

## **NOTICE OF PROPOSED RULEMAKING**

CHAPTER 414

OREGON DEPARTMENT OF EDUCATION, EARLY LEARNING DIVISION

FILING CAPTION: Repeals OAR Chapter 414 Division 150 and Chapter 414 Division 400.

LAST DAY AND TIME TO OFFER COMMENT TO AGENCY: 04/23/2018 5:00 PM

### **NEED FOR THE RULE(S):**

Repeals OAR Chapter 414 Division 150 and Chapter 414 Division 400 as the programs were transferred to the Department of Human Services.

### **DOCUMENTS RELIED UPON, AND WHERE THEY ARE AVAILABLE:**

none

### **FISCAL AND ECONOMIC IMPACT:**

No fiscal impact

### **COST OF COMPLIANCE:**

(1) Identify any state agencies, units of local government, and members of the public likely to be economically affected by the rule(s). (2) Effect on Small Businesses: (a) Estimate the number and type of small businesses subject to the rule(s); (b) Describe the expected reporting, recordkeeping and administrative activities and cost required to comply with the rule(s); (c) Estimate the cost of professional services, equipment supplies, labor and increased administration required to comply with the rule(s).

none

### **DESCRIBE HOW SMALL BUSINESSES WERE INVOLVED IN THE DEVELOPMENT OF THESE RULE(S):**

Rules are proposed to be repealed.

WAS AN ADMINISTRATIVE RULE ADVISORY COMMITTEE CONSULTED? NO IF NOT, WHY NOT? Rules are proposed to be repealed.

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### **RULES PROPOSED:**

414-150-0050, 414-150-0055, 414-150-0060, 414-150-0070, 414-150-0110, 414-150-0120, 414-150-

0130, 414-150-0140, 414-150-0150, 414-150-0160, 414-150-0170, 414-400-0000, 414-400-0010, 414-400-0020, 414-400-0031, 414-400-0040, 414-400-0050, 414-400-0060, 414-400-0080, 414-400-0090, 414-400-0095, 414-400-0100

REPEAL: 414-150-0050

RULE TITLE: Purpose

RULE SUMMARY: This program was transferred to the Department of Human Services.

RULE TEXT:

(1) The purpose of these rules is to set forth standards to be followed when entering into contracts with programs to provide child care services to Special Population clients.

(2) These rules implement elements of federal Child Care and Development (CCDF) State Plan for funds received under the federal Child Care and Development Block Grant Act of 2014, and Chapter 45, Code of Federal Regulations, Parts 98 and 99.

[Publications: Publications referenced are available from the agency.]

STATUTORY/OTHER AUTHORITY: ORS 329A

STATUTES/OTHER IMPLEMENTED: ORS 329.A.010

REPEAL: 414-150-0055

RULE TITLE: Definitions

RULE SUMMARY: This program was transferred to the Department of Human Services.

RULE TEXT:

- (1) "Administrator" means the Administrator of the Child Care and Development Fund for the Department of Education, Early Learning Division.
- (2) "Alcohol and Drug Treatment Program" means a program that provides services to the eligible child whose parent(s) is in a program for the treatment of alcohol or drug/substance abuse.
- (3) "CCDF" means federal Child Care and Development Fund which is the federal funding awarded to the Department of Education under the Child Care and Development Block Grant.
- (4) "CCDF Grant Plan" means the Oregon Plan approved by the Department of Health and Human Services for child care and related programs funded by the Block Grant.
- (5) "CCR&R" means Child Care Resource and Referral Agency.
- (6) "Department" means the State of Oregon. Department of Education, which is the lead agency for the Child Care and Development Fund.
- (7) "Early Learning Division" is the division of the Department that administers funding and contracts under the federal Child Care and Development Fund.
- (8) "Early Learning Hub" means the local coordinating body for early learning services contracted by the Early Learning Division.
- (9) "Employment Related Day Care" means the program administered by the Department of Human Services that provides child care services to low-income working families.
- (10) "Office of Child Care" means a unit of the Early Learning Division that regulates child care facilities and provides contract administration services to low-income working families.
- (11) "Parent" means parent, custodian or guardian who exercises care and custody of a child.
- (12) "Program" means community or school-based teen parent education program, or licensed women-specific alcohol and drug treatment program.
- (13) "Provider" means a person or program responsible for direct child care, supervision of children, and guidance of children in approved child care setting.
- (14) "Special Needs Child" means a child under the age of 18 who requires a level of care over and above the norm for his/her age due to a physical, developmental, behavioral, mental or medical disability.

