Exhibit 1
**SIGN-IN SHEET**

**PUBLIC HEARING**

CHILDREN, YOUTH AND FAMILIES DEPARTMENT
EARLY CHILDHOOD SERVICES
CHILD CARE SERVICES BUREAU

Public Hearing on **August 30, 2019, at 10:00 a.m.** – in Apodaca Hall (second floor) at the Public Employees Retirement Association (PERA) Building, 1120 Paseo de Peralta, Santa Fe, New Mexico 87502. The purpose of the formal public hearing is to receive public comments regarding changes to regulation 8.15.2 NMAC Requirements for Child Care Assistance Programs for Clients and Child Care Providers.

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<tr>
<th>NAME</th>
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<th>PHONE #</th>
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<tr>
<td>Victoria Gome</td>
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<td>Simene Pience</td>
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<td>Tali King</td>
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<td>Count Your Blessings Preschool</td>
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<td>Felicia Fernandez</td>
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<td>Tohono / Little Star Learning Center</td>
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<td>Nancy Hudson</td>
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<td>Joyce Denton</td>
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<td>Sarah Dinces</td>
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<td>Rosa Barraza</td>
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<tr>
<td>Hazel Darmen</td>
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<td>Child Care Castle</td>
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<td>Melody Wells</td>
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<td>Bill Jordan</td>
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<td>Voices for Children</td>
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<td>Cortina Burraza</td>
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<td>Bruce Lennon</td>
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<td>La Esperanza CDC</td>
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<td>Leora Kennedy</td>
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<td>Playschool of the Arts</td>
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<td>Mario Ponce</td>
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<td>Janelle Taylor Garcia</td>
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<td>Ruth Porter</td>
<td>La Esperanza cdc</td>
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<td><strong>Bill Jordan</strong></td>
<td><strong>NM Voices for Children</strong></td>
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<tr>
<td>Aase Barraza</td>
<td>NM Early Care Learning **</td>
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<td>Simone Pinero</td>
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<td>H. Kennedy</td>
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<td>Traeshawn Buffin</td>
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NOTE:
List of recipients to whom letters were sent is not posted and may be requested through an IPRA.
Copy of Publications in the New Mexico Register
POSTPONEMENT OF NOTICE OF PUBLIC RULE HEARING

The New Mexico Children, Youth and Families Department hereby gives notice as required under Section 14-4-5.2 NMSA 1978 and 1.24.25.11 NMAC that it proposes to adopt amendments to the following rules regarding CHILD CARE ASSISTANCE as authorized by Section 9-2A-7 NMSA 1978:

- 8.15.2.7 NMAC - DEFINITIONS
- 8.15.2.9 NMAC - PRIORITIES FOR ASSISTANCE
- 8.15.2.12 NMAC - RECERTIFICATION
- 8.15.2.13 NMAC - CLIENT RESPONSIBILITIES
- 8.15.2.15 NMAC - PROVIDER REQUIREMENTS
- 8.15.2.17 NMAC - PAYMENT FOR SERVICES

No technical scientific information was consulted in drafting these proposed rules.

Purpose of proposed rules: The purpose of the rules is to amend the eligibility levels for child care assistance, to eliminate the waiting list for child care assistance, to provide an explanation of the co-payment calculation and where to find the co-payment schedule, to comply with federal regulation to pay for registration/educational fees for children receiving child care assistance benefits on behalf of client, and to address the overlap of care hours under payment for services.

Copies of the proposed rules may be found at CYFD’s website at https://www.newmexicokids.org/ or may be obtained from 1120 Paseo De Peralta, Santa Fe, New Mexico, 30 days prior to the Public Hearing.

Notice of public rule hearing: CYFD is postponing the public hearing set for July 8, 2019 at 11:00 a.m. in Apodaca Hall, 1120 Paseo de Peralta, Santa Fe, New Mexico 87502. CYFD will enlarge the public comment period to accommodate new proposed language in accordance with the rules, and will issue notice for a public hearing at a later date. The public hearing will be conducted in a fair and equitable manner by a CYFD agency representative or hearing officer and shall be recorded. Any interested member of the public may attend the hearing and will be provided a reasonable opportunity to offer public comment, either orally or in writing, including presentation of data, views, or arguments, on the proposed rules during the hearing. Individuals with disabilities who need any form of auxiliary aid to attend or participate in the public hearing are asked to contact Debra Gonzales at debra.gonzales@state.nm.us. CYFD will make every effort to accommodate all reasonable requests, but cannot guarantee accommodation of a request that is not received at least ten calendar days before the scheduled hearing.

Notice of acceptance of written public comment: Written public comment, including presentation of data, views, or arguments about the proposed rules, from any interested member of the public, may also be submitted via email to CYFD-ECS-PublicComment@state.nm.us with the subject line “8.15.2 NMAC Public Comment,” or via first class mail to, or by hand delivery to Kimberly Brown, Child Care Services Bureau, Children, Youth and Families Department, P.O. Drawer 5160, Santa Fe, New Mexico 87502-5160. The comment period ends at the conclusion of the public hearing.
NOTICE OF RULEMAKING AND CONTINUING PUBLIC RULE HEARING

The New Mexico Children, Youth and Families Department hereby gives notice as required under Section 14-4-5.2 NMSA 1978 and 1.24.25.11 NMAC that it proposes to adopt amendments to the following rule regarding CHILD CARE ASSISTANCE as authorized by Section 9-2A-7 NMSA 1978:

8.15.2.7 NMAC – DEFINITIONS
8.15.2.9 NMAC – PRIORITIES FOR ASSISTANCE
8.15.2.12 NMAC – RECERTIFICATION
8.15.2.13 NMAC – CLIENT RESPONSIBILITIES
8.15.2.15 NMAC – PROVIDER REQUIREMENTS
8.15.2.17 NMAC – PAYMENT FOR SERVICES

No technical scientific information was consulted in drafting this proposed rule.

Purpose of proposed rule: The purpose of the rule is to amend the eligibility levels for child care assistance, to eliminate the waiting list for child care assistance, to provide an explanation of the co-payment calculation and where to find the co-payment schedule, to comply with federal regulations to pay for registration/educational fees for children receiving child care assistance benefits on behalf of client, and to address the overlap of care hours under payment for services. Pursuant to the continuation of this rule change, amendments were made to the following sections: 8.15.2.9 NMAC; 8.15.2.12 NMAC; and 8.15.2.13 NMAC.

Copies of the proposed rule may be found at CYFD’s website at https://www.newmexicokids.org/ or may be obtained from 1120 Paseo De Peralta, Santa Fe, New Mexico, 30 days prior to the Public Hearing.

Notice of public rule hearing: The public rule hearing that was originally scheduled for July 8, 2019 will held on Friday, August 30, 2019 at 10:00 a.m. in Apodaca Hall, 1120 Paseo de Peralta, Santa Fe, New Mexico 87502. The public hearing will be conducted in a fair and equitable manner by a CYFD agency representative or hearing officer and shall be recorded. Any interested member of the public may attend the hearing and will be provided a reasonable opportunity to offer public comment, either orally or in writing, including presentation of data, views, or arguments, on the proposed rule during the hearing. Individuals with disabilities who need any form of auxiliary aid to attend or participate in the public hearing are asked to contact Debra Gonzales at debra.gonzales@state.nm.us. CYFD will make every effort to accommodate all reasonable requests, but cannot guarantee accommodation of a request that is not received at least ten calendar days before the scheduled hearing.

Notice of acceptance of written public comment: Written public comment, including presentation of data, views, or arguments about the proposed rule, from any interested member of the public, may also be submitted via email to CYFD-ECS-PublicComment@state.nm.us with the subject line “8.15.2 NMAC Public Comment,” or via first class mail to, Child Care Services Bureau, Children, Youth and Families Department, P.O. Drawer 5160, Santa Fe, New Mexico 87502-5160 or by hand delivery to Kimberly Brown. The comment period ends at the conclusion of the public hearing on August 30, 2019.

AVISO DE PROMULGACION DE LEYES ADMINISTRATIVAS Y AUDIENCIA PÚBLICA

El Departamento de Niños, Jóvenes y Familias de Nuevo México por este medio da aviso como se requiere bajo la Sección 14-4-5.2 NMSA 1978 y 1.24.25.11 NMAC que propone adoptar enmiendas a las siguientes reglas con respecto a ASISTENCIA DE CUIDADO INFANTIL según autorizado por la sección 9-2A-7 NMSA 1978:

8.15.2.7 NMAC – DEFINICIONES
8.15.2.9 NMAC – PRIORIDADES PARA ASISTENCIA
8.15.2.12 NMAC – RECERTIFICACIÓN
8.15.2.13 NMAC – RESPONSABILIDADES DEL CLIENTE
8.15.2.15 NMAC – REQUISITOS DEL PROVEEDOR
8.15.2.17 NMAC – PAGOS POR SERVICIOS

No se consultó información científica o técnica cuando se redactaron las propuestas leyes administrativas.

Propósito de las propuestas leyes administrativas: El propósito de las leyes administrativas es enmendar los niveles de elegibilidad para la asistencia de cuidado de niños, eliminar la lista de espera para asistencia, proporcionar una explicación del cálculo de copago y dónde encontrar el programa de tarifas para copago, y estar conforme con regulación federal de pagar las tarifas educacionales y de registración para niños recibiendo beneficios de asistencia de cuidado de niños en nombre del cliente, y abordar el traslape de horas de
cuidado bajo pago por servicios. Se hicieron enmiendas a las siguientes secciones: 8.15.29.F. NMAC; 8.15.2.12 NMAC; y 8.15.2.13 B. NMAC.

Copias de las propuestas leyes administrativas pueden ser localizadas en el sitio de la red de CYFD [https://www.newmexicokids.org/ o se pueden obtener en: 1120 Paseo De Peralta, Santa Fe, New México, 30 días antes de la Audiencia Pública.

Aviso de Audiencia Pública de leyes administrativas: La audiencia pública de leyes administrativas que originalmente fue programada para el lunes 8 de julio de 2019 será el s viernes, 30 de agosto, 2019 a las 10:00 a.m. en 1120 Paseo de Peralta, Santa Fe, Nuevo México 87502, en la sala Apodaca Hall. La audiencia pública se llevará a cabo de manera justa y equitativa por un representante de la agencia de CYFD o el funcionario de audiencias y será grabada. Cualquier miembro del público interesado en asistir la audiencia tendrá un una oportunidad razonable para ofrecer comentarios al público, oralmente o por escrito, incluso una presentación de datos, puntos de vista o argumentos, sobre las propuestas. Personas con discapacidades que necesiten cualquier forma de asistencia auxiliar para asistir o participar en la audiencia pública deben comunicarse con Debra Gonzales debra.gonzales@state.nm.us. CYFD hará todos los esfuerzos posibles para acomodar todas solicitudes razonables, pero no puede garantizar acomodar solicitudes que no sean recibadas por lo menos diez días antes de la fecha programada para la audiencia.

Aviso de aceptación de comentario público por escrito: Comentarios públicos por escritos, incluyendo presentaciones de datos, puntos de vista o argumentos de cualquier miembro del público interesado, sobre las propuestas leyes administrativas, pueden ser enviados a través de correo electrónico a: CYFD-ECS-PublicComment@state.nm.us, especificando en la línea de Asunto: “8.17.2 NMAC Public Comment,” o por correo de primera clase a Child Care Services Bureau, Children, Youth and Families Department, P.O. Drawer 5160, Santa Fe, New Mexico 87502-5160, o se puede entregar en mano a: Kimberly Brown. El período de comentarios termina a la conclusión de la audiencia pública del 30 de agosto de 2019.

Amended Sections to Proposed Rule / Reglas Propuestas

8.15.2.9 PRIORITY FOR ASSISTANCE:

***

F. Priority four: Child care assistance for families whose income is above one hundred percent of the federal poverty level but at or below two hundred percent of the federal poverty level, adjusted annually in accordance with federal guidelines. These families are certified for a 12 month block of time [subject to the availability of funds and renewable subject to the availability of funds] and will remain eligible at or below two hundred fifty percent of the federal poverty level. Exceptions to the 12 month certification period are included in 8.15.2.11 NMAC. The department reserves the right to expand the eligibility requirement up to two hundred percent of the federal poverty level based on budget availability. Families in any priority may be transferred to priority four if budget availability permits. If the number of eligible clients in this priority exceeds budget availability, the department may maintain a waiting list. The department prioritizes child care services within priority four for children with special needs, disabilities, [teen parents and homeless families] homeless families, and for teen parents.

***

8.15.2.12 RECERTIFICATION: Clients must recertify for services at the end of their eligibility period by complying with all requirements of initial certification. Clients who recertify will qualify at or below two hundred fifty percent of the federal poverty level. If recertification is not completed in a timely manner, the case may be closed on the last day of the month for which assistance is provided under the previous placement agreement. At time of recertification, clients must provide proof of income, or proof of school enrollment. Changes in income, household size, employment, training or educational status are noted in the client’s record. Co-payment, if applicable, is re-determined at the time of recertification.

8.15.2.13 CLIENT RESPONSIBILITIES: Clients must abide by the regulations set forth by the department and utilize child care assistance benefits only while they are working, attending school or participating in a training or educational program.

A. Co-payments: Co-payments are paid by all clients receiving child care assistance benefits, except for CPS child care, at-risk child care, and qualified grandparents or legal guardians as defined in Paragraph (2) of Subsection C of 8.15.2.11 NMAC. Co-payments are based upon the size and income of the household. Co-payments are determined by income and household size. The co-payment schedule is published yearly at [https://cyfd.org/child-care-services].

B. [Co-payments for each additional child are determined at one half of the co-payment for the previous child.] Co-payments described in Subsection A of 8.15.2.13 NMAC, are used for determining the base co-payment for the first eligible child. The formula for calculating the co-payment for the first full time child is (low end of the monthly income bracket on the co-payment schedule + 200 percent of annual federal poverty level for household size) X (low end of the monthly income bracket on the co-payment schedule) X 1.1 = monthly copayment for first full time child. Base co-payments for each additional child are determined at one half of the co-payment for the previous child.

   (1) The first child is identified as the child requiring the most hours of child care.
(2) Each additional child will be ranked based on the most number of hours needed for child care.

C. [Copayments for children in part-time care are determined based upon the block of time that the child is in care.]

Each child's co-payment will be adjusted based on the units of services described in Subsection E of 8.15.2.17 NMAC, as follows:

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<tr>
<td>(1)</td>
<td>full time care will be based on one hundred percent of the base co-payment;</td>
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<tr>
<td>(2)</td>
<td>part time 1 care will be based on seventy-five percent of the base co-payment;</td>
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<td>(3)</td>
<td>part time 2 care will be based on fifty percent of the base co-payment; and</td>
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<tr>
<td>(4)</td>
<td>part time 3 care will be based on twenty-five percent of the base co-payment.</td>
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Original Proposed Rule/Reglas Propuestas

8.15.2.7 DEFINITIONS:

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[FF: Waiting list means a list of families who have applied for child care services during a period of lack of funding.]

[GG: FF: Working means employment of any type, including self-employment. For TANF recipients, this includes work experience or community service or any other activity that meets the TANF work activity requirements.]

8.15.2.9 PRIORITIES FOR ASSISTANCE:

***

C. Priority one B: Child care assistance for income eligible families whose income is at or below one hundred percent of the federal poverty level, adjusted annually in accordance with federal guidelines. [If the number of eligible clients in this priority exceeds budget availability, the department may maintain a waiting list.] The department prioritizes child care services within priority one B for children with special needs, disabilities, homeless families, and for teen parents. [If budget availability permits, the department reserves the right to transfer priority one B families whose income exceeds one hundred percent of the federal poverty level but is at or below two hundred percent of the federal poverty level to the priority four category.]

***

F. Priority four: Child care assistance for families whose income is above one hundred percent of the federal poverty level but at or below [wee] one hundred sixty percent of the federal poverty level, adjusted annually in accordance with federal guidelines. These families are certified for a 12 month block of time [subject to the availability of funds and renewable subject to the availability of funds] and will remain eligible at or below two hundred percent of the federal poverty level. Exceptions to the 12 month certification period are included in 8.15.2.11 NMAC. [The department reserves the right to expand the eligibility requirement up to two hundred percent of the federal poverty level based on budget availability. Families in any priority may be transferred to priority four if budget availability permits. If the number of eligible clients in this priority exceeds budget availability, the department may maintain a waiting list.] The department prioritizes child care services within priority four for children with special needs, disabilities, [teen parents and homeless families] homeless families, and for teen parents.

***

8.15.2.12 RECERTIFICATION: Clients must recertify for services at the end of their eligibility period by complying with all requirements of initial certification. Clients who recertify will qualify at or below two hundred percent of the federal poverty level. If recertification is not completed in a timely manner, the case may be closed on the last day of the month for which assistance is provided under the previous placement agreement. At time of recertification, clients must provide proof of income, or proof of school enrollment. Changes in income, household size, employment, training or educational status are noted in the client’s record. Co-payment, if applicable, is re-determined at the time of recertification.

8.15.2.13 CLIENT RESPONSIBILITIES: Clients must abide by the regulations set forth by the department and utilize child care assistance benefits only while they are working, attending school or participating in a training or educational program.

A. Co-payments: Co-payments are paid by all clients receiving child care assistance benefits, except for CPS child care, at-risk child care, and qualified grandparents or legal guardians as defined in Paragraph (2) of Subsection C of 8.15.2.11 NMAC. [Co-payments are based upon the size and income of the household.] Co-payments are determined by income and household size. The co-payment schedule is published yearly at https://cyfd.org/child-care-services.

B. [Co-payments for each additional child are determined at one half of the co-payment for the previous child.]

Co-payments described in Subsection A of 8.15.2.13 NMAC, are used for determining the base co-payment for the first eligible child. Base co-payments for each additional child are determined at one half of the co-payment for the previous child.

<p>| | |</p>
<table>
<thead>
<tr>
<th></th>
<th></th>
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</thead>
<tbody>
<tr>
<td>(1)</td>
<td>The first child is identified as the child requiring the most hours of child care.</td>
</tr>
<tr>
<td>(2)</td>
<td>Each additional child will be ranked based on the most number of hours needed for child care to the least number of hours needed for child care.</td>
</tr>
</tbody>
</table>

C. [Co-payments for children in part-time care are determined based upon the block of time that the child is in care.] Each child’s co-payment will be adjusted based on the units of services described in Subsection E of 8.15.2.17 NMAC, as follows:

<p>| | |</p>
<table>
<thead>
<tr>
<th></th>
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</thead>
<tbody>
<tr>
<td>(1)</td>
<td>full time care will be based on one hundred percent of the base co-payment;</td>
</tr>
</tbody>
</table>
8.15.2.15 PROVIDER REQUIREMENTS:

D. Child care providers accept the rate the department pays for child care and are not allowed to charge families receiving child care assistance above the department rate for the hours listed on the placement agreement. Failure to comply with this requirement may result in sanctions or suspension of the child care assistance agreement.

1. [In situations where an incidental cost may occur such as field trips, special lunches or other similar situations, the child care provider is allowed to charge the child care assistance family the additional cost, provided the cost does not exceed that charged to private pay families.] Providers are not allowed to charge clients a registration/educational fee for any child who is receiving child care assistance benefits as listed under 8.15.2 NMAC. The department shall pay a five dollar monthly, not to exceed sixty dollars per year, registration/educational fee per child in full time care, on behalf of department clients under 8.15.2 NMAC. Adjustments to the five dollar registration/educational fee will be made based on units of care.

2. [Providers may charge a registration/educational fee to a child care assistance family comparable to but not to exceed that charged to private pay families. The registration/educational fee shall be charged no more than once every six months and shall be limited to materials and supplies. If the department determines that the provider is charging fees that are unreasonable and pose an undue burden to child care assistance families, the department may suspend the child care assistance contract.] In situations where an incidental cost may occur such as field trips, special lunches or other similar situations, the child care provider is allowed to charge the child care assistance family the additional cost, provided the cost does not exceed that charged to private pay families.

3. Child care providers are allowed to charge child care assistance families the applicable gross receipts tax for the sum of the child care assistance benefit and co-payment.

8.15.2.17 PAYMENT FOR SERVICES:

C. The department shall pay a five dollar monthly, not to exceed sixty dollars per year, registration/educational fee per child in full time care, on behalf of department clients under 8.15.2 NMAC. Adjustments to the five dollar registration/educational fee will be made based on units of care. The registration/educational fee will discontinue when a placement closes as a result of a client changing providers, a provider discontinuing services, a child care placement agreement expiring, or a provider’s license being suspended or expiring.

[D.] The amount of the payment is based upon the age of the child and average number of hours per week needed per child during the certification period. The number of hours of care needed is determined with the parent at the time of certification and is reflected in the provider agreement. Providers are paid according to the units of service needed which are reflected in the child care agreement covering the certification period.

[E.] The department pays for care based upon the following units of service:

<table>
<thead>
<tr>
<th>Full time</th>
<th>Part time 1</th>
<th>Part time 2 (only for split custody or in cases where a child may have two providers)</th>
<th>Part time 3</th>
</tr>
</thead>
<tbody>
<tr>
<td>Care provided for an average of 30 or more hours per week per month</td>
<td>Care provided for an average of 8-29 hours per week per month</td>
<td>Care provided for an average of [6]8-19 hours per week per month</td>
<td>Care provided for an average of 7 or less hours per week per month</td>
</tr>
<tr>
<td>Pay at 100% of full time rate</td>
<td>Pay at 75% of full time rate</td>
<td>Pay at 50% of full time rate</td>
<td>Pay at 25% of full time rate</td>
</tr>
</tbody>
</table>

[F+] Hours of care shall be rounded to the nearest whole number.

