



Early Learning Council

February 25, 2026

9:00 a.m. – 1:00 p.m.

Department of Early Learning and Care
3rd Floor, Grand Ronde Room
700 Summer St NE, Suite 350
Salem, OR 97301

COUNCIL ACTION REQUEST

Date: February 25, 2026

AGENDA ITEM: Employment Related Day Care Ruleset

ACTION: Adopt the proposed permanent rule amendments to the Employment Related Day Care ruleset to align the program with federal requirements. The proposed rule changes would be effective March 1, 2026.

BACKGROUND: DELC is proposing amendments to the Employment Related Day Care ruleset. Various rule amendments modify outdated terminology, consolidating mid-certification closure reasons into one rule, and to restore previously adopted rule language that was unintentionally removed during consecutive rule changes. Changes do not impact the program or current processes.

The other rule changes include removing rules to calculate copays based upon a new household member's income so that the copay remains the same until the case is due for recertification, annual updates to the Federal Poverty Levels, increases to license exempt family, friend and neighbor child care rates, adding other pathways that a child may qualify for the High Needs supplemental rate, and clarifying that background checks only need to be conducted on a provider when care is provided in the child's home (and the provider lives elsewhere).

PROCESS: DELC convened a rules advisory committee (RAC) that met on January 14, 2026 from 6:00pm - 7:00pm with

- families,
- child care providers,
- subject matter experts,
- early learning system partners,
- community-based organizations, and other community members.

A public hearing was held on February 2, 2026 at 5:00pm. Due to technical difficulties on February 2nd, a second public hearing was held on Feb 10, 2026 and the public comment period was open until Feb 13, 2026.

EQUITY ANALYSIS: Changes to 414-175-0002, 414-175-0011, 414-175-0015, 414-175-0023, 414-175-0040, 414-175-0070, 414-175-0076, 414-175-0080 are technical, corrective, or clarifying. They reflect current policies, practices, and ONE system functionality, and will have no equity impacts for families or providers.

Women of color are largely overrepresented in the population of license exempt family, friend, and neighbor providers impacted by these rule changes. A greater number of providers within these groups will experience the positive financial effect of the rate increases.



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Increasing the Federal Poverty Levels allows more families to qualify for ERDC if they are able to bypass the waitlist or move into lower copay tiers. When copays decrease, a greater share of the child care payment comes directly from DELC rather than from family copays. This improves payment reliability and reduces the administrative and financial burden of collecting copays.

PROPOSED DRAFT MOTION: I move to adopt the proposed rule language amendments dated February 25, 2026 that adopt amendments to Oregon Administrative Rules

- 414-175-0002
- 414-175-0011
- 414-175-0015
- 414-175-0023
- 414-175-0040
- 414-175-0050
- 414-175-0070
- 414-175-0075
- 414-175-0076
- 414-175-0080

CONTACT: Alyssa Chatterjee, Early Learning Systems Director, Department of Early Learning and Care



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Appendix:

Proposed Language 414-175-0002; Definitions

The following definitions apply to division 175, unless the context indicates otherwise:

- (1) "Adjusted income" means the amount determined by subtracting income deductions from countable income.
- (2) "Assets" mean income and resources.
- (3) "Authorized representative" means an individual aged 18 years or older or an organization permitted by these rules to act on behalf of an applicant in assisting the applicant with their application, renewal of eligibility, and other ongoing communications with the Department.
- (4) "Basic decision notice" means a decision notice mailed no later than the date of action given in the notice.
- (5) "Budgeting" means the process of calculating the benefit level.
- (6) "Budget month" means the calendar month from which nonfinancial and financial information is used to determine eligibility and benefit level for the payment month.
- (7) "Capital asset" means property that contributes toward earning self-employment income, either directly or indirectly. A "capital asset" generally has a useful life of over one year and a value, alone or in combination, of \$100 or more.
- (8) "Categorically eligible" means eligible for the ERDC program based on the presence of a single factor, or set of factors, except that certain federal requirements apply.
- (9) "Caretaker" means an individual who is responsible for the care, control, and supervision of a child. The status of "caretaker" ends once the individual no longer exercises care, control, and supervision of the child for 30 days.
- (10) "Certification period" means the period for which a caretaker is certified eligible for a program.
- (11) "Child" includes natural, step, and adoptive children. The term "child" does not include an unborn child. A "child" need not have a biological or legal relationship to the caretaker but must be in the care and custody of the caretaker, must meet the citizenship or noncitizen status requirements of OAR 414-175-0021, and must be:
 - (a) Under the age of 18; or
 - (b) Under the age of 19 and in secondary school or vocational training at least half time.
- (12) "Continuing benefit decision notice" means a decision notice that informs a caretaker of the right to continued benefits and is mailed in time to be received by the date benefits are, or would be, received.
- (13) "Countable" means that an available asset (either income or a resource) is not excluded and may be considered to determine eligibility.
- ~~(14) "Custodial parents" mean parents who have physical custody of a child. "Custodial parents" may be receiving benefits as dependent children or as caretaker relatives for their own children.~~



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(154) "Decision notice" means a written notice of a decision by the Department regarding a caretaker's eligibility for benefits in a program.

(165) "Department" means the Department of Early Learning and Care, or its delegate, the Oregon Department of Human Services, in accordance with ORS 327.274 and as described in rule.

(176) "Domestic violence" means the occurrence of one or more of the acts described in subsections (a) to (d) of this section between family members, intimate partners, or household members:

(a) Attempting to cause or intentionally, knowingly, or recklessly causing physical injury or emotional, mental, or verbal abuse.

(b) Intentionally, knowingly, or recklessly placing another in fear of imminent serious physical injury.

(c) Committing sexual abuse in any degree as defined in ORS 163.415, 163.425 and 163.427.

(d) Using coercive or controlling behavior.

(e) As used in this section, "family members" and "household members" mean any of the following:

(A) Spouse;

(B) Former spouse;

(C) Individuals related biologically or by marriage (see section (4645) of this rule), or adoption;

(D) Individuals who are cohabitating or have cohabited with each other;

(E) Individuals who have been involved in a sexually intimate or dating relationship; or

(F) Unmarried parents of a child.

(187) "Eligibility" means the decision as to whether an individual qualifies, under financial and nonfinancial requirements, to receive program benefits.

(198) "ERDC" or "Employment Related Day Care" means Oregon's primary child care assistance program for eligible families under this rule set.

(2019) "Equity value" means fair market value minus encumbrances.

(240) "Experiencing homelessness" means an individual in the ERDC filing group who is experiencing a lack of a fixed, regular, and adequate nighttime residence. This includes, but is not limited to, individuals who are:

(a) Living in an emergency or transitional shelter,

(b) Sharing housing with others due to loss of housing or economic hardship, or

(c) Staying in motels, campgrounds, hotels, cars, parks, public places, tents, trailers, or other similar settings.

(221) "Facility" means an individual, group of individuals, or entity that is caring for a child younger than 13 years of age or a child 18 or younger with special needs.

(232) "Fair market value" means the amount an item is worth on the open market.

(243) "Financial institution" means a bank, credit union, savings and loan association, investment trust, or other organization held out to the public as a place receiving funds for deposit, savings, checking, or investment.

(254) "Illegal activity" means an activity that is illegal under either Oregon law or federal law, or both. Working in the marijuana or psilocybin industry is considered an "illegal activity" under this rule.



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(265) "Income producing property" means real or personal property that generates income for the financial group. Examples of "income producing property" are:

(a) Livestock, poultry, and other animals.

(b) Farmland that is leased or rented to a party outside the financial group and generates income from that lease or rental agreement. This refers to the land itself as a source of income and does not include farmland used in the operation of a farming business that is owned or managed by a member of the financial group.

~~(c)~~ Rental homes (including a room or other space in the home or on the property of a member of the financial group), vacation homes, and condominiums.

(276) "Initial month" of eligibility means any of the following:

(a) The first month a benefit group is eligible for a program benefit in Oregon after a period during which the group is not eligible, or

(b) The first month a benefit group is eligible for a program benefit after there has been a break in the program benefit of at least one full calendar month. If benefits are suspended for one month, that is not considered a break.

(287) "In-kind income" means income in a form other than money (such as food, clothing, cars, furniture, payments made to a third party, and fringe benefits).

(298) "Legally married" means a marriage uniting two individuals according to:

(a) The statutes of the state where the marriage occurred;

(b) The common law of the state in which the two individuals previously resided while meeting the requirements for common law marriage in that state; or

(c) The laws of a country in which the two individuals previously resided while meeting the requirements for legal or cultural marriage in that country.

(3029) "Life estate" means the right to property limited to the lifetime of the individual holding it or the lifetime of some other individual. In general, a "life estate" enables the owner of the "life estate" to possess, use, and obtain profits from property during the lifetime of a designated individual while actual ownership of the property is held by another individual. A "life estate" is created when an individual owns property and then transfers ownership to another individual while retaining, for the rest of the individual's life, certain rights to that property. In addition, a "life estate" is established when a member of the financial group purchases a "life estate" interest in the home of another individual.

(340) "Lodger" means someone who:

(a) Is living with a caretaker receiving Department benefits;

(b) Is not a member of the caretaker's filing group; and

(c) Pays the filing group for room and board.

