

DEPARTMENT OF HUMAN SERVICES

Repeal of Chapter 17-798.1 and
Adoption of Chapter 17-798.2

Hawaii Administrative Rules

December 26, 2007

SUMMARY

1. Chapter 17-798.1 is repealed.
2. Chapter 798.2 of Title 17, Hawaii Administrative Rules, entitled "Child Care Services" is adopted.

100-0178-379

HAWAII ADMINISTRATIVE RULES

TITLE 17

DEPARTMENT OF HUMAN SERVICES

SUBTITLE 6

BENEFIT, EMPLOYMENT AND SUPPORT SERVICES DIVISION

CHAPTER 798.2

CHILD CARE SERVICES

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Historical Note: Chapter 17-798.2 is based substantially upon chapter 17-798.1, Child Care Services [Eff 07/27/02; am 04/01/06; R 03/08/08]

SUBCHAPTER 1

GENERAL PROVISIONS

§17-798.2-1 Purpose. The purpose of this subchapter is to establish the rules governing the administration and implementation of the child care block grant authorized under 42 U.S.C. §9858 and 42 U.S.C. §618. This subchapter includes eligibility

requirements, benefit amount, and method of determining child care payments for the department's child care programs. [Eff 03/08/08] (Auth: HRS §346-14) (Imp: HRS §346-14, 45 C.F.R. §98.1)

§17-798.2-2 Definitions. As used in this chapter:

"Activity" means employment, education, or vocational or employment training.

"Adequate notice" means a written notice that includes:

- (1) A statement of the action the agency has taken or intends to take;
- (2) The reason for the intended action;
- (3) The specific departmental rules supporting the intended action;
- (4) The name and telephone number of the person in the department to contact for additional information;
- (5) The family unit's right to request an informal review, an administrative appeal, or both; and
- (6) Information on the availability of free legal representation, if applicable.

"Aid to families with dependent children" or "AFDC" means the financial assistance and non-assistance program administered by the department under 42 U.S.C. §§601-617 and HRS §346-29.

"After-school care" means child care provided after the close of the regular school day during the academic year for eligible children who are enrolled in public or private elementary, middle, or secondary schools.

"Applicant" means the caretaker, including an emancipated minor pursuant to HRS §571-2 and HRS §577-25 and a teenage head of the household, who has the responsibility to provide care for the child, and needs child care due to involvement in an activity that creates the absence of the child's caretaker. This does not include an unmarried minor who is a parent to the individual's own baby who together reside in the same household with the minor's adult caretaker.

"Application" means the written action by which an

individual indicates on a form prescribed by the department a request to receive assistance with child care costs and services.

"Attending" means enrolled in a job training or educational program as defined by the institution, agency, or business that sponsors the program.

"Background check" means criminal history record checks, child abuse and neglect checks, and other checks required by federal or State law, conducted by the department in order to determine eligibility for child care services.

"Before-school care" means a child care program provided before the opening of the regular school day during the academic year for eligible children who are enrolled in public or private elementary, middle, or secondary schools.

"Benefit month" means the calendar month for which the caretaker is eligible for a child care payment.

"Budget month" means the calendar month(s) from which the worker shall use the child care expense, hours of approved activity and child care need, and income of the family unit to compute the benefit amount that the family shall receive in the payment month.

"Caregiver" means the individual who provides child care. It also includes all adult household members when child care is provided in a private residence.

"Caretaker" means an adult who resides with and is responsible for the care of a child, and who is a birth, hanai, foster, or adoptive parent, guardian, step-parent, or relative who is related to the child by blood, marriage, or adoption, or a person authorized by the caretaker through a power of attorney valid for a period not to exceed twelve months. The caretaker designation may remain even when the caretaker is temporarily absent from the home as long as the caretaker continues to maintain responsibility for the care, education, and financial support of the child. This includes a foster parent who may not be providing financial support to the child but may be receiving support for the child from a private or public agency.

"Child" means any person who has not reached the age of eighteen.

"Child abuse record check" means an examination of

an individual's child abuse confirmation history through: (1) An initial name inquiry into the State child welfare record files; (2) Subsequent child abuse confirmation history checks for new hires and re-hires; and (3) An annual name inquiry into State child welfare record files.

"Child care" means those situations in which a caregiver has agreed to assume the responsibility for the child's supervision, apart from and in the absence of the child's caretaker, for any part of a twenty-four-hour day. Child care may be provided out of the child's home in out-of-home relative care, in the child's home by relatives or non-relatives, in a family child care home, in a group child care home, or in a group child care center.

"Child protective services" means social services provided by the department pursuant to chapter 17-920.1, to children who reside with their family unit and are: (1) confirmed to have been abused or neglected, or (2) confirmed to have been threatened with abuse or neglect.

"Co-payment" means the family unit's share of the child care expense which is the difference between the maximum amount allowed for the type and amount of care up to the department's child care rate maximum, and the amount the family is determined to be eligible for by the department.

"Corrective payment" means a payment issued by the department in the amount equal to the difference between what a caretaker is entitled to receive by regulation and the amount they actually received.

"Educational program" means a curriculum that has been established by an institution, agency, or business for the purpose of the development of skills or academic study necessary for an identified occupation.

"Eligibility period" means a period established by the department, not to exceed six months, during which the household shall be eligible for child care benefits unless otherwise notified through appropriate notification procedures.

"Employed" means the caretaker is engaged in an activity in exchange for wages or salary.

"Essential person" means a needy person designated by the caretaker to be included in the AFDC household

that receives a public-funded financial assistance payment, who is ineligible in the person's own right for AFDC, who is designated by the caretaker as being essential to the caretaker's well-being, and who performs a service that would not otherwise be performed or that would otherwise have to be purchased if the person did not live in the AFDC household.

"Extended filing period" means the additional ten days that households are allowed to submit required information or missing verification to justify continued child care eligibility. See section 17-798.2-16(a) (1) (C).

"Family child care home care" means child care in any private residence as defined in HRS §346-151 and the caregiver is registered with the department.

"Family unit" means the caretakers and their minor children who reside together in the same household.

"Federal fiscal year" means a period beginning October 1 and ending September 30.

"Federal Poverty Guidelines" or "FPG" means the poverty guidelines for Hawaii that are established in the Federal Register by the U.S. Department of Health and Human Services under the authority of 42 U.S.C. §9902(2) and cited in the Child Care and Development Fund Plan For State of Hawaii that is approved by the Administration for Children and Families, U.S. Department of Health and Human Services, pursuant to C.F.R. §§98.14 to 98.18.

"First-to-Work" or "FTW" means the work programs administered by the department for recipients of AFDC.

"Full-time care" means child care provided for ninety-seven hours and more per month, except for before-school and after-school care.

"Gross income" means all non-excluded earned and unearned income as specified in this chapter.

"Group child care center care" means child care in a facility as defined in HRS §346-151. The term may include nurseries; preschools; parent cooperatives; drop-in child care centers; before-school and after-school programs; holiday, intersession and summer care for eligible school age children; or other similar care settings that are established to provide group care to a child for any part of a twenty-four hour day and is license-exempt or licensed by the department. For the

purposes of this chapter, group child care center shall also include "infant and toddler center care" in which child care is provided to children ages six weeks to thirty-six months of age in a group child care center care or group child care home and is licensed under chapter 17-895.

"Group child care home care" means child care in a facility which may be an extended or modified private home as defined in HRS §346-151.

"Hanai" means a child who is taken permanently to be reared, educated, and loved by someone other than the natural parents at the time of the child's birth or early childhood. The child is given outright and the natural parents renounce all claims to the child. The natural parents cannot reclaim the child except for the death or serious injury of the hanai parents.

"Home-Based Child Care Provider" means department-registered family child care providers, and legally-exempt family child care providers, including relative child care providers.

"Homeless" means a family that is without a permanent residence and is currently living in a supervised, publicly or privately operated shelter designated to provide temporary living accommodations; in an area not normally considered a residence (such as a street, park, beach or automobile); or in a temporary accommodation (of less than four months duration) in the residence of another individual and has a history of frequent changes of residence over the past 12-month period.

"In-home care" means child care provided only to the caretaker's eligible children by a caregiver in the home of the eligible children who require care in the absence of their caretakers due to a qualifying child care reason.

"Infant" means a child six weeks old up to and including twelve months old.

"Intersession care" means child care provided at breaks during the academic year for eligible children who are enrolled in public or private elementary, middle, or secondary schools, including summer care and holidays.

"Job training" or "vocational or employment training" means an organized training program

(including community college and university education) established by an institution, agency, or business for the purpose of the development of skills or academic study necessary for an identified occupation.

