



Rhode Island Executive Office of Health and Human Services
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February 12, 2015

Docket # 14-1353
Hearing Date: January 20, 2015



ADMINISTRATIVE HEARING DECISION

The Administrative Hearing that you requested has been decided against you. During the course of the proceeding, the following issue(s) and Agency regulation(s) were the matters before the hearing:

THE DEPARTMENT OF HUMAN SERVICES (DHS) RULES AND REGULATIONS CHILD CARE ASSISTANCE PROGRAM (CCAP) SECTION: 0850.02.04 CRITERIA FOR INCOME ELIGIBILITY

The facts of your case, the Agency regulation(s), and the complete administrative decision made in this matter follow. Your rights to judicial review of this decision are found on the last page of this decision.

Copies of this decision have been sent to the following: You (the appellant), and Agency representatives: Josepha Way, David Nielson, and Karen Beese.

Present at the hearing were: You, the father of your children, and Agency representative David Nielson.

ISSUE: Is the appellant ineligible for the Child Care Assistance Program (CCAP) as of June 17, 2014 because she was not working a minimum of 20 hours per week?

DHS Rules and Regulations:

Please see the attached APPENDIX for pertinent excerpts from the Rhode Island Department of Human Services Rules and Regulations.

APPEAL RIGHTS:

Please see attached NOTICE OF APPELLATE RIGHTS at the end of this decision.

DISCUSSION OF THE EVIDENCE:

The Agency representatives testified:

- The Agency received the appellant's Child care application on June 17, 2014.
- A computer printout was submitted with the application as proof of income, but it was unreadable.
- On July 24, 2014 the Agency sent the appellant a request for documentation letter asking for better verification of her income, specifically two current biweekly paystubs and verification of money received from the children's father.
- According to the information that the appellant provided on her application in response to questions about her job income, she worked 60 hours during a 4 week time period.
- Based on the information that they had, on August 6, 2014 the Agency denied the appellant's application for not working a minimum of 20 hours a week.
- On August 15, 2014, the appellant submitted a hearing request, a new application, and a better copy of the income verification previously submitted that was unreadable.
- Using the payroll information provided on the new copy and dividing the appellant's total gross income for a four week period by her hourly wage of \$11.75 found that the appellant worked 15 hours a week.
- To be eligible for CCAP the appellant must be working an average of 20 hours per week and based on what she has provided with and subsequent to her application, she was not.
- The Agency usually requests four pay stubs to verify income but sometime asks for more to get a better average if the income is not consistent.
- While the appellant did receive checks for over \$900.00 in February and March, starting in April, the appellant's average monthly income was only \$705.00.

The appellant testified:

- She does work an average of 20 hours a week.
- The computer document she submitted shows that on February 14, 2014 she got paid \$940.00 and on March 28, 2014 she got paid \$954.69. Both of those are monthly payments.
- The times she got paid \$705.00 it was for 60 hours of work over a three week time period.
- Her work schedule is 4 hours a day 5 days a week.
- Her days and hours may change sometimes but she always works 20 hours a week.
- She works for an agency that services children with disabilities.
- She works with a child one on one and the mother of the child has to sign her timesheets to verify the hours she worked.
- She also signs the timesheets herself and then turns them in to her employer and they pay her based on those time sheets.
- She is supposed to get paid biweekly but she doesn't always because sometimes she turns her time sheets in too late.
- She is not always able to submit her timesheets on time because the Agency she works for is not close to home and she does not have a vehicle.
- Sometime she submits three or four weeks of time sheets at a time.
- Her payroll information is online and the computer printout she submitted accurately represents all the paychecks and income she received from February 14, 2014 through August 4, 2014.
- The Agency asked her for more details about her income so she brought actual paystubs.

- The \$705.00 check and the \$235.00 checks together represent a month's income.
- When her pay is noted as retro pay on her check that means some of it is late pay.
- She earns \$11.75 per hour.
- She has had this job since October 2011 and she has always worked 20 hours a week.
- Even if she does not work on a Holiday, the child's mother always lets her work another day to make it up.
- She works all year and she has not taken any time off, even for vacations, since she started this job.

