

Par.1. Material Transmitted and Purpose – Transmitted with this Manual Letter is new Service Chapter 400-28 – Child Care Assistance Program (CCAP). This new manual includes new policies as well as clarification to some of the current policy. This manual letter is effective October 1, 2011.

This Manual Letter replaces Service Chapter 400-26 and incorporates changes made with the following IM's:

- IM 5030 Economic Stimulus Tax Rebates
- IM 5032 Child Support, and Third and Fifth Checks
- IM 5038 Mothers on Maternity Leave
- IM 5048 Census Income
- IM 5055 Post Secondary for Child Care Assistance
- IM 5059 Self-Employment Income Tax Guidelines
- IM 5063 New Source Income in IIM Accounts
- IM 5072 (including Revised and 2nd Revised) Child Care Assistance Category Rate Changes
- IM 5089 and Amended IM 5089 2009 Self-Employment Income Tax Guidelines
- IM 5090 Applications and Recertification's Filed with No Address
- IM 5093 and Revised IM 5093 Questions and Answers for Child Care Assistance
- IM 5103 Child Care Assistance Verification of Citizenship and Age
- IM 5111 2010 Self-Employment Income Tax Guidelines
- IM 5112 Tax Refunds
- IM 5121 Electronic Correspondence
- IM 5126 and Amended IM 5126 Disaster Unemployment Insurance Benefits
- IM 5127 Allowable Activities, Allowable Education or Training and Transition Assistance

Par. 2. The following information describes the new policies that are effective when determining eligibility and benefits for the payment month of October 2011. The new policy must be applied to:

- New Applications with a Certificate start date of October 1, 2011 or later;
- Reviews due in September 2011 or later, where the Certificate start date is October 1, 2011;
- For ongoing cases, when a Certificate is updated with a Certificate start date of October 1, 2011 or later.

Copies of the sections with the new policy are included below and underlined.

1. Added new policy to define payment of child care expenses when one caretaker in a two caretaker household is disabled.

Disability of a Caretaker 400-28-35-15

In a household with two caretakers, child care can be allowed when one of the caretakers is in an allowable activity and the other caretaker is disabled and the disabled caretaker is unable to care for the child(ren). Verification from the disabled caretaker's physician must be obtained indicating the disabled caretaker cannot care for the child(ren).

The individual has to be deemed disabled by the Social Security Administration. Presumptive SSI does not meet this criteria.

2. Added new policy to define processing eligibility for children where parents have joint custody.

Joint Custody 400-28-35-25

If the parents have joint custody, each parent may apply for child care on their own behalf for the period during which the child(ren) reside with them and the related costs incurred.

If a caretaker eligible for the Child Care Assistance Program (CCAP) has custody of a child and that child's absent parent is court ordered to pay a portion of their child care, CCAP will only consider the caretaker's portion of the child care. However, if the caretaker can demonstrate that the absent parent is not paying their portion of child care, CCAP may consider the total child care expenses being billed.

Note: To verify whether an absent parent is court ordered to pay a portion of the child care, a copy of the court order must be obtained.

3. Added new policy for households in receipt of TANF where the TANF caretaker is in receipt of SSI, is a disqualified alien or an ineligible non-legally responsible caretaker. These individuals are now subject to Co-pay (previously known as subject to a percentage of the costs).

Waived Co-pay for TANF Program Recipients 400-28-45-05

The Co-pay requirement is waived for child care that is a result of

participation in an approved activity of a caretaker in receipt of or deemed in receipt of TANF or Diversion. This includes child care for an SSI or ineligible child whose caretaker is receiving TANF, TANF Transition or Diversion Benefits.

Note: Payment of child care is subject to Co-pay when the child care is a result of an activity for a TANF caretaker who is:

- In receipt of SSI
- A Disqualified Alien or
- An ineligible non-legally responsible caretaker

Families not subject to the Co-pay requirements are not subject to the income requirements for the Child Care Assistance Program. These families do not have to provide verification of their income in order for their eligibility to be determined.

Non-recipient Caretakers of TANF (SSI, Disqualified Alien or Non-legally Responsible Caretakers) 400-28-45-15

The Child Care Assistance Program (CCAP) can pay child care for allowable activities in which an SSI, disqualified alien or non-legally responsible caretaker is participating. However, these cases are subject to Co-pay requirements.

Income of the household members is counted and the household size must include all caretakers and all children, including the TANF children. The TANF benefit for the child(ren) is disregarded as income. All other CCAP requirements must be met.

4. Added new policy that requires the applicant/caretaker to verify their identity.

Identity of Applicant/Caretaker(s) 400-28-50-10

The caretaker's identity must be verified.

Documentation/Verification of Identity of Applicant/Caretaker 400-28-50-10-05

The following is a partial listing of documents or records that may be used to verify a caretaker's Identity:

- Driver's license
- Picture ID

- School, work, hospital or health care identification
 - Wage stubs
 - Bank records
 - Utility records
 - Mortgage/rent receipt and/or lease agreement
 - Birth Certificate, whether:
 - A certified copy from Vital Records
 - An uncertified copy of the 'Certificate of Live Birth' (yellow copy)
 - A 'Souvenir' copy if signed by both the attending physician and president/administrator of the hospital.
5. Added new policy that requires verification of the caretaker's association to the child for whom Child Care Assistance is being requested.

Caretaker/Child Association 400-28-50-15

The caretaker's association to the child for whom Child Care Assistance Program benefits are being requested must be verified.