"License-exempt care" means child care which is exempt from licensure or registration by the department under HRS §346-152.

"Limited English proficiency" or "LEP" means limited ability in speaking, reading, writing, or understanding the English language by a person whose native language is a language other than English or by a person who lives in a family or community environment where a language other than English is the dominant language.

"Minor" means a person under eighteen years old.

"Monthly gross income limit" means eighty-five per cent of the State Median Income for a family of the same size.

"Non-recurring lump sum" means income that is not normally repeated or a cumulative amount received or available to be received by an individual. Educational loans, grants or scholarships shall not be considered as non-recurring lump sums.

"Overpayment" means the amount of benefits issued to a caretaker for a benefit month that is in excess of the amount which the caretaker or a provider authorized by the caretaker is entitled to receive by regulation. It also includes situations when child care payments are not used for the intended purpose.

"Part-time care" means child care provided for less than ninety-seven hours per month, except for before-school and after-school care when it is provided for less than 44 hours per month.

"Payment month" means the calendar month in which the worker shall issue the child care payment.

"Physical or mental incapacity" means a physical or mental condition that prevents a child from doing self-care, as determined by a State-licensed physician or psychologist.

"Physician" means an individual licensed by the State for the practice of medicine.

"Power of attorney" means a legal instrument authorizing another to act as one's agent or attorney-in-fact.

"Preschool" means a department-licensed Group Child Care Center (GCC) or Group Child Care Home (GCCH) that provides services for children ages two years to five years old.

"Preschool Open Doors" means a program designed to provide preschool experience prior to entering junior kindergarten or kindergarten.

"Presumptively eligible" means a child care provider and caregivers may be approved to provide child care upon submittal to the department of the completed and signed child care certificate and provider confirmation form and consent forms for the department to conduct background checks, pending the results of the required background checks.

"Prospective budgeting" means computation of the child care payment based on the worker's best estimate of the child care expense, child care need, and caretakers' activity hours and gross income, which will exist in a calendar month. The best estimate shall be based on the worker's reasonable projection of future circumstances based on the family unit's past and current month's circumstances.

"Provider" means any person eighteen years and older, agency, or organization, and their adult employees, who provide direct care, supervision, and guidance to children apart from and in the absence of the child's caretaker for part of a twenty-four hour day. Providers are regulated by the department to provide child care or are legally exempt from child care licensure or registration by the department under HRS §346-152.

"Relative" means related by blood, marriage, adoption, or hanai.

"Report month" means the calendar month that the simplified report form is due.

"Reside with" means an eligible child living in a home or family setting with the child's eligible caretaker.

"Responsible household member" means a reliable adult, included in the household, who can provide accurate information about the household's circumstances.

"Restored benefits" means the child care benefit issued to a caretaker whenever benefits for a prior

period are not issued because of an error by the department.

"School age" means the chronological age of a child who is eligible to enroll in elementary, middle, or secondary schools.

"Simplified reporting" means the reporting requirement for caretakers who receive child care payments to provide information in the report month to determine continued eligibility as specified in section 17-798.2-16, and report changes as specified in section 17-798.2-15 that occur during the eligibility period.

"Simplified report form" means the report that a caretaker is required to complete for eligibility re-determination.

"Special populations referral" means documentation to verify that a child does not qualify full-time for the State department of education (DOE) special education program services and:

- 1) Has a physical, developmental, behavioral or emotional health condition that is outside of the normal range;
- 2) Meets the State Department of Health criteria for environmental risk as defined in HRS §321-351;
- 3) Resides in a LEP household; or
- 4) Is homeless.

"State fiscal year" means a period beginning July 1 and ending June 30.

"State Median Income" means the official guidelines issued yearly in the Federal Register by the Secretary of Health and Human Services, Administration for Children and Families under the authority of 42 U.S.C. §8621, the Omnibus Budget Reconciliation Act of 1981. States are given discretion by the United States Department of Health and Human Services (DHHS) to utilize a median income from any particular year, if not from the current year, as long as the states indicate in their Child Care Development Fund (CCDF) State Plan the year used and the dates on which eligibility limits became or will become effective.

"Temporarily absent" means a period of up to ninety days when the caretaker is not residing in the home with the child as a result of employment or job training commitments.

"Timely notice" means when the branch mails the notice of adverse action at least ten calendar days prior to the effective date of the action.

"Toddler" means a child over twelve months old up to and including twenty-four months old.

"Transitional child care" means a program designed to provide child care payments for eligible families that terminated AFDC financial assistance or non-assistance payments sponsored by the department to enable them to maintain self-sufficiency.

"Underpayment" means the amount of benefits issued to a caretaker or a provider authorized by the caretaker for a benefit month is less than the amount which the caretaker was entitled to receive by regulation.

"Very low income" means gross income less than one hundred per cent of the Federal Poverty Guidelines. [Eff 03/08/08] (Auth: HRS §346-14) (Imp: HRS §346-151)

§17-798.2-3 Confidentiality. Requirements for confidentiality shall be as provided in chapter 17-601. [Eff 03/08/08] (Auth: HRS §§346-10 and 346-14; 45 C.F.R. §205.50) (Imp: HRS §346-10; 45 C.F.R. §§205.50, 1391.3)

§17-798.2-4 Geographical location. All department-administered child care programs outlined in this chapter may be made available to eligible clients on a statewide basis. [Eff 03/08/08] (Auth: HRS §346-14) (Imp: HRS §346-14)

§17-798.2-5 Scope. (a) Child care services shall include, but are not limited to:

- (1) Supervision to assure the child's safety, comfort, and health;
- (2) Personal care as appropriate to the child's age and developmental maturity;
- (3) Activities appropriate to the child's age, developmental stage, and degree of physical or mental ability;

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- (4) Health and nutritional services; and
 - (5) Provision of child care by providers as defined in section 17-798.2-2.
 - (b) Child care services shall exclude:
 - (1) Services provided to a child enrolled in or eligible for public education in junior kindergarten to twelfth grade during the regular school day, unless the child is out of school due to illness;
 - (2) Services for which a child receives academic credit toward graduation;
 - (3) Any instructional services that supplants or duplicates the academic program of any public or private school which is established for the purpose of compliance with the school attendance law of Hawaii; or
 - (4) Services that provide specialized training or skill development to children, as indicated in HRS §346-152(a)(4).
 - (c) Child care payments shall only be used for services described in subsection (a).
- [Eff 03/08/08] (Auth: HRS §346-14) (Imp: HRS §346-14)

§17-798.2-6 Application process. (a) Requests for child care services shall be submitted in writing on an application form prescribed by the department when required by a specific departmental program.

(b) The form shall be dated and signed under penalty of law that all the information needed to establish eligibility for child care services, as stated on the form, is true and correct.

(c) The form shall be signed by the applicant.

(d) The applicant may be required to submit copies of documents for verification.

(e) The applicant shall provide verification of the cost of the selected child care arrangement.

(f) The date of application shall be the date the signed and dated application form is received by the department.

(g) The child care application interview to establish eligibility of the family unit for services shall be arranged by staff as soon as possible but no

later than thirty days after receipt of the signed and dated application form and supporting documentary evidence.

(h) In order to complete the application process, the applicant must submit the following:

- (1) A completed and signed child care certificate and provider confirmation form; and
- (2) The completed and signed consent forms for background checks required of child care providers who are not licensed by the State. Upon receipt of these completed and signed forms by the department, the license-exempt child care provider and caregivers selected by the caretakers are to be considered as presumptively eligible until the results of the background checks become known.

(i) The date of eligibility for child care services shall be one of the following:

- (1) The date of application, provided that the interview has been completed and the eligibility requirements in section 17-798.2-9 are met from the date of application;
- (2) The date the child care services are scheduled to begin within thirty days after the eligibility conditions in section 17-798.2-9 are met;
- (3) The date of the authorized activity or program component in the FTW programs; or
- (4) The date when the school year of the selected preschool begins for the Preschool Open Doors program. [Eff 03/08/08] (Auth: HRS §346-14) (Imp: HRS §346-14)

§17-798.2-7 Priority applications. (a) As appropriate for the respective subchapters, when multiple applications are received simultaneously, the criteria for the priority applications shall be in the following order from the highest priority to lowest:

- (1) Child protective services reasons as referenced in section 17-798.2-9(a) (3);
- (2) Transitional child care as referenced in section 17-798.2-35;
- (3) Very low income family units that are:

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- (A) At risk of job termination because of child care related problems;
 - (B) Receiving AFDC assistance;
 - (C) Employed and homeless;
 - (D) Employed and have LEP; or
 - (E) Not employed but have a written offer of employment that is scheduled to start within two weeks; and
- (4) Other family units that are employed, enrolled in and attending an educational program, or are in job, vocational, or employment training.
- (b) Family units with the least amount of monthly income shall be given first consideration in the groups identified in paragraphs (2), (3), and (4) in this section. [Eff 03/08/08] (Auth: HRS §346-14) (Imp: HRS §346-14; 45 C.F.R. §§98.20 and 98.44)

§17-798.2-8 Notice of application disposition.

