

MIGRANT AND SEASONAL FARMWORKER CHILD CARE PROGRAM

414-400-0000

Purpose

The purpose of these rules is to define key terms, describe eligibility criteria, and rate payment policies related to Early Learning Division (ELD) Migrant and Seasonal Child Care Program. Expenditures by ELD under these rules are subject to availability of state and federal funds, as applicable, and are subject to immediate curtailment by ELD if the necessary state or federal authorizations or funding are curtailed.

Stat. Auth: ORS 329A

Stat. Implemented: ORS 329A.010

Hist.: CSD 11-1990, f. & cert. ef. 4-23-90; CSD 10-1992, f. & cert. ef. 3-17-92; CCD 1-1994, f. & cert. ef. 1-12-94; Renumbered from 412-011-0300

414-400-0010

Definitions

(1) “Agricultural Labor” means:

(a) Any activity related to crop production, including soil preparation, planting, cultivating, crop protection or harvesting, preparing crops for market, irrigation work, operating farm machinery, or general farm work; or

(b) Any activity directly related to the processing of crops, including freezing, canning and drying; or

(c) Any activity directly related to the cultivation of trees and shrubs, or tree farming including wreath making.

(d) Labor that does not fall under “Agricultural Labor” includes, but is not limited to: landscaping, fishing, reforestation, and animal husbandry.

(2) “Authorized Absence” means the temporary absence from the facility by a child who is expected to return to care.

(3) “Available to care for children” means not working, attending or enrolled in school, and being physically and emotionally capable of caring for children.

(4) “Contractor” means the non-profit or other type of organization that does outreach to and performs administrative functions for Migrant and Seasonal farmworkers families seeking child care financial assistance.

(5) “Early Learning Division (ELD) Special Populations” means the child care subsidy program administered by the Oregon Department of Education, Early Learning Division.

(6) “Employment Related Day Care (ERDC)” means the child care subsidy program administered by the Oregon Department of Human Services.

(7) “Migrant Family” means:

(a) A family who is employed in farm labor as defined in “Agricultural Labor;” and

(b) An entire family that moves their residence for the purpose of employment in Agricultural Labor, and the move or moves result in either:

(i) an absence of at least two months from the geographical service area, or

(ii) a cumulative total of at least 150 miles.

(8) “Seasonal Family” is a family:

- (a) Whose wage earners make their living from agricultural labor on a seasonal basis in the same area as their residence; and
- (b) That has fit the definition of a “Migrant family” within the last 36 months; and
- (c) That has settled, or is in the process of settling, from migrant status, and
- (d) Is not employed in agricultural labor year round by the same employer.

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Hist.: CSD 11-1990, f. & cert. ef. 4-23-90; CSD 10-1992, f. & cert. ef. 3-17-92; CCD 1-1994, f. & cert. ef. 1-12-94; Renumbered from 412-011-0310; CSD 3-1994, f. & cert. ef. 3-1-94

414-400-0020

Eligibility Criteria

(1) Migrant family eligibility criteria include:

- (a) The Migrant family wage earners make their living doing farm labor as defined in “Agricultural Labor”; and
- (b) Are residing in Oregon; and
- (c) The parents are working in, or reporting for, agricultural labor in Oregon which they expect to be available at the time of reporting; and
- (d) At least 50 percent of the family income for the preceding 12 months was earned from agricultural labor; and
- (e) The family earns 185 percent or less of the current Federal Poverty Level; and
- (f) The entire family moves their residence at least once in twelve months for the purpose of employment in agricultural labor; and
- (g) There is no capable family member in the household who is 18 years of age or older available to provide child care.

(2) Seasonal Family eligibility criteria includes:

- (a) The seasonal wage earners make their living doing agricultural labor; and
- (b) Are residing in Oregon; and
- (c) At least one parent is currently working in agricultural labor; and
- (d) At least 50 percent of the family income for the preceding 12 months was earned from such work; and
- (e) The family earns 185 percent or less of the current Federal Poverty Level; and
- (f) At the time of application as a Seasonal Family, has fit the definition of a Migrant Family within the last 36 months; and
- (g) There is no capable family member in the household who is 18 years of age or older available to provide child care.

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Hist.: CSD 11-1990, f. & cert. ef. 4-23-90; CSD 10-1992, f. & cert. ef. 3-17-92; CCD 1-1994, f. & cert. ef. 1-12-94; Renumbered from 412-011-0320

