

AMENDATORY SECTION (Amending WSR 08-08-012, filed 3/19/08, effective 4/19/08)

WAC 170-151-020 Who needs to be licensed? (1) The person or organization operating a school-age child care center must receive a license from the department to provide school-age child care, in accordance with chapter 43.215 RCW.

(2) The department does not need to license the person or organization operating a school-age child care center if chapter 43.215 RCW exempts the person or organization from the licensing requirements. The person or organization claiming an exemption from the licensing requirements must provide the department proof of entitlement to the exemption at the licensor's request.

(3) You may use the following matrix to determine whether or not you are exempt from licensing:

Child care	Recreational
The child care facility assumes responsibility for the child and his welfare.	Children are free to come and go as they choose.
Children are signed in and can only be released to an authorized adult.	No responsibility is assumed in lieu of parent.
A specific registration procedure and required forms must be completed.	No registration form or procedure.
Must adhere to DEL standards; has specific requirements regarding staff-child ratio and group size.	No required staff-child ratio or group size requirements.
Specific DEL requirements regarding policies and procedures are in a parent handbook.	No specific detailed policies and procedures. General "house rules" apply at each site.
There are specific program goals and activities; calendars of activities are posted and available.	Activities occur on a daily basis; no long-term goals or activities exist.

(4) The person or organization that serves state-paid children must:

(a) Be licensed or certified;

(b) Follow billing policies and procedures in *Child Care Subsidies, a ((brochure for providers, DEL 22-877)) Booklet for Licensed and Certified Providers, revised 2012*; and

(c) Bill the department at the person's or organization's customary rate or the state rate, whichever is less.

WAC 170-151-460 ((What program)) Child care records ((must I maintain?)). ((You)) Licensees must maintain the following ((documentation)) child care records on the premises for at least five years after the child leaves enrollment in care as provided in WAC 170-151-461:

(1) The daily attendance record:

(a) The parent, or other person authorized by the parent to take the child to or from the center, must sign in the child on arrival and must sign out the child at departure, using a full((~~legal~~)) signature;

(b) When the child leaves the center to attend school or other offsite activity as authorized by the parent, ((your)) a staff person must sign out the child and sign in the child on return to the center; and

(c) Signed agreements between a program director and a parent where school-age child is allowed to leave the center on his or her own, must be verified by signature and dated by the director and parent. Staff may sign a child in/out whose parent has agreed in writing to let the child leave the center((~~;~~));

(2) Electronic attendance records if the child's attendance is recorded using an electronic system under WAC 170-151-462;

(3) A copy of the report sent to the department about any illness or injury to the child in care requiring medical treatment or hospitalization;

((~~3~~)) (4) The twelve-month record indicating the date and time ((you)) the licensee conducted the required monthly fire evacuation drills;

((~~4~~)) (5) A written plan for staff development specifying the content, frequency, and manner of planned training;

((~~5~~)) (6) Activity program plan records;

((~~6~~)) (7) A list of each child's allergies and dietary restrictions, if any;

((~~7~~)) (8) Any incident involving the use of physical restraint;

((~~8~~)) (9) A record of medication ((your)) staff gives to any child; ((and

~~9~~)) (10) A record of accidents and injuries((~~;~~)); and

((~~10~~)) (11) Personnel records as described in WAC 170-151-470(4).

NEW SECTION

WAC 170-151-461 Recordkeeping--Records available to the department. The licensee must keep all records required in this chapter for a minimum of five years:

(1) Current records (including records from the previous twelve months) must be kept in the licensed space and be available for the department's review.

(2) Records older than twelve months to five years old must be provided to the department within two weeks of the date of the department's written request.

NEW SECTION

WAC 170-151-462 Electronic attendance records--Records retention. (1) Licensees may use an electronic system to record attendance in lieu of a paper sign-in record.

(2) If an electronic system is used to record attendance, it must record either an electronic signature, swipe card, personal identification number (PIN), biometric reader, or similar action by the parent or designee when signing the child in and out of the licensee's care.

(3) The electronic system selected must ensure the authenticity, confidentiality, integrity, security, accessibility, and protection against repudiation of the electronic records, and must be able to:

(a) Produce an authentic, verifiable written record for each transaction upon demand that complies with all legal and other requirements regarding the record's structure, content, and time of creation or receipt;

(b) Authenticate (prove the identity of) the sender of the record and ensure that the electronic record has not been altered;

(c) Uniquely identify each record;

(d) Capture an electronic record for each transaction conducted;

(e) Maintain the integrity of electronic records as captured or created so that they can be accessed, displayed, and managed as a unit;

(f) Retain electronic records in an accessible form for their legal minimum retention period;

(g) Search and retrieve electronic records in the normal course of business throughout their entire legal minimum retention period;

(h) Produce authentic copies of electronic records and supply them in useable formats, including hard copies, for business purposes and all public access purposes;

(i) Develop an approach to maintain the authenticity and integrity of electronically signed electronic records;

(j) Ensure that the electronic system performs in an accurate, reliable, and consistent manner in the normal course of business; and

(k) Limit system access to authorized individuals and for authorized purposes, and maintain physical and environmental

security controls.

(4) Electronic attendance records must contain all of the information necessary to reproduce the entire electronic record and associated signatures in a form that permits the person viewing or printing the entire electronic record to verify:

(a) The contents of the electronic record;

(b) The method used to sign the electronic record, if applicable;

(c) The person signing the electronic record; and

(d) The date when the signature was executed.

(5) As used in this section:

"Electronic record" means a record generated, communicated, received, or stored by electronic means for use in an information system or for transmission from one information system to another.

"Electronic signature" means a signature in electronic form attached to or logically associated with an electronic record including, but not limited to, a digital signature. An electronic signature is a paperless way to sign a document using an electronic sound, symbol, or process, attached to or logically associated with a record, and executed or adopted by a person with the intent to sign the record.

"Sign" includes signing by physical signature, if available, or electronic signature.

AMENDATORY SECTION (Amending WSR 11-12-078, filed 5/31/11, effective 7/1/11)

WAC 170-290-0003 Definitions. The definitions in this section apply throughout this chapter unless the context clearly requires otherwise.

((+1)) **"Able"** means being physically and mentally capable of caring for a child in a responsible manner.

((+2)) **"Authorization"** means the documentation that DSHS gives to providers specifying units of full-day, half-day or hourly child care a family may receive during their eligibility period, which may be adjusted based on the family's need for care or changes in eligibility.

((+3)) **"Available"** means being free to provide care when not participating in an approved work activity under WAC 170-290-0040, 170-290-0045, 170-290-0050, or 170-290-0055 during the time child care is needed.

((+4)) **"Calendar year"** means those dates between and including January 1st and December 31st.

((+5)) **"Collective bargaining agreement"** or **"CBA"** means the most recent agreement that has been negotiated and entered into between the exclusive bargaining representative for all licensed and license-exempt family child care providers as defined in chapter 41.56 RCW.

((+6)) **"Consumer"** means the person receiving:

- (a) WCCC benefits as described in part II of this chapter; or
- (b) SCC benefits as described in part III of this chapter.

((+7)) **"Copayment"** means the amount of money the consumer is responsible to pay the child care provider toward the cost of child care each month.

((+8)) **"DEL"** means the department of early learning.

((+9)) **"DSHS"** means the department of social and health services.

((+10)) **"Days"** means calendar days unless otherwise specified.

((+11)) **"Eligibility"** means that a consumer has met all of the requirements of:

(a) Part II of this chapter to receive WCCC program subsidies;
or

(b) Part III of this chapter to receive SCC program subsidies.

"Employment" or **"work"** means engaging in any legal, income generating activity that is taxable under the United States Tax Code or that would be taxable with or without a treaty between an Indian Nation and the United States. This includes unsubsidized employment, as verified by an employee's pay stubs or DSHS employer verification form, and subsidized employment, such as:

- (a) Working in a federal or state paid work study program; or

(b) VISTA volunteers, AmeriCorps, JobCorps, and Washington Service Corps (WSC) if the income is taxed.

~~((12)) "Eligibility" means that a consumer has met all of the requirements of:~~

~~(a) Part II of this chapter to receive WCCC program subsidies; or~~

~~(b) Part III of this chapter to receive SCC program subsidies.~~

~~((13))~~ **"In-home/relative provider(~~(,)~~)" or "license-exempt provider,"** referred to in the collective bargaining agreement as ~~((("license-exempt provider,~~)~~))~~ **"family, friends and neighbors provider" or "FFN provider,"** means ~~((those))~~ a provider(~~(s)~~) who meets the requirements in WAC 170-290-0130 through 170-290-0167.

~~((14))~~ **"In loco parentis"** means the adult caring for an eligible child in the absence of the biological, adoptive, or step-parents, and who is not a relative, court-ordered guardian, or custodian, and is responsible for exercising day-to-day care and control of the child.

~~((15))~~ **"Night shift"** means employment for a minimum of six hours between the hours of 8 p.m. and 8 a.m.

"SCC" means the seasonal child care program, which is a child care subsidy program described in part III of this chapter that assists eligible families who are seasonally employed in agriculturally related work outside of the consumer's home to pay for licensed or certified child care.

~~((16))~~ **"Seasonally available labor" or "seasonally available agricultural related work"** means work that is available only in a specific season during part of the calendar year. The work is directly related to the cultivation, production, harvesting or processing of fruit trees or crops.

~~((17))~~ **"Self-employment"** means engaging in any legal income generating activity that is taxable under the United States Tax Code or that would be taxable with or without a treaty between an Indian Nation and the United States, as verified by Washington state business license, or a tribal, county, or city business or occupation license, as applicable, and a uniform business identification (UBI) number for approved self-employment activities that occur outside of the home. Incorporated businesses are not considered self-employment enterprises.

~~((18))~~ **"Waiting list"** means a list of families who are currently working and waiting for child care subsidies when funding is not available to meet the requests from all eligible families.

~~((19))~~ **"WCCC"** means the working connections child care program, which is a child care subsidy program described in part II of this chapter that assists eligible families in obtaining child care subsidies for approvable activities that enable them to work, attend training, or enroll in educational programs outside the consumer's home.

AMENDATORY SECTION (Amending WSR 11-18-001, filed 8/24/11, effective 9/24/11)

WAC 170-290-0012 Verifying consumers' information. (1) A consumer must complete the DSHS application for WCCC benefits and provide all required information to DSHS to determine eligibility when:

(a) The consumer initially applies for benefits; or

(b) The consumer reapplies for benefits(~~(c)~~

~~(c) The consumer reports)).~~

(2) A consumer must provide verification to DSHS to determine if he or she continues to qualify for benefits during his or her eligibility period when there is a change of circumstances(~~(c)~~

~~(d) DSHS finds out that the consumer's circumstances may have changed; or~~

~~(e) The information DSHS has is inconsistent, conflicting, or outdated))~~ under WAC 170-290-0031.

~~((2) The))~~ (3) All verification that ((the consumer gives)) is provided to DSHS must:

(a) Clearly relate to the information DSHS is requesting;

(b) Be from a reliable source; and

(c) Be accurate, complete, and consistent(~~(c) and~~

~~(d) As applicable, include, but not be)).~~

(4) If DSHS has reasonable cause to believe that the information is inconsistent, conflicting or outdated, DSHS may:

(a) Ask the consumer to provide DSHS with more verification or provide a collateral contact (a "collateral contact" is a statement from someone outside of the consumer's residence that knows the consumer's situation); or

(b) Send an investigator from the DSHS office of fraud and accountability (OFA) to make an unannounced visit to the consumer's home to verify the consumer's circumstances. See WAC 170-290-0025(9).