- (a) The department shall notify applicants about their child care eligibility status.
- (b) The applicant shall be sent a written notice that contains a statement of the action taken, the reasons for the action, the specific rules supporting the action, and the right to appeal the action of the department through established administrative appeals procedures. [Eff 03/08/08] (Auth: HRS §346-14) (Imp: HRS §346-14)

§17-798.2-9 Eligibility requirements. (a)

Depending upon availability of funds, all children eligible for child care assistance shall reside with the eligible caretaker and meet the following requirements:

- (1) Be under age thirteen years;
- (2) Be thirteen through seventeen years of age with a physical or mental incapacity that prevents the child from doing self-care; or
- (3) Receive child protective services, and the need for child care is specified in the family unit's case plan as ordered by the court.

(b) A caretaker shall be eligible for child care provided the caretaker:

- (1) Has a monthly gross income verified through documentation that does not exceed eighty-five per cent of the State Median Income for a family of the same size, except for:
 - (A) Individuals who are licensed by the department, or organizations under the authority of the department, as foster parents; or
 - (B) Family units receiving child protective services; and
- (2) Meets one of the following conditions:
 - (A) Is engaged in employment in exchange for wages or salary;
 - (B) Has a written offer of employment that is scheduled to start within two weeks;
 - (C) Needs child care for up to thirty calendar days during a break in employment, if employment is scheduled to resume within thirty calendar days;
 - (D) Needs up to thirty consecutive days in a twelve-month period for the caretaker with or without a work history to job search, when there is no one to care for the child, not to exceed the maximum child care rates as provided under section 17-798.2-12;
 - (E) Is enrolled in and attends an educational program or job training, vocational or employment training. This includes the break time between classes for the day;
 - (F) Is participating in the FTW program or a treatment program as required by section 17-656.1-10, except for a participant in the Food Stamp Employment and Training program, and the FTW participant is involved in the required activities written in the FTW employment or individualized service plan;
 - (G) Is receiving child protective services, and the need for child care is specified in the family unit's case plan as

- ordered by the court;
- (H) Is in a two-parent family unit where one of the caretakers is in an approved activity and the other caretaker is determined to have a disability which prevents the caretakers from providing care for their own child. Proof of disability and inability to provide care of the caretaker's own eligible child shall be verified by the written report of a State-licensed physician, psychologist, or psychiatrist. In the case of a temporary disability, the written report shall be submitted every two months, and in the case of a permanent disability, the written report shall be submitted every six months;
 - (I) Is a caretaker participating in an approved activity and has a temporary disability that prevents him or her from engaging in that activity and providing care for his or her own child until the activity can be resumed. Proof of the temporary disability condition and duration, and inability to care for the caretaker's own child, shall be verified by the written report of a State-licensed physician, psychologist, or psychiatrist. The written report shall be reviewed every thirty days;
 - (J) Is a caretaker whose child is approved for participation in the Preschool Open Doors program; or
 - (K) Is a caretaker under age eighteen years who meets any eligibility condition cited in section 17-798.2-9(b) (2) (A) through (J), retains custody of his or her own child, and does not reside in the same household with his or her adult caretaker.
- (3) Shall establish a reasonable relationship between the time during which the caretaker participates in an activity and the time during which child care is needed.

- (c) Child care providers and caregivers:
 - (1) Shall meet the following conditions in order that child care payments may be authorized:
 - (A) Be eighteen years old or older;
 - (B) Afford caretakers unlimited access to their children, including written records concerning their children, during normal hours of provider operation and whenever the children are in the care of the provider;
 - (C) Be a department regulated or license-exempt child care provider, including in-home care providers. License-exempt providers shall be listed with the department and shall submit a written statement to the department that shall attest to their:
 - (i) Willingness to provide care;
 - (ii) Rate that will be charged;
 - (iii) Assurance that the provider premises are safe from hazards in accord with subparagraphs (G) and (H); and
 - (iv) Address and telephone number;
 - (D) Have no known history of child abuse or neglect, physical, psychological or psychiatric problems, or criminal convictions that may adversely affect or interfere with the care of children;
 - (E) Provide consent, on forms supplied by the department, to conduct a background check. The background check shall be conducted in accord with sections 17-891.1-3, 17-892.1-3, 17-895-3, or 17-896-3;
 - (F) Provide consent, on forms supplied by the department, to conduct an additional fingerprint check through the Federal Bureau of Investigations (FBI), except for the child's grandparents, great-grandparents, siblings living in a separate residence and who are at least eighteen years old, and aunts or uncles;
 - (G) Be free of tuberculosis as indicated by

- a skin test or chest x-ray completed within the last twenty-four months of child care; and
 - (H) Have a child care facility or home with an installed smoke detector, unobstructed emergency exits, and an emergency exit plan.
- (2) Shall not be one of the following:
- (A) Parents, biological or legal;
 - (B) Step-parents living in the household;
 - (C) Guardians, or members of the family unit that receives government financial assistance payments, including essential persons;
 - (D) Providers who are not in compliance with State or county regulatory requirements;
 - (E) Individuals under the age of eighteen years;
 - (F) Other individuals determined by the department to pose a risk to the health and safety of the child;
 - (G) A sibling of the child needing care who resides in the same home as the child;
or
 - (H) A caretaker.
- (d) The department shall:
- (1) Verify that the child and caretaker meet the eligibility requirements as described in this chapter;
 - (2) Establish the eligibility of the child care provider and caregiver selected by the caretaker, following the provisions of section 17-798.2-9(c).
 - (3) Allow, at the department's option, for the presumptive eligibility of a license-exempt provider selected by the caretaker upon receipt by the department of the completed and signed child care certificate and provider confirmation forms and consent forms for conducting a background check, provided that the presumptive eligibility shall end upon completion of the background check;
 - (4) Authorize the initial and subsequent monthly child care payments based on sections 17-

- 798.2-9, 17-798.2-10, 17-798.2-12, 17-798.2-13, 17-798.2-14, 17-798.2-15, 17-798.2-16, 17-798.2-17, 17-798.2-18, 17-798.2-20, 17-798.2-21, 17-798.2-29, and 17-798.2-35;
- (5) Review eligibility no less than every six months and whenever changes that affect eligibility are reported; and
 - (6) Track and monitor appropriateness and utilization of child care and payments.
[Eff 03/08/08] (Auth: HRS §346-14)
(Imp: HRS §346-4, 45 C.F.R. §§98.20, 98.30, 98.31 and 98.41)

§17-798.2-10 Income considered in eligibility determination. (a) Monthly gross income shall be used to determine income eligibility of the family unit, except for individuals identified in subparagraphs 17-798.2-9(b)(1)(A) and (B), by using one of the following:

- (1) The average of the prior two months gross income for existing employment;
 - (2) The monthly gross income received in the prior month for existing employment; or
 - (3) The monthly gross income that is anticipated to be received from prospective employment.
 - (A) Weekly gross income anticipated to be received shall be converted to a monthly gross income by multiplying the weekly income by 4.3333.
 - (B) Bi-weekly gross income anticipated to be received shall be converted to monthly income by multiplying the bi-weekly income by 2.1667.
- (b) Monthly gross income means monthly sums of income received from sources such as but not limited to:
- (1) Gross income (before deductions are made for items such as, but not limited to, taxes, union dues, bonds, and pensions) from:
 - (A) Wages;
 - (B) Salary;
 - (C) Armed forces pay, excluding basic housing allowance;

- (D) Commissions;
 - (E) Tips;
 - (F) Piece-rate payments; or
 - (G) Cash bonuses earned;
- (2) Social security pensions and survivors' benefits (prior to deductions for medical insurance) including:
- (A) Railroad retirement insurance checks from the U.S. government; and
 - (B) Permanent disability insurance payments made by the Social Security Administration;
- (3) Unemployment insurance benefits such as:
- (A) Compensation received from government unemployment insurance agencies or private insurance companies during periods of unemployment; and
 - (B) Any strike benefits received from union funds;
- (4) Worker's compensation benefits and temporary disability insurance benefits:
- (A) Worker's compensation benefits include compensation received from private or public insurance companies for injuries incurred at work;
 - (B) Temporary disability insurance benefits include compensation received from private or public insurance companies for short-term disabilities resulting from off-the-job sickness or injury; and
 - (C) The cost of the insurance shall have been paid by the employer and not by the employee, and the benefits are made to individuals who continue to be considered employees of the company;
- (5) Pensions and annuities, including pensions or retirement benefits paid to a retired person or the person's survivors by a former employer or by a union, either directly or by an insurance company;
- (6) Veteran's pensions and other benefits, which include:
- (A) Money paid periodically by the Veteran's Administration to:

