

Par.1. **Material Transmitted and Purpose** – Transmitted with this Manual Letter are changes to Service Chapter 400-28, Child Care Assistance Program. This manual letter also incorporates changes made with:

- IM 5458 – Provider Payments Changes
- IM 5454 – Provider Changes

Par. 2. **Effective Date** – Changes included in the manual letter are effective June 1, 2022, unless otherwise indicated.

1. 400-28-35-30 In Home Care Due to Illness/Disability. Updated in IM 5458.

In Home Care Due to Illness/Disability 400-28-35-30

In-home child care will be allowed and must be approved for the following instances as approved by Child Care Assistance Program (CCAP) State Administrator prior to care being provided:

1. If a child's health would be at risk, written documentation from a health care professional must be submitted to the CCAP State Administrator satisfactorily demonstrating the health risk to the child if the child is taken to an outside provider, or
2. For a disabled child, written documentation must be provided to the CCAP State Administrator demonstrating that the child's disability is such that taking the child to an outside provider creates an undue hardship.

~~Note:~~ ~~In-home child care must be paid at federal minimum wage.~~

A family who chooses in-home care in these situations will be eligible for payment for CCAP based on the same criteria as other families who have out-of-home providers.

2. 400- 28-38-10 Allowable Activities for Homeless Households. Updating to allow for all homeless households to receive 3 full months of eligibility at application.

Allowable Activities for Homeless Households 400-28-38-10

Households may be participating in an allowable activity; however, they may self-certify their allowable activity and the number of hours they are participating in their allowable activity, if they are unable to provide income and hours verification during the grace period to provide verifications.

Self-certified income is used to determine the household's co-pay for a one month eligibility period. Self-certified income is budgeted the same as other CCAP cases. Refer to Converting Income 400-28-70 and Budgeting for the Child Care Assistance Program 400-28-75.

Homeless households are subject to all allowable activity requirements per policy at Allowable Activities [400-28-55-05](#), with the following exceptions:

- Homeless households can be approved for CCAP for activity search at time of application and review. Activity search may also include activities required to find housing. When a homeless household applies and only has activity search as an allowable activity, up to 15 hours per week (part time level of care) can be approved for the caretaker. Travel and break time hours are not allowed.

In households with two caretakers, if one caretaker is in an allowable activity and the other is not, the case can be approved ~~for a one month eligibility period~~ and the caretaker without an allowable activity will be allowed 15 hours of allowable activity per week.

If neither caretaker has an allowable activity, both can be allowed up to 15 hours of allowable activity per week.

The schedule of the caretaker(s) must be compared to the schedule of the child as per policy at 'Determining the Level of Care [400-28-80-50](#)'. The lesser of the hours when all schedules are compared will be approved. The household may self-certify all schedules of all household members during the grace period.

3. 400-28-80-50 Determining the Level of Care. Updated in IM 5454.

Determining the Level of Care 400-28-80-50

The level of care is used to determine if a child needs full-time or part-time child care and is based on the calculation of allowable child care hours of the caretaker and the child.

The Level of Care must be determined in the following situations:

- application
- review
- increasing monthly child care hours
- adding a child to the household
- changing or adding a provider

A child may have **no more than two providers** ~~more than one provider~~. The Level of Care must be determined for each provider based on the number of hours the child needs care while the caretaker(s) is participating in an allowable activity.

NOTE: A child may only have one full time provider, if approved for a full time level of care.

To determine the Level of Care:

- Determine the allowable child care hours of each caretaker based on policy at 400-28-80-10, Calculation of Allowable Child Care Hours.

- Determine the child's allowable child care hours based on the policy at 400-28-80-10-05.
- Compare the caretaker's allowable hours to the child's allowable hours, the lesser of the hours when all schedules are compared will determine the level of care.

Example 1:

Household consists of one caretaker and one child. It is determined that the caretaker has 35 allowable activity hours per week. The child is determined to have a need of only 16 hours of care a week. 16 hours will be used to determine the level of care.

Example 2:

Household consists of two-caretakers and one school age child. Total allowable hours of the first caretaker are 22 per week. Total allowable hours of the second caretaker are 35 per week. The child attends school Monday through Friday and will be in child care after school for 3 hours per day (15 hours per week). An additional 9 hours per week are allowed for all school age children. The child's need is determined to be 24 hours per week. After comparing all schedules, it is determined that 22 hours per week will be allowed. This is because CCAP allows for the least amount of hours needed when determining the level of care.