(5) The verification that the consumer gives to DSHS includes, but is not limited to, the following:

~~((i))~~ (a) A current WorkFirst IRP for consumers receiving TANF;

~~((ii))~~ (b) Employer name, address, and phone number;

~~((iii))~~ (c) State business registration and license, if self-employed;

~~((iv))~~ (d) Work, school, or training schedule (when requesting child care for non-TANF activities);

~~((v))~~ (e) Hourly wage or salary;

~~((vi))~~ (f) Either the:

~~((A))~~ (i) Gross income for the last three months;

~~((B))~~ (ii) Federal income tax return for the preceding calendar year; or

~~((C))~~ (iii) DSHS employment verification form;

~~((vii))~~ (g) Monthly unearned income the consumer receives, such as child support or Supplemental Security Income (SSI) benefits;

~~((viii))~~ (h) If the other parent is in the household, the same information for them;

~~((ix))~~ (i) Proof that the child belongs to one of the following groups as defined in WAC 388-424-0001:

~~((A))~~ (i) A U.S. citizen;

~~((B))~~ (ii) A U.S. national;

~~((C))~~ (iii) A qualified alien; or

~~((D))~~ (iv) A nonqualified alien who meets the Washington state residency requirements as listed in WAC 388-468-0005;

~~((x))~~ (j) Proof of child enrollment in a head start, early head start or early childhood education and assistance program for twelve-month eligibility;

~~((xi))~~ (k) Name and phone number of the licensed child care provider; and

~~((xii))~~ (l) For the in-home/relative child care provider, a:

~~((A))~~ (i) Completed and signed criminal background check form;

~~((B))~~ (ii) Legible copy of the proposed provider's photo identification, such as a driver's license, Washington state identification, or passport;

~~((C))~~ (iii) Legible copy of the proposed providers' valid Social Security card; and

~~((D))~~ (iv) All other information required by WAC 170-290-0135.

~~((3))~~ (6) If DSHS requires verification from a consumer that costs money, DSHS must pay for the consumer's reasonable costs.

~~((4) If the verification that a consumer provides to DSHS is inconsistent, conflicting, or outdated, DSHS may:~~

~~(a) Ask the consumer to provide DSHS with more verification or provide a collateral contact (a "collateral contact" is a statement from someone outside of the consumer's residence that knows the consumer's situation); or~~

~~(b) Send an investigator from the division of fraud investigations (DFI) to make an unannounced visit to the consumer's home to verify the consumer's circumstances. See WAC 170-290-0025(9).~~

~~((5))~~ (7) DSHS does not pay for a self-employed consumer's state business registration or license, which is a cost of doing business.

(8) If a consumer does not provide all of the verification requested, DSHS will determine if a consumer is eligible based on the information already available to DSHS.

AMENDATORY SECTION (Amending WSR 11-18-001, filed 8/24/11, effective 9/24/11)

WAC 170-290-0025 Consumers' rights. When a consumer applies for or receives WCCC benefits, the consumer has the right to:

(1) Be free from discrimination in accordance with all applicable federal and state nondiscrimination laws, regulations, and policies;

(2) Have WCCC eligibility determined within thirty days from his or her application date per WAC 170-290-0095;

(3) Be informed, in writing, of his or her legal rights and responsibilities related to WCCC benefits;

(4) Receive a written notice at least ten days before DSHS makes changes to lower or stop benefits except as stated in WAC 170-290-0120;

(5) Ask for an administrative hearing if he or she does not agree with DSHS about a decision per WAC 170-290-0280;

(6) Ask a supervisor or administrator to review a decision or action affecting the consumer's benefits without affecting the right to an administrative hearing;

(7) Have an interpreter or translator service provided by DSHS within a reasonable amount of time and at no cost to the consumer;

(8) Choose a provider as long as the provider meets the requirements in WAC 170-290-0125;

(9) Ask the fraud early detection (FRED) investigator from the ~~((division))~~ DSHS office of fraud ~~((investigations (DFI)))~~ and accountability (OFA) to come back at another time. A consumer does not have to let an investigator into his or her home. This request will not affect the consumer's eligibility for benefits. If the consumer refuses to cooperate (provide the information requested) with the investigator, it could affect his or her benefits;

(10) Access his or her child at all times while the child is in child care;

(11) Terminate child care without cause and without notice to the provider. Notice must be given to DSHS within five days of termination;

(12) Not be charged by the consumer's licensed ~~((or))~~ certified, or license-exempt provider, or be made to pay for ~~((or~~ ~~(a)))~~ the difference between the provider's private rate and the state maximum rate, when the provider's private rate for child care ~~((or the registration fee))~~ is higher than the maximum state rate;

(13) Not be charged by the consumer's licensed or certified provider, or be made to pay for:

(a) The difference between the provider's registration fee and the state's maximum registration fee, when the provider's registration fee is higher;

(b) Any day when the consumer's child is absent;

(c) Vacation days when the provider chooses to close;

(d) A higher amount than the state allows for field trips. If the consumer requests, and the provider has a written policy in place, the consumer may voluntarily pay the difference between the amount that the state allows and the actual field trip cost;

(e) A preschool tuition fee in addition to regular child care services; or

(f) Child care services after the final day of care, when the provider ~~((chooses to))~~ stops caring for the consumer's children.

WAC 170-290-0030 Consumers' responsibilities. When a person applies for or receives WCCC benefits, the applicant or consumer must, as a condition of receiving those benefits:

(1) Give DSHS correct and current information so DSHS can determine eligibility and authorize child care payments correctly;

(2) Choose a provider who meets requirements of WAC 170-290-0125;

(3) Pay(~~(, or make a plan to have someone pay, the WCCC)~~) the copayment directly to the child care provider or arrange for a third party to pay the copayment directly to the provider;

(4) In cases of overdue or past due copayments, the consumer, as a condition of maintaining his or her eligibility, must do one or more of the following:

(a) Pay past or overdue copayments;

(b) Give DSHS a written agreement between the provider and consumer to verify that copayment arrangements include one or more of the following:

(i) An installment payment plan;

(ii) A collection agency payment plan;

(iii) In-kind services in lieu of paying the copayment; or

(iv) Forgiveness of the copayment from the provider; or

(c) Provide proof that the consumer has attempted to pay a copayment to a licensed provider who is no longer in business or a license-exempt provider who is no longer providing child care. "Proof" includes, but is not limited to, a return receipt that was signed for and not responded to, or a returned document that was not picked up;

(5) Only use WCCC benefits while the consumer is working or in WCCC approved activities outside the consumer's home(~~(-)~~);

~~((5))~~ (6) Pay the provider for child care services when he or she requests additional child care for personal reasons other than working or participating in WCCC approved activities that have been authorized by DSHS;

~~((6))~~ (7) Pay the provider for optional child care programs that he or she requests. The provider must have a written policy in place charging all families for these optional child care programs;

~~((7))~~ (8) Pay the provider the same late fees that are charged to other families, if the consumer pays a copayment late or picks up the child late;

~~((8))~~ (9) Ensure that care is provided in the correct home per WAC 170-290-130 if the consumer uses an in-home/relative provider, and monitor the in-home/relative provider's quality of care to ensure that the child's environmental, physical, nutritional, emotional, cognitive, safety, and social needs are being met;

~~((9))~~ (10) Cooperate (provide the information requested) with the (~~quality assurance review~~) child care subsidy audit process to remain eligible for WCCC. A consumer becomes ineligible for WCCC benefits upon a determination of noncooperation (~~by~~

~~quality assurance~~)) and remains ineligible until he or she meets ((~~quality assurance~~)) child care subsidy audit requirements. If DSHS determines that a consumer is not cooperating, the consumer will not be eligible for WCCC benefits. The consumer may become eligible again when he or she meets WCCC requirements in part II of this chapter;

((~~(10)~~)) (11) Provide the information requested by ((~~DSHS's WCCC staff or~~)) the fraud early detection (FRED) investigator from the DSHS office of fraud and accountability (OFA). If the consumer refuses to provide the information requested within fourteen days, it could affect his or her benefits;

((~~(11)~~)) (12) Document ((~~the children's attendance as described in WAC 170-290-0138, 170-295-7030, 170-296-0520, or 170-151-460, as applicable, for that type of provider~~)) their child's attendance in subsidized child care by having the consumer or other person authorized by the consumer to take the child to or from the child care:

(a) If the provider uses a paper attendance record, sign the child in on arrival and sign the child out at departure, using their full signature and writing the time of arrival and departure; or

(b) Record the child's attendance using an electronic system if used by the provider;

((~~(12)~~)) (13) Provide to his or her in-home/relative provider the names, addresses, and telephone numbers of persons who are authorized to pick up the child from care; ((~~and~~

~~(13)~~)) (14) Seek child support enforcement services from the DSHS division of child support, unless DSHS finds that the applicant or consumer has good cause not to cooperate as defined under WAC 388-422-0020 or as provided in (a) of this subsection.

(a) For the purposes of this subsection, "good cause" also includes the following:

(i) The applicant or consumer has a current court or administrative order showing the child support amount ordered on behalf of the child who will receive the child care subsidy benefits;

(ii) The applicant or consumer already complies with child support enforcement services, either voluntarily or to meet other public assistance benefits requirements;

(iii) The applicants or consumers are married parents, or unmarried two-parent families with a child in common needing child care living in the same household;

(iv) The applicant or consumer is a single-parent family when the other parent is deceased;

(v) The applicant or consumer is a single-parent family when the other parent is incarcerated for one year or longer;

(vi) The applicants or consumers are both minor parents; or

(vii) The DSHS division of child support does not have jurisdiction over the child support case, such as for tribal child support cases, child support cases in other states, or cases outside of the United States, whether or not the division of child support has a reciprocal agreement with that jurisdiction.

(b) Child support ordered on behalf of a child who will

receive child care subsidy benefits does not affect the other children in the family who are not receiving child support. All other family size rules in WAC 170-290-0015 apply; and

(15) Ensure that their children who receive subsidized child care outside of their own home are current on all immunizations required under WAC 246-105-030, except when the parent or guardian provides:

(a) A department of health (DOH) medical exemption form signed by a health care professional; or

(b) A DOH form or similar statement signed by the child's parent or guardian expressing a religious, philosophical or personal objection to immunization.

AMENDATORY SECTION (Amending WSR 11-01-090, filed 12/14/10, effective 1/14/11)

WAC 170-290-0031 Notification of changes. When a consumer applies for or receives WCCC benefits, he or she must:

(1) Notify (~~(DSHS's WCCC staff)~~) DSHS, within five days, of any change in providers;

(2) Notify the consumer's provider within ten days when DSHS changes his or her child care authorization;

(3) Notify (~~(DSHS's WCCC staff)~~) DSHS within ten days of any change in:

(a) The number of child care hours the consumer needs (more or less hours);

(b) The consumer's countable income, including any TANF grant or child support increases or decreases, only if the change would cause the consumer's countable income to exceed the maximum eligibility limit as provided in WAC 170-290-0005 (~~((2)(d))~~). A consumer may notify (~~(DSHS's WCCC staff)~~) DSHS at any time of a decrease in the consumer's household income, which may lower the consumer's copayment under WAC 170-290-0085;

(c) The consumer's household size such as any family member moving in or out of his or her home;

(d) Employment, school or approved TANF activity (starting, stopping or changing);

(e) The address and telephone number of the consumer's in-home/relative provider;

(f) The consumer's home address and telephone number; and

(g) The consumer's legal obligation to pay child support;

(4) Report to (~~(DSHS's WCCC staff)~~) DSHS, within twenty-four hours, any pending charges or conviction information the consumer learns about his or her in-home/relative provider; and

(5) Report to (~~(DSHS's WCCC staff)~~) DSHS, within twenty-four hours, any pending charges or conviction information the consumer learns about anyone sixteen years of age and older who lives with the provider when care occurs outside of the child's home.