[G+] Monthly reimbursement rates:

<table>
<thead>
<tr>
<th>Licensed child care centers</th>
<th>Infant</th>
<th>Toddler</th>
<th>Pre-school</th>
<th>School-age</th>
</tr>
</thead>
<tbody>
<tr>
<td></td>
<td>$720.64</td>
<td>$589.55</td>
<td>$490.61</td>
<td>$436.27</td>
</tr>
</tbody>
</table>

<table>
<thead>
<tr>
<th>Licensed group homes (capacity: 7-12)</th>
<th>Infant</th>
<th>Toddler</th>
<th>Pre-school</th>
<th>School-age</th>
</tr>
</thead>
<tbody>
<tr>
<td></td>
<td>$586.07</td>
<td>$487.11</td>
<td>$427.13</td>
<td>$422.74</td>
</tr>
</tbody>
</table>
Licensed family homes (capacity: 6 or less)

<table>
<thead>
<tr>
<th>Infant</th>
<th>Toddler</th>
<th>Pre-school</th>
<th>School-age</th>
</tr>
</thead>
<tbody>
<tr>
<td>$566.98</td>
<td>$463.50</td>
<td>$411.62</td>
<td>$406.83</td>
</tr>
</tbody>
</table>

Registered homes and in-home child care

<table>
<thead>
<tr>
<th>Infant</th>
<th>Toddler</th>
<th>Pre-school</th>
<th>School-age</th>
</tr>
</thead>
<tbody>
<tr>
<td>$289.89</td>
<td>$274.56</td>
<td>$251.68</td>
<td>$251.68</td>
</tr>
</tbody>
</table>

[Gr] H. The department pays a differential rate according to the license or registration status of the provider, national accreditation status of the provider if applicable, and star level status of the provider if applicable.

[H] L. Providers holding and maintaining CYFD approved national accreditation status will receive the differential rate listed in Subsection I. below, per child per month for full time care above the base rate for type of child care (licensed center, group home or family home) and age of child. All providers who maintain CYFD approved national accreditation status will be paid at the accredited rates for the appropriate age group and type of care. In order to continue at this accredited reimbursement rate, a provider holding national accreditation status must meet and maintain licensing standards and maintain national accreditation status without a lapse. If a provider holding national accreditation status fails to maintain these requirements, this will result in the provider reimbursement reverting to a lower level of reimbursement.

1. Providers who receive national accreditation on or before December 31, 2014 from an accrediting body that is no longer approved by CYFD will no longer have national accreditation status, but will remain eligible to receive an additional $150 per child per month for full time care above the base rate for type of child care (licensed center, group home or family home) and age of child until December 31, 2017.

   a. In order to continue at this reimbursement rate until December 31, 2017 a provider holding accreditation from accrediting bodies no longer approved by CYFD must maintain licensing standards and maintain accreditation without a lapse.

   b. If the provider fails to maintain their accreditation, the provider reimbursement will revert to the base reimbursement rate unless they have achieved a FOCUS star level or regain national accreditation status approved by CYFD.

2. The licensee shall notify the licensing authority within 48 hours of any adverse action by the national accreditation body against the licensee’s national accreditation status, including but not limited to expiration, suspension, termination, revocation, denial, nonrenewal, lapse or other action that could affect its national accreditation status. All providers are required to notify the department immediately when a change in accreditation status occurs.

[H] K. The department will pay a differential rate per child per month for full time care above the base reimbursement rate to providers achieving higher Star levels by meeting FOCUS essential elements of quality as follows:

<table>
<thead>
<tr>
<th>2+ Star FOCUS Child Care Centers, Licensed Family and Group Homes</th>
</tr>
</thead>
<tbody>
<tr>
<td>Infant</td>
</tr>
<tr>
<td>---------</td>
</tr>
<tr>
<td>$88.00</td>
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</tbody>
</table>

<table>
<thead>
<tr>
<th>3 Star FOCUS Child Care Centers, Licensed Family and Group Homes</th>
</tr>
</thead>
<tbody>
<tr>
<td>Infant</td>
</tr>
<tr>
<td>---------</td>
</tr>
<tr>
<td>$100.00</td>
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</tbody>
</table>

<table>
<thead>
<tr>
<th>4 Star FOCUS Licensed Family and Group Homes</th>
</tr>
</thead>
<tbody>
<tr>
<td>Infant</td>
</tr>
<tr>
<td>---------</td>
</tr>
<tr>
<td>$180.00</td>
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</tbody>
</table>

<table>
<thead>
<tr>
<th>5 Star FOCUS or CYFD approved national accreditation Licensed Family and Group Homes</th>
</tr>
</thead>
<tbody>
<tr>
<td>Infant</td>
</tr>
<tr>
<td>---------</td>
</tr>
<tr>
<td>$250.00</td>
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</tbody>
</table>

<table>
<thead>
<tr>
<th>4 Star FOCUS Child Care Centers</th>
</tr>
</thead>
<tbody>
<tr>
<td>Infant</td>
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<tr>
<td>---------</td>
</tr>
<tr>
<td>$280.00</td>
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</tbody>
</table>

<table>
<thead>
<tr>
<th>5 Star FOCUS or CYFD approved national accreditation Child Care Centers</th>
</tr>
</thead>
<tbody>
<tr>
<td>Infant</td>
</tr>
<tr>
<td>---------</td>
</tr>
<tr>
<td>$550.00</td>
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</tbody>
</table>

[Gr] K. In order to continue at the FOCUS reimbursement rates, a provider must meet and maintain the most recent FOCUS eligibility requirements and star level criteria. If the provider fails to meet the FOCUS eligibility requirements and star level...
criteria the provider reimbursement will revert to the FOCUS criteria level demonstrated.

[L] Differential rates determined by achieving higher star levels determined by AIM HIGH essential elements of quality will be discontinued effective December 31, 2017. The department will pay a differential rate to providers achieving higher star levels determined by the AIM HIGH essential elements of quality until December 31, 2017 as follows: 3-Star at $88.00 per month per child for full time care above the base reimbursement rate; 4-Star at $122.50 per month per child for full time care above the base reimbursement rate, and 5-Star at $150.00 per child per month for full time care above the base reimbursement rate. In order to continue at these reimbursement rates, a provider must maintain and meet most recent AIM HIGH star criteria and basic licensing requirements. If the provider fails to meet the requirements, this will result in the provider reimbursement reverting to the base reimbursement rate.

[M] The department pays a differential rate equivalent to five percent, ten percent or fifteen percent of the applicable full-time/part-time rate to providers who provide care during non-traditional hours. Non-traditional care will be paid according to the following charts:

<table>
<thead>
<tr>
<th></th>
<th>1-10 hrs/wk</th>
<th>11-20 hrs/wk</th>
<th>21 or more hrs/wk</th>
</tr>
</thead>
<tbody>
<tr>
<td>After hours</td>
<td>5%</td>
<td>10%</td>
<td>15%</td>
</tr>
<tr>
<td>Weekend hours</td>
<td>5%</td>
<td>10%</td>
<td>15%</td>
</tr>
</tbody>
</table>

[N] If a significant change occurs in the client's circumstances, (see Subsection G of 8.15.2.13 NMAC) the child care placement agreement may be modified and the rate of payment is adjusted. The department monitors attendance and reviews the placement at the end of the certification period when the child is re-certified.

[Q] The department may conduct provider or parent audits to assess that the approved service units are consistent with usage. Providers found to be defrauding the department are sanctioned. Providers must provide all relevant information requested by the department during an audit.

[P] Payments are made to the provider for the period covered in the placement agreement or based on the availability of funds.
NOTICES OF RULEMAKING, ISSUE 14

JULY 30, 2019

Children, Youth and Families Department

Notice of Rulemaking and Continuing Public Rule Hearing (/nmac/nmregister
/xxx/CYFDearly_Notice_xxx14.html) pdf version (/nmac/nmregister
/xxx/CYFDearly_Notice_xxx14.pdf)

Notice of Rulemaking and Public Rule Hearing (/nmac/nmregister
/xxx/CYFDnotice1_xxx14.html) pdf version (/nmac/nmregister
/xxx/CYFDnotice1_xxx14.pdf)

Notice of Rulemaking and Public Rule Hearing (/nmac/nmregister
/xxx/CYFDnotice2_xxx14.html) pdf version (/nmac/nmregister
/xxx/CYFDnotice2_xxx14.pdf)

Notice of Rulemaking and Public Rule Hearing (/nmac/nmregister
/xxx/CYFDnotice3_xxx14.html) pdf version (/nmac/nmregister
/xxx/CYFDnotice3_xxx14.pdf)

Superintendent of Insurance, Office of

pdf version (/nmac/nmregister/xxx/OSInotice_xxx14.pdf)

Water Quality Control Commission

Notice of Public Hearing to Consider Proposed Amendments to 20.6.4 NMAC - Standard for surface and Intermediate Surface Waters - San Isidro Arroyo and Tributaries (/nmac/nmregister

QUICK LINKS

NMAC LINKS

NMAC Home (/nmac/home)

NMAC Explanation (/nmac/explanation-of-code)

NMAC Titles (/nmac/nmac-titles)

NM REGISTER LINKS

NM Register Home (/nmac/nmregister/home)

All Volumes - Issues (/nmac/all-volumes)

Administrative Law Division (http://www.nmcp.state.nm.us/administrative-law/overview)

Commission of Public Records (http://www.nmcp.state.nm.us/)
FINAL
ADOPTED RULE
Full text of the final adopted rule and the concise explanatory statement filed with the state records administrator.
NOTIFICATION OF MINOR, NON-SUBSTANTIVE CORRECTION

September 12, 2019

To: Brian Blalock, Secretary, Children, Youth and Families Department
c/o Debra Gonzales, Policy Compliance and Quality Assurance Manager

From: Matthew Ortiz, Administrative Law Division
by designation for the State Records Administrator

Re: 8.8.3 NMAC, 8.15.2 NMAC, 8.16.2 NMAC and 8.17.2 NMAC, filed on September 12, 2019, to be published on September 24, 2019 and effective on October 1, 2019

Pursuant to the authority granted under State Rules Act, Subsection D of Section 14-4-3 NMSA, please note that the following minor, non-substantive corrections to spelling, grammar and format have been made to all electronic copies of the above rule:

For all official rules and agency copies of all above rules, the file stamp incorrectly identified time of filing as in the A.M., when in fact they were filed in the P.M. (this afternoon). There was a power outage earlier in the week, which must have affected the file stamp machine. The filing machine has been corrected.

A copy of this Notification will be filed with the official version of each of the above rules.
NMAC
Transmittal Form

Volume: XXX  Issue: 18  Publication date: 9/24/2019  Number of pages: 9  (ALD Use Only) Sequence No. 

Issuing agency name and address:
Children, Youth and Families Department

Agency DPA code: 690

Contact person's name: Debra Gonzales  Phone number: (505) 231-5820  E-mail address: Debra.Gonzales@state.nm.us

Type of rule action: Repeal

Title number: 8  Title name: SOCIAL SERVICES

Chapter number: 15  Chapter name: CHILD CARE ASSISTANCE

Part number: 2  Part name: Requirements for Child Care Assistance Programs for Clients and Child Care Providers

Amendment description (If filing an amendment):
Amending six sections

Amendment's NMAC citation (If filing an amendment):
Sections 7, 9, 12, 13, 15, and 17 of 8.15.2 NMAC

Are there any materials incorporated by reference? Yes No

Please list attachments or Internet sites if applicable.

If materials are attached, has copyright permission been received? Yes No Public domain

Specific statutory or other authority authorizing rulemaking:
Section 9-2A-7 NMSA 1978:

Notice date(s):
July 30, 2019

Hearing date(s):
August 30, 2019

Rule adoption date:
September 12, 2019

Rule effective date:
October 1, 2019

8/12/2019
Concise Explanatory Statement For
Rulemaking Adoption:

Findings required for rulemaking adoption:

Findings MUST include:
- Reasons for adopting rule, including any findings otherwise required by law of the agency, and a summary of any independent analysis done by the agency;
- Reasons for any change between the published proposed rule and the final rule; and
- Reasons for not accepting substantive arguments made through public comment.

Reason for adopting rule, including any findings otherwise required by law of the agency, and a summary of any independent analysis done by the agency:
The purpose of the rules is to amend the eligibility levels for child care assistance, to eliminate the waiting list for child care assistance, to provide an explanation of the co-payment calculation and where to find the co-payment schedule, to comply with federal regulation to pay for registration/educational fees for children receiving child care assistance benefits on behalf of client, and to address the overlap of care hours under payment for services.

Reasons for any change between the published proposed rule and the final rule:
The public rule hearing was originally schedule for July 8, 2019, which was postpone and the continuations of the public rule hearing was held on August 30, 2019. The proposed rule was amended based on the continuation of public hearing to include the following: Based on public comments, Children, Youth and Families made changes from the original proposed rule to increase the initial eligibility level to 200% of Federal Poverty Level and exit of 250% of Federal Poverty Level. In addition, based on recommendations received, CYFD incorporated the formula for calculating the co-payment for the first full time child. These changes were part of the Notice of Rulemaking and Continuing Public Rule Hearing.

Please see attached document for reasons for not accepting substantive arguments made through public comments.

Issuing authority (If delegated, authority letter must be on file with ALD):

Name: Brian Blalock
Title: Secretary
Signature: (BLACK ink only)

Check if authority has been delegated

Date signed: 09/12/19

8/12/2019
8.15.2 NMAC Public Comment Summary and Department Responses

[Some oral comments are summarized and paraphrased, general statement of support are not included, as they do not need to be addressed.]

**FEDERAL POVERTY LEVEL AND ELIGIBILITY**

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Slashing eligibility for child care assistance harms New Mexico’s families!
Families need reliable and safe child care so that they can make a living and pursue future career opportunities. Without child care assistance, families are often unable to afford appropriate child care and are faced with the difficult choice of either resorting to lower quality care or foregoing education or work opportunities. CYFD raised eligibility to 200% of the federal poverty level in November of 2018 and enrollment has not increased. CYFD should seek supplemental funding from the legislature before cutting the eligibility level.

I am shocked. How can you even contemplate cutting care services.!!
Certainly not in accord with governors position.

Please thoughtfully consider these concerns and carefully weigh the money that may be saved now through cutting eligibility against the costs that will inevitably be paid down the road as these children are put at greater risk of abuse and neglect and other negative outcomes due to the unreliability of childcare and the loss of income when parents cannot work and instead are forced to stay home to care for their children during work hours. More specifically, I ask CYFD to immediately seek supplemental funding from the legislature before cutting the eligibility level from 200% of FPL to 160%. I hope you will agree that New Mexico’s kids deserve the best possible support they can get from those who are charged with taking care of them, and that our shared responsibility thus dictates that CYFD and the legislature should maximize childcare assistance, not reduce it.

The proposed eligibility limits where FPL of 160% and cost sharing for childcare of 10% will have further detrimental effects on families ability to access child care. From firsthand experience with my office staff increased cost of childcare would negatively affect work attendance and performance. I am not in favor of the proposed rules.

I received child care assistance and depend on it tremendously, even though I have been working for a... company for 13 years I still cannot afford the $2,210.00 monthly cost of full time child care for my two youngest... if I were to become disqualified I would lose my job and the career I have been working on for the last 13 years. As it currently stands I struggle with even the idea applying for promotional opportunities as I know that if I get a raise I will lose child care assistance and unless the promotion comes with a $26,520 pay increase I would lose more than I would gain. My current co pay is 422.00 which is very hard to make some months but I’m still so grateful that I receive the help that I do get. On top of jeopardizing my job, losing child care would devastate my children as they truly love their teachers and the friends they have spent 8 hours a day 5 days a week with since they were 6 weeks old. Please do not reduce the eligibility for child care assistance, I do not abuse the assistance, I NEED it so that I can keep my job and provide for family.

Slashing eligibility for child care assistance harms New Mexico’s families!
I have done childcare for around 10 years and if we slash the eligibility from 200 to 160 we will have an even bigger decrease in not only the participants in the program but also will drop the
number of childcare facilities that are licensed. We will see a huge increase of unlicensed care
place or kids left by themselves because their parents can’t afford childcare at a quality place. I
feel it will not only harm the families but the most importantly will harm the children.

As a resident of New Mexico, I am opposed to the proposal to cut child care assistance
eligibility. It is shameful that this is even being discussed when child wellness in New Mexico
ranks the worst in the country.

Cutting eligibility for child care assistance will only hurt our families and CYFD co-payments are
already too high.

When I found out that there was a program that helps low-income families with childcare costs,
I applauded those who put that into effect. As a state, and country, it is essential that we
support these families, so that the parents can work and be contributing members of society. It
also helps ensure that their children are in safe and sanitary childcare situations.

Now I hear that this support may be cut, or at least limit the families who are eligible. Please
continue to fund and increase the funding, so that low income families don’t pay more than 7%
of their income on childcare. NM is ranked very low in child wellness and this is an area directly
related to that ranking. Please put NM children first!

I am a New Mexican citizen located in... and I write to plead with you to not cut the eligibility
levels for childcare assistance for hardworking families in NM. In my county 25% of the children
live in families that are below the poverty line, where parents are working 2 and 3 jobs to put
food on the table. Quality childcare is the only hope for these children to reverse the cycle of
poverty that their family has experienced. The way forward for these children to receive good
pre-school care and enter school prepared to succeed and work toward a better life.

Every working parent deserves to be able to leave their child in a safe, nurturing place while
they work. But it costs more to send your child to a high-quality care program than to UNM –
and there’s no lottery scholarship! Please do not cut child care assistance eligibility levels. This
program already serves thousands fewer children than it did a decade ago. With New Mexico
ranked 50th in child well-being, it’s time to make child care assistance a higher priority.

Give assistance to more families not less. My husband and I both work full time jobs and are still
unable to afford childcare for our one child, yet if I quit my full time job then I would qualify.
This makes no sense. If you want people to be able to stay employed and help working families
then give them the assistance they need.

I am very concerned about the risks that come along with limiting eligibility for child care
assistance. There was a time when I was unable to maintain full employment due to the
exorbitant costs of childcare for my two youngest children during early childhood. This put
immense stress on our family budget and significantly impacted our ability to provide healthy
food and enriching activities for our children. Early childhood is a critical time for brain
development, and enriching activities and healthy food are key to healthy development. The
Governor has stated her goal to end childhood hunger in New Mexico. There are direct
correlations between accessibility of safe and affordable childcare and food security for families
with young children. Please consider this as you make decisions that fundamentally impact the
health and well-being of our youngest and most vulnerable community members.

I’m writing in opposition of the proposed cutting eligibility levels for working families needing
child care assistance. Child care is a family’s largest living expense – and high-quality child
care costs more than tuition at UNM. Parents who are working but earning low wages, or are in
school, can receive assistance from the state’s Children, Youth and Families Department (CYFD).
Unfortunately, the program has long been underfunded and, thanks to budget cuts over the
past decade, thousands fewer children are receiving assistance now than did in 2010.
Every working parent deserves to be able to leave their child in a safe, nurturing place while they work. But it costs more to send your child to a high-quality care program than to UNM—and there's no lottery scholarship! Please do not cut child care assistance eligibility levels. This program already serves thousands fewer children than it did a decade ago. With New Mexico ranked 50th in child well-being, it's time to make child care assistance a higher priority.

I do not support cutting child care assistance from 200% of poverty! Our Governor supports taking strong action to address NM children's well-being with serious innovation and investment. Child care assistance cannot be reduced at a time when we have again slipped to 50th in our Kids Count ranking.

Child care assistance is one of the most crucial services needed by low-income families in New Mexico. Cutting eligibility for this assistance from 200% to 160% is counterproductive to the welfare, safety, and well-being of the children of our state. Working parents need to know that their children are well taken care of while those parents are working or involved in education activities. Seeking supplemental funding to maintain the 200% eligibility level is a reasonable way to address the current shortfall. Our organization strongly urges CYFD seek these supplemental appropriations. Thank you for your consideration.

How do we expect to improve child well-being in New Mexico if families can't access quality childcare? We should make it easier for working families to access childcare instead of harder. Working parents include those going to school to further their job opportunities. A child's first 5 years are the most important in many ways, which means services aimed at those years have a big impact. Every working parent deserves to leave their child in a safe, nurturing place while they work. But it costs more to send your child to a high-quality care program than to UNM—and there's no lottery scholarship! Please do not cut child care assistance eligibility levels. This program already serves thousands fewer children than it did a decade ago. With New Mexico ranked 50th in child well-being, it's time to make child care assistance a higher priority.

I am submitting these comments on behalf on the Community Action Agency of Southern New Mexico. We are an anti-poverty organization that serves over 15,000 vulnerable Southern New Mexicans each year. We work with 100's of working poor families that fall between the 150-200% Federal Poverty Level. Families within this range are constantly struggling to pay for family expenses as they work hard to provide for their families. The need for affordable childcare comes up daily in our work with our families and should not be ignored. As a state, we need to address the conditions that cause poverty and increase the resources needed to fight those conditions. Reducing the income eligibility requirements for childcare assistance would be the opposite. Working parents and caregivers should have more support to stay employed not less.

Please maintain or expand childcare support for working families. Children who can access quality childcare are better prepared for school and less likely to become victims of child abuse. Parents who can provide for their families feel more competent and capable to do right by their children. This impacts the whole family and each community. Please, for these reasons and economic reasons—maintain or increase childcare subsidies.