(312) "Lump-sum income" means earned or unearned income received too infrequently or irregularly to be reasonably anticipated, or received as a one-time payment. "Lump-sum income" includes but is not limited to:



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- (a) Retroactive benefits covering more than one month, whether received in a single payment or several payments.
- (b) Income from inheritance, gifts, winnings, and personal injury claims.
- (c) Income received less frequently than annually.
- (332) "Marriage" means the union of two individuals who are legally married.
- (343) "Minor parent" means a parent under the age of 18.
- (354) "Nonstandard living arrangement" means each of the following locations:
- (a) Foster care.
 - (b) Residential Care facility.
 - (c) Drug or alcohol residential treatment facility.
 - (d) Shelter for individuals who are homeless or domestic violence shelter.
 - (e) Lodging house if paying for room and board.
 - (f) Correctional facility.
 - (g) Medical institution.
- (365) "Ongoing month" means any month following the initial month of eligibility, if there is no break in the program benefit of one or more calendar months.
- (376) "ODHS" or "Oregon Department of Human Services" means the Oregon Department of Human Services.
- (387) "Parent" means the biological or legal parent of a child or unborn child.
- (a) If the person who gave birth (parent 1) to the child lives with an individual (parent 2) and either parent 1 or parent 2 claims that parent 2 is the other biological parent of the child or unborn, and no one else claims to be the other biological parent, parent 2 is treated as a parent even if parentage has not been legally established.
 - (b) A stepparent relationship exists if:
 - (A) The individual is legally married to the child's biological or adoptive parent; and
 - (B) The marriage has not been terminated by legal separation, divorce, or death.
 - (c) A legal adoption erases all prior legal and biological relationships and establishes the adoptive parent as the legal parent. However, the biological parent is also considered a "parent" if both of the following are true:
 - (A) The child lives with the biological parent; and
 - (B) The legal parent has given up care, control, and supervision of the child.
- (398) "Payment month" means the calendar month for which benefits are issued.
- (4039) "Periodic income" means income received on a regular basis less often than monthly.
- (440) "Primary person" means the filing group member who is responsible for providing information necessary to determine eligibility and calculate benefits. The caretaker is the primary person for ERDC.
- (421) "Real property" means land, buildings, and whatever is erected on or affixed to the land and taxed as "real property".



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(432) "Reimbursement" means money or in-kind compensation provided specifically for an identified expense.

(443) "Shelter-in-kind" means an agency or individual outside the financial group provides the shelter of the financial group, or makes a payment to a third party for some or all of the shelter costs of the financial group. "Shelter-in-kind" does not include temporary shelter provided by a domestic violence shelter, shelter for individuals who are homeless, or residential alcohol and drug treatment facilities or situations where no shelter is being provided, such as sleeping in a doorway, park, or bus station.

(454) "Sibling" means the brother or sister of an individual. "Biologically-related" means they share at least one biological or adoptive parent. "Step" means they are not biologically-related, but are related by the marriage of their parents.

(465) "Spousal support" means income paid (voluntarily, per court order, or per administrative order) by a separated or divorced spouse to a member of the financial group.

(476) "Spouse" means an individual who is legally married to another individual.

(487) "Stable income" means income that is the same amount each time it is received.

(498) "Standard living arrangement" means a location that does not qualify as a nonstandard living arrangement.

(5049) "Timely continuing benefit decision notice" means a decision notice that informs the caretaker or the authorized representative of the filing group of the right to continued benefits.

(540) "Trust funds" mean money, securities, or similar property held by an individual or institution for the benefit of another individual.

(521) "USDA meal reimbursements" mean cash reimbursements made by the Oregon Department of Education for family day-care providers who serve snacks and meals to children in their care.

(532) "Variable income" means earned or unearned income that is not always received in the same amount each month.

Proposed Language 414-175-0011; Certification Period

(1) The length of the certification period may not be less than 12 months. In the following situations the certification period may be extended beyond the certification end date:

(a) Caretakers in authorized work search and medical leave are limited to no more than three additional months.

(b) Caretakers on military transition are limited to no more than six additional months.

(c) Caretakers who have entered into a contracted slot with Head Start, Early Head Start or the Early Head Start Child Care Partnership program are limited to no more than eleven additional months.

(d) Caretakers who are Categorically Eligible through a determination of TANF eligibility may have



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their ERDC benefits extended through the end of the TANF benefit period.

- (2) ERDC benefits may be terminated mid-certification only if one of the following occur:
- (a) There is no longer an eligible child or no longer an eligible caretaker in the need group pursuant to OAR 414-175-0020;
 - [\(b\) The filing group no longer meets the income limits in OAR 414-175-0050, except for filing groups categorically eligible under Expanded Child Welfare \(EXP CW\);](#)
 - [\(bc\) Benefits were determined in error; or](#)
 - [\(ed\) A Caretaker or Authorized Representative in the Need Group requests to terminate their ERDC benefits; or](#)
 - [\(e\) No members of the filing group reside in Oregon.](#)

Proposed Language 414-175-0015; Eligibility Group Structure

- (1) The Household Group is used to determine whose information is relevant to the application. The household group generally consists of the individuals who live together with or without the benefit of a dwelling.
- (a) For individuals who are experiencing homelessness, the household group consists of the individuals who consider themselves living together. Individuals who are experiencing homelessness who do not consider themselves living together are considered separate households.
 - (b) A separate dwelling is not recognized for the purpose of determining the members of a household group unless the living space has, separate from any other dwelling, an access to the outside that does not pass through another dwelling, a functional sleeping area, bathroom, and kitchen facility.
 - (c) The household group forms the basis for determining who is in the remaining eligibility groups.
 - (d) A separate household group is established for individuals who live in the same dwelling as another household group, if all the following subsections are true:
 - (A) There is a landlord-tenant relationship between the two household groups in which the tenant is billed by the landlord at fair market value for housing.
 - (B) The tenant lives independently from the landlord.
 - (C) The tenant:
 - (i) Has and uses sleeping, bathroom, and kitchen facilities separate from the landlord; or



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- (ii) Shares bathroom or kitchen facilities with the landlord, but the facilities are in a commercial establishment that provides room or board or both for compensation at fair market value.
- (e) Except when a child lives with different caretakers during the month, individuals who live with more than one household group during a calendar month are members of the household group in which they spend more than half of their time. If a child lives with different caretakers during the month, the child is considered a member of both household groups.
- (f) Individuals absent from the household for thirty (30) days or more are no longer part of the household group, except for the following:
 - (A) Absent because the individual is in an acute care medical facility remains in the household group unless the individual enters long-term care.
 - (B) Absent because of education, training, or employment, including long-haul truck driving, fishing, or active duty in the U.S. armed forces;
 - (C) Absent to care for an emergent need of an individual related to illness, injury, or death;
 - (D) Absent but reasonably anticipated to return within ninety (90) days; or
 - (E) A caretaker **relative** who is absent for up to ninety (90) days while in a residential alcohol or drug treatment facility is in the household group.
 - (F) A child who is absent for thirty (30) days or more is in the household group if the child is:
 - (i) Absent for illness (unless the child is in a long-term care Title XIX facility), social service, or educational reasons; or
 - (ii) In foster care, but expected to return to the household within the next thirty (30) days.
- (2) The Filing group is used to determine which individuals within the Household group must satisfy all relevant eligibility criteria.
 - (a) The filing group consists of the following:
 - (A) Each individual from the household group who chooses to apply for benefits; and
 - (B) Each individual who must be included because of their relationship to an individual described in subsection (2)(a)(A) of this section.
 - (b) If the filing group does not include an applicant who meets all nonfinancial eligibility requirements, the filing group is ineligible.



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- (c) When an individual in a household group is in more than one filing group for the same program, the filing groups must be combined, unless specified otherwise in administrative rule.
- (d) The filing group consists of each of the following applicants and household group members, even if the individuals does not meet nonfinancial eligibility requirements:
- (A) The caretaker of the child for whom ERDC benefits are requested, unless a child care provider is caring for the child of:
- (i) A member of the National Guard or U.S. Armed Forces Reserve unit; or
- (ii) Who has been called to active duty away from the child's home for more than thirty (30) days.
- (B) An unmarried child and any sibling, less than eighteen (18) years of age or eighteen (18) years of age and attending secondary school or vocational training at least half time, in the care and custody of the caretaker. A foster child is included if the caretaker wants to include the child in the need group.
- (C) Any Parent of a child required to be in the filing group.
- (D) Any Parent of an unborn child.
- (E) The Spouse of the caretaker.
- (e) A Minor parent may form a separate filing group with their dependent child or children when the minor parent applies as a caretaker.
- (3) The financial group, need group, and benefit group consist of each individual in the filing group. Each individual in each group must satisfy all relevant eligibility criteria for the benefit group to be determined eligible to receive benefits.

Proposed Language: 414-175-0023; Requirement to Establish a Child Care Need and Hours Authorizations

- (1) The following is required to establish a child care need:
- (a) Except for as described in (2) below, every caretaker in the filing group must meet one of the following requirements:
- (A) Receive income from employment. This includes self-employment and employment through a work study program.
- (B) Participate in education hours, either through:



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(i) Coursework that leads to a certificate, degree, or job-related knowledge or skills attainment at an institution of higher education approved to receive federal financial aid; or

(ii) Participation in a high school education or general equivalency diploma (GED) program. To be eligible under this subparagraph the caretaker must be twenty (20) years of age or younger.

(C) Be on medical leave from current employment or education.

(b) Except for as described in (2) below, if there are multiple caretakers required to be in the filing group, and one of them does not meet any of the criteria in section (1)(a) above, that caretaker is considered available to provide child care, making the filing group ineligible, except in the following situations:

(A) The adult is physically or mentally unable to provide adequate child care. This must be verified pursuant to 414-175-0024.