AMENDATORY SECTION (Amending WSR 11-01-090, filed 12/14/10, effective 1/14/11)

WAC 170-290-0032 Failure to report changes. A consumer's failure to report changes as required in WAC 170-290-0031 within the stated time frames may cause:

(1) A copayment error. The consumer may be required to pay a higher copayment as stated in WAC 170-290-0085; or

(2) A WCCC payment error. If an overpayment occurs, the consumer may receive an overpayment for what the provider is allowed to bill, including billing for absent days (see publication *Child Care Subsidies, A Booklet for Licensed and Certified Child Care Providers*, (~~DEL 22-877,~~) revised ((2010)) 2012).

NEW SECTION

WAC 170-290-0034 Providers' responsibilities. Child care providers who accept child care subsidies must do the following:

(1) Comply with:

(a) All of the DEL child care licensing or certification requirements as provided in chapter 170-295, 170-296A, or 170-151 WAC, for child care providers who are licensed or certified; or

(b) All of the requirements in WAC 170-290-0130 through 170-290-0167, 170-290-0250, and 170-290-0268, for child care providers who provide in-home/relative care;

(2) Report pending charges or convictions to DSHS as provided in:

(a) Chapter 170-295, 170-296A, or 170-151 WAC, for child care providers who are licensed or certified; or

(b) WAC 170-290-0138 (2) and (3), for child care providers who provide in-home/relative care;

(3) Keep complete and accurate daily attendance records for children in their care, and allow access to DEL or DSHS to inspect attendance records during all hours in which authorized child care is provided as follows:

(a) Current attendance records (including records from the previous twelve months) must be available immediately for review upon request by DSHS or DEL.

(b) Attendance records older than twelve months to five years old must be provided to DSHS or DEL within two weeks of the date of a written request from either department.

(c) Failure to make available attendance records as provided in this subsection may:

(i) Result in the immediate suspension of the provider's subsidy payments; and

(ii) Establish a provider overpayment as provided in WAC 170-290-0268;

(4) Allow consumers access to their child at all times while

the child is in care;

(5) Collect copayments directly from the consumer or the consumer's third-party payor, and report to DSHS if the consumer has not paid a copayment to the provider within the previous sixty days;

(6) Follow billing procedures:

(a) As described in "*Child Care Subsidies: A Booklet for Licensed and Certified Child Care Providers*," revised 2012, for licensed and certified providers, including billing only for actual hours of child care both authorized and provided or allowed under WCCC billing guidelines; or

(b) As described in "*In-Home/Relative Child Care Providers: Information to Help You*," revised 2012, for in-home/relative providers, including billing only for actual hours of child care both authorized and provided;

(7) Not claim a payment in any month in which a child has not attended at least one day in that month;

(8) Invoice the state no later than one calendar year after the actual date of service;

(9) For both licensed and certified providers and in-home/relative providers, not charge subsidized families the difference between the provider's customary rate and the maximum allowed state rate; and

(10) For licensed and certified providers, not charge subsidized families for:

(a) Registration fees in excess of what is paid by subsidy program rules;

(b) Absence days in excess of five days per month, regardless of whether the child attended or not;

(c) Handling fees to process consumer copayments, child care services payments, or paperwork;

(d) Fees for materials, supplies, or equipment required to meet licensing rules and regulations; or

(e) Child care or fees related to subsidy billing invoices that are in dispute between the provider and the state.

AMENDATORY SECTION (Amending WSR 11-18-001, filed 8/24/11, effective 9/24/11)

WAC 170-290-0035 DSHS's responsibilities to consumers.

((~~DSHS's WCCC staff~~)) DSHS is responsible to:

(1) Treat consumers in accordance with all applicable federal and state nondiscrimination laws, regulations, and policies;

(2) Determine a consumer's eligibility within thirty days from the date the consumer applied (application date as described in WAC 170-290-0095);

(3) Allow a consumer to choose his or her provider as long as the provider meets the requirements in WAC 170-290-0125;

- (4) Review a consumer's chosen in-home/relative provider's background check results;
- (5) Authorize payments only to child care providers who allow a consumer to access his or her children whenever they are in care;
- (6) Only authorize payment when no adult in a consumer's family (under WAC 170-290-0015) is able or available (under WAC 170-290-0003) to care for the consumer's children;
- (7) Inform a consumer of:
 - (a) His or her rights and responsibilities under the WCCC program at the time of application and reapplication;
 - (b) The types of child care providers DSHS can pay;
 - (c) The community resources that can help a consumer select child care when needed; and
 - (d) Any change in a consumer's copayment during the authorization period except under WAC 170-290-0120(5).
- (8) Respond to a consumer within ten days if the consumer reports a change of circumstance that affects the consumer's:
 - (a) WCCC eligibility;
 - (b) Copayment; or
 - (c) Providers.
- (9) Provide prompt child care payments to a consumer's child care provider;
- (10) Provide an interpreter or translator service within a reasonable amount of time and at no cost to the consumer; ~~((and))~~
- (11) Ensure that Social Security cards, driver's licenses, or other government-issued identification for in-home/relative providers are valid and verified; and
- (12) For providers who care for children in states bordering Washington, verify that they are currently complying with their state's licensing regulations.

AMENDATORY SECTION (Amending WSR 11-18-001, filed 8/24/11, effective 9/24/11)

WAC 170-290-0040 Approved activities for ~~((TANF))~~ consumers participating in WorkFirst. ~~((If a consumer receives a temporary assistance for needy families (TANF) grant, he or she))~~ Applicants and consumers who participate in WorkFirst activities may be eligible for WCCC benefits~~((7))~~ for the following approved activities in ~~((his or her))~~ their individual responsibility plans (IRPs), for up to a maximum of sixteen hours per day, including:

- (1) An approved WorkFirst activity under WAC 388-310-0200, with the following exception: In-home/relative providers who are paid child care subsidies to care for children receiving WCCC benefits may not receive those benefits for their own children during the hours in which they provide subsidized child care. These consumers may be eligible for other approved activities in their IRPs;

- (2) Employment as defined in WAC 170-290-0003;
- (3) Self-employment as defined in WAC 170-290-0003 and as described in the consumer's current WorkFirst IRP;
- (4) Transportation time between the location of child care and the consumer's place of employment or approved activity;
- (5) Up to ten hours per week of study time for approved classes; and
- (6) Up to eight hours (~~per day~~) of sleep time (~~when it is needed, such as if the consumer works nights and sleeps days~~) before or after a night shift.

AMENDATORY SECTION (Amending WSR 11-18-001, filed 8/24/11, effective 9/24/11)

WAC 170-290-0045 Approved activities for consumers not ((receiving TANF)) participating in WorkFirst. (~~If a consumer does not receive TANF,~~) This section applies to applicants and consumers of WCCC who do not participate in WorkFirst activities:

(1) General requirements for employment or self-employment.
 He or she may be eligible for WCCC benefits for(~~+~~
~~(+)~~) up to a maximum of sixteen hours per day, including travel, study, and sleep time(, for the hours of his or her participation in the following) before or after a night shift, when he or she is:

(a) (~~Employment as defined in~~) Employed under WAC 170-290-0003; or

(b) (~~Self-employment as defined in~~) Self-employed under WAC 170-290-0003(~~;~~ (c)).

(2) Special requirements for education and training.

(a) An applicant or consumer who is under twenty-two years of age may be eligible for WCCC benefits for high school (HS) or general ((equivalency diploma)) educational development (GED) program ((until the consumer reaches his or her twenty-second birthday (the consumer may be enrolled in a HS or GED program without a minimum number of employment hours);

~~(d) Approved WorkFirst activities according to WAC 388-310-0200 or 388-310-0700 if the consumer is a TANF applicant; or~~

~~(e) Food stamp employment and training program under chapter 388-444 WAC.~~

~~(2) If a consumer is participating in an activity listed in subsections (3) through (8) of this section, he or she may be eligible for)) without a minimum number of employment hours.~~

(b) An applicant or consumer who is twenty-two years of age or older:

(i) May be eligible to receive the benefits under this subsection only once during his or her lifetime. In order to qualify for the general education and training benefits under this subsection, he or she must work either:

(A) Twenty or more hours per week of unsubsidized employment;
or

(B) Sixteen or more hours per week in a paid federal or state work study program;

(ii) Is limited to up to twenty-four consecutive months of WCCC benefits for participation in:

(A) Adult basic education (ABE);

(B) English as a second language (ESL);

(C) High school/general educational development (GED) completion; or

(D) Food stamp employment and training program under chapter 388-444 WAC; and

(iii) Is limited to up to thirty-six consecutive months of WCCC benefits ((as described in subsection (1) of this section if the consumer is actually working either:

(a) Twenty or more hours per week; or

(b) Sixteen or more hours per week in a paid federal or state work study program.

(3) Adult basic education (ABE).

(4) English as a second language (ESL).

(5) High school or GED completion if the consumer is twenty-two years of age or older.

(6)) for participation in vocational education (Voc Ed). The ((Voc Ed)) vocational education program must((:

(a)) lead to a degree or certificate in a specific occupation((:

(b) Cannot include prerequisite classes or programs; and

(c)) and be offered by the following accredited entities only:

((i)) (A) Public and private technical college or school;

((ii)) (B) Community college; or

((iii)) (C) Tribal college.

((7) Job skills training: For no more than fourteen consecutive days. Job skills training is not tied to a specific occupation but is training in specific skills directly related to employment, such as CPR/First Aid, keyboarding, computer programs, project management, and oral and written communication skills. Training offered or required by a current employer, at or off the consumer's job site, may extend past the fourteen consecutive day limit.

(8) Post-employment services under WAC 388-310-1800.

(9) Child care for participation in Voc Ed is limited to thirty-six months regardless of the length of the educational program. The thirty-six months includes the months in which the following occurred at the same time:

(a) WCCC benefits were paid to support the consumer's participation in a Voc Ed program; or

(b) The consumer or someone in his or her household received TANF benefits.

(10) WCCC may be approved for activities listed in WAC 170-290-0040 (4), (5), and (6), when needed.))

AMENDATORY SECTION (Amending WSR 11-18-001, filed 8/24/11, effective 9/24/11)

WAC 170-290-0060 Countable income. DSHS counts income as money an applicant or consumer earns or receives from:

(1) A TANF grant, except when the grant is for the first three consecutive calendar months after the consumer starts a new job. The first calendar month is the month in which he or she starts working;

(2) The following child support payment amounts:

(a) For applicants or consumers who are not receiving DSHS division of child support services because they are exempt for good cause under WAC 170-290-0030 (~~((13))~~) (14)(a)(~~((i))~~), the amount as shown on a current court or administrative order; or

(b) For applicants or consumers who are receiving DSHS division of child support services, the amount as verified by the DSHS division of child support;

(3) Supplemental Security Income (SSI);

(4) Other Social Security payments, such as SSA and SSDI;

(5) Refugee assistance payments;

(6) Payments from the Veterans' Administration, disability payments, or payments from labor and industries (L&I);

(7) Unemployment compensation;

(8) Other types of income not listed in WAC 170-290-0070;

(9) VISTA volunteers, AmeriCorps, and Washington Service Corps (WSC) if the income is taxed;

(10) Gross wages from employment or self-employment as defined in WAC 170-290-0003. Gross wages includes any wages that are taxable;

(11) Corporate compensation received by or on behalf of the consumer, such as rent, living expenses, or transportation expenses;

(12) Lump sums as money a consumer receives from a one-time payment such as back child support, an inheritance, or gambling winnings; and

(13) Income for the sale of property as follows:

(a) If a consumer sold the property before application, DSHS considers the proceeds an asset and does not count as income;

(b) If a consumer sold the property in the month he or she applies or during his or her eligibility period, DSHS counts it as a lump sum payment as described in WAC 170-290-0065(2);

(c) Property does not include small personal items such as furniture, clothes, and jewelry.

