Child Care Assistance Program

Service Chapter 400-28

North Dakota Department of Human Services
600 East Boulevard Dept. 325
Bismarck, ND 58505-0250

Contents

Contents
Child Care Assistance Program 400-28
Definitions 400-28-05
Child Care Assistance Program (CCAP) Legal Authority and Program Purpose 400-28-10
Authority Reference 400-28-10-05
Goals and Purposes 400-28-10-10
Discriminatory Practices Prohibited 400-28-15-10
Date of Application and Benefit Start Date 400-28-20-10
Narrative/Documentation 400-28-15-15
Application Processing Timeliness Standards 400-28-20-15
New Application Not Required 400-28-20-25
Establishing Need 400-28-20-35
Review 400-28-25
Timeliness Standards for Processing Reviews 400-28-25-05
Review Form Received After the Case Closed 400-28-25-10
Eligible Children 400-28-35-02
Household Composition 400-28-35
Child Care Assistance Unit 400-28-35-05
Caretaker Temporarily Out of Home 400-28-35-10
Incapacity of a Caretaker/Child 400-28-35-15
Disqualified Caretaker 400-28-35-20
Parents Not Residing Together 400-28-35-25
In Home Care Due to Illness/Disability 400-28-35-30
Parent Court Ordered Not to be Left Alone with a Child 400-28-35-35
Homeless Households 400-28-38
Application and Review Processing for Homeless Households 400-28-38-05
Allowable Activities for Homeless Households 400-28-38-10

Verifications for Homeless Households 400-28-38-15

Crossroads Families 400-28-40

Eligibility for Crossroads Families 400-28-40-05

Processing of Child Care Assistance for Crossroads Recipients 400-28-40-10

Initial Crossroads Application/Initial Child Care Assistance Program Application 400-28-40-10-05

Initial Crossroads Application/Ongoing Child Care Assistance Program 400-28-40-10-10

Ongoing Crossroads/Ongoing Child Care Assistance Program 400-28-40-10-15

Crossroads Program Closure and Continued Child Care Assistance Program 400-28-40-10-20

TANF Families Eligibility 400-28-45

Waived Co-Pay for TANF Recipients 400-28-45-05

Caretakers Who Receive or are Deemed to be Receiving TANF 400-28-45-10

Non-Recipient Caretakers of TANF (SSI, Disqualified Alien, Non-legally Responsible Caretakers, or ineligible Kinship Care caretakers) 400-28-45-15

Unmarried TANF Households - No Children in Common 400-28-45-20

Unmarried TANF Households - Children in Common 400-28-45-25

Married TANF Households 400-28-45-30

Final Two Months of TANF 400-28-45-35

Child Care for TANF Recipients 400-28-45-40

Processing of Child Care Assistance for TANF or Diversion Applicants and Recipients 400-28-45-45

Initial TANF or Diversion Application/Initial Child Care Assistance Program Application 400-28-45-45-05

Initial TANF or Diversion Application/Ongoing Child Care Assistance Program 400-28-45-45-10

Initial Child Care Assistance Program Application/Ongoing TANF or Diversion 400-28-45-45-15

Ongoing TANF or Diversion/Ongoing Child Care Assistance Program 400-28-45-45-20

TANF or Diversion Closure and Continued Child Care Assistance Program 400-28-45-45-25

Ineligible/SSI Children Whose Caretaker receives TANF or Diversion 400-28-45-45-30

Non-Financial Eligibility Requirements 400-28-50

Mandatory Verification 400-28-50-02

Residence 400-28-50-05

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

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

Caretaker/Child Association 400-28-50-15

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

Age Verification for the Child for Whom Assistance is Being Requested 400-28-50-20

Documentation/Verification of Age 400-28-50-20-05

Citizenship Verification for a Child for Whom Assistance is Being Requested 400-28-50-25

Documentation/Verification of Citizenship 400-28-50-25-05

Social Security Number 400-28-50-30

Education or Training 400-28-50-35

Documentation/Verification of Education or Training 400-28-50-35-05

Allowable Activities 400-28-55

Allowable Activities 400-28-55-05

Allowable Activities for TANF Recipients 400-28-55-10

Allowable Activities for Diversion Recipients 400-28-55-15

Allowable Activities for Crossroads 400-28-55-20

Allowable Activities for Alternative Response for Substance Exposed Newborn Recipients 400-28-55-30

Financial Eligibility Requirements 400-28-65

Assets 400-28-65-05

Countable Assets 400-28-65-07

Asset Exclusions 400-28-65-09

Income 400-28-65-10

Definition of Income 400-28-65-10-05

Earned Income 400-28-65-10-10

Earned Income - When Received 400-28-65-10-20

Earned Income Received on a Contractual Basis 400-28-65-10-25

Documentation/Verification of Earned Income 400-28-65-10-30

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

Unearned Income 400-28-65-10-40

Child Support and Spousal Support- Court Ordered and Voluntary 400-28-65-10-42

Tribal Payments and IIM Accounts 400-28-65-10-47

Unearned Income - When Received 400-28-65-10-50

Documentation/Verification of Unearned Income 400-28-65-10-55

Income Exclusions 400-28-65-15

Lump Sum Payments 400-28-65-20

Nonrecurring Lump Sum Unearned Income Payments 400-28-65-20-05

Recurring Lump Sum Unearned Income 400-28-65-20-10

Terminated Source of Income 400-28-65-25

Allowable Income Deductions 400-28-65-30

Overview 400-28-65-30-05

Child/Spousal Support Deduction 400-28-65-30-10

Documentation/Verification of Court Ordered Child/Spousal Support Deductions 400-28-65-30-10-05

Garnishments from Income 400-28-65-30-15

Converting Income 400-28-70

Converting Income and Allowable Income Deductions 400-28-70

Converting Income 400-28-70-05

Converting Allowable Income Deductions 400-28-70-10

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

When Income and Allowable Income Deductions are Verified and Changed 400-28-75-50

Allowable Child Care Hours and Level of Care 400-28-80

Calculating a Caretaker's Allowable Child Care Hours 400-28-80-10

Calculating a Child's Allowable Child Care Hours 400-28-80-10-05

REPEALED Absent Days 400-28-80-25

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

Co-pay Requirements 400-28-90

Overview 400-28-90-05

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

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

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

State Rates, Payment, and Family Share 400-28-100

State Rate 400-28-100-05

Child Care Sliding Fee Schedule 400-100-07

State Maximum Monthly Share 400-28-100-10

REPEALED Child Care Assistance Program (CCAP) Payment 400-28-100-15

REPEALED Family Share 400-28-100-20

Third Party Payments 400-28-100-25

Basis for Allowable Child Care Rate of Payments 400-28-100-30

Payment to the Provider 400-28-100-35

Payments of Less Than $10 400-28-100-40

Lost and Returned Checks 400-28-100-45

Provider Requirements and Information 400-28-105

Overview 400-28-105-05

In Home Child Care When Provider and Child Reside in Same Home 400-28-105-15

Approved Relative 400-28-105-20

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

Qualified Provider Codes 400-28-105-40

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

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

American Indian Tribes 400-28-110

Caretaker Choice 400-28-115

Caretaker's Choice to Select a Provider 400-28-115-05

Caretaker and Provider Contract for Services 400-28-115-10

Certificates 400-28-120-10

Mandatory and Known Information Changes 400-28-125

Reporting Requirements 400-28-125-05

Known Information to Agency 400-28-125-15

Required Action on Mandatory Changes 400-28-125-30

Change of Address for Caretaker 400-28-127

Moving Within the County 400-28-127-05

Moving to Another County 400-28-127-10

Verification of Child Care Costs 400-28-130

Child Care Request for Payment 400-28-130-05

Time Frame for Payment Certification 400-28-130-10

Extra Provider Charges 400-28-130-15

Meal/Snack 400-28-130-15-05

Transportation 400-28-130-15-10

Registration Fee 400-28-130-15-15

REPEALED Computing the Bill 400-28-135-10

REPEALED Returned Checks 400-28-135-30

Notices 400-28-140

Case Closings 400-28-145

Underpayments and Overpayments 400-28-150

Underpayments 400-28-150-10

Documentation of Underpayment 400-28-150-10-05

Overpayments 400-28-150-15

Documentation of Overpayment 400-28-150-15-25

Recouping Overpayments 400-28-150-20
Methods of Recouping Overpayments 400-28-150-20-05
Appeals and Fair Hearings 400-28-155
Overview 400-28-155-05
Requesting a Fair Hearing 400-28-155-10
Fair Hearing Process 400-28-155-15
Benefits Pending a Fair Hearing 400-28-155-20
Results of the Fair Hearing 400-28-155-25
Intentional Program Violation (IPV) 400-28-162-05
Evidence Evaluation 400-28-162-10
Initiating an Intentional Program Violation 400-28-162-15
Scheduled Intentional Program Violation Meeting 400-28-162-20
Administrative Disqualification Hearing (ADH) 400-28-162-25
Court Conviction 400-28-162-30
Disqualification Time Frames 400-28-162-35
Action Upon Receipt of Signed Findings and Order 400-28-162-40
Disqualification in Another State 400-28-162-45
Subsequent IPV Action 400-28-162-50
Appendix 400-28-165
SFN 23, Application for Approval for Relative Child Care Provider 400-28-165-05
SFN 29, Crossroads Program Application 400-28-165-10
SFN 162, Request for Hearing 400-28-165-20
DN 241, Sliding Fee Schedule 400-28-165-25
SFN 405, Application for Assistance 400-28-165-30
SFN 413, Individual Indian Monies Account 400-28-165-35
REPEALED SFN 616, Child Care Request for Payment 400-28-165-45
SFN 827, Credit Form 400-28-165-60
REPEALED SFN 848, Provider's Request to Pay Parent Directly 400-28-165-65
DN 1087, Legal Service Organizations 400-28-165-70

SFN 1940, TANF/SNAP/CCAP Notice of Suspected Intentional Program Violation 400-28-165-75

SFN 640 Verification of Participation in Alternative Response for Substance Exposed Newborns (ARSEN) 400-28-165-90

Child Care Assistance Program 400-28

Definitions 400-28-05

(Revised 4/1/21 ML #3605)

View Archives

(NDAC 75-02-01.3-01) (NDCC 50-33-01)

Accelerated Degree Program - A degree program that typically includes condensed classes that may be completed more quickly than standard classes.

Activity Search – The time an individual spends looking for employment, education or training activities and housing in situations of homelessness. Activity search is only considered to be an allowable activity in ongoing cases.

> **Exception:**
>
> If the household is also Diversion, TANF or Transition at the time of application or review, activity search hours can be allowed. TANF and Transition cases must have activity search listed on the employment plan in order to be considered an allowable activity at time of application or review.

Homeless households are allowed activity search at the time of application and review and during their 30 day grace period to provide verifications.

Adequate Notice - Notification of Adverse Action to a household which must be generated no later than the close of business on the 3rd to the last working day of a month so the notice is received by the household no later than the date the household would normally receive benefits. Adequate Notice does not apply to the Child Care Assistance Program.

Advance (10 Day) Notice - Notification of Adverse Action to a household which must be mailed or given to a household at least 10 days before the date of action. Advance Notice does not apply to the Child Care Assistance Program.

Alien – An individual who is still a subject or a citizen of a foreign country and has not been granted US citizenship.

Allowable Activities – Allowable activities include work, activity search, (only in ongoing cases unless the household is also Diversion, TANF or Transition at the time of application or review. TANF and Transition cases must have activity search listed on the employment plan in order to be considered an allowable activity at time of application or review.), attending education or training, and approved activities under the State Job Opportunities and Basic Skills (JOBS) or Tribal Native Employment Works (NEW). Child care for participation in these allowable activities are reimbursable under the Child Care Assistance Program.

Allowable Postsecondary Education - Engaging in educational activities which will lead to the award of a certificate, Associate's degree, or a Bachelor's degree.

Allowable Postsecondary Student – A student participating in an allowable, postsecondary educational activity.

Allowable Activities – Allowable activities include work, activity search (only in ongoing cases unless the household is also Diversion, TANF or Transition at the time of application or review. TANF and Transition cases must have activity search listed on the employment plan in order to be considered an allowable activity at time of application or review.), attending education or training, and approved activities under the State Job Opportunities and Basic Skills (JOBS) or Tribal Native Employment Works (NEW). Child care for participation in these allowable activities are reimbursable under the Child Care Assistance Program.

Allowable Training - Training designed to assist an individual to achieve education or retain employment.

Alternative Response for Substance Exposed Newborns (ARSEN)

Alternative Response for Substance Exposed Newborns (ARSEN) means a child protection response involving substance exposed newborns which is designed to provide referral services to and monitor support services for a

person responsible for the child's welfare and the substance exposed newborn; and develop a plan of safe care for the substance exposed newborn. Participation in an ARSEN is voluntary and depends on the cooperation of the caregivers. (NDCC 50-25.1)

Applicant – An individual who is seeking a benefit under this program.

Application Month – The calendar month in which a signed and dated application is received in the county social service office.

Approved Relative - A provider, whose relationship to the child by marriage, blood, or court degree, is a:

- Grand-parent (including step-grandparents)
- Great-grand parent (including great step-grandparents)
- Aunt or uncle (including step-aunt or uncle)
- Sibling (including step-siblings)

  NOTE: Siblings cannot be an approved relative provider if the sibling resides with the child.

Budgeting – Household income assigned to a payment month that is used to compute eligibility and benefit levels.

Business (Work) Day – An official work day of the week which is between and includes Monday to Friday, but does not include weekends and public holidays during which the North Dakota Department of Human Services is closed.

Calendar Month – The period of time that begins at midnight on the last day of the previous month and ends at midnight on the last day of the month under consideration.

Caretaker - A child's biological or adoptive parent, the spouse of the child's biological or adoptive parent, or an individual (loco parentis) acting in the place of a child's parent at the request of the parent or another with authority to make the request, but does not mean a provider.

Child Care Assistance Program (CCAP) State Determination Team – The Public Assistance Director and the Child Care Assistance Program Policy Administrators(s) when determining if the medical illness of a member of the Child Care Assistance Unit whose medical condition requires a caretaker to be temporarily out of the home warrants child care costs to be paid for the remaining parent participating in an allowable activity.

Child Care Assistance Unit - Includes child(ren) through the month of their 19th birthday, parent(s), caretaker(s) , stepparent(s), and the acknowledged or adjudicated father of one or more children in common in the household.

Child Care Center - An early childhood facility where early childhood services are provided to nineteen (19) or more children.

Child Care Certificate - A certificate issued by the Department of Human Services to the caretaker who is eligible for Child Care Assistance Program.

Child Care Sliding Fee Schedule - A system of cost sharing by a family and the Child Care Assistance Program based on income and size of the family.

Child Support – A voluntary or court-ordered payment by non-custodial parents for support of their child(ren).

Citizenship – The legal status of being a citizen of a country.

Claim – The result of establishing an overpayment.

Closure – The determination of ineligibility for benefits in an ongoing case.

Co-pay – The portion of an expense an individual or family is responsible to pay towards the cost of a service received.

Collateral Contact – An individual who confirms information about a Child Care Assistance Program (CCAP) household's circumstances but does not reside with or is not a member of the CCAP household.

Converting – Changing something from one form to another.

County Social Service Office – The social service office in each of the counties in the state.

Crossroads - A program for a parent, married or unmarried, male or female, who is twenty years old or younger, who has the primary responsibility for the care of his/her child and who is pursuing high school, a GED or alternative high school.

Denial – The determination of ineligibility for benefits on a new application.

Department - The North Dakota Department of Human Services.

Department of Homeland Security – The federal agency that regulates the Immigration and Naturalization Services (INS) Department.

Disability - A special needs child is a child who has multiple and/or severe functional needs that requires ongoing specialized care. Written verification is required and should state the nature of the special needs and if for a child age thirteen (13) under age nineteen (19) state that the child is unable to care for themselves.

Disqualified Individual – An individual who is ineligible for TANF due to being determined a Disqualified Alien (DA), Disqualified Fleeing Felon/Parole/Probation violator/Drug Felon (DD), or Disqualified Fraud (DF), Disqualified – Child Support (DM) or Disqualified – JOBS sanction (DI).

Diversion – A program available for families as a means to provide short-term emergency benefits and services to families during a 'specific crisis or episode of need' for up to 4 months to households who would otherwise qualify for TANF.

Dividend – The amount of the profit distribution a shareholder receives or the amount of surplus distribution on a policyholder receives.

Documentation – Written statement or verification that substantiates or validates an assertion made by an individual or an action taken by a person, (i.e. pay stubs, written statement from employer or child care provider).

Earned Income – Income received as wages, salaries, commissions, or profits from activities in which a household is engaged through either employment or self-employment. There must be personal involvement and effort on the part of the household for income to be considered earned.

Earned Income Tax Credit (EITC) – A federal refundable tax credit for low or moderate income working individuals and families. Individuals may receive an EITC once a year as a refund. Working families with children can apply for advance payments with each paycheck.

Employment Identification Number (EIN) - A Federal Tax ID identified as a free nine-digit number issued by the Internal Revenue Service for banking, tax filing, and other business purposes.

Eligible child - Child member of the care assistance unit who is eligible for payment.

English as Second Language – An individual who is participating in classes for English as a second language.

Expense – An amount subtracted from a household's income when it is intended for a specific allowable expense.

Extenuating Circumstance - a failure or delay, beyond the control of an applicant, to provide needed information and is not due to agency delays.

Eligibility Criteria – Conditions and standards an applicant or recipient must satisfy to be eligible for benefits.

Face-to-Face Interview – Face-to-face meeting to determine initial or ongoing eligibility for assistance. A Face-to-Face interview is not required for the Child Care Assistance Program.

Fair Hearing – A formal hearing conducted by the Office of Administrative Hearings where a ruling is made in favor or against an adverse action that was made in the eligibility determination and benefit amount.

Family Child Care Home - An occupied private residence in which early childhood services are provided for no more than seven (7) children at any one time, except that the term includes a residence providing early childhood services to two (2) additional school-aged children during the two hours immediately before and after the school day and all day, except Saturday and Sunday, when school is not in session during the official school year.

Family Monthly Co-pay – The portion of the monthly child care costs the family is responsible to contribute towards the costs of their child care.

Financial Aid – Programs that financially assists students with the cost of attending post-secondary education.

Fraud – Obtaining, attempting to obtain, or aiding and abetting another to obtain assistance benefits to which the person is not entitled, through intentionally false statements, representations, or the withholding of material information.

Fraud Overpayment – An overpayment that a court or administrative disqualification hearing determines was the result of fraudulent intent.

GED (General Education Diploma or General Equivalency Diploma) – A high-school degree awarded after successful completion of a series of examinations instead of attendance in a traditional classroom setting.

Group Child Care Facility or Group Child Care Home - A child care facility where early childhood services are provided for eight (8) through eighteen (18) children or a facility, other than an occupied private residence, which serves fewer than nineteen (19) children.

Gross Earned Income – The income earned from employment before any deductions.

Homeless – An individual who lacks a fixed, regular, and adequate nighttime residence; and includes individuals who;

- Share the housing of other persons due to loss of housing, economic hardship, or a similar reason; are living in motels, hotels, trailer parks or camping grounds due to the lack of alternative accommodations; are living in emergency or transitional shelters; are abandoned in hospitals or awaiting foster care placement;
- Have a primary nighttime residence that is a public or private place not designed for or ordinarily used as regular sleeping accommodations for human beings (bus station, lobby) ;
- Live in cars, parks, public spaces, abandoned buildings, substandard housing, bus or train stations, or similar settings; and
- Are migratory and live in any of the circumstances as described above.

IEVS (Income and Eligibility Verification System) – A set of data exchanges with other state and federal sources that is used to verify income and assets of applicants for or participants of TANF, SNAP and Medicaid.

Immigrant – A person who leaves a country to settle permanently in another country.

Immigration and Naturalization Services – A department within Homeland Security that oversees immigration related services.

Income – Earned or unearned income received by or available to an applicant or recipient.

Income When Received – Income which is received on a normally occurring schedule. Incidental variations of the date of receipt of income do not change the normally received date schedule.

Indian Land Held in Trust –Rreal property held in trust for an Indian Tribe by the federal government.

In-Home Provider - Any person who provides early childhood services to one or more children in the parental home.

Initial Eligibility – Determination of eligibility for an applicant.

Intentional Program Violation (IPV) – An action by an individual, for the purpose of establishing or maintaining eligibility for the Child Care Assistance Program or for increasing or preventing a reduction in the amount of assistance.

Intentional Program Violation Disqualification - The penalty imposed for having made a fraudulent statement or representation with respect to the Child Care Assistance Program through an administrative hearing, federal or state court.

Irregular Income – Income that is received sporadically and not received on regular pay schedule.

Job Opportunity and Basic Skills (JOBS) Program – The companion program to the TANF Program, which combines components of education, training, and employment to enable participants to become self-sufficient.

Lawful Permanent Resident (LPR) – A status of an immigrant legally admitted to the United States on a permanent basis, under the United States Immigration and Nationality Act.

Legal Custodian – An individual under legal obligation to provide care for a minor.

Level of Care – Full-time or part-time child care that is needed.

License - The right, authority, or permission granted by the Department of Human Services to operate a family child care home, group child care facility, child care center, or preschool educational facility. A license is required if the provider cares for six (6) or more children or cares for four (4) or more infants.

Loco Parentis – An individual (relative or non-relative) who is not the natural, adoptive or stepparent of the child but who assumes parental responsibilities and is physically caring for the child in their home on a 24-hour-a-day basis when the natural, adoptive or stepparent is not caring for the child or residing in the home and when the duration is expected to last over 30 uninterrupted days.

Lump Sum – Payments received on a recurring, non-recurring or irregular basis.

Minor Parent – An individual who has a marital status of never married, is under age 18, and is a natural or adoptive parent to a child. An individual is considered age 18 on the first day of the month of their 18th birthday.

Monthly Income – Income from any source, either earned or unearned, which is computed and reduced to monthly units for the purpose of determining eligibility and benefits. Income may be received weekly, bi-weekly, semi-monthly, monthly, intermittently, or annually, but is computed and considered monthly.

Multiple Group Licenses - A child care facility where two group licenses are allowed per facility if the operations are physically separate, meet all the requirement standards of a group facility, and each operate totally distinct in its day-to-day operation both on paper and in practice.

Multiple Licensed Facility - An early childhood facility that provides more than one type of early childhood services.

Need – Services that are required for a child whom needs child care while a caretaker(s) is participating in an allowable activity.

Overpayment – Benefits received that exceed the amount for which the household is eligible.

Parent – A child's mother or father, whether by birth or adoption, but does not include:

- An individual whose parental rights have been terminated; or
- A stepparent, when the natural or adoptive parent resides in the home.

Paternity – Legal fatherhood established by marriage, adjudication in a court proceeding, adoption, or the voluntary acknowledgement of paternity. The United States Supreme Court has made it clear that the statutory term "parent" includes only "an individual who owed to the child a state-imposed legal duty to support."

Pension – A fixed sum paid regularly to disabled or retired individuals and in some instances to their dependents.

Preschool Educational Facility - A facility that offers early childhood services and follows a preschool curriculum and course of study designed primarily to enhance the educational development of the children enrolled in the facility and that services no child for more than three hours per day.

Prior Month – The calendar month immediately before the processing month for which the income and circumstances of the Child Care Assistance Program unit are evaluated to determine the amount of child care benefits to be paid during the benefit month.

Prospective income – The anticipated income to be received in a future month.

Qualified Provider - An individual 18 years of age or older, licensed, self-declaration, registered by a Tribe, or an approved relative who provides child care.

Quality Rating Information System (QRIS) - A voluntary provider improvement process for licensed early childhood providers. QRIS utilizes a tiered system of quality indicators for providers to achieve

Recipient - An individual who is eligible the Child Care Assistance Program.

Recoupment – Withholding of part of the Child Care Assistance Program household's assistance benefit to recover an overpayment.

Registration Fee – A one time or annual mandatory fee that is charged by providers to cover administrative, operational or enrollment costs but does not include fees charged for transportation, meals, field trips and other costs.

School Age Child – A child in any type of school setting that is not included as part of their daily child care activity. This includes preschool, Head Start, and elementary school, etc.

School Age Child Schedule - Schedule of a school age child that includes the yearly school calendar, including holidays, and the daily hours of school attendance.

Self-Declaration - The process whereby the Department of Human Services maintains a record of all in-home and self-declaration providers who have stated that they have complied or will comply with the standards prescribed. Self-declaration is available, although not required, for those child care providers who care for five (5) or less children.

Self-Employment – Employment where people work for themselves rather than an employer.

Self-Employed Individuals:

1. Earn the income directly from a business or trade, not from wages or salary from an employer.
2. Are responsible for the payment of entire Social Security and Federal withholding taxes. [If an employee, the employer would pay half of their Social Security Tax and withhold federal income tax from the employee's salary.]
3. File self-employment tax forms, however, not all individuals file tax forms.

Siblings – Brothers and sisters (including full, half, or step) who are related through birth, adoption, or marriage.

Spousal Support – A voluntary or court ordered payment by an individual for support to their ex-spouse.

State Maximum Monthly Share – The maximum amount the state will pay for a child eligible for the Child Care Assistance Program in a specific month.

State Rate – The maximum allowable amount the state allows for each child eligible for Child Care Assistance Program based on the Child Care Sliding Fee Schedule.

Stepparent – A person legally married to a parent after the birth or adoption of a child who is not the parent of that child by either birth or adoption.

Note: A child born after a marriage is dissolved is not a stepchild to the ex-spouse.

Temporary Absence – Period of time an individual may be physically absent from a residence but still considered to be a part of the Child Care Assistance household.

Temporary Assistance for Needy Families (TANF) - A program available for a limited time for families where deprivation exists for the child(ren) and income is insufficient to meet the needs of the family. This includes Transition Assistance provided to families for up to 6 months to qualified TANF households.

Terminated Source of Income – Income, earned or unearned, that stops or ends and is not anticipated to begin again.

Timely Report of Changes - A change that is reported within 10 days from the date the event occurred.

Timely Verified – Information that is provided within the required time frame.

Travel time – A reasonable time that it takes an individual to get to and from their allowable activity while their child(ren) is at child care. This does not include travel time from the parent's home to the child care provider and from the child care provider to the parent's home.

Tribal Entity - An organization authorized by the government of an Indian tribe within North Dakota to license, register, or otherwise recognize a child care provider operating within the jurisdiction of that Indian tribe.

Tribal Registration – A provider who is registered through one of the Tribal entities in North Dakota.

Underpayment – A correction to benefits paid a household who was originally paid less than they were eligible to receive.

Unearned Income – Income an individual receives without being required to perform any labor or service.

US Citizen – The status of being a native born or naturalized citizen of the United States.

Verification – The process and evidence used to establish the accuracy or completeness of information from an applicant, recipient, third party, etc.

Vocational Training – Training related to a specific trade, occupation or vocation.

Waived Co-pay – Low income families who are not subject to Co-pay requirements.

Work Study – Federal or non-federally funded employment arranged for students by a post-secondary school.

Working - Earning a wage. Self-employment is also defined as work.

Child Care Assistance Program (CCAP) Legal Authority and Program Purpose 400-28-10

Authority Reference 400-28-10-05

(Revised 10/1/11 ML #3278)

View Archives

The Personal Responsibility and Work Opportunity Reconciliation Act of 1996 signed into law August 22, 1996 collapsed all child care programs into one entitled Child Care and Development Fund.

Effective October 1, 1996 this program created a simplified program using the same regulations for all child care needs.

These include:

1. Families receiving Temporary Assistance for Needy Families (TANF) benefits and who are involved in work or training activities and families who are transitioning off such benefits
2. Families receiving Diversion benefits
3. Families eligible for Crossroads
4. Low income families who are in need of assistance of child care to keep from becoming dependent on other assistance programs

Federal regulations may be found at Title 45 Department of Health and Human Services, Part 98, Child Care and Development Block Grant Act of 1990, section 5082 of the Omnibus Budget Reconciliation Act of 1990, Public Law 101-508 as amended and codified at 42 U.S.C. 9858.

