

|  |   |
|--|---|
| <b>Policy Number:</b>                      | SSA/CW #23-03   |
| <b>Policy Title:</b>                       | Child Care Services for Children in Out of Home Care  |
| <b>Release Date:</b>                       | September 17, 2023  |
| <b>Effective Date:</b>                     | September 25, 2023  |
| <b>Approved By:</b>                        | Stephen Liggett-Creel, LCSW-C <br>Acting Executive Director<br>Social Services Administration |
| <b>Revision Date(s):</b>                   | September 14, 2023 - November 17, 2023 to address definition of informal child care   |
| <b>Supersedes:</b>                         | SSA-CW #21-06   |
| <b>Originating Office:</b>                 | Placement and Permanency  |
| <b>Required Actions:</b>                   | Implement these procedures to pay the childcare expenses of children in out of home care.   |
| <b>Key Words:</b>                          | Childcare, allowable expenses, resource parents, kinship parents, kinship provider, foster parents  |
| <b>Related Federal Law</b>                 | 42 U.S.C. § 675(4); 45 C.F.R. 1355.20(a)  |
| <b>Related State Laws</b>                  | Family Law Article §§ 5-525, 5-534, Ann. Code of Md.  |
| <b>COMAR</b>                               | COMAR 07.02.11, .25   |
| <b>Title IV-E State Plan Implications?</b> | Yes   |



## PURPOSE AND SUMMARY

A local department of social services (LDSS) may, under certain conditions, pay the costs of childcare for children in care. This policy provides the eligibility and payment guidelines for these payments. Do not apply this policy to private treatment foster care programs, independent living programs, or arrangements for informal kinship care.

## RELATED LAWS AND REGULATIONS

As authorized by the Family Law Article, Maryland Annotated Code, DHS operates a foster care system funded by the state and by the federal government under Title IV-E of the Social Security Act to care for children who can no longer safely remain in their homes. The federal IV-E program allows the use of IV-E funds for “daily supervision,” which we know as “childcare,” in circumstances where a caregiver is not available to provide that care.<sup>1</sup> Regardless of IV-E status, Maryland funds this childcare pursuant to COMAR 07.02.25.09, which requires supportive services, when available, to meet the needs of the children in care.

## DEFINITIONS

Caregiver - An LDSS-approved kinship caregiver or kinship parent<sup>2</sup> or foster parent providing 24-hour care for a child in out-of-home care.

Child Care - Compensated care provided by any of the following of a child for less than 24 hours a day but more than episodically:

- (a) A child care home registered pursuant to COMAR 13A.15 or COMAR 13A.18;
- (b) A childcare center operating under COMAR 13A.16;
- (c) A childcare facility operating under a letter of compliance issued under COMAR 13A.17;
- (d) Childcare licensed by any branch of the military under applicable military child care regulations;
- (e) Childcare operated by a public school; and
- (f) A youth camp certified by the Department of Health as defined by Health-General Article Law §14-401 Annotated Code of Maryland.

Formal Kinship Home - An *approved* home but not a licensed resource home, following requirements outlined in 07.02.25.10.

Foster Parent - An individual approved by the local department to provide 24-hour care for a child in care where the child resides, including family resource parents who are also approved to adopt a child.

Full-time - For employment, an employer determines whether a person is working “full time.” For purposes of determining whether a combination of work, training, or education is full-time, use as a guide the Affordable Care Act and IRS definition of 130 hours a month, averaging 30 hours a week.<sup>3</sup>

Kinship Caregiver - Also known as “fictive kin,” an individual who is related to the child by blood or marriage beyond five degrees of consanguinity or is a close family friend of the child or the child’s family and has strong familial or other significant bond with the child or the child’s family sufficient to

---

<sup>1</sup> See 42 U.S.C. § 675(4); 45 CFR 1355.20

<sup>2</sup> This could be a licensed or formal kinship provider

<sup>3</sup> See 26 CFR § 54.4980H-1(a)(21)

demonstrate strong familiarity with the child's activities and daily needs, and where placement is in the child's best interests.<sup>4</sup>

Kinship Parent - An individual who is related by blood or marriage within five degrees of consanguinity to the child who is in the care, custody, or guardianship of the local department of social services.