AMENDATORY SECTION (Amending WSR 11-18-001, filed 8/24/11, effective 9/24/11)

WAC 170-290-0070 Excluded income and deductions. (1) The

WCCC program does not count the following income types when determining a consumer's income eligibility and copayment:

(a) Income types as defined in WAC 388-450-0035, 388-450-0040, and 388-450-0055;

(b) Compensatory awards, such as an insurance settlement or court-ordered payment for personal injury, damage, or loss of property;

(c) Adoption support assistance and foster care payments;

(d) Reimbursements, such as an income tax refund;

(e) Diversion cash assistance;

(f) Military housing and food allowance;

(g) The TANF grant for the first three consecutive calendar months after the consumer starts a new job. The first calendar month is the month in which he or she starts working;

(h) Payments to the consumer from his or her employer for benefits such as medical plans;

(i) Earned income of a WCCC family member defined under WAC 170-290-0015(2);

(j) Income of consumers described in WAC 170-290-0005 (1)(c) ~~(iii)~~ through ~~((i))~~ ~~(ix)~~;

(k) Earned income from a minor child who DSHS counts as part of the consumer's WCCC household; and

(l) Benefits received by children of Vietnam War veterans who are diagnosed with any forms of manifestations of spina bifida except spina bifida occulta.

(2) WCCC deducts the amount a consumer pays for child support under court order, division of child support administrative order, or tribal government order, from the consumer's other countable income when figuring his or her eligibility and copayment for the WCCC program.

AMENDATORY SECTION (Amending WSR 11-18-001, filed 8/24/11, effective 9/24/11)

WAC 170-290-0085 Change in copayment. (1) ~~((Once DSHS determines that a consumer is eligible for WCCC benefits, his or her))~~ A consumer's copayment may change when:

(a) The consumer's monthly income decreases;

(b) The consumer's family size increases;

(c) DSHS makes an error in the consumer's copayment computation;

(d) The consumer did not report all income, activity and household information at the time of ~~((eligibility determination or))~~ application ~~((/))~~ , reapplication, or when reporting a change in circumstances;

(e) The consumer is no longer eligible for the minimum copayment under WAC 170-290-0090;

(f) DEL makes a mass change in benefits due to a change in law or program funding;

(g) The consumer is approved for a new eligibility period; or
(h) The consumer is approved for the fourteen-day wait period or twenty-eight-day gap period as provided in WAC 170-290-0055.

(2) ~~((If a consumer's)) Copayment changes ((during his or her eligibility period, the change is)) are effective on the first day of the month immediately following ~~((DSHS becoming aware of the change)) the date the copayment change was made.~~~~

(3) DSHS does not increase a consumer's copayment during his or her current eligibility period when his or her countable income remains at or below the maximum eligibility limit as provided in WAC 170-290-0005, and:

- (a) The consumer's monthly countable income increases; or
- (b) The consumer's family size decreases.

AMENDATORY SECTION (Amending WSR 09-22-043, filed 10/28/09, effective 12/1/09)

WAC 170-290-0090 Minimum copayment. (1) The minimum copayment is paid when the consumer has countable monthly income at or below eighty-two percent of the federal poverty guidelines.

(2) **First application.** The consumer pays the minimum copayment when he or she first applies for WCCC, and benefits are paid. The consumer pays the minimum copayment beginning in the month that DSHS pays for WCCC child care services, and the first full calendar month thereafter.

(3) **Reapplication.** The consumer pays the minimum copayment when the consumer reapplies for WCCC after a break of at least thirty days in his or her approved activity. The consumer pays the minimum copayment beginning in the month that DSHS pays for WCCC child care services, and the first full calendar month thereafter.

(4) The consumer pays the minimum copayment when he or she is a minor parent, and:

- (a) Receives TANF; or
- (b) Is part of the parent's or relative's TANF assistance unit.

(5) Two-parent families automatically qualify for the minimum copayment during a twenty-eight-day gap period in WAC 170-290-0055 only if both parents meet the gap requirements. Otherwise, eligibility workers must determine the change in copayment based on the family's countable income and family size, as specified in WAC 170-290-0065 and 170-290-0085.

AMENDATORY SECTION (Amending WSR 09-22-043, filed 10/28/09, effective 12/1/09)

WAC 170-290-0110 Termination of and redetermining eligibility for benefits. (1) DSHS stops a consumer's eligibility for WCCC benefits when:

(a) The consumer's monthly copayment is higher than the state maximum monthly rate for all of the consumer's children in care under WAC 170-290-0005; or

(b) The consumer does not:

(i) ~~((Pay copayment fees assessed by DSHS and the consumer does not make mutually acceptable arrangements with his or her child care provider to pay the copayment;))~~ Comply with the copayment requirements of WAC 170-290-0030 (3) and (4);

(ii) Complete the requested application or reapplication before the deadline noted in WAC 170-290-0109 (2)(a);

(iii) Meet other WCCC eligibility requirements related to family size, income and approved activities; or

(iv) Cooperate with the ~~((quality assurance review))~~ child care subsidy audit process or with the DSHS ~~((division of fraud investigations))~~ office of fraud and accountability (OFA).

(2) A consumer may be eligible for WCCC again ~~((when))~~ beginning on the date that the consumer:

~~(a) Meets all WCCC eligibility requirements ((, and:~~

~~(a) The consumer paid back copayment fees));~~

(b) ~~((The consumer made mutually acceptable payment arrangements with his or her child care provider; or))~~ Complies with the copayment requirements of WAC 170-290-0003 (3) and (4); and

(c) ~~((The consumer cooperated))~~ Cooperates with the ((quality assurance review)) child care subsidy audit process or with the DSHS ~~((division))~~ office of fraud ~~((investigations))~~ and accountability (OFA).

AMENDATORY SECTION (Amending WSR 09-22-043, filed 10/28/09, effective 12/1/09)

WAC 170-290-0135 In-home/relative providers--Information provided to DSHS. (1) When a consumer chooses in-home/relative child care, the consumer and the provider must give DSHS the following information:

(a) The in-home/relative provider's legal name, address, and telephone number;

(b) A copy of the provider's valid Social Security card;

(c) A copy of the provider's photo identification;

(d) A completed, signed and dated background check form; and

(e) A completed WCCC application form, signed and dated by the consumer and the provider, in which they both attest that the

provider is:

- (i) Of suitable character and competence;
- (ii) Of sufficient physical and mental health to be a safe child care provider and meet the needs of the children in care;
- (iii) Able to work with the children without using corporal punishment or psychological abuse;
- (iv) Able to accept and follow instructions;
- (v) Able to maintain personal cleanliness;
- (vi) Prompt and regular in job attendance; and
- (vii) Informed about basic health practices, prevention and control of infectious disease, and immunizations.

(2) If DSHS requests it, the consumer and/or the provider must provide written medical or legal evidence that the in-home/relative provider is of sufficient physical and mental health to provide safe, reliable and developmentally appropriate child care services.

(3) When a consumer chooses in-home/relative child care, the provider must give DSHS information as to whether an individual sixteen years of age or older living with the provider is a registered sex offender.

AMENDATORY SECTION (Amending WSR 09-22-043, filed 10/28/09, effective 12/1/09)

WAC 170-290-0138 In-home/relative providers-- Responsibilities. An in-home/relative provider must:

(1) Provide care, supervision, and daily activities based on the child's developmental needs;

(2) Report to DSHS within ten days any changes to their legal name, address or telephone number;

(3) Report to DSHS within twenty-four hours any pending charges or convictions they have;

(4) Report to DSHS within twenty-four hours any pending charges or convictions for anyone sixteen years of age and older who lives with the provider, including any person sixteen years of age or older who newly resides with the provider, when the provider cares for the child in the provider's home. Background checks must be completed for these persons as provided in WAC 170-290-0143;

(5) Bill only for actual hours of care provided. Those hours must be authorized by DSHS, and used by the consumer for his or her DSHS approved activities;

(6) Bill for no more than six children at one time during the same hours of care;

(7)(a) If paper attendance records are used, have the consumer sign and date the attendance records at least weekly, verifying the accuracy of the dates and times.

(b) Providers may use an electronic attendance system as provided in WAC 170-290-0139 to record attendance in lieu of a paper sign-in record.

(c) Providers must keep attendance records for five years documenting the days and hours of care provided;

~~(8) ((Have the consumer sign and date the records at least weekly, verifying the accuracy of the dates and times;~~

~~(9)) Repay any overpayments under WAC 170-290-0268; and~~

~~((10) Provide any of the records in subsections (7) and (8) of this section that are requested by DSHS or DEL, within fourteen consecutive calendar days of the request.)) (9) Have at least one working telephone accessible in the home for incoming and outgoing calls during all times that subsidized child care is provided. The telephone must have 911 emergency services calling access.~~

NEW SECTION

WAC 170-290-0139 In-home/relative providers--Electronic attendance records--Records retention. (1) In-home/relative providers must record attendance as provided in WAC 170-290-0138(7).

(2) If an electronic system is used to record attendance, it must record either an electronic signature, swipe card, personal identification number (PIN), biometric reader, or similar action by the parent or designee when signing the child in and out of the in-home/relative provider's care.

(3) The electronic system selected must ensure the authenticity, confidentiality, integrity, security, accessibility, and protection against repudiation of the electronic records, and must be able to:

(a) Produce an authentic, verifiable written record for each transaction upon demand that complies with all legal and other requirements regarding the record's structure, content, and time of creation or receipt;

(b) Authenticate (prove the identity of) the sender of the record and ensure that the electronic record has not been altered;

(c) Uniquely identify each record;

(d) Capture an electronic record for each transaction conducted;

(e) Maintain the integrity of electronic records as captured or created so that they can be accessed, displayed, and managed as a unit;

(f) Retain electronic records in an accessible form for their legal minimum retention period;

(g) Search and retrieve electronic records in the normal course of business throughout their entire legal minimum retention period;

(h) Produce authentic copies of electronic records and supply them in useable formats, including hard copies, for business purposes and all public access purposes;

(i) Develop an approach to maintain the authenticity and

integrity of electronically signed electronic records;

(j) Ensure that the electronic system performs in an accurate, reliable, and consistent manner in the normal course of business; and

(k) Limit system access to authorized individuals and for authorized purposes, and maintain physical and environmental security controls.

(4) Electronic attendance records must contain all of the information necessary to reproduce the entire electronic record and associated signatures in a form that permits the person viewing or printing the entire electronic record to verify:

(a) The contents of the electronic record;

(b) The method used to sign the electronic record, if applicable;

(c) The person signing the electronic record; and

(d) The date when the signature was executed.

(5) As used in this section:

"Electronic record" means a record generated, communicated, received, or stored by electronic means for use in an information system or for transmission from one information system to another.

"Electronic signature" means a signature in electronic form attached to or logically associated with an electronic record including, but not limited to, a digital signature. An electronic signature is a paperless way to sign a document using an electronic sound, symbol, or process, attached to or logically associated with a record, and executed or adopted by a person with the intent to sign the record.

"Sign" includes signing by physical signature, if available, or electronic signature.

AMENDATORY SECTION (Amending WSR 09-22-043, filed 10/28/09, effective 12/1/09)

WAC 170-290-0160 In-home/relative providers--Background checks--Disqualified providers. (1) ~~((#f))~~ DSHS permanently disqualifies the person as an in-home/relative provider for WCCC if:

(a) A consumer's provider or an individual listed in WAC 170-290-0143(2) has a background containing a permanently disqualifying conviction for crimes on the DEL director's list in WAC 170-06-0120(1) ((, DSHS permanently disqualifies the person as an in-home/relative provider for WCCC)); or

(b) The in-home/relative provider intentionally or knowingly gives DSHS incorrect or misleading information or withholds information as to whether an individual sixteen years of age or over living with the provider is a registered sex offender.