Documentation/Verification of Caretaker/Child Association 400-28-50-15-05

Documents or records available to verify a caretaker's (including a loco parentis) association to the child include but are not limited to the following:

- Birth certificate
- Adoption papers
- Baptismal record
- Marriage certificate
- Court record
- Contact with school system
- Hospital and clinic records
- Landlord's statement
- Contact with Public Housing Authority
- Court Support order
- Juvenile Court records
- Private Social Service agencies
- Community organizations
- Church records
- Head Start records

- Day care center records
- Vital records
- Visual confirmation
- Child Welfare records
- Records from The Office of Refugee Resettlement
- Statement from child's parents when caretaker is loco parentis

6. Added new policy for the determination of self-employment income.

Self-Employment 400-28-65-10-35

All self-employment income must be verified and documented in the case file. Annual self-employment income must be averaged over the number of months the business was in operation, even if the income is received in fewer months. The income that results from this prorate applies to applicants and recipients, and is used to determine eligibility and the benefit amount.

The prorata method of determining monthly income may not be practical in the following circumstances:

- The business was recently established and the federal income tax return for the previous year does not reflect a full year's operation.
 - Use the income tax return forms and annualize the income for the period of time the business has been in operation.
- The current condition of the business is not accurately reflected on the past year's income tax return due to a decrease or increase in the size of the operation, or an uninsured loss, or other situations which may require special considerations
 - Income and costs of good ledgers can be used or an estimate of the effect on the annual income based on the best information available from the household.
- Tax return forms have not been filed
 - Income and costs of good ledgers can be used or an estimate of the effect on the annual income based on the best information available from the household.

No income from any other source may be used to offset a self-employment loss.

When determining income based on income tax forms attention should be paid to other sources of income listed on page one of Form 1040. Other types of income that may be reflected on page one of Form 1040 are interest income, dividend income, rental income, royalty income, etc. Interest, dividend, rental and royalty income are to be considered separately from the self-employment income.

To arrive at the most equitable method for determining the amount of a household's countable earned income from self-employment, it is necessary to consider the type of business activity, expense, and income. Based on this concept, one of the applicable calculations identified below shall be used.

1. Self-employed individuals whose business does not require the purchase of goods for resale. An example of this type of business is a person who provides child care services in their own home, a Qualified Service Provider (QSP) who is not an employee of an agency, etc. Such income may be accounted for on a monthly basis, or the income tax return from the previous year may be used if it reflects a full year's operation. When the tax return is used, 1/12th of the annual gross income is monthly earnings. Twenty-five (25%) percent of the gross monthly earnings shall be disregarded to offset the cost of producing the income and will cover such things as additional food, utilities, supplies, etc. The remaining 75% is the gross monthly earnings. The appropriate share percentage must be applied to the gross monthly income based on the number of individuals listed on the self-employment schedules. This is the figure to which the appropriate earned income disregards are applied to arrive at monthly net income.
2. Self-employed individuals whose business requires the purchase of goods for resale. Examples of this type of business enterprise include Avon, Tupperware, Amway, Mary Kay Cosmetics, etc. Such income may be accounted for on a monthly basis, or the income tax return from the previous year may be used if it reflects a full year's operation. In these instances, subtract the cost of the goods from the gross monthly or annual receipts to arrive at the adjusted gross income. If the cost of goods includes any labor or wage amounts, those amounts must be deducted from the cost of goods before subtracting the cost of goods sold from the gross monthly or annual receipts. When the tax return is used, 1/12th of the annual

- adjusted gross income is monthly earnings Twenty-five (25%) percent of the adjusted gross income shall be disregarded to offset the costs of producing the income and will cover such things as sample kits, demonstrations, supplies, etc. Seventy-five (75%) percent of the adjusted gross income will be the monthly income. The appropriate share percentage must be applied to the monthly adjusted gross income based on the number of individuals listed on the self-employment schedules. This is the figure to which the appropriate earned income disregards are applied to arrive at monthly net income.
3. Self-employment income from a room-and-board arrangement. The first \$100 per month received from each individual will be disregarded to defray the associated expenses. The remaining amount(s) will be the monthly income to which the appropriate earned income disregards are applied to arrive at the monthly net income.
 4. Self-employed individuals in a service business requiring purchase of goods or parts for repair or replacement. These include mechanics, TV repairmen, beauty salons, restaurants, etc. Such income may be accounted for on a monthly basis, or the income tax return from the previous year may be used if it reflects a full year's operation. In this instance, subtract the cost of goods or parts from the gross monthly or annual receipts to arrive at the adjusted gross income. If the cost of goods or parts sold includes any labor or wage amounts, those amounts must be deducted from the cost of goods or parts before subtracting the cost of goods or parts from the gross monthly or annual receipts. When the tax return is used, 1/12th of the annual adjusted gross income is monthly earnings. Seventy-five (75%) percent of the adjusted gross monthly income shall be disregarded to offset the cost of expenses such as heat, lights, phone, rent, or building, etc.

Twenty-five (25%) percent of the adjusted gross income will be the monthly income. The appropriate share percentage must be applied to the monthly adjusted gross income based on the number of individuals listed on the self-employment schedules. This is the figure to which the appropriate earned income disregards are applied to arrive at monthly net income.

5. Income of self-employed individuals received other than monthly. In such cases, income must be established on the basis of the past year's total income to arrive at the amount of income to be anticipated for the current year and reduced to monthly increments. This is the preferred method of considering income arising from self-employment such as farming or other business enterprises. It is first necessary to establish the amount of total annual gross income. For purposes of CCAP, annual net income is normally defined as one-fourth of the annual gross income shown on Schedule F, Part I, of U.S. Form 1040, "Individual Income Tax Return," if the business is farming, or annual gross income shown on Schedule C, Part I, of Form 1040, if the business is other than farming.
6. CRP payments and cooperative distributions, which are considered unearned income, should be deducted from the total income figure on Form 1040, Schedule F, and prorated over a 12-month period.

After the appropriate percentage disregard is applied to self-employment income, capital gains and losses are considered. Income resulting from the sale of capital items or ordinary gains may be offset by a loss from the sale of capital items. The net result (but not less than zero), must be added to the other annual net income to arrive at total net annual income.

