TITLE 8 SOCIAL SERVICES
CHAPTER 9 EARLY CHILDHOOD EDUCATION AND CARE
PART 3 CHILD CARE ASSISTANCE; REQUIREMENTS FOR CHILD CARE ASSISTANCE PROGRAMS

8.9.3.1 ISSUING AGENCY: Early Childhood Education and Care Department ("ECECD").
[8.9.3.1 NMAC - Rp, 8.9.3.1 NMAC, 9/9/2026]

8.9.3.2 SCOPE: This policy applies to all clients seeking child care assistance benefits, all child care providers who provide services to clients qualifying for assistance benefits, and employees of the department who determine eligibility for child care assistance benefits. (See 8.9.3.8 NMAC for detailed list.)
[8.9.3.2 NMAC - Rp, 8.9.3.2 NMAC, 9/9/2026]

8.9.3.3 STATUTORY AUTHORITY: The Child Care Assistance Program Act and Subsection A of Section 32A-32-3 NMSA 1978; the Early Childhood Education and Care Department Act and Subsection E of Section 9-29-6 NMSA 1978; the Public Health Act, Sections 24-1-1 to 24-1-22 NMSA 1978, Subsection D of Section 24-1-2 NMSA 1978, Subsection I of Section 24-1-3 NMSA 1978 and Section 24-1-5 NMSA 1978; and Section 7-9-77.2 NMSA 1978.
[8.9.3.3 NMAC - Rp, 8.9.3.3 NMAC, 9/9/2026]

8.9.3.4 DURATION: Permanent
[8.9.3.4 NMAC - Rp, 8.9.3.4 NMAC, 9/9/2026]

8.9.3.5 EFFECTIVE DATE: September 9, 2026, unless a later date is cited at the end of section.
[8.9.3.5 NMAC - Rp, 8.9.3.5 NMAC, 9/9/2026]

8.9.3.6 OBJECTIVE: To administer the Child Care Assistance Program by providing child care assistance to eligible families; establishing standards, procedures, and eligibility requirements for program participation and service delivery; defining the rights and responsibilities of participating providers; promoting parental choice among a full range of child care services; and ensuring access to safe, high-quality child care settings that support children's physical, cognitive, emotional, and social development. The Program shall promote equal access to services and prohibit discrimination, maintain program integrity and accountability, and comply with applicable state and federal laws, including the Child Care Assistance Program Act, the Child Care and Development Block Grant Act, and the Human Rights Act, to support families in achieving economic stability through work, education, and training while promoting children's learning and development.
[8.9.3.6 NMAC - Rp, 8.9.3.6 NMAC, 9/9/2026]

8.9.3.7 DEFINITIONS:

A. Terms beginning with the letter "A":

(1) "**Accredited educational institution**" means a post-secondary educational institution that is accredited by the higher learning commission, authorized by the higher education department, or has the status of public recognition that an accrediting agency recognized by the United States department of education pursuant to Title 4 of the federal Higher Education Act of 1965 grants to an institution or educational program that meets the higher education department's established requirements

(2) "Attending a job training or educational program" means actively participating in an in-person or online job training or educational program.

(3) "At-risk child" means a child who may be vulnerable to or experiencing negative outcomes due to factors such as poverty, domestic violence, substance abuse, mental health issues, family involvement in the justice system, housing instability or homelessness; who has or is at risk of having a developmental delay or a disability; or whom the children, youth and families department identifies as experiencing or at risk for abuse or neglect.

B. Terms beginning with the letter "B": [RESERVED]

C. Terms beginning with the letter "C":

(1) "CACFP" means the child and adult care food program, administered by the Early Childhood Education and Care Department.

(2) "Child care assistance" means funding administered by the department to a child care

facility to provide child care for eligible children through the Child Care Assistance Program.

(3) "Child care facility" means a public or private entity, facility or premises that is licensed or registered and regulated by the department at which children receive child care services, including care, education and supervision, for fewer than 24 hours per day.

(4) "Child with special needs" means a child with an identified disability, a physical or mental impairment that substantially limits one or more major life activities, or a health or mental health conditions requiring early intervention, special education services, an individualized education plan (IEP), an individualized family service plan (IFSP), or other specialized services and supports; or children without identified conditions, but who need specialized services, supports, or monitoring. A child with special needs is considered an "at-risk child."

(5) "Client" means the parent or legal guardian of the child that the department has determined is eligible for child care assistance benefits.

(6) "Closure" means the client's child care case is closed with the department.

(7) "Consensus revenue estimating group" means the professional economists or revenue analysts from the department of finance and administration, the taxation and revenue department, the department of transportation and the legislative finance committee.

(8) "Copayment" means the portion of the approved and agreed upon monthly child care cost for clients receiving child care assistance that the client pays to the child care provider. The department's payment to the provider is reduced by the copayment amount.

D. Terms beginning with the letter "D":

(1) "Demonstration of incapacity" means written documentation that an individual is incapacitated and should otherwise be excluded, in whole or in part, from the determination of eligibility.

(2) "Department" means the Early Childhood Education and Care Department ("ECECD").

(3) "Developmental delay" means a discrepancy between chronological age, after correction for prematurity, and developmental age in one or more of the following areas of development: cognition; communication; physical and motor development, including vision and hearing; social and emotional development; and adaptive development.

(4) "Disability" means a severe chronic disability of a person that is attributable to a mental or physical impairment.

E. Terms beginning with the letter "E":

(1) "Early intervention" means services provided through the family, infant, toddler program of the department that are designed to meet the developmental needs of children from birth to age three who have or who are at risk of having a developmental delay, special needs, or disability.

(2) "Early intervention provider" means a person who provides early intervention.

(3) "Early pre-kindergarten program" means an early pre-kindergarten program as defined in the Pre-Kindergarten Act.

(4) "Earned income" means income received as gross wages from employment or as profit from self-employment.

F. Terms beginning with the letter "F":

(1) "Family, friend, or neighbor (FFN)" means care provided temporarily in a home and only in the case of a public health emergency.

(2) "Federal poverty level" means a measure of income issued every year by the U.S. department of health and human services (HHS) that is used to determine eligibility for various programs and benefits, including New Mexico's Child Care Assistance Program.

(3) "Fluctuation of earnings" means a family with inconsistent or variable income throughout the year. To calculate fluctuation of earning, the department may:

(a) average family earnings over a period of time (e.g., 12 months), or

(b) choose to discount temporary increases in income, provided that a family demonstrates an isolated increase in pay (e.g., short-term overtime pay, temporary increase to pay, etc.) and is not indicative of a permanent increase in income.

(4) "FOCUS" is a voluntary tiered quality rating and improvement system developed by the department to rate the level of quality of a licensed child care facility.

G. Terms beginning with the letter "G": [RESERVED]

H. Terms beginning with the letter "H":

(1) "Homeless" means individuals who are experiencing the lack of a fixed, regular, and adequate nighttime residence, which includes:

(a) Children and youth who are temporarily sharing the housing of other persons

due to loss of housing, economic hardship, or a similar reason; are living in motels, hotels, trailer parks (excludes mobile homes), or camping ground due to the lack of alternative adequate accommodations; are living in emergency or transitional shelters; are abandoned in hospitals; or are awaiting foster care placement;

(b) children and youth who 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;

(c) children and youth who are living in cars, parks, public spaces, abandoned buildings, substandard housing, bus or train stations, or similar settings; and

(d) migratory children who qualify as homeless for the purposes of this subtitle because the children are living in circumstances described in Subparagraphs (a) through (c) of this Paragraph.

(2) "Household" means the household as defined below in Paragraph (1) of Subsection C of 8.9.3.10 NMAC.

(3) "Household income" means household income as defined below in Paragraph (3) of Subsection C of 8.9.3.10 NMAC.

I. Terms beginning with the letter "I":

(1) "Incapacitation" means a person is unable to meet an eligibility requirement due to an inability to care for a child because of a disability, a physical or mental impairment that substantially limits one or more major life activities, health-related illness, rehabilitation treatment or other reason as determined by the department.

(2) "Incidental money" means earnings of a minor child for occasional work performed such as baby-sitting, cutting lawns, and other similar activities.

(3) "Infant, toddler, preschool, school age" means the age categories used for assigning child care provider reimbursement rates, defined as follows:

(a) infant: zero - 23 months;

(b) toddler: 24 -35 months;

(c) preschool: three years old to five years old, provided that the child turns five years old after 12:01 a.m. on September 1 of the school year; and,

(d) school age: anyone who is at least five years old by 12:01 a.m. on September 1 of the school year.

(4) "In-home provider" means child care provided in the child's own home.

J. Terms beginning with the letter "J": "Job training and educational program" means participation in a short- or long-term educational program, state-approved job training program, registered apprenticeship program, or pre-apprenticeship program, including online programs that provide specific job skills enabling the participant to enter the workforce. The term includes, but is not limited to, the acquisition of a general equivalency diploma (GED), English as a second language, literacy training, vocational education training, secondary education including adult basic education and accredited high school programs, and post-secondary institutions. Educational programs include graduate and post graduate programs or classes.

K. Terms beginning with the letter "K": [RESERVED]

L. Terms beginning with the letter "L":

(1) "Legal guardian" includes both a temporary and permanent legal guardian or custodian.

(2) "Licensed center" means a nonresidential facility that meets the applicable state and local building and safety codes and provides care and services to and supervision of children for less than 24 hours of any day.