(15) “Special Populations” means families considered:

(a) To be at high risk of instability;

(b) Have high needs for child care services;

(c) Have very low incomes; and

(d) Are not eligible for child care subsidy from the Department of Human Services under either the Employment Related Day Care or TANF JOBS programs.

(16) “TANF JOBS program recipient” means a family receiving services through the Temporary Assistance to Needy Families program administered by the Department of Human Services and is receiving child care services under the Jobs Opportunity and Basic Skills (JOBS) program.

(17) “Teen Parent” means a parenting or pregnant adolescent age 21 and under who is attending high school or participating in an approved high school completion program.

STATUTORY/OTHER AUTHORITY: ORS 657A

STATUTES/OTHER IMPLEMENTED: ORS 657A.010

REPEAL: 414-150-0060

RULE TITLE: Program Administration and Funding Allocations

RULE SUMMARY: This program was transferred to the Department of Human Services.

RULE TEXT:

(1) The Department of Education, Early Learning Division, is the designated state agency responsible for administration of the Child Care and Development Fund.

(2) The division Administrator is responsible for coordination of CCDF-funded programs in Oregon and for the administration of child care services for Special Populations described by these rules.

(3) Federal funds for the Special Populations child care services program are contracted by the Administrator to state-licensed or state-approved alcohol and drug treatment programs, to school districts for school-based programs, and to local non-profits or counties for community-based programs.

(4) After annual federal appropriations for the Child Care and Development Fund are awarded to the state, the Administrator allocates funds to contractors in paragraph (3) of this rule and forwards this information to the local Early Learning Hubs.

(5) The Early Learning Division shall have final responsibility for developing a contract with recommended programs as outlined in OAR 414-150-0120.

STATUTORY/OTHER AUTHORITY: ORS 329A

STATUTES/OTHER IMPLEMENTED: ORS 329A.010

REPEAL: 414-150-0070

RULE TITLE: Overview of and Eligibility for Special Populations Child Care Services

RULE SUMMARY: This program was transferred to the Department of Human Services.

RULE TEXT:

(1) The Special Populations Child Care Services Program is established for specific low-income populations having demonstrable need for child care services.

(2) Special Populations eligible for services include Teen Parent(s) and parent(s) receiving treatment for alcohol or drug abuse.

(3) Teen Parents. To be eligible for services, the Teen Parent:

(a) Must be attending high school or participating in an approved high school completion program sponsored by a local school district, community college, community-based non-profit, or certified private school, and the parent requires child care in order to attend and complete a program leading to a GED or high school diploma;

(b) Must be attending a school-based or approved high school completion program that meets program standards approved by the Department of Education under ORS 329A.385.

(c) Must enroll eligible child(ren) in child care services provided by a facility certified or registered by the Office of Child Care, which is located on the same campus as the teen parent/child development program the teen parent is attending.

(4) Parents receiving treatment for alcohol or drug abuse. To be eligible, the parent:

(a) Must be enrolled in and have a diagnosis for treatment with a state-licensed or state-approved alcohol or drug abuse treatment program in order to receive subsidized child care services.

(b) Child care services must be provided at the facility site where the parent is undergoing supervised treatment and counseling for substance abuse, or at a nearby facility under supervision of a state licensed or state-approved treatment program.

(5) Child Care Services. For child care services, the following standards apply:

(a) The child receiving services must meet the following conditions:

(A) Be under 13 years of age or a child with Special Needs under 18 years of age.

(B) Be a U.S. citizen or have legal immigration status.

(b) Parental income must be at or below 185 percent of the Federal Poverty Level as published in the most recent Federal Register.

(c) The child being placed for services is residing with a parent or parents who are either participating

in an approved education program or participating in an alcohol or drug treatment program;

(d) The parent making the application for services must reside in Oregon;

(e) The determination of income shall be based on a review of all parental income for the preceding 30 calendar days prior to application for child care services.

(f) Review and calculation of income for the Teen Parent shall be limited to the Teen Parent income only and not include income received by other members of the same household.

(g) For the purpose of the child care subsidy, all Teen Parents are considered single parents regardless of marital status. Family size and income will be limited to the Teen Parent and their child(ren).

(h) Parents eligible for child care services through the TANF JOBS program must access that program for services and do not qualify for the Special Populations child care services program.

