

TO BE RESCINDED

5101:2-16-30 Eligibility requirements for receipt of publicly funded child care benefits.**(A) What are the requirements for publicly funded child care?****(1) The caretaker shall complete an application for publicly funded child care.****(a) To begin the application, the caretaker shall submit one of the following to the county agency in the county in which the caretaker resides:****(i) The JFS 01138 "Application for Child Care Benefits" (rev. 12/2018) or its electronic equivalent with the caretaker's name, address, and signature.****(ii) The JFS 01121 "Early Childhood Education Eligibility Screening Tool" (rev. 12/2018) and the JFS 01122 "Publicly Funded Child Care Supplemental Application" (rev. 12/2018) with the caretaker's name, address, and signature.****(b) The application shall be considered complete when the caretaker has submitted all of the following:****(i) The application for publicly funded child care pursuant to paragraph (A)(1)(a) of this rule and all information about the caretaker's household.****(ii) Verification of citizenship or qualified alien status for children in need of care.****(iii) Verification of income for all household members pursuant to rule 5101:2-16-34 of the Administrative Code.****(iv) Verification of a qualifying activity for all caretakers.****(v) The name and address of an eligible provider chosen for each child in need of care.****(c) The caretaker shall complete the application process within thirty calendar days from the date the county agency receives the JFS 01138, the JFS 01121 or the JFS 01122.****(2) The family must meet the income requirements:**

- (a) Initially, a caretaker may be eligible for publicly funded child care if the family's gross monthly income is at or below one hundred thirty per cent of the federal poverty level (FPL).
 - (b) On-going eligibility may be maintained if the family's gross monthly income is at or below three hundred per cent of the the FPL.
 - (c) These amounts will be published annually in a child care procedure letter.
- (3) The caretaker must be participating in one or more of the following approved activities:
- (a) Paid employment on a full-time or part-time basis.
 - (i) Paid employment includes the following if verification is provided confirming the employee will return to work:
 - (a) Maternity leave.
 - (b) Leave taken in accordance to the Family and Medical Leave Act of 1993 (FMLA).
 - (c) Short term disability leave.
 - (ii) The end of seasonal paid employment shall not be considered paid employment.
 - (b) A training or education activity that prepares the caretaker for paid employment.
 - (c) Requirements set forth as a result of participation in Ohio works first (OWF) or the supplemental nutrition assistance program (SNAP) including:
 - (i) Caretakers who receive OWF cash assistance may be eligible for child care benefits if child care is necessary for the caretaker to comply with the requirements of a self-sufficiency contract or an individual opportunity plan.
 - (ii) Caretakers who are participating in an approved activity in order to meet OWF requirements if the caretaker is sanctioned under OWF.
 - (iii) A minor parent who participates in the learning, earning and parenting (LEAP) program pursuant to rule 5101:1-23-50 of the Administrative Code.

- (iv) Caretakers who participate in the SNAP employment and training program may be eligible for child care benefits if child care is necessary for caretakers to comply with the requirements of their SNAP employment and training program plan.

(4) A child in receipt of publicly funded child care shall:

- (a) Be under age thirteen at the time of application and may remain eligible through the end of the eligibility period in which they turn thirteen; or
- (b) Be under age eighteen at the time of application if the child meets the definition of special needs pursuant to rule 5101:2-16-01 of the Administrative Code, and may remain eligible through the end of the eligibility period in which they turn eighteen.
- (c) Meet the citizenship requirements outlined in paragraph (R) of this rule.

(5) The family shall not have more than one million dollars in cash, checking or savings accounts.

(B) Who is included in a family?

A family is any of the following:

- (1) One or more caretaker(s) and all minor children who reside with the caretaker in the same household.
- (2) A caretaker, the caretaker's minor child and the child of the minor child when all reside in the same household unless the minor child is participating in the LEAP program.
- (3) A caretaker who has shared custody of minor children when all the children reside with the caretaker in the caretaker's household.
- (4) A caretaker who is a foster parent or stepparent and all of the minor children who reside with the caretaker in the same household.
- (5) Married caretakers and all minor children who reside with the caretakers in the same household.
- (6) Unmarried caretakers who live in the same household with a common child and all of the minor children who reside with them. Both caretakers shall be a caretaker for all the children in the family.

- (C) Can child care be approved if a second caretaker is temporarily absent from the household, pursuant to rule 5101:2-16-01 of the Administrative Code?

When the family is currently eligible for publicly funded child care, eligibility may continue when a second caretaker is temporarily absent.

