

HAWAII ADMINISTRATIVE RULES

TITLE 17

DEPARTMENT OF HUMAN SERVICES

SUBTITLE 6

BENEFIT, EMPLOYMENT AND SUPPORT SERVICES DIVISION

CHAPTER 799

PRESCHOOL OPEN DOORS PROGRAM

Subchapter 1 General Provisions

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Historical Note: Chapter 17-799 is based
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Services, Subchapter 2, Preschool Open Doors [Eff
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R 08/06/21]

SUBCHAPTER 1

GENERAL PROVISIONS

§17-799-1 Purpose. Child care payments under
this subchapter shall be for early childhood services
to low- and moderate-income families that contributes
to school readiness by providing up to two school
years of experience in a preschool program chosen by
the child's caretaker prior to the child entering
kindergarten. The intent of the program is to provide
child care payments to as many eligible families as
possible through the funding that is appropriated and
available for the State fiscal year. [Eff 02/09/14;
comp 12/31/17; am and comp JAN 12 2024] (Auth:
HRS §§346-14, 346-181) (Imp: HRS §§346-14, 346-181)

§17-799-2 Definitions. As used in this chapter:

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

"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.

"Applicant" means the caretaker, including an emancipated minor pursuant to HRS §571-2 and HRS §577-25 and a teenage head of the household, who has the responsibility to provide care for the child, and needs child care. This does not include an unmarried minor who is a parent to the individual's own baby who together reside in the same household with the minor's adult caretaker.

"Application" means the action by which an individual indicates on a form prescribed by the department a request to receive assistance with child care costs and services.

"Applying program year" means the school year that the child will be attending child care.

"Approved priority applicant" means an applicant that has met program eligibility criteria and has their application income-ranked within their priority

group, and within their geographical area designated by the department.

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

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

"Budget month" means the calendar month(s) for which the child care expense and income of a family unit are used to compute the payment amount that the family unit shall receive in the payment month.

"Caretaker" means an adult who resides with and is responsible for the care of a child, and who is a birth, hanai, foster, or adoptive parent, guardian, 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 teen parents who are birth parents to the child.

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

"Child care" means those situations in which a caregiver has agreed to assume the responsibility for the child's supervision, apart from and in the absence of the child's caretaker, for any part of a twenty-four-hour day. Child care, for the purposes of this chapter, is limited to care provided in a group child care home, or in a group child care center.

"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.

"Eligibility period" means a period up to twelve months, established by the department, that shall not exceed the applicable State fiscal year, during which the household may be eligible for child care payments.

"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" or "Exempt center-based provider" means a facility providing legally-exempt child care, in accordance with section 346-152, HRS, that is in compliance with chapter 17-800. It also includes all staff employed at a child care facility, any volunteers who provide care for children for ten hours or more per week, substitutes, and any other individuals who have unsupervised access to children in exempt center-based care.

"Experiencing homelessness" means a family unit:

- (1) Lack a fixed, regular, and adequate nighttime residence;
- (2) Are sharing the housing of other persons due to a loss of housing, economic hardship, or a similar reason, are living in motels, hotels, or camping grounds due to the lack of alternative adequate accommodation, 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 stations, or similar settings; or
- (5) Are migratory children (as the term is defined in section 1309 of the Elementary and Secondary Education Act of 1965).

"Family unit" means the caretakers and their minor children who reside together in the same household.

"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.

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

"Group child care center" or "GCC" means a facility, other than a private home, at which care is provided, as defined in section 346-151, HRS.

"Group child care home" or "GCCH" 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 a 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 that

is licensed by the department in accordance with section 346-162, 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.

"Low-income" means gross income less than or equal to one hundred eighty-five per cent of the Federal Poverty Guidelines.

"Minor" means a person under eighteen years old.

"Moderate-income" means gross income greater than one hundred eighty-five per cent and less than or equal to three hundred per cent of the Federal Poverty Guidelines.