Parents who are living in poverty and those who are among the working poor find it very hard to pay daycare costs which can be more expensive than paying for a college education. Parents stressed by poverty, single parents, and parents who are impaired by effects of being poor or among the working poor need to have pressures like worrying about care for their children alleviated. We know only too well in NM what happens in poverty stressed households, particularly those with additional stresses of substance abuse, an incarcerated parent or
parents whose own early childhood experiences were unduly stressed causing them to have impaired attachment during their own early years.
I know these situations very well. I worked at... for a short time with a number of families who were court ordered to attend their programs. I worked for 15 years as a counselor in a Title I school in Rio Rancho. I worked in as an Early Intervention specialist, counselor and co-director at Alta Mira Specialized Family services. I was the director of BCMC's Child Life in Hospital program. I helped to develop a Day Care Center in Truchas, NM under the Presbyterian Church with monies Dr. Robert Cole/Harvard obtained from the Field Foundation as it transitioned that parochial school into a Community Center. My doctoral dissertation work in Counseling Psychology was about effects of adult attachment in buffering stress. Through that time, I heard seminal and primary researchers in Attachment talk about both child and adult attachment including the Disorganized/Disoriented category which is more often found in children rated high on the Adverse Child Event scale.
We need desperately to find monies for the gap which is preventing families below 200% of the poverty line from getting safe, nurturing, and developmentally supportive child care... especially in these times of many other pressures on families. NM has unfortunately seen some of our children terribly traumatized and even killed in home situations.
I know that the Early Childhood Care and Education act was passed to establish a single department to offer both home based support to families of young children and quality early childhood programs. No funding was passed to establish this program to my knowledge. Despite comments from legislative finance staff, even quality day care is a step in the right direction of keeping children basically nurtured and safe, with someone else able to know if more support is needed. Poor and working poor parents need that to get a hand to lift them up at least some of the way toward leading a predictable life with possibilities for them to interact positively with their children. Ask Dr. Andy Hsi, and other pediatricians like those at the UNMH Young Children's Health Center. No wonder many other countries think that Americans are not child supportive.
We know that those early years are critical for brain development. Secure attachment contributes to that and the theory of mind needed for children to have good relationships with peers, be able to relate positively to teachers, and to be cognitively open to exploration and learning critical to school success. We know that those years are critical to pipe children AWAY from years in jails, substance abuse and crisis laden lives. Maybe purse holders who do not budget money for these basic child needs should pay for the additional costs of these damaged lives. My church found monies for the Paul Hopkins Center for Children and Families. Somehow together we should be able to find what is needed for child care assistance. I have personally worked intensively with children severely damaged in their early years and know the cost of those experiences in their lives. Some of those children were beyond full recovery by the time I saw them in elementary school, where my goal as a counselor was "to return childhood to children."

Please do not cut childcare assistance for our poor in NM. I thought things would improve in NM under new leadership, but we are still failing our families. NM will always stay 50th in child wellbeing unless we help our poor get out of poverty. They can't do it with both hands tied behind their back. You have the power to change things - do it!

I believe that every working parent deserves to be able to leave his/her child in a safe, nurturing place while s/he is working. That's why child care assistance is so important. Please do not cut child care assistance eligibility levels. With New Mexico ranked 50th in child well-being, I strongly request that you make child care assistance a higher priority.
I would like to congratulate the Administration and CYFD for its recent decision to withdraw a proposal to cut the eligibility cut from 200% to 160% of poverty level for continued assistance with childcare tuition. If our goal is to reach universal accessibility of childcare, preschool, necessary early child education and development as a state then we cannot afford to begin so by increasing the struggle to provide for close to 20,000 children current service access. On behalf of Catholic Charities I would like to applaud the State’s administration and CYFD for a very encouraging and appropriate move.

As a pediatrician concerned about the overall health of children, I object to the CYFD proposal that would lower the upper limit of income (to 160% of FPL) for eligibility for child care subsidy. Quality child care is important in allowing children to thrive, paying vast dividends in later life. New Mexico’s children are already exposed to the environment the Annie E. Casey Foundation indicates is the worst in the nation for child well-being. We should improve it, not making it even worse.

I am distressed to hear that CYFD is planning to systematically make access to high quality child care more difficult for under-privileged and working-poor mothers and families. This strikes me as extremely short sighted, increasing the risks of children being exposed to Adverse Childhood Experiences, including being neglected, and of being cared for in situations that are much less than optimal. It also increases the chances of mothers and families being trapped in vicious cycles of poverty and hopelessness. In an economic structure like ours - in New Mexico and the United States - full pay quality child care is simply outside the reach of most working families. Not receiving that increases stress on families and reduces the kinds of enrichment that young children need for optimal neurological development. Investing in high quality childcare is in some ways the ultimate investment in bending the arc from New Mexico being perennial at the bottom of the table for child wellbeing towards building a future where are citizens can realize their potential. It is high time to get our priorities in order and invest in our children and grandchildren seriously.

I’m writing in regards to the meeting that was going to happen on Monday. I’m deeply concerned about families who need childcare being able to afford it. I’d like to share the story of a single mother who has 4 kids who just got a contract but was told her copay would be $400. This same mother is looking at an eviction this Tuesday, July 9th and is $650 short for rent. Our neighboring state, Colorado’s income eligibility is almost 300% and over 26 states have eligibility requirements at around 240%. These are lead indicators. The more families who have access to high quality childcare the more quantitative results we will see. We must also remember these numbers represent individual families with children who need high quality learning environments that will put them on the path to future success. If we want pathways out of poverty then early education opportunities have a proven track record of providing that path. I hope CYFD will look at matching other states in waiving copays and having a higher income threshold.

Our comments are based on supporting family economic stability and the healthy development of children. As the only child care provider in Sierra County we have an “on the ground” view of the costs of operating a child care program in frontier New Mexico, as well as the challenges families face every day. We have reviewed the proposed regulations and offer comments and suggestions aligned with the Child Care and Development Block Grant Act of 2014 to increase the number and percentage of children whose care is paid for with a child care subsidy in high-quality child care.

8.15.2.7 DEFINITIONS and 8.15.2.9 PRIORITIES FOR ASSISTANCE
The proposed regulation eliminates the definition of the “waiting list” for child care services and also reduces eligibility for child care assistance from 200% of the federal poverty level to 160%.
Comment: The dual implication of these changes is concerning. Reducing the income eligibility for assistance affects not just the ability of parents to work, but also the types of child care settings in which the children of low wage parents will spend their time. Either the assumption is that parents who can’t afford the cost of child care on their own will reduce their hours or not work, or that their children will be in unlicensed care because without child care assistance, working parents can’t access the licensed market.

As of April 2019, there were 20,092 children in New Mexico receiving CYFD child care subsidies. This pales in comparison to the 84,002 children under age 6 and 177,043 children between age 6 and 11 below 200% of the federal poverty level. Since children age 13 and younger are eligible, the universe of potentially eligible children below 200% of the federal poverty level exceeds 261,000 children in New Mexico.

Limiting child care assistance to children in families below 160% of the federal poverty level means at least 36,293 children (16,468 under age 6 and 19,825 between ages 6 and 11) will be in families who are no longer eligible for child care assistance. Maybe their parents will choose not to work or reduce their hours given the cost of child care. Or, maybe their parents will continue to work and choose unlicensed care where the quality and safety are unknown. The only thing we know for sure is that reducing child care assistance for more than 36,000 children is not likely to improve either family economic stability or child well-being.

Household lens. Research shows that a lack of reliable and dependable child care leads to a reduction in parent income, hours worked, work performance and advancement opportunities. Children live in families. Undermining parent employment means that a child lives in a household that may struggle to pay rent, purchase food, and cover other basic necessities. This in turn undermines child development and well-being, the very policies that child care assistance is designed to promote.

Child lens. Research shows that children with access to high-quality child care are more likely to develop nurturing, responsive, and continuous relationships with their caregivers which is important for social and emotional development and such children are more likely to experience developmental gains across domains (e.g., social, emotional, physical, and cognitive development). The first three years of life are crucial for social-emotional and cognitive development and overall mental health.

Employer lens. Research shows a relationship between child care instability and employers’ dependability on a stable workforce as well as a cost to employers in absenteeism due to child care instability resulting in an estimated cost of $3 billion annually. A study of low income families in Maryland found that the odds of experiencing a child care related work disruption were 75% lower for parents receiving a subsidy than parents not receiving a subsidy. Whether the lens is related to parents, children, or employers, reducing eligibility from 200% of the federal poverty level to 160% doesn’t promote child well-being. In fact, it is very likely to reduce the well-being of children.

Waiting List elimination. Eliminating the waiting list for child care assistance does not mean that families won’t need child care assistance or qualify for it. Instead it means that the public will lose the ability to access data that shows the interest in child care assistance. Waiting lists aren’t perfect. They are a snapshot in time and some families may choose not to join the waiting list upon being informed of its length. Regardless, having a waiting list is better than not, so in the event that funding was to be made available, a go-to list would be readily available. In addition, having a waiting list is one type of indicator as to whether current funding is meeting the demand. Eliminating the waiting list is a policy promoting guess work, again, undermining the well-being of families with children.

8.15.2.12 RECERTIFICATION
The regulation proposed that "clients who recertify will qualify at or below 200% of the federal poverty level." Comment: We are unclear what this means and how it would be implemented. First, we oppose reducing initial eligibility to 160% of the federal poverty level. Second, under the Child Care and Development Block Grant (CCDBG) Act of 2014, states are required to have a graduated phase-out of assistance to ensure that families don't incur a cliff as income rises.

There's a unique problem related to income in New Mexico and the eligibility requirement under CCDBG set at 85% of state median income (SMI). Compared to the US median family income of $73,891, New Mexico median family income is $58,308, $15,583 lower. This is a challenge for the graduated phase-out tied to 85% of SMI, but nonetheless, important to understand in concept as state policy is set. The purpose of the graduated phase-out provision is to promote continuity of care and ensure that families are well-positioned to access child care for their children. The CCDF regulations tell states to "show that their exit threshold takes into account typical family expenses such as housing, food, health care, diapers, transportation, etc., and is set at an income level that promotes and supports family economic stability and reasonably allows a family to continue accessing child care services without unnecessary disruption." In addition, the final rule uses seven percent of family income as a benchmark for affordable child care. Can a family at 200% of the federal poverty level access high-quality child care at a cost that doesn't exceed 7 percent of income? Data from the 2018 New Mexico market rate survey shows that the average monthly infant rate for center-based care is $672 per month. That's $8,064 per year. A family of 3 earning 200% of the federal poverty level would earn $42,660, which means the average cost of center-based infant care would be 18.9% of income—far exceeding the U.S. Department of Health and Human Services recommendation for child care costs at 7% or below of income.

We urge CYFD to rethink the graduated phase-out concept. How could the policy be crafted so that there is a gradual phase-out for New Mexico families so that the cliff effect is avoided, families can still access market-based child care, and costs to families do not exceed 7% of income? This is the concept behind the graduated phase-out provision under CCDBG reauthorization. It's not meant as a check-box strategy, but instead, it's meant to support the economic stability of families and access to high-quality child care for children. We can do this, but not under the current proposed policy.

I am writing to voice my opinion on the proposed increase on income eligibility for child care assistance from 150 percent to 250 percent of the Federal Poverty Level. I am a New Mexico resident, local business owner, and child & family therapist. I am also a volunteer leader with Save the Children Action Network, an organization that represents 3,900 parents, teachers, medical professionals and local business leaders in New Mexico who are passionate about advocating for kids. I support this proposed increase, and see it as a necessary step to ensure that all New Mexican families have access to high quality and affordable childcare. This is a critical issue in our state. When families cannot afford or do not have access to high-quality childcare, like that which CYFD subsidizes, it negatively affects child health and well-being, as well as parents' ability to contribute to the state workforce, which is detrimental to our economy. Currently in New Mexico, 2/3 of children under 5 years old have two working parents, and yet, only 18% of children in low-income families in our state are receiving subsidies for childcare. In nationwide polls, child care policies, including subsidies, have broad public approval because people know how beneficial child care access is to our communities.

In my work with children and families in our New Mexico communities, I have heard countless stories from well-deserving and desperate families who cannot afford childcare for their children, in part due to not qualifying for CYFD assistance under the current income eligibility.
One mom has a 3-year-old son with significant speech delays, childhood trauma, and suspected but not yet diagnosed Autism. He needs childcare with a low child to provider ratio and structured routines and transitions to support his needs. He is not receiving this, but she cannot afford a higher quality childcare center. Another mom shared a story about when her child was a few months old and she needed to return to work. She chose a childcare center that she could afford because her options were extremely limited. Several weeks later, when she picked him up from his childcare center, her infant had a split lip (which resulted in the need for an ER visit and stitches) and was still dressed in a blood-soaked shirt. Nobody at the center could tell her what had happened. I can only assume that this would not have happened if she had had access to high quality childcare. On the contrary, I also work with several families that DO have access to CYFD subsidies for childcare. In many cases, this has made all the difference for these vulnerable families and children. A single mother of 3 children, all under age 5, has been able to continue working to provide for her children because of qualifying for this subsidy. When parents are already facing countless daily stressors, being able to afford childcare where they can trust that their children are going to be safe and cared for should NOT be one of them.

We have the opportunity to do better for our state’s families and children, and we need to take advantage of it. I encourage CYFD to raise the income eligibility for child care assistance from 160 percent to 250 percent of the Federal Poverty Level.

Expand eligibility for Childcare assistance to 250% of FPL. Families living below 250% FPL can not afford high quality child care. Eligibility needs to be higher than current levels.

However, the proposed regulations do not state that families are actually eligible at 200 percent FPL eligibility, regardless of priority level. The proposed regulations cause this confusion by setting the 200 percent FPL eligibility within a single priority level. We recommend that the Department include the following clear statement: “The Department currently provides child care assistance to families in all priority levels.”

Current practice in both child protection and child welfare services clearly demonstrates the value of grandparents as caretakers for their grandchildren. The benefit to children who learn and grow among close relatives contributes to their sense of self and security and lays the foundation for successful life choices. Many grandparents live on a fixed income that does not stretch beyond their own needs. Childcare assistance should be available to all grand-parents. The eligibility requirements for child care assistance should be clear and complete. It is not necessary to cause additional stress for families and caretakers seeking to provide a beneficial service to children in their care.

Childcare assistance needs to be more accessible to grandparents raising their grandchildren. If grandparents enroll grandchildren in a cash assistance program, the child automatically receives both cash and childcare assistance without any consideration of the grandparents’ income. However, many grandparents, especially those living on fixed incomes, who don’t know about or need cash assistance programs still need childcare assistance. The department should align its rules to make childcare assistance available to all grandparents raising grandchildren.

Grandparents caring for grandchildren need to be eligible for the program.

Grandparents Raising Grandchildren Should Have Access to Child Care Assistance

We urge the Department to promulgate regulations that make child care assistance available to all grandparents raising grandchildren. Currently, grandparents raising grandchildren are eligible for child care assistance, so long as they have incomes below the threshold for eligibility. Once they can prove they are income eligible, the Department will waive the co-pays. However, if the grandparents enroll their grandchild in Temporary Assistance for Needy Families (TANF), which they can access without consideration of their income, the child can be automatically
enrolled in child care assistance without any consideration of income or a co-pay. This is an unfortunate distinction because many grandparents do not need or know about cash assistance through TANF, but desperately need child care assistance. Many are barred from getting child care assistance because they have incomes just over the eligibility threshold, but still cannot afford the astronomical cost of child care. A common sense solution would be to align the Child Care regulations to match the TANF regulations, so grandparents can access the one program, without having to enroll in both.

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<th>The department should align its rules to make childcare assistance available to all grandparents raising grandchildren. Many grandparents, especially those on fixed incomes, who don’t know about or need cash assistance programs, still need childcare assistance.</th>
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Childcare assistance needs to be more accessible to grandparents raising their grandchildren. If grandparents enroll grandchildren in a cash assistance program, the child automatically receives both cash and childcare assistance without any consideration of the grandparents’ income. However, many grandparents, especially those living on fixed incomes, who don’t know about or need cash assistance programs still need childcare assistance. The department should align its rules to make childcare assistance available to all grandparents raising grandchildren.

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<th>Childcare regulations should provide complete information about eligibility requirements. CYFD’s proposed regulations do not explain how the department counts income to determine eligibility or exactly what paperwork is required. Families have a right to know how CYFD makes these decisions. To be fair and effective, the program must be transparent and eligibility information must be accessible.</th>
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How eligibility is determined needs to be publicized and easily understandable.

| Policies Impacting Family Eligibility Must be Promulgated into Regulation  
State law requires CYFD to comply with the administrative procedures in the State Rules Act, because it is an “agency” under the Act, and because the Children Youth and Families Department Act mandates compliance with the State Rules Act.  
The State Rules Act defines a “rule” as “any rule, regulation, or standard” that affects “one or more agencies besides the agency issuing the rule,” “persons not members or employees of the issuing agency,” or “persons served by the agency.” Any policy that meets this definition of a rule must be promulgated into regulation.  
The method the Department uses to calculate income to determine eligibility meet the definition of a policy that must be promulgated into regulation. Currently, the Department’s monthly income calculations are in the worker manual, but they are not promulgated into regulation. The calculations in the manual include a formula that takes into account how frequently a family receives their paychecks. Since this is not in regulation, a family has no way of knowing how their income is calculated. For instance, a family may believe they are eligible based on the last four weeks of pay checks. However, this would be incorrect. Without this information, families cannot accurately determine which income bracket they fall into when using the co-pay formula. The Department’s worker manual shows that CYFD has other policies that must be promulgated into regulation to comply with the State Rules Act. A nonexhaustive list of these policies include the following: The method the Department uses to take fluctuations in earning into account for eligibility determinations, and The policy that overpayments will not be issued to a client except in cases of substantiated fraud. |
|---|

Childcare regulations need to provide complete information about how eligibility requirements are determined and what paperwork is required.

| Oral Comment 6: Appreciative of keeping entrance to 200%. The hearing should have more parents attending, center owners and providers. Ask that in the future the hearing be at times | 2 |
that are better for parents because you should be hearing from them. Affordability and accessibility go beyond childcare.

**Oral Comment 2:** Signed on to and support CfL&P comments. Speaker described history of FPL level changes.

1. Suggest FPL level be 300% so that there is less of a “cliff effect”. As people gain a bit more income they don’t lose their eligibility for the program.
2. Recommend the co-pays under 100% be eliminated. This is a federally recommended level.
3. For those over 100% the co-pays should not exceed 7%. This is also a federally recommended level. In a state with a high level of poverty, this is essential.

When the department asks for funding for this program, “we will have your back”.

**Oral Comment 1:** (CfL&P reiteration of written comments also submitted) The proposed regulations do not state that families are actually eligible at 200 percent FPL eligibility, regardless of priority level. The proposed regulations cause this confusion by setting the 200 percent FPL eligibility within a single priority level. We recommend that the Department include the following clear statement: “The Department currently provides child care assistance to families in all priority levels.”

Would like to see other changes:

1. Copay should only be charged if income is over poverty level.
2. Would like copays capped at 7% for families 100% above the FPL.
3. Grandparents Raising Grandchildren should have access to Child Care Assistance. A common sense solution would be to align the Child Care regulations to match the TANF regulations, so grandparents can access the one program, without having to enroll in both.
4. The department should simplify the regulations on co-pay calculations and clearly state the eligibility level.

Response:

The Children, Youth and Families Department (CYFD) set the Federal Poverty Level (FPL) entry threshold at 200% and the exit threshold at 250%.

CYFD has committed resources to providing for the increase to eligibility by increasing the entry and exit percentages of the Federal Poverty Level. CYFD will monitor the budgetary impacts before considering other enhancements to the child care assistance program such as reducing co-payments for families and grandparents.

The subcategory priority levels are set for identifying different eligibility requirements and funding sources for expenditures. Regulations, as written, do not exclude any priority levels from being eligible at 200% FPL.

The waiting list is taken out of policy due to the increase of FPL. Increase in funding for child care assistance to go above the FPL will require regulation changes. Data will be kept by the department on families who are above the 200% FPL at entry and 250% FPL at exit.
The CYFD is also committed to reviewing the Child Care Assistance Regulations to provide further clarification, to include eligibility determinations and copayment calculations.

**CO-PAYMENTS**

**CYFD’s copayments are unaffordable!**

According to CYFD data, just a third of eligible families participate in the program. Federal law requires CYFD to make co-payments affordable for families. Federal guidance recommends that co-payments be no higher than 7% of a family’s income. CYFD has not set a cap on copayments, and parents often pay much more than 10% of their income on child care, including families living in deep poverty. CYFD data from FY2017, shows a 66% drop in participation in the program once families are charged a copay, beginning with incomes as low as 25% to 50% of the FPL. Parents who cannot afford the copayment often have to reduce their work hours or seek alternative and often unreliable care. Families should not have to choose between paying for childcare or other basic necessities like food and clothing. New Mexico’s kids deserve better!

I have not been able to charge copayment to any of my families in a while due to the high amounts the dept charges. For an example I have a parent with two kids and pregnant and her copayment is almost half of the amount I get reimbursed. I feel that if we can cap this at the fed level we can increase the participation of the parents in the program. Which will increase the childcare participation as well as the participation in higher focus stars which will show NM is giving out the best quality possible. Another issue is I have parents with 0 copayment but I have to charge them gross receipt tax anyways but they can’t afford a copayment much less 400 gross receipts. So maybe a huge problem is since we have to charge the parents taxes we should eliminate the copayments all together. I know for a fact many providers just eat the tax and pay it but it isn’t fair to the providers nor the parents.

Parents who cannot afford the copayment often have to reduce their work hours or seek alternative and often unreliable care. Families should not have to choose between paying for childcare or other basic necessities like food and clothing. New Mexico’s kids deserve better!