(3) "Licensed family child care home" means a private dwelling in which the licensee resides and is the primary educator who provides care and services to and supervision of children as part of the child care home program for a period of less than 24 hours of any day for no more than six children.

(4) "Licensed group child care home" means a home in which the licensee resides and is the primary educator who provides care and services to and supervision of children as part of the child care home program for at least seven but no more than 12 children.

M. Terms beginning with the letter "M": [RESERVED]

N. Terms beginning with the letter "N":

(1) "National provider accreditation" means a child care provider's achievement and maintenance of accreditation status by a national accrediting body that has been approved by ECECD using its program criteria and standards for the purposes of determining quality ratings.

(2) "Non-temporary change in activity" means the family has experienced a change in activity that does not meet the definition of a "temporary change in activity" as defined in Paragraph (3) of Subsection T of 8.9.3.7 NMAC.

(3) "Non-traditional hours of care" means care provided between the afterhours of 7:00 p.m. and 7:00 a.m. Monday through Friday or care provided during weekend hours between 12:00 a.m. Saturday morning and 12:00 a.m. Monday morning.

O. Terms beginning with the letter "O":

(1) "Open case" means a case that has not been closed as a result of a failure to recertify, or that has not been closed due to becoming otherwise ineligible for child care assistance benefits.

(2) "Out-of-school time care" means care at a school-age program at a specific site, usually a school or community center, offering on a consistent basis a variety of developmentally appropriate activities that are both educational and recreational.

(3) "Overpayment" means a payment of child care assistance benefits received by a client or provider for which they are ineligible based on incomplete or inaccurate information provided by either the client or the provider, or agency error.

P. Terms beginning with the letter "P":

(1) "Provider types" means the characteristics of child care providers, which determine their approved reimbursement rate, capacity, staffing levels etc., and includes in-home, registered child care home, licensed family child care home, licensed group child care home, licensed center, out-of-school time care, and, in the case of a public health emergency, family, friend, or neighbor care.

(2) "PreK" or "pre-kindergarten program" means a statewide, voluntary developmental readiness program funded by ECECD for children who have attained their third or fourth birthday prior to September 1 that delivers to eligible children programs that address their total developmental needs, including their physical, cognitive, social and emotional needs, and that supports their development in the areas of health care, nutrition and safety and multicultural awareness.

(3) "Presumptive Eligibility" means temporary eligibility provided based on an applicant's preliminary information before all necessary verification is completed, in order to expedite access to services.

Q. Terms beginning with the letter "Q": [RESERVED]

R. Terms beginning with the letter "R":

(1) "Recertification" means the process by which a client's eligibility to continue to receive child care assistance benefits is determined.

(2) "Registered child care home" means an independent primary caregiver who has registered the independent primary caregiver's home or residence with the department to provide care and services to and supervision of children as part of the child care home program for a period of less than 24 hours of any day for no more than four children.

(3) "Registration/educational fee" means a fee, payment, or donation in any form that is accepted, charged, or required by a provider beyond the rate paid by the department under the Child Care Assistance Program.

(4) "Resident" means a person who is domiciled in New Mexico, including a person who is homeless or who is temporarily residing in a domestic violence or homeless shelter; provided that for the purposes of the Child Care Assistance Program Act, a person may have only one domicile; and provided further that for a federally eligible applicant, the applicant's residency determination shall be aligned with applicable federal regulation**s.**

S. Terms beginning with the letter "S":

(1) "Sanctions" means a measure imposed by the department for a violation or violations of applicable regulations.

(2) "SNAP" means the supplemental nutrition assistance program administered by the U.S. department of agriculture, which helps low-income families purchase healthy food. SNAP was previously referred to as food stamps employment and training program.

(3) "Special supervision" means the special supervision for child(ren) as defined below in Subsection G of 8.9.3.10 NMAC.

(4) "Star level" means a license indicating the level of quality of an early childhood program. A greater number of stars indicates a higher level of quality.

(5) "Suspension" means the voluntary cessation of child care assistance at the client's request, during which the client remains eligible.

T. Terms beginning with the letter "T":

(1) "TANF" means the temporary assistance to needy families program administered by the U.S. department of health and human services. TANF is the successor to the aid to families with dependent children (AFDC) program and provides cash assistance to qualified low-income families with dependent children.

(2) **"Temporary change of activity"** means one of the following events:

(a) limited absence from work for employed parents or legal guardians for periods of family leave (including parental leave) or sick leave;

(b) interruption in work for a seasonal worker who is not working between regular industry work seasons;

(c) student holiday or break for a parent or legal guardian participating in training or education;

(d) reduction in work, training or education hours, as long as the parent or legal guardian is still working or attending training or education; and

(e) cessation of work or attendance at a training or education program for less than three months.

(3) **"Termination"** means the client's child care case will be closed due to cause.

(4) **"Tribal per capita payments"** means cash distributions from tribal trust funds or casino revenues to individual tribal members.

U. **Terms beginning with the letter "U":**

(1) **"Underpayment"** means a payment made by the department for services provided which did not fully reimburse the client or provider.

(2) **"Unearned income"** means income in the form of benefits such as benefits received pursuant to state and federal programs, child support, pensions, gifts, loans, grants, and other income that is not income received as gross wages from employment or as profit from self-employment.

V. **Terms beginning with the letter "V": [RESERVED]**

W. **Terms beginning with the letter "W":**

(1) **"Working"** means employment of any type, including self-employment and teleworking. For TANF recipients, this includes work experience or community service or any other activity that meets the TANF work activity requirements.

X. **Terms beginning with the letter "X": [RESERVED]**

Y. **Terms beginning with the letter "Y": [RESERVED]**

Z. **Terms beginning with the letter "Z":** [**RESERVED**]

[8.9.3.7 NMAC - Rp, 8.9.3.7 NMAC, 9/9/2026]

8.9.3.8 **TYPES OF CHILD CARE:** These policies apply to child care assistance benefits provided to eligible children for the following types of child care to ensure that parents or legal guardians have a variety of child care services from which to choose:

A. licensed child care programs administered by public schools and post-secondary institutions that provide on-site care for the children of students;

B. licensed child care programs administered by tribal entities;

C. licensed child care programs administered by church or religious organizations;

D. in-home care;

E. licensed child care centers;

F. registered family childcare homes;

G. licensed family and group childcare homes;

H. licensed out of school time programs;

I. licensed programs operated by employers for their employees; and

J. FFN.

[8.9.3.8 NMAC - Rp, 8.9.3.8 NMAC, 9/9/2026]

8.9.3.9 **APPLICATION PROCESS:**

A. Clients apply for child care assistance benefits by presenting the following documents to the department to establish eligibility:

(1) a completed and signed application form;

(2) documentation of current countable earned and unearned income as listed below and defined in Paragraph (5) of Subsection C of 8.9.3.10 NMAC;

(3) documentation of the applicant's TANF eligibility or participation, if applicable, and can include applicant's social security number or assigned TANF identification number;

(4) school schedule or verification of educational activity, if applicable;

(5) verification of enrollment in a state-approved job training program, registered

apprenticeship program, or pre-apprenticeship program, if applicable;

(6) demonstration of incapacity for parent or legal guardian, if applicable;

(7) verification of birth for all applicant's household children;

(8) documentation of qualifying immigration status, as defined by the United States department of health and human services, administration for children and families, office of child care, for all children requesting child care assistance;

(9) verification of guardianship of children, if applicable;

(10) verification of dependency of a child or adult household member, if applicable;

(11) documentation of New Mexico residency;

(12) verification of foster parent status, if applicable;

(13) documentation of participation in services pursuant to the Comprehensive Addiction and Recovery Act of 2016 (CARA), provided by the children, youth and families department (CYFD), if applicable;

(14) identification for parent/guardian; and

(15) department-approved provider.

B. The following are acceptable documents to use to verify eligibility. Other documents may be considered and reviewed by a supervisor for eligibility. The department may be able to obtain certain data from federal agencies, New Mexico state agencies, or other trusted data sources in lieu of the client providing verification of birth, New Mexico residency, citizenship/immigration verification, and proof of income.

Verification Type	**Acceptable documentation or information (examples)**
Verification of Birth	-Birth certificate -Hospital or public health records -Certificate of Indian blood -Birth center records
Countable Earned Income	-Paystubs -Employer statement/verification of work form (for new employment) -Client statement, if earning wages from various odd jobs/day labor -Employer contract/work agreement -Payroll/gross wage history For self-employed individuals: -Federal income tax return -Profit and loss (must be verified by a bookkeeper or accountant) -Common reporting standard (CRS) statements from the taxation and revenue department
Countable Unearned Income	-Benefit award letter (i.e. – social security, veteran administration (VA)) -Letter or document from agency making payment -Court records or other legal documents -Statement from tribal agency -Bank or other financial statement -Divorce or separation decree -Trust documents -Workers' compensation documents -Rental income information

Qualifying Activity	-Proof of TANF participation (example: work participation agreement (WPA)) -School schedule -Statement from educational institution -Work schedule -Paystubs -Employer statement -Client statement -Contract/work agreement -Proof of new business registration with state
Documentation of Incapacity	-Statement or letter from medical professional on letterhead, or stationary -Statement, record, or letter from a federal government agency that issues or provides disability benefits -Statement, records, or letters from a state vocational rehabilitation agency counselor -Records or letters from a treatment facility or counselor -Certification from a private vocational rehabilitation or other counselor that issues or provides disability benefits
Guardianship	-Court order or other legal records -Notarized statement -Guardianship documentation -Durable power of attorney -Statement signed under penalty of perjury -Attorney records
Dependency	-Court order -Federal tax documents verifying person is claimed as a dependent -Written statement with supervisor's approval
New Mexico Residency	-Lease or rental agreement -Utility bill -Mortgage receipt -Written statement from person the client is residing with -Current New Mexico driver's license -Statement from landlord -Other records that provide a name and address
Identification for Parent/Guardian	-Current or expired government-issued photo identification or passport -School photo identification -Government-issued immigration document with photo -Employer identification with photo

Citizenship/Immigration Verification	-United States birth certificate -Military identification -Passport -Naturalization certificate -Permanent resident card -Numident (from social security office) -Refugee or asylee letter from the United States secretary of state or from homeland security -Any document from the immigration and naturalization services (INS), department of homeland security (DHS), or other authoritative document showing a child's immigration status that qualifies the child for assistance
Foster Parent Verification	-Official record or license from the children, youth and families department (CYFD), court order, or similar legal documents evidencing a foster parent relationship.

