

HAWAII ADMINISTRATIVE RULES

TITLE 17

DEPARTMENT OF HUMAN SERVICES

SUBTITLE 6

BENEFIT, EMPLOYMENT AND SUPPORT SERVICES DIVISION

CHAPTER 798.3

CHILD CARE PAYMENTS

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Historical Note: Chapter 17-798.3 is based substantially upon chapter 17-798.2, Child Care Services [Eff 03/08/08; am 01/22/10; am and comp 12/31/17; R ]

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## SUBCHAPTER 1

### GENERAL PROVISIONS

**§17-798.3-1 Purpose.** The purpose of this subchapter is to establish the rules governing the administration and implementation of the child care block grant authorized under 42 U.S.C. §9858 and 42 U.S.C. §618. This subchapter includes eligibility requirements, benefit amount, and method of

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determining child care payments for the department's federal child care subsidy program. [Eff AUG 06 2021]  
] (Auth: HRS §346-14) (Imp: HRS §346-14, 45 C.F.R. §98.1)

**§17-798.3-2 Definitions.** As used in this chapter:

"Accredited" means a group child care center, group child care home, or family child care home, that is certified by the National Association for the Education of Young Children (NAEYC), the National Early Childhood Program Accreditation (NECPA), or the National Association for Family Child Care (NAFCC) to meet accreditation standards.

"Activity" means employment, education, or vocational or employment training.

"Adequate notice" means a written notice that includes:

- (1) A statement of the action the agency has taken or intends to take;
- (2) The reason for the intended action;
- (3) The specific departmental rules supporting the intended action;
- (4) The name and telephone number of the person in the department to contact for additional information;
- (5) The family unit's right to request an informal review, an administrative appeal, or both; and
- (6) Information on the availability of free legal representation, if applicable.

"After-school care" means child care provided after the end of the regular school day during the academic year for eligible children kindergarten age and above who are enrolled in public or private elementary schools.

"Application" means the action by which an individual indicates on a form prescribed by the department a request to receive child care payments.

"Attending" means enrolled and participating in a job training or educational program as defined by the institution, agency, or business that sponsors the program.

"Background check" means a review of a person's background information pursuant to chapter 17-801.

"Before-school care" means a child care provided before the start of the regular school day during the academic year for eligible children kindergarten age and above who are enrolled in public or private elementary schools.

"Benefit month" means the calendar month for which the caretaker is eligible for a child care payment.

"Budget month" means the calendar month(s) from which the child care expense, hours of approved activity and child care need, and income of the family unit are used to compute the payment amount that the family unit shall receive in the payment month.

"Caregiver" means any individual who is responsible for the physical well-being, health, safety, supervision, and guidance of children in child care.

"Caretaker" means an adult, or an emancipated minor, who resides with and is responsible for the care of a child, and who is a birth, hanai, foster, or adoptive parent, guardian, permanent custodian, step-parent, or relative who is related to the child by blood, marriage, or adoption, or a person authorized by the caretaker through a power of attorney valid for a period not to exceed twelve months. The caretaker designation may remain even when the caretaker is temporarily absent from the home as long as the caretaker continues to maintain responsibility for the care, education, and financial support of the child. This includes a foster parent who may not be providing financial support to the child but may be receiving support for the child from a private or public agency. This also includes minor teen parents who are birth parents to the child but cannot apply for child care payments themselves and must have an adult apply on their behalf.

"Child" means any person who has not reached the age of eighteen years, excluding emancipated minors.

"Child care" means those situations in which a person or child care facility has agreed to assume the responsibility for the child's supervision, development, safety, and protection apart from and in the absence of the child's caretaker, for any part of a twenty-four hour day. Child care may be provided out of the child's home by relatives or non-relatives, in the child's home by relatives or non-relatives, in a family child care home, in a group child care home, in a group child care center, or in an exempt center-based facility.

"Child care facility" means the same as under section 346-151, Hawaii Revised Statutes (HRS).

"Child protective services" means social services provided by the department pursuant to chapter 17-1610, to children who reside with their family unit and are:

- (1) confirmed to have been abused or neglected, or
- (2) confirmed to have been threatened with abuse or neglect.

"Citizen or national of the United States of America" means a citizen of the United States and shall include:

- (1) The fifty states, the District of Columbia, Puerto Rico, Guam, the U.S. Virgin Islands, and the Northern Mariana Islands; and
- (2) Nationals from American Samoa and Swain's Island.

"Compliance" means conformity in fulfilling the requirements of this chapter.

"Co-payment" means the family unit's share of the child care expense which is the difference between the maximum payment amount allowed for the type and amount of care up to the department's child care payment rate maximum, and the amount the family unit is determined to be eligible for by the department.

"Corrective payment" means a payment issued by the department in an amount equal to the difference between what a caretaker is entitled to receive by regulation and the amount they actually received.

"Department" means the department of human services or its designee.

"Educational program" means a curriculum that has been established by an institution, agency, or business for the purpose of the development of skills or academic study necessary for an identified occupation.

"Eligibility period" means a period established by the department, not less than 12 months, during which the household may be eligible for child care payments if it meets all of the eligibility requirements.

"Employed" means the caretaker is engaged in a legal activity in exchange for wages or salary for which the appropriate tax withholding and reporting are made.

"Essential person" means a needy person designated by the caretaker to be included in the TANF household that receives a public-funded financial assistance payment, who is ineligible in the person's own right for TANF, who is designated by the caretaker as being essential to the caretaker's well-being, and who performs a service that would not otherwise be performed or that would otherwise have to be purchased if the person did not live in the TANF household.

"Exempt after-school care" means child care provided by a before and after-school care facility legally-exempt in accordance with chapter 17-800, after the end of the regular school day during the academic year for eligible children kindergarten age and above who are enrolled in public or private elementary, middle, or secondary schools.

"Exempt before-school care" means child care provided by a before and after-school care facility legally-exempt in accordance with chapter 17-800, after the end of the regular school day during the

academic year for eligible children kindergarten age and above who are enrolled in public or private elementary, middle, or secondary schools.

"Exempt provider" means a person or facility providing legally-exempt child care, in accordance with section 346-152, HRS. It also includes all adult household members when child care is provided in a private residence that is not the child's residence, all staff employed at a child care facility, any volunteers or substitutes who provide care for children for ten hours or more per week, and any other individuals who have unsupervised access to children in care.

"Experiencing homelessness" means the following:

- (1) Lack a fixed, regular, and adequate nighttime residence;
- (2) Are sharing the housing of other persons due to loss of housing, economic hardship, or a similar reason, are living in motels, hotels, or camping grounds due to the lack of alternative adequate accommodations, are in emergency or transitional shelters, are abandoned in hospitals;
- (3) Have a primary nighttime residence that is a public or private place not designed for or ordinarily used as a regular sleeping accommodation for human beings;
- (4) Are living in cars, parks, public spaces, abandoned buildings, substandard housing, bus or train station, or similar settings; or
- (5) Are migratory children (as such term is defined in section 1309 of the Elementary and Secondary Education Act of 1965).

"Extended filing period" means the additional ten days that households are allowed to submit required information or missing verification to justify continued child care eligibility. See section 17-798.3-18(a)(1)(C).

"Family child care home" means any private residence at which care is provided at any given time to six or fewer children, as defined in section 346-151, HRS.



"Family unit" means the caretakers and their minor children who reside together in the same household and whose needs and income are considered in determining eligibility for, and the amount of, child care payment.

"Federal fiscal year" means a period beginning October 1 and ending September 30.

"Federal Poverty Guidelines" or "FPG" means the poverty guidelines for Hawaii that are established in the Federal Register by the U.S. Department of Health and Human Services under the authority of 42 U.S.C. §9902(2) and cited in the Child Care and Development Fund Plan for State of Hawaii that is approved by the Administration for Children and Families, U.S. Department of Health and Human Services, pursuant to C.F.R. §§98.14 to 98.18.

"First-to-Work" or "FTW" means the work programs administered by the department for recipients of TANF.

"Full-time care" means child care provided for eighty-seven hours and more per month, except for before-school and after-school care.

"Gross income" means all non-excluded earned and unearned income as specified in this chapter.

"Group child care center" means a facility, other than a private home, at which care is provided, as defined in section 346-151, HRS. The term may include nurseries; preschools; parent cooperatives; drop-in child care centers; before-school and after-school programs; holiday, intersession and summer care for eligible school age children; or other similar care settings that are established to provide group care to a child for any part of a twenty-four hour day and is license-exempt or licensed by the department. For the purposes of this chapter, group child care center shall also include "infant and toddler center" in which child care is provided to children ages six weeks to thirty-six months of age in a group child care center care or group child care home and is licensed under chapter 17-895.

"Group child care home" means a facility which may be an extended or modified private home, at which

care is provided to seven to twelve children, as defined in section 346-151, HRS.

"Hanai" means a child who is taken permanently to be reared, educated, and loved by someone other than the natural parents at the time of the child's birth or early childhood. The child is given outright and the natural parents renounce all claims to the child. The natural parents cannot reclaim the child except for the death or serious injury of the hanai parents

"Hawaiian-medium center-based care" means any group child care center, as defined in section 346-151, HRS, with programs taught solely in the Hawaiian language that promote fluency in the Hawaiian language and is licensed by the department in accordance with section 346-162, HRS.

"Home-based child care" means department-registered family child care home providers, and legally-exempt care providers, including care by relatives, in any private residence.

"In-home care" means child care provided only to the eligible children in the family unit by an exempt provider in the home of the eligible children who require care in the absence of their caretakers due to a qualifying child care reason.

"Infant" means a child six weeks old up to and including twelve months old.

"Intersession care" means child care provided at breaks during the academic year for eligible children kindergarten age and above who are enrolled in public or private elementary, middle, or secondary schools, including summer care and holidays.

"Job training" or "vocational or employment training" means an organized training program (including community college and university education) established by an institution, agency, or business for the purpose of the development of skills or academic study necessary for an identified occupation.

"Legally-exempt care" or "exempt care" means child care which is exempt from licensure or registration by the department under section 346-152, HRS.

"Limited English proficiency" or "LEP" means limited ability in speaking, reading, writing, or understanding the English language by a person whose native language is a language other than English or by a person who lives in a family or community environment where a language other than English is the dominant language.

"Minor" means a person under eighteen years old.

"Monthly gross income limit" means eighty-five per cent of the State Median Income for a family of the same size.

"Net value" means the value of the assets after subtracting all liabilities.

"Non-recurring lump sum" means income that is not normally repeated or a cumulative amount received or available to be received by an individual. Educational loans, grants or scholarships shall not be considered as non-recurring lump sums.

"Overpayment" means the amount of payments issued to a caretaker for a benefit month that is in excess of the amount which the caretaker is eligible to receive. It also includes payments that are not used for their intended purpose.

"Part-time care" means child care provided for less than eighty-seven hours per month, except for before-school and after-school care when it is provided for less than 45 hours per month.

"Payment month" means the calendar month in which the child care payment is issued.

"Physical or mental incapacity" means a physical or mental condition that prevents a child from doing self-care, as determined by a State-licensed physician or psychologist.

"Physician" means an individual licensed by the State for the practice of medicine.

"Power of attorney" means a legal instrument authorizing another to act as one's agent or attorney-in-fact.

