child care provider must provide the county with~~
69.5 ~~the following information:~~

69.6 (1) the child care provider's name, age, and address;

69.7 (2) the child care provider registration and acknowledgment form required
69.8 by subpart 1a;

69.9 (3) an assurance that the child care provider is eligible to provide unlicensed
69.10 child care under Minnesota Statutes, section 245A.03, subdivision 2, paragraph (a);

69.11 (4) a release to permit disclosure of information to the public on substantiated
69.12 parental complaints concerning the health and safety of children in the child care provider's
69.13 ~~care to be disclosed to the public~~ according to Minnesota Statutes, chapter 13;

69.14 (5) an assurance that the child care provider is in compliance with state and
69.15 local health ordinances and building and fire codes applicable to the premises where the
69.16 child care provider provides child care ~~is provided; and~~

69.17 (6) ~~an acknowledgment~~ a statement acknowledging that the parent parentally
69.18 responsible individual and the legal nonlicensed child care provider have reviewed the
69.19 health and safety information provided ~~by the county.~~ during the registration process;

69.20 (7) a statement acknowledging that the legal nonlicensed child care provider
69.21 must notify the CCAP agency when any of the following events occur: a child dies in the
69.22 child care provider's care, a child has been maltreated in the child care provider's care, or a
69.23 child has had a serious injury requiring treatment by a physician in the child care provider's
69.24 care;

70.1 (8) a statement acknowledging that the legal nonlicensed child care provider
70.2 is not currently excluded or debarred from being a child care provider in any program
70.3 administered by the commissioner; and

70.4 (9) verification of training required by subpart 6 and Minnesota Statutes,
70.5 section 119B.125, subdivision 1b.

70.6 B. A legal nonlicensed providers child care provider who will receive payment
70.7 from the ~~county~~ child care fund must provide ~~the county with the~~ child care provider's Social
70.8 Security number or tax identification number. ~~The county may ask legal nonlicensed~~
70.9 ~~providers who will not receive payment from the county for their Social Security numbers;~~
70.10 ~~but legal nonlicensed providers who will not receive payment from the county are not~~
70.11 ~~required to disclose this information. Before asking for a legal nonlicensed provider's Social~~
70.12 ~~Security number, the county must tell~~ The legal nonlicensed child care provider ~~whether~~
70.13 ~~that disclosure is mandatory or voluntary, by~~ must be informed under what statutory or
70.14 other authority the number is solicited; and how the number will be used.

70.15 C. Legal nonlicensed ~~family~~ child care providers ~~also~~ must provide ~~the county~~
70.16 ~~with~~ an assurance that the child care provider will obtain an immunization record for each
70.17 child in the child care provider's care within ~~90~~ 30 days of ~~starting to~~ the first day providing
70.18 child care for the child.

70.19 D. At the time of registration, a legal nonlicensed child care provider must be
70.20 provided with health and safety materials supplied by the commissioner.

70.21 E. A legal nonlicensed child care provider must be informed that a record of
70.22 substantiated parental complaints concerning the health and safety of children in the care
70.23 of legal nonlicensed child care providers will be kept and that, upon request, information
70.24 governing substantiated complaints must be released to the public as authorized under
70.25 Minnesota Statutes, chapter 13.

71.1 Subp. 2a. **Release for in-home child care providers.** ~~To be authorized,~~ An in-home
 71.2 child care provider must register as a child care provider and sign a release allowing the
 71.3 ~~parent~~ parentally responsible individual employing that the child care provider to see receive
 71.4 information on the remittance advice about the amount of any funds being withheld from
 71.5 ~~the payment for~~ of the child care provider and the reason for these the withholdings. An
 71.6 in-home child care provider must be a legal nonlicensed child care provider or a child care
 71.7 provider licensed to provide child care in the child's home.

71.8 Subp. 3. **Parental access to children in child care.** ~~Providers~~ A child care provider
 71.9 must ~~permit parents~~ give a parentally responsible individual unlimited access to ~~their children~~
 71.10 the parentally responsible individual's child and to the child care provider caring for ~~their~~
 71.11 ~~children~~ the child during all hours ~~the children are~~ that the child is in the child care provider's
 71.12 care of the provider.

71.13 Subp. 4. [Repealed, 26 SR 253]

71.14 Subp. 5. **~~Notice to county required when care has terminated~~ Child care provider**
 71.15 **reporting requirements.**

71.16 A. In addition to the reporting requirements in Minnesota Statutes, section
 71.17 119B.125, subdivision 9, when a child care provider knows that a family has ended
 71.18 terminated child care with the child care provider, the child care provider must notify the
 71.19 ~~county~~ CCAP agency that a family has terminated child care has been terminated. When a
 71.20 child care provider believes that a family will be ending child care with the child care
 71.21 provider, the child care provider must immediately notify the county a CCAP agency of the
 71.22 date on which the child care provider believes that the family will end child care. A child
 71.23 care provider must also notify the county a CCAP agency if a child or children have been
 71.24 absent for more than seven consecutive scheduled days. With the exception of the reporting
 71.25 requirements in Minnesota Statutes, section 119B.125, subdivision 9, a child care provider
 71.26 may notify a CCAP agency of a change by reporting the change in person, by telephone,

72.1 by facsimile, by mail, electronically, by e-mail, or by reporting the change when billing or
72.2 on a change reporting form.

72.3 B. A legal nonlicensed child care provider must report to the CCAP agency when
72.4 any of the following events occur: a child dies in the child care provider's care, a child is
72.5 maltreated in the child care provider's care, or a child has a serious injury requiring treatment
72.6 by a physician in the child care provider's care.

72.7 Subp. 6. [Renumbered subp 7]

72.8 Subp. 6. **Legal nonlicensed child care provider training requirements.**

72.9 A. In addition to the training requirements in Minnesota Statutes, section 119B.125,
72.10 subdivision 1b, a legal nonlicensed child care provider must complete:

72.11 (1) pediatric first aid training provided by an individual approved to provide
72.12 pediatric first aid instruction. A child care provider's pediatric first aid training must be valid
72.13 at the time of the child care provider's registration approval;

72.14 (2) preventing sudden unexpected infant death syndrome training approved
72.15 by the commissioner that the child care provider completed within two years prior to
72.16 receiving an initial authorization to care for a child under one year of age;

72.17 (3) preventing abusive head trauma training approved by the commissioner
72.18 that the child care provider completed within two years prior to receiving an initial
72.19 authorization to care for a child under five years of age; and

72.20 (4) federal health and safety requirements approved by the commissioner
72.21 within 90 days of receiving authorization to care for a child who is not related to the child
72.22 care provider. If a child care provider does not complete training under this subitem within
72.23 90 days of receiving an authorization to care for an unrelated child, the child care provider's
72.24 authorization for all unrelated children must be terminated with a 15-day adverse action
72.25 notice. If a child care provider completes training under this subitem, the child care provider

73.1 is eligible for an authorization for an unrelated child effective on the date that the child care
73.2 provider completes training under Minnesota Statutes, sections 119B.09, subdivision 7, and
73.3 119B.13, subdivision 6, paragraph (c).

73.4 B. At each registration renewal, a legal nonlicensed child care provider caring for
73.5 an unrelated child must have:

73.6 (1) pediatric first aid training provided by an individual approved to provide
73.7 pediatric first aid instruction. A child care provider's pediatric first aid training must be valid
73.8 at the time of the child care provider's registration renewal approval;

73.9 (2) pediatric cardiopulmonary resuscitation training provided by an individual
73.10 approved to provide pediatric cardiopulmonary resuscitation training. A child care provider's
73.11 pediatric cardiopulmonary resuscitation training must be valid at the time of the child care
73.12 provider's registration renewal approval; and

73.13 (3) federal health and safety requirements training approved by the
73.14 commissioner that the child care provider completed within the last 12 months.

73.15 C. A legal nonlicensed child care provider must attest and verify that the legal
73.16 nonlicensed child care provider has completed all required training.

73.17 **Subp. 67. Legal nonlicensed child care provider capacity and age distributions.**

73.18 A. A legal nonlicensed child care provider, as defined by Minnesota Statutes,
73.19 section 119B.011, subdivision 16, is eligible for payment from the child care fund for up
73.20 to eight children who are ~~11~~ 12 years of age and younger and ~~for any additional children~~
73.21 ~~who are 12 years of age and older under Minnesota Statutes, section 119B.011, subdivision~~
73.22 ~~4~~ 13 or 14 years of age with special needs due to a disability. The children must be:

73.23 (1) related to the child care provider;

73.24 (2) unrelated to the child care provider from a single family; or

74.1 (3) related to the child care provider and unrelated to the child care provider
74.2 from a single family.

74.3 B. When a legal nonlicensed child care provider cares for children, the children
74.4 must be within the following age distributions to be eligible for payment from the child care
74.5 fund:

74.6 (1) there must be no more than two children who are at least six weeks old
74.7 but less than 12 months old;

74.8 (2) there must be no more than three children who are less than 24 months
74.9 old within the age limits of subitem (1); and

74.10 (3) there must be no more than six children who are five years of age or
74.11 younger within the age limits of subitems (1) and (2).

74.12 C. ~~An administering~~ A CCAP agency must consider the following factors when
74.13 authorizing child care with a legal nonlicensed child care provider:

74.14 (1) Children who are ~~11~~ 12 years of age and younger count toward the
74.15 eight-child limit. ~~An administering agency may authorize child care for children who are~~
74.16 ~~12 years of age and older up to the ages allowed by Minnesota Statutes, section 119B.011,~~
74.17 ~~subdivision 4. Children who are 12 years of age and older do not count toward the eight-child~~
74.18 ~~limit.~~ Children who are 13 or 14 years of age with special needs due to a disability and
74.19 authorized for payment under the child care fund count toward the eight-child limit.

74.20 (2) The total number of children who are ~~11~~ 12 years of age and younger
74.21 must include the legal nonlicensed child care provider's own children when the child care
74.22 provider's own children are present at the child care site.

74.23 (3) The limit of eight children ~~who are 11 years of age and younger~~ as
74.24 described in subitems (1) and (2) applies at all times to the child care site.

75.1 **Subp. 8. Legal nonlicensed child care provider health and safety requirements.**

75.2 A. A legal nonlicensed child care provider must comply with all applicable federal
75.3 health and safety requirements, including preventing and controlling infectious diseases,
75.4 administering medications, preventing and responding to allergic reactions, ensuring building
75.5 and physical premises safety, handling and disposing of bodily fluids, transporting children,
75.6 preventing and reporting child abuse and neglect, emergency preparedness and response,
75.7 child development, and the federal health and safety training requirements in subpart 6.

75.8 B. A legal nonlicensed child care provider must develop an emergency
75.9 preparedness plan and make the plan available to a CCAP agency upon request. A CCAP
75.10 agency must give a child care provider 15 calendar days to submit an emergency preparedness
75.11 plan, if requested by the CCAP agency. If a child care provider fails to make the child care
75.12 provider's emergency preparedness plan available to a CCAP agency, the child care provider's
75.13 registration and all of the child care provider's child care authorizations must be terminated
75.14 with a 15-day adverse action notice.

75.15 **Subp. 9. Legal nonlicensed child care provider annual monitoring.**

75.16 A. Any legal nonlicensed child care provider who is authorized to care for an
75.17 unrelated child must complete an initial annual monitoring visit within 12 months of child
75.18 care authorization. The initial annual monitoring visit includes evaluating the child care
75.19 environment and determining whether the child care provider meets the health and safety
75.20 requirements in subpart 8.

75.21 B. After the initial annual monitoring visit, a legal nonlicensed child care provider
75.22 must complete a subsequent annual monitoring visit within 12 months of the initial visit for
75.23 child care authorization of an unrelated child to continue. If a CCAP agency terminates a
75.24 child care provider's child care authorization of an unrelated child and the CCAP agency
75.25 later issues a new authorization to the child care provider for an unrelated child, the child
75.26 care provider must complete an annual monitoring visit within 12 months of the previous

76.1 visit or within 90 days from the date that a CCAP agency issued the child care authorization,
76.2 whichever is later.