STATUTORY/OTHER AUTHORITY: ORS 329A

STATUTES/OTHER IMPLEMENTED: ORS 329A.010

REPEAL: 414-150-0110

RULE TITLE: Application for Services

RULE SUMMARY: This program was transferred to the Department of Human Services.

RULE TEXT:

(1) Families that qualify under Special Populations criteria and eligibility standards of this rule shall make application for child care services directly through a contracting program. Application must be made on an Office of Child Care approved form and signed by both applying parent and program staff. In completing application, the parent shall be required to declare, and provide verification as required, information on:

(a) Parents and dependent members of the household;

(b) U.S. citizenship or legal immigration status of children who are to receive subsidized child care;

(c) Place of residence;

(d) Employment status of parents;

(e) Participation in job training, substance abuse treatment, or enrollment in school programs; and

(f) Parent income.

(2) The Administrator shall send notification regarding contracted programs to CCR&R agencies located throughout the state. Parents seeking assistance may contact local resource and referral agencies for information on programs having a child care services contract.

(3) Child care availability for Special Populations is limited in all regions of the state, and shall, therefore, be assigned to parents on a first-come, first-served basis. The parent signature date on the application form will be used as the basis for determining priority of access to services.

(4) Eligibility for continuing child care services shall be subject to redetermination by the program:

(a) At the end of every 12-month service period; or

(b) Whenever a change of circumstances occurs that may affect a parent's eligibility status. Parents are responsible for notifying the program of changes; or

(c) At the beginning of each school year for Teen Parent participants.

STATUTORY/OTHER AUTHORITY: ORS 329A

STATUTES/OTHER IMPLEMENTED: ORS 329A.010



REPEAL: 414-150-0120

RULE TITLE: Service Standards

RULE SUMMARY: This program was transferred to the Department of Human Services.

RULE TEXT:

(1) Prior to accepting a child for care under these rules, the program shall sign a contract with the Early Learning Division. The contract shall include, but is not limited to, the following provisions:

- (a) Term of the contract;
- (b) Description of services;
- (c) Facility and service standards;
- (d) Program responsibilities;
- (e) Payment for services; and
- (f) Compliance with appropriate state and federal regulations.

(2) A program or a provider certified by the Office of Child Care for operation of a child care center shall be in compliance with the standards defined in OAR 414-300-0000 through 414-300-0410.

(3) A program or provider certified by the Office of Child Care for operation of a certified family child care home shall be in compliance with the standards defined in OAR 414-350-0000 through 414-350-0400.

(4) A family child care provider registered with the Office of Child Care shall be in compliance with the standards defined in OAR 414-205-0000 through 414-205-0170.

(5) If a program or a provider is operating a child care facility that is specifically excluded by Oregon law from state certification or registration requirements under ORS 329A.250 to 329A.290, the standards for service shall be defined by the Office of Child Care in contract. The Office of Child Care may require information regarding the status of certification or registration. The Department requires a criminal record check and enrollment of all providers and caregivers in the Office of Child Care, Central Background Registry.

STATUTORY/OTHER AUTHORITY: ORS 329A State Implemented: ORS 329A.010

STATUTES/OTHER IMPLEMENTED:

REPEAL: 414-150-0130

RULE TITLE: Payment for Services

RULE SUMMARY: This program was transferred to the Department of Human Services.

RULE TEXT:

- (1) The maximum rates the Early Learning Division pays for the Special Populations Child Care Program are determined by the most recent Department of Human Services market price survey and shall be stated in the contract.
- (2) Payment for child care services shall be made by the Department directly to the program of behalf of the client after services for the month have been rendered.
- (3) To receive payment, the program shall submit an invoice to the Department on a form approved by the Early Learning Division.
- (4) The program shall be responsible for collection of any copayments from the parent. Copayment will be determined from the Department of Human Services Employment Related Day Care Copayment Standard established in OAR 461-155-0150.

STATUTORY/OTHER AUTHORITY: ORS 329A

STATUTES/OTHER IMPLEMENTED: ORS 329A.010

REPEAL: 414-150-0140

RULE TITLE: Limits on Disclosure

RULE SUMMARY: This program was transferred to the Department of Human Services.

RULE TEXT:

(1) No employee or volunteer of the Early Learning Division, or other agency, may disclose information about clients except as provided by Oregon Revised Statutes 192.410 to 192.505, or at the direction of a court of competent jurisdiction, or upon advice of the Attorney General.