"Preschool" means a department-licensed group child care center or group child care home that provides services for children ages two years to six years old.

"Primary residence" means the single residence designated as the child's home.

"Prospective budgeting" means computation of the child care payment based on the worker's best estimate of the child care expense, child care need, and caretakers' activity hours and gross income that will exist in a calendar month. The best estimate shall be based on the worker's reasonable projection of future circumstances based on the family unit's past and current month's circumstances.

"Provider" means any individual eighteen years and older, caregiver, facility, agency, or organization, including exempt center-based providers, and their adult employees, including volunteers and substitutes, who provide direct care, supervision, and guidance to children apart from and in the absence of the child's caretaker for part of a twenty-four hour day. Providers are regulated by the department to provide child care or are legally exempt from child care licensure or registration by the department under §346-152, HRS.

"Relative" means related by blood, marriage, adoption, or hanai.

"Report month" means the calendar month that the simplified report form is due.

"Reside with" means an eligible child living in a home or family setting with the child's eligible caretaker.

"Responsible household member" means a reliable adult, included in the household, who can provide accurate information about the household's circumstances.

"Restored benefits" means the child care benefit issued to a caretaker whenever benefits for a prior period are not issued because of an error by the department.

"School age" means the chronological age of a child who is eligible to enroll in elementary, middle, or secondary schools.

"Self-employed" means an individual:

- (1) Is not subject to discharge from his or her job by another person;

- (2) Reports income to the Internal Revenue Service and the State as a self-employed person;
- (3) Meets social security requirements as a self-employed person and pays employer's and employee's share of social security taxes; and
- (4) Is not considered an employee of an agency or organization.

The individual must also generate income equivalent to twenty hours per week multiplied by 4.3333 weeks multiplied by State minimum wage at the time of eligibility and redetermination as having an eligible employment activity as self-employed.

"Simplified reporting" means the reporting requirement for caretakers who receive child care payments to provide information in the report month to determine continued eligibility as specified in section 17-798.3-18, and report changes as specified in section 17-798.3-17 that occur during the eligibility period.

"Simplified report form" means the report that a caretaker is required to complete for eligibility redetermination.

"State fiscal year" means a period beginning July 1 and ending June 30.

"State Median Income" means the official guidelines issued yearly in the Federal Register by the Secretary of Health and Human Services, Administration for Children and Families under the authority of 42 U.S.C. §8621, the Omnibus Budget Reconciliation Act of 1981. States are given discretion by the United States Department of Health and Human Services (DHHS) to utilize a median income from any particular year, if not from the current year, as long as the states indicate in their Child Care Development Fund (CCDF) State Plan the year used and the dates on which eligibility limits became or will become effective.

"Temporarily absent" means a period of up to ninety days when the caretaker is not residing in the

home with the child as a result of employment or job training commitments.

"Temporary Assistance for Needy Families" or "TANF" means the federal and state financial assistance and non-assistance programs administered by the department under 42 U.S.C. §§601-619 and section 346-14, HRS.

"Temporary change in activity" means a period of less than three months when the caretaker ceases to participate in any of the allowable activities specified under section 17-798.3-9(b)(3).

"Timely notice" means when the department mails a notice of adverse action at least ten calendar days prior to the effective date of the action.

"Toddler" means a child over twelve months old up to and including twenty-four months old.

"Transitional child care" means a program designed to provide child care payments for eligible families that terminated TANF financial assistance or non-assistance payments sponsored by the department to enable them to maintain self-sufficiency.

"Underpayment" means the amount of payments issued to a caretaker for a benefit month that is less than the amount which the caretaker was eligible to receive.

"Very low income" means gross income less than one hundred percent of the Federal Poverty Guidelines. [Eff **AUG 06 2021** ] (Auth: HRS §346-14) (Imp: HRS §346-151)

**§17-798.3-3 Confidentiality.** Requirements for confidentiality shall be as provided in chapter 17-601. [Eff **AUG 06 2021** ] (Auth: HRS §§346-10 and 346-14; 45 C.F.R. §205.50) (Imp: HRS §346-10; 45 C.F.R. §§205.50, 1391.3)

**§17-798.3-4 Geographical location.** All department-administered child care programs outlined

in this chapter may be made available to eligible clients on a statewide basis. [Eff AUG 06 2021 ]  
(Auth: HRS §346-14) (Imp: HRS §346-14)

**§17-798.3-5 Scope.** (a) Child care payments shall be for child care services that include, but are not limited to:

- (1) Supervision to assure the child's safety, comfort, and health;
- (2) Personal care as appropriate to the child's age and developmental maturity;
- (3) Activities appropriate to the child's age, developmental stage, and degree of physical or mental ability;
- (4) Health and nutritional services; and
- (5) Provision of child care by providers as defined in section 17-798.3-2.

(b) Child care payments shall not be allowed for educational services including, but not limited to:

- (1) Services provided to a child enrolled in or eligible for public education in kindergarten to twelfth grade during the regular school day, unless the child is out of school due to illness;
- (2) Services for which a child receives academic credit toward graduation;
- (3) Any instructional services that supplant or duplicate the academic program of any public or private school that is established for the purpose of compliance with the school attendance law of Hawaii; or
- (4) Services that provide specialized training or skill development to children, as indicated in section 346-152(a)(4), HRS.

(c) Child care payments shall only be used for services described in subsection (a). [Eff AUG 06 2021 ]  
(Auth: HRS §346-14) (Imp: HRS §346-14)



**§17-798.3-6 Application process.** (a) A request for child care payments shall be submitted on an application form prescribed by the department when required by a specific departmental program.

(b) The form shall be dated and signed by the caretaker under penalty of law that all the information needed to establish eligibility for child care payments, as stated on the form, is true and correct; provided that for child care payments needed for the care of a child of a minor parent, except for emancipated minors, the adult caretaker for the minor parent shall apply for child care payments.

(c) The caretaker shall submit copies of documents for verification of the information provided to establish eligibility of the program; provided that caretakers who are experiencing homelessness shall be subject to section 17-798.3-9(d)(4)(C).

(d) Only one caretaker shall be allowed to apply for child care payments when children reside in different households because of joint or shared custody.

(e) The date of application shall be the date the signed and dated application form is received by the department.

(f) The caretaker shall participate in a child care application interview to establish eligibility of the family unit for payments. The program staff shall arrange the interview as soon as possible but no later than thirty days after receipt of the signed and dated application form and supporting documentary evidence.

(g) The date of eligibility for child care payments shall be one of the following:

- (1) The date of application, provided that the interview has been completed and the eligibility requirements in section 17-798.3-9 are met from the date of application;
- (2) The date the child care payments are scheduled to begin within thirty days after the eligibility conditions in section 17-798.3-9 are met; or



- (3) The date of the authorized activity or program component in the FTW programs.  
[Eff **AUG 06 2021** ] (Auth: HRS §346-14)  
(Imp: HRS §346-14)

**§17-798.3-7 Priority applications.** (a) As appropriate for the respective subchapters, when multiple applications are received simultaneously, the criteria for the priority applications shall be in the following order from the highest priority to lowest:

- (1) Child protective services reasons as referenced in section 17-798.3-9(a)(5);
- (2) Transitional child care as referenced in section 17-798.3-36;
- (3) Receiving TANF benefits and at risk of loss of any activity under section 17-798.3-9(b)(3);
- (4) Very low income family units that are:
  - (A) At risk of job termination because of child care related problems;
  - (B) Employed and homeless;
  - (C) Employed and have LEP; or
  - (D) Not employed but have a written offer of employment that is scheduled to start within two weeks; and
- (5) Other family units that are employed, enrolled in and attending an educational program, or are in job, vocational, or employment training.

(b) Family units with the least amount of monthly income for the corresponding family unit size shall be given first consideration in the groups identified in paragraphs (2), (3), (4), and (5) in this section. [Eff **AUG 06 2021** ] (Auth: HRS §346-14) (Imp: HRS §346-14; 45 C.F.R. §§98.20 and 98.44)

**§17-798.3-8 Notice of application disposition.**

(a) The department shall provide written notice to caretakers about the status of their applications for child care payments.

(b) The caretaker shall be sent a written notice that contains a statement of the action taken, the reasons for the action, the specific rules supporting the action, and the right to appeal the action of the department through established administrative appeals procedures. [Eff **AUG 06 2021** ] (Auth: HRS §346-14) (Imp: HRS §346-14)

**§17-798.3-9 Eligibility requirements. (a)**

Depending upon availability of funds, all children eligible for child care payments shall reside with the eligible caretaker and be:

- (1) A citizen or national of the United States of America;
- (2) A qualified alien, as defined under this chapter. The caretaker shall furnish documentation of the alien status of any child declared to be a qualified alien. A child who is a qualified alien is not eligible for child care assistance for a period of five years beginning on the date of the child's entry into the United States with qualified alien status. Exception: The five-year prohibition from receiving assistance does not apply to a qualified alien who is:
  - (A) Admitted to the United States as a refugee;
  - (B) Granted asylum;
  - (C) Lawfully admitted for permanent residence;
  - (D) An alien whose deportation is being withheld; and
  - (E) A Cuban Haitian entrant under the Refugee Education Assistance Act of

1980; described at 8 U.S.C. Section 1613; and

- (3) Under age thirteen years;
  - (4) Thirteen through seventeen years of age with a physical or mental incapacity that prevents the child from doing self-care; or
  - (5) Receiving child protective services for family supervision, and the need for child care is specified in the family unit's or child's case plan as ordered by the court.
- (b) A caretaker shall be eligible for child care payments, provided the caretaker:
- (1) Has a monthly gross income verified through documentation that does not exceed eighty-five percent of the State Median Income, as established in the current federally approved Child Care Development Fund State Plan, for a family of the same size, using the Income Eligibility Limits as established in Exhibit II, dated January 2, 2020, attached at the end of this chapter, except for:
    - (A) Caretakers who are foster parents (or resource caregivers) licensed or certified by the department, or an organization under the authority of the department, who need child care for a foster child in their care; or
    - (B) Family units receiving child protective services for family supervision and the need for child care is specified in the family unit's or child's case plan as ordered by the court;
  - (2) Has net value of assets that total less than \$1,000,000 for the household, including net value of real property, as certified by the caretaker, excluding:
    - (A) Any equity value in the real property which is the usual residence of the household; and
    - (B) Any equity for one vehicle; and

- (3) Meets one of the following conditions:
  - (A) Is engaged in employment in exchange for wages, salary, income, or in-kind income;
  - (B) Has a written offer of employment that is scheduled to start within two weeks and employment commences as scheduled;
  - (C) Meets the definition of self-employed and generates the minimum income level in accordance with section 17-798.3-2;
  - (D) Is enrolled in and attends an educational program or job training, vocational, or employment training. This includes the break time between classes for the day, for up to four hours per day;
  - (E) Is participating in the FTW program or a treatment program as required by section 17-656.1-10, except for a participant in the Food Stamp Employment and Training program, and the FTW participant is involved in the required activities written in the FTW employment or individualized service plan;
  - (F) Is receiving child protective services for family supervision and the need for child care is specified in the family unit's case plan as ordered by the court;
  - (G) Is in a two-parent family unit where one of the caretakers is in an activity specified under section 17-798.3-9(b)(3) and the other caretaker is determined to have a disability which prevents the caretaker from providing care for their own child. Proof of permanent disability and inability to provide care of the caretaker's own eligible child shall be verified by the written report of a State-licensed physician, psychologist, or