76.3 C. The commissioner must publicly post monitoring visit result summaries online.

76.4 D. If a legal nonlicensed child care provider does not demonstrate full compliance
76.5 with the health and safety requirements in subpart 8 and the child care provider may
76.6 demonstrate compliance by submitting additional written information, a CCAP agency must
76.7 allow the child care provider 15 calendar days to submit the additional information. If a
76.8 CCAP agency does not receive written information establishing the child care provider's
76.9 compliance with health and safety requirements, the child care provider's registration and
76.10 all of the child care provider's child care authorizations must be terminated with a 15-day
76.11 adverse action notice.

76.12 E. If a legal nonlicensed child care provider does not comply with at least one
76.13 health and safety requirement under subpart 8 and the child care provider is unable to
76.14 demonstrate compliance by submitting additional written information, the child care
76.15 provider's registration and all of the child care provider's child care authorizations must be
76.16 terminated with a 15-day adverse action notice.

76.17 F. If a legal nonlicensed child care provider's registration is terminated for the
76.18 child care provider's failure to demonstrate compliance with the annual monitoring visit,
76.19 the CCAP agency must identify the conditions under which the child care provider may
76.20 become eligible to receive child care assistance payments in the CCAP agency's child care
76.21 fund plan.

76.22 G. If a legal nonlicensed child care provider is not available for a scheduled annual
76.23 monitoring visit, a CCAP agency must allow 15 calendar days for the child care provider
76.24 to reschedule the annual monitoring visit. If a child care provider is not available for a
76.25 rescheduled visit, a CCAP agency must terminate the child care provider's authorizations
76.26 for unrelated children with a 15-day adverse action notice. Once an annual monitoring visit

77.1 is complete, a child care provider is eligible for child care authorizations for unrelated
 77.2 children effective on the date that the visit is completed under Minnesota Statutes, sections
 77.3 119B.09, subdivision 7, and 119B.13, subdivision 6, paragraph (c).

77.4 H. If the annual monitoring visit reveals unsafe care as defined in the CCAP
 77.5 agency's child care fund plan, the child care provider's registration and all of the child care
 77.6 provider's child care authorizations must be terminated with a 15-day adverse action notice.

77.7 I. If the annual monitoring visit reveals imminent risk as defined in the CCAP
 77.8 agency's child care fund plan, the child care provider's registration and all of the child care
 77.9 provider's child care authorizations must be terminated as required by part 3400.0185,
 77.10 subpart 13.

77.11 **3400.0130 CHILD CARE PROVIDER ASSISTANCE PROGRAM MAXIMUM**
 77.12 **RATES.**

77.13 Subpart 1. **Rate determination.** The commissioner ~~shall~~ must determine the applicable
 77.14 child care assistance program maximum rate as described in Minnesota Statutes, section
 77.15 119B.13. Any rate survey conducted by the commissioner shall as described in Minnesota
 77.16 Statutes, section 119B.02, must include a survey of registration fees when it is usual and
 77.17 customary for a category of child care provider to charge registration fees.

77.18 Subp. 1a. ~~Maximum county Child care assistance program maximum rate.~~ Except
 77.19 as provided in this part, the maximum rate ~~that payable by a county may pay~~ CCAP agency
 77.20 for child care assistance is the child care provider's rate or the applicable maximum rate
 77.21 determined by the commissioner under Minnesota Statutes, section 119B.13, whichever is
 77.22 less. Except as provided in this part, if the provider's rate is more than the applicable
 77.23 maximum rate, the county may not pay more than the difference between the applicable
 77.24 maximum rate and the family's copayment fee. In Minnesota, the child care assistance
 77.25 program maximum rate must be based on the county, or city when applicable, where a child

78.1 care provider provides child care. Outside Minnesota, the child care assistance program
78.2 maximum rate must be based on the participant's county of residence.

78.3 **Subp. 1b. Child care provider charges and registration fees in excess of maximum**
78.4 **child care payment.** A CCAP agency must not pay a child care provider more than the
78.5 child care assistance program maximum rate and registration fee. In addition to any
78.6 copayment, a family is responsible for:

78.7 A. the difference between the child care assistance program maximum rate and
78.8 the child care provider rate;

78.9 B. any charges that exceed the allowable CCAP payment under part 3400.0110,
78.10 subpart 3d;

78.11 C. the difference between the applicable maximum registration fee and the child
78.12 care provider registration fee when the child care provider charge does not include the
78.13 registration fee;

78.14 D. the child care provider registration fee when a CCAP agency has paid two
78.15 registration fees per child in a 12-month period; and

78.16 E. any other fees that the child care provider charge does not include.

78.17 A third party may pay part or all of a family's child care expenses under Minnesota Statutes,
78.18 section 119B.09, subdivision 11.

78.19 **Subp. 2. Rate determination for certified license-exempt child care centers.** Rates
78.20 paid to A CCAP agency must pay a certified license-exempt ~~centers~~ child care center as
78.21 defined in Minnesota Statutes, section ~~245A.03, subdivision 2~~ 245H.01, subdivision 5, must
78.22 be the applicable maximum rate for licensed child care centers or the child care provider
78.23 rate, whichever is less.

78.24 **Subp. 2a. [Repealed, 30 SR 1318]**

79.1 Subp. 3. **Rate determination; children with special needs for special needs due to**
 79.2 **disability or inclusion in at-risk population.** A ~~county~~ CCAP agency must submit a
 79.3 request to pay a special needs rate for a child with a disability or for a child care provider
 79.4 carrying for a child in an at-risk population to the commissioner. ~~The request must be submitted~~
 79.5 ~~with or as an amendment to the county child care fund plan. Upon written approval by the~~
 79.6 ~~commissioner, the approved special needs rate must be paid retroactive to the date of the~~
 79.7 ~~provider or parent request for the special needs rate.~~ The commissioner must evaluate a
 79.8 request for a special needs rate using the commissioner's methodology. Based on the
 79.9 commissioner's methodology, approved special needs rates may be lower than the requested
 79.10 rates.

79.11 Subp. 3a. **Rate determination; children with special needs due to disability.**

79.12 A. When a ~~parent~~ parentally responsible individual or a child care provider asks
 79.13 ~~the county~~ a CCAP agency for a special needs rate for ~~an individual~~ a child with disabilities
 79.14 a disability that exceeds the applicable maximum rate, the ~~county~~ CCAP agency must use
 79.15 the following process to determine whether a special needs rate is necessary and, if so, to
 79.16 establish the requested special needs rate. The ~~county~~ CCAP agency must:

79.17 ~~A.~~ (1) obtain documentary evidence of the child's disability;

79.18 ~~B.~~ (2) obtain the following documentation from the child care provider:

79.19 ~~(1)~~ (a) a description of the specialized training, services, or environmental
 79.20 adaptations that the child care provider will furnish to meet the individual needs of the child;

79.21 ~~(2)~~ (b) the child care provider's assurance of compliance with applicable
 79.22 provisions of the Americans with Disabilities Act;

79.23 ~~(3)~~ (c) the child care provider's assurance that the rate ~~being sought~~ that the
 79.24 child care provider is requesting is the same as the rate that would be charged for similar

80.1 services provided to a child with a disability in a family not receiving child care assistance;
80.2 and

80.3 ~~(4)~~ (d) if applicable, a statement from the child care provider explaining that
80.4 the rate that the child care provider charges for all children in child care should be adopted
80.5 as the special needs rate for the child with ~~disabilities~~ a disability because the child care
80.6 provider has chosen to spread the cost of caring for children with special needs across all
80.7 families in child care; ~~and~~

80.8 ~~C.~~ (3) seek the commissioner's approval and determination of the special needs
80.9 rate ~~as provided in subpart 3.~~ The commissioner must evaluate the request and, upon
80.10 approval, allow a CCAP agency to pay a special needs rate at 75 percent, 150 percent, or
80.11 200 percent of the applicable maximum rate by assessing the child's needs in the following
80.12 areas:

80.13 (a) special medical needs and health;

80.14 (b) behavioral issues;

80.15 (c) mobility;

80.16 (d) communication skills;

80.17 (e) self-sufficiency; and

80.18 (f) extra supervision for safety; and

80.19 (4) notify the child care provider and parentally responsible individual of the
80.20 commissioner's decision in writing, including the reasons for approval or denial.

80.21 B. Upon written approval by the commissioner, a CCAP agency must pay the
80.22 approved special needs rate retroactively from the date of the child care provider's or
80.23 parentally responsible individual's request for the special needs rate under Minnesota Statutes,
80.24 sections 119B.09, subdivision 7, and 119B.13, subdivision 6. A special needs rate approval

81.1 must not exceed a time period of 12 months. If a parentally responsible individual or child
 81.2 care provider requests a special needs rate for longer than 12 months, the parentally
 81.3 responsible individual or child care provider must seek a renewal of the special needs rate
 81.4 by the end of the 12-month period.

81.5 Subp. 3b. **Rate determination; child care provider who serves children with special**
 81.6 **~~needs due to inclusion in at-risk population.~~** To determine a special needs rate for a ~~child~~
 81.7 ~~who is included~~ child care provider caring for children in an at-risk population as defined
 81.8 in the ~~county's~~ CCAP agency's child care fund plan, ~~the county a CCAP agency~~ must use
 81.9 ~~the following procedures. The county must:~~

81.10 A. obtain documentary evidence ~~showing that the child is included~~ that the children
 81.11 that the child care provider serves are predominantly in the at-risk population defined in
 81.12 ~~the county's~~ CCAP agency's child care fund plan;

81.13 B. obtain the following documentation from the child care provider:

81.14 (1) a description of the specialized training, services, or environmental
 81.15 adaptations that the child care provider will ~~furnish~~ receive or provide to meet the ~~individual~~
 81.16 ~~needs of the child or~~ the children in the at-risk population;

81.17 (2) the child care provider's assurance that the rate ~~being sought~~ that the child
 81.18 care provider is requesting is the same as the rate that the child care provider would be
 81.19 ~~charged~~ charge for similar services provided to a child in the at-risk population in a family
 81.20 that is not receiving child care assistance; and

81.21 (3) if applicable, a statement from the child care provider explaining that the
 81.22 rate that the child care provider charges for all children in the child care provider's care
 81.23 should be adopted as the special needs rate for the child children in the at-risk population
 81.24 because the child care provider has chosen to spread the cost of caring for children with
 81.25 special needs across all families in receiving child care from the child care provider;

82.1 C. determine how many child care providers in the county offer child care for
82.2 children in the at-risk population;

82.3 D. identify the 75th percentile rate if the ~~county~~ CCAP agency finds that four or
82.4 more child care providers offer child care for children in the at-risk population and pay the
82.5 75th percentile rate, the rate negotiated with the child care provider by the ~~county~~ CCAP
82.6 agency, or the child care provider's rate, whichever is less;

82.7 E. pay the lesser of the rate negotiated with the child care provider by the ~~county~~
82.8 CCAP agency or the child care provider's rate if the ~~county~~ CCAP agency finds that fewer
82.9 than four child care providers offer child care for children in the at-risk population; and

82.10 F. seek the commissioner's approval of the special rate as ~~provided in subpart 3~~
82.11 determined under subitem D or E. A CCAP agency must submit the special needs rate
82.12 request for the commissioner's approval with or as an amendment to the CCAP agency's
82.13 child care fund plan.

82.14 Upon written approval by the commissioner, a CCAP agency must pay the approved special
82.15 needs rate retroactively from the date of the child care provider's request for the special
82.16 needs rate under Minnesota Statutes, sections 119B.09, subdivision 7, and 119B.13,
82.17 subdivision 6.

82.18 Subp. 4. [Repealed, 26 SR 253]

82.19 Subp. 5. ~~Child care rate~~ Age categories. ~~Child care payments shall be based on the~~
82.20 ~~applicable maximum rates in the county where care is provided when the care is provided~~
82.21 ~~in Minnesota. When child care is provided outside the state of Minnesota, the maximum~~
82.22 ~~rate must be based on the applicable maximum rate in the participant's county of residence.~~
82.23 ~~If a child remains in an age-based child care setting beyond the age at which the licensing~~
82.24 ~~laws would allow that child to move to a different age-based child care setting and (1) the~~
82.25 ~~child's age is within the range allowed by the licensing laws for that age-based child care~~

83.1 ~~setting, or (2) the child is in that age-based child care setting due to a licensing variance,~~
83.2 ~~the maximum rate paid for that child's care must be the rate for the age-based child care~~
83.3 ~~setting in which the child is located. A child is considered to be in the school-age rate~~
83.4 ~~category on the September 1 following the child's fifth birthday unless the parent informs~~
83.5 ~~the county that the child will not be starting school. All changes to provider rates shall be~~
83.6 ~~implemented on the Monday following the effective date of the rate change. A CCAP agency~~
83.7 must determine a child's maximum child care assistance rate according to the age of the
83.8 child and the type of child care provider caring for the child as follows.