FINDINGS OF FACT:

- The appellant submitted an application for the Child Care Assistance Program (CCAP) on June 17, 2014.
- The appellant applied for income-based child care assistance as an employed parent.
- For CCAP income eligibility to exist, the parent(s) must demonstrate an acceptable need for services related to employment.
- For there to be an acceptable need for service, the parent(s) must be employed a minimum of an average of twenty hours per week in a month, earn an hourly minimum wage, and require CCAP child care service in order to work.
- The Agency sent the appellant a Notice of Denial dated August 6, 2014, informing her that her application for CCAP was denied because she was not meeting the program requirement of working a minimum of 20 hours per week.
- The appellant filed a timely appeal received by the Agency on August 15, 2014.
- A Hearing Appointment Notice dated October 6, 2014 was sent to the appellant informing her that her Administrative Hearing was scheduled for October 21, 2014.

- Per the appellant's request the October 21, 2014 hearing was rescheduled.
- A Hearing Appointment Notice dated October 23, 2014 was sent to the appellant informing her that her Administrative Hearing was rescheduled for November 12, 2014.
- The appellant did not appear for her November 12, 2014 hearing.
- A Notice of Abandonment dated November 13, 2014 was sent to the appellant.
- On November 26, 2014, the appellant submitted a written response to the Notice of Abandonment, claiming good cause for missing her November 12, 2014 hearing, and a rescheduling of her hearing was granted.
- An Administrative Hearing was convened on January 20, 2015.
- The appellant is employed and receives an hourly wage of \$11.75.
- The appellant receives her employment wages on an inconsistent basis.

CONCLUSION:

The issue to be decided is whether the appellant is ineligible for the Child Care Assistance Program (CCAP) at the time of application on June 17, 2014 because she was not working a minimum of 20 hours per week.

There is no dispute that the appellant applied for income-based child care assistance as an employed parent. A review of the Department of Human Services (DHS) Child Care Assistance Program (CCAP) rules and regulations finds that for CCAP income eligibility to exist, the appellant must demonstrate that she has an acceptable need for services related to her employment. For there to be an acceptable need for service, the appellant must be employed a minimum of an average of twenty hours per week in a month, earn an hourly minimum wage, and require CCAP child care service in order to work.

The Agency argues based on all of the income verification provided by the appellant, the appellant is working less than 20 hours per week. The appellant testifies that she does work 20 hours every week. She argues that it only appears that she is working less hours some weeks because she sometimes receives her wages late due to submitting her time sheets late.

A full review of the evidence submitted finds:

- The appellant reported on her CCAP application that she gets paid every two weeks and received gross wages of \$470.00 on May 5, 2014 for 40 hours of work and received \$235.00 on May 19, 2014 for 20 hours of work. Where asked on the application about her work schedule, the appellant reported that she works the same days every week and generally works the same number of hours each week and she reported a work schedule showing she worked 6 hours a day/5 days a week, thereby indicating that she works 30 hours a week.
- A computer printout showing the gross amount of each paycheck the appellant received from February 14, 2014 through August 4, 2014 establish that the appellant did not receive a paycheck every two weeks and that the gross amounts of her checks varied.
- The four submitted pay stubs dated May 5, 2014, May 19, 2014, June 16, 2014, and July 14, 2014 along with the computer printout establish that these were four consecutive paychecks with no other checks issued in between. The pay stubs establish that the appellant receives \$11.75 an hour and that at times she was paid wages earned prior to the particular check's pay period.

Per the CCAP regulations, CCAP eligibility is determined prospectively, meaning that CCAP eligibility is based on what the appellant's circumstances are reasonably expected to be in the months for which CCAP eligibility is to be granted and payments for services are to be authorized. While a prior month's circumstances are usually a good indication of future months, when circumstances are inconsistent, a longer time period may need to be reviewed to get an accurate indication of future circumstances.

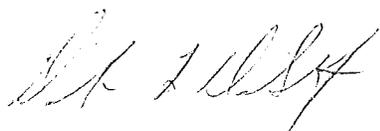
Further review of the submitted paystubs finds that they do not clearly establish that the appellant worked 40 hours every two weeks and/or an average of 20 hours per week in the month before, during, or after her CCAP application. The computer printout and the submitted pay stubs together establish that in the month of May 2014, the month prior to application, the appellant received two gross checks totaling \$705.00 as compensation for 60 hours of work. In June 2014, the month of application, she received one gross check totaling \$705.00 as compensation for 60 hours of work and in July 2014, the month after application, she received one gross check totaling \$705.00 as compensation for 60 hours of work. In summary, the evidence fails to establish that the appellant worked an average of 20 hours a week in either of the months of May, June, or July 2014.

