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Authority

The provisions of this Chapter 168 issued under section 403(b) of the Public Welfare Code (62 P. S. § 403(b)); amended under Articles II and IV of the Public Welfare Code (62 P. S. §§ 201—211 and 401—493), unless otherwise noted.

Source

The provisions of this Chapter 168 adopted May 15, 1992, effective May 16, 1992, and apply retroactively to April 1, 1990, 22 Pa.B. 2533, unless otherwise noted.

GENERAL PROVISIONS

§ 168.1. Policy on payment of child care.

(a) To the extent funds are available, payment for child care will be made to enable the parent/caretaker to participate in work-related activities. To qualify for a child care payment, the individual must be eligible to receive cash assistance, including persons who do not receive a cash payment due to the minimum monthly check requirement or due to a month of zero cash payment. Child care payments are considered a reimbursement for past or future child care expenses for food stamp eligibility purposes.

(b) The Department will promptly inform a recipient of food stamps or cash assistance who is in need of child care about the following:

- (1) The types and locations of child care providers.
- (2) The services available from the CCIS, for help in finding and selecting a child care provider.

(3) Child care payments will be paid in advance of the date that payment is required by the provider, consistent with the requirements and time frames in § 165.42 (relating to advance payment of special allowances for supportive services), to ensure that the participant will have access to the child care provider of the participant's choice. The advance payment requirement does not apply to vendor payments for child care. Advance payments are considered a reimbursement of future child care expenses for food stamp eligibility purposes.

(i) The Department will make an exception to the provisions which limit advance payment to instances in which the provider requires it, and which restrict advance payment for providers enrolled in the child care vendor payment system for a TANF budget group determined prospectively ineligible as a result of starting new employment under § 168.71(1)(ii) (relating to monthly payment determination).

(ii) The Department will make an advance payment from the first day of employment until the date of discontinuance if the information is verified through a collateral contact consistent with § 168.41(4) (relating to verification requirements).

(c) At application, reapplication and whenever the agreement of mutual responsibility is developed or revised, the CAO will inform applicants and recipients in writing and orally of the availability of child care allowances.

(d) Determination of eligibility and notification of approval or denial of child care payments will be done in accordance with § 165.43 (relating to special allowances for supportive services and time frames for eligibility determinations).

(e) Authorization of payment for child care will be done based on time frames consistent with § 165.45 (relating to time frames for authorization of special allowances for supportive services).

(f) The Department will discuss the maximum child care allowances and the co-payment sliding fee scale in Chapter 3041, Appendix B (relating to co-payment chart, family co-payment scale), whenever the Agreement of Mutual Responsibility (AMR) is developed or revised and reflects a need for child care. The Department will advise clients that copies of the maximum child care allowances and the co-payment sliding fee scale are available upon request at the CAO.

(g) The Department will provide help in finding and selecting a child care provider.

Source

The provisions of this § 168.1 amended January 8, 1999, effective February 1, 1999, 29 Pa.B. 271; amended December 29, 2006, effective December 30, 2006, 36 Pa.B. 7961. Immediately preceding text appears at serial pages (252566) and (312055).

Cross References

This section cited in 55 Pa. Code § 165.46 (relating to types of special allowances for supportive services); and 55 Pa. Code § 168.41 (relating to verification requirements).

§ 168.2. Definitions.

The following words and terms, when used in this chapter, have the following meanings, unless the context clearly indicates otherwise:

Budget group—A group of persons receiving TANF. A child receiving SSI benefits and for whom child care payments are requested is included in the budget group.

CCIS—Child Care Information Services Agency—A public or private agency with which the Department has a contract to manage the subsidized child care program in part of a county, a county or several counties.

Co-payment—The weekly amount the family pays for subsidized child care.

Co-payment sliding fee scale—A scale based on family size and income from which a determination of the child care co-payment is made as set forth in Chapter 3041, Appendix B (relating to co-payment chart, family co-payment scale).

Full-time care—Child care of at least 5 hours per day.

In-home care—Child care provided by an individual in the child's home.

MCCA—Maximum child care allowance—The ceiling set by the Department for payment of child care services to budget groups eligible for child care payment.

Nontraditional hours—Hours of child care provided to a child whose parent/caretaker works on Saturday, Sunday or between the hours of 6 p.m. and 6 a.m.