"Monthly gross income limit" means three hundred per cent of the Federal Poverty Guidelines for a family of the same size.

"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.

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

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

"Preschool" means a Group Child Care Center (GCC) or Group Child Care Home (GCCH) that provides services for children ages two years to six years old.

"Prospective budgeting" means computation of the child care payment based on the worker's best estimate of the child care expense 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.

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

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

"Self-employment" means an individual is not subject to discharge from his or her job by another person, reports income to the Internal Revenue Service and the State as a self-employed person and pays employer's and employee's share of social security taxes, is not considered an employee of an agency or organization, and generates income equivalent to twenty hours per week multiplied by 4.3333 weeks multiplied by the State minimum wage at the time of eligibility determination and redetermination.

"Special populations referral" means documentation to verify that a child does not qualify full-time for the state department of education (DOE) special education program services and:

- (1) Has a physical, developmental, behavioral or emotional health condition that is outside of the normal range;
- (2) Meets the state department of health criteria for environmental risk as defined in HRS §321-351;
- (3) Resides in a LEP household; or
- (4) Is experiencing homelessness and the family is participating in or enrolling in a program for homeless services.

"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.

"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. §§601-617 and HRS §346-29.

"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.

"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. [Eff 02/09/14; comp 12/31/17; am and comp JAN 12 2024] (Auth: HRS §§346-14, 346-181) (Imp: HRS §§346-151, 346-181)

§17-799-3 Confidentiality. Requirements for confidentiality shall be as provided in chapter 17-601. [Eff 02/09/14; comp 12/31/17; comp JAN 12 2024] (Auth: HRS §§346-10 and 346-14) (Imp: HRS §346-10)

§17-799-4 Scope. (a) Child care services shall 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; and
 - (4) Health and nutritional services.
- (b) Child care services shall exclude:
- (1) Services provided to a child enrolled in or eligible for public education in kindergarten to twelfth grade during the regular school day;

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- (2) Services for which a child receives academic credit toward graduation;
- (3) Any instructional services that supplants or duplicates the academic program of any public or private school which 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 HRS §346-152(a)(4).

(c) Child care payments shall only be used for services described in subsection (a). [Eff 02/09/14; comp 12/31/17; am and comp JAN 12 2024] (Auth: HRS §§346-14, 346-181) (Imp: HRS §§346-14, 346-181)

§17-799-5 Application period. (a) The department shall establish an application period during the calendar year to accept applications for the preschool open doors program for the ensuing State fiscal year.

(b) Prior to the start of an application period, the department shall issue a public notice to the general public announcing the availability to apply for the program. The public notice shall contain:

- (1) The beginning and ending dates of the application period;
- (2) Information about how to obtain an application; and
- (3) Contact information for additional information.

(c) Within thirty days from the end of the application period, applications received by the department shall be processed in accordance with section 17-799-6, and prioritized in accordance with section 17-799-7.

(d) The department shall conduct at least one application period during the calendar year. [Eff 02/09/14; comp 12/31/17; am and comp JAN 12 2024] (Auth: HRS §§346-14, 346-181) (Imp: HRS §§346-14, 346-181)

§17-799-6 Application process. (a) A request for child care payments shall be submitted on an application form prescribed by the department.

(b) The form shall be dated and signed by the applicant 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.

(c) The applicant shall be required to submit copies of documents for verification of the information provided to establish eligibility for the program.

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

(e) An application received outside of an open application period shall be subject to 17-799-18(a)(2). [Eff 02/09/14; comp 12/31/17; comp
JAN 1 2014] (Auth: HRS §§346-14, 346-181) (Imp: HRS §§346-14, 346-181)

§17-799-7 Priority of applications. (a) Approved applications shall be assigned to priority groups in the following order from the highest priority to lowest.