C. Applicants may submit their initial application by fax, email, electronic transmission, by mail, or in-person at an ECECD office. Applicants shall have 14 calendar days after initial submission of an application to submit all other required forms. The department may give applicants longer than 14 calendar days, but no more than 30 calendar days, to submit required documentation.

D. The department may determine an applicant to be presumptively eligible for services based on self-attested income and qualifying activity. The department will presumptively determine an applicant to be eligible once the applicant meets New Mexico residency requirements, birth verification, and citizenship/qualified immigrant requirements as set forth herein. Applicants must submit all other required forms or documents within 60 calendar days to become eligible for the 12-month eligibility period. The department may grant an additional 30 days to submit required documentation if the applicant shows that extenuating circumstances merit an extension.

(1) In order to receive presumptive eligibility, an applicant must submit the documentation and self-attest as listed below:

Requirement	**Presumptive Self Attested or Required Document**
Verification of Birth	Required Documentation
Income Documentation	Self-Attested
Qualifying Activity	Self-Attested
NM Residency	Required documentation
Guardianship, as applicable	Required documentation
Citizenship/Immigration Verification	Required documentation
Identification	Required documentation
ECECD Approved Provider	Self-Attested
Assets over a million dollars	Self-Attested

(2) Applicants are not eligible for presumptive eligibility if they:

(a) received child care assistance in the previous month;

(b) obtained presumptive eligibility in their previous eligibility determination; or

(c) were denied for presumptive eligibility in their previous eligibility determination.

(3) Payments will be made according to the ECECD regulatory payment process during the presumptive eligibility period. Payments made during the presumptive eligibility period are not subject to recoupment based on eligibility. If a child is deemed to be ineligible during the presumptive eligibility period, the department will provide timely notice to the provider.

E. Assistance is provided effective the first day of the month of application if all of the following apply:

(1) the applicant is utilizing child care services and the child or children are attending child care;

(2) the applicant is determined to be eligible, including presumptively eligible. In the case of

a public health emergency, the department secretary may waive the requirement for employment, attending school or a training program; and

(3) the provider is eligible to be paid.

[8.9.3.9 NMAC - Rp, 8.9.3.9 NMAC, 9/9/2026]

8.9.3.10 ELIGIBILITY REQUIREMENTS: Applicants are eligible for child care assistance benefits upon meeting the requirements for eligibility as determined by the department and federal regulation.

A. Child care staff shall initiate communication at the initial determination of their eligibility period to provide outreach and consumer education with a case management approach and coordination of services to support families.

B. Eligibility period: Based upon an applicant meeting all eligibility requirements, a certification period of not less than 12 months shall be granted, except as otherwise provided in 8.9.3 NMAC.

(1) Eligibility may be granted for less than 12 months at the parent or legal guardian's request. The parent or legal guardian shall, however, remain eligible for the approved eligibility period.

(2) An applicant may be determined presumptively eligible for up to 90 days pursuant to Subsection D of 8.9.3.9 NMAC. Once the applicant has supplied all required documentation, the remainder of the eligibility will be determined by the department.

(3) Eligibility may be granted for up to 90 days for applicants seeking employment. The eligibility may be closed if the applicant fails to obtain a qualifying activity within 90 days.

(4) The applicant shall remain eligible if a temporary change of activity occurs. A child may continue to use services during this temporary change period.

(5) If an applicant experiences a non-temporary change in activity, the child care placement agreement may close; however, the applicant shall remain eligible for the approved eligibility period.

(6) If an additional eligible child in need of care is added to the household, the household eligibility will extend for an additional eligibility period from the month the application for the new child is submitted to the department, in accordance with 8.9.3.9 NMAC.

C. Income eligibility determination:

(1) The household: The household includes biological parents, stepparents, legal guardians of the child(ren) for whom child care assistance is sought, and any legal dependents of the aforementioned, living in the household, thereby constituting an economic unit. Grandparents who are not legal guardians living in the household are counted as members of the household, but their earned and unearned income is excluded from the eligibility calculations. Periods of absences: A household member may be temporarily absent from the home and shall be considered as living in the home and be counted in the household composition as long as the absent household member plans to return to the home. Any parent or legal guardian who remains in the home must be engaged in a qualifying activity or have a qualifying status pursuant to Subsection H of 8.9.3.10 NMAC. Temporary absences include, but are not limited to, attending school, working, training, medical or other health-related treatment, or military service.

(2) Legal guardians who are not the parents of any children for whom child care assistance is sought, are required to qualify for child care assistance in accordance with Paragraph (3) of this subsection below, and, upon qualification, have the required copayment waived.

(3) Household income: The household's gross monthly or annual average countable earned and unearned income, taking into account any fluctuation(s) of earnings, shall be calculated in favor of eligibility in accordance with paragraphs (5) through (8) of Subsection C of 8.9.3.10 NMAC. Household income does not include any earned and unearned income received by grandparents who are not legal guardians, and any legal dependents of the biological parents, stepparents, or legal guardians of any children for whom child care assistance is sought, living in the household.

(4) Family assets: Family assets exceeding one million dollars must be reported.

(5) Countable earned and unearned income: The following sources of income are counted when computing a family's eligibility for assistance and for determining the copayment (if applicable): income from employment by working for others or from self-employment; alimony payments; veterans administration (VA) payments except VA payments that are specifically exempted in Paragraph (6) of Subsection C of 8.9.3.10 NMAC; workman's compensation; railroad retirement benefits; pensions; royalties; income from rental property; social security benefits except social security payments that are specifically exempted in Paragraph (6) of Subsection C of 8.9.3.10 NMAC; overtime shall be counted at ECECD's discretion if ECECD determines that the applicant is paid overtime on a regular basis.

(6) Exempt income: The types of income not counted when computing eligibility or

copayments include: earnings of household dependents; earnings of household grandparents who are not the legal guardians of the child(ren) for whom child care assistance is sought; SNAP; TANF benefits, including diversion payments; supplemental security income (SSI); social security disability insurance (SSDI); social security benefits received by household children; any VA payments made on behalf of the child(ren); VA benefits for educational purposes or for disability; unemployment benefits; work-study income; child support payments; military food and housing allowances; an increase in military salary or allowances due to "temporary national emergency status beginning September 11, 2001"; third-party payments; energy assistance benefits; foster care payments; adoption subsidies; loans; child or adult nutrition programs; income tax refunds; payments for educational purposes including graduate and other educational stipends; compensation under the Domestic Volunteer Services Act and the volunteers in service to America (VISTA) program or AmeriCorps; Work Investment Act (WIA) payments made to dependent children; relocation payments; department of vocational rehabilitation (DVR) training payments; in-kind gifts; cash gifts; employer reimbursements; overtime, unless ECECD determines that the applicant is paid overtime on a regular basis; payments from special funds such as the agent orange settlement fund or radiation exposure compensation settlement fund; lump sum payments such as those resulting from insurance settlements and court judgments; Tribal per capita payments; or other resources such as savings, individual retirement accounts (IRAs), vehicles, certificates of deposits (CDs) or checking accounts. In the case of an emergency, or under extenuating circumstances, the department secretary may disregard certain temporary income, such as federal stimulus payments or hazard pay.

(7) Verification of household countable earned and unearned income: Applicants applying for child care assistance are required to verify household countable earned and unearned income by providing current documentation of income for biological parents, stepparents, and legal guardians of any children for whom child care assistance is sought, who are living in the household and receiving such income. A self-employed individual who does not show a profit that is equal to federal minimum wage multiplied by the amount of hours needed per week within 24 months from the start date of receiving child care assistance shall be evaluated by the child care assistance supervisor, at which point services may be reduced or discontinued.

(8) Calculating income:

(a) Current income provided to determine eligibility shall be used as an indicator of the income that is and shall be available to the household during the certification period. Fluctuation(s) of earnings may be taken into account as specified in Paragraph (3) of Subsection C of 8.9.3.10 NMAC.

(b) Conversion factors: When income is received on a weekly, biweekly, or semimonthly basis, the income shall be converted to monthly amount as follows:

(i) Income received on a weekly basis is averaged and multiplied by four and three-tenths. Weekly income is defined as income received once per week.