83.9 A. The age categories in Minnesota Statutes, section 245A.02, subdivision 19,
83.10 apply to a licensed family child care provider and to a legal nonlicensed child care provider.

83.11 B. The age categories in part 9503.0005, subpart 2, apply to a licensed child care
83.12 center.

83.13 C. The age categories in Minnesota Statutes, section 245H.08, subdivisions 4 and
83.14 5, apply to a certified license-exempt child care center.

83.15 D. If a licensed family child care provider or a licensed child care center cares for
83.16 the child, a CCAP agency must base the maximum rate that the agency pays for the child's
83.17 care on a different age category when a parentally responsible individual or child care
83.18 provider notifies the CCAP agency that the child's setting or age category differs from the
83.19 applicable age category under item A or B; and:

83.20 (1) the child meets the age criteria to qualify for the licensing provision for
83.21 age flexibility for licensed centers under part 9503.0040, subpart 4, item A; or

83.22 (2) the commissioner has granted a licensing variance to the child's licensed
83.23 child care center under part 9503.0005, subpart 26, or licensed family child care provider
83.24 under part 9502.0315, subpart 31.

84.1 E. A CCAP agency must consider a child to be in the school-age rate category on
 84.2 September 1 following the child's fifth birthday unless the parentally responsible individual
 84.3 informs the CCAP agency that the child will not be starting school.

84.4 Subp. 5a. **Rates for in-home care.** When a child care is provided provider cares for
 84.5 a child in the child's home under Minnesota Statutes, section 119B.09, subdivision 13, a
 84.6 CCAP agency must base the applicable maximum rate must be based on the allowable rate
 84.7 for a legal nonlicensed family child care provider. If a child care provider is licensed to care
 84.8 for a child in the child's home, a CCAP agency must base the applicable maximum rate on
 84.9 the allowable rate for a licensed child care provider.

84.10 Subp. 6. [Repealed, 26 SR 253]

84.11 Subp. 7. **Payment of registration fees.** If a child care provider charges families a
 84.12 family a registration fee to enroll children a child in the child care provider's program and
 84.13 the registration fee is not included in the child care provider rate does not include the
 84.14 registration fee, the county shall a CCAP agency must pay the child care provider registration
 84.15 fee or the 75th percentile of the registration fees surveyed in subpart 1, whichever is less
 84.16 up to the applicable maximum registration fee that the commissioner determines under
 84.17 Minnesota Statutes, section 119B.13. The county may A CCAP agency must not pay for
 84.18 more than two registrations per child in a 12-month period.

84.19 Subp. 8. [Repealed, L 2011 1Sp9 art 3 s 35]

84.20 Subp. 9. [Repealed, 26 SR 253]

84.21 Subp. 10. [Repealed, 26 SR 253]

84.22 **3400.0140 COUNTY RESPONSIBILITIES OF A CCAP AGENCY.**

84.23 Subpart 1. **County CCAP agency child care assistance policies and**
 84.24 **procedures.** Counties shall A CCAP agency must adopt policies and procedures for
 84.25 providing child care assistance to enable eligible applicants to seek or retain employment

85.1 or to participate in education or training programs. All ~~county~~ adopted CCAP agency policies
 85.2 that apply to child care assistance must be in writing and must be included in the ~~county's~~
 85.3 ~~biennial~~ CCAP agency's child care fund plan and must be approved by the commissioner
 85.4 as required under part 3400.0150.

85.5 Subp. 2. **Child care assistance information.** ~~The county shall~~ A CCAP agency must
 85.6 provide information on child care assistance to families, child care ~~service~~ providers, social
 85.7 service agencies, and the local news media ~~as it deems necessary~~ to ensure the full use of
 85.8 ~~its~~ the CCAP agency's child care fund allocation.

85.9 Subp. 3. [Repealed, 26 SR 253]

85.10 Subp. 4. [See repealer.]

85.11 Subp. 5. [See repealer.]

85.12 Subp. 5a. [Repealed, 33 SR 695]

85.13 Subp. 6. **Duties upon receipt of ~~complaints~~ complaint against legal nonlicensed**
 85.14 **~~providers~~ child care provider.** Within 24 hours of receiving a complaint concerning the
 85.15 health or safety of children ~~under~~ in the care of a legal nonlicensed child care provider, a
 85.16 ~~county~~ CCAP agency must relay the complaint to:

85.17 A. the county's or Tribe's child protection agency if the complaint alleges child
 85.18 maltreatment as defined in Minnesota Statutes, section 260E.03, subdivision 12;

85.19 B. the county's or Tribe's public health agency if the complaint alleges a danger
 85.20 to public health due to communicable disease, unsafe water supply, sewage or waste disposal,
 85.21 or building structures;

85.22 C. local law enforcement if the complaint alleges criminal activity that ~~may~~
 85.23 ~~endanger~~ endangers the health or safety of children under care; or

86.1 D. other agencies with jurisdiction to investigate complaints relating to the health
86.2 and safety of a child.

86.3 If a complaint is substantiated under item A, the ~~county~~ CCAP agency must keep a
86.4 record of the substantiated complaint as provided in Minnesota Statutes, section 260E.35,
86.5 subdivision 6. If a complaint is substantiated under items B to D, the ~~county~~ CCAP agency
86.6 must keep a record of the substantiated complaint for three years. Upon request, a CCAP
86.7 agency must release information governing substantiated complaints ~~shall be released~~ to
86.8 the public as authorized under Minnesota Statutes, chapter 13. Upon receiving notice of a
86.9 substantiated complaint under items A to D, ~~the county shall~~ a CCAP agency must determine
86.10 if the complaint meets the criteria for imminent risk or unsafe care in the CCAP agency's
86.11 child care fund plan. A CCAP agency must not make subsequent payments to that a child
86.12 care provider from the child care fund for child care services provided by that provider that
86.13 the child care provider provides after the date of the termination notice under part 3400.0185,
86.14 subpart 13, unless the child care provider has corrected the conditions underlying the
86.15 substantiated complaint have been corrected. If a CCAP agency terminates a child care
86.16 provider's registration, the child care provider must complete the registration process in
86.17 Minnesota Statutes, section 119B.011, subdivision 19a, after the child care provider has
86.18 corrected the conditions underlying the substantiated complaint and becomes eligible under
86.19 part 3400.0120 to receive child care assistance payments. When substantiated maltreatment
86.20 occurs in a legal nonlicensed child care setting and a child dies or a child has a serious injury
86.21 in the legal nonlicensed child care setting that requires treatment by a physician, the
86.22 commissioner and any CCAP agency must always consider the legal nonlicensed child care
86.23 setting unsafe and the child care provider is no longer eligible to receive child care assistance.

86.24 Subp. 7. **County and Tribal contracts and designation of administering agency**
86.25 **for administration of child care fund.** ~~Counties~~ A county or Tribe may contract for the
86.26 administration of all or part of the child care fund. ~~The~~ A county shall or Tribe must designate
86.27 the agency ~~authorized~~ that the county or Tribe authorizes to administer the child care fund

87.1 in the county's or Tribe's child care fund plan. The county or Tribe must ~~describe in its child~~
 87.2 ~~care fund plan how it will oversee the contractor's performance~~ submit a copy of the current
 87.3 contract with the subcontracted agency that describes the subcontracted agency's
 87.4 responsibilities.

87.5 Subp. 8. **Agreement with employment and training services providers.** Cooperative
 87.6 agreements with employment and training services providers must specify that MFIP families
 87.7 participating in employment services and meeting the requirements of part 3400.0080 are
 87.8 eligible for child care assistance from the ~~county~~ CCAP agency responsible for the MFIP
 87.9 participant's approved ~~job search support or~~ employment plan or according to Minnesota
 87.10 Statutes, section 256G.07.

87.11 Subp. 9. **Local match.** The county ~~shall~~ or Tribe must provide a local match according
 87.12 to Minnesota Statutes, section 119B.11, subdivision 1.

87.13 Subp. 9a. **Child care assistance funding.** In the manner prescribed by the
 87.14 commissioner, ~~counties shall claim~~ a CCAP agency must use funding for child care
 87.15 expenditures for all eligible recipients who are in employment, education, training, or other
 87.16 preemployment activities allowed under the federal and state reimbursement programs. The
 87.17 commissioner ~~shall~~ must allocate any federal or state earnings to the ~~county~~ CCAP agency
 87.18 ~~that claimed~~ used the funding and the ~~county shall~~ CCAP agency must use the earnings to
 87.19 expand funding for child care services.

87.20 Subp. 10. **Eligibility priorities for beginning assistance.** If a ~~county's~~ CCAP agency's
 87.21 basic sliding fee program allocation for child care is insufficient to fund all of the applications
 87.22 that the CCAP agency receives for child care assistance, the ~~county~~ CCAP agency may
 87.23 prioritize eligibility among the groups that remain to be served after the ~~county~~ CCAP
 87.24 agency has complied with the priority requirements ~~set forth~~ in Minnesota Statutes, section
 87.25 119B.03, subdivision 4. ~~The county shall~~ A CCAP agency must include its the agency's
 87.26 rationale for the prioritization of eligibility ~~for beginning assistance in its biennial~~ the CCAP

88.1 agency's child care fund plan. To the extent of available allocations, no a CCAP agency
88.2 must not exclude any eligible family ~~may be excluded~~ who has submitted a complete
88.3 application from receiving child care assistance.

88.4 Subp. 11. [Repealed, 26 SR 253]

88.5 Subp. 12. [Repealed, 26 SR 253]

88.6 Subp. 13. [Repealed, 26 SR 253]

88.7 Subp. 14. ~~Child care fund reports~~ **Reporting requirements.** ~~Counties~~ A CCAP
88.8 agency must submit financial and, program activity, and child care provider reports according
88.9 to instructions and schedules that the commissioner establishes after considering such factors
88.10 as the ~~department's~~ commissioner's need to receive county data in a manner and on according
88.11 to a schedule that meets federal reporting deadlines and the counties' CCAP agency's need
88.12 for lead time when changes in reporting requirements occur.

88.13 Subp. 15. [Repealed, 26 SR 253]

88.14 Subp. 16. [Repealed, 26 SR 253]

88.15 Subp. 17. [Repealed, 26 SR 253]

88.16 Subp. 18. [Repealed, 26 SR 253]

88.17 Subp. 19. [Repealed, 33 SR 695]

88.18 Subp. 20. [Repealed, 26 SR 253]

88.19 Subp. 21. **Acting on changes.** A CCAP agency must act within ten calendar days
88.20 from the date that a family reports a change or the change becomes known to the CCAP
88.21 agency. A CCAP agency must consider a family's reporting responsibilities under part
88.22 3400.0040, subpart 4, to determine if a change requires CCAP agency action.

89.1 **3400.0150 CHILD CARE FUND PLAN.**

89.2 Subpart 1. ~~Submittal~~ **Submission of plan.** By the date established by the
89.3 commissioner, ~~the~~ a county shall or Tribe must submit to the commissioner a ~~biennial~~ child
89.4 care fund plan within the time frame in Minnesota Statutes, section 119B.08, subdivision
89.5 3. The commissioner may require updates of information in the child care fund plan as
89.6 ~~necessary~~ to comply with this chapter, applicable Minnesota statutes, ~~sections 119B.011 to~~
89.7 ~~119B.16,~~ and federal ~~law~~ laws and regulations.

89.8 Subp. 2. **Plan content.** ~~The~~ A child care fund plan must contain a complete description
89.9 of the county's or Tribe's child care assistance program for applicants and participants
89.10 eligible for assistance under Minnesota Statutes, chapter 119B. The child care fund plan
89.11 must include the information required by Minnesota Statutes, ~~section~~ sections 119B.08,
89.12 subdivision 3, and 119B.125, subdivision 4; the information required by this chapter,
89.13 including the conditions that the county or Tribe recognizes as presenting an imminent risk
89.14 of harm; and all ~~written~~ county and Tribal forms, policies, and procedures used to administer
89.15 the child care funds. The child care fund plan must describe how ~~it~~ the county or Tribe
89.16 serves persons with limited English proficiency; as required by title VI of the Civil Rights
89.17 Act of 1964, United States Code, title 42, sections 2000, et seq. The information in the plan
89.18 must be in the form ~~prescribed by that the commissioner and must include a description of~~
89.19 ~~the process used to assure that the information, forms, and notices about child care assistance~~
89.20 ~~are accurate, clearly written, and understandable to the intended recipient~~ prescribes.