**8.15.2.13 CLIENT RESPONSIBILITIES**

A series of co-payments are established based on number of children, hours of care, and family income. **Comment:** The U.S. Department of Health and Human Services has established 7% of income or below for affordability for families who need child care. The proposed co-payment schedule is complicated, and copayments exceed 7% of family income in many cases. Also, it appears to be tied to hours of care although HHS regulations clarify “that Lead Agencies are not required to limit authorized child care services strictly based on work, training, or educational schedule or the number of hours that a parent spends in work, training, or educational activities.” Furthermore, the preamble to the regulations state, “in some cases, such “matching” works against the interests of the parent or child. Lead agencies are encouraged to authorize adequate hours to allow children to participate in a high quality program, which may be more hours than the parent is working or in education or training.”

The reality is that child care is a business. When state regulations set co-payments at a certain level, it is up to child care providers to collect it. At best, it is often what child care providers call “bad debt” – it is simply not collectible, not collectible on time, not collectible in full, or at its worst – it is a financial hardship on families. We urge you to review the copayment policy and limit it to at or below 7% of family income.

Families under the poverty level should not have co-pays to pay. It isn’t affordable and forces families off the program.
Past experience has demonstrated that those families living below the poverty line are more likely to withdraw their children from child care services because the co-pay is not affordable. CYFD needs to eliminate co-pay for these families and their children. Imposition of a co-pay can defeat efforts to help these families not only to improve their circumstance but also the opportunity for their children to benefit from educational services offered in child care setting. In other situations CYFD is urged to comply with Federal guidance which recommends co-payments no higher than 7% of the family’s income.

Families with incomes below the poverty line should not have copays. Families should not have to choose between paying for childcare or other basic necessities like food and clothing. Currently, CYFD charges copayments to families with incomes at or above 25% of FPL. This causes participation to drop by about half for some of the lowest income families in the state due to the high financial burden of the copayments. New Mexico should eliminate copayments for families living below the poverty line to ensure that families can access childcare and meet basic needs.

Copays should be capped so they are affordable. Everyone should have access to affordable child care so they can pursue career and educational opportunities. CYFD has not set a cap on copayments and parents often pay more than 10% to 15% of their income towards child care costs, even when they are getting assistance. Federal guidance recommends that copayments be no higher than 7% of a family’s income to be affordable. Parents who cannot afford the copayment often have to reduce their work hours or seek alternative and often unreliable care.

Please keep and continue to make childcare regulations that work for NM families. Our families with incomes below the poverty line should not have copays. New Mexico should eliminate copayments for families living below the poverty line to ensure that families can access childcare and meet basic needs.

Low-income families should not have to pay a copay to have access to childcare. Childcare helps families, single-moms, grandparents, and single-dads get out of poverty by having the time to go to school and/or have a full-time job. Do not require copays for low-income families.

**CYFD Must Establish Affordable Co-Payments and Address the Cliff Effect**

One purpose of the Child Care Development Block Grant Act is to “increase the number and percentage of low-income children in high-quality child care settings.” However, the unaffordable co-payments in the proposed rules run contrary to this purpose. A New Mexican family of three with income at 100 percent of FPL and one child in care pays more than similar families in 28 other states. Four of those 28 states do not charge families a co-pay when they have income at or below 100 percent of FPL. Currently, the Department does not charge co-payments for families at or below 25 percent of FPL. Above 25 percent FPL, families have copayment obligations, and participation drops by approximately half due to the financial burden of these co-payments. New Mexico should begin charging co-payments at 100 percent of FPL to avoid a drop in enrollment and ensure that families can access child care while they are furthering their education or working. Child care co-pays prevent eligible families with income above 100 percent of FPL from accessing the program as well. The United States Department of Health and Human Services (HHS) recommends that child care co-pays costs no more than seven percent of a family’s income. However, for a single parent family at 150 percent of FPL in New Mexico with two children receiving care, co-pays are 10 percent of family income. At 200 percent FPL, it is 13 percent of income. For families with more than one child, the cost prohibits the family from accessing the program and as a result, parents have to forego work or educational opportunities. CYFD must address this program by establishing affordable co-payments and should follow HHS recommendation to cap co-pays at 7 percent of family income. Once family income rises above 200 percent of FPL and a family is no longer eligible for
assistance, the cost of child care rises dramatically. At 201 percent of FPL, child care expenses rise to 38 percent of a family's income. Subtracting this expense from household income would put the family in deep poverty, the equivalent of less than 50 percent of FPL. Therefore, CYFD should raise eligibility to 300 percent of FPL to avoid the dramatic cost increase for those families whose income rises above 200 percent FPL.

Families with incomes below the poverty line should not have copays. Copays should be capped at 7% of a family's income so they are affordable.

Families should be required to pay only an affordable share of childcare costs. Families with incomes below the poverty line should not have copays. Families should not have to choose between paying for childcare or other basic necessities like food and clothing. Currently, CYFD charges copayments to families with incomes at or above 25% of FPL. This causes participation to drop by about half for some of the lowest income families in the state due to the high financial burden of the copayments. New Mexico should eliminate copayments for families living below the poverty line to ensure that families can access childcare and meet basic needs. Copays should be capped so they are affordable. Everyone should have access to affordable child care so they can pursue career and educational opportunities. CYFD has not set a cap on copayments and parents often pay more than 10% to 15% of their income towards child care costs, even when they are getting assistance. Federal guidance recommends that copayments be no higher than 7% of a family's income to be affordable. Parents who cannot afford the copayment often have to reduce their work hours or seek alternative and often unreliable care.

The Department Should Simplify the Regulations on Co-pay Calculations and Must Clearly State the Eligibility Level - The changes to 8.15.2.13 NMAC include the formula that the Department uses to calculate co-pays. Including the formula is another positive change to the child care regulations. However, the inclusion of this formula in the regulations makes it unnecessary to include a link to the co-pay chart. One of the variables in the co-pay formula is "200 percent of annual federal poverty level for household size." This number changes yearly, so the numbers in the co-pay chart will also change yearly. Therefore, if the Department wants to include a co-pay chart, it will have to promulgate a new chart into regulation every year. It would be simpler to include a link to the specific income brackets that the Department uses for calculating co-pays, so that families can use the brackets, the current FPL, and the formula to calculate their co-pay.

In our review of the current co-pay chart, we noticed that the stated co-pays are estimates of the values produced by the formula. If the Department wants to use a co-pay chart, it can post the chart in its offices and make it available to clients, while including a statement on the chart that it is only an estimate of the co-pay produced by the formula. However, it is unnecessary and misleading to include the co-pay chart in the child care regulations, as it is not an accurate source of eligibility information.

As an ordinary citizen will above the poverty line in New Mexico, I urge those responsible for the well-being of children and families below the already unlivable poverty line to ensure that these families are not required to pay co-pays for childcare and others are given ample assistance. Every child in New Mexico has a right to a safe and fair start in life. No family below the poverty line for whatever reason should be unable to pursue the education and employment opportunities available because they cannot afford decent and safe childcare. This is a bedrock principle of a democracy and New Mexico must be a shining example of what decent and responsible government looks like. Ensure, finally, that rules and paperwork requirements are in plain language including in Spanish, and that all New Mexicans regardless of their socioeconomic status are treated with dignity. Thank you for taking up this matter and showing that New Mexico supports and assists the most needy as these citizens seek to
improve their lives. That is the least they, and the rest of us expect of lawmakers and regulators and those who devote their professional lives to public service. Thank you.

**Oral Comment 5:** Co-pays are too high. A co-worker uses this assistance and her entire child support payment goes to co-pays. If co-pays were lowered she would be able to use her child support to take care of her child and buy clothes and supplies.

**Oral Comment 4:** Happy about 200% but thinks when it comes down to it, need lower co-pays. $100 to $200 per week is too much.

**Oral Comment 2:** Signed on to and support CFL&P comments. Speaker described history of FPL level changes.

1. Suggest FPL level be 300% so that there is less of a “cliff effect”. As people gain a bit more income they don’t lose their eligibility for the program.
2. Recommend the co-pays under 100% be eliminated. This is a federally recommended level.
3. For those over 100% the co-pays should not exceed 7%. This is also a federally recommended level. In a state with a high level of poverty, this is essential.

When the department asks for funding for this program, “we will have your back”.

**Oral Comment 1:** (CFL&P reiteration of written comments also submitted) The proposed regulations do not state that families are actually eligible at 200 percent FPL eligibility, regardless of priority level. The proposed regulations cause this confusion by setting the 200 percent FPL eligibility within a single priority level. We recommend that the Department include the following clear statement: “The Department currently provides child care assistance to families in all priority levels.”

Would like to see other changes:

1. Copay should only be charged if income is over poverty level.
2. Would like copays capped at 7% for families 100% above the FPL.
3. Grandparents Raising Grandchildren should have access to Child Care Assistance. A common sense solution would be to align the Child Care regulations to match the TANF regulations, so grandparents can access the one program, without having to enroll in both.
4. The department should simplify the regulations on co-pay calculations and clearly state the eligibility level.

**Response:**

The Children, Youth and Families Department (CYFD) has committed resources to providing for the increase to eligibility by increasing the entry and exit percentages of the Federal Poverty Level. CYFD will monitor the budgetary impacts before considering other enhancement to the child care assistance program such as reducing co-payments for families and grandparents.

CYFD, via regulation, is committed to making the childcare eligibility process as transparent as possible. Any reference to a current-year co-payment chart leads the public to the current and prospective years’ co-payment approximations. All clients are notified of co-payments upon initial application and upon re-certification if co-payment increases.
REGISTRATION FEES

These costs must not exceed the costs charged to private pay families for the same activities. The regulations do not provide guidance on how many of these incidental events can be charged for within a time frame, nor do they require that notice must be given to families before assessing the cost. Additionally, childcare providers may charge a registration/education fee to women receiving subsidized childcare. These fees also cannot exceed those charged to private pay families. The fees may be charged every six months and are limited to materials and supplies for the center. The department reserves the right to suspend the childcare assistance contract in the event that these fees are found to be onerous or pose undue burden to families receiving childcare assistance benefits. Finally, the childcare providers are allowed to charge childcare assistance families the applicable gross receipts tax for the sum of the child care assistance benefit and co-payment. This is the most concerning of the additional fees that can be imposed on low-income women. The sales tax could add up to a very large amount that could seriously impact some mother's ability to obtain child care.

8.15.2.15 PROVIDER REQUIREMENTS

(D)(1) Registration Fees. The proposed regulations prohibit child care providers from charging families a registration fee for any child receiving child care assistance, and propose that the department pay a $5 monthly fee for registration not to exceed $60 per year.

Comment: The U.S. Department of Health and Human Services final CCDF regulations closely follow the reauthorization law related to generally-accepted payment policies mirroring the private market. "Consistent with section 658E(c)(2)/s of the Act, § 98.45(l)(3) of the final rule requires CCDF payment practices to reflect generally-accepted payment practices of child care providers that serve children who do not receive CCDF funded assistance." This includes paying "for reasonable, mandatory registration fees that the provider charges to private-paying parents." The final rule is clear that such payment policies and practices should follow customary practices for private paying parents. With regard to annual registration fees, parents pay them upfront - registration fees are not paid $5 per month over a period of time.

8.15.2.17 PAYMENT FOR SERVICES(C) $5 Registration Fees Paid Monthly. (see above)
(D), (E), (F), (G) Payment Rates. The regulations propose a rate schedule where 100% of the full time rate is paid for 30 or more hours per week of care, 75% of the rate is paid for 8-29 hours per week of care, 50% of the rate is paid for 8-19 hours of care and 25% of the rate is paid for 7 or fewer hours of care. Comments: The U.S. Department of Health and Human Services CCDF regulations are clear. The reauthorization law changed the framework for child care subsidy.

1) Payments are supposed to be based on the most recent market rate survey or an alternative based on the cost of high-quality care – and, at least at a level to cover health, safety, quality and staffing requirements in the CCDF rule. Lead agencies are also supposed to take into consideration the cost of providing higher-quality care. \[\text{(1)}\]

2) Policies are supposed to delink provider payments from a child's occasional absences and pay providers based on a child's enrollment, providing full payment if a child attends at least 85% of the time or providing full payment if a child is absent for 5 or fewer days in a month. \[\text{(2)}\] and

3) States are to adopt generally accepted payment practices of child care providers who do not receive CCDF subsidies, including paying on a part-time or full-time basis (rather than paying for hours of service or smaller increments of time) and paying for reasonable mandatory registration fees that the provider charges to private paying parents. \[\text{(3)}\]

Under § 98.21(g) “lead agencies are encouraged to authorize adequate hours to allow children to participate in a high-quality program, which may be more hours than the parent is working or in education or training. For example, if most local high-quality early learning programs offer only full-time slots, a child whose parent is working part-time may need authorization for full-time care.” Under 658E(c)(2)(i)(ii) of the Act, “states are required to support the fixed costs of providing child care services and follow generally accepted payment practices that typically require parents who pay privately for child care to pay their provider a set fee based on their child's enrollment.”

What this means is that it is time in New Mexico to review the state's payment policies in comparison to the typical practices of the child care community who serve private paying parents. Do private paying parents pay 75% of the weekly rate if their children attend 28-29 hours per week? No. That would not be a sustainable business model. Staffing and space are based on full time slots. Providers may offer part-time care, but the hourly bands with proportionate payments that CYFD proposes are based on practices that states engaged in prior to CCDBG reauthorization. Under the new law, states are supposed to conform their policies to better support market-based practices. The law and the regulations are clear on this aspect. Child care is a business. We want to provide high-quality care. Many of us do provide high-quality care. However, the reality for any child care program is that it costs more to offer high-quality care. And, the operating budget of a child care program is related to the fees that private parents pay and subsidies that the state pays. Therefore, the costs of operating a program such as hiring staff, paying staff competitive wages, rent, utilities, maintenance costs, supplies, and materials must all be covered by that operating budget.

For perspective, the 2018 child care market rate survey shows that in metro 2+ programs, the percentage of children served through child care subsidies is 50%, for 3 star programs, the percentage of children served through child care subsidies is 57%, in 4 star programs, it’s about 45% and in 5 star programs, it’s about 41%. What this means is that state subsidy policies have an enormous impact on the operating budget of a child care program and in turn, the quality of that program – largely, the type of staff who can be hired and the wages that will support them. High-quality programs depend on high-quality staff – classroom staff with the education and competencies to support and promote healthy child development, which is why wages are
typically the highest cost of operating a child care program. With the minimum wage scheduled
to increase to $9 per hour in January 2020, child care wages will increase, which also has an
impact on child care program operating budgets. But, there is no recognition of the minimum
wage increase in the proposed child care subsidy regulations with regard to payment rates.
An increase in the minimum wage is good news. It will help support economic stability for
families. But, there are two collateral impacts of an increase in the minimum wage that the
regulations do not address. First, families who are able to earn higher wages may no longer
qualify for child care assistance, particularly if the proposed regulations are adopted which
would cap initial eligibility at 160% of poverty. Second, child care programs will be required to
pay higher wages, but subsidy rates are not increased to absorb the impact on program
operating budgets. Both of these policy issues need to be reviewed and adjusted as part of the
regulatory review process. Otherwise, the public policy good of increasing the minimum wage is
undermined by collateral impact, which could wind up leaving families in a worse economic
position rather than better as the law intended.

Another issue that is not addressed in the child care regulations, which should be because of
the impact on child care operating budgets is some type of requirement at the local community
level to coordinate with community-based child care programs in the provision of public pre-k,
not merely plow forward with school-based pre-k expansion because the Department of Public
Education (PED) has provided funding. The subsidy regulations are an opportunity to call for
coordination and community planning since the economic model for child care programs simply
doesn’t work to support infant and toddler care when 4 year-old children (and 3 year-old
children) are pulled away from the economic model. We all want to provide high-quality care,
but that is simply not possible when the economic model for child care is undermined through
implementation of a different agency’s funding policy for preschool-age children.
We urge that CYFD use the opportunity to adjust child care regulations as an opportunity to
rethink child care policy. We don’t have to be ranked 50th year after year in child well-being.
But, to rise above that ranking, we need policies that promote child well-being. Family
economic stability, achieved when parents work, and healthy child development, achieved as
young children – particularly infants and toddlers, have access to high-quality child care, can
improve child well-being. Such policies will cost more than New Mexico has currently allocated,
but research shows a return on investment of 13%.

It’s time to match our policy with the federal law and provide sufficient funding to support
access for families who need child care assistance. The federal government recognizes child
care as a two generation strategy – it helps parents work and it supports the healthy
development of children. It’s time that New Mexico shares this vision as well.

According to the New Mexico Administrative Code, parents are also potentially liable for several
different charges assessed by the child care facility. Facilities are allowed to charge for
incidental costs such as field trips, special lunches or other similar situations. These costs must
not exceed the costs charged to private pay families for the same activities. The regulations do
not provide guidance on how many of these incidental events can be charged for within a time
frame, nor do they require that notice must be given to families before assessing the cost.
Additionally, childcare providers may charge a registration/ education fee to women receiving
subsidized childcare. These fees also cannot exceed those charged to private pay families. The
fees may be charged every six months and are limited to materials and supplies for the center.
The department reserves the right to suspend the childcare assistance contract in the event
that these fees are found to be onerous or pose undue burden to families receiving childcare
assistance benefits. Finally, the childcare providers are allowed to charge childcare assistance
families the applicable gross receipts tax for the sum of the child care assistance benefit and co-
payment. This is the most concerning of the additional fees that can be imposed on low-income women. The sales tax could add up to a very large amount that could seriously impact some mother’s ability to obtain child care.

**Oral Comment 7:** Speaker is a provider that is at full capacity with a waiting list and they sometimes waive co-pay fees if parents can’t pay. 50% are using child care assistance. Thinks that the restriction to not charge additional registration and material fees creates a disadvantage to the families because if there are two families competing for one spot, they may choose the family that can pay the additional fees.

**Response:** The Children, Youth and Families Department is committed to ensuring equal access to high quality childcare programs. The department will continue to evaluate registration fees and identify a mechanism, to include possible system changes, for paying registration fees for families receiving child care assistance upon enrollment.

**Other/MISC**

**Improve Data Collection on Child Care Assistance Access and Outcomes -** The Department can improve program participation and demonstrate the effectiveness of the program by collecting better data. The Department should regularly collect data on average co-payments, and state costs by income level, the number of single parents enrolled in the program (who would not be able to work without child care assistance) and data on churn from the program. Currently, CYFD cannot accurately determine the cost of eligibility changes that target certain income levels, because CYFD does not collect cost and family payment information by income level. Similarly, the Department does not look at the reasons why eligible families lose assistance, only to re-enroll shortly after being denied. Re-enrolling families causes administrative burden on CYFD and causes children to go without necessary child care. The best way to address this is to collect data on the reason cases close that then reopen within a three-month period. These families were likely eligible the entire time and simple administrative changes can remove barriers that cause families to lose assistance unnecessarily.

**Response:** CYFD is currently working on improving data collections.

**CYFD Should Seek Public Input At Times and Locations that Accommodate Working Families.** We understand that the Department will propose further regulations to address these issues, and we look forward to working with you on those rules. We also hope that the Department will schedule future hearings on proposed rules at a time when clients of the Department can attend. The Department scheduled the hearing on these proposed rules at 10:00 a.m. on a Friday. Work obligations make it difficult to impossible for many of the working families that receive child care assistance to attend this hearing. Scheduling the hearing at a more convenient time will provide the opportunity for more participation from families the Department serves.

**Response:** New Mexico Statute 9-2A-7 (D) requires hearings be held in Santa Fe unless otherwise permitted by statute. Regional round table meeting will be conducted by our CYFD staff.
This is an amendment to 8.15.2 NMAC Sections 7, 9, 12, 13, 15, and 17, effective October 1, 2019.

8.15.2.7 DEFINITIONS:

A. “Attending a job training or educational program” means actively participating in a job training or educational program.

B. “At-risk child care” means a program for families at-risk of child protective services involvement as determined by the department.

C. “CACFP” means the child and adult care food program, administered by the children, youth and families department.

D. “Child with a disability or special needs” means a child with an identified disability, health, or mental health conditions requiring early intervention, special education services, or other specialized services and supports; or children without identified conditions, but requiring specialized services, supports, or monitoring.

E. “Child support enforcement division” means the child support enforcement program administered by New Mexico’s human services department, which collects child support from non-custodial parents.

F. “Closure” means the child care case is closed.

G. “Co-payment” means the portion of the approved and agreed upon monthly child care cost for clients receiving child care assistance that the client is required to pay to the child care provider. The department’s payment to the provider is reduced by the co-payment amount.

H. “Department” means the New Mexico children, youth and families department (CYFD).

I. “Earned income” means income received as wages from employment or as profit from self-employment.

J. “Homeless children and youth” means individuals who lack a fixed, regular, and adequate nighttime residence, which includes:

(1) Children and youth who are temporarily sharing the housing of other persons due to loss of housing, economic hardship, or a similar reason; are living in motels, hotels, trailer parks (excludes mobile homes), or camping ground due to the lack of alternative adequate accommodations; are living in emergency or transitional shelters; are abandoned in hospitals; or are awaiting foster care placement;

(2) Children and youth who have a primary nighttime residence that is in public or private place not designed for or ordinarily used as a regular sleeping accommodation for human beings;

(3) Children and youth who are living in cars, parks, public spaces, abandoned buildings, substandard housing, bus or train stations, or similar settings; and

(4) Migratory children who qualify as homeless for the purposes of this subtitle because the children are living in circumstances described in Paragraphs (1) through (3) of this subsection.

K. “Incidental money” means earnings of a minor child for occasional work performed such as babysitting, cutting lawns, and other similar activities.

