

# Title 13A STATE BOARD OF EDUCATION

## Subtitle 14 CHILD AND FAMILY DAY CARE

### Chapter 06 Child Care [Subsidy] *Scholarship Program*

Authority: Family Law Article, §§5-550, 5-561, and 5-570, Annotated Code of Maryland  
Agency Note: Federal Regulatory Reference — Child Care and Development Fund 45 CFR  
98.50

#### **.01 Purpose.**

- A. *The purpose of the Child Care Scholarship Program is to provide [provides] financial assistance with child care costs to families that meet applicable State or federal eligibility requirements.*
- B. *Promote quality child care services through a variety of enhancement initiatives, including customer and provider training, resource and referral services, and comprehensive consumer education.*
- C. *Provide child care to eligible children while their parents experience high stress situations, like homelessness.*
- D. *Enable:*
- (1) *Children from income eligible families in Maryland equal access to affordable and quality child care services;*
  - (2) *Recipients of Temporary Cash Assistance (TCA) to engage in work and/or training activities through the Department of Human Services;*
  - (3) *Families to transition off TCA;*
  - (4) *Families to maintain suitable employment and/or to engage in other educational or training activities leading to employment;*
  - (5) *Adults who provide care services for children whom they have legal custody to continue participation in work, training and or educational component while their child attends child care; and*
  - (6) *Minor customers to remain in school and thereby decreasing variables that contribute to long-term welfare dependency.*

#### **.02 Definitions.**

A. In this chapter, the following terms have the meanings indicated.

B. Terms Defined.

- (1) "Absence" means the failure of a child to attend or appear at the child care program.
- (2) "Abuse" means:
  - (a) *The physical or mental injury of a child, under circumstances that indicate that the child's health or welfare is significantly harmed or at risk of being significantly harmed, by:*
    - (i) *A customer;*
    - (ii) *An individual who has permanent or temporary care or custody or responsibility of supervision for a child; or*
    - (iii) *A household or family member.*
  - (b) *Sexual abuse of a child, whether physical injuries are sustained or not.*
- [(2)](3) "Administrative disqualification hearing" means a hearing held by an administrative law judge of the Office of Administrative Hearings to determine if an intentional program violation (IPV) has occurred for which disqualification is a sanction.
- [(3)](4) "Administrative law judge" means an administrative law judge of the Office of Administrative Hearings.
- [(4)](5) "Adult" means an individual who is 18 years old or older.
- (6) "Adult with Physical Custody" means an applicant as set forth at §02(57) of this chapter.
- [(5)](7) "Adverse action" means the denial, termination, suspension, or reduction of:
  - (a) Services to a customer; or
  - (b) Payment to a provider.
- [(6)](8) "Appellant" means a customer, recipient, or other individual who is:
  - (a) Authorized by regulation to request an appeal under this chapter; or

- (b) The subject of an intentional program violation proceeding.
- (9) "Applicant" means the head(s) of household who submits a CCS application for CCS services.
- [(7)](10) "Approved activity" means a pursuit in which a customer is participating that is approved by the CCS Program for a TCA family, or by an individual who is:
- (a) Enrolled in public school;
  - (b) Enrolled in training;
  - (c) Engaged in volunteer work;
  - (d) Participating in a job search activity; "or"
  - (e) Working; or,
  - [(f)] Performing community service.
- [(8)](11) "Babysitting" means care that is provided in the babysitter's home for unrelated children for less than 20 hours a month, for which State law exempts the babysitter from being licensed *and is a care type not paid for with CCS funds.*
- (12) "Background check" means a fingerprint-supported review of national or state criminal history records, which may include sexual offender databases, maintained by a federal or state governmental unit that is duly authorized to collect, maintain, and disseminate criminal history information.
- [(9)](13) "Birth certificate" means an official record, issued by an authorized governmental unit, of an individual's full name, gender, [customer age,] *customer's age,* and date, place, and time of birth, *and may be used to establish citizenship of the child and the relationship of the child needing CCS services to the head of household(s).*
- [(10)](14) "Case management" means the process of determining or redetermining eligibility for customers, including collecting verifications.
- (15) "Case Record" means the hard and electronic documentation used by the contractor to approve or deny CCS services to the applicant.
- [(11)](16) "Child" means an individual who is younger than 13 years old who is not disabled, or an individual younger than 19 years old who is disabled, *the following exceptions:*
- (a) A "Child" with an active CCS Child Care Scholarships is permitted to receive services past their 13<sup>th</sup> birthday and up to the next redetermination, if the 13<sup>th</sup> birthday occurs after the customer completes determination or redetermination for CCS services;
  - (b) A "Child" with active CCS Child Care Scholarships and a documented special needs is permitted to receive services past their 19<sup>th</sup> birthday and up to the next redetermination, if the 19<sup>th</sup> birthday occurs after the customer completes determination or redetermination for CCS services.
- [(12)](17) "Child care" means care in a setting that is approved, licensed, or license-exempt under Maryland law by an individual other than the customer, Stepparent, guardian, or caretaker for less than a 24-hour day and for which compensation is paid.
- (18) "Child Care Category" means the child care parental choice selection made by the customer:
- (a) Center;
  - (b) Large Family Child Care Home;
  - (c) Family Child Care Home;
  - (d) Certificate of Compliance Center;
  - (e) Relative Care; and
  - (d) Non-relative Care.
- [(13)](19) "Child care center" means a facility providing child care that is:
- (a) Licensed pursuant to COMAR 13A.16;
  - (b) Operated under a letter of compliance issued pursuant to COMAR 13A.17;
  - (c) Licensed by any branch of the military under applicable military child care regulations;
  - (d) Operated by a public school; or
  - (e) Licensed by the Department of Health and Mental Hygiene as a youth camp as defined by Health-General Article, §14-401, Annotated Code of Maryland.
- [(14)](20) "Child Care [Subsidy] Scholarship (CCS) Program" means the system of providing financial assistance for child care to an eligible family, under which the contractor pays to the provider all or part of the payment on behalf of the family.
- [(15)](21) "Child Care [Subsidy] Scholarship (CCS) Branch" means the unit within the Division that regulates and administers Maryland's CCS Child Care Scholarship system for eligible families.

[(16)](22) "Child with a disability" means a child who has been diagnosed as being physically or mentally incapable of self-care appropriate to the age of the child, as verified by the State, based on a determination by a physician, a licensed or certified psychologist, or a licensed social worker.

(23) "Clearance" means a review of records of abuse and neglect maintained by a duly authorized unit of federal, state, or local government regarding:

- (a) Children (a "child clearance"); or
- (b) Adults (an "adult clearance").

(24) "Closed Eligibility" means the period of authorization the customer is approved to receive CCS services as noted on the Child Care Scholarship.

(25) "Continuing Income Tier or Scale" means the scale used at redetermination to determine if applicants with active Child Care Scholarships continue to meet the income guidelines as set forth at Regulation .03.H of this chapter. This income scale does not apply for applicants:

- (a) Submitting an initial CCS application; or
- (b) Failing to complete the CCS redetermination process timely.

[(17)](26) "Contractor" means the entity designated by the Division to:

- (a) Take applications for CCS Program services;
- (b) Issue [child care subsidy] *Child Care Scholarships* to eligible customers;
- (c) Process payments to child care providers and handle tasks related to provider payment processing; and
- (d) Handle all aspects of case management, including hearings and appeals, consumer education, and overpayments.

[(18)](27) "Copayment" means that portion of the financial cost of child care services assigned by the contractor to a family and paid on a unit basis by the family to the provider.

[(19)](28) "Customer" means an individual or family that:

- (a) Applies for initial or continuing CCS Program services; or
- (b) Currently receives CCS Program services.

[(20)](29) "Division" means the Division of Early Childhood Development, which is housed within the Maryland State Department of Education.

(30) "Earned Income" means income gained from employment as set forth at §B(38) of this regulation.

[(21)](31) "Enrollment status" means the attendance schedule, either full-time or part-time, of the child receiving CCS services.

[(22)](32) Family.

(a) "Family" means the family unit consisting of:

- (i) One or more adults and children, related by blood, marriage, adoption, or legal guardianship, and residing in the same household; or
- (ii) Adults with physical custody of a child, related or unrelated, who are residing in the same household.

(b) "Family" includes unrelated adults with children in common who reside together, whether either has other children residing in the household.

(c) "Family" does not include:

- (i) Unrelated adults with no children in common residing together; or
- (ii) Related adults, other than spouses, residing together.

[(23)](33) Family Child Care Home.

(a) "Family child care home" means a residence, other than the home of the child for whom CCS is requested, in which family child care is provided.

(b) "Family child care home" includes a:

(i) Family child care home registered to operate pursuant to COMAR 13A.15 or applicable military child care regulations; or

(ii) Large family child care home registered to operate pursuant to COMAR 13A.18.

[(24)](34) "Family Investment Program (FIP)" means an assistance program of the Maryland Department of Human Resources for families with children encompassing services, work experience, or temporary cash assistance (TCA).

[(25)](35) "Family Investment Program (FIP) participant" means an individual who is enrolled in TCA.

[(26)](36) "Family size" means the number of individuals residing in the same household as a family as defined in [§B(21)]§B(32) of this regulation.

[(27)](37) "Good cause" means circumstances in which the customer's cooperation with the child support requirement may not be in the best interest of the child.

[(28)](38) Gross Income.

(a) "Gross income" means the sum of earnings, prior to adjustments such as, but not limited to, pretax benefits and rental property depreciation, that are received by an individual for compensation of services rendered [on a regular or scheduled to occur on a recurrent basis].

(b) "**Gross income**" includes, but is not limited to:

(i) Wages, salary, and, as specified at Regulation 03F(8) of this chapter, income from self-employment;

(ii) Commissions, tips, and bonuses;

(iii) Dividends and interest;

(iv) Social Security benefits, including disability and survivors benefits;

(v) Pensions and annuities;

(vi) Estate income;

(vii) Military entitlements, bonuses, and allowances, *except as set forth at regulation 03(15)(d) of this chapter;*

(viii) Rental income;

(ix) Unemployment and Workers' Compensation; [and]

(x) Alimony and child support[.];

(xi) *Gross self-employment income minus a flat 30% deduction.*

(c) "**Gross income**" does not include:

(i) Temporary Cash Assistance payments;

(ii) Supplemental Security Income payments;

(iii) \$5,000 of a family's annual gross income per child for an adult with physical custody of a child as defined at [§B(40)] §B(57) of this regulation;

(iv) \$5,000 of a family's annual gross income per child when the minor customer attends public school full-time];

(v) Money received from sales of property, such as stocks, bonds, a house, or a car, unless the individual was engaged in the business of selling the property, in which case the [net proceeds would be] *income minus a flat 30% would be* counted as income from self-employment;

(vi) Withdrawals of bank deposits;

(vii) Money borrowed;

(viii) Tax refunds;

(ix) Gifts;

(x) Lump sum inheritances, [or] insurance payments *or Child support;*

(xi) Subsidized adoption, subsidized guardianship, and foster care payments;

(xii) Value of food stamps or supplemental assistance under the Child Nutrition Act of 1966 and the special food service program for children under the National School Lunch Act as amended;

(xiii) Earnings of a child younger than 15 years old or a child younger than 18 years old who is attending a public school;

(xiv) Loans and grants, such as scholarships[, obtained and used under conditions that preclude their use for current living costs];

(xv) [A] *Any portion of a grant, scholarship or loan to [an undergraduate] a student [for educational purposes made or insured under a program administered by the Commissioner of Education under the Higher Education Act];*

(xvi) Any stipends, compensation, or expenses received for volunteer service from programs existing or pending under the Domestic Volunteer Service Act of 1973 sponsored by ACTION;

(xvii) Any payment received under the Community Service Trust Act of 1973;

(xviii) Earnings received by a youth in a program under the Workforce Investment Act;

(xix) Energy grants and allowances received from P.L. 96-126 through the Maryland Energy Assistance Program;

(xx) Any payment received under the Uniform Relocation Assistance and Real Property Acquisition Policies Act of 1970;

(xxi) Child support payments made by a noncustodial customer for a child not residing in the customer's household;

(xxii) [\$2,500] Child support state and federal tax intercepts and arrearage payments;

(xxiii) Veterans Administration payments to children with birth defects born to female Vietnam veterans;

(xxiv) Educational assistance income used for an educational activity that is approved by the Maryland Higher Education Commission or is part of the FIP Independence Plan;

(xxv) Payments made to correct underpayments to recipients; [and]

(xxvi) Census earnings made by temporary census workers[.];

(xxvii) *Uniform payment or cleaning allowances included as gross income on check stubs;*

(xxviii) *Income from the senior parent or legal guardian of a minor parent;*

(xxix) *Home produce grown for household consumption;*

(xxx) *The 30% flat fee that is subtracted from gross annual self-employment income; and*

(xxxi) *Deduct the rental and mortgage fees from military service pay and only count the excess amount as gross pay; and*

(xxxii) *Income from children of the head(s) of household.*

(d) *Child Support:*

(i) *The customer's three most recent consecutive months of support payments shall be counted as gross income;*

(ii) *If a customer did not receive child support for each of the three most consecutive months, the contractor shall average of the payments received to date to determine gross annual income;*

(iii) *Payments that are made directly to a vendor on a regular basis on behalf of the customer with the amount as notarized by affidavits signed by the absent customer and customer shall be counted as gross income; and*

(iv) *If in-kind support is received as substitute for voluntary child support, the customer shall apply a fair market value to the item or service and count that value as gross child support income as documented and set forth at Regulation.03(F)(15)(b)(iii) of this chapter.*

(39) *"Hold Harmless" means not reducing the authorized scholarship reimbursement nor increasing parental copay until the subsequent redetermination, unless the customer;*

(i) *Provides documentation that supports the request for an increased Unit of Care;*

(ii) *No longer resides in Maryland;*

(iii) *No longer meets the participation requirements, due to loss of an approved activity, as set forth at Regulation.02.B(10) and 03.I of this chapter;*

(iv) *Gains income equal to or greater than 85% of the State Median Income as set forth at Regulation .03(H) of this chapter; or*

(v) *Requests the termination of Child Care Scholarship services*

[(29)](40) *"Identified as responsible for child abuse or neglect" means being determined by a local department of social services or duly authorized state agency to be responsible for indicated child abuse or neglect[, under circumstances specified in the Family Law Article, §5-714, Annotated Code of Maryland, or awaiting the local department's appeal hearing after the determination].*

[(30)](41) *"Infant" means a child younger than 24 months old.*

[(31)](42) *"Informal [child] care" means child care that is self-arranged and requires the provider to submit a signed affirmation of compliance with child care health and safety standards and:*

(a) *Does not require the child care provider to be licensed [or regulated under Maryland law; and (b) [Is limited to:]*

(b) *Is limited to:*

[(i)] *Relative care;*

[(ii)] *In-home care; and*

[(iii)] *Babysitting. ]*

(i) *A person who is related to each child in care, when care is provided in the child's or relative home; and*

(ii) *In the child's home, when the provider is not related.*

(43) *“Initial Income Tier or Scale” means the scale used to determine if applicants without active Child Care Scholarships meet the income guidelines as set forth at Regulation .03.H of this chapter. This income scale shall be used for applicants:*

- (a) *Failing to redetermine timely;*
- (b) *With no children with active Child Care Scholarships; and*
- (c) *Denied for CCS services at redetermination for IPV violation.*

[(32)] (44) *“In-home care” means care:*

- (a) *Provided to the customer's children in the customer's home by a nonrelative; and*
- (b) *Exempt from licensing if all children being cared for live in the residence in which care is provided.*

(45) *“Injurious treatment” means:*

- (a) *Deliberate infliction in any manner of any type of physical pain, including spanking, hitting, shaking, or any other means of physical discipline, or enforcement of acts which result in physical pain;*
- (b) *Failure to attend to a child's physical needs and other physically damaging acts, excluding reasonable acts to protect the child from imminent danger;*
- (c) *Subjecting a child to verbal abuse intended to cause mental distress, such as shouting, cursing, shaming, or ridiculing; and*
- (d) *Utilizing discipline methods that are considered inappropriate by child care professionals and create undue discomfort, such as, but not limited to, washing a child's mouth with soap, putting pepper or other spicy or distasteful items in a child's mouth, requiring a child to stand on one foot as punishment, or tying a child to a cot or other equipment.*

[(33)] (46) *“Intentional program violation” means an intentional false or misleading statement or misrepresentation, concealment, or withholding of facts for the purposes of establishing or maintaining the customer's, or provider's eligibility for CCS payments or for increasing or preventing a reduction of the amount of assistance.*

(47) *“Irregular Income Fluctuation” means the temporary gain of income that would otherwise make the customer income ineligible, if not addressed as set forth at regulation.09(C) of this chapter.*

[(34)] (48) *“Local jurisdiction” means:*

- (a) *One of Maryland's 23 counties; or*
- (b) *Baltimore City.*

[(35)] (49) *“Maryland EXCELS” means the State's tiered quality rating and improvement system for early care and education programs.*

(50) *“Mental injury” means the observable, identifiable, and substantial impairment of a child's mental or psychological ability to function.*

[(36)] (51) *“MSDE” means the Maryland State Department of Education.*

(52) *“Neglect” means leaving a child unattended or otherwise failing to give proper care and attention to a child by the child's customers, guardian, or custodian under circumstances that indicate that the child's health or welfare is significantly harmed or placed at risk of significant harm.*

(53) *“Non-Temporary Cessation” means breaks in an approved participation activity that cannot extend beyond the subsequent redetermination and must be reported by the customer, if the contractor is to complete an interim change to address changes in household income from the initial determination.*

[(37)] (54) *“Non-traditional hours” means:*

- (a) *One hour or more between 7:00 p.m. and 6:00 a.m., Monday through Friday; or*
- (b) *Any period of one hour or more on a Saturday or a Sunday.*

[(38)] (55) *“Office of Administrative Hearings (OAH)” means the administrative unit of Maryland government which is responsible for processing requests for hearings, for scheduling and conducting hearings, and for rendering decisions pursuant to State Government Article, §9-1601 et seq., Annotated Code of Maryland.*

[(39)] (56) *“Overpayment” means the amount of payment received by a recipient or service provider to which the recipient or service provider was not entitled as determined by applicable CCS regulations.*

[(40)](57) *“Customer” means the biological or adoptive customer or the legal guardian or custodian of a child, who applies for the child to receive CCS Program services.*

[(41)](58) *“Physical custody of a child” means custody of a minor child by an adult other than the child's parents in whose household the child resides, as evidenced by:*

- (a) *A court order;*
- (b) *Written authorization from a customer, if the customer is not residing in the same household; or*

- (c) Other documentation acceptable to the contractor.
- (59) "Priority 1" means a CCS applicants approved to receive TCA.
- (60) "Priority 2" means a CCS applicants whose TCA ended:
- (a) With the applicant being in compliance with TCA program requirements; and
  - (b) Within 6 months of the customer applying for initial or continued CCS Services;
- (61) "Priority 3" means CCS applicants who:
- (a) Never received TCA;
  - (b) Applied for TCA, but have not been approved to receive TCA;
  - (c) Apply for CCS Services in a time period greater than 6 months after their TCA closed;
  - (d) Received TCA within 6 months after their TCA closed, but the TCA ended with the customer being noncompliant with TCA program requirements;
- (62) "Priority Placement means" assisting the most vulnerable population with access to child care by not requiring the applicant's household to be subject to:
- (a) Frozen status; or
  - (b) Meeting full-eligibility requirements for up to 90 days from the initial CCS application submission for the following applicants:
    - (i) Pending TCA;
    - (ii) Customers pursuing court-ordered child support;
    - (iii) Parents missing immunization records for non-school age children placed in an informal child care setting; and
    - (iv) Customers experiencing homelessness, engaged in an approved CCS activity, and missing all documentation required to authorize CCS services.
- [(42)] (63) "Program freeze" means that the list of available providers has been exhausted or there are insufficient funds to provide a child care [subsidy] scholarship to all eligible families.
- (64) "Proof of Identity means" documentation submitted by the CCS applicant as needed to establish household count.
- (65) "Proof of Relatedness means" the provision of documentation by the applicant to the contractor to establish:
- (a) The relationship of each person in the household count to the head(s) of household; and
  - (b) The degree of relatedness of the child to the provide, if the customer selects informal relative care as the care type.
- [(43)] (66) "Provider" means:
- (a) A licensed family child care home;
  - (b) A licensed large family child care home;
  - [(b)] (c) A licensed child care center; [or]
  - (d) A Certificate of compliance facility;
  - (e) A Military Center; or
  - [(d)] A DHMH authorized summer program.]
  - [(c)] (f) An individual approved by the CCS Branch to provide informal child care.
- [(44)] (67) "Public assistance" means Supplemental Security Income (SSI) received pursuant to Title XVI of the Social Security Act or cash benefits received through any program administered by the Family Investment Administration or successor administration.
- [(45)] (68) "Qualified alien" means a citizen of a foreign country who does not hold dual U.S. citizenship, is not a naturalized U.S. citizen, and:
- (a) Has been lawfully admitted for permanent residence in the U.S.;
  - (b) Has been granted asylum in the U.S.;
  - (c) Is a refugee in the U.S.;
  - (d) Has been granted conditional entry into the U.S.;
  - (e) Has been temporarily paroled into the U.S. for limited reasons;
  - (f) Is under a suspended deportation order from the U.S.; or
  - (g) Has been battered or subjected to extreme cruelty by a customer or family member in the U.S. and who has:
    - (i) Been approved, or has petitioned, for status as a child of a U.S. citizen;
    - (ii) Been classified as the child of a lawfully admitted alien; or
    - (iii) Had a deportation order suspended with an adjustment of status.

[(46)] (69) "Reasonable accommodation" means a modification made by a child care service provider, at no additional cost to the customer, in order to meet the physical, social, mental, and emotional needs of a child with a disability in accordance with Title III of the Americans with Disabilities Act.

[(47)] (70) "Recipient" means an individual who receives or has received assistance or that individual's authorized representative.

[(48)] (71) "Relative care" means care that:

- (a) Is provided in the relative's or customer's home by a relative;
- (b) Is exempt from licensing under Family Law Article, §§5-550—5-557, Annotated Code of Maryland;

and

(c) Excludes as eligible for payment the parent, parent, legal guardians, or members of the TCA or CCS assistance unit.

[(49)] (72) "Resident" means an individual who lives in Maryland and has no intention of leaving during the time in which CCS is to be provided.

[(50)] (73) "Self-employment" means generating one's income directly from customers, clients, or other organizations as opposed to being an employee of a business or another individual.

(74) "Senior Parent" means the biological or legal guardian of a minor parent that is applying for CCS Services for the child of the minor parent.

[(51)] (75) "Service period" means the 2-week period for which child care providers can provide service and receive payment.

[(52)] (76) ["Subsidy"] "Scholarship" means that portion of the financial cost of child care services paid in authorized unit rates by the contractor to providers.