Parental access—Access by the parent to the child at any time while the child is in care without the need for prior notification.

Part-time care—Child care of less than 5 hours per day.

Relative/neighbor care—Child care provided by an individual who cares for three or fewer children unrelated to the provider in the provider's home.

Restricted endorsement—A check made payable to two parties which requires the signature endorsement of both parties to cash the check.

Satisfactory arrangement—The plan made by the budget group to pay overdue fees which are acceptable to the child care provider.

Specified relative—The term as defined in Chapter 151 (relating to specified relatives).

Sleep-time—Care provided for a child when the parent's/caretaker's work shift ends between the hours of 12 a.m. and 9 a.m. to allow the parent/caretaker time to sleep.

TANF—Temporary Assistance for Needy Families Program—A Federal non-entitlement program under sections 401—409 of the Social Security Act (42 U.S.C.A. §§ 601—619) which provides cash assistance to families that include dependent children and an adult who is working toward self-sufficiency. Eligibility for TANF is determined by the local CAO.

Vendor payment—A child care payment made by the Department directly to a child care provider who has signed a provider agreement.

Source

The provisions of this § 168.2 amended January 8, 1999, effective February 1, 1999, 29 Pa.B. 271; as amended December 29, 2006, effective December 30, 2006, 36 Pa.B. 7961. Immediately preceding text appears at serial pages (312056) and (290993).

Cross References

This section cited in 55 Pa. Code § 153.44 (relating to procedures).

§ 168.3. Authority to administer subsidized child care.

The Department may delegate to another approved entity, such as the CCIS, the responsibilities in this chapter for the purpose of administering subsidized child care.

Source

The provisions of this § 168.3 adopted December 29, 2006, effective December 30, 2006, 36 Pa.B. 7961.

ELIGIBILITY REQUIREMENTS**§ 168.11. General requirements.**

(a) Payment for child care is available for the following types of child care:

- (1) Center-based day care.
- (2) Group home day care.
- (3) Family day care.
- (4) Relative/neighbor care.
- (5) In-home care.

(b) The parent/caretaker shall have the right to choose from any type of child care that is available under this chapter and the right to choose any child care provider who meets the requirements of this chapter.

Source

The provisions of this § 168.11 amended January 8, 1999, effective February 1, 1999, 29 Pa.B. 271; amended December 29, 2006, effective December 30, 2006, 36 Pa.B. 7961. Immediately preceding text appears at serial pages (290993) to (290994).

Cross References

This section cited in 55 Pa. code § 165.41 (relating to eligibility for special allowances for a supportive service).

§§ 168.12—168.16. [Reserved].**Source**

The provisions of these §§ 168.12—168.16 reserved January 8, 1999, effective February 1, 1999, 29 Pa.B. 271. Immediately preceding text appears at serial pages (168639) to (168640).

§ 168.17. Eligible children.

To be eligible for a child care payment, the budget group shall include a child who meets the following criteria. The child meets the following conditions:

- (1) Is a TANF dependent child under Chapter 153 (relating to deprivation of support or care) and § 145.43(a)(1) (relating to requirements) or would qualify as a TANF dependent child under Chapter 153 and § 145.43(a)(1) except for receipt of SSI or foster care benefits.
- (2) Meets one of the following conditions:
 - (i) Is under 13 years of age.
 - (ii) Is 13 years of age or older but under 19 years of age and is physically or mentally incapable of caring for himself as verified by a physician or licensed psychologist.
- (3) Is age appropriately immunized. If the child does not have age-appropriate immunizations, the parent/caretaker has 90 days to obtain and document immunizations for the child unless one of the following applies:
 - (i) The parent/caretaker objects to immunizations on religious grounds.
 - (ii) The child's medical condition contraindicates immunizations as verified by a physician.

Source

The provisions of this § 168.17 amended January 8, 1999, effective February 1, 1999, 29 Pa.B. 271; amended December 29, 2006, effective December 30, 2006, 36 Pa.B. 7961. Immediately preceding text appears at serial page (290994).

§ 168.18. Need for child care.