(2) The Early Learning Division may disclose information in order to administer its programs and provide services when it is in the best interest of the applicant's family, unless specifically forbidden by statutes, these rules or by court order. Reasons for disclosure include, but are not limited to, providing information to a social service agency, or service provider for the purpose of arranging appropriate child care services for the applicant's family.

STATUTORY/OTHER AUTHORITY: ORS 329A

STATUTES/OTHER IMPLEMENTED: ORS 329A.010

REPEAL: 414-150-0150

RULE TITLE: Exception

RULE SUMMARY: This program was transferred to the Department of Human Services.

RULE TEXT:

- (1) Specific exception to any section of these rules may be granted for good and just cause by the Early Learning Division.
- (2) The exception must be requested in writing to the Early Learning Division and show how the intent of the rule(s) will be met. All exceptions will remain on file.
- (3) No exception will be granted which may jeopardize the health, safety, and well-being of any child in care.
- (4) The granting of an exception shall not constitute a precedent for any other care provider or client family.

STATUTORY/OTHER AUTHORITY: ORS 329A

STATUTES/OTHER IMPLEMENTED: ORS 329A.010

REPEAL: 414-150-0160

RULE TITLE: Parent Complaints

RULE SUMMARY: This program was transferred to the Department of Human Services.

RULE TEXT:

(1) All Contractors for the Special Populations child care services program shall establish a process through which families may present a grievance or complaint regarding child care services.

(2) Records of all complaints shall be maintained and the Early Learning Division must be notified in writing of all grievance and complaints within ten (10) working days of receipt.

STATUTORY/OTHER AUTHORITY: ORS 329A

STATUTES/OTHER IMPLEMENTED: ORS 329A.010

REPEAL: 414-150-0170

RULE TITLE: Mandatory Reporter

RULE SUMMARY: This program was transferred to the Department of Human Services.

RULE TEXT:

As required by Oregon Revised Statutes (ORS) 419B.005 through 419B.050, contractor must immediately inform either the local office of the Department of Human Services or a law enforcement agency when they have reasonable cause to believe any child with whom the contractor comes in contact has suffered abuse, or any person with whom the contractor comes in contact has abused a child. Oregon Law recognizes child abuse to be physical injury; neglect or maltreatment; sexual abuse and sexual exploitation; threat of harm; mental injury; and child selling. Report must be made immediately upon awareness of the incident.

STATUTORY/OTHER AUTHORITY: ORS 329A

STATUTES/OTHER IMPLEMENTED: ORS 329A.010

REPEAL: 414-400-0000

RULE TITLE: Purpose

RULE SUMMARY: This program was transferred to the Department of Human Services.

RULE TEXT:

The purpose of these rules is to define key terms, describe eligibility criteria, and rate payment policies related to Early Learning Division (ELD) Migrant and Seasonal Child Care Program. Expenditures by ELD under these rules are subject to availability of state and federal funds, as applicable, and are subject to immediate curtailment by ELD if the necessary state or federal authorizations or funding are curtailed.

STATUTORY/OTHER AUTHORITY: ORS 657A

STATUTES/OTHER IMPLEMENTED: ORS 657A.010

REPEAL: 414-400-0010

RULE TITLE: Definitions

RULE SUMMARY: This program was transferred to the Department of Human Services.

RULE TEXT:

(1) “Agricultural Labor” means:

(a) Any activity related to crop production, including soil preparation, planting, cultivating, crop protection or harvesting, preparing crops for market, irrigation work, operating farm machinery, or general farm work; or

(b) Any activity directly related to the processing of crops, including freezing, canning and drying; or

(c) Any activity directly related to the cultivation of trees and shrubs, or tree farming including wreath making.

(d) Labor that does not fall under “Agricultural Labor” includes, but is not limited to: landscaping, fishing, reforestation, and animal husbandry.

(2) “Authorized Absence” means the temporary absence from the facility by a child who is expected to return to care.

(3) “Available to care for children” means not working, attending or enrolled in school, and being physically and emotionally capable of caring for children.

(4) “Contractor” means the non-profit or other type of organization that does outreach to and performs administrative functions for Migrant and Seasonal farmworkers families seeking child care financial assistance.

(5) “Early Learning Division (ELD) Special Populations” means the child care subsidy program administered by the Oregon Department of Education, Early Learning Division.

(6) “Employment Related Day Care (ERDC)” means the child care subsidy program administered by the Oregon Department of Human Services.

