

HAWAII ADMINISTRATIVE RULES

TITLE 17

DEPARTMENT OF HUMAN SERVICES

SUBTITLE 6

BENEFIT, EMPLOYMENT AND SUPPORT SERVICES DIVISION

2021 EMERGENCY RULES RELATING TO CHILD CARE SERVICES
UNDER CHAPTER 798.3 AND PRESCHOOL OPEN DOORS PROGRAM
UNDER CHAPTER 799

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§1 Findings, purpose, and authority. (a) The Department of Human Services finds that:

- (1) The 2019 Novel Coronavirus ("COVID-19") was identified in January 2020 in Wuhan, China and has since spread around the world. COVID-19 spreads by respiratory droplets or aerosols expelled when a person breathes, coughs, sneezes, talks, or spits. It can also be spread by personal contact, including shaking hands or touching one's

mouth, nose, or eyes after touching a contaminated surface.

- (2) On January 31, 2020, the U.S. Department of Health and Human Services declared COVID-19 a national public health emergency. On March 11, 2020, the World Health Organization declared a global pandemic. There have been more than 34 million COVID-19 cases and 600,000 deaths in the United States. As of July 29, 2021, there have been 41,303 confirmed and probable cases and 534 deaths in Hawaii.
- (3) The Delta variant of COVID-19 is significantly more transmissible than the original strain of the virus, and accounts for the majority of confirmed cases in Hawaii at this time. The Delta variant has resulted in significant surges in COVID-19 cases in other countries, in portions of the United States, and in Hawaii.
- (4) The Governor of the State of Hawaii issued an emergency proclamation pursuant to chapter 127A, Hawaii Revised Statutes ("HRS") on March 4, 2020 declaring a state of emergency in Hawaii due to the threat of COVID-19 to the people of the state. The Governor issued subsequent proclamations finding that COVID-19 has continued to endanger the health, safety, and welfare of the people of Hawaii, the most recent being his Twenty-First Proclamation Related to the COVID-19 Emergency dated June 7, 2021.
- (5) The COVID-19 pandemic constitutes an imminent peril to "the public health, safety, or morals, to livestock and poultry health, or to natural resources" as set forth in section 91-3(b), HRS.
- (6) Swift adoption of these rules is necessary to address and mitigate the effects of COVID-19 by permitting the State of Hawaii to access and use federal funds through the Coronavirus Response and Relief Supplemental

Appropriations Act of 2021 for child care to assist those who have been impacted by the COVID-19 pandemic and need child care services, and those who perform essential work supporting the economy and critical infrastructure as well as protecting the health and well-being of the residents. The infusion of child care funds for the target population of families impacted by the pandemic and those with essential workers is especially critical to the child care community at large, providers, and the other related helping industries.

- (7) The threat presented by COVID-19 further prevents the Department of Human Services from conducting public hearings under section 91-3(a), HRS, in which people will be required to physically congregate in settings that are conducive to the spread of the virus.
- (8) The Department of Human Services must therefore adopt these emergency rules without prior notice or hearing in order to continue the agency's COVID-19 mitigation efforts and to provide relief to the people of Hawaii, as authorized under section 91-3(b), HRS.

(b) The purpose of these emergency rules is to respond to the impacts of the COVID-19 pandemic, and the following amendments are necessary to enable the Department of Human Services to provide relief to families who need child care services due to the impacts of the COVID-19 pandemic and to assist families with recovery from the COVID-19 pandemic.

(c) These emergency rules are authorized by §91-3, §91-4, §346-14, HRS, and 45 CFR Part 98. They are related to and shall be read to be consistent with chapter 798.3, Hawaii Administrative Rules (HAR).

(d) These emergency rules shall be effective upon filing with the Lieutenant Governor's office; provided that the conditions set out in these rules

shall apply retroactively as of August 06, 2021, and shall be effective through January 31, 2022.

§2 Definitions. All terms defined in chapter 17-798.3, HAR, shall have the same meaning when used in these rules. Additionally, as used in these rules:

"Essential worker" means a person whose work is deemed essential by public officials during the response to the coronavirus public health pandemic.