- psychiatrist. The written report shall be submitted every twelve months;
- (H) Is an emancipated minor caretaker under age eighteen years who meets any eligibility condition cited in section 17-798.3-9(b)(3)(A) through (G), and retains custody of his or her own child; or
  - (I) Is a minor parent of a child and both minor parent and child are residing in the home of an adult caretaker, the adult caretaker shall apply on behalf of the minor parent and the minor parent is participating in any activity under section 17-798.3-9(b)(3)(A) through (G);
  - (4) Is a resident of the State; and
  - (5) Establishes a reasonable relationship between the time during which each caretaker participates in an activity as specified under section 17-798.3-9(b)(3) and the time during which child care is needed.
  - (c) A child care provider:
    - (1) Shall meet the following conditions in order for child care payments to be authorized:
      - (A) Be a child care provider licensed by or registered with the department; or
      - (B) Be an exempt provider listed with the department, providing group child care in accordance with section 17-800; or
      - (C) Be providing home-based child care, including in-home care, and is complying with the health and safety requirements as established in subchapters 3, 4 and 5; and
    - (2) Shall submit a written statement to the department that shall attest to:
      - (A) The provider's willingness to provide care;
      - (B) The provider's willingness to allow a caretaker unlimited access to the caretaker's child, including written

- records concerning the caretaker's child, during normal hours of provider operation or whenever children are in the care of the provider;
  - (C) Rate that will be charged;
  - (D) Mailing address, child care facility address and telephone number; and
  - (E) Assurance that the child care facility's premises is safe from hazards.
- (3) Shall not be one of the following:
- (A) Parents, biological or legal;
  - (B) Step-parents living in the household;
  - (C) Guardians or permanent custodians;
  - (D) Members of the family unit that receives government assistance, including essential persons;
  - (E) Providers who are not in compliance with State or county regulatory requirements;
  - (F) Individuals under the age of eighteen years;
  - (G) Individuals determined by the department to pose a risk to the health and safety of the child;
  - (H) A sibling of the child needing care who resides in the same home as the child; or
  - (I) A caretaker.
- (d) The department shall:
- (1) Verify that the child and caretaker meet the eligibility requirements as described in this chapter;
  - (2) Verify the identity of the caretaker through readily available documentary evidence including, but not limited to:
    - (A) Birth certificate;
    - (B) Passport;
    - (C) Church record of birth or baptism;
    - (D) School or employment records or identification;

- (E) Motor vehicle operator's license; or
  - (F) An official document that shows the individual's photograph;
- (3) Establish that the child care provider selected by the caretaker is following the provisions of section 17-798.3-9(c);
- (4) Allow, at the department's option, for presumptively eligible payments when:
- (A) An exempt provider selected by the caretaker meets the requirements of 17-798.3-51(c)(1) through (7)(A); provided that payments shall end upon failure to complete the monitoring inspection visit pursuant to section 17-798.3-51(c)(8), the start of an investigation by the department pursuant to 17-798.3-51(e), or failure to comply with the requirements under subchapters 3, 4 and 5, or chapter 17-801, and such payments shall not be considered an overpayment under section 17-798.3-22(b);
  - (B) Foster children who do not have documentation to support verification of section 17-798.3-9(a), pending receipt of the documentation within two months from application date; provided that payments shall end after two months and the caretaker failed to comply with this subparagraph, and payments shall not be considered an overpayment under section 17-798.3-22(b); or
  - (C) Children experiencing homelessness who do not have the documentation to support verification of sections 17-798.3-9(a) and (b), pending receipt of the documentation within two months from application date; provided that payments shall end after two months and the caretaker failed to comply with this subparagraph, and payments shall

not be considered an overpayment under section 17-798.3-22(b).

- (5) Authorize the initial and subsequent monthly child care payments based on sections 17-798.3-9, 17-798.3-10, 17-798.3-12, 17-798.3-13, 17-798.3-14, 17-798.3-15, 17-798.3-16, 17-798.3-17, 17-798.3-18, 17-798.3-19, 17-798.3-20, 17-798.3-22, 17-798.3-23, and 17-798.3-36, subchapters 3, 4, and 5, and chapter 17-801;
- (6) Review eligibility no less than every twelve months or whenever changes that affect eligibility are reported in accordance with section 17-798.3-17; and
- (7) Track and monitor appropriateness and utilization of child care and payments.  
[Eff AUG 06 2021 ] (Auth: HRS §§346-14 and 346-152.5) (Imp: HRS §§346-14 and 346-152.5, 45 C.F.R. §§98.20, 98.30, 98.31 and 98.41)

**§17-798.3-10 Income considered in eligibility determination.** (a) Monthly gross income of each individual counted in the family unit shall be used to determine income eligibility of the family unit, except for individuals identified in subparagraphs 17-798.3-9(b)(1)(A) and (B), by using one of the following:

- (1) The average of the prior two months gross income for existing employment;
- (2) The monthly gross income received in the prior month for existing employment;
- (3) The monthly gross income that is anticipated to be received from prospective or new employment.
  - (A) Weekly gross income anticipated to be received shall be converted to a monthly gross income by multiplying the weekly income by 4.3333.



- (B) Bi-weekly gross income anticipated to be received shall be converted to monthly income by multiplying the bi-weekly income by 2.1667.
- (C) Semi-monthly income anticipated to be received shall be converted to monthly income by multiplying the semi-monthly income by 2; or
- (4) Gross income from the caretaker's business or self-employment, such as selling real estate, or engaging in fishing and farming, which provide irregular income over a period of six months, may be averaged to determine the monthly income for the budget month.
- (b) Monthly gross income means monthly sums of income received from sources such as but not limited to:
  - (1) Gross income (before deductions are made for items such as, but not limited to, taxes, union dues, bonds, and pensions) from:
    - (A) Wages;
    - (B) Salary;
    - (C) Armed forces pay, excluding basic housing allowance;
    - (D) Commissions;
    - (E) Tips;
    - (F) Piece-rate payments; or
    - (G) Cash bonuses earned;
  - (2) Social security pensions and survivors' benefits (prior to deductions for medical insurance) including:
    - (A) Railroad retirement insurance checks from the U.S. government; and
    - (B) Permanent disability insurance payments made by the Social Security Administration;
  - (3) Unemployment insurance benefits such as:
    - (A) Compensation received from government unemployment insurance agencies or private insurance companies during periods of unemployment; and

- (B) Any strike benefits received from union funds;
- (4) Worker's compensation benefits and temporary disability insurance benefits:
  - (A) Worker's compensation benefits include compensation received from private or public insurance companies for injuries incurred at work;
  - (B) Temporary disability insurance benefits include compensation received from private or public insurance companies for short-term disabilities resulting from off-the-job sickness or injury; and
  - (C) The cost of the insurance shall have been paid by the employer and not by the employee, and the benefits are made to individuals who continue to be considered employees of the company;
- (5) Pensions and annuities, including pensions or retirement benefits paid to a retired person or the person's survivors by a former employer or by a union, either directly or by an insurance company;
- (6) Veteran's pensions and other benefits, which include:
  - (A) Money paid periodically by the Veteran's Administration to:
    - (i) Survivors of deceased veterans; or
    - (ii) Disabled members of the armed forces;
  - (B) Subsistence allowances paid to veterans for:
    - (i) Education; or
    - (ii) On-the-job training; and
  - (C) Refunds paid to former members of the armed forces as GI insurance premiums;
- (7) An allotment of a member of the armed forces;
- (8) Alimony;

- (9) Child support, including support or maintenance for or on behalf of a son or daughter who is over eighteen years of age;
- (10) Public assistance payments from another state prior to any reduction of the monthly assistance payment due to overpayment recovery;
- (11) Hawaii public assistance payments prior to any reduction of the monthly assistance payment due to overpayment recovery in accordance with chapter 17-683;
- (12) Adoption assistance payments;
- (13) Dividends from stockholdings or memberships in associations;
- (14) Periodic interest on savings or bonds;
- (15) Income from estates or trust funds;
- (16) Income from rental of property after business expenses;
- (17) Royalties;
- (18) Income received from self-employed activities:
  - (A) To be considered self-employed, the individual shall meet the definition of self-employed as established under this chapter and generate the required income at the time of eligibility and in each subsequent month. This must be considered first as monthly earned income when determining eligibility for child care payments as a self-employed person.
  - (B) Income received from non-farm self-employed activities means the gross receipts minus expenses for an individual's own business, professional enterprise, or partnerships.
    - (i) Gross receipts shall include the value of all goods sold and services rendered.
    - (ii) Expenses shall include the costs of goods purchased, rent, heat, light, power, wages and salaries

- paid, business taxes, and other similar costs.
- (iii) The value of salable merchandise consumed by the proprietors of retail stores shall be included as part of net income.
- (iv) Items such as depreciation, personal, business and entertainment expenses, transportation, purchase of capital equipment, and payments on the principal of loans for capital assets or durable goods, and state or federal taxes paid shall not be deducted as business expenses. Personal expenses such as lunches and transportation to and from work shall not be deducted as business expenses.
- (C) Income received from farm self-employed activities means the gross receipts minus operating expenses from the operation of a farm by a person on the person's own account, as an owner, renter, or sharecropper.
  - (i) Gross receipts shall include the value of all products sold, government crop loans, money received from the rental of farm equipment to others, and incidental receipts from the sale of wood, sand, gravel, and similar items;
  - (ii) Operating expenses shall include the cost of feed, fertilizer, seed, and other farming supplies, cash wages paid to farmhands, cash rent, interest on farm mortgages, farm building repairs, farm taxes (not state and federal income taxes), and other similar expenses;

- (iii) The value of fuel, foods, or other farm products used for family living shall not be included as part of net income;
  - (iv) Items such as depreciation, personal, business and entertainment expenses, transportation, or state and federal taxes paid shall not be deducted as business expenses. Personal expenses such as lunches and transportation to and from work shall not be deducted as business expenses; and
- (19) Free rent converted to a cost compensation when it is exchanged for an activity instead of wages or salary. The department shall determine this by multiplying the State minimum wage multiplied by forty hours a week multiplied by 4.3333 weeks. When work is less than forty hours a week, use the actual number of hours worked in the month multiplied by State minimum wage. [Eff  
AUG 06 2021 ] (Auth: HRS §346-14) (Imp: HRS §346-14)

**§17-798.3-11 Excluded monthly income.** The following types of income received in any given month shall be excluded from consideration in determining income eligibility for child care payments:

- (1) Money received from the sale of property such as stocks, bonds, a house, or a car unless the person was engaged in the business of selling the property, in which case, the net proceeds would be counted as self-employed activity income;
- (2) Withdrawals of bank deposits;
- (3) Loans;