Informal Child Care - Child care for a child in out-of-home care that does not require a provider to have an MSDE license but is provided by an LDSS-approved individual who is 18 years or older and is limited to child care that is provided:

- By a relative;
- In the caregiver's home; or
- For fewer than 20 hours a month on a non-regular basis in the child care provider's home for unrelated children.<sup>5</sup>

Maryland State Department of Education (MSDE) - The agency with the responsibility for licensing child care in Maryland.

## PROCEDURES AND TIMEFRAMES

### Eligibility and Funding for Child Care Payments

Pay childcare expenses for a child in care without regard to the caregiver's income (excluding situations where care is purchased by an agency or institution outside of Maryland and private treatment foster care homes) if there is an identified need for childcare services.

- Use federal IV-E codes to pay for childcare expenses if:
  - The child is IV-E eligible;
  - The child care provider, as shown by documentation, is a registered and licensed child care provider<sup>6</sup>; and
  - All caregivers in the home have submitted documentation that they are doing any one or combination of the following **full-time**:
    - Working (full-time as determined by the employer).
    - Attending school, or
    - Participating in training.<sup>7</sup>
  - In circumstances where a caregiver is doing a combination of work, school and training use federal IV-E codes. Title IV-E staff are responsible for determining if the combination equates to full-time. Documentation must be uploaded when there is a change in circumstances.
- When federal IV-E funds cannot be used for childcare, childcare expenses may still be paid using state codes if:
  - The childcare provider, as shown by documentation, is a registered and licensed childcare provider<sup>8</sup>, or is an informal childcare provider as defined above; and

<sup>4</sup> See Family Law § 5-534

<sup>5</sup> [COMAR 13A.14.06.02B\(31\)](#) and [COMAR 07.02.25.05\(C\)](#)

<sup>6</sup> Licensed child care providers are [listed here](#). To serve as documentation, capture and upload a screenshot showing the licensed provider.

<sup>7</sup> Documentation used through resource home recons can be used but needs to be uploaded to the child welfare case.

<sup>8</sup> Licensed child care providers are [listed here](#). To serve as documentation, capture and upload a screenshot showing the licensed provider.

- o The LDSS and the caregiver have agreed that there is an identified need for childcare services.

### Applications for Child Care Expenses

Regardless of IV-E eligibility:

- In response to a signed application or an oral request, discuss and document the caregiver's childcare needs in the electronic system of record;
- When applicable, obtain documentation of work, training, or school hours and upload them into the electronic system of record. Additionally, inform the caregiver of their responsibility to notify the department of any changes to their work, training or school hours; and
- Document the agreement to pay childcare and upload to the electronic system of record any authorized application and relevant documents that show proof of eligibility;

If a child is not eligible for IV-E child care payments and the caregiver would qualify for the MSDE Child Care Scholarship, you may:

- Refer the caregiver to the [MSDE Child Care Scholarship Family Portal](#) to apply for a childcare scholarship;<sup>9</sup>
- Request that the caregiver advise you if MSDE approves the scholarship; and
- Use state funds as you would for any non-IV-E child until the scholarship becomes active and, once active, pay the difference between the scholarship and the reasonable cost of childcare.

### Rate of Payment and Cost Guidelines

- Discuss the amount of the child care payment with the caregiver.
- Pay the current [rate set by MSDE](#) for center or home childcare scholarships in the region where the child will be receiving childcare by utilizing:<sup>10</sup>
  - o 2194 – For IV-E eligible children placed in licensed regular or restricted resource homes;
  - o 7194 - For non-IV-E children placed in licensed regular or restricted resource homes; or
  - o 7195 –For non-IV-E children and IV-E eligible children who are placed in a formal kinship home.
- The LDSS may use available flex funds to cover the cost above the MSDE rate by utilizing:
  - o 2132 – For IV-E eligible children placed in licensed regular or restricted resource homes;
  - o 7132 – For non-IV-E children placed in licensed regular or restricted resource homes; or
  - o 7193 – For non-IV-E children and IV-E eligible children who are placed in a formal kinship home.
- Review the amount of the childcare payment with the caregiver when there is a change in the cost of childcare or a rate change by MSDE.
- Reimburse caregivers for deposits necessary to reserve a childcare space for a child in care.
- For youth camps, where the MSDE rates have no applicability, agree on a reasonable rate with the caregiver.
- When you receive a provider's invoice for childcare, authorize payment and submit the invoice to the LDSS finance office for processing.