(ii) Income received on a biweekly basis is averaged and multiplied by two and fifteen one-hundredths. Biweekly income is defined as income received once every two weeks. Income is received on the same day of the week of each pay period, therefore receiving 26 payments per year.

(iii) Income received on a semimonthly basis is averaged and multiplied by two. Semimonthly income is defined as income received twice per month every month of the year. Income is received on specific dates of the month, therefore receiving 24 payments per year.

(iv) Income received on a monthly basis is averaged and multiplied by one. Monthly income is defined as income received once per month.

D. Residency requirement: Both a child for whom child care assistance is being applied and a child care provider must be a resident of the state of New Mexico. Proof of residency is required.

E. Citizenship and eligible immigration status: An applicant's eligibility for child care assistance shall not be impacted by the citizenship status of the participating child(ren). If a participating child does not have a federally eligible citizenship status the financial assistance will be paid for with state funds.

F. Age requirement: Child care assistance is provided for children from the ages of six weeks up to the day on which the child turns 13 years old, except as provided in Subsection G of this section. Eligibility determinations made prior to a child turning 13 years old may be granted for an eligibility period of at least 12 months. Child care benefits are paid for children between the ages of six and 12 years old who are eligible for federal child care assistance and for up to 13,000 children between the ages of six and 12 years old who are not federally eligible.

G. Special supervision: Child care assistance is provided for children between the ages of 13 and 19 who are under the supervision of a court of law, or who are determined by a medical or treatment professional to be physically or mentally incapable of caring for themselves and who require supervision.

H. Qualifying Activity or Status: To be eligible to participate in the Child Care Assistance Program,

each parent or legal guardian of a child who lives in the household with the child shall be:

(1) employed;

(2) a full-time student and enrolled in at least 12 credit hours at an accredited educational institution;

(3) a part-time student and enrolled in at least six credit hours at an accredited educational institution;

(4) enrolled in a state-approved job training program, registered apprenticeship program, or pre-apprenticeship program;

(5) receiving aid from the federal Temporary Assistance for Needy Families program;

(6) experiencing homelessness;

(7) under the age of 21 and attending primary or secondary school;

(8) participating in services pursuant to the federal Comprehensive Addiction and Recovery Act of 2016 provided by the children, youth and families department;

(9) a grandparent raising the grandparent's grandchild;

(10) a foster parent; or

(11) engaged in an eligible activity or exempted from the eligible activity for a reason, including incapacitation, as determined by the department and in accordance with federal law.

I. Determining Child Care Placement Category:

(1) The department determines the child care placement category needed in consultation with the parent or legal guardian at the time of certification and based on the needs of the child. The approved placement category will be reflected in the child care placement agreement covering the certification period.

(2) Children enrolled in Head Start, kindergarten, school, or other programs: children are not eligible for child care assistance during the hours that children are attending Head Start, early Head Start, kindergarten, New Mexico Pre-K, school, or other programs, such as online or home-schooling, unless determined necessary by the department; provided that children are eligible for child care assistance during the hours that children are attending a dedicated Early Head Start-Child Care Partnerships Program funded by the U.S. Department of Health and Human Services, Administration for Children and Families, Office of Head Start.

(3) For clients with an annual household income greater than six hundred percent of the federal poverty level, eligibility for child care assistance shall be limited to the hours of care supported by the parent's or legal guardian's qualifying activity schedule.

(4) The department determines the child care placement category needed based on preferences of the family and individual child, availability of the provider to meet the family's preferences, and the units of service set forth below:

Full-Time Care	Wrap-Around Care	Part-Time Care (cases where a child may need two providers or less than full time care)
Hours of service are approved based on a negotiated arrangement between the family and a single provider with a minimum of 29 hours per week	Head Start, New Mexico PreK, and school age children needing Wrap-Around Care. Wrap-Around Care includes providing full-time care during the summer and during breaks for a single provider	In the event one provider is unable to provide services for all of a child's needs, and care is needed for multiple providers or other purposes and for care needed fewer than 29 weekly hours

(5) The department, in an attempt to limit burden to families and providers, as well as to promote continuous payment throughout a family's certification period, uses a cost estimation model to calculate wrap-around care to cover more than the necessary amount of time a parent or guardian working full-time would need for their children if they attended all instructional hours required by the public education department, PreK, or Head Start curriculum.

(6) Monthly base reimbursement payment rates will be paid for the child care placement categories as noted in Subsection G of 8.9.3.19 NMAC. The department will routinely review and periodically make adjustments to these rates.

[8.9.3.10 NMAC - Rp, 8.9.3.10 NMAC, 9/9/2026]

8.9.3.11 RECERTIFICATION: Clients must recertify for the Child Care Assistance Program at the end

of their eligibility period by complying with all eligibility requirements of initial certification. The department will use the requirements set forth in 8.9.3.10 NMAC to determine eligibility for purposes of recertification. If recertification is not completed in a timely manner, and no later than the month after the eligibility expires, the case may be closed on the last day of the month for which assistance is provided under the previous child care placement agreement. At the time of recertification, clients must provide a completed application, documentation of income, and proof of qualifying activity or status. Changes in income, household size, employment, training or educational status are noted in the client's record. A copayment, if applicable, is determined at the time of recertification. A client that meets all eligibility requirements for recertification will be granted a certification period of not less than 12 months.
[8.9.3.11 NMAC - Rp, 8.9.3.11 NMAC, 9/9/2026]

8.9.3.12 CONDITIONS FOR COPAYMENT OR WAITLIST: If in a given year any of the following conditions are met, the department will implement a waitlist in accordance with 8.9.3.13 NMAC or monthly copayments in accordance with the Child Care Assistance Program Act and 8.9.3.14 NMAC:

A. the number of children receiving child care assistance services exceeds that year's projected enrollment by three percent, as determined by the department;

B. the state recurring general fund revenue growth percentage is projected to be lower than the percentage change in the annual consumer price index for all urban consumers for the prior calendar year as determined by the consensus revenue estimating group;

C. the 12-month average percentage change in the annual consumer price index for all urban consumers exceeds three percent;

D. **t**he average price for west Texas intermediate crude oil during the applicable fiscal year is less than fifty dollars ($50) per barrel, as determined by the consensus revenue estimating group; or

E. the department identifies a different or additional condition.

[8.9.3.12 NMAC - Rp, 8.9.3.12 NMAC, 9/9/2026]

8.9.3.13 WAITLIST: If a waitlist is implemented in accordance with the conditions under 8.9.3.12 NMAC, the department prioritizes child care assistance benefits in the following order:

A. clients receiving TANF benefits will continue to be eligible to receive benefits and will not be subject to the waitlist;

B. clients whose income is not greater than one hundred fifty percent of the federal poverty level, adjusted annually in accordance with federal guidelines will continue to be eligible to receive benefits and will not be subject to a waitlist

C. children with disabilities or who are at-risk, including children with special needs;

D. clients with children birth to age three whose income is not greater than four hundred percent of the federal poverty level, adjusted annually in accordance with federal guidelines; and,

E. clients whose income is not greater than four hundred percent, five hundred percent, six hundred percent, or nine hundred percent, respectively of the federal poverty level, adjusted annually in accordance with federal guidelines.

[8.9.3.13 NMAC - Rp, 8.9.3.13 NMAC, 9/9/2026]

8.9.3.14 COPAYMENTS:

A. Copayments, if required in accordance with 8.9.3.12 NMAC, are paid by clients in families making over six hundred percent of the federal poverty level or by the department using state funds when the department determines that it has sufficient state funds to cover copayments for families making over six hundred percent of the federal poverty level. The department pays copayments for all families making six hundred percent or less of the federal poverty level. Copayments are determined by income, household size, and the federal poverty guidelines. The copayment schedule is published yearly at https://www.nmececd.org/child-care-assistance/. In the case of an emergency, or under extenuating circumstances, the department secretary may waive copayments for families receiving child care, during which period, the department will pay providers the client's approved rate, including required copayments. 90 days' notice will be given to providers and families prior to implementation of a copayment.

B. Copayments are used for determining the base copayment for the first eligible child. The formula for determining the copayment amount based on the copayment schedule is the sum of the gross monthly household income multiplied by the applicable percent of the federal poverty level percentage (FPL) for family size (see Subsection D of this section). The base copayments for a client's second child are determined at one half of the

copayment for the previous child. If there are more than two children in the household accessing child care assistance, the copayment will be waived for any additional children.

(1) The first child is identified as the child requiring the highest number of hours of child care.

(2) The second child is identified as the child with the second highest number of hours needed for child care.

C. Each child's copayment will be adjusted based on the units of services described in Subsection E of 8.9.3.17 NMAC, as follows:

(1) Full time care will be based on one hundred percent of the base copayment.

(2) Wrap-around care will be based on seventy-five percent of the base copayment.

(3) Part time care will be based on fifty percent of the base copayment.

D. Below is the chart with the formula used to determine child care copayments as published yearly at https://www.nmececd.org/child-care-assistance/. Effective March 1, 2027, when implemented in accordance with 8.9.3.12 NMAC, the department will use a sliding scale payment schedule to ensure that the department has sufficient funds to meet the costs of the Child Care Assistance Program and that a monthly copayment does not exceed the following percentages of a client's gross monthly household income:

FPL Percent Income Increments	Maximum Percentage of Gross Monthly Household Income to be Paid as Copayment
0.00 to 150.00	0.00%
150.01 to 250	0.01%
250.01 to 600	0.02%
600.01 to 900	3%*
900.01 and above	7%**

*Not to exceed twenty-five percent of the average rate paid for the applicable age group to the child care facility.
**Not to exceed fifty percent of the average rate paid for the applicable age group to the child care facility.