- (a) Child care must be needed to enable a member of the budget group to participate in a work-related activity.
- (b) Child care services will not be considered as needed when an unemployed parent/caretaker of the child is in the home, unless one of the following applies:
 - (1) The parent/caretaker is physically or mentally incapable of providing child care, as verified by a physician or licensed psychologist.
 - (2) The parent/caretaker is involved in work-related activities or the custodial parent is participating in a Department of Education Pregnant and Parenting Youth Program.
 - (3) The child is at risk because of suspected child abuse.
- (c) Child care will be considered as needed for entry into or during breaks in approved work-related activities for up to 30 days.
- (d) Child care will not be considered as needed when the biological or adoptive parent, specified relative or legal guardian of the child is the owner/operator of a child care business where care is available for the child.
- (e) Subsidized child care may not be used as a substitute for a publicly funded educational program, such as kindergarten or a specialized treatment program.

(f) A parent/caretaker is ineligible for subsidized child care if he does not attend a face-to-face interview no later than 30 calendar days following the request for care. The Department may extend the 30-day time frame for the face-to-face interview if, on or before the 30th calendar day, the parent/caretaker claims hardship due to conflicts with the parent's/caretaker's working hours, transportation problems or illness of the parent/caretaker or another family member. At the time the parent/caretaker claims hardship, the Department may grant an additional 30 days from the date the hardship is claimed for the interview. The Department may substitute a telephone contact for a face-to-face interview if a face-to-face interview cannot be scheduled without the parent/caretaker having to take time off from work.

(g) A parent/caretaker is ineligible for subsidized child care if he does not select an eligible child care provider and enroll the child within 30 calendar days following the date the Department notifies the parent/caretaker that the child may be enrolled or that the family's current child care provider is ineligible to participate in the subsidized child care program.

Source

The provisions of this § 168.18 amended January 8, 1999, effective February 1, 1999, 29 Pa.B. 271; amended December 29, 2006, effective December 30, 2006, 36 Pa.B. 7961. Immediately preceding text appears at serial pages (290994) to (290995) and (265391).

§ 168.19. Child care arrangements.

Payment for child care will be made when the child care arrangements are as follows:

- (1) The person or entity providing child care meets the following conditions:
 - (i) Provides care in accordance with applicable standards of Federal, State and local law.
 - (ii) Allows parental access to the child while the child is in care without the need for prior notification.
 - (iii) Is a person who is at least 18 years of age.
- (2) The person or entity providing child care may not be one of the following:
 - (i) The biological or adoptive parent or legal guardian of the child.
 - (ii) A member of the TANF budget group.
 - (iii) The stepparent of the child living in the home.

Source

The provisions of this § 168.19 amended January 8, 1999, effective February 1, 1999, 29 Pa.B. 271. Immediately preceding text appears at serial page (175261).

§ 168.20. Child care co-payment.

(a) The employed TANF budget group shall pay the required co-payment toward the cost of child care.

(b) The co-payment is due on the first day of the service week and each week thereafter, regardless of the day the child is enrolled.

(c) If the co-payment is decreased as the result of a redetermination, the employed TANF budget group shall begin paying the reduced co-payment on the first day of the service week following the date of the redetermination.

(d) If the co-payment is increased as the result of a redetermination, the employed TANF budget group shall begin paying the increased co-payment on the first service day of the week following the notification advising the budget group of the co-payment increase.

(e) If the co-payments for 1 month are equal to or exceed the monthly payment for care, the family is not eligible for subsidized child care with that provider.

Source

The provisions of this § 168.20 amended January 8, 1999, effective February 1, 1999, 29 Pa.B. 271; amended December 29, 2006, effective December 30, 2006, 36 Pa.B. 7961. Immediately preceding text appears at serial page (265391).

§ 168.21. Ineligibility for failure to pay co-payment.

Ineligibility for child care payment results when the TANF budget group is employed and fails to pay the required co-payment toward the cost of child care. The TANF budget group is ineligible until overdue co-payments are paid or satisfactory arrangements to pay overdue co-payments are made with the provider.

Source

The provisions of this § 168.21 amended January 8, 1999, effective February 1, 1999, 29 Pa.B. 271; amended December 29, 2006, effective December 30, 2006, 36 Pa.B. 7961. Immediately preceding text appears at serial pages (265391) to (265392).