Note: Capital gains and losses are always counted when considering actual income for a prior period. When using the prior income to estimate income for a prospective period, however, use capital gains and losses that are reasonably expected to occur in the prospective period.

Capital gains, short term and long term, and ordinary gains are found on the federal tax form as follows:

- a. Short term capital gains-Schedule D, Part I;
- b. Long term capital gains-Schedule D, Part II; and
- c. Ordinary gains-Form 1040-Supplemental gains or losses.

The following example demonstrates this process:

Gross annual income (from federal income tax return)	\$16,500.00
Net annual income (25% of \$16,500)	4,125.00
Capital and other gains	1,200.00
Yearly income	5,325.00
Monthly income (yearly income divided by 12)	443.75

The appropriate share percentage must be applied to the monthly adjusted gross income based on the number of individuals listed on the self-employment schedules.

Documentation/Verification of Self-Employment 400-28-65-10-35-05

Self-employment is verified by using the most recent tax return. If the most recent tax return does not reflect a full year of self-employment, a tax return is not filed, or the current condition of the business is not accurately reflected on the past year's income tax return, monthly ledgers or bookkeeping records which show the income and expenses may be used.

7. Added new policy for the determination of countable monthly income when an individual is paid weekly and bi-weekly. In this situation, income must be converted.

Converting Income 400-28-70

Income for the Child Care Assistance Program (CCAP) is converted to a monthly income. Income must be converted for all cases where income (both earned and unearned) is received either weekly or biweekly.

Income conversion does not apply to the following:

- Income for individuals who have a Waived Co-pay as income is not counted;
- Self-employment income;
- Child support income;

- When eligibility is being determined for the month prior to the application month;
- Individuals paid monthly, semi-monthly, or irregularly.
Note: Tips, commissions, monthly bonuses or incentive that are paid monthly, semi-monthly, irregularly and are not included on the paystub are not converted. The tips, commissions, monthly bonuses or incentives must be counted separately as earned income.

For regular income if an individual is paid weekly or bi-weekly but did not receive a pay check for each pay period, the wages must still be converted.

Tips, commissions, monthly bonuses or incentives that are paid weekly or biweekly and included on the paystub must be converted.

To convert weekly earnings, total the weekly checks and divide by the number of checks to arrive at the weekly average. The weekly average is then multiplied by 4.3.

To convert biweekly earnings, total the biweekly checks and divide by the number of checks to arrive at the biweekly average. The biweekly average is then multiplied by 2.15.

When an individual begins a new job, or has a change in the number of hours employed and the employer verifies a range of work hours, the greater number of work hours verified must be used to determine the income for the caretaker.

8. Added new policy for determining the countable income at application, six month review, adding a person to the household and changing a case from Waived Co-pay to Co-pay.

Budgeting for the Child Care Assistance Program 400-28-75

Determining Income for the Month Prior to the Month of Application 400-28-75-05

If the caretaker requests child care for the month prior to the month of application, all countable income received in the prior month is used

including income from a terminated source. Eligibility for the month prior to the month of application is based on actual income.

Prospecting Income for the Certification Period 400-28-75-10

NDAC 75-02-01.3-07

Income must be determined prospectively because eligibility is determined for a specific certification period. The income used to issue the certificate must be reflective of the income for the period of time the certificate covers.

Each source of non-exempt income received by the household must be considered separately to determine what the prospective income from that source will be.

Determining prospective income includes converting earned and unearned income.

Exception: Child Support income is not converted.

Use the child support income from the month prior to application, 6 month review, when a person enters the home, or a case goes from Waived Co-pay to Co-pay unless **all** child support payments have been received in the current month.

Note: When changing a case from Waived Co-pay to Co-pay, child support assigned or received in the final month of TANF is used as prospective income.

Determining Prospective Income at Application 400-28-75-15

All income received in the month of application through the date the application is received in the county social service office must be verified and documented.

If all income for the month of application from a specific source is available and reflects a full month's worth of income and the caretaker does not anticipate any changes, that income must be verified and used for all months of the certificate period.

If all income from a specific source is available for the month of application and the caretaker claims a change in income for the next month, the caretaker must provide verification of anticipated income for

the next month as changes in anticipated income must be verified. That income is used for all months of the certificate period including the application month.

If all income from a specific source is not available for the application month and the income from the prior month reflects a full month worth of income and the caretaker does not anticipate any changes, the prior month's income must be verified and used for all months of the certificate period.

If the caretaker does not anticipate the prior month income from a specific source to be reflective of the next month's income, the caretaker must provide verification of anticipated income for the next month as any changes in anticipated income must be verified, and that income must be used for all months of the new certificate period.

Determining Prospective Income at 6 Month Review 400-28-75-20

Determining Countable Income When Review Form is Received Timely 400-28-75-20-05

If the income from a specific source for the month prior to the month the review form is submitted reflects next month's income and the caretaker does not anticipate any changes, that income must be verified and used for all months of the certificate period.

If all income for the month of review from a specific source is available and reflects a full month's worth of income and the caretaker does not anticipate any changes, that income must be verified and used for all months of the new certificate period.

If the caretaker does not anticipate the prior month income to be reflective of the next month's income, the caretaker must provide verification of anticipated income for the next month and that income must be used for all months of the certificate period.

Determining Countable Income When Review Form is Received After Case Closed 400-28-75-20-10

When a case closes for no review and the review form is submitted in the month following the case closure, if the income from a specific source for

the month prior to the month the review form is submitted reflects next month's income and the caretaker does not anticipate any changes, that income must be verified and used for all months of the certificate period.

If the caretaker does not anticipate the prior month income to be reflective of the next month's income, the caretaker must provide verification of anticipated income for the next month and that income must be used for all months of the certificate period.

Determining Prospective Income for Persons Added or Removed 400-28-75-25

The income of individual being removed from the household is no longer counted effective the month the individual is deleted from the household.

The income of individuals being added to the household must be considered effective the month they are added.