Once this information 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 1 to less than 25 hours per week, the child falls into part-time Level of Care.

Once a level of care is established for a child:

- The level of care is not decreased for the remaining certificate period regardless if the caretaker has a decrease in hours which would result in the child needing a lower Level of Care.
- The level of care can be increased during the certificate period when the caretaker has an increase in allowable activity hours.

4. 400-28-55-05 Allowable Activities. Updating to allow all households a full 3 months of activity search regardless of when it is reported. **Currently, Amended IM 5431 still applies to this section.**

Allowable Activities 400-28-55-05

The following are allowable CCAP activities **after initial eligibility** has been established:

1. Activity Search - Activity search is not an allowable activity at the time of application or review. Activity search hours can only be allowed in ongoing cases after a case has been approved for work, education or training.

Exception:

Activity search hours are allowable at the time of application or review for households that are also in receipt of Diversion, TANF or Transition and households that are homeless. Activity search hours must be listed on the most recent JOBS employability plan for TANF and Transition cases.

At time of application or review, in households with two caretakers, if one caretaker is in an allowable activity (work, education or training) and the other caretaker only has activity search as an activity, the application or review must be denied.

Example:

Mom applies for CCAP on May 5th listing her only allowable activity as activity search. The application must be denied as activity search is not an allowable activity at time of application.

In order for activity search to start, a caretaker must have a non-temporary loss **of** all of their activities. A non-temporary loss of allowable activity is any loss of activity that is not time limited (two week, one month, etc.) and the individual does not anticipate returning to that activity. Child care for activity search must be allowed for three

full consecutive months within an eligibility period once a caretaker loses their allowable activity. When a household includes two caretakers, each caretaker is eligible for three consecutive months of activity search within a certificate period. The level of care that was effective before the loss of activity cannot be reduced and must continue through the three allowable months of activity search. Verification of activity search hours is not required.

A household may be allowed more than one period of three full consecutive months of activity search within a certificate period.

Exception:

TANF recipients must follow the JOBS program guidelines, therefore, the three full consecutive month limitation does not apply to TANF recipients who are participating in the JOBS program when their JOBS employment plan includes any type of activity search.

Example 1:

Mom applies for CCAP on June 16th and had a job at the time of application. The case is approved based on mom's work schedule. Mom reports on September 13th that she lost her job and is now job searching. Child care can be allowed for the time mom searches for a job.

Example 2:

Dad applies for CCAP on October 2nd listing his allowable activities as education and job search. The application can be approved for education hours only, as job search is not an allowable activity at time of application.

When a household reports a non-temporary loss of activity, ~~it must be determined if the change was reported timely. If the change was reported timely, within 10 days of the day the change occurred,~~ the three months of continued assistance will begin in the month after the change occurred.

Example 3:

Household was approved for CCAP starting August 1st through July 31st at the full time level of care with employment as an allowable activity. On October 12th, the household reports that they lost their employment as of October 5th. ~~Since the household timely reported the loss of activity,~~ **The** household's three full months of continued assistance will begin in the month of November. The household remains eligible for the full time level for the months of October, November, December and January.

On December 20th, the household reports that they have found new employment. Since the household found a new allowable activity before the end of the three full consecutive month period, the household remains eligible. The full time level of care continues through the remainder of the certificate period, even if the household reports a decrease in allowable activity hours based on the new employment, based on policy at 'Determining the Level of Care 400-28-80-50.'

The co-pay may be decreased if the household reports that there is a reduction in income based on the new employment based on policy at 'When Income and Allowable Income Deductions are Verified and Changed 400-28-75-50.'

~~If the change was not reported timely, the three months of continued assistance will begin in the month the change occurred.~~

Example 4:

Household was approved for CCAP starting August 1st through July 31st at the part time level of care with education as an allowable activity. On October 12th, the household reports that they are no longer in an education activity as of September 15th. ~~Since the household did not timely report the loss of activity,~~ **The** household's three full months of continued assistance will begin in the month **of October** ~~September~~. The household remains eligible for the part time level for the months of September, October, and November **and December**.

On November 3rd the household timely reports that they now have employment as an allowable activity. Since the household found a new allowable activity before the end of the three full consecutive month period, the household remains eligible. The household reports an increased need in the level of care based on allowable activity hours. The level of care can be increased to the full time level of care based on policy at 'Determining the Level of Care [400-28-80-50](#).'