Goals and Purposes 400-28-10-10

(Revised 10/1/11 ML #3278)

View Archives

The goals of the Child Care and Development Fund (CCDF) are to:

1. Allow states maximum flexibility in developing child care programs and policies that best suit the needs of the children and caretakers within the state
2. Promote caretaker choice to empower working caretakers to make their own decisions on the child care that best suits their family's needs
3. Encourage states to provide consumer education information to help caretakers make informed choices about child care
4. Assist states to provide child care to caretakers trying to achieve independence from public assistance
5. Assist states in implementing the health, safety, licensing, and registration standards established in state regulations

The purpose of the CCDF is to increase the availability, affordability, and quality of child care services. The program offers Federal funding to States, Territories, Indian Tribes, and the tribal organizations in order to:

1. Provide low-income families with the financial resources to find and afford quality child care for their children
2. Enhance the quality and increase the supply of child care for all families, including those who receive no direct assistance under the CCDF
3. Provide caretakers with a broad range of options in addressing their child care needs
4. Strengthen the role of the family
5. Improve the quality of, and coordination among, child care programs and early childhood development programs
6. Increase the availability of early childhood development, and before/after-school care services

The federal regulations provide the basis for administration of the CCDF by providing that Lead Agencies:

1. Maximize caretaker choice through the use of certificates and through grants and contracts
2. Include in their programs a broad range of child care providers, including center-based care, family child care, in-home care, care provided by relatives, and faith based child care providers
3. Provide quality child care that meets applicable requirements;
4. Coordinate planning and delivery of services at all levels
5. Design flexible programs that provide for the changing needs of families;
6. Administer the CCDF responsibly
7. Design programs that provide uninterrupted service to families and providers, to the extent statutorily possible

In addition to the monies to be used for child care payments, quality monies in the grant are used for:

1. Licensing
2. Resource and referral services
3. Monies specified for services to specific children population groups such as infants and toddlers

Discriminatory Practices Prohibited 400-28-15-10

(Revised 4/1/21 ML #3605)

View Archives

The North Dakota Department of Human Services and county social service boards, directly or through contractual or other arrangements, on the basis of race, color, religion, sex, national origin, age, or disability, shall not:

1. Deny any individual aid, care, services, or other benefits provided under this program
2. Provide any aid, care, services, or other benefits to an individual which is different or is provided in a different manner from that provided to others under the program
3. Subject an individual to segregation or separate treatment in any manner related to receipt of any aid, care, services, or other benefits provided under the program
4. Restrict an individual in any way in the enjoyment of any advantage or privilege enjoyed by others receiving any aid, care, services, or other benefits provided under the program
5. Treat an individual differently from others in determining whether the individual satisfies any eligibility or other requirement or condition which individuals must meet in order to receive any aid, care, services, or other benefits provided under the program
6. Deny any individual an opportunity to participate in the program through the provision of services or afford the individual an opportunity to do so which is different from that afforded others under the program (including the opportunity to participate in the program as an employee where the primary objective of the federal financial assistance to the program is to provide employment, including a program under which the employment is provided to reduce unemployment)

Case Narrative Documentation 400-28-15-15

(Revised 6/1/22 ML #3671)

View Archives

Refer to section 448-01-40 for case file and narrative requirements.

Date of Application and Benefit Start Date 400-28-20-10

(Revised 10/1/2022 ML #3678)

View Archives

NDAC 75-02-01.3-02

Households can apply for the Child Care Assistance Program in person, by mail, fax or electronically using one of the following:

- SFN 405 Application for Assistance
- SPACES self-service portal (SSP)

Applications may be received, filed and maintained at any county office within the state, based on what is most convenient for the applicant or recipient.

CCAP does not require an interview to determine eligibility. Households are not required to identify a provider at the time of application.

Date of Application and Benefit Start Date

The date of the application is the date the signed application is received in the county office.

The county office must document on the application the date the application was received in the county office.

> **Note**: Applications received after business hours, on weekends or holidays are considered received on the next business day.

The application is considered signed as long as the signature is found anywhere on the application, other than in answer to a question.

If an unsigned application is received, the unsigned application must be returned to the applicant for signature. The county must document the date the signed application is received in the office. This date will become the application date.

Benefits will begin on the first day of the month in which the **signed** application is considered received in the county office.

Prior Month

Applicants may request assistance for the month prior to the application month (prior month). Households may request the prior month up to the last day of the month following the month of application. Requests for prior months made after the time of application must be submitted in writing to the county office.

> **Example:**
> A household applies for CCAP on April 3rd and is approved on April 15th. The household's benefit start date is April 1st. The household has until May 31st to request the prior month.

If eligible, the system will determine eligibility and make payment for the prior month based on actuals.

If eligibility already exists for the requested prior month, a new eligibility determination is not made and payment for that month is based on the previous determination.

Application Processing Timeliness Standards 400-28-20-15

(Revised 10/1/20 ML #3574)

View Archives

NDAC 75-02-01.3-02

A decision to either approve or deny an application must be made no later than 30 days following the day the signed and dated application is received in the county office. The first calendar day following receipt of the signed application is day 1 of the 30 day processing timeframe.

Additional time may be allowed due to an extenuating circumstance. An extenuating circumstance may be determined by the eligibility worker, but reason for the extenuating circumstance must be documented in the system case narrative. If it has been determined that an extenuating circumstance exists, 15 extra days are allowed to process the application. Action must be taken no later than 45 days following the date of application.

If an application is filed with no address, the eligibility worker should review the contact information found on the mailing envelope, in a phone book, on a Motor Vehicle query, or using any other available resources for address information. The application must be pended and if no mailing/residence address can be located, 'General Delivery' must be used for the mailing address and applicable notice(s) sent.

An application can be denied prior to the 30th day when the household fails to provide required verification(s) within 10 days of the date of the request for verifications.

Before denying prior to the 30th day, a 'Request for Verification' notice must be sent when any information required to determine eligibility is not received with the application. The applicant has 10 days from the mail date

of the Request for Verification notice to provide the required information and verifications. The 'Request for Verification' notice must include:

- The information and verifications that are needed including the months for which information is needed.
- The time frame for submitting the information and verifications (10 days from the mail date of notice).
- Information regarding application denial if the information and verifications are not provided within 10 days

Information and verifications received after business hours, on weekends or holidays are considered received on the next business day and are considered to be timely.

If verifications have been requested and received and it is determined the applicant is not eligible; the application can be denied at any time prior to the 30th day.

If the notices are returned for insufficient address:

- If the application has not been approved, it should be denied due to loss of contact and documented in the system case narrative.
- If the application has been approved, CCAP can be closed for loss of contact and documented in the system case narrative.

If the applicant provides information for one month but not the other month(s), the month that the information was provided for can be processed and the other month(s) must be denied.

- If the applicant is not eligible for child care for the prior month but is eligible for the month of application, the prior month is denied and the application is approved, effective the first of the application month.

- If the applicant is eligible for the prior month but not for the month of application, the prior month is approved effective the first day of that month and CCAP is closed as of the last day of the month. The same application would be processed for the application month and denied.

An application may be withdrawn at any time prior to a decision being rendered. The request to withdraw the application can be made in writing or verbally by the applicant.

Application for Other Programs at time of CCAP Application

If an individual applies for CCAP and TANF, Diversion, or Crossroads at the same time, the application for CCAP must be pended until TANF, Diversion, or Crossroads eligibility is known.

If an individual applies for CCAP and TANF, Diversion, or Crossroads at the same time, requests CCAP for the prior month, all information needed to process the prior month has been submitted and the application month is pending, the prior month can be processed. In these situations if the prior month is processed as Co-pay use actual income and allowable expense deductions. If the prior month is processed as Waived Co-pay (TANF, Diversion, or Crossroads) the prior month is processed without regard to income or allowable expense deductions. In both situations, Co-pay or Waived Co-pay, CCAP must be closed as of the last day of the prior month. The application month would then be pended until TANF, Diversion, or Crossroads eligibility is known.

> **Example:** An individual applies for TANF and CCAP in June. The individual requests child care for the prior month of May. The information needed to determine May's eligibility has been provided and CCAP has been determined to be Co-pay for May.

The prior month of May is processed applying a co-pay. The CCAP must then be closed the end of May. The CCAP application for June is pended until TANF eligibility is determined.

New Application Not Required 400-28-20-25

(Revised 10/1/20 ML #3574)

View Archives

NDAC 75-02-01.3-02

A new application **is not required** in the following circumstances:

1. To approve CCAP when denied in error or reopen CCAP when it has been closed due to agency error
2. If CCAP closes for no review, a review form may be used in the month following the month of case closure
3. If the applicant is not eligible in the month of application, the application must be denied. The same application can be used to determine eligibility for the month following the month of denial. In this situation, the application month becomes the month following the month of denial and the application received date is the first day of the month following the month of denial. The application cannot be used for more than two months **except** when eligibility needs to be determined in the prior month.

   Example: A household applies for the Child Care Assistance Program in April and requests child care for the prior month of March. The individual is eligible for March but not eligible for April.

   - The application is approved for March and closed March 31 because the individual is not eligible for April.
   - The application must be denied for April.
   - If eligible for May, the same application can be used.

4. When CCAP closes for failure to provide information, a new application is not needed to reopen CCAP (revert to open) when the recipient provides **ALL** requested information prior to the closure effective date and remains eligible. If the closure date is a weekend or holiday, the recipient must provide the information by the close of business on the last working day of the month in which the case will close.

Establishing Need 400-28-20-35

(Revised 10/1/20 ML #3574)

View Archives

For a new application or review, in order for a child to be eligible, the child must have a child care need for the application or review month or the month following the application or review month. A child is considered to have a need when the caretaker(s) is participating in an allowable activity. All hours the child needs child care, in the month need is being established, must be taken into consideration (which includes hours needed for days off from school, weekends, after school, etc.). At application or review, if a child does not have a child care need for the application or review month or the month following the application or review month, the child is not considered eligibile. If there is only one child in the household and that child does not have a child care need, then the application or review is denied.

At time of application, if need has been determined for a child for the prior month only, the child can be eligible for the prior month, but would not be eligible for the 12-month eligibility period.

If assistance is requested for the prior month, actual hours the child needed child care while their caretaker(s) was in an allowable activity in the prior month must be used.

Once need is established for a child and the child is determined eligible, the child will remain eligible as long as all other eligibility criteria is met.

Review 400-28-25

Timeliness Standards for Processing Reviews 400-28-25-05

(Revised 10/1/20 ML #3574)

View Archives

A review must be completed every 12 months. The 12 month review is due in the last month of the eligibility period. A review can be submitted to the county office in person, by mail, by fax or electronically.

A review form is automatically sent to the household on the 5th to last working day in the month prior to the last month of eligibility. The caretaker must submit the completed and signed review form, either electronically or hard copy by the last day of the month in which the review is due, in order for eligibility to be continued.

The review notice informs the household of when the review is due and of case closure if no review is received.

The review is considered received as of the date a signed review is received in the county office. The county office must document the date a review is filed by recording the date received on the review form.

> **Note:** Reviews received after business hours, on weekends or holidays are considered received on the next business day.

The review is considered signed if the signature is found anywhere on the review form, other than in answer to a question.

If an unsigned review is received, the unsigned review must be returned to the caretaker for signature. The county must document the date the signed review is received in the office. This date will become the review date.

A decision to approve a review or to close CCAP must be made no later than 30 days following the day the signed and dated review is received in

the county office.The first calendar day following receipt of the signed review is day 1 of the 30 day processing timeframe.

A review cannot be denied prior to the 30th day following the date the review was received, if the household has been sent a request for verification notice. Unless extenuating circumstances exist, all verifications must be received and CCAP processed within the 30 days from the date of receipt of review.

If additional time is allowed beyond the 30 day period due to extenuating circumstances, an additional 15 days can be allowed. When extenuating circumstances are allowed, action must be taken no later than 45 days following the date the review form was received. The extenuating circumstances must be clearly documented in the system case narrative.

If CCAP is closed because a review has not been submitted and completed by the end of the month the review was due, CCAP remains closed as of the last day of the month in which the review is due, if:

- The 30th day from receipt of the review extends into a future month and the family fails to provide the required information by the 30th day or 45th day if extenuating circumstances have been allowed; or
- The family is determined ineligible at any time during the month the review is due and through the 30th day or 45th day if extenuating circumstances have been allowed.

If a review is received by the last day of the month the review was due and additional information is needed, a request for verification notice must be sent. This notice must advise:

- The required verifications and information needed allowing the caretaker 10 days to provide the information

Example: A review form is received on April 3 and additional information is needed. On April 7, a request for verificarion notice is sent asking for required verifications, allowing the caretaker 10 days to provide the required information.

- If all the required verifications **are** provided by May 3 and the household remains eligible, a new eligibility period is authorized.
- If all the required verifications **are not** provided by May 3 or all required verifications are provided and the household **does not** remain eligible, CCAP will be closed as of April 30 and the review must be denied.

NOTE: April 4th is day 1 of the 30 day period.

When a household is sent a request for verification notice that includes a request for additional information, the caretaker must be allowed at least 10 days from the date of the notice to provide the additional information, even if the 10 days takes them past the 30th day from when the review was submitted or past the 45th day when extenuating circumstances have been allowed.

When the 10th day falls on a weekend or holiday, the information is deemed to have been provided timely if received by the county office by close of business the first business day following the weekend or holiday.

When a household is sent a request for verification notice which allows the household 10 days to provide required verifications and this takes the household past the 30th day from date of receipt of the review form and into the following month:

If the household does provide the required information, CCAP must be processed to determine eligibility. If eligible, a new eligibility period will be determined and a notice of eligibility for the approval will be sent. If the household is ineligible, the case must be closed as of the last day of the month in which the review was due and the review must be denied.

- If the household **does not provide** the required information within the 10 days, CCAP remains closed and a new application is needed.

  Example: A completed and signed review form is received on July 3 at the county office. Additional verifications are required. A request for verification notice is sent on July 6 asking for the requested verifications, allowing the caretaker 10 days to provide the requested information, and advising CCAP will close July 31st if verifications are

not provided by August 2nd. On July 28th, the caretaker provides the requested information, but also provides additional information, requiring further clarification. On July 28th, a request for verification notice is again sent to the caretaker requesting additional information, allowing the caretaker 10 days (August 7) to provide the requested information advising CCAP will close July 31 if the verification are not provided.

If the review form is returned, the eligibility worker should review the returned mail to determine if there is a forwarding address.

- If there is a forwarding address, mail the review form to the new address.

Regardless of the action, the eligibility worker must document the actions taken in the system case narrative.

Adequate or advance notice is not required for any action taken on a review. However, a notice must be sent.

Review Form Received After the Case Closed 400-28-25-10

(Revised 10/1/20 ML #3574)

View Archives

When CCAP closes for no review and the review form is submitted in the month following the closure, the review form can be used as an application. All application processing applies.

If the review form is received after the month following the month of CCAP closure, a new application is required. The review form cannot be used as the application.

Eligible Children 400-28-35-02

(Revised 4/1/21 ML #3605)

View Archives

NDAC 75-02-01.3-01

An eligible child in the household is a child who needs child care and:

1. Is under age 13.

   A child who is age 12 in the month of application or review and turns 13 during the eligibilty period, will remain eligible through the eligibility period. If the child turns age 13 in the month of application or review, the child is ineligible.

   Example

   Household was approved for child care with eligibility starting in April. At the time of approval the child was age 12. On June 9th, the child turned 13. The child remains eligible for CCAP for the remainder of the eligibility period.

2. Is at least age 13, but under age 19, and who is physically or mentally incapable of caring for themselves as verified in writing by a physician or a license/certified psychologist.

3. Is at least age 13, but under age 19, and is in need of supervised care as specified in a court order.

A child is considered "under age 13 or 19" through the month of the child's 13th or 19th birthday.

North Dakota foster care children placed in a licensed foster home are not eligible for the Child Care Assistance Program (CCAP) as ND Foster Care funding will support reimbursement. Children who are placed in an unlicensed foster care setting (ex: relative care) may be eligible for CCAP.

Note: Children in foster care under the custody of another state, placed in North Dakota must receive documentation detailing if the sending state will reimburse for child care expenses. If the sending state will not reimburse for child care, CCAP will review the households income for eligibility.

All eligibility information must be provided for each child for whom assistance is requested. Any child for whom all information is not provided is not eligible for CCAP. However, that child is included in the filing unit size and their unearned income is considered. If at a later date the requested verifications are provided for the child, the child's eligibility begins the month the verifications are received, and all other eligibility criteria is met.

Household Composition 400-28-35

Child Care Assistance Unit 400-28-35-05

(Revised 10/1/20 ML #3574)

View Archives

NDAC 75-02-01.3-01

The household must include the child(ren) for whom assistance is being requested and the following individuals residing in the home:

- The natural, adoptive or stepparent(s)
- All siblings, (including half and step-siblings) who are under age 19
- All natural or adoptive children of the caretaker and caretaker's spouse who are under the age 19.

  Note: The Child Care Assistance Program (CCAP), considers a child under the age of 19 through the month of the child's 19th birthday.
- Child under the Subsidized Guardianship Program

When two unmarried adults reside together, in order for a child to be considered a child in common, paternity of the child in common must be verbally acknowledged or legally adjudicated, or the parents must have signed a voluntary acknowledgment of paternity:

- If child care is being requested for a child in common of unmarried parents, both parents and the children of both parents must be included in the unit.

- If child care is NOT being requested for a child in common of unmarried parents, the child in common must be included in the unit(s) of siblings who child care is being requested.

  Example #1: Unmarried non-TANF household includes mom, her child, Dad, his child and a child in common. Mom is requesting child care for her child and Dad is requesting child care for his child. Child care is not being requested for the child in common. Since assistance is not being requested for the child in common, Mom and

Dad must each complete an application for CCAP. The child in common would be included as a household member in both Mom and Dad's household. Both Mom and Dad would have a 3 person household.

Example #2: Unmarried non-TANF household that includes Mom, her child, Dad, and Mom and Dad's child in common. Mom is requesting child care for her child. Child care is not being requested for the child in common. Mom must complete an application for CCAP. Mom would have a have a 3 person household which includes herself, her child and the child in common.

See Section 400-28-45-25, Unmarried TANF Households – Child in Common for an exception for TANF Households.

If the child(ren) for whom assistance is being requested resides with a loco parentis, the household must include the following individuals residing in the home:

- The sibling(s) (including half and step-siblings) of the child for whom assistance is being requested
- The loco parentis and spouse of the loco parentis
- The loco parentis' and spouse's children under age 19

A minor parent who needs child care for their child(ren) and who is residing in his/her parents' home is considered a separate household and must apply on their own behalf.

- If the minor parent is in receipt of TANF, CCAP is considered TANF for CCAP.
- If the minor parent is in receipt of Crossroads, CCAP is considered Crossroads for CCAP.
- If the minor parent is in receipt of Diversion, CCAP is considered Diversion for CCAP.
- All other minor parents are subject to Co-pay.

If a minor parent is residing with their parent(s) and the parent(s) have a child(ren) for whom child care is requested, the minor parent and the

minor parent's child(ren) are not considered members of their parents' case.

The following individuals are excluded from the filing unit:

- Children 19 years of age or older (a child is considered under the age of 19 through the month of the child's 19th birthday).
- Any child for whom the household receives Foster Care payments.
- An individual in the household who is not the caretaker or sibling of the child and not acting as loco parentis.
- Parent(s) and other family members of a minor parent when the minor parent is requesting CCAP.
- Minor parents and their child(ren) if the parent(s) of the minor child are requesting CCAP.
- A child under 19 years of age who resides away from home may come home on weekends or vacations breaks. The child is not counted as part of the household if their visit is less than a full calendar month.

> **Note:** A child under age 19 who has a child care need can be included in the household of the caretaker with whom the child care costs were incurred (refer to 400-28-35-25, Parents Not Residing Together).

Persons Entering the Home:

- New Applications and Reviews:
  - Individuals required to be included in the filing unit who enter the home in the month prior to the application month must be included in the prior month determination.
  - Individuals required to be included in the filing unit who enter the home prior to an application or review being approved must be included in the application or review month determination.
- Ongoing Cases:
  - Households are not required to report changes in household size except when there is no longer an eligible child.

    When an eligible child moves into the household:
    - If timely reported (within 10 days of the date of change) and verified, or is not questionable, the child is added effective the month the child entered the household.

- If the change is not reported timely or is questionable and not verified timely, the child is added effective the month the change was reported or was verified, whichever is later.

When other individuals enter the household:

- **If an additional individual enters the household it must be determined if the cumulative effect of change in the household size, income and deductions of that caretaker results in an increase or decrease in the co-payment amount.**

- **If the addition of the individual results in a decreased co-payment, the change is made based on timely reporting. If timely reported (within 10 days of the date of change) and verified, or is not questionable, the household size is changed and income is added effective the month the individual entered the household.**

- **When an additional caretaker enters the household, it must be determined if that caretaker has an allowable activity. If the caretaker does not have an allowable activity, the household must be allowed three consecutive months of continued assistance based on timely reporting of the change and policy at Allowable Activities 400-28-55-05.**

Example:

September application was approved with mom and her child. On February 15th, mom reports that the father of the child has entered her household February 13th. The father does not have an allowable activity as of entering the household. As the change was reported timely, the household's three months of continued assistance begins March. Child care can continued to be paid for February, March, April and May with no activity of the father.

Persons Leaving the Home

- New Applications and Reviews:
  - At application, individuals who are required to be included in the CCAP unit leave the household in the month prior to the application month are included in the prior month determination but are not included in the application month determination.
  - Individuals who are required to be included in the CCAP unit leave the home in the month of application or review prior to the application or review being approved or denied are not included in the child care assistance unit, unless the individual who left is a child and the child had a need for child care.

- Ongoing Cases:
  - Households are not required to report changes in household size except when there is no longer an eligible child.

    When an eligible child moves out of the household:
    - **If timely reported (within 10 days of the date of change) and verified, or is not questionable, the child is removed in the month following the month the change occurred.**
    - **If the change is not reported timely or is questionable and not verified timely, the child is removed effective the month the change occurred.**
    - **If the only eligible child leaves the household, CCAP is closed based on timely reporting. Overpayments may need to be established for any months in which payment was made for child that was not present in the household.**

  When other individuals leave the household:

  - If an additional individual leaves the household it must be determined if the cumulative effect of change in the household size, income and deductions of that caretaker results in an increase or decrease in the co-payment amount.

  If the removal of the individual results in a decreased co-payment, the change is made based on timely reporting. If timely reported (within 10 days of the date of change) and verified, or is not questionable, the filing unit size is changed and income is ended

effective the month the individual left the household. If the change results in an increased co-payment, the change is not made.

In order for a marriage performed in North Dakota to be recognized or considered valid in North Dakota, couples are required to obtain a marriage license through the County Recorder's Office.

Marriages that occur outside of North Dakota are considered valid in North Dakota if:

1. The marriage was legally performed in another state;
2. The marriage is a common law marriage that occurred in another state and was considered a valid marriage in that state (the couple would be required to provide documentation verifying that the common-law marriage was considered valid by the state in which it took place); or
3. The marriage occurred in another country and the marriage was considered valid according to the law of the country where the marriage was contracted, unless the marriage violates the strong public policy of North Dakota.

Note: Polygamous marriages violate the strong public policy of North Dakota.

Caretaker Temporarily Out of Home 400-28-35-10

(Revised 10/1/20 ML #3574)

View Archives

NDCC 50-33-04

A household with one caretaker who is living apart from the children either in state or out of state, due to allowable employment, allowable education or training, uniformed service, medical condition may be eligible for the Child Care Assistance Program (CCAP) in the month they leave. Child care incurred until the time they leave can be covered and CCAP is closed at the end of the month they leave.

The new caretaker(s) with whom the child(ren) resides must apply. If the new caretaker applies and incurs child care costs in the month the first caretaker's CCAP was closed, child care for the new caretaker can be paid starting from the date the child(ren) reside with the second caretaker and incur child care costs.

Should the first caretaker return home and the child(ren) resides with that caretaker, CCAP for the second caretaker must be closed at the end of that month. The child care costs for the second caretaker would be paid only through the date the children were residing in that home. The first caretaker must reapply and child care costs for the first caretaker could be paid starting from the date the children were residing in that home.

A household with two caretakers where one of the caretaker's is temporarily living apart from the other caretaker and child(ren), either in state or out of state, due to allowable employment, allowable education or training, uniformed service or medical condition is not considered absent from the home as long as he or she continues to function as a caretaker; even if the level of support or care is reduced. Child care costs can be paid while the remaining caretaker is participating in an allowable activity. Both caretakers are counted as a household members and all gross countable income and allowable expenses are used to determine CCAP income eligibility.

In families with two caretakers, CCAP may pay for child care costs of a caretaker participating in an allowable activity for the children remaining in the home, when the other caretaker is temporarily out of the home due to a state approved medical condition of either the caretaker or of a child in the Child Care Assistance Unit.

The family must obtain verification from a medical provider supporting the medical condition of the member of the filing unit, and provide the information to the eligibility worker. The information must be forwarded to the CCAP State Determination Team for a decision.

The CCAP State Determination Team will render a decision and notify the eligibility worker if the request has been approved or denied. If approved, the CCAP State Determination Team will determine the length of the approval.

When the caretaker and member of the filing unit with the medical condition are back in the home, the CCAP must be closed, unless otherwise eligible.

Incapacity of a Caretaker/Child 400-28-35-15

(Revised 2/1/2022 ML #3654)

View Archives

In a household with one caretaker, child care can be allowed when:

- The caretaker is disabled or physically, mentally, or emotionally incapable of providing care.
- A child within the household is unable to attend child care due to the child being disabled or physically, mentally, or emotionally incapable of receiving care by someone other than the caretaker, however there is a need for other children within the household to attend a child care setting outside of the home.

In a household with two caretakers, child care can be allowed when:

- One of the caretakers is in an allowable activity.
- The other caretaker is disabled or physically, mentally, or emotionally incapable of providing care.
- A child within the household is unable to attend child care due to the child being disabled or physically, mentally, or emotionally incapable of receiving care by someone other than the caretaker, however there is a need for other children within the household to attend a child care setting outside of the home, while one caretaker remains with the child that is unable to attend child care.

Verification of the caretaker's incapacity must be obtained from the caretaker's physician, psychologist, health care or other qualified professional or from the Social Security Administration indicating that the caretaker is unable to care for the child(ren), or verification of the child that is unable to attend a child care setting, and the need for the other children in the home to be in a child care setting. This information must be submitted to the CCAP State Determination Team for a decision. The CCAP State Determination Team will render a decision and notify the eligibility worker if the request has been approved or denied. If approved, the CCAP State Determination Team will determine the length of the approval.

Approval of allowable child care hours may be limited to the number of days and hours per week recommended by the medical professional.

In order for eligibility based on incapacity to continue, the caretaker will need to submit current documentation of the incapacity before the end of the approval period determined by the CCAP State Determination Team, or at the time of review, whichever is first. This information must be submitted to the CCAP State Determination Team for a decision.

At the time it is determined the caretaker is no longer incapacitated the case must close unless otherwise eligible.

Disqualified Caretaker 400-28-35-20

(Revised 10/1/11 ML #3278)

View Archives

Disqualifications imposed by programs other than TANF do not apply or affect assistance under the Child Care Assistance Program.

Parents Not Residing Together 400-28-35-25

(Revised 10/1/16 ML #3477)

View Archives

Parents who share custody of their children may apply for child care on their own behalf and the child(ren) would be included in each separate household.

The level of care is determined separately for each household based on the caretaker's schedule and the child's schedule. Refer to 400-28-80, Allowable Child Care Hours and Level of Care.

Payment will be made based on the costs incurred during the time the caretaker had the children in their care.

> **Example**: Mom has custody of the child for two weeks each month. Mom works full time and is determined to have a full-time level of care. The level of care is determined the same as it would be for households that do not have a shared custody situation. The certificate is approved for full-time care. Payment is issued based on the time the child was in mom's care even if the provider fills out the billing form for the entire month. Only the two weeks the child was in mom's care are paid.

If both parents are using the same provider for the child, the provider must submit two separate billing forms, one for each parent.

The Child Care Assistance Program (CCAP) is neither a party of nor subject to any arrangements or any terms between parents. See section 400-28-115-10, Caretaker and Provider Contract for Services for information regarding contracts between parents and providers.

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

(Revised 6/1/22 ML #3669)

View Archives

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.

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.

Parent Court Ordered Not to be Left Alone with a Child 400-28-35-35

(Revised 4/1/12 ML #3327)

View Archives

In a household with two caretakers (married or unmarried), where one caretaker is participating in an allowable activity and the other caretaker is court ordered not to be left alone with a child(ren), the Child Care Assistance Program (CCAP) will allow child care for the caretaker who is participating in an allowable activity.

The court order must be a current court order. A copy of the court order must be provided and included in the case file.

CCAP should be used after all other resources have been exhausted.

Homeless Households 400-28-38

Application and Review Processing for Homeless Households 400-28-38-05

(Revised 4/1/21 ML 3605)

View Archives

Households who indicate on the application or review that they are homeless must be approved eligible for CCAP after an initial eligibility determination, but before mandatory verifications are received per policy at 'Non-Financial Eligibility Requirements 400-28-50'. The household must be allowed a 30 day grace period from the date of application to supply all necessary verifications. The application or review must be approved for a one month eligibility period effective the month the application or review was submitted.