- (4) Gifts, including in-kind gifts such as free room and board, when the gift is not a form of compensation in lieu of wages or salary;
- (5) Monies received in the form of a nonrecurring lump sum payment including, but not limited to, the following:
  - (A) Income tax refunds, rebates, or credits;
  - (B) Retroactive lump sum social security, SSI, public assistance, or unemployment compensation benefits;
  - (C) Retroactive annual adjustment payments in the veteran administration's (VA) disability pensions;
  - (D) Lump sum inheritances or insurance payments;
- (6) Refunds of security deposits on rental property or utilities;
- (7) Capital gains;
- (8) Earnings of minor children who are members of the household and are students at least half-time shall be excluded even during temporary interruptions in school attendance due to semester or vacation breaks, provided the minors' enrollment will resume following the break;
- (9) Loans, grants, and scholarships obtained and used under conditions that prohibit use for current living expenses;
- (10) Any grant or loan to any undergraduate student for educational purposes made or insured under any program administered by the United States Secretary of Education;
- (11) Home produce utilized for home consumption;
- (12) The value of an allotment under the Food Stamp Act of 1977, as amended, 7 U.S.C. §2017;
- (13) The value of USDA donated or surplus foods;
- (14) The value of supplemental food assistance under the Child Nutrition Act of 1966, 42 U.S.C. §§1771-1789, and the special food

service program for children under the National School Lunch Act, as amended, 42 U.S.C. §§1751-1769;

- (15) Benefits received from the special supplemental food program for women, infants, and children (WIC), 42 U.S.C. §1771;
- (16) Allowances and payments to participants in programs, other than on-the-job training, under the Workforce Investment Act (WIA) of 1998, 20 U.S.C. §9201;
- (17) The earned income of individuals participating in on-the-job training programs under the Work Investment Act (WIA) of 1998, 20 U.S.C. §9201, who are between 18 and 19 years of age and under the parental control of another household member;
- (18) Earned income tax credit (EITC) payments received either as a lump sum or recurring payments under section 3507 of the Internal Revenue Code of 1986;
- (19) Financial assistance provided by a program funded in whole or in part under title IV of the Higher Education Act in accordance with Pub. L. No. 99-498;
- (20) Payments or allowances made under any federal, state, or local laws for the purpose of energy assistance;
- (21) Assistance or relief payments received as a result of a disaster or emergency as declared by the federal, state, or county government;
- (22) Payments made from the Agent Orange Settlement Fund or any other fund established in connection with settling liability claims concerning the chemical Agent Orange, Pub. L. No. 101-201;
- (23) Reimbursements from the Uniform Relocation Assistance and Real Property Acquisition Policies Act of 1970, 42 U.S.C. §4636;

- (24) Payments received under the Radiation Exposure Compensation Act, Pub. L. No. 101-426, to compensate individuals for injuries or deaths resulting from the exposure to radiation from nuclear testing or uranium mining;
- (25) Payments to individuals participating in the Senior Community Service Employment Program (SCSEP) funded under title V of the Older Americans Act of 1965, 42 U.S.C. §3001; Pub. L. No. 100-175;
- (26) Payments to volunteers derived from the volunteer's participation in the following programs authorized by the Domestic Volunteer Service Act of 1973, 42 U.S.C. §§5011, 4951-4958:
  - (A) Foster grandparent program;
  - (B) Senior companion program; and
  - (C) Volunteers in service to America (VISTA) and AmeriCorps programs;
- (27) Military re-enlistment bonus;
- (28) Foster board payments;
- (29) Permanency assistance or guardianship assistance payments;
- (30) Any other payments made in accordance with state and federal laws that preclude the payments from being counted as income. [Eff AUG 06 2021 ] (Auth: HRS §346-14) (Imp: HRS §346-14)

**§17-798.3-12 Child care rates.** (a) Child care rates shall be established based on:

- (1) Types of care:
  - (A) Registered family child care;
  - (B) Registered family child care infant toddler care;
  - (C) Accredited registered family child care;
  - (D) Accredited registered family child care infant toddler care;



- (E) Legally exempt relative, non-relative, and center-based care;
  - (F) Legally exempt relative and non-relative infant toddler care;
  - (G) Licensed group child care center and group child care home;
  - (H) Accredited group child care center;
  - (I) Hawaiian medium center-based care;
  - (J) Licensed infant toddler center;
  - (K) Licensed school-age care, including before-school care or after-school care;
  - (L) Licensed school-age care for intercession, summer care, or breaks during the school year;
  - (M) Legally exempt before and after school care; and
- (2) Need for care, as established under section 17-798.3-15:
- (A) Full-time care; or
  - (B) Part-time care.
- (b) The rates are established in Exhibit I, dated January 2, 2020, attached at the end of this chapter. [Eff **AUG 06 2021**] (Auth: HRS §346-14) (Imp: §346-14; 45 C.F.R. §98.42)

**§17-798.3-13 Child care payments.** (a) The amount issued by the department may not exceed the maximum monthly department allowance, except when the caretaker cannot continue to use the child care provider due to an action by the department, and the caretaker paid for child care but the provider is unwilling to refund the amount to the caretaker.

- (b) Child care payments include:
- (1) A one-time only payment in a state fiscal year for registration fees, which may also include supply and activity fees, required by the facility, not to exceed \$125.00; and
  - (2) Monthly cost of child care per child, as paid, but not to exceed the child care rates

specified in section 17-798.3-12. For the exception in section 17-798.3-13(a), a second payment up to the maximum full-time rate specified in section 17-798.3-12 for the new provider shall be allowed; and

- (3) Only one child care provider per eligible child needing child care payments shall be authorized by the department for each eligible child, even if the caretaker uses more than one child care provider for any eligible child. The caretaker shall determine which child care provider shall be utilized for child care payments authorized under this chapter, provided that the child care provider meets the requirements under this chapter.

(c) The department shall issue to and receive from the caretaker a signed and completed designated form for each child care provider chosen by the caretaker, to verify the cost of child care for the eligible child needing child care payment, the name and address of the provider, and provider information to establish that the child care provider meets the requirements as specified in section 17-798.3-9(c), and subchapters 3, 4, and 5 for an exempt provider.

(d) A family unit's child care expense may be partially paid by another public-funded source, except for payments made under chapter 17-799 or 42 U.S.C. §9858.

(e) Child care payments may be provided through monies issued one month at a time and paid to the caretaker; provided that a caretaker may choose to have the child care payment forwarded by the department as a direct deposit from the caretaker's account to the child care provider's direct payment account recorded with the department. [Eff

Aug 06 2021  
] (Auth: HRS §§346-14, 346-63) (Imp: HRS §§346-14, 346-63; 45 C.F.R. §§98.41, 98.42 and 98.43)

**§17-798.3-14 Method of computing family unit's co-payment.** The following steps shall be used to compute the family unit's co-payment:

- (1) Determine the monthly gross income for the family unit;
- (2) Identify the family unit size;
- (3) Determine the family unit's co-payment tier based on the co-payment tier established in Exhibit II, dated January 2, 2020, attached at the end of this chapter; and
- (4) Multiply the family unit's co-payment tier by the monthly gross income for the family unit. [Eff **AUG 06 2021** ] (Auth: HRS §§346-14, 346-63) (Imp: HRS §§346-14, 346-63; 45 C.F.R. §§98.41, 98.42 and 98.43)

**§17-798.3-15 Method of computing the need for care.** The following shall be used to compute the need for care for each eligible child in the family unit needing child care payments:

- (1) Counting the hours the caretaker is engaged in the allowable activity except for:
  - (A) Individuals identified in section 17-798.3-9(b)(3)(F), the child care need shall be based on the number of hours of child care specified in the court-ordered service plan; or
  - (B) When in the case of a family unit, with two caretakers, both caretakers' activity hours shall be the same overlapping hours; and
- (2) The hours of care that the eligible child needing child care payment is attending the child care facility; and
- (3) Comparing the hours of child care needed determined by paragraphs (1) and (2), and

choosing the lesser amount. [Eff AUG 06 2021  
] (Auth: HRS §§346-14, 346-63) (Imp:  
HRS §§346-14, 346-63; 45 C.F.R. §§98.41,  
98.42 and 98.43)

**§17-798.3-16 Method of computing the child care payment.** (a) The following shall be used to compute the child care payment:

- (1) The caretaker's relationship to the child who resides with the caretaker, and the age of the child who needs care;
- (2) The child care provider;
- (3) The need for care as established under section 17-798.3-15; and
- (4) The cost of child care and the child care rate determined under section 17-798.3-12 for the type of child care selected and authorized for each eligible child needing child care payment, and choosing the lesser amount.

(b) Subtracting the family unit's co-payment calculated under section 17-798.3-14 from the amount determined in subsection (a), provided that:

- (1) A portion of the family unit's co-payment shall be waived when an eligible child needing child care payment is attending an accredited group child care center, a Hawaiian-medium center-based facility, a licensed infant and toddler child care center, licensed group child care center, or licensed group child care home;
- (2) The portion waived pursuant to paragraph (1) shall not exceed the child care cost or up to one hundred United States dollars, whichever is less, per child that is attending an accredited group child care center, a Hawaiian-medium center-based facility, a licensed infant and toddler child care center, licensed group child care

center, or licensed group child care home;  
and

- (3) When the computed child care payment amounts for eligible children needing child care payments and who are not attending child care facilities described in paragraph (1) are less than the remaining balance of the family unit co-payment, the department shall not collect any unrecovered co-payment amount.

(c) The caretaker shall be responsible for any child care costs in excess of the child care payment computed under this section.

(d) The caretaker shall be responsible for paying the family unit's co-payment share of the child care cost directly to the provider.

(e) The department shall project the family unit's eligibility and monthly payments prospectively for the eligibility period.

- (1) The initial payment shall be calculated from the date of eligibility to the end of the month, which may be for less than a full month, and shall be considered the first month of the eligibility period.

- (2) When changes are reported during the eligibility period, the monthly payments shall be prospectively calculated for the remainder of the eligibility period. [Eff  
AUG 06 2021 ] (Auth: HRS §346-14) (Imp:  
HRS §346-14; 45 C.F.R. §98.20)

**§17-798.3-17 Mandatory reporting.** (a) A caretaker who is a recipient of child care payments shall report changes to the department within ten calendar days of the change for the following:

- (1) Monthly gross income and the source of the household income exceeds eighty-five percent of the State Median Income for a family unit of the same size, except for:

- (A) Department-licensed foster parents with approved activities that need child care; or
  - (B) Family units as specified under section 17-798.3-9(b)(3)(F).
- (2) Address changes, including:
  - (A) Place of residence; and
  - (B) Mailing address;
- (3) Household composition changes;
- (4) Marital status changes;
- (5) Ending, changing, or starting services with a child care provider;
- (6) Changes to provider's contact telephone number or address where care is being provided;
- (7) When there is a new adult household member at the home-based child care exempt provider;
- (8) Changes in the cost of care;
- (9) Changes in the child care type;
- (10) Loss of activity:
  - (A) Except for family units as specified under section 17-798.3-9(b)(3)(F); or
  - (B) When a caretaker reports a temporary change in activity, the department shall allow up to three months for the caretaker to resume participating in an activity allowable under section 17-798.3-9(b)(3). A temporary change in activity shall include:
    - (i) Any time-limited absence from work for an employed caretaker due to such reasons as the need to care for a family member or an illness. Verification of the need for temporary care of an immediate family member or an illness of an employed caretaker and duration of care, shall be verified by the written report of a State-licensed physician, psychologist, or psychiatrist.