[(53)] (77) "Successfully passed" means, when used in connection with:

- (a) A criminal background check, that an individual:

(i) Has not received a conviction, a probation before judgment disposition, a not criminally responsible disposition, or a pending charge for the commission or attempted commission of a crime listed at Regulation .06D(6)(b)(i)—[(xi)] (xii) of this chapter;

or

(ii) If having received a conviction, a probation before judgment disposition, a not criminally responsible disposition, or a pending charge for the commission or attempted commission of a crime not listed at Regulation .06D(6)(b)(i)—[(xi)] (xii) of this chapter, has been assessed by the contractor as suitable to serve as an informal child care provider; or

(b) A review of records of abuse and neglect of children or adults, that an individual has been assessed by the contractor as being suitable to serve as an informal child care provider.

[(54)] (78) "Temporary Cash Assistance (TCA)" means a form of cash assistance provided to families who are technically and financially eligible.

(79) "Termination of Child Care Services" means CCS Services ended by the Department, contractor or parent prior to the end date of the closed eligibility period.

[(55)] (80) "Tiered reimbursement" means weekly payments that:

- (a) Exceed the payment rates specified in Regulation .11B—D of this chapter;

(b) Are paid to a child care center or a family child care provider that is participating in Maryland EXCELS at certain quality rating levels; and

- (c) Vary based on the payment rate for the age of the child and the type of child care.

[(56)] (81) Training.

(a) "Training" means any type of instructional program[, except for post-college graduate programs,] that is approved by the Division.

(b) "Training" includes an accredited [undergraduate] college, an accredited vocational program, or a publicly funded training program.

[(57)] (82) "Transitioning off of public assistance" means the immediate 12-month period following the loss of a customer's eligibility for FIP assistance.

(83) "Unearned income" means gross income gained from sources other than employment as set forth at §B(38)(b) of this chapter.

[(58)] (84) "Underpayment" means a payment received by a provider that is less than the allowable amount owed the provider as determined by this chapter.

[(59)] (85) "Unit" means the length of time per day a child is in child care, as follows:



- (a) "One unit" means 3 hours or less per day;
- (b) "Two units" means more than 3 hours per day, but less than 6 hours per day; or
- (c) "Three units" means 6 hours or more per day.

[(60)] (86) "Voluntary closure" means the period of time a child care provider is closed that:

- (a)[Includes not more than 2 consecutive weeks annually] *Includes 10 business days whether consecutive or non-consecutive business days; and where the:*
  - (i)*Contractor shall only authorize payment for 10 voluntary closure days per year;*
  - (ii)*Provider shall submit voluntary closure, at minimum, 10 business days in advance of the closure to the contractor and parents to be eligible for reimbursement; and*
  - (iii)*Provider shall not receive scholarship payment by marking the child absent on the provider invoice for closure day notification not submitted to the contractor 10 calendar days in advance of the voluntary closure.*
- (b) For child care centers and family child care homes, excludes:
  - (i) Christmas Day;
  - (ii) New Year's Day;
  - (iii) Memorial Day;
  - (iv) Independence Day;
  - (v) Labor Day; and
  - (vi) Thanksgiving Day.

[(61)] (87) "Child Care Scholarship" means a certificate given to a customer by the contractor for use in purchasing child care from a provider.

[(62)] (88) "Waiver" means the document signed by an individual intentionally relinquishing the right to an administrative disqualification hearing.

### **.03 Eligibility.**

A. To be eligible for the CCS Program, a customer shall:

- (1) Be a resident of the State of Maryland;
- (2) Meet the need requirement set forth at §E of this regulation; and
- (3) Meet the income requirement set forth at §F of this regulation of this chapter; and
- (4) *Have the following points of eligibility documented in the customer's case record before the authorization of CCS services:*
  - (a)*Priority I Case records shall include at initial and continuing determinations all documents listed at Regulation .03(A)(5) of this chapter, unless the record contains:*
    - (i) *Completed Authorization Referral Form*
    - (ii) *Signed CCS Application; and*
    - (iii) *A completed FIA Agreement with number of hours the customer is participating in an approved activity.*
  - (b)*Case records of Priority I customers transitioning to Priority II or Priority III prior to the redetermination end date shall include the following:*
    - (i) *Proof of TCA ending; and*
    - (ii) *Proof of customer participation in an approved activity;*
  - (c)*Case records of Priority II or Priority III customers at initial determination and redeterminations shall include all points of eligibility as set forth at §I of this Regulation.*
- (5) *Points of Eligibility include proof of:*
  - (a) *Applicant(s) to include a government issued photo identification of the head(s) of household in order to authenticate the person requesting CCS services on behalf of eligible child(ren);*
  - (b) *Maryland Residency to include the most current utility bill along with one of the following forms of documentation:*
    - (i) *Government issued identification with the same physical provided on the CCS application;*
    - (ii) *Pages from mortgage that include the same physical address that is on the CCS application and documents the head(s) of household's signature;*
    - (iii) *Pages from Lease or Rental Agreement that include the same physical address that is on the CCS application and documents the head(s) of household's signature; or*

(iv) A written statement from the homeowner along with a utility bill that documents the homeowners name and the address on the CCS Application, when the CCS customer does not have a utility bill or lease in their name.

(c) Pursuit or receipt of Child Support from each absent parent of a child applying for CCS services as set forth at Regulation.04 of this chapter;

(d) Participation in an **approved activity** as set forth at §I of this Regulation;

(e) Eligible **household count** as defined at Regulation 02.B.32 of this chapter;

(f) Income eligibility when considering:

(i) All countable earned and unearned **gross income** as listed at §B(38)(b) of this chapter.

(ii) Combined household income at initial determination does not exceed the income threshold as set forth at §H of this Regulation; and

(iii) Combined household income at redetermination does not exceed the income threshold as set forth at §H of this Regulation

(g) **US citizenship or Qualified Alien status** of each child applying for CCS services is met as defined in Regulation.02.B.(67) of this chapter;

(h) Proof of **relationship of each child to the head(s) of household** as defined at .02.B.32 of this regulation;

(i) **Need** for CCS services for each child applying for CCS services is met as set forth at §E of this regulation;

(j) **Identity** of eligible household members listed on the CCS application is met as set forth at §C(1-3) of this regulation;

(k) **Current immunization** for each non-school age child using informal child care is met as set forth at §D(1-3) of this regulation;

(l) **Child's Relationship to the Informal Provider** as set forth at Regulation .06.D(4)(b)(i-iv) of this chapter; and

(m) Child's **age** at CCS determination and redetermination meets the following age requirements:

(i) Below age 13; or

(ii) Below age 19 with a documented disability from a licensed physician or psychiatrist as set forth at Regulation .02(16) of this chapter.

**B. Citizenship Status.** To receive CCS Program services, the citizenship of the parent or a family member not needing CCS Services is not considered. A child needing CCS services [a child] shall be a:

(1) United States (U.S.) citizen as established by:

(a) A birth certificate of the child needing CCS services; or

(b) Secondary third party verification that proves:

(i) the location of birth,

(ii) child's name; and

(iii) name of CCS applicant or legal guardian; or

(2) Qualified alien, as defined in Regulation [.02B(44)] .02B(67) of this chapter.

### **C. Proof of Identity.**

(1) At the time of initial application for CCS Program services, a customer shall submit to the contractor acceptable proof of identity for each family member;

(2) Acceptable proof of identity is limited to:

(a) A valid U.S. passport;

(b) A birth certificate;

(c) Documentation of birth abroad issued by the U.S. Department of State;

(d) Documentation issued by an agency of the U.S. government that certifies the applicant as:

(i) A naturalized U.S. citizen;

(ii) A permanent resident alien;

(iii) The holder of a current non-immigrant work visa;

(e) A valid, unexpired foreign passport with a current U.S. visa affixed and accompanied by documentation of the applicant's most recent entry into the U.S.;

(f) Any other document designated by an agency of the U.S. government, and established by notice in the Federal Register, as acceptable for certifying proof of identity;

(g) A valid driver's license, issued by Maryland or by another state; or

(h) A Maryland State Motor Vehicle Administration photo identification card.

(3) Services shall be denied for a child for whom care is requested if acceptable proof of identity for that child is not provided.

(4) Proof of identity shall be maintained by the contractor in the customer's CCS Program case record

#### **D. Child Immunizations.**

(1) Before a child may begin receiving CCS Program services the:

(a) Child shall have had immunizations appropriate for the child's age that meet the immunization guidelines set by the Maryland Department of Health and Mental Hygiene (DHMH); and

(b) Child's immunization status shall have been documented on an immunization certificate form provided by DHMH.

(2) Exemption from Immunization.

(a) Section §D[(1)] of this regulation does not apply if a child's:

(i) Documented medical condition contraindicates immunization; or

(ii) Customer objects to the immunization on religious grounds.

(b) If the child's customer objects to a child's immunization or medical examination, or both, on religious grounds, the contractor shall require the customer to:

(i) Provide a written health history of the child; and

(ii) Sign a statement indicating that to the best of the person's knowledge and belief, the child is in satisfactory health and free from any communicable disease.

(c) *If the customer is in pending homeless status the customer, shall be issued a 90 day Child Care Scholarship to enable the parent enough time to meet immunization requirements.*

(d) *If the customer has selected informal care for non-school age children that do not have proof of immunization, the child shall be authorized a 90 day Child Care Scholarship to enable the parent enough time to meet immunization requirements.*

(3) The immunization requirement is met when the customer submits to the contractor a written declaration, on a form supplied or approved by the CCS Branch, affirming that the child attends a:

(a) Registered family child care home, licensed child care center, letter of compliance facility, or large family child care home where the child's immunization records are maintained in accordance with applicable COMAR requirements; or

(b) Full-day program at a public or nonpublic school where the child's immunization records are maintained.

(3) The immunization

**E. Need.** The need requirement is met:

(1) When the child's customer, caretaker, or legal guardian is not available or capable to care for the child, no other acceptable child care plan can be arranged, and one or more of the priority situations exist according to Regulation .08A of this chapter;

(2) By a customer who meets the requirements specified in Regulation .08A(1) of this chapter:

(a) During approved activity periods;

[(b) Before beginning an approved activity for a period not to exceed 1 month;]

[(c) ](b) During gaps in approved activities for a period not to [exceed 1 month] *extend beyond the next redetermination; or*

[(d) As necessary to accept employment or to remain employed and if the child care would otherwise be lost; or]

(3) By a customer who meets the requirements specified in Regulation .08A(2) and (3) of this chapter:

(a) While employed; and

(b) During gaps in employment *or activity* for a period not to [exceed 1 month] *extend beyond the next redetermination* [and if the child care would otherwise be lost, to]:

#### **F. Income.**

(1) An applicant shall meet the income eligibility requirements set forth at §H of this regulation, [except for the following who are exempt:

(a) TCA customers; or

(b) Recipients of SSI.]

*Gross Income includes:*

(a) *Income received at:*

- (i) Initial determination;
  - (ii) Redetermination; and
  - (iii) Any point care is actively authorized.
- (b) The combined countable income of the head of household(s);
- (c) The sum of countable, consecutive, monthly income, including pre-tax benefits, received by an individual within the most current month; and
- (d) Income as defined in Regulation .02(B)(38) of this chapter.
- (2) [Except when TCA is received only for a child,] The income requirement is met by a family that has a gross family income below:
- (a) [Receives TCA; and] The Initial Income Scale at initial application as set forth at §H of this regulation;
  - (b) The Continuing Income Scale as set forth at §H of this regulation; or
- [(b)] (c) Has an annual gross income, after the deduction of TCA and SSI benefits, not exceeding the maximum income for the family size as specified in the income eligibility scale set forth at §H this regulation.
- (3) The customer shall provide documentation to the contractor of all current income, whether derived from earned or unearned sources received:
- (a) The customer; and
  - (b) Each family member included in the household count.
- [(3)] For purposes of determining parental copayments and scholarship amounts, a family's annual or annualized gross income, as defined at Regulation .02B(30) of this chapter, shall be used.
- (4) Annualization of gross income shall be performed by multiplying:
- (a) Weekly income by 52;
  - (b) Bi-weekly income by 26;
  - (c) Twice monthly income by 24;
  - (d) Monthly income by 12; or
  - (e) Quarterly gross income by 4.
- (5) A customer applying for CCS Program services shall provide acceptable documentation to the contractor of all current income, whether derived from employment or another source, that is received on a regular or a recurring basis by:
- (a) The customer; and
  - (b) Each family member.
- (6) Acceptable documentation of employment earnings received, including cash earnings, is limited to:
- (a) The most recent 4 weeks of pay stubs indicating gross income from each employer, if the stubs indicate the individual's pay frequency or schedule;
  - (b) A statement from each employer, signed and dated by the employer or bearing the employer's official business stamp, that indicates the:
    - (i) Employer's name, address, and telephone number;
    - (ii) Employer's type of business;
    - (iii) Gross earnings for the most recent pay period;
    - (iv) Pay frequency or schedule; and
    - (v) If available, total gross earnings to date;
  - (c) The individual's most recent federal income tax return, if filed within the past 12 months;
  - (d) Payment receipts for services rendered, where the type of employment, such as but not limited to restaurant waitress, beautician, or taxicab driver, may not generate an earnings statement or a pay stub; or
  - (e) If none of the types of documentation listed at §F(6) of this regulation is able to be produced, a signed and dated statement from the customer attesting to current gross earnings, the frequency or schedule of those earnings, and the type of employment.
- (7) The customer shall submit to the contractor the applicable income documentation described at §F(6) of this regulation:
- (a) Within 30 calendar days of applying for CCS Program services; and
  - (b) After approval for CCS Program services, at least annually for the duration of those services.
- (8) Special Income Calculation.
- (a) Self-Employment.

(i) For income eligibility determination purposes, a flat 30 percent is subtracted from the annual gross income gained, no other business-related or other deductions shall be applied and 70% of the customer's gross earned income shall be used to determine income eligibility. [taxable self-employment income amount for business-related expenses.]

[(ii) A salary drawn by the customer from a business owned wholly or in part by the customer shall not be applied toward calculation of the customer's gross income.

(b) Military Service Pay.

(i) Paid rental and mortgage fees shall be deducted from the allowance and only the excess amount shall be counted as gross income.

(ii) If a military spouse is absent from the home solely due to military deployment, the spouse's gross income shall be counted as a part of the family gross income.

(c) Child Support.

(i) The customer's three most recent consecutive months of support payments shall be counted as gross income.

(ii) If a customer has received child support for less than three months, an average of the payments received to date will be used to determine gross income.

(iii) Payments that are made directly to a vendor on a regular basis on behalf of the customer shall be counted as gross income.

(iv) If in-kind support is received, the customer shall apply a fair market value to the item or service and count that value as gross income.]

(8) Acceptable documentation of employment earnings received, including cash earnings, shall be provided to the contractor in the following hierarchy of availability;

(a) The most recent month of pay stubs indicating gross income from each employer with the:

(i) Pay frequency or schedule;

(ii) Wage per hour; and

(iii) Number of hours worked per pay period.

(b) If a month's worth of current pay stubs is unavailable:

(i) The customer shall submit the available stub(s) and a completed CCS Employer's Verification Statement that provides the missing payment amount(s); or

(ii) Customers employed for less than 1 month shall submit a signed and dated CCS Employer's Verification Statement as set forth at §F(5) of this regulation.

(iii) Being homeless and not having proof of employment or participation activity, the customer shall submit a signed and dated CCS Employer's Verification Statement as set forth at §F(5) of this regulation.

[(5) (9) Employment verification submitted by a customer when insufficient pay stubs covering 1 month of employment or when the employer pays by cash shall include:

(a) Employer's name, address, and telephone number;

(b) Employer's type of business;

(c) Gross earnings for the most recent pay period;

(d) Pay frequency or schedule; and

e) If available, total gross earnings to date]

[(c) (5)] (10) If the customer is not paid by check stubs due to the type of employment, such as but not limited to restaurant waitress, beautician, or taxicab driver, may not generate an earnings statement or paystubs, pay shall be calculated as set forth at §F(14) of this regulation.

[(6)] (11) If the customer is not paid by check stubs, the contractor shall use the gross income from the most recent federal income tax return, if filed within the past 12 months.

(12) Only if the customer is unable to provide proof of earned income in the specific order as listed in §F(4-6) of this regulation and the contractor is unable to gain wage documentation through other public sources, the customer shall complete and have signed and dated by a notary not related or having an invested interest in the applicant, a CCS Income Verification Self-Declaration Statement that attests to the following information:

(a) Frequency of pay;

(b) Number of hours worked per week;

(c) Gross income earned during the most current month;

- (c) Contact number and name of employer;
- (d) Physical address of employment;
- [(9)] (13) Self-employment verification shall be documented by:
- (a) The most current tax statement completed within 12 months, if available;
- (a) Documentation of earnings equal to 1 month of earnings; or
- (b) If self-employment work history is less than 1 month, the customer shall complete and have signed and dated by a notary not related or having an invested interest in the applicant, a CCS Income Verification Self-Declaration Statement that attests to the following information:
- (a) Pay earned to date;
- (b) Number of hours worked per week;
- (c) Gross pay earned to date; and
- (d) A statement that self-employment taxes were not filed within 12 months of submitting an application for initial or continued CCS services.
- (14) Customers shall submit to the contractor the applicable income documentation described at §F(5-8) of this regulation:
- (a) Within 30 calendar days of applying for CCS services; and
- (b) After approval for CCS services, at least annually or prior to the redetermination end date.
- (15) Income verification needs to be calculated and documented on all household members as set forth at §F(14) of this regulation and shall cover the most recent month, unless:
- (a) Self-employment income shall be calculated as set forth at §F(14) of this regulation; or
- (b) Paid without paystubs, the income shall be calculated as set forth at §F(5-14) of this regulation.
- (16) The contractor shall enter the frequency and income exactly as it appears on the documentation presented by the customer, unless the pay stub includes income not to be counted as gross income as listed at Regulation .02.(38).(c).i- xxviii of this chapter.
- (17) For purposes of determining parental copayments and scholarship amounts, a family's annual or annualized gross income shall be calculated as defined at §F(13) of this regulation.
- [(14)] (18) Determining the gross income of a household shall be based upon whether the customer is employed for 12 months or less than 12 months per year:
- (a) Annualization of gross income for employees paid 12 months within a calendar year shall be performed by multiplying:
- (i) Weekly income by 52;
- (ii) Bi-weekly income by 26;
- (iii) Twice monthly income by 24;
- (iv) Monthly income by 12; or
- (v) Quarterly gross income by 4.
- (b) Annual income for employees working less than 12 months within a calendar year, as documented by the employer, shall be performed by using the actual amount of pay received.
- (19) If a pay raise is indicated, the contractor shall:
- (a) Only enter the new wage per hour;
- (b) Enter an average of the hours documented;
- (i) On the current month's check stubs or the CCS Employment Verification Form; and
- (ii) Enter the pay frequency documented on the most current payment documentation;
- (c) Determine if the income needs to be annualized (12 month employees) or calculated based on the actual time period paid, for employee's not paid yearly income; and
- (c) Determine if Hold harmless applies as set forth at Regulation .02(39) of this chapter.
- (20) Special Income Calculation.
- (a) Self-Employment.
- (i) For income eligibility determination purposes, a flat 30 percent (30%) is subtracted from the annual gross income;
- (ii) The contractor shall take income from the gross income line of the tax form;
- (ii) The contractor shall not use adjusted income; and
- (iii) The customer shall declare work schedule and hours per week
- [(ii) A salary drawn by the customer from a business owned wholly or in part by the customer shall not be applied toward calculation of the customer's gross income.]

*(b) Child Support.*

*(i) The contractor shall determine use the child support amount received during the three consecutive months prior to the customer submitting the CCS application;*

*(ii) The contractor shall average of the payments received with the 3 consecutive months in order to determine gross annual income; and*

*(c) Physical Custody Income Disregards:*

*(i) Customers with Physical Custody shall have a disregard of \$15,000 deducted from the total annual household income; and*

*(ii) The disregard does not apply to the natural, step, or adopted children of the adult with physical custody.*

*(d) Military Service Pay.*

*(i) Paid rental and mortgage fees shall be deducted from the allowance and only the excess amount shall be counted as gross income;*

*(ii) If a military spouse is absent from the home solely due to military deployment, the spouse's gross income shall be counted as a part of the family gross income and the spouse will be included in the household count;*

*(iii) Include "entitlement" or "allowances" in the calculation of income;*

*(iv) Disregard clothing allowances; and*

*(v) Disregard one time re-enlistment or one time service bonuses.*

*(e) Seasonal work shall be calculated using:*

*(i) The most recent months of income at the time of application or redetermination as documented on the customer's pay stub; or*

*(ii) Based on the verification of gross income as set forth at §F(5-6) of this regulation.*

*(f) Income earned through commission is calculated using the most recent month's income as set forth at §F(5-6) of this regulation.*

*(g) Piece Rate income shall be calculated using documentation in the hierarchy set forth at §F(8) of this regulation.*

*(16) Irregular Fluctuations in Earnings.*

*(a) The contractor shall take into account irregular fluctuations in earnings resulting in income equal to or in excess of 85% of the SMI by averaging 3 months of income verification and:*

*(i) Having the customer to complete a CCS Employer Verification Statement that the income is temporary; and*

*(ii) The anticipated date the income shall return to the previous annual income.*

*(b) When fluctuation of income is documented as being temporary, the contractor shall:*

*(i) Complete an interim change for 90 days using income from previous determination; and*

*(ii) Redetermine income in 90 days to determine if income is within the income guidelines as set forth at Regulation .03(H) of this chapter.*

*(c) If the customer's income remains over 85% of SMI after 90 days, the contractor shall take the following steps to terminate CCS services:*

*(i) Provide written verification to customer and provider; and*

*(ii) End CCS services on the Monday following 10 calendar days.*

*(17) Hold Harmless does not apply to the following Interim changes between determinations:*

*(a) If the information provided indicates the household income is equal to or exceeds 85 percent of SMI for a family of the same size and the contractor has taken into account irregular income fluctuations as set forth at §F16 of this regulation;*

*(b) If the family has experienced a non-temporary change in the work, training, or educational at redetermination;*

*(c) If the family no longer resides in Maryland;*

*(d) If the contractor is unable to establish contact with the customer, child or Provider after two written notifications from the contractor;*

*(e) If the family reports no longer needing CCS Services; or*

*(f) The customer is requesting an increased unit of care based upon the submission of increased activity and/or participation hours.*

*(18) Hold Harmless shall apply to the following Interim changes between determinations:*

*(a) An increase income that results in a decreased scholarship reimbursement; or*

- (b) An increase in income which results in an increased parental co-pay.
- (c) The contractor shall ensure system changes occur on the first Monday following receipt of notification by the contractor, if the reported change results in the following:
  - (i) A decrease in scholarship reimbursement, or
  - (ii) Increase in co-pay.