(B) Confirmation is received from the Office of Child Welfare Programs that supervised contact is required between the child and the adult.

(2) If a child or caretaker is Categorically Eligible for ERDC benefits in accordance with OAR 414-175-0025, sections (1), (3), and (4) of this rule do not apply and the copay is waived.

(3) When child care is covered and when copays are waived or reduced

(a) The cost of dependent child care may be paid for by the Department (is covered) when dependent child care is necessary for the caretaker to perform the caretaker's job duties or complete educational hours, including study time.

(b) The cost of dependent child care is not covered by the Department when free care is available, such as during school hours for school-age children, unless a child is not attending in-person schooling and is instead participating in distance learning in the following circumstances:-

(A) Due to medical concerns with the child, a member of the child's household, or a family member with whom the child has frequent contact; or

(B) Due to mental health concerns specific to the child.

(c) Child care is not covered if the nature of the work of the caretaker does not make it necessary for a person other than the caretaker to provide the care. Child care is not covered during a period of time when:

(A) The nature of the work allows the caretaker to provide the care without significantly affecting the work;



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(B) The caretaker provides child care in a residence, unless the provider is a certified family home under OAR 414-350-0000 to 414-350-0400 or certified center under OAR 414-305-0100 to 414-305-1620; or

(C) The caretaker works for a provider of child care in a residence, unless the provider is a certified family child care home under OAR 414-350-0000 to 414-350-0400 or is a certified center under OAR 414-305-0100 to 414-305-1620.

(d) The cost of dependent child care may continue to be paid for by the Department (is covered) during the certification period with no change to the authorized child care hours or copay amount subject to the following provisions:

(A) When a reduction in work hours occurs, the copay may be adjusted.

(B) When a job loss occurs:

(i) When a caretaker has a permanent job loss from all employment the copay is waived for:

(I) The remainder of the certification period if there are three or more months remaining in the period; or

(II) For up to three months for instances where job loss occurred in months 10 through 12 of the certification period.

(ii) The waiver ends if the caretaker becomes employed.

(iii) Any reason a caretaker is experiencing job loss is a “good cause” reason and qualifies a caretaker for authorized work search.

(C) For military transition:

(i) When a caretaker who is a discharged U.S. military member returns from active duty in a military war zone, the copay is waived for up to six months starting the month after the military member returns home.

(ii) The copay waiver ends at the end of the six month period if the caretaker becomes employed. The copay waiver ends before the end of the six month period if the caretaker returns to active duty.

(D) Under this section child care may be used for work, work search, education hours, military transition activities, or other activities to maintain a part-time or full-time slot at a child care facility.

(e) In the ERDC program the cost of dependent child care may be paid for by the Department (is covered) at the beginning of the certification period or may continue to be paid for by the Department (is covered) with no change to the authorized child care hours if the caretaker is on medical leave from



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current employment or education during the certification period. Medical leave includes a Caretaker on leave due to their own condition or to care for a child in the Filing Group.

(A) When a Caretaker is on medical leave the reason for the leave must be verified including diagnosis and prognosis under OAR 414-175-0024, except that parental leave may be authorized for up to three calendar months without medical documentation.

(B) When a caretaker is on medical leave during the certification period and meets section (1) of this rule, the copay is waived starting the month after medical leave begins. The copay waiver:

(i) May not go beyond the last day of the certification period, subject to OAR 414-175-0011.

(ii) Ends at the end of the medical leave period, unless the caretaker is still on medical leave or requires extended parental leave and new verification is received prior to the end of the month noted on the original documentation, or for parental leave without medical documentation, prior to the end of third calendar month.

(f) When a caretaker is on medical leave at the time of initial application or certification, and meets subsection (1) of this rule, the copay may be waived. The copay waiver:

(A) May not go beyond the last day of the certification period, subject to OAR 414-175-0011.

(B) Ends at the end of the medical leave period, unless the caretaker is still on medical leave or requires extended parental leave and new verification is received prior to the end of the month noted on the original documentation, or for parental leave without medical documentation, prior to the end of the third calendar month.

(4) The cost of dependent child care may be paid for (is covered) by the Department, only if all the following are true:

(a) The child is a member of the benefit group and is in the care, control, and custody of an individual in the group.

(b) The provider of child care is not in the filing group.

(c) The provider of child care is not a parent of a child in the filing group.

(5) Child Care Hours Allowances

(a) Unless otherwise specified below, child care hours are determined as follows:

(A) When the allowable child care need totals 20 or fewer weekly hours of dependent child care, 20 weekly hours are allowed.



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(B) When the allowable child care need totals more than 20 but no more than 40 weekly hours of dependent child care, 40 weekly hours are allowed.

(C) When the allowable child care need totals more than 40 weekly hours, up to 75 weekly hours are allowed.

(D) In addition to the weekly hours allowed in paragraphs (5)(a) through (c), above, study hours will be allowed as follows:

(i) 5 weekly hours for a caretaker who spends less than 12 hours a week in education settings.

(ii) 10 weekly hours for a caretaker who spends 12 or more hours a week in education settings.

(b) For a need group that has been determined Categorically Eligible for ERDC or under Expanded Child Welfare (EXP CW) in accordance with OAR 414-175-0025, child care hours are determined as follows:

(A) 20 weekly hours of child care are allowed.

(B) A caretaker may request additional weekly child care hours. The caretaker must state a reason for needing additional weekly child care hours. Any reason for needing additional weekly child care hours is sufficient to allow a higher amount of weekly hours in accordance with subsections (5)(a)(B) and (C) above, except that the reason cannot be to secure access to a child care facility requiring a child to be in care for more than 25 weekly hours.

(c) In addition to the hours allowance provided in (5)(a) or (b) above, a need group receives 25% of the weekly hours allowance each week for the purposes of travel or commuting.

(d) Monthly hours allowances are calculated by multiplying the need group's weekly hours allowance by 4.3.

Proposed Language 414-175-0040; Prospective Eligibility and Budgeting

(1) For prospective eligibility and budgeting:

(a) The budget month and payment month are the same.

(b) The individual's anticipated income, household composition, and other relevant factors are used to determine the individual's eligibility and benefit level. The individual and Department jointly anticipate the individual's income based on the income already received and the income the individual expects to receive.

(c) Prospective budgeting is used for annualized income and prorated educational income.

(d) When prospective budgeting is used and the actual income differs from the amount determined under section (1)(b) of this rule:

(A) If the anticipated income exceeds the actual income, an individual is not entitled to a benefit supplement.



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(B) If the actual income exceeds the anticipated income, there may be an individual-error overpayment under OAR 414-175-0099 and 461-195-0521.

(2) Income is budgeted so that the anticipated amount is the same for each month.

(3) Income that must be annualized is calculated under section (9) of this rule.

(4) For the initial month, income is budgeted so the anticipated amount is the same for each month, including the initial month. No supplement is issued based on incorrectly anticipated information.

(5) For an ongoing month: For a benefit group, the Department uses prospective eligibility and budgeting. The type of income is determined and calculated under sections (6) through (10) of this rule.

(6) Educational income is assigned to the months it is intended to cover, regardless of when it is received. The income is prorated over these months.

(7) Ongoing stable income in prospective budgeting and eligibility is treated so that the monthly amount is used to anticipate the income of the financial group. The amount of stable income for each month is determined as follows:

(a) If paid once per month, that amount is used.

(b) If paid twice per month or semi-monthly, that amount is converted to a monthly amount by multiplying it by two.

(c) If paid once every other week or biweekly, that amount is converted to a monthly amount by multiplying it by 2.15.

(d) If paid once per week, that amount is converted to a monthly amount by multiplying it by 4.3.

(8) Ongoing variable income is used as follows in prospective budgeting and eligibility so that the anticipated amount is the same for each month, unless otherwise stated in this rule.

(a) For income paid more than once per month, determine an average amount per pay period in accordance with sections (8)(b) to (8)(d) of this rule. The average amount is then converted to a monthly amount as follows, if paid --

(A) Twice per month, multiply by 2;

(B) Every other week, multiply by 2.15; or

(C) Once per week, multiply by 4.3.

(b) For variable earned income based on an hourly wage when the past is representative, monthly income is determined by calculating an average number of hours per pay period, then these hours are multiplied by the hourly wage and converted to a monthly amount under section (8)(a) of this rule.

(c) For variable earned income involving various rates of pay (overtime, shift differential, tips) when the past is representative, monthly income is determined by calculating the average income per pay period, then the average income is converted to a monthly amount under section (8)(a) of this rule.

(d) For variable earned or unearned income when the past is representative and income cannot be calculated under section (8)(b) or (c) of this rule, monthly income is determined by averaging the income over:

(A) A representative period of months by totaling the income for those months and dividing by the number of months used; or

(B) A representative number of pay periods and converting to a monthly amount under section (8)(a) of this rule.

(e) For variable earned and unearned income when the past is not representative of the income the financial group will receive during the eligibility period, the individual and the Department jointly determine the anticipated income.

(9) Annualizing and Prorating Contracted or Self-Employment Income



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(a) Income from self-employment, including contract income while self-employed, is treated in accordance with OAR 414-175-0035 (81) unless the income meets the provisions of section (8)(b) of this rule.

(b) If past contract income is not representative of future income or when a substantial increase or decrease is expected in countable self-employment income in the next year, costs as allowed under OAR 414-175-0035 (81) and anticipated income are used to determine the countable income.

(c) Contract income that does not meet the criteria of self-employment income is treated as follows:

(A) Income received during a less than 12-month period but intended as a full year's income is annualized.