Due to the appellant's testimony as to the cause of her fluctuating income, further review is warranted. Further review of the submitted computer document finds that the appellant

received gross pay totaling \$1,175.00 in February 2014, gross pay of \$954.69 in March 2014, and gross pay totaling \$470.00 in April 2014. Based on her hourly wage of \$11.75, the computer document thereby establishes that during the six month time period from February 2014 through July 2014, the appellant did not receive compensation for a minimum average of 20 hours a week and further establishes that when each month is viewed individually, the appellant has not worked a minimum average of 20 hours a week since March 2014.

In conclusion, for CCAP income eligibility to exist, the appellant must demonstrate that she has an acceptable need for services by being employed a minimum of an average of twenty hours per week in a month. The appellant has failed to establish at the time of her CCAP application in June 2014 that she was working and/or was reasonably expected to be working a minimum of an average of twenty hours per week in a month.

After a careful review of the Agency's rules and regulations, as well as, the evidence and testimony given, this Appeals Officer finds that at the time of the June 17, 2014 CCAP application, the appellant did not meet the CCAP's income eligibility criteria of being employed a minimum of an average of 20 hours per week in a month. The appellant's request for relief is denied.



Debra L. DeStefano
Appeals Officer

APPENDIX

DEPARTMENT OF HUMAN SERVICES CHILD CARE ASSISTANCE PROGRAM (CCAP)

Effective 03/09/2014

SECTION TWO - ELIGIBILITY AND AUTHORIZATION OF SERVICES 0850.02 ELIGIBILITY AND AUTHORIZATION OF SERVICES

Families with incomes at or below 180 percent of the federal poverty level (FPL) who meet the requirements for the Starting Right Child Care Assistance Program (CCAP) are eligible to receive full or partial payment for child care expenses when delivered by a CCAP approved child care provider.

A. There are two avenues for qualifying for payment of child care expenses through the CCAP:

1. Categorical Eligibility - The Rhode Island TANF Program extends eligibility for the CCAP to Rhode Island Works Program (RIW) cash assistance recipients, including Youth Services Program participants, who meet the need for services as established in Section 0850.02.03.
2. Income Eligibility - Working Rhode Island families and YS participants who are not RIW cash recipients may be income eligible for the CCAP if they meet the requirements set forth in Section 0850.02.04.

0850.02.04 CRITERIA FOR INCOME ELIGIBILITY

Working families and YS participants not receiving RIW cash assistance who meet the general requirements in Section 0850.02.01 and the following criteria may be CCAP income eligible:

A. Financial Determination.

1. The countable income of the financial unit shall be at or below 180 percent of the Federal Poverty Level (FPL), based on family size.
 - a. Beginning October 1, 2013 the Department of Human Services will conduct a pilot Transitional Child Care program. This pilot will be time-limited and is expected to end on September 30, 2014.
 - b. Transitional Child Care will allow families currently eligible for child care to continue to receive child care for up to twelve (12) months after their income exceeds 180% of the federal poverty level (FPL), as long as income remains below 225% FPL.
 - c. When income rises above 225% FPL the family is no longer eligible.
 - d. New child care assistance applicants with income over 180% FPL will not be eligible for Transitional Child Care.
 - e. This pilot project allows RI Works and CCAP Income Eligible families to continue receiving child care benefits as their income rises. Eligibility for Transitional Child Care will be determined at normal recertification times or sooner if a currently eligible CCAP family submits evidence of increased income over 180% FPL.
 - f. Families found eligible after October 1, 2013 will be continued on transitional child' care until they reach 225% FLP or at the close of the pilot program.
 - i. If approved for Transitional Child Care and income later falls below 180% FPL eligibility for transitional child care ends and an application for child care assistance under the regular CCAP program can occur.
 - ii. Families are eligible to resume Transitional Child Care if their income were to again rise above 180% FPL within the timeframes of the pilot program.