E. Clients pay copayments directly to their child care provider and must remain current in their payments. A client who does not pay copayments may be subject to sanctions. Copayment cost-sharing will be deducted from payment rates as determined in 8.9.3.19 NMAC.
[8.9.3.14 NMAC - Rp, 8.9.3.14 NMAC, 9/9/2026]

8.9.3.15 CLIENT RESPONSIBILITIES: Clients must abide by the regulations set forth by the department and utilize child care assistance benefits only during the eligibility period for which they have been certified. Clients who violate any of the regulations of this section may be subject to sanctions, including case closure or case suspension.

A. Copayments shall be paid by clients when required by the department and in accordance with 8.9.3.14 NMAC. Clients must pay copayments directly to their child care provider and must remain current in their payments. A client who does not pay copayments may be subject to sanctions. Copayment cost-sharing will be deducted from payment rates as determined in Subsections G through M of 8.9.3.19 NMAC.

B. In-home providers: Parents or legal guardians who choose to use an in-home provider become the employer of the child care provider and must comply with all federal and state requirements related to employers, such as the payment of all federal and state employment taxes and the provision of wage information. Any parent or legal guardian who chooses to employ an in-home provider releases and holds the department harmless from any and all actions resulting from their status as an employer. Payments for in-home provider care are made directly to the parent or legal guardian.

C. Notification of changes: Clients must notify the department via electronic transmission, in-person at an ECECD office location, or by telephone of changes that affect their need for care within 14 calendar days of the change. Clients who do not comply with this requirement may be sanctioned.

(1) A client must notify the department of any non-temporary change in activity or changes to household composition.

(2) A client must notify the department when their household income exceeds eighty-five percent of the state median income, taking into account any fluctuation(s) of income.

(3) A client must notify the department of any changes to their contact information.

(4) A client who changes a provider must notify the department and the current provider 14 calendar days prior to the expected last day of enrollment. If this requirement for notification is met by the client, the current provider will be paid through the 14th calendar day. If this notification requirement is not met, the current provider will be paid 14 calendar days from the last date of non-attendance. The child care placement agreement with the new provider shall become effective when payment to the previous provider ceases. The client will be responsible for payment to the new provider beginning on the start date with the new provider and until the final date of payment to the former provider.

D. If the client has not used the authorized provider for 14 consecutive calendar days, the child will be disenrolled from that provider and will remain eligible for the remainder of their eligibility period.

[8.9.3.15 NMAC - Rp, 8.9.3.15 NMAC, 9/9/2026]

8.9.3.16 CASE SUSPENSIONS AND CLOSURES:

A. A case may be suspended at the request of a client if child care assistance is not being utilized with payment being discontinued to the provider. The client shall remain eligible for child care assistance through the remainder of their eligibility period.

B. If a client experiences a non-temporary change of activity including the loss of employment, is no longer attending school, or is no longer participating in a job training or education program, the child care placement agreement may close; however, the client shall remain eligible for the remainder of the approved eligibility period.

C. A case will be closed for failing to recertify at the end of approved eligibility period.

[8.9.3.16 NMAC - Rp, 8.9.3.16 NMAC, 9/9/2026]

8.9.3.17 PROVIDER REQUIREMENTS: Child care providers must abide by all department regulations. Child care provided for recreational or other purposes, or at times other than those outlined in the child care placement agreement, are paid for by the client.

A. In order to receive child care assistance payments for child care services, a child care provider must be licensed or registered by the department and meet and maintain compliance with the appropriate licensing and registration regulations. Child care providers holding a 1-star license are not eligible for child care assistance.

B. In accordance with 8.9.4.11 NMAC, the department honors properly issued military child care licenses to providers located on military bases, certified military child care homes serving only military families, and tribal child care licenses properly issued to providers located on tribal lands.

C. Signed child care placement agreements (including electronically signed child care placement agreements) must be returned by hand delivery, mail, email, or electronic submission to the department within 30 calendar days of issuance. Failure to comply may affect payment for services and the child care placement agreement will be closed. The department will provide reasonable accommodations to allow a client or provider to meet this requirement.

D. Child care providers shall collect required copayments from clients and provide child care according to the terms outlined in the child care placement agreement.

E. Notification of changes: Child care providers must notify the department if a child is disenrolled or child care has not been used for 14 consecutive calendar days without notice from the client. If a client notifies the provider of non-attendance beyond 14 consecutive calendar days, the department will continue to pay the provider for the period of non-attendance, not to exceed six weeks following the first date of non-attendance.

(1) If the provider notifies the department of the above, the provider will be paid through the period of non-attendance, not to exceed six weeks.

(2) If a provider does not notify the department of disenrollment or of non-use for 14 consecutive calendar days, the provider will be paid through the last date of attendance.

(3) If a child was withdrawn from a provider because the health, safety, or welfare of the child was at risk, as determined by a substantiated complaint against the child care provider, payment to the former provider will be made through the last day that care was provided.

(4) Providers who do not comply with this requirement are sanctioned and may be subject to recoupment or disallowance of payments as provided in 8.9.3.23 NMAC.

F. Child care providers must accept the rate the department pays for child care and shall not charge, accept, or require payment or donations in any form from families receiving child care assistance above the department rate for the hours listed on the child care placement agreement, except as provided in this section. Failure to comply with this requirement may result in sanctions.

(1) Providers shall not charge clients a registration/educational fee for any child who is

receiving child care assistance benefits. The rates set forth in these regulations are informed by a cost estimation model and include expenses for registration/educational fees per child and child and family activities on behalf of clients under 8.9.3 NMAC. Providers are encouraged to participate in the United States department of agriculture (USDA) Child and Adult Care Food Program (CACFP). Providers that do not participate in CACFP may charge clients a reasonable fee to reimburse the cost of meals served during operating hours. Providers participating in the CACFP non-pricing program shall not charge any fees for meals or snacks. Providers participating in the CACFP pricing program shall not charge participants who qualify for the free rate but may charge the difference between the highest USDA reimbursement rate and the reimbursement rate for children eligible for the reduced-price or paid rate, consistent with CACFP requirements.

(2) In situations where an incidental cost may occur such as field trips, special lunches or other similar situations, the child care provider is allowed to charge the child care assistance family the additional cost, provided the cost does not exceed that charged to private pay families.

(3) Child care providers are not allowed to charge child care assistance families the gross receipts tax for the sum of the child care assistance benefit and copayment. Child care providers may claim the gross receipts tax deduction pursuant to Section 7-9-77.2 NMSA 1978, as applicable.

(4) Child care providers shall not charge, accept or receive payments for child care assistance for hours that a child is enrolled in a head start program or an early head start program or an early pre-kindergarten program or a pre-kindergarten program, except when determined necessary by the department

(5) Payments received by a child care facility for services provided under the Child Care Assistance Program shall not be used to supplant funding received through the state equalization guarantee distribution or funds appropriated for instructional or general funding.

G. Owners and licensees may not receive department payments for providing child care services under the Child Care Assistance Program to provide care for their own children.

H. Providers who are found to have engaged in fraud relating to any state or federal programs, or who have pending charges for or convictions of any criminal charge related to financial practices are ineligible to participate in the Child Care Assistance Program.

I. Child care providers participating in the Child Care Assistance Program shall:

(1) promote the equal access of services for all children and families by developing and implementing policies and procedures that prohibit discrimination based on race, color, religion, sex (including pregnancy, sexual orientation, or gender identity), national origin, disability, special needs, or age (40 or older);

(2) maintain all documentation related to the Child Care Assistance Program for at least five years after the termination of the contract and make it available for inspection upon request by the department;

(3) refer an at-risk child, including a child with special needs, to appropriate programs of the department and, when applicable, to an appropriate tribal department for services;

(4) meet and maintain required training as set by rule of the department to identify and refer at-risk children, including a child with special needs, to home visiting and the family, infant and toddler programs of the department and of tribal departments, as appropriate;

(5) use not less than fifty percent of the payment rates paid by the department under 8.9.3.19 NMAC for wages, mandatory taxes, and benefits for the following positions:

(a) director: a person in charge of the day-to-day operation and program of a child care facility;

(b) assistant director: a person who supports the director in managing the day-to-day operation and program of a child care facility;

(c) teacher: an adult who directly cares for, serves, and supervises children in a child care facility;

(d) substitute teacher: an adult who directly cares for, serves, and supervises children in a child care facility, who works in place of the regular educator, and who works fewer than an average of 40 hours per month in a six-month period;

(e) floater: an adult who provides coverage during breaks, supporting teachers' planning activities and facilitating release time;

(f) administrative support: an adult who supports day-to-day operations by making contact with parents, keeping appropriate records, working with the director and other staff members, and by engaging in other similar support duties;

(g) cooking personnel: an adult whose primary responsibility is cooking or preparing meals at a child care facility as part of the facility's daily operations;

(h) transportation staff: an adult whose primary responsibility is to provide

transportation for children to and from a child care facility as part of the facility's daily operations;

(i) custodial staff: an adult whose primary responsibility is to conduct cleaning duties at a child care facility as part of the facility's daily operations; and

(j) any other staff member not included herein who provides daily, on-site operational support and for whom the child care facility has requested, and the department has granted, a waiver to be included in this paragraph.