G. [To maintain eligibility for CCS Program services,] A family or individual shall report to the [local department] contractor within 10 days of its occurrence:

- (1) Income that results in a gross countable income at or above 85% of the SMI as set forth at §H this regulation.
  - (a) If not reported within 10 business days and the income is at or above 85% of the SMI, the customer shall be subject to repayment of CCS services as outlined in Regulation .11H (1-11) of this chapter ; or
  - (b) Intentional Program Violation as outlined in Regulation .14M of this chapter.
- (2) Loss of income, which may result in an increased scholarship reimbursement rate or a reduction of parental co-pay based on Regulations set at Regulations .02(39) and .14 of this chapter;
- [(2)] (3) Loss of Employment[;]; which may result in:
  - (a) Continued CCS services, if loss of employment does not extend beyond the next redetermination; and
  - (b) Continued CCS services with an increased scholarship reimbursement rate or a reduction of parental co-pay based on regulations set at Regulation .02(39) of this chapter.
- (4) No longer participating in a training or educational activity, which does not include:
  - (a) Breaks or holidays within a semester or school term; or
  - (b) Breaks or loss of an approved participation activity that extends beyond the next redetermination.
- (5) Change of Address:
  - (a) The customer shall report a change of mailing address; and
  - (b) Change of residency outside of Maryland;
- (6) Addition of a child to the household count that results in an increase in the subsidy amount.
  - (a) Adults are not added to the household composition until the next redetermination; and
  - (b) Adults added to the household do not have to meet all eligibility requirements until the next redetermination.
- (7) Increase in participation activity, which may result in an increase in authorized units of Care.

[H. Income Eligibility Scale.

Family Size	Gross Income	Copayment Level
1	\$ 0—6,797	A
	6,797—8,496	B
	8,496—9,346	C
	9,346—10,195	D
	10,195—11,045	E
	11,045—11,895	F
	11,895—12,745	G
	12,745—14,656	H
	14,656—16,568	I
	16,568—18,565	J
2	\$ 0—8,889	A
	8,889—11,111	B
	11,111—12,222	C
	12,222—13,332	D
	13,332—14,444	E
	14,444—15,555	F
	15,555—16,666	G
	16,666—19,166	H
	19,166—21,666	I
	21,666—24,277	J



3	\$ 0—10,980	A
	10,980—13,725	B
	13,725—15,098	C
	15,098—16,470	D
	16,470—17,842	E
	17,842—19,215	F
	19,215—20,588	G
	20,588—23,676	H
	23,676—26,764	I
	26,764—29,990	J
4	\$ 0—13,072	A
	13,072—16,339	B
	16,339—17,974	C
	17,974—19,607	D
	19,607—21,241	E
	21,241—22,875	F
	22,875—24,509	G
	24,509—28,185	H
	28,185—31,861	I
	31,861—35,702	J
5	\$ 0—15,163	A
	15,163—18,954	B
	18,954—20,849	C
	20,849—22,744	D
	22,744—24,639	E
	24,639—26,535	F
	26,535—28,431	G
	28,431—32,695	H
	32,695—36,959	I
	36,959—41,414	J
6	\$ 0—17,255	A
	17,255—21,568	B
	21,568—23,725	C
	23,725—25,881	D
	25,881—28,038	E
	28,038—30,195	F
	30,195—32,352	G
	32,352—37,205	H
	37,205—42,057	I
	42,057—47,127	J
7	\$ 0—17,647	A
	17,647—22,058	B
	22,058—24,264	C
	24,264—26,469	D
	26,469—28,675	E
	28,675—30,881	F
	30,881—33,088	G
	33,088—38,050	H
	38,050—43,013	I
	43,013—48,198	J
8	\$ 0—18,039	A
	18,039—22,548	B

Draft Regs. Public Review

	22,548—24,803	C
	24,803—27,057	D
	27,057—29,312	E
	29,312—31,568	F
	31,568—33,823	G
	33,823—38,896	H
	38,896—43,969	I
	43,969—49,269	J
9	\$ 0—18,431	A
	18,431—23,038	B
	23,038—25,343	C
	25,343—27,645	D
	27,645—29,950	E
	29,950—32,254	F
	32,254—34,558	G
	34,558—39,741	H
	39,741—44,924	I
	44,924—50,340	J
10	\$ 0—18,823	A
	18,823—23,528	B
	23,528—25,882	C
	25,882—28,234	D
	28,234—30,587	E
	30,587—32,940	F
	32,940—35,294	G
	35,294—40,587	H
	40,587—45,880	I
	45,880—51,411	J

1

**H. Income Eligibility Scale**

<b>Family Size</b>	<b>Initial Income Eligibility</b>		<b>Continuing Income Eligibility</b>	
1	\$0.00	Up to 65% of current SMI	66% of current SMI	Up to 85% of current SMI
2	\$0.00	Up to 65% of current SMI	66% of current SMI	Up to 85% of current SMI
3	\$0.00	Up to 65% of current SMI	66% of current SMI	Up to 85% of current SMI
4	\$0.00	Up to 65% of current SMI	66% of current SMI	Up to 85% of current SMI
5	\$0.00	Up to 65% of current SMI	66% of current SMI	Up to 85% of current SMI
6	\$0.00	Up to 65% of current SMI	66% of current SMI	Up to 85% of current SMI
7	\$0.00	Up to 65% of current SMI	66% of current SMI	Up to 85% of current SMI
8	\$0.00	Up to 65% of current SMI	66% of current SMI	Up to 85% of current SMI
9	\$0.00	Up to 65% of current SMI	66% of current SMI	Up to 85% of current SMI
10	\$0.00	Up to 65% of current SMI	66% of current SMI	Up to 85% of current SMI

**(I) Approved Participation Activity.** The contractor shall review work, educational and or training activities and determine if the documented activity submitted by the customer meets at least one of following CCS participation criteria:

- (1) Unsubsidized Employment in the public or private sector that is not subsidized by government funds;

(2) *Subsidized Private Sector Employment in the private sector for which the employer receives a scholarship to offset some or all of the wages and costs of employing the recipient;*

(3) *Subsidized Public Sector Employment in the public sector where the employer receives a scholarship to offset some or all of the wages and costs of employing the recipient;*

(4) *Approved FIA Work Activity that provides an opportunity for the customer to acquire general skills, training, knowledge, life skills, and work habits necessary to obtain employment, minimum of 20 hours per week;*

(5) *Internships, Practicums or Apprenticeship associated with the completion of high school, trade school or an undergraduate graduate, professional schools or post-bachelor educational programs;*

(6) *Vocational Education at an accredited or state recognized and operated educational program as required for program completion and as needed to prepare of the customer for employment in a current or emerging occupation.*

(a) *Training must be provided by an educational organization such as a vocational technical school; or*

(b) *a community college;*

(7) *The contractor shall use the following definition when determining the unit of care to authorize CCS customer enrolled in college or a program required to complete a degree, certificate, a certification or post bachelor's degree:*

(a) *A customer enrolled full-time, based on the college or university's definition of full-time at the point the customer complete determination or redetermination shall be issued a:*

(i) *3 Unit of Child Care Scholarships based upon the customer's full-time enrollment; or*

(ii) *Based the hours documented on the CCS Applications, as indicated by the customer, that the child attends a child care facility.*

(b) *Definition for full-time varies by institutions, semester, quarter or term of enrollment:*

(i) *Customer will be responsible for reporting to the Contractor changes resulting in the need for increased units of Care;*

(ii) *Customer will not be held harmless when going from part-time student status to full-time; and*

(iii) *Customer's unit of Care will be held harmless when going from part-time school status to full-time.*

(c) *Contractor shall use the following to establish the unit of care for students not enrolled full-time as defined by the university:*

(i) *Add one hour of study time for each credit enrolled, whether the customer is enrolled in on-campus courses or on-line courses; and*

(ii) *Do not add hours for breaks between classes*

(d) *Travel time:*

(i) *Cannot be awarded until after the Child Care Scholarship is receipted;*

(ii) *Only awarded from the child care program to the approved activity and back;*

(iii) *Not awarded for on-line classes;*

(e) *Holding harmless between redeterminations:*

(i) *Unit of care shall not be reduced before the next redetermination, unless requested by the customer;*

(ii) *Unit of care shall not be increased unless reported by the customer as stated in §I(7)(b)(i) of this regulation;*

(iii) *Customer does not have to report changes in school enrollment between redeterminations; and*

(iv) *Customer must be actively enrolled in an approved activity at redetermination in order to be authorized for continued CCS services.*

(8) *Unit of Care for a Secondary Education/GED program leading to achievement of a high school diploma or equivalency, with instruction taught by an accredited or state recognized program, shall be determined as outlined for part-time college students as set forth at Regulation .07(F)(5) of this chapter.*

(9) *Drug Rehabilitation, Mental Health Treatment or Rehabilitation services - Participation in a substance abuse treatment program, mental health treatment program or rehabilitation program necessitated by a licensed medical professional, licensed social worker, licensed counselor, licensed psychiatrist or associated with a hospital with a treatment period of at least 180 days, unless the customer is engaged in another approved participation activity.*

(10) *At Redetermination, applicants shall not be considered in an approved activity without meeting all points of eligibility as listed in as set forth at §I of this Regulation.*

(11) *Applicants in pending court-order child support status are not considered to be in an approved activity beyond 90 days until proof of child support is provided to the contractor.*

(14) Applicants in pending immunization status are not considered in an approved activity beyond 90 days until proof of immunization is provided to the contractor for applicable children.

(15) Applicants in pending homelessness status are not considered in an approved activity beyond 90 days until all points of CCS eligibility have been documented with the contractor.

**(J) Ineligible Participation Activities.**

(1) The contractor shall not authorize CCS services for customers in the following unapproved participation activities:

(a) Non-temporary cessation of an approved activity at redetermination;

(e) Pending Temporary Cash Assistance not approved within 60 days:

i. Pending TCA Applicant not in an approved FIA activity; and

ii. The Pending TCA Applicant not meeting all points of eligibility;

(f) Community service hours; or

(g) Volunteerism hours.

(2) Applicants over-income for CCS Services at initial determination as set forth at Regulation .03(H) of this chapter.

(3) Applicants over-income for CCS Services at redetermination as set forth at Regulation .03(H) of this chapter.

(4) Applicants not meeting all eligibility requirements at initial determination for CCS services; and

(5) Applicants not meeting all eligibility requirements at redetermination.

**(K) Family Size.**

(1) The Contractor shall:

(a) Consider the total size of the family, as defined at Regulation .02(32) of this chapter; and

(b) Require the customer to submit in the following hierarchy:

i. A birth certificate for each child needing CCS services; or

ii. Secondary documentation that establishes the place of birth and the relationship of the child to the head of household(s).

(2) The case record must include:

i. Photo Id of Head(s) of household in order to document the individual(s) submitting the CCS application and the required documentation needed to approve or deny the CCS application; and

ii. Sufficient documentation to establish proof of guardianship or relatedness of each household members to head(s) of household.

**(L) Minor Customers.**

(1) A married minor customer, regardless of age, shall be deemed as an adult. The married minor customer, the married minor customer's spouse and their child(ren) constitutes a separate family for purposes of establishing need and eligibility for CCS services, as well as for determining the parental copayment, provided marital status is verified and documented in the case record. This policy applies:

(a) Regardless of whether the minor customer subsequently separates or divorces; and

(b) Whether the minor customer resides with senior parent as defined at Regulation .02(32)(a)(i) of this chapter.

(2) Minor Customer Living Arrangements. In order to receive services, a single minor customer must reside with a responsible adult customer, unless one or more of the following exceptions apply and can be documented:

(a) The minor customer claims to have no living responsible adult customer; or

(b) The minor customer claims to have no responsible adult customer who will allow the minor customer to live in the home, subject to the following constraints:

i. A written report of suspected child abuse/neglect is documented by the Local Department of Human Services in such instances;

ii. The responsible adult customer's legal rights have been legally and permanently terminated by the court;

iii. The minor customer lived apart from the responsible adult customer(s) for a minimum of one (1) year before the birth of the minor customer's child or the submission of the CCS application;

iv. The physical or emotional health or safety of the minor customer, or the dependent child, would be jeopardized by residing in the same residence with the responsible adult customer(s), as established in writing by a licensed physician, licensed psychiatrist,

licensed psychologist or protective service worker within the Local Department of Human Services;

- v. A responsible adult customer does not live in Maryland; or
- vi. By being forced to move, the minor customer would be financially or legally penalized as a result of breaking a lease.

**(M) Temporary Absences:**

(1) The contractor shall determine how temporary absences impact other points of eligibility.

(2) The contractor shall consider the following as absent from the household:

(a) If documentation establishes that the absent customer is in prison, disregard child support requirements if:

i. If customer provides documentation that establishes paternity; or

ii. Provides documentation of marriage;

(b) Absent Military Spouse away on active duty assignment:

i. Disregard child support requirements of the spouse;

ii. Include absent parent in the household count; and

iii. Include income as set forth at regulation .02(38) of this chapter;

(d) Out-of-State College Spouse:

i. Disregard child support requirements of the spouse;

ii. Include absent parent in household count; and

iii. Include income as set forth a regulation .02(38) of this chapter count employment income, if applicable;

(e) Out-of-State Employed Spouse:

i. Disregard child support requirements of the spouse; and

ii. Include income as set forth a regulation .02(38) of this chapter

(f) College students:

i. Age 24 or less on customer taxes, include in household count; and

ii. Disregard any income.

(3) If earned income is counted from the absent household member, the absent household member must also be included in the household count.

**(N) Eligibility follows the child:**

(1) Once the child has been authorized a 12 month Child Care Scholarship, if documentation supports the child being removed from the home of the applicant, the child will remain eligible until the next redetermination; and

(2) The contractor shall:

(a) Gain documentation that establishes guardianship of the child with a new family;

(b) Have the legal guardians to complete a CCS Application so that the subsequent redetermination packet can be mailed to the new family;

(c) Hold harmless the scholarship amount, unless the new family requests services to be authorized based upon their household income; and

(d) The new family shall not be redetermined until the next determination for services.

#### **.04 Pursuit of Child Support Obligations.**

A. A customer who has the care of a child eligible for child support services pursuant to COMAR 07.07.02.02B(4) shall pursue the establishment and enforcement of support obligations on behalf of the *eligible* child. [as required by the contractor]

B. If the customer is pursuing or receiving regular child support payments for the child, the customer shall furnish documentation verifying this action to the contractor at the time of application for child care services.

C. [Local Child Support Enforcement (CSE) Agency.] *Pursuit of Court Ordered Child Support:*

(1) If the customer is not pursuing or receiving regular court ordered or *voluntary child support* payments for the child and cannot claim good cause for refusing to pursue child support pursuant to §E of this regulation, the

contractor shall refer the applicant to the local CSE agency *in order to gain information on how the state can assist pursuing child support from the absent parent.*

(2) The local CSE agency shall provide documentation of the:

- (a) Application for CSE services to the customer; and
- (b) Closing of the case by CSE to the CCS unit]

[(3)] (2)[The customer] *Customers pursuing court-ordered child support shall submit documentation of cooperation with CSE services for each child for whom care is requested to the contractor [within 60 days of applying for] within 90 days of the customer submitting an application for child care services .*

(3)*The contractor shall not issue a 90 day CCS Child Care Scholarships to each eligible child until:*

- (a) *Proof of CSE application submission is provided to the contractor; or*
- (b) *Preliminary proof of paternity or maternity from the absent customer is provided for all parents providing proof of voluntary child support. The proof of paternity statement shall include at minimum:*
  - i. Name of absent customer on the child's birth certificate;*
  - ii. Notarized statement of paternity or maternity of the absent parent; and*
  - iii. Proof of residency of the absent parent.*

[(4)] (4)A customer who *is issued a 90 day Child Care Scholarship and fails to comply with §C(3) of this regulation is not eligible for CCS services[.] beyond the [60] 90 day Child Care Scholarships.*

D. Unless excused for good cause *or pursuing voluntary child support*, the customer shall cooperate with the local CSE agency in:

- (1) Identifying and locating the child's absent customer;
- (2) Establishing the child's paternity if the child is born out of wedlock; and
- (3) Obtaining support payments.

E. Refusal to Cooperate *with Court-ordered or Voluntary Child Support is only permitted with documented good cause:*

(1) Good cause circumstances are those when:

- (a) Cooperation may result in serious physical or emotional harm to the child for whom the support is sought;
- (b) Cooperation may result in serious physical or emotional harm to the customer with whom the child is living, which may reduce the capacity of the customer to care adequately for the child;
- (c) The child for whom support is sought was conceived as a result of incest or rape;
- (d) Legal proceedings for the child's adoption are pending before a court of competent jurisdiction; or
- (e) The customer is being assisted by a public or licensed private social agency to resolve the issue of keeping or relinquishing the child for adoption, and the discussions have not extended beyond [3 months] *the next redetermination.*

(2) When the contractor refers the customer to the local CSE agency, the contractor shall inform the customer [in writing of the customer's] *of the right to claim good cause for refusing to cooperate with the local CSE agency and the option to pursue voluntary child support.*

F. Determination of Good Cause.

(1)*The customer is responsible for providing the contractor with evidence of Good Cause.*

(2) The customer shall provide the contractor with:

- (a) Verified or verifiable evidence *from the source listed in §F(5)a- g of this regulation that specifies and corroborates circumstances that the customer believes is sufficient good cause for not cooperating; and*
- (b) Sufficient information to permit an investigation *as completed by law enforcement or a licensed social worker, counselor or psychiatrist.*

(3) The customer shall supply corroborative evidence within 30 days of *submitting the CCS application to the contractor and making the claim for good cause.*

(4) The contractor shall determine good cause based on[:

- (a) A] *a review of the evidence submitted by the customer. [; and*
- (b) *The findings of any investigation of the claim that the contractor chooses to make.]*

(5) The contractor may determine good cause [without further investigation], if the following acceptable documentation indicates that harm may result:

- (a) A birth certificate or medical or law enforcement record indicating that the child was conceived as a result of incest or rape;

(b) A court document or other record indicating that legal proceedings for adoption are pending before a court of competent jurisdiction;

(c) A court, medical, criminal, child protective services, psychological, social services, or law enforcement record indicating that the putative father or absent customer might inflict physical or emotional harm on the child or the customer;

(d) A medical record indicating the emotional health history and the present emotional health status of the child or the customer;

(e) A written statement from a mental health professional indicating a diagnosis or prognosis of the emotional health of the child or the customer *as a result of trauma caused by the absent parent*;

(f) A written statement from a public or licensed private social agency that the customer is being assisted by the agency to resolve the issue of keeping or relinquishing the child for adoption and the discussions have not extended beyond 3 months; [or]

(g) [Sworn] *A written statement[s] from [individual] a licensed social worker, counselor, physician, psychiatrist or law enforcement [other than the customer] with knowledge of the circumstances that provide the basis for a good cause claim;*

(h) *A written statement that the customer and/or child is currently in treatment for the events surrounding the claim of good cause; or*

(i) *The customer submits completes the Good Cause section of the contractor's approved Child Support Form and submits all supporting documentation within 30 days of submitting the CCS Application.*

(6) The contractor shall inform the customer in writing of the final determination *within 30 days of the customer submitting the CCS application to the contractor.*

(7) Upon making a final determination, and if the customer is receiving services from the CSE agency, the contractor shall promptly inform the local CSE agency whether or not there is good cause for refusal to cooperate *with CSE agency.*

(8) The contractor shall deny CCS services to the customer if a claim of good cause cannot be substantiated as required in this section.

(9) The contractor may not deny, delay, or terminate child care [subsidy] *scholarship* services pending determination of good cause if the customer has met the requirements of §F(2) of this regulation.

#### G. Review of Determination of Good Cause.

(1) The contractor shall review, at a minimum during redetermination of eligibility, all cases in which a finding of good cause was made based on a circumstance that is subject to change.

(2) If the contractor determines that the circumstance providing the basis for determination of good cause no longer exists, the contractor shall require the customer to pursue the establishment and enforcement of *court ordered or voluntary* child support obligations.

H. A customer transitioning off of TCA who does not have a child support order or who is not receiving child support shall cooperate with the contractor and the local CSE agency to continue, establish, or re-establish child support services *or shall pursue voluntary child support or provided proof of good cause before additional CCS Services are authorized.*

I. A customer who has the care of a child eligible for child support services and refuses to cooperate with the local CSE agency *or to pursue voluntary child support* [and the contractor on behalf of] the child is ineligible for CCS services unless:

(1) The customer claims good cause for the refusal; and

(2) Documentation supporting good cause for the refusal is under review, or is determined to exist *within 30 days of the customer submitting the CCS application. The contractor shall not issue Child Care Scholarships to the eligible child(ren) until good cause is substantiated or the customer provides documentation of the pursuit of court ordered or voluntary child support as set forth in .04 of this regulation.*

#### J. Voluntary Child Support.

(1) *Customer receiving voluntary child support must submit proof of the receipt of voluntary child support within 30 days of submitting the CCS application:*

(a) *Customer must complete and return the contractor's Child Support Form; and*

(b) *Customer must provide all supporting documentation.*

(3) *In-kind child support may be considered as voluntary child support. The customer must:*

(a) *Complete and return the contractor's Child Support Form;*

(b) *Provide all supporting documentation; and*

(c) Establish the fair market value for the regularly received support.

(4) Complete the contractor's Child Support form at each subsequent redetermination as set forth at §J of this regulation.

## **.05 Application Process.**

A. A customer shall apply to the contractor for CCS Program services.

B. In order to be approved to receive CCS Program services, a customer shall submit a complete application to the contractor by fax or mail, *email* which shall consist of:

(1) A completed, signed, and dated CCS Program services application form approved by the Division;

(2) Verification of employment earnings;

(3) If applicable, verification of training or school attendance with days and hours of the activity; [and]

(4) If applicable, verification of child support payments *or documentation as set forth at Regulation .04 of this chapter.* [an application to agree to pursue child support.];

(5) *Case record shall document verification that the customer met all points of CCS eligibility prior to Child Care Scholarship issuance;*

(6) *Case record shall contain:*

(a) *A copy of a state or government photo ID as required to validate Head(s) of Household responsible for CCS Application submission;*

(b) *Sufficient documentation to establish the relationship of the head(s) of household to each eligible household member; and*

(c) *Sufficient documentation to establish proof of eligible relationship of the relative care provider to the eligible child needing informal child care, if applicable.*

C. The contractor shall [decide to accept or deny the application within] *approve or deny all CCS applications:*

(1) [30 calendar] *Within 10 business days from the receipt of the signed application, if all verification is received with the initial submission of the application;*

(2) *Within 10 business days from the receipt of missing documentation, if 10 or more business days remain within the month;*

(3) *By the 30 calendar day from the date of receipt of the signed application, if all verifications are received by the 25th day following application;*

[(2)] (4) *By the 35th calendar day[s] from the date of receipt of the signed application, if all verifications are:*

(a) *Received between the 26th and the 30th day[s] following the receipt of the signed application; or*

(b) *The customer fails to submit all required documentation to the contractor by the 30th calendar day from the date of receipt of the signed application by the contractor. [Not received by the contractor.]*

(3) *The 30 calendar day application processing timeline applies to the CCS applicant, not the contractor. The customer has 30 calendar days from submitting a signed CCS application to provide the contractor with all documentation required to approve or deny CCS application. The contractor shall:*

(a) *Pend the CCS application within 24 hours of CCS application receipt, excluding:*

(i) *Weekends;*

(ii) *Holidays; or*

(iii) *Official federal/state closure days.*

(b) *Send a Missing Documentation Letter upon pending the CCS Application. The Missing Documentation letter that lists what is needed to approve or deny the CCS Application.*

(c) *Approve or deny completed CCS applications within 3 business days for TCA approved CCS applicants;*

(i) *In an approved FIA activity; and*

(ii) *With all supporting documentation necessary to approve or deny the CCS Application.*

(d) *Approve or deny completed CCS applications within 10 business days for non-TCA CCS applicants:*

(i) *In an approved activity; and*

(ii) *With all supporting documentation necessary to approve or deny the CCS Application.*

D. The customer is eligible from the date a signed application is received if the contractor determines that the customer is eligible for services.