2. The income of self-employed families shall be calculated as outlined in Section 1424.20.10 of the DHS Code of Rules.

3. In the process of determining eligibility for CCAP, prospective budgeting is used. Eligibility is established based on the knowledge and reasonable expectation of what income and circumstances will exist in the month for which a payment is authorized. The agency representative must determine all factors of eligibility prospectively for all payment months.

a. The prospective budgeting method is used to determine the income which will exist during the period of eligibility for cash assistance under the RI Works Program. This means that weekly income for these cases is converted to a monthly amount using the 4.3333 weeks per month conversion method.

b. The projected estimate of income is valid for the following periods:

i. between the initial determination of eligibility and redetermination;

ii. between redeterminations;

iii. following a change in income or circumstances which is reported by the recipient or discovered by the Department.

B. Treatment of Resources

1. Resource Limit. A determination of eligibility requires a review of the family's liquid resources. The review, for both initial eligibility and redeterminations, will be limited to the parents' statements unless the stated resources are close to limit or there is other reason to require verification. The request for verification shall be at the discretion of the DHS representative if the information given is inconsistent or questionable from information known to the Department.. The value of liquid resources must be counted toward the ten-thousand dollar (\$10,000) liquid resource limit. If the combined value of the child's or the family's liquid resources exceeds the ten thousand dollar (\$10,000) liquid resource limit, the family is ineligible and the application is denied or eligibility for assistance is discontinued.

a. Liquid resources are defined as any interest(s) in property in the form of cash or other financial instruments or accounts that are readily convertible to cash or cash equivalents.

b. These include, but are not limited to: cash, bank, credit union or other financial institution savings, checking and money market accounts, certificates of deposit or other time deposits, stocks, bonds, mutual funds, and other similar financial instruments or accounts.

c. These do not include educational savings accounts, plans, or programs; retirement accounts, plans, or programs; or accounts held jointly with another adult, not including a spouse, living outside the same household but only to the extent the applicant/recipient family documents the funds are from sources owned by the other adult living outside the household, plus the proportionate share of any interest, dividend, or capital gains thereon.

2. In addition to the evaluation of resources at the time of the CCAP application, or redetermination, resources are reviewed when a change occurs, or when information is received which indicates that unreported resources may exist. If, at the time of the liquid resource evaluation, countable liquid resources exceed the liquid resource limit, resources are assumed to be in excess of the limit for the entire month.

a. Households are required to report a change in resources during the period between recertification dates only when the change in resource would increase the amount of the household's resources in excess of ten thousand dollars (\$10,000).

b. Bank accounts are liquid resources and, as such, must be verified for CCAP households, both at initial certification and at recertification. The same procedures employed at certification are used at recertification.

3. Verification of Resources. The applicant/recipient's statement is acceptable for verification of resources unless the household is near the resource maximum limit or the information given

is inconsistent or questionable from information known to the Department. The same procedures employed at certification are used at recertification.

- a. If information is inconsistent, questionable or the household is near the maximum, the caseworker must clearly document why the household's statement was unacceptable in the case record and request additional verification.
- b. Photocopies are acceptable to verify resources if requested. If there is a question as to the validity of the photocopies, a DHS-91 is sent to the bank to verify the resource.
- c. For quality assurance purposes, DHS conducts routine checks through the use of the DHS-91.

4. Availability of a Resource. In order to be countable in the determination of CCAP eligibility, a resource must be available to the individual. The individual must be able to use the resource to provide food, shelter, clothing, or convert it into a form in which it can be used to meet needs:

- a. A resource is considered to be available both when actually available, and when the applicant has the legal ability to make such sum available for support and maintenance;
- b. Resources are not available when a legal impediment exists which precludes the applicant from making the resource available for support, maintenance or child care payments.
- c. Applicants/Recipients are required, as a condition of eligibility, to cooperate with the Department in making resources available.

5. Availability of Funds. Funds maintained in checking or savings accounts are usually payable on demand. An individual should be able to withdraw money from a checking account on the same day s/he presents a check.

- a. Funds can usually be withdrawn from a savings account the same day the request is made.
- b. However, some unusual circumstances may occur which prevent the immediate withdrawal of money, and may result in the resource being unavailable. For example, if there is a joint account with only one individual having authority to withdraw money and that individual dies, a prolonged period may elapse before the surviving owner can withdraw the money.
- c. Certain time deposits (e.g. savings certificates or certificates of deposit) may not be legally available to the applicant until a specific point in time. If so, the policy in Subsection 4 above, regarding availability of resources is applied to determine if the resource is not countable until the maturity of the certificate.