If adding and removing persons at the same time:

- The income for all persons being removed is no longer used;
- The income of all persons added is used;
- The new household size must be determined;
- The income of the existing household members remains unchanged;
- The change in the household's income and household size is applied to the Child Care Sliding Fee Schedule.

If all income from a specific source is available for the month the individual entered the home and the individual does not anticipate any changes, that income must be verified and used for all the remaining months of the certificate period. If the individual claims a change in income, the caretaker must provide verification of the anticipated income for the next month and that income must be used for the remaining months of the certificate period.

If all income from a specific source is not available for the month the individual entered the home but the income from the prior month reflects next month's income and the individual does not anticipate any changes, that income must be verified and used for all remaining months of the certificate period. If the individual claims the prior month's income is not reflective of the next month's income, the caretaker must provide

verification of anticipated income for the next month and that income must be used for all remaining months of the certificate period.

If all income from a specific source is available for the month the individual entered the home and the individual anticipates a change in income for the next month, the caretaker must provide verification of anticipated income for the next month and that income must be used for all remaining months of the certificate period.

Determining Prospective Income When Changing from Waived Co-pay to Co-pay 400-28-75-30

When an ongoing Child Care Assistance Program (CCAP) case is receiving TANF, Diversion or Crossroads and that program is closed, the CCAP case is changed from Waived Co-pay to Co-pay the month following the month the TANF case closes. Because the CCAP case is now Co-pay, income must be used to determine eligibility.

Income that would have been available to the household in the final month of TANF, Diversion or Crossroads must be reviewed. If this specific source of income is reflective of next month's income, the income must be used for all remaining months of the certificate period.

If the income is not reflective, the caretaker must provide verification of the anticipated income for next month and that income must be used for all remaining months of the certificate period.

Determining Prospective Income When Changing from Co-pay to Waived Co-pay 400-28-75-35

When an ongoing Child Care Assistance Program (CCAP) case is approved for TANF, Diversion or Crossroads, the case is considered a Waived Co-pay case effective the month they are approved for TANF, Diversion or Crossroads.

Note: The income does not count and must be removed from the system when changing the grant type in the CCAP payment system to T (TANF), L (Transition), C (Crossroads) or D (Diversion).

9. Added new policy for the calculation of allowable child care.

Calculation of Allowable Child Care Hours 400-28-80

Overview 400-28-80-05

The calculation of allowable child care hours must be completed to determine the child care needs of the child based on the child's schedule and the caretaker's activities.

Calculating Allowable Child Care Hours 400-28-80-10

To calculate the Level of Care, the eligibility worker must determine the actual allowable hours by:

- Determining the weekly allowable activity hours for the caretaker for each activity;
- Determine the weekly schedule for each child;
- Determine each child's Level of Care using the caretaker's schedule and the child's schedule;
 - Any weekly hours the caretaker is participating in an allowable activity and the child needs care during the time the caretaker is in the allowable activity will determine the child's hours of needed care per week.
 - The child's hours of needed care per week determine the Level of Care of fulltime, part-time or hourly.

When determining the caretaker's activity schedule:

- If the caretaker has a set schedule and the schedule is not questionable, use the caretaker's schedule to calculate each child's hours of needed care per week.
- If the caretaker does not have a set schedule and informs the EW of their schedule, if the schedule is not questionable, use the caretakers schedule for the same month the income is used to calculate each child's hours of needed care per week.
- If the caretaker does not have a set schedule and the caretaker provides a schedule that is questionable, the caretaker must provide verification of the schedule for the same month as the income is used. Use the caretaker's verified schedule to determine each child's hours of needed care per week.

The following methods must be used to determine the weekly allowable activity hours of the caretaker's activity:

1. Work Hours Calculation

Weekly work hours are determined by using verified paystubs, employer's statements, etc. Refer to 400-28-80-15, Travel Time and Lunch Break Calculation, to determine additional allowable hours.

If the caretaker is engaged in ongoing employment:

- Paystubs from the month of application are used if all are available and are reflective of the anticipated work hours.
- If paystubs from the month of application are available and are not reflective of the anticipated work hours, the caretaker must provide verification of the anticipated work hours and these hours will be used to determine the weekly allowable activity hours.
- If all paystubs from the month of application are not available paystubs from the month prior to the application month are used if they reflect the anticipated work hours.
- If paystubs from the month prior to the application month are not reflective of the anticipated work hours, the caretaker must provide verification of anticipated work hours and these hours will be used to determine the weekly allowable activity hours.

If the caretaker begins new employment the caretaker must provide verification from the employer of the anticipated weekly work hours.

Once hours have been established, the worker must calculate the weekly average hours for the allowable activity of the caretaker.

To calculate the number of weekly work hours the following methods are used:

- For individuals who are paid weekly, the total number of work hours shown on all pay stubs received in the month are divided by the number of pay stubs in the month to arrive at the average weekly hours worked.

- For individuals who are paid bi-weekly, the total number of work hours shown on all pay stubs received in the month are divided by the number of pay stubs received in that month to arrive at the average number of work hours per pay period. The pay period total hours are then divided by 2 to arrive at the average weekly hours worked.
- For individual who are paid bi-monthly, the total number of work hours shown on both pay stubs received in the month are divided by the number of pay stubs received in that month to arrive at the average number of work hours per pay period. The pay period total hours are then divided by 2 to arrive at the average weekly hours worked.
- For individual who are paid monthly, the total number of work hours shown on the pay check received in the month is divided by 4 to arrive at the average, weekly hours worked.

If an employer verifies a range of work hours, the higher number of work hours verified will be used as the allowable activity hours for the caretaker.

Note: The pay stubs, employer statement, work schedule, etc., that was used to determine the income eligibility must be the same paystubs, employer statement, work schedule, etc., that is used to determine allowable activity hours.