L. “Infant, toddler, preschool, school age” means the age categories used for assigning child care provider reimbursement rates, defined as follows:

(1) Infant: zero - 23 months;

(2) Toddler: 24-35 months;

(3) Preschool: three to five years old; and

(4) School age: six years old and older.

M. “Job training and educational program” means participation in a short or long term educational or training program which provides specific job skills which allow the participant to enter the workforce and directly relates to enhancing job skills, including but not limited to the acquisition of a general equivalency diploma (GED), English as a second language, literacy training, vocational education training, secondary education including adult basic education and accredited high school programs, and post-secondary institutions.

N. “National accreditation status” means the achievement and maintenance of accreditation status by an accrediting body that has been approved by CYFD. CYFD determines the program criteria and standards to evaluate and approve accrediting bodies.

(1) The following are the only national accrediting bodies that are approved by CYFD:

(a) The association of Christian schools international (ACSI);

(b) The council on accreditation (COA) for early childhood education and after school programs;

(c) The international Christian accrediting association (ICAA);

(d) The national accreditation commission for early care and education programs (NAC);
(e) the National Association for the Education of Young Children (NAEYC) Academy for Early Childhood Program Accreditation;
(f) the national association of family child care (NAFCC); or
(g) the National Early Childhood Program Accreditation (NECPA).

(2) Effective July 15, 2014, accrediting bodies that have been previously approved by CYFD that are not on the above list will no longer be CYFD approved national accrediting bodies.

O. "Non-temporary change in activity" means the family has experienced a change in activity that does not meet the definition of a "temporary change in activity" as defined in Section CC below.

P. "Non-traditional hours of care" means care provided between the afterhours of 7:00 p.m. and 7:00 a.m. Monday through Friday or care provided during weekend hours between 12:00 a.m. Saturday morning and 12:00 a.m. Monday morning.

Q. "Open case" means a case that has not been closed as a result of a failure to recertify, or that has not been closed due to becoming otherwise ineligible for child care assistance benefits.

R. "Overpayment" means a payment of child care assistance benefits received by a client or provider for which they are ineligible based on incomplete or inaccurate information provided by either the client or the provider, or agency error.

S. "Child Protective Services (CPS) child care" means child care services for children placed in the custody of the child protective services of the department.

T. "Provider types" means the characteristics of child care providers, which determine their approved reimbursement rate, capacity, staffing levels etc. as follows:

(1) "In-home" care means care provided in the child's own home.
(2) "Registered home" means child care provided in the home of a provider who is registered with the department to care for up to four children. All registered homes receiving child care assistance subsidies must be enrolled and participate in the child and adult care food program (CACFP), unless they are exempt.
(3) "Licensed family child care home" means child care provided in the home of a provider who is licensed by the department to care for up to six children.
(4) "Licensed group child care home" means child care provided in the home of a provider who is licensed by the department to care for up to 12 children.
(5) "Licensed center" means child care provided in a non-residential setting, which is licensed by the department to provide such care.
(6) "Out-of-school time care" means child care provided to a kindergartner or school age child up to age 13 immediately before or immediately after a regularly scheduled school day or when regular school is not in session.

U. "Recertification" means the process by which a client's eligibility to continue to receive child care assistance benefits are determined.

V. "Registration/educational fee" means a fee charged to private pay and families receiving child care assistance for materials and supplies.

W. "SNAP" means the supplemental nutrition assistance program administered by the U.S. Department of Agriculture, which helps low-income families purchase healthy food. SNAP was previously referred to as food stamps employment and training program.

X. "Star level" means a license indicating the level of quality of an early childhood program. A greater number of stars indicates a higher level of quality.

Y. "Suspension" means that the child care case remains eligible, but benefits are not paid to the provider.

Z. "TANF" means the temporary assistance to needy families program administered by the U.S. Department of Health and Human Services. TANF is the successor to the aid to families with dependent children (AFDC) program and provides cash assistance to qualified low-income families with dependent children.

AA. "Teen parent" means a biological parent under the age of 20 who is attending high school, working towards a general equivalency diploma (GED) or attending any other job skills training or educational programs directly related to enhancing employment opportunities.

BB. "Termination" means the child care case will be closed due to cause.

CC. "Temporary change of activity" means one of the following events that does not exceed three months:
(1) limited absence from work for employed parents for periods of family leave (including parental leave) or sick leave;
(2) interruption in work for a seasonal worker who is not working between regular industry
work seasons;

(3) student holiday or break for a parent participating in training or education;

(4) reduction in work, training or education hours, as long as the parent is still working or attending training or education; and

(5) cessation of work or attendance at a training or education program less than 90 days.

**DD.** "Underpayment" means a payment made by the department for services provided which did not fully reimburse the client or provider.

**EE.** "Unearned income" means income in the form of benefits such as TANF, workmen’s compensation, social security, supplemental security income; child support, pensions, contributions, gifts, loans, and grants which does not meet the definition of earned income.

**[FF.]** "Waiting list" means a list of families who have applied for child care services during a period of lack of funding.

**[GG.]** "Working" means employment of any type, including self-employment. For TANF recipients, this includes work experience or community service or any other activity that meets the TANF work activity requirements.

[8.15.2.7 NMAC - Rp, 8.15.2.7 NMAC 10/1/16, A, 02/01/17, A, 10/01/19]

**8.15.2.9 PRIORITIES FOR ASSISTANCE:** Any funds received by the department under the child care development fund and other sources are expended for child care assistance pursuant to the following priorities:

**A.** Priority one: Clients receiving temporary assistance to needy families (TANF) benefits are considered priority one clients.

(1) Participation exemption: The human services department grants participation exemptions to TANF clients who cannot locate child care. The children, youth and families department is responsible for the verification of the TANF participant’s inability to locate child care. Reasons for a participation exemption due to lack of child care are as follows:

(a) the unavailability of appropriate child care within a reasonable distance from the individual’s home or work site;

(b) the unavailability or unsuitability of informal child care by a relative or under other arrangements; or

(c) the unavailability of appropriate and affordable formal child care by a relative or under other arrangements.

(2) A person who applies for participation exemption for any or all of the above reasons is referred to the children, youth & families department child care resource and referral. The child care resource and referral assists the client with location of child care. The final validation/verification of a client’s inability to locate child care is determined by the child care services bureau supervisor in conjunction with his/her supervisor. A client who receives a participation exemption due to lack of child care is required to re-apply for the exemption every six months. If a person disagrees with the determination of their eligibility for a participation exemption, they may apply for a fair hearing with the human services department (HSD). HSD is responsible for providing notice of the approval or denial of a participation exemption.

**B.** Priority one A: [RESERVED]

**C.** Priority one B: Child care assistance for income eligible families whose income is at or below one hundred percent of the federal poverty level, adjusted annually in accordance with federal guidelines. [If the number of eligible clients in this priority exceeds budget availability, the department may maintain a waiting list.] The department prioritizes child care services within priority one B for children with special needs, disabilities, homeless families, and for teen parents. [If budget availability permits, the department reserves the right to transfer priority one B families whose income exceeds one hundred percent of the federal poverty level but is at or below two hundred percent of the federal poverty level to the priority four category.]

**D.** Priority two: Families transitioning off TANF. Clients must have received TANF for at least one month in the past 12 months in order to qualify for priority two. Only clients whose TANF cases are closed at least in part due to increased earnings or loss of earned income deductions or discharges are eligible for priority two. Priority two clients do not have to meet income eligibility requirements during their 12 consecutive month period of eligibility for priority two child care.

**E.** Priority three: [RESERVED]

**F.** Priority four: Child care assistance for families whose income is above one hundred percent of the federal poverty level but at or below two hundred percent of the federal poverty level, adjusted annually in accordance with federal guidelines. These families are certified for a 12 month block of time [subject to the
availability of funds and renewable subject to the availability of funds] and will remain eligible at or below two hundred fifty percent of the federal poverty level. Exceptions to the 12 month certification period are included in 8.15.2.11 NMAC. [The department reserves the right to expand the eligibility requirement up to two hundred percent of the federal poverty level based on budget availability. Families in any priority may be transferred to priority four if budget availability permits. If the number of eligible clients in this priority exceeds budget availability, the department may maintain a waiting list.] The department prioritizes child care services within priority four for children with special needs, disabilities, [teen parents and homeless families] homeless families, and for teen parents.

G. Child protective services (CPS) child care: The department pays for CPS child care as determined by the protective services of the department. Income requirements and copayments are waived for clients in this priority.

H. At-risk child care: In addition to these priorities, the department pays for at-risk protective services child care as approved by the department. Child care benefits are provided for a minimum of six months to support the family. Income requirements and copayments are waived for clients in this priority.

[8.15.2.9 NMAC - Rp, 8.15.2.9 NMAC, 10/1/16, A, 10/01/19]

8.15.2.12 RECERTIFICATION: Clients must recertify for services at the end of their eligibility period by complying with all requirements of initial certification. Clients who recertify will qualify at or below two hundred fifty percent of the federal poverty level. If recertification is not completed in a timely manner, the case may be closed on the last day of the month for which assistance is provided under the previous placement agreement. At time of recertification, clients must provide proof of income, or proof of school enrollment. Changes in income, household size, employment, training or educational status are noted in the client’s record. Co-payment, if applicable, is re-determined at the time of recertification.

[8.15.2.12 NMAC - Rp, 8.15.2.12 NMAC, 10/1/16, A, 10/01/19]

8.15.2.13 CLIENT RESPONSIBILITIES: Clients must abide by the regulations set forth by the department and utilize child care assistance benefits only while they are working, attending school or participating in a training or educational program.

A. Co-payments: Co-payments are paid by all clients receiving child care assistance benefits, except for CPS child care, at-risk child care, and qualified grandparents or legal guardians as defined in Paragraph (2) of Subsection C of 8.15.2.11 NMAC. [Co-payments are based upon the size and income of the household.] Co-payments are determined by income and household size. The co-payment schedule is published yearly at https://cyfd.org/child-care-services.

B. [Co-payments for each additional child are determined at one-half of the co-payment for the previous child.] Co-payments described in Subsection A of 8.15.2.13 NMAC, are used for determining the base co-payment for the first eligible child. The formula for calculating the co-payment for the first full time child is (low end of the monthly income bracket on the co-payment schedule + 200 percent of annual federal poverty level for household size) x (low end of the monthly income bracket on the co-payment schedule) x 1.1 = monthly co-payment for first full time child. Base co-payments for each additional child are determined at one half of the co-payment for the previous child.

1. The first child is identified as the child requiring the most hours of child care.
2. Each additional child will be ranked based on the most number of hours needed for child care to the least number of hours needed for child care.

C. [Co-payments for children in part-time care are determined based upon the block of time that the child is in care.] Each child’s co-payment will be adjusted based on the units of services described in Subsection E of 8.15.2.17 NMAC, as follows:

1. Full time care will be based on one hundred percent of the base co-payment;
2. Part time 1 care will be based on seventy-five percent of the base co-payment;
3. Part time 2 care will be based on fifty percent of the base co-payment; and
4. Part time 3 care will be based on twenty-five percent of the base co-payment.

D. Clients pay co-payments directly to their child care provider and must remain current in their payments. A client who does not pay co-payments may be subject to sanctions.

E. The co-payment for a child shall not exceed the monthly provider reimbursement rate. If this situation arises, the co-payment may be reduced in the amount by which it exceeds the monthly provider reimbursement rate.

F. In-home providers: Parents who choose to use an in-home provider become the employer of the
child care provider and must comply with all federal and state requirements related to employers, such as the payment of all federal and state employment taxes and the provision of wage information. Any parent who chooses to employ an in-home provider releases and holds the department harmless from any and all actions resulting from their status as an employer. Payments for in-home provider care are made directly to the parent.

G. Notification of changes: Clients must notify the department of changes that affect the need for care, which include but are not limited to any non-temporary change in activity, or household members moving in or out, within five business days of the change. Clients who do not comply with this requirement may be sanctioned.

H. Required application with New Mexico human services department's child support enforcement division (CSED):

(1) When one or both of the child’s parents are absent from the home, the client shall apply for child support through CSED within 12 months of initial application with the child care assistance program.

(2) The following exceptions include but are not limited to: the client is receiving TANF; the client is already receiving child support; the client is receiving financial support, including but not limited to housing, clothing, food, transportation and funds, from the non-resident parent; there is a joint custody agreement and neither parent is ordered to pay support; parental rights have been terminated; the parent is a foster parent to the child; the parent is an adoptive parent and provides proof of a single parent adoption; at-risk child care; a parent is temporarily out of the home and is still considered part of the household; the client is a teen parent; the client is a grandparent; guardian; parent is deceased or when good cause exists.

(3) Good cause for refusal to apply may be granted when such application is not in the best interest of the child or parent, including but not limited to the following circumstances:

(a) there is possible physical or emotional harm to the child, parent or guardian;
(b) the child was conceived as a result of incest or rape;
(c) legal proceedings for adoption of the child are pending before a court;
(d) the client is currently being assisted by a public or licensed private social agency to resolve the issue of whether to keep the child or relinquish the child for adoption.

(4) The applicant or recipient who makes a claim for good cause shall supply written documentation to establish the claim. The caseworker shall not deny, delay, or discontinue subsidized child care benefits pending a determination of good cause if the applicant or recipient has complied with the requirements to furnish information.

(5) If the client is not exempted from applying with CSED and has not applied within the required timeframe, the client’s case will be closed.

[8.15.2.13 NMAC - Rp, 8.15.2.13 NMAC, 10/1/16, A, 10/01/19]

8.15.2.15 PROVIDER REQUIREMENTS: Child care providers must abide by all department regulations. Child care provided for recreational or other purposes, or at times other than those outlined in the child care agreement, are paid for by the client.

A. All child care providers who receive child care assistance reimbursements are required to be licensed or registered by the department and meet and maintain compliance with the appropriate licensing and registration regulations in order to receive payment for child care services. Beginning July 1, 2012, child care programs holding a 1-star license are not eligible for child care assistance subsidies. The department honors properly issued military child care licenses to providers located on military bases and tribal child care licenses properly issued to providers located on tribal lands.

B. Child care providers collect required co-payments from clients and provide child care according to the terms outlined in the child care agreement.

C. Child care providers must notify the department within three business days after the fifth day of non-attendance if the child is enrolled or is absent for five consecutive scheduled days. Providers who do not comply with this requirement are sanctioned and may be subject to recoupment or disallowance of payments as provided by Subsection G of 8.15.2.11 NMAC.

D. Child care providers accept the rate the department pays for child care and are not allowed to charge families receiving child care assistance above the department rate for the hours listed on the placement agreement. Failure to comply with this requirement may result in sanctions or suspension of the child care assistance agreement.

(1) In situations where an incidental cost may occur such as field trips, special lunches or other similar situations, the child care provider is allowed to charge the child care assistance family the additional cost, provided the cost does not exceed that charged to private pay families. Providers are not allowed to charge clients a registration/educational fee for any child who is receiving child care assistance benefits as listed under
8.15.2 NMAC. The department shall pay a five dollar monthly, not to exceed sixty dollars per year, registration/educational fee per child in full time care, on behalf of department clients under 8.15.2 NMAC. Adjustments to the five dollar registration/educational fee will be made based on units of care.

(2) Providers may charge a registration/educational fee to a child care assistance family comparable to but not to exceed that charged to private pay families. The registration/educational fee shall be charged no more than once every six months and shall be limited to materials and supplies. If the department determines that the provider is charging fees that are unreasonable and pose an undue burden to child care assistance families, the department may suspend the child care assistance contract. In situations where an incidental cost may occur such as field trips, special lunches or other similar situations, the child care provider is allowed to charge the child care assistance family the additional cost, provided the cost does not exceed that charged to private pay families.

(3) Child care providers are allowed to charge child care assistance families the applicable gross receipts tax for the sum of the child care assistance benefit and co-payment.

E. Under emergency circumstances, when CYFD has reason to believe that the health, safety or welfare of a child is at risk, the department may immediately suspend or terminate assistance payments to a licensed or registered provider. The child care resource and referral will assist clients with choosing another CYFD approved provider.

F. Providers who are found to have engaged in fraud relating to any state or federal programs, or who have pending charges for or convictions of any criminal charge related to financial practices will not be eligible to participate in the subsidy program.

[8.15.2.15 NMAC - Rp, 8.15.2.15 NMAC, 10/1/16, A, 10/01/19]

8.15.2.17 PAYMENT FOR SERVICES: The department pays child care providers on a monthly basis, according to standard practice for the child care industry. Payment is based upon the child's enrollment with the provider as reflected in the child care placement agreement, rather than daily attendance. As a result, most placements reflect a month of service provision and are paid on this basis. However, placements may be closed at any time during the month. The following describes circumstances when placements may be closed and payment discontinued at a time other than the end of the month:

A. When the child care placement agreement expires during the month, or when the provider requests that the client change providers or the provider discontinues services; payment will be made through the last day that care is provided.

B. Upon a change of provider the client and former provider have three days after the fifth day of nonattendance to notify the department. If this requirement for notification was met, the provider will be paid through the 14th day following the first date of nonattendance. If notification requirement is not met, the provider will be paid through the last date of attendance. The agreement with the new provider shall become effective when payment to the previous provider ceases. If the client notifies the department of the change in providers fewer than 14 days before the change will take place or after the change has taken place, the client is responsible for payment to the new provider beginning on the start date at the new provider and continuing up until the final date of payment to the former provider, as described above. Payment to the former provider will be made through the last day that care is provided if the child is withdrawn from the provider because the health, safety or welfare of the child is at risk, as determined by a substantiated complaint against the child care facility.

C. The department shall pay a five dollar monthly, not to exceed sixty dollars per year, registration/educational fee per child in full time care, on behalf of department clients under 8.15.2 NMAC. Adjustments to the five dollar registration/educational fee will be made based on units of care. The registration/educational fee will discontinue when a placement closes as a result of a client changing providers, a provider discontinuing services, a child care placement agreement expiring, or a provider's license being suspended or expiring.

[G.] D. The amount of the payment is based upon the age of the child and average number of hours per week needed per child during the certification period. The number of hours of care needed is determined with the parent at the time of certification and is reflected in the provider agreement. Providers are paid according to the units of service needed which are reflected in the child care agreement covering the certification period.

[D.] E. The department pays for care based upon the following units of service:

<table>
<thead>
<tr>
<th>Full time</th>
<th>Part time 1</th>
<th>Part time 2 (only for split custody or in cases where a child may have two providers)</th>
<th>Part time 3</th>
</tr>
</thead>
</table>

8.15.2 NMAC 6
<table>
<thead>
<tr>
<th>Care provided for an average of 30 or more hours per week per month</th>
<th>Care provided for an average of 8-29 hours per week per month</th>
<th>Care provided for an average of 8-19 hours per week per month</th>
<th>Care provided for an average of 7 or less hours per week per month</th>
</tr>
</thead>
<tbody>
<tr>
<td>Pay at 100% of full time rate</td>
<td>Pay at 75% of full time rate</td>
<td>Pay at 50% of full time rate</td>
<td>Pay at 25% of full time rate</td>
</tr>
</tbody>
</table>

[F.] Hours of care shall be rounded to the nearest whole number.

[G.] Monthly reimbursement rates:

<table>
<thead>
<tr>
<th>Licensed child care centers</th>
<th>Infant</th>
<th>Toddler</th>
<th>Pre-school</th>
<th>School-age</th>
</tr>
</thead>
<tbody>
<tr>
<td>$720.64</td>
<td>$589.55</td>
<td>$490.61</td>
<td>$436.27</td>
<td></td>
</tr>
</tbody>
</table>

<table>
<thead>
<tr>
<th>Licensed group homes (capacity: 7-12)</th>
<th>Infant</th>
<th>Toddler</th>
<th>Pre-school</th>
<th>School-age</th>
</tr>
</thead>
<tbody>
<tr>
<td>$586.07</td>
<td>$487.11</td>
<td>$427.13</td>
<td>$422.74</td>
<td></td>
</tr>
</tbody>
</table>

<table>
<thead>
<tr>
<th>Licensed family homes (capacity: 6 or less)</th>
<th>Infant</th>
<th>Toddler</th>
<th>Pre-school</th>
<th>School-age</th>
</tr>
</thead>
<tbody>
<tr>
<td>$566.98</td>
<td>$463.50</td>
<td>$411.62</td>
<td>$406.83</td>
<td></td>
</tr>
</tbody>
</table>

<table>
<thead>
<tr>
<th>Registered homes and in-home child care</th>
<th>Infant</th>
<th>Toddler</th>
<th>Pre-school</th>
<th>School-age</th>
</tr>
</thead>
<tbody>
<tr>
<td>$289.89</td>
<td>$274.56</td>
<td>$251.68</td>
<td>$251.68</td>
<td></td>
</tr>
</tbody>
</table>

[H.] The department pays a differential rate according to the license or registration status of the provider, national accreditation status of the provider if applicable, and star level status of the provider if applicable.

[I.] Providers holding and maintaining CYFD approved national accreditation status will receive the differential rate listed in Subsection I. below, per child per month for full time care above the base rate for type of child care (licensed center, group home or family home) and age of child. All providers who maintain CYFD approved national accreditation status will be paid at the accredited rates for the appropriate age group and type of care. In order to continue at this accredited reimbursement rate, a provider holding national accreditation status must meet and maintain licensing standards and maintain national accreditation status without a lapse. If a provider holding national accreditation status fails to maintain these requirements, this will result in the provider reimbursement reverting to a lower level of reimbursement.

