

Large Family Child Care Homes Manual

(January 2017)

for use with

COMAR 13A.18 – Large Family Child Care Homes
(as amended effective 7/20/15)

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COMAR 13A.18.04 Operational Requirements

.01 Hours of Care.

- A. **A provider shall limit the hours of care to the approved hours of operation stated on the certificate of registration.**

INTENT: The intent of this regulation is to permit the Provider to care for, but not assume primary responsibilities for, the child on a regular basis. It is also to prevent "provider burn-out."

INSPECTION REPORT ITEM: "Hours of Care"

COMPLIANCE CRITERIA: Child attendance records show that no child has spent more than 14 hours in care on more than an occasional basis without prior Regional Office approval.

ASSESSMENT METHOD: Review of the Provider's attendance records.

Notes: Upon written request from the Provider, and on a case-by-case basis, the Regional Manager/designee may approve regular care of a child for more than 14 hours per 24-hour period. The Provider must submit a separate request for each child affected. In deciding whether to approve the request, the Regional Manager/designee will, at a minimum, take the following factors into account:

- The reason for the Provider's request;
 - The circumstances under which the additional hours of care will be provided; and
 - The Provider's compliance history.
- B. **A provider may not offer overnight care without prior written approval from the office.**
- C. **A provider who wishes to provide overnight care shall:**
- (1) **Submit to the office a written plan of operation that includes:**
 - (a) **The number and ages of children to be served;**
 - (b) **A meal and snack schedule;**
 - (c) **The name of the overnight care substitute, if different from the daytime care substitute;**
 - (d) **A child supervision plan;**
 - (e) **A bedtime routine; and**
 - (f) **An evacuation plan for each room where a child in care will sleep; and**
 - (2) **Obtain the written approval of each child's parent for the child's sleeping arrangements.**

.02 Child Capacity.

- A. **The office shall determine the capacity of a large family child care home according to criteria established in:**
- (1) **This subtitle affecting floor space, outdoor activity space, staffing, child supervision, equipment, ages of the children to be enrolled, and sanitary**

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facilities; and

- (2) **Applicable codes, including but not limited to zoning, building, and fire codes.**
- B. **The maximum total capacity of a large family child care home is 12 children.**
- C. **The number of children present in care at any one time may not exceed the maximum child capacity number stated on the certificate of registration.**

INTENT: Maryland Law sets the maximum number of children a large family day care provider may care for, but not all providers or homes can be registered for the maximum number. The decision to issue a registration for less than the maximum is based on considerations for safety of children in care. Therefore, having more than this number of children present in care at any given time represents a potential risk to the children and is prohibited.

INSPECTION REPORT ITEM: “Child Capacity”

COMPLIANCE CRITERIA: *Children in attendance does not exceed approved capacity.*

ASSESSMENT METHOD: *Children in care are counted.*

Notes: *Capacity decisions are made at the Regional Office as part of the process of issuing registration certificates. In making each capacity decision, the following steps are taken:*

- *First, consideration is given to any capacity limitations that might be imposed by applicable fire, environmental health, and zoning requirements.*
- *Second, the Provider’s home is inspected to assess its suitability for the number of children requested. Particular consideration is given to:*
 - *The number and ages of the Provider’s own children.*
 - *Other children living in the Provider’s home, such as relatives’ children or foster children, as well as children who the Provider regularly care for, whether for compensation or not.*
 - *The adequacy of indoor and outdoor activity space. Indoors, there must be enough floor area to allow the number and ages of the children authorized for care to engage in active play without overcrowding or risk of injury. Outdoors, there must be ample, accessible space that is free from hazards.*
 - *The amount and appropriateness of activity equipment and materials, and of napping and eating space and equipment.*
 - *Whether the Provider devotes time and energy to caring for other persons such as infirm or elderly relatives who either live in the home or come into the home on a regular basis.*

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- *Other factors that may affect the health, safety, or welfare of children in care at the home.*
- *Based on an assessment of the above items, the Licensing Specialist makes a capacity recommendation to the Licensing Supervisor or Regional Manager. The Supervisor or Manager is responsible for making the capacity decision. Before reaching that decision, the Supervisor or Manager may need to obtain additional information or conduct a further inspection of the Provider's home in order to determine the appropriateness of the Specialist's recommendation. Once a capacity decision has been made, the Supervisor or Manager is responsible for ensuring that the Provider is promptly notified about the decision.*

.03 Enrollment and Attendance.