> **Example:**
>
> Household submits an application on September 5th. The household indicates on the application that they are homeless. Because the household indicates that they are homeless the household is authorized a one month eligibility period for September and the household is sent a notice requesting all necessary verifications that are due October 5th.

If it is determined that eligibility did not exist in the initial 30 day grace period, overpayments **WILL NOT** be established for that timeframe, unless:

- The household intentionally withheld information that affected eligibility.

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

(Revised 6/1/22 ML 3669)

View Archives

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 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.

Verifications for Homeless Households 400-28-38-15

(Revised 4/1/21 ML 3605)

View Archives

Verifications Provided Timely

If verifications are provided within the 30 day grace period, and the household remains eligible for CCAP based on all other eligibility criteria, the household is then authorized a 12 month eligibility period.

The household may remain eligible for CCAP based activity search if no other allowable activity exists. In these situations, the household will be allowed up to three full consecutive months of activity search starting the first month of a 12 month eligibility period.

> **Example:**
>
> Household submitted an application on September 5th and was approved eligible based on homelessness for a one month eligibility period for the month of September. The household was approved for activity search for a one month eligibility period. The household timely provided all necessary verifications and remains eligible based on all other required eligibility requirements. However, the household's only allowable activity remains activity search. The household is determined eligible for 12 months starting October and is approved for a maximum of 15 hours per week. The household remains eligible for CCAP at the part time level of care with activity search as the allowable activity for the months of October, November and December.

Refer to policy at 'Allowable Activities 400-28-55-05' for processing of activity search as an allowable activity in ongoing cases.

Verifications Not Provided Timely

If verifications are not provided within the 30 day grace period, the case must be closed at the end of the month grace period ends.

If the family reapplies for CCAP and self-certifies homelessness after the initial denial, the household is now subject to all regular CCAP requirements.

Example:

A household applies for CCAP and self-certifies homelessness on July 10th. The household is determined eligible for one month on July 13th without providing required verifications. Eligibility is effective July 1 through July 31. The household has 30 days from the date of application (July 10th) to submit required verifications (August 13). The household does not provide the required verifications. A 12 month eligibility period is not authorized and the case remains closed.

The household reapplies for CCAP on August 25. Since the household did not provide the required verifications during their initial 30 day grace period, the household is now subject to all regular CCAP requirements and will not be approved for another one month eligibility period. On September 10, the household provides all required verifications for eligibility. The household is determined eligible for a 12 month eligibility period.

Crossroads Families 400-28-40

Eligibility for Crossroads Families 400-28-40-05

(Revised 10/1/2020 ML #3574)

View Archives

The Crossroads Program is designed to assist with child care costs for individuals who are:

- Parents up to 21 years of age (prior to the month the parent turns 21 years of age)
- Parents who are male or female
- Parents who are married or unmarried
- Parents who have the primary responsibility for the care of their child
- Parents who are pursuing an educational activity

If the parent is interested in receiving assistance through Crossroads, the parent must apply for Crossroads.

A parent applying for Crossroads who is requesting assistance with child care expenses must also apply for the Child Care Assistance Program (CCAP) unless the parent already is open CCAP. Upon receipt of the Crossroad's approval letter, the individual is eligible for CCAP to cover the costs of child care.

A copy of the Crossroads approval letter must be submitted to the county to verify the parent(s) is eligible for Crossroads. The approval letter shows the period of time the parent is eligible for Crossroads.

While an individual is eligible for Crossroads, child care for that individual can be reimbursed under CCAP. In these situations, the allowable activity must be education, work or approved activities on the education plan.

A parent, who participated in Crossroads in the previous school period and who intends to participate in Crossroads for the next school period is eligible for Crossroads coverage during the break between the two school periods if the parent is working or participating in Crossroads case

management services during that time. Verification of participation must be provided to the county.

When an individual eligible for Crossroads is married or resides with the parent of the child, CCAP will pay the Crossroads approved child care without regard to the activities or income of the spouse or second parent.

A child in receipt of a Supplemental Security Income (SSI) may be eligible for Crossroads provided the parent meets the Crossroads eligibility criteria.

If the parent is not eligible for or chooses not to participate in the Crossroads Program, the parent can apply for CCAP and if all other program criteria is met, be eligible and is subject to the Co-pay or Waived Co-pay if eligible for TANF or Diversion.

Processing of Child Care Assistance for Crossroads Recipients 400-28-40-10

Initial Crossroads Application/Initial Child Care Assistance Program Application 400-28-40-10-05

(Revised 5/1/15 ML #3439)

View Archives

A parent applying for Crossroads who is requesting help with child care costs (education, work or approved activities on the education plan) must apply for the Child Care Assistance Program (CCAP) and be determined eligible using the criteria defined in the Child Care Assistance Policy manual.

Initial Crossroads Application/Ongoing Child Care Assistance Program 400-28-40-10-10

(Revised 4/1/21 ML 3605)

View Archives

A Crossroads applicant who has ongoing Child Care Assistance Program (CCAP) eligibility must be updated to a Waived Co-pay effective the month Crossroads is approved. Child care expenses for months prior to Crossroads approval would be covered using existing eligibility.

Ongoing Crossroads/Ongoing Child Care Assistance Program 400-28-40-10-15

(Revised 4/1/12 ML #3327)

View Archives

Crossroads recipients continue to be eligible for the Child Care Assistance Program (CCAP) as Waived Co-pay as long as all other CCAP program requirements are met.

Crossroads Program Closure and Continued Child Care Assistance Program 400-28-40-10-20

(Revised 10/1/20 ML #3574)

View Archives

If Crossroads closes and the household remains eligible for CCAP, the co-pay remains as waived co-pay for the remainder of the eligibility period.

If Crossroads closes and there **is not a known** allowable activity which continues, the household must be allowed three months of continued assistance before CCAP can close. The three months of continued assistance begins in the month following the month of the Crossroads closure.

TANF Families Eligibility 400-28-45

Waived Co-Pay for TANF Recipients 400-28-45-05

(Revised 4/1/21 ML 3605)

View Archives

Second Amended IM 5431
Amended IM 5431
IM 5431

NDAC 75-02-01.3-04

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
> - An ineligible Kinship Care caretaker with non-kinship children

Families not subject to the Co-pay requirements are not subject to the income requirements for the Child Care Assistance Program.

Caretakers Who Receive or are Deemed to be Receiving TANF 400-28-45-10

(Revised 10/1/11 ML #3278)

View Archives

NDAC 75-02-01.3-04

Individuals are considered in receipt of TANF during months in which:

- An individual receives a TANF or Transition Assistance benefit
- A TANF grant is suspended for the reason of extra check from a recurring source
- The TANF household receives a zero benefit because the TANF benefit is less than $10.00 (TANF does not issue benefits for less than $10)
- Child care expenses were not allowed as a deduction from income in the final two (2) months of TANF eligibility
- An individual is sanctioned for non-cooperation with the JOBS/Tribal NEW Program or Child Support Enforcement
- An individual disqualified from TANF for an Intentional Program Violation (IPV)
- An individual is disqualified from TANF because of a drug felony, fleeing felon or a parole or probation violator
- An individual is disqualified from TANF for Fraud
- An individual receives a Diversion benefit

The Child Care Assistance Program can pay child care costs for allowable activities in which a TANF caretaker is participating. These cases are not subject to Co-pay requirements.

Non-Recipient Caretakers of TANF (SSI, Disqualified Alien, Non-legally Responsible Caretakers, or ineligible Kinship Care caretakers) 400-28-45-15

(Revised 4/1/21 ML 3605)

View Archives

NDAC 75-02-01.3-04

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

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

Unmarried TANF Households - No Children in Common 400-28-45-20

(Revised 10/1/11 ML #3278)

View Archives

NDAC 75-02-01.3-04

When a TANF household consists of two unmarried adults who each have a child(ren) but do not have a child(ren) in common, each must apply for the Child Care Assistance Program on their own behalf. A separate application from each caretaker and two separate cases must be established.

Unmarried TANF Households - Children in Common 400-28-45-25

(Revised 10/1/12 ML #3348)

View Archives

NDAC 75-02-01.3-04

When two unmarried adults reside together, in order for a child to be considered a child in common, paternity of the child in common must be verbally acknowledged, legally adjudicated, or the parents must have signed a voluntary acknowledgement of paternity.

When a household consists of two unmarried adults who each have a child(ren) and a child in common, and BOTH caretakers are eligible for TANF:

- If child care is being requested for the child in common, only one case is established and both parents, the children of both parents and the child in common must be included in the child care assistance unit.
- If child care is NOT being requested for the child in common, two cases must be established and the child in common must be included in each case

> **Example:** Household includes Mom, her child, Dad, his child and a child in common. Mom is requesting child care for her child and Dad is requesting child care for his child. Child care is NOT being requested for the child in common. Since assistance is not being requested for the child in common, Mom and Dad must each complete an application for the Child Care Assistance Program (CCAP). The child in common would be included as a member of the child care assistance unit in both Mom and Dad's household. Both Mom and Dad would have a 3 person household.

When a household consists of two unmarried adults in which one parent has a child(ren), the other parent does not have a child, the parents have a child(ren) in common and BOTH parents are eligible for TANF:

- If child care is requested for the child(ren) in common, one case is established and must include the child(ren) in common, both unmarried adults and any of the unmarried adults' child(ren) required to be in the child care assistance unit.
- If child care is not requested for the child(ren) in common, the parent who needs child care must complete an application for CCAP and that parent's child care assistance unit would include their own child(ren) and the child(ren) in common.

When a household consists of two unmarried adults who each have a child(ren) and a child in common and ONLY one caretaker is eligible for TANF, two separate cases must be established.

- If child care is being requested for the child in common, the child in common is included in the TANF caretaker's child care assistance unit and child care for the child in common is determined in the TANF caretaker's case.
- If the non-TANF caretaker requests child care, the child in common is included in the child care assistance unit of the non-TANF caretaker. However, the child care for the child in common is paid in the TANF caretaker's case.

> **Example:** Household includes mom, her child, Dad, his child and a child in common. Mom is requesting TANF and child care for her child and Dad is requesting child care only for his child. Mom and Dad must each complete an application for CCAP. The child in common would be included as a household member in both Mom and Dad's household. Both Mom and Dad would have a 3 person household.
>
> > **Note:** If child care is being requested for the child in common, the child in common's child care would be determined in Mom's case as she is TANF eligible.

Married TANF Households 400-28-45-30

(Revised 10/1/11 ML #3278)

View Archives

NDAC 75-02-01.3-04

When a TANF household consists of two married adults, whether each has children of their own or they have children in common, only one application is required and only one case is established.

Final Two Months of TANF 400-28-45-35

(Revised 10/1/11 ML #3278)

View Archives

NDAC 75-02-01.3-04

A North Dakota TANF case that had been using child care costs as an expense deduction for TANF and who incurred payable child care expenses during the last two months the TANF case was open will not have received the child care disregard for those last two months if the family was subject to the TANF program's retrospective budget methodology. These expenses can be paid under the Child Care Assistance Program (CCAP) and are considered Waived Co-pay.

If the former TANF recipient does not have an open CCAP case, an application must be submitted by the end of the month following the month the TANF case closed. If the application is not submitted by the end of the month following the month the TANF case closed, child care cannot be paid under CCAP for the final two months of TANF.

Child Care for TANF Recipients 400-28-45-40

(Revised 4/1/21 ML 3605)

View Archives

NDAC 75-02-01.3-04

The Child Care Assistance Program (CCAP) will pay child care for TANF recipients **only** if the allowable activity is identified on the JOBS or Tribal New Employability plan. Child care for any allowable activity not identified on the employability plan **cannot** be paid through CCAP.

When a TANF recipient who is required to participate in the JOBS Program is not participating, child care will be paid for any activity the individual is participating in that is listed on the latest employability plan until the TANF case closes.

> **Example:** Mom is required to participate in the JOBS Program in Job Search but fails to provide information to her case manager. The case manager completes the 'good cause' process and a sanction is imposed for October.
>
> If Mom submits child care expenses for the months of September and October while searching for a job, since the latest employability plan lists her activity as Job Search and the Mom continues to be a JOBS participant through October 31st, the child care expenses for September and October while searching for a job can be paid.
>
> Should the child care expenses for the month of September and October be a result of an activity not listed on the employability plan, those child care expenses cannot be paid unless Mom begins participating in the JOBS program and a new employability plan is received that includes these activities.

TANF recipients who are not required to participate in the JOBS or Tribal NEW programs must volunteer to participate in the program in order for their child care costs to be paid through CCAP, except when the recipient is participating in Alternative Response for Substance Exposed Newborn (ARSEN) program. ARSEN households receiving TANF are not required to

participate or volunteer in the JOBS or Tribal New Program to have their child care costs paid through CCAP.

TANF households may choose to use child care expenses as a TANF earned income disregard up to the TANF maximum allowable costs or they may receive assistance under CCAP. Households may not receive the disregard and have child care paid under CCAP in the same month.

If a minor parent in the TANF household needs child care to complete high school or its equivalent, the minor parent should be informed of and referred to the Crossroads Program. (Refer to section 400-28-40, Crossroads Families).

Eligible children under Kinship Care are not eligible to have their child care costs paid through CCAP as these costs are covered under TANF Kinship Care Supportive Services.

Processing of Child Care Assistance for TANF or Diversion Applicants and Recipients 400-28-45-45

Initial TANF or Diversion Application/Initial Child Care Assistance Program Application 400-28-45-45-05

(Revised 10/1/20 ML #3574)

View Archives

NDAC 75-02-01.3-04

In addition to applying for TANF or Diversion, an applicant or recipient must also apply for the Child Care Assistance Program (CCAP) if there is a need for child care. If TANF or Diversion and CCAP are approved for the same month, CCAP is approved as Waived Co-pay.

Initial TANF or Diversion Application/Ongoing Child Care Assistance Program 400-28-45-45-10

(Revised 10/1/20 ML #3574)

View Archives

NDAC 75-02-01.3-04

A TANF or Diversion applicant who has an ongoing Child Care Assistance Program (CCAP) must be updated to Waived Co-pay effective the month TANF or Diversion is approved. Child care expense for months prior to TANF or Diversion approval would be covered using the existing eligibility (which would reflect Co-pay).

Initial Child Care Assistance Program Application/Ongoing TANF or Diversion 400-28-45-45-15

(Revised 10/1/20 ML #3574)

View Archives

NDAC 75-02-01.3-04

An ongoing TANF or Diversion household that applies for the Child Care Assistance Program (CCAP) and is approved for CCAP in a month the household is eligible for TANF or Diversion will be a Waived Co-pay effective the month CCAP is approved.

Ongoing TANF or Diversion/Ongoing Child Care Assistance Program 400-28-45-45-20

(Revised 10/1/11 ML #3278)

View Archives

NDAC 75-02-01.3-04

TANF or Diversion recipients continue to be eligible for the Child Care Assistance Program (CCAP) as Waived Co-pay as long as all other CCAP program requirements are met.

TANF or Diversion Closure and Continued Child Care Assistance Program 400-28-45-45-25

(Revised 10/1/20 ML #3574)

View Archives

NDAC 75-02-01.3-04

If TANF or Diversion closes and remains eligible for CCAP, the co-pay remains as waived co-pay for the remainder of the eligibility period.

If TANF or Diversion closes and there **is not a known** allowable activity which continues, the household must be allowed three months of continued assistance before CCAP can close. The three months of continued assistance begins in the month following the month of the TANF or Diversion closure.

Ineligible/SSI Children Whose Caretaker receives TANF or Diversion 400-28-45-45-30

(Revised 10/1/11 ML #3278)

View Archives

NDAC 75-02-01.3-04

Ineligible/SSI children whose caretaker is receiving TANF or Diversion, must have their child care paid through the Child Care Assistance Program (CCAP) since their child care expenses cannot be used as an expense deduction in TANF or Diversion. Since the caretaker is in receipt of TANF, the children are considered part of the TANF household for CCAP purposes.

Non-Financial Eligibility Requirements 400-28-50

Mandatory Verification 400-28-50-02

(Revised 10/1/20 ML #3574)

View Archives

Eligibility for the Child Care Assistance Program (CCAP) is determined primarily by information supplied by the applicant/caretaker. Certain conditions of eligibility must be supported by conclusive, documenting evidence.

At time of application, review, or when a new member is added to the household, the household is required to provide the following verifications:

- Identity of Applicant/Caretaker;
- Citizenship for children for whom CCAP benefits are being requested;
- Age for children for whom CCAP benefits are being requested;
- Caretaker's association to the child(ren) for whom CCAP benefits are being requested;
- Verification of education or training;
- Court ordered child support or court ordered spousal support deduction;
- All income received by the family, to include all earned, unearned and self-employment income.

Should the applicant/caretaker be unable to obtain the required verifications, the eligibility worker may assist with obtaining the information.

All documentary evidence must be date stamped the day it is received at the human service zone. It is unacceptable to use the date the verifications are scanned into the case file as the date stamp. An electronic date stamp is acceptable as long as it is part of the document and stamped the day the verification is received.

Residence 400-28-50-05

(Revised 10/1/20 ML #3574)

View Archives

NDCC 50-33-05

Only families physically residing within the boundaries of North Dakota are eligible for the Child Care Assistance Program (CCAP). There is no state residence duration requirement for eligibility for CCAP.

Households may be eligible for CCAP in a month where they do not reside in North Dakota for the full month and received Child Care Assistance in another state. Payment can only be made for hours when the household resided in ND and was in an allowable activity.

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

(Revised 4/1/12 ML #3327)

View Archives

Identity of the caretaker must be verified.

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

(Revised 10/1/11 ML #3278)

View Archives

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

Caretaker/Child Association 400-28-50-15

(Revised 10/1/11 ML #3278)

View Archives

NDCC 50-33-02

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

(Revised 10/1/11 ML #3278)

View Archives

NDCC 50-33-02

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

Age Verification for the Child for Whom Assistance is Being Requested 400-28-50-20

(Revised 10/1/12 ML #3348)

View Archives

NDCC 50-33-02

Children for whom Child Care Assistance Program (CCAP) benefits are being requested must verify their age. If age for a child is requested and is not verified, that child is not eligible for CCAP. If at a later date verification of age is provided for the child, the child's eligibility for CCAP begins the month the verification of age is received and all other eligibility criteria is met.

The caretaker is not subject to the age requirement. A child included in the CCAP case as a household member for whom assistance is not being requested does not need to verify their age. However, if at a later date, CCAP is requested for that child, verification of age must be provided before eligibility for the child can be determined.

Documentation/Verification of Age 400-28-50-20-05

(Revised 10/1/12 ML #3348)

View Archives

NDCC 50-33-02

Below is a partial list of documents or records available that may be used to verify an individual's age:

- Birth Certificate:
  - Certified copy or electronic interface from Vital Records
  - Uncertified copy of the 'Certificate of Live Birth' (yellow copy) 'Souvenir'
  - Copy if signed by both the attending physician and president/administrator of the hospital.

    Note: Due to a change in law effective July 1, 2010, all Puerto Rican birth certificates issued prior to July 1, 2010, are invalid. Only birth certificates from Puerto Rico that are issued (or reissued) on or after July 1, 2010, are acceptable.
- Baptismal certificate or church record
- Confirmation papers
- Adoption record
- Passport
- Driver's license
- Hospital records
- School records
- Immigration or Naturalization Record
- Alien Registration Card

Ultimately, responsibility to provide necessary verifications lies with the caretaker.

Citizenship Verification for a Child for Whom Assistance is Being Requested 400-28-50-25

(Revised 10/1/12 ML #3348)

View Archives

NDCC 50-33-02

Children for whom Child Care Assistance Program (CCAP) benefits are being requested must verify their citizenship. To be eligible for CCAP, a child must either be a United States citizen or an alien lawfully admitted for permanent residence. If citizenship for a child is requested and is not verified, that child is not eligible for CCAP. If at a later date verification of citizenship is provided for the child, the child's eligibility for CCAP begins the month the verification of citizenship is received and all other eligibility criteria is met.

The caretaker is not subject to the citizenship requirement. A child included in the CCAP case as a household member for whom assistance **is not** being requested does not need to verify their citizenship. However, if at a later date, CCAP is requested for that child, verification of citizenship must be provided before eligibility for the child can be determined.

Documentation/Verification of Citizenship 400-28-50-25-05

(Revised 9/1/2022 ML #3680)

View Archives

NDCC 50-33-02

The following documents or records may be available to prove the citizenship status claimed.

> **Note:** Verification of the entry status for non-citizens may be accessed via the Systematic Alien Verification for Entitlement (SAVE).

1. US Citizenship
   - Birth certificate/hospital birth certificate if signed by attending physician;
   - Vital Records interface;
   - United States passport;
   - Certificate of Naturalization;
     - (N-550 or N-570 – which are issued by the INS through a Federal or State court, or through administrative naturalization after December 1990 to individuals who are individually naturalized).
   - Report of birth abroad of a U.S. Citizen;
     - (FS-240 – which is issued by the Department of State to U.S. citizens).
     - (Statement provided by a U.S. consular officer certifying that an individual is a U.S. citizen – this is given to an individual born outside the U.S. who derives citizenship through a parent but does not have an FS-240, FS-545 or DS-1350).
       - Verification that a child was born abroad to two U.S. citizen parents; or
       - Verification that a child was born abroad to one U.S. citizen parent and that U.S. citizen parent resided in the U.S. for a period of at least one year prior to the child's birth; or
   - Certificate of birth;

  - (FS-545 – which is issued by a Foreign Service post or Certification of Report of Birth).
  - (DS-1350 which is issued by the Department of State).
- Certificate of Citizenship;
  - (N-560 or N-561 which is issued by the INS to individuals who derive U.S. citizenship through a parent).
- Religious records recorded in one of the 50 states or the District of Columbia;
- Early school records (preferably from the first school) showing the date of admission to the school, the child's date and place of birth, and the name(s) and place(s) of birth of the parent(s);
- Adoption Finalization Papers showing the child's name and place of birth

2. Refugee
   - USCIS Form I-94 showing entry as refugee under Section 207 of the INA and date of entry into U.S. (The arrival date is the date used to determine entry date.); or
   - USCIS Form I-688B annotated 274a.12(a)(3) (The arrival date is the date used to determine entry date.); or
   - USCIS Form I-571; or
   - USCIS Form I-551 or I-151 with codes RE1, RE2, RE3, RE4, RE5, RE6, RE7, RE8, RE8b, RE9, IC6 or IC7. (These codes show the individual's status was changed from refugee to lawful permanent resident.)

3. Alien Lawfully Admitted for Permanent Residence
   - USCIS Form I-551 or I-151 (Resident Alien card).
   - Unexpired Temporary I-551 stamp in foreign passport or on the I-94 form also verifies the individual is admitted for lawful permanent residence

4. Alien Lawfully Admitted for Residence
   - Any INS document indicating individual has approval to reside in U.S. (does not have to be permanent authorization).

5. Cuban/Haitian Entrant

- USCIS Form I-551 with code CU6, CU7, or CH7 (These codes show the individual's status was changed to lawful permanent resident.)
- USCIS Form I-94 with code CU6 or CU7, or stamped Cuban/Haitian Entrant under Section 212(d) (5) of the INA (The arrival date is usually the date of designated status.)
- Unexpired temporary I-551 stamp in foreign passport or

6. Amerasian Entrant
   - USCIS Form I-551 with code AM6, AM7, or AM8 (These codes show the individual's status was changed to lawful permanent resident.)
   - USCIS Form I-94 with code AM1, AM2, or AM3 (The arrival date is usually the date of designated status.)
   - Unexpired temporary I-551 stamp in foreign passport.

7. Alien Who Has Been Battered or Subjected to Extreme Cruelty
   - USCIS Form I-551 annotated with IB6, IB7, IB8; or
   - Other INS documentation of battered status – contact State Office for clarification.

8. American Indians - Verification of 50% American Indian blood
   - Enrollment documents, birth records, affidavits from tribal officials, USCIS Form I-181 or I-551 annotated with KIC, KIP or S13 or other acceptable documents can be used as verification of 50% American Indian Blood.
   - A Blood Quantum letter containing information from the individual’s Band, Tribe, Nation stating the individual’s blood quantum, which must be at least 50% aboriginal blood can also be used as verification of 50% American Indian blood. The document may contain the following verbiage:
     - . . . at least 50% Aboriginal blood
     - . . . at least 50% Indigenous blood
     - . . . at least 50% North American Indian blood
     - . . . at least 50% American Indian blood

     Note: The Blood Quantum letter can be used to show that an individual possesses at least 50% blood of the American Indian race, but cannot be used to show that an individual does not possess at least 50% blood of the American Indian race when the parents are enrolled in different bands,

tribes, or nations. If the letter does not show an individual possesses at least 50% blood of the American Indian race, verification should be obtained from the band, tribe, or nation where the other parent is enrolled.

9. Iraqi and Afghani Special Immigrants
   - Iraqi passport with immigrant visa stamp noting the individual has been admitted under IV (Immigrant Visa) Category SQ1,SQ2, SQ3, and Department of Homeland Security (DHS) stamp or notation on passport or I-94 showing date of entry; or
   - Afghan passport with an immigrant visa stamp noting that the individual has been admitted under IV (Immigrant Visa) Category SQ1, SI1, SQ2, SI2, SQ3, SI3; or
   - DHS Form I-551 showing Afghan nationality or Afghan passport, with an IV (Immigrant Visa) code of SQ6, SI6, SQ7, SI7, SQ9 or SI9.
   - I-94 noting SQ or SI Parole (per section 602(B)(1) AAPA/Sec 1059(a) NDAA 2006).

10. Victim of Human Trafficking

   - "T" visa or Certification Document from the Office of Refugee Resettlement (ORR).

11. Ukrainian citizen or national who received humanitarian parole (known as a Ukrainian Humanitarian Parolee, or UHP)

   - Form I-94 noting humanitarian parole (per INA section 212(d)(5) or 8 U.S.C. § 1182(d)(5))
   - Foreign passport with DHS/CBP admission stamp noting “DT”
   - Foreign passport with DHS/CBP admission stamp noting Uniting for Ukraine or “U4U” Or
   - Foreign passport with DHS/CBP admission stamp noting Ukrainian Humanitarian Parolee or “UHP”
   - Form I-765 Employment Authorization Document (EAD) receipt notice with code C11
   - Form I-766 Employment Authorization Document (EAD) with the code

A non-Ukrainian individual who last habitually resided in Ukraine and received humanitarian parole

- Any one of the forms or stamps listed above for UHPs

And

- Documentation of last habitual residence in Ukraine

Social Security Number 400-28-50-30

(Revised 10/1/20 ML #3574)

View Archives

Disclosure of the Social Security Number (SSN) is **voluntary** and is requested for the purpose of accurate identification. Failure to disclose the SSN will not affect participation in this program. A hard copy of the SSN cannot be required.

The SSN for the caretaker and for each child requesting Child Care Assistance Program (CCAP) benefits may be provided by the caretaker.

If a caretaker or child does not have a SSN when application for CCAP is made, the eligibility worker may assist the family in the application process for a SSN if they choose to apply for a SSN.

In situations where there is a discrepancy (i.e. duplicate numbers for the same individual, the same number for two different individuals, etc), a copy of the SSN card may be requested but cannot be required.

Education or Training 400-28-50-35

(Revised 10/1/20 ML #3574)

View Archives

Verification of school attendance requirements must be provided:

- At the time an individual applies for the Child Care Assistance Program and is participating in an approved postsecondary educational or training activity
- In an ongoing case when an individual begins participation in an approved postsecondary educational or training activity

Documents or records that may be used to verify school attendance include, but are not limited to:

- A copy of the education or training class schedule
- Signed statement from the education facility

Documentation/Verification of Education or Training 400-28-50-35-05

(Revised 1/1/13 ML #3356)

View Archives

Documents or records available to verify attendance in education or training include but are not limited to the following:

- Class schedule
- Crossroads approval letter

Allowable Activities 400-28-55

Allowable Activities 400-28-55-05

(Revised 6/1/22 ML 3669)

View Archives

Second Amended IM 5431
Amended IM 5431
IM 5431

Caretakers must be participating in an allowable activity to be eligible for assistance under the Child Care Assistance Program (CCAP).

The following are allowable CCAP activities **at application review and after initial eligibility** has been established:

1. Work – Work is an activity in which an individual is engaged through employment or self-employment. Work must entail personal involvement and effort on the part of the applicant or recipient.

   The following are allowable work activities:

   - Paid employment

- Paid work studies, internships or assistantships (this includes when an individual is in a non-allowable postsecondary education program).