VERIFICATION**§ 168.41. Verification requirements.**

The applicant or recipient is required, as a condition of eligibility, to cooperate in providing necessary information and verification to establish eligibility.

(1) Before authorizing the initial child care payment, the CAO will determine the following:

- (i) Whether the child care is necessary to participate in a work-related activity.
- (ii) The expected charge.
- (iii) The date the service is needed by the participant.

(iv) The date that payment for the service is required under the provider's usual payment policy or practice.

(2) When the parent/caretaker provides verification to the Department that indicates a change in eligibility, payment will be reduced, terminated or increased, as appropriate, upon issuance of appropriate notice to the parent/caretaker, in accordance with §§ 133.4 and 168.101 (relating to procedures; and appeal and fair hearing).

(3) Child care costs shall be verified monthly on a form specified by the Department or by a written statement signed by the provider or by a collateral contact by the Department with the child care provider.

(4) A collateral contact will be used whenever necessary to ensure that payment is made in advance of the date that payment is required by the child care provider consistent with § 168.1(b)(3) (relating to policy on payment of child care). When a child care payment is authorized based on a collateral contact with or by a written statement from the provider, verification of the charge for child care on a form specified by the Department shall be submitted to the Department within 30 days of the first day child care costs were incurred. The Department will assist the client, as needed, to obtain a completed verification form from the provider. Failure to provide verification within the specified time period could result in nonauthorization of the child care payment.

(5) Verification of factors other than cost relating to the need for child care shall consist of collateral contacts with, or written statements from, employers, prospective employers, physicians, licensed psychologists, school officials, training providers or pay stubs. Information previously verified need not be reverified unless it is subject to change.

Authority

The provisions of this § 168.41 amended under Articles II, IV and VII of the Public Welfare Code (62 P. S. §§ 201—211, 401—493 and 701—703).

Source

The provisions of this § 168.41 amended January 8, 1999, effective February 1, 1999, 29 Pa.B. 271; amended March 31, 2000, effective April 1, 2000, 30 Pa.B. 1743; amended December 29, 2006, effective December 30, 2006, 36 Pa.B. 7961. Immediately preceding text appears at serial pages (265392) to (265393).

Cross References

This section cited in 55 Pa. Code § 168.1 (relating to policy on payment of child care).

§ 168.42. [Reserved].

Source

The provisions of this § 168.42 reserved January 8, 1999, effective February 1, 1999, 29 Pa.B. 271. Immediately preceding text appears at serial page (175262).

§ 168.43. Verification of the disability of a child.

A written statement from a physician or licensed psychologist which confirms that the child has a physical or mental handicap which prevents the child from caring for himself is required.

Source

The provisions of this § 168.43 amended January 8, 1999, effective February 1, 1999, 29 Pa.B. 271. Immediately preceding text appears at serial page (175262).

§ 168.44. Verification of the disability of a parent/caretaker.

A written statement from a physician or licensed psychologist which confirms that the biological or adoptive parent, specified relative or legal guardian has a physical or mental handicap which prevents the person from providing child care is required.

Source

The provisions of this § 168.44 amended January 8, 1999, effective February 1, 1999, 29 Pa.B. 271. Immediately preceding text appears at serial page (175262).

§ 168.45. Verification of suspected child abuse.

The statement of the parent/caretaker, caseworker or other professional is acceptable evidence to verify suspected child abuse. Suspected child abuse will be reported in accordance with 23 Pa.C.S. Chapter 63 (relating to the Child Protective Services Law) as defined in Chapter 3490 (relating to protective services).

Source

The provisions of this § 168.45 amended January 8, 1999, effective February 1, 1999, 29 Pa.B. 271. Immediately preceding text appears at serial page (175262).

§ 168.46. [Reserved].**Source**

The provisions of this § 168.46 reserved January 8, 1999, effective February 1, 1999, 29 Pa.B. 271. Immediately preceding text appears at serial page (175262).

§ 168.47. [Reserved].**Source**

The provisions of this § 168.47 reserved January 8, 1999, effective February 1, 1999, 29 Pa.B. 271. Immediately preceding text appears at serial page (194849).

§ 168.48. Verification of child care costs.

A signed, written statement from the child care provider on a Department form which confirms the child care costs for a specified month is required.