2. Student Hours Calculation

Student credit hours must be verified by a class schedule. Two (2) hours will count for each credit hour per week a student is enrolled in an allowable education activity. Refer to 400-28-80-15, Travel Time and Lunch Break Calculation to determine additional allowable hours.

Example: A class schedule verifies 12 credit hours. The student is allowed 24 hours per week of allowable activity hours.

Hours can be allowed for a caretaker in education who has a break of less than a full calendar month between terms, if the provider charges for time during the break.

Example: An individual was in education from August through early December and will return to school in January. The provider continues to charge the individual during the break.

The same level of care should continue during the semester break so as to not disrupt the family's child care availability.

3. Job Search Hours Calculation

Up to 20 hours a week can be allowed for job search. This can be self declared. No additional hours are allowed for travel and breaks.

NOTE: This does not apply to JOBS and Tribal NEW recipients as the Employability Plan dictates the allowable hours.

Travel Time and Lunch Break Calculation 400-28-80-15

Reasonable travel time and breaks must be allowed while participating in an allowable activity. For all activities, an additional 25% of the caretaker's allowable weekly activity hours will be added to their hours to allow for travel time and lunch breaks.

Exception: Time for travel and lunch break are not allowed for Job Search.

At the end of the calculation the hours are rounded up.

Example: If the caretaker is an allowable activity 17 hours per week:

$$\underline{17 \times .25 = 4.25 \text{ hours}}$$

$$\underline{17 + 4.25 = 21.25}$$

Rounded up to 22 hours

The caretaker's allowable activity hours per week are 22.

If the caretaker's travel and break time exceeds the 25%, this will need to be reviewed on a case by case basis. The case must be documented to support the additional hours for travel and breaks.

Night Shift Work 400-28-80-20

A caretaker who works night shifts, such as midnight to 8:00 a.m., will require sleep time. Up to 6 hours of sleep time after each shift can be allowed.

Absent Days for Illness 400-28-80-25

Up to 16 hours per calendar month can be allowed for a child who is absent from the day care setting for reasons of illness or while they attend medical appointments **if** the provider normally requires payment to maintain the spot of a child absent for those reasons.

Note: Medical documentation and verification of hours the caretaker

was in the allowable activity on the absent days is not needed for absent days unless fraud is suspected.

The days and number of hours per day that the child was absent because of their illness or to attend medical appointments must be listed on the Child Care Billing Report form.

Hours will not be allowed when:

- The provider is absent for any reason (e.g. such as medical, holiday, vacation, temporary illness);
- The caretaker(s) is absent from the allowable activity for any reason (e.g. such as medical, holiday, vacation, maternity leave, temporary illness).

Note: Hours are allowed for students during breaks of less than a full calendar month between terms, if the provider charges for time during the break

Crossroad Hours Calculation 400-28-80-30

Allowable activity hours are verified through the Crossroads coordinator.

TANF Hours Calculation 400-28-80-35

Allowable activity hours are based on information listed on the JOBS Employability Plan or Tribal NEW Service Plan. If the recipient is participating more hours than the minimum requirements for the JOBS/Tribal NEW, the additional hours are allowed.

10. Added new policy for determining the Level of Care (previously known as Category).

Level of Care 400-28-85

Overview 400-28-85-05

The Level of Care is used to determine whether the child needs full-time, part-time or hourly child care.

- If the child is not school age that child's Level of Care is based on the caretaker's allowable activity hours.

- If the child is attending any type of school (Headstart, preschool, elementary, etc), that child's school schedule is needed to determine their Level of Care.

Determining the Level of Care 400-28-85-10

To determine the Level of Care:

- The caretaker must provide verification of activity hours (pay stubs, employer statement, class schedule, time sheets, etc).
- For a school aged child, the child's school schedule is needed.

The Level of Care is determined:

- If the weekly hours calculated for a child average 25 or more per week, the child falls into the full-time Level of Care.
- If the weekly hours calculated for a child average from 14 to less than 25 hours per week, the child falls into part-time Level of Care.
- If the weekly hours calculated for a child average less than 14 hours per week, the child falls into hourly Level of Care.

Child Not in School 400-28-85-10-05

The child's schedule is the time they need child care based on the caretaker's allowable activity hours. The caretaker's allowable activity hours per week will determine the Level of Care from the Child Care Sliding Fee Schedule. The Level of Care determination is entered on the certificate.

Payment of the costs for the hours of child care exceeding the Level of Care determination for the child will be the responsibility of the family.

Child in School 400-28-85-10-10

A school age child is considered a student year round. If the child is school age, the time they are required to be at child care is based on the child's school schedule and the caretaker's allowable activity hours. The number of weekly hours that a school aged child is required to be at child care is calculated by comparing the child's school schedule with the caretaker's allowable activity.

An additional 36 hours per month will be added for days there is no school. 36 divided by 4 equals 9. The 9 hours a week are added to the child's weekly hours.

The total weekly hours will determine the Level of Care from the Child Care Sliding Fee Schedule. The Level of Care determination is entered on the certificate.

Payment of the costs for the hours of child care exceeding the Level of Care determination for the child will be the responsibility of the family.

11. Added new policy regarding Co-pay (previously known as subject to a percentage of the costs).

Co-pay Requirements 400-28-90

Overview 400-28-90-05

Federal regulations require each family receiving Child Care Assistance Program (CCAP) benefits to contribute towards the monthly costs of such care.

- The portion that a family is responsible to contribute is called a Co-pay.
- The Co-pay that is applied to child care costs incurred each month is referred to as Family Monthly Co-pay.

The Co-pay requirement is waived for families receiving TANF, Diversion and Crossroad.

Families who are not waived from the Co-pay requirement are subject to a Family Monthly Co-pay when determining their CCAP eligibility. In addition to the Co-pay, the family is responsible for any amount that is charged over the State Maximum Monthly Share amount.

It is the responsibility of the provider to collect the Co-pay from the family. Verification that the Co-pay has been paid is not required.