- (1) Children who turned or will turn four years old between August 1 of the prior year through December 31 of the prior year applying for the program for the designated school year, have a completed Special Populations Referral form prescribed by the department, are eligible to enter kindergarten at the start of the following school year, and need child care assistance to attend preschool;
- (2) Children who will turn four years old between January 1 through July 31 of the

year applying for the program for the designated school year, have a completed Special Populations Referral form prescribed by the department, are eligible to enter kindergarten at the start of the following school year, and need child care assistance to attend preschool; and

- (3) Children who will turn four years old during the year applying for the program for the designated school year, are eligible to enter kindergarten at the start of the following school year, and need child care assistance to attend preschool.

(b) Effective with the 2024-25 program year, approved applications shall be assigned to priority groups in the following order from the highest priority to lowest.

- (1) Children who are turning five years old between August 1 through December 31 of the applying program year, are eligible to enter kindergarten at the start of the following school year, and need child care assistance to attend preschool;
- (2) Children who were served by the program the year prior to the applying program year, have a completed Special Populations Referral form prescribed by the department, are eligible to enter kindergarten at the start of the following school year, and need child care assistance to attend preschool;
- (3) Children who were served by the program the year prior to the applying program year, are eligible to enter kindergarten at the start of the following school year, and need child care assistance to attend preschool;
- (4) Children who are four years old by July 31 of the applying program year, are eligible to enter kindergarten at the start of the following school year, and need child care assistance to attend preschool;
- (5) Children who will be three years old by July 31 of the applying program year, have a

- completed Special Populations Referral form prescribed by the department, and need child care assistance to attend preschool; and
- (6) Children who will be three years old by July 31 of the applying program year and need child care assistance to attend preschool.
- (c) Approved applications shall be income-ranked within their priority group, and within their geographical area designated by the department, by dividing their monthly gross income by:
- (1) Eighty-five per cent of the State Median Income for a family of the same size; or
- (2) Effective with the 2024-25 program year, three hundred per cent of the Federal Poverty Guidelines in effect for the program year for a family of the same size, which shall be updated annually on January 1 pursuant to section 17-799-8.
- (d) The department shall issue written notification to each applicant for services, pursuant to 17-799-19. [Eff 02/09/14; comp 12/31/17; am and comp JAN 17 2018] (Auth: HRS §§346-14, 346-181) (Imp: HRS §§346-14, 346-181)

§17-799-8 Family unit eligibility requirements.

- (a) The department shall verify that the child and caretaker meet the eligibility requirements as described in this chapter.
- (b) A child eligible for child care payments shall reside with the eligible caretaker and meet the priority application criteria in 17-799-7.
- (c) A child receiving child care payments under this chapter shall not be eligible to receive child care payments under chapter 17-798.3 for the same preschool provider or same type of care.
- (d) A caretaker shall be eligible for child care payments provided the caretaker has monthly gross income verified through documentation that does not exceed:

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- (1) Eighty-five per cent of the State Median Income for a family of the same size, using the Income Eligibility Limits as established in Exhibit I, dated November 1, 2013, attached at the end of this chapter; or
- (2) Effective with the 2024-25 program year, three hundred per cent of the Federal Poverty Guidelines for a family of the same size, which shall be updated annually on January 1 to determine eligibility for the upcoming program year.

(e) A caretaker who is a foster parent licensed by the department, or by an organization under the authority of the department, shall not be subject to income limits for determining eligibility, and are not subject to the family unit's co-payment requirement under sections 17-799-14(b) (3) and (4), for the applying foster child.

(f) A family unit who meets the eligibility conditions of this section, but is not selected to participate in the program due to lack of funds shall be placed on a waitlist and assigned a waitlist priority as established in 17-799-17. [Eff 02/09/14; comp 12/31/17; am and comp JAN 12 2024] (Auth: HRS §§346-14, 346-181) (Imp: HRS §§346-14, 346-181)

§17-799-9 Income considered in eligibility determination. (a) Monthly gross income shall be used to determine income eligibility of the family unit 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; or
 - (3) The monthly gross income that is anticipated to be received by the family unit, such as, but not limited to, from prospective 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.
- (4) Gross income from the caretakers' 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 allowed to be averaged to determine the budget month amount.
- (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;
- (11) Hawaii public assistance payments;
- (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-employment:
 - (A) Income received from non-farm self-employment 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 not 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 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.