§ 168.49. Verification of payment of co-payment for the employed budget group.

A signed, written statement from the child care provider on a Department form which confirms that the child care co-payment has been paid for a specified month is required. If co-payments are owed, a signed, written statement by the child care provider that the overdue co-payments have been paid or that satisfactory arrangements for payment have been made is acceptable.

Source

The provisions of this § 168.49 amended January 8, 1999, effective February 1, 1999, 29 Pa.B. 271. Immediately preceding text appears at serial page (194849).

§ 168.50. [Reserved].

Source

The provisions of this § 168.50 reserved January 8, 1999, effective February 1, 1999, 29 Pa.B. 271. Immediately preceding text appears at serial page (194849).

§ 168.51. Verification of age-appropriate immunizations.

The parent/caretaker shall provide a signed, written statement on a form specified by the Department to verify that the child has received age-appropriate immunizations, or that the parent/caretaker objects to immunizations on the basis of religious grounds, or documentation from a physician to verify that the child's medical condition contraindicates immunizations.

Source

The provisions of this § 168.51 adopted January 8, 1999, effective February 1, 1999, 29 Pa.B. 271.

REPORTING REQUIREMENTS

§ 168.61. Reporting requirements.

The budget group shall report changes in child care arrangements to the Department or its designated agent within 10 calendar days from the date the change occurred. Documentation of child care payment shall be retained in the case record in accordance with § 3041.85 (relating to record retention).

Source

The provisions of this § 168.61 amended January 8, 1999, effective February 1, 1999, 29 Pa.B. 271; amended December 29, 2006, effective December 30, 2006, 36 Pa.B. 7961. Immediately preceding text appears at serial page (312057).

PAYMENT DETERMINATION**§ 168.71. Monthly payment determination.**

The amount of the child care payment is determined for each month.

(1) The allowable child care payment is the rate the provider charges to the general public or the MCCA established by the Department, whichever is less.

(i) For participants in unpaid work-related activities, payment is the rate the provider charges to the general public or the MCCA established by the Department, whichever is less.

(ii) For participants in paid work-related activities, payment is made for the actual costs of child care up to the maximum allowance established by the Department or the rate charged the general public, whichever is less, minus the family co-payment as determined in § 168.74 (relating to determining weekly child-care co-payment for the employed TANF budget group).

(A) A TANF budget group determined prospectively ineligible for TANF benefits as a result of starting employment will have the co-payment waived from the first day of employment until the date of discontinuance of the TANF benefits in accordance with § 183.105 (relating to increases in income), if the budget group has reported timely in accordance with § 125.24(d) (relating to responsibility for reporting changes).

(B) A TANF budget group determined prospectively eligible for TANF benefits when a parent/caretaker is starting employment will have the co-payment waived from the first day of employment until the last day of the calendar month in which the first pay is received, provided the TANF budget group has reported timely in accordance with § 125.24(d).

(2) When the month of child care eligibility is not a full calendar month, the child care payment is prorated for the number of calendar days for which the TANF budget group is eligible.

(3) Corrective or delayed payments are issued consistent with the requirements in Chapters 175 and 227 (relating to allowances and benefits; and central office disbursement).

Source

The provisions of this § 168.71 amended January 8, 1999, effective February 1, 1999, 29 Pa.B. 271; amended December 29, 2006, effective December 30, 2006, 36 Pa.B. 7961. Immediately preceding text appears at serial pages (312057) to (312058).

Cross References

This section cited in 55 Pa. Code § 168.1 (relating to policy on payment of child care); and 55 Pa. Code § 168.74 (relating to determining weekly child care co-payment for employed TANF budget group).

§ 168.72. Determining monthly child care costs.

Child care costs include the following:

- (1) A charge for child care during the hours of the work-related activity, including travel time and sleep-time.
- (2) A charge for up to 10 consecutive days on which the child was not in attendance.
- (3) A charge for transporting the child to or from care if the charge is included as part of the normal child care charge and not levied as a separate charge.

Source

The provisions of this § 168.72 amended January 8, 1999, effective February 1, 1999, 29 Pa.B. 271; amended December 29, 2006, effective December 30, 2006, 36 Pa.B. 7961. Immediately preceding text appears at serial page (312058).