- A. **A provider may enroll a child for care at the child care home only if the child's age group is approved for care, as indicated on the provider's current certificate of registration.**
- B. **All children in care at any one time are counted as being in attendance for purposes of complying with the regulations governing capacity, group size, and staff/child ratios.**

INTENT: "Capacity" means the maximum number of children that may be physically present in the facility at the same time. "Enrollment" means the total number of children currently served by the facility at any time during its approved operating hours. "Attendance" means the number of children actually present at a given time. A facility's enrollment may exceed its capacity, but the number of children in attendance at the same time may not exceed the facility's capacity.

- C. **The office:**
 - (1) **Shall count as a child in care a resident who is younger than 6 years old; and**
 - (2) **May count as a child in care a child who is visiting the child care home if the child:**
 - (a) **Is younger than 8 years old and unaccompanied by an adult; or**
 - (b) **Cannot be sent home immediately.**
- D. **The provider may not permit a child to remain in care for more than 14 hours in any 24-hour period on a regular basis without prior approval from the office.**

INTENT: Licensed child care is intended only to provide day-to-day custodial care and supervision of children during the time when their parents are elsewhere. It is expected that each child's parent or guardian will take the child home at the end of each day. Except as approved in advance by OCC, child care services may not be provided to a child during any given day for more than 14 hours in a 24-hour period.

INSPECTION REPORT ITEM: *"Enrollment and Attendance"*

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COMPLIANCE CRITERIA: During any given day, no child is in attendance for more than 14 hours without the prior approval of the Regional Office.

ASSESSMENT METHOD: Review the facility's daily child attendance records to determine the length of time children are in attendance there. If a child has been in attendance for more than 14 hours, determine if the facility received prior OCC approval.

Note: Occasional late pickup by parents does not apply.

.04 Restriction of Operations.

A. **Upon determining that any of the following is unsuitable for the child care home, the office may restrict or reduce the provider's approved:**

- (1) **Hours of care;**
- (2) **Child care age groups; or**
- (3) **Child capacity.**

INTENT: For a given home, the Office may limit the children who may be present at one time to less than the maximum permitted capacity in order to ensure that safe, adequate, and appropriate child care and supervision can be provided.

Notes: If the Provider home school the Provider's own children, the Regional Office shall assess the potential impact of that activity on the care provided to children during the Provider's approved hours of operation. Depending on the circumstances of the home schooling activity, the Regional Office may limit the Provider's child care capacity to less than the permitted maximum. For details about home schooling in a large family child care home, see resource document, "*Home Instruction.*"

B. **The office may base a restriction or reduction under §A of this regulation on any of the following factors:**

- (1) **Space available, indoors or outdoors;**
- (2) **Equipment available;**
- (3) **Number and ages of residents in the child care home;**
- (4) **Responsibility of the provider to care for another individual who may require special attention or care, including, but not limited to, an elderly resident or a child with a serious physical, emotional, or behavioral condition;**
- (5) **Applicable fire, zoning, health, environmental, or other codes;**
- (6) **Failure to comply with group size and staffing requirements set forth at Chapter 08.03 of this subtitle; or**
- (7) **Other factors the office determines may cause a risk to a child's health, safety, or welfare.**

C. **A provider may appeal a restriction or reduction pursuant to §B of this regulation by filing a request for hearing:**

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- (1) **Not later than 20 calendar days after the notification of the office's action; or**
- (2) **In the case of an emergency reduction in capacity, within 72 hours of notification by the office of its decision to immediately reduce the number of children in care.**

***INTENT:** A decision by the Office to limit or reduce the capacity of the home affects the status of the registration. Therefore, the Provider may appeal that decision in accordance with established administrative hearing procedures.*

Notes:

If the Provider wishes to appeal a capacity decision, submit a written request to the Regional Manager to review the decision.

- *If the Provider is not satisfied with the outcome of the review by the Regional Manager, the Provider may file an appeal to have the decision reviewed by the Office of Administrative Hearings (OAH).*
 - *Complete a “Request for Hearing” form (OCC 1281) and submit it to the MSDE Office of the Attorney General. This office will forward it to OAH for scheduling of an appeal hearing.*
 - *The OAH appeal hearing will be conducted in accordance with Chapter 14 (“Administrative Hearings”) under this subtitle.*