   - Self-employment

Paid employment must be considered suitable employment. Employment is suitable if it meets the following conditions:

1. The wage offered is not less than the highest of the applicable Federal minimum wage, the applicable State minimum wage, or 80% of the Federal minimum wage if neither the Federal nor State minimum wage is applicable (waiters/waitresses).
2. The employment is on a piece-rate basis, and the average hourly yield the employee can reasonably be expected to earn is not less than the highest of the applicable Federal minimum wage, the

applicable State minimum wage or 80% of the Federal minimum wage if neither the Federal or State minimum wage is applicable.

Note: Child care providers must be licensed, self-declared or registered by a tribe in order to be considered an allowable activity. Approved relative providers are not considered to be in an allowable activity.

2. Education or Training - Child care relating to an allowable education or training activity.

   Allowable postsecondary education includes:

   - Certificate
   - Associate's degree
   - Bachelor's degree

   CCAP may pay eligible child care costs for individuals pursing a certificate, Associate's degree or Bachelor's degree provided the individual has not already earned a Bachelor's degree.

   NOTE: Payment of postsecondary educational related child care costs incurred by an individual who already has earned a Bachelor's degree is prohibited.

   Required activities related to the pursuit of a post-secondary degree (student teaching, internships, etc.) may be considered allowable activities.

   If an individual has already earned a certificate or Associate's degree, eligible child care costs are allowed if the individual is continuing to pursue another allowable education activity and has not earned a Bachelor's degree.

   Attending high school or alternative high school or pursuing a GED is an allowable activity even if the individual is not participating in Crossroads.

   Traditional high school "attendance" is defined by the Department of Public Instruction (DPI) as:

   - Full-time - 4 or more classes

- Part-time - less than 4 classes
- Attendance in an alternative high school setting for full-time/part-time as identified by the school

GED may be full time/part-time.

If a high school diploma or GED is not required to receive a certificate, it is considered training and is not considered postsecondary education.

Example: A Certified Nurse Assistant (CNA) certificate is NOT considered postsecondary education as a high school diploma is not required to receive a CNA certificate.

Allowable Training includes but is not limited to:

- Basic remedial education
- Training designed to assist an individual to achieve basic literacy
- Training needed to secure or retain employment which includes skills and technology training
- Vocational Training (trade school or career school)
- Individuals who are participating in classes for English as a second language.
- Internet Classes – Child care related to completing on-line computer classes that meets the allowable education or training requirements is an allowable activity.
- Vocational Rehabilitation education plans must follow CCAP education requirements.

3. Alternative Response for Substance Exposed Newborns (ARSEN) – Child care needed for a parents participation in ARSEN.

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 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. 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.'

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. The household's three full months of continued assistance will begin in the month of October. The household remains eligible for the part time level for the months of September, October, 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. 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.

2. Parental Leave – Parental Leave includes maternity, paternity and adoption leave. Parental leave is not an allowable activity at the time of application or review. Leave hours can only be allowed in ongoing cases after a case has been approved for work, education or training. The caretaker must intend to return to their employment, education or training.

   In households with two caretakers, if one caretaker is engaged in an allowable activity (work, education or training) and the other caretaker is engaged in parental leave, the application or review must be denied.

   Example 1:

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

   Example 2:

   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 is now on parental leave. Child care can be allowed for the time mom takes for parental leave.

   Child care for parental leave is allowed for a minimum of three full consecutive months within a certificate period. The household may be eligible for more than the three full consecutive months when the parental leave timeframe is verified by an employer. The level of care must continue at the same level that was established before the caretaker went onto parental leave. No additional hours are allowed for travel and breaks.

   Example 1:

   Household applies for CCAP on June 16th and had employment at the time of application. Household reports on September 13th that the caretaker is now on parental leave as of September 5th. Household also reports that the caretaker expects to return to employment December 1st. Since the household timely reported the parental leave, the household's three full months of continued assistance will begin in the month of October. The household remains eligible at the already determined level of

care through the three full consecutive month period, even though the household reports an expected return to employment prior to the end of the three month period.

Example 2:

Household applies for CCAP on June 16th and had employment at the time of application. Household reports on September 13th that the caretaker is now on parental leave as of September 5th. Household also reports that the caretaker expects to return to employment February 1st. The household provides verification that they will return to employment as of February 1st. Since the household timely reported and verified the parental leave, the household continued assistance will begin in the month of October and continue until February 1st.

Allowable Activities for TANF Recipients 400-28-55-10

(Revised 10/1/12 ML #3348)

View Archives

The Child Care Assistance Program (CCAP) can pay child care for TANF recipients only if the allowable activity is identified and the child care is approved on the Job Opportunities and Basic Skills (JOBS) or Tribal Native Employment Works (NEW) Program employability plan. Child care costs for any JOBS/Tribal NEW Program allowable activity not identified on the employability plan cannot be paid through CCAP. Participation in activities for the JOBS or Tribal NEW, including periods of time a TANF recipient is required to complete a Proof of Performance (POP) are considered allowable activities for TANF recipients.

If an individual is meeting their JOBS/Tribal NEW program requirement, CCAP can pay for any approved activities listed on the employability plan.

When a TANF recipient, who is required to participate in the JOBS/Tribal NEW Program, is not participating, child care will be paid for any activity the individual is participating in that is listed on the latest employability plan until the TANF case closes.

> **Example:** Mom is required to participate in the JOBS Program in Job Search but fails to provide information to her case manager. The case manager completes the 'good cause' process and a sanction is imposed for October.
>
> If Mom submits child care expenses for the months of September and October while searching for a job, since the latest employability plan lists her activity as Job Search and Mom continues to be a JOBS participant through October 31st, the child care expenses for September and October while searching for a job can be paid.
>
> Should the child care expenses for the months of September and October be a result of an activity not listed on the employability plan, those child care expenses cannot be paid unless mom begins

participating in the JOBS program and a new employability plan is received that includes these activities.

TANF recipients who are participating in the JOBS program may have educational activities approved on their employability plan even though the education is not a requirement to be in compliance with their JOBS program participation. Education which is approved on the Employability Plan does not have to meet the allowable education criteria under the Child Care Assistance Program (CCAP). When the TANF case closes, education must follow regular CCAP rules.

Example: A TANF recipient's JOBS Employability Plan lists JOBS activities and the recipient is attending education which is not listed on the Employability Plan. The child care **cannot** be reimbursed because the activity is not included on the JOBS Employability Plan even if the education meets CCAP's allowable education criteria.

Example: A TANF recipient's Employability Plan list JOBS activities and education. Regardless of whether the education plan meets CCAP allowable education requirements, the child care costs relating to the education **can** be reimbursed as the education is approved on the JOBS Employability Plan.

This policy does not apply to Post-TANF.

Allowable Activities for Diversion Recipients 400-28-55-15

(Revised 11/1/11 ML #3295)

View Archives

Since individuals in receipt of Diversion do not participate in the Job Opportunities and Basic Skills (JOBS) or Tribal Native Employment Works (NEW) program. Allowable activities for these individuals are:

- Work
- Job Search
- Education or Training

Allowable Activities for Crossroads 400-28-55-20

(Revised 4/1/14 ML #3401)

View Archives

Education, education and work, work during school breaks, parenting classes, and parenting classes during school breaks are allowable activities for an individual who is eligible for Crossroads.

Allowable Activities for Alternative Response for Substance Exposed Newborn Recipients 400-28-55-30

(New 4/1/21 ML 3605)

View Archives

The Child Care Assistance Program (CCAP) can pay child care while the parent works with the Alternative Response for Substance Exposed Newborn (ARSEN) program.

Verification of the caretaker's participation in the ARSEN program must be provided from their case manager. SFN 640 is required to be completed by the Child Protection Service (CPS)/case manager and sent to the eligibility worker. The SFN 640 must be submitted to the CCAP State Determination Team for approval. If approved, the CCAP State Determination Team will determine the length of the approval.

The child's hours from the SFN 640 will be used to determine allowable hours for the child and the parent participating in the ARSEN program.

In households with two caretakers, if one caretaker is participating in the ARSEN program, the other is subject to all allowable activity requirements per policy at Allowable Activities 400-28-55-05.

Financial Eligibility Requirements 400-28-65

Assets 400-28-65-05

(Revised 7/1/16 ML #3472)

View Archives

Federal law requires that a family's assets do not exceed $1,000,000. The applicant or other household members may self-certify at the time of application or review that the household's assets do not exceed the asset limit.

If the household self-certifies that total assets are less than the asset limit, and it is not questionable, no further action needs to be taken.

If the household indicates that the household's assets exceed the asset limit or if the household self-certifies assets are less than the asset limit but the assets are questionable, refer to Countable Assets 400-28-65-07 and Asset Exclusions 400-28-65-09 to determine which assets are countable.

Countable Assets 400-28-65-07

(New 7/1/16 ML #3472)

View Archives

In determining the assets of a household, the following must be included and documented in detail.

Assets of Crossroads, Diversion, TANF or Transition households are not counted but must be documented and verified if questionable.

Liquid Assets

Types of liquid assets include but are not limited to the following:

- Cash on hand.
- Money in checking or savings accounts.
- Stocks or bonds.
- Lump sum payments (counted as assets in the month in which they are received unless excluded by Federal law).

To arrive at the countable cash value for any account or plan that applies penalties for early withdrawals, subtract the amount of the penalty (if any) from the value of the account or plan.

If the account or plan has been used as collateral or if a lien has been placed on the account or plan, only the equity value available is counted.

Money in a checking or savings account must not be counted as income and as an asset in the same month. Workers must exclude any current month's income deposited in a checking or savings account.

If a check has been written and sent to the payee, even if it has not yet been cashed, the money is not available for other purposes and is

deducted from the account balance. The check register is used as verification of outstanding checks.

Many benefit programs deposit an individual's monthly benefit onto a debit card. Any balance remaining on these debit cards is considered a liquid asset beginning the month following the month it was deposited on the card and counted as income.

EXAMPLES:

- **Unemployment Insurance Benefits (UIB)**
- **Child Support Benefits**
- **Workforce Safety and Insurance (WSI)**
- **Social Security Administration Benefit (SSA)**

Non-Liquid Assets

Types of non-liquid assets include but are not limited to the following:

- Personal property
- Buildings
- Land
- Recreational properties
- The value of a Contract for Payment

The value of a contract in which payments are current is equal to the total of all outstanding payments of principal required to be made by the contract, unless evidence is furnished that establishes a lower value.

The value of a contract in which payments are not current is an amount equal to the current fair market value of the property subject to the contract. If the contract is not secured by property, the value of the contract is the total of all outstanding payments of principal and past due interest required to be made by the contract.

In situations where the contractual right to receive money payments is not collectable and is not secured, the debt has no collectable value, and thus no countable asset value. An applicant or recipient can establish that a note has no collectable value if:

a. The debtor is judgment proof. A debtor is judgment proof when money judgments have been secured, an execution has been served against the debtor which has been returned as wholly unsatisfied, and the debtors affidavit and claims for exemptions exempt all of the debtors property; or

b. The applicant or recipient verifies the debt is uncollectible due to a statute of limitations. A satisfactory verification includes an attorney's letter identifying the statute and facts that make a debt uncollectible due to a statute of limitations.

The value of non-exempt assets is the equity value. The equity value is the fair market value less the amount owed.

Asset Exclusions 400-28-65-09

(Revised 3/1/18 ML #3524)

View Archives

The following list is all of the assets that are excluded for all household members includes, but is not limited to:

1. Assets having cash value which are not accessible to the household.

   Examples:

   - Property in probate.
   - Inheritances not yet received.
   - Real property which the household is making a good faith effort to sell at a reasonable price and which has not been sold.

     If questionable the worker must verify that the real property is for sale and that the household has not declined a reasonable offer. Verification could include collateral contact or documentation, such as an advertisement for public sale in a newspaper of general circulation or a listing with a real estate broker.

2. Assets of Crossroads, Diversion, TANF or Transition households are not counted but must be documented and verified if questionable.

3. The home and surrounding property that is not separated by property owned by others. Roads running through the property will not affect the property exemption.

   The home and surrounding property remain exempt when temporarily unoccupied because of employment, training for future employment, illness, or un-inhabitability caused by casualty or natural disaster, if the household intends to return.

   Households not currently owning a home but who own or are purchasing property on which they intend to build or are building a

permanent home, receive exclusion for that value.

4. Real property that is being farmed, produces rent, or is otherwise operated as a business by the applicant household is NOT counted in the determination of assets. The real property must be producing income commensurate with prevailing rental or leasing rates in the community. However, the income produced by this real property is included under the income limitations for eligibility.

   Payments received from mineral leases are included as income. Bonus payments on mineral leases (usually a one-time payment) are also to be added to the annual income.

5. Household or personal goods (i.e. furniture, appliances, jewelry, clothing, antiques, collections, etc.).

6. All vehicles of all household members.

7. All assets of all children in the household.

8. Any funds designated for educational costs.

9. The cash value of life insurance policies.

10. A loan from any source with written documentation or verification that the loan is subject to repayment.

11. All tax-preferred retirement accounts. These include but are not limited to:

    - State Retirement
    - Teacher's Retirement
    - 457 plans
    - 401(k) plans
    - Federal employee thrift savings plans

- 403(b) plans
- 501(c)(18) plans
- Keogh plans
- Individual Retirement Accounts (IRA's)
- Simplified Employer Pension Plans (SEPs)

If withdrawn, they become an available asset in the month received.

12. Any funds in a trust or transferred to a trust, and the income produced by that trust if it is not available to the household.

13. Assets that are excluded by express provision of federal statute for American Indians or Alaska Natives. Usually a law will specify payments to members of a tribe or band, and the law will apply to the members enrolled in the tribe or band wherever they live. The individuals should have documentation showing where the payments originate. These payments include, but are not limited to the following:

    a. Indian per capita payments distributed from judgment awards and trust funds up to $2,000 per person per payment. Amounts in excess of $2,000 are considered a countable asset.

    b. Interests of Indians in trust or restricted lands.

    c. Up to $2,000 per year of Individual Indian Monies (IIM) received by individual Indians which is derived from leases or other uses of individually owned trust or restricted lands.

       Exception:

       The $2000 exemption does not apply to inheritance, bonuses, and other income that is not derived from leases, trust or restricted land.

    Client statement is acceptable verification of the amount in an IIM account unless:

1. The amount is more than $2000 for the year;

2. The client's statement is questionable;

3. The IIM account includes countable income such as inheritance, bonuses, and other income that is not derived from leases, trust or restricted land.

14. ABLE accounts. This includes the exclusion of any contributions to the ABLE account of the individual and any distributions for qualified disability expenses.

    Since the funds in an ABLE account can only be withdrawn to be used for a 'qualified disability expense,' funds withdrawn form the account are also disregarded.

Income 400-28-65-10

Definition of Income 400-28-65-10-05

(Revised 11/1/11 ML #3295)

View Archives

NDAC 75-02-01.3-07

Gross income is the income before deductions for taxes, social security or any other items. The gross income, earned and unearned, of all household members including the members in a loco parentis household, stepparent, and unmarried couples where paternity of at least one child in common is acknowledged or adjudicated, will be used for the Child Care Assistance Program (CCAP).

Income is the gain or benefit, earned or unearned, derived from labor, business, capital, or property which is received or is available to CCAP unit for current maintenance. It is considered when actually available and when the applicant or recipient has a legal interest in a liquidated sum and has the legal ability to make such sum available for support or maintenance.

The gross countable income for all members of the child care assistance unit and the caretaker temporarily away from home or in military service is counted.

Earned income of children under age 19 is not counted.

Unearned income of children under age 19 who must be included in the Child Care Assistance Unit is counted.

Earned Income 400-28-65-10-10

(Revised 4/1/16 ML #3464)

View Archives

NDAC 75-02-01.3-07

Earned income is profit from activities in which an individual is engaged through employment. Earned income must entail personal involvement and effort on the part of the applicant or recipient.

The following types of earned income are countable:

1. Wages and salaries including:
   - Paid sick, vacation and holiday leave
   - Commissions
   - Wages garnished by the employer
   - Advances are counted when received
   - Tips. When tips are not shown on wage stub, the recipient's statement as to the amount of tips received each month is adequate if consistent with place, type of employment and number of hours worked.
   - Bonuses.
     - Recurring bonuses are counted. At application or review, the worker must verify the last bonus received. The verified amount is then prorated over the period of time intended to cover and used in the new review period. Non-recurring bonuses are excluded.
2. Self-Employment
3. Employment Contracts.
4. Wages received by an individual or Qualified Service Provider (QSP) for providing services under Family Home Care, when the individual is employed by an agency. (When an individual or QSP is not an employee of an agency, the income is considered self-employment.)

5. Short term or long term disability or loss of time insurance payments for illness or injury paid by the employer.

   <u>EXCEPTION:</u> Short term or long term disability or loss of time insurance payments for illness or injury paid by someone other than the employer is unearned income.

6. In-kind income is paid or given in goods, credit, including in-store credit or services instead of money. In-kind income is considered earned income when the individual has the option to receive a wage or monetary payment.

The value of the goods received may have been verbally negotiated or specified in a written document and must be verified. Otherwise a mutually acceptable market value must be negotiated.

<u>Example:</u>

An individual working as an apartment manager receives a $330 deduction from the rent. The $330 deduction would be counted as income when the employee has the option to receive payment of $330.

7. Income earned by higher education students from internships, or stipends, teaching assistantships, or fellowships which require work participation to receive the income

   <u>EXCEPTION</u>: Wages earned under the Federal Work Study Program are excluded.

8. Military Pay, including:

   a. Basic Allowance for Subsistence (BAS) and Family Subsistence Supplemental Allowance (FSSA) for members of the armed forces.

b. Variable Housing Allowances (VHA), Basic Allowance for Quarters (BAQ) and Basic Allowance for Housing (BAH) paid to military personnel for housing costs.

c. Military re-enlistment bonus.

If a household receives up to 50% of the bonus amount as an initial payment with the remainder paid in equal annual installments, the initial payment and the annual installments are annualized.

If a household receives the bonus as a lump-sum payment, it is excluded as a non-recurring lump-sum payment.

9. Wages received by an individual enrolled in a Job Corps Program, when the wages are not provided by the Job Corps Program.

10. Sheltered workshop employment - An organization that employs people with disabilities.

11. Earnings from on-the-job training

12. Compensation for jury duty

13. Compensation for plasma donations, participation in medical studies, etc.

14. Alternative Trade Adjustment Assistance/Reemployment Trade Adjustment Assistance wage subsidy, provided under the Trade Adjustment Assistance (TAA) Extension Act of 2011. This wage subsidy is paid to eligible workers over the age of 50 and pays a portion of the individuals wage (the difference between the individual's new wage and old wage).

15. Workforce Innovation and Opportunity Act (WIOA) or Youthbuild earnings.

EXCEPTION: **Earnings of individuals participating in an on-the-job training programs under Title I of WIOA or Youthbuild who are under the age of 19 and under parental control are not counted.**

Earned Income - When Received 400-28-65-10-20

(Revised 4/1/16 ML #3464)

View Archives

NDAC 75-02-01.3-07

Earned income received on a **regular** basis is considered received in the month available and normally received.

> **Note:** When the receipt of **regular** income varies because of weekends or holidays, the income must continue to be counted in the month it would have normally been received or considered available had there not been a weekend or holiday.
>
> **Example #1:** A pay check normally received on the first day of January is paid prior to January 1, due to the holiday. This income should be budgeted as received in January.
>
> **Example #2:** An individual normally paid on December 31 is paid after January 1. This income should be considered as received in December.

Earned income received on an **irregular** basis is considered received in the month it is actually received.

> **Note:** For an individual who has irregular earnings, a pay check may not be received each pay period. Even if the income is not received every pay period, the income is still considered received in the month it is actually received. When the receipt of irregular income varies because of weekends or holidays, the income must continue to be counted in the month it would have normally been received or considered available had there not been a weekend or holiday.

Wages held at the request of an employee shall be considered income in the month normally received.

Earned Income Received on a Contractual Basis 400-28-65-10-25

(Revised 4/1/16 ML #3464)

View Archives

NDAC 75-02-01.3-07

Contract income is a contracted wage which covers a specified period of work, usually 12 months or less. A contract for income must be written and the salary amount identified in the contract.

Examples:

School teachers, bus drivers, coach, etc.

Individuals who receive contract income which is renewable on a yearly basis and is intended as their annual income must have this income averaged over a 12-month period.

If the contract indicates an hourly wage and the employer verifies the contract is for a predetermined total salary amount, the income is considered contract income.

If the contract indicates a predetermined total salary amount, but the individual is paid based on the number of hours worked or the amount of work that was completed, it is not contract income and is treated as normal earned income.

Example:

John signed a contract for 9 months as a school janitor and the contract states he will receive $9000 in monthly installments. John states the income is intended for his annual support.

If John is paid $1000 every month regardless of the hours he works, it is a true contract situation and we would budget $9000 by 12 months = $750 monthly.

However, if John's monthly wages vary by the number of hours he works per month; it is not a true contract because John is being paid by the hour, not by the contract amount. (For example, one month his wage shows 160 hours x his hourly wage and 20 hours of overtime, and the next month shows 100 hours x his hourly wage, and the pay is equal to the hourly rate.) John's income would be budgeted as received in this situation, not annualized or averaged over the period of the contract.

Individuals who receive contract income that does not represent their annual income must have the income prorated over the period of time intended to cover. The monthly amount is not counted until the budget month that the individual will actually receive a check.

Example:

Ongoing household reports in November that they entered into a coaching contract for the months of November, December, January and February. The contract is for $2,000 with a one-time payment on February 15. Since this contract does not represent the household's annual income, the $2,000 must be prorated over 4 months. $500 is used for February to determine if the total household income exceeds the household's income limit.

When an applicant initially applies and has a new contract or an ongoing household initially starts receiving contract income and the income represents their annual income, the income is annualized. The monthly amount is not counted until the budget month that the individual will actually receive a check.

Example:

A household applies in June and has a contract to start teaching in August. The income from the contract must be annualized; however, the first month that any contract income would be counted is August. The income is used for August to determine if the total household income exceeds the household's income limit.

Documentation/Verification of Earned Income 400-28-65-10-30

(Revised 02/01/2022 ML #3653)

View Archives

NDAC 75-02-01.3-07

All earned income received by the family must be verified.

The primary verification of declared earnings is the pay record (pay stubs, etc.) verifying the gross wages received paid by the employer.

Documents or records available to verify earned income include but are not limited to the following:

- Pay stubs
- Employer's wage records
- A statement from the individual's employer that includes the name of the business, the name of the person who completed, signed and dated the form, along with the position they occupy in the business
- A copy of the contract if income is received on a contractual basis
- Interface. Acceptable interfaces are addressed in the Administrative Procedures Manual. Refer to section 448-01-50 of the Administrative Procedures Manual.

All documentary evidence must be date stamped the day it is received at the human service zone. It is unacceptable to use the date the verifications are scanned into the case file as the date stamp. An electronic date stamp is acceptable as long as it is part of the document and stamped the day the verification is received.

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

(Revised 10/1/15 ML #3458)

View Archives

NDAC 75-02-01.3-07

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

An individual who is working for themselves, rather than for an employer, is considered self-employed. The individual may be a contractor, franchise holder, owner/operator, partner, etc. The individual must meet the following criteria to be considered self-employed:

1. Earn the income directly from business or trade, not from wages or salary from an employer.

2. Be responsible for the payment of entire Social Security and Federal withholding taxes. [If an employee, the employer would pay half of their Social Security Tax and withhold federal income tax from the employee's salary.]

3. File self-employment tax forms, however, not all individuals file tax forms. In these special circumstances, income must be anticipated.

Calculating Self-Employment Income

Self-employment income is normally calculated by completing the EAP Self-Employment Worksheet using data from tax forms as verification.

Information for each business must be calculated separately. When a household has filed self-employment income taxes the income is determined as follows:

- If the income represents a household's annual income, the income must be annualized over a 12-month period of time,

even if the income is received within a shorter period of time during those 12 months.

- If a self-employment enterprise has been in existence for less than a year and continues to operate, the income must be averaged over the period of time the business has been in operation.

- If an individual is self-employed for only part of the year to supplement their income from regular employment, the self-employment income must be averaged over the period of time it is intended to cover rather than a 12-month period.

Example:

An individual may be a self-employed painter during the three summer months and works as a housekeeper for regular wages the rest of the year. The self-employment income from painting is averaged over the three summer months because it is intended to meet the individual's needs for only part of the year.

When the total business 'profit' as calculated above results in a loss:

- Zero income will be used. A loss from a self-employment business cannot be used to offset or reduce income from other self-employment or other sources such as earned income.

Anticipating Self-Employment Income in Special Circumstances

When a household has not filed a self-employment income tax return or there has been a significant increase or decrease in the operation of the business, income tax forms, monthly ledgers or bookkeeping records may be used as verification. The income is determined as follows:

1. Business Not In Operation a Complete Calendar Year or Tax Forms Not Filed

a. The applicant will need to provide monthly income and expense ledgers to anticipate self-employment income and unearned income as a result of self-employment. The EAP Anticipated Self-Employment Worksheet will assist with determining the monthly net farming and business income.

2. Partial Liquidation of Business

a. If a business sells some land, equipment, or other capital items to obtain money for current operating expenses and/or pay off a loan, and does not expect a substantial reduction in self-employment income as a result of the sale, continue to look at the most recent income tax forms.

b. If the business liquidates a large enough portion of the business to result in an anticipated substantial reduction in the self-employment income, the income tax forms must be appropriately adjusted to accurately anticipate the current year's income using the most recent income tax forms. Income and expenses (other than depreciation and depletion) for the portion of the business that is not being liquidated is used to determine net self employment income.

Capital gains/losses on sale of property are counted as income.

NOTE: Use only the income or loss from the sale of capital items that can be reasonably anticipated to recur during the current year.

c. If the business expects to liquidate partially but has not done so yet, use the most recent income tax forms in their entirety until the liquidation takes place.

3. Significant Increase or Decrease in Operation

   A farm or business may have a significant increase or decrease in operation that is temporary and does not result in liquidation of the business. In these cases, one of the following methods must be used:

   a. If the applicant has had an estimated tax return prepared for the current business year, use the estimated tax return forms to complete the EAP Self-Employment Worksheet.

   b. If the applicant has prepared documents (such as farm plans) from a lender or bank or monthly income and expense ledgers, these documents may be used to arrive at the current year's anticipated income and expenses. The EAP Anticipated Self-Employment Worksheet will assist with determining the monthly net farming and business income. Anticipated capital gains/losses on sale of property are counted as income.

4. Termination Of Business

   a. If a business expects to completely liquidate but has not done so yet, continue to use the most recent income tax forms or one of the methods described in #3 above until the business has liquidated.

   b. If a business has been completely liquidated, tax forms cannot be used to evaluate the applicant's income. Use only whatever income is currently available from other sources.

<u>Treatment of Self-Employment Income</u>

When an individual is actively engaged in a self-employment business, the income they receive is considered earned income. The following types of income are always considered earned income:

- **Capital or Ordinary Gains/Losses**
- **Farm Income**
- **Business Income**
- **Partnership – Ordinary income, guaranteed payments to partners, depreciation and depletion**

However, there are some types of income included on the self-employment income tax forms that are considered unearned income. The following types of income are always considered unearned income:

- Royalty income
- Partnership – rental, interest and dividend income
- Income from S-Corporations
- Estate or trust income

The following types are considered earned or unearned depending on whether the individual is actively engaged in earning the income and the self-employment tax forms filed.

- Farm rental income
- Other rental income

The earned income must be separated from the unearned income and will be when using the self-employment calculation worksheet.

Determining Self-Employment Income

1. Capital or Ordinary Gains or Losses – A capital or ordinary gain or loss is the difference between the sale price and the cost basis. The cost basis may include improvements and sales expenses such as broker's fees and commissions.

Capital or ordinary gains or losses are considered part of the EARNED income from self-employment. The gain or loss is calculated by deducting the cost basis from the gross sale price. The result is then added to or subtracted from the calculation of the self-employment income for the business the property was used in.

NOTE: Use only the income or loss from the sale of capital items that can be reasonably anticipated to recur during the current year.

This income is generally included on the Schedule D or Form 4797.

2. Farm Income – Income earned through the operation of a farm or ranch including farm rental income and CPR.

    a. Farm Rental Income – Income received by a landowner from the sale of crops or livestock produced by the tenant. This does not include cash rent of pasture or farmland.

    b. Conservation Reserve Program Payments (CRP) – Cost share and payment program under the USDA that encourages farmers to convert highly erodible crop land or other environmentally sensitive acreage to vegetative cover.

Farm income, including farm rental income and CRP:

- Is considered **EARNED** income when the individual is actively engaged in farming. The total farm income or loss is determined by taking the taxable amount of cooperative distributions (patronage dividends) from the net farm income and adding in the depreciation.

  The amount of cooperative distributions is deducted from farm income as it is excluded. Depreciation is added back in as this is not an allowable expense.