(1) *Once a child is determined to have met all points of eligibility, the authorization shall not be less than 12 months.*



(2) *Eligibility will follow the child until the next redetermination, as set forth at Regulation .03(N) of this chapter.*

(3) *If the child is removed and placed in another household, the contractor shall:*

- (a) *Update the demographics for contact purposes; and*
- (c) *Hold the case harmless until next redetermination.*

**E. Program Freeze.**

(1) The contractor shall inform a customer that a program freeze exists and that a child care placement cannot be made immediately when the:

- (a) List of available providers has been exhausted and a provider cannot be located who is either acceptable to the customer or appropriate to the child;
- (b) Funds are not available to provide the service[.]; *or*
- (c) *Funds are not available to serve additional families of the same income and size.*

(2) [The contractor] CCATS shall maintain a list of all eligible customers by date of application and in accordance with the service priorities established under Regulation .08A of this chapter[.]. Customers shall be removed from the program freeze listing, if:

- (a) *The household no longer meets all points of eligibility; or*
- (b) *The customer fails to respond to the Division's request for the customer to submit documentation demonstrating need and continued eligibility.*

(3) *Siblings of a family with active vouchers are not subject to a program freeze.*

**F. Denial.** The contractor shall deny the application if the customer:

- (1) Fails to meet all applicable eligibility requirements set forth at Regulation .03 of this chapter;
- (2) Was terminated from CCS Program services failure to pay the *required assigned parental copayment as established on the Child Care Scholarship.*
- (3) Fails to provide the required documentation within 30 days of initiating [an] a CCS application;
- (4) Is disqualified for CCS payment pursuant to Regulation .14M of this chapter and the disqualification period has not ended; [or]
- (5) Fails to provide acceptable proof of identity for [a child for whom CCS Program services are requested] *each eligible family member included in the household count; or*
- (6) *Has a court-ordered overpayment, civil judgement or established CCS payment agreement where the customer:*
  - (a) *Has not begun payment arrangement; or*
  - (b) *Has missed more than three consecutive payments.*

**G. Notice.** The contractor shall send a written denial notice to the customer that includes:

- (1) The decision;
- (2) The basis for the decision;
- (3) The regulation supporting the decision; and
- (4) An explanation of the customer's hearing and appeal rights.

## **.06 Provider Requirements.**

**A. Subsidized child care services may be provided only by:**

- (1) *A registered family child care home;*
- (2) *A registered large family home;*
- [(2)] (3) *A licensed child care center; [or]*
- (4) *A Certificate of Compliance Center;*
- (5) *Military Center;*
- (6) *Unregulated non-relative informal care provider monitored by the Department; and*
- [(3)] (7) *An individual approved by the CCS Branch to provide informal child care[.] and submitting:*
  - (a) *Proof of residency;*
  - (b) *SSN card; [and]*
  - (c) *Photo Identification[.];*
  - (d) *Completed Health and Safety Form;*
  - (e) *Criminal Background Check;*
  - (f) *Consent for Child Protective Service Clearance; and*
  - (g) *Proof of successfully passing the Health and Safety Training, if applicable.*

B. Maryland EXCELS Participation.

(1) Effective June 29, 2015, the operator of a child care center or a family child care home may not receive CCS Program reimbursement for child care services provided on or after that date unless the operator has applied on or before that date to participate in Maryland EXCELS.

(2) Within 12 months of acceptance into Maryland EXCELS, the operator of a child care center, *large family child care home* or a family child care home shall request Maryland EXCELS to publish the program's quality rating in order to remain eligible for continued CCS Program reimbursement.

(3) An informal child care provider is not eligible to participate in the Maryland EXCELS program.

C. Tiered Reimbursement.

(1) Eligibility for tiered reimbursement payments is limited to a child care center or a family child care home that has a published Maryland EXCELS quality rating level of 3, 4, or 5.

(2) An informal child care provider is not eligible for tiered reimbursement payments.

(3) An eligible provider shall be paid a tiered reimbursement amount for each CCS Program child in care that is:

- (a) In addition to the child's [subsidy] *scholarship* payment; and
- (b) Reflective of the applicable percentage specified at §C(4) of this regulation.

(4) A tiered reimbursement payment amount is determined by multiplying the child's [subsidy] *scholarship* amount by the applicable percentage specified for the provider's Maryland EXCELS level:

	EXCELS Level 3	EXCELS Level 4	EXCELS Level 5
Family Child Care Home			
Child younger than 24 months old	11 percent	22 percent	29 percent
Child 24 months old or older	10 percent	21 percent	28 percent
Child Care Center			
Child younger than 24 months old	22 percent	37 percent	44 percent
Child 24 months old or older	10 percent	19 percent	26 percent

<i>Age of Child</i>	<i>Maryland EXCELS Level 3</i>	<i>Maryland EXCELS Level 4</i>	<i>Maryland EXCELS Level 5</i>
<i>Child younger than 24 months old</i>	<i>30 percent</i>	<i>40 percent</i>	<i>50 percent</i>
<i>Child 24 months old or older</i>	<i>20 percent</i>	<i>30 percent</i>	<i>40 percent</i>

(5) A provider's tiered reimbursement payments become effective for the first service period following the provider's publication at Maryland EXCELS at quality level rating 3, 4, or 5.

D. Informal Child Care.

(1) The customer may choose to use an approved informal child care provider.

(2) The contractor shall provide payment for the following informal child care arrangements:

- (a) Relative care;
- (b) In-home care; and
- (c) Babysitting.]

(a) *A person who is related to each child in care and provides care in the child's home or the relative's home; and*

(b) *Care provided only in the home of a child by a non-relative provider.*

(3) The contractor shall not provide payment for the following informal child care arrangements:

- (a) *CCS funds shall not be used to pay for babysitting;*
- (b) *Informal care by a non-relative child care provider in a location other than the eligible child's current place of residency.*

(4) *In addition to submitting a CCS Application, the customer shall submit to the contractor a signed and dated statement, on a form provided by the contractor, that specifies:*

- (a) *Where the informal care is to be provided; and*
- (b) *[The the relationship of the child to the informal child care provider.] The degree of relationship of the relative provider to the child as one of the following kinships payable with CCS funds:*

(i) Great grandparent;  
(ii) Grandparent;  
(iii) Aunt or uncle; or  
(iv) An older sibling of the child needing care and is above the age of 18 and not included in the household count of the CCS applicant;

(c) The names and ages of each child who will receive informal child care; and

(d) The names and ages of all other household members under the age of 18.

[(4)] (5) Unless approved as an informal child care provider before April 1, 2015, each individual who provides informal child care shall be a Maryland resident.

[(5)] An informal child care provider and each individual 18 years old or older who is a resident in the home shall apply for a fingerprint-supported State and federal criminal background check.]

[(6)] [Criminal] Background Check Review.

(a) An individual who wishes to serve as an informal child care provider and each individual 18 years old or older who is a resident in the home shall apply for a [fingerprint-supported State and federal criminal background check] *background check as set forth at §E(1) of this regulation.*

(b) The CCS Branch [may] *shall* not approve an individual to serve as an informal child care provider if the individual or a resident in the home who is 18 years old or older has received a conviction, a probation before judgment disposition, a not criminally responsible disposition, or a pending charge for the commission or attempted commission of:

(i) A crime involving a child, cruelty to animals, domestic violence, or a weapons or firearms violation of federal or State law;

(ii) A sex offense;

(iii) A violent crime classified as a felony;

(iv) Abduction or kidnapping;

(v) Abuse of a child or an adult;

(vi) Confinement of an unattended child;

(vii) Manufacturing, distributing, *possession* or dispensing a controlled dangerous *or illegal* substance;

(viii) Perjury;

(ix) Pornography;

(x) Possession with intent to manufacture, distribute, or dispense a controlled dangerous substance;

(xi) Reckless endangerment; *or*

(xii) *subject to deportation.*

[(7)] Child Abuse and Neglect Record Review.

(a) The contractor shall conduct a child abuse and neglect record review for each individual who:

(i) Applies to serve as an informal provider; [or] *and*

(ii) Resides in the informal care home and is 18 years old or older, *whether or not the Health and Safety form completed by the customer and the provider indicates that care for the child will be provided in the home of the informal provider or the home of the child.*

(b) [At least once every 2] Every year [years] that an informal provider continues to provide care, the provider shall complete an informal provider renewal, and the contractor shall conduct a new child abuse and neglect record review for:

(i) The provider; and

(ii) Each resident [of the home,] who is 18 years old or older within the household of a non-relative informal provider.

(c) The individual applying to serve, or serving, as an informal provider shall submit to the contractor a signed, dated, and notarized consent form that authorizes the CCS Branch to conduct a review of child abuse and neglect records for information about:

(i) The individual; and

(ii) Each resident in the informal child care [home] household, who is 18 years old or older[:], *whether care is provided in the relative provider's home or in the child's home by a non-relative provider.*

(d) If a child abuse and neglect record review finds that the subject of the review may have been responsible for abuse or neglect, the contractor shall make a request to the local department of social services for the details of the finding.

[(8)] Informal Care Home Child Capacity.

(a) [Unless approved otherwise by the CCS Branch, an] An informal child care home may not contain more than:

- (i) Six children whether present [in care] at the same time or not, unless from a single family unit; or
- (ii) Two children younger than 2 years old in care at the same time;

(b) In determining the maximum child care capacity of an informal care home, the contractor shall count a resident in the home who is younger than [6] 13 years old as a child in care; and

(c) The CCS program will not pay for more than six children being cared for by a single informal child care provider with child care scholarship funds, regardless as to whether or not the children are present at the same time or at varying times, unless the children are from a single family as documented in the CCS case record.

(9) Health and Safety. Before the office may approve an individual to serve as a relative or non-relative informal provider, the individual shall:

(a) Submit a completed Health and Safety form; and

(b) Complete an approved basic health and safety training as required by the office.

(10) Health and Safety Inspections shall be conducted yearly at the home where informal care is provided by a non-relative, the informal care provider shall:

(i) Dispose of trash, garbage, and wet or soiled diapers in a sanitary manner;

(ii) Change a child's clothing, diapers, or bedding immediately when soiled or wet;

(iii) Follow procedures for diapering that have been approved by the office and supplied to the provider;

(iv) Follow the hand-washing procedure approved by the office and supplied to the provider, and ensure that each child in care follows that procedure, after toileting, diapering, before food preparation and eating, after playing outdoors, and at other times when necessary to prevent the spread of disease.

(11) Child Protection.

(a) A child in care may not be subjected to abuse, neglect, mental injury, or injurious treatment by an informal care provider or by a resident of an informal care home.

(b) An informal care provider shall monitor each child in care for signs and symptoms of child abuse or neglect.

(c) An informal care provider who has reason to believe that a child in care has been abused or neglected shall report that belief directly to the protective services unit of the local department of social services or to a law enforcement agency, as required under Maryland law.

(d) The provider shall ensure that discipline of a child in care is appropriate to the age, maturity, and physical condition of the child.

(e) The provider may not:

(i) Force a child to eat or drink;

(ii) Punish a child for refusing to eat or drink; or

(iii) Withhold food or beverages as punishment.

(12) Home Environment and Equipment.

(a) Before the office may approve informal care arrangements submitted pursuant to §D of this regulation, the residence where non-relative informal care is to be provided shall be inspected by the office to determine if the home:

(i) Is free of health and safety hazards;

(ii) Is in good repair and kept clean;

(iii) Is free of insect or rodent infestation;

(iv) Is well-lit and well-ventilated;

(v) Has hot and cold running water;

(vi) Has a working inside toilet;

(vii) Has a working and safe heating system;

(viii) Has a working refrigerator and stove;

(ix) Has a working telephone;

(x) Has an operational smoke detector;

(xi) Has protective covering on electrical outlets accessible to children;

(xii) Has a first aid kit that contains all of the items included in a list provided by the office; and

(xiii) If applicable, has a designated area for diapering.

(b) After being approved for non-relative informal care purposes, the home shall be available to the office for monitoring visits, to be conducted at least annually, to determine compliance with the requirements listed at §D(10)(a)(i)—(xiv) of this regulation.

[(9)] An individual is approved to serve as an informal child care provider as of the date on which the contractor is in possession of documentation showing that the individual and each resident in the home who is 18 years old or older has successfully passed a :

- (a) Criminal background check; and
- (b) Review of records of abuse and neglect of children or adults]

[(10)] Payment to an approved informal provider is effective on the date that the individual is approved to serve as an informal child care provider.] (13) Provider Payment.

(a) Payment to an approved informal provider is effective on the date that the individual is approved to serve as an informal child care provider.

[(11)](b) The contractor may not approve payment:

[(a)] (i) If an informal child care provider or a resident in the home who is 18 years old or older has not successfully passed a[:

- (i) Criminal background check; or
- (ii) Review of records of abuse and neglect of children or adults] background check, a child clearance or an adult clearance as set forth in §E of this regulation; or

[(b)] (ii) For any day on which the provider is determined to be out of compliance with the child capacity requirements set forth at [§D(8)]§D(7) of this regulation.

[(12)] (14) Disapproval of payment to an informal provider pursuant to [§D(11)(a)]§D(11)(b)(i) of this regulation shall be effective as of the day on which the contractor receives information that the provider or a resident in the home who is 18 years old or older has not successfully passed a [criminal history background check or a review of records of abuse and neglect of children or adults] background check, a child clearance, or an adult clearance as set forth in §E of this regulation.

[(13)] (14) If payment is disapproved, the contractor shall provide written notification of that disapproval to the:

- (a) Provider; and
- (b) Customer of each child in care.

[(14)] (15) An individual providing, or applying to provide, informal child care services does not have hearing and appeal rights under the CCS Program except in the case of an intentional program violation.

E. Background Checks and Clearances.

(1) Except as set forth at subsection §E(2) of this regulation, each individual required by this chapter to have a:

(a) Background check shall undergo a:

- (i) Federal background check through the Federal Bureau of Investigation;
- (ii) Maryland state background check at a designated location in the State; and
- (iii) Non-Maryland state background check for each state other than Maryland in which the individual resided for any period during the 5 years before the date of the statement of informal care arrangement, submitted pursuant to §D(3) of this regulation, if the individual is an informal child care provider applicant, or the date that the individual began residing at the informal child care home, if the individual is 18 years old or older.

(b) Child clearance or an adult clearance shall undergo a:

- (i) Maryland child clearance or adult clearance through the local department of social services responsible for the jurisdiction where the family child care home is, or will be, located.
- (ii) Non-Maryland child clearance or adult clearance for each state other than Maryland in which the individual resided for any period during the 5 years before the date of the statement of informal care arrangement, submitted pursuant to §D(3) of this regulation, if the individual is an informal child care provider applicant, or the date that the individual began residing at the informal child care home, if the individual is 18 years old or older.

(2) An independent contractor with no contact with children are not required by the Agency to undergo a non-Maryland state background check or a non-Maryland child clearance.

(3) An individual required by subsection §(E)(1)(a)(iii) or (b)(ii) of this regulation to have a non-Maryland state background check or a non-Maryland child clearance or adult clearance shall:

(a) As applicable, apply for a state criminal background check, state child clearance, or state adult clearance as required by the state governmental unit responsible for conducting that background check or clearance; and

(b) Request the governmental unit conducting the non-Maryland state background check or clearance to transmit a report of the results directly to the Agency.

F. The Agency may designate a third party, on behalf of the Agency, to request, gather, compile, or analyze background check or clearance information maintained by federal or state government units.

G. Customer requesting in-home non-relative care must complete a Fair Labor Standard Act Statement for any non-relative receiving CCS payment on behalf of the child before the informal provider is approved:

(1) The Fair Labor Standard Act Statement must be submitted to the contractor:

(a) Within 30 days of the contractor receiving the signed CCS Application; or

(b) Prior to the approval of the non-relative care arrangements.

(2) Customer refusing to complete the Fair Labor Standard Act Statement may choose another child care arrangement type; and

(3) A new Fair Labor Standard Act Statement shall be submitted to the contractor:

(a) Yearly; or

(b) Upon the customer changing non-relative informal providers.

## **.07 Child Care Child Care Scholarships.**

### **A. Use of Child Care Scholarship.**

(1) The Child Care Scholarship is a negotiable instrument with which the customer can purchase child care services from any legally operating child care provider who is currently participating in Maryland EXCELS or is eligible to receive CCS services.

[(1)] (2) A CCS Program Child Care Scholarship may be used only with:

(a) A child care center;

[(b)] (b) A Letter of Compliance Center;

[(b)] (c) A large family child care home;

[(c)] (d) A family child care home:: or

(e) An approved informal child care provider.

[(2)] (3) An informal child care Child Care Scholarship may be used only for informal child care.

(4) Because CCS services are considered assistance to the family rather than to the provider, the original of each initial and amended Child Care Scholarship must be issued directly to the customer. Any courtesy copy of the Child Care Scholarship given, faxed, emailed or mailed to the provider:

(a) Must not be designated or construed to be the official authorization for services; and

(b) Shall be marked as a copy.

(5) Upon receipt of Child Care Scholarships, the customer should immediately review the Statement of Understanding before selecting and giving the official Child Care Scholarship to the child care provider.

(6) Child care providers must request a Child Care Scholarship before enrolling a child or continuing CCS services beyond the current Child Care Scholarship's expiration date, if payment is expected from the CCS Program.

(7) Formal Child Care Scholarships can only be used for formal care. This care option is available to all children eligible for CCS services. Formal care may be provided by:

(a) Registered family home;

(b) Registered large family home;

(c) Licensed centers;

(d) Letter of Compliance centers; and

(e) Military operated child care programs.

(9) Informal Child Care Scholarships can only be used for informal care. This care option is available to all children eligible for CCS services. Informal care may be provided by:

(a) A relative in the relative's home or in the child's home; or

(b) A non-relative in the child's home only;

(10) CCS funds shall not be used to pay for babysitting or for any care arrangements.

### **B. Pre-Child Care Scholarship Terms**

(1) A Pre-Child Care Scholarship is issued to a customer who:

(a) Has met all points of eligibility;

(b) Has a child needing CCS Services;

(c) Needs to select a child care provider; or

(d) *Wishes to discontinue child care services at one child care provider and wants CCS services to continue at another program.*

(2) *The Pre-Child Care Scholarship allows the customer ten (10) business days to select and enroll the child with a provider. If the tenth business day falls on a holiday or weekend, the contractor shall set the Pre-Child Care Scholarship expiration date for the first business day following the weekend or holiday.*

(3) *A Pre-Child Care Scholarship is void, if not receipted prior to the Pre-Child Care Scholarship expiration date.*

(4) *The contractor shall provide access to information and referral services to assist the customer in finding appropriate child care.*

(5) [(3)] *A child care Pre-Child Care Scholarship is void if:*

(a) *It is not signed by the child care provider and the customer;*

(b) *Child care placement is not made; or*

(c) *[It] the pre-Child Care Scholarship is not returned to the contractor [within 60 10 business days of [it's] before the expiration date. [issue date.]*

**B.] C. Receipted Child Care Scholarship Issuance.**

(1) *A contractor shall:*

(a) *Issue a receipted Child Care Scholarship to an eligible customer that is:*

(i) *Effective from the date a signed and dated CCS application is received by the contractor and all required verifications have been approved; and*

(ii) *Related to the customer's schedule and the duration of the child in child care, whichever is lesser; applicant's activity; and*

(b) *Provide access to information and referral services to assist the customer in finding appropriate child care.*

*Once the pre-Child Care Scholarship is receipted, the customer and provider shall be mailed a copy of the receipted Child Care Scholarship that contains:*

(a) *The provider's name;*

(b) *Address;*

(c) *Scholarship payment amount;*

(d) *Unit of care;*

(e) *Child Care Scholarship duration; and*

(f) *Customer's assigned co-pay*

(2) *Except for a receipted Child Care Scholarship issued pursuant to Regulation .09A(3) of this chapter, or unless a receipted Child Care Scholarship becomes void pursuant to §B(3) of this regulation, each receipted Child Care Scholarship is valid for a maximum of*

(a) *12 months from the Child Care Scholarship's issue date; or*

(b) *Longer than 12 months, if extended do to an interim change that extends beyond the determination end date.*

(3) *A child care Child Care Scholarship is void if:*

(a) *It is not signed by the child care provider and the customer;*

(b) *Child care placement is not made; or*

(c) *[It] The Child Care Scholarship is not returned to the contractor within [60] 15 days of it's issuance date.*

(4) [(5)] *The contractor shall issue to a customer a notification of the expiration of a Child Care Scholarship at least 15 days before the expiration date to allow for application and review of the customer's eligibility for a new Child Care Scholarship.*

[(5)] (6) *A new Child Care Scholarship may be issued if:*

(a) *[a] A customer moves to another local jurisdiction in Maryland;*

(b) *[and] The contractor determines that the customer is still eligible for CCS Program services; and*

(c) *The customer requests continued CCS services.*

(6) *A child can have more than one Child Care Scholarship and more than one type of Child Care Scholarship based upon the authorized care needs of the child.*

**D. Child Care Scholarship Copayment.**

(1) *Child Care Scholarship copayment is the amount the customer shall pay towards the cost of child care as set forth at Regulation .12.(B) of this chapter.*

(2) An assigned copayment shall be assessed per family receiving Child Care Scholarship (CCS) benefits as set forth at Regulation .12 of this chapter.

(3) A zero percent copayment applies to substitute Child Care Scholarships.

**E. Child Care Scholarship Duration.**

(1) Child Care Scholarship duration is the date range CCS payment is authorized as indicated on the Child Care Scholarship.

(2) The Child Care Scholarship duration period is a closed period of eligibility and CCS payment shall not start before or after the established dates.

(3) CCS payment shall be made in accordance with the terms of the receipted Child Care Scholarship and based upon the dates of the closed eligibility period.

(4) A Child Care Scholarship ending based upon the closed eligibility end date is not considered as a termination or reduction of services.

(5) Adverse Action Payment is not required if the Child Care Scholarship was paid in accordance with the terms of the receipted Child Care Scholarship and the closed period of eligibility was not modified.

(3) The contractor shall issue a 90 day Child Care Scholarship duration with a 90 day eligibility authorization to customers in the following pending CCS categories:

(a) Homeless customers with documentation of an approved participation activity and with proof of homelessness, but missing other documentation needed to establish other points of CCS eligibility;

(b) Customers choosing informal care, meeting all other points of eligibility and needing to submit proof of immunization for non-school age children;

(c) Applicants who have provided the contractor with proof of submission of a CSE application and met all other points of eligibility shall be given a 90 day Child Care Scholarship to allow the CSE agency enough time to determine if the customer has achieved child support "cooperative" status; and

(d) Pending TCA applicants that have met all other points of CCS eligibility shall be issued a 90 day Child Care Scholarship to allow the approval of the applicant's TCA application.