Determination of Family Monthly Co-pay 400-28-90-10

For each family subject to Co-pay, the Family Monthly Co-pay must be determined. Family Monthly Co-pay is determined by using the net

countable income (gross monthly income less child/spousal support expenses) and household size which is then compared to the Child Care Sliding Fee Schedule. The Child Care Sliding Fee Schedule contains a Co-pay column for each income range and household size level.

Applying the Co-pay 400-28-90-15

The Family Monthly Co-pay amount is subtracted from the State Rate to determine the State Maximum Monthly Share.

When payment is being determined, the Family Monthly Co-pay is deducted from the amount billed on the Child Care Billing Report Form.

When applying the Family Monthly Co-pay to payments:

- The Family Monthly Co-pay is applied to the provider who is first entered into the payment system. If there are two providers, the Family Monthly Co-pay is applied to the first provider entered into the payment system. If any amount of the Family Monthly Co-pay is remaining it will be applied to the second provider, etc.
- If the Family Monthly Co-pay is greater than the child care costs incurred in a month, no child care payment will be made for the month.
- If the Family Monthly Co-pay is less than the child care costs incurred, the Family Monthly Co-pay is deducted from the billed amount and the remaining billed amount is the maximum payment that will be made.

The DN 241, Child Care Sliding Fee Schedule is included at Section 400-28-165-25.

Waived Co-pay Families 400-28-90-20

The Co-pay requirement for certain families with very low income will be waived and their child care paid up to the State Maximum Monthly Share. These include:

- Families receiving services through the Crossroads Program;
- Ineligible/SSI children whose caretaker is receiving TANF or Diversion;
- Families receiving TANF or Diversion.

Note: Payment of child care is subject to Co-pay when the child care is a result of an activity for a TANF caretaker who is:

- In receipt of SSI
- A Disqualified Alien or
- An ineligible non-legally responsible caretaker

Families not subject to the Co-pay requirements are not subject to the income requirements. Child care for the eligible child is paid up to the State Rate. These families do not have to provide verification of their income in order for their eligibility to be determined.

12. Added new policy regarding requirements and issuance for the Child Care Assistance Program Certificate.

Child Care Assistance Program Certificate 400-28-120

Overview 400-28-120-05

Federal Regulations require states to issue a 'Certificate' to the eligible family and provider which informs them of the eligibility period, children who have been approved, Level of Care for each child, State Rate for each child, and the Family's Monthly Co-pay.

Certificate Requirements 400-28-120-10

A certificate is issued by the Department of Human Services to the caretaker who is eligible. The certificate contains:

- The name and address of the caretaker
- The names of children who will be receiving Child Care Assistance Program
- The Level of Care
- The Family's Monthly Co-pay
- The State Rate
- The caretaker's allowable activities (work, job search, education, training)

Note: The names of specific assistance programs are not to be shown on the certificate. **(For TANF recipients, enter Job Activities).**

- The period covered by the certificate
- The caretaker's right to appeal

Certificate Time Frames 400-28-120-15

Certificates are issued for a six month period of time with the following exceptions:

- Month prior to the month of application (one month certificate); and
- The 2 final months of TANF (one or two month certificates).

Certificate Start Dates 400-28-120-20

Certificates for applications begin the first day of the month for which the application is approved.

Certificates for a review begin the month following the expiration of the existing certificate.

The begin date of a certificate that is updated is determined by the effective date of the change which is based on whether or not the change was reported timely.

Certificate End Dates 400-28-120-25

NDAC 75-02-01.3-06

A certificate expires at the end of the certificate period or at the end of the month the case closes, whichever is earlier. When a certificate is updated, the end date is not changed.

Issuing a Certificate 400-28-120-30

The following information is required to issue a certificate:

- Household composition;
- Household income;
- Child/spousal support paid out;
- The child care provider(s) for each child requesting assistance;
- The provider(s)'s EIN/SSN;
- Provider type;
- Level of Care required;
- Caretaker(s) allowable activity/schedule;
- Child(ren)'s schedule (school age);

Upon receipt of this information, the Excel spreadsheet may be used to determine the Co-pay and State Rate. If it is used, a copy of the Excel spreadsheet must be in the case file.

The issuance of a certificate does not require submittal of a Child Care Billing Report form

A certificate is issued:

- At application;
- At 6 month review.

The caretaker is sent two copies of the certificate, one labeled 'caretaker's copy' and one 'provider's copy'. The caretaker is responsible for giving the provider a copy of the certificate.

Updating Certificates 400-28-120-35

When a certificate is issued, the certificate is not changed unless the criteria to change a certificate are met.

A certificate must be updated for the following :

- When a case changes from Waived Co-pay to Co-pay, the certificate must be updated for the month following the month the TANF, Diversion or Crossroads case closes. The actual updating must be completed in the month following the month of the closure.
Example: A TANF case closes on October 31st. The certificate must be updated in the month of November with a certificate start date of November 1.
- When a case changes from Co-pay to Waived Co-pay, the certificate must be updated effective the month the case is approved for TANF, Diversion or Crossroads.
- When there is change reported that results in a change in eligibility
- When an Intentional Program Violation disqualification penalty is imposed, the certificate must be updated effective the month the individual is disqualified.

Example: If an IPV is imposed effective for July, the certificate for July must be updated to remove the disqualified individual from the household size.

If a certificate must be updated as the result of a change, the caretaker is sent two copies of the updated certificate, one labeled 'caretaker's copy' and one 'provider's copy'. The caretaker is responsible for giving the provider a copy of the updated certificate.

13. Added new policy that allows for pursuing an Intentional Program Violation.

Intentional Program Violation (IPV) 400-28-160

Overview 400-28-160-05

Any individual who is suspected of withholding information for the purpose of improperly establishing or maintaining eligibility for benefits shall be referred to the Administrative Disqualification Hearings Officer for a determination of an Intentional Program Violation (IPV) or the court system for a determination of fraud. If an individual withheld information that did not result in an overpayment, an IPV can still be pursued due to the fact that the individual withheld information.