(B) Income received on an hourly or piecework basis or monthly over the term of the contract period is not annualized. It is treated as stable income under or variable income.

(d) Contract income that is not the annual income of the financial group and not paid on an hourly or piecework basis is prorated over the period the income is intended to cover.

(10) Periodic income is averaged over the applicable period.

(11) If the budgeting method changes from prospective to retrospective, the Department treats income from a terminated source that was counted prospectively as follows:

(a) If the actual amount received was less than or equal to the anticipated amount, the income is excluded.

(b) If the actual amount received was greater than the anticipated amount, the Department counts the difference between actual and anticipated amounts.

~~(12) When an individual is added to an ongoing filing group, income is budgeted in accordance with applicable sections of this rule to determine eligibility and benefit level.~~

~~(13)~~ For filing groups eligible under Expanded Child Welfare (EXP-CW) income shall not be considered countable for purposes of this rule.

Proposed Language [414-175-0050](#); [Income Limits and Copay Amounts](#)

Proposed Language [414-175-0050](#); [Income Limits and Copay Amounts](#)

The Department determines financial eligibility for ERDC and the copay benefit level as follows:

(1) ERDC financial eligibility.

(a) A need group is not eligible for benefits if the financial group has countable resources above \$1,000,000.

(b) The monthly countable gross income of the financial group is determined in accordance with OAR 414-175-0040. If monthly countable income equals or exceeds the eligibility standards, the need group is ineligible for ERDC.

(A) At initial certification, the ERDC eligibility standard is met for a need group of eight or less if monthly countable income for the need group is less than 200 percent of the federal poverty level (FPL). The eligibility standard for a need group of eight applies to any need group larger than eight.

(i) A monthly income standard set at 200 percent of the 202~~56~~ federal poverty level, and updated every March, is set at the following amounts:

Size of Group.....Standard

2..... ~~\$3,607~~ [3,525](#)



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3.....	\$ <u>4,5544,442</u>
4.....	\$ <u>5,5005,359</u>
5.....	\$ <u>6,4476,275</u>
6.....	\$ <u>7,3947,192</u>
7.....	\$ <u>8,3408,109</u>
8 or more.....	\$ <u>9,2879,025</u>

(ii) A monthly income standard set at 85 percent of the 20256 state median income, and updated every March, is set at the following amounts:

Size of Group.....	Standard
2.....	\$ <u>5,9265,683</u>
3.....	\$ <u>7,3217,020</u>
4.....	\$ <u>8,7159,306</u>
5.....	\$ <u>10,1099,695</u>
6.....	\$ <u>11,50411,032</u>
7.....	\$ <u>11,76512,564</u>
8 or more.....	\$ <u>12,02612,843</u>

(iii) A monthly income standard set at 250 percent of the 20256 federal poverty level, and updated every March, is set at the following amounts:

Size of Group.....	Standard
2.....	\$ <u>4,5094,407</u>
3.....	\$ <u>5,6925,553</u>
4.....	\$ <u>6,8756,698</u>
5.....	\$ <u>8,0597,844</u>
6.....	\$ <u>9,2428,990</u>
7.....	\$ <u>10,42510,136</u>
8 or more.....	\$ <u>11,60911,282</u>

(B) After the income standard in (A) is met at initial certification, then during the certification period and at recertification the ERDC eligibility standard is met for a need group of eight or less if monthly countable income for the need group during the 12 month period is less than 250 percent FPL or 85 percent state median income (SMI), whichever is higher. The eligibility standard for a need group of eight applies to any need group larger than eight.

(c) The copay calculated under section (3) of this rule is compared to the allowable child care cost under section (2) of this rule. If the copay is equal to or greater than the allowable child care cost, the client is not eligible for ERDC.

(2) Allowable Child Care Cost. For an individual found eligible under section (1) of this rule, the allowable child care cost is set under this section.

(a) The child care costs for which the individual has been billed are compared to the amount provided in the appropriate child care chart in OAR 414-175-0075. The allowable child care cost is the lesser of the two amounts.

(b) The need group's copay is determined in accordance with section (3) of this rule.

(c) The copay is subtracted from the allowable child care cost, and the remainder is the payment the Department makes to the provider.

(3) Copay Calculation.



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(a) When determining the copay, upon the applicant's request, the Department may exclude at least 50 percent of gross self-employment income when a need group has countable self-employment income and permitted costs. The maximum exclusion is the total of all actual costs permitted under OAR 414-175-0035 (81)

(b) The monthly copay shall be as follows, using the countable income, or countable self-employment income minus permitted costs:

Need group size of 2

Income.....	Monthly Copay
\$0 - \$1,803.99 <u>1,762.99</u>	\$0
\$1,804 <u>1,763</u> - \$2,704.99 <u>2,643.99</u>	\$5
\$2,705 <u>2,644</u> - \$3,606.99 <u>3,524.99</u>	\$10
\$3,607 <u>3,525</u> - \$4,057.99 <u>3,965.99</u>	\$40
\$4,058 <u>3,966</u> - \$5,925.99 <u>5,682.99</u>	\$100

Need group size of 3

Income.....	Monthly Copay
\$0 - \$2,276.99 <u>2,220.99</u>	\$0
\$2,277 <u>2,221</u> - \$3,414.99 <u>3,331.99</u>	\$5
\$3,415 <u>3,332</u> - \$3,984.99 <u>3,886.99</u>	\$10
\$3,985 <u>3,887</u> - \$4,553.99 <u>4,441.99</u>	\$15
\$4,554 <u>4,442</u> - \$5,122.99 <u>4,966.99</u>	\$50
\$5,123 <u>4,997</u> - \$7,320.99 <u>7,019.99</u>	\$110

Need group size of 4

Income.....	Monthly Copay
\$0 - \$2,749.99 <u>2,679.99</u>	\$0
\$2,750 <u>2,680</u> - \$4,124.99 <u>4,018.99</u>	\$5
\$4,125 <u>4,019</u> - \$4,812.99 <u>4,688.99</u>	\$10
\$4,813 <u>4,689</u> - \$5,499.99 <u>5,358.99</u>	\$20
\$5,500 <u>5,359</u> - \$6,187.99 <u>6,028.99</u>	\$60
\$6,188 <u>6,029</u> - \$8,714.99 <u>9,305.99</u>	\$120

Need group size of 5

Income.....	Monthly Copay
\$0 - \$3,223.99 <u>3,137.99</u>	\$0
\$3,224 <u>3,138</u> - \$4,834.99 <u>4,706.99</u>	\$5
\$4,835 <u>4,707</u> - \$5,640.99 <u>5,490.99</u>	\$10
\$5,641 <u>5,491</u> - \$6,446.99 <u>6,274.99</u>	\$25
\$6,447 <u>6,275</u> - \$7,252.99 <u>7,059.99</u>	\$70
\$7,253 <u>7,060</u> - \$10,108.99 <u>9,694.99</u>	\$130

Need group size of 6

Income.....	Monthly Copay
\$0 - \$3,696.99 <u>3,595.99</u>	\$0
\$3,697 <u>3,596</u> - \$5,544.99 <u>5,393.99</u>	\$5
\$5,545 <u>5,394</u> - \$6,469.99 <u>6,292.99</u>	\$10
\$6,470 <u>6,293</u> - \$7,393.99 <u>7,191.99</u>	\$25



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~~\$7,394,192~~ - ~~\$8,317,998,090.99~~.....\$70
~~\$8,3188,094~~ - ~~\$11,503.99,41,031.99~~.....\$130

Need group size of 7

Income.....Monthly Copay
\$0 - \$ ~~4,169.99~~ ~~4,054~~.....\$0
~~4,170~~ ~~4,055~~ - ~~6,254.99~~ ~~6,081.99~~.....\$5
~~6,255~~ ~~6,082~~ - ~~7,297.99~~ ~~7,094.99~~.....\$10
~~7,298~~ ~~7,095~~ - ~~8,339.99~~ ~~8,108.99~~.....\$25
~~8,340~~ ~~8,109~~ - ~~9,382.99~~ ~~9,121.99~~.....\$70
~~9,383~~ ~~9,122~~ - ~~11,764.99~~ ~~12,563.99~~.....\$130

Need group size of 8 or more

Income.....Monthly Copay
\$0 - \$ ~~4,512.99~~ ~~4,643.99~~.....\$0
~~4,644~~ ~~4,513~~ - ~~6,964.99~~ ~~6,768.99~~.....\$5
~~6,965~~ ~~6,769~~ - ~~8,125.99~~ ~~7,896.99~~.....\$10
~~8,126~~ ~~7,897~~ - ~~9,286.99~~ ~~9,024.99~~.....\$25
~~9,287~~ ~~9,025~~ - ~~10,447.99~~ ~~10,153.99~~.....\$70
~~10,448~~ ~~10,154~~ - ~~12,025.99~~ ~~12,842.99~~.....\$130

(4) ~~Notwithstanding the provisions of this rule section, t~~he ERDC copay may be reduced or temporarily waived as follows:

- (a) Reduced to \$0 for no more than three months after closure of TANF benefits when:
 - (A) The closure is because an individual in the need group had earned income that led to the TANF closure;
 - (B) An ERDC date of request is established within 90 days of closure; and
 - (C) The individual is eligible for ERDC at initial certification.
- (b) As described in OAR 414-175-0023.

(5) The ERDC copay may not be increased during the certification period unless benefits were determined in error.