(3) The contractor shall only issue a Child Care Scholarship with a 12 month duration and with a 12 month eligibility authorization to a customer that has met all points of CCS eligibility at initial determination and redeterminations.

(4) If a customer's activity is shorter than 12 months and the customer has met all points of eligibility at initial and continuing redeterminations, the contractor shall issue a Child Care Scholarship with a 12 month duration and a 12 month eligibility authorization.

(5) The customer shall report changes to the contractor within 10 days of the change as set forth at Regulation .03(G) this chapter.

(6) The customer shall report to the contractor any non-temporary cessation in participation activity as set forth at Regulation .03(G) this chapter.

(7) The Child Care Scholarship duration will end if the customer:

(a) Does not gain an approved participation activity before redetermination;

(b) Moves outside of Maryland;

(c) Gains a gross family income above 85 percent of the SMI; or

(d) The customer requests the termination of CCS services.

(8) The Child Care Scholarship duration dates shall coincide with the eligibility authorization dates, unless the reporting of a non-temporary cessation requires an interim change.

(9) If a Child Care Scholarship is issued for less than 5 working days, the notification period does not apply and the contractor shall provide notice, as soon as it is possible. The contractor shall not:

(a) End a Child Care Scholarship on the same day, if the child was in care and the customer and provider were not notified of the last date of payment.

(i) The contractor shall notify the customer and the provider of the end date of payment; and

(ii) The contractor shall notify the customer of the option to select another provider, if applicable.

(b) End CCS services in arrears when:

(i) Child care services were rendered in accordance with the Child Care Scholarship authorization;

and

(ii) The provider was legally operating.

**F. Assigned Unit of Care**



(1) Each Child Care Scholarship establishes the unit of care paid weekly for the assigned care level, care type and region.

(2) Unit of care is the amount of time CCS services will pay for a child to attend a child care program as set forth at §F(9) of this regulation.

(3) The unit of care shall be based on the lesser between the:

(a) Number of hours the child is actually in the care; or

(b) Customer submitting google verification of the amount of time required to travel from the child care facility to the customer's approved activity and vicesa.

(4) Verification of travel time provided by the customer, must match the address of the applicant's employment and the child care facility in which the child is enrolled. If the customer has not selected a child care provider:

(a) The contractor cannot award travel time until the parent submits:

(i) Circumstance Change Form;

(ii) Google verification from the child care facility to the customer's approved activity

(b) If the amount of travel time requested by the customer appears excessive, the contractor shall include in CCATS narration, the documentation used to establish travel time authorized;

(c) Travel time shall not be authorized:

(i) From home to child care facility or vice versa;

(ii) If the customer participation activity is at the child care facility where the child is employed.

(e) If the parent request travel time, but did not complete the activity schedule on the CCS application and did not provide google verification of the travel distance from work to the child care program, the contractor shall:

(i) Approve the CCS application without the awarding of travel time; and

(ii) The customer will have to submit a Circumstance Change Form, if the contractor is to award travel time.

(5) Students enrolled in school at initial or continued determination shall automatically qualify for a:

(a) 2 unit Child Care Scholarship, if enrolled full-time based on the school's or college's definition of full-time;

(b) 1 unit Child Care Scholarship, if enrolled part-time based on the school's or college's definition of part-time;

(c) Additional units of child care above the base issuance of 2 units (full-time students) or 1 unit (part-time students) shall be based upon the following award;

(i) One hour of study time for each credit hour taken; and

(ii) Calculate the amount of travel time from the child's day care to on-campus classes and vice versa, if requested by the parent on the CCS application;

(6) Students taking on-line classes:

(i) Shall receive one hour of study time for each credit hour taken;

(ii) Shall not be awarded travel time; and

(iii) Shall have unit of care based upon full-time or part-time enrollment as set forth at Regulation

.07(F)(5) of this chapter.

(9) Unit of Care Table:

UNITS OF CARE			
Unit means the length of time per day a child is in child care and shall not exceed the parent's approved participation hours, whichever is the lesser.			
Duration	One unit – 1 hour to less than 16 hours per week.	Two Unit – 16 hours to less than or equal to 29 hours per week.	Three Units - 30 or more hours per week.

## .08 Service Groups.

A. Except that primary consideration within a service priority shall be given to a family requiring CCS Program services for a child with a disability [or], evidence of homelessness, minor customer, enrolled in Head Start, has a sibling with active Child Care Scholarships on the CCS program or who has a customer who is active military, provision of CCS Program services to a family shall be made according to established service priorities, which are:

(1) Priority 1, the highest service priority, which includes individuals who *have documented meeting all points of CCS eligibility and are receiving TCA and are:*

*[(a) Job searching];*

*(a) Approved for TCA;*

*(b) DHS has completed an Authorization Referral Form and submitted to the contractor to authorize*

*Priority 1 Child Care Scholarships;*

*(c) Participating in a job readiness activity that has been verified by FIA:*

*(i) For a minimum of 20 hours per week and lasting longer than three months; or*

*(ii) Engaged in licensed counseling, licensed psychiatric or licensed social services mental health or drug treatment program for a minimum 180 days, unless engaged in another activity:*

*(d) Conditions of eligibility as set forth at §A of this regulation;*

*(e) Parental copayment requirements do not apply;*

*(f) Verification of a participation activity applies; and*

*(g) Program freeze status does not apply.*

(2) Priority 2, which includes individuals who are participating in an approved activity and are in compliance with TCA program requirements when their *TCA benefits [case] closed and:*

*(a) Who have received TCA at any time within the prior 6 months;*

*(b) Who are no longer eligible for TCA; and*

*(c) Whose family income is less than or equal to the amounts listed [for copayment levels A through J] on the:*

*(i) Initial Income Guideline Scale in Regulation .03H of this chapter, for the same family size, if the customer does not have active CCS Child Care Scholarship; or*

*(ii) Continuing Income Guideline Scale in .03H of this chapter, for the same family size, if the customer has active CCS Child Care Scholarships; and*

*(d) All conditions of eligibility apply.*

*(e) Parental copayment requirements apply.*

*(i) Verification of a participation activity apply.*

*(j) Program freeze status does not apply, if the parent has active Priority 1 Child Care Scholarships when transitioning to a Priority 2.*

(3) Priority 3, the lowest service priority, which includes individuals who are participating in an approved activity, [and] *who are not eligible under one of the categories of eligibility described above in §.08 of this regulation:*

*(a) Who are not approved for TCA [customers or recipients];*

*(b) Who were not in compliance with TCA regulations when they transitioned off of TCA within 6 months;*

*(c) Whose TCA ended greater than 6 months;*

*(d) Pending TCA applicants that have not been approved for TCA;*

*[(b)] (e) Whose family income is less than or equal to the amounts listed [for copayment levels A through J] on the :*

*(i) Initial Income Guideline Scale in Regulation .03H of this chapter, for the same family size, if the customer does not have active CCS Child Care Scholarship; or*

*(ii) Continuing Income Guideline Scale in .03H of this chapter, for the same family size, if the customer has active CCS Child Care Scholarships; and*

*(e) All conditions of eligibility apply.*

*(f) Parental copayment requirements apply.*

*(g) Verification of a participation activity apply.*

*(h) Program freeze status applies.*

*(i) If the CCS Program is reduced because of insufficient funds:*

*(i) The order of the priorities shall be applied in reverse for terminating services; and*

*(ii) Within each service priority, services shall be terminated beginning with customers meeting the highest income eligibility level as set forth in regulation .03H of the chapter, for the applicant's family size, and if necessary, proceeding in reverse order to lowest income customer with an assigned co-pay.*

*B. Minor Parent Priority Placement is assigned to each eligible child of a minor customer provided:*

(1) If the child of a Minor Parent is in need of and eligible for services:

(a) The customer shall meet all points of eligibility within 30 calendar days of the CCS application submission in order to be issued 52 week Child Care Scholarships.

(b) The minor parent shall continue to make satisfactory progress toward the completion of a high school diploma or a GED certificate:

(i) Satisfactory progress is defined by the customer's ability to reenroll in school each subsequent school term; and

(ii) Does not require the customer to submit grades at the end of each school term.

(c) Contractor shall issue a 90 calendar day Child Care Scholarship to allow the minor customer time to complete three online trainings as specified by the Division:

(i) Health and Safety;

(ii) Child Care Developmental Assessment; and

(iii) How Children Learn Before Kindergarten.

(d) Minor customers unable to pass the on-line training after two attempts, must provide documentation from either the school counselor or designee, that the customer will gain assistance with completing the training.

(2) Income requirements apply:

(a) The income of the minor parent will be counted when determining if the minor parent meets the Income Eligibility Guidelines as set forth at Regulation .03(H) of this chapter.

(b) The income of the minor parent's spouse will be counted when determining if the minor parent meets the Income Eligibility Guidelines as set forth at Regulation .03(H) of this chapter.

(c) The child support income of the absent parent will be counted when determining if the minor parent meets the Income Eligibility Guidelines as set forth at Regulation .03(H) of this chapter and

(d) All income of the senior parent of a minor parent shall be disregarded when determining if the minor parent meets the Income Eligibility Guidelines as set forth at Regulation .02(38)(C)(xxviii) of this chapter.

(3) Program freeze status requirements do not apply.

(4) Parental copayment requirements apply.

(5) All conditions of eligibility apply; and

(6) A minor parent shall not be subject to program freeze status.

#### C. Priority Placement - Head Start

(1) The Early Head Start priority placement must be assigned for any child, birth through age 4 who is enrolled in a child care program that has an active agreement with a Head Start/Early Head Start Agency that participates in the Division's Early Head Start.

(2) The customer is not subject to the program freeze status and shall receive a part-time (two unit) Child Care Scholarship based on the need of the child outside of Head Start hours.

(3) The Division will make available to Head Start the addresses of customers with children receiving CCS services that may be eligible for Head Start services.

(4) The contractor shall make available:

(a) A listing of programs that have active agreements with a Head Start/Early Head Start; and

(b) The contractor shall make this listing available to CCS customers upon request.

(4) Age requirements apply:

(a) At least one child must be enrolled in Head Start for the remainder of the children to qualify under Head Start Priority Placement.

(b) Other children within the household count and needing CCS Services, will have to provide the documentation needed to establish all points of eligibility.

(5) Program freeze Status requirements do not apply.

(6) Parental copayment requirements do not apply.

(7) All points of eligibility are met for:

(a) Child enrolled in Head Start; and

(b) Head Start has completed the CCS Head Start Partnership Referral

(8) The contractor shall assess the child's need for Head Start wrap-around CCS services upon the receipt of the CCS Head Start Partnership Referral

#### D. Priority Placement – Homelessness.

(1) *The Homeless Priority Status (HLPS) must be assigned for any family of an eligible child that lacks a permanent or fixed nighttime residence for a continuous period of time or for a period of time just begun for which no possibility of fixed shelter exists. The category is assigned for families living in:*

- (a) *Motels, hotels, or camping grounds due to lack of alternative accommodations;*
  - (b) *Emergency or transitional shelters;*
  - (c) *A primary nighttime residence that is a public or private place not designed for or ordinarily used as a regular or sleeping accommodation for human beings; or*
  - (d) *Cars, parks, public spaces, abandoned building, bus or train stations or similar settings.*
- (2) *Individuals who move from one friend's or relative's home to another are not considered "homeless".*
- (3) *Parental copayment requirements apply.*
- (4) *Program freeze status requirements do not apply if:*
- (a) *The customer provides official documentation that they applied and was denied or approved housing or shelter assistance through the Local Department of Social Services; or*
  - (b) *The customer provides proof of current residency at a homeless shelter sponsored by the LDSS or through county funding.*
- (5) *Customer claiming HLPS status must:*
- (a) *Meet all eligibility requirements as set forth at §.08(D) of this regulation; and*
  - (b) *Submit documentation that supports HLPS within 30 days of submitting the CCS application.*
- (6) *The contractor shall reassess the customer's Homelessness Status at each redetermination of eligibility or upon the family reporting that housing has been secured, the contractor shall upgrade CCATS to reflect the change.*
- (7) *Program freeze Status requirements do not apply, if documentation as set forth at Regulation .03(A)(5) of this chapter is provided to the contractor within 30 days of submitting the CCS application.*
- (6) *Parental copayment requirements apply.*
- (7) *Conditions of eligibility as set forth at Regulation .03 of this chapter apply.*

#### *E. Priority Placement – SSI*

- (1) *The SSI Child priority placement is for a child with a disability and receiving SSI.*
- (2) *All conditions of eligibility apply, with the exception of gross household income for the child receiving SSI.*
- (3) *Parental copayment do not apply for the child receiving SSI*
- (4) *Program freeze status requirements do not apply to all children in the household needing child care.*
- (5) *For a family with children receiving SSI and children not receiving SSI:*
  - (a) *The family's gross income will apply toward the eligibility and co-payment of the children not receiving SSI; and*
  - (b) *For the child(ren) not receiving SSI to be considered eligible, the gross household income must be less than the Income Guideline Scales as set forth at Regulation .03(H) of this chapter.*

#### *F. Program Freeze Status*

- (1) *When a customer submits an initial application or has a break in CCS services and the household income is similar to other families at an income level in which the Division has insufficient funds to provide CCS Services to additional children, the CCS application will be placed in program freeze status.*
- (2) *The following CCS customers are not subject to program freeze status:*
  - (a) *TCA approved customers;*
  - (b) *Priority 1 customers transitioning to Priority 2 without a break in CCS services;*
  - (c) *SSI children with disabilities and each child in the household needing care;*
  - (d) *Homeless families with LDSS verification of homelessness and who have documented proof of approval or denial of housing assistance from the LDSS or county government;*
  - (e) *Minor Customers attending school;*
  - (f) *Active military; and*
  - (g) *Siblings of children with active CCS Child Care Scholarships.*
- (3) *Replacement Mode (One-Out/One-In) shall be implemented if funds are only sufficient enough to maintain current program levels:*
  - (a) *Contractor shall remove one family from Frozen status for each child whose CCS services have terminated.*
  - (b) *Contractor shall serve the entire family in Frozen:*
    - (i) *If the number of children being removed from frozen status is greater than the number of CCS services that have terminated, the Contractor will not place additional children until the numbers equal.*

(ii) Siblings of parents with active Child Care Scholarships are not subject to Frozen status, thus, the contractor will also have to take these families into accounting when implementing the Replacement Mode.

(4) Placement Mode shall be implemented when available funds are such to allow CCS placement:

(a) The family in Frozen Status the longest shall be served first;

(b) The Department will determine who Frozen Status shall be addressed:

(i) Removal of Frozen Status, allowing all applicants the opportunity to be served upon application submission

(ii) Removal of Frozen Status by income; or

(iii) Removal of Frozen Status as defined by the Department.

## **.09 Redetermination.**

A. Unless a family with an open case is placed on program freeze status due to insufficient program funds, a contractor shall:

(1) [When there are significant] Address all changes in the family situation that may affect program eligibility, such as the reportable events set forth at Regulation .03G of this chapter; to include:

(a) Events previously reported, but held harmless; and

(b) Ensuring all points of eligibility are met and documented within the case record before authorizing services.

(2) Complete a customer redetermination at least every 12 months, if an interim change that extends the redetermination beyond 12 months is not required; or

(3) Within 10 calendar days of the completion of an Early Head Start or Head Start Program year if the child:

(a) Is enrolled in Early Head Start or Head Start; and

(b) Receives CCS Program services.

[B. At redetermination, if a family with a child enrolled in Early Head Start or Head Start has an income that is overscale, the family shall continue in the CCS Program at income level J for the remainder of the Early Head Start or Head Start program year.]

(B) At redetermination the contractor shall:

(1) Pend the CCS redetermination application within 24 hours of receipt;

(2) Make a determination of child care need for a family within 3 business days of receiving all documentation necessary to process CCS Priority 1 TCA approved applications;

(3) Make a determination of child care need for a family within 3 business days of receiving all documentation necessary to process a CCS Priority 3 Pending TCA application; and

(4) Make a determination of child care need for a family within 10 business days of receiving all documentation necessary to process a completed CCS Priority 2 or 3 application, if all documentation is received by the contractor 10 business days prior to the redetermination end date.

## **.10 Termination.**

A. The contractor shall terminate CCS Program payments if the:

(1) Program is reduced because of insufficient funds or is oversubscribed;

(2) If a Child Care Scholarship is written for less than 5 calendar days, the notification period does not apply.

(3) Customer:

(a) Fails to submit a complete application as specified at Regulation .05B of this chapter;

(b) Is no longer eligible on the basis of need, if the customer's:

(i) No longer engaged in a participation activity at redetermination;

(ii) Does not provide documentation to establish all points of eligibility at redetermination;

(iii) Gain of assets is equal to or in excess of one million dollars;

(iv) Gain of countable income is equal to or in excess of 85 percent of the SMI;

(v) Address is no longer within the state of Maryland;

(v) Contact information changed whereas it is not possible for the contractor or the department to make direct contact with the customer or indirect contact with the customer through the child's current child care provider after two written attempts;

(vi) CCS application or supporting documentation proves substantiated fraud; or

(vii) CCS application or supporting documentation proves substantiated Intentional Program

Violation.

- (c) *Fails to pay weekly tuition owed to the child care provider to include the weekly assessed:*
  - (i) *copayment;*
  - (ii) *difference owed after the deduction of the child care scholarship reimbursement and copayment from the child care provider's tuition; and*
  - (iii) *After the contractor gives 5 business day notification of the termination of CCS Services for the customer's failure to pay the outstanding balance owed as reported by the child care provider;*
- (d) *Commits welfare fraud as defined in the Criminal Law Article, §§8-501—8-504, Annotated Code of Maryland, and cited in the terms of agreement of the child care scholarship Child Care Scholarship;*
- (e) *Fails to provide documentation required by the contractor to re-determine eligibility;*
- (f) *Fails to report verification of non-cooperation status for the eligible child that was authorized for CCS services: Having care of a child eligible for child support services, refuses to cooperate with the State in pursuing child support obligations unless good cause is determined to exist;*
  - (i) *Upon notification of non-cooperation status, the Contractor shall hold harmless until redetermination; and*
  - (ii) *Care shall not proceed beyond redetermination without documentation from CSE agency that the customer is "cooperative" status;*
  - (iii) *Customer provides the contractor with pursuit of voluntary child support; or*
  - (iv) *Documentation for "Good Cause is provided."*
- [ g] *Failure to report any change, as specified in Regulation .03G of this chapter, that results in the receipt of benefits for which the applicant is not eligible ;*
- (h) *Fails to verify immunizations appropriate to the child's age pursuant to Regulation .03D of this chapter for each child receiving services; or*
- (i) *(g)Has been disqualified pursuant to Regulation .14O of this chapter, and the disqualification period has not ended.*

**B. Notification of Termination.**

(1) Except for customers and providers who do not return the signed Child Care Scholarship to the contractor within [60] *15 calendar days*, the contractor shall send a written notice to the customer and the provider *that will be dated* at least 5 calendar days before termination of child care services or reduction of child care benefits that specifies the:

- (a) *Action to be taken;*
- (b) *Reason for the action;*
- (c) *Regulatory basis for the action; and*
- (d) *Customer's hearing and appeal rights.*

(2) [If a Child Care Scholarship is written for less than 5 calendar days, the notification period does not apply]. Notification of Termination Notification does not apply for:

- (a) *A Child Care Scholarship written for less than 5 calendar days;*
- (b) *Child Care Providers:*
  - (i) *Committing substantiated fraud or intentional program violation, to include but not limited to:*
    - (i) *Marking a child present who was not in attendance;*
    - (ii) *Not collecting the assigned parental co-payment based upon the timeframe established with the parent upon initial enrollment of the child;*
    - (iii) *Not collecting the difference owed in weekly child care tuition owed based upon the timeframe established with the parent upon initial enrollment of the child; and*
    - (iv) *Not providing the contractor with proof of the collection of child care payment from the parent upon request.*

- (c) *Providers no longer eligible to receive Child Care Scholarship payment due:*
  - (i) *Licensing; or*
  - (ii) *Loss of active Maryland EXCELS status.*

(3) *Child Care Scholarship termination notification only applies to Child Care Scholarships when:*

- (a) *Care will end prior to the end date of the receipted Child Care Scholarship;*
- (b) *Interim changes resulting in change in scholarship amount or copayment from the amount established on the receipted Child Care Scholarship.*

(4) For events resulting in the immediate termination of CCS services, such as, termination of a provider's license or loss of active Maryland EXCELS status, substantiated Intentional Program Violation (IPV) or substantiated Fraud, the contractor shall:

(a) Notify the provider by phone of the last date of payment, if contact is possible;

(i) It is the customer's responsibility to follow the provider's regulations regarding termination of services;

(ii) The 5 day notification period is a courtesy to the provider in the event parent services end before the Child Care Scholarship end date.

(b) Notify the customer by phone of the last date of payment;

(c) Notify the customer of the option to select another child care provider, if applicable;

(d) Terminate CCS Serves on the date of notification, not in arrears; and

(e) Send written notification to both the parent and provider.

(5) CCS funds shall not be used to pay for services after the termination of CCS services of a child. The responsibility to settle payment is between the customer and the provider.

(a) Customers shall not receive additional Child Care Scholarships until submitting the contractor proof of zero balance of the current week's tuition; or

(b) The contractor receives A Completed Provider Change form stating a zero balance as completed by the child care provider.

B. The child care provider may terminate services of a customer, if the customer fails to pay the provider the weekly amount owed after payment of the assigned parental co-pay and scholarship reimbursement.

## **.11 Payments for Child Care Services.**

### **A. Basis of Payment.**

(1) A sufficient number of invoice forms will be sent to the provider to cover the necessary service periods of a Child Care Scholarship after the Child Care Scholarship has been returned to the contractor.

(2) A child care provider is paid:

(a) According to the weekly service unit rates as set out in §§B—D of this regulation for subsidies and Regulation .10B of this chapter for copayments;

(b) Based on 21.69 days in each month; [ and ]

(c) For authorized service units only.

(d) If approved for provision of special accommodations;

(e) If approved for tiered reimbursements;

(f) If approved to receive enhancement payment(s);

(g) For no more than 10 voluntary closure days per 12 months:

(i) Whether 10 consecutive voluntary closure days; or

(ii) Whether or not the voluntary closure days were non-consecutive business days.