- (1) The following is a list of temporary absences that may be considered:

- (a) Attendance at school.
- (b) Trip made in connection with current or prospective employment.
- (c) Service in the military when it is the sole reason for the absence.
- (d) Vacationing.
- (e) Serving a jail sentence.

- (2) The temporarily absent caretaker is used in the determination of eligibility in the following manner:

- (a) The caretaker is counted in household size.
- (b) The income contributed to the household by the absent caretaker is counted in the determination of eligibility pursuant to rule 5101:2-16-34 of the Administrative Code.
- (c) The caretaker's activity shall not be considered when determining authorizations for child care and the caretaker is not considered available for care.

- (D) Can child care be approved if a second caretaker is absent from the home for more than forty-five days?

If a second caretaker is absent from the home for more than forty-five days, the caretaker shall not be included in the household for determining eligibility for child care.

- (E) Can child care be approved for basic education classes?

- (1) A caretaker who is engaged in basic education activities that take place at an official practice center site or part of a limited English proficiency program where an instructor is present, may be eligible for child care.

- (2) Basic education classes are defined as follows:

- (a) High school or equivalent education.
- (b) Remedial high school education.
- (c) Adult basic and literacy education (ABLE).
- (d) Education for individuals with limited English proficiency.

(F) What documentation is needed to verify basic education classes?

The following documentation shall be provided by the caretaker:

- (1) Proof of enrollment, the days and hours the caretaker is attending and the length of the class prior to care being authorized. When the class has open enrollment and no established end date, the caretaker shall provide proof of how often progress is measured. The county agency shall review progress no later than twelve months from the date care was authorized.
- (2) Proof of initial testing, within the first month of class participation, showing the caretaker's education and/or literacy level for activities listed in paragraph (E) (2) of this rule.

(G) Can child care be approved for post-secondary education activities?

- (1) Post-secondary education activities are defined as: college classes, federal work study assignments, technical classes or vocational classes that are part of a course of study leading to a degree, a certificate or a license.
- (2) Classes shall be approved by an:
 - (a) Accredited institution of higher education;
 - (b) Institution that has a certificate or has an authorization from the Ohio board of regents; or
 - (c) Institution that has a registration from the state board of school and college registration.
- (3) When education activities are accessed via electronic media, the number of hours approved for child care shall not exceed the number of credit hours per week for the course, as defined by the educational institution.
- (4) A caretaker who is engaged in post-secondary education shall not be eligible for child care if the caretaker has completed the requirements for a baccalaureate degree unless the education is necessary to meet specific requirements

associated with maintaining the caretaker's employment, certification or licensure.

- (5) A caretaker who has completed one hundred forty-four undergraduate semester hours or two hundred sixteen undergraduate quarter hours, or the combined equivalent hours, shall not be eligible for child care benefits for post-secondary education.
- (6) A caretaker must have a record of satisfactory participation as defined by the school or institution.

(H) Can child care be approved for vocational/occupational job skills training activities?

- (1) Vocational and occupational job skills training may be an approvable activity for publicly funded child care.
- (2) Job skills training activities shall be limited to education that is directly related to the individual's employment goal and shall be approved by:
 - (a) An accredited institution of higher education;
 - (b) An institution that has a certificate issued or has authorization from the Ohio board of regents;
 - (c) An institution that has a registration from the state board of school and college registration; or
 - (d) A workforce inventory of education and training (WIET) provider who has been approved by the Ohio department of job and family services (ODJFS).
- (3) Job skills training activities may include, but are not limited to:
 - (a) Classroom job skills training.
 - (b) Supervised on-the-job skills training.
 - (c) Refresher job skills training.

(I) Can child care continue if a qualifying activity ends and a new activity is scheduled to begin within the next thirty days?

A caretaker, who is currently eligible for child care, shall continue to be eligible if the county agency has documentation that an approved activity is scheduled to begin within the thirty-day period.

- (J) Can child care continue if a qualifying activity has ended and a new activity is not scheduled to begin pursuant to paragraph (I) of this rule?

A caretaker, who is currently eligible for child care, shall have child care continue if the county agency has notification that a qualifying activity has ended. Authorization for care may continue pursuant to rule 5101:2-16-35.1 of the Administrative Code, up to thirteen weeks from the date the qualifying activity ends and shall not extend beyond the current eligibility period.

- (K) What is transitional child care?