- (ii) Any interruption in work for a seasonal worker who is not working;
  - (iii) Any student holiday or break for a caretaker participating in a training or educational program;
  - (iv) Any reduction in work, training, or education hours, as long as the caretaker is still working or attending a training or educational program; or
  - (v) Any other cessation of work or attendance at a training or educational program that does not exceed three months;
- (C) If a caretaker does not resume an activity allowable under section 17-798.3-9(b)(3) within three months from the date of the loss of the prior allowable activity(ies), child care payments shall be terminated in accordance with section 17-798.3-19;
- (11) Closure of the child protective services family supervision case for family units as specified under section 17-798.3-9(b)(3)(F).
- (b) Changes may be reported in writing, in person, or by telephone, and shall be supported by verifying documentation.
- (c) When changes are reported pursuant to this section, the department shall take action on the reported changes and calculate payments for the balance of the eligibility period, after timely and adequate notice, as follows:
- (1) Changes that are reported within ten calendar days of the occurrence shall be implemented in the first month following the month in which the change was reported;
  - (2) Changes that are reported after ten calendar days of the occurrence, that result in a higher payment, shall be implemented in the second month following the month in which the change was reported;

- (3) Changes that are reported that result in a lower payment, due to a lower cost of care or selection of a child care type that has a lower maximum payment rate, shall be implemented in the first month following the month in which the change was reported, and the department shall recover any overpayments from the date of the occurrence; and
- (4) Changes that are reported as referenced in subsection (a) related to the child care provider selected by the caretaker, shall be implemented by adjusting the child care payments when the child care provider is determined to meet the conditions of section 17-798.3-9(c) and subchapters 3, 4, and 5, in accordance with section 17-798.3-9(d).  
[Eff AUG 06 2021 ] (Auth: HRS §346-14)  
(Imp: HRS §346-14)

**§17-798.3-18 Re-determination of eligibility and payment amount.** (a) Eligibility and payment amounts shall be reviewed at the end of every eligibility period.

- (1) The family unit shall submit a completed simplified report form including the verifying documentation required to determine the continued eligibility of the caretaker, child and provider.
  - (A) The completed simplified report form must be received by the department by the due date printed on the simplified report form.
  - (B) A simplified report form shall be considered incomplete when:
    - (i) It is not initialed and signed by the caretaker,
    - (ii) It omits information and documentation including, but not



- limited to, pay stubs, employment, training or education schedule, and child care receipts, that are necessary for the department to determine the family unit's eligibility, or to compute the family unit's child care payment amount; or
- (iii) In situations where the caretaker is experiencing homelessness and is unable to provide verification for eligibility requirements other than sections 17-798.3-9(d) and 17-798.3-9(c), the caretaker may be presumptively eligible for child care payments for a period of two months while the caretaker secures the verification for the eligibility requirements, provided that the caretaker submits self-certification meeting the requirements for 17-798.3-9(b)(1) through (5). The verification submitted within the two months shall demonstrate eligibility requirements for 17-798.3-9(b)(1) through (5) from month of re-determination or start of child care, whichever is later.
- (C) If the caretaker fails to submit a simplified report form by the due date noted on the simplified report form, or submits an incomplete form, the department shall provide a timely and adequate notice in accordance with section 17-798.3-20 that allows the caretaker an extended filing period.
- (i) When the caretaker submits a completed simplified report form within the extended filing period, child care payments shall

be provided not later than ten days after the caretaker's normal benefits issuance date.

(ii) When the caretaker submits a completed simplified report form after the extended filing period, but before the end of the report month, child care payments shall be provided not later than thirty days after the receipt of the simplified report form.

(iii) When the extended filing period ends, and the simplified report form is not received by the department, or is received but is still incomplete, the department shall issue a notice that confirms the termination of child care payments.

(2) The department shall require the caretaker to provide information on the simplified report form that shall include, but is not limited to, those items listed in paragraphs 17-798.3-17(a)(1) through (10), as well as activity hours; and

(3) Child care payments shall only be authorized for the next twelve months provided the caretaker has submitted the completed simplified report form and the required documentation to establish eligibility.

(b) Re-determination of eligibility shall include determination that an exempt provider conducting home-based child care, including in-home care, meets the requirements of section 17-798.3-9(c) and subchapters 3, 4, and 5:

(1) Has current background checks and the results indicate the person does not pose a risk to children in care, in accordance with chapter 17-801;

(2) Completed annual training, pursuant to sections 17-798.3-51(c)(7)(B) and (C); and

- (3) Completed monitoring inspection visits at least annually, pursuant to section 17-798.3-51(c)(8).

(c) At redetermination, when a caretaker reports a change in the status of the eligible activities from working, or participating in a training or education program, the department shall allow up to three months for the caretaker to resume working, or to attend an education or training program. If the caretaker does not resume an eligible activity within three months from the date of the loss of the eligible activity, child care payments shall be terminated in accordance with section 17-798.3-19.

(d) The department shall take action on any other reported changes that are verified to affect eligibility or payment amounts, in addition to those required under subsections (a) through (c) and sections 17-798.3-17 and 17-798.3-51, after timely and adequate notice. The department shall take action on the reported changes and calculate payments for the balance of the eligibility period as follows:

- (1) Changes that are reported within ten calendar days of the occurrence, that result in a higher payment, shall be implemented in the first month following the month in which the change was reported;
- (2) Changes that are reported after ten calendar days of the occurrence, and result in a higher payment, shall be implemented in the second month following the month in which the change was reported; and
- (3) Changes that are reported that result in a lower payment, due to a lower cost of care or selection of a child care type that has a lower maximum payment rate, shall be implemented in the first month following the month in which the change was reported, and the department shall recover any overpayments from the date of the occurrence.

(e) When a child turns two years old, kindergarten eligible, or thirteen years old, the

child care payments may continue for the duration of the existing eligibility period; provided that no changes have occurred for the eligible child the child care provider, cost of child care, child care type, or address where care is being provided.

(f) Child care payments shall not be authorized for the chosen exempt child care provider until the requirements of section 17-798.3-9(c) and subchapters 3, 4 and 5 are met.

(g) At redetermination when a caretaker reports a change in the selected child care provider, the department shall follow section 17-798.3-9(d). [Eff  
AUG 06 2021 ] (Auth: HRS §346-14) (Imp: HRS §346-14)

**§17-798.3-19 Denial, reduction, suspension, or termination of child care.** (a) Child care payments may be denied, reduced, suspended, or terminated when:

- (1) The caretaker does not complete the process of application, determination of eligibility, or withdraws the application;
- (2) The caretaker does not sign and date the application form or simplified report form prescribed by the department;
- (3) The caretaker does not submit a completed application form or simplified report form prescribed by the department;
- (4) The caretaker does not submit verifying documentation requested by the department;
- (5) The child does not meet the eligibility requirements referenced in subsection 17-798.3-9(a);
- (6) The caretaker does not meet the eligibility requirements referenced in subsection 17-798.3-9(b);
- (7) The provider does not meet or comply with the eligibility requirements referenced in subsections 17-798.3-9(c) and subchapters 3, 4, and 5;

- (8) Conditions initially present in the family unit situation have changed and child care is no longer needed;
  - (9) The family unit has not used authorized care;
  - (10) The child has absences that are unexcused for more than five consecutive days;
  - (11) The caretaker voluntarily requests discontinuance of child care payments;
  - (12) The caretaker and the child are unable to use child care and another service must be planned for;
  - (13) The family unit is no longer eligible for child care payments;
  - (14) The family unit cannot be located;
  - (15) The family unit fails to complete the process of re-determination of eligibility;
  - (16) The family unit fails to utilize child care payments in accordance with section 17-798.3-5(c) and does not reconcile the resulting overpayments in accordance with section 17-798.3-22;
  - (17) The department determines pursuant to section 17-798.3-23 that there are insufficient funds to maintain all children receiving care;
  - (18) A caretaker does not participate in any activity allowable under section 17-798.3-9(b)(3)(A) through (H) for a period in excess of three months from the date of loss of the prior allowable activity(ies); or
  - (19) The caretaker fails to provide the required eligibility documentation pursuant to sections 17-798.3-9(d)(4)(B) or (C), and two months has passed from the date of presumptive eligibility.
- (b) Child care payments may be suspended when the payment amount is determined to be zero:
- (1) When children are attending school and only need intersession or summer care;
  - (2) The family unit's use of child care services does not begin within thirty days of

submittal of the application for services;  
or

- (3) For a period not to exceed the remaining duration of the caretaker's most recent twelve month eligibility period when the designated provider does not meet the conditions set forth in subsection 17-798.3-9(c) and the family unit must find a different provider.

(c) Child care payments shall be suspended upon the start of an investigation by the department pursuant to 17-798.3-51(e) for the provider caring for an eligible child needing child care payments and payments shall not be retroactively paid for the period of suspension if the department determines that the provider poses a risk to children in care or that the provider is not complying with 17-798.3-9(c) or subchapters 3, 4, or 5. [Eff **AUG 06 2021** ] (Auth: HRS §346-14) (Imp: HRS §346-14)

**§17-798.3-20 Notice of adverse action.** (a) The department shall provide the caretaker with timely and adequate notice prior to taking adverse action to reduce, suspend, or terminate any child care payments specified in this chapter.

(b) A caretaker can submit verifying documentation for consideration by the department to reverse the proposed department action prior to the effective date of the action.

(c) Only adequate notice is required when the following occurs:

- (1) A caretaker is deceased;
- (2) A caretaker left the State;
- (3) A caretaker requests discontinuance of child care payments;
- (4) A caretaker fails to comply with mandatory report requirements of section 17-798.3-17;
- (5) A caretaker's whereabouts are unknown;

- (6) The department determines pursuant to section 17-798.3-23 that there are insufficient funds to maintain all children receiving care; or
- (7) An application for child care payments is denied. [Eff **AUG 06 2021**] (Auth: HRS §346-14) (Imp: HRS §346-14)

**§17-798.3-21 Administrative appeal requests.**

(a) A caretaker may file a written request for an administrative appeal, in accordance with the provisions set forth in chapter 17-602.1, when the caretaker disagrees with the department's adverse action to deny, reduce, suspend, or terminate payment, or with the department's determination of an overpayment.

(b) Child care payments shall not continue during the appeal process. [Eff **AUG 06 2021**] (Auth: HRS §346-14) (Imp: HRS §346-14)

**§17-798.3-22 Underpayments and overpayments. (a)**

Underpayments shall be processed as follows:

- (1) Prompt action shall be taken to correct any underpayment to a currently eligible caretaker who would have received a greater benefit if an error by the department had not occurred.
- (2) If a caretaker has both an overpayment and an underpayment, the overpayment and underpayment shall be offset one against the other in correcting the payment.
- (3) Payments provided to the caretaker to correct an underpayment shall not be counted as income.
- (4) Corrective payments shall be made for any underpayment due a former recipient when child care assistance is restored.