(h) If active in Maryland EXCELS;

(i) In accordance with Maryland EXCELS eligible tiered reimbursement levels;

(j) In accordance with the payment region of the child care provider where the child is enrolled for CCS services;

(k) Based upon the care category:

(i) Registered Family Child Care Provider;

(ii) Registered Large Family Child Care Provider;

(iii) Licensed Center Child Care Provider;

(iv) Letter of Compliance Center; or

(vi) Approved Informal Child Care Provider;

(l) Care level:

(i) 3 Units, 30 hours or more, per week);

(ii) 2 Units (16-29 hours, per week); or

(iii) 1 Unit (1-15 hours, per week)

(ii) Registered Large Family Child Care Provider

(3) A separate payment rate is established for each of the following seven CCS service regions within the State for family homes and child care centers:

- (a) Region U, which comprises Cecil, Queen Anne's, St. Mary's, Talbot, and Washington counties;
- (b) Region V, which comprises Caroline, Dorchester, Kent, Somerset, and Wicomico counties;
- (c) Region W, which comprises Anne Arundel, Calvert, Carroll, Charles, and Prince George's counties;
- (d) Region X, which comprises Howard and Montgomery counties;
- (e) Region Y, which comprises Baltimore, Frederick, and Harford counties;
- (f) Region Z, which comprises Allegany, Garrett, and Worcester counties; and
- (g) Region BC, which is Baltimore City.

**B. Rate of Payment and Cost Guidelines — Family Child Care Home.**

(1) This section shall apply only to a family child care home that is registered to operate pursuant to COMAR 13A.15.

(2) The *base child care scholarship reimbursement* amount paid to a family child care provider who cares for a child in the provider's home is the lowest of the:

- (a) Regional weekly service unit rates established by this regulation;
- (b) Weekly rate charged to the general public by the provider if that rate is comparable and competitive with the going rate in the community; or
- (c) Actual cost of care.

[(3) The regional weekly service unit rates specified in this subsection are based on [three] *two* units of service per day. For two-unit and one-unit regional weekly rates, multiply by 2/3 and 1/3, respectively, the following regional weekly rates:

(a) Rate for a child 24 months old or older:

- (i) Region U — \$93.63;
- (ii) Region V — \$83.11;
- (iii) Region W — \$115.97;
- (iv) Region X — \$147.43;
- (v) Region Y — \$115.91;
- (vi) Region Z — \$85.46; and
- (vii) Region BC — \$106.35; or

(b) Rate for a child younger than 24 months old:

- (i) Region U — \$123.00;
- (ii) Region V — \$100.34;
- (iii) Region W — \$156.71;
- (iv) Region X — \$184.50;
- (v) Region Y — \$148.63;
- (vi) Region Z — \$97.38; and
- (vii) Region BC — \$141.08.]

(3) *The regional weekly service unit rates will be based at the 60<sup>th</sup> percentile of the July 2020 Market Rate Survey (MRS), at minimum per CCS Payment Region and will be set at minimum the same percentile per the most current MRS.*

**C. Rate of Payment and Cost Guidelines — Child Care Center and Large Family Child Care Home.**

(1) The *base weekly reimbursement rate* [amount] paid to a child care center is the lowest of the:

- (a) Regional weekly service unit rates established by this regulation;
- (b) Weekly rate charged to the general public by the child care center if that rate is comparable and competitive with the going rate in the community; or
- (c) Actual cost of care.

(2) The regional weekly service unit rates specified on the Division of Early Childhood's website [in this subsection] are based on three units of service per day. For two-unit and one-unit regional weekly rates, multiply by 2/3 and 1/3., respectively, the following regional weekly rates:

(a) Rate for a child 24 months old or older:

- (i) Region U — \$108.24;
- (ii) Region V — \$91.25;
- (iii) Region W — \$126.00;
- (iv) Region X — \$166.95;
- (v) Region Y — \$128.18;



- (vi) Region Z — \$87.79; and
- (vii) Region BC — \$112.16; or
- (b) Rate for a child younger than 24 months old:
  - (i) Region U — \$172.42;
  - (ii) Region V — \$146.79;
  - (iii) Region W — \$199.88;
  - (iv) Region X — \$261.38;
  - (v) Region Y — \$208.29;
  - (vi) Region Z — \$112.75; and
  - (vii) Region BC — \$187.79.]

D. The informal child care weekly service 3 unit **rates** [specified in this section] are based off of a percentage of the 3 unit rates established for licensed family child care provider rates? [on three units of service per day. For] *The two-unit and one-unit regional weekly rates[, are established by [multiply] multiplying the 3 unit rate by 2/3 and 1/3, respectively[., the following jurisdictional] per weekly rates established for each payment region. [*

(1) Rate for a child 24 months old or older:

- (a) Allegany County — \$53.76;
- (b) Anne Arundel County — \$56.81;
- (c) Baltimore County — \$60.38;
- (d) Calvert County — \$56.81;
- (e) Caroline County — \$41.53;
- (f) Carroll County — \$56.81;
- (g) Cecil County — \$53.76;
- (h) Charles County — \$56.81;
- (i) Dorchester County — \$41.53;
- (j) Frederick County — \$60.38;
- (k) Garrett County — \$54.01;
- (l) Harford County — \$60.38;
- (m) Howard County — \$75.92;
- (n) Kent County — \$41.53;
- (o) Montgomery County — \$75.92;
- (p) Prince George's County — \$56.81;
- (q) Queen Anne's County — \$46.88;
- (r) St. Mary's County — \$53.76;
- (s) Somerset County — \$41.53;
- (t) Talbot County — \$46.88;
- (u) Washington County — \$54.01;
- (v) Wicomico County — \$41.53;
- (w) Worcester County — \$44.07; and
- (x) Baltimore City — \$54.77; or

(2) Rate for a child younger than 24 months old:

- (a) Allegany County — \$62.93;
- (b) Anne Arundel County — \$71.84;
- (c) Baltimore County — \$71.84;
- (d) Calvert County — \$71.84;
- (e) Caroline County — \$46.88;
- (f) Carroll County — \$73.12;
- (g) Cecil County — \$55.28;
- (h) Charles County — \$71.84;
- (i) Dorchester County — \$46.88;
- (j) Frederick County — \$71.84;
- (k) Garrett County — \$62.93;
- (l) Harford County — \$71.84;
- (m) Howard County — \$90.95;
- (n) Kent County — \$46.88;

- (o) Montgomery County — \$90.95;
- (p) Prince George's County — \$71.84;
- (q) Queen Anne's County — \$55.28;
- (r) St. Mary's County — \$62.93;
- (s) Somerset County — \$46.88;
- (t) Talbot County — \$55.28;
- (u) Washington County — \$55.28;
- (v) Wicomico County — \$46.88;
- (w) Worcester County — \$46.88; and
- (x) Baltimore City — \$69.04. ]

**E. Additional Costs.**

(1) A payment rate schedule is established for children attending public or nonpublic elementary or middle schools for the full school day who receive child care services. The payment rate schedule is:

- (a) Paid pursuant to the maximum payment rates listed in §§B—D of this regulation;
- (b) Valid when authorized child care services are provided:
  - (i) On a regular basis beyond school hours; and
  - (ii) When schools are closed during the school year;
- (c) Based on a 42-week payment schedule that is calculated by averaging the child's rate for:
  - (i) 36 weeks of one or two authorized service units per day when school is scheduled to be in session;

and

- (ii) 6 weeks of three authorized service units per day when school is scheduled to be closed; and
- (d) Applied to an uninterrupted 10-week school vacation when:
  - (i) The vacation period is not included in §F(1)(b)(ii) of this regulation; and
  - (ii) The care is authorized by the contractor for three units of service a day.

(2) The 52-week payment schedule is established for children attending public or nonpublic elementary or middle schools for the full school day that are open year-round and is calculated by averaging the child's rate for:

- (a) 36 weeks of one or two authorized service units per day when school is scheduled to be in session;
- (b) 6 weeks of three authorized service units per day when school is scheduled to be closed; and
- (c) 10 designated school vacation weeks of three authorized service units per day.

(3) The contractor shall approve additional costs that exceed the payment rates specified in §§B—D of this regulation when child care is provided during nontraditional hours. Nontraditional hours are:

- (a) 1 hour or more between 7 p.m. and 6 a.m. on Monday through Friday; and
- (b) Any period of 1 hour or more on Saturday or Sunday.

(4) Additional costs above the rates shall be authorized for care provided weekly during nontraditional hours up to:

- (a) [ 5 ] 10 percent for one unit of care;
- (b) [10] 15 percent for two units of care; or
- (c) [15] 20 percent for three units of care.

(5) For a child with a disability, the payment rates specified in §§B and C of this regulation apply, except if the service provider offers documentation to the contractor that the cost of caring for the child with a disability exceeds the reasonable accommodation definition.

(6) The State may assist with one-time only or ongoing accommodation costs for materials or personnel if:

- (a) The provider submits to the contractor a completed special disability rate request form, supplied by the contractor, that describes the need for the special accommodation; and
- (b) The accommodation does not create a significant difficulty or expense.

(7) Upon receipt of a special disability rate request form that meets the requirements of §E(6)(a) of this regulation, the contractor shall:

(a) Approve the additional cost not to exceed the annual allocated amount up to [15] 30 percent above the rates set out in §§B and C of this regulation; or

(b) If the requested cost exceeds [15] 30 percent, submit a recommendation to the CCS Branch for approval of a higher payment not to exceed the annual allocated amount.

(8) *For a child receiving SSI, as documented at initial and each redetermination, the child care provider shall receive additional payment that exceeds the payment rates specified in §§B—D of this regulation to assist with the additional cost of caring for the child with a documented disability.*

(a) *The additional weekly cost above the base reimburse rate for Maryland EXCELS Level 3,4,5 providers accepting a child authorized to receive SSI shall be:*

- (i) *1 percent for one unit of care;*
- (ii) *2 percent for two units of care; or*
- (iii) *3 percent for three units of care.*

(b) *The additional scholarship reimbursement rate on the child care Child Care Scholarship, above the weekly reimbursement rate for a family of the same size and income for a child receiving SSI shall be:*

- (i) *5 percent for one unit of care;*
- (ii) *10 percent for two units of care; or*
- (iii) *15 percent for three units of care.*

(9) *For Maryland EXCELS Level 3,4, 5 providers in our highest poverty areas, Baltimore City, an additional weekly cost above the base reimbursement rate for providers with child care facilities in Title 1 School Districts shall be:*

- (i) *5 percent for one unit of care;*
- (ii) *10 percent for two units of care; and*
- (iii) *15 percent for three units of care.*

(10) *For Maryland EXCELS Levels 3,4, 5 providers located outside of Baltimore City an additional weekly cost above the base reimbursement rate for providers with child care facilities in Title 1 School Districts shall be:*

- (i) *1 percent for one unit of care;*
- (ii) *2 percent for two units of care; or*
- (iii) *3 percent for three units of care*

(11) *For parents in residing within the highest poverty area, Baltimore City, and with incomes below poverty shall receive an additional tiered reimbursement above the base reimbursement rate on the Child Care Scholarship for selecting a provider published at Maryland EXCELS levels 3,4 and 5.*

- (i) *10 percent of the scholarship reimbursement for Maryland EXCELS Level 3*
- (ii) *15 percent of the scholarship reimbursement for Maryland EXCELS Level 4*
- (iii) *20 percent of the scholarship reimbursement for Maryland EXCELS Level 5*

(12) *For parents residing outside the highest poverty area, Baltimore City, and with incomes below poverty shall receive an additional tiered reimbursement above the base reimbursement rate on the Child Care Scholarship for selecting a provider published at Maryland EXCELS levels 3,4 and 5.*

- (i) *5 percent of the scholarship reimbursement for Maryland EXCELS Level 3*
- (ii) *10 percent of the scholarship reimbursement for Maryland EXCELS Level 4*
- (iii) *15 percent of the scholarship reimbursement for Maryland EXCELS Level 5*

(13) *Based on available funding Maryland will determine a reasonable, one-time registration reimbursement fee to be paid at the beginning of each academic calendar year for all active, receipted Child Care Scholarships.*

(14) *To reduce the barrier of child care providers not accepting child care scholarship payment due to the program paying in arrears, upon the initial receipting of the Child Care Scholarship with a provider, the provider will be paid double the weekly base child care scholarship reimbursement amount.*

#### **F. Payment Policy.**

(1) *The contractor shall process payment for the provider for CCS Program services through a completed invoice, Provider Portal or other means approved by the CCS Branch.*

(2) *The rate paid to the provider is based on:*

(a) *The region in which the care is provided;*

[(a) *Child care is given if the provider is a*

(b) *The provider's care category:*

- (i) *Family child care provider; or*
- [(i)] (ii) *Large family child care provider; [or]*
- (iii) *Center child care provider; or*
- (iv) *Informal care provider;*

[(b)] (c) *Child resides, if the provider is an informal child care provider. Eligible tiered reimbursement rates;*

(d) *Unit of Care;*

(e) *Care Level of Child; and*

(f) *Payment days each month.*

(3) The *base [scholarship] reimbursement rate* to be paid to a provider by the contractor is computed by subtracting the applicable weekly copayment [for each child in the family receiving child care scholarship services], as set forth in Regulation .10 [B—C] of this chapter, from the lowest of the:

- (a) Weekly actual cost of care;
- (b) Weekly local market rate; or
- (c) Weekly applicable maximum provider payment rate set forth in Regulation .09B—D of this chapter.

(4) A provider is paid only for the time authorized by the Child Care Scholarship and may not be paid in excess of that time.

(5) A provider may not be paid for more than:

(a) The maximum full-time equivalent slots authorized for care by the Office of Child Care, Licensing Branch for care that is licensed or registered; or

(b) In accordance with Regulation .11D of this chapter, the amount allowed for informal child care.

(6) Except for Child Care Scholarships written for less than 5 calendar days in accordance with Regulation .07B(2) of this chapter, and subject to §F(12)(a)(vi) of this regulation, the contractor shall pay for a 5 calendar day termination notification period to a provider of:

- (a) Family child care; or
- (b) Center child care.

(7) If a *pre-Child Care Scholarship* signed by the customer and the provider is not received by the contractor within [60] 15 calendar days of issuance, the *pre-Child Care Scholarship is voided*: [provider may shall not be paid:.

- (a) Without attendance records signed by the provider and customer or
- (b) For the first 60 calendar days of the Child Care Scholarship.]

(a) *The customer must request a new pre-Child Care Scholarship from the contractor; and*

(b) *The provider must submit the signed pre-Child Care Scholarship within 15 calendars of issuance in order for an invoice to be generated for payment.*

(8) Except that holidays are included in the payment schedule pursuant to §E(1) and (2) of this regulation and not paid separately, family child care providers, *large family child care providers, certificate of compliance, military centers* and center child care providers are paid for six holidays including Christmas, New Year's Day, Memorial Day, Independence Day, Labor Day, and Thanksgiving Day, according to the:

- (a) Number of children enrolled in care the day before the holiday; and
- (b) Enrollment status of the child during the period in which the holiday falls.

9) Family child care providers, *large family child providers, Certificate of Compliance center, military centers and center child care providers* shall be paid for those days when the services are closed for:

(a) An official emergency that is declared by the State or local government; and

(b) *Ten (10) [V]voluntary closure days, whether consecutive or non-consecutive, as defined at Regulation .02B of this chapter, when:*

(i) Child care services are not provided;

(ii) The period of voluntary closure does not include more than [2 consecutive weeks annually] 10 business days within 12 months, whether consecutive or non-consecutive; and

(c) Except in cases of emergency closure days, provider or family illness or death, the provider *shall give[s] a 2 weeks written notice of closure to the customer and the contractor.*

(10) Family child care and center child care providers [are] may be paid for the time a child is absent up to 60 45 calendar days per calendar year., [except that in the case of illness or injury of the child, documented by a health practitioner, the contractor may authorize additional absences.] unless:

(a) Chronic absenteeism applies as set forth at §F(19) of this regulation; or

(b) *The child is absent for more than 5 consecutive business days within a month:*

(i) *The provider shall submit a doctor's excuse in order to be paid the 5 consecutive days of absenteeism during an invoice period.*

(11) Payment may not be made to an informal child care provider for any holiday or for any child absence, except that for eligible customers, payments shall be made for a Christmas Day, New Year's Day, Memorial Day, Independence Day, Labor Day, or Thanksgiving Day if the provider submits verification of child attendance in care.

(12) Payment], including that for the termination notification period,] may not be made to a provider if:

(a) The provider:

- (i) Denies parental access to the child;

- (ii) Has been identified as responsible for child abuse or neglect, as defined in COMAR 13A.15.01.02B;
- (iii) Is the child's parent, stepparent, or legal guardian, or is a member of the child's CCS household or TCA assistance unit;
- (iv) Fails to give a 5 calendar day written notice of service termination to the customer;
- (v) Has been disqualified pursuant to Regulation .14M of this chapter and the disqualification period has not ended;
- (vi) Has committed an intentional program violation;
- (vii) If required to be licensed or registered, is not licensed or registered;
- (viii) Has had a child care license or registration suspended or revoked;
- (ix) If required to submit an affirmation of compliance with health and safety standards, has not submitted the affirmation;
- (x) Has not submitted a signed release of information form consenting to a review of child abuse and neglect records;
- (xi) Has not applied for a criminal background check;
- (xii) Has a criminal history that includes a conviction, a probation before judgment disposition, a not criminally responsible disposition, or a pending charge for the commission or attempted commission of a crime listed at Regulation .06D(6) of this chapter; [or]
- (xiii) Fails to maintain active Maryland EXCELS status;
- (xiv) Informal provider fails to submit an affirmation of compliance with Health and Safety Standards, if applicable;
- (xv) Informal providers fails to successfully pass the annual Health and Safety Training;
- (xvi) Non-Relative Informal fails to allow the completion of an annual home inspection during the hours the child is in the home with the non-relative provider; or
- (xvii) The customer fails to correct any Health and Safety deficiencies identified by the Informal Provider Monitoring Inspector.
- (b) The contractor has documented information indicating that the provider, a resident in the informal child care home, or the informal child care home itself presents a risk to the health or safety of a child in care.
- (13) Stoppage of payment to a provider whose child care license or registration has been suspended or revoked is based on the date of the suspension or revocation notice.
- (14) Effective June 29, 2015, payment may not be made to a family child care home or a child care center unless the home or center is participating, or has applied for participation in, Maryland EXCELS and a quality rating has been assigned and published by Maryland EXCELS.
- (15) An informal child care provider may not require or request a customer to pay a fee that is in addition to the copayment required by the State.
- (19) Chronic absenteeism is defined as absences totaling more than five (5) consecutive business days within a service period.
- (a) A child is not considered to be chronically absent when:
- (i) Absences totaling more than five (5) consecutive business days is due to a physical or mental condition which warrants the absence, as documented by a licensed physician, psychiatrist or psychologist and submitted with the invoice to the contractor;
- (ii) Contractor has documentation of the child's documented physical or mental condition; and
- (iii) Documentation has been submitted along with the provider's invoice.
- (b) Reimbursement for absences shall not be made beyond five days of consecutive absences, except as follows:
- (i) The customer makes available to the provider medical documentation, related to the days of absence, from a licensed physician, psychiatrist or psychologist which states the child has a physical or mental condition which warrants absence for more than five (5) days;
- (ii) The provider submits the medical documentation provided by the customer to the contractor with the Invoice for payment; and
- (iii) Medical documentation must indicate the dates of the illness, be signed by a licensed physician, psychiatrist or psychologist and be received on the official letterhead or official form of the medical provider.

(c) *The provider shall be responsible for contacting the customer regarding chronic absenteeism or sporadic attendance and for making the determination regarding whether the provision of services shall be continued:*

(i) *If the provider opts to continue services, the customer shall be solely responsible for additional consecutive absences or up to 5 non-consecutive absences within a month; or*

(ii) *If the provider opts not to continue services, the provider shall provide termination notice to the customer and the contractor.*

(d) *The chronic absenteeism provisions in this chapter do not apply to a child placed in an informal child care setting, including relative and in-home care, or other settings for which reimbursement is based on actual days of attendance.*

#### **G. Method of Payment.**

##### **(1) State Payment.**

(a) The contractor shall pay a provider upon approval of an invoice submitted within [60] *15 business* [calendar] days of the end date of the last service period.

(b) The amount of the invoice shall match the authorized service units listed on the Child Care Scholarship.

(c) Payment may not be made for any units in excess of those authorized by the Child Care Scholarship.

##### **(2) Parental Payment.**

(a) Parental payment for child care services shall be made directly to the provider at times set by the provider and shall follow the payment policy of the provider.

(b) The customer shall pay the provider the copayment listed on the Child Care Scholarship.

(c) The provider shall give the customer a receipt for the full amount of the customer's payment.

3) *Providers must submit payment error [An invoice] adjustments within [12] 15 business days [months] after the end of the month in which services were provided paid.*

#### **H. Payment Irregularities.**

(1) *Underpayments shall be promptly corrected and paid for any under authorizations.*

[(2) Overpayments are collected from:

(a) Customers when they fail to report a timely change;

(b) Providers when they fail to correctly report information;

(c) A customer or provider who benefits from an erroneous service reimbursement made by the contractor.]

(2) *Overpayments associated with CCS eligibility.*

(a) *Effective September 30, 2016, the customer shall repay overpayments for the following:*

(i) *Intentional Program Violations that resulted in the customer not paying the correct co-payment or receiving a greater scholarship amount based upon falsified documentation provided to the contractor;*

(ii) *Customer shall pay back overpayments resulting in the customer not reporting within 10 calendar days changes resulting in a gross household income equal to or in excess of 85 percent of the SMI;*

(iii) *Customer shall pay back overpayments resulting in the customer not reporting within 10 calendar days changes resulting in a gross household income equal to or in excess of one million dollars in assets; and*

(iv) *Customer shall pay back overpayments resulting in the customer not reporting moving outside of Maryland and continuing to use CCS services beyond 10 calendar days of the documented change.*

(3) *Overpayments associated with child care attendance or provider status.*

(a) *Effective September 30, 2016, the provider shall repay overpayments for the following:*

(i) *Reporting a child present that was not in attendance;*

(ii) *Payment made for a period the provider was not licensed;*

(iii) *Payment made for a period the provider did not have active Maryland EXCELS status;*

(iv) *Overpayments resulting from criminal or civil judgement and repayment agreements.*

(b) *Providers shall pay back overpayment amounts in full:*

(i) *If the contractor or Division determines that the child did not attend the child care facility as marked on the attendance and as submitted for payment; and*

(ii) *Repayment will be for each day the provider billed the child as being present, but the child was not in attendance.*

(c) *Effective September 30, 2016, repayment of overpayments by customers shall not include:*

(i) *Administrative errors committed by the contractor and the child attended a child care program as authorized on the Child Care Scholarship issued by the contractor;*

(ii) *Unreported changes in the customer's eligibility that would have resulted in the customer remaining eligible for CCS Services, as long as the child was in attendance.*

(4) *The contractor shall not:*

(a) *Reimburse the provider or customer for changes not reported timely; and*

(b) *The contractor shall not back date changes to increase the scholarship amount or decrease the co-payment, but shall make the change at the point the customer submits all required documentation supporting the change.*

[(2)] (5) Calculation of Overpayments. A provider or a customer overpayment, whether it occurs due to incorrect or incomplete information at application, or to a change in the customer's or provider's circumstances that was unreported or reported late, shall:

(a) Be counted from the beginning of the service period; and

(b) Include each subsequent service period in which the incorrect scholarship reimbursement is identified.