Note: Cooperative distributions (patronage dividends) may include income for the sale of goods (grain, milk, cattle, etc.). Any portion of cooperative distributions that is income from the sale of goods must not be deducted from farm income.

This income is generally included on the Schedule F.

- Is considered **UNEARNED** income as a result of self-employment when the individual is NOT actively engaged in farming. The total farm rental income or loss is determined by taking the taxable amount of cooperative distributions from the net farm rental income and adding in the depreciation.

  The amount of cooperative distributions is deducted from farm rental income as it is excluded. Depreciation is added back in as this is not an allowable expense.

  This income is generally included on the Form 4835.

3. Business Income – Income earned through the operation of a business other than farming or ranching.

   Business income is considered **EARNED** self-employment income. Business income is determined by taking the net business income profit or loss and adding in the depletion or depreciation. Depreciation and depletion are added back in as they are not allowable expenses.

   This income is generally included on the Schedule C.

4. Partnerships – A partnership is a self-employment business set up as a partnership with two or more partners. A partner's share of

income, gain, loss, deductions or credits is determined by a partnership agreement.

- Ordinary income and guaranteed payments to partners in a partnership are considered **EARNED** self-employment income. This income is generally included on the Schedule K-1 (Form 1065). The partner's share of the partnership income is determined by adding the partner's share of depreciation or depletion to their ordinary income and guaranteed payments. Depreciation and depletion are added back in as they are not allowable expenses. The depreciation and depletion are generally included on the Form 1065.

- Rental, interest and dividend income paid to partners in a partnership are considered **UNEARNED** income as a result of self-employment. The partner's share of the partnership income is the total of the rental, interest and dividend income. This income is generally included on Schedule K-1 (Form 1065).

5. Other Rental Income – Income received from the cash rental of property.

   Other rental income is considered **UNEARNED** income as a result of self-employment. Rental income is determined by taking the total net rental income from all rental properties and adding in the depreciation or depletion. Depreciation and depletion are added back in as these are not an allowable expense. This income is generally included on Schedule E.

6. Royalty Income – a percentage of gross or net revenues derived from the use of an asset or a fixed price of a unit sold of an item.

Income individuals receive from royalties is considered **UNEARNED** income as a result of self-employment. Royalty income is generally included on Schedule E.

7. Cooperative distributions - From the sale of goods is countable income and must not be deducted from farm income.

8. S –Corporation – a separate business entity with 1 to 100 shareholder(s) that passes through the net profit or loss to their shareholder(s). The business profits are taxed at individual tax rates on each individual shareholder's income tax.

   Income shareholders receive from a corporation is considered **UNEARNED** income as a result of self-employment. This income is generally included on the Schedule K-1 (1120S). The shareholder's income is determined by adding the shareholder's share of depreciation or depletion to their ordinary business income, net rental real estate income, interest income and dividend income. Depreciation and depletion are added back in as these are not an allowable expense. Depreciation and depletion are generally found on the Form 1120S.

   NOTE: An owner or employee of a corporation is not a self-employed individual because the business income and liabilities belong to the corporation, not the individual. Wages that an owner or employee receive from a corporation are considered earned income.

9. Estate or Trust Income – Income received from an estate or trust.

   Income individuals receive from estate or trusts is considered **UNEARNED** income as a result of self-employment. Estate or trust income is generally included on Schedule E.

Other Types of Self-Employment Income

The following types of income may or may not be listed on self-employment tax forms. If the income is not listed on the self-employment tax forms, the income must be verified separately.

1. Qualified Service Provider (QSP) – Qualified Service Providers (QSPs) are individuals who provide care for people who want to continue to live in their own homes and communities. QSPs do not need to have a special certificate or license, but they do need to prove they have the skills to provide care.
   - QSP income is considered **EARNED** self-employment income when the individual is not an employee of an agency.
   - QSP income is considered regular earned income when the individual is employed by an agency.

2. Boarder - Individuals or groups of individuals residing with others and paying reasonable compensation for lodging and meals.

   Income from boarders is considered **EARNED** self-employment income when the individual providing the board is actively engaged in providing the lodging and meals and the boarder is not included in the household based on program policy.

   To calculate income from room and board, take the monthly gross receipts less $100 per boarder.

Wages Paid to Family Members

Wages paid to family members are an allowable business expense. However, the wages paid to family members must be counted as earned income separately from self-employment income unless the earned income is specifically excluded by program policy.

The income tax forms identify wages paid to family members as wages or labor hired but does not separate outside labor hired from

wages paid to family members. The household will need to identify and verify the amount paid to family members (canceled checks, W-2 forms, bank books showing transfer of funds).

Allowable Expenses

The following expenses are allowable deductions from self-employment income. Because the EAP Self-Employment Worksheet uses net income any of these expenses claimed on the tax form are already deducted. The Anticipated Self-Employment Worksheet also accounts for these expenses.

If a household verifies any of the following expenses incurred as a result of self-employment income that were not included on the tax forms, the expense must be allowed by deducting it from the net income.

- Advertising
- Car and truck expenses
- Chemicals
- Commissions and fees
- Conservation expenses
- Contract labor
- Custom hire (machine work)
- Employee benefit programs
- Feed
- Fertilizers and Lime
- Freight and Trucking
- Gasoline, Fuel and Oil
- Insurance (other than health)
- Interest (mortgage and other)
- Labor hired
- Legal and professional services
- Office expenses
- Pension and profit-sharing plans
- Rent or lease (vehicles, machinery, equipment, business property, land, animals)
- Repairs and maintenance
- Seeds and Plants

- Storage and Warehousing
- Supplies
- Taxes (Real estate, employer's match of payroll taxes, contributions to state unemployment insurance, licenses)
- Travel, meals, entertainment
- Utilities and phone
- Veterinary, breeding and medicine
- Wages
- Other expenses such as:
    - Bad debts
    - Bank service charges
    - Dues and publications
    - Laundry and cleaning
    - Tools
    - Day care meal expenses (if not reimbursed through a food program)

Non-Allowable Expenses

The worker must determine if an expense is non-allowable based on whether the expense is part of producing income. The following expenses are not allowable deductions from self-employment income:

- Expenses and net operating losses (NOL) from previous periods.
- Depreciation/depletion - to allow these costs would result in exclusion for amounts that are not actual costs.
- Other expenses that are not incurred as a result of self-employment income, such as:
    - Charitable contributions
    - Penalties and fines

Unearned Income 400-28-65-10-40

(Revised 10/1/20 ML #3574)

View Archives

NDAC 75-02-01.3-07

If unearned income is withheld for:

- Child support or taxes, the gross amount must be counted.
- Repayment of an overpayment from the same source, the net amount must be counted.
- Repayment of another source, the gross amount must be counted.

Examples:

1. Back Taxes
2. Defaulted Student Loan

When unearned income is held at the request of an individual, it is considered income in the month normally received.

The following types of unearned income are countable:

1. Payments from Social Security Administration:

    - Retirement, Survivors, and Disability Insurance (RSDI)
    - Supplemental Security Income (SSI)

    Lump sum retroactive adjustments from Social Security due to changes in an individual's earnings record will be considered as follows:

    If the individual received SSA benefits AND had earnings in the year prior to the adjustment, the adjustment will be considered a recurring lump sum benefit.

If the individual did not receive SSA benefits OR did not have earnings in the year prior to the adjustment, the adjustment will be considered a non-recurring lump sum benefit.

2. Unemployment and Workforce Safety and Insurance

These benefits are paid on an Electronic Benefits Card and are considered income:

a. On the date received; or

b. When available and the recipient has a legal ability to access the income for support or maintenance.

If the household cannot verify the date of actual receipt, the receipt date is deemed to be either:

a. The date funds were deposited into the account based on a bank statement from U.S. Bank or their personal bank account; or

b. Two working days after the date the WSI or UIB was processed.

3. Other benefits, including but not limited to:

- Monthly or regular payments from annuities, pensions and other retirement plans (including dividends and interest). Penalties if any should be deducted from the gross disbursement amount.
- Disaster Unemployment Benefits
- General Assistance
- Income deemed to a community spouse
- Military Allotment received from non-household member.
- Short term or long term disability or loss of time insurance payments for illness or injury paid by someone other than the employer (AFLAC, CIGNA, Thrivent, etc.).
- Railroad benefits

- Veterans benefits other than those designated for education
- Union Compensation during strikes

4. Child Support and Spousal Support - Court-Ordered and Voluntary

5. Unearned income as a result of self-employment.

6. Tribal Payments and Individual Indian Monies (IIM) Accounts

   400-28-65-10-47 - This section includes the policy regarding the treatment of this income.

7. Recurring Lump Sum Payments are those payments that can be reasonably anticipated to be received more than once. Payments may be recurring monthly, quarterly, yearly, etc.

8. Recurring payments are prorated over the period of time intended to cover.

9. Cash Contributions received on a regular basis that can be reasonably anticipated.

10. Contracts for Payment. When an applicant or recipient has sold property with a contract to receive a series of periodic payments, rather than one payment, the arrangement is usually called a "contract for deed". The essential feature of the contract for deed is the right to receive future payments, usually coupled with a right to get the property back if the payments are not made. Contractual rights to receive money payments also arise out of other types of transactions. The valuable contract document may be called a note, accounts receivable, mortgage, or by some other name.

    NOTE: Some contractual rights may be written so the lender has the right to demand payment at any time. If so, the note is considered a demand note and can be called in at any time. If a note is written so the lender does not have the right to demand payment but the note is in default, it also becomes a demand note. Contractual rights may or may not have collateral or security to guarantee payment.

The payments will include both interest and a portion of the sale price of the property that was sold (principle) and must be calculated separately.

The interest portion of payments received for any contractual right to receive payments (such as Contracts for Deed) must be counted as unearned income. The payment must be prorated over the period of time intended to cover.

11. Refugee Cash Assistance Payments – Payments received under the Refugee Cash Assistance Program or the Wilson/Fish Alternative Program.

12. State Long Term Care Subsidy – Individuals receiving a payment of up to $20 from the State Long Term Care Subsidy Program.

13. Money deposited into a Joint Checking or Savings Account - Money deposited, when the depositor is not a member of the household, is counted as unearned income in the month in which it is deposited.

    EXCEPTION:

    If the client's name appears on a signature card, but no member of the household has an ownership interest in that account, funds in the account are not available as income or asset.

14. Money obligated to the household which is diverted by the household for an expense.

    Examples:

    1. TANF benefits diverted to a Protective Payee
    2. Payment diverted to a Representative Payee

Child Support and Spousal Support- Court Ordered and Voluntary 400-28-65-10-42

(Revised 3/1/18 ML #3524)

View Archives

Child support and spousal support received by the household is countable unearned income.

Child support is counted as the child's income

> **EXCEPTION:**
>
> **When a household member receives child support for a child that is not living in the home, the child support is counted as income to the household member that actually received it.**

Spousal support is counted as income to the household member for which it is obligated.

Federal tax intercept payments are a non-recurring lump sum and are not counted as income. Federal tax intercept payments are not included in ND√erify.

State and interstate state tax intercept payments are counted as income as these payments are applied to current support. State tax intercept payments are included in ND√erify.

The date the payment is considered received is determined as follows:

- If disbursed via check, the date received is two working days after the date on the check.
- If direct deposited, the date received is the date the funds were deposited into the bank account as reflected on the bank statement.
- If deposited onto electronic payment card (EPC), the date received is two working days after the disbursed date in ND√erify.

When an individual is in receipt of TANF, support assigned to the state is not counted as income.

Tribal Payments and IIM Accounts 400-28-65-10-47

(Revised 4/1/16 ML #3464)

View Archives

NDAC 75-02-01.3-07

Tribal Payments and IIM Accounts

Following is policy regarding the treatment of income distributed to tribal members. These distributions are generally made directly to tribal members or put into an Individual Indian Monies (IIM) Account.

Countable Unearned Income

1. Tribal Distributions from tribal gaming or tribal enterprises distributed to enrolled tribal members (residing on or off a reservation).

Payments made to enrolled tribal members from the proceeds of gaming or gambling businesses are not per capita payments; therefore the income must be counted.

These payments are prorated over the period of time intended to cover with the exception of those noted. These payments include but are not limited to:

- Spirit Lake Social Impact Payments
- Sisseton-Wahpeton Oyate of the Lake Traverse Reservation Quarterly Casino Cash
- Three Affiliated Tribal Elderly Payments
- Three Affiliated Tribe's People's Fund Distributions
- General distributions from tribal revenue.

At application, review and when adding a new member to a case, payments received from the Three Affiliated Tribes People's Fund or general distribution from tribal revenue in the most recent FULL 12 month period are annualized and counted.

1. Amounts in excess of $2,000 per year per person of monies derived from leases or other uses of individually owned trust or restricted lands are countable unearned income.

25 USC 1408

Excluded Income

1. Indian per capita payments distributed from judgment awards and trust funds.
   25 USC 1407
2. Amounts up to $2,000 per year per person of monies derived from leases or other uses of individually owned trust or restricted lands are excluded.
   25 USC 1408
3. Alaska Native Claims Settlement Act - payments received from a native corporation.
   43 USC 1626 (b) (c)
4. Sisseton-Wahpeton Oyate of the Lake Traverse Reservation Food Distribution Program.
5. Monies derived from certain sub-marginal land held in trust for certain Indian tribes. The tribes that may benefit are:

   - Bad River Band of the Lake Superior Tribe of Chippewa Indians of Wisconsin
   - Blackfeet Tribe
   - Cherokee Nation of Oklahoma
   - Cheyenne River Sioux Tribe
   - Crow Creek Sioux Tribe
   - Lower Brule Sioux Tribe
   - Devils Lake Sioux Tribe
   - Fort Belknap Indian Community
   - Assiniboine and Sioux Tribes
   - Lac Courte Oreilles Band of Lake Superior Chippewa Indians
   - Keweenaw Bay Indian Community
   - Minnesota Chippewa Tribe
   - Navajo Tribe
   - Oglala Sioux Tribe
   - Rosebud Sioux Tribe
   - Shoshone-Bannock Tribes

- Standing Rock Sioux Tribe

25 USC 459e

6. Spirit Lake Nation incentives and payments for grades issued to individuals attending college.
7. Tribal High School Graduate/GED Payments - Payments from a federally recognized tribe to tribal members who graduate from high school or receive a GED are considered non-recurring lump sum.

Determining Countable Income in Individual Indian Money (IIM) Accounts

Individual Indian Money (IIM) accounts are established for individual trust beneficiaries. These accounts can be created for a number of different reasons. The individual may:

- Be the original allottee of a parcel of land.
- Is an heir to the original allottee of a parcel of Indian trust land and have inherited the land through probate.
- Have received trust asset through a gift deed.
- Have received per capita trust payments from the tribe, a tribal settlement, or a judgment award.

Most IIM accounts receive income from the use or sale of a trust asset, such as agricultural or grazing leases, coal production, timber harvesting, and oil and gas royalties. Funds can also come from a per capita payment, income earned on deposited funds, inheritance, VA, SSA or SSI. Some accounts receive proceeds from an estate account following a probate.

Federal law requires that up to $2,000 per year of deposits derived from leases, trusts and restricted lands must be excluded.

At application, review or when adding a new household member, verification of the IIM account must be obtained for the most recent FULL 12 month period prior to the month of application.

IIM accounts can be verified in the following ways:

1. Client statement is acceptable when the account balance is less than $2000 and the income is derived solely from leases, trusts and restricted lands.

2. When client statement is questionable, the balance is over $2,000, or the account includes income from sources other than leases, trusts and restricted lands verification is required:

a) Request for verification of IIM account information using form SFN 413, Individual Indian Monies Account. This form will need to be notarized per requirements of the United States Department of the Interior, Office of the Special Trustee for American Indians, Office of Trust Funds Management. These releases are valid for one (1) year and must be renewed annually.

b) Individuals with IIM accounts receive statements from the Office of Trust Funds Management on a quarterly basis. A copy of this form may be requested from the recipient. However, the recipient will not receive the statement if the Office of Trust Funds Management does not have a current address.

c) The individual may obtain a statement of their IIM account directly from the Office of Trust Funds Management through the Bureau of Indian Affairs (BIA) by requesting the information in person or by making a telephone request. In both cases, the individual will need to know their account number and provide at least two forms of identification.

Once verification is received the amount of countable income is calculated as follows:

1. Subtract any deposits that are not derived from leases, trusts or restricted lands. These sources of income would be considered separately based on policy.

2. The remaining deposits would be totaled for the twelve-month period.

3. Deduct the $2000 disregard. (The result is the annualized countable income)

4. Divide the annualized countable income by 12 to determine the monthly countable unearned income.

New Source of Income

When a new source of income is identified during the most recent FULL 12 month period the amount of countable income is calculated as follows:

1. Subtract any deposits that are not derived from leases, trusts or restricted lands. These sources of income would be considered separately based on policy.

2. Subtract the new source income from each month the income was received.

3. The remaining deposits would be totaled for the twelve-month period.

4. Total the new source income and divide by the number of months it was received. Multiple by 12 to determine a new annual amount of the new source income.

5. Add the annual amount of the new source income to the total of the remaining deposits.

6. Deduct the $2000 disregard. (annualized countable income)

7. Divide the annualized countable income by 12 to determine the monthly countable unearned income.

25 USC 1408

Unearned Income - When Received 400-28-65-10-50

(Revised 10/1/11 ML #3278)

View Archives

NDAC 75-02-01.3-07

All nonexempt unearned income shall be considered to be available in the month in which it is normally received. Unearned income is usually received at fixed intervals and at regularly scheduled dates.

> **Note:** When the receipt of regular unearned income varies because of weekends or holidays, the unearned income must continue to be counted in the month it would have normally been received or considered available had there not been a weekend or holiday.
>
> **Example #1:** Unearned income normally received on the first day of January is paid prior to January 1, due to the holiday. This income should be budgeted as received in January.
>
> **Example #2:** Unearned income normally paid on December 31 is paid after January 1. This income should be considered as received in December.

Unearned income received on an **irregular** basis is counted in the month it is actually received.

Unearned income held at the request of an individual shall be considered as income in the month normally received.

Documentation/Verification of Unearned Income 400-28-65-10-55

(Revised 10/1/20 ML #3574)

View Archives

NDAC 75-02-01.3-07

Actual unearned income must be verified. If the individual is known to a TANF, SNAP or Health Care Coverage program, the primary verification for Social Security Administration (SSA) benefits will be the established through the State Data Exchange (SDX) or Third Party Query (TPQY) interfaces. When circumstances warrant, contact with the Social Security District Office to obtain benefit information may be necessary.

If the individual is not known to a TANF, SNAP or Health Care Coverage program, the verification cannot be obtained through SSA (TPQY or SDX) interfaces or IRS (UFO or BENDEX) interfaces.

Documents or records available to verify unearned income include but are not limited to the following:

- SSA benefit letter or interface
- Unemployment Compensation benefit letter or interface
- Pension benefit letter
- VA benefit letter
- Railroad benefit letter

Verification of Child/Spousal Support received

Documents or records available to verify child/spousal support include but are not limited to the following:

- Divorce or separation papers
- Court order
- Support agreement
- Correspondence on support payments

- Receipts for contribution
- Employer Records of garnished wages
- Child Support Enforcement's FACSES ledger or Electronic Payment Card
- Print out from agency disbursing the child support

All documentary evidence must be date stamped the day it is received at the human service zone. It is unacceptable to use the date the verifications are scanned into the case file as the date stamp. An electronic date stamp is acceptable as long as it is part of the document and stamped the day the verification is received.

Income Exclusions 400-28-65-15

(Revised 4/1/22 ML #3662)

View Archives

NDAC 75-02-01.3-07

The following types of income are excluded:

1. Non-recurring lump-sum unearned payments are those payments that cannot be reasonably anticipated to be received again. These payments include, but not limited to:

    - Retroactive Social Security payments (whether it is paid in a lump sum or installments)
    - Retroactive SSI (whether it is paid in a lump sum or installments)
    - Retroactive adjustment payments from SSA due to changes in the individual's earning record
    - Retroactive unemployment benefits
    - Retroactive TANF
    - Retroactive railroad retirement benefits
    - Retroactive Veteran's benefits
    - Retroactive Workforce Safety and Insurance
    - Inheritance
    - Gambling winnings
    - Child support intercepted from Federal taxes
    - Insurance settlements
    - Mineral leasing bonuses and up-front payments
    - Contests
    - Employees retirement funds taken as a lump sum
    - Severance Pay
    - Income received from a trust - Submit SFN 1947 - Request for Trust Review, along with complete copies of all trust agreements to the Legal Advisory Unit of the Department of Human Services for review.

2. Earned income received as a non-recurring lump-sum payment including, but not limited to:

    - Bonuses
    - Military re-enlistment bonuses

3. Tribal Payments and Individual Indian Monies (IIM) Accounts. 400-28-65-10-47 – This section includes the policy regarding the treatment of this income.

4. Reimbursements to a household member or payments to third-party for past or future expenses, including but not limited to:

    - Housing Assistance Program (HAP) and other subsidized housing authorities
    - Housing and Urban Development (HUD)
    - Rent and utility payments through the Emergency Rent Assistance Program (ERAP)
    - Utility reimbursements made by the Department of Housing and Urban Development (HUD), Rural Housing Service, and Tribal Utility Payments including Tribal LIHEAP.
    - General Assistance reimbursements - BIA or CSSB
    - Supportive Services and Special Items of Need paid by the TANF Program (TANF, TANF JOBS, Diversion, Kinship Care, Transition, Post-TANF and Crossroads)
    - Medical
    - Child Care
    - Employment and training
    - Family Subsidy payments.
    - Adoption Assistance Subsidies
    - Payments directed by a divorce decree to a third party

Child Care reimbursements are counted as income.

5. Child support or spousal support of a TANF recipient assigned to the Child Support Division.

6. Children's earned income.

7. In-kind income that is paid or given in goods, commodities, credits, including in-store credits or services instead of money when the individual does not have the option to receive a wage or monetary payment.

8. Dividends and Interest derived from savings and checking accounts and investments.

   EXCEPTION:

   The interest portion of payments from investments, annuities, pensions, and other retirement plans will be considered countable income when withdrawn on a regular basis.

9. Money deposited into a checking or savings account when the client's name appears on a signature card, but does not have an ownership interest in the account.

10. Cooperative Distributions (patronage dividends)

    EXCEPTION:

    Any portion of cooperative distributions that is income from the sale of goods is countable income.

11. Withdrawals from medical savings, health reimbursements and flexible spending accounts.
12. Foster Care Payments, including continuing education and job-training through PATH Inc.
13. Subsidized Guardianship Payments.
14. Money received from a benefit or fund raiser and disbursed by a third party for a household expense.

    EXCEPTION:

    If the disbursement is given or made available to a household member the money is counted.

15. When a member of the household serves as a representative payee for Federal benefits (SSI, Social Security, Veterans Benefit) for an individual who is not a member of the household, the income is not considered available to the household.

16. All income, allowances, and bonuses received as a result of participation in the Job Corps Program.

17. Refunds of a deposit from rental units, apartments, storage units, utility companies, child care providers, etc.

18. Homestead Tax Credit refunds.

19. Property Tax relief.

20. Loans that require repayment. A loan must be verified with a written agreement between the parties executed at the time the loan was agreed upon.

21. When monies are received and used by a household for the care and maintenance of a non-household member, the portion of the payment that is identified as belonging to the non-household member is excluded.

    If the non-household member's portion cannot be identified, the payment is divided equally among the individuals for whom the payment is intended and the exclusion is applied to either the portion or the amount actually used for the non-household member's care, whichever is less.

    Examples:

    1. The out-of-home allowance paid by TANF for children in boarding school or under the Voluntary Placement Program.

    2. TANF grant amount for students away at school (the student is not counted as a member of the household either).

    3. A parent is receiving court ordered child support of $350 per month for two children (prorated to $175 per child). The parent reports that one of the children went to live with the grandparents. The parent sends $175 of the monthly child support check to the grandparents for the care of the child. Only $175 would be counted as unearned income to the parent and remaining child. The $175 sent to the grandparents is not counted as income to the parent. If the

parent does not send any of the $350 monthly child support to the grandparents, the $350 is counted as unearned income for the parent and remaining child. If the parent sends $200, only the prorated $175 would be excluded.

22. Census Income.

23. Trade Adjustment Assistance (TAA) - The following payments made to individuals under the Trade Adjustment Assistance (TAA) Extension Act of 2011:

    - **Training Readjustment Allowances** - A wage subsidy available in the form of weekly cash payments to workers who are enrolled in a full-time training course;

    - **Job Search Allowance** – A cash allowance provided to workers who cannot find an available job within the commuting area, which is used to cover transportation costs, etc.

    - **Relocation Assistance** – A cash allowance provided to workers who have to accept a job outside of their commuting area and relocate.

    - **Health Coverage Tax Credit** – A tax credit offered to TAA participants to help pay for the health insurance premiums of the worker and their family.

24. Earned or unearned income set aside for the fulfillment of a Plan for Achieving Self-Support (PASS) under Title XVI of the Social Security Act (SSI).

25. Monetary gifts received by household members for special occasions such as birthdays, graduation, holidays, etc.

26. Infrequent or irregular income, both earned and unearned, that cannot be reasonably anticipated.

27. Gift Cards and Gift Certificates.

28. National School Lunch Act provides assistance to individual through the following programs:

School Lunch Program
Summer Food Service Program for Children
Commodity Distribution Program
Child and Adult Care Food Program (reimbursements to child adult care providers such as Heartland)

(42 USC 1760 (e))

29. Child Nutrition Act provides assistance to children through the following programs:

    Special Milk Program
    School Breakfast Program
    Special Supplemental Food Program for Women, Infants, and Children (WIC)

    (42 USC 1780 (b))

30. Uniform Relocation Assistance and Real Property Acquisition Policy Act establishes minimum standards for federally funded programs and projects that require the acquisition of real property (real estate) or displace persons from their homes, businesses, or farms.

    (42 USC 4636)

31. All payments to volunteers under the National and Community Service Act which includes payments from the following programs:

    - Americorps (Americorps State and National
    - Americorps VISTA
    - Americorps NCCC (National Civilian Community Corps))
    - Retired Senior Volunteer Program (RSVP)
    - Foster Grandparents Program
    - Senior Companion Program

    42 USC 5044 (f)

    42 USC 5058

32. Disaster Relief Act - Federal major disaster and emergency assistance and comparable disaster assistance provided by States, local governments, and disaster assistance organizations.

    This includes payments such as Federal Emergency Management Assistance (FEMA) payments, Emergency Unemployment Benefits, Red Cross and Salvation Army.

    (42 USC 5155 (d))

33. Allowances, earnings, or payments received under WIOA or Youthbuild

    EXCEPTIONS:
    Earnings of individuals who are 19 or over or under 19 and not under parental control are counted as earned income.

34. Low-Income Home Energy Assistance Act - LIHEAP payments paid directly or indirectly on behalf of the LIHEAP household.

    42 USC 8624 (f)

35. Supplemental Nutrition Assistance Program (SNAP) – Benefits received from SNAP are excluded.

    7 USC 2017 (b)

36. Child Care and Development Block Grant Act - Child Care Assistance Program payments paid directly or indirectly on behalf of the Child Care Assistance Unit.

    Payments received by providers are counted as self-employment income.

    (42 USC 9858q)

37. Federal funded Student Financial Assistance - All educational loans, grants, scholarships and stipends that do not require work participation and wages earned under a work study program. State and local funded Student Financial Assistance is also excluded by State Policy.

    EXCEPTION

Educational-related income from internships, or stipends, teaching assistantships, or fellowships which require work participation to receive the income is counted as earned income.

Title IV aid includes:

- Pell or BEOG grants.
- Supplemental Education Opportunity Grants (SEOG).
- Stafford Loan (formerly Guaranteed Student Loan).
- PLUS/DEAL loans.
- Perkins Loans (formerly NDSL).
- Federal work study income.
- Bureau of Indian Affairs Grant Program.
- High School Equivalency Program (HEP).
- College Assistance Migrant Program (CAMP).
- Upward Bound (Trio Grants).
- National Early Intervention Scholarship and Partnership Program.
- Stipends funded until Title IV.
- Indian Vocational Education Program (IVEP)

Aid that is federally funded but not under Title IV includes:

- Workforce Investment Opportunity Act (WIOA).
- Veteran's benefits or other benefits through the United States Armed Services.
- Reserve Education Assistance Program (REAP)
- Recruitment/Retention of American Indians Into Nursing (RAIN)
- Education funds received through the John H. Chafee Foster Care Independence Program.

Aid that is not federally funded includes:

- SELF loan program.
- State work study income.
- Division of Rehabilitation Services.