§ 168.73. [Reserved].**Source**

The provisions of this § 168.73 reserved January 8, 1999, effective February 1, 1999, 29 Pa.B. 271. Immediately preceding text appears at serial page (168645).

§ 168.74. Determining weekly child care co-payment for the employed TANF budget group.

The co-payment is determined weekly based upon gross monthly income and budget group size, using the co-payment sliding fee scale in Chapter 3041, Appendix B. Gross monthly income is determined based on anticipated or actual amounts as determined in accordance with Chapter 183 (relating to income).

- (1) The co-payment is waived for the calendar month in which the first pay is received or until the date of discontinuance due to a prospective determination of ineligibility, in accordance with § 168.71 (relating to monthly payment determination). In the second month, the co-payment is determined using anticipated income, excluding the TANF grant as countable income.
- (2) In the third month, the co-payment is determined using anticipated income and the TANF grant adjusted for earnings. This co-payment is used prospectively until the next redetermination, or the client requests a review of the co-payment amount, or there is a change in employment.
- (3) If retroactive benefits are requested, the co-payment for each retroactive month will be determined using the actual income in the month of application.

Authority

The provisions of this § 168.74 amended under Articles II, IV and VII of the Public Welfare Code (62 P. S. §§ 201—211, 401—493 and 701—703).

Source

The provisions of this § 168.74 amended January 8, 1999, effective February 1, 1999, 29 Pa.B. 271; amended March 31, 2000, effective April 1, 2000, 30 Pa.B. 1743; amended December 29, 2006, effective December 30, 2006, 36 Pa.B. 7961. Immediately preceding text appears at serial pages (312058) and (265397).

Cross References

This section cited in 55 Pa. Code § 168.71 (relating to monthly payment determination).

§ 168.75. [Reserved].**Source**

The provisions of this § 168.75 reserved January 8, 1999, effective February 1, 1999, 29 Pa.B. 271. Immediately preceding text appears at serial page (168646).

§ 168.76. [Reserved].**Source**

The provisions of this § 168.76 reserved January 8, 1999, effective February 1, 1999, 29 Pa.B. 271. Immediately preceding text appears at serial pages (168646) and (194851).

CHILD CARE PAYMENT METHODS**§ 168.81. Payment methods.**

- (a) Subject to subsection (b), the Department will make a vendor payment for child care expenses incurred in a month.
- (b) Payment is made to a vendor unless one of the following applies:
 - (1) Care is provided in the child's home.
 - (2) The parent/caretaker requires reimbursement for child care costs incurred during retroactive periods of eligibility.

Source

The provisions of this § 168.81 amended January 8, 1999, effective February 1, 1999, 29 Pa.B. 271; amended December 29, 2006, effective December 30, 2006, 36 Pa.B. 7961. Immediately preceding text appears at serial pages (265397) to (265398).

RESTITUTION**§ 168.91. Restitution.**

The cash assistance provisions of Chapter 255 (relating to restitution) apply to a recipient of a child care payment except that the provision for recoupment of an overpayment does not apply.

Source

The provisions of this § 168.91 amended January 8, 1999, effective February 1, 1999, 29 Pa.B. 271. Immediately preceding text appears at serial pages (194851) to (194852).

APPEAL AND FAIR HEARING**§ 168.101. Appeal and fair hearing.**

The cash assistance provisions of Chapter 275 (relating to appeal and fair hearing and administrative disqualification hearings) apply to an applicant or recipient of a child care payment with one exception; the requirement for an advance notice of adverse action will not apply to a change in the method of payment, unless the change would result in a discontinuance, suspension, reduction or termination of benefits or would force a change in child care arrangements. If the parent/caretaker files an appeal within 10 days of the notice of adverse action, subsidy continues at the prior level until a final decision is made by the Bureau of Hearings and Appeals except when the adverse action is based solely on Federal or State law, regulations or policy or changes in Federal or State law, regulations or policy, or the Department lacks funding to continue subsidy.

Source

The provisions of this § 168.101 amended January 8, 1999, effective February 1, 1999, 29 Pa.B. 271. Immediately preceding text appears at serial page (194852).

Cross References

This section cited in 55 Pa. Code § 168.41 (relating to verification requirements).

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