Proposed Language 414-175-0070; Effective Dates

- (1) The effective date for starting benefits is one of the following:
 - (a) The first day of the month in which the request for benefits is made if:
 - (A) All eligibility requirements are met in that month; and
 - (B) Verification, in accordance with OAR 414-175-0024, is provided within the application processing timeframes.
 - (b) If all eligibility requirements are not met in the month of request, the effective date is the first day of the month in which they are met, if verification, in accordance with OAR 414-175-0024, is provided within the application processing timeframes.
- (2) The effective date for a change in an ERDC case will be:
 - (a) For changes reported on the reapplication form:
 - (A) The first day of the next certification period; or



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- (B) If changes will end benefits, the last day of the current certification period.
- (b) For changes not reported on the reapplication form:
 - (A) For changes that require the certification period to be shortened, the effective date for the end of the certification period becomes the last day of the month in which the notice period ends. If the notice period ends the month after the change is reported, and the information results in an increase in benefits, adjust benefits for the last month of the shortened certification period.
 - (B) For all other changes that will cause:
 - (i) An increase in benefits, the effective date is the first of the month after the filing group reports the change.
 - (ii) A decrease in benefits, the effective date is the first of the month after the notice period ends.
- (C) For changes that will end benefits, the effective date is the last day of the month in which the notice period ends.
- (3) The effective date for adding an individual to the need group or benefit group is as follows:
 - (a) If adding the individual to the need group will decrease the copay, the effective date is the first of the month after the client reports the person has joined the household.
 - ~~(b) If adding the individual to the need group increases the copay, for instance, because the individual receives income, the effective date is the first of the month following the end of the decision notice period.~~
 - (~~b~~) The effective date for adding a child to the benefit group, that is, covering the cost of the child's care, is the earliest of the following:
 - (A) For newborns, the date of birth, if all eligibility requirements are met and verified within 45 days after the birth.
 - (B) For all other children, the first of the month in which the change is reported, if all eligibility requirements are met and verified within 45 days.
 - (C) For newborns and other children, if eligibility cannot be verified within 45 days, the effective date is the first of the month in which all eligibility factors are met and verified.
- (4) The effective date for removing an individual from a benefit group is as follows:
 - (a) If the individual has left the benefit group in the current budget month because they are ineligible, disqualified, or have left the household, the effective date is:
 - (A) The first of the month after the notice period ends, if the change will reduce benefits.
 - (B) The last day of the month in which the notice period ends, if the change will end benefits.
 - (b) If the individual is reasonably expected to leave the household next month, the effective date is the later of the following:
 - (A) The first of the month following the month in which the individual leaves the household group, if the change will reduce benefits.
 - (B) The end of the month in which the individual is expected to leave the household group, if the change will end benefits.
 - (c) Upon the death of an individual and is not the only individual in the benefit group, the effective date of the closure or reduction in benefits is the last day of the month in which the timely continuing benefit decision notice period ends under OAR 414-175-0055.
- (5) The effective date for denying benefits is the date the decision is made that the client is not eligible.
- (6) For an Intentional Program Violation (IPV) disqualification (see OAR 414-175-0099), the disqualification ends the day after the minimum disqualification period ends, if there is no additional IPV



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disqualification to be served and all eligibility requirements are met.

(7) In the event of a new effective date of eligibility following closure of benefits or following the end of a certification period, eligibility starts the first day of the month of the date of request.

(8) If a proposed reduction or closure of benefits is delayed because a hearing was requested, the reduction or closure is effective in accordance with the notice that precipitated the appeal.

(9) The effective date for restoring benefits that were underpaid (including erroneous collections of overpayments) or denied or closed in error is set as follows:

(a) For underpayments resulting from administrative error, the effective date is the date the error was made. Benefits may be restored only for a period of time within the preceding 12 months.

(b) For underpayments resulting from client error, the effective date is the earliest of the following:

(A) The month the benefit group notifies the Oregon Department of Human Services (ODHS) branch office of the possible loss.

(B) The month the ODHS branch office discovers the loss.

(C) The date a hearing is requested.

Proposed Language 414-175-0075 Child Care Provider Eligibility Standards, Payments Rates, Payment Limits, and Payable Hours

(1) The following definitions apply to the rules governing child care rates:

(a) Infant: For all providers other than licensed (registered or certified) care, a child aged newborn to 1 year. For licensed care, an infant is a child aged newborn to 2 years.

(b) Toddler: For all providers other than licensed (registered or certified) care, a child aged 1 year to 3 years. For licensed care, a toddler is a child aged 2 years to 3 years.

(c) Preschool: A child aged 3 years to 6 years.

(d) School: A child aged 6 years or older.

(e) Special Needs Rate (SNR): A child who meets the age requirement of the program and who requires a level of care over and above what is typically expected for their age due to a physical, behavioral, or mental disability. The disability must be verified in accordance with 414-175-0024.

(2) The following definitions apply to the types of care specified in the child care rate charts in subsections (4)(a) through (4)(c) of this rule:

(a) The Standard Family Rate applies to child care provided in the provider's own home or in the home of the child when the provider does not qualify for the enhanced rate allowed by subsection (b) of this section.

(b) The Enhanced Family Rate applies to child care provided in the provider's own home or in the home of the child when the provider meets the training requirements of the Oregon Registry, established by the Oregon Center for Career Development in Childhood Care and Education.

(c) The Registered Family Rate applies to child care provided in the provider's own home when the provider meets criteria established by the Child Care Licensing Division.

(d) The Certified Family Rate applies to child care provided in a residential dwelling that is certified by the Child Care Licensing Division as a Certified Family Home. To earn this designation, the facility must be inspected, and both provider and facility are required to meet certain standards not required of a registered family provider.

(e) The Standard Center Rate applies to child care provided in a facility that is not located in a



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residential dwelling and is exempt from Child Care Licensing Division Certification rules.

(f) The Enhanced Center Rate applies to child care provided in an exempt center whose staff meet the training requirements of the Oregon Registry established by the Oregon Center for Career Development in Childhood Care and Education. Eligibility to receive the enhanced center rate for care provided in an exempt center is subject to the following requirements:

(A) A minimum of one staff member for every 20 children in care must meet the Oregon Registry training requirements noted in subsection (b) of this section.

(B) New staff must meet the Oregon Registry training requirements within 90 days of hire, if necessary to maintain the trained staff-to-children ratio described in paragraph (f)(i) of this subsection.

(C) There must be at least one person present where care is provided who has a current certificate in infant and child CPR and a current American Red Cross First Aid card or an equivalent.

(g) An enhanced rate will become effective not later than the second month following the month in which the Department receives verification that the provider has met the requirements of subsection (b) or (f) of this section.

(h) The Certified Center Rate applies to child care provided in a certified center, a certified Outdoor Nature Based program or an Alternative Pathway program that is certified by the Child Care Licensing Division, ~~or participating in the Alternative Pathway program through the Child Care Licensing Division.~~

(3) The following provisions apply to child care payments:

(a) Providers not eligible for the enhanced or licensed rate will be paid at an hourly rate for children in care less than 158 hours per month subject to the maximum full-time monthly rate.

(b) Providers eligible for the enhanced or licensed rate will be paid at an hourly rate for children in care less than 136 hours a month, unless the provider customarily bills all families at a part-time monthly rate subject to the maximum full-time monthly rate and is designated as the primary provider for the case.

(c) At their request, providers eligible for the enhanced or licensed rate may be paid at the part-time monthly rate if they provide 63 or more hours of care in the month, customarily bill all families at a part-time monthly rate, and are designated as the primary provider for the case.

(d) Unless required by the circumstances of the caretaker or child, the Department will not pay for care at a part-time monthly or a full-time monthly rate to more than one provider for the same child for the same month.

(e) The Department will pay at the hourly rate for less than 63 hours of care in the month subject to the maximum full-time monthly rate.

(f) The Department will pay for absent days each month the child is absent. Absent days can be billed if:

(A) It is the provider's policy to bill all families for absent days; and

(B) The child was scheduled to be in care, the provider bills for the amount of time the child was scheduled to be in care, and the child has not been absent for a calendar month.

(g) Child care providers are eligible to receive an incentive payment upon achieving and maintaining a three star or higher rating with the Quality Rating Improvement System (QRIS), or SPARK program, subject to all of the following provisions.

(A) The incentive payment is in addition to the Department maximum rate.

(B) A provider may receive an incentive payment for any ERDC child that the Department paid the provider for full-time care (136 hours or more).

(C) Providers who are contracted for child care services through the ERDC program are not eligible to



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receive incentive payments, with the exception of Early Head Start providers.

(D) Eligibility for the incentive payment is effective the month after the QRIS rating has been achieved.

(E) The incentive payment amount is based on the provider's star QRIS rating as follows:

- (i) Star Rating.....Amount
- (ii) 3.....\$54
- (iii) 4.....\$72
- (iv) 5.....\$90

(h) Child care providers eligible for the licensed rate may receive payment from the Department for registration and other fees if they are required by the facility for a child to begin or continue care and the fees are also required of the general public. Fees related to penalties, fines, charges exceeding approved ERDC hours or rates (see section (4) of this rule), or advance payment for cost of care are not eligible for payment.

(A) Child care providers are eligible to receive an additional payment from the Department of 9% of the payment issued for a billing form when all the following are met:

(i) A home-based provider's billing form was processed more than 4 business days after the completed billing form was received by the Department or a center-based provider's billing form was processed more than 7 business days after the completed billing form was received by the Department,

(ii) The provider initiated the request for the additional payment within 30 calendar days of the payment being processed,

(B) Providers request the additional payment using the Department's request process, and

(C) The payment was processed outside the timeframe indicated in subparagraph (A) of this paragraph

(i) under circumstances other than exceptional circumstances. "Exceptional circumstances" means circumstances beyond the reasonable control of the Department including:

- (i) State declared natural disaster,
- (ii) System outages or failure that prevents payment issuance, or
- (iii) A cause that originated outside the Department that the Department could not prevent.