1. Providers who receive national accreditation on or before December 31, 2014 from an accrediting body that is no longer approved by CYFD will no longer have national accreditation status, but will remain eligible to receive an additional $150 per child per month for full time care above the base rate for type of child care (licensed center, group home or family home) and age of child until December 31, 2017.

   a. In order to continue at the reimbursement rate until December 31, 2017 a provider holding accreditation from accrediting bodies no longer approved by CYFD must maintain licensing standards and maintain accreditation without a lapse.

   b. If the provider fails to maintain their accreditation, the provider reimbursement will revert to the base reimbursement rate unless they have achieved a FOCUS star level or regain national accreditation status approved by CYFD.

2. The licensee shall notify the licensing authority within 48 hours of any adverse action by the national accreditation body against the licensee's national accreditation status, including but not limited to expiration, suspension, termination, revocation, denial, nonrenewal, lapse or other action that could affect its national accreditation status. All providers are required to notify the department immediately when a change in accreditation status occurs.

[J.] The department will pay a differential rate per child per month for full time care above the base reimbursement rate to providers achieving higher Star levels by meeting FOCUS essential elements of quality as.
follows:

<table>
<thead>
<tr>
<th>2+ Star FOCUS Child Care Centers, Licensed Family and Group Homes</th>
</tr>
</thead>
<tbody>
<tr>
<td><strong>Infant</strong></td>
</tr>
<tr>
<td>$88.00</td>
</tr>
</tbody>
</table>

<table>
<thead>
<tr>
<th>3 Star FOCUS Child Care Centers, Licensed Family and Group Homes</th>
</tr>
</thead>
<tbody>
<tr>
<td><strong>Infant</strong></td>
</tr>
<tr>
<td>$100.00</td>
</tr>
</tbody>
</table>

<table>
<thead>
<tr>
<th>4 Star FOCUS Licensed Family and Group Homes</th>
</tr>
</thead>
<tbody>
<tr>
<td><strong>Infant</strong></td>
</tr>
<tr>
<td>$180.00</td>
</tr>
</tbody>
</table>

<table>
<thead>
<tr>
<th>5 Star FOCUS or CYFD approved national accreditation Licensed Family and Group Homes</th>
</tr>
</thead>
<tbody>
<tr>
<td><strong>Infant</strong></td>
</tr>
<tr>
<td>$250.00</td>
</tr>
</tbody>
</table>

<table>
<thead>
<tr>
<th>4 Star FOCUS Child Care Centers</th>
</tr>
</thead>
<tbody>
<tr>
<td><strong>Infant</strong></td>
</tr>
<tr>
<td>$280.00</td>
</tr>
</tbody>
</table>

<table>
<thead>
<tr>
<th>5 Star FOCUS or CYFD approved national accreditation Child Care Centers</th>
</tr>
</thead>
<tbody>
<tr>
<td><strong>Infant</strong></td>
</tr>
<tr>
<td>$550.00</td>
</tr>
</tbody>
</table>

In order to continue at the FOCUS reimbursement rates, a provider must meet and maintain the most recent FOCUS eligibility requirements and star level criteria. If the provider fails to meet the FOCUS eligibility requirements and star level criteria the provider reimbursement will revert to the FOCUS criteria level demonstrated.

Differential rates determined by achieving higher star levels determined by AIM HIGH essential elements of quality will be discontinued effective December 31, 2017. The department will pay a differential rate to providers achieving higher star levels determined by the AIM HIGH essential elements of quality until December 31, 2017 as follows: 3-Star at $88.00 per month per child for full time care above the base reimbursement rate; 4-Star at $122.50 per month per child for full time care above the base reimbursement rate, and 5-Star at $150.00 per child per month for full time care above the base reimbursement rate. In order to continue at these reimbursement rates, a provider must maintain and meet most recent AIM HIGH star criteria and basic licensing requirements. If the provider fails to meet the requirements, this will result in the provider reimbursement reverting to the base reimbursement rate.

The department pays a differential rate equivalent to five percent, ten percent or fifteen percent of the applicable full-time/part-time rate to providers who provide care during non-traditional hours. Non-traditional care will be paid according to the following charts:

<table>
<thead>
<tr>
<th>After hours</th>
<th>1-10 hrs/wk</th>
<th>11-20 hrs/wk</th>
<th>21 or more hrs/wk</th>
</tr>
</thead>
<tbody>
<tr>
<td></td>
<td>5%</td>
<td>10%</td>
<td>15%</td>
</tr>
</tbody>
</table>

<table>
<thead>
<tr>
<th>Weekend hours</th>
<th>1-10 hrs/wk</th>
<th>11-20 hrs/wk</th>
<th>21 or more hrs/wk</th>
</tr>
</thead>
<tbody>
<tr>
<td></td>
<td>5%</td>
<td>10%</td>
<td>15%</td>
</tr>
</tbody>
</table>

If a significant change occurs in the client's circumstances, (see Subsection G of 8.15.2.13 NMAC) the child care placement agreement may be modified and the rate of payment is adjusted. The department monitors attendance and reviews the placement at the end of the certification period when the child is re-certified.

The department may conduct provider or parent audits to assess that the approved service units are consistent with usage. Providers found to be defrauding the department are sanctioned. Providers must provide all
relevant information requested by the department during an audit.

\[ O_4 \] \textbf{P.} Payments are made to the provider for the period covered in the placement agreement or based on the availability of funds.

[8.15.2.17 NMAC - Rp, 8.15.2.17 NMAC, 10/1/16, A, 10/01/19]
Public Notices

(First Filing)
NOTICE OF RULEMAKING AND PUBLIC RULE HEARING

The New Mexico Children, Youth and Families Department hereby gives notice as required under Section 14-4-5.2 NMSA 1978 and 1.24.25.11 NMAC that it proposes to adopt amendments to the following rules regarding CHILD CARE ASSISTANCE as authorized by Section 9-2A-7 NMSA 1978:
8.15.2.7 NMAC – DEFINITIONS
8.15.2.9 NMAC – PRIORITIES FOR ASSISTANCE
8.15.2.12 NMAC – RECERTIFICATION
8.15.2.13 NMAC – CLIENT RESPONSIBILITIES
8.15.2.15 NMAC – PROVIDER REQUIREMENTS
8.15.2.17 NMAC – PAYMENT FOR SERVICES

No technical scientific information was consulted in drafting these proposed rules.

Purpose of proposed rules: The purpose of the rules is to amend the eligibility levels for child care assistance, to eliminate the waiting list for child care assistance, to provide an explanation of the co-payment calculation and where to find the co-payment schedule, to comply with federal regulation to pay for registration/educational fees for children receiving child care assistance benefits on behalf of client, and to address the overlap of care hours under payment for services.

Copies of the proposed rules may be found at CYFD’s website at https://www.newmexicokids.org/ or may be obtained from 1120 Paseo De Peralta, Santa Fe, New Mexico, 30 days prior to the Public Hearing.

Notice of public rule hearing: The public rule hearing will be held on Monday, July 8, 2019 at 11:00 a.m. in Apodaca Hall, 1120 Paseo de Peralta, Santa Fe, New Mexico 87502. The public hearing will be conducted in a fair and equitable manner by a CYFD agency representative or hearing officer and shall be recorded. Any interested member of the public may attend the hearing and will be provided a reasonable opportunity to offer public comment, either orally or in writing, including presentation of data, views, or arguments, on the proposed rules during the hearing. Individuals with disabilities who need any form of auxiliary aid to attend or participate in the public hearing are asked to contact Debra Gonzales at debra.gonzales@state.nm.us. CYFD will make every effort to accommodate all reasonable requests, but cannot guarantee accommodation of a request that is not received at least ten calendar days before the scheduled hearing.

Notice of acceptance of written public comment: Written public comment, including presentation of data, views, or arguments about the proposed rules, from any interested member of the public, may also be submitted via email to CYFD-ECS-PublicComment@state.nm.us with the subject line “8.15.2 NMAC Public Comment,” or via first class mail to, or by hand delivery to Kimberly Brown, Child Care Services Bureau, Children, Youth and Families Department, P.O. Drawer 5160, Santa Fe, New Mexico 87502-5160. The comment period ends at the conclusion of the public hearing on July 8, 2019.

AVISO DE CREACIÓN DE LEYES Y AUDIENCIA PARA REGLAS PÚBLICAS

El Departamento de Niños, Jóvenes y Familias de Nuevo México por este medio da aviso como se requiere en la Sección 14-4-5.2 NMSA 1978 y 1.24.25.11 de la Ley Estatal NMAC que propone adoptar enmendadas a las siguientes reglas relativas a ASISTENCIA DE CUIDADO INFANTIL según lo autorizado por la sección 9-2A-7 NMSA 1978:
8.15.2.7 NMAC – DEFINICIONES
8.15.2.9 NMAC – PRIORIDADES PARA ASISTENCIA
8.15.2.12 NMAC – RE-CERTIFICACIÓN
8.15.2.13 NMAC – RESPONSABILIDADES DEL CLIENTE
8.15.2.15 NMAC – REQUISITOS DEL PROVEEDOR
8.15.2.17 NMAC – PAGOS POR SERVICIOS
No se consultó información científica técnica para redactar las reglas propuestas.

Propósito de las Leves Propuestas: El propósito de las reglas es enmendar los niveles de elegibilidad para la asistencia de cuidado infantil, para eliminar la lista de espera para la asistencia de cuidado infantil, para proporcionar una explicación del cálculo de copago y dónde encontrar el cronograma de copago, para cumplir con la regulación federal para pagar las cuotas de inscripción / educación para los niños que reciben beneficios de asistencia de cuidado de niños en nombre del cliente, y abordar la superposición de Horario de atención bajo pago por servicios.

Las copias de las reglas propuestas se pueden encontrar en el sitio web de CYFD: https://www.newmexicokids.org/ o se pueden obtener en 1120 Paseo De Peralta, Santa Fe, New México, 30 días antes de la audiencia Pública.

Aviso de la Audiencia Pública: La audiencia de norma pública se llevará a cabo el lunes 8 de julio de 2019 a las 11:00 a.m. en Apodaca Hall, 1120 Paseo de Peralta, Santa Fe, Nuevo México 87502. La audiencia pública se llevará a cabo de manera justa y equitativa por un representante de la agencia de CYFD o el funcionario de audiencias y se registrar. Cualquier miembro del público interesado puede asistir a la audiencia y se le brindará una oportunidad razonable para ofrecer comentarios del público, ya sea oralmente o por escrito, incluida la presentación de datos, opiniones o argumentos, sobre las reglas propuestas durante la audiencia. Las personas con discapacidades que necesiten cualquier forma de ayuda auxiliar para asistir o participar en la audiencia pública deben comunicarse con Debra Gonzales at debra.gonzales@state.nm.us. CYFD hará todos los esfuerzos posibles para satisfacer todas las solicitudes razonables, pero no puede garantizar la adaptación de una solicitud que no se reciba al menos diez días calendario antes de la audiencia programada.

Aviso de aceptación de comentario público escrito: Los comentarios públicos escritos, incluyendo la presentación de datos, opiniones o argumentos sobre las reglas propuestas, de cualquier miembro del público interesado, también pueden enviarse por correo electrónico a: CYFD-ECS-PublicComment@state.nm.us, especificando Asunto: "8.15.2 NMAC Public Comment," o por correo de primera clase o entrega en persona a: Kimberly Brown, Child Care Services Bureau, Children, Youth and Families Department, P.O. Drawer 5160, Santa Fe, New Mexico 87502-5160. El periodo de comentarios finaliza al concluir la audiencia pública el 8 de julio de 2019.

8.15.2.7 DEFINITIONS:

DEFINITIONS:

***

[FF. "Waiting list" means a list of families who have applied for child care services during a period of lack of funding.]

[GG.] FE. “Working” means employment of any type, including self-employment. For TANF recipients, this includes work experience or community service or any other activity that meets the TANF work activity requirements.

8.15.2.9 PRIORITIES FOR ASSISTANCE:

PRIORITIES FOR ASSISTANCE:

***

C. Priority one B: Child care assistance for income eligible families whose income is at or below one hundred percent of the federal poverty level, adjusted annually in accordance with federal guidelines. [If the number of eligible clients in this priority exceeds budget availability, the department may maintain a waiting list.] The department prioritizes child care services within priority one B for children with special needs, disabilities, homeless families, and for teen parents. [If budget availability permits, the department reserves the right to transfer priority one B families whose income exceeds one hundred percent of the federal poverty level but is at or below two hundred percent of the federal poverty level to the priority four category.]

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F. Priority four: Child care assistance for families whose income is above one hundred percent of the federal poverty level but at or below [two] one hundred sixty percent of the federal poverty level, adjusted annually in accordance with federal guidelines. These families are certified for a 12 month block of time [subject to the availability of funds and renewable subject to the availability of funds] and will remain eligible at or below two hundred percent of the federal poverty level. Exceptions to the 12 month certification period are included in 8.15.2.11 NMAC. [The department reserves the right to expand the eligibility requirement up to two hundred percent of the federal poverty level based on budget availability. Families in any priority may be transferred to
8.15.2.12 **RECERTIFICATION:** Clients must recertify for services at the end of their eligibility period by complying with all requirements of initial certification. Clients who recertify will qualify at or below two hundred percent of the federal poverty level. If recertification is not completed in a timely manner, the case may be closed on the last day of the month for which assistance is provided under the previous placement agreement. At time of recertification, clients must provide proof of income, or proof of school enrollment. Changes in income, household size, employment, training or educational status are noted in the client's record. Co-payment, if applicable, is re-determined at the time of recertification.

8.15.2.13 **CLIENT RESPONSIBILITIES:** Clients must abide by the regulations set forth by the department and utilize child care assistance benefits only while they are working, attending school or participating in a training or educational program.

A. Co-payments: Co-payments are paid by all clients receiving child care assistance benefits, except for CPS child care, at-risk child care, and qualified grandparents or legal guardians as defined in Paragraph (2) of Subsection C of 8.15.2.11 NMAC. Co-payments are based upon the size and income of the household. Co-payments are determined by income and household size. The co-payment schedule is published yearly at https://cyfd.org/child-care-services.

B. [Co-payments for each additional child are determined at one-half of the co-payment for the previous child.] Co-payments described in Subsection A of 8.15.2.13 NMAC, are used for determining the base co-payment for the first eligible child. Base co-payments for each additional child are determined at one half of the co-payment for the previous child.

1. The first child is identified as the child requiring the most hours of child care.
2. Each additional child will be ranked based on the most number of hours needed for child care to the least number of hours needed for child care.

C. [Co-payments for children in part-time care are determined based upon the block of time that the child is in care.] Each child's co-payment will be adjusted based on the units of services described in Subsection E of 8.15.2.17 NMAC, as follows:

   1. full time care will be based on one hundred percent of the base co-payment;
   2. part time 1 care will be based on seventy-five percent of the base co-payment;
   3. part time 2 care will be based on fifty percent of the base co-payment; and
   4. part time 3 care will be based on twenty-five percent of the base co-payment.

8.15.2.15 **PROVIDER REQUIREMENTS:**

D. Child care providers accept the rate the department pays for child care and are not allowed to charge families receiving child care assistance above the department rate for the hours listed on the placement agreement. Failure to comply with this requirement may result in sanctions or suspension of the child care assistance agreement.

   1. In situations where an incidental cost may occur such as field trips, special lunches or other similar situations, the child care provider is allowed to charge the child care assistance family the additional cost provided the cost does not exceed that charged to private pay families. Providers are not allowed to charge clients a registration/educational fee for any child who is receiving child care assistance benefits as listed under 8.15.2 NMAC. The department shall pay a five dollar monthly, not to exceed sixty dollars per year, registration/educational fee per child in full time care, on behalf of department clients under 8.15.2 NMAC. Adjustments to the five dollar registration/educational fee will be made based on units of care.
   2. Providers may charge a registration/educational fee to a child care assistance family comparable to but not to exceed that charged to private pay families. The registration/educational fee shall be charged no more than once every six months and shall be limited to materials and supplies. If the department determines that the provider is charging fees that are unreasonable and pose an undue burden to child care assistance families, the department may suspend the child care assistance contract. In situations where an incidental cost may
occur such as field trips, special lunches or other similar situations, the child care provider is allowed to charge the child care assistance family the additional cost, provided the cost does not exceed that charged to private pay families.

(3) Child care providers are allowed to charge child care assistance families the applicable gross receipts tax for the sum of the child care assistance benefit and co-payment.

8.15.2.17 PAYMENT FOR SERVICES:

C. The department shall pay a five dollar monthly, not to exceed sixty dollars per year, registration/educational fee per child in full time care, on behalf of department clients under 8.15.2 NMAC. Adjustments to the five dollar registration/educational fee will be made based on units of care. The registration/educational fee will discontinue when a placement closes as a result of a client changing providers, a provider discontinuing services, a child care placement agreement expiring, or a provider’s license being suspended or expiring.

D. The amount of the payment is based upon the age of the child and average number of hours per week needed per child during the certification period. The number of hours of care needed is determined with the parent at the time of certification and is reflected in the provider agreement. Providers are paid according to the units of service needed which are reflected in the child care agreement covering the certification period.

E. The department pays for care based upon the following units of service:

<table>
<thead>
<tr>
<th>Full time</th>
<th>Part time 1</th>
<th>Part time 2 (only for split custody or in cases where a child may have two providers)</th>
<th>Part time 3</th>
</tr>
</thead>
<tbody>
<tr>
<td>Care provided for an average of 30 or more hours per week per month</td>
<td>Care provided for an average of 8-29 hours per week per month</td>
<td>Care provided for an average of 6-19 hours per week per month</td>
<td>Care provided for an average of 7 or less hours per week per month</td>
</tr>
<tr>
<td>Pay at 100% of full time rate</td>
<td>Pay at 75% of full time rate</td>
<td>Pay at 50% of full time rate</td>
<td>Pay at 25% of full time rate</td>
</tr>
</tbody>
</table>

F. Hours of care shall be rounded to the nearest whole number.

G. Monthly reimbursement rates:

<table>
<thead>
<tr>
<th>Licensed child care centers</th>
</tr>
</thead>
<tbody>
<tr>
<td>Infant</td>
</tr>
<tr>
<td>$720.64</td>
</tr>
</tbody>
</table>

<table>
<thead>
<tr>
<th>Licensed group homes (capacity: 7-12)</th>
</tr>
</thead>
<tbody>
<tr>
<td>Infant</td>
</tr>
<tr>
<td>$586.07</td>
</tr>
</tbody>
</table>

<table>
<thead>
<tr>
<th>Licensed family homes (capacity: 6 or less)</th>
</tr>
</thead>
<tbody>
<tr>
<td>Infant</td>
</tr>
<tr>
<td>$566.98</td>
</tr>
</tbody>
</table>

<table>
<thead>
<tr>
<th>Registered homes and in-home child care</th>
</tr>
</thead>
<tbody>
<tr>
<td>Infant</td>
</tr>
<tr>
<td>$289.89</td>
</tr>
</tbody>
</table>

H. The department pays a differential rate according to the license or registration status of the provider, national accreditation status of the provider if applicable, and star level status of the provider if applicable.

I. Providers holding and maintaining CYFD approved national accreditation status will receive the
differential rate listed in Subsection I. below, per child per month for full time care above the base rate for type of child care (licensed center, group home or family home) and age of child. All providers who maintain CYFD approved national accreditation status will be paid at the accredited rates for the appropriate age group and type of care. In order to continue at this accredited reimbursement rate, a provider holding national accreditation status must meet and maintain licensing standards and maintain national accreditation status without a lapse. If a provider holding national accreditation status fails to maintain these requirements, this will result in the provider reimbursement reverting to a lower level of reimbursement.

1) Providers who receive national accreditation on or before December 31, 2014 from an accrediting body that is no longer approved by CYFD will no longer have national accreditation status, but will remain eligible to receive an additional $150 per child per month for full time care above the base rate for type of child care (licensed center, group home or family home) and age of child until December 31, 2017.

a) In order to continue at this reimbursement rate until December 31, 2017 a provider holding accreditation from accrediting bodies no longer approved by CYFD must maintain licensing standards and maintain accreditation without a lapse.

b) If the provider fails to maintain their accreditation, the provider reimbursement will revert to the base reimbursement rate unless they have achieved a FOCUS star level or regain national accreditation status approved by CYFD.

2) The licensee shall notify the licensing authority within 48 hours of any adverse action by the national accreditation body against the licensee's national accreditation status, including but not limited to expiration, suspension, termination, revocation, denial, nonrenewal, lapse or other action that could affect its national accreditation status. All providers are required to notify the department immediately when a change in accreditation status occurs.