89.21 Subp. 2a. **Plan approval.** A county or Tribe must submit a complete child care fund
89.22 plan to the commissioner for approval. The child care fund plan must comply with this
89.23 chapter; Minnesota Statutes, chapter 119B; and federal law. Once the commissioner approves
89.24 of the child care plan fund, the county or Tribe must receive written approval from the
89.25 commissioner within the time frame in Minnesota Statutes, section 119B.08, subdivision
89.26 3. The child care fund plan must include information on how the county or Tribe will make
89.27 the approved plan available to the public.

90.1 Subp. 3. **Plan amendments.** A county or Tribe may submit a written request to amend
90.2 its the county's or Tribe's child care fund plan at any time but and the commissioner must
90.3 approve of the amendment must be approved by the commissioner before it the amended
90.4 plan becomes effective. If approved by the commissioner approves of the amendment, the
90.5 amendment is effective on the date requested by the county or Tribe unless a different
90.6 effective date is set by the commissioner. The commissioner must approve or deny plan
90.7 amendments must be approved or disapproved by the commissioner within 60 days after
90.8 receipt of the amendment request. A county or Tribe must include the approved amendment
90.9 when making the approved plan available to the public.

90.10 **3400.0170 INCOME ELIGIBILITY FOR CHILD CARE ASSISTANCE.**

90.11 Subpart 1. **Proof of income eligibility.** An applicant requesting child care assistance
90.12 must provide proof of income eligibility. For the purpose of determining income eligibility,
90.13 gross annual income is the gross income of the family for the current month multiplied by
90.14 12, the gross income for the 12-month period immediately preceding the date of application,
90.15 or the gross income calculated by the method that provides the most accurate assessment
90.16 of gross annual income available to the family. ~~The administering~~ A CCAP agency must
90.17 use the method that provides the most accurate assessment of gross annual income currently
90.18 available to the family. An applicant must verify counted income must be verified as
90.19 described in subpart 4 with documentary evidence. If ~~the an~~ applicant does not ~~have~~ submit
90.20 sufficient evidence of counted income to a CCAP agency, the ~~administering~~ CCAP agency
90.21 must offer the applicant the opportunity to sign an informational release to permit the
90.22 ~~administering~~ CCAP agency to verify whether the applicant qualifies for child care assistance.

90.23 Subp. 1a. **Income limits.** Income limits vary for applicants and participants under
90.24 Minnesota Statutes, section 119B.09, subdivision 1.

90.25 A. To be income eligible at application, a family's gross annual income after
90.26 allowable deductions under subpart 6a must be at or below:

91.1 (1) 47 percent of the state median income, adjusted for family size, for basic
91.2 sliding fee child care assistance or student parents;

91.3 (2) 67 percent of the state median income, adjusted for family size, for MFIP
91.4 or DWP child care assistance; or

91.5 (3) 47 percent of the state median income, adjusted for family size, for
91.6 transition year child care assistance if a family does not receive MFIP and DWP child care
91.7 assistance. If a family's MFIP or DWP grant is closing and the family receives MFIP or
91.8 DWP child care assistance, a CCAP agency must consider the family a participant and the
91.9 family is subject to the income limits in items B and C.

91.10 B. To be income eligible at redetermination, a family's gross annual income after
91.11 allowable deductions must be at or below 67 percent of the state median income, adjusted
91.12 for family size. This limit applies to all participants.

91.13 C. To maintain income eligibility during the 12-month eligibility period, a family's
91.14 gross annual income after allowable deductions must be at or below 85 percent of the state
91.15 median income, adjusted for family size. This limit applies to all participants.

91.16 D. A CCAP agency must consider a family a participant when the family receives
91.17 child care assistance and becomes temporarily ineligible under part 3400.0040, subpart 17,
91.18 subject to the income limits in items B and C. A CCAP agency must consider a family a
91.19 basic sliding fee applicant when the family on the basic sliding fee waiting list reaches the
91.20 top of the waiting list and is temporarily ineligible under part 3400.0040, subpart 17, subject
91.21 to the income limit in item A, subitem (1).

91.22 E. A family that is suspended under part 3400.0040, subpart 18, is considered a
91.23 participant and is subject to the income limits in items B and C during the suspension and
91.24 after the suspension ends.

92.1 F. If a family becomes ineligible while receiving child care assistance, a CCAP
92.2 agency must terminate the family's child care assistance. If a formerly ineligible family
92.3 applies for child care assistance, a CCAP agency must consider the family an applicant and
92.4 the family is subject to the income limits in item A.

92.5 Subp. 2. [Repealed, 26 SR 253]

92.6 Subp. 3. **Evaluation of income.** ~~The administering~~ A CCAP agency shall must
92.7 determine the income received that a family receives or that is available to a family according
92.8 to subparts 4 to 11. All income, unless specifically excluded in subpart 6, must be counted
92.9 as income.

92.10 Subp. 4. **Determination of gross annual income.** The income standard for determining
92.11 eligibility for child care assistance is a family's gross annual income. A family's gross annual
92.12 income is the sum of each family member's income sources under Minnesota Statutes,
92.13 sections 119B.011, subdivision 15, and 256P.01, subdivisions 3 and 8, including earned
92.14 income, self-employment income, unearned income, and lump sum payments, which must
92.15 be treated according to subpart 13. A CCAP agency must include negative self-employment
92.16 income must be included in the determination of a family's gross annual income, resulting
92.17 in a reduction in total gross annual income. Lump sum payments that a family receives prior
92.18 to participating in the child care assistance program are not included in the family's total
92.19 gross annual income. If a participant's eligibility ends after receiving a lump sum and the
92.20 participant reapplies for child care assistance, a CCAP agency must count the lump sum
92.21 for 12 months from the date of the lump sum receipt. A CCAP agency must calculate earned
92.22 income, self-employment income, unearned income, and lump sum payments must be
92.23 calculated separately.

92.24 Subp. 4a. **Individuals with exempt income.** Certain individuals in a family
92.25 participating in the child care assistance program are exempt from having a CCAP agency
92.26 count some or all of their income.

93.1 A. Individuals under Minnesota Statutes, section 256P.06, subdivision 2, paragraph
 93.2 (a), are exempt from having a CCAP agency count their earned income.

93.3 B. A designated new spouse under Minnesota Statutes, section 256P.06,
 93.4 subdivision 2, paragraph (c), is exempt from having the designated new spouse's earned
 93.5 and unearned income counted when the designated new spouse's family income before
 93.6 exemption does not exceed 67 percent of the state median income and the family verifies
 93.7 the marriage date. If a family meets these requirements, the designated new spouse's earned
 93.8 and unearned income no longer counts for two service periods after a CCAP agency receives
 93.9 verification of the marriage date and continues not to count for up to 26 service periods.

93.10 Subp. 5. [Repealed, L 2015 c 71 art 5 s 34]

93.11 Subp. 6. [Repealed, L 2015 c 71 art 5 s 34]

93.12 Subp. 6a. **Deductions from gross annual income.** When a family verifies items at
 93.13 the time of application or redetermination, or during the 12-month eligibility period, a CCAP
 93.14 agency must deduct the following items ~~must be deducted~~ from a family's gross annual
 93.15 income:

93.16 A. child or spousal support paid to or on behalf of a person or persons who live
 93.17 outside of the household; ~~and~~

93.18 B. ~~fund~~ money used to pay for health ~~and~~, dental, and vision insurance premiums
 93.19 for family members- that are not reimbursed by medical assistance; and

93.20 C. expenditures necessary to secure payment of unearned income.

93.21 Subp. 7. **Earned income from self-employment.** In determining a family's gross
 93.22 annual income for purposes of eligibility under this part, ~~the administering~~ a CCAP agency
 93.23 ~~shall~~ must determine earned income from self-employment.

94.1 A. Earned income from self-employment is the difference between gross receipts
94.2 and ~~authorized~~ self-employment expenses ~~which may~~ that must not include expenses under
94.3 subpart 8.

94.4 (1) A family must document gross receipts and self-employment expenses
94.5 with business records, such as charts of accounts, books, ledgers, and tax schedules.

94.6 (2) At the time of application, or redetermination, or during the 12-month
94.7 eligibility period, a CCAP agency must allow a family in the start-up phase of
94.8 self-employment to submit a self-attestation verifying income if financial documentation
94.9 is unavailable or insufficient to accurately predict self-employment income. A family is
94.10 subject to recoupment or recovery of an overpayment under part 3400.0187 and Minnesota
94.11 Statutes, section 119B.11, subdivision 2a, if the commissioner or CCAP agency determines
94.12 that the family's estimated income does not reflect the family's actual income.

94.13 B. Self-employment business records must be kept separate from the family's
94.14 personal records.

94.15 C. If the person's business is a partnership or a corporation and that person is
94.16 drawing a salary, the salary ~~shall~~ must be treated as earned income ~~under subpart 5.~~

94.17 Subp. 8. **Self-employment deductions which are not allowed.** In determining
94.18 eligibility under this part, self-employment expenses must be subtracted from gross receipts.
94.19 ~~For purposes of this subpart, the document in items I to K is incorporated by reference. It~~
94.20 ~~is available through the Minitex interlibrary loan system. It is subject to frequent change.~~
94.21 ~~If the document in items I to K is amended, and if the amendments are incorporated by~~
94.22 ~~reference or otherwise made a part of state or federal law applicable to self-employment~~
94.23 ~~deductions, then the amendments to the document are also incorporated by reference into~~
94.24 ~~this subpart.~~ However, the expenses listed in items A to P ~~shall~~ L must not be subtracted
94.25 from gross receipts:

95.1 [For text of items A to F, see Minnesota Rules]

95.2 G. the cost of transportation between the individual's home and ~~his or her~~ the
95.3 individual's place of employment;

95.4 [For text of item H, see Minnesota Rules]

95.5 ~~I. monthly expenses for each roomer greater than the flat rate deduction listed in~~
95.6 ~~the current Combined Program Manual issued by the Department of Human Services;~~

95.7 ~~J. monthly expenses for each boarder greater than the flat rate deduction listed in~~
95.8 ~~the current Combined Program Manual issued by the Department of Human Services;~~

95.9 ~~K. monthly expenses for each roomer-boarder greater than the flat rate deduction~~
95.10 ~~listed in the current Combined Program Manual issued by the Department of Human Services;~~

95.11 ~~L. annual expenses greater than two percent of the estimated market value on a~~
95.12 ~~county tax assessment form as a deduction for upkeep and repair against rental income;~~

95.13 ~~M~~ I. expenses not allowed by the United States Internal Revenue Code for
95.14 self-employment income, unless specifically authorized in this chapter;

95.15 ~~N~~ J. federal, state, and local income taxes;

95.16 ~~O~~ K. employer's own share of FICA; and

95.17 ~~P~~ L. money set aside for the self-employed person's own retirement.

95.18 Subp. 9. **Self-employment budget period.** A family must budget gross receipts from
95.19 self-employment must be budgeted in the month in which they are received the family
95.20 received gross receipts. Expenses must be budgeted against gross receipts in the month that
95.21 the family paid the expenses are paid except for items A to C.

95.22 A. The purchase cost of inventory items, including materials that are processed
95.23 or manufactured, must be deducted as an expense at the time that a family receives payment

96.1 ~~is received~~ for the sale of those inventory items, processed materials, or manufactured items,
96.2 regardless of when those costs are incurred or paid.

96.3 B. Expenses ~~to cover employee FICA, employee tax withholding, sales tax~~
96.4 ~~withholding, employee worker's compensation, employee unemployment compensation,~~
96.5 ~~business insurance, property rental, property taxes,~~ and other costs that are commonly paid
96.6 at least annually, but less often than monthly, must be prorated forward as deductions from
96.7 gross receipts over the period they are intended to cover, beginning with the month in which
96.8 the payment for these items is made.

96.9 C. Gross receipts from self-employment ~~may~~ must be prorated forward to equal
96.10 the period of time ~~over~~ during which the expenses were incurred. However, gross receipts
96.11 must not be prorated over a period that exceeds 12 months. This provision applies only
96.12 when gross receipts are not received monthly but expenses are incurred on an ongoing
96.13 monthly basis.