- (B) Income received from farm self-employment 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, depreciation charges, 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, purchase of capital equipment, and payments on the principal of loans for capital assets or durable goods, and state and federal taxes paid shall not be deducted as business expenses.
- [Eff 02/09/14; comp 12/31/17; am and comp **JAN 12 2024**] (Auth: HRS §§346-14, 346-181) (Imp: HRS §§346-14, 346-181)

§17-799-10 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-employment 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;

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- (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 payments received as a result of a declared federal major disaster or emergency from the federal emergency management agency (FEMA), and other comparable disaster assistance provided by any state or local government agency, and disaster assistance organizations;
- (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) All payments pursuant to chapter 17-656.2; and

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- (30) Any other payments made in accordance with state and federal laws that preclude the payments from being counted as income. [Eff 02/09/14; comp 12/31/17; comp JAN 12 2024] (Auth: HRS §§346-14, 346-181) (Imp: HRS §§346-14, 346-181)

§17-799-11 Program enrollment. (a) The department shall issue a designated form to as many approved priority applicants, as established in subsection 17-799-7(c), that can be enrolled for child care payments within the available state fiscal year funding. The department shall also issue a designated form to waitlisted approved priority applicants who meet the condition of subsection 17-799-17(f).

(b) The approved priority applicants shall return the completed and signed designated form within twenty days from the date of issuance to provide the name and address of the preschool and verify the cost of the preschool.

(c) The caretaker shall choose a preschool that meets the program qualifications in 17-799-12.

(d) The caretaker shall ensure that a school readiness assessment conducted by the preschool is submitted to the department.

(e) Failure to comply with subsection (d) shall be subject to section 17-799-18. [Eff 02/09/14; comp 12/31/17; am and comp JAN 12 2024] (Auth: HRS §§346-14, 346-181) (Imp: HRS §§346-14, 346-181)

§17-799-12 Program qualifications for preschools. A preschool chosen by a caretaker shall:

- (1) Be limited for the purposes of this chapter to:
- (A) A group child care center that is licensed by the department under chapter 17-892.1;

- (B) A group child care home that is licensed by the department under chapter 17-892.1; or
 - (C) An exempt center-based provider that is listed with the department in accordance with chapter 17-800;
- (2) Agree to conduct a readiness assessment for each eligible child who is enrolled and approved to receive child care payments under this chapter. The readiness assessment, assessment results reporting form, and reporting submittal deadline, shall be prescribed by the department;
 - (3) Be accredited pursuant to section 17-799-12.1; and
 - (4) Cooperate with the department for overpayment resolution if the caretaker chose to have child care payments forwarded to the preschool's account pursuant to subsection 17-799-15(a). [Eff 02/09/14; comp 12/31/17; am and comp JAN 12 2024]
(Auth: HRS §§346-14, 346-181, 346-184)
(Imp: HRS §§346-14, 346-181, 346-184)

§17-799-12.1 Accreditation requirements. (a) A preschool that accepts enrollment of an eligible child approved to receive a subsidy under this chapter shall be accredited, or shall obtain accreditation within seven years of first accepting enrollment of an eligible child approved to receive child care payments under this chapter; provided that a preschool that existed prior to July 1, 2022, and is unaccredited as of July 1, 2022, shall commence the accreditation process no later than July 1, 2029, and shall obtain accreditation by July 1, 2034;

(b) Accreditation shall be obtained from one of the following national early learning accrediting organizations:

- (1) National Association for the Education of Young Children;