(6) meet and maintain required training, professional development, and certification pathways, as required under 8.9.4 NMAC;

(7) not unreasonably exclude early intervention providers from accessing a child care setting to provide early intervention services. If a provider excludes an early intervention provider for any reason, the provider shall notify the department within 48 hours; and

(8) notify the department of any ownership changes to the facility or the provider not later than 60 days of the transaction closing.

J. Providers shall report data as follows, using department-designated information systems and in the format, method, and schedule required by the department.

(1) Providers shall report the following child care facility business information to the department by July 1, 2027, and annually by July 1 of each year thereafter:

(a) the legal name and address of the business;

(b) the legal name and address of any management company, owner or entity with a direct or indirect ownership interest in the business;

(c) the name and address, if applicable, of any members of a board of directors of the business;

(d) the legal structure of the business, including its form of organization;

(e) the legal structure of any owner or ownership entity of the business;

(f) each investment in the business by any person or entity comprising a ten percent equity stake or greater;

(g) each debt or lien against the business comprising at least ten percent of the annual revenue of the business;

(h) all documentation of any changes in ownership of the business in the past five years, including sales, transfers, mergers or acquisitions;

(i) all details of any out-of-state sources of funding or investment for the business;

(j) hours of operation and days of care provided annually; and,

(k) the employee benefit structure.

(2) By July 1, 2027, and annually by July 1 of each year thereafter, providers shall report the total amount spent in the previous calendar year on employee salaries and benefits for the roles specified in Paragraph (4) of Subsection I of this section.

(3) Beginning July 1, 2027, and biannually by January 15 and July 1 of every year thereafter, providers shall report to the department the following for each employee: salaries, benefits, and professional qualifications of staff members, including staff members' roles and levels as established in the department's wage scale and career ladder framework, salaries and benefits for each employee.

(4) Beginning July 1, 2027, and monthly thereafter, providers shall report program participation through submission of daily attendance records.

[8.9.3.17 NMAC - Rp, 8.9.3.17 NMAC, 9/9/2026]

8.9.3.18 DEPARTMENT RESPONSIBILITIES:

A. The department pays child care assistance to providers who provide child care services to clients in a timely manner.

B. Child care assistance workers perform all casework functions in a timely manner, including the processing of payments and notifications of case actions.

C. Child care assistance workers will perform all eligibility and recertification determinations within 10 working days of receipt of all required documentation from an applicant. The department may seek to obtain verification data from federal agencies, New Mexico state agencies, or other trusted data sources.

D. Child care assistance workers notify clients and providers in writing of all actions that affect services, benefits, or provider payments or status, citing the applicable policy.

E. Child care assistance workers determine eligibility for all child care assistance programs except for TANF. Eligibility for TANF is determined by the New Mexico health care authority.

F. Child care assistance workers must inform parents or legal guardians of their right to choose their child care providers and provide information on how to look for quality child care in a provider.

G. The department and other organizations approved by the department provide information and orientation programs regarding child care assistance benefits, quality child care issues, and the impact of child care on the child's physical, cognitive, social, and emotional development to parents or legal guardians and providers.

H. The department and other organizations approved by the department offer provider education programs consisting of training on program participation requirements, parent or legal guardian and provider responsibilities, licensing and registration requirements, payment issuance and background check processing, the competency areas for child care providers as outlined by the office of child development, or the department, the importance of providing quality child care, and other topics of interest to parents or legal guardians and providers. These education programs count toward the continuing education hours required of providers by registration and licensing regulations.

I. The department expends federal child care assistance funds, including required state match and maintenance-of-efforts amounts, for federally eligible children prior to expending state funds for child care assistance. The department will reasonably ensure that eligible federal and state child care tax benefits are maximized.

[8.9.3.18 NMAC - Rp, 8.9.3.18 NMAC, 9/9/2026]

8.9.3.19 PAYMENT FOR SERVICES: The department pays child care providers on a monthly basis, according to standard practice for the child care industry. Payment is based on a child's enrollment with the provider as reflected in the child care placement agreement, rather than on daily attendance. As a result, most placements reflect a month of service provision and are paid on this basis. However, placements may be closed at any time during the month. A signed child care placement agreement must be returned to the department for payment to be issued to the provider. The following are circumstances under which the department may close placements or discontinue payment at a time other than the end of the month:

A. When a child care placement agreement expires during the month, or when the provider requests that the client change providers or the provider discontinues services; payment will be made through the last day that care is provided.

B. Payment for notification of changes:

(1) If a client fails to notify the department within 14 calendar days of their expected last day of enrollment, the department will pay the provider 14 calendar days from the last day of non-attendance. The child care placement agreement with the new provider shall become effective when payment to the previous provider ceases.

(2) If the provider notifies the department of a child who is disenrolled or child care has not been used for 14 consecutive calendar days, the provider will be paid through the 14th calendar day following the last day of attendance.

(3) If a provider does not notify the department of disenrollment or of non-attendance for 14 consecutive calendar days, the provider will be paid through the last date of attendance.

(4) If a provider notifies the department that it has received notification from a client of non-attendance beyond 14 consecutive calendar days, the department will continue to pay the provider for the period of non-attendance, not to exceed six weeks, following the period of non-attendance. The provider must submit documentation of the client notification and reasoning to the department.

(5) If a child was withdrawn from a provider because the health, safety, or welfare of the child was at risk, as determined by a substantiated complaint against the child care provider, payment to the former provider will be made through the last day that care was provided.

C. The child care assistance payment rates provided in this section correspond to differences in quality based on FOCUS and are informed by a cost estimation model developed in accordance with the requirements of the federal child care and development fund program authorized by the federal Child Care and Development Block Grant Act of 1990. The model incorporates feedback and input from early childhood education and development experts, a diverse group of child care facilities of a variety of facility types, families and organizations representing child care directors, tribal representatives, advocacy organizations, teachers, and other relevant parties as determined by the department. Rates are developed to promote equal access to child care services for eligible children, support parental choice by offering a full range of child care services, ensure adequate wages for child care facility staff, and account for allowable cost components including registration/educational fees per child and child and family activities on behalf of clients under 8.9.3 NMAC.

D. The amount of the payment is based upon the age of the child and average number of hours per

week needed per child during the certification period. The number of hours of care needed is determined with the parent or legal guardian at the time of certification and is reflected in the provider agreement. Providers are paid according to the units of service needed, which are reflected in the child care placement agreement covering the certification period. Effective September 1, 2026, a preschool child's placement category will be changed to a school age placement if the child's 5th birthday is prior to September 1 of that year. Any preschool child who has a 5th birthday after September 1 will remain at a preschool category for that year.

E. The department pays for care based upon the following units of service:

Full-Time Care	Wrap-Around Care	Part Time Care (cases where a child may need two providers or less than full time care)
Hours of service are approved based on a negotiated arrangement between the family and a single provider with a minimum of 29 hours per week	Head Start, New Mexico PreK, and school age children needing Wrap-Around Care. Wrap-Around Care includes providing full-time care during the summer and during breaks for a single provider.	In the event one provider is unable to provide services for all child's needs, and care is needed for multiple providers or other purposes and for care needed fewer than 29 weekly hours

F. Hours of care shall be rounded to the nearest whole number.

G. Monthly reimbursement rates:

LICENSED CENTERS (2 STAR)											
Infant Full Time	**Infant Part Time**	**Infant Wrap-Around Care**	**Toddler Full Time**	**Toddler Part Time**	**Toddler Wrap-Around Care**	**Preschool Full Time**	**Preschool Part Time**	**Preschool Wrap-Around Care**	**School age Full time**	**School age (Wrap-Around Care, full year)**	**School age Part Time**
$1,200	$600	$720	$875	$438	$525	$735	$368	$552	$689	$525	$263
LICENSED FAMILY HOMES (2 STAR)											
Infant Full Time	**Infant Part Time**	**Infant Wrap-Around Care**	**Toddler Full Time**	**Toddler Part Time**	**Toddler Wrap-Around Care**	**Preschool Full Time**	**Preschool Part time**	**Preschool Wrap-Around Care**	**School age Full time**	**School age (Wrap-Around Care, full year)**	**School age Part Time**
$1,325	$663	$795	$1,275	$638	$765	$1046.78	$523.39	$785.65	$730	$557	$278
LICENSED GROUP HOMES (2 STAR)											
Infant Full Time	**Infant Part Time**	**Infant Wrap-Around Care**	**Toddler Full Time**	**Toddler Part Time**	**Toddler Wrap-Around Care**	**Preschool Full Time**	**Preschool Part time**	**Preschool Wrap-Around Care**	**School age Full time**	**School age (Wrap-Around Care, full year)**	**School age Part Time**
$1,200	$600	$720	$1,150	$575	$690	$872	$436	$654	$654	$499	$249.52
REGISTERED HOMES AND FFN (2 STAR)											

Infant Full Time	Infant Part Time	Infant Wrap-Around Care	Toddler Full Time	Toddler Part Time	Toddler Wrap-Around Care	Preschool Full Time	Preschool Part time	Preschool Wrap-Around Care	School age Full time	School age (Wrap-Around Care, full year)	School age Part Time
$750	$375	$450	$750	$375	$450	$425	$213	$255	$459	$350	$175.00

H. The department pays a different rate according to the license or registration status of the provider, national provider accreditation status of the provider if applicable, head start and early head start status, and star level status of the provider if applicable. In the case of a public health emergency, the department secretary may approve a different rate to be paid to licensed providers.