(2) If the conditions in WAC 170-290-0167 (1)(a) and (b) are met, the disqualifying background of an individual sixteen years of

age or over living with the provider may not permanently disqualify the provider. This subsection does not apply to subsection (1)(b) of this section.

AMENDATORY SECTION (Amending WSR 09-22-043, filed 10/28/09, effective 12/1/09)

WAC 170-290-0200 Daily child care rates--Licensed or certified child care centers and DEL contracted seasonal day camps.

(1) **Base rate.** DSHS pays the lesser of the following to a licensed or certified child care center or DEL contracted seasonal day camp:

- (a) The provider's private pay rate for that child; or
- (b) The maximum child care subsidy daily rate for that child as listed in the following table:

		Infants (One month - 11 mos.)	Toddlers (12 - 29 mos.)	Preschool (30 mos. - 5 yrs)	School-age (5 - 12 yrs)
Region 1	Full-Day	\$28.53	\$23.99	\$22.67	\$21.34
	Half-Day	\$14.28	\$12.00	\$11.34	\$10.67
Spokane County	Full-Day	\$29.18	\$24.54	\$23.19	\$21.83
	Half-Day	\$14.61	\$12.28	\$11.61	\$10.91
Region 2	Full-Day	\$28.81	\$24.05	\$22.30	\$19.73
	Half-Day	\$14.41	\$12.03	\$11.15	\$9.88
Region 3	Full-Day	\$38.13	\$31.79	\$27.46	\$26.67
	Half-Day	\$19.07	\$15.89	\$13.73	\$13.34
Region 4	Full-Day	\$44.38	\$37.06	\$31.09	\$28.00
	Half-Day	\$22.63	\$18.54	\$15.55	\$14.00
Region 5	Full-Day	\$32.54	\$28.00	\$24.65	\$21.88
	Half-Day	\$16.26	\$14.00	\$12.32	\$10.95
Region 6	Full-Day	\$31.99	\$27.46	\$23.99	\$23.46
	Half-Day	\$16.01	\$13.73	\$12.00	\$11.74

(i) Centers in Clark County are paid Region 3 rates.

(ii) Centers in Benton, Walla Walla, and Whitman counties are paid Region 6 rates.

(2) The child care center WAC 170-295-0010 allows providers to care for children from one month up to and including the day before their thirteenth birthday. The provider must obtain a child-specific and time-limited (~~(waiver)~~) exception from their child care licensor to provide care for a child outside the age listed on the center's license. If the provider has (~~(a waiver)~~) an exception to care for a child who has reached his or her thirteenth birthday, the payment rate is the same as subsection (1) of this section, and the five to twelve year age range column is used for comparison.

(3) If the center provider cares for a child who is thirteen or older, the provider must have a child-specific and time-limited (~~(waiver)~~) exception and the child must meet the special needs requirement according to WAC 170-290-0220.

WAC 170-290-0205 Daily child care rates--Licensed or certified family home child care providers. (1) Base rate. DSHS pays the lesser of the following to a licensed or certified family home child care provider:

- (a) The provider's private pay rate for that child; or
- (b) The maximum child care subsidy daily rate for that child as listed in the following table.

		Infants (Birth - 11 mos.)	Enhanced Toddlers (12 - 17 mos.)	Toddlers (18 - 29 mos.)	Preschool (30 mos. - 5 yrs)	School-age (5 - 11 yrs)
Region 1	Full-Day	\$24.29	\$24.29	\$21.12	\$21.12	\$18.78
	Half-Day	\$12.14	\$12.14	\$10.56	\$10.56	\$9.39
Spokane County	Full-Day	\$24.84	\$24.84	\$21.60	\$21.60	\$19.21
	Half-Day	\$12.42	\$12.42	\$10.80	\$10.80	\$9.60
Region 2	Full-Day	\$25.65	\$25.65	\$22.30	\$19.95	\$19.95
	Half-Day	\$12.82	\$12.82	\$11.15	\$9.97	\$9.97
Region 3	Full-Day	\$34.03	\$34.03	\$29.33	\$25.81	\$23.46
	Half-Day	\$17.02	\$17.02	\$14.67	\$12.91	\$11.74
Region 4	Full-Day	\$40.04	\$40.04	\$34.81	\$29.33	\$28.16
	Half-Day	\$20.03	\$20.03	\$17.42	\$14.67	\$14.08
Region 5	Full-Day	\$26.99	\$26.99	\$23.46	\$22.30	\$19.95
	Half-Day	\$13.50	\$13.50	\$11.74	\$11.15	\$9.97
Region 6	Full-Day	\$26.99	\$26.99	\$23.46	\$23.46	\$22.30
	Half-Day	\$13.50	\$13.50	\$11.74	\$11.74	\$11.15

(2) The family home child care WAC 170-296-0020 and 170-296-1350 allows providers to care for children from birth up to and including the day before their twelfth birthday. The provider must obtain a child-specific and time-limited (~~(waiver)~~) exception from their child care licenser to provide care for a child outside the age listed on their license. If the provider has (~~(a waiver)~~) an exception to care for a child who has reached their twelfth birthday, the payment rate is the same as subsection (1) of this section, and the five to eleven year age range column is used for comparison.

(3) If the family home provider cares for a child who is thirteen or older, the provider must have a child-specific and time-limited (~~(waiver)~~) exception and the child must meet the special needs requirement according to WAC 170-290-0220.

(4) DSHS pays family home child care providers at the licensed home rate regardless of their relation to the children (with the exception listed in subsection (5) of this section). Refer to subsection (1) and the five to eleven year age range column for comparisons.

(5) DSHS cannot pay family home child care providers to provide care for children in their care if the provider is:

- (a) The child's biological, adoptive or step-parent;
- (b) The child's legal guardian or the guardian's spouse or live-in partner; or
- (c) Another adult acting in loco parentis or that adult's spouse or live-in partner.

WAC 170-290-0220 Special needs rates--Qualification and required documentation. (1) Qualification. To qualify for ~~((the))~~ a special needs ~~((daily))~~ rate ~~((your))~~ in addition to the base rate, the consumer must request a special needs rate review for his or her child. The child must either:

~~((1))~~ (a) Be thirteen up to nineteen years old and be under court supervision; or

~~((2))~~ (b) Be less than nineteen years old~~((; and~~
(a)) and have a verified physical, mental, emotional, or behavioral condition that requires a higher level of care ~~((while in the care of a licensed or certified facility, a DEL contracted seasonal day camp or an in-home/relative provider; and~~
(b)) needed in the child care setting.

(2) Required documentation. Documentation must:

(a) Support the severity of the condition and level of care required to meet that child's need;

(b) Describe the child's needs in addition to the daily routine care required under chapter 170-295, 170-296A, or 170-151 WAC, for child care providers who are licensed or certified, or WAC 170-290-0130 and 170-290-0138 for child care providers who provide in-home/relative care;

(c) Address relevant areas, such as ambulatory assistance, feeding, hygiene assistance, communication, or behavior as applicable and as needed by the child;

(d) Include the DEL special needs request form completed by the consumer and the provider; and

(e) Have ~~((their))~~ the child's condition and need for higher level of care verified by an individual who is not employed by the child care facility nor a relative of the provider or the child's family, and is either a:

(i) Health, mental health, education or social service professional with at least a master's degree; or

(ii) Registered nurse;

(f) Include one or more of the following completed forms from a person listed in (e) of this subsection:

(i) Individualized education plan (IEP);

(ii) Individual habilitation plan (IHP);

(iii) Individual family plan (IFP);

(iv) Basic health records from his or her health care provider;

(v) Comprehensive assessments from a mental health professional; or

(vi) Medical or psychological reports from a mental health professional.

(3) Special needs review.

(a) DSHS processes all Level 1 special needs cases.

(b) DEL and DSHS jointly process Level 2 and Level 3 special needs cases.

(c) All requests for Levels 1, 2, and 3 special needs

additional rates are decided within fifteen consecutive days of the initial request. The fifteen-day time limit begins on the day after the date that the consumer and provider provide all of the required verification for that case as provided in this section.

(4) Purpose of special needs rate. WCCC does not pay for the provider's training needs to care for a specific child or for the child's equipment needs while in the child care setting. The special needs rate is for care provided in addition to the daily routine care required under chapter 170-295, 170-296A, or 170-151 WAC, for child care providers who are licensed or certified, or WAC 170-290-0130 and 170-290-0138 for child care providers who provide in-home/relative care.

AMENDATORY SECTION (Amending WSR 09-22-043, filed 10/28/09, effective 12/1/09)

WAC 170-290-0225 Special needs rates--Licensed or certified child care centers and seasonal day camps. (1) In addition to the base rate for licensed or certified child care centers and seasonal day camps listed in WAC 170-290-0200, DSHS may authorize ~~((s))~~ the following additional special needs daily rates ~~((to licensed or certified child care centers or DEL contracted seasonal day camps after a consumer has verified that his or her child has a special need and requires a higher level of care according to))~~ which are reasonable and verifiable as provided in WAC 170-290-0220 ~~((according to whichever of the following is greater))~~:

~~(a) ((The provider's reasonable documented additional cost associated with the care of the child; or~~

~~(b))~~ **Level 1.** The daily rate listed in the table below:

		Infants (One month - 11 mos.)	Toddlers (12 - 29 mos.)	Preschool (30 mos. - 5 yrs)	School-age (5 - 12 yrs)
Region 1	Full-Day	\$7.30	\$6.14	\$5.80	\$5.45
	Half-Day	\$3.65	\$3.07	\$2.90	\$2.73
Region 2	Full-Day	\$7.36	\$6.15	\$5.70	\$5.05
	Half-Day	\$3.68	\$3.08	\$2.85	\$2.52
Region 3	Full-Day	\$9.75	\$8.13	\$7.02	\$6.82
	Half-Day	\$4.88	\$4.06	\$3.51	\$3.41
Region 4	Full-Day	\$11.35	\$9.48	\$7.95	\$7.16
	Half-Day	\$5.67	\$4.74	\$3.98	\$3.58
Region 5	Full-Day	\$8.32	\$7.16	\$6.30	\$5.59
	Half-Day	\$4.16	\$3.58	\$3.15	\$2.80
Region 6	Full-Day	\$8.18	\$7.02	\$6.14	\$6.00
	Half-Day	\$4.09	\$3.51	\$3.07	\$3.00

~~(i) Centers in Clark County are paid Region 3 rates~~;

~~(ii) Centers in Benton, Walla Walla, and Whitman counties are paid Region 6 rates;~~

~~(b) Level 2.~~ A rate greater than Level 1, not to exceed \$15.89 per hour; or

~~(c) Level 3.~~ A rate that exceeds \$15.89 per hour.

~~(2) ((The child care provider must verify the child's additional care needs when they request a rate above that listed in subsection (1)(b) of this section. The verification should include details about all of the child's additional needs in relevant areas such as environmental accommodations, ambulation, eating, personal hygiene, communication, and behavior.~~

~~(3))~~ If a provider is requesting one-on-one supervision or direct care for the child with special needs the person providing the one-on-one care must ~~((be))~~:

(a) Be at least eighteen years of age; and

(b) Meet the requirements for being an assistant under chapter 170-295 WAC and maintain daily records of one-on-one care provided, to include the name of the employee providing the care.

~~((4))~~ (3) If the provider has ~~((a waiver))~~ an exception to care for a child who:

(a) Is thirteen years or older; and

(b) Has special needs according to WAC 170-290-0220, DSHS authorizes the special needs payment rate as described in subsection (1) of this section using the five to twelve year age range for comparison.