414-400-0031

Eligibility Verification

- (1) To accommodate the immediate need for child care by Migrant Families and to be eligible for ELD subsidized child care benefits, Migrant Family clients must do all of the following:
 - (a) Apply for the ELD Special Populations subsidy program using forms provided by the ELD and document: Applicant's family size and membership, current and previous places of residence, employment history and family income for the past 12 months. The income that determines family co-pay shall be for the 12 full months just prior to application, or for the most recent tax year, and shall be for all wage earners age 18 and above in the family membership.
 - (b) An ELD subsidy program application shall be completed or updated, and eligibility factors must be verified by the Contractor for all of the following: Contractor's intake staff must ask for and review documents that verify income, employment, entire family movement and current residence in Oregon.
 - (c) Contractor files must contain copies of documents or a record verifying documents were viewed.
 - (d) The ELD may verify any factors affecting eligibility or benefit when they are considered questionable.
 - (e) If reported information or information on the application is questionable or if it is inconsistent, the following conditions may apply:
 - (i) ELD may deny an application, or
 - (ii) immediately end ongoing benefits to the Migrant Family when acceptable verification is not provided, or if inconsistencies cannot be resolved; and
 - (iii) require the Contractor to reimburse the ELD for a portion or all of the subsidies that were paid for child care that were paid in error.
 - (f) A Migrant Family will be notified by the Contractor in writing at least ten business days prior to the end of the 12 months' eligibility or if funds are no longer available.
 - (g) Verification provided for one federal program may be used as verification for all ELD programs in which the Migrant Family participates.
- (2) To be eligible for the ELD subsidy program, Seasonal Families must do all of the following:
 - (a) Apply for the Department of Human Services ERDC program and follow all eligibility, determination, and copayment rules.
 - (b) If applicant does not qualify for or is put on the reservation list for the ERDC program, the Seasonal Family may apply for the ELD Special Populations subsidy program. On forms provided by the ELD, applicant will document:
 - (i) Applicant's family size and membership, current and previous places of residence, employment history and family income for the past 12 months; and
 - (ii) Verification of the family qualifying for Migrant Family status within the past 36 months at time of application.
 - (c) The income that determines family co-pay shall be for the 12 full months just prior to application, or for the most recent tax year, and shall be for all wage earners age 18 and above in the family membership group.
 - (d) An application shall be completed or updated and eligibility factors must be verified by the Contractor for all of the following:
 - (i) Contractor intake staff must ask for and review documents that verify income, employment, and current residence in Oregon; and
 - (ii) Contractor files must contain copies of documents or a record verifying documents were viewed.

- (e) The ELD may verify any factors affecting eligibility or benefit when they are considered questionable.
- (f) If reported information or information on the application is questionable or if it is inconsistent, the following conditions may apply:
 - (i) The Early Learning Division may deny an application, or
 - (ii) Immediately end ongoing benefits to the Seasonal Family when acceptable verification is not provided or if inconsistencies cannot be resolved, or
 - (iii) Require the Contractor to reimburse the ELD for a portion or all of benefits that have been paid for child care that has been paid in error.
- (g) A Seasonal Family will be notified by the Contractor in writing at least ten days prior to the end of the 12 month eligibility, or if funds are no longer available.
- (h) Verification provided for one program may be used as verification for all Early Learning Division programs in which the client participates.

Stat. Auth: ORS 329A

Stat. Implemented: ORS 329A.010

Hist.: CCD 1-1994, f. & cert. ef. 1-14-94

414-400-0040

Payment Process

Early Learning Division payment is subject to CCD established eligibility conditions described in these rules.

- (1) ELD will pay only for child care authorized by the ELD.
- (2) Payment is made to providers who are registered or certified and hold a valid child care subsidy contract with the ELD.
- (3) If a child is in child care when the service plan is made, payment shall be made only from the date the service is authorized.
- (4) ELD will make payments for temporary absence if required by the provider, subject to the following requirements and limits:
 - (a) The provider must use the same policy for both ELD and non-ELD child care subsidy families;
 - (b) The child must be expected to continue in child care with the same provider after the absence;
 - (c) ELD will make payment for actual absence(s) not to exceed a total of five (5) working days in any calendar month, not to exceed 40 hours of authorized absences per month; and
 - (d) Absence days, or portions thereof, will include on the time(s) for which child care has been authorized by ELD.

[ED. NOTE: The form(s) referred to or incorporated by reference in this rule are available from the agency.]

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Stat. Implemented: ORS 329A.010

Hist.: CSD 11-1990, f. & cert. ef. 4-23-90; CSD 10-1992, f. & cert. ef. 3-17-92; CCD 1-1994, f. & cert. ef. 1-12-94; Renumbered from 412-011-0340

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Billing Method

- (1) ELD payments for child care are made by check to the Contractor or provider on the behalf of the client after all care for the month has been given.
- (2) The invoice is to be submitted by the Contractor or provider on forms approved by the ELD.
- (3) Registered and Certified family child care and Certified Center providers must bill at an hourly rate not to exceed the total authorized.