I. Providers holding and maintaining national provider accreditation status will receive the differential rate listed in Subsection J below, per child per month for full-time care above the base rate for type of child care (licensed center, group home or family home) and age of child. All providers who maintain national provider accreditation status will be paid at the accredited rates for the appropriate age group and type of care. In order to continue at this accredited reimbursement rate, a provider holding provider accreditation status must meet and maintain licensing standards and maintain national provider accreditation status without a lapse. If a provider holding national provider accreditation status fails to maintain these requirements, this will result in the provider reimbursement reverting to a lower level of reimbursement. The licensee shall notify the licensing authority within 48 hours of any adverse action by the national provider accreditation body against the licensee's national provider accreditation status, including but not limited to expiration, suspension, termination, revocation, denial, nonrenewal, lapse, or other action that could affect its national provider accreditation status. All providers are required to notify the department immediately when a change in national provider accreditation status occurs.

J. The department pays a higher rate per child per month for full-time care above the base reimbursement rate to providers achieving higher star levels by meeting FOCUS essential elements of quality, maintaining national provider accreditation status, or status as head start, or early head start, as follows:

LICENSED CENTERS											
Infant Full Time	**Infant Part Time**	**Infant Wrap-Around Care**	**Toddler Full Time**	**Toddler Part Time**	**Toddler Wrap-Around Care**	**Preschool Full Time**	**Preschool Part time**	**Preschool Wrap-Around Care**	**School age Full time**	**School age (Wrap-Around Care, full year)**	**School age Part Time**
2 + Star											
$1,300	$650	$780	$975	$488	$585	$840	$420	$630	$758	$578	$263
3 Star											
$1,300	$650	$780	$975	$488	$585	$840	$420	$630	$758	$578	$289
4 Star											
$1,650	$825	$990	$1,250	$625	$750	$1,051	$525	$788	$895	$683	$289
5 Star FOCUS, national provider accreditation, or Head Start, or Early Head Start											
$2,175	$1,088	$1,305	$1,700	$850	$1020	$1,182	$591	$886	$1,033	$788	$341
LICENSED FAMILY HOMES											
Infant Full Time	**Infant Part Time**	**Infant Wrap-Around Care**	**Toddler Full Time**	**Toddler Part Time**	**Toddler Wrap-Around Care**	**Preschool Full Time**	**Preschool Part time**	**Preschool Wrap-Around Care**	**School age Full time**	**School age (Wrap-Around Care, full year)**	**School age Part Time**
2+ Star											

$1,450	$725	$870	$1,375	$688	$825	$1142.98	$571.49	$857.81	$826	$630	$315
3 Star											
$1,450	$725	$870	$1,375	$688	$825	$1142.98	$571.49	$857.81	$826	$630	$315
4 Star											
$1,700	$850	$1,020	$1,575	$788	$945	$1293.01	$697.08	$970.04	$937	$714	$357
5 Star FOCUS, national provider accreditation, or Head Start, or Early Head Start											
$1,900	$950	$1,140	$1,800	$900	$1,080	$1396.08	$697.47	$1046.78	$999	$762	$381
LICENSED GROUP HOMES											
Infant Full Time	**Infant Part Time**	**Infant Wrap-Around Care**	**Toddler Full Time**	**Toddler Part Time**	**Toddler Wrap-Around Care**	**Preschool Full Time**	**Preschool Part time**	**Preschool Wrap-Around Care**	**School age Full time**	**School age (Wrap-Around Care, full year)**	**School age Part Time**
2+ Star											
$1,300	$650	$780	$1,250	$625	$750	$956	$478	$717	$751	$573	$286.29
3 Star											
$1,300	$650	$780	$1,250	$625	$750	$956	$478	$717	$751	$573	$286.29
4 Star											
$1,575	$788	$945	$1,500	$750	$900	$1,087	$544	$816	$861	$657	$328.32
5 Star FOCUS, national provider accreditation, or Head Start, or Early Head Start											
$1,750	$875	$1,050	$1,700	$850	$1,020	$1,177	$588	$883	$923	$704	$351.95

K. In order to continue at the FOCUS reimbursement rates, a provider must meet and maintain the most recent FOCUS eligibility requirements and star-level criteria. If the provider fails to meet the FOCUS eligibility requirements and star-level criteria, the provider's reimbursement rates will revert to the FOCUS criteria level demonstrated.

L. The department pays a differential rate equivalent to five percent, ten percent, or fifteen percent of the applicable full-time/part-time rate to providers who provide care during non-traditional hours. Non-traditional care will be paid according to the following charts:

	1-10 hrs/wk	11-20 hrs/wk	21 or more hrs/wk
After hours	5%	10%	15%

	1-10 hrs/wk	11-20 hrs/wk	21 or more hrs/wk
Weekend hours	5%	10%	15%

M. The department pays a higher rate, not to exceed an average of ten percent above the rate provided in Subsection G of this section, to providers who provide at least 10 hours of care during the day, at least five days a week (not including holidays, breaks, or special programming such as parent teacher conferences and professional development), and meet the following minimum pay requirements for their floaters, assistant teachers, and assistant educators:

	2 Star	2+ Star Focus	3 Star Focus	4 Star Focus	5 Star Focus
Entry-level staff	16/ hour	$17/hour	$17/hour	$18/hour	$19/hour

N. The department pays the following enhanced rates to providers who comply with the requirements as outlined in Subsection M of 8.9.3.19 NMAC:

LICENSED CENTERS - ENHANCED RATE								
Infant Full Time	**Infant Part Time**	**Infant Wrap-Around Care**	**Toddler Full Time**	**Toddler Part Time**	**Toddler Wrap-Around Care**	**Preschool Full Time**	**Preschool Part Time**	**Preschool Wrap-Around Care**
2 Star								
$1,350	$675	$810	$1,015	$508	$609	$825	$413	$619
2+ Star								
$1,400	$700	$840	$1,075	$538	$645	$890	$445	$668
3 Star								
$1,400	$700	$840	$1,075	$538	$645	$890	$445	$668
4 Star								
$1,950	$975	$1,170	$1,525	$763	$915	$1,150	$575	$863
5 Star FOCUS, national provider accreditation, or Head Start, or Early Head Start								
$2,500	$1,250	$1,500	$1,975	$988	$1,185	$1,375	$688	$1,031
LICENSED FAMILY HOMES - ENHANCED RATE								
Infant Full Time	**Infant Part Time**	**Infant Wrap-Around Care**	**Toddler Full Time**	**Toddler Part Time**	**Toddler Wrap-Around Care**	**Preschool Full Time**	**Preschool Part Time**	**Preschool Wrap-Around Care**
2 Star								
$1,500	$750	$900	$1,425	$713	$855	$1,050	$525	$788
2+ Star								
$1,625	$813	$975	$1,525	$763	$915	$1,175	$588	$881
3 Star								
$1,625	$813	$975	$1,525	$763	$915	$1,175	$588	$881
4 Star								
$1,975	$988	$1,185	$1,850	$925	$1,110	$1,375	$688	$1031
5 Star FOCUS, national provider accreditation, or Head Start, or Early Head Start								
$2,175	$1,088	$1,305	$2,025	$1,013	$1,215	$1,450	$725	$1088
LICENSED GROUP HOMES - ENHANCED RATE								
Infant Full Time	**Infant Part Time**	**Infant Wrap-Around Care**	**Toddler Full Time**	**Toddler Part Time**	**Toddler Wrap-Around Care**	**Preschool Full Time**	**Preschool Part Time**	**Preschool Wrap-Around Care**
2 Star								
$1,375	$688	$825	$1,300	$650	$780	$975	$488	$731
2+ Star								
$1,475	$738	$885	$1,400	$700	$840	$1,075	$538	$806
3 Star								
$1,475	$738	$885	$1,400	$700	$840	$1,075	$538	$806
4 Star								

LICENSED CENTERS - ENHANCED RATE - SCHOOL AGE								
Star Rating		**School Age Full Time**		**School Age Part-time**			**School Age Wrap-Around Care**	
2 Star		$699		$268			$535	
2+ Star		$768		$294			$588	
3 Star		$768		$ 294			$588	
4 Star		$905		$ 347			$693	
5 Star		$1,043		$ 399			$798	
$1,775	$888	$1,065	$1,700	$850	$1,020	$1,200	$600	$900
5 Star FOCUS, national provider accreditation, or Head Start, or Early Head Start								
$1,940	$970	$1,164	$1,850	$925	$1,110	$1,300	$650	$975

LICENSED FAMILY HOMES - ENHANCED RATE - SCHOOL AGE			
Star Rating	**School Age Full Time**	**School Age Part-time**	**School Age Wrap-Around Care**
2 Star	$740	$284	$567
2+ Star	$836	$320	$640
3 Star	$836	$320	$640
4 Star	$947	$362	$724
5 Star	$1,009	$386	$772
LICENSED GROUP HOMES - ENHANCED RATE - SCHOOL AGE			
Star Rating	**School Age Full Time**	**School Age Part-time**	**School Age Wrap-Around Care**
2 Star	$664	$255	$509
2+ Star	$761	$292	$583
3 Star	$761	$292	$583
4 Star	$871	$334	$667
5 Star	$933	$357	$714

O. If a significant change occurs in the client's circumstances, (see Subsection C of 8.9.3.15 NMAC) the child care placement agreement may be modified and the rate of payment may be adjusted. The department monitors attendance and reviews the placement at the end of the certification period when the child is recertified.