- (b) Overpayments shall be processed as follows:
  - (1) Failure to provide information, as specified in sections 17-798.3-12, 17-798.3-16, 17-798.3-17, and 17-798.3-18, or errors made by the department may affect the caretaker's eligibility and result in an overpayment, and excluding section 17-798.3-9(d)(4)(C).
  - (2) An overpayment made to a caretaker shall be recovered through:
    - (A) Repayment in cash, in full or in part, by the caretaker to the department; or
    - (B) A reduction of not less than ten percent in the amount payable to the caretaker in subsequent months until the entire amount of overpayment is recovered.
  - (3) An individual subject to recovery of an overpayment shall be provided adequate notice by the department including:
    - (A) The reasons, dates, and the amount of the alleged overpayment; and
    - (B) The proposed method by which the overpayment shall be recovered.
  - (4) An overpayment to an individual shall be recovered from the caretaker who was overpaid, from individuals who were members of the family unit when overpaid, or from a family unit which includes members of a previously overpaid family unit.
  - (5) A child care overpayment shall be recovered only from child care payments or TANF payments, provided the caretaker continues to receive such payments.
  - (6) Recovery of an overpayment to former recipients of child care payments shall be referred to the department's fiscal management office for collection action.
  - (7) If a caretaker for whom a collection action has been initiated fails to make a payment for any month in the calendar tax year, the



department may refer debts exceeding twenty-five dollars to the comptroller of the State for tax setoff as specified in chapter 17-606. [Eff AUG 06 2021 ] (Auth: HRS §§346-14, 346-44) (Imp: HRS §§346-35, 346-44)

**§17-798.3-23 Termination for insufficient funds.**

(a) The department may, at its discretion, refuse to take new applications, reduce payments, or terminate payments when there are insufficient funds to pay child care payments at current amounts through the end of the State fiscal year.

(b) Refusal to take new applications, reducing payments, or terminating payments will first be accomplished in reverse priority from what is listed in section 17-798.3-7. Priority will further be determined within the categories set forth in section 17-798.3-7 by income, with higher income family units terminated first.

(c) The budget will be managed by reviewing monthly expenditures, and evaluating whether the cumulative expenditures at the end of any given month are less than or equal to the number of months that have expired in the fiscal year times 1/12 of the budget appropriation for child care payments.

(d) When the department determines that the budget appropriation has or soon will be exceeded, notices of adverse action may be issued to limit the number of children receiving payments in any given month or to take other necessary action to operate within the child care budget appropriation. A decision under this subsection shall be final and conclusive and not subject to an administrative appeal under section 17-798.3-21. [Eff AUG 06 2021 ] (Auth: HRS §346-14) (Imp: HRS §346-14)

**§17-798.3-24 Waitlist.** (a) The department may implement a waitlist for child care subsidy payments whenever it determines that sufficient funding is not available to sustain payments for all of the applicants requesting assistance.

(b) The following are not subject to the waitlist:

- (1) A family unit who needs child care payments to comply with the First-To-Work (FTW) program participation requirements;
- (2) A family unit whose child is receiving child protective services, and the need for child care is specified in the family unit's case plan as ordered by the court; and
- (3) Former TANF participants who are eligible for Transitional Child Care pursuant to section 17-798.3-36.

(c) When the waitlist is in effect, the department shall prioritize applicants using the following:

- (1) Family units with gross incomes at or below 100% of the Federal Poverty Guideline (FPG) for a family of the same size shall be income-ranked by dividing their monthly gross income by the income limit for a family of the same size;
- (2) Family units with gross incomes above 100% of the FPG for a family of the same size shall be income-ranked by dividing their monthly gross income by the income limit for a family of the same size; and
- (3) Date an application is received by the department.

(d) Upon determining funds are available, the department shall select waitlisted family units by priority, as established in subsection (c), and provide notification of eligibility for program enrollment as established in section 17-798.3-8.

(e) Waitlisted family units selected for child care payments shall meet all eligibility requirements

as established in section 17-798.3-9 at the time of notification of eligibility for program enrollment; provided that if the waitlisted family unit is not eligible, the caretaker will be notified of the application denial.

(f) Eligibility for the initial payment shall be the later of:

- (1) The month that requirements of section 17-798.3-9 are verified by the department; or
- (2) The eligible child's first day in child care.

(g) Assignment of applicants to the waitlist shall be final and conclusive and not subject to an administrative appeal under section 17-798.3-21. [Eff

AUG 06 2021 ] (Auth: HRS §346-14) (Imp: HRS §346-14)

§§17-798.3-25 to 17-798.3-34 (Reserved)

## SUBCHAPTER 2

### TRANSITIONAL CHILD CARE PAYMENTS

**§17-798.3-35 Purpose.** The purpose of this subchapter is to establish the eligibility requirements, benefits, and method of determining payment for transitional child care benefits. [Eff  
AUG 06 2021 ] (Auth: HRS §346-14) (Imp: HRS §346-14)

**§17-798.3-36 Eligibility requirements.** (a) The department may provide transitional child care payments for a period of up to twelve consecutive months to a family unit that ceases to be eligible for TANF as a result of:

- (1) Increased hours of employment or increased income from employment;
- (2) New or increased income from child support; or
- (3) The caretaker voluntarily requesting TANF closure because the caretaker is currently employed.

(b) The family unit shall have received TANF benefits in the month immediately preceding the first month of ineligibility or termination.

(c) The family unit shall meet all the conditions specified in sections 17-798.3-9, 17-798.3-10, 17-798.3-11, 17-798.3-13, 17-798.3-14, 17-798.3-15 and 17-798.3-16.

(d) Eligibility for transitional child care payments shall begin from the date TANF eligibility ends or when the family unit applies for transitional child care payments, whichever is later.

(e) A family unit shall apply for transitional child care payments within twelve months of ending TANF for the reasons stated in subsection (a):

- (1) A family unit that applies for transitional child care payments prior to TANF eligibility ending may do so by request to the department without further application; and
  - (2) A family unit that applies for transitional child care payments after TANF eligibility ends shall submit a form prescribed by the department pursuant to section 17-798.3-6.
- [Eff **AUG 06 2021** ] (Auth: HRS §346-14)  
(Imp: HRS §346-14)

**§§17-798.3-37 to 17-798.3-49 (Reserved)**

SUBCHAPTER 3

GENERAL REQUIREMENTS FOR EXEMPT PROVIDERS

**§17-798.3-50 Purpose.** The purpose of this subchapter is to define the general requirements for exempt child care providers to be authorized to care for children whose families receive child care payments. [Eff **AUG 06 2021** ] (Auth: HRS §§346-14 and 346-152.5) (Imp: HRS §§346-14; 45 C.F.R Part 98)

**§17-798.3-51 General requirements.** (a) The department shall verify that the exempt provider meets exemptions from sections 346-161 or 346-171, HRS, in accordance with section 346-152, HRS.

(b) An exempt provider shall be authorized to care for children whose families receive child care payments under this chapter when all requirements in subchapter 3, 4, and 5 are met.

- (c) An exempt provider shall:
- (1) Be eighteen years old or older;
  - (2) Afford caretakers unlimited access to their children, including written records concerning the caretakers' children, during normal hours of provider operation and whenever children are in the care of the provider;
  - (3) Operate as an exempt provider in accordance with section 346-152, HRS;
  - (4) Complete background checks in accordance with section 17-798.3-89 and chapter 17-801;
  - (5) Have no known history of physical, psychological or psychiatric problems, or background, in accordance with chapter 17-801 that may adversely affect or interfere with the care of children;

- (6) Be free of physical or psychological conditions which may impair or limit the provider's ability to provide child care;
- (7) Satisfactorily complete and provide written evidence to the department to show completion of trainings as required by the department when caring for an eligible child under this chapter which includes but is not limited to:
  - (A) An initial training in health and safety standards that is approved by the department prior to caring for an eligible child;
  - (B) Safe sleep training that is approved by the department on an annual basis when the provider starts caring for an eligible child who is less than one year of age, until no eligible children in care are less than one year of age; and
  - (C) A minimum of eight hours of training within one year of completion of the initial training as described in subparagraph (A), and completed annually thereafter, as prescribed by the department in at least two of the following topic areas:
    - (i) Physical care of the young child;
    - (ii) Care of the sick child;
    - (iii) Child nutrition;
    - (iv) Child growth and development;
    - (v) Children with special needs;
    - (vi) Learning activities and play;
    - (vii) Family engagement;
    - (viii) Managing challenging behaviors;
    - (ix) Prevention of child maltreatment and abuse;
    - (x) First aid and child cardiopulmonary resuscitation;
    - (xi) Physical environment;
    - (xii) Health and safety;

- (xiii) Child care business or program management; or
  - (xiv) Community resources; and
  - (xv) Training under section 17-798.3-51(c)(7)(B), when applicable;
- provided that an exempt provider who is the child's grandparent, great-grandparent, sibling living in a separate residence, aunt, or uncle is not subject to this paragraph;
- (8) Submit to initial and annual monitoring inspections where care is being provided, including in-home care, to ensure compliance with the requirements of subchapters 4 and 5 as follows:
    - (A) The department shall assess the qualifications of exempt providers and inspect the premises.
    - (B) All exempt providers shall cooperate with the department by providing access to the premises, records, staff, and household members.
    - (C) Failure to comply with reasonable requests may constitute grounds for the department to determine that the provider is not authorized to care for a child whose family unit receives child care payments;
- provided that an exempt provider who is the child's grandparent, great-grandparent, sibling living in a separate residence, aunt, or uncle is not subject to this paragraph;
- (9) Comply with section 17-798.3-66;
  - (10) Agree to report to the department, within one working day of occurrence, the death of a child or staff, and any illness or injury received at the provider that results in a child's hospitalization or emergency treatment;

- (11) Report to the department within ten calendar days of occurrence, any of the following:
    - (A) Change in contact telephone number;
    - (B) Change in the address where the child care is being conducted; or
    - (C) Change in the staff or household members where care is being conducted;
  - (12) Agree to notify all parents of children in care when there are deficiencies in meeting requirements under subchapters 3, 4, or 5;
  - (13) Report any suspected child abuse or neglect in accordance with section 350-1.1, HRS;
  - (14) Have a written policy of expulsion of children which includes the following:
    - (A) The conditions under which a child may be expelled, if applicable;
    - (B) Sufficient timeframe before expulsion occurs to enable parents to make alternative child care arrangements or to take the necessary action to allow the child to remain enrolled, except as specified in subparagraph (C);
    - (C) Conditions that may warrant immediate expulsion such as imminent danger to the health, welfare, or safety of the children or staff;
  - (15) Give parents and guardians a copy of the expulsion policy;
  - (16) Provide written notification to parents or guardians, any concerns that could lead to the child's expulsion; and
  - (17) When expulsion occurs, maintain a record of the conditions, parental notification, and action taken when applicable.
- (d) The eligible family using an exempt provider providing home-based child care, including in-home care, may be authorized to receive child care payments presumptively once the provider is in compliance with paragraphs (c)(1) to (c)(7)(A). Child care payments to the eligible family unit may be made retroactively in accordance with section 17-798.3-6(g).





(e) If the department receives information that the exempt provider, including relatives excluded from paragraph 17-798.3-51(c)(8), is in violation of subchapters 3, 4 or 5, or that the provider is conducting child care in violation of section 346-152, HRS, the department will conduct an investigation, including an inspection of the child care facility.