6. First Moment of the Month Rule. Countable liquid resources are determined as of the FIRST MOMENT OF THE MONTH (FOM). The determination is based on the liquid resources the individuals own, their value, and whether or not they are excluded as of the first moment of the month. The FOM rule establishes a point in time at which to value liquid resources; what a person owns in countable liquid resources can change during a month but the change is always effective with the following month's liquid resource determination. The kinds of changes that can occur are:

- a. CHANGES IN VALUE OF EXISTING LIQUID RESOURCES - The value of an existing liquid resource may increase or decrease. For example, the value of a share of stock may decrease by thirty dollars (\$30) or increase by twenty dollars (\$20).
- b. DISPOSITION OR ACQUISITION OF LIQUID RESOURCES - An individual may dispose of an existing liquid resource (e.g., close a savings account and purchase an item) or may acquire a new liquid resource (e.g., an inheritance which is subject to the income-counting rules in the month of receipt).
- c. CHANGE IN EXCLUSION STATUS OF EXISTING LIQUID RESOURCES - An

individual may replace an excluded resource with a non-excluded liquid resource (e.g., sell an excluded automobile for non-excluded cash) or vice versa (use non excluded cash to purchase an excluded automobile). Similarly, a time-limited exclusion (such as the period for exclusion of retroactive Title II benefits) may expire.

d. Receipt of retroactive SSI or Social Security/Disability benefits and other lump sum payments such as insurance settlements and child support arrearage payments. Changes such as SSI, SSA, and Lump Sums do not affect the countable value of liquid resources in the month in which they occur. Any change does not affect countable liquid resources until the first moment of the following month.

e. If countable liquid resources exceed the limit as of the first moment of a month, the recipient is not eligible for that month, unless the liquid resources are reduced by expenditure on certain allowable expenses. Expenses that may be used to reduce liquid resources, to attain or retain eligibility, in CCAP are:

- i. Any and all expenses related to payment for education or child care for members of the family unit;
- ii. Contributions to educational savings accounts, plans or programs owned by any member of the family unit; and
- iii. Contributions to retirement accounts, plans or programs owned by any member of the family unit.

7. Joint Accounts and Rebuttal of Ownership. Whenever the applicant is a joint account holder who has unrestricted access to the funds in the account, ALL of the funds in the account are PRESUMED to be the resources of the applicant. The applicant is offered the opportunity to submit evidence in rebuttal as described below.

a. A successful rebuttal results in finding that the funds (or a portion of the funds) in the joint account are not owned by the applicant and, therefore, are not the resources of the applicant.

b. Rebuttal of Ownership of a Resource: In order for a household member to demonstrate a lack of ownership, or only partial ownership of a resource, two (2) of the following sources of documentation must be presented as evidence:

- i. Documents showing the origin of the resource. For example, if a bank account was opened, who opened it or whose money was used to open the account;
- ii. Documentation through federal or state tax records as to which of the joint account holders declares the tax on the interest credited to the account as income;
- iii. Records of who makes deposits and withdrawals and, if appropriate, of how withdrawn funds are spent. The person claiming a lack of ownership (or accessibility) should not have made any withdrawals.
- iv. A notarized affidavit that details a written or oral agreement made between the parties listed on the resource or by someone who established or contributed to the resource, with respect to the ownership of the funds in the resource;
- v. When the household member states that s/he does not own a bank account but is listed as a co-holder solely as a convenience to the other co-holder to conduct bank transactions on his/her behalf, evidence of the age, relationship, physical or mental condition, or place of residence of the coholder must be provided;
- vi. A signed, notarized statement from the household member and from either other individual(s) listed in the joint account, or the person who established or contributed to the account, stating that the applicant or recipient had no knowledge of the existence of the account.

c. A document or piece of evidence submitted to verify a particular fact does not count as more than one verification under the above Subsections. However, a document, piece of evidence or a statement may address more than one fact needed for verification.

d. If a household member cannot demonstrate that s/he is not the owner of the account through the submission of two (2) of the above listed documents, the rebuttal must be denied.

C. Family Cost Sharing Requirement. Eligible families with countable income above 100% of the FPL shall pay a share of the expense for the child care services. The family shall be assessed for a share of the cost for authorized services (formerly referred to as co-payment) based on a percentage of the gross countable income for families at each level. The family share and income guidelines are set in accordance with the CCAP Cost-Sharing Payment Rate Table located as Addendum 2.