§3 Scope. (a) Notwithstanding any contrary provisions or limitations in chapter 17-798.3, HAR, child care services may be provided for a family unit with at least one caretaker who meets the definition of an essential worker, and a family unit with at least one caretaker impacted by any federal-, state-, or county-declared emergency related to a man-made or natural disaster, or public health pandemic.

(b) Notwithstanding the restrictions in subsection 17-798.3-5(b), child care services may be provided for those times a child is participating in a distance- or remote-learning program provided by a school on the days the child is not attending on-campus classes at the school due to the emergency.

(c) A family determined eligible pursuant to these emergency rules, or prior emergency rules adopted in 2020 or 2021 related to chapter 17-798.3 or chapter 17-798.2, shall remain eligible for the duration of the family's allowable eligibility period, which may be six months or twelve months depending on when the eligibility period started.

(d) To be eligible and fall within the provisions of these emergency rules, a family unit with at least

one caretaker impacted by any federal-, state-, or county-declared emergency related to a man-made or natural disaster, or public health pandemic shall apply no later than September 30, 2021 and meet all the eligibility requirements as of September 30, 2021, regardless of when the eligibility determination is made.

§4 Eligibility requirements. (a) A family unit with at least one caretaker who meets the definition of an essential worker and a family unit with at least one caretaker impacted by any federal-, state-, or county-declared emergency related to a man-made or natural disaster, or public health pandemic shall not be subject to the requirements and conditions of paragraphs 17-798.3-9(b)(1), (2), and (5), HAR.

(b) Only one parent in a two-parent family unit determined eligible pursuant to subsection (a) of these emergency rules, or prior emergency rules adopted in 2020 or 2021 related to chapter 17-798.3 or chapter 17-798.2, shall be subject to the requirements and conditions of paragraph 17-798.3-9(b)(3), HAR.

§5 Income considered in eligibility determination. A family unit with at least one caretaker who meets the definition of an essential worker and a family unit with at least one caretaker impacted by any federal-, state-, or county-declared emergency related to a man-made or natural disaster, or public health pandemic shall not be subject to the requirements and conditions of section 17-798.3-10, HAR.

§6 Child care rates. Notwithstanding sections 17-798.3-12, HAR, and 17-799-13, HAR, child care rates for the period from August 1, 2021 to January 31, 2022 shall be based on the attached Exhibit I, dated August 6, 2021.

§7 Method of computing the family unit's co-payment. (a) A family unit with at least one caretaker impacted by any federal-, state-, or county-declared emergency related to a man-made or natural disaster, or public health pandemic shall not be subject to the co-payment requirement established in section 17-798.3-14, HAR; provided that the family unit applies no later than September 30, 2021 and meets the eligibility requirements as of September 30, 2021, regardless of when the eligibility determination is made.

(b) A family unit with at least one caretaker who meets the definition of an essential worker shall not be subject to the co-payment requirement established in section 17-798.3-14, HAR.

§8 Method of computing the need for care. A family unit with at least one caretaker who meets the definition of an essential worker or a family unit with at least one caretaker impacted by any federal-, state-, or county-declared emergency related to a man-made or natural disaster, or public health pandemic shall not be subject to the requirements to establish need for care established in section 17-798.3-15, HAR.

§9 Mandatory reporting. (a) A family unit with at least one caretaker impacted by any federal-, state-, or county-declared emergency related to a man-

made or natural disaster, or public health pandemic shall not be subject to the mandatory reporting requirements established in paragraphs 17-798.3-17(a)(1), (10), and (11), HAR; provided that the family unit applies no later than September 30, 2021 and meets eligibility requirements as of September 30, 2021, regardless of when the eligibility determination is made.

(b) A family unit with at least one caretaker who meets the definition of an essential worker shall not be subject to the mandatory reporting requirements established in paragraphs 17-798.3-17(a)(1), (10) and (11), HAR.