Intentional Program Violation (IPV) 400-28-160-10

An IPV is defined as "an action by an individual, for the purpose of establishing or maintaining eligibility for Child Care Assistance Program (CCAP), or for increasing or preventing a reduction in the amount of assistance".

In order to determine if an individual(s) has committed an IPV, that individual must have intentionally committed any act intended to mislead, misrepresent, conceal, or withhold facts that constitutes a violation of CCAP or any State statute.

Examples:

- A source of income
- Allowable deductions
- A household member
- Falsified billing report form
- Not being in an allowable activity
- Receiving assistance in two states at the same time.
- Not being a resident of North Dakota.

The use of the term "intentionally" does not mean the eligibility worker has the burden of proving that an individual intended to commit a fraudulent act. The signature of any caretaker on the Application, 6 Month Review form, Change Report form, Child Care Billing Report form or any other appropriate materials attests to providing factual information that is required to determine eligibility.

Types of Intentional Program Violations (IPV) 400-28-160-15

An IPV disqualification can be established in the following two ways:

1. Administrative Disqualification Hearing (ADH) is pursued when an individual is suspected of intentionally withholding information that results in improperly establishing or maintaining eligibility for Child Care Assistance Program (CCAP) benefits. ADH procedures should be initiated in instances when there is sufficient documentary evidence to substantiate that an individual has committed one or more acts of IPV.
 - Waiver of Hearing - An individual has the right to waive an Administrative Disqualification Hearing. The eligibility worker must possess sufficient evidence to warrant holding a disqualification hearing before allowing an individual to waive the hearing.
 - Waiver A - Allows an individual to admit to the facts and accept the disqualification period.
 - Waiver B - Allows an individual to accept the disqualification without admitting to the facts.

In order to waive their Administrative Disqualification Hearing, the individual must sign either part A or B of the waiver located on the SFN 1940 TANF/SNAP/Child Care Assistance Notice of Suspected Intentional Program Violation.

A signed waiver is a statement that the household has been informed a disqualification penalty will result.

2. Court Conviction - Fraud is a result of an individual being convicted in federal or state court of having made a fraudulent statement or representation which results in improperly establishing or maintaining eligibility for Child Care Assistance benefits.

Upon receipt of the judgment:

- If the judgment includes a CCAP disqualification period, impose the disqualification following the CCAP disqualification timeframes. (See Section 400-28-160-35, Disqualification Time Frames)

- If the judgment does not include a disqualification period, the eligibility worker must forward the following information to the Appeals Supervisor to process the findings under the IPV provisions:
 - Criminal Complaint;
 - Judgment or Order; and
 - A cover letter detailing the violation and providing the name, address, and Social Security Number. Inclusion of any prior disqualifications should also be noted.

Regardless of the type of IPV, the appropriate notice must be sent to the household notifying the household that an individual is disqualified and/or assistance will be reduced or ended. The conviction and disqualification information and copies of supporting documents (including conviction information) must be recorded in the case file. If a disqualified person moves from one county to another, include disqualification information in the case transfer information.

After a disqualification hearing, there are no further appeal procedures available through the Administrative Hearing Process. The determination of IPV cannot be reversed by a subsequent hearing. The individual, however, is entitled to seek relief in a court of appropriate jurisdiction. The period of disqualification may be subject to stay or other action which would delay the imposition of the disqualification.

Evidence Evaluation 400-28-160-20

The following procedure is suggested to evaluate the evidence to determine if a violation has been committed:

- Review the case and all evidence with the eligibility supervisor, director, or the regional representative of Economic Assistance.
- If the evidence is sufficient for referral to the hearings officer, the referral shall be made regardless of any legal action planned against the household member.

Initiating Administrative Disqualification Hearing Process 400-28-160-25

The Administrative Disqualification Hearing process should be initiated in instances when there is sufficient documentary evidence to substantiate that an individual has committed one or more acts of IPV. The following procedures are recommended:

1. The county social service office shall complete the first portion of SFN 1940, TANF/SNAP/Child Care Assistance Notice of Suspected Intentional Program Violation.

Indicate the household member against whom there is evidence of a violation. In most instances this will be the household member who has completed the application, review or change report form, child care billing report form or any other appropriate materials used in the eligibility process containing the false information. If there is more than one caretaker in the case, IPV can be pursued against one or both of the caretakers. A separate SFN 1940 TANF/SNAP/Child Care Assistance Notice of Suspected Intentional Program Violation must be completed for each caretaker for whom IPV is being pursued.

When completing the 'description of evidence' section of the SFN 1940 TANF/SNAP/Child Care Assistance Notice of Suspected Intentional Program Violation form, be brief and to the point. Address the specific household member. Identify what the household member misrepresented, as well as when and how. Describe what is believed to be the true information and where the information came from.

Note: If more room is needed, use a second sheet.

2. The eligibility worker shall contact the individual and arrange an appointment to meet and discuss the issue.
 - If the individual suspected of an Intentional Program Violation attends the meeting, the individual shall be given a copy of the DN 1087, Legal Service Organizations form. This serves to meet the federal requirement that individuals being considered for Administrative Disqualification be notified of the availability of free legal assistance.

- If during the meeting it is determined there was no Intentional Program Violation, SFN 1940, TANF/SNAP/Child Care Assistance Program Notice of Suspected Intentional Program Violation is placed in the case file with a notation that it was not forwarded for further action along with a summary of the explanation as provided by the individual. However, any overpayments must still be established and recovered.
- If during the meeting, the county believes the violation did occur and the individual has no satisfactory explanation, SFN 1940, TANF/SNAP/Child Care Assistance Program Notice of Suspected Intentional Program Violation is to be given to the individual, along with an explanation and the consequences relating to the signing of Part A or B of the Waiver of Hearing.