(7) “Migrant Family” means:

(a) A family who is employed in farm labor as defined in “Agricultural Labor;” and

(b) An entire family that moves their residence for the purpose of employment in Agricultural Labor, and the move or moves result in either:

(A) An absence of at least two months from the geographical service area, or

(B) A cumulative total of at least 150 miles.



(8) “Seasonal Family” is a family:

(a) Whose wage earners make their living from agricultural labor on a seasonal basis in the same area as their residence; and

(b) That has fit the definition of a “Migrant family” within the last 36 months; and

(c) That has settled, or is in the process of settling, from migrant status, and

(d) Is not employed in agricultural labor year round by the same employer.

STATUTORY/OTHER AUTHORITY: ORS 329A

STATUTES/OTHER IMPLEMENTED: ORS 329A.010

REPEAL: 414-400-0020

RULE TITLE: Eligibility Criteria

RULE SUMMARY: This program was transferred to the Department of Human Services.

RULE TEXT:

(1) Migrant family eligibility criteria include:

(a) The Migrant family wage earners make their living doing farm labor as defined in “Agricultural Labor”; and

(b) Are residing in Oregon; and

(c) The parents are working in, or reporting for, agricultural labor in Oregon which they expect to be available at the time of reporting; and

(d) At least 50 percent of the family income for the preceding 12 months was earned from agricultural labor; and

(e) The family earns 185 percent or less of the current Federal Poverty Level; and

(f) The entire family moves their residence at least once in twelve months for the purpose of employment in agricultural labor; and

(g) There is no capable family member in the household who is 18 years of age or older available to provide child care.

(2) Seasonal Family eligibility criteria includes:

(a) The seasonal wage earners make their living doing agricultural labor; and

(b) Are residing in Oregon; and

(c) At least one parent is currently working in agricultural labor; and

(d) At least 50 percent of the family income for the preceding 12 months was earned from such work; and

(e) The family earns 185 percent or less of the current Federal Poverty Level; and

(f) At the time of application as a Seasonal Family, has fit the definition of a Migrant Family within the last 36 months; and

(g) There is no capable family member in the household who is 18 years of age or older available to provide child care.

STATUTORY/OTHER AUTHORITY: ORS 329A

STATUTES/OTHER IMPLEMENTED: ORS 329A.010

REPEAL: 414-400-0031

RULE TITLE: Eligibility Verification

RULE SUMMARY: This program was transferred to the Department of Human Services.

RULE TEXT:

(1) To accommodate the immediate need for child care by Migrant Families and to be eligible for ELD subsidized child care benefits, Migrant Family clients must do all of the following:

(a) Apply for the ELD Special Populations subsidy program using forms provided by the ELD and document: Applicant's family size and membership, current and previous places of residence, employment history and family income for the past 12 months. The income that determines family co-pay shall be for the 12 full months just prior to application, or for the most recent tax year, and shall be for all wage earners age 18 and above in the family membership.

(b) An ELD subsidy program application shall be completed or updated, and eligibility factors must be verified by the Contractor for all of the following: Contractor's intake staff must ask for and review documents that verify income, employment, entire family movement and current residence in Oregon.

(c) Contractor files must contain copies of documents or a record verifying documents were viewed.

(d) The ELD may verify any factors affecting eligibility or benefit when they are considered questionable.

(e) If reported information or information on the application is questionable or if it is inconsistent, the following conditions may apply:

(A) ELD may deny an application, or

(B) Immediately end ongoing benefits to the Migrant Family when acceptable verification is not provided, or if inconsistencies cannot be resolved; and

(C) Require the Contractor to reimburse the ELD for a portion or all of the subsidies that were paid for child care that were paid in error.

(f) A Migrant Family will be notified by the Contractor in writing at least ten business days prior to the end of the 12 months' eligibility or if funds are no longer available.

(g) Verification provided for one federal program may be used as verification for all ELD programs in which the Migrant Family participates.

(2) To be eligible for the ELD subsidy program, Seasonal Families must do all of the following:

(a) Apply for the Department of Human Services ERDC program and follow all eligibility, determination, and copayment rules.

(b) If applicant does not qualify for or is put on the reservation list for the ERDC program, the

Seasonal Family may apply for the ELD Special Populations subsidy program. On forms provided by the ELD, applicant will document:

(A) Applicant's family size and membership, current and previous places of residence, employment history and family income for the past 12 months; and

(B) Verification of the family qualifying for Migrant Family status within the past 36 months at time of application.