§10 Re-determination of eligibility and payment amount. (a) A family unit with at least one caretaker impacted by any federal-, state-, or county-declared emergency related to a man-made or natural disaster, or public health pandemic whose eligibility is redetermined pursuant to these emergency rules, or prior emergency rules adopted in 2020 or 2021 related to chapter 17-798.3 or chapter 17-798.2, shall not be subject to the requirements and conditions of subsections 17-798.3-18(c) and (d); provided that the family unit timely submits a simplified report form and meets the eligibility requirements as of September 30, 2021, regardless of when the eligibility re-determination is made.

(b) A family unit with at least one caretaker who meets the definition of an essential worker whose eligibility is redetermined pursuant to these emergency rules, or prior emergency rules adopted in 2020 or 2021 related to chapter 17-798.3 or chapter 17-798.2, shall not be subject to the requirements and conditions of subsections 17-798.3-18(c) and (d).

CHILD CARE RATE TABLE

Type of Care	Full-Time Care	Part Time Care
Licensed Center-Based Infant/Toddler Care	87+ Monthly Hours	1-86 Monthly Hours
	\$2,000	\$2,000
NAEYC Accredited*, NECPA Accredited or Hawaiian Medium Center-Based Care	87+ Monthly Hours	1-86 Monthly Hours
	\$1,500	\$1,500
NAEYC Accredited*, NECPA Accredited Hawaiian Medium Center-Based School-Age Children Care	87+ Monthly Hours	1-86 Monthly Hours
	\$1,000	\$500
Licensed Center-Based** or Group Child Care Home	87+ Monthly Hours	1-86 Monthly Hours
	\$1,200	\$1,200
Licensed Center-Based, or Group Child Care Home School-Age Children Care	87+ Monthly Hours	1-86 Monthly Hours
	\$800	\$400
NAFCC Accredited^ Family Child Care Home Infant/Toddler Care	87+ Monthly Hours	1-86 Monthly Hours
	\$1,050	\$1,050
NAFCC Accredited^ Family Child Care Home	87+ Monthly Hours	1-86 Monthly Hours
	\$900	\$900
NAFCC Accredited^ Family Child Care Home School-Age Children Care	87+ Monthly Hours	1-86 Monthly Hours
	\$700	\$350
Licensed Family Child Care Home Infant/Toddler Care	87+ Monthly Hours	1-86 Monthly Hours
	\$950	\$570
Licensed Family Child Care Home**	87+ Monthly Hours	1-86 Monthly Hours
	\$800	\$480
Licensed Family Child Care Home School-Age Children Care	87+ Monthly Hours	1-86 Monthly Hours
	\$600	\$300

Department of Human Services
Benefit, Employment and Support Services Division
August 6, 2021

EXHIBIT I

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License-Exempt Relative And Non-Relative Infant/Toddler Care	87+ Monthly Hours	1-86 Monthly Hours
	\$400	\$240
License-Exempt Group School-Age Children Care	87+ Monthly Hours	1-86 Monthly Hours
	\$500	\$250
License-Exempt Relative, And Non-Relative Care	87+ Monthly Hours	1-86 Monthly Hours
	\$350	\$210
Licensed Before School Care/ After School Care	87+ Monthly Hours	1-86 Monthly Hours
	\$200	\$120
Licensed-Exempt Before School Care/ After School Care	87+ Monthly Hours	1-86 Monthly Hours
	\$120	\$72

Rates established in response to the COVID-19 pandemic and Amended Rules for the period of 8/1/21 through 01/31/22

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

National Early Childhood 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.

Preschool Open Doors Chapter 17-799

Rates established in response to the COVID-19 pandemic and Governor's Emergency Proclamation for the period of 7/1/20 through 01/31/22

\$1500 for accredited licensed and accredited license-exempt group child care center preschool; and

\$1200 for non-accredited licensed and non-accredited group child care center preschool, and group child care home.

Department of Human Services
Benefit, Employment and Support Services Division
August 6, 2021

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