---

<sup>9</sup> An MSDE child care scholarship is primarily income-based. You should encourage families to consult the [MSDE website](#) to quickly determine possible eligibility.

<sup>10</sup> MSDE sets [weekly rates for child care services](#) (CCS) in each of 7 regions in Maryland. The monthly rate is determined by taking the weekly rate for the region and multiplying it by 4.3 (the number of weeks in a month) and rounding that amount to the nearest whole dollar. When agreeing to a child care rate, confirm the current MSDE rates. Consideration of an outdated MSDE rate is not grounds for an automatic recalculation.

- In individual circumstances, you may agree to have the caregiver pay the invoice directly and, based on an invoice or receipt, reimburse the caregiver directly.

In general, if a child is absent for more than five days in a month (excluding days when the childcare provider was closed or when the child was not scheduled to receive care or if the absences are due to illness), it is important to have a conversation with the caregiver to assess whether there is still a need for childcare services.

#### Payment to a Caregiver with Whom a Child is Placed who also Operates a Child Care Home that the Child in Care Attends

A caregiver who operates a family childcare home may be eligible for childcare expenses if:

- The caregiver is operating a family childcare home registered pursuant to COMAR 13A.15 or .18;
- Operating the family childcare home is full-time employment;
- In a home with two caregivers, the caregiver who is not the childcare provider is employed, attending school, or participating in a training program;
- The children for whom childcare expenses are sought and the hours of attendance would make the caregiver eligible for childcare expenses were the children to be receiving child care outside the home; and
- Caring for the children in care in the family childcare home would result in the caregiver being unable to accept one or more children into the family childcare home for paid care due to applicable capacity limits.

Pay the current [rate set by MSDE](#) for center or home childcare scholarships in the region where the child will be receiving childcare by utilizing:

- 2194 – For IV-E eligible children placed in licensed regular or restricted resource homes;
- 7194 - For non-IV-E children placed in licensed regular or restricted resource homes; or
- 7195 –For non-IV-E children and IV-E eligible children who are placed in a formal kinship home.

The LDSS may use available flex funds to cover the cost above the MSDE rate by utilizing:

- 2132 – For IV-E eligible children placed in licensed regular or restricted resource homes;
- 7132 – For non-IV-E children placed in licensed regular or restricted resource homes; or
- 7193 – For non-IV-E children and IV-E eligible children who are placed in a formal kinship home.

#### **Alignment with Practice Model and Desired Outcomes**

This policy allows for collaboration with caregivers to meet the individual needs of children. Caregivers may choose childcare providers that meet the family's expectations to provide a safe, trauma-responsive environment that promotes child well-being.

#### **FORMS**

The use of these forms is optional. If you choose not to use the forms, supporting documentation must be noted or uploaded into the electronic record system. The supporting documentation must include:

- Documentation of work, training, or school hours when applicable;
- Agreement to pay for childcare (this can be either the agreement form or documented in a contact note); and
- Invoices.

#### [Child Care Application](#)

You may use this form to document requests for payment of childcare services. The caregivers must submit proof of their work, training, or school hours regardless of whether they submit a written application.

Upon receiving this form, determine whether Title IV-E funds may be used to pay childcare expenses.

#### [Child Care Payment and Service Agreement](#)

This agreement may be used to set out the responsibilities of the parties to ensure payments and continuity of childcare services.

#### [Child Care Provider Invoice](#)

As documentation of childcare services, request that the childcare provider:

- Complete the attached invoice form for each child and submit it to the LDSS weekly or monthly; or
- Use an already established invoice system.

Upload all documents into the electronic system of record under the appropriate drop-down label.