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Stat. Implemented: ORS 329A.010

Hist.: CSD 11-1990, f. & cert. ef. 4-23-90; CSD 10-1992, f. & cert. ef. 3-17-92; CCD 1-1994, f. & cert. ef. 1-12-94; Renumbered from 412-011-0350; CCDE 3-2004, f. 7-30-04 cert. ef. 8-1-04

414-400-0060

Determining Child Care Rates for Payment

- (1) The maximum rates the ELD pays for Migrant and Seasonal child care are determined by the most recent Oregon Department of Human Services (DHS) market rate survey and will be furnished upon request.
- (2) ELD will pay the provider's rates within the (DHS) maximums as specified in the provider contract with ELD.
- (3) Rates charged to ELD for child care services may not exceed rates charged for comparable services to non-subsidy children.
- (4) The provider shall not ask the family for, or accept directly or indirectly, any additional payment for care provided to an ELD subsidy eligible family other than those in section (2) of this rule.
- (5) Families are subject to copayments according to DHS copayment standards:
 - (a) During the first month, or part thereof, of child care, all Migrant and Seasonal Families will be charged the minimum copayment.
 - (b) When all children in a family receive three or fewer hours a day of children, the minimum copayment will apply.
 - (c) For the ELD subsidy program, the copayment for each Seasonal Family will be determined based on 50 percent of the DHS copayment for the family size and monthly income. Monthly income shall be determined by dividing the annual family income by 12.
 - (d) The family shall be informed of their copayment when they apply and their copayment shall be included in writing on the client application.
 - (e) The Contractor is responsible to collect the copayment.
 - (f) The Contractor may choose not to collect the copayment from the family, but the copayment must be deducted from the amount billed to the ELD before ELD is billed.
- (6) Copayment Subsidies: For Seasonal Families that have been determined eligible for the ERDC program, the ELD Special Populations program will reimburse the Contractor for 50 percent of the copayment required to be paid by the family to receive the ERDC child care subsidy.
 - (a) Contractor will invoice the ELD monthly for the copayment reimbursement, and will provide documentation that show the required payment for the Seasonal family.
 - (b) The subsidized copayment amount will be disbursed by the ELD directly to the child care provider or to the Contractor for payment to the child care provider.

(c) ELD subsidized copayments are meant to ease the financial burden on Seasonal Families seeking child care subsidy. Neither the Contractor nor the child care provider shall charge an applicant family any fees or copayments that have already been paid on behalf of the applicant family to the provider by ELD.

(7) In-home Care. Minimum wage for care in a child's own home is governed by the state minimum wage law. It may not be negotiated to a lower rate. Overtime at one-and-one-half times the regular rate must be paid for all hours worked in excess of 40 hours in a work week (seven sequential days). Overtime shall not be paid to a provider who lives in the child's home.

Stat. Auth: ORS 329A

Stat. Implemented: ORS 329A.010

Hist.: CSD 11-1990, f. & cert. ef. 4-23-90; CSD 10-1992, f. & cert. ef. 3-17-92; CCD 1-1994, f. & cert. ef. 1-12-94; Renumbered from 412-011-0360

414-400-0080

Exception

(1) Specific exception to any section of these rules may be granted for good and just cause by the Child Care Division. The exception must be requested in writing, and show how the intent of the rule will be met to the Early Learning Division.

(2) No exception will be granted which may jeopardize the health, safety, and well-being of any child in care.

(3) All exceptions must be submitted in writing to the Child Care Division, and remain there on file. The granting of an exception shall not constitute a precedent for any other provider or client.

Stat. Auth: ORS 329A

Stat. Implemented: ORS 329A.010

Hist.: CSD 11-1990, f. & cert. ef. 4-23-90; CSD 10-1992, f. & cert. ef. 3-17-92; CCD 1-1994, f. & cert. ef. 1-12-94; Renumbered from 412-011-0380

414-400-0090

Parent Complaints

(1) All Contractors for the Migrant and Seasonal Farmworker child care services program shall establish a process by which families may present a grievance or complaint regarding child care services.

(2) Records of all complaints shall be maintained and the ELD must be notified in writing of all grievance and complaints within ten (10) working days of receipt by the Contractor.

Stat. Auth: ORS 329A

Stat. Implemented: ORS 329A.010

414-400-0095

Mandatory Reporter

As required by Oregon Revised Statutes (ORS) 419B.005 through 419B.050, Contractor must immediately inform either the local office of the Department of Human Services (DHS) or a law enforcement agency when they have reasonable cause to believe any child with whom the Contractor comes in contact has suffered abuse, or any person with whom the Contractor comes

in contact has abused a child. Oregon Law recognizes child abuse to be physical injury; neglect or maltreatment; sexual abuse and sexual exploitation; threat of harm; mental injury; and child selling. Report must be made immediately upon awareness of the incident.

Stat. Auth: ORS 329A

Stat. Implemented: ORS 329A.010

414-400-0100

Limits on Disclosure

(1) No employee or volunteer of the ELD, or other agency, may disclose information about clients except as stated in OAR 412-001-0100 through 412-001-0170, or at the direction of a court of competent jurisdiction, or upon advice of the Attorney General.

(2) The ELD may disclose information in order to administer its programs and provide services when it is in the best interest of the applicant's family, unless specifically forbidden by statutes, these rules or by court order. Reasons for disclosure include, but are not limited to, providing information to: A social service agency, service provider or agency of State Office for Children and Families for the purpose of arranging appropriate child care services for the applicant's family.

Stat. Auth: ORS 329A

Stat. Implemented: ORS 329A.010

Hist.: CCD 1-1994, f. & cert. ef. 1-14-94