(4) Effective ~~January~~ March 1, 2026, the following are the child care rates based on the type of provider, the location of the provider (shown by zip code), the age of the child, and the type of billing used (hourly or monthly):

- (a) [see attached table]
- (b) [see attached table]
- (c) [see attached table]

(5) OAR 414-175-0050 establishes ERDC allowable child care cost, and the copay calculation, except for child care under a contract between a Head Start agency and the Department, which is covered under OAR 414-175-0105.

(6) Subject to the provisions in section (9) of this rule, the monthly limit for each child's child care payments is the lesser of the amount charged by the provider or providers and the following amounts:

- (a) The monthly rate provided in section (4) of this rule.
- (b) The product of the hours of care, limited by section (8) of this rule, multiplied by the hourly rate provided in section (4) of this rule.

(7) The limit in any month for child care payments on behalf of a child whose caretaker is away from the child's home for more than 30 days because the caretaker is a member of a reserve or National Guard unit that is called up for active duty is the lesser of the following:

- (a) The amount billed by the provider or providers.



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- (b) The monthly rate established in this rule for 215 hours of care.
- (8) The number of payable billed hours of care for a child is limited as follows:
 - (a) The total payable hours of care in a month may not exceed the amounts in paragraphs (a)(A) or (B) of this subsection:
 - (A) 125 percent of the number of child care hours authorized under OAR 414-175-0050; or
 - (B) The monthly rate established in section (4) of this rule multiplied by a factor of not more than 1.5, determined by dividing the number of hours billed by 215, when the caretaker meets the criteria for extra hours under section (10) of this rule.
 - (b) For a caretaker who earns less than the Oregon minimum wage, the total may not exceed 125 percent of the anticipated earnings divided by the state minimum wage not to exceed 172 hours (which is full time).
- (9) The limit in any month for child care payments on behalf of a child whose caretaker has special circumstances, defined in section (10) of this rule, is the lesser of one of the following:
 - (a) The amount billed by the provider or providers; or
 - (b) The monthly rate established in section (4) of this rule multiplied by a factor, of not more than 1.5, determined by dividing the number of hours billed by 215.
- (10) The limit allowed by section (9) of this rule is authorized once the Department has determined the caretaker has special circumstances. For the purposes of this section, a caretaker has special circumstances when it is necessary for the caretaker to obtain child care in excess of 215 hours in a month to perform the requirements of their employment or training required to keep current employment, not including self-employment. This is limited to the following situations:
 - (a) The caretaker's commute time to and from work or education settings exceeds 25 percent of the total authorized child care hours.
 - (b) The caretaker has an overnight shift and care is necessary for both shift hours and sleep hours.
 - (c) Retroactively effective January 1, 2023, multiple caretakers need care for both shift hours and sleep hours when:
 - (A) There is overlap in the caretakers' reported hours, and
 - (B) At least one caretaker works an overnight shift.
 - (d) The caretaker has a split shift and it is not feasible to care for the child between shifts.
 - (e) The caretaker consistently works, participates in education hours, or both, more than 40 hours per week.
- (11) Provider payment rates are informed by a cost estimation model and may include financial incentives as outlined in ORS 329A.500(4)(c)(A)-(G).

[\[ED. NOTE: To view attachments referenced in rule text, click here for PDF copy.\]](#)

Proposed Language [414-175-0076](#) High Needs Child Care Payments

- (1) The supplemental high needs payment is allowable if the child is eligible for the special needs rate outlined in OAR 414-175-0075(1)(e) and the requirements of the following subsections are met:
 - (a) The child requires significantly more direct intervention by the child care provider than typical for a child of the same age as determined by the Department through an assessment with the family and child care provider input and review of submitted documentation.



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(b) The child is enrolled in an Early Intervention or Early Childhood Special Education program or school-age Special Education Program with a written plan that supports the child's need for increased intervention and supervision while in care or is receiving additional supportive services such as private therapies or behavioral or mental health services. The re must be a written plan, treatment plan, or ongoing proof of services ~~must be~~ dated within the last 12 months. If an updated plan is not available due to program delays, the caretaker must provide documentation that an updated plan is delayed.

(c) Eligibility for the supplemental high needs payment must be reviewed by the Department at least once every 12 months from the date of the prior determination.

(2) The supplemental high needs payment is intended to cover the cost of -additional care and intervention required due to a child's physical, mental or behavioral condition. To determine the supplemental high needs payment, a factor ranging from 0 to 2, determined by this rule is multiplied by:

- (a) \$5.00 for a payment calculated on an hourly basis; or
- (b) \$840 for a payment calculated on a monthly basis.

(3) The factor used to make the calculation described in section (2) of this rule is determined by first establishing a score for each category listed in section (5) of this rule. The score is established by multiplying a rating and the weight for each category. The weight is given in section (5). The rating is determined as follows:

(a) The child's need for care and supervision is assessed and is compared with the needs of other children of the same age, and a rating is determined for each category. The rating is a whole number from zero to ten.

(b) Benchmark scores are given in section (5) of this rule for each category using several descriptions of need. The child's level is matched with the benchmark descriptions, and a rating is assigned based on a comparison of the child's needs and the benchmark descriptions. If a child's level of need falls between — or is described in part by — two benchmarks in the rule, an appropriate intermediate rating is assigned based on the benchmarks scores.

(4) After a score is determined for each category, the scores are added. The sum of the scores is changed to 100 if it is less than 110 and is reduced to 300 if it exceeds 300. The adjusted score is decreased by 100, and the remainder is divided by 100. The result is the factor used in section (2) of this rule.

(5) The categories, their weights, and standards for their ratings are as follows:

(a) Level of medical care — weight is 7:

(A) Child requires on-site medical attention by a licensed medical or mental health professional and the child care provider must have specialized training related to the child's medical or mental health needs — rating of 10.

(B) The provider must have specialized training related to the child's medical or mental health needs and consults frequently with a medical or mental health professional — rating of 8.

(C) Child requires medical attention by an individual who has received some specialized training related to the child's medical or mental health needs — rating of 4.

(D) Child requires medical attention or monitoring by an individual who has received special instructions from the parent or a service provider related to the child's medical or mental health needs — rating of 1.

(E) Child's needs can be met by staff with general knowledge — rating of zero.

(b) Self-sufficiency with daily tasks — weight is 5:

(A) Child requires total assistance with eating or toileting, such as requiring tube feedings or with



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special toileting needs, such as ostomy care — rating of 10.

(B) Child requires considerable assistance in eating or toileting — rating of 5.

(C) Child requires only minor assistance with eating or toileting — rating of 1.

(D) Child can take care of daily tasks with very little assistance — rating of zero.

(c) Mobility — weight is 5:

(A) Child is unable to help with positioning or movement, needs frequent repositioning, and the child is difficult to move — rating of 10.

(B) Child can help with transfers, pivoting and position — rating of 5.

(C) Child is able to move independently with minor support — rating of 1.

(D) Child's mobility is similar to other children of the same age — rating of zero.

(d) Communication skills — weight is 6:

(A) Child is unable to communicate needs and wants, and is unable to use alternative communication methods — rating of 10.

(B) Child relies entirely upon alternative methods such as sign language, picture boards, gestures, or facial expressions, to communicate the child's needs or to understand requests made of the child — rating of 8.

(C) Child has limited verbal skills. The child may require one-on-one communication to gain the child's attention, simplify instructions, or to understand the child's speech or gestures. Child may use alternative methods, mentioned in paragraph (B) of this sub-section, as a supplement to verbal skills — rating of 4.

(D) Child's communication skills are roughly similar to other children of the same age — rating of zero.

(e) Need for monitoring and intervention — weight is 11:

(A) The child must remain within the child care provider's direct view at all times and needs frequent intervention to prevent harm to self or other children — rating of 10.

(B) The child must remain within the provider's direct view at all times but does not need frequent intervention — rating of 7.

(C) Child has behaviors that frequently require adult intervention but are not a threat to the child's or other children's safety — rating of 4.

(D) Child needs assistance to initiate, respond to, or engage in peer interactions that are safe, positive, and appropriate — rating of 2.

(E) Child needs some assistance but generally does well if the assistance is provided — rating of zero.

(f) Cognition and comprehension — weight is 7:

(A) Child is unable to recognize danger, is unable to follow instructions without one-on-one assistance, and has difficulty processing basic sensory information about the environment. This does not include vision or hearing as the primary difficulty — rating of 10.

(B) Child needs to be given one instruction at a time and may need reminders of what was asked in order to complete instruction — rating of 5.

(C) Child is able to understand and solve problems with some special attention — rating of zero.

(g) Other special considerations — weight is 5. There are other considerations relating to the level of supervision required for the child that are not included in the above categories. A rating is determined based on how much more supervision the child needs — because of the other consideration — than other children of the same age.



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Proposed Language 414-175-0080; Eligibility of Child Care Providers

(1) The Department must approve a child care provider if information available to the Department provides no basis for denying eligibility unless it is determined that the provider or other subject individual (see OAR 125-007-0210, 407-007-0210(12)(a)(K), and 414-061-0030) is not eligible to provide care.