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- (2) National Early Childhood Program Accreditation;
 - (3) National Association for Family Child Care; or
 - (4) An accrediting organization approved by the director of the department; provided that the accrediting organization has standards comparable to the organizations specified in paragraphs (1) through (3).
- (c) An accrediting organization seeking approval for accreditation under paragraph (b)(4) shall:
- (1) Submit a request for approval to the department on a form prescribed by the department, along with documentation that shows the accrediting organization has standards that are comparable to the accrediting organizations listed in paragraphs (b)(1) through (3);
 - (2) The department shall review the request, utilizing standards established by accrediting organizations in paragraphs (b)(1) through (3) for comparison and provide a written determination granting or denying the request; and
 - (3) A decision denying a request for approval of an accrediting organization may be appealed by the accrediting organization requesting a review by the director. The review shall consider only the documentation provided with the request for approval and the department's written determination; provided that the director may request further information from the accrediting organization and the department at the director's sole discretion. A decision by the director under this subsection is final.
- (d) The director may grant to any preschool one or more extensions to obtain accreditation on a case-by-case basis; provided that the preschool has applied for accreditation and made good faith efforts to become accredited before the applicable deadline.

- (1) A preschool requesting an extension shall submit to the department a request for an extension on a form prescribed by the department along with documentation that shows that the preschool has applied for accreditation and made good faith efforts to become accredited before the applicable deadline. If the request is received after the applicable deadline for the preschool to obtain accreditation specified in subsection (a), child care payments to the family shall not be authorized for that preschool;
- (2) The department shall review the request and provide a written determination granting or denying the request; and
- (3) A determination denying a request for extension under this subsection may be appealed by the preschool requesting a review by the director. The review shall consider only the documentation provided with the request for extension and the department's written determination; provided that the director may request further information from the preschool and the department at the director's sole discretion. A decision by the director under this subsection is final.

(e) Notwithstanding subsections (a) and (b), child care payments may continue to be paid to a family utilizing an unaccredited preschool after the applicable deadline if the preschool maintains a satisfactory performance rating under the Classroom Assessment Scoring System (CLASS) developed by the University of Virginia and the rating was evaluated in conformance with the U.S. Department of Health and Human Services guidelines; provided that:

- (1) A preschool shall provide to the department written verification of the satisfactory performance rating; and
- (2) Failure by the preschool to provide the written verification of the satisfactory performance rating shall result in a

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suspension of the child care payments to eligible families for services provided by the unaccredited preschool pursuant to sections 17-799-18 and 17-799-19. [Eff JAN 12 2024] (Auth: HRS §§346-14, 346-181, 346-184) (Imp: HRS §§346-14, 346-181, 346-184)

§17-799-13 Child care rates. (a) Child care payment rates shall be the following, effective September 1, 2017, based on types of care:

- (1) \$919 for accredited licensed and accredited license-exempt group child care center preschool; and
- (2) \$795 for non-accredited licensed and non-accredited license-exempt group child care center preschool, and group child care home.

(b) Child care payment rates shall be the following, effective with the 2024-25 program year, based on types of care:

- (1) \$1500 for accredited licensed group child care center preschool, an accredited exempt center-based provider operating a group child care center preschool and listed in accordance with chapter 17-800, or for Hawaiian medium center-based care, as defined under this chapter; and
- (2) \$1200 for non-accredited licensed group child care center preschool and group child care home, or for a non-accredited exempt center-based provider operating a group child care center preschool and listed in accordance with chapter 17-800. [Eff 02/09/14; am and comp 12/31/17; am and comp JAN 12 2024] (Auth: HRS §§346-14, 346-181) (Imp: HRS §§346-14, 346-181)

§17-799-13.1 Method of computing family unit's co-payment. Effective with the 2024-25 program year, 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, 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 JAN 12 2024] (Auth: HRS §§346-14, 346-181) (Imp: HRS §§346-14, 346-181)

§17-799-14 Method of computing child care payment. (a) Child care payment shall be computed based on:

- (1) Monthly gross income based on household size;
 - (2) The preschool chosen by the family unit;
 - (3) The actual cost of child care selected; and
 - (4) The type of child care.
- (b) The child care payment amount shall be

determined by:

- (1) Identifying the type of child care selected and approved for each eligible child, and selecting the appropriate rate as established in section 17-799-13;
- (2) Comparing the child care allowance according to subsection (b) (1) and the actual child care cost, and choosing the lesser amount.
- (3) Determining the family unit's co-payment (conversely, the percentage of the department's maximum rate allowable) based on the family unit's monthly gross income, and using the co-payment rates established in Exhibit I, dated November 1, 2013,

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attached at the end of this chapter;
provided that, effective with the 2024-25
program year, the family unit's co-payment
shall be determined pursuant to section 17-
799-13.1.