(c) The income that determines family co-pay shall be for the 12 full months just prior to application, or for the most recent tax year, and shall be for all wage earners age 18 and above in the family membership group.

(d) An application shall be completed or updated and eligibility factors must be verified by the Contractor for all of the following:

(A) Contractor intake staff must ask for and review documents that verify income, employment, and current residence in Oregon; and

(B) Contractor files must contain copies of documents or a record verifying documents were viewed.

(e) The ELD may verify any factors affecting eligibility or benefit when they are considered questionable.

(f) If reported information or information on the application is questionable or if it is inconsistent, the following conditions may apply:

(A) The Early Learning Division may deny an application, or

(B) Immediately end ongoing benefits to the Seasonal Family when acceptable verification is not provided or if inconsistencies cannot be resolved, or

(C) Require the Contractor to reimburse the ELD for a portion or all of benefits that have been paid for child care that has been paid in error.

(g) A Seasonal Family will be notified by the Contractor in writing at least ten days prior to the end of the 12 month eligibility, or if funds are no longer available.

(h) Verification provided for one program may be used as verification for all Early Learning Division programs in which the client participates.

STATUTORY/OTHER AUTHORITY: ORS 329A

STATUTES/OTHER IMPLEMENTED: ORS 329A.010

REPEAL: 414-400-0040

RULE TITLE: Payment Process

RULE SUMMARY: This program was transferred to the Department of Human Services.

RULE TEXT:

Early Learning Division payment is subject to CCD established eligibility conditions described in these rules.

- (1) ELD will pay only for child care authorized by the ELD.
- (2) Payment is made to providers who are registered or certified and hold a valid child care subsidy contract with the ELD.
- (3) If a child is in child care when the service plan is made, payment shall be made only from the date the service is authorized.
- (4) ELD will make payments for temporary absence if required by the provider, subject to the following requirements and limits:
  - (a) The provider must use the same policy for both ELD and non-ELD child care subsidy families;
  - (b) The child must be expected to continue in child care with the same provider after the absence;
  - (c) ELD will make payment for actual absence(s) not to exceed a total of five (5) working days in any calendar month, not to exceed 40 hours of authorized absences per month; and
  - (d) Absence days, or portions thereof, will include on the time(s) for which child care has been authorized by ELD.

STATUTORY/OTHER AUTHORITY: ORS 329A

STATUTES/OTHER IMPLEMENTED: ORS 329A.010

REPEAL: 414-400-0050

RULE TITLE: Billing Method

RULE SUMMARY: This program was transferred to the Department of Human Services.

RULE TEXT:

- (1) ELD payments for child care are made by check to the Contractor or provider on the behalf of the client after all care for the month has been given.
- (2) The invoice is to be submitted by the Contractor or provider on forms approved by the ELD.
- (3) Registered and Certified family child care and Certified Center providers must bill at an hourly rate not to exceed the total authorized.

STATUTORY/OTHER AUTHORITY: ORS 329A

STATUTES/OTHER IMPLEMENTED: ORS 329A.010

REPEAL: 414-400-0060

RULE TITLE: Determining Child Care Rates for Payment

RULE SUMMARY: This program was transferred to the Department of Human Services.

RULE TEXT:

- (1) The maximum rates the ELD pays for Migrant and Seasonal child care are determined by the most recent Oregon Department of Human Services (DHS) market rate survey and will be furnished upon request.
- (2) ELD will pay the provider's rates within the (DHS) maximums as specified in the provider contract with ELD.
- (3) Rates charged to ELD for child care services may not exceed rates charged for comparable services to non-subsidy children.
- (4) The provider shall not ask the family for, or accept directly or indirectly, any additional payment for care provided to an ELD subsidy eligible family other than those in section (2) of this rule.
- (5) Families are subject to copayments according to DHS copayment standards:
  - (a) During the first month, or part thereof, of child care, all Migrant and Seasonal Families will be charged the minimum copayment.
  - (b) When all children in a family receive three or fewer hours a day of children, the minimum copayment will apply.
  - (c) For the ELD subsidy program, the copayment for each Seasonal Family will be determined based on 50 percent of the DHS copayment for the family size and monthly income. Monthly income shall be determined by dividing the annual family income by 12.
  - (d) The family shall be informed of their copayment when they apply and their copayment shall be included in writing on the client application.
  - (e) The Contractor is responsible to collect the copayment.
  - (f) The Contractor may choose not to collect the copayment from the family, but the copayment must be deducted from the amount billed to the ELD before ELD is billed.
- (6) Copayment Subsidies: For Seasonal Families that have been determined eligible for the ERDC program, the ELD Special Populations program will reimburse the Contractor for 50 percent of the copayment required to be paid by the family to receive the ERDC child care subsidy.
  - (a) Contractor will invoice the ELD monthly for the copayment reimbursement, and will provide documentation that show the required payment for the Seasonal family.
  - (b) The subsidized copayment amount will be disbursed by the ELD directly to the child care provider