- (1) A caretaker shall be eligible for transitional child care benefits for the twelve-month period immediately following the end of participation in OWF if the caretaker meets all of the initial and redetermination eligibility requirements and all of the following apply:

(a) The caretaker needs child care due to employment.

(b) The caretaker's initial income does not exceed one hundred fifty per cent of the federal poverty level (FPL). These amounts shall be published annually in a procedure letter upon final release in the Federal Register.

- (2) A caretaker who is ineligible to participate in OWF pursuant to section 5101.83 or 5107.16 of the Revised Code is not eligible for transitional child care.

- (L) What if a family needs protective child care?

Protective child care is publicly funded child care services provided to assist in the care and protection of a child. Caretakers receiving protective child care shall be determined eligible without regard to income or assets and shall have their copayment waived pursuant to rule 5101:2-16-39 of the Administrative Code.

- (1) A case plan, as required in section 2151.412 of the Revised Code shall be prepared and maintained for the child and caretaker. The case plan shall indicate a need for protective child care to permit the caretaker to complete requirements of the case plan. Protective child care may be authorized only for a child who resides in the home of the caretaker for whom the case plan is written.

- (2) Kinship child care as defined in Chapter 5101:2-40 of the Administrative Code is not protective child care or publicly funded child care.

- (M) What if a family is homeless?

Homeless child care is publicly funded child care provided when a caretaker and child either temporarily reside in a facility providing emergency shelter for homeless families or are determined by the county agency to be homeless.

- (1) If the homeless caretaker does not meet the qualifications pursuant to paragraph (A)(3) of this rule, the family shall be determined eligible for homeless child care without regard to income or assets and the copayment shall be waived.
- (2) Homeless child care shall be approved for ninety calendar days or the period of time that the caretaker and child are homeless, whichever period is shorter.
- (3) A family shall not receive homeless child care more than once in a twelve month period.

(N) What is a category of authorization?

- (1) The county agency shall determine eligibility for publicly funded child care benefits and shall authorize child care for periods that are reasonably related to the caretaker's hours of employment, education or training.
- (2) Authorizations shall be made for one of the following categories:
 - (a) Hourly, which is less than 7.0 hours per week.
 - (b) Part-time weekly which is 7.0 to less than 25.0 hours per week.
 - (c) Full-time weekly, which is 25.0 to 60.0 hours per week.
 - (d) Full-time weekly plus, for hours greater than 60.0 as determined by the county agency.
- (3) The category of authorization, determined at the time the county agency determines eligibility, shall be maintained for the entire eligibility period unless verification is submitted requiring an increase to the category of authorization.

(O) Can child care be approved for hours in addition to the hours the caretaker is participating in an approved activity?

- (1) Child care may exceed twenty-four consecutive hours when the caretaker's hours of employment, training or education indicate such a need.
- (2) Travel time, not to exceed four hours round trip, shall be allowed.

- (3) Sleep time shall be allowed on a case by case basis, not to exceed eight hours, for a caretaker who participates in an activity where at least four hours occur between midnight and six a.m.
- (P) Can a child continue attending a federally funded head start program if the caretaker is no longer participating in a qualifying activity?
- (1) A child enrolled in a child care program that partners with a federally funded head start program may remain eligible for child care benefits until the end of the current head start program year if the county agency proposes termination of child care due to an unmet eligibility requirement.
- (2) To remain eligible for continuation of child care benefits, the caretaker shall meet the following eligibility requirements:
- (a) The caretaker shall meet the income eligibility requirements outlined in paragraph (A)(1) of this rule.
- (b) The caretaker shall pay the assigned copayment.
- (c) The caretaker shall complete the redetermination process pursuant to rule 5101:2-16-37 of the Administrative Code.
- (d) The caretaker shall not have been found guilty by a court of law for child care fraud.
- (Q) Can child care be reinstated after termination of child care benefits?
- (1) A caretaker may be eligible for reinstatement of child care benefits within sixty days following termination if the termination was due to income or the caretaker's employment, training or education activity was interrupted.
- (a) The caretaker shall complete either a JFS 01126 "Request for Reinstatement of Child Care Benefits" (9/2011) or the application for publicly funded child care defined in paragraph (A)(1) of this rule. If the most recent period of eligibility will expire within forty-five days of the request for reinstatement, the caretaker shall complete the application for publicly funded child care defined in paragraph (A)(1) of this rule.
- (b) The maximum monthly income limit for ongoing eligibility, as defined in paragraph (A)(2)(b) of this rule, shall be used to determine income eligibility.