The eligibility worker must explain that signing Part A or B of the Waiver of Hearing will result in specific program disqualification:

- 12 months for a 1st violation,
- 24 months for a 2nd violation, and
- Permanently for 3rd and any subsequent violation.

Continued eligibility for Child Care Assistance Program (CCAP) requires that at least one member of the household retains CCAP eligibility.

Only the individual(s) found to have committed the violation or who signed the waiver or the consent agreement in court cases, and not the entire household, shall be disqualified. The disqualified individual's income and allowable deductions will continue to be used in determining eligibility and benefit amount.

- If during the meeting the individual suspected of an Intentional Program Violation signs the Waiver of Hearing:
 - Provide the individual a copy of SFN 1940 TANF/SNAP/Child Care Assistance Program Notice of Suspected Intentional Program Violation; and
 - Mail the SFN 1940 TANF/SNAP/Child Care Assistance Program Notice of Suspected Intentional Program Violation, detailing

the violation to the Appeals Supervisor, North Dakota Department of Human Services, Judicial Wing, 600 East Boulevard Avenue, Bismarck, ND 58505-0250.

Note: If Part B is signed, a cover letter detailing why the individual signed Part B rather than Part A must also be sent to the Appeals Supervisor.

- If during the meeting, the individual suspected of an Intentional Program Violation refuses to sign the Waiver of Hearing:
 - Explain that a hearing will be held, usually by telephone, unless they request that a hearing officer be present as indicated on the SFN 1940 TANF/SNAP/Child Care Assistance Program Notice of Suspected Intentional Program Violation.
 - Give the individual a copy of the SFN 1940 TANF/SNAP/Child Care Assistance Program Notice of Suspected Intentional Program Violation.
 - Mail the original along with a letter detailing the violation, copies of relevant parts of the application, review, change report form, child care billing report form and other supporting documentation obtained, etc., to the Appeals Supervisor, North Dakota Department of Human Services, Judicial Wing, 600 East Boulevard Avenue, Bismarck, ND 58505-0250.

Note: It will not usually be necessary to copy the entire application or review as long as it is identified.
- 3. If the individual suspected of an Intentional Program Violation fails to respond within 10 days to a request for a meeting or agrees to a meeting but fails to appear for the meeting:
 - Forward the SFN 1940 TANF/SNAP/Child Care Assistance Program Notice of Suspected Intentional Program Violation, along with a letter detailing the violation, to the Appeals Supervisor, North Dakota Department of Human Services, Judicial Wing, 600 East Boulevard Avenue, Bismarck, ND 58505-0250.

Prior to receipt of a disqualification decision, the household will continue to participate at the same benefit level as any other household while awaiting a disqualification decision. The

overpayment continues to be collected at the rate of 10%. Full repayment of the overpayment does not stop the disqualification procedure from taking place.

Appeals Supervisor Action 400-28-160-30

Upon receipt of the SFN 1940 TANF/SNAP/Child Care Assistance Program Notice of Suspected Intentional Program Violation:

1. If the Waiver of Hearing was signed, the Appeals Supervisor will review and approve the signed Waiver of Hearing, and notify the individual of the reason for and the effective date of the disqualification, whether the case is currently open or closed. Notification will be sent to the county to impose the disqualification.
2. If a Waiver of Hearing was not signed:
 - a. The Appeals Supervisor will schedule a hearing to be conducted either by phone or with a hearing officer present.
 - b. If the individual or the individual's representative fails to appear for the scheduled hearing, without good cause, the hearing will still be conducted as scheduled. Good cause is determined by the Appeals Supervisor.
 - c. If the Hearing Officer determines the individual has committed the violation, the Appeals Supervisor will notify the individual of the disqualification reason.

Upon receipt of the hearing decision, the county must take appropriate action.

Note: The eligibility worker must receive the order which is signed by the Executive Director of the North Dakota Department of Human Services prior to taking any action.

Disqualification Time Frames for Intentional Program Violations (IPV) 400-28-160-35

Individuals who have committed an Intentional Program Violation (IPV) will be disqualified the following time periods:

- 12 months for the 1st offense.
- 24 months for the 2nd offense.
- Permanently for the 3rd or subsequent offense.

Penalty for Intentional Program Violations (IPV) 400-28-160-40

Upon receipt of the hearing decision, the county shall impose the required penalty whether the case is currently open or closed. Once the disqualification penalty is imposed, the disqualification penalty period continues uninterrupted until completed regardless if the case is open or closed.

The start date of the disqualification period is determined by the Appeals Supervisor. Imposing the disqualification is required even if it means that some individuals may not be affected by the disqualification.

Note: Waived Co-pay (TANF, Diversion and Crossroads) individuals will not be affected by an IPV as their income is not considered. However, at the time the IPV is imposed, change the household size to reflect the individual as disqualified and at the end of the disqualification period, change the household size to include the individual. If during the disqualification period the family becomes subject to Co-pay requirements, the affects of the IPV will apply.

When an overpayment exists, regardless of the household's eligibility for benefits, the household shall continue to be responsible for repayment of the overpayment which resulted from this violation.

The individual convicted of fraud is the only household member disqualified. Other household members may remain eligible.

When applying the disqualification penalty:

1. The disqualified individual is removed from the household size.
2. Income and allowable deductions of the disqualified individuals continue to be considered when determining eligibility for the remaining household members.

Overpayments are recovered through a reduction of the Child Care Assistance Program payment. The rate of recovery for IPV is 20%.

When a disqualification penalty is imposed, the certificate must be updated to remove the disqualified individual from the household size. The disqualified individual's income and allowable deductions continue to be used.

Disqualification in Another State 400-28-160-45

Disqualifications from other states are not imposed or counted in North Dakota. If an individual has another IPV currently in place from another state, they are eligible to receive Child Care Assistance in North Dakota.