- (i) Survivors of deceased veterans;
or
 - (ii) Disabled members of the armed forces;
- (B) Subsistence allowances paid to veterans for:
 - (i) Education; or
 - (ii) On-the-job training; and
- (C) Refunds paid to former members of the armed forces as GI insurance premiums;
- (7) An allotment of a member of the armed forces;
- (8) Alimony;
- (9) Child support;
- (10) Public assistance payments from another state;
- (11) Hawaii public assistance payments;
- (12) Adoption assistance payments;
- (13) Dividends from stockholdings or memberships in associations;
- (14) Periodic interest on savings or bonds;
- (15) Income from estates or trust funds;
- (16) Income from rental of property after business expenses;
- (17) Royalties;
- (18) Income received from self-employment:
 - (A) To be considered self-employed, the individual shall:
 - (i) Generate income equivalent to eighteen hours per week multiplied by 4.3333 weeks multiplied by State minimum wage at the time of eligibility and in each subsequent month. The department shall determine the number of hours a week the family spends in self-employment activities. When the family is working at least eighteen hours per week and receives income from the sale of goods and services, the department calculates qualifying earned income from self-employment by multiplying the hourly State minimum wage and

the number of hours spent monthly in self-employment activities. The product of this computation must be equal to or greater than State minimum wage multiplied by eighteen hours per week multiplied by 4.3333 weeks to qualify the applicant. This must be considered first as monthly earned income when determining eligibility for child care payments as a self-employed individual;

- (ii) Not be subject to discharge from the job by another person;
 - (iii) Report income to the Internal Revenue Service and the State as a self-employed person;
 - (iv) Meet social security requirements as a self-employed person and pay employer's and employee's share of social security taxes; and
 - (v) Not be considered an employee of an agency or organization.
- (B) Income received from non-farm self-employment means the gross receipts minus expenses for an individual's own business, professional enterprise, or partnerships.
- (i) Gross receipts shall include the value of all goods sold and services rendered.
 - (ii) Expenses shall include the costs of goods purchased, rent, heat, light, power, depreciation charges, wages and salaries paid, business taxes, and other similar costs.
 - (iii) The value of salable merchandise consumed by the proprietors of retail stores shall not be included as part of net income.
 - (iv) Items such as depreciation, personal, business and

entertainment expenses, transportation, purchase of capital equipment, and payments on the principal of loans for capital assets or durable goods shall not be deducted as business expenses. Personal expenses such as lunches and transportation to and from work shall not be deducted as business expenses.

- (C) Income received from farm self-employment means the gross receipts minus operating expenses from the operation of a farm by a person on the person's own account, as an owner, renter, or sharecropper.
 - (i) Gross receipts shall include the value of all products sold, government crop loans, money received from the rental of farm equipment to others, and incidental receipts from the sale of wood, sand, gravel, and similar items.
 - (ii) Operating expenses shall include the cost of feed, fertilizer, seed, and other farming supplies, cash wages paid to farmhands, depreciation charges, cash rent, interest on farm mortgages, farm building repairs, farm taxes (not state and federal income taxes), and other similar expenses.
 - (iii) The value of fuel, foods, or other farm products used for family living shall not be included as part of net income; and
- (19) Free rent converted to a cost compensation when it is exchanged for an activity instead of wages or salary. The department shall determine this by multiplying the State minimum wage multiplied by forty hours a week multiplied by 4.3333 weeks. When work is less

than forty hours a week, use the actual number of hours worked in the month multiplied by State minimum wage; and

(c) Gross income from the caretakers' approved activities such as selling real estate, or engaging in fishing and farming, which provide irregular income over a period of six months, may be allowed to be averaged over the simplified report period to determine the budget month amount. [Eff 03/08/08] (Auth: HRS §346-4) (Imp: HRS §346-14)

§17-798.2-11 Excluded monthly income. The following types of income received in any given month shall be excluded from consideration in determining income eligibility for child care payments:

(1) Money received from the sale of property such as stocks, bonds, a house, or a car unless the person was engaged in the business of selling the property, in which case, the net proceeds would be counted as self-employment income;

(2) Withdrawals of bank deposits;

(3) Loans;

(4) Gifts, including in-kind gifts such as free room and board, when the gift is not a form of compensation in lieu of wages or salary;

(5) Monies received in the form of a nonrecurring lump sum payment including, but not limited to, the following:

(A) Income tax refunds, rebates, or credits;

(B) Retroactive lump sum social security, SSI, public assistance, or unemployment compensation benefits;

(C) Retroactive annual adjustment payments in the veteran administration's (VA) disability pensions;

(D) Lump sum inheritances or insurance payments;

(6) Refunds of security deposits on rental property or utilities;

(7) Capital gains;

(8) Earnings of minor children who are members of the household and are students at least half-time shall be excluded even during temporary

interruptions in school attendance due to semester or vacation breaks, provided the minors' enrollment will resume following the break;

- (9) Loans, grants, and scholarships obtained and used under conditions that prohibit use for current living expenses;
- (10) Any grant or loan to any undergraduate student for educational purposes made or insured under any program administered by the United States Secretary of Education;
- (11) Home produce utilized for home consumption;
- (12) The value of an allotment under the Food Stamp Act of 1977, as amended, 7 U.S.C. §2017;
- (13) The value of USDA donated or surplus foods;
- (14) The value of supplemental food assistance under the Child Nutrition Act of 1966, 42 U.S.C. §§1771-1789, and the special food service program for children under the National School Lunch Act, as amended, 42 U.S.C. §§1751-1769;
- (15) Benefits received from the special supplemental food program for women, infants, and children (WIC), 42 U.S.C. §1771;
- (16) Allowances and payments to participants in programs, other than on-the-job training, under the Workforce Investment Act (WIA) of 1998, 20 U.S.C. §9201;
- (17) The earned income of individuals participating in on-the-job training programs under the Work Investment Act (WIA) of 1998, 20 U.S.C. §9201, who are between 18 and 19 years of age and under the parental control of another household member;
- (18) Earned income tax credit (EITC) payments received either as a lump sum or recurring payments under section 3507 of the Internal Revenue Code of 1986;
- (19) Financial assistance provided by a program funded in whole or in part under title IV of the Higher Education Act in accordance with Pub. L. No. 99-498;
- (20) Payments or allowances made under any

- federal, state, or local laws for the purpose of energy assistance;
- (21) Assistance payments received as a result of a declared federal major disaster or emergency from the federal emergency management agency (FEMA), and other comparable disaster assistance provided by any state or local government agency, and disaster assistance organizations;
 - (22) Payments made from the Agent Orange Settlement Fund or any other fund established in connection with settling liability claims concerning the chemical Agent Orange, Pub. L. No. 101-201;
 - (23) Reimbursements from the Uniform Relocation Assistance and Real Property Acquisition Policies Act of 1970, 42 U.S.C. §4636;
 - (24) Payments received under the Radiation Exposure Compensation Act, Pub. L. No. 101-426, to compensate individuals for injuries or deaths resulting from the exposure to radiation from nuclear testing or uranium mining;
 - (25) Payments to individuals participating in the Senior Community Service Employment Program (SCSEP) funded under title V of the Older Americans Act of 1965, 42 U.S.C. §3001; Pub. L. No. 100-175;
 - (26) Payments to volunteers derived from the volunteer's participation in the following programs authorized by the Domestic Volunteer Service Act of 1973, 42 U.S.C. §§5011, 4951-4958:
 - (A) Foster grandparent program;
 - (B) Senior companion program; and
 - (C) Volunteers in service to America (VISTA) and AmeriCorps programs;
 - (27) Military re-enlistment bonus;
 - (28) Foster board payments;
 - (29) All payments pursuant to chapter 17-656.2; and
 - (30) Any other payments made in accordance with state and federal laws that preclude the payments from being counted as income.