1. The family share shall be determined without regard to the number of eligible children who are enrolled or the total of services utilized. The family share shall be assigned to the first or youngest eligible child enrolled in care, that is, the eligible child who receives authorized services paid at the highest rate. The family share shall only be distributed among providers when the total amount of the family share assigned exceeds the rate paid for the first, or youngest, eligible child enrolled.

2. A family's share of the cost for child care services approved for CCAP payment shall be recalculated any time that the family submits a new application and supporting documentation, or reports a change to DHS that may affect eligibility prior to the end of the family's certification period. DHS shall recalculate the family's share of the cost for CCAP authorized services anytime there are changes in the family's income or size of the financial unit;

3. The Notice of Approval for child care assistance shall indicate whether a family is required to pay a share of the cost for authorized child services based on countable income. The Approval Notice shall indicate to the family the exact amount of their family share and the calculations used to determine that amount. The family shall also be informed of the amount of their family share and which provider(s) to pay in the Confirmation of Enrollment letter.

D. Need for Services. To be authorized for income-based CCAP child care services, the parent(s) shall have an acceptable need for services related to employment, or in the case of non-RIW cash assistance YS Program participation, in an approved educational program, or in the case of participation in the Back to Work Rhode Island Program, in an approved job readiness/job attachment program.

1. General Criteria: Income Eligible. For there to be an acceptable need for services in a two parent home, each parent shall be employed a minimum of an average of twenty (20) hours per week in a month and require CCAP child care services in order to work in accordance with E below. In addition, the parents shall each earn, per hour, an average of the greater of either the state or federal minimum wage. For there to be an acceptable need for services in a one-parent home, the parent living in the household shall be employed a minimum of an average of twenty (20) hours per week in a month, earn per hour an average of the greater of either the state or federal minimum wage, and require CCAP child care services in order to work.

2. Program-Specific Criteria: Non RIW cash assistance YS Participants. To obtain CCAP authorized services, non-RIW teens applying for income eligibility shall meet the applicable general criteria as well as the following program-specific criteria:

a. The applicant parent shall be a YS participant, under twenty (20) years of age, and without a high school degree or its equivalent;

b. The applicant YS parent shall be employed, attending school or participating in education related activities, or engaged in some combination thereof for a minimum of twenty (20) hour per week, on average, in a month. CCAP child care services for

YS participants who meet this requirement may be authorized for a period of up to twelve (12) months, with the end date set to correspond to completion date of the educational activity - e.g., date high school diploma or GED is received.

c. Teen Parent Under the Age of Sixteen (16). A teen parent who is under age sixteen (16) may not have a child care case in their own name; unless documentation of emancipation exists or circumstances exist that the inclusion of the parent or legal guardian would present an obstacle to securing child care.

3. Program-Specific Criteria: Back to Work Rhode Island Program is defined in the Department of Labor and Training rules and regulations. Beginning October 1, 2013, and until January 1, 2015, the department shall provide child care to Income Eligible / Low-income families with income below one hundred eighty percent (180%) of the federal poverty level who are involved in training, apprenticeship, internship, on-the-job training, work experience, work immersion, or other job readiness/job attachment programs sponsored or funded by the human resource investment council (governor's workforce board) or state agencies that are part of the coordinated program system pursuant to sections 42-102-9 and 42-102-11 of RIGL. To obtain CCAP authorized services, such applicants applying for income eligibility shall meet the applicable general criteria as well as the following program-specific criteria:

a. The applicant parent shall be a participant in a DLT-approved training, apprenticeship, internship, on-the-job training, work experience, work immersion, or other job readiness/job attachment programs sponsored or funded by the human resource investment council, and require CCAP child care services in order to take part in job readiness/job attachment activities.

b. The applicant parent shall be participating in job readiness/job attachment activities for a minimum of twenty (20) hour per week, on average, in a month. CCAP child care services for participants who meet this requirement may be authorized for a period of three (3) to six (6) months, with the end date set to correspond to completion date of the activity.

c. For there to be an acceptable need for services in a two-parent home, at least one parent shall be participating in approved job readiness/job attachment activities for an average of twenty (20) hours per week in a month and require CCAP child care services in order to work in accordance with E below. In addition, parents with earned income shall each earn, per hour, an average of the greater of either the state or federal minimum wage. For there to be an acceptable need for services in a one-parent home, the parent living in the household shall be participating in approved job readiness/job attachment activities for a minimum of an average of twenty (20) hours per week in a month, In addition, the parents shall each earn, per hour, an average of the greater of either the state or federal minimum wage.