AMENDATORY SECTION (Amending WSR 09-22-043, filed 10/28/09, effective 12/1/09)

WAC 170-290-0230 Special needs rates--Licensed or certified family home child care providers. (1) In addition to the base rate for licensed or certified family home child care providers listed in WAC 170-290-0205, DSHS may authorize~~((s))~~ the following additional special needs daily rates ~~((to licensed or certified family home child care providers after the consumer has verified that his or her child has a special need and requires a higher level of care according to))~~ which are reasonable and verifiable as provided in WAC 170-290-0220 ~~((, according to whichever of the following is greater))~~:

(a) ~~((The provider's reasonable documented additional cost associated with the care of the child; or~~

~~(b))~~ **Level 1.** The daily rate listed in the table below:

		Infants (Birth - 11 mos.)	Toddlers (12 - 29 mos.)	Preschool (30 mos. - 5 yrs)	School-age (5 - 11 yrs)
Region 1	Full-Day	\$6.00	\$5.40	\$5.40	\$4.80
	Half-Day	\$3.00	\$2.70	\$2.70	\$2.40
Region 2	Full-Day	\$6.00	\$5.70	\$5.10	\$5.10
	Half-Day	\$3.00	\$2.85	\$2.55	\$2.55
Region 3	Full-Day	\$8.70	\$7.50	\$6.60	\$6.00
	Half-Day	\$4.35	\$3.75	\$3.30	\$3.00
Region 4	Full-Day	\$9.00	\$8.90	\$7.50	\$7.20
	Half-Day	\$4.50	\$4.45	\$3.75	\$3.60
Region 5	Full-Day	\$6.60	\$6.00	\$5.70	\$5.10
	Half-Day	\$3.30	\$3.00	\$2.85	\$2.55

		Infants (Birth - 11 mos.)	Toddlers (12 - 29 mos.)	Preschool (30 mos. - 5 yrs)	School-age (5 - 11 yrs)
Region 6	Full-Day	\$6.60	\$6.00	\$6.00	\$5.70
	Half-Day	\$3.30	\$3.00	\$3.00	\$2.85

(b) Level 2. A rate greater than Level 1, not to exceed \$15.89 per hour; or

(c) Level 3. A rate that exceeds \$15.89 per hour.

~~(2) ((A family home child care provider must verify the child's additional care needs when they request a rate above that listed in subsection (1)(b) of this section. The verification should include details about all of the child's additional needs in relevant areas such as environmental accommodations, ambulation, eating, personal hygiene, communication, and behavior.~~

~~(3))~~ If the provider has ~~((a waiver))~~ an exception to care for a child who:

(a) Is twelve years or older; and

(b) Has special needs according to WAC 170-290-0220, DSHS authorizes the special needs payment rate as described in subsection (1) of this section using the five to eleven year age range for comparison.

~~((4))~~ (3) If a provider is requesting one-on-one supervision/direct care for the child with special needs, the person providing the one-on-one care must ~~((be))~~:

(a) Be at least eighteen years old; and

(b) Meet the requirements for being an assistant under chapter 170-296 WAC and maintain daily records of one-on-one care provided, to include the name of the employee providing the care.

AMENDATORY SECTION (Amending WSR 09-22-043, filed 10/28/09, effective 12/1/09)

WAC 170-290-0235 Special needs rates--In-home/relative providers. (1) ~~((DSHS authorizes a base rate of two dollars and twenty cents an hour for in-home/relative child care when a child has verified special needs and requires a higher level of care according to WAC 170-290-0220.~~

~~(2))~~ In addition to the base rate as provided in WAC 170-290-0240(1), the state may authorize~~((s whichever of))~~ the following ~~((is greater))~~ additional special needs rate which is reasonable and verifiable as provided in WAC 170-290-0220:

(a) **Level 1.** Sixty-two cents per hour, for a total of two dollars and eighty-two cents per hour; ~~((or))~~

(b) ~~((The provider's reasonable documented additional cost associated with the care for that child))~~ **Level 2.** A rate greater than Level 1, but not to exceed \$9.41 per hour; or

(c) Level 3. A rate that exceeds \$9.41 per hour.

~~((3))~~ The in-home/relative provider must verify the child's

~~additional care needs when they request a rate above that listed in subsection (2)(a) of this section. The verification must include details about all the child's additional needs in relevant areas such as environmental accommodations, ambulation, eating, personal hygiene, communication, and behavior.~~

~~(4))~~ (2) If other children in the home are also authorized for in-home/relative care with the same provider, DSHS authorizes two dollars and twenty cents per hour for the child who needs the greatest number of hours of care and two dollars and seventeen cents per hour for the care of each additional child in the family.

AMENDATORY SECTION (Amending WSR 09-22-043, filed 10/28/09, effective 12/1/09)

WAC 170-290-0240 Child care subsidy rates--In-home/relative providers. (1) **Base rate.** When a consumer employs an in-home/relative provider, ~~((the maximum))~~ DSHS pays the lesser of the following to an eligible in-home/relative provider for child care ((is)):

(a) The provider's private pay rate for that child; or
(b) The maximum child care subsidy rate of two dollars and twenty cents per hour for the child who needs the greatest number of hours of care and two dollars and seventeen cents per hour for the care of each additional child in the family.

(2) DSHS may pay above the maximum hourly rate for children who have special needs under WAC 170-290-0235.

(3) DSHS makes the WCCC payment directly to a consumer's eligible provider.

(4) When ~~((appropriate))~~ applicable, DSHS pays the employer's share of the following:

(a) Social Security and medicare taxes (FICA) up to the wage limit;

(b) Federal Unemployment Taxes (FUTA); and

(c) State unemployment taxes (SUTA) ~~((when applicable))~~.

(5) If an in-home/relative provider receives less than the wage base limit per family in a calendar year, DSHS refunds all withheld taxes to the provider.

NEW SECTION

WAC 170-290-0250 Eligible provider capacity and payment. (1) DSHS may pay:

(a) Licensed and certified providers for authorized care up to the provider's licensed capacity as determined under WAC 170-151-

080, 170-295-0080, or 170-296A-5700, as appropriate; and

(b) In-home/relative providers for authorized care up to a maximum of six eligible children as provided in WAC 170-290-0138(6).

(2) Licensed providers may not bill the state for more than the number of children they have in their licensed capacity and who are authorized to receive child care subsidies.

(3) A violation of subsection (2) of this section may:

(a) Result in the immediate suspension of the provider's subsidy payments; and

(b) Establish a provider overpayment as provided in WAC 170-290-0268.

(4) As used in this section, "capacity" has the same meaning as defined in WAC 170-151-010, 170-295-0010, and 170-296A-0010.

AMENDATORY SECTION (Amending WSR 09-22-043, filed 10/28/09, effective 12/1/09)

WAC 170-290-0268 Payment discrepancies--Provider overpayments. (1) An overpayment occurs when a provider receives payment that is more than the provider is eligible to receive. Provider overpayments are established when that provider:

(a) Bills and receives payment for services not provided;

(b) Bills without attendance records that support their billing;

(c) Bills and receives payment for more than they are eligible to bill; ~~((or))~~

(d) With respect to license-exempt providers, bills the state for more than six children at one time during the same hours of care; or

(e) With respect to licensed or certified providers (~~only~~):

(i) Bills the state for more than the number of children they have in their licensed capacity; or

(ii) Is caring for a WCCC child outside their licensed allowable age range without (~~a waiver~~) a DEL-approved exception; or

(f) With respect to certified providers caring for children in a state bordering Washington:

(i) Is determined not to be in compliance with their state's licensing regulations; or

(ii) Fails to notify DSHS within ten days of any suspension, revocation, or change to their license.

(2) (~~DEL's or DSHS's WCCC program staff~~) DEL or DSHS may request documentation from a provider when preparing to establish an overpayment. The provider has fourteen consecutive calendar days to supply any requested documentation.

(3) Providers are required to repay any payments that they were not eligible to receive.

(4) If an overpayment was made through departmental error, the provider is still required to repay that amount.

AMENDATORY SECTION (Amending WSR 09-22-043, filed 10/28/09, effective 12/1/09)

WAC 170-290-0271 Payment discrepancies--Consumer overpayments. (1) DSHS establishes overpayments for past or current consumers when the consumer:

- (a) Received benefits when he or she was not eligible;
- (b) Used care for an unapproved activity or for children not in his or her WCCC household;
- (c) Failed to report information to DSHS resulting in an error in determining eligibility, amount of care authorized, or copayment;
- (d) Used a provider that was not eligible per WAC 170-290-0125; or
- (e) Received benefits for a child who was not eligible per WAC 170-290-0015 or 170-290-0020.

(2) (~~DEL's or DSHS's staff~~) DEL or DSHS may request documentation from a consumer when preparing to establish an overpayment. The consumer has fourteen consecutive calendar days to supply any requested documentation.

(3) Consumers are required to repay any benefits paid by DSHS that they were not eligible to receive.

(4) If an overpayment was made through departmental error, the consumer is still required to repay that amount.

(5) If a consumer is not eligible under WAC 170-290-0032 and the provider has billed correctly, the consumer is responsible for the entire overpayment, including any absent days.

AMENDATORY SECTION (Amending WSR 11-12-078, filed 5/31/11, effective 7/1/11)

WAC 170-290-3530 Verifying consumers' information. DSHS (~~staff verify~~) verifies a consumer's information as provided in WAC 170-290-0012.

AMENDATORY SECTION (Amending WSR 11-12-078, filed 5/31/11, effective 7/1/11)

WAC 170-290-3560 Consumers' rights. When a consumer applies for or receives SCC program subsidies, he or she has the right to:

(1) Be free from discrimination in accordance with all applicable federal and state nondiscrimination laws, regulations and policies;

(2) Have the consumer's application accepted and acted upon within thirty days;

(3) Be informed, in writing, of the consumer's legal rights and responsibilities related to the SCC subsidy program;

(4) Have the consumer's information shared with other agencies only when required by federal or state regulations;

(5) Be allowed to choose a licensed or certified child care provider as long as the provider meets requirements in WAC 170-290-3750;

(6) Receive a written notice at least ten days before changes are made to lower or stop benefits except as stated in WAC 170-290-3730;

(7) Ask for an administrative hearing if the consumer does not agree with a decision per WAC 170-290-3860;

(8) Ask to speak to a supervisor or administrator at DSHS to review a decision or action affecting the consumer's benefits without affecting the consumer's right to an administrative hearing;

(9) Have interpreter or translator services provided by DSHS within a reasonable amount of time and at no cost to the consumer;

(10) Refuse to speak to a fraud early detection (FRED) investigator from the DSHS (~~(division)~~) office of fraud (~~(investigations (DFI))~~) and accountability (OFA) when they ask to come into your home. This request will not affect eligibility for SCC program subsidies. If the consumer refuses to cooperate with the investigator at a later date, it could affect his or her SCC program subsidies;

(11) Access his or her child at all times while the child is in child care;

(12) Terminate child care without cause and without notice to the provider. Notice must be given to DSHS within five days of termination; (~~and~~)

(13) Not be charged by the consumer's licensed or certified provider, or be made to pay, for(~~:-~~

~~(a))~~ the difference between the child care provider's private rate and the state maximum child care subsidy rate, when ((their)) the provider's private rate for child care ((or the registration fee)) is higher than the maximum state rate; and

(14) Not be charged by the consumer's licensed or certified provider, or be made to pay for:

(a) The difference between the provider's registration fee and the state's maximum registration fee, when the provider's registration fee is higher;

(b) Any day when the consumer's child is absent;

(c) Vacation days when the provider chooses to close;

- (d) A higher amount than the state allows for field trips;
- (e) A preschool tuition fee in addition to regular child care services; or
- (f) Child care services after the final day of care, when the provider (~~((chooses to))~~) stops caring for the consumer's children.