P. The department may conduct provider, parent, or legal guardian, audits to assess whether the approved service units are consistent with usage. Providers found to be defrauding the department are sanctioned. Providers must provide all relevant information requested by the department during an audit.

Q. Payments are made to the provider for the period covered in the child care placement agreement or based on the availability of funds.

[8.9.3.19 NMAC - Rp, 8.9.3.19 NMAC, 9/9/2026]

8.9.3.20 UNDER PAYMENTS: If a client or provider is underpaid for child care services, the department may issue a one-time payment within 15 calendar days of the department's knowledge or receipt of notification. The client or provider must notify the department within three months of the occurrence of the alleged underpayment, otherwise the underpayment may be denied.

[8.9.3.20 NMAC - Rp, 8.9.3.20 NMAC, 9/9/2026]

8.9.3.21 OVER PAYMENT AND RECOUPMENT: If a provider receives payment for services for which the provider is not entitled, or a client receives benefits on behalf of their child for which the provider is not entitled, resulting in an overpayment, the child care worker will initiate recoupment procedures, unless the early childhood services director deems otherwise in exceptional circumstances. Recoupments will only be sought from providers. The department will not seek a recoupment from a client unless substantiated fraud by that client has been determined. The client or provider must repay the amount of the overpayment to the department within 30 calendar

days of notification, unless the department determines that the amount is so large that it cannot be paid in one lump sum. In this case, the department may allow the client or provider to repay the amount over a payment period, negotiated between the client and the department and usually not to exceed four months. Failure to pay the overpayment within 30 days of the notice or failure to make regular payments under an agreed upon payment schedule may result in sanctions, including termination of benefits or referral of the account to a collection agency, or in legal action.
[8.9.3.21 NMAC - Rp, 8.9.3.21 NMAC, 9/9/2026]

8.9.3.22 FRAUD: Fraud is the purposeful misrepresentation of facts, falsification of documents, or knowingly omitting information relating to eligibility, certification, recertification, or payments. If fraud is substantiated by the department, the department will impose appropriate sanctions, including recoupment, termination of benefits, or referral to law enforcement. Fraudulent cases must be reported by anyone with knowledge to the department, which will take such action as is deemed necessary. The case remains open at the same rate of benefits until the investigation is concluded and disposition is determined. In cases where substantiated fraud has been determined, the department may disqualify a client or provider until their debt has been paid in full.
[8.9.3.22 NMAC - Rp, 8.9.3.22 NMAC, 9/9/2026]

8.9.3.23 SANCTIONS: The department may impose sanctions according to the severity of the infraction as detailed below.

A. Providers or clients who fail to make timely payments in the case of recoupment of overpayments may be referred to a collection agency.

B. The department may initiate the recoupment process against any provider who fails to report in a timely manner that a child has not been in attendance for 14 consecutive calendar days.

C. Providers who allow their registration or license to lapse without renewal will not be paid during the periods for which the license or registration is not current. Providers who lose provider accreditation status or lose eligibility for payment at any level of reimbursement for failure to maintain the standards required to be paid at that level of reimbursement, will not be paid at that level of reimbursement beginning with the first day of the month within which the loss of national provider accreditation or eligibility occurred. Payment recoupment will be sought for any period for which excessive benefits have been paid.

D. If a provider violates any of the provisions of 8.9.3 NMAC, the department may suspend or terminate a child care provider's assistance payments, license, or registration, adjust payments to align with care provided, impose a corrective action plan, or revoke eligibility for enhanced reimbursement rates. The department shall promptly report any suspected intentional misuse of funds or fraud to local law enforcement, the local district attorney or attorney general, and the state auditor.

E. If, under emergency circumstances, the department has reason to believe that the health, safety or welfare of a child is at risk, the department may immediately suspend or terminate child care assistance payments to a licensed or registered provider. The child care resource and referral will assist affected clients with choosing another ECECD approved provider.
[8.9.3.23 NMAC - Rp, 8.9.3.23 NMAC, 9/9/2026]

8.9.3.24 FAIR HEARINGS: Clients who have been denied benefits, whose benefits have been reduced, terminated, or who have been sanctioned or disqualified from the program, or providers who have been sanctioned, disqualified from the program, had assistance payments suspended or terminated, or from whom a payment recoupment is being sought may request a fair hearing. The request for a fair hearing must be made in writing within 30 calendar days from the date the department took the adverse action affecting the claimant's benefits.

A. The department reviews the request for hearing and determines if the matter can be resolved without proceeding to a fair hearing. If the matter cannot be resolved without a fair hearing, the department conducts the fair hearing within 60 calendar days of receipt of the letter requesting the hearing and notifies the claimant of the date of the hearing no fewer than 14 calendar days prior to the hearing. The location of the hearing must be easily accessible to the claimant. Conducting the fair hearing by telephone or virtual format is permitted. The claimant may request a change of date, provided that the 60-calendar-day time limit is not exceeded.

B. The department appoints a hearing officer. The department is not responsible or liable for a claimant's travel costs, legal costs, or any other costs associated with the claimant's request for a fair hearing.

C. The hearing officer reviews all of the relevant information and makes a final decision within 30

calendar days of the hearing. The final decision is binding upon the department and claimant and implemented within 14 calendar days of the hearing decision. The claimant is notified in writing of the hearing officer's decision within 14 calendar days of the hearing decision.

D. At the claimant's option the case may remain open at the same benefit level until disposition. If the decision is in favor of the department, the claimant is responsible for repayment of all monies received to which the claimant was not entitled, unless the hearing decision provides otherwise or the early childhood services director authorizes otherwise in exceptional circumstances. The fair hearing process is not intended as a means to extend the time for receipt of child care assistance payments to which the recipient is not otherwise entitled, and therefore, exceptional circumstances must be explicitly stated.

E. Child care assistance workers determine eligibility for all child care assistance programs except for TANF. Eligibility for TANF is determined by the New Mexico HCA. If TANF benefits are modified or terminated by HCA, then the client applies for a fair hearing to HCA.

[8.9.3.24 NMAC - Rp, 8.9.3.24 NMAC, 9/9/2026]

8.9.3.25 COMPLAINTS: Clients or providers who are dissatisfied with the services provided by the department may express their complaints orally or in writing to the local field office, the central office, the director's office, or the office of the department secretary. The department's toll-free number is posted in each office and made available to clients and providers upon request. The local supervisor, bureau chief, director, or secretary responds to complaints by clients or providers orally or in writing, as is deemed appropriate in each case.

[8.9.3.25 NMAC - Rp, 8.9.3.25 NMAC, 9/9/2026]

8.9.3.26 CONFIDENTIALITY: Client files are established and maintained solely for use in the administration of the Child Care Assistance Program. Information contained in the records is confidential and is released only in the following limited circumstances:

A. to the client upon request;

B. to an individual who has written authorization from the client;

C. to department employees and agents who need it in connection with program administration, including program auditors;

D. to other agencies or individuals including law enforcement officers, who satisfy the following conditions:

(1) the agency or individual is involved in the administration of a federal or a federally assisted program, which provides assistance in cash, in-kind, or in services directly to individuals on the basis of need;

(2) information is to be used for the purpose of establishing eligibility, determining amount of assistance or for providing services for applicants or recipients;

(3) the agency or individual is subject to standards of confidentiality comparable to those contained herein; and

(4) the agency or individual has actual or implied consent of the applicant or recipient to release the information; in an emergency, information may be released without permission, but the client must be informed of its release immediately thereafter; consent may be considered as implied if the client has made application to the inquiring agency for a benefit of service; or,

E. as requested in a subpoena or subpoena duces tecum.

[8.9.3.26 NMAC - Rp, 8.9.3.26 NMAC, 9/9/2026]

8.9.3.27 APPROVED NATIONAL PROVIDER ACCREDITING BODIES:

A. The following are the only national accrediting bodies that are approved by ECECD for purposes of determining quality ratings:

(1) the association of Christian schools international (ACSI);

(2) the council on accreditation (COA) for early childhood education and after school programs;

(3) the international Christian accrediting association (ICAA);

(4) the national accreditation commission for early care and education programs (NAC);

(5) the national association for the education of young children (NAEYC) academy for early childhood program accreditation;

(6) the national association of family child care (NAFCC);

(7) the national early childhood program accreditation (NECPA);

(8) association Montessori internationale (AMI); or

(9) American Montessori Society (AMS).

[8.9.3.27 NMAC - N, 9/9/2026]

8.9.3.28 CONSTRUCTION: Permissive language such as "may or may be" when referring to actions taken by the department, address situations where it is not always prudent or practical to apply these actions. It is not meant to reduce the weight of these actions, nor should the intent of the policies be circumvented due to this wording. This language is intended to be construed in a fiscally responsible and equitable manner, keeping in mind that consistency in application is the ultimate goal.

[8.9.3.28 NMAC - N, 9/9/2026]

HISTORY OF 8.9.3 NMAC: [RESERVED]

History of Repealed Material: 8.9.3 NMAC - CHILD CARE ASSISTANCE; REQUIREMENTS FOR CHILD CARE ASSISTANCE PROGRAMS filed 10/7/2022 Repealed effective 9.9.2026.