

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 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 ~~twenty-five~~ 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 ~~two hundred~~ three hundred per cent of the the FPL.

(c) These amounts will be published annually in a child care procedure letter.

(2) 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.

(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 ~~food assistance~~ 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.

(ii) When caretakers who are participating in an approved activity in order to meet OWF requirements if the caretaker is sanctioned under OWF.

~~(iii) When two caretakers reside in the household and both receive OWF cash assistance, the caretakers shall participate in a minimum of fifty five hours per week in OWF activities, unless the county agency can document that one of the caretakers is caring for a disabled child.~~

~~(iv)~~(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.

~~(v)~~(iv) Caretakers who participate in the ~~food-assistance~~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 ~~food-assistance~~SNAP employment and training program plan.

(3) A child in receipt of publicly funded child care must meet the citizenship requirements outlined in paragraph ~~(O)~~(Q) of this rule.

(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.

~~(5)~~(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 paragraph (W) of rule 5101:2-16-01 of the Administrative Code?

If a second caretaker is temporarily absent from the home, the second caretaker's

activity schedule shall not be considered when determining eligibility for child care and the caretaker is not considered available for care. The following is a list of temporary absences that may be considered:

- (1) Attendance at school.
- (2) Trip made in connection with current or prospective employment.
- (3) Service in the military when it is the sole reason for the absence.
- (4) Vacationing.
- (5) Serving a jail sentence.

(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 a temporary basis, the caretaker shall not be included in the household for determining eligibility for child care.

~~(C)~~(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.

~~(D)~~(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.

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

- (1) Post-secondary education activities are defined as: college classes, technical classes or vocational classes that are part of a course of study leading to a degree, a certificate or a license.
- (2) The classes shall be approved by an accredited institution of higher education, an institution that has a certificate issued or has authorization from the Ohio board of regents or an 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.

~~(F)~~(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 an accredited institution of higher education, an institution that has a certificate issued or has authorization from the Ohio board of regents, or an institution that has a registration from the state board of school and college registration.

(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.

~~(G)~~(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 be approved for up to thirty days of child care if the county agency has documentation that an approved activity is scheduled to begin within the thirty-day period.

- (1) The current authorization may be extended to allow for care during the thirty-day time period.
- (2) The new authorization begin date shall be the scheduled begin date of the approved activity.

~~(H)~~(J) Can child care continue if a qualifying activity has ended and a new activity is not scheduled to begin?

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 paragraph (E) of rule 5101:2-16-35.1 of the Administrative Code, up to thirteen weeks from the date the qualifying activity ends.

- (1) The continuation may not extend beyond the end of the current eligibility period.
- (2) Caretaker(s) shall only be eligible for one continuation during a twelve month

period from the date of the start of the extension.

~~(J)~~(K) What is transitional child care?

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 requirements and all of the following apply:

- (1) The caretaker needs child care due to employment.
- (2) The caretaker's 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.
- (3) A caretaker who is ineligible to participate in OWF pursuant to section 5101.83 or section 5107.16 of the Revised Code is not eligible for transitional child care.

~~(J)~~(L) What is 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 and shall have their copayment waived pursuant to rule 5101:2-16-39 of the Administrative Code. One of the following requirements shall be met for protective child care:

- (1) A case plan, as required in section 2151.412 of the Revised Code is 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) 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, and the caretaker is not participating in an approved activity. Homeless protective child care is limited to ninety calendar days in a twelve month period, or the period of time that the caretaker and child reside in an emergency shelter, or the period of time when the caretaker and child are homeless, whichever period is shortest.

~~(K)~~(M) 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.

~~(L)~~(N) 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 ~~fifty per cent~~ at least of the four hours occur after midnight.

~~(M)~~(O) 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 center that partners with a federally funded head start program may remain ~~eligible~~ 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 ~~twelve-month~~ 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.

~~(N)~~(P) 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 a JFS 01138 "Application for Child Care Benefits" (rev. 2/2015). If the most recent period of eligibility will expire within forty-five days of the request for reinstatement, the caretaker shall complete a JFS 01138.
  - (b) The maximum monthly income limit for ongoing eligibility, as defined in paragraph (A)(1)(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.
- ~~(2) The caretaker shall have been determined eligible within the last twelve months and the following requirements shall be met:~~

- ~~(a) The caretaker shall complete either a JFS 01126 "Request for Reinstatement of Child Care Benefits" (9/2011) or a new JFS 01138 "Application for Child Care Benefits" (rev. 2/2015). If the most recent twelve month period of eligibility will expire within forty five days of the request for reinstatement, the caretaker shall complete a new JFS 01138.~~
- ~~(b) The maximum monthly income limit for ongoing eligibility at or below two hundred per cent of the FPL, 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.~~

~~(O)~~(Q) 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 child currently receives or has received OWF for a child or a medical assistance program under Chapter 5162. of the Revised Code, Title XIX of the "Social Security Act," 79 Stat. 286 (1965), 42 USC 1396 (1/3/12), 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, consulars 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 (1/3/12).
  - (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 (1/3/12).
  - (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) (1/3/12).
  - (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 (12/2008).
- (d) Except as provided in paragraph (D)(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~~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) The five year ban on eligibility does not apply to qualified aliens who entered the United States before August 22, 1996 and have continued living in the United States, even if they did not meet qualified alien status upon entry.
- (g) 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 ~~DHS~~department of homeland security, "Document Verification Request" form G845S (1/8/12) to the appropriate office, along with the proper documentation.

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Certification

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