[Eff 03/08/08] (Auth: HRS §346-14)
(Imp: HRS §346-14)

§17-798.2-12 Child care rates. (a) Child care rates shall be established based on:

(1) Types of care:

(A) Accredited licensed, non-accredited licensed, and license-exempt family child care home and licensed group child care home; and

(B) Accredited licensed, non-accredited licensed, and license-exempt group child care center care:

(i) Infant/toddler care;

(ii) Preschool care;

(iii) School age care, including before-school care, after-school care, breaks during the school year, holiday, intersession, or summer care; and

(2) Need for care:

(A) Full-time care; or

(B) Part-time care;

(b) The rates are established in Exhibit I, dated August 1, 2007, attached at the end of this chapter.

[Eff 03/08/08] (Auth: HRS §346-14) (Imp: §346-14; 45 C.F.R. §98.42)

§17-798.2-13 Child care payments. (a) The amount issued by the department may not exceed the maximum monthly department allowance for monthly child care expense for type of care except when the caretaker cannot continue to use the child care provider due to an action by the department, and the caretaker paid for child care but the provider is unwilling to refund the amount to the caretaker.

(b) Child care payments include:

(1) A one-time only payment in a state fiscal year for registration, which may also include supply and activity fees, required by the facility, not to exceed \$125.00; and

(2) Monthly cost of child care per child, as

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- (3) paid, but not to exceed the child care rates specified in section 17-798.2-12. For the exception in section 17-798.2-13(a), a combination of full-time and part-time tiered rates by types and hours of care specified in section 17-798.2-12 for approved hours of child care shall be allowed.

(c) The department shall issue to and receive from the caretaker a signed and completed designated form(s) to verify the cost of child care for the eligible child needing care, the name and address of the provider, and provider information to establish eligibility as specified in section 17-798.2-9(c).

(d) A family unit's child care expense may be partially paid by another public-funded source.

(e) Payment for child care services may be provided:

- (1) Through monies issued one month at a time and paid to the caretaker; or
- (2) Through monies issued one month at a time and paid to the provider in the name of the caretaker. [Eff 03/08/08] (Auth: HRS §§346-14, 346-63) (Imp: HRS §§346-14, 346-63; 45 C.F.R. §§98.41, 98.42 and 98.43)

§17-798.2-14 Method of computing child care payment. (a) The following will be used to compute the child care payment:

- (1) Monthly gross income;
- (2) The caretaker's hours of activity, except for individuals identified in sections 17-798.2-9(b)(2)(G) and (J);
- (3) The caretaker's relationship to the child who resides with the caretaker, and the age of the child who needs care;
- (4) The child care provider;
- (5) The cost and hours of child care;
- (6) The type of child care; and
- (7) The need for care.

(b) The child care payment amount shall be determined by:

- (1) Counting the caretaker's activity hours to be engaged in for the month, as referenced in

section 17-798.2-14(a)(2), comparing these activity hours with the child care hours needed, and always choosing the lesser hours; provided that:

- (A) This is not required for child care needed for child protective services reasons as ordered by the court;
 - (B) This is not required for the Preschool Open Doors program; and
 - (C) In the case of a caretaker who is temporarily disabled in accordance with subparagraph 17-798.2-9(b)(2)(I), the activity hours shall be the same as the activity hours that the caretaker had been participating in prior to the temporary disability.
- (2) Identifying the type of child care selected and approved for each qualifying child, and using the child care rate table, Exhibit I, to select the appropriate rate for the care type that supports the hours needed for child care; provided that:
- (A) For child protective services need is based on the number of hours of child care specified in the court order; and
 - (B) For the Preschool Open Doors program need is based on the number of hours of child care requested by a caretaker.
- (3) Comparing the child care allowance determined by subparagraphs (b)(1) and (2) and the actual child care cost, and choosing the lesser amount.
- (4) Determining the family unit's co-payment based on their monthly gross income.
- (A) Gross income amount equal to or less than 100% FPG shall pay no co-payment;
 - (B) Gross income amount between 101% to 150% of FPG shall pay a 10% co-payment; or
 - (C) Gross income amount between 151% FPG to the monthly gross income eligibility limit shall pay a 20% co-payment.
- (5) Subtracting the family unit's co-payment from the amount determined in subparagraph (b)(3).
- (c) The family unit shall be responsible for any

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child care costs in excess of the maximum child care rates specified in section 17-798.2-12.

(d) The family unit shall be responsible to pay its share of the child care cost directly to the provider.

(e) The department shall project the family unit's eligibility and monthly payments prospectively for the eligibility period.

(1) The initial payment shall be calculated from the date of eligibility to the end of the month, which may be for less than a full month, and shall be considered the first month of the eligibility period.

(2) When changes are reported during the eligibility period, the monthly payments shall be prospectively calculated for the remainder of the eligibility period.

[Eff 03/08/08] (Auth: HRS §346-14)
(Imp: HRS §346-14; 45 C.F.R. §98.20)

§17-798.2-15 Mandatory reporting. (a) A caretaker who is a recipient of child care payments shall be responsible to report to the department within ten calendar days when the following changes occur:

(1) Monthly gross income and the source of the household income when it is in excess of eighty-five per cent of the State Median Income for a family of the same size, except for:

(A) Department-licensed foster parents with approved activities that need child care; or

(B) Family units that receive child protective services.

(2) Address, including:

(A) Place of residence; and

(B) Mailing address;

(3) Household composition;

(4) Marital status;

(5) Child care provider;

(6) Cost of care;

(7) Child care type;

(8) Loss of activity,

- (A) Except for family units that receive only Preschool Open Doors services; or
- (B) Except for family units that receive child protective services; and
- (9) Closure of the child protective services case.
- (b) Changes may be reported in writing, in person, or by telephone, and shall be supported by verifying documentation.
- (c) When changes are reported pursuant to this section, the department shall take action on the reported changes and calculate payments for the balance of the eligibility period, after timely and adequate notice.
 - (1) Changes that are reported within ten calendar days of the occurrence shall be implemented in the first month following the month in which the change was reported;
 - (2) Changes that are reported after ten calendar days of the occurrence, that result in a higher payment, shall be implemented in the second month following the month in which the change was reported; and
 - (3) Changes that are reported that result in a lower payment shall be implemented in the first month following the month in which the change was reported, and the department shall recover any overpayments from the date of the occurrence. [Eff 03/08/08] (Auth: HRS §346-14) (Imp: HRS §346-14)

§17-798.2-16 Re-determination of eligibility and payment amount. (a) Eligibility and payment amounts shall be reviewed at the end of every eligibility period.

- (1) The family unit shall submit a completed simplified report form including the verifying documentation required to determine the continued eligibility of the caretaker, child and provider.
 - (A) The completed simplified report form must be received by the department by the due date printed on the simplified report form.

- (B) A simplified report form shall be considered incomplete when:
 - (i) It is not initialed and signed by the caretaker, or
 - (ii) It omits information and documentation including, but not limited to, pay stubs, employment, training or education schedule, and child care receipts, that are necessary for the department to determine the family unit's eligibility, or to compute the family unit's child care payment amount.
- (C) If the caretaker fails to submit a simplified report form by the due date noted on the simplified report form, or submits an incomplete form, the department shall provide a timely and adequate notice in accordance with section 17-798.2-18 that allows the caretaker an extended filing period.
 - (i) When the caretaker submits a completed simplified report form within the extended filing period, child care payments shall be provided not later than ten days after the caretaker's normal benefits issuance date.
 - (ii) When the caretaker submits a completed simplified report form after the extended filing period, but before the end of the report month, child care payments shall be provided not later than thirty days after the receipt of the simplified report form.
 - (iii) When the extended filing period ends, and the simplified report form is not received by the department, or is received but is still incomplete, the department shall issue a notice that confirms the termination of child

care payments.

- (2) The department shall require the caretaker to provide information on the simplified report form that shall include, but is not limited to, those items listed in paragraphs 17-798.2-15(a)(1) through (9), as well as activity hours; and
- (3) Child care payments shall only be authorized for the next six months provided the caretaker has submitted the completed simplified report form and the required documentation to establish eligibility.

(b) In FTW child care payment cases, the department shall re-determine the family unit's income, FTW program eligibility, and payment amount in accordance with the provisions set forth in chapter 17-794.1.

(c) Re-determination of eligibility shall include, if required, the background check of child care providers and caregivers as referenced in subsection 17-798.2-9(c).

(d) The department shall take action on any other reported changes that are verified to affect eligibility or payment amounts, in addition to those required under subsections (a) through (c) and section 17-798.2-15, after timely and adequate notice. The department shall take action on the reported changes and calculate payments for the balance of the eligibility period.