[(3)] (6) The contractor shall calculate the amount of an overpayment to a customer or a provider by determining the:

(a) Correct amount to be paid;

(b) Amount of the incorrect payment; and

(c) Difference between the correct and incorrect payment amounts.

[(4)] (7) Notification.

(a) In the event of an overpayment to a customer or a provider, the contractor shall notify the recipient of the overpayment within 30 calendar days after the discovery of the overpayment.

(b) If, 30 calendar days after the overpayment notification specified at §H[(4)](6)(a) of this regulation was sent, there is no response from the overpayment recipient, the contractor shall promptly send a second overpayment notification to the recipient.

(c) If, 30 calendar days after the second overpayment notification specified at §H[(4)](6)(b) of this regulation was sent, there is no response from the overpayment recipient, the contractor shall promptly send a third overpayment notification to the recipient.

[(5)] (8) Recovery from a customer or a provider of an overpayment amount shall be made by:

(a) Repayment of the full amount by the customer or the provider, as applicable; or

(b) If the overpayment amount was paid to the provider, reduction of continuing child care payments.

[(6)] (9) If a customer or a provider does not pay the repayment of an overpayment amount as directed by the contractor, the contractor shall request that the State take action to collect that amount.

[(7)] (10) If an overpayment is recovered incrementally, it shall be recovered at a monthly rate of:

(a) 10 percent of the overpayment for cases not involving fraud; or

(b) 20 percent of the overpayment for cases involving fraud.

[(8)] (11) The contractor shall promptly correct any underpayment to a recipient or a service provider.

## **.12 Copayments.**

### **A. Parental Copayments.**

(1) An individual or family who uses CCS Program services shall contribute financially to the cost of those services, except for the following, who are exempt:

(a) TCA customers or recipients pursuant to Regulation .08A(1) of this chapter;

(b) SSI recipients; or

(2) *The parental copayment is based upon an amount not to exceed 7% of the gross family countable gross income as listed at Regulation .02.(38)(b)(i-xi) of this chapter.*

(3) *Substitute Child Care Scholarships are not assigned a parental copayment.*

(4) Except for [additional] *substitute* Child Care Scholarships issued for voluntary closure days, parental copayments are paid to a provider based on the provider's payment schedule [and shall include a minimum copayment, as listed on the child care Child Care Scholarship: and in accordance with Regulation .11A(2) of this chapter.]

(a) *For initial enrollment, the full applicable parental copayment is due on the day of enrollment.*

(b) *For provider changes, the full applicable parental copayment is due on the Monday following the date of enrollment with the new provider.*

(3) Except as exempted under §A of this regulation, parental copayments are assessed for one or fewer children who are receiving child care *scholarship* services. Copayments are assessed for services provided to an eligible child as follows:

(a) The youngest child in care is assessed the copayment;

(b) If the youngest child in care is exempt from being assigned the copayment, the next oldest child in care that is not exempt under §A of this regulation, is assessed the copayment.

(c) *If the child with the assessed copayment is no longer enrolled for CCS Services, the copay will be assessed to the next oldest child not exempt under §A of this regulation, and*

(d) *No copayment is assessed for the second child and subsequent children.*

[(4)] (3) The parental **copayment[s are]** is determined on the basis of family size and a percentage of the gross family income as set forth in Regulation .03H of this chapter.

**B. Copayment Requirements.**

(1) *Unless otherwise provided in this chapter, the customer must share in the cost of the child's care as a condition of initial and continuing eligibility for services.*

(2) *The parental copayment may not be paid in whole or in part by any entity or organization, but is, rather, the family's sole responsibility. This requirement does not preclude a friend or relative from helping the customer pay the applicable fee. It does, however, prohibit the parental copayment from being paid in whole or in part (whether in cash or in-kind) by the provider or any other agency or organization.*

(3) *The parental copayment requirement may not be waived by the contractor or the provider for any reason except as set forth under §A of this regulation.*

(4) *When a customer subject to the requirements of this section makes application, if the customer refuses to pay the assigned co-pay and CCS service are terminated, the customer shall not:*

(a) *Receive another Child Care Scholarship until the co-payment amount, not to exceed the current and previous week's copayment amount, is paid;*

(b) *Be held responsible for an amount owed in excess of two weeks of tuition after the subtraction of payment for the assigned co-payment and scholarship reimbursement amounts; and*

(c) *Customers shall be permitted to transfer:*

(i) *Based on the provider completing the Change of Provider form indicating a zero balance;*

(ii) *If the contractor requests the provider to provide a copy of the receipt documenting payment made by the customer for the previous' weeks child care tuition and/or for the two most consecutive prior weeks of payment and the provider is unable or unwilling to provide a copy of the receipts upon request by the contractor or Department; or*

(iii) *Customer provides proof of being current with the most current week of child care tuition and the contractor confirms with the provider the accuracy of the receipt.*

**[B.] C. [Regional Weekly] Copayment [Tables.**

(1) These regional weekly copayment tables are based on three units of service per day. For the two-unit and one-unit regional weekly copayments, multiply the figures in §B(2) and (3) of this regulation by 2/3 and 1/3 respectively.] *Copayment will be set at a percentage not to exceed 7% of the gross family income and as pursuant under §A of this regulation.*

(2) *Copayment shall be applied to one child, the youngest child, in the household as pursuant under §A of this regulation.*

[(2) Copayments for a Child 24 Months Old and Older in Family Child Care or Center Care.

(a) **Copayments Amounts for First (Youngest) Child in Care.**

Copayment Level	Region U	Region V	Region W	Region X	Region Y	Region Z	Region BC
A	\$4.56	\$4.03	\$5.60	\$7.22	\$5.54	\$4.12	\$5.15
B	7.29	6.45	8.95	11.55	8.77	6.59	8.24
C	11.85	10.49	14.55	18.77	14.31	10.71	13.40
D	17.32	15.33	21.26	27.44	21.00	15.65	19.58
E	22.79	20.17	27.98	36.10	27.69	20.59	25.76
F	29.18	25.82	35.81	46.21	35.31	26.36	32.98



G	35.56	31.47	43.64	56.32	43.15	32.12	40.19
H	41.03	36.31	50.36	64.99	49.85	37.06	46.37
I	43.77	38.73	53.54	69.32	53.08	39.54	49.46
J	45.59	40.34	55.61	72.21	55.38	41.18	51.52

(b) Copayments Amounts for Second and Third Children in Care.

Copayment Level	Region U	Region V	Region W	Region X	Region Y	Region Z	Region BC
A	\$2.74	\$2.42	\$3.36	\$4.33	\$3.23	\$2.47	\$3.09
B	5.47	4.84	6.71	8.66	6.69	4.94	6.18
C	9.12	8.07	11.19	14.44	11.08	8.24	10.30
D	12.76	11.30	15.67	20.22	15.46	11.53	14.43
E	18.24	16.14	22.38	28.88	22.15	16.47	20.61
F	22.79	20.17	27.98	36.10	27.69	20.59	25.79
G	28.27	25.01	34.69	44.77	34.15	25.53	31.94
H	31.91	28.24	39.17	50.54	38.77	28.83	36.07
I	34.65	30.66	42.52	54.88	42.00	31.30	39.16
J	36.47	32.27	44.76	57.76	44.31	32.95	41.22

(c) A copayment is not assessed for subsequent children in a family who are:

- (i) The oldest children in the family pursuant to §A(3) of this regulation; and
- (ii) Receiving CCS Program services.

(3) Copayments for a Child Younger than 24 Months Old in Family Child Care or Center Care.

(a) Copayments Amounts for First (Youngest) Child in Care.

Copayment Level	Region U	Region V	Region W	Region X	Region Y	Region Z	Region BC
A	\$5.82	\$4.88	\$7.62	\$9.05	\$7.17	\$4.53	\$6.84
B	9.31	7.81	12.20	14.48	11.47	7.25	10.95
C	15.13	12.70	19.82	23.53	18.63	11.79	17.80
D	22.12	18.56	28.97	34.39	27.23	17.23	26.01
E	29.10	24.42	38.12	45.25	35.83	22.67	33.69
F	37.25	31.25	48.79	57.92	45.86	29.01	42.46
G	45.40	38.09	59.46	70.59	55.89	35.36	51.46
H	52.38	43.95	68.61	81.45	64.49	40.80	59.08
I	55.87	46.88	73.18	86.88	68.79	43.52	62.77
J	58.20	48.83	76.23	90.46	71.66	45.34	65.31

(b) Copayments Amounts for Second and Third Children in Care.

Copayment Level	Region U	Region V	Region W	Region X	Region Y	Region Z	Region BC
A	\$3.49	\$2.93	\$4.57	\$5.43	\$4.30	\$2.72	\$4.11
B	6.98	5.86	9.15	10.86	8.60	5.44	8.21
C	11.64	9.77	15.25	18.10	14.33	9.07	13.69
D	16.30	13.67	21.35	25.34	20.06	12.69	19.17
E	23.28	19.53	30.49	36.20	28.66	18.13	27.38

F	29.10	24.42	38.12	25.25	35.83	22.67	33.69
G	36.09	30.28	47.26	56.11	44.43	28.11	41.31
H	40.74	34.18	53.36	63.35	50.16	31.73	46.38
I	44.23	37.11	57.94	68.78	54.46	34.46	50.08
J	46.56	39.07	60.99	72.40	57.33	36.27	52.62

(c) A copayment is not assessed for subsequent children in a family who are:

- (i) The oldest children in the family pursuant to §A(3) of this regulation; and
- (ii) Receiving CCS Program services.]

C. A family using informal care shall pay a copayment amount *which is equal to an amount not to exceed 7% of the gross household income for the youngest child in care only.*

[the amount produced by multiplying the appropriate percentage from the following table by the informal care weekly rate in the jurisdiction where the child resides:

(1) Copayments Amounts for First (Youngest) Child in Care.

Copayment Level	Copayment Percentage
A	5percent
B	8percent
C	13percent
D	19percent
E	25percent
F	32percent
G	39percent
H	45percent
I	48percent
J	50percent

(2) Copayments Amounts for Second and Third Children in Care.

Copayment Level	Copayment Percentage
A	3percent
B	6percent
C	10percent
D	14percent
E	20percent
F	25percent
G	31percent
H	35percent
I	38percent
J	40percent

(3) A copayment is not assessed for subsequent children in a family who are:

- (a) The oldest children in the family pursuant to §A(3) of this regulation; and
- (b) Receiving CCS Program services. ]

D. Determination of Weekly Copayments.

(1) In Regulation .03H of this chapter, the contractor shall find the family size and gross family income to identify the corresponding copayment [level letter], and:

(a) [Refer to the weekly copayment tables for regulated care listed under §B of this regulation to locate the appropriate regional weekly copayment for the:] The co-payment shall not to exceed 7% of the gross household and shall be set by the department based upon available funding;

(b) Co-pay shall be applied to the youngest child in care, only, as pursuant under §A of this regulation; and

(c) Only one child per family shall be accessed the copay.

[(i) Youngest child in the family in care; and

(ii) Second and third oldest children in the family in care; and

(b) Determine] The weekly copayment for informal child care income, which may not exceed [the rates listed in §C of this regulation by the appropriate weekly ]informal rates [, which may not exceed the rates] listed in Regulation .11D of this chapter.

(2) [For any family size greater than ten, the weekly copayment is the same as for a family of ten.] If the copayment exceeds the provider rate, the customer will have to:

(a) Select another care type; or

(b) Choose not to use child care scholarship services.

#### E. Changes Impacting Co-payment.

(1) When changing child care providers, the full applicable parental copayment is due on the Monday following the date of enrollment with the new provider.

(2) The contractor shall complete a fee assessment at each determination of continuing eligibility, as well as any time there is a change in the customer's situation that might affect the parental copayment amount, i.e., change in family size, income, or a change involving a younger child being enrolled or no longer needing care.

(3) The effective date of any change in the parental copayment is:

(a) The first Monday following the reported change, if the parental copayment decreases; or

(b) The first Monday 10 calendar days after the reported change, if the parental copayment is a result of the parent requested an increase in units of care from part-time to full-time.

(4) Changes resulting in an increase in the parental copayment are considered a reduction in the level of services being provided. The contractor shall:

(a) Determine whether or not hold harmless applies to the parental copayment:

(i) The contractor shall hold harmless scholarship benefits, if the reported change will increase the parental copayment above the amount of the last determination or redetermination;

(ii) Hold Harmless shall not apply, if the change reported results in a decrease in the parental copayment amount from the last determination or redetermination.

(b) Reverse Authorization, if the reported interim change results in an increase in scholarship amount above the last reported interim change, but the amount of scholarship is equal to or less than the last determination or redetermination, the contractor shall:

(i) Return the copayment and scholarship amount to the last redetermination. For example, customer goes on unpaid maternity leave after her redetermination. Contractor increases scholarship amount and decreases co-payment due to the loss of income. While on maternity leave without pay, the co-payment changed to \$5.00 per week and the scholarship amount was changed to \$450.00 per week. Upon the customer returning to work and regaining income, the co-payment is returned to \$12.50 and the scholarship amount returned \$275.00 per week, the same levels established at last full-redetermination and prior to the customer reporting going on maternity leave; and

(6) Changes resulting in a decrease in the co-payment are considered an increase in the authorized level of services. Adverse Action Notification requirements do not apply unless there is a decrease in the amount of scholarship authorized.

#### F. Payment of Parental Co-pay.

(1) The customer is required to maintain current payments of parental copayments as a condition of eligibility for services.

(2) The customer must begin paying the assessed parental fee on the first day of enrollment, which is consistent with when the scholarship is effective, except for the issuance of substitute Child Care Scholarship as set forth at regulation .07(D)(3) of this chapter.

(3) A customer who fails to pay the weekly fee owed the provider, the difference owed in tuition after the payment of the co-pay and scholarship amount, may have child care enrollment terminated by the provider.

(4)A customer whose services are terminated by the provider for failure to meet the parental copayment requirements, unless otherwise provided below, may reapply for CCS services, but may not regain eligibility until such time the parental copayments and the balance of the weekly amount owed to the provider is current.

(a)If the customer reapplies for services and pays the delinquent fees in full, and sufficient Division funds are currently allocated to cover the cost of serving an additional child, services may be authorized, provided the child is determined to be in need of care and determined eligible for services; and

(b)If the customer reapplies for services and pays the delinquent fees in full, and sufficient Division funds are not currently allocated to cover the cost of serving the child, the child must be placed on Program Freeze Status list due to the CCS application being determined as an initial application.

G. Non-collection of the Parental Copay by the Provider.

(1)Providers are required to collect the parental copayments required under this chapter. Failure on the part of the provider to comply with this requirement will result in a:

(a)Financial chargeback for each instance the required parental copayment is not collected; and

(b)May result in the provider being disqualified from receiving Division funds.

(2)The provider must issue the customer a receipt at the time the parental copayment is paid:

(a)If the provider is unable to document the collection of the parental copayment by producing a valid copy of the receipt given to the customer, the parental copayment will be deemed paid; and

(b)If the provider produces a copy of a receipt proving the customer did not pay the previous two weeks of copayment and tuition balance owed to the provider, the contractor will set adverse action to end care, if not paid by the customer prior to the end date of the adverse action.

(3)Providers shall notify the contractor upon the initial date of non-payment of the parental copayment. The provider shall:

(a)Request the contractor to send an adverse action to end services; and

(b)The customer or provider will be responsible for providing the contractor with documentation that the customer is current with fees or care shall end in accordance Adverse Action notification.

### **.13 Confidentiality.**

A. Except under certain circumstances established by law, information provided by a family in applying for a federal, State, or local jurisdiction assistance program is protected from disclosure under the:

(1) Food Stamp Act of 1977, as amended; and

(2) Human Services Article, §1-202, Annotated Code of Maryland.

B. A family has the right to review its case file after providing a written request to the CCS Branch.

C. Information obtained from families applying for assistance may be released, without written consent, to an individual directly connected with the administration or enforcement of the CCS Program.

D. Except when a release of information is completed by the family and is on file in the customer's record, a contractor may not share family information with a provider.

E. A victim of domestic violence whose address is protected under Maryland law or policy may use substitute address information to apply for services.

F. General instructions of the confidentiality of case records shall apply:

(1)All case records are confidential and are not subject to public use or inspection.

(2)The Division is the official custodian of all case records and program files described above.

(3)Unless otherwise provided in this chapter, the contractor must at all times, and under all circumstances, retain physical custody of all case records.

(4)Only the appropriate contractor staff, or the appropriate staff within the Division, is to have access to case records, and such access is further restricted to the appropriate staff functioning in their official capacities.

("Appropriate staff" means, exclusively, staff directly involved in administering CCS services for, or on behalf of, a customer and does not include staff in general.)

(5)Case records must not be removed from the contractor's official place of business, including collectively the Office of Child Care Scholarship and any out-based or satellite offices, except with Division's approval or by Division staff, as appropriate. (This includes transporting case records directly to and from said sites or sharing files electronically.)

(6) Unless as specified at §F of this regulation, information contained in case records must not be released, disclosed or otherwise discussed, as such terms are defined below, except as specifically provided in this section:

(a) "Disclosure" means the oral or written acknowledgment or revelation of specific confidential information contained in a case record. This term does not mean the actual release of documents contained in the case record.

(b) "Release" means allowing access to, or inspection of, a case record, including photo static reproductions of materials contained therein.

(c) "Discussed" means, without exception, general conversation outside the scope and context of providing the services described in this Manual.

(G) Release or Disclosure without the Customer's Consent:

(1) Confidential information contained in case records may be disclosed or released without obtaining the customer's prior consent, and without a subpoena, to:

(a) Federal, or federally funded, programs providing cash assistance, in-kind assistance, or services directly to the family on the basis of need; and,

(b) Government agencies authorized under state or federal law to conduct public audits.

(2) Responding to a Subpoena: Unless otherwise provided above, case records and other confidential information may not be disclosed or released except in response to a subpoena, and then only within the following constraints:

(a) When a case has been referred by the Division to the Attorney General, the District Attorney or an approved Division attorney, disclosure and release of records and all other confidential information relating to the particular incident(s) for which the case is referred must be allowed without a subpoena to those parties to whom the case has been referred.

(b) The Division, the Attorney General, District Attorney, or approved Division attorney must issue, or have issued, a written request or a subpoena in situations requiring the removal of the original case record from the Division for trial, handwriting analysis or any other reason.

(c) If a subpoena is received, the subpoena is sufficient authority to release cases involving suspected fraud involving any program administered by the Division which is being investigated by the Attorney General, the District Attorney, a grand jury or other law enforcement officials.

(d) When a case has not been referred by the Division to the Attorney General, the District Attorney or an approved Division attorney, disclosure and release of records and other confidential information or copies thereof is allowed only upon receipt of an Maryland subpoena or a subpoena duces tecum (a subpoena to produce documents) issued by either the Attorney General, District Attorney, a grand jury, or a court of law. Further:

(i) A subpoena duces tecum (a subpoena to produce documents) must be received before any case record can be removed from the Division to be produced and released elsewhere.

(ii) A subpoena issued in cases that have not been referred to the Attorney General, or to the District Attorney, by the Division, Contractor the Contractor and not involving a fraud investigation must be resisted by seeking protective orders from the court issuing the subpoena.

(iii) A subpoena issued by a court outside Maryland, by ecclesiastical courts, or by agencies or other administrative bodies must be resisted by refusal to disclose or release the requested information without a competent Maryland or Federal court order.

(iv) If, after resisting the release of a case record in response to a subpoena, the court issuing the subpoena fails to issue a protective order, or the out-of-state court obtains an Maryland or Federal court order to release the case record, the Contractor must produce the case record in court and may disclose information contained in the case record as required by the court; however, the Contractor must not release the case record from its physical custody.

(v) The Contractor must contact the Division as soon as possible whenever a subpoena is received, if the case has not been referred by the Division to the Attorney General, District Attorney or an approved Division attorney.

(H) Parental access to case records:

(1) A customer shall not have access to the case record or other confidential information, except as follows:

(a) In instances where the Contractor has taken adverse action (action to deny, reduce or terminate services) and a hearing has been requested and accepted, the portion of the case record relating directly to the adverse action may be disclosed or released to the customer, or the authorized legal representative; and,

(b) In instances where a court of competent jurisdiction has ordered (not subpoenaed) access to and release of the case records.

## **.14 Intentional Program Violations.**

A. Notice of intentional program violation disqualification penalties shall be posted in clear and prominent lettering on the:

- (1) CCS Program application form used by a customer to apply for child care *scholarship*; and
- (2) Terms of agreement completed by a provider when a child is enrolled for CCS Program services.

B. If the contractor receives information that a customer or a provider may have committed an intentional program violation (*IPV*), the contractor may:

- (1) Refer the information to the Division's fraud investigator, who shall:
  - (a) Conduct an investigation of the suspected intentional program violators;
  - (b) Prepare a report on the completed investigation showing the methods used to obtain information;
  - (c) Make the report available to the Division; or
  - (d) Refer the customer or the provider to the local State's Attorney if the alleged facts in the case meet the guidelines established by the State's Attorney for prosecution;
- (2) Allow a customer or a provider to waive the customer's or the provider's right to an administrative disqualification hearing; or
- (3) Refer the customer or the provider, as applicable, to the Office of Administrative Hearings (OAH) for an administrative disqualification hearing.

C. Supervisory Review. Before providing advanced written notification that a customer or a provider may waive the customer's or provider's right to an administrative disqualification hearing, the contractor shall ensure that a supervisor:

- (1) Reviews the evidence against the customer or the provider; and
- (2) Determines whether the evidence warrants scheduling of a disqualification hearing.

D. Waiver Hearing. When the contractor decides to allow a customer or a provider to waive the customer's or the provider's right to an administrative disqualification hearing, the contractor shall notify the customer or the provider in writing. The notice shall include:

- (1) A summary of the charge against the customer or the provider and the evidence to support it;
- (2) Information regarding the administrative disqualification hearing including:
  - (a) A statement that the customer or the provider may waive the right to an administrative disqualification hearing;
  - (b) The date the contractor will refer the case to the OAH for a hearing if the contractor has not received the signed waiver, which is not later than 20 calendar days after the mailing of the notice;
  - (c) The requirement that the customer or the provider shall sign the waiver;
  - (d) A statement that the customer or the provider has the right to remain silent and that anything the individual says or signs concerning the charge may be used in future administrative or judicial proceedings; and
  - (e) A statement that signing the waiver will result in disqualification and reduce or terminate services for the customer or the provider;
- (3) An opportunity for the customer or the provider to admit to the facts presented by the CCS Branch;
- (4) A statement that the disqualified customer or provider is responsible for repayment of any overpayment received;
- (5) A statement that a hearing does not preclude the State or federal government from prosecuting the customer or the provider for the intentional program violation in a civil or criminal court; and
- (6) The name and telephone number of the person to contact for additional information.

E. If the local State's Attorney decides that a case does not warrant prosecution, the contractor shall refer the case to the OAH for an administrative disqualification hearing.

F. If the local State's Attorney does not act on a referred case within 30 calendar days, the referral shall be withdrawn and the case shall be referred to the OAH for an administrative disqualification hearing.