20 USC 1087uu

38. Reduction in basic pay for veteran's educational assistance - Any amount by which the basic pay of an active duty or selected reserve member is reduced for educational assistance.

    The funds are a pre-tax deduction from the service member's gross pay and are identified as a Montgomery GI Bill (MGIB) deduction.

38 USC 3011 (b)(3) and 38 USC 3012 (c)(3)

39. The Older Americans Act provides assistance to individuals through the following programs:

    - Experience Works (Green Thumb)
    - National Council on Aging
    - National Council of Senior Citizens
    - American Association of Retired Persons
    - U. S. Forest Service
    - National Association for Spanish Speaking Elderly
    - National Urban League
    - National Council on Black Aging

40. Payments to certain United States citizens of Japanese ancestry, resident Japanese aliens, and eligible Aleuts made under the Restitution for World War II Internment of Japanese-Americans and Aleuts.

50 USC appendix 1989b-4(f-2)

50 USC appendix 1989c-5(d-2)

41. Radiation Exposure Compensation Act

42 USC 2210 (h) (2)

42. State or Federal tax refunds and Earned Income Tax Credits (EITC)

    26 USC 6409

43. Crime Act - compensation paid through a crime victim's compensation program.

    (42 USC 10602 (c))

44. Individual Development Accounts - funds (including interest accruing) in an individual development account.

    (42 USC 604 (h) (4) & 42 USC 604nt Section 415)

45. Vietnam Veterans - the following payment made to the children of Vietnam veterans:

- Children of Vietnam Veterans Born with Spina Bifida
- Children of Women Vietnam Veterans Born with Certain Birth Defects
- Children of Certain Korea Service Veterans Born with Spina Bifida

(38 USC 1833 (c))

46. P.L. 108-447 - Combat Pay

    Additional monies received by a household as the result of the deployment of a service member to a designated combat zone.

    To determine the amount of service member's income that will be disregarded, compare the amount received before deployment and the amount received after the deployment. The difference between the two amounts is the amount that will be disregarded.

    Combat Zone Tax Exclusion Areas - Executive Order 12744 (effective January 17, 1991)Arabian Sea Portion that lies north of 10 degrees North Latitude and West of 68 degrees East Longitude

    - Bahrain
    - Gulf of Aden
    - Gulf of Oman
    - Iraq
    - Kuwait
    - Persian Gulf
    - Qatar

- Oman
- Red Sea
- Saudi Arabia
- United Arab Emirates
  Direct Support of EO 12744
- Turkey effective January 1, 2003 - December 31, 2005
- Israel effective January 1 - July 31, 2003
- Eastern Med effective March 19 - July 31, 2003
- Jordan effective March 19, 2003
- Egypt effective March 19 - April 20, 2003
  Executive Order 13239 (effective September 19, 2001
- Afghanistan
  Direct Support of EO 13239
- Pakistan effective September 19, 2001
- Tajikistan effective September 19, 2001
- Jordan effective September 19, 2001
- Incirlik AFB effective September 21, 2001 - December 31, 2005
- Kyrgyzstan effective October 1, 2001
- Uzbekistan effective October 1, 2001
- Philippines (only troops w/orders that reference OEF) effective January 9, 2002
- Yemen effective April 10, 2002
- Djibouti effective July 1, 2002
- Somalia effective January 1, 2004

Executive Order 13119 (effective March 24, 1999)

Public Law 105-21 Establishing Kosovo as Qualified Hazardous Duty Area (March 24, 1999)

- The Federal Republic of Yugoslavia (Serbia/Montenegro)
- Albania
- The Adriatic Sea
- The Ionian Seas north of the 39th parallel

Public Law 104-117 Establishing a Qualified Hazardous Duty Area (November 1995)

- Bosnia
- Herzegovina

- Croatia
- Macedonia

Lump Sum Payments 400-28-65-20

Nonrecurring Lump Sum Unearned Income Payments 400-28-65-20-05

(Revised 10/1/11 ML #3278)

View Archives

NDAC 75-02-01.3-07

Unearned income received on a non-recurring or irregular basis is considered nonrecurring lump sum payments and are not countable.

Nonrecurring lump sum payments are limited to only those payments that can reasonably be expected not to occur again. Examples of nonrecurring lump sum payments include, but are not limited to:

- Lump sum payments from Social Security
- Lump sum payments from Railroad Retirement
- Lump sum payments from Veterans benefits
- Lump sum payments from Workforce Safety and Insurance
- Lump sum payments from Unemployment Compensation
- Military Re-enlistment payments
- Insurance settlements
- Inheritances
- Contests
- Gambling winnings
- Severance pay (represents a nonrecurring compensation outside of regular earnings)
- Income tax refund
- Employee's withdrawal of a retirement fund taken in a lump sum payment
- Supplemental Security Income (SSI) back payment
- Bonus payments on mineral leases

For treatment of lump sum earned income, see Section 400-28-65-10-20, Earned Income - When Received.

Recurring Lump Sum Unearned Income 400-28-65-20-10

(Revised 11/1/11 ML #3295)

View Archives

NDAC 75-02-01.3-07

Unearned income received on a recurring or regular basis is considered recurring lump sum payments. This income is countable and must be prorated over the period the payment is intended to cover.

Recurring lump sum payments received after application for the Child Care Assistance Program are prorated over the number of months the payment is intended to cover.

> **Note:** The prorated lump sum payment must continue to be counted if the case closes and then reopens during the prorate period or within the following prorate period. This prevents cases from being closed temporarily to avoid using the lump sum income.

Examples of recurring lump sum payments include, but are not limited to:

- Land rental income
- CRP
- IIM monies
- Mineral Royalty/Lease Income

For treatment of *Earned Income* lump sum payments, see Section 400-28-65-10-20, Earned Income - When Received.

Terminated Source of Income 400-28-65-25

(Revised 10/1/20 ML #3574)

View Archives

NDAC 75-02-01.3-07

Income is considered a terminated source of income when the final payment of income is received in the month prior to, the month of, or the month following the month:

- The application is received;
- The month the review is due;

If at application or review the household indicates income has ended from any source, the caretaker must provide verification of the terminated source and the last date it was received. Since income eligibility is determined prospectively, this income would not be used as it is not an ongoing source of income and will not be received during that eligibilty period.

> **Note:** If verification of the terminated source income and the last date it was received is not provided, the application must be denied or CCAP closed.

If assitance is requested for the month prior to the month of application and the household indicates income has ended from any source, the household must provide verification of the terminated source and the last date it was received. All actual gross income received in the prior month is used to determine eligibility for the prior month including terminated sources of income.

Allowable Income Deductions 400-28-65-30

Overview 400-28-65-30-05

(Revised 10/1/20 ML #3574)

View Archives

NDAC 75-02-01.3-07

NDAC 75-02-01.3-09

Allowable deductions are deducted from gross countable income. Allowable deductions must be verified. If the allowable deductions are not verified, they cannot be allowed.

The only allowable deduction from gross countable income is court ordered child/spousal support paid, including arrearages.

A household must be given the opportunity to verify allowable deductions. If a household has been given that opportunity and does not provide the verifications, the case is processed without consideration of the claimed deductions.

If the household fails to provide verification within the 10 day period and provides verification at a later date, benefits are increased in the month the verification is received.

When removing a household member during the eligibility period, all deductions of that individual are removed effective the month the household member is removed. Eligibility must be redetermined for a decrease in co-payment.

Child/Spousal Support Deduction 400-28-65-30-10

(Revised 11/1/11 ML #3295)

View Archives

NDAC 75-02-01.3-07

NDAC 75-02-01.3-09

Court ordered child or spousal support paid, including arrearages, are allowable deductions. Any other private arrangement for child/spousal support being paid, which are not court ordered is not allowed even if the individuals have a mutual agreement.

Court ordered child or spousal support payments made to an individual outside the home or to an agency must be allowed even if the child or spouse for whom the support was paid is a household member.

If child or spousal support is being withheld from income as a result of a court order (income withholding) and this is reflected on the paystubs and the child support is going to the ND State Disbursement Unit, any other disbursement unit or Clerk of Court (which verifies that it is actually being received by that unit), use the amount on the paystub and the obligor's pay date to determine the date paid. In this situation, the obligor has paid the monies per the court order and how long it takes the employer to get the monies to the State Disbursement Unit, other disbursement unit, or Clerk of Court and when the monies are released to the obligee does not affect the fact that the obligor has paid and for Child Care Assistance Program (CCAP) purposes will be considered paid at the time the monies are taken from the paycheck.

If court ordered child support or spousal support is being paid directly by the obligor to the ND State Disbursement Unit, or other disbursement unit, or Clerk of Court verification of monies being received by the ND State Disbursement Unit, any other disbursement, or Clerk of Court must be provided. In this situation, CCAP will consider that the obligor has paid the

monies when the monies are received by the ND State Disbursement Unit, any other disbursement unit, or Clerk of Courts.

If the obligor's income is from a new source and there are no actual pay stubs that reflect the amount of court ordered child or spousal support being deducted, the court order, information obtained through FACSES, another disbursement unit, or clerk of court would be used.

Documentation/Verification of Court Ordered Child/Spousal Support Deductions 400-28-65-30-10-05

(Revised 10/1/11 ML #3278)

View Archives

NDAC 75-02-01.3-07

NDAC 75-02-01.3-09

Court ordered child/spousal support deductions may include but are not limited to the following:

- Child Support Enforcement's FACSES ledger (Fully Automated Child Support Enforcement System)
- Court order from another state if not paid through ND
- Child support stubs
- Documented collateral contact
- Pay stubs
- Child support website
- Print out from agency disbursing the child support.

Garnishments from Income 400-28-65-30-15

(Revised 11/1/11 ML #3295)

View Archives

NDAC 75-02-01.3-07

Any garnishments – whether from earned or unearned income - are not excluded. The total gross income (to include the amount garnished) must be counted.

Overpayment being deducted from payments such as Social Security Disability, Survivors and Retirement, Supplemental Security Income (SSI), and Veteran's Administration (VA) benefits are normally considered to be available because the applicant or recipient can pursue a waiver of the overpayment. Only if the waiver has been denied after a good faith effort, can the overpayment deductions be considered unavailable.

Occasionally other delinquent debts owed to the federal government may be collected from an individual's benefit. These other reductions of benefits are not allowed to reduce the countable benefit amount. The award amount of the benefit is counted as available.

Converting Income and Allowable Income Deductions 400-28-70

Converting Income 400-28-70-05

(Revised 10/1/20 ML #3574)

View Archives

NDAC 75-02-01.3-07

Income for the Child Care Assistance Program (CCAP) is converted to a monthly income.

Conversion applies to all cases when income (both earned and unearned) is received either weekly or biweekly. Conversion applies to the tips, commissions, bonuses or incentives that are listed on paystubs received weekly or bi-weekly.

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
- When eligibility is being determined for the month prior to the application month
- Individuals paid monthly, semi-monthly, or irregularly
- Tips, commissions, bonuses or incentive pay which is **not** listed as income on paystubs is counted separately as earned income

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.

Regular income received by those individuals who normally are paid on a weekly or bi-weekly basis must be converted even when the individual did not receive a check for each pay period in the month. To arrive at the weekly or bi-weekly amount to be converted, the gross amount of each check is totaled, then divided by the number of checks actually received.

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.

Converting Allowable Income Deductions 400-28-70-10

(Revised 10/1/12 ML #3348)

View Archives

Allowable income deductions (court ordered child/spousal support deduction) for individuals who pay their child support weekly or bi-weekly (either paid by the individual or deducted from the paycheck) must be converted. The process for converting these deductions is the same as income.

Conversion for allowable income deductions (court ordered child/spousal support deduction) does not apply if the child support is not paid weekly or bi-weekly. If not paid weekly or bi-weekly, the amount actually paid each month is the amount allowed.

Conversion for allowable income deductions does not apply to the month prior to the application month. Actual deductions paid in the prior month are used.

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

(Revised 2/1/2022 ML #3654)

View Archives

NDAC 75-02-01.3-07

Gross income, **either earned or unearned**, must be determined prospectively.

Income from the following timeframes must be verified and documented at application or review:

- Income from the month prior to the application or review, and
- Income from the month of application or review through the date the application or review is received by the county office.

If income from the specified timeframes is NOT reflective of anticipated income for the eligibility period, the household must verify their anticipated monthly income.

Total countable household income at the time of application and review must be at or below 85% SMI, based on the DN 241 Sliding Fee Schedule.

Prospected income amounts are rounded down to the nearest dollar.

> **Note:** If an employer verifies a range of work hours, the average number of work hours verified will be used to determine the prospected income.

> **Example 1:**
>
> A household applies for CCAP on November 18th. The household reports that they had a job end in October and received their last check from that job on November 5th. The household also reports that

they started a new job November 10th. Income from the terminated job from October is not considered when prospecting income. Anticipated income from their new job that started in November would be used.

Example 2:

A household applies for CCAP on June 4th. Paystubs from May indicate that the household worked an additional 10 hours of overtime each week in May. The household verifies that they will no longer receive overtime in June or July. The income from overtime hours in May is not used when prospecting income for the eligibility period.

If the household requests assistance for the month prior to the application month, actual income, including self employment and terminated sources, received in that month must be verified and used. Income is NOT prospected for the prior month.

Example:

A household applies for CCAP on June 4th and requests assistance with child care costs from May. In May the household worked an additional 10 hours of overtime each week. All regular and overtime income would be considered and used for the month of May.

Ongoing CCAP households that were in receipt of Crossroads, Diversion, TANF or Transition, but are no longer participating in one of those programs will continue to have a waived co-payment for the remainder of the eligibility period.

Ongoing CCAP households that become eligible for Crossroads, Diversion, TANF or Transition will have their co-payment waived effective the first month of eligibility for one of those programs.

Adding or Removing a Household Member

When adding a household member during the eligibility period, all gross income and deductions of that individual is considered and must be evaluated for an increase or decrease in benefits. If it results in a decrease,

the income and deductions are not added and no further action is needed. If it results in an increase, the income and deductions are added based on timely reporting. In order to allow an increase in benefits, the new household member must verify income from the following timeframes:

- Income from the month prior to joining the household, and
- Income from the month of joining the household.
- If income from the specified timeframes is NOT reflective of anticipated income for the eligibility period, the household must verify the anticipated monthly income.

If the household fails to provide verification, the previously verified amount is used and the benefit remains the same. If there is no previously verified amount (i.e. household reports paying child support and previously had not), no change is made and the benefit remains the same.

When removing a household member during the eligibility period, all gross income and deductions of that individual are removed effective the month the household member is removed from the household if it results in an increase in benefits.

When Income and Allowable Income Deductions are Verified and Changed 400-28-75-50

(Revised 10/1/20 ML #3574)

View Archives

NDAC 75-02-01.3-07

Verification of gross income and allowable income deductions for all household members is required at application and review.

In an ongoing case, changes in gross income or allowable income deductions for existing household members are not acted upon, except in the following situations:

- There is a change in income or allowable deductions that results in a decreased co-payment. Decreases in income are only acted on when the household verifies that the reduced income will continue. Reduced income will not be allowed when the household voluntarily reduces their activity hours for an allowable activity. In these situations, the previously verified income will continue to be used for the remainder of the eligibility period. If the household reports and verifies income from a new source that results in a reduced co-payment, the old income may be removed and the new income may be used.

- Decreased income can be acted on when the household loses a job and then has a new job, when the employer reduces work hours without consent of the household, including termination, or when a household was working and then ends employment to attend an education activity.

- The household's monthly gross income, minus allowable deductions, exceeds 85% SMI for the household size. In these situations, CCAP must be closed due to excess income. Households remain eligible for CCAP during the eligiblty period as long as total countable income is at or below 85% SMI, per DN 241 Sliding Fee Schedule, for the determined household size.

> **Note:** If the household does not anticipate that the income will continue to exceed the income limit for the household size, the household must provide verification of anticipated income and deductions.

When adding a household member, only the new household member may verify their gross income and allowable deductions. No changes in income or deductions are made for existing household members, unless one of the situations listed above applies.

Allowable Child Care Hours and Level of Care 400-28-80

Calculating a Caretaker's Allowable Child Care Hours 400-28-80-10

(Revised 10/1/20 ML #3574)

View Archives

When calculating a household's child care need, the hours allowed must be based on the individual caretaker's allowable activity schedule compared to the schedule of the child, when applicable.

In two-caretaker households, the allowable child care hours must be the least amount of hours needed when the two schedules are compared.

> **Example:**
>
> Mom works 40 hours a week. Dad works 30 hours a week. The maximum allowable child care hours are 30 hours per week.

To calculate any type of activity hours, activity schedules from the following timeframes must be verified and documented at application or review:

- Activity hours from the month prior to the application or review month, and
- Activity hours from the month of application or review through the date the application or review is received by the county social service office.

If the activity schedules from the specified timeframes are NOT reflective of anticipated allowable hours for the eligibilty period, the household must verify their anticipated activity schedule for all activities.

> **Note:** If an employer verifies a range of work hours, the average number of work hours verified will be used as the allowable activity hours for the caretaker.

Activity search and parental leave hours are not used when calculating the level of care as these are not considered allowable activities at the time of application or review.

To calculate allowable hours for Diversion, TANF or Transition, refer to 400-28-45, Eligibility for TANF Families.

Travel and Break Time

Travel and break time must be allowed for caretakers who are participating in work, education or training. For these activities, the calculated allowable activity hours must be multiplied by 25%. The additional time must be added to the allowable activity hours. Total allowable hours must be rounded up.

Example:

A caretaker has 17 allowable activity hours per week. 17 hours is multiplied by 25%, which equals an additional 4.25 hours per week. Total allowable hours are now 21.25 hours per week, which is rounded up to 22 hours per week.

In certain situations, the caretaker's travel time may exceed the 25% calculation; additional time may be allowed. The reason and needed time for travel must be documented.

Night Shift Work

Caretakers who work night shifts must be allowed sleep time. Up to 6 hours of sleep time after each shift must be allowed.

Example:

Caretaker works night shifts Tuesdays, Wednesdays and Thursdays from 6:00 p.m. to 6:00 a.m. When determining the allowable child care hours, the caretaker must be allowed an additional 6 hours for each day of work. A total of 18 hours must be allowed per week.

Employment

Weekly work hours are determined by using verified paystubs, employer's statements, etc.

To calculate the number of weekly work hours when paid **biweekly, semimonthly, monthly or irregularly**,add the total number of verified work hours for a month and divide by 4.

Example:

A household applies February 12th and verifies that they are paid biweekly. The household received a check on January 22nd with a total of 72 hours worked. Another check was received on February 5th with a total of 70 hours worked. Total monthly hours add up to 142, which is divided by 4 to average the total weekly hours. Average weekly hours are 35.5 before the allowance of travel and break time.

To calculate the number of weekly work hours when paid weekly add the total number of verified work hours and divide by the number of checks used to verify the hours.

Example:

A household applies February 12th and verifies that they are paid weekly. The household verifies that they received a check on January 8th, January 15th, January 22nd, January 29th, and February 5th. The total hours from all paystubs adds up to 176 hours, which is then divided by 5. Average weekly hours are 35.2 before the allowance of travel and break time.

For individuals who are self-employed, the individual must provide a schedule completed by the individual, listing the hours the individual will participate in their self-employment activity for the month of application and the month prior to the month of application. The total monthly hours are divided by 4 to determine the weekly hours.

<u>Education and Training</u>

Students enrolled in GED, high school or postsecondary education or training which is not based on credit hours must have their allowable activity hours determined by the time they attend their education or training activity.

> **Example:**
>
> Caretaker attends high school Monday through Friday from 8 a.m. to 3 p.m. based on the verified school schedule. Total allowable activity hours of 37.5, before travel and break time calculation, will be allowed.

Students enrolled in postsecondary education which is based on credit hours must have their allowable activity hours determined by multiplying the verified credit hours by 2.

> **Note:** Students who are enrolled in accelerated degree programs must also have their allowable activity hours determined by the time they attend class, not by the number of credit hours.

> **Example:** A student's class schedule verifies 12 credit hours. Multiplying each credit by 2 results in 24 hours per week as the student's allowable child care hours, before the travel and break time calculation.

If a student applies for CCAP during a break in school attendance, verification of the anticipated school schedule must be used to determine the allowable activity hours.

Calculating a Child's Allowable Child Care Hours 400-28-80-10-05

(Revised 4/1/21 ML 3605)

View Archives

Calculating a Child's Allowable Child Care Hours

A child's allowable child care hours are based on the child's schedule and the caretaker's allowable child care hours.

Non-School Age Child

Children who do not attend any type of schooling during the day must have their allowable child care hours based on the time the child needs care as determined by the caretaker's allowable child care hours.

School Age Child

Children that attend school (including any type of preschool or head start where the school hours are considered separate from the child care hours) must have their allowable child care hours based on the time before and after school in which they need care. CCAP cannot be paid to fund any instruction or services associated with academic credit or a school's program. This includes care provided to students enrolled in school during the regular school day and care while a child is participating in distance learning when the child has the option to attend school.

Children that have the option to attend school, but choose distance learning will not have virtual hours included in their allowable child care hours. If the child is choosing distance learning due to a health condition, or a health condition of a household member, these hours can be included. The medical need of the child/household member must be verified.

Children that attend a hybrid version where they attend school in person and participate in distance learning can have their virtual hours included in

their allowable child care hours, if the option for distance learning is not a choice, but mandated by the school.

All school age children receive an additional 9 hours of care per week (36 hours per month) to accommodate any days there is no school.

Example 1:

A child attends elementary school Monday through Friday for 8 hours a day. The child needs child care 1 hour before school and 3 hours after school and does not need child care on the weekends. The child needs a total of 20 hours per week. The child is then allowed an additional 9 hours per week, for a total of 29 allowable hours per week.

Example 2:

A child is enrolled in a facility that provides both child care and preschool services. Child care is provided from 8 a.m. to 10 a.m. and again from 1 p.m. to 5 p.m. From 10 a.m. to 1 p.m. the child is attending the preschool setting. The hours from 10 – 1 are not considered allowable child care hours. A total of 6 child care hours would be allowed per day. The child is then allowed an additional 9 hours per week, for a total of 39 allowable hours per week.

A copy of the child's most recent school schedule or calendar must be provided as verification. If an application or review is received during a summer month, verification for the upcoming school year must be provided, however, it must not be used to determine the child's allowable child care hours.

Example 3:

A child attends elementary school Monday, Wednesday, and Friday, and distance learning Tuesday and Thursday. The child attends daycare Tuesdays and Thursdays. There is no option for the child to attend school in person every day, therefore these virtual hours are allowable.

Example 4:

A child attends elementary school through distance learning 5 days a week at daycare, however the school has given families a choice to

attend in person or through distance learning. There is no medically verified reason for the child to attend virtually, therefore these hours are not allowable.

Note: It is the responsibility of the caretaker to report when additional child care hours are needed.

Example:

Review is received June 5th. The child's summer break is from the beginning of June to the end of August. The child will be attending child care full-time over the summer, based on the caretaker's schedule. Verification of the child's upcoming school schedule or calendar must be provided, however school hours will not be considered in the calculation of allowable child care hours for the month of review.

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

(Revised 6/1/22 ML #3669)

View Archives

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. 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.

Co-pay Requirements 400-28-90

Overview 400-28-90-05

(Revised 10/1/11 ML #3278)

View Archives

Second Amended IM 5431
AMENDED IM 5431
IM 5431

NDAC 75-02-01.3-04

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 Crossroads.

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

(Revised 11/1/11 ML #3295)

View Archives

NDAC 75-02-01.3-04

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

(Revised 10/1/20 ML #3574)

View Archives

NDAC 75-02-01.3-04

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

When payment is being determined, the co-pay is deducted from the lower of the state rate or amount billed on the Child Care Request for Payment.

When applying the co-pay to payments:

- The co-pay is applied to the provider who is first entered into the payment system. If there are two providers, the co-pay is applied to the first provider entered into the payment system. If any amount of the co-pay is remaining it will be applied to the second provider, etc.
- If the co-pay is greater than the lower of the State Rate or amount billed for the family, no child care payment will be made for the month.
- If the co-pay is less than the lower of the State Rate or amount billed for the family, the co-pay is deducted from the lower of the State Rate or amount billed and the remaining 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

(Revised 4/1/21 ML 3605)

View Archives

Second Amended IM 5431
AMENDED IM 5431
IM 5431

NDAC 75-02-01.3-04

The Co-pay requirement for certain families with very low income will be waived and their child care paid up to the State Rate. 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
  - An ineligible Kinship Care caretaker with non-kinship children

- Families participating in the Alternative Response for Substance Exposed Newborns (ARSEN) program

Families who are not subject to the Co-pay requirements are not subject to the income requirements. Since these families are not subject to co-pay or income requirements, child care may be paid up to the maximum State Rate.

CCAP Payments 400-28-100

State Rates, Payment, and Family Share 400-28-100-05

(Revised 10/1/22 ML #3678)

View Archives

NDAC 75-02-01.3-04

State Rate is the maximum amount the state allows per child based on the Child Care Sliding Fee Schedule.

The State Rate is determined using the Child Care Sliding Fee Schedule and is based on:

- The age of the child
- The type of provider
- The Level of Care

The State Maximum Monthly Share is the maximum amount the state will pay for child care costs of a child eligible for the Child Care Assistance Program (CCAP) in a specific month. The State Maximum Monthly Share is the State Rate or the actual billed amount less the Family Monthly Co-pay, if Co-pay applies.

The caretaker is responsible to pay their Family Monthly Co-pay (if the caretaker is subject to Co-pay). In addition, the caretaker is responsible to pay any amount that exceeds the State Maximum Monthly Share as well as any other costs deemed as non-allowable under the Child Care Assistance Program.

Child Care Sliding Fee Schedule 400-28-100-07

(New 10/1/22 ML #3678)

View Archives

NDAC 75-02-01.3-04

The DN 241 Child Care Sliding Fee Schedule was developed to determine cost sharing by a family and Child Care Assistance Program based on income, size of the family, the age of the child, type of provider and Level of Care.

The Child Care Sliding Fee Schedule includes the Level of Care (categories) based on the number of hours needed for care of the child. Child care hours used will fall into one of two Levels of Care (categories) for each child. Each Level of Care (category) has a maximum allowable weekly and monthly cap by provider type and age of child.

Third Party Payments 400-28-100-25

(Revised 7/1/16 ML 3472)

View Archives

When a third party pays a portion of the child care bill directly to a provider for a household, only the portion the caretaker is responsible for can be considered for payment.

When a third party pays the entire child care bill directly to a provider for a household, none of the costs can be considered for payment. Since child care cannot pay any of the costs, the household is ineligible for the Child Care Assistance Program (CCAP).

> **Note:** If a third party pays a portion of the child care bill and the payments are given to the caretaker instead of being paid directly to the provider, the amount of payment must be considered as income.

Regardless of who is making the third party payment, verification of the portion the third party is paying must be obtained.

If the caretaker reports that the third party has not paid or refuses to pay the child care, the caretaker must verify the third party is not paying.

An absent parent cannot receive Child Care Assistance Program benefits to pay their court ordered share of child care if the child is not residing with the absent parent.

Basis for Allowable Child Care Rate of Payments 400-28-100-30

(New 10/1/22 ML #3678)

View Archives

NDAC 75-02-01.3-04

The allowable amount of child care is based on:

- Type of provider
- Household income
- Household size
- Level of Care
- Child's Age
  - Infant care - birth through the month they turn 18 months
  - Toddler – 18 months to 2 years through the month of their third birthday
  - Preschool – 3 to 5 years through the month of their sixth birthday
  - School Age - 6 to 13 years through the month of their thirteenth birthday
  - Youth ages 13 – 19 years of age who are special needs children or courted order child care

- A child who meets the definition of disability and who is attending a Quality Rating Improvement System (QRIS) provider will be eligible to receive an additional 10% of the state max rate.
  - Written verification is required and should state the nature of the special needs and if for a child age thirteen (13) under age
    1. A qualified health professional, a physician, physician's assistant, advanced registered nurse practitioner, qualified mental health professional as defined by KRS 600.020 (48) or registered nurse defined by KRS 314.011(5).
    2. A court order or similar documentation indicating the child is under court supervision.

3. An Individual Education Program (IEP) provided by the school.

NOTE: A child that is receiving SSI would still need the written verification explained above

- Verification is not mandatory and is only required to receive the additional 10% of the state max rate.

Payment to the Provider 400-28-100-35

(New 10/1/22 ML #3678)

View Archives

NDAC 75-02-01.3-06

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

If the provider chooses to have the payment go to the caretaker, the provider must select this option in the Provider Self-Service Portal (SSP) and it will be applied to all CCAP payments until unselected.