- (1) Changes that are reported within ten calendar days of the occurrence, that result in a higher payment, shall be implemented in the first month following the month in which the change was reported;
- (2) Changes that are reported after ten calendar days of the occurrence, and result in a higher payment, shall be implemented in the second month following the month in which the change was reported; and
- (3) Changes that are reported that result in a lower payment shall be implemented in the first month following the month in which the change was reported, and the department shall recover any overpayments from the date of the

occurrence. [Eff 03/08/08] (Auth:
HRS §346-14) (Imp: HRS §346-14)

§17-798.2-17 Denial, reduction, suspension, or termination of child care. (a) Child care payments may be denied, reduced, suspended, or terminated when:

- (1) The caretaker does not complete the process of application/determination of eligibility, or withdraws the application;
- (2) The caretaker does not sign and date the application form or simplified report form prescribed by the department;
- (3) The caretaker does not submit a completed application form or simplified report form prescribed by the department;
- (4) The caretaker does not submit verifying documentation requested by the department;
- (5) The child does not meet the eligibility requirements referenced in subsection 17-798.2-9(a);
- (6) The caretaker does not meet the eligibility requirements referenced in subsection 17-798.2-9(b);
- (7) The provider does not meet the eligibility requirements referenced in subsection 17-798.2-9(c);
- (8) Conditions initially present in the family unit situation have changed and child care is no longer needed;
- (9) The family unit has not used authorized care;
- (10) The child has absences that are unexcused for more than five consecutive days;
- (11) The caretaker voluntarily requests discontinuance of child care payments;
- (12) The caretaker and the child are unable to use child care and another service must be planned for;
- (13) The family unit is no longer eligible for child care payments;
- (14) The family unit cannot be located;
- (15) The family unit fails to complete the process of re-determination of eligibility;
- (16) The family unit fails to utilize child care

payments in accordance with section 17-798.2-5(c) and does not reconcile the resulting overpayments in accordance with section 17-798.2-20;

- (17) The family unit's use of child care services does not begin within thirty days of submittal of the application for services; or
- (18) The department determines pursuant to section 17-798.2-21 that there are insufficient funds to maintain all children receiving care.

(b) Child care payments may be suspended when the payment amount is determined to be zero, for a period not to exceed:

- (1) One month in a three month period when the family unit has exceeded the income limits;
- (2) Three months when children are attending school and only need intersession care;
- (3) One month when the designated provider does not meet the conditions set forth in subsection 17-798.2-9(c) and the family unit must find a different approved provider.
[Eff 03/08/08] (Auth: HRS §346-14)
(Imp: HRS §346-14)

§17-798.2-18 Notice of adverse action. (a) The department shall provide the family unit with timely and adequate notice prior to taking adverse action to deny, reduce, suspend, or terminate any child care services specified in this chapter.

(b) A caretaker can submit verifying documentation for consideration by the department to reverse the proposed department action prior to the effective date of the action.

(c) Only adequate notice is required when the following occurs:

- (1) A caretaker is deceased;
- (2) A caretaker left the State;
- (3) A caretaker requests discontinuance of child care payments;
- (4) A caretaker fails to comply with mandatory report requirements of section 17-798.2-15;
- (5) A caretaker's whereabouts are unknown; or
- (6) The department determines pursuant to section

§17-798.2-18

17-798.2-21 that there are insufficient funds to maintain all children receiving care.
[Eff 03/08/08] (Auth: HRS §346-14)
(Imp: HRS §346-14)

§17-798.2-19 Administrative appeal requests. (a)
A family unit may file a written request for an administrative appeal, in accordance with the provisions set forth in chapter 17-602.1, when the family unit disagrees with the department's adverse action to deny, reduce, suspend, or terminate payment, or with the department's determination of an overpayment.

(b) Child care payments shall not continue during the appeal process. [Eff 03/08/08] (Auth: HRS §346-14) (Imp: HRS §346-14)

§17-798.2-20 Underpayments and overpayments. (a)
Underpayments shall be processed as follows:

- (1) Prompt action shall be taken to correct any underpayment to a currently eligible caretaker who would have received a greater benefit if an error by the department had not occurred.
 - (2) If a caretaker has both an overpayment and an underpayment, the overpayment and underpayment shall be offset one against the other in correcting the payment.
 - (3) Payments provided to the caretaker to correct an underpayment shall not be counted as income.
 - (4) Corrective payments shall be made for any underpayment due a former recipient when child care assistance is restored.
- (b) Overpayments shall be processed as follows:
- (1) Failure to provide information, as specified in sections 17-798.2-12, 17-798.2-14, 17-798.2-15, and 17-798.2-16, or errors made by the department may affect the caretaker's eligibility and result in an overpayment.
 - (2) An overpayment made to a caretaker shall be recovered through:

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(A) Repayment in cash, in full or in part,

- by the caretaker to the department; or
 - (B) A reduction of not less than ten percent in the amount payable to the caretaker in subsequent months until the entire amount of overpayment is recovered.
- (3) An individual subject to recovery of an overpayment shall be provided adequate notice by the department including:
 - (A) The reasons, dates, and the amount of the alleged overpayment; and
 - (B) The proposed method by which the overpayment shall be recovered.
- (4) An overpayment to an individual shall be recovered from the caretaker who was overpaid, from individuals who were members of the family unit when overpaid, or from a family unit which includes members of a previously overpaid family unit.
- (5) A child care overpayment shall be recovered only from child care payments or AFDC payments, provided the caretaker continues to receive such payments.
- (6) Recovery of an overpayment to former recipients of child care payments shall be referred to the department's fiscal management office for collection action.
- (7) If a caretaker for whom a collection action has been initiated fails to make a payment for any month in the calendar tax year, the department may refer debts exceeding twenty-five dollars to the comptroller of the State for tax setoff as specified in chapter 17-606. [Eff 03/08/08] (Auth: HRS §§346-14, 346-44) (Imp: HRS §§346-35, 346-44)

§17-798.2-21 Termination for insufficient funds.

- (a) The department may, at its discretion, refuse to take new applications, reduce benefits, or terminate benefits when there are insufficient funds to pay child care payments at current amounts through the end of the State fiscal year.
- (b) Refusal to take new applications, reducing benefits, or terminating benefits will first be

§17-798.2-21

accomplished in reverse priority from what is listed in section 17-798.2-7. Priority will further be determined within the categories set forth in section 17-798.2-7 by income, with higher income family units terminated first.

(c) The budget will be managed by reviewing monthly expenditures, and evaluating whether the cumulative expenditures at the end of any given month are less than or equal to the number of months that have expired in the fiscal year times 1/12 of the budget appropriation for child care payments.

(d) When the department determines that the budget appropriation has or soon will be exceeded, notices of adverse action may be issued to limit the number of children receiving subsidies in any given month or to take other necessary action to operate within the child care budget appropriation. A decision under this subsection shall be final and conclusive.

[Eff 03/08/08] (Auth: HRS §346-14) (Imp: HRS §346-14)

§§17-798.2-22 to 17-798.2-27 (Reserved)

SUBCHAPTER 2

PRESCHOOL OPEN DOORS PROGRAM

§17-798.2-28 Purpose. Child care assistance under this subchapter shall be for early childhood services that can contribute to school readiness by providing up to a school year of experience in a preschool program prior to a child entering junior kindergarten or kindergarten. [Eff 03/08/08] (Auth: HRS §346-14) (Imp: HRS §346-14)

§17-798.2-29 General eligibility requirements.

(a) Child care assistance for preschool may be provided under this subchapter depending upon availability of funds. The family unit shall meet all the conditions described in sections 17-798.2-6, 17-

798.2-9(b) (1), 17-798.2-10, 17-798.2-11, 17-798.2-13, and 17-798.2-14.

(b) An eligible child shall meet the following requirements:

- (1) Must be four years old by December 31 of the year applying for the program for the ensuing school year, or
- (2) Must be three years old by December 31 of the year applying for the program for the ensuing school year, have a special populations referral, and not qualify full-time for the Department of Education (DOE) Special Education program.

(c) An eligible caretaker shall have a monthly gross income verified through documentation that does not exceed eighty-five percent of the State Median Income for a family of the same size.

(d) Assistance shall be provided to eligible children based on ranking in order of priority within each geographical area designated by the department:

- (1) Age of child.
 - (A) A child must be four years old by December 31 of the year applying for the program for the ensuing school year, have a completed Special Populations Referral form prescribed by the department, eligible to enter junior kindergarten or kindergarten at the start of the following school year, and need child care assistance to attend preschool;
 - (B) Any other child who will be four years old by December 31 of the year applying for the program for the ensuing school year, who would be eligible to enter junior kindergarten or kindergarten at the start of the following school year and needs child care assistance to attend preschool; and
 - (C) A child who will be three years old by December 31 of the year applying for the program for the ensuing school year, has a completed Special Populations Referral form prescribed by the department,

applies for the DOE Special Education program and does not qualify full-time for this DOE program, and needs child care assistance to attend preschool.