AMENDATORY SECTION (Amending WSR 11-12-078, filed 5/31/11, effective 7/1/11)

WAC 170-290-3565 Consumers' responsibilities. When a ~~((consumer))~~ person applies for or receives SCC program subsidies, ~~((he or she))~~ the applicant or consumer must, as a condition of receiving those subsidies:

(1) Give DSHS correct and current information so that DSHS can determine the consumer's eligibility and authorize child care payments correctly;

(2) Choose a licensed or certified child care provider who meets requirements of WAC 170-292-3750;

(3) Leave the consumer's children with his or her provider while the consumer is in SCC approved activities outside of the consumer's home;

(4) Pay the provider for child care services when the consumer requests additional child care for personal reasons other than working or participating in SCC approved activities that have been authorized by DSHS;

(5) Pay the provider for optional child care programs for the child that the consumer requests. The provider must have a written policy in place charging all families for these optional child care programs;

(6) ~~Pay((, or make arrangements for someone to pay, the consumer's SCC))~~ the copayment directly to the child care provider or arrange for a third party to pay the copayment directly to the provider;

(7) In cases of overdue or past due copayments, the consumer, as a condition of maintaining his or her eligibility, must do one or more of the following:

(a) Pay past or overdue copayments;

(b) Give DSHS a written agreement between the provider and consumer to verify that copayment arrangements include one or more of the following:

(i) An installment payment plan;

(ii) A collection agency payment plan;

(iii) In-kind services in lieu of paying the copayment; or

(iv) Forgiveness of the copayment from the provider; or

(c) Provide proof that the consumer has attempted to pay a copayment to a licensed provider who is no longer in business or a license-exempt provider who is no longer providing child care. "Proof" includes, but is not limited to, a return receipt that was signed for and not responded to, or a returned document that was

not picked up;

(8) Pay the provider the same late fees that are charged to other families, if the consumer pays a copayment late or picks up the child late;

~~((8) Sign his or her children in and out of child care as provided in WAC 170-295-7030, 170-296-0520, or 170-151-460, as applicable, for that type of provider; and))~~

(9) Document their child's attendance in subsidized child care by having the consumer or other person authorized by the consumer to take the child to or from child care:

(a) If the licensee uses a paper attendance record, sign the child in on arrival and sign the child out at departure, using their full signature and writing the time of arrival and departure;
or

(b) Record the child's attendance using an electronic system if used by the licensee;

(10) Provide the information requested by the ((DSHS)) fraud early detection (FRED) investigator from the DSHS office of fraud and accountability (OFA). If the consumer refuses to provide the information requested within fourteen days, it could affect his or her SCC program subsidies. If DSHS determines a consumer is not cooperating by supplying the requested information, the consumer will not be eligible for SCC program subsidies. The consumer may become eligible again when he or she meets SCC program requirements in part III of this chapter;

(11) Seek child support enforcement services from the DSHS division of child support, unless DSHS finds that the applicant or consumer has good cause not to cooperate as defined under WAC 388-422-0020 or as provided in (a) of this subsection.

(a) For the purposes of this subsection, "good cause" also includes the following:

(i) The applicant or consumer has a current court or administrative order showing the child support amount ordered on behalf of the child who will receive the child care subsidy benefits;

(ii) The applicant or consumer already complies with child support enforcement services, either voluntarily or to meet other public assistance benefits requirements;

(iii) The applicants or consumers are married parents, or unmarried two-parent families with a child in common needing child care living in the same household;

(iv) The applicant or consumer is a single-parent family when the other parent is deceased;

(v) The applicant or consumer is a single-parent family when the other parent is incarcerated for one year or longer;

(vi) The applicants or consumers are both minor parents; or

(vii) The DSHS division of child support does not have jurisdiction over the child support case, such as for tribal child support cases, child support cases in other states, or cases outside of the United States, whether or not the division of child support has a reciprocal agreement with that jurisdiction.

(b) Child support ordered on behalf of a child who will receive child care subsidy benefits does not affect the other

children in the family who are not receiving child support. All other family size rules in WAC 170-290-0015 apply; and

(12) Ensure that their children who receive subsidized child care outside of their own home are current on all immunizations required under WAC 246-105-030, except when the parent or guardian provides:

(a) A department of health (DOH) medical exemption form signed by a health care professional; or

(b) A DOH form or similar statement signed by the child's parent or guardian expressing a religious, philosophical or personal objection to immunization.

NEW SECTION

WAC 170-290-3566 Subsidized child care providers' responsibilities. Licensed or certified child care providers who accept SCC subsidies must do the following:

(1) Comply with all of the DEL child care licensing or certification requirements as provided in chapter 170-295, 170-296A, or 170-151 WAC;

(2) Report pending charges or convictions to DSHS as provided in chapter 170-295, 170-296A, or 170-151 WAC;

(3) Keep complete and accurate daily attendance records for children in their care; and allow access to DEL or DSHS to inspect attendance records during all hours in which authorized child care is provided as follows:

(a) Current attendance records (including records from the previous twelve months) must be available immediately for review upon request by DSHS or DEL.

(b) Attendance records older than twelve months to five years old must be provided to DSHS or DEL within two weeks of the date of a written request from either department.

(c) Failure to make available attendance records as provided in this subsection may:

(i) Result in the immediate suspension of the provider's subsidy payments; and

(ii) Establish a provider overpayment as provided in WAC 170-290-0268;

(4) Allow consumers access to their child at all times while the child is in care;

(5) Collect copayments directly from the consumer or the consumer's third-party payor, and report to DSHS if the consumer has not paid a copayment to the provider within the previous sixty days;

(6) Follow billing procedures as described in "*Child Care Subsidies: A Booklet for Licensed and Certified Child Care Providers*" revised 2012, including billing only for actual hours of child care provided or allowed under WCCC billing guidelines;

- (7) Not claim a payment in any month in which a child has not attended at least one day in that month;
- (8) Invoice the state no later than one calendar year after the actual date of service;
- (9) Not charge subsidized families for:
 - (a) The difference between the provider's customary rate and the maximum allowed state rate;
 - (b) Registration fees in excess of what is paid by subsidy program rules;
 - (c) Absence days in excess of five days per month, regardless of whether the child attended or not;
 - (d) Handling fees to process consumer copayments, child care services payments, or paperwork;
 - (e) Fees for materials, supplies, or equipment required to meet licensing rules and regulations; or
 - (f) Child care or fees related to subsidy billing invoices that are in dispute between the provider and the state; and
- (10) For providers who care for children in states bordering Washington, verify that they are currently complying with their state's licensing regulations, and notify DSHS within ten days of any suspension, revocation, or changes to their license.

AMENDATORY SECTION (Amending WSR 11-12-078, filed 5/31/11, effective 7/1/11)

WAC 170-290-3580 Failure to report changes. (1) If a consumer fails to report any changes as required in WAC 170-290-3570 within the stated time frames, DSHS may establish an overpayment to the consumer per WAC 170-290-3850 or the consumer may have to pay additional costs, such as a higher copayment.

(2) The consumer may receive an overpayment for what the provider is allowed to bill to include billing for absent days (see publication *Child Care Subsidies, A Booklet for Licensed and Certified Child Care Providers*, (~~DEL 22-877~~) revised ((2010) 2012)).

AMENDATORY SECTION (Amending WSR 11-12-078, filed 5/31/11, effective 7/1/11)

WAC 170-290-3590 DSHS's responsibilities to consumers. DSHS ((staff)) must:

- (1) Treat consumers in accordance with all applicable federal and state nondiscrimination laws, regulations and policies;
- (2) Complete applications for SCC program subsidies based on

information the consumer provides, and determine a consumer's eligibility within thirty days from the date the consumer applied;

(3) Accept a variety of forms of verification and may not specify the type of documentation required;

(4) Authorize payments only to a licensed or certified child care provider the consumer chooses who meets the requirements in WAC 170-290-3750;

(5) Authorize payments only when no adult in a consumer's family (under WAC 170-290-3540) is able or available to care for the consumer's children as defined in WAC 170-290-3550;

(6) Inform a consumer of:

(a) The consumer's copayment amount as determined in WAC 170-290-3620 and defined in WAC 170-290-0075;

(b) The consumer's rights and responsibilities under the SCC program when he or she applies or reapplies;

(c) The types of child care providers the SCC program will pay;

(d) The community resources that can help the consumer select child care when needed;

(e) Other options for child care subsidies, if the consumer does not qualify for SCC program subsidies; and

(f) The consumer's rights to an administrative hearing;

(7) Provide prompt child care authorizations to a consumer's child care provider;

(8) Respond to a consumer within ten days if the consumer reports a change of circumstance that affects the consumer's:

(a) SCC eligibility;

(b) Copayment; or

(c) Providers; and

(9) Provide an interpreter or translator service at no cost to the consumer to explain information related to the SCC program.

AMENDATORY SECTION (Amending WSR 11-12-078, filed 5/31/11, effective 7/1/11)

WAC 170-290-3610 Countable income. DSHS counts income as money a consumer earns or receives from:

(1) Wages and commissions earned from employment;

(2) Unemployment compensation;

(3) ~~((A TANF or other welfare grant;~~

~~(4))~~ The following child support payment((s received)) amounts:

(a) For applicants or consumers who are not receiving DSHS division of child support services because they are exempt for good cause under WAC 170-290-3565 (11)(a), the amount as shown on a current court or administrative order; or

(b) For applicants or consumers who are receiving DSHS division of child support services, the amount as verified by the DSHS division of child support;

~~((5))~~ (4) Supplemental Security Income (SSI);
~~((6))~~ (5) Other Social Security payments, such as Social Security Administration (SSA) and Social Security disability insurance (SSDI);
~~((7))~~ (6) Refugee assistance payments;
~~((8))~~ (7) Payments from the Veterans' Administration;
~~((9))~~ (8) Pensions or retirement income;
~~((10))~~ (9) Payments from labor and industries (L&I), or disability payments;
~~((11))~~ (10) Lump sums as money a consumer receives from a one-time payment such as back child support, an inheritance, or gambling winnings;
~~((12))~~ (11) Other types of income not listed in WAC 170-290-3630; and
~~((13))~~ (12) Gross wages from employment or self-employment income as defined in WAC 170-290-0003. Gross wages include any wages that are taxable.

AMENDATORY SECTION (Amending WSR 11-12-078, filed 5/31/11, effective 7/1/11)

WAC 170-290-3660 Eligibility period. (1) A consumer who meets all of the requirements of part III of this chapter is eligible ~~((for))~~ to receive SCC subsidies for six months before having to redetermine his or her income eligibility. The six-month eligibility period applies only if enrollments in the SCC program are capped as provided in WAC 170-290-0001(1) and 170-290-3501. Regardless of the length of eligibility, consumers are still required to report changes of circumstances to DSHS as provided in WAC 170-290-3570.

(2) A consumer's eligibility may be for less than six months if requested by the consumer.

(3) A consumer's eligibility may end sooner than six months if:

- (a) The consumer no longer wishes to participate in SCC; or
- (b) DSHS terminates the consumer's eligibility as stated in WAC 170-290-3855.

NEW SECTION

WAC 170-290-3800 Eligible provider capacity and payment. (1) DSHS may pay licensed and certified providers for authorized care up to the provider's licensed capacity as determined under WAC 170-151-080, 170-295-0080, or 170-296A-5700, as appropriate.

(2) Licensed providers may not bill the state for more than the number of children they have in their licensed capacity and who are authorized to receive child care subsidies.

