2019 legislative changes to Child Care Assistance Program

During the 2019 legislative session, the Minnesota Legislature passed and Governor Walz signed into law changes to the Child Care Assistance Program (CCAP). Some changes were required under the federal Child Care and Development Block Grant Act of 2014. Other changes relate to program integrity and data sharing. There are also some technical changes.

The 2019 legislation does not update the maximum rates paid to child care providers or provide any additional funding for families on waiting list for Basic Sliding Fee (BSF) Child Care.

This memo gives a brief description of the new laws.

Program improvements to move toward federal compliance

- Changes frequency of Child Care Market Rate Survey to every three years instead of every two years. Effective day following enactment. Note: Minnesota completed a survey in 2018. The next survey will begin in late 2020 and be completed in 2021.
- Changes provider definition to ensure that out-of-state child care providers meet federal health and safety requirements to receive child care assistance. Effective July 1, 2019.
- Eliminates the six-month limit on Portability Pool Child Care for families who move between counties. Effective December 2, 2019.
- Allows families who receive Minnesota Family Investment Program (MFIP) for one of the last six months to receive Transition Year Child Care. Effective March 23, 2020.
- Allows children who reach the age limit (13 years old or 15 years old with special needs) to continue receiving child care assistance until their redetermination of eligibility. Effective June 29, 2020.
- Expedites the application process and waives activity requirements for up to three months for families experiencing homelessness. Effective September 21, 2020.
- Gives child care providers a right to a fair hearing or administrative review when negative actions are taken against them. Effective February 26, 2021.

Program integrity

- Clarifies existing law that allows DHS to exclude or disqualify a provider or individual in programs administered by DHS if they are already ineligible for another program. Effective day following enactment.
- Shortens retroactive eligibility for MFIP Child Care, including Transition Year Child Care, to three months from the date of application. Effective July 1, 2019.
• Clarifies provider attendance record-keeping requirements by: (1) specifying records must be accurate and legible, (2) clarifying that records not provided at the time of request are inadmissible if offered as evidence in future proceedings and (3) simplifying the process for calculating attendance record overpayments. Effective July 1, 2019.

• Allows agencies to enforce a penalty if a provider fails to report when a child’s actual attendance drops to less than half of their scheduled hours or days in a four-week period. Effective July 1, 2019.

• Clarifies that providers must mark absent days and holidays on billing forms for days when children do not attend care. Effective July 1, 2019.

• Lowers the standard of proof for provider fraud to “preponderance of the evidence” and increases provider penalty periods to three years for the first offense and permanently for any subsequent offenses. Effective August 1, 2019.

• Clarifies DHS’ ability to share data with law enforcement and other agencies. Effective August 1, 2019.

• Requires all families to receive and acknowledge written notice at application and redetermination about what constitutes fraud and consequences of committing fraud. Effective September 1, 2019.

• Defines policies, and procedures around changes in center ownership. Effective January 1, 2020.

• Clarifies that county and tribal agencies have authority to investigate provider fraud and immediately stop payments when there is a preponderance of evidence that a provider committed fraud. Includes due process provisions. Current policy. Due process provisions effective February 26, 2021.

**Provider registration and oversight planning**

• Funds a temporary DHS staff person to plan for improvements to provider registration and oversight for CCAP, including options for electronic attendance record keeping.

• DHS will report findings and recommendations for next steps to the Minnesota Legislature in early 2021.

**Data sharing**

• Allows CCAP payment data to be shared when a child care center has been disqualified or has violated policies that resulted in payments being stopped; and/or when a center receives CCAP payments of more than $100,000 per year. Effective day following enactment.

• Allows DHS to share CCAP data with the Department of Education. Effective day following enactment.

**Other**

• Uses $8,911,000 in unspent Basic Sliding Fee Child Care funds from 2018 to help fund the Health and Human Services omnibus bill. Typically, unspent funds are reinvested into Basic Sliding Fee Child Care.

• Increases the MFIP cash grant by $100 per month, for the first time since 1986, to benefit all families on MFIP or the Diversionary Work Program, many of whom receive MFIP Child Care. Effective February 2020.

• Directs DHS to work with counties and stakeholders to make recommendations on how to count self-employment income for public assistance programs, including the Child Care Assistance Program.

• Authorizes a property tax exemption for licensed child care facilities owned and operated by a 501(c)(3) nonprofit charitable organization that accept families participating in the Child Care Assistance Program.