- (c) The copayment amount shall be based on the current income and household size.
 - (d) The caretaker shall verify that he or she is engaged in a qualifying employment, education or training activity as required in this rule, and shall verify current income and household size.
 - (e) The caretaker shall not have an outstanding overpayment or outstanding delinquent copayment unless a repayment plan is in place and the terms of the repayment plan are being met.
- (2) The caretaker may be eligible only if the original eligibility period has not expired.
 - (3) The caretaker is not eligible for reinstatement if the termination of eligibility was as a result of a redetermination of eligibility.
- (R) What are the citizenship requirements for child care?
- (1) The county agency shall verify the United States (U.S.) citizenship or immigration status for children for whom a caretaker applies for child care benefits. If the county agency verifies that a caretaker receives or has received OWF for a child, verification of citizenship is not required.
 - (2) To be eligible for child care, a child must be one of the following:
 - (a) A U.S. born citizen. The caretaker shall provide a civilian birth, baptismal, church certificate, or hospital record showing a birthplace in the U.S. "Birthplace in the U.S." refers to an individual born in one of the fifty states, District of Columbia, Puerto Rico, Guam, Northern Mariana islands, U.S. Virgin islands, Swain island, or American Samoa.
 - (b) A foreign born U.S. citizen. The caretaker shall provide a citizen certification, U.S. passport, consular certification of birth or certificate of naturalization as verification.
 - (c) A qualified alien. Qualified alien means one of the following:
 - (i) An alien who is lawfully admitted for permanent residence under the Immigration and Nationality Act (INA), 8 U.S.C. 1101 (1/14).
 - (ii) An alien who is granted asylum under section 208 of the INA, 8 U.S.C. 1158 (1/3/12).

- (iii) A refugee who is admitted to the United States under section 207 of the INA, 8 U.S.C 1157 (1/3/12).
 - (iv) An alien who is paroled into the United States under section 212(d)(5) of the INA, 8 U.S.C. 1182(d)(5), for a period of at least one year (3/2013).
 - (v) An alien whose deportation is being withheld under section 243(h) of the INA, 8 U.S.C. 1253 (as in effect immediately before the effective date of section 307 of division C of Public Law 104-208) or section 241(b)(3) of the INA, 8 U.S.C. 1231(b)(3) (as amended by section 305(a) of division C of Public Law 104-208).
 - (vi) An alien who is granted conditional entry pursuant to section 203(a)(7) of the INA, 8 U.S.C. 1153(a)(7) as in effect prior to April 1, 1980.
 - (vii) An alien who is a Cuban or Haitian entrant (as defined in section 501(e) of the Refugee Education Assistance Act of 1980).
 - (viii) A battered alien who meets the conditions set forth in 8 U.S.C. 1641(c)(1/3/12).
 - (ix) An alien who is the victim of a severe form of trafficking as set forth in 8 U.S.C. 1641(c)(4).
 - (x) An Afghan or Iraqi alien admitted to the U.S. who was granted a special immigrant visa (SIV) under section 101(a)(27) of the INA, 8 U.S.C. 1157.
- (d) Except as provided in paragraph (Q)(2)(e) of this rule, a child who is a qualified alien, as defined in 8 U.S.C. 1641 and entering the United States on or after August 22, 1996 shall be required to live in the United States for five years before being eligible for child care.
- (e) A child in any of the following categories is exempt from the requirement that he or she live in the United States five years prior to eligibility:
- (i) An alien who is admitted to the United States as a refugee under section 207 of the INA, U.S. C. 1157.
 - (ii) An alien who is granted asylum under section 208 of the INA, 8 U.S.C. 1158.

- (iii) An alien whose deportation is being withheld under section 243(h) of the INA as in effect prior to April 1, 1997 or whose removal is withheld under section 241(b)(3) of the INA, 8 U.S.C. 1231 (1/3/12).
 - (iv) An alien who is a Cuban or Haitian entrant as defined in section 501(e) of the Refugee Education Assistance Act of 1980.
 - (v) An alien admitted to the United States as an Amerasian immigrant as described in 8 U.S.C. 1612(a)(2)(A)(v) (1/7/11).
 - (vi) The unmarried dependent child of an alien meeting the veteran and active duty exception in 8 U.S.C. 1641(b)(2).
- (f) If the child is an alien, his or her status may be verified by forms issued through the systematic alien verification for entitlements (SAVE) program. In some instances validity of documents shall be verified by submitting the department of homeland security, "Document Verification Request" form G845S (5/20/15) to the appropriate office, along with the proper documentation.

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