Payments are determined prospectively and can be made available by the first working day of the month. Providers are required to certify in the Provider SSP that the child(ren) are still enrolled in their care before payment will be issued. Providers must enter an amount charged in the SSP before payment can be issued.

Payments are issued through direct deposit, or by check in specific cases. Direct deposit information must be entered into the Provider SSP by the provider before a payment can be issued to the provider.

> **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 will receive payment by check:

- Payments made to the family.
- 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.

- Providers that request an exemption from direct deposit and are approved by the CCAP state office.

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 of Less Than $10 400-28-100-40

(New 10/1/22 ML #3678)

View Archives

In order for the Co-pay to be applied correctly in the CCAP payment system, all payments must be processed even if the amount of the payment is less than $10.00. This applies to all cases including cases that are Waived Co-pay.

> **Example:** A billed amount is $33.00, the Family Monthly Co-pay is $25.00, the payment must be processed and issued in order for the co-pay to be applied correctly. $25.00 will be applied to Co-pay and an $8.00 payment will be made by the Child Care Assistance Program.

Lost and Returned Checks 400-28-100-45

(New 10/1/22 ML #3678)

View Archives

If a provider/caretaker reports that a check has not been received, the eligibility worker should verify when the payment was processed.

If it has been over seven working days since the check has been processed, contact the State Child Care Assistance office with the following information: Case number and name of caretaker; provider license number or SPACES ID; the processed date, and the amount of the payment.

If the stop payment process is necessary, it will be initiated by the State Child Care Assistance office. If the stop payment process has been started, and the provider finds the lost check, the check cannot be cashed.

If a check has been issued in error to a provider, the check should be returned to the State Child Care Assistance office indicating why it should be cancelled.

The check will be adjusted in the Child Care Assistance Program payment system, the check will be canceled and the file for the 1099 will be adjusted.

> **NOTE:** A payment can be issued to the correct provider as soon as it is discovered that an error was made.

If the provider issues a check from their account, the form SFN 827, "Credit Form", should be completed and sent with the check to the State Finance office. The SFN 827, "Credit Form", is available on eforms.

The provider's personal check and SFN 827, "Credit Form", should be sent to:

> Department of Human Services/Fiscal Administration
>
> 600 E Boulevard Ave Dept 325

Bismarck ND 58505-0250

Provider Requirements and Information 400-28-105

Overview 400-28-105-05

(Revised 10/1/22 ML #3678)

View Archives

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, Military Licensed, self-declaration, approved relative or tribal registered.
- Complete the provider agreement within the Provider SSP.
- Out of state (border state), Tribal and Military providers must submit a current copy of their license.
- Complete a W-9.

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.

In Home Child Care When Provider and Child Reside in Same Home 400-28-105-15

(Revised 2/1/2022 ML #3654)

View Archives

If the provider and the child live in the same home, care may be allowed only when the provider is not the caretaker of the child in the CCAP household. The provider must be licensed.

Example 1: A caretaker lives with their child and their mother (grandma) in the same home. The grandma is a licensed provider who provides care from the home. Care can be allowed for the child in the household since grandma is the provider and not a caretaker in the CCAP household.

Example 2: A caretaker is a licensed provider that provides care from their home. The caretaker applies for CCAP for their child, listing themselves as the provider. CCAP will not pay for child care costs since the provider is a caretaker of the child in the CCAP household.

Example 3: A caretaker is the owner of a daycare facility where their child attends. The caretaker applies for CCAP for their child, listing their daycare facility as the provider. CCAP will not pay for child care costs when the caretaker is also the owner of a facility where their child attends.

Approved Relative 400-28-105-20

(Revised 4/1/21 ML 3605)

View Archives

NDAC 75-02-01.3-05

Approved relatives must be approved to provide care for specific children. Child Care Assistance Program (CCAP) will only make payment for children who are identified on the approved relative's approval letter.

An Approved Relative is a provider, whose relationship to the child by marriage, blood, or court degree, is a:

- Grandparent (including step-grandparents)
- Great-grand parent (including great step-grandparents)
- Aunt or uncle (including step-aunt or uncle)
- Sibling (including step-siblings) when the sibling lives at a separate residence form the child(ren).

Approved relatives must apply to become eligible. The following items are required as part of the application process:

- SFN 23, Application for Approval for Relative Child Care Provider
- W-9, Request for Taxpayer Identification Number and Certificate
- SFN 433, Child Abuse and Neglect Background Inquiry for each household member age 18 and over
- Verification of SSN or Employer Identification Number (EIN)
- Verification of relationship to the children that care will be provided for. Acceptable verification includes but is not limited to:
    - Birth certificates
    - Adoption papers
    - Court records

To assure the health and safety of children, the approved relative and all adult household members (18 and over) will be subject to the following background checks:

- North Dakota Supreme Court website
- North Dakota State's Attorney's Sex Offender website

- Children and Family Services criminal back ground check

In addition, Approved Relatives are required to complete the Getting Started training offered by Growing Futures. This basic child care course must be completed within 90 days of approval. If the training is not completed within 90 days, the approval will be ended. Approved Relatives will be eligible to receive up to 3 months of payments before completion of the training. If the 90th day falls into the 4th month, no payment will be allowed for this month. Overpayments will not be established for the 3 months of temporary approval if the provider does not complete the training.

> **Example:** An application for relative provider is approved January 15th. The Approved Relative has 90 days from January 15th to complete the required training. On April 16th, state office staff determine the Approved Relative has not completed the required training, which was due April 15, the 90th day, the providers approval is no longer valid. Payments will be allowed for January, February, and March, but not for April.

If a prior approval has been ended for failure to complete the training, and the provider reapplies, the training must be completed within 30 days of the application being submitted in order to be re-approved.

Completion of the training must be completed once every 4 years. If a provider was formerly licensed and has completed the training within the past 4 years, the training would not need to be completed at application.

> **Example:** An application was received on June 1, 2021. The applicant provides verification of the completed training with a date of June 15, 2017. Approval of the application does not occur until June 22, 2021. As the date of approval is 4 years past the date of the training completion, the approved relative will be required to complete the training within 90 days from the approval.

An Approved Relative’s request to be a provider will be denied or will be terminated in an ongoing case when the applicant or household members have been found guilty of, pled guilty to, or pled no contest to any offense

described in section 75-02-01.3.05 of North Dakota Administrative Code (N.D.A.C.).

Approved relative applicants must reside in North Dakota. Approved relatives can only provide care in the provider's own home. Approved relative providers cannot be approved to provide care in the child's home unless the child is subject to policy at 400-28-35-30, In Home Care Due to Illness/Disability. If an approved relative provider applicant is living in the same home as the child(ren) they are applying to care for, and separate living quarters do not exist, the approved relative application is denied. The approved relative provider applicant must apply to become licensed or self-declared in order to receive payment from CCAP.

An approval or denial letter will be sent to the applicant upon determination. An applicant may appeal the decision by submitting a signed written request to the agency within 30 days from the date of the notice of the letter. During an appeal process, payments will not be made by the CCAP.

- A request for verification notice will be sent in situations when more information is needed. The applicant or approved provider has 10 days to respond to the notice. If the applicant does not respond to the notice within 10 days, the application will be denied. In ongoing approvals, the approval must end at the end of the month after the 10 days have passed.

Once approved, a provider number will be assigned by the state CCAP office.

Approved relative providers must renew the approval every year in order to continue to receive CCAP. The provider must also submit a W-9 yearly with their renewal application.

If the approved relative provider moves, the approval becomes invalid and the provider must reapply.

Approved relative providers are required to maintain attendance records for each child in their care. Records should include the child's name, the

date, and check-in/check-out times. All attendance records must be made available at the request of the state or county social services office. The attendance records must be handled in a manner that protects the identity of CCAP families.

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

(Revised 10/1/22 ML #3678)

View Archives

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. Providers are expected to enter billed amounts in the Provider SSP to include only days in which they are licensed. 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.

Qualified Provider Codes 400-28-105-40

(Revised 10/1/20 ML #3574)

View Archives

The following table identifies the codes that are assigned to providers based on type of provider. Codes are assigned by Child and Family Services (CFS) or by the CCAP state office.

Type	Code Assigned by CFS or CCAP State Office
Approved Relative	Q - Approved Relative
Center	C - Child Care Center E - Preschool Education Facility K - School Age Child Care M - Multiple Licensed
In-Home	I - In Home Child Care
Non-Relative in Family/Group Care	F - Family Child Care G - Group Child Care Home H - Group Child Care Facility
Group	G, H
Relative in Family/Group Care	F, G, H
Self-Declaration	S - Self-declaration R - Tribal Registration I

Tribal Registration	R

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

(Revised 10/1/22 ML #3678)

View Archives

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. A new W-9 is required when the following occurs:

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

The W-9's need to be uploaded through the provider self-service portal.

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

(Revised 6/1/22 ML #3669)

View Archives

Federal law requires that a "1099 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 Nonemployee Compensation Tax Form."

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 Nonemployee Compensation Tax Form".

American Indian Tribes 400-28-110

(Revised 10/1/11 ML #3278)

View Archives

American Indian Tribes administer their own child care program covering their normal service delivery area. American Indian children have the option of receiving services from the tribal program or the one administered by the Department of Human Services. The county social service boards and the tribes must coordinate the programs to prevent duplicate payments. The American Indian household shall have the option of which program they will utilize on a monthly basis. It is not necessary for the two entities to split payment for a calendar month.

Caretaker Choice 400-28-115

Caretaker's Choice to Select a Provider 400-28-115-05

(Revised 10/1/11 ML #3278)

View Archives

NDAC 75-02-01.3-10

The caretaker may choose a provider of services for each child who is licensed, Air Force Base licensed, self-declaration, approved relative, or Tribal registration who receives or is offered child care services for which financial assistance is provided through the Child Care Assistance Program.

> **Note:** The Department of Human Services is not bound by or responsible for either party's compliance with the terms of any contract entered between a provider and a caretaker.

Caretaker and Provider Contract for Services 400-28-115-10

(Revised 10/1/22 ML #3678)

View Archives

NDAC 75-02-01.3-10

When a caretaker chooses a child care provider, there is generally a contract outlining what is expected of the family for situations of absences, holidays, vacations, and termination of services.

A contract detailing the conditions related to payment for unscheduled absences, holidays and vacations, as well as termination of services is often entered into between a caretaker and the child care provider chosen. The Child Care Assistance Program (CCAP) is neither a party of nor subject to any contract or any terms therein included.

NOTE: This contract can also include having the family pay up-front costs. CCAP is not a subject to how these agreements are handled.

Providers must **NOT** charge CCAP caretakers more than they are charging their lowest charged private pay families.

Certificates 400-28-120-10

(Revised 10/1/20 ML #3574)

View Archives

NDAC 75-02-01.3-06

Federal regulations require states to issue a 'certificate' to the eligible household and to each provider the household has chosen for the children for whom they are providing care.

Certificates can be issued for a maximum of a 12 month period, based on the households eligibility period, and can be issued at any point in the eligibility period. The certificate is created when the authorization between the provider and child begin.

A certificate is issued by the Department of Human Services to the caretaker who is eligible and to each provider the caretaker has chosen. The certificate contains:

- The name and address of the caretaker
- The names of children who will be receiving Child Care Assistance Program benefits
- The name of each provider(s) for each child
- The Level of Care
- The Family's Monthly Co-pay
- The State Rate
- The period covered by the certificate
- The right to appeal

When a certificate is issued, the caretaker is sent a copy of the certificate and the provider(s) is sent a copy of the certificate with the information that applies to the child(ren) for whom the provider(s) has been approved to provide care.

Mandatory and Known Information Changes 400-28-125

Reporting Requirements 400-28-125-05

(Revised 10/1/20 ML #3574)

View Archives

Any change must be reported to the county office within 10 days from the date the change occurs in order to be considered timely. The first calendar day following the date the change occurs is day 1 of the 10 day reporting timeframe.

> **Note:** Changes reported after business hours, on weekends or holidays will be considered received on the next business day.

Changes may be reported in writing, in person, by telephone, by fax or electronically.

Mandatory reportable changes are:

- Non-temporary loss of allowable activity
  - 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. When an individual reports a non-temporary loss of allowable activity and does not already have another allowable activity, the individual must be given three months of continued assistance before CCAP can be closed.
- State residency
- When the household's monthly gross income, minus allowable expenses, exceeds 85% SMI, per DN 241 Sliding Fee Schedule for its household size
- When there is no longer an eligible child in the household.

Only mandatory reportable changes may result in a case closure.

When other changes are reported, the worker must determine if the cumulative effect of the changes will result in an increase or decrease in benefits. If it results in a decrease in benefits, no further action is taken and the changes may be acted on at the next review.

If the changes result in an increase in benefits, or it is unclear what the effect on the benefits will be, verification must be obtained and a request for verification notice must be sent. The notice must include:

- The information and verifications that are needed.
- The timeframe for submitting the information and verifications (10 days from the mail date of notice).

If the household provides verification within the 10-day period, the worker must act on the reported changes when the changes result in an increase in benefits.

If the household fails to provide verification within the 10 day period, the previously verified amount of the reported change is used and the benefit remains the same. If there is no previously verified amount (i.e. household reports paying child support and previously had not), no change is made and the benefit remains the same.

If the household fails to provide verification within the 10 day period and provides verification at a later date, benefits are increased in the month the verification is received.

If a household reports multiple changes that result in an increase in benefits, only those changes that have been verified are acted on.

Example:

Household reports a reduced income due to a reduction in work hours and an increase in a child support deductions. The household is sent a request for verification notice requesting verification of the change. The household provides verification of the child support deduction, but

not of the reduced income. The only change that can be acted on is the increase in child support deduction.

If the changes do not affect eligibility, the case file must be documented to reflect the change reported and the reason no action was taken.

Known Information to Agency 400-28-125-15

(Revised 10/1/20 ML #3574)

View Archives

Known information to the agency is information that the eligibility worker receives from other programs or outside sources instead of from the caretaker.

> **Note:** An IEVS (Income Eligibility Verification System) hit is not considered known information. The verifications submitted resulting from the IEVS match is deemed known information.

Known information can be information reported by the caretaker verbally, in writing, or listed on forms for other programs.

Actions required to be taken following the receipt of 'known information' may include:

- Requesting additional information from the household
- Updating information in the case file
- Updating information in the system
- Closing CCAP if CCAP must be closed
- Document in system case narrative the actions taken

The eligibility worker must document the date they became aware of the 'known information' in the system case narrative.

When known information is discovered, the eligibility worker must determine if a change in eligibility is required based on the policy that applies to that information.

Known information is acted upon for the month in which the information is discovered and is acted upon for the month following the month in which the information is discovered. Known information does not need to be acted upon for any future month beyond the month following the month of discovery.

If the known information results in a change in eligibility for a past month(s):

- If the change results in an overpayment, overpayments are established for the month(s) affected.
- If the change results in an underpayment, underpayments are not established for the month(s) affected.

If the known information results in no changes in eligibility per policy, the case file must be documented to reflect the change reported and the reason no action was taken.

Required Action on Mandatory Changes 400-28-125-30

(Revised 10/1/20 ML #3574)

View Archives

When a mandatory change is reported, it must be determined if the change was:

1. Reported and verified timely

    - If the change results in an increase in benefits, or has a positive impact, the change is implemented in the month the change occurred.

        - If a payment has been made for the month the change occurred, an underpayment may need to be issued for that month.

    Example: A change occurred that had a positive impact on August 25th and was reported and timely verified on September 3rd. August benefits were paid on September 1. The change is implemented and CCAP must be updated for August. September's payment will be made based on the updated eligibility. Since the change was reported and verified timely, August benefits need to be re-determined and an underpayment issued.

    - If the change results in a decrease in benefits, or has a negative impact, the change is implemented in the month following the change occurred.

        - Payments made for the month following the month the change occurred will be made based on the new eligibility that has been determined.

    Example: A change occurred that has a negative impact on August 25th and was reported and timely verified on September 3rd. The change is implemented and CCAP must be updated for September. August payments will be made based on prior

eligibility. Payments beginning September will be made based on the updated eligibility.

2. **NOT** timely reported, verified, or both:

- If the change results in an increase in benefits, or has a positive impact, the change is implemented in the month the change is verified.

  - Payments made for the month the change was verified will need to be made based on the updated eligibilty.
  - Since the change has a positive impact, any underpayments that may have resulted for the month the change occurred through the month eligibility was updated are not issued since the change was not reported timely.

  Example: A change occurred that benefited the household on August 25th and was reported on September 3rd. The eligibility worker sent a request for verification notice to the household on September 6th. The household did not provide verification of the change until September 23rd. The change is implemented and CCAP must be updated for September. September's payment will be made based on updated eligibility. Since the change was reported timely but not verified timely, the caretaker is not eligible for additional benefits for August.

- If the change results in a decrease in benefits, or has a negative impact, the change is implemented the month the change occurred.

  - Any payments made for the month the change occurred will need to be made based on the updated eligibility.
  - Any payments made based on prior eligibility for months prior to CCAP being updated are subject to overpayments.

  Example: A change occurred that has a negative impact on August 25th and was reported on September 3rd. On September 3rd, the eligibility worker sends a request for verification notice to the household requesting additional information. The requested information was not verified until September 15th. The change is implemented and CCAP must be updated for August. Since the change was not verified timely, August benefits need to

be re-determined and an overpayment established. Payments issued beginning September will be based on updated eligibility.

- A notice must be sent for any changes that result in ineligibility. CCAP must close at the end of the month in which the notice was sent.

Change of Address for Caretaker 400-28-127

Moving Within the County 400-28-127-05

(Revised 10/1/20 ML #3574)

View Archives

When the household moves and the change of address is within the same county, the eligibility worker must update the address in the system. Eligibility will remain the same if no mandatory changes were reported that need to be acted on.

Moving to Another County 400-28-127-10

(Revised 10/1/20 ML #3574)

View Archives

When the household has moved to another county, the case file will be transferred to the new county and eligibility will remain the same if no mandatory changes were reported that need to be acted on.

The caretaker may report to either the receiving or the sending county that they are moving or have moved. The county to whom the caretaker reported the move is responsible to inform the family what is needed to allow assistance to continue based on the family's circumstances.

Transferring the case file to the new county will include use of the SFN 700, "Case Transfer Log" (in 448 manual).

Consistent with Service Chapter 448, the eligibility worker from the sending county is responsible to complete any unresolved actions in the individual's case prior to transferring the file to the receiving county.

Verification of Child Care Costs 400-28-130

Child Care Request for Payment 400-28-130-05

(Revised 10/1/22 ML #3678)

View Archives

NDAC 75-02-01.3-06

Child care costs are paid based on enrollment of the child. Enrollment amounts for each child must be reported in the Provider SSP by the provider.

It is the responsibility of the provider to certify in the Provider SSP that the child that they are requesting payment for are still enrolled in their care every month. All children need to be certified by the 25th of the month prior to receive payment by the first of the following month.

The system will use the determined level of care and amounts charged by the provider to issue the correct payment amount. Co-payment amounts are then subtracted from the determined payment amount.

If the provider charges an amount that is over the state max rate for the determined level of care, CCAP will continue to pay up to the state maximum rate based on the determined level of care. It is the responsibility of the household to report when there is an increased need in child care hours.

If the provider charges an amount less than the state max rate for the determined level of care, CCAP will pay based on the actual enrollment cost entered into the SSP. This may result in a payment that is less than state maximum rate.

The provider must keep monthly attendance reports that must be submitted through the SSP. Attendance records must be submitted before the certification of the child in the following second month. Providers can submit their own attendance records or can complete a SFN 1220.

If attendance records are not being submitted, future payments will not be issued.

Example:

Provider certifies child is enrolled for the month of November. Provider has until end of January to submit an attendance record for the month of November. If provider has not submitted attendance records for November, the provider SSP will not allow certification for any future months beginning the month of February.

The family is responsible to report the use of new provider timely for the following months payment. When a household uses multiple providers or changes to a new provider in the current month, the household is responsible for making the appropriate payment arrangements with their providers. A household who changes providers after payment has been issued to a provider for a service month, may not be eligible for an additional payment for that service month.

Only one full-time payment will be issued per child, per month. If a household changes providers after payment has been issued to a provider for a service month, and the child attends a minimum of 8 hours, the additional provider reported will only receive up to a part-time payment.

If a household changes providers after payment has been issued to a provider for a service month, and the child does not attend a minimum of 8 hours, the additional provider reported will only receive up to a part-time payment, and the first provider will be responsible to return the payment. In these cases, another full-time payment will not be issued.

> **Note:** For households who have two associated providers, if a change in providers is reported for a service month in which payments have already been issued, the newly reported provider will not be eligible for a payment until the following month, even if the child did not attend a minimum of 8 hours. Overpayments may be established when appropriate.

The family is responsible for the costs of child care to the provider that exceeds the Level of Care determination on the certificate for the payment month.

Time Frame for Payment Certification 400-28-130-10

(Revised 10/1/22 ML #3678)

View Archives

NDAC 75-02-01.3-06

Children must be certified as enrolled in the providers care in the Provider SSP by 2 months following the month child care services were provided.

Example:

If child care is incurred for the service month of May, the last day the child can be certified in the Provider SSP is up to the close of the last business day in July, to be considered as received within the 2 month time frame.

Exception:

Certification for the month prior to application, when assistance is requested for the prior month, must be submitted within 3 months from the month child care services were provided.

Example:

Household applied on May 25th and requested assistance for the prior month of April. The household was approved June 20th including the prior month of April. The certification for the service month of April must be submitted no later than the last business day of July.

The Provider SSP will not allow certification beyond the 2 or 3 month time period.

Providers that have not completed their certification within the 2 or 3 month time period, but believe they are eligible for a payment will need to submit a written statement to the Child Care Assistance Policy (CCAP) office for review. The written statement should include their provider information, family information, amount billed, and why the certification was not completed timely.

Extra Provider Charges 400-28-130-15

Meal/Snack 400-28-130-15-05

(Revised 10/1/11 ML #3278)

View Archives

A provider may charge extra for meals/snacks. Charges for meals/snacks are considered allowable if the costs are included as part of the monthly, weekly, hourly rate, etc. However, Child Care Assistance Program disallows these as valid costs if they are identified separate from the rate charged.

Transportation 400-28-130-15-10

(Revised 10/1/11 ML #3278)

View Archives

A provider may charge extra for transporting children. Charges for transportation are considered allowable if the costs are included as part of the monthly, weekly, hourly rate, etc. However, Child Care Assistance Program disallows those as valid costs if they are identified separate from the rate charged.

Registration Fee 400-28-130-15-15

(Revised 10/1/22 ML #3678)

View Archives

CCAP may pay for registration fees charged by Center (C,E,K,M) or Group/Family (F, G, H) type providers.

A registration fee may also be referred to as an annual enrollment fee or a deposit. These fees may only be paid when the fee is required by a provider to enroll or continue enrollment of a child in the child care setting. Fees that are charged separately from the registration fee (transportation, meals, etc.) will not be paid.

Before a registration fee can be paid, the provider must request payment through the Provider SSP. Registration fees can be paid in the month that they are incurred.

Registration fees must be submitted within 2 months following the month the fee was incurred.

> **Exception:**
>
> Registration fees incurred for the month prior to application, when assistance is requested for the prior month, must be requested within 3 months from the month the fee was incurred.

Registration fees will be paid directly to the provider. Payment for the registration fee will be received by the provider in the form identified in ‘Payment to the Provider 400-28-135-15.

Registration fees can be paid once per child in a household, per calendar year. The registration fee will be paid up to the maximum amount set by the state based on the DN 241 Child Care Sliding Fee Schedule. The fee will only be applied to one provider, even if the provider’s fee does not meet or exceed the maximum amount set by the state.

> **Example 1:**

A child is attending a center type provider. The provider requires a registration fee to enroll the child for the month of June. The provider's fee is $100. The maximum rate the state will pay is $150. The $100 will be issued. Three months later, the child attends a different provider who also charges a registration fee for September. The second fee cannot be paid as a registration fee was paid in June for the child.

Example 2:

A child is attending a center type provider. The provider requires a registration fee to enroll the child for the month of November. The provider's fee is $100. The maximum rate the state will pay is $150. The $100 will be issued. Three months later, the child attends a different provider who also charges a registration fee for February. The second fee can be paid as the previous registration fee was paid in the prior calendar year.

Example 3:

A child is attending a center type provider. The provider requires a deposit to enroll the child for the month of January. The provider's fee is $140. The maximum rate the state will pay is $150. The $140 will be issued. While this fee is not listed as a registration fee, the deposit can be paid as it is needed to enroll the child in the child care setting.

Notices 400-28-140

(Revised 10/1/20 ML #3574)

View Archives

NDAC 75-02-01.3-02

NDAC 75-02-01.3-03

The family must be notified with a Child Care Assistance Program (CCAP) notice whenever assistance is denied, pended, or closed, providing them the opportunity for a fair hearing.

Notices are mailed the next business day following the process date.

Advance or adequate notice is not required in Child Care Assistance program.

Following is a listing of notices for CCAP:

1. Child Care Certificate - issued to the caretaker and provider when an eligible child has been associated to a provider. Each time an association is updated, a copy is mailed to the caretaker and the provider who is affected.

   If an association is updated and there are multiple providers for the eligible children, an updated certificate is only sent to the provider whose certificate has been updated.
2. Payment Notification - - informs the caretaker that a payment has been processed. The notification displays the child's name, amount over state rate, family monthly co-pay, amount recouped, and amount being paid by the CCAP.
3. Remittance Advice – informs the provider that a payment has been processed to them. The notification displays the caretakers name, child’s name, service month, family monthly co-pay, amount recouped, amount being paid by the CCAP, and how payment will be made.

4. Household Closing – sent to all providers listed on the certificate when a case closes. This informs the provider that case is closing and that any services charged after the case closure date will not be paid by CCAP.
5. Provider Closing – sent to the household when the provider is closing.
6. Correspondence – sent to the household when one of the other notices is not appropriate.
7. Notice of Eligibility Determination - sent to the household when an application or review is approved, denied, when there is a change in eligibility or when CCAP is closing. This notice informs the household of the maximum income amount that can be received for the household size.
8. Notice of Claim – informs the household or provider of the amount of the overpayment, the reason for the overpayment and the recoupment method.
9. Underpayment Notification (Extra Benefits) – informs the household of the amount of the underpayment, and the reason for the underpayment.
10. Intentional Program Violation - Informs the household or provider once an IPV has been imposed and of the disqualification period.
11. Additional Information - sent to a household when requesting information that requires verification that needs to be provided by the household.

Case Closings 400-28-145

(Revised 2/1/2022 ML #3654)

View Archives

NDAC 75-02-01.3-03

Cases must be closed when one or more of the following happens:

1. The caretaker(s) is no longer participating in an allowable activity and has received three months of continued assistance for activity search.
2. There is no child in the child care unit who meets the eligibility criteria.
3. The caretaker does not return a completed SFN 841, Child Care Assistance Program Review, form by the end of the month in which the review is due.
4. If the review form is received but:

    a. Is not submitted timely
    b. Is incomplete and further eligibility cannot be determined
    c. Indicates the household's income exceeds 85% SMI for the family size.
    d. The child(ren) for whom child care is being requested is determined not to have a need.

5. The caretaker moves out of state
6. The caretaker requests that the case be closed (request to close a case may be made verbally or in writing)
7. Following the imposition of an Intentional Program Violation against an individual in the household.
8. Caretaker whose name the case is in enters a public institution.
9. Factual information exists confirming the caretaker whose name the case is in is deceased.
10. Loss of contact.
11. When the household's monthly gross income, minus allowable expenses, exceeds 85% SMI, per DN 241 Sliding Fee Schedule for its household size.

A notice of eligibility must be sent to close a case at the end of the current month up to the last business day of the month.

The notice must inform the household of the date of CCAP closure.

When the notice is generated the mail date will be the next business day.

Underpayments 400-28-150-10

(Revised 10/1/22 ML #3678)

View Archives

An underpayment is a correction to benefits paid to a provider or adult member of the Child Care Assistance unit who was originally paid less than they were entitled to receive. The eligibility worker must promptly take all reasonable and practical steps to establish all underpayments.

When it is determined that an underpayment exists due to an eligibility correction, each service month that is potentially incorrect must be reworked using the policies, procedures and information that should have been applied for those months.

All underpayments that are a result of a provider error must be reported to CCAP policy within thirty (30) calendar days from the date of payment, or they will not be reimbursed.

Documentation of Underpayment 400-28-150-10-05

(Revised 10/1/20 ML #3574)

View Archives

Document in the system case narrative a complete record/explanation of the underpayment.

Overpayments 400-28-150-15

(Revised 10/1/22 ML #3678)

View Archives

An overpayment is a correction to benefits paid to a provider or adult member of the Child Care Assistance unit who was originally paid more than they were entitled to receive.