- (4) Subtracting the family unit's co-payment
from the amount determined in subsection
(b) (2).

(c) The family unit shall be responsible for any
child care costs in excess of the child care payment.

(d) The family unit shall be responsible to pay
its share of the child care cost directly to the
preschool.

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

(f) The initial payment shall be calculated from
the first calendar day of the initial month of
eligibility to the end of the month, and shall be
considered the first month of the eligibility period.

[Eff 02/09/14; comp 12/31/17; am and comp

JAN 12 2024] (Auth: HRS §§346-14, 346-181) (Imp:
HRS §§346-14, 346-181)

§17-799-15 Child care payments. (a) Payment
for child care shall be 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 preschool, if the preschool agrees to
accept the direct payment and registers an account
with the department's payment system.

(b) Child care payments include:

- (1) A one-time only payment in a State fiscal
year for registration, 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 17-799-13.

- (c) The department shall:
 - (1) Authorize the initial and subsequent monthly child care payments based on sections 17-799-8, 17-799-9, 17-799-10, 17-799-11, 17-799-12, 17-799-13, 17-799-13.1, 17-799-14, 17-799-15, 17-799-16, 17-799-18, 17-799-19, 17-799-21, and 17-799-22;
 - (2) Provide notification of payment to the family unit pursuant to section 17-799-19; and
 - (3) Track and monitor appropriateness and utilization of child care and payments.
- (d) The child care payment issued for a benefit month shall not be issued more than once except when the caretaker cannot continue to use the preschool due to the following:
 - (1) Unanticipated closure of the preschool;
 - (2) Child care had been paid for the month;
 - (3) The caretaker enrolls the child in another preschool in the same month child care was issued for the preschool referenced in paragraph (d) (1);
 - (4) The preschool referenced in paragraph (d) (1) refuses to refund the child care paid for the month; and
 - (5) The new preschool enrollment requires a child care payment from the family unit for the month. [Eff 02/09/14; comp 12/31/17; am and comp JAN 12 2024] (Auth: HRS §§346-14, 346-181) (Imp: HRS §§346-14, 346-181)

§17-799-16 Mandatory reporting. (a) A recipient of child care payments shall be responsible to report the following changes to the department within ten calendar days of occurrence:

- (1) Preschool child is attending;
- (2) Cost of care;
- (3) Child care type; or
- (4) Child is no longer attending preschool.

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(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 as follows:

(1) Changes that result in a lower payment shall have payments recalculated for the balance of the eligibility period, after timely and adequate notice.

(2) Changes that result in a higher payment shall have payments recalculated for the balance of the eligibility period and the increased payment issued starting in the first available full month.

(d) Changes that are reported 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. [Eff 02/09/14; comp 12/31/17; am and comp JAN 12 2014] (Auth: HRS §§346-14, 346-181) (Imp: HRS §§346-14, 346-181)

§17-799-17 Waitlisted applicants. (a) If an application has been approved but all available funds have been obligated, the applicant shall be placed on a prioritized waitlist that shall follow the priority methodology established in section 17-799-7.

(b) Waitlisted applicants shall be provided written notification as referenced in subsection 17-799-19(b).

(c) While on the waitlist, the applicant may be required to update information contained in the application.

(d) Availability of funding shall be reevaluated periodically by the department during the State fiscal year to determine if funding is available to enroll waitlisted applicants.