- (2) Eligible family units shall be income-ranked within their age group by dividing their monthly gross income by eighty-five per cent of the State Median Income for a family of the same size.

(e) Eligibility shall be established each year during open enrollment periods.

(f) Assistance shall be provided at rates established pursuant to section 17-798.2-12, Exhibit I. [Eff 03/08/08] (Auth: HRS §346-14) (Imp: HRS §346-14)

§§17-798.2-30 to 17-798.2-33 (Reserved)

SUBCHAPTER 3

TRANSITIONAL CHILD CARE PROGRAM

§17-798.2-34 Purpose. The purpose of this subchapter is to establish the eligibility requirements, benefits, and method of determining payment for transitional child care benefits. [Eff 03/08/08] (Auth: HRS §346-14) (Imp: HRS §346-14)

§17-798.2-35 Eligibility requirements. (a) The department may provide transitional child care assistance for a period of up to twelve consecutive months to a family unit that ceases to be eligible for AFDC as a result of:

- (1) Increased hours of employment or increased income from employment;
- (2) New or increased income from child support;
or
- (3) The caretaker voluntarily requesting AFDC

closure because the caretaker is currently employed.

(b) The family unit shall have received AFDC benefits in the month immediately preceding the first month of ineligibility or termination.

(c) The family unit shall meet all the conditions specified in sections 17-798.2-9, 17-798.2-10, 17-798.2-11, 17-798.2-13, and 17-798.2-14.

(d) Eligibility for transitional child care payments shall begin from the date AFDC eligibility ends or when the family unit applies for transitional child care, whichever is later.

(e) A family unit shall apply for transitional child care within twelve months of ending AFDC for the reasons stated in subsection (a).

(1) A family unit that applies for transitional child care prior to AFDC eligibility ending may do so by request to the department without further application.

(2) A family unit that applies for transitional child care after AFDC eligibility ends shall submit a form prescribed by the department pursuant to section 17-798.2-6.

[Eff 03/08/08] (Auth: HRS §346-14)
(Imp: HRS §346-14)

§§17-798.2-36 to 17-798.2-42 (Reserved)

SUBCHAPTER 4

QUALITY INCENTIVE PAYMENTS

§17-798.2-43 Purpose. The purpose of this subchapter is to create a quality incentive payment program for child care providers who care for children who receive child care subsidies through the department, to improve the quality and availability of child care. [Eff 03/08/08] (Auth: HRS §346-14)
(Imp: HRS §346-14, 45 C.F.R. §§98.1 to 98.93)

§17-798.2-44 Quality incentive payments for preschools. (a) This incentive is available only to preschools as defined in section 798.2-2.

(b) Preschools shall qualify for a quality incentive payment if they satisfy standards of quality as determined by the department, including:

- (1) Hawaii Preschool Content Standards (HPCS), 2004;
- (2) Professional Development Standards Level I or II, in Exhibit II, effective January 1, 2006, set forth at the end of this chapter; or
- (3) Accreditation through the National Association for the Education of Young Children (NAEYC) or the National Early Childhood Program Accreditation (NECPA), in which case they shall be deemed to satisfy both HPCS and Professional Development Standards Level I.

(c) The preschool shall agree to participate in direct deposit of their quality incentive payment into a designated bank account.

(d) The preschool shall submit a completed application form and supporting documentation as prescribed by the department.

- (1) The application shall be signed and dated by the licensed provider or, if the preschool is a corporation, by an authorized representative.
- (2) When applying for a quality incentive payment based on the Professional Development Standards, a preschool can only apply for either Level I or Level II, but not for both.

(e) The department shall review the completed application and supporting documentation to determine eligibility.

- (1) If a preschool that is not accredited through NAEYC or NECPA applies for the quality incentive payment for implementing a curriculum based on the HPCS, the department shall make a preliminary determination whether the HPCS have been incorporated into the preschool's curriculum.
- (2) If the department makes a preliminary determination that the HPCS are satisfied,

the department shall conduct a site visit to the preschool to observe activities at the site and verify that the HPCS have been incorporated into the preschool's curriculum.

(f) Upon completion of the review process, the department shall issue a notice that indicates whether the preschool is eligible for a quality incentive payment.

(1) If found eligible, the notice shall indicate the effective and expiration dates of eligibility for the specific standard met and the amount the preschool is eligible to receive for the quality incentive payment.

(2) If found ineligible, the notice shall indicate the reason for the ineligibility.

(g) A preschool that has been deemed ineligible may reapply for the quality incentive payment after a sixty-day waiting period, effective from the date of the notice of ineligibility.

(h) A preschool that has been deemed ineligible for a quality incentive payment may request a review of the decision with the department's Benefit, Employment and Support Services Division. Requests for review must be submitted in writing within thirty days of the date of the notice of ineligibility. A decision under this subsection shall be final and conclusive.

(i) Eligibility for the quality incentive payment shall be for a twelve-month period beginning from the date of the notice of eligibility, provided that eligibility shall be for less than a twelve-month period if:

(1) Eligibility is based on accreditation by NAEYC or NECPA, in which case the period of eligibility indicated on the notice shall expire on the date that the NAEYC or NECPA accreditation period ends;

(2) The preschool child care license expires prior to the twelve-month period, in which case the period of eligibility indicated on the notice shall expire on the date the license expires; or

(3) The department suspends or revokes the preschool license, in which case eligibility

shall be terminated effective the date the department suspends or revokes the license.

(j) The quality incentive payments shall be made per month for each child in the preschool's care who receives a child care subsidy payment from the department. A child shall be deemed in the preschool's care if the child is enrolled and present on the first work day of the month. The payment amounts for each standard shall be as follows:

- (1) HPCS standard - \$50 per month;
- (2) Professional Development Standards Level I - \$50 per month; and
- (3) Professional Development Standards Level II - \$25 per month.

(k) Re-determinations for eligibility for quality incentive payments shall be done annually.

- (1) The preschool shall submit an application and supporting documentation to the department at least two months prior to the expiration date of the authorized period.

- (2) Re-determinations for eligibility shall follow the same process as initial applications as stated above.

[Eff 03/08/08] (Auth: HRS §346-14)
(Imp: HRS §346-14, 45 C.F.R. §§98.1 to 98.93)

§17-798.2-45 Quality incentive payments for home-based child care providers. (a) This incentive is available only to home-based child care providers as defined in section 798.2-2.

(b) Home-based child care providers shall qualify for a quality incentive payment if they satisfy standards of quality as provided in the Developmental Guidelines for Infants and Toddlers and Young Preschoolers developed by the University of Hawaii Center on the Family, 2006.

(c) The home-based child care provider shall agree to participate in direct deposit of their quality incentive payment into a designated bank account.

(d) The home-based child care provider shall submit a completed application form and supporting documentation as prescribed by the department.

- (1) The application must be signed and dated by the home-based child care provider.
 - (2) The home-based child care provider shall participate in an orientation session scheduled by the department to introduce the standards, activities, and work packets that are expected to be implemented with children.
- (e) The home-based child care provider shall submit monthly work packets to the department to maintain eligibility.
- (f) The department shall review the application form for completeness, and determine eligibility.
- (g) The department shall issue a notice that indicates whether the home-based child care provider is eligible for a quality incentive payment.
- (1) If found eligible, the notice shall indicate the effective and expiration dates of eligibility and the amount the home-based child care provider is eligible to receive for the quality incentive payment.
 - (2) If found ineligible, the notice shall indicate the reason for the ineligibility.
- (h) A home-based child care provider that has been deemed ineligible may reapply for the quality incentive payment after a sixty-day waiting period, effective from the date of the notice of ineligibility.
- (i) A home-based child care provider that has been deemed ineligible for a quality incentive payment may request a review of the decision with the department's Benefit, Employment and Support Services Division. Requests for review must be submitted in writing within thirty days of the date of the notice of ineligibility. A decision under this subsection shall be final and conclusive.
- (j) Eligibility shall be for a twelve-month period beginning from the date of the notice of eligibility, provided that eligibility shall be for less than a twelve-month period if:
- (1) The home-based provider fails to submit the required work packets to the department on a monthly basis;
 - (2) A registered family child care provider's certificate of registration expires prior to the twelve-month period of eligibility, in

which case the period of eligibility indicated on the notice shall expire on the date the certificate of registration expires; or

- (3) The department suspends or revokes the registered family child care provider's certificate of registration, in which case eligibility shall be terminated effective the date the department suspends or revokes the registration.