96.14 Subp. 10. **Determination of farm income.** Farm income must be determined for a
96.15 one-year period. Farm income is gross receipts minus operating expenses, except for expenses
96.16 listed in subpart 8. Gross receipts include items such as sales, rents, subsidies, farm-related
96.17 insurance payments, soil conservation payments, production derived from livestock, and
96.18 income from the sale of home-produced foods.

96.19 Subp. 11. **Determination of rental income.**

96.20 A. Income from rental property is considered self-employment earnings when the
96.21 owner spends an average of 20 or more hours per week on maintenance or management of
96.22 the property. ~~The administering agency shall deduct an amount for upkeep and repairs~~
96.23 ~~according to subpart 8, item L, for real estate taxes, insurance, utilities, and interest on~~
96.24 ~~principal payments.~~

97.1 B. When a family lives on the rental property, ~~the administering a CCAP agency~~
 97.2 ~~shall~~ must divide the allowable expenses for ~~upkeep, taxes, insurance, utilities, and interest~~
 97.3 described in this subpart by the number of units to determine the expense per unit. ~~The~~
 97.4 ~~administering A CCAP agency shall~~ must deduct expenses from rental income only for the
 97.5 number of units rented, not for units occupied by family members.

97.6 *[For text of item C, see Minnesota Rules]*

97.7 D. The ~~deductions~~ expenses described in this subpart are subtracted from gross
 97.8 rental receipts; regardless of whether the rental income is considered earned or unearned
 97.9 income. Allowable expenses are:

- 97.10 (1) real estate tax;
- 97.11 (2) insurance;
- 97.12 (3) utilities;
- 97.13 (4) interest;
- 97.14 (5) upkeep and repairs;
- 97.15 (6) tax return preparation fees;
- 97.16 (7) license fees, franchise fees, professional fees, and professional dues;
- 97.17 (8) advertising;
- 97.18 (9) postage;
- 97.19 (10) attorney fees allowed by the Internal Revenue Code; and
- 97.20 (11) payments on the principal of the purchase price of income-producing
 97.21 real estate.

97.22 Subp. 12. [Repealed, L 2015 c 71 art 5 s 34]

98.1 Subp. 13. [Repealed, L 2015 c 71 art 5 s 34]

98.2 **3400.0175 EXTENDED ELIGIBILITY.**

98.3 Subpart 1. Three-month extended eligibility period. Extended eligibility is a period
98.4 of continued eligibility for a family during the 12-month eligibility period as allowed by
98.5 Minnesota Statutes, section 119B.105. A family may enter extended eligibility under the
98.6 circumstances described in Minnesota Statutes, section 119B.105, subdivision 1, paragraph
98.7 (b), and under the following circumstances.

98.8 A. An MFIP or DWP participant has a permanent end to all employment plan
98.9 activities and is not participating in another authorized activity.

98.10 B. An MFIP or DWP participant has been sanctioned for not participating in all
98.11 employment plan activities and is not participating in authorized activities outside of an
98.12 employment plan.

98.13 C. A parentally responsible individual's unable to care status has expired in a
98.14 two-parent household.

98.15 **Subp. 2. Permanent and temporary ends of authorized activity.**

98.16 A. If a parentally responsible individual reports an end to the parentally responsible
98.17 individual's authorized activity, a CCAP agency must consider the end of the authorized
98.18 activity permanent unless the family reports that the end is temporary. The extended eligibility
98.19 period begins on the day that the authorized activity permanently ends and continues for
98.20 up to three months or until a family's redetermination, whichever occurs first.

98.21 B. If a parentally responsible individual has a temporary end to an authorized
98.22 activity that becomes a permanent end, the family must report the change to a CCAP agency
98.23 under Minnesota Statutes, section 256P.07, subdivision 6, paragraph (a), clause (2). The
98.24 extended eligibility period begins on the date that the change becomes permanent.

99.1 C. If a parentally responsible individual has more than one authorized activity,
99.2 extended eligibility is available to the family when the family reports that all authorized
99.3 activities ended permanently.

99.4 **Subp. 3. Requirements at end of extended eligibility.**

99.5 A. At the end of the extended eligibility period, the parentally responsible
99.6 individual must participate in an authorized activity for eligibility to continue until the next
99.7 redetermination according to the following criteria:

99.8 (1) if employment is the authorized activity of a parentally responsible
99.9 individual who is eligible under part 3400.0060 or 3400.0090, or of a parentally responsible
99.10 individual who is eligible under part 3400.0080 without an employment plan, the parentally
99.11 responsible individual does not have to meet minimum work requirements under Minnesota
99.12 Statutes, section 119B.10, until redetermination;

99.13 (2) if education is the authorized activity of a parentally responsible individual
99.14 who is eligible under part 3400.0060 or 3400.0090, the education activity must meet the
99.15 criteria in the CCAP agency's child care fund plan; or

99.16 (3) if the parentally responsible individual is eligible under part 3400.0080
99.17 and has an employment plan, the individual must be participating in an authorized activity
99.18 in the individual's employment plan.

99.19 B. If the parentally responsible individual is not participating in an authorized
99.20 activity at the end of the extended eligibility period, a CCAP agency must end the family's
99.21 eligibility.

99.22 C. If a parentally responsible individual in a two-parent household entered extended
99.23 eligibility because the individual's unable to care status under part 3400.0040, subpart 5,
99.24 expired and the parentally responsible individual has not re-verified the individual's unable

100.1 to care status or started participating in an authorized activity by the end of the individual's
100.2 extended eligibility period, a CCAP agency must end the family's eligibility.

100.3 Subp. 4. **Extended eligibility at application or redetermination.** A parentally
100.4 responsible individual is not eligible for extended eligibility when the parentally responsible
100.5 individual does not have an authorized activity under Minnesota Statutes, section 119B.10,
100.6 on the application date or redetermination due date. A parentally responsible individual
100.7 who meets the eligibility requirements at application under part 3400.0040 or at
100.8 redetermination under part 3400.0180 and experiences a permanent end to the parentally
100.9 responsible individual's authorized activity after the application date or redetermination due
100.10 date is eligible for extended eligibility. A family that is eligible under part 3400.0080 or
100.11 3400.0090 is not eligible for extended eligibility during the retroactive periods in Minnesota
100.12 Statutes, sections 119B.09, subdivision 7, and 119B.13, subdivision 6, paragraph (c).

100.13 Subp. 5. **New authorizations during extended eligibility period.** If a child without
100.14 an authorization for child care assistance requires child care during an extended eligibility
100.15 period, a CCAP agency must authorize child care for the child based on the number of child
100.16 care hours that the CCAP agency authorized for other children in the child's household. If
100.17 a CCAP agency has not authorized child care of any other children in the household, the
100.18 CCAP agency must authorize child care for the child based on the number of child care
100.19 hours for which the family was eligible prior to the beginning of the extended eligibility
100.20 period.

100.21 Subp. 6. **New authorized activity during extended eligibility period.**

100.22 A. If a parentally responsible individual reports that the parentally responsible
100.23 individual began a new authorized activity prior to the end of the parentally responsible
100.24 individual's extended eligibility period, the family moves out of extended eligibility and
100.25 continues to be eligible until the next redetermination according to the following criteria:

101.1 (1) if employment is the authorized activity of a parentally responsible
 101.2 individual who is eligible under part 3400.0060 or 3400.0090, or of a parentally responsible
 101.3 individual who is eligible under part 3400.0080 without an employment plan, the parentally
 101.4 responsible individual does not have to meet minimum work requirements under Minnesota
 101.5 Statutes, section 119B.10, until redetermination;

101.6 (2) if education is the authorized activity of a parentally responsible individual
 101.7 who is eligible under part 3400.0060 or 3400.0090, the individual's authorized activity must
 101.8 meet the criteria in the CCAP agency's child care fund plan; or

101.9 (3) if the parentally responsible individual is eligible under part 3400.0080
 101.10 and has an employment plan, the individual must be participating in an authorized activity
 101.11 in the individual's employment plan.

101.12 B. If a parentally responsible individual began a new authorized activity prior to
 101.13 the end of the extended eligibility period and does not report the new authorized activity,
 101.14 authorizations are approvable retroactively from the date that the extended eligibility period
 101.15 ended, as long as the parentally responsible individual reports the new authorized activity
 101.16 within 90 days after eligibility ended and the parentally responsible individual met all
 101.17 eligibility requirements during the time period after the case closed. A CCAP agency must
 101.18 authorize child care through the end of the 12-month eligibility period as provided by part
 101.19 3400.0110, subpart 3, and Minnesota Statutes, chapter 119B.

101.20 **3400.0180 REDETERMINATION OF ELIGIBILITY.**

101.21 Subpart 1. Redetermination time frame.

101.22 ~~A. The county must redetermine each participating family's eligibility at least~~
 101.23 ~~every six months. The county must redetermine the eligibility of families in the start-up~~
 101.24 ~~phase of self-employment without an approved employment plan more frequently than once~~
 101.25 ~~every six months if existing documentation is insufficient to accurately predict~~

102.1 ~~self-employment income. If a family reports a change in an eligibility factor before the~~
102.2 ~~family's next regularly scheduled redetermination, the county must recalculate eligibility~~
102.3 ~~without requiring verification of any eligibility factor that did not change.~~

102.4 ~~B. The county must not treat a redetermination of eligibility as a new application~~
102.5 ~~for child care assistance. The participant is responsible for providing documentary evidence~~
102.6 ~~of continued eligibility.~~

102.7 ~~C. If redetermination establishes that a family is ineligible for further child care~~
102.8 ~~assistance, the county shall terminate the child care assistance as provided in part 3400.0185.~~
102.9 ~~If redetermination establishes the need for a change in the family's copayment, revisions~~
102.10 ~~shall be calculated according to part 3400.0100. When a change in income affects the amount~~
102.11 ~~of a participant's copayment, the new copayment amount is effective on the first day of the~~
102.12 ~~service period following the 15-day notice period.~~

102.13 ~~D. If a family timely reports the information required by part 3400.0040, subpart~~
102.14 ~~4, and redetermination establishes a need for a change in the amount of the family's child~~
102.15 ~~care assistance, the amount of child care assistance paid to the family between the date the~~
102.16 ~~change was reported and the first date that the new child care assistance payment would be~~
102.17 ~~effective if the county properly implemented the change does not constitute an overpayment.~~

102.18 A CCAP agency must redetermine each participating family's eligibility during the
102.19 time frame in Minnesota Statutes, section 119B.025, subdivision 3. A CCAP agency may
102.20 establish criteria in the CCAP agency's child care fund plan to extend redetermination due
102.21 dates longer than the time frame in Minnesota Statutes, section 119B.025, subdivision 3.
102.22 A CCAP agency may defer a redetermination until the end of the academic school year for
102.23 a family in which at least one parentally responsible individual meets the criteria in Minnesota
102.24 Statutes, section 119B.025, subdivision 3, paragraph (c), clause (3). For purposes of this
102.25 subpart, the end of the academic school year is August 31 of that year.

103.1 Subp. 2. Redetermination processing.

103.2 A. A CCAP agency must begin processing a participant's redetermination within
103.3 ten calendar days from the date that the CCAP agency receives a redetermination form.

103.4 B. A participant must submit a signed and completed redetermination form and
103.5 must provide verification of the participant's continued eligibility under subpart 3.

103.6 C. A CCAP agency must not treat a redetermination as a new application for child
103.7 care assistance.

103.8 Subp. 3. Verification requirements.

103.9 A. At redetermination, a family must verify:

103.10 (1) income, if counted under Minnesota Statutes, chapter 256P, of all members
103.11 of the family, including members temporarily absent from the household;

103.12 (2) the work, education, or training activity status of each parentally
103.13 responsible individual;

103.14 (3) the family's residence, if a CCAP agency does not have verification of
103.15 the family's current address;

103.16 (4) changes in family size that the family has not verified since the most
103.17 recent eligibility determination;

103.18 (5) changes in the family's status that the family has not verified since the
103.19 most recent eligibility determination;

103.20 (6) the family's cooperation with child support enforcement under Minnesota
103.21 Statutes, section 119B.09, subdivision 1, paragraph (c);

103.22 (7) the family's assets that exceed \$1,000,000; and

103.23 (8) changes in a child's citizenship or immigration status under item D.