(2) The Department may approve a child care provider who is legally exempt (see section ~~(4112)~~ of this rule) as a child care provider for a child (see OAR 461-001-0000) in ~~their~~ the provider's household, if all members of the household have an enrollment (see OAR 414-061-0020(18)), conditional enrollment (see OAR 414-061-0020(9)), or limited enrollment (see OAR 414-061-0020(25)(b)) in the Central Background Registry (see OAR 414-061-0000) and all of the following requirements are met:

(a) There is no criminal history consisting of a disqualifying crime listed in 45 CFR 98.43(c).

(b) The household member with the criminal or child abuse and neglect history is a parent (see OAR 461-001-0000) or caretaker relative (see OAR 461-001-0000) of the child needing child care.

(c) The child care is necessary pursuant to OAR 414-175-0023.

(d) The approval for Department payments only applies for the child of the household member, or a child for whom the household member is a caretaker ~~relative~~.

(3) The Department may approve a child care provider who is legally exempt as a child care provider and will be providing care for a child in the child's household, if the provider has enrollment in the Central Background Registry and the provider does not live in the child's home.

~~(34)~~ Ineligibility for payment may result from any of the following and begins on the date of occurrence:

(a) A violation of a requirement under section ~~(78)~~ of this rule. When a provider fails to keep daily attendance records as required under subsection ~~(78)~~(e) of this rule, the "date of occurrence" begins on the day for which there is no required record.

(b) A finding of "denied".

(A) A provider may be "denied" if they are not enrolled in or are suspended from the Central Background Registry, if they have submitted an application for enrollment in the Central Background Registry that has been denied for cause, or if they have been removed for cause from the Central Background Registry by final order of the Child Care Licensing Division (CCLD) and have not been re-enrolled. A subject individual who has been denied enrollment in the Central Background Registry due to a determination of unsuitability shall not be eligible for enrollment in the Central Background Registry for five years from the date of denial.

(B) A subject individual may appeal CCLD's determination not to enroll the subject individual in the Central Background Registry, for an enrollment, conditional enrollment, or limited enrollment as defined in OAR 414-061-0020(25), pursuant to OAR 414-061-0120.

(c) A finding of "failed".

(A) A provider may be "failed" if the Department determines, based on a specific eligibility requirement and evidence, that a provider does not meet an eligibility requirement of this rule not covered in paragraph (d)(A) of this section.

(B) While the provider is in "failed" status:



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- (i) The Department does not pay any other child care provider for child care at the "failed" provider's site.
- (ii) The Department does not pay a child care provider at another site if the "failed" provider is involved in the child care operation unless the Department determines that the reasons the provider is in "failed" status are not relevant to the new site.
- (C) A provider with a status of "failed" may reapply at any time by providing the required documents and information to the Department for review.
- (d) A finding of "suspended".
- (A) A provider may be "suspended" if the Department determines and provides notice that the provider does not meet an eligibility requirement in the following subsections and paragraphs of section (78) of this rule: (b), (d), (e), (h), (i), (j), (k), (l), (p)(H), (p)(I), (u), (x) or in section (4011) of this rule. A provider who has been "suspended" may challenge this status by requesting a contested case hearing.
- (B) While the provider is in "suspended" status:
 - (i) The provider is ineligible for payment for at least six months.
 - (ii) The Department does not pay any other child care provider for child care at the "suspended" provider's site.
 - (iii) The Department does not pay a child care provider at another site if the "suspended" provider is involved in the child care operation unless the Department determines that the reasons the provider is in "suspended" status are not relevant to the new site.
- (C) A provider with a status of "suspended" may be eligible for payments after the six month ineligibility period ends when the provider has been approved following reapplication, including providing the required documents and information to the Department for review.
- (e) The Department has referred an overpayment against the provider for collection and the claim is unsatisfied.
- (45) The provider must submit a completed Child Care Provider Listing Form (Form 7494) to the Department within 30 calendar days from the date the Department issues the listing form to the client.
- (56) To receive payment or authorization for payment, the provider must comply with at least one of the following subsections:
 - (a) If the provider is not legally exempt:
 - (A) Be currently certified or registered with CCLD under OAR 414-210-0100 through 414-210-1620, 414-305-0000 to 414-305-1620, 414-310-0100 to 414-310-0720, 414-320-0100 to 414-320-1620, or 414-360-0100 through 414-360-1620 and be in compliance with the applicable rules;
 - (B) Complete the Department's listing process; and
 - (C) Be approved by the Department.
 - (b) If the provider is legally exempt and a legally exempt relative (see section (4112) of this rule):
 - (A) Complete the Central Background Registry enrollment under OAR 414-061-0090;
 - (B) Complete the Department's listing process; and
 - (C) Be approved by the Department.
 - (c) If the provider is legally exempt and not a legally exempt relative for all children in care:
 - (A) Meet all CCLD Regulated Subsidy Provider requirements under OAR 414-180-0005 through 414-180-0100;
 - (B) Submit to and pass a site visit at the location where care will be provided;
 - (C) Complete the Central Background Registry enrollment under OAR 414-061-0090. For center-based



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care:

- (i) At least one individual must be enrolled in the Central Background Registry; and
- (ii) All other subject individuals must be enrolled or conditionally enrolled in the Central Background Registry.
- (D) Complete the Department's listing process; and
- (E) Be approved by the Department.
- (d) In the case of a child care facility licensed by a sovereign tribal nation:
 - (A) Must receive annual health and safety inspections from the Indian Health Services;
 - (B) Each individual who may have unsupervised access to a child in care must be enrolled in the Central Background Registry;
 - (C) Complete the Department's listing process; and
 - (D) Be approved by the Department.
- (67) Each provider and each subject individual must have a history of behavior that indicates no substantial risk to the health or safety of a child in the care of the provider.
- (78) Each provider must:
 - (a) Obtain written approval from their certifier or certifier's supervisor if the provider is also certified as a foster parent.
 - (b) Be 18 years of age or older and meet all of the following:
 - (A) Be enrolled in and not suspended from the Central Background Registry or be in an approved status by the Department;
 - (B) Have competence, sound judgment and self-control when working with children; and
 - (C) Be mentally, physically and emotionally capable of performing duties related to child care.
 - (c) Not be in the same ERDC or TANF filing group (see OAR 461-110-0330 and 461-110-0350) as the child cared for the parent (see OAR 461-001-0000) of a child in the filing group; or a sibling living in the home of the child.
 - (d) Allow the Department to visit or inspect the site of care while child care is provided.
 - (e) Keep and provide daily records as follows:
 - (A) Attendance records must accurately record the arrival and departure times for each child in care.
 - (B) Written attendance and billing records for each child receiving child care benefits from the Department must be retained for a minimum of 12 months.
 - (C) All records of attendance and billing must be provided to the Department upon request.
 - (D) Records for absent days billed to the Department under OAR 461-155-0150 must record the hours the child was scheduled to be in care and indicate the child was absent.
 - (f) Be the individual or facility listed as providing the child care.
 - (g) Only use someone else to supervise a child on a temporary basis if all of the following are met:
 - (A) The person was included on the most current listing form;
 - (B) The person is enrolled in the Central Background Registry; and
 - (C) The provider notified the Direct Pay Unit (DPU).
 - (h) Not bill a Department client for an amount collected by the Department to recover an overpayment or an amount paid by the Department to a creditor of the provider because of a lien, garnishment, or other legal process.
 - (i) Report to DPU within five days of occurrence:
 - (A) Any arrest, indictment, or conviction of any subject individual or individual described in section (56) of this rule.



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- (B) Any involvement of any subject individual or individual described in section (56) of this rule with CPS; the Office of Training, Investigations and Safety (OTIS); or any other agencies providing child or adult protective services.
- (C) Any change to the provider's name or address including any location where care is provided.
- (D) The addition of any subject individual.
- (E) Any reason the provider no longer meets the requirements under this rule.
- (j) Report suspected child abuse of any child in the provider's care to the child abuse and neglect hotline or a law enforcement agency.
- (k) Supervise each child in care at all times. This includes being within sight or sound of all children; being aware of what each child is doing; being near enough to children to respond when needed; and being physically present when kindergarten-age or younger children are playing outside, unless the play area is fully fenced and hazard free.
- (l) Prevent any individual who behaves in a manner that may harm children from having access to a child in the care of the provider. This includes anyone under the influence (see section (4112) of this rule).
- (m) Allow the custodial parent/caretaker of a child in the provider's care to have immediate access to the child at all times.
- (n) Inform a parent of the need to obtain immunizations for a child and have a completed, up-to-date Oregon shot record called the "Certification of Immunization Status" (CIS) form, or a non-medical or medical Exemption form, on file for each child in care.
- (o) Take reasonable steps to protect a child in the provider's care from the spread of infectious diseases.
- (p) Ensure that the home or facility where care is provided meets all of the following standards, except certified Outdoor Nature Based programs are not subject to the standards in section (78)(p) (A), (C), (J) and (K) below:
- (A) Each floor level used by a child has two usable exits to the outdoors (a sliding door or window that can be used to evacuate a child is considered a usable exit). If a second floor is used for child care, the provider must have a written plan for evacuating occupants in the event of an emergency.
- (B) The home or facility has water that is safe for drinking and preparing food (see section (4415) of this rule).
- (C) The home or facility has a working smoke detector on each floor level and in any area where a child naps.
- (D) Each fireplace, space heater, electrical outlet, wood stove, stairway, pool, pond, and any other hazard has a barrier to protect a child. Any gate or barrier may not pose a risk or hazard to any child in care.
- (E) Any firearm, ammunition, and other items that may be dangerous to children, including but not limited to alcohol, inhalants, tobacco and e-cigarette products, matches and lighters, any legally prescribed or over-the-counter medicine, cleaning supplies, paint, plastic bags, and poisonous and toxic materials are kept in a secure place out of a child's reach.
- (F) The building, grounds, any toy, equipment, and furniture are maintained in a clean, sanitary, and hazard-free condition.
- (G) The home or facility has a telephone in operating condition.
- (H) No one may smoke or carry any lighted smoking instrument, including e-cigarettes or vaporizers, in the home or facility or within ten feet of any entrance, exit, window that opens, or any ventilation intake



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that serves an enclosed area, during child care operational hours or anytime child care children are present. No one may use smokeless tobacco in the home or facility during child care operational hours or anytime child care children are present. No one may smoke or carry any lighted smoking instrument, including e-cigarettes and vaporizers, or use smokeless tobacco in motor vehicles while child care children are passengers.