[II] I. The department will pay a differential rate per child per month for full time care above the base reimbursement rate to providers achieving higher Star levels by meeting FOCUS essential elements of quality as follows:

<table>
<thead>
<tr>
<th>2 Star FOCUS Child Care Centers, Licensed Family and Group Homes</th>
</tr>
</thead>
<tbody>
<tr>
<td>Infant</td>
</tr>
<tr>
<td>$80.00</td>
</tr>
</tbody>
</table>

<table>
<thead>
<tr>
<th>3 Star FOCUS Child Care Centers, Licensed Family and Group Homes</th>
</tr>
</thead>
<tbody>
<tr>
<td>Infant</td>
</tr>
<tr>
<td>$100.00</td>
</tr>
</tbody>
</table>

<table>
<thead>
<tr>
<th>4 Star FOCUS Licensed Family and Group Homes</th>
</tr>
</thead>
<tbody>
<tr>
<td>Infant</td>
</tr>
<tr>
<td>$180.00</td>
</tr>
</tbody>
</table>

<table>
<thead>
<tr>
<th>5 Star FOCUS or CYFD approved national accreditation Licensed Family and Group Homes</th>
</tr>
</thead>
<tbody>
<tr>
<td>Infant</td>
</tr>
<tr>
<td>$250.00</td>
</tr>
</tbody>
</table>

<table>
<thead>
<tr>
<th>4 Star FOCUS Child Care Centers</th>
</tr>
</thead>
<tbody>
<tr>
<td>Infant</td>
</tr>
<tr>
<td>$280.00</td>
</tr>
</tbody>
</table>

<table>
<thead>
<tr>
<th>5 Star FOCUS or CYFD approved national accreditation Child Care Centers</th>
</tr>
</thead>
<tbody>
<tr>
<td>Infant</td>
</tr>
<tr>
<td>$550.00</td>
</tr>
</tbody>
</table>

[III] I. In order to continue at the FOCUS reimbursement rates, a provider must meet and maintain the most recent FOCUS eligibility requirements and star level criteria. If the provider fails to meet the FOCUS eligibility requirements and star level criteria the provider reimbursement will revert to the FOCUS criteria level
Differential rates determined by achieving higher star levels determined by AIM HIGH essential elements of quality will be discontinued effective December 31, 2017. The department will pay a differential rate to providers achieving higher star levels determined by the AIM HIGH essential elements of quality until December 31, 2017 as follows: 3-Star at $88.00 per month per child for full time care above the base reimbursement rate; 4-Star at $122.50 per month per child for full time care above the base reimbursement rate, and 5-Star at $150.00 per child per month for full time care above the base reimbursement rate. In order to continue at these reimbursement rates, a provider must maintain and meet most recent AIM HIGH star criteria and basic licensing requirements. If the provider fails to meet the requirements, this will result in the provider reimbursement reverting to the base reimbursement rate.

The department pays a differential rate equivalent to five percent, ten percent or fifteen percent of the applicable full-time/part-time rate to providers who provide care during non-traditional hours. Non-traditional care will be paid according to the following charts:

<table>
<thead>
<tr>
<th></th>
<th>1-10 hrs/wk</th>
<th>11-20 hrs/wk</th>
<th>21 or more hrs/wk</th>
</tr>
</thead>
<tbody>
<tr>
<td>After hours</td>
<td>5%</td>
<td>10%</td>
<td>15%</td>
</tr>
<tr>
<td>Weekend hours</td>
<td>5%</td>
<td>10%</td>
<td>15%</td>
</tr>
</tbody>
</table>

If a significant change occurs in the client’s circumstances, (see Subsection G of 8.15.2.13 NMAC) the child care placement agreement may be modified and the rate of payment is adjusted. The department monitors attendance and reviews the placement at the end of the certification period when the child is re-certified.

The department may conduct provider or parent audits to assess that the approved service units are consistent with usage. Providers found to be defrauding the department are sanctioned. Providers must provide all relevant information requested by the department during an audit.

Payments are made to the provider for the period covered in the placement agreement or based on the availability of funds.
Thank you so much for posting this information on our CYFD website.

Please place the below information on the Child Care Services page as listed below.

Children, Youth and Families Department (CYFD) is proposing regulation changes to 8.15.2 NMAC - Requirements for Child Care Assistance Programs for Clients and Child Care Providers. Click this link - https://www.newmexickids.org/ - to view the proposed changes to 8.15.2 NMAC - Requirements for Child Care Assistance Programs for Clients and Child Care Providers, the Notice of Rulemaking and Public Rule Hearing, and any written comments received by Children, Youth and Families.
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Information Governance
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Hi Sylvia,

Thank you so much for posting this information on our CYFD website.

Please place the below information on the Child Care Services page as listed below.

Children, Youth and Families Department (CYFD) is proposing regulation changes to 8.15.2 NMAC - Requirements for Child Care Assistance Programs for Clients and Child Care Providers.

Click this link - [www.newmexicokids.org/proposed-regulation-changes-to-8-15-2-nmac/](http://www.newmexicokids.org/proposed-regulation-changes-to-8-15-2-nmac/) - to view the proposed changes to 8.15.2 NMAC - Requirements for Child Care Assistance Programs for Clients and Child Care Providers, the Notice of Rulemaking and Public Rule Hearing, and any written comments received by Children, Youth and Families Department.

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**Debra A. Gonzales, Policy Compliance and Quality Assurance Manager**
Early Childhood Services
Information Governance
Program, Policy, Audit and Reports

New Mexico Children,
Youth & Families Department

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Report suspected child abuse or neglect by calling #SAFE (#7233) from a cell phone or 1-855-333-SAFE.
8.15.2 NMAC - Child Care Assistance Programs

Related

SSP Rule Hearing Name
8.15.2 NMAC - Child Care Assistance Programs
Agency
Children, Youth & Families Department
Proposed Rule Summary
The New Mexico Children, Youth and Families Department hereby gives notice as required under Section 14-4-5.2 NMSA 1978 and 12.4.25.11 NMAC that it proposes to adopt amendments to the following rules regarding CHILD CARE ASSISTANCE as authorized by Section 9-9A.7 NMSA 1978.
8.15.2.7 NMAC - DEFINITIONS
8.15.2.9 NMAC - PRIORITIES FOR ASSISTANCE
8.15.2.12 NMAC - RECERTIFICATION
8.15.2.13 NMAC - CLIENT RESPONSIBILITIES
8.15.2.15 NMAC - PROVIDER REQUIREMENTS
8.15.2.17 NMAC - PAYMENT FOR SERVICES

Purpose (brief)
Proposing regulation changes to 8.15.2 NMAC - Requirements for Child Care Assistance Programs for Clients and Child Care Providers

Purpose
The purpose of the rule is to amend the eligibility levels for child care assistance, to eliminate the waiting list for child care assistance, to provide an explanation of the co-payment calculation and where to find the co-payment schedule, to comply with federal regulation to pay for registration/educational fees for children receiving child care assistance benefits on behalf of client, and to address the overlap of care hours under payment for services.

Owner
Debra Gonzales

Information to Constituents
Hearing Start Date and Time
7/18/2019 13.00 AM
Hearing End Date and Time
7/18/2019 2:00 PM
Public Hearing Location
Old PIRSA Building
Agoda Hall
1120 Paseo de Peralta
Santa Fe, New Mexico 87502

How To Participate
Any interested member of the public may attend the hearing and will be provided a reasonable opportunity to offer public comment, either orally or in writing, including presentation of data, views, or arguments, on the proposed rules during the hearing. Individuals with disabilities who need any form of auxiliary aid to attend or participate in the public hearing are asked to contact Debra Gonzales at debra.gonzales@state.nm.us (mailto:debra.gonzales@state.nm.us). CYFD will make every effort to accommodate all reasonable requests but cannot guarantee accommodation of a request that is not received at least ten calendar days before the scheduled hearing.

How To Obtain Copy of Proposed Rule
Copies of the proposed rules may be found at CYFD's website at https://www.newmexicokids.org/ (https://www.newmexicokids.org/) or may be obtained from 1120 Paseo De Peralta, Santa Fe, New Mexico, 30 days prior to the Public Hearing.

Rule Hearing Contact Name
Kimberly Brown

Rule Hearing Contact Email
cyfd-eco-publiccomment@state.nm.us (mailto:cyfd-eco-publiccomment@state.nm.us)

Rule Hearing Contact Phone Number
800-632-1321

When Are Comments Due
7/18/2019 2:00 PM

How to Submit Comments
Written public comment, including presentation of data, views, or arguments about the proposed rules, from any interested member of the public, may also be submitted via email to CYFD-ECO-PUBLICCOMMENT@state.nm.us (mailto:CYFD-ECO-PUBLICCOMMENT@state.nm.us) with the subject line 8.15.2 NMAC - CHILD CARE ASSISTANCE PROGRAMS.
Hello,

As a requirement to the State Rules Act, the attached notice and proposed regulation needs to be made available in our field and regional offices.

Thank you.

Debra A. Gonzales, Policy Compliance and Quality Assurance Manager

Office: 505.231.5820
Mobile: 505.231.5820
Fax: 505.476.0143
Email: Debra.Gonzales@state.nm.us
Web: www.cyfd.org

Early Childhood Services
Information Governance
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New Mexico Children,
Youth & Families Department

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Family Name
Address
City, State and Zip

Dear Family:

May 28, 2019

Please be advised that the Children, Youth and Families Department (CYFD) is proposing regulation changes to 8.15.2 NMAC - Requirements for Child Care Assistance Programs for Clients and Child Care Providers.

The significant proposed changes to the rules are to amend the eligibility levels for child care assistance, to eliminate the waiting list for child care assistance, to provide an explanation of the co-payment calculation and where to find the co-payment schedule, to comply with federal regulation to pay for registration/educational fees for children receiving child care assistance benefits on behalf of clients, and to address the overlap of care hours under payment for services.

This letter serves as notice that CYFD will hold a formal public hearing on Monday, July 8, 2019, at 11:00 a.m. in Apodaca Hall of the PERA Building located at 1120 Paseo de Peralta, Santa Fe, New Mexico 87502. The purpose of this public hearing is to receive public comment regarding proposed changes to 8.15.2 NMAC – Requirements for Child Care Assistance Programs. Any interested member of the public may attend the hearing and will be provided a reasonable opportunity to offer public comment, either orally or in writing, including presentation of data, views, or arguments, on the proposed rules during the hearing.

Copies of the proposed rules may be found at CYFD’s website at https://www.newmexicokids.org/ or may be obtained from 1120 Paseo De Peralta, Santa Fe, New Mexico, 30 days prior to the Public Hearing.

Written public comment, including presentation of data, views, or arguments on the proposed rules, from any interested member of the public, may also be submitted via email to CYFD-ECS-PublicComment@state.nm.us with the subject line “8.15.2 NMAC Public Comment,” or via first class mail to, or by hand delivery to Kimberly Brown, Child Care Services Bureau, Children, Youth and Families Department, P.O. Drawer 5160, Santa Fe, New Mexico 87502-5160. The comment period ends at the conclusion of the public hearing on July 8, 2019.

If you have any questions, please call Kimberly Brown at 505-841-4821 or 1-800-832-1321.

Sincerely,

Alejandra Rebolledo
Deputy Director
Childhood Services
Children, Youth and Families Department
Querida familia:

Tenga en cuenta que el Departamento de Niños, Jóvenes y Familias (CYFD) está proponiendo cambios reglamentarios a 8.15.2 NMAC - Requisitos para programas de asistencia de cuidado infantil para clientes y proveedores de cuidado infantil.

Los cambios significativos propuestos a las reglas son enmendar los niveles de elegibilidad para la asistencia de cuidado infantil, para eliminar la lista de espera para la asistencia de cuidado infantil, para proporcionar una explicación del cálculo de copago y dónde encontrar el calendario de copagos, para cumplir con la regulación federal para pagar los costos de inscripción / educación para los niños que reciben beneficios de asistencia de cuidado de niños en nombre de los clientes, y para abordar la superposición de las horas de atención bajo el pago de los servicios.

Esta carta sirve como aviso de que CYFD celebrará una audiencia pública oficial el lunes 8 de julio de 2019, a las 11:00 am en el Salón de Apodaca del edificio PERA ubicado en 1120 Paseo de Peralta, Santa Fe, Nuevo México 87502. El propósito de esta audiencia pública debe recibir comentarios públicos sobre los cambios propuestos a 8.15.2 NMAC - Requisitos para los programas de asistencia de cuidado infantil. Cualquier miembro del público interesado puede asistir a la audiencia y se le brindará una oportunidad razonable para ofrecer comentarios del público, ya sea oralmente o por escrito, incluida la presentación de datos, opiniones o argumentos, sobre las reglas propuestas durante la audiencia.

Las copias de las reglas propuestas se pueden encontrar en el sitio web de CYFD en https://www.newmexickids.org/ o se pueden obtener en el 1120 Paseo De Peralta, Santa Fe, Nuevo México, 30 días antes de la audiencia pública.

Los comentarios públicos escritos, que incluyen la presentación de datos, opiniones o argumentos sobre las reglas propuestas, de cualquier miembro del público interesado, también pueden enviarse por correo electrónico a CYFD-ECS-PublicComment@state.nm.us con el asunto “8.15.2 Comentario público de NMAC “, o por correo de primera clase o entregado personalmente a Kimberly Brown, Oficina de Servicios de Cuidado Infantil, Departamento de Niños, Jóvenes y Familias, PO Box 5160, Santa Fe, Nuevo México 87502-5160. El período de comentarios finaliza al concluir la audiencia pública el 8 de Julio de 2019.

Si tiene alguna pregunta, llame a Kimberly Brown al 505-841-4821 o al 1-800-832-1321.

Sinceramente,

Alejandra Rebolledo Rea, Acting Division Director
Early Childhood Services
Children, Youth and Families Department
From: Gonzales, Debra A., CYFD
Sent: Tuesday, May 28, 2019 1:13 PM
To: lcs@nmlegis.gov
Cc: RebolledoRea, Alejandra, CYFD; Brown, Kimberly, CYFD; Montoya, Thomas, CYFD; Vigil, Raymond P., CYFD; Gonzales, Debra A., CYFD
Subject: Children, Youth and Families - Notice of Rulemaking and Public Rule Hearing
Attachments: CYFD_Proposed Notice_FINAL.PDF

As part of the New Mexico State Rules Act requirement of providing notice to the New Mexico Legislative Council for distribution to appropriate interim and standing legislative committees, attached is a Notice of Rulemaking and Public Rule Hearing for proposed changes to 8.15.2 NMAC - Requirements for Child Care Assistance Programs for Clients and Child Care Providers.

Please let us know if you have any questions or comments.

Thank you!

Debra

Debra A. Gonzales, Policy Compliance and Quality Assurance Manager
Office: 505.231-5820
Mobile: 505.231.5820
Fax: 505.476.0143
Email: Debra.Gonzales@state.nm.us
Web: www.cyfd.org

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Report suspected child abuse or neglect by calling #SAFE (#7233) from a cell phone or 1-855-333-SAFE.
NOTICE OF RULEMAKING AND PUBLIC RULE HEARING

The New Mexico Children, Youth and Families Department hereby gives notice as required under Section 14-4-5-2 NMSA 1978 and 12-24-21.11 NMAC that it proposes to adopt amendments to the following rules regarding CHILD CARE ASSISTANCE as authorized by Section 9-24-7 NMSA 1978:

8.152.7 NMAC – DEFINITIONS
8.152.9 NMAC – PRIORITIES FOR ASSISTANCE
8.152.12 NMAC – RECERTIFICATION
8.152.13 NMAC – CLIENT RESPONSIBILITIES
8.152.15 NMAC – PROVIDER REQUIREMENTS
8.152.17 NMAC – PAYMENT FOR SERVICES

No technical scientific information was consulted in drafting these proposed rules.

Purpose of proposed rules: The purpose of these rules is to amend the eligibility levels for child care assistance, to eliminate the waiting list for child care assistance, to provide an explanation of the program's calculation and where to find the program schedule, to comply with federal regulations to pay for registration/educational fees for children receiving child care assistance, and to address the overage of care-hours under payment for services. Copies of the proposed rules may be found at CYFD’s website at https://www.newmexico.org or may be obtained from 1120 Paseo De Peralta, Santa Fe, New Mexico, 30 days prior to the Public Hearing.

Notice of public rule hearing: The public rule hearing will be held on Monday, July 8, 2019 at 11:30 a.m. in Apodaca Hall, 1120 Paseo De Peralta, Santa Fe, New Mexico 87501. The public hearing will be a live and audible manner by a CYFD agency representative or hearing officer and shall be recorded. Any interested member of the public may attend the hearing and will be provided a reasonable opportunity to offer public comment, either orally or in writing, during the time of the hearing. Written comments, data, views, or arguments on the proposed rule during the hearing. Individuals with disabilities who need any form of auxiliary aids to attend, or participate in the public hearing are asked to contact Debbie Gonzales at debbie.gonzales@state.nm.us. CYFD will make reasonable efforts to accommodate, but cannot guarantee accommodation of a request that is not received at least ten calendar days before the scheduled hearing.

Notice of acceptance of written public comments: Written public comments, including presentation of data, views, or arguments about the proposed rules, from any interested member of the public, may also be submitted via email to CYFD-ECO-PublicComment@state.nm.us with the subject line "8.152.7 NMAC Public Comment," or via first class mail, or by hand delivery to Kimberly Brown, Child Care Services Bureau, Children, Youth and Families Department, P.O. Drawer 5161, Santa Fe, New Mexico 87502-5161. The comment period ends at the conclusion of the public hearing on July 8, 2019.

AVISO DE CREACIÓN DE LEYES Y AUDIENCIA PARA REGLAS PÚBLICAS

El Departamento de Niños, Jóvenes y Familias de Nuevo México por este medio de aviso como se requiera en la Sección 14-4-5-2 NMSA 1978 y 12-24-21.11 de la Ley Estatal NMAC que proponen en las siguientes disposiciones a las reglas propuestas de: ASISTENCIA DE CUIDADO INFANTIL están en el proceso de ser autenticadas por la Sección 9-24-7 NMSA 1978:

8.152.7 NMAC – DEFINICIONES
8.152.9 NMAC – PRIORIDADES PARA ASISTENCIA
8.152.12 NMAC – RECERTIFICACIÓN
8.152.13 NMAC – RESPONSABILIDADES DEL CLIENTE
8.152.15 NMAC – REQUISITOS DEL PROVEEDOR
8.152.17 NMAC – PASOS POR SERVICIOS

No se consultó información científica técnica para redactar las reglas propuestas.

Propósito de las Leyes Propuestas: El propósito de las reglas es aumentar los niveles de elegibilidad para la asistencia de cuidado infantil, para eliminar la lista de espera para la asistencia de cuidado infantil, para proporcionar una explicación del cálculo de soporte y cómo encontrar el cronograma de soporte, para cumplir con la regulación federal para pagar las cuentas de inscripción y educación para los niños que reciben beneficios de asistencia de cuidado de niños en nombre del cliente, y adoptar la suspensión de Horacio de soporte bajo pago por servicios.

Las copias de las reglas propuestas se pueden encontrar en el sitio web de CYFD: https://www.newmexico.org o se pueden obtener en 1120 Paseo De Peralta, Santa Fe, New Mexico 30 días antes de la Audiencia Pública.

Análisis de la Audiencia Pública: La audiencia de normas públicas se llevará a cabo el martes 8 de julio de 2019 a las 11:00 a.m. en Apodaca Hall, 1120 Paseo De Peralta, Santa Fe, Nuevo México 87501. La audiencia pública se llevará a cabo de manera justa y equitativa por un representante de la agencia de CYFD o el funcionario de audiencia y se registrar. Cualquier miembro del público interesado puede asistir a la audiencia y se brindará una oportunidad para expresar su opinión, antes de aprobar el documento. Se solicita que los miembros de la audiencia se identifiquen y presenten la información que deseado acompañada de opiniones, preguntas, o argumentos durante la audiencia. Las audiencias con posibilidad de que las audiencias se realicen con Debbie Gonzales at debbie.gonzales@state.nm.us. CYFD hace todos los esfuerzos posibles para satisfacer todas las solicitudes de la audiencia.