104.1 B. At redetermination, a family may provide verification of:

104.2 (1) income deductions as allowed by part 3400.0170. A CCAP agency must
104.3 process a redetermination without income deductions if the family has not verified income
104.4 deductions within the time frame identified in Minnesota Statutes, section 119B.025,
104.5 subdivision 3; and

104.6 (2) the school status of students 6 years of age and older with earned income.

104.7 If a family has not verified a student's school status within the time frame identified in
104.8 Minnesota Statutes, section 119B.025, subdivision 3, the student's earned income must be
104.9 counted under Minnesota Statutes, section 256P.06.

104.10 C. For a CCAP agency to authorize child care at redetermination, an eligible
104.11 family must:

104.12 (1) provide verification of the work, education, or training schedule of each
104.13 parentally responsible individual;

104.14 (2) provide the school schedule of each child who needs child care and attends
104.15 school if the schedule or school attended has changed since the most recent eligibility
104.16 determination; and

104.17 (3) provide verification of changes in a child's citizenship and immigration
104.18 status under item D.

104.19 D. A family must have at least one child who meets the citizenship or immigration
104.20 status requirement in the Federal Child Care and Development Fund, Code of Federal
104.21 Regulations, title 45, section 98.20(c), or who is receiving child care in a setting subject to
104.22 public education standards. For a CCAP agency to authorize child care, a family must verify
104.23 the child's citizenship or immigration status unless a setting subject to public education
104.24 standards is providing care for the child.

105.1 Subp. 4. **Eligibility determination.** At redetermination, a family must meet all
105.2 applicable requirements under this chapter and Minnesota Statutes, chapter 119B, to continue
105.3 receiving child care assistance. A CCAP agency must approve a family's eligibility when
105.4 the CCAP agency receives the family's signed and completed redetermination form and
105.5 verifications within the time frame identified in Minnesota Statutes, section 119B.025,
105.6 subdivision 3, and the redetermination form and verifications indicate that the family is
105.7 eligible. If a CCAP agency determines at redetermination that a family is ineligible for
105.8 further child care assistance, the CCAP agency must terminate the family's child care
105.9 assistance as provided in part 3400.0185.

105.10 Subp. 5. **Unreported changes during 12-month eligibility period.**

105.11 A. A CCAP agency must determine if information that the CCAP agency receives
105.12 at redetermination indicates that a family met the reporting requirements in part 3400.0040,
105.13 subpart 4, during the 12-month eligibility period. If a family did not meet the reporting
105.14 requirements, a CCAP agency must determine if any unreported changes impacted the
105.15 family's eligibility or child care authorization during the previous 12-month eligibility
105.16 period.

105.17 B. If a family received more benefits than the family was eligible for during the
105.18 12-month eligibility period, a CCAP agency or the commissioner must recoup or recover
105.19 an overpayment under part 3400.0187 and Minnesota Statutes, section 119B.11, subdivision
105.20 2a.

105.21 Subp. 6. **Reported changes during 12-month eligibility period.**

105.22 A. If a family reported an income change during the 12-month eligibility period
105.23 that did not require verification under part 3400.0040, subpart 4a, and the income ends prior
105.24 to redetermination, a CCAP agency must not require a family to provide verification of that
105.25 income at redetermination.

106.1 B. When a family timely reports information required by part 3400.0040, subpart
106.2 4; a CCAP agency timely acts on the information under part 3400.0140, subpart 21; and
106.3 redetermination results in a decrease in the amount of the family's child care assistance, the
106.4 amount of child care assistance that the CCAP agency paid on behalf of the family between
106.5 the date of the change and the date that the new child care assistance payment would be
106.6 effective is not an overpayment.

106.7 Subp. 7. **Changes in authorized hours.** If redetermination results in an increase in
106.8 the number of hours that a CCAP agency authorizes for a child, the increase in hours is
106.9 effective on the first day of the service period after the CCAP agency approves the
106.10 redetermination. An increase in child care hours is effective for service periods prior to the
106.11 date that the CCAP agency approves the redetermination when the family requests and
106.12 verifies a need for additional child care hours. If redetermination results in a decrease in
106.13 the number of child care hours that a CCAP agency authorizes for a child, the decrease in
106.14 hours is effective on the first day of the service period following the 15-day adverse action
106.15 notice period.

106.16 Subp. 8. **Copayment changes.** At redetermination, the copayment must be calculated
106.17 according to Minnesota Statutes, section 119B.12. When a change in income increases the
106.18 amount of a participant's copayment, the new copayment is effective on the first day of the
106.19 service period following the 15-day adverse action notice period. When a change in income
106.20 decreases the amount of the copayment, the new copayment is effective on the first day of
106.21 the service period after a CCAP agency approves the redetermination.

106.22 Subp. 9. **Temporary breaks in authorized activity at redetermination.** At
106.23 redetermination, each family must meet the minimum authorized activity requirements in
106.24 Minnesota Statutes, section 119B.10. If a parentally responsible individual meets all eligibility
106.25 requirements and reports a temporary break from the parentally responsible individual's
106.26 authorized activity and verifies that the parentally responsible individual expects to return

107.1 to the authorized activity, the CCAP agency must suspend the parentally responsible
107.2 individual's case following the 15-day adverse action notice period. If a parentally responsible
107.3 individual meets all eligibility requirements and reports a temporary break from the parentally
107.4 responsible individual's authorized activity and does not verify that the parentally responsible
107.5 individual expects to return to the authorized activity, a CCAP agency must place the
107.6 parentally responsible individual's case in temporary ineligible status following the 15-day
107.7 adverse action notice period.

107.8 **3400.0183 TERMINATION OF CHILD CARE ASSISTANCE.**

107.9 Subpart 1. **Conditions for termination of child care assistance.**

107.10 A. A county or Tribe may terminate child care assistance ~~for families already of~~
107.11 a family receiving child care assistance when the county or Tribe receives: (1) a revised
107.12 allocation from the child care fund that is smaller than the allocation stated in the notice
107.13 sent to the county or Tribe under part ~~3400.0030~~ 3400.0060, subpart 2; and (2) such short
107.14 notice of a change in ~~its~~ the county's or Tribe's allocation that the county ~~could not have~~
107.15 ~~absorbed~~ or Tribe is unable to absorb the difference in the allocation. The county or Tribe
107.16 must consult with and obtain approval from the commissioner before terminating child care
107.17 assistance for a family under this subpart.

107.18 B. If the conditions described in ~~this subpart~~ item A occur and a county or Tribe
107.19 terminates child care assistance for a family, the county may or Tribe must give the family
107.20 notice as required by part 3400.0185, subpart 12, and terminate assistance to families each
107.21 family in the order of last on, first off. the most recent approval date of eligibility at
107.22 application, including first-time participants and participants who previously received child
107.23 care assistance and experienced a break in service and reapplied. When funds become
107.24 available, ~~counties~~ a county or Tribe must reinstate first determine the eligibility of families
107.25 ~~that remain eligible for child care assistance and~~ whose child care assistance was terminated
107.26 due to insufficient funds before the county ~~accepts~~ or Tribe approves the eligibility of new

108.1 ~~applications applicants. Those families whose child care assistance was most recently~~
108.2 ~~terminated due to insufficient funds shall be reinstated first.~~

108.3 Subp. 2. **Conditions under which termination of child care assistance is required.**

108.4 A. A county CCAP agency must terminate a family's eligibility for child care
108.5 assistance under the following conditions:

108.6 A. (1) when the family asks the county CCAP agency to do so terminate the
108.7 family's eligibility for child care assistance;

108.8 B. (2) when the family is no longer eligible to receive child care assistance under
108.9 this chapter and Minnesota Statutes, chapter 119B; or

108.10 C. (3) when a member of the family has been disqualified from the child care
108.11 assistance program under Minnesota Statutes, section 256.98, subdivision 8, paragraph (b).

108.12 B. During the 12-month eligibility period, a CCAP agency must terminate a
108.13 family's eligibility for child care assistance under any of the following conditions:

108.14 (1) the family's income exceeds 85 percent of the state median income;

108.15 (2) the family's assets exceed \$1,000,000;

108.16 (3) the extended eligibility period ends and the parentally responsible
108.17 individual has no authorized activity;

108.18 (4) the parentally responsible individual uses all available job search hours
108.19 outside of an employment plan under Minnesota Statutes, section 119B.10, subdivision 1,
108.20 and the parentally responsible individual has no authorized activity;

108.21 (5) the family does not pay a copayment;

108.22 (6) the family moves out of the state;

108.23 (7) there are no eligible children in the family's household;

109.1 (8) the only parentally responsible individual in the household has been
109.2 temporarily absent for more than 60 days and the parentally responsible individual has no
109.3 authorized activity or the extended eligibility period ends;

109.4 (9) the family's temporary ineligibility period expires; or

109.5 (10) the family's one year suspension period expires.

109.6 C. At redetermination, a CCAP agency must terminate a family's eligibility for
109.7 child care assistance under any of the following conditions:

109.8 (1) the family's income exceeds 67 percent of the state median income;

109.9 (2) the family's assets exceed \$1,000,000;

109.10 (3) the family is not in an authorized activity that meets any applicable
109.11 minimum participation requirements;

109.12 (4) the family is not cooperating with child support;

109.13 (5) the CCAP agency has not received the family's redetermination form and
109.14 all required eligibility verifications by the last day of the redetermination period;

109.15 (6) the family's temporary ineligibility period has expired;

109.16 (7) the family's one year suspension period has expired; or

109.17 (8) the family's only child who is eligible for child care assistance is 13 years
109.18 of age or older or 15 years of age or older when the child has a documented disability.

109.19 Subp. 3. [Repealed, 33 SR 695]

109.20 Subp. 4. [Repealed, 33 SR 695]

109.21 Subp. 5. **Effective date of disqualification period for families.** The effective date
109.22 of a disqualification period for a family is the later of:

110.1 A. the date that the family member was found guilty of wrongfully obtaining or
 110.2 attempting to obtain child care assistance by a federal court, or a state court, or an
 110.3 administrative disqualification hearing determination or waiver; through a disqualification
 110.4 consent agreement; as part of an approved diversion plan under Minnesota Statutes, section
 110.5 401.065; or as part of a court-ordered stay with probationary or other conditions; or

110.6 *[For text of item B, see Minnesota Rules]*

110.7 **Subp. 6. Effective date of disqualification period for child care provider.** The
 110.8 effective date of a disqualification period for a child care provider is the later of:

110.9 A. the date that the child care provider was found guilty of an intentional program
 110.10 violation or wrongfully obtaining child care assistance by a federal court, a state court, or
 110.11 an administrative disqualification hearing determination or waiver; through a disqualification
 110.12 consent agreement; as part of an approved diversion plan under Minnesota Statutes, section
 110.13 401.065; or as part of a court-ordered stay with probationary or other conditions; or

110.14 B. the effective date of the child care assistance program termination notice.

110.15 **3400.0185 TERMINATION AND ADVERSE ACTIONS; NOTICE REQUIRED**
 110.16 **REQUIREMENTS.**

110.17 Subpart 1. [See repealer.]

110.18 Subp. 2. [See repealer.]

110.19 Subp. 3. [See repealer.]

110.20 Subp. 4. [See repealer.]

110.21 Subp. 5. [See repealer.]

110.22 **Subp. 6. Notice of eligibility approval to family.** A CCAP agency must notify a
 110.23 family in writing of the CCAP agency's approval of the family's eligibility.