The co-pay may be decreased if the household reports that there is a reduction in income based on the new employment as per policy at 'When Income and Allowable Income Deductions are Verified and Changed [400-28-75-50](#).'

On March 18th, the household timely reported that they lost their employment as of March 11th and no longer has any allowable activity. Since the household timely reported the loss of activity, the household's is allowed another three full months of continued assistance that will begin the month of April. The household remains eligible for the full time level for the months of March, April, May and June.

The household does not report by June 10th that they now have an allowable activity. ~~Verification of an allowable activity must be requested and the case may be set to close at the end of June.~~ If no verifications are received by June 30th, the case is closed and the household must reapply.

If activity search hours are questionable at time of payment, verification can be requested from the household before payment is processed.

5. 400-28-105-05 Overview. Updated in IM 5458.

Provider Requirements and Information 400-28-105

Overview 400-28-105-05

The following items must be met in order to be an eligible child care provider for CCAP:

- Be 18 years of age or older.
- Be licensed, Air-force Base Licensed, self-declaration, approved relative or tribal registered.
- Out of state (border state) and tribal providers must sign and submit an SFN 617 – Out-of-State/Tribal Child Care Assistance Provider Agreement.
- Out of state (border state) providers must submit a current copy of their license.
- Complete a W-9.
- Be enrolled in the Child Care Assistance Program Provider System at the time a certificate is issued or updated and at the time payment is made.

A self-declared provider may be approved to provide care at an address other than their own residence. If the address at which the self-declared provider is approved to provide care is the same address as the child's residence, payment can be made: **if the child meets the definitions per policy as 'In Home Care Due to Illness/Disability 400-28-35-30'.**

Federal law dictates that a provider must allow the caretaker unlimited access to their child(ren) while the child is in the provider's care.

Child care providers may not discriminate against children based on race, national origin, ethnicity, sex, religion or disability.

6. 400-28-105-55 1099 Tax Form and Internal Revenue Service (IRS) Reports. Updated in IM 5458.

1099 Miscellaneous Tax Form and Internal Revenue Service (IRS) Reports 400-28-105-55

Federal law requires that a "1099 Miscellaneous **Nonemployee Compensation** Tax Form" be sent to the provider for each year they received payment from CCAP. These figures are reported to the IRS.

Providers who receive less than \$600 per year from the Department of Human Services will not be issued a "1099 Miscellaneous**Nonemployee Compensation** Tax Form." ~~The Department of Human Services will send a letter explaining why the provider is not getting a "1099 Miscellaneous Tax Form" and the amount the provider received during the year.~~

Payments made to the household instead of the provider are not reported on a 1099. Household's will not receive a 1099.

When checks are returned to be canceled, the payment record for the appropriate provider will be adjusted by the Department of Human Services to reflect the correct amount on the "1099 Miscellaneous **Nonemployee Compensation** Tax Form".

7. 400-28-105-25 Qualified Providers for Certificate and Payment.

Qualified Providers for Certificate and Payment 400-28-105-25

The household's provider must be licensed (including military, tribal and out-of-state), self-declaration, or an approved relative provider. The license must be current, and have an expiration date later than the date of CCAP application.

If a provider is dual licensed, through the state and the tribe, payment will be issued based on the state license.

CCAP will make payment back to the first of the month in which the provider's license is effective.

Provider's may appeal a license denial. Payment for CCAP cannot be made during the appeal process as the provider is not licensed. If the provider wins the appeal, CCAP will make payment back to the effective date of the provider license.

If a CCAP applicant requests child care for a prior month and the provider was not licensed in that prior month, payment cannot be made to that provider for that month.

Ongoing

In an ongoing case where there is more than one provider and one of the provider(s) is no longer licensed the provider must be removed from the certificate effective the month following the month of expiration.

If the provider license expires during the eligibility period, payment can only be up to the expiration date. Any care provided following expiration date **cannot** be paid. Verification of attendance can be requested for any service month when payment is requested, and a provider's license expires.

If the provider is reinstated during the month of expiration, payment can be made for the entire month.

If a child care provider's license is suspended during the certificate period, CCAP will not make payment effective the date of suspension.

If a provider is issued an 'Intent to Revoke', CCAP can continue to make payment until the revocation is final.