(e) Upon determining funds are available, the department shall select waitlisted applicants by

priority, and provide notification of program enrollment as established in section 17-799-19.

(f) Waitlisted applicants selected for program enrollment shall meet all eligibility requirements as established in section 17-799-8.

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

- (1) The month that requirements of section 17-799-11(b) are met; or
- (2) The eligible child's first month of preschool.

(h) If the waitlisted applicant is unable to meet requirements of subsections (f) and (g), the applicant will be notified of their application denial and the department shall refer to the next available waitlist applicant by priority.

(i) Assignment of applicants to the waitlist shall be final and conclusive. [Eff 02/09/14; comp 12/31/17; comp JAN 12 2024] (Auth: HRS §§346-14, 346-181) (Imp: HRS §§346-14, 346-181)

§17-799-18 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 or determination of eligibility within the open application period, or withdraws the application;
- (2) The caretaker submits an application outside the open application period;
- (3) The caretaker does not sign and date the application form prescribed by the department;
- (4) The caretaker does not submit a completed application form prescribed by the department;
- (5) The caretaker does not submit verifying documentation requested by the department;

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- (6) The child does not meet the eligibility requirements referenced in subsection 17-799-8(b) or (c);
 - (7) The caretaker does not meet the eligibility requirements referenced in subsection 17-799-8(d);
 - (8) The preschool does not meet program qualification requirements referenced in subsection 17-799-12;
 - (9) Conditions initially present in the family unit situation have changed and child care is no longer needed;
 - (10) The family unit has not used authorized care;
 - (11) The child has absences that are unexcused for more than five consecutive days;
 - (12) The caretaker voluntarily requests discontinuance of child care payments;
 - (13) The caretaker and the child are unable to use child care and another service must be planned for;
 - (14) The caretaker fails to comply with mandatory reporting requirements;
 - (15) The family unit is no longer eligible for child care payments;
 - (16) The family unit cannot be located;
 - (17) The family unit fails to utilize child care payments in accordance with subsection 17-799-4(c) and does not reconcile the resulting overpayments in accordance with section 17-799-21;
 - (18) The caretaker fails to comply with requirements referenced in subsection 17-799-11(b); or
 - (19) The department determines pursuant to section 17-799-22 that there are insufficient funds to maintain all children receiving care.
- (b) Child care payments may be suspended when:
 - (1) The payment amount is determined to be zero;

- (2) A natural disaster or emergency is declared by the federal, state, or county government; or
- (3) The designated preschool does not meet the conditions set forth in section 17-799-12 and the family unit must find a different approved preschool. [Eff 02/09/14; comp 12/31/17; am and comp]
(Auth: HRS §§346-14, 346-181) (Imp: HRS §§346-14, 346-181)

§17-799-19 Notices. (a) The department shall provide a written notice to applicants and recipients about their eligibility status that shall contain:

- (1) A statement of the action taken;
- (2) The reasons for the action;
- (3) The specific rules supporting the action; and
- (4) The right to appeal the action of the department through established administrative appeals procedures, when applicable.

(b) Applicants that are placed on a waitlist shall be provided written notification of this designation, and a separate notice if they are selected from the waitlist to enroll into the program.

(c) The department shall provide a caretaker with timely and adequate notice prior to taking adverse action to deny, reduce, suspend, or terminate any child care payments specified in this chapter.

(d) 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.

(e) 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;

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- (4) A caretaker fails to comply with mandatory reporting requirements;
- (5) A caretaker's whereabouts are unknown;
- (6) A caretaker receives an increase in the amount of monthly child care payments; or
- (7) The department determines pursuant to section 17-799-22 that there are insufficient funds to maintain all children receiving care. [Eff 02/09/14; comp 12/31/17; am and comp JAN 12 2024]
(Auth: HRS §§346-14, 346-181) (Imp: HRS §§346-14, 346-181)

§17-799-20 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 family unit disagrees with the department's adverse action to deny, reduce, suspend, or terminate payment, or with the department's determination of an overpayment, except in the case of sections 17-799-17 or 17-799-18(a)(19).