G. The contractor may not initiate an administrative disqualification hearing:

- (1) Against a customer or a provider whose case is being referred by the State's Attorney for prosecution; or
- (2) After the State's Attorney or a court of appropriate jurisdiction has taken any action against the customer or the provider in a case arising out of the same or related circumstance.

H. Imposition of Disqualification Penalties. If the contractor receives a signed waiver of the right to an administrative disqualification hearing, the contractor shall apply the disqualification penalty at the beginning of the next service period.

I. If the contractor does not receive a signed waiver of the right to an administrative disqualification hearing within 20 calendar days of providing advance notification in accordance with §D of this regulation, the contractor shall refer the individual to the OAH for a hearing in accordance with COMAR 13A.14.06.15.

J. The referral shall include:

- (1) Identifying case information;
- (2) A summary of the alleged intentional program violation;
- (3) Copies of the contractor's supporting documentation; and
- (4) Documentation that the customer or the provider has been:
  - (a) Previously disqualified for an intentional program violation; or
  - (b) Convicted by a court of fraud involving the CCS Program.

K. A pending disqualification hearing does not affect the customer's or the provider's right to be certified and participate in the program.

L. The contractor shall terminate or reduce the services if:

- (1) The customer or the provider returns the signed waiver to the contractor;
- (2) The customer or the provider fails to request a hearing and continuation of benefits after notice of termination or reduction;
- (3) The decision of the contractor is upheld upon disposition of an intentional program violation hearing; and
- (4) The State's Attorney Office's final disposition of a referred proceeding is received.

M. A customer or a provider who has waived the right to an administrative disqualification hearing or was found to have committed an intentional CCS Program violation is ineligible to participate in the CCS Program as follows:

(1) For the first violation, the customer or the provider may not receive any CCS Program payments for 6 months from the date payment was denied or until the customer or provider makes full restitution to the CCS Program, whichever is earlier.

(2) For the second violation, the customer or the provider may not receive any CCS Program payments for 12 months from the date the payment was denied or until the customer or the provider makes full restitution to the CCS Program, whichever is earlier;

(3) For the third violation, the customer or the provider shall be permanently barred from receiving CCS Program payments and shall pay restitution to the CCS Program; and

(4) For a determination of an intentional program violation based on a customer's or a provider's conviction in a federal or state court on charges that the person misrepresented the location of his or her residence in order to obtain services from two or more states, the customer or the provider is not eligible to receive CCS Program services or payments for 10 years from the finding.

N. The disqualification period begins with the service period after which the customer or the provider is sent written notification of the disqualification:

- (1) Upon disposition of an intentional program violation hearing if the decision of the contractor is upheld;
- (2) When a waiver is signed; or
- (3) Upon final disposition of any proceeding referred to the local State's Attorney Office.

O. Once a disqualification penalty has been imposed under §M(1) or (2) of this regulation, the period of disqualification continues uninterrupted until the earlier of:

- (1) Full repayment of the benefit; or
- (2) Completion of the time period.

P. Before imposing the sanction, the CCS Branch shall provide written notice to the customer or the provider of the:

- (1) Effective disqualification date;
- (2) Reason for imposing the sanction;
- (3) Payment that the applicant, customer, or provider was receiving; and
- (4) Date on which the customer may reapply or the provider may begin offering service because the disqualification period has expired.

Q. If a customer or the provider has been disqualified pursuant to this regulation, the contractor shall send the customer or the provider a demand letter for restitution, which shall include:

- (1) The amount owed;
- (2) The reason for the claim;
- (3) The period of time covered by the claim;
- (4) The procedure for paying the claim;

(5) The right to request renegotiation of any repayment schedule if the customer's or the provider's economic circumstances change; and

(6) The requirement to:

(a) Sign the repayment notice to indicate agreement to make restitution;

(b) Select the method of payment; and

(c) Return the repayment notice within 30 calendar days of the date of the notice.

R. The customer or the provider may request a hearing before the OAH if the individual disagrees with the amount of the overpayment or the method of repayment.

## **.15 Hearings and Appeals.**

A. Appeal by Customer. A customer may request a hearing if the contractor:

(1) Denies, suspends, reduces, or terminates assistance;

(2) Fails to act with reasonable promptness on an application for, or a request for adjustment of assistance; or

(3) Imposes sanctions on a recipient; or

(4) Recovers an overpayment in assistance.

B. Notice.

(1) The contractor shall send written notice of any adverse action in writing:

(a) To the customer; and

(b) To a provider who is denied payment for committing an intentional program violation pursuant to

Regulation .14M of this chapter.

(2) Notice of any adverse action shall include the:

(a) Decision;

(b) Basis for the decision;

(c) Specific regulation supporting the decision;

(d) Right to request an appeal;

(e) Method by which an appeal may be requested;

(f) Right to be represented in an appeal by a lawyer, relative, friend, or other individual; and

(g) Availability of any free legal services.

(3) The customer or provider may appeal within 90 calendar days of the date of the notice of adverse action.

(4) An appeal request:

(a) Is made by filing a completed MSDE appeal request form with the contractor;

(b) May be received by any employee of the contractor whose assignment requires contact with the public;

and

(c) Shall be submitted immediately by the contractor to the designated hearing coordinator.

(5) The filing date of the appeal request is the date the contractor received the completed MSDE appeal request form.

(6) Contractor Assistance in the Appeal Request. The contractor shall assist the appellant in completing an appropriate appeal request form to ensure that it contains all the information required to process the request and, if necessary, shall provide an interpreter.

C. Processing of Appeal Requests.

(1) Within 5 business days of the filing date of an appeal request, the contractor shall:

(a) Forward the following information to OAH:

(i) Date of the request;

(ii) Name and address of the appellant;

(iii) Name and address of the [local department] contractor's representative;

(iv) Action being appealed;

(v) Date of the action being appealed; and

(vi) Date notice of the action was mailed to the appellant; and

(b) Acknowledge to the appellant receipt of the appeal request.

(2) Conference.

(a) When the contractor receives an appeal request, the contractor shall promptly offer the appellant a conference.

(b) A contractor supervisor shall attend the conference.

(c) The case manager responsible for the action may also attend.



(d) Although a conference may lead to an informal resolution of the dispute, a hearing shall be held unless the appellant withdraws the appeal request in writing.

D. Continuation of Assistance Pending Appeal.

(1) Assistance shall be automatically continued or reinstated if the filing date of the appeal request is within 10 calendar days of the intended action.

(2) Assistance may not be continued or reinstated pending appeal if:

(a) An appellant specifically requests that assistance not be continued or reinstated pending appeal;

(b) The eligibility or certification period for the assistance has expired;

(c) Assistance has been reduced or terminated due to a change in federal or State law or regulation and the appeal does not appear to concern misapplication of the change;

(d) Continuation or reinstatement of the service at issue would threaten the health or safety of other individuals; [or]

(e) The service is terminated because of nonpayment by the family of the copayment stated on the Child Care Scholarship that was assigned by the contractor[.]; or

(f) *The service is terminated because of nonpayment by the family to pay the balance of the provider's weekly tuition after the payment of copayment and scholarship reimbursement, an amount not in excess of two weeks.*

(3) An appeal request form shall contain:

(a) An opportunity for the appellant to request that assistance not be continued or reinstated pending appeal; and

(b) A statement that the appellant is responsible for repaying any assistance paid during the appeal process if the contractor's position is upheld.

E. Denial or Dismissal of Request for Appeal. OAH may deny or dismiss an appeal if:

(1) The appeal request is not complete;

(2) The appellant withdraws the request in writing;

(3) The appellant fails to appear at the scheduled hearing;

(4) Assistance has been reduced or terminated due to a change in federal or State law or regulation and the appeal does not concern misapplication of the change; or

(5) The appellant has failed to pay any filing fees required by OAH.

F. Scheduling and Notice.

(1) Except as provided in §§B and D of this regulation, upon receiving an appeal request, OAH shall:

(a) Promptly schedule a hearing; and

(b) Send the parties a hearing notice at least 15 calendar days before the scheduled hearing.

(2) Intentional Program Violation Hearing. When the contractor makes a referral to OAH concerning an intentional program violation, OAH shall:

(a) Promptly schedule a hearing; and

(b) Send the parties a hearing notice at least 30 calendar days before the scheduled hearing.

(3) Hearing Notice. The hearing notice shall:

(a) Summarize the hearing procedures;

(b) Advise the appellant of:

(i) The date, time, and place of the hearing;

(ii) The right to be represented at the hearing by a lawyer, relative, friend, or other individual;

(iii) The availability of any free legal services;

(iv) The right to present documents and witnesses, including contractor employees, at the hearing;

(v) The right to examine the case record in preparation for the hearing;

(vi) The procedure to follow if the appellant cannot attend the hearing; and

(vii) Except in an appeal concerning an intentional program violation, the authority of an administrative law judge to dismiss the appeal if the appellant fails, without good cause, to attend the hearing; and

(c) In an appeal concerning an intentional program violation, include:

(i) The charge;

(ii) A warning that the decision shall be based solely on information provided at the hearing if the appellant fails to appear at the hearing;

- (iii) A statement that, to have a hearing rescheduled, the appellant has 10 calendar days from the date of the hearing to present to the administrative law judge good cause for not appearing and for not asking for a postponement before the hearing;
- (iv) A description of the disqualification penalties and a statement of the applicable penalty;
- (v) A statement of the appellant's rights during the hearing; and
- (vi) A warning that the hearing does not preclude the State or federal government from prosecuting the appellant or pursuing collection of the overpayment.

G. Prehearing Procedures.

(1) Rescheduling.

- (a) A party may request a change in a hearing time, date, or location by:

- (i) Submitting a written request, with copies served on all parties, to the OAH clerk's office at least 5 business days before a scheduled hearing; or
- (ii) In the case of an unforeseen event requiring postponement and occurring less than 5 business days before a scheduled hearing, calling the OAH clerk's office as soon as possible.

- (b) If OAH finds that good cause exists, OAH shall set another time or place for the hearing and notify the parties of the change.

- (c) In an appeal concerning an intentional program violation, the appellant is entitled to one postponement of the scheduled hearing of up to 30 calendar days without the need to demonstrate good cause.

- (d) Any time limits applicable to the issuance of a final administrative decision are extended by the length of the delay caused by a postponement:

- (i) Requested by the appellant; or
- (ii) Granted by the administrative law judge due to the appellant's introduction of new evidence.

(2) Summaries. The contractor shall:

- (a) Prepare a summary of the facts pertinent to the case and of the basis for its action; and
- (b) Send the summary and copies of all documents that it intends to present at the hearing to the appellant and to OAH at least 6 calendar days before the date of the hearing.

H. Administrative Law Judge's Decision.

- (1) The administrative law judge shall render a final decision.

(2) The decision shall contain:

- (a) Separate statements of findings of fact and conclusions of law;
- (b) Citation to pertinent State and federal law; and
- (c) An order.

I. Final Decision.

- (1) Within 90 calendar days of the filing of the appeal request:

- (a) The administrative law judge shall issue a final decision to all parties; and
- (b) The contractor shall complete all administrative or corrective action necessary to implement the decision.

- (2) If the decision is favorable to the contractor, the contractor may:

- (a) Take immediate steps to implement the decision; and
- (b) Reduce or terminate assistance that has been continued while the appeal was pending by:
  - (i) Decreasing the *scholarship* amount or closing the customer's case; and
  - (ii) Notifying the child care provider of the reduction or termination pursuant to Regulation .10A.

- (3) If the decision is favorable to the appellant, the contractor shall, within 10 calendar days of the date of the decision:

- (a) Comply with the decision;
- (b) Take corrective action retroactive to the date the incorrect action was taken;
- (c) Restore the services; and
- (d) Notify OAH that it has completed all required action.

- (4) The Record. After issuing a final administrative decision, OAH shall promptly forward to the CCS Branch the complete record, including all:

- (a) Papers filed;
- (b) Evidence submitted; and
- (c) Orders and decisions issued.

## **.16 General.**

### *B. Authorized Services*

(1) *Child Care Scholarship (CCS) regulations contain an exclusive description of the services required or authorized to be undertaken with Divisional funds.*

(2) *The revisions within this regulations supersedes all prior regulations, desk guides, action transmittals, manuals, handbooks, forms, brochures, hand-outs, and policy interpretations and instructions, whether verbal or written, pertaining to the CCS Program.*

(3) *The absence of specificity in CCS regulation must not be construed to mean that the Division has granted discretion with regard to any matter of policy.*

(4) *All matters of policy must be resolved in writing by the Division. Requests for formal policy clarification must be submitted to the Division in writing. Verbal guidance will be provided by the Division upon request, however, verbal guidance is tentative and does not constitute official policy or direction.*

(5) *All services not specifically required or authorized in CCS regulation, or other current written Divisional directives, must be implemented, or carried out, using non-Divisional or CCDF funds.*

(6) *None of the policies and procedures contained in this Regulation may be applied in any manner to infringe on or usurp the moral and legal rights and responsibilities of customers or legal guardians.*

(7) *All services are to be provided without discrimination on the basis of race, national origin, ethnic background, sex, religious affiliation, or disability.*

(8) *Divisional funds paid to providers for the provision of child care services are considered assistance to the families of the children authorized to receive those services. Such payments must not be construed to be assistance to any provider.*

### *C. Role of the Division*

(1) *The Division shall direct and approve the development, implementation and administration of the Maryland Child Care Scholarship Program, but not limited to:*

*(a) Interpreting federal and state laws, regulations and requirements;*

*(b) Establishing CCS Program and funding priorities;*

*(c) Promulgating all rules, policies and procedures governing the services to be provided under this Regulation; and*

*(d) Planning, coordinating and directing all Program services.*

(2) *The Division shall be:*

*(a) The official point of contact for all federal or state agencies and other organizations whose scope extends nationally or statewide, desiring to collaborate on the delivery of the CCS services (such entities initiating contact locally must, upon contact, be referred to the Division);*

*(b) The official repository for official Program data;*

*(c) Solely responsible for releasing, distributing or otherwise publishing official Program data;*

(3) *Subject to the Division's discretion and the constraints set forth in this Regulation, the contractor is responsible for the day-to-day operation of the CCS Program, including:*

*(a) Determining initial and continuing eligibility for services;*

*(b) Providing case management services;*

*(c) Making payments to providers;*

*(d) Documenting the delivery of services in the Child Care Automated Tracking System (CCATS);*

*(e) Assisting the Division with fiscal and administrative research, CCS customer service and technical assistance inquiries;*

*(f) Providing prudent authorization or management of Divisional funds;*

*(g) Completing and submitting timely data and reports required by the Division; and*

*(h) Providing the administrative services needed to effectively implement and carry out Program services in a timely manner;*

(4) *Unofficial CCS Program data may be shared locally in order to better collaborate with local service providers in the delivery of services to families and children, provided the data is clearly identified as "unofficial" and such sharing does not violate the rules of confidentiality as set forth at Regulation .13 of this chapter or any other verbal or written directive from the Division. Persons or entities requesting official Program data must be referred to the Division; and*

(5) *Provision of the services described in this Regulation are subject to the Division's discretion and instruction and must be performed in accordance, or as otherwise directed by the Division.*

#### *D. Maintenance of Program Files*

*(1) A separate case record must be established for each family applying, or approved, for services:*

*(a) "Case record" means, collectively, all paper and electronic documents, forms, notes, chronological narratives, related correspondence, and any other information related to the family. Each CCS determination application packet must be maintained so that it stands alone and is distinguishable from subsequent application packets; and*

*(b) The case record must be established in the name of the customer. In the case of a two-customer family, the case record must be established in the name of the customer of entry at the initial determination and the case shall be maintained in this customer's name upon each subsequent determination, no matter which spouse submits the CCS application.*

*(2) A separate overpayment claims file as set forth at Regulations.11 of this chapter constitutes an official part of the case record and is subject to all policies and procedures otherwise applicable to case records.*

*(3) A separate provider file must be maintained for each provider to whom reimbursement for child care services is made.*

*(4) All payment information including, but not limited to, Invoices, Child Care Scholarships, Provider Payment Reports and documentation of adjustments is deemed to be part of a provider's file.*

#### *E. Case Documentation*

*(1) All program files must be maintained for:*

*(a) The current fiscal year plus five (5) additional fiscal years following termination of services; or*

*(b) Until all outstanding business (for example, an outstanding claim against a customer or provider, as applicable) is closed, whichever is longer.*

*(2) Program files (including all payment information including, but not limited to, Invoices, Child Care Scholarships and documentation of adjustments) may be destroyed after the appropriate retention period expires, and such destruction must be carried out by shredding.*

#### *F. Documentation of the Case Record*

*(1) The case record must be documented in a manner which establishes clearly and concisely:*

*(a) The family's eligibility or ineligibility for services; and*

*(b) The basis for each decision and determination with regard to the provision of services.*

*(2) Documentation includes:*

*(a) Copies of all program forms, documentation used to establish eligibility and to authorize CCS services and related correspondence; and*

*(b) A complete chronological narrative which records the day-to-day contacts with the customer, provider and any other contact impacting the family's eligibility for, or the provision of, services. Each narrative entry must be dated and signed by and in the format specified by the Division (date, first name initial, and last name).*

*(3) The case record must reflect collateral contact and all instances in which confidential information is disclosed or released, including the reason, as well as to whom, by whom and why, the information is disclosed or released.*

#### *G. Use of Social Security Number*

*(1) The submission of Social Security numbers is voluntary and benefits shall not be denied or withheld for failure of the customer to provide a Social Security Number. Social Security cards or numbers are not required for the customer(s), the child needing care or other members of the family unit.*

*(2) If a customer chooses to voluntarily submit a Social Security card, a copy of the original card shall be retained in the case record and only used to:*

*(i) Establish identity of the head(s) of household or for the case record inquiry; and*

*(ii) Uniquely identify the electronic case record.*

*(3) Customers must clearly be informed the submission of the Social Security numbers is optional.*

*(4) The CCATS System will automatically generate a unique identifier in lieu of Social Security Numbers.*

#### *H. Consumer Education*

*(1) Consumer education information incidental to eligibility must be provided to customers who apply for subsidized care for their children in an effort to promote informed choices with regard to available child care services and to assist customers in identifying a supportive, nurturing environment for their children.*

*(a) The Health and Safety form must be made available to customer's choosing informal care at the point of application for services.*

(b) Consumer education materials must be made available to customers at any point the customer makes a request for assistance.

(C) Consumer education information may also include directing customers to Child Locate, Maryland EXCELS, Pre-K, and Head Start.

(2) Consumer education materials are restricted to content directly related to identifying quality benchmarks for all categories and types of child care services, assisting customers in making informed choices with regard to child care services, information pertaining to age and developmentally appropriate activities and available resources to assist the customer in obtaining needed services. All such materials are subject to the Division's discretion and approval.

#### *I. Parental Choice*

(1) Customers must be allowed to freely choose from among the full range of available options of licensed and/or legally operating child care settings.

(2) Customers must not be compelled or otherwise coerced to choose one particular category or type of child care setting over another, or to select a particular child care provider.

(3) An effort must be made to accommodate the customer's choice of provider; however, reimbursement must not be authorized for any provider who has:

(a) Failed or refused to participate in Maryland EXCELS as set forth at Regulation .06(B) of this chapter;

(b) Failed to comply with the constraints related to provider requirements as set forth at Regulation .06 of this chapter; or

(c) Committed a Program violation resulting in the provider being ineligible to receive scholarship funds, as set forth at Regulation .14 of this regulation.

(4) Notwithstanding other provisions in this section, parental choice does not mean that a customer has a right to select a specific provider. As a result, denying services to a customer who selects an unregistered provider, a provider who has failed or refused to participate in Maryland EXCELS or loses licensure does not constitute a violation of the parental choice safeguard.

#### *K. Parental Access*

(1) A customer shall have unlimited access to his or her child during the normal hours of operation of a child care provider or whenever the child is in the care of the provider.

(2) All providers participating in the CCS Program shall assure customers are afforded:

(a) Unlimited access to their child, and to the caregiver(s) caring for their child; and

(b) That such access is afforded during normal hours of provider operation and whenever the child is in the care of the provider.

#### *L. Reporting Child Abuse and Neglect*

(1) All known or suspected instances of child abuse and neglect must be reported immediately to the local Office of Child Care Licensing Branch, the protective services unit of the local Department of Social Services and to law enforcement officials, as appropriate. The initial report may be made orally, either in person or by telephone, but must be followed by a complaint intake completed by the Office of Child Care Licensing Branch within the Jurisdiction where the provider is located.

(2) Do not discontinue referring children to, or purchasing services from, any legally operating provider on whom a child abuse and neglect report has been made, unless instructed to do so by the Division.

(3) All reports of child abuse and neglect are confidential, and information regarding such reports must not be disclosed or released in whole or in part other than in the course of official communication with the Division or Local Department of Social Services.

#### *M. Complaints Regarding Child Care Providers*

(1) If a complaint of a suspected licensing violation, a suspected violation related to the minimum standards or, in the instance of a Certificate of Approval center or any other complaint other than a report of child abuse and neglect, is brought to the attention of the contractor, the contractor must follow the procedures outlined in this section.

(2) If a complaint of child abuse and neglect is brought to the attention of the contractor, the contractor must report the complaint to the protective services unit of the local Department of Social Services and to a law enforcement agency.

(3) If the complaint is in regard to a licensed child care center, Letter of Compliance, registered large family child care home or registered family child care home, contact the Office of Child Care Licensing Branch within the

*Jurisdiction where the provider is located. The licensing branch will investigate and take the necessary follow-up action, including corrective action, as appropriate.*

*(4) If the complaint is in regard to a Certificate of Approval center contact the Office of Child Care Licensing Branch within the Jurisdiction where the provider is located. The licensing branch will investigate and take the necessary follow-up action, including corrective action, as appropriate.*

*(5) Upon receipt of a complaint regarding a summer camp operating under a Department of Mental Health and Hygiene Certificate (DHMH), notify the local Department of Social Services, DHMH and to a law enforcement agency.*

*(6) Do not discontinue referring children or purchasing services from a provider because of a complaint unless advised to do so by the Division. The Office of Child Care Licensing Branch will follow up with notification, as appropriate, in the event a provider's license is suspended or revoked or in the instance of a Certificate of Approval center, the suspected violation of the minimum standards is substantiated and the center failed or refused to take the required corrective action, the Division will provide instructions regarding removing children at that time.*

*(7) The Division maintains a log of complaints and investigations involving licensed providers. Information on substantiated complaints is available to the public. Persons requesting this information must submit a public information request to the Office of Child Care Licensing Branch in the jurisdiction where the child care program is located.*

#### *N. Record Review*

*(1) The contractor shall complete a Comprehensive Program Review Sampling (CPRS) each month and shall submit a listing of the records reviewed on a monthly basis to the Division.*

*(2) The contractor shall complete a CPRS review for case managers with repeat authorization errors.*

*(3) The contractor shall complete a record review of all records of new CCS case manager before authorization of CCS services. Record review shall continue until the contractor can affirm that ability of the case manager to independently issue Child Care Scholarships in accordance with CCS regulations.*

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