El procedimiento para la audiencia pública escrito: Los comités públicos escrito, deben ser presentados antes de la audiencia.
NOTICE OF RULEMAKING AND PUBLIC RULE HEARING The New Mexico Children, Youth and Families Department hereby gives notice as required under Section 14-4-5.2 NMSA 1978 and 1.24.25.11 NMAC that it proposes to adopt amendments to the following rules regarding CHILD CARE ASSISTANCE as authorized by Section 9-2A-7 NMSA 1978: 8.15.2.7 NMAC â€“ DEFINITIONS 8.15.2.9 NMAC â€“ PRIORITIES FOR ASSISTANCE 8.15.2.12 NMAC â€“ RECERTIFICATION 8.15.2.13 NMAC â€“ CLIENT RESPONSIBILITIES 8.15.2.15 NMAC â€“ PROVIDER REQUIREMENTS 8.15.2.17 NMAC â€“ PAYMENT FOR SERVICES No technical scientific information was consulted in drafting these proposed rules. Purpose of proposed rules: The purpose of the rules is to amend the eligibility levels for child care assistance, to eliminate the waiting list for child care assistance, to provide an explanation of the co-payment calculation and where to find the co-payment schedule, to comply with federal regulation to pay for registration/educational fees for children receiving child care assistance benefits on behalf of client, and to address the overlap of care hours under payment for services. Copies of the proposed rules may be found at CYFD's website at https://www.newmexickids.org/ or may be obtained from 1120 Paseo De Peralta, Santa Fe, New Mexico, 30 days prior to the Public Hearing. Notice of public rule hearing: The public rule hearing will be held on Monday, July 8, 2019 at 11:00 a.m. in Apodaca Hall, 1120 Paseo de Peralta, Santa Fe, New Mexico 87502. The public hearing will be conducted in a fair and equitable manner by a CYFD agency representative or hearing officer and shall be recorded. Any interested member of the public may attend the hearing and will be provided a reasonable opportunity to offer public comment, either orally or in writing, including presentation of data, views, or arguments, on the proposed rules during the hearing. Individuals with disabilities who need any form of auxiliary aid to attend or participate in the public hearing are asked to contact Debra Gonzales at debra.gonzales@state.nm.us. CYFD will make every effort to accommodate all reasonable requests, but cannot guarantee accommodation of a request that is not received at least ten calendar days before the scheduled hearing. Notice of acceptance of written public comment: Written public comment, including presentation of data, views, or arguments about the proposed rules, from any interested member of the public, may also be submitted via email to CYFD-ECS-PublicComment@state.nm.us with the subject line "8.15.2 NMAC Public Comment," or via first class mail to, or by hand delivery to Kimberly Brown, Child Care Services Bureau, Children, Youth and Families Department, P.O. Drawer 5160, Santa Fe, New Mexico 87502-5160. The comment period ends at the conclusion of the public hearing on July 8, 2019. AVISO DE CREATÃ‘N DELEYES Y AUDIENCIA PARA REGLAS PÃŠBLICAS El Departamento de NiÃ±os, JÃ³venes y Familias de Nuevo MÃ©xico por este medio da aviso como se requiere en la SecciÃ³n 14-4-5.2 NMSA 1978 y 1.24.25.11 de la Ley Estatal NMAC que propone adoptar enmiendas a las siguientes reglas relativas a ASISTENCIA DE CUIDADO INFANTIL segÃ©n lo autorizado por la secciÃ³n 9-2A-7 NMSA 1978: 8.15.2.7 NMAC â€“ DEFINICIONES 8.15.2.9 NMAC â€“ PRIORIDADES PARA ASISTENCIA 8.15.2.12 NMAC â€“ RE-CERTIFICACION 8.15.2.13 NMAC â€“
RESPONSABILIDADES DEL CLIENTE 8.15.2.15 NMAC â€“ REQUISITOS DEL PROVEEDOR 8.15.2.17 NMAC â€“ PAGOS POR SERVICIOS No se consultará información clientes técnica al contenido para redactar las reglas propuestas. Propósito de las Leyes Propuestas: El propósito de las reglas es enmendar los niveles de elegibilidad para la asistencia de cuidado infantil, para eliminar la lista de espera para la asistencia de cuidado infantil, para proporcionar una explicación del cálculo de copago y â€œnde encontrar el cronograma de copago, para cumplir con las regulaciones federales para pagar las cuotas de inscripción / educación para los niños que reciben beneficios de asistencia de cuidado de niños en el nombre del cliente, y abordar la superposición de Horario de atención bajo pago por servicios. Las copias de las reglas propuestas se pueden encontrar en el sitio web de CYFD:
https://www.newmexickids.org/ o se pueden obtener en 1120 Paseo De Peralta, Santa Fe, New Mexico, 30 dÃ­as antes de la audiencia PÃ³blica. Aviso de la Audiencia PÃ³blica: La audiencia de norma pÃ³blica se llevará a cabo el lunes 8 de julio de 2019 a las 11:00 a.m. en Apodaca Hall, 1120 Paseo de Peralta, Santa Fe, Nuevo MÃ©xico 87502. La audiencia pÃ³blica se llevará a cabo de manera justa y equitativa por un representante de la agencia de CYFD o el funcionario de audiencias y se registrará. Cualquier miembro del pÃ³blico interesado puede asistir a la audiencia y se le brindará una oportunidad razonable para ofrecer comentarios del pÃ³blico, ya sea oralmente o por escrito, incluida la presentación de datos, opiniones o argumentos, sobre las reglas propuestas durante la audiencia. Las personas con discapacidades que necesiten cualquier forma de ayuda auxiliar para asistir o participar en la audiencia pÃ³blica deben comunicarse con Debra Gonzales at debra.gonzales@state.nm.us. CYFD hará todos los esfuerzos posibles para satisfacer todas las solicitudes razonables, pero no puede garantizar la adaptación de una solicitud que no se reciba al menos diez días calendario antes de la audiencia programada. Aviso de aceptación de comentario pÃ³blico escrito: Los comentarios pÃ³blicos escritos, incluyendo la presentación de datos, opiniones o argumentos sobre las reglas propuestas, de cualquier miembro del pÃ³blico interesado, también pueden enviarse por correo electrónico a: CYFD-ECS-PublicComment@state.nm.us, especificando Asunto: "8.15.2 NMAC Public Comment," o por correo de primera clase o entrega en persona a: Kimberly Brown, Child Care Services Bureau, Children, Youth and Families Department, P.O. Drawer 5160, Santa Fe, New Mexico 87502-5160. El periodo de comentarios finaliza al concluir la audiencia pÃ³blica el 8 de julio de 2019. Journal: May 28, 2019

Public Notice ID: 25419366

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NOTICE OF RULEMAKING AND PUBLIC RULE HEARING

The New Mexico Children, Youth and Families Department hereby gives notice as required under Section 14-4-5.2 NMSA 1978 and 1.24.25.11 NMAC that it proposes to adopt amendments to the following rules regarding CHILD CARE ASSISTANCE as authorized by Section 9-2A-7 NMSA 1978:

8.15.2.7 NMAC — DEFINITIONS
8.15.2.9 NMAC — PRIORITIES FOR ASSISTANCE
8.15.2.12 NMAC — RECERTIFICATION
8.15.2.13 NMAC — CLIENT RESPONSIBILITIES
8.15.2.15 NMAC — PROVIDER REQUIREMENTS
8.15.2.17 NMAC — PAYMENT FOR SERVICES

No technical scientific information was consulted in drafting these proposed rules. Purpose of proposed rules: The purpose of the rules is to amend the eligibility levels for child care assistance, to eliminate the waiting list for child care assistance, to provide an explanation of the co-payment calculation and where to find the co-payment schedule, to comply with federal regulation to pay for registration/educational fees for children receiving child care assistance benefits on behalf of client, and to address the overlap of care hours under payment for services.

Copies of the proposed rules may be found at CYFD’s website at https://www.newmexicokids.org/ or may be obtained from 1120 Paseo De Peralta, Santa Fe, New Mexico, 30 days prior to the Public Hearing.

Notice of public rule hearing: The public rule hearing will be held on Monday, July 8, 2019 at 11:00 a.m. in Apodaca Hall, 1120 Paseo de Peralta, Santa Fe, New Mexico 87502. The public hearing will be conducted in a fair and equitable manner by a CYFD agency representative or hearing officer and shall be recorded. Any interested member of the public may attend the hearing and will be provided a reasonable opportunity to offer public comment, either orally or in writing, including presentation of data, views, or arguments, on the proposed rules during the hearing.

Individuals with disabilities who need any form of auxiliary aid to attend or participate in the public hearing are asked to contact Debra Gonzales at debra.gonzales @ state.nm.us. CYFD will make every effort to accommodate all reasonable requests, but cannot guarantee accommodation of a request that is not received at least ten calendar days before the scheduled hearing.

Notice of acceptance of written public comment: Written public comment, including presentation of data, views, or arguments about the proposed rules, from any interested member of the public, may also be submitted via email to CYFD-ECS-PublicComment @state.nm.us with the subject line "8.15.2 NMAC Public Comment," or via first class mail to, or by hand delivery to Kimberly Brown, Child Care Services Bureau, Children, Youth and Families Department, P.O. Drawer 5160, Santa Fe, New Mexico 87502-5160. The comment period ends at the conclusion of the public hearing on July 8, 2019.
AVISO DE CREACION DE LEYES Y AUDIENCIA PARA REGLAS PUBLICAS
El Departamento de Ninos, Jovenes y Familias de Nuevo Mexico por este medio da aviso como se requiere en la seccion 14-4-5.2 NMSA 1978 y 1.24.25.11 de la Ley Estatal NMAC que propone adoptar
enmiendas a las siguientes reglas relativas a ASISTENCIA DE CUIDADO INFANTIL segun lo autorizado
por la seccion 9-2A-7 NMSA 1978:
8.15.2.7 NMAC — DEFINICIONES
8.15.2.9 NMAC — PRIORIDADES PARA ASISTENCIA
8.15.2.12 NMAC — RE-CERTIFICACION
8.15.2.13 NMAC — RESPONSABILIDADES DEL CLIENTE
8.15.2.15 NMAC — REQUISITOS DEL PROVEEDOR
8.15.2.17 NMAC — PAGOS POR SERVICIOS
No se consultó información científica técnica para redactar las reglas propuestas.

Propuesto de las Leyes Propuestas: El propuesto de las reglas es enmendar los niveles de elegibilidad
para la asistencia de cuidado infantil, para eliminar la lista de espera para la asistencia de cuidado
infantil, para proporcionar una explicación del cálculo de copago y donde encontrar el cronograma de
 copago, para cumplir con la regulación federal para pagar las cuotas de inscripción / educación para los
niños que reciben beneficios de asistencia de cuidado de niños en nombre del cliente, y abordar la
superposición de Horario de atención bajo pago por servicios.

Las copias de las reglas propuestas se pueden encontrar en el sitio web de CYFD:
https://www.newmexickids.org/ o se pueden obtener en 1120 Paseo De Peralta, Santa Fe, New
Mexico, 30 días antes de la Audiencia Pública.

Aviso de la Audiencia Pública: La audiencia de norma publica se llevara a cabo el lunes 8 de julio de
2019 a las 11:00 a.m. en Apodaca Hall, 1120 Paseo de Peralta, Santa Fe, Nuevo México 87502. La
audiencia publica se llevara a cabo de manera justa y equitativa por un representante de la agencia de
CYFD o el funcionario de audiencias y se registrar. Cualquier miembro del publico interesado puede
asistir a la audiencia y se le brindara una oportunidad razonable para ofrecer comentarios del publico,
ya sea oralmente o por escrito, incluida la presentación de datos, opiniones o argumentos, sobre las
reglas propuestas durante la audiencia. Las personas con discapacidades que necesiten alguna forma
de ayuda auxiliar para asistir 0 participar en la audiencia publica deben comunicarse con Debra
Gonzales at debra.gonzales @ state.nm.us. CYFD hara todos los esfuerzos posibles para satisfacer
todas las solicitudes razonables, pero no puede garantizar la adaptacion de una solicitud que no se
reciba al menos diez dias calendario antes de la audiencia programada.

Aviso de aceptacion de comentario publico escrito: Los comentarios publicos escritos, incluyendo la
presentacion de datos, opiniones 0 argumentos sobre las reglas propuestas, de cualquier miembro del
publico interesado, tambien pueden enviarse por correo electronico a: CYFD-ECS-PublicComment@ state.nm.us, especificando Asunto: "8.15.2 NMAC Public Comment," o por correo de primera clase 0
entrega en persona a: Kimberly Brown, Child Care Services Bureau, Children, Youth and Families
Department, P.O. Drawer 5160, Santa Fe, New Mexico 87502-5160. El periodo de comentarios finaliza
al concluir la audiencia publica el 8 de julio de 2019.

Pub#1286681 Run Date: May 28, 2019

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  AFFIDAVIT    20.00
  TAX         26.47
  TOTAL       340.13

AFFIDAVIT OF PUBLICATION

STATE OF NEW MEXICO
COUNTY OF SANTA FE

I, C. Valdez, being first duly sworn declare and say that I am Legal
Advertising Representative of THE SANTA FE NEW MEXICAN, a daily
newspaper published in the English language, and having a general
circulation in the Counties of Santa Fe, Rio Arriba, San Miguel, and Los
Alamos, State of New Mexico and being a newspaper duly qualified to
publish legal notices and advertisements under the provisions of Chapter
167 on Session Laws of 1937; that the Legal No 85820 a copy of which is
hereeto attached was published in said newspaper 1 day(s) between
05/28/2019 and 05/28/2019 and that the notice was published in the
newspaper proper and not in any supplement; the first date of publication
being on the 28th day of May, 2019 and that the undersigned has personal
knowledge of the matter and things set forth in this affidavit.

/\/
LEGAL ADVERTISEMENT REPRESENTATIVE

Subscribed and sworn to before me on this 28th day of May, 2019

Notary

Commission Expires: 2-20-22
Notice of public rule hearing: The public rule hearing will be held on Monday, July 8, 2019, at 11:00 a.m. In Apodaca Hall, 1120 Paseo De Peralta, Santa Fe, New Mexico 87502. The public hearing will be conducted in a fair and equitable manner by a CYFD agency representative or hearing officer and shall be recorded. Any interested member of the public may attend the hearing and will be provided a reasonable opportunity to offer public comment, either orally or in writing, including presentation of data, views, or arguments, on the proposed rules during the hearing. Individuals with disabilities who need any form of auxiliary aid to attend or participate in the public hearing are asked to contact Debra Gonzales at 505-827-0774 or debra.gonzales@stat nm.us. CYFD will make every effort to accommodate reasonable requests, but cannot guarantee accommodation of a request that is not received at least ten business days before the scheduled hearing.

Notice of acceptance of written public comment: Written public comment, including presentation of data, views, or arguments about the proposed rules from any interested member of the public, may be submitted via email to: CYFD-ECS-Comment@stat nm.us with the subject line “5.15.2 NMAC Public Comment.” Comment period ends at the conclusion of the public hearing on July 8, 2019.

AVISO DE CREACIÓN DE LEYES Y AUDIENCIA PARA REGLAS PÚBLICAS El Departamento de Niños, Jóvenes y Familias de Nuevo México, por este medio da aviso comun se requiere en la Sección 14-4-5.2 NMSA 1978 y funciona en la audiencia y se registra. Cualquier miembro del público interesado puede aspirar a la audiencia y se le brindará una oportunidad razonable para ofrecer comentarios del público, ya sea oralmente o por escrito. Incluida la presentación de datos, opiniones, argumentos, sobre las reglas propuestas durante la audiencia, las personas con discapacidades que necesiten cualquier otro tipo de ayuda pueden participar en la audiencia pública y se le debe comunicar a Debra Gonzales en debra.gonzales@stat nm.us. CYFD hará todos los esfuerzos posibles para participar en todas las solicitudes razonables, pero no puede garantizar la adaptación de una solicitud que no se reciba al menos en una semana antes de la audiencia programada.

Aviso de aceptación de comentarios de público escrito: Se recibieron los comentarios que se solicitan en el sitio web de CYFD: https://www.newmexico.gov/esa, o se pueden encontrar en el sitio web de CYFD: https://www.newmexico.gov/esa. Los correos electrónicos de correo electrónico a: CYFD-ECS-Comment@stat nm.us, especificando en el asunto: “5.15.2 NMAC Public Comment.” Las copias de las reglas propuestas se pueden encontrar en el sitio web de CYFD: https://www.newmexico.gov/esa. El periodo de commentar se cierra el lunes 8 de julio de 2019 a las 11:00 a.m. en Apodaca Hall, 1120 Paseo De Peralta, Santa Fe, Nuevo México 87502. La audiencia se llevará a cabo a partir de la fecha y en la ciudad de Santa Fe, Nuevo México 87502. La audiencia pública se llevará a cabo de manera justa y equitativa por un representante de la agencia de CYFD o el
AFFIDAVIT OF PUBLICATION

Ad No.
0001286681

CINDY RITCH
CHILDREN YOUTH & FAMILIES
PO DRAWER 5160
SANTA FE NM 875025160

I, a legal clerk of the Las Cruces Sun-News, a newspaper published daily at the county of Dona Ana, state of New Mexico and of general paid circulation in said county; that the same is a duly qualified newspaper under the laws of the State wherein legal notices and advertisements may be published; that the printed notice attached hereto was published in the regular and entire edition of said newspaper and not in supplement thereof on the date as follows, to wit:

05/28/19

Despondent further states this newspaper is duly qualified to publish legal notice or advertisements within the meaning of Sec. Chapter 167, Laws of 1937.

[Signature]
Legal Clerk

STATE OF WISCONSIN SS.
County of Brown
Subscribed and sworn before me this 28th of May 2019.

[Signature]
NOTARY PUBLIC in and for
Brown County, Wisconsin

[Signature]
My Commission Expires

Ad#:0001286681
P O : PO#0000064678
# of Affidavits :0.00
NOTICE OF RULEMAKING AND PUBLIC RULE HEARING

The New Mexico Children, Youth and Families Department hereby gives notice as required under Section 14-4.5.2 NMSA 1978 and 124.25.11 NMAC that it proposes to adopt amendments to the following rules regarding CHILD CARE ASSISTANCE as authorized by Section 9-2A-7 NMSA 1978:

8.15.2.7 NMAC — DEFINITIONS
8.15.2.9 NMAC — PRIORITIES FOR ASSISTANCE
8.15.2.11 NMAC — RECERTIFICATION
8.15.2.13 NMAC — CLIENT RESPONSIBILITIES
8.15.2.15 NMAC — PROVIDER REQUIREMENTS
8.15.2.17 NMAC — PAYMENT FOR SERVICES

No technical scientific information was consulted in drafting these proposed rules.

Purpose of proposed rules: The purpose of the rules is to amend the eligibility levels for child care assistance, to eliminate the waiting list for child care assistance, to provide an explanation of the co-payment calculation and where to find the co-payment schedule, to comply with federal regulation to pay for registration/educational fees for children receiving child care assistance benefits on behalf of client, and to address the overlap of care hours under payment for services.

Copies of the proposed rules may be found at CYFD’s website at https://www.newmexicohiv.org/ or may be obtained from 1120 Paseo De Peralta, Santa Fe, New Mexico, 30 days prior to the Public Hearing.

Notice of public rule hearing: The public rule hearing will be held on Monday, July 8, 2019 at 11:00 a.m. in Apodaca Hall, 1120 Paseo de Peralta, Santa Fe, New Mexico 87502. The public hearing will be conducted in a fair and equitable manner by a CYFD agency representative or hearing officer and shall be recorded. Any interested member of the public may attend the hearing and will be provided a reasonable opportunity to offer public comment, either orally or in writing, including presentation of data, views, or arguments, on the proposed rules during the hearing.

Individuals with disabilities who need any form of auxiliary aid to attend or participate in the public hearing are asked to contact Debra Gonzales at debra.gonzales@state.nm.us. CYFD will make every effort to accommodate all reasonable requests, but cannot guarantee accommodation of a request that is not received at least ten calendar days before the scheduled hearing.

Notice of acceptance of written public comment: Written public comment, including presentation of data, views, or arguments about the proposed rules, from any interested member of the public, may also be submitted via email to CYFD-ECS-PublicComment@state.nm.us with the subject line “8.15.2.7 NMAC Public Comment,” or via first class mail to, or by hand delivery to Kimberly Brown, Child Care Services Bureau, Children, Youth and Families Department, P.O. Drawer S160, Santa Fe, New Mexico 87502-S160. The comment period ends at the conclusion of the public hearing on July 8, 2019.

AVISO DE CREACION DE LEYES Y AUDIENCIA PARA REGLAS PUBLICAS

El Departamento de Niños, Jóvenes y Familias de Nuevo México pone este medio de aviso como se requiere en la Sección 14-4.5.2 NMSA 1978 y 124.25.11 de la Ley Estatual NMAC que propone adoptar enmiendas a las siguientes reglas relativas a ASISTENCIA DE CUIDADO INFANTIL según lo autorizado por la sección 9-2A-7 NMSA 1978:

8.15.2.7 NMAC — DEFINICIONES
8.15.2.9 NMAC — PRIORIDADES PARA ASISTENCIA
8.15.2.11 NMAC — RECERTIFICACION
8.15.2.13 NMAC — RESPONSABILIDADES DEL CLIENTE
8.15.2.15 NMAC — REQUISITOS DEL PROVEEDOR
8.15.2.17 NMAC — PAGOS POR SERVICIOS

No se consultó información científica técnica para redactar las reglas propuestas.

Propósito de las Leyes Propuestas: El propósito de las reglas es enmendar los niveles de elegibilidad para la asistencia de cuidado infantil, para eliminar la lista de espera para la asistencia de cuidado infantil, para proporcionar una explicación del cálculo de copago y donde encontrar el cronograma de copago, para cumplir con la regulación federal para pagar las cuotas de inscripción/educación para los niños que reciben beneficios de asistencia de cuidado de niños en nombre del cliente, y abordar la superposición de horario de atención bajo pago por servicios.

Las copias de las reglas propuestas se pueden
encontrar en el sitio web de CYFD: https://www.newmexikofds.org/ o se pueden obtener en 1120 Paseo De Peralta, Santa Fe, New México, 30 días antes de la Audiencia Pública.

Aviso de la Audiencia Pública: La audiencia de norma publica se llevará a cabo el lunes 8 de julio de 2019 a las 11:00 a.m. en Apodaca Hall, 1120 Paseo de Peralta, Santa Fe, Nuevo México 87502. La audiencia publica se llevara a cabo de manera justa y equitativa por un representante de la agencia de CYFD o el funcionario de audiencias y se registrará. Cualquier miembro del público interesado puede asistir a la audiencia y se le brindará una oportunidad razonable para ofrecer comentarios del público, ya sea oralmente o por escrito, incluida la presentación de datos, opiniones o argumentos, sobre las reglas propuestas durante la audiencia. Las personas con discapacidades que necesiten cualquier forma de ayuda auxiliar para asistir o participar en la audiencia pública deben comunicarse con Debra Gonzales en debra.gonzales@state.nm.us. CYFD hará todos los esfuerzos posibles para satisfacer todas las solicitudes razonables, pero no puede garantizar la adaptación de una solicitud que no se reciba al menos diez días calendario antes de la audiencia programado.

Aviso de aceptación de comentario público escrito: Los comentarios públicos escritos, incluyendo la presentación de datos, opiniones o argumentos sobre las reglas propuestas, de cualquier miembro del público interesado, también pueden enviarse por correo electrónico a: CYFD.ECS-PublicComment@state.nm.us, especificando Asunto: "RUS.2 NMAC Public Comment," o por correo de primera clase a entrega en persona a: Kimberly Brown, Child Care Services Bureau, Children, Youth and Families Department, P.O. Drawer 5160, Santa Fe, New Mexico 87502-5160. El período de comentarios finaliza al concluir la audiencia pública el 8 de julio de 2019.

Pub#1286631 Run Date: May 28, 2019
List of individuals to whom notice was mailed or sent electronically as required by 1.24.25.14.A

- Names of child care assistance recipients who were notified may be requested through an IPRA.
- Names of child care providers who were notified may be requested through an IPRA.