(b) Child care payments shall not continue during the appeal process. [Eff 02/09/14; comp 12/31/17; comp JAN 12 2024] (Auth: HRS §§346-14, 346-181) (Imp: HRS §§346-14, 346-181)

§17-799-21 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 payment 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.

- (b) Overpayments shall be processed as follows:
 - (1) Failure to provide information, as specified in sections 17-799-6, 17-799-7, 17-799-15, 17-799-16, and 17-799-17, or errors made by the department may affect the caretaker's eligibility and result in an overpayment.
 - (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 child care payment amount payable to the caretaker in subsequent months until the entire amount of overpayment is recovered, provided the caretaker continues to receive such payments.
 - (3) A caretaker 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) Recovery of an overpayment to former recipients of child care payments shall be referred to the department's fiscal management office for collection action.
 - (5) 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 02/09/14; comp 12/31/17; comp **JAN 12 2024**] (Auth: HRS §§346-14, 346-44, 346-181, 2) (Imp: HRS §§346-35, 346-44, 346-181)

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§17-799-22 Termination for insufficient funds.

(a) The department may, at its discretion, refuse to take new applications, refuse to enroll priority applicants who have been waitlisted, 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, refusal to enroll approved priority applicants who have been waitlisted, reducing payments, or terminating payments will first be accomplished in reverse priority from what is listed in section 17-799-7. Priority will further be determined within the categories set forth in section 17-799-7 by income, with higher income family units' payments reduced or terminated first.

(c) The department 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 for the State fiscal year.

(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 and available funds. A decision under this subsection shall be final and conclusive. [Eff 02/09/14; comp 12/31/17; am and comp JAN 1 2018] (Auth: HRS §§346-14, 346-181) (Imp: HRS §§346-14, 346-181)

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

| Family Size | Income Eligibility Limit | 0-100% FPG | 100%-150% FPG | 150%-175% FPG | 175%-250% FPG |
|--------------------------|---------------------------------|-------------------|----------------------|----------------------|----------------------|
| | | 0% co-pay | 10% co-pay | 20% co-pay | 30% co-pay |
| 1 | 2,755 | 1,102 | 1,653 | 1,928 | 2,755 |
| 2 | 3,718 | 1,487 | 2,230 | 2,602 | 3,718 |
| 3 | 4,680 | 1,872 | 2,808 | 3,276 | 4,680 |
| 4 | 5,643 | 2,257 | 3,385 | 3,949 | 5,643 |
| 5 | 6,605 | 2,642 | 3,963 | 4,623 | 6,605 |
| 6 | 7,568 | 3,027 | 4,540 | 5,297 | 7,568 |
| 7 | 8,530 | 3,412 | 5,118 | 5,971 | 8,530 |
| 8 | 9,493 | 3,797 | 5,695 | 6,644 | 9,493 |
| For each additional, add | 963 | 385 | 577 | 673 | 963 |

Instructions:

1. Gross Income (GI) eligibility limit is at 250% of Federal Poverty Guidelines (FPG).
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
November 1, 2013

EXHIBIT I

**Child Care
Co-Payment Sliding Fee Scale**

| Per Cent of FPG | 0-160% | 161- 180% | 181- 200% | 201- 220% | 221- 240% | 241- 260% | 261- 280% | 281- 300% |
|----------------------------|--------------|--------------|--------------|--------------|--------------|--------------|--------------|--------------|
| Co-Payment | 0% co-pay | 1% co-pay | 2% co-pay | 3% co-pay | 4% co-pay | 5% co-pay | 6% co-pay | 7% co-pay |

Federal Poverty Guidelines (FPG), based on household size, will be updated annually on January 1 for the upcoming program year.

Source: <https://aspe.hhs.gov/topics/poverty-economic-mobility/poverty-guidelines>

Department of Human Services
Benefit, Employment and Support Services Division

EXHIBIT II