E. Limitations. The need for child care services shall be related to the periods of time in which no parent is available to provide care for the child as a result of employment. CCAP child care services shall not be authorized for an otherwise income eligible child under the following circumstances:

1. A parent of the eligible child is self-employed as a child care provider, and is requesting payment for care provided to the child during the hours they are employed in that capacity. This limitation shall not apply if the parent is an employee of a child care provider;

2. A parent is providing the child care, irrespective of whether the parent lives in the same household as the eligible child(ren);

3. A person living in the same legal residence of the eligible child(ren) is providing the child care;

4. The applicant parent's sole source of income is derived from rental and/or room and board income, and the need for services is based on activities related to obtaining or collecting that income;

5. The applicant parent's need for services is based in part or in whole on time spent working

as a volunteer, or in any similar capacity in which no wages are earned, paid, or expected. Unpaid work of this kind also shall not count toward the minimum number of work hours required for CCAP income eligibility; or,

6. Such activities shall not be considered employment for the purposes of this Section and, as such, shall not count toward the minimum number of hours of work required to establish a need for CCAP authorized child care services.

F. Exceptions. In certain circumstances, families unable to meet the need for services requirements may qualify for an exception that allows authorization of CCAP services. The exceptions are as follows:

1. Parents with disabilities. Employed parents determined to have disabilities may be exempt from meeting the minimum number of hours of work and the minimum wage requirements required to establish a need for services set forth in this Subsection. An exemption shall not be granted until an assessment by an appropriate entity or provider of the parent's condition is complete, a final determination of disability is made, and the documentation verifying the parent's disability is submitted to DHS.

a. Final decisions on whether an exemption is warranted, shall be made by a CCAU supervisor.

b. Notice of the decision shall be provided to the parent requesting the exemption in accordance with the requirements of Section 0850.02.08 of this rule.

2. Short Term, Employer Authorized Absences. Short-term, employer authorized, absences from work for family/medical leave, vacations, or annual or personal leave are considered to be within the parameters of employment and will not adversely affect the scope of eligibility or ability to utilize CCAP authorized care, as long as the parent retains "employee" status during such absences. In addition, the following criteria must be met:

a. The parent's absence from work does not exceed twenty-one (21) consecutive days in a certification period.

i. Absences that extend beyond these time limits must be reported in accordance with Section 0850.02.08(C)(2), and may result in a change in the scope of CCAP authorized services.

ii. CCAP payment for parent absences from work shall not exceed two (2) weeks as outlined in Section 0850.02.06 of this rule.

b. There is an expectation on the part of both the parent and the employer that the parent will return to work once the authorized absence or period of leave is over.

3. Job Loss/Temporary Unemployment. An eligibility grace period may be granted in cases when a parent of a child receiving CCAP authorized services is unable to meet the minimum number of work hours required to maintain a need for CCAP services due to temporary unemployment as a result of an involuntary job loss (excluding a quit without good cause) or the transition between jobs. In addition, the following criteria must be met:

a. The eligibility grace period shall not exceed twenty-one (21) consecutive days in a certification period from the date the period of temporary unemployment begins.

b. The grace period shall not be extended or renewed.

c. A parent who does not report a change in employment in accordance with the requirements established in 0850.02.08(C) (2) shall not be granted a CCAP eligibility grace period unless good cause for the failure to report is shown.

d. The department reserves the discretion to require a temporarily unemployed parent to submit any documentation deemed necessary to verify that continuation of CCAP eligibility during the grace period is warranted.

e. New applicants do not qualify to request a CCAP eligibility grace period.

NOTICE OF APPELLATE RIGHTS

This Final Order constitutes a final order of the Department of Human Services pursuant to RI General Laws §42-35-12. Pursuant to RI General Laws §42-35-15, a final order may be appealed to the Superior Court sitting in and for the County of Providence within thirty (30) days of the mailing date of this decision. Such appeal, if taken, must be completed by filing a petition for review in Superior Court. The filing of the complaint does not itself stay enforcement of this order. The agency may grant, or the reviewing court may order, a stay upon the appropriate terms.