- (1) All exempt providers shall cooperate with the department by providing access to the premises, records, staff, and household members, including relatives excluded from paragraph 17-798.3-51 (c)(8).
- (2) Child care payments shall cease in accordance with sections 17-798.3-9(d)(4)(A) and 17-798.3-19(a)(7) until the department has completed its investigation and determined that the exempt provider is in compliance with section 346-152, HRS, or subchapters 3, 4 or 5. [Eff **AUG 06 2021** ]  
(Auth: HRS §§346-14 and 346-152.5) (Imp: HRS §346-14; 45 C.F.R Part 98)

§§17-798.3-52 to 17-798.3-59 (Reserved)

#### Subchapter 4

#### HEALTH REQUIREMENTS FOR EXEMPT PROVIDERS

**§17-798.3-60 Purpose.** The purpose of this subchapter is to define the health requirements for exempt providers to be authorized to care for children whose families are receiving child care payments. [Eff **AUG 06 2021** ] (Auth: HRS §§346-14 and 346-152.5) (Imp: HRS §346-14; 45 C.F.R Part 98)

§17-798.3-61

**§17-798.3-61 Drinking water provisions.** The provider shall make available suitable drinking water to all children in care. [Eff **AUG 06 2021** ] (Auth: HRS §§346-14 and 346-152.5) (Imp: HRS §346-14; 45 C.F.R Part 98)

**§17-798.3-62 Handwashing.** (a) The provider and children shall wash hands using water and soap:

- (1) Before and after eating or drinking;
- (2) Before and after preparing food or beverages;
- (3) Before and after diapering;
- (4) After using the toilet or helping a child in toileting;
- (5) After handling any bodily fluids or items containing bodily fluids;
- (6) After handling pets or animals; and
- (7) After outdoor play.

(b) Paper towels or separate cloth towels for each child shall be used for drying hands after handwashing. [Eff **AUG 06 2021** ] (Auth: HRS §§346-14 and 346-152.5) (Imp: HRS §346-14; 45 C.F.R Part 98)

**§17-798.3-63 Toilet and handwashing facilities.** Children shall have access to toilet and handwashing facilities that are clean and stocked with toilet paper and supplies required under section 17-798.3-62(b). [Eff **AUG 06 2021** ] (Auth: HRS §§346-14 and 346-152.5) (Imp: HRS §346-14; 45 C.F.R Part 98)

**§17-798.3-64 Handling of diapers or training underpants.** The provider shall handle disposable and

cloth diapers and cloth training underpants in the following manner:

- (1) Use a clean non-porous surface for changing diapers;
- (2) Use a space set aside for diapering that is separate from eating and food preparation areas;
- (3) Discard soiled disposable diapers shall be discarded in a covered container. The covered container shall be kept away from eating, food storage, and food preparation areas and out of the children's reach.
- (4) Place soiled cloth diapers and cloth training underpants, without emptying or rinsing the contents, in a plastic bag and kept away from eating, food storage, and food preparation areas and out of the children's reach.
- (5) Give soiled cloth diapers or cloth training underpants to the child's parent or guardian. [Eff AUG 06 2021 ]  
(Auth: HRS §§346-14 and 346-152.5) (Imp: HRS §346-14; 45 C.F.R Part 98)

**§17-798.3-65 Food preparation and protection.**

If the provider offers meals and snacks, the provider shall:

- (1) Designate areas for eating or drinking;
- (2) Clean food preparation areas before and after meals and snacks; and
- (3) Store food in a safe and sanitary manner.  
[Eff AUG 06 2021 ] (Auth: HRS §§346-14 and 346-152.5) (Imp: HRS §346-14; 42 U.S.C. §§2002, 2005, 2014)

**§17-798.3-66 Evidence of child's health. (a)**

The provider shall obtain from the parent or guardian

of each child entering child care, evidence of compliance with examinations and immunizations, in accordance with chapters 11-157 and 11-164.2 for tuberculosis clearance.

(b) The provider shall obtain from the parent or guardian the health needs for each child, including any allergies, and maintain copies of the evidence.

(c) The provider shall not be required to obtain the evidence described in subsection (a) if the provider has the following:

- (1) A written statement from the parent or guardian objecting to immunization of the child on the basis of their religion;
- (2) A written statement signed by the child's physician indicating that the child's medical condition contraindicates immunization; or
- (3) Is providing care in the eligible child's home and all children in care are part of the same family unit.

(d) The provider shall allow a grace period of three months from the child's first day in care, with the exception of chapter 11-164.2 for tuberculosis clearance, to obtain the evidence described in subsection (a) or (c) for:

- (1) Children experiencing homelessness; or
- (2) Children in foster care;

provided that the parents or guardians submit evidence to the provider in writing that sets out the health needs for the child, including any allergies, at the time the child is placed in care.

(e) The provider shall be required to obtain the evidence described in subsection (a) and (b) if the provider is a relative specified in section 17-798.3-51(c)(7) and is caring for any other children unrelated to the caregiver. [Eff **AUG 06 2021** ]  
(Auth: HRS §§346-14 and 346-152.5) (Imp: HRS §346-14; 45 C.F.R Part 98)

**§17-798.3-67 Children who become ill.** The provider shall ensure a clean and safe resting space to isolate children who are ill while in care, and for an ill child less than one year of age the resting space shall be in accordance with section 17-798.3-85.

**§17-798.3-68 Administration of medication.** (a) When medication prescribed by a health care professional is administered by the provider or provider's staff:

- (1) The child's parent or guardian shall give written permission to the provider to administer medication;
- (2) The medication shall be kept in the original container bearing the prescription label which shows a current date, the health care professional's directions for use, and the child's name; and

(b) When over-the-counter medication is administered by the provider or provider's staff:

- (1) The child's parent or guardian shall give written permission to the provider to administer medication;
- (2) The child's parent, guardian, or a health care professional shall give written directions to the provider for the administration of the medication.

(c) All medication shall be stored out of the reach of the children and shall be returned to parents or guardians when no longer in use. [Eff **AUG 06 2021** 1 (Auth: HRS §§346-14 and 346-152.5) (Imp: HRS §346-14; 45 C.F.R Part 98)]

**§17-798.3-69 Provider's health standards.** The provider and the provider's staff shall be free of communicable diseases, including tuberculosis. [Eff **AUG 06 2021** ] (Auth: HRS §§346-14 and 346-152.5) (Imp: HRS §346-14; 45 C.F.R Part 98)

**§17-798.3-70 Personal health habits of provider and staff.** The provider shall ensure:

- (1) No smoking (including electronic smoking devices) is allowed on the premises during child care hours of operation and nicotine products shall be stored out of the reach of children.
- (2) No alcoholic beverages shall be consumed prior to or during child care hours of operation or kept at the facility during child care hours of operation, provided that if it is a family home, alcoholic beverages may be kept on premises but shall be stored out of the reach of children.
- (3) Any medications shall not be consumed prior to or during child care hours of operation that impair or limit the provider's ability to provide child care, provided that if it is a family home, medications may be kept on premises but shall be stored out of the reach of children. [Eff **AUG 06 2021** ]  
(Auth: HRS §§346-14 and 346-152.5) (Imp: HRS §346-14; 45 C.F.R Part 98)

**§§17-798.3-71 to 17-798.3-79 (Reserved)**

## Subchapter 5

### SAFETY REQUIREMENTS FOR EXEMPT PROVIDERS

**§17-798.3-80 Purpose.** The purpose of this subchapter is to define the safety requirements for

exempt providers to be authorized to care for children whose families are receiving child care payments.

[Eff **AUG 06 2021** ] (Auth: HRS §§346-14 and 346-152.5) (Imp: HRS §346-14; 45 C.F.R Part 98)

**§17-798.3-81 Supervision.** The provider or the provider's staff must be physically on-site and supervising the children in care at all times. Supervision means to be within sight or hearing distance to ensure the safety and protection of the children in care and to respond to an emergency.

[Eff **AUG 06 2021** ] (Auth: HRS §§346-14 and 346-152.5) (Imp: HRS §346-14; 45 C.F.R Part 98)

**§17-798.3-82 Managing children's behavior.** (a) The provider shall ensure an environment that promotes a child's well-being.

(b) The provider shall not use physical punishment as a means of disciplining or managing children's behavior, including but not limited to, spanking, pinching, slapping, or shaking.

(c) The provider shall not cause physical harm or neglect to the child. [Eff **AUG 06 2021** ] (Auth: HRS §§346-14 and 346-152.5) (Imp: HRS §346-14; 45 C.F.R Part 98)

**§17-798.3-83 Maximum number of children.** (a) Exempt home-based providers and exempt in-home care providers shall:

- (1) Provide care to no more than six children at the same time during any part of a twenty-four hour day, including the provider's own children, except when the provider's children are six years of age or older.
- (2) Care at the same time for no more than two children under eighteen months of age,

including the provider's own children under eighteen months of age.

(b) Notwithstanding subsection (a), exempt home-based providers meeting the exemption under section 346-152(a)(1), HRS, may be approved by the department to care for up to four children under eighteen months of age when the family unit has the same number of children of such ages, and the care is during the night-time hours, and the provider does not care for any other children at the same time, including the provider's own children.

(c) Notwithstanding subsection (a), exempt in-home care providers meeting the exemption under sections 346-152(a)(10), HRS, may be approved by the department to care for up to eight children of the same family unit, of which up to four children may be under eighteen months of age, when the family unit has the same number of children needing child care payments, and the provider does not care for any of the provider's own children at the same time. [Eff AUG 06 2021]  
] (Auth: HRS §§346-14, 346-152, and 346-152.5) (Imp: HRS §§346-14 and 346-152; 45 C.F.R Part 98)

**§17-798.3-84 Disaster plan for emergencies.** The provider shall have the following:

- (1) A smoke detector in the child care area which is properly installed and in proper working condition;
- (2) An unexpired ABC multi-purpose type fire extinguisher in the child care area, kept out of the reach of children;
- (3) An emergency exit plan which is posted in the child care area and practiced regularly with the children;
- (4) Emergency evacuation exits which are kept clear of obstructions;
- (5) A written disaster plan that is reviewed with the parent or guardian and covers emergencies, including fire, flood, natural



disaster, evacuation, relocation, shelter-in-place, lock-down, communication and reunification with families, continuity of operations, accommodation of infants and toddlers, children with special needs, and children with chronic medical conditions.  
[Eff **AUG 06 2021** ] (Auth: HRS §§346-14 and 346-152.5) (Imp: HRS §346-14; 45 C.F.R Part 98)

**§17-798.3-85 Sleeping areas for children in care.** (a) For a child less than one year of age, the provider shall:

- (1) Ensure that areas where children sleep are kept ventilated and at a safe temperature;
- (2) Ensure that each child has a separate crib or playpen;
- (3) Ensure that cribs or playpens used for care have not been recalled by the United States consumer product safety commission; provided that a recalled item may be used if repaired in accordance with the manufacturer's standards, and the provider maintains a record of the repair;
- (4) Not allow for any other sleeping arrangement, including bed-sharing;
- (5) Place the child on his or her back to sleep, unless written instructions for an alternative sleep position are on file from one of the following:
  - (A) A physician who is licensed to practice medicine or osteopathic medicine (M.D. or O.D.);
  - (B) A physician assistant (PA);
  - (C) An advanced practice registered nurse (APRN) licensed to practice in any of

the states or territories of the United States; or

(D) A nurse practitioner (NP) licensed by the State of Hawaii.