(3) A violation of subsection (2) of this section may:

(a) Result in the immediate suspension of the provider's subsidy payments; and

(b) Establish a provider overpayment as provided in WAC 170-290-0268.

(4) As used in this section, "capacity" has the same meaning as defined in WAC 170-151-010, 170-295-0010, and 170-296A-0010.

AMENDATORY SECTION (Amending WSR 11-12-078, filed 5/31/11, effective 7/1/11)

WAC 170-290-3855 Termination of and redetermining eligibility for SCC program subsidies. (1) A consumer's continued eligibility for SCC program subsidies stops when:

(a) The consumer's monthly copayment is equal to or higher than the state maximum monthly child care rate for all of the consumer's children in care; or

(b) The consumer:

(i) Is not participating in an approved activity as defined in WAC 170-290-3555;

(ii) Does not meet other SCC eligibility requirements related to family size, income and approved activities;

(iii) Does not ~~((pay the copayment fees to the consumer's child care provider or does not make mutually acceptable arrangements with the consumer's child care provider for payment))~~ comply with the copayment requirements of WAC 170-290-3565 (6) and (7); or

(iv) Refuses to cooperate with ~~((investigations conducted by quality assurance staff))~~ the child care subsidy audit process or the ~~((division))~~ DSHS office of fraud ~~((investigations))~~ and accountability (OFA).

(2) A consumer might be eligible for SCC program subsidies again ~~((when))~~ beginning on the date that the consumer:

(a) ~~((The consumer))~~ Meets all SCC program eligibility requirements;

(b) ~~((The consumer pays back copayment fees or made mutually acceptable payment arrangements with his or her child care provider; or))~~ Complies with the copayment requirements of WAC 170-290-3565(6); and

(c) ~~((The consumer cooperated with the quality assurance review process or with the DSHS division of fraud investigations.))~~ Cooperates with the child care subsidy audit process or with the DSHS office of fraud and accountability (OFA).

AMENDATORY SECTION (Amending WSR 08-08-012, filed 3/19/08, effective 4/19/08)

WAC 170-295-0030 (~~What must I do to be eligible~~)
Eligibility to receive state child care subsidies((?)). To be eligible to receive state child care subsidies for children in ((your)) their care ((you)), individuals, entities and agencies must:

- (1) Be licensed or certified;
- (2) Be a seasonal camp that has a contract with ((us)) DEL and is certified by the American Camping Association;
- (3) Follow billing policies and procedure in *Child Care Subsidies: A Booklet for Licensed and Certified Child Care Providers*, (~~DEL 22-877~~) revised 2012;
- (4) Bill ((us)) at ((your)) the individual's, entity's, or agency's customary rate or the state rate, whichever is less; and
- (5) Keep ((the)) attendance records as described in WAC 170-295-7030 and ((the)) invoices for state-paid children on-site for at least five years as provided in WAC 170-295-7031.

AMENDATORY SECTION (Amending WSR 06-15-075, filed 7/13/06, effective 7/13/06)

WAC 170-295-7010 (~~What~~) **Information ((must)) to be kept in the child's individual file((?)).** (1) ((You)) Licensees must keep current organized confidential records and information about each child in care on the premises(~~. You~~) as provided in WAC 170-295-7031, and must make sure that each child's record contains, at a minimum:

- (a) Completed enrollment application signed by the parent;
- (b) Name, birth date, dates of enrollment and termination, and other identifying information;
- (c) Name, address, and home and business telephone number of the parent and other person to be contacted in case of an emergency;
- (d) Health history;
- (e) Individual plan of care when needed for chronic health conditions and life threatening medical conditions;
- (f) Written consent from the parent for ((you)) the licensee to seek and approve medical care in an emergency situation, a court order waiving the right of informed consent, or the parent's alternate plans for emergency medical and surgical care if the parent can not be reached;

(g) Information on how to contact the parents, especially in emergencies;

(h) Instructions from the parent or health care providers related to medications, specific food or feeding requirements, allergies, treatments, and special equipment or health care needs if necessary;

(i) Written records of any illness or injury that occurs during child care hours and the treatment provided; and

(j) Written records of any medications given while the child is at child care.

(2) (~~You~~) Licensees must include the following authorizations in each child's record:

(a) Name, address, and telephone number of the person authorized to remove the child from the center;

(b) Written parental consent for transportation to and from school; and

(c) Written parental consent for transportation provided by the center to and from field trips, including field trip location, date of trip, departure and arrival times and any other additional information on which the parent may need to be advised (~~of~~).

(3) (~~You can~~) Licensees may use any health history form (~~you~~) that the licensee chooses as long as it includes:

(a) The date of the child's last physical exam or the date the child was last seen by a health care provider for reasons other than immunizations;

(b) Allergies, expected symptoms, and method of treatment if necessary;

(c) Health and developmental concerns or issues;

(d) Any life threatening medical condition that requires an individual health plan;

(e) A list of current medications used by the child;

(f) Name, address, and phone number of the child's health care provider; and

(g) Name, address, and phone number of the child's dentist, if the child has a dentist.

(4) The individual records, including the certificate of immunization status, must be kept on the premises:

(a) For each child currently in care; and

(b) For (~~one~~) five years after the child leaves (~~your~~) enrollment in the licensee's care.

AMENDATORY SECTION (Amending WSR 06-15-075, filed 7/13/06, effective 7/13/06)

WAC 170-295-7030 (~~What type of~~) Attendance records (~~do I have to keep?~~). (~~You~~) Licensees must keep daily attendance records.

(1) The parent or other person authorized by the parent to

take the child to or from the center must:

(a) Sign in the child on arrival and sign out the child at departure, using their full ((legal)) signature and writing the time of arrival and departure; or

(b) Record the child's attendance using an electronic system if used by the licensee under WAC 170-295-7032;

(2) When the child leaves the center to attend school or participate in offsite activities as authorized by the parent, ((you or your)) the licensee or staff must sign out the child, and sign in the child on return to the center; and

(3) Paper and electronic attendance records and invoices for state ((paid)) subsidized children must be kept on the premises for at least five years after the child leaves ((your)) the licensee's care as provided in WAC 170-295-7031.

NEW SECTION

WAC 170-295-7031 Recordkeeping--Records available to the department. The licensee must keep all records required in this chapter for a minimum of five years:

(1) Current records (including records from the previous twelve months) must be kept in the licensed space and be available for the department's review.

(2) Records older than twelve months to five years old must be provided to the department within two weeks of the date of the department's written request.

NEW SECTION

WAC 170-295-7032 Electronic attendance records--Records retention. (1) Licensees may use an electronic system to record attendance in lieu of a paper sign-in record.

(2) If an electronic system is used to record attendance, it must record either an electronic signature, swipe card, personal identification number (PIN), biometric reader, or similar action by the parent or designee when signing the child in and out of the licensee's care.

(3) The electronic system selected must ensure the authenticity, confidentiality, integrity, security, accessibility, and protection against repudiation of the electronic records, and must be able to:

(a) Produce an authentic, verifiable written record for each transaction upon demand that complies with all legal and other requirements regarding the record's structure, content, and time of

creation or receipt;

(b) Authenticate (prove the identity of) the sender of the record and ensure that the electronic record has not been altered;

(c) Uniquely identify each record;

(d) Capture an electronic record for each transaction conducted;

(e) Maintain the integrity of electronic records as captured or created so that they can be accessed, displayed, and managed as a unit;

(f) Retain electronic records in an accessible form for their legal minimum retention period;

(g) Search and retrieve electronic records in the normal course of business throughout their entire legal minimum retention period;

(h) Produce authentic copies of electronic records and supply them in useable formats, including hard copies, for business purposes and all public access purposes;

(i) Develop an approach to maintain the authenticity and integrity of electronically signed electronic records;

(j) Ensure that the electronic system performs in an accurate, reliable, and consistent manner in the normal course of business; and

(k) Limit system access to authorized individuals and for authorized purposes, and maintain physical and environmental security controls.

(4) Electronic attendance records must contain all of the information necessary to reproduce the entire electronic record and associated signatures in a form that permits the person viewing or printing the entire electronic record to verify:

(a) The contents of the electronic record;

(b) The method used to sign the electronic record, if applicable;

(c) The person signing the electronic record; and

(d) The date when the signature was executed.

(5) As used in this section:

"Electronic record" means a record generated, communicated, received, or stored by electronic means for use in an information system or for transmission from one information system to another.

"Electronic signature" means a signature in electronic form attached to or logically associated with an electronic record including, but not limited to, a digital signature. An electronic signature is a paperless way to sign a document using an electronic sound, symbol, or process, attached to or logically associated with a record, and executed or adopted by a person with the intent to sign the record.

"Sign" includes signing by physical signature, if available, or electronic signature.

AMENDATORY SECTION [Amending WSR 11-23-068, filed 11/14/11, effective 3/31/12]

WAC 170-296A-2125 Child attendance records--Staff to child ratio records. The licensee must also keep records of:

(1) Daily attendance for each child counted in capacity that includes the:

(a) Child's dates of attendance;

(b) Time the child arrives or returns to the child care, including signature of the person authorized by the child's parent or guardian to sign the child in; and

(c) Time the child leaves from the licensee's care including signature of the person authorized by the child's parent or guardian to sign the child out; ~~((and))~~

(2) Names of staff being counted to meet the daily staff-to-child ratio requirements; and

(3) Electronic attendance records if the child's attendance is recorded using an electronic system under WAC 170-296A-2126.

NEW SECTION

WAC 170-296A-2126 Electronic attendance records; records retention. (1)

Licensees may use an electronic system to record attendance in lieu of a paper sign-in record.

(2) If an electronic system is used to record attendance, it must record either an electronic signature, swipe card, personal identification number (PIN), biometric reader, or similar action by the parent or designee when signing the child in and out of the licensee's care.

(3) The electronic system selected must ensure the authenticity, confidentiality, integrity, security, accessibility, and protection against repudiation of the electronic records, and must be able to:

(a) Produce an authentic, verifiable written record for each transaction upon demand that complies with all legal and other requirements regarding the record's structure, content, and time of creation or receipt;

(b) Authenticate (prove the identity of) the sender of the record and ensure that the electronic record has not been altered;

(c) Uniquely identify each record;

- (d) Capture an electronic record for each transaction conducted;
 - (e) Maintain the integrity of electronic records as captured or created so that they can be accessed, displayed, and managed as a unit;
 - (f) Retain electronic records in an accessible form for their legal minimum retention period;
 - (g) Search and retrieve electronic records in the normal course of business throughout their entire legal minimum retention period;
 - (h) Produce authentic copies of electronic records and supply them in useable formats, including hard copies, for business purposes and all public access purposes;
 - (i) Develop an approach to maintain the authenticity and integrity of electronically signed electronic records;
 - (j) Ensure that the electronic system performs in an accurate, reliable, and consistent manner in the normal course of business; and
 - (k) Limit system access to authorized individuals and for authorized purposes, and maintain physical and environmental security controls.
- (4) Electronic attendance records must contain all of the information necessary to reproduce the entire electronic record and associated signatures in a form that permits the person viewing or printing the entire electronic record to verify:
- (a) The contents of the electronic record;
 - (b) The method used to sign the electronic record, if applicable;
 - (c) The person signing the electronic record; and
 - (d) The date when the signature was executed.
- (5) As used in this section:

"Electronic record" means a record generated, communicated, received, or stored by electronic means for use in an information system or for transmission from one information system to another.

"Electronic signature" means a signature in electronic form attached to or logically associated with an electronic record including, but not limited to, a digital signature. An electronic signature is a paperless way to sign a document using an electronic sound, symbol, or process, attached to or logically associated with a record and executed or adopted by a person with the intent to sign the record.

"Sign" includes signing by physical signature, if available, or electronic signature.