110.24 A. The approval notice must include:

- 111.1 (1) the date that the family's eligibility began;
- 111.2 (2) the family's gross annual income as determined under part 3400.0170;
- 111.3 (3) the family's copayment amount, including how and when the family must
111.4 pay the copayment;
- 111.5 (4) the family's responsibility for paying child care provider charges that
111.6 exceed the maximum amount of child care payments in addition to the copayment;
- 111.7 (5) the reporting requirements under part 3400.0040, subpart 4; and
- 111.8 (6) the provisions for recoupment or recovery of an overpayment if the family
111.9 does not meet the reporting requirements in subitem (5).
- 111.10 B. The approval notice must state that once a family selects a child care provider
111.11 who is eligible to receive payment from the child care fund, the child care provider and the
111.12 family will receive notice from the CCAP agency stating the number of hours of child care
111.13 that the CCAP agency authorizes and the maximum rate payable under the child care fund.
- 111.14 C. The approval notice must state that, except in cases in which the license of a
111.15 child care provider licensed by Minnesota has been temporarily immediately suspended
111.16 under Minnesota Statutes, section 245A.07, or in which there is an imminent risk of harm
111.17 to the health, safety, or rights of a child in the care of a legal nonlicensed child care provider,
111.18 certified license-exempt child care center, or child care provider licensed by an entity other
111.19 than the state of Minnesota, the family must report any change in child care provider to the
111.20 CCAP agency and the child care provider at least 15 calendar days before the change occurs
111.21 and include the overpayment implications for not reporting the change.
- 111.22 D. The approval notices must state that when a CCAP agency terminates a
111.23 participant's child care assistance eligibility, the CCAP agency must inform the participant
111.24 of the reason for the termination and the participant's appeal rights.

112.1 Subp. 7. **Notice of eligibility denial to family.** A CCAP agency must notify a family
112.2 in writing of a denial of a family's eligibility. The denial notice must include:

112.3 A. the reason for the denial;

112.4 B. the provision in statute, rule, or the CCAP agency's child care fund plan that
112.5 forms the basis of the denial; and

112.6 C. the parentally responsible individual's right to a fair hearing under part
112.7 3400.0230 and Minnesota Statutes, section 119B.16.

112.8 Subp. 8. **Notice of authorization to family.** A CCAP agency must notify a family in
112.9 writing when the CCAP agency authorizes a family's child care with a child care provider
112.10 that meets the criteria in part 3400.0120, subpart 1. The authorization notice must include:

112.11 A. the family's name;

112.12 B. a statement that the CCAP agency approves of the family's request for child
112.13 care assistance;

112.14 C. the number of hours of child care that the CCAP agency authorizes per service
112.15 period;

112.16 D. the maximum rate payable under the child care fund;

112.17 E. the number of absent days that the CCAP agency has paid for the child during
112.18 the calendar year as of the date of the notice; and

112.19 F. the amount of the family's copayment.

112.20 Subp. 9. **Notice of authorization to child care provider.** A CCAP agency must
112.21 notify a child care provider in writing when the CCAP agency approves of a family's
112.22 eligibility and authorizes child care with a child care provider that meets the criteria in part
112.23 3400.0120, subpart 1. The authorization notice must include:

- 113.1 A. the family's name;
- 113.2 B. a statement that the CCAP agency approves of the family's request for child
113.3 care assistance;
- 113.4 C. the number of hours of child care that the CCAP agency authorizes per service
113.5 period;
- 113.6 D. the maximum rate payable under the child care fund;
- 113.7 E. the number of absent days that the CCAP agency has paid for the child during
113.8 the calendar year as of the date of the notice;
- 113.9 F. how the CCAP agency will issue child care assistance payments to the child
113.10 care provider; and
- 113.11 G. the amount of the family's copayment.

113.12 Subp. 10. Notice to family of adverse action.

- 113.13 A. A CCAP agency must give a participant written notice of any action that
113.14 adversely affects the participant's child care assistance eligibility or authorization.
- 113.15 B. The notice must include:
- 113.16 (1) a description of the adverse action;
- 113.17 (2) the effective date of the adverse action;
- 113.18 (3) the reason for the adverse action;
- 113.19 (4) the provision in statutes, rules, or the CCAP agency's child care fund plan
113.20 that supports the adverse action;
- 113.21 (5) a statement that the participant has the right to appeal the adverse action
113.22 and the procedure for an appeal; and

114.1 (6) a statement that if the participant appeals the adverse action before the
114.2 effective date of the action, the participant may:

114.3 (a) continue receiving the same level of benefits while the appeal is
114.4 pending, subject to recoupment or recovery if the adverse action is upheld; or

114.5 (b) receive the level of benefits indicated by the adverse action while
114.6 the appeal is pending and have an eligible child care provider under part 3400.0120, subpart
114.7 1, receive reimbursement for documented eligible child care expenditures pending appeal
114.8 if the adverse action is reversed when the child care provider bills according to Minnesota
114.9 Statutes, section 119B.13, subdivision 6, paragraphs (a) to (c).

114.10 C. A CCAP agency must mail the notice to the participant's last known address
114.11 at least 15 calendar days before the effective date of the adverse action.

114.12 D. If the participant corrects the conditions underlying the adverse action before
114.13 the effective date of the adverse action, the adverse action must not take effect.

114.14 Subp. 11. **Notice to child care provider of action adverse to family.** A CCAP agency
114.15 must give a child care provider written notice of a reduction in the hours of authorized child
114.16 care or an increase in the family's copayment. A CCAP agency must mail the notice to the
114.17 child care provider at least 15 calendar days before the effective date of the adverse action
114.18 and include:

114.19 A. the family's name;

114.20 B. a description of the adverse action that omits information about the reasons for
114.21 the adverse action;

114.22 C. the effective date of the adverse action; and

114.23 D. a statement that unless the family appeals the adverse action before the effective
114.24 date, the adverse action will occur on the effective date.

115.1 Subp. 12. Notice of termination of child care assistance to family.

115.2 A. A CCAP agency must notify a participant in writing of the termination of the
115.3 participant's child care assistance. The notice must include:

115.4 (1) the date that the termination is effective;

115.5 (2) the reason that the CCAP agency is terminating the participant's child
115.6 care assistance;

115.7 (3) the provision in statutes, rules, or the CCAP agency's child care fund plan
115.8 that supports terminating the participant's assistance;

115.9 (4) a statement that the participant has a right to appeal the termination and
115.10 the procedure for an appeal; and

115.11 (5) a statement that if the participant appeals the proposed action before the
115.12 effective date of the termination, the participant may:

115.13 (a) continue receiving the same level of benefits while the appeal is
115.14 pending, subject to recoupment or recovery if the termination is upheld; or

115.15 (b) not receive benefits while the appeal is pending and have an eligible
115.16 child care provider under part 3400.0120, subpart 1, receive reimbursement for documented
115.17 eligible child care expenditures made or incurred pending appeal if the termination is reversed
115.18 when the child care provider bills according to Minnesota Statutes, section 119B.13,
115.19 subdivision 6, paragraphs (a) to (c).

115.20 B. A CCAP agency must mail the notice to the participant's last known address
115.21 at least 15 calendar days before terminating the participant's child care assistance.

115.22 C. If the CCAP agency terminates the participant's child care assistance under
115.23 part 3400.0183, subpart 2, item A, subitem (1), and, before the effective date of termination,
115.24 the participant requests to continue receiving child care assistance, the termination must

116.1 not take effect. If a CCAP agency terminates the participant's child care assistance under
116.2 part 3400.0183, subpart 2, item A, subitem (2), and, before the effective date of termination,
116.3 the participant reestablishes eligibility for child care assistance, the termination must not
116.4 take effect.

116.5 **Subp. 13. Notice of termination of child care assistance to child care provider.**

116.6 **A. A CCAP agency must notify a family's child care provider in writing when a**
116.7 **CCAP agency terminates a family's child care assistance. The CCAP agency must mail the**
116.8 **termination notice to the child care provider at least 15 calendar days before the effective**
116.9 **date of the termination and include:**

116.10 (1) the family's name;

116.11 (2) a statement that the CCAP agency has terminated the family's child care
116.12 assistance;

116.13 (3) the effective date of the termination; and

116.14 (4) a statement that the CCAP agency will no longer issue child care payments
116.15 for the family's child care that a child care provider provides after the date of termination,
116.16 unless the family requests to continue receiving child care assistance pending an appeal.

116.17 **B. A CCAP agency must notify a family's child care provider in writing when the**
116.18 **family decides to no longer use the child care provider. A CCAP agency must mail a**
116.19 **termination notice to a child care provider at least 15 calendar days before the effective date**
116.20 **of the termination and must include:**

116.21 (1) the family's name;

116.22 (2) a statement that the family has decided to no longer use the child care
116.23 provider;

117.1 (3) the effective date when the child care assistance authorization will end;

117.2 and

117.3 (4) a statement that the CCAP agency will no longer issue child care payments
117.4 for the family's child care that a child care provider provides after the date of the termination.

117.5 C. This item applies to child care providers licensed in Minnesota. Except in cases
117.6 in which the provider's license has been temporarily immediately suspended under Minnesota
117.7 Statutes, section 245A.07, a CCAP agency must mail a notice of termination to a child care
117.8 provider at least 15 calendar days before terminating payment to the child care provider.
117.9 When a child care provider's license has been temporarily immediately suspended under
117.10 Minnesota Statutes, section 245A.07, a CCAP agency must send a notice of termination to
117.11 the child care provider that is effective on the date of the temporary immediate suspension.

117.12 D. This item applies to legal nonlicensed child care providers, certified
117.13 license-exempt child care centers, and child care providers licensed by an entity other than
117.14 the state of Minnesota. Except in cases in which there is an imminent risk of harm to the
117.15 health, safety, or rights of a child in child care, a CCAP agency must mail a notice of
117.16 termination to a child care provider at least 15 calendar days before terminating payment
117.17 to the child care provider. In cases in which there is an imminent risk of harm to the health,
117.18 safety, or rights of a child in child care, a CCAP agency must send a notice of termination
117.19 to the child care provider that is effective on the date of the notice.

117.20 E. When a child care provider's payment is suspended under Minnesota Statutes,
117.21 chapter 245E, or a child care provider's registration is denied or revoked under Minnesota
117.22 Statutes, section 119B.13, subdivision 6, paragraph (d), clause (1) or (2), a CCAP agency
117.23 or the commissioner must send a notice of termination to the child care provider effective
117.24 on the date that the CCAP agency or the commissioner creates the notice.

118.1 **3400.0187 RECOUPMENT AND RECOVERY OF OVERPAYMENTS.**

118.2 Subpart 1. [See repealer.]

118.3 Subp. 1a. [Repealed, 33 SR 695]

118.4 Subp. 1b. **Calculation of overpayment.** When determining an overpayment, a CCAP
118.5 agency or the commissioner must assess the dates during which a family or child care
118.6 provider received more child care assistance than the family or child care provider was
118.7 eligible to receive. With the exception of overpayments designated solely as agency error
118.8 under Minnesota Statutes, section 119B.11, subdivision 2a, paragraph (a), the overpayment
118.9 must include all amounts that the CCAP agency or commissioner determines were overpaid
118.10 according to time frames specified in Minnesota Statutes, section 119B.11, subdivision 2a,
118.11 paragraph (h).

118.12 Subp. 2. **Notice of overpayment.** ~~The county~~ A CCAP agency or the commissioner
118.13 must notify the person or persons, or entity who is assigned responsibility for the
118.14 overpayment of the overpayment in writing. A notice of overpayment must specify the
118.15 reason for the overpayment, the time period in during which the overpayment occurred, the
118.16 amount of the overpayment, and the right to appeal the county's CCAP agency's or
118.17 commissioner's overpayment determination.

118.18 Subp. 3. [See repealer.]

118.19 Subp. 4. **Recoupment of overpayments from participants.** ~~If the redetermination~~
118.20 ~~of eligibility indicates the family remains eligible for child care assistance, The county~~ A
118.21 CCAP agency or the commissioner must recoup the an overpayment by reducing the amount
118.22 of assistance paid to or on behalf of the family for every service period at the rates in item
118.23 A, B, C, or D until the overpayment debt is retired.

119.1 A. When a family has an overpayment due to ~~agency or~~ a child care provider error
119.2 or a combination of child care provider and agency error, the recoupment amount is
119.3 one-fourth of the family's copayment or \$10, whichever is greater.

119.4 B. When ~~the~~ a family has an overpayment due to the family's first failure to report
119.5 changes as required by part 3400.0040, subpart 4, or a combination of a family's first failure
119.6 to report and agency error, the recoupment amount is one-half of the family's copayment
119.7 or \$10, whichever is greater.

119.8 C. When a family has an overpayment due to the family's failure to provide
119.9 accurate information at the time of application or redetermination or the family's second or
119.10 subsequent failure to report changes as required by part 3400.0040, subpart 4, or a
119.11 combination of these violations with agency error, the recoupment amount is one-half of
119.12 the family's copayment or \$50, whichever is greater.