- (6) Move the child to a crib or playpen for the remainder of the nap when the child falls asleep in a location or in equipment other than a crib or playpen;
- (7) Monitor and periodically check on a sleeping child;
- (8) Ensure that the crib or playpen has a clean, tightly-fitted sheet; and
- (9) Ensure that the crib or playpen does not have any bedding or toys placed in with a child.

(b) For a child one year of age and older, the provider shall:

- (1) Ensure that areas where children sleep are kept ventilated and at a safe temperature;
- (2) Provide individual napping arrangements, where each child shall have his or her own mat, rug, cot, bed, or blanket.

[Eff AUG 06 2021 ] (Auth: HRS §§346-14 and 346-152.5) (Imp: HRS §346-14; 45 C.F.R Part 98)

**§17-798.3-86 Environmental hazards.** (a) The premises in which child care is carried out, including both indoor and outdoor space, shall be lighted and ventilated at a safe temperature and shall not have environmental hazards.

(b) Accessible electrical outlets shall be covered with child-resistant outlet covers when children in care are not school-age.

(c) Electrical cords shall not cross pathways, and long cords shall be wrapped and secured.

(d) Hazardous substances, including cleaning solutions, alcohol, and medication, are inaccessible to children and in a closed container clearly labeled.

Cleaning materials shall be stored in a secured area away from food preparation areas during food preparation times.

(e) Establish and follow procedures for handling, storing, and disposing of biocontaminants, to use in all situations to prevent the transmission of blood-borne germs that may be spread through blood and body fluids.

(f) All entrances and exits shall be secured.

(g) Children's access to traffic and other outdoor hazards shall be blocked.

(h) Stove tops and controls shall not be accessible to children without supervision by the provider or provider's staff.

(i) Hot water taps shall be inaccessible without supervision by the provider or provider's staff.

(j) Sharp objects, household items, and tools shall be kept in a safe location and out of children's reach or are supervised when used safely.

(k) All guns and weapons, including but not limited to, hunting knives and archery equipment, and related accessories shall be locked up, and ammunition shall be secured and locked in a separate place; provided that a law enforcement officer, who is trained and certified to carry a firearm and ammunition, shall not be subject to this subsection for a law enforcement agency-issued firearm when the officer is acting in an official or authorized capacity.

(l) Pets, animals, and fowl shall be maintained in a safe and sanitary manner at all times, and the provider has written permission from the parents that the children are allowed to have contact with pets, animals, and fowl.

(m) Indoor and outdoor structures and furnishings that have hazardous sharp edges, rust and splinters shall not be accessible to children.

(n) Swimming or wading pools that are part of the facility, equipment, or program, shall observe the following safety practices:

(1) A certified lifeguard, who may be the provider, shall be on duty at all times when swimming pools are in use;

- (2) Wading pools less than twenty-four inches at the deepest part shall be exempt from the requirements of paragraph (1). Children shall be personally attended by a responsible adult at all times and the wading pools shall be emptied immediately after each use; and
- (3) Legible safety rules for the use of all types of pools, except for wading pools, shall be posted in a conspicuous location and read and reviewed at regular intervals by each provider responsible for the care of the children. [Eff <sup>AUG 06 2021</sup> ]  
(Auth: HRS §§346-14 and 346-152.5) (Imp: HRS §346-14; 45 C.F.R Part 98)

**§17-798.3-87 Emergency care provisions.** The provider shall have the following:

- (1) Information on each child's emergency contact numbers for each parent or guardian;
- (2) Written permission from the parent or guardian of the child for the child to receive emergency care;
- (3) An adult shall accompany a child to the source of emergency care. The adult shall stay with the child until the parent or parent's designee assumes responsibility for the child's care. The selection of the adult shall not compromise the supervision of the other children in care.
- (4) An operating telephone that is available and is easily accessible to the provider;
- (5) A plan for accessing a telephone when not in the usual location where care is being provided;
- (6) A first aid kit that is adequately stocked, readily available, and accessible; and
- (7) A first aid kit, emergency contact phone numbers, and medical

treatment release forms when going  
on trips. [Eff **AUG 06 2021** ]  
(Auth: HRS §§346-14 and 346-  
152.5) (Imp: HRS §346-14; 45 C.F.R  
Part 98)

**§17-798.3-88 Transportation provisions.** When  
the provider transports children in a personal  
vehicle, the provider shall:

- (1) Have written permission from the parent or  
guardian that each child is allowed to be  
transported by the provider in a personal  
vehicle;
- (2) Ensure that car seats and safety restraints  
are used as required by applicable laws;
- (3) Ensure that children are secured in the back  
seat of the vehicle; and
- (4) Ensure that children are never left  
unattended in vehicles, even with the air  
conditioning on or windows rolled down.  
[Eff **AUG 06 2021** ] (Auth: HRS §§346-14  
and 346-152.5) (Imp: HRS §346-14; 45 C.F.R  
Part 98)

**§17-798.3-89 Background checks for exempt  
providers.** (a) All exempt providers, any adult  
household members, regardless of whether they provide  
care, and current or prospective staff, including  
volunteers, shall be subject to and in compliance with  
chapter 17-801, prior to authorization of any child  
care subsidy payments, and annually thereafter in  
accordance with chapter 17-801, to ensure that they  
are of reputable and responsible character, are  
suitable to provide child care, and do not pose a risk  
to children in care.

(b) The department shall deny authorization for  
child care subsidy payment assistance to the family if  
the exempt provider, household member, or current or

prospective staff are determined by the department to be not suitable to provide child care pursuant to chapter 17-801.

(c) The department shall deny child care subsidy payment assistance to the family using an exempt provider who does not comply with the request to exclude a staff or household member who is determined by the department to be not suitable to provide child care in accordance with chapter 17-801.

(d) A person who cannot be authorized to provide care for a family receiving child care subsidy payment assistance as a result of the background check done pursuant to chapter 17-801 may request an administrative hearing as provided in chapter 17-801."

[Eff AUG 06 2021 ] (Auth: HRS §§346-14 and 346-152.5) (Imp: HRS §346-14; 45 C.F.R Part 98)

# CHILD CARE RATE TABLE

Type of Care	Full-Time Care	Part Time Care
<b>Licensed Center-Based Infant/Toddler Care</b>	87 Monthly Hours or more	1-86 Monthly Hours
	\$1,733	\$1,733
<b>NAEYC Accredited*, NECPA Accredited, or Hawaiian Medium Center-Based Care</b>	87 Monthly Hours or more	1-86 Monthly Hours
	\$980	\$980
<b>Licensed Center-Based or Group Child Care Home</b>	87 Monthly Hours or more	1-86 Monthly Hours
	\$795	\$795
<b>NAFCC Accredited^ Family Child Care Home Infant/Toddler Care</b>	87 Monthly Hours or more	1-86 Monthly Hours
	\$750	\$750
<b>NAFCC Accredited^ Family Child Care Home**</b>	87 Monthly Hours or more	1-86 Monthly Hours
	\$700	\$700
<b>Registered Family Child Care Home Infant/Toddler Care</b>	87 Monthly Hours or more	1-86 Monthly Hours
	\$650	\$362
<b>Registered Family Child Care Home **</b>	87 Monthly Hours or more	1-86 Monthly Hours
	\$600	\$334
<b>Legally Exempt Relative and Non-Relative Infant/Toddler Care</b>	87 Monthly Hours or more	1-86 Monthly Hours
	\$400	\$223
<b>Legally Exempt Relative, Non-Relative, and Center-Based Care **</b>	87 Monthly Hours or more	1-86 Monthly Hours
	\$350	\$195
<b>Licensed School-Age Intersession/Summer Care</b>	87 Monthly Hours or more	1-86 Monthly Hours
	\$450	\$350
<b>Licensed Before School Care / After School Care</b>	45+ Monthly Hours	1-44 Monthly Hours
	\$155	\$86
<b>Legally Exempt Before School Care / After School Care</b>	45+ Monthly Hours	1-44 Monthly Hours
	\$120	\$61

\* NAEYC refers to National Association for the Education of Young Children. NECPA refers to National Early Childhood

Department of Human Services  
Benefit, Employment and Support Services Division  
January 2, 2020

EXHIBIT I

## CHILD CARE RATE TABLE

Program Accreditation

^ NAFCC refers to National Association for Family Child Care Accreditation

\*\*Summer and Intersession care rates are the same as the rates listed here. All Rates include an estimate of travel time.

Department of Human Services  
Benefit, Employment and Support Services Division  
January 2, 2020

EXHIBIT I



**Child Care**  
**Gross Income Eligibility Limits and Sliding Fee Scale**

Family Size	Income Eligibility Limit	0-100% FPG	101%-115% FPG	116%-130% FPG	131%-145% FPG	146%-160% FPG	161%-175% FPG	176%-190% FPG	191%-205% FPG	206%-230% FPG	231% FPG – elig. limit
		0% family co-pay	1% family co-pay	2% family co-pay	3% family co-pay	4% family co-pay	5% family co-pay	6% family co-pay	7% family co-pay	8% family co-pay	9% family co-pay
1	3,632	1,198	1,377	1,557	1,737	1,916	2,096	2,276	2,455	2,755	3,632
2	4,749	1,621	1,864	2,107	2,350	2,593	2,836	3,079	3,323	3,728	4,749
3	5,867	2,045	2,351	2,658	2,965	3,272	3,578	3,885	4,192	4,703	5,867
4	6,985	2,468	2,838	3,208	3,578	3,948	4,319	4,689	5,059	5,676	6,985
5	8,102	2,891	3,324	3,758	4,191	4,625	5,059	5,492	5,926	6,649	8,102
6	9,220	3,315	3,812	4,309	4,806	5,304	5,801	6,298	6,795	7,624	9,220
7	9,429	3,738	4,298	4,859	5,420	5,980	6,541	7,102	7,662	8,597	9,429
8	9,639	4,161	4,785	5,409	6,033	6,657	7,281	7,905	8,530	9,570	9,639
9	9,848	4,585	5,272	5,960	6,648	7,336	8,023	8,711	9,399	9,848	-
10	10,058	5,008	5,759	6,510	7,261	8,012	8,764	9,515	10,058	-	-
11	10,267	5,431	6,245	7,060	7,874	8,689	9,504	10,267	-	-	-
12	10,477	5,855	6,733	7,611	8,489	9,368	10,246	10,477	-	-	-
13	10,687	6,278	7,219	8,161	9,103	10,044	10,687	-	-	-	-
14	10,896	6,701	7,706	8,711	9,716	10,721	10,896	-	-	-	-
15	11,106	7,125	8,193	9,262	10,331	11,106	-	-	-	-	-
For each add'l, add	209	423	486	549	613	209	-	-	-	-	-

**Instructions:**

1. Gross Income (GI) eligibility limit is at 85% of State Median Income (SMI).
2. Compare GI with Income Eligibility Limit to determine income eligibility.
3. If GI is less than or equal to the Income Eligibility Limit, find the largest reimbursement rate for which the income limit is greater than or equal to GI.

Department of Human Services  
Benefit, Employment and Support Services Division  
January 2, 2020

EXHIBIT II