or to the Contractor for payment to the child care provider.

(c) ELD subsidized copayments are meant to ease the financial burden on Seasonal Families seeking child care subsidy. Neither the Contractor nor the child care provider shall charge an applicant family any fees or copayments that have already been paid on behalf of the applicant family to the provider by ELD.

(7) In-home Care. Minimum wage for care in a child's own home is governed by the state minimum wage law. It may not be negotiated to a lower rate. Overtime at one-and-one-half times the regular rate must be paid for all hours worked in excess of 40 hours in a work week (seven sequential days). Overtime shall not be paid to a provider who lives in the child's home.

STATUTORY/OTHER AUTHORITY: ORS 329A

STATUTES/OTHER IMPLEMENTED: ORS 329A.010

REPEAL: 414-400-0080

RULE TITLE: Exception

RULE SUMMARY: This program was transferred to the Department of Human Services.

RULE TEXT:

(1) Specific exception to any section of these rules may be granted for good and just cause by the Child Care Division. The exception must be requested in writing, and show how the intent of the rule will be met to the Early Learning Division.

(2) No exception will be granted which may jeopardize the health, safety, and well-being of any child in care.

(3) All exceptions must be submitted in writing to the Child Care Division, and remain there on file. The granting of an exception shall not constitute a precedent for any other provider or client.

STATUTORY/OTHER AUTHORITY: ORS 329A

STATUTES/OTHER IMPLEMENTED: ORS 329A.010

REPEAL: 414-400-0090

RULE TITLE: Parent Complaints

RULE SUMMARY: This program was transferred to the Department of Human Services.

RULE TEXT:

(1) All Contractors for the Migrant and Seasonal Farmworker child care services program shall establish a process by which families may present a grievance or complaint regarding child care services.

(2) Records of all complaints shall be maintained and the ELD must be notified in writing of all grievance and complaints within ten (10) working days of receipt by the Contractor.

STATUTORY/OTHER AUTHORITY: ORS 329A

STATUTES/OTHER IMPLEMENTED: ORS 329A.010

REPEAL: 414-400-0095

RULE TITLE: Mandatory Reporter

RULE SUMMARY: This program was transferred to the Department of Human Services.

RULE TEXT:

As required by Oregon Revised Statutes (ORS) 419B.005 through 419B.050, Contractor must immediately inform either the local office of the Department of Human Services (DHS) or a law enforcement agency when they have reasonable cause to believe any child with whom the Contractor comes in contact has suffered abuse, or any person with whom the Contractor comes in contact has abused a child. Oregon Law recognizes child abuse to be physical injury; neglect or maltreatment; sexual abuse and sexual exploitation; threat of harm; mental injury; and child selling. Report must be made immediately upon awareness of the incident.

STATUTORY/OTHER AUTHORITY: ORS 329A

STATUTES/OTHER IMPLEMENTED: ORS 329A.010

REPEAL: 414-400-0100

RULE TITLE: Limits on Disclosure

RULE SUMMARY: This program was transferred to the Department of Human Services.

RULE TEXT:

(1) No employee or volunteer of the ELD, or other agency, may disclose information about clients except as stated in OAR 412-001-0100 through 412-001-0170, or at the direction of a court of competent jurisdiction, or upon advice of the Attorney General.

(2) The ELD may disclose information in order to administer its programs and provide services when it is in the best interest of the applicant's family, unless specifically forbidden by statutes, these rules or by court order. Reasons for disclosure include, but are not limited to, providing information to: A social service agency, service provider or agency of State Office for Children and Families for the purpose of arranging appropriate child care services for the applicant's family.

STATUTORY/OTHER AUTHORITY: ORS 329A

STATUTES/OTHER IMPLEMENTED: ORS 329A.010