119.13 D. When a family has an overpayment due to a violation of Minnesota Statutes,
119.14 section 256.98, ~~subdivision 1~~, as established by a court conviction, a court-ordered stay of
119.15 a conviction with probationary or other terms, a disqualification agreement, a pretrial
119.16 diversion, or an administrative disqualification hearing or waiver, the recoupment amount
119.17 equals the greater of:

119.18 *[For text of subitems (1) to (3), see Minnesota Rules]*

119.19 E. This item applies to families who have been disqualified or found to be ineligible
119.20 for the child care assistance program and who have outstanding overpayments. If a
119.21 disqualified or previously ineligible family returns to the child care assistance program, ~~the~~
119.22 ~~county~~ a CCAP agency or the commissioner must begin recouping the family's outstanding
119.23 overpayment using the recoupment schedule in items A to D unless another repayment
119.24 schedule has been specified in a court order.

119.25 *[For text of item F, see Minnesota Rules]*

120.1 Subp. 5. [Repealed, 33 SR 695]

120.2 Subp. 6. **Recoupment of ~~overpayments~~ overpayment from ~~providers~~ child care**
 120.3 **provider**. If ~~the~~ a child care provider continues to receive child care assistance payments,
 120.4 ~~the county~~ a CCAP agency or the commissioner must recoup ~~the~~ an overpayment by reducing
 120.5 the amount of assistance paid to the child care provider for every payment at the rates in
 120.6 item A, B, or C until the overpayment debt is retired.

120.7 A. When a child care provider has an overpayment due to ~~agency or a family error~~
 120.8 or a combination of family and agency error, the recoupment amount is one-tenth of the
 120.9 provider's payment or \$20, whichever is greater.

120.10 B. When a child care provider has an overpayment due to the child care provider's
 120.11 failure to provide accurate information or a combination of a child care provider's failure
 120.12 to report accurate information and agency error, the recoupment amount is one-fourth of
 120.13 the child care provider's payment or \$50, whichever is greater.

120.14 C. When a child care provider has an overpayment due to a violation of Minnesota
 120.15 Statutes, section 256.98, ~~subdivision 1~~, as established by a court conviction, a court-ordered
 120.16 stay of conviction with probationary or other terms, a disqualification agreement, a pretrial
 120.17 diversion, or an administrative disqualification hearing or waiver, the recoupment amount
 120.18 equals the greater of:

120.19 (1) one-half of the child care provider's payment;

120.20 *[For text of subitems (2) and (3), see Minnesota Rules]*

120.21 D. This item applies to child care providers who have been disqualified from or
 120.22 are no longer able to be authorized by the child care assistance program and who have
 120.23 outstanding overpayments. If a child care provider returns to the child care assistance
 120.24 program as a child care provider or a participant, ~~the county~~ a CCAP agency or the
 120.25 commissioner must begin recouping the child care provider's outstanding overpayment

121.1 using the recoupment schedule in items A to ~~D~~ C unless another repayment schedule has
 121.2 been specified in a court order.

121.3 E. If a child care provider has more than one overpayment assessed for different
 121.4 incidents, a CCAP agency or the commissioner must not consolidate the overpayments must
 121.5 ~~not be consolidated~~ into one overpayment. Instead, each overpayment must be recouped
 121.6 according to the schedule ~~specified~~ in this subpart from the payment made to the child care
 121.7 provider for the service period. If the amount to be recouped in a service period exceeds
 121.8 the payment to the child care provider for that service period, the amount recouped must
 121.9 be applied to overpayments in the following order:

121.10 *[For text of subitems (1) to (3), see Minnesota Rules]*

121.11 F. If the commissioner or more than one CCAP agency assesses multiple
 121.12 overpayments to a child care provider for the same incident, the commissioner or each
 121.13 CCAP agency must assess each overpayment separately. A CCAP agency or the
 121.14 commissioner must recoup only one overpayment per incident at a time according to the
 121.15 schedule in this subpart until the overpayment debt is retired. A CCAP agency or the
 121.16 commissioner must recoup any overpayment that the commissioner or CCAP agency assesses
 121.17 for a different incident simultaneously under item E.

121.18 **3400.0230 RIGHT TO FAIR HEARING.**

121.19 Subpart 1. [Repealed, 33 SR 695]

121.20 Subp. 2. [Repealed, 33 SR 695]

121.21 Subp. 3. **Child care payments when pending fair hearing is requested.**

121.22 A. If the applicant or participant requests a fair hearing before the effective date
 121.23 of termination or adverse action or within ten days after the date of mailing the notice,
 121.24 whichever is later, the ~~termination or adverse action shall not be taken~~ commissioner or
 121.25 CCAP agency must not terminate the applicant's or participant's child care assistance or

122.1 take the adverse action until the conclusion of the fair hearing. Child care assistance paid
122.2 pending a fair hearing is subject to recovery under part 3400.0187 to the extent that the
122.3 commissioner finds on appeal that the participant was not eligible for the amount of child
122.4 care assistance paid.

122.5 B. If the commissioner finds on appeal that child care assistance should have been
122.6 terminated or the amount of benefits reduced, ~~the county~~ a CCAP agency must send a notice
122.7 of termination or reduction in benefits ~~effective the date of the notice~~ to the family and the
122.8 child care provider as required by part 3400.0185 and determine if an overpayment needs
122.9 to be recouped or recovered according to Minnesota Statutes, section 119B.11, subdivision
122.10 2a.

122.11 C. A participant may appeal the termination of child care assistance and choose
122.12 not to receive child care assistance pending the appeal. If the commissioner finds on appeal
122.13 that child care assistance should not have been terminated, ~~the county~~ a CCAP agency must
122.14 reimburse reinstate the participant participant's eligibility retroactively from the date of the
122.15 termination and issue payments to an eligible child care provider under part 3400.0120,
122.16 subpart 1, when the child care provider bills according to Minnesota Statutes, section
122.17 119B.13, subdivision 6, paragraphs (a) to (c), for documented-eligible child care expenditures
122.18 ~~made or~~ incurred pending the appeal.

122.19 **Subp. 4. Child care payments pending fair hearing or administrative**
122.20 **disqualification hearing.**

122.21 A. If a child care provider requests a fair hearing before the effective date of a
122.22 termination or an adverse action, the termination or adverse action must not take effect until
122.23 the conclusion of the hearing, unless:

122.24 (1) the child care provider appeals the assignment of responsibility, amount,
122.25 or recovery of an overpayment, in which case the recoupment or recovery of the overpayment
122.26 will occur while the appeal is pending;

123.1 (2) the fair hearing is stayed under Minnesota Statutes, section 119B.16,
123.2 subdivision 3; or

123.3 (3) the adverse action entitles the child care provider to an administrative
123.4 review under Minnesota Statutes, section 119B.161.

123.5 B. Child care assistance that a CCAP agency pays to a child care provider pending
123.6 a hearing is subject to recovery under part 3400.0187 when the commissioner finds on
123.7 appeal that the child care provider was not eligible for the paid amount of child care
123.8 assistance.

123.9 C. A child care provider may request a fair hearing under Minnesota Statutes,
123.10 section 119B.16, subdivision 1a, and choose not to receive child care assistance pending
123.11 appeal. If, on appeal, the commissioner finds that child care assistance should not have been
123.12 terminated or an adverse action should not have been taken:

123.13 (1) the child care provider must complete the registration process in Minnesota
123.14 Statutes, section 119B.011, subdivision 19a; and

123.15 (2) a CCAP agency or the commissioner must reimburse the child care
123.16 provider for documented eligible child care expenditures made or incurred pending the
123.17 appeal for dates of service when the child care provider was eligible under part 3400.0120,
123.18 subpart 1, and the child care provider bills according to Minnesota Statutes, section 119B.13,
123.19 subdivision 6, paragraphs (a) to (c).

123.20 **Subp. 5. Child care payments pending administrative review.**

123.21 A. If a child care provider requests an administrative review under Minnesota
123.22 Statutes, section 119B.161, a CCAP agency or the commissioner must stop payments during
123.23 the administrative review.

124.1 B. If a child care provider's payments are suspended under Minnesota Statutes,
124.2 chapter 245E, or the child care provider's registration is denied or revoked under Minnesota
124.3 Statutes, section 119B.13, subdivision 6, paragraph (d), clause (1) or (2), and:

124.4 (1) the commissioner or a law enforcement authority subsequently determines
124.5 there is insufficient evidence warranting the action and a CCAP agency or the commissioner
124.6 does not pursue an administrative remedy under Minnesota Statutes, chapter 119B or 245E,
124.7 or Minnesota Statutes, section 256.98; or

124.8 (2) all criminal, civil, and administrative proceedings related to the child care
124.9 provider's alleged misconduct conclude in the child care provider's favor and all appeal
124.10 rights are exhausted; or

124.11 (3) the commissioner finds good cause exists under Minnesota Statutes,
124.12 section 119B.161, subdivision 4, not to deny, revoke, or suspend a child care provider's
124.13 registration, or not to continue a denial, revocation, or suspension of a child care provider's
124.14 registration, and the child care provider chooses to resume receiving child care assistance
124.15 payments, then:

124.16 (a) the child care provider must complete the registration process in
124.17 Minnesota Statutes, section 119B.011, subdivision 19a; and

124.18 (b) a CCAP agency or the commissioner must reimburse the child care
124.19 provider for documented eligible child care expenditures made or incurred pending the
124.20 administrative review for dates of service when the child care provider was eligible under
124.21 part 3400.0120, subpart 1, and the child care provider bills according to Minnesota Statutes,
124.22 section 119B.13, subdivision 6, paragraphs (a) to (c).

124.23 **REPEALER.** (a) Minnesota Rules, parts 3400.0020, subparts 4, 24, and 38; 3400.0030;
124.24 3400.0035, subparts 4, 5, and 6; 3400.0040, subpart 7; 3400.0060, subparts 6, 6a, 7, and 8;
124.25 3400.0100, subparts 2b and 2c; 3400.0110, subpart 2a; 3400.0140, subparts 4 and 5;

- 125.1 3400.0185, subparts 1, 2, 3, and 4; 3400.0187, subparts 1 and 3; 3400.0200; 3400.0220;
- 125.2 and 3400.0235, subparts 1, 2, 3, 4, 5, and 6, are repealed.
- 125.3 (b) Minnesota Rules, part 3400.0185, subpart 5, is repealed effective February 26, 2021.

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By: OAH on 9/18/18 9:40 a.m.



OFFICE OF ADMINISTRATIVE HEARINGS

OAH Docket Number: _____

STATE OF MINNESOTA OFFICE OF ADMINISTRATIVE HEARINGS

Possible Amendment to Rules Governing the Child Care Assistance Program, Minnesota Rules, Parts 3400.0010 – 3400.0235; Revisor’s ID 4560

NOTICE OF APPEARANCE

PLEASE TAKE NOTICE that:

- 1. The party/agency named below (Party/Agency) will appear at the prehearing conference and all subsequent proceedings in the above-entitled matter.
2. By providing its email address below, the Party/Agency acknowledges that it has read and agrees to the terms of the Office of Administrative Hearings’ e-Filing policy and chooses to opt into receiving electronic notice from the Office of Administrative Hearings in this matter. Note: Provision of an email address DOES NOT constitute consent to electronic service from any opposing party or agency in this proceeding.
3. The Party/Agency agrees to use best efforts to provide the Office of Administrative Hearings with the email address(es) for opposing parties and their legal counsel.

Party’s/Agency’s Name: Minnesota Department of Human Services, c/o Vanessa Vogl, Rulemaking Attorney

Email: vanessa.vogl@state.mn.us Telephone: (651) 431-3168

Mailing Address: PO Box 64254, Saint Paul, MN 55164-0254

Party’s/Agency’s Attorney: _____

Firm Name: _____

Email: _____ Telephone: _____

Mailing Address: _____

Respondent’s/Opposing Party’s Name: _____

Email: _____ Telephone: _____

Mailing Address: _____

Dated: 9/12/2018

Handwritten signature of Vanessa Vogl and printed text: Signature of Party/Agency or Attorney

1 In order to opt in to electronic notice, this form must be emailed to OAH.efiling.support@state.mn.us. If the party does not wish to opt in to electronic notice, this form may be filed with the Office of Administrative Hearings via facsimile, U.S. Mail, or personal service. See 2015 Minn. Laws Ch. 63, Minn. R. 1400.5550, subps. 2-5 (2017). Note: This form must be served upon the opposing party/agency. Counsel may not withdraw from representation without written notice.