Overpayments are only established for errors caused by the client or provider due to failure to notify the county of a mandatory reportable change, fraud or an Intentional Program Violation (IPV).

Overpayments will be established for a provider in the following situations, and as determined by Child Care Assistance Policy:

- When a provider certifies a child is in their care, but there are no attendance records to verify the child attended.
- When a provider certifies a child will be attending for the future month, however the child does not attend a minimum of 8 hours.
- A provider, who terminates services with the parent during the month, must reimburse the Department for the days care was not provided.
- The enrollment amount or amount charged changes after payment has been issued.

Overpayments are not established due to agency errors.

EXCEPTION:

Overpayments will be pursued when duplicate payments are issued, or the incorrect provider is paid.

Example 1: At the time of application, the eligibility worker fails to request verification of the household's income. The application is approved and payments are issued over the course of the eligibility period. It is later discovered that income verification was not

requested or received. No overpayments are established as the agency failed to request verification of income.

Example 2: At the time of application, the household verified income eligibility below the income limit. During the eligiblty period, the household had an increase in income that resulted in income over the maximum allowable income limit but the household failed to report this change. In this situation, overpayments will be established as the household failed notify the county of the mandatory reportable change.

Example 3: At the time of application, the household was approved with mom and child. The father of the child moves into the home three months after the initial eligibility determination and is not engaged in an allowable activity. The household does not report the addition of father in the home. No overpayments are established as the addition of a household member is not a mandatory reportable change.

Example 4: A provider has been certifying within the Provider SSP that a child that is eligible for CCAP is in their care. It is later discovered that the child for whom the provider billed was not attending child care with that provider. In this situation, overpayments will be established and IPV may be pursued against the provider, household or both.

The eligibility worker must promptly take all reasonable and practical steps to establish all overpayments.

Anytime an overpayment is discovered, a determination must be made whether or not to pursue an Intentional Program Violation.

When it is determined that an overpayment exists, each service month that is potentially incorrect must be reworked using the policies, procedures and information that should have been applied for those months.

Documentation of Overpayment 400-28-150-15-25

(Revised 10/1/20 ML #3574)

View Archives

Document in the system case narrative a complete record of the overpayment and the plan for recovery.

Recouping Overpayments 400-28-150-20

(Revised 6/1/22 ML #3669)

View Archives

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 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.

Methods of Recouping Overpayments 400-28-150-20-05

(Revised 4/1/14 ML #3401)

View Archives

Methods of recovering overpayments are as follows:

- Recoupment from the Child Care Assistance Program (CCAP) payment:
  - 10% for agency and client (non-fraud) related errors
  - 20% for Intentional Program Violations (IPV) (fraud)

- Voluntary repayment – a payment that is made by the caretaker who has a closed case or in addition to the recoupment taken out of their benefit if the caretaker has an ongoing open case. The additional amounts must be sent into the CCAP State Office and CCAP State Office staff will apply the payment in the CCAP system.

- Criminal restitution. If the court has ordered an amount of recovery, either more or less than the amount identified above, the amount ordered by the court will be the only amount recovered.

The amount recouped cannot be less than 10% for client or agency errors or 20% for Intentional Program Violation (IPV) (fraud).

For client errors that are later determined to be IPV, the 10% recoupment will continue until the IPV has been established at which time the recoupment percentage must be changed to 20%.

> **Note:** The provider or adult member of the Child Care Assistance unit remains responsible for repayment of any overpayments that may have resulted from this violation regardless of eligibility for benefits.

If an underpayment is issued, the existing overpayment will be recouped from the underpayment by the established repayment method that is in place.

When an overpayment exists, regardless of the provider's or adult members of the Child Care Assistance unit eligibility for benefits, the

provider or adult member of the Child Care Assistance unit shall continue to be responsible for repayment of the overpayment.

Appeals and Fair Hearings 400-28-155

Overview 400-28-155-05

(Revised 10/1/11 ML #3278)

View Archives

NDAC 75-02-01.3-13

An individual may appeal an adverse action of the Child Care Assistance Program (CCAP) by submitting a signed written request to the county social service office within 30 days from the date of the notice of adverse action. An individual is not required to use SFN 162, Request for Hearing when filing an appeal. However, the individual's request for a hearing must be made in writing and signed. When a written request for a hearing is received within 10 days from the date of the notice of adverse action, benefits must continue unless the individual requests to have their benefits reduced.

Actions which are appealable include but are not limited to:

1. Denial of CCAP benefits
2. Reduction in CCAP benefits
3. Closing of CCAP case
4. Overpayment of benefits paid
5. Any action imposed against a household except when the sole issue is one of state or federal law requiring automatic benefit adjustments for classes of recipients (unless the reason for an individual appeal is incorrect benefit computation)

Requesting a Fair Hearing 400-28-155-10

(Revised 10/1/11 ML #3278)

View Archives

NDAC 75-02-01.3-13

When an individual appeals an adverse action, the individual has the right to make a written request for a fair hearing within 30 days from the print date of the notice of adverse action.

If the written request for a fair hearing is received after the 30 days, the county must accept the appeal and forward the appeal to the Appeals Supervisor. The Appeals Supervisor will take the appropriate actions.

When a fair hearing is requested in writing within 10 days from the date of the notice of adverse action, assistance must be continued pending the fair hearing decision except in the following circumstances:

1. The household fails to meet other eligibility requirements
2. The recipient unconditionally withdraws or abandons the fair hearing request
3. The department reverses the proposed action without a hearing
4. The department determines, based upon the record of the claimant's fair hearing, that the issue involved is one of state or federal law or a change in state or federal law
5. After an appeal is filed and prior to the decision rendered, a change in the caretaker's benefits occurs and the caretaker fails to file a timely request for a fair hearing after they are notified of that subsequent change

When an individual submits a written request for a fair hearing within 10 days from the print date of the notice of adverse action, the individual's Child Care Assistance Program benefit must be restored at the level the household would have been eligible to receive without implementing the

proposed adverse action which is being appealed, pending the outcome of the fair hearing.

> **Note:** If two adverse actions were taken that reduced the households benefit and the household only appeals one of the adverse actions, the restored benefit level will reflect the change in benefits that results from the adverse action that was not appealed.

The eligibility worker must create and send a notice immediately unless the individual requests to have their benefits reduced.

When the individual requests a fair hearing, the fair hearing will be conducted by the Office of Administrative Hearings in accordance with N.D.A.C. 75-01-03.

Fair Hearing Process 400-28-155-15

(Revised 10/1/11 ML #3278)

View Archives

NDAC 75-02-01.3-13

When adverse action is taken and the individual requests a fair hearing, the hearing will be conducted by the Office of Administrative Hearings in accordance with N.D.A.C. § 75-01-03.

The following procedure should be followed when a caretaker requests a fair hearing:

- If the individual mails their request to the county social service office:
    - Both the request and the envelope must be date stamped upon receipt (the postmarked envelope is needed to determine the timeliness of the individual's request)
    - Complete the SFN 1784, Appeal Background Report
    - Gather pertinent documents relating to the appeal
    - Within 5 days of the receipt of the request, mail the request and envelope, completed Appeal Background Report and pertinent documents relating to the appeal to the DHS Appeals Supervisor.
- If the individual hand delivers their request to the county, the request form should be:
    - Date stamped upon receipt, with a notation made on the form that it was hand delivered; and
    - Complete the SFN 1784, Appeal Background Report
    - Gather pertinent documents relating to the appeal
    - Within 5 days of the receipt of the request, mail the request, completed Appeal Background Report and pertinent documents relating to the appeal to the DHS Appeals Supervisor.

If a completed SFN 1784, Appeal Background Report is not submitted, the county social service office will be contacted by the Appeals Supervisor

requesting the report be completed and mailed, along with any other pertinent documents relating to the appeal (notices, etc.) to DHS Appeals Supervisor.

Appeals Supervisor
DHS Legal Advisory Unit
600 East Boulevard Avenue, Dept. 325
Bismarck, ND 58505-0250

The eligibility worker must notify the DHS Legal Advisory Unit Appeals Supervisor if the appellant is represented by legal counsel to ensure that legal counsel is also provided for the county.

Benefits Pending a Fair Hearing 400-28-155-20

(Revised 10/1/20 ML #3574)

View Archives

NDAC 75-02-01.3-13

If an application was denied and client requested a fair hearing, the denial remains in effect.

If a recipient appeals a decision within 10 days from the date of the notice of adverse action, the case remains open and payment is issued at the same level through the end of the current eligibility period. If the case has already closed, the case would need to be reverted to open.

If a fair hearing has not been heard at the time the caretaker is due for a review, the review is completed and a new Co-pay, State Rate, and Level of Care is established for the new eligibility period.

If the client disagrees with the new Co-pay, State Rate, payment amount, and Level of Care, that is a separate appealable issue.

If the caretaker is appealing an overpayment within 10 days from the date of the notice of the overpayment, the overpayment will be suspended until the outcome of the appeal has been determined.

If the caretaker is appealing a payment amount within 10 days from the date of the notice of adverse action, the caretaker's Co-pay, State Maximum Monthly Share and Level of Care remain at the same level that was in effect at the time of the appeal.

Results of the Fair Hearing 400-28-155-25

(Revised 4/1/14 ML #3401)

View Archives

NDAC 75-02-01.3-13

If the individual receives a favorable decision, a financial penalty is not applied to the case.

In the event that an individual loses the appeal, any amount paid to the provider or adult member of the Child Care Assistance unit pending the fair hearing decision shall be considered an overpayment and subject to recovery. Payments made from the date the adverse action should have been implemented that relates to the appeal through the date the decision rendered by the office of administrative hearing is implemented is the amount of the overpayment.

Intentional Program Violation (IPV) 400-28-162-05

(Revised 10/1/15 ML #3458)

View Archives

NDAC 75-02-01.3-12

An Intentional Program violation (IPV) "an action by an individual, for the purpose of:

- Improperly establishing or maintaining eligibility for assistance; or
- Increasing or preventing a reduction in the amount of assistance."

Any individual who is suspected of an IPV must be referred to:

1. The Appeals Supervisor in the Legal Advisory Unit (LAU) for a determination of an IPV; **or**
2. The court system for a determination of fraud.

In order to determine an IPV, that individual must have intentionally committed one of the following:

1. Any act or false statement intended to mislead, misrepresent, conceal, or withhold facts.

   Examples:

   - A source of income
   - A household member
   - Receiving or attempting to receive assistance in multiple states at the same time
   - Falsified documents
   - An asset
   - Trafficking of the Electronic Payment Card or PIN

2. Committed any act that constitutes a violation of the Child Care Assistance Program (CCAP).
3. The signatures of any provider or caretaker on the Application, Review form, Change Report form, Child Care Billing Report form or any other

appropriate materials attest to providing factual information that is required to determine eligibility.

It is the act and not the amount of improper benefit received that must be considered. There is no requirement that an overpayment exist when pursuing IPV.

Evidence Evaluation 400-28-162-10

(Revised 10/1/20 ML #3574)

View Archives

NDAC 75-02-01.3-12

The county has the burden to establish an Intentional Program Violation (IPV) by clear and convincing evidence. Clear and convincing evidence means evidence that leads to a firm belief that the allegations are true.

Examples:

- Application, review, and monthly report forms. An individual's signature on these forms is attesting to providing full information and to understanding the reporting requirements.
- Statements made during application or review interviews
- Notice of benefits
- A past IPV for failure to report
- Reporting/billings forms
- Narratives
- Documented phone calls
- IEVS verification
- Involvement of an interpreter

When there is evidence a possible IPV has been committed, it is suggested the county review the case and all evidence with the supervisor or director.

This review will result in a decision to:

- Proceed with the IPV process, or
- Proceed with a client error.

When reviewing the evidence for a possible IPV, the individual must be allowed an opportunity to respond to any unresolved questions.

Initiating an Intentional Program Violation 400-28-162-15

(Revised 10/1/18 ML #3538)

View Archives

In instances when there is sufficient evidence to substantiate that an individual has committed one or more acts of intentional program violation (IPV), the county must complete the SFN 1940, TANF/SNAP/CCAP Notice of Suspected Intentional Program Violation.

The SFN 1940 is intended to:

1. Notify an individual in writing when that individual is suspected of having committed an IPV;
2. Inform the individual of their hearing rights and hearing procedures;
3. Allow the individual the right to waive the hearing;
4. Allow an individual to request a hearing officer be present at the hearing rather than a telephone hearing.

When completing the form:

a. List the name and current address of the individual suspected of IPV.

   There may be occasions when more than one individual gave a false report or were interviewed together and in those cases, prepare a **separate** SFN 1940 for each individual.

b. Describe the violation of program rules including:

   - Information provided that is deemed incorrect;
   - Facts that were not revealed;
   - How and when information and verifications were submitted by the individual.

c. The evidence disputing the accuracy of the individual's statements, when and where it came from;

d. When and with whom discussions were conducted, the outcomes of which contradict the individual's statements;
e. What documents were provided that should have included information not revealed, and when were they submitted;
f. Document how the individual was aware of the reporting requirement;
g. Indicate the length of the disqualification
h. Indicate the date the SFN 1940 must be signed and returned to avoid the hearing. The return date must be 10 days from the date of the IPV meeting the county is required to schedule.
i. The form must be **signed** by the county (an electronic signature is acceptable).

The individual will continue to participate as a household member while awaiting a disqualification decision. Recoupment of any overpayment continues to be collected at the rate of 10%. Full repayment of the overpayment does not stop the disqualification procedure from taking place.

An IPV can be pursued if a client is permanently disqualified. Pursuing the IPV will allow for recoupment of a claim at 20% rather than 10% if recoupment is possible.

Scheduled Intentional Program Violation Meeting 400-28-162-20

(Revised 10/1/18 ML #3538)

View Archives

After completing the SFN 1940, TANF/SNAP/CCAP Notice of Suspected Intentional Program Violation, the county must schedule a meeting with the individual to discuss the suspected Intentional Program Violation (IPV) within two weeks using a system generated correspondence notice.

If the correspondence notice is returned as undeliverable or with no forwarding address, the IPV must continue to be pursued.

If the individual fails to attend the scheduled meeting without satisfactory explanation or the correspondence notice is returned as undeliverable or no forwarding address, within three days after the meeting, the county must mail a copy of the SFN 1940 to the individual and the original SFN 1940 along with a letter detailing the violation and copies of all evidence of the suspected IPV to:

Appeals Supervisor
North Dakota Department of Human Services,
Judicial Wing
600 East Boulevard Avenue Dept. 325
Bismarck, ND 58505-0250

If the individual attends the scheduled meeting the county must:

1. Provide the individual with a copy of the SFN 1940;
2. Provide the individual with a DN 1087 - Legal Service Organizations;
3. Discuss the suspected IPV.

If it is determined that no violation has occurred, SFN 1940 must be placed in the file with a notation that it was not forwarded for further action and a summary of the explanation given by the individual.

If the county believes the violation did occur and the individual does not have a satisfactory explanation the county must explain the following options to the individual:

- Sign Waiver A – Which allows an individual to admit to the facts and accept the disqualification period;
- Sign Waiver B – Which allows an individual to accept the disqualification without admitting to the facts;
- Request an administrative disqualification hearing.

The county must explain signing Part A or B of the Waiver of Hearing will result in specific program disqualification time periods and penalties.

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

If the individual suspected of an IPV is not the head of household (PI), the head of household must also sign the form.

If the individual suspected of an IPV:

1. Chooses to sign the Waiver of Hearing:

    - Provide the individual a **signed** copy of SFN 1940.
    - Mail the SFN 1940 along with a letter detailing the violation and copies of all evidence to:

      Appeals Supervisor
      North Dakota Department of Human Services,
      Judicial Wing
      600 East Boulevard Avenue Dept. 325

Bismarck, ND 58505-0250.

- The SFN 1940 must be sent to the Appeals Supervisor immediately after the individual signs the SFN 1940.
- The SFN 1940 will be reviewed by the appeals supervisor and state program staff.
- The state office will notify the county of the date of the disqualification will be imposed and the length of the disqualification.

2. Chooses not to sign the Waiver of Hearing:

- Give the individual a copy of the SFN 1940.
- Explain that a hearing will be held by telephone unless the individual requests an administrative law judge will be present.
- Mail the original SFN 1940 along with a letter detailing the violation and copies of all evidence of the potential IPV to:

  Appeals Supervisor

  North Dakota Department of Human Services,

  Judicial Wing

  600 East Boulevard Avenue Dept. 325

  Bismarck, ND 58505-0250

- The SFN 1940 must be sent to the Appeals Supervisor within three days after the meeting is held.

Administrative Disqualification Hearing (ADH) 400-28-162-25

(New 10/1/15 ML #3458)

View Archives

For specific information on Intentional Program Violation (IPV) Hearing Procedures, refer to Administrative Procedures Policy 448-01-35.

Court Conviction 400-28-162-30

(Revised 3/1/18 ML #3524)

View Archives

Counties may refer individuals suspected of committing an Intentional Program Violation (IPV) to their states attorney for prosecution. The county must confer with its legal representative to determine the types of cases that will be accepted for possible prosecution.

Suspected fraud violations occurring on Indian reservations should be referred to the state's attorney. If the state's attorney's office does not have jurisdiction over the matter, the case will be referred to the U.S. Attorney's office that has jurisdiction on that reservation. If the state's attorney does not refer the matter to the U.S. Attorney's office, the county social service office should do so.

The county must not initiate an IPV against an individual for the same or related circumstances that have already been referred for prosecution.

If an individual is convicted through this procedure the county will receive a judgment.

Upon receipt of a judgment:

If the judgment includes a disqualification period, impose the disqualification following the CCAP disqualification timeframes.

Example:

If a court conviction is received with a disqualification period included, the disqualification period imposed is:

- 12 months if it is a first disqualification;
- 24 months if it is a second disqualification; and
- Permanently if it is a third disqualification.

Example:

If a court conviction is received and does not include a disqualification period, the disqualification period imposed is:

- 12 months if it is a first disqualification;
- 24 months if it is a second disqualification; and
- Permanently if it is a third disqualification.
- If the judgment does not include a disqualification period, the county must forward the following information to the Appeals Supervisor to process the judgment under the IPV provisions:
    - Criminal Complaint;
    - Judgment or Order; and
    - A cover letter detailing the violation including the name, address, case number, client ID, and any prior disqualifications.

Disqualification Time Frames 400-28-162-35

(Revised 10/1/16 ML #3477)

View Archives

NDAC 75-02-01.3-12

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

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

Action Upon Receipt of Signed Findings and Order 400-28-162-40

(New 10/1/20 ML #3574)

View Archives

Upon receipt of the hearing decision, review the decision signed by the Executive Director to determine if an Intentional Program Violation (IPV) was committed.

If an IPV was not committed the household remains responsible for any overpayment and the claim continues as a client error regardless of eligibility for benefits.

If the individual waives their right to a fair hearing by choosing to sign the SFN 1940 the state office will notify the county of the date the disqualification will be imposed and the length of the disqualification.

If an IPV was committed, the disqualification begins with the first month following the date the individual signs the SFN1940, waiving their right to an administrative hearing or receives the IPV findings and order. When a disqualification has been imposed against an individual, the disqualification must continue uninterrupted until completed. The disqualification is imposed whether the case is currently open or closed.

An individual who is disqualified due to an IPV is not allowed to participate in the Child Care Assistance Program (CCAP) during the IPV disqualification:

- If a disqualified individual applies for CCAP as a caretaker, the application is denied and the entire CCAP household is ineligible.
- If a disqualified individual is a household member at time of application or in an ongoing case, the entire CCAP household is ineligible.

Exception:

Individuals who apply for or are receiving assistance through a federal or state funded program such as TANF, Transition, Diversion, or Crossroads requiring child care for participation are eligible to receive CCAP during a disqualification time period provided all other factors of eligibility are met.

The Intentional Program Violation 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 casefile. If a disqualified person moves from one county to another, include the disqualification information in the case transfer information.

Overpayments are recovered through a reduction of the CCAP payment. The rate of recovery for IPV is 20%.

Contact the state office for processing of overpayments for a provider IPV.

The provider or adult member of the CCAP household shall continue to be responsible for repayment of the overpayment which resulted from the IPV regardless of the provider or adult members of the CCAP household's eligibility for benefits.

Imposing the disqualification is required even if it means that some individuals may not be affected by the disqualification (e.g. SSI recipient).

An IPV can be pursued if a client is permanently disqualified. Pursuing the IPV will allow for recoupment of a claim at 20% rather than 10%.

After a disqualification hearing or the individual waives the right to an administrative 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.

Disqualification in Another State 400-28-162-45

(Revised 10/1/15 ML #3258)

View Archives

NDAC 75-02-01.3-12

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.

Subsequent IPV Action 400-28-162-50

(New 10/1/15 ML #3458)

View Archives

A subsequent Intentional Program Violation (IPV) cannot be brought against an individual unless the violation took place after the date of the Executive Director's Findings and Order in the previous action.

> **Example:**
>
> **If a decision for a first violation is dated May 17, but the second violation concerns unreported income for the month of December in the prior year, a second violation cannot be imposed because it took place prior to the decision in the first violation.**

An IPV can be pursued if it involves two separate individuals and two separate violations, no matter when the violations occurred.

> **Example:**
>
> **A decision for a violation is dated May 17 for the husband who is a household member. A second violation occurs due to unreported income for the month of December in the prior year for the wife. IPV can be pursued against the wife.**

Appendix 400-28-165

SFN 23, Application for Approval for Relative Child Care Provider 400-28-165-05

(Revised 10/1/11 ML #3278)

View Archives

SFN 23, Application for Approval for Relative Child Care Provider is to be completed by an individual choosing to become an approved relative provider for child care.

This form is available through the Department of Human Services and may also be obtained electronically via E-Forms.

E-Forms are presented in Adobe Acrobat and require the Adobe Acrobat reader. If you do not currently have Adobe Acrobat reader installed, you may download a free copy by clicking the Get Adobe Reader icon below.

SFN 29, Crossroads Program Application 400-28-165-10

(Revised 10/1/12 ML #3348)

View Archives

SFN 29, Crossroads Program Application is to be completed by an individual under age 21 choosing to apply for assistance under the Crossroads Program.

This form is presented in Adobe Acrobat and requires the Adobe Acrobat reader. If you do not currently have Adobe Acrobat reader installed, you may download a free copy by clicking the Get Adobe Reader icon below.

SFN 162, Request for Hearing 400-28-165-20

(Revised 10/1/11 ML #3278)

View Archives

SFN 162, Request for Hearing form is used when an applicant or caretaker chooses to request a fair hearing due to action taken regarding TANF benefits.

This form is available through the Department of Human Services and may also be obtained electronically via E-Forms. (54kb pdf)

E-Forms are presented in Adobe Acrobat and require the Adobe Acrobat reader. If you do not currently have Adobe Acrobat reader installed, you may download a free copy by clicking the Get Adobe Reader icon below.

DN 241, Sliding Fee Schedule 400-28-165-25

(Revised 10/1/11 ML #3278)

View Archives

DN 241, Child Care Sliding Fee Schedule was developed to determine cost sharing by a family and Child Care Assistance Program based on income, size of the family, the age of the child, type of provider and level of care.

The document can be accessed at:

http://www.nd.gov/dhs/info/pubs/docs/dn-241-child-care-assistance-sliding-fee-scale.pdf

SFN 405, Application for Assistance 400-28-165-30

(Revised 10/1/11 ML #3278)

View Archives

SFN 405, Application for Assistance is used when an individual wishes to apply for multiple programs including the Child Care Assistance Program (CCAP).

This form is available through the Department of Human Services, On-line and may also be obtained electronically via E-Forms. (54kb pdf)

E-Forms are presented in Adobe Acrobat and require the Adobe Acrobat reader. If you do not currently have Adobe Acrobat reader installed, you may download a free copy by clicking the Get Adobe Reader icon below.

SFN 413, Individual Indian Monies Account 400-28-165-35

(Revised 10/1/11 ML #3278)

View Archives

SFN 413, Individual Indian Monies Account form is to obtain definite information from Indian agencies about deposits made to and balances remaining in IIM Accounts. This information is necessary to determine eligibility and benefit amount and lends itself to prorating based on income received during a previous 12-month period.

The upper portion of the form is to be completed by the eligibility worker. The form must be signed by the applicant and or recipient who then sends or takes it to the superintendent of the Indian agency for completion.

> **Note:** The household may choose to sign a Release of Information permitting the eligibility worker to obtain the needed data from the Indian agency directly. SFN 413, signed by the applicant or recipient, must also be used when this method is followed.

The bottom portion of the form is completed by appropriate officials of the Indian agency.

IIM accounts for persons enrolled at the Fort Totten and Turtle Mountain Indian agencies are maintained in the Aberdeen, South Dakota, Area Office. Accounts for persons enrolled by the Fort Berthold and Standing Rock agencies are maintained by each of those agencies.

This form is available through the Department of Human Services and may also be obtained electronically via E-Forms. (71kb pdf)

E-Forms are presented in Adobe Acrobat and require the Adobe Acrobat reader. If you do not currently have Adobe Acrobat reader installed, you may download a free copy by clicking the Get Adobe Reader icon below.

SFN 827, Credit Form 400-28-165-60

(Revised 10/1/11 ML #3278)

View Archives

SFN 827, Credit Form is used by eligibility workers to submit payments to the State Office.

This form is available through the Department of Human Services and may also be obtained electronically via E-Forms.

E-Forms are presented in Adobe Acrobat and require the Adobe Acrobat reader. If you do not currently have Adobe Acrobat reader installed, you may download a free copy by clicking the Get Adobe Reader icon below.

DN 1087, Legal Service Organizations 400-28-165-70

(Revised 10/1/11 ML #3278)

View Archives

DN 1087, Legal Service Organization listing is provided to individuals suspected of having committed intentional program violation of the availability of free legal services.

A copy of this form is to be provided to such individuals at the time of the meeting as described in the policy.

This form is available through the Department of Human Services in paper form or through the County Intranet.

SFN 1940, TANF/SNAP/CCAP Notice of Suspected Intentional Program Violation 400-28-165-75

(Revised 10/1/11 ML #3278)

View Archives

SFN 1940 is intended to:

1. Notify an individual in writing when that individual is suspected of having committed intentional program violation;
2. Provide a means of waiving the right to a hearing if an individual suspected of intentional program violation wishes to waive their right to an administration disqualification hearing;
3. Assign a hearing time if the right to an administrative disqualification hearing is not waived; and
4. To allow an individual who desires that a hearing officer be present at the hearing, rather than having a telephone hearing, to indicate that desire.

Form completion instructions:

Pages 1 and 2 are to be completed by the county initiating the administrative disqualification hearing procedure. The form is to be signed in this section, by an eligibility worker, supervisor, or county director who will be present at the meeting with the individual suspected of having committed intentional program violation.

Page 3, the "Waiver of Hearing" section, either A or item B, is to be signed if the individual wishes to waive their right to an administrative disqualification hearing.

Page 4, the individual suspected of intentional program violation must sign on this page if the individual does not waive their right to a hearing and desires that a hearing officer be present at the hearing, rather than a telephone hearing.

If an administrative disqualification hearing is scheduled, the Appeals Referee Supervisor will complete "notice of hearing" and so advise the suspected individual.

Form distribution:

- Original
  - If it is decided at the time of the meeting that there was no intentional program violation - file original and all copies in case file along with a notation of the results of the meeting.
  - If the right to hearing is waived, or if there is to be a hearing - forward to Appeals Referee Supervisor.

- 1 Copy - If the right to a hearing is waived, or if there is to be a hearing - give to the accused individual signing the form.

- 1 Copy – Case file.

This form is available through the Department of Human Services and may also be obtained electronically via E-Forms. (80kb pdf)

E-Forms are presented in Adobe Acrobat and require the Adobe Acrobat reader. If you do not currently have Adobe Acrobat reader installed, you may download a free copy by clicking the Get Adobe Reader icon below.

SFN 640 Verification of Participation in Alternative Response for Substance Exposed Newborns (ARSEN) 400-28-165-90

(New 4/1/21 ML 3605)

View Archives

SFN 640, Verification of Participation in Alternative Response for Substance Exposed Newborns (ARSEN).

The SFN 640, Verification of Participation in Alternative Response for Substance Exposed Newborns (ARSEN) form is used by the Child Protective Service (CPS)/case manager when an applicant or recipient is applying for CCAP based on participation in ARSEN.

The SFN 640 is provided by the CPS/case manager to the eligibility worker who forwards the SFN 640 to State CCAP Policy.

This form is available through the Department of Human Services and may also be obtained electronically via E-Forms.

E-Forms are presented in Adobe Acrobat and require the Adobe Acrobat reader. If you do not currently have Adobe Acrobat reader installed, you may download a free copy by clicking the Get Adobe Reader icon below.