(k) The quality incentive payment amount shall be \$50 per month for each child in the home-based child care provider's care who receives a child care subsidy payment from the department. A child shall be deemed in the home-based child care provider's care if the child is enrolled and present on the first work day of the month.

(1) Re-determinations for eligibility for quality incentive payments shall be done annually.

- (1) The home-based child care provider shall submit an application and supporting documentation to the department at least two months prior to the expiration date of the authorized period.

- (2) Re-determinations for eligibility shall follow the same process as initial applications as stated above.

[Eff 03/08/08] (Auth: HRS §346-14)
(Imp: HRS §346-14, 45 C.F.R. §§98.1 to 98.93)

§17-798.2-46 Time-limited incentives for child care providers. (a) The department, at its discretion, may offer time-limited incentive payments to child care providers that increase the number of children enrolled.

(b) The department shall issue a notice to inform the public of the availability of the time-limited incentive payments. The notice shall include, but is not limited to, the following information:

- (1) The type of care for which the department will be accepting applications;
- (2) The application period;

- (3) The amount offered for the time-limited incentive payments;
- (4) The criteria for determining the incentives; and
- (5) The application process.

(c) A child care provider shall submit a completed application form and supporting documentation as prescribed by the department. The application shall:

- (1) Be submitted within the time frame indicated in the notice;
- (2) Be signed and dated by the child care provider or, if the child care program is a corporation, by an authorized representative;
- (3) Indicate the number of children currently enrolled; and
- (4) Indicate the expected date of beginning child care when the program is newly created.

(d) The department shall review the application form for completeness, and determine eligibility.

(e) The department shall issue a notice that indicates whether the child care provider is eligible for the time-limited incentive payment.

(f) Eligibility determination for applicants that indicate that they plan to open a new child care program will be based on the confirmation that the number of enrolled children has increased. If the child care provider does not begin their child care operation by the date indicated in paragraph (c) (4) above, the application for the time-limited incentive payment may be deemed ineligible.

(g) A child care provider that has been deemed ineligible for a time-limited incentive payment may request a review of the decision with the department's Benefit, Employment and Support Services Division. Requests for review must be submitted in writing within thirty days of the date of the notice of ineligibility. A decision under this subsection shall be final and conclusive.

(h) The department shall issue a time-limited incentive payment to an eligible child care provider:

- (1) Only upon confirmation that the child care provider met the criteria; and

§17-798.2-46

- (2) By calculating the dollar amount specified in the notice and multiplying it by the number of children confirmed to meet the criteria. [Eff 03/08/08] (Auth: HRS §346-14) (Imp: HRS §346-14, 45 C.F.R. §§98.1 to 98.93)

§17-798.2-47 Termination of incentive payments for insufficient funds. The department may, at its discretion, refuse to take new applications, reduce incentive payments, or terminate incentive payments when there are insufficient funds to pay the incentive payments at current amounts through the end of the state fiscal year. [Eff 03/08/08] (Auth: HRS §346-14) (Imp: HRS §346-14, 45 C.F.R. §§98.1 to 98.93)

CHILD CARE RATE TABLE

Center-Based	97+ Monthly Hours	61-96 Monthly Hours	25-60 Monthly Hours	1-24 Monthly Hours
Infant/Toddler Care	\$1,395	\$1,243	\$777	\$311
NAEYC Accredited* or NECPA Accredited	97+ Monthly Hours	61-96 Monthly Hours	25-60 Monthly Hours	1-24 Monthly Hours
Center-Based Care	\$710	\$632	\$395	\$158
Licensed Center-Based** or Group Child Care Home	97+ Monthly Hours	61-96 Monthly Hours	25-60 Monthly Hours	1-24 Monthly Hours
Licensed Family Child Care Home	\$675	\$601	\$376	\$150
Licensed Family Child Care Home	97+ Monthly Hours	61-96 Monthly Hours	25-60 Monthly Hours	1-24 Monthly Hours
Infant/Toddler Care	\$650	\$579	\$362	\$145
Licensed Family Child Care Home**	97+ Monthly Hours	61-96 Monthly Hours	25-60 Monthly Hours	1-24 Monthly Hours
Infant/Toddler Care	\$600	\$534	\$334	\$134
License-Exempt Relative and Non-Relative	97+ Monthly Hours	61-96 Monthly Hours	25-60 Monthly Hours	1-24 Monthly Hours
Infant/Toddler Care	\$500	\$445	\$278	\$111
License-Exempt Relative, Non-Relative, and Group Care**	97+ Monthly Hours	61-96 Monthly Hours	25-60 Monthly Hours	1-24 Monthly Hours
Group Care**	\$450	\$401	\$251	\$100
Licensed	45+ Monthly Hours	30-44 Monthly Hours	15-29 Monthly Hours	1-14 Monthly Hours
Before School Care/ After School Care	\$155	\$136	\$90	\$43
License-Exempt	45+ Monthly Hours	30-44 Monthly Hours	15-29 Monthly Hours	1-14 Monthly Hours
Before School Care/ After School Care	\$60	\$53	\$35	\$17

* NAEYC refers to National Association for the Education of Young Children. NECPA refers to National Early Childhood Program Accreditation

**Summer and Inter-session care rates are the same as the rates listed here.

All Rates include an estimate of travel time.

Rates are retroactively effective August 1, 2007

Department of Human Services
Benefit, Employment and Support Services Division
August 1, 2007

EXHIBIT I

PROFESSIONAL DEVELOPMENT STANDARDS
LEVEL I

Professional Developmental Benchmarks - No. of teachers and credits in Early Childhood Education (ECE) or Child Development (CD)			
No. of Children Licensed to Serve	Year 2006 - 2008	Year 2009-2012	Year 2013-2015
1 - 50	1 Teacher with either an Associate's Degree + 16 ECE/CD credits or a Bachelor's Degree + 12 ECE/CD credits	1 Teacher with either an Associate's Degree + 21 ECE/CD credits or a Bachelor's Degree + 16 ECE/CD credits	1 Teacher with either an Associate's Degree + 30 ECE/CD credits or a Bachelor's Degree + 20 ECE/CD credits
51 - 100	2 Teachers with either an Associate's Degree + 16 ECE/CD credits or a Bachelor's Degree + 12 ECE/CD credits	2 Teachers with either an Associate's Degree + 21 ECE/CD credits or a Bachelor's Degree + 16 ECE/CD credits	2 Teachers with either an Associate's Degree + 30 ECE/CD credits or a Bachelor's Degree + 20 ECE/CD credits
101+	For every increment of 50 children above 100, require an additional Teacher with either an Associate's Degree + 16 ECE/CD credits or a Bachelor's Degree + 12 ECE/CD credits	For every increment of 50 children above 100, require an additional Teacher with either an Associate's Degree + 21 ECE/CD credits or a Bachelor's Degree + 16 ECE/CD credits	For every increment of 50 children above 100, require an additional Teacher with either an Associate's Degree + 30 ECE/CD credits or a Bachelor's Degree + 20 ECE/CD credits
Note: The additional ECE/CD credits that are required can be included as part of the Associate's or Bachelor's Degree received.			

Department of Human Services
Benefit, Employment and Support Services Division
January 1, 2006

EXHIBIT II

PROFESSIONAL DEVELOPMENT STANDARDS LEVEL II			
Professional Developmental Benchmarks - No. of teachers and credits in Early Childhood Education (ECE) or Child Development (CD)			
No. of Children Licensed to Serve	Year 2006 - 2008	Year 2009-2012	Year 2013-2015
1 - 50	1 Teacher with a Child Development Associate (CDA) that has either 16 ECE/CD credits or 180 hours of community-based training	1 Teacher with a CDA that has either 21 ECE/CD credits or 270 hours of community-based training	1 Teacher with a CDA that has either 30 ECE/CD credits or 360 hours of community-based training
51 - 100	2 Teachers with a CDA that have either 16 ECE/CD credits or 180 hours of community-based training	2 Teachers with a CDA that have either 21 ECE/CD credits or 270 hours of community-based training	2 Teachers with a CDA that have either 30 ECE/CD credits or 360 hours of community-based training
101+	For every increment of 50 children above 100, require an additional Teacher with a CDA that has either 16 ECE/CD credits or 180 hours of community-based training	For every increment of 50 children above 100, require an additional Teacher with a CDA that has either 21 ECE/CD credits or 270 hours of community-based training	For every increment of 50 children above 100, require an additional Teacher with a CDA that has either 30 ECE/CD credits or 360 hours of community-based training
Note: The additional ECE/CD credits that are required can be included as part of the CDA received.			

Department of Human Services
Benefit, Employment and Support Services Division
January 1, 2006

EXHIBIT II