NOTE: Providers may appeal a revocation or suspension. When a provider files an appeal, CCAP can continue to pay the provider during the course of the appeal. ~~If the provider loses the appeal, all payments made during the appeal process will be considered overpayments and must be paid back to CCAP by the provider.~~

8. 400-28-105-50 W-9 Request for Taxpayer Identification and Certification.
Updated in IM 5458.

W-9 Request for Taxpayer Identification Number and Certification 400-28-105-50

A "W-9," Request for Taxpayer Identification Number and Certification" is required from a provider upon initial acceptance of a CCAP household. CCAP will not make payment to providers before a W-9 is on file. W-9s must be submitted at each license renewal. A W-9 is required before license renewal when the following occurs:

- Change in name
- Change in provider type (family to group, group to center, et cetera)
- Change in address
- Change in either Social Security Number (SSN) or Employee Identification Number (EIN) when either is being used as the Taxpayer Identification (TIN)

The W-9's should be completed and mailed to:

Child Care Assistance Program

ND Department of Human Services – Dept. 325

600 E Boulevard Ave

Bismarck, ND 58505-0250

A W-9 can also be emailed to dhseap@nd.gov or submitted electronically through the provider's self-service portal.

9. 400-28-135- 15 Payment to the Provider. Updated in IM 5458.

Payment to the Provider 400-28-135-15

Unless the provider requests the payment to be issued to the family, all Child Care Assistance Program payments are to be issued to the provider.

If the provider chooses to have the payment go to the [caretaker](#), the provider must complete in its entirety, sign and date a [SFN 848](#), Provider's Request to Pay Parent Directly form. The form must be submitted to the [county social service office](#) and must be filed in the caretaker's file. The provider must still complete a 'W-9, Request for Taxpayer Identification Number and Certification'.

The SFN 848 remains in effect until a written statement revoking the SFN 848 is received from the provider or when a caretaker's case closes. If the caretaker reapplies and is eligible using the same provider as before, a new SFN 848 is required from the provider even if a previous SFN 848 is on file for that provider.

Payments are processed daily with the exception of the end of the State Fiscal Year. At the end of the State Fiscal Year, there is usually a 3 day period when payments are not processed.

Payments are issued through ~~an electronic payment card (debit card)~~, direct deposit, or by check in specific cases.

Note: Checks are mailed two working days after the process date. With exception of weekends and holidays, normal delivery **should** be within five business days after the processing date.

The following day care providers receive payments by electronic payment card:

- ~~AR~~ [Approved Relatives](#) (Q)
- ~~IN~~ [In Home care](#) (I)
- ~~NF~~ ~~Non-relative in Family Day Care~~ (F, I)
- ~~RF~~ ~~Relative in Family Day Care~~ (F, I)
- ~~SC~~ [Self Declaration](#) (S)
- ~~TR~~ [Tribal Registration](#) (R)

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The following day care providers will receive payments by direct deposit:

- ~~CT~~ [Centers](#) (C,E,K,M)
- ~~NG~~ [Group Care](#) (G,H)

The following will receive payment by check:

- Payments made to the family instead of provider. The eligibility worker selects this option when entering payments into the Child Care Assistance Program payment system.
- Garnishment of child care payments due to [child support](#) obligation of a provider. Child care payments to individuals with a child support obligation are intercepted by Fiscal Administration, Department of Human Services. Fiscal Administration deducts the required amount and issues the remaining amount to the child care provider. Because of this process, these payments will continue to be issued by check.

10. 400-28-150-20 Recouping Overpayments. Updating to allow a second adult household member to be responsible for Overpayments.

Recouping Overpayments 400-28-150-20

The eligibility worker must promptly take all reasonable and practical steps to recoup all [overpayments](#).

Any overpayment, whether resulting from an error made by the provider or adult member of the Child Care Assistance unit, administrative error, [fraud](#), or a [fair hearing](#) decision subsequently made in favor of the [county social service office](#), is subject to recovery regardless of when the overpayment occurred.

Note: Only overpayments occurring under North Dakota's Child Care Assistance Program (CCAP) can be recouped. Requests from other states for [recoupment](#) cannot be honored.

The provider or adult members of the Child Care Assistance unit of the case at the time the [claim](#) was established is responsible for repayment of overpayments whether it is an administrative or [recipient](#) error.

Example: If Mom has an open CCAP case and Dad is in the home, the overpayment is established in Mom's name. Mom's case closes. Dad reapplies in his name. Dad is not responsible for repayment of the overpayment.

If the case closed and the individual reapplies and begins receiving assistance again, any outstanding overpayment balance must be recouped.