(I) No one may consume alcohol or use controlled substances (except legally prescribed and over-the-counter medications) or marijuana (including medical marijuana) on the premises (see section (4412) of this rule) during child care operational hours or anytime child care children are present. No one under the influence of alcohol, controlled substances (except legally prescribed and over-the-counter medications) or marijuana (including medical marijuana) may be on the premises during child care operational hours or anytime child care children are present. No one may consume alcohol or use controlled substances (except legally prescribed and over-the-counter medications) or marijuana (including medical marijuana) in motor vehicles while child care children are passengers.

(J) Is not a half-way house, hotel, motel, shelter, or other temporary housing such as a tent, trailer, or motor home. The restriction in this paragraph does not apply to licensed (registered or certified) care approved in a hotel, motel, or shelter.

(K) Is not a structure –

(i) Designed to be transportable; and

(ii) Not attached to the ground, another structure, or to any utilities system on the same premises.

(q) Complete and submit a new listing form every two years, or sooner at the request of the Department, so that the Department may review the provider's eligibility.

(r) Provide evidence of compliance with the Department's administrative rules, upon request of Department staff.

(s) Comply with state and federal laws related to child safety systems and seat belts in vehicles, bicycle safety, and crib standards under 16 CFR 1219 and 1220.

(t) Place infants to sleep on their backs.

(u) Not hold a medical marijuana card; or distribute, grow, or use marijuana (including medical marijuana) or any controlled substance (except lawfully prescribed and over-the-counter medications).

(v) Develop and communicate expulsion and suspension policies to parents and caretakers.

(w) Provide care at a location within the state of Oregon.

(x) Controlled substances (except lawfully prescribed and over-the-counter medications), marijuana (including medical marijuana, marijuana edibles, and other products containing marijuana), marijuana plants, derivatives, and associated paraphernalia may not be on the premises during child care operational hours or anytime child care children are present.

(89) Legally exempt providers must complete the "Introduction to Child Care Health and Safety" two-hour, web-based training prior to Department approval.

(910) Legally exempt providers must complete the two part orientation provided by the Department or a Child Care Resource and Referral agency within 90 days of being approved by the Department if the provider begins providing child care services after June 30, 2010, or resumes providing child care services, after a break of more than one year that began after June 30, 2010.

(4011) Child care providers and any individual supervising, transporting, preparing meals, or otherwise working in the proximity of child care children and those completing daily attendance and billing records shall not be under the influence.

(4412) For purposes of these rules:



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- (a) "Premises" means the home or facility structure and grounds, including indoors and outdoors and space not directly used for child care.
- (b) "Under the influence" means observed abnormal behavior or impairments in mental or physical performance leading a reasonable person to believe the individual has used alcohol, any controlled substances (including lawfully prescribed and over-the-counter medications), marijuana (including medical marijuana), or inhalants that impairs their performance of essential job function or creates a direct threat to child care children or others. Examples of abnormal behaviors include, but are not limited to hallucinations, paranoia, or violent outbursts. Examples of impairments in physical or mental performance include, but are not limited to slurred speech as well as difficulty walking or performing job activities.
- (c) "Legally exempt" means the child care provider is exempt from licensing with the CCLD because the provider is not subject to the licensing requirements under OAR 414-205-0000 to 414-205-0170, OAR 414-350-000 to 414-350-0405, and OAR 414-305-0000 to 414-300-1620.
- (d) "Legally exempt relative" means a legally exempt provider who is a relative to all children in care including a great-grandparent, grandparent, aunt, uncle, or sibling not living in the home of any child in care.
- [\(4213\)](#) Legally exempt providers that are not a legally exempt relative to all children in care must meet all of the requirements in this section:
- (a) Before approval by the Department:
- (A) Have an up-to-date, in-person infant and child CPR and first aid certification or have a currently valid waiver of this requirement from the Child Care Resource and Referral program.
- (B) Complete the Recognizing and Reporting Child Abuse and Neglect (RRCAN) web-based or classroom training.
- (b) After approval by the Department:
- (A) Complete six hours of ongoing education in each two-year listing period as provided in this subsection. All trainings must be accepted by the Oregon Center for Career Development (OCCD) and be part of the OCCD's 10 Core Knowledge Categories recognized by Oregon Registry Online to count toward the six hours.
- (i) Two of the six hours must fall under the "Human Growth and Development" category; and
- (ii) Two of the six hours must cover "Understanding & Guiding Behavior".
- (B) Complete a Health and Safety training offered by OCCD annually.
- (C) Complete the Child Development training offered by OCCD, as follows:
- (i) Providers approved on or after October 1, 2022 must complete the training within 90 days of ODHS approval.
- (ii) Providers approved before October 1, 2022 must complete the training by December 31, 2022 to remain approved.
- [\(4314\)](#) Child care centers or programs that are legally exempt from certification or registration with CCLD, are located in a commercial or institutional facility, and receive payment from the Department on behalf of a family receiving a child care subsidy, must comply with the following minimum staff to children in care ratios:
- (a) Six weeks through 23 months of age, the minimum number of staff to children is one to four. The maximum number of children in a group is eight.
- (b) 24 months through 35 months of age, the minimum number of staff to children is one to five. The maximum number of children in a group is 10.



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- (c) 36 months of age to attending kindergarten, minimum number of staff to children is one to 10. The maximum number of children in a group is 20.
- (d) Attending kindergarten and older, the minimum number of staff to children is one to 15. The maximum number of children in a group is 30.
- (e) In a mixed-age group of children, the number of staff and group size shall be determined by the age of the youngest child in the group.
- (4415) As used in this section, “drinking water faucet or fixture” means any plumbing fixture on the premises used to obtain water for drinking, cooking, preparing infant formula or preparing food. This section only applies to a provider who is legally exempt and not a legally exempt relative. This section applies to legally exempt providers approved to receive Department subsidy payments and who submit a completed Child Care Provider Listing form for Department-approval. This section does not apply to care provided in the child’s home when the legally exempt provider lives somewhere else.
- (a) In locations where care is provided, lead testing is required for each drinking water faucet or fixture.
- (b) Providers must test each drinking water faucet or fixture at least once every six years from the date of the last test. Providers who have had a drinking water faucets or fixture tested within six years prior to the effective date of this rule will need to submit the results to CCLD.
- (c) If a home or facility does not use any of the on-site plumbing fixtures to obtain water for drinking, cooking, preparing infant formula, or preparing food, the provider must:
- (A) Submit a written statement to the Department or CCLD identifying the alternative source of water and confirming that the provider does not use any on-site plumbing fixtures for drinking, cooking, preparing infant formula, or preparing food; and
- (B) Notify the Department or CCLD in writing if the alternative source of water changes.
- (d) All sample collection and testing must be in accordance with the Environmental Protection Agency (EPA)’s 3Ts for Reducing Lead in Drinking Water in Schools and Child Care Facilities, Revised Manual from October 2018, adopted by this reference.
- (A) If test results show water from any drinking water faucet or fixture has 15 parts per billion (ppb) or more of lead, the provider must:
- (i) Prevent access to that drinking water faucet or fixture immediately after receiving the test results; and
- (ii) Continue to prevent access to that drinking water faucet or fixture until mitigation is completed in accordance with paragraph (B) of this subsection.
- (B) Following receipt of test results showing that water from any drinking water faucet or fixture has 15 parts per billion (ppb) or more of lead, the provider must comply with all of the following sub-paragraphs:
- (i) Submit a corrective action plan to the Department or CCLD for approval within 60 days of receiving the test results. The corrective action plan must identify an appropriate mitigation strategy in accordance with Module 6 of the EPA’s 3Ts for Reducing Lead in Drinking Water in Schools and Child Care Facilities, Revised Manual from October 2018, adopted by this reference.
- (ii) Implement the mitigation method within 30 days of approval by CCLD.
- (C) A provider who fails to submit a corrective action or a mitigation method is no longer eligible to receive child care subsidy payments.
- (e) The provider must keep a copy of the most recent test results on-site at all times.
- (f) Providers must follow the routine practices identified in Module 6 of the EPA’s 3Ts for Reducing Lead in Drinking Water in Schools and Child Care Facilities, Revised Manual from October 2018.



Early Learning Council

February 25, 2026

9:00 a.m. – 1:00 p.m.

Department of Early Learning and Care
3rd Floor, Grand Ronde Room
700 Summer St NE, Suite 350
Salem, OR 97301

(4516) A child care provider approved to receive payment may become retroactively ineligible for payment starting on the date the provider violates a requirement under this rule, regardless of the date of the finding.

(4617) The Oregon Department of Human Services Background Check Unit (BCU) shall retain their authority to determine eligibility for any child care providers whose applications, including incomplete applications, were submitted before September 1, 2022.